

# ACT No. 842

Regular Session, 2014

HOUSE BILL NO. 1176

BY REPRESENTATIVE BROADWATER AND SENATOR ERDEY

1 AN ACT

2 To amend and reenact R.S. 46:114.4(C), 231, and 237 and to enact R.S. 46:231.3 and  
3 231.14, relative to aid to needy families; to provide for duties and functions of the  
4 Department of Children and Family Services in administering cash assistance  
5 provided through the Temporary Assistance for Needy Families program; to provide  
6 for restrictions on uses of Family Independence Temporary Assistance Program  
7 benefits and Kinship Care Subsidy Program benefits; to restrict uses of electronic  
8 benefits transfer cards; to establish certain restrictions and prohibitions on retailers  
9 and other businesses participating in the electronic benefits transfer system; to  
10 provide for penalties; to provide for appeals; to provide relative to the Fraud  
11 Detection Fund; to provide for definitions; to authorize promulgation of rules; and  
12 to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 46:114.4(C), 231, and 237 are hereby amended and reenacted and  
15 R.S. 46:231.3 and 231.14 are hereby enacted to read as follows:

16 §114.4. Fraud Detection Fund

17 \* \* \*

18 C.(1) After compliance with the requirements of Article VII, Section 9(B)  
19 of the Constitution of Louisiana relative to the Bond Security and Redemption Fund,  
20 and prior to monies being placed in the state general fund, the following amounts  
21 shall be credited to the fund:

22 (a) An ~~an~~ amount equal to that deposited as required by Subsection B of this  
23 Section ~~shall be credited to the fund.~~

24 (b) An amount equal to that deposited in accordance with R.S. 46:231.14(G).



1           (6) "Bail" means security given by a person to assure his appearance, or the  
2           appearance of a third party, before the proper court whenever required.

3           (7) "Bar" means a business that holds a Class A-General retail permit and the  
4           primary purpose of such business is to serve alcoholic beverages for consumption by  
5           guests on the premises and in which the serving of food is only incidental to the  
6           consumption of those beverages. Bars include, without limitation, taverns, saloons,  
7           nightclubs, cocktail lounges, and cabarets.

8           (8) "Cash assistance" means funds that the department provides through the  
9           Family Independence Temporary Assistance Program and the Kinship Care Subsidy  
10           Program to eligible beneficiaries for the purpose of assisting those persons in  
11           meeting ongoing basic needs.

12           (9) "Commercial body art facility" means any location, place, area, or  
13           business, whether permanent or temporary, that provides consumers access to  
14           personal services workers who for remuneration perform any of the following  
15           procedures:

16           (a) Tattooing or inserting pigment under the surface of the skin of a human  
17           being, by pricking with a needle or otherwise, to produce an indelible mark or figure  
18           visible under the skin.

19           (b) Body piercing or the creation of an opening in the body of a human being  
20           for the purpose of inserting jewelry or other decoration. For purposes of this  
21           Subpart, "body piercing" does not include piercing an ear with a disposable, single-  
22           use stud or solid needle that is applied using a mechanical device to force the needle  
23           or stud through the ear.

24           (c) Application of permanent cosmetics or pigments under the skin of a  
25           human being for the purpose of permanently changing the color or other appearance  
26           of the skin, including but not limited to permanent eyeliner, eye shadow, or lip color.

27           (10) "Cruise ship" means any commercial ship used for the domestic or  
28           international carriage of passengers.

29           ~~(3)~~(11) "Department" means the Department of Children and Family  
30           Services.

1           ~~(4)~~(12) "Dependent child", in accordance with federal law and regulations  
 2 relative to the TANF program, shall mean a needy child who meets all of the  
 3 following criteria:

4           (a) A needy child under the age of eighteen or needy child under the age of  
 5 nineteen who is a full-time student in a secondary school, or in the equivalent level  
 6 of vocational or technical training, who may reasonably be expected to complete the  
 7 program of such secondary school or training before attaining the age of nineteen.

8           (b) The child is living with his father, mother, stepfather, stepmother, or  
 9 other relative, within the fifth degree, in a place of residence maintained by one or  
 10 more of such relatives as his or their own home. For the purposes of this Subpart,  
 11 all such persons shall be deemed as relatives, whether their relationship to the  
 12 dependent child was acquired by adoption, marriage, or birth, and neither divorce nor  
 13 death shall terminate such relationship.

