

3596

2015-2016 Regular Sessions

I N   S E N A T E

February 13, 2015

---

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Social Services

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  
14    TO AVOID A PRO-RATA REDUCTION IN PUBLIC ASSISTANCE BENEFITS THROUGH THE  
15    RE-ENGAGEMENT PROCESS. "RE-ENGAGEMENT PROCESS" SHALL MEAN THE PROCESS  
16    THROUGH WHICH A PARTICIPANT MAY AVOID A PRO-RATA REDUCTION IN PUBLIC  
17    ASSISTANCE BENEFITS BY AGREEING TO COMPLY WITH THE REQUIREMENTS OF THIS  
18    TITLE CONSISTENT WITH ANY MEDICAL CONDITION WHICH MAY LIMIT THE INDIVID-  
19    UAL'S ABILITY TO PARTICIPATE IN WORK ACTIVITIES, BY NOTIFYING THE  
20    DISTRICT THAT HE OR SHE HAS BECOME EXEMPT FROM THE REQUIREMENTS OF THIS  
21    TITLE, OR BY RESOLVING THE REASONS FOR SUCH FAILURE OR REFUSAL AT A  
22    CONCILIATION CONFERENCE. THE NOTICE SHALL INDICATE THAT THE PARTICIPANT

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

LBD04861-01-5

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.

(1) IF A PARTICIPANT CHOOSES TO AVOID A PRO-RATA REDUCTION IN PUBLIC ASSISTANCE BENEFITS THROUGH A CONCILIATION CONFERENCE, IT WILL BE THE RESPONSIBILITY OF THE PARTICIPANT TO GIVE REASONS FOR SUCH FAILURE OR REFUSAL. THE RE-ENGAGEMENT 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 THAT MAY BE PROVIDED AT THE CONCILIATION CONFERENCE TO DEMONSTRATE SUCH GOOD CAUSE FOR FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS TITLE. UNLESS AS PART OF THE RE-ENGAGEMENT PROCESS THE PARTICIPANT DOES NOT AGREE TO COMPLY, HAS NOT BECOME EXEMPT OR THE DISTRICT DETERMINES AS A RESULT OF THE CONCILIATION CONFERENCE THAT SUCH FAILURE OR REFUSAL WAS WILLFUL AND WITHOUT GOOD CAUSE, NO FURTHER ACTION SHALL BE TAKEN.

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

(B) IF THE DISTRICT DETERMINES THAT SUCH FAILURE OR REFUSAL WAS WILLFUL AND WITHOUT GOOD CAUSE, AND THAT THE INDIVIDUAL IS NOT EXEMPT FROM THE REQUIREMENTS OF THIS TITLE, THE DISTRICT SHALL NOTIFY SUCH PARTICIPANT IN WRITING, IN PLAIN LANGUAGE AND IN A MANNER DISTINCT FROM ANY PREVIOUS NOTICE, BY ISSUING TEN DAYS 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, SHALL VERIFY THAT APPROPRIATE CHILD CARE, TRANSPORTATION AND ACCOMMODATIONS FOR DISABILITY WERE IN PLACE AT THE TIME OF SUCH FAILURE OR REFUSAL, AND SPECIFY THE NECESSARY ACTIONS THAT MUST BE TAKEN TO AVOID A PRO-RATA REDUCTION IN PUBLIC ASSISTANCE BENEFITS, INCLUDING 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 OR NOTIFYING THE DISTRICT THAT HE OR SHE HAS BECOME EXEMPT FROM THE REQUIREMENTS OF THIS TITLE AND THE RIGHT TO A FAIR HEARING RELATING TO SUCH DISCONTINUANCE OR REDUCTION.

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

(B) THE DISTRICT SHALL CONTRACT WITH AN INDEPENDENT ENTITY, APPROVED BY THE DEPARTMENT, 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.

(C) IF A PARTICIPANT'S DISPUTE CANNOT BE RESOLVED THROUGH SUCH CONCILIATION PROCEDURE, AN OPPORTUNITY FOR A FAIR HEARING SHALL BE PROVIDED.

1 NO SANCTION RELATING TO THE SUBJECT DISPUTE MAY BE IMPOSED DURING THE  
2 RE-ENGAGEMENT PROCESS.

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

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

17 6. CONSISTENT WITH FEDERAL LAW AND REGULATION AND THIS TITLE, NO  
18 NOTICE SHALL BE ISSUED AS SPECIFIED IN SUBDIVISION TWO OF THIS SECTION  
19 UNLESS IT HAS BEEN DETERMINED THAT THE INDIVIDUAL IS NOT EXEMPT FROM THE  
20 REQUIREMENTS OF THIS TITLE AND HAS DETERMINED THAT APPROPRIATE CHILD  
21 CARE, TRANSPORTATION AND ACCOMMODATIONS FOR DISABILITY WERE IN PLACE AT  
22 THE TIME OF SUCH FAILURE OR REFUSAL TO COMPLY WITH THE REQUIREMENTS OF  
23 THIS TITLE AND NO ACTION SHALL BE TAKEN PURSUANT TO THIS SECTION FOR  
24 FAILURE TO PARTICIPATE IN THE PROGRAM OR REFUSAL TO ACCEPT EMPLOYMENT  
25 IF:

