
A BILL FOR AN ACT

RELATING TO SOCIAL SERVICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that it may be beneficial
2 to require some recipients of public assistance to submit to
3 drug testing in order to qualify for or to maintain eligibility
4 for benefits. At least fourteen states have already passed
5 legislation requiring drug testing or screening for public
6 assistance applicants or recipients: Alabama, Arkansas, Arizona,
7 Georgia, Kansas, Michigan, Mississippi, Missouri, North
8 Carolina, Oklahoma, Tennessee, Utah, West Virginia, and
9 Wisconsin. It would be in Hawaii's best interest to pass
10 similar legislation that would help ensure that only those who
11 do not use illegal drugs or those willing to seek treatment are
12 participating in public assistance programs, and that scarce
13 public resources are going to the provision of necessities such
14 as food, utilities, and housing instead of enabling addiction.

15 The purpose of this Act is to require certain applicants
16 for temporary assistance for needy families benefits to undergo
17 drug testing to be eligible for those benefits.



1 SECTION 2. Chapter 346, Hawaii Revised Statutes, is
2 amended by adding a new section to part II to be appropriately
3 designated and to read as follows:

4 "§346- Applicants for temporary assistance for needy
5 families; drug testing. (a) An applicant for temporary
6 assistance for needy families benefits administered by the
7 department may be subject to drug testing as a condition of
8 eligibility for benefits; provided that:

9 (1) The applicant has previously been convicted of an
10 offense under chapter 329, chapter 329C, or part IV of
11 chapter 712; or

12 (2) The department has a reasonable suspicion that the
13 applicant has made unlawful use of a controlled
14 substance. For the purposes of this paragraph,
15 "reasonable suspicion" means articulable facts,
16 together with rational inferences from those facts,
17 warranting an objective suspicion that the applicant
18 is unlawfully using or has unlawfully used a
19 controlled substance; provided that reasonable
20 suspicion shall not be based on any of the following
21 factors:



- 1 (A) Race;
- 2 (B) National origin;
- 3 (C) Gender;
- 4 (D) Socioeconomic status;
- 5 (E) Suspicion or evidence of drug or alcohol use
6 among the applicant's family members or peer
7 group;
- 8 (F) Sexual orientation;
- 9 (G) Disability or medical condition; or
- 10 (H) Religion.

11 The cost of drug testing shall be the responsibility of the
12 individual tested.

13 (b) An individual who tests positive for controlled
14 substances as a result of a drug test pursuant to subsection (a)
15 shall be ineligible to receive temporary assistance for needy
16 families benefits for one year after the date of the positive
17 drug test unless the individual meets the requirements of
18 subsection (d).

19 (c) In the case of an applicant subject to drug testing
20 under subsection (a), the department shall:



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- 1 (1) Provide notice of drug testing to the individual with
2 the application for temporary assistance for needy
3 families. The notice shall advise the individual that
4 drug testing shall be conducted as a condition for
5 receiving temporary assistance for needy families
6 benefits and that the individual shall bear the cost
7 of testing. If the individual tests negative for
8 controlled substances, the department shall increase
9 the amount of the initial temporary assistance for
10 needy families benefit by the amount paid by the
11 individual for the drug testing. The individual shall
12 be advised that the required drug testing may be
13 avoided if the individual does not apply for temporary
14 assistance for needy families benefits. Dependent
15 children under the age of eighteen years shall be
16 exempt from the drug-testing requirement;
- 17 (2) Require that, if the applicant is a minor who is a
18 parent and does not reside with a parent, legal
19 guardian, or other adult caretaker, the applicant
20 shall comply with the drug-testing requirement;



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- 1 (3) Advise the individual to be tested, before the test is
2 conducted, that the individual may, but is not
3 required to, advise the agent administering the test
4 of any prescription or over-the-counter medication
5 that the individual is taking;
- 6 (4) Require the individual to be tested to sign a written
7 acknowledgment that the individual has received and
8 understood the notice and advice provided under
9 paragraphs (1) and (3);
- 10 (5) Provide the individual being tested a reasonable
11 degree of privacy while producing and submitting a
12 sample for drug testing;
- 13 (6) Specify circumstances under which an individual who
14 fails a drug test has the right to take one or more
15 additional tests; and
- 16 (7) Inform an individual who tests positive for a
17 controlled substance and is deemed ineligible for
18 temporary assistance for needy families benefits that
19 the individual may reapply for those benefits one year
20 after the date of the positive drug test unless the
21 individual would like to reapply sooner and meets the



1 requirements of subsection (d). If the individual
2 tests positive again, the individual shall be
3 ineligible to receive temporary assistance for needy
4 families benefits for three years after the date of
5 the second positive drug test unless the individual
6 meets the requirements of subsection (d).

7 (d) An individual who tests positive under this section
8 and is denied temporary assistance for needy families benefits
9 may reapply for those benefits after six months; provided the
10 individual can document the successful completion of a substance
11 abuse treatment program. An individual who has met the
12 requirements of this subsection and reapplies for temporary
13 assistance for needy families benefits shall also pass an
14 initial drug test and meet the requirements of subsection (a).
15 Any drug test conducted while the individual is undergoing
16 substance abuse treatment shall meet the requirements of
17 subsection (a). The cost of any drug testing and substance
18 abuse treatment shall be the responsibility of the individual
19 being tested and receiving treatment. An individual who fails
20 the drug test required under subsection (a) may reapply for
21 benefits under this subsection only once.



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1 (e) If a parent is deemed ineligible for temporary
2 assistance for needy families benefits as a result of failing a
3 drug test conducted under this section:

4 (1) The dependent child's eligibility for temporary
5 assistance for needy families benefits shall not be
6 affected;

7 (2) An appropriate protective payee shall be designated to
8 receive benefits on behalf of the child; and

9 (3) The parent may choose to designate another individual
10 to receive benefits for the parent's minor child. The
11 designated individual shall be an immediate family
12 member or, if an immediate family member is not
13 available or the family member declines the option,
14 another individual, approved by the department, may be
15 designated. The designated individual shall also
16 undergo drug testing before being approved to receive
17 benefits on behalf of the child. If the designated
18 individual tests positive for a controlled substance,
19 the designated individual shall be ineligible to
20 receive benefits on behalf of the child.



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1 (f) An individual who tests positive for marijuana use
2 shall not be considered ineligible for temporary assistance for
3 needy families benefits under this section; provided that the
4 individual is registered as a qualifying patient with the
5 department of health pursuant to section 329-123.

6 (g) For the purposes of this section, "substance abuse
7 treatment" means drug or substance abuse treatment services
8 provided outside a correctional facility by a public, private,
9 or nonprofit entity that specializes in treating persons who are
10 diagnosed with substance abuse or dependency and preferably
11 employs licensed professionals or certified substance abuse
12 counselors.

13 (h) The department shall adopt rules under chapter 91 to
14 implement this section."

15 SECTION 3. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 4. New statutory material is underscored.

19 SECTION 5. This Act shall take effect upon its approval.

20

INTRODUCED BY:

JAN 19 2017



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Report Title:

Temporary Assistance for Needy Families; Drug Testing

Description:

Requires certain applicants for Temporary Assistance for Needy Families benefits to undergo drug testing.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

