



Reprinted  
January 31, 2012

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## HOUSE BILL No. 1007

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DIGEST OF HB 1007 (Updated January 30, 2012 5:36 pm - DI 110)

**Citations Affected:** IC 12-7; IC 12-14.5; IC 31-33.

**Synopsis:** Drug testing. Requires the office of the secretary of family and social services to develop and establish a pilot program in three counties to test for the use of controlled substances under certain conditions by an individual who: (1) receives assistance under the Temporary Assistance for Needy Families program for the individual  
(Continued next page)

**Effective:** July 1, 2012.

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**McMillin, VanNatter, Noe,  
Bacon, Baird, Behning, Borders, Brown T,  
Burton, Cheatham, Clere, Crouch, Culver,  
Davisson, Dermody, Dodge, Eberhart,  
Ellspermann, Espich, Foley, Friend, Frizzell,  
Frye R, Goodin, Gutwein, Heaton, Heuer,  
Hinkle, Kirchhofer, Knollman, Koch, Kubacki,  
Lehe, Lehman, Leonard, Lutz, Mahan,  
McNamara, Messmer, Morris, Neese, Rhoads,  
Richardson, Saunders, Smith M, Speedy,  
Steuerwald, Thompson, Torr, Truitt, Turner,  
Wesco, Wolkins, Yarde, Ubelhor**

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January 9, 2012, read first time and referred to Committee on Family, Children and Human Affairs.  
January 23, 2012, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.  
January 25, 2012, reported — Do Pass.  
January 27, 2012, read second time, amended, call withdrawn.  
January 30, 2012, re-read second time, amended, ordered engrossed.

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HB 1007—LS 7028/DI 110+



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or on behalf of a child; and (2) is at least 18 years of age. Requires the office of the secretary of family and social services to notify the department of child services (department) if a child is ineligible for assistance as a result of an individual testing positive for the illegal use of a controlled substance. Requires the department, not later than nine months after the date the department receives the report, to conduct a home visit at the child's residence to determine whether to pursue the report as a report of suspected child abuse or neglect. Requires the legislative council to establish and administer a program to test members of the general assembly for the use of controlled substances.

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**HB 1007—LS 7028/DI 110+**



Reprinted  
January 31, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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## HOUSE BILL No. 1007

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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 12-7-2-23 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 23. (a) "Body", for  
3 purposes of IC 12-8-2, has the meaning set forth in IC 12-8-2-1.  
4 (b) "Body", for purposes of IC 12-14.5-7, has the meaning set  
5 forth in IC 12-14.5-7-2.
- 6 SECTION 2. IC 12-7-2-26.3 IS ADDED TO THE INDIANA CODE  
7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
8 1, 2012]: Sec. 26.3. "Chamber", for purposes of IC 12-14.5-7, has  
9 the meaning set forth in IC 12-14.5-7-3.
- 10 SECTION 3. IC 12-7-2-43.3 IS ADDED TO THE INDIANA CODE  
11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
12 1, 2012]: Sec. 43.3. "Controlled substance", for purposes of  
13 IC 12-14.5, has the meaning set forth in IC 35-48-1-9.
- 14 SECTION 4. IC 12-7-2-122.7 IS ADDED TO THE INDIANA  
15 CODE AS A NEW SECTION TO READ AS FOLLOWS  
16 [EFFECTIVE JULY 1, 2012]: Sec. 122.7. "Legislative council", for  
17 purposes of IC 12-14.5-7, has the meaning set forth in

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1 **IC 12-14.5-7-4.**

2 SECTION 5. IC 12-7-2-129 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 129. (a) "Member", for  
4 purposes of IC 12-8-2, has the meaning set forth in IC 12-8-2-2.

5 (b) "Member", for the purposes of IC 12-14.5-7, has the  
6 meaning set forth in IC 12-14.5-7-5.

7 SECTION 6. IC 12-7-2-139.5 IS ADDED TO THE INDIANA  
8 CODE AS A NEW SECTION TO READ AS FOLLOWS  
9 [EFFECTIVE JULY 1, 2012]: Sec. 139.5. "Pilot program", for  
10 purposes of IC 12-14.5, means the pilot program established under  
11 IC 12-14.5-1.

12 SECTION 7. IC 12-7-2-189.9 IS ADDED TO THE INDIANA  
13 CODE AS A NEW SECTION TO READ AS FOLLOWS  
14 [EFFECTIVE JULY 1, 2012]: Sec. 189.9. "TANF assistance", for  
15 purposes of IC 12-14.5, means assistance under the federal  
16 Temporary Assistance for Needy Families program under 42  
17 U.S.C. 601 et seq.

