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VIRGINIA AS A MODEL FOR OTHER STATE WELFARE PLANS

VIRGINIA'S WELFARE REFORM: CURRENT LAW AND EFFECTS

Laura Piper

In 1995, Virginia became the first state to submit a comprehensive statewide welfare reform plan to the federal government.⁴⁹⁵ The crusade for a more effective Virginia welfare system was led by Governor George Allen.⁴⁹⁶ The federal government granted Virginia numerous waivers from federal regulations enabling Virginia to implement the Virginia Independence Plan ("VIP") and the Virginia Initiative for Employment not Welfare ("VIEW") component.⁴⁹⁷ According to the Virginia Department of Health and Human Resource's 1996 annual report, because of VIP and VIEW the number of welfare recipients decreased, employment rates increased and taxpayers saved 24 million dollars.⁴⁹⁸

On February 1, 1997, in response to passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Personal Responsibility Act),⁴⁹⁹ Virginia passed the Temporary Assistance to Needy Families program (TANF) which is a comprehensive welfare reform program incorporating VIEW⁵⁰⁰ and VIP.⁵⁰¹ Upon federal approval, TANF will guide distribution of the federal block grants made possible by the Personal Responsibility Act.

I. THE NEED FOR CHANGE: HISTORICAL OVERVIEW

⁴⁹⁵ Robert C. Metcalf, Va. Dep't Health and Human Resources, Making Welfare Work, Fiscal Year 1996 Annual Report v (1996).

⁴⁹⁶ *Id.*

⁴⁹⁷ Making Welfare Work, *supra* note 1, at xviii, x.

⁴⁹⁸ *Id.* at x-xi.

⁴⁹⁹ Act of Aug. 22, 1996, Pub. L. No. 104-193, 110 Stat. 2105 (to be codified at 42 U.S.C. §1305) [hereinafter Public Law].

⁵⁰⁰ Gov. George Allen, Virginia's State Plan for the Temporary Assistance for Needy Families, Report to the Secretary of Health and Human Services, at 1 (Dec. 6, 1996)[hereinafter State Plan].

⁵⁰¹ Making Welfare Work, *supra* note 1, at xviii.

During the 1993 gubernatorial campaign, George Allen promised to change Virginia's welfare system.⁵⁰² At that time, Virginia's taxpayers felt that the system fostered dependency on state and federal aid.⁵⁰³ Many believed the remote federal government was problem-solving at the exclusion of the Virginia taxpayers.⁵⁰⁴ Single-parent households were increasing and minor parents were creating their own households aided by subsidies.⁵⁰⁵ The government was taking too much responsibility for welfare recipients without demanding a personal commitment in return.⁵⁰⁶ Statistics showed that in 1994, 73,204 families equaling 188,486 individuals were receiving welfare for an average of two and a half years.⁵⁰⁷ Two-thirds of children on welfare were born out of wedlock, and forty-two percent of household heads started out as teen parents.⁵⁰⁸ From 1980 to 1992 out-of-wedlock births increased by 25% and one in twelve Virginians was receiving food stamps.⁵⁰⁹ From 1988 to 1994, the state welfare caseload grew 36% with 8% of recipient families headed by a teenager.⁵¹⁰ During the same period, the number of Medicaid recipients grew by 82%.⁵¹¹

After the election, Governor Allen appointed forty leaders from around Virginia to the newly formed Commission of Citizen Empowerment to develop proposals for a new welfare system.⁵¹² These proposals, some of which ultimately shaped TANF, included time-limitations for welfare benefits and earned-income disregards.⁵¹³ Other proposals suggested educational programs, a cap on benefits to limit future pregnancies, and family residence for welfare teens.⁵¹⁴ The Commission's proposals envisioned public assistance as a "temporary safety net" rather than a way of life.⁵¹⁵

Governor Allen submitted these proposals to the General Assembly. Based on these proposals, in 1995 the General Assembly passed the Virginia Independence Plan (VIP).⁵¹⁶ The federal government granted a

⁵⁰² Making Welfare Work, *supra* note 1, at v.

⁵⁰³ Making Welfare Work, *supra* note 1, at v.

⁵⁰⁴ Making Welfare Work, *supra* note 1, at v.

⁵⁰⁵ Making Welfare Work, *supra* note 1, at v.

⁵⁰⁶ Making Welfare Work, *supra* note 1, at v.

⁵⁰⁷ Virginia Dep't of Soc. Serv., VIEW Program, July 1994 Statistical Data Report (1994).

⁵⁰⁸ *Id.*

⁵⁰⁹ *Id.*

⁵¹⁰ *Id.*

⁵¹¹ *Id.*

⁵¹² Making Welfare Work, *supra* note 1, at v.

⁵¹³ Earned Income Disregards are programs whereby a portion of earned income is exempt from federal income taxation.

