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# A BILL FOR AN ACT

RELATING TO GENERAL ASSISTANCE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 346-53, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§346-53 Determination of amount of assistance.** (a)

4 ~~[This subsection does not apply to general assistance to~~  
5 ~~households without minor dependents.]~~ The standard of need  
6 shall equal the poverty level established by the federal  
7 government in 2006, prorated over a twelve-month period based on  
8 family size.

9           The assistance allowance provided shall be based on a  
10 percentage of the standard of need. For exempt households and  
11 households in which all caretaker relatives are minors, living  
12 independently with minor dependents and attending school, the  
13 assistance allowance shall be set no higher than sixty-two and  
14 one-half per cent and no lower than forty-four per cent of the  
15 standard of need. For all other households, the assistance  
16 allowance shall be set no higher than sixty-two and one-half per  
17 cent of the standard of need and set no lower than thirty-four



1 per cent of the standard of need. The standard of need shall be  
2 determined by dividing the 2006 federal poverty level by twelve  
3 and rounding down the quotient. The remaining quotient shall be  
4 multiplied by the per cent as set by the director by rules  
5 pursuant to chapter 91, and the final product shall be rounded  
6 down to determine the assistance allowance; provided that:

- 7 (1) The department may increase or reduce the assistance  
8 allowance as determined in this subsection for non-  
9 exempt households for the purpose of providing work  
10 incentives or services under part XI;
- 11 (2) No reduction shall be allowed that jeopardizes  
12 eligibility for or receipt of federal funds;
- 13 (3) Reductions in the assistance allowance shall be  
14 limited to no more than one per year; and
- 15 (4) No non-exempt household, which includes an adult who  
16 has received sixty cumulative months of temporary  
17 assistance to needy families with minor dependents,  
18 shall be eligible for an assistance allowance, unless  
19 authorized by federal regulations.

20 ~~[(b) The director shall determine the allowance for~~  
21 ~~general assistance to households without minor dependents based~~  
22 ~~upon the total amount appropriated for general assistance to~~



1 ~~households without minor dependents, among other relevant~~  
2 ~~factors.~~

3       ~~(e)]~~ (b) The director, pursuant to chapter 91, shall  
4 determine the rate of payment for domiciliary care, including  
5 care provided in licensed developmental disabilities domiciliary  
6 homes, community care foster family homes, and certified adult  
7 foster homes, to be provided to recipients who are eligible for  
8 Federal Supplementary Security Income or public assistance, or  
9 both. The director shall provide for level of care payment as  
10 follows:

11       (1) Beginning on July 1, 2008, for adult residential care  
12 homes classified as facility type I, licensed  
13 developmental disabilities domiciliary homes as  
14 defined under section 321-15.9, community care foster  
15 family homes as defined under section 346-331, and  
16 certified adult foster homes as defined under section  
17 321-11.2, the state supplemental payment shall not  
18 exceed \$651.90; and

19       (2) Beginning on July 1, 2008, for adult residential care  
20 homes classified as facility type II, the state  
21 supplemental payment shall not exceed \$759.90.



1           If the operator does not provide the quality of care  
2 consistent with the needs of the individual to the satisfaction  
3 of the department, the department may remove the recipient to  
4 another facility.

5           The department shall handle abusive practices under this  
6 section in accordance with chapter 91.

7           Nothing in this subsection shall allow the director to  
8 remove a recipient from an adult residential care home or other  
9 similar institution if the recipient does not desire to be  
10 removed and the operator is agreeable to the recipient  
11 remaining, except where the recipient requires a higher level of  
12 care than provided or where the recipient no longer requires any  
13 domiciliary care.

14           [~~(d)~~] (c) On July 1, 2006, and thereafter, as the  
15 department determines a need, the department shall authorize a  
16 payment, as allowed by federal law, for resident clients  
17 receiving supplemental security income in adult residential care  
18 home type I and type II facilities, licensed developmental  
19 disabilities domiciliary homes as defined under section 321-  
20 15.9, community care foster family homes as defined under  
21 section 346-331, and certified adult foster homes as defined  
22 under section 321-11.2, when state funds appropriated for the



1 purpose of providing payments under subsection (c) for a  
2 specific fiscal year are not expended fully within a period that  
3 meets the requirements of the department's maintenance of effort  
4 agreement with the Social Security Administration.

5 The payment shall be made with that portion of state funds  
6 identified in this subsection that has not been expended.

7 The department shall determine the rate of payment to  
8 ensure compliance with its maintenance of effort agreement with  
9 the Social Security Administration.

10 [~~e~~] (d) The department shall pay rental and utility (to  
11 include gas, electricity, and water only) deposits once only for  
12 any person eligible for financial assistance by the department.  
13 However, under extraordinary circumstances as determined by the  
14 department, an additional rental deposit, utility deposit, or  
15 both, may be granted.

