CHAPTER 5

Public Aid, Assistance and Relief Generally

Article 1

Public Aid and Assistance

**SECTION 43-5-10. Implementation and administration of public welfare program; regulations.**

The Department of Social Services shall be responsible for maintaining uniformity in the administration of public welfare throughout the State. The director shall be the only person authorized to determine and implement the policies of the department. The department shall issue regulations pursuant to Sections 1-23-10, et seq., whenever changes in federal laws and regulations supersede existing state statutes. In adopting regulations the department shall strive for clarity of language which may be readily understood by those administering aid and by those who apply for or receive aid.

HISTORY: 1978 Act No. 549; 1993 Act No. 181, § 1007, eff July 1, 1993; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-15. Applications for assistance; manner and form.**

Applications for assistance under the provisions of this chapter shall be made as provided in this chapter and when no such provision has been made in accordance with the manner and form prescribed by the department.

HISTORY: 1976 Code § 43-5-10; 1962 Code § 71-51; 1952 Code § 71-51; 1942 Code § 4996-15; 1937 (40) 496; 1978 Act No. 549; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-20. Payments to support needy child and eligible caretaker; counseling for recipient where aid not being used in best interests of child; appointment of protective payee.**

(a) It is the intent of the General Assembly that all payments of aid to families with dependent children shall be utilized and managed in such manner as to support the needy child and his eligible caretaker. Such payments shall include current payments as well as any portion of past payments returned to a current or former recipient.

(b) Whenever the department has reason to believe that any payment of aid to dependent children is not being or may not be used in the best interests of the child, the department shall provide counseling to the recipient and shall provide that continued failure to so use such payments after counseling has begun may result in the appointment of a protective payee in accordance with Section 43-5-65.

HISTORY: 1978 Act No. 549; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-24. Provision of information regarding contraception and family planning.**

When an individual applies for assistance through the Aid to Families with Dependent Children Program, the Department of Social Services must provide the applicant with information on methods of contraception and family planning, excluding abortion counseling. The Department of Health and Environmental Control shall provide a brochure or some similar information packet on contraceptive methods and family planning to the Department of Social Services which the Department of Social Services can easily reproduce and distribute. Abortion must not be included in the brochure or information packet provided by the Department of Health and Environmental Control. If the applicant expresses an interest in scheduling an appointment with a local health department to obtain further information and counseling on contraceptive methods and family planning, the Department of Social Services shall assist the applicant in scheduling the appointment.

HISTORY: 1994 Act No. 471, § 1, eff July 14, 1994; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-25. Wilful use of payment for purpose not in best interests of child; protective payee.**

Any person, other than a needy child, who wilfully and knowingly receives or uses any part of a payment of aid to dependent children for a purpose other than in the best interest of the needy children and any eligible caretaker is deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars or be imprisoned for not more than one year or both.

If such misuse occurs, a protective payee will be appointed in accordance with Section 43-5-65 to manage assistance funds intended for the otherwise eligible child.

HISTORY: 1978 Act No. 549; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-30. Overpayments and underpayments; recoupment or correction.**

(a) If an overpayment or underpayment is made under the Family Independence Program, the department shall make every effort to correct payment. If the agency decides to terminate benefits to a client and payments are made pending an appeal of the agency's decision, these payments must be considered overpayment if the agency's decision is upheld.

(b) Overpayment means a financial assistance payment received which exceeds the amount for which the client was eligible. Underpayment means a financial assistance payment received which is less than the amount for which the client unit was eligible.

(c) The agency can recover an overpayment by:

(1) receiving a payment from the client or former client; or

(2) by reducing the amount of any future aid payable to the client. The adjustment in future aid shall not reduce the family's monthly income to less than ninety percent of the amount payable to a family of the same composition with no other income. If no payment is made for a month solely by reason of the recovery of an overpayment, that individual is still considered a recipient of assistance for that month for purposes of enrollment date.

(d) If an individual has received an overpayment and does not repay the agency and is no longer receiving aid so that future payments cannot be reduced, the agency shall make recovery by taking appropriate action under the laws of the State against the income or resources of the individual or family.

(e) Correction of underpayments of assistance must be made to current recipients and those who would be current recipients if the error causing the underpayment had not occurred. For the purposes of determining continued eligibility and amount of assistance, the retroactive corrective payments are not considered income or a resource in the month paid nor in the next following month.

HISTORY: 1978 Act No. 549; 1986 Act No. 323, § 1, eff February 20, 1986; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-40. Unlawful publication or other use of records; penalty.**

It is unlawful for a person to solicit, disclose, receive, make use of, authorize, knowingly permit, participate in, or acquiesce in the use of a list, name of, or any information concerning persons applying for or receiving public aid or assistance, directly or indirectly derived from the records, papers, files, or communications of the State or county departments of social services or acquired in the course of the performance of official duties, except for purposes directly connected with the administration of Chapters 1, 3, 5, 7, 9, 19, and 23 or of old age assistance, aid to the blind, aid to dependent children, or general relief and in accordance with the regulations of the department.

A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

HISTORY: 1976 Code § 43-5-200; 1962 Code § 71-69; 1952 Code § 71-69; 1942 Code § 4996-23; 1937 (40) 496; 1941 (42) 265; 1972 (57) 2382; 1978 Act No. 549; 1993 Act No. 184, § 233, eff January 1, 1994; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-45. Notice by department of intended action.**

The department shall provide timely and adequate notice in all cases of intended action to discontinue, terminate, suspend, or reduce an assistance grant except in those cases where adequate notice alone would be consistent with the requirements of state law or regulation.

"Timely notice" means notice which is mailed at least ten days before the intended change would be effective.

"Adequate notice" means notice which is mailed not later than the date of action.

Both timely and adequate notice shall include a statement of what action the agency intends to take, the reasons for the intended action, an explanation of the individual's right to request an administrative hearing on the propriety of the intended action and the circumstances under which assistance is continued if a hearing is requested.

HISTORY: 1978 Act No. 549; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-50. One-time grant in event assistance check lost, stolen or destroyed.**

In the event that a recipient of aid to families with dependent children does not receive an assistance check, or if such check is lost, stolen, or destroyed after receipt but before it is cashed, the county office may authorize a one-time grant in the amount of the original check provided the recipient files an affidavit, under penalty of perjury, stating the facts of the loss, theft, destruction, or nonreceipt of the check and setting forth all material facts relative to its loss, theft, destruction, or nonreceipt. The affidavit shall further witness the recipient's understanding of his obligation, should the lost, stolen, destroyed, or nonreceived check come into his possession, to return such check immediately to the county office and that cashing or attempting to cash such check constitutes fraud.

HISTORY: 1978 Act No. 549; 1979 Act No. 76 § 1; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-60. Assistance subject to future legislation; no claim against State.**

All assistance granted under Chapters 1, 3, 5, 7, 9, 19, and 23 shall be deemed to be granted and to be held subject to the provisions of any amending or repealing act that may be passed and no recipient shall have any claim for compensation, or otherwise, by reason of his assistance being affected in any way by an amending or repealing act, nor shall he have any claim against the State for any failure upon the part of the General Assembly in any year to appropriate sufficient funds to pay grants previously made.

HISTORY: 1976 Code 43-5-210; 1962 Code § 71-70; 1952 Code § 71-70; 1942 Code § 4996-28; 1937 (40) 496; 1978 Act No. 549; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-65. Application of eligibility.**

(a) As a condition of eligibility, a needy family applying for Family Independence benefits shall complete an application of eligibility containing a written declaration of information as may be required to establish eligibility and amount of aid. The application shall include blanks, wherein must be stated the names of all children, adults, or minor parents applying for or receiving aid, their birthdates and Social Security numbers; their present place of residence; their income received from employment, the absent parent, governmental social insurance or aid programs, gifts, sale of real or personal property, interest, dividends, or from any other source; and any interest in property, real or personal.

Failure to provide this information shall result in a finding of ineligibility of benefits for Family Independence benefits. The department shall provide assistance as needed to complete the application and shall ensure that all applicants or recipients have or promptly apply for and obtain a Social Security number. No assistance may be granted to Family Independence applicants or recipients until a valid Social Security number has been provided to the department for each member of the family for whom aid is sought or when numbers are not available until there is proof that application for the Social Security number has been made. The department shall assist the applicant or recipient in obtaining a Social Security number through procedures adopted in cooperation with the Social Security Administration or the applicant or recipient may apply for a Social Security number at the Social Security Administration office. For purposes of state-funded or Title IV-E Foster Care, the application for the Social Security number must be made by the state or local department. The application for eligibility also shall provide that, as a condition of eligibility for aid, each applicant or recipient shall:

(1) Assign to the State any rights to support from any other person the applicant may have in his own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid and which have accrued at the time the assignment is executed or which may accrue in the future; however, by accepting public assistance for or on behalf of a child or children, or by making application for services under Title IV-D or through placement of a child or children in state-funded foster care or under Title IV-E, except where good cause as determined by the department exists, the recipient or applicant is considered to have made an assignment to the State Department of Social Services of any rights, title, and interest to any support obligation which is owed for the child or children or for the absent parent's spouse or former spouse who is the recipient or the applicant with whom the child is living, if and to the extent that a spousal support obligation has been established and the child support obligation is being enforced pursuant to Title IV-D of the federal Social Security Act. The assignment to the department is considered to have been made up to the amount of public assistance money or foster care board payments paid for or on behalf of the child or children for that period of time as the public assistance monies or foster care board payments are paid. The assignment consists of all rights and interest in any support obligation that the recipient may be owed past, present, or future by any person up to the amount of public assistance money paid to the recipient for or on behalf of the minor child or children or a child in foster care. The department is subrogated to the rights of the child or children or the person having custody of the child or children to collect and receive all support payments. The department has the right to initiate a support action in its own name or in the name of the recipient to recover payments ordered by the courts of this or any other state or to obtain a court order to initiate these payments including an action to determine the paternity of a child.

(2) Cooperate with the State in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed and in obtaining support payments for the applicant and for a child with respect to whom the aid is claimed or in obtaining any other payments or property due the applicant of the child and that, if the relative with whom a child is living is found to be ineligible because of failure to comply with the requirements of items (1) and (2), aid for which the child is eligible must be provided in the form of protective payments. The department shall establish criteria in accordance with federal regulations to determine whether action to establish paternity and secure support is not in the best interest of a child.

(b) The term "protective payments" shall mean payments with respect to any dependent child which are made to another individual who, as determined in accordance with standards prescribed by the department, is interested in or concerned with the welfare of such child or relative, or are made on behalf of such child or relative directly to a person furnishing food, living accommodations, or other goods, services, or items to or for such child.

(c) Prior to determinations of eligibility, the department shall conduct a personal interview with the adult members of the family or with the caretaker relatives of the needy children.

(d) The department shall redetermine all elements of eligibility periodically but not less frequently than every twelve months. The department may require the family to complete a new application at the time of each redetermination.

(e) If the application is mailed to the family, it must be accompanied by an addressed envelope for its return. In no event may the acts of mailing to the recipient or the recipient's return of a completed application to the department be substituted in lieu of a personal interview.

(f) Each adult member of the family shall provide, under penalty of perjury the information necessary to complete the application. The applications used by the department shall contain a statement that the applicant or recipient understands that he has an obligation to report immediately to the department any changes of address, household composition, employment, loss of employment, or any other factor which may affect eligibility and that the declarations in the application are correct and complete to the best of the applicant's or recipient's knowledge or belief and are made under penalty of perjury. The statement shall clearly specify that failure to report changes in circumstances that may affect eligibility and grant amount within ten calendar days of the day on which the change becomes known to the recipient constitutes withholding of information and permits the department to recover any overpayment occasioned or caused by the withholding in accordance with Section 43-5-30. This application must be signed by the applicant or recipient of assistance or any person completing the application for an applicant or recipient unable to do so himself.

