

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 450

An Act to amend and reenact § 63.1-105, as it is currently effective and as it may become effective, § 63.1-105.1, §§ 63.1-133.41 through 63.1-133.55, and § 63.1-251 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 63.1-105.3 through 63.1-105.7, relating to aid to families with dependent children and the Virginia Independence Program.

[H 2001]

Approved March 20, 1995

Be it enacted by the General Assembly of Virginia:

1. That § 63.1-105, as it is currently effective and as it may become effective, § 63.1-105.1, §§ 63.1-133.41 through 63.1-133.55 and § 63.1-251 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 63.1-105.3 through 63.1-105.7 as follows:

§ 63.1-105. Eligibility for aid to dependent children.

A person shall be eligible for aid to families with dependent children if ~~he~~ *that person*:

(~~a~~) 1. Has not attained the age of eighteen years, or, if regularly attending a secondary school or in the equivalent level of vocational or technical training, has not attained the age of nineteen years and is reasonably expected to complete his senior year of school prior to attaining age nineteen;

(~~b~~) 2. Is a resident of Virginia;

(~~c~~) 3. Is deprived of parental support or care by reason of the death, continued absence from home, or physical or mental incapacity of a parent;

(~~d~~) 4. Is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece in a place of residence maintained by one or more of such relatives as his or their own home or is in placement under conditions specified by the State Board; ~~and~~

(~~e~~) 5. Is in need of public assistance; *and*

6. *If under the age of eighteen years, is in compliance with compulsory school attendance laws (§ 22.1-254 et seq.) as described in § 63.1-105.4.*

Notwithstanding the provisions of subdivision (~~e~~) 3 above, the State Board may determine, by rule and regulation, the conditions under which a child who is deprived of adequate support by reason of the unemployment of one or both of his parents shall be eligible for aid and assistance under this chapter if all other eligibility requirements have been met. The welfare of the child shall be the paramount consideration and the presence of an unemployed parent in the home shall not in and of itself deprive such child of necessary aid and assistance under this chapter. *To the extent permissible under federal law, AFDC shall be provided to needy two-parent families on the same terms and conditions that AFDC is provided to single-parent families.*

Additionally, notwithstanding the provisions of subdivision (~~e~~) 3 above and according to regulations promulgated by the Board, the parent of an eligible child or children who is married to a person not the parent of said child or children shall not be eligible for Aid to Families with Dependent Children (AFDC) if the parent's spouse's income, when deemed available to the family unit according to federal regulations, in and of itself, exceeds the state eligibility standard for such aid. However, eligibility for said child or children shall be considered by counting the income of such parent and child or children, and any portion of the parent's spouse's income which exceeds 150 percent of the federal poverty level for the spouse and parent. If the income of the parent's spouse which is deemed available does not, in and of itself, exceed the state eligibility standard for AFDC, none of the spouse's income will be counted as available to the family unit, and eligibility will be determined considering only the income, if any, of the parent and said child or children. If the said parent fails or refuses to cooperate with the Department's Division of Child Support Enforcement in the pursuit of child support, the income of the parent's current spouse will be counted in accordance with federal regulations in determining eligibility for AFDC for the parent's child or children.

§ 63.1-105. (Delayed effective date) Eligibility for aid to families with dependent children.

A person shall be eligible for aid to families with dependent children if ~~he~~ *that person*:

1. Has not attained the age of eighteen years, or, if regularly attending a secondary school or in the equivalent level of vocational or technical training, has not attained the age of nineteen years and is reasonably expected to complete his senior year of school prior to attaining age nineteen;

2. Is a resident of Virginia;

3. Is deprived of parental support or care by reason of the death, continued absence from home, or physical or mental incapacity of a parent;

4. Is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother,

stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece in a place of residence maintained by one or more of such relatives as his or their own home or is in placement under conditions specified by the State Board; ~~and~~

5. Is in need of public assistance; *and*

6. *If under the age of eighteen years, is in compliance with compulsory school attendance laws (§ 22.1-254 et seq.) as described in § 63.1-105.4.*

Notwithstanding the provisions of subdivision 3 above, the State Board may determine, by regulation, the conditions under which a child who is deprived of adequate support by reason of the unemployment of one or both of his parents shall be eligible for aid and assistance under this chapter if all other eligibility requirements have been met. The welfare of the child shall be the paramount consideration and the presence of an unemployed parent in the home shall not in and of itself deprive such child of necessary aid and assistance under this chapter. *To the extent permissible under federal law, AFDC shall be provided to needy two-parent families on the same terms and conditions that AFDC is provided to single-parent families.*