18 SECTION 8. IC 12-7-2-190.2 IS ADDED TO THE INDIANA  
19 CODE AS A NEW SECTION TO READ AS FOLLOWS  
20 [EFFECTIVE JULY 1, 2012]: Sec. 190.2. "Tests negative" or  
21 "testing negative", for purposes of IC 12-14.5, means that an  
22 individual:

23 (1) tests negative for the use of a controlled substance (as  
24 defined in section 43.3 of this chapter) in the individual's  
25 body; or

26 (2) tests positive for the use of a controlled substance (as  
27 defined in section 43.3 of this chapter) in the individual's body  
28 but has:

29 (A) a valid prescription; or

30 (B) an order of a practitioner acting in the course of the  
31 practitioner's professional practice;

32 for the controlled substance.

33 SECTION 9. IC 12-7-2-190.3 IS ADDED TO THE INDIANA  
34 CODE AS A NEW SECTION TO READ AS FOLLOWS  
35 [EFFECTIVE JULY 1, 2012]: Sec. 190.3. "Tests positive" or "testing  
36 positive", for purposes of IC 12-14.5, means an individual:

37 (1) tests positive for the presence of a controlled substance (as  
38 defined in section 43.3 of this chapter) in the individual's  
39 body; and

40 (2) does not possess:

41 (A) a valid prescription; or

42 (B) an order of a practitioner acting in the course of the

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practitioner's professional practice;  
 for the controlled substance.

SECTION 10. IC 12-14.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

**ARTICLE 14.5. DRUG TESTING**  
**Chapter 1. Pilot Program for Drug Test**

**Sec. 1. (a) The office of the secretary shall develop and establish a pilot program to test for the use of a controlled substance by an individual who:**

- (1) receives TANF assistance for the individual or on behalf of a child; and
- (2) is at least eighteen (18) years of age.

**(b) The pilot program must be implemented for two (2) years in three (3) counties selected in the manner provided under subsection (c).**

**(c) The office of the secretary shall select the counties under subsection (b) by the following method:**

- (1) The office of the secretary shall divide all the counties into the following three (3) groups:
  - (A) The thirty-one (31) counties that have the greatest populations.
  - (B) The thirty-one (31) counties that have the lowest populations.
  - (C) The counties not described in clause (A) or (B).
- (2) The office of the secretary shall select one (1) county from each of the groups in subdivisions (1)(A), (1)(B), and (1)(C) to participate in the pilot program established under this chapter.

**Sec. 2. (a) The pilot program must:**

- (1) allow for an individual to consent to random drug testing by signing the consent form described in section 4(1) of this chapter;
- (2) randomly administer a drug test to individuals who consent as described in subdivision (1);
- (3) require drug testing of individuals who a county office believes, based on reasonable suspicion, are engaged in the illegal use of a controlled substance; and
- (4) except for individuals described in IC 12-14.5-2-1(c), require random drug testing of individuals who:
  - (A) a county office has reasonable suspicion to believe, based on testing positive under a previous drug test

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- 1           **administered under this article, are engaged in the illegal**
- 2           **use of a controlled substance; and**
- 3           **(B) are eligible to continue to receive or reapply for TANF**
- 4           **assistance as provided under this article.**
- 5       **(b) The office of the secretary shall:**
- 6           **(1) randomly administer a drug test to at least the greater of:**
- 7           **(A) one percent (1%) of the individuals who have**
- 8           **consented to random drug testing as described in**
- 9           **subsection (a)(1); or**
- 10          **(B) one (1) individual if at least one (1) individual has**
- 11          **consented to random drug testing as described in**
- 12          **subsection (a)(1);**
- 13          **(2) administer a drug test to all individuals who a county**
- 14          **office believes, based on reasonable suspicion, are engaged in**
- 15          **the illegal use of a controlled substance; and**
- 16          **(3) randomly administer a drug test to at least the greater of:**
- 17          **(A) ten percent (10%) of the individuals described in**
- 18          **subsection (a)(4); or**
- 19          **(B) three (3) individuals described in subsection (a)(4) if at**
- 20          **least three (3) individuals described in subsection (a)(4)**
- 21          **receive TANF assistance.**
- 22          **(c) The pilot program under this chapter must include an**
- 23          **appeals process for individuals.**
- 24          **Sec. 3. A drug test administered under the pilot program must**
- 25          **be performed by a SAMHSA (as defined in IC 22-10-15-3) certified**
- 26          **laboratory.**
- 27          **Sec. 4. After the pilot program is established under this chapter,**
- 28          **a county office located in a county selected to participate in the**
- 29          **pilot program shall provide the following to an individual**
- 30          **described in section 1 of this chapter:**
- 31               **(1) A consent form that allows the individual to consent to**
- 32               **random drug testing of the individual.**
- 33               **(2) The following information in writing:**
- 34                   **(A) The individual will be subject to random drug testing**
- 35                   **if the individual signs the consent form.**
- 36                   **(B) The individual is not required to sign the consent form.**
- 37                   **(C) If the individual does not sign the consent form, the**
- 38                   **individual may be subject to drug testing if the county**
- 39                   **office believes, based on reasonable suspicion, that the**
- 40                   **individual is engaged in the illegal use of a controlled**
- 41                   **substance.**
- 42                   **(D) If the individual:**

