

1-1-1997

Welfare Reform: An Historical Overview

Richard K. Caputo

Follow this and additional works at: <http://scholarship.richmond.edu/pilr>



Part of the [Legal History Commons](#), and the [Legislation Commons](#)

Recommended Citation

Richard K. Caputo, *Welfare Reform: An Historical Overview*, 1 RICH. J.L. & PUB. INT. xvii (1996).

Available at: <http://scholarship.richmond.edu/pilr/vol1/iss2/4>

This Article is brought to you for free and open access by the Law School Journals at UR Scholarship Repository. It has been accepted for inclusion in Richmond Public Interest Law Review by an authorized administrator of UR Scholarship Repository. For more information, please contact scholarshiprepository@richmond.edu.

WELFARE REFORM: AN HISTORICAL OVERVIEW

Richard K. Caputo, Ph.D.*

Abstract

This essay provides an historical overview of welfare reform efforts prior to enactment of The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by the 104th Congress. The author argues that the 1996 Act reaffirmed the labor market as the major arbiter of economic well-being of American citizens. In so doing, passage of the Act signified the formal end of income maintenance for able-bodied parents and released the federal government from assuming major responsibility for reducing poverty per se.

WELFARE REFORM: AN HISTORICAL OVERVIEW

This essay provides an historical overview of welfare reform efforts prior to enactment of The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, signed into law by President Clinton on 22 August.⁹¹ Although the end of the entitlement nature of welfare was largely unforeseen, the emphasis in the Act on self-sufficiency and work for able-bodied parents, particularly for mothers with young children, had controversial roots since the 1960s. This essay explores those roots chronologically, highlighting the major provisions of earlier welfare reform efforts through the 103rd Congress. It documents a shift in the philosophy from income maintenance to self-support. This essay suggests

* Richard K. Caputo, Ph.D. is Professor of Social Policy and Research, Barry University, School of Social Work. He has authored three books. Two of these, *Welfare and Freedom American Style* (1991) and *Welfare and Freedom American Style II* (1994), both published by University Press of America, deal with the role of the federal government in the economy and society during the 20th century. Professor Caputo has also authored many articles related to family poverty and welfare programs in journals such as *Families in Society*, *Journal of Sociology & Social Welfare*, and *Social Service Review* and in encyclopedias such as *Survey of Social Science: Government and Politics Series* (1995) and *Survey of Social Science: Sociology Series* (1994), both published by Salem Press.

⁹¹ The Personal Responsibility and Work Reconciliation Act, Pub. L. No. 104-193 (1996).

that passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 signified the formal end of income maintenance for able-bodied parents and released the federal government from responsibility for reducing poverty per se by reaffirming the labor market as the major arbiter of economic well-being for American citizens.

WELFARE REFORM BEFORE THE REAGAN ERA

To set the stage and grasp the rationale behind changes incorporated into The Personal Responsibility and Work Opportunity Act of 1996, an historical review is in order. Title IV of the 1935 Social Security Act established the Federal-State program for aid to dependent children, formally called Aid to Families with Dependent Children (AFDC).⁹² In 1962, federal matching was made available for states whose AFDC recipients aged eighteen or older and living with dependent children participated in community work and training programs if certain conditions regarding health and safety regulations, minimum-wage pay, and income criteria were met.⁹³ States, however, determined what constituted deductible work expenses. As a result, allowances for work expenses varied tremendously across the country. Some states included child care and work-related taxes such as social security, while others did not. Some had flat allowances for work expenses while others treated them on an "incurred" basis.

The 1967 Social Security amendments created the Work Incentive Program (WIN) and required that AFDC recipients be referred to the WIN program unless 1) under age sixteen, 2) ill or incapacitated, 3) attending school, 4) needed to be continually present in the home because of the illness or incapacity of another household member, or 5) exempted by decision of the State agency.⁹⁴ The 1967 amendments called for services to former (within the previous two years) and potential (within the next five years) AFDC recipients and broadened purchase of services by the welfare agency to include private as well as public agencies. Like the 1962 changes, the 1967 amendments were meant to reduce the welfare rolls by preventing family break-up and encouraging work. Regulations from these amendments authorized twenty-one services, sixteen of which were mandatory.⁹⁵ The theoretically expanded target population and the service emphasis diverted Congressional intent. Concrete services such as child protective care, legal services, and

⁹² James T. Patterson, *America's Struggle Against Poverty: 1900–1985*, 67 (1995).

⁹³ June Axinn & Herman Levin, *Social Welfare: A History of the American Response to Need* (3d ed. 1990).

⁹⁴ Mildred Rein, *Dilemmas of Welfare Policy: Why Work Strategies Haven't Worked* 67-68 (1982).

⁹⁵ *See id.* at 68.

homemaker services had little bearing on employment but concerned aspects of daily functioning. Competence-enhancing services designed to strengthen family life, such as "family-planning information and counseling," were difficult to monitor and assess in relation to employment.⁹⁶ Early studies showed that only thirty-six percent of AFDC families receiving child care as a service, for example, included mothers who were working, training, or awaiting training. For the most part, child-care services went to families with nonworking and nontraining mothers, many of whom were not AFDC recipients, but former or potential recipients.⁹⁷

Services and expenditures exploded between 1971 and 1972.⁹⁸ The threat of further increases prompted Congress in 1972 to put a limit on 1973 federal social services payments to states and to focus on self-support, not strengthening family life.⁹⁹ Only three of eleven services were mandatory.¹⁰⁰ Child care under AFDC was made optional, except for WIN participants. Regulations further restricted eligibility by reducing "former" AFDC recipients to within three months and "potential" AFDC recipients to the next six months.¹⁰¹ A coalition of sixteen national welfare organizations formed to oppose the changes. Many denounced deletion of strengthening family life as a goal.¹⁰² And the social service industry objected to the reduction of mandatory services.¹⁰³

On 4 January 1975, the Social Service Amendments of 1974 became law.¹⁰⁴ Title XX of the Social Service Act replaced Title IV-A (the adult social services title) and virtually repudiated the 1972 amendments. Under Title XX, states assumed responsibility for social services and eligibility for services was expanded to include nonwelfare categories such as the working poor and middle-income families. Half of Title XX money had to be spent on welfare recipients.¹⁰⁵ The 1974 amendments placated the social service and welfare organization communities, but they also eroded the goal of the work-through-services strategy for AFDC recipients. Throughout the remainder of the 1970s, AFDC service recipients and expenditures accounted for a smaller proportion of Title

⁹⁶ *See id.* at 20. *See generally* Joel F. Handler & Yeheskel Hasenfeld, *The Moral Construction of Poverty: Welfare Reform in America* (1991).

