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Main Provisions in the Senate Welfare Bill, S. 1806

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Procedural history

- **Senate Ways and Means filed the bill on June 17, 2013.**
 - No details were released publicly before June 17 and no hearing was held on the bill.
 - Amendments were due on Wednesday, June 19, at noon, leaving members very little time to absorb the details of the bill and work to improve it.
- **The Senate passed the bill on Thursday evening, June 20, 2013.**
 - The House has not yet released a bill or announced a timetable for doing so.

Changes for persons with disabilities, caring for a disabled family member, pregnant, seniors

- **DTA authority to narrow disability exemption standard (§ 14)**
 - The bill as passed would give DTA the discretion to narrow the disability exemption standard or continue to apply its current rules for disability (§ 14). If DTA changes the rules, about 4,500 disabled parents would be subject to the work requirement and time limits and potential loss of all TAFDC for themselves and their children.
 - The original bill would have eliminated the long-standing strict disability standard for TAFDC and instead would have used the very strict Social Security/Supplemental Security Income (SSI) standard to determine exemptions from the work requirement and time limits.
 - The current DTA standard acknowledges that someone can't work because of a temporary disability (30 days or more). The SSI standard requires the disability to last 12 months or more or result in death, so a person injured in the Marathon bombing or car accident and expected to recover in a year would not be eligible for an exemption during the recovery period.
 - Under current rules, the Commonwealth's Disability Evaluation Services gets medical records, orders consultative exams, and applies detailed criteria to decide if the person's impairment is severe and substantially reduces the person's ability to work.

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- **New requirements for exemption based on caring for a disabled person (§ 14)**
 - Parents seeking an exemption from work requirements and time limits based on caring for a disabled child or spouse must apply for SSI for the disabled person (§ 14), whether or not doing so is in the best interests of the disabled person.
- **Limits on exemption for pregnant women (§ 15)**
 - The exemption from work requirements for pregnancy is limited to the 33rd week of pregnancy (§ 15) instead of the third trimester as under current law.
 - There is no evidence that pregnant women quit a job to go on welfare unless they have to. The new rule would require unemployed pregnant women to look for work even though no one will hire them or to take up a scarce education or training slot even though they cannot be placed in a job.
- **Exemption for seniors narrowed (§ 17)**
 - The exemption from work requirements and time limits for seniors is changed from age 60 to age 66 with exceptions for seniors who retired before applying for benefits.
 - The change adds further complexity to the administration of the program and puts a new burden on older recipients who have even more difficulty getting work than younger recipients.

Changes to education, training, and work

- **New role for the Commonwealth Corporation (§ 8, § 18, § 20)**
 - The Commonwealth Corporation is a Massachusetts business that develops workforce programs in partnership with businesses, educators, and providers.
 - The Commonwealth Corp. shall develop and administer a “full employment program” to match work required recipients with jobs (§ 18).
 - For those who cannot be matched with a job, Commonwealth Corp. shall identify, refer to, and if necessary develop appropriate education and training programs (§ 18).
 - Employers who hire recipients under the “full employment program” qualify for health insurance reimbursement (§ 18). It is not clear how much incentive this will provide since most recipients will qualify for MassHealth Standard which provides better coverage than private insurance at no cost to the employer. Also, Massachusetts plans to eliminate the insurance reimbursement program by January 2014 as part of the state’s implementation of the federal Affordable Care Act.
 - \$15 million of the \$30 million committed to provide insurance reimbursement in the FY 2013 budget is to be used to provide insurance reimbursement under this provision (§ 20).
- **Funding for the Commonwealth Corporation programs (§ 2A)**
 - The bill provides \$5 million in new funding for the “full employment program” (§ 2A, item 4400—1979).
 - Up to \$6 million additional funding is set aside for the “full employment program” from SNAP performance bonuses (§2A, item 4400-1980). There is no assurance that

Massachusetts will qualify for a bonus or how much the state might receive. The Federal Farm bill might eliminate these bonuses.

