

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

# HOUSE BILL 2320

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, do not refuse to accept available employment and any  
23 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 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 **TRANSFERRED OR ASSIGNED**,  
33 within one year prior to application, or while a recipient, ~~transferred or~~  
34 ~~assigned~~ real or personal property with the intent to evade federal or state  
35 eligibility requirements. Transfer of property with retention of a life  
36 estate for the purpose of qualifying for assistance is prohibited. Where  
37 fair consideration for the property was received, no inquiry into motive is  
38 necessary. A person found ineligible under this section shall be ineligible  
39 for such time as the 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

1 opportunity reconciliation act of 1996) and Public Law 105-32 (balanced  
2 budget act of 1997).

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

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

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

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

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

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

18 6. Supplying additional information the department requires.

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

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

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

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

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

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

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

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

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

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

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

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

18           1. The period in which the parent or other relative is receiving  
19 assistance benefits.

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

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

29           H. The following exceptions apply to subsection G of this section:

30           1. The department shall allow an increase in cash assistance under the  
31 program for a dependent child or children born as a result of an act of  
32 sexual assault as prescribed in section 13-1406 or incest. The department  
33 shall ensure that the proper law enforcement authorities are notified of  
34 allegations of sexual assault or incest made pursuant to this paragraph. For  
35 the purposes of this paragraph, "an act of sexual assault" includes sexual  
36 assault of a spouse if the offense was committed before ~~the effective date of~~  
37 ~~this amendment to this section~~ **AUGUST 12, 2005.**

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

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

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

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

12           I. THE DEPARTMENT:

13           1. SHALL ELIMINATE THE BENEFIT CAP UNDER SUBSECTION G OF THIS SECTION  
14 IF ANY OF THE FOLLOWING APPLIES:

15           (a) THE CHILD'S PARENTS ARE DECEASED OR ONE PARENT IS DECEASED AND THE  
16 OTHER PARENT HAS ABANDONED THE CHILD AS DESCRIBED IN SUBDIVISION (b) OF THIS  
17 PARAGRAPH, IS INCARCERATED AS DESCRIBED IN SUBDIVISION (c) OF THIS PARAGRAPH  
18 OR MARRIES AS DESCRIBED IN SUBDIVISION (g) OF THIS PARAGRAPH.

19           (b) THE CHILD'S PARENTS HAVE COMMITTED ABANDONMENT AS DEFINED IN  
20 SECTION 8-531 OR ONE PARENT HAS COMMITTED ABANDONMENT AS DEFINED IN SECTION  
21 8-531 AND THE OTHER PARENT IS DECEASED, IS INCARCERATED AS DESCRIBED IN  
22 SUBDIVISION (c) OF THIS PARAGRAPH OR MARRIES AS DESCRIBED IN SUBDIVISION (g)  
23 OF THIS PARAGRAPH.

24           (c) THE CHILD'S PARENTS HAVE BECOME INCARCERATED, AND WILL BE  
25 INCARCERATED, FOR A PERIOD OF AT LEAST ONE YEAR OR ONE PARENT HAS BECOME  
26 INCARCERATED, AND WILL BE INCARCERATED, FOR A PERIOD OF AT LEAST ONE YEAR AND  
27 THE OTHER PARENT HAS ABANDONED THE CHILD AS DESCRIBED IN SUBDIVISION (b) OF  
28 THIS PARAGRAPH OR MARRIES AS DESCRIBED IN SUBDIVISION (g) OF THIS PARAGRAPH.

29           (d) THE DEPARTMENT HAS REMOVED THE CHILD FROM THE CHILD'S HOME AND HAS  
30 PLACED THE CHILD WITH A RELATIVE.

31           (e) THE CHILD IS LIVING WITH A NONPARENT RELATIVE.

32           (f) THE CHILD IS LIVING WITH A PERMANENT GUARDIAN AS DESCRIBED IN  
33 SECTION 8-871.

34           (g) THE CHILD'S CUSTODIAL PARENT MARRIES AND STILL QUALIFIES FOR CASH  
35 ASSISTANCE.

36           2. SHALL NOT ELIMINATE THE BENEFIT CAP UNDER THIS SUBSECTION UNLESS  
37 THE EXPENDITURE FROM THE STATE GENERAL FUND IS OFFSET BY REDUCED CASH  
38 ASSISTANCE EXPENDITURES.

