
HOUSE BILL No. 1559

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-7-2-43.3; IC 12-14-30; IC 22-4.

Synopsis: Drug testing of recipients of assistance. Requires the division of family resources to develop a program to randomly test individuals applying for or receiving assistance under the federal Temporary Assistance for Needy Families (TANF) program for the use of a controlled substance. 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 tested positive for a controlled substance if, before the individual reapplies for assistance, the individual tests negative for the use of a controlled substance; or (2) the date the individual complies with and completes a drug abuse treatment program. Requires the department of workforce development to develop a program to randomly test individuals applying for or receiving benefits under the unemployment insurance program for the use of a controlled substance. Establishes similar requirements as those established for the testing under the TANF program.

Effective: July 1, 2011.

McMillin, Koch

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. 1559

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 randomly test individuals who apply for or**
16 **receive assistance under the TANF program. The program must**
17 **provide for the random testing of such individuals for the use of**



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controlled substances.

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

- (1) Testing individuals described in subsection (a) under the TANF program.
- (2) A urinalysis test.
- (3) An appeals process for individuals.

(c) A county office may administer additional tests for the use of a controlled substance to an individual who is eligible for assistance under the TANF program if the individual:

- (1) is arrested or indicted on charges involving the illegal use of a controlled substance; or
- (2) has tested positive for use of a controlled substance under this chapter.

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

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

the individual is, after an administrative hearing under IC 4-21.5, ineligible to receive assistance under the TANF program.

(b) An individual who refuses to take a test required under this chapter without good cause is ineligible to receive assistance under the TANF program.

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. 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 tested positive for a controlled substance under section 3(a) of this chapter or refused to take a test under section 3(b) of this chapter if, before the individual reapplies for assistance, the individual tests negative for the use of a controlled substance.
- (2) The date the individual complies with and completes a drug abuse treatment program.

Sec. 6. A dependent child's eligibility for assistance under the TANF program is not affected by this chapter.

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1 **Sec. 7. The division or county office may contract with a private**
2 **or public entity or an individual to perform testing for controlled**
3 **substances required under this chapter.**

4 **Sec. 8. The division shall adopt rules under IC 4-22-2 necessary**
5 **to implement this chapter.**

6 SECTION 3. IC 22-4-2-4.5 IS ADDED TO THE INDIANA CODE
7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 2011]: **Sec. 4.5. "Controlled substance" has the meaning set forth**
9 **in IC 35-48-1-9.**

10 SECTION 4. IC 22-4-14-3, AS AMENDED BY P.L.110-2010,
11 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2011]: Sec. 3. (a) An individual who is receiving benefits as
13 determined under IC 22-4-15-1(c)(8) may restrict the individual's
14 availability because of the individual's need to address the physical,
15 psychological, or legal effects of being a victim of domestic or family
16 violence (as defined in IC 31-9-2-42).

17 (b) An unemployed individual shall be eligible to receive benefits
18 with respect to any week only if the individual:

- 19 (1) is physically and mentally able to work;
- 20 (2) is available for work;
- 21 (3) is found by the department to be making an effort to secure
22 full-time work; ~~and~~

23 (4) participates in reemployment services, such as job search
24 assistance services, if the individual has been determined to be
25 likely to exhaust regular benefits and to need reemployment
26 services under a profiling system established by the department,
27 unless the department determines that:

- 28 (A) the individual has completed the reemployment services;
- 29 or
- 30 (B) failure by the individual to participate in or complete the
31 reemployment services is excused by the director under
32 IC 22-4-14-2(b); **and**

33 **(5) agrees to submit, if requested, to random testing for the**
34 **use of a controlled substance as described under section 12 of**
35 **this chapter.**

36 The term "effort to secure full-time work" shall be defined by the
37 department through rule which shall take into consideration whether
38 such individual has a reasonable assurance of reemployment and, if so,
39 the length of the prospective period of unemployment. However, if an
40 otherwise eligible individual is unable to work or unavailable for work
41 on any normal work day of the week the individual shall be eligible to
42 receive benefits with respect to such week reduced by one-third (1/3)

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1 of the individual's weekly benefit amount for each day of such inability
2 to work or unavailability for work.