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- (i) tests positive under this article; and
- (ii) is eligible to continue to receive or reapply for TANF assistance for the individual or on behalf of a child as provided in this article;

the individual may be subject to random drug testing based on reasonable suspicion.

(E) A statement that the penalties under law concerning eligibility for TANF assistance are more severe if the individual tests positive from a drug test administered based on reasonable suspicion than the penalties for testing positive from a random drug test to which the individual has consented.

(F) The penalties under law concerning eligibility for TANF assistance for an individual who tests positive under a:

- (i) random drug test to which the individual has consented; and
- (ii) drug test administered based on reasonable suspicion.

(G) An individual will be temporarily ineligible for TANF assistance if the individual refuses to take a drug test under this article.

**Sec. 5. (a) A county office shall be considered to have reasonable suspicion that an individual is engaged in the illegal use of a controlled substance for purposes of section 2(a)(3) of this chapter if one (1) or more of the following apply:**

- (1) The individual has been convicted of a crime.
- (2) The individual has been charged with an offense under IC 35-48 (controlled substances).
- (3) The individual failed to attend a scheduled meeting or complete online requirements regarding TANF assistance.

(b) A county office has reasonable suspicion to randomly administer a drug test to an individual based on reasonable suspicion as described in section 2(a)(4) of this chapter if an individual has tested positive on a previous drug test administered under this article.

(c) An employee of a county office may determine when reasonable suspicion exists under section 2(a)(3) of this chapter from factors other than those listed under subsection (a).

(d) If an employee of a county office believes, based on reasonable suspicion, that an individual is engaged in the illegal use of a controlled substance, the employee shall document the factors

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1 the employee believes establish reasonable suspicion before the  
2 individual is tested under this article.

3 Sec. 6. The office of the secretary's records concerning the  
4 results of a drug test under this article may not be admitted against  
5 a defendant in a criminal proceeding.

6 Sec. 7. A county office shall provide a list of drug abuse  
7 treatment programs to any individual who tests positive under this  
8 article.

9 Sec. 8. The office of the secretary may adopt rules under  
10 IC 4-22-2 necessary to implement this article.

11 Chapter 2. Penalties for Failing a Random Drug Test to Which  
12 an Individual Has Consented

13 Sec. 1. (a) If, after an administrative hearing under IC 4-21.5, a  
14 finding is made that an individual who consented to random drug  
15 testing tests positive on a drug test, the county office shall:

- 16 (1) provide to the individual a list of drug abuse treatment  
17 programs approved by the office of the secretary; and  
18 (2) administer a drug test to the individual regularly at  
19 intervals of at least twenty (20) days and not more than thirty  
20 (30) days until the individual tests negative in two (2)  
21 consecutive drug tests.

22 (b) If an individual does not test negative in two (2) consecutive  
23 drug tests as described in subsection (a)(2) not later than four (4)  
24 months after the date the county office begins testing the individual  
25 regularly under subsection (a)(2), the following apply:

- 26 (1) The individual's failure to test negative establishes  
27 reasonable suspicion that the individual is engaged in the  
28 illegal use of a controlled substance.  
29 (2) The individual is subject to random drug testing as  
30 provided in IC 12-14.5-1-2(a)(4).  
31 (3) The county office shall administer a drug test to the  
32 individual based on reasonable suspicion not later than thirty  
33 (30) days after the date the individual last tested positive.  
34 (4) The penalties under IC 12-14.5-3 apply to any drug test in  
35 which the individual tests positive after reasonable suspicion  
36 is established under subdivision (1).

