

A Fact Sheet for Policy Makers

Welfare Reform: Implementing Drug Felony Conviction Provisions

The Law

On August 22, the President signed welfare reform legislation (Public Law 104-193). One provision (Section 115) permanently ends eligibility for federal cash welfare — now known as Temporary Assistance for Needy Families (TANF) — and Food Stamps for anyone who is convicted of a drug-related felony, including drug use, possession, or distribution. The law applies to felony convictions that occur after August 22, 1996. There are no automatic exemptions for anyone, including pregnant women or people participating in drug treatment.

However, the federal law allows states to "opt out" of or limit the drug felony conviction ban. Without such action, the ban is permanent and continues regardless of successful job history, participation in drug treatment or abstinence from drug use.

What States Can Do

- **States may "opt out" of the lifetime drug felony conviction ban entirely by statute.**

Since welfare payments are a principal source of funding for drug treatment programs, "opting out" will help ensure the continued availability of treatment, especially for women, increasing their likelihood of successfully moving from welfare to work and properly caring for their children. It also will help prevent an increase in crime that would result from the loss of support and access to drug treatment and other essential social services.

Or, states may modify the requirements by statute.

States could ensure drug treatment availability, protect children and promote work and rehabilitation from substance abuse and crime by lifting the lifetime ban for individuals who:

- Since their conviction have worked or gone to school, are in recovery from or treatment for drug or alcohol problems, or have otherwise demonstrated rehabilitation;
- Are pregnant, adolescents, or HIV positive, or otherwise particularly vulnerable;

- Have not been convicted of another drug felony in a specified time period (e.g., 1 or 3 years).
- **Urge Congress to repeal the drug felony conviction ban.**

By denying federal benefits to people with drug felony convictions, the federal welfare law will increase the criminal justice, general assistance, and child welfare burdens on states. Repeal of the drug felony conviction ban will redress this cost shift and the injustices and other policy mis-steps the ban will engender.

Why States Should "Opt Out" Or Modify the Lifetime Drug Felony Conviction Ban

- **The lifetime drug felony conviction ban will jeopardize drug and alcohol treatment services.**

Many treatment programs depend on public benefits (including welfare and Food Stamps) to cover the cost of treatment. Those benefits constitute a substantial portion of funding for residential programs, which need them to pay for the recipients' room and board. The ban will leave significant gaps in treatment program budgets (particularly those that serve women), will result in the denial of care to individuals who want and need treatment and may even force some programs to close. It also will impede the efforts of drug courts and other initiatives that divert addicted offenders from prison to treatment.

- **The lifetime drug felony conviction ban hurts children.**

When a mother is denied cash assistance or food stamps, her children suffer. A family's funds go toward caring for the entire family, not just the individuals who qualify for federal assistance. Food stamps and cash support are essential to the health and stability of families.

- **The lifetime drug felony conviction ban will increase states' costs.**

Persons denied TANF and Food Stamp benefits because of the drug felony conviction ban, including those who after their conviction completed drug treatment, worked then lost jobs, will turn to state general assistance and social services for support. Parents who are denied benefits may lose their children to the child welfare and foster care systems at a great financial cost to the taxpayer and great emotional cost to the children. Some may turn to crime to support their families and themselves, and inevitably enter the crowded and costly criminal justice system.

- **The lifetime drug felony conviction ban is unfair.**

A permanent ban on receipt of benefits, regardless of what the individuals did after the conviction to become productive citizens, is unfair. People who overcome an addiction, go to school, work, pay taxes or otherwise demonstrate their responsibility should not be punished for the rest of their lives if at a future time they need TANF or Food Stamps.

What States Must Do If They Do Not Opt Out or Modify the Ban

Applicants for TANF and Food Stamp benefits will be required to disclose their own or a household member's drug-related convictions in writing (the federal law does not require the welfare system to have access to criminal justice records to check whether applicants have convictions). A family's benefits will be reduced by the amount that would have been provided for the individual with the felony conviction. This provision applies only to TANF and Food Stamps and does not affect eligibility for Medicaid or any other federal benefits or other federally funded programs.

For More Information Contact:

Paul Samuels 153 Waverly Place, New York, New York 10014, (212) 243-1313, fax (212) 675-0286, e-mail psamuels@lac-dc.org.

Gwen Rubinstein 236 Massachusetts Avenue, NE, Suite 505, Washington, D.C. 20002 (202) 544-5478, fax (202) 544-5712, e-mail gwenrr@lac-dc.org.