

By: Fallon

S.B. No. 2289

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, subject to rules adopted under Subsection (o)
4 that exempt a person from the drug test.

5 (d) The first time a person is required to submit to a drug
6 test under this section and the drug test indicates the presence in
7 the person's body of marihuana, other than low-THC cannabis
8 prescribed as described by Subsection (c), or of a controlled
9 substance not prescribed as described by that subsection, the
10 person is ineligible for financial assistance benefits for a period
11 of six months. The denial of eligibility for financial assistance
12 benefits to a person under this subsection does not affect the
13 eligibility of the person's family for financial assistance
14 benefits.

15 (e) Except as provided in Subsection (f), the second time a
16 person is required to submit to a drug test under this section and
17 the drug test indicates the presence in the person's body of
18 marihuana, other than low-THC cannabis prescribed as described by
19 Subsection (c), or of a controlled substance not prescribed as
20 described by that subsection, the person is ineligible for
21 financial assistance benefits for a period of 12 months.

22 (f) A person who is denied eligibility for financial
23 assistance benefits for a second time because of the results of a
24 drug test conducted under this section may reapply for financial
25 assistance benefits six months after the date the person's period
26 of ineligibility began 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 (h)
3 regardless of whether the person is continuing to receive substance
4 abuse treatment, subject to rules adopted under Subsection (o) that
5 exempt a person from the drug test.

6 (g) The third time a person is required to submit to a drug
7 test under this section and the drug test indicates the presence in
8 the person's body of marihuana, other than low-THC cannabis
9 prescribed as described by Subsection (c), or of a controlled
10 substance not prescribed as described by that subsection, the
11 person is permanently ineligible for financial assistance
12 benefits.

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

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

1 (j) Before denying eligibility for financial assistance
2 benefits under this section, the commission must:

3 (1) notify the person who submitted to a drug test of
4 the results of the test and the commission's proposed determination
5 of ineligibility; and

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

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

11 (l) The commission shall:

12 (1) use the most efficient and cost-effective
13 marihuana and controlled substance use screening assessment tool
14 that the commission can develop based on validated marihuana and
15 controlled substance use screening assessment tools; and

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

20 (m) The commission shall report to the Department of Family
21 and Protective Services for use in an investigation conducted under
22 Chapter 261, Family Code, if applicable, a person whose drug test
23 conducted under this section indicates the presence in the person's
24 body of marihuana, other than low-THC cannabis prescribed as
25 described by Subsection (c), or of a controlled substance not
26 prescribed as described by that subsection.

27 (n) If a parent or caretaker relative of a dependent child

1 is ineligible under Subsection (d), (e), or (g) to receive
2 financial assistance benefits on behalf of the child because of the
3 results of a drug test conducted under this section, the commission
4 shall designate a protective payee to receive financial assistance
5 benefits on behalf of the child. A person must submit to a
6 marihuana and controlled substance use screening assessment to
7 establish the person's eligibility to serve as a protective payee.
8 A person whose marihuana and controlled substance use screening
9 assessment indicates good cause to suspect the person of use of
10 marihuana, other than low-THC cannabis prescribed as described by
11 Subsection (c), or of a controlled substance not prescribed as
12 described by that subsection shall submit to a drug test to
13 establish the eligibility of the person to serve as a protective
14 payee, subject to rules adopted under Subsection (o) that exempt a
15 person from the drug test. A person whose drug test conducted under
16 this section indicates the presence in the person's body of
17 marihuana, other than low-THC cannabis prescribed as described by
18 Subsection (c), or of a controlled substance not prescribed as
19 described by that subsection is ineligible to serve as a protective
20 payee.

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

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

27 (2) submitting to a drug test outside the person's

1 county would impose an unreasonable hardship on the person.

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

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

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

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

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

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

1 purpose.

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

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