

LEGISLATIVE SURVEYS

New Jersey Assembly Bills No. 4700-4705—The Family Development Initiative, a Package of Bills That Seek to Make Families Self-Sufficient; to Provide for Educational Training; to Create Individual Responsibility; and to Encourage Empowerment and Self-Commitment

N.J. Assembly Bills No. 4700-4705 [hereinafter A. 4700-4705], introduced April 15, 1991 by Assemblyman Wayne Bryant (D-Camden), establish education as the cornerstone of the Family Development Initiative [FDI].¹ The Family Development Act [FDA] would supplant New Jersey's current statewide welfare reform program, Realizing Economic Achievement [REACH].² The measure attempts to develop a comprehensive social service program in order to provide a complete source of information to all programs and agencies throughout the state.³ REACH was the last attempt at a major reform of the welfare system.⁴ Unfortunately, REACH has had the detrimental effect of discouraging family unity.⁵ By contrast, FDI will remove barriers to marriage among recipients of Aid to Families with Dependent Children [AFDC] by promoting the traditional concept of the nuclear family,⁶ without penalizing those children eligible for AFDC.⁷ Clearly, the most controversial aspect of FDC is the measure discouraging AFDC recipients from having additional children while receiving public assistance.⁸ Instead of relying on a larger

¹ A. 4700, 204 N.J. Leg., 2d Sess., § 1 (1991), "Supplementing Title 44 of the Revised Statutes and amending P.L. 1947, C.156, P.L. 1987, C.282 and P.L. 1987 C.283." [hereinafter A. 4700]. See also OFFICE OF ASSEMBLYMAN WAYNE BRYANT, *Legislative Analysis of A-4700-4705, The Family Development Act* (1991). [hereinafter *Legislative Analysis*]

² *Id.*

³ *Id.*

⁴ "Opinion" Section, *It's Too Early To Scrap REACH*, COURIER-POST (Camden), Apr. 12, 1991.

⁵ *Id.*

⁶ A. 4701, 204 N.J. Leg., 2d Sess., § 1 (1991) [hereinafter A. 4701].

⁷ A. 4702, 204 N.J. Leg., 2d Sess., § 2(b) (1991) [hereinafter A. 4702]. See also *Legislative Analysis*, *supra* note 1, at 5.

⁸ A. 4703, 204 N.J. Leg., 2d Sess. (1991) (revising and supplementing P.L. 1959, C.86 (C.44:10-1)) [Hereinafter A. 4703]. See also *Legislative Analysis*, *supra* note 1, at 6.

check, the Act encourages the recipient to be self-sufficient and earn the necessary income to sustain the family through gainful employment.⁹ By contrast, the most widely accepted portion of the Act is the measure removing penalties to poor working families.¹⁰

Finally, FDI creates a seventeen person Council on Community Restoration which will advise the Governor on the coordination and prioritization of resources to promote community development projects.¹¹

I. Legislative History

The Family Development Act was introduced in the New Jersey Legislature on April 15, 1991, as a package of bills numbered A. 4700-4705.¹² On January 8, 1992, the New Jersey State Assembly passed FDA in its entirety.¹³ A. 4700 passed by a vote of fifty-six yes votes, three no votes, and twenty-one abstentions.¹⁴ A. 4701 passed by a vote of forty-nine to twelve with nineteen assemblymen electing not to vote.¹⁵ Similarly, A. 4702 received fifty-eight yes votes compared to only five no votes, with seventeen assemblymen not voting.¹⁶ A. 4703 passed by a count of forty-nine yes, four no, and twenty-seven abstentions.¹⁷ A. 4704 passed by a vote of fifty-six to two with twenty-two assemblymen electing not to vote.¹⁸ Finally, A. 4705 received forty-six yes votes compared to eighteen no votes with sixteen voters electing to abstain.¹⁹

FDA appeared before the New Jersey State Senate on January 13, 1992. The Senate similarly passed the package of bills in its entirety with an unusually large amount of its members elect-

⁹ *Id.*

¹⁰ A. 4704, 204 N.J. Leg., 2d Sess. (1991) (supplementing P.L. 1959 C.86 (C.44:10-1)) [hereinafter A. 4704]. See also *Legislative Analysis, supra* note 1, at 7.

