

By: Riddle

H.B. No. 1582

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the drug screening and testing of certain persons
3 seeking and receiving financial assistance benefits and the
4 application requirements for those benefits; creating an offense.

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

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

8 Sec. 31.0321. DRUG SCREENING AND TESTING; ELIGIBILITY. (a)

9 In this section:

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

12 (2) "Controlled substance" and "marihuana" have the
13 meanings assigned by Chapter 481, Health and Safety Code.

14 (b) Except as provided in Subsections (g) and (h), each
15 adult applicant for financial assistance benefits, including an
16 applicant applying solely on behalf of a child, is subject to and,
17 if selected, must submit to a random, unannounced marihuana and
18 controlled substance use screening assessment to establish the
19 applicant's or the child's eligibility for the benefits. In
20 addition, each minor parent who is the head of household is subject
21 to and, if selected, must submit to a random, unannounced marihuana
22 and controlled substance use screening assessment to establish the
23 minor's eligibility for the benefits.

24 (c) Each adult recipient of financial assistance benefits,

1 including a recipient receiving benefits solely on behalf of a
2 child, is subject to at any time during the eligibility period and,
3 if selected, must submit to a random, unannounced marihuana and
4 controlled substance use screening assessment to maintain the
5 recipient's or the child's eligibility for the benefits. In
6 addition, each minor parent who is the head of household is subject
7 to at any time during the eligibility period and, if selected, must
8 submit to a random, unannounced marihuana and controlled substance
9 use screening assessment to maintain the minor's eligibility for
10 the benefits.

11 (d) A person whose marihuana and controlled substance use
12 screening assessment conducted under this section indicates good
13 cause to suspect the person of marihuana or controlled substance
14 use shall submit to a drug test to establish or maintain the
15 eligibility of the person and the person's family for financial
16 assistance benefits.

17 (e) Except as provided in Subsection (f), a person whose
18 drug test conducted under this section indicates the presence in
19 the person's body of a controlled substance not prescribed for the
20 person by a health care practitioner or marihuana is ineligible for
21 financial assistance benefits for the person and the person's
22 family for a period of 12 months beginning on the first day of the
23 month after the month in which the drug test was administered.

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

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

7 (g) A person who is denied financial assistance benefits
8 because of the results of a drug test conducted under this section
9 must submit to a drug test at the time of any reapplication for
10 financial assistance benefits and on any application for the
11 continuation of those benefits to establish the eligibility of the
12 person and the person's family for the benefits.

13 (h) A person who has been convicted of a felony drug offense
14 must submit to a drug test at the time of an initial application for
15 financial assistance benefits and on any application for the
16 continuation of those benefits to establish the eligibility of the
17 person's family for the benefits.

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

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

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

25 (j) The commission shall use the most efficient and
26 cost-effective marihuana and controlled substance use screening
27 assessment tool that the commission and the Department of State

1 Health Services can develop based on validated marihuana and
2 controlled substance use screening assessment tools.

3 (k) The executive commissioner of the commission shall
4 adopt rules implementing this section.

5 SECTION 2. Subchapter B, Chapter 31, Human Resources Code,
6 is amended by adding Section 31.0327 to read as follows:

7 Sec. 31.0327. REQUIRED AFFIDAVIT ON APPLICATION; CRIMINAL
8 OFFENSE. (a) In this section:

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

11 (2) "Controlled substance" and "marihuana" have the
12 meanings assigned by Chapter 481, Health and Safety Code.

13 (b) Each adult applicant for financial assistance benefits,
14 including an applicant applying solely on behalf of a child, must
15 submit to the commission, in the form and manner prescribed by the
16 commission, an affidavit executed by the person stating that the
17 person is not at the time of the application using, and will not use
18 during any period for which the person, or a child on whose behalf
19 the person applies for financial assistance benefits, receives
20 financial assistance benefits under this chapter, a controlled
21 substance not prescribed for the person by a health care
22 practitioner or marihuana.

23 (c) A person commits an offense if the person uses a
24 controlled substance not prescribed for the person by a health care
25 practitioner or marihuana in violation of the person's sworn
26 statement in an affidavit required under Subsection (b).

27 (d) An offense under this section is a Class B misdemeanor.

1 (e) If conduct constituting an offense under this section
2 also constitutes an offense under another provision of law,
3 including a provision in the Penal Code, the person may be
4 prosecuted under both provisions.

5 SECTION 3. (a) Section 31.0321, Human Resources Code, as
6 added by this Act, applies to an adult who applies for or receives
7 financial assistance benefits under Chapter 31, Human Resources
8 Code, including an adult who applies for or receives those benefits
9 solely on behalf of a child, on or after the effective date of this
10 Act.

11 (b) Section 31.0321, Human Resources Code, as added by this
12 Act, applies to a minor parent who is the head of household and who
13 applies for or receives financial assistance benefits under Chapter
14 31, Human Resources Code, on or after the effective date of this
15 Act.

16 SECTION 4. (a) Except as provided by Subsection (b) of this
17 section, Section 31.0327, Human Resources Code, as added by this
18 Act, applies only on an initial application of a person for
19 financial assistance benefits under Chapter 31, Human Resources
20 Code, made on or after the effective date of this Act.

21 (b) Section 31.0327, Human Resources Code, as added by this
22 Act, applies on the first application of a person receiving
23 financial assistance benefits under Chapter 31, Human Resources
24 Code, on the effective date of this Act for continuation of those
25 benefits that is made on or after the effective date of this Act.

26 SECTION 5. If before implementing any provision of this Act
27 a state agency determines that a waiver or authorization from a

1 federal agency is necessary for implementation of that provision,
2 the agency affected by the provision shall request the waiver or
3 authorization and may delay implementing that provision until the
4 waiver or authorization is granted.

5 SECTION 6. This Act takes effect September 1, 2013.