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REFERENCE TITLE: TANF eligibility; family benefits

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

HB 2246

Introduced by
Representatives Hershberger, Alvarez, Bradley, Huffman, O'Halleran,
Senator Giffords: Representatives Aguirre A, Burns J, Knaperek, Nichols,
Rios P, Sinema

AN ACT

AMENDING SECTIONS 46-292 AND 46-300, ARIZONA REVISED STATUTES; RELATING TO
TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 46-292, Arizona Revised Statutes, is amended to
3 read:
4 46-292. Eligibility for assistance
5 A. Cash assistance may be given under this title to any dependent
6 child:
7 1. Who has established residence in Arizona at the time of application
8 and is either:
9 (a) A citizen by birth or naturalization.
10 (b) A qualified alien who entered the United States on or before
11 August 21, 1996.
12 (c) A qualified alien who entered the United States as a member of one
13 of the exception groups under Public Law 104-193, section 412, in which case
14 the person shall be determined eligible in accordance with Public Law
15 104-193.
16 (d) Defined as a qualified alien by the attorney general of the United
17 States under the authority of Public Law 104-208, section 501.
18 For the purposes of subdivisions (b) and (c) of this paragraph, "qualified
19 alien" means a person who is defined as a qualified alien under Public Law
20 104-193, section 431.
21 2. Whose parent or parents or person or persons acting in the parents'
22 place, if employable, ~~shall~~ DO not refuse to accept available employment and
23 ~~if~~ any employable child in the family does not refuse to accept available
24 employment. The department shall assess the applicant's employability at the
25 time of initial application for assistance to establish a self-sufficiency
26 diversion option, if appropriate, before benefit issuance. The determination
27 of employability and the conditions under which employment shall be required
28 shall be determined by the state department, except that claimed
29 unemployability because of physical or mental incapacity shall be determined
30 by the state department in accordance with ~~the provisions of~~ this title.
31 3. Whose parent or parents or other relatives who are applying for or
32 receiving assistance on behalf of the child have not, within one year prior
33 to application, or while a recipient, transferred or assigned real or
34 personal property with the intent to evade federal or state eligibility
35 requirements. Transfer of property with retention of a life estate for the
36 purpose of qualifying for assistance is prohibited. Where fair consideration
37 for the property was received, no inquiry into motive is necessary. A person
38 found ineligible under this section shall be ineligible for such time as the
39 state department determines.
40 B. Qualified aliens entering the United States after August 21, 1996
41 are ineligible for benefits for a period of five years beginning on their
42 date of entry, except for Cuban and Haitian entrants as defined in section
43 501(e)(2) of the refugee education assistance act of 1980 and exceptions
44 provided under Public Law 104-193 (personal responsibility and work
45 opportunity reconciliation act of 1996) and Public Law 105-32 (balanced
46 budget act of 1997).

1 C. A parent or any other relative who applies for or receives cash
2 assistance under this title on behalf of a child shall cooperate with the
3 department by taking the following actions:

4 1. Providing information regarding the identity of the child's father
5 and mother and other pertinent information including their names, social
6 security numbers and current addresses or a sworn statement that attests to
7 the lack of this information and that is accompanied by facts supporting the
8 asserted lack of information.

9 2. Appearing at interviews, hearings and legal proceedings.

10 3. Submitting and having the child submit to genetic testing.

11 4. Signing authorizations for third parties to release information
12 concerning the applicant or the child, or both.

13 5. In cases in which parentage has not been established, providing a
14 sworn statement alleging paternity and setting forth facts establishing a
15 reasonable possibility of the requisite sexual contact between the parties.

16 6. Supplying additional information the department requires.

17 D. The department shall sanction a recipient who fails, without good
18 cause as prescribed in subsection E of this section, to cooperate with child
19 support enforcement efforts according to the sanction provisions of section
20 46-300.

21 E. One or more of the following circumstances constitute good cause
22 for failure to cooperate with child support enforcement efforts:

23 1. Cooperation may result in physical or emotional harm to the parent,
24 child for whom support is sought or caretaker relative with whom the child is
25 living.

