

# HOUSE BILL No. 1452

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 12-7-2-43.3; IC 12-14-30; IC 12-15-2-26; IC 12-15-45.

**Synopsis:** Drug testing for public assistance. Requires the division of family resources to develop a program to test, for use of controlled substances, an individual applying for or receiving assistance under the federal Temporary Assistance for Needy Families (TANF) program, if a county office believes, based on reasonable suspicion, that the individual is engaged in the illegal use of controlled substances. Provides that an individual who tests positive for a controlled substance without a prescription is ineligible to receive TANF assistance. Provides that an individual who is ineligible to receive assistance may reapply for assistance under the TANF program on the earlier of: (1) six months after the date the individual tests positive for a controlled substance; or (2) the date the individual complies with and completes a drug abuse treatment program. Provides that an individual who is ineligible for TANF assistance as the result of testing positive for the presence of illegal drugs is ineligible for assistance under the Medicaid program. Requires the office of Medicaid policy and planning to apply for an amendment to the state Medicaid plan to limit Medicaid eligibility for individuals who are ineligible under the TANF program as the result of testing positive for the presence of illegal drugs.

**Effective:** Upon passage; July 1, 2011.

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January 20, 2011, read first time and referred to Committee on Family, Children and Human Affairs.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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## HOUSE BILL No. 1452

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, 2011]: **Sec. 43.3. "Controlled substance", for purposes of**  
4 **IC 12-14-30, has the meaning set forth in IC 35-48-1-9.**

5 SECTION 2. IC 12-14-30 IS ADDED TO THE INDIANA CODE  
6 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
7 JULY 1, 2011]:

8 **Chapter 30. Drug Testing Under the Temporary Assistance for**  
9 **Needy Families Program**

10 **Sec. 1. This chapter applies to an individual who:**

- 11 (1) **is at least eighteen (18) years of age; and**  
12 (2) **applies for or receives assistance under the TANF**  
13 **program.**

14 **Sec. 2. (a) The division shall establish a program in accordance**  
15 **with this chapter to test for use of controlled substances by an**  
16 **individual who applies for or receives assistance under the TANF**  
17 **program, if a county office believes, based on reasonable suspicion,**



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that the individual is engaged in the illegal use of a controlled substance.

(b) The division shall develop and implement a program under this chapter that includes the following:

- (1) Testing of individuals described in subsection (a) under the TANF program.
- (2) A urinalysis test for purposes of the testing required under this chapter.
- (3) An appeals process for individuals tested under this chapter.

Sec. 3. If an individual who is tested for a controlled substance under this chapter:

- (1) tests positive for the presence of a controlled substance in the individual's body; and
- (2) does not possess a valid prescription for the controlled substance;

the individual is ineligible to receive assistance under the TANF program, after an administrative hearing under IC 4-21.5 in which a finding is made that the individual tested positive under subdivision (1) and did not possess a valid prescription under subdivision (2) when the test was administered.

Sec. 4. An individual tested for the use of a controlled substance under this chapter is not considered to have tested positive for the presence of a controlled substance in the individual's body until the sample obtained from the original test has been retested to rule out a false positive.

Sec. 5. The division shall refer an individual who is ineligible to receive assistance under section 3 of this chapter to an appropriate drug abuse treatment program.

Sec. 6. An individual who is ineligible to receive assistance under section 3 of this chapter may reapply for assistance under the TANF program on the earlier of the following:

- (1) Six (6) months after the date the individual tests positive for a controlled substance under this chapter.
- (2) The date the individual complies with and completes a drug abuse treatment program.

Sec. 7. A dependent child's eligibility for assistance under the TANF program is not affected by this chapter.

Sec. 8. The division or a county office may contract with a private or public entity or an individual to perform the testing for controlled substances required under this chapter.

Sec. 9. The division may adopt rules under IC 4-22-2 necessary

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**to implement this chapter.**

SECTION 3. IC 12-15-2-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 26. An individual who is ineligible for public assistance as described in IC 12-14-30 is ineligible to receive Medicaid assistance under this article.**

SECTION 4. IC 12-15-45 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 45. Medicaid Waivers**

**Sec. 1. (a) Before July 1, 2011, the office shall apply to the United States Department of Health and Human Services for approval to amend the state Medicaid plan to limit eligibility for individuals who are ineligible for public assistance under IC 12-14-30.**

**(b) The office may not implement the amendment to the state Medicaid plan until the office files an affidavit with the governor attesting that the amendment applied for under this section is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the amendment is approved.**

**(c) If the office receives approval to amend the state Medicaid plan under this section from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (b), the office shall implement the amendment not later than five (5) days after the governor receives the affidavit.**

**(d) This section expires December 31, 2013.**

SECTION 5. **An emergency is declared for this act.**

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