

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 5*
Committee Substitute Favorable 4/19/95

Short Title: Public Assistance Responsibility.

(Public)

Sponsors:

Referred to:

January 26, 1995

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE PUBLIC ASSISTANCE PERSONAL AND FAMILY
RESPONSIBILITY ACT OF 1995 AND TO REAUTHORIZE THE LEGISLATIVE
STUDY COMMISSION ON WELFARE REFORM.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 108A of the General Statutes is amended by
adding a new Part to read:

"Part 1A. The Public Assistance Personal and Family Responsibility Act of 1995.

"§ 108A-26.5. Reducing illegitimacy; county block grants.

(a) The General Assembly finds that welfare reform should aim at moving people from the welfare dependency cycle to work and self-sufficiency. Further, the General Assembly finds that the negative consequences of an out-of-wedlock birth on the child, the mother, and society are major causes of the welfare system's failure to move families from welfare dependency to permanent self-sufficiency and that the safety and well-being of society as a whole is greatly threatened by this failure.

(b) The Department of Human Resources shall ensure that, on or after the effective date of this section, assistance provided to any parent who gives birth to an out-of-wedlock child and the child born to that parent shall be limited as follows:

(1) The parent shall be eligible only for:

- 1 a. Medicaid; and
2 b. WIC.
3 (2) The child shall be eligible only for:
4 a. Food Stamps;
5 b. Medicaid; and
6 c. WIC.

7 These limitations on public assistance benefits shall not apply if: (i) the birth was
8 a result of rape or incest; (ii) the parent subsequently marries an individual who
9 acknowledges paternity or assumes financial responsibility for the child; or (iii) the child
10 is subsequently adopted, placed in foster care or any other residential care facility, and
11 otherwise remains eligible for assistance.

12 (c) The Department of Human Resources shall ensure that all available funds, that
13 otherwise would have been made available to parents and children whose benefits are
14 limited by subsection (b) of this section, shall be allocated to the 100 counties in block
15 grants to be used solely for services to those parents and children. No funds from these
16 grants shall be used for (i) cash assistance to those recipients or their children; (ii)
17 providing abortions as a method of family planning; or (iii) abortion counselling.
18 Counties shall not use the block grant funds with respect to any dependent child or parent
19 when paternity has not been established. Services funded pursuant to this subsection may
20 include:

- 21 (1) Adoption services;
22 (2) Children's homes;
23 (3) Maternity homes for unwed mothers;
24 (4) Residential group homes for mothers and their children;
25 (5) Child day care;
26 (6) Educational services, including, but not limited to, parenting, literacy,
27 and money management classes;
28 (7) Nutrition and health services;
29 (8) Drug and alcohol abuse treatment programs; and
30 (9) Any other programs or services that a county considers appropriate to
31 assist mothers and their children or to lower their illegitimacy rate.

32 The Department shall allocate the block grant funds to each county based on the
33 county's 'illegitimacy ratio'. For the purposes of this subsection, 'illegitimacy ratio' shall
34 mean the number of out-of-wedlock births in each county in a fiscal year divided by the
35 total number of out-of-wedlock births in the State, beginning with the 1995-96 fiscal
36 year.

37 Beginning with the 1998-99 fiscal year, for reducing the number of out-of wedlock
38 births, a county shall receive a five percent (5%) increase in its grant if the county's
39 'illegitimacy ratio' is one percentage point lower than it was for fiscal year 1995-96 or a
40 ten percent (10%) increase in its grant if the county's 'illegitimacy ratio' is two percentage
41 points or more lower than it was for fiscal year 1995-96.

42 A county may expend up to five percent (5%) of the total grant for the administrative
43 costs of operating any service pursuant to this subsection. A county may enter into

1 contracts with a public, nonprofit, or private entity to provide any service pursuant to this
2 subsection.

3 The Department shall ensure that an audit of the funds expended pursuant to this
4 subsection shall be conducted at least every two years.

