

SECOND REGULAR SESSION

# SENATE BILL NO. 976

89TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR CURLS.

Read 1st time February 26, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S4024.011

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## AN ACT

To repeal sections 208.040, 208.044 and 208.325, RSMo 1994, and to enact in lieu thereof five new sections relating to temporary assistance to needy families.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 208.040, 208.044 and 208.325, RSMo 1994, are repealed and five new sections enacted in lieu thereof, to be known as sections 208.040, 208.044, 208.325, 1 and 2, to read as follows:

208.040. 1. Aid to families with dependent children shall be granted on behalf of a dependent child or children and may be granted to the parents or other needy eligible relative caring for a dependent child or children who:

(1) Is under the age of eighteen years; or is under the age of nineteen years and a full-time student in a secondary school (or at the equivalent level of vocational or technical training), if before the child attains the age of nineteen the child may reasonably be expected to complete the program of the secondary school (or vocational or technical training);

(2) Has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew or niece, in a place of residence maintained by one or more of such relatives as the child's own home, and financial aid for such child is necessary to save the child from neglect and to secure for the child proper care in such home. Physical or mental incapacity shall be certified to by competent medical or other appropriate authority designated by the division of family services, and such certificate is hereby declared to be competent evidence

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

in any proceedings concerning the eligibility of such claimant to receive aid to families with dependent children benefits. Benefits may be granted and continued for this reason only while it is the judgment of the division of family services that a physical or mental defect, illness or disability exists which prevents the parent from performing any gainful work;

(3) Is not receiving supplemental aid to the blind, blind pension, supplemental payments, or aid or public relief as an unemployable person;

(4) Is a resident of the state of Missouri.

2. The division of family services shall require as additional conditions of eligibility for benefits that each applicant for or recipient of aid:

(1) Shall furnish to the division the applicant or recipient's social security number or numbers, if the applicant or recipient has more than one such number;

(2) Shall assign to the division of family services in behalf of the state any rights to support from any other person such applicant may have in the applicant's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. An application for benefits made under this section shall constitute an assignment of support rights which shall take effect, by operation of law, upon a determination that the applicant is eligible for assistance under this section. The assignment is effective as to both current and accrued support obligations and authorizes the division of child support enforcement of the department of social services to bring any administrative or judicial action to establish or enforce a current support obligation, to collect support arrearages accrued under an existing order for support, or to seek reimbursement of support provided by the division;

(3) Shall cooperate with the divisions of family services and of child support enforcement unless the division of family services determines in accordance with federally prescribed standards that such cooperation is contrary to the best interests of the child on whose behalf aid is claimed or to the caretaker of such child, in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and in obtaining support payments for such applicant and for a child with respect to whom such aid is claimed, or in obtaining any other payments or property due such applicant or such child. The divisions of family services and of child support enforcement shall impose all penalties allowed pursuant to federal participation requirements;

(4) Shall cooperate with the department of social services in identifying and providing information to assist the state in pursuing any third party who may be liable to pay for care and services available under the state's plan for medical assistance as provided in section 208.152, unless such individual has good cause for refusing to cooperate as determined by the department of social services in accordance with federally prescribed standards; and

(5) Shall participate in any program designed to reduce the recipient's dependence on welfare, if requested to do so by the department of social services.

3. The division shall require as a condition of eligibility for AFDC benefits that a minor

child under the age of eighteen who has never married and who has a dependent child in his or her care, or who is pregnant and otherwise eligible for AFDC benefits, shall reside in a place of residence maintained by a parent, legal guardian, or other adult relative or in some other adult-supervised supportive living arrangement, as required by section 403 of P.L. 100-485. Exceptions to the requirements of this subsection shall be allowed in accordance with requirements of the federal Family Support Act of 1988 in any of the following circumstances:

(1) The individual has no parent or legal guardian who is living or the whereabouts of the individual's parent or legal guardian is unknown; or

(2) The division of family services determines that the physical health or safety of the individual or the child of the individual would be jeopardized; or

(3) The individual has lived apart from any parent or legal guardian for a period of at least one year prior to the birth of the child or applying for benefits; or

(4) The individual claims to be or to have been the victim of abuse while residing in the home where she would be required to reside and the case has been referred to the child abuse hotline and a "reason to suspect finding" has been made. Households where the individual resides with a parent, legal guardian or other adult relative or in some other adult-supervised supportive living arrangement shall, subject to federal waiver to retain full federal financial participation and appropriation, have earned income disregarded from eligibility determinations up to one hundred percent of the federal poverty level.