16 [~~f~~] (e) Any recipient may petition the department for  
17 additional assistance when the recipient's need is due to  
18 emergencies caused by seismic wave, tsunami, hurricane, volcanic  
19 eruption, typhoon, earthquake, flood, or fire determined by the  
20 director to have caused losses as to require and justify  
21 additional assistance from the State. In addition, any  
22 recipient may petition the department for additional assistance



1 for the replacement or repair of household appliances. The  
2 additional assistance shall be paid on an emergency basis, as  
3 determined by the department, to meet the cost of replacing or  
4 repairing household appliances. If the cost of repairs of  
5 household appliances is less than one-half the unit cost of the  
6 item, the department shall pay for the cost of repairs. If the  
7 cost of repairs of household appliances is one-half the unit  
8 cost of the item or more, the department shall replace the  
9 household appliance; provided that the replacement cost shall  
10 not exceed \$350. For the purposes of this subsection,  
11 "household appliances" means a refrigerator or a range.

12 The department shall establish an emergency fund, not to  
13 exceed one per cent of total financial assistance from state  
14 funds required by this chapter in the previous fiscal year. The  
15 director shall adopt rules pursuant to chapter 91 for  
16 determining in which cases to grant lump sum payments to  
17 recipients petitioning for additional assistance.

18 [~~(g)~~] (f) The department shall include protective child  
19 care payment as a special needs item in the financial assistance  
20 standard for cases of child neglect or abuse requiring placement  
21 of a child in child care. The referral for protective child



1 care payment shall be from the department's child welfare  
2 program and the rate of payment shall be set by the department.

3 [~~(h)~~] (g) The director shall adopt rules pursuant to  
4 chapter 91 to implement this section."

5 SECTION 2. Section 346-71, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "**§346-71 General assistance to households without minor**  
8 **dependents.** (a) The department of human services is authorized  
9 to administer and provide state-funded public assistance to  
10 eligible persons who are disabled, who are not otherwise  
11 provided for under this chapter, and who are unable to provide  
12 sufficient support for themselves or those dependent upon them;  
13 provided that such persons:

- 14 (1) Have first been determined ineligible for a comparable  
15 federally funded financial assistance program;
- 16 (2) Are bona fide residents of this [~~State,~~] state; and
- 17 (3) Have furnished to the department a social security  
18 account number for each member of the assistance unit  
19 or verification that an application was made with the  
20 Social Security Administration for a social security  
21 account number for each member of the assistance unit.



1           Persons who meet the categorical criteria for eligibility,  
2 but fail to satisfy income and resource criteria adopted by the  
3 department shall not be eligible for general assistance to  
4 household without minor dependents. The failure of any adult  
5 member of the assistance unit to comply with the requirements or  
6 conditions of general assistance to households without minor  
7 dependents shall exclude the entire assistance unit from  
8 receiving financial assistance. However, when the adult member  
9 is disqualified for not meeting the work requirement, the  
10 assistance unit shall not be disqualified if the assistance unit  
11 was formed after the failure to meet the work requirement  
12 occurred. "Assistance unit" as the term is used in this section  
13 means persons whose needs, income, and assets are considered in  
14 the financial assistance payment and their dependents.

15           For purposes of determining whether persons seeking  
16 assistance are bona fide residents of this [~~State~~] state, the  
17 department of human services shall consider, but is not limited  
18 to considering, the following factors:

- 19           (1) Enrollment and receipt of welfare benefits from  
20                           another jurisdiction;
- 21           (2) Physical presence in the [~~State~~] state;





- 1 (3) Maintenance of a place of residence in the [~~State,~~]  
2 state;
- 3 (4) The availability of furnishings and household and  
4 personal effects sufficient to lead a reasonable  
5 person to conclude that the place of residence is more  
6 than a public accommodation;
- 7 (5) Qualification as to residence for purposes of voting  
8 in the [~~State,~~] state;
- 9 (6) Change in vehicle operation license;
- 10 (7) Vehicle registration;
- 11 (8) Enrollment of children in local schools; and
- 12 (9) Bank accounts in this [~~State~~] state or any other  
13 jurisdiction.
- 14 (b) A person between eighteen and sixty-five years of age  
15 with a disability shall be eligible for general assistance to  
16 households without minor dependents for a period not to exceed  
17 twenty-four months if the person:
- 18 (1) Is determined to be needy in accordance with standards  
19 established by this chapter and the rules adopted  
20 under subsection (e);



