

**CONFERENCE COMMITTEE REPORT  
DIGEST FOR EHB 1483**

**Citations Affected:** IC 12-7-2; IC 12-13-14-4.5; IC 12-14-5.4.

**Synopsis:** Drug testing of recipients of assistance. Conference committee report for EHB 1483. Requires the office of the secretary of family and social services (office) to administer a drug testing program (program) for individuals who are receiving TANF assistance or receiving TANF assistance on behalf of a child. Establishes requirements for the program and ineligibility penalties. Requires an owner, vendor, or third party processor of an automated teller machine or point of sale terminal to disable access to electronic cash assistance benefits in specified prohibited locations. Requires the division of family resources to assist owners, vendors, and third party processors in carrying out this provision. Makes it a Class B infraction for a person to violate these provisions. **(This conference committee report does the following: (1) Removes provisions that: (A) require the office to collect data to assess and avoid discrimination in the program; (B) require a protective payee be designated for a child if the individual who receives TANF assistance on behalf of the child is ineligible to receive TANF assistance; and (C) provide an exception to ineligibility for TANF assistance. (2) Provides that a child is ineligible for TANF assistance if the individual who receives TANF assistance on behalf of the child is ineligible to receive TANF assistance under the program. (3) Provides that the results of the substance abuse subtle screening inventory test are excepted from public disclosure at the discretion of the office. (4) Resolves a conflict with SEA 559-2013.)**

**Effective:** July 1, 2013.

## CONFERENCE COMMITTEE REPORT

**MR. SPEAKER:**

*Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1483 respectfully reports that said two committees have conferred and agreed as follows to wit:*

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:  
2 SECTION 1. IC 12-7-2-43.3 IS ADDED TO THE INDIANA CODE  
3 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**  
4 **1, 2013]: Sec. 43.3. "Controlled substance", for purposes of**  
5 **IC 12-14-5.4 and this chapter, has the meaning set forth in**  
6 **IC 35-48-1-9.**  
7 SECTION 2. IC 12-7-2-189.9 IS ADDED TO THE INDIANA  
8 CODE AS A **NEW SECTION TO READ AS FOLLOWS**  
9 **[EFFECTIVE JULY 1, 2013]: Sec. 189.9. "TANF assistance", for**  
10 **purposes of IC 12-14-5.4, means assistance under the federal**  
11 **Temporary Assistance for Needy Families program under 42**  
12 **U.S.C. 601 et seq.**  
13 SECTION 3. IC 12-7-2-190.1 IS ADDED TO THE INDIANA  
14 CODE AS A **NEW SECTION TO READ AS FOLLOWS**  
15 **[EFFECTIVE JULY 1, 2013]: Sec. 190.1. "Tests negative", for**  
16 **purposes of IC 12-14-5.4, means that an individual:**  
17 (1) **tests negative for the use of a controlled substance in the**  
18 **individual's body; or**  
19 (2) **tests positive for the use of a controlled substance in the**  
20 **individual's body but has:**  
21 (A) **a valid prescription; or**  
22 (B) **an order of a practitioner acting in the course of the**

1                   **practitioner's professional practice;**  
 2                   **for the controlled substance.**

3                   SECTION 4. IC 12-7-2-190.2 IS ADDED TO THE INDIANA  
 4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 5 [EFFECTIVE JULY 1, 2013]: **Sec. 190.2. "Tests positive" or "testing**  
 6 **positive", for purposes of IC 12-14-5.4, means an individual:**

7                   **(1) tests positive for the presence of a controlled substance in**  
 8 **the individual's body; and**

9                   **(2) does not possess:**

10                   **(A) a valid prescription; or**

11                   **(B) an order of a practitioner acting in the course of the**  
 12 **practitioner's professional practice;**

13                   **for the controlled substance.**

14                   SECTION 5. IC 12-13-14-4.5, AS AMENDED BY SEA 559-2013,  
 15 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2013]: Sec. 4.5. (a) Except as provided in this section, the  
 17 division may distribute cash assistance benefits to a person who is  
 18 eligible for assistance under the Title IV-A assistance program ~~through~~  
 19 **through** an automated teller machine or a point of sale terminal that is  
 20 connected to the EBT system.

21                   (b) The following establishments shall post a sign next to each  
 22 automated teller machine or point of sale terminal located on the  
 23 premises informing a potential user that the automated teller machine  
 24 or point of sale terminal may not be used to receive cash assistance  
 25 benefits under the Title IV-A assistance program:

26                   (1) A horse racing establishment:

27                   (A) where the pari-mutuel system of wagering is authorized;  
 28                   and

29                   (B) for which a permit is required under IC 4-31-5.

30                   (2) A satellite facility:

31                   (A) where wagering on horse racing is conducted; and

32                   (B) for which a license is required under IC 4-31-5.5.

33                   (3) An allowable event required to be licensed by the Indiana  
 34 gaming commission under IC 4-32.2.

35                   (4) A riverboat or other facility required to be licensed by the  
 36 Indiana gaming commission under IC 4-33.