⁵¹⁴ *Id.*

⁵¹⁵ *Id.*

⁵¹⁶ *Id.*

waiver for the programs on July 1, 1995, pursuant to Section 1115 of the Social Security Act, thereby enabling Virginia to operate these plans independently.⁵¹⁷ Ultimately more than eighty waivers were obtained including those for Aid to Families with Dependant Children (AFDC), Food Stamp, Day Care and Medicaid programs.⁵¹⁸

To ensure local citizen input and control of the new welfare system, the General Assembly allocated \$50,000 for each economic development district in Virginia for planning purposes.⁵¹⁹ Local social services, businesses, non-profit organizations and churches decided on the best ways to make welfare reform work in their respective areas and were free to use the planning grant in any way to accomplish this goal.⁵²⁰

Governor Allen created an Advisory Commission on May 22, 1995, with three subcommittees: (1) citizen empowerment, choice and private sector involvement; (2) technology; and (3) service delivery and cost-efficiency.⁵²¹ These subcommittees primarily focused on different components of job training and placement.

VIEW is a component of VIP. VIEW's goals include personal responsibility agreements between the state and recipient requiring work for all able-bodied recipients.⁵²² Unlike the VIP plan which was implemented statewide, the VIEW plan was proposed to be implemented over a period of four years to allow time to meet and plan with each locality.⁵²³

A VIEW Implementation Team met with local jurisdictions prior to phase-in of the VIEW requirements.⁵²⁴ The Implementation Team was charged with meeting community leaders, local businessmen, concerned citizens, and non-profit organizations to discuss their role and concerns in helping welfare recipients in their area meet the VIEW requirements.⁵²⁵

Recognizing that "business involvement is the backbone of welfare reform,"⁵²⁶ Chambers of Commerce encourage business participation and partnerships with local social service departments. Local business leaders

⁵¹⁷ State Plan, *supra* note 6, at 5.

⁵¹⁸ Making Welfare Work, *supra* note 1, at xiv.

⁵¹⁹ Making Welfare Work, *supra* note 1, at viii.

⁵²⁰ Making Welfare Work, *supra* note 1, at xv.

⁵²¹ Making Welfare Work, *supra* note 1, at xvi.

⁵²² Making Welfare Work, *supra* note 1, at vii, xvi-ii.

⁵²³ Making Welfare Work, *supra* note 1, at viii, xi.

⁵²⁴ Making Welfare Work, *supra* note 1, at xvii.

⁵²⁵ Making Welfare Work, *supra* note 1, at xvii.

⁵²⁶ Stacy Hawkins Adams, *Special Report: The Faces of Welfare Reform*, Rich. Times Dispatch, Jan. 26, 1997 at A1, A15.

play a key part in encouraging fellow businessmen to find or create opportunities for welfare recipients.⁵²⁷

State officials hope that the reform will help put most of Virginia's 57,120 able-bodied welfare recipients to work.⁵²⁸ Critics of VIEW challenge that work requirements will leave families that are unable to find jobs hungry and homeless.⁵²⁹

II. CURRENT VIRGINIA WELFARE PLAN: AN OVERVIEW OF CHANGES

A. *The Personal Responsibility Component*

The personal responsibility component of VIP includes diversionary assistance, Learnfare, a Minor Parent Residency(MPR) requirement, two-parent family incentives, mandatory parent identification, a family cap, an immunization requirement and a savings initiative. Each is designed to help welfare recipients and their families improve their economic situations.

1. Diversionary assistance⁵³⁰

Diversionary assistance is an election that allows an AFDC recipient a one-time cash advance of approximately four months' worth of AFDC benefits to get the family out of a "rut" created by an emergency (i.e., a housing, transportation, or child-care emergency).⁵³¹ Election of the advance option is made solely by the welfare recipient, and the option is neither encouraged nor discouraged.⁵³² If an emergency exists, caseworkers simply ask the recipient if the cash advance option would solve the financial problem.⁵³³

This cash advance option puts financial responsibility and decision-making in the hands of the welfare family. Critics say this provision is "the devil's choice" because the "price" for immediate assistance is loss of future payments for five and a half months.⁵³⁴ However, recipients can only elect this option once every five years.⁵³⁵ Others commend the provision because it recognizes that "poor people can make wise decisions

⁵²⁷ Letter from George Allen, Governor, *Commonwealth of Virginia*, to Donna Shalala, Secretary, *Dep't of Health and Human Services* 1 (Dec. 6, 1996) (on file at the Va. Dep't Soc. Serv.).

⁵²⁸ Hawkins, *supra* note 32, at A15.

⁵²⁹ Hawkins, *supra* note 32, at A15.

⁵³⁰ Va. Code Ann. § 63.1-105.3 (Michie, 1995).

⁵³¹ *Id.*

⁵³² John E. Littel, Comment, *Comment on Edward Wayland's Welfare Reform in Virginia*, 3 Va. J. Soc. Pol'y & L. 311, 326 (1996) [hereinafter Littel].

⁵³³ State Plan, *supra* note 6 at 3.

⁵³⁴ Edward M. Wayland, *Welfare Reform in Virginia: A Work in Progress*, 3 Va. J. Soc. Pol'y & L. 249, 301 (1996); *See, also*, Va. Code Ann. § 63.1-105.3 (Michie, 1995).

