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SENATE BILL 1198

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

MARY JANE M GARCIA

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO WELFARE REFORM; AMENDING SECTION 27-3-3 NMSA 1978  
(BEING LAWS 1973, CHAPTER 256, SECTION 3, AS AMENDED); ENACTING  
THE FAMILY ASSISTANCE AND INDIVIDUAL RESPONSIBILITY ACT.

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

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1  
through 19 of this act may be cited as the "Family Assistance  
and Individual Responsibility Act".

Section 2. [NEW MATERIAL] INTENT--PURPOSE. --

A. It is the intent of the legislature that the  
Family Assistance and Individual Responsibility Act bring  
meaningful welfare reform to the state and serve as the  
cornerstone of a new and better welfare reform service delivery  
system that emphasizes the long-term benefit of enhancing work-  
related training and education to increase the probability of

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1 success and self-sufficiency for recipients of assistance and  
2 their children.

3 B. The Family Assistance and Individual  
4 Responsibility Act ensures to the maximum extent possible that  
5 welfare reform in New Mexico takes place fairly and that parents  
6 of children will be helped in becoming self-sufficient in the  
7 workplace. The Family Assistance and Individual Responsibility  
8 Act establishes the program to be carried out by the state with  
9 funds provided by the temporary assistance for needy families  
10 block grant authorized by section 103 of P.L. 104-193. In  
11 submitting any state plan required to obtain a temporary  
12 assistance for needy families block grant or under the child  
13 care and development block grant, the governor shall seek the  
14 maximum block grant funding and federal contingency fund  
15 allocations that are available pursuant to P.L. 104-193.

16 Section 3. [NEW MATERIAL] DEFINITIONS. --As used in the  
17 Family Assistance and Individual Responsibility Act:

- 18 A. "department" means the human services department;  
19 B. "secretary" means the secretary of human  
20 services;  
21 C. "federal act" means Title IV of the federal  
22 Social Security Act as amended by P.L. 104-193, the Personal  
23 Responsibility and Work Opportunity Reconciliation Act of 1996;  
24 D. "family" means a group of people having at least  
25 one child and the child's parents or caretakers, all of whom

1 live together in the same household. A pregnant woman and her  
2 unborn child are considered to be a family;

3 E. "parent" includes:

4 (1) the biological or adoptive parent of a  
5 child;

6 (2) a pregnant woman; and

7 (3) the spouse of a married pregnant woman;

8 F. "caretaker" means an adult related to a child by  
9 blood or marriage having legal custody or guardianship of the  
10 child;

11 G. "child" means a person who is less than eighteen  
12 years old and is not emancipated. A person who is eighteen  
13 years old but who is expected to graduate from high school by  
14 his nineteenth birthday is considered a child;

15 H. "minor parent" means a parent who is less than  
16 eighteen years old;

17 I. "applicant" means a person who has applied for  
18 cash assistance or services under the Family Assistance and  
19 Individual Responsibility Act;

20 J. "recipient" means a person who is receiving cash  
21 assistance or services under the Family Assistance and  
22 Individual Responsibility Act;

23 K. "federal poverty guidelines" means the level of  
24 income defining poverty thresholds by family size published in  
25 March of every year in the federal register by the United States

1 department of health and human services;

2 L. "earned income" means cash, negotiable  
3 instruments or property that may readily be sold or converted to  
4 cash that is received as compensation for employment;

5 M. "unearned income" means income from benefits from  
6 a public or private source, pensions, contributions, gifts and  
7 all other income that does not meet the definition of earned  
8 income;

9 N. "resources" means the value of real property or  
10 personal property owned by a person;

11 O. "liquid resources" means resources for which  
12 ownership is evidenced by an instrument that is readily  
13 negotiable for cash;

14 P. "family assistance group" means a family with at  
15 least one child living with a parent or caretaker and persons:

16 (1) living with the family who meet each  
17 individual eligibility requirement of the Family Assistance and  
18 Individual Responsibility Act; and

19 (2) who purchase and prepare food and pay for  
20 shelter and utilities jointly; and

21 Q. "cash grant" means cash assistance provided to a  
22 family under the Family Assistance and Individual  
23 Responsibilities Act.

