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Temporary Assistance for Needy Families Protects the Poorest Texas Children

Senate Bill 11 Would Hurt Kids

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Introduction

Helping needy families with children is both in their interest and in ours as a society. One way we help is through cash assistance for the poorest families, though we require parents who can to move from welfare to work. Texas has 718,000 families with children living in poverty. Of those, fewer than 45,000 families receive cash assistance. They are the poorest of the poor. Senator Jane Nelson, Chair of the Health and Human Services Committee, has filed [Senate Bill 11](#), which proposes a variety of changes to cash assistance. This paper explains how Senate Bill 11 would dramatically weaken this important part of our state's protections for children.

Cash Assistance

Every year Texas receives a block grant from the federal government, called Temporary Assistance for Needy Families (TANF), which the state can spend on helping low-income families. Cash assistance, child care services, family support programs, adult education and training services, and pre-kindergarten and extended day programs are all TANF services. The federal government requires "maintenance of effort" (MOE) from state funds for the state to qualify for continued federal funding.

TANF provides cash assistance only to very poor families with children.¹ An adult without children is not eligible to receive cash assistance. Generally, an adult receiving cash assistance is unemployed or disabled. The Health and Human Services Commission (HHSC) administers TANF.

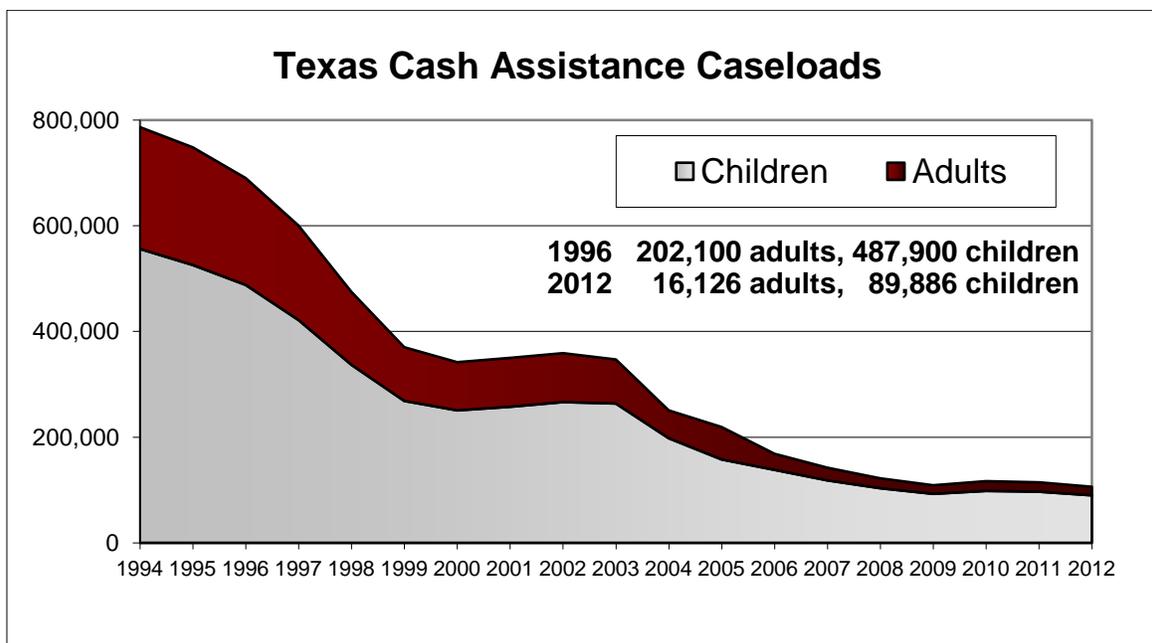
TANF is laser focused on work. Unless exempted for good cause, adults who receive cash assistance must actively seek employment or participate in work activities. If they do not, they are denied benefits. The Texas Workforce Commission (TWC) administers the work program called TANF Choices.²

To be eligible for TANF cash assistance, a Texas family's assets cannot exceed \$1,000 and its income must be below about 12 percent of the federal poverty level. For example, a family of three must have an income of no more than \$188 a month to qualify. The maximum monthly grant is only 17 percent of the federal poverty level. The maximum monthly grant for a family of three is about \$271.



In FY 2012, on average each month, about 106,000 Texans received TANF cash assistance, composed of about 90,000 children and 16,000 adults. Some TANF grants include a cash benefit for the adult and the children; others include a cash benefit for only the children. A family where the mother is a “recipient” along with her two children receives a larger benefit than a family where the mother is not a “recipient,” but the two children are. Of the children in the TANF program, more than two-thirds are in what are called “child-only” cases, meaning that the adult in the case is not receiving benefits, just the children.

