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## SOCIAL SERVICES

### *Public Assistance: Extending Aid to Qualified Aliens Under the "Temporary Assistance for Needy Families Act"*

CODE SECTION:	O.C.G.A. § 49-4-188 (amended)
BILL NUMBER:	SB 531
ACT NUMBER:	832
GEORGIA LAWS:	1998 Ga. Laws 850
SUMMARY:	The Act extends the amount of time qualified aliens may receive funds under the "Temporary Assistance for Needy Families Act" from July 1, 1998 until July 1, 1999. It provides one additional year of temporary assistance to eligible qualified aliens who have children and who arrived in the United States on or after August 22, 1996, in order that they can become self-sufficient.
EFFECTIVE DATE:	July 1, 1998

#### *History*

The "Temporary Assistance for Needy Families Act"<sup>1</sup> (TANF) became effective on April 22, 1997.<sup>2</sup> The Act repealed the "Aid to Families with Dependent Children Act" (AFDC) and restructured the Georgia welfare system from an entitlement program to a temporary assistance program.<sup>3</sup> To convert to temporary assistance, and in order to comply with federal welfare guidelines, TANF replaced AFDC as Georgia's welfare benefit program.<sup>4</sup> Under TANF, Code section 49-4-188 provided assistance to certain aliens until July 1, 1998.<sup>5</sup>

The original version of Code section 49-4-188, passed in the 1997 session, was controversial, and legislators argued both for and against continued welfare assistance to qualified aliens.<sup>6</sup> That version of the

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1. See 1997 Ga. Laws 1021 (codified at O.C.G.A. §§ 49-4-180 to -192 (1998)).

2. See *id.* § 11, at 1037.

3. See *id.*; *Review of Selected 1997 Georgia Legislation*, 14 GA. ST. U. L. REV. 284 (1997) [hereinafter *Selected 1997 Legislation*].

4. See *Selected 1997 Legislation*, *supra* note 3, at 288-89.

5. See 1997 Ga. Laws 1021, § 6, at 1033 (formerly found at O.C.G.A. § 49-4-188 (Supp. 1997)).

6. See *Selected 1997 Legislation*, *supra* note 3, at 288-89.

Code section stated that aliens who had arrived in the United States prior to August 22, 1996 would continue to be eligible for assistance under the TANF program; however, aliens who had arrived on or after August 22, 1996 “will not be eligible for TANF assistance . . . provided, however, that such qualified aliens will be eligible for cash assistance until July 1, 1998, unless such period is extended by enactment of the General Assembly.”<sup>7</sup>

Beginning January 1, 1997, TANF limits the eligibility period for current fund recipients, including qualified aliens, to a lifetime total of forty-eight months.<sup>8</sup> TANF contains more strict time requirements than federal welfare law, which allows up to sixty months of maximum benefits.<sup>9</sup>

During the debates surrounding the TANF legislation in the 1997 session, legislators arguing for equal treatment of all qualified aliens wanted to “level the playing field” and extend the stated eligibility time for new immigrants one additional year, until July 1, 1999.<sup>10</sup> As a result, new immigrants would have more time to find suitable work and become self-supportive.<sup>11</sup> The original cut-off date of July 1, 1998 was a compromise among legislators in the 1997 session between providing no assistance and treating new immigrants the same as other Georgia residents under TANF.<sup>12</sup> Because legislators could not determine the cost of the proposed cash assistance program for new immigrants, they limited the eligibility period for cash assistance to one year and planned to review the total amount spent before granting an extension in the 1998 legislative session.<sup>13</sup>

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7. 1997 Ga. Laws 1021, § 6, at 1033 (formerly found at O.C.G.A. § 49-4-188(b) (Supp. 1997)).

8. *See id.* at 1027 (codified at O.C.G.A. § 49-4-182(b) (1998)).

9. *See Selected 1997 Legislation, supra* note 3, at 290-91.

