

No More Double Punishments

Lifting the Ban on SNAP and TANF for People with Prior Felony Drug Convictions

Introduction

Individuals with prior felony convictions, incarcerated or not, often face “collateral consequences,” which are significant barriers imposed in addition to their sentences that can range from being denied employment to losing voting rights. Some states subject people with a drug-related felony conviction to restrictions or complete bans on food assistance under SNAP (Supplemental Nutrition Assistance Program, formerly food stamps), cash assistance through TANF (Temporary Assistance for Needy Families), or both. This practice began in 1996 under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). The act imposes a lifetime ban on SNAP and TANF for those with a previous drug felony conviction, whether they have completed their time in jail or prison or received a lighter sentence due to the nonviolent and/or low-level nature of the offense. States, however, can opt to remove or modify the ban. And all states and the District of Columbia except for one, South Carolina, have either modified or removed the ban for at least one program, recognizing that it is not an effective crime deterrent, fails to address substance use disorders, and impedes reconnecting formerly incarcerated people to their families and communities.

Successful reentry into society from the criminal justice system requires being able to meet basic needs such as food, health care, and housing as well as access to employment and training services. Some individuals may also need child care and/or mental health and substance use disorder treatment. Denying access to basic needs programs makes it harder for people with convictions to get back on their feet. Such exclusions are racist: they are grounded in stereotypes about who receives public assistance, and they are especially punitive for Black and Latinx communities due to the War on Drugs’ uneven enforcement of drug laws and targeting of communities of color with low incomes. This has resulted in the conviction and incarceration of disproportionate numbers of Black and Latinx people, especially Black men.¹ According to the Sentencing Project, one in three Black males born in 2001 will be imprisoned at some point in their lives, compared to one in six Latinx men and one in 17 white men.² When considering educational attainment, young men of color without a high school diploma, especially Black men, are most at risk of incarceration. In 2010, for instance, nearly one-third of Black males ages 25 to 29 who dropped out of high school were incarcerated or institutionalized.³ For women, incarceration rates have risen exponentially in recent years. While fewer women than men are incarcerated, the total number of women who have been arrested has increased by 25 percent over the past 35 years, while decreasing by 33 percent for men.⁴ Women, moreover, are more likely than men to be convicted of a drug offense: 26 percent of incarcerated women were convicted of a drug offense in 2018, compared to 13 percent of men, according to the Sentencing Project.⁵

TANF & SNAP are Critical Supports for People with Convictions

TANF and SNAP are critical programs that help people meet their basic needs. TANF cash assistance is only available to families with very low incomes that have children. Benefit levels vary across states but are generally quite low; the median being \$492 a month⁶ for a family of three with no other income. SNAP benefits, which can only be used to purchase food, average \$401 a month⁷ for a family of three. These programs can make the difference between hardship and destitution for people with convictions.

When transitioning from jail or prison, people with convictions often face levels of food insecurity far higher than the general public. Ninety-one percent of people released from prison reported they experience food insecurity, according to the National Institutes of Health.⁸ When comparing levels of food insecurity found among people released from prison to the general public, formerly incarcerated people fare far worse. A Rhode Island study concluded that 70.4 percent of those on probation experienced food insecurity, compared to 12.8 percent of the general population.⁹

Public assistance such as TANF and SNAP consistently reduces recidivism,¹⁰ while banning access to assistance has been linked to increases in recidivism. The Bureau of Justice Statistics reports that more than three-quarters of state prisoners were rearrested within five years of release.¹¹ Such odds of relapse can be offset by providing support. A Harvard Law School study found that access to SNAP and TANF significantly reduced an individual's risk of being reincarcerated by up to 10 percent within one year.¹² Furthermore, the University of Maryland concluded that drug traffickers in Florida who are subject to a ban on SNAP are 9.5 percentage points more likely to return to prison than drug traffickers who committed their offenses before the ban took effect and were therefore eligible for assistance.¹³

Lifting the ban on safety net supports reduces material hardship for formerly incarcerated people, who are exceedingly paid low earnings and face high rates of unemployment due to factors such as discrimination in hiring. Of course, lifting the ban also helps their families. One recent study by the Prison Policy Initiative found that 27.3 percent¹⁴ of people with convictions are unemployed even as national unemployment rates were much lower. It comes as no surprise, then, that 76 percent of formerly incarcerated people describe finding work as "very difficult" or "nearly impossible".¹⁵ And when they do find work, their median earnings hover around \$10,000 a year (nearly 20 percent below the Federal Poverty Level (FPL) for a single individual), with only 20 percent making more than \$15,000 (124 percent of the FPL).¹⁶ And even this modest income is reduced when parents with convictions have their wages garnished for any debt incurred during incarceration, which can include court and legal fees, child support arrearages, restitution, and criminal fines.¹⁷ Because many are unemployed or are paid low wages, criminal justice-involved people often need short-term help from TANF and SNAP to meet their children's and their own basic needs.

