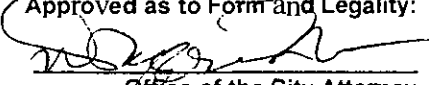


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Office of the City Attorney

Oakland City Council

RESOLUTION NO. _____ C.M.S.

Introduced by Councilmember Nancy Nadel

RESOLUTION IN SUPPORT OF AB 828 (SWANSON), WHICH WOULD END THE LIFETIME BAN ON BENEFITS AND SERVICES PROVIDED THROUGH THE CALFRESH PROGRAM, FORMERLY KNOWN AS FOOD STAMPS, FOR PEOPLE WHO HAVE A PRIOR DRUG-RELATED FELONY CONVICTION

WHEREAS, existing law provides for the Food Stamp Program, under which food stamps allocated to the state by the federal government are distributed to eligible individuals by each county, and existing law provides that a person convicted of a drug-related felony, with certain exemptions, is eligible for aid under the Food Stamp Program, if specified requirements are met; and

WHEREAS, this bill would provide that a person convicted of a drug felony shall be eligible for aid under the Food Stamp Program, and would eliminate the above-referenced eligibility requirements; and

WHEREAS, the California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state, and statutory provisions establish procedures for making that reimbursement; and

WHEREAS, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions; and

WHEREAS, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions; and

WHEREAS, CalFresh is a federally funded program that helps low-income people buy the food they need for good health; and

WHEREAS, current state law permanently bars all parents who have a past drug-related felony conviction from participating, preventing parents from receiving the help they need to provide food for themselves and their families, putting our state's poorest children in harm's way; and

WHEREAS, the singling out of these individuals also burdens local communities that are working to implement "Realignment" (AB 109) and need to identify strategies that ensure successful reentry for an increasing number of people, many more of whom have children than ever before; and

WHEREAS, the City of Oakland strongly supports AB 828, because it will provide help for parents who have a past drug-related felony conviction to feed their families and possibly help lower the recidivism rate, which is currently 70 percent, largely due to the lack of resources ex-offenders can access when they return to their communities; now, therefore be it

RESOLVED: that the Oakland City Council hereby provides that it supports Assembly Bill 828 and authorizes the City Administrator to communicate to the California State Legislature the City Council's support of the Bill.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF, AND
PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California



California
LEGISLATIVE INFORMATION.

AB-828 Food stamps: eligibility: drug felonies. (2011-2012)

CALIFORNIA LEGISLATURE— 2011–2012 REGULAR SESSION

ASSEMBLY BILL

No. 828

Introduced by Assembly Member Swanson

February 17, 2011

An act to amend Section 18901.3 of the Welfare and Institutions Code, relating to food stamps.

LEGISLATIVE COUNSEL'S DIGEST

AB 828, as introduced, Swanson. Food stamps: eligibility: drug felonies.

Existing law provides for the Food Stamp Program, under which food stamps allocated to the state by the federal government are distributed to eligible individuals by each county. Existing law provides that a person convicted of a drug-related felony, with certain exemptions, is eligible for aid under the Food Stamp Program, if specified requirements are met.

This bill would, instead, provide that a person convicted of a drug felony shall be eligible for aid under the Food Stamp Program, and would eliminate the above-referenced eligibility requirements.

By changing the eligibility standards under the Food Stamp Program, this bill would increase the responsibilities of counties in the administration of the program, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes Urgency: no Tax Levy: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 18901.3 of the Welfare and Institutions Code is amended to read:

18901.3. ~~(a) Subject to the limitations of subdivision (b), pursuant to~~ Pursuant to Section 115(d)(1)(A) of Public Law 104-193 (21 U.S.C. Sec. 862a(d)(1)(A)), California opts out of the provisions of Section 115(a)(2) of Public Law 104-193 (21 U.S.C. Sec. 862a(a)(2)). A convicted drug felon shall be eligible to receive food stamps under this section.