¹¹ A. 4705, 204 N.J. Leg., 2d Sess. (1991) (supplementing Title 52 of the Revised Statutes) [hereinafter A. 4705]. See also *Legislative Analysis, supra* note 1, at 8.

¹² Telephone interview with Louis Pastoriza, Administrative Aid to Assemblyman Wayne R. Bryant (Jan. 29, 1992). [hereinafter *Telephone Interview*].

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

ing not to vote.²⁰ A. 4700 received twenty-seven yes votes versus only one no vote.²¹ Twelve senators elected not to vote.²² A. 4701 received twenty eight yes votes compared to one no vote.²³ Again, eleven senators elected not to vote.²⁴ A. 4702 passed by a vote of twenty- six to zero.²⁵ However, fourteen assemblymen elected not to vote.²⁶ Originally, A. 4703 did not receive the necessary plurality to gain acceptance.²⁷ The initial vote was thirteen to four with twenty-three members electing to abstain.²⁸ The bill was immediately held over and Assemblyman Bryant was able to lobby and garner the necessary support to gain passage.²⁹ The official vote on A. 4703 was twenty-two to four.³⁰ Fourteen members of the senate did not vote.³¹ A. 4704 passed uncontested by a vote of twenty-nine to zero.³² However, eleven senators elected not to vote.³³ Finally, A. 4705 passed by a vote of twenty-six to one with thirteen senators choosing to abstain.³⁴

On January 21, 1992, Governor James Florio signed and approved the legislative package creating sweeping revisions in New Jersey's current welfare system at a job training and language education center in Pensauken.³⁵ FDA was designated P.L.1991 c.523-528.³⁶ The revisions established by FDA now await approval by the federal government.³⁷

II. Legislative Intent

The Family Development Initiative's six bill legislative pack-

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ Wayne King, *Florio Signs An Overhaul Of Welfare*, N.Y. TIMES, Jan. 22 1992, at B1.

³⁶ See *Telephone Interview*, *supra* note 12.

³⁷ King, *supra* note 35.

age is fundamentally designed and promoted to encourage quality family life.³⁸ The current welfare system breeds dependency, frustration and despair.³⁹ The purpose of FDA is to take a holistic approach rather than focus on isolated details.⁴⁰ This legislation is designed to break the bonds of welfare slavery that have entrapped our fellow citizens, of all backgrounds, one generation after another.⁴¹

An integral part of FDA is designed to attack illiteracy and other underlying factors that keep the welfare problem festering.⁴² If approved, the current package will replace the REACH program and include a \$10 million transfer from REACH's budget to FDI.⁴³ These funds will be utilized to introduce the Family Development Program into three initial counties.⁴⁴ Within two years, the program would then be implemented in the remaining eighteen counties.⁴⁵

The thrust of this far-reaching proposal is to encourage self-reliance.⁴⁶ The goal of FDI is to rid society of the poverty cycle by the year 2000.⁴⁷

III. The Major Components of the Family Development Act

REACH mandates that welfare recipients either become employed or participate in an educational on-job training program.⁴⁸ Notably, single mothers with children under the age of two are exempt from this requirement.⁴⁹ If these requirements are met, the state will provide the recipient with welfare payments and job training, along with day-care facilities and a mode of transportation.⁵⁰

The author of FDA legislation, Assemblyman Wayne Bryant,

³⁸ Address by Assemblyman Wayne Bryant, Apr. 4, 1991 (on file at the State House Annex, Trenton, New Jersey) [hereinafter *Bryant Address*].