14           (13) "Electronic benefits transfer transaction" and "EBT transaction" mean  
 15 the use of a credit or debit card service, automated teller machine, point-of-sale  
 16 terminal, or access to an online system for the withdrawal of funds.

17           ~~(5)~~(14) "Family Independence Temporary Assistance Program" or "FITAP"  
 18 means the cash assistance program.

19           ~~(6)~~(15) "Family Success Agreement" means the mutually developed contract  
 20 between a FITAP recipient, on behalf of their family, and the department that sets  
 21 forth mutual and time-bound responsibilities, expectations, activities, and goals  
 22 designed to transition a participant from welfare to self-sufficiency.

23           ~~(7)~~(16) "Federal Welfare Reform Act" means the federal Personal  
 24 Responsibility and Work Opportunity Reconciliation ~~(PRWORA) Act~~ Act  
 25 (PRWORA) of 1996, Public Law 104-193, and applicable changes due to its  
 26 reauthorization.

27           (17)(a) "Gaming establishment" means a gambling casino and any other  
 28 establishment which provides gaming activities that are subject to regulation by the  
 29 Louisiana Gaming Control Board.

30           (b) "Gaming establishment" does not include either of the following:

1           (i) A grocery store that sells groceries including staple foods and that also  
2           offers, or is located within the same building or complex as, casino activities,  
3           gambling, or gaming activities.

4           (ii) Any establishment that offers casino, gambling, or gaming activities that  
5           are incidental to the principal purpose of the business.

6           (18) "Jewelry" means an object or thing consisting of precious stones or  
7           precious metals worn as adornment or apparel, including costume jewelry.

8           (19)(a) "Liquor store" means any retail establishment that sells exclusively  
9           or primarily intoxicating liquor.

10          (b) "Liquor store" does not include a grocery store that sells both  
11          intoxicating liquor and groceries, including staple foods.

12          (20) "Nail salon" means a commercial establishment that provides nail  
13          services of any kind including but not limited to trimming, filing, decorating,  
14          shaping, sculpting, or in any way caring for the nails and skin of a person's hands or  
15          feet together with massaging the hands, arms, legs, and feet.

16          (21) "Point-of-sale terminal" means an electronic hardware device that meets  
17          all of the following criteria:

18                 (a) May be utilized at a retailer's place of business where consumers pay for  
19                 goods or services.

20                 (b) Is capable of the following:

21                         (i) Initiating a request for authorization of a purchase of tangible personal  
22                         property.

23                         (ii) Disbursing currency from an account.

24                         (iii) Initiating a balance inquiry for an account.

25                         (iv) Distributing assistance through an electronic benefits transfer system as  
26                         described in this Subpart.

27           (22) "Psychic" means any person or establishment engaged in the occupation  
28           of occult science including a fortune teller, palmist, astrologist, numerologist,  
29           clairvoyant, craniologist, phrenologist, card reader, spiritual reader, tea leaf reader,

1 prophet, or advisor who in any manner claims or pretends to tell fortunes or claims  
2 or pretends to disclose mental faculties of individuals for any form of compensation.

3 ~~(8)~~(23) "Recipient" or "FITAP recipient" means the parent or a relative of  
4 the parent who receives FITAP on behalf of a dependent child.

5 ~~(9)~~(24) "Secretary" means the secretary of the Department of Children and  
6 Family Services.

7 (25) "Sexually oriented business" means any commercial enterprise that has  
8 as its primary business the offering of a service or the sale, rent, or exhibit of devices  
9 or any other items intended to provide sexual stimulation or sexual gratification to  
10 the customer.

11 ~~(10)~~(26) "State plan" means the state TANF block grant plan.

12 ~~(11)~~(27) "Strategies to Empower People" or "STEP" means the education,  
13 employment, training and related services program for families receiving cash  
14 assistance payments.

15 ~~(12)~~(28) "Temporary Assistance to Needy Families" or "TANF" means the  
16 federal block grant program established under the Personal Responsibility and Work  
17 Opportunity Reconciliation Act of 1996, Public Law 104-193, and applicable  
18 changes due to its reauthorization.

19 ~~(14)~~(29) "Work-eligible" refers to families containing an adult under sixty  
20 years of age, or teen head of household, that is not disabled, incapacitated, or caring  
21 for a family member who is disabled or incapacitated as documented by a medical  
22 expert to which the status of disability is clearly established and explained. "Work-  
23 eligible" also excludes cases in which only the child portion of need that is unrelated  
24 to a sanction or penalty, known as a child-only case, is considered in determining  
25 eligibility.

