WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED

Committee Substitute for
SENATE BILL NO. 140

(By Senator [Signature]
Mr. President, et al.)

PASSED March 9, 1996
In Effect NINETY DAYS FROM Passage
ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 140

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND BOLEY,
BY REQUEST OF THE EXECUTIVE)

[Passed March 9, 1996; in effect ninety days from passage.]

AN ACT to amend chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article nine, relating to the West Virginia works program for welfare assistance to at-risk families; food stamp recipients and emergency assistance recipients; short title; legislative findings; program goals; definitions; authorization for program, permitting establishment as pilot projects, authorizing the request for federal waivers, making the program implementation subject to appropriation of funds; creating the “West Virginia works program fund”; defining program participation requirements; establishing eligibility for program participation;
requiring participants to work, attend school or a training program; exemptions from work requirements; requiring all participants to sign a personal responsibility contract and defining required provisions; time limits for program participation; sanctions; establishing due process procedures; emergency assistance loans in lieu of monthly cash assistance; employer subsidy for employment; transitional assistance; requiring interagency coordination; requiring intergovernmental coordination and the use of existing state facilities and county transportation systems for program implementation; authorizing community organizations to develop support services; coordinating relationship with other law; and requiring review and evaluation by the legislative oversight commission on health and human resources accountability.

Be it enacted by the Legislature of West Virginia:

That chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article nine, to read as follows:

ARTICLE 9. WEST VIRGINIA WORKS PROGRAM.

§9-9-1. Short title.

1 This article may be cited as the "WV WORKS Act".

§9-9-2. Legislative findings; purpose.

1 (a) The Legislature hereby finds that:

2 (1) At-risk families are capable of becoming self-supporting;

3 (2) A reformed assistance program should both expect and assist a parent and caretaker-relatives in at-risk families to support their dependent children and children for which they are caretakers;

4 (3) Every parent or caretaker-relative can exhibit responsible patterns of behavior so as to be a positive role model;
(4) Every parent or caretaker-relative who receives welfare assistance has a responsibility to participate in an activity to help them prepare for, obtain and maintain gainful employment;

(5) For a parent or caretaker-relative who receives welfare assistance and for whom full-time work is not feasible, participation in some activity is expected to further themselves, their family or their community;

(6) The state should promote the value of work and the capabilities of individuals;

(7) Job development efforts should enhance the employment opportunities of participants;

(8) An effective public education system is the key to long-term self-support; and

(9) A reformed assistance program should be structured to achieve a clear set of outcomes; deliver services in an expedient, effective and efficient manner; maximize community support for participants; and demonstrate budget neutrality over five years. After five years, there is expected to be a decrease in the following: (i) the number of persons receiving public assistance; (ii) the amount of time an individual remains on public assistance; and (iii) the amount of money spent in the West Virginia works program.

(b) The goals of the program are to achieve more efficient and effective use of public assistance funds; reduce dependency on public programs by promoting self-sufficiency; and structure the assistance programs to emphasize employment and personal responsibility. The program is to be evaluated on the increase in employment rates in the program areas; the completion of educational and training programs; the increased compliance in preventive health activities, including immunizations; and a decrease in the case-load of division personnel.

In addition to the rules for the construction of statutes in section ten, article two, chapter two of this code and the words and terms defined in section two, article one of this chapter, unless a different meaning appears from the context:

(a) "At-risk family" means a group of West Virginians living in the same household, living below the federally designated poverty level, lacking the resources to become self-supporting, and consisting of a dependent minor child or children living with a parent, stepparent or caretaker-relative; an "at-risk family" may include an unmarried minor parent and his or her dependent child or children who live in an adult supervised setting;

(b) "Barrier" means any fact, circumstance or situation that prevents a person from becoming self-sufficient or from seeking, obtaining or maintaining employment of any kind, including physical or mental disabilities, lack of education, testing, training, counseling, child care arrangements, transportation, medical treatment or substance abuse treatment;

(c) "Beneficiary" or "participant" means any person in an at-risk family who receives welfare assistance for himself or herself, for family members or for persons for whom he or she cares;

(d) "Community or personal development" means activities designed or intended to eliminate barriers to participation in self-sufficiency activities. These activities are to provide community benefit and enhance personal responsibility, including, but not limited to, classes or counseling for learning life skills or parenting, dependent care, job readiness, volunteer work, participation in sheltered workshops or substance abuse treatment;

