



Reprinted
March 4, 2014

ENGROSSED HOUSE BILL No. 1351

DIGEST OF HB 1351 (Updated March 3, 2014 7:48 pm - DI 110)

Citations Affected: IC 12-7; IC 12-14; noncode.

Synopsis: Welfare matters; drug testing. Requires the division of family resources to establish a statewide program that prohibits Temporary Assistance for Needy Families (TANF) assistance from being used for any food, food product, or beverage that is not permitted (Continued next page)

Effective: Upon passage; July 1, 2014.

**McMillin, Koch, Kubacki, Messmer,
Culver, Neese, Harman, Frye R,
Ober, Huston, Smaltz, Rhoads,
DeVon, Mahan, Lucas, Morris,
VanNatter, Braun, Turner, Burton,
Ubelhor, Speedy**

(SENATE SPONSORS — YOUNG R MICHAEL, YODER, MISHLER,
HERSHMAN, SMITH J, KRUSE)

January 15, 2014, read first time and referred to Committee on Family, Children and Human Affairs.

January 23, 2014, amended, reported — Do Pass.

January 27, 2014, read second time, amended, ordered engrossed.

January 28, 2014, engrossed. Read third time, passed. Yeas 71, nays 22.

SENATE ACTION

February 10, 2014, read first time and referred to Committee on Health and Provider Services.

February 20, 2014, amended, reported favorably — Do Pass; reassigned to Committee on

Appropriations.

February 27, 2014, reported favorably — Do Pass.

March 3, 2014, read second time, amended, ordered engrossed.

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Digest Continued

to be purchased under the Supplemental Nutrition Assistance Program. Requires the office of the secretary of family and social services (office) to administer, not later than January 1, 2016, a drug testing program (program) for individuals who have been convicted of a controlled substance offense and are applying for or receiving TANF assistance or receiving TANF assistance on behalf of a child. Establishes requirements for the program and ineligibility penalties. Prohibits an individual who is ineligible to receive TANF assistance under the program from receiving assistance on behalf of a child and provides for an exception. Requires the office to collect data to assess and avoid discrimination in the program. Requires the office to provide information to the Indiana housing and community development authority and any division of the office that implements the Supplemental Nutrition Assistance Program concerning an individual who tests positive for controlled substances. Requires the department of workforce development to submit a report to the legislative council and the unemployment insurance oversight committee concerning certain unemployment topics.

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Reprinted
March 4, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1351

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 12-7-2-43.3 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2014]: **Sec. 43.3. "Controlled substance", for purposes of**
4 **IC 12-14-5.4 and this chapter, has the meaning set forth in**
5 **IC 35-48-1-9.**
- 6 SECTION 2. IC 12-7-2-111 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 111. (a) "Immediate
8 family", for purposes of the statutes listed in subsection (b), means the
9 following:
- 10 (1) If a Medicaid applicant is married, the applicant's spouse and
11 dependent children less than twenty-one (21) years of age.
12 (2) If a Medicaid applicant is not married, the following:
13 (A) If the applicant is divorced, the parent having custody.
14 (B) If the applicant is less than twenty-one (21) years of age:
15 (⊕) (i) the parent having custody; and
16 (ii) the dependent children less than twenty-one (21) years

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1 of age of the parent or parents.

2 (C) If clauses (A) and (B) do not apply, the applicant's parents.

3 (b) ~~This section~~ **Subsection (a)** applies to the following statutes:

4 (1) IC 12-14-1 through IC 12-14-9.5, **except IC 12-14-5.4.**

5 (2) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.

6 (c) **"Immediate family", for purposes of IC 12-14-5.4, means**
7 **any of the following:**

8 (1) **A parent.**

9 (2) **A stepparent.**

10 (3) **A grandparent.**

11 (4) **A sibling who is at least twenty-one (21) years of age.**

12 (5) **A legal guardian.**

13 SECTION 3. IC 12-7-2-189.9 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2014]: **Sec. 189.9. "TANF assistance", for**
16 **purposes of IC 12-14-5.4, means assistance under the federal**
17 **Temporary Assistance for Needy Families program under 42**
18 **U.S.C. 601 et seq.**

