

2669--C

R. R. 122

2013-2014 Regular Sessions

I N A S S E M B L Y

January 17, 2013

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 -- amended on the special order of third reading, ordered reprinted as amended, retaining its place on the special order of third reading

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 in a city having a population of one million or more persons

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

1 Section 1. The social services law is amended by adding a new section
2 341-a to read as follows:
3 S 341-A. RE-ENGAGEMENT; CONCILIATION; REFUSAL TO PARTICIPATE. 1. THE
4 PROVISIONS OF THIS SECTION SHALL APPLY TO PERSONS WHO ARE RESIDENTS OF A
5 CITY HAVING A POPULATION OF ONE MILLION OR MORE PEOPLE.
6 2. (A) CONSISTENT WITH FEDERAL LAW AND REGULATIONS AND THIS TITLE, IF
7 A PARTICIPANT HAS FAILED OR REFUSED TO COMPLY WITH THE REQUIREMENTS OF
8 THIS TITLE AND THE DISTRICT HAS DETERMINED THAT HE OR SHE IS NOT EXEMPT
9 FROM SUCH REQUIREMENTS AND HAS VERIFIED THAT APPROPRIATE CHILD CARE,
10 TRANSPORTATION, AND ACCOMMODATIONS FOR DISABILITY WERE IN PLACE AT THE
11 TIME OF SUCH FAILURE OR REFUSAL, THE SOCIAL SERVICES DISTRICT SHALL
12 ISSUE A RE-ENGAGEMENT NOTICE IN PLAIN LANGUAGE INDICATING THAT SUCH
13 FAILURE OR REFUSAL HAS TAKEN PLACE AND OF THE RIGHT OF SUCH PARTICIPANT

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

LBD00785-06-4

1 TO AVOID A PRO-RATA REDUCTION IN PUBLIC ASSISTANCE BENEFITS THROUGH THE
2 RE-ENGAGEMENT PROCESS. "RE-ENGAGEMENT PROCESS" SHALL MEAN THE PROCESS
3 THROUGH WHICH A PARTICIPANT MAY AVOID A PRO-RATA REDUCTION IN PUBLIC
4 ASSISTANCE BENEFITS BY AGREEING TO COMPLY WITH THE REQUIREMENTS OF THIS
5 TITLE CONSISTENT WITH ANY MEDICAL CONDITION WHICH MAY LIMIT THE INDIVID-
6 UAL'S ABILITY TO PARTICIPATE IN WORK ACTIVITIES, BY NOTIFYING THE
7 DISTRICT THAT HE OR SHE HAS BECOME EXEMPT FROM THE REQUIREMENTS OF THIS
8 TITLE, OR BY RESOLVING THE REASONS FOR SUCH FAILURE OR REFUSAL AT A
9 CONCILIATION CONFERENCE. THE NOTICE SHALL INDICATE THAT THE PARTICIPANT
10 HAS TEN DAYS TO REQUEST RE-ENGAGEMENT WITH THE DISTRICT. THE NOTICE
11 SHALL INDICATE THE SPECIFIC INSTANCE OR INSTANCES OF WILLFUL REFUSAL OR
12 FAILURE TO COMPLY WITHOUT GOOD CAUSE WITH THE REQUIREMENTS OF THIS TITLE
13 AND THE NECESSARY ACTIONS THAT MUST BE TAKEN TO AVOID A PRO-RATA
14 REDUCTION IN PUBLIC ASSISTANCE BENEFITS AND THE DISTRICT HAS VERIFIED
15 THAT APPROPRIATE CHILD CARE, TRANSPORTATION AND ACCOMMODATIONS FOR DISA-
16 BILITY WERE IN PLACE AT THE TIME OF SUCH FAILURE OR REFUSAL.