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.* See A. 4700, *supra* note 1, at § 17.

⁴⁴ *Id.* § 4.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ See *supra* note 4.

⁴⁹ *Id.*

⁵⁰ *Id.*

refers to the REACH plan as a mere "gimmick."⁵¹ What Mr. Bryant's proposed legislation has done is to inculcate REACH and supplement it with more forceful incentives.⁵² The key concepts of REACH, specifically, remedial education, job training, day care and transportation will remain intact.⁵³

A. A. 4700

The bill declares, in Section 2, that the current welfare system, REACH, is not adequately training and educating participants to become gainful members of society.⁵⁴ The bill declares:

The REACH program established pursuant to P.L. 1987, C.282 (C.44:10-9) has not and cannot as it is currently operating, provide the variety or intensity of services to address the many and deep rooted needs of the populations of these counties and municipalities; and that the obstacles to economic achievement and permanent escape from the bonds of welfare dependency for these people can only be overcome through a new initiative which offers intensified and coordinated services that go beyond the parameters of the REACH program and address the educational, vocational, and other needs of the public assistance recipient's family, rather than the recipient alone.⁵⁵

Section 4 states the objective of the Act.⁵⁶ The purpose is to qualify and secure full-time employment for welfare recipients in the private sector.⁵⁷ These jobs will provide the recipients with wages and benefits that are adequate to support their families.⁵⁸ The initiative will first be established in the three counties with the largest number of welfare recipients.⁵⁹ These facilities will be designated as family resource centers.⁶⁰ Within the next two years, the pro-

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Legislative Analysis, supra* note 1, at 1.

⁵⁵ A. 4700 *supra* note 1, § 2.

⁵⁶ A. 4700 § 4.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.* Currently the targeted counties are Camden, Essex, and Hudson. See Craig McCoy, *Bill Would Halt Extra Welfare Aid to Women Who Have More Children*, THE PHILADELPHIA INQUIRER, Apr. 5, 1991.

⁶⁰ A. 4700 § 9.

gram will be phased into the remaining eighteen counties.⁶¹

Section 5 requires that recipients participate in educational training or employment-related activities.⁶² This requirement is waived if the recipient has a child under the age of two.⁶³ Under FDA, however, the recipient must meet other requirements in order to obtain benefits.⁶⁴ If the recipient has a child under the age of two, that individual must submit to counseling, vocational assessment, and the development of a family plan.⁶⁵

Under Section 6, if a recipient, without good cause, fails to participate or enroll in one of the required FDA stated activities, that recipient shall be subject to a reduction in benefits of at least 20% or deemed ineligible to receive benefits for a period of at least ninety days.⁶⁶ If an individual continues to refuse to participate or suffers a subsequent failure to enroll or participate in the FDA statutory activities without good cause, the recipient may have their benefits terminated.⁶⁷

Section 7, Part C stresses the importance of education.⁶⁸

The purpose is to ensure that each participant and each member of their family, as age appropriate, has achieved the equivalent of a high school degree, before assigning that person to vocational-related training.⁶⁹

Furthermore, the Commissioner of Human Services⁷⁰ shall provide a scholarship program for tuition and other financial assistance, as needed, to each program participant or other family member who

⁶¹ *Id.*

⁶² A. 4700 § 5.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.* See A. 4700 § 7.

⁶⁶ A. 4700 § 6 reads:

A recipient who without good cause fails . . . [to] participate in the program, . . . shall thereupon, as determined by the Commissioner [of Human Services], be subject to a reduction in benefits of at least 20% or shall become ineligible for benefits for a period of at least 90 days. The period of ineligibility shall commence at the end of the current benefit period.

⁶⁷ *Id.*

⁶⁸ A. 4700 § 7(c).

