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Senate Bill No. 338
(By Senator Foster)

[Introduced January 28, 2011; referred to the Committee on the
Judiciary; and then to the Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new section, designated §9-5-21; and to amend
and reenact §9-9-3 of said code, all relating to permitting
the state to opt out of a federal statute that would otherwise
not allow a state resident 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.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. MISCELLANEOUS PROVISIONS.

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

Pursuant to the authority and option granted by 21 U.S.C.

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

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

5 **§9-9-3. Definitions.**

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

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

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

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

24 (c) "Caretaker-relative" means grandparents or other
25 nonparental caretakers not included in the assistance group or

1 receiving cash assistance directly;

2 (d) "Cash assistance" means temporary assistance for needy
3 families;

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

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

17 (g) "Department" means the State Department of Health and
18 Human Resources;

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

22 (i) "Family assessments" means evaluation of the following:
23 Work skills, prior work experience, employability, education and
24 challenges to becoming self-sufficient such as mental health and
25 physical health issues along with lack of transportation and child

1 care;

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

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

7 (2) Earnings of minor children;

8 (3) Payments received from earned income tax credit or tax
9 refunds;

10 (4) Earnings deposited in an individual development account
11 approved by the department;

12 (5) Any educational grant or scholarship income regardless of
13 source; or

14 (6) Any moneys specifically excluded from countable income by
15 federal law;

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

18 (l) "Nonrecipient parent" means an adult or adults excluded or
19 disqualified by federal or state law from receiving cash
20 assistance;

21 (m) "Personal responsibility contract" means a written
22 agreement entered into by the department and a beneficiary for
23 purposes of participation in the West Virginia Works Program;

24 (n) "Secretary" means the Secretary of the State Department of
25 Health and Human Resources;

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

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

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

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

17 (s) "Two-parent family" means two parents with a common child
18 residing in the same household and included in a common West
19 Virginia Works grant payment or, two parents with a common child
20 residing in the same home and one or both of the parents are "work
21 eligible individuals", as that term is defined in this section, but
22 are excluded from the West Virginia Works payments unless the
23 exclusion is due to an exemption as provided in section eight of
24 this article.

25 (t) "Unsubsidized employment" means employment with earnings

1 provided by an employer who does not receive a subsidy from the
2 department for the creation and maintenance of the employment
3 position;

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

9 (v) "Work" means unsubsidized employment, subsidized
10 employment, work experience, community or personal development and
11 education and training;

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

16 (x) "Work experience" means a publicly assisted work activity,
17 including work associated with the refurbishing of publicly
18 assisted housing, performed in return for program benefits that
19 provide general skills, training, knowledge and work habits
20 necessary to obtain employment. This activity must be supervised
21 daily and on an ongoing basis by an employer, work site sponsor or
22 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, strike-throughs and underscoring have been omitted.

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