24 Section 4. [NEW MATERIAL] SINGLE STATE AGENCY--  
25 ASSISTANCE TO FAMILIES-- COOPERATION WITH OTHER DEPARTMENTS IN

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1 PROVIDING SERVICES--CHILD CARE. --

2 A. The department is:

3 (1) responsible for administering the family  
4 Assistance and Individual Responsibility Act; and

5 (2) authorized to carry out the state program  
6 funded by temporary assistance for needy families block grants  
7 made pursuant to the federal act.

8 B. Subject to the availability of state and federal  
9 funds, the department shall provide cash grants to families in  
10 financial need pursuant to the Family Assistance and Individual  
11 Responsibility Act.

12 C. In administering the Family Assistance and  
13 Individual Responsibility Act, the department shall cooperate  
14 with the children, youth and families department, the labor  
15 department, the economic development department, the department  
16 of health and the state department of public education for the  
17 purposes of providing child care, job training, job placement  
18 and educational services to applicants and recipients.

19 Section 5. [NEW MATERIAL] FINANCIAL NEED STANDARD--  
20 PAYMENT STANDARD--AMOUNT OF CASH ASSISTANCE--PAYMENT  
21 REDUCTION. --

22 A. The secretary shall establish a financial need  
23 standard for purposes of determining the financial eligibility  
24 of a family assistance group pursuant to the Family Assistance  
25 and Individual Responsibility Act. The financial need standard

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1 shall be based on the earned income and unearned income required  
2 for a family to maintain a level of subsistence that includes  
3 costs of food, shelter and other necessities but that excludes  
4 the cost of medical care. The financial need standard for  
5 earned and unearned income shall not be less than sixty-six  
6 percent of the federal poverty guidelines effective at the  
7 beginning of each fiscal year.

8 B. The secretary shall establish a payment standard  
9 for cash grants provided to a family pursuant to the Family  
10 Assistance and Individual Responsibility Act. The payment  
11 standard shall be set subject to the availability of state and  
12 federal funds appropriated for the purpose of funding the Family  
13 Assistance and Individual Responsibility Act. The payment  
14 standard may be less than the amount set by the secretary in  
15 determining financial eligibility pursuant to the Family  
16 Assistance and Individual Responsibility Act.

17 C. The amount of a cash grant that shall be paid to  
18 a family pursuant to the Family Assistance and Individual  
19 Responsibility Act is determined by deducting the total amount  
20 of non-exempt family income from the payment standard set by the  
21 secretary pursuant to Subsection B of this section.

22 D. If the amount of federal and state funds  
23 available is insufficient to provide cash grants at the payment  
24 standard set pursuant to Subsection B of this section, the  
25 secretary may by regulation reduce the payment amount. However,

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1 the secretary shall not reduce the payment amount below the  
2 level of grant amounts paid to persons under the aid to families  
3 with dependent children program under the Public Assistance Act  
4 that were in effect on July 1, 1996 without first complying with  
5 subsection G of Section 9-8-6 NMSA 1978.

6 Section 6. [NEW MATERIAL] COMPOSITION OF THE FAMILY  
7 ASSISTANCE GROUP. --

8 A. A family assistance group must include at least  
9 one child living with a parent or a caretaker.

10 B. A family assistance group shall not include  
11 persons living in the same household with the family who:

12 (1) do not make their income available to the  
13 family; and

14 (2) have no legal responsibility to support  
15 children in the family.

16 C. In determining the size of the family assistance  
17 group for purposes of making a financial eligibility  
18 determination, the department shall:

19 (1) consider a pregnant woman one person; and

20 (2) not include persons receiving:

21 (a) federal supplemental security income;

22 (b) adoption assistance payments; or

23 (c) foster care reimbursement.

24 D. The secretary may include additional persons to  
25 the family assistance group pursuant to regulations that are

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1 consistent with the federal act or with the Family Assistance  
2 and Individual Responsibility Act.

3 Section 7. [NEW MATERIAL] ELIGIBILITY--EXCEPTIONS. --

4 A. A family assistance group is eligible for a cash  
5 grant and services pursuant to the Family Assistance and  
6 Individual Responsibility Act if:

7 (1) a parent or caretaker in the family is a  
8 resident of the state;

9 (2) the family has a total monthly income that  
10 is less than the financial need standard and meets financial  
11 eligibility requirements set by the secretary pursuant to the  
12 Family Assistance and Individual Responsibility Act; and

13 (3) the parents or caretakers in the family  
14 have met all requirements set by the department for cooperating  
15 in obtaining child support by the department as are required by  
16 Title IV-D of the federal act.

