

State of Arizona
House of Representatives
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 223

HOUSE BILL 2136

AN ACT

AMENDING SECTION 46-294, ARIZONA REVISED STATUTES; REPEALING SECTION 46-297, ARIZONA REVISED STATUTES; AMENDING SECTION 46-300.01, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF SECTION 46-342, ARIZONA REVISED STATUTES; AMENDING SECTIONS 46-407 AND 46-408, ARIZONA REVISED STATUTES; REPEALING SECTION 46-409, ARIZONA REVISED STATUTES; REPEALING LAWS 2002, CHAPTER 227, SECTION 10; AMENDING LAWS 2002, CHAPTER 331, SECTIONS 20 AND 23; 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 46-294, Arizona Revised Statutes, is amended to
3 read:

4 46-294. Duration of assistance

5 A. Any person FAMILY THAT INCLUDES AN ADULT who is eighteen years of
6 age or older in an assistance unit becomes ineligible for inclusion in the
7 calculation of the A cash assistance grant after the person ADULT has
8 received cash assistance awarded under this article for twenty-four months
9 during any consecutive A TOTAL OF sixty month time period MONTHS except IN
10 CASE OF HARDSHIP. ~~;~~

11 1. ~~A disabled or incapacitated adult.~~

12 2. ~~A full-time caretaker of a disabled dependent person.~~

13 3. ~~A recipient who is sixty-two years of age or older.~~

14 4. ~~A participant in any department administered demonstration project
15 that subsidizes the wages of project participants by using monies from the
16 temporary assistance for needy families and food stamp programs.~~

17 5. ~~Victims of domestic violence until their situation is resolved to
18 the degree that they may seek self-sufficiency.~~

19 6. ~~The twenty-four month and sixty month limits do not begin until a
20 person has reached eighteen years of age.~~

21 C. ~~The director may grant two four-month extensions of the twenty-four
22 month time limit to allow a person to complete a full-time academic,
23 vocational, job training or work study program that the department determines
24 is related to enabling the person to become self-sufficient. To qualify for
25 an extension, the person shall:~~

26 1. ~~Have begun the program before losing eligibility for inclusion in
27 the cash assistance grant.~~

28 2. ~~Demonstrate successful progress toward completion of the program.~~

29 D. ~~The director shall adopt rules that provide for the granting of
30 extensions of the twenty-four month time limit if a recipient applies for an
31 extension and demonstrates that the recipient is unable to earn income equal
32 to the amount of the benefit that the recipient became ineligible to receive.
33 The application of the time limit to an adult recipient is presumed to be
34 fair and equitable. The recipient has the burden of proving that the
35 application of the time limit is unfair or inequitable because the recipient
36 has made a good faith effort, without success, to earn from legal employment
37 opportunities an amount equal to or greater than the amount of the cash
38 assistance for which the recipient will no longer be eligible. The
39 department shall work cooperatively with local job services offices to
40 provide the recipient with information on employment opportunities. An
41 extension shall not be granted pursuant to this subsection if any of the
42 following apply:~~

43 1. ~~The recipient cannot demonstrate a good faith effort to seek
44 employment.~~

1 2. ~~The recipient refuses, without good cause, to accept a bona fide~~
2 ~~offer of legal employment, including part-time traditional or nontraditional~~
3 ~~employment that would provide earnings equal to or greater than the portion~~
4 ~~of the benefit for which the recipient is no longer eligible or for which the~~
5 ~~recipient would no longer be eligible if an extension had not been granted~~
6 ~~pursuant to this subsection.~~

7 3. ~~The recipient cannot demonstrate or refuses to produce the good~~
8 ~~cause reason or reasons for not accepting an offer of legal employment that~~
9 ~~the department is aware has been made, including part-time traditional or~~
10 ~~nontraditional employment that would provide earnings equal to or greater~~
11 ~~than the portion of the benefit for which the recipient is no longer eligible~~
12 ~~or for which the recipient would no longer be eligible if an extension had~~
13 ~~not been granted pursuant to this subsection.~~

14 4. ~~The recipient cannot demonstrate or refuses to produce the good~~
15 ~~cause reason or reasons for voluntarily quitting a job held during the~~
16 ~~current sixty month period as described in subsection F.~~

17 5. ~~The recipient has been discharged for reasons of misconduct from~~
18 ~~a job held during the current sixty month period as described in subsection~~
19 ~~F.~~