In federal fiscal 2011, in Texas, of the total \$840 million in state and federal TANF funding, only \$104 million went to cash assistance, about 12 percent. As the graph below shows, since welfare reform in 1996, Texas has dramatically cut the number receiving cash assistance. Texas is 46th among the states in the share of TANF funds going to cash assistance.



Senate Bill 11 proposes a new set of policies that would cut assistance to children even further.

Time Limits and Exemptions

Current Law

The length of time individuals may receive cash assistance is limited by both state and federal law. The rules are overly complex, particularly the tiered state time limit.³

- State time limit:** Based on education and work experience, state law imposes a limit of 12, 24, or 36 months on cases with an adult recipient. When the state time limit is reached, the adult recipient becomes ineligible to receive benefits for five years, after which time they can reapply, subject to the federal lifetime limit of 60 months. Benefits continue to the children.

- **Federal time limit:** Federal law requires a state to impose a lifetime limit of 60 months on cases with an adult recipient (although it allows exceptions for up to 20 percent of the caseload). When this time limit is reached, the whole family loses eligibility, including the children. If there is no adult recipient, this limit does not apply. In other words, the federal time limit does not apply to child-only cases.

Time limits start when the state places an adult recipient in a work program. Texas has about 105 rural counties (accounting for about ten percent of the TANF caseload) that have no access to employment and training programs. Recipients in these counties are not subject to the shorter state time limits, but they are subject to the 60-month federal time limit.

By rule, HHSC can exempt adult recipients from state time limits in three circumstances: 1) when severe personal hardship prevents employment; 2) when community economic factors prevent employment; and 3) when the state is unable to provide support services. HHSC determines whether an individual applicant meets the requirements for an exemption.

Proposed Law

In Article 4, Senate Bill 11 would radically depart from current law in ways that hurt children. While the name TANF includes the term “temporary,” as the successor of Aid to Families with Dependent Children (AFDC), TANF has always exempted some adults from time limits and has never required a state to run the clock on child-only cases.

SB 11 Imposes Time Limits on Child-Only Cases: Senate Bill 11 would impose a 36-month lifetime limit for receiving TANF cash assistance on everyone without an exemption, including children in child-only cases. Section 4.02 provides that, HHSC:

. . . shall limit financial assistance provided to a person and the person’s family to a cumulative total of 36 months of financial assistance benefits and 12 months of transitional benefits.

(Transitional benefits are non-cash benefits such as child care.) By use of the broad term “person” and “person’s family,” Senate Bill 11 excludes no one. For example, under current law, once an adult recipient is timed out, their children can still receive benefits. Imposing a time limit on child-only cases is to consign these children to destitution. Studies show that families who lose TANF are often left without transportation, electricity, housing, or even adequate food.

If Senate Bill 11 were enacted, Texas would join Arizona as one of only two states imposing time limits on child-only cases, and even Arizona doesn’t run them on all kinship cases.

SB 11 Devastates Kinship Care: One problem of time limiting child-only cases is the negative consequence to the state’s policy of encouraging kinship placement when a parent is unfit. Think of a grandmother or aunt who steps up to become the children’s caretaker when the parent is unable to safely parent. Currently more than 7,000 of these Good Samaritans are providing kinship care to about 14,000 children.

Under current law, though they do not receive a cash benefit in their own right, they are the “payee” of the children’s benefit. TANF can make the difference between a grandmother being able to provide care or not. Senate Bill 11 would terminate cash assistance to these families after 36 months.

Senate Bill 11’s approach to TANF undermines what the Legislature has done to encourage the Department of Family and Protective Services to maximize kinship care instead of foster care. The 2009 Legislature created Permanency Care Assistance (PCA) to provide financial support to relatives taking custody of children in cases brought by Child Protective Services (CPS). PCA pays \$400 to \$545 per month per child until they are 18. Yet Senate Bill 11 proposes to time limit relatives caring for children in similar circumstances for a much smaller benefit to only 36 months.

Applying time limits to child-only cases is likely to increase the number of children coming into state foster care and then perhaps onto PCA. Foster care cost about \$22 a day. PCA is about \$13 per day. TANF is about \$3 per day.

Tragically, denying cash assistance to TANF children after 36 months will likely increase the number of children forced into state foster care and then perhaps onto PCA. Basic foster care is \$22.15 a day, PCA is \$13 a day, and TANF is about \$3 per day.

SB 11 Undermines Newborn Life: In a state that puts a high value on the sanctity of life, Senate Bill 11 is particularly problematic. Because it would impose a lifetime limit of 36 months, babies born to a mother who had previously reached her 36-month limit would be ineligible for any assistance. We would deny help to these most vulnerable newborns.

