WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 2000

ENROLLED
Committee Substitute for
SENATE BILL NO. 577

(By Senator Walker)

PASSED March 11, 2000
In Effect ninety days from Passage
AN ACT to amend and reenact sections two, three, four, five, six, seven, eight, nine, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, nineteen and twenty, article nine, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section twenty-one, all relating to the West Virginia works act; amending legislative findings; amending and adding definitions; deleting obsolete provisions; specifically authorizing payment for support services; increasing certain cash assistance to specified at-risk families; providing that certain activities satisfy the article's work requirement; conforming specific requirements to federal law; requiring implementation of a plan to use educational resources of the state for the benefit
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... of program participants; mandating that support services be
provided to assist participants in meeting work require­
ments; clarifying existing provisions; increasing the allow­
able amount of diversionary assistance; authorizing public­
private partnerships to provide family health insurance to
former participants; providing for confidentiality of certain
records; and establishing a rainy day fund for the program.

Be it enacted by the Legislature of West Virginia:

That sections two, three, four, five, six, seven, eight, nine,
eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen,
nineteen and twenty, article nine, chapter nine of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended, be amended and reenacted; and that said article be
further amended by adding thereto a new section, designated
section twenty-one, all to read as follows:

ARTICLE 9. WEST VIRGINIA WORKS PROGRAM.

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

(a) The Legislature hereby finds and declares that:

1. The entitlement of any person to receive federal-state
cash assistance is hereby discontinued;

2. At-risk families are capable of becoming self-sup­
porting;

3. 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. Every parent or caretaker-relative can exhibit
responsible patterns of behavior so as to be a positive role
model;

5. Every parent or caretaker-relative who receives cash
assistance has a responsibility to participate in an activity
to help them prepare for, obtain and maintain gainful employment;

(6) For a parent or caretaker-relative who receives cash assistance and for whom full-time work is not feasible, participation in some activity is expected to further himself or herself, his or her family or his or her community;

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

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

(9) Education is the key to achieving and maintaining life-long self-sufficiency; and

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

(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 the department.

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 persons 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) “Beneficiary” or “participant” means any parent or caretaker-relative in an at-risk family who receives cash assistance for himself or herself and family members;

(c) “Cash assistance” means temporary assistance for needy families;

(d) “Challenge” 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;

(e) “Community or personal development” means activities designed or intended to eliminate challenges 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;
(f) "Department" means the state department of health and human resources;

(g) "Education and training" means any hours spent regularly attending and preparing for classes in any approved course of schooling or training, including job training, high school equivalency, literacy, English as a second language or vocational or post-secondary program, including two-year and four-year programs.

(h) "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 does not include:

(1) Supplemental security income paid to any member or members of the at-risk family;

(2) Earnings of minor children;

(3) Payments received from earned income tax credit or tax refunds;

(4) Earnings deposited in an individual development account approved by the department; or

(5) Any moneys specifically excluded from countable income by federal law;

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

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

(k) "Subsidized employment" means employment with earnings provided by an employer who receives a subsidy from the department for the creation and maintenance of the employment position;
(l) "Support services" includes, but is not limited to, the following services: Child care; medicaid; transportation assistance; information and referral; resource development services which includes assisting families to receive child support enforcement and supplemental security income; family support services which includes parenting, budgeting and family planning; relocation assistance; and mentoring services;

(m) "Unsubsidized employment" means employment with earnings provided by an employer who does not receive a subsidy from the department for the creation and maintenance of the employment position;

(n) "Work" means unsubsidized employment, subsidized employment, work experience, community or personal development, and education and training; and

(o) "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.


(a) The secretary shall conduct the West Virginia works program in accordance with this article and any applicable regulations promulgated by the secretary of the federal department of health and human services 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 temporary assistance to needy families West Virginia works program; to expend only the funds appropriated by the Legislature to establish and operate
the program or any other funds available to the program
pursuant to any other provisions of the code or rules; to
establish administrative due process procedures for
revocation or termination proceedings; and to implement
any other procedures necessary to accomplish the purpose
of this article.

(b) 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 appro-
priation of funds by the Legislature.

(c) 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 continued 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, temporary assistance to needy families, pay-
ments for support services, employment-related child care
payments, transportation expenses and administrative
costs directly associated with the operation of the pro-
gram. Moneys paid into the account shall be from specific
annual appropriations of funds by the Legislature.