Denying SNAP and TANF to formerly incarcerated people has a devastating effect on them and their families. By one recent estimate, upwards of 36.5 million children have at least one parent with a criminal record. And Black children are acutely impacted.¹⁸ In fact, 1 in 9 Black children have a parent in jail or prison (a rate that has more than quadrupled in the past 25 years), compared to 1 in 28 Latinx children and 1 in 57 white children.¹⁹ While those released from jail or prison may still apply for assistance for their children, the overall household receives less support because of bans on assistance.²⁰

Ironically, parents may be more likely to plead guilty to drug-related felonies to avoid separation from their families. Nonviolent drug-related felonies often carry the risk of lengthy prison sentences. By pleading guilty to a crime they may not have committed in return for a lighter sentence, a person can potentially avoid a longer sentence that would needlessly separate them from their family. Additionally, the use of cash bail as a condition for pretrial release compels individuals who are disproportionately people of color and those with low incomes to accept less favorable plea deals.²¹ Mothers with low incomes are particularly vulnerable to this practice. Because 60 percent of women in prisons and 80 percent of women in jails have dependent children, women have an added and unique pressure to plead guilty so they can care for their children.²² Furthermore, women are more likely than men to solely parent dependent children in the month prior to arrest²³ and are more likely to have difficulty affording bail.²⁴ In consequence, these women may face a lifetime ban on basic resources for themselves or their family, which in turn can put them at risk of losing their children to the foster care system.²⁵

SNAP & TANF Employment and Training Programs Provide Critical Support to Families with Low Incomes

SNAP recipients are eligible to receive employment, training, and related supportive services under the SNAP E&T (Employment & Training) program. People with convictions who have access to employment and job readiness training services that provide food, health care, and child care often have higher employment rates. Gaining the necessary skills to secure and maintain a reliable job ameliorates significant employment barriers, reduces recidivism, and significantly decreases correctional costs. SNAP E&T can support participation in adult education and high school equivalency classes, postsecondary education, vocational training, and other job training activities by helping cover the costs of such supports as child care, transportation, and other expenses, like tools or uniforms.²⁶ These critical supports can help recipients gain skills for jobs that allow them to provide for their families. However, people who are ineligible for SNAP cannot receive these services—even if family members receive SNAP.

Similarly, banning TANF benefits for formerly incarcerated people may reduce a family's cash assistance and access to other supportive employment services. States have the option of using TANF funds to provide services to members of families with low incomes, regardless of a family member's eligibility for cash assistance. In practice, however, many states limit certain TANF-funded services, such as child care, to individuals receiving TANF. In California, formerly incarcerated people banned from TANF assistance were unable to receive TANF-funded child care that would enable them to work, even if their children receive benefits under TANF.²⁷ Excluded parents may also be denied access to employment and training services under TANF.²⁸

Where States Stand on the SNAP and TANF Bans

As mentioned, PRWORA gives states the option to remove or modify lifetime bans. Most states and the District of Columbia have done so by limiting the classes of drug felonies subject to the restriction, implementing temporary bans, and requiring enrollment and participation in a drug education or treatment program.²⁹ More states have removed the ban on SNAP benefits than on TANF.³⁰

States such as Colorado³¹ and Connecticut³² modified their laws to allow individuals with prior felony drug convictions to regain eligibility for TANF and SNAP benefits by successfully completing drug education or treatment programs. West Virginia only allows individuals with prior felony drug convictions to regain eligibility for SNAP if their crime did not cause a loss of life or physical injury and is not related to the misuse of SNAP benefits.³³ Other states have simply decreased the time limit of the ban. North Carolina, for example, bans people with prior felony drug convictions from eligibility for basic needs programs for six months after the completion of a sentence.³⁴ These modified bans still impede the ability of people with convictions to successfully reenter society.