17 B. A family assistance group shall be eligible for a  
18 cash grant and services pursuant to the Family Assistance and  
19 Individual Responsibility Act if the adult parent or caretaker  
20 in the family assistance group has received less than a total of  
21 sixty months of assistance in this state or any other state  
22 under a program funded in whole or in part under the federal  
23 act, except for persons exempted from the sixty-month limitation  
24 by the federal act or by regulations of the secretary.

25 C. For purposes of the sixty-month limitation in

1 Subsection B of this section, the secretary shall adopt  
2 regulations exempting persons in the family assistance unit who  
3 have been battered or subjected to extreme cruelty by:

- 4 (1) physical acts that resulted in or  
5 threatened to result in physical injury to the person;
- 6 (2) sexual abuse;
- 7 (3) sexual activity involving a child;
- 8 (4) being forced as the caretaker of a child to  
9 engage in nonconsensual sexual acts or activities;
- 10 (5) threats of, or attempts at, physical or  
11 sexual abuse;
- 12 (6) mental abuse; or
- 13 (7) neglect or deprivation of medical care.

14 D. A person in a family is eligible for assistance  
15 pursuant to the Family Assistance and Individual Responsibility  
16 Act if the person is:

- 17 (1) a citizen of the United States;
- 18 (2) a lawful resident immigrant who entered the  
19 United State before August 22, 1996; or
- 20 (3) a lawful resident immigrant who meets the  
21 immigration status, work history or military service exceptions  
22 set forth in Section 402 (a) (2) of P. L. 104-193.

23 E. A person shall not be eligible to receive a cash  
24 grant pursuant to the Family Assistance and Individual  
25 Responsibility Act if the person:

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1 (1) has within the previous ten years been  
2 convicted of public benefit or medical assistance fraud as  
3 defined in Section 408 (a)(8) of P. L. 104-193;

4 (2) is a fleeing felon or parole violator as  
5 defined in Section 408(a)(9) of P. L. 104-193;

6 (3) has within the past five years been  
7 convicted of a drug-related felony, provided that a pregnant  
8 woman subject to this eligibility exception may receive  
9 assistance under protective payment regulations promulgated by  
10 the secretary;

11 (4) is a child who:

12 (a) has not graduated from high school  
13 and is not attending school; or

14 (b) has been or is expected by the  
15 child's parent or caretaker to be absent from the family home  
16 for a period of forty-five consecutive days; or

17 (5) is over the age of sixty-five.

18 Section 8. [NEW MATERIAL] SPECIAL ELIGIBILITY PROVISIONS  
19 FOR UNMARRIED MINOR PARENTS. --If a family assistance group is  
20 composed of an unmarried minor parent and the child of the minor  
21 parent, that minor parent must meet all requirements for living  
22 arrangements and school attendance set by the secretary under  
23 regulations consistent with requirements of the federal act.  
24 The department shall not require applicants and recipients who  
25 are unemancipated minor parents to live in the home of their

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1 parents without first making a determination that living in  
2 their parents' home will be safe and that their parents want  
3 them to remain in their home. The department shall establish  
4 procedures for making such determinations.

5 Section 9. [NEW MATERIAL] FINANCIAL ELIGIBILITY--CASH  
6 GRANT--INCOME--RESOURCES. --

7 A. The secretary shall define by regulation exempt  
8 and non-exempt income and resources to be used in determining  
9 financial eligibility for a cash grant and services pursuant to  
10 the Family Assistance and Individual Responsibility Act.

11 B. For any person in the family assistance group  
12 whose income is to be counted in determining the amount of the  
13 cash grant, the secretary shall disregard:

14 (1) the first thirty dollars (\$30.00) of  
15 monthly earned income and one-third of the remaining monthly  
16 earned income;

17 (2) ninety dollars (\$90.00) of monthly earned  
18 income, which shall be considered necessary to meet work-related  
19 expenses;

20 (3) monthly payments made for child care for a  
21 child in the family assistance group up to a maximum of two  
22 hundred dollars (\$200) for a child who is less than two years  
23 old and one hundred seventy-five dollars (\$175) for a child who  
24 is two years old or older; and

25 (4) monthly child support payments received by

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1 the family assistance group up to a maximum of one hundred  
2 dollars (\$100).

