

House File 141 - Introduced

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A BILL FOR

1 An Act mandating drug testing of applicants for and certain
2 recipients of assistance under the family investment
3 program.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 239B.2D Drug testing for
2 applicants.

3 1. For the purposes of this section, unless the context
4 otherwise requires:

5 a. *"Confirmed positive test result"* means the results of
6 a urine, oral fluid, or blood test in which the level of
7 controlled substances or their metabolites in the sample
8 analyzed meets or exceeds nationally accepted standards for
9 determining detectable levels of controlled substances as
10 adopted by the federal substance abuse and mental health
11 services administration. If nationally accepted standards for
12 oral fluid tests have not been adopted by the federal substance
13 abuse and mental health services administration, the standards
14 for determining detectable levels of controlled substances for
15 purposes of determining a confirmed positive test result shall
16 be the same standard that has been established by the federal
17 food and drug administration for the measuring instrument used
18 to perform the oral fluid test.

19 b. *"Licensed substance abuse treatment program"* means an
20 inpatient or outpatient substance abuse treatment program
21 licensed by the department of public health under chapter 125.

22 c. *"Sample"* means a sample from the human body capable
23 of revealing the presence of controlled substances, or their
24 metabolites, which shall include only urine, saliva, or blood.

25 2. a. The drug testing requirements of this section apply
26 to the following applicants for and recipients of assistance
27 under this chapter:

28 (1) Each adult parent, guardian, or specified relative who
29 is included in the applicant family, including both parents of
30 a two-parent family, or an individual who may be exempt from
31 work activity requirements due to the age of the youngest child
32 or who may be exempt from work activity requirements under the
33 PROMISE JOBS program.

34 (2) A minor parent who is not required to live with a
35 parent, guardian, or other adult caretaker in accordance with

1 this chapter.

2 (3) A recipient of assistance who provided a written
3 acknowledgment of the drug testing requirements of this
4 section at the time of application for assistance and for whom
5 there is information indicating a significant likelihood the
6 recipient is using a controlled substance, as determined by the
7 department, shall be subject to random drug testing.

8 *b.* Dependent children under the age of eighteen years are
9 exempt from the drug testing requirements of this section.

10 *c.* The department shall require a drug test that is similar
11 to a drug test as a condition of employment under section 730.5
12 to screen the persons subject to this section for the presence
13 of controlled substances. The person is responsible for the
14 cost of the person's drug test.

15 3. *a.* A person who is subject to this section is ineligible
16 to receive assistance under this chapter if the person does not
17 participate in the required drug testing.

18 *b.* A person who is subject to this section is ineligible
19 to receive assistance under this chapter if the person has a
20 confirmed positive test result for the presence of either of
21 the following:

22 (1) A substance listed in schedule I under section 124.204.

23 (2) A substance listed in schedule II, III, or IV under
24 chapter 124 that was not prescribed for the person.

25 *c.* The period of ineligibility for an applicant or recipient
26 who is ineligible for assistance under paragraph "b" is one year
27 after the date of the confirmed positive test result.

28 4. The department shall do all of the following in
29 implementing this section:

30 *a.* (1) Provide notice of drug testing to each person who is
31 subject to this section at the time of application. The notice
32 must advise the person that drug testing will be conducted as a
33 condition for receiving assistance under this chapter and that
34 the person must bear the cost of testing. The applicant shall
35 be advised that the required drug testing may be avoided if the

1 applicant does not complete or withdraws the application for
2 assistance.

3 (2) Advise each person to be tested, before the test
4 is conducted, that the person may, but is not required to,
5 inform the agent administering the test of any prescription or
6 over-the-counter medication the person is taking.

7 (3) Require each person to be tested to sign a written
8 acknowledgment that the person has received and understood the
9 notice and advice provided under this paragraph "a".

10 b. Assure each person being tested a reasonable degree
11 of dignity while producing and submitting a sample for drug
12 testing, consistent with the department's need to ensure the
13 reliability of the sample.

14 c. Specify circumstances under which a person with a
15 confirmed positive test result has the right to take one or
16 more additional tests.

17 d. Inform a person who has a confirmed positive test result
18 and is deemed ineligible for assistance that the person may
19 not reapply for assistance until one year after the date of
20 the confirmed positive test result unless the person meets the
21 requirements of paragraph "f". If the person has a subsequent
22 confirmed positive test result, the person shall be ineligible
23 to receive assistance for three years after the date of the
24 subsequent result unless the person meets the requirements of
25 paragraph "f".

26 e. Provide any person with a confirmed positive test result
27 with a list of licensed substance abuse treatment programs
28 available in the area in which the person resides. Neither the
29 department nor the state is responsible for providing or paying
30 for substance abuse treatment as part of the drug testing
31 conducted under this section.

32 f. A person with a confirmed positive test result who is
33 denied assistance under this chapter may reapply for assistance
34 after six months if the person can document the successful
35 completion of a licensed substance abuse treatment program.