Additionally, notwithstanding the provisions of subdivision 3 above and according to regulations promulgated by the Board, the parent of an eligible child or children who is married to a person not the parent of the child or children shall not be eligible for Aid to Families with Dependent Children (AFDC) if the parent's spouse's income, when deemed available to the family unit according to federal regulations, in and of itself, exceeds the state eligibility standard for such aid. However, eligibility for the child or children shall be considered by counting the income of such parent and child or children, and any portion of the parent's spouse's income which exceeds 150 percent of the federal poverty level for the spouse and parent. If the income of the parent's spouse which is deemed available does not, in and of itself, exceed the state eligibility standard for AFDC, none of the spouse's income shall be counted as available to the family unit, and eligibility shall be determined considering only the income, if any, of the parent and the child or children. If the parent fails or refuses to cooperate with the Department's Division of Child Support Enforcement in the pursuit of child support, the income of the parent's current spouse shall be counted in accordance with federal regulations in determining eligibility for AFDC for the parent's child or children.

§ 63.1-105.1. Eligibility for payments for aid to families with dependent children.

A. To be eligible for payments for aid to families with dependent children, an applicant or recipient shall:

1. Furnish, apply for or have an application made in his behalf, *and in behalf of all children for whom assistance is being requested*, for; a social security account number to be used in the administration of the program;

2. Assign the Commonwealth any rights to support from any other person such applicant may have in his own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid and which have accrued at the time such assignment is executed;

3. Identify the parents of the child for whom aid is claimed, subject to the "good cause" provisions or exceptions in federal law or regulations. However, this requirement shall not apply if the applicant or recipient submits a statement under penalty of perjury that the identity of the parent is not reasonably ascertainable and the local department of social services is aware of no other evidence which would refute such statement *child is in a foster care placement; and*

4. Cooperate in (i) locating the parent of the child with respect to whom aid is claimed, (ii) establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, (iii) obtaining support payments for such applicant or recipient and for a child with respect to whom aid is claimed and (iv) obtaining any other payments or property due such applicant or recipient of such child.

B. Any applicant or recipient who intentionally misidentifies another person as a parent shall be guilty of perjury and, upon conviction therefor, shall be punished in accordance with § 18.2-434.

C. If paternity is not established after six months of receipt of AFDC, the local department may suspend the entire grant or the adult portion of the grant, subject to regulations promulgated by the State Board, in cases where the local department determines that the recipient is not cooperating in the establishment of paternity.

§ 63.1-105.3 *Diversionsary cash assistance.*

The State Board shall promulgate regulations to enable AFDC eligible applicants meeting certain criteria to receive at one time the maximum AFDC cash assistance which the applicant would otherwise receive for a period up to 120 days. An individual may receive diversionsary AFDC cash assistance only one time in a sixty-month period and, in so doing, waives his eligibility for AFDC for a period of up to 160 days. Diversionsary assistance shall be used to divert the family from receiving ongoing AFDC cash assistance by providing assistance for one-time emergencies.

§ 63.1-105.4. *Eligibility for aid to families with dependent children; school attendance.*

In order to be eligible for AFDC, members of the assistance unit, including minor custodial parents, shall be in compliance with compulsory school attendance laws (§ 22.1-254 et seq.). The State Board shall promulgate regulations to implement the provisions of this section, including procedures for local social services departments to (i) receive notification from local school divisions of students who are

truant and (ii) assist families in noncompliance to achieve compliance. An applicant for or recipient of AFDC or any member of his assistance unit who has been found guilty under § 22.1-263 shall not be eligible for AFDC financial assistance until in compliance with compulsory school attendance laws. Any person who becomes ineligible for AFDC financial assistance as a result of this section shall nonetheless be considered an AFDC recipient for all other purposes, including Medicaid eligibility.

§ 63.1-105.5. *Minor noncustodial parents whose child receives AFDC; child support obligations.*

If a minor noncustodial parent whose child receives AFDC is not in compliance with compulsory school attendance laws (§ 22.1-254 et seq.), he shall be required to pay child support as if he were an adult, and child support shall be collected as provided in Chapter 13 (§ 63.1-249 et seq.) of Title 63.1.