5 **"§ 108A-26.6. Family cap limitation.**

6 (a) The Department of Human Resources shall ensure that no increases in AFDC
7 assistance are provided, other than general increases provided to all recipients, to a
8 recipient family for any additional dependent child born 10 months after the effective
9 date of this section. The dependent child shall be eligible for Food Stamps, Medicaid,
10 and WIC.

11 (b) The Department shall ensure that a family who discontinues receiving
12 assistance for any reason and who subsequently reapplies for assistance shall not include
13 any additional children in the family size for the purpose of determining the amount of
14 assistance than were included in the family size at the time assistance was discontinued,
15 unless the family did not receive assistance for 24 months or more.

16 (c) These limitations shall not apply if: (i) the birth of the child is the result of rape
17 or incest, and these offenses were duly reported to the appropriate law enforcement
18 agency; or (ii) the birth results from the failure of a birth control device which is
19 medically verifiable, such as an intrauterine device (IUD), Norplant, or sterilization.

20 **"§ 108A-26.7. Limited benefits for minor parents.**

21 (a) No assistance, including Medicaid, WIC, or any services that may be provided
22 by the county pursuant to G.S. 108A-26.5(c), shall be provided to or on behalf of a minor
23 under the age of 18 who has never married and who has a child or is pregnant unless such
24 minor resides with a parent, legal guardian, or other adult relative, or in a foster home,
25 maternity home, or residential care facility.

26 (b) This limitation shall not apply if: (i) there is reason to believe that a minor
27 parent or the minor parent's child will be subject to abuse as a consequence of living with
28 a parent or guardian of the minor parent; or (ii) the director of the local department of
29 social services determines that the minor is in a separate household for other reasons of
30 health, safety, or due to being forced out of the parent's or guardian's home, or (iii) the
31 minor has no parent or legal guardian who is living or the whereabouts of the minor's
32 parents or legal guardian are unknown; or (iv) federal law or regulation, such as HUD
33 occupancy levels in public housing prohibit these constraints.

34 **"§ 108A-26.8. Child support; parent's financial responsibility.**

35 (a) The Department of Human Resources shall ensure that G.S. 110-131 and all
36 other existing laws and procedures for establishing paternity and support of children
37 whose custodial parent applies for assistance or who is currently receiving assistance
38 pursuant to this Article, are enforced for all children up to the age of 18.

39 (b) The Department shall ensure that a minor noncustodial parent who is working
40 either full time or part time comply with all child support wage withholding procedures.

41 (c) A county may contract with any public or private entity for the collection of
42 child support when to do so would most economically and effectively ensure that child

1 support is collected. The use of private process servers for child support matters may be
2 allowed and the costs shall be reimbursable.

3 (d) Child support collected on behalf of children born out-of wedlock or children
4 who are subject to the family cap limitation in G.S. 108A-26.6, shall be treated in the
5 same manner as child support collected for non-AFDC cases. The child support shall be
6 paid directly to the family and shall be subject to any fee for collection applicable to non-
7 AFDC cases.

8 **"§ 108A-26.9. Nonsupport work incentive program.**

9 (a) The Department of Crime Control and Public Safety shall, in cooperation with
10 the Department of Human Resources and the Administrative Office of the Courts, assist
11 in the implementation of nonsupport work incentive programs across the State. These
12 nonsupport work incentive programs shall provide an alternative to incarceration for
13 nonsupport through the use of court-ordered community service work for unemployed
14 noncustodial parents who have child support arrearages.

15 (b) Minor noncustodial parents shall be required to participate in nonsupport work
16 incentive programs. If the minor noncustodial parent is a student, any required
17 community service work shall take precedence over nonacademic activities.

18 **"§ 108A-26.10. Learnfare; Healthfare.**

19 (a) The Department of Human Resources shall ensure that a family receiving
20 AFDC assistance pursuant to this Article acts responsibly in raising its children by seeing
21 that its children attend school, if required by the Compulsory Attendance Law, for at least
22 eighty percent (80%) of the time and that its children receive all the immunizations and
23 other health services that are required of and provided for them by State and federal law,
24 unless the family qualifies for an Immunization Law exemption.