⁹⁷ *See Rein, supra* note 4, at 23-24.

⁹⁸ *See id.* at 26.

⁹⁹ *See id.* at 29-30.

¹⁰⁰ *See id.* at 30.

¹⁰¹ *See id.*

¹⁰² *See id.* at 31.

¹⁰³ *See id.* at 33-34.

¹⁰⁴ *See id.* at 35.

¹⁰⁵ *See id.* at 36.

XX recipients and funds expended, including day care, education-training, and employment.¹⁰⁶

As the work-through-services strategy receded, national policy also sought to encourage work through incentives. The 1962 amendments legislated exclusion of work expenses in the computation of a family's welfare budget, but the states defined such expenses.¹⁰⁷ The 1967 amendments mandated that each state disregard a certain portion of recipients' earnings, for the explicit purpose of inducing work. The law stipulated that the first \$30 per month of earnings plus one-third of the remainder would be exempt as income to be counted toward reducing the assistance payment. It affected only families already on AFDC, thereby reinforcing its purpose to encourage those on welfare to work, not to encourage those at work to become welfare-eligible.¹⁰⁸ Studies reported by Mildred Rein in *Dilemmas of Welfare Policy*¹⁰⁹ showed that work effort, as measured by those at work while on welfare and cases closed for employment, did not increase after the implementation of the thirty and one-third disregard. On the whole, increased benefits and reduced income incentives, such as including casual income in determining family income, resulted in decreased work effort among AFDC recipients throughout the country.¹¹⁰

Another work-through-incentive strategy, the negative income tax (NIT), found favor in the 1970s.¹¹¹ The NIT, however, was aimed at the working, not the welfare poor. It was to be attached to the universal federal income tax system. Those whose income exceeded a certain amount would pay and those with incomes below that level would receive payment. The intent was to reduce the stigma associated with AFDC receipt, as well as state discretion and variability among AFDC policies and benefit levels.¹¹² The NIT ideology influenced Nixon's failed Family Assistance Plan (FAP) in 1969 and 1972, as well as Carter's aborted Better Jobs and Income Program (BJIP) in 1977.¹¹³ The Seattle-Denver income maintenance (SIME/DIME) experiment, conducted between 1970 and 1978, showed that the NIT incentive plan reduced work effort, but that decreases in work activity could be avoided by combining incentives with job opportunities and work requirements.¹¹⁴ These lessons were incorporated into AFDC work-related demonstration projects in the 1980s

¹⁰⁶ See *id.* at 35-37.

¹⁰⁷ See *id.* at 17.

¹⁰⁸ See *id.* at 19.

¹⁰⁹ See *id.* at 49-50, 53-55.

¹¹⁰ See *id.* at 58-59.

¹¹¹ See *id.* at 60.

¹¹² See *id.* at 59; Handler & Hasenfeld, *supra* note 6, at 143-44.

¹¹³ See Handler & Hasenfeld, *supra* note 6, at 146.

¹¹⁴ See *id.* at 144-46.

and eventually became part of the Job Opportunity and Basic Skills (JOBS) program of the Family Support Act of 1988.¹¹⁵

WELFARE REFORM DURING THE REAGAN AND BUSH ADMINISTRATIONS

This section discusses state-level and national reforms that occurred during the Reagan and Bush administrations.¹¹⁶ These reforms provided the context of the welfare "experiments" the Clinton Administration approved during the 103rd Congress and they constituted the ashes, so to speak, from which The Personal Responsibility and Work Opportunity Act of 1996 rose in the 104th Congress.

In 1981, federal legislation permitted states to establish a Community Work Experience Program (CWEP) designed to improve the employability of AFDC recipients.¹¹⁷ In addition, states were permitted to develop and operate a work supplementation program as an alternative to AFDC. Participation was voluntary, but states could vary benefit levels geographically and/or by categories of recipients. Federal requirements regarding treatment of income could be waived under this program. The work-through-requirement employment experiments offered a variety of educational, training, and other, supportive services such as health and child care, to AFDC recipients. The mix of services varied from program to program, in part reflecting differences among states and other political subdivisions.¹¹⁸

Results of seven WIN and WIN Demonstration studies showed that in most cases, programs lead to consistent and measurable increases in employment and earnings.¹¹⁹ Positive impacts continued for three years in states where data were available. During the final year of study, earnings gains of 10 to 30 percent per eligible person in the AFDC caseload were found. Welfare savings were usually smaller and less consistent than employment gains.¹²⁰ There were two notable exceptions. West Virginia experienced higher unemployment than many other areas and its workfare program did not lead to increased employment and earnings.¹²¹ The Cook County, Illinois study also resulted in no statistically significant

¹¹⁵ See, e.g., Rebecca M. Blank, *The Employment Strategy: Public Policies to Increase Work and Earnings*, in *Confronting Poverty: Prescriptions for Change* 168-204 (Sheldon H. Danziger et al. eds., 1994); Richard Caputo, *Welfare and Freedom American Style II: The Role of the Federal Government 1941-80* (1994).

¹¹⁶ See, e.g., Judith Gueron & Edward Pauly, *From Welfare to Work* (1991); M. Wiseman, *Welfare Reform in the States: The Bush Legacy*, 15, 1 *Focus* 18-36 (1993).

