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HOUSE BILL NO. 1322

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations)

(Patron Prior to Substitute—Delegate Brickley)

House Amendments in [] — February 14, 1994

A *BILL to amend [and reenact] § 9-6.23 of the Code of Virginia, as it is currently in effect and as it will become effective, and to amend of the Code of Virginia by adding in Title 63.1 a chapter numbered 6.5, consisting of sections numbered 63.1-133.41 through 63.1-133.55, establishing the Virginia Independence Program.*

Be it enacted by the General Assembly of Virginia:

1. That § 9-6.23 of the Code of Virginia [is amended], as it is currently in effect and as it will become effective [, is amended and reenacted] and that the Code of Virginia is amended by adding in Title 63.1 a chapter numbered 6.5, consisting of sections numbered 63.1-133.41 through 63.1-133.55, as follows:

§ 9-6.23. (Effective until 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 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; ~~or~~ to members of the Workforce 2000 Advocacy Council, who shall be appointed as provided in § 2.1-116.18; *or to members of the Advisory Commission on Welfare Reform who shall be appointed as provided in § 63.1-133.44.*

§ 9-6.23. (Effective July 1, 1995) Prohibition against service by legislators on boards and commissions within the executive branch.

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CHAPTER 6.5.

FROM WELFARE TO WORK:

THE VIRGINIA INDEPENDENCE PROGRAM.

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

There is hereby created the Virginia Independence Program, hereinafter in this chapter referred to as the "Program."

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The goals of the Program are to:

1. Offer Virginians living in poverty the opportunity to achieve economic independence by removing barriers and disincentives to work and providing positive incentives to work;
2. Provide Virginia families living in poverty with the opportunities and work skills necessary for self-sufficiency;
3. Assist Virginia families living in poverty in contributing materially to their own self-sufficiency;
4. Set out the expectations and responsibilities of recipients of public assistance and the government; and
5. Provide Virginia families living in poverty with the opportunity to participate in public service for compensation through the Virginia Initiative for Employment Not Welfare (VIEW).

The Program shall recognize clearly defined reciprocal responsibilities and obligations on the part of both parents and government and shall include an agreement of mutual responsibility requiring intensive case management, supportive and transitional services for families; earned income disregards which reduce work disincentives; a limit on public assistance for recipients who bear children while receiving Aid to Families with Dependent Children (AFDC); and a maximum one-year limit on the receipt of AFDC by a family.

The agreement shall recognize that not all recipients will find paid employment within one year. This Program therefore includes a public sector employment option, VIEW, for up to one additional year. The Program also includes objective criteria for extending VIEW participation, in limited and extraordinary cases.

The Department of Social Services (the Department) shall administer the Program, which is to be phased in statewide [~~over a two-year period~~] commencing July 1, 1994. The Department shall be assisted by the Department of Economic Development, the Virginia Employment Commission and the Governor's Employment and Training Department.

§ 63.1-133.42. Definitions.

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

"AFDC" means Aid to Families with Dependent Children.

"Case manager" means the jobs service worker in the local department of social services.

"Control group" means a statistically matched subset of families that receive AFDC in accordance with regulations in effect prior to the effective date of this act.

"Intensive case management" means individualized services provided by a properly trained case management specialist whose caseload does not exceed forty-five.

"Participating family" means an assistance unit including a parent who receives AFDC under the Program, including services and requirements, authorized by this chapter.

§ 63.1-133.43. Participant eligibility.

Recipients of AFDC who meet eligibility criteria for the Job Opportunity and Basic Skills Program (JOBS) shall be required to participate in the Program, except that the following people shall not be required to participate and shall remain eligible for AFDC cash assistance:

1. Single-parent families in which the parent is disabled or two-parent families where both parents are disabled, as disabled is defined by State Board [~~of Social Services~~] regulation.

2. Families in which the parent is needed to care for a disabled child or spouse, as disabled is defined by State Board regulation.

3. Families in which the parent is under the age of twenty years and is attending an educational or training program on a full-time basis.

