

## Assembly Bill No. 1796

### CHAPTER 932

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

[Approved by Governor September 29, 2004. Filed with Secretary of State September 30, 2004.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1796, 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. 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.

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

SECTION 1. Section 18901.3 is added to the Welfare and Institutions Code, to read:

18901.3. (a) Subject to the limitations of subdivision (b), pursuant to Section 115(d)(1)(A) of Public Law 104-193 (21 U.S.C. Sec. 862a(d)(1)(A)), California opts out of the provisions of Section 115(a)(2) of Public Law 104-193 (21 U.S.C. Sec. 862a(a)(2)). A convicted drug felon shall be eligible to receive food stamps under this section.

(b) Subdivision (a) does not apply to a person who has been convicted of unlawfully transporting, importing into this state, selling, furnishing, administering, giving away, possessing for sale, purchasing for purposes of sale, manufacturing a controlled substance, possessing precursors with the intent to manufacture a controlled substance, or cultivating, harvesting, or processing marijuana or any part thereof pursuant to Section 11358 of the Health and Safety Code.

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

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

- (1) Completion of a government-recognized drug treatment program.
- (2) Participation in a government-recognized drug treatment program.
- (3) Enrollment in a government-recognized drug treatment program.
- (4) Placement on a waiting list for a government-recognized drug treatment program.
- (5) Other evidence that the illegal use of controlled substances has ceased, as established by State Department of Social Services regulations.

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

(f) The department shall adopt regulations as otherwise necessary to implement this section no later than July 1, 2005. Emergency regulations adopted for implementation of this section may be adopted by the director in accordance with the Administrative Procedure Act. The



adoption of emergency regulations shall be deemed to be an emergency and necessary for immediate preservation of the public peace, health and safety, or general welfare. The emergency regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