37 (c) If an individual tests negative in two (2) consecutive drug  
38 tests as described in subsection (a)(2) not later than four (4) months  
39 after the date the county office begins testing the individual  
40 regularly under subsection (a)(2), the individual:

- 41 (1) shall be returned to the pool of individuals who have  
42 consented to random drug testing; and



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1 (2) is subject to random drug testing as described in  
 2 IC 12-14.5-1-2(a)(2).  
 3 **Sec. 2. (a) Except as provided in IC 12-14.5-5-2, if:**  
 4 (1) an individual tested positive under a previous random  
 5 drug test to which an individual consented;  
 6 (2) an individual is subject to a second random drug test; and  
 7 (3) after an administrative hearing under IC 4-21.5, a finding  
 8 is made that the individual tests positive on the drug test  
 9 described under subdivision (2);  
 10 the individual is ineligible to receive TANF assistance for the  
 11 individual for three (3) months after the date of the finding.  
 12 (b) If an individual tests positive on two (2) separate drug tests  
 13 under subsection (a), the county office:  
 14 (1) has reasonable suspicion that the individual is engaged in  
 15 the illegal use of a controlled substance; and  
 16 (2) shall administer random drug testing to the individual  
 17 under IC 12-14.5-1-2(a)(4).  
 18 **Sec. 3. (a) If an individual who consented to random drug**  
 19 **testing refuses to take a drug test under this article, the individual**  
 20 **is ineligible for TANF assistance for the individual for three (3)**  
 21 **months after the date that the individual refuses to take the drug**  
 22 **test.**  
 23 (b) An individual who is ineligible under section 2(a) of this  
 24 chapter or subsection (a) may reapply for TANF assistance after  
 25 the applicable three (3) month ineligibility period. Upon  
 26 reapplying, the individual must test negative on a drug test before  
 27 the individual may receive TANF assistance.  
 28 **Chapter 3. Penalties for Failing a Drug Test Administered**  
 29 **Based on Reasonable Suspicion**  
 30 **Sec. 1. (a) Except as provided in IC 12-14.5-5-2 and if, after an**  
 31 **administrative hearing under IC 4-21.5, a finding is made that an**  
 32 **individual tests positive on a drug test administered based on**  
 33 **reasonable suspicion as described in IC 12-14.5-1-2(a)(3) or**  
 34 **IC 12-14.5-1-2(a)(4):**  
 35 (1) the individual is ineligible to receive TANF assistance for  
 36 the individual for six (6) months after the date of the finding;  
 37 and  
 38 (2) the child on whose behalf the individual receives TANF  
 39 assistance shall have that child's TANF assistance reduced by  
 40 fifty percent (50%) for six (6) months after the date of the  
 41 finding.  
 42 (b) If an individual refuses to take a drug test administered

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1 based on reasonable suspicion as described in IC 12-14.5-1-2(a)(3)  
2 or IC 12-14.5-1-2(a)(4):

3 (1) the individual is ineligible to receive TANF assistance for  
4 six (6) months after the date that the individual refused to  
5 take the drug test; and

6 (2) the child on whose behalf the individual receives TANF  
7 assistance shall have that child's TANF assistance reduced by  
8 fifty percent (50%) for six (6) months after the date of the  
9 finding.

10 Sec. 2. (a) An individual who is ineligible under section 1 of this  
11 chapter may reapply for TANF assistance after the applicable six  
12 (6) month ineligibility period. Upon reapplying, the individual must  
13 test negative on a drug test before the individual may receive  
14 TANF assistance.

15 (b) If, after an administrative hearing under IC 4-21.5, a finding  
16 is made that an individual described in subsection (a) tests positive  
17 on the drug test administered for the TANF reapplication process:

18 (1) the individual is permanently ineligible to receive TANF  
19 assistance for the individual; and

20 (2) a child on whose behalf the individual receives TANF  
21 assistance is ineligible for TANF assistance for as long as the  
22 child resides with the individual.

23 Sec. 3. If an individual tests positive on a drug test under section  
24 1 of this chapter, the:

25 (1) county office is considered to have reasonable suspicion  
26 that the individual is engaged in the illegal use of a controlled  
27 substance; and

28 (2) individual is subject to random drug testing based on  
29 reasonable suspicion as provided under IC 12-14.5-1-2(a)(4).

30 Sec. 4. If, after an administrative hearing under IC 4-21.5, a  
31 finding is made that an individual described under section 1 of this  
32 chapter tests positive on a second drug test based on reasonable  
33 suspicion as described in IC 12-14.5-1-2(a)(3) or  
34 IC 12-14.5-1-2(a)(4):

35 (1) the individual is permanently ineligible to receive TANF  
36 assistance for the individual; and

37 (2) a child on whose behalf the individual receives TANF  
38 assistance is ineligible for TANF assistance for as long as the  
39 child resides with the individual.

40 Chapter 4. Notice to the Department of Child Services

41 Sec. 1. The office of the secretary shall notify the department of  
42 child services concerning a child who is ineligible for TANF

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assistance under this article.