⁶⁹ *Id.*

⁷⁰ A. 4700 § 11 reads: "The Commissioner of Human Services is assigned to establish a planning council in each separate county to ascertain the most efficient means by which to implement FDA. The Council will consist of 12-15 members from public and private organizations."

has been accepted into an institution of higher education.⁷¹ The program establishes education as the cornerstone of the Family Development Initiative, with an eye towards enabling individuals to lead independent and productive lives.⁷²

B. A. 4701

This bill simply establishes a twenty-four hour social services information hotline in the Department of Human Services to serve as a comprehensive bank of referral sources for social service programs and agencies throughout the state.⁷³ This centralized hotline will offer greater convenience to individuals who possess a variety of social service needs.⁷⁴

C. A. 4702

This proposal requires that the Division of Human Services revise its rules and regulations to clarify those situations where an eligible parent⁷⁵ marries an individual who is not the natural parent of the recipient's children.⁷⁶ The parent will not be eligible for benefits in the event that the household income exceeds the state eligibility standard.⁷⁷ However, the recipients' natural children may qualify for benefits if the total family income does not exceed 150% of the poverty level.⁷⁸ In addition, the bill seeks to eliminate the barriers to marriage and encourage family stability amongst AFDC recipients, without penalizing the innocent children legitimately eligible for aid.⁷⁹

⁷¹ A. 4700 § 7 (f).

⁷² A. 4700 § 8 reads:

If problems develop which will interfere with a recipient achieving gainful employment, a recommendation will be made to secure services including counseling, family therapy, skill training development, job training, education, tutoring, substance abuse counseling, health screening, and any other services determined by the commissioner to be necessary.

⁷³ A. 4701. This service is provided toll free.

⁷⁴ *Id.* See A. 4701 § 1(a).

⁷⁵ A. 4702 § 1 reads: "Eligible parent means a person who is or would be eligible for benefits based upon the income of that person and the person's natural child."

⁷⁶ A. 4702 § 2(b). See also *Legislative Analysis*, *supra* note 1, at 5.

⁷⁷ *Id.*

⁷⁸ *Id.* Poverty level for a family of four is approximately \$13,400.

⁷⁹ *Bryant Address*, *supra* note 38.

D. A. 4703

This proposal revises the current directive of the Department of Human Services in order to discard the requirement which expands the benefits of the welfare recipient in the event that an additional child is born.⁸⁰ Instead of receiving additional increments, a family which elects to have another child once receiving AFDC benefits will be entitled to an increased income disregard which can be attained by obtaining gainful employment not to exceed 50% of the monthly benefits.⁸¹ A. 4703 does not deny any AFDC grant increment as long as the amount of the grant is fairly increased for each individual program participant.⁸²

The aim of this provision is to discourage AFDC recipients from having subsequent children during the period of their enrollment in public assistance.⁸³ Moreover, it creates an incentive for the recipients to be responsible and self-sufficient in earning the necessary funds to sustain their families.⁸⁴ In the long term, FDA hopes to create a vision to enable individuals and families to be the architects of their own futures.⁸⁵

E. A. 4704

This proposal calls for a revision by the Department of Human Services in the AFDC program to allow full payment of welfare benefits to a family in which parents decide to be married or reside in the same household.⁸⁶ This provision should take effect as long as the household income does not exceed the necessary state guidelines.⁸⁷

Currently, families on welfare are subjected to a reduction in AFDC benefits if both parents are married and living in the same household, regardless of the fact that the family income falls below the state eligibility standard of AFDC.⁸⁸ This clearly negates

⁸⁰ A. 4703 § 2, supplementing P.L. 1959 C.86 (C.44:10-1).

⁸¹ *Id.* See also *Legislative Analysis, supra* note 1, at 6.

⁸² *Id.*

⁸³ McCoy, *supra* note 59.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ A. 4704, § (1)(b), supplementing P.L. 1959, c.86 (C.44:10-1).