10. Telephone Interview with Sen. Ed Harbison, Senate District No. 15 (May 26, 1998) [hereinafter Harbison Interview]. Senator Harbison is one of SB 531's sponsors. *See id.*

11. *See id.*

12. *See* Telephone Interview with Rep. Georganna Sinkfield, House District No. 57 (June 1, 1998) [hereinafter Sinkfield Interview]. Representative Sinkfield chaired the House Children and Youth Committee. *See id.*

13. *See id.*

*SB 531*

The Act amends Article 9 of Chapter 4 of Title 49 of the Georgia Code, known as the "Temporary Assistance for Needy Families Act," and changes the provisions relating to assistance for qualified aliens.<sup>14</sup>

*Introduction*

The Georgia General Assembly considered two versions of SB 531: (1) the original, introduced version<sup>15</sup> and (2) the Senate Committee substitute.<sup>16</sup> The substitute eventually passed both the House and the Senate.<sup>17</sup>

SB 531 was read on the Senate floor on January 29, 1998 and then referred to the Senate Health and Human Services Committee.<sup>18</sup> The Committee submitted its substitute to the Senate on February 4, 1998.<sup>19</sup> The Senate Committee substitute passed the Senate on February 5, 1998 and went to the House Children and Youth Committee, where the bill passed by one vote.<sup>20</sup> The bill was then sent to the House, where it was read for the first time on February 6, 1998.<sup>21</sup> Subsequently, the substitute was read on February 9, 1998 and again on March 12, 1998, at which time it passed the House.<sup>22</sup> Governor Zell Miller signed SB 531 into law on April 10, 1998.<sup>23</sup>

*Striking Section 1 of Original Version*

SB 531, as introduced, amended Code section 49-4-184(b), which grants exceptions to the limitations on continued eligibility under TANF contained in Code section 49-4-184(a).<sup>24</sup> Code section 49-4-184(b) states:

Paragraphs (6) and (7) of subsection (a) of this Code section shall not apply if the applicant or recipient has no parent or

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14. See O.C.G.A. §§ 49-4-180 to -192 (1998).

15. See SB 531, as introduced, 1998 Ga. Gen. Assem.

16. See SB 531 (SCS), 1998 Ga. Gen. Assem.

17. See State of Georgia Final Composite Status Sheet, Mar. 19, 1998.

18. See *id.*

19. See *id.*

20. See Sinkfield Interview, *supra* note 12.

21. See State of Georgia Final Composite Status Sheet, Mar. 19, 1998.

22. See *id.*

23. See 1998 Ga. Laws 850.

24. See SB 531, as introduced, 1998 Ga. Gen. Assem.; 1997 Ga. Laws 1021, § 6, at 1030 (codified at O.C.G.A. § 49-4-184 (1998)).

legal guardian whose whereabouts are known, no parent or legal guardian of the applicant or recipient allows the applicant or recipient to live in the home of that parent or legal guardian, or the department otherwise determines that there is good cause not to apply the prohibitions contained in said paragraphs.<sup>25</sup>

Paragraph (6) of Code section 49-4-184(a) requires an applicant or recipient under eighteen years of age who has a minor child to obtain passing grades and complete a high school education or its equivalent.<sup>26</sup> Paragraph (7) of Code section 49-4-184(a) directs an applicant or recipient under eighteen years of age who is pregnant or who has a minor child to live with her parents, with her legal guardian, in another relative's home, or in some other supportive living arrangement supervised by an adult.<sup>27</sup>

The sponsors of SB 531 wanted to strike paragraph (6) from subsection (b) of Code section 49-4-184 to require that all young people get an education.<sup>28</sup> However, they wanted to keep paragraph (7), which grants an exception to young mothers or pregnant young women who have no parent or legal guardian to give them quality care.<sup>29</sup> The Senate Health and Human Services Committee ultimately struck the language removing paragraph (6) of subsection (b) from SB 531 and introduced a substitute version that only extended qualified aliens' eligibility.<sup>30</sup> One supporter of SB 531 believes that this language may have been struck because the imposition of additional requirements on TANF recipients is unnecessary and perhaps detrimental to those in real need.<sup>31</sup> One senator remarked that SB 531 should not have made getting an education a requirement without exception, for fear this would circumvent the purpose of TANF.<sup>32</sup> This substituted version ultimately passed both the House and the Senate.<sup>33</sup>

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25. 1997 Ga. Laws 1021, § 6, at 1030 (codified at O.C.G.A. § 49-4-184(b) (1998)).

26. *See id.* (codified at O.C.G.A. § 49-4-184(a)(6) (1998)).

27. *See id.* (codified at O.C.G.A. § 49-4-184(a)(7)(A)-(B) (1998)).

28. *See* SB 531, as introduced, 1998 Ga. Gen. Assem.; *see also* Record of Proceedings in the Senate Health and Human Services Committee (Feb. 2, 1998) [hereinafter Record of Proceedings] (remarks by Sen. Charles Walker) (available in Georgia State University College of Law Library).

29. *See* SB 531, as introduced, 1998 Ga. Gen. Assem.

