

LD1616196

## HOUSE BILL NO. 1948

Offered January 20, 1995

*A BILL to amend and reenact §§ 63.1-105 and 63.1-110, as they are currently effective and as they may become effective, and 63.1-116 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 63.1-110.2 and 63.1-110.3, relating to aid to families with dependent children.*

Patrons—Darner, Almand, Christian, Connally, Crittenden, Cunningham, Hull, Jones, D.C., Jones, J.C., Keating, Melvin, Plum, Puller, Robinson, Spruill, Van Landingham and Van Yahres; Senators: Gartlan, Howell, Lambert and Lucas

Referred to Committee on Health, Welfare and Institutions

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 63.1-105 and 63.1-110, as they are currently effective and as they may become effective, and 63.1-116 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 63.1-110.2 and 63.1-110.3 as follows:**

§ 63.1-105. (For effective date - See note) Eligibility for aid to *families with dependent children*.

A person shall be eligible for aid to families with dependent children (AFDC) if he:

(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.

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, assistance shall be provided to needy two-parent families in the same amount, for the same duration and on the same terms and conditions that assistance is provided to single-parent families of like size.*

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 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 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 - See notes) Eligibility for aid to families with dependent children.

A person shall be eligible for aid to families with dependent children (AFDC) if he:

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;

INTRODUCED

HB1948

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.

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, assistance shall be provided to needy two-parent families in the same amount, for the same duration and on the same terms and conditions that assistance is provided to single-parent families of like size.*

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.

§ 63.1-110. (For effective date - See note) Determining the amount of assistance.

The State Board shall adopt rules and regulations governing the amount of assistance persons shall receive under the provisions of this law. In making such rules and regulations, the Board shall give due consideration to significant differences in living costs in various counties and cities and shall establish or approve such variations in monetary assistance standards for shelter allowance on a regional or local basis, as may be appropriate in order to achieve the highest practical degree of equity in public assistance grants. The rules and regulations of the Board may provide that in each grant of assistance a specific portion thereof shall be designated for shelter allowance that may be paid to a federally assisted low-rent public housing authority. *The standards of need upon which the amount of assistance is based shall be revised and readjusted annually to reflect current living costs; however, the percentage of such need standards actually paid to recipients may be reduced so that current payment amounts are continued.*

The amount of assistance which any person shall receive under the provisions of this law shall be determined in accordance with rules and regulations made by the State Board with due regard to the property and income of the person and any support he receives from other sources, including that from persons legally responsible for his support, and the average cost of providing assistance statewide. It shall be sufficient to provide assistance which, when added to all other income and support of the recipient (exclusive of that not to be taken into account as hereinafter provided), provides such person with a reasonable subsistence.

In determining the income of and support available to a person, the amount of income required to be exempted by federal statute, or if the federal statute makes such exemption permissive, then such portion thereof as may be determined by the State Board shall not be considered in determining the amount of assistance any person may receive under this law. *In addition, any earned income which, when added to the assistance payment, does not exceed the standard of need and one-third of any excess shall be disregarded in determining the amount of assistance.*

On or after January 1, 1989, any amounts received by a person pursuant to a settlement agreement with, or judgment in a lawsuit brought against, a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to "Agent Orange" shall be disregarded in determining the amount of assistance such person may receive from state assistance programs and from federal assistance programs to the extent permitted by federal law or regulation, and such amounts shall not be subject to a lien or be available for reimbursement to the Commonwealth or any local department of welfare or social services for public assistance, notwithstanding the provisions of § 63.1-133.1.

Under conditions specified by the State Board, court-ordered support payments may be disregarded in determining the amount of assistance which any person shall receive; however, in such event, such payments, when received, shall be counted as refunds with regard to such assistance payments.