37                   (5) A store or other establishment:

38                   (A) where the primary business is the sale of firearms (as  
 39 defined in IC 35-47-1-5); and

40                   (B) that sells handguns for which a license to sell handguns is  
 41 required under IC 35-47-2.

42                   (6) A store or other establishment where the primary business is  
 43 the sale of alcoholic beverages for which a permit is required  
 44 under IC 7.1-3.

45                   (7) An adult entertainment establishment.

46                   (c) An:

47                   (1) establishment that does not post the sign required under  
 48 subsection (b); or

49                   (2) individual who attempts to use an automated teller machine or  
 50 point of sale terminal with a sign posted as required under  
 51 subsection (b) to access cash assistance benefits under the Title

1 IV-A assistance program in violation of subsection (b);  
2 commits a Class C misdemeanor.

3 **(d) The owner, vendor, or third party processor of an**  
4 **automated teller machine or point of sale terminal shall disable or**  
5 **have disabled access to electronic cash assistance benefits in a**  
6 **location described in subsection (b) unless the location has been**  
7 **approved by the federal Food and Nutrition Services. The division**  
8 **shall provide assistance to an owner, vendor, or third party**  
9 **processor under this subsection. A person that violates this**  
10 **subsection commits a Class B infraction.**

11 (e) The division shall adopt rules under IC 4-22-2 to carry out this  
12 section.

13 SECTION 6. IC 12-14-5.4 IS ADDED TO THE INDIANA CODE  
14 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2013]:

16 **Chapter 5.4. Drug Testing Program**

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

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

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

25 **(b) The office of the secretary shall implement a program**  
26 **established in accordance with this chapter not later than July 1,**  
27 **2014.**

28 **Sec. 3. (a) An individual described in section 1 of this chapter**  
29 **shall take a substance abuse subtle screening inventory test**  
30 **administered in written or electronic form by a county office.**

31 **(b) The office of the secretary shall have adequate staff available**  
32 **to provide assistance with taking the substance abuse subtle**  
33 **screening inventory test under this chapter to an individual who**  
34 **has a disability that makes taking a substance abuse subtle**  
35 **screening inventory test difficult or impossible.**

36 **(c) The results of a substance abuse subtle screening inventory**  
37 **test taken under this section:**

- 38 **(1) are confidential under IC 5-14-3-4(b); and**
- 39 **(2) may not be used in a criminal prosecution of the individual**  
40 **who took the test.**

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

- 44 **(1) The individual is required to take a written or electronic**  
45 **substance abuse subtle screening inventory test.**
- 46 **(2) The individual may be subject to random drug testing**  
47 **based on the results of the test described in subdivision (1).**
- 48 **(3) The individual may be subject to drug testing if the county**  
49 **office believes, based on reasonable suspicion as set forth in**  
50 **section 5 of this chapter, that the individual is engaged in the**  
51 **illegal use of a controlled substance.**

- 1 (4) If the individual tests positive on a drug test administered  
 2 under this chapter, the individual and the child on whose  
 3 behalf the individual receives TANF assistance may be  
 4 ineligible for TANF assistance.
- 5 (5) If the individual tests positive on a drug test administered  
 6 under this chapter, the amount of the cost of the drug test will  
 7 be withheld from any future TANF assistance the individual  
 8 receives if the individual continues to receive TANF  
 9 assistance.
- 10 (6) If the individual tests positive on a drug test administered  
 11 under this chapter, the amount of the cost of any subsequent  
 12 drug test the individual is required to undergo will be  
 13 withheld from the TANF assistance the individual receives, if  
 14 the individual continues to receive TANF assistance,  
 15 regardless of whether the individual tests positive or tests  
 16 negative on the subsequent drug test.
- 17 **Sec. 5. (a)** A county office is considered to have reasonable  
 18 suspicion to believe that an individual is engaged in the illegal use  
 19 of a controlled substance if one (1) or more of the following apply:
- 20 (1) The individual has been charged with an offense under  
 21 IC 35-48 (controlled substances).
- 22 (2) The results of the substance abuse subtle screening  
 23 inventory test indicate that the individual is at risk for the  
 24 illegal use of a controlled substance.
- 25 (3) The individual has previously tested positive on a drug test  
 26 administered under this chapter.
- 27 (b) If a county office has knowledge that an individual has been  
 28 formally charged with an offense described in subsection (a)(1), the  
 29 county office shall administer a drug test to the individual.
- 30 (c) If a county office has reasonable suspicion to believe from  
 31 the results of a substance abuse subtle screening inventory test that  
 32 an individual is engaged in the illegal use of a controlled substance,  
 33 the individual shall be placed in a pool of individuals who are  
 34 subject to drug testing described in section 6 of this chapter.
- 35 (d) If a county office has reasonable suspicion to believe that an  
 36 individual is engaged in the illegal use of a controlled substance as  
 37 the result of testing positive on a drug test administered under this  
 38 chapter, the individual shall be placed in a pool of individuals who  
 39 are subject to random drug testing as described in section 7 of this  
 40 chapter.
- 41 **Sec. 6.** The office of the secretary shall administer a drug test to  
 42 at least fifty percent (50%) of the pool of individuals described in  
 43 section 5(c) of this chapter. An individual may not be tested more  
 44 than once under this section.
- 45 **Sec. 7.** The office of the secretary shall administer random drug  
 46 tests to fifty percent (50%) of the pool of individuals described in  
 47 section 5(d) of this chapter each month.
- 48 **Sec. 8.** A county office shall provide a list of drug abuse  
 49 treatment programs to any individual who tests positive under this  
 50 chapter.
- 51 **Sec. 9. (a)** An individual who tests positive under this chapter

