

SB 430

RECEIVED

97 MAY -7 AM 11:32

OFFICE OF THE CLERK
WEST VIRGINIA LEGISLATURE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



ENROLLED

SENATE BILL NO. 430

(By Senators Tomblin, Mr. President, and Buckalew,
By Request of the Executive)



PASSED April 12, 1997

In Effect ninety days from Passage

RECEIVED

97 JUL -7 11:32

WEST VIRGINIA LEGISLATURE
SENATE CHAMBER

ENROLLED

Senate Bill No. 430

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND BUCKALEW,
BY REQUEST OF THE EXECUTIVE)

[Passed April 12, 1997; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, fifteen and eighteen, article nine, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section twenty; and to amend and reenact section twenty-four, article two, chapter forty-eight-a of said code, all relating to conforming the West Virginia works act and support enforcement law to federal requirements; legislative findings; defining terms; removing obsolete language relating to program implementation, wavier proposals and emergency rules; removing requirement that rules be promulgated in accordance with administration procedures act; changing work exemption for new mothers; requiring personal responsi-

bility contract be signed before receipt of cash assistance; diversionary assistance allowances; providing for confidentiality of information; fines and criminal penalties for unauthorized release of confidential information; and removing the pass-through of the first fifty dollars of amounts collected as child support.

Be it enacted by the Legislature of West Virginia:

That sections two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, fifteen and eighteen, article nine, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article be further amended by adding thereto a new section, designated section twenty; and that section twenty-four, article two, chapter forty-eight-a of said code be amended and reenacted, all to read as follows:

CHAPTER 9. HUMAN SERVICES.

ARTICLE 9. WEST VIRGINIA WORKS PROGRAM.

§9-9-2. Legislative findings; purpose.

1 (a) The Legislature hereby finds and declares that:

2 (1) The entitlement of any person to receive federal-state
3 cash assistance is hereby discontinued;

4 (2) At-risk families are capable of becoming self-sup-
5 porting;

6 (3) A reformed assistance program should both expect
7 and assist a parent and caretaker-relatives in at-risk
8 families to support their dependent children and children
9 for which they are caretakers;

10 (4) Every parent or caretaker-relative can exhibit
11 responsible patterns of behavior so as to be a positive role
12 model;

13 (5) Every parent or caretaker-relative who receives cash
14 assistance has a responsibility to participate in an activity
15 to help them prepare for, obtain and maintain gainful
16 employment;

17 (6) For a parent or caretaker-relative who receives cash
18 assistance and for whom full-time work is not feasible,

19 participation in some activity is expected to further
20 themselves, their family or their community;

21 (7) The state should promote the value of work and the
22 capabilities of individuals;

23 (8) Job development efforts should enhance the employ-
24 ment opportunities of participants;

25 (9) An effective public education system is the key to
26 long-term self-support; and

27 (10) A reformed assistance program should be structured
28 to achieve a clear set of outcomes; deliver services in an
29 expedient, effective and efficient manner; and maximize
30 community support for participants. After five years,
31 there is expected to be a decrease in the following: (i) The
32 number of persons receiving public assistance; and (ii) the
33 amount of time an individual remains on public assis-
34 tance.

35 (b) The goals of the program are to achieve more effi-
36 cient and effective use of public assistance funds; reduce
37 dependency on public programs by promoting self-suffi-
38 ciency; and structure the assistance programs to empha-
39 size employment and personal responsibility. The pro-
40 gram is to be evaluated on the increase in employment
41 rates in the program areas; the completion of educational
42 and training programs; the increased compliance in
43 preventive health activities, including immunizations; and
44 a decrease in the case-load of division of personnel.

§9-9-3. Definitions.

1 In addition to the rules for the construction of statutes
2 in section ten, article two, chapter two of this code and the
3 words and terms defined in section two, article one of this
4 chapter, unless a different meaning appears from the
5 context:

6 (a) "At-risk family" means a group of West Virginians
7 living in the same household, living below the federally
8 designated poverty level, lacking the resources to become
9 self-supporting, and consisting of a dependent minor child
10 or children living with a parent, stepparent or caretaker-

11 relative; an “at-risk family” may include an unmarried
12 minor parent and his or her dependent child or children
13 who live in an adult supervised setting;

14 (b) “Beneficiary” or “participant” means any parent or
15 caretaker-relative in an at-risk family who receives cash
16 assistance for himself or herself and family members;

