

# ELIMINATE OUR LIFETIME SNAP BAN FOR CERTAIN SYSTEM-INVOLVED INDIVIDUALS

LB121

*Senator Megan Hunt introduced and has now prioritized LB121 to address this issue. The bill currently sits on general file.*

Nebraskans leaving prison need the ability to meet their basic needs to successfully reintegrate into their communities. Without access to food, there is little chance they will find stability, and a higher likelihood of recidivism. While federal law creates an optional lifetime ban on food assistance for those with certain drug convictions in their past,<sup>1</sup> Nebraska can eliminate this ban and remove a barrier to successful reintegration for an estimated 1051 individuals and their families.

## **Access to food is key to successful reentry and long-term stability**

- Access to food is foundational to a person's ability to thrive. Denying a stable food source to those reentering the community is counter-productive to those trying to get on their feet, find work, and gain independence. Everyone deserves to eat.
- The Supplemental Nutrition Assistance Program (SNAP, formerly called Food Stamps) is the most effective support helping people with low incomes put food on the table. Food pantries play an essential role in providing for emergency needs but SNAP provides a more stable and accessible source of food.
- The federal government pays for all SNAP benefits and covers half of SNAP administrative costs to the state.
- Many SNAP recipients must engage in work requirements in order to be eligible for the program. No access to SNAP means no access to these skills-building work supports.

## **States can legislatively opt out of this federal ban**

- Federal law makes anyone convicted of a drug felony for use, possession, or distribution at the state or federal level ineligible for SNAP or Temporary Assistance to Needy Families.<sup>2</sup> States, however, can opt out of the ban "by a specific reference in law."
- 49 states have opted out of or modified the ban.<sup>3</sup>
  - 24 states have opted out of the ban entirely including neighbors Iowa, South Dakota, and Wyoming and others including Mississippi, Louisiana, and Arkansas.
  - 25 states have modified the ban.
- Nebraska has previously modified the ban to create a small exception for persons that have two or fewer felonies for use or possession and have completed a "state-licensed or nationally accredited substance abuse treatment program." A full ban remains for those with felonies for distribution.

## **Ending the ban can reduce the financial burden on the state and increase equity**

- Given the overcrowding crisis in Nebraska's prison system, our state should be prioritizing policy changes that reduce the prison population, which is currently at 146% of the system's design capacity.<sup>4</sup>

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<sup>1</sup> 21 USC § 862a (Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [PRWORA]).

<sup>2</sup> *Id.*

<sup>3</sup> National Council of State Legislatures, "Most States Have Ended the SNAP Ban for Convicted Drug Felons," July 30, 2019, [ncsl.org/blog/2019/07/30/most-states-have-ended-snap-ban-for-convicted-drug-felons.aspx](https://ncsl.org/blog/2019/07/30/most-states-have-ended-snap-ban-for-convicted-drug-felons.aspx). Modified Ban: AK, AL, AZ, CO, CT, FL, HI, ID, IN, KS, KY, MD, MI, MN, MO, MT, NC, NE, NV, PA, TN, TX, UT, VA, WI. No Ban: AR, CA, DC, DE, GA, IA, IL, LA, MA, ME, MS, ND, NH, NJ, NM, NY, OH, OK, OR, RI, SD, VT, WA, WV, WY. Lifetime Ban: SC.

<sup>4</sup> Nebraska Department of Correctional Services, NDCS Research and Reports, accessed Dec 20, 2021, General Statistics, available at <https://corrections.nebraska.gov/public-information/ndcs-research-division>.

- A 2018 U of Maryland study showed that depriving individuals with drug felony convictions access to SNAP in Florida increased their rate of recidivism by approximately 9.5%.<sup>5</sup> Given Nebraska's recidivism rate (30.3%),<sup>6</sup> cost of incarceration (\$46,000 per year),<sup>7</sup> and number of individuals incarcerated for drug related offenses (870),<sup>8</sup> ending our state ban would result in 23 fewer individuals recidivating, saving upwards of \$1M to the taxpayer.
- People of color are arrested more frequently, charged more harshly, and therefore more subject to the drug ban than white people. Eliminating this ban would support greater equity in our criminal justice system rather than filling our prisons with non-violent, low level offenders.

### **Children and families suffer because of the ban**

- Approximately 1 in 10 children in Nebraska have a parent who is incarcerated.<sup>9</sup> Families are still eligible to receive SNAP when a member is banned, however the banned individual's income still counts toward the household. Banning an individual doesn't mean they don't eat with the family. When a household gets less SNAP, children are still eating less.

### **DHHS should not be making criminal justice policy**

- It is the responsibility of the courts and the Department of Corrections to address criminal offenses, not human services agencies. By mandating treatment and enforcing lifetime bans on SNAP, DHHS is undermining other government agencies while double-punishing individuals based on the nature of their offense. By the time a person is reentering their community after a criminal conviction, they have served their time and should not be punished further by being deprived of access to food as they get back on their feet.
- The ban also creates a lifelong punishment beyond what the law requires for the crime committed. People subject to the ban have served their time. Years, even decades, later a mistake in someone's past can cost them access to SNAP when they need it most.

### **Access to treatment is limited**

- Treatment is only useful if it is accessible. Nebraska has 61 nationally accredited inpatient Mental Health & Substance Use facilities with around 1300 beds.<sup>10</sup> Outpatient substance use programs are no longer licensed by the state of Nebraska since 2018 reducing access.
- Wait lists are common for these facilities and difficult to access if individuals cannot relocate to areas with open beds.
- There are many people who have been charged with possession/use who don't have dependency challenges and don't need treatment. Yet they are still required to attend treatment under existing law.

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<sup>5</sup> Tuttle, Cody, "Snapping Back: Food Stamp Bans and Criminal Recidivism," American Economic Journal: Economic Policy, Vol. 11, No. 2, May 2019.

<sup>6</sup> Nebraska Department of Correctional Services, Quarterly Data Sheet, January - March 2020, available at [https://corrections.nebraska.gov/sites/default/files/ndcs\\_quarterly\\_data\\_sheet\\_fy20-q3\\_0.pdf](https://corrections.nebraska.gov/sites/default/files/ndcs_quarterly_data_sheet_fy20-q3_0.pdf).

<sup>7</sup> Based on public statements by Scott Frakes, Director of Nebraska State Department of Corrections.

<sup>8</sup> See Note 6.

<sup>9</sup> National Survey of Children's Health (NSCH), Children who had a parent who was ever incarcerated in Nebraska, accessed Dec. 20, 2021, <https://datacenter.kidscount.org/data/tables/9688-children-who-had-a-parent-who-was-ever-incarcerated?loc=29&loct=2#detailed/2/29/false/1696.1648.1603/any/18927.18928>.

<sup>10</sup> Nebraska Department of Health and Human Services, "Mental Health & Substance Use Treatment Centers Roster," <http://dhhs.ne.gov/licensure/Documents/MHSU%20Roster.pdf>.