

SENATE BILL 21

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(PRE-FILED)

By: **Senator Colburn**

Requested: October 10, 2013

Introduced and read first time: January 8, 2014

Assigned to: Finance

A BILL ENTITLED

AN ACT concerning

Family Investment Program – Eligibility – Drug Testing

FOR the purpose of requiring individuals applying for or receiving temporary cash assistance benefits under the Family Investment Program to comply with certain eligibility requirements related to substance abuse screening and testing; requiring applicants and recipients to be tested for controlled dangerous substances under certain circumstances and in a certain manner; authorizing an applicant or a recipient to inform the person administering a test of certain medications the individual is taking; prohibiting certain prescription drugs from being the basis for denial of temporary cash assistance; requiring an addictions specialist to notify the Family Investment Program case manager if an applicant or a recipient does not complete certain drug testing; adding certain eligibility requirements for an individual to be eligible for the Family Investment Program; requiring a local department of social services to reduce temporary cash assistance benefits under certain circumstances; prohibiting a local department from paying temporary cash assistance to certain applicants under certain circumstances; authorizing temporary cash assistance benefits that have been terminated to resume under certain circumstances; requiring the Department of Human Resources to consult with substance abuse experts to develop a uniform controlled dangerous substance screening and testing process; requiring the Department to submit a certain report to the Senate Finance Committee and the House Appropriations Committee by a certain date; specifying that certain individuals are exempt from certain eligibility requirements; providing for a delayed effective date for certain provisions of this Act; defining a certain term; and generally relating to eligibility for the Family Investment Program.

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 5–101(g)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2012 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,
Article – Human Services
Section 5–301, 5–308, 5–312(e), and 5–314
Annotated Code of Maryland
(2007 Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Criminal Law

5–101.

(g) (1) “Controlled dangerous substance” means:

(i) a drug or substance listed in Schedule I through Schedule V;

or

(ii) an immediate precursor to a drug or substance listed in Schedule I through Schedule V that:

1. by regulation the Department designates as being the principal compound commonly used or produced primarily for use to manufacture a drug or substance listed in Schedule I through Schedule V;

2. is an immediate chemical intermediary used or likely to be used to manufacture a drug or substance listed in Schedule I through Schedule V; and

3. must be controlled to prevent or limit the manufacture of a drug or substance listed in Schedule I through Schedule V.

(2) “Controlled dangerous substance” does not include distilled spirits, wine, malt beverages, or tobacco.

Article – Human Services

5–301.

(a) In this subtitle the following words have the meanings indicated.

(B) “CONTROLLED DANGEROUS SUBSTANCE” HAS THE MEANING STATED IN § 5–101 OF THE CRIMINAL LAW ARTICLE.

[(b)] (C) “FIP” means the Family Investment Program.

[(c)] (D) “Nonprofit organization” means a religious, charitable, or volunteer organization that is exempt from taxation under § 501(c) of the Internal Revenue Code.

[(d)] (E) “Recipient” means each individual in a FIP case.

[(e)] (F) “Temporary cash assistance” means the cash assistance component of the FIP that is funded wholly or partly through Title IV, Part A, of the Social Security Act.

[(f)] (G) “Third party payee” means:

- (1) an individual that the Department approves;
- (2) a nonprofit organization;
- (3) a for-profit organization; or
- (4) a governmental unit, including a local department.

[(g)] (H) “Transitional assistance” means assistance provided to a recipient whose temporary cash assistance has been terminated for noncompliance with FIP requirements.

[(h)] (I) “Work activity” means:

- (1) job search activity;
- (2) subsidized employment in either the public or private sector;
- (3) work experience;
- (4) on-the-job training;
- (5) community service;
- (6) training directly related to employment; or
- (7) education directly related to employment.

(e) (1) The Secretary shall adopt regulations that establish a schedule of reductions and terminations of temporary cash assistance for noncompliance with FIP requirements.

(2) (i) If a recipient is found to be in noncompliance with FIP requirements, a caseworker shall investigate the reasons for noncompliance.

(ii) The investigation, to the extent resources allow, shall include personal contact with the family of the recipient.

(3) The Secretary may not reduce or terminate temporary cash assistance to a family until 30 days after the day on which the first written notice of noncompliance was sent to the recipient.

