

ACT 345

H.B. NO. 26

A Bill for an Act Relating to the Establishment of a Voluntary Workfare Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . WORKFARE

§346- Workfare program; establishment, purpose. There is established a workfare program to be administered by the department of social services and housing. The purposes of the workfare program shall be to:

- (1) Provide job training and educational opportunities to participants in the program with the goal of developing sufficient skills and knowledge for permanent employment which will end dependence on public assistance;
- (2) Allow, not require, public assistance recipients to participate under the philosophy that self-motivation is better than forced, unwilling participation;
- (3) Accommodate the specific needs of individual participants by providing individualized job training and educational opportunities; and
- (4) Provide support services which will enable participants to engage in job training or education.

§346- Eligible participants; priority target groups. (a) Any public assistance recipient or member of a public assistance unit may volunteer to participate in the program. The department shall not be required to allow all volunteers to participate in the workfare program, but shall only require that number for which legislative appropriations are sufficient.

(b) The following shall be the target groups of priority under the workfare program, with the highest priority listed first and the remaining priorities listed in descending order:

- (1) Principal earner in an assistance unit with two parents;
- (2) Single parent at least eighteen years of age with one or more children, at least one of whom is below eighteen years of age;
- (3) Unmarried teenage mother;
- (4) Unmarried pregnant teenager;
- (5) Single parent at least eighteen years of age with one or more children, none of whom are below eighteen years of age; and
- (6) Other public assistance recipient not in any of the previous target groups.

The department may establish quotas under the workfare program for the target groups which reflect the priorities of this subsection.

(c) The age of the recipient and, if applicable, the age or ages of the recipient's child or children on the date of acceptance into the workfare program shall determine the target group to which the recipient belongs.

(d) Volunteering for the workfare program shall be deemed to meet any public assistance eligibility condition requiring registration with a job

training program. Participation in the workfare program shall be deemed to meet any public assistance standard requiring participation in a job training program.

(e) A person who, because of income earned from employment under a program component, becomes ineligible for public assistance shall remain eligible to participate under the workfare program for the duration specified under section 346-

§346- Program components. The components of the workfare program shall be:

- (1) Career planning;
- (2) Job training;
- (3) Job placement;
- (4) Education; and
- (5) Support services.

§346- Career planning component. Under the career planning component, the department shall assess the participant's skills, knowledge, and capability and capacity for permanent employment in general and in specific professions, occupations, or vocations; offer career guidance; and, with the assistance and approval of the participant, establish and approve a specific job training or education plan for the participant. The department may contract with a public agency or private nonprofit organization to administer this component.

§346- Job training component. (a) The job training component shall have two subcomponents: the job training subcomponent and supported work subcomponent.

(b) Under the job training subcomponent, the department shall arrange the placement of a participant in a job training program administered by a public agency or private nonprofit organization. The department shall contract with a public agency or private nonprofit organization which administers a job training program to train a participant under that program. The department shall pay the public agency or private nonprofit organization for administrative and vocational training expenses incurred in connection with the workfare program, but shall not make any payment to the agency, organization, or any employer towards the compensation of the participant for employment during on-the-job training.

(c) Under the supported work subcomponent, the department shall arrange for on-the-job training of a participant with a private employer. A participant in the supported work subcomponent may start with part-time work under close supervision and advance to more responsibilities and full-time work. The department may enter into an agreement with the employer to assume part of the compensation for the participant, but the department shall not make any payment of compensation directly to the participant. In order to participate in the supported work subcomponent, the participant shall notify the private employer that the participant is a recipient of public assistance as provided under section 393-17. The department shall not allow the participant while participating in the supported work subcomponent to receive an amount of income which would make the participant ineligible for medical assistance. The supported work subcomponent shall be designed for the participant with little recent work experience, minimal job skills, or a sporadic employment history; provided that any participant, even one who does not meet the conditions, may participate in this subcomponent if so choosing.

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The department may contract with a public agency or private non-profit organization to administer this subcomponent.

§346- Job placement component. Under the job placement component, the department shall conduct job search and placement activities for a participant. The department may contract with a public agency or private agency or private nonprofit organization to administer this component.

