



January 24, 2014

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## HOUSE BILL No. 1351

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DIGEST OF HB 1351 (Updated January 22, 2014 11:10 am - 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 pilot program within the Supplemental Nutrition Assistance Program (SNAP) to allow SNAP benefits to be used only for food and beverages that have sufficient nutritional value, as determined by the division of family resources. Requires the office of the secretary of family and social services (office) to administer a drug testing program (program) for individuals who are receiving Temporary Assistance for Needy Families (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 federal 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.

**Effective:** Upon passage; July 1, 2014.

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**McMillin, Koch, Kubacki, Messmer,  
Culver, Neese, Harman, Frye R,  
Ober, Huston, Smaltz, Rhoads,  
DeVon, Mahan**

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January 15, 2014, read first time and referred to Committee on Family, Children and Human Affairs.  
January 23, 2014, amended, reported — Do Pass.

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HB 1351—LS 7130/DI 110





January 24, 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.

## 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; and  
 8 (2) is at least eighteen (18) years of age.

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

13 (b) The office of the secretary shall implement a program  
 14 established in accordance with this chapter not later than July 1,  
 15 2015.

16 **Sec. 3. An individual described in section 1 of this chapter shall**  
 17 **take a substance abuse subtle screening inventory test**  
 18 **administered in written or electronic form by a county office.**

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

22 (1) The individual is required to take a written or electronic  
 23 substance abuse subtle screening inventory test.

24 (2) The individual may be subject to random drug testing  
 25 based on the results of the test described in subdivision (1).

26 (3) The individual may be subject to drug testing if the county  
 27 office believes, based on reasonable suspicion as set forth in  
 28 section 5 of this chapter, that the individual is engaged in the  
 29 illegal use of a controlled substance.

30 (4) If the individual tests positive on a drug test administered  
 31 under this chapter, the individual may be ineligible:

32 (A) for TANF assistance; and

33 (B) to receive TANF assistance on behalf of a child.

34 (5) If the individual tests positive on a drug test administered  
 35 under this chapter, the amount of the cost of the drug test will  
 36 be withheld from any future TANF assistance the individual  
 37 receives if the individual continues to receive TANF  
 38 assistance.

39 (6) If the individual tests positive on a drug test administered  
 40 under this chapter, the amount of the cost of any subsequent  
 41 drug test the individual is required to undergo will be  
 42 withheld from the TANF assistance the individual receives, if



- 1           the individual continues to receive TANF assistance,  
2           regardless of whether the individual tests positive or tests  
3           negative on the subsequent drug test.
- 4           **Sec. 5. (a)** A county office is considered to have reasonable  
5           suspicion to believe that an individual is engaged in the illegal use  
6           of a controlled substance if one (1) or more of the following apply:  
7           (1) The individual has been charged with an offense under  
8           IC 35-48 (controlled substances).  
9           (2) The results of the substance abuse subtle screening  
10          inventory test indicate that the individual is at risk for the  
11          illegal use of a controlled substance.  
12          (3) The individual has previously failed a drug test  
13          administered under this chapter.
- 14          **(b)** If a county office has knowledge that an individual has been  
15          formally charged with an offense described in subsection (a)(1), the  
16          county office shall administer a drug test to the individual.
- 17          **(c)** If a county office has reasonable suspicion to believe from  
18          the results of a substance abuse subtle screening inventory test that  
19          an individual is engaged in the illegal use of a controlled substance,  
20          the individual shall be placed in a pool of individuals who are  
21          subject to drug testing described in section 6 of this chapter.
- 22          **(d)** If a county office has reasonable suspicion to believe that an  
23          individual is engaged in the illegal use of a controlled substance as  
24          the result of failing a drug test administered under this chapter, the  
25          individual shall be placed in a pool of individuals who are subject  
26          to random drug testing as described in section 7 of this chapter.
- 27          **Sec. 6.** The office of the secretary shall administer a drug test to  
28          at least fifty percent (50%) of the pool of individuals described in  
29          section 5(c) of this chapter. An individual may not be tested more  
30          than once under this section.
- 31          **Sec. 7.** The office of the secretary shall administer random drug  
32          tests to fifty percent (50%) of the pool of individuals described in  
33          section 5(d) of this chapter each month.
- 34          **Sec. 8.** A county office shall provide a list of drug abuse  
35          treatment programs to any individual who tests positive under this  
36          chapter.
- 37          **Sec. 9. (a)** An individual who tests positive under this chapter  
38          and provides evidence that the individual is participating in a drug  
39          abuse treatment program shall continue to receive TANF  
40          assistance. However, the office of the secretary shall administer a  
41          drug test to the individual regularly at intervals of at least twenty  
42          (20) days and not more than thirty (30) days until the individual



1 tests negative in two (2) consecutive drug tests.

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

9 (c) If an individual:

10 (1) tests positive under this chapter; and

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

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

16 (d) An individual who is ineligible under subsection (b) or (c)  
17 may reapply for TANF assistance after the applicable three (3)  
18 month ineligibility period. Upon reapplying, the individual must  
19 test negative on a drug test before the individual may receive  
20 TANF assistance.

21 (e) If an individual described in subsection (d) tests positive on  
22 the drug test administered for the TANF reapplication process, the  
23 individual is permanently ineligible to receive TANF assistance for  
24 the individual.

25 Sec. 10. (a) An individual who:

26 (1) reapplies for TANF assistance under section 9(d) of this  
27 chapter; and

28 (2) is eligible to receive TANF assistance;

29 is subject to random drug testing as described in subsection (b) for  
30 as long as the individual receives TANF assistance.

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

34 (c) Section 9 of this chapter applies to an individual described  
35 in subsection (a) who tests positive on a subsequent drug test  
36 administered in accordance with this section.

