

LD0593649

## HOUSE BILL NO. 2001

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services  
on February 10, 1995)

(Patron Prior to Substitute—Delegate Brickley)

A *BILL to amend and reenact §§ 9-6.23 and 22.1-258, §§ 22.1-262 and 63.1-105 as they are currently effective and as they may become effective, and §§ 63.1-105.1 and 63.1-251 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 63.1-105.3 through 63.1-105.6, and by adding in Title 63.1 a chapter numbered 6.6, consisting of sections numbered 63.1-133.56 through 63.1-133.69; and to repeal § 63.1-133.44 of the Code of Virginia, relating to aid to families with dependent children and establishing Welfare to Work.*

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

1. That §§ 9-6.23 and 22.1-258, §§ 22.1-262 and 63.1-105 as they are currently effective and as they may become effective, and §§ 63.1-105.1 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 63.1-105.6, and by adding in Title 63.1 a chapter numbered 6.6, consisting of sections numbered 63.1-133.56 through 63.1-133.69, as follows:

§ 9-6.23. (Effective 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 Virginia Technology Council, who shall be appointed as provided for in § 9-145.51; 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; to members of the Advisory Commission on Welfare Reform Replacement, who shall be appointed as provided in ~~§ 63.1-133.44~~ § 63.1-133.60; or to members of the Virginia Correctional Enterprises Advisory Board, who shall be appointed as provided in § 2.1-451.2.

§ 22.1-258. Appointment of attendance officers; notification when pupil fails to report to school.

Every school board shall have power to appoint one or more attendance officers who shall be charged with the enforcement of the provisions of this article. Where no attendance officer is appointed by the school board, the division superintendent shall act as attendance officer.

Whenever any pupil fails to report to school on a regularly scheduled school day and no indication has been received by school personnel that the pupil's parent or guardian is aware of the pupil's absence, a reasonable effort to notify by telephone the parent or guardian shall be made by the attendance officer, other school personnel or volunteers organized by the school administration for this purpose. School divisions are encouraged to use noninstructional personnel for this notice.

Whenever any pupil fails to report to school for five consecutive school days, and no indication has been received by school personnel that the pupil's parent or guardian is aware of the pupil's absence, and a reasonable effort to notify the parent or guardian has failed, the school principal or his designee shall notify the parent or guardian by letter that such parent or guardian is requested to advise the school in writing of the reason for the pupil's absence or to accompany the pupil upon his return to school to explain the reason for his absence. Upon the failure of the parent or guardian to so advise the school or to return the child to school within three days of the date of the notice, the school principal or his designee shall notify the attendance officer or the division superintendent, as the case may be, who shall enforce the provisions of this article.

However, nothing in this section shall be construed to limit in any way the authority of any attendance officer or division superintendent to seek immediate compliance with the compulsory school attendance law as set forth in this article.

60 *The Superintendent of Public Instruction and the Commissioner of Social Services shall jointly*  
61 *develop methods to identify and notify appropriate agencies of students who are habitually absent.*

62 Attendance officers, other school personnel or volunteers organized by the school administration for  
63 this purpose shall be immune from any civil or criminal liability in connection with the notice to parents  
64 of a pupil's absence or failure to give such notice as required by this section.

65 § 22.1-262. Complaint to court when parent fails to comply with law.

66 A list of persons so notified shall be sent by the attendance officer to the appropriate school  
67 principal. If the parent, guardian, or other person having control of the child fails to comply with the  
68 law within the time specified in the notice, it shall be the duty of the attendance officer to make  
69 complaint in the name of the Commonwealth before the juvenile and domestic relations district court. In  
70 addition thereto, such child may be proceeded against as a child in need of services or a child in need  
71 of supervision as provided in Chapter 11 (§ 16.1-226 et seq.) of Title 16.1. *At the time a complaint is*  
72 *made before the court, the attendance officer shall notify the local department of social services in the*  
73 *jurisdiction in which the child resides of the child's nonenrollment. The attendance officer shall promptly*  
74 *notify the local department of social services when the child is reenrolled and is in compliance with the*  
75 *compulsory school attendance requirements.*

76 § 22.1-262. (Delayed effective date) Complaint to court when parent fails to comply with law.

