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1996 Survey of Rhode Island Law: Legislation: Public Assistance. An Act Relating To Public Assistance

Renee G. Vogel MD,MPH
Roger Williams University School of Law

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Public Assistance. *An Act Relating To Public Assistance.* Provides comprehensive changes in the manner in which welfare benefits are provided to eligible recipients, revisions in health care of children and pregnant women, and changes in child support enforcement. Also provides for changes in recording birth information, and legal implications of paternity testing. Effective, August 2, 1996. 1996 R.I. Pub. Laws ch. 131.¹

This legislation (the Act) revises the manner in which public assistance is provided, and changes some of the mechanisms for modification and enforcement of child support, alimony and custody orders. The most comprehensive change is the addition of "The Rhode Island Family Independence Act"² to Title 40, "Human Services," which replaces section 40-6-4, entitled, "Aid to Families with Dependent Children Act."³ The legislative intent of the "Family Independence Act" is "to fundamentally change the [then existing] public assistance program to a program to provide temporary financial assistance to eligible families with children while facilitating the entry or re-entry of the adult members of the family into the workplace."⁴ This Act changes the focus from providing cash assistance to eligible families with a secondary emphasis on employment, to one where families will become employed.⁵ A significant change in the Act is that two parent families are eligible for benefits if they meet income and resource requirements, whereas under the repealed act, one parent had to be unemployed or incapacitated to receive cash assistance.⁶

By helping adult family members improve their work skills, and therefore increase their earnings, the legislature anticipates a reduction in program cost, which will become available for investment in health care, child care, education, literacy and skill train-

1. Some of the provisions are either "contingently effective," pending receipt by the Rhode Island Department of Human Services of all necessary federal approvals and/or waivers from the United States Department of Health and Human Services to implement the provisions of the Act. R.I. Gen. Laws §§ 40-5.1-1 to -44, 40-6-29, 42-12.3-15 to -16 (Supp. 1996). One provision is contingently repealed, on the same basis. *Id.* § 40-6-4 (1990) (repealed 1996).

2. *Id.* § 40-5.1 (Supp. 1996).

3. *Id.* § 40-6-4 (1990) (contingently repealed 1996).

4. *Id.* § 40-5.1-2 (Supp. 1996).

5. *Id.*

6. *Id.* § 40-6-4 (1990) (repealed 1996).

ing.⁷ Services under this chapter will be supervised by a case manager or case management team.⁸ These services include determining the eligibility of recipients and helping them develop and implement employment plans, as well as developing strategies to ensure that the Department of Human Resources's capabilities are used as efficiently as possible.⁹ The Act authorizes a job development incentive program, which involves subsidies to employers which hire a family member for a period of at least six months under the same conditions and terms as an unsubsidized employee.¹⁰ The legislature may also appropriate grants to organizations representing the Rhode Island business community, which will help identify specific employment opportunities and provide mentors to help adult members gain and retain employment.¹¹ Under the Act, all United States citizens and legal residents may be eligible for assistance.¹² Section 40-5.1-8(b) provides that a family may not have net assets of more than one thousand dollars, but there are several exceptions which are enumerated in this section.¹³ The Act also mandates that a family consisting of a parent who is under the age of eighteen, who has never been married and who has a child or is at least six months pregnant, is eligible for cash assistance only if such family resides in the home of a parent, legal guardian, or other adult relative of the minor-parent.¹⁴ This provision does not apply if the department determines that the physical or emotional health or safety of such minor-parent or his or her child would be jeopardized by such a living arrangement, or if the Department determines that there is good cause for waiving this requirement.¹⁵ To receive benefits, therefore, a minor-parent must live in a supervised, supportive living arrangement, and must cooperate with the Department in various ways.¹⁶

To receive benefits, a family must comply with several provisions in the Act, including participation in an employment pro-

7. *Id.* § 40-5.1-2 (Supp. 1996).

8. *Id.* § 40-5.1-4.

9. *Id.*

10. *Id.* § 40-5.1-6.

11. *Id.* § 40-5.1-7.

12. *Id.* § 40-5.1-8(a).

13. *Id.* § 40-5.1-8(b)-(e).

14. *Id.* § 40-5.1-8(f)(i).

15. *Id.* § 40-5.1-8(f)(ii)(A)(2).

