

By: King of Hemphill

H.B. No. 436

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

(b) Except as provided in Subsections (h) and (i):

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

1 (d) Except as provided in Subsections (f) and (g), a person
2 whose drug test conducted under this section indicates the presence
3 in the person's body of a controlled substance not prescribed for
4 the person by a health care practitioner or marihuana is ineligible
5 for financial assistance benefits, and is ineligible to receive
6 those benefits on behalf of the person's family, for a period of 12
7 months beginning on the first day of the month after the month in
8 which the drug test was administered.

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

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

1 regardless of whether the person is continuing to receive substance
2 abuse treatment.

3 (g) A person's eligibility for financial assistance
4 benefits is not affected by the results of a drug test conducted
5 under Subsection (c) indicating the presence in the person's body
6 of a controlled substance not prescribed for the person by a health
7 care practitioner or marihuana if, not later than the 10th day after
8 the date the person is notified of the results of the drug test, the
9 person enrolls in a substance abuse treatment program. In adopting
10 rules for the implementation of this section, the executive
11 commissioner shall include rules that require a person who is
12 subject to this subsection to submit proof of continued enrollment
13 in or successful completion of a substance abuse treatment program
14 in order to maintain the person's eligibility for financial
15 assistance benefits.

16 (h) A person who is denied financial assistance benefits
17 because of the results of a drug test conducted under this section
18 must submit to a drug test, without first submitting to a marihuana
19 and controlled substance use screening assessment, at the time of
20 any reapplication for financial assistance benefits and on any
21 application for the continuation of those benefits.

22 (i) A person who has been convicted of a felony drug offense
23 must submit to a drug test, without first submitting to a marihuana
24 and controlled substance use screening assessment, at the time of
25 an initial application for financial assistance benefits and on any
26 application for the continuation of those benefits.

27 (j) If a person is denied eligibility for financial

1 assistance benefits three times because of the results of a drug
2 test conducted under this section, the person is permanently
3 ineligible for those benefits and is permanently ineligible to
4 receive those benefits on behalf of the person's family.

5 (k) Before denying financial assistance benefits under this
6 section, the commission must:

7 (1) notify the person who submitted to a drug test of
8 the results of the test and the commission's proposed determination
9 of ineligibility; and

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

12 (l) The results of a drug test administered as provided by
13 Subsection (k)(2) to confirm the results of a previous drug test are
14 not considered for purposes of Subsection (e), (g), or (j).

15 (m) The denial of financial assistance benefits to an
16 applicant because of the results of a drug test conducted under this
17 section does not affect the eligibility of the person's child or
18 family members for those benefits.

19 (n) If a parent or caretaker relative of a dependent child
20 is ineligible to receive financial assistance benefits on behalf of
21 the child because of the results of a drug test conducted under this
22 section, the parent or caretaker relative, as applicable, shall
23 select a protective payee to receive financial assistance benefits
24 on behalf of the child. The parent or caretaker relative, as
25 applicable, may choose an immediate family member to serve as the
26 protective payee or, if an immediate family member is not available
27 or declines to serve as the protective payee, the person may choose

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

12 (o) The commission shall:

13 (1) use the most efficient and cost-effective
14 marihuana and controlled substance use screening assessment tool
15 that the commission and the Department of State Health Services can
16 develop based on validated marihuana and controlled substance use
17 screening assessment tools; and

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

22 (p) The commission shall report to the Department of Family
23 and Protective Services for use in an investigation conducted under
24 Chapter 261, Family Code, if applicable, a person whose drug test
25 conducted under this section indicates the presence in the person's
26 body of a controlled substance not prescribed for the person by a
27 health care practitioner or marihuana.

1 (q) The commission shall provide each person who is denied
2 financial assistance benefits as a result of a drug test conducted
3 under this section with a list of substance abuse treatment
4 providers located in the area where the person resides.

5 (r) Nothing in this section requires the commission or the
6 state to provide or pay for substance abuse treatment for a person
7 whose drug test conducted under this section indicates the presence
8 in the person's body of a controlled substance not prescribed for
9 the person by a health care practitioner or marihuana.

10 (s) The executive commissioner shall adopt rules
11 implementing this section.

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

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

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

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

27 (4) a minor parent who is the head of household who

1 applies for the continuation of financial assistance benefits under
2 Chapter 31, Human Resources Code, on or after the effective date of
3 this Act.

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

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

18 SECTION 4. This Act takes effect September 1, 2017.