



February 19, 2013

HOUSE BILL No. 1483

DIGEST OF HB 1483 (Updated February 19, 2013 11:24 am - DI 113)

Citations Affected: IC 12-7; IC 12-14.

Synopsis: Drug testing of recipients of assistance. Requires the office of the secretary of family and social services to administer a drug testing program for individuals who are receiving TANF assistance or receiving TANF assistance on behalf of a child. Establishes requirements for the drug testing program and ineligibility penalties.

Effective: July 1, 2013.

McMillin, VanNatter, Kubacki

January 22, 2013, read first time and referred to Committee on Family, Children and Human Affairs.

February 14, 2013, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

February 19, 2013, reported — Do Pass.

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HB 1483—LS 7453/DI 110+



February 19, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1483

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, 2013]: **Sec. 43.3. "Controlled substance", for purposes of**
4 **IC 12-14-5.4 and this chapter, has the meaning set forth in**
5 **IC 35-48-1-9.**
- 6 SECTION 2. IC 12-7-2-189.9 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2013]: **Sec. 189.9. "TANF assistance", for**
9 **purposes of IC 12-14-5.4, means assistance under the federal**
10 **Temporary Assistance for Needy Families program under 42**
11 **U.S.C. 601 et seq.**
- 12 SECTION 3. IC 12-7-2-190.2 IS ADDED TO THE INDIANA
13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2013]: **Sec. 190.2. "Tests negative" or**
15 **"testing negative", for purposes of IC 12-14-5.4, means that an**
16 **individual:**
- 17 (1) tests negative for the use of a controlled substance in the

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- 1 individual's body; or
- 2 (2) tests positive for the use of a controlled substance in the
- 3 individual's body but has:
- 4 (A) a valid prescription; or
- 5 (B) an order of a practitioner acting in the course of the
- 6 practitioner's professional practice;
- 7 for the controlled substance.

8 SECTION 4. IC 12-7-2-190.3 IS ADDED TO THE INDIANA
 9 CODE AS A NEW SECTION TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2013]: **Sec. 190.3. "Tests positive" or "testing**
 11 **positive", for purposes of IC 12-14-5.4, means an individual:**

- 12 (1) tests positive for the presence of a controlled substance in
- 13 the individual's body; and
- 14 (2) does not possess:
- 15 (A) a valid prescription; or
- 16 (B) an order of a practitioner acting in the course of the
- 17 practitioner's professional practice;
- 18 for the controlled substance.

19 SECTION 5. IC 12-14-5.4 IS ADDED TO THE INDIANA CODE
 20 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2013]:

22 **Chapter 5.4. Drug Testing Program**

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

- 24 (1) is eligible to receive TANF assistance or who receives
- 25 TANF assistance on behalf of a child; and
- 26 (2) is at least eighteen (18) years of age.

27 **Sec. 2. (a) The office of the secretary shall develop and establish**
 28 **a program in accordance with this chapter to test for the illegal use**
 29 **of a controlled substance by an individual described in section 1 of**
 30 **this chapter.**

31 **(b) The office of the secretary shall implement a program**
 32 **established in accordance with this chapter not later than July 1,**
 33 **2014.**

34 **Sec. 3. An individual described in section 1 of this chapter shall**
 35 **take a substance abuse subtle screening inventory test**
 36 **administered in written or electronic form by a county office.**

37 **Sec. 4. A county office shall provide the following information**
 38 **in writing to an individual described in section 1 of this chapter at**
 39 **the time the individual applies for TANF assistance:**

- 40 (1) The individual is required to take a written or electronic
- 41 substance abuse subtle screening inventory test.
- 42 (2) The individual may be subject to random drug testing

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based on the results of the test described in subdivision (1).

(3) The individual may be subject to drug testing if the county office believes, based on reasonable suspicion as set forth in section 5 of this chapter, that the individual is engaged in the illegal use of a controlled substance.

(4) If the individual tests positive on a drug test administered under this chapter, the individual or the child on whose behalf the individual receives TANF assistance may be ineligible for TANF assistance.

