

By: King of Hemphill

H.B. No. 423

A BILL TO BE ENTITLED

AN ACT

relating to the drug testing of certain persons seeking benefits under the Temporary Assistance for Needy Families (TANF) program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 31, Human Resources Code, is amended by adding Section 31.0321 to read as follows:

Sec. 31.0321. DRUG SCREENING AND TESTING; ELIGIBILITY. (a) In this section, "controlled substance" and "marihuana" have the meanings assigned by Chapter 481, Health and Safety Code.

(b) Except as provided in Subsections (h) and (i):

(1) each adult applicant for financial assistance benefits, including an applicant applying solely on behalf of a child, who initially applies for those benefits or who applies for the continuation of those benefits must submit to a marihuana and controlled substance use screening assessment; and

(2) each minor parent who is the head of household must submit to a marihuana and controlled substance use screening assessment on the initial application for financial assistance benefits and on any application for the continuation of those benefits.

(c) A person whose marihuana and controlled substance use screening assessment conducted under this section indicates good cause to suspect the person of use of marihuana, other than low-THC cannabis authorized by Chapter 169, Occupations Code, or use of a

1 controlled substance not prescribed for the person by a health care
2 practitioner shall submit to a drug test.

3 (d) Except as provided in Subsections (f) and (g), a person
4 whose drug test conducted under this section indicates the presence
5 in the person's body of marihuana, other than low-THC cannabis as
6 described by Subsection (c), or of a controlled substance not
7 prescribed for the person as described by that subsection is
8 ineligible for financial assistance benefits, and is ineligible to
9 receive those benefits on behalf of the person's family, for a
10 period of 12 months beginning on the first day of the month after
11 the month in which the drug test was administered.

12 (e) Except as provided in Subsections (f) and (g), if,
13 following a 12-month period of ineligibility under Subsection (d),
14 a person reapplies for financial assistance benefits and the
15 results of a drug test required by Subsection (h) indicate the
16 presence in the person's body of marihuana, other than low-THC
17 cannabis as described by Subsection (c), or of a controlled
18 substance not prescribed as described by that subsection, the
19 person is ineligible for financial assistance benefits, and is
20 ineligible to receive those benefits on behalf of the person's
21 family, for a period of 36 months beginning on the first day of the
22 month after the month in which the drug test was administered.

23 (f) A person who is denied financial assistance benefits
24 because of the results of a drug test conducted under this section
25 may reapply for financial assistance benefits six months after the
26 first day of the month after the month in which the drug test was
27 administered if the person provides proof of the person's

1 successful completion of or current enrollment in a substance abuse
2 treatment program. A person reapplying for financial assistance
3 benefits must submit to a drug test as required by Subsection (h),
4 regardless of whether the person is continuing to receive substance
5 abuse treatment.

6 (g) A person's eligibility for financial assistance
7 benefits is not affected by the results of a drug test conducted
8 under Subsection (c) indicating the presence in the person's body
9 of marihuana, other than low-THC cannabis as described by
10 Subsection (c), or of a controlled substance not prescribed as
11 described by that subsection if, not later than the 10th day after
12 the date the person is notified of the results of the drug test, the
13 person enrolls in a substance abuse treatment program. In adopting
14 rules for the implementation of this section, the executive
15 commissioner shall include rules that require:

16 (1) a person who is subject to this subsection to
17 submit proof of continued enrollment in or successful completion of
18 a substance abuse treatment program in order to maintain the
19 person's eligibility for financial assistance benefits; and

20 (2) a substance abuse treatment program that is under
21 contract with or receives funding from the commission to give a
22 priority for services to an applicant who is a person subject to
23 this subsection.

24 (h) A person who is denied financial assistance benefits
25 because of the results of a drug test conducted under this section
26 must submit to a drug test, without first submitting to a marihuana
27 and controlled substance use screening assessment, at the time of

1 any reapplication for financial assistance benefits and on any
2 application for the continuation of those benefits.

3 (i) A person who has been convicted of a felony drug offense
4 must submit to a drug test, without first submitting to a marijuana
5 and controlled substance use screening assessment, at the time of
6 an initial application for financial assistance benefits and on any
7 application for the continuation of those benefits.

8 (j) If a person is denied eligibility for financial
9 assistance benefits three times because of the results of a drug
10 test conducted under this section, the person is permanently
11 ineligible for those benefits and is permanently ineligible to
12 receive those benefits on behalf of the person's family.

