

AN ACT

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RELATING TO PUBLIC ASSISTANCE; EXTENDING THE LIFE OF THE WELFARE
REFORM OVERSIGHT COMMITTEE; AMENDING THE NEW MEXICO WORKS ACT;
DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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Section 1. Section 2-17-1 NMSA 1978 (being Laws 1998, Chapter 8, Section 21 and Laws 1998, Chapter 9, Section 21) is amended to read:

"2-17-1. WELFARE REFORM OVERSIGHT COMMITTEE CREATED--
TERMINATION.--The joint interim legislative "welfare reform oversight committee" is created. The committee shall function from the date of its appointment until December 15 prior to the first session of the forty-ninth legislature."

Section 2. Section 27-2B-3 NMSA 1978 (being Laws 1998, Chapter 8, Section 3 and Laws 1998, Chapter 9, Section 3, as amended by Laws 2001, Chapter 295, Section 1 and by Laws 2001, Chapter 326, Section 1) is amended to read:

"27-2B-3. DEFINITIONS.--As used in the New Mexico Works Act:

A. "benefit group" means a pregnant woman or a group of people that includes a dependent child, all of that dependent child's full, half, step- or adopted siblings living with the dependent child's parent or relative within the fifth degree of consanguinity and the parent with whom the children live;

B. "cash assistance" means cash payments funded by the temporary assistance for needy families block grant pursuant to the federal act and by state funds;

C. "department" means the human services department;

D. "dependent child" means a natural, adopted or step-child or ward	H B
who is:	1
(1) seventeen years of age or younger;	2
(2) eighteen years of age and is enrolled in high school; or	2
(3) between eighteen and twenty-two years of age and is	P
receiving special education services regulated by the state board of education;	a
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E. "director" means the director of the income support division of the department;	2
F. "earned income" means cash or payment in kind that is received as wages from employment or payment in lieu of wages; and earnings from self-employment or earnings acquired from the direct provision of services, goods or property, production of goods, management of property or supervision of services;	
G. "federal act" means the federal Social Security Act and rules promulgated pursuant to the Social Security Act;	
H. "federal poverty guidelines" means the level of income defining poverty by family size published annually in the federal register by the United States department of health and human services;	
I. "immigrant" means alien as defined in the federal act;	
J. "parent" means natural parent, adoptive parent, stepparent or legal guardian;	
K. "participant" means a recipient of cash assistance or services or a member of a benefit group who has reached the age of majority;	
L. "person" means an individual;	
M. "secretary" means the secretary of the department;	

N. "services" means child-care assistance; payment for employment-related transportation costs; job search assistance; employment counseling; employment, education and job training placement; one-time payment for necessary employment-related costs; case management; or other activities whose purpose is to assist transition into employment;

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O. "unearned income" means old age, survivors and disability insurance; railroad retirement benefits; veterans administration compensation or pension; military retirement; pensions, annuities and retirement benefits; lodge or fraternal benefits; shared shelter payments; settlement payments; individual Indian money; child support; unemployment compensation benefits; union benefits paid in cash; gifts and contributions; and real property income; and

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P. "vehicle" means a conveyance for the transporting of individuals to or from employment, for the activities of daily living or for the transportation of goods; "vehicle" does not include boats, trailers or mobile homes used as a principle place of residence."

Section 3. Section 27-2B-6 NMSA 1978 (being Laws 1998, Chapter 8, Section 6 and Laws 1998, Chapter 9, Section 6, as amended by Laws 2001, Chapter 295, Section 3 and by Laws 2001, Chapter 326, Section 3) is amended to read:

"27-2B-6. DURATIONAL LIMITS.--

A. Pursuant to the federal act, on or after July 1, 1997 a participant may receive federally funded cash assistance and services for up to sixty months.

B. During a participant's fourth, sixth and eighth semi-annual reviews, the department shall examine the participant's progress to determine if the participant

has successfully completed an educational or training program or increased the number of hours he is working as required by the federal act. The department may refer the participant to alternative work activities or provide additional services to address possible barriers to employment facing the participant.

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C. Up to twenty percent of the population of participants may be exempted from the sixty-month durational limit set out in Subsection A of this section because of hardship or because those participants are battered or subject to extreme cruelty.

