

HOUSE BILL 2290

By Howell

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 36 and Title 71, relative to certain public
assistance.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Act to Restore Hope, Opportunity, and Prosperity for Everyone (HOPE) Act."

SECTION 2. Tennessee Code Annotated, Title 4, Chapter 51, Part 1, is amended by adding the following as a new section to be appropriately designated:

(a) On at least a monthly basis, the Tennessee education lottery corporation shall provide to the department of human services and the bureau of TennCare the following information of any individual collecting a prize of more than five hundred dollars (\$500):

- (1) Name;
- (2) Prize amount; and
- (3) Any other available identifying information.

(b) Unreported lottery winnings of two thousand dollars (\$2,000) or more shall trigger a mandatory fraud review at the department of human services and the bureau of TennCare.

SECTION 3. Tennessee Code Annotated, Title 71, Chapter 1, Part 1, is amended by adding the following as a new section to be appropriately designated:

(a) The department of finance and administration and the department of human services shall share eligibility information with each other in a timely manner when an enrollee has been disenrolled for any reason for programs administered under chapter 3,

part 1, and chapter 5, parts 1 and 3 of this title, and shall include the rationale for the action.

(b) Any department, agency, or division receiving information pursuant to subsection (a) shall establish a procedure to redetermine eligibility for any enrollee whose eligibility or benefit levels could change as a result of new information provided under subsection (a).

SECTION 4. Tennessee Code Annotated, Title 71, Chapter 1, Part 1, is amended by adding the following as a new section to be appropriately designated:

(a) The department of human services division responsible for enforcement of child support orders shall notify the division that administers the food stamp program of any individual who has failed to cooperate with child support enforcement or the child support agency without good cause, or is delinquent on any court-ordered child support payments, including arrears.

(b) The department of human services shall terminate food assistance benefits for any recipient identified under subsection (a), unless expressly prohibited by federal law.

(c) The period of disqualification for recipients terminated under subsection (b) shall end once the department has determined that such individual is cooperating with child support services and is no longer delinquent on any court-ordered child support payments, including arrears.

SECTION 5. Tennessee Code Annotated, Title 71, Chapter 1, Part 1, is amended by adding the following as a new section to be appropriately designated:

(a) The department shall post on the department's web sites and make available a report of SNAP and TANF benefit spending on or before January 15 of each year to the finance, ways and means committee of the house of representatives, the finance, ways and means committee of the senate, the speaker of the house of representatives, the speaker of the senate, the house minority leader, and the senate minority leader.

(b) The report required under subsection (a) shall include:

(1) The dollar amount and number of transactions of food assistance benefits that are accessed or spent out of state, disaggregated by state;

(2) The dollar amount and number of transactions of temporary assistance benefits that are accessed or spent out of state, disaggregated by state;

(3) The dollar amount, number of transactions, and times of transactions of food assistance benefits that are accessed or spent in-state, disaggregated by retailer, institution, or location; and

(4) The dollar amount, number of transactions, and time of transactions of temporary assistance benefits that are accessed or spent in-state, disaggregated by retailer, institution, or location.

(c) The report required under subsection (a) shall be de-identified to prevent identification of individual recipients.

SECTION 6. Tennessee Code Annotated, Title 71, Chapter 3, Part 1, is amended by adding the following as a new section to be appropriately designated:

(a) On a weekly basis, the department of human services shall provide the bureau of TennCare a list of individuals and families removed from temporary assistance due to noncompliance with work requirements.

(b) The bureau of TennCare shall disenroll any nonpregnant adult identified under subsection (a), unless expressly prohibited by federal law or applicable federal court order or consent decree.

SECTION 7. Tennessee Code Annotated, Section 71-3-109, is amended by adding the following as new subsections:

(d) Any funds disbursed by the department through any cash diversion program after July 1, 2016, shall be disbursed as a loan.

(e) The department shall promulgate rules establishing the terms of loans disbursed under subsection (d).

(f) Any cash diversion loan disbursed under subsection (d) that is not repaid according to the terms established under subsection (e) shall count toward the recipient's maximum time limit under subsection (c).

