

2669--B

2013-2014 Regular Sessions

I N   A S S E M B L Y

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Introduced by M. of A. WRIGHT, MOSLEY, AUBRY, RODRIGUEZ, DAVILA, WEPRIN, RUSSELL, PERRY -- Multi-Sponsored by -- M. of A. SCARBOROUGH -- read once and referred to the Committee on Social Services -- recommitted to the Committee on Social Services in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Ways and Means -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules

AN ACT to amend the social services law, in relation to clarifying notice requirements conciliation procedures and sanctions in cases when the recipient of public assistance programs refuses to comply with employment program requirements

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 341 of the social services law, as amended by  
2     section 148 of part B of chapter 436 of the laws of 1997, subdivision 1  
3     as amended by section 1 of part D of chapter 61 of the laws of 2006, is  
4     amended to read as follows:  
5     S 341. [Conciliation] RE-ENGAGEMENT; CONCILIATION; refusal to partic-  
6     ipate. 1. (a) Consistent with federal law and regulations and this  
7     title, IF A PARTICIPANT HAS FAILED OR REFUSED TO COMPLY WITH THE  
8     REQUIREMENTS OF THIS TITLE AND THE DISTRICT HAS DETERMINED THAT HE OR  
9     SHE IS NOT EXEMPT FROM SUCH REQUIREMENTS AND HAS VERIFIED THAT APPROPRI-  
10    ATE CHILD CARE, TRANSPORTATION, AND ACCOMMODATIONS FOR DISABILITY WERE  
11    IN PLACE AT THE TIME OF SUCH FAILURE OR REFUSAL, [if a participant has  
12    failed or refused to comply with the requirements of this title,] the  
13    social services district shall issue a RE-ENGAGEMENT notice in plain  
14    language indicating that such failure or refusal has taken place and of  
15    the right of such participant to [conciliation to resolve] AVOID A PRO-  
16    RATA REDUCTION IN PUBLIC ASSISTANCE BENEFITS THROUGH THE RE-ENGAGEMENT

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 PROCESS. "RE-ENGAGEMENT PROCESS" SHALL MEAN THE PROCESS THROUGH WHICH A  
2 PARTICIPANT MAY AVOID A PRO-RATA REDUCTION IN PUBLIC ASSISTANCE BENEFITS  
3 BY AGREEING TO COMPLY WITH THE REQUIREMENTS OF THIS TITLE CONSISTENT  
4 WITH ANY MEDICAL CONDITION WHICH MAY LIMIT THE INDIVIDUAL'S ABILITY TO  
5 PARTICIPATE IN WORK ACTIVITIES, BY NOTIFYING THE DISTRICT THAT HE OR SHE  
6 HAS BECOME EXEMPT FROM THE REQUIREMENTS OF THIS TITLE, OR BY RESOLVING  
7 the reasons for such failure or refusal [to avoid a pro-rata reduction  
8 in public assistance benefits for a period of time set forth in section  
9 three hundred forty-two of this title] AT A CONCILIATION CONFERENCE.  
10 THE NOTICE SHALL INDICATE THAT THE PARTICIPANT HAS TEN DAYS TO REQUEST  
11 RE-ENGAGEMENT WITH THE DISTRICT. The notice shall indicate the specific  
12 instance or instances of willful refusal or failure to comply without  
13 good cause with the requirements of this title and the necessary actions  
14 that must be taken to avoid a pro-rata reduction in public assistance  
15 benefits AND THE DISTRICT HAS VERIFIED THAT APPROPRIATE CHILD CARE,  
16 TRANSPORTATION AND ACCOMMODATIONS FOR DISABILITY WERE IN PLACE AT THE  
17 TIME OF SUCH FAILURE OR REFUSAL. [The notice shall indicate that the  
18 participant has seven days to request conciliation with the district  
19 regarding such failure or refusal in the case of a safety net partic-  
20 ipant and ten days in the case of a family assistance participant.]

