

ASSEMBLY BILL NO. 138—ASSEMBLYWOMAN MARTINEZ

FEBRUARY 15, 2021

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing the eligibility of certain convicted persons for public assistance. (BDR 38-760)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public assistance; revising provisions relating to the eligibility of certain convicted persons for public assistance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing federal law provides that under certain circumstances, a person who has been convicted of certain felony drug offenses is not eligible for benefits under the Temporary Assistance for Needy Families (TANF) program, which is a federal program pursuant to which the federal government provides grants of money to states to provide financial assistance to certain families, or the Supplemental Nutrition Assistance Program (SNAP), which is a federal program to provide assistance to certain families for the purchase of food. (21 U.S.C. § 862a) Existing federal law authorizes a state to opt out of this limitation and allow a person who was convicted of a felony drug offense to be eligible for TANF and SNAP benefits in that state. (21 U.S.C. § 862a(d)) Similarly, existing Nevada law provides that a person who has been convicted of felony possession, use or distribution of a controlled substance is not eligible for TANF or SNAP benefits, unless the convicted person is participating in or has completed a program for the treatment of a substance use disorder approved by the Division of Welfare and Supportive Services of the Department of Health and Human Services and the person either: (1) demonstrates that he or she has not possessed, used or distributed controlled substances since he or she began the program; or (2) is pregnant and a physician certifies that TANF or SNAP benefits are required to ensure the health and safety of the mother and the unborn child. (NRS 422A.345)

This bill: (1) removes the requirement that the convicted person be participating in or complete such a program before becoming eligible for TANF or SNAP benefits; and (2) provides that to be eligible for TANF or SNAP benefits, the



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23 person must demonstrate that he or she is not currently possessing, using or
24 distributing controlled substances in a manner that is prohibited by law.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 422A.345 is hereby amended to read as
2 follows:

3 422A.345 1. Except as otherwise provided in subsection 2, a
4 person who has been convicted of a felony after August 22, 1996, an
5 element of which is the possession, use or distribution of a
6 controlled substance, is not eligible to receive any public assistance
7 for which denial is required by 21 U.S.C. § 862a.

8 2. A person who has been convicted of a felony described in
9 subsection 1 may be determined to be eligible for assistance if ~~{that}~~
10 ~~the person :~~ ~~{is participating in or has successfully completed a~~
11 ~~program for the treatment of a substance use disorder that has been~~
12 ~~approved by the Division and;}~~

13 (a) Demonstrates to the satisfaction of the Division that he or
14 she ~~{has}~~ **is** not ~~{possessed, used or distributed}~~ **currently**
15 **possessing, using or distributing** controlled substances ~~{since he or~~
16 ~~she began the program;}~~ **in a manner that is prohibited by law;** or

17 (b) Is pregnant and a physician has certified in writing that the
18 health and safety of the mother and the unborn child are dependent
19 upon the receipt of benefits.

20 3. As used in this section, “controlled substance” has the
21 meaning ascribed to it in 21 U.S.C. § 802(6).

22 **Sec. 2.** This act becomes effective on July 1, 2021.