Any individual or family applying for or receiving assistance under the aid to families with dependent children, aid to families with dependent children-related medical-assistance-only, food stamp, or fuel assistance programs may have or establish one interest-bearing savings account per assistance unit not to exceed \$5,000 at a financial institution for the purpose of paying for tuition, books, and incidental expenses at any elementary, secondary or vocational school or any college or university or for making a down payment on a primary residence. Any funds deposited in the account, and any interest earned thereon, shall be exempt from consideration in any calculation under any specified assistance program for so long as the fund and interest remain on deposit in the account. Any amounts withdrawn from the account for the purposes stated in this section shall be exempt from consideration in any calculation under any specified assistance program. The State Board shall promulgate regulations to establish penalties for amounts withdrawn from any accounts for any other purposes than those stated in this section or other misuse of these funds.

*The equity value, not to exceed \$7,500, of one operable motor vehicle per assistance unit shall be excluded from resources in determining eligibility for aid to families with dependent children.*

§ 63.1-110. (Delayed effective date - See notes) Determining the amount of assistance.

The State Board shall adopt rules and regulations governing the amount of assistance persons shall receive under the provisions of this law. In making such rules and regulations, the Board shall give due consideration to significant differences in living costs in various counties and cities and shall establish or approve such variations in monetary assistance standards for shelter allowance on a regional or local basis, as may be appropriate in order to achieve the highest practical degree of equity in public assistance grants. The rules and regulations of the Board may provide that in each grant of assistance a specific portion thereof shall be designated for shelter allowance that may be paid to a federally assisted low-rent public housing authority. *The standards of need upon which the amount of assistance is based shall be revised and readjusted annually to reflect current living costs; however, the percentage of such need standards actually paid to recipients may be reduced so that current payment amounts are continued.*

The amount of assistance which any person shall receive under the provisions of this law shall be determined in accordance with rules and regulations made by the State Board with due regard to the property and income of the person and any support he receives from other sources, including that from persons legally responsible for his support, and the average cost of providing assistance statewide. It shall be sufficient to provide assistance which, when added to all other income and support of the recipient (exclusive of that not to be taken into account as hereinafter provided), provides such person with a reasonable subsistence.

In determining the income of and support available to a person, the amount of income required to be exempted by federal statute, or if the federal statute makes such exemption permissive, then such portion thereof as may be determined by the State Board shall not be considered in determining the amount of assistance any person may receive under this law. *In addition, any earned income which, when added to the assistance payment, does not exceed the standard of need and one-third of any excess shall be disregarded in determining the amount of assistance.*

On or after January 1, 1989, any amounts received by a person pursuant to a settlement agreement with, or judgment in a lawsuit brought against, a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to "Agent Orange" shall be disregarded in determining the amount of assistance such person may receive from state assistance programs and from federal assistance programs to the extent permitted by federal law or regulation, and such amounts shall not be subject to a lien or be available for reimbursement to the Commonwealth or any local department of welfare or social services for public assistance, notwithstanding the provisions of § 63.1-133.1.

Under conditions specified by the State Board, court-ordered support payments may be disregarded in determining the amount of assistance which any person shall receive; however, in such event, such payments, when received, shall be counted as refunds with regard to such assistance payments.

Any individual or family applying for or receiving assistance under the aid to families with dependent children, aid to families with dependent children-related medical-assistance-only, food stamp, or fuel assistance programs may have or establish one interest-bearing savings account per assistance unit not to exceed \$5,000 at a financial institution for the purpose of paying for tuition, books, and incidental expenses at any elementary, secondary or vocational school or any college or university or for making a down payment on a primary residence or for business incubation. Any funds deposited in the account, and any interest earned thereon, shall be exempt from consideration in any calculation under any specified assistance program for so long as the fund and interest remain on deposit in the account. Any amounts withdrawn from the account for the purposes stated in this section shall be exempt from

183 consideration in any calculation under any specified assistance program. For the purposes of this section,  
184 business incubation means the initial establishment of a commercial operation which is owned by a  
185 member of the assistance unit. The net worth of any business owned by a member of the assistance unit  
186 shall be exempt from consideration in any calculation under the assistance programs specified above so  
187 long as the net worth of the business is less than \$5,000. The State Board shall promulgate regulations  
188 to establish penalties for amounts withdrawn from any accounts for any other purposes than those stated  
189 in this section or other misuse of these funds.