¹¹⁷ See Handler & Hasenfeld, *supra* note 6, at 178-79.

¹¹⁸ See Gueron & Pauly, *supra* note 26, at 54-55.

¹¹⁹ See Handler & Hasenfeld, *supra* note 6, at 179.

¹²⁰ See Handler & Hasenfeld, *supra* note 6, at 180-82.

¹²¹ See Handler & Hasenfeld, *supra* note 6, at 179.

employment gains.¹²² The Cook County program's mix of services, however, was considered quite sparse in comparison to other programs across the country. Aside from monitoring functions, the Cook County program provided little direct assistance.¹²³ The West Virginia and Cook County programs served as useful reminders of the importance of labor market conditions and of the need to provide at least minimal assistance to get employment results. These lessons were applied in the formulation of the Family Support Act of 1988 legislation.¹²⁴

In 1988, Congress passed the Family Support Act (FSA), affirming an evolving vision of the responsibilities of parents and government for the well-being of poor adults and their dependent children.¹²⁵ The new law left intact the basic entitlement nature of AFDC and even expanded it by requiring states to extend coverage to certain two-parent families.¹²⁶ In addition, FSA sought to shift the balance between permanent income maintenance and temporary support for the latter.¹²⁷ The anchoring principle of FSA was that parents, fathers and mothers should be the primary supporters of their children and that, for many people, public assistance should be coupled with encouragement, supports, and requirements to aid them in moving from welfare to self-support.¹²⁸ FSA placed a responsibility both on welfare recipients to take jobs and participate in employment services and on government to provide the incentives and services to help welfare recipients find employment. For the noncustodial parent, usually absent fathers, this was reflected in greater enforcement of child support collections.¹²⁹ For the custodial parent, usually mothers, this meant new obligations to cooperate in child collection efforts, as well as new opportunities for publicly supported child care, education, training, and employment services, coupled with obligations to take a job or cooperate with the program.¹³⁰

FSA established the Job Opportunities and Basic Skills (JOBS) Training program to assure that needy families with children would obtain education, training, and employment necessary to help avoid long-term welfare dependency.¹³¹ The JOBS program replaced several other work-incentive programs, such as WIN and WIN DEMO projects of the 1980s. Child care and supportive services had to be provided to enable

¹²² Judith M. Gueron, *Work and Welfare: Lessons on Employment Programs*, 4 J. Econ. Persp. 79 (1990).

¹²³ See Gueron & Pauly, *supra* note 26, at 85.

¹²⁴ See Handler & Hasenfeld, *supra* note 6, at 209.

¹²⁵ P. L. No. 100-485.

¹²⁶ See Gueron & Pauly, *supra*, note 26, at 1.

¹²⁷ See *id.* at 1.

¹²⁸ See *id.* at 1.

¹²⁹ See *id.* at 1.

¹³⁰ See Handler & Hasenfeld, *supra* note 6, at 209-10.

¹³¹ See Gueron & Pauly, *supra* note 26, at 55-56.

individuals to accept employment or receive training.¹³² State JOBS programs had to include appropriate educational activities, including high school or equivalent education (combined with training as needed); basic and remedial education to achieve functional literacy; job skills training; job readiness activities; and job development and placement.¹³³ State programs must have also included, but were limited to two of the following services: 1) group and individual job search; 2) on-the-job training, during which the recipient is placed in a paid job for which the employer provides training and wages and in return is paid a supplement for the employee's wages by the state Title IV-A (AFDC) agency; 3) work supplementation in which the employed recipient's AFDC grant may be diverted to an employer to cover part of the cost of the wages paid to the recipient; and 4) community work experience programs or other Department of Health and Human Services (HHS) approved work programs that generally provide short-term work experience in public projects.¹³⁴

The JOBS program also amended the "unemployed parent" component of AFDC to provide that at least one parent in a family must participate for a minimum of sixteen hours a week in a work program specified by the state. If a parent was under age twenty-five and had not completed high school, the State could require the parent to participate in educational activities directed at attaining a high school diploma or in another basic education program. The second parent could be required to participate at State option unless he or she met another exemption criteria.¹³⁵

In *Welfare Reform or Revision: The Family Support Act of 1988*, Catherine S. Chilman criticized many aspects of the FSA legislation, not the least of which was JOBS.¹³⁶ She noted that many requirements did not apply to recipients in two-parent families. Where they did, fathers were placed mainly in on-the-job training or "workplace" programs and were provided with far fewer services than available to mothers. A possible reason for this differential treatment was that work training and placement experiments with AFDC men had resulted at best in only marginal, if at all measurable, gains when experimental groups were compared with controls.¹³⁷ Another criticism was that funding for JOBS was a "capped" entitlement. The federal government matched expenditures of each state up to a fixed amount. Congressional

¹³² C.S. Chilman, *Welfare Reform or Revision? The Family Support Act of 1988*, 66 Soc. Serv. Rev. 349, 392-63 (1992).

¹³³ See Handler & Hasenfeld, *supra* note 6, at 211.

¹³⁴ See Chilman, *supra* note 42, at 359.

¹³⁵ See Gueron & Pauly, *supra* note 26, at 56-59.

¹³⁶ See Chilman, *supra* note 42, at 359.

