

1 SB191
2 147877-3
3 By Senators Pittman, Orr, Williams, Sanford, Taylor, Fielding,
4 Allen, Bussman, Waggoner, Beason, Brewbaker, Glover, McGill,
5 Dial, Marsh, Ward, Whatley, Reed, and Scofield
6 RFD: Fiscal Responsibility and Accountability
7 First Read: 12-FEB-13

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8 SYNOPSIS: Under existing law, there is no requirement
9 that a person applying for or receiving public
10 assistance benefits be tested for illegal substance
11 abuse.

12 This bill would require an applicant for
13 public assistance benefits administered by the
14 Department of Human Resources to be tested for
15 substance abuse if there is reasonable suspicion
16 that the applicant is under the influence of an
17 illegal substance.

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

22 This bill would authorize a parent of a
23 minor child who tests positive for drugs to
24 designate a third party to receive the public
25 assistance for the benefit of the minor child.

1 This bill also would authorize the
2 Department of Human Resources to promulgate rules
3 to implement this program.

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5 A BILL
6 TO BE ENTITLED
7 AN ACT

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9 Relating to public assistance; to require the
10 Department of Human Resources to implement and administer a
11 drug screening program for any adult applying for or receiving
12 public assistance benefits upon reasonable suspicion of
13 illegal substance use; to require the department to provide
14 notice of the drug screening to applicants; to specify who is
15 responsible for costs associated with the drug screening; to
16 provide that an adult testing positive for a drug under this
17 screening program is ineligible to receive certain public
18 assistance; to allow a parent of a minor child who tests
19 positive for drugs to designate a third party to receive the
20 public assistance for the benefit of the minor child; to
21 specify that the costs associated with any substance abuse
22 treatment are not the responsibility of the department or the
23 state; and to authorize the department to promulgate rules to
24 implement the act.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

1 (1) DRUG. Includes all of the following:

2 a. A controlled substance for which a medical
3 prescription or other legal authorization is required for
4 purchase or possession, including, but not limited to: An
5 amphetamine, a tetrahydrocannabinol, oxycodone, cocaine,
6 phencyclidine (PCP), an opiate, a barbiturate, a
7 benzodiazepine, a methamphetamine, a propoxyphene, a tricyclic
8 antidepressant, or a metabolite of any of these substances.

9 b. A drug whose manufacture, sale, use, or
10 possession is forbidden by law.

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

17 (3) PUBLIC ASSISTANCE BENEFITS. Money or property
18 provided directly or indirectly to eligible persons through
19 programs of the federal government, the state, or any
20 political subdivision thereof, and administered by the Alabama
21 Department of Human Resources.

22 Section 2. (a) The Department of Human Resources
23 shall implement and administer a drug screening program for
24 any person applying for or receiving public assistance
25 benefits upon reasonable suspicion that the person uses or is
26 under the influence of a drug. Reasonable suspicion exists if
27 the applicant or recipient has a conviction for the use or

1 distribution of a drug within five years prior to the date of
2 the application or initial payment of public assistance
3 benefits.

4 (b) The department shall require each applicant to
5 include, under penalty of perjury, any criminal conviction
6 related to the use or distribution of a drug on any
7 application for public assistance benefits.

8 (c) The cost of the drug screening is the
9 responsibility of the person screened. The department shall
10 reimburse the person for the cost of the drug screening if the
11 person tests negative for a drug.

12 (d) (1) A person who refuses to take a drug screening
13 or who delays the drug screening beyond the time set by the
14 department is ineligible to receive public assistance
15 benefits.

16 (2) A person who tests positive for a drug as a
17 result of a drug screening required under this section and who
18 is unable to produce a valid prescription for the drug is
19 ineligible for public assistance benefits for one year after
20 the date of the positive drug screening. Upon a second
21 positive drug screening, the person shall be permanently
22 ineligible for public assistance benefits.

23 (3) A person who is denied public assistance
24 benefits under this section may request an administrative
25 hearing to review the denial.

26 (e) The results of a drug screening under this act
27 shall not be admissible in any criminal proceeding, but are

1 admissible without further authentication or qualification in
2 administrative hearings of the department and judicial review
3 of department determinations.

4 (f) The department shall do all of the following:

5 (1) Provide notice of the potential for drug
6 screening to applicants for public assistance benefits at the
7 time of application. The notice shall advise the person that
8 drug screening may be conducted as a condition for receiving
9 benefits under certain conditions and that the person shall
10 bear the cost of the drug screening. The person shall be
11 advised that the required drug screening may be avoided if the
12 person does not apply for public assistance benefits.

13 (2) Require each person to be screened to sign a
14 written acknowledgment that he or she has received notice of
15 the department's drug-screening policy and that he or she
16 understands the drug-screening requirement.

17 (g) If a parent is deemed ineligible for public
18 assistance benefits as a result of failing a drug screening
19 conducted under this section:

20 (1) The dependent child's eligibility for public
21 assistance benefits is not affected.

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

24 (3) The parent may choose to designate another
25 person to receive benefits for the parent's minor child. The
26 designated person must be an immediate family member or, if an
27 immediate family member is not available or the family member

1 declines the option, another person, approved by the
2 department, may be designated. The designated person must also
3 undergo drug screening before being approved to receive
4 benefits on behalf of the child. If the designated person
5 tests positive for a drug, he or she is ineligible to receive
6 benefits on behalf of the child.

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

11 Section 3. The provisions of this act are severable.
12 If any part of this act is declared invalid or
13 unconstitutional, that declaration shall not affect the part
14 which remains.

15 Section 4. This act shall become effective on the
16 first day of the third month following its passage and
17 approval by the Governor, or its otherwise becoming law.