

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

3

HOUSE BILL 5\*  
Committee Substitute Favorable 4/19/95  
Committee Substitute #2 Favorable 5/18/95

Short Title: Public Assistance Responsibility.

(Public)

---

Sponsors:

---

Referred to:

---

January 26, 1995

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH THE PUBLIC ASSISTANCE PERSONAL AND FAMILY  
3 RESPONSIBILITY ACT OF 1995 AND TO REAUTHORIZE THE LEGISLATIVE  
4 STUDY COMMISSION ON WELFARE REFORM.

5 The General Assembly of North Carolina enacts:

6 Section 1. Article 2 of Chapter 108A of the General Statutes is amended by  
7 adding a new Part to read:

8 "Part 1A. The Public Assistance Personal and Family Responsibility Act of 1995.

9 "§ 108A-26.5. Reducing illegitimacy; county block grants.

10 (a) The General Assembly finds that welfare reform should aim at moving people  
11 from the welfare dependency cycle to work and self-sufficiency. Further, the General  
12 Assembly finds that the negative consequences of an out-of-wedlock birth on the child,  
13 the mother, and society are major causes of the welfare system's failure to move families  
14 from welfare dependency to permanent self-sufficiency and that the safety and well-being  
15 of society as a whole is greatly threatened by this failure.

16 (b) The Department of Human Resources shall ensure that, on or after the effective  
17 date of this section, assistance provided to any parent who gives birth to an out-of-  
18 wedlock child and the child born to that parent shall be limited as follows:

1           (1)    The parent shall be eligible only for:

2                a.    Medicaid; and

3                b.    WIC.

4           (2)    The child shall be eligible only for:

5                a.    Food stamps;

6                b.    Medicaid; and

7                c.    WIC.

8           These limitations on public assistance benefits shall not apply if: (i) the birth was  
9 a result of rape or incest; (ii) the parent subsequently marries an individual who  
10 acknowledges paternity or assumes financial responsibility for the child; or (iii) the child  
11 is subsequently adopted, placed in foster care or any other residential care facility, and  
12 otherwise remains eligible for assistance.

13           (c)    The Department of Human Resources shall ensure that all available funds, that  
14 otherwise would have been made available to parents and children whose benefits are  
15 limited by subsection (b) of this section, shall be allocated to the 100 counties in block  
16 grants to be used solely for services to those parents and children. No funds from these  
17 grants shall be used for (i) cash assistance to those recipients or their children; (ii)  
18 providing abortions as a method of family planning; or (iii) abortion counseling. Counties  
19 shall not use the block grant funds with respect to any dependent child or parent when  
20 paternity has not been established. Services funded pursuant to this subsection may  
21 include:

22                (1)    Adoption services;

23                (2)    Children's homes;

24                (3)    Maternity homes for unwed mothers;

25                (4)    Residential group homes for mothers and their children;

26                (5)    Child day care;

27                (6)    Educational services, including, but not limited to, parenting, literacy,  
28 and money management classes;

29                (7)    Nutrition and health services;

30                (8)    Drug and alcohol abuse treatment programs; and

31                (9)    Any other programs or services that a county considers appropriate to  
32 assist mothers and their children or to lower their illegitimacy rate.

33           The Department shall allocate the block grant funds to each county based on the  
34 county's 'illegitimacy ratio'. For the purposes of this subsection, 'illegitimacy ratio' shall  
35 mean the number of out-of-wedlock births in each county in a fiscal year divided by the  
36 total number of out-of-wedlock births in the State, beginning with the 1995-96 fiscal  
37 year.

38           Beginning with the 1998-99 fiscal year, for reducing the number of out-of wedlock  
39 births, a county shall receive a five percent (5%) increase in its grant if the county's  
40 'illegitimacy ratio' is one percentage point lower than it was for fiscal year 1995-96 or a  
41 ten percent (10%) increase in its grant if the county's 'illegitimacy ratio' is two percentage  
42 points or more lower than it was for fiscal year 1995-96.

1 A county may expend up to five percent (5%) of the total grant for the administrative  
2 costs of operating any service pursuant to this subsection. A county may enter into  
3 contracts with a public, nonprofit, or private entity to provide any service pursuant to this  
4 subsection.

