

LD6051813

SENATE BILL NO. 1094

Offered January 23, 1995

A *BILL to amend and reenact §§ 9-6.23, 63.1-105 as it is currently effective and as it may become effective, 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, 63.1-105.4 and 63.1-105.5 and 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.*

Patrons—Earley, Martin, Barry, Holland, C.A., Nolen, Robb, Stolle, Stosch and Wampler; Delegates: Albo, Cox, Crouch, Dudley, Fisher, Forbes, Harris, Howell, Ingram, Katzen, Kidd, Kilgore, May, McClure, Nelms, Newman, Nixon, O'Brien, Orrock, Purkey, Rollison, Ruff, Sherwood, Wagner, Wardrup, Way and Wilkins

Referred to the Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 9-6.23, 63.1-105, as it is currently effective and as it may become effective, 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, 63.1-105.4 and 63.1-105.5 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.

§ 63.1-105. (For effective date - See note) 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~~ *the* 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.).*

Notwithstanding the provisions of subdivision (e) 3 above, the State Board may determine, by rule

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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.

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 - See notes) 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.

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. It shall be the duty of the attorneys for the Commonwealth to prosecute all cases arising under this section.

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 thereof, subject to regulations promulgated by the State Board.

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

A. Except as provided in subsection B, unemancipated minor custodial parents and their children shall be eligible for aid to families with dependent children only if the minor and the minor's children for whom aid is claimed reside with the minor's parent, grandparent, or legal guardian. For the 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 minor custodial parent has no parent, grandparent or legal guardian whose whereabouts are known;

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

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

§ 63.1-105.4. Minor noncustodial parents whose child receives aid to families with dependent children (AFDC); support obligations of parent and grandparents.

The parents of a minor noncustodial parent whose child receives aid to families with dependent children shall be deemed to be responsible parties for the support of their grandchild. The State Board shall promulgate regulations, as necessary, to implement the provisions of this section. Child support shall be collected as provided in Chapter 13 (§ 63.1-249 et seq.) of Title 63.1. The noncustodial parent shall comply with compulsory school attendance laws (§ 22.1-254 et seq.). If the noncustodial parent is not in compliance with compulsory school attendance laws, 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.

§ 63.1-105.5. Limitation on AFDC benefits.

A. Notwithstanding the provisions of § 63.1-105, AFDC program regulations 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, is not eligible for an incremental increase in assistance as a result of the birth of such a child. AFDC applicants shall receive notice of this provision at the time of application and AFDC recipients shall receive notice of this provision at their next eligibility redetermination following the effective date of this act. 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.

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

B. A single custodial parent who does not receive additional AFDC financial assistance for the birth of a child pursuant to subsection A 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

183 of AFDC eligibility and grant determination.

184 CHAPTER 6.6.

185 WELFARE TO WORK.

186 § 63.1-133.56. Definitions.

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

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

189 "Agreement" means the written agreement of personal responsibility which sets forth the obligations
190 of the recipient.

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

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

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

194 § 63.1-133.57. Welfare to Work; general provisions.

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

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

204 § 63.1-133.58. Participant eligibility.

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

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

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

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

219 4. Any individual who is incapacitated, as determined by receipt of Social Security Disability Benefits
220 or Supplemental Security Income. This exemption shall not be granted to either parent in an AFDC-UP
221 case; eligibility shall be evaluated for regular AFDC on the basis of the parent's incapacity;

222 5. Any individual sixty years of age or older;

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

227 7. A parent or caretaker-relative of a child under eighteen months of age who personally provides
228 care for the child. A parent of a child not considered part of the AFDC assistance unit under
229 § 63.1-105.5 may be granted a temporary exemption of not more than six weeks after the birth of such
230 child.

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

233 9. Children receiving AFDC-Foster Care.

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

237 §63.1-133.59. Welfare to Work; purpose; administration.

