

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1015

Short Title: Welfare Reform Act of 1997.

(Public)

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Sponsors: Senators Martin of Guilford; Cooper, Dannelly, Gulley, Kerr, Lucas, Phillips, and Wellons.

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Referred to: Children and Human Resources.

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April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE WELFARE REFORM ACT OF 1997.

The General Assembly of North Carolina enacts:

**PART 1. WORK FIRST PROGRAM.**

Section 1. The title of Part 2 of Article 2 of Chapter 108A of the General Statutes reads as rewritten:

"Part 2. ~~Aid to Families with Dependent Children.~~ Work First Program."

Section 2. G.S. 108A-24 reads as rewritten:

**"§ 108A-24. Definitions.**

As used in Chapter 108A:

(1) 'Applicant' is any person who requests assistance or on whose behalf assistance is requested.

(1a) 'County department of social services' means a county department of social services, consolidated human services agency, or other local agency designated to administer or provide services pursuant to this Article.

(2) 'Department' is the Department of Human Resources, unless the context clearly indicates otherwise.

- 1           (3) ~~'Dependent child' is a person under 18 years of age who is living with a~~  
2 ~~natural parent, adoptive parent, stepparent, or any other person related~~  
3 ~~by blood, marriage, or legal adoption, in a place of residence maintained~~  
4 ~~by one or more of such persons as his or their own home, and who is~~  
5 ~~deprived of parental support or care; it shall also include a minor who~~  
6 ~~has been eligible for AFDC who is now living in a foster care facility~~  
7 ~~or child caring institution; it shall also include a dependent child in~~  
8 ~~school under 21 years of age as provided by Titles IV-A and XIX of the~~  
9 ~~Social Security Act.~~
- 10           (3a) 'Family' consists of a minor child or children and one or more of their  
11 natural parents, adoptive parents, or stepparents living together.
- 12           (3b) 'Federal TANF funds' means the Temporary Assistance for Needy  
13 Families block grant funds provided for in Title IV-A of the Social  
14 Security Act.
- 15           (4) Repealed by Session Laws 1983, c. 14, s. 3.
- 16           (5) 'Recipient' is a person to whom, or on whose behalf, assistance is  
17 granted under this Article.
- 18           (6) 'Resident,' unless otherwise defined by federal regulation, is a person  
19 who is living in North Carolina at the time of application with the intent  
20 to remain permanently or for an indefinite period; or who is a person  
21 who enters North Carolina seeking employment or with a job  
22 commitment.
- 23           (7) 'Secretary' is the Secretary of Human Resources, unless the context  
24 clearly indicates otherwise.
- 25           (8) 'State Plan' is the plan prepared by the Department for the State's Work  
26 First Program pursuant to this Article.
- 27           (9) 'Title IV-A' means the Social Security Act, 42 U.S.C. § 601, et seq., as  
28 amended by the Personal Responsibility and Work Opportunity  
29 Reconciliation Act of 1996, P.L. 104-193, and to other provisions of  
30 federal law as may apply to services provided in this Article.
- 31           (10) 'Work activities' shall include 'federal work activities' and 'State work  
32 activities'.
- 33               a. 'Federal work activities' are those activities that count toward the  
34 State's fulfillment of the work participation rate required by Title  
35 IV-A.
- 36               b. 'State work activities' are other activities authorized by the  
37 Department for receipt of Work First Family Assistance.
- 38           (11) 'Work First' is the temporary assistance to needy families program  
39 established in this Article.
- 40           (12) 'Work First Diversion Assistance' is a short-term cash payment that is  
41 intended to produce a substantial reduction in the likelihood of a family  
42 requiring Work First Family Assistance.

1           (13) 'Work First Family Assistance' is a program of time-limited periodic  
2           cash payments to assist in maintaining the children of eligible families  
3           while the adult family members engage in activities to prepare for  
4           entering and to enter the workplace.

5           (14) 'Work First Services' are services funded from appropriations made  
6           pursuant to this Article and designed to facilitate the purposes of the  
7           Work First Program. These services may include eligibility  
8           determination, child care, transportation, substance abuse treatment and  
9           counseling, education, job placement assistance, employment  
10           counseling, prevention of out-of-wedlock births, case management,  
11           emergency cash assistance, and other activities designed to help families  
12           become self-sufficient."

13           Section 3. G.S. 108A-25(a) reads as rewritten:

14           "(a) The following programs of public assistance are hereby established, and shall  
15 be administered by the county department of social services or the Department of Human  
16 Resources under federal regulations or under rules ~~and regulations~~ adopted by the Social  
17 Services Commission or the Department of Human Resources and under the supervision  
18 of the Department of Human Resources:

- 19           (1) ~~Aid to families with dependent children;~~ Work First Program;  
20           (2) State-county special assistance for adults;  
21           (3) Food stamp program;  
22           (4) Foster care and adoption assistance payments;  
23           (5) Low income energy assistance program."

24           Section 4. G.S. 108A-27 reads as rewritten:

25           "~~§ 108A-27. Authorization of Aid to Families with Dependent Children Program. Work~~  
26           First Program.

27           ~~The (a) The Department is authorized to shall~~ establish and supervise ~~an Aid to~~  
28 ~~Families with Dependent Children Program. the Work First Program to provide temporary~~  
29 ~~assistance to eligible children and families. This program is to shall~~ be administered by  
30 county departments of social services ~~under federal regulations and rules and regulations of~~  
31 ~~the Social Services Commission. in accordance with:~~

- 32           (1) This Article;  
33           (2) The State Plan as defined in G.S. 108A-27.2; and  
34           (3) Rules adopted pursuant to this Article by the Department or the Social  
35           Services Commission.

36           (b) The Department shall ensure that the Work First Program is established,  
37 supervised, and administered in compliance with federal law. The Department shall  
38 maximize federal receipts for the Work First Program.

39           (c) Whenever feasible, the Department shall ensure that as persons and families  
40 are moved to self-sufficiency, assistance shall be reduced and ended on a graduated basis  
41 rather than ending abruptly upon reaching the time limits established in State law for  
42 receiving assistance."

1 Section 5. Part 2 of Article 2 of Chapter 108A of the General Statutes is  
2 amended by adding the following new sections:

3 **"§ 108A-27.1. Assistance not an entitlement; State time limit on cash assistance.**

4 (a) Any assistance programs established under this Article are not entitlements,  
5 and nothing in this Article shall create any property right.