26 2. Legal proceedings for adoption of the child for whom support is
27 sought are pending before a court.

28 3. The participant has been working, for less than ninety days, with a
29 public or licensed private social agency on the issue of whether to allow the
30 child for whom support is sought to be adopted.

31 4. The child for whom support is sought was conceived as a result of
32 sexual assault pursuant to section 13-1406 or incest.

33 F. A person claiming good cause has twenty days from the date the good
34 cause claim is provided to the agency to supply evidence supporting the
35 claim. When determining whether the parent or relative is cooperating with
36 the agency as provided in subsection C of this section, the agency shall
37 require:

38 1. If the good cause exception in subsection E, paragraph 1 of this
39 section is claimed, law enforcement, court, medical, criminal, psychological,
40 social service or governmental records or sworn statements from persons with
41 personal knowledge of the circumstances that indicate that the alleged parent
42 or obligor might inflict physical harm on the parent, child or caretaker
43 relative.

44 2. If the good cause exception in subsection E, paragraph 2 of this
45 section is claimed, court documents that indicate that legal proceedings for
46 adoption are pending before a court of competent jurisdiction.

1 3. If the good cause exception in subsection E, paragraph 3 of this
2 section is claimed, records from a public or licensed private social services
3 agency showing that placing the child for whom support is sought is under
4 consideration.

5 4. If the good cause exception in subsection E, paragraph 4 of this
6 section is claimed, law enforcement, court, medical, criminal, psychological,
7 social service or governmental records or sworn statements from persons with
8 personal knowledge of the circumstances surrounding the conception of the
9 child that indicate the child was conceived as a result of sexual assault
10 pursuant to section 13-1406 or incest.

11 G. Notwithstanding subsection A of this section and except as provided
12 in subsection H OR I of this section, a dependent child or children who are
13 born during one of the following time periods are not eligible for assistance
14 under this title:

15 1. The period in which the parent or other relative is receiving
16 assistance benefits.

17 2. The temporary period in which the parent or other relative is
18 ineligible pursuant to a penalty imposed by the department for failure to
19 comply with benefit eligibility requirements, after which the parent or other
20 relative is eligible for a continuation of benefits.

21 3. Any period after November 1, 1995 that is less than sixty months
22 between a voluntary withdrawal from program benefits or a period of
23 ineligibility for program benefits which immediately followed a period during
24 which program benefits were received and a subsequent reapplication and
25 eligibility approval for benefits.

26 H. The following exceptions apply to ~~the provisions of~~ subsection G of
27 this section:

28 1. The department shall allow an increase in cash assistance under the
29 program for a dependent child or children born as a result of an act of
30 sexual assault as prescribed in section 13-1406 or 13-1406.01 or incest. The
31 department shall ensure that the proper law enforcement authorities are
32 notified of allegations of sexual assault or incest made pursuant to this
33 paragraph.

34 2. For those parents or other relatives who are currently authorized
35 for cash assistance the department shall allow an increase in cash assistance
36 under the program as a result of the birth of a child or children to the
37 parent or other relative only if the birth occurred within ten months of the
38 initial eligible month. The department may use only the additional child or
39 children who are born from the pregnancies covered in this subsection in
40 computing the additional benefit.

41 3. The department shall allow an increase in cash assistance for any
42 dependent child born to a parent who has not received cash assistance under
43 this title for at least twelve consecutive months if the child is born within
44 the period beginning ten months after the twelve consecutive month period and
45 ending ten months after the parent resumes receiving cash assistance.

1 4. A dependent child or children who were born during a period in
2 which the custodial parent received cash assistance through the Arizona works
3 program shall be eligible to receive assistance under this title.

4 5. A dependent child or children who were born within ten months after
5 the custodial parent received cash assistance through the Arizona works
6 program shall be eligible to receive assistance under this title.

7 I. THE DEPARTMENT SHALL:

8 1. ELIMINATE THE BENEFIT CAP UNDER SUBSECTION G OF THIS SECTION IN THE
9 FOLLOWING TWO STAGES:

10 (a) THE FIRST STAGE SHALL ELIMINATE THE BENEFIT CAP FOR CHILDREN:

11 (i) WHOSE PARENTS ARE DECEASED.

