

MAR 16 1999

Place On Calendar

HOUSE FILE

**695**

BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HF 20)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the family investment program and food stamp  
2 benefits by providing an ineligibility penalty for individuals  
3 convicted of certain felony offenses involving a controlled  
4 substance and providing an applicability provision.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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**HF 695**

1 Section 1. Section 234.12, unnumbered paragraph 2, Code  
2 1999, is amended to read as follows:

3 The provisions of the federal Personal Responsibility and  
4 Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-  
5 193, § 115, shall ~~not~~ apply to an applicant for or recipient  
6 of food stamp benefits in this state as provided in this  
7 paragraph. An applicant for or recipient of food stamp  
8 benefits subject to a court order denying benefits under  
9 section 901.5, subsection 13, relating to the manufacture or  
10 distribution of a controlled substance, shall be ineligible  
11 for food stamp benefits. However Unless exempt for good cause  
12 under rules adopted by the department for this purpose, if an  
13 applicant or participant is convicted under federal or state  
14 law of a felony offense which has as an element the possession  
15 or use of such controlled substance, or under federal law of a  
16 felony offense which has as an element the manufacture or  
17 distribution of such controlled substance, the department of  
18 human services may apply contingent eligibility requirements  
19 as provided under state law and allowed under federal law.

20 Sec. 2. Section 239B.5, subsection 3, Code 1999, is  
21 amended to read as follows:

22 3. a. The provisions of the federal Personal  
23 Responsibility and Work Opportunity Reconciliation Act of  
24 1996, Pub. L. No. 104-193, § 115, shall not apply to an  
25 applicant or participant except as provided in this  
26 subsection.

27 b. ~~However, unless~~ Unless exempt for good cause under  
28 rules adopted by the department for this purpose, an applicant  
29 or participant convicted under federal or state law of a  
30 felony offense, which has as an element the possession, or  
31 ~~use, or distribution~~ of a controlled substance, as defined in  
32 21 U.S.C. § 802(6), or under federal law of a felony offense  
33 which has as an element the manufacture or distribution of  
34 such controlled substance, shall be required to participate in  
35 drug rehabilitation activities or to fulfill other

1 requirements to verify that the applicant or participant does  
2 not illegally possess, or use, or distribute a controlled  
3 substance.

4 c. An applicant or recipient subject to a court order  
5 denying benefits under section 901.5, subsection 13, relating  
6 to the manufacture or distribution of a controlled substance,  
7 shall be ineligible for cash assistance under the family  
8 investment program. Any cash assistance payable to the  
9 applicant or participant's family shall be paid to a  
10 protective payee as provided in section 239B.13 except that  
11 the two-year time period otherwise applicable to the use of a  
12 protective payee shall not apply.

13 Sec. 3. Section 901.5, Code 1999, is amended by adding the  
14 following new subsection:

15 NEW SUBSECTION. 13. In addition to any sentence or other  
16 penalty imposed against the defendant for an offense under  
17 chapter 124 which has as an element the manufacture or  
18 distribution of a controlled substance, the court shall  
19 consider the denial of federal food stamp benefits, family  
20 investment program benefits, or both, to the defendant, and  
21 may enter an order specifying the range and scope of benefits  
22 to be denied to the defendant. The supreme court may  
23 prescribe rules establishing sentencing guidelines consistent  
24 with this subsection and comparable to the guidelines for  
25 denial of federal benefits in 21 U.S.C. § 862. The clerk of  
26 the district court shall send a copy of any order issued  
27 pursuant to this subsection to the department of human  
28 services, which is required to deny benefits pursuant to such  
29 an order.

30 Sec. 4. APPLICABILITY. The amendments in this Act to  
31 sections 234.12, 239B.5, and 901.5 are applicable to  
32 individuals convicted on or after July 1, 1999, under federal  
33 or state law, of a felony offense which has as an element the  
34 possession, use, manufacture, or distribution of a controlled  
35 substance.

## EXPLANATION

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2 This bill relates to the family investment program (FIP)  
3 and food stamp benefits by providing for the ineligibility of  
4 individuals convicted of certain felony offenses involving a  
5 controlled substance.

6 Iowa's family investment program receives substantial  
7 federal funding under the federal Temporary Assistance to  
8 Needy Families (TANF) Program. Under the federal law which  
9 created TANF (the federal Personal Responsibility and Work  
10 Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193),  
11 a state could apply all or part of the restrictions described  
12 in the law on the provision of benefits to persons convicted  
13 of a felony offense which has an element involving possession,  
14 use, or distribution of a controlled substance. The federal  
15 law also provides that unless a state enacted a specific  
16 provision opting out, the restrictions would apply. Iowa  
17 enacted a provision in 1997 (1997 Iowa Acts, ch. 41, secs. 1  
18 and 6) which did opt out of the federal restrictions but  
19 allowed the department of human services to apply certain  
20 requirements under the food stamp program and FIP if the  
21 controlled substance criteria is applicable.