5 The Department shall ensure that an audit of the funds expended pursuant to this  
6 subsection shall be conducted at least every two years.

7 All county plans developed for the use of the block grants pursuant to this section  
8 should include a mechanism for alerting the local child support enforcement agency of  
9 those parents giving birth out-of-wedlock in order to enable the local child support  
10 agency to inform these parents of the child support enforcement services available to  
11 them.

12 **"§ 108A-26.6. Family cap limitation.**

13 (a) The Department of Human Resources shall ensure that no increases in AFDC  
14 assistance are provided, other than general increases provided to all recipients, to a  
15 recipient family for any additional dependent child born 10 months after the effective  
16 date of this section. The dependent child shall be eligible for Food stamps, Medicaid, and  
17 WIC.

18 (b) The Department shall ensure that a family who discontinues receiving  
19 assistance for any reason and who subsequently reapplies for assistance shall not include  
20 any additional children in the family size for the purpose of determining the amount of  
21 assistance than were included in the family size at the time assistance was discontinued,  
22 unless the family did not receive assistance for 24 months or more.

23 (c) These limitations shall not apply if: (i) the birth of the child is the result of rape  
24 or incest, and these offenses were duly reported to the appropriate law enforcement  
25 agency; or (ii) the birth results from the failure of a birth control device which is  
26 medically verifiable, such as an intrauterine device (IUD), Norplant, or sterilization.

27 **"§ 108A-26.7. Limited benefits for minor parents.**

28 (a) No assistance, including Medicaid, WIC, or any services that may be provided  
29 by the county pursuant to G.S. 108A-26.5(c), shall be provided to or on behalf of a minor  
30 under the age of 18 who has never married and who has a child or is pregnant unless such  
31 minor resides with a parent, legal guardian, or other adult relative, or in a foster home,  
32 maternity home, or residential care facility.

33 (b) This limitation shall not apply if: (i) there is reason to believe that a minor  
34 parent or the minor parent's child will be subject to abuse as a consequence of living with  
35 a parent or guardian of the minor parent; or (ii) the director of the local department of  
36 social services determines that the minor is in a separate household for other reasons of  
37 health, safety, or due to being forced out of the parent's or guardian's home; or (iii) the  
38 minor has no parent or legal guardian who is living or the whereabouts of the minor's  
39 parents or legal guardian are unknown; or (iv) federal law or regulation, such as HUD  
40 occupancy levels in public housing prohibit these constraints.

41 **"§ 108A-26.8. Child support; parent's financial responsibility.**

42 (a) The Department of Human Resources shall ensure that G.S. 110-131 and all  
43 other existing laws and procedures for establishing paternity and support of children

1 whose custodial parent applies for assistance or who is currently receiving assistance  
2 pursuant to this Article, are enforced for all children up to the age of 18.

3 (b) The Department shall ensure that a minor noncustodial parent who is working  
4 either full time or part time comply with all child support wage withholding procedures.

5 (c) A county may contract with any public or private entity for the collection of  
6 child support when to do so would most economically and effectively ensure that child  
7 support is collected. The use of private process servers for child support matters may be  
8 allowed and the costs shall be reimbursable.

9 (d) Child support collected on behalf of children born out-of-wedlock or children  
10 who are subject to the family cap limitation in G.S. 108A-26.6 shall be treated in the  
11 same manner as child support collected for non-AFDC cases. The child support shall be  
12 paid directly to the family and shall be subject to any fee for collection applicable to non-  
13 AFDC cases.

14 **"§ 108A-26.9. Nonsupport work incentive program.**

15 (a) The Department of Crime Control and Public Safety shall, in cooperation with  
16 the Department of Human Resources and the Administrative Office of the Courts, assist  
17 in the implementation of nonsupport work incentive programs across the State. These  
18 nonsupport work incentive programs shall provide an alternative to incarceration for  
19 nonsupport through the use of court-ordered community service work for unemployed  
20 noncustodial parents who have child support arrearages.

21 (b) Minor noncustodial parents shall be required to participate in nonsupport work  
22 incentive programs. If the minor noncustodial parent is a student, any required  
23 community service work shall take precedence over nonacademic activities.

