

# HOUSE BILL 560

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CF SB 287

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By: **Delegates Kipke, Bates, Bromwell, Cluster, Costa, Elliott, Frank, George, Hogan, Hough, Kach, K. Kelly, McDermott, McDonough, W. Miller, Norman, Olszewski, Otto, Parrott, Schuh, Sophocleus, Stifler, and Szeliga**

Introduced and read first time: February 3, 2012

Assigned to: Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Family Investment Program – Eligibility – Drug Testing**

3 FOR the purpose of requiring individuals applying for or receiving temporary cash  
4 assistance benefits under the Family Investment Program to comply with  
5 certain eligibility requirements related to drug testing; authorizing temporary  
6 cash assistance benefits that have been terminated to resume under certain  
7 circumstances; requiring an addictions specialist to notify the Family  
8 Investment Program case manager if an applicant or a recipient does not  
9 complete certain drug testing; requiring an addictions specialist to take certain  
10 actions under certain circumstances and in a certain manner; authorizing  
11 certain individuals to reapply for temporary cash assistance in a certain  
12 manner; requiring a local department to reduce temporary cash assistance  
13 benefits under certain circumstances; prohibiting a local department from  
14 paying temporary cash assistance to certain applicants under certain  
15 circumstances; requiring a local department to make temporary cash assistance  
16 benefits payments to a third party payee or a compliant adult recipient under  
17 certain circumstances; defining a certain term; and generally relating to  
18 eligibility for the Family Investment Program and drug testing.

19 BY repealing and reenacting, without amendments,  
20 Article – Criminal Law  
21 Section 5–101(f)  
22 Annotated Code of Maryland  
23 (2002 Volume and 2011 Supplement)

24 BY repealing and reenacting, with amendments,  
25 Article – Human Services  
26 Section 5–301, 5–308, 5–312, and 5–314

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2007 Volume and 2011 Supplement)

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

5 **Article – Criminal Law**

6 5–101.

7 (f) (1) “Controlled dangerous substance” means:

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

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

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

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

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

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

22 **Article – Human Services**

23 5–301.

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

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

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

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

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

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

5           **[(f)] (G)**       “Third party payee” means:

6                   (1)     an individual that the Department approves;

7                   (2)     a nonprofit organization;

8                   (3)     a for-profit organization; or

9                   (4)     a governmental unit, including a local department.

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

13          **[(h)] (I)**       “Work activity” means:

14                   (1)     job search activity;

15                   (2)     subsidized employment in either the public or private sector;

16                   (3)     work experience;

17                   (4)     on-the-job training;

18                   (5)     community service;

19                   (6)     training directly related to employment; or

20                   (7)     education directly related to employment.

21   5–308.

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

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

26                   (ii)   a pregnant individual.

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

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

4 (ii) if applicable:

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

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

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

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

13 (v) 1. SUBMITS TO TESTING, AS PROVIDED BY THE  
14 DEPARTMENT, TO DETERMINE USE OF A CONTROLLED DANGEROUS  
15 SUBSTANCE; AND

16 2. COMPLIES WITH THE REQUIREMENTS UNDER §§  
17 5-312(E) AND 5-314 OF THIS SUBTITLE; AND

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

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

23 (2) The criteria shall include exemptions for:

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

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

28 (3) An individual's exemption because of severe disability is limited to  
29 12 months unless:

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

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

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

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

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

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

9 5–312.

10 (a) This section is not intended to create an incentive for individuals to seek  
11 temporary cash assistance benefits instead of employment.