6 (b) Unless an extension or an exemption is provided pursuant to the provisions of  
7 the State Plan, any cash assistance under this Article that is provided to a person or a  
8 family in the employment program shall only be provided for a cumulative total of 24  
9 months. After having received cash assistance for 24 months, the person or the family  
10 may reapply for cash assistance, but not until after 36 months from the last month the  
11 person or the family received cash assistance. This subsection does not apply to child-  
12 only cases.

13 **"§ 108A-27.2. Purpose; program description.**

14 (a) The purpose of the Work First Program is to provide short-term assistance in  
15 the form of cash and services to help persons and families move from public assistance to  
16 self-sufficiency through gainful employment.

17 (b) The Work First Program shall include program administration and three  
18 categories of assistance to participants:

- 19 (1) Work First Family Assistance;
- 20 (2) Work First Diversion Assistance; and
- 21 (3) Work First Services.

22 (c) Work First Family Assistance may be paid to eligible families or as 'child-only'  
23 benefits, as established in the State Plan, based on availability of funds, State and federal  
24 law, and Work First Program objectives.

25 (d) The Department may distinguish among potential groups of recipients on  
26 whatever basis necessary to enhance program purposes and to maximize federal revenues  
27 so long as the rights, including the constitutional rights of equal protection and due  
28 process, of individuals are protected. The Department may, however, deny benefits to  
29 legal immigrants only to the extent benefits are denied by federal law.

30 **"§ 108A-27.3. Duties of Department.**

31 (a) The Department shall supervise the Work First Program. In supervising the  
32 Work First Program, the Department shall have the following duties:

- 33 (1) Prepare the State Plan in accordance with G.S. 108A-27.5 to submit to  
34 the General Assembly each fiscal year;
- 35 (2) Prepare and submit the State Plan to the Governor for signature,  
36 approval, and forwarding to federal officials as required by federal law  
37 or regulation;
- 38 (3) Establish the requirements for content and a schedule for submission by  
39 counties of local block grant plans for Work First and review and  
40 approve the block grant plans submitted by the counties;
- 41 (4) Advise and assist the Social Services Commission in adopting rules  
42 necessary to implement the provisions of this Article;

- 1           (5) Supervise disbursement of local block grant funds to counties for Work  
2 First Diversion Assistance and Work First Services;
- 3           (6) Make payments of Work First Family Assistance and Work First  
4 Diversion Assistance;
- 5           (7) Establish outcome and performance goals based on economic factors  
6 and conditions for determining the performance of State and county  
7 agencies in the Work First Program and considering the well-being of  
8 children;
- 9           (8) Enter into Memoranda of Agreement with the county departments of  
10 social services in accordance with G.S. 108A-27.11;
- 11           (9) Coordinate activities of other State and county agencies in meeting the  
12 goals of the Work First Program;
- 13           (10) Work with State and county agencies and with private sector  
14 organizations and individuals to develop programs and methods to meet  
15 the goals of the Work First Program;
- 16           (11) Monitor and evaluate the impact of the Work First Program on children  
17 and families, including the impact of the Program on the economic  
18 security and health of children and families, child abuse and neglect,  
19 school attendance, and academic and behavioral performance; and
- 20           (12) Monitor the performance of counties in the Work First Program.
- 21       (b) The Secretary may adopt temporary rules in accordance with the procedures of  
22 G.S. 150B-21.1 in order to:
- 23           (1) Implement provisions of the State Plan;
- 24           (2) Maximize federal revenues to prevent the loss of federal funds;
- 25           (3) Reduce State and county expenditures in current budgets;
- 26           (4) Enhance the ability of the Department to prevent fraud and abuse in the  
27 Work First Program;
- 28           (5) Modify the State Plan as necessary to meet changed circumstances after  
29 approval of the State Plan; and
- 30           (6) Respond to any of the circumstances enumerated in G.S. 150B-21.1.
- 31       (c) The Social Services Commission may adopt rules when necessary to  
32 implement the provisions of this Article.
- 33       (d) The Secretary may adopt rules when necessary to implement the provisions of  
34 the State Plan.
- 35       (e) The Secretary may delegate any portion of the Secretary's rule-making  
36 authority under this Article to the Social Services Commission.
- 37 **§ 108A-27.4. Duties of county departments of social services.**
- 38       (a) Except as otherwise provided in this Article, the Work First Program shall be  
39 administered by the county departments of social services. The county departments of  
40 social services shall:
- 41           (1) Determine eligibility of persons and families for the Work First  
42 Program;

- 1           (2) Enter into Personal Responsibility Contracts with participants pursuant  
2 to the State Plan and ensure that the services and resources that are  
3 needed to assist participants to comply with their obligations under their  
4 Personal Responsibility Contracts are available;
- 5           (3) Comply with State and federal law relating to Work First and Title IV-  
6 A;
- 7           (4) Develop the local block grant plans for submission by the counties to  
8 the Department;
- 9           (5) Enter into and comply with Memoranda of Agreement in accordance  
10 with G.S. 108A-27.11;
- 11           (6) Ensure that participants engage in the minimum hours of work activities  
12 required by the State Plan and Title IV-A; and
- 13           (7) Ensure that the components of the Work First Program are funded solely  
14 from authorized sources and that federal TANF funds are used only for  
15 purposes and programs authorized by federal and State law.

16       (b) With prior approval of the Department, a county department of social services  
17 may delegate any of its duties under this Article to another public agency or private  
18 contractor. Prior to delegating any duty, a county department of social services shall  
19 submit its proposed delegation to the Department as the Department may provide.  
20 Notwithstanding any delegation of duty, a county department of social services shall  
21 remain accountable for its duties under the Work First Program.

