

2015 -- S 0438

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO HUMAN SERVICES -- PUBLIC ASSISTANCE ACT -- DRUG TESTING

Introduced By: Senators Morgan, Kettle, Gee, Lombardi, and Raptakis

Date Introduced: February 25, 2015

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 40-6 of the General Laws entitled "Public Assistance Act" is
2 hereby amended by adding thereto the following section:

3 **40-6-30. Drug testing.** -- (a) The department of human services may require a drug test
4 to screen at random any individual who is receiving public assistance under the provisions of this
5 title. Such testing shall conform to the standards and procedures of the department of health. The
6 cost of such drug testing shall be the responsibility of any individual tested who tests positive.

7 (b) An individual subject to the requirements of this section includes any parent or
8 caretaker relative who is included in the cash assistance group, including an individual who may
9 be exempt from work activity requirements due to the age of the youngest child or for another
10 reason or reasons.

11 (c) An individual who tests positive for controlled substances as a result of a drug test
12 required under this section is ineligible to receive further public assistance benefits for one year
13 after the date of the positive drug test unless the individual meets the requirements of § 40-6-
14 30(d)(9).

15 (d) The department shall:

16 (1) Provide notice of possible random drug testing to each individual at the time of
17 application. The notice must advise the individual that drug testing may be conducted as a
18 condition for the continuation of benefits and that the individual must bear the cost of testing if
19 testing positive.

1 (2) Provide that for two (2) parent families, both parents are subject to the drug-testing
2 requirement.

3 (3) Provide that any teen parent who is not required to live with a parent, legal guardian,
4 or other adult caretaker are subject to the drug-testing requirement.

5 (4) Advise each individual to be tested, before the test is conducted, that he or she may,
6 but is not required to, advise the agent administering the test of any prescription or over-the-
7 counter medication he or she is taking.

8 (5) Require each individual to be tested to sign a written acknowledgment that he or she
9 has received and understood the notice and advice provided under §§ 40-6-30(2) and (4).

10 (6) Assure each individual being tested a reasonable degree of dignity while producing
11 and submitting a sample for drug testing, consistent with the state's need to ensure the reliability
12 of the sample.

13 (7) Specify circumstances under which an individual who fails a drug test has the right to
14 take one or more additional tests.

15 (8) Provide any individual who tests positive with a list of licensed substance abuse
16 treatment providers available in the area in which he or she resides that meet the requirements of
17 and are licensed by the department of health. Neither the department nor the state is responsible
18 for providing or paying for substance abuse treatment as part of the screening conducted under
19 this section.

20 (9) An individual who tests positive under this section and is denied continued benefits as
21 a result may reapply for those benefits after six (6) months if the individual can document the
22 successful completion of a substance abuse treatment program offered by a provider that meets
23 the requirements of and is licensed by the department of health. An individual who has met the
24 requirements of this subdivision and reapplies for benefits must also pass an initial drug test and
25 meet the requirements of subsection (a) of this section. Any drug test conducted while the
26 individual is undergoing substance abuse treatment must meet the requirements of subsection (a)
27 of this section. The cost of any drug testing and substance abuse treatment provided under this
28 section shall be the responsibility of the individual being tested and receiving treatment. An
29 individual who fails the drug test required under subsection (a) of this section may reapply for
30 benefits under this subdivision only once.

31 (e) If a parent is deemed ineligible for continued benefits as a result of failing a drug test
32 conducted under this section:

33 (1) The dependent child's eligibility for benefits is not affected;

34 (2) An appropriate protective payee shall be designated to receive benefits on behalf of

1 the child; and

2 (3) The parent may choose to designate another individual to receive benefits for the
3 parent's minor child. The designated individual must be an immediate family member or, if an
4 immediate family member is not available or the family member declines the option, another
5 individual, approved by the department, may be designated. The designated individual must also
6 undergo drug testing before being approved to receive benefits on behalf of the child. If the
7 designated individual tests positive for controlled substances, he or she is ineligible to receive
8 benefits on behalf of the child.

9 (f) Validly obtained medical marijuana used pursuant to a prescription shall not be
10 deemed a controlled substance for the purpose of this chapter.

11 (g) The department shall adopt rules to implement this section.

12 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO HUMAN SERVICES -- PUBLIC ASSISTANCE ACT -- DRUG TESTING

1 This act would authorize random drug screening as a condition for continued public
2 assistance, and would provide a mechanism for retesting those who fail the test. In the event a
3 parent tests positive, another person could be designated to receive benefits on behalf of any child
4 affected by a parent's ineligibility to receive benefits.

5 This act would take effect upon passage.

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