20 6. ~~The recipient cannot demonstrate or refuses to produce the good~~
21 ~~cause reason or reasons for voluntarily acting to reduce employment earnings~~
22 ~~from a job held during the current sixty month period as described in~~
23 ~~subsection F.~~

24 7. ~~The recipient cannot demonstrate that the recipient has cooperated~~
25 ~~with the department during the extension application process.~~

26 E. ~~The department shall provide a two year eligibility period for~~
27 ~~transportation and postemployment education and training to individuals who~~
28 ~~are eligible for services or benefits under temporary assistance for needy~~
29 ~~families.~~

30 F. ~~The department shall calculate the sixty month time period in the~~
31 ~~following manner:~~

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

40 2. ~~For persons who begin receiving benefits after November 1, 1995,~~
41 ~~the sixty month time period begins on the date assistance becomes effective,~~
42 ~~regardless of when the person received an actual payment. A subsequent sixty~~
43 ~~month period begins as provided in paragraph 1 of this subsection. The~~
44 ~~department shall fund assistance to persons who receive less than one hundred~~
45 ~~dollars a month from maintenance of effort dollars. Payments of less than one~~

1 ~~hundred dollars are not included in the sixty month period if assistance is~~
2 ~~paid from maintenance of effort dollars.~~

3 ~~G. The department shall calculate the twenty-four month benefit~~
4 ~~limitation in the following manner:~~

5 ~~1. For persons who are receiving assistance benefits on November 1,~~
6 ~~1995, the department shall count the first monthly benefit payment the person~~
7 ~~received that covers a full month after November 1, 1995 as the first of the~~
8 ~~twenty-four months.~~

9 ~~2. For persons who begin receiving benefits after November 1, 1995,~~
10 ~~the department shall count the first full month the person is covered,~~
11 ~~regardless of when the person received a payment as the first of the~~
12 ~~twenty-four months. The department shall ensure that no retroactive benefit~~
13 ~~payment is counted toward the twenty-four month total if it covered a period~~
14 ~~of time before November 1, 1995.~~

15 ~~H. B. The department shall continue to perform cash assistance~~
16 ~~eligibility determinations for persons who have reached their twenty-four~~
17 ~~SIXTY month maximum. Persons who have reached the maximum but are otherwise~~
18 ~~eligible for cash assistance under this article continue to be eligible to~~
19 ~~receive:~~

20 ~~1. Job services that are provided pursuant to section 46-299.~~

21 ~~2. Covered medical services that are provided pursuant to title 36,~~
22 ~~chapter 29.~~

23 ~~3. Any other services that are directly linked to eligibility for the~~
24 ~~temporary assistance for needy families program.~~

25 ~~I. C. The department shall make any necessary program amendments or~~
26 ~~request any necessary federal waivers to allow assistance units who~~
27 ~~experience a reduction in their total assistance grant due to the provisions~~
28 ~~of this section to earn income equal to the amount that they became~~
29 ~~ineligible to receive pursuant to subsection A of this section without~~
30 ~~affecting their eligibility for cash assistance.~~

31 ~~J. D. Nothing in this section shall be construed to alter the method~~
32 ~~used by the department to determine eligibility for transitional benefits~~
33 ~~provided pursuant to the family support act of 1988 (P.L. 100-485) or~~
34 ~~provided pursuant to any demonstration project that the department or any~~
35 ~~other state agency administers under a federal waiver.~~

36 ~~K. E. Any month or months of assistance received by a person under~~
37 ~~the Arizona works program before October 1, 2002 or received under this~~
38 ~~article shall not be counted against the sixty month lifetime limitation of~~
39 ~~the temporary assistance for needy families act (P.L. 104-193).~~

40 ~~Sec. 2. Repeal~~

41 ~~Section 46-297, Arizona Revised Statutes, is repealed.~~

1 Sec. 3. Section 46-300.01, Arizona Revised Statutes, is amended to
2 read:

3 46-300.01. JOB program; privatization; definitions

4 A. Beginning on October 1, 2002, the department shall begin preparing
5 a request for proposals for privatization throughout this state for case
6 management and employment services necessary to operate the JOBS
7 program. The department shall issue a request for proposals by January 1,
8 2003 and at least once every five years thereafter. On July 1, 2003, the
9 department may begin to contract with qualified providers for case management
10 and employment services necessary to operate the JOBS program by January JULY
11 1, 2004.

