

**DRUG SCREENING FOR TEMPORARY ASSISTANCE FOR
NEEDY FAMILIES RECIPIENTS**

2012 GENERAL SESSION

STATE OF UTAH

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LONG TITLE

General Description:

This bill modifies the Employment Support Act by requiring an applicant who otherwise qualifies for cash assistance under Utah's Family Employment Program to complete a written drug screening questionnaire and meet other requirements in order to receive cash assistance under the program.

Highlighted Provisions:

This bill:

► requires a parent who otherwise qualifies for cash assistance under Utah's Family Employment Program to complete a written questionnaire designed to determine the likelihood of the parent having a substance use disorder;

► requires an applicant to submit to a drug test if the written questionnaire indicates a reasonable likelihood that the applicant has a substance use disorder;

29 ▶ requires an applicant who tests positive for a controlled substance to enter into and
30 follow an employment plan that includes the following to continue to receive cash
31 assistance under the Family Employment Program:

- 32 • receiving treatment for a substance use disorder; and
- 33 • testing negative on follow-up drug tests for a controlled substance;

34 ▶ provides that refusing to take a drug test, failing a drug test, not entering into an
35 employment plan, or failing to successfully follow an employment plan's substance
36 use disorder treatment requirements, makes an applicant ineligible for cash
37 assistance under the Family Employment Program and for reapplication for cash
38 assistance:

- 39 • for 90 days after a first occurrence within one year; or
- 40 • for one year after a second occurrence within one year; and

41 ▶ makes technical changes.

42 **Money Appropriated in this Bill:**

43 None

44 **Other Special Clauses:**

45 None

46 **Utah Code Sections Affected:**

47 AMENDS:

48 **35A-3-302**, as last amended by Laws of Utah 2009, Chapter 55

49 **35A-3-304**, as last amended by Laws of Utah 2011, Chapter 297

50 ENACTS:

51 **35A-3-304.5**, Utah Code Annotated 1953



53 *Be it enacted by the Legislature of the state of Utah:*

54 Section 1. Section **35A-3-302** is amended to read:

55 **35A-3-302. Eligibility requirements.**

56 (1) The program of cash assistance provided under this part is known as the Family

57 Employment Program.

58 (2) (a) The division shall submit a state plan to the Secretary of the United States
59 Department of Health and Human Services to obtain federal funding under the Temporary
60 Assistance for Needy Families Block Grant.

61 (b) The division shall make the plan consistent with this part and federal law.

62 (c) If a discrepancy arises between a provision of the state plan and this part, this part
63 supersedes the provision in the state plan.

64 (3) The services and supports under this part are for both one-parent and two-parent
65 families.

66 (4) To be eligible for cash assistance under this part, a family shall:

67 (a) have at least one minor dependent child; or

68 (b) have a parent who is in the third trimester of a pregnancy.

69 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
70 department shall make rules for eligibility and the amount of cash assistance a family is eligible
71 to receive under this part based on:

72 (a) family size;

73 (b) family income;

74 (c) income disregards; [~~and~~]

75 (d) other relevant factors[~~;~~]; and

76 (e) if the applicant has met the eligibility requirements under Subsections (5)(a)
77 through (d), the assessment and other requirements described in Sections 35A-3-304 and
78 35A-3-304.5.

79 (6) The division shall disregard money on deposit in an Individual Development
80 Account established under Section 35A-3-312 in determining eligibility.

81 (7) The department shall provide for an appeal of a determination of eligibility in
82 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

83 (8) (a) The department shall make a report to either the Legislature's Executive
84 Appropriations Committee or the Commerce and Workforce Services Appropriations

85 Subcommittee on any proposed rule change made under Subsection (5) that would modify the
86 eligibility requirements or the amount of cash assistance a family would be eligible to receive.

87 (b) The department shall submit the report prior to implementing the proposed rule
88 change and the report shall include:

89 (i) a description of the department's current practice or policy that it is proposing to
90 change;

91 (ii) an explanation of why the department is proposing the change;

92 (iii) the effect of an increase or decrease in cash benefits on families; and

93 (iv) the fiscal impact of the proposed change.

94 (c) The department may use the Notice of Proposed Rule Amendment form filed with
95 the Division of Administrative Rules as its report so long as the notice contains all the
96 information required under Subsection (8)(b).