16. *Id.* § 40-5.1-8(f)(ii)(B).

gram, which could entail paid employment (including on-the-job training), community work experience, or an approved training or work readiness program.¹⁷ The Act also provides for a lump sum payment in lieu of cash assistance, as part of a limited pilot project to be established by the Department.¹⁸ This sum is to enable an adult member of a family to accept or maintain current employment, and requires the family to waive cash assistance to which it would be entitled for the six months following receipt of the lump sum payment.¹⁹

Families at or below 185% of the federal poverty line are eligible to receive child care subsidies, if such are needed to meet the work requirements of the Act or to maintain paid employment.²⁰ Families below 100% of the applicable federal poverty levels will not have to pay for such care.²¹ In addition, every member of an eligible family is automatically eligible for medical assistance through the RIte Care program, which will continue for eighteen months after the family member becomes ineligible for public assistance due to excess earnings, or until employer paid health care begins.²² All children up to age eighteen, living in families that have incomes up to 250% of the federal poverty level, will become eligible for medical care through RIte Care,²³ but families with liquid resources equal to, or greater than, \$10,000 will not be eligible for health care benefits under this chapter.²⁴ A final provision states that employers may not discriminate against public assistance recipients.²⁵

All records pertaining to the administration of public assistance under this chapter are confidential,²⁶ and the Director of the Rhode Island Department of Human Services will be responsible

17. *Id.* § 40-5.1-9.

18. *Id.* § 40-5.1-9.1.

19. *Id.*

20. *Id.* § 40-5.1-17(a).

21. *Id.* § 40-5.1-17(b).

22. *Id.* § 40-5.1-19.

23. *Id.* § 42-12.3-15. Under this provision, the Rhode Island Department of Human Services is authorized to apply for a waiver from the United States Department of Health and Human Services to implement this expanded coverage. *Id.*

24. *Id.* § 42-12.3-16. This resource limit will become effective with federal approval of the expanded RIte Care coverage. *Id.* See *supra* note 23.

25. R.I. Gen. Laws § 40-6-29 (Supp. 1996).

26. *Id.* § 40-5.1-30.

for the implementation of this chapter.²⁷ Finally, the Act provides that the Board of Governors for Higher Education, the Department of Employment and Training, the Rhode Island economic development corporation, and a special Advisory Commission will help monitor the program.²⁸

The Act also makes some changes in enforcement of alimony, custody, child support, and visitation orders.²⁹ A new chapter entitled, "Uniform Interstate Family Support Act," is added, addressing child support enforcement.³⁰ The Rhode Island Division of Taxation is designated as the legal representative to enforce all duties of support and maintenance under this Act, replacing the Department of Human Services.³¹ The Act also extends the jurisdiction of the family court to non-resident individuals, if certain criteria are met.³² Modification of an order for child support issued by another state requires that the order have been registered in Rhode Island pursuant to Rhode Island General Laws section 15-23-45, or that Rhode Island have issued the order originally and have continuing exclusive jurisdiction over the parties.³³

Section 15-5-16.2 of the Rhode Island General Laws is also amended to allow the court to require a parent or the grandparent of a child (if the parent is also a minor), to reimburse the state for any public assistance received by a child.³⁴ An unemployed or under-employed, but able-bodied, parent may be required to perform up to twenty hours of community service under the supervision of the Rhode Island Department of Human Services and the Rhode Island Division of Taxation.³⁵

The Act also modifies the legal implications of paternity testing. Under the prior provision, paternity was established as a rebuttable presumption where the relevant testing established a threshold probability.³⁶ The amendment allows a conclusive presumption of paternity if the relevant blood or tissue testing estab-

27. *Id.* § 40-5.1-31.

28. *Id.* § 40-5.1-31 to -35.

29. *Id.* § 8-10-3 (1985 & Supp. 1996).

30. *Id.* § 15-23-1 (1996).

31. *Id.* § 15-9-3.

32. *Id.* § 15-23-4 (1996).

33. *Id.* § 8-10-3 (1985 & Supp. 1996).

34. *Id.* § 15-5-16.2(g) (1996).

35. *Id.* § 15-5-16.2(f).

36. *Id.* § 15-8-3.

lishes a ninety-seven percent or greater probability that a party is the biological father.³⁷ Authority to order the required blood testing rests with the family court and the Division of Taxation.³⁸

The Act repeals in its entirety the chapter entitled, "Reciprocal Enforcement of Support,"³⁹ and replaces it with amendments to the chapter entitled, "Income Withholding."⁴⁰ The Division of Taxation is designated as the state income withholding agency for all income withholding orders issued or registered in Rhode Island, replacing the Department of Human Services.⁴¹

Chapter 23, "Vital Records," is amended to require a record to be compiled of the social security number of each parent whose name is recorded on any birth certificate issued after September 1, 1996, unless the registrar finds good cause for not requiring it.⁴² The social security number may be used by the state agency responsible for administering the state's child support enforcement program.⁴³ Amendments to a "vital record" can only be made in accordance with the provisions of this chapter, and the Act now allows either the Department of Human Services or the Division of Taxation to accept a sworn acknowledgment of paternity to a child born out of wedlock, and to forward that acknowledgment to the registrar of vital records for amendment of the birth certificate.⁴⁴

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37. *Id.* § 15-8-11(e).

38. *Id.* § 15-8-11(a).

39. *Id.* § 15-11-1 to -42 (repealed 1996).

40. *Id.* § 15-16-1 (1996).

41. *Id.* § 15-16-4.

42. *Id.* § 23-3-10.1 (1996).

43. *Id.*

44. *Id.* § 23-3-21.