238 A. There is hereby created the Welfare to Work Program to reduce long-term dependence on
239 welfare, to emphasize personal responsibility and to enhance opportunities for personal initiative and
240 self-sufficiency by promoting the value of work. The State Board shall promulgate the necessary
241 regulations and shall implement Welfare to Work within 280 days of enactment of this chapter. Welfare
242 to Work shall be implemented notwithstanding the provisions of § 63.1-25.01 and the human research
243 regulations promulgated thereunder.

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

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

C. 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 Welfare to Work and to provide services incident to such operation.

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

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. The program 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 the program unless exempted by this chapter. The program 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 the program. Funds to operate the program, 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 program participants shall be made from the pool.

(c) Participants in the program 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 program 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 program 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 program participants cannot be used to displace regular workers;

3. Part-time or temporary employment;

4. Community work experience (Workfare), 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 and local agencies and governments in developing job placements. Placement shall be selected to provide skills and serve a

306 public function. Program participants shall not displace regular workers.

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

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

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

316 § 63.1-133.60. Advisory Commission on Welfare Replacement.

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

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

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

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

335 § 63.1-133.61. Participation guidelines.

336 The Department shall ensure that local departments of social services coordinate all services. Local
337 departments may contract with the private sector for the delivery of these services. Participants shall be
338 assigned to a self-reliance worker who shall explain the obligations and benefits to the participant and
339 shall provide the participant with written materials explaining Welfare to Work. There shall be a written
340 agreement of personal responsibility for each Welfare to Work participant which shall be developed with
341 the involvement of the family. The agreement shall set out the responsibilities of and expectations for
342 Welfare to Work participants, including that they conduct themselves in a responsible manner, establish
343 the paternity of their children, participate in any education and training programs to which they are
344 assigned, accept any reasonable employment offered them and participate actively in that employment.
345 The agreement shall be in a format developed for statewide use, provide a mechanism for revisions and
346 amendments based on changed circumstances and notify participating families of their appeal rights
347 under this chapter.

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

355 § 63.1-133.62. Employment and support services.

356 A. Local departments of social services may offer families participating in Welfare to Work
357 case-management services throughout the family's participation in Welfare to Work. The local
358 departments are authorized to provide services, as available, to Welfare to Work families subject to
359 regulations promulgated by the State Board, which may include:

360 1. Day care for the children of Welfare to Work participants if:

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

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

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

366 2. Transportation which will enable parental employment or participation in services required by the
367 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;

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

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

§ 63.1-133.64. Diversionary AFDC 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 of up to 120 days. An individual may receive diversionary AFDC cash assistance only one time in a sixty-month period and, in so doing, waives his eligibility for AFDC for up to 180 days. This assistance shall be used to address one-time emergencies that will divert the family from receiving ongoing AFDC assistance.

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

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

B. On behalf of an individual participant, a local director of social services may petition a panel composed of the Commissioner of Social Services, the Executive Director of the Governor's Employment and Training Council and the Commissioner of the Virginia Employment Commission for a one-time extension of participation in Welfare to Work of up to six months if the local director of social services determines that the individual is unable to secure employment at the end of the two-year time period for Welfare to Work. Extensions may be granted only in cases of extreme hardship and pursuant to regulations promulgated by the State Board.

§ 63.1-133.66. Transitional benefits.

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

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 twelve months 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.

§ 63.1-133.67. Notice and appeal.

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

§ 63.1-133.68. Evaluation and reporting.

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

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

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

§ 63.1-133.69. Statewide implementation.

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

§ 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 ~~where~~, *if a caretaker receives AFDC payments for some of the caretaker's dependent children but not for other children pursuant to § 63.1-105.5, 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 § 63.1-133.4 of the Code of Virginia is repealed.

3. That the Secretary of Health and Human Resources shall apply for the appropriate federal waivers and approvals necessary to implement the provisions of this act and for any other waivers of federal law or regulation to further the goals of economic self-sufficiency and that the provisions or portions of this act requiring federal waivers shall become effective upon the receipt of such waivers or approvals, or on July 1, 1995, whichever is later.