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I N   A S S E M B L Y

March 26, 2014

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Introduced by M. of A. GOODELL -- read once and referred to the Committee on Social Services

AN ACT to amend the social services law, in relation to additional options for local social services districts to implement effective welfare-to-work programs; and to repeal certain provisions of such law relating thereto

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

1     Section 1. Purpose. The legislature hereby finds that it is in the  
2 public interest to assist public assistance recipients to obtain job  
3 training or work experience as a means of enhancing their ability to  
4 obtain employment, thereby increasing their financial independence and  
5 self-sufficiency and improving their standard of living. By providing  
6 local social services districts with additional flexibility and more  
7 options for the administration of the welfare-to-work program, local  
8 social services districts will be able to intervene and seek concil-  
9 iation quickly in the event that a public assistance recipient fails to  
10 attend or participate in designated training or work experience, thereby  
11 maximizing the opportunity for the recipient to successfully participate  
12 in these programs. In the event an able-bodied public assistance recipi-  
13 ent refuses to participate in these programs without good cause, local  
14 social services districts would have the ability to conduct a fair hear-  
15 ing using video conferencing equipment, thus minimizing the cost to  
16 taxpayers for recipients who are unwilling to participate without good  
17 cause.

18     S 2. Section 341 of the social services law is REPEALED and a new  
19 section 341 is added to read as follows:

20     S 341. CONCILIATION; REFUSAL TO PARTICIPATE. 1. NOTICE OF NONCOMPLI-  
21 ANCE. CONSISTENT WITH FEDERAL LAW AND REGULATIONS AND THIS TITLE, IF A  
22 PARTICIPANT HAS FAILED OR REFUSED TO COMPLY WITH THE REQUIREMENTS OF  
23 THIS TITLE, THE SOCIAL SERVICES DISTRICT SHALL NOTIFY THE PARTICIPANT,  
24 VERBALLY OR IN WRITING, IN PLAIN LANGUAGE THAT SUCH FAILURE OR REFUSAL  
25 HAS TAKEN PLACE, THE SPECIFIC INSTANCE OR INSTANCES OF REFUSAL OR FAIL-  
26 URE TO COMPLY, AND THE NECESSARY ACTIONS THAT MUST BE TAKEN TO AVOID A

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

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1 PRO-RATA REDUCTION IN PUBLIC ASSISTANCE BENEFITS. THE NOTICE SHALL ALSO  
2 INCLUDE AN EXPLANATION IN PLAIN LANGUAGE OF WHAT WOULD CONSTITUTE GOOD  
3 CAUSE FOR NON-COMPLIANCE AND EXAMPLES OF ACCEPTABLE FORMS OF EVIDENCE  
4 THAT MAY WARRANT AN EXEMPTION FROM WORK ACTIVITIES, INCLUDING EVIDENCE  
5 OF DOMESTIC VIOLENCE, AND PHYSICAL OR MENTAL HEALTH LIMITATIONS TO  
6 DEMONSTRATE SUCH GOOD CAUSE FOR FAILURE TO COMPLY WITH THE REQUIREMENTS  
7 OF THIS TITLE. IF THE NOTIFICATION WAS VERBAL, THE SOCIAL SERVICES  
8 DISTRICT SHALL PROMPTLY SEND THE PARTICIPANT WRITTEN CONFIRMATION THERE-  
9 OF.