⁵³⁵ Va. Code Ann. § 63.1-105.3 (Michie, 1995).

about finances."⁵³⁶ Considering the education level of many welfare recipients, this contention seems unlikely. Nevertheless, a goal of Virginia welfare reform was to "promote self-reliance."⁵³⁷ Giving recipients economic choices is a step in that direction.

2. Learnfare

A high school education is a key factor in "breaking the cycle of dependance".⁵³⁸ Welfare children tend to "be ill-prepared for kindergarten, to fall behind in school...to drop out [of high school] before graduating, and to set off for the job market with no better prospects than the minimum wage."⁵³⁹ By the time these children become parents, they typically "qualify for only the lowest paid jobs."⁵⁴⁰

Learnfare is designed to reach both welfare children and their minor welfare parents.⁵⁴¹ Children and minor parents will not be eligible for aid unless they comply with the compulsory school attendance laws.⁵⁴² There is a presumption that the child is completing this requirement until the local welfare office is notified that the child has not been attending school.⁵⁴³ A child is considered truant if they miss three consecutive school days in a row, five days per month, or seven days per quarter and if efforts for the school to contact the parent or guardian have failed.⁵⁴⁴

Social services must send a written note to the parent or guardian who then has five days to cooperate in creating a compliance plan. If this compliance plan fails, the child loses benefits.⁵⁴⁵ This provision effects benefits of the entire "assistance unit" including the parents.⁵⁴⁶ The child and/or family may be reinstated if compliance is subsequently shown to the local welfare department.⁵⁴⁷

3. Minor parent residency requirement

Since parents are legally obligated to care for their minor children, the state does not want to support a separate household for minors who have children. The state also has an interest in keeping family-unit support intact. The minor parent residency requirement "is intended to provide a safe, nurturing environment for minor welfare mothers and their

⁵³⁶ Littel, *supra* note 38, at 326.

⁵³⁷ Littel, *supra* note 38, at 316.

⁵³⁸ State Plan, *supra* note 6 at 4.

⁵³⁹ Peter T. Kilborn, *Shrinking Safety Net Cradles Hearts and Hopes of Children*, N.Y. Times, Nov. 30, 1996, at A1, A10 [hereinafter Kilborn].

⁵⁴⁰ *Id.*

⁵⁴¹ State Plan, *supra* note 6, at 4.

⁵⁴² See generally Va. Code Ann. § 22.1-254 et. seq. (Michie, 1995).

⁵⁴³ State Plan, *supra* note 6, at 4.

⁵⁴⁴ State Plan, *supra* note 6, at 4.

⁵⁴⁵ State Plan, *supra* note 6, at 4.

⁵⁴⁶ Va. Code Ann. § 63.1-105.4 (Michie, 1995).

⁵⁴⁷ *Id.*

babies."⁵⁴⁸ To receive benefits, single minor welfare parents must live with a parent or guardian.⁵⁴⁹ There are however, exceptions to the rule. For instance, the minor does not have to reside with the parent/guardian if the minor has no knowledge of his or her whereabouts, if the minor is married, if the health of the minor would be endangered, or if the minor can show other good cause.⁵⁵⁰ If the minor is not married and cannot live with the parent or guardian, social services finds an "appropriate adult supervised supportive living arrangement" and the minor is required to live there in order to receive benefits.⁵⁵¹

4. Parity between single and two-parent families

Before VIP implementation, single-parent families generally received assistance for a longer period of time than two-parent families.⁵⁵² This encouraged single parenthood by providing more money if one parent was absent. To create a disincentive for single parenthood, the time limits on assistance for both single and two-parent families are now the same.⁵⁵³

5. Mandatory paternity identification (MPI)

Nationwide, 41.5% of single-mother households live below the poverty line.⁵⁵⁴ Virginia designed the ("MPI") provision to "put the responsibility for providing for children back where it belongs - on the parents."⁵⁵⁵ Codified in section 63.1-105.1 (3) and (4), MPI provides that a recipient must identify the parents of the child on whose behalf the welfare is claimed in order to receive benefits.⁵⁵⁶ At a minimum, the recipient must cooperate in locating the parent, establishing paternity, and obtaining support or other payment owed to the child. If the parent does not cooperate in the first six-month period, the benefit payment will be reduced by the parent portion or 25%, whichever is greater.⁵⁵⁷ If paternity is not established after six months the entire grant or at least the adult portion of the grant may be revoked.⁵⁵⁸

This provision may have had some success. Governor George Allen noted that "interestingly enough, the sanction apparently improved many clients' memories."⁵⁵⁹ However, critics say the law is unfair to victims of rape or incest who may not have reported the rape.⁵⁶⁰

⁵⁴⁸ State Plan, *supra* note 6, at 5.

⁵⁴⁹ State Plan, *supra* note 6, at 5.

⁵⁵⁰ §63.1-105.6.