SECTION 8. Tennessee Code Annotated, Section 71-3-104(h), is amended by adding the following as new subdivisions:

(5) The department shall institute a three-month, full-household sanction for the first instance of noncompliance with any temporary assistance requirement, unless expressly prohibited by federal law.

(6) The department shall terminate benefits for the second instance of noncompliance with any temporary assistance requirement, unless expressly prohibited by federal law.

(7) An individual sanctioned under subdivision (h)(5) shall not have benefits reinstated without reviewing the agreement required under subdivision (h)(1).

SECTION 9. Tennessee Code Annotated, Title 71, Chapter 3, Part 1, is amended by adding the following as a new section to be appropriately designated:

(a) In addition to the restrictions imposed by § 71-3-126, funds available on electronic benefit transfer cards under this part shall not be used to purchase alcohol, liquor or imitation liquor, cigarettes, tobacco products, bail, gambling activities, lottery tickets, tattoos, travel services provided by a travel agent, money transmission to locations abroad, sexually oriented adult materials, concert tickets, professional or collegiate sporting event tickets, or tickets for other entertainment events intended for the general public.

(b) In addition to the restrictions imposed by § 71-3-126, electronic benefit transfer card transactions shall be prohibited at all retail, jewelry stores, tattoo parlors, massage parlors, body piercing parlors, spas, nail salons, lingerie shops, vapor cigarette stores, psychic or fortune telling businesses, bail bond companies, video arcades, movie theaters, swimming pools, cruise ships, theme parks, dog or horse racing facilities, pari-mutuel facilities, sexually oriented businesses, or retail establishments where minors under eighteen (18) years of age are not permitted.

(c) Upon enrollment, the department shall offer new applicants an itemized list of prohibited purchases, including those specified in subsection (a) and § 71-3-126, and make such a list available on the department's web site.

(d) The department shall prohibit establishments identified under subsection (b) from operating automated teller machines (ATMs) that accept electronic benefit transfer cards. Businesses found in violation of this subsection (d) shall be subject to the sanction imposed by § 71-3-126(c).

(e) If a recipient is found to have violated subsection (a), the recipient shall be subject to penalty imposed by § 71-3-126(d)(2).

SECTION 10. Tennessee Code Annotated, Title 71, Chapter 5, Part 3, is amended by adding the following as a new section to be appropriately designated:

The department of human services shall not seek, apply for, accept, or renew any waiver of requirements established under 7 U.S.C. § 2015(o).

SECTION 11. Tennessee Code Annotated, Title 71, Chapter 5, Part 3, is amended by adding the following as a new section to be appropriately designated:

In no case shall the resource limit standards of the food stamp program under this part exceed the standards specified in 7 U.S.C. § 2014(g)(1), unless expressly required by federal law. In no case shall categorical eligibility exempting households

from these resource limits be granted for any noncash, in-kind, or other benefit, unless expressly required by federal law.

SECTION 12. Tennessee Code Annotated, Title 71, Chapter 5, Part 3, is amended by adding the following as a new section to be appropriately designated:

(a) In no case shall categorical eligibility under 7 U.S.C. § 2014(a) or 7 C.F.R. § 273.2(j)(2)(iii) be granted for any noncash, in-kind, or other benefit, unless expressly required by federal law for the food stamp program under this part.

(b) The department of human services shall not apply gross income standards for food assistance higher than the standards specified in 7 U.S.C. § 2014(c) unless expressly required by federal law. Categorical eligibility exempting households from such gross income standards requirements shall not be granted for any noncash, in-kind, or other benefit, unless expressly required by federal law.

SECTION 13. Tennessee Code Annotated, Title 71, Chapter 5, Part 3, is amended by adding the following as a new section to be appropriately designated:

The department shall verify identity, household composition, expenses, and any other factor affecting eligibility allowed under 7 C.F.R. § 273.2(f)(3).

SECTION 14. Tennessee Code Annotated, Title 71, Chapter 5, Part 3, is amended by adding the following as a new section to be appropriately designated:

The department shall communicate the expectation of mandatory cooperation with a fraud investigation and that noncompliance could result in case closure and termination of benefits within ten (10) days.