1 and provides evidence that the individual is participating in a drug  
2 abuse treatment program shall continue to receive TANF  
3 assistance. However, the office of the secretary shall administer a  
4 drug test to the individual regularly at intervals of at least twenty  
5 (20) days and not more than thirty (30) days until the individual  
6 tests negative in two (2) consecutive drug tests.

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

11 (1) the individual; and

12 (2) any child on whose behalf the individual receives TANF  
13 assistance;

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

18 (c) If an individual:

19 (1) tests positive under this chapter; and

20 (2) fails to provide, not later than thirty (30) days after the  
21 date the individual tests positive, evidence that the individual  
22 is participating in or on a waiting list to participate in a drug  
23 abuse treatment program;

24 the individual and any child on whose behalf the individual  
25 receives TANF assistance is ineligible to receive TANF assistance  
26 for three (3) months after the thirty (30) day period described in  
27 subdivision (2).

28 (d) An individual who is ineligible under subsection (b) or (c)  
29 may reapply for TANF assistance after the applicable three (3)  
30 month ineligibility period. Upon reapplying, the individual must  
31 test negative on a drug test before the individual may receive  
32 TANF assistance.

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

36 (1) Except as provided in subdivision (3), the individual is  
37 ineligible to receive TANF assistance for the individual.

38 (2) Except as provided in subdivision (3), a child on whose  
39 behalf the individual receives TANF assistance is ineligible for  
40 TANF assistance for as long as the child resides with the  
41 individual.

42 (3) After becoming ineligible under subdivisions (1) and (2),  
43 an individual may establish eligibility to receive TANF,  
44 including eligibility for a child on whose behalf the individual  
45 would receive TANF assistance, if the individual satisfies the  
46 following requirements:

47 (A) At the time the individual reapplies to receive TANF  
48 assistance, the individual provides evidence that the  
49 individual has completed a drug abuse treatment program.

50 (B) The individual tests negative in two (2) consecutive  
51 drug tests. The office of the secretary shall administer the

1 first drug test to the individual at the time of the TANF  
 2 reapplication and the second drug test at least twenty (20)  
 3 days and not more than thirty (30) days after the date of  
 4 the first drug test.

5 **Sec. 10. (a) An individual who:**

6 (1) reapplies for TANF assistance under section 9 of this  
 7 chapter; and

8 (2) is eligible to receive TANF assistance;

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

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

14 (c) Section 9 of this chapter applies to an individual described  
 15 in subsection (a) who tests positive on a subsequent drug test  
 16 administered in accordance with this section.

17 **Sec. 11. If an individual refuses to take a substance abuse subtle  
 18 screening inventory test or drug test under this chapter, the  
 19 following apply:**

20 (1) The individual is ineligible to receive TANF assistance.

21 (2) A child on whose behalf the individual receives TANF  
 22 assistance is ineligible for TANF assistance for as long as the  
 23 child resides with the individual.

24 **Sec. 12. (a) Except as provided in subsections (b) and (c), the  
 25 office of the secretary shall pay the costs of a drug test  
 26 administered under this chapter.**

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

32 (c) If an individual tests positive on a drug test administered  
 33 under this chapter, the office of the secretary shall withhold the  
 34 amount of the cost of any subsequent drug tests that the individual  
 35 is required to undergo from the next payment of TANF assistance  
 36 the individual receives if the individual receives TANF assistance.

37 **Sec. 13. (a) This chapter is subject to administrative hearing  
 38 procedures under IC 4-21.5.**

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

41 **Sec. 14. A drug test administered under the program must be  
 42 performed by a:**

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

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

48 **Sec. 15. The office of the secretary shall notify the department  
 49 of child services regarding a child who is ineligible for TANF  
 50 assistance under this chapter.**

51 **Sec. 16. The office of the secretary's records concerning the**

1 **results of a drug test under this chapter may not be admitted**  
2 **against a defendant in a criminal proceeding.**

3 **Sec. 17. The office of the secretary may adopt rules under**  
4 **IC 4-22-2 necessary to implement this chapter.**

(Reference is to EHB 1483 as reprinted April 11, 2013.)

**Conference Committee Report**  
**on**  
**Engrossed House Bill 1483**

**S**igned by:

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Representative McMillin  
Chairperson

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Senator Head

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Representative VanNatter

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Senator Hume

**House Conferees**

**Senate Conferees**