17 (c) “Cash assistance” means temporary assistance for
18 needy families or diversionary assistance;

19 (d) “Challenge” means any fact, circumstance or situa-
20 tion that prevents a person from becoming self-sufficient
21 or from seeking, obtaining or maintaining employment of
22 any kind, including physical or mental disabilities, lack of
23 education, testing, training, counseling, child care ar-
24 rangements, transportation, medical treatment or sub-
25 stance abuse treatment;

26 (e) “Community or personal development” means
27 activities designed or intended to eliminate challenges to
28 participation in self-sufficiency activities. These activities
29 are to provide community benefit and enhance personal
30 responsibility, including, but not limited to, classes or
31 counseling for learning life skills or parenting, dependent
32 care, job readiness, volunteer work, participation in
33 sheltered workshops or substance abuse treatment;

34 (f) “Department” means the state department of health
35 and human resources;

36 (g) “Division” means the division of human services;

37 (h) “Income” means money received by any member of
38 an at-risk family which can be used at the discretion of
39 the household to meet its basic needs: *Provided*, That
40 income shall not include earnings of minor children in
41 school, payments received from earned income tax credit
42 or tax refunds;

43 (i) “Personal responsibility contract” means a written
44 agreement entered into by the division and a beneficiary
45 which establishes the responsibilities and obligations of
46 the beneficiary;

47 (j) “Secretary” means the secretary of the state depart-

48 ment of health and human resources;

49 (k) "Subsidized employment" means employment with
50 earnings provided by an employer who receives a subsidy
51 from the division for the creation and maintenance of the
52 employment position;

53 (l) "Support services" means, but is not limited to, the
54 following services: Child care; medicaid; transportation
55 assistance; information and referral; resource development
56 services which is assisting families to receive child support
57 enforcement and supplemental social security income;
58 family support services which is parenting, budgeting and
59 family planning; relocation assistance; and mentoring
60 services;

61 (m) "Unsubsidized employment" means employment
62 with earnings provided by an employer who does not
63 receive a subsidy from the division for the creation and
64 maintenance of the employment position;

65 (n) "Work" means unsubsidized employment, subsidized
66 employment, work experience or community or personal
67 development; and

68 (o) "Work experience" means unpaid structured work
69 activities that are provided in an environment where
70 performance expectations are similar to those existing in
71 unsubsidized employment and which provide training in
72 occupational areas that can realistically be expected to
73 lead to unsubsidized employment.

§9-9-4. Authorization for program.

1 (a) The secretary shall conduct the West Virginia works
2 program in accordance with this article and any applica-
3 ble regulations promulgated by the secretary of the federal
4 department of health and human services in accordance
5 with federal block-grant funding or similar federal
6 funding stream. This program shall be implemented to
7 replace welfare assistance programs for at-risk families in
8 accordance with this article and within federal require-
9 ments; to coordinate the transfer of all applicable state
10 programs into the temporary assistance to needy families
11 West Virginia works program; to expend only the funds

12 appropriated by the Legislature to establish and operate
13 the program or any other funds available to the program
14 pursuant to any other provisions of the code or rules; to
15 establish administrative due process procedures for
16 revocation or termination proceedings; and implement
17 such other procedures as may be necessary to accomplish
18 the purpose of this article.

19 (b) The secretary may establish the program as one or
20 more pilot projects to test the policy being evaluated. Any
21 pilot project so established is to be consistent with the
22 principles and goals set forth in this article. The secretary
23 shall determine the counties in which to implement the
24 provisions of this program, considering a fair representa-
25 tion of both rural and urban areas, and may vary the
26 program components to test the effectiveness, efficiency
27 and fiscal impact of each prior to statewide implementa-
28 tion. The secretary shall structure the initial pilot pro-
29 gram, or programs to include a minimum of fifteen
30 percent of the state population that qualifies for tempo-
31 rary assistance for needy families, or any successor
32 program. The pilot program shall eventually include a
33 minimum of fifteen percent of the participants eligible in
34 other categories, as funds are available.

35 (c) The West Virginia works program authorized pursu-
36 ant to this act does not create an entitlement to that
37 program or any services offered within that program,
38 unless entitlement is created pursuant to a federal law or
39 regulation. The West Virginia works program, and each
40 component of that program established by this act or the
41 expansion of any component established pursuant to
42 federal law or regulation, is subject to the annual appro-
43 priation of funds by the Legislature.

