

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1678

By: Caldwell

AS INTRODUCED

An Act relating to poor persons; providing for eligibility of certain recipients; providing for certain time periods; providing for termination; providing for application; amending 56 O.S. 1991, Sections 505, 509 and 510, which relate to Community Workfare Experience Act; requiring certain registration; providing for certain eligibility requirements; modifying certain requirement for participation; providing for ineligibility; providing for certain educational and training programs; providing for attendance and performance; providing for failure to maintain such; requiring certain standards and conditions; requiring certain employment; providing method for computing eligibility requirements; removing certain increases; setting residency requirements; providing for computation method for determining certain benefits; providing for application; providing for certain reductions in benefits; providing methodology for determination; requiring certain minors to reside with certain persons to be eligible for certain benefits; specifying exceptions; requiring certain revisions; providing for payments to married persons; providing for

affidavit acknowledging paternity; providing procedures; providing for contents; amending 56 O.S. 1991, Section 240.10, which relates to requiring reimbursement for payments; creating certain debt; requiring certain administrative action or court order; requiring certain employment; providing legislative intent; requiring certain persons to provide support; requiring waivers; repealing 56 O.S. 1991, Sections 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 81, 82, 91, 92, 93, 94, 95, 96, 97, 98, 99, 111, 112, 113, 114, 121, 122, 123, 124, 125, 126, 127, 128, 141, 142, 143, 144, 145, 146, 147 and 148, which relate to poor persons and authority and responsibilities of counties for poor persons; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 231.1 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. 1. Except as otherwise provided by this section, after July 1, 1993, any person eligible to receive payments pursuant to the Aid to Families with Dependent Children program shall be entitled to receive such payments, based on continued eligibility, for forty-eight (48) months after receipt of first payment either on a continuous basis, or noncontinuous basis totaling forty-eight (48) months.

2. Any recipient of payments pursuant to the Aid to Families with Dependent Children program receiving such payments on July 1, 1993, shall be entitled, based on eligibility, to receive such payments for forty-eight (48) months after July 1, 1993, either on a continuous basis, or noncontinuous basis totaling forty-eight (48) months.

3. Any person receiving payments pursuant to this section for a total of forty-eight (48) months shall be ineligible to receive payments pursuant to the Aid to Families with Dependent Children program for twelve (12) months. At the end of the twelve-month period, such person shall be eligible to receive benefits, based on continued eligibility, for additional forty-eight-month periods as specified by this section.

B. The provisions of this section shall not apply to persons who are eligible to receive Aid to Families with Dependent Children who have a permanent total disability based upon a statement from a physician licensed to practice medicine in this state.

SECTION 2. AMENDATORY 56 O.S. 1991, Section 505, is amended to read as follows:

Section 505. A. The facilities of the Oklahoma Employment Security Commission ~~may~~ shall be utilized to locate employment opportunities for participants in the program.

B. Except as otherwise provided by this act, any recipient participating in the program shall be required to register for work and thereafter continue to report at an employment office in accordance with such regulations as the Oklahoma Employment Security Commission may prescribe. A recipient of Aid to Families with Dependent Children benefits shall meet the same employment requirements as unemployed persons must meet to receive benefits pursuant to the unemployment insurance program including, but not limited to, work search requirements, availability and ability to work, and reporting requirements.

SECTION 3. AMENDATORY 56 O.S. 1991, Section 509, is amended to read as follows:

Section 509. A. Each AFDC recipient must register and shall participate, upon referral by the Department, in a program unless such individual is:

1. Employed for no fewer than eighty (80) hours per month and is earning an amount not less than the applicable minimum wage for such employment;

2. A child who is under sixteen (16) years of age or attending school full time;

3. A person who is ill, incapacitated or over the age of fifty-five (55) years;

4. A person whose presence in the home is required because of illness or incapacity of another member of the household; or

5. The mother or other relative who is caring for a child under the age of ~~one (1) year~~ six (6) months.

B. The exemptions contained in subsection A of this section may be modified by the Department in the event of a change in the federal exemption criteria.

C. Any individual referred to in subsection A of this section shall be advised of the option to register, if so desired, and shall be informed of the child care and other services which would be available in the event such individual should decide to register and participate in the program.