**Chapter 5. Exception to Penalties Concerning TANF Assistance**

**Sec. 1. (a) If an individual:**

- (1) is ineligible to receive TANF assistance under IC 12-14.5-3-2(b) or IC 12-14.5-3-4;
- (2) was not a parent or guardian to a child at the time the individual became ineligible to receive TANF assistance as described in subdivision (1);
- (3) becomes a parent or guardian of a child after the individual becomes ineligible to receive TANF assistance as described in subdivision (1); and
- (4) tests negative on a drug test administered by the office of the secretary;

the child is eligible for TANF assistance under this article if the child meets all the other eligibility requirements to receive TANF assistance.

(b) If an individual described under subsection (a) tests positive on the drug test administered by the office of the secretary under subsection (a)(4), the child on whose behalf the individual receives TANF assistance is ineligible to receive TANF assistance for as long as the child resides with the individual.

**Sec. 2. (a) This section applies to an individual who:**

- (1) tests positive on the drug test administered by the office of the secretary; and
- (2) would otherwise be ineligible for TANF assistance as described in IC 12-14.5-2-2(a) and IC 12-14.5-3-1(a).

(b) An individual does not become ineligible for TANF assistance as described in subsection (a)(2) and may continue to receive all TANF assistance for the individual and on behalf of an eligible child if the individual:

- (1) participates in a drug treatment program that has been approved by the division of mental health and addiction;
- (2) successfully completes the drug treatment program; and
- (3) does not test positive under a subsequent drug test ordered by the office of the secretary under this article.

(c) This section does not apply if the individual fails to complete the drug treatment program described in subsection (b).

**Chapter 6. Costs of Drug Testing**

**Sec. 1. (a) The office of the secretary shall pay for a drug test administered under this article if the individual:**

- (1) consented to random drug testing;
- (2) has not previously tested positive on a drug test

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1           administered under this article; and  
2           (3) tests negative on the drug test.  
3           (b) An individual shall reimburse the office of the secretary if  
4 the individual tests positive on a drug test paid for by the office of  
5 the secretary under subsection (a).  
6           (c) If an individual fails to reimburse the office of the secretary  
7 for a drug test under subsection (b):  
8           (1) the individual is ineligible to receive TANF assistance; and  
9           (2) a child on whose behalf the individual receives TANF  
10 assistance is ineligible for TANF assistance for as long as the  
11 child resides with the individual;  
12 until the individual reimburses the office of the secretary for the  
13 drug test.  
14           (d) An individual shall be responsible for any costs of additional  
15 drug testing required under this article as a result of the individual  
16 testing positive on a random drug test to which the individual  
17 consented.

18       **Sec. 2. (a) An individual who:**  
19           (1) does not consent to random drug testing; and  
20           (2) is tested under this chapter based upon reasonable  
21 suspicion as described in IC 12-14.5-1-2(a)(3) or  
22 IC 12-14.5-1-2(a)(4);  
23 shall pay the costs of the drug test.  
24           (b) If an individual described under subsection (a) tests negative  
25 for the use of a controlled substance, the office of the secretary  
26 shall reimburse the individual for the cost of the drug test.

27       **Chapter 7. Drug Testing for Legislators**  
28       **Sec. 1. This chapter applies to a member of the general assembly**  
29 **who:**  
30           (1) is serving in the general assembly on June 30, 2012; or  
31           (2) is elected or appointed to the general assembly after June  
32 30, 2012.  
33       **Sec. 2. As used in this chapter, "body" refers to either of the**  
34 **following:**  
35           (1) The house of representatives.  
36           (2) The senate.  
37       **Sec. 3. As used in this chapter, "chamber" refers to either of the**  
38 **following:**  
39           (1) The floor of the house of representatives.  
40           (2) The floor of the senate.  
41       **Sec. 4. As used in this chapter, "legislative council" refers to the**  
42 **legislative council created under IC 2-5-1.1-1.**

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**Sec. 5. As used in this chapter, "member" refers to either of the following:**

- (1) A member of the house of representatives.**
- (2) A member of the senate.**

**Sec. 6. (a) The legislative council shall establish and administer a program under this chapter to test for the use of a controlled substance by a member.**

**(b) The program established under this section must:**

- (1) allow for a member to consent to random drug testing described in subdivision (2) by signing a consent form described in subsection (c);**
- (2) randomly administer a drug test to fifty percent (50%) of the members who consent as described in subdivision (1) during each regular legislative session of the general assembly; and**
- (3) require drug testing of members who the:**
  - (A) speaker of the house of representatives; or**
  - (B) president pro tempore of the senate;****believes, based on reasonable suspicion, are engaged in the illegal use of a controlled substance.**

**(c) If a member refuses to consent to random drug testing described in subsection (b)(2), the member may not receive any of the following privileges provided to members:**

