

FINAL BILL REPORT

ESSB 5921

PARTIAL VETO C 42 L 11 E 1 Synopsis as Enacted

Brief Description: Revising social services programs.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Regala and Carrell).

Senate Committee on Ways & Means
House Committee on Ways & Means

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 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

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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: 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 one child under the age of two years, or two or more children under the age of six years. Both parents in a two parent family cannot use the suspension during the same month. 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. Recipients who participate in the WorkFirst program on a voluntary basis must be provided an option to participate in the program on a part-time basis, consisting of 16 or fewer hours of activities per week.

The Legislative-Executive WorkFirst Oversight Task Force is established. The President of the Senate appoints two members from each of the two largest caucuses in the Senate. The Speaker of the House of Representatives appoints two members from each of the two largest caucuses in the House. The Governor must appoint members representing the following state agencies:

- DSHS;
- Department of Early Learning (DEL);
- Department of Commerce;
- The Employment Security Department;
- The Office of Financial Management; and
- The State Board for Community and Technical Colleges.

The task force is to choose co-chairs, one from among the legislative members and one from among the executive branch members. The legislative members are to convene the first meeting.

The task force is to oversee the partner agencies' implementation of the redesign of the WorkFirst program and operation of the TANF program to ensure the programs are achieving the desired outcomes for their clients; determine evidence-based outcome measures for the WorkFirst program, including measures related to equitably serving the needs of historically underrepresented populations; develop accountability measures for WorkFirst recipients and the state agencies responsible for their progress towards self-sufficiency; and make recommendations to the Governor and Legislature regarding the following: policies to improve the effectiveness of the WorkFirst program over time; early identification of those recipients most likely to experience long stays on the program; and strategies to improve their ability to achieve progress toward self-sufficiency and necessary changes to the program including taking into account federal changes to the TANF program.

The partner agencies must provide the task force with regular reports on their progress toward meeting the outcome and performance measures established by the task force, caseload trends and program expenditures on client services, and the characteristics of families who have been unsuccessful on the program and have lost their benefits either through sanction or the 60-month time limit.

The task force is to meet on a quarterly basis beginning in September 2011 or as determined necessary by the task force co-chairs. During its tenure, state agency task force members must respond in a timely fashion to data requests from the co-chairs.

TANF. DSHS must institute income eligibility rules, effective November 1, 2011, 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.

DSHS must adopt regulations to apply the 60-month time limit to households in which a parent is in the home and ineligible for TANF. Any regulations must be consistent with federal funding requirements. Exemptions that apply to an adult receiving benefits on his or her behalf must also apply to parents receiving benefits on his or her child's behalf.

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

DSHS may implement a permanent disqualification for adults who have been terminated from the program because of WorkFirst noncompliance sanction three or more times since March 1, 2007. A household that includes a permanently disqualified adult is ineligible for further TANF assistance.

Working Connections Child Care (WCCC). As a condition of receiving WCCC, the applicant must seek child support enforcement services from DSHS, unless there is good cause not to. 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. The six-month recertification period applies only if the WCCC program entries are capped.

DSHS and DEL, in consultation with interested individuals and organizations, must jointly identify 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 and report their recommendations to the Legislature by December 31, 2011. Each department's recommendations must address any implementation issues and a proposed implementation time line and should assume a January 2013 implementation date for the attendance tracking system. The Legislature must review the recommendations and authorize implementation of those recommendations. The method that is chosen must interface smoothly with the current and future payment systems for subsidized child care payments.

DSHS and DEL must also assess the current subsidized child care eligibility determination system and develop recommendations to improve the accuracy, efficiency, and responsiveness of the system. The results of the assessment are to be reported to the Legislature no later than December 31, 2011.

Electronic Benefit Cards and Financial Management. DSHS, in consultation with its electronic benefits card contractor and interested persons and organizations, must develop strategies to increase opportunities for public assistance recipients to maintain bank accounts with a goal of increasing recipient financial literacy and financial management skills and minimizing recipient costs associated with ATM transaction fees. A report and recommendations are to be submitted to the relevant policy and fiscal legislative committees by December 1, 2011.

DSHS, in contracting with electronic benefit card providers, must require that any surcharge or transaction fee charged by the provider be disclosed to EBT clients at the point at which the surcharge or transaction fee occurs.

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, but only for the point-of-sale machines used for liquor purchases;
- 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 first violation on the use of an EBT card is a class 4 civil infraction under RCW 7.80.120. Second and subsequent violations constitute a class 3 civil infraction. 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.

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.

Votes on Final Passage:

First Special Session

Senate	44	0	
House	70	10	(House amended)
Senate	44	0	(Senate concurred)

Effective: July 1, 2011.
September 1, 2011 (Section 6).

Partial Veto Summary: The Governor vetoed the section requiring DSHS to engage in competitive performance-based contracting for all WorkFirst activities and the section establishing the fraud ombudsman in the State Auditor's Office.