SECTION 4. AMENDATORY 56 O.S. 1991, Section 510, is amended to read as follows:

Section 510. Any individual who has been found by the Director to have refused without good cause to participate:

1. Participate in the program; or ~~to have refused without good cause to~~

2. Accept employment which is offered through the Oklahoma Employment Security Commission, or is otherwise offered by an

employer, if the offer of such employer is determined to be a bona fide offer of employment, ~~then such individual's needs shall not be taken into account in making the determination of aid or benefit denial~~

shall be ineligible to receive or continue to receive any benefits pursuant to the AFDC program.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 231.2 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. If a recipient or person eligible to receive AFDC benefits is in need of classroom or individualized instruction designed to enhance the individual's basic skills, the Department of Human Services shall require a recipient or person eligible to receive AFDC benefits to participate in an educational or training program which will provide the recipient or eligible person with the necessary skills for gainful employment based on the job market and the abilities of the recipient. The educational program shall be limited to one course of educational study or training such as obtaining a high school or college degree, or a certification through a vocational-technical program or commercial business course.

B. In order to continue eligibility for the educational or training program, the recipient shall be required to show satisfactory attendance and performance according to standards promulgated by the Department of Human Services. If the recipient fails to maintain satisfactory attendance or performance pursuant to Department standards, such recipient shall comply with subsection C of this section.

C. Upon completion of such educational or training program, or failure to show satisfactory attendance or performance pursuant to Department standards, the recipient is required to register for work and thereafter continue to report at an employment office in

accordance with such regulations as the Oklahoma Employment Security Commission may prescribe. To continue to receive benefits a recipient shall meet the same employment requirements as unemployed persons must meet to receive benefits pursuant to the unemployment insurance program. Failure to register with the Commission for employment or comply with rules for employment pursuant to this subsection shall subject the recipient to termination of AFDC benefits.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 231.3 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. In determining the amount of assistance payments to a recipient family for Aid to Families with Dependent Children, the Department of Human Services shall revise the schedule of benefits to be paid to the recipient family by eliminating the increment in benefits under the program for which that family would otherwise be eligible as a result of the birth of a child during the period in which the family is eligible for Aid to Families with Dependent Children benefits, or during a temporary period in which the family or adult recipient is ineligible for Aid to Families with Dependent Children benefits pursuant to a penalty imposed by the Department for failure to comply with benefit eligibility requirements, subsequent to which the family or adult recipient is again eligible for benefits. The Department shall provide instead that a recipient family in which the adult recipient parents an additional child during a temporary penalty period of ineligibility for benefits, may receive additional benefits only pursuant to subsection B of this section, except in the case of a general increase in the amount of Aid to Families with Dependent Children benefits which is provided to all program recipients.

B. In the case of a family that receives Aid to Families with Dependent Children in which the adult recipient parents an

additional child during the period in which the family is eligible for Aid to Families with Dependent Children benefits subsequent to which the family of the adult recipient again becomes eligible for benefits, the Department, subject to federal approval, shall, in addition to eliminating the increase in the benefit as provided in subsection A of this section, provide that in computing the amount of financial assistance which is available to the family that receives Aid to Families with Dependent Children, the monthly earned income disregarded for each employed person in the family shall increase by an amount equal to that which the family would have otherwise received by parenting an additional child, adjusted for family size.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 231.4 of Title 56, unless there is created a duplication in numbering, reads as follows:

Any person, in order to be eligible to receive assistance pursuant to the Aid to Families with Dependent Children program, shall have been a bona fide citizen and an actual resident of this state for a period of six (6) months prior to the date of application for assistance from such program.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 231.5 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. Any person who is otherwise eligible to receive benefits pursuant to the Aid to Families with Dependent Children program who has resided in this state less than one (1) year on a continuous basis may receive the lesser of payments in an amount equal to:

1. The amount received by persons residing in this state for one (1) year or more; or

2. The benefits such person received or would have received in his last state of residence pursuant to the Aid to Families with Dependent Children program.

B. Any person who is otherwise eligible and who has resided in this state on a continuous basis for one (1) year or more may receive the authorized full level of benefits.

C. To be eligible to receive benefits pursuant to the Aid to Families with Dependent Children program, any such applicant must provide verification as to length of residence in this state and if a resident of this state less than one (1) year, the previous state of residence.

