**Repeal the General Assistance Ban for Individuals with Drug Convictions, S 2806**

**Briefing Paper**

**Overview: The Need for a Second Chance**

New Jersey has a small safety net to allow families (through Temporary Assistance for Needy Families) and individuals (through General Assistance) to weather hardship without succumbing to serious illness or homelessness. However, two crucial components of that safety net—General Assistance and Emergency Assistance—are denied to individuals who have drug convictions. Of the 28 states with General Assistance, New Jersey is **one of only four states** that deny benefits to individuals with drug convictions.

The number of New Jersey residents who are homeless is at an alarming level.[[1]](#footnote-1) Banned from General Assistance and Emergency Assistance, many individuals migrate to tent cities, abandoned buildings, or become institutionalized in hospitals or correctional facilities, trapped in a cycle that they cannot escape. In addition to the human suffering, this costs the state millions of dollars in hospitalization and incarceration expenses that could be saved by removing the ban on General Assistance.

**Benefits of Repealing the Ban on General Assistance**

1. Save millions of dollars by avoiding incarceration and hospitalization costs for individuals who can be stably housed in the community with improved quality of life
2. Significantly reduce homelessness
3. Strengthen the social safety net by providing funding to homeless service providers
4. Link persons with mental health and substance abuse issues with appropriate services

**No Free Pass**

* Lifting the ban would not guarantee that individuals with drug convictions receive General Assistance; it means that they would have the opportunity to apply and be granted the assistance if they meet eligibility criteria.
* Individuals with substance dependence would continue to be required to undergo substance abuse treatment to continue to receive General Assistance, and would be terminated from the program if they fail to comply.
* Each participant also receives an Individual Responsibility plan that sets forth a specific work activity (if employable) and other requirements that the participant must comply with in order to remain in the program.

**Current Status of the General Assistance Ban**

Currently, individuals are disqualified from receiving General Assistance (GA) if they were convicted on or after August 22, 1996, of a felony or crime that has as an element the possession, use, or distribution of a controlled substance.[[2]](#footnote-2) Individuals convicted of offenses involving *only use or possession* may reestablish eligibility by:

1. Enrolling in or completing “a licensed *residential* drug treatment program,” which includes programs that are operated in a State correctional facility or county jail,[[3]](#footnote-3) OR
2. Establishing a “good cause” exception from participation in treatment. For example, individuals who test free of drugs and are deemed not appropriate for substance abuse treatment need not enroll in or complete a treatment program.[[4]](#footnote-4)

**Legislative Background of the General Assistance Ban**

Prior to 1997, the New Jersey Department of Human Services administered two major assistance programs: Aid to Families with Dependent Children (AFDC) for households with children and General Assistance (GA) for adults without children. GA was solely funded by the State, while AFDC was federally funded with a small State match. ***Neither of these programs denied eligibility for benefits based on drug convictions*.**

On August 22, 1996, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) was enacted by the federal government, replacing AFDC with Temporary Aid to Needy Families (TANF).[[5]](#footnote-5) PRWORA provides that persons convicted on or after August 22, 1996, of a felony involving use, possession, or distribution of controlled substances are disqualified from receiving TANF or Supplemental Nutrition Assistance Program (SNAP) benefits unless a State by legislation opts out or modifies this disqualification.[[6]](#footnote-6)

Although PRWORA only governs federal programs and therefore did not directly affect GA, it led to the New Jersey legislature enacting a drug conviction ban for all WorkFirst recipients.

In 1997, New Jersey responded to PRWORA by creating a new program, “WorkFirst New Jersey,” (WFNJ), bringing both TANF and GA under the same WFNJ umbrella and aligning eligibility criteria for both programs.[[7]](#footnote-7) With respect to the drug conviction ban, New Jersey chose to disqualify individuals with drug convictions not only from receiving SNAP or TANF, but also from receiving GA.[[8]](#footnote-8) However, the law permitted individuals convicted *only* of use or possession to reestablish eligibility by completing “a drug treatment program approved by the Commissioner of Human Services.”[[9]](#footnote-9)

In January 2010, New Jersey passed the “Women and Families Strengthening Act” to repeal the drug conviction ban for SNAP and TANF.[[10]](#footnote-10) The legislative committees stated that the purpose of the repeal was to “assist needy individuals who have paid their debt to society and are struggling to re-enter the social and economic mainstream and become productive citizens.”[[11]](#footnote-11) However, the Legislature did *not* lift the drug conviction ban for GA. While the Legislature did amend the law in 2014 to allow to individuals participating in treatment programs operating in prisons or jails to enroll in GA,[[12]](#footnote-12) there is currently only one such program (in Hudson County), and the amendment did nothing to repeal the ban on individuals with convictions for distribution.

**Reasons to Repeal the Ban**

1. **Save millions of dollars by avoiding incarceration and hospitalization costs for individuals who can be stably housed in the community with increased quality of life**

Perhaps the most devastating effect of the ban on receiving GA is the corresponding ineligibility to receive Emergency Assistance, which provides crucial emergency housing assistance in times of crisis. Faced with no income, no stable housing and no link to behavioral health or substance abuse services, many of these individuals become seriously ill and land in the hospital, are rearrested, or die. Homeless advocacy organizations continuously see clients whose hospitalization could have been avoided had they been eligible for GA.

