

AMENDED IN SENATE AUGUST 23, 2004

AMENDED IN ASSEMBLY MAY 17, 2004

AMENDED IN ASSEMBLY APRIL 19, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1796**

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**Introduced by Assembly Member Leno**  
**(Coauthors: Assembly Members Berg, Goldberg, Hancock,**  
**Koretz, Laird, Lieber, and Steinberg)**  
(Coauthors: Senators Romero and Vasconcellos)

January 7, 2004

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An act to add Section 18901.3 to the Welfare and Institutions Code, relating to human services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1796, as amended, Leno. Food stamps: eligibility.

Existing law provides for the Food Stamp Program, under which food stamps allocated to the state by the federal government are distributed to eligible individuals by each county. Existing law provides that a person convicted of specified felonies related to controlled substances shall be ineligible for aid under the Food Stamp Program.

This bill would provide that a convicted drug felon, with certain exceptions, shall be eligible for aid under the Food Stamp Program. ~~By~~ *The bill would require these Food Stamp Program applicants to have proof of completion of or other affiliation with a government-recognized drug treatment program, or other evidence that the illegal use of controlled substances has ceased.*

*The bill would authorize implementation of its provisions through an all-county letter or similar instruction, and would otherwise require the department to adopt implementing regulations by July 1, 2005.*

By changing eligibility standards under the Food Stamp Program, this bill would increase the responsibilities of counties in the administration of the program, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 18901.3 is added to the Welfare and  
 2 Institutions Code, to read:  
 3 18901.3. (a) Subject to the limitations of subdivision (b),  
 4 pursuant to Section 115(d)(1)(A) of Public Law 104-193 (21  
 5 U.S.C. Sec. 862a(d)(1)(A)), California opts out of the provisions  
 6 of Section 115(a)(2) of Public Law 104-193 (21 U.S.C. Sec.  
 7 862a(a)(2)). A convicted drug felon shall be eligible to receive  
 8 food stamps under this section.  
 9 (b) Subdivision (a) does not apply to a person who has been  
 10 convicted of unlawfully transporting, importing into this state,  
 11 selling, furnishing, administering, giving away, possessing for  
 12 sale, purchasing for purposes of sale, ~~or~~ manufacturing a  
 13 controlled substance, ~~or~~ possessing precursors with the intent to  
 14 manufacture a controlled substance, *or cultivating, harvesting, or*  
 15 *processing marijuana or any part thereof pursuant to Section*  
 16 *11358 of the Health and Safety Code.*



1 (c) Subdivision (a) does not apply to a person who has been  
2 convicted of unlawfully soliciting, inducing, encouraging, or  
3 intimidating a minor to participate in any activity listed in  
4 subdivision (b).

5 (d) As a condition of eligibility to receive food stamps pursuant  
6 to subdivision (a), an applicant convicted of a felony drug offense  
7 that is not excluded under subdivision (b) or (c) shall be required  
8 to provide proof of one of the following subsequent to the most  
9 recent drug-related conviction:

10 (1) Completion of a government-recognized drug treatment  
11 program.

12 (2) Participation in a government-recognized drug treatment  
13 program.

14 (3) Enrollment in a government-recognized drug treatment  
15 program.

16 (4) Placement on a waiting list for a government-recognized  
17 drug treatment program.

18 (5) Other evidence that the illegal use of controlled substances  
19 has ceased, as established by State Department of Social Services  
20 regulations.

21 (e) Notwithstanding the Administrative Procedure Act  
22 (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
23 Division 3 of Title 2 of the Government Code), the department may  
24 implement this section through an all-county letter or similar  
25 instructions from the director no later than January 1, 2005.

26 (f) The department shall adopt regulations as otherwise  
27 necessary to implement this section no later than July 1, 2005.  
28 Emergency regulations adopted for implementation of this section  
29 may be adopted by the director in accordance with the  
30 Administrative Procedure Act. The adoption of emergency  
31 regulations shall be deemed to be an emergency and necessary for  
32 immediate preservation of the public peace, health and safety, or  
33 general welfare. The emergency regulations shall be exempt from  
34 review by the Office of Administrative Law. The emergency  
35 regulations authorized by this section shall be submitted to the  
36 Office of Administrative Law for filing with the Secretary of State  
37 and shall remain in effect for no more than 180 days.

38 SEC. 2. Notwithstanding Section 17610 of the Government  
39 Code, if the Commission on State Mandates determines that this  
40 act contains costs mandated by the state, reimbursement to local



1 agencies and school districts for those costs shall be made pursuant  
2 to Part 7 (commencing with Section 17500) of Division 4 of Title  
3 2 of the Government Code. If the statewide cost of the claim for  
4 reimbursement does not exceed one million dollars (\$1,000,000),  
5 reimbursement shall be made from the State Mandates Claims  
6 Fund.

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