22 **"§ 108A-27.5. State Plan.**

23       (a) The Department shall prepare and submit to the General Assembly for its  
24 review and approval every fiscal year, in accordance with the procedures established in  
25 G.S. 143-16.1 for federal block grant funds, a State Plan that proposes the terms of the  
26 Work First Program. Prior to submitting a State Plan to the General Assembly, the  
27 Department shall consult with local governments and private sector organizations  
28 regarding the design of the State Plan and allow 45 days to receive comments from them.  
29 The State Plan shall include:

- 30           (1) Benefit levels, limitations, and payments and the method for calculating  
31 benefit levels and payments;
- 32           (2) Eligibility criteria, including asset and income standards;
- 33           (3) A description of eligible federal and State work activities and work  
34 activity requirements for recipients and any exceptions or exemptions  
35 proposed to those requirements;
- 36           (4) Provisions for when extensions may be granted to a person or family  
37 who reaches the time limit for receipt of benefits;
- 38           (5) Requirements for assignment of child support income and compliance  
39 with child support enforcement activities;
- 40           (6) Provisions for exceptions and exemptions to criteria, time limits, and  
41 standards;
- 42           (7) Provisions for sanctions for recipient failure to comply with program  
43 requirements;

- 1           (8) Terms and conditions for repayment of Work First Diversion Assistance  
2 by recipients who subsequently receive Work First Family Assistance;  
3           (9) Allocations of federal, State, and county funds for the Work First  
4 Program, including block grants to the counties for Work First  
5 Diversion Assistance and Work First Services;  
6           (10) Levels of State and county funding for the Work First Program;  
7           (11) Allocation for funding for administration at the State and local level not  
8 to exceed the federally established limitations on use of federal TANF  
9 funds for program administration;  
10          (12) A description of the Department's consultation with local governments  
11 and private sector organizations and a summary of any comments  
12 received during the 45-day public comment period; and  
13          (13) Anything required by federal law to be included in the State Plan.  
14        (b) In addition to those items required to be included pursuant to subsection (a) of  
15 this section, the State Plan may include proposals to establish the following:  
16           (1) Demonstration projects in one or more counties to assess the value of  
17 any proposed changes in State policy or to test ways to improve  
18 programs;  
19           (2) Individual Development Accounts as authorized by Title IV-A;  
20           (3) Automatic Medicaid eligibility or Medicaid benefit expansion for Work  
21 First Program participants;  
22           (4) Incentives for high-performing counties, contingency plans for counties  
23 unable to meet financial commitments during the term of the State Plan,  
24 and sanctions against counties failing to meet performance expectations,  
25 including allocation of any federal penalties that may be assessed  
26 against the State as a result of a county's failure to perform.  
27        (c) The State Plan may provide that in cases where benefits are paid only for a  
28 child, the case is considered a family case.  
29        (d) The State Plan may provide that recipients shall be required to enter into and  
30 comply with Personal Responsibility Contracts as a condition of receiving benefits. If  
31 provided for in the State Plan, the terms and conditions of Personal Responsibility  
32 Contracts shall be consistent with program purposes, federal law, and availability of  
33 funds.  
34 **§ 108A-27.6. Work First Family Assistance; program changes.**  
35        The Department may change the Work First Family Assistance Program when  
36 required to comply with federal law. Any changes in federal law that necessitate a  
37 change in the Work First Program shall be effected by temporary rule until the next State  
38 Plan is approved by the General Assembly. Any change effected by the Department to  
39 comply with federal law shall be included in the State Plan submitted during the next  
40 session of the General Assembly following the change.  
41 **§ 108A-27.7. Exemption from federal limitations for individuals convicted of**  
42 **certain drug-related felonies.**

1        Individuals described in section 115 of The Personal Responsibility and Work  
2 Opportunity Reconciliation Act of 1996, P.L. 104-193 and convicted of a Category E, F,  
3 G, H, or I controlled substances felony offense after August 22, 1996, shall be eligible for  
4 both Work First and the food stamp program in this State six-months after the individual  
5 is released from custody, if the individual has committed no additional criminal  
6 controlled substances offenses during the six-month period and has participated in and  
7 successfully completed any substance abuse treatment or counseling program determined  
8 by the county department of social services to be needed or appropriate. A county  
9 department of social services may, and is encouraged to, where appropriate, require  
10 substance abuse treatment as a condition for receiving benefits.

11 **"§ 108A-27.8. Work First Program funding.**

12        (a) The Department shall provide in its State Plan a formula for determining the  
13 amount of local block grants.

14        (b) Counties shall be reimbursed for Work First Family Assistance by the  
15 Department, subject to the availability of federal, State, and county funds and  
16 appropriations by the General Assembly.

17        (c) Work First Diversion Assistance and Work First Services shall be funded  
18 through federal funds, county funds, and the county block grant from the State pursuant  
19 to the State Plan.

20 **"§ 108A-27.9. Maintenance of effort.**

21        (a) Counties shall maintain one hundred percent (100%) maintenance of effort, as  
22 defined in the State Plan or by rule, in funding the Work First Program. Maintenance of  
23 effort shall be measured with reference to a base year defined in the State Plan.

24        (b) The Department shall define in the State Plan or by rule the term 'maintenance  
25 of effort' based on that term as defined in Title IV-A and shall provide to counties a list of  
26 activities that qualify for maintenance of effort requirements.

27        (c) If a county fails to comply with the maintenance of effort requirement in  
28 subsection (a) of this section, the Director of the Budget may withhold State moneys  
29 appropriated to the county pursuant to G.S. 108A-93.

30 **"§ 108A-27.10. County block grants; Memoranda of Agreement.**

31        (a) Each county shall submit annually to the Department for approval a local block  
32 grant plan that describes the Work First Diversion Assistance and Work First Services the  
33 county proposes to offer.

34        (b) Prior to submitting its local block grant plan to the Department, a county shall  
35 provide the public with an opportunity to review and comment upon its local block grant  
36 plan.

37        (c) A county local block grant plan shall include a description of how the county  
38 will:

39            (1) Utilize both public and private resources to assist in moving persons and  
40            families to self-sufficiency; and

41            (2) Address the needs of persons and families in areas specified by the  
42            Department, including transportation, housing, child care, and skills  
43            training.



1       (d) The local block grant plan shall also include a description of the county's  
2 priorities for serving families who need child care based on the needs of the community  
3 and the availability of services and funding.

4       (e) The local block grant plan shall be adopted by the county commissioners prior  
5 to its submission to the State.