25 If a dependent child does not attend school for at least eighty percent (80%) of the
26 time, if required by the Compulsory Attendance Law, the Department shall reduce the
27 family's assistance by fifty dollars (\$50.00) each month each child's attendance does not
28 meet this requirement.

29 If a family does not provide a dependent child with the age-appropriate
30 immunizations and other health services, including preventive health services, that are
31 required of and provided for the family, the Department shall reduce the family's
32 assistance by fifty dollars (\$50.00) for each month the appropriate services are not
33 provided to each child, unless the family qualifies for an Immunization Law exemption.

34 (b) The Department, in cooperation with the State Board of Education, the
35 Department of Environment, Health, and Natural Resources, the Social Services
36 Commission, the Office of Nonpublic Education in the Office of the Governor, and the
37 Commission for Health Services, shall ensure that actual notice of pending failure to meet
38 Compulsory Attendance Law requirements and of due dates for immunizations and other
39 available health services are received by families receiving assistance pursuant to this
40 Part.

41 The Department, in cooperation with these agencies, shall also ensure:

42 (1) That clear and equitable rules are applied:

- 1 a. To the monitoring of families' failures to act responsibly pursuant
2 to this section; and
3 b. To the restoring of full unreduced assistance as soon as possible;
4 (2) That these rules are made clear to the families; and
5 (3) That local departments of social services work with their families:
6 a. To help them keep their children in school;
7 b. To keep them provided with the appropriate health services; and
8 c. If possible, to keep them from having to have their assistance
9 reduced.

10 (c) Additionally, any custodial parent of an out-of-wedlock dependent child who
11 has not obtained a high school diploma shall complete the requirements for a high school
12 diploma either by continuing school attendance and graduating or by attending and
13 completing an adult basic education program, unless the director of the local social
14 services department waives this requirement. If a recipient is considered to be
15 'functionally illiterate', they shall participate in a literacy program, unless the director of
16 the local social services department waives this requirement. Unless a custodial parent
17 required to receive education by this subsection is actively completing this education, the
18 parent shall not be eligible for any of the services provided by the parent's county and
19 shall be eligible for Medicaid and WIC only.

20 **"§ 108A-26.11. Benefits included as income.**

21 The Department of Human Resources shall ensure that the following is included as
22 income for the purposes of determining AFDC eligibility:

- 23 (1) One hundred percent (100%) of the monthly food stamp allotment for
24 which the assistance unit qualifies; and
25 (2) One hundred percent (100%) of the monthly housing subsidy for which
26 the assistance unit qualifies.

27 **"§ 108A-26.12. Other household resources.**

28 (a) The General Assembly finds that pursuant to federal regulations for AFDC,
29 there is no incentive for AFDC recipients to adopt traditional family structures because
30 the income of a 'substitute parent' or 'man-in-the-house' is not an acceptable basis for a
31 finding of ineligibility or for assuming the availability of income in determining AFDC
32 assistance pursuant to 45 CFR § 233.90. The General Assembly finds further that a
33 person who is living with a recipient parent as a 'substitute parent' or 'man-in-the-house'
34 should bear the same responsibilities and obligations as the recipient parent with regard
35 to the family.

36 (b) The Department shall ensure that the income of a person living with a recipient
37 family as a 'substitute parent' or 'man-in-the-house' shall be treated as a resource for the
38 purpose of determining the AFDC eligibility for that family.

39 **"§ 108A-26.13. Elimination of disincentives.**

40 (a) The General Assembly finds that a reliable vehicle or work equipment is often
41 a necessity to fulfill the family's education, training, work, and medical requirements.
42 Therefore, the Department of Human Resources shall ensure that the following is exempt
43 from the assistance unit's eligibility resource limits:

1 (1) The value of one motor vehicle; and
2 (2) The value of any equipment used by a self-employed person in a
3 business.