¹³⁷ See *id.*

appropriations for this part of FSA could not legally exceed the "cap," regardless of state need or demand.¹³⁸

Implementing JOBS presented further problems. Central to these problems was the targeting of probably the most difficult groups, particularly the long-term poor. Many of the long-term poor required intensive individual remedial education, job training, numerous health and social services, and carefully supervised job placement. To economize, states and localities were tempted to train and place more readily employable individuals and to use cheaper work-placement methods, such as counseling recipients regarding their job-search activities.¹³⁹ Training and placement of the more readily employable were not seen as cost efficient in the long run based on the likelihood of these individuals to find employment on their own. State and local administrators of FSA needed to foster close relationships with already existing job-training programs. The Job Training Partnership Act of 1982 (JTPA), which already had close working relationships with the private sector, was looked to as a recommended training resource.¹⁴⁰ Because of stringent performance standards set by the government, JTPA had tended to "cream" the most job-ready trainees.¹⁴¹

STATE AND CONGRESSIONAL REFORM INITIATIVES DURING THE FIRST TWO YEARS OF THE CLINTON ADMINISTRATION

During his presidential campaign, Bill Clinton promised to end welfare as we know it. President Clinton unveiled his Administration's proposal for reform on 14 June 1994.¹⁴² He did so in light of requests by over two dozen states for waivers allowing them to make major changes in their welfare programs.¹⁴³ These initiatives, like the Administration's plan itself, encompassed three main issues: having babies while on welfare, mandatory employment, and deadlines. In regard to single parents and their babies, New Jersey, for example, provided free health insurance, food stamps, and \$64 a month for each child to mothers on welfare, but the state's "child exclusion" provision drew the line at children born to mothers already on welfare.¹⁴⁴ Having additional children no longer increased the monthly check. In August and September

¹³⁸ *See id.*

¹³⁹ *See id.*

¹⁴⁰ 29 U.S.C. 1577(a)(2) (1997).

¹⁴¹ *See* Chilman, *supra* note 42, at 360.

¹⁴² Jeffrey L. Katz, *Long-Awaited Welfare Proposal Would Make Gradual Changes*, Cong. Q. Wkly. Rep., June 18, 1994, at 1622.

¹⁴³ Michael Weisman, *State Strategies for Welfare Reform: The Wisconsin Story* Discussion Papers (Institute for Research on Poverty, Univ. of Wis., Madison, Wis.), June 1995, at 1, endnote 1.

¹⁴⁴ Megan Garvey, *Welfare: What States Have Done*, Wash. Post, Dec. 27, 1993, at A9.

1993, welfare mothers who had conceived after the program took effect had 1,678 babies, 336 fewer than for the same two months in 1992.¹⁴⁵ Georgia required unmarried women under the age of eighteen who were pregnant or already mothers to live with a parent or guardian to be eligible for welfare.¹⁴⁶ Georgia also froze the welfare benefits of mothers on welfare for two years if they had another child.¹⁴⁷ And Minnesota automatically withheld child and spousal support from paychecks of "deadbeat" parents.¹⁴⁸

In regard to mandatory employment, Florida's \$30 million-a-year "Project Independence" required its 18,000 single-parent participants to attend orientation sessions and to contact at least twelve employers in their job search.¹⁴⁹ Project Independence required enrollees with a tenth-grade education or recent work experience to find jobs. It also taught job-seeking skills such as resume-writing, and interviewing techniques to those who did not find work immediately.¹⁵⁰ More extensive and costlier training programs were for those with less education or work experience.¹⁵¹ A study by an independent research group found that the program, which started in 1990, reduced the welfare rolls by about five percent and the earnings of program participants were seven percent higher than those of welfare recipients not in the program.¹⁵² California's Greater Avenues for Independence (GAIN) program cost more than \$120 million a year and had about 60,000 participants who trained for several months, in some cases up to a year, before seeking work.¹⁵³ One study found that two years after entering the program, single parents, on average, earned about twenty percent more than a similar group of non-participants.¹⁵⁴ Like Florida's program, GAIN reduced the welfare rolls by about four to five percent.¹⁵⁵

In regard to the issue of deadlines, Wisconsin's "Work Not Welfare," signed into law in December 1993 by Governor Tommy G. Thompson, called for two counties to require welfare recipients to work for their benefits.¹⁵⁶ In 1995, about 1,000 Wisconsin welfare enrollees were required to have found full-time work or a job training program within thirty days of signing up for assistance. After two years, their cash

¹⁴⁵ *See id.*

¹⁴⁶ *See id.*

¹⁴⁷ *See id.*

¹⁴⁸ *See id.*

¹⁴⁹ *See id.*

¹⁵⁰ *See id.*

¹⁵¹ *See id.*

¹⁵² *See id.*

¹⁵³ *See id.*

¹⁵⁴ *See id.*

¹⁵⁵ *See id.*

¹⁵⁶ *See id.*

benefits were cut off although they still received health care and food stamps.

Still other states requested to experiment with the Food Stamps program to turn it into a job subsidy. Oregon's JOBS Plus and Missouri's 21st Century Communities, for example, converted Food Stamp and AFDC benefits to wages.¹⁵⁷ Reorienting food stamp money into a job subsidy enticed Democrats and Republicans eager to require welfare recipients to work, but aware of the money necessary to underwrite such efforts. Converting food stamp grants to cash could be viewed as providing those funds.¹⁵⁸ The federal government had approved eight "cash out" demonstration projects along these lines.¹⁵⁹

In 1994, Georgia and Wisconsin joined New Jersey in placing a family cap on AFDC benefits.¹⁶⁰ Five states (Colorado, Florida, Iowa, South Dakota, and Vermont) followed Michigan's 1993 initiative to set time limits on benefits and to require AFDC recipients to work after a transition assistance period.¹⁶¹ The programs included placement in public service jobs or community service as well as flexible time tables.¹⁶²

Several states cracked down on welfare parents whose children missed too many school days. Wisconsin's Learnfare program, begun in 1988, became the model for reducing welfare benefits where there was unreasonable truancy among teenagers in the family.¹⁶³ Ohio's Learning, Earning, and Parenting Program (LEAP) reduced by \$62 the AFDC benefit of teens with more than two unexcused absences a month.¹⁶⁴

An anti-welfare rhetoric pervaded the 1994 midterm elections.¹⁶⁵ A consensus emerged to the effect that 1) the welfare system promoted dependence on government, discouraged recipients from working, penalized them for being married and provided bonuses for having additional children, 2) welfare changed from being a temporary safety net to a way of life with increasing numbers of long-term users, and 3) welfare should involve the recipient's part responsibility beyond child

¹⁵⁷ See Sondra J. Nixon, *Assistance Experiments*, Cong. Q. Wkly. Rep., Aug. 6, 1994, at 2262.

