

Regular Session, 2010

HOUSE BILL NO. 617

BY REPRESENTATIVE LABRUZZO

WELFARE: Requires at least twenty percent of recipients of cash assistance to be drug tested prior to receiving benefits

1 AN ACT

2 To amend and reenact R.S. 46:460.10(A), (B), (C), and (E) and to enact R.S. 46:460.10(F),  
3 relative to drug testing of adult recipients of cash assistance; to require participants  
4 to consent to possible drug testing prior to receipt of cash benefits; to require drug  
5 testing for twenty percent of recipients of cash assistance; to establish a cost savings  
6 program for drug testing; to provide for an effective date; and to provide for related  
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 46:460.10(A), (B), (C), and (E) are hereby amended and reenacted  
10 and R.S. 46:460.10(F) is hereby enacted to read as follows:

11 §460.10. Drug testing for certain adult recipients of public assistance; legislative  
12 policy; ~~procedures;~~ cost savings program

13 A. The legislature hereby reaffirms the legitimate government function of  
14 promoting the safety and welfare of children and adults. The legislature declares that  
15 the best interests of a significant portion of the state's population are served by  
16 ensuring that they are free of the physical and mental impairments associated with  
17 drug dependence. The legislature also affirms the importance of ensuring that  
18 Louisiana's citizens are ready to work, and in order for Louisiana's citizens to be  
19 work-ready, they must be free of drug dependence. The legislature further reaffirms

1 its compelling interest in providing safeguards to eliminate the misappropriation of  
2 ~~entitlement~~ cash assistance benefits. The legislature hereby directs the secretary of  
3 the Department of Social Services in consultation with the secretary of the  
4 Department of Health and Hospitals and the commissioner of administration to  
5 establish a mandatory drug testing program for ~~certain~~ twenty percent of adults in the  
6 Family Independence Temporary Assistance Program ~~Temporary Assistance for~~  
7 ~~Needy Families Block Grant Program~~. The drug testing shall comply with standards  
8 utilized by the office of addictive disorders.

9 B.(1) Each participant in the Family Independence Temporary Assistance  
10 Program shall be asked to sign a written consent form which informs the participant  
11 that, in order to receive or to continue receiving cash assistance benefits, the  
12 participant shall consent to drug testing administered by the Department of Social  
13 Services according to the provisions of this Section. The form shall inform the  
14 participant that, with his signature, the participant may be drug tested at any time as  
15 determined by the department while the participant is receiving cash assistance  
16 benefits. A participant who does not sign the form granting consent to a drug test  
17 shall not be eligible to receive or continue receiving cash assistance benefits.

18 (2) The secretary of the Department of Social Services shall cause to be  
19 instituted a mandatory drug testing program for ~~certain~~ twenty percent of adult  
20 participants, to be determined by the secretary in consultation with the secretary of  
21 the Department of Health and Hospitals and the commissioner of administration, in  
22 the Family Independence Temporary Assistance Program ~~Temporary Assistance for~~  
23 ~~Needy Families Block Grant Program~~. The Department of Social Services shall  
24 select the participants to be drug tested according to a procedure established through  
25 rules and regulations promulgated according to the Administrative Procedure Act.  
26 No participant shall be tested if such testing is prohibited by federal law. No  
27 sanction shall be imposed on an adult participant if such sanction is prohibited by  
28 federal law. Such testing program shall provide procedural safeguards to ensure the

1 protection of the constitutional rights of the program participants and provide that  
2 testing shall be done by state certified laboratories.

3 C. The required drug testing program shall require a participant to complete  
4 an education and rehabilitation program upon the initial identification of such  
5 participant as an illegal drug user verified by a positive test result as a prerequisite  
6 to continued receipt of benefits. Further, the drug testing program shall provide for  
7 the suspension of participation in such ~~entitlement~~ cash assistance program for a  
8 participant subsequently identified by a verified positive test result as an illegal drug  
9 user; however, in no event shall participation in such ~~entitlement~~ cash assistance  
10 program be suspended while the participant is taking part in the education and  
11 rehabilitation program or until an education and rehabilitation program is available  
12 to the participant. The secretary of the Department of Social Services in conjunction  
13 with the secretary of the Department of Health and Hospitals and the commissioner  
14 of administration shall provide a program of education and rehabilitation for  
15 participants so identified as illegal drug users. Such program shall include  
16 regulations governing the reentry of a suspended recipient into the ~~entitlement~~ cash  
17 assistance program based on subsequent testing results and completion of education  
18 and rehabilitation programs. Such program shall also include the provision of  
19 inpatient services for any participant identified as an illegal drug user if it is  
20 determined that such inpatient services are necessary for successful rehabilitation.

