

**To: Commission**  
**From: John Cannel**  
**Re: Title 44, the Poor Law**  
**Date: May 8, 2017**

## MEMORANDUM

A largely completed table of dispositions is included with this month's mailing. One change has been made to the Administrative Chapter of the report, so that is also included.

The issue of financial responsibility remains. There are a substantial number of provisions on that subject in the current law. All of them were part of earlier welfare systems. They are included on the following pages.

The current welfare system is different in its approach. Eligibility is judged in terms of the assistance unit. That is, an individual or family receiving assistance. There is no reference to responsibility by relatives outside of the assistance unit in the law or regulations underlying the current program. For that reason, the subject was not included in the Commission's report. The little law and regulations that appear to be relevant also appears below.

My recommendation is to delete all of the old law on this subject. In practice, it seems to be treated as anachronistic. If the Commission concludes that a provision on this subject should be added, I would recommend something like:

*If an individual or member of an assistance unit receives funds through the TANF or GA programs established under Work First New Jersey, and within five years of the receipt acquires assets in excess of those necessary for that individual's ordinary support, the individual shall reimburse the State for the funds received.*

---

## CURRENT LAW

### **4:1-95. Expenses recoverable, procedure**

If it is ascertained at any time that a person who has been assisted by or has received support from a municipality or county has real or personal property over and above that necessary for his maintenance in whole or in part, if such poor person is maintained by the municipality or county at home, or over and above that sufficient for his family, or if any such person shall die, leaving real or personal property, an action may be maintained in the Superior Court by the director of welfare of the municipality who has furnished or provided such assistance or support, or any part thereof, against such person or his estate, to recover the sums of money which have been expended by the municipality or county in the assistance and support of the person during the period for which support was furnished. If a person shall die having received relief or maintenance as a poor person and having insurance upon his life, the proceeds of the insurance after payment of the expense of the last illness and the funeral expenses of the person, if the terms of the policy so permit, shall be first applied to the reimbursement of the county, municipality or district for the cost of the support and maintenance of the person. But no action shall lie, nor shall any appropriation of insurance be made against an estate when it shall be shown to the satisfaction of the court

that the proceeds thereof, or the estate, are needed to prevent the widow or minor children of the poor person from becoming dependent upon the public.

Amended 1953, c.42,s.5; 1991,c.91,s.425.

#### **44:1-139. Obtaining or compelling assistance of relatives**

Upon application for the relief of a poor person an overseer shall ascertain if possible the relatives chargeable by law for his support and proceed to obtain their assistance or compel them to render such assistance as is provided by law.

#### **44:1-140. Relatives chargeable**

a. The father and mother of a person under 18 years of age who applies for and is eligible to receive public assistance, and the children, and husband or wife, severally and respectively, of a person who applies for and is eligible to receive public assistance, shall, if of sufficient ability, at his or their charge and expense, relieve and maintain the poor person or child in such manner as shall be ordered, after due notice and opportunity to be heard, by any county or municipal director of welfare, or by any court of competent jurisdiction upon its own initiative or the information of any person.

b. The provisions of this section shall apply to the minor children of a mother whose husband shall fail properly to support and maintain such children when by reason thereof they are likely to become a public charge.

c. The provisions of this section shall not apply to any person 55 years of age or over except with regard to his or her spouse, or his or her natural or adopted child under the age of 18 years.

Amended by L.1968, c. 446, s. 1, eff. Feb. 19, 1969; L.1975, c. 1, s. 1, eff. Jan. 14, 1975; L.1979, c. 401, s. 1, eff. Feb. 8, 1980.

#### **44:1-141. Compelling support by relatives**

If any of the relatives mentioned in section 44:1-140 of this Title shall fail to perform the order or directions of the director of welfare of a municipality with regard to the support of the poor person, or if the poor person is supported at public expense, the Superior Court in the county wherein the poor person has a legal settlement, or the municipal court of the municipality wherein the person has a legal settlement, upon the complaint of the director of welfare or two residents of the municipality or county may summon the persons chargeable before it as in other actions, summon witnesses, and adjudge that the able relatives pay such sum for each poor person as the circumstances may require in the discretion of the court, and as will maintain him or them and relieve the public of that burden. However, where it shall appear that the person or persons sought to be held were the child or children of the poor person and were abandoned and deserted by the poor person who failed to support and maintain them during minority, the aforementioned Superior Court or municipal court may revoke the order of the director of welfare or reduce the amount of said order against such child or children, in proportion to the actual support and maintenance rendered by said poor person to the child or children sought to be held. Any child now under an order to support a poor person may apply to the court which issued said order for the revocation or reduction of said order in accordance with the terms of this proviso. Violation of any such order shall constitute a contempt of court.