⁵⁵¹ *Id.*

⁵⁵² State Plan, *supra* note 6, at 5.

⁵⁵³ State Plan, *supra* note 6, at 5.

⁵⁵⁴ Kilborn, *supra* note 45, at A10.

⁵⁵⁵ State Plan, *supra* note 6, at 5.

⁵⁵⁶ §63.1-105.1 (3) and (4).

⁵⁵⁷ State Plan, *supra* note 6, at 5.

⁵⁵⁸ §63.1-105.1 (3) and (4).

⁵⁵⁹ State Plan, *supra* note 6, at 6.

⁵⁶⁰ Wayland, *supra* note 40, at 249, 288.

6. The family cap provision

Codified in section 63.1-105.7, the family cap provision cuts off benefits to children born ten months after a family begins to receive aid.⁵⁶¹ However, the custodial parent is still eligible for child support payments collected through the welfare office from the non-custodial parent.⁵⁶² Critics claim this provision violates the procreation rights of poor families and cite empirical research showing that most welfare recipients do not have children to receive more welfare.⁵⁶³ The issue is whether this provision is a disincentive for the parents or a punishment to the child. "Those who have studied the effectiveness of a family cap provision in combating illegitimacy offer little support for the cap."⁵⁶⁴

Others cite the positive aspects of increased responsibility in deciding whether to have children. "In determining family size, most parents generally consider their financial ability to support an additional child. AFDC families should also consider their financial resources when contemplating having additional children.... Poor people are as capable as their financially stable counterparts to engage in responsible family planning."⁵⁶⁵

Virginia's plan differs from other state plans in that the entire support payment owed by the non-custodial parent is paid to the custodial parent to compensate for the loss of AFDC benefits for that child.⁵⁶⁶ The support payments made by the non-custodial parent often far exceed what AFDC would have paid to the custodial parent.⁵⁶⁷ Although welfare parents are, in essence, penalized for having additional children while on assistance, the children are still afforded Food Stamps, Medicaid, Housing Assistance, and other emergency aid programs.⁵⁶⁸

7. Immunization Requirements

Under section 63.1-105.2, parents who fail to comply with immunization requirements will be penalized. The penalty is \$50 for the first child out of compliance and \$25 for each child thereafter. This requirement does not effect the child's receipt of Medicaid and other benefits.⁵⁶⁹

⁵⁶¹ §63.1-105.7.

⁵⁶² *Id.*

⁵⁶³ Dorothy E. Roberts, Comment, *Irrationality and Sacrifice in the Welfare Reform Consensus*, 81 Va. L. Rev. 2607, 2609 (1995) [hereinafter Roberts].

⁵⁶⁴ Wayland, *supra* note 40, at 295.

⁵⁶⁵ Littel, *supra* note 38, at 323.

⁵⁶⁶ Littel, *supra* note 38, at 323.

⁵⁶⁷ Littel, *supra* note 38, at 323.

⁵⁶⁸ Making Welfare Work, *supra* note 1, at 30.

⁵⁶⁹ Va. Code Ann. § 63.1-105.2 (Michie, 1995).

8. Savings Initiative

A savings incentive is the final component of the personal responsibility prong of TANF. Families on welfare may now save up to \$5000 without jeopardizing or decreasing any eligibility for aid.⁵⁷⁰ State workers are charged with advising recipients in financial planning.⁵⁷¹

B. *The Work Component*

The work component of the Virginia Interdependence Program (VIP) is the VIEW program. VIEW replaces the Job Opportunity and Basic Skills program (JOBS) which will be phased out over the next four years because it was ineffective and too expensive.⁵⁷² VIEW is now the program by which AFDC recipients may find and keep work to become self-sufficient.⁵⁷³ VIEW has several components including: a personal responsibility contract; a work requirement for those meeting eligibility requirements; an earned income disregard which allows recipients to keep earned money; time-limitations on aid; day care, transportation and medical assistance; and penalties for failure to comply.⁵⁷⁴

1. Personal Responsibility Contract

The personal responsibility contract portion of the new law sets forth the recipient's obligation to cooperate with the VIEW program and to find work within ninety days of receiving benefits.⁵⁷⁵ This contract does not create any cause of action against a person who does not comply except in cases of fraud or misrepresentation.⁵⁷⁶ The contract requires that welfare recipients accept any reasonable job offered.⁵⁷⁷ By signing the contract the recipients avail themselves of VIEW's "educational, training and employment opportunities."⁵⁷⁸ The case is closed until they sign the agreement and cooperate.⁵⁷⁹

Certain recipients are not required to participate in VIEW, such as:

1. individuals under sixteen years of age (including minor parents);
2. individuals between sixteen and nineteen who are enrolled in full-time education (if an individual stops going to school and then subsequently returns they cannot re-qualify for this

⁵⁷⁰ *Id.*

⁵⁷¹ State Plan, *supra* note 6, at 9.

⁵⁷² Making Welfare Work, *supra* note 1, at 7.

