

SESSION OF 2015

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2258**

As Recommended by Senate Committee on
Public Health and Welfare

Brief*

Senate Sub. for HB 2258 would place the authorization of the Temporary Assistance for Needy Family (TANF) program in statute rather than by rule and regulation, which is the current means used to establish the program. The bill also would modify and create certain definitions and requirements pertaining to child care, TANF assistance, and food assistance programs. It would repeal certain sections of law that authorize the KanWork Act and general assistance. The Department for Children and Families (DCF) would be required to maintain sufficient staffing to conduct work program case management services in a timely manner.

Definitions

“Assistance” would be redefined to include food assistance and not food stamps or coupons; reference to the provision of institutional care also would be omitted from the term. “Aid to Families with Dependent Children” (AFDC) would be renamed “Temporary Assistance for Needy Families,” and the new name would replace AFDC where it appears in law. The uses of TANF would be broadened to include meeting the needs of a qualifying caretaker of a dependent child. The definition of “dependent children” would omit reference to a child who is deprived of parental or guardian support or care, a full-time student in a vocational or technical program, and expected to complete the training

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

prior to turning 19 years old; the definition would make reference to children in the care of biological or adoptive parents or those persons appointed by a court to provide care. Reference to “blood relative” would be omitted from the definition as well. The bill also would repeal the authority of the Secretary for Children and Families (Secretary) to extend by rule and regulation the deprivation of care requirement to children of parents or guardians who have been unemployed.

Definitions for “general assistance” and “transitional assistance” would be deleted, and the term “TANF diversion assistance” would mean a one-time voluntary payment option in lieu of ongoing TANF assistance, designed to meet a crisis that would endanger an applicant’s ability to remain in or accept employment. A household which has a recipient accepting TANF diversion assistance would be ineligible to receive on-going TANF assistance for 12 months following the payment of diversion assistance. The recipient could receive a maximum of 42 months of TANF assistance during a lifetime. A hardship extension of no more than 12 months could be granted at the discretion of the Secretary.

TANF Assistance and Requirements

General eligibility for federal assistance would be revised to include reference to cohabiting partners. Eligibility currently is specified in terms of a husband and wife living together. The husband and wife, or cohabiting partners, would be required to register for work in accordance with criteria set by the Secretary by rule and regulation. A family group would be ineligible for TANF if one household member had received the maximum number of months of TANF assistance under state law. When determining eligibility for federally funded assistance, the Secretary would consider the equity owned in any boat, personal water craft, recreational vehicle, or all-terrain vehicle, as those terms are defined by law. An additional motor vehicle used by the applicant or the applicant’s spouse or cohabiting partner for the primary purpose of making income could be considered exempt

personal property at the discretion of the Secretary. Currently, the Secretary must consider the value of additional motor vehicles owned; one vehicle could be exempted as personal property.

All adults applying for TANF would be required to complete a work program assessment as specified by DCF. This would include adults who were previously disqualified or denied TANF due to non-cooperation (which the bill would define), drug testing, or fraud. Adults who are ineligible aliens or receiving Supplemental Security Income would not be required to complete the assessment process. An adult would be exempt from the work program assessment if the applicant could demonstrate:

- An existing certification verifying completion of the work program assessment;
- A valid offer of employment or is employed a minimum of 20 hours a week;
- The individual is a parenting teen without a GED or high school diploma;
- Enrollment in Job Corps;
- Working with a refugee social services agency; or
- Completion of the work program assessment within the past 12 months.

Recipients would be limited over a lifetime to receiving 36 months of TANF assistance. The bill would allow for hardship assistance during an additional 12 months if the Secretary found the recipient to be:

- The caretaker of a disabled family member living in the household;

- Disabled, which precludes long-term employment or requires substantial rehabilitation;
- Requiring to overcome the effects of domestic violence or sexual assault;
- Involved with prevention and protection services and has an open social service plan; or
- Experiencing an extreme hardship, as would be determined by an executive review team.

In order to meet mandatory work participation requirements, households would be required to work at least 30 hours per week, which would include 20 hours of primary components and 10 hours of secondary components. Primary components would include full- or part-time employment, apprenticeship, work study, self-employment, Job Corps, subsidized employment, work experience sites, on-the-job training, supervised community service, vocational education, and job search and readiness. Secondary components would include job skills training, education directly related to employment, and completion of a GED or high school diploma.