3 C. Income of persons living in the same household  
4 with the family assistance group who do not make their income  
5 available to the family and have not legal responsibility to  
6 support children in the family shall not be included in the  
7 consideration of the financial eligibility of the family for a  
8 cash grant or services pursuant to the Family Assistance and  
9 Individual Responsibility Act.

10 D. The secretary shall exempt the following  
11 resources:

12 (1) not less than two thousand dollars (\$2,000)  
13 of non-liquid resources;

14 (2) the value of one motor vehicle;

15 (3) the value of real property that is used as  
16 the principle residence of the family;

17 (4) the equity value of funeral agreements  
18 owned by a person in the family assistance group that does not  
19 exceed one thousand five hundred dollars (\$1,500); and

20 (5) resources of persons who live with the  
21 family but have no legal responsibility to support children in  
22 the family.

23 Section 10. [NEW MATERIAL] INDIVIDUAL DEVELOPMENT  
24 ACCOUNTS. --

25 A. An "individual development account" is an account

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1 established by a recipient for any of the following:

- 2 (1) providing for the expenses of post-  
3 secondary education;  
4 (2) setting aside funds for the purchase of a  
5 first home; and  
6 (3) contributing to a business capitalization  
7 account.

8 B. The secretary shall be regulation establish  
9 standards that enable recipients to fund individual development  
10 accounts for each of the purposes in Subsection A of this  
11 section that are consistent with the requirements in Section  
12 404(h) of P. L. 104-193.

13 Section 11. [NEW MATERIAL] INITIAL ELIGIBILITY  
14 DETERMINATION--CONTINUING ELIGIBILITY--CERTIFICATION. --

15 A. Not later than thirty days after an applicant  
16 files an application for a cash grant or services pursuant to  
17 the Family Assistance and Individual Responsibility Act, the  
18 department shall make a determination of the applicant's  
19 eligibility.

20 B. The department shall review eligibility for  
21 recipients at least once every six months. The review shall  
22 include:

- 23 (1) the recipient's current financial  
24 eligibility; and  
25 (2) a determination of whether recipients are

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1 meeting work requirements as provided in the Family Assistance  
2 and Individual Responsibility Act and regulations adopted by the  
3 secretary pursuant to the that act.

4 Section 12. [NEW MATERIAL] WORK REQUIREMENT--  
5 EXEMPTIONS.--

6 A. A recipient who is a parent or caretaker in a  
7 family must be engaged in one or more of the work activities set  
8 out in Subsection B of this section not later than twenty-four  
9 months after the person becomes a recipient, unless the person  
10 is exempt from work requirements under regulations adopted by  
11 the secretary.

12 B. Work activities that qualify in meeting the work  
13 requirement include:

- 14 (1) unsubsidized employment;
- 15 (2) subsidized private sector employment;
- 16 (3) subsidized public sector employment;
- 17 (4) work experience;
- 18 (5) on-the-job training;
- 19 (6) assisted job search for a period not to  
20 exceed three weeks;
- 21 (7) job skills training directly related to  
22 employment;
- 23 (8) community service programs, where  
24 sufficient public or private sector employment is not available;
- 25 (9) vocational education programs;

1 (10) education directed toward obtaining a high  
2 school diploma or a certificate of high school equivalency;

3 (11) post-secondary education programs directly  
4 related to specific employment opportunities; and

5 (12) child care for other recipients, provided  
6 the recipient:

7 (a) meets training and registration  
8 requirements for child-care providers established by the  
9 children, youth and families department; and

10 (b) meets requirements of the child  
11 nutrition program.

12 C. The secretary shall exempt the following  
13 recipients from the requirement of Subsection A of this section:

14 (1) a person who:

15 (a) is unable to work due to advanced age  
16 or a disability;

17 (b) is a single parent with a child less  
18 than twelve months old who has not been exempted for more than  
19 twelve months under such an exemption in the past;

20 (c) is a parent caring for a child with a  
21 disability or caring for an adult with a disability; or

22 (d) resides in a county with an  
23 unemployment rate that is over ten percent;

24 (2) one parent or caretaker in a two-parent  
25 family that does not receive state-assisted child care; or

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1 (3) a person who meets other exemptions set by  
2 the secretary.

