

**H. B. 2021**

(By Delegates Lane, Faircloth, Kurcaba, Westfall, Moffatt, Ihle, Frich and Phillips, R.)

[Introduced January 14, 2015; referred to the  
Committee on Health and Humans Resources then Finance.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
designated §9-3-6, relating to implementing drug testing for recipients of federal-state and  
state assistance.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
section, designated §9-3-6, to read as follows:

**ARTICLE 3. APPLICATION FOR AND GRANTING OF ASSISTANCE.**

**§9-3-6. Drug testing for recipients of federal-state and state assistance.**

(a) The Commissioner of the Division of Human Services shall deny or otherwise determine  
ineligible the following classes of persons:

(1) Any person convicted of a drug-related offense other than simple possession of an illegal  
controlled substance: *Provided*, That if the person agrees to undergo initial drug testing, he or she  
is eligible to apply for the benefits, subject to the imposition of further mandatory drug testing not

1 inconsistent with the provisions of this code;

2 (2) Any person convicted of a felony: *Provided*, That if the person agrees to undergo initial  
3 drug testing, he or she is eligible to apply for the benefits, subject to the imposition of further  
4 mandatory drug testing not inconsistent with the provisions of this code; and

5 (3) Any mother who is an applicant for or recipient of federal-state or state assistance in the  
6 form of temporary assistance for needy families cash benefits, if she delivers an infant addicted to  
7 certain controlled substances, not legally prescribed, including amphetamines, tetrahydrocannabinol,  
8 oxycodone, cocaine, phencyclidine (PCP), any opiate, barbiturate, benzodiazepine,  
9 methamphetamine, propoxyphene, and any tricyclic antidepressants: *Provided*, That if the mother  
10 agrees to undergo a course of substance abuse education and treatment as prescribed in article  
11 fifteen, chapter sixty-two of this code, or the substantial equivalent, she is eligible to apply for the  
12 benefits, subject to the imposition of further mandatory drug testing not inconsistent with the  
13 provisions of this code.

14 (b) Other adult members of a household that includes a person who has been declared  
15 ineligible for temporary assistance for needy families assistance shall, if otherwise eligible, continue  
16 to receive temporary assistance for needy families benefits.

17 (c) No dependent child's eligibility for TANF (Temporary Assistance for Needy Families)  
18 benefits may be affected by a parent's failure to pass a drug test.

19 (d) An appropriate protective payee shall be designated to receive benefits on behalf of the  
20 child.

21 (e) The mother may choose to designate another individual to receive benefits for her minor  
22 child. The designated individual must be an immediate family member or, if an immediate family

1 member is not available or the family member declines the designation, another individual, approved  
2 by the division, may be so designated. The designated individual must also undergo drug testing  
3 before being approved to receive benefits on behalf of the child. If the designated individual tests  
4 positive for controlled substances, he or she is ineligible to receive benefits on behalf of the child.

5 (f) *Reapplication following ineligibility.*-- (1) Any applicant for, or recipient of federal-state  
6 or state assistance in the form of temporary assistance for needy families cash benefits, who is  
7 determined ineligible to receive benefits by the commissioner is ineligible to receive, and prohibited  
8 from reapplying for, benefits for a period of two years from the date that commissioner determined  
9 the applicant or recipient to be ineligible. Any applicant or recipient determined to be ineligible  
10 under this section shall submit to a mandatory drug test as part of a reapplication for federal-state  
11 or state assistance in the form of temporary assistance for needy families cash benefits; and

12 (2) Any individual who is forbidden to receive benefits under this section may reapply for  
13 benefits no sooner than six months after the commissioner declares he or she is ineligible for benefits  
14 if the individual can document the successful completion of a drug treatment program as specified  
15 in this section. An individual who has met the requirements of this subsection and reapplies for  
16 benefits must also pass an initial drug test. The cost of any drug testing and drug treatment provided  
17 under this section is the responsibility of the individual being tested and receiving treatment. An  
18 individual may reapply for benefits pursuant to the exception contained in this subsection only once.

19 (g) The commissioner shall ensure the confidentiality of any and all drug test results  
20 administered as part of the program. Drug test results shall only be used for the purpose of denying,  
21 or determining eligibility for continued receipt of, federal-state or state assistance in the form of  
22 temporary assistance for needy families cash benefits. At no time may drug test results be released

- 1 to any public or private person or entity or any law-enforcement agency, except as otherwise
- 2 authorized by this code. Presentation of a valid prescription of the controlled substance detected is
- 3 an absolute defense for failure of any drug test administered under the provisions of this section.

NOTE: The purpose of this bill is to create a procedure for any applicant or recipient of TANF (Temporary Assistance for Needy Families) benefits who fails an initial drug test and will be required to undergo treatment and to pass a second drug test to maintain eligibility for or recipients of such benefits. Failing the secondary drug test results in ineligibility for benefits for a period of two years, and requires a mandatory drug test as part of a reapplication for benefits. The bill provides for protective or vendor payments to a third-party payee for the benefit of the members of the household. The bill also ensures confidentiality of records.

This section is new; therefore, it has been completely underscored.