4. Single-parent families in which the mother is in her third trimester of pregnancy, or in which the parent has a child under the age of eighteen months.

5. Primary caretakers of a child or children who are legal guardians, grandparents, foster parents, or other persons standing in loco parentis who are not the adoptive or biological parents of the child.

§ 63.1-133.44 . Advisory Commission on Welfare Reform.

There is hereby established an Advisory Commission [~~of on~~] Welfare Reform, which shall be convened by the Secretary of Health and Human Resources .

The Advisory Commission shall have the following specific duties:

1. Serve, through recommendations to the Governor, as a catalyst for generating a pool of jobs for participants in the Virginia Independence Program.

2. Provide evaluation and feedback to the Governor on incentives designed to promote business participation in the Virginia Independence Program.

The chairman, vice chairman and members of the Commission, except for members of the General Assembly, shall be appointed by the Governor and shall serve at his pleasure. The Commission shall consist of no more than twenty-four members. Membership shall include three members of the Virginia House of Delegates, to be appointed by the Speaker of the House of Delegates; two members of the Virginia Senate, to be appointed by the Senate Committee on Privileges and Elections; 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; and one representative of the Virginia League of Social Service Executives. The Secretaries of Health and Human Resources and Commerce and Trade shall serve as ex officio members.

§ 63.1-133.45. Participation; agreement of mutual responsibility; coordinated services.

A. In administering the Program, the Department shall ensure that local departments of social services provide delivery and coordination of all services through intensive case management. Program participants shall be referred to a case manager of the local department of social services. The case manager shall fully explain the Program to the participant and shall provide the participant with written materials explaining the Program.

B. There shall be a written individualized agreement of mutual responsibility for each participating family, with the full involvement of the family and with a right of appeal as provided in this chapter. The agreement shall set out the responsibilities of and expectations for recipients of AFDC and the responsibilities and obligations of the government, including services to be provided to the participating family. 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. Services called for in the agreement of mutual responsibility shall be offered according to the time schedule established in the agreement to enable members of the family to achieve self-sufficiency and to carry out their personal and family responsibilities. Appropriate education or training activities directed toward self-sufficiency shall specifically be addressed for recipients, when necessary.

C. The Department shall be responsible for the coordination of the intensive case management. Job training shall be facilitated by the Governor's Employment and Training Department. Private-sector job finding and job matching shall be facilitated by the Virginia Employment Commission and the Department of Economic Development.

D. The Secretary of Health and Human Resources, assisted by the Secretary of Commerce and Trade, shall prepare and maintain an annual plan for coordinating and integrating all appropriate services in order to promote successful outcomes. The plan shall encourage the use of local and regional service providers and permit a variety of methods of providing services. Emphasis shall be placed on coordinating and integrating career counseling, job development, job training and skills, job placement, and academic and technical education. Public and private institutions of higher education and other agencies which offer similar or related services shall be invited to participate as fully as possible in developing, implementing and updating the annual coordination plan.

E. The Secretary of Health and Human Resources shall:

1. Increase public awareness of the federal Earned Income Credit (EIC) and encourage families who may be eligible to apply for those tax credits.

2. Pursue aggressive child-support initiatives as established by the General Assembly.

3. Work with community providers to develop parenting, training and educational options for pregnant minors and minor parents.

4. Increase public awareness of tax advantages to Virginians who move to secure employment.

5. Provide leadership for the development of local public service opportunities in VIEW.

6. Develop strategies to educate, assist and induce employers to hire participants and to provide public service opportunities, in consultation with the Advisory Commission on Welfare Reform, representatives of employers, and other relevant public and private agencies on the state and local level.

7. Provide technical assistance to local departments of social services to assist them in working with employers in the community to develop job and public service opportunities for participants.

§ 63.1-133.46. Case management; support services; transitional support services.

A. The Commissioner of Social Services, through the local departments of social services, with such funds as appropriated, shall offer services under Title II of the federal Family Support Act of 1988, as amended (Job Opportunities and Basic Skills Training Program or Employment Services Program), to all families participating in the Program receiving AFDC.