4. If the relative with whom a child is living is found to be ineligible because of refusal to cooperate as required in subdivision (3) of subsection 2 of this section, any aid for which such child is eligible will be paid in the manner provided in subsection 2 of section 208.180, without regard to subsections 1 and 2 of this section.

5. The department of social services [may] **shall** implement policies designed to reduce a family's dependence on welfare. The department of social services is authorized to implement these policies by rule promulgated pursuant to section 660.017, RSMo, and chapter 536, RSMo, [either statewide or as pilot projects, in certain geographic areas, subject to obtaining necessary federal waivers and appropriation authority, and] in compliance with state statutes. These policies [may] **shall** include:

(1) Increasing the earned income and resource disregards allowed recipients to help families achieve a gradual transition to self-sufficiency, including implementing policies to simplify employment-related eligibility standards by increasing the earned income disregard to two-thirds by July 1, 1998. **The expanded earned income disregard shall apply only to recipients of cash assistance who obtain employment but not to new applicants for cash assistance who are already working. The department shall promulgate rules pursuant to section 536.026, RSMo, to implement the work pays program;**

(2) **Other policies designed to reduce a family's dependence on welfare may**

**include** supplementing wages for recipients for the lesser of forty-eight months or the length of the recipient's employment by diverting [the aid to families with dependent children] **by a temporary assistance/work first** grant [to employers who hire such recipients, provided that the department of social services shall develop a methodology and a process for addressing instances where a regular employee claims job loss because of replacement solely due to the employer's preference for hiring a worker whose wage is supplemented by an aid to families with dependent children grant].

6. Upon receipt of a federal waiver which allows such, the work history requirements and definition of "unemployed" shall not apply to parents under age twenty-one in order for these parents to be eligible for assistance under section 208.041.

208.044. 1. The division of family services shall **continue to** provide child day care services to any person who meets the qualifications set forth at sections 301 and 302 of the Family Support Act of 1988 (P.L. 100-485).

2. The division of family services shall purchase the child day care services required by this section by making payments directly to any providers of day care services licensed pursuant to chapter 210, RSMo, or to providers of day care services who are not required by chapter 210, RSMo, to be licensed because they are providing care to relative children or no more than four children.

3. When a person who has been eligible and receiving day care services [under] **pursuant to** this section becomes ineligible due to the end of the twelve-month period of transitional day care, as defined in section 208.400, such person may receive day care services from the division of family services if otherwise eligible for such services. Until October 1, 1992, participants eligible for income eligible day care services, as defined by the division of family services, will continue to receive such services in the same proportion as that provided in fiscal year 1989, subject to appropriation.

208.325. 1. Beginning October 1, 1994, the department of social services shall enroll AFDC recipients in the self-sufficiency program established by this section. The department may target AFDC households which meet at least one of the following criteria:

- (1) Received AFDC benefits in at least eighteen out of the last thirty-six months; or
- (2) Are parents under twenty-four years of age without a high school diploma or a high school equivalency certificate and have a limited work history; or
- (3) Whose youngest child is sixteen years of age, or older; or
- (4) Are currently eligible to receive benefits pursuant to section 208.041, an assistance program for unemployed married parents.

