

House Study Bill 738

Bill Text

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1 1 Section 1. NEW SECTION. 239B.2B DRUG TESTING AND
1 2 SUBSTANCE ABUSE TREATMENT.
1 3 1. For the purposes of this section, unless the context
1 4 otherwise requires, "drug" means the same as defined in
1 5 section 730.5.
1 6 2. As a condition of eligibility for an applicant or
1 7 participant under this chapter, a child's parent or other
1 8 specified relative whose needs are included in the cash
1 9 assistance grant payable to the child's family shall agree to
1 10 participate in drug testing and comply with any required
1 11 substance abuse treatment plan.
1 12 3. The department shall implement a program of drug
1 13 testing and substance abuse treatment of persons subject to
1 14 subsection 2. The program shall include, but is not limited
1 15 to, all of the following:
1 16 a. Random drug testing of existing participants.
1 17 b. Drug testing of all applicants.
1 18 c. Required compliance with a substance abuse treatment
1 19 plan for a person who tests positive for the presence of a
1 20 drug that was not lawfully prescribed for the person. Drug
1 21 testing shall include confirmation of any initial positive
1 22 test results. Any confirmatory test shall be performed using
1 23 a chromatographic technique such as gas chromatography/mass
1 24 spectrometry, or another comparably reliable analytical
1 25 method.
1 26 4. An applicant or participant subject to the provisions
1 27 of subsection 2 who, on three or more occasions, has a
1 28 confirmed positive test for a drug that was not lawfully
1 29 prescribed for the person or does not successfully comply with
1 30 a required substance abuse treatment plan, shall be ineligible
1 31 for assistance.
1 32 5. A person's positive test result obtained under this
1 33 section shall not be used as evidence in any criminal action
1 34 involving the person.
1 35 6. The department shall adopt rules to administer this
2 1 section. The rules shall include but are not limited to all
2 2 of the following:
2 3 a. Testing procedures to ensure collection of test samples
2 4 are performed under sanitary conditions, with regard for the
2 5 privacy of the person providing the sample, and in a manner
2 6 reasonably calculated to preclude contamination or
2 7 substitution of the sample. Test samples shall be split at
2 8 the time of collection to permit confirmatory tests of the
2 9 sample. The department shall establish standards for analysis
2 10 of samples and for determining test results to be positive.
2 11 b. Labeling and other documentation of test sample
2 12 collections so as to reasonably preclude the possibility of
2 13 misidentification of the person tested in relation to the test
2 14 result provided, and requirement for samples to be handled and
2 15 tracked in a manner such that control and accountability are
2 16 maintained from initial collection to each stage in handling,
2 17 testing, and storage, through final disposition.
2 18 c. A person being tested shall be given an opportunity to
2 19 provide any information which may be considered relevant to
2 20 the test, including identification of prescription or
2 21 nonprescription drugs currently or recently used, or other

2 22 relevant medical information. To assist a person in providing
2 23 the information described in this paragraph, the department
2 24 shall provide the person with a list of the drugs to be
2 25 tested.

2 26 d. A medical review officer shall review and interpret any
2 27 confirmed positive test results, including both quantitative
2 28 and qualitative test results, to ensure that the chain of
2 29 custody is complete and sufficient on its face and that any
2 30 information provided by the person pursuant to paragraph "b"
2 31 is considered.

2 32 e. A procedure to provide written notification to a person
2 33 of the results of a confirmed positive drug test by certified
2 34 mail or other verifiable means. The notification shall
2 35 include the person's right to request and obtain a second
3 1 confirmatory test at an approved laboratory of the person's
3 2 choice. If the results of the second test do not confirm the
3 3 results of the initial confirmatory test, the initial
3 4 confirmatory test shall not be considered a confirmed positive
3 5 drug test.

3 6 f. The department shall prohibit a laboratory or other
3 7 medical facility reporting information to anyone other than
3 8 the department or the tested person relating to the results of
3 9 a drug test conducted pursuant to this section.

3 10 g. A procedure to address incidents of false positive
3 11 tests.

3 12 h. A procedure to ensure the confidentiality of test
3 13 results, including but not limited to specifying those with
3 14 access to test result information.

3 15 i. Other procedures to administer this section in a fair
3 16 and reliable manner.

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3 18 EXPLANATION

3 19 This bill establishes a family investment program (FIP)
3 20 eligibility requirement for participation in drug testing and
3 21 substance abuse treatment.

3 22 The bill defines the term "drug" as having the same meaning
3 23 as the definition in Code section 730.5, relating to private-
3 24 sector drug-free workplaces, which is any drug on schedules I
3 25 through IV of the federal Controlled Substances Act.

3 26 New Code section 239B.2B applies to family investment
3 27 program applicants and participants who are a child's parent
3 28 or other specified relative whose needs are included in the
3 29 program's cash assistance grant payable to the child's family.
3 30 These persons must agree to participate in drug testing and to
3 31 comply with any required substance abuse treatment plan as a
3 32 condition of eligibility for FIP.

3 33 The department of human services is to implement a drug
3 34 testing and substance abuse treatment program for the persons
3 35 subject to the eligibility requirement. The program is to
4 1 include random drug testing of participants, drug testing of
4 2 all applicants, and required compliance with a substance abuse
4 3 treatment plan for any person who tests positive for the
4 4 presence of a drug that was not lawfully prescribed for the
4 5 person. Drug testing includes confirmation of any positive
4 6 result with a chromatographic/mass spectrometry technique or
4 7 comparable method.

4 8 If an applicant or participant subject to the bill's
4 9 requirements has, on three or more occasions, a confirmed
4 10 positive test for a drug that was not lawfully prescribed for
4 11 the person or does not successfully comply with a required
4 12 substance abuse treatment plan, the applicant or participant
4 13 is ineligible for FIP assistance.

4 14 The bill prohibits a person's positive test result obtained
4 15 under the bill's provisions from being used as evidence in any
4 16 criminal action involving the person.

4 17 The department is directed to adopt rules to administer the
4 18 provisions of the bill. The rules are to address collection,

4 19 labeling, and other documentation of test samples,
4 20 notification concerning test results, interpretation of test
4 21 results, prohibition against laboratory disclosure of test
4 22 results, other confidentiality provisions, procedure to
4 23 address incidents of false positive tests, and other
4 24 procedures for fairness and reliability.
4 25 LSB 5139HC 78
4 26 jp/gg/8