⁸⁷ *Id.*

⁸⁸ *Id.* A. 4704 § 2 reads:

the incentive of these individuals to maintain family unity.⁸⁹ Instead, it fosters the disintegration of families in New Jersey's inner-cities.⁹⁰ Therefore, under the present system [REACH], pure economics dictates that a family must live separate and apart in order to achieve the full monthly AFDC benefit.⁹¹

F. A. 4705

This act establishes a seventeen member Council on Community Restoration.⁹² This group will be designated to advise the Governor on issues of allocation, coordination and prioritization of necessary resources needed for community restoration and development projects.⁹³ The purpose of this bill is to facilitate rehabilitation and renovation of our cities, infrastructure improvement and expansion, economic development, and community revitalization.⁹⁴

IV. *Opposition to the Bill*

A. *"It's too early to scrap REACH"*⁹⁵

An article in New Jersey's *Courier-Post* questions the wisdom of the Family Development Act.⁹⁶ First, the *Courier-Post* finds the FDA's overall approach unenforceable.⁹⁷ The editors posit that under A. 4703, children would be left underfed, ill-clothed, and possibly even without shelter.⁹⁸ The *Courier-Post* argues the FDA

The Commissioner of Health and Human Services shall revise the rules and regulations governing the AFDC program to permit FDA to provide full benefits to a family whose income does not exceed the state eligibility standard . . . without placing restrictions on the employment of either parent.

According to the existing law, families receiving benefits under the AFDC programs are subject to a 30% reduction in the monthly grant if both parents remain in the household.

⁸⁹ A. 4704 § 1(b).

⁹⁰ Interview with Assemblyman Wayne R. Bryant (Dec. 2, 1991).

⁹¹ *Id.*

⁹² A. 4705, § 1(a), supplementing Title 52 of the Revised Statutes.

⁹³ A. 4705 § 2(a).

⁹⁴ *Id.*

⁹⁵ See *supra* note 4.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

will, in essence, punish children for the "sins" of their parents.⁹⁹

The *Courier-Post's* answer is "not to deny children benefits but to stress to welfare recipients the disadvantage in overburdening themselves . . . with additional children."¹⁰⁰ Moreover, the *Courier-Post's* does not think that three and one half years is enough time to judge the REACH program and its effectiveness.¹⁰¹

B. "*Bryant's bold stand.*"

The editors of the *Philadelphia Inquirer* echo the concerns and resentment of the *Courier-Post*.¹⁰² They also agree that the withholding of money to mothers with additional babies only affects the innocent children while the irresponsible mother goes unfettered and untouched.¹⁰³ Instead, the *Inquirer* recommends a transitional program that promotes welfare benefits for a fixed period; at the conclusion of the specified time, the benefits would terminate.¹⁰⁴ If by that time the person has not found a job, the government would provide one.¹⁰⁵

C. *Legal Services of New Jersey Comments*

The President of the Legal Services of New Jersey, Melville Miller, Jr. testified before the Assembly Health and Human Services Committee.¹⁰⁶ Although Mr. Miller supported a number of aspects in the [current] legislation,¹⁰⁷ he opposed the provision of A. 4700 which would increase the amount and period of ineligibility for failure to meet work participation requirements beyond sanction levels and for similar failure to progress in the academic sphere of the program.¹⁰⁸

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² THE PHILADELPHIA INQUIRER, *Bryant's Bold Stand*, Apr. 11, 1991, A18.

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ Written statement of Melville D. Miller, Jr., President, Legal Services of New Jersey, July 9, 1991.

¹⁰⁷ For example, the social services hotline espoused in A. 4701; the interested suggested in A. 4700 in increasing the availability of job-related services; A. 4707 emphasis on providing federal waivers for full grant assistance to two parent working families without work history limits. *Id.*

¹⁰⁸ *Id.* at 5.