44 (d) Copies of all rules proposed by the secretary shall
45 also be filed with the legislative oversight commission on
46 health and human resources accountability established
47 pursuant to article twenty-nine-e, chapter sixteen of this
48 code.

49 (e) In conjunction with the performance evaluation of
50 the department of health and human resources scheduled

51 during the interim of the Legislature in the year one
52 thousand nine hundred ninety-seven, the performance
53 evaluation and research division of the legislative audi-
54 tor's office shall undertake a statistical study evaluating
55 the rates at which participants in the pilot program
56 established under this article move to unsubsidized
57 employment, subsidized employment and work experi-
58 ence, and report findings to the joint committee on
59 government operations not later than the thirtieth day of
60 October, one thousand nine hundred ninety-seven. The
61 performance evaluation and research division may review
62 and make recommendations with respect to the methodol-
63 ogy established by the secretary for evaluating the effec-
64 tiveness, efficiency and fiscal impact of the pilot project
65 established pursuant to this section.

66 (f) Notwithstanding the provisions of subsection (b) of
67 this section, the secretary shall implement, not later than
68 the first day of January, one thousand nine hundred
69 ninety-eight, modifications to the temporary assistance to
70 needy families program so that the method of calculating
71 the amount of cash assistance for which a participant's
72 family is eligible, including treatment of income and
73 assets, does not vary depending on the participant's
74 county of residence: *Provided*, That nothing in this
75 subsection may be construed to require the expansion or
76 statewide implementation of the program created in this
77 article until such time as the effectiveness, efficiency and
78 fiscal impact of the program is tested and evaluated.

§9-9-5. West Virginia works program fund.

1 There is hereby created a special account within the
2 state treasury to be known as the "West Virginia Works
3 Program Fund". Expenditures from the fund shall be used
4 exclusively to meet the necessary expenditures of the
5 program, including wage reimbursements to participating
6 employers, temporary assistance to needy families,
7 employment-related child care payments, transportation
8 expenses and administrative costs directly associated with
9 the operation of the program. Moneys paid into the
10 account shall be from specific annual appropriations of
11 funds by the Legislature.

§9-9-6. Program participation.

1 (a) Unless otherwise noted in this article, all adult
2 recipients of cash assistance shall be required to partici-
3 pate in the West Virginia works pilot program in accor-
4 dance with the provisions of this article. The level of
5 participation, services to be delivered and work require-
6 ments shall be defined within the terms of the personal
7 responsibility contract and through rules established by
8 the secretary.

9 (b) To the extent funding permits, any individual exempt
10 under the provisions of section eight of this article may
11 participate in the activities and programs offered through
12 the West Virginia works program.

13 (c) Support services other than cash assistance through
14 the works program may be provided to at-risk families to
15 eliminate the need for cash assistance.

16 (d) Cash assistance through the works program may be
17 provided to an at-risk family if the combined family
18 income is below the income and asset test levels estab-
19 lished by the division: *Provided*, That an at-risk family
20 that includes a married man and woman and dependent
21 children of either one or both may receive an additional
22 cash assistance benefit in an amount ten percent greater
23 than the cash assistance benefit provided to the same size
24 household in which there are no married adults: *Provided*,
25 *however*: That an at-risk family shall receive an addi-
26 tional cash assistance benefit in an amount equal to the
27 amount of child support collected in a month on behalf of
28 a child or children of the at risk family, not to exceed fifty
29 dollars.

§9-9-7. Work requirements.

1 Unless otherwise exempted by the provisions of section
2 eight of this article, the West Virginia works program
3 shall require that anyone who possesses a high school
4 diploma, or its equivalent, or anyone who is of the age of
5 twenty years or more, to work or attend an educational or
6 training program for a minimum of twenty hours per week
7 to receive any form of cash assistance. In accordance with

8 federal law or regulation, the work, education and train-
9 ing requirements of this section are waived for any
10 qualifying participant with a child under six years of age
11 if the participant is unable to obtain appropriate and
12 available child care services. In order for any participant
13 to receive cash assistance, he or she shall enter into
14 personal responsibility contracts pursuant to the provi-
15 sions of section nine of this article.

§9-9-8. Exemptions.