12 (b) A local department shall provide temporary cash assistance to an  
13 applicant or recipient only if:

14 (1) the applicant or recipient meets the requirements for participation  
15 in the FIP set forth in § 5–308 of this subtitle;

16 (2) the applicant or recipient assigns to the State all right, title, and  
17 interest in support, for the period that the family receives temporary cash assistance,  
18 from any other person that the applicant or recipient has on behalf of any intended or  
19 potential recipient for whom the applicant or recipient is applying for or receiving  
20 assistance; and

21 (3) in the case of an applicant or recipient who is a minor parent, the  
22 applicant or recipient lives:

23 (i) with a parent, legal guardian, custodian, or other adult  
24 relative who will be the payee of the minor parent;

25 (ii) in an adult-supervised group living arrangement that  
26 provides a protective payee and:

27 1. there is no available parent, legal guardian,  
28 custodian, or other adult relative with whom the minor parent can live;

29 2. the minor parent or child would be subject to physical  
30 or emotional harm, sexual abuse, or neglect in the home of any available adult  
31 relative; or

1                   3.     a social service worker finds that living with any  
2 available adult relative would not be in the best interest of the minor parent or child;  
3 or

4                   (iii)   independently, if a social service worker confirms that the  
5 physical safety or emotional health of the minor parent or child would otherwise be in  
6 jeopardy.

7           (c)     A recipient who meets the requirements of the FIP is entitled to  
8 temporary cash assistance benefits.

9           (d)     In determining the eligibility for and the amount of temporary cash  
10 assistance to be provided to an applicant or recipient who is a legal immigrant, the  
11 income and resources of the applicant or recipient shall include, for the period of time  
12 established by federal law, the income and resources of any sponsor who executed an  
13 affidavit of support in accordance with 8 U.S.C. § 1183a on behalf of the legal  
14 immigrant.

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

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

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

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

25                   (4)    For noncompliance with a FIP requirement other than a work  
26 activity **OR DRUG TESTING**, temporary cash assistance shall resume on compliance  
27 with the FIP requirement.

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

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

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

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

1           **(6) FOR NONCOMPLIANCE WITH DRUG TESTING, TEMPORARY**  
2 **CASH ASSISTANCE SHALL RESUME IN THE FOLLOWING MANNER:**

3                   **(I) IF A RECIPIENT TESTS NEGATIVE FOR THE ABUSE OF A**  
4 **CONTROLLED DANGEROUS SUBSTANCE, TEMPORARY CASH ASSISTANCE SHALL**  
5 **RESUME IMMEDIATELY ON COMPLIANCE; AND**

6                   **(II) IF A RECIPIENT TESTS POSITIVE FOR THE ABUSE OF A**  
7 **CONTROLLED DANGEROUS SUBSTANCE, TEMPORARY CASH ASSISTANCE SHALL**  
8 **RESUME:**

9                           **1. AFTER 90 DAYS, IF THE APPROPRIATE DRUG**  
10 **ABUSE TREATMENT PROGRAM IS UNAVAILABLE AND THE INDIVIDUAL SUBMITS**  
11 **TO REPEAT DRUG TESTING AND THE RESULT OF THE DRUG TEST IS NEGATIVE;**  
12 **OR**

13                           **2. AFTER THE RECIPIENT ENROLLS IN AND**  
14 **SUCCESSFULLY COMPLETES THE APPROPRIATE DRUG ABUSE TREATMENT**  
15 **PROGRAM.**

16                   **[(6)] (7)** If temporary cash assistance is reduced or terminated under  
17 this subsection, a recipient shall retain eligibility for medical assistance and food  
18 stamps, as long as the recipient meets the medical assistance and food stamp program  
19 requirements.

20           (f) (1) After termination of temporary cash assistance under this section,  
21 a recipient may receive transitional assistance.

22                   (2) If a caseworker determines that transitional assistance is  
23 appropriate, the FIP benefit that would have been paid to the recipient shall be paid  
24 instead to a third party payee on behalf of the recipient for a period of up to 3 months.

25                   (3) The caseworker of a recipient, in conjunction with the recipient  
26 and subject to the approval of the Secretary, shall select a third party payee described  
27 in paragraph (2) of this subsection.

28                   (4) The third party payee shall provide transitional assistance to the  
29 recipient in one or more of the following forms:

30                           (i) counseling;

31                           (ii) housing;

32                           (iii) child care;

1 (iv) household supplies and equipment;

2 (v) direct assistance other than a cash payment; and

3 (vi) any other noncash assistance that may be necessary to  
4 assist the recipient to make the transition from welfare.

