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H.B. No. 132

A BILL TO BE ENTITLED

AN ACT

relating to the ability of certain relative caretakers of dependent children to receive supplemental financial assistance and be assigned as protective payees for financial assistance payments; providing a civil penalty; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 31.0041(a), Human Resources Code, is amended to read as follows:

(a) To the extent funds are appropriated for this purpose, the commission may provide supplemental financial assistance in addition to the amount of financial assistance granted for the support of a dependent child under Section 31.003 to a person who:

(1) is 25 ~~[45]~~ years of age or older;

(2) is the grandparent, aunt, uncle, sister, or brother of the dependent child, as defined by Section 31.002, who lives at the person's residence;

(3) is the primary caretaker of the dependent child;

(4) has a family income that is at or below 200 percent of the federal poverty level; and

(5) does not have resources that exceed the amount allowed for financial assistance under this chapter.

SECTION 2. Subchapter A, Chapter 31, Human Resources Code, is amended by adding Section 31.0042 to read as follows:

Sec. 31.0042. FRAUDULENT RECEIPT OF CERTAIN ASSISTANCE;

1 CRIMINAL OFFENSE; CIVIL PENALTY. (a) A person commits an offense
2 if, with intent to defraud or deceive the commission, the person
3 knowingly makes or causes to be made a false statement or
4 misrepresentation of a material fact that allows a person to
5 receive supplemental financial assistance under Section 31.0041.

6 (b) An offense under Subsection (a) is a state jail felony
7 unless it is shown on the trial of the offense that the person has
8 previously been convicted under this section, in which case the
9 offense is a felony of the third degree.

10 (c) If conduct that constitutes an offense under this
11 section also constitutes an offense under any other law, the actor
12 may be prosecuted under this section, the other law, or both.

13 (d) The appropriate county prosecuting attorney shall be
14 responsible for the prosecution of an offense under this section.

15 (e) A person who engaged in conduct described by Subsection
16 (a) is liable to the state for a civil penalty of \$1,000. The
17 attorney general shall bring an action to recover a civil penalty as
18 authorized by this subsection.

19 (f) The executive commissioner may adopt rules necessary to
20 determine whether fraudulent activity that violates Subsection (a)
21 has occurred.

22 SECTION 3. Section 31.0324, Human Resources Code, is
23 amended by amending Subsections (b) and (c) and adding Subsection
24 (d) to read as follows:

25 (b) The executive commissioner by rule shall develop and the
26 commission shall implement a process that provides for the
27 grandparent, aunt, uncle, sister, or brother of a child receiving

financial assistance under this chapter to serve as a protective payee to:

(1) receive and use the assistance on behalf of the child; and

(2) apply for financial assistance and be interviewed instead of the child's parent at any subsequent review of eligibility required by the commission.

(c) The commission shall limit the use of the process established by Subsection (b) to situations in which the commission determines the parent is not using the assistance for the child's needs as required by Section 31.0355(a), and the executive commissioner shall establish by rule the circumstances under which the grandparent, aunt, uncle, sister, or brother may be removed as a protective payee.

(d) To serve as a protective payee of a child receiving financial assistance under this chapter, a person described by Subsection (b) must be at least 25 years of age.

SECTION 4. The changes in law made by this Act apply to a person receiving financial assistance under Chapter 31, Human Resources Code, on or after the effective date of this Act, regardless of the date on which eligibility for the financial assistance was determined.

SECTION 5. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the

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1 waiver or authorization is granted.

2 SECTION 6. This Act takes effect September 1, 2017.