

SUBJECT: Penalties for alcohol or drug convictions for public assistance recipients

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Naishtat, Chavez, J. Davis, Ehrhardt, Noriega, Raymond,
Villarreal, Wohlgemuth

0 nays

1 absent — Telford

SENATE VOTE: On final passage, April 18 — voice vote (Harris recorded nay)

WITNESSES: (*On House companion bill, HB 1008:*)

For — Patrick Bresette, Center for Public Policy Priorities; Pat Cole, National Training Center on Sexual and Domestic Violence; Jeff Frazier, Texas ACLU; *Registered but did not testify:* Susan Craven, Texans Care for Children; Alison Dieter, Texas Gray Panthers

Against — None

On — *Registered but did not testify:* Judy Denton, Texas Department of Human Services

BACKGROUND: In 1995, Texas enacted welfare-reform measures that capped benefits by amount and time and instituted responsibility agreements, mandatory work or job training, and other requirements. The federal welfare-reform law in 1996 created Temporary Assistance to Needy Families (TANF) to replace the Aid to Families with Dependent Children, Job Opportunities and Basic Skills, and Emergency Assistance programs.

Human Resources, sec. 31.0031, requires TANF recipients to sign a personal responsibility agreement in order to receive benefits. The agreement outlines the individual's and the state's respective responsibilities under the TANF program, including time limits for benefits and other assistance programs that the state administers. The agreement requires that recipients fulfill obligations pertaining to school attendance and health check-ups for

dependent children, work requirements and other self-sufficiency activities and a pledge not to illegally use, sell, or possess marijuana or a controlled substance or to abuse alcohol. DHS is authorized to develop rules for sanction and penalties for individuals who fail to comply with the personal responsibility agreement. To continue DHS' rules after the state's TANF waiver expires in 2002, Texas must codify them or revert to federal law, which provides for immediate, permanent disqualification from TANF for any recipient who receives an alcohol or drug conviction.

DIGEST:

CSSB 49 would establish penalties for certain drug and alcohol-related misdemeanor convictions by cash assistance recipients. Convictions resulting in a penalty would include an actual conviction or deferred adjudication for a misdemeanor offense that had an element of possession, use, or distribution of a controlled substance or alcohol. The penalty for a conviction would be a reduction in the amount of financial assistance by \$25 each month for six months.

Individuals who were convicted of a felony involving a controlled substance committed while receiving public assistance would be disqualified permanently from receiving cash assistance and food stamps, except in certain cases. TANF recipients would have to notify DHS if they were convicted of such an offense. If the offense did not involve distribution or manufacture of a controlled substance, and the individual did not have a prior conviction for a drug-related offense committed while receiving public assistance, then the disqualification would not apply as long as certain conditions were met. These would include: completion of prison term, compliance with terms of parole, and participation in drug rehabilitation.

The bill would direct DHS to adopt rules necessary to implement these provisions and to require that recipients also inform the department of prior drug-related convictions. The penalties would not affect the eligibility of other members of the household and would not apply to benefits exempted by federal law, including emergency medical services, disaster relief, prenatal care, job training, and other programs.

The bill would take effect April 1, 2002, and would apply only to offenses committed on or after the effective date of the bill by an individual receiving cash assistance or food stamps on or after the effective date. Prior offenses,

including ones for which any element of the offense occurred before the effective date, would be governed by prior law. The bill would direct state agencies to seek any necessary federal waivers or authorizations needed to implement the provisions of the bill. The agency could delay implementation until the federal waivers or authorization were granted.

**SUPPORTERS
SAY:**

SB 49 would ensure that the terms of a responsibility agreement were fulfilled without punishing missteps in a way that thwarted improvement. Responsibility agreements let recipients know what the state expects of them and help instill public confidence that welfare recipients are trying to conduct their lives in a responsible manner. It is perfectly legitimate for the taxpayers of Texas to expect TANF recipients to conduct themselves as responsible parents and responsible citizens while on public assistance. However, the federal approach of punishing minor offenses by permanent disqualification would make it more difficult for them ever to achieve sustainable self-sufficiency for their families.

This bill would take a tough stand on parole violations. Individuals who are convicted of a drug crime only would be eligible for future assistance if they were in compliance with all the provisions a court requires. In this way the state would encourage behavior that ultimately would benefit recipients and their families.

**OPPONENTS
SAY:**

SB 49 would make the drug and alcohol portions of the personal responsibility agreement meaningless. The state should not make its requirements more permissive than the federal regulations. Drug and alcohol related crimes should be punished by disqualification. Individuals sign the personal responsibility agreement, which should signify that they are willing to comply with all of the provisions in it. People who choose not to comply should be disqualified.

**OTHER
OPPONENTS
SAY:**

SB 49 would write off a portion of the population that needs public assistance the most. Individuals who commit serious drug crimes are punished through the court system, but should not also be punished by DHS. A suspension of benefits would be sufficient to encourage recipients to follow the personal responsibility agreement, but not cut them off for good. Disqualification not only hurts the recipient, but the entire household. The

state should not write off families with a member who has a drug conviction because those often are the families who need help the most.

NOTES:

The committee substitute removed from the Senate-passed version a requirement that an applicant indicate that another member of the household had a drug conviction and instead would require information about the applicant.

According to the fiscal note, the bill would cost \$177,488 to implement.