

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1377

95TH GENERAL ASSEMBLY

3936L.05P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapters 105 and 208, RSMo, by adding thereto three new sections relating to drug testing.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapters 105 and 208, RSMo, are amended by adding thereto three new sections to be known as sections 105.012, 208.027, and 1, to read as follows:

2 **105.012. 1. Before taking office and once every two years thereafter, all state**
3 **elected officials, shall be subject to chemical testing of their blood or urine for the purpose**
4 **of determining the drug content of the blood. The costs of such testing shall be paid by**
5 **such official.**

6 **2. To be considered valid, chemical tests of the person's blood or urine shall be**
7 **performed according to methods and devices approved by the state department of health**
8 **and senior services, and shall be performed by licensed medical personnel or by a person**
9 **possessing a valid permit issued by the state department of health and senior services for**
10 **this purpose. A blood test shall not be performed if the medical personnel, in good faith**
11 **medical judgment, believe such procedure would endanger the health of the person.**

12 **3. Upon request of the person tested, full information concerning the test shall be**
13 **made available to the person.**

14 **4. Refusal to submit to a drug test as authorized under this section is an admission**
15 **that the official has taken a controlled substance without legal authorization. An official**
16 **who refuses to submit to a drug test under this section shall be subject to any sanction**
authorized by law or rule covering the respective official.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **5. An official who tests positive for drugs that have not been lawfully prescribed**
18 **or based on the testing has been shown to have abused the use of drugs that were otherwise**
19 **lawfully prescribed shall participate in a drug treatment program. An official who tests**
20 **positive for drugs under such circumstances and who fails to participate in a drug**
21 **treatment program shall be subject to any sanction authorized by law or rule covering the**
22 **respective official.**

23 **6. For purposes of this section, "drug" means marijuana, any narcotic drug or**
24 **controlled substance as defined in chapter 195, RSMo, or the metabolite of any such**
25 **substance.**

26 **7. No person administering a chemical test under this section or any other person,**
27 **firm, or corporation with whom such person is associated shall be civilly liable for damages**
28 **to the person tested except for negligence or by willful or wanton act or omission.**

208.027. 1. The department of social services shall develop a program to screen
2 **each work-eligible applicant or work-eligible recipient who is otherwise eligible for**
3 **temporary assistance for needy families benefits under this chapter and then test each**
4 **applicant or recipient who the department has reasonable suspicion to believe, based on**
5 **the screening, engages in illegal use of controlled substances. Any applicant or recipient**
6 **who refuses to participate in the testing process shall be declared ineligible for temporary**
7 **assistance for needy families benefits for a period of one year. Any applicant or recipient**
8 **who is found to have tested positive for the illegal use of a controlled substance, which was**
9 **not prescribed for such applicant or recipient by a licensed health care provider, shall,**
10 **after an administrative hearing conducted by the department under the provisions of**
11 **chapter 536, be declared ineligible for temporary assistance for needy families benefits for**
12 **a period of one year from the date of the administrative hearing decision. Other members**
13 **of a household which includes a person who has been declared ineligible for temporary**
14 **assistance for needy families assistance shall, if otherwise eligible, continue to receive**
15 **temporary assistance for needy families benefits as protective or vendor payments to a**
16 **third-party payee for the benefit of the members of the household.**

17 **2. By July 1, 2011, the department of social services shall promulgate rules to**
18 **develop the screening and testing provisions of this section. Any rule or portion of a rule,**
19 **as that term is defined in section 536.010, that is created under the authority delegated in**
20 **this section shall become effective only if it complies with and is subject to all of the**
21 **provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536**
22 **are nonseverable and if any of the powers vested with the general assembly pursuant to**
23 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**

24 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
25 proposed or adopted after August 28, 2010, shall be invalid and void.

26 **3. By September 30, 2010, the department of social services shall develop, distribute**
27 **to its staff, implement, and begin enforcement of a policy that any department employee**
28 **who fails to report the suspected illegal use of a controlled substance under the program**
29 **developed under subsection 1 of this section, or the suspected fraudulent reporting of total**
30 **household size or income under the temporary assistance for needy families program, by**
31 **any recipient or potential recipient, shall be subject to immediate termination of**
32 **employment.**

33 **4. Beginning July 1, 2011, and annually thereafter, the department shall track and**
34 **report to the general assembly the total number of reported incidents of suspected illegal**
35 **drug use and of suspected fraudulent reporting of total household size or income, and the**
36 **overall results of the program developed under this section and of fraud prosecutions made**
37 **for fraud violations of the temporary assistance for needy families eligibility rules.**

Section 1. Any state elected official who tests positive for drugs as defined by
2 **section 105.012, shall be subject to any sanction authorized by law or rule of the respective**
3 **official.**

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