(5) If the individual tests positive on a drug test administered under this chapter, the amount of the cost of the drug test will be withheld from any future TANF assistance the individual receives if the individual continues to receive TANF assistance.

(6) If the individual tests positive on a drug test administered under this chapter, the amount of the cost of any subsequent drug tests the individual is required to undergo will be withheld from the TANF assistance the individual receives, if the individual continues to receive TANF assistance, regardless of whether the individual tests positive or tests negative on the drug test.

Sec. 5. (a) A county office is considered to have reasonable suspicion to believe that an individual is engaged in the illegal use of a controlled substance if one (1) or more of the following apply:

(1) The individual has been charged with an offense under IC 35-48 (controlled substances).

(2) The results of the substance abuse subtle screening inventory test indicate that the individual is a risk for the illegal use of a controlled substance.

(3) The individual has previously failed a drug test administered under this chapter.

(b) If a county office has knowledge that an individual has been formally charged with an offense described in subsection (a)(1), the county office shall administer a drug test to the individual.

(c) If a county office has reasonable suspicion to believe from the results of a substance abuse subtle screening inventory test that an individual is engaged in the illegal use of a controlled substance, the individual shall be placed in a pool of individuals who are subject to drug testing described in section 6 of this chapter.

(d) If a county office has reasonable suspicion to believe that an individual is engaged in the illegal use of a controlled substance as the result of failing a drug test administered under this chapter, the

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1 individual shall be placed in a pool of individuals who are subject
2 to random drug testing as described in section 7 of this chapter.

3 **Sec. 6.** The office of the secretary shall administer a drug test to
4 at least fifty percent (50%) of the pool of individuals described in
5 section 5(c) of this chapter. An individual may not be tested more
6 than once under this section.

7 **Sec. 7.** The office of the secretary shall administer random drug
8 tests to fifty percent (50%) of the pool of individuals described in
9 section 5(d) of this chapter each month.

10 **Sec. 8.** A county office shall provide a list of drug abuse
11 treatment programs to any individual who tests positive under this
12 chapter.

13 **Sec. 9. (a)** An individual who tests positive under this chapter
14 and provides evidence that the individual is participating in a drug
15 abuse treatment program shall continue to receive TANF
16 assistance. However, the office of the secretary shall administer a
17 drug test to the individual regularly at intervals of at least twenty
18 (20) days and not more than thirty (30) days until the individual
19 tests negative in two (2) consecutive drug tests.

20 **(b)** If an individual does not test negative in two (2) consecutive
21 drug tests as described in subsection (a) not later than four (4)
22 months after the date the office of the secretary begins testing the
23 individual regularly under subsection (a):

24 **(1)** the individual; or

25 **(2)** any child on whose behalf the individual receives TANF
26 assistance;

27 is ineligible to receive TANF assistance for three (3) months from
28 the date the office of the secretary determines that the individual
29 is unable to test negative on two (2) consecutive drug tests as
30 described in subsection (a).

31 **(c)** If an individual:

32 **(1)** tests positive under this chapter; and

33 **(2)** fails to provide, not later than thirty (30) days after the
34 date the individual tests positive, evidence that the individual
35 is participating in a drug abuse treatment program;

36 the individual or any child on whose behalf the individual receives
37 TANF assistance is ineligible to receive TANF assistance for three
38 (3) months after the thirty (30) day period described in subdivision
39 (2).

40 **(d)** An individual who is ineligible under subsection (b) or (c)
41 may reapply for TANF assistance after the applicable three (3)
42 month ineligibility period. Upon reapplying, the individual must

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1 test negative on a drug test before the individual may receive
2 TANF assistance.

3 (e) If an individual described in subsection (d) tests positive on
4 the drug test administered for the TANF reapplication process, the
5 following apply:

6 (1) The individual is permanently ineligible to receive TANF
7 assistance for the individual.

8 (2) A child on whose behalf the individual receives TANF
9 assistance is ineligible for TANF assistance for as long as the
10 child resides with the individual.

