

BILL ANALYSIS

Senate Research Center

C.S.S.B. 11
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Health & Human Services
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Temporary Assistance for Needy Families (TANF) program provides low-income families with financial assistance and employment programs to help recipients find jobs that will allow them to be self-sufficient. As part of receiving TANF benefits, all adult recipients must currently sign a personal responsibility agreement not to use or sell illegal drugs. Federal law allows states to drug test TANF applicants and sanction those who fail. Texas currently does not require drug testing for TANF applicants.

C.S.S.B. 11 requires an adult TANF applicant, and a minor parent if he or she is the head of his or her household, to submit to a controlled substance use screening assessment. If the screening assessment indicates good cause to suspect the person of controlled substance or marihuana use, the individual will be required to submit to a drug test. C.S.S.B. 11 disqualifies certain applicants who test positive for drug use and provides certain exceptions for individuals who participate in substance abuse programs.

C.S.S.B. 11 amends current law relating to the drug testing of certain persons seeking financial assistance benefits.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission (executive commissioner) in SECTION 1 (Section 31.0321, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 31, Human Resources Code, by adding Section 31.0321, as follows:

Sec. 31.0321. DRUG SCREENING AND TESTING; ELIGIBILITY. (a) Defines "commission," "controlled substance," and "marihuana" in this section.

(b) Requires 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 to submit to a marihuana and controlled substance use screening assessment, except as provided in Subsections (h) and (i). Requires that, in addition, each minor parent who is the head of household 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) Requires 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 to submit to a drug test, subject to rules adopted under Subsection (o) that exempt the person from the drug test.

(d) Provides that, 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. Provides that 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) Provides that, 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) Authorizes 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 to 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. Requires a person reapplying for financial assistance benefits to submit to a drug test as required by Subsection (h) regardless of whether the person is continuing to receive substance abuse treatment, subject to rules adopted under Subsection (o) that exempt the person from the drug test.

(g) Provides that, the third 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 permanently ineligible for financial assistance benefits.

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

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

(j) Requires the Health and Human Services Commission (HHSC), before denying eligibility for financial assistance benefits under this section:

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

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

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

(l) Requires HHSC to use the most efficient and cost-effective marihuana and controlled substance use screening assessment tool that HHSC and the Department of State Health Services (DSHS) can develop based on validated marihuana and controlled substance use screening assessment tools and to pay the cost of any marihuana and controlled substance use screening assessment or drug

test administered under this section out of the federal Temporary Assistance for Needy Families (TANF) block grant funds.

(m) Requires HHSC to report to the Department of Family and Protective Services for use in an investigation conducted under Chapter 261 (Investigation of Report of Child Abuse or Neglect), Family Code, if applicable, a person whose drug test conducted under this section indicates the presence in the person's body of a controlled substance not prescribed for the person by a health care practitioner or marihuana.

(n) Requires HHSC, if a parent or caretaker relative of a dependent child is ineligible under Subsection (e) or (g) to receive financial assistance benefits on behalf of the child because of the results of a drug test conducted under this section, to designate a protective payee to receive financial assistance benefits on behalf of the child. Requires a person to submit to a controlled substance use screening assessment to establish the person's eligibility to serve as a protective payee. Requires that a person whose controlled substance use screening assessment indicates good cause to suspect the person of controlled substance use to submit to a drug test to establish the eligibility of the person to serve as a protective payee. Provides that a person whose drug test conducted under this section indicates the presence in the person's body of a controlled substance not prescribed for the person by a health care practitioner is ineligible to serve as a protective payee.

(o) Requires the executive commissioner of HHSC (executive commissioner) to adopt rules implementing this section, including rules that exempt a person from having to submit to a drug test under this section if:

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

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

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

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

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

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

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

(b) Provides that, except as provided by Subdivisions (3) and (4), Subsection (a) of this section, an adult applicant, including an applicant applying solely on behalf of a child, and a minor parent who is the head of household who applied for financial assistance benefits under Chapter 31, Human Resources Code, before the effective date of this Act are governed by the law in effect when the person applied for financial assistance benefits, and that law is continued in effect for that purpose.

SECTION 3. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 4. Effective date: September 1, 2003.