19 SECTION 4. IC 12-7-2-190.1 IS ADDED TO THE INDIANA
20 CODE AS A NEW SECTION TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2014]: **Sec. 190.1. "Tests negative" or**
22 **"testing negative", for purposes of IC 12-14-5.4, means that an**
23 **individual:**

24 (1) **tests negative for the use of a controlled substance (as**
25 **defined in IC 35-48-1-9) in the individual's body; or**

26 (2) **tests positive for the use of a controlled substance in the**
27 **individual's body but has:**

28 (A) **a valid prescription; or**

29 (B) **an order of a practitioner acting in the course of the**
30 **practitioner's professional practice;**

31 **for the controlled substance.**

32 SECTION 5. IC 12-7-2-190.2 IS ADDED TO THE INDIANA
33 CODE AS A NEW SECTION TO READ AS FOLLOWS
34 [EFFECTIVE JULY 1, 2014]: **Sec. 190.2. "Tests positive" or "testing**
35 **positive", for purposes of IC 12-14-5.4, means an individual:**

36 (1) **tests positive for the presence of a controlled substance (as**
37 **defined in IC 35-48-1-9) in the individual's body; and**

38 (2) **does not possess:**

39 (A) **a valid prescription; or**

40 (B) **an order of a practitioner acting in the course of the**
41 **practitioner's professional practice;**

42 **for the controlled substance.**



1 SECTION 6. IC 12-14-5.4 IS ADDED TO THE INDIANA CODE
 2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2014]:

4 **Chapter 5.4. Drug Testing Program**

5 **Sec. 1. This chapter applies to an individual who:**

- 6 (1) is eligible to receive TANF assistance or who receives
 7 TANF assistance on behalf of a child;
 8 (2) is at least eighteen (18) years of age; and
 9 (3) has been convicted of:
 10 (A) a controlled substance offense under IC 35-48-4; or
 11 (B) a substantially similar offense to the offense described
 12 in clause (A) in another jurisdiction.

13 **Sec. 2. (a) The office of the secretary shall develop and establish**
 14 **a program in accordance with this chapter to test for the illegal use**
 15 **of a controlled substance by an individual described in section 1 of**
 16 **this chapter.**

17 **(b) The office of the secretary shall implement a program**
 18 **established in accordance with this chapter not later than January**
 19 **1, 2016.**

20 **Sec. 3. An individual described in section 1 of this chapter shall**
 21 **be tested for the use of controlled substances:**

- 22 (1) when the individual applies to receive TANF assistance;
 23 and
 24 (2) annually while the individual is receiving TANF assistance.

25 **Sec. 4. A county office shall provide the following information**
 26 **in writing to an individual described in section 1 of this chapter at**
 27 **the time the individual applies for TANF assistance:**

- 28 (1) The individual is required to be tested for the use of
 29 controlled substances at the time of application and annually
 30 while receiving TANF benefits.
 31 (2) If the individual tests positive on a drug test administered
 32 under this chapter, the individual may be ineligible:
 33 (A) for TANF assistance; and
 34 (B) to receive TANF assistance on behalf of a child.
 35 (3) If the individual tests positive on a drug test administered
 36 under this chapter, the amount of the cost of the drug test will
 37 be withheld from any future TANF assistance the individual
 38 receives if the individual continues to receive TANF
 39 assistance.
 40 (4) If the individual tests positive on a drug test administered
 41 under this chapter, the amount of the cost of any subsequent
 42 drug test the individual is required to undergo will be



1 withheld from the TANF assistance the individual receives, if
 2 the individual continues to receive TANF assistance,
 3 regardless of whether the individual tests positive or tests
 4 negative on the subsequent drug test.

5 Sec. 5. A county office shall provide a list of drug abuse
 6 treatment programs to any individual who tests positive under this
 7 chapter.

8 Sec. 6. (a) An individual who tests positive under this chapter
 9 and provides evidence that the individual is participating in a drug
 10 abuse treatment program shall continue to receive TANF
 11 assistance. However, the office of the secretary shall administer a
 12 drug test to the individual regularly at intervals of at least twenty
 13 (20) days and not more than thirty (30) days until the individual
 14 tests negative in two (2) consecutive drug tests.

15 (b) If an individual does not test negative in two (2) consecutive
 16 drug tests as described in subsection (a) within four (4) months
 17 after the date the office of the secretary begins testing the
 18 individual regularly under subsection (a), the individual is
 19 ineligible to receive TANF assistance for three (3) months after the
 20 date the office of the secretary determines that the individual is
 21 unable to test negative on two (2) consecutive drug tests.

