

Regular Session, 2014

HOUSE BILL NO. 952

BY REPRESENTATIVE WHITNEY

DRUGS/TESTING: Provides for drug testing of persons who receive or apply for cash assistance or unemployment benefits

1 AN ACT

2 To amend and reenact R.S. 46:460.10, and to enact R.S. 23:1600(9), 1601(12), 1601.1, and

3 R.S. 46:460.11, relative to persons receiving or applying for benefits from certain

4 assistance programs; to provide conditions for issuance of unemployment and cash

5 assistance benefits; to establish requirements of certain state agencies relative to

6 administration of benefits programs; to provide for duties of the executive director

7 of the Louisiana Workforce Commission relative to administration of the

8 unemployment compensation program; to provide for duties of the secretary of the

9 Department of Children and Family Services relative to administration of the cash

10 assistance program; to require drug screening and testing of certain persons; to

11 provide for rights and protections for certain persons who are subjected to drug

12 testing; to provide for disqualification from eligibility for unemployment

13 compensation and cash assistance benefits; to provide for promulgation of rules; to

14 provide for reports to the legislature; and to provide for related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 23:1600(9), 1601(12), and 1601.1 are hereby enacted to read as

17 follows:

18 §1600. Benefit eligibility conditions

19 An unemployed individual shall be eligible to receive benefits only if the

20 administrator finds that:

1 * * *

2 (9) If the individual has been ordered to submit to a drug test pursuant to
3 R.S. 23:1601.1, he has tested negative for the use of any illegal controlled substance
4 or analogue in such test.

5 §1601. Disqualification for benefits

6 An individual shall be disqualified for benefits:

7 * * *

8 (12) If he has tested positive for the use of any illegal controlled substance
9 or analogue in a drug test ordered pursuant to R.S. 23:1601.1.

10 §1601.1. Applicant and recipient drug testing; procedures; rights and safeguards

11 A. The legislature hereby authorizes and directs the executive director of the
12 Louisiana Workforce Commission to establish a drug screening and testing program
13 for unemployment compensation applicants and recipients.

14 B. No person shall be tested if such testing is prohibited by federal law. No
15 sanction shall be imposed on a person if the sanction is prohibited by federal law.
16 The drug screening and testing program shall provide procedural safeguards to
17 ensure the protection of the constitutional rights of program participants and provide
18 that testing is conducted by state certified laboratories.

19 C. Definitions. As used in this Section, the following terms have the
20 meaning ascribed in this Subsection:

21 (1) "Commission" means the Louisiana Workforce Commission.

22 (2) "Controlled substance" means any substance defined in or regulated by
23 the Uniform Controlled Dangerous Substances Law, R.S. 40:961 et seq.

24 (3) "Controlled substance analogue" means a substance that has a chemical
25 structure which is substantially similar to that of a controlled dangerous substance,
26 and shall have the specific meaning ascribed in R.S. 40:961.

27 (4) "Drug test" means an examination or analysis of a biological specimen
28 to determine the presence or absence of any controlled substance, controlled
29 substance analogue, or a metabolite of any of these.

1 D.(1) The commission shall screen all applicants for and recipients of
2 benefits for the use of or dependency on illegal drugs at the time of the initial
3 application, and at the time of redetermination of eligibility, using a recognized and
4 standardized drug abuse screening procedure. Completion of the drug screening
5 shall be a condition for all of the following:

6 (a) Initial eligibility for applicants for benefits.

7 (b) Continuing benefits eligibility for recipients.

8 (2) The commission shall order drug testing of an applicant for or a recipient
9 of benefits at any time when there exists reasonable suspicion, as determined
10 pursuant to Paragraph (3) of this Subsection, that such applicant or recipient is
11 unlawfully using a controlled substance or controlled substance analogue.

12 (3) In addition to results of the drug screening provided for in Paragraph (1)
13 of this Subsection, the commission may use any other information or observations
14 to determine whether reasonable suspicion of unlawful use of a controlled substance
15 or controlled substance analogue exists. Such information and observations may
16 include but shall not limited to those relative to the following:

17 (a) Demeanor of the applicant or recipient.

18 (b) Missed appointments.

19 (c) Arrest records or other police records.