6       (f) After the county submits its local block grant plan to the Department, the  
7 Department and the county shall agree upon the block grant plan by entering into a  
8 Memorandum of Agreement (MOA). The MOA shall include:

9           (1) The amount and any limitations or conditions on the use of funds under  
10 the local block grant, including disposition of any remaining funds at  
11 the end of the fiscal year;

12           (2) Outcome measures for determining the success of the Work First  
13 Program at the county level; and

14           (3) Any provision necessary to ensure proper operation of the Work First  
15 Program pursuant to federal law and to this Article.

16 In addition, the MOA may provide for Department accreditation of county programs,  
17 Departmental technical assistance to counties, and for other monitoring and performance  
18 enhancement techniques.

19 **"§ 108A-27.11. Performance standards; corrective action.**

20       (a) The Department shall establish acceptable levels of performance by counties in  
21 meeting Work First expectations, measured by outcome and performance goals contained  
22 in the State Plan or in the MOA. Economic factors and conditions and the well-being of  
23 children shall be considered in establishing the goals.

24       (b) The Department shall establish monitoring mechanisms and reporting  
25 requirements to measure the goals.

26       (c) When a county fails to meet acceptable levels of performance, the Department  
27 may take one or more of the following actions to assist the county in meeting its Work  
28 First goals:

29           (1) Notify the county of the deficiencies and add additional monitoring and  
30 reporting requirements.

31           (2) Require the county to develop and submit for approval by the  
32 Department a corrective action plan.

33 If a county fails to meet acceptable levels of performance for two consecutive years,  
34 or fails to comply with a corrective action plan developed pursuant to this section, the  
35 Department may assume control of the county's Work First Program, appoint an  
36 administrator to administer the county's Work First Program, and exercise the powers  
37 assumed to administer the Work First Program either directly or through contract with  
38 private or public agencies. County funding shall continue at levels established by the  
39 State Plan when the State has assumed control of a county Work First Program. At no  
40 time after the State has assumed this control shall a county withdraw funds previously  
41 obligated or appropriated to the Work First Program.

42 **"§ 108A-27.12. Appeals.**

1       The Work First Program is a program of public assistance for purpose of an appeal  
2 under G.S. 108A-79."

3           Section 6. G.S. 108A-29 reads as rewritten:

4 **"§ 108A-29. ~~Limitations on eligibility.~~ Preference for employment services.**

5       (a) ~~The Social Services Commission shall adopt such administrative rules~~  
6 ~~concerning work requirements as conditions of eligibility for Aid to Families with~~  
7 ~~Dependent Children in order to be in compliance with federal regulations, but such rules~~  
8 ~~shall not be more restrictive than the work requirements applicable to the Job~~  
9 ~~Opportunities and Basic Skills Training Program provided for in G.S. 108A-30.~~

10       (b) Members of families with dependent children and with aggregate family  
11 income at or below the level required for eligibility for ~~Aid to Families with Dependent~~  
12 ~~Children assistance, Work First Family Assistance,~~ regardless of whether or not they have  
13 applied for such assistance, shall be given priority in obtaining ~~manpower employment~~  
14 services including training and public service employment provided by or through State  
15 agencies or with funds which are allocated to the State of North Carolina directly or  
16 indirectly through prime sponsors or otherwise for the purpose of employment of  
17 unemployed persons.

18       (c) [Repealed.]"

19           Section 6.1. G.S. 108A-35 reads as rewritten:

20 **"§ 108A-35. Removal to another county.**

21       Any recipient who moves from one county to another county of this State shall  
22 continue to receive public assistance if eligible. The county director in the county from  
23 which he has moved shall transfer all necessary records relating to the recipient to the  
24 county director of the county to which the recipient has moved. ~~The county from which the~~  
25 ~~recipient moves shall pay the amount of assistance to which the recipient is entitled for a period~~  
26 ~~of one month following his move, and thereafter the county to which the recipient has moved~~  
27 ~~shall pay such assistance."~~

28           Section 7. G.S. 108A-38 reads as rewritten:

29 **"§ 108A-38. Protective and vendor payments.**

30       ~~Instead of the use of personal representatives provided for by G.S. 108A-37, when~~ When  
31 necessary to comply with any present or future federal law or regulation in order to  
32 obtain federal participation in public assistance payments, the payments may be made  
33 direct to vendors to reimburse them for goods and services provided the applicants or  
34 recipients, and may be made to protective payees who shall act for the applicant or  
35 recipient for receiving and managing assistance. Payments to vendors and protective  
36 payees shall be made to the extent provided in, and in accordance with, rules and  
37 regulations of the Social Services Commission or the Department, which rules and  
38 regulations shall be subject to applicable federal laws and regulations."

39           Section 8. G.S. 108A-49(a) reads as rewritten:

40       "(a) Benefits in the form of foster care assistance shall be granted in accordance  
41 with the rules and regulations of the Social Services Commission to any dependent child  
42 who ~~is~~ would have been eligible to receive AFDC-Aid to Families with Dependent  
43 Children (as that program was in effect on June 1, 1995), but for his or her removal from

1 the home of a specified relative for placement in a foster care facility; provided, that the  
2 child's placement and care is the responsibility of a county department of social services."

3 Section 9. G.S. 108A-58 reads as rewritten:

4 **"§ 108A-58. Transfer of property for purposes of qualifying for medical assistance;  
5 periods of ineligibility.**

6 (a) Any person, otherwise eligible, who, either while receiving medical assistance  
7 benefits or within one year prior to the date of applying for medical assistance benefits,  
8 unless some other time period is mandated by controlling federal law, sells, gives, assigns  
9 or transfers countable real or personal property or an interest ~~therein, either by himself or~~  
10 ~~through his legal representative,~~ in real or personal property for the purpose of retaining or  
11 establishing eligibility for medical assistance benefits, shall be ineligible to receive  
12 medical assistance benefits ~~thereafter~~ as set forth in subsection (c) of this section.

13 Countable real and personal property includes real property, excluding a homesite,  
14 intangible personal property, nonessential motor and recreational vehicles, nonincome  
15 producing business equipment, boats and motors. The provisions of this act shall not  
16 apply to the sale, gift, assignment or transfer of real or personal property if and to the  
17 extent that the person applying for medical assistance would have been eligible for such  
18 assistance notwithstanding ownership of such property or an interest therein.

