

By: Naishtat

H.B. No. 1061

A BILL TO BE ENTITLED

1 AN ACT

2 relating to penalties and sanctions imposed on recipients of  
3 financial assistance.

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

5 SECTION 1. Sections 31.0031(c) and (g), Human Resources  
6 Code, are amended to read as follows:

7 (c) The department shall adopt rules governing sanctions  
8 and penalties under this section to or for[+]

9 [~~(1)~~] a person who fails to cooperate with each  
10 applicable requirement of the responsibility agreement prescribed  
11 by this section[~~, and~~

12 [~~(2) the family of a person who fails to cooperate with~~  
13 ~~each applicable requirement of the responsibility agreement].~~

14 (g) In this section, "caretaker [+]

15 [~~(1) "Caretaker~~] relative" means a person who is  
16 listed as a relative eligible to receive assistance under 42 U.S.C.  
17 Section 602(a).

18 [~~(2) "Payee" means a person who resides in a household~~  
19 ~~with a dependent child and who is within the degree of relationship~~  
20 ~~with the child that is required of a caretaker but whose needs are~~  
21 ~~not included in determining the amount of financial assistance~~  
22 ~~provided for the person's household.~~]

23 SECTION 2. Section 31.0032, Human Resources Code, is  
24 amended to read as follows:

1           Sec. 31.0032. PENALTIES AND SANCTIONS [~~PAYMENT OF~~  
2 ~~ASSISTANCE FOR PERFORMANCE~~]. (a) Except as provided by Section  
3 231.115, Family Code, if after an investigation the department or  
4 the Title IV-D agency determines that a person is not cooperating  
5 with a requirement of the responsibility agreement required under  
6 Section 31.0031, the department shall [~~immediately~~] apply  
7 appropriate penalties or sanctions regarding the assistance  
8 provided to or for that person under this chapter [~~a sanction~~  
9 ~~terminating the total amount of financial assistance provided under~~  
10 ~~this chapter to or for the person and the person's family~~]. In  
11 applying penalties or sanctions, the department may not reduce or  
12 terminate the amount of assistance provided to or for a child,  
13 unless the child receives the assistance as the head of household.

14           [~~(a-1) The department shall apply a sanction or penalty~~  
15 ~~imposed under Subsection (a) for a period ending when the person~~  
16 ~~demonstrates cooperation with the requirement of the~~  
17 ~~responsibility agreement for which the sanction was imposed or for~~  
18 ~~a one-month period, whichever is longer.~~]

19           (b) The department shall immediately notify the caretaker  
20 relative, second parent, or payee receiving the financial  
21 assistance if the department will apply penalties or sanctions  
22 under this section [~~not make the financial assistance payment for~~  
23 ~~the period prescribed by Subsection (a-1) because of a person's~~  
24 ~~failure to cooperate with the requirements of the responsibility~~  
25 ~~agreement during a month~~].

26           (c) The [~~To the extent allowed by federal law, the~~] Health  
27 and Human Services Commission or any health and human services

1 agency, as defined by Section 531.001, Government Code, may not  
2 deny medical assistance for a person because a penalty or sanction  
3 is imposed with respect to financial assistance paid to or for that  
4 person [~~who is eligible for financial assistance but to whom that~~  
5 ~~assistance is not paid because of the person's failure to~~  
6 ~~cooperate. Medical assistance to the person's family may not be~~  
7 ~~denied for the person's failure to cooperate. Medical assistance~~  
8 ~~may not be denied to a person receiving assistance under this~~  
9 ~~chapter who is under the age of 19, a pregnant adult, or any other~~  
10 ~~person who may not be denied medical assistance under federal law].~~

11 (d) This section does not prohibit the Texas Workforce  
12 Commission, the Health and Human Services Commission, or any health  
13 and human services agency, as defined by Section 531.001,  
14 Government Code, from providing medical assistance, child care, or  
15 any other related social or support services for a person against  
16 whom a penalty or sanction is applied [~~an individual who is eligible~~  
17 ~~for financial assistance but to whom that assistance is not paid~~  
18 ~~because of the individual's failure to cooperate)].~~

19 (e) If the department intends to apply a penalty or sanction  
20 because of a person's failure to cooperate with the requirements of  
21 the responsibility agreement under Section 31.0031, the department  
22 must make a reasonable effort to contact the person by telephone or  
23 in person to inform the person of:

24 (1) the department's decision to withhold or reduce  
25 the financial assistance payment;

26 (2) the reasons for the withholding or reduction of  
27 the financial assistance payment;

1           (3) the person's right to appeal the department's  
2 decision to apply the penalty or sanction by requesting a hearing  
3 under Section 31.0033;

4           (4) the types of circumstances that constitute good  
5 cause for failure to cooperate for purposes of a hearing under  
6 Section 31.0033; and

7           (5) actions the person must take to comply with the  
8 requirements of the responsibility agreement.

