

SENATE BILL 48

By Campfield

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 3, Part 12; Title 4, Chapter 3, Part 18 and Title 71, relative to drug tests as a condition of receiving public assistance.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 5, Part 23, is amended by adding the following as a new section:

71-5-2315.

(a) To the extent not prohibited by federal law, or by any federal waiver received by the state that waives any or all of the provisions of Title XIX of the Social Security Act as amended (P.L. 89-97) or pursuant to any other federal law as adopted by amendment to the required Title XIX state plan, the department of human services shall implement a program of substance abuse testing for each adult recipient who is otherwise eligible for public assistance and who the department has reasonable cause to believe engages in the illegal use of controlled substances.

(b) An individual shall not be considered to have tested positive for substance abuse until the sample has been retested to rule out a false positive using the same sample obtained for the original test. Any individual whose sample test positive for substance abuse upon retesting shall be provided with notice of such result and given an opportunity to appeal the denial or cessation of public assistance benefits pursuant to this section. Any recipient who is found to have tested positive for the use of a controlled substance that was not prescribed for the recipient by a licensed health care provider is ineligible to receive benefits for a period of one (1) year.

(c) The department shall have rulemaking authority pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to establish any necessary rules for the administration of this section and shall have rulemaking authority to establish any rules to carry out the requirements of any title or part of any title that the department administers and that are necessary to immediately implement the provisions of this section to effectuate any federal legislative changes.

(d) By January 1, 2012, and each January 1 thereafter, the department shall submit an annual report on the testing program to the senate general welfare, health, and human resources committee and the house of representatives health and human resources committee. The annual report shall include at least the following information for the preceding year:

- (1) The number of individuals tested and the number of positive test results;
- (2) The costs of the testing; and
- (3) The number of sanctions imposed as a result of the testing.

(e) The department of health shall assist the department of human services in implementing the substance abuse testing program for applicants and recipients for public assistance under the provisions of this section.

SECTION 2. For purposes of developing the program and rulemaking this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect on January 1, 2012, the public welfare requiring it.