21 (1) IF A PARTICIPANT CHOOSES TO AVOID A PRO-RATA REDUCTION IN PUBLIC  
22 ASSISTANCE BENEFITS THROUGH A CONCILIATION CONFERENCE, IT WILL BE THE  
23 RESPONSIBILITY OF THE PARTICIPANT TO GIVE REASONS FOR SUCH FAILURE OR  
24 REFUSAL. The RE-ENGAGEMENT notice shall also include an explanation in  
25 plain language of what would constitute good cause for non-compliance  
26 and examples of acceptable forms of evidence that may warrant an  
27 exemption from work activities, including evidence of domestic violence,  
28 and physical or mental health limitations that may be provided at the  
29 conciliation conference to demonstrate such good cause for failure to  
30 comply with the requirements of this title. UNLESS AS PART OF THE  
31 RE-ENGAGEMENT PROCESS THE PARTICIPANT DOES NOT AGREE TO COMPLY, HAS NOT  
32 BECOME EXEMPT OR THE DISTRICT DETERMINES AS A RESULT OF THE CONCILIATION  
33 CONFERENCE THAT SUCH FAILURE OR REFUSAL WAS WILLFUL AND WITHOUT GOOD  
34 CAUSE, NO FURTHER ACTION SHALL BE TAKEN.

35 (2) If the participant does not contact the district within [the spec-  
36 ified number of] TEN days OF THE RE-ENGAGEMENT NOTICE, the district  
37 shall [issue ten days notice of intent to discontinue or reduce assist-  
38 ance, pursuant to regulations of the department. Such notice shall also  
39 include a statement of the participant's right to a fair hearing relat-  
40 ing to such discontinuance or reduction. If such participant contacts  
41 the district within seven days in the case of a safety net participant  
42 or within ten days in the case of a family assistance participant, it  
43 will be the responsibility of the participant to give reasons for such  
44 failure or refusal] MAKE A FINDING OF WHETHER THE ALLEGED FAILURE OR  
45 REFUSAL TO COMPLY WAS WILLFUL AND WITHOUT GOOD CAUSE AND SHALL CONSIDER  
46 ANY EVIDENCE IN THE POSSESSION OF THE DISTRICT INDICATING THAT THE  
47 PARTICIPANT HAS GOOD CAUSE AND IF THE PARTICIPANT IS OTHERWISE PARTIC-  
48 IPATING IN WORK ACTIVITIES, THERE SHALL BE NO FINDING OF WILLFULNESS  
49 WITHOUT GOOD CAUSE BASED ON A SINGLE APPOINTMENT OR INFRACTION.

50 (b) [Unless the district determines as a result of such conciliation  
51 process that such failure or refusal was willful and was without good  
52 cause, no further action shall be taken.] If the district determines  
53 that such failure or refusal was willful and without good cause, AND  
54 THAT THE INDIVIDUAL IS NOT EXEMPT FROM THE REQUIREMENTS OF THIS TITLE,  
55 the district shall notify such participant in writing, in plain language  
56 and in a manner distinct from any previous notice, by issuing ten days

1 notice of its intent to discontinue or reduce assistance. Such notice  
2 shall include the reasons for such determination, the specific instance  
3 or instances of willful refusal or failure to comply without good cause  
4 with the requirements of this title, SHALL VERIFY THAT APPROPRIATE CHILD  
5 CARE, TRANSPORTATION AND ACCOMMODATIONS FOR DISABILITY WERE IN PLACE AT  
6 THE TIME OF SUCH FAILURE OR REFUSAL, AND SPECIFY the necessary actions  
7 that must be taken to avoid a pro-rata reduction in public assistance  
8 benefits, INCLUDING AGREEING TO COMPLY WITH THE REQUIREMENTS OF THIS  
9 TITLE CONSISTENT WITH ANY MEDICAL CONDITION WHICH MAY LIMIT THE INDIVID-  
10 UAL'S ABILITY TO PARTICIPATE IN WORK ACTIVITIES OR NOTIFYING THE  
11 DISTRICT THAT HE OR SHE HAS BECOME EXEMPT FROM THE REQUIREMENTS OF THIS  
12 TITLE and the right to a fair hearing relating to such discontinuance or  
13 reduction. [Unless extended by mutual agreement of the participant and  
14 the district, conciliation shall terminate and a determination shall be  
15 made within fourteen days of the date a request for conciliation is made  
16 in the case of a safety net participant or within thirty days of the  
17 conciliation notice in the case of a family assistance participant.]

18 2. (a) The department shall establish in regulation a conciliation  
19 procedure for the resolution of disputes related to an individual's  
20 participation in programs pursuant to this title.

21 (b) The district shall contract with an independent entity, approved  
22 by the department, or shall use designated trained staff at the supervi-  
23 sory level who have no direct responsibility for the participant's case  
24 to mediate disputes in the conciliation conference. [If no such supervi-  
25 sory staff or independent entity is available, the district may desig-  
26 nate another trained individual, who has no direct responsibility for  
27 the participant's case to mediate disputes in the conciliation confer-  
28 ence.]