The person completing the application for an applicant or recipient unable to do so himself must sign a statement attesting to the fact that this section has been explained to the applicant and to the belief that the applicant understands.

HISTORY: 1978 Act No. 549; 1979 Act No. 76 §§ 2, 3; 1982 Act No. 460, § 1; 1985 Act No. 70, eff May 2, 1985; 1986 Act No. 323, § 2, eff February 20, 1986; 1995 Act No. 102, Part VI, § 4, approved June 12, 1995 and takes effect ninety days after receipt of approval of a federal waiver authorizing the department to implement these provisions or ninety days after federal law permits implementation; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-70. Identification and proof of residence; verification of employment, income and other information; absence from State.**

The department shall require that all persons applying for assistance shall provide acceptable identification and proof of residence and the department shall by regulation specify what constitutes adequate identification and proof of residence. The department shall require that all reports of employment or income be verified by letter or direct contact with the employer of the applicant or recipient and if the verification is made by letter, a stamped self-addressed envelope shall be enclosed and request for prompt return shall be made. The department shall verify all other information related to the eligibility in any case in which there is reason to believe that the applicant has falsified, misrepresented, or omitted any material facts such as age and number of children, real and personal property, including bank accounts and insurance policies or any other resources. No person shall be eligible for aid to families with dependent children unless he is a resident of the State.

If a recipient is or will be absent from the State for a period of thirty days or longer, the department shall consider the recipient ineligible for assistance.

It is not the intent of the General Assembly in enacting this section to create any durational residence requirement.

HISTORY: 1978 Act No. 549; 1979 Act No. 76 § 4; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-75. Information from banks concerning applicant or recipient of aid.**

The director or his authorized agent may, after signed authorization from the applicant or recipient, request and receive from any bank or other financial institution doing business in South Carolina information with respect to the transaction with any such institution of any applicant for or recipient of any form of aid or relief under this article and it shall be the duty of the officers and employees of such institution to furnish the information within ten working days to the department pursuant to the written request of the director.

HISTORY: 1978 Act No. 549; 1993 Act No. 181, § 1008, eff July 1, 1993; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-95. Aid to eighteen-year-old full-time students who are in secondary school or other equivalent training.**

Aid may be granted under the provisions of this section to or in behalf of an eligible child over the age of eighteen but not yet nineteen, if he is a full-time student in a secondary school, or in the equivalent level of vocational or technical training.

HISTORY: 1978 Act No. 549; 1986 Act No. 323, § 3, eff February 20, 1986; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-120. Request for income tax return; use of information contained in return; notice to recipient; referral to authorities of violations of law.**

(a) The Department of Revenue shall provide the director or his designees an abstract of the income tax return requested, or provide information concerning any item of income or expense, including support claimed to have been provided to dependent children or stepchildren, contained in the income tax return or disclosed by any investigation of the income or return of the applicant or recipient.

(b) The information obtained pursuant to this section shall be used or disclosed only for the purpose of enabling the department to verify or determine the eligibility of an applicant or recipient or to enable the Department of Revenue to determine whether tax fraud has been committed.

(c) The applicant or recipient whose income tax records have been requested from the Department of Revenue shall be notified by mail that such request has been made at the time of the request.

(d) Any violation or suspected violation of state or federal law determined under this section shall be referred to the appropriate state or federal law enforcement authorities.

(e) The director or his designees shall be subject to the provisions of Section 12-7-1680 of the 1976 Code regarding the confidentiality of state income tax records.

HISTORY: 1978 Act No. 549; 1993 Act No. 181, § 1009, eff July 1, 1993; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-125. "Living with" defined; verification of child's residence.**

The term "living with" means that the caretaker relative and the child maintain a common place of residence. The requirement shall be considered met if a home and family setting is maintained or is being established and the caretaker relative exercises responsibility for the care and control of the child even though the child or caretaker is temporarily absent from time to time. A child is considered to be "living with" the caretaker relative even though he is under the jurisdiction of the court or is in the legal custody of an agency that does not have physical possession of the child.

Temporary absences by either the caretaker relative or the child from the home for purposes such as vacationing, visiting, hospitalization, convalescing, and school attendance shall not constitute a break in the "living with" requirement. The temporary absence may not exceed thirty days; however, the department may extend the absence, in extenuating circumstances, for up to an additional sixty days if it is determined that a longer absence would serve the best interests of the family.

HISTORY: 1978 Act No. 549; 1979 Act No. 76 § 7; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-130. Consideration of income of relative.**

(a) The department shall, in determining need, take into consideration any income or resources of any relative claiming aid to families with dependent children, whose needs the department determines would be considered in determining the need of a child or relative claiming such aid, as well as any expense reasonably attributed to the earning of any such income.

(b) Income, as used in subsection (a), includes any benefit in cash which is in fact currently available to the individual or is received by him as a result of current or past labor or service, or business activities.

(c) To be considered in determining eligibility for, and amount of grant, income must, in fact, be currently available to the applicant or recipient. However, the applicant or recipient shall, as a necessary condition of determining eligibility:

(1) provide all information necessary to income determination;

(2) take all actions necessary to obtain unconditionally available income. Income shall be considered unconditionally available if the applicant or recipient has only to claim or accept such income, including any type of governmental benefits, social insurance, and private pension or benefits plan.

(d) The department shall require evidence which establishes the gross and net amount of income received and the time and frequency of receipt. Documents and records in the possession of the applicant or recipient together with a written statement made under penalty of perjury that such information is correct and complete to the best of the applicant or recipient's knowledge or belief constitute adequate sources of evidence in absence of conflicts. Such documents or records shall be returned promptly to the applicant or recipient after necessary copies have been made and placed in the case records.

HISTORY: 1978 Act No. 549; 1979 Act No. 76 §§ 8, 9; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-140. Annual notification of eligibility and reporting requirements; duty to report; failure to report; change in eligibility.**

(a) It shall be the duty of the department to ensure that every applicant for or recipient of aid to families with dependent children be informed not less frequently than annually as to the provisions of eligibility and his responsibility for reporting all facts material to a correct determination of eligibility and amount of grant. After such information has been provided, the department shall require the recipient and caseworker to execute a formal acknowledgment, on a form prescribed for such purpose, describing what steps were taken to explain the eligibility and reporting requirements to the recipient and that such explanation was understood by the recipient.

(b) Each applicant for or recipient or payee of such aid to families with dependent children shall be responsible to report accurately and completely those facts required of him, pursuant to the explanation provided by the department.

(c) The failure of an applicant or recipient to report facts which may affect eligibility and grant determination within ten days of the date upon which the applicant or recipient became aware of such facts shall constitute a wilful withholding of such information and permit the department to recover any overpayment occasioned or caused by the wilful withholding. Such facts may include, but are not limited to, composition of household, address or any other factor which may affect eligibility, or failure or refusal to obtain unconditionally available income. If appropriate, recoupment proceedings may be initiated.

(d) When the department receives information that would result in a change in grant amount or eligibility, the department shall take action to adjust the grant or redetermine eligibility, consistent with notice requirements, within ten days of receipt of such information.

HISTORY: 1978 Act No. 549; 1979 Act No. 76 §§ 10, 11; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-145. Investigation of application.**

Investigation of each application shall be made by the county departments as provided in Chapters 1, 3, 5, 7, 9, 19, and 23 or as required by the state department.

HISTORY: 1976 Code § 43-5-20; 1962 Code § 71-52; 1952 Code § 71-52; 1942 Code § 4996-15; 1937 (40) 496; 1978 Act No. 549; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-148. Date on which assistance shall begin.**

Family Independence benefits shall begin on the date of application if the benefit group met all the eligibility conditions on that date. Payments for partial months must be prorated by the ratio of the days in the month to the date of application.

HISTORY: 1978 Act No. 549; 1986 Act No. 323, § 4, eff February 20, 1986; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-150. Appeal to State department; proceedings; further appeals.**

In the event an application is denied or the amount or terms of a grant or of any withdrawal or modification thereof be deemed inadequate or unjust by the applicant or recipient, the applicant or recipient or anyone acting in his behalf may demand a review of his case before the department by filing his written request for such review with the county department not more than sixty days after notice of its action shall have been received. The county department shall, within ten days, certify its records and data on the case and such additional information as it deems relevant to the department. The department shall promptly grant to the applicant or recipient an opportunity for a fair hearing upon the questions raised by the applicant or recipient. At this hearing any party in interest may appear and present any relevant facts. The department shall produce such further evidence as it may deem necessary and shall certify its findings and decision on the case back to the county department concerned. Appeals from the decision of the department may be made to an administrative hearing examiner pursuant to the Administrative Procedures Act.

HISTORY: 1976 Code § 43-5-40; 1962 Code § 71-54; 1952 Code § 71-54; 1942 Code § 4996-17; 1937 (40) 496; 1978 Act No. 549; 1993 Act No. 181, § 1010, eff July 1, 1993; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-155. Appeal if application not acted upon within specified time.**

If an application is not acted upon by the county department within the time limitations specified in Section 43-5-148 the applicant may appeal to the state department in the manner and form prescribed in Section 43-5-150.

HISTORY: 1976 Code § 43-5-50; 1962 Code § 71-55; 1952 Code § 71-55; 1942 Code § 4996-18; 1937 (40) 496; 1978 Act No. 549; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-160. Review by state department on own motion or request of applicant.**

The state department may also, upon its own motion or at the request of the applicant, review any decision of a county department and may consider any application upon which a decision has not been made by the county department within a reasonable time.

HISTORY: 1976 Code § 43-5-60; 1962 Code § 71-56; 1952 Code § 71-56; 1942 Code § 4996-18; 1937 (40) 496; 1978 Act No. 549; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-165. Investigation, hearing, and decision by state department.**

Upon any appeal under Section 43-5-150 or any review under Section 43-5-160, the state department may make such additional investigation as it may deem necessary and shall make such decision as to the granting of assistance and the amount of assistance to be granted the applicant as in its opinion is justified and in conformity with the provisions of Chapters 1, 3, 5, 7, 9, 19, and 23. As to any action taken by the state department under this section, the state department shall grant the applicant or recipient an opportunity for a fair hearing as provided under Section 43-5-150.

HISTORY: 1976 Code § 43-5-70; 1962 Code § 71-57; 1952 Code § 71-57; 1942 Code § 4996-18; 1937 (40) 496; 1978 Act No. 549; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-170. Subpoenas, oaths and examinations of witnesses.**

The department may issue subpoenas for witnesses and compel their attendance and the production of papers and writings and the director and employees designated by him may administer oaths and examine witnesses under oath.

HISTORY: 1976 Code § 43-5-80; 1962 Code § 71-58; 1952 Code § 71-58; 1942 Code § 4996-17; 1937 (40) 496; 1978 Act No. 549; 1993 Act No. 181, § 1011, eff July 1, 1993; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-175. Effect of state department's decision on county department.**

All decisions of the state department shall be binding upon the county department involved and shall be complied with by such county department.

HISTORY: 1976 Code § 43-5-90; 1962 Code § 71-59; 1952 Code § 71-59; 1942 Code § 4996-18; 1937 (40) 496; 1978 Act No. 549; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-180. Charges and fees for representing applicants or recipients of assistance.**

No person shall make any charge or receive any fee for representing the applicant or recipient of assistance in connection with the granting of any assistance provided for in Chapters 1, 3, 5, 7, 9, 19, and 23, except as to criminal proceedings and except upon appeal to the department, and then only in a reasonable amount and subject to the regulations of the department.

