

5119--A

2015-2016 Regular Sessions

I N A S S E M B L Y

February 12, 2015

Introduced by M. of A. GOODELL, BRABENEC, TENNEY, BLANKENBUSH, NOJAY, BUTLER -- Multi-Sponsored by -- M. of A. FRIEND -- 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

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 section 341 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. Legislative intent. The legislature hereby finds that it
2 is in the public interest to assist public assistance recipients to
3 obtain job training or work experience as a means of enhancing their
4 ability to obtain employment, thereby increasing their financial inde-
5 pendence and self-sufficiency and improving their standard of living. By
6 providing local social services districts with additional flexibility
7 and more options for the administration of the welfare-to-work program,
8 local social services districts will be able to intervene and seek
9 conciliation quickly in the event that a public assistance recipient
10 fails to attend or participate in designated training or work experi-
11 ence, thereby maximizing the opportunity for the recipient to success-
12 fully participate in these programs. In the event an able-bodied public
13 assistance recipient refuses to participate in these programs without
14 good cause, local social services districts would have the ability to
15 conduct a fair hearing using video conferencing equipment, thus minimiz-
16 ing the cost to taxpayers for recipients who are unwilling to partic-
17 ipate without good 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 Section 341 of the social services law is REPEALED and a new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:

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

LBD06193-05-6

1 S 341. CONCILIATION; REFUSAL TO PARTICIPATE. 1. NOTICE OF NONCOMPLI-
2 ANCE. CONSISTENT WITH FEDERAL LAW AND REGULATIONS AND THIS TITLE, IF A
3 PARTICIPANT HAS FAILED OR REFUSED TO COMPLY WITH THE REQUIREMENTS OF
4 THIS TITLE, THE SOCIAL SERVICES DISTRICT SHALL NOTIFY THE PARTICIPANT,
5 VERBALLY OR IN WRITING, IN PLAIN LANGUAGE THAT SUCH FAILURE OR REFUSAL
6 HAS TAKEN PLACE, THE SPECIFIC INSTANCE OR INSTANCES OF REFUSAL OR FAIL-
7 URE TO COMPLY, AND THE NECESSARY ACTIONS THAT MUST BE TAKEN TO AVOID A
8 PRO-RATA REDUCTION IN PUBLIC ASSISTANCE BENEFITS. THE NOTICE SHALL ALSO
9 INCLUDE AN EXPLANATION IN PLAIN LANGUAGE OF WHAT WOULD CONSTITUTE GOOD
10 CAUSE FOR NON-COMPLIANCE AND EXAMPLES OF ACCEPTABLE FORMS OF EVIDENCE
11 THAT MAY WARRANT AN EXEMPTION FROM WORK ACTIVITIES, INCLUDING EVIDENCE
12 OF DOMESTIC VIOLENCE, AND PHYSICAL OR MENTAL HEALTH LIMITATIONS TO
13 DEMONSTRATE SUCH GOOD CAUSE FOR FAILURE TO COMPLY WITH THE REQUIREMENTS
14 OF THIS TITLE. IF THE NOTIFICATION WAS VERBAL, THE SOCIAL SERVICES
15 DISTRICT SHALL PROMPTLY SEND THE PARTICIPANT WRITTEN CONFIRMATION THERE-
16 OF.

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

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

46 3. CONCILIATION PROCEDURE. (A) THE OFFICE OF TEMPORARY AND DISABILITY
47 ASSISTANCE SHALL ESTABLISH IN REGULATIONS A CONCILIATION PROCEDURE FOR
48 THE RESOLUTION OF DISPUTES RELATED TO AN INDIVIDUAL'S PARTICIPATION IN
49 PROGRAMS PURSUANT TO THIS TITLE.