37 Sec. 11. If an individual refuses to take a substance abuse subtle  
38 screening inventory test or drug test under this chapter, the  
39 individual is ineligible to receive TANF assistance under this  
40 chapter.

41 Sec. 12. (a) An individual who is ineligible to receive TANF  
42 assistance under this chapter is ineligible to receive TANF



1 assistance on behalf of another individual.

2 (b) Except as provided in section 13 of this chapter, if an  
3 individual is permanently ineligible to receive TANF assistance  
4 under this chapter and the individual receives or will receive TANF  
5 assistance on behalf of a child, the following apply:

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

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

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

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

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

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

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

19 (d) Subject to subsection (h), if an ineligible individual described  
20 in subsection (b) does not designate an immediate family member  
21 of the child or another individual to act as a protective payee for  
22 the child, the division shall designate an immediate family member  
23 or another individual to act as a protective payee for the child.

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

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

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

30 (f) An immediate family member of the child or another  
31 individual who is designated as a protective payee for the child  
32 shall undergo a drug test before the family member or individual  
33 may act as a protective payee under this section.

34 (g) The immediate family member or individual described in  
35 subsection (f) shall pay the cost of the drug test under subsection  
36 (f).

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

41 (i) An immediate family member of the child or another  
42 individual who has been designated as a protective payee of the





1 child may not continue to act as a protective payee for the child  
 2 under this chapter if the immediate family member or individual  
 3 is charged with a felony while the immediate family member or  
 4 individual is receiving TANF assistance on behalf of a child under  
 5 this chapter.

6 **Sec. 13. (a) If an individual:**

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

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

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

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

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

17 (b) An individual described in subsection (a) is subject to  
 18 random drug testing as described in section 10(b) of this chapter  
 19 for as long as the individual receives TANF assistance on behalf of  
 20 the child.

21 (c) If an individual described in subsection (a) tests positive on  
 22 a drug test administered by the office of the secretary, the  
 23 individual may not receive TANF assistance on behalf of the child  
 24 and a protective payee must be designated for the child as provided  
 25 in section 12 of this chapter.

26 **Sec. 14. (a) Except as provided in section 12(g) of this chapter**  
 27 **and subsections (b) and (c), the office of the secretary shall pay the**  
 28 **costs of a drug test administered under this chapter.**

29 (b) If an individual tests positive on a drug test administered  
 30 under this chapter, the office of the secretary shall withhold the  
 31 amount of the cost of the drug test from the next payment of TANF  
 32 assistance the individual receives if the individual receives TANF  
 33 assistance.

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

39 **Sec. 15. (a) This chapter is subject to administrative hearing**  
 40 **procedures under IC 4-21.5.**

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



1           **Sec. 16. A drug test administered under the program must be**  
 2 **performed by a:**

- 3           **(1) SAMHSA (as defined in IC 22-10-15-3) clinical laboratory;**  
 4           **or**  
 5           **(2) clinical laboratory holding a federal Clinical Laboratory**  
 6           **Improvement Act (CLIA) certificate or a CLIA certificate of**  
 7           **accreditation.**

8           **Sec. 17. The office of the secretary shall notify the department**  
 9 **of child services regarding a child who has had an immediate**  
 10 **family member or other individual designated as a protective**  
 11 **payee under this chapter.**

12           **Sec. 18. The office of the secretary shall provide to:**

- 13           **(1) the Indiana housing and community development**  
 14 **authority established by IC 5-20-1-3; and**  
 15           **(2) any division of the office of the secretary that implements**  
 16 **SNAP (as defined as IC 12-14-30-1);**

17 **the name of an individual who has tested positive under this**  
 18 **chapter.**

19           **Sec. 19. The office of the secretary's records concerning the**  
 20 **results of a drug test under this article may not be admitted against**  
 21 **a defendant in a criminal proceeding.**

22           **Sec. 20. The office of the secretary shall collect data to assess**  
 23 **and ensure that there is no discrimination based on race, ethnicity,**  
 24 **or sex regarding the pool of individuals who are drug tested under**  
 25 **the program established under this chapter.**

26           **Sec. 21. The office of the secretary may adopt rules under**  
 27 **IC 4-22-2 necessary to implement this article.**

28           **SECTION 7. IC 12-14-30-3 IS ADDED TO THE INDIANA CODE**  
 29 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**  
 30 **1, 2014]: Sec. 3. (a) The division shall establish a pilot program for**  
 31 **SNAP that allows SNAP benefits to be used only for food, food**  
 32 **products, and beverages that have sufficient nutritional value, as**  
 33 **determined by the division.**

34           **(b) In determining sufficient nutritional value under subsection**  
 35 **(a), the division shall consider the food limitations set forth in the**  
 36 **women, infants, and children nutrition program (WIC) (under**  
 37 **IC 16-35-1.5).**

38           **(c) If the division determines that federal approval is needed to**  
 39 **implement the pilot program described in this section, the division**  
 40 **shall request federal approval of the pilot program and implement**  
 41 **the pilot program not later than thirty (30) days after the required**  
 42 **approval is obtained.**



1           (d) The division may adopt rules under IC 4-22-2 necessary to  
2 implement this section.

3           SECTION 8. [EFFECTIVE UPON PASSAGE] (a) The department  
4 of workforce development shall, before July 1, 2014, submit a  
5 report to the legislative council and the unemployment insurance  
6 oversight committee concerning the options available to the state,  
7 including the possibility of a waiver from the federal government,  
8 to condition the receipt of unemployment benefits, after the sixth  
9 week during which the benefits are received, on a recipient being  
10 required to choose one (1) of the following:

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

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

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

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

17           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.