SECTION 15. Tennessee Code Annotated, Title 71, Chapter 5, Part 3, is amended by adding the following as a new section to be appropriately designated:

The department shall not establish or utilize a simplified reporting system under 7 C.F.R. § 273.12(a)(5).

SECTION 16. Tennessee Code Annotated, Title 71, Chapter 5, Part 3, is amended by adding the following as a new section to be appropriately designated:

(a) The department shall set disqualification periods for all instances of noncompliance with any food stamp program requirement, unless expressly prohibited by federal law.

(b) The department shall institute a three-month, full-household disqualification period for the first instance of noncompliance, unless expressly prohibited by federal law.

(c) The department shall institute a six-month, full-household disqualification period for the second instance of non-compliance, unless expressly prohibited by federal law.

(d)

(1) The department shall institute a permanent disqualification period against a recipient for the third instance of noncompliance, unless expressly prohibited by federal law.

(2) If a recipient is subject to a disqualification period under subdivision (d)(1), the department shall institute a six-month disqualification period for the recipient's entire household, unless expressly prohibited by federal law.

SECTION 17. Tennessee Code Annotated, Title 71, Chapter 5, Part 3, is amended by adding the following as a new section to be appropriately designated:

(a) The department shall place a photograph of the recipient on any electronic benefits transfer card issued by the department, unless the recipient declines to have the photograph included. When a recipient is a minor or otherwise incapacitated individual, a parent or legal guardian of such recipient may have a photograph of such parent or legal guardian placed on the card.

(b) The department shall explore opportunities with other state agencies, departments, or divisions, including the department of safety, to share photographs when available. The department may sign one (1) or more memoranda of understanding with such agencies, departments, or divisions as necessary to implement this section.

SECTION 18. Tennessee Code Annotated, Title 71, Chapter 5, Part 3, is amended by adding the following as a new section to be appropriately designated:

(a) The department shall send all recipients that have requested three (3) replacement cards within a twelve-month period a letter informing them that another request will require participation in a face-to-face interview with a fraud investigator and eligibility expert.

(b) If a third-party vendor is administering replacement cards directly to recipients, it shall notify the department after the request for a third replacement card in a twelve-month period, and any subsequent request thereafter.

(c) Upon a recipient's request of a fourth replacement card within any twelve-month period, and any subsequent request thereafter, the department shall schedule an interview with a fraud investigator and eligibility expert before another new card is issued.

(d) If a recipient fails to appear at an interview scheduled under subsection (c), the department shall terminate the recipient's benefits within ten (10) days, unless expressly prohibited by federal law.

SECTION 19. Tennessee Code Annotated, Title 71, Chapter 5, is amended by adding the following as a new part:

71-5-1101. For purposes of this part, the following definitions apply:

(1) "Department" means the department of finance and administration;
and

(2) "Identity information" means an applicant or recipient's full name, aliases, date of birth, address, social security number, and other related information.

71-5-1102.

(a) The department shall establish a computerized income, asset, and identity eligibility verification system in order to verify eligibility, eliminate the duplication of assistance, and deter waste, fraud, and abuse within each respective assistance program administered by the department.

(b) The department shall enter into a competitively bid contract with a third-party vendor for the purposes of developing a system by which to verify the income, asset, and identity information of applicants to prevent fraud, misrepresentation, and inadequate documentation when determining an applicant's eligibility for assistance prior to the distribution of benefits, periodically between eligibility redeterminations, and during eligibility redeterminations and reviews, as prescribed in this section. The department may also contract with a vendor to provide information to facilitate reviews of recipient eligibility conducted by the department.

(c) When the department enters into a contract with a third-party vendor for the purposes of carrying out this part, the vendor, in partnership with the department, shall be required by contract to establish annualized savings realized from implementation of the verification system, and savings shall exceed the total yearly cost to the state for implementing the verification system.

(d) When the department enters into a contract with a third-party vendor, the payment structure shall be based on a per-applicant rate and may include a

performance bonus for achieving above a predetermined rate of success of identifying waste, fraud, and abuse.

(e) To avoid any conflict of interest, when the department enters into a contract with a third-party vendor, that primary vendor may not currently or will not be allowed to bid on or be awarded a state contract to run enrollment services.

