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Promoting Successful Rehabilitation and Reentry of Ex-Drug Offenders

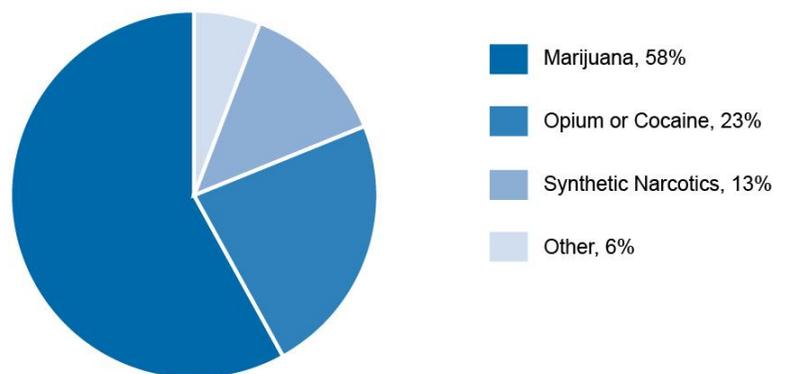
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To promote the successful rehabilitation and reentry of ex-drug offenders, Texas must join the 41 states that have passed legislation eliminating or modifying the ban that prevents former drug felons from receiving Supplemental Nutrition Assistance Program (SNAP) benefits. SNAP, formerly known as food stamps, is a federally funded nutrition assistance program that serves over 3.5 million Texans, including nearly 2 million children, as well as working poor, disabled, and elderly adults.¹ It is the main public program to combat hunger and provide nutritious foods for low-income families and individuals. The program has no restrictions on individuals who have committed felonies, including violent crimes and sexual offenses, with the exception of those who have committed a drug-related offense. Any individual who has been convicted of a drug-related crime since 1996 is banned from receiving SNAP for life in the state of Texas. This outdated ban is counterproductive to helping former offenders reintegrate into society, feed their families, and avoid recidivism.

History of Drug Felon Ban

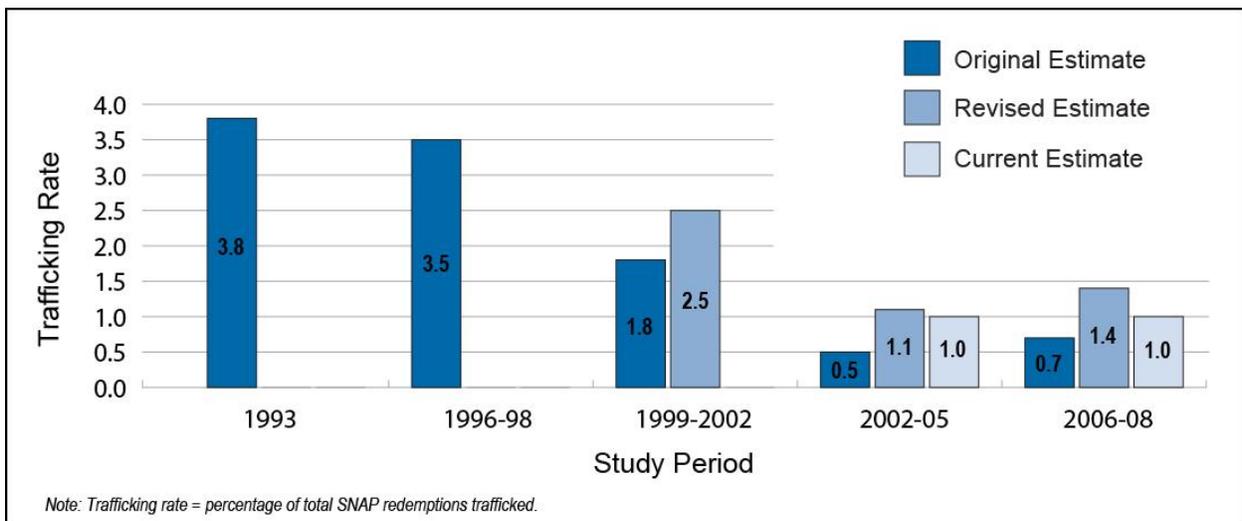
The drug felon ban in the SNAP program is originally connected to our country's attempt to combat the rise of new drugs and drug-users. In 1996, President Bill Clinton signed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) which imposed a lifetime ban on receiving food stamps or cash assistance (TANF) for those convicted of a drug felony.