⁵⁷³ State Plan, *supra* note 6, at 6; Virginia Dep't of Soc. Serv., JOBS State Plan 3 (Oct., 1994).

⁵⁷⁴ Making Welfare Work, *supra* note 1, at 9.

⁵⁷⁵ Va. Code Ann. §63.1-133.41-.42 (Michie, 1995). *Id.*

⁵⁷⁶ *Id.*

⁵⁷⁷ *Id.*

⁵⁷⁸ Making Welfare Work, *supra* note 1, at 5.

⁵⁷⁹ State Plan, *supra* note 6, at 7.

- exemption), however all students should work during the summer months;
3. an individual incapacitated due to a temporary medical condition which prevents training or employment (ongoing verification of a medical condition must be provided to the local social services department);
 4. individuals more than sixty years old;
 5. the primary caregiver of an incapacitated person whose presence is essential for the care of that person (medical statement required);
 6. a parent or caregiver of a child under eighteen months of age;
 7. a parent who has given birth to a child after ten months of receiving benefits (until the child is six weeks old);
 8. a female in her fourth to ninth month of pregnancy;
 9. a child receiving AFDC-foster case benefits; or
 10. legal guardians or relatives of children receiving benefits.⁵⁸⁰
2. Under VIEW, Virginia will provide day care, transportation and medical assistance for one year even if individuals are no longer eligible for aid because of the work requirement.⁵⁸¹ These exceptions released approximately 46% of welfare recipients from the VIEW requirements.⁵⁸²

The goal of VIEW is to move welfare recipients from low-paying jobs to ones that enable self-sufficiency.⁵⁸³ This on-the-job education is predicted to increase household earnings, teach new skills to recipients and, most importantly, create good work- ethic role models for the recipient's children.⁵⁸⁴ Anecdotal support for this proposition is seen in "children who proudly told of their mothers' jobs."⁵⁸⁵

The assigned social worker will seek private, unsubsidized employment before subsidized employment. If both fail, the caseworker will try to secure either a part-time position or community work for the recipient. Private, subsidized or community employment satisfy the work requirement.⁵⁸⁶ Because appropriations from various welfare programs go to employers who pay welfare worker's salary with these funds, both the recipient and the business benefit.⁵⁸⁷ Recipients begin to become self-sufficient and businesses are able to secure a work force they otherwise would be financially unable to hire.⁵⁸⁸

⁵⁸⁰ § 63.1-133.3.

⁵⁸¹ State Plan, *supra* note 6, at 7.

⁵⁸² State Plan, *supra* note 6, at 7.

⁵⁸³ Littel, *supra* note 38, at 324.

⁵⁸⁴ Making Welfare Work, *supra* note 1, at 4.

⁵⁸⁵ State Plan, *supra* note 7, at 9.

⁵⁸⁶ §63.1-133.49.

⁵⁸⁷ *Id.*

⁵⁸⁸ Littel, *supra* note 38, at 324.

3. VIEW time limits

Participants in VIEW may receive benefits up to two years and then are prohibited from reapplying again for the next three years.⁵⁸⁹ There are several hardship provisions that can extend benefits from three months to a year past the two year time limit.⁵⁹⁰ Hardship exceptions include individuals who are cooperating with the program but are unable to find employment, those who are laid off, involved in continued education and training related to employment, and those living in areas of Virginia where the unemployment rate is above 10%.⁵⁹¹

Sanctions are strict. An individual who does not participate in the program, is uncooperative in the employment process, quits his job or does not comply in general with the terms of the personal responsibility obligation is "cut off" from benefits until compliance resumes, or for a fixed period of time, whichever is longer.⁵⁹² The fixed time sanctions are one month for the first infraction, three months for the second, and six months for the third or any subsequent sanctions.⁵⁹³

Virginia welfare recipients are allowed to keep almost all of their earnings up to about \$13,000.00 (the federal poverty line).⁵⁹⁴ This is accomplished through the earned income disregard which provides that no federal income taxes are taken out of earnings up to \$13,000.00 provided in section 63.1-105 of the Virginia Code. This provision is a "[f]ill in the gap provision" because families need more money than what they receive from welfare. Both welfare payments and minimum wage earnings are inadequate amounts to support an average sized family.⁵⁹⁵ Therefore, supporters see this provision as a "step in the right direction."⁵⁹⁶

C. *The Administration*

There are 123 local social service departments in Virginia responsible for the administration of the new welfare reform. The State Department of Social Services is responsible for overseeing these social service departments. Other state agencies are also responsible for this initiative; notably the Virginia Employment Commission, the Department of Housing and Community Development, the Department of Economic Development and various health-related departments.⁵⁹⁷ However, non-governmental input and support has been the linchpin of the VIEW program.

⁵⁸⁹ Wayland, *supra* note 40, at 284.

⁵⁹⁰ State Plan, *supra* note 6, at 9.

⁵⁹¹ State Plan, *supra* note 6, at 9; §63.1-133.46.

⁵⁹² State Plan, *supra* note 6, at 9.

⁵⁹³ State Plan, *supra* note 6, at 9.