19 (b) Any sale, gift, assignment or transfer of real or personal property or an interest  
20 ~~therein, in real or personal property,~~ as provided in subsection (a) of this section, shall be  
21 presumed to have been made for the purpose of retaining or establishing eligibility for  
22 medical assistance benefits unless the person, or ~~his~~ the person's legal representative, who  
23 sells, gives, assigns or transfers the property or interest, receives valuable consideration at  
24 least equal to the fair market value, less encumbrances, of the property or interest.

25 (c) Any person ~~who, by himself or through his legal representative, who~~ sells, gives,  
26 assigns or transfers real or personal property or an interest ~~therein~~ in real or personal  
27 property for the purpose of retaining or establishing eligibility for medical assistance  
28 benefits, as provided in subsection (a) of this section, ~~shall~~ shall, after the time of transfer,  
29 be ineligible to receive these benefits ~~thereafter~~ until an amount equal to the  
30 uncompensated value of the property or interest has been expended by or on behalf of the  
31 person for ~~his~~ the person's maintenance and support, including medical expenses, paid or  
32 incurred, or shall be ineligible in accordance with the following schedule, whichever is  
33 sooner:

- 34 (1) For uncompensated value of at least one thousand dollars (\$1,000) but  
35 not more than six thousand dollars (\$6,000), a one-year period of  
36 ineligibility from date of sale, gift, assignment or transfer;
- 37 (2) For uncompensated value of more than six thousand dollars (\$6,000)  
38 but not more than twelve thousand dollars (\$12,000), a two-year period  
39 of ineligibility from date of sale, gift, assignment or transfer;
- 40 (3) For uncompensated value of more than twelve thousand dollars  
41 (\$12,000), a two-year period of ineligibility from date of sale, gift,  
42 assignment or transfer, plus one additional month of ineligibility for  
43 each five hundred dollar (\$500.00) increment or portion thereof by

1           which the uncompensated value exceeds twelve thousand dollars  
2           (\$12,000), but in no event to exceed three years.

3           (d)    The sale, gift, assignment or transfer for a consideration less than fair market  
4 value, less encumbrances, of any tangible personal property which was acquired with the  
5 proceeds of sale, assignment or transfer of real or intangible personal property described  
6 in subsection (a) of this section or in exchange for such real or intangible personal  
7 property shall be presumed to have been for the purpose of evading the provisions of this  
8 section if the acquisition and sale, gift, assignment or transfer of the tangible personal  
9 property is by or on behalf of a person receiving medical assistance or within one year of  
10 making application for such assistance and the consequences of the sale, gift, assignment  
11 of transfer of such tangible personal property shall be determined under the provisions of  
12 subsections (c), (f) and (g) of this section.

13           (e)    The presumptions created by subsections (b) and (d) may be overcome if the  
14 person receiving or applying for medical assistance, or ~~his~~the person's legal  
15 representative, establishes by the greater weight of the evidence that the sale, gift,  
16 assignment or transfer was exclusively for some purpose other than retaining or  
17 establishing eligibility for medical assistance benefits.

18           (f)    For the purpose of establishing uncompensated value under subsection (c), the  
19 value of property or an interest therein shall be the fair market value of the property or  
20 interest at the time of the sale, gift, assignment or transfer, less the amount of  
21 compensation, if any, received for the property or interest. There shall be a rebuttable  
22 presumption that the fair market value of real property is the most recent property tax  
23 value of the property, as ascertained according to Subchapter II of Chapter 105 of the  
24 General Statutes. Fair market value for purpose of this subsection shall be such value,  
25 determined as above set out, less any legally enforceable encumbrances to which the  
26 property is subject.

27           (g)    In the event that there is more than one sale, gift, assignment or transfer of  
28 property or an interest therein by a person receiving medical assistance or within one year  
29 of the date of an application for medical assistance, unless some other time period is  
30 mandated by controlling federal law, the uncompensated value, for the purposes of  
31 subsection (c), shall be the aggregate uncompensated value of all sales, gifts, assignments  
32 and transfers. The date which is the midpoint between the date of the first and last sale,  
33 gift, assignment or transfer shall be the date from which the period of ineligibility shall be  
34 determined under subsection (c).

35           (h)    This section shall not apply to applicants for or recipients of ~~aid to families with~~  
36 ~~dependent children~~Work First Family Assistance or to persons entitled to medical  
37 assistance by virtue of their eligibility for ~~aid to families with dependent children~~Work  
38 First Family Assistance.

39           (i)    This section shall apply only to transfers made before July 1, 1988."

40           Section 10. G.S. 108A-80 reads as rewritten:

41 **"§ 108A-80. Confidentiality of records.**

42           (a)    Except as provided in (b) below, it shall be unlawful for any person to obtain,  
43 disclose or use, or to authorize, permit, or acquiesce in the use of any list of names or

1 other information concerning persons applying for or receiving public assistance or social  
2 services that may be directly or indirectly derived from the records, files or  
3 communications of the Department or the county boards of social services, or county  
4 departments of social services or acquired in the course of performing official duties  
5 except for the purposes directly connected with the administration of the programs of  
6 public assistance and social services in accordance with federal law, rules and regulations  
7 ~~and regulations, and~~ the rules and regulations of the Social Services Commission or the  
8 Department.

9 (b) The Department shall furnish a copy of the recipient check register monthly to  
10 each county auditor showing a complete list of all recipients of ~~Aid To Families with~~  
11 ~~Dependent Children-Work First Family Assistance~~ and State-County Special Assistance  
12 for Adults, their addresses, and the amounts of the monthly grants. This register shall be  
13 a public record open to public inspection during the regular office hours of the county  
14 auditor, but said register or the information contained therein may not be used for any  
15 commercial or political purpose. Any violation of this section shall constitute a Class 1  
16 misdemeanor.

17 (c) Any listing of recipients of benefits under any public assistance or social  
18 services program compiled by or used for official purposes by a county board of social  
19 services or a county department of social services shall not be used as a mailing list for  
20 political purposes. This prohibition shall apply to any list of recipients of benefits of any  
21 federal, State, county or mixed public assistance or social services program. Further, this  
22 prohibition shall apply to the use of such listing by any person, organization, corporation,  
23 or business, including but not limited to public officers or employees of federal, State,  
24 county, or other local governments, as a mailing list for political purposes. Any violation  
25 of this section shall be punishable as a Class 1 misdemeanor.