4 (b) The Department shall ensure that the AFDC-Unemployed Parent disincentives
5 are removed by:

6 (1) Eliminating the '100-hour rule' which currently removes assistance from
7 two-parent 'unemployed parent' families in which the principal wage
8 earner works 100 hours or more a month; and

9 (2) Eliminating the requirement of an employment history for two-parent
10 'unemployed parent' families, which currently requires that one parent
11 shall have worked and earned at least fifty dollars (\$50.00) in six of 13
12 calendar quarters prior to the date of application in order to receive
13 assistance.

14 **"§ 108A-26.14. Individual Development Accounts.**

15 (a) An Individual Development Account (IDA) is a special bank account that a
16 recipient of assistance may establish pursuant to this Part. The purpose of an Individual
17 Development Account is to allow the savings of a family receiving Aid to Families with
18 Dependent Children to be used for 'qualified distributions'.

19 (b) The term 'qualified distribution' means a distribution from the Individual
20 Development Account on behalf of a recipient family member for expenses directly
21 related to one or more of the following purposes:

22 (1) Attendance or participation in any education or training program;

23 (2) Enhancement of employment or self-employment opportunities,
24 including the purchase of an automobile and automobile insurance;

25 (3) Purchase of a home for the family;

26 (4) Relocation of the family residence; or

27 (5) Acquisition of health, disability, or long-term care insurance.

28 (c) The Department of Human Resources shall cooperate with the State Banking
29 Commission in establishing and administering these accounts to ensure that only
30 'qualified distributions' are made from these accounts.

31 (d) The assistance unit may accumulate and retain financial assets not to exceed
32 ten thousand dollars (\$10,000) without losing eligibility for full benefits if those assets
33 are placed in an Individual Development Account.

34 (e) Any interest or income earned on an Individual Development Account and any
35 'qualified distribution' from the account shall be disregarded as income provided that the
36 total amount of the account does not exceed ten thousand dollars (\$10,000).

37 (f) For purposes of this section, nonrecurring lump-sum income shall not be
38 treated as income subject to the requirements of 45 CFR § 233.20, provided that such
39 lump-sum income is placed in an Individual Development Account, and the total amount
40 of the account does not exceed ten thousand dollars (\$10,000).

41 (g) The Department of Human Resources shall disregard the first three months of a
42 recipient's employment earnings if that net earned income is placed in an Individual
43 Development Account.

1 (h) The failure to hold or use assets as prescribed in this section shall cause those
2 assets to be treated as income for the purposes of this Part. The 'qualified distribution'
3 limits on the use of the Individual Development Account funds shall continue after a
4 recipient holding the account has left public assistance.

5 (i) If a recipient holding an Individual Development Account has left public
6 assistance, the account shall be disregarded in determining future eligibility provided that
7 the account was established during a previous time when the recipient was receiving
8 assistance.

9 **"§ 108A-26.15. Time limits on AFDC benefits; transitional benefits.**

10 (a) AFDC assistance shall be limited to a period of two years, upon the effective
11 date of this Part, for any recipient required to participate in any State designated
12 employment program; provided that the two-year limit shall not begin until age 18 for
13 minors who receive assistance and would otherwise be required to participate in any State
14 designated employment program. The two-year limitation shall apply to benefits
15 received consecutively or nonconsecutively. A recipient who has exhausted the two-year
16 time limit shall not be eligible to reapply for assistance for three years.

17 (b) A recipient who is employed full time on or before the end of the two-year
18 time limit shall be eligible to receive 24 months of transitional child care benefits and
19 Medicaid on a sliding scale based on income.

20 (c) The two-year time limit may be extended for not more than 12 additional
21 months if the local director of social services determines the extension will enhance the
22 recipient's ability to leave public assistance for paid employment; provided, however,
23 any child care and Medicaid benefits received during the 12 month extension shall count
24 toward the transitional child care and Medicaid benefits available pursuant to subsection
25 (b) of this section.