26 (A) CHILD CARE FOR A CHILD UNDER AGE THIRTEEN (OR DAY CARE FOR ANY  
27 INCAPACITATED INDIVIDUAL LIVING IN THE SAME HOME AS A DEPENDENT CHILD)  
28 IS NECESSARY FOR AN INDIVIDUAL TO PARTICIPATE OR CONTINUE PARTICIPATION  
29 IN ACTIVITIES PURSUANT TO THIS TITLE OR ACCEPT EMPLOYMENT AND SUCH CARE  
30 IS NOT AVAILABLE AND THE SOCIAL SERVICES DISTRICT FAILS TO PROVIDE SUCH  
31 CARE;

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

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

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

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

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

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

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

54 2. IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION AN INDIVIDUAL WHO  
55 IS REQUIRED TO PARTICIPATE IN WORK ACTIVITIES SHALL BE INELIGIBLE TO  
56 RECEIVE PUBLIC ASSISTANCE IF HE OR SHE FAILS TO COMPLY, WITHOUT GOOD

1 CAUSE, WITH THE REQUIREMENTS OF THIS TITLE AND THE DISTRICT HAS DETER-  
2 MINED THAT HE OR SHE IS NOT EXEMPT FROM SUCH REQUIREMENTS AND HAS VERI-  
3 FIED THAT APPROPRIATE CHILD CARE, TRANSPORTATION, AND ACCOMMODATIONS FOR  
4 DISABILITY WERE IN PLACE AT THE TIME OF SUCH FAILURE OR REFUSAL. SUCH  
5 INELIGIBILITY SHALL BE FOR THE AMOUNT AND PERIOD SPECIFIED IN THIS  
6 SECTION. GOOD CAUSE FOR FAILING TO COMPLY WITH THE REQUIREMENTS OF THIS  
7 TITLE SHALL BE DEFINED IN DEPARTMENT REGULATIONS, PROVIDED, HOWEVER,  
8 THAT THE PARENT OR CARETAKER RELATIVE OF A CHILD UNDER THIRTEEN YEARS OF  
9 AGE SHALL NOT BE SUBJECT TO THE INELIGIBILITY PROVISIONS OF THIS SECTION  
10 IF THE INDIVIDUAL CAN DEMONSTRATE, IN ACCORDANCE WITH THE REGULATIONS OF  
11 THE OFFICE OF CHILDREN AND FAMILY SERVICES, THAT LACK OF AVAILABLE CHILD  
12 CARE PREVENTS SUCH INDIVIDUAL FROM COMPLYING WITH THE WORK REQUIREMENTS  
13 OF THIS TITLE. THE PARENT OR CARETAKER RELATIVE SHALL BE RESPONSIBLE FOR  
14 LOCATING THE CHILD CARE NEEDED TO MEET THE WORK REQUIREMENTS; PROVIDED,  
15 HOWEVER, THAT THE RELEVANT SOCIAL SERVICES DISTRICT SHALL PROVIDE A  
16 PARENT OR CARETAKER RELATIVE WHO DEMONSTRATES AN INABILITY TO OBTAIN  
17 NEEDED CHILD CARE WITH A CHOICE OF TWO PROVIDERS, AT LEAST ONE OF WHICH  
18 WILL BE A REGULATED PROVIDER.

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

27 4. IN THE CASE OF AN INDIVIDUAL WHO IS A MEMBER OF A HOUSEHOLD WITHOUT  
28 DEPENDENT CHILDREN WHOM THE DISTRICT HAS DETERMINED IS NOT EXEMPT FROM  
29 THE REQUIREMENTS OF THIS TITLE AND WHO IS APPLYING FOR OR IN RECEIPT OF  
30 SAFETY NET ASSISTANCE, THE PUBLIC ASSISTANCE BENEFITS OTHERWISE AVAIL-  
31 ABLE TO THE HOUSEHOLD OF WHICH SUCH INDIVIDUAL IS A MEMBER SHALL BE  
32 REDUCED PRO-RATA UNTIL THE FAILURE OR REFUSAL TO COMPLY WITH THE  
33 REQUIREMENTS OF THIS TITLE CONSISTENT WITH ANY MEDICAL CONDITION WHICH  
34 MAY LIMIT THE INDIVIDUAL'S ABILITY TO PARTICIPATE IN WORK ACTIVITIES  
35 CEASES.

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

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

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

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

51 S 5. This act shall take effect immediately.