

## The New Welfare Law: Implications for Battered Women -- Introduction to the Law



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## The Series

A goal of this series of papers is to provide domestic violence advocates and others working on domestic violence or welfare issues with relevant and practical information about the new "welfare law" and its effects on battered women and their children.

This is a time of great change in public policy related to both domestic violence and welfare. The Violence Against Women Act of 1994 and other initiatives have prompted much state-level activity around the response to domestic violence. The new federal "welfare law" will do the same in the area of public assistance and related programs. The welfare law and its implementation at the federal and state levels raise complex legal and program design issues. In addition, both the issues and interpretations of the law are in flux. Even those who have worked in the welfare area for years are unclear about some aspects of the law and how it will work.

This paper begins this welfare/domestic violence series and provides basic information about the new federal welfare law, its possible effects on battered women, and the role for advocates. Attached is a summary of welfare law provisions prepared by the Dept. of Health and Human Services and a copy of a recently released Presidential Directive. Future papers will focus in more depth on particular aspects of welfare reform's impact on battered women, and will highlight changes in information about the federal law or new developments related to its implementation at a state level.

The National Resource Center (NRC) and National Network to End Domestic Violence (NNEDV) are working closely with the Battered Women's Justice Project-Civil Component and other groups, including NOW Legal Defense and Education Fund and the Taylor Institute, to ensure that ongoing technical assistance is available to advocates. In the interim, the NRC [800-537-2238] will serve as a clearinghouse for basic information.

## The Law

**Name:** Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ["the Act"] The statutory reference for the law is H.R. 3734.

**When passed:** Congress passed the law in July and the President signed it into law on August 22, 1996.

**Effective Date:** Generally, July 1, 1997. Some aspects are already being implemented, and others will begin October 1, 1996.

**General Description:** The following is a broad description. More information about the law will follow in future papers. This law is extremely complex. Each section of the law has qualifications and exceptions with differing implications. The following generalization omits certain details.

The AFDC (Aid to Families with Dependent Children Program) is replaced by the Temporary Assistance to Needy Families (TANF) program. The new program is commonly referred to as "welfare block grants" or the TANF program. It generally works like this. Once states develop a plan for providing assistance, they will be eligible to receive a TANF block grant of federal money. Under TANF, states will have enormous freedom to decide how to spend the money.

For example, each state will decide which families will receive assistance, how much assistance they'll get, and what programs will exist to serve these needy families.

The Act places few -- but significant -- requirements on states and provides much less oversight of state activity from the federal government than existed under the AFDC program.

- **State plan.** A state must submit a state plan to the Department of Health and Human Services (HHS) in order to get its TANF block grant. The plan does not have to be very detailed. The state plan must certify that local governments and private sector organizations have been consulted about the plan and have had at least 45 days to submit comments <sup>(1)</sup> . The state must make a summary of the plan available to the public <sup>(2)</sup> .
- **Ends the federal right to assistance.** In the past, if a family met certain qualifications the federal law required a state to provide assistance to them. The federal government would then reimburse a portion of the state's cost. Under TANF, it is now up to the states to decide which families will get money, for how long, and on what conditions. Once the state spends its federal block grant money within the federal fiscal year (October 1-September), there is no guarantee it will receive any more federal money.
- **Federal funding.** Overall, the Act includes nearly \$55 billion in cuts in low-income programs over the next six years <sup>(3)</sup> . The cuts come from programs other than the "old" AFDC (now the TANF) program <sup>(4)</sup> . Nevertheless, each state will receive TANF funds in about the same amount they have recently received for the AFDC, JOBS and Emergency Assistance Programs. This amount will basically remain the same through FY 2002, except for bonuses or penalties. A state might receive some additional money or borrow money under limited circumstances.

Because of the overall reduction of funding and new requirements likely to be imposed by states, the Act may push many more children and their families into poverty and make already poor families even poorer <sup>(5)</sup> .

- **Permissible uses of TANF funds:**

A state can use TANF funds for cash assistance, non-cash assistance, services, and administrative costs to assist needy families with children. A state can use up to 30% of TANF funds to operate programs under the Child Care and Development Block Grant and the Title XX Social Services Block Grant (SSBG). [Only up to 1/3 of the 30% can be used for Title XX and all the programs must be for poor children or their families.]