39           3. SHALL ADOPT RULES UNDER THIS SECTION FOR THE FOLLOWING:

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

41           (b) THE FINANCIAL FACTORS IN THE CASH ASSISTANCE BUDGET THAT MUST  
42 EXIST IN ORDER FOR THE DEPARTMENT TO AUTHORIZE AN INCREASE IN THE CASH  
43 ASSISTANCE GRANTS WITHOUT REQUIRING AN INCREASE IN EXPENDITURES FROM THE  
44 STATE GENERAL FUND.

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

4           1. For persons who are receiving cash assistance on November 1, 1995,  
5 the sixty-month time period begins on November 1, 1995. A subsequent  
6 sixty-month time period begins immediately after the previous period ends if  
7 the person is receiving cash assistance through two sixty-month periods. If  
8 the individual is not receiving cash assistance at the end of the previous  
9 sixty-month period, any subsequent sixty-month time period begins on the date  
10 when cash assistance became effective again, regardless of when the person  
11 received an actual payment.

12           2. For persons who begin receiving cash assistance after November 1,  
13 1995, the sixty-month time period begins on the date cash assistance becomes  
14 effective, regardless of when the person received an actual payment. A  
15 subsequent sixty-month period begins as provided in paragraph 1 of this  
16 subsection.

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

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

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

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

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

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

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

44           ~~O.~~ P. The department shall include all income from every source  
45 available to the person requesting cash assistance, except income that is

1 required to be disregarded by this subsection and as determined by the  
2 department in rules. For the amount of income that is received from  
3 employment, each month every employed person is entitled to receive an earned  
4 income disregard of ninety dollars plus an additional thirty per cent of the  
5 remaining earned income. A household that includes an employed person is  
6 entitled to an earned income disregard equal to the actual amount billed to  
7 the household for the care of an adult or child dependent household member,  
8 up to two hundred dollars a month for a child under two years of age and up  
9 to one hundred seventy-five dollars a month for each other dependent. This  
10 dependent care disregard is allowed only if the expense is necessary to allow  
11 the household member to become or remain employed or to attend postsecondary  
12 training or education that is preparatory to employment.

13 ~~P.~~ Q. Any parent or other relative who applies for or receives cash  
14 assistance under this article on behalf of a dependent child who is between  
15 six and sixteen years of age shall ensure that the child is enrolled in and  
16 attending school. An initial applicant is ineligible for benefits until the  
17 applicant's dependent children are verified to be enrolled in and attending  
18 an educational program. The department of education shall assist the  
19 department of economic security in obtaining verification of school  
20 enrollment and attendance. The director of the department of economic  
21 security may adopt rules for granting good cause exceptions from this  
22 subsection. The department of economic security shall sanction a recipient  
23 who fails, without good cause, to ensure school enrollment and attendance  
24 according to section 46-300.

25 ~~Q.~~ R. Any parent or other relative who applies for or receives cash  
26 assistance under this section on behalf of a dependent child shall ensure  
27 that the child is immunized in accordance with the schedule of immunizations  
28 pursuant to section 36-672. The director of the department of economic  
29 security may adopt rules for granting good cause exceptions from this  
30 subsection. The department of economic security shall sanction a recipient,  
31 in accordance with section 46-300, who fails, without good cause, to obtain  
32 the required immunizations for a dependent child unless the recipient submits  
33 to the department of economic security the documentation described in section  
34 15-873.

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

36 46-300. Sanctions

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

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

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

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

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

4           B. Noncompliance with one or more of the requirements listed in  
5 subsection A of this section during any calendar month is deemed to be a  
6 month of noncompliance and shall result in the sanctions prescribed in  
7 subsection C of this section. The department shall impose these graduated  
8 sanctions even if the instances of noncompliance do not occur in consecutive  
9 months.

10          C. The department shall impose the following sanctions:

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

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

18           3. For a third instance of noncompliance that occurs in a month other  
19 than the month in which the second noncompliance occurred and any instance of  
20 noncompliance thereafter, the department shall terminate the household's cash  
21 assistance grant for at least one month or until the household complies.

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

24          The department of economic security is exempt from the rule making  
25 requirements of title 41, chapter 6, Arizona Revised Statutes, for two years  
26 after the effective date of this act to implement the provisions of section  
27 46-292, subsection I, Arizona Revised Statutes, as amended by this act.