Mr. Miller also found it imprudent to replace the REACH/JOBS program.¹⁰⁹ According to Mr. Miller, REACH is still a new concept in development, similar in aspects to the FDA.¹¹⁰ Considering the large amount expended on start-up costs of these new ventures and the considerable investment of time and energy already expended in REACH, Mr. Miller believed it would be premature to evaluate the strength and weaknesses of these county programs established under the current system.¹¹¹ In order to improve what already exists, Mr. Miller suggested that these local programs must be given time to develop in order to analyze them properly and make the necessary improvements.¹¹²

Also, Mr. Miller questioned the restrictions on grants associated with afterborn children.¹¹³ Mr. Miller called this constitutionally impermissible, as well as bad public policy.¹¹⁴ Finally, Mr. Miller expressed concern over the absolute educational attainment requirement in A. 4700 without allowing exceptions for those with a limited ability and other extenuating circumstances.¹¹⁵

D. Constitutional Concerns

In a statement before the Health and Human Services Committee of the New Jersey Assembly, the NOW Legal Defense and Education Fund argued that "need" is a fundamental principle which dictates AFDC benefit levels under both state and federal law.¹¹⁶ NOW relied on *In re Petition for Rulemaking, NJAC*,¹¹⁷ and *Boyle V. Rite*,¹¹⁸ to support its contention that "need"¹¹⁹ increases with family size.¹²⁰ Therefore, NOW argues, with "need" being a determinative factor for AFDC eligibility, federal law has pro-

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.* at 6.

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Family Development Act: Hearings on A. 4700-A. 4705 Before the Human services Committee*, (1991) (Statement by the NOW Legal Defense and Education Fund). [Hereinafter *NOW's Statement*].

¹¹⁷ 566 A.2d 1154 (N.J. 1989).

¹¹⁸ 417 A.2d 1091 (N.J. Super. Ct. App. Div. 1980).

¹¹⁹ Defined as the cost of basic necessities. *NOW's Statement*, *supra* note 116.

¹²⁰ *Id.* at 3.

vided that an eligible child may not be denied benefits "because of the conditions of the home" or because the home is considered "unsuitable."¹²¹ Similarly, NOW stated that it is the duty of the state to conform its AFDC program to federal statutes and regulations.¹²²

NOW's major concern is that A. 4703, which denies further benefits to children solely because the mother conceived that child while on AFDC, violates these state and federal mandates.¹²³ NOW interprets the premise of A. 4703 to find a home unsuitable in which a child is born, while the mother is a recipient of AFDC.¹²⁴ NOW further stipulated that the [current] legislation, FDA, violates both the equal protection and due process clause of the state and federal Constitutions.¹²⁵ In particular, NOW claimed the act violates the Equal Protection and Due Process Clauses by singling out and discriminating against AFDC recipients, primarily the mother, and subsequently infringing on these individual's privacy rights as to determine when they can have children.¹²⁶

NOW argued that the FDA discriminates against women by explicitly limiting benefits to only those families that include a mother, under A. 4703.¹²⁷ NOW claimed that families headed by single males would not be subject to any such limitation.¹²⁸ This treatment is argued to be unconstitutional.¹²⁹

Additionally, NOW contended that FDA would impermissibly allow government interference in the right of recipient women to make decisions concerning childbirth and rearing, as well as marriage.¹³⁰ Furthermore the organization believed that bill A. 4703 is designed to discourage AFDC recipients from having additional children during the period of their welfare

¹²¹ 45 C.F.R. § 233.90 (b)(1).

¹²² *Eherenstorfer v. Division of Public Welfare*, 483 A.2d 212 (N.J. Super. Ct. App. Div. 1984).

¹²³ *NOW's Statement*, *supra* note 116 at 3.

¹²⁴ *Id.*

¹²⁵ *Id.* at 4.

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ See *Califano v. Westcott*, 483 U.S. 76 (1979); *Califano v. Goldfarb*, 430 U.S. 199 (1977); *Frontiero v. Richardson*, 411 U.S. 677 (1973); *Wrightstown v. Medved*, 474 A.2d 1077 (N.J. Super. Ct. App. Div. 1984).

