

EMPLOYMENT SUPPORT ACT AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: David N. Cox

LONG TITLE

General Description:

This bill modifies the Employment Support Act by making technical, nonsubstantive changes and repealing outdated sections.

Highlighted Provisions:

This bill:

- ▶ repeals outdated sections of the Employment Support Act related to assistance targets for the years 1998 through 2000, disclosure of income and property owned by applicants and clients in determining eligibility for a service or benefit, and an evaluation of the Social Capital Formation Act completed in 2001; and
- ▶ makes certain technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-3-302, as last amended by Chapters 61 and 70, Laws of Utah 1999

35A-3-304, as last amended by Chapter 143, Laws of Utah 2001

35A-3-306, as last amended by Chapter 58, Laws of Utah 2002

35A-3-308, as renumbered and amended by Chapter 174, Laws of Utah 1997

35A-3-309, as last amended by Chapter 159, Laws of Utah 2002

35A-3-310, as last amended by Chapter 61, Laws of Utah 1999

35A-3-313, as enacted by Chapter 174, Laws of Utah 1997

35A-3-401, as last amended by Chapter 133, Laws of Utah 2000

REPEALS:

35A-3-107, as last amended by Chapter 61, Laws of Utah 1999

35A-3-314, as enacted by Chapter 174, Laws of Utah 1997

35A-3-509, as renumbered and amended by Chapter 174, Laws of Utah 1997

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **35A-3-302** is amended to read:

35A-3-302. Eligibility requirements.

(1) The program of cash assistance provided under this part is known as the Family Employment Program.

(2) (a) The division shall submit a state plan to the Secretary of the United States Department of Health and Human Services to obtain federal funding under the Temporary Assistance for Needy Families Block Grant.

(b) The [~~provisions of the state plan submitted under Subsection (2)(a) shall be~~] division shall make the plan consistent with this part and federal law.

(c) If a discrepancy arises between a provision of the state plan and this part, this part supersedes the provision in the state plan.

(3) The services and supports under this part are for both one-parent and two-parent families.

(4) To be eligible for cash assistance under this part, a family shall:

(a) have at least one minor dependent child; or

(b) have a parent who is in the third trimester of a pregnancy.

(5) (a) In an appropriations act, the Legislature shall determine annually the maximum monthly dollar amount of cash assistance for families based on family size.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, [~~and consistent with Section 35A-3-107,~~] the department shall establish rules for eligibility and the amount of cash assistance a family is eligible to receive under this part[~~, which shall be~~] based on:

- (i) family size;
- (ii) family income;
- (iii) ~~[the maximum monthly income established under Subsection (5)(a)]~~ income

disregards; and

- (iv) other relevant factors.

~~[(6) (a) When determining the dollar amount of cash assistance to be provided under this chapter, the division shall disregard from earned income:]~~

~~[(i) \$100;]~~

~~[(ii) a monthly insurance payment of up to \$50 for a passenger vehicle owned or leased by the applicant;]~~

~~[(iii) a monthly lease or purchase payment of up to \$100 for a passenger vehicle owned or leased by the applicant, if that passenger vehicle is the only such vehicle reasonably available to the applicant to meet basic transportation needs; and]~~

~~[(iv) 50% of the remaining monthly income:]~~

~~[(b) Subsections (6)(a)(ii) and (iii) may only be considered in determining the dollar amount of cash assistance:]~~

~~[(i) for cash assistance-only cases; and]~~

~~[(ii) for other public assistance cases if:]~~

~~[(A) Subsections (6)(a)(ii) and (iii) can be implemented within the state's existing public assistance-related waivers as of January 1, 1999;]~~

~~[(B) the federal government extends a waiver that permits the implementation of Subsections (6)(a)(ii) and (iii); or]~~

~~[(C) the federal government determines that the state's waivers that permit dual eligibility determinations for cash assistance and Medicaid are no longer valid.]~~

~~[(7) Once eligibility has been established, the]~~

(6) The division shall disregard money on deposit in an Individual Development Account established under Section 35A-3-312 ~~[when]~~ in determining ~~[subsequent]~~ eligibility.

~~[(8)]~~ (7) The department shall provide for an appeal of a determination of eligibility in

accordance with Title 63, Chapter 46b, Administrative Procedures Act.

Section 2. Section **35A-3-304** is amended to read:

35A-3-304. Assessment -- Participation requirements and limitations -- Mentors.

(1) (a) Within 20 business days of the date of enrollment, a parent client shall:

- (i) be assigned an employment counselor; and
- (ii) complete an assessment provided by the division regarding the parent client's:
 - (A) family circumstances[;];
 - (B) education[;];
 - (C) work history[;];
 - (D) skills[;]; and
 - (E) ability to become self-sufficient.

(b) The assessment provided under Subsection (1)(a)(ii) shall include a survey to be completed by the parent client with the assistance of the division.