26 \* \* \*

27 §231.3. FITAP benefits; prohibited uses

28 A. A person who receives FITAP benefits shall not use such benefits in an  
29 electronic benefits transfer transaction in any of the following places:

30 (1) A liquor store.

1                   (2) A gaming establishment.

2                   (3) A retail establishment that provides adult-oriented entertainment in  
3 which performers disrobe or perform in an unclothed state for entertainment  
4 purposes.

5                   (4) An adult bookstore.

6                   (5) An adult paraphernalia store.

7                   (6) A sexually oriented business.

8                   (7) A commercial body art facility.

9                   (8) A nail salon.

10                  (9) A jewelry store.

11                  (10) An amusement ride.

12                  (11) An amusement attraction.

13                  (12) A bail bonds company.

14                  (13) A bar.

15                  (14) A cruise ship.

16                  (15) A psychic business.

17                  (16) An establishment where persons under eighteen years of age are not  
18 permitted to enter.

19                  B. A person who receives FITAP benefits shall not use such benefits in any  
20 electronic benefits transfer transaction at a retailer for the purchase of any of the  
21 following:

22                   (1) An alcoholic beverage as defined in R.S. 14:93.10.

23                   (2) A tobacco product as defined in R.S. 14:91.6(B).

24                   (3) A ticket for a lottery as defined in R.S. 47:9002.

25                   (4) Jewelry as defined in R.S. 46:231.

26                  C. The FITAP case of any recipient who violates the provisions of this  
27 Section shall be closed in accordance with the following schedule:

28                   (1) Case closure for a period of twelve months for the first violation.

29                   (2) Case closure for a period of twenty-four months for the second violation.

30                   (3) Permanent case closure for the third violation.



1                   (15) A psychic business.

2                   (16) An establishment where persons under eighteen years of age are not  
 3 permitted to enter.

4                   C.(1) Except as provided in Paragraph (2) of this Subsection, on or before  
 5 April 1, 2015, each business of any type described in Subsection B of this Section  
 6 that has an automated teller machine or point-of-sale terminal on its premises shall  
 7 disable access to electronic cash assistance benefits through such machine or  
 8 terminal.

9                   (2) The provisions of Paragraph (1) of this Subsection shall not apply to any  
 10 business approved by the Food and Nutrition Service of the United States  
 11 Department of Agriculture as a retailer in the Supplemental Nutrition Assistance  
 12 Program of this state.

13                   D. A retailer or other business establishment that violates any provision of  
 14 Subsection A or B of this Section shall be subject to the following civil fines:

15                   (1) Five hundred dollars for the first violation.

16                   (2) One thousand dollars for the second violation.

17                   (3) Two thousand five hundred dollars for the third violation and each  
 18 violation thereafter.

19                   E.(1) The department shall promulgate rules and regulations in accordance  
 20 with the Administrative Procedure Act to effectuate the provisions of this Section.  
 21 The rules and regulations shall provide, at minimum, for notice to a retailer or other  
 22 business establishment of any violation, and for an appeal procedure including  
 23 judicial review.

24                   (2) The appeal provided for in this Subsection shall be suspensive. Each  
 25 appeal initiated pursuant to this Subsection shall be heard by the division of  
 26 administrative law in accordance with the applicable provisions of Chapter 13-B of  
 27 Title 49 of the Louisiana Revised Statutes of 1950.

28                   (3) The division of administrative law shall furnish to the department and  
 29 retailer or other business establishment a copy of the decision rendered in the appeal  
 30 and written notice of the manner for requesting judicial review.



1           (2)(a) "Amusement attraction" means a movie theater, video arcade, or any  
2           other building, structure, or place principally devoted to activities providing  
3           amusement, pleasure, thrills, or excitement.

4           (b) "Amusement attraction" does not include any enterprise principally  
5           devoted to the exhibition of products of agriculture, industry, education, including  
6           zoos and aquariums, science, religion, sports, or the arts.

7           (3) "Amusement ride" means any mechanized device or combination of  
8           devices which carries passengers along, around, or over a fixed or restricted course  
9           for the purpose of giving its passengers amusement, pleasure, thrills, or excitement.  
10          "Amusement ride" includes inflatables.

11          (4) "Automated teller machine" means an electronic hardware device that is  
12          capable of dispensing currency and responding to balance inquiries through the use  
13          of a magnetic stripe card issued by or on behalf of the state for distribution of  
14          assistance through an electronic benefits transfer system as described in Subpart A  
15          of this Part.