1 A person who has met the requirements of this paragraph and
2 reapplies for assistance must also pass the initial drug test
3 required under subsection 2. Any drug test conducted while the
4 person is undergoing substance abuse treatment must meet the
5 requirements for a drug test under subsection 2. The cost of
6 any drug testing or substance abuse treatment provided under
7 this subsection shall be the responsibility of the person being
8 tested or receiving treatment. A person with a confirmed
9 positive test result from the drug test required under
10 subsection 2 may reapply for assistance under this paragraph
11 only once.

12 5. If an applicant or recipient parent is deemed ineligible
13 for assistance as a result of having a confirmed positive test
14 result from a drug test conducted under this section, all of
15 the following apply:

16 a. The eligibility of the applicant's or recipient's
17 dependent child for assistance is not affected.

18 b. An appropriate protective payee shall be designated
19 to receive assistance on behalf of the dependent child.
20 The parent may choose to designate an individual as the
21 protective payee. The individual designated by the parent as
22 the protective payee must be a specified relative or other
23 immediate family member unless such family member is not
24 available or the family member declines the designation. In
25 which case another individual, approved by the department,
26 shall be designated as the protective payee. The individual
27 must also undergo drug testing before being approved to be
28 the protective payee. If the designated individual has a
29 confirmed positive test result, the designated individual shall
30 be ineligible to be the protective payee.

31 6. The department shall adopt rules to implement this
32 section.

33

EXPLANATION

34 The inclusion of this explanation does not constitute agreement with
35 the explanation's substance by the members of the general assembly.

1 This bill requires drug testing of applicants for and
2 certain recipients of assistance under the family investment
3 program (FIP) in new Code section 239B.2D. The program
4 provides cash assistance and employment-related services to
5 low-income families with children under the federal temporary
6 assistance for needy families (TANF) block grant. The
7 department of human services administers the program and block
8 grant for this state.

9 The bill utilizes the following terms that are defined in
10 Code section 239B.1:

11 "Applicant" means a person who files an application for
12 participation in FIP under Code chapter 239B.

13 "Assistance" means a FIP payment.

14 "Family" means a family unit that includes at least one
15 child and at least one parent or other specified relative of
16 the child.

17 "Minor parent" means an applicant or participant parent who
18 is less than 18 years of age and has never been married.

19 "PROMISE JOBS program" or "JOBS program" means the promoting
20 independence and self-sufficiency through employment job
21 opportunities and basic skills program, a part of FIP.

22 "Specified relative" means a person who is, or was at any
23 time, a relative of an applicant or participant child, by means
24 of blood relationship, marriage, or adoption, or is a spouse of
25 a relative listed in the definition.

26 The bill defines "confirmed positive test result", "licensed
27 substance abuse treatment program", and "sample".

28 The drug testing requirement applies to each applicant for
29 FIP assistance who is an adult parent, guardian, or specified
30 relative who is included in the applicant family, including
31 both parents of a two-parent family, or an individual who may
32 be exempt from work activity requirements due to the age of the
33 youngest child or who may be exempt from work activity under
34 the PROMISE JOBS program. The requirement also applies to
35 each minor parent applicant who is not required to live with

1 a parent, guardian, or other adult caretaker. In addition,
2 a recipient of assistance who accepted the drug testing
3 requirements at the time of application and for whom there is
4 information indicating a significant likelihood the recipient
5 is using a controlled substance is subject to random drug
6 testing. Dependent children under the age of 18 years are
7 exempt from the drug testing requirements. The department is
8 directed to require a drug test of each person who is subject
9 to the requirements to screen for the presence of controlled
10 substances. The person is responsible for the cost of the drug
11 test.

12 A person subject to the requirement who does not participate
13 in the required drug testing is ineligible for cash assistance
14 through FIP. A person who has a confirmed positive test result
15 is ineligible for one year unless the test result was for a
16 controlled substance for which the person has a prescription.

17 The department is required to do all of the following
18 in administering the drug testing requirement: implement
19 notification provisions; allow for additional testing following
20 a confirmed positive test result; apply a three-year period
21 of ineligibility if a person reapplies but has a subsequent
22 confirmed positive test result; provide a listing of licensed
23 substance abuse treatment programs available in the area of a
24 person's residence if the person has a confirmed positive test
25 result; and allow for a person who has a confirmed positive
26 test result to reapply one time after six months if the person
27 provides documentation of completing a licensed substance abuse
28 treatment program within six months of the confirmed positive
29 test result and passes another drug test.

30 If a parent is deemed ineligible for assistance as a result
31 of having a confirmed positive test result, the dependent child
32 remains eligible for assistance and a protective payee may be
33 designated by the parent to receive the assistance on behalf of
34 the child. If a specified relative or other immediate family
35 member declines to be designated, the department must designate

1 the protective payee. The protective payee is then subject
2 to drug testing before being approved to receive assistance
3 on behalf of the child. A protective payee with a confirmed
4 positive test result is ineligible to receive assistance on
5 behalf of the child.

6 The department is required to adopt rules to implement the
7 new requirements.