

112TH CONGRESS
1ST SESSION

H. R. 3193

To amend title IV of the Social Security Act to require States to implement a drug testing program for applicants for and recipients of assistance under the Temporary Assistance for Needy Families (TANF) program.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 13, 2011

Mr. FINCHER introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend title IV of the Social Security Act to require States to implement a drug testing program for applicants for and recipients of assistance under the Temporary Assistance for Needy Families (TANF) program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Welfare Integrity Act
5 of 2011”.

1 **SEC. 2. DRUG TESTING PROGRAM FOR APPLICANTS FOR**
2 **AND RECIPIENTS OF ASSISTANCE UNDER**
3 **STATE TANF PROGRAMS.**

4 (a) STATE PLAN REQUIREMENT OF DRUG TESTING
5 PROGRAM.—Section 402(a) of the Social Security Act (42
6 U.S.C. 602(a)) is amended by adding at the end the fol-
7 lowing:

8 “(8) CERTIFICATION THAT THE STATE WILL
9 OPERATE AN ILLEGAL DRUG USE TESTING PRO-
10 GRAM.—

11 “(A) IN GENERAL.—A certification by the
12 chief executive officer of the State that the
13 State will—

14 “(i) operate a program to conduct, in
15 a calendar year, random testing for the use
16 of illegal drugs (as defined in section
17 408(a)(12)(G)(i)) of a number of appli-
18 cants for assistance under the program re-
19 ferred to in paragraph (1) that is not less
20 than 20 percent of the number of appli-
21 cants who applied for the assistance in the
22 preceding calendar year (after having
23 signed a waiver of constitutional rights
24 with respect to the testing); and

25 “(ii) deny the assistance to applicants
26 who test positive for illegal drug use or

1 who are convicted of drug-related crimes,
2 as required by such section.

3 “(B) REQUIREMENT FOR CONTINUED
4 TESTING.—The program described in subpara-
5 graph (A)(i) shall include a plan to continue
6 testing individuals receiving assistance under
7 the program referred to in paragraph (1) for il-
8 legal drug use at random or set intervals after
9 the initial testing of the individuals, at the dis-
10 cretion of the State agency administering the
11 program so referred to.”.

12 (b) REQUIREMENT THAT APPLICANTS AND INDIVID-
13 UALS RECEIVING ASSISTANCE BE TESTED FOR ILLEGAL
14 DRUG USE.—Section 408(a) of such Act (42 U.S.C.
15 608(a)) is amended by adding at the end the following:

16 “(12) REQUIREMENT FOR DRUG TESTING; DE-
17 NIAL OF ASSISTANCE FOR INDIVIDUALS FOUND TO
18 HAVE USED ILLEGAL DRUGS AND INDIVIDUALS CON-
19 VICTED OF DRUG-RELATED OFFENSES.—

20 “(A) IN GENERAL.—A State to which a
21 grant is made under section 403 shall operate
22 a drug testing program that complies with the
23 requirements of subparagraphs (A)(i) and (B)
24 of section 402(a)(8).

1 “(B) WAIVER OF CONSTITUTIONAL
2 RIGHTS.—The State may not use any part of
3 the grant to provide assistance to any individual
4 who has not signed a waiver of constitutional
5 rights with respect to testing conducted pursu-
6 ant to subparagraph (A). In the case of an indi-
7 vidual who is receiving assistance under the
8 State program funded under this part on the
9 effective date of this paragraph, or whose appli-
10 cation for the assistance is approved before
11 such date if the assistance has not begun as of
12 such date, a State may not provide the assist-
13 ance to the individual unless the individual has
14 signed such a waiver not later than 90 days
15 after such date.

16 “(C) DENIAL OF ASSISTANCE FOR INDI-
17 VIDUALS WHO TEST POSITIVE FOR ILLEGAL
18 DRUG USE AND INDIVIDUALS CONVICTED OF
19 DRUG-RELATED CRIMES.—In the case of—

20 “(i) an individual who tests positive
21 for illegal drug use under the program de-
22 scribed in subparagraph (A); or

23 “(ii) an individual who is convicted of
24 a drug-related crime after the effective
25 date of this paragraph;

1 the State shall not provide assistance to the in-
2 dividual under the State program funded under
3 this part until the expiration of the waiting pe-
4 riod described in subparagraph (D).

5 “(D) WAITING PERIOD AFTER DENIAL OF
6 BENEFITS.—The waiting period described in
7 this subparagraph shall extend 1 year after the
8 date on which the individual is denied assist-
9 ance under subparagraph (C).

10 “(E) PERMANENT DENIAL OF ASSISTANCE
11 AFTER THIRD DRUG-RELATED DENIAL.—In the
12 case of an individual who is denied assistance
13 under subparagraph (C) 3 times, as a result of
14 3 separate positive tests for illegal drug use, 3
15 separate convictions for drug-related crimes
16 (not including convictions that are imposed con-
17 currently in time), or any combination of 3 such
18 separate tests or convictions, a State may not
19 provide assistance to the individual under the
20 State program funded under this part after the
21 3rd such test or conviction.

22 “(F) LIMITATION ON WAIVER AUTHOR-
23 ITY.—The Secretary may not waive the provi-
24 sions of this paragraph under section 1115.

25 “(G) DEFINITIONS.—In this paragraph:

1 “(i) ILLEGAL DRUG.—The term ‘ille-
2 gal drug’ means a controlled substance as
3 defined in section 102 of the Controlled
4 Substances Act (21 U.S.C. 802).

5 “(ii) DRUG-RELATED CRIME.—The
6 term ‘drug-related crime’ means any crime
7 involving the possession, use, or sale of an
8 illegal drug.”.

9 (c) PENALTY FOR FAILURE TO IMPLEMENT ILLEGAL
10 DRUG USE TESTING PROGRAM.—Section 409(a) of such
11 Act (42 U.S.C. 609(a)) is amended by adding at the end
12 the following:

13 “(16) PENALTY FOR FAILURE TO IMPLEMENT
14 ILLEGAL DRUG USE TESTING PROGRAM.—If the Sec-
15 retary determines that a State to which a grant is
16 made under section 403 in a fiscal year has violated
17 section 408(a)(12) during the fiscal year, the Sec-
18 retary shall reduce the grant payable to the State
19 under section 403(a)(1) for the immediately suc-
20 ceeding fiscal year by an amount equal to 10 percent
21 of the State family assistance grant.”.

22 (d) EFFECTIVE DATE.—

23 (1) IN GENERAL.—Except as provided in para-
24 graph (2), the amendments made by this section
25 shall take effect on the 1st day of the 1st calendar

1 quarter that begins on or after the date that is 1
2 year after the date of the enactment of this Act.

3 (2) DELAY PERMITTED IF STATE LEGISLATION
4 REQUIRED.—In the case of a State plan under sec-
5 tion 402(a) of the Social Security Act which the Sec-
6 retary of Health and Human Services determines re-
7 quires State legislation (other than legislation appro-
8 priating funds) in order for the plan to meet the ad-
9 ditional requirements imposed by the amendments
10 made by this Act, the State plan shall not be re-
11 garded as failing to comply with the requirements of
12 such section 402(a) solely on the basis of the failure
13 of the plan to meet such additional requirements be-
14 fore the 1st day of the 1st calendar quarter begin-
15 ning after the close of the 1st regular session of the
16 State legislature that begins after the date of enact-
17 ment of this Act. For purposes of the previous sen-
18 tence, in the case of a State that has a 2-year legis-
19 lative session, each year of such session shall be
20 deemed to be a separate regular session of the State
21 legislature.

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