

By: King of Hemphill

H.B. No. 352

A BILL TO BE ENTITLED

AN ACT

relating to the drug testing of certain persons seeking benefits under the Temporary Assistance for Needy Families (TANF) program.

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 (g) and (h):

(1) 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; and

(2) 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

1 screening assessment conducted under this section indicates good
2 cause to suspect the person of marihuana or controlled substance
3 use shall submit to a drug test.

4 (d) Except as provided in Subsection (f), a person whose
5 drug test conducted under this section 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 is ineligible for
8 financial assistance benefits, and is ineligible to receive those
9 benefits on behalf of the person's family, for a period of 12 months
10 beginning on the first day of the month after the month in which the
11 drug test was administered.

12 (e) Except as provided in Subsection (f), if, following a
13 12-month period of ineligibility under Subsection (d), a person
14 reapplies for financial assistance benefits and the results of a
15 drug test required by Subsection (g) indicate the presence in the
16 person's body of a controlled substance not prescribed for the
17 person by a health care practitioner or marihuana, the person is
18 ineligible for financial assistance benefits, and is ineligible to
19 receive those benefits on behalf of the person's family, for a
20 period of 36 months beginning on the first day of the month after
21 the month in which the drug test was administered.

22 (f) A person who is denied financial assistance benefits
23 because of the results of a drug test conducted under this section
24 may reapply for financial assistance benefits six months after the
25 first day of the month after the month in which the drug test was
26 administered if the person provides proof of the person's
27 successful completion of or current enrollment in a substance abuse

1 treatment program. A person reapplying for financial assistance
2 benefits must submit to a drug test as required by Subsection (g),
3 regardless of whether the person is continuing to receive substance
4 abuse treatment.

5 (g) A person who is denied financial assistance benefits
6 because of the results of a drug test conducted under this section
7 must submit to a drug test, without first submitting to a marihuana
8 and controlled substance use screening assessment, at the time of
9 any reapplication for financial assistance benefits and on any
10 application for the continuation of those benefits.

11 (h) A person who has been convicted of a felony drug offense
12 must submit to a drug test, without first submitting to a marihuana
13 and controlled substance use screening assessment, at the time of
14 an initial application for financial assistance benefits and on any
15 application for the continuation of those benefits.

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

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

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

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

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

4 (l) The denial of financial assistance benefits to an
5 applicant because of the results of a drug test conducted under this
6 section does not affect the eligibility of the person's child or
7 family members for those benefits.

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

1 (n) The commission shall:

2 (1) use the most efficient and cost-effective
3 marihuana and controlled substance use screening assessment tool
4 that the commission and the Department of State Health Services can
5 develop based on validated marihuana and controlled substance use
6 screening assessment tools; and

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

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

17 (p) The commission shall provide each person who is denied
18 financial assistance benefits as a result of a drug test conducted
19 under this section with a list of substance abuse treatment
20 providers located in the area where the person resides.

21 (q) Nothing in this section requires the commission or the
22 state to provide or pay for substance abuse treatment for a person
23 whose drug test conducted under this section indicates the presence
24 in the person's body of a controlled substance not prescribed for
25 the person by a health care practitioner or marihuana.

26 (r) The executive commissioner of the commission shall
27 adopt rules implementing this section.

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

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

7 (2) a minor parent who is the head of household who
8 initially applies for financial assistance benefits under Chapter
9 31, Human Resources Code, on or after the effective date of this
10 Act;

11 (3) an adult applicant, including an applicant
12 applying solely on behalf of a child, who applies for the
13 continuation of financial assistance benefits under Chapter 31,
14 Human Resources Code, on or after the effective date of this Act;
15 and

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

20 (b) Except as provided by Subsections (a)(3) and (4) of this
21 section, an adult applicant, including an applicant applying solely
22 on behalf of a child, or a minor parent who is the head of household
23 who applied for financial assistance benefits under Chapter 31,
24 Human Resources Code, before the effective date of this Act is
25 governed by the law in effect when the person applied for financial
26 assistance benefits, and that law is continued in effect for that
27 purpose.

1 SECTION 3. If before implementing any provision of this Act
2 a state agency determines that a waiver or authorization from a
3 federal agency is necessary for implementation of that provision,
4 the agency affected by the provision shall request the waiver or
5 authorization and may delay implementing that provision until the
6 waiver or authorization is granted.

7 SECTION 4. This Act takes effect September 1, 2015.