Since 2015, at least 18 states—Alabama, Alaska, Arizona, Arkansas, Delaware, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Nevada, North Dakota, South Dakota, Texas, Virginia, and West Virginia—have lifted or modified the ban for one or more programs. Alabama expanded SNAP and TANF eligibility to individuals with felony drug convictions who have completed their sentence or are satisfactorily serving a probation sentence.³⁵ In Texas, lawmakers extended SNAP eligibility to persons with felony drug convictions who have completed their sentences, though violating terms of parole or community supervision could result in a two-year suspension; new felony charges could result in the lifetime ban being reinstated.³⁶ Georgia³⁷ and Arizona³⁸ modified their lifetime ban on SNAP, requiring people with drug felony convictions to comply with all probation or parole requirements in order to receive assistance. Alaska modified its lifetime ban on SNAP and TANF, requiring those with drug felony convictions to satisfy court-mandated treatment and parole requirements in order to receive assistance.³⁹ Delaware lifted its ban on TANF, increasing the amount of monthly assistance by \$69.00 for families with a member who has a prior conviction.⁴⁰ Arkansas,⁴¹ North Dakota,⁴² and Louisiana⁴³ completely lifted their bans on SNAP and TANF in 2017. In 2018, Indiana passed legislation that modified its ban on SNAP.⁴⁴ Those convicted of certain drug offenses will be allowed to receive SNAP if they have either completed probation, parole, community corrections, or a reentry program or are in compliance with specified conditions to not violate any terms of their probation, parole, community corrections, or participation in a reentry program. Mississippi lifted its TANF and SNAP bans in 2019.⁴⁵ West Virginia lifted its SNAP ban in 2019, though the policy is dependent on the person's conviction.⁴⁶ Virginia lifted its ban for TANF and SNAP in 2020.⁴⁷ That year, South Dakota⁴⁸ lifted its ban for TANF and Michigan⁴⁹ lifted its SNAP ban. Illinois⁵⁰ lifted its ban for TANF in 2021, and Kentucky⁵¹ and Nevada⁵² lifted their bans for both TANF and SNAP in 2021.

One state that had previously lifted the ban partially reinstated it. In 2018, Pennsylvania adopted a new policy under TANF, making recipients convicted of drug trafficking ineligible for assistance unless they fulfill all obligations imposed by a court and are an active participant in or have completed a substance use disorder treatment program and submit to periodic drug testing for 10 years following their conviction or for the duration of their probation, whichever is longer.⁵³ Upon a second or subsequent offense, a recipient would be banned from TANF for 10 years. As of 2021, South Carolina is the only state that still has a full SNAP drug felony ban in place, though seven states still have the full TANF ban in place.

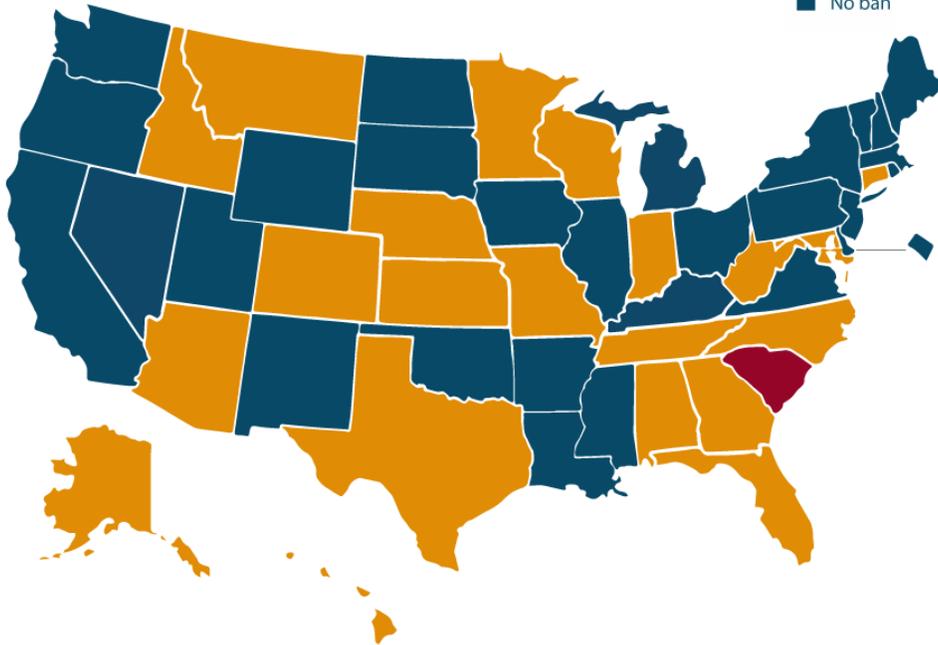
Lawmakers have also introduced federal bills to permanently lift the bans on SNAP and TANF. The Making Essentials Available and Lawful (MEAL) Act (H.R.5915) would permanently lift the ban for both programs. In addition, President Biden's proposed American Families Plan would eliminate the ban on SNAP. (Due to the package being passed through budget reconciliation, TANF cannot be included.)