(2) (a) Within 15 business days of a parent client completing an assessment, the division and the parent client shall enter into an employment plan.

(b) The employment plan shall [~~contain~~] have a target date for entry into employment.

(c) The division shall provide a copy of the employment plan to the parent client.

(d) As to the parent client, the plan may include:

- (i) job searching requirements;
- (ii) if the parent client does not have a high school diploma, participation in an educational program to obtain a high school diploma, or its equivalent[~~, if the parent client does not have a high school diploma~~];
- (iii) education or training necessary to obtain employment;
- (iv) a combination of work and education or training;
- (v) assisting the Office of Recovery Services in good faith to:
 - (A) establish the paternity of a minor child; and
 - (B) establish or enforce a child support order; and
- (vi) if the parent client is a drug dependent person as defined in Section 58-37-2,

participation in available treatment for drug dependency and progress toward overcoming that dependency [~~if the parent client is a drug-dependent person as defined in Section 58-37-2~~].

(e) As to the division, the plan may include:

(i) providing cash and other types of public and employment assistance, including child care;

(ii) assisting the parent client to obtain education or training necessary for employment;

(iii) assisting the parent client to set up and follow a household budget; and

(iv) assisting the parent client to obtain employment.

(f) ~~Am~~ The division may amend the employment plan ~~[may be amended]~~ to reflect new information or changed circumstances.

(g) If immediate employment is an activity contained in the employment plan the parent client shall:

(i) promptly commence a search for a specified number of hours each week for employment; and

(ii) regularly submit a report to the division on:

(A) how time was spent in search for a job;

(B) the number of job applications completed;

(C) the interviews attended;

(D) the offers of employment extended; and

(E) other related information required by the division.

(h) (i) If full-time education or training to secure employment is an activity contained in an employment plan, the parent client shall promptly undertake a full-time education or training program.

(ii) The employment plan may describe courses, education or training goals, and classroom hours.

(i) (i) As a condition of receiving cash assistance under this part, a parent client shall agree to make a good faith effort to comply with the employment plan.

(ii) If a parent client consistently fails to show good faith in complying with the

employment plan, the division may seek under Subsection (2)(i)(iii) to terminate all or part of the cash assistance services provided under this part.

(iii) The division shall establish a process to reconcile disputes between a client and the division as to whether:

- (A) the parent client has made a good faith effort to comply with the employment plan; or
- (B) the division has complied with the employment plan.

(3) (a) Except as provided in Subsection (3)(b), a parent client's participation in education or training beyond that required to obtain a high school diploma or its equivalent is limited to the lesser of:

- (i) 24 months; or
- (ii) the completion of the education and training requirements of the employment plan.

(b) A parent client may participate in education or training for up to six months beyond the 24-month limit of Subsection (3)(a)(i) if:

- (i) the parent client is employed for 80 or more hours a month; and
- (ii) the extension is for good cause shown and approved by the director.

(c) A parent client who receives an extension under Subsection (3)(b) remains subject to Subsection (4).

(4) (a) A parent client with a high school diploma or equivalent who has received 24 months of education or training shall participate in full-time work activities.

(b) The 24 months need not be continuous and the department may define "full-time work activities" by rule.

(5) [~~Beginning on July 1, 1998, as~~] As a condition for receiving cash assistance on behalf of a minor child under this part, the minor child [~~shall~~] must be:

- (a) enrolled in and attending school in compliance with Section 53A-11-101; or
- (b) exempt from school attendance under Section 53A-11-102.

(6) This section does not apply to a person who has received diversion assistance under Section 35A-3-303.

(7) (a) The division shall recruit and train volunteers to serve as mentors for parent

clients.

(b) A mentor may advocate on behalf of a parent client and help a parent client:

- (i) develop life skills;
- (ii) implement an employment plan; or
- (iii) obtain services and supports from:
 - (A) the volunteer mentor;
 - (B) the division; or
 - (C) civic organizations.

Section 3. Section **35A-3-306** is amended to read:

35A-3-306. Limits on eligibility.

(1) For purposes of this section, "battered or subjected to extreme cruelty" is defined in Section 103(a)(1) of P.L. 104-193 or 42 U.S.C. Sec. 608(a)(7)(C)(iii), The Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(2) Except as provided in Subsection (4), the division may not provide cash assistance to a family who has received cash assistance for 36 months or more.

(3) (a) The division shall count toward the 36-month time limit in Subsection (2) any time after January 1, 1997, during which:

- (i) the parent client received cash assistance in this or another state; and
- (ii) the parent client is disqualified from receiving cash assistance and the parent client's income and assets are counted in determining eligibility for the family in this or another state.

(b) The division may not count toward the 36-month time limit in Subsection (2) or the 24-month time period in Subsection (4) any time during which a person 18 years of age or older received cash assistance as a minor child and not as a parent.