77 A list of persons so notified shall be sent by the attendance officer to the appropriate school  
78 principal. If the parent, guardian, or other person having control of the child fails to comply with the  
79 law within the time specified in the notice, it shall be the duty of the attendance officer to make  
80 complaint in the name of the Commonwealth before the family court. In addition thereto, such child  
81 may be proceeded against as a child in need of services or a child in need of supervision as provided in  
82 Chapter 11 (§ 16.1-226 et seq.) of Title 16.1. *At the time a complaint is made before the court, the*  
83 *attendance officer shall notify the local department of social services in the jurisdiction in which the*  
84 *child resides of the child's nonenrollment. The attendance officer shall promptly notify the local*  
85 *department of social services when the child is reenrolled and is in compliance with the compulsory*  
86 *school attendance requirements.*

87 § 63.1-105. Eligibility for aid to dependent children.

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

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

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

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

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

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

100 6. *If under the age of eighteen years, is in compliance with compulsory school attendance laws*  
101 *(§ 22.1-254 et seq.).*

102 Notwithstanding the provisions of subdivision (e) 3 above, the State Board may determine, by rule  
103 and regulation, the conditions under which a child who is deprived of adequate support by reason of the  
104 unemployment of one or both of his parents shall be eligible for aid and assistance under this chapter if  
105 all other eligibility requirements have been met. The welfare of the child shall be the paramount  
106 consideration and the presence of an unemployed parent in the home shall not in and of itself deprive  
107 such child of necessary aid and assistance under this chapter. *Assistance shall be provided to needy*  
108 *two-parent families in the same amount, for the same duration and on the same terms and conditions*  
109 *that assistance is provided to single-parent families of like size for no longer than twelve months.*

110 Additionally, notwithstanding the provisions of subdivision (e) 3 above and according to regulations  
111 promulgated by the Board, the parent of an eligible child or children who is married to a person not the  
112 parent of said child or children shall not be eligible for Aid to Families with Dependent Children  
113 (AFDC) if the parent's spouse's income, when deemed available to the family unit according to federal  
114 regulations, in and of itself, exceeds the state eligibility standard for such aid. However, eligibility for  
115 said child or children shall be considered by counting the income of such parent and child or children,  
116 and any portion of the parent's spouse's income which exceeds 150 percent of the federal poverty level  
117 for the spouse and parent. If the income of the parent's spouse which is deemed available does not, in  
118 and of itself, exceed the state eligibility standard for AFDC, none of the spouse's income will be  
119 counted as available to the family unit, and eligibility will be determined considering only the income, if  
120 any, of the parent and said child or children. If the said parent fails or refuses to cooperate with the  
121 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~~ *the* 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.).*

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. *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 for no longer than twelve months.*

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; misidentification of parent; penalty.

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*

183 suspend the entire grant or the adult portion thereof, subject to regulations promulgated by the State  
184 Board.

185 § 63.1-105.3. Eligibility for aid to families with dependent children; unemancipated minor custodial  
186 parents.

187 A. Except as provided in subsection B, unemancipated minor custodial parents and their children  
188 shall be eligible for aid to families with dependent children only if the minor and the minor's children  
189 for whom aid is claimed reside with the minor's parent, grandparent, or legal guardian. For the  
190 purposes of AFDC eligibility determination, a minor who receives government provided public  
191 assistance is not considered emancipated unless married.

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

193 1. The minor custodial parent has no parent, grandparent or legal guardian whose whereabouts are  
194 known;

195 2. The local department of social services determines that a real or immediate threat of emotional or  
196 physical abuse towards the minor custodial parent or the children of the minor exists in the home of the  
197 parent, grandparent or legal guardian.

198 C. An applicant for AFDC shall not be eligible for AFDC financial assistance until the provisions of  
199 this section are complied with. A recipient of AFDC who is not in compliance with this section shall not  
200 be eligible for AFDC payments during any period of noncompliance.

201 § 63.1-105.4. Minor noncustodial parents whose child receives aid to families with dependent  
202 children (AFDC); child support obligations.

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

206 § 63.1-105.5. Limitation on AFDC benefits.

207 A. Notwithstanding the provisions of § 63.1-105, AFDC program regulations shall provide that a  
208 recipient family in which the mother gives birth to an additional child during the period of the mother's  
209 eligibility for AFDC financial assistance, or during a temporary penalty period of ineligibility for  
210 financial assistance, is not eligible for an incremental increase in assistance as a result of the birth of  
211 such a child. AFDC applicants shall receive notice of this provision at the time of application and  
212 AFDC recipients shall receive notice of this provision at their next eligibility redetermination following  
213 the effective date of this act. This provision shall not apply to legal guardians, foster parents,  
214 grandparents, or other persons in loco parentis who are not the biological or adoptive parents of the  
215 child.

