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**MEMORANDUM**

DATE: January 25, 2011

TO: All Members of the Delaware State Senate  
and House of Representatives

FROM: Ms. Daniese McMullin-Powell, Chairperson  
State Council for Persons with Disabilities

RE: S.B. 12 [Removal of Bar on Food Supplement Program Eligibility Based on Drug Conviction]

The State Council for Persons with Disabilities (SCPD) has reviewed S.B. 12 which removes the prohibition against persons convicted of any drug felony from receiving federal food benefit assistance. As background, the current statute (Title 31 Del.C. §605) bars Food Supplement Program (a/k/a Food Stamps) eligibility for persons convicted of drug felonies subject to some exceptions. S.B. 13 would result in the following simplified §605:

Pursuant to the option granted the State by 21 U.S.C. §862a(d)(1), an individual convicted under federal or state law of a felony involving possession, distribution or use of a controlled substance shall be exempt from the prohibition contained in 21 U.S.C. §862a(a) against eligibility for food stamp program benefits for such convictions.

SCPD endorses the proposed legislation which would have the same effect as legislation (S.B. 255) introduced in the last General Assembly. Council has the following observations.

Given the common co-occurrence of substance abuse with mental health and other disorders, the bill would ostensibly enhance flexibility in State "safety net" programs. On a practical level, if a person lacks access to basic sustenance for self and family, the prospect for recidivism may increase. The attached December 17, 2009 article notes that enforcement of the ban seriously undermines successful reintegration of persons released from prison into the community and has a disproportionate effect on women. The House Committee report on the predecessor bill noted the favorable effect on inmate transition efforts:

Committee Findings: The committee found that this law legalizes Delaware's "opt out"

option from the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The committee also found that this bill aligns with the state's prisoner re-entry effort.

Moreover, it is anomalous to bar food benefits from a person convicted of a drug offense when no such bar exists under federal law for persons convicted of other crimes (e.g. murder; rape).

Consistent with the attached May 10, 2010 DHSS memo commenting on the predecessor bill, at least nineteen (19) states have already lifted the lifetime drug felony conviction ban altogether.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position or observations on the proposed legislation.

cc: The Honorable Jack A. Markell  
Mr. Brian Hartman, Esq.  
Governor's Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

sb 12 food stamp bar 1-25-11

# States deny food stamps, public assistance to drug offenders

THURSDAY, 17 DECEMBER 2009 18:27 DR. HENRIE M. TREADWELL AND ELISABETH KINGSBURY, J.D.

ATLANTA- Each year, hundreds of thousands of people released from U.S. prisons after felony drug convictions discover that their only punishment. They are permanently denied the life-sustaining benefits of food stamps and other public assistance.

The restrictions come from the 1996 welfare reform legislation, which was adopted at a time when politicians in Washington were maneuvering to be perceived as tough on crime. It's clear that their fight for political survival blinded them to the negative impacts this ban would have on men and women trying to reestablish their lives after prison stays. Needless to say, it also has a huge impact on their children.

Plain and simple, this is public policy at its worst. With ex-convicts already facing monumental hurdles to overcome, ranging from dealing with health concerns to trying to find jobs to readjusting to their families and communities, this policy makes successfully doing any of those even more difficult.

Researchers have found that policies such as these are particularly hard on women, at a time when the female inmate population is rising. Juliana van Olphen, of San Francisco State University, says that punitive policies related to employment, housing, education, welfare, and treatment for mental health or substance abuse make it extremely difficult for drug users and former users to live normal lives and reintegrate into society.

"These policies have adversely and disproportionately affected women, especially poor women, ruining their chances of finding employment, housing or education upon release," van Olphen said after her research was published earlier this year in BioMed Central's open access journal, Substance Abuse Treatment, Prevention, and Policy.

Some states, however, have discovered that they can limit or remove the federal ban. Under the law, anyone convicted of a federal or state felony involving the possession, use or distribution of drugs is permanently banned from receiving food stamps or assistance under Temporary Assistance for Needy Families. But states are allowed to enact legislation changing or eliminating the ban. Unless they do, people with drug felony convictions can't receive food stamps or welfare assistance.

