

1 HB369
2 189204-1
3 By Representatives Hanes, Pettus, Whorton (R), Greer, Moore
4 (B) and Mooney
5 RFD: State Government
6 First Read: 01-FEB-18

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8 SYNOPSIS: Under existing law, there is a requirement,
9 effective until September 30, 2017, that persons
10 applying for or receiving public assistance
11 benefits may be tested for illegal substance abuse.

12 Existing law does not require adult
13 recipients of public benefits offered by the state
14 to comply with mandatory community service program
15 requirements in order to be eligible for the
16 benefits.

17 This bill would require each adult recipient
18 of public benefits offered by the state to comply
19 with mandatory community service program
20 requirements in order to be eligible for the
21 benefits.

22 This bill would provide that any person who
23 does not comply shall be ineligible to receive
24 public assistance for a specified period of time
25 based on the frequency of noncompliance.

26 This bill would provide procedures and
27 exceptions for mandatory community service programs

1 to be developed by the Alabama Department of Human
2 Resources.

3 This bill would require an applicant for
4 Temporary Assistance for Needy Families (TANF),
5 administered by the Department of Human Resources,
6 beginning October 1, 2018, to be tested for
7 substance abuse if the applicant has been convicted
8 of a drug offense.

9 This bill would provide that any applicant
10 testing positive for a drug without a valid
11 prescription would be ineligible for TANF temporary
12 cash assistance benefits under the program.

13 This bill would authorize a parent of a
14 minor child who tests positive for drugs to
15 designate a third party to receive the public
16 assistance for the benefit of minor child family
17 members.

18 This bill would require each department or
19 agency of the state that provides public assistance
20 to adults to comply with mandatory community
21 service requirements pursuant to this act.

22 This bill would also authorize the
23 Department of Human Resources to promulgate rules
24 to implement the program.

25
26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 Relating to public assistance, to require each adult
4 recipient of public benefits to comply with mandatory
5 community service program requirements in order to be
6 eligible; to provide that any person who does not comply shall
7 be ineligible to receive public assistance for a specified
8 period of time based on the frequency of noncompliance; to
9 provide procedures and exceptions for such mandatory community
10 service programs to be developed by the Alabama Department of
11 Human Resources; to require each department or agency that
12 provides public assistance to adults to comply with mandatory
13 community service as required under this act; to require an
14 applicant for Temporary Assistance for Needy Families (TANF),
15 administered by the Department of Human Resources, if the
16 applicant has been convicted of a drug offense; to provide
17 that any applicant testing positive for a drug without a valid
18 prescription would be ineligible for TANF temporary cash
19 assistance benefits under the program; to authorize a parent
20 of a minor child who tests positive for drugs to designate a
21 third party to receive the public assistance for the benefit
22 of minor child family members; and to authorize the Department
23 of Human Resources to promulgate rules to implement the
24 program.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. As used in this act, the following words
27 shall have the following meanings:

1 (1) DEPARTMENT. The Alabama Department of Human
2 Resources.

3 (2) DRUG. Includes all of the following:

4 a. A controlled substance for which a medical
5 prescription or other legal authorization is required for
6 purchase or possession, including, but not limited to:
7 amphetamine, tetrahydrocannabinol, oxycodone, cocaine,
8 phencyclidine, an opiate, barbiturate, benzodiazepine,
9 methamphetamine, propoxyphene, tricyclic antidepressant or a
10 metabolite of any of these substances.

11 b. A drug whose manufacture, sale, use, or
12 possession is forbidden by law.

13 (3) DRUG OFFENSE. A drug offense, including the sale
14 of a controlled substance as provided in Section 13A-12-211,
15 Code of Alabama 1975, trafficking in controlled substances or
16 cannabis as provided in Section 13A-12-231, Code of Alabama
17 1975, manufacturing controlled substances in the first degree
18 as provided in Section 13A-12-218, Code of Alabama 1975, or
19 trafficking in an analog controlled substance.

