



## Administrative Policies and Procedures: 23.03

**Subject** Impact of a Drug Felony Conviction on Receipt of Families First

**Approved by** Charles Bryson, Interim Assistant Commissioner

**Approval Date:** 10/21/2016

**Effective Date:** 10/31/2016

**Authority** 21 U.S.C §862a(d); Tenn. Code Ann. §71-3-104; Tenn. Comp. R. & Reg.1240-01-02-.02

**Application** All Family Assistance Employees

### Policy Statement

Families First applicants and/or recipients convicted of drug felonies shall be subject to the rules related to the specific felony and any rules in place at the time of the conviction.

### Purpose

To outline the rules related to drug felony convictions and provide clarification of how the conviction of a drug-related felony charge impacts an individual's ability to receive Families First Cash Assistance.

### Procedures

**A. Class A Drug Felony**

Individuals convicted of a Class A drug felony are not eligible for Families First benefits.

**B. Judicial Diversion of Class E Felony Drug Charges**

Individuals who have been granted judicial diversion for a Class E felony drug charge will continue to be eligible for Families First/TANF benefits as long as they are cooperating with the conditions of the court, including the successful completion of his/her probationary period, provided no future charges occur. The court does not recognize a diversion plea as a conviction.

**C. Individuals with Drug Felony Convictions Occurring between August 22, 1996 and July 1, 2011**

An individual convicted of a drug felony offense which occurred on or after August 22, 1996, which involves the possession, use, or distribution of a controlled substance, may be eligible for Families First if he/she is complies with, or has already complied with, all obligations imposed by the criminal court, including any substance abuse treatment obligations, and the convicted individual:

1. Is participating in a DHS-approved substance abuse treatment program; or
2. Is currently enrolled in, and/or on a waiting list to enter a DHS-approved

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substance abuse treatment program; or

3. Has successfully completed a substance abuse treatment program approved by DHS; or
4. Has been determined by a treatment provider licensed by the Tennessee Department of Mental Health and Substance Abuse Services (MHSS) not to need treatment.

**D. Individuals with Drug Felony Convictions Occurring on or after July 1, 2011**

1. An individual convicted on or after July 1, 2011, of any subsequent drug felony offense under federal or state law, which involves possession, use or distribution of a controlled substance, shall not be eligible for Families First/TANF benefits for three (3) years from the date of conviction.
2. The applicability of this section is tied to the conviction date (on or after July 1, 2011) and is not linked to the date the offense occurred.
  - a. If an individual commits a subsequent offense prior to July 1, 2011, but is not convicted until July 1, 2011 or later, this section applies.
  - b. If an individual commits a subsequent offense and is convicted prior to July 1, 2011, this section does not apply.
3. If a drug treatment program is prescribed for an individual convicted on or after July 1, 2011 of a drug felony (first offense or multiple offense) and he/she fails to successfully complete the substance abuse treatment program within three (3) attempts, the individual will be ineligible for Families First/TANF benefits for a period of three (3) years.