(4) For noncompliance with a FIP requirement other than a work activity **OR CONTROLLED DANGEROUS SUBSTANCE SCREENING AND TESTING**, temporary cash assistance shall resume on compliance with the FIP requirement.

(5) For noncompliance with a work activity, temporary cash assistance shall resume in the following manner:

(i) for the first instance of noncompliance, temporary cash assistance shall resume immediately on compliance;

(ii) for the second instance of noncompliance, temporary cash assistance shall resume after 10 days of compliance with the work activity; and

(iii) for each subsequent instance of noncompliance, temporary cash assistance shall resume after 30 days of compliance with a work activity.

(6) If temporary cash assistance is reduced or terminated under this subsection, a recipient shall retain eligibility for medical assistance and food stamps, as long as the recipient meets the medical assistance and food stamp program requirements.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Human Services

5–308.

(a) (1) A family may be eligible for assistance under this subtitle only if the family includes:

(i) a minor child who resides with a custodial parent or other adult caretaker who is a relative of the child; or

(ii) a pregnant individual.

(2) Assistance shall be provided to an applicant or recipient under this subtitle only if the applicant or recipient:

(i) resides in the State at the time of application for assistance;

(ii) if applicable:

1. has applied for child support services with the appropriate local child support enforcement office at the time of application for assistance; and

2. complies with the requirements of the local child support enforcement office;

(iii) has engaged in job search activities as requested by the Department;

(iv) participates in work activity under this subtitle; [and]

(V) 1. AT THE TIME OF APPLICATION FOR ASSISTANCE, SUBMITS TO SUBSTANCE ABUSE SCREENING AND TESTING, AS ADMINISTERED BY THE DEPARTMENT; AND

2. COMPLIES WITH THE REQUIREMENTS OF § 5-314 OF THIS SUBTITLE; AND

[(v)](VI) meets all other FIP requirements that the Secretary establishes by regulation.

(b) (1) An individual may not be required to meet the work activity requirement under subsection (a)(2)(iv) of this section if the individual is exempt under criteria the Secretary establishes.

(2) The criteria shall include exemptions for:

(i) adults who are required to care for a child who is a recipient under the age of 1 year; and

(ii) subject to paragraph (3) of this subsection, adults and children who are recipients and who are severely disabled.

(3) An individual's exemption because of severe disability is limited to 12 months unless:

and (i) the individual applies for Supplemental Security Income;

(ii) the application is approved, pending, or on appeal.

(c) Subject to the State budget, a legal immigrant is entitled to assistance under this subtitle if the immigrant:

(1) meets FIP eligibility requirements under this subtitle and any other requirements imposed by the State; and

(2) (i) arrived in the United States before August 22, 1996; or

(ii) arrived in the United States on or after August 22, 1996 and is not eligible for federally funded cash assistance.

(D) CONTROLLED DANGEROUS SUBSTANCE SCREENING OR TESTING MAY NOT BE REQUIRED FOR ANY INDIVIDUAL:

(1) ON A WAITING LIST FOR OR RECEIVING LONG-TERM CARE SERVICES AND SUPPORTS THROUGH A HOME- OR COMMUNITY-BASED SERVICES PROGRAM; OR

(2) RESIDING IN A FACILITY SUCH AS A NURSING HOME, AN ASSISTED LIVING PROGRAM, OR A GROUP HOME.

5-314.

(a) In this section, “addictions specialist” means an addictions specialist who is located on-site at a local department.

(b) (1) An addictions specialist shall assess the need of any adult or minor parent applicant or recipient for substance abuse treatment:

(i) at the initial application for temporary cash assistance; or

(ii) when considered appropriate by the FIP case manager of the local department.

(2) The addictions specialist shall screen the applicant or recipient to expose potential barriers that the applicant or recipient may have in obtaining employment such as a substance abuse problem.

(3) The addictions specialist shall inform each adult or minor parent applicant or recipient of the requirements of FIP regarding substance abuse treatment.

(4) If the applicant or recipient does not complete the screening required under paragraph (2) of this subsection, the addictions specialist shall notify the FIP case manager.