20 (4) DRUG SCREENING. Any chemical, biological, or
21 physical instrumental analysis administered by a laboratory
22 certified by the United States Department of Health and Human
23 Services or other licensing agency in this state for the
24 purpose of determining the presence or absence of a drug or
25 its metabolites.

1 (5) RECIPIENT. A natural person 18 years of age or
2 older who is not physically or mentally disabled who receives
3 federal, state, or local benefits.

4 Section 2. (a) Except as provided in subsection (f)
5 or where exempted by federal law, on and after July 1, 2017,
6 each recipient of state or local public benefits, as defined
7 in 8 U.S.C. § 1621, or for federal public benefits, as defined
8 in 8 U.S.C. § 1611, administered by an agency or a political
9 subdivision of this state shall be required to participate in
10 a community service program administered by the department.

11 (b) The department, in conjunction with the Alabama
12 Department of Labor, shall establish and administer a
13 community service program with the standards and procedures
14 deemed necessary to accomplish the requirements of this
15 section. The department shall establish a minimum number of
16 hours of regulated community service to be required for
17 persons receiving state or federal public benefits, to be
18 determined by the age of the public benefit recipient, and
19 which shall be a minimum of 20 hours of community service per
20 week for each recipient. The department, on a monthly basis,
21 shall issue a list of nonprofit 501(c)(3) programs which are
22 eligible for community service work required under this
23 section. No eligible nonprofit program shall be required to
24 accept a recipient of public assistance for community service
25 but shall be encouraged to do so. Volunteer service at a
26 public or private school shall qualify for mandatory community
27 service required under this section. Volunteer service at a

1 church where the recipient of public assistance is a member
2 shall not qualify for mandatory community service required
3 under this section. The department shall issue regulations
4 prescribing forms and procedures for the verification of
5 community service required by the recipients of public
6 assistance.

7 (c) A person receiving federal, state, or local
8 public benefits who does not comply with required mandatory
9 community service shall be ineligible to receive the benefits
10 for a period of time to be enforced by the appropriate state
11 agency or department granting the benefits as follows:

12 (1) For the first noncompliance, a period of 90
13 days.

14 (2) For the second noncompliance, a period of 180
15 days.

16 (3) For the third and subsequent noncompliance, a
17 period of one year, after which time the person shall be
18 required to submit to a mandatory community service program
19 before he or she shall be eligible to receive state or local
20 public benefits.

21 (d) A recipient who receives federal, state, or
22 local public benefits who refuses to submit to the mandatory
23 community service program shall be ineligible to receive the
24 benefits for a period of one year.

25 (e) This section shall be enforced without regard to
26 race, religion, gender, ethnicity, or national origin.

1 (f) Mandatory community service under this section
2 may not be required for any of the following:

3 (1) Assistance for health care items and services
4 that are necessary for the treatment of an emergency medical
5 condition, as defined in 42 U.S.C. § 1396b(v)(3), of the
6 person involved and are not related to an organ transplant
7 procedure.

8 (2) Short-term, noncash, in-kind emergency disaster
9 relief.

10 (3) Public health assistance for immunizations with
11 respect to immunizable diseases and for testing and treatment
12 of symptoms of communicable diseases whether or not the
13 symptoms are caused by a communicable disease.

14 (4) Programs, services, or assistance such as soup
15 kitchens, crisis counseling and intervention, and short-term
16 shelter specified by the United States Attorney General in his
17 or her sole and unreviewable discretion after consultation
18 with appropriate federal agencies and departments, which:

19 a. Deliver in-kind services at the community level,
20 including through public or private nonprofit agencies.

21 b. Do not condition the provision of assistance, the
22 amount of assistance provided, or the cost of assistance
23 provided on the individual recipient's income or resources.

24 c. Are necessary for the protection of life or
25 safety.

26 d. Provide prenatal care.

27 e. Provide public postsecondary education.