- (1) Partisan staff.**
- (2) Franked mail.**
- (3) Reserved parking at the statehouse.**
- (4) Office space at the statehouse.**
- (5) Electronic devices.**

**(d) The consent form described in subsection (b)(1) must:**

- (1) allow for a member to consent to random drug testing as described in subsection (b)(2); and**
- (2) provide specific, detailed information concerning the privileges the member will not receive as provided under subsection (c) if the member does not consent to random drug testing.**

**(e) A drug test administered under subsection (b)(2) or (b)(3) must be performed by a SAMHSA (as defined in IC 22-10-15-3) certified laboratory.**

**Sec. 7. (a) The speaker of the house of representatives or president pro tempore of the senate is considered to have reasonable suspicion that a member is engaged in the illegal use of a controlled substance for purposes of section 6(b)(3) of this**

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1 chapter if the member has been:

- 2 (1) convicted of a crime; or  
 3 (2) charged with an offense under IC 35-48 (controlled  
 4 substances).

5 (b) The speaker of the house of representatives and president  
 6 pro tempore of the senate may determine that reasonable suspicion  
 7 exists under section 6(b)(3) of this chapter from factors other than  
 8 those listed in subsection (a).

9 Sec. 8. A member shall submit to a drug test not later than  
 10 twelve (12) hours after the member is notified that the member has  
 11 been:

- 12 (1) randomly selected for a drug test; or  
 13 (2) selected for a drug test based on reasonable suspicion.

14 Sec. 9. Each member of the general assembly shall pay the costs  
 15 of a drug test administered under this chapter.

16 Sec. 10. If a:

- 17 (1) member who consented to random drug testing under this  
 18 chapter refuses to take a drug test;  
 19 (2) member refuses to take a drug test based on reasonable  
 20 suspicion as described in section 6(b)(3) of this chapter;  
 21 (3) member fails to take a drug test within the time required  
 22 under section 8 of this chapter;  
 23 (4) member refuses to pay for a drug test as required under  
 24 section 9 of this chapter; or  
 25 (5) finding is made by the member's chamber that the  
 26 member has tested positive on a drug test;

27 the member shall be assessed a penalty by the member's body  
 28 under the Constitution of the State of Indiana or the rules adopted  
 29 by the member's chamber, and the member loses all the privileges  
 30 listed in section 6(c) of this chapter provided to members.

31 Sec. 11. The following lists shall be made available to the public:

- 32 (1) The names of all the members who consent to random  
 33 drug testing under this chapter.  
 34 (2) The names of all of the members who refused to consent to  
 35 random drug testing under this chapter.  
 36 (3) The names of each member who is tested under this  
 37 chapter based on reasonable suspicion as described in section  
 38 6(b)(3) of this chapter.  
 39 (4) The names of all the members who:  
 40 (A) test positive on a drug test administered under this  
 41 chapter; and  
 42 (B) test negative on a drug test administered under this



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1                   **chapter.**  
2                   SECTION 11. IC 31-33-8-0.5 IS ADDED TO THE INDIANA  
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2012]: **Sec. 0.5. If the department receives a**  
5 **report from the office of the secretary of family and social services**  
6 **under IC 12-14.5-4-1, the department shall, not later than nine (9)**  
7 **months after the date the department receives the report, conduct**  
8 **a home visit at the child's residence to determine whether to pursue**  
9 **the report as a report of suspected child abuse or neglect.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1007, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 7, line 5, delete "2(b)" and insert "2(a)".

and when so amended that said bill do pass.

(Reference is to HB 1007 as introduced.)

NOE, Chair

Committee Vote: yeas 5, nays 3.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1007, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

ESPICH, Chair

Committee Vote: yeas 15, nays 5.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1007 be amended to read as follows:

Page 2, line 29, delete "UNDER THE TEMPORARY".

Page 2, delete line 30.

Page 9, between lines 34 and 35, begin a new paragraph and insert:

**"Chapter 7. Drug and Alcohol Testing for Legislators**

**Sec. 1. This chapter applies to a member of the general assembly who:**

**(1) is serving on June 30, 2012; or**

**(2) is elected or appointed to the general assembly after June 30, 2012.**

**Sec. 2. As used in this chapter, "alcohol" has the meaning set forth in IC 9-24-6-0.3.**

**Sec. 3. As used in this chapter, "alcohol concentration**

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equivalent" has the meaning set forth in IC 9-13-2-2.4.

**Sec. 4.** As used in this chapter, "body" refers to either of the following:

- (1) The house of representatives.
- (2) The senate.

