

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

400A0803

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB259** - 2/27/97

Introduced by: The Committee on State Affairs at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to promote personal responsibility and provide temporary
2 assistance for needy families and to revise certain provisions relating to public assistance.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The implementation of assistance under this Act does not establish a personal or
5 family entitlement to assistance.

6 Section 2. Terms used in this Act mean:

7 (1) "Assistance," includes money, services, goods, or other types of temporary assistance
8 made with respect to any child or with respect to the parents of any child for whom
9 federal funds are available to the state under this Act;

10 (2) "Department," the Department of Social Services;

11 (3) "Title IV," including its derivatives, refers to Title IV of the federal Social Security
12 Act.

13 Section 3. The terms, aid to dependent children or aid to families with dependent children,
14 wherever used in this code refer to temporary assistance for needy families unless otherwise
15 indicated. The code commission in future supplements and revisions of the South Dakota

1 Codified Laws shall substitute the term, temporary assistance for needy families, and its
2 derivatives for the terms, aid to dependent children or aid to families with dependent children,
3 and their derivatives.

4 Section 4. The department may adopt such rules as may be necessary and desirable to
5 implement the provisions of this Act. The department may adopt rules to regulate:

- 6 (1) Assistance eligibility qualifications, application procedure, and assistance level;
- 7 (2) Employability assessment, work activities, and supportive services;
- 8 (3) Conditions of continued eligibility, eligibility time limits, eligibility recertification
9 periods, and exemptions;
- 10 (4) Program participation requirements, criteria for disqualification, and good cause
11 exemptions;
- 12 (5) Disqualification for intentional program violation or failure to comply with program
13 requirements;
- 14 (6) Benefit recovery and recoupment policies and procedures;
- 15 (7) Methods of distribution and payment of moneys appropriated by the Legislature or
16 received from the federal government for the granting of temporary assistance for
17 needy families;
- 18 (8) Development of applications, reports, and other forms;
- 19 (9) Enforcement of child support obligations including distribution of collections,
20 cooperative agreements with courts and law enforcement officials, and such other
21 rules as may be found necessary or desirable to qualify for federal financial
22 participation;
- 23 (10) Collection, audit, and reporting of facts and statistics relating to the field of public
24 assistance;
- 25 (11) Compliance with federal reporting and documentation requirements necessary to

1 qualify for federal funds;

2 (12) Such other rules and standards of operation and administration within the mandate of
3 this Act as may be necessary or desirable to qualify for federal financial participation.

4 The rules shall be adopted in accordance with chapter 1-26 and shall be consistent with this
5 Act.

6 Section 5. Eligibility criteria and assistance level for temporary assistance for needy families
7 shall be determined by the department with due regard to the necessary expenditures of families
8 in this state.

9 Section 6. An applicant for or recipient of assistance under this Act shall supply proof of or
10 apply for a social security number as a condition of eligibility to receive assistance. The parent
11 or relative with whom the child resides shall comply on behalf of a child for whom assistance is
12 claimed.

13 Section 7. An applicant or recipient of assistance under this Act shall, as a condition of
14 eligibility for assistance, cooperate with proceedings to establish paternity and to enforce, collect,
15 or modify child support on behalf of any child for whom assistance is claimed or received.

16 Section 8. Application for or receipt of assistance under this Act or of foster care
17 maintenance payments under the Title IV-E state plan shall operate as an assignment by
18 operation of law of all support rights from any person, which such applicant or recipient may
19 have on the applicant's or recipient's own behalf or on behalf of any other family member for
20 whom the recipient is receiving assistance or Title IV-E foster care maintenance payments,
21 including any support payments accrued and unpaid at the time of the assignment.

22 Section 9. Application shall be made in a manner prescribed by the department. The
23 department shall promptly notify the applicant of its decision.

24 Section 10. The department shall make such assessment of the skills, prior work experience,
25 and employability of eligible applicants or recipients as may be necessary and feasible for the

1 purposes of this Act.

2 Section 11. The department may adopt by rules promulgated pursuant to chapter 1-26
3 reasonable standards for the participation of eligible recipients in work activities and programs
4 of assistance calculated to foster parental responsibility, employment, or family independence.
5 To the extent possible in a work oriented program, training and education, although not an
6 alternative for working, may be utilized to prepare people for work.

7 Section 12. The department may deny, reduce, or terminate assistance to an applicant or
8 recipient who voluntarily refuses to participate in an assessment, work activity, or assistance
9 program for such period as may be reasonably necessary to deter program waste or abuse. The
10 department may adopt by rules promulgated pursuant to chapter 1-26 necessary and reasonable
11 exemptions and deferrals. The department shall have access to the home of a dependent child at
12 reasonable times for the purpose of conducting such investigation as may be necessary to assure
13 compliance with program requirements.

14 Section 13. The department may implement such programs of assistance as may be feasible
15 and reasonably calculated to fulfill the purposes of this Act. This Act does not require the
16 department to provide assistance in the absence of legislative appropriation therefor.

17 Section 14. An adult in a family receiving assistance under this Act may fill a vacant
18 employment position in order to engage in a work activity except no such adult may be employed
19 or assigned if any other individual is on layoff from the same or any substantially equivalent job
20 or if the employer has terminated the employment of any regular employee or otherwise caused
21 an involuntary reduction of its workforce in order to fill the vacancy so created.

22 Section 15. The department may reconsider assistance as frequently as may be required. The
23 department may deny, reduce, suspend, or terminate assistance as the circumstances may indicate
24 upon such reconsideration.