SB 11 Unfairly Starts the Clock: Senate Bill 11 would also unfairly start the clock on benefits before the state even places an adult recipient in an available work program. Under current law, HHSC can exempt an adult from time limits if the state can’t provide support services. Senate Bill 11 proposes not only to eliminate this exemption, but to start the clock running before the state even places a parent in a work program. This provision is like a teacher starting the clock on a timed test before passing it out to the students.

SB 11 Unwisely Narrows Grounds for Exemptions: As discussed earlier, current law delegates to HHSC the authority to exempt adult recipients from state time limits by rule in three circumstances: 1) when severe personal hardship prevents employment; 2) when community economic factors prevent employment; and 3) when the state is unable to provide support services.

Senate Bill 11 narrows these current three grounds for exemptions to only one ground of hardship. Striking community economic factors that prevent employment and the inability of the state to provide services means ending exemptions for families in high unemployment communities or in rural communities where TWC can’t provide services. Through no fault of their own, these families and their children would be left destitute.

SB 11 Unwisely Provides for Joint Rulemaking: Senate Bill 11 unwisely delegates joint rulemaking to HHSC and TWC. Joint rulemaking between two agencies is always difficult. If the agencies can't agree, nothing happens. Given TWC's historical focus on caseload reduction, it is fair to project that under this provision if TWC agreed to any exemptions at all, they would be far too narrow. (Under current law, HHSC and TWC already have joint rulemaking authority with regard to federal time limits, but that has not been a problem since federal time limits hardly ever come into play because of the state's stricter time limits.)

SB 11 Has No Phase-In: Senate Bill 11 would become effective on September 1. It has no phase in, but would instead apply the new rules retroactively. Consequently the number of children receiving TANF would plunge overnight. All children who had already received 36 months of benefits would be immediately cut off. As others reached 36 months, they would lose benefits. By the time the Legislature met in 2015, far fewer children would be helped by TANF.

If SB 11 were enacted, by the time the Legislature met in 2015, far fewer children would be helped by TANF.

Work and Exemptions

Current Law

Generally current law already requires that every parent participate in the work program. Unlike a grandmother caring for kids, a parent cannot forgo a TANF grant for themselves, take the money for their children, and thereby escape participation in the work program. Unless they have an exemption, a recipient parent must work at least 30 hours per week or participate for at least 20 hours a week in a TANF employment program.

Proposed Law

In Article 2, Senate Bill 11 proposes that unless they have an exemption, a non-recipient parent, a parent who does not receive TANF cash assistance but is the caretaker for children who do, must work at least 30 hours per week or participate in 20 hours of TANF work/training activities.

If generally a parent can't opt out of being a recipient parent, who are these non-recipient parents? They fall into several categories, for example, parents who have timed out—about 1,000 parents with 2,000 children.

SB 11 Pushes A Good Policy Too Far: We want people to move from welfare to work. But timed out parents played by the rules—they were not sanctioned off TANF—but were unsuccessful in securing a job within the time limit that pays enough to no longer qualify for TANF. They may live in areas of high unemployment. They may struggle with mental health issues. There are many reasons why parents are unsuccessful. Whatever the reason, they remain parents with children in very vulnerable circumstances. Even if it cuts off the adult, the state should not cut off the children.

Of course, it is reasonable to say that parents should continue to try to work if their children continue to receive a cash grant as part of a child-only case, except that imposing this requirement upon the parent sets up their children to lose TANF. Under current law, if a non-recipient parent is timed-out, the children can still receive benefits. Once a continuing work requirement is imposed, however, if the non-recipient parent can't remain compliant with the program over the course of many years, they are subject to a full-family sanction, cutting their children off benefits.

SB 11 Penalizes Two-Parent Families: Under Senate Bill 11, as now, a parent caring for a family member with a disability, a parent of a child under one year of age, or a parent receiving SSI benefits are exempt from the work requirement. But Senate Bill 11 proposes to repeal the work exemption for a parent in a two-parent family caring for a child under the age of three, forcing a parent in a two-parent family to put a child under three into child care so the parent can work. Because both parents are then subject to the program's rules, these young children are at double the risk of being hit with full-family sanctions.

SB 11 Unwisely Delegates Rulemaking to TWC: Senate Bill 11 proposes to move the authority to establish good cause for work exemptions from HHSC to TWC. This is not even joint rulemaking, but would be exclusively TWC rulemaking. TWC is not the right agency for this responsibility. HHSC is responsible for the TANF State Plan and for meeting the state's TANF goals. Failure to meet those goals impinges on HHSC's other responsibilities such as child protection. HHSC also has far greater expertise in disability determination. Finally, as mentioned, given TWC's historical approach to caseload reduction, it is fair to project that exemptions would be as rare in Texas as rain.