16          (5) "Bail" means security given by a person to assure his appearance, or the  
17          appearance of a third party, before the proper court whenever required.

18          (6) "Bar" means a business that holds a Class A-General retail permit and the  
19          primary purpose of such business is to serve alcoholic beverages for consumption by  
20          guests on the premises and in which the serving of food is only incidental to the  
21          consumption of those beverages. Bars include, without limitation, taverns, saloons,  
22          nightclubs, cocktail lounges, and cabarets.

23          (7) "Cash assistance" means funds that the department provides through the  
24          Family Independence Temporary Assistance Program and the Kinship Care Subsidy  
25          Program to eligible beneficiaries for the purpose of assisting those persons in  
26          meeting ongoing basic needs.

27          (8) "Commercial body art facility" means any location, place, area, or  
28          business, whether permanent or temporary, that provides consumers access to  
29          personal services workers who for remuneration perform any of the following  
30          procedures:

1           (a) Tattooing or inserting pigment under the surface of the skin of a human  
 2           being, by pricking with a needle or otherwise, to produce an indelible mark or figure  
 3           visible under the skin.

4           (b) Body piercing or the creation of an opening in the body of a human being  
 5           for the purpose of inserting jewelry or other decoration. For purposes of this Section,  
 6           "body piercing" does not include piercing an ear with a disposable, single-use stud  
 7           or solid needle that is applied using a mechanical device to force the needle or stud  
 8           through the ear.

9           (c) Application of permanent cosmetics or pigments under the skin of a  
 10          human being for the purpose of permanently changing the color or other appearance  
 11          of the skin, including but not limited to permanent eyeliner, eye shadow, or lip color.

12          (9) "Cruise ship" means any commercial ship used for the domestic or  
 13          international carriage of passengers.

14          (10) "Electronic benefits transfer transaction" and "EBT transaction" mean  
 15          the use of a credit or debit card service, automated teller machine, point-of-sale  
 16          terminal, or access to an online system for the withdrawal of funds.

17          (11)(a) "Gaming establishment" means a gambling casino and any other  
 18          establishment which provides gaming activities that are subject to regulation by the  
 19          Louisiana Gaming Control Board.

20          (b) "Gaming establishment" does not include either of the following:

21           (i) A grocery store that sells groceries including staple foods and that also  
 22           offers, or is located within the same building or complex as, casino activities,  
 23           gambling, or gaming activities.

24           (ii) Any establishment that offers casino, gambling, or gaming activities that  
 25           are incidental to the principal purpose of the business.

26          (12) "Jewelry" means an object or thing consisting of precious stones or  
 27          precious metals worn as adornment or apparel, including costume jewelry.

28          ~~(13)~~ (13) "Kinship caregiver" means the grandparent, step-grandparent, aunt,  
 29          uncle, or other adult relative within the fifth degree of consanguinity.

1            (14)(a) "Liquor store" means any retail establishment that sells exclusively  
2            or primarily intoxicating liquor.

3            (b) "Liquor store" does not include a grocery store that sells both  
4            intoxicating liquor and groceries, including staple foods.

5            ~~(2)~~(15) "Minor relative" means a grandchild, step-grandchild, or other minor  
6            relative not the natural or adopted child of the kinship caregiver who is under  
7            eighteen years of age and who meets the definition of "dependent child" specified  
8            in R.S. 46:231(3)(a) 46:231(4)(a).

9            (16) "Nail salon" means a commercial establishment that provides nail  
10           services of any kind including but not limited to trimming, filing, decorating,  
11           shaping, sculpting, or in any way caring for the nails and skin of a person's hands or  
12           feet together with massaging the hands, arms, legs, and feet.

13           (17) "Point-of-sale terminal" means an electronic hardware device that meets  
14           all of the following criteria:

15           (a) May be utilized at a retailer's place of business where consumers pay for  
16           goods or services.

17           (b) Is capable of the following:

18           (i) Initiating a request for authorization of a purchase of tangible personal  
19           property.

20           (ii) Disbursing currency from an account.

21           (iii) Initiating a balance inquiry for an account.

22           (iv) Distributing assistance through an electronic benefits transfer system as  
23           described in Subpart A of this Part.

24           (18) "Psychic" means any person or establishment engaged in the occupation  
25           of occult science including a fortune teller, palmist, astrologist, numerologist,  
26           clairvoyant, craniologist, phrenologist, card reader, spiritual reader, tea leaf reader,  
27           prophet, or advisor who in any manner claims or pretends to tell fortunes or claims  
28           or pretends to disclose mental faculties of individuals for any form of compensation.

