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SENATE BILL NO. 505

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions
on March 3, 1994)

(Patron Prior to Substitute—Senator Colgan)

A Bill to amend and reenact § 9-6.23 of the Code of Virginia, as it is currently in effect and as it will become effective, and to amend of the Code of Virginia by adding in Title 63.1 a chapter numbered 6.5, consisting of sections numbered 63.1-133.41 through 63.1-133.55, establishing the Virginia Independence Program.

Be it enacted by the General Assembly of Virginia:

1. That § 9-6.23 of the Code of Virginia, as it is currently in effect and as it will become effective, is amended and reenacted and that the Code of Virginia is amended by adding in Title 63.1 a chapter numbered 6.5, consisting of sections numbered 63.1-133.41 through 63.1-133.55, as follows:

§ 9-6.23. (Effective until July 1, 1995) Prohibition against service by legislators on boards and commissions within the executive branch.

Members of the General Assembly shall be ineligible to serve on boards and commissions within the executive branch which are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards and commissions engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board or commission in the executive branch which is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position. The provisions of this section shall not apply, however, to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board on Veterans' Affairs, who shall be appointed as provided for in § 2.1-741; to members of the Council on Indians, who shall be appointed as provided for in § 9-138.1; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided in § 23-231.3; to members of the Maternal and Child Health Council, who shall be appointed as provided for in § 9-318; to members of the Virginia Interagency Coordinating Council who shall be appointed as provided in § 2.1-750; to members of the Advisory Council on the Virginia Business-Education Partnership Program, who shall be appointed as provided in § 9-326; ~~or~~ to members of the Workforce 2000 Advocacy Council, who shall be appointed as provided in § 2.1-116.18; *or to members of the Advisory Commission on Welfare Reform who shall be appointed as provided in § 63.1-133.44.*

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CHAPTER 6.5.

FROM WELFARE TO WORK:

THE VIRGINIA INDEPENDENCE PROGRAM.

§ 63.1-133.41. Virginia Independence Program (VIP); purpose; administration.

There is hereby created the Virginia Independence Program, hereinafter in this chapter referred to as the "Program."

The goals of the Program are to:

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1. Offer Virginians living in poverty the opportunity to achieve economic independence by removing barriers and disincentives to work and providing positive incentives to work;

2. Provide Virginia families living in poverty with the opportunities and work skills necessary for self-sufficiency;

3. Allow Virginia families living in poverty to contribute materially to their own self-sufficiency;

4. Set out the responsibilities of and expectations for recipients of public assistance and the government; and

5. Provide Virginia families living in poverty with the opportunity to participate in a community work experience through the Virginia Initiative for Employment Not Welfare (VIEW).

The Program shall recognize clearly defined reciprocal responsibilities and obligations on the part of both parents and government and shall include an agreement of mutual responsibility requiring intensive case management, supportive and transitional services for families; earned income disregards which reduce work disincentives; specific responsibilities for participating families; a limit on AFDC financial assistance for recipients who bear children while receiving AFDC; and a one-year limit on the receipt of AFDC financial assistance by a family.

The agreement shall recognize that not all recipients will find independent employment within one year. The Program therefore includes a community work experience option, VIEW, for up to one additional year. The Program also includes objective criteria for extending VIEW participation, in extraordinary and limited cases.

The Department of Social Services (the Department) shall administer the Program, which is to be phased in statewide commencing July 1, 1994. The Department shall be assisted by the Department of Economic Development, the Virginia Employment Commission and the Governor's Employment and Training Department.

§ 63.1-133.42. Definitions.

For purposes of this chapter, unless the context otherwise clearly requires:

"AFDC" means Aid to Families with Dependent Children.

"Agreement" means the written individualized agreement of mutual responsibility required by this chapter.

"Case manager" means the service worker designated by the local department of social services, a private-sector contractor or a private community-based organization including nonprofit entities, churches, or voluntary organizations that provide case management services.

"Control group" means a subset of families who are not Program participants who receive AFDC in accordance with regulations in effect prior to the effective date of this act and who are statistically matched with families who are Program participants.

"Independent employment" means employment that is not VIEW employment.