25 Section 16. An applicant or recipient whose application is denied or not acted upon or who

1 is aggrieved by any action affecting receipt, suspension, reduction, or termination of assistance
2 may appeal the action or inaction as provided in chapter 1-26.

3 Section 17. No applicant or recipient of assistance under this Act may:

4 (1) Intentionally make or cause to be made any false statement or misrepresentation in
5 any application, report, or other communication with the department; or

6 (2) Having knowledge of any event or circumstance affecting the initial or continued
7 eligibility for assistance, intentionally conceal or fail to disclose that event or
8 circumstance for the purpose of obtaining assistance.

9 The department may deny, reduce, or terminate assistance to any person or household who
10 has violated this section for such period as may be reasonable or necessary to deter fraud or
11 program abuse.

12 Section 18. The department may adopt, pursuant to chapter 1-26, necessary and reasonable
13 policies and procedures to recover or recoup any overpayment of assistance that resulted from
14 fraud or misrepresentation, erroneous determination of eligibility or amount of assistance, or
15 otherwise.

16 Section 19. Assistance granted under this Act is not transferable or assignable at law or in
17 equity. No money paid or assistance granted under this Act is subject to execution, levy,
18 attachment, garnishment, or other legal process, except as may be expressly authorized by law
19 for purposes of recovery or recoupment by the department, or to the operation of any
20 bankruptcy or insolvency law.

21 Section 20. Assistance implemented under this Act is subject to the provisions of any
22 amending or repealing act that may hereafter be enacted. No applicant or recipient of assistance
23 under this Act has any claim for compensation or otherwise by reason of the effect of any such
24 amending or repealing act.

25 Section 21. That § 28-6-3 be repealed.

1 ~~28-6-3. Medical services and medical or remedial care may be provided on behalf of the~~
2 ~~following:~~

3 ~~(1) Any person who is eligible for or receives assistance in the form of a money payment~~
4 ~~under the aid to dependent children program of the state department of social~~
5 ~~services, or the supplemental security income program pursuant to the Social Security~~
6 ~~Act; or~~

7 ~~(2) Any person not otherwise eligible for public assistance who may meet the standard~~
8 ~~for medical need established by the secretary of social services, provided that the~~
9 ~~secretary of social services may not offer any services to such persons in addition to~~
10 ~~those offered to persons eligible under subdivision (1) of this section or as otherwise~~
11 ~~authorized by the Legislature.~~

12 Section 22. That §§ 28-7-1, 28-7-1.1, 28-7-1.2, 28-7-2, 28-7-4, 28-7-5, 28-7-6, 28-7-6.3,
13 28-7-7, 28-7-8, 28-7-9, 28-7-10, 28-7-12, 28-7-13, 28-7-13.2, 28-7-13.3, 28-7-14, 28-7-15, 28-
14 7-16, 28-7-17, 28-7-18, 28-7-19, 28-7-26, 28-7-27, and 28-7-28 be repealed.

15 Section 23. That §§ 28-7-3.1, 28-7-17.1, 28-7-17.2, 28-7-17.4, 28-7-17.5, and 28-7-25 be
16 transferred to chapter 28-1.

17 Section 24. That §§ 28-1-13.2, 28-1-30, and 28-1-54 to 28-1-58, inclusive, be repealed.

18 Section 25. That § 28-1-59 be amended to read as follows:

19 28-1-59. A ~~workfare participant~~ recipient of public assistance who incurs permanent partial
20 disability, permanent total disability, death, or disease in the course of participation in a ~~workfare~~
21 program work activity is entitled to the same benefits as are set forth for work related injuries
22 and diseases in Title 62. This provision does not include payment of medical expenses unless
23 those expenses are necessitated by a permanent disability or disease. Eligibility for other public
24 funded medical benefits shall reduce entitlement to medical benefits under this section
25 accordingly. In order to receive the above-referenced disability benefits, a ~~workfare~~ work activity

1 participant must comply with all of the employee notice, reporting, and medical examination
2 requirements set forth in Title 62. The initial report of injury shall be submitted by the ~~workfare~~
3 work activity participant in writing to the Department of Social Services.

4 Section 26. That § 62-3-15 be amended to read as follows:

5 62-3-15. Except as provided in §§ ~~28-1-55~~ 28-1-59, 62-3-16, and 62-3-17, this title does not
6 apply to:

- 7 (1) Domestic servants unless working for an employer for more than twenty hours in any
8 calendar week and for more than six weeks in any thirteen-week period; or
- 9 (2) Farm or agricultural laborers; or
- 10 (3) ~~Workfare~~ Work activity participants.

11 Section 27. The department shall continue to use case by case consideration for recipients
12 of public cash assistance pursuing post secondary education to fully utilize the Screening of
13 South Dakota Families Initiative Waiver until its expiration in March 1999.

1 **BILL HISTORY**

2 2/4/97 First read in Senate and referred to State Affairs. S.J. 306

3 2/12/97 Scheduled for Committee hearing on this date.

4 2/12/97 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 0. S.J. 421

5 2/15/97 Senate Deferred to another day. S.J. 480

6 2/18/97 Motion to Amend, Failed. S.J. 494

7 2/18/97 Motion to Amend, Passed. S.J. 494

8 2/18/97 Motion to Amend, Passed. S.J. 495

9 2/18/97 Senate Do Pass Amended, Passed, AYES 35, NAYS 0. S.J. 495

10 2/19/97 First read in House and referred to State Affairs. H.J. 595

11 2/26/97 Scheduled for Committee hearing on this date.

12 2/26/97 State Affairs Do Pass Amended, Passed, AYES 11, NAYS 0.