26 (d) The Social Services Commission shall have the authority to adopt rules and  
27 regulations governing access to case files for social services and public assistance  
28 programs, except the Medical Assistance Program. The Secretary of the Department of  
29 Human Resources shall have the authority to adopt rules and regulations governing  
30 access to medical assistance case files."

31 Section 11. G.S. 108A-28, 108A-28.1, 108A-30, 108A-31, 108A-32, 108A-  
32 33, 108A-34, and 108A-39.1 are repealed.

### 33 **PART 2. STATUTORY TECHNICAL AND CONFORMING CHANGES.**

34 Section 12. G.S. 1-110(a) reads as rewritten:

35 "(a) Subject to the provisions of subsection (b) of this section with respect to prison  
36 inmates, any superior or district court judge or clerk of the superior court may authorize a  
37 person to sue as an indigent in their respective courts when the person makes affidavit  
38 that he or she is unable to advance the required court costs. The clerk of superior court  
39 shall authorize a person to sue as an indigent if the person makes the required affidavit  
40 and meets one or more of the following criteria:

41 (1) Receives food stamps.

42 (2) Receives ~~Aid to Families with Dependent Children (AFDC)-~~Work First  
43 Family Assistance.

- 1 (3) Receives Supplemental Security Income (SSI).
- 2 (4) Is represented by a legal services organization that has as its primary  
3 purpose the furnishing of legal services to indigent persons.
- 4 (5) Is represented by private counsel working on the behalf of or under the  
5 auspices of a legal services organization under subdivision (4) of this  
6 section.
- 7 (6) Is seeking to obtain a domestic violence protective order pursuant to  
8 G.S. 50B-2.

9 A superior or district court judge or clerk of superior court may authorize a person  
10 who does not meet one or more of these criteria to sue as an indigent if the person is  
11 unable to advance the required court costs. The court to which the summons is returnable  
12 may dismiss the case and charge the court costs to the person suing as an indigent if the  
13 allegations contained in the affidavit are determined to be untrue or if the court is  
14 satisfied that the action is frivolous or malicious."

15 Section 13. G.S. 15-155.1 reads as rewritten:

16 **"§ 15-155.1. Reports to district attorneys of aid to dependent children and**  
17 **illegitimate-out-of-wedlock births.**

18 The Department of Human Resources, by and through the Secretary of Human  
19 Resources, shall promptly after June 19, 1959, make a report to each district attorney,  
20 setting out the names and addresses of all mothers who reside in his prosecutorial district  
21 as defined in G.S. 7A-60 and are recipients of ~~aid to dependent children~~ assistance under  
22 the provisions of Part 2, Article 2, Chapter 108A of the General Statutes. Such report  
23 shall in some manner show the identity of the unwed mothers and shall set forth the  
24 number of children born to each said mother. Such a report shall also be made monthly  
25 thereafter setting out the names and addresses of all such mothers who reside in the  
26 district and who may have become recipients of aid to dependent children since the date  
27 of the last report."

28 Section 14. G.S. 15-155.2(a) reads as rewritten:

29 "(a) Upon receipt of such reports as are provided for in G.S. 15-155.1, the district  
30 attorney of superior court may make an investigation to determine whether the mother of  
31 an ~~illegitimate-out-of-wedlock~~ child or who is a recipient of ~~aid to a dependent child or~~  
32 ~~children~~, Work First Family Assistance, has abandoned, is willfully neglecting or is  
33 refusing to support and maintain the child within the meaning of G.S. 14-326 or 49-2 or  
34 is diverting any part of the funds received as ~~aid to a dependent child~~ Work First Family  
35 Assistance to any purpose other than for the support and maintenance of ~~such dependent a~~  
36 child in violation of G.S. 108-76.1. In making this investigation the district attorney is  
37 authorized to call upon:

- 38 (1) Any county board of social services or the Department of Human  
39 Resources for personal, clerical or investigative assistance and for  
40 access to any records kept by either such board and relating to the  
41 matter under investigation and such boards are hereby directed to assist  
42 in all investigations hereunder and to furnish all records relating thereto  
43 when so requested by the district attorney;

1           (2) The board of county commissioners of any county within his district for  
2           legal or clerical assistance in making any investigation or investigations  
3           in such county and such boards are hereby authorized to furnish such  
4           assistance in their discretion; and

5           (3) The district attorney of any inferior court in his district for personal  
6           assistance in making any investigation or investigations in the county in  
7           which the court is located and any district attorney so called upon is  
8           hereby authorized to furnish such assistance by and with the consent of  
9           the board of county commissioners of the county in which the court is  
10          located, which board shall provide and fix his compensation for  
11          assistance furnished."

12          Section 15. G.S. 95-25.3(d) reads as rewritten:

13          "(d) The Commissioner, in order to prevent curtailment of opportunities for  
14          employment of the economically disadvantaged and the unemployed, may, by regulation,  
15          establish a wage rate not less than eighty-five percent (85%) of the otherwise applicable  
16          wage rate in effect under subsection (a) which shall apply to all persons (i) who have  
17          been unemployed for at least 15 weeks and who are economically disadvantaged, or (ii)  
18          who are, or whose families are, receiving aid to families with dependent children provided  
19          under Part A of Title IV of the Social Security Act, Work First Family Assistance or who are  
20          receiving supplemental security benefits under Title XVI of the Social Security Act.

21          Pursuant to regulations issued by the Commissioner, certificates establishing  
22          eligibility for such subminimum wage shall be issued by the Employment Security  
23          Commission.

24          The regulation issued by the Commissioner shall not permit employment at the  
25          subminimum rate for a period in excess of 52 weeks."

