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# 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. If the individual tests negative  
9 for controlled substances, the department shall  
10 increase the amount of the initial temporary  
11 assistance for needy families benefit by the amount  
12 paid by the individual for the drug testing. The  
13 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,





# H.B. NO. 292

**Report Title:**

Temporary Assistance for Needy Families; Drug Testing

**Description:**

Requires certain applicants for temporary assistance for needy families benefits to undergo 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.*