The minimal GA cost of $140 or $210 per **month** is significantly less than the approximate $2,000 per **day** of the average hospital stay in New Jersey or the average $100 per **day** cost of incarceration in a county jail or the state prison per day cost of more than $130. Studies from other states confirm the cost-effectiveness: for example, a 2013 study of three counties in Florida found that the average cost was $31,065 per year for a homeless person cycling in and out of incarceration, emergency rooms and in patient hospitalization. In comparison, providing permanent supportive housing cost $10,051, for an annual cost savings per person per year of $21,014.

Until recently, repealing the ban would have meant increased Medicaid costs.[[13]](#footnote-13) However, as of January 1, New Jersey opted into the expansion of Medicaid under the Affordable Care Act,[[14]](#footnote-14) and accordingly Medicaid costs for the WFNJ/GA recipients will be covered 100% by the federal government for the first three years and then level to 90% by 2020.[[15]](#footnote-15) As such, expanding eligibility to General Assistance by lifting the drug conviction ban will not increase State expenditures on Medicaid.

In addition to saving on hospitalization and incarceration costs, New Jersey will be able to recover much of its direct expenditures for those individuals who are later determined to be eligible for Supplemental Security Income.

1. **Significantly reduce homelessness**

The General Assistance program is the bottom level on the governmental social safety net. There are three crucial components of this aspect of the safety net, which protect individuals from slipping into homelessness or serious health issues:

1. A small cash maximum subsidy of $140 or $210 a month depending whether a person is disabled or able to work.[[16]](#footnote-16)
2. Emergency Assistance, which provides modest housing, utility assistance or shelter placement.[[17]](#footnote-17)
	* Eligible persons include those who are homeless or at immediate risk of homelessness, in addition to individuals who have experienced a substantial loss of housing, food, clothing or household furnishings due to fire, flood or similar disaster.[[18]](#footnote-18)
	* Emergency assistance is limited to one year but may be granted under certain hardship conditions with specific limitations.[[19]](#footnote-19)
	* Without this assistance many banned individuals migrate to tent cities, abandoned buildings or become institutionalized in hospitals or correctional facilities.
	* Only individuals already enrolled in Work First New Jersey are eligible for Emergency Assistance, so the drug conviction ban on receiving GA has the effect of disqualifying vulnerable adults without children from receiving Emergency Assistance as well.[[20]](#footnote-20)
3. Easier access to Workforce Development Services and linkage to both mental health and substance abuse services.
4. **Strengthen the social safety net by providing funding to homeless shelters**

Many homeless shelters are dependent on reimbursement from Emergency Assistance to meet operating costs. Without those reimbursements, they cannot afford to operate, and as such cannot afford to accept people who are not eligible for Emergency Assistance. The practical result is that many people with drug distribution convictions, who are disqualified from GA and therefore from EA as well, have nowhere to go if they lose their housing.

1. **Link persons with mental health and substance abuse issues with appropriate services**

Work First New Jersey requires many recipients to be assessed for substance abuse[[21]](#footnote-21) and mental health.[[22]](#footnote-22) If the professional clinical care coordinator determines that substance abuse treatment is clinically appropriate, the GA recipient is required to actively participate in a substance abuse treatment program[[23]](#footnote-23) at no cost to the recipient.[[24]](#footnote-24) If it is determined that the GA recipient is in need of mental health services, the recipient will receive mental health services, including but not limited to “psychiatric evaluation and medication, out-patient counseling, or partial care/psychosocial rehabilitation.”[[25]](#footnote-25) Recipients can also receive employment services, including but not limited to, “vocational readiness determination, career profiling, community-based occupational exploration, job-seeking skills, alternative work experience with support, support plan development, and individualized job placement.”[[26]](#footnote-26)

**Conclusion**

General Assistance provides both a lifeline for people in need and a path for persons to achieve economic self-sufficiency through developing job skills, receiving vocational training, and receiving a GED.[[27]](#footnote-27) Governor Christie has often spoken of his belief that people are entitled to a second chance, and has recognized that the debilitating disease of substance abuse should be met with treatment, not punishment. The recent enactment of the Opportunity to Compete Act[[28]](#footnote-28) by the Legislature also reflects a belief in giving individuals the opportunity to attain economic and social stability. Repealing the drug conviction ban on GA will ensure that an ancient transgression will no longer be a lifetime sentence.