20 (d) Previous employment or application for employment in an occupation
21 or industry that regularly conducts drug screening.

22 (e) Termination from previous employment due to unlawful use of a
23 controlled substance or controlled substance analogue.

24 (f) Prior drug screening or testing records of the applicant or recipient
25 indicating unlawful use of a controlled substance or controlled substance analogue.

26 E. Any applicant for or recipient of benefits who tests positive for a
27 controlled substance or controlled substance analogue may request that the specimen
28 submitted for the drug test be sent to a different drug testing facility for an additional
29 test. Any applicant for or recipient of benefits who requests an additional drug test

1 at a different drug testing facility shall be required to pay the cost of the additional
2 drug test. Any applicant or recipient who took the additional drug test and tested
3 negative for unlawful use of a controlled substance or controlled substance analogue
4 shall be reimbursed for the cost of the additional drug test.

5 F.(1)(a) An applicant for or recipient of benefits who tests positive once for
6 unlawful use of a controlled substance or controlled substance analogue shall be
7 required to complete a substance abuse treatment program and a job skills program
8 approved by the administrator.

9 (b) Subject to applicable federal laws, any applicant for or recipient of
10 benefits who fails to complete or refuses to participate in the substance abuse
11 treatment program or job skills program as required in this Subsection shall be
12 ineligible to receive benefits until completion of such substance abuse treatment and
13 job skills programs.

14 (c) Upon completion of both substance abuse treatment and job skills
15 programs, the applicant for or recipient of benefits may be subject to periodic drug
16 screening, as determined by the administrator.

17 (2) Pursuant to a recipient's second positive test for unlawful use of a
18 controlled substance or controlled substance analogue, the commission shall take all
19 of the following actions:

20 (a) Require him to complete again an approved substance abuse treatment
21 program and an approved job skills program.

22 (b) Bar him from the benefits program for a period of twelve months, or until
23 he completes both substance abuse treatment and job skills programs, whichever is
24 later.

25 (3) Upon a third positive test for unlawful use of a controlled substance or
26 controlled substance analogue, the commission shall permanently bar the recipient
27 from the benefits program, subject to applicable federal law.

1 G. Except for hearings before the commission, the results of any drug
2 screening or testing administered pursuant to the provisions of this Section shall be
3 confidential and shall not be disclosed publicly.

4 H.(1) The administrator shall promulgate rules and regulations to implement
5 the provisions of this Section in accordance with the Administrative Procedure Act.
6 The rules and regulations shall provide that the cost of testing participants for the
7 presence of illegal drugs and the treatment of such participants pursuant to the
8 provisions of this Section shall be borne by the commission or departments that grant
9 the applicable public assistance.

10 (2) The administrator may develop the rules and regulations in consultation
11 with the secretary of the Department of Health and Hospitals and the commissioner
12 of administration.

13 I. The administrator shall prepare a written statistical report on the program
14 and submit the report to the legislature on or before July 1, 2015, and annually
15 thereafter.

16 Section 2. R.S. 46:460.10 is hereby amended and reenacted and R.S. 46:460.11 is
17 hereby enacted to read as follows:

18 §460.10. Drug testing for certain adult recipients of public assistance required;
19 legislative ~~policy, procedures~~ findings and declaration

20 A. The legislature hereby reaffirms the legitimate government function of
21 promoting the safety and welfare of children and adults, and hereby finds and
22 declares all of the following: ~~The legislature declares that the~~

23 (1) The best interests of a significant portion of the state's population are
24 served by ensuring that ~~they~~ persons are free of the physical and mental impairments
25 associated with drug dependence. ~~The legislature further reaffirms its~~

26 (2) The state has a compelling interest in providing safeguards to eliminate
27 the misappropriation of entitlement benefits.

1 (3) The legislature affirms the importance of ensuring that Louisiana's
2 citizens are ready to work; and that in order for persons to be work-ready, they must
3 be free of drug dependence.

4 B. The legislature hereby authorizes and directs the secretary of the
5 Department of Children and Family Services, in consultation with the secretary of
6 the Department of Health and Hospitals and the commissioner of administration, to
7 establish a mandatory drug screening and testing program for certain adults in the
8 Temporary Assistance for Needy Families Block Grant Program. Family
9 Independence Temporary Assistance Program operated pursuant to Subpart A of Part
10 II of this Chapter, R.S. 46:230.1 et seq. The drug testing program shall be
11 administered in accordance with the provisions of R.S. 46:460.11.