(e) "Department" means the state department of health and human resources;

(f) "Division" means the division of human services;
(g) "Income" means money received by any member of an at-risk family which can be used at the discretion of the household to meet its basic needs: Provided, That income shall not include earnings of minor children in school, payments received from earned income tax credit or tax refunds;

(h) "Personal responsibility contract" means a written agreement entered into by the division and a beneficiary which establishes the responsibilities and obligations of the beneficiary;

(i) "Secretary" means the secretary of the state department of health and human resources;

(j) "Subsidized employment" means employment with earnings provided by an employer who receives a subsidy from the division for the creation and maintenance of the employment position;

(k) "Support services" means, but is not limited to, the following services: Child care; medicaid; transportation assistance; information and referral; resource development services which is assisting families to receive child support enforcement and supplemental social security income; family support services which is parenting, budgeting and family planning; relocation assistance; and mentoring services;

(l) "Supported employment" means employment with earnings, after mandatory deductions, that provides a level of income that does not allow an at-risk family to exist independent of government support such that supplemental cash assistance, child care subsidies, food stamps, subsidized housing or other assistance may be provided as necessary for a period of time;

(m) "Unsubsidized employment" means employment with earnings, after mandatory deductions, that provides a level of income that allows a family to become completely independent of government support;

(n) "Welfare assistance" means aid to families with
dependent children, food stamps or emergency assistance;

(o) "Work" means unsubsidized employment, subsidized employment, employment with support, work experience or community or personal development; and

(p) "Work experience" means unpaid structured work activities that are provided in an environment where performance expectations are similar to those existing in unsubsidized employment and which provide training in occupational areas that can realistically be expected to lead to unsubsidized employment.


1 (a) The secretary shall conduct the West Virginia works program in accordance with this article and any applicable waivers from the secretary of the federal department of health and human services and the secretary of the federal department of agriculture or in accordance with federal block-grant funding or similar federal funding stream. This program shall be implemented to replace welfare assistance programs for at-risk families in accordance with this article and within federal requirements; to coordinate the transfer of all applicable state programs into the West Virginia works program; to expend only the funds appropriated by the Legislature to establish and operate the program; to establish administrative due process procedures for revocation or termination proceedings; and implement such other procedures as may be necessary to accomplish the purpose of this article.

(b) Notwithstanding any provision of the law to the contrary, the secretary shall implement the West Virginia works program as soon as possible, but no later than three months after receiving federal waiver approval and sufficient funds.

(c) The secretary shall submit federal waiver proposals to permit this state to limit the duration of assistance to adults, increase the asset test to five thousand dollars, to
disregard the restriction that limits the primary wage earner to working less than one hundred hours per month and to eliminate the requirement of recent attachment to the work force.

(d) The secretary may establish the program as one or more pilot projects to test the policy being evaluated. Any pilot project so established is to be consistent with the principles and goals set forth in this act. The secretary shall determine the counties in which to implement the provisions of this program, considering a fair representation of both rural and urban areas, and may vary the program components to test the effectiveness, efficiency and fiscal impact of each prior to statewide implementation. The secretary shall structure the initial pilot program, or programs to include a minimum of fifteen percent of the state population that qualifies for aid to families with dependent children, or any successor program. The pilot program shall eventually include a minimum of fifteen percent of the participants eligible in other categories, as funds are available.

(e) The West Virginia works program authorized pursuant to this act does not create an entitlement to that program or any services offered within that program, unless entitlement is created pursuant to a federal law or regulation. The West Virginia works program, and each component of that program established by this act or the expansion of any component established pursuant to federal law or regulation, is subject to the annual appropriation of funds by the Legislature and the corresponding federal financial participation moneys.

(f) On or before the first day of October, one thousand nine hundred ninety-six, the secretary shall propose emergency rules in accordance with the provisions of section fifteen, article three, chapter twenty-nine-a of this code regarding the implementation of the pilot program, including, but not limited to, rules establishing requirements for participation in the program, and rules regarding the development, fulfillment and cancellation
of personal responsibility contracts.

(g) The secretary shall propose rules in accordance with the provisions of chapter twenty-nine-a of this code necessary to accomplish all other purposes of this article, including, but not limited to, rules for the regulation of the West Virginia works program when expanded; rules establishing requirements for participation in the program; and rules regarding the development, fulfillment and cancellation of personal responsibility contracts: Provided, That such rules shall not be filed as emergency rules pursuant to section fifteen, article three of said chapter.