3 (c) For the purpose of this article, unavailability for work of an
4 individual exists in, but is not limited to, any case in which, with
5 respect to any week, it is found:

6 (1) that such individual is engaged by any unit, agency, or
7 instrumentality of the United States, in charge of public works or
8 assistance through public employment, or any unit, agency, or
9 instrumentality of this state, or any political subdivision thereof,
10 in charge of any public works or assistance through public
11 employment;

12 (2) that such individual is in full-time active military service of
13 the United States, or is enrolled in civilian service as a
14 conscientious objector to military service;

15 (3) that such individual is suspended for misconduct in
16 connection with the individual's work; or

17 (4) that such individual is in attendance at a regularly established
18 public or private school during the customary hours of the
19 individual's occupation or is in any vacation period intervening
20 between regular school terms during which the individual is a
21 student. However, this subdivision does not apply to any
22 individual who is attending a regularly established school, has
23 been regularly employed and upon becoming unemployed makes
24 an effort to secure full-time work and is available for suitable
25 full-time work with the individual's last employer, or is available
26 for any other full-time employment deemed suitable.

27 (d) Notwithstanding any other provisions in this section or
28 IC 22-4-15-2, no otherwise eligible individual shall be denied benefits
29 for any week because the individual is in training with the approval of
30 the department, nor shall such individual be denied benefits with
31 respect to any week in which the individual is in training with the
32 approval of the department by reason of the application of the
33 provisions of this section with respect to the availability for work or
34 active search for work or by reason of the application of the provisions
35 of IC 22-4-15-2 relating to failure to apply for, or the refusal to accept,
36 suitable work. The department shall by rule prescribe the conditions
37 under which approval of such training will be granted.

38 (e) Notwithstanding subsection (b), (c), or (d), or IC 22-4-15-2, an
39 otherwise eligible individual shall not be denied benefits for any week
40 or determined not able, available, and actively seeking work, because
41 the individual is responding to a summons for jury service. The
42 individual shall:

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- 1 (1) obtain from the court proof of the individual's jury service;
- 2 and
- 3 (2) provide to the department, in the manner the department
- 4 prescribes by rule, proof of the individual's jury service.

5 SECTION 5. IC 22-4-14-12 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2011]: **Sec. 12. (a) The department shall establish a program in**
 8 **accordance with this section to randomly test individuals who**
 9 **apply for or receive benefits. The program must provide for the**
 10 **random testing of such individuals for the use of controlled**
 11 **substances.**

12 (b) The department shall develop and implement a program
 13 under this section that includes the following:

- 14 (1) Testing individuals described in subsection (a) under the
- 15 unemployment insurance program.
- 16 (2) A urinalysis test.
- 17 (3) An appeals process for individuals.

18 (c) The department may administer additional tests for the use
 19 of a controlled substance to an individual who is eligible for
 20 benefits if the individual:

- 21 (1) is arrested or indicted on charges involving the illegal use
- 22 of a controlled substance; or
- 23 (2) has tested positive for use of a controlled substance under
- 24 this section.

25 (d) If an individual who is tested for a controlled substance
 26 under this section:

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

31 the individual is, after an administrative hearing under IC 4-21.5,
 32 ineligible to receive benefits.

33 (e) An individual who refuses to take a test required under this
 34 section without good cause is ineligible to receive benefits.

35 (f) An individual tested for the use of a controlled substance
 36 under this chapter is not considered to have tested positive for the
 37 presence of a controlled substance in the individual's body until the
 38 sample obtained from the original test has been retested to rule out
 39 a false positive.

40 (g) An individual who is ineligible to receive benefits under
 41 subsection (d) or (e) may reapply for benefits on the earlier of the
 42 following:

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- 1 **(1) Six (6) months after the date the individual tested positive**
- 2 **for a controlled substance under subsection (d) or refuses to**
- 3 **take a test under subsection (e) if, before the individual**
- 4 **reapplies for benefits, the individual tests negative for the use**
- 5 **of a controlled substance.**
- 6 **(2) The date the individual complies with and completes a**
- 7 **drug abuse treatment program.**
- 8 **(h) The department may contract with a private or public entity**
- 9 **or an individual to perform testing for controlled substances**
- 10 **required under this section.**
- 11 **(i) The department shall adopt rules under IC 4-22-2 necessary**
- 12 **to implement this section.**

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