17 (1) IF A PARTICIPANT CHOOSES TO AVOID A PRO-RATA REDUCTION IN PUBLIC
18 ASSISTANCE BENEFITS THROUGH A CONCILIATION CONFERENCE, IT WILL BE THE
19 RESPONSIBILITY OF THE PARTICIPANT TO GIVE REASONS FOR SUCH FAILURE OR
20 REFUSAL. THE RE-ENGAGEMENT NOTICE SHALL ALSO INCLUDE AN EXPLANATION IN
21 PLAIN LANGUAGE OF WHAT WOULD CONSTITUTE GOOD CAUSE FOR NON-COMPLIANCE
22 AND EXAMPLES OF ACCEPTABLE FORMS OF EVIDENCE THAT MAY WARRANT AN
23 EXEMPTION FROM WORK ACTIVITIES, INCLUDING EVIDENCE OF DOMESTIC VIOLENCE,
24 AND PHYSICAL OR MENTAL HEALTH LIMITATIONS THAT MAY BE PROVIDED AT THE
25 CONCILIATION CONFERENCE TO DEMONSTRATE SUCH GOOD CAUSE FOR FAILURE TO
26 COMPLY WITH THE REQUIREMENTS OF THIS TITLE. UNLESS AS PART OF THE
27 RE-ENGAGEMENT PROCESS THE PARTICIPANT DOES NOT AGREE TO COMPLY, HAS NOT
28 BECOME EXEMPT OR THE DISTRICT DETERMINES AS A RESULT OF THE CONCILIATION
29 CONFERENCE THAT SUCH FAILURE OR REFUSAL WAS WILLFUL AND WITHOUT GOOD
30 CAUSE, NO FURTHER ACTION SHALL BE TAKEN.

31 (2) IF THE PARTICIPANT DOES NOT CONTACT THE DISTRICT WITHIN TEN DAYS
32 OF THE RE-ENGAGEMENT NOTICE, THE DISTRICT SHALL MAKE A FINDING OF WHETH-
33 ER THE ALLEGED FAILURE OR REFUSAL TO COMPLY WAS WILLFUL AND WITHOUT GOOD
34 CAUSE AND SHALL CONSIDER ANY EVIDENCE IN THE POSSESSION OF THE DISTRICT
35 INDICATING THAT THE PARTICIPANT HAS GOOD CAUSE AND IF THE PARTICIPANT IS
36 OTHERWISE PARTICIPATING IN WORK ACTIVITIES, THERE SHALL BE NO FINDING OF
37 WILLFULNESS WITHOUT GOOD CAUSE BASED ON A SINGLE APPOINTMENT OR INFRAC-
38 TION.

39 (B) IF THE DISTRICT DETERMINES THAT SUCH FAILURE OR REFUSAL WAS WILL-
40 FUL AND WITHOUT GOOD CAUSE, AND THAT THE INDIVIDUAL IS NOT EXEMPT FROM
41 THE REQUIREMENTS OF THIS TITLE, THE DISTRICT SHALL NOTIFY SUCH PARTIC-
42 IPANT IN WRITING, IN PLAIN LANGUAGE AND IN A MANNER DISTINCT FROM ANY
43 PREVIOUS NOTICE, BY ISSUING TEN DAYS NOTICE OF ITS INTENT TO DISCONTINUE
44 OR REDUCE ASSISTANCE. SUCH NOTICE SHALL INCLUDE THE REASONS FOR SUCH
45 DETERMINATION, THE SPECIFIC INSTANCE OR INSTANCES OF WILLFUL REFUSAL OR
46 FAILURE TO COMPLY WITHOUT GOOD CAUSE WITH THE REQUIREMENTS OF THIS
47 TITLE, SHALL VERIFY THAT APPROPRIATE CHILD CARE, TRANSPORTATION AND
48 ACCOMMODATIONS FOR DISABILITY WERE IN PLACE AT THE TIME OF SUCH FAILURE
49 OR REFUSAL, AND SPECIFY THE NECESSARY ACTIONS THAT MUST BE TAKEN TO
50 AVOID A PRO-RATA REDUCTION IN PUBLIC ASSISTANCE BENEFITS, INCLUDING
51 AGREEING TO COMPLY WITH THE REQUIREMENTS OF THIS TITLE CONSISTENT WITH
52 ANY MEDICAL CONDITION WHICH MAY LIMIT THE INDIVIDUAL'S ABILITY TO
53 PARTICIPATE IN WORK ACTIVITIES OR NOTIFYING THE DISTRICT THAT HE OR SHE
54 HAS BECOME EXEMPT FROM THE REQUIREMENTS OF THIS TITLE AND THE RIGHT TO A
55 FAIR HEARING RELATING TO SUCH DISCONTINUANCE OR REDUCTION.