- 1           (2) Is unable to meet the disability requirements  
2                established by the federal Supplemental Security  
3                Income Program or its successor agency; and
- 4           (3) Is unable to engage in any substantial gainful  
5                employment because of a determined and certified  
6                physical, mental, or combination of physical and  
7                mental disability. Upon application, the department  
8                shall ask the person whether the person has a physical  
9                or mental disability, or both. If the person claims  
10              to have both a physical and mental disability, the  
11              department shall ask the person to choose whether the  
12              person's primary disability is physical or mental.  
13              Determination and certification of the disability  
14              shall be as follows:
- 15           (A) A determination and certification of physical  
16                disability shall be made by a board of licensed  
17                physicians designated and paid by the department.  
18                Meetings of this board shall not be subject to  
19                part I of chapter 92;
- 20           (B) A determination and certification of mental  
21                disability shall be made by a board of licensed  
22                psychologists or licensed physicians whose



1 specialty is in psychiatry. This board shall be  
2 designated and paid by the department. Meetings  
3 of this board shall not be subject to part I of  
4 chapter 92;

5 (C) If a determination and certification is made that  
6 the applicant does not have a physical, mental,  
7 or combination of a physical and mental  
8 disability, prior to a denial of any claim, the  
9 department shall provide the applicant with an  
10 initial denial notice that gives the applicant at  
11 least ten calendar days to provide additional  
12 medical evidence. The notice shall refer the  
13 applicant to free legal services for assistance  
14 and permit the applicant to request extensions of  
15 time, if necessary;

16 (D) If a determination of physical, mental, or  
17 combination of a physical and mental disability  
18 is made, the person shall accept and pursue  
19 appropriate medical treatment from a provider of  
20 the person's choice. The department shall  
21 promptly provide the person with a complete and



- 1 legible copy of the recommended appropriate  
2 treatment;
- 3 (E) Any person, to continue to be certified as  
4 mentally disabled, physically disabled, or both  
5 mentally and physically disabled, shall be  
6 reevaluated annually, as provided by this  
7 section, and more frequently, as required by the  
8 department; provided that after twelve months or  
9 upon turning sixty-five, the department refers  
10 the person for eligibility under the aged, blind,  
11 and permanently and totally disabled program; and
- 12 (F) Failure to pursue appropriate medical treatment  
13 shall result in a loss of eligibility, unless the  
14 failure is due to good cause. Good cause shall  
15 include but not be limited to:
- 16 (i) Treatment is unavailable;  
17 (ii) Personal emergencies; and  
18 (iii) Circumstances that threaten the safety of  
19 the patient.

20 The department shall adopt rules in accordance with chapter 91  
21 to define "good cause", as used in subparagraph (F), [~~in order~~]  
22 to determine when treatment is unavailable, what constitutes a



1 personal emergency, what circumstances may threaten the safety  
2 of a patient, and other factors that may constitute good cause.

3 As used in this subsection:

4 "Substantial gainful employment" means at least thirty  
5 hours of work per week.

6 "With a disability" or "having a disability" means a  
7 disability that extends for a period of over sixty days.

8 Any person determined to be eligible under this subsection  
9 may be referred to any appropriate state agency for vocational  
10 rehabilitation services and shall be required to accept the  
11 services as a further condition of eligibility for the receipt  
12 of general assistance to households without minor dependents  
13 under this section. An assistance unit shall be determined  
14 ineligible for general assistance to households without minor  
15 dependents if any adult member of the assistance unit fails to  
16 cooperate with any appropriate state agency for vocational  
17 rehabilitation services after being referred for services. Any  
18 person found eligible under this subsection may also be required  
19 to seek employment and participate in public work projects, as  
20 described in section 346-31, and in public employment projects,  
21 as described in section 346-102.



1 (c) Applicants and recipients shall be required to satisfy  
2 all applicable provisions of this section. Recipients  
3 disqualified for failure to comply with any of the requirements  
4 under this section shall be excluded from general assistance to  
5 households without minor dependents for a period not to exceed  
6 twelve months.

7 (d) The allowance for general assistance to households  
8 without minor dependents shall not exceed sixty-two and one-half  
9 per cent of the standard of need.

10 (e) Within the limitations of this section, the department  
11 shall by rules adopted pursuant to chapter 91, determine:

12 (1) The allowance for general assistance to households  
13 without minor dependents based upon the total amount  
14 appropriated for general assistance to households  
15 without minor dependents;

16 (2) A method for determining assistance amounts; and

17 (3) Other necessary provisions to implement general  
18 assistance to households without minor dependents.

19 (f) Any month in which a person receives assistance  
20 pending an eligibility determination for the federal  
21 Supplemental Security Income Program or a successor program  
22 shall not be counted towards the twenty-four-month limit."



1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on July 1, 2009.



**Report Title:**

General Assistance

**Description:**

Places a twenty-four-month limit on general assistance to households without minor dependents with appropriate exceptions. Requires DHS to refer general assistance recipients to the aged, blind, and permanently and totally disable program under specified conditions. Converts general assistance into an entitlement program. (HB1098 HD1)