11 Sec. 10. (a) An individual who:

12 (1) reapplies for TANF assistance under section 9(d) of this
13 chapter; and

14 (2) is eligible to receive TANF assistance;

15 is subject to random drug testing as described in subsection (b) for
16 as long as the individual receives TANF assistance.

17 (b) The office of the secretary shall administer random drug
18 tests to fifty percent (50%) of the pool of individuals described in
19 subsection (a) each month.

20 Sec. 11. (a) If an individual:

21 (1) is ineligible to receive TANF assistance under this chapter;

22 (2) was not a parent or guardian of a child at the time the
23 individual became ineligible to receive TANF assistance as
24 described in subdivision (1);

25 (3) becomes a parent or guardian of a child after the
26 individual becomes ineligible to receive TANF assistance as
27 described in subdivision (1); and

28 (4) tests negative on a drug test administered by the office of
29 the secretary;

30 the child is eligible for TANF assistance under this chapter if the
31 child meets all the other eligibility requirements to receive TANF
32 assistance.

33 (b) An individual described in subsection (a) is subject to
34 random drug testing as described in section 10(b) of this chapter
35 for as long as the individual receives TANF assistance.

36 (c) If an individual described under subsection (a) tests positive
37 on a drug test administered by the office of the secretary, the child
38 on whose behalf the individual receives TANF assistance is
39 ineligible to receive TANF assistance for as long as the child resides
40 with the individual.

41 Sec. 12. If an individual refuses to take a substance abuse subtle
42 screening inventory test or drug test under this chapter, the

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following apply:

- (1) The individual is ineligible to receive TANF assistance.
- (2) A child on whose behalf the individual receives TANF assistance is ineligible for TANF assistance for as long as the child resides with the individual.

Sec. 13. (a) Except as provided in subsection (b), the office of the secretary shall pay the costs of a drug test administered under this chapter.

(b) If an individual tests positive on a drug test administered under this chapter, the office of the secretary shall withhold the amount of the cost of the drug test from the next payment of TANF assistance the individual receives if the individual receives TANF assistance.

Sec. 14. (a) This chapter is subject to administrative hearing procedures under IC 4-21.5.

(b) The program under this chapter must include an appeals process for individuals.

Sec. 15. A drug test administered under the program must be performed by a:

- (1) SAMHSA (as defined in IC 22-10-15-3) clinical laboratory; or
- (2) clinical laboratory holding a federal Clinical Laboratory Improvement Act (CLIA) certificate or a CLIA certificate of accreditation.

Sec. 16. The office of the secretary shall notify the department of child services regarding a child who is ineligible for TANF assistance under this chapter.

Sec. 17. The office of the secretary's records concerning the results of a drug test under this article may not be admitted against a defendant in a criminal proceeding.

Sec. 18. The office of the secretary may adopt rules under IC 4-22-2 necessary to implement this article.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1483, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 27, after "2." insert "(a)".

Page 2, between lines 30 and 31, begin a new paragraph and insert:

"(b) The office of the secretary shall implement a program established in accordance with this chapter not later than July 1, 2014."

Page 2, line 32, delete "written".

Page 2, line 33, after "administered" insert "**in written or electronic form**".

Page 2, line 37, after "written" insert "**or electronic**".

Page 4, line 5, delete "twenty-five percent (25%)" and insert "**fifty percent (50%)**".

Page 5, line 15, delete "twenty-five percent (25%)" and insert "**fifty percent (50%)**".

Page 6, delete lines 15 through 17, begin a new paragraph and insert:

"Sec. 15. A drug test administered under the program must be performed by a:

(1) SAMHSA (as defined in IC 22-10-15-3) clinical laboratory;
or

(2) clinical laboratory holding a federal Clinical Laboratory Improvement Act (CLIA) certificate or a CLIA certificate of accreditation."

Page 6, delete lines 26 through 33.

and when so amended that said bill do pass.

(Reference is to HB 1483 as introduced.)

KUBACKI, Chair

Committee Vote: yeas 9, nays 4.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1483, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BROWN T, Chair

Committee Vote: yeas 13, nays 5.

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