1 Participants exempt from the work requirements of the
2 works program pursuant to the provisions of this section
3 shall be required to develop a personal responsibility
4 contract. The secretary shall establish by rule categories
5 of persons exempt only from the work requirements of the
6 program, which categories include, but are not limited to,
7 the following:

8 (a) A parent caring for a dependent child with a life-
9 threatening illness;

10 (b) Individuals over the age of sixty years;

11 (c) Full-time students that are less than twenty years of
12 age and are pursuing a high school diploma or equivalent;

13 (d) Persons with a physical or mental incapacity or
14 persons suffering from a temporary debilitating injury
15 lasting more than thirty days; as defined by the secretary;

16 (e) Relatives providing in-home care for an individual
17 that would otherwise be institutionalized; and

18 (f) Any woman during the last trimester of pregnancy
19 and the first six months after the birth of the child but in
20 no case shall the woman be exempt from the work re-
21 quirements for more than a total of six months: *Provided,*
22 That, in the case of the birth of the first child to said
23 woman after said woman first becomes a cash assistance
24 recipient, the woman may be exempt up to the time her
25 child reaches twelve months of age.

§9-9-9. Personal responsibility contract.

1 (a) Every eligible adult beneficiary shall participate in

2 a program orientation and the development, and subse-
3 quent revisions, of a personal responsibility contract. The
4 contract shall be defined based on the assessed goals and
5 challenges of the participant:

6 (1) If the participant has a recent attachment to the
7 work force, the contract shall include provisions regarding
8 required job search activities, identified support services,
9 level of benefits requested and time limitation.

10 (2) If the participant does not have a recent attachment
11 to the work force, the contract shall identify the evalua-
12 tion or testing activities, and/or job training activities
13 necessary prior to job search activities, identified support
14 services, benefits requested and time limitation.

15 (3) If it is determined that the participant is not able to
16 obtain or maintain gainful employment, the contract shall
17 contain appropriate provisions defining the activities that
18 benefit the participant, their family or their community.

19 (4) The participant's contract shall include the require-
20 ment that the participant develop and maintain, with the
21 appropriate health care provider, a schedule of preventive
22 care for their dependent child, including routine examina-
23 tions and immunizations; assurance of school attendance
24 for school age children under their care; assurance of
25 properly supervised child care, including after-school
26 care; and establish paternity or actively pursue child
27 support, or both, if applicable and if deemed necessary,
28 nutrition or other counseling, parenting or family plan-
29 ning classes.

30 (5) If the participant must overcome challenges prior to
31 employment, the contract shall include a list of the
32 identified challenges and an individual plan for overcom-
33 ing the same.

34 (6) If the participant is a teenage parent, the participant
35 may work, but the contract shall include the requirements
36 that the participant:

37 (A) Remain in an educational activity to complete high
38 school, obtain a general equivalent diploma or obtain
39 vocational training and make satisfactory scholastic

40 progress;

41 (B) Attend parenting classes or participate in a
42 mentorship program, or both if appropriate; and

43 (C) Live at home or in other adult supervised arrange-
44 ments if they are unemancipated minor parents.

45 (7) If the participant is under the age of twenty years
46 and does not have a high school education or its equiva-
47 lent, the contract shall include requirements to participate
48 in mandatory education or training, which if the partici-
49 pant is unemployed, may include a return to high school
50 with satisfactory scholastic progress.

51 (b) In order to receive cash assistance the participant
52 shall enter into a personal responsibility contract. If the
53 participant refuses to sign the personal responsibility
54 contract, the participant and family members shall be
55 ineligible to receive cash assistance: *Provided*, That a
56 participant who alleges that the terms of a personal
57 responsibility contract are inappropriate based on the
58 individual circumstances of the participant may request
59 and shall be provided a fair and impartial hearing in
60 accordance with administrative procedures established by
61 the division and due process of law. A participant who
62 signs a personal responsibility contract, or complies with
63 a personal responsibility contract, does not waive his or
64 her right to request and receive a due process hearing
65 under this subsection.

66 (c) Personal responsibility contracts shall be drafted by
67 the division on a case-by-case basis; take into consider-
68 ation the individual circumstances of each beneficiary;
69 reviewed and reevaluated not less often than every two
70 years; and, in the discretion of the division, amended or
71 extended on a periodic basis.