12 §460.11. FITAP cash assistance drug screening and testing; participant rights and
13 safeguards

14 ~~B. A.~~ The secretary of the Department of Children and Family Services shall
15 cause to be instituted a mandatory drug screening and testing program for certain
16 adult applicants for and participants, ~~to be determined by the secretary in~~
17 ~~consultation with the secretary of the Department of Health and Hospitals and the~~
18 ~~commissioner of administration, in the Temporary Assistance for Needy Families~~
19 ~~Block Grant Program~~ in the Family Independence Temporary Assistance Program
20 for needy families, the assistance from which is referred to in this Section as "cash
21 assistance". The secretary shall operate the drug testing program according to the
22 requirements and limitations provided in this Section.

23 B. No participant shall be tested if such testing is prohibited by federal law.
24 No sanction shall be imposed on an adult participant if such sanction is prohibited
25 by federal law. Such testing program shall provide procedural safeguards to ensure
26 the protection of the constitutional rights of the program participants and provide that
27 testing ~~shall be done~~ is conducted by state certified laboratories.

28 ~~C. The required drug testing program shall require a participant to complete~~
29 ~~an education and rehabilitation program upon the initial identification of such~~

1 ~~participant as an illegal drug user verified by a positive test result as a prerequisite~~
2 ~~to continued receipt of benefits. Further, the drug testing program shall provide for~~
3 ~~the suspension of participation in such entitlement program for a participant~~
4 ~~subsequently identified by a verified positive test result as an illegal drug user;~~
5 ~~however, in no event shall participation in such entitlement program be suspended~~
6 ~~while the participant is taking part in the education and rehabilitation program or~~
7 ~~until an education and rehabilitation program is available to the participant. The~~
8 ~~secretary of the Department of Children and Family Services in conjunction with the~~
9 ~~secretary of the Department of Health and Hospitals and the commissioner of~~
10 ~~administration shall provide a program of education and rehabilitation for~~
11 ~~participants so identified as illegal drug users. Such program shall include~~
12 ~~regulations governing the reentry of a suspended recipient into the entitlement~~
13 ~~program based on subsequent testing results and completion of education and~~
14 ~~rehabilitation programs. Such program shall also include the provision of inpatient~~
15 ~~services for any participant identified as an illegal drug user if it is determined that~~
16 ~~such inpatient services are necessary for successful rehabilitation.~~

17 C. Definitions. As used in this Section, the following terms have the
18 meaning ascribed in this Subsection:

19 (1) "Cash assistance" means direct financial assistance provided through the
20 Family Independence Temporary Assistance Program for needy families operated
21 pursuant to Subpart A of Part II of this Chapter, R.S. 46:230.1 et seq.

22 (2) "Controlled substance" means any substance defined in or regulated by
23 the Uniform Controlled Dangerous Substances Law, R.S. 40:961 et seq.

24 (3) "Controlled substance analogue" means a substance that has a chemical
25 structure which is substantially similar to that of a controlled dangerous substance,
26 and shall have the specific meaning ascribed in R.S. 40:961.

27 (4) "Department" means the Department of Children and Family Services.

1 (5) "Drug test" means an examination or analysis of a biological specimen
2 to determine the presence or absence of any controlled substance, controlled
3 substance analogue, or a metabolite of any of these.

4 (6) "Secretary" means the secretary of the Department of Children and
5 Family Services.

6 D.(1) The department shall screen all adult applicants for and recipients of
7 cash assistance for the use of or dependency on illegal drugs at the time of the initial
8 application, and at the time of redetermination of eligibility, using a recognized and
9 standardized drug abuse screening procedure. Completion of the drug screening
10 shall be a condition for all of the following:

11 (a) Initial eligibility for applicants for cash assistance.

12 (b) Continuing eligibility for benefits for recipients of cash assistance.

13 (2) The department shall order drug testing of an applicant for or a recipient
14 of cash assistance at any time when there exists reasonable suspicion, as determined
15 pursuant to Paragraph (3) of this Subsection, that such cash assistance applicant or
16 recipient is unlawfully using a controlled substance or controlled substance analogue.

