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As of: June 16, 2004 (2:14pm)

LC0031

**** Bill No. ****

Introduced By *****

By Request of the Children, Families, Health, and Human Services

Interim Committee

A Bill for an Act entitled: "An Act exempting individuals convicted of a felony drug offense from the federal prohibition on eligibility for benefits under food stamps or temporary assistance for needy families; amending section 53-4-231, MCA; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-4-212, MCA, is amended to read:

"53-4-212. Department to make rules. (1) The department shall make rules and take action as necessary or desirable for the administration of public assistance programs.

(2) The department shall adopt rules that may include but are not limited to rules concerning:

(a) eligibility requirements, including gross and net income limitations, resource limitations, and income and resource exclusions;

(b) amounts of assistance, methods for computing benefit amounts, and the length of time for which benefits may be granted;

(c) the degree of kinship required for a person to qualify as a specified caretaker relative in order to be eligible for

assistance;

(d) procedures and policies for employment and training programs, requirements for participation in employment and training programs, and exemptions, if any, from participation requirements;

(e) requirements for specified caretaker relatives, including cooperation with assessments, the number of hours of participation required for each month, specific activities required to address employment barriers, and other terms of performance;

(f) eligibility for and terms and conditions of child-care assistance for financial assistance recipients, including maximum amounts of assistance payable and amounts of copayments required by specified caretaker relatives;

(g) eligibility criteria and participation requirements for nonfinancial assistance recipients;

(h) terms of ineligibility or sanctions against a specified caretaker relative or other family member who fails to enter into a family investment agreement, as provided for in 53-4-606, or to comply with the individual's obligations under the agreement, including the length of the period of ineligibility, if any;

(i) requirements, if any, for participation in the employment and training demonstration project;

(j) eligibility for and terms and conditions of extended medical assistance benefits;

(k) reporting requirements;

(l) sanctions, disqualification, or other penalties for

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failure or refusal to comply with the rules or requirements of a public assistance program;

(m) exemptions from the 60-month limitation on assistance provided in 53-4-231 based on hardship or for families that include an individual who has been battered or subjected to extreme cruelty, as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608, including but not limited to the duration of the exemption;

(n) individuals who must be included as members of an assistance unit;

(o) categories of aliens who may receive assistance, if any;

(p) requirements relating to the assignment of child and medical support rights and cooperation in establishing paternity and obtaining child and medical support;

(q) requirements for eligibility and other terms and conditions of other programs to strengthen and preserve families;

(r) special eligibility or participation requirements applicable to teenage parents, if any; ~~and~~

(s) conditions under which assistance may be continued when an adult or a dependent child is temporarily absent from the home and the length of time for which assistance may be continued; and

(t) testing and reporting requirements for persons who have been convicted of a felony offense, an element of which involves the possession, use, or distribution of a controlled substance, who are required to comply with the conditions provided under 53-

4-231(3), including sanctions and terms of ineligibility for receipt of public assistance for violations of probation and parole conditions or treatment requirements. The department may enter into agreements with the department of corrections regarding testing and reporting on offenders under department of correction's supervision."

{Internal References to 53-4-212: None.x}

Section 2. Section 53-4-231, MCA, is amended to read:

"53-4-231. Eligibility. (1) Subject to the provisions of subsections (2) through (5), assistance may be granted under this part to:

(a) a dependent child;

(b) a specified caretaker relative or relatives, including but not limited to the natural or adoptive parents of a dependent child who:

(i) enters into a family investment agreement, as provided for in 53-4-606, if required by the department; and

(ii) cooperates in all assessments and screening required by the department;

(c) the stepparent of a dependent child who lives with the child and the child's natural or adoptive parent;

(d) persons under 18 years of age who live in the home with a dependent child, including but not limited to siblings related to the dependent child by blood, marriage, or adoption or by law;

(e) a needy pregnant woman with no other children who is receiving payments. Payments may begin no earlier than the third

month prior to the month in which the child is expected to be born.

(2) Persons who are not citizens of the United States are eligible for assistance only as provided in sections 401 through 435 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as codified in Title 8 of the United States Code.

(3) A person who has been convicted of a felony offense, an element of which involves the possession, use, or distribution of a controlled substance, as defined in 21 U.S.C. 802, is ineligible for public assistance unless the person is actively complying with conditions of probation or parole associated with the felony conviction, which must include completion of a chemical dependency assessment by a licensed addiction counselor and based on the assessment:

(a) there is the absence of any current drug dependency, as defined in administrative rule; or

(b) the person is actively participating in or has satisfactorily completed a course of treatment and all requirements recommended by the licensed addiction counselor.

~~(3)~~(4) The following are not eligible for assistance:

(a) persons who are receiving supplemental security income payments under the Social Security Act;

(b) an adult or a dependent child who is or is expected to be absent from the home of the specified caretaker relative continuously for a period of time prescribed by the department by rule;

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(c) a specified caretaker relative who fails to comply with requirements for reporting the absence of a dependent child from the specified caretaker relative's home as prescribed by the department by rule;

(d) families in which the specified caretaker relative fails or refuses to assign child and medical support rights to the department or to cooperate in establishing paternity or obtaining child or medical support as required by the department by rule;

(e) families in which the specified caretaker relative or other adult household member, as specified by the department by rule, fails or refuses to:

(i) cooperate in any required screening or assessment; or

(ii) enter into a family investment agreement required by the department under 53-4-606;

(f) teenage parents who fail or refuse to attend secondary school or another training program as required by the department by rule;

(g) teenage parents who are not living in an adult-supervised setting as defined by the department by rule;

(h) a fugitive felon or probation or parole violator as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608;

(i) individuals who have fraudulently misrepresented their place of residence, as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608. The ineligibility continues for a period of 10

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years beginning on the date of conviction.

~~(j) an individual convicted after August 22, 1996, of any offense that is classified as a felony and that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substance Act, 21 U.S.C. 802(6).~~

~~(4)(5)~~ A family is not eligible for financial assistance if the family includes an adult who has received financial assistance in a program funded under temporary assistance for needy families in any state or states for 60 months or more, whether or not the months are consecutive, unless an exception is expressly granted by federal law.

~~(5)(6)~~ This part may not be interpreted to entitle any individual or family to assistance under programs funded by temporary assistance for needy families."

{ Internal References to 53-4-231:
53-4-212 x }

NEW SECTION. **Section 3. {standard} Effective date.** [This act] is effective July 1, 2005.

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