22 (c) If an individual:

23 (1) tests positive under this chapter; and

24 (2) fails to provide, not later than thirty (30) days after the
 25 date the individual tests positive, evidence that the individual
 26 is participating in a drug abuse treatment program;

27 the individual is ineligible to receive TANF assistance for three (3)
 28 months after the thirty (30) day period described in subdivision (2).

29 (d) An individual who is ineligible under subsection (b) or (c)
 30 may reapply for TANF assistance after the applicable three (3)
 31 month ineligibility period. Upon reapplying, the individual must
 32 test negative on a drug test before the individual may receive
 33 TANF assistance.

34 (e) If an individual described in subsection (d) tests positive on
 35 the drug test administered for the TANF reapplication process, the
 36 individual is permanently ineligible to receive TANF assistance for
 37 the individual.

38 Sec. 7. (a) An individual who:

39 (1) reapplies for TANF assistance under section 6(d) of this
 40 chapter; and

41 (2) is eligible to receive TANF assistance;

42 is subject to random drug testing as described in subsection (b) for



1 as long as the individual receives TANF assistance.

2 (b) The office of the secretary shall administer random drug
3 tests to fifty percent (50%) of the pool of individuals described in
4 subsection (a) each month.

5 (c) Section 6 of this chapter applies to an individual described
6 in subsection (a) who tests positive on a subsequent drug test
7 administered in accordance with this section.

8 **Sec. 8. (a) An individual who is ineligible to receive TANF**
9 **assistance under this chapter is ineligible to receive TANF**
10 **assistance on behalf of another individual.**

11 (b) Except as provided in section 9 of this chapter, if an
12 individual is ineligible to receive TANF assistance under this
13 chapter and the individual receives or will receive TANF assistance
14 on behalf of a child, the following apply:

15 (1) The child's eligibility for TANF assistance is not affected.

16 (2) The individual may not receive TANF assistance on behalf
17 of the child.

18 (3) Subject to subsection (e), the individual may designate an
19 immediate family member of the child to act as a protective
20 payee for the child.

21 (c) Subject to subsection (h), if an immediate family member of
22 the child:

23 (1) is not available to act as the protective payee; or

24 (2) declines to act as the protective payee;

25 for the child, the ineligible individual described in subsection (b)
26 may designate another individual, upon approval by the division,
27 to act as a protective payee for the child.

28 (d) Subject to subsection (h), if an ineligible individual described
29 in subsection (b) does not designate an immediate family member
30 of the child or another individual to act as a protective payee for
31 the child, the division shall designate an immediate family member
32 or another individual to act as a protective payee for the child.

33 (e) Subject to subsections (h) and (i), an immediate family
34 member of the child or another individual designated as a
35 protective payee under this section shall:

36 (1) receive TANF assistance on behalf of the child; and

37 (2) act as a protective payee in regard to the TANF assistance
38 received on behalf of the child.

39 (f) An immediate family member of the child or another
40 individual who is designated as a protective payee for the child
41 shall undergo a drug test if the immediate family member or
42 individual has been convicted of an offense described in section



1 1(3) of this chapter before the family member or individual may
2 act as a protective payee under this section.

3 (g) The immediate family member or individual described in
4 subsection (f) shall pay the cost of the drug test under subsection
5 (f).

6 (h) If the immediate family member or individual described in
7 subsection (f) tests positive on the drug test or fails to pay the cost
8 of the drug test under subsection (g), the immediate family member
9 or individual may not act as a protective payee for the child.

10 (i) An immediate family member of the child or another
11 individual who has been designated as a protective payee of the
12 child may not continue to act as a protective payee for the child
13 under this chapter if the immediate family member or individual
14 is charged with a felony while the immediate family member or
15 individual is receiving TANF assistance on behalf of a child under
16 this chapter.

17 Sec. 9. (a) If an individual:

18 (1) is ineligible to receive TANF assistance under this chapter;

19 (2) was not a parent or guardian of a child at the time the
20 individual became ineligible to receive TANF assistance as
21 described in subdivision (1);

22 (3) becomes a parent or guardian of a child after the
23 individual becomes ineligible to receive TANF assistance as
24 described in subdivision (1); and

25 (4) tests negative on a drug test administered by the office of
26 the secretary;

27 the individual may receive TANF assistance on behalf of the child.