(h) Copies of all rules proposed by the secretary shall also be filed with the legislative oversight commission on health and human resources accountability established pursuant to article twenty-nine-e, chapter sixteen of this code.

§9-9-5. West Virginia works program fund.

There is hereby created a special account within the state treasury to be known as the “West Virginia Works Program Fund”. Expenditures from the fund shall be used exclusively to meet the necessary expenditures of the program, including wage reimbursements to participating employers, aid to dependent children cash grants, employment-related day care payments, transportation expenses and administrative costs directly associated with the operation of the program. Moneys paid into the account shall be from specific appropriations by the Legislature and the corresponding federal financial participation moneys.

§9-9-6. Program participation.

(a) Unless otherwise noted in this article, all adult recipients of welfare assistance shall be required to participate in the West Virginia works program, or pilot program, in accordance with the provisions of this article. The level of participation, services to be delivered and work requirements shall be defined within the
terms of the personal responsibility contract and through
rules established by the secretary.

(b) To the extent funding permits, any individual
exempt under the provisions of section eight of this
article may participate in the activities and programs
offered through the West Virginia works program.

(c) Support services other than cash assistance through
the works program may be provided to at-risk families
to eliminate the need for cash assistance.

(d) Cash assistance through the works program may be
provided to an at-risk family if the combined family
income is below the income and asset test levels estab-
lished by the division: Provided, That an at-risk family
that includes a married man and woman and dependent
children of either one or both may receive an additional
cash assistance benefit in an amount ten percent greater
than the cash assistance benefit provided to the same
size household in which there are no married adults.

(e) The secretary shall promulgate legislative rules in
accordance with article three, chapter twenty-nine-a of
this code and administer the West Virginia works
program to insure that no duplication of benefits occurs
to the participants in the program. Participants may not
receive benefits under the works program and at the
same time and for the same time period also receive aid
to families with dependent children or other forms of
governmental assistance that are the same or similar to
those granted in this article.

§9-9-7. Work requirements.

Unless otherwise exempted by the provisions of section
eight of this article, the West Virginia works program
shall require that anyone who possesses a high school
diploma, or its equivalent, or anyone who is of the age of
twenty years or more, to work or attend an educational
or training program for a minimum of twenty hours per
week to receive any form of welfare assistance. In
accordance with federal law or regulation, the work,
education and training requirements of this section are waived for any qualifying participant if day care services are not available. In order for any participant to receive welfare assistance, he or she shall enter into personal responsibility contracts pursuant to the provisions of section nine of this article.


1 Participants exempt from the work requirements of the works program pursuant to the provisions of this section shall be required to develop a personal responsibility contract. The secretary shall establish by rule categories of persons exempt only from the work requirements of the program, which categories shall include, but not be limited to, the following:

(a) A parent caring for a dependent child with a life-threatening illness;

(b) Individuals over the age of sixty years;

(c) Persons working in unsubsidized employment;

(d) Full-time students that are less than twenty years of age and are pursuing a high school diploma or equivalent;

(e) Persons with a physical or mental incapacity as defined pursuant to the provisions of title forty-two of the Social Security Act and the regulations promulgated thereunder, 45 C.F.R. §233.90;

(f) Individuals suffering from a temporary debilitating injury for the duration of that injury. For purposes of this section, the injury must cause the temporary disability for more than thirty days;

(g) Relatives providing in-home care for an individual that would otherwise be institutionalized; and

(h) Any woman during the last trimester of pregnancy and the first six months after the birth of the child but in no case shall the woman be exempt from the work requirements for more than a total of six months:
Provided, That, in the case of the birth of the first child to said woman after said woman first becomes a public assistance recipient, the woman shall be exempt for the first two years after the birth of said child.


(a) Every eligible adult beneficiary shall participate in a program orientation and the development, and subsequent revisions, of a personal responsibility contract. The contract shall be defined based on the assessed needs of the participant.

(1) If the participant has a recent attachment to the work force, the contract shall include provisions regarding required job search activities, identified support services, level of benefits requested and time limitation.

(2) If the participant does not have a recent attachment to the work force, the contract shall identify the evaluation or testing activities, and/or job training activities necessary prior to job search activities, identified support services, benefits requested and time limitation.

(3) If it is determined that the participant is not able to obtain or maintain gainful employment, the contract shall contain appropriate provisions defining the activities that benefit the participant, their family or their community.