Drug Possession Arrests by Drug Type in Texas



These measures were imposed during a peak of drug use and drug-related violent crime in our nation, amid fears that addicts would trade their food stamps for drugs. Two things have changed since then:

1. Drug use trends in Texas have shifted, with the number of individuals using marijuana making up an increasingly larger percentage of drug users than those using cocaine and methamphetamines.² Violent crime rates have also decreased in the United States since the mid-1990s.
2. The security and integrity of the food stamp program has increased substantially since the shift to Electronic Benefit Transfer (EBT) systems of disbursement and redemption. USDA has noted a dramatic drop in the level of benefit trafficking since this change, and levels of overpayment due to fraud are at a historic low.³ This has reduced the concern in many states that SNAP benefits will be traded or trafficked for drug-related purposes.



As a result of the shift in drug use patterns and the switch to electronic benefits, many states have taken advantage of the federal rules that allow them to waive or modify the bans placed on TANF and SNAP. State policymakers have recognized that low-level drug possession crimes were not the target of the original drug felon ban and that the outdated federal law was inhibiting low-level drug offenders from receiving the support needed to successfully reenter society.⁴

The Impact of the SNAP Lifetime Ban on Texas

Last year, 22,705 individuals were released from a state jail facility in Texas. One in three of them had completed their sentence for a minor drug possession conviction.⁵ Upon release, the vast majority of ex-offenders are not provided community supervision or support services, such as job training or case management, to promote and monitor successful reentry into society.⁶ It is also unlikely that individuals released from state jails received rehabilitative or workforce development services while incarcerated.⁷ As a result, low-level offenders often return to society with few resources and limited support networks. In addition, having a criminal record makes it more difficult for them to obtain employment, housing, and public support services.⁸ Therefore, it is no surprise that offenders who leave state jails have significantly higher rates of recidivism

than federal prison inmates in Texas, despite often having committed less serious crimes and having a shorter criminal record.⁹ The impact of a “revolving door” jail system that does not prepare or assist inmates in their reentry is not only a detriment to society, but to the children, families, and communities of the offender.

The ban on drug felons receiving SNAP can also undermine their ability to reunite with and support their children. Former drug offenders who are struggling to earn an income and who cannot receive SNAP benefits can quickly become a drain on their families often limited food budget. Instead of being capable of providing for themselves and those that depend on them, parents with even a relatively minor drug conviction can become a financial burden – without earnings or SNAP benefits they are literally taking food out of the mouths of their children, which may lead to them reoffending. In other words, prohibiting an ex-drug offender from receiving food assistance and other social supports not only punishes that individual, but also the children, families, and communities that are connected to them.

In sum, when an individual completes restitution for a crime, regardless of the nature of the crime or the facility in which they were housed, they need support to transition back to society. This support must help the former offender obtain basic necessities including safe housing, stable employment, healthcare services, **and** adequate nutrition. SNAP, in combination with other supports, can prevent an ex-offender from returning to crime or drugs. SNAP, in particular, has been recognized as one of the most successful and reliable safety net programs in lifting individuals out of poverty and supporting those who are struggling to get by. Because many ex-offenders end up working in low wage jobs, such as in the service and hospitality industry, they greatly benefit from the income support provided by SNAP.

Legislative Options

The federal law that instituted the SNAP ban for former drug felons requires that states pass legislation to eliminate or alter the policy. Therefore, the Texas Legislature must take action to remove this barrier to rehabilitation and reentry.

Eliminating the ban completely is the most effective way for the Texas legislature to increase access to the SNAP program and decrease food insecurity in the state. The Legislative Budget Board recommends¹⁰ this over other legislative options, citing in a recent report that it would streamline the administrative complexity of SNAP and save the state seven full time equivalent positions, increase federal funds flowing to the state, and decrease risk of hunger among families and individuals that would be newly eligible for the program.