3 D. In setting the number of hours that a recipient  
4 shall engage in a work activity under Subsection B of this  
5 section, the secretary shall not require hours of work on an  
6 average weekly basis that exceed the minimum requirements  
7 necessary for the state to meet work participation rates under  
8 the federal act, unless the recipient agrees to additional hours  
9 in an individual responsibility plan made pursuant to Section 13  
10 of the Family Assistance and Individual Responsibility Act.

11 Section 13. [NEW MATERIAL] EMPLOYABILITY ASSESSMENTS. --

12 A. The department shall make assessment of the  
13 skills, prior work experience and employability of each  
14 recipient who:

15 (1) is eighteen years of age or older; or

16 (2) has not received a high school diploma or  
17 certificate of high school equivalency and is not attending high  
18 school or participating in an alternative secondary education  
19 program.

20 B. The assessment in Subsection A of this section  
21 shall be conducted within thirty days of a determination of  
22 eligibility for a cash grant or services. The assessment may be  
23 conducted by the department or other public or private agencies  
24 at the discretion of the secretary.

25 Section 14. [NEW MATERIAL] INDIVIDUAL RESPONSIBILITY

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1 PLANS. - -

2 A. Within a reasonable time after the department  
3 conducts an assessment for a recipient pursuant to Section 12 of  
4 the Family Assistance and Individual Responsibility Act, the  
5 department shall, after consultation with the recipient, require  
6 the recipient to enter into an individual responsibility plan.

7 The individual responsibility plan shall:

8 (1) set forth an employment goal for the  
9 recipient that is consistent with moving the individual into  
10 public or private sector employment;

11 (2) set forth obligations of the recipient in  
12 moving toward becoming and remaining employed in the public or  
13 private sector; and

14 (3) describe the services the department will  
15 provide to the recipient so that the recipient will be able to  
16 obtain employment, including educational assistance, job  
17 counseling and job placement services.

18 B. An individual responsibility plan for a person  
19 shall include:

20 (1) a program of secondary education or its  
21 equivalent where the person is a minor parent who has not  
22 received a high school diploma or certificate of high school  
23 equivalency;

24 (2) a program of secondary education or its  
25 equivalent for a person over the age of eighteen who has not

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1 received a high school diploma or a certificate of high school  
2 equivalency where high school equivalency is necessary for the  
3 person to be employed; or

4 (3) a program of vocational education for more  
5 than one year or a program of post-secondary education if:

6 (a) the person has initiated such a  
7 program and can demonstrate that he will complete the program  
8 within two years;

9 (b) the department has reason to believe  
10 that there will be job openings in sufficient numbers in New  
11 Mexico that require the educational qualifications provided by  
12 the program; and

13 (c) the plan contains reasonable  
14 standards to measure the adult's progress in such educational  
15 program.

16 C. An individual responsibility plan that includes  
17 community service as a work activity shall set forth the  
18 duration of such community service and how the community service  
19 will help the person develop skills for full-time future  
20 employment. The department shall not use community service as a  
21 requirement for a recipient's continued eligibility for  
22 assistance pursuant to the Family Assistance and Individual  
23 Responsibility Act unless an individual responsibility plan  
24 containing the provisions of this subsection is in place.

25 Section 15. [NEW MATERIAL] SERVICES. --

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1           A. A recipient who engages in a work activity shall  
2 be entitled to services from the department that support the  
3 employment goal in the recipient's individual responsibility  
4 plan and enable the recipient to engage in a work activity.

5 Such services shall include:

6                   (1) child-care assistance;

7                   (2) reimbursement of employment-related  
8 transportation expenses; and

9                   (3) job search assistance and employment  
10 counseling.

11           B. The department shall provide services in a fair  
12 manner to all recipients consistent with assisting recipients to  
13 attain family-sustaining employment.

14           Section 16. [NEW MATERIAL] MEDICAID. --

15           A. A recipient shall be categorically eligible for  
16 medicaid.

17           B. A person who becomes financially ineligible for a  
18 cash grant or services pursuant to the Family Assistance and  
19 Individual Responsibility Act because of earned income shall  
20 continue to be eligible for medicaid for a period of at least  
21 one year.

22           C. The children of the family assistance group shall  
23 continue to be medicaid eligible until the income of the family  
24 exceeds one hundred eighty-five percent of the federal poverty  
25 guidelines.