50 (B) THE SOCIAL SERVICES DISTRICT SHALL CONTRACT WITH AN INDEPENDENT
51 ENTITY, APPROVED BY THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE,
52 OR SHALL USE DESIGNATED TRAINED STAFF AT THE SUPERVISORY LEVEL WHO HAVE
53 NO DIRECT RESPONSIBILITY FOR THE PARTICIPANT'S CASE TO MEDIATE DISPUTES
54 IN THE CONCILIATION CONFERENCE. IF NO SUCH SUPERVISORY STAFF OR INDE-
55 PENDENT ENTITY IS AVAILABLE, THE SOCIAL SERVICES DISTRICT MAY DESIGNATE

1 ANOTHER TRAINED INDIVIDUAL, WHO HAS NO DIRECT RESPONSIBILITY FOR THE
2 PARTICIPANT'S CASE TO MEDIATE DISPUTES IN THE CONCILIATION CONFERENCE.

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

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

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

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

33 (C) TO THE EXTENT THAT FEDERAL LAW REQUIRES, A SOCIAL SERVICES
34 DISTRICT SHALL PROVIDE TO THOSE PUBLIC ASSISTANCE PARTICIPANTS WHOSE
35 FAILURE TO COMPLY HAS CONTINUED FOR THREE MONTHS OR LONGER A WRITTEN
36 REMINDER OF THE OPTION TO END A SANCTION AFTER THE EXPIRATION OF THE
37 APPLICABLE MINIMUM SANCTION PERIOD BY TERMINATING THE FAILURE TO COMPLY
38 AS SPECIFIED IN SUBDIVISION THREE OF THIS SECTION. SUCH NOTICE SHALL
39 ADVISE THAT THE PARTICIPANT MAY IMMEDIATELY TERMINATE THE FIRST OR
40 SECOND SANCTION BY PARTICIPATING IN THE PROGRAM OR ACCEPTING EMPLOYMENT
41 AND THAT ANY SUBSEQUENT SANCTION AFTER SIX MONTHS HAVE ELAPSED MAY BE
42 TERMINATED BY PARTICIPATING IN THE PROGRAM OR ACCEPTING EMPLOYMENT.

43 (D) A SOCIAL SERVICES DISTRICT SHALL PROVIDE TO THOSE SAFETY NET
44 PARTICIPANTS WHOSE FAILURE TO COMPLY HAS CONTINUED FOR THE LENGTH OF THE
45 SANCTION PERIOD OR LONGER A WRITTEN REMINDER OF THE OPTION TO END A
46 SANCTION AFTER THE EXPIRATION OF THE APPLICABLE MINIMUM SANCTION PERIOD
47 BY TERMINATING THE FAILURE TO COMPLY AS SPECIFIED IN SUBDIVISION FOUR OF
48 THIS SECTION.

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

52 (I) CHILD CARE FOR A CHILD UNDER AGE THIRTEEN (OR DAY CARE FOR ANY
53 INCAPACITATED INDIVIDUAL LIVING IN THE SAME HOME AS A DEPENDENT CHILD)
54 IS NECESSARY FOR AN INDIVIDUAL TO PARTICIPATE OR CONTINUE PARTICIPATION
55 IN ACTIVITIES PURSUANT TO THIS TITLE OR ACCEPT EMPLOYMENT AND SUCH CARE

1 IS NOT AVAILABLE AND THE SOCIAL SERVICES DISTRICT FAILS TO PROVIDE SUCH
2 CARE;

3 (II) THE EMPLOYMENT WOULD RESULT IN THE FAMILY OF THE PARTICIPANT
4 EXPERIENCING A NET LOSS OF SUCH CASH INCOME; PROVIDED, HOWEVER, A
5 PARTICIPANT MAY NOT CLAIM GOOD CAUSE UNDER THIS PARAGRAPH IF THE SOCIAL
6 SERVICES DISTRICT ASSURES THAT THE FAMILY WILL NOT EXPERIENCE A NET LOSS
7 OF CASH INCOME BY MAKING A SUPPLEMENTAL PAYMENT; NET LOSS OF CASH INCOME
8 RESULTS IF THE FAMILY'S GROSS INCOME LESS NECESSARY WORK-RELATED
9 EXPENSES IS LESS THAN THE CASH ASSISTANCE THE PARTICIPANT WAS RECEIVING
10 AT THE TIME THE OFFER OF EMPLOYMENT IS MADE; OR