97 Section 2. Section **35A-3-304** is amended to read:

98 **35A-3-304. Assessment -- Participation requirements and limitations -- Mentors.**

99 (1) (a) Within 20 business days of the date of enrollment, a parent client shall:

100 (i) be assigned an employment counselor; and

101 (ii) complete an assessment provided by the division regarding the parent client's:

102 (A) family circumstances;

103 (B) education;

104 (C) work history;

105 (D) skills; [~~and~~]

106 (E) ability to become self-sufficient[~~;~~]; and

107 (F) likelihood of a substance use disorder involving the misuse of a controlled
108 substance.

109 (b) The assessment provided under Subsection (1)(a)(ii) shall include:

110 (i) a survey to be completed by the parent client with the assistance of the division[~~;~~];

111 and

112 (ii) a written questionnaire to be completed by the parent client designed to accurately

113 determine the likelihood of the parent client having a substance use disorder involving the
114 misuse of a controlled substance.

115 (c) In addition to the other requirements of this part, if the results of the written
116 questionnaire taken by a parent client indicate a reasonable likelihood that the parent client has
117 a substance use disorder involving the misuse of a controlled substance, the parent client may
118 only receive cash assistance provided under this part in accordance with the additional
119 requirements of Section 35A-3-304.5.

120 (2) (a) Within 15 business days of a parent client completing an assessment, the
121 division and the parent client shall enter into an employment plan.

122 (b) The employment plan shall have a target date for entry into employment.

123 (c) The division shall provide a copy of the employment plan to the parent client.

124 (d) As to the parent client, the plan may include:

125 (i) job searching requirements;

126 (ii) if the parent client does not have a high school diploma, participation in an
127 educational program to obtain a high school diploma, or its equivalent;

128 (iii) education or training necessary to obtain employment;

129 (iv) a combination of work and education or training;

130 (v) assisting the Office of Recovery Services in good faith to:

131 (A) establish the paternity of a minor child; and

132 (B) establish or enforce a child support order[; ~~and~~].

133 [~~(vi) if the parent client is a drug dependent person as defined in Section 58-37-2,~~
134 ~~participation in available treatment for drug dependency and progress toward overcoming that~~
135 ~~dependency.]~~

136 (e) If the parent client tests positive for the unlawful use of a controlled substance after
137 taking a drug test under Section 35A-3-304.5, the employment plan shall include an agreement
138 by the parent client to participate in treatment for a substance use disorder and meet the other
139 requirements of Section 35A-3-304.5.

140 [~~(e)~~] (f) As to the division, the plan may include:

141 (i) providing cash and other types of public and employment assistance, including child
142 care;

143 (ii) assisting the parent client to obtain education or training necessary for employment;

144 (iii) assisting the parent client to set up and follow a household budget; and

145 (iv) assisting the parent client to obtain employment.

146 ~~[(f)]~~ (g) The division may amend the employment plan to reflect new information or
147 changed circumstances.

148 ~~[(g)]~~ (h) If immediate employment is an activity contained in the employment plan the
149 parent client shall:

150 (i) promptly commence a search for a specified number of hours each week for
151 employment; and

152 (ii) regularly submit a report to the division on:

153 (A) how time was spent in search for a job;

154 (B) the number of job applications completed;

155 (C) the interviews attended;

156 (D) the offers of employment extended; and

157 (E) other related information required by the division.

158 ~~[(h)]~~ (i) (i) If full-time education or training to secure employment is an activity
159 contained in an employment plan, the parent client shall promptly undertake a full-time
160 education or training program.

161 (ii) The employment plan may describe courses, education or training goals, and
162 classroom hours.

163 ~~[(i)]~~ (j) (i) As a condition of receiving cash assistance under this part, a parent client
164 shall agree to make a good faith effort to comply with the employment plan.

165 (ii) If a parent client consistently fails to show good faith in complying with the
166 employment plan, the division may seek under Subsection (2)(i)(iii) to terminate all or part of
167 the cash assistance services provided under this part.

168 (iii) The division shall establish a process to reconcile disputes between a client and the

169 division as to whether:

170 (A) the parent client has made a good faith effort to comply with the employment plan;

171 or

172 (B) the division has complied with the employment plan.

173 (3) (a) Except as provided in Subsection (3)(b), a parent client's participation in
174 education or training beyond that required to obtain a high school diploma or its equivalent is
175 limited to the lesser of:

176 (i) 24 months; or

177 (ii) the completion of the education and training requirements of the employment plan.