¹⁵⁸ Jeffrey L. Katz, *Food Stamp Experiments Spark Welfare Debate*, Cong. Q. Wkly. Rep., Aug. 6, 1994, at 2261-63.

¹⁵⁹ See *id.* at 2262.

¹⁶⁰ Susan Kellam, *Welfare Experiments*, Cong. Q. Researcher, Sept. 16, 1994, at 804.

¹⁶¹ See *id.* at 804.

¹⁶² See *id.*

¹⁶³ See *id.* at 805.

¹⁶⁴ See *id.*

¹⁶⁵ See, e.g., Jason DeParle, *Way Out Front on a Hot-Bottom Issue*, N.Y. Times, Oct. 20, 1994, at A25; Charisse L. Grant & Tim Nickens, *Chiles, Bush Clash on Welfare Reforms*, Miami Herald, Oct. 16, 1994, at A1, A16.

care per se and toward self-support, entailing work requirements for mothers and a crackdown on child support payments for fathers.¹⁶⁶ Several legislative proposals introduced into Congress prior to the Clinton Administration plan reflected this consensus and drew from many state initiatives. HR 3500, sponsored by Minority Leader Robert Michel (R-IL), for example, would have imposed a two-year time limit on welfare benefits, capped federal funding on several anti-poverty programs, and ended welfare for most non-citizens.¹⁶⁷ S 16, sponsored by Senate Finance Committee Chairman Daniel Patrick Moynihan (D-NY), authorized additional funding for the Job Opportunities and Basic Skills (JOBS) program, created in 1988, which provided AFDC recipients with work, remedial education, and training.¹⁶⁸ HR 4051, sponsored by Representative Lynn Woolsey (D-CA) created a child-support assurance program, guaranteeing that the federal government would provide child support if the non-custodial parent did not.¹⁶⁹ S 1795, sponsored by Senator Hank Brown (R-CO), established time limits on welfare, restricted benefits to legal aliens and required states to set up job programs using vouchers.¹⁷⁰ And S 1891, sponsored by Senator Nancy Kassenbaum (R-KS) provided for enhanced federal funding of Medicaid in exchange for state takeover of AFDC, food stamps and WIC, the special supplemental food program for Women, Infants and Children.¹⁷¹ The Clinton Administration's plan essentially embraced the consensus and reflected state efforts.

THE ADMINISTRATION'S PLAN: THE WORK AND RESPONSIBILITY ACT OF 1994

Americans had come to know welfare primarily in two senses: 1) as an administrative culture more concerned with eligibility rules and compliance with regulations and 2) as an income maintenance program structured so that those who work were no better off than if they had remained on welfare.¹⁷² The Work and Responsibility Act of 1994 aimed to change both aspects of welfare, i.e., to instill a culture of self-support that structured interactions and expectations around work and the preparation of work, with the goal of moving clients off welfare and into a labor market that offered increased opportunities for jobs paying wages

¹⁶⁶ Jeffrey L. Katz, *Clinton Plans Major Shift in Lives of Poor People*, Cong. Q. Wkly. Rep., Jan. 22, 1994, at 116-22.

¹⁶⁷ *See id.* at 117.

¹⁶⁸ Jeffrey L. Katz, *Welfare Overhaul Forces Ready to Start Without Clinton*, Cong. Q. Wkly. Rep., Apr. 2, 1994, at 802.

¹⁶⁹ *See id.* at 802.

¹⁷⁰ *See id.*

¹⁷¹ *See id.*

¹⁷² Mary Jo Bane & David T. Ellwood, *Welfare Realities: From Rhetoric to Reform* (Harv. U. Press 1994).

and providing benefits exceeding those on welfare. The plan took an incremental approach to changes in AFDC such as imposing time limits on benefits, providing job-related education and training, and assisting states with child support enforcement.¹⁷³

A. *Time Limits*

The Administration's plan required recipients to work within two years of accepting welfare benefits. Recipients who were capable of working would have been limited to two years of government cash assistance throughout their lifetime. Exemptions would have been provided to those who were seriously ill or were caring for a disabled or seriously ill child. As they entered the welfare system, recipients would have received a twelve-month deferral from the time limits for their first child, and a twelve-week deferral for another child. In addition, any time spent on welfare up to age eighteen would not have been counted toward the two-year limit. States would have been permitted to extend time limits for a variety of reasons, provided these extensions amounted to no more than ten percent of the eligible caseload.¹⁷⁴

B. *Work Requirements*

Recipients who could not find a job would have been placed in federally subsidized jobs. Each state would run a WORK program that would make paid work assignments available to recipients who reached the time limit.¹⁷⁵ States would provide child care, transportation and other services to help individuals participate in the program. WORK recipients would be paid the minimum wage, with each assignment between fifteen and thirty hours per week. By fiscal year 2000, the plan estimated that 394,000 people would have been in subsidized jobs under the WORK program, at a cost of \$1.2 billion.¹⁷⁶ If a job did not pay as much as AFDC benefits, the worker would get funds to make up the difference. Additional money would be spent on job training and education to ease the transition into work, \$2.8 billion over five years.¹⁷⁷ The plan applied only to people born after 1971, because it would have been too costly to include all welfare recipients immediately. This group would have constituted about one-third of the welfare caseload in 1997 and two-thirds of all welfare recipients by 2004. States would have had the option of including more of their caseloads.

C. *Teen Pregnancy, Child Support, and Other Provisions*

¹⁷³ See, e.g., Katz, *supra* note 76, at 117-22; Katz, *supra* note 52, at 1622-24.

¹⁷⁴ See Katz, *supra* note 52, at 1622-24.

¹⁷⁵ See *id.* at 1623.

