

By: Bohac

H.B. No. 3171

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the drug testing of certain persons seeking and
3 receiving financial assistance or supplemental nutrition
4 assistance benefits.

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

6 ARTICLE 1. DRUG SCREENING AND TESTING OF CERTAIN TANF APPLICANTS
7 AND RECIPIENTS

8 SECTION 1.01. Subchapter B, Chapter 31, Human Resources
9 Code, is amended by adding Section 31.0321 to read as follows:

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

11 In this section:

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

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

16 (b) Except as provided in Subsections (f) and (g), each
17 adult applicant for financial assistance benefits, including an
18 applicant applying solely on behalf of a child, who initially
19 applies for those benefits or who applies for the continuation of
20 those benefits must submit to a controlled substance use screening
21 assessment to establish the applicant's or the child's eligibility
22 for the benefits. In addition, each minor parent who is the head of
23 household must submit to a controlled substance use screening
24 assessment on the initial application for financial assistance

1 benefits and on any application for the continuation of those
2 benefits to establish the minor's eligibility for the benefits.

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 and the
7 person's family for financial assistance benefits.

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

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

25 (f) A person who is denied financial assistance benefits
26 because of the results of a drug test conducted under this section
27 must submit to a drug test, without first submitting to a controlled

1 substance use screening assessment, at the time of any
2 reapplication for financial assistance benefits and on any
3 application for the continuation of those benefits to establish the
4 eligibility of the person and the person's family for the benefits.

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

11 (h) If a person is denied eligibility for financial
12 assistance benefits three times because of the results of a drug
13 test conducted under this section, the person and the person's
14 family are permanently ineligible for those benefits.

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

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

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

22 (j) The commission shall:

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

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

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

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

13 SECTION 1.02. (a) Section 31.0321, Human Resources Code,
14 as added by this article, applies to:

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

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

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

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

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

13 ARTICLE 2. DRUG SCREENING AND TESTING OF CERTAIN SNAP APPLICANTS
14 AND RECIPIENTS

15 SECTION 2.01. Subchapter A, Chapter 33, Human Resources
16 Code, is amended by adding Section 33.018 to read as follows:

17 Sec. 33.018. DRUG SCREENING AND TESTING; ELIGIBILITY. (a)
18 In this section, "controlled substance" has the meaning assigned by
19 Chapter 481, Health and Safety Code.

20 (b) Except as provided in Subsections (f) and (g), each
21 adult applicant for supplemental nutrition assistance benefits,
22 including an applicant applying solely on behalf of a child, who
23 initially applies for those benefits or who applies for the
24 continuation of those benefits must submit to a controlled
25 substance use screening assessment to establish the applicant's or
26 the child's eligibility for the benefits. In addition, each minor
27 parent who is the head of household must submit to a controlled

1 substance use screening assessment on the initial application for
2 supplemental nutrition assistance benefits and on any application
3 for the continuation of those benefits to establish the minor's
4 eligibility for the benefits.

5 (c) A person whose controlled substance use screening
6 assessment conducted under this section indicates good cause to
7 suspect the person of controlled substance use shall submit to a
8 drug test to establish the eligibility of the person and the
9 person's household for supplemental nutrition assistance benefits.

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

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

1 (f) A person who is denied supplemental nutrition
2 assistance benefits because of the results of a drug test conducted
3 under this section must submit to a drug test, without first
4 submitting to a controlled substance use screening assessment, at
5 the time of any reapplication for supplemental nutrition assistance
6 benefits and on any application for the continuation of those
7 benefits to establish the eligibility of the person and the
8 person's household for the benefits.

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

15 (h) If a person is denied eligibility for supplemental
16 nutrition assistance benefits three times because of the results of
17 a drug test conducted under this section, the person and the
18 person's household are permanently ineligible for those benefits.

19 (i) Before denying supplemental nutrition assistance
20 benefits under this section, the department must:

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

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

26 (j) The department shall:

27 (1) use the most efficient and cost-effective

1 controlled substance use screening assessment tool that the
2 department and the Department of State Health Services can develop
3 based on validated controlled substance use screening assessment
4 tools; and

5 (2) pay the cost of any controlled substance use
6 screening assessment or drug test administered under this section.

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

13 (1) The executive commissioner shall adopt rules
14 implementing this section.

15 SECTION 2.02. (a) Section 33.018, Human Resources Code, as
16 added by this article, applies to:

17 (1) an adult applicant, including an applicant
18 applying solely on behalf of a child, who initially applies for
19 supplemental nutrition assistance benefits under Chapter 33, Human
20 Resources Code, on or after the effective date of this article;

21 (2) a minor parent who is the head of household who
22 initially applies for supplemental nutrition assistance benefits
23 under Chapter 33, Human Resources Code, on or after the effective
24 date of this article;

25 (3) an adult applicant, including an applicant
26 applying solely on behalf of a child, who applies for the
27 continuation of supplemental nutrition assistance benefits under

1 Chapter 33, Human Resources Code, on or after the effective date of
2 this article; and

3 (4) a minor parent who is the head of household who
4 applies for the continuation of supplemental nutrition assistance
5 benefits under Chapter 33, Human Resources Code, on or after the
6 effective date of this article.

7 (b) Except as provided by Subsections (a)(3) and (4) of this
8 section, an adult applicant, including an applicant applying solely
9 on behalf of a child, and a minor parent who is the head of household
10 who applied for supplemental nutrition assistance benefits under
11 Chapter 33, Human Resources Code, before the effective date of this
12 article are governed by the law in effect when the person applied
13 for supplemental nutrition assistance benefits, and that law is
14 continued in effect for that purpose.

15 ARTICLE 3. FEDERAL AUTHORIZATION AND EFFECTIVE DATE

16 SECTION 3.01. If before implementing any provision of this
17 Act 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 3.02. This Act takes effect September 1, 2013.