¹³⁰ *NOW's Statement*, *supra* note 116.

dependence.¹³¹

NOW does not believe that financial incentives can control unintended pregnancies.¹³² NOW sees the capping provisions and the differential earned income disregards provided for in FDA as a means to discourage welfare recipients from having more children and to coerce individuals into marriage and therefore violative of public policy.¹³³

IV. Conclusion

Hand a fish to a hungry man and it will take care of his daily need, but teach him to fish and you give him a lifetime of dignity.¹³⁴

The above quotation adequately sets the tone for this legislation.¹³⁵ The welfare system as it currently exists, not only in New Jersey, but in America, is riddled with strife.¹³⁶ Many people believe that welfare as a concept is honorable and well-intentioned.¹³⁷ It is, unfortunately, subject to severe abuse.

Traditionally, public assistance was designed to be a bridge across turbulent waters, a helping hand from the cycle of poverty to the promise of self-respect.¹³⁸ Unfortunately it has become stagnant, keeping people deprived, depressed and dependent on welfare. It has failed at its original purpose, which was to give people an opportunity to matriculate and develop self-pride.

The Family Development Act has essentially three precepts. The first is that Americans must keep the family at the forefront of all public policy.¹³⁹ Surprisingly, the current welfare programs penalize families for staying together. If, in fact, the family is going to be the center of stability and productivity, the system must allow the family to remain as a unit, without having any monetary difference

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ Letter from Assemblyman Wayne R. Bryant to the Assembly Democratic Office, State House in Trenton. (May 1, 1991) (citing the principle upon which John F. Kennedy founded the Peace Corps). (Reproduced in *Functional Illiterates are Shackled in the Welfare System*, ASBURY PARK PRESS, May 12, 1991).

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Id.*

for staying together.¹⁴⁰

Second, education is the key to everyone's success.¹⁴¹ Those who remain uneducated will be unable to remove themselves from the poverty cycle.¹⁴² Therefore, FDA mandates that recipients participate in education and job training programs.¹⁴³ But it goes further. The bill allows for those who have teased their intellectual senses to continue in programs with the aid of certain scholarships at the local county colleges and state universities.¹⁴⁴

The government is responsible for providing these services by promoting the intended individual family plans. These individual plans for each family will be designed to take them from dependency to self-sufficiency.

This legislative package is unique in that it shares the responsibility with the recipient. Each member of society that wishes to enter the mainstream must begin to accept responsibilities for their own lives.¹⁴⁵ Critics in opposition to the FDA call these provisions penalties.¹⁴⁶ Assemblyman Bryant calls it the "American Way."¹⁴⁷

Finally, the most controversial piece of the bill, A. 4703, will take people into the system and evaluate their own unique situation based on need.¹⁴⁸ When that recipient enters the program they are not limited in any way by a quota or ceiling dictating how many children an individual may have.¹⁴⁹ However, from that point on, each individual will be empowered and entrusted to make their own decisions affecting their own lives.¹⁵⁰ In other words, each participant is free to have more children if they desire but that will not qualify them for more assistance.¹⁵¹ The purpose of the FDA is to make the system of welfare more in tune with everyday life and the expected

¹⁴⁰ *Id.*

¹⁴¹ Steven Fromm, *Proposed Bill Would Limit Aid to Welfare Moms*, TRENTON TIMES, Apr. 5, 1991, at 1, 7-8.

¹⁴² *Id.*

¹⁴³ See *supra* note 1 at § 6.

¹⁴⁴ *Id.*

¹⁴⁵ Fromm, *supra* note 141.

¹⁴⁶ Public Hearing before Assembly Health and Human Services Committee, Stratford, New Jersey, Oct. 22, 1991.

