

# VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

## CHAPTER 857

*An Act to amend and reenact § 63.1-105 of the Code of Virginia, relating to aid to families with dependent children.*

[H 65]

Approved April 9, 1996

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

**1. That § 63.1-105 of the Code of Virginia is amended and reenacted as follows:**

§ 63.1-105. Eligibility for aid to families with dependent children.

A person shall be eligible for aid to families with dependent children if 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 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;

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.) as described in § 63.1-105.4. *Prior to imposing a sanction of benefits, the appropriate local department staff shall make reasonable efforts to discuss with the parent or caretaker, by personal contact which may include direct telephone contact, a plan to return the child to school. If such efforts fail, the local department shall mail a written advance notice of proposed action to the parent or caretaker advising that benefits may be reduced if the parent or caretaker fails to contact the agency to develop a plan to return the child to school.*

Notwithstanding the provisions of subdivision 3 above, the State Board may determine, by regulation, the conditions under which a child who is deprived of adequate support by reason of the unemployment of one or both of his parents shall be eligible for aid and assistance under this chapter if all other eligibility requirements have been met. The welfare of the child shall be the paramount consideration and the presence of an unemployed parent in the home shall not in and of itself deprive such child of necessary aid and assistance under this chapter. To the extent permissible under federal law, AFDC shall be provided to needy two-parent families on the same terms and conditions that AFDC is provided to single-parent families.

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.