216 There shall be no elimination of the increment in benefits (i) for ten months after the effective date of  
217 the receipt of federal waivers, or July 1, 1995, whichever is later, or (ii) for children born within ten  
218 months after the participant and the local department initially sign the agreement of personal  
219 responsibility as provided in § 63.1-133.61.

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

224 § 63.1-105.6. Eligibility for aid to families with dependent children; school attendance.

225 In order to be eligible for aid to families with dependent children (AFDC), members of the assistance  
226 unit, including minor custodial parents, shall be in compliance with compulsory school attendance  
227 laws (§ 22.1-254 et seq.). The Board of Social Services shall promulgate regulations to implement the  
228 provisions of this section, including procedures for local social services departments to receive  
229 notification from local school divisions of students who are truant. An applicant for AFDC or any  
230 member of his assistance unit who is not in compliance with this section pursuant to § 22.1-263 shall  
231 not be eligible for AFDC financial assistance until the provisions of this section are complied with. A  
232 recipient of AFDC or any member of his assistance unit who is not in compliance with this section  
233 pursuant to § 22.1-263 shall not be eligible for AFDC payments during any period of noncompliance.  
234 Any person who becomes ineligible for AFDC financial assistance as a result of this section shall  
235 nonetheless be considered an AFDC recipient for all other purposes, including Medicaid eligibility.

#### 236 CHAPTER 6.6.

#### 237 WELFARE TO WORK.

238 § 63.1-133.56. Definitions.

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

240 "AFDC" means Aid to Families with Dependent Children.

241 "Agreement" means the written agreement of personal responsibility which sets forth the obligations  
242 of the recipient.

243 "Department" means the State Department of Social Services.

244 "Local department" means a local department of social services.

"State Board" means the State Board of Social Services.

§ 63.1-133.57. Welfare to Work; general provisions.

The Job Opportunities and Basic Skills Training Program shall be implemented in the Commonwealth as Welfare to Work. Local departments of social services shall offer services as available under the Job Opportunities and Basic Skills Training Program to Welfare to Work participants, subject to the supervision of the Commissioner of Social Services.

Unless otherwise exempt, an assistance unit may receive AFDC financial assistance for a maximum of twenty-four months only, subject to § 63.1-133.65. An assistance unit whose AFDC financial assistance or participation in Welfare to Work is terminated may again receive AFDC financial assistance, if otherwise eligible, after a subsequent period of twenty-four months without (i) participation in Welfare to Work, (ii) the receipt of AFDC financial assistance, or (iii) the receipt of transitional assistance.

§ 63.1-133.58. Participant eligibility.

A. All recipients of AFDC shall be required to participate in Welfare to Work. The following families shall not be required to participate in any of the employment provisions of Welfare to Work and shall remain eligible for AFDC financial assistance:

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 § 63.1-105.5 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.

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.

§ 63.1-133.59. Welfare to Work; purpose; administration.

A. There is hereby created the Welfare to Work Program 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 State Board shall promulgate the necessary regulations and shall implement Welfare to Work within 280 days of the effective date of this chapter. Welfare to Work shall be implemented notwithstanding the provisions of § 63.1-25.01 and the human research regulations promulgated thereunder.

Welfare to Work shall recognize clearly defined responsibilities and obligations on the part of public assistance recipients, and shall include an 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.

Welfare to Work shall require all able-bodied recipients of AFDC who do not meet an exemption and who are not employed within thirty days of receipt of AFDC benefits to participate in a work activity. Welfare to Work 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

306 a six-month community work experience placement. Upon completion of the initial six-month work  
307 requirement, participants in Welfare to Work may receive education and training in conjunction with  
308 continued work experience to make them more employable.

309 B. The Secretary of Health and Human Resources shall seek from the federal government any  
310 waivers from federal laws and regulations necessary to operate Welfare to Work. The Department shall  
311 administer Welfare to Work and the State Board shall promulgate regulations for its operation. In  
312 administering Welfare to Work, the Department and local departments of social services shall actively  
313 encourage both public and private employers to utilize Welfare to Work participants, and shall ensure  
314 that, to the extent feasible, job assignments match participants' skills and experience with the needs of  
315 the employers.

316 C. To the maximum extent permitted by federal law, and notwithstanding other provisions of Virginia  
317 law, the Department and local departments may, through applicable procurement laws and regulations,  
318 engage the services of public and private organizations to operate Welfare to Work and to provide  
319 services incident to such operation.