¹⁴⁷ *Id.*

¹⁴⁸ McCoy, *supra* note 59.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

outcome the recipient is attempting to attain.¹⁵² If the purpose is to matriculate into the mainstream, then legislatures need to adopt the policies of the mainstream as the desired policies of the FDA, thereby allowing each individual who passes through the program to become the architect of their own destiny.¹⁵³

Assemblyman Bryant developed a flexible system. He has referred to the current welfare REACH, as an incubator for fresh ideas.¹⁵⁴ In the same token, the act as currently presented is not to be viewed as an object cast in stone.¹⁵⁵ The drafters of this legislation understands that time, experience, and necessity will constantly change society's view on this issue.¹⁵⁶ The important effect this legislation possesses is that it creates a window for change.¹⁵⁷ Now that this window has been opened, the impetus for future discussions will always exist.¹⁵⁸

Critics of the bill label it unconstitutional.¹⁵⁹ Welfare, however, is not a constitutional right.¹⁶⁰ Nor does the FDA infringe on an individual's right to have children.¹⁶¹ Instead, it tells the individual if he/she chooses to have another child while included in the AFDC program, that individual will have the same responsibility in caring for the child as it did in bringing that child into the world.¹⁶² Under this plan the recipient can acquire outside employment and earn an

¹⁵² See *supra* note 89.

¹⁵³ *Id.*

¹⁵⁴ See *supra* note 38.

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ McCoy, *supra* note 58. In this article Melville Miller, President of Legal Service of New Jersey, was quoted as saying:

Providing assistance to three kids and not to a fourth . . . raises questions of discrimination. Similarly, the NOW Legal Defense and Education Fund has singled out in its statement before the Health and Human Services Committee on July 9, 1991 the FDA's infringement into marriage, family stability and child birth. It is NOW's contention that the capping provisions and differential earned income disregard expressed respectively in A. 4703 and A. 4704 "discourage" welfare recipients from having additional children and "encourage" marriage in violation of both state and federal statutes and constitutions.

Id.

¹⁶⁰ Interview *supra* note 12.

¹⁶¹ McCoy, *supra* note 59.

¹⁶² *Id.*

additional 50%¹⁶³ of their monthly grant without losing any of their existing benefits.¹⁶⁴ A burden is on each person to make responsible decisions for themselves.¹⁶⁵ The message is a call to change from a system that encouraged maintenance to one that promotes self-empowerment.¹⁶⁶

Certain critics state that the act discriminates against women.¹⁶⁷ The intent of the bill was to be gender neutral.¹⁶⁸ The intent is to tell families of all sizes and backgrounds that while they go through the transition from poverty to independence, they will not be encouraged to have more children by receiving additional sums.¹⁶⁹

Moreover, the bill does not coerce people into marriage, it merely does not reduce these individual's benefits if they choose to marry.¹⁷⁰ It empowers people to make decisions.¹⁷¹ The bill attempts to promote family unity.¹⁷² The current trend for families has been to live apart in an attempt to maintain a full monthly grant.¹⁷³ The FDA attempts to remove these penalties for individuals who freely choose to live as a family without suffering economic loss.¹⁷⁴

Robert Kennedy once said, "Some people see things as they are and ask why? I see things as they never were and ask why not?"¹⁷⁵ Assemblyman Bryant saw a program that was floundering in institutionalized poverty. Instead of asking why, he envisioned a transitional system capable of re-tooling people's skills and empowering them with opportunity. The Family Development Act courageously poses the question, WHY NOT?

Louis D. Greenwald

¹⁶³ *Id.* Law was amended in passage to 50%.

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *NOW's Statement, supra* note 116.

¹⁶⁸ *Interview, supra* note 12.

¹⁶⁹ *Id.*

¹⁷⁰ *THE PHILADELPHIA INQUIRER*, Apr. 11, 1991, at 18A.

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ Letter from Assemblyman Wayne R. Bryant to Lloyd J. Oxford, President Black United Fund of New Jersey, Inc. (Apr. 8, 1991) (discussing FDA).