190 *The equity value, not to exceed \$7,500, of one operable motor vehicle per assistance unit shall be*  
191 *excluded from resources in determining eligibility for aid to families with dependent children.*

192 *§ 63.1-110.2. Case-management; support services; transitional support services.*

193 *A. The Commissioner of Social Services, through the local departments of social services with such*  
194 *funds as are appropriated, shall offer services under the Job Opportunities and Basic Skills Training*  
195 *Program to all families receiving assistance.*

196 *B. The Commissioner of Social Services, through the local departments of social services with such*  
197 *funds as are appropriated, shall offer all families receiving assistance intensive case-management*  
198 *services. To ensure the delivery of intensive case-management services, the caseload of any case*  
199 *manager shall not exceed forty-five families. Case-management services shall include initial assessment*  
200 *of the full range of services that will be needed by each family, including testing and evaluation, and*  
201 *periodic reassessment of service needs. Pursuant to regulations promulgated by the State Board, the*  
202 *following services shall be provided if needed:*

203 *1. Day-care for the children of recipients if:*

204 *a. The recipient is employed and day-care services are essential to the continued employment of the*  
205 *recipient;*

206 *b. Day-care services are required to enable a recipient to receive job placement, job training or*  
207 *education services; or*

208 *c. The recipient is otherwise eligible for day-care services pursuant to State Board regulations.*

209 *2. Day-care for the children of former recipients including (i) up to twelve months of transitional day*  
210 *care and (ii) up to five years of day-care subject to a sliding fee scale so that families earning less than*  
211 *fifty percent of the state median income may not be required to spend more than ten percent of their*  
212 *gross income for day-care costs. Parents who are employed at least twenty-five hours a week may use*  
213 *day-care services for job placement, job training or education activities as well as for work.*

214 *3. Transportation which will enable parental employment, participation in the Job Opportunities and*  
215 *Basic Skills Training Program or participation in other programs or services approved by the case*  
216 *manager.*

217 *4. Job counseling, education and training, and job search assistance as necessary and appropriate to*  
218 *assist the recipient in achieving self-sufficiency.*

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

225 *6. Other services approved by the case manager as necessary and appropriate to assist the recipient*  
226 *in achieving self-sufficiency.*

227 *§ 63.1-110.3. Hardship exemptions to time-limited assistance.*

228 *Any other provision of law to the contrary notwithstanding, no applicant for, or recipient of,*  
229 *assistance under this title shall be denied assistance after the expiration of any time limit on the receipt*  
230 *of assistance where (i) the applicant or recipient has been actively seeking employment by engaging in*  
231 *job-seeking activities required pursuant to § 60-612 and is unable to find suitable employment or (ii) the*  
232 *services described in § 63.1-110.2 have not been made available to the applicant or recipient.*

233 *§ 63.1-116. Right of appeal to State Board.*

234 *Any applicant or recipient aggrieved by any decision of a local board in granting, denying, changing*  
235 *or discontinuing assistance, may, within thirty days after receiving notice in writing of such decision*  
236 *appeal therefrom to, or ask for a review of the same by the State Board.*

237 *Any applicant or recipient aggrieved by the failure of the local board to make a decision within a*  
238 *reasonable time may ask for a review of the same by the State Board.*

239 *The Board may, from time to time as it deems appropriate, appoint a committee consisting of any*  
240 *three of its members to consider and make final determinations on any such appeal or review.*

241 *The Board may delegate the duty and authority to duly qualified hearing officers to consider and*  
242 *make determinations on any appeal or review by an applicant for or recipient of public assistance*  
243 *concerning any decision of a local board. The determination by the hearing officer may be reviewed by*  
244 *the Board upon the request of either the applicant, recipient or the local board. A review of the hearing*

245 officer's determination by the Board shall be governed by such rules and procedure as the Board shall  
246 determine.

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

253 **2. That the Secretary of Health and Human Resources shall apply for any federal waivers or**  
254 **approvals necessary to implement the provisions of this act and that the provisions or portions of**  
255 **this act requiring federal waivers or approvals shall become effective upon the receipt of such**  
256 **waivers and approvals, or on July 1, 1995, whichever is later.**