Regular Session, 2011

HOUSE BILL NO. 7

BY REPRESENTATIVES LABRUZZO, BOBBY BADON, HENRY BURNS, TIM BURNS, CHAMPAGNE, CHANDLER, DOERGE, DOVE, ELLINGTON, GISCLAIR, GREENE, GUINN, HARDY, HARRISON, HAZEL, HENRY, HILL, HOWARD, KATZ, KLECKLEY, LIGI, MCVEA, MORRIS, PEARSON, POPE, SCHRODER, SEABAUGH, SIMON, JANE SMITH, TALBOT, TEMPLET, THIBAUT, AND WOOTON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

WELFARE: Requires at least twenty percent of recipients of cash assistance through the Family Independence Temporary Assistance Program to be randomly drug tested prior to receiving benefits

AN ACT

To amend and reenact R.S. 46:460.10(A), (B), (C), and (E) and to enact R.S. 46:460.10(F), relative to drug testing of adult recipients of cash assistance; to require participants to consent to possible random drug testing prior to receipt of cash benefits; to require random drug testing for twenty percent of recipients of cash assistance; to provide for the drug testing of more than twenty percent of all participants of the Family Independence Temporary Assistance Program under certain circumstances; to provide for reimbursement to the state; to provide for a determination of sufficiency of funding; to establish a cost savings program for drug testing; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 46:460.10(A), (B), (C), and (E) are hereby amended and reenacted and R.S. 46:460.10(F) is hereby enacted to read as follows:

§460.10. Drug testing for certain adult recipients of public assistance; legislative policy; procedures

A. The legislature hereby reaffirms the legitimate government function of promoting the safety and welfare of children and adults. The legislature declares that the best interests of a significant portion of the state's population are served by

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ensuring that they are free of the physical and mental impairments associated with drug dependence. The legislature also affirms the importance of ensuring that Louisiana's citizens are ready to work, and in order for Louisiana's citizens to be work-ready, they must be free of drug dependence. The legislature further reaffirms its compelling interest in providing safeguards to eliminate the misappropriation of ~~entitlement~~ cash assistance benefits. The legislature hereby directs the secretary of the Department of Children and Family Services in consultation with the secretary of the Department of Health and Hospitals and the commissioner of administration to establish a mandatory drug testing program for ~~certain~~ twenty percent of adults in the ~~Temporary Assistance for Needy Families Block Grant Program~~ Family Independence Temporary Assistance Program. The drug testing shall comply with standards utilized by the office of behavioral health of the Department of Health and Hospitals. However, in the event that it is determined that the Family Independence Temporary Assistance Program Drug Testing and Treatment Fund (the fund), as provided for in R.S. 46:460.11, has deposits in the fund sufficient to conduct testing of more than twenty percent of adults in the Family Independence Temporary Assistance Program (FITAP), then the percentage of all adult FITAP participants tested shall be based on the adequacy of the fund. However, prior to drug testing more than twenty percent of adults in FITAP, the state shall be reimbursed twenty thousand dollars from the fund to be deposited into the state general fund to offset any state deficits. The determination of sufficient funding for the purposes of this Section shall be made by the secretaries of Department of Children and Family Services, the Department of Health and Hospitals, and the commissioner of administration.

B.(1) Each participant in the Family Independence Temporary Assistance Program shall be asked to sign a written consent form which informs the participant that, in order to receive or to continue receiving cash assistance benefits, the participant shall consent to random drug testing administered by the Department of Children and Family Services according to the provisions of this Section. The form

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shall inform the participant that, with his signature, the participant may be drug tested at any time as determined by the department while the participant is receiving cash assistance benefits. A participant who does not sign the form granting consent to a drug test shall not be eligible to receive or continue receiving cash assistance benefits.

(2) The secretary of the Department of Children and Family Services shall cause to be instituted a mandatory drug testing program for ~~certain~~ twenty percent of adult participants, to be determined by the secretary in consultation with the secretary of the Department of Health and Hospitals and the commissioner of administration, in the ~~Temporary Assistance for Needy Families Block Grant Program~~ Family Independence Temporary Assistance Program or its successor ~~Temporary Assistance for Needy Families Block Grant Program~~. The Department of Children and Family Services shall randomly select the participants to be drug tested according to a procedure established through rules and regulations promulgated according to the Administrative Procedure Act. No participant shall be tested if such testing is prohibited by federal law. No sanction shall be imposed on an adult participant if such sanction is prohibited by federal law. Such testing program shall provide procedural safeguards to ensure the protection of the constitutional rights of the program participants and provide that testing shall be done by state certified laboratories. However, in the event that it is determined that the Family Independence Temporary Assistance Program Drug Testing and Treatment Fund (the fund), as provided for in R.S. 46:460.11, has deposits in the fund sufficient to conduct testing of more than twenty percent of adults in the Family Independence Temporary Assistance Program (FITAP), then the percentage of all adult FITAP participants tested shall be based on the adequacy of the fund. However, prior to drug testing more than twenty percent of adults in FITAP, the state shall be reimbursed twenty thousand dollars from the fund to be deposited into the state general fund to offset any state deficits. The determination of sufficient funding for the purposes of this Section shall be made by the secretaries of

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Department of Children and Family Services, the Department of Health and Hospitals, and the commissioner of administration.