"Intensive case management" means individualized services provided by a properly trained case manager.

"Participating family" means an assistance unit including a parent who participates in the Program, including services and requirements authorized by this chapter.

§ 63.1-133.43. Participant eligibility.

Recipients of AFDC who meet eligibility criteria for the Job Opportunity and Basic Skills Program (JOBS) shall be required to participate in the Program, except that the following families shall not be required to participate in any of the provisions of the Program and shall remain eligible for AFDC financial assistance:

1. Single-parent families in which the parent is temporarily or permanently disabled or two-parent families where both parents are temporarily or permanently disabled, as disabled is defined by State Board of Social Services (State Board) regulation; including parents who become temporarily or permanently disabled while they are Program participants.

2. Families in which the parent is needed to care for a temporarily or permanently disabled child or spouse, as disabled is defined by State Board regulation.

3. Families in which the parent is under the age of twenty years and is attending an educational or training program on a full-time basis.

4. Single-parent families in which the mother is in her third trimester of pregnancy, or in which the parent has a child under the age of twenty-four months.

5. Families where the primary caretakers of a child or children are legal guardians, grandparents, foster parents, or other persons standing in loco parentis and are not the adoptive or biological parents of the child.

§ 63.1-133.44. Advisory Commission on Welfare Reform.

There is hereby established the Advisory Commission on Welfare Reform, which shall be convened by the Secretary of Health and Human Resources.

The Advisory Commission shall have the following duties:

1. Serve, through recommendations to the Governor, as a catalyst for generating a pool of jobs for

participants in the Virginia Independence Program.

2. Provide evaluation and feedback to the Governor on incentives designed to promote business participation in the Virginia Independence Program.

The chairman, vice chairman and members of the Commission, except for members of the General Assembly, shall be appointed by the Governor and shall serve at his pleasure. The Commission shall consist of twenty-four appointed members, including two members of the Virginia Senate, to be appointed by the Senate Committee on Privileges and Elections; three members of the Virginia House of Delegates, to be appointed by the Speaker of the House of Delegates; thirteen representatives of the business community; two current and one former recipient of AFDC; one representative of the Virginia Municipal League; one representative of the Virginia Association of Counties; and one representative of the Virginia League of Social Service Executives. The Secretaries of Health and Human Resources and Commerce and Trade shall serve as ex officio members.

§ 63.1-133.45. Participation; agreement of mutual responsibility; coordinated services.

A. In administering the Program, the Department shall ensure that local departments of social services provide delivery and coordination of all services through intensive case management. Program participants shall be referred to a case manager. The case manager shall fully explain the Program to the participant and shall provide the participant with written materials explaining the Program.

B. There shall be a written individualized agreement of mutual responsibility for each participating family which shall be developed with the full involvement of the family. The agreement shall set out the responsibilities of and expectations for Program participants and the responsibilities and obligations of the government, including services to be provided to the participating family. The agreement shall identify specific education, training or employment activities that will direct a participant towards self-sufficiency. The agreement shall be in a format developed for statewide use, provide a mechanism for revisions and amendments based on changed circumstances and notify participating families of their right to appeal the contents of the agreement and their other appeal rights under this chapter. Services required by the agreement of mutual responsibility shall be offered according to the timetable established in the agreement to enable members of the family to achieve self-sufficiency and to carry out their personal and family responsibilities.

C. The Department shall be responsible for the coordination of the intensive case management. Job training shall be facilitated by the Governor's Employment and Training Department. Job finding and job matching leading to independent employment shall be facilitated by the Virginia Employment Commission and the Department of Economic Development.

D. The Secretary of Health and Human Resources, assisted by the Secretary of Commerce and Trade, shall prepare and maintain an annual plan for coordinating and integrating all appropriate services in order to promote successful outcomes. The plan shall encourage the use of local and regional service providers and permit a variety of methods of providing services. Emphasis shall be placed on coordinating and integrating career counseling, job development, job training and skills, job placement, and academic and technical education. Public and private institutions of higher education and other agencies which offer similar or related services shall be invited to participate as fully as possible in developing, implementing and updating the annual coordination plan.