29 (c) If a participant's dispute cannot be resolved through such concil-  
30 iation procedure, an opportunity for a fair hearing shall be provided.  
31 No sanction relating to the subject dispute may be imposed during the  
32 [conciliation] RE-ENGAGEMENT process.

33 3. When any [family assistance] participant required to participate in  
34 work activities fails to comply with the provisions of this title, the  
35 social services district shall take such actions as prescribed by appro-  
36 priate federal law and regulation and this title.

37 4. [When any safety net participant required to participate in work  
38 activities fails to comply with the provisions of this title, the social  
39 services district shall deny assistance to such participant in accord-  
40 ance with section three hundred forty-two of this title.]

41 5. (a) To the extent that] CONSISTENT WITH federal law [requires] AND  
42 THIS TITLE, a social services district shall provide to those [family  
43 assistance] participants whose failure to comply has continued for  
44 [three months] THIRTY DAYS or longer a written reminder of the option to  
45 end a sanction [after the expiration of the applicable minimum sanction  
46 period] by terminating the failure to comply as specified in subdivision  
47 [three] ONE of this section. Such notice shall advise that the partic-  
48 ipant may immediately terminate the [first or second] sanction by  
49 [participating in the program or accepting employment and that any  
50 subsequent sanction after six months have elapsed may be terminated by  
51 participating in the program or accepting employment.]

52 (b) A social services district shall provide to those safety net  
53 participants whose failure to comply has continued for the length of the  
54 sanction period or longer a written reminder of the option to end a  
55 sanction after the expiration of the applicable minimum sanction period  
56 by terminating the failure to comply as specified in subdivision four of

1 this section.] EITHER AGREEING TO COMPLY WITH THE REQUIREMENTS OF THIS  
2 TITLE CONSISTENT WITH ANY MEDICAL CONDITION WHICH MAY LIMIT THE INDIVID-  
3 UAL'S ABILITY TO PARTICIPATE IN WORK ACTIVITIES OR NOTIFYING THE  
4 DISTRICT THAT HE OR SHE HAS BECOME EXEMPT FROM THE REQUIREMENTS OF THIS  
5 TITLE.

6 [6.] 5. Consistent with federal law and regulation AND THIS TITLE, no  
7 NOTICE SHALL BE ISSUED AS SPECIFIED IN SUBDIVISION ONE OF THIS SECTION  
8 UNLESS IT HAS BEEN DETERMINED THAT THE INDIVIDUAL IS NOT EXEMPT FROM THE  
9 REQUIREMENTS OF THIS TITLE AND HAS DETERMINED THAT APPROPRIATE CHILD  
10 CARE, TRANSPORTATION AND ACCOMMODATIONS FOR DISABILITY WERE IN PLACE AT  
11 THE TIME OF SUCH FAILURE OR REFUSAL TO COMPLY WITH THE REQUIREMENTS OF  
12 THIS TITLE AND NO action shall be taken pursuant to this section for  
13 failure to participate in the program or refusal to accept employment  
14 if:

15 (a) child care for a child under age thirteen (or day care for any  
16 incapacitated individual living in the same home as a dependent child)  
17 is necessary for an individual to participate or continue participation  
18 in activities pursuant to this title or accept employment and such care  
19 is not available and the social services district fails to provide such  
20 care;

21 (b) (1) the employment would result in the family of the participant  
22 experiencing a net loss of cash income; provided, however, a participant  
23 may not claim good cause under this paragraph if the social services  
24 district assures that the family will not experience a net loss of cash  
25 income by making a supplemental payment;

26 (2) net loss of cash income results if the family's gross income less  
27 necessary work-related expenses is less than the cash assistance the  
28 participant was receiving at the time the offer of employment is made;  
29 or

30 (c) the participant meets other grounds for good cause set forth by  
31 the department in its implementation plan for this title which, at a  
32 minimum, must describe what circumstances beyond the household's control  
33 will constitute "good cause".