**Forms**

None

**Collateral Documents**

Drug Conviction Summary Chart

**Additional Information**

None

**Retention of Records**

Pending

## Glossary

Term	Definition
<p>Class A Felony</p> <p><b>Tenn. Code Ann §§ 39-17-417(j); 40-35-111</b></p>	<p>To knowingly manufacture, deliver, sell, possess or conspire to manufacture, deliver, sell, or possess certain amounts of listed drugs is a Class A Felony, and is punishable by imprisonment of not less than fifteen (15) years and no more than sixty (60) years, as well as a fine not to exceed five hundred thousand dollars (\$500,000). It is a Class A Drug Felony to knowingly manufacture, deliver, sell, possess or conspire to manufacture, deliver, sell, or possess the following drugs:</p> <ol style="list-style-type: none"> <li>(1) One hundred fifty (150) grams or more of any substance containing heroin;</li> <li>(2) One hundred fifty (150) grams or more of any substance containing morphine;</li> <li>(3) Fifty (50) grams or more of any substance containing hydromorphone;</li> <li>(4) Fifty (50) grams or more of any substance containing lysergic acid diethylamide (LSD);</li> <li>(5) Three hundred (300) grams or more of any substance containing cocaine;</li> <li>(6) Fifty (50) grams or more of any substance containing a combination of pentazocine and tripeleppamine or joint possession of pentazocine and tripeleppamine;</li> <li>(7) Three hundred (300) grams or more of any substance containing phencyclidine;</li> <li>(8) One thousand (1,000) grams or more of any substance containing a derivative of barbituric acid or any of the salts of a derivative of barbituric acid;</li> <li>(9) Five hundred (500) grams or more of any substance containing phenmetrazine;</li> <li>(10) Three hundred (300) grams or more of any substance containing amphetamine or methamphetamine or any salt of an optical isomer of amphetamine or methamphetamine;</li> <li>(11) Ten thousand (10,000) grams or more of any substance containing peyote;</li> <li>(12) Two thousand (2,000) grams or more of any substance containing a controlled substance classified in Schedule I or II not listed in subdivisions (i)(1)-(11); or</li> <li>(13) Three hundred pounds (300 lbs.) (136,050 grams) or more of any substance containing marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than fifteen pounds (15 lbs.), one gram (6,793 grams) of any substance containing hashish, or five hundred (500) or more marijuana plants, regardless of weight.</li> </ol>
<p>Class E Felony</p> <p><b>Tenn. Code Ann §§ 39-17-417(b)(1)-(3), (c), (e), (f), (g)(1), (h); 39-17-1323; 40-35-110</b></p>	<p>To knowingly manufacture, deliver, sell, possess or conspire to manufacture, deliver, sell, or possess certain amounts of certain drugs is a Class E Felony and is punishable by imprisonment of not less than one (1) year and nor more than six (6) years, as well as a fine not to exceed five thousand dollars (\$5,000). It is a Class E Drug Felony to knowingly manufacture, deliver, sell, possess or conspire to manufacture, deliver, sell, or possess the following drugs:</p> <ol style="list-style-type: none"> <li>(1) Schedule V drug (fine not greater than \$5,000);</li> <li>(2) Schedule VI drug marijuana not less than one half (1/2) ounce and not more than ten (10) pounds of (fine not greater than \$5,000);</li> </ol>

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- (3) Schedule VII drug (fine not greater than \$1,000);
- (4) Simple possession or casual exchange (3rd offense);
- (5) Counterfeit controlled substance.

In addition, it is a Class E Felony to commit the following acts:

- (1) Unlawful drug paraphernalia uses and activities; and
- (2) Unlawful wearing of a body vest (bullet-resistant soft armor) when committing any felony offense involving a controlled substance or controlled substance analogue.

Felony Conviction	The outcome of a criminal prosecution which concludes in a final judgment on a verdict of guilty, a plea of guilty, or a plea of nolo contendere that the defendant is guilty of a serious criminal offense that is punishable by death or imprisonment in excess of one (1) year.
Judicial Diversion	A conditionally plea of guilt that places a defendant on probation, and allows for the criminal charges to be dismissed and the record to be expunged upon the successful completion of the probationary period for individuals who have no previous criminal convictions, have not received a judicial diversion previously, and have never had their records expunged.
Subsequent conviction	A conviction is considered a subsequent conviction, if, prior to the offender being found guilty of the criminal offense, the individual has at any time been convicted and found guilty under any statute of the United States or of any state relating to or involving the same criminal offense.
Subsequent offense	A second, related criminal offense that was committed after the completion of the first criminal offense. If at any time prior to his or her commission of the criminal offense, the offender has been convicted under any statute of the United States or of any state relating to or involving the same offense, then the offense that occurred later in time is a subsequent offense.