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CITY OF OAKLAND  
CITY COUNCIL

**LEGISLATIVE ANALYST REPORT**

**To:** Council President De La Fuente and Members of the Rules Committee  
**From:** Lupe Schoenberger, Legislative Analyst  
**Date:** March 13, 2008

**Re:** **BILL ANALYSIS AND RESOLUTION IN SUPPORT OF ASSEMBLY  
BILL 1996 (SWANSON) PROVIDING ELIGIBILITY CRITERIA FOR  
DRUG FELONS TO RECEIVE FOOD STAMPS**

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**SUMMARY**

At the request of Councilmember Nancy Nadel, the attached analysis of AB 1996 (Swanson) and a resolution supporting the measure was prepared in collaboration with the Human Services Department.

**REQUESTED ACTION BY THE CITY COUNCIL**

Adopt a resolution in support of AB 1996 (Swanson).

Respectfully submitted,

A handwritten signature in black ink that reads "Lupe Schoenberger". The signature is written in a cursive, flowing style.

Lupe Schoenberger  
Legislative Analyst

# CITY OF OAKLAND

## BILL ANALYSIS



**Date:** March 13, 2008  
**Bill Number:** AB 1996  
**Bill Author:** Assembly Member Swanson

### DEPARTMENT INFORMATION

**Contact:** Lupe Schoenberger, Legislative Analyst-Rules Committee  
**Department:** City Council  
**Telephone:** 510-238-7052 **FAX #** 510-238-7207  
**E-mail:** lschoenberger@oaklandnet.com

### RECOMMENDED POSITION

SUPPORT

### Summary of the Bill

AB 1996 would make provisions that any individual convicted of a drug felony would be eligible for food stamp benefits if the individual completed an approved drug treatment program prior to their release from prison. Prior legislation (AB 1796 Leno) allows only individuals with specific types of drug convictions and who completed a drug treatment program to be eligible for food stamp benefits. This legislation expands these eligibility criteria so that all individuals, regardless of the type of drug conviction would be eligible for food stamps upon completion of a drug treatment program in prison.

### Positive Factors for Oakland

It is believed that a contributing factor to recidivism for individuals returning from prison is the challenge of becoming economically self sufficient. Public income supports such as food stamps are a vital tool in helping individuals and families – including people who are formally incarcerated -- to move toward self sufficiency. The City of Oakland has large numbers of individuals on parole and probation, many of whom have drug convictions. This legislation would provide those individuals with access to an important income support to assist them in staying away from the underground economy and helping them achieve economic stability.

Item: \_\_\_\_\_  
Rules & Legislation Comte.  
Date xx, 2008

**Negative Factors for Oakland**

In many prisons, the accessibility of drug treatment programs is highly limited. As a result, completion of such a program may or may not be available to all individuals who have drug convictions. However, prior legislation sponsored by Assemblyman Swanson, AB 508, which waived the drug treatment requirement was not signed by the Governor. This bill is an effort to move the issue forward incrementally.

**PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:**

- Critical (top priority for City lobbyist, city position required ASAP)**
- Very Important (priority for City lobbyist, city position necessary)**
- Somewhat Important (City position desirable if time and resources are available)**
- Minimal or**     **None (do not review with City Council, position not required)**

**Known support:**

There is currently no known support. However, AB 508 with a similar and in fact more expansive goal was supported by the following entities:

- Alameda County Board of Supervisors
- Alameda County Community Food Bank
- Allied Fellowship Service
- American Civil Liberties Union
- American Federation of State, County and Municipal Employees
- Association of Alcohol and Drug Program Executives, INC
- California Association of Addiction
- California Association of Alcohol and Drug
- California Catholic Conference
- California Hunger Action Coalition
- City and County of San Francisco
- Coalition for Effective Public Safety
- Drug Policy Alliance Network
- Jeff Adachi, Public Defender of San Francisco
- Program Executives, INC.
- Recovery Resources
- San Francisco Safe Communities Reentry Council
- Western Center on Law & Poverty

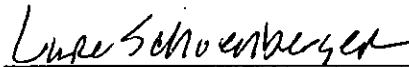
**Known Opposition:**

Again, this is new legislation and there is no known opposition. However, similar but more expansive legislation, AB 508, last year was opposed by the following entities:

California District Attorneys Association  
District Attorney, Sacramento County  
Department of Finance

**Attach bill text and state/federal legislative committee analysis, if available.**

Respectfully Submitted,



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**Lupe Schoenberger**  
**Legislative Analyst, Rules Committee**

Item: \_\_\_\_\_  
Rules & Legislation Comte.  
March 13, 2008

**ASSEMBLY BILL**

**No. 1996**

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**Introduced by Assembly Member Swanson**

February 14, 2008

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1996, 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 exceptions, is eligible for aid under the Food Stamp Program, if specified drug treatment conditions are met.