(c) (1) If the screening performed by the addictions specialist reveals that an applicant or recipient has a substance abuse problem, the addictions specialist shall:

(i) [conduct, or refer for, an assessment of the applicant's or recipient's substance abuse problem] **TEST THE APPLICANT OR RECIPIENT FOR A CONTROLLED DANGEROUS SUBSTANCE USING A TEST SELECTED BY THE DEPARTMENT**, and, if [appropriate] **THE APPLICANT OR RECIPIENT TESTS POSITIVE**, determine placement for treatment and related support services;

(ii) refer the applicant or recipient for appropriate substance abuse treatment and related support services;

(iii) obtain the signature of the applicant or recipient on a form consenting to the release of confidential substance abuse treatment information;

(iv) forward the consent form to the appropriate substance abuse treatment provider; and

(v) obtain any necessary treatment information from the substance abuse treatment provider.

(2) (i) The substance abuse treatment provider shall notify the addictions specialist of the ongoing treatment status of the applicant or recipient.

(ii) The addictions specialist shall notify the FIP case manager if an applicant or recipient:

1. fails to complete the [assessment] **DRUG TEST** required under paragraph (1)(i) of this subsection;

2. fails to sign the consent form required under paragraph (1)(iii) of this subsection;

3. is referred for appropriate substance abuse treatment;

4. is awaiting the availability of appropriate treatment;

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5. fails to enroll or maintain enrollment with an available substance treatment provider or to complete the treatment protocol;

6. is enrolled in a treatment program; or

7. successfully completes treatment.

(iii) The addictions specialist shall also notify the FIP case manager regarding the ongoing treatment status of the applicant or recipient.

(d) An adult or minor parent applicant or recipient who complies with the substance abuse treatment requirements of the FIP:

(1) shall receive a full temporary cash assistance benefit as long as the applicant or recipient meets the other temporary cash assistance eligibility requirements; [and]

(2) may be exempt from the work activity requirements for a period of time determined by the FIP case manager in consultation with the addictions specialist; AND

(3) MAY NOT RECEIVE MORE THAN 6 MONTHS OF TEMPORARY CASH ASSISTANCE WHILE IN TREATMENT.

(e) An adult or minor parent applicant or recipient is not in compliance with FIP requirements if the FIP case manager receives notice from the addictions specialist that the applicant or recipient:

(1) fails to complete the screening or [assessment] TESTING required under subsections (b)(2) and (c)(1)(i) of this section;

(2) fails to sign the consent form required under subsection (c)(1)(iii) of this section; [or]

(3) is referred for appropriate and available substance abuse treatment by the addictions specialist but fails to enroll or to maintain active enrollment in the treatment program or complete the treatment protocol; OR

(4) TESTS POSITIVE FOR A CONTROLLED DANGEROUS SUBSTANCE ON COMPLETION OF THE TREATMENT PROGRAM.

(f) After the FIP case manager receives a notice under subsection (e) of this section, the local department shall:

(1) send a denial notice to the adult or minor parent applicant that:

(i) states:

1. that the applicant has not met FIP requirements;
2. the specific reason why the applicant is not eligible for **FIP AND THE LENGTH OF TIME THE APPLICANT IS DISQUALIFIED FROM REAPPLYING FOR TEMPORARY CASH ASSISTANCE**; and
3. that if the applicant fails to fulfill the requirements on or before the 30th work day after the application for temporary cash assistance was filed, the application is denied; and

(ii) notifies the applicant of the applicant's right to appeal and the procedures for filing an appeal; and

(2) separately determine eligibility for medical assistance and food stamps.

(g) After the FIP case manager receives a notice under subsection (e) of this section, the local department shall send a notice to the adult or minor parent recipient that:

(1) identifies the recipient who is not in compliance with FIP requirements;

(2) states the specific reason why that recipient is not in compliance with FIP requirements; [and]

(3) states that 30 days after the date of the notice:

(i) the temporary cash assistance benefits will be reduced by that increment in cash benefits attributable to the noncompliant recipient; and

(ii) the remainder of the cash benefits for the child or children in the FIP case will be paid to a third party payee or a compliant adult recipient; [and]

(4) notifies the recipient of the recipient's right to appeal and the procedures for filing an appeal; **AND**

(5) IF APPLICABLE, STATES THE LENGTH OF TIME THE RECIPIENT IS DISQUALIFIED FROM REAPPLYING FOR TEMPORARY CASH ASSISTANCE.