¹⁷⁶ See *id.*

¹⁷⁷ See *id.*

The Clinton Administration plan also envisioned a national information clearing house and grants to local programs to combat teen pregnancy, with a five-year cost of \$300 million.¹⁷⁸ Every school-age parent or pregnant teenager who received or applied for welfare would have been required to finish school or enroll in a JOBS program. Parents who were minors would have been required to live with a responsible adult, preferably a parent, and states would have had the option to limit benefit increases when all welfare recipients, including those born after 1972, had more children, as New Jersey, Georgia, and Arkansas had done.¹⁷⁹ The plan also suggested that more efforts would have been made to establish paternity at birth, and it proposed to spend \$600 million over five years to improve enforcement of court orders for child support and related services.¹⁸⁰ The plan would have also permitted states to make it easier for two-parent families to be eligible for AFDC payments. (At the time, AFDC eligibility for two-parent families was limited to those in which the principal wage earner was unemployed but had worked in six of the last thirteen calendar quarters.¹⁸¹ Loosening the laws however, might have encouraged married couples to apply for welfare and thereby expand the rolls significantly). Finally, the plan rejected the lead of House Republicans and some moderate Democrats to cut off most welfare benefits to immigrants, although some restrictions on aid to immigrants and small cuts in benefits to alcoholics and addicts under the Supplemental Security Income (SSI) program and in emergency assistance, among other provisions, would have helped finance the changes.¹⁸²

Neither Clinton nor Congress claimed that the objective of welfare reform was to end poverty per se. In light of the cost of job training, deference to deficit reduction, and reluctance to slow down or reverse expenditures for entitlements, it remained doubtful that the Administration's plan, or any of those proposed in the 103rd Congress or experimented with by states, would have adequately addressed poverty as we currently understand it.¹⁸³ At one of the early House Ways and Means Committee's Human Resources Subcommittee meetings, both Republicans and liberal Democrats challenged the Clinton Administration's plan.¹⁸⁴ Under questioning by Robert T. Matsui (D-CA),

¹⁷⁸ See *id.* at 1624.

¹⁷⁹ See *id.*

¹⁸⁰ See *id.*

¹⁸¹ See *id.*

¹⁸² See *id.* at 1622.

¹⁸³ See Robert H. Haveman & J.K. Scholz, *The Clinton Welfare Reform Plan: Will It End Poverty As We Know It?*, Discussion Papers, at 1037-94 (Institute for Research on Poverty, U. Wis., Madison, Wis., July 1994).

¹⁸⁴ See Jeffrey L. Katz, *Chances for Overhaul in Doubt as Time for Action Dwindles*, Cong. Q. Wkly. Rep., July 30, 1994, at 2150.

Administrative officials David Ellwood and Mary Jo Bane admitted that there was little research at the present time to support proposals to impose time limits or permit states to deny additional benefits to AFDC recipients when they had more children.¹⁸⁵ Under questioning by Rick Santorum (R-PA) and E. Clay Shaw, Jr. (R-FL), officials sought to explain why work requirements for welfare recipients would be waived for a year after the birth of their first child while the Family and Medical Leave Act entitled working people to only twelve weeks of leave. Bane replied that lowering the exemption would have required more federal funds be spent on child care.¹⁸⁶

The Work and Responsibility Act of 1994 sought to reduce teen pregnancy, improve child support, provide more money for job training and education, impose time limits on unconditional welfare payments, and make work pay. These goals obscured what remained the binary powder keg of the reform effort: revenue neutrality and mandatory work. Questions like "Where will the money will come from to cover costs for educational, job training, and child support services?" "What is the best way for local welfare agencies to increase the flow of welfare parents into private-sector jobs?" "How will agencies find and administer a million or more placements in community jobs for mothers who do not find private-sector jobs?" and "How can the opposition of public employee labor unions be overcome?" begged to be answered.

In the name of family stability and togetherness, Clinton told the nation in his January 25, 1994, State of the Union address his Administration would no longer give adolescent mothers a check to set up separate households.¹⁸⁷ In his message to Congress transmitting his Administration's proposal, Clinton highlighted teen pregnancy and out-of-wedlock births. "To prevent welfare dependency," Clinton admonished, "teenagers must get the message that staying in school, postponing pregnancy, and preparing to work are the right things to do."¹⁸⁸ To the extent that autonomous household units served an emancipatory function of enabling such parents to escape abusive situations, such a policy would be a disservice and would subject both mother and infant to potentially greater harms than bearing the wrath of an increasingly mean-spirited public.

Some of the legislation's proposals involved enormous costs, especially time-limited welfare, which, while holding promise of saving

¹⁸⁵ *See id.*

¹⁸⁶ *See id.*

¹⁸⁷ President's State of the Union Address, Wkly. Comp. Pres. Doc. 148-57 (Jan. 31, 1994).

¹⁸⁸ President's Message to Congress Transmitting the "Work and Responsibility Act of 1994," Cong. Q. Wkly. Rep., at 1320-21 (June 21, 1994).

money in the long run, required creating new jobs in an economy with 8.3 million out of work.¹⁸⁹ Based on the then current AFDC caseload, between 1.2 million and 1.5 million families would have been in need of placements in either private-sector jobs or community service positions.¹⁹⁰ Each job created for recipients forced off welfare at the end of two years was estimated to cost \$3,000, resulting in an annual cost of just the jobs component between \$3 billion and \$5 billion.¹⁹¹ Harold E. Ford (D TN), Chair of the House Ways and Means Human Resources Subcommittee, recoiled from the prospect of forcing many mothers into minimum-wage jobs and proclaimed deficit-neutral welfare reform plans to be unrealistic.¹⁹² Other estimates put the child care component, which would allow welfare mothers to accept jobs, and transportation allowances at an additional \$3,000 per person a year, thereby doubling the annual total.¹⁹³