10 2. RIGHT TO CONCILIATION. (A) AT THE OPTION OF THE SOCIAL SERVICES  
11 DISTRICT THE SOCIAL SERVICES DISTRICT MAY ENGAGE IN CONCILIATION EFFORTS  
12 WITH THE PARTICIPANT AT THE SAME TIME AS THE VERBAL NOTICE OF NONCOMPLI-  
13 ANCE IN AN EFFORT TO RESOLVE THE REASONS FOR ANY FAILURE OR REFUSAL OF  
14 THE PARTICIPANT TO COMPLY WITH THE REQUIREMENTS OF THIS TITLE AND TO  
15 ENABLE THE PARTICIPANT TO AVOID A PRO-RATA REDUCTION IN PUBLIC ASSIST-  
16 ANCE BENEFITS FOR A PERIOD OF TIME SET FORTH IN SECTION THREE HUNDRED  
17 FORTY-TWO OF THIS TITLE. IT WILL BE THE RESPONSIBILITY OF THE PARTIC-  
18 IPANT TO GIVE REASONS FOR SUCH FAILURE OR REFUSAL TO COMPLY WITH THE  
19 REQUIREMENTS OF THIS TITLE. IF THE SOCIAL SERVICES DISTRICT DETERMINES  
20 AS A RESULT OF SUCH CONCILIATION PROCESS THAT SUCH FAILURE OR REFUSAL  
21 WAS NOT WILLFUL AND WAS FOR GOOD CAUSE, NO FURTHER ACTION SHALL BE  
22 TAKEN.

23 (B) IF THE CONCILIATION EFFORT WAS NOT UNDERTAKEN AT THE SAME TIME AS  
24 THE VERBAL NOTICE OF NONCOMPLIANCE OR IN THE EVENT THE NOTICE OF NONCOM-  
25 PLIANCE WAS IN WRITING, THEN THE SOCIAL SERVICES DISTRICT MUST PROVIDE  
26 THE PARTICIPANT WITH WRITTEN NOTICE THAT THE PARTICIPANT HAS SEVEN DAYS  
27 TO REQUEST CONCILIATION WITH THE DISTRICT REGARDING SUCH FAILURE OR  
28 REFUSAL IN THE CASE OF A SAFETY NET PARTICIPANT AND TEN DAYS IN THE CASE  
29 OF A FAMILY ASSISTANCE PARTICIPANT. IF SUCH PARTICIPANT CONTACTS THE  
30 SOCIAL SERVICES DISTRICT WITHIN SEVEN DAYS IN THE CASE OF A SAFETY NET  
31 PARTICIPANT OR WITHIN TEN DAYS IN THE CASE OF A FAMILY ASSISTANCE  
32 PARTICIPANT, IT WILL BE THE RESPONSIBILITY OF THE PARTICIPANT TO GIVE  
33 REASONS FOR SUCH FAILURE OR REFUSAL. UNLESS EXTENDED BY MUTUAL AGREEMENT  
34 OF THE PARTICIPANT AND THE SOCIAL SERVICES DISTRICT, CONCILIATION SHALL  
35 TERMINATE AND A DETERMINATION SHALL BE MADE WITHIN FOURTEEN DAYS OF THE  
36 DATE A REQUEST FOR CONCILIATION IS MADE IN THE CASE OF A SAFETY NET  
37 PARTICIPANT OR WITHIN THIRTY DAYS OF THE CONCILIATION NOTICE IN THE CASE  
38 OF A FAMILY ASSISTANCE PARTICIPANT.

39 3. CONCILIATION PROCEDURE. (A) THE DEPARTMENT SHALL ESTABLISH IN  
40 REGULATIONS A CONCILIATION PROCEDURE FOR THE RESOLUTION OF DISPUTES  
41 RELATED TO AN INDIVIDUAL'S PARTICIPATION IN PROGRAMS PURSUANT TO THIS  
42 TITLE.

43 (B) THE SOCIAL SERVICES DISTRICT SHALL CONTRACT WITH AN INDEPENDENT  
44 ENTITY, APPROVED BY THE DEPARTMENT, OR SHALL USE DESIGNATED TRAINED  
45 STAFF AT THE SUPERVISORY LEVEL WHO HAVE NO DIRECT RESPONSIBILITY FOR THE  
46 PARTICIPANT'S CASE TO MEDIATE DISPUTES IN THE CONCILIATION CONFERENCE.  
47 IF NO SUCH SUPERVISORY STAFF OR INDEPENDENT ENTITY IS AVAILABLE, THE  
48 SOCIAL SERVICES DISTRICT MAY DESIGNATE ANOTHER TRAINED INDIVIDUAL, WHO  
49 HAS NO DIRECT RESPONSIBILITY FOR THE PARTICIPANT'S CASE TO MEDIATE  
50 DISPUTES IN THE CONCILIATION CONFERENCE.