A parent or other caretaker with a child less than three months of age would not be required to engage in work participation. The three-month limitation would not apply to a parent or other caretaker personally providing care for a child born significantly prematurely, with serious medical conditions or with a disability as defined by the Secretary, in consultation with the Secretary of Health and Environment, and adopted in rules and regulations. Under certain conditions, the exemption from work participation for caring for a child under three months could not apply.

Work experience placements would be reviewed after 90 days and would be limited to six months per 48-month lifetime limit. However, client progress would be reviewed prior to each placement. TANF participants with disabilities

would be required to engage in employment activities to the maximum extent consistent with their abilities.

If a TANF participant or a recipient for child care subsidies engages in non-cooperation, which the bill would define, the penalty for the first instance would be for three months; for a second penalty, six months; for a third penalty, one year; and for a fourth or subsequent penalty, ten years. Individuals who have not cooperated without good cause with child support services would be ineligible to participate in the food assistance program. If an individual was to be found to have committed TANF or child care fraud or found guilty of theft on or after July 1, 2015, all adults in the family unit would be ineligible for TANF assistance for a lifetime. In which case, households would be required to name a protective payee, which the Secretary would approve, to receive TANF payments on behalf of the children.

No TANF cash assistance would be available to be used to purchase alcohol, cigarettes, tobacco products, lottery tickets, concert tickets, professional or collegiate sporting event tickets, tickets for other entertainment events intended for the general public, or sexually oriented adult materials. No TANF cash assistance would be allowed for use in a liquor store, casino, gaming establishment, jewelry store, tattoo or body piercing parlor, spa, massage parlor, nail salon, lingerie shop, tobacco paraphernalia store, vapor cigarette store, psychic or fortune telling business, bail bond company, video arcade, movie theater, swimming pool, cruise ship, theme park, dog or horse racing facility, parimutuel facility, or an adult sexually oriented retail business or entertainment establishment.

A photograph of a recipient on a Kansas benefits card issued by DCF, which is used to obtain food, cash, or other services, would be placed on the benefits card only if agreed to by the recipient. If the recipient was a minor or otherwise incapacitated individual, a parent or guardian's photograph could be used instead. TANF cash assistance transactions using ATM machines would be limited to one \$60 transaction

per day, as adjusted by the Consumer Price Index. No TANF cash assistance would be able to be used for purchases at points of sale outside of the state. A benefits card with the recipient's photograph would be a valid form of identification for voting purposes.

Child Care Assistance

The Secretary would be required to adopt rules and regulations in determining the eligibility for the child care subsidy program and non-TANF child care support. DCF would provide child care support, for a lifetime maximum of 24 months per adult, to persons studying for degrees or certification that have an average job outlook, as reported by the U.S. Bureau of Labor Statistics. Other educational pursuits would require the discretionary approval of the Secretary. Students would be required to work for a minimum of 15 hours per week; in a two-parent adult household, child care support would not be provided if both are going to school at the same time.

Food Assistance

Food stamps would be renamed food assistance, and eligibility would be limited to citizens and qualified non-citizens as determined by the U.S. Department of Agriculture (USDA). Non-citizens who are unwilling or unable to provide documentation, as defined by USDA, would not be included in their household's size when benefits are calculated. No funds from federal or state sources would be used for promoting food assistance. The Secretary would be prohibited from requesting or implementing a food assistance waiver from USDA for able-bodied adults. The Secretary also would be prohibited from enacting the state option from the USDA for broad-based categorical eligibility for households applying for food assistance. The Secretary would not be permitted to apply gross income standards for food assistance higher than the standards specified by federal law.

Persons convicted on or after July 1, 2015, of a felony involving controlled substances or their analogs would be disqualified permanently from receiving food assistance. Individuals would be eligible for food assistance if they would enroll and participate in a drug treatment program approved by the Secretary. Individuals would have to submit to drug testing, if requested by DCF pursuant to a drug-testing plan. Failure to submit to a drug test or pass it would result in ineligibility for food assistance until the individual complies with the drug treatment plan approved by the Secretary. The drug treatment plan exception would not apply to any individual convicted on or after July 1, 2015, of a second or subsequent felony involving controlled substances or their analogs.