(4) (a) On a month-to-month basis for up to 24 months, the division may provide cash assistance to a family beyond the 36-month time limit in Subsection (2) if:

(i) during the previous month, the parent client was employed for no less than 80 hours; and

(ii) during at least six of the previous 24 months the parent client was employed for no

less than 80 hours a month.

(b) For up to 20% of the average monthly number of families who receive cash assistance under this part, the division may provide cash assistance to a family beyond the 36-month time limit in Subsection (2):

- (i) by reason of a hardship; or
- (ii) if the family includes an individual who has been battered or subjected to extreme cruelty.

(c) For up to 20% of the average monthly number of families who receive cash assistance under this part, the division may provide cash assistance to a family beyond the additional 24-month time period in Subsection (4)(a):

- (i) by reason of a hardship; or
- (ii) if the family includes an individual who has been battered or subjected to extreme cruelty.

(d) Except as provided in ~~[Subsection]~~ Subsections (4)(b) and (c), the division may not provide cash assistance to a family who has received 60 months of cash assistance after October 1, 1996.

Section 4. Section **35A-3-308** is amended to read:

35A-3-308. Adoption services -- Printed information -- Supports provided.

(1) The division may provide assistance under this section to a client who is pregnant and is not receiving cash assistance no sooner than the beginning of the third trimester of pregnancy.

(2) For pregnant clients, the division shall:

- (a) refer the client for appropriate prenatal medical care, including maternal health services provided under Title 26, Chapter 10, Family Health Services;
- (b) inform the client of free counseling about adoption from licensed child placement agencies and licensed attorneys; and
- (c) offer the client the adoption information packet described in Subsection (3).

(3) The department shall publish an adoption information packet that ~~[shall]~~:

- (a) ~~[be]~~ is easy to understand;

(b) ~~[contain]~~ contains geographically indexed materials on the public and private organizations that provide adoption assistance;

(c) ~~[list]~~ lists the names, addresses, and telephone numbers of licensed child placement agencies and licensed attorneys who place children for adoption;

(d) ~~[explain]~~ explains that private adoption is legal and that the law permits adoptive parents to reimburse the costs of prenatal care, childbirth, neonatal care, and other expenses related to pregnancy; and

(e) ~~[describe]~~ describes the services and supports available to the client under this section.

(4) (a) A client ~~[shall remain]~~ remains eligible for assistance under this section, even though the client relinquishes a child for adoption, provided that the adoption is in accordance with Section 78-30-4.14.

(b) The assistance provided under this section may include:

~~[(a)]~~ (i) reimbursement for expenses associated with care and confinement during pregnancy as provided for in Subsection (5); and

~~[(b)]~~ (ii) for a maximum of 12 months from the date of relinquishment, coordination of services to assist the client in:

~~[(i)]~~ (A) receiving appropriate educational and occupational assessment and planning;

~~[(ii)]~~ (B) enrolling in appropriate education or training programs, including high school completion and adult education programs;

~~[(iii)]~~ (C) enrolling in programs that provide assistance with job readiness, employment counseling, finding employment, and work skills;

~~[(iv)]~~ (D) finding suitable housing;

~~[(v)]~~ (E) receiving medical assistance, under Title 26, Chapter 18, Medical Assistance Act, if the client is otherwise eligible; and

~~[(vi)]~~ (F) receiving counseling and other mental health services.

(5) (a) Except as provided in Subsection (5)(b), a client is eligible to receive an amount equal to the maximum monthly amount of cash assistance paid to one person for up to 12 consecutive months from the date of relinquishment.

(b) If a client is otherwise eligible to receive cash assistance under this part, the client is eligible to receive an amount equal to the increase in cash assistance the client would have received but for the relinquishment for up to 12 consecutive months from the date of relinquishment.

(6) (a) To be eligible for assistance under this section, a client shall:

(i) with the cooperation of the division, develop and implement an employment plan containing goals for achieving self-sufficiency and describing the action the client will take concerning education and training that will result in full-time employment;

(ii) if the client does not have a high school diploma, enroll in high school or an alternative to high school~~[, if the client does not have a high school diploma,]~~ and demonstrate progress toward graduation; and

(iii) make a good faith effort to meet the goals of the employment plan as provided in Section 35A-3-304.

(b) Cash assistance provided to a client before the client relinquishes a child for adoption is part of the state plan.

(c) Assistance provided under Subsection (5):

(i) shall be provided for with state funds; and

(ii) may not be tolled when determining subsequent eligibility for cash assistance under this chapter.

(d) The time limit provisions of Section 35A-3-306 apply to cash assistance provided under the state plan.

~~[(d)]~~ (e) The division shall monitor a client's compliance with this section.

~~[(e)]~~ (f) Except for Subsection (6)(b), ~~[the provisions of]~~ Subsections (2) through (6) ~~[shall be]~~ are excluded from the state plan.