Based on a review of the actions other states have taken, Texas has several other models for legislative action on this issue:

1. Modify the ban to allow those with a drug possession felony to receive SNAP.

This option would allow a portion of ex-drug offenders to access SNAP, but would still prohibit some offenders from receiving assistance and therefore would not reduce the risk of food insecurity as substantially. Further, the administrative burden on the state eligibility workers would not decrease. In fact, the modification could make the SNAP program more difficult to administer because staff would have to distinguish between different drug offense classifications when determining eligibility.

2. Modify the ban to allow those who have successfully completed drug treatment services to receive SNAP.

This option would increase the number of former drug offenders eligible to receive SNAP and help ensure that those who did receive SNAP benefits were on the road to recovery. However, this option would increase the monitoring requirements on state agency staff in administering the SNAP program. Additionally, drug treatment services may not be equally available in all regions of the state, making it difficult for all ex-drug offenders to satisfy this requirement.

3. Modify the ban to allow those who have gone one year without a repeat drug arrest or conviction to receive SNAP.

A time-delayed eligibility option would increase access to SNAP for ex-drug offenders but would deny benefits to the most recently released. Often, this is the period during which an offender and their family are most vulnerable and in need of assistance. Additionally, this would not reduce the administrative burden on state eligibility workers and could in fact increase the complexity of their eligibility determination criteria.

Conclusion

To date, 16 states and Washington DC have chosen to completely eliminate the ban for drug felons to access food stamps including New Mexico, Oklahoma, and Pennsylvania. Four states, including Arkansas and Florida, have passed legislation to modify the ban to allow those with a simple drug possession charge to be eligible for SNAP. Another 18 states, including Utah and Kentucky, have modified the ban to allow former drug felons who have completed a drug treatment program, agreed to periodic drug testing, or remain in compliance with their probation or parole services to be eligible to receive food stamps. Finally, two states, Louisiana and North Carolina, have implemented a waiting period of 6 months to one year after release before a former drug felon is eligible for SNAP benefits. Through these modifications, former offenders in those 41 states have an increased ability to provide for the basic needs of themselves and their families and a higher likelihood of moving forward towards successful reintegration. Texas has a variety of legislative options to consider in altering the SNAP drug felon ban to make it more effective in its original aim; to help move individuals from getting by to getting ahead. By eliminating or modifying the ban, Texas can ensure that a minor drug possession conviction does not push a person into a cycle of crime and poverty without a path to prosperity.

For more information or to request an interview, please contact Brian Stephens at stephens@cphp.org or 512.823.2871.

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Endnotes

- ¹ HHSC Monthly SNAP Cases and Recipients Statewide, <http://www.hhsc.state.tx.us/research/SNAP-Statewide.asp>
- ² National Institute on Drug Abuse, http://www.drugabuse.gov/sites/default/files/drugfactsnationtrends_1.pdf
- ³ http://www.fns.usda.gov/snap/fraud/fraud_2.htm
- ⁴ Marjorie Valbrun, Food Stamp Bans Under Review, Many States Seek Prison Savings. <http://americaswire.org/drupal7/?q=content/food-stamp-bans-under-review-many-states-seek-prison-savings>
- ⁵ Texas Department of Criminal Justice, Fiscal Year 2011 Statistical Report, 44. http://www.tdcj.state.tx.us/documents/Statistical_Report_2011.pdf
- ⁶ Texas Department of Criminal Justice, Fiscal Year 2011 Statistical Report, 47.
- ⁷ Jeanette Moll, Putting Corrections Back In State Jails, 2.
- ⁸ Texas Criminal Justice Coalition, Solutions for Confinement & Reentry, <http://www.texascjc.org/basic-facts-2>
- ⁹ State Jail Inmates: 64.2% rearrested within 3 years; 31.9% re-incarcerated within 3 years
Federal Prison Inmates: 48.8% rearrested with 3 years; 26% re-incarcerated after 3 years
- ¹⁰ Legislative Budget Board, Executive Summary of LBB Reports, January 2013. 151. <http://www.lbb.state.tx.us/GEER/Government%20Effectiveness%20and%20Efficiency%20Report%202012%20Summary.pdf>