17 (3) In addition to results of the drug screening provided for in Paragraph (1)
18 of this Subsection, the department may use any other information or observations to
19 determine whether reasonable suspicion of unlawful use of a controlled substance
20 or controlled substance analogue exists. Such information and observations may
21 include but shall not limited to those relative to the following:

22 (a) Demeanor of the applicant or recipient.

23 (b) Missed appointments.

24 (c) Arrest records or other police records.

25 (d) Previous employment or application for employment in an occupation
26 or industry that regularly conducts drug screening.

27 (e) Termination from previous employment due to unlawful use of a
28 controlled substance.

1 (f) Prior drug screening or testing records of the applicant or recipient
2 indicating unlawful use of a controlled substance.

3 E. Any applicant for or recipient of cash assistance who tests positive for a
4 controlled substance or controlled substance analogue may request that the specimen
5 submitted for the drug test be sent to a different drug testing facility for an additional
6 test. Any applicant for or recipient of cash assistance who requests an additional
7 drug test at a different drug testing facility shall be required to pay the cost of the
8 additional drug test. Any applicant or recipient who took the additional drug test and
9 tested negative for unlawful use of a controlled substance or controlled substance
10 analogue shall be reimbursed for the cost of the additional drug test.

11 F.(1)(a) An applicant for or recipient of cash assistance who tests positive
12 once for unlawful use of a controlled substance or controlled substance analogue
13 shall be required to complete a substance abuse treatment program and a job skills
14 program approved by the secretary.

15 (b) Subject to applicable federal laws, any applicant for or recipient of cash
16 assistance who fails to complete or refuses to participate in the substance abuse
17 treatment program or job skills program as required in this Subsection shall be
18 ineligible to receive cash assistance until completion of such substance abuse
19 treatment and job skills programs.

20 (c) Upon completion of both substance abuse treatment and job skills
21 programs, such applicant for or recipient of cash assistance may be subject to
22 periodic drug screening, as determined by the secretary.

23 (2) Pursuant to a recipient's second positive test for unlawful use of a
24 controlled substance or controlled substance analogue, the department shall take all
25 of the following actions:

26 (a) Require him to complete again an approved substance abuse treatment
27 program and an approved job skills program.

1 (b) Bar him from the cash assistance program for a period of twelve months,
2 or until he completes both substance abuse treatment and job skills programs,
3 whichever is later.

4 (3) Upon a third positive test for unlawful use of a controlled substance or
5 controlled substance analogue, the department shall permanently bar the recipient
6 from the cash assistance program, subject to applicable federal law.

7 G.(1) If an applicant for or recipient of cash assistance is determined
8 ineligible for or is terminated from cash assistance as a result of a positive test for
9 unlawful use of a controlled substance or controlled substance analogue, and such
10 person is the parent or legal guardian of a minor child, an appropriate protective
11 payee shall be designated to receive cash assistance on behalf of such child. The
12 parent or legal guardian of the minor child may choose to designate an individual to
13 receive cash assistance for the child, as approved by the department. Prior to the
14 designated individual receiving any cash assistance, the department shall review
15 whether reasonable suspicion exists that such designated individual is unlawfully
16 using a controlled substance or controlled substance analogue.

17 (2) Any individual designated to receive cash assistance on behalf of an
18 eligible minor child pursuant to this Subsection shall be subject to drug testing at any
19 time when reasonable suspicion exists that such designated individual is unlawfully
20 using a controlled substance or controlled substance analogue. For purposes of this
21 Subsection, the presumption of reasonable suspicion shall be based upon the factors
22 established in Paragraph (D)(3) of this Section.

23 (3) Any individual designated to receive cash assistance on behalf of an
24 eligible minor child pursuant to this Subsection who tests positive for a controlled
25 substance or controlled substance analogue may request that the specimen submitted
26 for the drug test be sent to a different drug testing facility for an additional test. An
27 individual who requests an additional drug test at a different drug testing facility
28 shall be required to pay the cost of the test. Any individual who took the additional
29 drug test and who tested negative for unlawful use of a controlled substance or

1 controlled substance analogue shall be reimbursed for the cost of the additional drug
2 test.

