

ASSEMBLY POLICY AND REGULATORY OVERSIGHT
COMMITTEE

STATEMENT TO

[Second Reprint]
SENATE, No. 36

STATE OF NEW JERSEY

DATED: FEBRUARY 10, 1997

The Assembly Policy and Regulatory Oversight Committee reports favorably Senate Bill No. 36 (2R).

This bill establishes the "Work First New Jersey" program in the Department of Human Services (DHS) as the State's consolidated public assistance program, replacing the current programs of aid to families with dependent children (AFDC), AFDC emergency assistance, general assistance (GA), GA emergency assistance, the GA employability program, and the Family Development Initiative.

As received by the committee, the bill repeals:

- C P.L.1959, c.86 (C.44:10-1 et seq.), the statute which established the AFDC program as the basic cash assistance program for custodial parents and their dependent children, and replaces AFDC with the Work First New Jersey program, which is time-limited and work-oriented in nature;
- C the "Family Development Act," P.L.1991, c.523 (C.44:10-19 through 44:10-33), which established the Family Development Initiative that will also be replaced by the Work First New Jersey program, since the provisions of that statute are obviated by this bill; and
- C certain ancillary statutes pertaining to the AFDC and GA programs.

As received by the committee, the bill provides that:

- C A family's inability or failure to qualify for benefits under the Work First New Jersey program shall not in and of itself be the basis for the separation of a dependent child from his family, or the justification for the foster care placement of a dependent child.
- C A recipient is not entitled to receive an increase in cash assistance provided by the program solely as a result of parenting an additional child during the period that the recipient is eligible for benefits, except that this provision will not apply if the birth of the child occurs as a result of rape or incest.
- C A recipient is required to engage in one or more of the following work activities, as defined by regulation of the Commissioner of

Human Services (unless exempted or deferred under this bill): employment; work experience; on-the-job training; job search and job readiness assistance; vocational educational training; job skills training directly related to employment; community work experience; alternative work experience; supportive work; community service; high school or an equivalency program of study (mandatory for teenage recipients); and education that is necessary for employment in the case of a person who has not received a high school diploma or a certificate of high school equivalency, a course of study leading to a certificate of general equivalence, or post-secondary education, when combined with community work experience participation or another work activity approved by the commissioner, including employment.

- C The program shall meet federal requirements for the participation of recipients in work activities established pursuant to Pub.L.104-193.
- C A teenage parent shall be required to live with a parent or guardian, or in an adult supervised setting, and to complete a high school or equivalency program of study, as a condition of eligibility for the program.
- C A recipient who fails to actively cooperate with the program or participate in required work activities is subject to a loss of cash assistance.
- C The commissioner shall establish and enforce through regulation, the standards and procedures to screen and identify recipients with a history of domestic violence and refer these persons to counseling and supportive services and may waive program requirements for victims, including but not limited to, time limits; residency requirements to live with a parent, guardian or adult relative; child support cooperation requirements; and the "family cap."
- C A parent or relative of a child under the age of 12 weeks who is providing care for that child and is temporarily deferred from the work requirements, may receive an extension of that deferral for an appropriate period of time if such a deferral is medically necessary for the parent or child.

The bill deletes the provision which would have repealed the "General Public Assistance Law," P.L.1947, c.156 (C.44:8-107 et seq.) and certain related provisions of law, effective January 1, 1998. The bill provides for the continued administration of general public assistance by municipal welfare agencies under the Work First New Jersey program.

The bill also exempts a child born as a result of rape or incest from the "family cap" provisions of section 7 with respect to eligibility for cash assistance benefits. The bill also extended the 12-week deferral from the work requirement for the parent who is caring for an infant, to an appropriate period of time if medically necessary for the parent or child.

The bill also provides additional protections to current workers by providing that a recipient of benefits under the Work First New Jersey program shall not displace a regular employee by:

- C filling a position that was made vacant through a demotion, reduction of hours or layoff of a regular employee in the previous 12 months, or if the position was eliminated by the employer during the previous 12 months;
- C infringing upon a wage rate or contractual overtime provision;
- C violating an existing collective bargaining agreement;
- C supplanting or duplicating a position in an apprenticeship program;
- C being hired through an employment or temporary firm as a community work experience or alternative work experience worker;
- C filling a position if there is a contractual or statutory recall right to the position; or
- C filling a position if there is an ongoing strike or lockout.

In addition, the bill provides a complaint resolution procedure by allowing an opportunity for the person or the organization that represents the collective bargaining unit to meet with a designee of the Commissioner of Labor or the Governor's Office of Employee Relations. Within 30 days of the request for the hearing, the designee shall attempt to resolve the complaint, after which the complainant may appeal to the New Jersey State Board of Mediation in the Department of Labor for expedited binding arbitration. The cost of the arbitration shall be borne equally by both parties.

The bill also has a definition for "alternative work experience" and revises the definition for "community work experience," to clarify that these participants in these work experiences are not assigned to work for a private, for profit employer. The definition for "work activity" is amended to remove the reference to "work experience" in that definition. These definitions are identical to these terms as amended in Senate Bill No. 37 of 1996.

In addition, the bill clarifies the definition of "county agency" as a public agency that was administering the aid to families with dependent children program at the time Pub.L.104-193 was enacted and which, upon the enactment of this bill, shall also administer the Work First New Jersey program in that county. This definition is identical to this term as amended in Senate Bill No. 35 and Senate Bill No. 38.

The bill also adds to the definition of eligible alien, a qualified alien or the alien's child who has been battered or subjected to extreme cruelty, subject to conditions specified in federal law (section 431 of Pub.L.104-193 as that law was amended by the "Illegal Immigration Reform and Immigrant Responsibility Act of 1996").

