

1 HB539
2 135642-2
3 By Representatives Warren, England, Collins, Kennedy, Howard,
4 Buskey, Davis and Beech
5 RFD: State Government
6 First Read: 14-MAR-12

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8 SYNOPSIS: Under existing federal law in 21 U.S.C. §
9 862a, a person convicted under federal or state law
10 of any offense classified as a felony which has as
11 an element the possession, use, or sale of a
12 controlled substance is not eligible for benefits
13 under the federal temporary assistance for needy
14 families or under the federal supplemental
15 nutrition assistance program. The federal law
16 provides that a state, by specific reference in a
17 law, may exempt any or all individuals domiciled in
18 the state from the federal law or limit the time
19 period which the federal law applies to any or all
20 individuals domiciled in the state.

21 This bill would provide that any person
22 convicted of a drug related felony would be
23 eligible for assistance under the federal temporary
24 assistance for needy families program and the
25 federal supplemental nutrition assistance program
26 upon the completion of his or her sentence or if
27 the person is satisfactorily serving a sentence of

1 a period of probation and if the person is in the
2 process of completing or has completed
3 participation in a drug or alcohol treatment
4 program.

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6 A BILL
7 TO BE ENTITLED
8 AN ACT

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10 Relating to eligibility for assistance under the
11 federal temporary assistance for needy families program and
12 the federal food supplemental nutrition assistance program for
13 persons convicted of a drug related felony; to provide
14 eligibility under certain conditions.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. (a) Pursuant to the option granted the
17 state by 21 U.S.C. § 862a(d), an individual convicted on or
18 before June 30, 2012, under federal or state law of a felony
19 involving possession, use, or distribution of a controlled
20 substance shall be exempt from the prohibition contained in 21
21 U.S.C. § 862a(a) against eligibility for federal temporary
22 assistance for needy families and federal food assistance
23 benefits for the convictions, if the person, as determined by
24 the department, meets the requirements of paragraphs a., b.,
25 or c. of subdivision (1) and subdivision (2) as follows:

1 (1)a. Is currently participating in a substance
2 abuse treatment program approved by the Department of Human
3 Resources.

4 b. Is currently enrolled in a substance abuse
5 treatment program approved by the Department of Human
6 Resources but is subject to a waiting list to receive
7 available treatment, and the individual remains enrolled in
8 the treatment program and enters the treatment program at the
9 first available opportunity.

10 c. Has satisfactorily completed a substance abuse
11 treatment program approved by the Department of Human
12 Resources.

13 (2) Is complying with, or has already complied with,
14 all obligations imposed by the criminal court, including any
15 substance abuse treatment obligations.

16 (b) Eligibility based upon the factors in subsection
17 (a) must be based upon documentary or other evidence
18 satisfactory to the department, and the applicant must meet
19 all other factors of program eligibility, including,
20 specifically, being accountable for the requirements of the
21 personal responsibility plan required by this part.

22 (c) Notwithstanding the provisions of subsections
23 (a) and (b) to the contrary, no person convicted of a Class A
24 felony for violating a provision of Article 5, Chapter 12,
25 Title 13A, Code of Alabama 1975, shall be eligible for the
26 exemptions provided by subsections (a) and (b).

1 (d) Pursuant to the option granted the state by 21
2 U.S.C. § 862a(d), an individual convicted on or after July 1,
3 2012, under federal or state law of a felony involving
4 possession, use, or distribution of a controlled substance
5 shall be exempt from the prohibition contained in 21 U.S.C. §
6 862a(a) against eligibility for federal temporary assistance
7 for needy families or federal food assistance benefits for the
8 convictions, if the person meets the following requirements:

9 (1) Requirements contained in subsections (a), (b),
10 and (c).

11 (2) If treatment was prescribed according to the
12 requirements in subsections (a) and (b), successful completion
13 of a substance abuse program must occur within three attempts.
14 If a person does not complete the originally prescribed
15 treatment program within three attempts, the individual shall
16 be ineligible for a period of three years.

17 (e) Notwithstanding the other provisions of this
18 section, pursuant to the option granted the state by 21 U.S.C.
19 § 862a(d), an individual convicted of a second drug felony
20 under federal or state law of a felony involving possession,
21 use, or distribution of a controlled substance shall not be
22 eligible for federal temporary assistance for needy families
23 or federal food assistance benefits for a period of three
24 years from the date of conviction.

25 Section 2. This act shall become effective on the
26 first day of the third month following its passage and
27 approval by the Governor, or its otherwise becoming law.