12 (ii) WHOSE PARENTS HAVE COMMITTED ABANDONMENT AS DEFINED IN SECTION
13 8-531.

14 (iii) WHOSE PARENTS BECOME INCARCERATED.

15 (iv) WHO THE DEPARTMENT HAS REMOVED FROM THE CHILD'S HOME AND HAS
16 PLACED WITH A RELATIVE OF THE CHILD.

17 (v) WHO ARE LIVING WITH PERMANENT GUARDIANS AS DESCRIBED IN SECTION
18 8-871.

19 (b) THE SECOND STAGE SHALL ELIMINATE THE BENEFIT CAP FOR ALL REMAINING
20 CHILDREN.

21 2. NOT ELIMINATE THE BENEFIT CAP UNDER THIS SUBSECTION UNLESS THE
22 EXPENDITURE FROM THE GENERAL FUND IS OFFSET BY REDUCED CASH ASSISTANCE
23 EXPENDITURES.

24 3. ADOPT RULES UNDER THIS SECTION FOR THE FOLLOWING:

25 (a) THE ELIGIBILITY FACTORS TO REMOVE THE BENEFIT CAP.

26 (b) THE FINANCIAL FACTORS IN THE CASH ASSISTANCE BUDGET THAT MUST
27 EXIST IN ORDER FOR THE DEPARTMENT TO AUTHORIZE AN INCREASE IN THE CASH
28 ASSISTANCE GRANTS WITHOUT REQUIRING AN INCREASE IN EXPENDITURES FROM THE
29 STATE GENERAL FUND.

30 ~~I.~~ J. The department shall calculate the sixty-month time period
31 referenced in subsection G, paragraph 3 of this section in the following
32 manner:

33 1. For persons who are receiving cash assistance on November 1, 1995,
34 the sixty-month time period begins on November 1, 1995. A subsequent
35 sixty-month time period begins immediately after the previous period ends if
36 the person is receiving cash assistance through two sixty-month periods. If
37 the individual is not receiving cash assistance at the end of the previous
38 sixty-month period, any subsequent sixty-month time period begins on the date
39 when cash assistance became effective again, regardless of when the person
40 received an actual payment.

41 2. For persons who begin receiving cash assistance after November 1,
42 1995, the sixty-month time period begins on the date cash assistance becomes
43 effective, regardless of when the person received an actual payment. A
44 subsequent sixty-month period begins as provided in paragraph 1 of this
45 subsection.

1 ~~J.~~ K. In calculating a parent's or any other relative's benefit
2 increase that arises from any general increase that has been approved for all
3 program recipients, the department shall not consider a child or children
4 born under the time periods listed in subsection G of this section.

5 ~~K.~~ L. For the parents or other relatives who have additional children
6 for whom they receive no cash assistance payment under subsection G of this
7 section, the department shall make any necessary program amendments or
8 request any necessary federal waivers to allow the parents or other relatives
9 to earn income in an amount equal to the disallowed cash assistance payment
10 without affecting their eligibility for assistance.

11 ~~L.~~ M. The director shall adopt rules:

12 1. To implement this section including rules to define the
13 investigatory steps which must be taken to confirm that an act of sexual
14 assault or incest led to the birth of a dependent child or children.

15 2. That require the department to inform both verbally and in writing
16 the parents and other relatives who are receiving assistance under this
17 article of the specific family planning services that are available to them
18 while they are enrolled as eligible persons in the Arizona health care cost
19 containment system.

20 ~~M.~~ N. Nothing in this section shall be construed to prevent an
21 otherwise eligible child who is not included in the family's calculation of
22 benefits under this article from being eligible for coverage under title 36,
23 chapter 29 or for any services that are directly linked to eligibility for
24 the temporary assistance for needy families program.

25 ~~N.~~ O. Assistance shall not be denied or terminated under this
26 article because the principal wage earner works one hundred or more hours per
27 month.