HISTORY: 1976 Code § 43-5-110; 1962 Code § 71-61; 1952 Code § 71-61; 1942 Code § 4996-27; 1937 (40) 496; 1978 Act No. 549; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-185. Public officers prohibited from attempting to influence decisions regarding applications for assistance; penalty.**

Any public officer not charged with the administration of Chapters 1, 3, 5, 7, 9, 19, and 23 who attempts to influence a decision of the county department or state department respecting the application of any person for assistance or respecting the assistance to be paid or being paid shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding five hundred dollars or imprisonment not exceeding six months, or both, in the discretion of the court. The giving of information within the personal knowledge of such officer, in writing, shall not constitute an offense under this section.

HISTORY: 1976 Code § 43-5-120; 1962 Code § 71-62; 1952 Code § 71-62; 1942 Code § 4996-27; 1937 (40) 496; 1978 Act No. 549; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-190. Payments to be exempt from taxes, levy or other process; payments to be inalienable and unassignable; bankruptcy.**

All amounts paid or payable as assistance shall be exempt from any tax levied by the State or any subdivision thereof, shall be exempt from levy and sale, attachment or any other process whatsoever, and shall be inalienable and unassignable in advance in any form and, in case of bankruptcy, shall not pass to the trustee or other person acting on behalf of the creditors of the recipient of assistance.

HISTORY: 1976 Code § 45-5-130; 1962 Code § 71-63; 1952 Code § 71-63; 1942 Code § 4996-20; 1937 (40) 496; 1978 Act No. 549; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-200. Endorsement when recipient dies after issuance of check.**

When a recipient dies after issuance but before delivery or negotiation of his assistance check for the month in which his death occurs, endorsement of such check without recourse by the county director of social services to the "spouse or nearest living relative" of the recipient shall be sufficient authority to the drawee bank to pay such check.

HISTORY: 1976 Code § 43-5-150; 1962 Code § 71-65; 1952 Code § 71-65; 1947 (45) 489; 1972 (57) 2382; 1978 Act No. 549; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-220. Obtaining support payments from absent parents; amount; proceedings.**

(a) Every applicant for family independence benefits who has a child by a parent who is alive but not living in the home at the time of approval for family independence must be immediately referred to the designated child support official of the department. The department shall be responsible for taking all steps necessary to identify, locate, and obtain support payments from absent parents.

(b) The department shall establish a scale of suggested minimum contributions to assist courts in determining the amount that an absent parent should be expected to pay toward the support of a dependent child. The scale shall include consideration of gross income, shall authorize expense deductions including deductions for taxes for determining net income, shall designate other available resources to be considered and shall specify the circumstances which should be considered in reducing liability on the basis of hardship. Copies of this scale shall be made available to courts, county attorneys, circuit solicitors, and to the public. It is intended that the scale formulated pursuant to this section be optional, and that no court or support official be required to use it.

(c) In all cases in which the whereabouts of the absent parent is known, the department shall, immediately upon approval of the application for assistance, notify the absent parent of the filing of the application and of his responsibility to complete and return a written statement of his current monthly income, his total income over the past twelve months, a description of real and personal property owned by him, together with an estimate of its value, the number of dependents for whom he is providing support, the amount he is contributing regularly toward the support of all children for whom application for aid to families with dependent children has been made, his Social Security number, his itemized monthly living expenses and such other information as the department determines to be pertinent in determining his ability to support his children.

The absent parent shall complete and return such statement to the department within ten days after notification by the department. The department may request the absent parent to report for a personal interview.

If the absent parent statement is not completed within ten days after notification, the department shall cause prompt personal service to be made. If the written statement is not completed and returned within ten days after personal service, the department shall immediately refer the matter for prosecution for nonsupport.

(d) When the department has obtained sufficient information concerning the absent parent, it shall immediately determine his ability to support his children and shall obtain a court order specifying an appropriate amount of support in accordance with the scale of suggested minimum contributions as provided in subsection (b). If the absent parent is residing out of the county, but within the State, and his whereabouts are known, the department shall obtain the court order in the court of competent jurisdiction as set forth in Section 14-21-830. Court orders of support shall in all cases specify that the payment of support shall be made directly to the department as reimbursement for assistance and not to the spouse of the absent parent. The support rights assigned to the State shall constitute an obligation owed to the State by the individual responsible for providing such support. Such obligation shall be deemed for collection purposes to be collectible under all applicable state and local processes. The amount of such obligations shall be:

(1) The amount specified in a court order which covers the assigned support rights;

(2) If there is no court order, an amount determined by the State in accordance with a formula approved by subsection (b);

(3) Any amounts collected from an absent parent under the plan shall reduce, dollar for dollar, the amount of his obligation. A debt which is a child support obligation assigned to the department under this section is not released by a discharge in bankruptcy under the Bankruptcy Act.

(e) Failure of the absent parent to comply with his support obligation shall be referred to the court having jurisdiction of the matter for appropriate proceedings.

(f) Nothing in this section shall be construed to relieve the department from complying with the provisions of Section 402 (a) (11) of the Social Security Act.

(g) Material falsification of information on the statement provided pursuant to Subsection (d) shall constitute a misdemeanor.

(h) In the case of an individual not otherwise eligible for collection services, a fee may be imposed in accordance with federal law, regulations, and guidelines.

(i) The department may submit to the Department of Revenue for collection and set off any debt for past-due support, including health care expenses, owed to the department or owed to an individual not otherwise eligible for collection services who has made application to the department. The debt for past-due support must be at least sixty days in arrears and is in excess of twenty-five dollars as provided in Section 12-7-2240. At the time of the submission, the department shall notify the debtor that his state tax refund will be subject to a debt for past-due support. The notice shall set forth the name of the debtor, the amount of the claimed debt, the intention to set off the refund against the debt, the taxpayer's opportunity to give written notice to contest the set off within thirty days of the date of mailing of the notice, the appropriate office of the department to which the application for a hearing must be sent, and the fact that failure to apply for a hearing in writing within the thirty-day period will be considered a waiver of the opportunity to contest the set off. If the debtor makes written application to contest the set off within thirty days of notification, the department shall provide an opportunity for a hearing and is responsible for refunding any monies wrongfully collected. If no application is made, the debtor's refund must be used to set off the amount owed. From the amount transferred from the Department of Revenue, the department shall reimburse the Department of Revenue for expenses incurred in administering this program. In the case of an individual not otherwise eligible for collection services, a fee must be imposed by the department to cover all costs. The department shall request that the Department of Revenue send to the department notice of the home address, corrected social security number, or additional Social Security numbers, if more than one is used, of any taxpayer whose name is submitted to the Department of Revenue under this subsection.

(j) The department may submit to the Internal Revenue Service and the State Department of Revenue, for federal and state tax refund offsets, the name of any obligor who is delinquent in paying court-ordered child support and who qualifies for submittal under federal or state law even if the obligor is in compliance with a court order requiring periodic payments toward satisfaction of the delinquency or even if the delinquent amount has been placed in abeyance by court order.

HISTORY: 1978 Act No. 549; 1979 Act No. 76 § 12; 1982 Act No. 460, §§ 2-4; 1983 Act No. 103 § 2; 1984 Act No. 356, § 2; 1985 Act No. 69, eff May 2, 1985; 1985 Act No. 113, § 2, eff May 24, 1985; 1993 Act No. 181, § 1012, eff July 1, 1993; 1994 Act No. 513, § 3, eff July 1, 1994; 1995 Act No. 18, eff April 4, 1995; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-222. Portion of child support payments to be paid to welfare recipients; department to be reimbursed.**

From the amounts collected by the South Carolina State Department of Social Services for children and the parents of such children who are currently recipients of Aid to Families with Dependent Children (AFDC), pursuant to Section 43-5-220 of the 1976 Code, the department may distribute these amounts as follows:

(1) of amounts collected which represent monthly monetary support obligations, the first seventy-five dollars of the monthly payment must be paid to the AFDC family and thereafter must be increased up to the amount of the monthly support obligation;

(2) if the amount collected is in excess of the amounts required to be distributed under item (1), the excess must be retained by the department as reimbursement for AFDC payments made to the family for which the State has not been reimbursed. Of the amount retained by the department, the department shall determine the federal government's share so that the department may reimburse the federal government, if required, to the extent of its participation in the financing of the AFDC payment.

(3) if the amount collected is in excess of the amounts required to be distributed under (1) and (2) the family must be paid the excess.

(4) payments made to the family in item (1) may not be used in determining the amount paid, if any, in AFDC or other welfare benefits.

HISTORY: 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-225. Central registry of records; assistance of other agencies; availability of records.**

(a) A central registry of records shall be maintained in the department showing as far as it is known with respect to any parent who has deserted or abandoned any child receiving aid to families with dependent children:

(1) the full and true name of such parent together with any known aliases;

(2) date and place of birth;

(3) physical description;

(4) social security number;

(5) occupation and any special skills he may have;

(6) military status and Veterans Administration or military service serial number;

(7) last known address and the date thereof;

(8) number of the driver's license;

(9) any further information that may be of assistance in locating the person.

(b) To effectuate the purposes of this section, the department shall request from all departments, commissions, boards or other agencies of the State or any of its political subdivisions such assistance and data as will enable the department and other public agencies to carry out their duties to locate deserting parents and to enforce their liability for the support of their children. The department shall utilize the "Parent Locator Service" pursuant to establishment in the Department of Health, Education and Welfare by filing in accordance with Section 453(b) of the Social Security Act.

(c) Any records established pursuant to the provisions of this Section shall be available only to public welfare offices, county attorneys, circuit solicitors, probation departments, the Attorney General, central registries in other states and courts having jurisdiction in support or abandonment proceedings or action and only for the purposes for which the records have been established.

HISTORY: 1978 Act No. 549; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-230. Public Welfare Cooperative Support Program Fund.**

There is hereby created in the office of the State Treasurer a revolving fund to be designated as the Public Welfare Cooperative Support Program Fund which shall be used by the department in carrying out such purposes as it deems necessary. All monies in the funds are hereby appropriated to the department for such purposes and shall be paid without further appropriation under requisition or voucher drawn on the State Treasurer in the usual manner.

HISTORY: 1978 Act No. 549; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-235. Reimbursement of local entities for costs of child support collection and paternity determination program.**

To the extent permitted by federal law, the department may enter into annual agreements with county governments, clerks of court, sheriffs, and other law enforcement entities having jurisdiction in that county to reimburse and to pay federal financial participation and incentives pursuant to the terms of the agreement to the appropriate contracting entity for a portion of the cost of developing and implementing a child support collection and paternity determination program for:

(1) securing support for persons receiving state public assistance and reimbursement of medical assistance from the legally responsible spouse or parent of assistance recipients;

(2) establishing paternity of children born out of wedlock who are receiving aid to families with dependent children and to secure support for them;

(3) all children who have sought assistance in securing support whether or not they are eligible for aid to families with dependent children and regardless of the economic circumstances. To the extent permitted by federal law, a fiscal incentive and federal financial participation must be paid to the department and provided to the entity providing the service for the collection and enforcement of child support obligations. These monies must be paid to the appropriate county treasurer or county finance office on a monthly basis and deposited into a separate account for the entity providing the service for the exclusive use by this entity for all activities related to the establishment, collection, and enforcement of child support obligations for the fiscal year in which the payments are earned and may be drawn on and used only by the entity providing the service for which the account was established. Monies paid to the contracting entity pursuant to this section may not be used to replace operating funds of the budget of the entity providing the service. Funds in the special account not encumbered for child support activities revert to the general fund of the county at the end of the fiscal year in which they were earned. Each local entity shall enter into a support enforcement agreement with the department as a condition of receiving the fiscal incentive and federal financial participation. To the extent that fiscal incentives are paid to the department and are not owed under the agreement to the contracting entity, these fiscal incentives must be reinvested in the department's Child Support Enforcement Program to increase collections of support at the state and county levels in a manner consistent with the federal laws and regulations governing incentive payments.