34 S 2. Section 342 of the social services law, as added by section 148  
35 of part B of chapter 436 of the laws of 1997, is amended to read as  
36 follows:

37 S 342. Noncompliance with the requirements of this title. 1. In  
38 accordance with the provisions of this section an individual who is  
39 required to participate in work activities shall be ineligible to  
40 receive public assistance if he or she fails to comply, without good  
41 cause, with the requirements of this title AND THE DISTRICT HAS DETER-  
42 MINED THAT HE OR SHE IS NOT EXEMPT FROM SUCH REQUIREMENTS AND HAS VERI-  
43 FIED THAT APPROPRIATE CHILD CARE, TRANSPORTATION, AND ACCOMMODATIONS FOR  
44 DISABILITY WERE IN PLACE AT THE TIME OF SUCH FAILURE OR REFUSAL. Such  
45 ineligibility shall be for the amount and [periods] PERIOD specified in  
46 this section. Good cause for failing to comply with the requirements of  
47 this title shall be defined in department regulations, provided, howev-  
48 er, that the parent or caretaker relative of a child under thirteen  
49 years of age shall not be subject to the ineligibility provisions of  
50 this section if the individual can demonstrate, in accordance with the  
51 regulations of the office of children and family services [department],  
52 that lack of available child care prevents such individual from comply-  
53 ing with the work requirements of this title. The parent or caretaker  
54 relative shall be responsible for locating the child care needed to meet  
55 the work requirements; provided, however, that the relevant social  
56 services district shall provide a parent or caretaker relative who

1 demonstrates an inability to obtain needed child care with a choice of  
2 two providers, at least one of which will be a regulated provider.

3 2. In the case of an applicant for or recipient of public assistance  
4 WHOM THE DISTRICT HAS DETERMINED IS NOT EXEMPT FROM THE REQUIREMENTS OF  
5 THIS TITLE AND who is a parent or caretaker of a dependent child, the  
6 public assistance benefits otherwise available to the household of which  
7 such individual is a member shall be reduced pro-rata[:

8 (a) for the first instance of failure to comply without good cause  
9 with the requirement of this article] until the individual is willing to  
10 comply WITH THE REQUIREMENTS OF THIS TITLE CONSISTENT WITH ANY MEDICAL  
11 CONDITION WHICH MAY LIMIT THE INDIVIDUAL'S ABILITY TO PARTICIPATE IN  
12 WORK ACTIVITIES[;

13 (b) for the second instance of failure to comply without good cause  
14 with the requirements of this article, for a period of three months and  
15 thereafter until the individual is willing to comply;

16 (c) for the third and all subsequent instances of failure to comply  
17 without good cause with the requirements of this article, for a period  
18 of six months and thereafter until the individual is willing to comply].

19 3. In the case of an individual who is a member of a household without  
20 dependent children WHOM THE DISTRICT HAS DETERMINED IS NOT EXEMPT FROM  
21 THE REQUIREMENTS OF THIS TITLE AND WHO IS applying for or in receipt of  
22 safety net assistance, the public assistance benefits otherwise avail-  
23 able to the household of which such individual is a member shall be  
24 reduced pro-rata[:

25 (a) for the first such failure or refusal], until the failure or  
26 refusal TO COMPLY WITH THE REQUIREMENTS OF THIS TITLE CONSISTENT WITH  
27 ANY MEDICAL CONDITION WHICH MAY LIMIT THE INDIVIDUAL'S ABILITY TO  
28 PARTICIPATE IN WORK ACTIVITIES ceases [or ninety days, whichever period  
29 of time is longer;

30 (b) for the second such failure or refusal, until the failure ceases  
31 or for one hundred fifty days, whichever period of time is longer; and

32 (c) for the third and all subsequent such failures or refusals, until  
33 the failure ceases or one hundred eighty days, whichever period of time  
34 is longer].

35 4. A recipient of public assistance WHOM THE DISTRICT HAS DETERMINED  
36 IS NOT EXEMPT FROM THE REQUIREMENTS OF THIS TITLE AND who quits or  
37 reduces his hours of employment without good cause OR DUE TO ANY MEDICAL  
38 CONDITION WHICH MAY LIMIT THE INDIVIDUAL'S ABILITY TO PARTICIPATE IN  
39 WORK ACTIVITIES shall be considered to have failed to comply with the  
40 requirements of this article and shall be subject to the provisions of  
41 this section.

42 5. A person described in paragraph (b) of subdivision seven of section  
43 one hundred fifty-nine of this chapter may not be sanctioned if his or  
44 her failure to comply with requirements of this title are related to  
45 his or her health status.

46 S 3. This act shall take effect immediately.