

**EMPLOYMENT SUPPORT ACT AMENDMENTS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: David N. Cox**

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**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This bill modifies the Employment Support Act by making technical, nonsubstantive changes and repealing outdated sections.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- ▶ repeals outdated sections of the Employment Support Act related to assistance targets for the years 1998 through 2000, disclosure of income and property owned by applicants and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



28           **35A-3-310**, as last amended by Chapter 61, Laws of Utah 1999

29           **35A-3-313**, as enacted by Chapter 174, Laws of Utah 1997

30           **35A-3-401**, as last amended by Chapter 133, Laws of Utah 2000

31 REPEALS:

32           **35A-3-107**, as last amended by Chapter 61, Laws of Utah 1999

33           **35A-3-314**, as enacted by Chapter 174, Laws of Utah 1997

34           **35A-3-509**, as renumbered and amended by Chapter 174, Laws of Utah 1997



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

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

38           **35A-3-302. Eligibility requirements.**

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

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

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

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

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

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

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

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

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

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

59 (i) family size;

60 (ii) family income;

61 (iii) ~~[the maximum monthly income established under Subsection (5)(a)]~~ income

62 disregards; and

63 (iv) other relevant factors.

64 ~~[(6)(a) When determining the dollar amount of cash assistance to be provided under~~

65 ~~this chapter, the division shall disregard from earned income:]~~

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

67 ~~[(ii) a monthly insurance payment of up to \$50 for a passenger vehicle owned or leased~~

68 ~~by the applicant;]~~

69 ~~[(iii) a monthly lease or purchase payment of up to \$100 for a passenger vehicle owned~~

70 ~~or leased by the applicant, if that passenger vehicle is the only such vehicle reasonably~~

71 ~~available to the applicant to meet basic transportation needs; and]~~

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

73 ~~[(b) Subsections (6)(a)(ii) and (iii) may only be considered in determining the dollar~~

74 ~~amount of cash assistance:]~~

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

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

77 ~~[(A) Subsections (6)(a)(ii) and (iii) can be implemented within the state's existing~~

78 ~~public assistance-related waivers as of January 1, 1999;]~~

79 ~~[(B) the federal government extends a waiver that permits the implementation of~~

80 ~~Subsections (6)(a)(ii) and (iii); or]~~

81 ~~[(C) the federal government determines that the state's waivers that permit dual~~

82 ~~eligibility determinations for cash assistance and Medicaid are no longer valid:]~~

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

84 (6) The division shall disregard money on deposit in an Individual Development

85 Account established under Section 35A-3-312 ~~[when]~~ in determining ~~[subsequent]~~ eligibility.

86 ~~[(8)]~~ (7) The department shall provide for an appeal of a determination of eligibility in

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

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

89 **35A-3-304. Assessment -- Participation requirements and limitations -- Mentors.**

- 90 (1) (a) Within 20 business days of the date of enrollment, a parent client shall:
- 91 (i) be assigned an employment counselor; and
- 92 (ii) complete an assessment provided by the division regarding the parent client's:
- 93 (A) family circumstances[;];
- 94 (B) education[;];
- 95 (C) work history[;];
- 96 (D) skills[;]; and
- 97 (E) ability to become self-sufficient.
- 98 (b) The assessment provided under Subsection (1)(a)(ii) shall include a survey to be
- 99 completed by the parent client with the assistance of the division.
- 100 (2) (a) Within 15 business days of a parent client completing an assessment, the
- 101 division and the parent client shall enter into an employment plan.
- 102 (b) The employment plan shall ~~contain~~ have a target date for entry into employment.
- 103 (c) The division shall provide a copy of the employment plan to the parent client.
- 104 (d) As to the parent client, the plan may include:
- 105 (i) job searching requirements;
- 106 (ii) if the parent client does not have a high school diploma, participation in an
- 107 educational program to obtain a high school diploma, or its equivalent~~[; if the parent client~~
- 108 ~~does not have a high school diploma]~~;
- 109 (iii) education or training necessary to obtain employment;
- 110 (iv) a combination of work and education or training;
- 111 (v) assisting the Office of Recovery Services in good faith to:
- 112 (A) establish the paternity of a minor child; and
- 113 (B) establish or enforce a child support order; and
- 114 (vi) if the parent client is a drug dependent person as defined in Section 58-37-2,
- 115 participation in available treatment for drug dependency and progress toward overcoming that
- 116 dependency ~~[if the parent client is a drug dependent person as defined in Section 58-37-2]~~.
- 117 (e) As to the division, the plan may include:
- 118 (i) providing cash and other types of public and employment assistance, including child
- 119 care;
- 120 (ii) assisting the parent client to obtain education or training necessary for employment;