28 (b) An individual described in subsection (a) is subject to
29 random drug testing as described in section 7(b) of this chapter for
30 as long as the individual receives TANF assistance on behalf of the
31 child.

32 (c) If an individual described in subsection (a) tests positive on
33 a drug test administered by the office of the secretary, the
34 individual may not receive TANF assistance on behalf of the child
35 and a protective payee must be designated for the child as provided
36 in section 8 of this chapter.

37 Sec. 10. (a) Except as provided in section 8(g) of this chapter and
38 subsections (b) and (c), the office of the secretary shall pay the
39 costs of a drug test administered under this chapter.

40 (b) If an individual tests positive on a drug test administered
41 under this chapter, the office of the secretary shall withhold the
42 amount of the cost of the drug test from the next payment of TANF



1 assistance the individual receives if the individual receives TANF
2 assistance.

3 (c) If an individual tests positive on a drug test administered
4 under this chapter, the office of the secretary shall withhold the
5 amount of the cost of any subsequent drug tests that the individual
6 is required to undergo from the next payment of TANF assistance
7 the individual receives if that individual receives TANF assistance.

8 Sec. 11. (a) This chapter is subject to administrative hearing
9 procedures under IC 4-21.5.

10 (b) The program under this chapter must include an appeals
11 process for individuals.

12 Sec. 12. A drug test administered under the program must be
13 performed by a:

14 (1) SAMHSA (as defined in IC 22-10-15-3) clinical laboratory;
15 or

16 (2) clinical laboratory holding a federal Clinical Laboratory
17 Improvement Act (CLIA) certificate or a CLIA certificate of
18 accreditation.

19 Sec. 13. The office of the secretary shall notify the department
20 of child services regarding a child who has had an immediate
21 family member or other individual designated as a protective
22 payee under this chapter.

23 Sec. 14. The office of the secretary shall provide to:

24 (1) the Indiana housing and community development
25 authority established by IC 5-20-1-3; and

26 (2) any division of the office of the secretary that implements
27 SNAP (as defined as IC 12-14-30-1);

28 the name of an individual who has tested positive under this
29 chapter.

30 Sec. 15. The office of the secretary's records concerning the
31 results of a drug test under this article may not be admitted against
32 a defendant in a criminal proceeding.

33 Sec. 16. The office of the secretary shall collect data to assess
34 and ensure that there is no discrimination based on race, ethnicity,
35 or sex regarding the pool of individuals who are drug tested under
36 the program established under this chapter.

37 Sec. 17. The office of the secretary may adopt rules under
38 IC 4-22-2 necessary to implement this article.

39 SECTION 7. IC 12-14-30-3 IS ADDED TO THE INDIANA CODE
40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
41 1, 2014]: Sec. 3. (a) The division shall establish a statewide program
42 that prohibits TANF assistance from being used for any food, food



1 product, or beverage that is not permitted to be purchased under
2 the SNAP program.

3 (b) If the division determines that federal approval is needed to
4 implement the statewide program described in this section, the
5 division shall request federal approval of the statewide program
6 and implement the statewide program not later than thirty (30)
7 days after the required approval is obtained.

8 (c) The division may adopt rules under IC 4-22-2 necessary to
9 implement this section.

10 SECTION 8. [EFFECTIVE UPON PASSAGE] (a) The department
11 of workforce development shall, before July 1, 2014, submit a
12 report to the legislative council concerning the options available to
13 the state, including the possibility of a waiver from the federal
14 government, to condition the receipt of unemployment benefits,
15 after the sixth week during which the benefits are received, on a
16 recipient being required to choose one (1) of the following:

17 (1) Enrolling in a training program that will result in an
18 industry recognized certificate.

19 (2) Working on projects that are assigned by and benefit the
20 county or municipality in which the recipient resides.

21 The report must be in an electronic format under IC 5-14-6.

22 (b) This SECTION expires July 1, 2015.

23 SECTION 9. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1351, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 6 through 9.

Page 3, delete lines 5 through 18.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1351 as introduced.)