§9-9-10. Participation limitation; exceptions.

1 The length of time a participant may receive cash
2 assistance through the West Virginia works program shall
3 be defined in the personal responsibility contract: *Pro-*
4 *vided*, That no participant may receive benefits for a
5 period longer than sixty months, except in circumstances

6 as defined by the secretary.

§9-9-11. Breach of contract; notice; sanctions.

1 (a) The division may refuse to extend or renew a per-
2 sonal responsibility contract and the benefits received by
3 the beneficiary, or may terminate an existing contract and
4 benefits, if the division finds any of the following:

5 (1) The employment of fraud or deception by the benefi-
6 ciary in applying for or receiving program benefits;

7 (2) A substantial breach of the requirements and obliga-
8 tions set forth in the personal responsibility contract;

9 (3) A violation of any provision of the personal responsi-
10 bility contract, this article, or any rule promulgated by the
11 secretary pursuant to this article.

12 (b) In the event the division determines that a personal
13 responsibility contract or the benefits received by the
14 beneficiary are subject to revocation or termination,
15 written notice of the violation, revocation or termination
16 shall be deposited in the United States mail, postage pre-
17 paid and addressed to the beneficiary at his or her last
18 known address thirteen days prior to such termination or
19 revocation. Such notice shall state the action of the
20 division, its reason or reasons for such termination and
21 grant to the beneficiary a reasonable opportunity to be
22 heard at a fair and impartial hearing before the division
23 in accordance with administrative procedures established
24 by the division and due process of law.

25 (c) In any hearing granted pursuant to the provisions of
26 this section, the beneficiary shall maintain the burden of
27 proving that his or her benefits were improperly termi-
28 nated and shall bear his or her own costs, including
29 attorneys fees.

30 (d) The secretary shall determine by rule de minimis
31 violations and those violations subject to sanctions and
32 maximum penalties. In the event the division finds that a
33 beneficiary has violated any provision of this article, of his
34 or her personal responsibility contract or any applicable
35 division rule, the division shall impose sanctions against

36 the beneficiary as follows:

37 (1) For the first noncompliance, a one-third reduction of
38 benefits for three months;

39 (2) For the second noncompliance, a two-thirds reduc-
40 tion in benefits for three months; and

41 (3) For the third noncompliance, a termination of
42 benefits for six months.

43 (e) For any sanction imposed pursuant to subsection (d)
44 of this section, if compliance occurs within thirteen days
45 of the date of the notice of the sanction, the reduction in
46 benefits shall not be imposed, but the noncompliance shall
47 count in determining the level of sanction to be imposed
48 for any future noncompliance. Once a reduction in
49 benefits is in effect, it shall remain in effect for the
50 designated time period: *Provided*, That if a participant
51 incurs a second noncompliance sanction during the time
52 period of an imposed first noncompliance sanction, the
53 sanctions shall run concurrently at the second noncompli-
54 ance sanction rate: *Provided, however*, That if during the
55 time period of an imposed second noncompliance sanction,
56 a third noncompliance occurs, the third noncompliance
57 sanction shall be imposed and the participant's benefits
58 shall be terminated. If benefits are terminated, benefits
59 may not be provided until after the six-month time period
60 and the noncompliance that caused the termination has
61 been rectified or excused.

**§9-9-12. Diversionary assistance allowance in lieu of monthly
cash assistance.**

1 (a) In order to encourage at-risk families not to apply for
2 ongoing monthly cash assistance from the state, the
3 secretary may issue one-time diversionary assistance
4 allowances to families in an amount not to exceed three
5 months of cash assistance in order to enable such families
6 to become immediately self-supporting: *Provided*, That
7 receipt of such allowance, regardless of amount, shall
8 count as three months of the sixty months designated
9 under the provisions of section ten of this article.

10 (b) The secretary shall establish by rule the standards to

11 be considered in making diversionary assistance allow-
12 ances.

13 (c) Nothing in this section shall be construed to require
14 that the division or any assistance issued pursuant to this
15 section be subject to any of the provisions of chapter
16 thirty-one or chapter forty-six-a of this code.

§9-9-15. Interagency coordination.