Section 5. Section **35A-3-309** is amended to read:

35A-3-309. Information regarding home ownership.

(1) The division shall provide information and service coordination to assist a client to ~~[occupy]~~ obtain affordable housing.

(2) The information and services may include:

~~[(1)]~~ (a) information from the Utah Housing Corporation and the Division of Community Development within the Department of Community and Economic Development regarding special housing programs, including programs for first-time home buyers and persons with low and moderate incomes and the eligibility requirements for those programs;

~~[(2)]~~ (b) referrals to programs operated by volunteers from the real estate industry that assist clients in obtaining affordable housing, including information on home ownership, down payments, closing costs, and credit requirements; and

~~[(3)]~~ (c) referrals to housing programs operated by municipalities, counties, local housing authorities, and nonprofit housing organizations that assist individuals to obtain affordable housing, including first-time home ownership.

Section 6. Section **35A-3-310** is amended to read:

35A-3-310. Child care services.

(1) A parent client may receive assistance for child care under this part for a minor child in the care and custody of the parent client, unless the other parent in a two-parent family:

- (a) is capable of caring for the family's child;
- (b) is not employed; and
- (c) has not entered into an employment plan with the division.

(2) The division shall encourage a parent client to obtain child care at no cost from a parent, sibling, relative, or other suitable provider.

(3) Within appropriations from the Legislature and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, [~~and Section 35A-3-107,~~] the department may make rules governing eligibility for child care services for a minor child in the care and custody of a parent who does not [~~or no longer receives~~] receive cash assistance under this part.

Section 7. Section **35A-3-313** is amended to read:

35A-3-313. Performance goals.

(1) As used in this section:

- (a) "Performance goals" means a target level of performance or an expected level of

performance against which actual performance is compared.

(b) "Performance indicators" means actual performance information regarding a program or activity.

(c) "Performance monitoring system" means a process to regularly collect and analyze performance information including performance indicators and performance goals.

(2) (a) The department shall establish a performance monitoring system for cash assistance provided under this part.

(b) The department shall establish the performance indicators and performance goals that will be used in the performance monitoring system for cash assistance under this part. [~~The performance monitoring system shall begin on October 1, 1997.~~]

(c) (i) On or before December 31[~~, 1998, and every~~] of each year [~~thereafter~~], the department shall submit to the legislative fiscal analyst and the director of the Office of Legislative Research and General Counsel, a written report describing the difference between actual performance and performance goals for the second, third, and fourth quarters of the prior fiscal year and the first quarter of the current fiscal year.

(ii) (A) The legislative fiscal analyst[;] or the analyst's designee[;] shall convey the information contained in the report to the appropriation subcommittee that has oversight responsibilities for the Department of Workforce Services during the General Session that follows the submission of the report.

(B) The subcommittee may consider the information in its deliberations regarding the budget for services and supports under this chapter.

(iii) The director of the Office of Legislative Research and General Counsel[;] or the director's designee[;] shall convey the information in the report to:

(A) the legislative interim committee that has oversight responsibilities for the Department of Workforce Services; and

(B) the Utah Tomorrow Strategic Planning Committee.

Section 8. Section **35A-3-401** is amended to read:

35A-3-401. General Assistance.

(1) (a) General Assistance may be provided to individuals who are not receiving cash assistance under Part 3, Family Employment Program, or Supplemental Security Income, and who are unemployable according to standards [~~promulgated~~] established by the department.

(b) (i) General Assistance may be provided by payment in cash or in kind.

(ii) The office may provide an amount less than the existing payment level for an otherwise similarly situated client of cash assistance under Part 3, Family Employment Program.

(c) The office shall establish asset limitations for General Assistance clients [~~consistent with Section 35A-3-107~~].

(d) (i) General Assistance may be granted to meet special nonrecurrent needs of an applicant for the federal Supplemental Security Income program, if the applicant agrees to reimburse the division for assistance advanced while awaiting the determination of eligibility by the Social Security Administration.

(ii) General Assistance payments may not be made to a current client of cash assistance or Supplemental Security Income.

(e) (i) General Assistance may be used for the reasonable cost of burial for a client, if heirs or relatives are not financially able to assume this expense.

(ii) Notwithstanding Subsection (1)(e)(i), if the body of a person is unclaimed, Section 53B-17-301 applies.

(iii) The department shall fix the cost of a reasonable burial and conditions under which burial expenditures may be made.

(2) The division may cooperate with any governmental unit or agency, or any private nonprofit agency in establishing work projects to provide employment for employable persons.

Section 9. Repealer.

This bill repeals:

Section 35A-3-107, Disclosure of income and property owned -- Eligibility standards.

Section 35A-3-314, Assistance targets.

Section 35A-3-509, Review by Legislative Auditor General.