1 (g) Each state agency or department which
2 administers any program of state or local public benefits
3 shall provide an annual report to the department with respect
4 to its compliance with this section.

5 (h) Any and all errors and significant delays in
6 benefits caused by compliance with this section shall be
7 reported to the Governor who shall monitor mandatory community
8 service errors and significant delays and report annually to
9 the Legislature on such errors and significant delays to
10 ensure that application of this section is not wrongfully
11 denying benefits to residents of this state.

12 (i) The provisions of this section shall be
13 implemented after the date the department or other appropriate
14 state agency whose duty it is to extend public benefits has
15 received all federal waivers that are necessary to implement
16 the provisions of this section from the United States
17 Department of Health and Human Services.

18 Section 3. (a) Commencing on October 1, 2018, the
19 department shall implement and administer a drug screening
20 program for any adult applying for temporary cash assistance
21 who is otherwise eligible for the Temporary Assistance for
22 Needy Families (TANF) program if the adult has a conviction
23 for a drug offense within five years prior to the date of the
24 application or initial payment for TANF temporary cash
25 assistance.

26 (b) The department shall require each applicant to
27 disclose, under penalty of perjury, any criminal conviction

1 related to the use or distribution of a drug on any
2 application for TANF temporary cash assistance.

3 (c) The cost of the initial drug screening of each
4 applicant shall be the responsibility of the department. The
5 cost of any subsequent drug screening is the responsibility of
6 the person screened. The department shall reimburse the person
7 for the cost of the drug screening if the person tests
8 negative for a drug.

9 (d) (1) A person who refuses to take a drug screening
10 or who delays the drug screening beyond the time set by the
11 department is ineligible to receive TANF temporary cash
12 assistance.

13 (2) A person who tests positive for a drug as a
14 result of a drug screening required under this section and who
15 is unable to produce a valid prescription for the drug shall
16 receive a warning that any subsequent positive drug screening
17 will result in a loss of benefits. Upon a second positive drug
18 screening, the person shall be ineligible for TANF temporary
19 cash assistance for one year after the date of the positive
20 drug screening results. Upon a third positive drug screening,
21 the person shall be permanently ineligible for TANF temporary
22 cash assistance. No person shall be subjected to more than two
23 additional drug screenings in any calendar year.

24 (3) A person who is denied TANF temporary cash
25 assistance under this section may request an administrative
26 hearing to review the denial.

1 (e) The results of a drug screening under this
2 section shall not be admissible in any criminal proceeding,
3 but is admissible without further authentication or
4 qualification in administrative hearings of the department and
5 judicial review of department determinations.

6 (f) The department shall do all of the following:

7 (1) Provide notice of the potential for drug
8 screening to applicants for TANF temporary cash assistance at
9 the time of application. The notice shall advise the person
10 that drug screening may be conducted as a condition for
11 receiving benefits under certain conditions and that the
12 person shall bear the cost of the drug screening after the
13 initial screening. The person shall be advised that the
14 required drug screening may be avoided if the person does not
15 apply for TANF temporary cash assistance.

16 (2) Require each person to be screened to sign a
17 written acknowledgment that he or she has received notice of
18 the department's drug-screening policy and that he or she
19 understands the drug-screening requirement.

20 (g) If a parent is deemed permanently ineligible for
21 TANF temporary cash assistance as a result of failing a third
22 drug screening conducted under this section, the dependent
23 child or other adult family member's eligibility for public
24 assistance benefits is not affected.

25 (1) An appropriate protective payee shall be
26 designated to receive benefits on behalf of the dependent
27 child family members.

1 (2) The parent may choose to designate another
2 person to receive benefits for the dependent child family
3 members. The designated person must be an immediate family
4 member or, if an immediate family member is not available or
5 the family member declines the option, another person may be
6 designated. The designated person must be approved by the
7 department.

8 Section 4. The commissioner of the department shall
9 promulgate rules to prescribe the design, operation, and
10 standards for the implementation of this act.

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