A recent review of the state policies indicates that:

- Eleven states have adopted the federal restrictions without any changes. In these states, benefits are permanently denied. It doesn't matter how long ago the crime was committed or successful the rehabilitation whether through a strong work history, drug and alcohol counseling, or by avoiding repeat offenses.
- Thirty states have altered the ban to allow people who meet certain conditions to receive food stamps or welfare assistance. Most times, the conditions include participating in alcohol and drug treatment sessions, passing drug tests, or staying out of trouble for a certain period of time.
- Nine states have lifted the ban entirely.

Still, in some states lawmakers are not even aware of the federal ban. In West Virginia, one of the states where it is in place, a key state legislator, House Health and Human Resources Chairman Don Perdue, researched how the ban was enacted—but only after a colleague passed along a complaint from a constituent. He learned that it was tucked into legislation with mundane "rules," and did not get a separate vote or notice from lawmakers.

Now, Perdue says he will consider offering legislation to address the ban.

Across the country, advocates are also pushing state legislatures to ease or eliminate the ban on people convicted of drug felonies receiving food stamps or welfare, because it is the right thing to do.

How can elected officials, civic leaders and community activists encourage ex-convicts to reestablish ties with their families and communities when laws such as this one make that task harder and, at times, even impossible?

It's time to change the laws.

(Dr. Henrie M. Treadwell is director of Community Voices of Morehouse School of Medicine. This organization works to improve health services and health-care access for all. Elisabeth Kingsbury, J.D., is an attorney and senior researcher for Community Voices. Media seeking interviews with Dr. Treadwell or Ms. Kingsbury should contact Alicia Ingram at [ingramalicia@bellsouth.net](mailto:ingramalicia@bellsouth.net) or 404-493-1724 to schedule.)



## Delaware Health And Social Services

### Office of the Secretary

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To: Members of the General Assembly  
From: Debbie Gottschalk (302 416-0318 or [deborah.gottschalk@state.de.us](mailto:deborah.gottschalk@state.de.us))  
Date: May 10, 2010  
Re: SB 255, Expanding Access to Federal Food Assistance

#### Current Situation

Since August 1996, the states have been allowed, by federal law, to opt out of the provision that prevents people convicted of drug felonies, on or after August 22, 1996 from receiving food benefits from the Supplemental Nutrition Assistance Program (SNAP), formerly known as Food Stamps.

As of June 2009, 19 states have no ban on drug felons receiving SNAP assistance and 19 more have lifted part of this prohibition. Delaware has a limited opt-out in State Law. This legislation seeks to completely opt out of the prohibition.

#### Why?

This is all federal money. There is no additional administrative cost to the State. These 500 adults are in households that receive food benefit assistance for others, usually children in the household. Adding the additional household member to the Food Stamp case would provide about \$150 more a month to each family and not increase administrative costs. This federal money will be spent immediately in the local economy. Passing SB 255 will decrease administrative time spent processing applications that are denied under current law and defending hearings when those decisions are appealed.

Federal law does not permit us to deny Food Stamps to people convicted of felonies such as murder, rape, fraud (other than Food Stamp), and burglary. Someone can have a felony for marijuana and not get Food Stamps, yet someone convicted of murder or sexual assault can.

This law applies to any drug conviction since August 1996. That is now 14 years and many people are no longer on probation or under Court mandated treatment. With the recession, people who never needed help before are seeking assistance with food. People may not have kept paperwork showing completion of treatment programs.

Convicted drug felons need to eat. If they do not receive Food Stamps, they will likely eat food purchased by friends and family members with Food Stamps and they will use food closets. Both of these scenarios deplete the amount of food available to needy people in the community when instead federal funds could be accessed to help these same people by food. Not allowing parents with drug felonies to receive Food Stamps may literally take food from their children.

#### Protections against fraud and misuse:

Food Assistance is provided with Electronic Benefit Transfer Cards (EBT). The cards are used like debit cards. There are no longer coupons that can be sold or traded for drugs.

There is an existing, very strong, State (and federal) law in place to permanently bar persons who engage in Food Stamp fraud from receiving future assistance. This includes trafficking in Food Stamps.

DHSS checks DELJIS monthly to make sure food benefits stop for people who are incarcerated (including those on violations of probation for failing to comply with treatment requirements or failing drug tests). DELJIS is also cross referenced for fleeing felons and probation violations. If someone enters prison with a food benefit or DSS I.D. card, the DSS Director's office is immediately notified by DOC and action is taken to stop the benefits.