12 B. Providers eligible to compete for the JOBS program case management
13 and employment service contracts include private, for profit businesses,
14 nonprofit community organizations, community college districts and local and
15 tribal government entities. Providers must demonstrate the ability to
16 perform JOBS case management services, provide quality service and be
17 responsive to the needs of the recipients. The department may reject all
18 providers who place bids pursuant to this section.

19 C. The JOBS program case management and employment services contracts
20 shall be written for all areas of this state in which qualified providers are
21 available. In establishing contracts for these services, the department may
22 adopt a service model for a particular county or area of this state that uses
23 either a single provider or multiple providers. The providers may begin
24 operating the JOBS program in areas of this state by July 1, 2003, and shall
25 operate the JOBS program in areas of this state by January JULY 1, 2004. A
26 provider may operate in more than one area of the state. The specific area
27 in which the provider performs services shall be described in detail in the
28 contract. The contract shall include provisions that make the contractor
29 accountable for performance and may impose penalties for failure to perform
30 the contract terms.

31 D. The department shall:

32 1. Make a determination whether qualified providers are available
33 based on response to requests for proposals the department issues.

34 2. Establish the provisions of the JOBS program case management and
35 employment services contracts.

36 3. Take immediate action, in the event of a provider failure, to
37 directly administer services until an alternative provider can be secured.

38 4. Continue to provide case management and employment services in an
39 area when no qualified providers have submitted proposals to provide these
40 services in the area. In areas where there are no providers or an
41 insufficient number of providers, the department may continue to attempt to
42 procure private contractors for the area.

43 5. Hold all contracted providers of case management and employment
44 services accountable to specified performance measures and results with
45 payment for services based on performance.

1 E. Department of economic security employees who are displaced by
2 implementation of privatization of the JOBS program authorized by this
3 section shall receive priority consideration for employment by the private
4 provider or providers based on prior training and experience. Employment
5 options for displaced employees shall be made available pursuant to title 41,
6 chapter 4, article 5.

7 F. Contracted payments for the JOBS case management services shall not
8 exceed the total level of funding that is made available to the department
9 to operate the JOBS program, including other related child care and support
10 services, as a department program. The department shall retain sufficient
11 funding to ensure the efficient operation of the program and compliance with
12 the contract terms, state plans and all federal and state statutes and rules.

13 G. After contracts are awarded pursuant to this section, the director
14 may negotiate with any successful bidder for the expansion or contraction of
15 services or service areas if there are unnecessary gaps or duplications in
16 services or service areas.

17 H. Procurement under this section is exempt from title 41, chapter 25,
18 article 2.

19 I. For the purposes of this section:

20 1. "Case management services" includes:

21 (a) Developing individual employability plans.

22 (b) Assigning work activities.

23 (c) Referring persons, as necessary, to appropriate contracted
24 providers for employment, education, medical and counseling services.

25 (d) Child care eligibility determinations for families receiving cash
26 assistance or transitioning off of cash assistance. Child care eligibility
27 determinations does not include child care services pursuant to section
28 46-802, 46-805, 46-807, 46-808 or 46-809.

29 2. "Department" means the department of economic security.

30 3. "Employment services" includes:

31 (a) Providing job readiness training.

32 (b) Assisting clients with job location and placement activities for
33 unsubsidized paid employment.

34 (c) Establishing and monitoring subsidized employment opportunities
35 and placement for individuals unable to obtain unsubsidized employment.

36 (d) Establishing and monitoring unpaid work experience and community
37 service opportunities and placement for those individuals needing this level
38 of assistance to move to paid employment.

39 (e) Providing employment related support services.

40 4. "JOBS program" means the program administered by the department of
41 economic security to implement the provisions of section 46-299.

42 Sec. 4. Delayed repeal

43 Section 46-342, Arizona Revised Statutes, is repealed from and after
44 June 30, 2004.

1 Sec. 5. Section 46-407, Arizona Revised Statutes, is amended to read:
2 46-407. Assignment of rights to support; definition

3 A. The right to support of a child and spouse who receive temporary
4 assistance for needy families pursuant to Public Law 104-193 and chapter 2,
5 article 5 of this title and the right to medical support of a child who
6 receives medical assistance under title XIX of the social security act is
7 assigned to this state by operation of law. The support rights are assigned
8 to the state regardless of whether the applicant for assistance has any right
9 to receive the support. The department shall take all steps necessary to
10 enforce the assigned rights to support.