B. The Commissioner of Social Services, through the local departments of social services, with such funds appropriated, shall offer families participating in the program intensive case management services throughout the two-year period, initial assessment of the full range of services that will be needed by each family including testing and evaluation, development of the individualized agreement of mutual responsibility, periodic reassessment of service needs and the agreement of mutual responsibility, and any of the following services needed by participating families:

1. The Department shall make payments for day care for the children of Program participants if:

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

b. Day-care services are required to enable a participant to receive job placement, job training or education services, and such participant is employed at least twenty-five hours a week.

183 c. A participant is under age twenty and is attending [~~high school~~ an educational or training
184 program] on a full-time basis and day-care services are essential to enable the participant to attend
185 school.

186 d. The participant is participating in VIEW, and day-care services are essential to continued
187 participation.

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

189 Twelve months after a family with a working parent becomes ineligible for AFDC due to increased
190 earnings, the economic need for transitional child care shall be measured on the same basis as income
191 eligibility for child-care assistance under Virginia's State Plan for Supportive Services (Title IV-A/F) for
192 the current fiscal year, and the recipient household may be subject to the sliding fee scale established
193 pursuant to such Plan.

194 2. Transportation which will enable parental employment or participation in services indicated by
195 their individualized agreement of mutual responsibility.

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

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

204 5. Other services identified by the case manager as necessary and appropriate to achieve the
205 agreement of mutual responsibility and the goals of this chapter.

206 § 63.1-133.47. Financial eligibility and benefit levels.

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

209 1. Virginia's AFDC need standard shall be revised, and readjusted annually thereafter, to reflect
210 current living costs; however, the percentage of such need standard paid to AFDC recipients shall be
211 adjusted so that current benefit levels are continued. To reward work, AFDC payments may continue to
212 be made to a participating family that has earned income from any source other than VIEW, for up to
213 two years from the date of their first AFDC payment. However, in no event shall the AFDC payment
214 when added to the earned income exceed the standard of need, and if necessary any AFDC payment
215 shall be reduced so that earned income plus AFDC payment shall equal the standard of need.

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

220 3. The equity value of one operable motor vehicle per family shall be excluded for purposes of
221 determining eligibility for AFDC or food stamps.

222 § 63.1-133.48. Limitation on benefits under the Aid to Families with Dependent Children (AFDC)
223 program.

224 Notwithstanding the provisions of § 63.1-105 and the AFDC program regulations promulgated by the
225 State Board of Social Services, the State Board shall revise the schedule of payments to be paid to a
226 recipient family participating in the Program by eliminating the increment in AFDC benefits to which a
227 family would otherwise be eligible as a result of the birth of a child during the period in which the
228 family participates in the Program, or during the period in which the family or adult recipient is
229 ineligible for AFDC benefits pursuant to a penalty imposed by the Commissioner for failure to comply
230 with benefit eligibility or child support requirements, subsequent to which the family or adult recipient is
231 again eligible for benefits. The State Board shall provide that a recipient family in which the Program
232 participant gives birth to an additional child during the period of the mother's eligibility for AFDC
233 benefits, or during a temporary penalty period of ineligibility of benefits, may receive additional benefits
234 only in the case of a general increase in the amount of AFDC benefits which is provided to all AFDC
235 recipients. Program participants shall receive notice of this provision at the time the agreement is
236 signed by both parties. This provision shall not apply to legal guardians, foster parents, grandparents,
237 or other persons in loco parentis who are not the biological parents of the child.

238 The State Board shall provide that there shall be no elimination of the increment in benefits for
239 Program participants (i) for ten months after the effective date of the receipt of federal waivers, or July
240 1, 1994, whichever is later, or (ii) for ten months after the Program participant first applies for AFDC
241 or first reapplies, if there has been prior participation in the AFDC program, after the effective date of
242 the receipt of federal waivers, or July 1, 1994, whichever is later.

