

Assembly Bill No. 138—Assemblymen Martinez;
Benitez-Thompson and Yeager

Joint Sponsors: Senators Cannizzaro, D. Harris,
Ohrenschall, Ratti and Spearman

CHAPTER.....

AN ACT relating to public assistance; revising provisions relating to the eligibility of certain convicted persons for public assistance; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing federal law provides that a person who has been convicted of certain felony drug offenses is generally not eligible for benefits under the Temporary Assistance for Needy Families (TANF) program, which is a federal program pursuant to which the federal government provides grants of money to states to provide financial assistance to certain families, or the Supplemental Nutrition Assistance Program (SNAP), which is a federal program to provide assistance to certain families for the purchase of food. (21 U.S.C. § 862a(a)) Existing federal law authorizes a state to opt out of this limitation and allow a person who was convicted of a felony drug offense to be eligible for TANF and SNAP benefits in that state. (21 U.S.C. § 862a(d)(1)(A)) Similarly, existing Nevada law provides that a person who has been convicted of felony possession, use or distribution of a controlled substance is not eligible for TANF or SNAP benefits, unless the convicted person is participating in or has completed a program for the treatment of a substance use disorder approved by the Division of Welfare and Supportive Services of the Department of Health and Human Services and the person either: (1) demonstrates that he or she has not possessed, used or distributed controlled substances since he or she began the program; or (2) is pregnant and a physician certifies that TANF or SNAP benefits are required to ensure the health and safety of the mother and the unborn child. (NRS 422A.345)

This bill removes the provisions that make the convicted person ineligible for TANF or SNAP benefits for felony possession, use or distribution of a controlled substance, thereby authorizing such a convicted person to receive TANF and SNAP benefits.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 422A.345 is hereby amended to read as follows:

422A.345 1. ~~Except as otherwise provided in subsection 2, a~~ A person who has been convicted of a felony, ~~after August 22, 1996,~~ an element of which is the possession, use or distribution of a controlled substance, ~~is not eligible to~~ *may* receive any public



assistance for which ~~[denial is required by]~~ *he or she is otherwise eligible. Pursuant to 21 U.S.C. § 862a(d)(1)(A), all persons domiciled in this State are exempt from the application of 21 U.S.C. § ~~[862a.] 862a(a).~~*

2. ~~[A person who has been convicted of a felony described in subsection 1 may be determined to be eligible for assistance if that person is participating in or has successfully completed a program for the treatment of a substance use disorder that has been approved by the Division and:~~

~~—(a) Demonstrates to the satisfaction of the Division that he or she has not possessed, used or distributed controlled substances since he or she began the program; or~~

~~—(b) Is pregnant and a physician has certified in writing that the health and safety of the mother and the unborn child are dependent upon the receipt of benefits.~~

~~—3.]~~ As used in this section, “controlled substance” has the meaning ascribed to it in 21 U.S.C. § 802(6).

Sec. 2. This act becomes effective on July 1, 2021.