11 B. The support rights assigned to the state apply to all children of
12 the household for whom temporary assistance for needy families is granted.
13 If a child is denied temporary assistance for needy families due to the
14 receipt of social security income for the child OR THE CHILD IS SUBJECT TO
15 SECTION 46-292, SUBSECTION G, the department shall divide the court ordered
16 child support amount by the number of children in the court order. The
17 prorated amount IS EXEMPT FROM ASSIGNMENT for the child WHO IS receiving
18 social security income OR SUBJECT TO SECTION 46-292, SUBSECTION G ~~is exempt~~
19 ~~from assignment.~~

20 C. The right to support of a child on whose behalf foster care
21 maintenance payments are made is assigned pursuant to section 8-243.02. If
22 the child support order covers more than one child, the department shall
23 determine the amount to be distributed to the state by dividing the court
24 ordered support amount by the number of the children in the court order.

25 D. For purposes of this section, 'support' has the same meaning
26 prescribed in section 25-500.

27 Sec. 6. Section 46-408, Arizona Revised Statutes, is amended to read:
28 46-408. Assignment of support rights; priority; definitions

29 A. The assignment under section 46-407 is subject to all of the
30 following:

31 1. Terminates with respect to current support when the person entitled
32 to receive support is no longer receiving temporary assistance for needy
33 families.

34 2. While receiving temporary assistance for needy families the
35 assignment applies to any rights to support from any other person including
36 any support that accrued before receiving temporary assistance for needy
37 families.

38 3. Does not preclude enforcement of support in the name of the person
39 entitled to receive support.

40 4. Does not bind any person who lawfully pays support to the person
41 entitled to receive support.

42 5. Does not assign amounts that exceed the amount of temporary
43 assistance for needy families paid to the person entitled to receive support
44 to which the state is entitled to be reimbursed.

1 6. When the person entitled to receive support is not receiving
2 temporary assistance for needy families, amounts paid for support shall be
3 credited first to that month's current court ordered support up to an amount
4 equal to the amount of the court order in effect at the time of payment and
5 the excess, if any, shall be subject to the assignment.

6 7. The assignment applies to arrearages provided in the court order
7 subject to the following priorities:

8 (a) If the person entitled to receive support is currently receiving
9 temporary assistance for needy families, the state's claim for arrearages
10 shall have priority over all other support claims except for current support.

11 (b) If the person entitled to receive support is not currently
12 receiving temporary assistance for needy families, the state and the person
13 entitled to receive support shall have a proportionate claim for any
14 arrearages owed to the state and the custodial parent under a child support
15 order. The arrearage payment shall be distributed on the total outstanding
16 arrearage amount and the percentage of the total outstanding arrearage owed
17 to the state and the person entitled to receive support.

18 B. Notwithstanding subsection A, paragraph 7 of this section, for
19 distributions that occur or should have occurred beginning October 1, 1997,
20 the department shall distribute support payments as prescribed in title IV-D
21 of the social security act and its implementing regulations as follows:

22 1. Distribute to the family amounts not subject to the assignment.

23 2. Pay the federal government the federal share of the amount
24 collected.

25 3. Retain the state share of the amount collected.

26 4. Retain payments collected through the federal income tax refund
27 intercept program to the extent past due support has been assigned to the
28 state. Any amount collected in excess of the past due support assigned to
29 the state shall be distributed to the past due support owed to the family.

30 ~~C. Beginning on July 1, 2003, for child support due and any child
31 support arrearages that accrue after that date, the department shall
32 distribute to the obligee the equivalent of this state's share of any support
33 payments received for the benefit of a child who is subject to section
34 46-292, subsection G. If the child support order covers additional children,
35 the department shall divide the support order by the number of children in
36 the court order. The department shall distribute to the obligee The amount
37 equivalent to this state's share of the prorated amount attributable to any
38 child who is subject to section 46-292, subsection G.~~

39 ~~D. C.~~ C. An obligee who disagrees with the distribution or disbursement
40 of support payments pursuant to subsection B or C of this section may request
41 an administrative review pursuant to section 25-522 within thirty business
42 days after the date of the department's notice to the obligee of the
43 distribution and disbursement of support received for the prior period. In
44 title IV-D cases with a receipt of support, the department shall send notice
45 to the obligee each month.