24 **"§ 108A-26.10. Learnfare; Healthfare.**

25 (a) The Department of Human Resources shall ensure that a family receiving  
26 AFDC assistance pursuant to this Article acts responsibly in raising its children by seeing  
27 that its children attend school, if required by the Compulsory Attendance Law, for at least  
28 eighty percent (80%) of the time and that its children receive all the immunizations and  
29 other health services that are required of and provided for them by State and federal law,  
30 unless the family qualifies for an Immunization Law exemption.

31 If a dependent child does not attend school for at least eighty percent (80%) of the  
32 time, if required by the Compulsory Attendance Law, the Department shall reduce the  
33 family's assistance by fifty dollars (\$50.00) each month each child's attendance does not  
34 meet this requirement.

35 If a family does not provide a dependent child with the age-appropriate  
36 immunizations and other health services, including preventive health services, that are  
37 required of and provided for the family, the Department shall reduce the family's  
38 assistance by fifty dollars (\$50.00) for each month the appropriate services are not  
39 provided to each child, unless the family qualifies for an Immunization Law exemption.

40 (b) The Department, in cooperation with the State Board of Education, the  
41 Department of Environment, Health, and Natural Resources, the Social Services  
42 Commission, the Office of Nonpublic Education in the Office of the Governor, and the  
43 Commission for Health Services, shall ensure that actual notice of pending failure to meet

1 Compulsory Attendance Law requirements and of due dates for immunizations and other  
2 available health services are received by families receiving assistance pursuant to this  
3 Part.

4 The Department, in cooperation with these agencies, shall also ensure:

5 (1) That clear and equitable rules are applied:

6 a. To the monitoring of families' failures to act responsibly pursuant  
7 to this section; and

8 b. To the restoring of full unreduced assistance as soon as possible;

9 (2) That these rules are made clear to the families; and

10 (3) That local departments of social services work with their families:

11 a. To help them keep their children in school;

12 b. To keep them provided with the appropriate health services; and

13 c. If possible, to keep them from having to have their assistance  
14 reduced.

15 (c) Additionally, any custodial parent of an out-of-wedlock dependent child who  
16 has not obtained a high school diploma shall complete the requirements for a high school  
17 diploma either by continuing school attendance and graduating or by attending and  
18 completing an adult basic education program, unless the director of the local social  
19 services department waives this requirement. If a recipient is considered to be  
20 'functionally illiterate', they shall participate in a literacy program, unless the director of  
21 the local social services department waives this requirement. Unless a custodial parent  
22 required to receive education by this subsection is actively completing this education, the  
23 parent shall not be eligible for any of the services provided by the parent's county and  
24 shall be eligible for Medicaid and WIC only.

25 **"§ 108A-26.11. Benefits included as income.**

26 The Department of Human Resources shall ensure that the following is included as  
27 income for the purposes of determining AFDC eligibility:

28 (1) One hundred percent (100%) of the monthly food stamp allotment for  
29 which the assistance unit qualifies; and

30 (2) One hundred percent (100%) of the monthly housing subsidy for which  
31 the assistance unit qualifies.

32 **"§ 108A-26.12. Other household resources.**

33 (a) The General Assembly finds that pursuant to federal regulations for AFDC,  
34 there is no incentive for AFDC recipients to adopt traditional family structures because  
35 the income of a 'substitute parent' or 'man-in-the-house' is not an acceptable basis for a  
36 finding of ineligibility or for assuming the availability of income in determining AFDC  
37 assistance pursuant to 45 CFR § 233.90. The General Assembly finds further that a  
38 person who is living with a recipient parent as a 'substitute parent' or 'man-in-the-house'  
39 should bear the same responsibilities and obligations as the recipient parent with regard  
40 to the family.

41 (b) The Department shall ensure that the income of a person living with a recipient  
42 family as a 'substitute parent' or 'man-in-the-house' shall be treated as a resource for the  
43 purpose of determining the AFDC eligibility for that family.

1 **"§ 108A-26.13. Elimination of disincentives.**

2 (a) The General Assembly finds that a reliable vehicle or work equipment is often  
3 a necessity to fulfill the family's education, training, work, and medical requirements.  
4 Therefore, the Department of Human Resources shall ensure that the following is exempt  
5 from the assistance unit's eligibility resource limits:

6 (1) The value of one motor vehicle; and

7 (2) The value of any equipment used by a self-employed person in a  
8 business.

