

By: Minjarez

H.B. No. 116

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the eligibility of and receipt by certain relative
3 caretakers of dependent children of supplemental financial
4 assistance and the assignment of those relative caretakers as
5 protective payees for financial assistance payments; creating a
6 criminal offense.

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

8 SECTION 1. Section 31.0041, Human Resources Code, is
9 amended by amending Subsection (a) and adding Subsection (a-1) to
10 read as follows:

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

15 (1) is 25 [~~45~~] years of age or older;
16 (2) is the grandparent, aunt, uncle, sister, or
17 brother of the dependent child, as defined by Section 31.002, who
18 lives at the person's residence;

19 (3) is the primary caretaker of the dependent child;
20 (4) has a family income that is at or below 200 percent
21 of the federal poverty level; and

22 (5) subject to Subsection (a-1), does not have
23 resources that exceed the amount allowed for financial assistance
24 under this chapter.

1 (a-1) Notwithstanding Section 31.032(d)(2), in determining
2 whether a person is eligible for supplemental financial assistance
3 under this section, the commission shall exclude from the person's
4 available resources the fair market value of the ownership interest
5 of the applicant or a member of the applicant's household in a motor
6 vehicle.

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

9 Sec. 31.0042. FRAUDULENT RECEIPT OF CERTAIN ASSISTANCE;
10 CRIMINAL OFFENSE; RECOUPMENT. (a) A person commits an offense if,
11 with intent to defraud or deceive the commission, the person
12 knowingly makes or causes to be made a false statement or
13 misrepresentation of a material fact that allows the person to be
14 eligible to receive supplemental financial assistance under
15 Section 31.0041.

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

17 (1) a Class C misdemeanor if the person received no
18 supplemental financial assistance or received supplemental
19 financial assistance for less than 7 days;

20 (2) a Class B misdemeanor if the person received
21 supplemental financial assistance for 7 days or more but less than
22 31 days; or

23 (3) a Class A misdemeanor if the person received
24 supplemental financial assistance for 31 days or more but less than
25 91 days.

26 (c) If conduct that constitutes an offense under this
27 section also constitutes an offense under any other law, the actor

1 may be prosecuted under this section, the other law, or both.

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

4 (e) The commission's office of inspector general may:

5 (1) investigate, as authorized by Section 531.102,
6 Government Code, potential fraud, waste, and abuse with respect to
7 supplemental financial assistance under Section 31.0041; and

8 (2) in the same manner as is provided by Section
9 531.120, Government Code, for the Medicaid program, recoup
10 financial assistance paid to a person who engaged in conduct
11 described by Subsection (a).

12 (f) The executive commissioner may adopt rules necessary to
13 determine whether fraudulent activity that violates Subsection (a)
14 has occurred.

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

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

23 (1) receive and use the assistance on behalf of the
24 child; and

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

1 (c) The commission shall limit the use of the process
2 established by Subsection (b) to situations in which the commission
3 determines the parent is not using the assistance for the child's
4 needs as required by Section 31.0355(a), and the executive
5 commissioner shall establish by rule the circumstances under which
6 the grandparent, aunt, uncle, sister, or brother may be removed as a
7 protective payee.

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

11 SECTION 4. (a) Except as provided by Subsection (b) of
12 this section, the changes in law made by this Act apply to a person
13 receiving financial assistance under Chapter 31, Human Resources
14 Code, on or after the effective date of this Act, regardless of the
15 date on which eligibility for the financial assistance was
16 determined.

17 (b) Section 31.0041(a-1), Human Resources Code, as added by
18 this Act, applies only to a determination of eligibility of a person
19 for supplemental financial assistance under Section 31.0041, Human
20 Resources Code, as amended by this Act, that is made on or after the
21 effective date of this Act.

22 SECTION 5. If before implementing any provision of this Act
23 a state agency determines that a waiver or authorization from a
24 federal agency is necessary for implementation of that provision,
25 the agency affected by the provision shall request the waiver or
26 authorization and may delay implementing that provision until the
27 waiver or authorization is granted.

1 SECTION 6. This Act takes effect September 1, 2021.