- **Prohibited uses of TANF funds:**

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1 Sec. 402 (a)(4)

2 Sec. 402 (b)

3 According to Congressional Budget Office

4 Most of the cuts are in the Food Stamps program, the Supplemental Security Income program (by substantially reducing the number of children who would qualify for benefits), and assistance to legal immigrants.

5 Center for Budget and Policy Priorities paper entitled, "The New Welfare Law," by David Super, et. al.

States cannot use TANF funds to assist:

- families who have received assistance for 60 months (5 years). States can develop exceptions to the 60 month limit, but these exceptions cannot exceed 20% of the state's caseload. These exceptions can include hardships or if the family has an individual who has been battered or subjected to extreme cruelty.
- a family without a child or pregnant individual;
- minor parents unless they are attending school and living at home or in an adult supervised living arrangement (with certain exceptions);
- certain legal immigrants;
- fugitive felons or certain parole/probation violators;
- individuals convicted of certain drug felonies(unless the state opts out of this prohibition).

States are required to reduce or eliminate assistance to a family if an individual does not cooperate with child support enforcement unless they have a good cause reason not to cooperate.

- **Maintenance of efforts:**

In order to receive Federal money a state must continue to spend state funds on these programs. The state must spend at least 80% of the amount spent by that state in FY 94 in order to meet the "maintenance of efforts" requirement.

- **Work requirements.** TANF creates several possible work requirements for states to meet.

- In order for the state to avoid a financial penalty, a certain percentage of adults from families receiving assistance must work. The percentage for single parent families is 25% in FY 97 increasing to 50% in FY 2002. The rate for two parent families is 75% in FY 97 and 98 and 90% in FY 99 and thereafter. There are complicated rules about what is defined as "work." A state may avoid the penalty if it has a good cause reason for failing to meet the percentage required.
- A state must outline how it will require parents or caretakers to be engaged in work by the time they' have received 24 months of assistance.
- If a state does not "opt out" (choose not to meet this requirement) it must require parents or caretakers receiving assistance to participate in community service after they have received 2 months of assistance, unless the parents are working or exempt for some other reason.
- A state may not reduce or end a single parent's assistance for failing to comply with work requirements if the parent has a child under 6 and refuses to work because she cannot get needed child care.

- **TANF and Domestic Violence.** There are two areas of the Act which specifically refer to domestic violence.

- States are allowed to exempt up to 20% of their caseload from the 60-month limit. The exemption can be for "reason of hardship or **if the family includes an individual who has been battered or subjected to extreme cruelty** ." <sup>(6)</sup>
- States can "opt in"(choose) to include a certification about victims of domestic violence in their state plans. This amendment allows states to waive certain requirements for **certain** domestic violence victims. Depending on how a state would choose to implement this section of the Act, it may result in additional help and/or requirements for victims. This section of the Act is known as the "Wellstone/Murray Amendment" because Senators Wellstone and Murray sponsored it. <sup>(7)</sup>
- **Medicaid.** Families eligible for TANF are not automatically eligible for Medicaid. However, if a family meets the requirements of the state's former AFDC program applicable on July 16, 1996, then the state must provide Medicaid coverage to the family.
- **Already existing state welfare initiatives/waivers.** Before the new Act was passed, Federal law had numerous specific requirements that each state had to meet. Some states were given permission by the federal government to develop programs that did not meet these requirements. This permission is known as a "waiver." Many states already have a waiver of some kind. Some waivers affect the entire state and others simply give a state permission to try a new program in a particular area. Some state's waivers already give them permission to have time limits and work requirements. The new Act allows states to continue these waivers if the state chooses to do so.
- **Other changes.** The Act also made changes to child care, child support enforcement, Supplemental Security Income(SSA), Food Stamp, and other nutrition programs. This paper only discusses some of the TANF parts of the Act.

## The Domestic Violence Connection

**Note: The connection between the Welfare Act and its possible effects on battered women and their children will be the sole topic of Paper # 2.**

Some state welfare programs will change dramatically because of the new Act. Some states had already begun new assistance programs before the Act was passed, and will simply continue them. Either way, battered women and children who receive TANF funds will be affected. Each state will provide different challenges for advocates and battered women. The following list provides some examples of how a battered woman may be affected:

- An abusive partner may keep a woman from meeting the requirements for receiving assistance. For example, her partner could prevent her from participating in a work or education program by injuring her, threatening her, taking her clothes or transportation, refusing to watch the children, or other sabotage.