The county through its governing body may also bring appropriate action in any court of competent jurisdiction to recover any money due for the relief, support and maintenance of a poor person against a person chargeable by law therefor.

Amended 1940, c.55; 1953,c.42,s.10; 1991,c.91,s.430.

#### **44:1-142. Contracts between overseers and relatives or others**

An overseer or his deputies may contract with relatives and others not otherwise chargeable by law who are able and willing to support and maintain or contribute to the support and maintenance of a poor person, whereby such relatives in consideration of the support and maintenance of the poor person may undertake and obligate themselves to that end, or induce such aid and support as may be possible.

#### **44:1-143. Compelling support by husband or wife**

When a husband or father shall desert his wife, child or children or a woman shall desert her child or children and leave them or any of them as public charges, the director of welfare of a municipality may apply to the Superior Court, Chancery Division, Family Part; and the court may order and adjudge suitable support and maintenance to be paid and provided by the husband or wife, or either of them, to be made out of his property, and for such time as the nature of the case and circumstances of the parties render suitable and proper in the opinion of the court, and may compel the defendant to give reasonable security for such maintenance and support, and from time to time make such further orders and judgments touching the matter as shall be just, and enforce such orders and judgments.

Amended 1953, c.42,s.11; 1991,c.91,s.431.

#### **44:1-144. Sequestration of estate**

The Superior Court, Chancery Division, Family Part may:

- a. Issue process for the immediate sequestration of the personal estate and the rents and profits of the real estate of the person charged as provided in section 44:1-143 of this Title;
- b. Appoint the director of welfare of a municipality or another person receiver thereof; and
- c. Cause the personal estate and the rents and profits of the real estate, or so much thereof as is necessary, to be applied toward the maintenance and support as to the court shall from time to time seem reasonable and just.

Amended 1953, c.42,s.12; 1991,c.91,s.432.

#### **44:1-146. Recovery of expenses of support**

The director of welfare of a municipality may bring a civil action from time to time in the Superior Court, Chancery Division, Family Part for the amount necessary to pay any expense incurred or unpaid. Upon recovery of judgment and the sale of any real or personal property of the defendant, the proceeds therefrom shall as in other civil actions be paid to the director and be applied by him to the support and maintenance of the deserted persons, or to the reimbursement of the municipality, county or board to the extent of the expenditures made by it for that support and maintenance.

The sum realized on execution sale and not immediately used shall be kept by the director in a separate account in a national or State bank in the place where the deserted wife or children, or any of them, are placed or maintained. Surplus proceeds not expended for that purpose shall be the property of and payable to the defendant.

Amended 1953, c.42,s.14; 1991,c.91,s.433.

#### **44:1-147. Willful deserter as disorderly person; punishment**

A husband or father who willfully deserts or refuses or neglects to provide for and maintain his wife or children, or any of them, or a mother who willfully deserts or refuses or neglects to provide for

and maintain her children, or any of them, or a child who willfully deserts or refuses or neglects to provide for and maintain his parents, or either of them, is a disorderly person, and upon being so adjudged shall be committed to the workhouse or county jail of the county or of that county composing a district in which the person resided at the time of the desertion or failure to provide for a period not exceeding 60 days in the discretion of the court; provided, however, that the judge of any such court may order and direct that the sentence of imprisonment be served periodically, instead of consecutively, during periods of time between Friday at 6 P.M. and Monday at 8 A.M. or at other times or on other days, whenever he in his discretion determines the existence of proper circumstances and that the ends of justice will be served thereby. For the purposes of this act the person so committed shall be given credit for each day or fraction of a day to the nearest hour actually served.

Amended by L.1953, c. 42, p. 780, s. 15, eff. March 19, 1953; L.1969, c. 149, s. 1, eff. Aug. 4, 1969.