30. *See* SB 531 (SCS), 1998 Ga. Gen. Assem.

31. *See* Sinkfield Interview, *supra* note 12.

32. *See* Record of Proceedings, *supra* note 28 (remarks by Sen. Tom Middleton, Chair of Senate Health and Human Services Committee).

33. *See* State of Georgia Final Composite Status Sheet, Mar. 19, 1998.

*Definitions*

Terms under TANF are defined in Code section 49-4-181, including a detailed description of the type of “work activity” that will qualify an applicant under TANF.<sup>34</sup>

The term “qualified alien” means an alien as defined in section 431 of the “Personal Responsibility and Work Opportunity Reconciliation Act of 1996” (PRWOR).<sup>35</sup> PRWOR defines a “qualified alien” as one

who, at the time the alien applies for, receives, or attempts to receive a [public] benefit, is (1) . . . lawfully admitted for permanent residence under the Immigration and Nationality Act [(INA)], (2) . . . granted asylum under section 208 of [the INA], (3) a refugee who is admitted to the United States under section 207 of [the INA], (4) an alien who is paroled into the United States under section 212(d)(5) of [the INA] for a period of at least 1 year, (5) an alien whose deportation is being withheld under section 243(h) of [the INA] . . . , (6) an alien who is granted conditional entry pursuant to section 203(a)(7) of [the INA], or (7) . . . a Cuban or Haitian entrant.<sup>36</sup>

PRWOR also defines certain battered aliens as “qualified aliens.”<sup>37</sup>

*Public Assistance Act*

TANF falls under the “Public Assistance Act of 1965” (PAA),<sup>38</sup> which establishes certain categories of public assistance including aid to children.<sup>39</sup> The PAA was passed to serve several goals.

First, the PAA strives to “[p]rovide for maximum cooperation with other agencies, public and private, of this state, or other states, and of the federal government in rendering services to maintain and strengthen family life and to help applicants for public assistance and recipients thereof to attain self-support or self-care.”<sup>40</sup> Second, the PAA seeks to encourage a parent able to provide support to contribute to the family unit and, ultimately, to assist the family unit in attaining

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34. See 1997 Ga. Laws 1021, § 6, at 1024 (codified at O.C.G.A. § 49-4-181 (1998)).

35. See *id.* at 1033 (codified at O.C.G.A. § 49-4-188(a) (1998)).

36. 8 U.S.C. § 1641(b) (1998).

37. See *id.* § 1641(c).

38. O.C.G.A. §§ 49-4-1 to -192 (1998).

39. See *id.* § 49-4-3 (1998).

40. 1965 Ga. Laws 385, § 3, at 387 (codified at O.C.G.A. § 49-4-3(b)(1) (1998)).

self-sufficiency.<sup>41</sup> The General Assembly concluded that, in certain situations, “the dependent child’s family life with the custodial parent . . . may be strengthened, and the self-sufficiency of the family unit encouraged, by a grant of public assistance.”<sup>42</sup>

#### *Purpose of TANF*

The purpose of TANF is to grant temporary assistance to needy families with children to help them reach self-sufficiency.<sup>43</sup> Placing limitations on the amount of time families can receive monetary assistance provides incentives to older and younger people to work in order to gain independence.<sup>44</sup> As applied to qualified aliens, TANF grants monetary support to eligible aliens for a fixed time by statute.<sup>45</sup>

Code section 49-4-188 categorizes qualified aliens by the date they entered the United States.<sup>46</sup> The two categories are (1) prior to August 22, 1996 and (2) on or after August 22, 1996.<sup>47</sup> This arbitrary date set by the General Assembly entitles immigrants present in the United States before August 22, 1996, to four years of eligibility under TANF while restricting new immigrants to cash assistance until a date fixed by the General Assembly.<sup>48</sup>

#### *Political Support of SB 531*

Many political figures stepped forward to support SB 531 and the original TANF Act. For example, the League of Women Voters supported SB 531 because it extends the receipt of benefits to new immigrants and their children for one additional year.<sup>49</sup> The League of Women Voters’ social policy is to “support programs to prevent or reduce poverty and to promote self-sufficiency for individuals and

41. *See id.*

42. *Cox v. Department of Human Resources*, 255 Ga. 6, 334 S.E.2d 683, 685 (1985); *see* 1965 Ga. Laws 385, § 3, at 387 (codified at O.C.G.A. § 49-4-3(b)(1) (1998)).

43. *See Selected 1997 Legislation*, *supra* note 3, at 290.