§346- Education component. (a) Under the education component, the department shall pay for the cost of a formal education program for a participant. For the purpose of this section, a "formal education program" means:

- (1) Adult education courses of the department of education which prepare the participant for a job, enhance the participant's reading, writing, speaking, or computing skills, or lead to a general equivalency high school diploma from the department of education. The department may seek to have the fees for adult education courses waived under section 301-4;
- (2) Trade, vocational, or technical education courses from a school licensed by the department of education under chapter 300;
- (3) Courses to train or educate a participant to engage in a profession, occupation, or vocation which are provided by a school registered by a professional, occupational, or vocational regulatory board or commission administratively under the department of commerce and consumer affairs;
- (4) Higher education courses in an accredited community college which will prepare the participant for employment; and
- (5) Other formal education programs approved by the department of social services and housing.

The department may provide for the payment of the formal education program by issuing to the participant vouchers which are presentable to the school for payment of tuition and other fees and redeemable at the face amount when presented to the department by the school or by making direct payment to the school. The department may contract with a public agency or private nonprofit organization to administer this subcomponent; provided that the department shall approve the formal education program of a participant and shall not delegate the approval responsibility to another public agency or a private nonprofit organization.

§346- Support services component. (a) The support services component shall have three subcomponents: transportation services, child day care services, and medical assistance.

(b) Under the transportation services subcomponent, the department shall grant to a participant a cash amount, not to exceed \$10 a day, for the transportation necessary for the participant's participation in another program component under this part. The moneys may be used for the cost of transportation of the participant and participant's child if necessary for the participant to participate in the program component. The department shall approve the amount granted upon satisfaction that the transportation services to be used are necessary and economical. Moneys granted under this subcomponent shall be used only for the cost of the transportation approved by the department.

(c) Under the child day care support services subcomponent, the department shall pay for child day care services while a participant participates in another program component under this part. The department may pay for the child day care services by issuing vouchers to the participant

which are presentable to a child care facility as payment for child day care and redeemable at the face amount when presented to the department by the operator of the facility, by making direct payment to a child care facility for the day care of a specific child, or by contracting with a child care facility to provide day care for children of participants referred by the department. For the purpose of this subsection, "child care facility" means a facility licensed under part VIII.

(d) Under the medical assistance subcomponent, the department shall provide Medicaid coverage for ninety days immediately following termination of financial assistance through employment placement.

§346- Choice by program component. A participant may choose to participate in any program component, more than one program component simultaneously, and change from one program component or job training subcomponent to another while participating. The participant's choice of a program component, desire to participate in more than one program component, desire to engage in a job training or educational activity or receive a benefit under a program component, or change from one program component or job training subcomponent to another shall be approved by the department or, if authorized by the department and not contrary to any other provision of this part, by the appropriate contractor.

§346- Duration of participation. A participant may participate in the workfare program for not more than two years from the date of acceptance in the program or not more than six months after termination of eligibility for public assistance, whichever occurs sooner.

§346- Public works projects and public service employment; not authorized. No participant in the workfare program shall be employed in public works projects under section 346-31 or public service employment under part V.

§346- Penalty. Any person who knowingly obtains, attempts to obtain, or aids another person in obtaining or attempting to obtain any service or benefit under this part to which not entitled shall be guilty of a misdemeanor.

§346- Coordination. The department shall coordinate the workfare program with other employment programs to assist participants in becoming self-supporting.

§346- Rules. The department may adopt rules in accordance with chapter 91 for the purposes of this part.

§346- Annual report. The department shall submit a report on the workfare program to the legislature prior to the convening of each regular session."

SECTION 2. Section 346-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department of social services and housing and its agents shall keep such records as may be necessary or proper in accordance with this chapter. All applications and records concerning any applicant or recipient shall be confidential. The use or disclosure of information concerning applicants and recipients shall be limited to:

- (1) Persons duly authorized by the State or the United States in connection with their official duties, when the official duties are