5 (5) A local department may pay an administrative fee to a third party  
6 payee to cover the administrative costs of the third party payee for providing the  
7 services described in paragraph (4) of this subsection.

8 (6) The funds provided through transitional assistance may not be  
9 used to further sectarian religious instruction.

10 (7) The Secretary shall adopt regulations specifying the selection  
11 criteria for third party payees under this subsection.

12 (8) A recipient who has received transitional assistance may reapply  
13 for the FIP benefit and the benefit shall be furnished with reasonable promptness to  
14 all eligible individuals.

15 5-314.

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

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

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

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

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

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

29 (4) **[If] THE ADDICTIONS SPECIALIST SHALL NOTIFY THE FIP**  
30 **CASE MANAGER IF** the applicant or recipient does not complete:



1                   **(I) THE DRUG TESTING REQUIRED UNDER § 5-308(A)(2)(V)**  
2 **OF THIS SUBTITLE; AND**

3                   **(II) the screening required under paragraph (2) of this**  
4 **subsection[, the addictions specialist shall notify the FIP case manager].**

5           (c)   (1)   If the **DRUG TESTING REQUIRED UNDER § 5-308(A)(2)(V) OF**  
6 **THIS SUBTITLE OR THE** screening performed by the addictions specialist reveals that  
7 an applicant or recipient has a substance abuse problem, the addictions specialist  
8 shall:

9                   (i)   conduct, or refer for, an assessment of the applicant's or  
10 recipient's substance abuse problem and, if appropriate, determine placement for  
11 treatment and related support services;

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

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

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

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

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

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

24                           1.   fails to complete the assessment required under  
25 paragraph (1)(i) of this subsection;

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

28                           3.   is referred for appropriate substance abuse treatment;

29                           4.   is awaiting the availability of appropriate treatment;

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

1                   6.     is enrolled in a treatment program; or

2                   7.     successfully completes treatment.

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

5           (d)     **[An] EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, AN**  
6 adult or minor parent applicant or recipient who complies with the substance abuse  
7 treatment requirements of the FIP:

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

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

14           **(E) (1) AN ADULT OR MINOR PARENT APPLICANT WHO TESTS**  
15 **POSITIVE FOR THE ABUSE OF A CONTROLLED DANGEROUS SUBSTANCE MAY**  
16 **REAPPLY FOR TEMPORARY CASH ASSISTANCE:**

17                   **(I) AFTER 90 DAYS, IF THE APPROPRIATE DRUG ABUSE**  
18 **TREATMENT PROGRAM IS UNAVAILABLE AND THE INDIVIDUAL SUBMITS TO**  
19 **REPEAT DRUG TESTING AND THE RESULT OF THE DRUG TEST IS NEGATIVE; OR**

20                   **(II) AFTER THE APPLICANT ENROLLS IN AND**  
21 **SUCCESSFULLY COMPLETES THE APPROPRIATE DRUG ABUSE TREATMENT**  
22 **PROGRAM.**

23                   **(2) IF AN ADULT OR MINOR PARENT RECIPIENT TESTS POSITIVE**  
24 **FOR THE ABUSE OF A CONTROLLED DANGEROUS SUBSTANCE, TEMPORARY CASH**  
25 **ASSISTANCE SHALL RESUME AS PROVIDED UNDER § 5-312(E)(6)(II) OF THIS**  
26 **SUBTITLE.**

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

30                   (1)     fails to complete:

31                   **(I) the DRUG TESTING REQUIRED UNDER § 5-308(A)(2)(V)**  
32 **OF THIS SUBTITLE; AND**

1                   **(II) THE** screening or assessment required under subsections  
2 (b)(2) and (c)(1)(i) of this section;

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

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

8           **[(f)] (G)** After the FIP case manager receives a notice under subsection **[(e)]**  
9 **(F)** of this section, the local department shall:

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

11                           (i) states:

12                                   1. that the applicant has not met FIP requirements;

13                                   2. the specific reason why the applicant is not eligible for  
14 FIP; and

15                                   3. that if the applicant fails to fulfill the requirements on  
16 or before the 30th work day after the application for temporary cash assistance was  
17 filed, the application is denied; and

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

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

22           **[(g)] (H)** After the FIP case manager receives a notice under subsection **[(e)]**  
23 **(F)** of this section, the local department shall send a notice to the adult or minor  
24 parent recipient that:

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

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

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

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

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

3 (4) notifies the recipient of the recipient's right to appeal and the  
4 procedures for filing an appeal.

