

1 **H. B. 2081**

2
3 (By Delegates Manypenny, Perdue and Kominar)
4 [Introduced January 12, 2011; referred to the
5 Committee on the Judiciary then Finance.]

6 **FISCAL**
7 **NOTE**

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9
10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §9-5-21; and amending
12 and reenacting §9-9-3 of said code, all relating to permitting
13 the state to opt out of a federal statute that would otherwise
14 not allow a state resident who has been convicted of a felony
15 involving a controlled substance from receiving certain
16 benefits provided by the Social Security Act and the Food
17 Stamp Act.

18 *Be it enacted by the Legislature of West Virginia:*

19 That the Code of West Virginia, 1931, as amended, be amended
20 by adding thereto a new section, designated §9-5-21; and to amend
21 and reenact §9-9-3 of said code, all to read as follows:

22 **ARTICLE 5. MISCELLANEOUS PROVISIONS.**

23 **§9-5-21. Supplemental Nutritional Assistance Program.**

1 Pursuant to the authority and option granted by 21 U.S.C.
2 §862a(d)(1)(A) to the states, West Virginia exempts all individuals
3 domiciled within the state from the application of 21 U.S.C.
4 §862a(a).

5 **ARTICLE 9. WEST VIRGINIA WORKS ACT.**

6 **§9-9-3. Definitions.**

7 In addition to the rules for the construction of statutes in
8 section ten, article two, chapter two of this code and the words
9 and terms defined in section two, article one of this chapter,
10 unless a different meaning appears from the context:

11 (a) "At-risk family" means a group of persons living in the
12 same household, living below the federally designated poverty
13 level, lacking the resources to become self-supporting and
14 consisting of a dependent minor child or children living with a
15 parent, stepparent or caretaker-relative; an "at-risk family" may
16 include an unmarried minor parent and his or her dependent child or
17 children who live in an adult-supervised setting;

18 (b) "Beneficiary" or "participant" means any parent, work
19 eligible individuals or caretaker-relative in an at-risk family who
20 receives cash assistance for himself or herself and family members.

21 Pursuant to the authority and option granted by 21 U.S.C.
22 §862a(d)(1)(A) to the states, West Virginia exempts all persons
23 domiciled within the state from the application of 21 U.S.C.
24 §862a(a);

1 (c) "Caretaker-relative" means grandparents or other
2 nonparental caretakers not included in the assistance group or
3 receiving cash assistance directly;

4 (d) "Cash assistance" means temporary assistance for needy
5 families;

6 (e) "Challenge" means any fact, circumstance or situation that
7 prevents a person from becoming self-sufficient or from seeking,
8 obtaining or maintaining employment of any kind, including physical
9 or mental disabilities, lack of education, testing, training,
10 counseling, child care arrangements, transportation, medical
11 treatment or substance abuse treatment;

12 (f) "Community or personal development" means activities
13 designed or intended to eliminate challenges to participation in
14 self-sufficiency activities. These activities are to provide
15 community benefit and enhance personal responsibility, including,
16 but not limited to, classes or counseling for learning life skills
17 or parenting, dependent care, job readiness, volunteer work,
18 participation in sheltered workshops or substance abuse treatment;

19 (g) "Department" means the state Department of Health and
20 Human Resources;

21 (h) "Education and training" means hours spent regularly
22 attending and preparing for classes in any approved course of
23 schooling or training;

24 (i) "Family assessments" means evaluation of the following:

1 Work skills, prior work experience, employability, education and
2 challenges to becoming self-sufficient such as mental health and
3 physical health issues along with lack of transportation and child
4 care;

5 (j) "Income" means money received by any member of an at-risk
6 family which can be used at the discretion of the household to meet
7 its basic needs: *Provided*, That income does not include:

8 (1) Supplemental security income paid to any member or members
9 of the at-risk family;

10 (2) Earnings of minor children;

11 (3) Payments received from earned income tax credit or tax
12 refunds;

13 (4) Earnings deposited in an individual development account
14 approved by the department;

15 (5) Any educational grant or scholarship income regardless of
16 source; or

17 (6) Any moneys specifically excluded from countable income by
18 federal law;

19 (k) "Minor child head of household" means an emancipated minor
20 under the age of eighteen years;

21 (l) "Nonrecipient parent" means an adult or adults excluded or
22 disqualified by federal or state law from receiving cash
23 assistance;

24 (m) "Personal responsibility contract" means a written

1 agreement entered into by the department and a beneficiary for
2 purposes of participation in the West Virginia Works Program;

3 (n) "Secretary" means the secretary of the state Department of
4 Health and Human Resources;

5 (o) "Subsidized employment" means employment with earnings
6 provided by an employer who receives a subsidy from the department
7 for the creation and maintenance of the employment position;

8 (p) "Support services" includes, but is not limited to, the
9 following services: Child care; Medicaid; transportation
10 assistance; information and referral; resource development services
11 which includes assisting families to receive child support and
12 supplemental security income; family support services which
13 includes parenting, budgeting and family planning; relocation
14 assistance; and mentoring services;

15 (q) "Temporary assistance to needy families" is the federal
16 program funded under Part A, Title IV of the Social Security Act,
17 codified at 42 U.S.C. §601, *et. seq.*;

18 (r) "Transitional assistance" may include medical assistance,
19 food stamp assistance, child care and supportive services as
20 defined by the secretary and as funding permits;

21 (s) "Two-parent family" means two parents with a common child
22 residing in the same household and included in a common West
23 Virginia Works grant payment or, two parents with a common child
24 residing in the same home and one or both of the parents are "work

1 eligible individuals", as that term is defined in this section, but
2 are excluded from the West Virginia Works payments unless the
3 exclusion is due to an exemption as provided in section eight of
4 this article.

5 (t) "Unsubsidized employment" means employment with earnings
6 provided by an employer who does not receive a subsidy from the
7 department for the creation and maintenance of the employment
8 position;

9 (u) "Vocational educational training" means organized
10 educational programs, not to exceed twelve months for any
11 individual, that are directly related to the preparation of
12 individuals for employment in current or emerging occupations
13 requiring training other than a baccalaureate or advance degree;

14 (v) "Work" means unsubsidized employment, subsidized
15 employment, work experience, community or personal development and
16 education and training;

17 (w) "Work eligible individual" means an adult or minor child
18 head-of-household receiving assistance under the West Virginia
19 Works Program or a nonrecipient parent living with a child
20 receiving the assistance; and

21 (x) "Work experience" means a publicly assisted work activity,
22 including work associated with the refurbishing of publicly
23 assisted housing, performed in return for program benefits that
24 provide general skills, training, knowledge and work habits

1 necessary to obtain employment. This activity must be supervised
2 daily and on an ongoing basis by an employer, work site sponsor or
3 other responsible party.

NOTE: The purpose of this bill is to permit the state to opt out of a federal statute that would otherwise not allow an individual living in the state who has been convicted of a felony involving a controlled substance from receiving certain benefits provided by the Social Security Act and the Food Stamp Act.

§9-5-21 is new; therefore, it has been completely underscored.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.