

By: Nelson, et al.

S.B. No. 11

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" and "marihuana" have the meanings assigned by Chapter 481, Health and Safety Code.

(b) Except as provided in Subsections (h) and (i), 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. In addition, 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

1 cause to suspect the person of marihuana or controlled substance
2 use shall submit to a drug test, subject to rules adopted under
3 Subsection (o) that exempt the person from the drug test.

4 (d) The first time a person is required to submit to a drug
5 test under this section and the drug test indicates the presence in
6 the person's body of a controlled substance not prescribed for the
7 person by a health care practitioner or marihuana, the person is
8 ineligible for financial assistance benefits for a period of six
9 months. The denial of eligibility for financial assistance
10 benefits to a person under this subsection does not affect the
11 eligibility of the person's family for financial assistance
12 benefits.

13 (e) Except as provided in Subsection (f), the second time a
14 person is required to submit to a drug test under this section and
15 the drug test indicates the presence in the person's body of a
16 controlled substance not prescribed for the person by a health care
17 practitioner or marihuana, the person is ineligible for financial
18 assistance benefits for a period of 12 months.

19 (f) A person who is denied eligibility for financial
20 assistance benefits for a second time because of the results of a
21 drug test conducted under this section may reapply for financial
22 assistance benefits six months after the date the person's period
23 of ineligibility began if the person provides proof of the person's
24 successful completion of or current enrollment in a substance abuse
25 treatment program. A person reapplying for financial assistance
26 benefits must submit to a drug test as required by Subsection (h)
27 regardless of whether the person is continuing to receive substance

1 abuse treatment, subject to rules adopted under Subsection (o) that
2 exempt the person from the drug test.

3 (g) The third time a person is required to submit to a drug
4 test under this section and the drug test indicates the presence in
5 the person's body of a controlled substance not prescribed for the
6 person by a health care practitioner or marihuana, the person is
7 permanently ineligible for financial assistance benefits.

8 (h) A person who is denied eligibility for financial
9 assistance benefits because of the results of a drug test conducted
10 under this section must submit to a drug test, without first
11 submitting to a marihuana and controlled substance use screening
12 assessment, at the time of any reapplication for financial
13 assistance benefits and on any application for the continuation of
14 those benefits, subject to rules adopted under Subsection (o) that
15 exempt the person from the drug test.

16 (i) A person who has been convicted of a felony drug offense
17 must submit to a drug test, without first submitting to a marihuana
18 and controlled substance use screening assessment, at the time of
19 an initial application for financial assistance benefits and on any
20 application for the continuation of those benefits, subject to
21 rules adopted under Subsection (o) that exempt the person from the
22 drug test.

23 (j) Before denying eligibility for financial assistance
24 benefits under this section, the commission must:

25 (1) notify the person who submitted to a drug test of
26 the results of the test and the commission's proposed determination
27 of ineligibility; and

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

3 (k) The results of a drug test administered as provided by
4 Subsection (j)(2) to confirm the results of a previous drug test are
5 not considered for purposes of Subsection (e) or (g).

6 (1) The commission shall:

7 (1) use the most efficient and cost-effective
8 marihuana and controlled substance use screening assessment tool
9 that the commission and the Department of State Health Services can
10 develop based on validated marihuana and controlled substance use
11 screening assessment tools; and

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

16 (m) The commission shall report to the Department of Family
17 and Protective Services for use in an investigation conducted under
18 Chapter 261, Family Code, if applicable, a person whose drug test
19 conducted under this section indicates the presence in the person's
20 body of a controlled substance not prescribed for the person by a
21 health care practitioner or marihuana.

22 (n) If a parent or caretaker relative of a dependent child
23 is ineligible under Subsection (e) or (g) to receive financial
24 assistance benefits on behalf of the child because of the results of
25 a drug test conducted under this section, the commission shall
26 designate a protective payee to receive financial assistance
27 benefits on behalf of the child. A person must submit to a

1 controlled substance use screening assessment to establish the
2 person's eligibility to serve as a protective payee. A person whose
3 controlled substance use screening assessment indicates good cause
4 to suspect the person of controlled substance use shall submit to a
5 drug test to establish the eligibility of the person to serve as a
6 protective payee. A person whose drug test conducted under this
7 section indicates the presence in the person's body of a controlled
8 substance not prescribed for the person by a health care
9 practitioner is ineligible to serve as a protective payee.

10 (o) The executive commissioner of the commission shall
11 adopt rules implementing this section, including rules that exempt
12 a person from having to submit to a drug test under this section if:

13 (1) there is no person who is authorized to administer
14 a drug test under this section in the county in which the person
15 resides; and

16 (2) submitting to a drug test outside the person's
17 county would impose an unreasonable hardship on the person.

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 Subdivisions (3) and (4),
11 Subsection (a) of this section, an adult applicant, including an
12 applicant applying solely on behalf of a child, and a minor parent
13 who is the head of household who applied for financial assistance
14 benefits under Chapter 31, Human Resources Code, before the
15 effective date of this Act are governed by the law in effect when
16 the person applied for financial assistance benefits, and that law
17 is continued in effect for that 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, 2013.