**Sec. 5.** As used in this chapter, "chamber" refers to either of the following:

- (1) The floor of the house of representatives.
- (2) The floor of the senate.

**Sec. 6.** As used in this chapter, "legislative council" refers to the legislative council created under IC 2-5-1.1-1.

**Sec. 7.** As used in this chapter, "member" refers to either of the following:

- (1) A member of the house of representatives.
- (2) A member of the senate.

**Sec. 8. (a)** A member of the general assembly shall consent to the following testing once during each year that the member serves in the general assembly:

- (1) A drug test to determine the presence of a controlled substance.
- (2) A breath test administered randomly to determine the member's alcohol concentration equivalent.

**(b)** A drug test administered under subsection (a)(1) must be performed by a SAMHSA (as defined in IC 22-10-15-3) certified laboratory.

**(c)** A breath test administered under subsection (a)(2) must be conducted using a breath test operator, equipment, chemicals, and techniques approved in accordance with IC 9-30-6-5 and rules adopted under IC 9-30-6-5. The breath test must be administered:

- (1) after the day in January the general assembly reconvenes under IC 2-2.1-1-2 or IC 2-2.1-1-3; and
- (2) before the day the general assembly adjourns sine die under IC 2-2.1-1-2 or IC 2-2.1-1-3.

**Sec. 9.** The legislative council shall establish and administer the testing program required under section 8 of this chapter.

**Sec. 10. (a)** Each member of the general assembly shall reimburse the legislative council for the costs of a drug or breath test administered under this chapter.

**(b)** If a member fails to reimburse the legislative council under this section, the member may be disciplined or assessed a penalty by the member's body under the Constitution of the State of Indiana or the rules adopted by the member's chamber.



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**Sec. 11. If:**

- (1) a member refuses to consent to a drug or breath test under section 8(a) of this chapter; or**
- (2) a finding is made by the member's chamber that the member has:**
  - (A) tested positive on a drug test; or**
  - (B) received an alcohol concentration equivalent result on a breath test that is greater than the alcohol concentration equivalent required for a conviction of operating a vehicle while intoxicated under IC 9-30-5;**

**the member may be disciplined or assessed a penalty by the member's body under the Constitution of the State of Indiana or the rules adopted by the member's chamber.**

**Sec. 12. The legislative council's records concerning the results of a drug or breath test under this chapter may not be admitted against a defendant in a criminal proceeding."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1007 as printed January 25, 2012.)

DVORAK

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1007 be amended to read as follows:

Delete the amendment made on motion of Representative Dvorak adopted January 27, 2012.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 12-7-2-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 23. **(a) "Body"**, for purposes of IC 12-8-2, has the meaning set forth in IC 12-8-2-1.

**(b) "Body", for purposes of IC 12-14.5-7, has the meaning set forth in IC 12-14.5-7-2.**

SECTION 2. IC 12-7-2-26.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 26.3. "Chamber", for purposes of IC 12-14.5-7, has the meaning set forth in IC 12-14.5-7-3."**

Page 1, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 4. IC 12-7-2-122.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS



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[EFFECTIVE JULY 1, 2012]: **Sec. 122.7. "Legislative council", for purposes of IC 12-14.5-7, has the meaning set forth in IC 12-14.5-7-4.**

SECTION 5. IC 12-7-2-129 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 129. **(a) "Member", for purposes of IC 12-8-2, has the meaning set forth in IC 12-8-2-2.**

**(b) "Member", for the purposes of IC 12-14.5-7, has the meaning set forth in IC 12-14.5-7-5."**

Page 2, line 29, delete "UNDER THE TEMPORARY".

Page 2, delete line 30.

Page 3, line 36, delete "." and insert ";".

Page 5, line 21, delete "other".

Page 5, line 21, delete "in addition to" and insert "**other than**".

Page 9, line 15, delete ", the individual:" and insert ":".

Page 9, line 16, after "(1)" insert "**the individual**".

Page 9, between lines 34 and 35, begin a new paragraph and insert: "**Chapter 7. Drug Testing for Legislators**

**Sec. 1. This chapter applies to a member of the general assembly who:**

- (1) is serving in the general assembly on June 30, 2012; or**
- (2) is elected or appointed to the general assembly after June 30, 2012.**

**Sec. 2. As used in this chapter, "body" refers to either of the following:**

- (1) The house of representatives.**
- (2) The senate.**

**Sec. 3. As used in this chapter, "chamber" refers to either of the following:**

- (1) The floor of the house of representatives.**
- (2) The floor of the senate.**

**Sec. 4. As used in this chapter, "legislative council" refers to the legislative council created under IC 2-5-1.1-1.**

**Sec. 5. As used in this chapter, "member" refers to either of the following:**

- (1) A member of the house of representatives.**
- (2) A member of the senate.**