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

9 (i) the recipient fails to complete **DRUG TESTING, AS**  
10 **REQUIRED UNDER § 5-308(A)(2)(V) OF THIS SUBTITLE AND** a substance abuse  
11 screening or assessment by an addictions specialist, as required under subsections  
12 (b)(2) and (c)(1)(i) of this section; or

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

17 (2) **(I) [The] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF**  
18 **THIS PARAGRAPH, THE** local department shall continue to make temporary cash  
19 assistance benefits payments to a third party payee or a compliant adult recipient  
20 until the local department receives notice from the addictions specialist that the  
21 recipient is actively enrolled, as defined by the Alcohol and Drug Abuse  
22 Administration, in the appropriate substance abuse treatment indicated by the  
23 addictions specialist.

24 **(II) FOR A RECIPIENT WHO TESTS POSITIVE FOR THE ABUSE**  
25 **OF A CONTROLLED DANGEROUS SUBSTANCE, THE LOCAL DEPARTMENT SHALL**  
26 **CONTINUE TO MAKE TEMPORARY CASH ASSISTANCE BENEFITS PAYMENTS TO A**  
27 **THIRD PARTY PAYEE OR A COMPLIANT ADULT RECIPIENT UNTIL THE LOCAL**  
28 **DEPARTMENT RECEIVES NOTICE FROM THE ADDICTIONS SPECIALIST THAT THE**  
29 **RECIPIENT HAS ENROLLED IN AND SUCCESSFULLY COMPLETED, AS DEFINED BY**  
30 **THE ALCOHOL AND DRUG ABUSE ADMINISTRATION, THE APPROPRIATE DRUG**  
31 **ABUSE TREATMENT PROGRAM INDICATED BY THE ADDICTIONS SPECIALIST.**

32 **[(i)] (J) [The] EXCEPT AS PROVIDED IN SUBSECTION (K) OF THIS**  
33 **SECTION, THE** local department may not deny an adult or minor parent applicant's  
34 temporary cash assistance benefit or reduce an adult or minor parent recipient's  
35 temporary cash assistance benefit as described under subsections **[(f)] (G)** and **[(g)]**  
36 **(H)** of this section, if the applicant or recipient:

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

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

8           **(K) (1) THE LOCAL DEPARTMENT SHALL DENY THE TEMPORARY**  
9 **CASH ASSISTANCE BENEFIT OF AN ADULT OR MINOR PARENT APPLICANT IF THE**  
10 **APPLICANT TESTS POSITIVE FOR THE ABUSE OF A CONTROLLED DANGEROUS**  
11 **SUBSTANCE.**

12           **(2) THE LOCAL DEPARTMENT SHALL MAKE TEMPORARY CASH**  
13 **ASSISTANCE BENEFITS PAYMENTS TO A THIRD PARTY PAYEE OR A COMPLIANT**  
14 **ADULT RECIPIENT IF THE RECIPIENT TESTS POSITIVE FOR THE ABUSE OF A**  
15 **CONTROLLED DANGEROUS SUBSTANCE:**

16           **(I) AFTER 90 DAYS, IF THE APPROPRIATE DRUG ABUSE**  
17 **TREATMENT PROGRAM IS UNAVAILABLE AND THE INDIVIDUAL SUBMITS TO**  
18 **REPEAT DRUG TESTING AND THE RESULT OF THE DRUG TEST IS NEGATIVE; OR**

19           **(II) AFTER THE RECIPIENT ENROLLS IN AND SUCCESSFULLY**  
20 **COMPLETES THE APPROPRIATE DRUG ABUSE TREATMENT PROGRAM.**

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

25           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2012.