§ 63.1-105.6. *Minor parent residency.*

A. Except as provided in subsection B, an unemancipated minor custodial parent may receive AFDC for himself and his child only if the individual and his child reside in the home maintained by his parent or person standing in loco parentis. For purposes of AFDC eligibility determination, a minor who receives government-provided public assistance is not considered emancipated unless married.

B. The provisions of subsection A shall not apply if:

1. The individual has no parent or person standing in loco parentis who is living or whose whereabouts are known;

2. The local department of social services determines that the physical or emotional health or safety of the individual or his dependent child would be jeopardized if the individual and dependent child lived in the same residence with the individual's parent or the person standing in loco parentis for the individual;

3. The local department of social services otherwise determines, in accordance with regulations promulgated by the State Board, that there is good cause for waiving the requirements of subsection A.

C. If the individual and his dependent child are not required to live with the individual's parent or the person standing in loco parentis for the individual, the local department of social services shall assist the individual in locating an appropriate adult supervised supportive living arrangement taking into consideration the needs and concerns of the minor and thereafter shall require that the individual and his child reside in such living arrangement or an alternative appropriate arrangement as a condition of the continued receipt of AFDC. If the local department of social services is unable, after making diligent efforts, to locate any such appropriate living arrangement, it shall provide case management and other social services consistent with the best interests of the individual and child who live independently.

§ 63.1-105.7. *Limitation on AFDC benefits.*

Notwithstanding the provisions of § 63.1-105 and the AFDC program regulations, the State Board shall revise the schedule of AFDC financial assistance to be paid to a family by eliminating the increment in AFDC benefits to which a family would otherwise be eligible as a result of the birth of a child during the period of AFDC eligibility or during the period in which the family or adult recipient is ineligible for AFDC benefits pursuant to a penalty imposed by the Commissioner for failure to comply with benefit eligibility or child support requirements, subsequent to which the family or adult recipient is again eligible for benefits. The State Board shall provide that a recipient family in which the mother gives birth to an additional child during the period of the mother's eligibility for AFDC 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. Applicants shall receive notice of the provisions of this section at the time of application for AFDC. AFDC recipients shall receive notice of the provisions of this section within sixty days of the effective date of regulations implementing this section. This section 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.

There shall be no elimination of the increment in benefits for (i) ten months after the effective date of this section or (ii) children born within ten months after the mother begins to receive AFDC.

A single custodial parent who does not receive additional AFDC financial assistance for the birth of a child pursuant to this section shall receive the total value of all child support payments due and collected for such child, and the value of such payments shall not be counted as income for the purposes of AFDC eligibility and grant determination.

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

There is hereby created the Virginia Independence Program, hereinafter in this chapter referred to as the "Program." *The Job Opportunities and Basic Skills Training Program shall be implemented in the Commonwealth as the Virginia Independence Program and the Virginia Initiative for Employment not Welfare.*

The goals of the Program are to:

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 *obtain* 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.

None of the provisions of this chapter shall be construed or interpreted to create any rights, causes of action, administrative claims or exemptions to the provisions of the Program, except as specifically provided in §§ 63.1-133.43, 63.1-133.48, 63.1-133.51 and 63.1-133.53.

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. (Delayed effective date) 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~~ *personal* 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. (Delayed effective date) Participant eligibility.

All recipients of AFDC shall be required to participate in the Program, ~~except that~~ . The following families shall not be required to participate in any of the *employment* 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.

1. Any individual, including all minor caretakers, under sixteen years of age;

2. Any individual at least sixteen, but no more than nineteen years of age, who is enrolled full-time in elementary or secondary school, including vocational or technical school programs. The vocational or technical school must be equivalent to secondary school. Once the individual loses this exemption, he cannot requalify for the exemption, even if he returns to school, unless the case is closed and reopened or he becomes exempt for another reason. Whenever feasible, such recipients should participate in summer work;

3. Any individual who is unable to participate because of a temporary medical condition that is preventing entry into employment or training, as determined by a physician and certified by a written medical statement. Such an exemption shall be reevaluated every sixty days to determine whether the person is still exempt;

4. Any individual who is incapacitated, as determined by receipt of Social Security Disability Benefits or Supplemental Security Income. This exemption shall not be granted to either parent in an AFDC-UP

case; eligibility shall be evaluated for regular AFDC on the basis of the parent's incapacity;

5. Any individual sixty years of age or older;

6. Any individual who is the sole caregiver of another member of the household who is incapacitated as determined by receipt of Social Security Disability Benefits or Supplemental Security Income or another condition as determined by the State Board and whose presence is essential for the care of the other member on a substantially continuous basis;

7. A parent or caretaker-relative of a child under eighteen months of age who personally provides care for the child. A parent of a child not considered part of the AFDC assistance unit under § 63.1-105.7 may be granted a temporary exemption of not more than six weeks after the birth of such child;

8. A female who is in her fourth through ninth month of pregnancy as determined by a written medical statement provided by a physician;

9. Children receiving AFDC-Foster Care;

4-10. 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.