- **Job search for applicants (§ 8, § 9)**
 - Applicants for benefits who have not been determined to meet an exemption and are not already in education or training or a substance abuse program must participate in a Commonwealth Corporation “job diversion” program, but benefits cannot be denied while an applicant is awaiting a placement (§ 8).
 - In addition, non-exempt applicants who do not have good cause for not participating must do job search as a condition of eligibility and must verify the job search by recording contacts with a number of employers to be determined by DTA (§ 9).
 - Applicants who do not meet the job search requirements will not be approved for benefits.
 - The bill says the requirement can be met by providing proof of job search at a career center (§ 9), but the career centers do not have the staff to provide that type of proof.
 - The applicant job search requirements do not take into account applicants whose exemption status has not been determined (such as those exempt on the basis of disability or caring for a disabled family member), those with cognitive impairments who may have difficulty keeping a log, those who do not have a phone or internet access, and homeless applicants, including those in shelter who must comply with housing search and work requirements as a condition of shelter.
- **Job search for recipients (§9)**
 - Recipients who are meeting their work requirement through job search must provide weekly proof of job search (§9). The bill says the requirement can be met by providing proof of job search at a career center (§ 9), but the career centers do not have the staff to provide that type of proof.
 - Given DTA’s staff shortages and technology limitations, it seems unlikely that a weekly documentation requirement is workable.
- **DTA authority to allow education and training for more than 12 months (§ 17A)**
 - Current rules allow education or training to count towards the work requirement for no more than 12 months.
 - The bill would allow DTA to grant extensions to complete a certificate or degree program if the recipient is making substantial progress (§ 17a).
- **Evaluation of training and employment services programs (§ 8, § 23, § 27A)**
 - Individuals served by DTA programs must be tracked for at least one year after transitioning into employment (§ 8).
 - 10 % of funds spent on employment training and services must be reserved for external evaluation (§ 3). It is not clear how much that would be.
 - \$200,000 is taken from the already severely underfunded employment service program account, 4401-1000, to evaluate the Commonwealth Corp. programs (§ 23). It is not clear if this is in addition to the amount reserved.

- Reports shall be made public on the General Court’s website (§ 27A).
- **Verification of work activities (§ 7)**
 - Work participation forms must be verified by a third party under penalties of perjury (§ 7), whether or not the information is questionable or could be directly verified by DTA.
 - This could reduce available placements since training providers, community colleges, and nonprofit community service providers may not want to subject their staff to possible criminal prosecution.

Asset and income improvements

- **Easing the car rule (§ 12) will help some recipients get to jobs, training, and doctors**
 - TAFDC recipients can own a “non-luxury vehicle” worth \$15,000 or less. The excess counts towards the \$2,500 asset limit which is unchanged. The Commissioner can waive the counting of the excess (§ 12).
 - The original bill allowed one vehicle per household. Studies show that welfare recipients very rarely own high value cars. The change adds unnecessary administrative complexity to prevent recipients from having cars they were not going to have anyway.
 - Current rules count equity value over \$5,000 and market value over \$10,000.
- **Increasing the work expense deduction (§ 8) takes a small step to support paid work**
 - The bill would increase the work expense deduction to \$150 a month (§ 8).
 - Current rules allow a deduction of \$90 for all work expenses, taxes, and other mandatory deductions. Actual expenses for low income workers are between \$300-\$500 a month.
 - Because of the way benefits are calculated, the increase in the deduction will increase benefits for most employed recipients by only \$30 a month.
- **Allowing recipients to set aside money (§ 9)**
 - Recipients can set aside money in asset account which then does not count against the \$2,500 asset limit. Recipients can withdraw the money only for purposes allowed by DTA.
 - Senate leaders said that recipients could also put personal injury awards and similar payments in the asset account but rejected an amendment to specify that. Currently those payments cause recipients to be disqualified for months or even years, long after the money is spent.
 - Few recipients can save money out of their grants (average \$456 a month) or other very small amounts of income and it would be rare for a recipient to save enough to go over the asset limit of \$2,500 so it is not clear how much this provision would do unless damage awards and similar payments can be put in the accounts.

Teen parents

- **Teen living programs (§ 27, § 2)**

- Pregnant teens can live in a teen living program for the entire pregnancy (§27), not just the last trimester as under current law.
- \$500,000 additional funding is provided for teen living programs (§ 2, item 4403-2119).

