**South Carolina General Assembly**

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**H. 4412**

**STATUS INFORMATION**

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Summary: Temporary Assistance for Needy Families (TANF)

**HISTORY OF LEGISLATIVE ACTIONS**

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12/3/2015 House Referred to Committee on **Judiciary**

1/12/2016 House Introduced and read first time ([House Journal‑page 59](file:///h:\HJ%20Archive\2016\01-12-16.docx))

1/12/2016 House Referred to Committee on **Judiciary** ([House Journal‑page 59](file:///h:\HJ%20Archive\2016\01-12-16.docx))

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**VERSIONS OF THIS BILL**

[12/3/2015](file:///p:\pprever\2015-16\4412_20151203.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 43‑5‑1187 AND ARTICLE 11 TO CHAPTER 5, TITLE 43 SO AS TO REQUIRE APPLICANTS FOR BENEFITS UNDER TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) AND THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) TO UNDERGO A DRUG TEST AS A CONDITION OF ELIGIBILITY TO RECEIVE THOSE BENEFITS, WITH EXCEPTIONS, AND TO PROVIDE THAT AN INDIVIDUAL WHO TESTS POSITIVE FOR A CONTROLLED SUBSTANCE IS INELIGIBLE TO RECEIVE THOSE BENEFITS FOR A CERTAIN PERIOD OF TIME, UNLESS THE PERSON SUCCESSFULLY COMPLETES A SUBSTANCE ABUSE TREATMENT PROGRAM; AND TO AMEND SECTION 43‑5‑1110, 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) The department shall require, as a condition of eligibility to receive Temporary Assistance for Needy Families (TANF), a drug test to screen:

(1) each member of a family who is eighteen years or older;

(2) each minor parent of a dependent child living with the minor parent’s family but who is not considered a member of the family for purposes of calculating the family’s TANF benefit amount; and

(3) each minor parent of a dependent child not residing with the minor parent’s parent or another adult member of the family.

(B) An individual who tests positive for a controlled substance as a result of a drug test conducted pursuant to subsection (A) 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 (E).

(C) The department shall 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.

(D) The department shall:

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

(2) 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;

(3) require each individual to sign a written acknowledgment that he has received and understood the notice and advice provided under subsection (C) and item (2);

(4) 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;

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

(6) 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 subsection (E);

(7) inform an individual who tests positive for a controlled substance a second time and is deemed ineligible for TANF benefits that the individual may reapply for those benefits three years after the date of the positive drug test unless the individual satisfies the requirements of subsection (E); and

(8) provide an individual who tests positive for a controlled substance with a list of department‑approved substance abuse treatment providers available in the area in which the individual resides.

(E) An individual who tests positive for a controlled substance 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 subsection and reapplies for TANF benefits also must pass an initial drug test as required pursuant to 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 subsection only once.

(F) If a parent is deemed ineligible for TANF benefits as a result of failing a drug test conducted pursuant to this section, the dependent child’s eligibility for TANF benefits is not affected, and an appropriate protective payee must be designated to receive benefits on behalf of the dependent child. 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.

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

SECTION 2. Chapter 5, Title 43 of the 1976 Code is amended by adding:

“Article 11

Supplemental Nutrition Assistance Program

Section 43‑5‑1410. (A) For purposes of this article, ‘SNAP’ means the Supplemental Nutrition Assistance Program, which is the federal food purchasing assistance program for low‑ and no‑income individuals created pursuant to the Food Stamp Act of 1977.

(B) The Department of Social Services shall serve as the single state agency designated to receive SNAP funding and manage the program. The provisions of this article, regulations promulgated pursuant to this article, and department policy and procedure must be consistent with the Food Stamp Act of 1977, as amended, and with federal regulations promulgated to implement that act.

Section 43‑5‑1420. (A) The department shall require, as a condition of eligibility to receive SNAP benefits, a drug test to screen:

(1) each member of a family who is eighteen years or older;

(2) each minor parent of a dependent child living with the minor parent’s family but who is not considered a member of the family for purposes of calculating the family’s SNAP benefit amount; and

(3) each minor parent of a dependent child not residing with the minor parent’s parent or another adult member of the family.

(B) An individual who tests positive for a controlled substance as a result of a drug test conducted pursuant to subsection (A) is ineligible to receive SNAP benefits for one year after the date of the positive drug test unless the individual satisfies the requirements of subsection (E).

(C) The department shall 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 SNAP 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 SNAP 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 SNAP benefits. Dependent children under the age of eighteen are exempt from the drug‑testing requirement.

(D) The department shall:

(1) 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;

(2) require each individual to sign a written acknowledgment that the individual has received and understood the notice and advice provided under subsection (C) and item (1);

(3) 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;

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

(5) inform an individual who tests positive for a controlled substance and is deemed ineligible for SNAP 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 subsection (E);

(6) inform an individual who tests positive for a controlled substance a second time and is deemed ineligible for SNAP benefits that the individual may reapply for those benefits three years after the date of the positive drug test unless the individual satisfies the requirements of subsection (E); and

(7) provide an individual who tests positive for a controlled substance with a list of department‑approved substance abuse treatment providers available in the area in which the individual resides.

(E) An individual who tests positive for a controlled substance under this section and is denied SNAP 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 subsection and reapplies for SNAP benefits also must pass an initial drug test as required pursuant to 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 subsection only once.

(F) If a parent is deemed ineligible for SNAP benefits as a result of failing a drug test conducted pursuant to this section, the dependent child’s eligibility for SNAP benefits is not affected, and an appropriate protective payee must be designated to receive SNAP benefits on behalf of the dependent child. 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 SNAP benefits on behalf of the dependent child. If the designated individual tests positive for a controlled substance, the individual is ineligible to serve as the protective payee on behalf of the dependent child.

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

SECTION 3. Section 43‑5‑1110(1) of the 1976 Code is 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 4. This act takes effect upon approval of the Governor.

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