This bill would remove the limitation that excepts certain drug-related felonies from these provisions, and would revise the drug treatment conditions to require a food stamp applicant convicted of a drug felony to complete a government-approved drug treatment program during his or her incarceration, as specified.

The bill would authorize the State Department of Social Services to implement its provisions through an all-county letter or similar instructions from the director.

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.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

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

3 18901.3. (a) ~~Subject to the limitations of subdivision (b),~~  
4 ~~pursuant~~ Pursuant to Section 115(d)(1)(A) of Public Law 104-193  
5 (21 U.S.C. Sec. 862a(d)(1)(A)), California opts out of the  
6 provisions of Section 115(a)(2) of Public Law 104-193 (21 U.S.C.  
7 Sec. 862a(a)(2)). A convicted drug felon shall be eligible to receive  
8 food stamps under this section. *As a condition of eligibility to*  
9 *receive food stamps, an applicant convicted of a felony drug offense*  
10 *shall have successfully completed a government-recognized drug*  
11 *treatment program during the period of incarceration for his or*  
12 *her most recent drug-related conviction.*

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

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

25 ~~(d) As a condition of eligibility to receive food stamps pursuant~~  
26 ~~to subdivision (a), an applicant convicted of a felony drug offense~~  
27 ~~that is not excluded under subdivision (b) or (c) shall be required~~

1 to provide proof of one of the following subsequent to the most  
2 recent drug-related conviction:

3 (1) Completion of a government-recognized drug treatment  
4 program:

5 (2) Participation in a government-recognized drug treatment  
6 program:

7 (3) Enrollment in a government-recognized drug treatment  
8 program:

9 (4) Placement on a waiting list for a government-recognized  
10 drug treatment program:

11 (5) Other evidence that the illegal use of controlled substances  
12 has ceased, as established by State Department of Social Services  
13 regulations:

14 (e) Notwithstanding the Administrative Procedure Act (Chapter  
15 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
16 Title 2 of the Government Code), the department may implement  
17 this section through an all-county letter or similar instructions from  
18 the director no later than January 1, 2005.

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

31 (b) Notwithstanding the Administrative Procedure Act (Chapter  
32 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
33 Title 2 of the Government Code), the department may implement  
34 the amendments made to this section during the 2008 portion fo  
35 the 2007-08 Regular Session through an all-county letter or similar  
36 instructions from the director no later than January 1, 2010.

37 SEC. 2. If the Commission on State Mandates determines that  
38 this act contains costs mandated by the state, reimbursement to  
39 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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**DRAFT**

OFFICE OF THE CITY CLERK  
OAKLAND

**OAKLAND CITY COUNCIL**

\_\_\_\_\_  
City Attorney

08 FEB 28 PM 3:05

**RESOLUTION No. \_\_\_\_\_ C.M.S.**

**RESOLUTION IN SUPPORT OF ASSEMBLY BILL 1996  
(SWANSON) PROVIDING ELIGIBILITY CRITERIA  
FOR DRUG FELONS TO RECEIVE FOOD STAMPS**

**WHEREAS**, it is believed that a contributing factor to recidivism for individuals returning from prison is the challenge of becoming economically self sufficient; and

**WHEREAS**, public income supports such as food stamps are a vital tool in helping individuals and families – including people who are formally incarcerated -- to move toward self sufficiency; and

**WHEREAS**, the City of Oakland has large numbers of individuals on parole and probation, many of whom have drug convictions; and

**WHEREAS**, AB 1996 would make provisions that any individual convicted of a drug felony would be eligible for food stamp benefits if the individual completed an approved drug treatment program prior to their release from prison; and

**WHEREAS**, prior legislation (AB 1796 Leno) allows only individuals with specific types of drug convictions and who completed a drug treatment program to be eligible for food stamp benefits. This legislation expands these eligibility criteria so that all individuals, regardless of the type of drug conviction would be eligible for food stamps upon completion of a drug treatment program in prison; now therefore be it

**RESOLVED:** that the City of Oakland declares its support for AB1996 (Swanson); and be it

**FURTHER RESOLVED:** that the City Administrator and the City's state lobbyist are directed to advocate the City's position to the State Legislature.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:** BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council,  
City of Oakland, California