26 (d) Upon the effective date of this Part, no recipient required to participate in any
27 State-designated employment program shall receive assistance for more than a
28 cumulative 60-month period.

29 (e) The Department of Human Resources shall adopt rules necessary to implement
30 this section.

31 **"§ 108A-26.16. Diversionary assistance.**

32 (a) The Department of Human Resources shall ensure that diversionary assistance
33 is provided to persons who have short-term assistance needs and may be diverted from
34 receiving continuing public assistance if a diversion payment for a one-time emergency is
35 provided.

36 (b) A recipient of diversionary assistance may receive a diversion payment equal
37 to the maximum amount of the AFDC cash assistance the recipient would otherwise be
38 eligible to receive for up to three times the amount of the monthly grant for the household
39 size. The actual amount of the diversion payment shall be based on the recipient's
40 immediate needs and for the sum as negotiated by the caseworker and the participant.

41 (c) The diversion payment is not an entitlement or a requirement, but is an option
42 subject to approval by both the caseworker and the participant.

1 (d) A recipient may receive diversionary assistance only once within a 60-month
2 period.

3 (e) If the recipient reapplies for assistance within three months, the diversion
4 payment shall be prorated over the three months and shall be subtracted from any regular
5 AFDC grant the recipient is eligible to receive.

6 (f) A recipient applying for diversionary assistance shall cooperate fully with the
7 appropriate child-support enforcement agency. Child support collected on behalf of a
8 recipient of diversionary assistance shall be treated in the same manner as non-AFDC
9 child support and paid directly to the family.

10 (g) Diversionary assistance shall be a one-time payment and shall not count as
11 income for the purpose of determining food stamp eligibility.

12 (h) The Department of Human Resources shall adopt rules necessary to implement
13 this section.

14 **§ 108A-26.17. Drug and alcohol treatment required; drug testing for welfare**
15 **recipients.**

16 (a) As a condition of eligibility for benefits, each applicant or current recipient
17 who is addicted to alcohol or drugs shall be required to enter into an agreement to
18 participate satisfactorily in an appropriate addiction treatment program and to submit to
19 testing for presence of alcohol or drugs, without advance notice, during and after such
20 participation.

21 (b) An applicant or current recipient who fails to comply with any requirement
22 imposed pursuant to this section shall not be eligible for benefits, but shall be considered
23 to be receiving such aid for purposes of determining eligibility for medical assistance.

24 (c) The children of any applicant or current recipient shall remain eligible for
25 benefits, and these benefits shall be paid to a protective payee pursuant to G.S. 108A-38.

26 (d) An applicant or current recipient shall not be regarded as failing to comply
27 with the requirements of this section if an appropriate drug or alcohol treatment program
28 is unavailable.

29 **§ 108A-26.18. Felons; parole or probation violators.**

30 Any current recipient convicted of a felony or found in violation of parole or
31 probation shall not be eligible for benefits and their benefits shall be terminated. Such
32 recipients may reapply for assistance when the conditions of their conviction, parole, or
33 probation have been satisfied. The children of these persons shall remain eligible for
34 benefits, and these benefits shall be paid to a protective payee pursuant to G.S. 108A-38.

35 **§ 108A-26.19. Notification of eligibility limitations.**

36 (a) The Department of Human Resources shall ensure that all applicants for
37 assistance are informed at the time of application of the eligibility limitations and
38 requirements contained in this act.

39 (b) Effective upon ratification of these sections, the Department of Human
40 Resources shall develop a comprehensive program of public service announcements and
41 printed materials and shall work to publicize these eligibility restrictions and
42 requirements. This notification shall begin immediately following ratification of these

1 sections to encourage all affected citizens, both men and women, to accept personal and
2 family responsibility."