⁵⁹⁴ §63.1-105.

⁵⁹⁵ Wayland, *supra* note 40, at 284.

⁵⁹⁶ Wayland, *supra* note 66, at 284.

⁵⁹⁷ State Plan, *supra* note 6, at 10.

The Community Work Experience Program (CWEP) is for people unable to get paying jobs because of poor skills.⁵⁹⁸ CWEP was designed to ease entry into the workforce by giving recipients on-the-job training at no cost to the employer. Initially, public and non-profit entities will be subsidized to hire recipients until they acquire the skill to do entry level work in a paid position in the private sector.⁵⁹⁹ Since the "pay" in these public and non-profit entity jobs is welfare benefits, recipients have an added incentive to find paid employment in the private sector.

Local churches have helped by providing skills training through job-readiness programs which count toward the work requirement. For example, a group of sixty churches in Lynchburg, Virginia formed the "I'm Ready for Work" program where recipients gain skills, training and job placement advice.⁶⁰⁰ Volunteers there teach GED (General Equivalency Degree) and life skills classes.⁶⁰¹ These programs have proven successful in preparing recipients for work.⁶⁰²

D. *Out-of-Wedlock Births, Teen Pregnancy and Statutory Rape*

Teen pregnancy and out-of-wedlock births are of primary concern. Forty-one percent of female single parents live below the poverty line.⁶⁰³ In 1993, approximately 11% to 14% of all children in Virginia lived below the poverty line.⁶⁰⁴

Virginia has created several programs to increase education and awareness of teen pregnancy and out-of-wedlock births children. For example, Virginia Fatherhood Campaign teaches young men to make responsible decisions about fatherhood.⁶⁰⁵ State and local law enforcement agencies, public schools and counseling services provide education on statutory rape and teen pregnancy.⁶⁰⁶ Teen pregnancy needs to be addressed to control the epidemic and to establish paternity so that child support payments can be collected.

E. *Special Provisions*

Non-citizens are not allowed to receive TANF benefits.⁶⁰⁷ However, children of non-citizens are eligible for Food Stamp Programs, Head Start Programs, Medicaid, emergency disaster relief, public health assistance,

⁵⁹⁸ Making Welfare Work, *supra* note 1, at 34.

⁵⁹⁹ Making Welfare Work, *supra* note 1, at 34.

⁶⁰⁰ Making Welfare Work, *supra* note 1, at 35.

⁶⁰¹ Making Welfare Work, *supra* note 1, at 35.

⁶⁰² Making Welfare Work, *supra* note 1, at 34.

⁶⁰³ Kilborn, *supra* note 45, at A10.

⁶⁰⁴ Kilborn, *supra* note 45, at A10.

⁶⁰⁵ State Plan, *supra* note 6, at 12.

⁶⁰⁶ State Plan, *supra* note 6, at 12.

⁶⁰⁷ Public Law, *supra* note 5, at §401(a).

HUD housing, and benefits under the Child Nutrition and National School Lunch Acts.⁶⁰⁸ In addition, all welfare recipients have the right to have adverse decisions and ineligibility determinations reviewed by the Department of Social Services.⁶⁰⁹

F. Funding

Under Title I, section 403 (a)(1), the state receives a federal block grant in an amount equal to the state family assistance grant.⁶¹⁰ The bonuses and penalties on the federal funds received are based upon state compliance. High performing states can earn an additional 5% of their federal grant, which equates to approximately eight million dollars for Virginia.⁶¹¹ The five states with the greatest decrease in out-of-wedlock births receive an additional twenty million dollars.⁶¹² Penalties for failure to meet the work participation rates begin with 5% of the total grant and increases 2% each year thereafter (up to 21%) for non-compliance. Work participation requirements start at 25% for all eligible workers and increase to 50% by the year 2002. Failure to comply with child support enforcement provisions and the five year "clock" on welfare benefits can result in a penalty of 5% of the total grant for each.⁶¹³ Also, a 5% penalty is levied on states who fail to maintain assistance to parents who cannot obtain child care for a child under the age of six.⁶¹⁴

The total federal block grant for fiscal year 1996-2003 is \$16.4 billion to be distributed among the states based on need for fiscal year 1994 or the average of fiscal years 1992-1994, whichever is greater.⁶¹⁵ States can carry over unused portions to later years. There is also a \$2 billion supplemental fund for states whose unemployment rate increases by approximately 10% in a year or whose food stamp need increases by 10% in a year.⁶¹⁶ Supplemental funds, however, will not exceed 20% of the state's original block grant.⁶¹⁷

Child care funding is \$13.9 billion for fiscal years 1997-2002.⁶¹⁸ The Personal Responsibility Act requires distribution of \$1.2 billion to states

⁶⁰⁸ Public Law, *supra* note 5, at §403(c).

⁶⁰⁹ See generally Va. Code Ann. §63.1-116-119 (Michie, 1995).

⁶¹⁰ Public Law, *supra* note 5, at §403(a)(1)(b).