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6 Sec. 408 (a)(C)(1)

7 Sec. 402 (a)(7)

- A state could require that all battered women disclose information about their battering for a wide variety of purposes--some of which may enhance safety and others which may diminish it.
- A state could develop assistance programs that enhance safety and autonomy of battered women and their children.
- A state could develop assistance programs that are punitive and reduce the options for safety and autonomy of battered women and their children.
- state could allow battered women to be "excused" from certain requirements.
- A battered woman may stay with her partner or return to him because assistance is no longer available to her family.
- A state's welfare program may affect a battered woman's decisions regarding her future and the future of her children.

State implementation of the Act, and possibly the Wellstone/Murray Amendment, raise a number of areas of concern for advocates. For example, the Wellstone/Murray Amendment calls for a state to screen individuals receiving assistance for a history of domestic violence while maintaining confidentiality, and to refer those individuals identified to counseling and supportive services <sup>(8)</sup>. It is important that "screening" and "referral" be properly defined and carefully implemented by states to ensure that battered women's ongoing safety and confidentiality remains a high priority.

Another concern relates to the waiving or exempting of battered women from certain requirements of TANF programs which may also keep them from receiving job training, work assistance or other potentially beneficial aspects of the program. This might be based on the (incorrect) theory that all the battered women who ask for a waiver or exemption are incapable of working, and therefore it is not a cost effective use of TANF funds to support their employment efforts.

These are but two of a host of issues requiring state level analysis by advocates. Specific strategies to address these concerns are currently being developed. Implementation issues will be the topic of Paper # 2.

## **Domestic Violence Advocate Role**

Implementation of the Act is important to domestic violence advocates because:

- It affects battered women and their children and may limit their options for safety and privacy
- It affects the way advocates help battered women assess their needs and provide advocacy, information, referral, and follow up services
- It affects all poor women, men and children
- Implementation decisions will happen mostly on a state level and may affect services, funding and support for battered women and their children
- Implementation may result in a change in funding for domestic violence projects

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8 Sec. 402 (a)(7)(A)

- Implementation may result in an increased demand for domestic violence and other services to poor families
- The Wellstone/Murray Amendment offers an opportunity to discuss the importance of welfare to women/children's safety and autonomy.

## **How To Begin**

### **Try to remain calm. Identify allies and sources of information.**

Much of this will be familiar - understanding a new law and its effects on battered women, building coalitions, discussing domestic violence issues. Some of you have already been involved in welfare issues. In addition, there are experienced and thoughtful people already involved in welfare issues both in the community and in state and local government.

Once you have found these people, things will get easier. You may find these people in:

- Legal services or legal aid programs

Note: Legal services programs that receive funding from the Legal Services Corporation are prohibited by Federal funding restrictions from working on some aspects of welfare issues.

- Government administrators and workers involved in welfare or other programs
- Welfare to work, job training, or educational programs
- Welfare rights activists
- Child support advocates
- Civil rights activists
- Housing advocates and community Head Start advisory groups
- Advocates working with persons with disabilities
- Advocates involved in access to health care, health insurance issues
- Broader social justice, economic development, environmental justice movements may also be involved in the range of issues affected by the new law

### **Identify your leadership and organize your information.**

A first step for your coalition is to identify who within your network will take the lead on welfare and domestic violence issues. Make sure that this person or group of people receive all welfare-related materials coming into your office and that a procedure is developed to keep others within your network informed of decisions and activities as they occur.

To support all staff and volunteers in welfare work, establish a central set of files from which information about Federal law, state laws and regulations, general information on welfare/ domestic violence issues, and other related materials can be easily retrieved when needed.

## **Learn about your state's current welfare programs and funding.**

Most welfare policies will now be developed on a state level. It is very important, therefore, to understand what is going on in your state right now. Some states have already submitted their state plans and the rest are in the process of evaluating the new Act and forming their plans.

Some things you need to know:

- Basic information about your state's current welfare assistance program; [two possible sources of such information are government administrators and legal aid programs]
- Whether your state has a waiver and if so, what the waiver does.
- How your state's budget will be affected by the new law. Will there be more money or less? Will domestic violence services funding be affected?

