

# STATE OF NEW YORK

668

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. MAY -- 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 conciliation and non-compliance with public assistance employment; 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. Section 341 of the social services law is REPEALED.  
2 § 2. Section 341-a of the social services law, as added by chapter 562  
3 of the laws of 2015, is amended to read as follows:  
4 § ~~[341-a]~~ 341. Re-engagement; conciliation; refusal to participate.  
5 1. ~~[The provisions of this section shall apply to persons who are resi-~~  
6 ~~dents of a city having a population of one million or more people.~~  
7 ~~2-]~~ (a) Consistent with federal law and regulations and this title, if  
8 a participant has failed or refused to comply with the requirements of  
9 this title and the district has determined that he or she is not exempt  
10 from such requirements and has verified that appropriate child care,  
11 transportation, and accommodations for disability were in place at the  
12 time of such failure or refusal, the social services district shall  
13 issue a re-engagement notice in plain language indicating that such  
14 failure or refusal has taken place and of the right of such participant  
15 to avoid a pro-rata reduction in public assistance benefits through the  
16 re-engagement process. "Re-engagement process" shall mean the process  
17 through which a participant may avoid a pro-rata reduction in public  
18 assistance benefits by agreeing to comply with the requirements of this  
19 title consistent with any medical condition which may limit the individ-  
20 ual's ability to participate in work activities, by notifying the  
21 district that he or she has become exempt from the requirements of this  
22 title, or by resolving the reasons for such failure or refusal at a  
23 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.

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1 has ten days to request re-engagement with the district. The notice  
2 shall indicate the specific instance or instances of willful refusal or  
3 failure to comply without good cause with the requirements of this title  
4 and the necessary actions that must be taken to avoid a pro-rata  
5 reduction in public assistance benefits and the district has verified  
6 that appropriate child care, transportation and accommodations for disa-  
7 bility were in place at the time of such failure or refusal.

8 (1) If a participant chooses to avoid a pro-rata reduction in public  
9 assistance benefits through a conciliation conference, it will be the  
10 responsibility of the participant to give reasons for such failure or  
11 refusal. The re-engagement notice shall also include an explanation in  
12 plain language of what would constitute good cause for non-compliance  
13 and examples of acceptable forms of evidence that may warrant an  
14 exemption from work activities, including evidence of domestic violence,  
15 and physical or mental health limitations that may be provided at the  
16 conciliation conference to demonstrate such good cause for failure to  
17 comply with the requirements of this title. Unless as part of the re-en-  
18 gagement process the participant does not agree to comply, has not  
19 become exempt or the district determines as a result of the conciliation  
20 conference that such failure or refusal was willful and without good  
21 cause, no further action shall be taken.

22 (2) If the participant does not contact the district within ten days  
23 of the re-engagement notice, the district shall make a finding of wheth-  
24 er the alleged failure or refusal to comply was willful and without good  
25 cause and shall consider any evidence in the possession of the district  
26 indicating that the participant has good cause and if the participant is  
27 otherwise participating in work activities, there shall be no finding of  
28 willfulness without good cause based on a single appointment or infrac-  
29 tion.

30 (b) If the district determines that such failure or refusal was will-  
31 ful and without good cause, and that the individual is not exempt from  
32 the requirements of this title, the district shall notify such partic-  
33 ipant in writing, in plain language and in a manner distinct from any  
34 previous notice, by issuing ten days notice of its intent to discontinue  
35 or reduce assistance. Such notice shall include the reasons for such  
36 determination, the specific instance or instances of willful refusal or  
37 failure to comply without good cause with the requirements of this  
38 title, shall verify that appropriate child care, transportation and  
39 accommodations for disability were in place at the time of such failure  
40 or refusal, and specify the necessary actions that must be taken to  
41 avoid a pro-rata reduction in public assistance benefits, including  
42 agreeing to comply with the requirements of this title consistent with  
43 any medical condition which may limit the individual's ability to  
44 participate in work activities or notifying the district that he or she  
45 has become exempt from the requirements of this title and the right to a  
46 fair hearing relating to such discontinuance or reduction.

47 ~~[3-]~~ 2. (a) The department shall establish in regulation a concil-  
48 iation procedure for the resolution of disputes related to an individ-  
49 ual's participation in programs pursuant to this title.

50 (b) The district shall contract with an independent entity, approved  
51 by the department, or shall use designated trained staff at the supervi-  
52 sory level who have no direct responsibility for the participant's case  
53 to mediate disputes in the conciliation conference.

54 (c) If a participant's dispute cannot be resolved through such concil-  
55 iation 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-]~~ 3. When any participant required to participate in work activ-  
4 ities fails to comply with the provisions of this title, the social  
5 services district shall take such actions as prescribed by appropriate  
6 federal law and regulation and this title.

