

By: Minjarez

H.B. No. 94

A BILL TO BE ENTITLED

AN ACT

relating to the receipt by certain relative caretakers of dependent children of supplemental financial assistance and the assignment of those relative caretakers as protective payees for financial assistance payments; providing a civil penalty; creating a criminal offense.

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

SECTION 1. Section 31.0041(a), Human Resources Code, is amended to read as follows:

(a) To the extent funds are appropriated for this purpose, the commission may provide supplemental financial assistance in addition to the amount of financial assistance granted for the support of a dependent child under Section 31.003 to a person who:

- (1) is 25 ~~[45]~~ years of age or older;
- (2) is the grandparent, aunt, uncle, sister, or brother of the dependent child, as defined by Section 31.002, who lives at the person's residence;
- (3) is the primary caretaker of the dependent child;
- (4) has a family income that is at or below 200 percent of the federal poverty level; and
- (5) does not have resources that exceed the amount allowed for financial assistance under this chapter.

SECTION 2. Subchapter A, Chapter 31, Human Resources Code, is amended by adding Section 31.0042 to read as follows:

1       Sec. 31.0042. FRAUDULENT RECEIPT OF CERTAIN ASSISTANCE;  
2 CRIMINAL OFFENSE; CIVIL PENALTY. (a) A person commits an offense  
3 if, with intent to defraud or deceive the commission, the person  
4 knowingly makes or causes to be made a false statement or  
5 misrepresentation of a material fact that allows the person to be  
6 eligible to receive supplemental financial assistance under  
7 Section 31.0041.

8       (b) An offense under Subsection (a) is:

9           (1) a Class C misdemeanor if the person received no  
10 supplemental financial assistance or received supplemental  
11 financial assistance for less than 7 days;

12           (2) a Class B misdemeanor if the person received  
13 supplemental financial assistance for 7 days or more but less than  
14 31 days; or

15           (3) a Class A misdemeanor if the person received  
16 supplemental financial assistance for 31 days or more but less than  
17 91 days.

18       (c) If conduct that constitutes an offense under this  
19 section also constitutes an offense under any other law, the actor  
20 may be prosecuted under this section, the other law, or both.

21       (d) The appropriate county prosecuting attorney is  
22 responsible for the prosecution of an offense under this section.

23       (e) A person who engaged in conduct described by Subsection  
24 (a) is liable to the state for a civil penalty of \$1,000. The  
25 attorney general shall bring an action to recover the civil penalty  
26 authorized by this subsection.

27       (f) The executive commissioner may adopt rules necessary to

1 determine whether fraudulent activity that violates Subsection (a)  
2 has occurred.

3 SECTION 3. Section 31.0324, Human Resources Code, is  
4 amended by amending Subsections (b) and (c) and adding Subsection  
5 (d) to read as follows:

6 (b) The executive commissioner by rule shall develop and the  
7 commission shall implement a process that provides for the  
8 grandparent, aunt, uncle, sister, or brother of a child receiving  
9 financial assistance under this chapter to serve as a protective  
10 payee to:

11 (1) receive and use the assistance on behalf of the  
12 child; and

13 (2) apply for financial assistance and be interviewed  
14 instead of the child's parent at any subsequent review of  
15 eligibility required by the commission.

16 (c) The commission shall limit the use of the process  
17 established by Subsection (b) to situations in which the commission  
18 determines the parent is not using the assistance for the child's  
19 needs as required by Section 31.0355(a), and the executive  
20 commissioner shall establish by rule the circumstances under which  
21 the grandparent, aunt, uncle, sister, or brother may be removed as a  
22 protective payee.

23 (d) To serve as a protective payee of a child receiving  
24 financial assistance under this chapter, a person described by  
25 Subsection (b) must be at least 25 years of age.

26 SECTION 4. The changes in law made by this Act apply to a  
27 person receiving financial assistance under Chapter 31, Human

1 Resources Code, on or after the effective date of this Act,  
2 regardless of the date on which eligibility for the financial  
3 assistance was determined.

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

10       SECTION 6. This Act takes effect September 1, 2019.