178 (b) A parent client may participate in education or training for up to six months beyond
179 the 24-month limit of Subsection (3)(a)(i) if:

180 (i) the parent client is employed for 80 or more hours a month; and

181 (ii) the extension is for good cause shown and approved by the director.

182 (c) A parent client who receives an extension under Subsection (3)(b) remains subject
183 to Subsection (4).

184 (4) (a) A parent client with a high school diploma or equivalent who has received 24
185 months of education or training shall participate in full-time work activities.

186 (b) The 24 months need not be continuous and the department may define "full-time
187 work activities" by rule.

188 (5) As a condition for receiving cash assistance on behalf of a minor child under this
189 part, the minor child shall be:

190 (a) enrolled in and attending school in compliance with Sections 53A-11-101.5 and
191 53A-11-101.7; or

192 (b) exempt from school attendance under Section 53A-11-102.

193 (6) This section does not apply to a person who has received diversion assistance under
194 Section 35A-3-303.

195 (7) (a) The division shall recruit and train volunteers to serve as mentors for parent
196 clients.

197 (b) A mentor may advocate on behalf of a parent client and help a parent client:

198 (i) develop life skills;

199 (ii) implement an employment plan; or

200 (iii) obtain services and supports from:

201 (A) the volunteer mentor;

202 (B) the division; or

203 (C) civic organizations.

204 Section 3. Section **35A-3-304.5** is enacted to read:

205 **35A-3-304.5. Drug testing requirements.**

206 (1) If the results of a questionnaire described in Subsection 35A-3-304(1) indicate a
207 reasonable likelihood that a parent client may have a substance use disorder involving the
208 misuse of a controlled substance, the division shall require the parent client to take a drug test
209 at the division's expense in order to continue to receive cash assistance under this part.

210 (2) If a parent client refuses to take a drug test required under Subsection (1), the
211 department shall terminate cash assistance under this part and the parent client may not reapply
212 for cash assistance under this part for:

213 (a) 90 days after a first refusal to take a drug test within one year; or

214 (b) one year after a second refusal to take a drug test within one year.

215 (3) A drug test given under this section shall be administered with due regard to the
216 privacy and dignity of the person being tested.

217 (4) Before taking a drug test under this section, a parent client may advise the person
218 administering the test regarding any prescription or over-the-counter medication the parent
219 client is taking.

220 (5) The result of a drug test given under this section is a private record in accordance
221 with Section 63G-2-302 and disclosure to a third party is prohibited except as provided under
222 Title 63G, Chapter 2, Government Records Access and Management Act.

223 (6) If a parent client tests negative for the unlawful use of a controlled substance after
224 taking a drug test under Subsection (1), the parent client remains eligible for cash assistance,

225 subject to the other eligibility requirements of this part.

226 (7) If a parent client tests positive for the unlawful use of a controlled substance after
227 taking a drug test under Subsection (1), the parent client:

228 (a) shall be given a list of approved substance use disorder treatment providers that are
229 available in the area in which the individual resides; and

230 (b) may continue to receive benefits if the parent client enters into and follows the
231 requirements of an employment plan, including:

232 (i) receiving treatment, at the division's expense, from an approved substance use
233 disorder treatment provider for at least 60 days;

234 (ii) testing negative for the unlawful use of a controlled substance:

235 (A) in each subsequent drug test required by division rule during treatment; and

236 (B) in an additional drug test given at the conclusion of treatment; and

237 (iii) meeting the other requirements of receiving cash assistance under this part.

238 (8) If a parent client declines to enter into an employment plan required by Subsection
239 (7), or if the parent client enters into, but fails to meet, a requirement of an employment plan
240 under Subsection (7), including if the parent client refuses to take a drug test required by the
241 employment plan or tests positive for the unlawful use of a controlled substance in a drug test
242 required by the employment plan, the department shall terminate cash assistance under this part
243 and the parent client may not reapply for cash assistance under this part for:

244 (a) except as provided in Subsection (8)(b), 90 days after the day on which the
245 department determines, under this Subsection (8), that the parent client is no longer eligible for
246 cash assistance; or

247 (b) one year after the day on which the department determines, under this Subsection
248 (8), that the parent client is no longer eligible for cash assistance, if the department has
249 previously determined on at least one other occasion in the past year that the parent client is no
250 longer eligible for cash assistance under this Subsection (8).