#### **44:1-148. Complaint by director of welfare**

When a director of welfare having jurisdiction in such cases believes that such desertion or willful refusal or neglect to so provide for any such wife, children or parents, or any of them, will cause the family to become chargeable as poor persons to any county, municipality or joint county district, he shall make complaint before a court having jurisdiction in the municipality, county or district where the persons reside or in the place where the father, husband or child resides.

Amended by L.1953, c. 42, p. 780, s. 16, eff. March 19, 1953.

#### **44:4-91. Expenses recoverable from poor person or estate; insurance**

If it is ascertained at any time that a person who has been assisted by or has received support from any municipality or county has real or personal property over and above that necessary for his maintenance in whole or in part, if such poor person is maintained by the county at home, or over and above that sufficient for his family, or if any such person shall die, leaving real or personal property, an action may be maintained in the court of common pleas of the county by the board of chosen freeholders which has furnished or provided such assistance or support, or any part thereof, against such person or his estate, to recover the sums of money which have been expended by the county in the assistance and support of the person during the period for which support was furnished, and if any person shall die having received relief or maintenance as a poor person and having insurance upon his life, the proceeds of the insurance, after the payment of the expense of the last illness and the funeral expenses of the person, shall, if the terms of the policy so permit, be first applied to the reimbursement of the county, for the cost of the support and maintenance of the person, but no action shall lie, nor shall any appropriation of insurance be made against any estate when it is shown to the satisfaction of the court that the proceeds thereof, or the estate, are needed to prevent the widow or minor children of the poor person from becoming dependent upon the public.

##### **44:4-91.1. Pledge of property as guaranty for reimbursement; agreement to reimburse**

Every county welfare board, operating under chapter 4 of Title 44 of the Revised Statutes, shall require, as a condition to the admission of any person to the county welfare-house, or as a condition to the granting of permanent out-door support to any poor person, that all or any part of the property, either real or personal, of such person, either presently owned or which may subsequently be acquired, be pledged to said county welfare board as a guaranty for the reimbursement of the cost of the care and maintenance of such person at the county welfare-house or for the permanent out-door support furnished to such person pursuant to the provisions of said chapter, and the total amount of the cost thereof shall become a lien upon any lands owned or to be owned by such person, which lien shall have priority over all unrecorded

encumbrances. The county welfare board shall take from each applicant a properly acknowledged agreement to reimburse for all benefits furnished, and pursuant to such agreement said applicant shall assign to the welfare board, as collateral security for said benefits, all or any part of his personal property and insurance when the terms of the policy so permit, as the board shall specify.

The agreement to reimburse shall contain a release of dower or curtesy, as the case may be, of the spouse of the person so benefited, and such release shall be as valid and effectual as if the spouse had joined the applicant in a conveyance of the property to a third person; the maintenance and support furnished shall be good and valuable consideration therefor.

L.1939, c. 263, p. 683, s. 1, approved July 18, 1939.

#### **44:4-91.2. Filing certificate of costs of care furnished; legal claim, enforcement**

At any time the county welfare board may execute and file with the county clerk or register of deeds and mortgages, as the case may be, a certificate, in the form prescribed by section 44:7-15 of the Revised Statutes, showing the amount of the cost of the care and maintenance of any person at the county welfare-house or for the permanent outdoor support furnished to any person. When so filed each certificate shall be a legal claim against both the person and his estate and shall have the same force and effect as a judgment of the Superior Court, with priority over all unsecured claims except funeral expenses not to exceed one hundred fifty dollars (\$150.00). No levy shall be made upon the real estate while it is occupied by the widow or widower, as the case may be. If the proceeds of sale of any personalty or real estate, as herein provided, exceeds the total amount paid for care and maintenance under this chapter, such excess shall be returned to such person, or in the event of his death, such excess shall be considered as the property of the deceased for proper administration proceedings. All funds reclaimed under these provisions shall be returned to the county.

L.1946, c.175,s.1; amended 1953,c.42,s.21; 1991,c.91,s.438.

#### **44:4-91.3. Record of welfare house and outdoor liens**

The county clerks or registers of deeds and mortgages, as the case may be, shall record in a book to be known as "Welfare-House and Outdoor Liens" the said certificates, and shall make a complete alphabetical index of the same, and no clerk or register shall charge any fee therefor. Whenever a county shall have received satisfaction for such judgments, the county welfare board shall enter an acknowledgment of satisfaction upon the record of such judgments without charge.