44. *See* 1997 Ga. Laws 1021, § 6, at 1027 (codified at O.C.G.A. § 49-4-182 (1998)).

45. *See* Harbison Interview, *supra* note 10.

46. *See* 1997 Ga. Laws 1021, § 6, at 1033 (formerly found at O.C.G.A. § 49-4-188(b) (Supp. 1997)); *see also* O.C.G.A. § 49-4-188(b) (1998) (provisions unchanged by the Act).

47. *See* 1997 Ga. Laws 1021, § 6, at 1033 (formerly found at O.C.G.A. § 49-4-188(b) (Supp. 1997)); *see also* O.C.G.A. § 49-4-188(b) (1998) (provisions unchanged by the Act).

48. *See* 1997 Ga. Laws 1021, § 6, at 1033 (formerly found at O.C.G.A. § 49-4-188(b) (Supp. 1997)); *see also* O.C.G.A. § 49-4-188(b) (1998) (provisions unchanged by the Act).

49. *See Human Needs*, LEGISLATIVE NEWSLETTER NO. 5 (League of Women Voters of Georgia, Inc., Atlanta, GA), Feb. 5, 1998, at 2.

families."<sup>50</sup> In particular, the group believes that this bill will aid older people who must go on welfare.<sup>51</sup>

Sponsors of SB 531 point out that the bill entitles only *legal* aliens to monetary assistance and that the Georgia Hispanic population is a fast growing minority group.<sup>52</sup> Supporters want to ensure that immigrant families receive the help they need to start a new and productive life in the United States.<sup>53</sup> According to supporters, almost every person in the United States has ancestors from another country, and because the immigrants eligible under TANF are legal residents, they are due the same liberties as every other citizen residing in Georgia.<sup>54</sup>

Under the welfare reform bill prescribed by TANF, no one will continue to receive welfare benefits indefinitely.<sup>55</sup> SB 531 revisits qualified aliens' eligibility and extends the cash assistance period one additional year in order to more closely match the time other Georgians have in which to gain self-sufficiency.<sup>56</sup> Surprisingly, and without explanation beyond the lack of knowledge new immigrants may have had of TANF, only approximately \$6000 was given to new immigrants under the cash assistance program last year.<sup>57</sup> In fact, Representative Georganna Sinkfield stated that few immigrants requested monetary assistance from the State.<sup>58</sup> Because the State spent such a small amount on this program last year, supporters believe the assistance should continue as the State spent little, while new immigrants gained much.<sup>59</sup>

Generally, the Democratic members of the House and Senate voted for SB 531 and the Republican members voted against it.<sup>60</sup> Some

50. Telephone Interview with Fran Parham, League of Women Voters of Georgia (May 26, 1998) [hereinafter Parham Interview].

51. *See id.*

52. *See* Harbison Interview, *supra* note 10.

53. *See id.*

54. *See* Sinkfield Interview, *supra* note 12.

55. *See id.*; 1997 Ga. Laws 1021, § 6, at 1027 (codified at O.C.G.A. § 49-4-182 (1998)).

56. *See* O.C.G.A. § 49-4-188 (Supp. 1997); 1997 Ga. Laws 1021, § 6, at 1027 (codified at O.C.G.A. § 49-4-182 (1998)); 1997 Ga. Laws 1021, § 6, at 1033 (formerly found at § 49-4-188 (Supp. 1997)); Harbison Interview, *supra* note 10.

57. *See* Sinkfield Interview, *supra* note 12.

58. *See id.*

59. *See id.*

60. *See id.*; *see also* Georgia Senate Voting Record, SB 531 (Feb. 5, 1998) (36-14). Of the 32 voting Democratic Senators, 31 voted for the bill and one voted against it. *See id.* In contrast, of the 18 voting Republican Senators, 13 voted against the bill and five voted for it. *See id.*



supporters of SB 531 believe that the bill contained many stereotypes, including prejudices against giving handouts from tax dollars to welfare recipients.<sup>61</sup> These advocates insist, however, that we should “treat strangers well” when they arrive in our country.<sup>62</sup>

*Political Opposition to SB 531*

SB 531 passed the Senate by substitute on a vote of thirty-six to fourteen, evidencing some senators' opposition to continued cash assistance to qualified aliens.<sup>63</sup> Opponents cited several reasons for limiting assistance to new immigrants: there is no federal grant to aliens, the money is not part of the block grant, and all cash assistance will come solely from state funds.<sup>64</sup> Immigrants routinely are successful at becoming self-supportive, and an abbreviated, finite time period of assistance will preserve state funds while easing pressure during the transition to the new welfare system.<sup>65</sup> Supporters of the bill counter, however, that a large number of older aliens who receive assistance are unable to work due to their age.<sup>66</sup>