320 D. Participants in Welfare to Work shall be assigned within thirty days after AFDC eligibility  
321 determination to one of the following employment categories in priority order:

322 1. Unsubsidized private-sector employment;

323 2. Subsidized employment, as follows:

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

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

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

343 (d) Every employer subject to the Virginia unemployment insurance tax shall be eligible for  
344 assignment of program participants, but no employer shall be required to utilize such participants.  
345 Employers may provide on-the-job training to the degree necessary for the participants to perform their  
346 duties. Employers shall ensure that jobs made available to program participants are in conformity with  
347 Section 3304(a)(5) of the Federal Unemployment Tax Act, which requires that the job offered cannot be  
348 available as a result of a strike or labor dispute, that the job cannot require the employee to join nor  
349 prohibit the employee from joining a labor organization, and that program participants cannot be used  
350 to displace regular workers;

351 3. Part-time or temporary employment;

352 4. Community work experience (Workfare), as follows:

353 (a) The Department and local departments shall expand the community work experience program  
354 authorized under the Job Opportunity and Basic Skills Training Program (JOBS) to include job  
355 placement in community work experience programs which serve a useful public purpose as provided in  
356 § 482(f) of the Social Security Act.

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

360 (c) The number of hours per week for Workfare participants shall be determined by combining the  
361 total amount of AFDC and food stamps and dividing by the minimum wage with a maximum of a  
362 thirty-two-hour work week.

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

367 F. Local departments shall be authorized to sanction participants up to the full amount of the AFDC

grant and food stamps allotment for noncompliance.

§ 63.1-133.60. Advisory Commission on Welfare Replacement.

The Advisory Commission on Welfare Reform is continued as the Advisory Commission on Welfare Replacement. The Commission shall be convened by the Secretary of Health and Human Resources and shall have the following duties:

1. Serve, through recommendations to the Governor, as a catalyst for generating a pool of jobs for all recipients of AFDC, and for participants in the Virginia Independence Program and in Welfare to Work.

2. Provide evaluation and recommendations to the Governor on incentives designed to promote business participation in creating jobs for recipients of AFDC, and for participants in the Virginia Independence Program and in Welfare to Work.

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; one representative of the Virginia League of Social Service Executives; and the Secretaries of Health and Human Resources, Commerce and Trade, Education and Public Safety.

§ 63.1-133.61. Participation guidelines.

The Department shall ensure that local departments of social services coordinate all services. Local departments may contract with the private sector for the delivery of these services. Participants shall be assigned to a self-reliance worker who shall explain the obligations and benefits to the participant and shall provide the participant with written materials explaining Welfare to Work. There shall be a written agreement of personal responsibility for each Welfare to Work participant which shall be developed with the involvement of the family. The agreement shall set out the responsibilities of and expectations for Welfare to Work participants, including that they conduct themselves in a responsible manner, establish the paternity of their children, participate in any education and training programs to which they are assigned, accept any reasonable employment offered them and participate actively in that employment. 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 appeal rights under this chapter.

The Department shall be responsible for the coordination of intake and case management and for the implementation of the employment component of Welfare to Work. The Governor's Employment and Training Department shall assist in the coordination of the employment component of Welfare to Work. The Secretaries of Health and Human Resources and Commerce and Trade shall coordinate and manage human and employment-related services. The Secretary of Health and Human Resources shall oversee the administration of all Welfare to Work activities, including coordination with participating localities.

§ 63.1-133.62. Employment and support services.

A. Local departments of social services are authorized to provide services to Welfare to Work families throughout the family's participation in Welfare to Work subject to regulations promulgated by the State Board,. Such services may include:

1. Day care for the children of Welfare to Work 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 Welfare to Work.

4. Medical assistance.

§ 63.1-133.63. Financial eligibility and benefit levels.

A. The State Board shall promulgate regulations to determine financial eligibility and benefit levels for Welfare to Work participants.

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;

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

430 C. Self-reliance workers shall inform Welfare to Work participants of the availability and benefits of  
431 the Federal Earned Income Tax Credit.

432 § 63.1-133.64. Diversionary AFDC cash assistance.

433 The State Board shall promulgate regulations to enable AFDC-eligible applicants meeting certain  
434 criteria to receive at one time the maximum AFDC cash assistance which the applicant would otherwise  
435 receive for a period of up to 120 days. An individual may receive diversionary AFDC cash assistance  
436 only one time in a sixty-month period and, in so doing, waives his eligibility for AFDC for up to 180  
437 days. This assistance shall be used to address one-time emergencies that will divert the family from  
438 receiving ongoing AFDC assistance.

