

1 SB496
2 131541-1
3 By Senators Beason, Brewbaker and Sanford
4 RFD: Children, Youth Affairs, and Human Resources
5 First Read: 24-MAY-11

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8 SYNOPSIS: Under existing law, there is no requirement
9 that a welfare applicant for temporary cash
10 payments under the state Family Assistance Program
11 (administering the Temporary Assistance for Needy
12 Families Program "TANF") be tested for substance
13 abuse.

14 This bill would require an applicant for
15 temporary cash payments under the Family Assistance
16 Program to be tested for substance abuse.

17 This bill would provide that any applicant
18 testing positive for a drug without a valid
19 prescription would be ineligible for any public
20 assistance benefits under the program.

21 This bill would prescribe the procedures for
22 testing and the procedures for persons to regain
23 eligibility for benefits after testing positive for
24 a drug.

25 This bill would authorize a parent of a
26 minor child who tests positive for drugs to

1 designate a third party to receive the public
2 assistance for the benefit of the minor child.

3 This bill would authorize the Department of
4 Human Resources to promulgate rules to implement
5 this program.

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7 A BILL

8 TO BE ENTITLED

9 AN ACT

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11 Relating to public assistance; to require the
12 Department of Human Resources to implement and administer a
13 drug screening program for any adult applying for temporary
14 cash payments under the Temporary Assistance for Needy
15 Families Program; to require the department to provide notice
16 of the drug screening to applicants; to specify who is
17 responsible for costs associated with the drug screening; to
18 provide that an adult testing positive for a drug under this
19 screening program is ineligible to receive certain public
20 assistance; to allow a parent of a minor child who tests
21 positive for drugs to designate a third party to receive the
22 public assistance for the benefit of the minor child; to
23 require the department to advise an adult testing positive for
24 a drug under the program of any available substance abuse
25 treatment programs; to specify that the costs associated with
26 any substance abuse treatment are not the responsibility of

1 the department or the state; and to authorize the department
2 to promulgate rules to implement this act.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. (a) As used in this act, the following
5 words shall have the following meanings:

6 (1) DRUG. Includes all of the following:
7 a. A controlled substance for which a medical
8 prescription or other legal authorization is required for
9 purchase or possession, including, but not limited to: An
10 amphetamine, a tetrahydrocannabinol, oxycodone, cocaine,
11 phencyclidine (PCP), an opiate, a barbiturate, a
12 benzodiazepine, a methamphetamine, a propoxyphene, a tricyclic
13 antidepressant, or a metabolite of any of these substances.

14 b. A drug whose manufacture, sale, use, or
15 possession is forbidden by law.

16 (2) DRUG SCREENING. Any chemical, biological, or
17 physical instrumental analysis administered by a laboratory
18 certified by the United States Department of Health and Human
19 Services or other licensing agency in this state for the
20 purpose of determining the presence or absence of a drug or
21 its metabolites.

22 Section 2. (a) The Department of Human Resources
23 shall implement and administer a drug screening program for
24 any person applying for temporary cash payments under the
25 Temporary Assistance for Needy Families Program (TANF). The
26 cost of the drug screening is the responsibility of the person
27 screened.

(1) A person subject to the requirements of this section includes any parent or caretaker relative who is included in the cash assistance group, including an individual who may be exempt from the welfare employment program pursuant to Section 38-11A-4, Code of Alabama 1975.

(2) A person who tests positive for a drug as a result of a drug screening required under this section is ineligible for temporary cash payments under TANF for one year after the date of the positive drug screen unless the person meets the requirements of subdivision (9) of subsection (b).

(b) The department shall do all of the following:

(1) Provide notice of the potential for drug screening to applicants for TANF at the time of application. The notice shall advise the person that drug screening will be conducted as a condition for receiving benefits and that the person shall bear the cost of the drug screening. If the person tests negative for drugs, the department shall increase the amount of the initial TANF benefit by the amount paid by the person for the drug screening. The person shall be advised that the required drug screening may be avoided if the person does not apply for TANF benefits. Dependent children under the age of 18 are exempt from the drug-screening requirement.

(2) Require that for two-parent families, both parents shall comply with the drug-screening requirement.

(3) Require that any teen parent who is not required to live with a parent, legal guardian, or other adult

caretaker relative shall comply with the drug-screening requirement.

(4) Advise each person to be tested, before the test is administered, that he or she may, but is not required to, advise the agent administering the test of any prescription or over-the-counter medication he or she is taking.

(5) Require an applicant to sign a written acknowledgment that he or she has received notice of the department's drug-screening policy and that he or she understands the drug-screening requirement.

(6) Specify circumstances under which a person who fails a drug screening has the right to take one or more additional tests.

(7) Inform a person who tests positive for a drug and is deemed ineligible for TANF benefits that the person may reapply for those benefits one year after the date of the positive drug screening unless the person meets the requirements of subdivision (9). If the person tests positive again, he or she is ineligible to receive TANF benefits for three years after the date of the second positive drug screening unless the individual meets the requirements of subdivision (9).

(8) Provide any person who tests positive with a list of licensed substance abuse treatment providers available in the area in which he or she resides. Neither the department nor the state is responsible for providing or paying for

1 substance abuse treatment as part of the screening conducted
2 under this section.

3 (9) A person who tests positive under this section
4 and is denied TANF benefits as a result may reapply for those
5 benefits after six months if the person can document the
6 successful completion of a substance abuse treatment program
7 offered by a provider that is approved by the department. A
8 person who has met the requirements of this subdivision and
9 reapplies for TANF benefits shall also pass an initial drug
10 screening and meet the requirements of subsection (a). Any
11 drug screening conducted while the person is undergoing
12 substance abuse treatment shall meet the requirements of
13 subsection (a). The cost of any drug screening and substance
14 abuse treatment provided under this section shall be the
15 responsibility of the person being tested and receiving
16 treatment. A person who fails the drug screening required
17 under subsection (a) may reapply for benefits under this
18 subdivision only once.

19 (c) If a parent is deemed ineligible for TANF
20 benefits as a result of failing a drug screening conducted
21 under this section:

22 (1) The dependent child's eligibility for TANF
23 benefits is not affected.

24 (2) An appropriate protective payee shall be
25 designated to receive benefits on behalf of the child.

26 (d) The parent may choose to designate another
27 person to receive benefits for the parent's minor child. The

1 designated person must be an immediate family member or, if an
2 immediate family member is not available or the family member
3 declines the option, another person, approved by the
4 department, may be designated. The designated person must also
5 undergo drug screening before being approved to receive
6 benefits on behalf of the child. If the designated person
7 tests positive for a drug, he or she is ineligible to receive
8 benefits on behalf of the child.

9 (e) The commissioner of the department shall
10 promulgate rules to prescribe the design, operation,
11 standards, and training of personnel for the implementation of
12 this act.

13 Section 3. This act shall become effective on the
14 first day of the third month following its passage and
15 approval by the Governor, or its otherwise becoming law.