9 (b) The Department shall ensure that the AFDC-Unemployed Parent disincentives  
10 are removed by:

11 (1) Eliminating the '100-hour rule' which currently removes assistance from  
12 two-parent 'unemployed parent' families in which the principal wage  
13 earner works 100 hours or more a month; and

14 (2) Eliminating the requirement of an employment history for two-parent  
15 'unemployed parent' families, which currently requires that one parent  
16 shall have worked and earned at least fifty dollars (\$50.00) in 6 of 13  
17 calendar quarters prior to the date of application in order to receive  
18 assistance.

19 **"§ 108A-26.14. Individual Development Accounts.**

20 (a) An Individual Development Account (IDA) is a special bank account that a  
21 recipient of assistance may establish pursuant to this Part. The purpose of an Individual  
22 Development Account is to allow the savings of a family receiving Aid to Families with  
23 Dependent Children to be used for 'qualified distributions'.

24 (b) The term 'qualified distribution' means a distribution from the Individual  
25 Development Account on behalf of a recipient family member for expenses directly  
26 related to one or more of the following purposes:

27 (1) Attendance or participation in any education or training program;

28 (2) Enhancement of employment or self-employment opportunities,  
29 including the purchase of an automobile and automobile insurance;

30 (3) Purchase of a home for the family;

31 (4) Relocation of the family residence; or

32 (5) Acquisition of health, disability, or long-term care insurance.

33 (c) The Department of Human Resources shall cooperate with the State Banking  
34 Commission, the Credit Union Division, and the Savings Institution Division in  
35 establishing and administering these accounts to ensure that only 'qualified distributions'  
36 are made from these accounts.

37 (d) The assistance unit may accumulate and retain financial assets not to exceed  
38 ten thousand dollars (\$10,000) without losing eligibility for full benefits if those assets  
39 are placed in an Individual Development Account.

40 (e) Any interest or income earned on an Individual Development Account and any  
41 'qualified distribution' from the account shall be disregarded as income provided that the  
42 total amount of the account does not exceed ten thousand dollars (\$10,000).

1 (f) For purposes of this section, nonrecurring lump-sum income shall not be  
2 treated as income subject to the requirements of 45 CFR § 233.20, provided that such  
3 lump-sum income is placed in an Individual Development Account, and the total amount  
4 of the account does not exceed ten thousand dollars (\$10,000).

5 (g) The Department of Human Resources shall disregard the first three months of a  
6 recipient's employment earnings if that net earned income is placed in an Individual  
7 Development Account.

8 (h) The failure to hold or use assets as prescribed in this section shall cause those  
9 assets to be treated as income for the purposes of this Part. The 'qualified distribution'  
10 limits on the use of the Individual Development Account funds shall continue after a  
11 recipient holding the account has left public assistance.

12 (i) If a recipient holding an Individual Development Account has left public  
13 assistance, the account shall be disregarded in determining future eligibility provided that  
14 the account was established during a previous time when the recipient was receiving  
15 assistance.

16 **§ 108A-26.15. Time limits on AFDC benefits; transitional benefits.**

17 (a) AFDC assistance shall be limited to a period of two years, upon the effective  
18 date of this Part, for any recipient required to participate in any State-designated  
19 employment program; provided that the two-year limit shall not begin until age 18 for  
20 minors who receive assistance and would otherwise be required to participate in any  
21 State-designated employment program. The two-year limitation shall apply to benefits  
22 received consecutively or nonconsecutively. A recipient who has exhausted the two-year  
23 time limit shall not be eligible to reapply for assistance for three years.

24 (b) A recipient who is employed full time on or before the end of the two-year  
25 time limit shall be eligible to receive 24 months of transitional child care benefits  
26 provided on a sliding scale based on income and Medicaid benefits provided through  
27 copayment on a sliding scale based on income.