~~(b) Subdivision (a) does not apply to a person who has been convicted of unlawfully transporting, importing into this state, selling, furnishing, administering, giving away, possessing for sale, purchasing for purposes of sale, manufacturing a controlled substance, possessing precursor, with the intent to manufacture a controlled substance, or cultivating, harvesting, or processing marijuana or any part thereof pursuant to Section 11358 of the Health and Safety Code.~~

~~(c) Subdivision (a) does not apply to a person who has been convicted of unlawfully soliciting, inducing, encouraging, or intimidating a minor to participate in any activity listed in subdivision (b).~~

~~(d) As a condition of eligibility to receive food stamps pursuant to subdivision (a), an applicant convicted of a felony drug offense that is not excluded under subdivision (b) or (c) shall be required to provide proof of one of the following subsequent to the most recent drug-related conviction:~~

~~(1) Completion of a government-recognized drug treatment program.~~

~~(2) Participation in a government-recognized drug treatment program.~~

~~(3) Enrollment in a government-recognized drug treatment program.~~

~~(4) Placement on a waiting list for a government-recognized drug treatment program.~~

~~(5) Other evidence that the illegal use of controlled substances has ceased, as established by State Department of Social Services regulations.~~

~~(e) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement this section through an all-county letter or similar instructions from the director no later than January 1, 2005.~~

~~(f) The department shall adopt regulations as otherwise necessary to implement this section no later than July 1, 2005. Emergency regulations adopted for implementation of this section may be adopted by the director in accordance with the Administrative Procedure Act. The adoption of emergency regulations shall be deemed to be an emergency and necessary for immediate preservation of the public peace, health and safety, or general welfare. The emergency regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days.~~

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for these costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Date of Hearing: April 5, 2011

ASSEMBLY COMMITTEE ON HUMAN SERVICES
Jim Beall Jr., Chair
AB 828 (Swanson) – As Introduced: February 17, 2011

SUBJECT: Food stamps: eligibility: drug felonies

SUMMARY: Permits otherwise eligible convicted drug felons to receive CalFresh food assistance benefits, formerly known as Food Stamps, and removes the restrictions currently in place on certain convicted drug felons eligible to receive CalFresh food assistance benefits when specified conditions are met. Specifically, this bill:

- 1) Requires California to opt out of the federal lifetime ban on convicted drug felons for CalFresh eligibility.
- 2) Removes the requirement that otherwise eligible drug felons currently exempted from the ban demonstrate participation in, enrollment in, or placement on a waiting list for a government-recognized drug treatment program, or provide other evidence that illegal use of controlled substances has ceased to qualify for CalFresh.

EXISTING LAW:

- 1) Provides for the federal Supplemental Nutrition Assistance Program (SNAP), formerly the Food Stamp Program, also known in California as the CalFresh Program, under which food assistance benefits are allocated to the state by the federal government are distributed to eligible individuals by each county.
- 2) Prohibits, under federal law, applicants for SNAP or benefits funded by Temporary Assistance for Needy Families (TANF) funds from qualifying if they have been convicted of a felony crime involving controlled substances, but allows states to opt out of the disqualification in whole or part.
- 3) Opts into the federal prohibition on SNAP eligibility for persons convicted of drug trafficking, as defined, or who have been convicted of soliciting, inducing, encouraging or intimidating a minor to participate in any such crimes.
- 4) Opts out of the federal prohibition on CalFresh eligibility for individuals convicted of a use or possession-related drug felony, as defined, who can prove completion, participation in, enrollment in, or placement on a waiting list for a government-recognized drug treatment program, or provide other evidence that illegal use of controlled substances has ceased.

FISCAL EFFECT: Unknown

COMMENTS:

CalFresh Program: The Supplemental Nutrition Assistance Program, formerly known as the Food Stamp Program, provides food assistance benefits to individuals who meet income and eligibility requirements. The federal government picks up 100% of the cost of the food

assistance benefit and the federal, state, and county governments share in the administration costs. In California, the program is administered locally by county welfare departments. Currently, over 3 million low-income Californians receive food assistance benefits. The average SNAP benefit for a family of three is about \$341 per household.

Lifetime Ban Background: The lifetime ban on food assistance for persons with felony drug convictions was included as a provision in the 1996 federal welfare reform bill (Section 115 of the Personal Responsibility and Work Opportunity Reconciliation Act). The premise of this provision was that individuals should be prevented from using public benefits to support substance abuse. However, in recent years, the CalFresh program moved to an electronic benefit transfer (EBT) system that virtually eliminates the opportunity for recipients to convert food assistance into drugs. Additionally, the federal law gave states the option to pass legislation to “opt-out” of the federal exclusion completely, or in part, without any repercussions.

Actions by other states: As of 2010, approximately 40 states passed laws to limit the ban. Of those, 15 states including New York, Kansas, Ohio and Washington have completely lifted the ban. While California initially declined the federal exemption during its welfare-to-work reform in 1997, in 2004, the Legislature passed AB 1796 (Leno), which provided a partial exemption for drug felons convicted of possession and use-related offenses.

