

By: Nelson

S.B. No. 268

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, subject to rules adopted under

1 Subsection (o) that exempt a person from the drug test.

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

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

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

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

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

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

21       (j) Before denying eligibility for financial assistance  
22 benefits under this 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 (g).

4       (1) The commission shall:

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

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

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

20       (n) If a parent or caretaker relative of a dependent child  
21 is ineligible under Subsection (d), (e), or (g) to receive  
22 financial assistance benefits on behalf of the child because of the  
23 results of a drug test conducted under this section, the commission  
24 shall designate a protective payee to receive financial assistance  
25 benefits on behalf of the child. A person must submit to a  
26 marihuana and controlled substance use screening assessment to  
27 establish the person's eligibility to serve as a protective payee.

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

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

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

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

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

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

23 (2) a minor parent who is the head of household who  
24 initially applies for financial assistance benefits under Chapter  
25 31, Human Resources Code, on or after the effective date of this  
26 Act;

27 (3) an adult applicant, including an applicant

1 applying solely on behalf of a child, who applies for the  
2 continuation of financial assistance benefits under Chapter 31,  
3 Human Resources Code, on or after the effective date of this Act;  
4 and

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

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

17 SECTION 3. If before implementing any provision of this Act  
18 a state agency determines that a waiver or authorization from a  
19 federal agency is necessary for implementation of that provision,  
20 the agency affected by the provision shall request the waiver or  
21 authorization and may delay implementing that provision until the  
22 waiver or authorization is granted.

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