

By: Laubenberg

H.B. No. 249

A BILL TO BE ENTITLED

AN ACT

relating to the drug testing of certain persons seeking financial assistance benefits.

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:

(1) "Commission" means the Health and Human Services Commission.

(2) "Controlled substance" has the meaning assigned by Chapter 481, Health and Safety Code.

(b) Except as provided in Subsections (f) and (g), 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 controlled substance use screening assessment to establish the applicant's eligibility for the benefits and the applicant's eligibility to receive the benefits on behalf of the child. In addition, each minor parent who is the head of household must submit to a controlled substance use screening assessment on the initial application for financial assistance benefits and on any application for the continuation of those benefits to establish the minor's eligibility for the benefits and

1 the minor's eligibility to receive the benefits on behalf of the  
2 minor's child.

3 (c) A person whose controlled substance use screening  
4 assessment conducted under this section indicates good cause to  
5 suspect the person of controlled substance use shall submit to a  
6 drug test to establish the eligibility of the person for financial  
7 assistance benefits and the eligibility of the person to receive  
8 those benefits on behalf of the person's family.

9 (d) Except as provided in Subsection (e), a person whose  
10 drug test conducted under this section indicates the presence in  
11 the person's body of a controlled substance not prescribed for the  
12 person by a health care practitioner is ineligible for financial  
13 assistance benefits, and is ineligible to receive those benefits on  
14 behalf of the person's family, for a period of 12 months beginning  
15 on the first day of the month after the month in which the drug test  
16 was administered.

17 (e) A person who is denied financial assistance benefits  
18 because of the results of a drug test conducted under this section  
19 may reapply for financial assistance benefits six months after the  
20 first day of the month after the month in which the drug test was  
21 administered if the person provides proof of the person's  
22 successful completion of or current enrollment in a substance abuse  
23 treatment program. A person reapplying for financial assistance  
24 benefits must submit to a drug test as required by Subsection (f),  
25 regardless of whether the person is continuing to receive substance  
26 abuse treatment.

27 (f) A person who is denied financial assistance benefits

1 because of the results of a drug test conducted under this section  
2 must submit to a drug test, without first submitting to a controlled  
3 substance use screening assessment, at the time of any  
4 reapplication for financial assistance benefits and on any  
5 application for the continuation of those benefits to establish the  
6 eligibility of the person for the benefits and the eligibility of  
7 the person to receive the benefits on behalf of the person's family.

8 (g) A person who has been convicted of a felony drug offense  
9 must submit to a drug test, without first submitting to a controlled  
10 substance use screening assessment, at the time of an initial  
11 application for financial assistance benefits and on any  
12 application for the continuation of those benefits to establish the  
13 eligibility of the person to receive the benefits on behalf of the  
14 person's family.

15 (h) If a person is denied eligibility for financial  
16 assistance benefits three times because of the results of a drug  
17 test conducted under this section, the person is permanently  
18 ineligible for those benefits and is permanently ineligible to  
19 receive those benefits on behalf of the person's family.

20 (i) Before denying financial assistance benefits under this  
21 section, the commission must:

22 (1) notify the person who submitted to a drug test of  
23 the results of the test and the commission's proposed determination  
24 of ineligibility; and

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

27 (j) The denial of financial assistance benefits to an

1 applicant because of the results of a drug test conducted under this  
2 section does not affect the eligibility of the person's child or  
3 family members for those benefits.

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

23 (1) The commission shall:

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

1 tools; and

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

6 (m) The commission shall report to the Department of Family  
7 and Protective Services for use in an investigation conducted under  
8 Chapter 261, Family Code, if applicable, a person whose drug test  
9 conducted under this section indicates the presence in the person's  
10 body of a controlled substance not prescribed for the person by a  
11 health care practitioner.

12 (n) The executive commissioner of the commission shall  
13 adopt rules implementing this section.

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

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

20 (2) a minor parent who is the head of household who  
21 initially applies for financial assistance benefits under Chapter  
22 31, Human Resources Code, on or after the effective date of this  
23 Act;

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

1 and

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

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

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

20 SECTION 4. This Act takes effect September 1, 2013.