Non-Recipient Parents and the Personal Responsibility Agreement

Current Law

All adult recipients must sign [a personal responsibility agreement](#) that defines the responsibilities of the state and of the recipients and encourages personal responsibility. If an adult recipient fails to comply with the personal responsibility agreement, they can be sanctioned off the program, losing all benefits for themselves and their children.

Proposed Law

In Article 5, Senate Bill 11 would require both recipient and non-recipient parents to sign and comply with the personal responsibility agreement (but not non-recipient caretaker relatives such as a grandmother caring for her grandchildren). Imposing these requirements on non-recipient parents (those who do not receive a benefit) sets up more parents to be sanctioned off the program, which means more children losing benefits under full-family sanctions.

Drug Testing—Harsh Sanctions Instead of Effective Treatment

Current Law

No one wants people using drugs, particularly if they are caring for children. For this reason, current law already prohibits TANF recipients from using drugs or abusing alcohol. In the personal responsibility agreement, adult recipients must promise that they will not use, sell, or possess marijuana or other controlled substance or abuse alcohol. TWC may also impose additional requirements for participating in treatment as part of the work preparation plan, and TWC can impose sanctions for failure to cooperate with such requirements.

Proposed Law

In Article 1, Senate Bill 11 would require screening for use of controlled substances for each adult TANF applicant and recipient upon recertification, including minor parents and those applying solely on behalf of a child (such as a grandmother). HHSC would develop and implement a drug screening tool. If the screening turned up problems, the applicant would have to submit to a drug test. If the applicant failed the drug test, the entire family would be ineligible for TANF for 12 months. The applicant could reapply after 6 months with proof of treatment and a clean test. Some applicants and recipients would be required to take a drug test without prior screening, including those who previously failed a drug test and drug felons. Three failed tests would result in permanent ineligibility for the applicant and their family. Before denying benefits, HHSC would have to notify the applicant of their test results and determination of ineligibility, and confirm the results with a second test. HHSC would have to report those who fail their test to the Department of Family Protective Services (DFPS).

SB 11's Drug Testing Is Unnecessary and Costly: States that have tested TANF applicants have found little drug usage, but paid a lot for drug tests. Under Senate Bill 11, the testing would be paid for by the TANF block grant, leaving Texas even less money to pay for things like child care subsidies, adult education and training programs, and employment services.

Smart Drug Policy Offers Treatment First: The main problem with these drug testing provisions, though, is that Senate Bill 11 moves directly to harsh sanctions instead of offering treatment first. If an adult applying for TANF has a substance abuse problem, removing what may be the only source of income to care for the children does nothing to promote successful treatment, but instead only increases the stress on the family, making successful treatment less likely. Drug problems also often occur in conjunction with mental health issues and other problems that may need to be addressed to ensure that the head of household is able to overcome their substance abuse issue. If an applicant refuses or fails in treatment, then additional sanctions would be appropriate, though a full-family sanction is never appropriate.

SB 11's Full-Family Sanctions Harmful and Unnecessary: Senate Bill 11 proposes to automatically disqualify children of an adult who tests positive. The only rationale for a full-family sanction is the fear that the adult will use the children's benefit to buy drugs. But an easy

alternative is to use a “protective” payee. Rather than give the money to the caretaker who tested positive for drugs, the state can select an alternative payee such as a grandmother who would spend the benefit directly on the children. Current law already provides for protective payees when a parent can’t be trusted to act in the best interest of the children. House Bill [249](#) (Laubenberg) proposes a protective payee for the children rather than a full-family sanction.

Conclusion

TANF cash assistance is down dramatically since welfare reform and has fallen further since 2003, despite increasing child poverty. If Senate Bill 11 were enacted, even fewer children would be helped by TANF, hurting the neediest children.

Talking TANF: A Glossary

Recipient parent: a parent who is receiving benefits

Non-recipient parent: a parent who is ineligible to receive benefits

Recipient adult: a parent or caretaker who is receiving benefits

Non-recipient adult: a parent or caretaker who is not receiving benefits

Child-only case: the children, but not the adult, receive benefits

Payee: Non-parent caretaker serving only as payee for children

Protective Payee: Non-parent, non-caretaker who manages benefits

Full-family sanction: denying benefits both to an adult and children

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 For Financial Assistance and Services Program, see [Texas Human Resources Code, Chapter 31](#).

For the state plan, see [Texas State Plan for TANF](#).

² For Choices regulations, see [Texas Administrative Code, Chapter 811](#).

³ State time limits: <http://www.dads.state.tx.us/handbooks/TexasWorks/A/2500/index.htm>

Federal time limits: <http://www.dads.state.tx.us/handbooks/TexasWorks/A/1900/index.htm>