

By: Nelson

S.B. No. 54

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:

(1) "Commission" means the Health and Human Services Commission.

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

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

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

(f) A person who is denied eligibility for financial assistance benefits for a second time because of the results of a drug test conducted under this section may reapply for financial assistance benefits six months after the date the person's period of ineligibility began if the person provides proof of the person's successful completion of or current enrollment in a substance abuse treatment program. A person reapplying for financial assistance benefits must submit to a drug test as required by Subsection (h)

1 regardless of whether the person is continuing to receive substance
2 abuse treatment, subject to rules adopted under Subsection (o) that
3 exempt a person from the drug test.

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

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

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

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

26 (1) notify the person who submitted to a drug test of
27 the results of the test and the commission's proposed determination

1 of ineligibility; and

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

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

7 (1) The commission shall:

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

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

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

23 (n) If a parent or caretaker relative of a dependent child
24 is ineligible under Subsection (d), (e), or (g) to receive
25 financial assistance benefits on behalf of the child because of the
26 results of a drug test conducted under this section, the commission
27 shall designate a protective payee to receive financial assistance

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

12 (o) The executive commissioner of the commission shall
13 adopt rules implementing this section, including rules that exempt
14 a person from having to submit to a drug test under this section if:

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

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

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

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

26 (2) a minor parent who is the head of household who
27 initially applies for financial assistance benefits under Chapter

1 31, Human Resources Code, on or after the effective date of this
2 Act;

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

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

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

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

26 SECTION 4. This Act takes effect September 1, 2015.