

2016 Regular Session

HOUSE BILL NO. 263

BY REPRESENTATIVE MACK

PUBLIC ASSISTANCE: Prohibits persons with two or more felony convictions from receiving public benefits

1 AN ACT

2 To enact Chapter 1-A of Title 36 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 36:21 through 26, relative to eligibility for public benefits; to provide for
4 definitions; to prohibit issuance of certain public benefits to persons who have been
5 convicted of, or have pled guilty or nolo contendere to, more than one felony
6 offense; to provide for implementation of and exceptions to the benefits eligibility
7 prohibition; to provide for duties of agencies, departments, boards, commissions, and
8 political subdivisions of the state; to authorize administrative rulemaking; to require
9 reporting; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Chapter 1-A of Title 36 of the Louisiana Revised Statutes of 1950,
12 comprised of R.S. 36:21 through 26, is hereby enacted to read as follows:

13 CHAPTER 1-A. ELIGIBILITY FOR PUBLIC BENEFITS

14 §21. Declaration; purpose

15 A. The legislature hereby finds and declares that the state has a compelling
16 interest in establishing and enforcing safeguards to eliminate the misappropriation
17 of funding for public benefits.

18 B. The purpose of this Chapter is to provide appropriate regulations for
19 publicly funded benefit programs.

1 §22. Definitions

2 As used in this Chapter, the following terms have the meaning ascribed in
3 this Section:

4 (1) "Criminal history" means information collected by criminal justice
5 agencies on individuals consisting of identifiable descriptions and records of
6 convictions and any disposition arising therefrom, including sentencing, correctional
7 supervision, and release, but does not include information collected for intelligence
8 or investigatory purposes, nor does it include any identification information which
9 does not indicate involvement of the individual in the criminal justice system.

10 (2) "Federal public benefit" means any of the following:

11 (a) A grant, contract, loan, professional license, or commercial license
12 provided by an agency of the United States or by appropriated funds of the United
13 States.

14 (b) A welfare, health, public or assisted housing, postsecondary education,
15 food assistance, or unemployment benefit; or any other similar benefit for which
16 payments or assistance are provided to an individual, household, or family eligibility
17 unit by an agency of the United States or by appropriated funds of the United States.

18 (3) "State or local public benefit" means any of the following:

19 (a) A grant, contract, loan, professional license, or commercial license
20 provided by a state agency or local government or by appropriated funds of the state
21 or a local government.

22 (b) A welfare, health, public or assisted housing, postsecondary education,
23 food assistance, or unemployment benefit; or any other similar benefit for which
24 payments or assistance are provided to an individual, household, or family eligibility
25 unit by a state agency or local government or by appropriated funds of the state or
26 a local government.

1 §23. Public benefits; individual eligibility; impact of felony offenses

2 A. Except as provided in R.S. 36:25, notwithstanding any law to the
3 contrary, no person eighteen years of age or older who meets any of the following
4 conditions shall be eligible for any federal, state, or local public benefit in this state:

5 (1) The person has been convicted of more than one offense constituting a
6 felony under the laws of the United States, this state, or any other state, territory, or
7 district of the United States.

8 (2) The person has entered a plea of guilty or nolo contendere to more than
9 one felony charge under the laws of the United States, this state, or any other state,
10 territory, or district of the United States.

11 B. If an eligibility standard with respect to criminal history for a federal,
12 state, or local public benefit administered by an agency, department, board,
13 commission, or political subdivision of the state is more restrictive than the standard
14 provided in Subsection A of this Section, then the more restrictive eligibility
15 standard shall prevail.

16 §24. Benefits eligibility prohibition; implementation; duties of state agencies,
17 departments, boards, commissions, and political subdivisions

18 A. Prior to approving an application or recertification of eligibility of a
19 person eighteen years of age or older for a federal, state, or local public benefit, each
20 agency, department, board, commission, and political subdivision of the state shall
21 review the criminal history of that person.

22 B. If after the review of the criminal history of a person seeking a public
23 benefit as provided in Subsection A of this Section an agency, department, board,
24 commission, or political subdivision of the state determines that the person is subject
25 to the eligibility prohibition provided in R.S. 36:23, then it shall not provide the
26 benefit to that person.

27 C.(1) Each agency, department, board, commission, and political subdivision
28 of the state which administers a program providing a federal, state, or local public
29 benefit is hereby authorized to promulgate all rules and regulations in accordance

1 with the Administrative Procedure Act as may be necessary to implement the
2 provisions of this Chapter.

3 (2) Each agency, department, board, commission, and political subdivision
4 of the state may cooperate with the Louisiana Bureau of Criminal Identification and
5 Information of the office of state police in promulgating the administrative rules
6 authorized in this Subsection.

7 D. It shall be unlawful for an agency, department, board, commission, or
8 political subdivision of this state to provide a federal, state, or local public benefit
9 in violation of the provisions of this Chapter.