HISTORY: 1978 Act No. 549; 1988 Act No. 657, eff June 7, 1988; 1990 Act No. 478, § 1, eff May 14, 1990; 1991 Act No. 124, § 1, eff May 31, 1991; 1994 Act No. 497, Part II, § 27B, eff July 1, 1994; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-240. Execution of cooperative support program agreement.**

Any county desiring to obtain the benefits of appropriations from the Public Welfare Support Reimbursement Fund shall secure the formal joinder of the circuit solicitor and of the court having jurisdiction of support cases in that county in a joint plan and a cooperative support program agreement with the department and the execution of a cooperative support program agreement with the department. The execution of such agreement is hereby authorized.

HISTORY: 1978 Act No. 549; 1997 Act No. 133, § 7, eff June 11, 1997.

**SECTION 43-5-245. Time and forms for submission of plans for operating program; execution of contract upon approval.**

(a) The department shall prescribe the time at and the form on which the counties and judicial districts shall submit to the department annual plans for the total staff and equipment needs and annual estimates of the expenditures of the county for the staffing and operations of the child support program for the coming agreement year.

(b) Upon approval of an annual plan and the estimated expenditures for an improved program, the department shall enter into a contract pursuant to Section 43-5-235.

HISTORY: 1978 Act No. 549; 1997 Act No. 133, § 7, eff June 11, 1997.

Article 3

General Relief

**SECTION 43-5-310. General assistance to handicapped or unfortunate persons who are unable to support themselves.**

General assistance in the form of money payments shall be granted by the State Department to handicapped and unfortunate persons in need who are not eligible for other forms of assistance provided in Chapters 1, 3, 5, 7, 9, 19 and 23 and who are unable to support themselves because of physical or mental infirmity and would suffer unless so provided for. A recipient of such assistance must be unable to provide himself with the necessities of life, have insufficient means of his own for proper support and have no relative or other person able to provide and legally responsible for his maintenance or willing to provide therefor.

HISTORY: 1962 Code § 71-131; 1952 Code § 71-131; 1947 (45) 489.

**SECTION 43-5-320. General assistance to certain persons who are essential to welfare of others.**

General assistance in the form of money payments may be made to persons who are essential to the welfare of aged, blind, or disabled persons receiving other forms of public assistance and who are unable to support themselves and would suffer unless so provided for. A recipient of such assistance must be unable to provide himself with the necessities of life, have insufficient means of his own for proper support and have no relative or other person able to provide and who is legally responsible for his maintenance or willing to provide therefor.

HISTORY: 1962 Code § 71-131.1; 1974 (58) 2608.

**SECTION 43-5-330. Application for assistance.**

Applications for assistance under this article shall be made to the county department of the county in which the applicant resides. The application shall be made in writing or reduced to writing in the manner and upon a form prescribed by the State Department.

HISTORY: 1962 Code § 71-132; 1952 Code § 71-132; 1942 Code § 4996-54; 1937 (40) 496; 1947 (45) 489.

**SECTION 43-5-340. Investigation of application; visit to applicant's home.**

Whenever the county department receives an application for assistance under this article, an investigation and record shall promptly be made of the circumstances of the applicant in order to ascertain the facts supporting the application and in order to obtain such other information as may be required by the rules of the State Department. The investigation may include a visit to the home of the applicant if deemed necessary by the caseworker or supervisor.

HISTORY: 1962 Code § 71-133; 1952 Code § 71-133; 1942 Code § 4996-54; 1937 (40) 496; 1947 (45) 489. 1982 Act No. 434.

**SECTION 43-5-350. Grant of assistance; amount.**

Upon the completion of the investigation the county department shall decide whether the applicant is eligible for assistance under the provisions of this article. The amount of assistance which any such person shall receive shall be determined by the county department with due regard to the resources and necessary expenditures and the conditions existing in each case, in accordance with the rules and regulations made by the State Department and, within available annual appropriations, shall be sufficient when added to all other income and support of the applicant to provide such person with a reasonable subsistence compatible with decency and health.

HISTORY: 1962 Code § 71-134; 1952 Code § 71-134; 1942 Code § 4996-55; 1937 (40) 496; 1947 (45) 489.

Article 4

Department of Social Services Aid to Dependent Children

**SECTION 43-5-400. Definitions.**

When used in this article and unless the specific context indicates otherwise:

(1) "Aid to dependent children or needy relative" means money payments with respect to or medical care in behalf of or any type of remedial care recognized under state law in behalf of a dependent child or dependent children, or a needy relative with whom any dependent child is living.

(2) "Dependent child" means a child under the age of eighteen years who has been deprived of parental support or care by reason of the death, continued absence from home or physical or mental incapacity of a parent and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew or niece in a place of residence maintained by one or more of such relatives as his or their own home and who, if not granted aid, is likely to become a public charge or who would otherwise be deprived of proper support, care or training or a child under the age of twenty-one years who is attending high school or college or regularly attending a course of vocational or technical training. The term "dependent child" shall also include a child:

(a) who could meet the requirements of this section except for his removal from the home of a relative, specified in this section as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of the child;

(b) whose placement and care are the responsibility of the state agency; and

(c) who has been placed in a foster family home or child care institution as a result of such determination.

(3) The term "foster family home" or "child care institution" means a foster family home or child care institution for children which is licensed by the State.

HISTORY: 2008 Act No. 361, § 4, eff June 16, 2008.

**SECTION 43-5-410. Cooperation with federal government; administration of funds.**

The State Department may cooperate with the Federal Government in the development of plans and policies for aid to dependent children. It shall administer all funds appropriated or made available for this purpose.

HISTORY: 2008 Act No. 361, § 4, eff June 16, 2008.

**SECTION 43-5-420. Application for aid.**

Any person having knowledge that any child is dependent and that the interest of such child or of the public requires that such child be granted aid may bring such fact to the attention of the county department in the county in which the dependent child has residence or to the State Department by making application for aid on such blanks as the State Department shall prescribe and supply, furnishing such information as is required thereon and is necessary for the proper administration of these purposes.

HISTORY: 2008 Act No. 361, § 4, eff June 16, 2008.

**SECTION 43-5-430. Investigation and report.**

The county department shall make an investigation and examination of the circumstances of such child. Such investigation and examination shall be made in accordance with rules prescribed by the State Department. A report of such investigation and examination shall be made in writing and shall become a part of the records of the county department.

HISTORY: 2008 Act No. 361, § 4, eff June 16, 2008.

**SECTION 43-5-440. Grant for aid; denial of aid; appeal.**

If such child is found to be in need, the county department shall grant such aid as may be necessary for the support of such child in his own home or in the home of one of his relatives as set forth in this article, in a manner compatible with decency and health. In case application for aid for a dependent child is rejected by the county department, appeal may be made to the State Department as elsewhere provided in this article.

HISTORY: 2008 Act No. 361, § 4, eff June 16, 2008.

**SECTION 43-5-450. Amount of grants.**

In granting aid for dependent children the amount granted shall not exceed thirty dollars per month for one child in any home, nor twenty-one dollars per month for each additional child in the same home, and shall not exceed thirty dollars per month for a needy relative with whom any dependent child is living.

Provided, the state agency shall with respect to any month disregard:

(1) all of the earned income of each dependent child receiving aid to families with dependent children who is a full-time student to part-time student who is not a full-time employee attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment; and

(2) in the case of earned income of a dependent child not included under item (1), a relative receiving such aid, and any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, the first thirty dollars of the total of such earned income for such month plus one third of the remainder of such income for such month. Provided, further, that the provisions of this item shall not apply to earned income derived from participation on a project maintained under the programs established by Section 432(b)(2) and (3) of the Federal Social Security Act.

Provided, further, that within the limitations of the State appropriation the maximum amount per caretaker and per child may be increased not in excess of the amount which may hereafter be matched by the Federal Government.

HISTORY: 2008 Act No. 361, § 4, eff June 16, 2008.

**SECTION 43-5-460. Estimate of amount needed per county.**

Each county department shall prepare, as required by the State Department, an estimate of the amount needed for dependent children in its county. Such estimate shall set forth the number of children being aided, with the amounts of grants to each individual child and such information or data as is necessary for the State Department to estimate the probable increase or decrease during the next ensuing period. A copy of such estimates from the various county departments shall be furnished each member of the legislative delegation of the respective counties.

HISTORY: 2008 Act No. 361, § 4, eff June 16, 2008.

**SECTION 43-5-470. Federal funds for aid to dependent children.**

The State Treasurer shall receive and deposit in the State Treasury any Federal funds allotted to the State under Section 403 of Title IV of the Federal Social Security Act, or otherwise, for aid to dependent children. Such sums shall be kept by the State Treasurer in a dependent children's aid account.

HISTORY: 2008 Act No. 361, § 4, eff June 16, 2008.

Article 5

South Carolina Employables Program Act

**SECTION 43-5-580. Enforcement of support obligations of absent parents.**

(a) Every applicant for Family Independence benefits who has a child or children whose parent is alive but not residing in the home must be referred to the Office of Child Support Enforcement within two working days of the furnishing of aid or the determination that an individual is a recipient of Family Independence benefits. The department is responsible for taking all steps necessary to identify, locate, and obtain support payments from absent parents.

(b) The department shall promulgate regulations which establish guidelines for minimum contributions which must be applied by the courts in determining the amount that an absent parent is expected to pay toward the support of a dependent child. Copies of the guidelines must be made available to courts, district attorneys, and to the public. The guidelines formulated pursuant to this section must be applied pursuant to the provisions of Section 63-17-470.

(c) Failure of the absent parent to comply with his support obligations must be referred to the court having jurisdiction of this matter for appropriate proceedings.

HISTORY: 1986 Act No. 511, § 1, eff July 1, 1986; 1989 Act No. 195, § 5, eff June 19, 1989; 1997 Act No. 133, § 8, eff June 11, 1997.

**SECTION 43-5-590. Powers and duties of Department of Social Services in accordance with approved child support plan.**

In accordance with a child support plan approved by the federal government, the department has the power and its duty must be to:

(a) require as a condition of eligibility for assistance that the applicant or recipient:

(i) furnish his social security account number or, to the extent permitted by federal law, proof of making application for a social security account number if the applicant or recipient has no social security account number;

(ii) assign to the State the rights to support, including health care expenses, from any other person the applicant may have in his own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid and which have accrued at the time the assignment is executed or which may accrue in the future. By accepting public assistance for or on behalf of a child or children, by making application for services under Title IV-D, or through placement of a child or children in state-funded foster care or under Title IV-E, except where good cause as determined by the agency exists, the recipient or applicant is considered to have made an assignment to the State Department of Social Services of rights, title, and interest to a support obligation which is owed for the child or children or for the absent parent's spouse or former spouse who is the recipient or the applicant with whom the child is living, if and to the extent that a spousal support obligation has been established and the child and the child support obligation is being enforced pursuant to Title IV-D of the federal Social Security Act. The assignment to the department is considered to have been made up to the amount of public assistance money, including Medicaid payments, or foster care board payments paid for or on behalf of the child or children for that period of time as the public assistance monies or foster care board payments are paid. The assignment consists of all rights and interest in a support obligation that the recipient may be owed past, present, or future by a person up to the amount of public assistance money, including Medicaid payments, paid to the recipient for or on behalf of the minor child or children or a child in foster care. The department is subrogated to the rights of the child or children or the person having custody of the child or children to collect and receive all support payments. The department has the right to initiate a support action in its own name or in the name of the recipient to recover payments ordered by the courts of this or any other state or to obtain a court order to initiate these payments including an action to determine the paternity of a child. The clerk of court shall execute the necessary order substituting the department and changing the payee of the support to the department upon receipt by the clerk of the notice of assignment.