11 (III) THE PARTICIPANT MEETS OTHER GROUNDS FOR GOOD CAUSE SET FORTH BY
12 THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE IN ITS IMPLEMENTATION
13 PLAN FOR THIS TITLE WHICH, AT A MINIMUM, MUST DESCRIBE WHAT CIRCUM-
14 STANCES BEYOND THE HOUSEHOLD'S CONTROL WILL CONSTITUTE "GOOD CAUSE".

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

18 S 3. The opening paragraph of paragraph (a) of subdivision 2 of
19 section 341-a of the social services law, as added by chapter 562 of the
20 laws of 2015, is amended to read as follows:

21 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 and the district has determined that he or she is not exempt
24 from such requirements and has verified that appropriate child care,
25 transportation, and accommodations for disability were in place at the
26 time of such failure or refusal, the social services district shall
27 [issue a re-engagement notice in plain language indicating] NOTIFY THE
28 PARTICIPANT, VERBALLY OR IN WRITING, that such failure or refusal has
29 taken place and of the right of such participant to avoid a pro-rata
30 reduction in public assistance benefits through the re-engagement OR
31 CONCILIATION process. IF THE NOTIFICATION WAS VERBAL, THE SOCIAL
32 SERVICES DISTRICT SHALL PROMPTLY SEND THE PARTICIPANT WRITTEN CONFIRMA-
33 TION THEREOF. "Re-engagement process" shall mean the process through
34 which a participant may avoid a pro-rata reduction in public assistance
35 benefits by agreeing to comply with the requirements of this title
36 consistent with any medical condition which may limit the individual's
37 ability to participate in work activities, by notifying the district
38 that he or she has become exempt from the requirements of this title, or
39 by resolving the reasons for such failure or refusal at a conciliation
40 conference. AT THE OPTION OF THE SOCIAL SERVICES DISTRICT, SUCH
41 DISTRICT MAY ENGAGE IN CONCILIATION EFFORTS WITH THE PARTICIPANT AT THE
42 SAME TIME AS THE VERBAL NOTICE OF NONCOMPLIANCE IN AN EFFORT TO RESOLVE
43 THE REASONS FOR ANY FAILURE OR REFUSAL OF THE PARTICIPANT TO COMPLY WITH
44 THE PROVISIONS OF THIS TITLE AND TO ENABLE THE PARTICIPANT TO AVOID A
45 PRO-RATA REDUCTION IN PUBLIC ASSISTANCE BENEFITS FOR THE PERIOD OF TIME
46 SET FORTH IN SECTION THREE HUNDRED FORTY-TWO OF THIS TITLE. The notice
47 shall indicate that the participant has ten days to request re-engage-
48 ment with the district. The notice shall indicate the specific instance
49 or instances of willful refusal or failure to comply without good cause
50 with the requirements of this title and the necessary actions that must
51 be taken to avoid a pro-rata reduction in public assistance benefits and
52 the district has verified that appropriate child care, transportation
53 and accommodations for disability were in place at the time of such
54 failure or refusal.

1 S 4. Paragraph (c) of subdivision 3 of section 341-a of the social
2 services law, as added by chapter 562 of the laws of 2015, is amended to
3 read as follows:

4 (c) If a participant's dispute cannot be resolved through such concil-
5 iation procedure, an opportunity for a fair hearing shall be provided,
6 AND SUCH FAIR HEARING MAY BE PROVIDED BY MEANS OF VIDEO CONFERENCING. No
7 sanction relating to the subject dispute may be imposed during the
8 re-engagement process.

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