

By: King of Hemphill

H.B. No. 320

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 use of marihuana, other than low-THC cannabis prescribed for the person by a physician as authorized by

1 Chapter 169, Occupations Code, or use of a controlled substance not  
2 prescribed for the person by a health care practitioner shall  
3 submit to a drug test.

4 (d) Except as provided in Subsections (f) and (g), a person  
5 whose drug test conducted under this section indicates the presence  
6 in the person's body of marihuana, other than low-THC cannabis  
7 prescribed as described by Subsection (c), or of a controlled  
8 substance not prescribed for the person as described by that  
9 subsection is ineligible for financial assistance benefits, and is  
10 ineligible to receive those benefits on behalf of the person's  
11 family, for a period of 12 months beginning on the first day of the  
12 month after the month in which the drug test was administered.

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

25 (f) A person who is denied financial assistance benefits  
26 because of the results of a drug test conducted under this section  
27 may reapply for financial assistance benefits six months after the

1 first day of the month after the month in which the drug test was  
2 administered if the person provides proof of the person's  
3 successful completion of or current enrollment in a substance abuse  
4 treatment program. A person reapplying for financial assistance  
5 benefits must submit to a drug test as required by Subsection (h),  
6 regardless of whether the person is continuing to receive substance  
7 abuse treatment.

8 (g) A person's eligibility for financial assistance  
9 benefits is not affected by the results of a drug test conducted  
10 under Subsection (c) indicating the presence in the person's body  
11 of marihuana, other than low-THC cannabis prescribed as described  
12 by Subsection (c), or of a controlled substance not prescribed as  
13 described by that subsection if, not later than the 10th day after  
14 the date the person is notified of the results of the drug test, the  
15 person enrolls in a substance abuse treatment program. In adopting  
16 rules for the implementation of this section, the executive  
17 commissioner shall include rules that require a person who is  
18 subject to this subsection to submit proof of continued enrollment  
19 in or successful completion of a substance abuse treatment program  
20 in order to maintain the person's eligibility for financial  
21 assistance benefits.

22 (h) A person who is denied financial assistance benefits  
23 because of the results of a drug test conducted under this section  
24 must submit to a drug test, without first submitting to a marihuana  
25 and controlled substance use screening assessment, at the time of  
26 any reapplication for financial assistance benefits and on any  
27 application for the continuation of those benefits.

1       (i) A person who has been convicted of a felony drug offense  
2 must submit to a drug test, without first submitting to a marijuana  
3 and controlled substance use screening assessment, at the time of  
4 an initial application for financial assistance benefits and on any  
5 application for the continuation of those benefits.

6       (j) If a person is denied eligibility for financial  
7 assistance benefits three times because of the results of a drug  
8 test conducted under this section, the person is permanently  
9 ineligible for those benefits and is permanently ineligible to  
10 receive those benefits on behalf of the person's family.

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

13               (1) notify the person who submitted to a drug test of  
14 the results of the test and the commission's proposed determination  
15 of ineligibility; and

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

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

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

25       (n) If a parent or caretaker relative of a dependent child  
26 is ineligible to receive financial assistance benefits on behalf of  
27 the child because of the results of a drug test conducted under this

1 section, the parent or caretaker relative, as applicable, shall  
2 select a protective payee to receive financial assistance benefits  
3 on behalf of the child. The parent or caretaker relative, as  
4 applicable, may choose an immediate family member to serve as the  
5 protective payee or, if an immediate family member is not available  
6 or declines to serve as the protective payee, the person may choose  
7 another person approved by the commission. A person must submit to  
8 a marihuana and controlled substance use screening assessment to  
9 establish the person's eligibility to serve as a protective payee.  
10 A person whose marihuana and controlled substance use screening  
11 assessment indicates good cause to suspect the person of use of  
12 marihuana, other than low-THC cannabis prescribed as described by  
13 Subsection (c), or of use of a controlled substance not prescribed  
14 as described by that subsection shall submit to a drug test to  
15 establish the eligibility of the person to serve as a protective  
16 payee. A person whose drug test conducted under this section  
17 indicates the presence in the person's body of marihuana, other  
18 than low-THC cannabis prescribed as described by Subsection (c), or  
19 of a controlled substance not prescribed as described by that  
20 subsection is ineligible to serve as a protective payee.

21 (o) The commission shall:

22 (1) use the most efficient and cost-effective  
23 marihuana and controlled substance use screening assessment tool  
24 that the commission and the Department of State Health Services can  
25 develop based on validated marihuana and controlled substance use  
26 screening assessment tools; and

27 (2) pay the cost of any marihuana and controlled

1 substance use screening assessment or drug test administered under  
2 this section out of the federal Temporary Assistance for Needy  
3 Families block grant funds.

4 (p) The commission shall report to the Department of Family  
5 and Protective Services for use in an investigation conducted under  
6 Chapter 261, Family Code, if applicable, a person whose drug test  
7 conducted under this section indicates the presence in the person's  
8 body of marihuana, other than low-THC cannabis prescribed as  
9 described by Subsection (c), or of a controlled substance not  
10 prescribed as described by that subsection.

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

15 (r) Nothing in this section requires the commission or the  
16 state to provide or pay for substance abuse treatment for a person  
17 whose drug test conducted under this section indicates the presence  
18 in the person's body of marihuana, other than low-THC cannabis  
19 prescribed as described by Subsection (c), or of a controlled  
20 substance not prescribed as described by that subsection.

21 (s) The executive commissioner shall adopt rules  
22 implementing this section.

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

25 (1) an adult applicant, including an applicant  
26 applying solely on behalf of a child, who initially applies for  
27 financial assistance benefits under Chapter 31, Human Resources

1 Code, on or after the effective date of this Act;

2 (2) a minor parent who is the head of household who  
3 initially applies for financial assistance benefits under Chapter  
4 31, Human Resources Code, on or after the effective date of this  
5 Act;

6 (3) an adult applicant, including an applicant  
7 applying solely on behalf of a child, who applies for the  
8 continuation of financial assistance benefits under Chapter 31,  
9 Human Resources Code, on or after the effective date of this Act;  
10 and

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

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

23 SECTION 3. If before implementing any provision of this Act  
24 a state agency determines that a waiver or authorization from a  
25 federal agency is necessary for implementation of that provision,  
26 the agency affected by the provision shall request the waiver or  
27 authorization and may delay implementing that provision until the

1 waiver or authorization is granted.

2 SECTION 4. This Act takes effect September 1, 2019.