

ACT 289

S.B. NO. 2304

A Bill for an Act Relating to General Assistance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that:

- (1) There are more than 6,000 persons in Hawaii who, by reason of physical or mental disability, are not able to provide for their personal subsistence needs but who are ineligible for the federal Supplemental Security Income Program;
- (2) If general assistance is not provided to these persons, they become extremely vulnerable to the ravages of homelessness, aggravation of their disabilities, and victimization by criminals;
- (3) The cost of providing general assistance to meet these persons' subsistence needs is less than the cost of providing housing alone through a publicly supported shelter;
- (4) The cost of one month's general assistance is less than that of providing one day of emergency medical or acute psychiatric care through the Hawaii health QUEST or other state funded program;
- (5) If the general assistance program is not maintained, the department of health will experience cost increases in the operation of its medical and psychiatric care facilities and community mental health centers;
- (6) If general assistance payments to persons with disabilities are terminated, the counties will bear costs far in excess of the cost of general assistance in the form of increased demand on county medical facilities, parks, police, and shelter facilities;
- (7) Significant savings for the general assistance program can be realized by fully staffing, completely with federal funds, the department of human services' supplemental security income disability determination unit and expediting the processing of applications for persons otherwise receiving general assistance or assistance to the aged, blind, or disabled;
- (8) Expedited processing will also save money in both the short and long term because a general assistance recipient later found eligible for Supplemental Security Income payments may be required to return the amount of general assistance received for the period the person waited for final eligibility approval; and
- (9) Recipients of general assistance are either adults who have dependent children at home or persons with disabilities which prevent them from earning enough to support themselves. As a condition of receiving assistance, both groups are required to seek employment and participate in public works projects. Persons with disabilities are required to accept vocational rehabilitation, if appropriate.

The legislature recognizes that the State is under severe fiscal pressures but also recognizes that providing general assistance to persons who might otherwise not survive, is cost-effective and responsible public policy.

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

“§346-71 General assistance. (a) The department of human services is authorized to administer and provide public assistance to eligible persons who are disabled, [or whose primary diagnosis is substance abuse,] or have dependent children in the home not otherwise provided for under this chapter and who are unable to provide sufficient support for themselves or those dependent upon them; provided that such persons [have]:

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

In family groups in which there are children, income and resources of both parents[, natural or adoptive,] shall be considered available for each other and the support of their children.

Persons who meet the categorical criteria for eligibility, but fail to satisfy income and resource criteria adopted by the department for eligibility under the comparable federally funded financial assistance program shall not be eligible for general assistance. The failure of any adult member of the assistance unit to comply with the requirements or conditions of general assistance shall exclude the entire assistance unit from receiving financial assistance. However, when the adult member is disqualified for not meeting the work requirement, the assistance unit shall not be disqualified if the assistance unit was formed after the failure to meet the work requirement occurred. “Assistance unit” as the term is used [herein] in this section means persons whose needs, income, and assets are considered in the financial assistance payment and their dependents.

For purposes of determining whether persons seeking assistance are bona fide residents of this State, the department of human services shall consider, but is not limited to considering, the following factors: enrollment and receipt of welfare benefits from another jurisdiction; physical presence in the State; maintenance of a place of residence in the State; the availability of furnishings and household and personal effects sufficient to lead a reasonable person to conclude that the place of residence is more than a public accommodation; qualification as to residence for purposes of voting in the State; change in vehicle operation license; vehicle registration; enrollment of children in local schools; bank accounts in this State or any other jurisdiction.

(b) A [disabled] person between eighteen and sixty-five years of age with a disability shall be eligible for general assistance for not more than [one year,] twenty-four months, if the person:

- (1) Is determined to be needy in accordance with standards established by this chapter and the rules adopted under subsection [(g); (f);
- (2) Is unable to meet the requirements established by the Federal Supplemental Security Income Program or its successor agency; and
- (3) (A) Is unable to engage in any substantial gainful employment because of a determined and certified physical or mental [impairment.] disability. A determination and certification of physical [impairment] disability shall only be made by a licensed physician. A determination and certification of mental [impairment] disability shall be made by a licensed physician whose specialty is in psychiatry or by a licensed psychologist. The department

may require that such determination and certification be by a psychiatrist or a psychologist designated and paid by the department[.];

- (B) When a determination of mental [impairment] disability is made, the person shall accept and pursue appropriate medical treatment[. The out-patient treatment shall include a medical evaluation to eliminate the possibility that the mental impairment is due to a physical illness.] from a provider of the person's choice;
- (C) When a determination of physical [impairment] disability is made, the person shall accept and pursue appropriate medical treatment[.] from a provider of the person's choice; and
- (D) Any person, to continue to be certified as mentally or physically [impaired,] disabled, shall be reevaluated annually as provided by this section and more frequently as required by the department.

“Substantial” as the term is used herein means at least thirty hours of work per week. [“Disabled”]

“With a disability” or “having a disability” as the [term is] terms are used [herein means] in this section means a disability which extends for a period of over thirty days.

