



2020 South Dakota Legislature

Senate Bill 96

Introduced by: **Senator Nesiba**

1 **An Act to prohibit the denial of benefits based solely on a controlled substance**
 2 **felony.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That § 28-7A-3 be AMENDED:

5 **28-7A-3. Promulgation of rules.**

6 The department may ~~adopt such rules as may be necessary and desirable to~~
 7 ~~implement the provisions of this chapter. The department may adopt rules to regulate~~
 8 promulgate rules, in accordance with chapter 1-26, regarding:

- 9 (1) Assistance eligibility qualifications except as otherwise provided in § 28-7A-4.1,
 10 application procedure, and assistance level;
- 11 (2) Employability assessment, work activities, and supportive services;
- 12 (3) Conditions of continued eligibility, eligibility time limits, eligibility recertification
 13 periods, and exemptions;
- 14 (4) Program participation requirements, criteria for disqualification, and good cause
 15 exemptions;
- 16 (5) Disqualification for intentional program violation or failure to comply with program
 17 requirements;
- 18 (6) Benefit recovery and recoupment policies and procedures;
- 19 (7) Methods of distribution and payment of moneys appropriated by the Legislature or
 20 received from the federal government for the granting of temporary assistance for
 21 needy families;
- 22 (8) Development of applications, reports, and other forms;
- 23 (9) Enforcement of child support obligations including distribution of collections,
 24 cooperative agreements with courts and law enforcement officials, and such other
 25 rules as may be found necessary or desirable to qualify for federal financial
 26 participation;

- 1 (10) Collection, audit, and reporting of facts and statistics relating to the field of public
2 assistance;
- 3 (11) Compliance with federal reporting and documentation requirements necessary to
4 qualify for federal funds; and
- 5 (12) ~~Such~~ Any other rules and standards of operation and administration within the
6 mandate of this chapter, ~~as may be necessary or desirable to qualify for federal~~
7 financial participation.

8 ~~The rules shall be adopted in accordance with chapter 1-26 and shall be consistent~~
9 ~~with this chapter.~~

10 **Section 2.** That a NEW SECTION be added:

11 **28-7A-4.1. Exemption--Controlled substance felony--Denial of benefits--**
12 **Prohibition.**

13 As permitted in accordance with 21 U.S.C. § 862a(d)(1)(A), this state exempts
14 itself from the application of 21 U.S.C. § 862a(a)(1).

15 The department may not deny benefits otherwise available under this chapter to
16 an applicant solely because the applicant has been convicted, under state or federal law,
17 of an offense that is classified as a felony and which has as an element the possession,
18 use, or distribution of a controlled substance, as defined in § 34-20B-3 or 21 U.S.C. § 802.