- 121 (iii) assisting the parent client to set up and follow a household budget; and  
122 (iv) assisting the parent client to obtain employment.
- 123 (f) ~~[An]~~ The division may amend the employment plan ~~[may be amended]~~ to reflect  
124 new information or changed circumstances.
- 125 (g) If immediate employment is an activity contained in the employment plan the  
126 parent client shall:
- 127 (i) promptly commence a search for a specified number of hours each week for  
128 employment; and
- 129 (ii) regularly submit a report to the division on:
- 130 (A) how time was spent in search for a job;  
131 (B) the number of job applications completed;  
132 (C) the interviews attended;  
133 (D) the offers of employment extended; and  
134 (E) other related information required by the division.
- 135 (h) (i) If full-time education or training to secure employment is an activity contained  
136 in an employment plan, the parent client shall promptly undertake a full-time education or  
137 training program.
- 138 (ii) The employment plan may describe courses, education or training goals, and  
139 classroom hours.
- 140 (i) (i) As a condition of receiving cash assistance under this part, a parent client shall  
141 agree to make a good faith effort to comply with the employment plan.
- 142 (ii) If a parent client consistently fails to show good faith in complying with the  
143 employment plan, the division may seek under Subsection (2)(i)(iii) to terminate all or part of  
144 the cash assistance services provided under this part.
- 145 (iii) The division shall establish a process to reconcile disputes between a client and the  
146 division as to whether:
- 147 (A) the parent client has made a good faith effort to comply with the employment plan;  
148 or
- 149 (B) the division has complied with the employment plan.
- 150 (3) (a) Except as provided in Subsection (3)(b), a parent client's participation in  
151 education or training beyond that required to obtain a high school diploma or its equivalent is

152 limited to the lesser of:

153 (i) 24 months; or

154 (ii) the completion of the education and training requirements of the employment plan.

155 (b) A parent client may participate in education or training for up to six months beyond

156 the 24-month limit of Subsection (3)(a)(i) if:

157 (i) the parent client is employed for 80 or more hours a month; and

158 (ii) the extension is for good cause shown and approved by the director.

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

160 to Subsection (4).

161 (4) (a) A parent client with a high school diploma or equivalent who has received 24

162 months of education or training shall participate in full-time work activities.

163 (b) The 24 months need not be continuous and the department may define "full-time

164 work activities" by rule.

165 (5) [~~Beginning on July 1, 1998, as~~] As a condition for receiving cash assistance on

166 behalf of a minor child under this part, the minor child [~~shall~~] must be:

167 (a) enrolled in and attending school in compliance with Section 53A-11-101; or

168 (b) exempt from school attendance under Section 53A-11-102.

169 (6) This section does not apply to a person who has received diversion assistance under

170 Section 35A-3-303.

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

172 clients.

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

174 (i) develop life skills;

175 (ii) implement an employment plan; or

176 (iii) obtain services and supports from:

177 (A) the volunteer mentor;

178 (B) the division; or

179 (C) civic organizations.

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

181 **35A-3-306. Limits on eligibility.**

182 (1) For purposes of this section, "battered or subjected to extreme cruelty" is defined in

183 Section 103(a)(1) of P.L. 104-193 or 42 U.S.C. Sec. 608(a)(7)(C)(iii), The Personal  
184 Responsibility and Work Opportunity Reconciliation Act of 1996.