3 (4) Upon any positive test for unlawful use of a controlled substance or
4 controlled substance analogue, an individual designated to receive cash assistance
5 on behalf of an eligible minor child shall be deemed ineligible to receive cash
6 assistance on behalf of the child, and the department shall select another designated
7 individual to receive cash assistance on behalf of the child. The conditions of this
8 Subsection shall apply to the substitute designee in the same manner as to the
9 original designee.

10 H.(1) If a person has been convicted under federal or state law of any offense
11 which is classified as a felony by the law of the jurisdiction and which has as an
12 element of such offense the manufacture, cultivation, distribution, possession, or use
13 of a controlled substance or controlled substance analogue, and the date of
14 conviction is on or after January 1, 2015, he shall thereby become permanently
15 ineligible to receive any cash assistance unless the conviction is his first conviction.
16 If the conviction is his first conviction, then the provisions of Paragraph (2) of this
17 Subsection shall apply.

18 (2) First-time offenders convicted under federal or state law of any offense
19 which is classified as a felony by the law of the jurisdiction and which has as an
20 element of such offense the manufacture, cultivation, distribution, possession, or use
21 of a controlled substance or controlled substance analogue, and the date of
22 conviction is on or after January 1, 2015, shall become ineligible to receive cash
23 assistance for five years from the date of conviction.

24 I. Except for hearings before the department, the results of any drug
25 screening or testing administered pursuant to the provisions of this Section shall be
26 confidential and shall not be disclosed publicly.

27 ~~D: J.(1) The secretary of the Department of Children and Family Services~~
28 ~~in consultation with the secretary of the Department of Health and Hospitals and the~~
29 ~~commissioner of administration shall promulgate rules and regulations to implement~~

1 the provisions of this Section in accordance with the Administrative Procedure Act.
 2 The rules and regulations shall provide that the cost of testing participants for the
 3 presence of illegal drugs and the treatment of such participants pursuant to the
 4 provisions of this Section shall be borne by the department or departments that grant
 5 the applicable public assistance.

6 (2) The secretary may develop the rules and regulations in consultation with
 7 the secretary of the Department of Health and Hospitals and the commissioner of
 8 administration.

9 E: K. The secretary shall prepare a written statistical report on the program
 10 and submit the report to the legislature on or before ~~January 1, 1999~~ July 1, 2015,
 11 and annually thereafter.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Whitney

HB No. 952

Abstract: Provides for drug testing of persons who receive or apply for cash assistance or unemployment benefits.

Proposed law establishes drug screening and testing policies within the unemployment compensation and cash assistance programs of this state as detailed below.

Drug Testing for Unemployment Benefits

Proposed law authorizes and directs the executive director of the La. Workforce Commission (LWC) to establish a drug screening and testing program for unemployment compensation applicants and recipients. Provides that no person shall be tested if such testing is prohibited by federal law; no sanction shall be imposed on a person if the sanction is prohibited by federal law; and that the drug screening and testing program shall provide procedural safeguards to ensure the protection of the constitutional rights of program participants and provide that testing is conducted by state certified laboratories.

Proposed law requires LWC to screen all applicants for and recipients of benefits for the use of or dependency on illegal drugs at the time of the initial application, and at the time of redetermination of eligibility, using a recognized and standardized drug abuse screening procedure. Provides that completion of the drug screening shall be a condition for all of the following:

- (1) Initial eligibility for applicants for benefits.
- (2) Continuing benefits eligibility for recipients.

Proposed law requires LWC to order drug testing of an applicant for or a recipient of benefits at any time when there exists reasonable suspicion, as determined in accordance with proposed law, that the person is unlawfully using a controlled substance or controlled substance analogue, defined as a substance that has a chemical structure which is substantially similar to that of a controlled dangerous substance.

Proposed law provides that in addition to results of the drug screening, LWC may use any other information or observations to determine whether reasonable suspicion of unlawful drug use exists, including but not limited to information and observations relative to the following:

- (1) Demeanor of the applicant or recipient.
- (2) Missed appointments.
- (3) Arrest records or other police records.
- (4) Previous employment or application for employment in an occupation or industry that regularly conducts drug screening.
- (5) Termination from previous employment due to unlawful use of a controlled substance or controlled substance analogue.
- (6) Prior drug screening or testing records of the applicant or recipient indicating unlawful use of a controlled substance or controlled substance analogue.