3 Sec. 2. (a) The Department of Human Resources shall immediately upon
4 ratification of this act, apply for and diligently pursue any waiver that is required by the
5 federal government to implement any provision of this act.

6 (b) The Department of Human Resources shall identify any pilot demonstration or
7 control group as may be required by the federal government as a condition of granting
8 any waiver required to implement any provision of this act. The selection of any
9 demonstration or control group shall be subject to the approval of the Legislative Study
10 Commission on Welfare Reform, if reauthorized.

11 Sec. 3. (a) There is created the Legislative Study Commission on Welfare
12 Reform. The Commission shall consist of 14 members as follows:

- 13 (1) Five members of the House of Representatives appointed by the
14 Speaker of the House of Representatives;
15 (2) Two persons appointed by the Speaker of the House of Representatives
16 who are not members of the General Assembly;
17 (3) Five Senators appointed by the President Pro Tempore of the Senate;
18 and
19 (4) Two persons appointed by the President Pro Tempore of the Senate who
20 are not members of the General Assembly.

21 (b) The Speaker of the House of Representatives shall designate one
22 Representative as cochair and the President Pro Tempore shall designate one Senator as
23 cochair.

24 (c) The Commission shall study the issue of welfare reform in light of current
25 federal and State welfare reform proposals and initiatives. The study shall include:

- 26 (1) A reexamination of the welfare system's purpose, including an
27 identification of disincentives which impede the public assistance
28 recipient's ability to become self-sufficient and recommendations aimed
29 at moving recipients toward self-sufficiency;
30 (2) An analysis of current federal and State welfare reform proposals and
31 initiatives and their impact, including an analysis of welfare reform
32 proposals and initiatives in other states that may serve as models for the
33 State;
34 (3) A detailed fiscal analysis and evaluation of the effectiveness of current
35 federal and State welfare reform proposals and initiatives; and
36 (4) An analysis of all other issues and variables that impact upon welfare
37 reform as deemed appropriate.

38 (d) The Commission shall report to the General Assembly, by the first day of each
39 regular session of the General Assembly, its recommendations on matters concerning
40 welfare reform, including legislation required to implement any recommendation. The
41 Commission shall remain in existence until terminated by the General Assembly.

42 (e) The Commission, while in the discharge of its official duties, may exercise
43 all the powers provided for under the provisions of G.S. 120-19 and G.S. 120-19.1

1 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of the
2 cochaIRS. The Commission may meet in the Legislative Building or the Legislative
3 Office Building.

4 (f) Members of the Commission shall receive subsistence and travel expenses
5 at the rates set forth in G.S. 120-3.1 or G.S. 138-5, as appropriate.

6 (g) The Commission may contract for professional, clerical, or consultant
7 services as provided by G.S. 120-32.02. The Legislative Services Commission, through
8 the Legislative Administrative Officer, shall assign professional staff to assist in the work
9 of the Commission. The House of Representatives' and the Senate's Supervisors of
10 Clerks shall assign clerical staff to the Commission or committee, upon the direction of
11 the Legislative Services Commission. The expenses relating to clerical employees shall
12 be borne by the Commission.

13 (h) When a vacancy occurs in the membership of the Commission, the
14 vacancy shall be filled by the same appointing officers who made the initial appointment.

15 (i) All State departments and agencies and local governments and their
16 subdivisions shall furnish the Commission with any information in their possession or
17 available to them.

18 (j) There is appropriated from the General Fund to the General Assembly the
19 sum of sixty thousand dollars (\$60,000) for the 1995-96 fiscal year and the sum of sixty
20 thousand dollars (\$60,000) for the 1996-97 fiscal year for the expenses of the
21 Commission.

22 Sec. 4. Section 1 of this act becomes effective July 1, 1996, and applies to
23 benefits provided on or after that date, provided that, if a waiver is required by the federal
24 government, Section 1 shall become effective on the first day of the second calendar
25 month after the waiver is accepted and applies to benefits provided made on or after that
26 date. The remainder of this act is effective upon ratification.