(H) AT THE CONCLUSION OF TREATMENT, THE DEPARTMENT SHALL TEST AN INDIVIDUAL FOR CONTROLLED DANGEROUS SUBSTANCES.

(I) (1) AN APPLICANT OR A RECIPIENT IS DISQUALIFIED FROM FIP FOR 6 MONTHS IF:

(I) THE INDIVIDUAL REFUSES TO ENTER SUBSTANCE ABUSE TREATMENT OR FAILS TO COMPLETE TREATMENT; OR

(II) THE INDIVIDUAL TESTS POSITIVE FOR A CONTROLLED DANGEROUS SUBSTANCE AT THE CONCLUSION OF SUBSTANCE ABUSE TREATMENT.

(2) AN APPLICANT OR A RECIPIENT IS DISQUALIFIED FROM FIP FOR 1 YEAR IF THE INDIVIDUAL TESTS POSITIVE FOR A CONTROLLED DANGEROUS SUBSTANCE FOLLOWING A 6-MONTH DISQUALIFICATION PERIOD.

[(h)] (J) (1) The local department shall reduce the temporary cash assistance benefits of an adult or minor parent recipient and pay the remainder of the cash benefits to a third party payee or a compliant adult recipient as described in subsection (g) of this section, if:

(i) the recipient fails to complete a substance abuse screening or **[assessment] TESTING** by an addictions specialist, as required under subsections (b)(2) and (c)(1)(i) of this section; or

(ii) the required screening and **[assessment] TESTING** or the results of any follow-up diagnostic testing or treatment reveal that the recipient is a substance abuser and the recipient refuses to enroll or maintain enrollment in available and appropriate substance abuse treatment.

(2) The local department shall continue to make temporary cash assistance benefits payments to a third party payee or a compliant adult recipient until the local department receives notice from the addictions specialist that the recipient is actively enrolled, as defined by the Alcohol and Drug Abuse Administration, in the appropriate substance abuse treatment indicated by the addictions specialist.

[(i)] (K) The local department may not deny an adult or minor parent applicant's temporary cash assistance benefit or reduce an adult or minor parent recipient's temporary cash assistance benefit as described under subsections (f) and (g) of this section, if the applicant or recipient:

(1) receives the screening and **[assessment] TESTING** required under subsections (b)(2) and (c)(1)(i) of this section, and the screening **[and assessment]** or the results of any follow-up diagnostic testing or treatment reveal that the applicant or recipient is a substance abuser; and

(2) agrees to participate in appropriate substance abuse treatment, as determined by the addictions specialist, but the appropriate substance abuse treatment is not available.

(L) (1) THE APPLICANT OR RECIPIENT MAY INFORM THE PERSON ADMINISTERING A TEST UNDER SUBSECTION (C)(1)(I) OF THIS SECTION OF ANY PRESCRIPTION OR OVER-THE-COUNTER MEDICATION THE INDIVIDUAL IS TAKING.

(2) A DRUG FOR WHICH AN APPLICANT OR A RECIPIENT HAS A PRESCRIPTION MAY NOT BE A BASIS FOR THE DENIAL OF TEMPORARY CASH ASSISTANCE.

[(j)] (M) The denial or reduction of temporary cash assistance under this section does not affect an adult or minor parent applicant or recipient's eligibility for medical assistance and food stamps, as long as the applicant or recipient meets the medical assistance and food stamp program requirements.

SECTION 3. AND BE IT FURTHER ENACTED, The Department of Human Resources, in consultation with substance abuse experts, shall develop a uniform controlled dangerous substance screening and testing process to be used by an addictions specialist that shall include a screening tool such as the Substance Abuse Subtle Screening Inventory (SASSI) and a urine-based, five-panel drug test to be used if an applicant or a recipient does not pass screening.

SECTION 4. AND BE IT FURTHER ENACTED, That, on or before December 15, 2014, the Department of Human Resources shall report to the Senate Finance Committee and the House Appropriations Committee, in accordance with § 2-1246 of the State Government Article, on the Department's plan for implementation and administration of the controlled dangerous substance screening and testing, including the screening tool selected by the Department, and the Department's plan for funding screening and testing with existing temporary cash assistance funding or other funding available to the Department.

SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2015.

SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in Section 5 of this Act, this Act shall take effect October 1, 2014.