Republican Representative Dan Lakly stated that because few people were affected by this cash assistance, SB 531 could have been better addressed by charity organizations or other groups wishing to help new immigrants.<sup>67</sup> He pointed out that every legal immigrant must have a sponsor to enter the United States, and this sponsor assumes the responsibility of helping the immigrant find suitable living quarters and work.<sup>68</sup> Because the sponsor assumes this responsibility, the duty to provide assistance, monetary or otherwise, should not be passed along to the taxpayers.<sup>69</sup>

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61. See Sinkfield Interview, *supra* note 12.

62. *Id.*

63. See Georgia Senate Voting Record, SB 531 (Feb. 5, 1998).

64. See *Selected 1997 Legislation*, *supra* note 3, at 297-98. The states receive a “block grant” from the federal government each year to help fund the state welfare system. See Telephone Interview with Rep. Dan Lakly, House District No. 105 (June 1, 1998) [hereinafter Lakly Interview]. Representative Lakly was a member of the House Children and Youth Committee. See *id.* Because the federal welfare program no longer provides assistance to new immigrants, any money that states decide should be granted to new immigrants must come directly from the states. See *id.*

65. See *Selected 1997 Legislation*, *supra* note 3, at 297-98.

66. See Parham Interview, *supra* note 50.

67. See Lakly Interview, *supra* note 64.

68. See *id.*

69. See *id.*

Opponents of the bill state that they want to draw the line on creating programs with “hand-outs and not hand-ups.”<sup>70</sup> They add that the Federal government has already recommended preventing new immigrants from entering welfare programs, and, thus, the State should not step in to support them.<sup>71</sup> Continued hand-outs, opponents claim, may open the door to abuse of this program or allow similar legislation to pass, both of which burden taxpayers.<sup>72</sup>

### *Effect on Welfare Reform*

Supporters of the Act maintain that it helps poor, new immigrants by allotting money for a fast growing minority population in Georgia.<sup>73</sup> TANF protects children whose parents are trying to find work by granting some monetary support in the interim.<sup>74</sup> Therefore, Code section 49-4-188 arguably serves the PAA’s goal of aiding the family unit to attain self-sufficiency while not circumventing the welfare reform time limits for receiving government aid.<sup>75</sup>

Supporters of TANF believe that the opposition to SB 531 arose from the philosophical opinion that giving out a little will lead to giving out “an arm and a leg.”<sup>76</sup> Many opposed to extending the time period for cash assistance believe that Georgia should follow suit with the federal government and insist that new immigrants’ sponsors aid them in finding needed support from charitable organizations or other secondary sources.<sup>77</sup> Supporters of the Act and other similar legislation believe that continuing temporary assistance to qualified aliens is “the right thing to do” as it helps families during early, tough times.<sup>78</sup>

The Act has been described as “ad hoc legislation” giving otherwise qualified aliens a “buffer zone” to find work and become self-supportive.<sup>79</sup> The Act corrects an “oversight” by rendering cash

70. *Id.*

71. *See id.*

72. *See id.*

73. *See* Harbison Interview, *supra* note 10.

74. *See id.*; Parham Interview, *supra* note 50.

75. *See* 1997 Ga. Laws 1021, § 6, at 1033 (formerly found at O.C.G.A. § 49-4-188 (Supp. 1997)); *Cox v. Department of Human Resources*, 176 Ga. App. 804, 338 S.E.2d 43 (1985); Harbison Interview, *supra* note 10; *see also supra* notes 38-42 and accompanying text.

76. Sinkfield Interview, *supra* note 12.

77. *See* Lakly Interview, *supra* note 64.

78. Harbison Interview, *supra* note 10; Parham Interview, *supra* note 50.

79. Harbison Interview, *supra* note 10.

assistance to qualified aliens who arrived in the United States on or after August 22, 1996 for the same amount of time as other recipients under TANF.<sup>80</sup>

The issue of continued cash assistance for new immigrants will likely arise again during the next legislative session.<sup>81</sup> Depending on the political composition of the 1999 General Assembly, 1998 may be the last year that newly arriving qualified aliens receive support from the State under TANF.<sup>82</sup>

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80. *Id.*

81. *See* Sinkfield Interview, *supra* note 12.

82. *See id.*