Other new welfare rules

- **Photo ID (§ 5, § 30, § 32)**
 - DTA must put a photo ID of the cardholder on the front of newly-issued and reissued EBT cards (§ 5).
 - DTA must issue regulations to exempt vulnerable populations from the photo ID requirement, including seniors, persons with disabilities, and domestic violence survivors (§ 5).
 - The card must show the fraud hotline number.
 - Retailers must check the card to verify that it matches the purchaser. Retailers who knowingly fail to check the photo are subject to fines (§ 5).
 - The photo ID requirement is effective 6 months after the Act’s effective date.
 - DTA may use drivers’ license photos to save money and must work with RMV to identify fraud (§ 30).
 - Photo ID is expensive (estimated \$5 million or more with additional costs each year) and would undo years of modernizing the program to allow on-line SNAP applications and simplified applications at Social Security offices.
 - Federal law bars retailers from checking SNAP photo IDs if they do not check all customers.
 - The bill says DTA must issue rules so that – as federal law requires – SNAP cardholders are able to have other people use the card and shop for them. This is important for people with disabilities, elders and other home-bound beneficiaries (§5), but no one has proposed a practical way to meet the federal requirements with photo ID.
 - Photo ID does not prevent or reduce SNAP fraud.
 - Massachusetts would be the only state in the U.S. with a SNAP photo ID.
- **Learnfare expansion (§ 19)**
 - School attendance requirements are extended to older teenagers (up to age 16) (§ 19).
 - Current law requires school attendance verification for children under age 14.
 - There is no evidence that Learnfare helps keep kids in school. The bill would give teens power over their parents because the teen can threaten to cut school if the parent doesn’t do what the teen wants.
 - A provision in the original bill extending Learnfare to subsidized housing was not adopted.
- **Family cap exceptions (§ 11)**
 - Current welfare law authorizes DTA to grant exceptions to the family cap in “extraordinary circumstances.” The bill requires DTA to develop criteria for approving exceptions or waivers to the family cap for extraordinary circumstances (§ 11).

- “Extraordinary circumstances” are by definition difficult to specify and anticipate.
- **Compliance with a previous plan as a condition of re-eligibility (§ 9)**
 - DTA must develop an economic independence plan for each recipient – including those who are exempt from work requirements and time limits because of disability or another reason – during the first 24 months the recipient receives benefits (§ 9).
 - If the case closes and the recipient reapplies after receiving benefits for 24 months she cannot get benefits unless she can show that she complied with the plan while the case was closed as well as when she previously received benefits (§ 9).
 - This applies to recipients who are not subject to the time limit as well as those who are subject to the time limit. So if the case closes for a procedural reason, benefits will not be paid for the parent unless she can show compliance.
 - The bill does not assure that the plans are tailored to the recipient or that services will be provided to enable recipients to meet the goals in the plan.
- **Time limit extensions limited to 3 months and supported by written decision (§ 16, § 15A)**
 - Current practice already limits time limit extensions to 3 months at a time. Senate leadership said that the intent was to codify that practice, but the bill does not expressly allow for further extensions (§ 16).
 - The bill would allow only the commissioner, a deputy, or assistant commissioner to write the extension decision (§ 15A). The Commissioner is currently reviewing all extension recommendations, but requiring one of the specified officials to write all the decisions may not be the most efficient system in the future.
- **Required financial literacy education (§ 27D)**
 - Subject to appropriation, DTA must require recipients to participate in financial education (§ 27D).
 - The bill does not appropriate money for financial education, for transportation to programs, or for child care to enable parents to participate.
 - It is unfortunate that the bill makes the financial education mandatory (if funding for the program is provided), given all the other activities required of recipients including 30 hours a week of work for some recipients.
- **Verification (§ 6, § 7, § 8)**
 - Self-declarations for TAFDC must be made under penalties of perjury and if possible should not be the sole verification of an eligibility factor (§ 6).
 - The bill appears to recognize that sometimes the only verification is the recipient’s statement. For example, recipients who are paid in cash may have no other way to verify their earnings.
 - Work participation forms must be signed under penalties of perjury (§ 7), which may deter nonprofit community service and education and training providers from signing work participation forms.
 - Applicants and recipients for cash assistance must provide their Social Security number within 3 months, except for those noncitizens who have a status that is not eligible for

an SSN (§ 8). It is to be hoped that the SSN requirement can be met, as it should be now, by data exchange between DTA and the Social Security Administration.