28 ~~O.~~ P. The department shall include all income from every source
29 available to the person requesting cash assistance, except income that is
30 required to be disregarded by this subsection and as determined by the
31 department in rules. For the amount of income that is received from
32 employment, each month every employed person is entitled to receive an earned
33 income disregard of ninety dollars plus an additional thirty per cent of the
34 remaining earned income. A household that includes an employed person is
35 entitled to an earned income disregard equal to the actual amount billed to
36 the household for the care of an adult or child dependent household member,
37 up to two hundred dollars a month for a child under two years of age and up
38 to one hundred seventy-five dollars a month for each other dependent. This
39 dependent care disregard is allowed only if the expense is necessary to allow
40 the household member to become or remain employed or to attend postsecondary
41 training or education that is preparatory to employment.

42 ~~P.~~ Q. Any parent or other relative who applies for or receives cash
43 assistance under this article on behalf of a dependent child who is between
44 six and sixteen years of age shall ensure that the child is enrolled in and
45 attending school. An initial applicant is ineligible for benefits until the
46 applicant's dependent children are verified to be enrolled in and attending

1 an educational program. The department of education shall assist the
2 department of economic security in obtaining verification of school
3 enrollment and attendance. The director of the department of economic
4 security may adopt rules for granting good cause exceptions from ~~the~~
5 ~~provisions of~~ this subsection. The department of economic security shall
6 sanction a recipient who fails, without good cause, to ensure school
7 enrollment and attendance according to ~~the provisions of~~ section 46-300.

8 ~~Q-~~ R. Any parent or other relative who applies for or receives cash
9 assistance under this section on behalf of a dependent child shall ensure
10 that the child is immunized in accordance with the schedule of immunizations
11 pursuant to section 36-672. The director of the department of economic
12 security may adopt rules for granting good cause exceptions from ~~the~~
13 ~~provisions of~~ this subsection. The department of economic security shall
14 sanction a recipient, in accordance with ~~the provisions of~~ section 46-300,
15 who fails, without good cause, to obtain the required immunizations for a
16 dependent child unless the recipient submits to the department of economic
17 security the documentation described in section 15-873.

18 Sec. 2. Section 46-300, Arizona Revised Statutes, is amended to read:
19 46-300. Sanctions

20 A. The department shall impose a series of graduated sanctions as
21 described in subsection C of this section for any noncompliance with:

22 1. The child support enforcement efforts required by section 46-292,
23 subsection C unless good cause is established as provided in section 46-292,
24 subsections E and F.

25 2. The work activities requirements described in section 46-299,
26 unless good cause is established as provided in section 46-299, subsection H
27 and department rules.

28 3. The school enrollment and attendance ~~provisions~~ REQUIREMENTS of
29 section 46-292, subsection ~~P-~~ Q.

30 4. The immunization requirements of section 46-292, subsection ~~Q-~~ R.

31 B. Noncompliance with one or more of the requirements listed in
32 subsection A of this section during any calendar month is deemed to be a
33 month of noncompliance and shall result in the sanctions prescribed in
34 subsection C of this section. The department shall impose these graduated
35 sanctions even if the instances of noncompliance do not occur in consecutive
36 months.

37 C. The department shall impose the following sanctions:

38 1. For the first instance of noncompliance, the department shall
39 reduce the household's cash assistance grant by twenty-five per cent for one
40 month.

41 2. For a second instance of noncompliance that occurs in a month other
42 than the month in which the first noncompliance occurred, the department
43 shall reduce the household's cash assistance grant by fifty per cent for one
44 month.

45 3. For a third instance of noncompliance that occurs in a month other
46 than the month in which the second noncompliance occurred and any instance of

1 noncompliance thereafter, the department shall terminate the household's cash
2 assistance grant for at least one month or until the household complies.

3 Sec. 3. Exemption from rule making; department of economic
4 security

5 The department of economic security is exempt from the rule making
6 requirements of title 41, chapter 6, Arizona Revised Statutes, for two years
7 after the effective date of this act to implement the provisions of section
8 46-292, subsection I, Arizona Revised Statutes, as amended by this act.