243 The provisions of this section shall expire two years after the receipt of the federal waivers necessary
244 to implement this act.

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

The Department shall establish and administer the Virginia Initiative for Employment not Welfare (VIEW) which is a public service employment program for participants who have not secured private sector employment after the first year of participation in the program. The Department shall endeavor to develop placements for VIEW participants that will enable participants to develop job skills that are likely to result in paid employment. The State Board shall provide guidelines regarding the development of jobs that will best benefit the participant and the locality. The State Board shall promulgate regulations providing that a VIEW participant shall work a minimum of thirty hours per week and assuring the participant and his case manager periodically evaluate the participant's ability to find paid employment. Participants in VIEW shall be eligible for day-care payments [, transportation] and Medicaid coverage.

1. Program participants shall be eligible for participation in VIEW ninety days after beginning the Program. A Program participant shall be provided with the opportunity to participate in VIEW after one year of participation in the Program if there is no private-sector job available for such individual.

2. Upon expiration of AFDC benefits, after one year, it is the expectation that the participant will have secured private employment or be a VIEW participant.

3. VIEW wages shall be paid by the State through the Department of Social Services. Wages shall equal the average prevailing AFDC payment plus food stamps divided by thirty hours a week [or shall equal the federal minimum wage, whichever is greater] .

4. VIEW participants shall be under the direction and supervision of the case manager.

5. VIEW participation shall be limited to two years from the date of receipt of the first AFDC check, unless a hardship exemption is granted.

6. VIEW income shall not be considered earned income with respect to § 63.1-133.47.

§ 63.1-133.50 Limit on the receipt of Aid to Families with Dependent Children (AFDC) .

The Department shall establish a goal for the Program, through the agreement, to limit the receipt of AFDC financial assistance to a maximum of one year, after which time private employment or participation in VIEW is expected. The limit shall be based on a mutual understanding of achievable goals and objectives tailored to the abilities and skills of the Program participant, as well as to the availability of community resources.

The one-year limitation shall be effective after the signing of the agreement by the Program participant and the local department of social services. A Program participant whose benefits are terminated pursuant to this section may receive AFDC financial assistance after a period of twenty-four months without (i) participation in VIEW or (ii) the receipt of AFDC financial assistance, if such person is otherwise eligible.

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

§ 63.1-133.51. Hardship exceptions.

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

(i) Where the department has failed to provide a Program participant with intensive case management or necessary support services pursuant to § 63.1-133.46;

(ii) Where a Program participant who has been actively seeking employment is unable to find suitable work;

(iii) Where a former Program participant quits work for good cause or is laid off or dismissed from work, provided that such dismissal is not for misconduct connected with work; and

(iv) Where factors relating to job availability [; including the prevailing local unemployment rate are unfavorable] are unfavorable, including a high local unemployment rate as determined by the Virginia Employment Commission pursuant to § 60.2-612] . The agreement shall contain the objective criteria which will be used to determine if there should be an extension of VIEW participation or eligibility for AFDC financial assistance.

§ 63.1-133.52. Provision of services.

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

306 health care coverage for adults and children who are otherwise eligible for Medicaid.

307 § 63.1-133.53. Notice and appeal.

308 A. A parent or other caretaker may appeal (i) any dispute in connection with the formation or
309 implementation of the agreement of mutual responsibility, (ii) any failure or refusal to grant a hardship
310 exception or extension of benefits or (iii) any other alleged noncompliance with the provision of this
311 chapter through the AFDC fair hearing and review process. If a hearing request is received prior to the
312 effective date of any proposed change in benefit status, a parent or other caretaker appealing such
313 change shall have the right to continued direct payment of AFDC benefits pending final administrative
314 action on such appeal. All federal and state statutes and rules regarding conciliation, notice, hearing,
315 and appeal shall be followed; however, notwithstanding the limitations set forth in § 9-6.14:16,
316 §§ 9-6.14:17 and 9.6.14:18 shall be fully applicable in the judicial review of fair-hearing decisions.