The bill also directs the Commissioner of Human Services, when making a determination to exempt a teenage parent from the requirement to reside with her parent or another adult, to obtain information directly from the teenage parent when there has been any

known circumstance or incident of physical or sexual abuse, or upon the request of that applicant or recipient.

With respect to sanctions for noncompliance with the program or participation in work activities, the bill deletes the requirement that the needs of both parents in a two-parent household with dependent children be deleted from the cash assistance benefits provided to the assistance unit for a first or second offense, and provides instead that only the needs of the parent in noncompliance shall be deleted from the cash assistance benefits.

The bill also stipulates that:

- C participation in community work experience or alternative work experience provided by the State, or by a county or municipality, or a board, commission or agency thereof, or by a private nonprofit or private charitable employer pursuant to this act shall not be considered employment, except the sponsor shall be deemed an employer for purposes of any action brought under the "Law Against Discrimination" by a recipient participating in community or alternative work experience;
- C the Work First New Jersey program, within the limits of available appropriations, shall provide compensation for an injury which results in the total permanent disability or death of a recipient participating in community work experience or alternative work experience, on such terms and subject to such conditions as the commissioner deems appropriate;
- C a sponsor of a recipient participating in community work experience or alternative work experience shall not be liable for an injury arising out of, or in connection with, an act or omission of the recipient or the sponsor in connection with the recipient's community work experience or alternative work experience participation, except that the immunity provided to the sponsor shall not extend to an act or omission of the sponsor which constitutes a crime, actual fraud, actual malice or willful misconduct;
- C the sole recourse of a person, other than a recipient, other employee or a sponsor, who is injured as a result of an act or omission of a recipient, in connection with the recipient's community work experience or alternative work experience participation shall be to file an action against the program in the Superior Court. Except in the case of an intentional wrong, if an injury or death is compensable under section 12 of the bill, a recipient shall not be liable to anyone at common law or otherwise on account of such injury or death for any act or omission occurring while the recipient was participating in community work experience or alternative work experience; the Work First New Jersey program shall reimburse the fund established pursuant to N.J.S.59:12-1 for all costs incurred by the fund in connection with a recipient's participation in community work experience or alternative work experience; and

C no personal injury or death by accident arising out of and in the course of employment provided by a private nonprofit or private charitable employer shall be compensable under R.S.34:15-1 et seq.

Further, section 13 of the bill was clarified, which outlines the sponsor's limited liability and the bar to suit by coparticipants and employees of the sponsor. Participation in community work experience or alternative work experience shall be a surrender of the participant's rights to any method or amount of compensation other than that provided for in section 12 of the bill (provides the method of compensation for injury). In case of death, this provision also binds the recipients' spouse and next of kin, as well as the sponsor and those conducting business during bankruptcy or insolvency. The definition of "sponsor" was revised to include department or agency of the State as a sponsor. This would limit the State's liability to the provisions of section 12, 13, and 14 of the bill.

Many of the provisions of this bill, including the requirements for participation in work activities under the Work First New Jersey program, are intended to implement requirements which the State must adopt under the recently enacted federal welfare reform law, Pub.L.104-193, the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996." The new federal law eliminates the open-ended entitlement program of aid to families with dependent children and creates a temporary assistance for needy families (TANF) block grant for states to provide time-limited cash assistance. The Work First New Jersey program will serve as the TANF program for New Jersey pursuant to Pub.L.104-193.

Finally, the bill authorizes the Commissioner of Human Services to adopt immediately upon filing with the Office of Administrative Law, such regulations as the commissioner deems necessary to implement the provisions of this bill, which shall be effective for a period not to exceed six months and may thereafter be amended, adopted or re-adopted by the commissioner in accordance with the requirements of the Administrative Procedure Act.

COMMITTEE AMENDMENTS

These amendments provide that any work performed by welfare recipients under a community work experience or alternative work experience is regarded as employment for the purposes of the "New Jersey Public Employees' Occupational Safety and Health Act," P.L.1983, c.516 (C.34:6A-25 et seq.), the "Conscientious Employee Protection Act," P.L.1986, c.105 (C.34:19-1 et seq.), and the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), and that the recipient is entitled, to the same degree as any similarly-situated employee of the employer, to family leave pursuant to the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and

family and medical leave pursuant to federal law.

The amendments provide that if a recipient suffers an injury, illness or death arising out of and in the course of a community or alternative work experience, the recipient and his dependents shall be provided workers' compensation, except that the recipient will not receive workers' compensation for any medical or hospital services provided by Medicaid and will not receive temporary disability from workers' compensation but will instead be paid welfare benefits. The welfare benefits provided during the first 90 days of each period of temporary disability from a workplace illness or injury are not counted against the maximum 60 months of benefits provided under the Work First New Jersey program.

The amendments also provide that when determining the amount of any workers' compensation provided to the recipient other than temporary disability, the amount of compensation shall be calculated as if the recipient's weekly wage was 60% of the statewide average weekly wage earned by all workers covered by unemployment insurance.

The amendments also provide that if a recipient or dependent is awarded workers' compensation for a permanent partial disability, permanent total disability or death of the recipient in connection with a work experience, subsequent cash assistance to the recipient or dependent will be reduced by the amount of the workers' compensation payments.

Finally, the amendments also provide that a suit may be filed in any court of competent jurisdiction, including the Superior Court, against the program by a person who is not a recipient but is injured as a result of an act or omission of a participant in community or alternative work experience.