L.1946, c. 175, p. 762, s. 2. Amended by L.1953, c. 42, p. 782, s. 22, eff. March 19, 1953.

#### **44:4-100. Ascertaining and obtaining or compelling assistance of relatives**

Upon application for the relief of a poor person the county welfare board shall ascertain if possible the relatives chargeable by law for his support and proceed to obtain their assistance or compel them to render such assistance as is provided by law.

#### **44:4-101. Relatives chargeable**

a. The father and mother of a person under 18 years of age who applies for and is eligible to receive public assistance, and the children, and husband or wife, severally and respectively, of a person who applies for and is eligible to receive public assistance, shall, if of sufficient ability, at his or their charge and expense, relieve and maintain the poor person or child in such manner as shall be ordered, after due notice and opportunity to be heard, by any county director of welfare, or by any court of competent jurisdiction upon its own initiative or the information of any person.

b. The provisions of this section shall apply to the minor children of a mother whose husband shall fail properly to support and maintain such minor children when by reason thereof they are likely to become a public charge.

c. The provisions of this section shall not apply to any person 55 years of age or over except with regard to his or her spouse, or his or her natural or adopted child under the age of 18 years.

Amended by L.1968, c. 446, s. 2, eff. Feb. 19, 1969; L.1975, c. 1, s. 2, eff. Jan. 14, 1975; L.1979, c. 401, s. 2, eff. Feb. 8, 1980.

#### **44:4-102. Compelling support by relatives**

If any of the relatives mentioned in section 44:4-101 of this Title shall fail to perform the order or directions of the county director of welfare with regard to the support of the poor person, or if the poor person is supported at public expense, the Superior Court, upon the complaint of the director of welfare or two residents of the county may summon the persons chargeable as in other actions and summon witnesses, and may order and adjudge the able relatives to pay such sum as the circumstances may require in the discretion of the court for each poor person, as will maintain and relieve him or them, and as will relieve the public of the burden of such care and maintenance. However, where it shall appear that the person or persons sought to be held were the child or children of the poor person and were abandoned and deserted by the poor person who failed to support and maintain them during minority, the Superior Court may revoke the order of the director of welfare or reduce the amount of said order against such child or children, in proportion to the actual support and maintenance rendered by said poor person to the child or children sought to be held. Any child now under an order to support a poor person may apply to the Superior Court which issued said order for the revocation or reduction of said order in accordance with the terms of this proviso. Violations of any such order of the Superior Court shall constitute a contempt of court.

The county through its governing body may also bring an appropriate action to recover any sum of money due for the relief, support and maintenance of any poor person against any person chargeable by law therefor.

Amended 1940, c.56; 1953,c.42,s.23; 1991,c.91,s.439.

#### **44:4-103. Contracts between welfare board and relatives or others**

In all cases where there are relatives and others not otherwise chargeable by law who are able and willing to support and maintain or contribute to the support and maintenance of a poor person, the county welfare board may contract with such relatives in consideration of the support and maintenance of the poor person whereby the relatives may undertake and obligate themselves to that end, or induce such aid and support as may be possible.

#### **44:4-104. Compelling support by husband or wife**

When a husband or father shall desert his wife, child or children or a woman shall desert her child or children and leave them, or any of them, as public charges, the director of welfare of the county may apply to the Superior Court, Chancery Division, Family Part, which court may order and adjudge suitable support and maintenance to be paid and provided by the husband or wife, or either of them, to be made out of his property, and for such time as the nature of the case and circumstances of the parties render suitable and proper in the opinion of the court, and may compel the defendant to give reasonable security for such maintenance and support, and from time to time make such further orders and judgments touching such maintenance and support as shall be just, and enforce such orders and judgments.

Amended 1953, c.42,s.24; 1991,c.91,s.440.

#### **44:4-105. Sequestration of estate**

The Superior Court, Chancery Division, Family Part may:

- a. Issue process for the immediate sequestration of the personal estate and the rents and profits of the real estate of the person charged as provided in section 44:4-104 of this Title;
- b. Appoint the director of welfare of the county, or another person, receiver thereof; and
- c. Cause the personal estate and the rents and profits of the real estate, or so much thereof as is necessary, to be applied toward the maintenance and support as to the court shall from time to time seem reasonable and just.