In an AFDC-UP case, both parents shall be referred for participation unless one meets an exemption; only one parent can be exempt. If both parents meet an exemption criterion, they shall decide who will be referred for participation.

§ 63.1-133.44. (Delayed effective date) 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, *including two representatives of labor*; 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 *and the Secretaries of Health and Human Resources, Education, Public Safety and Commerce and Trade shall serve as ex officio members.*

§ 63.1-133.45. (Delayed effective date) Participation; 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.~~

The Department shall assist local departments in improving the delivery of services, including intensive case management, through the utilization of public, private and non-profit organizations, to the extent permissible under federal law.

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. (Delayed effective date) 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 funds as appropriated, shall offer families participating in the Program intensive case management services throughout the family's participation in the Program. ~~To ensure the delivery of intensive case management services, the caseload of any case manager shall not exceed forty-five families.~~ Case management services shall include initial assessment of the full range of services that will be needed by each family including testing and evaluation, development of the individualized agreement of ~~mutual~~ *personal* responsibility, and periodic reassessment of service needs and the agreement of ~~mutual~~ *personal* responsibility. *It shall be the goal of the Department to have a statewide intensive case management ratio not higher than the prevailing statewide average ratio in the JOBS Program in Virginia as the ratio exists in the JOBS Program on the date of enactment of this act. The Department shall seek to achieve this goal during the first year of implementation. By December 1, 1996, the Commissioner shall develop and submit a report to the Governor and General Assembly concerning the establishment of a classification system for caseload management in the Program. The Department shall include in its annual report to the Governor and General Assembly an evaluation of program effectiveness statewide and by locality, including an evaluation of case management services. Pursuant to regulations promulgated by the State Board, the following services shall be provided to participating families if needed:*

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

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

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

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

d. The participant is otherwise eligible for day care pursuant to State Board regulations.

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

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

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

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

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

C. Local departments of social services are authorized to provide services to VIEW families throughout the family's participation in VIEW subject to regulations promulgated by the State Board, including:

1. Day care for the children of participants if:
 - a. The participant is employed and day-care services are essential to the continued employment of the participant;
 - b. Day-care services are required to enable a participant to receive job placement, job training or education services; or
 - c. The participant is otherwise eligible for day care pursuant to State Board regulations.
2. Transportation which will enable parental employment or participation in services required by the agreement of personal responsibility.
3. Job counseling, education and training, and job search assistance consistent with the purposes of VIEW.
4. Medical assistance.

D. A participant whose AFDC financial assistance is terminated, either voluntarily or involuntarily, shall receive the following services for up to twelve months after termination, if needed:

1. Assistance with child day care if such assistance enables the individual to work;
2. Assistance with transportation, if such transportation enables the individual to work; and
3. Medical assistance, including transitional medical assistance for families with a working parent who becomes ineligible for AFDC financial assistance because of increased earnings, unless (i) medical insurance is available through the parent's employer or (ii) family income exceeds 185 percent of the federal poverty level.

E. Nothing in this section shall be construed or interpreted to create a cause of action or administrative claim based upon a right or entitlement to any specific services or an exemption or waiver from any provision of this Program.

§ 63.1-133.47. (Delayed effective date) Financial eligibility and benefit levels.

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

1. To reward work, a participating family that has earned income from any source other than VIEW, may continue to receive AFDC financial assistance for up to two years from the date that both parties initially sign the agreement. However, in no event shall the AFDC payment when added to the earned income exceed such percentage of the federal poverty level as is established by the Commissioner, and if necessary any AFDC payment shall be reduced so that earned income plus the AFDC payment equals such percentage of the federal poverty level as is established by the Commissioner.