(iii) cooperate with the department in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and in obtaining support payments for such applicant and for a child with respect to whom such aid is claimed, or in obtaining any other payments or property due such applicant of such child and that, if the relative with whom a child is living is found to be ineligible because of failure to comply with the requirements of items (a) and (b), any aid for which such child is eligible will be provided in the form of protective payments. The department shall establish criteria in accordance with federal regulations to determine whether action to establish paternity and secure support is not in the best interest of a child.

(b) Provide for protective payments for any child eligible for assistance when a caretaker relative is ineligible due to the caretaker relative's failure to comply with either subitems (1) or (2) of item (a) of this section.

(c) Provide that in any case in which the child support payments are collected for a child with respect to whom an assignment has been made pursuant to subitem (ii) of item (a) of this section the payment is made to the department for distribution pursuant to item (g) of this section except for those payments made for any month in which the amount collected is sufficient to make the family ineligible for assistance. The department shall pay the amounts to the recipient consistent with federal laws and regulations. Whenever a family ceases receiving public assistance the assignment pursuant to subitem (ii) of item (a) of this section converts to a nonpublic assistance assignment. However, the nonpublic assistance recipient may submit a written request to have the assignment terminated except with respect to the amount of any unpaid support obligation that has accrued under the assignment. From this amount the department shall attempt to collect the unpaid obligation and distribute the amounts consistent with federal laws and regulations. The department may not charge fees or recover costs from support collections and shall pay all amounts collected which represent monthly support payment and arrearage owed to the family. The department shall continue to provide all appropriate IV-D services and distribute any amounts collected consistent with federal laws and regulations except that the department may not require any formal application or impose an application fee but may recover costs consistent with federal laws and regulations pursuant to item (f) of this section.

(d) The department shall create a single and separate organizational unit which is responsible for developing and implementing a federally-approved state plan for child support. The unit shall maintain a parent locator service to locate absent relatives owing or allegedly owing child support, utilizing all sources of information and legally available records and the parent locator service of the federal Department of Health and Human Services by filing in accordance with Section 453(B) of the Social Security Act.

(e) Undertake either directly or pursuant to cooperative arrangements with appropriate courts or law enforcement officials to:

(i) establish paternity of children born out of wedlock with respect to whom an assignment pursuant to subitem (2) of item (a) of this section has been made or with respect to an individual not otherwise eligible pursuant to item (f) of this section;

(ii) secure support for a child with respect to whom such an assignment has been made from any legally responsible relative.

(f) The department shall provide that the support collection or paternity determination services made available to approved applicants for the Aid to Families With Dependent Children Program under this section be made available to an individual not receiving assistance under the program who files an application for the services with the department. For an individual not otherwise eligible for these services under the program, a fee and cost may be imposed by the department. The fee and cost must be an amount not to exceed the amount permitted by federal law. The fees and cost recoveries as would cause a reduction in the amount of federal matching funds must be retained by the department to offset, dollar for dollar, the federal reductions. When there is an assignment of the rights to support, the clerk of court shall execute the necessary order substituting the department and changing the payee of the support to the department upon receipt by the clerk of the notice of assignment.

(g) provide for bonus payments to recipients consistent with federal law from amounts collected periodically without any decrease in the amount of assistance;

(h) make incentive payments to political subdivisions consistent with federal law whenever the political subdivision enforces or collects support rights assigned to the department pursuant to subitem (2) of item (a) and item (f) of this section.

(i) construe and implement this section in order to comply with Title IV-D of the federal Social Security Act relating to child support and the establishment of paternity. The department shall take all steps necessary to implement a federally approved state plan for child support.

(j) to provide that in rendering services under the plan to individuals with respect to whom an assignment is effective under this section, the State represents the public interest in establishing and enforcing child support obligations and the assignment does not create an attorney-client relationship between the agency and the custodial parent, the child, or any other party.

HISTORY: 1986 Act No. 511, § 1, eff July 1, 1986; 1989 Act No. 195, § 6, eff June 19, 1989; 1990 Act No. 336, §§ 1, 2, eff February 20, 1990; 1990 Act No. 493, § 1, eff May 29, 1990; 1990 Act No. 576, § 1, eff June 11, 1990; 1992 Act No. 297, § 1, eff March 26, 1992; 1995 Act No. 102, Part VI, § 3, eff January 1, 1996; 1997 Act No. 71, § 43, eff June 10, 1997.

**SECTION 43-5-598. Definitions; new hire directory; employee to file report; access to information in directory.**

(A) As used in this section:

(1) "Business day" means a day on which state offices are open for regular business.

(2) "Date of hire" means the first day the employee works for which the employee is entitled to compensation from the payor of income.

(3) "Department" means the Department of Social Services, or its designee.

(4) "Employer" includes a governmental entity and labor organization and means a person doing business in this State for whom an individual performs a service, of whatever nature, as the employee of the person and except that:

(a) if the person for whom the individual performs services does not have control of the payment of wages for the services, the term "employer" means the person having control of the payment of wages; and

(b) in the case of a person paying wages on behalf of a nonresident alien, individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term "employer" means that person.

(5) "Labor organization" means an organization in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work. Hiring halls, which refer individuals for jobs with employers, are "labor organizations" to the extent that they exist pursuant to an agreement with an employer engaged primarily in the building and construction industry under Section 8(f)(3) of the National Labor Relations Act.

(6) "New hire" includes an individual newly employed or an individual who has been rehired who was separated for at least sixty consecutive days or has returned to work after being laid off, furloughed, separated, granted leave without pay, or terminated from employment for at least sixty consecutive days.

(B) By October 1, 1998, the department shall establish a state directory of new hires which shall contain information supplied in accordance with subsection (C) by employers on each new hire.

(C) Beginning October 1, 1998, an employer who hires an employee who resides or works in this State shall report the hiring of the employee to the state directory of new hires within twenty calendar days of the hiring of the employee. However, in the case of an employer transmitting reports magnetically or electronically, these reports must be transmitted semi-monthly, if necessary, not less than twelve nor more than sixteen days apart. The report submitted shall contain:

(1) the employer's name, address, and federal identification number assigned to the employer under Section 6109 of the Internal Revenue Code of 1986; and

(2) the employee's name, address, and social security number.

(D) For purposes of this section, an employer must not report information on an employee of a federal or state agency performing intelligence or counterintelligence functions if the head of the agency has determined that reporting pursuant to this section with respect to the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(E) An employer that has employees who are employed in two or more states and that transmits reports magnetically or electronically may comply with subsection (C) by designating one state in which the employer has employees to which the employer will transmit the report required by subsection (C) and transmitting the report to that state. An employer that transmits reports pursuant to this subsection shall notify the Secretary of the United States Department of Health and Human Services in writing as to which state the employer designates for the purpose of sending reports.

(F) Each report required by subsection (C) must be made on a W-4 form or, at the option of the employer, an equivalent form and may be transmitted by first-class mail, facsimile, magnetically, or electronically. Magnetic and electronic submissions must be in a format prescribed by the department.

(G) If an employer fails to report the hiring of an employee pursuant to this section, the employer is subject to a civil penalty of no more than:

(1) twenty-five dollars for the second offense and every offense thereafter unless the employer can demonstrate good cause for not reporting the hiring; or

(2) five hundred dollars for each and every offense, if the failure is the result of a conspiracy between the employer and the employee not to supply the required report or to supply a false or incomplete report. Fines imposed pursuant to this subsection must be enforced as provided for in Section 63-3-530(A)(43) and distributed according to Section 63-17-520.

(H) Information must be entered into the data base maintained by the state directory of new hires within five business days of receipt from an employer pursuant to subsection (C).

(I) No later than May 1, 1998, the department shall conduct automated comparisons of the social security numbers reported by employers pursuant to subsection (C) and the social security numbers appearing in the records of the State Case Registry created pursuant to Section 43-5-610 for cases being enforced under the federally-approved child support program administered by the department.

(J) When an information comparison conducted under paragraph (I) reveals a match with respect to the social security number of an individual in the records of the State Case Registry, the state directory of new hires shall provide the department with the information reported by the employer pursuant to subsection (C).

(K) Within two business days after the date information regarding a newly hired employee is entered into the state directory of new hires, the department shall transmit a notice to the employer of the employee directing the employer to withhold from the income of the employee an amount equal to the monthly, or other periodic, child support obligation, including any past-due child support obligation, of the employee, unless the employee's income is not subject to withholding pursuant to Article 11, Chapter 17, Title 63.

(L) Within three business days after the date information regarding a newly hired employee is entered into the state directory of new hires, the state directory of new hires shall furnish the information to the national directory of new hires.

(M) The state directory of new hires shall include reports received from the Department of Employment and Workforce pursuant to Section 43-5-620. The state directory of new hires shall furnish these reports, on a quarterly basis, to the national directory of new hires by the dates, in the format, and containing the information the Secretary of the United States Department of Health and Human Services specifies in regulations.

(N) Information maintained in the state directory of new hires and national directory of new hires may be utilized for these purposes:

(1) The department shall use information received pursuant to subsection (I) to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations and may disclose this information to a public or private agency that is under contract with the department to carry out these purposes.

(2) The department shall have access to information reported by employers pursuant to subsection (C) for purposes of verifying eligibility for these state administered programs:

(a) Temporary Assistance for Needy Families;

(b) Medicaid under Title XIX of the Social Security Act;

(c) food stamps;

(d) unemployment compensation benefits; and

(e) any state program under a plan approved under Title I, X, XIV, or XVI of the Social Security Act.

(3) The Department of Employment and Workforce shall have access to information reported by employers pursuant to subsection (C) for purposes of administering the employment security program.

(4) The Workers' Compensation Commission or its designee shall have access to information reported by employers pursuant to subsection (C) for purposes of administering the workers' compensation program.

(O) An employer who in good faith discloses information pursuant to this section is not subject to civil or criminal liability on account of the disclosure.

(P) This section remains in effect until the federal mandate requiring a mandatory new hire reporting program is repealed.

HISTORY: 1997 Act No. 71, § 44, eff June 10, 1997; 1997 Act No. 133, § 15, eff June 11, 1997; 1999 Act No. 100, Part II, § 105, eff June 30, 1999; 2013 Act No. 53, § 3, eff June 7, 2013.

**SECTION 43-5-600. Applicability of legal process, brought to enforce child or spousal support obligations, to payments by State.**

Monies due from or payable by this State, including any agency, instrumentality, or authority of the State, and due to any individual is subject, in like manner and to the same extent as if the State were a private person, to legal process brought for the enforcement against such individual of his legal obligations to provide support for a child or spouse; provided, however, that § 41-35-140 shall control in cases concerning the South Carolina Department of Employment and Workforce.

HISTORY: 1986 Act No. 511, § 1, eff July 1, 1986.

**SECTION 43-5-610. Maintenance of central registry of records; availability of records.**

(A) A State Case Registry must be maintained in the department that contains records with respect to:

(1) each case in which services are being provided by the department pursuant to Title IV-D of the Social Security Act; and

(2) each support order established or modified in the State after September 30, 1998.

