
A BILL FOR AN ACT

RELATING TO SOCIAL SERVICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 346, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§346- Applicants for temporary assistance for needy
5 families; drug testing. (a) An applicant for temporary
6 assistance for needy families benefits administered by the
7 department may be subject to drug testing as a condition of
8 eligibility for benefits; provided that:

9 (1) The applicant has previously been convicted of an
10 offense under chapter 329, chapter 329C, or part IV of
11 chapter 712; or

12 (2) The department has a reasonable suspicion that the
13 applicant has made unlawful use of a controlled
14 substance. For the purposes of this paragraph,
15 "reasonable suspicion" means articulable facts,
16 together with rational inferences from those facts,
17 warranting an objective suspicion that the applicant
18 is unlawfully using or has unlawfully used a



1 controlled substance; provided that reasonable
2 suspicion shall not be based on any of the following
3 factors:

4 (A) Race;

5 (B) National origin;

6 (C) Gender;

7 (D) Socioeconomic status;

8 (E) Suspicion or evidence of drug or alcohol use
9 among the applicant's family members or peer
10 group;

11 (F) Sexual orientation;

12 (G) Disability or medical condition; or

13 (H) Religion.

14 The cost of drug testing shall be the responsibility of the
15 individual tested.

16 (b) An individual who tests positive for controlled
17 substances as a result of a drug test pursuant to subsection (a)
18 shall be ineligible to receive temporary assistance for needy
19 families benefits for one year after the date of the positive
20 drug test unless the individual meets the requirements of
21 subsection (d).



1 (c) In the case of an applicant subject to drug testing
2 under subsection (a), the department shall:

3 (1) Provide notice of drug testing to the individual at
4 the time of application. The notice shall advise the
5 individual that drug testing shall be conducted as a
6 condition for receiving temporary assistance for needy
7 families benefits and that the individual must bear
8 the cost of testing. The department shall increase
9 the amount of the initial temporary assistance for
10 needy families benefit by the amount paid by the
11 individual for the drug testing; provided that the
12 individual tests negative for controlled substances.
13 The individual shall be advised that the required drug
14 testing may be avoided if the individual does not
15 apply for temporary assistance for needy families
16 benefits. Dependent children under the age of
17 eighteen years shall be exempt from the drug-testing
18 requirement;

19 (2) Require that, if the applicant is part of a two-parent
20 family, both parents shall comply with the drug-
21 testing requirement;



- 1 (3) Require that, if the applicant is a minor who is a
2 parent and does not reside with a parent, legal
3 guardian, or other adult caretaker, the applicant
4 shall comply with the drug-testing requirement;
- 5 (4) Advise the individual to be tested, before the test is
6 conducted, that the individual may, but is not
7 required to, advise the agent administering the test
8 of any prescription or over-the-counter medication
9 that the individual is taking;
- 10 (5) Require the individual to be tested to sign a written
11 acknowledgment that the individual has received and
12 understood the notice and advice provided under
13 paragraphs (1) and (4);
- 14 (6) Assure the individual being tested a reasonable degree
15 of dignity while producing and submitting a sample for
16 drug testing, consistent with the State's need to
17 ensure the reliability of the sample;
- 18 (7) Specify circumstances under which an individual who
19 fails a drug test has the right to take one or more
20 additional tests; and
- 21 (8) Inform an individual who tests positive for a
22 controlled substance and is deemed ineligible for



1 temporary assistance for needy families benefits that
2 the individual may reapply for those benefits one year
3 after the date of the positive drug test unless the
4 individual meets the requirements of subsection (d).

5 If the individual tests positive again, the individual
6 shall be ineligible to receive temporary assistance
7 for needy families benefits for three years after the
8 date of the second positive drug test unless the
9 individual meets the requirements of subsection (d).

10 (d) An individual who tests positive under this section
11 and is denied temporary assistance for needy families benefits
12 may reapply for those benefits after six months; provided the
13 individual can document the successful completion of a substance
14 abuse treatment program. An individual who has met the
15 requirements of this subsection and reapplies for temporary
16 assistance for needy families benefits shall also pass an
17 initial drug test and meet the requirements of subsection (a).
18 Any drug test conducted while the individual is undergoing
19 substance abuse treatment shall meet the requirements of
20 subsection (a). The cost of any drug testing and substance
21 abuse treatment shall be the responsibility of the individual
22 being tested and receiving treatment. An individual who fails



1 the drug test required under subsection (a) may reapply for
2 benefits under this subsection only once.

3 For the purposes of this section, "substance abuse
4 treatment" means drug or substance abuse treatment services
5 provided outside a correctional facility by a public, private,
6 or nonprofit entity that specializes in treating persons who are
7 diagnosed with substance abuse or dependency and preferably
8 employs licensed professionals or certified substance abuse
9 counselors.

10 (e) If a parent is deemed ineligible for temporary
11 assistance for needy families benefits as a result of failing a
12 drug test conducted under this section:

13 (1) The dependent child's eligibility for temporary
14 assistance for needy families benefits shall not be
15 affected;

16 (2) An appropriate protective payee shall be designated to
17 receive benefits on behalf of the child; and

18 (3) The parent may choose to designate another individual
19 to receive benefits for the parent's minor child. The
20 designated individual shall be an immediate family
21 member or, if an immediate family member is not
22 available or the family member declines the option,



1 another individual, approved by the department, may be
2 designated. The designated individual shall also
3 undergo drug testing before being approved to receive
4 benefits on behalf of the child. If the designated
5 individual tests positive for a controlled substance,
6 the designated individual shall be ineligible to
7 receive benefits on behalf of the child.

8 (f) An individual who tests positive for marijuana use
9 shall not be considered ineligible for temporary assistance for
10 needy families benefits under this section; provided that the
11 individual is registered as a qualifying patient with the
12 department of public safety pursuant to section 329-123.

13 (g) The department shall adopt rules under chapter 91 to
14 implement this section."

15 SECTION 2. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 3. New statutory material is underscored.

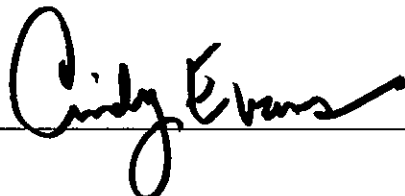


H.B. NO. 1975

1 SECTION 4. This Act shall take effect upon its approval.

2

INTRODUCED BY:

A handwritten signature in black ink, reading "Cindy Evans", written over a horizontal line.

JAN 17 2012



H.B. NO. 1975

Report Title:

Temporary Assistance for Needy Families; Drug Testing

Description:

Provides that certain applicants for temporary assistance for needy families benefits may be subject to drug testing.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