Proposals to supplement welfare benefits for working families when their jobs paid less than welfare could have added billions of dollars to the reform plan. The Earned Income Tax Credit, which was the only anti-poverty program to survive the Clinton Administration's first budget battle in Congress, has been expanded three times in seven years.¹⁹⁴ When the 1993 expansion is fully implemented, the EITC will augment earned income by as much as \$3,500 per year for low- and moderate-income working families.¹⁹⁵ Between 1993 and 1998, taxpayers will have contributed roughly \$105 billion to working families through the EITC.¹⁹⁶ By the end of 1996, nearly 18.7 million taxpayers were expected to take advantage of the EITC, at an annual cost of \$25 billion; about double the 1993 federal share of AFDC expenditures.¹⁹⁷

Republicans had drafted their own version of welfare reform in an effort to ride a wave of public opinion that seemed to favor transforming welfare from an entitlement to a benefit that must be earned through work. House Republicans introduced welfare reform legislation to Congress both in 1993 and 1994.¹⁹⁸ In the first session of the 104th Congress, Republicans introduced HR 4. The Republican plan cut benefits to welfare mothers who continued having children out of

¹⁸⁹ See Jeffrey L. Katz, *Clinton's Attention to Welfare Boosts Supporters' Hopes*, Cong. Q. Wkly. Rep., at 176 (Jan. 29, 1994).

¹⁹⁰ See *id.*

¹⁹¹ See *id.*

¹⁹² See *id.*

¹⁹³ See *id.*

¹⁹⁴ See Saul D. Hoffman & Laurence S. Siedman, *The Earned Income Tax Credit* (Upjohn Institute, Kalamazoo, Mich. 1990).

¹⁹⁵ See H.R. Comm. on Ways and Means, Overview of Entitlement Programs (1994).

¹⁹⁶ See *id.*

¹⁹⁷ See *id.*

¹⁹⁸ See Clinton, Congress Talk of Welfare Reform, 1993 C. Q. Almanac at 373-75; see also Welfare Reform Takes a Back Seat, 1994 C. Q. Almanac at 364-65.

wedlock; forced teen mothers on welfare to live at their parents' homes; required mothers who apply for welfare to identify the child's father in order to receive maximum benefits; cut welfare and Supplemental Security Income (SSI) benefits to immigrants; and ended SSI benefits for those whose disabilities were related to alcoholism or drug addiction.¹⁹⁹ Their 1995 plan also required that AFDC parents begin working within two years of receiving aid and federal funds for cash welfare generally could not be provided to any adult for more than five years.²⁰⁰ After three years of participation in the Work Program (and a total of five years on AFDC), states had the option of dropping recipients from the AFDC rolls, although recipients would continue to be eligible for Medicaid, Food Stamps, and other benefits to which they were entitled. HR 4 was estimated to save about \$62.1 billion over five years and \$102 billion over seven years.²⁰¹ Savings were to be derived from AFDC, food stamps, and SSI.²⁰²

On the whole, Congressional Republicans promised to place many more welfare recipients in work programs, with less training, lower benefits, and fewer protections than Democrats had proposed.²⁰³ With a Republican Congress and a shift of the political center to the right, the prospect of eliminating benefits for young mothers, even those willing to work, had become politically plausible. One such measure, sponsored by Rep. James M. Talent (R-MO) and Sen. Lauch Faircloth (R-NC), would have permanently denied benefits to children of unmarried mothers younger than twenty-six, thereby removing 3.5 million children from the welfare rolls.²⁰⁴ Rep. E. Clay Shaw (R-FL), who came to head the Ways and Means Subcommittee which had jurisdiction over welfare in the 104th Congress, had reservations about eliminating benefits to mothers older than eighteen.²⁰⁵ In 1995, he would play a large role in moving the Republican welfare proposal, HR 4, to centerstage in Congress. President Clinton vetoed HR 4 on January 9, 1996, saying it would do too little to replace welfare with work and to make deep budget cuts.²⁰⁶

¹⁹⁹ Welfare Bill Clears Under Veto Threat, 1995 C. Q. Almanac at 7-35 through 7-52.

²⁰⁰ *See id.* at 7-51.

²⁰¹ *See id.*

²⁰² *See id.*

²⁰³ *See, e.g.,* Jason DeParle, *New Majority's Agenda: Substantial Changes May Be Ahead*, N.Y. Times, Nov. 11, 1994, at A10; Jeffrey L. Katz, *Welfare: Approaching an Overhaul*, Cong. Q. Wkly. Rep., Oct. 15, 1994, at 2957.

²⁰⁴ Katz, *supra* note 93, at 2957.

²⁰⁵ Katz, *supra* note 94, at 2150.

²⁰⁶ *See, e.g.,* Jeffrey L. Katz, *Key Members Seek to Expand State Role in Welfare Plan*, Cong. Q. Wkly. Rep., Jan. 14, 1995, at 159-62; Katz, *Concerns Over House Bill*, Cong. Q. Wkly. Rep., Jan. 28, 1995, at 282; *Welfare Bill Clears Veto Threat*, *supra* note 109, at 7-35.

Many scholars and others recoiled from the provisions in both the Clinton Administration's plan and in the Republican alternatives.²⁰⁷ Research by the Manpower Development Corporation had indicated that even the best designed education and training programs produced only small gains for welfare recipients.²⁰⁸ Eleanor Holmes Norton, head of the Children's Defense Fund, remained sharply critical of the two-year limit and she criticized the Clinton Administration for raising expectations about radical change that it could not possibly bring about, although the 104th Congress proved her wrong.²⁰⁹ It was possible, as Robert Greenstein, director of the Center for Budget and Policy Priorities, noted, that the current system, despite its offensive aspects to conservatives and liberals, could be made worse than it had been.²¹⁰

Many viewed workfare efforts as another way of punishing the poor. As this author and others have noted, for example, there was no economically and politically practical way to replace welfare with work with an annual average unemployment rate hovering around seven percent and with the proliferation of low-wage employment.²¹¹ Furthermore, there was little evidence that putting welfare recipients to work would transform family structure, community life, and the alleged "culture of poverty" as welfare reformists Mickey Kaus²¹² and Lawrence Mead²¹³ so forcefully asserted. Laurence Lynn²¹⁴ argued that pushing ill-prepared young mothers and nearly disabled older ones into the deteriorating job market, while seeking to get support from increasingly destitute fathers, two FSA cornerstones, made no sense. Lynn called for the end of welfare reform as we know it.