317 B. The Commissioner shall provide notice to each parent or other caretaker of such appeal and due
318 process rights and the procedures to be followed in exercising such rights.

319 [C. In addition to the annual report filed December 1, 1997, the Department shall prepare and file
320 a full assessment of the Program to the General Assembly with a comparison of the results of the
321 previous filed annual reports and the impact of the Program and the Department shall make a
322 recommendation about whether to expand the Program throughout the state.]

323 § 63.1-133.54. Evaluation and reporting.

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

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

329 The report shall include:

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

332 2. A description of the development, implementation, and subsequent evaluation of agency staff
333 training.

334 3. A description of the development, implementation, and subsequent evaluation of the case
335 management system and individualized agreement of mutual responsibility components of the Program.

336 4. An evaluation of the Program by participating families.

337 5. A description of the capacity of the human services delivery system, the Virginia Employment
338 Commission and the Department of Economic Development, both within and without state and local
339 government, to sustain the Program, including the support services required by this chapter.

340 6. A documentation of participant outcomes, including specific information relating to the number of
341 persons employed, by occupation, industry and wage; the types of jobs secured by participants; any
342 available information about the impact of the Program on children, including objective indicators of
343 improved conditions; and the number of participating families involved in training and education
344 programs, by type of program. Beginning December 1, 1994, and thereafter, the report shall
345 differentiate participant outcomes according to membership in the control group and the two randomly
346 selected demonstration groups.

347 7. The progress made in implementing the provisions of this chapter, including an analysis of the
348 effect of the Program on state and federal revenues and expenditures.

349 8. A summary of all interim and final reports submitted by independent evaluation contractors to the
350 Department of Social Services, the Commissioner of Social Services or the Secretaries of Health and
351 Human Resources or Commerce and Trade.

352 § 63.1-133.55. Statewide Program implementation.

353 [The Department shall establish guidelines for the selection of 5,000 participants for the first year
354 of implementation and 5,000 additional participants in the second year, beginning July 1, 1995, in areas
355 with demographics and economies reflective of Virginia's poverty areas. The first participants in the
356 Program shall be drawn from current AFDC recipients who have completed the JOBS Program.
357 Program site selection shall conform with federal requirements for waiver approval. The Department
358 shall also select a control group in numbers required to provide statistically significant comparisons
359 between groups, which are matched to the initial 10,000 participants in the Program. The control group
360 shall not be selected from the Program participant group.

361 The Program shall be implemented on a statewide basis effective July 1, 1996, provided that:

362 The Department shall establish guidelines for the selection of 3,000 participants for the first year of
363 implementation, 3,000 participants in the second year, beginning July 1, 1995, and 3,000 additional
364 participants in the third year, beginning July 1, 1996. Participants shall be residents of areas with
365 demographics and economies reflective of Virginia's poverty areas. The first year participants in the
366 Program shall be drawn from current AFDC recipients who have completed the JOBS Program.
367 Program site selection shall conform with federal requirements for waiver approval. The Department

shall also select a control group in numbers required to provide statistically significant comparisons between groups, which are matched to the initial 9,000 participants in the Program. The control group shall not be selected from the Program participant group.

The Secretary of Health and Human Resources shall continue to implement the Program on a phased basis with the goal of statewide application, provided that:]

[1. The General Assembly accepts for approval or disapproval the recommendation presented in the final evaluation and assessment by the Department;]

2. Funds adequate to provide intensive case management services, training and educational services and an array of family support services in accordance with individualized agreements of mutual responsibility have been appropriated; and

3. In any fiscal year when moneys appropriated are not sufficient to provide to any parent all case management services required by this act and all training, education and family support services called for in the agreement of mutual responsibility, such parent's termination of AFDC benefits shall be deferred.

2. 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 that this act shall become effective upon the receipt of such waivers and approvals, or on January 1, 1995, whichever is later.

3. That notwithstanding the provisions of this chapter, the Secretary of Health and Human Resources may amend the Virginia Independence Program consistent with the intent of this act in order to comply with federal requirements.

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