E. The Secretary of Health and Human Resources shall:

1. Increase public awareness of the federal earned income credit and encourage families who may be eligible to apply for this tax credit.

2. Pursue aggressive child-support initiatives as established by the General Assembly.

3. Work with community providers to develop adoption, education, family planning, marriage, parenting, and training options for Program participants.

4. Increase public awareness of the tax advantages of relocating one's residence in order to secure employment.

5. Provide leadership for the development of community work experience opportunities in VIEW.

6. Develop strategies to educate, assist and stimulate employers to hire participants and to provide community work experience opportunities, in consultation with the Advisory Commission on Welfare Reform, representatives of employers, and other relevant public and private agencies on the state and local level.

7. Provide technical assistance to local departments of social services to assist them in working with employers in the community to develop job and community work experience opportunities for participants.

§ 63.1-133.46. Case management; support services; transitional support services.

A. The Commissioner of Social Services, through the local departments of social services, with such funds as appropriated, shall offer services under the Job Opportunities and Basic Skills Training Program to all families participating in the Program.

B. The Commissioner of Social Services, through the local departments of social services, with such

183 funds as appropriated, shall offer families participating in the Program intensive case management
184 services throughout the family's participation in the Program. To ensure the delivery of intensive case
185 management services, the caseload of any case manager shall not exceed forty-five families. Case
186 management services shall include initial assessment of the full range of services that will be needed by
187 each family including testing and evaluation, development of the individualized agreement of mutual
188 responsibility, and periodic reassessment of service needs and the agreement of mutual responsibility.
189 Pursuant to regulations promulgated by the State Board, the following services shall be provided to
190 participating families if needed:

191 1. Day care for the children of Program participants if:

192 a. The participant is employed and day care services are essential to the continued employment of
193 the participant;

194 b. Day care services are required to enable a participant to receive job placement, job training or
195 education services;

196 c. The participant is participating in VIEW, and day care services are essential to continued
197 participation; or

198 d. The participant is otherwise eligible for day care pursuant to State Board regulations. 2. Day care
199 for the children of former Program participants under Virginia's State Plan for Supportive Services
200 (Title IV-A/F) including (i) up to twelve months of transitional day care and (ii) "at risk" day care
201 subject to the Plan's sliding fee scale. Parents who are employed at least twenty-five hours a week may
202 use day care for job placement, job training or education activities as well as work.

203 3. Transportation which will enable parental employment, participation in services indicated by the
204 agreement of mutual responsibility, and participation in VIEW.

205 4. Job counseling, education and training, and job search assistance consistent with the purposes of
206 this chapter.

207 5. Medical assistance, including transitional medical assistance for thirty-six months for families with
208 a working parent who become ineligible for AFDC financial assistance due to increased earnings,
209 unless (i) affordable medical insurance providing comparable coverage is available through the parent's
210 employer or (ii) family income exceeds 185 percent of the federal poverty level. Families who would
211 otherwise be eligible for Medicaid shall continue to receive medical assistance services, even if they are
212 not eligible for AFDC financial assistance.

213 6. Other services identified by the case manager as necessary and appropriate to fulfill the
214 agreement of mutual responsibility and the goals of this chapter.

215 § 63.1-133.47. Financial eligibility and benefit levels.

216 A. The State Board of Social Services shall promulgate regulations to determine financial eligibility
217 and benefit levels for participating families as follows:

218 1. Virginia's AFDC need standard shall be revised, and readjusted annually thereafter, to reflect
219 current living costs; however, the percentage of such need standard paid to Program participants
220 receiving AFDC financial assistance shall be adjusted so that current benefit levels are continued. To
221 reward work, a participating family that has earned income from any source other than VIEW, may
222 continue to receive AFDC financial assistance for up to two years from the date that both parties
223 initially sign the agreement. However, in no event shall the AFDC payment when added to the earned
224 income exceed the standard of need, and if necessary any AFDC payment shall be reduced so that
225 earned income plus the AFDC payment equals the standard of need.

226 2. Incentive payments may be made to participating families for completing parenting education
227 programs, obtaining childhood immunizations or reaching other benchmarks set forth in the agreement
228 of mutual responsibility. Any such payments shall be disregarded in determining a participating family's
229 continued financial eligibility for AFDC and AFDC benefit level.