§9-9-6. Program participation.
(a) Unless otherwise noted in this article, all adult recipients of cash assistance shall participate in the West Virginia works 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, as defined in subsection (h), section three of this article, is below the income and asset test levels established by the department: Provided, That any adult member of an at-risk family who receives supplemental security income shall be excluded from the benefit group: Provided, however, 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 the amount of one hundred dollars: Provided further, That an at-risk family shall receive an additional cash assistance benefit in the amount of fifty dollars regardless of the amount of child support collected in a month on behalf of a child or children of the at-risk family, as allowed by federal law.

§9-9-7. Work requirements.

(a) 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 at least the minimum number of hours per week required by federal law under the work participation rate requirements for all families in order to receive any form of cash assistance. Participation in any education or training activity, as defined in section three of this article, shall be counted toward satisfaction of the work requirement imposed by this section to the extent permissible under federal law and regulation: Provided, That the participant demonstrates adequate progress toward completion of the program: Provided, however, That participants who are enrolled in post-secondary courses leading to a two or four year degree may be required to engage in no more than ten hours per week of federally defined work activities, unless the department certifies that allowing education to count toward required work activities would affect the state's ability to meet federal work participation rates. In accordance with federal law or regulation, the work, education and training requirements of this section are waived for any qualifying participant with a child under six years of age if the participant is unable to obtain appropriate and available child care services. In order for any participant to receive cash assistance, he or she shall enter into a personal responsibility contract pursuant to the provisions of section nine of this article.

(b) The department and representatives of all college and university systems of West Virginia shall develop and implement a plan to utilize and expand the programs available at the state's community and technical colleges, colleges and universities to assist beneficiaries or participants who are enrolled or wish to become enrolled in two and four-year degree programs of post-secondary education to meet the work requirements of this section.
(c) The secretary shall ensure that all necessary support services are made available to participants in order to assist them in meeting the work requirement imposed by this section, including participation in education and training programs.


Participants exempt from the work requirements of the works program pursuant to the provisions of this section nevertheless are required to enter into a personal responsibility contract. The secretary shall establish by rule categories of persons exempt, but only from the work requirements of the program. The categories shall include, but are not 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) Full-time students who are less than twenty years of age and are pursuing a high school diploma or its equivalent;
(d) Persons with a physical or mental incapacity or persons suffering from a temporary debilitating injury lasting more than thirty days, as defined by the secretary;
(e) Relatives providing in-home care for an individual who would otherwise be institutionalized; and
(f) Any female beneficiary who is eighteen years of age or older, for a period of twelve months upon the birth of her first child while receiving cash assistance and for a period of six months upon the birth of any additional child: Provided, That any period of exemption from the work requirement may include the last trimester of her pregnancy.

(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 goals and challenges 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, 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, his or her family or his or her community.

(4) The participant's contract shall include the following requirements: That the participant develop and maintain, with the appropriate health care provider, a schedule of preventive care for his or her dependent child or children, including routine examinations and immunizations; assurance of school attendance for school-age children under his or her care; assurance of properly supervised child care, including after-school care; and establishment of paternity or active pursuit of child support, or both, if applicable and if considered necessary; and nutrition or other counseling, parenting or family-planning classes.

(5) If the participant must overcome challenges prior to employment, the contract shall include a list of the...
identified challenges and an individualized plan for overcoming them.

(6) If the participant is a teenage parent, he or she may work, but the contract shall include the requirements that the participant:

(A) Remain in an educational activity to complete high school, obtain a general equivalency diploma or obtain vocational training and make satisfactory scholastic progress;

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

(C) Live at home with his or her parent or guardian or in some other adult-supervised arrangements if he or she is an unemancipated minor.

(7) If the participant is under the age of twenty years and does not have a high school diploma or its equivalent, the contract shall include requirements to participate in mandatory education or training which, if the participant is unemployed, may include a return to high school, with satisfactory scholastic progress required.

(b) In order to receive cash assistance, the participant shall enter into a personal responsibility contract. If the participant refuses to sign the personal responsibility contract, the participant and family members are ineligible to receive cash assistance: Provided, That a participant who alleges that the terms of a personal responsibility contract are inappropriate based on his or her individual circumstances may request and shall be provided a fair and impartial hearing in accordance with administrative procedures established by the department and due process of law. A participant who signs a personal responsibility contract, or complies with a personal responsibility
contract, does not waive his or her right to request and
receive a hearing under this subsection.

(c) Personal responsibility contracts shall be drafted by
the department on a case-by-case basis; take into consid-
eration the individual circumstances of each beneficiary;
reviewed and reevaluated periodically, but not less than on
an annual basis; and, in the discretion of the department,
amended or extended on a periodic basis.


