**South Carolina General Assembly**

119th Session, 2011-2012

**H. 4358**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Young, Pinson, Clemmons, Quinn, Whitmire, Allison, Forrester, Huggins, Loftis, Taylor, Daning, Parker, Barfield, Owens, Brannon, Hardwick, Bedingfield, Erickson, Bingham, Norman, Crosby, Frye, Spires, Hearn, Sandifer, J.R. Smith, G.R. Smith, Ryan, Crawford, Chumley, Limehouse, Atwater, Ballentine, Bannister, Bowen, Brady, Clyburn, Cole, Corbin, Delleney, Gambrell, Hamilton, Harrison, Henderson, Herbkersman, Hiott, Hixon, Horne, Long, Lowe, Lucas, McCoy, Merrill, D.C. Moss, V.S. Moss, Murphy, Nanney, Pitts, Pope, Simrill, G.M. Smith, Sottile, Stringer, Tallon, Thayer, Toole, Willis and Patrick

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Introduced in the House on June 2, 2011

Currently residing in the House Committee on **Judiciary**

Summary: Drug tests

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

6/2/2011 House Introduced and read first time ([House Journal‑page 68](file:///h:\hj%20archive\2011\06-02-11.docx))

6/2/2011 House Referred to Committee on **Judiciary** ([House Journal‑page 68](file:///h:\hj%20archive\2011\06-02-11.docx))

6/14/2011 House Member(s) request name added as sponsor: Patrick

**VERSIONS OF THIS BILL**

[6/2/2011](file:///p:\pprever\2011-12\4358_20110602.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 43-5-1187 SO AS TO REQUIRE APPLICANTS FOR BENEFITS UNDER TEMPORARY ASSISTANCE FOR NEEDY FAMILIES TO UNDERGO A DRUG TEST AS A CONDITION OF ELIGIBILITY TO RECEIVE THESE BENEFITS; TO PROVIDE THAT AN INDIVIDUAL WHO TESTS POSITIVE FOR DRUGS IS INELIGIBLE TO RECEIVE THESE BENEFITS FOR ONE YEAR UNLESS THE PERSON SUCCESSFULLY COMPLETES A SUBSTANCE ABUSE TREATMENT PROGRAM; TO PROVIDE CERTAIN LIMITED EXCEPTIONS, AND TO FURTHER SPECIFY THE PROCEDURES FOR CONDUCTING THESE TESTS AND PROVIDING THESE BENEFITS PURSUANT TO THIS ACT; AND BY AMENDING SECTION 43-5-1110, AS AMENDED, RELATING TO THE DEFINITION OF TERMS USED IN THE SOUTH CAROLINA FAMILY INDEPENDENCE ACT, SO AS TO INCLUDE “TEMPORARY ASSISTANCE FOR NEEDY FAMILIES” IN THE DEFINITION OF “FAMILY INDEPENDENCE”.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 9, Chapter 5, Title 43 of the 1976 Code is amended by adding:

“Section 43-5-1187. (A)(1) The department shall require a drug test to screen each applicant for Temporary Assistance for Needy Families, including a parent or caretaker relative who is included in the cash assistance group and an individual who may be exempt from work activity requirements due to the age of the youngest child pursuant to Section 43-5-1180.

(2) An individual who tests positive for controlled substances as a result of the drug test is ineligible to receive TANF benefits for one year after the date of the positive drug test unless the individual satisfies the requirements of subsection (B)(10).

(B) The department shall:

(1) provide notice of drug testing to each individual at the time of application and must advise the individual that undergoing drug testing and obtaining negative test results is a condition for receiving TANF benefits and that the individual must bear the cost of the drug testing. If the individual tests negative for controlled substances, the department shall increase the amount of the initial TANF benefit payment by the amount paid by the individual for the drug testing. The individual must be advised that no drug testing will be conducted if the individual does not apply for TANF benefits. Dependent children under the age of eighteen are exempt from the drug‑testing requirement;

(2) require that for two‑parent families, both parents must comply with the drug‑testing requirement;

(3) require that any teen parent who is not required to live with a parent, legal guardian, or other adult caretaker relative, pursuant to Section 43-5-1220, must comply with the drug‑testing requirement;

(4) advise each individual, before the test is conducted, that the individual may, but is not required to, advise the agent administering the test of any prescription or over‑the‑counter medication the individual is taking;

(5) require each individual to sign a written acknowledgment that he or she has received and understood the notice and advice provided under items (1) and (4);

(6) provide each individual a reasonable degree of dignity while producing and submitting a sample for drug testing, consistent with the state’s need to ensure the reliability of the sample;

(7) specify circumstances under which an individual who fails a drug test has the right to take one or more additional tests;

(8) inform an individual who tests positive for a controlled substance and is deemed ineligible for TANF benefits that the individual may reapply for those benefits one year after the date of the positive drug test unless the individual satisfies the requirements of item (10). If the individual tests positive a second time, the individual is ineligible to receive TANF benefits for three years after the date of the second positive drug test unless the individual satisfies the requirements of item (10);

(9) provide an individual who tests positive with a list of department-approved substance abuse treatment providers available in the area in which the individual resides. Neither the department nor the State is responsible for providing or paying for substance abuse treatment as part of the screening conducted pursuant to this section;

(10) an individual who tests positive under this section and is denied TANF benefits as a result may reapply for those benefits after six months if the individual can document the successful completion of a substance abuse treatment program offered by a department-approved provider. An individual who satisfies the requirements of this item and reapplies for TANF benefits also must pass an initial drug test and satisfy the requirements of subsection (A). A drug test conducted while the individual is undergoing substance abuse treatment must satisfy the requirements of subsection (A). The cost of drug testing conducted pursuant to this section and substance abuse treatment sought by an individual tested pursuant to this section is the responsibility of the individual being tested and receiving treatment. An individual who fails the drug test required pursuant to subsection (A) may reapply for benefits under this item only once.

(C) If a parent is deemed ineligible for TANF benefits as a result of failing a drug test conducted pursuant to this section:

(1) the dependent child’s eligibility for TANF benefits is not affected;.

(2) an appropriate protective payee must be designated to receive benefits on behalf of the dependent child;

(3) the parent may designate an immediate family member as the protective payee for the dependent child or, if an immediate family member is not available or the family member declines to be protective payee, another individual, approved by the department, may be designated. The designated family member or individual also must undergo drug testing before being approved to receive benefits on behalf of the dependent child. If the designated individual tests positive for controlled substances, the individual is ineligible to serve as the protective payee on behalf of the dependent child.

(D) The department shall promulgate regulations to carry out the provisions of this section.”

SECTION 2. Section 43-5-1110(1) of the 1976 Code as last amended by Act 133 of 1997, is further amended to read:

“(1) ‘Family Independence’ or ‘Aid to Families with Dependent Children’ or ‘Temporary Assistance for Needy Families’ or ‘FI’ or ‘AFDC’ or ‘TANF’ means cash payments or stipends paid to individuals who meet established eligibility criteria.”

SECTION 3. This act takes effect July 1, 2012.

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