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D. For the purposes of this section, a participant has been battered or subjected to extreme cruelty if he can demonstrate by reliable medical, psychological or mental reports, court orders or police reports that he has been subjected to and currently is affected by:

- (1) physical acts that result in physical injury;
- (2) sexual abuse;
- (3) being forced to engage in nonconsensual sexual acts or activities;
- (4) threats or attempts at physical or sexual abuse;
- (5) mental abuse; or
- (6) neglect or deprivation of medical care except when the deprivation is based by mutual consent on religious grounds.

E. For the purposes of this section, a hardship exception applies to a person who demonstrates through reliable medical, psychological or mental reports, social security administration records, court orders, police reports or department records that he is a person:

- (1) who is barred from engaging in a work activity because he is temporarily or completely disabled;
- (2) who is the sole provider of home care to an ill or disabled family member;
- (3) whose ability to be gainfully employed is affected by domestic violence;
- (4) whose application for supplemental security income is pending in the application or appeals process and who:
- (a) meets the criteria of Paragraph (1) of this subsection; or
 - (b) was granted a waiver from the work requirement pursuant to Paragraph (1) of Subsection I of Section 27-2B-5 NMSA 1978 in the last twenty-four months; or
- (5) who otherwise qualifies for a hardship exception as defined by the department.

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F. Pursuant to the federal act, the department shall not count a month of receipt of cash assistance or services toward the sixty-month durational limit if during the time of receipt the participant:

- (1) was a minor and was not the head of a household or married to the head of a household; or
- (2) lived in Indian country, as defined in the federal act, if the most reliable data available with respect to the month indicate that at least fifty percent of the adults living in Indian country or in the village were not employed."

Section 4. Section 27-2B-8 NMSA 1978 (being Laws 1998, Chapter 8, Section

8 and Laws 1998, Chapter 9, Section 8, as amended by Laws 2001, Chapter 295,
Section 5 and by Laws 2001, Chapter 326, Section 5) is amended to read:

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"27-2B-8. RESOURCES.--

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A. Liquid and nonliquid resources owned by the benefit group shall be
counted in the eligibility determination.

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B. A benefit group may at a maximum own the following resources:

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(1) two thousand dollars (\$2,000) in nonliquid resources;

(2) one thousand five hundred dollars (\$1,500) in liquid
resources;

(3) the value of the principal residence of the participant;

(4) the value of burial plots and funeral contracts for family
members;

(5) individual development accounts; and

(6) the value of work-related equipment up to one thousand
dollars (\$1,000).

C. Vehicles owned by the benefit group shall not be considered in the
determination of resources attributed to the benefit group."

Section 5. Section 27-2B-14 NMSA 1978 (being Laws 1998, Chapter 8,
Section 14 and Laws 1998, Chapter 9, Section 14, as amended by Laws 2001,
Chapter 295, Section 7 and by Laws 2001, Chapter 326, Section 7) is amended to
read:

"27-2B-14. SANCTIONS.--

A. The department shall sanction a member of a benefit group for
noncompliance with work requirements or child support requirements.

B. The sanction shall be applied at the following levels:

(1) twenty-five percent reduction of cash assistance for the first occurrence of noncompliance;

(2) fifty percent reduction of cash assistance for the second occurrence of noncompliance; and

(3) termination of cash assistance and ineligibility to reapply for six months for the third occurrence of noncompliance.

C. Prior to imposing the first sanction, if the department determines that a participant is not complying with the work participation requirement or child support requirements, the participant shall be required to enter into a conciliation process established by the department to address the noncompliance and to identify good cause for noncompliance or barriers to compliance. The conciliation process shall occur only once prior to the imposition of the sanction. The participant shall have ten working days from the date a conciliation notice is mailed to contact the department to initiate the conciliation process. A participant who fails to initiate the conciliation process shall have a notice of adverse action mailed to him after the tenth working day following the date on which the conciliation notice is mailed. Participants who begin but do not complete the conciliation process shall be mailed a notice of adverse action thirty days from the date the original conciliation notice was mailed.

D. Reestablishing compliance shall allow full payment to resume.

E. Noncompliance with reporting requirements may subject a participant to other sanctions, except that an adult member of the benefit group shall not be sanctioned for the failure of a dependent child to attend school.

F. Effective October 1, 2001, the department shall not terminate the

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medicaid benefits of any member of a benefit group due to imposition of a sanction pursuant to the provisions of this section."

Section 6. EMERGENCY.--It is necessary for the public peace, health and safety that the act take effect immediately.