(4) If the participant is a parent or caretaker-relative, the contract shall include the requirement that the participant develop and maintain, with the appropriate health care provider, a schedule of preventive care for their dependent child, including routine examinations and immunizations; nutrition counseling; assurance of school attendance for school age children under their care; assurance of properly supervised child care, including after-school care; and establish paternity or actively pursue child support, or both, if applicable and if deemed necessary, counseling, parenting or family planning classes.
(5) If the participant is a parent or caretaker-relative who must remove barriers prior to employment, the contract shall include a list of the identified barriers and an individual plan for removing the same.

(6) If the participant is a teenage parent, the participant may work and the contract shall include the requirements that the participant:

(A) Remain in an educational activity to complete high school, obtain a general equivalent diploma or obtain vocational training and make satisfactory scholastic progress without incurring any disciplinary actions;

(B) Attend parenting classes or participate in a mentorship program, or both; and

(C) Live at home or in other adult supervised arrangements if they are unemancipated minor parents.

(7) If the participant is under the age of twenty years and does not have a high school education or its equivalent, the contract shall include requirements to participate in mandatory education or training, which may include a return to high school if the participant is unemployed and to make satisfactory scholastic progress and without incurring any disciplinary actions.

(b) The participant shall have up to thirty days from approval of application to develop the personal responsibility contract. If the participant refuses to sign the personal responsibility contract, the department shall stop all benefits and services until the participant complies with this section.

(c) Personal responsibility contracts shall be drafted by the division on a case-by-case basis; take into consideration the individual circumstances of each beneficiary; reviewed and reevaluated not less often than every two years; and, in the discretion of the division, amended or extended on a periodic basis.

§9-9-10. Participation limitation; exceptions.
The length of time a participant may receive West Virginia works program benefits shall be defined in the personal responsibility contract: Provided, That no participant may receive benefits for a period longer than sixty months, except in circumstances as defined by legislative rule pursuant to the provisions of article three, chapter twenty-nine-a of this code.


(a) The division may refuse to extend or renew a personal responsibility contract and the benefits received by the beneficiary, or may terminate an existing contract and benefits, if the division finds any of the following:

(1) The employment of fraud or deception by the beneficiary in applying for or receiving program benefits;

(2) A substantial breach of the requirements and obligations set forth in the personal contract of responsibility;

(3) A violation of any provision of the personal contract of responsibility, this article, or any rule promulgated by the secretary pursuant to this article.

(b) In the event the division determines that a personal responsibility contract or the benefits received by the beneficiary are subject to revocation or termination, written notice of the violation, revocation or termination shall be deposited in the United States mail, postage prepaid and addressed to the beneficiary at his or her last known address fourteen days prior to such termination or revocation. Such notice shall state the action of the division, its reason or reasons for such termination and grant to the beneficiary a reasonable opportunity to be heard at a fair and impartial hearing before the division in accordance with administrative procedures established by the division and due process of law.

(c) In any hearing granted pursuant to the provisions of
this section, the beneficiary shall maintain the burden of proving that his or her benefits were improperly terminated and shall bear his or her own costs, including attorneys fees.

(d) The secretary shall determine by rule de minimis violations and those violations subject to sanctions and maximum penalties. In the event the division finds that a beneficiary has violated any provision of this article, of his or her personal responsibility contract or any applicable division rule, the division shall impose sanctions against the beneficiary as follows:

(1) For the first noncompliance, a one-third reduction of benefits for three months;

(2) For the second noncompliance, a two-thirds reduction in benefits for three months; and

(3) For the third noncompliance, a termination of benefits.

(e) For any sanction imposed pursuant to subsection (d) of this section, if compliance occurs within ten days of notice of the sanction, the reduction in benefits shall not be imposed, but the noncompliance shall count in determining the level of sanction to be imposed for any future noncompliance. Once a reduction in benefits is in effect, it shall remain in effect for the entire three months. A reduction of benefits applies to both cash assistance and support services. If benefits are terminated, benefits may not be provided until the noncompliance that caused the termination has been rectified or excused.


(a) In order to encourage at-risk families not to apply for ongoing monthly cash assistance from the state, the secretary may issue one-time emergency assistance allowances to families in an amount not to exceed three months of cash assistance in order to enable such fami-
lies to become immediately self-supporting.

(b) Except as otherwise provided by this section, all emergency assistance allowances shall be issued with a repayment schedule determined on a case-by-case basis by the division.