28 (c) The two-year time limit may be extended for not more than 12 additional  
29 months if the local director of social services determines the extension will enhance the  
30 recipient's ability to leave public assistance for paid employment; provided, however,  
31 any child care and Medicaid benefits received during the 12-month extension shall count  
32 toward the transitional child care and Medicaid benefits available pursuant to subsection  
33 (b) of this section.

34 (d) Upon the effective date of this Part, no recipient required to participate in any  
35 State-designated employment program shall receive assistance for more than a  
36 cumulative 60-month period.

37 (e) The Department of Human Resources shall adopt rules necessary to implement  
38 this section.

39 **§ 108A-26.16. Diversionary assistance.**

40 (a) The Department of Human Resources shall ensure that diversionary assistance  
41 is provided to persons who have short-term assistance needs and may be diverted from  
42 receiving continuing public assistance if a diversion payment for a one-time emergency is  
43 provided.

1       **(b)** A recipient of diversionary assistance may receive a diversion payment equal  
2 to the maximum amount of the AFDC cash assistance the recipient would otherwise be  
3 eligible to receive for up to three times the amount of the monthly grant for the household  
4 size. The actual amount of the diversion payment shall be based on the recipient's  
5 immediate needs and for the sum as negotiated by the caseworker and the participant.

6       **(c)** The diversion payment is not an entitlement or a requirement, but is an option  
7 subject to approval by both the caseworker and the participant.

8       **(d)** A recipient may receive diversionary assistance only once within a 60-month  
9 period.

10       **(e)** If the recipient reapplies for assistance within three months, the diversion  
11 payment shall be prorated over the three months and shall be subtracted from any regular  
12 AFDC grant the recipient is eligible to receive.

13       **(f)** A recipient applying for diversionary assistance shall cooperate fully with the  
14 appropriate child-support enforcement agency. Child support collected on behalf of a  
15 recipient of diversionary assistance shall be treated in the same manner as non-AFDC  
16 child support and paid directly to the family.

17       **(g)** Diversionary assistance shall be a one-time payment and shall not count as  
18 income for the purpose of determining food stamp eligibility.

19       **(h)** The Department of Human Resources shall adopt rules necessary to implement  
20 this section.

21 **"§ 108A-26.17. Drug and alcohol treatment required; drug testing for welfare**  
22 **recipients.**

23       **(a)** As a condition of eligibility for benefits, each applicant or current recipient,  
24 determined by a qualified substance abuse treatment provider to be addicted to alcohol or  
25 drugs and to be in need of professional substance abuse treatment services, shall be  
26 required to enter into an agreement to participate satisfactorily in an individualized plan  
27 of treatment in an appropriate treatment program. As a mandatory program component  
28 of participation in such an addiction treatment program, each such applicant or current  
29 recipient shall be required to submit to an approved, reliable, and professionally  
30 administered regime of testing for presence of alcohol or drugs, without advance notice,  
31 during and after participation, in accordance with the addiction treatment program's  
32 individualized plan of treatment, follow-up, and continuing care services for the applicant  
33 or current recipient.

34       **(b)** An applicant or current recipient who fails to comply with any requirement  
35 imposed pursuant to this section shall not be eligible for benefits, but shall be considered  
36 to be receiving such aid for purposes of determining eligibility for medical assistance.

37       **(c)** The children of any applicant or current recipient shall remain eligible for  
38 benefits, and these benefits shall be paid to a protective payee pursuant to G.S. 108A-38.

39       **(d)** An applicant or current recipient shall not be regarded as failing to comply  
40 with the requirements of this section if an appropriate drug or alcohol treatment program  
41 is unavailable.

42 **"§ 108A-26.18. Felons; parole or probation violators.**



1        Any current recipient convicted of a felony or found in violation of parole or  
2 probation shall not be eligible for benefits and their benefits shall be terminated. Such  
3 recipients may reapply for assistance when the conditions of their conviction, parole, or  
4 probation have been satisfied. The children of these persons shall remain eligible for  
5 benefits, and these benefits shall be paid to a protective payee pursuant to G.S. 108A-38.

6 **"§ 108A-26.19. Notification of eligibility limitations.**

7        (a) The Department of Human Resources shall ensure that all applicants for  
8 assistance are informed at the time of application of the eligibility limitations and  
9 requirements contained in this act.