The composition of the 104th Congress was such that the ideological center had shifted to the right of the political spectrum. Concerns about social issues such as crime, illegal immigration, family values and welfare reform had eclipsed economic issues, such as unemployment and

²⁰⁷ See, e.g., Douglas J. Besharov, *Orphanages Aren't Welfare Reform*, N.Y. Times, Dec. 20, 1994, at A23; Jason DeParle, *Better Work Than Welfare. But What If There's Neither?*, N.Y. Times, Dec. 18, 1994, at 42-49, 56, 58, 74.

²⁰⁸ See, e.g., Gueron & Pauly, *supra* note 23, Jeffrey L. Katz, *System Failings Highlighted at Welfare Reform Hearing*, Cong. Q. Wkly. Rep., Aug. 21, 1993, at 2263.

²⁰⁹ Katz, *supra* note 118, at 2265.

²¹⁰ Jeffrey L. Katz, *The New Vision of Welfare: Offer More, Demand More*, Cong. Q. Wkly. Rep., June 5, 1993, at 1420-24.

²¹¹ See, e.g., Richard Cloward & Frances Fox Piven, *Punishing the Poor Again: The Fraud Welfare*, *The Nation*, May 24, 1993, at 693-96; Richard K. Caputo, *Limits of Welfare Reform*, 70 Soc. Casework 85-95 (1989).

²¹² Mickey Kaus, *The End of Equality* (1992).

²¹³ Lawrence M. Mead, *The New Politics of Poverty* (1992).

²¹⁴ Laurence E. Lynn, *Ending Welfare Reform as We Know It*, 15 *The American Prospect* 83-92 (1993).

inflation in importance.²¹⁵ Popularized books, such as Hernstein and Murray's *The Bell Curve*,²¹⁶ added respectability to fringe conservative concerns about the "dilution" of American culture from both exogenous (immigrant) and indigenous (underclass) forces and, at best, encouraged nineteenth century social Darwinian solutions to contemporary problems.²¹⁷ The political right seemed less likely to overhaul the current welfare system than to eliminate Federal involvement and impose strict sanctions for work- and/or other-related noncompliance. The abandoned Reagan promise to devolve AFDC to the states, as exemplified in the plan Jeb Bush put forth in his quest to be Governor of Florida and the legislation Governor Tommy Thompson of Wisconsin had signed, became the exemplars of what became national policy.²¹⁸ Welfare reform themes like time limits, learnfare, workfare and mandates returning to their parents unwed teen parents who reside independently, all resonated with a public that had lost confidence in a national government overwrought with "centralized interest groups" seemingly beyond popular influence²¹⁹ and that remained determined to retain its government entitlements.²²⁰ This public, in effect, demanded that those on welfare face the same risks and play by the same rules as many working poor parents who primarily rely on their own resources in times of need. Rather than a liberal consensus expanding benefits to the working poor and some middle class families, the prevalence of an anti-tax and anti-government mood among the populace and the Administration's deference to deficit reduction set the stage for the Congressional consensus more concerned with shrinking the welfare rolls and reducing costs than with helping AFDC recipients escape poverty.

²¹⁵ See, e.g., David S. Broder, *The Deflation of Bill Clinton*, Wash. Post Nat'l Wkly. Edition, Oct. 17-23, 1994, at 6-7; Thomas B. Edsall, *An Up-Close Look at the 'Values' Battle*, Wash. Post Nat'l Wkly. Edition, Oct. 17-23, at 24-25.

²¹⁶ Richard J. Hernstein & Charles Murray, *The Bell Curve: Intelligence and Class Structure in American Life* (1994).

²¹⁷ See, e.g., M. Land, *From the Fringe to the Forefront*, Wash. Post Nat'l Wkly. Edition, Oct. 24-30, 1994, at 24; R.S. Boyd, *IQ Controversy*, Miami Herald, Oct. 23, 1994, at A1-20; J. Leo, *Return to the IQ Wars*, Newsweek, Oct. 24, 1994, at 24; E.J. Dionne, *Discredited Notions About Race and IQ*, Miami Herald, Oct. 23, 1994, at M1-4; Mickey Klaus, *TRB: Behind the Curve*, New Republic, Oct. 31, 1994, at 4; T. Morganthau, *IQ: Is It Destiny?*, Newsweek, Oct. 24, 1994, at 52-55.

²¹⁸ See, e.g., Jason DeParle, *Charles Murray: Daring Research or 'Social Science Pornography'?* N.Y. Times Magazine, Oct. 9, 1994, at 48ff; A. Devroy & C. Chandler, *The Truth Nobody Wants to Talk About in Public*, Wash. Post Nat'l Wkly. Edition, Oct. 31-Nov. 6, 1994, at 14; Grant & Nickens, *supra* note 60.

²¹⁹ President's Radio Address, Pub. Papers 1676-78 (Oct. 1, 1994); President's News Conference, Pub. Papers 1714-1724 (Oct. 7, 1994); Remarks at a Reception for Senate Candidate Ann Wynn in Minneapolis, Minnesota, Pub. Papers 1607-1611 (Sept. 24, 1994); Kevin Phillips, *Arrogant Capital: Washington, Wall Street, and the Frustration of American Politics* (1994).

²²⁰ A. Lewis, *Pie in the Sky*, N.Y. Times, Oct. 31, 1994 at A15; Jonathan Rauch, *Demosclerosis: The Silent Killer of American Government* (1994).