

Regular Session, 2011

HOUSE BILL NO. 7

BY REPRESENTATIVES LABRUZZO AND HARDY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

WELFARE: Requires at least twenty percent of recipients of cash assistance through the Family Independence Temporary Assistance Program 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

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 Children and Family Services in consultation with the secretary
4 of the Department of Health and Hospitals and the commissioner of administration
5 to establish a mandatory drug testing program for ~~certain~~ twenty percent of adults in
6 the ~~Temporary Assistance for Needy Families Block Grant Program~~ Family
7 Independence Temporary Assistance Program. The drug testing shall comply with
8 standards utilized by the office of behavioral health of the Department of Health and
9 Hospitals.

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

20 (2) The secretary of the Department of Children and Family Services shall
21 cause to be instituted a mandatory drug testing program for ~~certain~~ twenty percent
22 of adult participants, to be determined by the secretary in consultation with the
23 secretary of the Department of Health and Hospitals and the commissioner of
24 administration, in the ~~Temporary Assistance for Needy Families Block Grant~~
25 Program Family Independence Temporary Assistance Program or its successor
26 ~~Temporary Assistance for Needy Families Block Grant Program~~. The Department
27 of Children and Family Services shall select the participants to be drug tested
28 according to a procedure established through rules and regulations promulgated
29 according to the Administrative Procedure Act. No participant shall be tested if such

1 testing is prohibited by federal law. No sanction shall be imposed on an adult
2 participant if such sanction is prohibited by federal law. Such testing program shall
3 provide procedural safeguards to ensure the protection of the constitutional rights of
4 the program participants and provide that testing shall be done by state certified
5 laboratories.

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

25 * * *

26 E. The secretary of the Department of Children and Family Services shall
27 promulgate rules and adopt regulations, in accordance with the Administrative
28 Procedure Act, to implement the provisions of this Section. The implementation of

1 the drug testing of adult recipients of cash assistance shall be conducted in the most
2 efficient and cost-effective manner possible.

3 E. F. The secretary shall prepare a written statistical report on the program
4 and submit the report to the legislature on or before January 1, 1999, and annually
5 thereafter.

6 Section 2. This Act shall become effective on January 1, 2012.

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. 7

Abstract: Expands drug testing to 20% of adult recipients of public cash assistance. Establishes a cost savings program for a 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 Children and Family Services (DCFS), 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 of behavioral health.

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 DCFS. 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 DCFS to create rules and regulations that comply with the Administrative Procedure Act, to implement proposed law. Also, requires that the implementation of the drug testing program be conducted in the most efficient and cost-effective manner possible.

Effective Jan. 1, 2012.

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