Any person determined to be eligible under this subsection may be referred to any appropriate state agency for vocational rehabilitation services and shall be required to accept the services as a further condition of eligibility for the receipt of general assistance under this section. An assistance unit shall be determined ineligible for general assistance if any adult member of the assistance unit fails to cooperate with any appropriate state agency for vocational rehabilitation services after being referred for services. Any person found eligible under this subsection may also be required to seek employment, and participate in public work projects as described in section 346-31, and in public employment projects as described in section 346-102.

[The one year eligibility under this subsection may be extended by the department pending determination of eligibility for the Federal Supplemental Security Income Program or its successor agency.]

(c) A person with dependent children in the home shall be eligible for general assistance if the person:

- (1) Is determined to be eligible in accordance with rules adopted under subsection [(g);] (f);
- (2) Is unemployed for reasons other than voluntary separation without good cause or for misconduct within twelve months prior to application; [and]
- (3) Is actively and diligently seeking gainful employment; [and]
- (4) Has not refused to accept employment when offered; [and]
- (5) Has registered and is available for work as required by section 383-29; and
- (6) (A) Has exhausted all of the person's benefits under chapter 383; provided that if the benefits of any person under chapter 383 be less than those for which the person would be eligible under this section, the person shall be eligible for supplementary general assistance; and provided further that this provision of exhaustion shall not apply to those persons not entitled by law to such benefits; or
- (B) Is employed but without sufficient income or other resources to provide sufficient support to maintain the person or those dependent upon the person consistent with the standards of this chapter.

“Children” as used in this section means persons who:

- (1) Are ineligible for and are unable to obtain aid under a federal assistance program; [and]
- (2) Are in need, and do not have sufficient income or other resources to provide health care and support to maintain a standard consistent with this chapter; [and]
- (3) Have not attained the age of eighteen years; provided that a child between the ages of eighteen and nineteen years shall be eligible for assistance under this section, if the child is a full-time student enrolled in a public or private secondary school, or equivalent level of vocational or technical school; and further provided that the child is expected to complete the program of the secondary school or vocational or technical school before reaching age nineteen; and
- (4) Are living in a home with their father, mother, [grandfather, grandmother, brother, sister, stepfather, stepmother, uncle, aunt, first cousin, nephew, niece,] or hanai parents in a place of residence maintained by such relative as the relative’s own home.

A child for the purposes of this section does not include an unborn child or fetus.

[(d) A person between the ages of eighteen and sixty-five years of age whose primary diagnosis is substance abuse shall be eligible for assistance for a period not to exceed six months if the person:

- (1) Is determined to be needy in accordance with standards established by this chapter and the rules adopted under subsection (g);
- (2) Is unable to meet the requirements established by the Federal Supplemental Security Income Program or its successor agency; and
- (3) (A) Is unable to engage in any substantial gainful employment because of a determined and certified diagnosis of substance abuse. A determination of substance abuse shall only be made by a licensed physician or a licensed psychologist. The department may require that such determination and certification be by a physician or a psychologist designated and paid by the department;
- (B) When a determination of substance abuse is made, the person shall accept and pursue medical treatment;
- (C) Any person, to continue to be certified as a substance abuser, shall be reevaluated as provided by the department.

“Substantial” as the term is used in this subsection means at least thirty hours of work per week.

Any person determined to be eligible under this subsection may be referred to any appropriate state agency for vocational rehabilitation services and shall be required to accept the services as a further condition of eligibility for the receipt of general assistance under this section. An assistance unit shall be determined ineligible for general assistance if any adult member of the assistance unit fails to cooperate with any appropriate state agency for vocational rehabilitation services after being referred for services. Any person found eligible under this subsection may also be required to seek employment, and participate in public work projects as described in section 346-31, and in public employment projects as described in section 346-102.

(e)] (d) The department shall further require in addition to the conditions and requirements stated in [subsections] subsection (c) [and (d)], that persons who are physically fit, able to work, and employable shall as a condition to receiving general assistance, register for work on public work projects and accept an assignment to work under section 346-31 or accept such employment as may be offered to them by the department under section 346-102 or by an employer. The term “public work

projects'' includes any kind of labor under the department of accounting and general services of the State or the department of public works of any county, or under any other department, board, commission, or agency of the State or any county. All such agencies may employ persons registering under this section. Payment for the work shall not be made from the funds of the agency employing such persons but shall be made from the funds of the department. The department shall promulgate such rules and regulations as it deems necessary to enforce and carry out this section.

[(f)] (e) Applicants and recipients shall be required to satisfy all applicable provisions of this section. Recipients disqualified for failure to comply with any of the requirements under the provisions of this section shall be excluded from general assistance for a period not to exceed twelve months.

[(g)] (f) Within the limitations of this section, the department shall by rules adopted pursuant to chapter 91, determine:

- (1) The allowance for general assistance based upon the total amount appropriated for general assistance;
- (2) A method for determining assistance amounts; and
- (3) Other necessary provisions to implement general assistance."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act, upon its approval, shall take effect retroactive to July 1, 1995.

(Approved June 19, 1996.)