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1           Section 17. [NEW MATERIAL] PENALTIES AGAINST  
2 INDIVIDUALS. --

3           A. The department shall not impose any sanction or  
4 financial penalty on a family assistance group for noncompliance  
5 with work requirements or non-cooperation in child support or  
6 other requirements of the Family Assistance and Individual  
7 Responsibility Act by a recipient:

8                   (1) that results in the amount of a cash grant  
9 to the family assistance group being reduced by more than  
10 twenty-five percent of the cash grant received by the family  
11 assistance group at the time the sanction or financial penalty  
12 is imposed; and

13                   (2) without first considering whether the  
14 recipient had good cause for such noncompliance.

15           B. The department shall not reduce or terminate a  
16 cash grant to a family assistance group based on a refusal of a  
17 recipient to engage in a work activity, if the recipient:

18                   (1) is a single custodial parent caring for a  
19 child who has not attained six years of age; and

20                   (2) establishes an inability to obtain needed  
21 child care for one or more of the following reasons:

22                           (a) unavailability of appropriate child  
23 care within a reasonable distance from the recipient's home or  
24 work site;

25                           (b) unavailability or unsuitability of

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1 informal child care by a relative or other person; and  
2 (c) unavailability of appropriate and  
3 affordable formal child care arrangements.

4 Section 18. [NEW MATERIAL] TRANSITIONAL PROVISIONS. --

5 A. Family assistance groups that were receiving aid  
6 to families with dependent children under the Public Assistance  
7 Act on the effective date of the Family Assistance and  
8 Individual Responsibility Act will be eligible for assistance  
9 and services under the Family Assistance and Individual  
10 Responsibility Act for thirty days from the effective date of  
11 Family Assistance and Individual Responsibility Act or until  
12 their eligibility under that act is determined.

13 B. Recipients engaged in work activities, including  
14 educational programs, that were approved by the department under  
15 project forward on or before July 1, 1997 shall be allowed to  
16 continue those work activities under the terms and conditions  
17 established by project forward.

18 Section 19. [NEW MATERIAL] CHILD SUPPORT PASS THROUGH. --

19 For any month that the department collects child support  
20 payments for a child that is a recipient of a cash grant or  
21 services under the Family Assistance and Individual  
22 Responsibility Act, the department shall make a payment of one  
23 hundred dollars (\$100) to the parent or caretaker of that child.

24 Section 20. Section 27-3-3 NMSA 1978 (being Laws 1973,  
25 Chapter 256, Section 3, as amended) is amended to read:

1 "27-3-3. FAIR HEARING. --

2 A. An applicant for or recipient of assistance or  
3 services under any provisions of the Public Assistance Act,  
4 Social Security Act [øø], Special Medical Needs Act or Family  
5 Assistance and Individual Responsibility Act or regulations of  
6 the board adopted pursuant to those acts may request a hearing  
7 in accordance with regulations of the board if:

8 (1) an application is not acted upon within a  
9 reasonable time after the filing of the application;

10 (2) an application is denied in whole or in  
11 part; or

12 (3) the assistance or services are modified,  
13 terminated or not provided.

14 The department shall notify the recipient or applicant of  
15 his rights under this section.

16 B. The board shall by regulation establish  
17 procedures for the filing of a request for a hearing and the  
18 time limits within which a request may be filed; provided,  
19 however, that the department may grant reasonable extensions of  
20 the time limits. If the request is not filed within the  
21 specified time for appeal or within whatever extension the  
22 department may grant, the department action shall be final.  
23 Upon receipt of a timely request, the department shall give the  
24 applicant or recipient reasonable notice of an opportunity for a  
25 fair hearing in accordance with the regulations of the board.

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1           C. The hearing shall be conducted by a hearing  
2 officer designated by the director. The powers of the hearing  
3 officer shall include administering oaths or affirmations to  
4 witnesses called to testify, taking testimony, examining  
5 witnesses, admitting or excluding evidence and reopening any  
6 hearing to receive additional evidence. The technical rules of  
7 evidence and the rules of civil procedure shall not apply. The  
8 hearing shall be conducted so that the contentions or defenses  
9 of each party to the hearing are amply and fairly presented.  
10 Either party may be represented by counsel or other  
11 representative of his designation, and he or his representative  
12 may conduct cross-examination. Any oral or documentary evidence  
13 may be received, but the hearing officer may exclude irrelevant,  
14 immaterial or unduly repetitious evidence.