230 B. Participating families shall be eligible for the following income disregards and resource
231 exclusions:

232 1. The fair market value, not to exceed \$ 7,500, of one operable motor vehicle per family.

233 2. Those allowed by §§ 63.1-105 and 63.1-110.

234 § 63.1-133.48. Limitation on AFDC benefits.

235 Notwithstanding the provisions of § 63.1-105 and the AFDC program regulations promulgated by the
236 State Board of Social Services, the State Board shall revise the schedule of AFDC financial assistance
237 to be paid to a participating family by eliminating the increment in AFDC benefits to which a family
238 would otherwise be eligible as a result of the birth of a child during the period in which the family
239 participates in the Program, or during the period in which the family or adult recipient is ineligible for
240 AFDC benefits pursuant to a penalty imposed by the Commissioner for failure to comply with benefit
241 eligibility or child support requirements, subsequent to which the family or adult recipient is again
242 eligible for benefits. The State Board shall provide that a recipient family in which the Program
243 participant gives birth to an additional child during the period of the mother's eligibility for AFDC
244 financial assistance, or during a temporary penalty period of ineligibility for financial assistance, may

receive additional financial assistance only in the case of a general increase in the amount of AFDC financial assistance which is provided to all AFDC recipients. Program participants shall receive notice of this provision at the time the agreement is signed by both parties. This provision shall not apply to legal guardians, foster parents, grandparents, or other persons in loco parentis who are not the biological or adoptive parents of the child.

The State Board shall provide that there shall be no elimination of the increment in benefits for (i) ten months after the effective date of the receipt of federal waivers, or July 1, 1994, whichever is later, or (ii) children born within ten months after the Program participant and the local department initially sign the agreement.

The provisions of this section shall expire two years after the receipt of the federal waivers necessary to implement this act.

§ 63.1-133.49. Virginia Initiative for Employment Not Welfare (VIEW).

A. The Department shall establish and administer the Virginia Initiative for Employment Not Welfare (VIEW), which is a community work experience program for participants who have not secured independent employment after the first year of participation in the Program. Participation by a locality in VIEW shall be at the discretion of and at the option of the local governing body. The Department shall endeavor to develop placements for VIEW participants that will enable participants to develop job skills that are likely to result in independent employment and that take into consideration the proficiency, experience, skills and prior training of a participant. The State Board shall provide guidelines regarding the development of VIEW jobs so that such jobs will best benefit the participant and the community, serve a useful purpose and not result in the displacement of persons currently employed. VIEW employment shall be under reasonable working conditions in an environment that complies with federal, state and local health and safety standards. The State Board shall promulgate regulations providing that a VIEW participant shall work a minimum of twenty hours and a maximum of forty hours per week in the VIEW program. Each participant shall be allowed to work sufficient hours in VIEW to earn VIEW wages at least equal to the combined value of the AFDC financial assistance and food stamp allotment to which he would otherwise be entitled. State Board regulations shall ensure that the participant and his case manager periodically evaluate the participant's ability to find independent employment. Participants in VIEW may engage in independent employment. Participants in VIEW shall be eligible for day care payments, transportation services and Medicaid coverage.

B. The following provisions shall be applicable to VIEW:

1. Program participants shall be eligible to participate in VIEW ninety days after beginning the Program. A Program participant who has not secured independent employment and who is not participating in VIEW at the end of his first year of participation in the Program shall be provided with the opportunity to participate in VIEW.

2. Upon expiration of AFDC financial assistance or after one year, whichever is later, the Program participant is expected to have secured independent employment or be a VIEW participant.

3. VIEW wages shall be paid by the State through the Department of Social Services. Wages shall equal the average prevailing AFDC payment plus food stamps divided by thirty hours a week or shall equal the federal minimum wage, whichever is greater.

4. VIEW income shall not be considered earned income with respect to § 63.1-133.47.

5. VIEW participants shall be under the direction and supervision of the case manager.

6. VIEW participation shall be limited to two years from the date the agreement is initially signed by both parties, unless a hardship exemption is granted.