(B) These records shall include standardized data elements for both parents or guardian including names, social security numbers and other uniform identification numbers, dates of birth, and case identification numbers, and contain other information as state and federal regulations may require.

(C) Any records maintained pursuant to this section are available only to the Child Support Enforcement Division of the Department of Social Services, public welfare offices, central registries in other states, the Federal Parent Locator Service, offices of the clerks of court, and courts having jurisdiction in support or abandonment proceedings or actions and only for the purposes for which the records have been maintained.

(D) This section remains in effect until the federal mandate requiring a state case registry is repealed.

HISTORY: 1986 Act No. 511, § 1, eff July 1, 1986; 1997 Act No. 71, § 45, eff June 10, 1997.

**SECTION 43-5-620. Establishment of uniform system of information clearance and retrieval; information to be furnished by bureaus of employment security and motor vehicles; confidential or privileged information.**

(a) The director or his designees, in writing, shall have access to all records and the departments, in cooperation with all other departments of the executive branch, shall establish a single uniform system of information clearance and retrieval, wherever possible.

(b) The bureau of employment security shall provide the department with a statement of earnings clearance upon the request of the department.

(c) Upon request of the department, the Department of Motor Vehicles shall provide information as to all vehicles owned by the applicant or recipient.

(d) With the exception of the access provided by subsections (b) and (c), the provisions of subsection (a) may not be construed to give the department access to information which would otherwise be considered privileged or confidential pursuant to state or federal law.

HISTORY: 1986 Act No. 511, § 1, eff July 1, 1986; 1993 Act No. 181, § 1015, eff July 1, 1993; 1996 Act No. 459, § 65, eff June 5, 1996.

**SECTION 43-5-630. Proration of intermittent income received by applicants for assistance.**

For purposes of determining eligibility for assistance, the income received by individuals employed on a contractual basis may be prorated over the period of the contract or intermittent income received quarterly, semiannually, or yearly may be prorated over the period covered by the income.

HISTORY: 1986 Act No. 511, § 1, eff July 1, 1986.

Article 7

Women, Infants and Children Supplemental Food Program

**SECTION 43-5-910. Short title; definitions.**

This article may be cited as the "WIC Vendor Act" and unless the context otherwise requires:

(1) "Department" means the Department of Health and Environmental Control.

(2) "WIC" means the Special Supplemental Food Program for Pregnant and Breastfeeding Women, Infants, and Children.

(3) "Vendor" means any food store or pharmacy approved for participation in the WIC Program which has a valid WIC Vendor Agreement on file at the WIC Program office.

(4) "Person" means any individual, corporation, partnership, association, firm, trust, estate, or any other legal entity.

HISTORY: 1987 Act No. 11, § 2, eff March 16, 1987.

**SECTION 43-5-920. Administration.**

The department is granted the authority and responsibility for the effective and efficient administration of the WIC Program within South Carolina, as may be delegated by the federal government pursuant to federal act and regulation.

HISTORY: 1987 Act No. 11, § 2, eff March 16, 1987.

**SECTION 43-5-930. Implementation and enforcement in general.**

The department may promulgate and enforce regulations to govern the participation of vendors in the WIC Program including a point system to determine periods of disqualification; to impose other sanctions and civil penalties for violation of this article and regulations issued under it; and to prescribe any other policies or practice requirements to implement the purpose of this article.

HISTORY: 1987 Act No. 11, § 2, eff March 16, 1987.

**SECTION 43-5-940. Department's authority.**

The department has the authority to:

(1) enter into agreements with vendors in order to provide supplemental foods for program participants;

(2) hold hearings, compel attendance of witnesses, and make findings and determinations;

(3) issue, revoke, and modify orders relating to the administration of the WIC Program;

(4) establish and impose disqualification periods for persons not meeting the terms of the WIC Vendor Agreement or violating regulations;

(5) establish and impose a point system to be used to determine the disqualification period;

(6) recover monies from any vendor who overcharges the department;

(7) settle or compromise any action or cause of action for the recovery of a penalty or monies under this article as it may consider advantageous to the State.

HISTORY: 1987 Act No. 11, § 2, eff March 16, 1987.

**SECTION 43-5-950. Criminal sanctions.**

Any person who violates any of the provisions of this article, or any regulation, agreement, final determination, or order of the department is guilty of a misdemeanor and upon conviction must be punished by a fine of not less than five hundred dollars nor more than ten thousand dollars for each day's violation or be imprisoned for a period not to exceed one year, or both.

HISTORY: 1987 Act No. 11, § 2, eff March 16, 1987.

**SECTION 43-5-960. Civil sanctions.**

Any person violating any of the provisions of this article or any regulation, agreement, final determination, or order of the department is subject to disqualification, or a civil penalty not to exceed five thousand dollars each day of the violation, or both.

HISTORY: 1987 Act No. 11, § 2, eff March 16, 1987.

**SECTION 43-5-970. Appeals.**

A decision of the department imposing disqualification, penalties, or requiring a vendor to refund monies for overcharging may be appealed pursuant to the state Administrative Procedures Act and the department's Contested Cases Regulation.

HISTORY: 1987 Act No. 11, § 2, eff March 16, 1987.

Article 9

South Carolina Family Independence Act of 1995

**SECTION 43-5-1105. State welfare policy.**

It is the policy of this State that personal responsibility and parental responsibility must be met if citizens are to attain independence. Further, it is the policy of this State that the welfare system must be based upon a reciprocal agreement between welfare recipients and taxpayers. There also must exist a common goal and vision between the parties, working together at the community level to make life better for all. It must assist families to become economically independent, provide tools to achieve and maintain self-sufficiency, and deter abuse of the system through fair and meaningful sanctions.

HISTORY: 1995 Act No. 102, Part I, § 2, eff June 12, 1995.

**SECTION 43-5-1110. Definitions.**

As used in this article:

(1) "Family Independence" or "Aid to Families with Dependent Children" or "FI" or "AFDC" means cash payments or stipends paid to individuals who meet established eligibility criteria.

(2) "Department" means the South Carolina State Department of Social Services.

(3) "Welfare" means cash assistance payments through the Family Independence program formerly known as the Aid to Families with Dependent Children program which must be provided as a stipend to assist families to become employed.

HISTORY: 1995 Act No. 102, Part II, § 1, eff June 12, 1995; 1997 Act No. 133, § 9, eff June 11, 1997.

**SECTION 43-5-1115. Employment and training for those receiving assistance.**

It is the mandate of the General Assembly that the welfare system in South Carolina be restructured to assist families in poverty to become socially and economically independent. It is the purpose and goal of this legislation to establish the reform of the welfare system as a critical priority for the State and all of its agencies. Cooperation and innovation within and among all state agencies is necessary for the achievement of this goal. The office of the governor shall designate the lead agency for purposes of coordination and the avoidance, where practical, of duplication of services. The State Department of Social Services is mandated to fundamentally change its economic services operation to emphasize employment and training with a minor welfare component. To that end, the department shall expand its employment and training program statewide and shall, to the extent possible, coordinate with the existing resources of other state agencies when they are available and it is cost efficient to do so. The agency shall assist welfare recipients to maximize their strengths and abilities to become gainfully employed. Welfare assistance must be provided as a stipend to a family unit as long as there is satisfactory participation in required employment and training activities.

HISTORY: 1995 Act No. 102, Part III, § 1, eff June 12, 1995.

**SECTION 43-5-1120. Welfare agreements; leave from employment for family planning services; employment and training components of receiving assistance.**

(A) To emphasize the reciprocal responsibility that exists between welfare recipients and the taxpayers who pay for welfare, an agreement must be signed by each adult AFDC recipient. If a minor mother is living in the home of her parents or guardian, the minor mother and her parent or guardian must sign the agreement. The agreement shall describe the actions the recipient must take to become employed and the time frames for completing these actions. The agreement also shall describe the services the department shall provide or coordinate to assist the recipient in becoming employed. The department shall place a major emphasis on job development and on maximizing employment opportunities within the State. Assistance must be provided by the department's job development specialists who shall work with the private business and industrial community to match welfare recipients with available jobs. Assistance also shall include job clubs, job coaches, financial planners, and personal, social, and work adjustment training specialists and authorizes the department to locate, identify, and contract for employment for and on behalf of AFDC recipients.

(B) An applicant who appears to be eligible for welfare assistance and who would be required to participate or who volunteers to participate in the department's employment and training program must be referred to an employment and training unit. An applicant referred must conduct an initial job search and shall provide evidence of this search by listing the employer contacted, the date of the visit with the employer, and the name and telephone number of the person with whom the applicant spoke. An applicant who does not provide this information must not be approved for assistance until the information is provided. An employment assessment must be conducted on an applicant who is unsuccessful in securing employment to determine if the applicant is job ready. An applicant who has been employed twelve out of the previous twenty-four months or who has graduated from high school or has obtained a GED must be enrolled in a job club or referred for evaluation or assessment or other services conducive to employment. Following participation in a job club, the applicant must conduct a job search for an additional period of no more than sixty days or until the applicant obtains employment, whichever occurs first. An applicant who is not job ready or a job-ready participant who is unsuccessful in the job search must be evaluated for barriers to employment. An individual agreement containing training and employment requirements must be developed for the participant. For purposes of this subsection "job club" means a group or individual job readiness training session where participants learn job finding and job retention skills.

(C) All services provided shall complement and maximize existing resources within state agencies and within the private business community. Services to be provided or coordinated by the department include, but are not limited to, assistance with child care and transportation, enrollment in literacy classes, adult education classes, General Equivalency Diploma classes, enrollment in technical schools, vocational training, work experience, and on-the-job training. Additionally, recipients shall participate in activities designed to assist them in job interviews and successful employment. The department shall provide information to applicants and recipients regarding the advantages of participation in the employment and training programs. The department also shall market its training and employment program to education and training program providers and to employers.

(D) The department through its training programs shall provide information about the value of family planning services to reproductive age participants and shall require training program placement staff to actively seek the participation of employers or potential employers in an agreement which permits an AFDC recipient time off from work, not to exceed four hours, at least once a year to voluntarily seek family planning services from a provider of the AFDC recipient's choice without fear of losing their job or of other reprisals.

HISTORY: 1995 Act No. 102, Part III, § 2, eff June 12, 1995; 1997 Act No. 133, § 10, eff June 11, 1997.

**SECTION 43-5-1125. Sanctions for failing to comply with welfare agreement.**

(A) To emphasize the necessity of each family achieving independence and self-sufficiency, if an AFDC recipient fails without good cause to comply with the employment and training requirements contained in the agreement entered into between the recipient and the State Department of Social Services, the department shall:

(1) grant a thirty-day conciliation period for the recipient to reconsider the decision not to comply with the terms of the agreement. During this thirty-day period, the recipient has the right to appeal the department's decision to impose sanctions. At the end of this thirty-day period if the conciliation/fair hearing decision was not in the recipient's favor, all AFDC benefits must be terminated. Benefits may be reinstated when the recipient agrees to comply according to the terms of the agreement and demonstrates willingness to comply by participating in the employment and training program for a period of thirty days;

(2) terminate all AFDC benefits if the recipient completes the training requirements contained in the agreement and then refuses an offer of employment.

(B) A recipient is not required to comply with the employment and training provisions of the agreement if the recipient is:

(1) a parent or caretaker relative with a child under one year of age; however, custodial parents under age twenty-five who have not completed their high school education are required to comply with these provisions regardless of the age of the child;

(2) at least six months pregnant and the pregnancy is verified by a qualified licensed health care provider;

(3) incapacitated and the incapacity is verified by a physician, and if the department considers it necessary, confirmed by an assessment performed by the Department of Vocational Rehabilitation, as a physical or mental impairment that prevents the recipient from engaging in gainful employment or participating in education or training;

(4) caring for an incapacitated person whose incapacity has been verified by a physician and, if the department considers it necessary, confirmed by an assessment performed by the Department of Vocational Rehabilitation;

(5) unable to participate because child care and reasonable transportation were not provided when needed for participation in employment and training programs.