- directly connected with the administration of any form of public assistance, medical assistance, food stamps, or social services;
- (2) Purposes directly connected with any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any and all forms of public assistance, food stamps, medical assistance, or social services, including but not limited to disclosure by the department of information and documents to police departments, prosecutors' offices, the attorney general's office, or any other state, county, or federal agency engaged in the detection, investigation, or prosecution of violations of applicable state, county, and federal laws or regulations regarding any and all aspects of theft, fraud, deception, or overpayment in connection with any aspect of public assistance, food stamps, medical assistance, or social services; provided that disclosure by recipient agencies and personnel is permitted under this section to the extent reasonably necessary to carry out the functions for which the information was provided;
 - (3) Disclosure to the extent necessary to provide services for applicants and recipients, to determine eligibility, or to determine the amount of public assistance, such determination to include but not be limited to verification of information provided by the recipient of public assistance, medical assistance, or food stamps, or to determine the type, kind, frequency, and amount of social services, including health and mental health related services needed;
 - (4) Disclosure to banks, financial institutions, or any other payor of a public assistance warrant or check of any and all information indicating that a public assistance warrant or check honored by the bank, institution, or payor has been forged or otherwise wrongfully presented for payment;
 - (5) Federal agencies responsible for the administration of federally assisted programs, which provide assistance, in cash or in kind, for services, directly to individuals on the basis of need; and certification of receipt of aid to families with dependent children to an employer for purposes of claiming tax credit under Public Law 94-12, the Tax Reduction Act of 1975, shall be permitted;
 - (6) Employees acting within the scope and course of their employment of such recognized social welfare organizations as may be approved by the department;
 - (7) Purposes directly connected with any investigation, prosecution, or criminal proceeding conducted in connection with the licensure or operation of an adult day care center, including but not limited to disclosure by the department of information and documents to police departments, prosecutors' offices, the attorney general's office, or any other state, county, or federal agency engaged in the detection, investigation, or prosecution of violations of applicable state, county, and federal laws or regulations; [and]
 - (8) Disclosure to the child support enforcement agency for obtaining or enforcing a child support order under chapter 576D[.]; and
 - (9) Purposes directly connected to and necessary for the career planning, job training, education, job placement, or employment of participants in the workfare program under part "

SECTION 3. Section 346-29, Hawaii Revised Statutes, is amended to read as follows:

“§346-29 Applications for public assistance; manner, form, conditions.

Applications for public assistance under this chapter shall be made by the applicant, or by someone acting in the applicant's behalf, in the manner, place, and form prescribed by the department.

No applicant shall be entitled to public assistance under this chapter who has sufficient income or other resources to provide a standard above that provided in this chapter, or who is an inmate of any public institution as long as the Social Security Act precludes the use of federal funds to provide public assistance to an inmate of such an institution, but an inmate of such an institution mentioned in this section may apply for assistance to begin after the inmate's discharge from the institution. In determining the needs of an applicant or recipient for public assistance by the department, the department:

- (1) Shall disregard such amounts of earned or unearned income and resources as required by the Social Security Act or other federal acts, to receive federal matching funds and may disregard such additional amounts as these acts permit, now or in the future, to be disregarded.
- (2) Shall consider as net income in all cases such income as the Social Security Act or other federal acts may require the department to consider for receipt of federal matching funds and may consider such additional income and resources as these acts may permit, now or in the future, to be considered.
- (3) Shall disregard a total of \$1,000 in assets in determining the needs of persons for financial assistance; provided that the amount to be disregarded, shall not exceed standards under federally funded financial assistance programs. This provision shall not apply to persons eligible for Federal Supplemental Security Income benefits. In determining the needs of such persons, the department shall apply the resource retention requirements under the Federal Supplemental Security Income Program.
- (4) Shall apply the resource retention requirements under the Federal Supplemental Security Income Program in determining the needs of a single person for medical assistance only.
- (5) Shall apply the resource retention requirements under the Federal Supplemental Security Income Program in determining the needs of a family of two persons for medical assistance only and an additional \$250 for each additional person included in an application for medical assistance only.
- (6) Shall disregard amounts of emergency assistance granted under section 346-65.
- (7) Shall not consider as income or resources any payment for services to or on behalf of, or any benefit received by, a participant under the workfare program of part , other than wages. Wages earned by a participant while participating in the workfare program shall be considered income of the participant, unless the wages are excluded or disregarded under any other law.

In determining eligibility for medical assistance, the department shall require from all applicants and recipients the assignment of any benefits due

to a third party liability. Any rights or amounts so assigned shall be applied against the cost of medical care paid under this chapter.

The director shall adopt rules pursuant to chapter 91 defining assets and to determine eligibility for medical assistance; provided that the cash surrender value of life insurance policies owned by persons included in an application shall be treated as assets."