Who is affected by this bill? According to a 2005 report by the federal General Accounting Office (GAO), proportionally more female drug felons than males are affected by the ban. The GAO calculates that about 27% of female and 15% of all drug offenders released from prison in 2001 in states that had not modified the ban would have met the eligibility requirements and therefore, be affected by the ban.

Need for this bill: This bill is identical to AB 1756 (Swanson) of 2010 and would opt California out of a “lifetime ban” applied to otherwise eligible convicted drug felons for SNAP benefits. The drug felon rule has been the subject of much criticism by drug treatment providers, advocates for the poor, and law enforcement organizations because it permanently disqualifies otherwise needy persons from receiving food assistance and may interfere with their current or continued recovery. The significance of the lifetime ban on convicted drug felons is compounded over time and regardless of an individual’s track record, time served, or rehabilitation efforts. SNAP has also gone through significant changes in the time since the federal ban was imposed, most notably, replacing the old paper “food stamps” with an EBT card which provides benefits through a more secure debit card subject to electronic tracking.

According to the author, “If a person’s most critical needs are not met when they reenter society after being in prison, they won’t be able to successfully return to their communities. In fact, without basic support, many of them will be inclined to return to criminal activity and drug use instead of attaining sobriety and gainful employment.”

Support: In support of this bill, the Sponsor, Western Center on Law and Poverty writes:

This ban unfairly punishes parents and individuals who have served their time, are looking to start over and need food assistance. Denying food benefits to parents with prior drug felony convictions hinders their ability to provide and care for their children. Many states have restored partial or full benefits to this vulnerable population. Access to nutritious food through the CalFresh Program prevents

recidivism, supports lifelong sobriety and supports parents in rebuilding their relationships with their children.

Opposition: The California District Attorneys Association (CDAA) writes in opposition to this bill:

We are concerned that these benefits will be used to assist in the sale and procurement of controlled substances. Expanding the availability of these benefits to persons convicted of trafficking and manufacturing offenses increases the risk that public resources will be used to facilitate criminal activity.

In response to the opposition by the CDAA, the author notes that convicted felons are the only group of convicted ex-felons currently denied CalFresh assistance based on their criminal history, and that other groups of ex-felons are still granted access based on their need and eligibility after time served.

Prior and Related Legislation

AB 1756 (Swanson) 2010 was identical to this bill and was held on the Senate Appropriations Suspense file.

AB 1198 (Swanson) 2009 included a modified ban which allowed convicted drug felons to apply for food stamps provided they comply with drug treatment provisions. AB 1198 was held on Senate Appropriations Suspense file.

AB 1996 (Swanson) 2008 proposed a modified ban with drug treatment provisions and was vetoed by the Governor.

AB 508 (Swanson) 2007 proposed a complete opt out of the ban and was vetoed by the Governor.

AB 1796 (Leno) Chapter 932, Statutes of 2004 established a partial exemption to the federal ban for individuals convicted of drug use or possession related felonies and required the individual demonstrate participation in a drug addiction treatment program.

REGISTERED SUPPORT / OPPOSITION:

Support

Alameda County community Food Bank
American Civil Liberties Union
Asian/Pacific Islander Youth Promoting Advocacy
Books Not Bars (Ella Baker Center for Human Rights)
California Association of Food Banks
California Catholic Conference
California Coalition for Women Prisoners (CCWP)
California Commission on The Status of Women
California Hunger Action Coalition (CHAC)
Catholic Charities of California United

Community Resources for Independent Living (CRIL)
County Welfare Directors Association of CA (CWDA)
Drug Policy Alliance
Eden I & R, Inc.
Friends Committee on Legislation of California (FCLCA)
Homeless Action Center
Homeless Health Care Los Angeles (HHCLA)
Hunger Action Los Angeles
JERICHO
Local Servlees for Prisoners with Children (LSPC)
Los Angeles Community Action Network (LA CAN)
St. Anthony's, San Francisco
St. Mary's Center
Supportive Parents Information Network
The Center for Young Women's Development
The W. Haywood Burns Institute
Time for Change Foundation
Western Center on Law and Poverty
22 Individuals

Opposition

California District Attorneys Association (CDAA)

Analysis Prepared by: Michelle Cabrera / HUM. S. / (916) 319-2089