D. The provisions of this section shall only apply to new applications for benefits pursuant to the Aid to Families with Dependent Children program made on or after July 1, 1993.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 231.6 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. By July 1, 1993, the Department of Human Services shall have revised the schedule of benefits payment pursuant to the Aid to Families with Dependent Children program. Any benefits payable to any recipient under such program in this state shall not exceed the amount of the average benefit schedule of those states in the same federally designated region as Oklahoma.

B. If on July 1, 1993, the benefits to any recipient is greater than the rate of payment specified by the Department pursuant to subsection A of this section, the Department shall provide for a phased reduction of ten percent (10%) of the payment to such recipient per year until the benefit payment is equal to the rate determined pursuant to subsection A of this section.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 231.7 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in subsection B of this section, if a person applying for aid is under eighteen (18) years of age, has never married and is pregnant or has a dependent child in his or her

care, the person is not eligible for aid unless he or she lives in a place maintained by his or her parent, legal guardian or other adult relative as the parent's, guardian's or other adult relative's own home or lives in a foster home, maternity home or other supportive living arrangement supervised by an adult.

B. Pursuant to the provisions of the Federal Family Support Act of 1988, subsection A of this section shall not apply in any of the following situations:

1. The person applying for aid has no parent or legal guardian whose whereabouts are known;

2. No parent or legal guardian of the person applying for aid allows the person to live in the home of that parent or legal guardian;

3. The Department determines that the physical or emotional health or safety of the person applying for aid or the dependent child would be jeopardized if the person and the dependent child lived with the person's parent or guardian; and

4. The person applying for aid lived apart from his or her parent or legal guardian for at least one (1) year before the birth of any dependent child or before the person applied for aid.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 231.8 of Title 56, unless there is created a duplication in numbering, reads as follows:

The Commission for Human Services shall revise the rules and standards governing the Aid to Families with Dependent Children program to permit the program to provide full benefits to a family whose income does not exceed the state eligibility standard in which the parents are married and reside in the same household.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 231.9 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The Legislature of this state recognizes and acknowledges the duty of both parents of a child to provide for the care, support and maintenance of the child.

B. Upon the birth of a child to an unmarried woman, the attending physician or midwife, and agent of either or an agent of the hospital where the birth occurred shall:

1. Provide the newborn's mother and natural father with an opportunity to complete an affidavit acknowledging paternity. The completed, signed affidavit shall be filed in triplicate with the local registrar. The local registrar shall send one copy to the State Registrar of Vital Statistics and one copy to the Department of Human Services and shall retain one copy. A fourth and fifth copy shall be given to the mother and natural father separately. This affidavit shall contain:

- a. a sworn, signed statement by the mother consenting to the assertion of paternity and stating that this is the only possible father,
- b. a signed statement by the father that he is the child's natural father,
- c. a written explanation of the implications of and the parental duties and parental rights which arise from signing such a statement, and
- d. the Social Security numbers, driver's license numbers and addresses of both parents; and

2. Provide written information, furnished by the Department of Human Services to the mother, which explains the benefits of having her child's paternity established, the availability of paternity establishment services and the availability of child support enforcement agencies.

SECTION 13. AMENDATORY 56 O.S. 1991, Section 240.10, is amended to read as follows:

Section 240.10 A. Anyone who is ordered to pay support for a child in an administrative or court action, hereinafter referred to as "obligor", is required by law to obtain and maintain gainful employment sufficient to meet the support obligation.

B. The payment of public assistance by the Department of Human Services to or for the benefit of any dependent child creates a debt due and owing to the state by the parents who are responsible for the support of such child in an amount equal to the amount of public assistance so paid.

C. 1. The Department, when support rights have been assigned to it or proper application made by an individual not receiving Aid to Families with Dependent Children, may initiate an administrative action ~~to obtain an order~~ or court order to require an unemployed or underemployed obligor to participate in job-finding or job-training programs.

2. The Department shall initiate an administrative action or court order to require an unemployed or underemployed parent to participate in a job-finding or job-training program who is receiving or whose dependent child is receiving public assistance pursuant to this paragraph.