1 The Legislature encourages the development of a system
2 of coordinated services, shared information and stream-
3 lined application procedures between the program and the
4 other agencies within the department to implement the
5 provisions of this article. The secretary shall require the
6 coordination of activities between the program and the
7 following agencies:

8 (a) The child support enforcement division for the
9 purpose of establishing paternity, promoting cooperation
10 in the pursuit of child support, encouraging noncustodial
11 parents to get job search assistance and determining
12 eligibility for cash assistance and support services;

13 (b) The bureau of public health for the purpose of
14 determining appropriate immunization schedules, delivery
15 systems and verification procedures; and

16 (c) The bureau of medical services for the purpose of
17 reporting eligibility for medical assistance and transi-
18 tional benefits.

19 The secretary may require the coordination of proce-
20 dures and services with any other agency he or she deems
21 necessary to implement this program: *Provided*, That all
22 agencies coordinating services with the division shall,
23 when provided with access to division records or informa-
24 tion, abide by state and federal confidentiality require-
25 ments including the provisions of section twenty of this
26 article.

27 The secretary shall propose any rules, including emer-
28 gency rules, necessary for the coordination of various
29 agency activities in the implementation of this section.

§9-9-18. Relationship with other law.

1 If any provision of this article conflicts with any other
2 provision of this code or rules, the provisions of this
3 article shall supersede such provisions: *Provided*, That the
4 provisions of this article shall not supersede any provi-
5 sions which are required or mandated by federal law.

6 Any reference in this code or rules to “aid to families
7 with dependent children” means “temporary assistance
8 for needy families” or any successor state program funded
9 under Part A, Title IV of the Social Security Act.

§9-9-20. Confidentiality, fines and penalties.

1 (a) Except as otherwise provided in this code or rules, all
2 records and information of the department regarding any
3 beneficiary or beneficiary’s family members shall be
4 confidential and shall not be released, except under the
5 following circumstances:

6 (1) If permissible under state or federal rules or regula-
7 tions;

8 (2) Upon the express written consent of the beneficiary
9 or his or her legally authorized representative;

10 (3) Pursuant to an order of any court based upon a
11 finding that said information is sufficiently relevant to a
12 proceeding before the court to outweigh the importance of
13 maintaining the confidentiality established by this section:
14 *Provided*, That all confidential records and information
15 presented to the court shall after review be sealed by the
16 clerk and shall not be open to any person except upon
17 order of the court upon good cause being shown therefor;
18 or

19 (4) To a department or division of the state, pursuant to
20 the terms of an interagency agreement.

21 (b) Any person who knowingly and willfully releases or
22 causes to be released the confidential records and infor-
23 mation described in this section, except under the specific
24 circumstances enumerated in this section, is guilty of a
25 misdemeanor and, upon conviction thereof, shall be fined
26 not more than five hundred dollars or confined in the
27 county or regional jail for not more than six months, or

28 both.

**CHAPTER 48A. ENFORCEMENT OF
FAMILY OBLIGATIONS.**

**ARTICLE 2. WEST VIRGINIA SUPPORT ENFORCEMENT COMMISSION;
CHILD SUPPORT ENFORCEMENT DIVISION; ESTAB-
LISHMENT AND ORGANIZATION.**

§48A-2-24. Disbursements of amounts collected as support.

1 (a) Amounts collected as child or spousal support by the
2 child support enforcement division shall be distributed
3 within ten days of receipt, except as otherwise specifically
4 provided in this chapter. Such amounts shall, except as
5 otherwise provided under the provisions of subsection (c)
6 of this section, be distributed as follows:

7 (1) Any amounts which are collected periodically which
8 represent monthly support payments shall be paid by the
9 child support enforcement division to the appropriate
10 administrative unit of the department of health and
11 human resources to reimburse it for assistance payments
12 to the family during that period (with appropriate reim-
13 bursement of the federal government to the extent of its
14 participation in the financing);

15 (2) Amounts as are in excess of amounts required to
16 reimburse the department of health and human resources
17 under subdivision (1) of this subsection and are not in
18 excess of the amount required to be paid during such
19 period to the family by a court order shall be paid to the
20 obligee; and

21 (3) Amounts that are in excess of amounts required to be
22 distributed under subdivisions (1) and (2) of this subsec-
23 tion shall be: (A) Paid by the child support enforcement
24 division to the appropriate administrative unit of the
25 department of health and human resources (with appro-
26 priate reimbursement of the federal government to the
27 extent of its participation in the financing) as reimburse-
28 ment for any past assistance payments made to the family
29 for which the department has not been reimbursed; or (B)
30 if no assistance payments have been made by the depart-
31 ment which have not been repaid, such amounts shall be

32 paid to the obligee.