1 3. (A) THE DEPARTMENT SHALL ESTABLISH IN REGULATION A CONCILIATION
2 PROCEDURE FOR THE RESOLUTION OF DISPUTES RELATED TO AN INDIVIDUAL'S
3 PARTICIPATION IN PROGRAMS PURSUANT TO THIS TITLE.

4 (B) THE DISTRICT SHALL CONTRACT WITH AN INDEPENDENT ENTITY, APPROVED
5 BY THE DEPARTMENT, OR SHALL USE DESIGNATED TRAINED STAFF AT THE SUPERVI-
6 SORY LEVEL WHO HAVE NO DIRECT RESPONSIBILITY FOR THE PARTICIPANT'S CASE
7 TO MEDIATE DISPUTES IN THE CONCILIATION CONFERENCE.

8 (C) IF A PARTICIPANT'S DISPUTE CANNOT BE RESOLVED THROUGH SUCH CONCIL-
9 IATION PROCEDURE, AN OPPORTUNITY FOR A FAIR HEARING SHALL BE PROVIDED.
10 NO SANCTION RELATING TO THE SUBJECT DISPUTE MAY BE IMPOSED DURING THE
11 RE-ENGAGEMENT PROCESS.

12 4. WHEN ANY PARTICIPANT REQUIRED TO PARTICIPATE IN WORK ACTIVITIES
13 FAILS TO COMPLY WITH THE PROVISIONS OF THIS TITLE, THE SOCIAL SERVICES
14 DISTRICT SHALL TAKE SUCH ACTIONS AS PRESCRIBED BY APPROPRIATE FEDERAL
15 LAW AND REGULATION AND THIS TITLE.

16 5. CONSISTENT WITH FEDERAL LAW AND THIS TITLE, A SOCIAL SERVICES
17 DISTRICT SHALL PROVIDE TO THOSE PARTICIPANTS WHOSE FAILURE TO COMPLY HAS
18 CONTINUED FOR THIRTY DAYS OR LONGER A WRITTEN REMINDER OF THE OPTION TO
19 END A SANCTION BY TERMINATING THE FAILURE TO COMPLY AS SPECIFIED IN
20 SUBDIVISION TWO OF THIS SECTION. SUCH NOTICE SHALL ADVISE THAT THE
21 PARTICIPANT MAY IMMEDIATELY TERMINATE THE SANCTION BY EITHER AGREEING TO
22 COMPLY WITH THE REQUIREMENTS OF THIS TITLE CONSISTENT WITH ANY MEDICAL
23 CONDITION WHICH MAY LIMIT THE INDIVIDUAL'S ABILITY TO PARTICIPATE IN
24 WORK ACTIVITIES OR NOTIFYING THE DISTRICT THAT HE OR SHE HAS BECOME
25 EXEMPT FROM THE REQUIREMENTS OF THIS TITLE.

26 6. CONSISTENT WITH FEDERAL LAW AND REGULATION AND THIS TITLE, NO
27 NOTICE SHALL BE ISSUED AS SPECIFIED IN SUBDIVISION TWO OF THIS SECTION
28 UNLESS IT HAS BEEN DETERMINED THAT THE INDIVIDUAL IS NOT EXEMPT FROM THE
29 REQUIREMENTS OF THIS TITLE AND HAS DETERMINED THAT APPROPRIATE CHILD
30 CARE, TRANSPORTATION AND ACCOMMODATIONS FOR DISABILITY WERE IN PLACE AT
31 THE TIME OF SUCH FAILURE OR REFUSAL TO COMPLY WITH THE REQUIREMENTS OF
32 THIS TITLE AND NO ACTION SHALL BE TAKEN PURSUANT TO THIS SECTION FOR
33 FAILURE TO PARTICIPATE IN THE PROGRAM OR REFUSAL TO ACCEPT EMPLOYMENT
34 IF:

35 (A) CHILD CARE FOR A CHILD UNDER AGE THIRTEEN (OR DAY CARE FOR ANY
36 INCAPACITATED INDIVIDUAL LIVING IN THE SAME HOME AS A DEPENDENT CHILD)
37 IS NECESSARY FOR AN INDIVIDUAL TO PARTICIPATE OR CONTINUE PARTICIPATION
38 IN ACTIVITIES PURSUANT TO THIS TITLE OR ACCEPT EMPLOYMENT AND SUCH CARE
39 IS NOT AVAILABLE AND THE SOCIAL SERVICES DISTRICT FAILS TO PROVIDE SUCH
40 CARE;

