

## ACT 188

H.B. NO. 1776

A Bill for an Act Relating to Public Assistance.

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

SECTION 1. The legislature finds that, under section 346-29(b), Hawaii Revised Statutes, an applicant or recipient of public assistance who is also an inmate of any public institution may not receive public assistance from the State under chapter 346, Hawaii Revised Statutes. The one exception is for an inmate of a public institution who is otherwise eligible for medical assistance and who has been determined by the medical director of the institution as having a major illness or medical condition requiring the provision of medical care outside of the institution. In addition, any applicant or recipient who is found guilty of fraudulently misrepresenting residence in two or more states to receive assistance is also prohibited from receiving public assistance in Hawaii for ten years from the date of conviction. Furthermore, a fugitive felon or an individual who is in violation of a condition of probation or parole, or has sufficient income or other resources to provide a standard above that required by chapter 346, Hawaii Revised Statutes, may not receive public assistance in the state.

However, the legislature finds that the department of public safety does not provide the department of human services with lists of newly admitted inmates. The department of human services currently does not regularly screen inmates for receipt of public assistance except for inmates who are convicted of welfare fraud.

The purpose of this Act is to improve the efficiency of enforcing the public assistance law with respect to inmates who are no longer eligible to receive public assistance by requiring the department of public safety to provide monthly lists of newly admitted inmates to the department of human services to enable that department to screen for all inmates not eligible to receive public assistance.

SECTION 2. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§353- Public assistance; inmates; monthly reports to department of human services.** Beginning January 31, 2010, to assist the department of human services to enforce section 346-29(b), the director shall prepare and transmit to the department of human services monthly reports listing all inmates newly admitted during the previous month to any correctional facility within the state; provided that no later than December 31, 2009, the director shall transmit to the department of human services an initial list of all inmates within the department of public safety’s correctional facilities statewide.”

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

**“§346-29 Applications for public assistance; manner, form, conditions.** (a) 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.

(b) No applicant or recipient who is found guilty of fraudulently misrepresenting residence to obtain assistance in two or more states shall be entitled to public assistance under this chapter for ten years from date of conviction. No applicant or recipient shall be entitled to public assistance under this chapter who is a fugitive felon or who is in violation of a condition of probation or parole or 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, except that any inmate of a public institution who is otherwise eligible for medical assistance and who has been determined by the medical director of the institution as having a major illness or medical condition requiring the provision of medical care outside of the institution may receive assistance under this chapter. An inmate of a public institution or resident of a medical institution may apply for assistance to begin after the inmate’s discharge from the institution. To enforce this subsection, the department shall examine each list of inmates within, or newly admitted to, a correctional facility in the state that is submitted to the department by the director of public safety pursuant to section 353- , regardless of the nature of the offense for which an inmate is incarcerated or the duration of incarceration, to determine whether an inmate is eligible for public assistance under this chapter.

(c) In determining the needs of an applicant or recipient for public assistance by the department, the department shall:

- (1) Disregard the amounts of earned or unearned income as required or allowed by federal acts and other regulations, to receive federal funds and disregard from gross earned income twenty per cent plus \$200 and a percentage of the remaining balance of earned income consistent with federal regulations and other requirements;
- (2) Consider as net income in all cases the income as federal acts and other regulations require the department to consider for receipt of federal funds and may consider the additional income and resources as these acts and regulations permit to be considered;
- (3) For households with minor dependents, disregard a total of \$5,000 in assets and the value of one motor vehicle 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 paragraph shall not apply to persons eligible for federal supplemental security income benefits, aid to the aged, blind or disabled, or general assistance to households without minor dependents. In determining the needs of persons eligible for federal supplemental security income benefits, aid to the aged, blind, or disabled, or general assistance to households without minor dependents, the department shall apply all the resource retention and exclusion requirements under the federal supplemental security income program;
- (4) 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) 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) Disregard amounts of emergency assistance granted under section 346-65;
- (7) Not consider as income or resources any payment for services to or on behalf of, or any benefit received by, a participant under the first to work program of part XI, other than wages. Wages earned by a participant while participating in the first to work program shall be considered income of the participant, unless the wages are excluded or disregarded under any other law;
- (8) Not consider as income or resources payment made to eligible individuals, eligible surviving spouses, surviving children or surviving parents as specified under Title I of the Civil Liberties Act of 1988, Public Law 100-383, which made restitution to individuals of Japanese ancestry who were interned during World War II;
- (9) Allow the community spouse of an individual residing in a medical institution to maintain countable resources to the maximum allowed by federal statutes or regulations with provisions for increases, as allowed by the Secretary of Health and Human Services by means of indexing, court order, or fair hearing decree, without jeopardizing the eligibility of the institutionalized spouse for medical assistance;
- (10) Allow an individual residing in a medical institution to contribute toward the support of the individual's community spouse, thereby enabling the community spouse to maintain the monthly maximum income allowed by federal statutes or regulations, with provisions for increases as allowed by the Secretary of Health and Human Services by means of indexing, court order, or fair hearing decree;
- (11) Consider the transfer of assets from the applicant's name to another name within the specified time period as required by federal regulations, known as the "lookback" period, prior to the application for medical assistance for care in a nursing home or other long-term care facility. Pursuant to rules adopted under chapter 91, the director may attribute any assets that have been transferred within the required federal "lookback" period from the applicant if the director determines that transfer of certain assets was made solely to make the applicant eligible for assistance under this chapter; and
- (12) Not consider as income or resources any funds deposited into a family self-sufficiency escrow account on behalf of a participant under a federal housing choice voucher family self-sufficiency program as required or allowed under federal law.

~~(e)~~ (d) 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.

~~(d)~~ (e) 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. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

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**SECTION 5.** This Act shall take effect upon its approval.

(Became law on July 15, 2009, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

**Note**

1. Edited pursuant to HRS §23G-16.5.