(f) Nothing in this part shall preclude the department from continuing to conduct additional eligibility verification processes, not detailed in this part, that are currently in practice.

71-5-1103.

(a) All applications for benefits must be processed within the lesser of a ten-day period or the minimum required by federal law. Prior to awarding assistance, and on a quarterly basis thereafter, the department shall verify identity information of each respective applicant and recipient of assistance from the department against the following:

(1) Earned and unearned income information maintained by the federal internal revenue service;

(2) Employer weekly, monthly, or quarterly reports of income and unemployment insurance payment information maintained by the department of labor and workforce development;

(3) Earned income information maintained by the United States social security administration;

(4) Immigration status information maintained by United States citizenship and immigration services;

(5) Death register information maintained by the United States social security administration;

- (6) Prisoner information maintained by the United States social security administration;
- (7) Public housing and section 8 housing assistance payment information maintained by the United States department of housing and urban development;
- (8) National fleeing felon information maintained by the United States federal bureau of investigation;
- (9) Wage reporting and similar information maintained by states contiguous to this state;
- (10) Beneficiary records and earnings information maintained by the United States social security administration in its Beneficiary and Earnings Data Exchange (BENDEX) database;
- (11) Earnings and pension information maintained by the United States social security administration in its Beneficiary Earnings Exchange Record System (BEERS) database;
- (12) Employment information maintained by the department of labor and workforce development;
- (13) Employment information maintained by the United States department of health and human services in its National Directory of New Hires (NDNH) database;
- (14) Supplemental security income information maintained by the United States social security administration in its SSI State Data Exchange (SDX) database;
- (15) Veterans' benefits information maintained by the United States department of health and human services, in coordination with the department of

health and department of veterans services, in the federal Public Assistance Reporting Information System (PARIS) database;

(16) Child care services information maintained by the department of human services;

(17) Utility payments information maintained by the state under the Low Income Home Energy Assistance Program;

(18) Emergency utility payment information maintained by the state or local entities;

(19) A database of all persons who currently hold a license, permit, or certificate from any state agency, the cost of which exceeds five hundred dollars (\$500);

(20) Income and employment information maintained by the department of human services and the United States department of health and human services' office of child support enforcement;

(21) Earnings and pension information maintained by the state treasurer;

(22) Any existing real-time database of persons currently receiving benefits in other states, such as the National Accuracy Clearinghouse; and

(23) A database that is substantially similar to or a successor of a database enumerated in this part.

(b) Prior to awarding assistance, and on a quarterly basis, the department shall match identity information of each respective applicant and recipient of assistance from the department against, at minimum, the following public records:

(1) A nationwide public records data source of physical asset ownership such as real property, automobiles, watercraft, aircraft, and luxury vehicles, or any other vehicle owned by the applicant and recipient of assistance;

- (2) A nationwide public records data source of incarcerated individuals;
- (3) A nationwide best-address and drivers license data source to verify individuals are residents of the state;
- (4) A comprehensive public records database that identifies potential identity fraud or identity theft that can closely associate name, social security number, date of birth, phone, and address information;
- (5) National and local financial institutions, in order to locate undisclosed depository accounts or verify account balances of disclosed accounts;
- (6) Outstanding default or arrest warrant information maintained by the criminal history systems board, the criminal justice information system, and the warrant management system; and
- (7) A database that is substantially similar to or a successor of a database enumerated in this part.

71-5-1104. Prior to awarding assistance to the extent permitted by federal law, applicants for benefits shall complete a computerized identity authentication process that shall confirm the applicant owns the identity presented in the application. The department shall review the respective applicant's or recipient's identity ownership using the following procedures:

- (1) Provide a knowledge-based quiz consisting of financial or personal questions. The quiz shall attempt to accommodate nonbanked or underbanked applicants who do not have an established credit history; and
- (2) Require the quiz for applications be available to be submitted through all channels, including online, in-person, and via phone.

71-5-1105.