439 § 63.1-133.65. Suspension or modification of Welfare to Work; extension of participation in Welfare  
440 to Work.

441 A. The Secretary of Health and Human Resources, or a designated representative of the Secretary,  
442 may temporarily suspend the time limitations set forth in § 63.1-133.57 in localities where the  
443 unemployment rate for the previous quarter as reported by the Virginia Employment Commission  
444 exceeds the state average by more than two percentage points. The Secretary of Health and Human  
445 Resources shall report such suspension within thirty days to the Governor, the General Assembly and  
446 local departments of social services.

447 B. On behalf of an individual participant, a local director of social services may petition the local  
448 board of social services for an extension of participation in Welfare to Work of up to twelve months  
449 pursuant to regulations promulgated by the State Board.

450 § 63.1-133.66. Transitional benefits.

451 A participant whose AFDC financial assistance is terminated, either voluntarily or involuntarily,  
452 shall have the opportunity to receive the following services for up to twelve months after termination:

453 1. Assistance with child day care if such assistance enables the individual to work;

454 2. Assistance with transportation, if such transportation enables the individual to work; and

455 3. Medical assistance, including transitional medical assistance for twelve months for families with a  
456 working parent who becomes ineligible for AFDC financial assistance because of increased earnings,  
457 unless (i) medical insurance is available through the parent's employer or (ii) family income exceeds  
458 185 percent of the federal poverty level.

459 § 63.1-133.67. Notice and appeal.

460 A participant may appeal allegations of noncompliance with the provisions of this chapter through  
461 the AFDC fair hearing and review process.

462 § 63.1-133.68. Evaluation and reporting.

463 A. In administering Welfare to Work, the Commissioner shall develop and use evaluation methods  
464 that measure achievement of the goals of Welfare to Work.

465 B. Beginning on December 1, 1996, and annually thereafter, the Commissioner shall report to the  
466 Governor and the General Assembly regarding the achievement of such goals.

467 C. In addition to the annual report filed on December 1, 1997, the Department shall prepare and  
468 submit by December 1, 1997, a full assessment of Welfare to Work to the Governor and the General  
469 Assembly with a comparison of the results of the previous annual reports and the impact of Welfare to  
470 Work.

471 § 63.1-133.69. Statewide implementation.

472 Welfare to Work shall be implemented statewide within five years of the effective date of this act.  
473 Statewide implementation shall be accomplished in accordance with guidelines established by the  
474 Department.

475 § 63.1-251. Payment of public assistance for child or caretaker constitutes debt to Department by  
476 responsible persons; limitations; Department subrogated to rights.

477 Any payment of public assistance money made to or for the benefit of any dependent child or  
478 children or their caretaker creates a debt due and owing to the Department by the person or persons who  
479 are responsible for support of such children or caretaker in an amount equal to the amount of public  
480 assistance money so paid. However where, if a caretaker receives AFDC payments for some of the  
481 caretaker's dependent children but not for other children pursuant to § 63.1-105.5, the caretaker shall  
482 receive the total amount of support collected for the children for whom no AFDC benefits are received.  
483 Such support payments shall not create a debt due and owing to the Department and the value of such  
484 payments shall not be counted as income for purposes of AFDC eligibility and grant determination.  
485 Where there has been a court order for support, final decree of divorce ordering support, or  
486 administrative order under the provisions of this chapter for support, the debt shall be limited to the  
487 amount of such order or decree. The Commissioner, pursuant to § 63.1-264, shall establish the debt in  
488 an amount determined to be consistent with a responsible person's ability to pay. The Department shall  
489 have the right to petition the appropriate court for modification of a court order on the same grounds as  
490 either party to such cause.



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

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

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

511 **2. That § 63.1-133.44 of the Code of Virginia is repealed.**

512 **3. That the Secretary of Health and Human Resources shall apply for the appropriate federal**  
513 **waivers and approvals necessary to implement the provisions of this act and for any other waivers**  
514 **of federal law or regulation to further the goals of economic self-sufficiency.**

515 **4. That the provisions of this act shall become effective July 1, 1996, if the appropriate federal**  
516 **waivers have been received, except that the provisions of this act amending and reenacting**  
517 **§§ 22.1-258 and 22.1-262 of the Code of Virginia and amending the Code of Virginia by adding a**  
518 **section numbered 63.1-105.6, requiring federal waivers shall become effective upon the receipt of**  
519 **such waivers or approvals, or on July 1, 1995, whichever is later.**