Amended 1953, c.42,s.25; 1991,c.91,s.441.

#### **44:4-107. Recovery of expenses of support**

The county welfare board through the county director of welfare, may bring a civil action from time to time in that court for such amount as may be necessary to pay any expense incurred or unpaid, and upon recovery of judgment and the sale of any property, real or personal, of the defendant, the proceeds realized therefrom as in other civil actions shall be paid to the county welfare board and applied by it for the support and maintenance of the deserted persons, or to reimburse the county or welfare board to the extent of the expenditures made by it for such support and maintenance.

The sum realized on execution sale and not immediately used shall be kept by the county welfare board in a separate account in a national or State bank in the place where the deserted wife or children or any of them, are placed or maintained. All surplus proceeds not expended for that purpose shall be the property of and payable to the defendant.

Amended by L.1953, c. 42, p. 784, s. 27, eff. March 19, 1953.

#### **44:4-109. Complaint by director of welfare**

When a director of welfare having jurisdiction in such cases believes that such desertion or willful refusal or neglect to so provide for any such wife, children or parents, or any of them, will cause the family to become chargeable as poor persons to any county, he shall make complaint before a court having jurisdiction in the county where the persons reside or in the place where the father, husband or child resides.

Amended by L.1953, c. 42, p. 785, s. 29, eff. March 19, 1953.

#### **44:7-14. Recipient to pledge property**

(a) Every county welfare board shall require, as a condition to granting assistance in any case, that all or any part of the property, either real or personal, of a person applying for old age assistance, be pledged to said county welfare board as a guaranty for the reimbursement of the funds so granted as old age assistance pursuant to the provisions of this chapter. The county welfare board shall take from each applicant a properly acknowledged agreement to reimburse for all advances granted, and pursuant to such agreement, said applicant shall assign to the welfare board, as collateral security for such advances, all or any part of his personal property as the board shall specify.

The agreement to reimburse shall provide that the filing of notice thereof as hereinafter provided, is to have the same force and effect as a judgment of the Superior Court. It shall contain therein a release of dower or curtesy, as the case may be, of the spouse of the recipient of old age assistance, and the spouse shall agree to reimburse the county welfare board for all advances made to the recipient. Such

release and joinder shall be as valid and effectual as if the spouse had joined the recipient in a conveyance of the property to a third person, and the grant of old age assistance, being contingent upon such joinder by the spouse, shall be good and valuable consideration therefor. Old age assistance shall not be granted to any applicant without joinder by the spouse in the agreement to reimburse except upon the showing of good and sufficient cause as the State Division shall by regulation define.

(b) Upon making a grant of old age assistance the county welfare board shall file with the county clerk or register of deeds and mortgages, as the case may be, in any county, a notice of the above mentioned agreement to reimburse, which notice as of the date of such filing shall have the same effect as a lien by judgment of the Superior Court, and any real estate or lands in which the recipient or spouse has a title or interest, shall thereupon become charged and encumbered with a lien for old age assistance granted the recipient and said notice shall have priority over all unrecorded encumbrances. No fees or costs shall be paid for filing such notices.

Amended 1938, c.361, s.10; 1943,c.164,s.5; 1945,c.273,s.1; 1953,c.42,s.32; 1991,c.91,s.443.

#### **44:7-19. Assistance by relatives; enforcement**

The county director of welfare in cases of application for old age assistance shall ascertain, if possible, the relatives and other persons chargeable by law for the support of such applicant, and proceed to obtain their assistance for such applicant or to compel them to render such assistance as is provided by law in such cases, or if such relatives or other persons are not chargeable by law with the support of such applicant but able and willing to do so, in whole or in part, the director of welfare may contract, in writing, with such persons for the support of such applicant.