SECTION 4. Section 392-5, Hawaii Revised Statutes, is amended to read as follows:

"§392-5 Excluded services. "Employment" as defined in section 392-3 does not include the following service:

- (1) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, performed in any calendar quarter by an individual if the cash remuneration paid by the employer for such service is less than \$225;
- (2) Service not in the course of the employer's trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for the service is \$50 or more and the service is performed by an individual who is regularly employed by the employer to perform the service. An individual shall be deemed to be regularly employed to perform service not in the course of the employer's trade or business during a calendar quarter only if (A) on each of some twenty-four days during the quarter the individual performs the service for some portion of the day, or (B) the individual was regularly employed (as determined under [clause] subparagraph (A)) by the employer in the performance of the service during the preceding calendar quarter;
- (3) Service performed on or in connection with a vessel not an American vessel, if the individual performing the service is employed on and in connection with the vessel when outside the United States;
- (4) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed as an ordinary incident thereto, except (A) the service performed in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States), and (B) the service performed in connection with a vessel of ten net tons or less (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employer who, for some portion in each of twenty different calendar weeks in either the current or preceding calendar year, had in the employer's employ one or more persons performing the service, whether or not the weeks were consecutive and whether or not the same individuals performed the service in each week, and (C) service performed in connection with the catching or taking of salmon or halibut for commercial purposes;
- (5) Service performed by an individual in the employ of the individual's son, daughter, or spouse, and service performed by a child

- under the age of twenty-one in the employ of the child's father or mother;
- (6) Service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this chapter;
 - (7) Service performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more such states or political subdivisions; and any service performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, exempt from the tax imposed by section 3301 of the Internal Revenue Code of 1954;
 - (8) Service with respect to which temporary disability compensation is payable for sickness under a temporary disability insurance system established by an act of Congress;
 - (9) Service performed in any calendar quarter in the employ of any nonprofit organization exempt from income tax under section 501 of the Internal Revenue Code of 1954, if (A) the remuneration for such service is less than \$50, or (B) the service is performed by a student who is enrolled and is regularly attending classes at a school, college, or university, or (C) the service is performed by a duly ordained, commissioned, or licensed minister or licensed minister of a church in the exercise of the minister's ministry or by a member of a religious order in the exercise of nonsecular duties required by the order, or (D) the service is performed for a church by an employee who fails to meet the eligibility requirements of section 392-25;
 - (10) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents, if (A) no part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (B) eighty-five per cent or more of its income consists of amounts collected from members and amounts contributed by the employer of the members for the sole purpose of making such payments and meeting expenses;
 - (11) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents or their designated beneficiaries, if (A) admission to membership in the association is limited to individuals who are officers or employees of the United States government, and (B) no part of the net earnings of the association inures (other than through such payments) to the benefit of any private shareholder or individual;
 - (12) Service performed in the employ of a school, college, or university, not exempt from income tax under section 501 of the Internal Revenue Code of 1954, if the service is performed by a student who is enrolled and is regularly attending classes at the school, college, or university;
 - (13) Service performed in the employ of any instrumentality wholly owned by a foreign government, if: (A) the service is of a character similar to that performed in foreign countries by employees

of the United States government or of an instrumentality thereof; and (B) the United States Secretary of State has certified or certifies to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;

- (14) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to state law;
- (15) Service performed by an individual for an employer as an insurance agent or as an insurance solicitor, if all such service performed by the individual for the employer is performed for remuneration solely by way of commission;
- (16) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;
- (17) Service covered by an arrangement between the department and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employer during the period covered by the employer's duly approved election, are deemed to be performed entirely within the agency's state;
- (18) Service performed by an individual who, pursuant to the Federal Economic Opportunity Act of 1964, is not subject to the federal laws relating to unemployment compensation;
- (19) Domestic, which includes attendant care, and day care services authorized by the department of social services and housing under the Social Security Act, as amended, performed by an individual in the employ of a recipient of social service payments;
- (20) Service performed by a vacuum cleaner salesman for an employing unit, if all such services performed by the individual for such employing unit are performed for remuneration solely by way of commission[.]; or
- (21) Service performed by a participant in the workfare program for an employing unit under the supported work component of section 346- ."

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1.00, or so much thereof as may be necessary for fiscal year 1987-1988, for the workfare program established under this Act.

The sum appropriated shall be expended by the department of social services and housing for the purposes of this Act.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 1987.

(Approved June 29, 1987.)