29           (19) "Sexually oriented business" means any commercial enterprise that has  
30           as its primary business the offering of a service or the sale, rent, or exhibit of devices

1            or any other items intended to provide sexual stimulation or sexual gratification to  
 2            the customer.

3            C. Eligibility. To be eligible to qualify for a subsidy under the program, a  
 4            kinship caregiver of a minor relative shall meet the following requirements:

5                    (1) Possess or obtain, within one year of enrolling in the program, legal  
 6                    custody or guardianship of a minor relative who is living in his home.

7                    (2) Have an annual income of less than one hundred fifty percent of the  
 8                    federal poverty threshold, in accordance with the size of the family applying for the  
 9                    subsidy.

10                   (3) Apply for benefits through the Family Independence Temporary  
 11                   Assistance Program (FITAP).

12                   (4) Have neither of the minor relative's parents residing in applicant's  
 13                   household.

14                   (5) Agree to pursue the enforcement of child support obligations against the  
 15                   parents of the minor relative with the assistance of the Department of Children and  
 16                   Family Services in accordance with applicable law.

17            D. Disqualification. Any kinship caregiver convicted of a felony of  
 18            possession, use, or distribution of a controlled substance as defined in 21 U.S.C.  
 19            802(6) of the Controlled Substances Act shall be disqualified from applying for a  
 20            subsidy under this Section for one year from the date of conviction, or if  
 21            incarcerated, for one year from the date of release from incarceration.

22            E. Subsidy amounts. The office of children and family services shall  
 23            promulgate rules and regulations to establish the amount of the subsidy to be  
 24            awarded on behalf of each minor relative.

25            F. Rules, regulations, and procedures. The office of children and family  
 26            services shall promulgate rules and regulations to provide for any other eligibility  
 27            requirements which are reasonably necessary to administer the Kinship Care Subsidy  
 28            Program in accordance with this Section and any federal requirements, to promote  
 29            the safety and well-being of any minor relative for whom subsidies are issued, and

1 to establish procedures for reconsideration of eligibility of applicants no less than  
2 annually.

3 G. Administration and funding. The subsidy provided for in this Section  
4 shall be administered by the office of children and family services and funded  
5 through the TANF block grant.

6 H. Prohibited uses of benefits. (1) A recipient of Kinship Care Subsidy  
7 Program benefits shall not use such benefits in an electronic benefits transfer  
8 transaction in any of the following places:

9 (a) A liquor store.

10 (b) A gaming establishment.

11 (c) A retail establishment that provides adult-oriented entertainment in which  
12 performers disrobe or perform in an unclothed state for entertainment purposes.

13 (d) An adult bookstore.

14 (e) An adult paraphernalia store.

15 (f) A sexually oriented business.

16 (g) A commercial body art facility.

17 (h) A nail salon.

18 (i) A jewelry store.

19 (j) An amusement ride.

20 (k) An amusement attraction.

21 (l) A bail bonds company.

22 (m) A bar.

23 (n) A cruise ship.

24 (o) A psychic business.

25 (p) An establishment where persons under eighteen years of age are not  
26 permitted to enter.

27 (2) A recipient of Kinship Care Subsidy Program benefits shall not use such  
28 benefits in any electronic benefits transfer transaction at a retailer for the purchase  
29 of any of the following:

30 (a) An alcoholic beverage as defined in R.S. 14:93.10.

1                    (b) A tobacco product as defined in R.S. 14:91.6(B).

2                    (c) A ticket for a lottery as defined in R.S. 47:9002.

3                    (d) Jewelry as defined in R.S. 46:231.

4                    (3) The Kinship Care Subsidy Program case of any recipient who violates  
5 the provisions of this Section shall be closed in accordance with the following  
6 schedule:

7                    (a) Case closure for a period of twelve months for the first violation.

8                    (b) Case closure for a period of twenty-four months for the second violation.

9                    (c) Permanent case closure for the third violation.

10                   (d) A recipient whose Kinship Care Subsidy Program case is closed pursuant  
11 to the provisions of this Subsection shall have the right to a hearing pursuant to the  
12 Administrative Procedure Act.

13                   Section 2. This Act shall become effective upon signature by the governor or, if not  
14 signed by the governor, upon expiration of the time for bills to become law without signature  
15 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
16 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
17 effective on the day following such approval.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_