(a) The department 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 it finds any of the following:

(1) Fraud or deception by the beneficiary in applying for
or receiving program benefits;

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

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

(b) In the event the department determines that a
personal responsibility contract or the benefits received by
the beneficiary are subject to revocation or termination,
written notice of the revocation or termination, and the
reason for the revocation or termination, shall be depos-
itied in the United States mail, postage prepaid and
addressed to the beneficiary at his or her last known
address at least thirteen days prior to the termination or
revocation. The notice shall state the action being taken
by the department and grant to the beneficiary a reason-
able opportunity to be heard at a fair and impartial
(c) In any hearing conducted pursuant to the provisions of this section, the beneficiary has 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 what constitutes de minimis violations and those violations subject to sanctions and maximum penalties. In the event the department finds that a beneficiary has violated any provision of this article, of his or her personal responsibility contract or any applicable department rule, the department shall impose sanctions against the beneficiary as follows:

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

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

(3) For the third violation, a total termination of benefits for a minimum period of six months.

(e) For any sanction imposed pursuant to subsection (d) of this section, if the beneficiary corrects the violation or otherwise comes into compliance within thirteen days of the date of the notice of the sanction, the reduction in benefits shall not be imposed, but the violation shall count in determining the level of sanction to be imposed for any future violation. Once a reduction in benefits is in effect, it shall remain in effect for the designated time period: Provided, That if a participant incurs a subsequent sanction before the sanction for a previous violation has expired, the sanctions shall run concurrently: Provided, however, That if a third violation occurs before the period
for a previous sanction has expired, benefits shall be terminated and may not be reinstated until the six-month termination period has expired and the violation which resulted in the third sanction has been either corrected or excused.

§9-9-12. Diversionary assistance allowance in lieu of monthly cash assistance.

(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 diversionary assistance allowances to families in an amount not to exceed the equivalent of four months of cash assistance in order to enable the families to become immediately self-supporting.

(b) The secretary shall establish by rule the standards to be considered in making diversionary assistance allowances.

(c) Nothing in this section may be construed to require that the department 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 that resources are available, an employer may be paid a subsidy by the department to employ 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 department determines that an employer has demonstrated a pattern of discharging employees hired
pursuant to the provisions of this section subsequent to the expiration of the subsidized period without good cause, the employer shall no longer be eligible for participation in the subsidized employment program for a period to be determined by the department.


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 their earnings are below the federal poverty guideline, if considered appropriate by the secretary.


The Legislature encourages the development of a system of coordinated services, shared information and streamlined 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 considers necessary to implement this program: Provided, That all agencies coordinating services with the department shall, when provided with access to department records or information, abide by state and federal confidentiality requirements including the provisions of section twenty of this article.

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 its respective plan the method in which its resources will be devoted to facilitate the identification of or delivery of services for participants and shall coordinate its respective programs with the department 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 may 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, including cooperative arrangements with private employers of former program participants for the purpose of obtaining and maintaining employer-based family health insurance coverage for former participants and their spouses and dependent children through direct payments to the employers out of funds appropriated for the cooperative agreements.


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 review committee regarding any plan, policy or rule proposed by the secretary, the department or the program.


(a) Except as otherwise provided in this code or rules, all records and information of the department regarding any
beneficiary or beneficiary's family members, including food stamps, child support and medicaid records, are confidential and shall not be released, except under the following circumstances:

(1) If permissible under state or federal rules or regulations;

(2) Upon the express written consent of the beneficiary or his or her legally authorized representative;

(3) Pursuant to an order of any court of record of this state or the United States based upon a finding that the information is sufficiently relevant to a proceeding before the court to outweigh the importance of maintaining the confidentiality established by this section: Provided, That all confidential records and information presented to the court shall after review be sealed by the clerk and shall not be open to any person except upon order of the court upon good cause being shown for the confidential records and information to be opened; or

(4) To a department or division of the state or other entity, pursuant to the terms of an interagency or other agreement: Provided, That any agreement specifically references this section and extends its requirements for confidentiality to the other entity receiving the records or information, its agents and employees.

(b) Any person who knowingly and willfully releases or causes to be released the confidential records and information described in this section, except under the specific circumstances enumerated in this section, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars or confined in the county or regional jail for not more than six months, or both.
§9-9-21. Temporary assistance for needy families rainy day fund.

There is hereby established in the state treasury a special fund designated as the "temporary assistance for needy families rainy day fund" into which the secretary shall cause to be initially deposited the amount of thirty-six million dollars in federal block grant moneys. The purpose of this fund is to serve as a safety net for the program established in this article and it shall be used for continued support of the program in the event of reduced federal funding, economic downturn, natural disaster or other event which depletes the program's funds or makes them otherwise unavailable, if determined by the secretary to be necessary and appropriate under the circumstances.
The 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........th... Day of........................., 2000...

Governor