10        (b) Effective upon ratification of these sections, the Department of Human  
11 Resources shall develop a comprehensive program of public service announcements and  
12 printed materials and shall work to publicize these eligibility restrictions and  
13 requirements. This notification shall begin immediately following ratification of these  
14 sections to encourage all affected citizens, both men and women, to accept personal and  
15 family responsibility."

16        Sec. 2. (a) The Department of Human Resources shall immediately, upon  
17 ratification of this act, apply for and diligently pursue any waiver that is required by the  
18 federal government to implement any provision of this act.

19        (b) The Department of Human Resources shall identify any pilot demonstration or  
20 control group as may be required by the federal government as a condition of granting  
21 any waiver required to implement any provision of this act. The selection of any  
22 demonstration or control group shall be subject to the approval of the Legislative Study  
23 Commission on Welfare Reform, if reauthorized.

24        Sec. 3. (a) There is created the Legislative Study Commission on Welfare  
25 Reform. The Commission shall consist of 14 members as follows:

- 26        (1) Five members of the House of Representatives appointed by the  
27            Speaker of the House of Representatives;
- 28        (2) Two persons appointed by the Speaker of the House of Representatives  
29            who are not members of the General Assembly;
- 30        (3) Five Senators appointed by the President Pro Tempore of the Senate;  
31            and
- 32        (4) Two persons appointed by the President Pro Tempore of the Senate who  
33            are not members of the General Assembly.

34        (b) The Speaker of the House of Representatives shall designate one  
35 Representative as cochair and the President Pro Tempore shall designate one Senator as  
36 cochair.

37        (c) The Commission shall study the issue of welfare reform in light of current  
38 federal and State welfare reform proposals and initiatives. The study shall include:

- 39        (1) A reexamination of the welfare system's purpose, including an  
40            identification of disincentives which impede the public assistance  
41            recipient's ability to become self-sufficient and recommendations aimed  
42            at moving recipients toward self-sufficiency;

1 (2) An analysis of current federal and State welfare reform proposals and  
2 initiatives and their impact, including an analysis of welfare reform  
3 proposals and initiatives in other states that may serve as models for the  
4 State;

5 (3) A detailed fiscal analysis and evaluation of the effectiveness of current  
6 federal and State welfare reform proposals and initiatives; and

7 (4) An analysis of all other issues and variables that impact upon welfare  
8 reform as deemed appropriate.

9 (d) The Commission shall report to the General Assembly, by the first day of each  
10 regular session of the General Assembly, its recommendations on matters concerning  
11 welfare reform, including legislation required to implement any recommendation. The  
12 Commission shall remain in existence until terminated by the General Assembly.

13 (e) The Commission, while in the discharge of its official duties, may exercise  
14 all the powers provided for under the provisions of G.S. 120-19 and G.S. 120-19.1  
15 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of the  
16 cochairs. The Commission may meet in the Legislative Building or the Legislative  
17 Office Building.

18 (f) Members of the Commission shall receive subsistence and travel expenses  
19 at the rates set forth in G.S. 120-3.1 or G.S. 138-5, as appropriate.

20 (g) The Commission may contract for professional, clerical, or consultant  
21 services as provided by G.S. 120-32.02. The Legislative Services Commission, through  
22 the Legislative Administrative Officer, shall assign professional staff to assist in the work  
23 of the Commission. The House of Representatives' and the Senate's Supervisors of  
24 Clerks shall assign clerical staff to the Commission or committee, upon the direction of  
25 the Legislative Services Commission. The expenses relating to clerical employees shall  
26 be borne by the Commission.

27 (h) When a vacancy occurs in the membership of the Commission, the  
28 vacancy shall be filled by the same appointing officers who made the initial appointment.

29 (i) All State departments and agencies and local governments and their  
30 subdivisions shall furnish the Commission with any information in their possession or  
31 available to them.

32 Sec. 4. Section 1 of this act becomes effective July 1, 1996, and applies to  
33 benefits provided on or after that date, provided that, if a waiver is required by the federal  
34 government, Section 1 shall become effective on the first day of the second calendar  
35 month after the waiver is accepted and applies to benefits provided made on or after that  
36 date. The remainder of this act is effective upon ratification.