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

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

1. The fair market value, not to exceed \$ 7,500, of one operable motor vehicle per family.
2. Those allowed by §§ 63.1-105 and 63.1-110.

§ 63.1-133.48. (Delayed effective date) Waivers for certain mothers.

A. Notwithstanding the provisions of § 63.1-105 and the AFDC program regulations promulgated by the State Board of Social Services, the State Board shall revise the schedule of AFDC financial assistance to be paid to a participating family by eliminating the increment in AFDC benefits to which a family would otherwise be eligible as a result of the birth of a child during or up to twelve months after the period in which the family participates in the Program, or during the period in which the family or adult recipient is ineligible for AFDC benefits pursuant to a penalty imposed by the Commissioner for failure to comply with benefit eligibility or child support requirements, subsequent to which the family or adult recipient is again eligible for benefits. The State Board shall provide that a recipient family in which the Program participant gives birth to an additional child during the period of the mother's eligibility for AFDC 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 subsection shall expire two years after the receipt of the federal waivers necessary to implement this chapter.

B. Single-parent families in which the mother is in her third trimester of pregnancy, or where, upon a physician's written statement, participation would be deleterious to the health of the pregnant woman or to her child after birth, or in which the parent has a child under the age of eighteen months, shall be granted a waiver from the two-year time limit on Program participation and shall not be required to participate in VIEW. The waiver period shall not extend beyond the third trimester of pregnancy through the child's eighteen month birthday. Waivers granted for reasons of medical necessity as documented by a physician's written statement shall not extend beyond the period of medical necessity. Such recipients shall receive intensive case management throughout the waiver period. If a recipient who has been granted a waiver gives birth to an additional child during the waiver period or during subsequent Program participation, there shall be no additional waiver.

§ 63.1-133.49. (Delayed effective date) 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.~~ *to reduce long-term dependence on welfare, to emphasize personal responsibility and to enhance opportunities for personal initiative and self-sufficiency by promoting the value of work. 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 promulgate the necessary regulations and shall implement VIEW within 280 days of the enactment of this chapter.*

VIEW shall recognize clearly defined responsibilities and obligations on the part of public assistance recipients and shall include a written agreement of personal responsibility requiring parents to participate in work activities while receiving AFDC, earned-income disregards to reduce disincentives to work, and a limit on AFDC financial assistance.

VIEW shall require all able-bodied recipients of AFDC who do not meet an exemption and who are not employed within ninety days of receipt of AFDC benefits to participate in a work activity. VIEW shall require eligible AFDC recipients to participate in unsubsidized, partially subsidized or fully subsidized employment and enter into an agreement of personal responsibility. If recipients cannot be placed in an unsubsidized or subsidized job, they shall be required to participate in a six-month community work experience placement. Upon completion of the initial six-month work requirement, participants may receive education and training in conjunction with continued work experience to make them more employable.

B. *To the maximum extent permitted by federal law, and notwithstanding other provisions of Virginia law, the Department and local departments may, through applicable procurement laws and regulations, engage the services of public and private organizations to operate VIEW and to provide services incident to such operation.*

C. *All VIEW participants shall be under the direction and supervision of a case manager.*

D. *The Department shall ensure that participants are assigned to one of the following employment categories in priority order not less than ninety days after AFDC eligibility determination:*

1. *Unsubsidized private-sector employment;*
2. *Subsidized employment, as follows:*

(a) *The Department shall conduct a program in accordance with this section and any applicable federal waivers that shall be known as the Full Employment Program (FEP). FEP replaces AFDC and food stamp benefits with subsidized employment. Persons not able to find unsubsidized employment who are otherwise eligible for both AFDC and food stamp benefits shall participate in FEP unless exempted by this chapter. FEP will assign participants to and subsidize wage-paying private-sector jobs designed to increase the participants' self-sufficiency and improve their competitive position in the work force.*

(b) *The Department shall administer a wage fund, which shall be used exclusively to meet the necessary expenditures of FEP. Funds to operate FEP, drawn from funds appropriated for expenditure by or apportioned to Virginia for operation of the AFDC and food stamp programs, shall be deposited in this pool. All payments by the Department to participating employers for FEP participants shall be made from the pool.*

(c) *Participants in FEP shall be placed in full-time employment when appropriate and shall be paid by the employer at an hourly rate not less than the federal or state minimum wage, whichever is higher. For each participant hour worked, the Department shall reimburse the employer the amount of the federal or state minimum wage and costs up to the available amount of the participant's combined value of AFDC and food stamps. At no point shall a participant's spendable income received from wages and tax credits be less than the value of AFDC and food stamps received prior to the work placement.*