- Applicants who do provide information about citizenship or immigration status and are not eligible for themselves must provide proof of income and assets (§ 9). This should not change current practice, provided the verification requirements are reasonable.

Staffing and technology improvements at DTA

- **Caseloads and staffing (§ 2, § 8, § 4, § 22)**
 - \$2.9 million in additional funding is provided for 50 additional workers (§ 2, item 4400-1100, § 22)
 - DTA must ensure that a cash assistance recipient can reach a caseworker by phone during normal business hours (§ 8).
 - DTA must designate specialists with caseloads of no more than 60 recipients to work with teen parents and may use specialists to work with other recipients DTA determines to need specialized assistance to achieve economic independence (§ 4).
- **Technology**
 - DTA is required to have a plan to use technology to reduce paper records (§ 25), but no new money is provided for this.

Program integrity

- **Returned mail and absences from Massachusetts (§ 3A, § 9)**
 - DTA is supposed to terminate benefits to any recipient if certified mail is returned to DTA but first must try to determine the recipient's address (§ 3A).
 - A temporary absence of more than 30 days creates a rebuttable presumption that a cash assistance recipient is no longer a resident of Massachusetts (§ 9).
- **"High risk" clients (§ 5)**
 - Recipients who use cash assistance outside Massachusetts or a border state trigger a review to be sure the recipient is fully compliant with all rules (§ 5).
 - This may unconstitutionally interfere with interstate commerce and unconstitutionally burden the right to travel.
- **Increased penalties (§ 4B, § 4C)**
 - The bill increases penalties on retailers that violate the prohibitions against certain retailers accepting cash benefits as payment (§ 4B).
 - The bill adds televisions, stereos, video games and consoles at rent-to-own stores to the current lengthy list of products and services that cash benefits cannot be used for.
 - The bill Increases penalties on individuals who are convicted of SNAP trafficking (§ 4C).
- **Fraud investigation (§ 2, § 21, § 8)**
 - DTA shall hire 6 new investigators (§ 2, item 4400-1000, § 21).
 - DTA shall develop a fraud detection program to identify likely cases of fraud by looking at usage patterns and other relevant data sources (§ 8).

- Subject to appropriation, DTA shall implement a fraud risk assessment system under which some groups of recipients would receive increased scrutiny (§ 8).
- **Integrated eligibility system (§ 24)**
 - The bill requires that the integrated eligibility system to be created by EOHHS to implement federal health reform will allow data sharing between agencies (§ 24), as it is intended to do.
- **Coordinating information on recipients with felony warrants (§ 27B)**
 - DTA must develop protocols for collecting and acting on federal, state and local felony warrant information (§ 27B).
 - If this is enacted, it will be important to assure that DTA complies with state and federal law regarding eligibility of people with outstanding warrants and gives them an opportunity to clear up the warrant.
- **Sex offender registration (§ 27C)**
 - The bill prohibits benefits to persons required to register as sex offenders who have not registered (§ 27C). It is not clear how DTA will know that someone is an unregistered sex offender.

Housing programs

- **Non-citizen eligibility for public housing (§ 27E)**
 - The bill would bar families from state public housing if any member does not meet a narrow list of non-citizen statuses. This would result in families with citizen children being forced to leave public housing.
- **Temporary absences from subsidized housing (§ 10)**
 - Recipients who leave the Commonwealth for more than 30 days are presumed to have abandoned their Massachusetts residency and would lose their eligibility for a housing subsidy unless they can rebut the presumption of non-residency (§ 10).

Implementation

- **Regulations (§ 5A, § 31)**
 - DTA must issue regulations to implement the Act (§ 31).
 - DTA must issue proposed regulations implementing changes 60 days before promulgating them (§ 5A).