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SENATE BILL NO. 767

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services
on February 5, 1999)

(Patron Prior to Substitute—Senator John S. Edwards)

A BILL to amend and reenact § 63.1-133.49 of the Code of Virginia, relating to the Virginia Initiative for Employment Not Welfare (VIEW).

Be it enacted by the General Assembly of Virginia:

1. That § 63.1-133.49 of the Code of Virginia is amended and reenacted as follows:

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

A. The Department shall establish and administer the Virginia Initiative for Employment Not Welfare (VIEW); to reduce long-term dependence on welfare, to emphasize personal responsibility and to enhance opportunities for personal initiative and self-sufficiency by promoting the value of work. The Department shall endeavor to develop placements for VIEW participants that will enable participants to develop job skills that are likely to result in independent employment and that take into consideration the proficiency, experience, skills and prior training of a participant. ~~The State Board shall promulgate the necessary regulations and shall implement VIEW within 280 days of the enactment of this chapter.~~

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

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

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

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

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

1. Unsubsidized private-sector employment;

2. Subsidized employment, as follows:

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

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

(c) Participants in FEP shall be placed in full-time employment when appropriate and shall be paid by the employer at an hourly rate not less than the federal or state minimum wage, whichever is higher. For each participant hour worked, the Department shall reimburse the employer the amount of the federal or state minimum wage and costs up to the available amount of the participant's combined value of ~~AFDC TANF~~ 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 TANF~~ and food stamps received prior to the work placement.

(d) Every employer subject to the Virginia unemployment insurance tax shall be eligible for assignment of FEP participants, but no employer shall be required to utilize such participants. Employers

shall ensure that jobs made available to FEP participants are in conformity with ~~Section~~ § 3304 (a) (5) of the Federal Unemployment Tax Act. FEP participants cannot be used to displace regular workers.

(e) FEP employers shall:

(i) Endeavor to make FEP placements positive learning and training experiences;

(ii) Provide on-the-job training to the degree necessary for the participants to perform their duties;

(iii) Pay wages to participants at the same rate that they are paid to other employees performing the same type of work and having similar experience and employment tenure;

(iv) Provide sick leave, holiday and vacation benefits to participants to the same extent and on the same basis that they are provided to other employees performing the same type of work and having similar employment experience and tenure;

(v) Maintain health, safety and working conditions at or above levels generally acceptable in the industry and no less than those in which other employees perform the same type of work;

(vi) Provide workers' compensation coverage for participants;

(vii) Encourage volunteer mentors from among their other employees to assist participants in becoming oriented to work and the workplace; and

(viii) Sign an agreement with the local department outlining the employer requirements to participate in FEP. All agreements shall include notice of the employer's obligation to repay FEP reimbursements in the event the employer violates Program rules.

(f) As a condition of FEP participation, employers shall be prohibited from discriminating against any person, including program participants, on the basis of race, color, sex, national origin, religion, age, or disability;

3. Part-time or temporary employment; *or*

4. Community work experience, as follows:

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

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

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

E. Notwithstanding the provisions of subsections A and D, if a local department determines that a VIEW participant is in need of job skills and would benefit from immediate job skills training, it may, with the participant's consent, exempt the participant from job search requirements and place the participant in a vocational educational program targeted to skills required for particular employment opportunities in the locality if the participant meets two or more of the criteria specified in this subsection. Eligible participants include those with problems related to obtaining and retaining employment, such as participants (i) with less than a high school education, (ii) whose reading or math skills are at or below the eighth grade level, (iii) who have not retained a job for a period of at least six months during the prior two years, and (iv) who are in a treatment program for a substance abuse problem or are receiving services through a family violence treatment program. The vocational educational program shall be for a minimum of thirty hours per week. Prior to placing the VIEW participant in the vocational educational program, the local department shall have a memorandum of understanding with an employer that such participant will be placed, if qualified and the employer has an opening, in a job with the employer at the conclusion of the program. The VIEW participant shall be required to work an average of eight hours per week during the vocational educational program in part-time or temporary employment or community work experience. The VIEW participant may continue in the vocational educational program for as long as the local department determines he is progressing satisfactorily and to the extent permitted by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), as amended.

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

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

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

Any injury to a VIEW participant by accident arising out of and in the course of community work

122 experience shall be covered by the participant's existing Medicaid coverage. If a community work
123 experience participant is unable to work due to such an accident, his status shall be reviewed to
124 determine whether he is eligible for an exemption from the limitation on ~~AFDC~~ *TANF* financial
125 assistance.

126 A community work experience participant who becomes incapacitated for thirty days or more shall
127 be eligible for ~~AFDC~~ *TANF* financial assistance for the duration of the incapacity, if otherwise eligible.

128 The State Board shall promulgate regulations providing for the accrual of paid sick leave or other
129 equivalent mechanism for community work experience participants.

130 **2. That the State Board of Social Services shall promulgate regulations to implement the**
131 **provisions of this Act within 280 days or less of the date of enactment.**