10 E. The provisions of this Chapter shall be enforced without regard to race,
11 religion, gender, ethnicity, or national origin.

12 §25. Exceptions

13 A. The benefits eligibility prohibition provided in R.S. 36:23 shall not apply
14 in cases involving any of the following assistance, benefits, programs, and services:

15 (1) Treatment of an emergency medical condition as defined in 42 U.S.C.
16 1396b(v).

17 (2) Short-term, noncash, in-kind emergency disaster relief.

18 (3) Public health assistance for immunizations with respect to immunizable
19 diseases and for testing and treatment of symptoms of communicable diseases
20 whether or not such symptoms are caused by a communicable disease.

21 (4) A program, service, or assistance such as that provided by a soup kitchen,
22 a crisis counseling and intervention service, or short-term shelter specified by federal
23 law or regulation that meets all of the following qualifications:

24 (a) Delivers in-kind services at the community level, including services
25 through public or private nonprofit agencies.

26 (b) Does not condition the provision of assistance, the amount of assistance
27 provided, or the cost of assistance provided on the individual recipient's income or
28 resources.

29 (c) Provides services that are necessary for the protection of life or safety.

1 (5) Competency restoration services and mental health treatment for
2 uninsured forensic patients who are remanded to the state through criminal
3 proceedings.

4 (6) Health services for persons who are incarcerated.

5 (7) Any retirement benefit or survivor benefit provided for in Title 11 of the
6 Louisiana Revised Statutes of 1950.

7 §26. Report

8 On or before January 1, and annually thereafter, each agency, department,
9 board, commission, and political subdivision of the state which administers a
10 program providing a federal, state, or local public benefit shall submit to the
11 legislature a written report addressing its compliance with the requirements of this
12 Chapter.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 263 Original

2016 Regular Session

Mack

Abstract: Prohibits persons who have been convicted of, or have pled guilty or nolo contendere to, more than one felony offense from receiving certain public benefits.

General provisions

Proposed law provides that its purpose is to provide appropriate regulations for publicly funded benefit programs.

Proposed law provides definitions for the terms "criminal history", "federal public benefit", and "state or local public benefit".

Proposed law requires each agency, department, board, commission, and political subdivision of the state which administers a program providing a federal, state, or local public benefit to submit to the legislature an annual report addressing compliance with the prohibition provided in proposed law on issuance of public benefits to persons who have been convicted of, or pled guilty or nolo contendere to, more than one felony offense. Requires that these entities submit the first such report on or before Jan. 1, 2017.

Prohibition on issuance of public benefits

Proposed law provides that with certain exceptions specified therein, notwithstanding any provision of present law to the contrary, no person 18 years of age or older who has been convicted of, or pled guilty or nolo contendere to, more than one felony offense shall be eligible for any federal, state, or local public benefit in this state.

Proposed law stipulates that if an eligibility standard with respect to criminal history for a public benefit is more restrictive than the standard provided in proposed law, then the more restrictive eligibility standard shall prevail.

Proposed law requires each agency, department, board, commission, and political subdivision of the state to review the criminal history of each person 18 years of age or older who applies or seeks recertification for a federal, state, or local public benefit prior to approving issuance of the benefit.

Proposed law provides that if an agency, department, board, commission, or political subdivision determines that a person is subject to the public benefits eligibility prohibition provided in proposed law, then it shall not provide the public benefit to the person. Provides further that it shall be unlawful for any state entity to provide a public benefit in violation of proposed law.

Proposed law authorizes each agency, department, board, commission, and political subdivision of the state which administers a program providing a federal, state, or local public benefit to promulgate all rules and regulations in accordance with the Administrative Procedure Act as may be necessary to implement the provisions of proposed law. Provides further that these state entities may cooperate with the La. Bureau of Criminal Identification and Information in promulgating the administrative rules authorized in proposed law.

Proposed law provides that its provisions shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

Exceptions

Proposed law stipulates that the prohibition on public benefits eligibility based on felony offenses provided therein shall not apply in cases involving any of the following assistance, benefits, programs, and services:

- (1) Treatment of an emergency medical condition as defined in federal law.
- (2) Short-term, noncash, in-kind emergency disaster relief.
- (3) Public health assistance for certain immunizations and for testing and treatment of symptoms of communicable diseases.
- (4) A program, service, or assistance such as that provided by a soup kitchen, a crisis counseling and intervention service, or short-term shelter specified by federal law or regulation that meets all of the following qualifications:
 - (a) Delivers in-kind services at the community level, including services through public or private nonprofit agencies.
 - (b) Does not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources.
 - (c) Provides services that are necessary for the protection of life or safety.
- (5) Competency restoration services and mental health treatment for uninsured forensic patients who are remanded to the state through criminal proceedings.
- (6) Health services for persons who are incarcerated.

(7) Any retirement benefit or survivor benefit provided for in present law.

(Adds R.S. 36:21-26)