

# SENATE BILL REPORT

## SB 5921

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As of April 15, 2011

**Title:** An ACT Relating to social services.

**Brief Description:** Revising social services programs.

**Sponsors:** Senators Regala and Carrell.

**Brief History:**

**Committee Activity:** Ways & Means: 4/13/11.

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Jennifer Strus (786-7316) and Michael Bezanson (786-7449)

**Background:** Temporary Assistance for Needy Families (TANF). TANF is a federal block grant established under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. TANF program replaced the Aid to Families with Dependent Children program, which had provided grants to poor families with children since the 1930s.

States use TANF block grants to operate their own programs. State programs differ, but operate in accordance with the following purposes set forth in federal law:

- to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
- end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
- prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
- encourage the formation and maintenance of two-parent families.

The basic TANF block grant has been set at \$16.6 billion since it was established in 1996. States are required to spend their own funds on programs for needy families or face financial penalties; this is referred to as the maintenance of effort (or MOE) requirement.

WorkFirst. Washington's WorkFirst program was created by the state Legislature in 1997 following the passage of the federal Personal Responsibility and Work Act of 1996 and is administered by the Department of Social and Health Services (DSHS). Parents with children who receive TANF are required to participate in activities designed to lead to

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employment in return for the cash assistance they receive. Following an initial assessment, each recipient signs an Individual Responsibility Plan which outlines the activities the recipient is required to attend if the recipient has adequate child care and transportation. The activities generally fall into categories of barrier removal (chemical dependency treatment, English as a Second Language, etc.), job search, education and training, and community jobs.

In addition to WorkFirst clients, TANF grants are also provided to qualified non-relative and relative caregivers who are providing personal care to children not residing with their parents.

When participants fail to meet WorkFirst participation requirements, they face sanctions or reduced grants. Participants who are out of compliance with requirements for four months are terminated, but may reapply.

WorkFirst Redesign. The WorkFirst Subcabinet (Subcabinet) chartered a re-examination of the WorkFirst program between July and November of 2010, and released its report to the Legislature on February 3, 2011. The Subcabinet found that WorkFirst, as currently designed, is not financially sustainable within available funding. The report includes a comprehensive set of time-series recommendations to redesign the program so it can be sustained for needy families in the future. Some recommendations include:

- continue to provide a full TANF grant for families with income up to 200 percent of the federal poverty level, and a reduced grant for those with higher incomes;
- revise rules regarding the amount of earned income that can be disregarded when determining participants' eligibility to receive TANF assistance;
- implement reasonable eligibility requirements and follow-up checks for child-only cases, for cases in which the child was not placed by the Children's Administration on a dependency order; and
- enhance participant accountability.

Cash Assistance. TANF benefits are provided to recipients through an electronic benefits transfer (EBT) card. The benefit amount is electronically added to the card each month. The EBT card can be used at ATMs and also at stores through a point of sale machine, similar to how debit cards are used.

A TANF recipient is prohibited from using an EBT card or cash obtained with an EBT card to participate in a gambling activity, a parimutuel wagering activity, or to purchase lottery tickets. DSHS must notify EBT cardholders that using an EBT card or cash obtained with an EBT card for any of the prohibited activities could result in legal proceedings and the forfeiture of all cash benefits.

Fraud. The Division of Fraud Investigations (DFI) within DSHS is responsible for investigating allegations of fraud by applicants and recipients of public assistance programs and for investigating allegations of fraud by vendors with whom DSHS has a contract to provide services to DSHS clients. DFI partners with the Economic Services Administration Community Services Division to investigate current eligibility for TANF, Disability Lifeline, Basic Food, Medical, and Working Connections Child Care benefits. According to DSHS material, during the 2009 fiscal year, the cost-avoidance associated with the Fraud Early Detection program was \$24.2 million. During the same period the DFI Overpayment Unit

recovered overpayments totaling \$1.8 million and the Criminal Investigations Program referred 98 cases to state and federal prosecutors.

**Summary of Bill:** WorkFirst Program. During fiscal year 2012, the requirement that WorkFirst activity requirements be fulfilled by TANF recipients is suspended for one and two parent families or relatives personally providing care for a child under the age of six years. Beginning on July 1, 2012, DSHS is to begin phasing in recipients required to participate in WorkFirst back into work activity starting with those recipients closest to reaching the 60 month time limit for receiving TANF. DSHS is to accomplish the phase-in in such a way that a fairly equal number of required participants are returned to work activities each month until all those required to participate in work activities is reached by June 30, 2013. A recipient affected by the suspension may nevertheless volunteer to participate in the WorkFirst program during the suspension.

From July 1, 2011 through June 30, 2013, four legislative members are added to the Subcabinet to assist it in continuing the work on redesigning the WorkFirst programs that was begun during 2010. The Subcabinet must meet at least monthly and the Office of Financial Management (OFM) is to notify the public of the date, time, and location of each of its meetings. The Director of OFM, and one legislative member chosen by the Subcabinet, are to chair the meetings. The work of the Subcabinet is to be staffed jointly by OFM and the Legislature. The Subcabinet has the following responsibilities with regard to the continuing redesign work:

- Assist DSHS in developing and implementing a comprehensive family assessment to be used at program entry. The primary purpose of this assessment is to determine the recipient's readiness for employment.
- Assist DSHS in developing and implementing an evaluation to be used after the family assessment is complete and which is designed to identify appropriate work preparation activities and service levels for the recipients.
- Assist DSHS in selecting or developing and implementing a predictive modeling tool to be used to identify risk factors relating to a recipient's participation in TANF and the recipient's employability. The tool must be designed to identify recipients at high risk to remain on or return to WorkFirst and those at low risk to remain on or likely to exit and not return to WorkFirst.
- Assist DSHS in developing and implementing appropriate outcomes and outcome measures by which the performance of WorkFirst contractors will be evaluated.