51 (C) IF A PARTICIPANT'S DISPUTE CANNOT BE RESOLVED THROUGH SUCH CONCIL-  
52 IATION PROCEDURE, A FAIR HEARING OR AN OPPORTUNITY FOR A FAIR HEARING  
53 SHALL BE PROVIDED, AS SET FORTH IN THIS SECTION. NO SANCTION RELATING TO  
54 THE SUBJECT DISPUTE MAY BE IMPOSED DURING THE CONCILIATION PROCESS.

55 4. RIGHT TO A FAIR HEARING. IF THE SOCIAL SERVICES DISTRICT DETER-  
56 MINES AS THE RESULT OF SUCH CONCILIATION PROCESS THAT SUCH FAILURE OR

1 REFUSAL WAS WILLFUL AND WITHOUT GOOD CAUSE, OR IN THE EVENT THAT THE  
2 PARTICIPANT DOES NOT CONTACT THE SOCIAL SERVICES DISTRICT WITHIN THE  
3 SPECIFIED NUMBER OF DAYS TO REQUEST CONCILIATION, THEN THE DISTRICT  
4 SHALL PROVIDE THE PARTICIPANT WITH A TEN DAY WRITTEN NOTICE, IN PLAIN  
5 LANGUAGE AND IN A MANNER DISTINCT FROM ANY PREVIOUS NOTICE, OF ITS  
6 INTENT TO DISCONTINUE OR REDUCE ASSISTANCE. SUCH NOTICE SHALL INCLUDE  
7 THE REASONS FOR SUCH DETERMINATION, THE SPECIFIC INSTANCE OR INSTANCES  
8 OF WILLFUL REFUSAL OR FAILURE TO COMPLY WITHOUT GOOD CAUSE WITH THE  
9 REQUIREMENTS OF THIS TITLE, AND THE NECESSARY ACTIONS THAT MUST BE TAKEN  
10 TO AVOID A PRO-RATA REDUCTION IN PUBLIC ASSISTANCE BENEFITS PURSUANT TO  
11 REGULATIONS OF THE DEPARTMENT. SUCH NOTICE SHALL ALSO INCLUDE A STATE-  
12 MENT OF THE PARTICIPANT'S RIGHT TO REQUEST A FAIR HEARING PRIOR TO THE  
13 EXPIRATION OF SUCH TEN DAY NOTICE RELATING TO SUCH DISCONTINUANCE OR  
14 REDUCTION. THE FAIR HEARING MAY BE CONDUCTED USING VIDEO CONFERENCING  
15 EQUIPMENT THAT ALLOWS EACH PARTY TO SEE AND HEAR OTHER PARTIES.

16 5. SANCTIONS. (A) WHEN ANY FAMILY ASSISTANCE PARTICIPANT REQUIRED TO  
17 PARTICIPATE IN WORK ACTIVITIES FAILS TO COMPLY WITH THE PROVISIONS OF  
18 THIS TITLE, THE SOCIAL SERVICES DISTRICT SHALL TAKE SUCH ACTIONS AS  
19 PRESCRIBED BY APPROPRIATE FEDERAL LAW AND REGULATION AND THIS TITLE.

20 (B) WHEN ANY SAFETY NET PARTICIPANT REQUIRED TO PARTICIPATE IN WORK  
21 ACTIVITIES FAILS TO COMPLY WITH THE PROVISIONS OF THIS TITLE, THE SOCIAL  
22 SERVICES DISTRICT SHALL DENY ASSISTANCE TO SUCH PARTICIPANT IN ACCORD-  
23 ANCE WITH SECTION THREE HUNDRED FORTY-TWO OF THIS TITLE.