2. The department shall, subject to appropriation, enroll in self-sufficiency pacts by July 1, 1996, the following AFDC households:

- (1) Not fewer than fifteen percent of AFDC households who are required to participate in

the FUTURES program under sections 208.405 and 208.410, and who are currently participating in the FUTURES program;

(2) Not fewer than five percent of AFDC households who are required to participate in the FUTURES program under sections 208.405 and 208.410, but who are currently not participating in the FUTURES program; and

(3) By October 1, 1997, not fewer than twenty-five percent of aid to families with dependent children recipients, excluding recipients who meet the following criteria and are exempt from mandatory participation in the family self-sufficiency program:

(a) Disabled individuals who meet the criteria for coverage under the federal Americans with Disabilities Act, P.L. 101-336, and are assessed as lacking the capacity to engage in full-time or part-time subsidized employment;

(b) Parents who are exclusively responsible for the full-time care of disabled children; and

(c) Other families excluded from mandatory participation in FUTURES by federal guidelines.

3. Upon enrollment in the family self-sufficiency program, a household shall receive an initial assessment of the family's educational, child care, employment, medical and other supportive needs. There shall also be assessment of the recipient's skills, education and work experience and a review of other relevant circumstances. Each assessment shall be completed in consultation with the recipient and, if appropriate, each child whose needs are being assessed.

4. Family assessments shall be used to complete a family self-sufficiency pact in negotiation with the family. The family self-sufficiency pact shall identify a specific point in time, no longer than twenty-four months after the family enrolls in the self-sufficiency pact, when the family's primary self-sufficiency pact shall conclude. The self-sufficiency pact is subject to reassessment and may be extended for up to an additional twenty-four months, but the maximum term of any self-sufficiency pact shall not exceed a total of forty-eight months. Family self-sufficiency pacts should be completed and entered into within three months of the initial assessment.

5. The division of family services shall complete family self-sufficiency pact assessments and/or may contract with other agencies for this purpose, subject to appropriation.

6. Family self-sufficiency assessments shall be used to develop a family self-sufficiency pact after a meeting. The meeting participants shall include:

(1) A representative of the division of family services, who may be a case manager or other specially designated, trained and qualified person authorized to negotiate the family self-sufficiency pact and follow-up with the family and responsible state agencies to ensure that the self-sufficiency pact is reviewed at least annually and, if necessary, revised as further assessments, experience, circumstances and resources require;

(2) The recipient and, if appropriate, another family member, assessment personnel or an

individual interested in the family's welfare.

7. The family self-sufficiency pact shall:

(1) Be in writing and establish mutual state and family member obligations as part of a plan containing goals, objectives and timelines tailored to the needs of the family and leading to self-sufficiency;

(2) Identify available support services such as subsidized child care, medical services and transportation benefits during a transition period, to help ensure that the family will be less likely to return to public assistance.

8. The family self-sufficiency pact shall include a parent and child development plan to develop the skills and knowledge of adults in their role as parents to their children and partners of their spouses. Such plan shall include school participation records. The department of social services shall, in cooperation with the department of health, the department of mental health, and the "Parents as Teachers" program in the department of elementary and secondary education, develop or make available existing programs to be presented to persons enrolled in a family self-sufficiency pact.

9. A family enrolled in a family self-sufficiency pact may own or possess property as described in subdivision (6) of subsection 2 of section 208.010 with a value of five thousand dollars instead of the one thousand dollars as set forth in subdivision (6) of subsection 2 of section 208.010.

10. A family receiving AFDC may own one automobile, which shall not be subject to property value limitations provided in section 208.010.

11. Subject to appropriations and necessary waivers, the department of social services may disregard from one-half to two-thirds of a recipient's gross earned income for job-related and other expenses necessary for a family to make the transition to self-sufficiency.

12. A recipient may request a review by the director of the division of family services, or his designee, of the family self-sufficiency pact or any of its provisions that the recipient objects to because it is inappropriate. After receiving an informal review, a recipient who is still aggrieved may appeal the results of that review under the procedures in section 208.080.

13. The term of the family self-sufficiency pact may only be extended due to circumstances creating barriers to self-sufficiency and the family self-sufficiency pact may be updated and adjusted to identify and address the removal of these barriers to self-sufficiency.

14. Where the capacity of services does not meet the demand for the services, limited services may be substituted and the pact completion date extended until the necessary services become available for the participant. The pact shall be modified appropriately if the services are not delivered as a result of waiting lists or other delays.