13 (k) Before denying financial assistance benefits under this
14 section, the commission must:

15 (1) notify the person who submitted to a drug test of
16 the results of the test and the commission's proposed determination
17 of ineligibility; and

18 (2) confirm the results of the drug test through a
19 second drug test or other appropriate method.

20 (l) The results of a drug test administered as provided by
21 Subsection (k)(2) to confirm the results of a previous drug test are
22 not considered for purposes of Subsection (e) or (g).

23 (m) The denial of financial assistance benefits to an
24 applicant because of the results of a drug test conducted under this
25 section does not affect the eligibility of the person's child or
26 family members for those benefits.

27 (n) If a parent or caretaker relative of a dependent child

1 is ineligible to receive financial assistance benefits on behalf of
2 the child because of the results of a drug test conducted under this
3 section, the parent or caretaker relative, as applicable, shall
4 select a protective payee to receive financial assistance benefits
5 on behalf of the child. The parent or caretaker relative, as
6 applicable, may choose an immediate family member to serve as the
7 protective payee or, if an immediate family member is not available
8 or declines to serve as the protective payee, the person may choose
9 another person approved by the commission. A person must submit to
10 a marihuana and controlled substance use screening assessment to
11 establish the person's eligibility to serve as a protective payee.
12 A person whose marihuana and controlled substance use screening
13 assessment indicates good cause to suspect the person of use of
14 marihuana, other than low-THC cannabis as described by Subsection
15 (c), or of use of a controlled substance not prescribed as described
16 by that subsection shall submit to a drug test to establish the
17 eligibility of the person to serve as a protective payee. A person
18 whose drug test conducted under this section indicates the presence
19 in the person's body of marihuana, other than low-THC cannabis as
20 described by Subsection (c), or of a controlled substance not
21 prescribed as described by that subsection is ineligible to serve
22 as a protective payee.

23 (o) The commission shall:

24 (1) use the most efficient and cost-effective
25 marihuana and controlled substance use screening assessment tool
26 that the commission and the Department of State Health Services can
27 develop based on validated marihuana and controlled substance use

1 screening assessment tools; and

2 (2) pay the cost of any marihuana and controlled
3 substance use screening assessment or drug test administered under
4 this section out of the federal Temporary Assistance for Needy
5 Families block grant funds.

6 (p) The commission shall provide each person who is denied
7 financial assistance benefits as a result of a drug test conducted
8 under this section with a list of substance abuse treatment
9 providers located in the area where the person resides.

10 (q) Nothing in this section requires the commission or the
11 state to provide or pay for substance abuse treatment for a person
12 whose drug test conducted under this section indicates the presence
13 in the person's body of marihuana, other than low-THC cannabis as
14 described by Subsection (c), or of a controlled substance not
15 prescribed as described by that subsection.

16 (r) The executive commissioner shall adopt rules
17 implementing this section.

18 SECTION 2. (a) Section 31.0321, Human Resources Code, as
19 added by this Act, applies to:

20 (1) an adult applicant, including an applicant
21 applying solely on behalf of a child, who initially applies for
22 financial assistance benefits under Chapter 31, Human Resources
23 Code, on or after the effective date of this Act;

24 (2) a minor parent who is the head of household who
25 initially applies for financial assistance benefits under Chapter
26 31, Human Resources Code, on or after the effective date of this
27 Act;

1 (3) an adult applicant, including an applicant
2 applying solely on behalf of a child, who applies for the
3 continuation of financial assistance benefits under Chapter 31,
4 Human Resources Code, on or after the effective date of this Act;
5 and

6 (4) a minor parent who is the head of household who
7 applies for the continuation of financial assistance benefits under
8 Chapter 31, Human Resources Code, on or after the effective date of
9 this Act.

10 (b) Except as provided by Subsections (a)(3) and (4) of this
11 section, an adult applicant, including an applicant applying solely
12 on behalf of a child, or a minor parent who is the head of household
13 who applied for financial assistance benefits under Chapter 31,
14 Human Resources Code, before the effective date of this Act is
15 governed by the law in effect when the person applied for financial
16 assistance benefits, and that law is continued in effect for that
17 purpose.

18 SECTION 3. If before implementing any provision of this Act
19 a state agency determines that a waiver or authorization from a
20 federal agency is necessary for implementation of that provision,
21 the agency affected by the provision shall request the waiver or
22 authorization and may delay implementing that provision until the
23 waiver or authorization is granted.

24 SECTION 4. This Act takes effect September 1, 2021.