7. VIEW participants shall not be assigned to projects which require that they travel unreasonable distances from their homes or remain away from their homes overnight without their consent.

8. Any injury to a VIEW participant by accident arising out of and in the course of VIEW employment shall be covered by the participant's existing Medicaid coverage. If a VIEW participant is unable to work due to such an accident, his status shall be reviewed to determine whether he is eligible for an exemption from the limitation on AFDC financial assistance.

9. A VIEW participant who becomes incapacitated for thirty days or more shall be eligible for AFDC financial assistance for the duration of the incapacity, if otherwise eligible.

10. The State Board shall promulgate regulations providing for the accrual of paid sick leave or other equivalent mechanism for VIEW participants.

§ 63.1-133.50. Limit on the receipt of AFDC.

The Department shall establish a goal for Program participants, through the agreement, to limit the receipt of AFDC financial assistance to a maximum of one year, after which time independent employment or participation in VIEW is expected. The limit shall be based on a mutual understanding of achievable goals and objectives tailored to the abilities and skills of the Program participant, as well as to the availability of community resources. The one-year limitation period shall commence upon the signing of the agreement by the Program participant and the local department of social services. Any

306 Program participant who is not offered the opportunity to participate in VIEW shall be eligible to
307 receive AFDC financial assistance for an additional year. The receipt of AFDC financial assistance may
308 also be extended for a second year if the participant is enrolled full time in, and making satisfactory
309 progress toward, completion of a job training or education program which could not reasonably be
310 completed during the first year of participation in the Program.

311 The local department of social services shall notify a Program participant that his AFDC financial
312 assistance is scheduled to be terminated sixty days prior to such termination and shall inform the
313 participant of the exception regulations promulgated by the State Board and the procedure to be
314 followed by the participant if he believes that he is entitled to an extension of benefits.

315 A Program participant whose AFDC financial assistance is terminated pursuant to this section may
316 receive AFDC financial assistance after a period of twenty-four months without (i) participation in
317 VIEW or (ii) the receipt of AFDC financial assistance, if such person is otherwise eligible.

318 § 63.1-133.51. Hardship exceptions.

319 The State Board of Social Services shall promulgate regulations providing exceptions to the
320 provisions of this chapter in cases of hardship. Such exceptions shall include, but shall not be limited to,
321 continued eligibility for AFDC financial assistance or VIEW participation in the following
322 circumstances:

323 1. Where a local department has failed to provide a Program participant with intensive case
324 management or necessary support services pursuant to § 63.1-133.46 or failed to fulfill it's portion of
325 the agreement.

326 2. Where a Program participant has been actively seeking employment by engaging in job-seeking
327 activities required pursuant to § 60.2-612 and is unable to find suitable employment.

328 3. Where factors relating to job availability are unfavorable, including residing in an area of high
329 unemployment, as determined by the Virginia Employment Commission pursuant to § 60.2-612.

330 4. Where a Program participant quits work for good cause or is laid off or dismissed from work,
331 provided that such dismissal is not for misconduct connected with work.

332 The agreement shall contain the objective criteria which will be used to determine if there should be
333 an extension of VIEW participation or eligibility for AFDC financial assistance.

334 § 63.1-133.52. Provision of services.

335 Local departments may coalesce community resources to assist the families of persons who may be
336 in need because of the limitations on AFDC financial assistance imposed by this chapter and may
337 arrange for appropriate care of dependent children for Program families where the limitation on AFDC
338 financial assistance as a result of the birth of an additional child or the one-year limit on AFDC
339 financial assistance is executed. Services may be provided that include, but are not limited to, help for
340 families in obtaining donated food and clothing, continuation of food stamps for adults and children
341 who are otherwise eligible, child day care, and Medicaid coverage for adults and children who are
342 otherwise eligible for Medicaid.

343 § 63.1-133.53. Notice and appeal.