KUBACKI, Chair

Committee Vote: yeas 8, nays 4.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1351 be amended to read as follows:

Page 8, line 30, delete "pilot" and insert "**statewide**".

Page 8, line 39, delete "pilot" and insert "**statewide**".

Page 8, line 40, delete "pilot" and insert "**statewide**".

Page 8, line 41, delete "pilot" and insert "**statewide**".

(Reference is to HB 1351 as printed January 24, 2014.)

MCMILLIN

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1351, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 7, delete "and".

Page 3, line 8, delete "." and insert "; **and**

(3) has been convicted of:

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**(A) a controlled substance offense under IC 35-48-4; or
(B) a substantially similar offense to the offense described
in clause (A) in another jurisdiction;
in the previous ten (10) years."**

Page 3, line 16, after "shall" insert **"be tested for the use of controlled substances:**

**(1) when the individual applies to receive TANF assistance;
and
(2) annually while the individual is receiving TANF assistance."**

Page 3, delete lines 17 through 18.

Page 3, line 22, delete "take a written or electronic" and insert **"be tested for the use of controlled substances at the time of application and annually while receiving TANF benefits."**

Page 3, delete lines 23 through 29.

Page 3, line 30, delete "(4)" and insert **"(2)"**.

Page 3, line 34, delete "(5)" and insert **"(3)"**.

Page 3, line 39, delete "(6)" and insert **"(4)"**.

Page 4, delete lines 4 through 33.

Page 4, line 34, delete "8." and insert **"5."**

Page 4, line 37, delete "9." and insert **"6."**

Page 5, line 25, delete "10." and insert **"7."**

Page 5, line 26, delete "9(d)" and insert **"6(d)"**.

Page 5, line 34, delete "9" and insert **"6"**.

Page 5, delete lines 37 through 40.

Page 5, line 41, delete "12." and insert **"8."**

Page 6, line 2, delete "13" and insert **"9"**.

Page 6, line 3, delete "permanently".

Page 7, line 6, delete "13." and insert **"9."**

Page 7, line 18, delete "10(b)" and insert **"7(b)"**.

Page 7, line 25, delete "12" and insert **"8"**.

Page 7, line 26, delete "14." and insert **"10."**

Page 7, line 26, delete "12(g)" and insert **"8(g)"**.

Page 7, line 39, delete "15." and insert **"11."**

Page 8, line 1, delete "16." and insert **"12."**

Page 8, line 8, delete "17." and insert **"13."**

Page 8, line 12, delete "18." and insert **"14."**

Page 8, line 19, delete "19." and insert **"15."**

Page 8, line 22, delete "20." and insert **"16."**

Page 8, line 26, delete "21." and insert **"17."**

Page 8, line 30, after "program" insert **"that prohibits TANF assistance from being used for any food, food product, or beverage**



that is not permitted to be purchased under the SNAP program."

Page 8, delete lines 31 through 37.

Page 8, line 38, delete "(c)" and insert "**(b)**".

Page 9, line 1, delete "(d)" and insert "**(c)**".

Page 9, line 5, delete "and the unemployment insurance".

Page 9, line 6, delete "oversight committee".

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to HB 1351 as reprinted January 28, 2014.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 6, Nays 3.

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred House Bill No. 1351, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB 1351 as printed February 2, 2014.)

Committee Vote: Yeas 7, Nays 4

Senator Kenley, Chairperson

SENATE MOTION

Madam President: I move that Engrossed House Bill 1351 be amended to read as follows:

Page 3, line 19, delete "July" and insert "**January**".

Page 3, line 20, delete "2015." and insert "**2016.**".

(Reference is to EHB 1351 as printed February 28, 2014.)

YOUNG R MICHAEL



SENATE MOTION

Madam President: I move that Engrossed House Bill 1351 be amended to read as follows:

Page 5, line 42, after "test" insert **"if the immediate family member or individual has been convicted of an offense described in section 1(3) of this chapter"**.

(Reference is to EHB 1351 as printed February 28, 2014.)

YOUNG R MICHAEL

SENATE MOTION

Madam President: I move that Engrossed House Bill 1351 be amended to read as follows:

Page 3, line 12, delete ";" and insert ".".

Page 3, delete line 13.

(Reference is to EHB 1351 as printed February 28, 2014.)

YOUNG R MICHAEL