21 \* \* \*

22 E. The secretary of the Department of Social Services shall enter into an  
23 agreement with a private contractor for the full implementation of the provisions of  
24 this Section. To be eligible to enter into an agreement, the private contractor shall  
25 be licensed by the state of Louisiana, follow the procurement process, and be  
26 approved by the Joint Legislative Committee on the Budget. Such contractor shall  
27 be responsible for testing for the presence of illegal drugs in those adult participants  
28 of the Family Independence Temporary Assistance Program who are selected by the  
29 Department of Social Services to be drug tested according to the procedure

1 established by the department. Contracts entered into pursuant to the terms of this  
2 Subsection shall be negotiated with the contractor found most qualified; however,  
3 no contract for services may be entered into unless the contractor demonstrates that  
4 it possesses all of the following:

5 (1) The qualifications, experience, and management personnel necessary to  
6 carry out the terms of the contract.

7 (2) The ability to comply with applicable state and federal laws regarding  
8 privacy.

9 (3) The ability to conduct drug testing in accordance with acceptable  
10 scientific laboratory standards while maintaining the appropriate laboratory  
11 accreditation by an organization chosen by the secretary of the Department of Social  
12 Services.

13 (4) The technical competence to conduct initial drug screens of a large  
14 number of people using technology to test urine, hair, saliva, sweat, or whatever  
15 specimen proves to be the most cost-effective. The types of drugs to be tested shall  
16 include at a minimum, marijuana, hashish, cocaine, opiates, methamphetamines,  
17 benzodiazepines, amphetamines, and phencyclidine (PCP).

18 (5) The technical competence to conduct a more comprehensive and accurate  
19 drug test of any adult participant whose initial drug screen shows the presence of the  
20 illegal drugs listed in Paragraph (4) of this Subsection.

21 ~~E. F.~~ The secretary shall prepare a written statistical report on the program  
22 and submit the report to the legislature on or before January 1, 1999, and annually  
23 thereafter.

24 Section 2. This Act shall become effective on January 1, 2011.

## DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

LaBruzzo

HB No. 617

**Abstract:** Expands drug testing to 20% of adult recipients of public cash assistance. Establishes a cost savings program for drug testing program.

Present law provides for drug testing of certain adult recipients participating in the Temporary Assistance for Needy Families Block Grant (TANF). Allows the secretary of the Dept. of Social Services (DSS), in consultation with the secretary of the Dept. of Health and Hospitals (DHH) and the commissioner of administration, to define which adult participants are subject to testing.

Proposed law retains present law but requires that 20% of adult recipients of the Family Independence Temporary Assistance Program (FITAP) be drug tested. Proposed law requires that drug testing comply with standards utilized by the office for addictive disorders.

Proposed law requires each participant of the FITAP program to sign a written consent form which informs the participant that, in order to receive or to continue receiving cash assistance benefits, the participant shall consent to drug testing administered by DSS. A participant who does not sign the form granting consent to a drug test shall not be eligible to receive or to continue receiving cash assistance.

Proposed law creates a cost savings program for drug testing. Requires the secretary of DSS to contract with a private contractor with certain qualifications to test those adult recipients of FITAP selected under the procedure established by the secretaries of DSS, DHH, and the commissioner of administration, and to test certain adults in other TANF programs. Requires the contractor to demonstrate that it has the following: qualifications, experience, and management personnel to carry out the terms of the contract; the ability to comply with state and federal privacy laws; the ability to conduct drug testing within acceptable scientific standards and maintain proper accreditation; the technical competence to conduct a cost-effective drug screening of specimen; and the ability to conduct a follow-up test of any adult participant who fails an initial drug screening.

Effective Jan. 1, 2011.

(Amends R.S. 46:460.10(A), (B), (C), and (E); Adds R.S. 46:460.10(F))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Health and Welfare to the original bill.

1. Changed the minimum percentage of cash assistance recipients who shall be drug tested prior to receiving benefits from 50% to 20%.
2. Added a provision to prioritize drug testing of pregnant women within the group to be drug tested.

House Floor Amendments to the engrossed bill.

1. Removed provision to prioritize drug test of pregnant women within the group to be tested.
2. Provided that the drug testing applies only to FITAP recipients rather than participants in the entire TANF program.
3. Provided that the drug testing shall comply with standards utilized by the office for addictive disorders.
4. Required that all participants of the FITAP program sign a consent form to be drug tested or they are ineligible to receive cash assistance benefits.
5. Provided that, in order to be eligible to enter into an agreement to perform the drug testing, the contractor shall be licensed by the state of La., follow the procurement process, and be approved by Joint Legislative Committee on the Budget.