

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1075

H.P. 753

House of Representatives, March 16, 2017

An Act To Eliminate Drug Use among Welfare Recipients

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative WARD of Dedham.
Cosponsored by Senator BRAKEY of Androscoggin and
Representatives: FREDETTE of Newport, GUERIN of Glenburn, HEAD of Bethel,
LOCKMAN of Amherst, MALABY of Hancock, SANDERSON of Chelsea, STEWART of
Presque Isle, THERIAULT of China.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §3762, sub-§20**, as reallocated by RR 2011, c. 1, §33, is
3 amended to read:

4 **20. Denial of assistance based on positive drug test.** A recipient of or applicant for
5 TANF assistance may be denied TANF assistance as described in this subsection.

6 A. The department shall require an applicant for TANF assistance to complete a
7 written screening tool to determine the applicant's likelihood of current substance use.
8 The department may administer a drug test to a recipient of TANF assistance ~~who has~~
9 ~~been convicted of a drug-related felony, as described in Section 115 of PRWORA,~~
10 ~~within 20 years of that person's date of conviction. if:~~

11 (1) With respect to an applicant, the applicant's answers to the screening tool
12 create a reasonable suspicion by the department that the applicant is using an
13 illegal drug or controlled substance;

14 (2) The recipient or applicant has been convicted of a drug-related felony, as
15 described in Section 115 of PRWORA, within the prior 20 years; or

16 (3) Based on interactions with the recipient or applicant, department staff
17 develop a reasonable suspicion that the recipient or applicant is using an illegal
18 drug or controlled substance.

19 B. If a person under paragraph A tests positive for an illegal drug, the department
20 shall notify that person that:

21 (1) ~~The~~ If that person is a recipient of TANF assistance, the person's TANF
22 assistance is subject to termination;

23 (2) The person is entitled to a fair hearing regarding the termination or denial of
24 TANF assistance; and

25 (3) If the person requests a fair hearing, the person shall submit to a 2nd drug test
26 to verify the results of the first drug test.

27 C. The results of the 2nd drug test must be available prior to the fair hearing, if
28 practicable. The person shall cooperate in a timely manner in submitting to the 2nd
29 drug test. If the 2nd drug test confirms that the person is using an illegal drug or
30 controlled substance, the person may avoid termination or denial of TANF assistance
31 by enrolling in a substance abuse treatment program appropriate to the type of illegal
32 drug or controlled substance being used by that person.

33 D. If the department determines that, for good cause, a person is unable to enroll in a
34 substance abuse program as required by paragraph C, the person remains eligible for
35 TANF assistance until such time that the department determines that the person is
36 able to enroll in a substance abuse treatment program.

37 E. The department shall terminate or deny TANF assistance to a person who fails to
38 request a fair hearing and submit to a 2nd drug test as described in paragraph B or
39 who fails to participate in a substance abuse treatment program as required pursuant
40 to paragraph C or D.

1 F. Beginning October 1, 2017, notwithstanding paragraphs C, D and E, the
2 department shall terminate TANF assistance for 120 days to a person who fails to
3 request a fair hearing or who fails a 2nd drug test as described in paragraph B. If the
4 person is an applicant for TANF assistance, that person may not apply for benefits for
5 a period of 120 days from the date the drug test was administered.

6 This paragraph is repealed October 1, 2019.

7 The department shall adopt routine technical rules, as defined in Title 5, chapter 375,
8 subchapter 2-A, to implement the provisions of this subsection, including determining
9 what constitutes "good cause" under paragraph D.

10 **SUMMARY**

11 This bill requires an applicant for Temporary Assistance for Needy Families, or
12 TANF, benefits to complete a written screening tool to determine the applicant's
13 likelihood of current substance use. Based on the results of the screening tool or
14 interactions with a TANF applicant or recipient, the Department of Health and Human
15 Services may require the applicant or recipient to submit to a drug test as a condition of
16 receiving benefits if the department has a reasonable suspicion that the applicant or
17 recipient is using an illegal drug or controlled substance.

18 If a recipient or applicant fails a drug test, that person may appeal the results and take
19 a 2nd drug test. If a recipient of TANF benefits or applicant for TANF benefits does not
20 appeal or fails a 2nd drug test, that recipient is denied TANF benefits for 120 days and
21 the applicant is prohibited from reapplying for TANF benefits for 120 days. This
22 mandatory denial provision is repealed October 1, 2019.