## **Determine how your state will make decisions about its TANF grant.**

The new Federal welfare law is designed to provide states with great autonomy about how they spend their TANF funds. Federal laws, regulations, and agencies will play a much smaller role than in the past. This means your state's laws, regulations and agencies will decide:

- who is eligible for assistance;
- what programs they must participate in;
- who will get exemptions from certain requirements;
- whether battered women will get exemptions, waivers, or particular services;
- how long the assistance is available;
- whether it will be cash assistance or a voucher;
- what requirements must be met to be eligible;
- whether particular services, such as child care, will get funding, and
- how the state will proceed on the entire spectrum of issues this law raises.

Advocates need to know who will make these decisions, how they will make them, and on what time line. Some decisions will be made as part of the state's budget process, while others may be made through the creation of state agency regulations(which usually require an opportunity for public comment). A local county or city agency may also be involved in making decisions. One key opportunity is during the 45-day comment period for the state plan. This will provide advocates with the opportunity to educate the decision-makers about the effects of their decisions on battered women and their children. Advocates may also have an opportunity to lessen the harsh impact this will have on all poor families and on battered women in particular.

## **Begin to plan how you'll advocate for individual battered women affected by the Act.**

[More information about advocacy for individual battered women will follow in subsequent papers.]

1. **Try to determine what advocacy women will need:**

Advocates can gather some of this information directly from battered women in shelter and support groups, during non-crisis Hotline calls, while providing legal advocacy.

- What difficulties are they having with TANF program implementation?
- What are the issues they are facing?
- How are the programs enhancing or diminishing safety?
- Are batterers using the programs to further their control? How?

Advocates can also do their own analysis of advocacy needs once they have a basic understanding of their state's programs and how they are being implemented. Other advocates for poor people will also have experience and knowledge about individual advocacy needs. In general, the more prepared individual battered women are to deal with this new system, the better able they will be to access whatever services may be available.

## 2. Plan how to prepare advocates to provide effective advocacy on these issues.

- What information do they need to know about the law, the systems implementing the law and the people working in those systems?
- What training is needed? Who should participate?
- What collaboration with other programs are necessary?

## 3. Plan how you will provide individual advocacy.

- What additional resources are needed? How will you get them? If you don't get them will you shift resources from other areas?
- How will battered women know there is advocacy available and what it can do?

## Paper #2

Paper #2 will provide information about the following:

- A more detailed discussion of the two sections of the Act that refer to domestic violence or battering.
- Key concerns about the effect of the Act on battered women
- Considerations for implementation of the Act and specifically the Wellstone/Murray amendment

## Terms

**Block Grants:** provide a certain sum of money to the state and provide the state with flexibility to decide how to spend the money. Block grants can be distinguished from funding that comes to a state for a specific program and must be spent on that program.

**State Plan:** is required for states to receive a TANF block grant. The Act requires certain information to be in the plan and for a 45 day comment period for " local governments and private sector organizations."

**Temporary Assistance to Needy Families (TANF):** is the name of the Federal program that replaces AFDC (Aid to Families with Dependent Children).

**Waiver:** gives a state permission to develop an assistance program that differs from programs established by Federal rules and regulations. Waivers may also place additional requirements on states, such as the responsibility to do research and provide an independent evaluation of their waived program.

**Welfare:** Typically, the word "welfare" describes the AFDC(Aid to Families with Dependent Children) program that provided support to poor families. The new law replaces the AFDC program with the Temporary Assistance to Needy Families(TANF) block grant program. However, "welfare" is sometimes used to describe some or all of the broad array of government programs that provide support, housing, food assistance, or medical care. These include unemployment benefits, food stamps, housing subsidies, supplemental security income (SSI), general assistance, social security for the elderly or disabled, Medicaid, and Medicare.

**Wellstone/Murray Amendment:** allows states to "opt in" (choose) to include a certification about victims of domestic violence in their state plans. This amendment allows states to waive certain requirements for certain domestic violence victims. Depending on how a state implements this section of the Act, it may result in additional help and/or requirements for victims as well. This section of the Act is known as the "Wellstone/Murray Amendment" because Senators Wellstone and Murray sponsored it <sup>(9)</sup> . HHS will provide guidance to states about its interpretation and use.

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