Other Provisions

The eligibility requirements for general assistance funded by non-federal sources would be repealed. The bill also would repeal the requirement for a list of all recipients' names and addresses be made available to the public. Any statistics collected would be reported in an aggregate, non-identifying nature. The Secretary would be authorized to negotiate debts or liabilities owed to the agency for purposes of providing Title IV-D child support enforcement services.

Background

The Senate Committee on Public Health and Welfare removed the contents of HB 2258, which originally amended the Kansas Mortgage Business Act, and inserted the contents of HB 2381, as amended by the House Committee on Commerce, Labor and Economic Development. The Senate Committee created a substitute bill with the following amendments to provisions from HB 2381 as amended:

- Not limit a parent or caretaker of a child born significantly prematurely, with serious medical

conditions or with a disability, to the three-month exemption from the requirement to engage in work participation to receive TANF assistance applicable to a parent or caretaker of a child less than three months of age;

- Prohibit an individual convicted on or after July 1, 2015, of a second or subsequent felony involving controlled substances or their analogs from receiving food assistance regardless of the exception allowing for such assistance if the individual submits to and passes drug testing and participates in a drug treatment program approved by the Secretary;
- Adjust, by the Consumer Price Index, the limit on the amount of TANF cash that may be withdrawn using an ATM;
- Place a TANF recipient's photograph on a Kansas benefits card only if the recipient agrees; and
- Make technical amendments.

In 1996, Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act that created the TANF Program. It is a time-limited cash benefit program that requires work as a condition of eligibility. Under federal law, an individual may receive no more than 60 months of TANF assistance, but states have the discretion to set a shorter period of assistance. The Child Care Assistance Program is an income-based program that provides a child care subsidy to low-income, working families, up to 185 percent of the federal poverty level. The USDA food assistance program specified in the bill is called the Supplemental Nutrition Assistance Program (SNAP); it provides food benefits to households with incomes up to 130 percent of the federal poverty level.

HB 2381

During the hearing before the House Committee, proponent testimony was provided by representatives of DCF, the Department of Commerce, and a work service provider. Proponents stated the bill would solidify recent policy changes by enacting them in statute. New policies, which would be additional to those currently contained in administrative rules and regulations, would require adults receiving food assistance to cooperate with child enforcement services, make persons convicted of certain drug-related felonies ineligible for food assistance, and would prevent TANF assistance from being used at certain types of retail establishments to purchase products or services. Several individuals testified in favor as well, describing their experiences with TANF and the steps they took to provide for themselves.

Opponent testimony was provided by representatives of Kansas Action for Children, Kansas Appleseed, New Beginnings, Noel Emergency Lodge, Kansas Association of Community Action Programs, United Community Services of Johnson County, Harvesters Food Network, KC Healthy Kids, and the Kansas Association of Criminal Defense Lawyers. Opponents expressed concern the new requirements and waiver prohibitions would decrease access to persons in need.

Neutral testimony was provided by representatives of USDA, explaining the federal agency's involvement with DCF, and the Kansas Catholic Conference, expressing concern a lifetime ban on food assistance for a drug felony would not take rehabilitation into consideration.

The House Committee on Commerce, Labor and Economic Development amended the bill to:

- Include recreational vehicles and exclude any additional motor vehicle used to generate income when determining a household's eligibility;

- Include various types of retail establishments and tickets for public entertainment in the list of prohibited uses for TANF cash assistance;
- Require a TANF recipient's photograph to appear on the Kansas benefit card and allow an option for a parent's or legal guardian's photograph to appear;
- Allow Kansas benefit cards with photographs to be a valid form of ID for voting purposes;
- Preclude the Secretary from using gross income and resource limit standards higher than federal law for food assistance purposes;
- Reduce the number of months of regular TANF assistance from 48 months to 36 months, and reduce the maximum number of months including extensions, from 60 months to 48 months;
- Limit the amount and frequency that TANF cash may be withdrawn using an ATM;
- Require recipients of food assistance to submit to drug testing and participation in drug treatment program as approved by the Secretary; and
- Include technical corrections, making the language and references in the bill consistent.

According to the fiscal note prepared by the Division of the Budget, in consultation with DCF, the bill, as introduced, would have no fiscal effect on state revenues or expenditures.