22 The bill amends Code section 234.12, relating to the  
23 requirement for the department to administer the food stamp  
24 program, to provide that an individual convicted under state  
25 law and under court order for a felony offense which has an  
26 element involving the manufacture or distribution of a  
27 controlled substance is ineligible for benefits as specified  
28 in the court order. An individual convicted of a felony  
29 offense involving the use or possession of a controlled  
30 substance under federal or state law, or convicted under  
31 federal law of a felony offense involving manufacture or  
32 distribution of a controlled substance, remains subject to the  
33 current law which allows the department to apply contingent  
34 eligibility requirements.

35 Code section 239B.5, relating to the department's

1 compliance with federal law for FIP, is amended to apply  
2 similar requirements to cash assistance under FIP. An  
3 individual convicted under state law and under court order for  
4 a felony offense which has an element involving the  
5 manufacture or distribution of a controlled substance is  
6 ineligible for cash assistance under FIP as specified in the  
7 court order and cash assistance for that individual's family  
8 must be paid to a protective payee. The two-year time limit  
9 for the use of a protective payee is made inapplicable to this  
10 situation. Current law remains applicable to an individual  
11 convicted under state or federal law of felony use or  
12 possession of a controlled substance or under federal law for  
13 a felony offense involving manufacture or distribution of a  
14 controlled substance. Unless exempt for good cause, these  
15 individuals are required to participate in drug rehabilitation  
16 activities or to fulfill other requirements to verify that the  
17 applicant or participant does not illegally possess or use a  
18 controlled substance.

19 Code section 901.5, relating to the court pronouncing  
20 judgment and sentence, is amended by adding a new subsection  
21 authorizing the court to order denial of food stamps or family  
22 investment program benefits, or both, to a defendant convicted  
23 under Iowa's controlled substance chapter for manufacture or  
24 distribution of a controlled substance. This order is in  
25 addition to any sentence or other penalty imposed for an  
26 offense under Iowa's controlled substance chapter which has as  
27 an element the manufacture or distribution of a controlled  
28 substance. The supreme court is authorized to prescribe rules  
29 establishing sentencing guidelines for the denial of benefits.

30 The bill includes an applicability provision applying the  
31 bill's provisions to individuals convicted on or after July 1,  
32 1999.

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**HOUSE FILE 695  
FISCAL NOTE**

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A fiscal note for House File 695 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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House File 695 amends Sections 234.12, 239B.5, and 901.5 of the Code of Iowa to provide that the Court is authorized to order denial of Food Stamp or Family Investment Program benefits to defendants convicted under Iowa's controlled substance abuse chapter for manufacture or distribution of a controlled substance.

**BACKGROUND**

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 created the federal Temporary Assistance for Needy Families (TANF) Program. The TANF Program provides federal funding for state public assistance programs, including Iowa's Family Investment Program. To administer the Family Investment Program and in accordance with federal law, Iowa enacted Chapter 41, Sections 1 and 6, 1997 Iowa Acts. These sections permit the Department of Human Services (DHS) to restrict Food Stamp and Family Investment Program cash assistance benefits for individuals convicted of a felony offense involving possession, use, or distribution of a controlled substance.

**ASSUMPTIONS**

1. The Clerks of Court will send copies of all orders denying Food Stamp or Family Investment Program benefits to the DHS. The DHS, therefore, will not be required to perform criminal record checks on Food Stamp and Family Investment Program applicants and recipients.
2. This Bill will deter some potential applicants from applying for and will disqualify some applicants from receiving Family Investment Program and Food Stamp benefits. The associated cost savings cannot be determined.

**FISCAL IMPACT**

House File 695 is not expected to have any significant fiscal impact on the General Fund.

**SOURCES**

Department of Human Services  
Department of Public Health  
Department of Public Safety

(LSB 1360hv, DAA)

## HOUSE FILE 695

H-1325

1 Amend House File 695 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Section 1. Section 234.12, unnumbered paragraph  
5 2, Code 1999, is amended to read as follows:

6 The provisions of the federal Personal  
7 Responsibility and Work Opportunity Reconciliation Act  
8 of 1996, Pub. L. No. 104-193, § 115, shall not apply  
9 to an applicant for or recipient of food stamp  
10 benefits in this state who is subject to a court order  
11 denying benefits under section 901.5, subsection 13,  
12 relating to the manufacture or distribution of a  
13 controlled substance. The applicant or recipient  
14 shall be ineligible for food stamp benefits in  
15 accordance with the terms of the court order.