The Subcabinet is to issue a report on its activities by June 30, 2012. The provisions regarding the Subcabinet responsibilities expire on June 30, 2013.

Performance-Based Contracting. On or before January 1, 2012, DSHS must engage in competitive contracting using performance-based contracts to provide all WorkFirst work activities. DSHS must use competitive performance-based contracting to select the vendors, including partner agencies, to provide services in the WorkFirst program. The Washington State Institute for Public Policy is to evaluate the contracting practices and outcomes. The evaluation is to include annual progress reports to the Legislature and the Governor, and the first report is due June 30, 2012.

DSHS is to work with the Subcabinet to develop appropriate outcomes by which WorkFirst contractors' performance will be evaluated. The outcomes must be developed no later than November 30, 2011.

TANF. DSHS may institute income eligibility rules for those persons receiving TANF benefits for a child, other than a foster child, for whom the person is the caregiver. DSHS is to establish a sliding scale benefit standard for a child when the caregiver's income is above 200 percent but below 300 percent of the federal poverty level based on family size.

Undocumented parents who receive TANF on behalf of their biological children are ineligible to receive benefits for more than 60 months.

Unless otherwise exempt, no TANF recipient can receive benefits for more than 60 months.

Working Connections Child Care (WCCC). As a condition of receiving WCCC, the applicant must seek child support enforcement services from DSHS. The payment for WCCC constitutes an authorization for DSHS to provide the WCCC recipient with child support services. DSHS is authorized to collect but not retain child support payments.

A WCCC recipient is eligible to receive the subsidy for up to six months before having to recertify his or her income eligibility.

DSHS and the Department of Early Learning must explore different options to track subsidized child care attendance including methods using a landline or cellular telephone, a computer, a point of sale system, or some combination of these methods. By December 31, 2011, both departments must report to the Legislature on their recommended system. The report must address implementation issues, including an implementation timeline, the child care providers to which the system would apply, whether this system would affect the payment process and any other issues.

Fraud. A TANF recipient is prohibited from using an EBT card or cash obtained with an EBT card for the following:

- to participate in or purchase activities located in a tattoo, body piercing, or body art shop;
- to purchase any alcoholic beverage;
- to purchase cigarettes or tobacco products; or
- to purchase or participate in any activity in certain locations.

On or before January 1, 2012, the businesses listed below must disable the ability of the ATMs and point-of-sale machines located on their business premises to accept EBT cards:

- taverns;
- beer/wine specialty stores;
- nightclubs;
- contract liquor stores;
- bail bond agencies;
- gambling establishments;
- tattoo, body piercing, or body art shops;

- adult entertainment venues with performances that contain erotic material where minors under the age of 18 are prohibited; and
- any establishments where persons under the age of 18 are not permitted.

Only the recipient or the recipient's authorized representative may use an EBT card or EBT card benefits and the use may only be for the respective benefit purposes. The recipient may not sell, or attempt to sell, exchange, or donate an EBT card or any benefits to any other person or entity.

The use of an EBT card for a prohibited use is a gross misdemeanor. Any of the listed business establishments that do not comply with the requirement to disable ATM and point-of-sale machines on their business premises from accepting EBT cards will have its business license suspended until it complies with the requirements.

The Office of Fraud and Accountability (OFA) is established in DSHS to detect, investigate, and prosecute any act that constitutes fraud or abuse in the public assistance programs administered by DSHS except for Medicaid and other medical programs. The OFA Director is to report directly to the DSHS Secretary and is to ensure that each citizen or employee complaint, law enforcement complaint, and agency referral is assessed and fully investigated and referred for prosecution when there is substantial evidence of wrongdoing.

OFA is to conduct independent investigations into allegations of fraud and abuse, recommend policies, procedures, and best practices designed to detect and prevent fraud and abuse, analyze cost effective, best practice alternatives to the current cash benefit delivery system, and use best practices to determine the appropriate use and deployment of investigative resources.

By December 31, 2011, OFA is to report to the Legislature on the development of the office, identification of any barriers to meeting the stated goals of OFA, and recommendations for improvement to the system and laws related to the prevention, detection and prosecution of fraud and abuse in public assistance programs.

The Secretary or the Secretary's designee has authority to administer oaths, take testimony, and issue subpoenas.

OFA is to have prompt access to all individuals, records, data, reports, audits, reviews, and other material available to the departments of Revenue, Labor and Industries, Early Learning, Licensing, Employment Security, and any other government entity that can be used to help facilitate an investigation. Information gathered is to remain confidential as required by state or federal law.

The State Auditor is to appoint a fraud ombudsman to oversee and annually audit the work of OFA. The ombudsman is to review the fraud investigative work done by OFA including cases filed with local prosecuting authorities. The ombudsman has authority to investigate citizen complaints alleging fraud or abuse in any public assistance program. The ombudsman has access to OFA frontline staff for purposes of interviews and evaluations. The ombudsman must submit a report summarizing its auditing activities to the appropriate committees of the Legislature by November 30, 2012, and biennially thereafter.

Employee Incentive Pilot. DSHS is to establish an employee incentive program pilot for those employees who work directly with WorkFirst participants. The pilot is to provide for eight hours of annual leave, in addition to the amount the employee normally accrues, for those employees who assist participants in meeting certain outcomes as established by DSHS. The outcomes established must be significant for the participant and can include achieving unsubsidized employment or the removal of a significant barrier to achieving unsubsidized employment. DSHS is to report to the Legislature by January 1, 2013, on the implementation results of the pilot.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** Yes.

**Effective Date:** The bill contains several effective dates. Please refer to the bill.