33 (b) (1) Whenever a family for whom support payments
34 have been collected and distributed under the provisions
35 of this chapter ceases to receive assistance from the
36 department of health and human resources, the child
37 support enforcement division shall provide notice to the
38 family of their rights with regard to a continuation of
39 services. Unless notified by the family that services are no
40 longer desired, the child support enforcement division
41 shall continue to collect amounts of support payments
42 which represent monthly support payments from the
43 obligor and pay any amount so collected, which represents
44 monthly support payments, to the family (without requir-
45 ing any formal reapplication and without the imposition
46 of any application fee) on the same basis as in the case of
47 other obligees who are not receiving assistance from the
48 department of health and human resources.

49 (2) So much of any amounts of support so collected shall
50 be paid, first, to the obligee until all past due support
51 owed to the family by the obligor has been paid. After all
52 arrearages owing to the family have been paid, any
53 amounts of support collected which are in excess of the
54 required support payments shall be distributed in the
55 manner provided by paragraphs (A) and (B), subdivision
56 (3), subsection (a) of this section with respect to excess
57 amounts described in said subsection.

58 (c) (1) Notwithstanding the preceding provisions of this
59 section, amounts collected by the child support enforce-
60 ment division as child support for months in any period on
61 behalf of a child for whom the department of health and
62 human resources is making foster care maintenance
63 payments shall:

64 (A) Be paid by the child support enforcement division to
65 the appropriate administrative unit of the department of
66 health and human resources to the extent necessary to
67 reimburse the department for foster care maintenance
68 payments made with respect to the child during such
69 period (with appropriate reimbursement of the federal
70 government to the extent of its participation in financing);

71 (B) Be paid to the appropriate administrative unit of the
72 department of health and human resources to the extent
73 that the amounts collected exceed the foster care mainte-
74 nance payments made with respect to the child during
75 such period but do not exceed the amounts required by a
76 court order to be paid as support on behalf of the child
77 during such period; and the department of health and
78 human resources may use the payments in the manner it
79 determines will serve the best interests of the child,
80 including setting such payments aside for the child's
81 future needs or making all or a part thereof available to
82 the person responsible for meeting the child's day-to-day
83 needs; and

84 (C) Be paid to the appropriate administrative unit of the
85 department of health and human resources if any portion
86 of the amounts collected remains after making the pay-
87 ments required under paragraphs (A) and (B) of this
88 subdivision, to the extent that such portion is necessary to
89 reimburse the department of health and human resources
90 (with appropriate reimbursement to the federal govern-
91 ment to the extent of its participation in the financing),
92 for any past foster care maintenance payments, or pay-
93 ments of aid to families with dependent children which
94 were made with respect to the child (and with respect to
95 which past collections have not previously been retained);

96 (d) Any payment required to be made under the provi-
97 sions of this section to a family shall be made to the
98 resident parent, legal guardian or caretaker relative
99 having custody of or responsibility for the child or chil-
100 dren.

101 (e) The commission shall establish bonding requirements
102 for employees of the child support enforcement division
103 who receive, disburse, handle or have access to cash.

104 (f) The director shall maintain methods of administra-
105 tion which are designed to assure that employees of the
106 child support enforcement division or any persons em-
107 ployed pursuant to a contract who are responsible for
108 handling cash receipts do not participate in accounting or
109 operating functions which would permit them to conceal

110 in the accounting records the misuse of cash receipts:
111 *Provided*, That the director may provide for exceptions to
112 this requirement in the case of sparsely populated areas in
113 this state where the hiring of unreasonable additional
114 staff in the local office would otherwise be necessary.

115 (g) No penalty or fee may be collected by or distributed
116 to a recipient of child support enforcement division
117 services from the state treasury or from the child support
118 enforcement fund when child support is not distributed to
119 the recipient in accordance with the time frames estab-
120 lished herein.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy Schoover
.....
Chairman Senate Committee

Mick Santasia
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darrell McRae
.....
Clerk of the Senate

Gregory M. Snow
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

P. K. [Signature]
.....
Speaker House of Delegates

The within [Signature] this the *7th* day of *May*, 1997.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

4/28/97

Time

2:35 pm