16 ~~However, the department of human services may apply~~  
17 ~~contingent-eligibility-requirements-as-provided-under~~  
18 ~~state-law-and-allowed-under-federal-law.~~

19 The provisions of the federal Personal  
20 Responsibility and Work Opportunity Reconciliation Act  
21 of 1996, Pub. L. No. 104-193, § 115, do not apply to  
22 an applicant or recipient of food stamp benefits who  
23 is convicted under federal or state law of a felony  
24 offense which has as an element the possession or use  
25 of a controlled substance as defined in 21 U.S.C. §  
26 802(6), or is convicted under federal law of a felony  
27 offense which has as an element the manufacture or  
28 distribution of such controlled substance.

29 Sec. \_\_\_\_ . Section 239B.5, subsection 3, Code 1999,  
30 is amended to read as follows:

31 3. a. The provisions of the federal Personal  
32 Responsibility and Work Opportunity Reconciliation Act  
33 of 1996, Pub. L. No. 104-193, § 115, shall not apply  
34 to an applicant or participant who is subject to a  
35 court order denying benefits under section 901.5,  
36 subsection 13, relating to the manufacture or  
37 distribution of a controlled substance. The applicant  
38 or participant shall be ineligible for cash assistance  
39 under the family investment program in accordance with  
40 the terms of the court order. Any cash assistance  
41 payable to the applicant or participant's family shall  
42 be paid to a protective payee as provided in section  
43 239B.13 except that the two-year time period otherwise  
44 applicable to the use of a protective payee shall not  
45 apply.

46 b. ~~However, unless exempt for good cause under~~  
47 ~~rules-adopted-by-the-department-for-this-purpose,~~ The  
48 provisions of the federal Personal Responsibility and  
49 Work Opportunity Reconciliation Act of 1996, Pub. L.  
50 No. 104-193, § 115, shall not apply to an applicant or

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1 participant convicted under federal or state law of a  
 2 felony offense, which has as an element the  
 3 possession, ~~or use, or distribution~~ of a controlled  
 4 substance, as defined in 21 U.S.C. § 802(6), ~~or~~  
 5 convicted under federal law of a felony offense which  
 6 has as an element the manufacture or distribution of  
 7 such controlled substance shall be required to  
 8 ~~participate in drug rehabilitation activities or to~~  
 9 ~~fulfill other requirements to verify that the~~  
 10 ~~applicant or participant does not illegally possess,~~  
 11 ~~use, or distribute a controlled substance.~~

12 Sec. \_\_\_\_\_. Section 239B.8, Code 1999, is amended by  
 13 adding the following new subsection:

14 NEW SUBSECTION. 7. CONTROLLED SUBSTANCES. Unless  
 15 exempt for good cause under rules adopted by the  
 16 department for this purpose, an applicant or  
 17 participant who is convicted under federal or state  
 18 law of a felony offense, which has as an element the  
 19 possession or use of a controlled substance, as  
 20 defined in 21 U.S.C. § 802(6), or is convicted under  
 21 federal law of a felony offense which has as an  
 22 element the manufacture or distribution of such  
 23 controlled substance, shall be required to participate  
 24 in drug rehabilitation activities or to fulfill other  
 25 requirements to verify that the applicant or  
 26 participant does not illegally possess or use a  
 27 controlled substance.

28 Sec. \_\_\_\_\_. Section 901.5, Code 1999, is amended by  
 29 adding the following new subsection:

30 NEW SUBSECTION. 13. In addition to any sentence  
 31 or other penalty imposed against the defendant for an  
 32 offense under chapter 124 which has as an element the  
 33 manufacture or distribution of a controlled substance,  
 34 the court shall consider the denial of federal food  
 35 stamp benefits, family investment program assistance,  
 36 or both, to the defendant, and may enter an order  
 37 specifying the period of time that the benefits or  
 38 assistance shall be denied to the defendant. The  
 39 supreme court may prescribe rules establishing  
 40 sentencing guidelines consistent with this subsection  
 41 and comparable to the guidelines for denial of federal  
 42 benefits in 21 U.S.C. § 862. The clerk of the  
 43 district court shall send a copy of any order issued  
 44 pursuant to this subsection to the department of human  
 45 services, which is required to deny benefits pursuant  
 46 to such an order.

47 Sec. \_\_\_\_\_. APPLICABILITY. The amendments in this  
 48 Act to sections 234.12, 239B.5, 239B.8, and 901.5 are  
 49 applicable to individuals convicted on or after July  
 50 1, 1999, under federal or state law, of a felony

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1 offense occurring after August 22, 1996, which has as  
 2 an element the possession, use, manufacture, or  
 3 distribution of a controlled substance."

4 2. By renumbering as necessary.

By THOMSON of Linn

H-1325 FILED MARCH 30, 1999