HISTORY: 1995 Act No. 102, Part III, § 11, approved June 12, 1995 and takes effect ninety days after receipt of approval of a federal waiver authorizing the department to implement these provisions or ninety days after federal law permits implementation; 1996 Act No. 452, § 13, eff July 1, 1996.

**SECTION 43-5-1130. County departmental goals for hiring welfare recipients.**

To emphasize the importance of education, training, and employment in restructuring the welfare system, the department shall establish goals for the placement and retention of AFDC recipients in employment programs for each county welfare office. These goals must be reflected in the Employee Performance Evaluation of all appropriate department employees.

HISTORY: 1995 Act No. 102, Part III, § 10, eff June 12, 1995.

**SECTION 43-5-1135. State agency goals to recruit and employ welfare recipients.**

Each agency which is a member of the South Carolina Retirement System shall establish recruitment and hiring goals which shall target ten percent of all jobs requiring a high school diploma or less to be filled with family independence or food stamp recipients. A question concerning receipt of family independence benefits or food stamps may be added to the state employment application for purposes of targeting these applicants. Each agency annually shall report to the South Carolina Department of Social Services the number of family independence and food stamp recipients employed in comparison to the established goal.

HISTORY: 1995 Act No. 102, Part III, § 7, eff June 12, 1995; 1997 Act No. 133, § 11, eff June 11, 1997; 1999 Act No. 100, Part II, § 32, eff July 1, 1999.

**SECTION 43-5-1140. Labor market and occupational information to be provided to department.**

The Department of Employment and Workforce shall provide the department up-to-date labor market information to assist department employment and training staff in the development of recipient employment goals and training plans to be outlined in individual agreements. The Department of Employment and Workforce also, through contractual agreement, shall provide the South Carolina Occupational Information System to each of the department's local offices to assist with career counseling and career planning activities. To the extent possible, all other state agencies shall provide the department with access to appropriate economic and demographic data concerning AFDC applicants and recipients.

HISTORY: 1995 Act No. 102, Part III, § 3, eff June 12, 1995.

**SECTION 43-5-1145. Cash assistance payments paid as wage subsidy or tax credit.**

To maximize employment opportunities for welfare recipients and to provide for additional job training and placement efforts, instead of making cash assistance payments to AFDC recipients, these payments or some portion of these payments may be paid as a wage subsidy or given as a tax credit to employers offering new jobs as a result of a new business or an expansion of an existing business, subject to the guidelines of the department.

HISTORY: 1995 Act No. 102, Part III, § 5, eff June 12, 1995.

**SECTION 43-5-1150. Job Training and Partnership Act incentive funds.**

To expand available job training activities for AFDC recipients, the Governor may target future incentive funds under Title II-A of the Job Training and Partnership Act in such a way as to encourage the service delivery areas and local private industry councils to increase service levels and improve performance outcomes related to services to AFDC recipients.

HISTORY: 1995 Act No. 102, Part III, § 9, eff June 12, 1995.

**SECTION 43-5-1155. Entrepreneurial development.**

The Department of Social Services shall seek funds for entrepreneurial development so that AFDC clients can create jobs and provide incentives for AFDC clients in their efforts to attain self-sufficiency and independence. The department shall identify markets for entrepreneurial development for AFDC clients, provide clients with job skills and opportunities to develop expertise in operating businesses, and allow clients to accrue savings, buy or earn stock in a business, or, over a period of time, purchase a business. In carrying out this program the department shall work in conjunction with public, community, and private sector entities including businesses, banks, and other institutions to develop strategies that provide financing, facilities, training, technical assistance, planning, and research to AFDC clients in their efforts to own their own businesses.

HISTORY: 1995 Act No. 102, Part III, § 15, eff June 12, 1995; 1996 Act No. 452, § 14, eff July 1, 1996.

**SECTION 43-5-1160. Relocation assistance.**

The department may provide, as appropriate, relocation assistance to families who live in communities where few job opportunities exist. Assistance may be provided to assist recipients in accessing jobs which maximize their skills and abilities.

HISTORY: 1995 Act No. 102, Part III, § 4, eff June 12, 1995.

**SECTION 43-5-1165. Teen parent independence initiative.**

The department, as part of the employment and training program, shall provide special educational and related services for teen parents to assist them in becoming economically independent and to provide health information. This teen parent initiative must be staffed by department personnel familiar with school dropout programs, family planning programs which comply with existing law, and parent effectiveness training programs, and whenever possible and practical, the department shall coordinate with comparable staff of other state and local agencies in providing these services.

HISTORY: 1995 Act No. 102, Part III, § 8, eff June 12, 1995.

**SECTION 43-5-1170. Time limited welfare and exceptions.**

To emphasize that welfare is temporary assistance in time of trouble, the department shall apply to the federal government for a waiver authorizing assistance in the Aid to Families with Dependent Children Program (AFDC) to be limited to no more than twenty-four months out of one hundred and twenty months and no more than sixty months in a lifetime except when:

(1) the head of household is permanently and totally disabled, whether physical or mental;

(2) the head of household is providing full-time care for a disabled individual in the home;

(3) the parent of the child for whom assistance is received is a minor under the age of eighteen who has not completed high school. Assistance must be provided for a period of up to twenty-four months after the minor parent attains the age of eighteen or completes high school, whichever occurs first;

(4) the individual is involved in an approved training program which will not be completed by the twenty-fourth month. However, no extension may be granted beyond the thirtieth month except with the express permission of the county director;

(5) the adult head of household is not the parent of the child and is not included in the assistance check;

(6) the adult head of household is providing a home for and caring for a child whom the department has determined to be abandoned by his or her parents and for whom the alternative placement is foster care;

(7) child care or transportation is not reasonably available;

(8) The recipient can establish by clear and convincing evidence to the department that the recipient has fully complied with the recipient's agreement with the department including:

(a) diligently seeking all available employment and following up on all employment opportunities known to the Department of Employment and Workforce or related state agencies for which the recipient is qualified;

(b) demonstrating a willingness to relocate as provided in Part III, Section 4;

(c) cooperating fully with all state agencies in order to strive to become gainfully employed; and the department is satisfied that no available employment reasonably exists for the recipient and that there is no other means of support reasonably available to the recipient's family. Every sixty days the department shall conduct a review of the recipient's compliance with the requirements of this item. Under this review, assistance provided pursuant to this item may only be extended for up to an additional twelve months. At the end of the twelve-month extension, assistance may only be provided with the express permission of the county director who must certify that the person is engaged in education, training, or other employment-related activities.

No sooner than sixty and no later than ninety days after an AFDC recipient's benefits are terminated under the time limits for the receipt of AFDC as provided for in this section, the department shall conduct an assessment of and make recommendations, as appropriate, for the health and well-being of the children in the care and custody of the former AFDC recipient.

HISTORY: 1995 Act No. 102, Part IV, § 1, approved June 12, 1995 and takes effect ninety days after receipt of approval of a federal waiver authorizing the department to implement these provisions or ninety days after federal law permits implementation; 1996 Act No. 452, § 15, eff July 1, 1996.

**SECTION 43-5-1175. No increase in welfare with increase in number of children.**

To encourage parents to plan for security and assume responsibility for their children, there must be no incremental increase in AFDC benefits to a family as a result of a child born to that parent ten or more months after the family begins to receive AFDC. This section does not apply if the department establishes that the child was conceived as a result of rape or incest. The State may provide benefits to a child born after ten months in the form of vouchers that may be used only to pay for particular goods and services specified by the State as needed for the child's mother to participate in education training and employment related activities.

HISTORY: 1995 Act No. 102, Part V, § 1, approved June 12, 1995 and takes effect ninety days after receipt of approval of a federal waiver authorizing the department to implement these provisions or ninety days after federal law permits implementation.

**SECTION 43-5-1180. Participation in work support required when child is one year old.**

AFDC recipients must be encouraged to voluntarily participate in a work program when their youngest child reaches the age of six months, but in all cases the recipients must participate in a work program once their youngest child reaches age one.

HISTORY: 1995 Act No. 102, Part IV, § 2, eff June 12, 1995.

**SECTION 43-5-1185. Family skills training program.**

As a condition of eligibility for Family Independence benefits, each adult recipient determined to be in need of family skills by his Family Independence case manager, and minor mother recipient must participate in a family skills training program which must include, but is not limited to, parenting skills, financial planning, and health information. Whenever possible and practical, the department shall coordinate with comparable staff of other state and local agencies in providing these services.

This program must include an alcohol and other drug assessment when it is determined by the department that an assessment is appropriate. The department shall coordinate with the Office of Substance Use Services to provide the proper assessment of the recipient and training of the department personnel who are to conduct the assessment. If the recipient is determined to be in need of alcohol and other drug abuse treatment, the department shall coordinate the services with the Office of Substance Use Services and shall include the individually determined terms and conditions of the treatment in the recipient's agreement with the department.

This program must include a family planning assessment if it is determined by the department that an assessment is appropriate. The department shall coordinate with the Department of Health and Environmental Control to provide the AFDC family with education, evaluation, and counseling, consistent with Medicaid regulations. State funds appropriated for family planning must not be used to pay for an abortion.

HISTORY: 1995 Act No. 102, Part III, § 12, approved June 12, 1995 and takes effect ninety days after receipt of approval of a federal waiver authorizing the department to implement these provisions or ninety days after federal law permits implementation; 1997 Act No. 133, § 12, eff June 11, 1997.

**SECTION 43-5-1190. Eligibility denied on ground of alcohol or drug problem; treatment program required.**

A Family Independence recipient who, while receiving FI benefits, has been identified as requiring alcohol and other drug abuse treatment service or who has been convicted of an alcohol related offense or a controlled substance violation or gives birth to a child with evidence of the effects of maternal substance abuse and the child subsequently is shown to have a confirmed positive test performed on a suitable specimen within twenty-four hours of birth, is ineligible for FI assistance unless the recipient submits to random drug tests and/or participates in an alcohol or drug treatment program approved by the Office of Substance Use Services. Upon completion of the program, if a subsequent random test or subsequent conviction for a controlled substance violation occurs, the recipient is ineligible for FI benefits. Benefits may be reinstated at a later time upon reapplication, if the recipient first undergoes a conciliation assessment, including review and/or modification of the prescribed individual treatment program and agreement, and then agrees to comply with its terms and demonstrates compliance for a period of not less than sixty days. Testing of a child's specimen pursuant to this section must be conducted by a medical laboratory certified by the College of American Pathologists or the National Institute of Drug Abuse for Forensic Urine Drug Testing.

HISTORY: 1995 Act No. 102, Part V, § 2, approved June 12, 1995 and takes effect ninety days after receipt of approval of a federal waiver authorizing the department to implement these provisions or ninety days after federal law permits implementation; 1997 Act No. 133, § 12, eff June 11, 1997.

**SECTION 43-5-1195. Eligibility based on parent's support and employment revised.**

To eliminate restrictions that break up families and to encourage the formation of new families, the department shall remove the requirement that a child be deprived of support from one or both parents to be eligible for assistance and shall remove the one hundred hour rule and the recent connection to the labor force rule.

HISTORY: 1995 Act No. 102, Part V, § 5, approved June 12, 1995 and takes effect ninety days after receipt of approval of a federal waiver authorizing the department to implement these provisions or ninety days after federal law permits implementation.