(a) If a discrepancy results from an applicant's or recipient's identity information and one (1) or more of the databases or information tools listed under § 71-5-1103 or § 71-5-1104, the department shall review the respective applicant's or recipient's case using the following procedures:

(1) If the information discovered does not result in the department finding a discrepancy or change in an applicant's or recipient's circumstances that may affect eligibility, the department shall take no further action;

(2) If the information discovered under § 71-5-1103 or § 71-5-1104 results in the department finding a discrepancy or change in a recipient's circumstances that may affect eligibility, the department shall promptly redetermine eligibility after receiving such information;

(3) If the information discovered under § 71-5-1103 or § 71-5-1104 results in the department finding a discrepancy or change in an applicant's or recipient's circumstances that may affect eligibility, the applicant or recipient shall be given an opportunity to explain the discrepancy; provided, however, that self-declarations by applicants or recipients shall not be accepted as verification of categorical and financial eligibility during eligibility evaluations, reviews, and redeterminations; provided, further, that the department shall provide written notice to the applicant or recipient, which shall describe in sufficient detail the circumstances of the discrepancy or change, the manner in which the applicant or recipient may respond, and the consequences of failing to take action. The applicant or recipient shall have ten (10) business days, or the minimum required by state or federal law, to respond in an attempt to resolve the discrepancy or change. The explanation provided by the recipient or applicant shall be given in writing. After receiving the explanation, the department may request additional

documentation if it determines that there is risk of fraud, misrepresentation, or inadequate documentation;

(4) If the applicant or recipient does not respond to the notice, the department shall deny or discontinue assistance for failure to cooperate, in which case the department shall provide notice of intent to deny or discontinue assistance. Eligibility for assistance shall not be established or reestablished until the discrepancy or change has been resolved;

(5) If an applicant or recipient responds to the notice and disagrees with the findings of the match between the applicant's or recipient's identity information and one or more databases or information tools listed under this part, the department shall reinvestigate the matter. If the department finds that there has been an error, the department shall take immediate action to correct it and no further action shall be taken. If, after an investigation, the department determines that there is no error, the department shall determine the effect on the applicant's or recipient's case and take appropriate action. Written notice of the respective department's action shall be given to the applicant or recipient; and

(6) If the applicant or recipient agrees with the findings of the match between the applicant's or recipient's identity information and one (1) or more databases or information tools listed under this part, the department shall determine the effect on the applicant's or recipient's case and take appropriate action. Written notice of the department's action shall be given to the applicant or recipient. In no case shall the department discontinue assistance upon finding a discrepancy or change in circumstances between an individual's identity information and one or more databases or information tools listed under this part

until the applicant or recipient has been given notice of the discrepancy and the opportunity to respond as required under this part.

(b) The department shall promulgate rules and regulations necessary for the purposes of carrying out this part. All rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

71-5-1106.

(a) After reviewing changes or discrepancies that may affect program eligibility, the department shall refer suspected cases of fraud to the office of the inspector general in the department of finance and administration, created by § 71-5-2502, for investigation and possible criminal prosecution, recovery of improper payments, and collection of civil penalties.

(b) After reviewing changes or discrepancies that may affect program eligibility, the department shall refer suspected cases of identity fraud to the appropriate district attorney general for criminal prosecution.

(c) In cases of fraud substantiated by the department, upon conviction the state should review all legal options to remove enrollees from other public programs and garnish wages until the state recovers an equal amount of benefits fraudulently received.

(d) After reviewing changes or discrepancies that may affect program eligibility, the department shall refer suspected cases of fraud, misrepresentation, or inadequate documentation to appropriate agencies, divisions, or departments for review of eligibility discrepancies in other public programs. This reform shall also include cases where an individual is determined to be no longer eligible for the original program.

71-5-1107.

(a) This part shall take effect July 1, 2016.

(b) Six (6) months following the effective date of this part, and quarterly thereafter, the department shall provide a written report to the general assembly and the office of the inspector general of the department of finance and administration detailing the effectiveness and general findings of the eligibility verification system, including the number of cases reviewed, the number of case closures, the number of referrals for criminal prosecution, recovery of improper payment, collection of civil penalties, the outcomes of cases referred to the office of the inspector general and district attorneys general under this part, and the savings that have resulted from the system.

SECTION 20. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act shall be severable.

SECTION 21. For purposes of rulemaking, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2016, the public welfare requiring it.