S T A T E O F N E W Y O R K

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:

Section 1. Legislative intent. The legislature hereby finds that it is in the public interest to assist public assistance recipients to obtain job training or work experience as a means of enhancing their ability to obtain employment, thereby increasing their financial independence and self-sufficiency and improving their standard of living. By providing local social services districts with additional flexibility and more options for the administration of the welfare-to-work program, local social services districts will be able to intervene and seek conciliation quickly in the event that a public assistance recipient fails to attend or participate in designated training or work experience, thereby maximizing the opportunity for the recipient to successfully participate in these programs. In the event an able-bodied public assistance recipient refuses to participate in these programs without good cause, local social services districts would have the ability to conduct a fair hearing using video conferencing equipment, thus minimizing the cost to taxpayers for recipients who are unwilling to participate without good cause.

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 Section 341 of the social services law is REPEALED and a new section 341 is added to read as follows:

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

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

2. RIGHT TO CONCILIATION. (A) AT THE OPTION OF THE SOCIAL SERVICES DISTRICT THE SOCIAL SERVICES DISTRICT MAY ENGAGE IN CONCILIATION EFFORTS WITH THE PARTICIPANT AT THE SAME TIME AS THE VERBAL NOTICE OF NONCOMPLIANCE IN AN EFFORT TO RESOLVE THE REASONS FOR ANY FAILURE OR REFUSAL OF THE PARTICIPANT TO COMPLY WITH THE REQUIREMENTS OF THIS TITLE AND TO ENABLE THE PARTICIPANT TO AVOID A PRO-RATA REDUCTION IN PUBLIC ASSISTANCE BENEFITS FOR A PERIOD OF TIME SET FORTH IN SECTION THREE HUNDRED FORTY-TWO OF THIS TITLE. IT WILL BE THE RESPONSIBILITY OF THE PARTICIPANT TO GIVE REASONS FOR SUCH FAILURE OR REFUSAL TO COMPLY WITH THE REQUIREMENTS OF THIS TITLE. IF THE SOCIAL SERVICES DISTRICT DETERMINES AS A RESULT OF SUCH CONCILIATION PROCESS THAT SUCH FAILURE OR REFUSAL WAS NOT WILLFUL AND WAS FOR GOOD CAUSE, NO FURTHER ACTION SHALL BE TAKEN.

(B) IF THE CONCILIATION EFFORT WAS NOT UNDERTAKEN AT THE SAME TIME AS THE VERBAL NOTICE OF NONCOMPLIANCE OR IN THE EVENT THE NOTICE OF NONCOMPLIANCE WAS IN WRITING, THEN THE SOCIAL SERVICES DISTRICT MUST PROVIDE THE PARTICIPANT WITH WRITTEN NOTICE THAT THE PARTICIPANT HAS SEVEN DAYS TO REQUEST CONCILIATION WITH THE DISTRICT REGARDING SUCH FAILURE OR REFUSAL IN THE CASE OF A SAFETY NET PARTICIPANT AND TEN DAYS IN THE CASE OF A FAMILY ASSISTANCE PARTICIPANT. IF SUCH PARTICIPANT CONTACTS THE SOCIAL SERVICES DISTRICT WITHIN SEVEN DAYS IN THE CASE OF A SAFETY NET PARTICIPANT OR WITHIN TEN DAYS IN THE CASE OF A FAMILY ASSISTANCE PARTICIPANT, IT WILL BE THE RESPONSIBILITY OF THE PARTICIPANT TO GIVE REASONS FOR SUCH FAILURE OR REFUSAL. UNLESS EXTENDED BY MUTUAL AGREEMENT OF THE PARTICIPANT AND THE SOCIAL SERVICES DISTRICT, CONCILIATION SHALL TERMINATE AND A DETERMINATION SHALL BE MADE WITHIN FOURTEEN DAYS OF THE DATE A REQUEST FOR CONCILIATION IS MADE IN THE CASE OF A SAFETY NET PARTICIPANT OR WITHIN THIRTY DAYS OF THE CONCILIATION NOTICE IN THE CASE OF A FAMILY ASSISTANCE PARTICIPANT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Consistent with federal law and regulations and this title, if a participant has failed or refused to comply with the requirements of this title and the district has determined that he or she is not exempt from such requirements and has verified that appropriate child care, transportation, and accommodations for disability were in place at the time of such failure or refusal, the social services district shall [issue a re-engagement notice in plain language indicating] NOTIFY THE PARTICIPANT, VERBALLY OR IN WRITING, that such failure or refusal has taken place and of the right of such participant to avoid a pro-rata reduction in public assistance benefits through the re-engagement OR CONCILIATION process. IF THE NOTIFICATION WAS VERBAL, THE SOCIAL SERVICES DISTRICT SHALL PROMPTLY SEND THE PARTICIPANT WRITTEN CONFIRMATION THEREOF. "Re-engagement process" shall mean the process through which a participant may avoid a pro-rata reduction in public assistance benefits by agreeing to comply with the requirements of this title consistent with any medical condition which may limit the individual's ability to participate in work activities, by notifying the district that he or she has become exempt from the requirements of this title, or by resolving the reasons for such failure or refusal at a conciliation conference. AT THE OPTION OF THE SOCIAL SERVICES DISTRICT, SUCH DISTRICT MAY ENGAGE IN CONCILIATION EFFORTS WITH THE PARTICIPANT AT THE SAME TIME AS THE VERBAL NOTICE OF NONCOMPLIANCE IN AN EFFORT TO RESOLVE THE REASONS FOR ANY FAILURE OR REFUSAL OF THE PARTICIPANT TO COMPLY WITH THE PROVISIONS OF THIS TITLE AND TO ENABLE THE PARTICIPANT TO AVOID A PRO-RATA REDUCTION IN PUBLIC ASSISTANCE BENEFITS FOR THE PERIOD OF TIME SET FORTH IN SECTION THREE HUNDRED FORTY-TWO OF THIS TITLE. The notice shall indicate that the participant has ten days to request re-engagement with the district. The notice shall indicate the specific instance or instances of willful refusal or failure to comply without good cause with the requirements of this title and the necessary actions that must be taken to avoid a pro-rata reduction in public assistance benefits and the district has verified that appropriate child care, transportation and accommodations for disability were in place at the time of such failure or refusal.

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

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

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