

1 HB197
2 136360-1
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8 RFD: State Government
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8 SYNOPSIS: Under existing law, there is no requirement
9 that an adult applying for the Department of Human
10 Resources' Family Assistance Program for temporary
11 cash assistance funded by the Temporary Assistance
12 for Needy Families (TANF) Program Block Grant must
13 be tested for drug abuse if there is a reasonable
14 suspicion that the applicant may be engaging in or
15 be under the influence of an illegal controlled
16 substance.

17 This bill would establish such a
18 requirement.

19 This bill would require the Department of
20 Human Resources to be responsible for determining
21 the existence of reasonable suspicion of substance
22 abuse.

23 This bill would require the Department of
24 Human Resources to establish drug testing protocols
25 and procedures for TANF applications.

1 This bill would provide for notice of
2 testing procedures to be provided to TANF
3 applicants.

4 This bill would specify that positive test
5 results are not admissible in any criminal
6 proceeding, but are admissible in Department of
7 Human Resources administrative hearings and
8 judicial review.

9 This bill would provide that any adult who
10 fails the drug test would be ineligible to directly
11 receive TANF temporary cash assistance and would be
12 referred for substance abuse assessment.

13 This bill would provide that any adult who
14 refuses or delays taking the drug test would be
15 ineligible to receive TANF cash assistance under
16 that application.

17 This bill would provide for reimbursement
18 for the cost of negative drug tests.

19 This bill would provide for the department
20 to promulgate rules necessary to implement this
21 act.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

1 Relating to public assistance, to require the
2 Department of Human Resources to implement and administer a
3 drug screening program based upon reasonable suspicion for any
4 adult applying for temporary cash payments under the Temporary
5 Assistance for Needy Families Program; to require the
6 department to provide notice of the drug screening to
7 applicants; to specify who is responsible for costs associated
8 with the drug tests; to provide that an adult testing positive
9 for a drug under this screening program is ineligible to
10 receive certain public assistance; to require substance abuse
11 assessments for applicants who test positive under the
12 program; to allow a parent of a minor child who tests positive
13 for an illegal controlled substance to designate a protective
14 payee on behalf of a minor child or other cash benefit unit
15 member; to specify the use of positive test results under the
16 program; and to authorize the department to promulgate rules
17 to implement this act.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. This act shall be known and may be cited
20 as The Public Assistance Reform Act of 2012.

21 Section 2. (a) The Department of Human Resources
22 shall require as a condition of eligibility that any adult
23 applying for temporary cash assistance who is otherwise
24 eligible for the Temporary Assistance for Needy Families
25 (TANF) Program administered by the department be tested for an
26 illegal controlled substance when there exists reasonable
27 suspicion, as specifically defined herein, that the applicant

1 engages in or may be under the influence of an illegal
2 controlled substance. An applicant who refuses drug testing or
3 delays drug testing beyond the time set by the Department of
4 Human Resources shall be ineligible for TANF benefits. An
5 otherwise eligible applicant who tests positive for an illegal
6 controlled substance is ineligible to directly receive TANF
7 benefits and will be referred to a substance abuse provider
8 certified by the Alabama Department of Mental Health for
9 substance abuse assessment. The Department of Human Resources
10 is not required to pay for either assessment or treatment.

11 (b) (1) Reasonable suspicion, as used in this act,
12 shall be present only if one of the following occurs:

13 a. The applicant has a conviction for an illegal
14 controlled substance within the five years prior to the date
15 of the application.

16 b. There is reasonable belief based upon observable
17 phenomena, such as direct observation of illegal use of a
18 controlled substance by the applicant or physical symptoms or
19 manifestation of illegal use of an illegal controlled
20 substance by the applicant.

21 c. The Department of Human Resources shall establish
22 protocols and procedures for the drug testing program.

23 (2) The Department of Human Resources shall
24 ascertain the existence of reasonable suspicion by including a
25 question or statement under penalty of perjury about prior
26 drug- or substance abuse-related convictions on each TANF cash
27 assistance benefit application. Individuals subject to the

1 requirements of this act include any parent or stepparent who
2 is included or excluded from the cash assistance unit as well
3 as other adults or relatives pursuant to TANF Program rules.

4 (c) The drug testing program required by this act
5 shall utilize a urine dipstick five panel test or other test
6 authorized by the Department of Human Resources. The cost of
7 the drug test shall be the responsibility of the individual
8 being tested. The Department of Human Resources shall
9 reimburse the individual for the cost of the drug test if the
10 adult does not test positive for a controlled substance.

11 (d) The Department of Human Resources shall provide
12 written notice to individual applicants of the drug testing
13 procedures and the cost of testing. The notice shall advise
14 that drug testing may be avoided if the individual withdraws a
15 pending application. The applicant shall be required to sign a
16 written acknowledgment that he or she understands the notice
17 provided.

18 (e) The results of drug testing conducted pursuant
19 to this act shall not be admissible in any criminal proceeding
20 but are admissible without further authentication or
21 qualification in Department of Human Resources administrative
22 hearings and judicial review of Department of Human Resources
23 determinations under this act.

24 (f) An adult ruled ineligible to directly receive
25 TANF temporary cash assistance pursuant to this act shall be
26 ineligible for a period of one year after one positive test
27 result, and for three years after a second positive test

1 result. After a third positive test result, an individual
2 shall no longer be eligible for temporary cash assistance
3 benefits. An applicant denied assistance under this act is
4 entitled to request an administrative hearing as other TANF
5 applicants or recipients.

6 (g) If an individual is found ineligible for TANF
7 temporary cash assistance as a result of failing a drug test
8 conducted pursuant to this act, the dependent child's and
9 other cash assistance unit member's eligibility for such
10 benefits is not affected. Additionally, a protective payee
11 shall be designated to receive benefits on behalf of the child
12 and other members. The designated protective payee must be a
13 family member or, if a family member is unavailable or
14 declines, another individual approved by the Department of
15 Human Resources. The protective payee, regardless of whether
16 or not the individual is a family member, must also undergo
17 drug testing if reasonable suspicion exists under this act
18 before being approved to receive benefits on behalf of the
19 child. If the designated protective payee tests positive for a
20 controlled substance under this act, he or she is ineligible
21 to receive benefits on behalf of the child. If the protective
22 payee tests negative, he or she can receive benefits on behalf
23 of the child and is to be reimbursed for the cost of the test.

24 (h) The Commissioner of the Department of Human
25 Resources shall promulgate rules pursuant to the
26 Administrative Procedure Act to prescribe the protocols and
27 procedures for the implementation of this act.

1 Section 3. The provisions of this act are severable.
2 If any part of this act is declared invalid or
3 unconstitutional, that declaration shall not affect the part
4 which remains.

5 Section 4. This act shall become effective on the
6 first day of the third month following its passage and
7 approval by the Governor, or its otherwise becoming law.