

ACT 321

H.B. NO. 2904

A Bill for an Act Relating to Public Assistance.

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 . JOB OPPORTUNITIES AND BASIC SKILLS
(JOBS) PROGRAM**

§346- JOBS; establishment; purpose. There is established a mandatory work program for certain applicants and recipients of aid to families with dependent children (AFDC) consistent with federal regulations and requirements under Title IV-F of the Social Security Act, Public Law 100-485. The purposes of the job opportunities and basic skills (JOBS) program shall be to encourage, assist, and require AFDC applicants and recipients to fulfill their responsibilities to support their children by preparing for, accepting, and retaining employment. To assure that needy individuals or families are provided the means to avoid long-term welfare dependency, JOBS is intended to:

- (1) Provide individuals with the opportunity to acquire the basic education and skills necessary to qualify for employment;
- (2) Provide necessary supportive services, including but not limited to transitional child care and medical assistance, so that recipients can participate in the work program and accept employment; and

- (3) Coordinate job services at all levels of government to facilitate access to a wide range of services and maximize the use of existing resources.

§346- Eligible participants; priority target groups. (a) All applicants for and recipients of AFDC shall be required to register and participate in the program; provided that exemptions consistent with federal requirements are applied.

(b) The priority target groups under the JOBS program may include individuals who:

- (1) Are receiving AFDC and have received such aid for any thirty-six of the preceding sixty months;
- (2) Are applying for AFDC and have received such aid for any thirty-six of the sixty months immediately preceding the most recent month for which application has been made;
- (3) Are custodial parents under the age of twenty-four years;
- (4) Are members of a family in which the youngest child is within two years of being ineligible for AFDC because of age.

(c) Exempt applicants for and recipients of AFDC and state- funded public assistance programs may volunteer to participate in the program.

(d) The department shall not be required to provide services to all eligible participants, if necessary resources are not available, provided that:

- (1) Participants not offered specific services due to lack of resources shall be placed on inactive status until these services are available; and
- (2) Any participant placed on inactive status due to lack of resources shall not incur any negative sanctions as a result of that placement.

(e) The department may establish quotas for the target groups under this program to reflect the priorities of this section.

§346- Program components. The activities and components of the JOBS program may include, but are not limited to the following:

- (1) Assessment and identification of barriers to participation;
- (2) Development of a supportive service plan to remove barriers;
- (3) Employability planning, including career path development;
- (4) Basic and higher education, including remedial education and English proficiency to help participants become job ready;
- (5) Job skills training;
- (6) Job readiness and job search;
- (7) Job placement activities and services;
- (8) Work maturity;
- (9) Work/study; and
- (10) Work experience and community work experience program (CWEP).

§346- Assessment. An initial assessment of each participant shall determine priority for participation in JOBS. A comprehensive assessment may follow to determine barriers to participation in the program and may include, but is not limited to:

- (1) A review of the family circumstances to identify social and health problems and needs; and
- (2) Identification of child care, transportation, and other supportive services needs.

§346- Support service plan. Where barriers have been identified during the assessment phase, the department, in consultation with the participant, shall develop a supportive service plan describing services or tasks to be completed for removing or controlling barriers which constrain participation in employment, training, or education.

§346- Employability planning. Under this component, the department shall assess the participant's skills, knowledge, capability, and capacity for permanent employment in general and in specific professions, occupations, or vocations; offer guidance and counseling to establish career goals and develop career paths; and, with the assistance and agreement of the participant, establish and approve a specific employability plan which may include job placement, job training, and education.

§346- Case management. The department may provide to a participant case management services to support and strengthen the participant's capacity to become self-supporting and to facilitate access to resources and opportunities required for self-support. Case management activities may include, but are not limited to:

- (1) Facilitating activities and services needed by a recipient who is working toward the goal of self-sufficiency;
- (2) Assisting the individual and the family to obtain services needed to assure effective participation in the program;
- (3) Facilitating communication between the participant and service providers;
- (4) Providing initial support, assessment, and referral to appropriate services; and
- (5) Monitoring the participant's progress to ensure that the individual receives required assistance in a timely and effective manner.

§346- Child care. The department may provide child care services to eligible families to allow participation in education, training, and employment in accordance with federal regulations and requirements; provided that the department:

- (1) Shall ensure that care arrangements for children meet applicable standards of state law; and
- (2) May pay for child care services up to the amount consistent with the department's payment standard.

§346- Transportation assistance. (a) The department may provide transportation assistance that is necessary to enable an individual to participate in the JOBS program. The assistance may include the cost of transportation of the participant and participant's child, if necessary.

(b) The determination of whether the transportation services to be used are necessary and economical shall be the decision of the department upon consultation with the participant.

(c) Transportation assistance may be provided through bus passes, mileage reimbursements equivalent to the public employees' contract negotiations, and other appropriate means of transportation to be determined by the department with the involvement and agreement of the participant.

(d) The department may provide assistance with air fare cost, on a limited basis and as funds permit, to eligible individuals living on Molokai, Lanai, and West Hawaii to travel to another island to receive appropriate training not available in these locations. Assistance with this cost shall be based on the

individual's employability plan and availability of employment in the individual's place of residence.

§346- Other support services. The department may provide other supportive services, such as counseling for personal and family-related problems, and for one-time training and work-related expenses, to allow eligible individuals to participate in education, training, and employment. The department may:

- (1) Provide health and social services to eligible individuals and families with identified needs to assist them in removing or controlling any barriers to successful participation in the program.
- (2) Establish separate emergency funds to meet the one-time training and work-related expenses necessary to allow individuals to participate in the program. The items to be paid for by the emergency fund may include, but are not limited to, initial work clothing, work tools, safety equipment, dental and medical procedures not covered under the medical assistance program, rental and utility deposits not available through the welfare grant, and limited assistance with auto repairs.

