

HOUSE No. 79

The Commonwealth of Massachusetts

PRESENTED BY:

Nicholas A. Boldyga

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the well-being of public assistance recipients.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Nicholas A. Boldyga

3rd Hampden

Donald F. Humason, Jr.

Second Hampden and Hampshire

HOUSE No. 79

By Mr. Boldyga of Southwick, a petition (accompanied by bill, House, No. 79) of Nicholas A. Boldyga and Donald F. Humason, Jr. relative to requiring drug tests to screen individuals who apply for transitional assistance. Children, Families and Persons with Disabilities.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 73 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to the well-being of public assistance recipients.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 18 of the General Laws, as most recently amended by chapter 161 of the Acts of
2 2012 is hereby amended by adding the following section:-

3 Section 5L (a) The department shall require a drug test to screen individuals who apply
4 for transitional assistance for needy families (TANF) benefits and any parent or relative who
5 receives TANF benefits as a result of such application who has been convicted of a drug-related
6 felony in the last 20 years. The cost of the drug test shall be the responsibility of the individual
7 being tested. An individual who tests positive for controlled substances as a result of a drug test
8 required under this section shall be ineligible to receive TANF benefits for 1 year after the date
9 of the positive drug test unless the individual meets the requirements of paragraph (j).

10 (b) The department shall provide notice of the drug testing required by this section at the
11 time the individual applies for TANF benefits. The notice must advise the individual that drug
12 testing will be conducted as a condition for receiving TANF benefits and that the individual must
13 bear the cost of the testing. If the individual tests negative for controlled substances, the
14 department shall increase the amount of the individual's initial TANF benefit by the same
15 amount the individual paid for the required drug test. The department shall advise the individual
16 that the required drug test may be avoided if the individual does not apply for TANF benefits.

17 (c) Dependent children under the age of 18 are exempt from the requirements of this
18 section; provided, however, that any teen parent who is not required to live with a parent, legal
19 guardian or other adult caretaker must comply with the requirements of this section.

20 (d) Before the drug test is conducted, the department shall advise the individual to be
21 tested that he or she may, but is not required to, advise the person administering the test of any
22 prescription or over the counter medication he or she is taking. The department will also
23 administer a questionnaire to all who qualify for drug testing under the requirements of
24 paragraph (a). This questionnaire will be developed and implemented by the department.

25 (e) The department shall require each individual to be tested to sign a written
26 acknowledgement that he or she has received and understood the notice and advice issued by the
27 department pursuant to paragraphs (b) through (d).

28 (f) The department shall ensure that each individual tested pursuant to this section shall
29 be afforded a reasonable degree of dignity while producing and submitting a sample for the drug
30 test, consistent with the commonwealth's need to ensure the reliability of the sample.

31 (g) The department shall specify the circumstances under which an individual who fails
32 the drug test has the right to take one or more additional tests.

33 (h) The department shall inform an individual who tests positive for a controlled
34 substance and is deemed ineligible for TANF benefits that the individual may reapply for those
35 benefits 1 year after the date of the positive drug test unless the individual meets the
36 requirements of paragraph (j). If the individual tests positive again, he or she shall be ineligible
37 to receive TANF benefits for 3 years after the date of the second positive drug test unless the
38 individual meets the requirements of paragraph (j).

39 (i) The department shall provide individuals who test positive with a list of licensed
40 substance abuse treatment providers. Neither the department nor the commonwealth shall be
41 responsible for providing or paying for substance abuse treatment as part of the screening
42 conducted under this section.

43 (j) An individual who tests positive under this section and is denied TANF benefits as a
44 result may reapply for those benefits after if the individual can document his or her successful
45 completion of a substance abuse treatment program offered by a provider that meets the
46 requirements of paragraph (i). An individual who has met the requirements of this paragraph and
47 reapplies for TANF benefits must also pass an initial drug test and meet the requirements of
48 paragraph (a). The cost of any drug test and substance abuse treatment provided under this
49 section shall be the responsibility of the individual being tested and receiving the treatment. An
50 individual who fails the drug test required under paragraph (a) may reapply for benefits under
51 this paragraph only once.

52 (k) If a parent is deemed ineligible for TANF benefits as a result of failing a drug test
53 conducted under this section:

54 (1) The dependent child's eligibility for TANF benefits shall not be affected;

55 (2) The appropriate protective payee shall be designated to receive benefits on behalf of
56 the dependent child; and

57 (3) The parent may choose to designate another individual to receive benefits for the
58 parent's dependent child. The designated individual must be an immediate family member or, if
59 an immediate family member is not available or declines the option, another individual,
60 approved by the department, may be so designated. The designated individual must also undergo
61 drug testing before being approved to receive benefits on behalf of the child. If the designated
62 individual tests positive for controlled substances, he or she is ineligible to receive benefits on
63 behalf of the child.

64 (l) The department shall adopt regulations to implement this section.