15. The division of family services shall establish a training program for self-sufficiency pact case managers which shall include but not be limited to:

(1) Knowledge of public and private programs available to assist recipients to achieve

self-sufficiency;

- (2) Skills in facilitating recipient access to public and private programs; and
- (3) Skills in motivating and in observing, listening and communicating.

16. The division of family services shall ensure that families enrolled in the family self-sufficiency program make full use of the federal earned income tax credit.

17. Failure to comply with any of the provisions of a self-sufficiency pact developed pursuant to this section shall result in a recalculation of the AFDC cash grant for the household without considering the needs of the caretaker recipient.

18. If a suspension of caretaker benefits is imposed, the recipient shall have the right to a review by the director of the division of family services or his designee.

19. After completing the family self-sufficiency program, should a recipient who has previously received thirty-six months of aid to families with dependent children benefits again become eligible for aid to families with dependent children benefits, the cash grant amount shall be calculated without considering the needs of caretaker recipients. The limitations of this subsection shall not apply to any applicant who starts a self-sufficiency pact on or before July 1, 1997, or to any applicant who has become disabled or is receiving or has received unemployment benefits since completion of a self-sufficiency program.

20. There shall be conducted a comprehensive evaluation of the family self-sufficiency program contained in the provisions of this act and the job opportunities and basic skills training program ("JOBS" or "FUTURES") as authorized by the provisions of sections 208.400 to 208.425. The evaluation shall be conducted by a competitively chosen independent and impartial contractor selected by the commissioner of the office of administration. The evaluation shall be based on specific, measurable data relating to those who participate successfully and unsuccessfully in these programs and a control group, factors which contributed to such success or failures, the structure of such programs and other areas. The evaluation shall include recommendations on whether such programs should be continued and suggested improvements in such programs. The first such evaluation shall be completed and reported to the governor and the general assembly by September 1, 1997. Future evaluations shall be completed every three years thereafter. In addition, in 1997, and every three years thereafter, the oversight division of the committee on legislative research shall complete an evaluation on general relief, child care and development block grants and social services block grants.

21. The director of the department of social services may promulgate rules and regulations, pursuant to section 660.017, RSMo, and chapter 536, RSMo, governing the use of family self-sufficiency pacts in this program and in other programs, including programs for noncustodial parents of children receiving assistance.

22. [The director of the department of social services shall apply to the United States Secretary of Health and Human Services for all waivers of requirements under federal law

necessary to implement the provisions of this section with full federal participation. The provisions of this section shall be implemented, subject to appropriation, as waivers necessary to ensure continued federal participation are received.] **Any individual who signs a self-sufficiency pact pursuant to this section or any other self-sufficiency pact, shall be entitled to three years of transitional child care benefits if he or she loses cash assistance due to employment or increased earnings as described in section 208.044 and the household income is less than three hundred percent of the federal poverty level. The department shall promulgate rules pursuant to chapter 536, RSMo, to implement this extended transitional child care program.**

**23. Any person who signs a self-sufficiency pact shall be eligible for three years of transitional medicaid benefits if he or she loses cash assistance due to employment or increased earnings and household income is less than three hundred percent of the federal poverty level. The department shall request all necessary federal waivers to provide such extended transitional medicaid benefits.**

**Section 1. 1. The department shall guarantee child care, consistent with the federal guidelines in effect as of July 16, 1996, to any recipient of temporary assistance/work first benefits or any other cash assistance benefits who is working or who is required to work or participate in any of the state's welfare-to-work programs, including but not limited to FUTURES, the Missouri mutual family responsibility plan or any other work or training program.**

**2. Any individual for whom the state does not guarantee child care shall have good cause for refusing to work or participate in any work or training program, including but not limited to the Missouri FUTURES program and the Missouri families mutual responsibility plan.**

**3. The department shall provide transitional child care as required by federal guidelines in effect as of July 16, 1996, and as described in section 208.400. Any individual who signs a self-sufficiency pact pursuant to section 208.325 or any other self-sufficiency pact, shall be entitled to three years of transitional child care benefits if such individual loses cash assistance due to increased earnings so long as the household's available income is less than three hundred percent of the federal poverty level. The department shall promulgate rules pursuant to chapter 536, RSMo, to implement this extended transitional child care program.**