26          Section 16. G.S. 105A-2(1) reads as rewritten:

27          "(1) 'Claimant agency' means and includes:

28           a. The State Education Assistance Authority as enabled by Article  
29           23 of Chapter 116 of the General Statutes;

30           b. The North Carolina Department of Human Resources when in  
31           the exercise of its authority to collect health profession student  
32           loans made pursuant to G.S. 131-121;

33           c. The North Carolina Department of Human Resources when in  
34           the performance of its duties under the Medical Assistance  
35           Program enabled by Chapter 108A, Article 2, Part 6, and any  
36           county operating the same Program at the local level, when and  
37           only to the extent such a county is in the performance of Medical  
38           Assistance Program collection functions;

39           d. The North Carolina Department of Human Resources when in  
40           the performance of its duties, under the Child Support  
41           Enforcement Program as enabled by Chapter 110, Article 9 and  
42           Title IV, Part D of the Social Security Act to obtain  
43           indemnification for past paid public assistance or to collect child

- 1 support arrearages owed to an individual receiving program  
2 services and any county operating the program at the local level,  
3 when and only to the extent that the county is engaged in the  
4 performance of those same duties;
- 5 e. The University of North Carolina, including its constituent  
6 institutions as specified by G.S. 116-2(4);
- 7 f. The University of North Carolina Hospitals at Chapel Hill in the  
8 conduct of its financial affairs and operations pursuant to G.S.  
9 116-37;
- 10 g. The Board of Governors of the University of North Carolina and  
11 the State Board of Education through the College Scholarship  
12 Loan Committee when in the performance of its duties of  
13 administering the Scholarship Loan Fund for Prospective College  
14 Teachers enabled by Chapter 116, Article 5;
- 15 h. The Office of the North Carolina Attorney General on behalf of  
16 any State agency when the claim has been reduced to a judgment;
- 17 i. The State Board of Community Colleges through community  
18 colleges as enabled by Chapter 115D in the conduct of their  
19 financial affairs and operations;
- 20 j. State facilities as listed in G.S. 122C-181(a), School for the Deaf  
21 at Morganton, North Carolina Sanatorium at McCain, Western  
22 Carolina Sanatorium at Black Mountain, Eastern North Carolina  
23 Sanatorium at Wilson, and Gravely Sanatorium at Chapel Hill  
24 under Chapter 143, Article 7; Governor Morehead School under  
25 Chapter 115, Article 40; Central North Carolina School for the  
26 Deaf under Chapter 115, Article 41; Wright School for  
27 Treatment and Education of Emotionally Disturbed Children  
28 under Chapter 122C; and these same institutions by any other  
29 names by which they may be known in the future;
- 30 k. The North Carolina Department of Revenue;
- 31 l. The Administrative Office of the Courts;
- 32 m. The Division of Forest Resources of the Department of  
33 Environment, Health, and Natural Resources;
- 34 n. The Administrator of the Teachers' and State Employees'  
35 Comprehensive Major Medical Plan, established in Article 3 of  
36 General Statutes Chapter 135;
- 37 o. The State Board of Education through the Superintendent of  
38 Public Instruction when in the performance of his duties of  
39 administering the Scholarship Loan Fund for Prospective  
40 Teachers enabled by Chapter 115C, Article 32A and the  
41 scholarship loan and grant programs enabled by Chapter 115C,  
42 Article 24C, Part 1;



- 1 p. The Board of Trustees of the Teachers' and State Employees'  
2 Retirement System and the Board of Trustees of the Local  
3 Governmental Employees' Retirement System in the performance  
4 of their duties pursuant to Chapters 120, 128, 135 and 143 of the  
5 General Statutes;
- 6 q. The North Carolina Teaching Fellows Commission in the  
7 performance of its duties pursuant to Chapter 115C, Article 24C,  
8 Part 2;
- 9 r. The North Carolina Department of Human Resources when in  
10 the performance of its collection duties for intentional program  
11 violations and violations due to inadvertent household error  
12 under the Food Stamp Program enabled by Chapter 108A,  
13 Article 2, Part 5, and any county operating the same Program at  
14 the local level, when and only to the extent such a county is in  
15 the performance of Food Stamp Program collection functions.  
16 The North Carolina Department of Human Resources when,  
17 in the performance of its duties under the ~~Aid to Families with  
18 Dependent Children Program or the Aid to Families with  
19 Dependent Children Emergency Assistance Program provided  
20 in Part 2 of Article 2 of Chapter 108A or the Work First Cash  
21 Assistance Program established pursuant to the federal waivers  
22 received by the Department on February 5, 1996, Work First  
23 Program provided in Part 2 of Article 2 of Chapter 108A, or  
24 under the State-County Special Assistance for Adults Program  
25 provided in Part 3 of Article 2 of Chapter 108A, it seeks to  
26 collect public assistance payments obtained through an  
27 intentional false statement, intentional misrepresentation,  
28 intentional failure to disclose a material fact, or inadvertent  
29 household error;~~
- 30 s. The Employment Security Commission of North Carolina.
- 31 t. Any State agency in the collection of salary overpayments from  
32 former employees.
- 33 u. The State Board of Education through the Superintendent of  
34 Public Instruction when in the performance of his duties of  
35 administering the program under which the State encourages  
36 participation in the National Board for Professional Teaching  
37 Standards (NBPTS) Program, enabled by Section 19.28 of  
38 Chapter 769 of the 1993 Session Laws."

39 Section 17. G.S. 110-129(6) reads as rewritten:

40 "(6) 'Disposable income' means any form of periodic payment to an  
41 individual, regardless of sources, including but not limited to wages,  
42 salary, commission, self-employment income, bonus pay, severance  
43 pay, sick pay, incentive pay, vacation pay, compensation as an

1 independent contractor, worker's compensation, unemployment  
2 compensation benefits, disability, annuity, survivor's benefits, pension  
3 and retirement benefits, interest, dividends, rents, royalties, trust income  
4 and other similar payments, which remain after the deduction of  
5 amounts for federal, State, and local taxes, Social Security, and  
6 involuntary retirement contributions. However, Supplemental Security  
7 Income, ~~Aid for Dependent Children~~, Work First Family Assistance, and  
8 other public assistance payments shall be excluded from disposable  
9 income. For employers, disposable income means 'wage' as it is defined  
10 by G.S. 95-25.2(16). Unemployment compensation benefits shall be  
11 treated as disposable income only for the purposes of income  
12 withholding under the provisions of G.S. 110-136.4, and the amount  
13 withheld shall not exceed twenty-five percent (25%) of the  
14 unemployment compensation benefits."

15 Section 18. G.S. 110-130.1 reads as rewritten:

16 "**§ 110-130.1. ~~Non-AFDC~~ Non-Work First services.**

17 (a) All child support collection and paternity determination services provided  
18 under this Article to recipients of public assistance shall be made available to any  
19 individual not receiving public assistance in accordance with federal law and as  
20 contractually authorized by the nonrecipient, upon proper application and payment of a  
21 nonrefundable application fee of ten dollars (\$10.00).