Proposed law provides that any applicant for or recipient of benefits who tests positive for illegal drug use may request that the specimen submitted for the drug test be sent to a different drug testing facility for an additional test, and that the cost of the additional test shall be borne by the requestor. Provides that if the person tests negative in the additional test, he shall be reimbursed for its cost.

Proposed law provides that an applicant for or recipient of benefits who tests positive once for illegal drug use is required to complete a substance abuse treatment program and a job skills program approved by the administrator of the unemployment compensation program, referred to hereafter as "administrator".

Proposed law provides that, subject to applicable federal laws, any applicant for or recipient of benefits who fails to complete or refuses to participate in the substance abuse treatment program or job skills program as required in proposed law shall be ineligible to receive benefits until completion of such substance abuse treatment and job skills programs.

Proposed law provides that upon completion of both substance abuse treatment and job skills programs, the applicant or recipient may be subject to periodic drug screening, as determined by the administrator.

Proposed law requires LWC to take all of the following actions pursuant to a recipient's second positive drug test:

- (1) Require him to complete again an approved substance abuse treatment program and an approved job skills program.
- (2) Bar him from the benefits program for a period of 12 months, or until he completes both substance abuse treatment and job skills programs, whichever is later.

Proposed law requires that upon a recipient's third positive drug test, LWC shall permanently bar him from the unemployment benefits program, subject to applicable federal law.

Proposed law provides that except for hearings before LWC, the results of any drug screening or testing administered pursuant to the provisions of proposed law shall be confidential and shall not be disclosed publicly.

Proposed law requires LWC to promulgate rules and regulations to implement proposed law in accordance with the APA; and that such rules and regulations provide that the cost of drug testing participants and the treatment of those persons be borne by LWC or departments that grant the applicable public assistance. Provides that LWC may develop such rules and regulations in consultation with the secretary of the Dept. of Health and Hospitals and the commissioner of administration.

Proposed law requires LWC to prepare a written statistical report on the drug testing program and submit the report to the legislature on or before July 1, 2015, and annually thereafter.

Drug Testing for Cash Assistance Benefits

Present law provides for drug testing for recipients of Family Independence Temporary Assistance Program cash assistance provided through the federal Temporary Assistance for Needy Families block grant program administered at the state level by the Dept. of Children and Family Services (DCFS). Provides that the program of drug testing shall have the following features, requirements, and functions, subject to funding availability:

- (1) As a condition for continued receipt of benefits, require a participant to complete an education and rehabilitation program after being identified as an illegal drug user through a positive drug test.
- (2) Provide for the suspension of participation in the cash assistance program for a participant identified as an illegal drug user through a positive drug test. Present law provides, however, that in no event shall benefits be suspended while the participant is taking part in the education and rehabilitation program, or pending availability of an education and rehabilitation program to the participant.
- (3) Make available a program of education and rehabilitation for participants identified as illegal drug users, and stipulate that such program include regulations governing the reentry of a suspended recipient into the cash assistance program based on subsequent testing results and completion of education and rehabilitation programs.
- (4) Include the provision of inpatient services for any participant identified as an illegal drug user if it is determined that such inpatient services are necessary for successful rehabilitation.

Proposed law deletes present law and adds in lieu thereof a drug testing program as detailed below.

Proposed law requires DCFS to screen all adult applicants for and recipients of cash assistance for illegal drug use at the time of the initial application, and at the time of redetermination of eligibility, using a recognized and standardized drug abuse screening procedure. Provides that completion of the drug screening shall be a condition for both:

- (1) Initial eligibility for applicants for cash assistance.
- (2) Continuing eligibility for benefits for recipients of cash assistance.

Proposed law requires DCFS to order drug testing of an applicant for or a recipient of benefits at any time when there exists reasonable suspicion, as determined in accordance with proposed law, that the person is unlawfully using a controlled substance or controlled

substance analogue, defined as a substance that has a chemical structure which is substantially similar to that of a controlled dangerous substance.