1. As of June 2014, nearly 14,000 residents of New Jersey were homeless. *Study Finds 16 Percent Increase in Homelessness in NJ*, The Star-Ledger, June 9, 2014, <http://www.nj.com/news/index.ssf/2014/06/nj_counts_study_finds_16_percent_increase_in_homelessness.html>. [↑](#footnote-ref-1)
2. N.J.S.A. § 44:10-48.b.(7). *See also* N.J.A.C. 10:90-2.8(a)(8). [↑](#footnote-ref-2)
3. N.J.S.A. § 44:10-48.b.(7). *See also* N.J.A.C. 10:90-18.6(a)(1)(ii). [↑](#footnote-ref-3)
4. N.J.A.C. § 10:90-18.6(c)(2)(iii). [↑](#footnote-ref-4)
5. Pub. L. No. 104-193, 110 Stat. 2105 (1996). [↑](#footnote-ref-5)
6. 21 U.S.C. §862a(a) (2014). Note that the law only applies to convictions on or after August 22, 1996. [↑](#footnote-ref-6)
7. L. 1997, c. 38, codified as amended at N.J.S.A. §§ 44:10-55 to -70. *See also* L. 1997 c. 14, § 5, codified as amended at N.J.S.A. § 44:10-48. [↑](#footnote-ref-7)
8. L. 1997 c. 14, § 5.b.(7), codified as amended at N.J.S.A. § 44:10-48.b.(7). [↑](#footnote-ref-8)
9. *Id.* [↑](#footnote-ref-9)
10. L. 2009, c. 328. However, note that the corresponding regulation has not yet been updated. N.J.A.C. 10:90-18.6. [↑](#footnote-ref-10)
11. Senate Law and Public Safety and Veterans' Affairs Committee, Statement To Senate Committee Substitute For Senate No. 1347 (Nov. 23, 2009), *available at* <http://www.njleg.state.nj.us/2008/Bills/S1500/1347_S1.HTM>; Assembly Law And Public Safety Committee, Statement To Assembly, No. 4197 (Nov. 23, 2009), *available at* <http://www.njleg.state.nj.us/2008/Bills/A4500/4197_S1.HTM>; Assembly Appropriations Committee, Statement To Assembly, No. 4197 With Committee Amendments (Dec. 3, 2009), *available at* <http://www.njleg.state.nj.us/2008/Bills/A4500/4197_S2.HTM>; Senate Budget And Appropriations Committee, Statement To Senate Committee Substitute For Senate, No. 1347 With Committee Amendments (Jan. 4, 2010), *available at* <http://www.njleg.state.nj.us/2008/Bills/S1500/1347_S2.HTM>. [↑](#footnote-ref-11)
12. L.2014, c. 1, § 2. [↑](#footnote-ref-12)
13. The law requires that WFNJ/GA recipients be enrolled in NJ FamilyCare. N.J.A.C. 10:90-13.1. Until January 1, 2014, New Jersey bore the full cost of providing NJ FamilyCare to WFNJ/GA recipients. [↑](#footnote-ref-13)
14. L. 2013, c.77 p101, *available at* <http://www.njleg.state.nj.us/2012/Bills/AL13/77_.PDF>. [↑](#footnote-ref-14)
15. The Governor’s Fiscal Year 2014 Budget p. v (February 46, 2013), *available at* <http://www.state.nj.us/treasury/omb/publications/14budget/pdf/FY14BudgetBook.pdf>. [↑](#footnote-ref-15)
16. N.J.A.C. 10:90-3.5; 10:90-3.6. [↑](#footnote-ref-16)
17. N.J.A.C. 10:90-6.1 [↑](#footnote-ref-17)
18. *Emergency Assistances*, N.J. DEPT. HUMAN SVCS., http://www.state.nj.us/humanservices/dfd/programs/emergency/ (last visited Oct. 10, 2014). [↑](#footnote-ref-18)
19. N.J.S.A. 44:10-51.a.; N.J.A.C. 10:90-6.4. [↑](#footnote-ref-19)
20. N.J.S.A. 44:10-51.a. [↑](#footnote-ref-20)
21. WFNJ/GA recipients who must be referred to the Substance Abuse Initiative for screening include (1) recipients who have been sanctioned for non-compliance with work, (2) recipients who are required to participate in substance abuse treatment as stipulated in the IRP, (3) recipients who are deferred when the sole reason for the deferred status is substance abuse, and (4) recipients who are unemployable when the sole reason for the unemployable status is substance abuse, N.J.A.C. 10:90-18.2(b), (e)(4). [↑](#footnote-ref-21)
22. N.J.A.C. 10:90-5.15(c) (“A WFNJ recipient who appears to have a mental health barrier and appears to meet the eligibility criteria for the program shall be asked to complete the…WFNJ Mental Health Initiative Questionnaire.”) [↑](#footnote-ref-22)
23. N.J.A.C. 10:90-18.3(a)(1)(i). [↑](#footnote-ref-23)
24. N.J.A.C. 10:90-18.2(e)(2). [↑](#footnote-ref-24)
25. N.J.A.C. 10:90-5.15(a)(1)(i). [↑](#footnote-ref-25)
26. N.J.A.C. 10:90-5.15(a)(1)(ii). [↑](#footnote-ref-26)
27. N.J.A.C. 10:90-4.3(h)–(j). [↑](#footnote-ref-27)
28. L. 2014, c.32. [↑](#footnote-ref-28)