ENROLLED

SENATE BILL NO. 626

(By Senator Prezioso)

PASSED March 8, 2003

In Effect 90 days from Passage
AN ACT to repeal section twenty-one, article nine, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, sixteen and nineteen of said article, all relating to the “West Virginia Works Act”; repealing rainy day fund; amending short title throughout article; revising legislative findings and purpose; eliminating performance-based measures for evaluating the program; redefining terms; striking out provision that the secretary shall ensure availability of support services to help meet program’s requirements; reducing period of exemption from work requirement for beneficiaries with newborn children; requiring beneficiaries to participate in family assessments; providing that personal responsibility contract is defined by time limits, availability of support services, program work requirements and family assessments; eliminating consideration of participants’ challenges in meeting program require-
ments for purposes of the personal responsibility contract; deleting guidelines for developing individualized personal responsibility contracts and authorizing secretary to define contracts by rule instead; retaining cash incentive for married beneficiaries; reducing child support pass-through by fifty percent; providing sanctions for breach of contract by beneficiary; providing for reduction of benefits rather than revocation; providing for good cause exceptions to imposition of sanctions; reducing the period of benefit termination; reducing the period for obtaining diversionary assistance; and deleting provision that at-risk families may retain a portion of cash assistance when earnings are below the federal poverty guideline.

Be it enacted by the Legislature of West Virginia:

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article nine, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, sixteen and nineteen of said article be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

ARTICLE 9. WV WORKS ACT.

§9-9-1. Short title.

This article may be cited as the “WV WORKS Act”.

§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-supporting;

(3) An 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 required 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) An 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.

(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 success of the program is to be evaluated on the following activities, including, but not limited to: Job entry, job retention, federal work participation requirements and completion of educational activities.


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 hours spent regularly attending and preparing for classes in any approved course of schooling or training;
(h) “Family Assessments” means evaluation of the following: Work skills, prior work experience, employability, education and challenges to becoming self-sufficient such as mental health and physical health issues along with lack of transportation and child care;

(i) “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;

(5) Any educational grant or scholarship income regardless of source; or

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

(j) “Personal responsibility contract” means a written agreement entered into by the department and a beneficiary for purposes of participation in the WV works program;

(k) “Secretary” means the secretary of the state department of health and human resources;

(l) “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;

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

(n) "Transitional Assistance" may include medical
assistance, food stamp assistance, child care and support-
ive services as defined by the secretary and as funding
permits;

(o) "Unsubsidized employment” means employment with
earnings provided by an employer who does not receive a
subsidy from the department for the creation and mainte-
nance of the employment position;

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

(q) "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 WV works program in
accordance with this article and any applicable regula-
tions promulgated by the secretary of the federal depart-
ment of health and human services in accordance with
federal block-grant funding or similar federal funding
stream. This program shall expend only the funds appro-
priated by the Legislature to establish and operate the
program or any other funds available to the program;
establish administrative due process procedures for
reduction or termination proceedings; and implement any
other procedures necessary to accomplish the purpose of
this article.
(b) The WV works program authorized pursuant to this article 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 WV works program and each component of that program established by this article or the expansion of any component established pursuant to federal law or regulation is subject to the annual appropriation of funds by the Legislature.

(c) Copies of all rules proposed pursuant to authority granted in this article by the secretary shall 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. WV works program fund.

There is continued a special account within the state treasury to be known as the “WV 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, payments for support services, employment-related child care payments, transportation expenses and administrative costs directly associated with the operation of the program. 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 beneficiaries of cash assistance shall participate in the WV works program in accordance with the provisions of this article. The level of participation, services to be delivered and work requirements shall be defined through rules established by the secretary.

(b) Any individual exempt under the provisions of section eight of this article may participate in the activities and programs offered through the WV works program.
(c) Support services other than cash assistance through
the WV works program may be provided to at-risk families
to assist in meeting the work requirements or to eliminate
the need for cash assistance.

(d) Cash assistance through the WV 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 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, within the limits of funds appropriated
therefor, 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 of one hundred dollars or less: Provided further,
That an at-risk family shall receive an additional cash
assistance benefit in the amount of twenty-five 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 WV 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, 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 require-
ment 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.

(b) The department and representatives of all college and university systems of West Virginia shall develop and implement a plan to use 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.


The secretary shall establish by rule categories of persons exempt, but the exemption applies only to the work requirements of the program: Provided, That a person who is exempt from the work requirements may nevertheless participate voluntarily in work activities. The categories of exemption 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 beneficiary who has a child in his or her at-risk family which has not attained twelve months of age, for a period of six months, and for a period of six months upon the birth of any additional child: Provided, That no more than one beneficiary in an at-risk family may be exempt at the same time.


(a) (1) Every eligible adult beneficiary shall participate in a program orientation, family assessments and in the development, and subsequent revisions, of a personal responsibility contract. The contract shall be defined based on the program time limits, support services available, work requirements and family assessments.

(2) 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.

(3) 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.

(4) 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 consideration 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 on a periodic basis.

§9-9-10. Participation limitation; exceptions.

The length of time a participant may receive cash assistance through the WV works program may not exceed

(a) The department may terminate cash assistance benefits to an at-risk family 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 and any amendments or addenda to the contract; or

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

(b) In the event the department determines that benefits received by the beneficiary are subject to reduction or termination, written notice of the reduction or termination and the reason for the reduction or termination shall be deposited 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 reduction. The notice shall state the action being taken by the department and grant to the beneficiary a reasonable opportunity to be heard at a fair and impartial hearing before the department in accordance with administrative procedures established by the department and due process of law.

(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 reduced or 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 amendment or addenda to the 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 a second violation, a two-thirds reduction of benefits for three months;
3. For a third or subsequent violation, a total termination of benefits for three months.

(e) For any sanction imposed pursuant to subsection (d) of this section, if the beneficiary is found to have good cause for noncompliance, as defined by the secretary, the reduction or termination in benefits shall not be imposed and the violation shall not 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 three-month termination period has expired.

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

1. 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 three 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 WV 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 may 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 WV works program may provide transitional assistance in the form of supportive services.


(a) 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 WV works program. Before 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.

(b) 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.

(c) The commissioner shall give priority to participants of the WV 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.


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 WV 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.
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 is approved this the 1st Day of April, 2003.

Governor