Proposed law provides that in addition to results of the drug screening, LWC may use any other information or observations to determine whether reasonable suspicion of unlawful drug use exists, including but not limited to information and observations relative to the following:

- (1) Demeanor of the applicant or recipient.
- (2) Missed appointments.
- (3) Arrest records or other police records.
- (4) Previous employment or application for employment in an occupation or industry that regularly conducts drug screening.
- (5) Termination from previous employment due to unlawful use of a controlled substance.
- (6) Prior drug screening or testing records of the applicant or recipient indicating unlawful use of a controlled substance.

Proposed law provides that any applicant for or recipient of cash assistance who tests positive for illegal drug use may request that the specimen submitted for the drug test be sent to a different drug testing facility for an additional test, and that the cost of the additional test shall be borne by the requestor. Provides that if the person tests negative in the additional test, he shall be reimbursed for its cost.

Proposed law provides that an applicant for or recipient of cash assistance who tests positive once for illegal drug use is required to complete a substance abuse treatment program and a job skills program approved by the DCFS secretary.

Proposed law provides that, subject to applicable federal laws, any applicant for or recipient of cash assistance who fails to complete or refuses to participate in the substance abuse treatment program or job skills program as required in proposed law shall be ineligible to receive benefits until completion of such substance abuse treatment and job skills programs.

Proposed law provides that upon completion of both substance abuse treatment and job skills programs, the applicant or recipient may be subject to periodic drug screening, as determined by the DCFS secretary.

Proposed law requires DCFS to take all of the following actions pursuant to a recipient's second positive drug test:

- (1) Require him to complete again an approved substance abuse treatment program and an approved job skills program.
- (2) Bar him from the benefits program for a period of 12 months, or until he completes both substance abuse treatment and job skills programs, whichever is later.

Proposed law requires that upon a recipient's third positive drug test, DCFS shall permanently bar him from the cash assistance program, subject to applicable federal law.

Proposed law provides that if an applicant for or recipient of cash assistance is determined ineligible for or is terminated from cash assistance as a result of a positive drug test, and the person is the parent or legal guardian of a minor child, an appropriate protective payee shall be designated to receive cash assistance on behalf of the child, subject to approval by DCFS.

Provides that prior to the designated individual receiving any cash assistance, DCFS shall review whether reasonable suspicion exists that the individual is using an illegal drug.

Proposed law provides that any individual designated to receive cash assistance on behalf of an eligible minor child pursuant to proposed law shall be subject to drug testing at any time when reasonable suspicion, determined in accordance with proposed law, exists that the designated individual is using an illegal drug.

Proposed law provides that in the case of an individual designated to receive cash assistance on behalf of an eligible minor child testing positive for drug use, he may be retested in the same manner as prescribed by proposed law for a cash assistance applicant or beneficiary.

Proposed law provides that if an individual designated to receive cash assistance on behalf of an eligible minor child tests positive for drug use, he shall be deemed ineligible to receive cash assistance on behalf of the child, and DCFS shall select another designated individual to receive cash assistance on behalf of the child.

Proposed law provides that if a person has been convicted under federal or state law of any drug-related offense, the following restrictions on eligibility for cash assistance apply:

- (1) In the case of a first offense, the person shall become ineligible to receive cash assistance for 5 years from the date of conviction.
- (2) If not a first offense, then the person shall become permanently ineligible to receive cash assistance.

Proposed law provides that except for hearings before DCFS, the results of any drug screening or testing administered pursuant to the provisions of proposed law shall be confidential and shall not be disclosed publicly.

Proposed law retains present law requiring DCFS to promulgate rules and regulations in accordance with the APA to implement drug testing within the cash assistance program, and that such rules and regulations provide that the cost of drug testing participants and the treatment of those persons be borne by DCFS or departments that grant the applicable public assistance. Provides that DCFS may develop such rules and regulations in consultation with the secretary of the Dept. of Health and Hospitals and the commissioner of administration.

Proposed law requires DCFS to prepare a written statistical report on the drug testing program and submit the report to the legislature on or before July 1, 2015, and annually thereafter.

(Amends R.S. 46:460.10; Adds R.S. 23:1600(9), 1601(12), 1601.1, and R.S. 46:460.11)