**Section 2. 1. The department shall implement a conciliation process of up to thirty days to resolve any disputes related to an individual's participation in any work or training program, including, but not limited to the FUTURES program, the self-sufficiency program or the direct job placement program.**

**2. No determination of failure of a recipient to participate in the education, training, and employment programs or refusing to accept employment or terminating**

**employment or reducing earnings may be made, and no sanction may be imposed, without documentation in the case file that there has been a good cause determination and conciliation as described by this section.**

**3. The conciliation process shall be offered to recipients to resolve disputes related to any aspect of participation in welfare-to-work programs, including exemptions, good cause, sanctions, or proposed sanction, supportive services, orientation, assessments, self-sufficiency plans, assignment to work activities, suitability of employment, or for refusals of offers of employment.**

**4. The conciliation process shall also be used to remove any barriers to participation in a work or training program. The conciliation process shall utilize all appropriate program resources to remove social, economic, psychosocial and psychological barriers to participation in the program and within program limitations. When a need for social services is identified as the reason for not participating, the case manager will work with the participant to plan and initiate activities directed toward removing such barriers. They may include family counseling, medical services, psychological evaluations, and referral to other community services or agencies.**

**5. The department shall use the conciliation process to identify good cause, ensure that the client is aware of the opportunity to claim good cause, and enable the client to perform required activities without facing sanctions.**

**6. During the conciliation process, the following activities shall be completed:**

- (1) A discussion of the nature of the program or dispute and potential resolution;**
- (2) An explanation of the individual's rights and responsibilities;**
- (3) A review of the self-sufficiency plans;**
- (4) A discussion of the expectations of the participant and the department; and**
- (5) Development of a conciliation agreement and fulfillment of it following the conciliation meeting.**

**7. The department shall document in the case record all conciliation proceedings and provide the client a written copy of a conciliation agreement. If the conciliation resolves the dispute, no sanction shall be imposed and any previous failure to participate without good cause shall not count as a sanctionable event in the future. If the client fails to comply with the conciliation agreement, the department shall then immediately impose the original sanction. If the dispute cannot be resolved during conciliation, a sanction shall not be imposed until the conciliation process is complete.**

**8. As part of conciliation, the department shall attempt to arrange at least one face-to-face meeting with the participant prior to initiating a sanction of cash assistance. The case manager must make attempt to contact the participant in person or by telephone to arrange a face-to-face meeting prior to initiating a sanction.**

**9. A participant may request conciliation and must receive notice in writing of the face-to-face conciliation meeting. The meeting shall address the underlying reason for the dispute and plan a resolution to enable the individual to participate in Temporary Assistance to Needy Families employment and work activity requirements. If the individual fails to appear at the conciliation meeting without good cause, the conciliation is unsuccessful and a sanction shall be imposed.**

**10. The department shall provide timely and adequate notice of the conciliation process to any participant in a work or training program. Each participant shall be notified at the time such participant begins the FUTURES program, or any other work or training program, or when such participant signs a self-sufficiency pact but prior to the imposition of any sanction related to a refusal to comply with any work requirement. The department shall promulgate rules and regulations governing its conciliation process.**

**11. If a dispute is not resolved through conciliation, the state shall provide the individual with an opportunity for a fair hearing pursuant to section 208.080.**

**12. If after conciliation, the recipient still refuses to comply with work program requirements without good cause, and no fair hearing is requested or a hearing has been held and the hearing decision has been implemented, the department shall sanction the recipient as indicated below:**

**(1) For the first occurrence of noncompliance, the department shall reduce the family's grant pro rata until compliance by the noncomplying individual;**

**(2) For the second occurrence of noncompliance, the department shall reduce the family's grant pro rata for a minimum of three payment months or until compliance, whichever is longer;**

**(3) For the third occurrence of noncompliance, the department shall reduce the family's grant pro rata for a minimum of six months or until compliance, whichever is longer.**