⁶¹¹ Dep't of Health and Human Serv., Administration for Children and Families, Office of Family Assistance, Waiver Authority for Virginia 7 (Oct., 1996).

⁶¹² Virginia Dep't of Soc. Serv., Slide Presentation to State Welfare Board at TANF Public Hearing 7 (Jan. 17, 1997) (slide transcript available at the Virginia Dep't of Social Services).

⁶¹³ *Id.*

⁶¹⁴ *Id.* at 8-11.

⁶¹⁵ Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Dep't of Health and Human Serv., Summary of Provisions 1 (Aug. 12, 1996).

⁶¹⁶ *Id.* at 3.

⁶¹⁷ *Id.* at 5.

⁶¹⁸ *Id.* at 6.

on a need-basis with the remaining \$12.7 billion to be distributed based on state-matching programs.⁶¹⁹ This indicates that the federal government expects states to spend as much toward child care as they did in 1994 and 1995 if they want to access additional funding.⁶²⁰ In 1998, \$40 million will be distributed among the states to provide abstinence education and to promote other programs targeting teens at risk for pregnancy.⁶²¹

III. EFFECTS OF WELFARE REFORM IN VIRGINIA: FISCAL YEAR 1996

The 1996 state annual report shows positive effects from welfare reforms enacted in 1995. As of December 1996 AFDC recipients declined 14% statewide.⁶²² In areas where VIEW was implemented the decrease was closer to 20%.⁶²³ More than one-third of all closed welfare cases were in VIEW localities.⁶²⁴ In areas where VIEW existed for twelve months, 74% of eligible recipients were involved in a work program and, of those, 69% were employed.⁶²⁵ As of December 1996, paternity was established for 1,472 AFDC children and \$2,783,441 was collected for AFDC custodial parents (up 10% from 1995).⁶²⁶ Sixty eight children were refused benefits due to the family cap provision.⁶²⁷ No information is available on child support collected for these "capped" children because of paternity establishment delay.⁶²⁸

The average hourly wage of employed recipients enrolled in the VIEW plan was \$5.43, and average monthly earnings were \$703.00.⁶²⁹ Sixty-eight percent of participants were involved work programs within the ninety day period and held jobs for ninety days or more.⁶³⁰ Only .03% of working participants, were in fully subsidized employment.⁶³¹ Most were involved in full-time, private sector work with an average of 30.9 hours per week.⁶³² Twenty-five percent of employed VIEW participants no

⁶¹⁹ *Id.*

⁶²⁰ *Id.* at 7.

⁶²¹ *Id.* at 10.

⁶²² Virginia Dep't of Soc. Serv., Virginia Independence Program, Dec. 1996 Monthly Report i (1997) [hereinafter VIP Monthly Report].

⁶²³ *Id.*

⁶²⁴ *Id.*

⁶²⁵ *Id.* at ii.

⁶²⁶ *Id.* at 15.

⁶²⁷ *Id.* at vi.

⁶²⁸ Robert C. Metcalf, Va. Dep't Health and Human Resources, Making Welfare Work, Fiscal Year 1996 Annual Report app. at 14(1996) [hereinafter Annual Report Appendix].

⁶²⁹ *Id.* at 8. VIP Monthly Report, *supra* note 128, at 5.

⁶³⁰ VIP Monthly Report, *supra* note 128, at 5.

⁶³¹ VIP Monthly Report, *supra* note 128, at 5.

⁶³² VIP Monthly Report, *supra* note 128, at 5.

longer receive AFDC benefits.⁶³³ Of the VIEW participants, 59% received earned income disregards and 30% received day care services.⁶³⁴ VIEW spending on transportation was \$116,182.⁶³⁵

The sanctions show that enforcement is being taken seriously. Failure to establish paternity resulted in 905 sanctions, and failure to immunize children resulted in reduction in benefits for 375 AFDC recipients.⁶³⁶ Failure to comply with school attendance resulted in 798 sanctioned cases, while failure to comply with VIEW policies constituted 390 sanctions.⁶³⁷ Another 191 were sanctioned for failing to sign the personal responsibility agreement.⁶³⁸ Only 37 of the 199 cases who opted for diversionary assistance went back to receiving welfare benefits after the ineligibility period ended.⁶³⁹ By the end of fiscal year 1996, only 92 VIEW cases received transitional Medicaid.⁶⁴⁰

IV. WELFARE REFORM IN VIRGINIA: COMMENT AND CRITICISMS

There has been praise and criticism for Virginia's Welfare Reform. According to a report prepared for the House Subcommittee on Human Resources, compared to other states, "Virginia's provisions constitute an especially broad expansion of work incentives for clients."⁶⁴¹ Virginia has received national commendation for its community-involvement approach to cultivating welfare reform ideas, its subsidized employment program and social service staff-client involvement.⁶⁴² Virginia was also congratulated for creating an infant care center using state funds.⁶⁴³

Critics, however, cite welfare "myths" as the basis for Virginia's reforms.⁶⁴⁴ These myths include perceptions that people are on welfare for a long time, that welfare mothers have children to get more aid, that most welfare clients are African-Americans living in city ghettos, and that welfare expenditures contribute significantly to the federal deficit.⁶⁴⁵ In fact, the typical welfare case involves a white family where the average

⁶³³ Annual Report Appendix, *supra* note 134, at 10.