Conclusion

Banning or restricting people with convictions' use of supports integral to successful reentry does little to deter crime and much to worsen difficult circumstances. All states that still impose barriers to SNAP and TANF should remove them. SNAP and TANF serve as a bulwark against food insecurity, recidivism, and financial insecurity — allowing people with convictions to support themselves and their families and contribute to society.

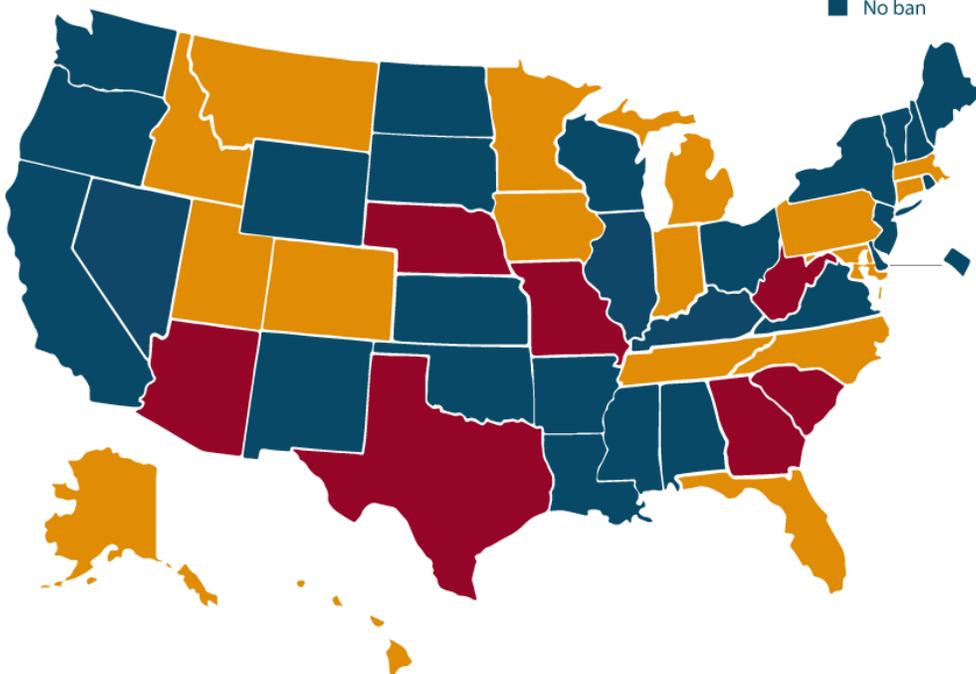
SNAP Drug Felon Bans (as of April 2022)

- Full ban
- Modified ban
- No ban



TANF Drug Felon Bans (as of April 2022)

- Full ban
- Modified ban
- No ban



State SNAP and TANF Bans as of April 2022

SNAP			TANF		
Full Ban	Modified Ban	No Ban	Full Ban	Modified Ban	No Ban
South Carolina	Alabama Alaska Arizona Colorado Connecticut Florida Georgia Hawaii Idaho Indiana Kansas Maryland Minnesota Missouri Montana Nebraska North Carolina Tennessee Texas West Virginia Wisconsin	Arkansas California Delaware District of Columbia Illinois Iowa Kentucky Louisiana Maine Massachusetts Michigan Mississippi Nevada New Hampshire New Jersey New Mexico New York North Dakota Ohio Oklahoma Oregon ⁵⁴ Pennsylvania Rhode Island South Dakota Utah Vermont Virginia Washington Wyoming	Arizona Georgia Missouri Nebraska South Carolina Texas West Virginia	Alaska Colorado Connecticut Florida Hawaii Idaho Indiana Iowa Montana Maryland Massachusetts Michigan Minnesota North Carolina Pennsylvania Tennessee Utah	Alabama Arkansas California Delaware District of Columbia Illinois Kansas Kentucky Maine New Hampshire New Jersey Louisiana Mississippi Nevada New Mexico New York North Dakota Ohio Oklahoma Oregon Rhode Island South Dakota Vermont Virginia Washington Wisconsin Wyoming

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