§346- Incentive benefits. The department may provide incentive benefits for recipients who work full time under an employability plan by providing supplemental benefits up to one hundred per cent of the poverty standard.

§346- Transitional benefits. The department may provide transitional child care and medical benefits to those families whose eligibility for AFDC has been discontinued due to employment. Transitional assistance shall be provided in accordance with federal regulations and requirements, and shall be arranged and developed with the involvement and approval of the participant.

§346- Coordination. The department shall coordinate the JOBS program with education, employment, health, and other related services programs to assist participants in becoming self-sufficient.

§346- Contracts. The department may contract with a public agency or private nonprofit organization to administer all or portions of this part in accordance with federal regulations and in accordance with chapter 42.

§346- Rules. The department shall adopt rules consistent with federal JOBS program requirements and in accordance with chapter 91 for the purposes of this part.

§346- Duties. The department shall monitor and evaluate the JOBS program, and shall, among other analyses, identify factors that facilitate or make difficult the implementation of this Act. The department shall also assess the impact of the program with regard to encouraging AFDC recipients in finding employment and avoiding long-term welfare dependency. The department shall collect and provide all data relevant to its assessment.

The department shall submit annual status reports on its findings to the legislature prior to the convening of the regular session of each year, starting with the regular session of 1991."

SECTION 2. Section 346-53, Hawaii Revised Statutes, is amended to read as follows:

“§346-53 Determination of amount of assistance. (a) The standard of need for families of given sizes shall equal the poverty level established by the federal government, pro-rated over a twelve-month period.

(b) The assistance allowance provided shall be based on a percentage of the standard of need. On July 1, 1989, the assistance allowance shall be set at sixty-two and one-half per cent of the standard of need. Changes in the financial assistance standard of need and the assistance allowance shall become effective on July 1 of each year thereafter, subsequent to any change in the federal poverty level.

(c) The director, pursuant to chapter 91, shall determine the rate of payment for the different levels of domiciliary care provided to recipients eligible either for Federal Supplemental Security Income, or public assistance in accordance with state standards, or both. The director shall provide for level of care increases effective July 1, 1989, as follows:

- (1) For those adult residential care homes classified as facility type I: not less than \$70 for level of care (LOC) I; not less than \$105 for LOC II; and not less than \$145 for LOC III; and
- (2) For those adult residential care homes classified as facility type II: not less than \$124 for LOC I; not less than \$105 for LOC II; and not less than \$145 for LOC III.

The rate of payment at which level a recipient enters an adult residential care home licensed pursuant to section 321-15.6 shall remain the same for as long as the recipient resides in that adult residential care home. The rate of payment may be raised if the recipient's condition so requires, or by rule of the department in accordance with this subsection; provided that:

- (1) Notwithstanding the rate of payment at the time of entry, the department shall ensure that the recipient shall receive the quality of care consistent with the level of care as determined by the department; and
- (2) If the operator does not provide the quality of care consistent with the needs of the individual as determined by and to the satisfaction of the department, the department may reduce the rate of payment, or adjust the level of care, or remove the recipient to another facility.

The department shall handle abusive practices under this section in accordance with chapter 91.

Nothing in this subsection shall allow the director to remove a recipient from an adult residential care home or other similar institution if the recipient does not desire to be removed and the operator thereof is agreeable to the recipient remaining therein, except where the recipient requires a higher level of care than provided thereby, or where the recipient no longer requires any domiciliary care.

(d) The department shall pay rental and utility (to include gas, electricity, and water only) deposits once only for any person eligible for financial assistance by the department. However, under extraordinary circumstances as determined by the department, an additional rental deposit, utility deposit, or both, may be granted.

(e) Any recipient may petition the department for additional assistance when the recipient's need is due to emergencies caused by seismic wave, tsunami, hurricane, volcanic eruption, typhoon, earthquake, flood, or fire determined by the director to have caused losses as to require and justify additional assistance from the State. In addition any recipient may petition the department for additional assistance for the replacement or repair of household appliances. Such additional assistance shall be paid on an emergency basis, as determined by the department, to meet the cost of replacing or repairing household appliances.

If the cost of repairs of household appliances is less than one-half the unit cost of the item, the department shall pay for the cost of repairs. If the cost of repairs of household appliances is more than one-half the unit cost of the item, the department shall replace the household appliance; provided that the replacement cost shall not exceed \$350. For the purposes of this subsection "household appliances" means a refrigerator or a range.

The department shall establish an emergency fund, not to exceed one per cent of total financial assistance from state funds required by this chapter in the previous fiscal year. The director shall adopt rules pursuant to chapter 91 for determining in which cases to grant lump sum payments to recipients petitioning for additional assistance.

(f) The department shall include protective child care payment as a special needs item in the financial assistance standard for cases of child neglect or abuse requiring placement of a child in child care. The referral for protective child care payment shall be from the department's child welfare program and the rate of payment shall be set by the department.

(g) Notwithstanding any other law to the contrary, the director, subject to the availability of funds, shall develop and implement rules adopted pursuant to chapter 91 that allow the department to subtract income from the standard of need. The department may ratably reduce the difference between countable income and the standard of need to determine the assistance allowance.

[(g)] (h) The director shall adopt rules pursuant to chapter 91 to implement this section."

SECTION 3. 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 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 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 human services under the Social Security Act, as amended, performed by an individual in the employ of a recipient of social service payments; or
 - (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

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- (21) Service performed by a participant in the workfare program for an employing unit under the supported work subcomponent of section 346-205].³³

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon approval; provided that section 2 of this Act shall take effect on October 1, 1990.

(Approved July 9, 1990.)