24 (C) TO THE EXTENT THAT FEDERAL LAW REQUIRES, A SOCIAL SERVICES  
25 DISTRICT SHALL PROVIDE TO THOSE FAMILY ASSISTANCE PARTICIPANTS WHOSE  
26 FAILURE TO COMPLY HAS CONTINUED FOR THREE MONTHS OR LONGER A WRITTEN  
27 REMINDER OF THE OPTION TO END A SANCTION AFTER THE EXPIRATION OF THE  
28 APPLICABLE MINIMUM SANCTION PERIOD BY TERMINATING THE FAILURE TO COMPLY  
29 AS SPECIFIED IN SUBDIVISION THREE OF THIS SECTION. SUCH NOTICE SHALL  
30 ADVISE THAT THE PARTICIPANT MAY IMMEDIATELY TERMINATE THE FIRST OR  
31 SECOND SANCTION BY PARTICIPATING IN THE PROGRAM OR ACCEPTING EMPLOYMENT  
32 AND THAT ANY SUBSEQUENT SANCTION AFTER SIX MONTHS HAVE ELAPSED MAY BE  
33 TERMINATED BY PARTICIPATING IN THE PROGRAM OR ACCEPTING EMPLOYMENT.

34 (D) A SOCIAL SERVICES DISTRICT SHALL PROVIDE TO THOSE SAFETY NET  
35 PARTICIPANTS WHOSE FAILURE TO COMPLY HAS CONTINUED FOR THE LENGTH OF THE  
36 SANCTION PERIOD OR LONGER A WRITTEN REMINDER OF THE OPTION TO END A  
37 SANCTION AFTER THE EXPIRATION OF THE APPLICABLE MINIMUM SANCTION PERIOD  
38 BY TERMINATING THE FAILURE TO COMPLY AS SPECIFIED IN SUBDIVISION FOUR OF  
39 THIS SECTION.

40 (E) CONSISTENT WITH FEDERAL LAW AND REGULATION, NO ACTION SHALL BE  
41 TAKEN PURSUANT TO THIS SECTION FOR FAILURE TO PARTICIPATE IN THE PROGRAM  
42 OR REFUSAL TO ACCEPT EMPLOYMENT IF:

43 (I) CHILD CARE FOR A CHILD UNDER AGE THIRTEEN (OR DAY CARE FOR ANY  
44 INCAPACITATED INDIVIDUAL LIVING IN THE SAME HOME AS A DEPENDENT CHILD)  
45 IS NECESSARY FOR AN INDIVIDUAL TO PARTICIPATE OR CONTINUE PARTICIPATION  
46 IN ACTIVITIES PURSUANT TO THIS TITLE OR ACCEPT EMPLOYMENT AND SUCH CARE  
47 IS NOT AVAILABLE AND THE SOCIAL SERVICES DISTRICT FAILS TO PROVIDE SUCH  
48 CARE;

49 (II) THE EMPLOYMENT WOULD RESULT IN THE FAMILY OF THE PARTICIPANT  
50 EXPERIENCING A NET LOSS OF SUCH CASH INCOME; PROVIDED, HOWEVER, A  
51 PARTICIPANT MAY NOT CLAIM GOOD CAUSE UNDER THIS PARAGRAPH IF THE SOCIAL  
52 SERVICES DISTRICT ASSURES THAT THE FAMILY WILL NOT EXPERIENCE A NET LOSS  
53 OF CASH INCOME BY MAKING A SUPPLEMENTAL PAYMENT; NET LOSS OF CASH INCOME  
54 RESULTS IF THE FAMILY'S GROSS INCOME LESS NECESSARY WORK-RELATED  
55 EXPENSES IS LESS THAN THE CASH ASSISTANCE THE PARTICIPANT WAS RECEIVING  
56 AT THE TIME THE OFFER OF EMPLOYMENT IS MADE; OR

1 (III) THE PARTICIPANT MEETS OTHER GROUNDS FOR GOOD CAUSE SET FORTH BY  
2 THE DEPARTMENT IN ITS IMPLEMENTATION PLAN FOR THIS TITLE WHICH, AT A  
3 MINIMUM, MUST DESCRIBE WHAT CIRCUMSTANCES BEYOND THE HOUSEHOLD'S CONTROL  
4 WILL CONSTITUTE "GOOD CAUSE".

5 S 3. This act shall take effect on the one hundred twentieth day after  
6 it shall have become a law.