(d) *Every employer subject to the Virginia unemployment insurance tax shall be eligible for assignment of FEP participants, but no employer shall be required to utilize such participants. Employers may provide on-the-job training to the degree necessary for the participants to perform their*

duties. Employers shall ensure that jobs made available to FEP participants are in conformity with Section 3304 (a) (5) of the Federal Unemployment Tax Act, which requires that the job offered cannot be available as a result of a strike or labor dispute, that the job cannot require the employee to join nor prohibit the employee from joining a labor organization, and that FEP participants cannot be used to displace regular workers;

3. Part-time or temporary employment;

4. Community work experience as follows:

(a) The Department and local departments shall expand the community work experience program authorized under the Job Opportunity and Basic Skills Training Program (JOBS) to include job placement in community work experience programs which serve a useful public purpose as provided in § 482 (f) of the Social Security Act.

(b) The Department and local departments shall work with other state, regional and local agencies and governments in developing job placements. Placements shall be selected to provide skills and serve a public function. Program participants shall not displace regular workers.

(c) The number of hours per week for participants shall be determined by combining the total dollar amount of AFDC and food stamps and dividing by the minimum wage with a maximum of a work week of thirty-two-hours, of which up to eight hours of employment-related education and training may substitute for work experience employment.

E. Participants may be re-evaluated after a period determined by the local department and re-assigned to another work component. In addition, the number of hours worked may be reduced by the local department so that a participant may complete additional training and/or education to further his employability.

F. Local departments shall be authorized to sanction participants up to the full amount of the AFDC grant and food stamps allotment for noncompliance.

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 Commonwealth 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. G. 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 community work experience shall be covered by the participant's existing Medicaid coverage. If a VIEW community work experience 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 community work experience 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 community work experience* participants.

§ 63.1-133.50. (Delayed effective date) 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 Program participant who is not offered the opportunity to participate in *VIEW* shall be eligible to receive AFDC financial assistance for an additional year.

The receipt of AFDC financial assistance may also be extended for a second year if the participant is enrolled full time in, and making satisfactory progress toward, completion of a job training or education program which could not reasonably be completed during the first year of participation in the Program.

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

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

Unless otherwise exempt, participating families may receive AFDC financial assistance for a maximum of twenty-four months only, subject to § 63.1-133.51. A participating family may receive AFDC financial assistance, if otherwise eligible, after a subsequent period of twenty-four months without (i) participation in VIEW, (ii) the receipt of AFDC financial assistance, or (iii) the receipt of transitional assistance.

The local department of social services shall notify a participating family that its AFDC financial assistance is scheduled to be terminated as provided in this section. Notice shall be given sixty days prior to such termination and shall inform the participating family of the exception regulations promulgated by the State Board and the procedure to be followed by the participating family if it believes that it is entitled to an extension of benefits.

§ 63.1-133.51. (Delayed effective date) Hardship exceptions.

The State Board of Social Services shall promulgate regulations providing exceptions to the provisions *time limitations* of this chapter in cases of hardship. Such exceptions shall include, but shall not be limited to, continued eligibility for AFDC financial assistance or *VIEW* participation in the following *In promulgating regulations, the State Board shall address* circumstances:

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

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

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

4. 3. Where a *the* Program participant quits work for good cause or is laid off or dismissed from work, provided that such dismissal is not for misconduct connected with work *loses his job as a result of factors not related to his job performance.*

4. Where extension of benefits for up to one year will enable a participant to complete employment-related education or training.

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

§ 63.1-133.52. (Delayed effective date) Provision of services.

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

§ 63.1-133.53. (Delayed effective date) Notice and appeal.

A. A participant aggrieved by the decision of a local board granting, denying, changing or discontinuing assistance may appeal (i) any dispute in connection with the formation or implementation of the agreement of mutual responsibility, (ii) any failure or refusal to grant a hardship exception or extension of benefits or (iii) any other alleged noncompliance with the provisions of this chapter through the AFDC fair hearing and review process *such decision pursuant to § 63.1-116. In accordance with*

federal regulations, if a hearing request is received prior to the effective date of any proposed change in benefit status, a participant appealing such change shall have the right to continued direct payment of AFDC benefits pending final administrative action on such appeal. All federal and state statutes and rules regarding notice, conciliation, hearing, and appeal shall be followed; however, notwithstanding the limitations set forth in §§ 9-6.14:16, 9-6.14:17 and 9-6.14:18 shall be fully applicable in the judicial review of fair-hearing decisions.