**SECTION 43-5-1200. Vehicle and other asset limits.**

One licensed vehicle per licensed driver is exempt from the asset limit for Family Independence participants in work or training. The asset limit for all other assets is two thousand five hundred dollars.

HISTORY: 1995 Act No. 102, Part IV, § 3, approved June 12, 1995 and takes effect ninety days after receipt of approval of a federal waiver authorizing the department to implement these provisions or ninety days after federal law permits implementation; 1997 Act No. 133, § 13, eff June 11, 1997.

**SECTION 43-5-1205. Interest income and dividends to be excluded.**

In order to assist AFDC families in gaining financial independence and in building for the future, the Department of Social Services shall apply to the federal government for a waiver allowing the State to exclude interest income and dividends up to four hundred dollars in determining eligibility and payment amounts for Aid to Families with Dependent Children.

HISTORY: 1995 Act No. 102, Part IV, § 6, approved June 12, 1995 and takes effect ninety days after receipt of approval of a federal waiver authorizing the department to implement these provisions or ninety days after federal law permits implementation.

**SECTION 43-5-1210. Minor child's income to be excluded.**

To remove the disincentive to employment that occurs when a family's AFDC payment is reduced because of a minor child's earnings and to encourage children in AFDC families to develop positive work attitudes, the State shall apply to the federal government for a waiver to exclude income earned by a minor child attending school when determining eligibility or payment amount for Aid to Families with Dependent Children.

HISTORY: 1995 Act No. 102, Part IV, § 5, approved June 12, 1995 and takes effect ninety days after receipt of approval of a federal waiver authorizing the department to implement these provisions or ninety days after federal law permits implementation.

**SECTION 43-5-1215. Welfare recipients under age eighteen must attend school.**

Welfare recipients under the age of eighteen must be enrolled and maintain satisfactory attendance, as defined by the Department of Education, in school as a condition of eligibility for benefits.

HISTORY: 1995 Act No. 102, Part V, § 3, approved June 12, 1995 and takes effect ninety days after receipt of approval of a federal waiver authorizing the department to implement these provisions or ninety days after federal law permits implementation.

**SECTION 43-5-1220. Minor mother must live with minor's parents to receive welfare; exceptions.**

(A) Minor mothers with a child born out of wedlock must live in the home of their parent or guardian to be eligible to receive AFDC benefits unless:

(1) the minor parent has no living parent or legal guardian whose whereabouts is known;

(2) no living parent or legal guardian of the minor parent allows the minor parent to live in his or her home;

(3) the minor parent lived apart from his or her own parent or legal guardian for a period of at least one year before either the birth of the dependent child or the parent's having applied for AFDC;

(4) the physical or emotional health or safety of the minor parent or dependent child would be jeopardized if they resided in the same residence with the minor parent's parent or legal guardian;

(5) there is otherwise good cause for the minor parent and dependent child to receive assistance while living apart from the minor parent's parent or legal guardian or another adult relative or an adult supervised supportive living arrangement.

(B) If a minor parent makes an allegation supporting the conclusion that subsection (A)(4) applies, the department shall determine whether it is justified. Circumstances justifying a determination of good cause as provided for in subsection (A)(5) include, but are not limited to, written statements from at least two corroborating persons showing that it is not in the best interest of the minor parent to live with his or her parents or legal guardian or in an adult supervised supportive living arrangement. When a minor parent and his or her dependent child are required to live with the minor parent's parent or legal guardian or another adult relative or in an adult supervised supportive living arrangement, AFDC must be paid, where possible, in the form of a protective payment. A minor parent applicant must be informed directly about AFDC eligibility requirements including his or her rights under this section. The applicant must be told of the exemptions and must be asked if one or more of the exemptions is applicable to the applicant. The department shall assist the minor in obtaining the necessary verification if one or more of these exemptions is alleged.

HISTORY: 1995 Act No. 102, Part V, § 4, eff June 12, 1995.

**SECTION 43-5-1225. Outreach and information programs.**

In order to assure that all families working toward self sufficiency have access to all potential supportive services that will help ensure their success, the department, within existing revenues, may develop outreach and information programs which provide information and assistance on support services available to low income families including, but not limited to, information on earned income tax credits and medicaid eligibility.

HISTORY: 1995 Act No. 102, Part III, § 16, eff June 12, 1995.

**SECTION 43-5-1230. Family to be served as a whole.**

To further strengthen the family unit and promote parental responsibility, emphasis must be placed on serving the family as a whole. Immunizations, school attendance, preventive health screenings, and pregnancy prevention programs as authorized by law for minor children must be monitored and encouraged.

HISTORY: 1995 Act No. 102, Part V, § 6, approved June 12, 1995 and takes effect ninety days after receipt of approval of a federal waiver authorizing the department to implement these provisions or ninety days after federal law permits implementation.

**SECTION 43-5-1235. Increased health care access through existing resources.**

To assist AFDC families in directing their efforts to becoming economically stable and financially independent rather than diverting their resources to the care of children and family members with health and medical problems, the State, through coordination and cooperation among various agencies utilizing current resources, must:

(1) provide greater access to and place more emphasis on early and continuous prenatal care;

(2) eliminate as many barriers to good prenatal care as possible;

(3) establish teen parent initiatives dealing with school dropout programs and parent effectiveness training programs;

(4) promote counseling and education about early childhood health, especially the need for immunizations;

(5) foster better access to preventive health services through expanded hours of health care clinics;

(6) provide, as funding allows, school nurses to increase access to primary care and more effective identification and referral of health care among children.

HISTORY: 1995 Act No. 102, Part V, § 9, eff June 12, 1995.

**SECTION 43-5-1240. Transitional Medicaid and child care.**

(A) Subject to federal waiver, the department shall provide transitional Medicaid and child care for a maximum of two years for AFDC clients who lose eligibility because of employment or who become employed after losing eligibility as a result of exceeding the twenty-four-month time limit provided for in Section 43-5-1170. For individuals who become employed after a period of ineligibility due to exceeding the twenty-four-month time limit provided for in Section 43-5-1170, earnings must be less than poverty and continued employment must be jeopardized by medical expenditures to be eligible for transitional Medicaid and child care in the second year.

(B) If a former recipient's employer offers or provides health insurance coverage for the former recipient and/or the former recipient's family at an out-of-pocket cost to the former recipient which is less than ten percent of the former recipient's wages after deducting Federal Income Collection Act contributions, no Medicaid coverage may be provided to a family member who could be covered under the employer-provided insurance plan.

HISTORY: 1995 Act No. 102, Part III, § 18, eff June 12, 1995; 1996 Act No. 452, § 16, eff July 1, 1996.

**SECTION 43-5-1245. Federal child care funds must be sought.**

All federal child care funds are needed to ensure that AFDC families can participate successfully in the AFDC program. The State should make every effort to obtain these funds.

HISTORY: 1995 Act No. 102, Part V, § 10, eff June 12, 1995.

**SECTION 43-5-1250. Endorsement of statewide mass transit network.**

To promote independence and assist AFDC families in participating in the Department of Social Services employment and training program and in getting to their place of employment, reliable transportation services are needed. The department in conjunction with the Department of Public Safety shall endorse local efforts to develop a statewide network of mass transit systems.

HISTORY: 1995 Act No. 102, Part III, § 17, eff June 12, 1995.

**SECTION 43-5-1255. Adult education initiatives.**

The Department of Social Services in conjunction with the Department of Education shall:

(1) ensure that existing continuing education and adult education programs are designed to advance AFDC clients in attaining self-sufficiency and that the location, scheduling, and other mechanics of these programs are structured so as to maximize access by AFDC clients;

(2) endorse and promote school-to-work transition programs to link at-risk secondary school students to the workplace and to appropriate work related post-secondary education.

HISTORY: 1995 Act No. 102, Part VII, § 4, eff June 12, 1995.

**SECTION 43-5-1260. Technical education partnership initiatives.**

(A) The Department of Social Services in conjunction with the State Board for Technical and Comprehensive Education shall:

(1) work closely with businesses and industries in South Carolina to design curriculums to produce students with skills needed by these businesses and industries;

(2) develop specially designed curriculums that target and train AFDC clients in keeping with the clients' identified aptitudes, interests, and abilities for occupations identified by the Department of Employment and Workforce as the top growth occupations of the future.

(B) For the next three years the Department of Social Services and the State Board for Technical Education shall report before January first to the Governor and the General Assembly on the projects completed under this section, the number of AFDC families served, and shall evaluate their effectiveness in assisting AFDC families in becoming self-sufficient.

HISTORY: 1995 Act No. 102, Part VII, § 5, eff June 12, 1995.

**SECTION 43-5-1265. Simplification of application forms.**

The Department of Social Services, with existing resources and personnel, shall develop simplified AFDC, Medicaid, and food stamp application forms and instructions which are understandable. If necessary, for compliance with federal regulations, the department shall apply to the federal government for waivers.

HISTORY: 1995 Act No. 102, Part VII, § 1, eff June 12, 1995.

**SECTION 43-5-1270. Information on absent parent required.**

The State shall apply for a federal waiver to require AFDC and Medicaid applicants and recipients as an additional condition for receiving benefits to provide:

(1) the first and last name of the absent parent and putative father and any known licenses as defined in Section 63-17-1020 which might be subject to revocation; and

(2) at least two of the following subitems on each absent parent and each putative father named:

(a) date of birth;

(b) social security number;

(c) last known home address;

(d) last known employer's name and address;

(e) either of the absent parent's parent's name and address.

An applicant or recipient who fails to provide this information or who provides the names of two putative fathers, both of whom are excluded from paternity by genetic testing, is ineligible for assistance for himself or herself and the child for whom parental information was not provided unless the applicant or recipient asserts, and the department verifies, there is good cause for not providing this information. Good cause includes documentation of incest, rape, or the existence or the threat of physical abuse to the child or custodial parent.

Upon legal establishment of paternity of the child in question, AFDC benefits may be established or reinstated if all other eligibility requirements are met.

HISTORY: 1995 Act No. 102, Part V, § 7, approved June 12, 1995 and takes effect ninety days after receipt of approval of a federal waiver authorizing the department to implement these provisions or ninety days after federal law permits implementation.

**SECTION 43-5-1275. Electronic data interchange standards.**

As applicable, all state agencies shall adopt Electronic Data Interchange Standards as set forth by the Division of Technology Operations so that exchanges and sharing of information concerning AFDC clients and revenue sources are freely available. However, in the exchange and sharing of information all requirements for confidentiality of information must be maintained. For the next two years these state agencies shall report to the Department of Administration, Division of Information Resource Technology before January first on the agency's progress and compliance with this section and its utilization of the system created as a result of this action.

HISTORY: 1995 Act No. 102, Part VII, § 3, eff June 12, 1995.

**SECTION 43-5-1280. Review of federal and state procurement and purchasing regulations.**

The Department of Social Services and the Department of Health and Human Services Finance Commission shall review and, to the extent possible, ensure that federal and state procurement and purchasing regulations do not unnecessarily delay services to AFDC clients and child care and transportation providers to AFDC clients.

HISTORY: 1995 Act No. 102, Part VII, § 2, eff June 12, 1995.

**SECTION 43-5-1285. Annual report.**

The department shall report annually to the General Assembly on the number of Family Independence families and individuals no longer receiving welfare, the number of individuals who have participated in educational, employment, or training programs under this act, the number of individuals who have completed educational, employment, or training programs under this act, and the number of individuals who have become employed and the duration of their employment.

HISTORY: 1995 Act No. 102, Part IX, § 1, eff June 12, 1995; 2014 Act No. 281 (H.3102), § 2, eff June 10, 2014.