41 (B) (1) THE EMPLOYMENT WOULD RESULT IN THE FAMILY OF THE PARTICIPANT
42 EXPERIENCING A NET LOSS OF CASH INCOME; PROVIDED, HOWEVER, A PARTICIPANT
43 MAY NOT CLAIM GOOD CAUSE UNDER THIS PARAGRAPH IF THE SOCIAL SERVICES
44 DISTRICT ASSURES THAT THE FAMILY WILL NOT EXPERIENCE A NET LOSS OF CASH
45 INCOME BY MAKING A SUPPLEMENTAL PAYMENT;

46 (2) NET LOSS OF CASH INCOME RESULTS IF THE FAMILY'S GROSS INCOME LESS
47 NECESSARY WORK-RELATED EXPENSES IS LESS THAN THE CASH ASSISTANCE THE
48 PARTICIPANT WAS RECEIVING AT THE TIME THE OFFER OF EMPLOYMENT IS MADE;
49 OR

50 (C) THE PARTICIPANT MEETS OTHER GROUNDS FOR GOOD CAUSE SET FORTH BY
51 THE DEPARTMENT IN ITS IMPLEMENTATION PLAN FOR THIS TITLE WHICH, AT A
52 MINIMUM, MUST DESCRIBE WHAT CIRCUMSTANCES BEYOND THE HOUSEHOLD'S CONTROL
53 WILL CONSTITUTE "GOOD CAUSE".

54 S 2. Section 341 of the social services law is amended by adding a new
55 subdivision 7 to read as follows:

1 7. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO PERSONS WHO ARE
2 RESIDENTS OF A CITY HAVING A POPULATION OF ONE MILLION OR MORE PEOPLE.

3 S 3. The social services law is amended by adding a new section 342-a
4 to read as follows:

5 S 342-A. NONCOMPLIANCE WITH THE REQUIREMENTS OF THIS TITLE. 1. THE
6 PROVISIONS OF THIS SECTION SHALL APPLY TO PERSONS WHO ARE RESIDENTS OF A
7 CITY HAVING A POPULATION OF ONE MILLION OR MORE PEOPLE.

8 2. IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION AN INDIVIDUAL WHO
9 IS REQUIRED TO PARTICIPATE IN WORK ACTIVITIES SHALL BE INELIGIBLE TO
10 RECEIVE PUBLIC ASSISTANCE IF HE OR SHE FAILS TO COMPLY, WITHOUT GOOD
11 CAUSE, WITH THE REQUIREMENTS OF THIS TITLE AND THE DISTRICT HAS DETER-
12 MINED THAT HE OR SHE IS NOT EXEMPT FROM SUCH REQUIREMENTS AND HAS VERI-
13 FIED THAT APPROPRIATE CHILD CARE, TRANSPORTATION, AND ACCOMMODATIONS FOR
14 DISABILITY WERE IN PLACE AT THE TIME OF SUCH FAILURE OR REFUSAL. SUCH
15 INELIGIBILITY SHALL BE FOR THE AMOUNT AND PERIOD SPECIFIED IN THIS
16 SECTION. GOOD CAUSE FOR FAILING TO COMPLY WITH THE REQUIREMENTS OF THIS
17 TITLE SHALL BE DEFINED IN DEPARTMENT REGULATIONS, PROVIDED, HOWEVER,
18 THAT THE PARENT OR CARETAKER RELATIVE OF A CHILD UNDER THIRTEEN YEARS OF
19 AGE SHALL NOT BE SUBJECT TO THE INELIGIBILITY PROVISIONS OF THIS SECTION
20 IF THE INDIVIDUAL CAN DEMONSTRATE, IN ACCORDANCE WITH THE REGULATIONS OF
21 THE OFFICE OF CHILDREN AND FAMILY SERVICES, THAT LACK OF AVAILABLE CHILD
22 CARE PREVENTS SUCH INDIVIDUAL FROM COMPLYING WITH THE WORK REQUIREMENTS
23 OF THIS TITLE. THE PARENT OR CARETAKER RELATIVE SHALL BE RESPONSIBLE FOR
24 LOCATING THE CHILD CARE NEEDED TO MEET THE WORK REQUIREMENTS; PROVIDED,
25 HOWEVER, THAT THE RELEVANT SOCIAL SERVICES DISTRICT SHALL PROVIDE A
26 PARENT OR CARETAKER RELATIVE WHO DEMONSTRATES AN INABILITY TO OBTAIN
27 NEEDED CHILD CARE WITH A CHOICE OF TWO PROVIDERS, AT LEAST ONE OF WHICH
28 WILL BE A REGULATED PROVIDER.