Should any relative or other person responsible for the support of an applicant for old age assistance fail to perform the order or direction of the director of welfare with regard to the support of such applicant, the Superior Court may, upon certification in writing of the director of welfare or of two residents of the municipality or county, summon or otherwise direct the appearance of the persons chargeable and subpoena witnesses, and compel the production of books, records, and other documents as may be pertinent, and shall, in a summary way, inquire into the cause of such failure to perform the order or direction of the director of welfare, and may order and adjudge the able relatives or other persons responsible for the support of such applicant to pay such sum or to deliver to the court or to the director of welfare such other pledge or guaranty as the circumstances may require in the discretion of the court for each such applicant. However, where it shall appear that the person or persons sought to be held were the child or children of the applicant for old age assistance and were abandoned and deserted by the applicant who failed to support and maintain them during minority, the Superior Court may revoke the order of the director of welfare or reduce the amount of said order against such child or children, in proportion to the actual support and maintenance rendered by said applicant to the child or children sought to be held. Any child now under an order to support an applicant for old age assistance may apply to the Superior Court which issued said order for the revocation or reduction of said order in accordance with the terms of this provision. Violation of any such order of the court shall be a contempt of said court and punishable as such.

The county welfare board may also bring appropriate action in any court of competent jurisdiction to recover any sum of money due for assistance given any person under this chapter against such person or against any other persons chargeable by law for the support of such person.

Amended 1938, c.361, s.13; 1940,c.57; 1943,c.164,s.7; 1953,c.42,s.35; 1991,c.91,s.444.



**COMMISSION PROVISIONS** (substantively identical to current Work-First law)

**2-3. Determination of eligibility for benefits**

a. Benefits under the Work First New Jersey program shall be determined according to standards of income and resources established by the Commissioner. These standards shall take into account, for the determination of eligibility and the provision of benefits, all income and resources of all persons in the eligible household of which the applicant or recipient is a member, except as provided by law governing the Work First New Jersey program and as prescribed by the Commissioner. The benefits to be granted shall be governed by standards established by regulation of the Commissioner. The Commissioner may set different income and resource eligibility and benefits standards with respect to different types of eligible households.

b. Subject to good cause exception as defined by the Commissioner, a recipient, as a condition of eligibility for benefits, shall be required to:

\* \* \*

(6) sign an agreement to repay benefits in the event of receipt of income or resources; and

\* \* \*

**CURRENT REGULATIONS**

**§ 10:90-3.12 Treatment of income and resources from eligible and noneligible individuals in the WFNJ TANF/GA household, as appropriate**

(a) Income of the spouse is considered available for the other spouse and income of a parent (natural or adoptive) is considered available for children under 18. If the spouse or parent is living with his or her spouse or children, respectively, income is considered available regardless of whether the spouse or natural or adoptive parent is noneligible or sanctioned.

(b) When an individual is not included in the eligible assistance unit because of a sanction for failure or refusal to comply with a WFNJ program requirement or is disqualified for an intentional program violation and, such individual has earned or unearned income of his or her own, that income shall be considered available to the remaining members of the eligible unit.

1. For earned income, the gross amount to be considered available to the eligible assistance unit shall be determined without application of earned income disregards provided for at N.J.A.C. 10:90-3.8.

(c) The resources of eligible and noneligible individuals in the WFNJ TANF/GA household specified in (a) and (b) above shall be determined in accordance with the provisions of this subchapter. Resources shall be determined countable or exempt as such determination would be made as if the individual was eligible for WFNJ TANF/GA. Where such individual's resources are countable and exceed the resource limit for a specific exemption, the excess shall be counted as available to the eligible unit. For example, if the individual's liquid resources exceed the \$ 2,000 resource exemption, the excess shall be counted available to the eligible unit.

(d) If the noneligible individual is an illegal alien parent or noneligible alien parent and has citizen or eligible alien children, his or her income shall be considered available to the eligible assistance unit and shall be calculated in accordance with the parent to minor parent deeming formula at N.J.A.C. 10:90-3.16 at initial determination and redetermination of eligibility.

(e) A parent person other than a natural or adoptive parent or stepparent, who is a care-giver to a dependent child(ren) who is that care-giver's legal blood relative, shall be evaluated to determine whether

that person is eligible for benefits if that person's income does not exceed 150 percent of the Federal Poverty Income Guidelines, as published in the Federal Register and subsequently as a public notice in the New Jersey Register.

(f) For WFNJ/GA single adults and couples without dependent children, retroactive SSI payments are subject to reimbursement in accordance WFNJ/GA fiscal provisions at N.J.A.C. 10:90-14.