15           D. The director shall review the record of the  
16 proceedings and shall make a decision thereon. The applicant or  
17 recipient or his representative shall be notified in writing of  
18 the director's decision and the reasons for the decision. The  
19 written notice shall inform the applicant or recipient of his  
20 right to judicial review. The department shall be responsible  
21 for assuring that the decision is enforced. "

22           Section 21. TEMPORARY PROVISION. --

23           A. Until eligibility determinations and cash grants  
24 are made pursuant to the Family Assistance and Individual  
25 Responsibility Act, the department shall continue aid to

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1 families with dependent children pursuant to the Public  
2 Assistance Act.

3 B. Eligibility determinations and cash grants shall  
4 be made pursuant to the Family Assistance and Individual  
5 Responsibility Act effective on the first occurrence of:

6 (1) the date that the secretary of the United  
7 States department of health and human services receives a plan  
8 from the department pursuant to Section 103 of P.L. 104-193; or

9 (2) July 1, 1997.

10 Section 22. REPEAL. -- Section 27-2-33 NMSA 1978 (being Laws  
11 1937, Chapter 18, Section 21) is repealed.

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**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

**March 19, 1997**

**SENATE FLOOR AMENDMENT number \_\_\_\_\_ to SENATE BILL 1198, as amended**

**AMENDMENT sponsored by SENATOR BOITANO**

**1. On page 9, line 3, after the word "cruelty" insert:**

**"if it is determined by a health professional or the courts that it currently affects their ability to work".**

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Senator Mark Boitano

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

\_\_\_\_\_

(Chief Clerk)

(Chief

Clerk)

Date \_\_\_\_\_

**S1198FS1**

# State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE

FIRST SESSION, 1997

March 19, 1997

Mr. Speaker:

Your APPROPRIATIONS AND FINANCE COMMITTEE, to whom has been referred

SENATE BILL 1198, as amended

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. On page 8, line 25, strike "For" and insert in lieu thereof "Effective July 1, 1998, for".
2. On page 9, line 1, strike "adopt".
3. On page 9, line 2, strike "regulations exempting" and insert in lieu thereof "take such steps necessary pursuant to the federal act to provide a good cause waiver of the limitation for".
4. On page 9, line 2, strike "unit" and insert in lieu thereof "group".

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

HAF/C/SB 1198, aa

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5. On page 12, line 16, strike "principle" and insert in lieu thereof "principal".

6. On page 14, line 17, before "work" insert "a program of".

7. On page 15, line 19, after the semicolon insert "or".

8. On page 15, line 21, strike "or".

9. On page 15, strike lines 22 and 23 in their entirety.

10. On page 16, line 9, strike "13" and insert in lieu thereof "14".

11. On page 18, line 3, before the semicolon insert the following:

", provided that the individual responsibility plan for a person over the age of twenty years shall include sufficient hours in an additional work activity that the department has determined will meet work activity participation requirements pursuant to the federal act".

12. On page 18, line 12, strike "and".

13. On page 18, line 15, strike the period and insert in lieu thereof "; and".

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14. On page 18, between lines 15 and 16, insert the following:

"(d) the plan includes sufficient hours in an additional work activity that the department has determined will meet work activity participation requirements pursuant to the federal act."

15. On page 18, between lines 24 and 25, insert the following:

"D. The department may sanction or impose financial penalties on a recipient for failure to comply with the provisions of an individual responsibility plan and may terminate assistance or services to a family assistance group if a recipient refuses to enter an individual responsibility plan as provided in Subsection A of this section."

16. On page 20, between lines 2 and 3, insert the following:

"A. Subject to the provisions of Subsections B and C of this section, the department may impose financial penalties or sanctions on, and may terminate assistance or services to, a recipient or a family assistance group for failure of the recipient or family assistance group to comply with requirements of the Family Assistance and Individual Responsibility Act."

17. Reletter the succeeding subsections accordingly.

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FORTY-THIRD LEGISLATURE  
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18. On page 20, line 4, after "for" insert "a single act of".

Respectfully submitted,

\_\_\_\_\_  
Max Coll, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 9 For 7 Against

Yes: 9

No: Bird, Buffett, Knowles, Marquardt, Pearce, Townsend,  
Wallace

Excused: Picraux

Absent: None

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