C. The required drug testing program shall require a participant to complete an education and rehabilitation program upon the initial identification of such participant as an illegal drug user verified by a positive test result as a prerequisite to continued receipt of benefits. Further, the drug testing program shall provide for the suspension of participation in such ~~entitlement~~ cash assistance program for a participant subsequently identified by a verified positive test result as an illegal drug user; however, in no event shall participation in such ~~entitlement~~ cash assistance program be suspended while the participant is taking part in the education and rehabilitation program or until an education and rehabilitation program is available to the participant. The secretary of the Department of Children and Family Services in conjunction with the secretary of the Department of Health and Hospitals and the commissioner of administration shall provide a program of education and rehabilitation for participants so identified as illegal drug users. Such program shall include regulations governing the reentry of a suspended recipient into the ~~entitlement~~ cash assistance program based on subsequent testing results and completion of education and rehabilitation programs. Such program shall also 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.

* * *

E. The secretary of the Department of Children and Family Services shall promulgate rules and adopt regulations, in accordance with the Administrative Procedure Act, to implement the provisions of this Section. The implementation of the random drug testing of adult recipients of cash assistance shall be conducted in the most efficient and cost-effective manner possible.

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~~E.~~ F. The secretary shall prepare a written statistical report on the program and submit the report to the legislature on or before January 1, 1999, and annually thereafter.

Section 2. This Act shall become effective on January 1, 2012.

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)]

LaBruzzo HB No. 7

Abstract: Expands drug testing to 20% of adult recipients of public cash assistance. Establishes a cost savings program for a drug testing program.

Present law provides for drug testing of certain adult recipients participating in the Temporary Assistance for Needy Families Block Grant (TANF). Allows the secretary of the Dept. of Children and Family Services (DCFS), in consultation with the secretary of the Dept. of Health and Hospitals (DHH), and the commissioner of administration, to define which adult participants are subject to testing.

Proposed law retains present law but requires that 20% of adult recipients of the Family Independence Temporary Assistance Program (FITAP) be drug tested. Proposed law requires that drug testing comply with standards utilized by the office of behavioral health.

Proposed law provides that if it is determined that the Family Independence Temporary Assistance Program Drug Testing and Treatment Fund (the fund), as provided for in R.S. 46:460.11, has deposits sufficient to conduct testing of more than 20% of adults in FITAP, then the percentage of all adult FITAP participants tested will be based on the adequacy of the fund.

Proposed law requires reimbursement of $20,000 to the state, from the fund, to be deposited into the state general fund prior to any additional drug testing above 20% of adult participants of FITAP.

Proposed law provides that the determination of sufficient funding for the implementation of proposed law shall be made by the secretaries of DCFS, DHH, and the commissioner of administration.

Proposed law requires each participant of the FITAP program to sign a written consent form which informs the participant that, in order to receive or to continue receiving cash assistance benefits, the participant shall consent to random drug testing administered by DCFS. A participant who does not sign the form granting consent to a drug test shall not be eligible to receive or to continue receiving cash assistance.

Proposed law specifies that DCFS shall randomly select the participants to be drug tested according to a procedure established through the rules and regulations promulgated according to the Administrative Procedure Act.

Proposed law requires the secretary of DCFS to create rules and regulations that comply with the Administrative Procedure Act, to implement proposed law. Also, requires that the

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implementation of the random drug testing program be conducted in the most efficient and cost-effective manner possible.

Effective Jan. 1, 2012.

(Amends R.S. 46:460.10(A), (B), (C), and (E); Adds R.S. 46:460.10(F))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Health and Welfare to the original bill.

1. Made technical changes.

2. Added provisions that make the percentage of adult participants in the Family Independence Temporary Assistance Program (FITAP) that are tested contingent on the adequacy of funding generated by the Family Independence Temporary Assistance Program Drug Testing and Treatment Fund.

3. Added a provision that specifies that the drug testing of adult participants in FITAP is random.

4. Added a provision that reimburses the state $20,000 prior to the drug testing of more than 20% of adult participants in FITAP.

5. Added a provision that provides that the determination of sufficient funding shall be made by the secretaries of Dept. of Children and Family Services, the Dept. of Health and Hospitals, and the commissioner of administration.

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