

1 ENGROSSED HOUSE
2 BILL NO. 2388

By: Liebmann, Bennett, Billy,
Roberts (Sean), Vaughan,
Russ, Johnson, Denney,
3 Roberts (Dustin), Martin
(Steve), Faught, Nelson and
4 Ownbey of the House

5 and

6 Holt and Allen of the
7 Senate

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10 An Act relating to drug testing; requiring drug
11 testing for state and local candidates for elected
12 office; requiring candidates to file certificate;
13 providing for contents of certificate; requiring
14 testing to be done during certain time; providing
15 that testing is expense of the candidate; requiring
16 drug testing for applicants for Temporary Assistance
17 for Needy Families benefits; specifying cost of
18 testing shall be paid by applicant; specifying
19 individuals subject to testing requirement; providing
20 that applicants testing positive for controlled
21 substances shall be ineligible for benefits;
22 specifying duration of ineligibility; directing the
23 Department of Human Services to provide notice of
24 drug-testing requirements; specifying required
contents of notice; authorizing applicants to inform
Department of medications applicant utilizes;
requiring certain acknowledgment be signed by
applicants; specifying drug-testing procedure;
providing for additional testing of certain
applicants; specifying reapplication procedure for
certain applicants; requiring Department to provide
list of substance abuse treatment providers;
specifying state shall not pay for treatment;
allowing applicants to reapply after treatment;
specifying requirements; providing that certain
benefits shall not be affected by the failure of a
parent to pass the drug test; providing for the
designation of an individual to receive benefits on

1 behalf of a child; specifying requirements; directing
2 Department to adopt rules; providing for
3 codification; and providing an effective date.

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5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

6 SECTION 1. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 5-111.2 of Title 26, unless
8 there is created a duplication in numbering, reads as follows:

9 At the time a state or local candidate for elected office files
10 their declaration of candidacy, each candidate shall file a
11 certificate with the officer or board with whom such candidate files
12 the declaration stating that such candidate has been tested for
13 illegal drugs and prescription medication which has not been
14 prescribed for the candidate within fifteen (15) days prior to
15 filing the declaration of candidacy for state or local office and
16 that the results of such test are negative. The test shall be
17 conducted at the expense of the candidate.

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 230.50a of Title 56, unless
20 there is created a duplication in numbering, reads as follows:

21 A. The Department of Human Services shall, beginning November
22 1, 2012, require a drug test to screen each individual who receives
23 Temporary Assistance for Needy Families (TANF) within three (3)
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1 months of being approved for benefits. The cost of drug testing
2 shall be the responsibility of the individual tested.

3 1. An individual subject to the requirements of this section
4 includes any parent or caretaker relative who is included in the
5 cash assistance group, including an individual who may be exempt
6 from work activity requirements due to the age of the youngest child
7 or who may be exempt from work activity requirements as specified by
8 the Department.

9 2. An individual who tests positive for controlled substances
10 as a result of a drug test required pursuant to this section shall
11 be ineligible to receive TANF benefits for one (1) year after the
12 date of the positive drug test unless the individual meets the
13 requirements of subsection C of this section.

14 3. An individual who is approved for TANF benefits after
15 November 1, 2012, and who fails to comply with the drug-testing
16 requirement within three (3) months of approval shall be ineligible
17 to receive TANF benefits until the drug-testing requirement is met.

18 B. The Department shall:

19 1. Provide notice of drug testing to each applicant for TANF
20 benefits at the time of application. The notice shall advise the
21 applicant that drug testing is required as a condition for
22 continuing to receive TANF benefits, if approved and that the
23 applicant shall bear the cost of testing. The applicant shall be
24 advised that the required drug testing may be avoided if the

1 applicant does not apply for TANF benefits. Dependent children
2 under eighteen (18) years of age shall be exempt from the drug-
3 testing requirement;

4 2. Require that for two-parent families, both parents shall
5 comply with the drug-testing requirement;

6 3. Require that any minor parent who is not required to live
7 with a parent, legal guardian, or other adult caretaker relative
8 comply with the drug-testing requirement;

9 4. Advise each individual to be tested, before the test is
10 conducted, that the individual may, but shall not be required to,
11 advise the agent administering the test of any prescription or over-
12 the-counter medication the individual is taking;

13 5. Require each individual to be tested to sign a written
14 acknowledgment that the individual has received and understands the
15 notice and advice provided pursuant to paragraphs 1 and 4 of this
16 subsection;

17 6. Assure each individual being tested a reasonable degree of
18 dignity while producing and submitting a sample for drug testing,
19 consistent with the need of the state to ensure the reliability of
20 the sample;

21 7. Specify circumstances under which an individual who fails a
22 drug test has the right to take one or more additional tests;

23 8. Inform an individual who tests positive for a controlled
24 substance and is deemed ineligible for TANF benefits that the

1 individual may reapply for those benefits one (1) year after the
2 date of the positive drug test unless the individual meets the
3 requirements of subsection C of this section. If the individual
4 tests positive again, the individual shall be ineligible to receive
5 TANF benefits for three (3) years after the date of the second
6 positive drug test unless the individual meets the requirements of
7 subsection C of this section; and

8 9. Provide any individual who tests positive with a list of
9 licensed substance abuse treatment providers available in the area
10 in which the individual resides. Neither the Department nor the
11 state shall be responsible for providing or paying for substance
12 abuse treatment as part of the screening conducted pursuant to this
13 section.

14 C. An individual who tests positive pursuant to this section
15 and is denied TANF benefits as a result may reapply for those
16 benefits after six (6) months if the individual verifies the
17 successful completion of a substance abuse treatment program. An
18 individual who has met the requirements of this subsection and
19 reapplies for TANF benefits shall be required to pass an initial
20 drug test and meet the requirements of this section. Any drug test
21 conducted while the individual is undergoing substance abuse
22 treatment shall meet the requirements of this section. The cost of
23 any drug testing and substance abuse treatment provided pursuant to
24 this section shall be the responsibility of the individual being

1 tested and receiving treatment. An individual who fails the drug
2 test required pursuant to subsection A of this section may reapply
3 for benefits one time.

4 D. If a parent is deemed ineligible for TANF benefits as a
5 result of failing a drug test conducted pursuant to this section:

6 1. The eligibility of the dependent child for TANF benefits
7 shall not be affected;

8 2. An appropriate protective payee shall be designated to
9 receive benefits on behalf of the child; and

10 3. The parent may choose to designate another individual to
11 receive benefits for the minor child of the parent. The designated
12 individual shall be an immediate family member, or if an immediate
13 family member is not available or the family member declines the
14 option, another individual, approved by the Department, may be
15 designated. The designated individual shall undergo drug testing
16 before being approved to receive benefits on behalf of the child.
17 If the designated individual tests positive for controlled
18 substances, the individual shall be ineligible to receive benefits
19 on behalf of the child.

20 E. The Department shall adopt rules to implement the
21 requirements of this section.

22 SECTION 3. This act shall become effective November 1, 2012.
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