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

§ 63.1-133.54. (Delayed effective date) Evaluation and reporting.

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

B. Beginning December 1, 1994 1996, and annually thereafter, the Commissioner shall file a report with the Governor and General Assembly which shall focus on the development, implementation and effectiveness of the services required to support the Program.

The report shall include:

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

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

3. A description of the development, implementation, and subsequent evaluation of the case 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 Secretary of Health and Human Resources or Commerce and Trade *regarding the achievement of such goals.*

C. In addition to the annual report filed December 1, 1996, the Department shall prepare and submit by December 1, 1996, *The annual report shall include* a full assessment of the Program to the Governor and General Assembly with, *including effectiveness and funding status, statewide and for each locality*, 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. *The Department shall publish the outcome criteria to be included in the annual report by September 1, 1995.*

§ 63.1-133.55. (Delayed effective date) 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 *statewide implementation of the Program and the Program shall be implemented statewide within four years of the effective date of this act.* 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 the 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.

§ 63.1-251. Payment of public assistance for child or caretaker constitutes debt to Department by responsible persons; limitations; Department subrogated to rights.

Any payment of public assistance money made to or for the benefit of any dependent child or children or their caretaker creates a debt due and owing to the Department by the person or persons who are responsible for support of such children or caretaker in an amount equal to the amount of public assistance money so paid. However, *if a caretaker receives AFDC payments for some of the caretaker's dependent children but not for other children pursuant to § 63.1-105.7, the caretaker shall receive the total amount of support collected for the children for whom no AFDC benefits are received. Such support payments shall not create a debt due and owing to the Department and the value of such payments shall not be counted as income for purposes of AFDC eligibility and grant determination.* Where there has been a court order for support, final decree of divorce ordering support, or administrative order under the provisions of this chapter for support, the debt shall be limited to the amount of such order or decree. The Commissioner, pursuant to § 63.1-264, shall establish the debt in an amount determined to be consistent with a responsible person's ability to pay. The Department shall have the right to petition the appropriate court for modification of a court order on the same grounds as either party to such cause.

The Department shall be subrogated to the right of such child or children or caretaker to prosecute or maintain any support action or execute any administrative remedy existing under the laws of the Commonwealth of Virginia to obtain reimbursement of moneys thus expended and may collect on behalf of any such child, children or caretaker any amount contained in any court order of support or any administrative order of support regardless of whether or not the amount of such orders exceeds the amount of public assistance paid. Any support paid in excess of the total amount of public assistance paid shall be returned to the caretaker by the Department. If a court order for support or final decree of divorce ordering support enters judgment for an amount of support to be paid by such responsible person, the Department shall be subrogated to the debt created by such order, and said money judgment shall be deemed to be in favor of the Department. In any judicial proceeding brought by an attorney on behalf of the Department pursuant to this section to enforce a support obligation in which the Department prevails, attorney's fees shall be assessed pursuant to § 63.1-274.10.

The Department shall have the authority to pursue establishment and enforcement actions against the person responsible for support after the closure of the public assistance case unless the caretaker notifies the Department in writing that child support enforcement services are no longer desired.

Debt created by an administrative support order under this section shall not be incurred by nor at any time be collected from a responsible person who is the recipient of public assistance moneys for the benefit of minor dependent children for the period such person or persons are in such status. Recipients of federal supplemental security income shall not be subject to the establishment of an administrative support order while they receive benefits from that source.

2. That the Governor shall forthwith apply for the appropriate federal waivers and approvals necessary to implement the provisions of this act statewide and for any other waivers of federal law or regulation to further the goals of economic self-sufficiency.

3. That the provisions of this act and the provisions of Chapter 6.5 (§ 63.1-133.41 et seq.) of Title 63.1 shall be implemented notwithstanding the provisions of § 63.1-25.01 and the human research regulations promulgated thereunder.

4. That the State Board of Social Services shall promulgate regulations to implement the provisions of this act within 280 days of the enactment of this act.

5. That the provisions or portions of this act requiring federal waivers shall become effective upon the receipt of such waivers or approvals, or on July 1, 1995, whichever is later.