⁶³⁴ Annual Report Appendix, *supra* note 134, at 13.

⁶³⁵ Annual Report Appendix, *supra* note 134, at 14.

⁶³⁶ Annual Report Appendix, *supra* note 134, at 3.

⁶³⁷ Annual Report Appendix, *supra* note 134, at 3.

⁶³⁸ Annual Report Appendix, *supra* note 134, at 3.

⁶³⁹ Annual Report Appendix, *supra* note 134, at 4.

⁶⁴⁰ Annual Report Appendix, *supra* note 134, at 14.

⁶⁴¹ U.S. General Accounting Office. Welfare Waivers Implementation: States Work to Change Welfare Culture, Community Involvement, and Service Delivery 3 (GAO/HEHS-96-105). Washington, D.C.: July 2, 1996.

⁶⁴² *Id.* at 33, 41, and 47.

⁶⁴³ *Id.* at 48.

⁶⁴⁴ Wayland, *supra* note 40, at 252.

⁶⁴⁵ Wayland, *supra* note 40, at 252.

age of the mother is twenty-nine and the average age of the child is seven years old with one sibling.⁶⁴⁶ The highest percentage of welfare recipients live in the rural south or big cities. Twice as many white children receive aid as African-American children, however, only 16% of all white children receive aid compared to 42% of all African-American children.⁶⁴⁷

Time limits on benefits are criticized because of the ill-conceived notion of what length of time recipients are actually on welfare.⁶⁴⁸ "In fact, a very high percentage of AFDC recipients receive benefits for relatively short periods of time."⁶⁴⁹

Earned income disregards have been criticized even though they have been received with great "excitement" by both caseworkers and welfare recipients alike.⁶⁵⁰ Critics point out that the earned income disregards could end up costing the taxpayers more in the end. The disregards increase the eligibility and expand the time limits of more families because their salaries are not counted toward the income threshold.⁶⁵¹ The VIEW program, in general, will be costly to implement because of the administration and staffing necessary for work placement programs.⁶⁵²

Edward Wayland, a critic of Learnfare, claims "[t]he reasons for implementing Learnfare are unclear and unsubstantiated."⁶⁵³ There is no proof that children on welfare attend school less frequently or value education less than non-welfare children.⁶⁵⁴ However, surveys show that "[welfare children] are labeled as the sad, bad, mad, can't add kids."⁶⁵⁵ Statistically, welfare children "tend" to become teen parents and drop out of high school more frequently than their non-welfare counterparts.⁶⁵⁶

Critics of the family cap provision claim it is based on the misguided notion that welfare mothers have more children to receive more benefits. One critic points out that, on average, welfare mothers have the same number of children as non-welfare mothers.⁶⁵⁷ Also, high per-child-benefit states do not have larger families than low per-child-benefit states.⁶⁵⁸ However, when the family cap provision is looked at simultaneously with the new paternity support enforcement rules, a

⁶⁴⁶ Kilborn, *supra* note 45, at A10.

⁶⁴⁷ Kilborn, *supra* note 45, at A10.

⁶⁴⁸ Wayland, *supra* note 40, at 266.

⁶⁴⁹ Wayland, *supra* note 40, at 266.

⁶⁵⁰ Wayland, *supra* note 40, at 285.

⁶⁵¹ Wayland, *supra* note 40, at 285.

⁶⁵² Wayland, *supra* note 40, at 285.

⁶⁵³ Wayland, *supra* note 40, at 290.

⁶⁵⁴ Wayland, *supra* note 40, at 291.

⁶⁵⁵ Kilborn, *supra* note 45, at A10.

⁶⁵⁶ Kilborn, *supra* note 45, at A10.

⁶⁵⁷ Wayland, *supra* note 40, at 296.

⁶⁵⁸ Wayland, *supra* note 40, at 296.

welfare mother will be financially better off with child support than welfare benefits for the additional child. While the state may have appeased conservative voters with the family cap, administrative funding to establish and collect on paternity has increased.

CONCLUSION

The goals of welfare reform are and, probably always have been, two-fold: individual self-sufficiency at a minimum cost to taxpayers. The VIEW program is fostering self-sufficiency. However, the savings for the taxpayer are minimal. The plan is only projected to save about 10% over the next five years.⁶⁵⁹

There is no easy answer to welfare reform. Virginia is attempting to stop a Band-Aid approach to the welfare problem. While TANF, through the VIP and VIEW programs, may not initially save a lot of money, both have potential for positive long term effects. In the future, this approach should minimize welfare spending and dependency further. Only time will tell the outcome of Virginia's plan to solve this difficult and complex problem.

⁶⁵⁹ Wayland, *supra* note 40, at 306.