**Sec. 6. (a) The legislative council shall establish and administer a program under this chapter to test for the use of a controlled substance by a member.**

**(b) The program established under this section must:**

- (1) allow for a member to consent to random drug testing described in subdivision (2) by signing a consent form**

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described in subsection (c);

(2) randomly administer a drug test to fifty percent (50%) of the members who consent as described in subdivision (1) during each regular legislative session of the general assembly; and

(3) require drug testing of members who the:

(A) speaker of the house of representatives; or

(B) president pro tempore of the senate;

believes, based on reasonable suspicion, are engaged in the illegal use of a controlled substance.

(c) If a member refuses to consent to random drug testing described in subsection (b)(2), the member may not receive any of the following privileges provided to members:

(1) Partisan staff.

(2) Franked mail.

(3) Reserved parking at the statehouse.

(4) Office space at the statehouse.

(5) Electronic devices.

(d) The consent form described in subsection (b)(1) must:

(1) allow for a member to consent to random drug testing as described in subsection (b)(2); and

(2) provide specific, detailed information concerning the privileges the member will not receive as provided under subsection (c) if the member does not consent to random drug testing.

(e) A drug test administered under subsection (b)(2) or (b)(3) must be performed by a SAMHSA (as defined in IC 22-10-15-3) certified laboratory.

Sec. 7. (a) The speaker of the house of representatives or president pro tempore of the senate is considered to have reasonable suspicion that a member is engaged in the illegal use of a controlled substance for purposes of section 6(b)(3) of this chapter if the member has been:

(1) convicted of a crime; or

(2) charged with an offense under IC 35-48 (controlled substances).

(b) The speaker of the house of representatives and president pro tempore of the senate may determine that reasonable suspicion exists under section 6(b)(3) of this chapter from factors other than those listed in subsection (a).

Sec. 8. A member shall submit to a drug test not later than twelve (12) hours after the member is notified that the member has

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been:

- (1) randomly selected for a drug test; or
- (2) selected for a drug test based on reasonable suspicion.

**Sec. 9. Each member of the general assembly shall pay the costs of a drug test administered under this chapter.**

**Sec. 10. If a:**

- (1) member who consented to random drug testing under this chapter refuses to take a drug test;
- (2) member refuses to take a drug test based on reasonable suspicion as described in section 6(b)(3) of this chapter;
- (3) member fails to take a drug test within the time required under section 8 of this chapter;
- (4) member refuses to pay for a drug test as required under section 9 of this chapter; or
- (5) finding is made by the member's chamber that the member has tested positive on a drug test;

**the member shall be assessed a penalty by the member's body under the Constitution of the State of Indiana or the rules adopted by the member's chamber, and the member loses all the privileges listed in section 6(c) of this chapter provided to members.**

**Sec. 11. The following lists shall be made available to the public:**

- (1) The names of all the members who consent to random drug testing under this chapter.
- (2) The names of all of the members who refused to consent to random drug testing under this chapter.
- (3) The names of each member who is tested under this chapter based on reasonable suspicion as described in section 6(b)(3) of this chapter.
- (4) The names of all the members who:
  - (A) test positive on a drug test administered under this chapter; and
  - (B) test negative on a drug test administered under this chapter."

Renumber all SECTIONS consecutively.

(Reference is to HB 1007 as printed January 25, 2012, and as amended on motion of Representative Dvorak adopted January 27, 2012.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1007 be amended to read as follows:

Page 6, line 27, delete "If:" and insert "**Except as provided in IC 12-14.5-5-2, if:**".

Page 7, line 12, delete "If," and insert "**Except as provided in IC 12-14.5-5-2 and if,**".

Page 8, delete line 26.

Page 9, between lines 3 and 4, begin a new paragraph and insert:

**"Sec. 2. (a) This section applies to an individual who:**

**(1) tests positive on the drug test administered by the office of the secretary; and**

**(2) would otherwise be ineligible for TANF assistance as described in IC 12-14.5-2-2(a) and IC 12-14.5-3-1(a).**

**(b) An individual does not become ineligible for TANF assistance as described in subsection (a)(2) and may continue to receive all TANF assistance for the individual and on behalf of an eligible child if the individual:**

**(1) participates in a drug treatment program that has been approved by the division of mental health and addiction;**

**(2) successfully completes the drug treatment program; and**

**(3) does not test positive under a subsequent drug test ordered by the office of the secretary under this article.**

**(c) This section does not apply if the individual fails to complete the drug treatment program described in subsection (b)."**

(Reference is to HB 1007 as printed January 25, 2012.)

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