7 ~~[5-]~~ 4. 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]~~ one 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-]~~ 5. Consistent with federal law and regulation and this title, no  
18 notice shall be issued as specified in subdivision ~~[two]~~ one of this  
19 section unless it has been determined that the individual is not exempt  
20 from the requirements of this title and has determined that appropriate  
21 child care, transportation and accommodations for disability were in  
22 place at the time of such failure or refusal to comply with the require-  
23 ments of this title and no action shall be taken pursuant to this  
24 section for failure to participate in the program or refusal to accept  
25 employment 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 § 3. Section 342 of the social services law is REPEALED.

46 § 4. Section 342-a of the social services law, as added by chapter 562  
47 of the laws of 2015, is amended to read as follows:

48 § ~~[342-a]~~ 342. Noncompliance with the requirements of this title. 1.  
49 ~~[The provisions of this section shall apply to persons who are residents~~  
50 ~~of a city having a population of one million or more people.~~

51 ~~2-]~~ In accordance with the provisions of this section an individual  
52 who is required to participate in work activities shall be ineligible to  
53 receive public assistance if he or she fails to comply, without good  
54 cause, with the requirements of this title and the district has deter-  
55 mined that he or she is not exempt from such requirements and has veri-  
56 fied that appropriate child care, transportation, and accommodations for

1 disability were in place at the time of such failure or refusal. Such  
2 ineligibility shall be for the amount and period specified in this  
3 section. Good cause for failing to comply with the requirements of this  
4 title shall be defined in department regulations, provided, however,  
5 that the parent or caretaker relative of a child under thirteen years of  
6 age shall not be subject to the ineligibility provisions of this section  
7 if the individual can demonstrate, in accordance with the regulations of  
8 the office of children and family services, that lack of available child  
9 care prevents such individual from complying with the work requirements  
10 of this title. The parent or caretaker relative shall be responsible for  
11 locating the child care needed to meet the work requirements; provided,  
12 however, that the relevant social services district shall provide a  
13 parent or caretaker relative who demonstrates an inability to obtain  
14 needed child care with a choice of two providers, at least one of which  
15 will be a regulated provider.

16 ~~[3-]~~ 2. In the case of an applicant for or recipient of public assist-  
17 ance whom the district has determined is not exempt from the require-  
18 ments of this title and who is a parent or caretaker of a dependent  
19 child, the public assistance benefits otherwise available to the house-  
20 hold of which such individual is a member shall be reduced pro-rata  
21 until the individual is willing to comply with the requirements of this  
22 title consistent with any medical condition which may limit the individ-  
23 ual's ability to participate in work activities.

24 ~~[4-]~~ 3. In the case of an individual who is a member of a household  
25 without dependent children whom the district has determined is not  
26 exempt from the requirements of this title and who is applying for or in  
27 receipt of safety net assistance, the public assistance benefits other-  
28 wise available to the household of which such individual is a member  
29 shall be reduced pro-rata until the failure or refusal to comply with  
30 the requirements of this title consistent with any medical condition  
31 which may limit the individual's ability to participate in work activ-  
32 ities ceases.

33 ~~[5-]~~ 4. A recipient of public assistance whom the district has deter-  
34 mined is not exempt from the requirements of this title and who quits or  
35 reduces his or her hours of employment without good cause or due to any  
36 medical condition which may limit the individual's ability to partic-  
37 ipate in work activities shall be considered to have failed to comply  
38 with the requirements of this article and shall be subject to the  
39 provisions of this section.

40 ~~[6-]~~ 5. A person described in paragraph (b) of subdivision seven of  
41 section one hundred fifty-nine of this chapter may not be sanctioned if  
42 his or her failure to comply with requirements of this title is related  
43 to his or her health status.

44 § 5. Subdivision 6 of section 332-b of the social services law, as  
45 added by section 148 of part B of chapter 436 of the laws of 1997, is  
46 amended to read as follows:

47 6. When an applicant or recipient receives notification of the examin-  
48 ing medical professional's disability determination, he or she shall  
49 also be notified of his or her right to request a fair hearing within  
50 ten days of such notice. If such applicant timely requests a fair hear-  
51 ing, no assignment to work activities pursuant to this title may be made  
52 pending such hearing and determination unless the applicant or recipient  
53 agrees to a limited work assignment not inconsistent with the medical  
54 condition alleged by such person. Provided, however, that if a social  
55 services district has reason to believe that such recipient or applicant  
56 does not actually suffer from a work limiting condition, the district

1 shall provide the applicant or recipient with notice of potential sanc-  
2 tions pursuant to subdivision [~~three~~] two of section three hundred  
3 forty-two of this title, and provided further that recipients will be  
4 subject to sanctions pursuant to subdivision [~~three~~] two of section  
5 three hundred forty-two of this title if the district determines, based  
6 on clear medical evidence, that there is no basis for the individual's  
7 claim that he or she is unable to fully engage in work activities, and  
8 that the individual intentionally misrepresented his or her medical  
9 condition.

10 § 6. This act shall take effect on the first of April next succeeding  
11 the date on which it shall have become a law.