3. "Underemployed" is defined as being employed less than full-time or in an occupation which pays less than employment which someone of obligor's skills and education could be reasonably expected to earn, so that the obligor cannot meet his support obligation. ~~The~~

D. 1. For an administrative action, the Department shall give notice of this requirement to the obligor who is not complying with a court or administrative order for support and who the Department has reason to believe is unemployed or underemployed. Said notice shall be served upon the obligor in the same manner prescribed for service of summons in a civil action. The notice shall state:

1. ~~The~~ a. the name of the child for whom support is ordered and the custodian of the child~~†~~
2. ~~That~~ b. that the obligor is not complying with the court or administrative order for support and is delinquent in a certain amount~~†~~
3. ~~That~~ c. that it appears that the obligor is unemployed or underemployed so that he cannot meet his support obligation~~†~~
4. ~~That~~ d. that the obligor shall appear for a conference in his county of residence on a date certain to show cause why he should not be ordered to participate in job-finding or job-training programs and to accept available employment~~†~~ and
5. ~~That~~ e. that if it is determined that the obligor is unemployed or underemployed or if the obligor fails to appear, an order will be entered which will require the obligor to participate in job-finding and job-training programs and to accept available employment and that such order may be docketed with the district court in the county of residence of the obligor and shall be enforced as any other order of the district court by indirect civil contempt proceedings.

~~C.~~ 2. At the conference the Department shall determine if the obligor is unemployed or is underemployed. If it is determined that the obligor is unemployed or underemployed, the Department shall enter an order setting forth the Department's findings and requiring that the obligor shall participate in job-finding or job-training programs and accept available employment. The order shall state when the obligor shall report and to what location. The order may be docketed with the district court in the obligor's county of residence and shall be enforced as any other order of the district

court by indirect civil contempt proceedings. A copy of the order will be mailed by the Department to the obligor's last-known address.

~~D.~~ 3. If the obligor fails to appear for the conference, the Department shall enter an administrative order requiring that the obligor report to the Department to participate in job-finding or job-training programs and accept available employment. The order shall state when and where the obligor is to report to participate in said programs. The order may be docketed with the district court in the county of residence of the obligor and shall be enforced as any other order of the district court by indirect civil contempt proceedings. A copy of the order will be mailed by the Department to the obligor's last-known address.

~~E.~~ 4. The obligor may show good cause why an administrative order should not be entered requiring him to participate in job-finding or job-training programs and accept available employment. "Good cause" is defined as establishing by expert medical opinion that the person is mentally or physically unable to work or such other grounds as the Department determines by regulation constitutes good cause.

~~F.~~ 5. If the obligor feels aggrieved by the findings and order of the Department, the obligor may appeal the decision of the Department by filing a petition in error in the district court of the county of residence of the obligor within thirty (30) days of the date the obligor is notified of the order, pursuant to the provisions of Sections 318 through 323 of Title 75 of the Oklahoma Statutes.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 231.10 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The Legislature of this state finds that men and women may live together if they are not married under federal regulations for

AFDC, under the "man in the house" rule, and thus, there is not incentive for recipients of AFDC to adopt traditional family structure. The Legislature further finds that a person who is living with an AFDC parent as a "man in the house" should bear the same responsibilities and obligations as the AFDC custodial parent with regard to the family.

B. Any person living with a family receiving Aid to Families with Dependent Children under the "man in the house" rule as defined by 45 CFR 233.90 shall provide financial support for any children in such family.

C. Any income or assets of any person living with a family receiving Aid to Families with Dependent Children under the "man in the house" rule, as defined by 45 CFR 233.90, shall be considered for the purposes of eligibility for Aid to Families with Dependent Children for that family.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 231.11 of Title 56, unless there is created a duplication in numbering, reads as follows:

The Department of Human Services shall submit any federal waiver requests as necessary no later than July 1, 1993, to implement the provisions of this act. This act shall not be implemented until such federal waivers are approved and a certification is made by the Department of Human Services to the Governor and the Speaker of the House of Representatives and the President Pro Tempore of the Senate that implementation of this act shall not result in the loss of any federal funds.

SECTION 16. REPEALER 56 O.S. 1991, Sections 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 81, 82, 91, 92, 93, 94, 95, 96, 97, 98, 99, 111, 112, 113, 114, 121, 122, 123, 124, 125, 126, 127, 128, 141, 142, 143, 144, 145, 146, 147 and 148, are hereby repealed.

SECTION 17. This act shall become effective July 1, 1993.

SECTION 18. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-1-5388

KSM