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# HOUSE BILL No. 1717

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 12-7-2; IC 12-14-30; IC 12-15-2-23.

**Synopsis:** Drug testing as a condition of benefits. Requires the division of family resources to develop a drug abuse testing program for applicants for and recipients of assistance under the federal Temporary Assistance for Needy Families (TANF) program and the federal Food Stamp Program. Provides that an individual who tests positive for a controlled substance or a legend drug without a prescription is ineligible to receive TANF assistance and food stamp assistance unless the individual attends a drug treatment program. Requires an individual who: (1) tests positive and attends a drug treatment program to be tested a second time within two months; (2) tests positive a second time to be regularly tested; and (3) tests positive a third time to be ineligible for TANF and food stamp assistance. Provides that the results of a drug test may not be disclosed in any legal proceedings or elsewhere unless the individual has tested positive a third time for drugs. Provides that an individual who is ineligible for TANF assistance and food stamp assistance as the result of testing positive for the presence of illegal drugs is ineligible for assistance under the Medicaid program. Requires the office of Medicaid policy and planning to apply for an amendment to the state Medicaid plan to limit Medicaid eligibility for individuals who are ineligible under the TANF program and food stamp program as the result of testing positive for the presence of illegal drugs.

**Effective:** Upon passage; July 1, 2009.

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January 22, 2009, read first time and referred to Committee on Rules and Legislative Procedures.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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## HOUSE BILL No. 1717



A BILL FOR AN ACT to amend the Indiana Code concerning human services.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 12-7-2-72 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 72. "Drug abuse", for  
3 purposes of **IC 12-14-30 and IC 12-23**, means:

- 4 (1) psychological or physical dependence on the effect of drugs  
5 or harmful substances; or
- 6 (2) abuse of the use of drugs or harmful substances;  
7 that is harmful to the individual or society.

8 SECTION 2. IC 12-7-2-87.9 IS ADDED TO THE INDIANA CODE  
9 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
10 1, 2009]: **Sec. 87.9. "Food stamp program", for purposes of**  
11 **IC 12-14-30, means the federal Food Stamp Program under 7**  
12 **U.S.C. 2011 et seq.**

13 SECTION 3. IC 12-14-30 IS ADDED TO THE INDIANA CODE  
14 AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2009]:

16 **Chapter 30. Drug Testing Under the Temporary Assistance for**  
17 **Needy Families Program and the Food Stamp Program**



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- Sec. 1. This chapter applies to the following:**
  - (1) Each individual eligible for assistance under the TANF program or the food stamp program who:**
    - (A) is at least eighteen (18) years of age; and**
    - (B) applies for or receives assistance under the TANF program or the food stamp program.**
  - (2) Each individual who:**
    - (A) resides with an individual described in subdivision (1); and**
    - (B) is at least eighteen (18) years of age.**

**Sec. 2. (a) The division shall establish a random drug abuse testing program, participation in which is a condition for individuals applying for or receiving assistance under the TANF program or the food stamp program.**

**(b) The division shall develop and implement a drug abuse testing program under this chapter that includes the following:**

- (1) Beginning July 1, 2009, testing of randomly selected individuals under the TANF program and the food stamp program.**
- (2) A urinalysis test.**
- (3) An appeals process for individuals.**

**(c) A county office may administer additional drug tests to an individual who is eligible for assistance under the TANF program or the food stamp program if the individual:**

- (1) is arrested or indicted on charges involving the illegal use of a controlled substance;**
- (2) is under investigation by the county office or a prosecuting attorney's office for alleged child abuse or neglect;**
- (3) commits an act or omission that is grounds for revoking the individual's assistance under the TANF program or the food stamp program according to a rule adopted by the division under IC 4-22-2; or**
- (4) has tested positive for drug abuse under this chapter.**

**Sec. 3. (a) If an individual who is tested for drugs under this chapter:**

- (1) tests positive for the presence in the individual's body of a:**
  - (A) controlled substance (as defined in IC 35-48-1-9); or**
  - (B) legend drug (as defined in IC 16-18-2-199); and**
- (2) does not possess a valid prescription for the controlled substance or legend drug;**

**the individual is ineligible to receive assistance under the TANF program or the food stamp program unless the individual attends**

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and complies with a drug abuse assessment or treatment plan.

(b) If an individual tests positive for drugs under subsection (a) and attends and complies with a drug abuse assessment or treatment plan, the individual shall be tested for drugs a second time not more than two (2) months after the individual was originally tested for drugs under this chapter.

(c) If an individual who has tested positive for drugs tests positive for drugs as described under subsection (a) a second time, the individual shall be tested regularly for drugs.

(d) If an individual who has tested positive for drugs two (2) times under this chapter tests positive for drugs a third time, the individual is ineligible to receive assistance under the TANF program or the food stamp program.

Sec. 4. An individual who refuses to take a drug test required under this chapter without good cause is ineligible to receive assistance under the TANF program or the food stamp program.

Sec. 5. An individual tested under this chapter is not considered to have tested positive for the presence of a controlled substance or legend drug in the individual's body until the sample obtained from the original test has been retested to rule out a false positive.

Sec. 6. An individual who is ineligible to receive assistance under section 3 of this chapter may reapply for assistance under the TANF program or the food stamp program six (6) months after the date the individual tested positive the third time for illegal drugs under section 3 of this chapter.

Sec. 7. A dependent child's eligibility for assistance under the TANF program or the food stamp program is not affected by this chapter.

Sec. 8. A county office may contract with a private or public entity or an individual to perform the drug tests required under this chapter.

Sec. 9. (a) Except as provided under subsection (c), the results of a drug test under this chapter are confidential.

(b) Except as provided under subsection (c), the results of a drug test may not be disclosed in any legal proceedings or elsewhere.

(c) If an individual tests positive a third time for drugs under this chapter, the results of the test which resulted in the individual testing positive the third time may be disclosed in a legal proceeding.

Sec. 10. The division may adopt rules under IC 4-22-2 necessary to implement this chapter.

SECTION 4. IC 12-15-2-23 IS ADDED TO THE INDIANA CODE

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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
2 1, 2009]: **Sec. 23. A person who is ineligible for public assistance as  
3 described in IC 12-14-30 is ineligible to receive Medicaid assistance  
4 under this article.**

5 SECTION 5. [EFFECTIVE UPON PASSAGE] (a) **As used in this  
6 SECTION, "office" refers to the office of Medicaid policy and  
7 planning established by IC 12-8-6-1.**

8 (b) **Before July 1, 2009, the office shall apply to the United  
9 States Department of Health and Human Services for approval to  
10 amend the state Medicaid plan to limit eligibility for individuals  
11 who are ineligible for public assistance under IC 12-14-30, as  
12 added by this act.**

13 (c) **The office may not implement the amendment to the state  
14 Medicaid plan until the office files an affidavit with the governor  
15 attesting that the amendment applied for under this SECTION is  
16 in effect. The office shall file the affidavit under this subsection not  
17 later than five (5) days after the office is notified that the  
18 amendment is approved.**

19 (d) **If the office receives approval to amend the state Medicaid  
20 plan under this SECTION from the United States Department of  
21 Health and Human Services and the governor receives the affidavit  
22 filed under subsection (c), the office shall implement the  
23 amendment not later than five (5) days after the governor receives  
24 the affidavit.**

25 (e) **This SECTION expires December 31, 2013.**

26 SECTION 6. **An emergency is declared for this act.**

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