22 (b) Repealed by Session Laws 1989, c. 490.

23 (b1) In cases in which a public assistance debt which accrued pursuant to G.S. 110-  
24 135 remains unrecovered, support payments shall be transmitted to the Department of  
25 Human Resources for appropriate distribution. When services are terminated and all costs  
26 and any public assistance debts have been satisfied, the support payment shall be  
27 redirected to the client.

28 (c) Actions or proceedings to establish, enforce, or modify a duty of support or  
29 establish paternity as initiated under this Article shall be brought in the name of the  
30 county or State agency on behalf of the public assistance recipient or nonrecipient client.  
31 Collateral disputes between a custodial parent and noncustodial parent, involving  
32 visitation, custody and similar issues, shall be considered only in separate proceedings  
33 from actions initiated under this Article. The attorney representing the designated  
34 representative of programs under Title IV-D of the Social Security Act shall be deemed  
35 attorney of record only for proceedings under this Article, and not for the separate  
36 proceedings. No attorney/client relationship shall be considered to have been created  
37 between the attorney who represents the child support enforcement agency and any  
38 person by virtue of the action of the attorney in providing the services required.

39 (c1) The Department is hereby authorized to use the electronic and print media in  
40 attempting to locate absent and deserting parents. Due diligence must be taken to ensure  
41 that the information used is accurate or has been verified. Print media shall be under no  
42 obligation or duty, except that of good faith, to anyone to verify the correctness of any  
43 information furnished to it by the Department or county departments of social services.

1 (d) Any fee imposed by the North Carolina Department of Revenue or the  
2 Secretary of the Treasury to cover their costs of withholding for ~~non-AFDC-non-Work~~  
3 First arrearages certified for the collection of past due support from State or federal  
4 income tax refunds shall be borne by the client by deducting the fee from the amount  
5 collected.

6 Any income tax refund offset amounts which are subsequently determined to have  
7 been incorrectly withheld and distributed to a client, and which must be refunded by the  
8 State to a responsible parent or the nondebtor spouse, shall constitute a debt to the State  
9 owed by the client."

10 Section 19. G.S. 111-21 reads as rewritten:

11 **"§ 111-21. Disqualifications for relief.**

12 No aid to needy blind persons shall be given under the provisions of this Article to  
13 any individual for any period with respect to which he is receiving aid under the laws of  
14 North Carolina ~~providing aid for dependent children-Work First Family Assistance~~ and/or  
15 relief for the aged, and/or aid for the permanently and totally disabled."

16 Section 20. G.S. 120-70.71 reads as rewritten:

17 **"§ 120-70.71. Powers and duties.**

18 The Commission shall study State government policy and programs affecting the  
19 family, specifically addressing family issues from the point of existing laws,  
20 governmental programs needed or already functioning, and current family life issues.  
21 The Commission shall work in close collaboration with various agencies and programs  
22 dealing with the family. Among the issues the Commission may consider studying are  
23 the following:

- 24 (1) The feasibility of establishing model projects that would be located  
25 primarily in low-income, high dropout rate communities in North  
26 Carolina:
- 27 a. To teach adults in the family to read; and
  - 28 b. To provide after school care for school-aged children using  
29 volunteers who could be retirees in the provision of services;
- 30 (2) The fiscal impact of a cash stipend created by a tax deduction or by  
31 industry dollars to promote literacy or the obtainment of a General  
32 Education Development Degree for persons who are presently illiterate  
33 or outside the school system;
- 34 (3) The need for day care for children and senior citizens, ~~an increase in Aid~~  
35 ~~to Families with Dependent Children-changes in Work First Family~~  
36 Assistance payments and eligibility requirements, coordination of State  
37 law with federal welfare reform programs, in-home services for the  
38 elderly, additional funding for adult day care, and incentives for  
39 industries to develop day care programs;
- 40 (4) The relationship between the decline of real income and the tax  
41 structure, college tax credits, the minimum wage, and welfare support  
42 systems;

- 1 (5) The State's efforts in the areas of adolescent pregnancy and teaching  
2 about adolescent sexuality;
- 3 (6) A comprehensive review of State and federal programs encouraging  
4 business and industry to provide adequate child care for their  
5 employees;
- 6 (7) An analysis of what the State is currently doing to encourage North  
7 Carolina businesses and industry to provide adequate child care for their  
8 employees;
- 9 (8) A survey of North Carolina employers that presently provide child care  
10 options for their employees and what types of options they provide;
- 11 (9) A comprehensive study of the types of tax incentives and other  
12 incentives that would encourage North Carolina businesses – especially  
13 those that have 50 or more employees – to either provide on-site child  
14 care facilities or provide other child care options and the cost to the  
15 State of these tax incentives;
- 16 (10) Recommendations of what the State could be doing to encourage North  
17 Carolina businesses to provide on-site child care facilities or other child  
18 care options for their employees;
- 19 (11) Recommendations of a comprehensive policy for North Carolina to  
20 encourage businesses within the State to provide on-site child care  
21 facilities or other child care options for their employees;
- 22 (12) The concept of requiring coverage of child health supervision services  
23 in all health insurance policies sold or delivered within the State;
- 24 (13) The issue of domestic violence; and
- 25 (14) The problem of suicide among the youth of the State."

26 Section 21. The Department shall expand the amount of time a Work First  
27 Program participant who becomes employed may receive Medicaid benefits from 12 to  
28 24 months so long as the participant otherwise meets the income eligibility requirements  
29 for Medicaid.

30 Section 22. Notwithstanding any law to the contrary, the Department of  
31 Human Resources may designate a pilot county for the purpose of conducting a  
32 demonstration work-study project for Work First Program participants in the county that  
33 will provide participants with the option to attend community college paid with Work  
34 First funds while continuing to require the participants to meet work requirements. This  
35 pilot shall be funded by the pilot county using the federal and State funding allocated to  
36 the pilot county for the Work First Program. The Department shall evaluate the work-  
37 study project and report to the General Assembly on or before March 1, 1999.

38 Section 23. This act is effective when it becomes law.