29 3. IN THE CASE OF AN APPLICANT FOR OR RECIPIENT OF PUBLIC ASSISTANCE
30 WHOM THE DISTRICT HAS DETERMINED IS NOT EXEMPT FROM THE REQUIREMENTS OF
31 THIS TITLE AND WHO IS A PARENT OR CARETAKER OF A DEPENDENT CHILD, THE
32 PUBLIC ASSISTANCE BENEFITS OTHERWISE AVAILABLE TO THE HOUSEHOLD OF WHICH
33 SUCH INDIVIDUAL IS A MEMBER SHALL BE REDUCED PRO-RATA UNTIL THE INDIVID-
34 UAL IS WILLING TO COMPLY WITH THE REQUIREMENTS OF THIS TITLE CONSISTENT
35 WITH ANY MEDICAL CONDITION WHICH MAY LIMIT THE INDIVIDUAL'S ABILITY TO
36 PARTICIPATE IN WORK ACTIVITIES.

37 4. IN THE CASE OF AN INDIVIDUAL WHO IS A MEMBER OF A HOUSEHOLD WITHOUT
38 DEPENDENT CHILDREN WHOM THE DISTRICT HAS DETERMINED IS NOT EXEMPT FROM
39 THE REQUIREMENTS OF THIS TITLE AND WHO IS APPLYING FOR OR IN RECEIPT OF
40 SAFETY NET ASSISTANCE, THE PUBLIC ASSISTANCE BENEFITS OTHERWISE AVAIL-
41 ABLE TO THE HOUSEHOLD OF WHICH SUCH INDIVIDUAL IS A MEMBER SHALL BE
42 REDUCED PRO-RATA UNTIL THE FAILURE OR REFUSAL TO COMPLY WITH THE
43 REQUIREMENTS OF THIS TITLE CONSISTENT WITH ANY MEDICAL CONDITION WHICH
44 MAY LIMIT THE INDIVIDUAL'S ABILITY TO PARTICIPATE IN WORK ACTIVITIES
45 CEASES.

46 5. A RECIPIENT OF PUBLIC ASSISTANCE WHOM THE DISTRICT HAS DETERMINED
47 IS NOT EXEMPT FROM THE REQUIREMENTS OF THIS TITLE AND WHO QUILTS OR
48 REDUCES HIS HOURS OF EMPLOYMENT WITHOUT GOOD CAUSE OR DUE TO ANY MEDICAL
49 CONDITION WHICH MAY LIMIT THE INDIVIDUAL'S ABILITY TO PARTICIPATE IN
50 WORK ACTIVITIES SHALL BE CONSIDERED TO HAVE FAILED TO COMPLY WITH THE
51 REQUIREMENTS OF THIS ARTICLE AND SHALL BE SUBJECT TO THE PROVISIONS OF
52 THIS SECTION.

53 6. A PERSON DESCRIBED IN PARAGRAPH (B) OF SUBDIVISION SEVEN OF SECTION
54 ONE HUNDRED FIFTY-NINE OF THIS CHAPTER MAY NOT BE SANCTIONED IF HIS OR
55 HER FAILURE TO COMPLY WITH REQUIREMENTS OF THIS TITLE IS RELATED TO HIS
56 OR HER HEALTH STATUS.

1 S 4. Section 342 of the social services law is amended by adding a new
2 subdivision 6 to read as follows:

3 6. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO PERSONS WHO ARE
4 RESIDENTS OF A CITY HAVING A POPULATION OF ONE MILLION OR MORE PEOPLE.

5 S 5. This act shall take effect immediately.