344 A. A participant may appeal (i) any dispute in connection with the formation or implementation of
345 the agreement of mutual responsibility, (ii) any failure or refusal to grant a hardship exception or
346 extension of benefits or (iii) any other alleged noncompliance with the provisions of this chapter through
347 the AFDC fair hearing and review process. If a hearing request is received prior to the effective date of
348 any proposed change in benefit status, a participant appealing such change shall have the right to
349 continued direct payment of AFDC benefits pending final administrative action on such appeal. All
350 federal and state statutes and rules regarding notice, conciliation, hearing, and appeal shall be
351 followed; however, notwithstanding the limitations set forth in § 9-6.14:16, §§ 9-6.14:17 and 9.6.14:18
352 shall be fully applicable in the judicial review of fair-hearing decisions.

353 B. The Commissioner shall provide notice to each participant of such appeal and due process rights
354 and the procedures to be followed in exercising such rights.

355 § 63.1-133.54. Evaluation and reporting.

356 A. In administering the Program, the Commissioner shall develop and use evaluation methods that
357 measure achievement of the goals of the Program as specified in § 63.1-133.41.

358 B. Beginning December 1, 1994, and annually thereafter, the Commissioner shall file a report with
359 the Governor and General Assembly which shall focus on the development, implementation and
360 effectiveness of the services required to support the Program.

361 The report shall include:

362 1. The various methods employed to involve participating families, local organizations and other
363 government agencies in the implementation of the Program.

364 2. A description of the development, implementation, and subsequent evaluation of local department
365 of social services or contract agency staff training.

366 3. A description of the development, implementation, and subsequent evaluation of the case
367 management system and individualized agreement of mutual responsibility components of the Program.

4. An evaluation of the Program by participating families.

5. A description of the capacity of the human services delivery system, both within and without state and local government, the Virginia Employment Commission and the Department of Economic Development, to sustain the Program, including the support services required by this chapter.

6. A documentation of participant outcomes, including specific information relating to the number of persons employed, by occupation, industry and wage; the types of jobs secured by participants; any available information about the impact of the Program on children, including objective indicators of improved conditions; and the number of participating families involved in training and education programs, by type of program. The December 1, 1994, report and each subsequent annual report shall differentiate participant outcomes according to membership in the control group and the Program participant group.

7. The progress made in implementing the provisions of this chapter, including an analysis of the effect of the Program on state and federal revenues and expenditures.

8. A summary of all interim and final reports submitted by independent evaluators to the Department of Social Services, the Commissioner of Social Services or the Secretaries of Health and Human Resources or Commerce and Trade.

C. In addition to the annual report filed December 1, 1996, the Department shall prepare and submit by December 1, 1996, a full assessment of the Program to the Governor and General Assembly with a comparison of the results of the previous annual reports and the impact of the Program. The Department shall make a recommendation to the Governor and General Assembly about whether to expand the program throughout the Commonwealth.

§ 63.1-133.55. Statewide Program implementation.

The Department shall establish guidelines for the selection of 3,000 participants for the first year of implementation, 3,000 additional participants in the second year, beginning July 1, 1995, and 3,000 additional participants in the third year, beginning July 1, 1996. Participants shall be residents of areas with demographics and economies reflective of Virginia's rural, suburban and urban poverty areas. The first participants in the Program shall be drawn from current AFDC recipients who have completed the JOBS Program. Program site selection shall conform with federal requirements for waiver approval. The Department shall conduct a comparison study by selecting and matching a sufficient number of individuals for a control group to provide statistically significant comparisons between the control group and the initial 6,000 participants in the Program.

After the second year of operation of the Program, the Secretary of Health and Human Resources shall continue to implement the Program on a phased basis with the goal of statewide application, provided that:

1. The December 1996 evaluation and assessment by the Department recommends statewide participation and the General Assembly agrees with this recommendation and appropriates adequate funds for statewide implementation; and

2. Funds adequate to provide intensive case management services, training and educational services and an array of family support services in accordance with individualized agreements of mutual responsibility have been appropriated.

2. That the Secretary of Health and Human Resources shall apply for the appropriate federal waivers and approvals necessary to implement the provisions of this act and for any other waivers of federal law or regulation to further the goals of economic self-sufficiency and that the provisions or portions of this act requiring federal waivers shall become effective upon the receipt of such waivers and approvals, or on July 1, 1994, whichever is later.