1 ~~E.~~ D. In title IV-D cases that have never involved public assistance
2 and in public assistance cases that do not have any receipts of support for
3 the last quarter, the department shall send written notice to the obligee
4 regarding distribution and disbursement of support only for the most recent
5 quarter of the year. The obligee has thirty business days after the date of
6 that notice to submit a written request for an administrative review. The
7 department or its agent shall send a written notice of acknowledgment of
8 receipt of request for administrative review to the obligee within ten
9 business days after it receives a timely request for review. If the
10 department or its agent needs additional information from the obligee to
11 respond to the request for review, the department shall indicate this fact
12 in writing. The department or its agent may also request information from
13 other sources. The department or its agent shall issue a written
14 determination not later than thirty business days after the date of the
15 notice of acknowledgment of receipt of request for administrative review or,
16 if additional information is required, not later than thirty business days
17 after it receives this information. If additional information requested by
18 the department or its agent is not received within thirty business days after
19 the request for more information, the department or its agent shall issue a
20 written determination within ten business days after the due date based on
21 the information available. The department or its agent shall send a copy of
22 the written determination to the obligee by first class mail.

23 ~~F.~~ E. The obligee shall make any appeal of the department's or its
24 agent's determination in writing pursuant to title 41, chapter 14, article
25 3 and shall file it in the department's office of appeals within thirty
26 business days after the date of the written determination. An obligee may
27 appeal the department's final determination pursuant to section 41-1993.

28 ~~G.~~ F. A payment that is credited against past due support shall be
29 applied first to principal and then to interest.

30 ~~H.~~ G. The department may adopt rules addressing interest and
31 distribution of all monies received by the department in child support cases.

32 ~~I.~~ H. For purposes of this section:

33 1. "Arrearage" has the same meaning prescribed in section 25-500.

34 2. "Business day" means a day on which state offices are open for
35 regular business.

36 3. "Support" has the same meaning prescribed in section 25-500.

37 Sec. 7. Repeal

38 Section 46-409, Arizona Revised Statutes, is repealed.

39 Sec. 8. Repeal

40 Laws 2002, chapter 227, section 10 is repealed.

41 Sec. 9. Laws 2002, chapter 331, section 20 is amended to read:

42 Sec. 20. Delayed repeal

43 A. Sections 46-343, 46-344, 46-347, 46-348, 46-351, 46-353 and 46-355,
44 Arizona Revised Statutes, are repealed from and after September 30, 2002.

1 B. Title 46, chapter 2, article 9, Arizona Revised Statutes, is
2 repealed from and after ~~December 31, 2003~~ JULY 1, 2004.

3 Sec. 10. Laws 2002, chapter 331, section 23 is amended to read:

4 Sec. 23. Delayed effective dates

5 A. Sections 46-292, 46-294, 46-300.01, 46-341, 46-342, 46-342.01,
6 46-345, 46-349, 46-350 and 46-352, Arizona Revised Statutes, as amended by
7 this act, are effective from and after September 30, 2002.

8 B. Section 46-300.06, Arizona Revised Statutes, as transferred,
9 renumbered and amended by this act, is effective from and after September 30,
10 2002.

11 C. Sections 23-901, 41-2771, 46-201, 46-203, 46-204, 46-211, 46-213
12 and 46-217, Arizona Revised Statutes, as amended by this act, are effective
13 from and after ~~December 31, 2003~~ JULY 1, 2004.

14 Sec. 11. Retroactivity

15 This act is effective retroactively to from and after June 30, 2003.

APPROVED BY THE GOVERNOR MAY 16, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 16, 2003.

Passed the House February 17, 2003,

Passed the Senate April 30, 2003

by the following vote: 55 Ayes,

by the following vote: 29 Ayes,

4 Nays, 1 Not Voting

0 Nays, 1 Not Voting

Jake Flake
Speaker of the House

Ken Plunth
President of the Senate

Norman L. Moore
Chief Clerk of the House

Charmine B. Bennett
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

 day of , 20 ,

at o'clock M.

Secretary to the Governor

Approved this day of

 , 20 ,

at o'clock M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 16 day of May, 2003

at 3:16 o'clock P. M.

Secretary of State

H.B. 2136

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 12, 2003,

by the following vote: 34 Ayes,

22 Nays, 4 Not Voting

Jake Flake
Speaker of the House

Norman L. Joyce
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

12 day of May, 2003,

at 2:05 o'clock P. M.

Jandra Kay
Secretary to the Governor

Approved this 16 day of

May, 2003,

at 10⁰⁰ o'clock A. M.

Jon Rynall
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 16 day of MAY, 2003

at 3:16 P.M. o'clock P. M.

Jamie K. Brewer
Secretary of State

H.B. 2136