(c) If within one year of receiving such assistance an at-risk family subsequently applies for monthly cash assistance, the division shall recoup the amount remaining unpaid on the allowance from future monthly cash assistance payments at the monthly rate of ten percent of the monthly cash assistance payment for a period not to exceed twenty-four months.

(d) One half of the amount of any emergency assistance allowance may be forgiven after a recipient has been employed in unsubsidized employment for one year after the date of receipt of the allowance. The full amount of the allowance may be forgiven after the recipient has been employed in unsubsidized employment for two years after the date of the receipt of the allowance.

(e) The secretary shall establish by rule the standards to be considered in making emergency assistance allowances, developing repayment schedules and qualifications for allowance forgiveness.

(f) Nothing in this section shall be construed to require that the division or any assistance issued pursuant to this section be subject to any of the provisions of chapter thirty-one or chapter forty-six-a of this code.


(a) To the extent resources are available, an employer may be paid a subsidy by the department for the employment of a parent or caretaker-relative of an at-risk family if the employer agrees to hire the works program participant at the end of the subsidized period. If the employer does not hire the participant at the end of the subsidized period, the program shall not use that employer for subsidized employment for the next twelve
months.

(b) If the division determines that any employer establishes a pattern of discharging employees hired pursuant to the provisions of this article subsequent to the expiration of the subsidized period without good cause, the employer shall no longer be eligible for participation in the subsidy program for a period to be determined by the division.


The West Virginia works program may provide transitional assistance in the form of supportive services and allow at-risk families to retain a portion of their cash assistance when they have earnings below fifty percent of the federally designated poverty level. For those at-risk families with earnings between fifty and one hundred percent of the federally designated poverty level, supportive services may be continued.


The Legislature encourages the development of a system of coordinated services, shared information and stream-lined application procedures between the program and the other agencies within the department to implement the provisions of this article. The secretary shall require the coordination of activities between the program and the following agencies:

(a) The child support enforcement division for the purpose of establishing paternity, promoting cooperation in the pursuit of child support, encouraging noncustodial parents to get job search assistance and determining eligibility for cash assistance and support services;

(b) The bureau of public health for the purpose of determining appropriate immunization schedules, delivery systems and verification procedures; and

(c) The bureau of medical services for the purpose of reporting eligibility for medical assistance and transitional benefits.
The secretary may require the coordination of procedures and services with any other agency he or she deems necessary to implement this program.

The secretary shall propose any rules, including emergency rules, necessary for the coordination of various agency activities in the implementation of this section.


The commissioner of the bureau of employment programs and the superintendent of the department of education shall assist the secretary in the establishment of the West Virginia works program. Prior to implementation of this program, each department shall address in their respective plans the method in which their respective resources will be devoted to facilitate the identification of or delivery of services for participants and shall coordinate their respective programs with the division in the provision of services to participants and their families. Each county board of education shall designate a person to coordinate with the local department of health and human resources office the board's services to participant families and that person shall work to achieve coordination at the local level.

The secretary and the superintendent shall develop a plan for program implementation to occur with the use of existing state facilities and county transportation systems within the project areas whenever practicable. This agreement shall include, but not be limited to, the use of buildings, grounds and buses. Whenever possible, the supportive services, education and training programs should be offered at the existing school facilities.

The commissioner shall give priority to participants of the works program within the various programs of the bureau of employment programs. The secretary and the commissioner shall develop reporting and monitoring mechanisms between their respective agencies.

§9-9-17. Public-private partnerships.
The secretary is authorized to enter into agreements with any private, nonprofit, charitable or religious organizations to promote the development of the community support services necessary for the effective implementation of this program.

§9-9-18. Relationship with other law.

If any provision of this article conflicts with any other provision of this code or rules, the provisions of this article shall supersede such provisions: Provided, That the provisions of this article shall not supersede any provisions which are required or mandated by federal law.


The legislative oversight commission on health and human resources accountability is charged with immediate and ongoing oversight of the program created by this article. This commission shall study, review and examine the work of the program, the department and its staff; study, review and examine all rules proposed by the department; and monitor the development and implementation of the West Virginia works program. The commission shall review and make recommendations to the Legislature and the legislative rule-making committee regarding any plan, policy or rule proposed by the secretary, the division or the program.
That Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ............... this the ................

day of ...................., 1996.

Governor
PRESENTED TO THE GOVERNOR
Date 3/19/76
Time 3:14 pm