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

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

189 (i) the parent client received cash assistance in this or another state; and

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

192 (b) The division may not count toward the 36-month time limit in Subsection (2) or the  
193 24-month time period in Subsection (4) any time during which a person 18 years of age or  
194 older received cash assistance as a minor child and not as a parent.

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

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

199 (ii) during at least six of the previous 24 months the parent client was employed for no  
200 less than 80 hours a month.

201 (b) For up to 20% of the average monthly number of families who receive cash  
202 assistance under this part, the division may provide cash assistance to a family beyond the  
203 36-month time limit in Subsection (2):

204 (i) by reason of a hardship; or

205 (ii) if the family includes an individual who has been battered or subjected to extreme  
206 cruelty.

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

210 (i) by reason of a hardship; or

211 (ii) if the family includes an individual who has been battered or subjected to extreme  
212 cruelty.

213 (d) Except as provided in [~~Subsection~~] Subsections (4)(b) and (c), the division may not

214 provide cash assistance to a family who has received 60 months of cash assistance after  
215 October 1, 1996.

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

217 **35A-3-308. Adoption services -- Printed information -- Supports provided.**

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

221 (2) For pregnant clients, the division shall:

222 (a) refer the client for appropriate prenatal medical care, including maternal health  
223 services provided under Title 26, Chapter 10, Family Health Services;

224 (b) inform the client of free counseling about adoption from licensed child placement  
225 agencies and licensed attorneys; and

226 (c) offer the client the adoption information packet described in Subsection (3).

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

228 (a) ~~be~~ is easy to understand;

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

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

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

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

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

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

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

244 ~~(b)~~ (ii) for a maximum of 12 months from the date of relinquishment, coordination of

245 services to assist the client in:

246 [(†)] (A) receiving appropriate educational and occupational assessment and planning;

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

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

251 [(††††)] (D) finding suitable housing;

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

254 [(††††††)] (F) receiving counseling and other mental health services.

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

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

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

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

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

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

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

273 (c) Assistance provided under Subsection (5):

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

275 (ii) may not be tolled when determining subsequent eligibility for cash assistance under

276 this chapter.

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

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

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

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

283 **35A-3-309. Information regarding home ownership.**

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

286 (2) The information and services may include:

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

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

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

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

298 **35A-3-310. Child care services.**

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

301 (a) is capable of caring for the family's child;

302 (b) is not employed; and

303 (c) has not entered into an employment plan with the division.

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

306 (3) Within appropriations from the Legislature and in accordance with Title 63,

307 Chapter 46a, Utah Administrative Rulemaking Act, [~~and Section 35A-3-107,~~] the department  
308 may make rules governing eligibility for child care services for a minor child in the care and  
309 custody of a parent who does not [~~or no longer receives~~] receive cash assistance under this part.

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

311 **35A-3-313. Performance goals.**

312 (1) As used in this section:

313 (a) "Performance goals" means a target level of performance or an expected level of  
314 performance against which actual performance is compared.

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

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

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

321 (b) The department shall establish the performance indicators and performance goals  
322 that will be used in the performance monitoring system for cash assistance under this part.

323 [~~The performance monitoring system shall begin on October 1, 1997.~~]

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

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

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

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

337 (A) the legislative interim committee that has oversight responsibilities for the

338 Department of Workforce Services; and

339 (B) the Utah Tomorrow Strategic Planning Committee.

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

341 **35A-3-401. General Assistance.**

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

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

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

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

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

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

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

359 (ii) Notwithstanding Subsection (1)(e)(i), if the body of a person is unclaimed, Section  
360 53B-17-301 applies.

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

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

365 Section 9. **Repealer.**

366 This bill repeals:

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

369 Section 35A-3-314, Assistance targets.

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

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**Legislative Review Note**  
as of 11-19-03 2:55 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

**Interim Committee Note**  
as of 12-10-03 10:11 AM

The Workforce Services and Community and Economic Development Interim Committee recommended this bill.