9           (f) The executive commissioner of the Health and Human  
10 Services Commission [department] by rule shall establish  
11 procedures to determine whether a person has cooperated with the  
12 requirements of the responsibility agreement.

13           SECTION 3. The heading to Section 31.0033, Human Resources  
14 Code, is amended to read as follows:

15           Sec. 31.0033. GOOD CAUSE HEARING [~~FOR FAILURE TO~~  
16 ~~COOPERATE~~].

17           SECTION 4. Sections 31.0033(a) and (c), Human Resources  
18 Code, are amended to read as follows:

19           (a) If the department or Title IV-D agency determines that  
20 penalties or sanctions should be applied against a person under  
21 Section 31.0032 [a person has failed to cooperate with the  
22 requirements of the responsibility agreement under Section  
23 31.0031], the person determined to have failed to cooperate with  
24 the requirements of the responsibility agreement under Section  
25 31.0031 or, if different, the person receiving the financial  
26 assistance may request a hearing to show good cause for failure to  
27 cooperate not later than the 13th day after the date the person

1 receives the notice required [~~is sent~~] under Section 31.0032. If  
2 the person determined to have failed to cooperate or, if different,  
3 the person receiving the financial assistance requests a hearing to  
4 show good cause within the period specified by this subsection [~~not~~  
5 ~~later than the 13th day after the date on which the notice is sent~~  
6 ~~under Section 31.0032~~], the department may not withhold or reduce  
7 the payment of financial assistance until the department determines  
8 whether the person had good cause for the person's failure to  
9 cooperate. On a showing of good cause for failure to cooperate, the  
10 proposed penalty or sanction may not be imposed [~~person may receive~~  
11 ~~a financial assistance payment for the period in which the person~~  
12 ~~failed to cooperate, but had good cause for that failure to~~  
13 ~~cooperate~~].

14 (c) If the department finds that good cause for the person's  
15 failure to cooperate was not shown at a hearing, the department  
16 shall apply appropriate penalties or sanctions with respect to the  
17 financial assistance provided to or for the person until the  
18 department or, in a Title IV-D case, the Title IV-D agency  
19 determines that the person is cooperating with the requirements of  
20 the responsibility agreement [~~may not make a financial assistance~~  
21 ~~payment in any amount to the person for the person or the person's~~  
22 ~~family for the period prescribed by Section 31.0032(a-1)].~~

23 SECTION 5. Section 31.0034, Human Resources Code, is  
24 amended to read as follows:

25 Sec. 31.0034. ANNUAL REPORT. The department shall prepare  
26 and submit an annual report to the legislature that contains  
27 statistical information regarding persons who are applying for or

1 receiving financial assistance or services under this chapter,  
2 including the number of persons receiving assistance, the type of  
3 assistance those persons are receiving, and the length of time  
4 those persons have been receiving the assistance. The report also  
5 must contain information on:

6 (1) the number of persons to whom time limits apply;

7 (2) the number of persons under each time limit  
8 category;

9 (3) the number of persons who are exempt from  
10 participation under Section 31.012(c);

11 (4) the number of persons who were receiving financial  
12 assistance under this chapter but are no longer eligible to receive  
13 that assistance because they failed to cooperate with the  
14 requirements prescribed by Section 31.0031;

15 (5) the number of persons who are no longer eligible to  
16 receive financial assistance or transitional benefits under this  
17 chapter because:

18 (A) the person's household income has increased  
19 due to employment; or

20 (B) the person has exhausted the person's  
21 benefits under this chapter;

22 (6) the number of persons receiving child care, job  
23 training, or other support services designed to assist the  
24 transition to self-sufficiency; and

25 (7) the number of persons who were eligible to receive  
26 financial assistance under this chapter for each one-month period  
27 but whose financial assistance was withheld or reduced [~~to whom~~

1 ~~that financial assistance was not paid]~~ because the person failed  
2 to cooperate with the requirements of the responsibility agreement  
3 under Section 31.0031.

4 SECTION 6. Sections 31.0031(h) and 31.00331, Human  
5 Resources Code, are repealed.

6 SECTION 7. On and after September 1, 2005, the Health and  
7 Human Services Commission may not enforce the requirements of a  
8 responsibility agreement signed by a payee of financial assistance  
9 under Section 31.0031(h), Human Resources Code, before the repeal  
10 of that section by this Act.

11 SECTION 8. The changes in law made by this Act apply to a  
12 person receiving financial assistance under Chapter 31, Human  
13 Resources Code, on or after the effective date of this Act,  
14 regardless of the date on which eligibility for financial  
15 assistance was determined.

16 SECTION 9. If before implementing any provision of this Act  
17 a state agency determines that a waiver or authorization from a  
18 federal agency is necessary for implementation of that provision,  
19 the agency affected by the provision shall request the waiver or  
20 authorization and may delay implementing that provision until the  
21 waiver or authorization is granted.

22 SECTION 10. This Act takes effect September 1, 2005.