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SENATE BILL 5585

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State of Washington

63rd Legislature

2013 Regular Session

By Senator Benton

Read first time 02/04/13. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to requiring drug testing for recipients of  
2 benefits under the temporary assistance for needy families program;  
3 amending RCW 74.08.025 and 74.08A.260; and adding a new section to  
4 chapter 74.08A RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 74.08.025 and 2011 1st sp.s. c 42 s 7 are each amended  
7 to read as follows:

8 (1) Public assistance may be awarded to any applicant:

9 (a) Who is in need and otherwise meets the eligibility requirements  
10 of department assistance programs; and

11 (b) Who has not made a voluntary assignment of property or cash for  
12 the purpose of qualifying for an assistance grant; and

13 (c) Who is not an inmate of a public institution except as a  
14 patient in a medical institution or except as an inmate in a public  
15 institution who could qualify for federal aid assistance: PROVIDED,  
16 That the assistance paid by the department to recipients in nursing  
17 homes, or receiving nursing home care, may cover the cost of clothing  
18 and incidentals and general maintenance exclusive of medical care and  
19 health services. The department may pay a grant to cover the cost of

1 clothing and personal incidentals in public or private medical  
2 institutions and institutions for tuberculosis. The department shall  
3 allow recipients in nursing homes to retain, in addition to the grant  
4 to cover the cost of clothing and incidentals, wages received for work  
5 as a part of a training or rehabilitative program designed to prepare  
6 the recipient for less restrictive placement to the extent permitted  
7 under Title XIX of the federal social security act.

8 (2) Any person otherwise qualified for temporary assistance for  
9 needy families under this title who has resided in the state of  
10 Washington for fewer than twelve consecutive months immediately  
11 preceding application for assistance is limited to the benefit level in  
12 the state in which the person resided immediately before Washington,  
13 using the eligibility rules and other definitions established under  
14 this chapter, that was obtainable on the date of application in  
15 Washington state, if the benefit level of the prior state is lower than  
16 the level provided to similarly situated applicants in Washington  
17 state. The benefit level under this subsection shall be in effect for  
18 the first twelve months a recipient is on temporary assistance for  
19 needy families in Washington state.

20 (3) Any person otherwise qualified for temporary assistance for  
21 needy families who is assessed through the state alcohol and substance  
22 abuse program as drug or alcohol-dependent and requiring treatment to  
23 become employable shall be required by the department to undergo drug  
24 testing pursuant to section 3 of this act and to participate in a drug  
25 or alcohol treatment program as a condition of benefit receipt.

26 (4) The department may implement a permanent disqualification for  
27 adults who have been terminated due to WorkFirst noncompliance sanction  
28 three or more times since March 1, 2007. A household that includes an  
29 adult who has been permanently disqualified from receiving temporary  
30 assistance for needy families shall be ineligible for further temporary  
31 assistance for needy families assistance.

32 (5) Pursuant to 21 U.S.C. 862a(d)(1), the department shall exempt  
33 individuals from the eligibility restrictions of 21 U.S.C. 862a(a)(1)  
34 and (2) to ensure eligibility for temporary assistance for needy  
35 families benefits and federal food assistance.

36 **Sec. 2.** RCW 74.08A.260 and 2011 1st sp.s. c 42 s 2 are each  
37 amended to read as follows:

1 (1) Each recipient shall be assessed after determination of program  
2 eligibility and before referral to job search. Assessments shall be  
3 based upon factors that are critical to obtaining employment, including  
4 but not limited to education, availability of child care, history of  
5 family violence, history of substance abuse, and other factors that  
6 affect the ability to obtain employment. Assessments may be performed  
7 by the department or by a contracted entity. The assessment shall be  
8 based on a uniform, consistent, transferable format that will be  
9 accepted by all agencies and organizations serving the recipient.

10 (2) Based on the assessment, an individual responsibility plan  
11 shall be prepared that: (a) Sets forth an employment goal and a plan  
12 for maximizing the recipient's success at meeting the employment goal;  
13 (b) considers WorkFirst educational and training programs from which  
14 the recipient could benefit; (c) contains the obligation of the  
15 recipient to participate in the program by complying with the plan; (d)  
16 moves the recipient into full-time WorkFirst activities as quickly as  
17 possible; and (e) describes the services available to the recipient  
18 either during or after WorkFirst to enable the recipient to obtain and  
19 keep employment and to advance in the workplace and increase the  
20 recipient's wage earning potential over time.

21 (3) If the assessment conducted under this section indicates a  
22 reasonable likelihood that the recipient has a substance use disorder  
23 involving the misuse of a controlled substance, the recipient may only  
24 continue to receive benefits under the temporary assistance for needy  
25 families program in accordance with the requirements of section 3 of  
26 this act.

27 (4) Recipients who are not engaged in work and work activities, and  
28 do not qualify for a good cause exemption under RCW 74.08A.270, shall  
29 engage in self-directed service as provided in RCW 74.08A.330.

30 ((+4)) (5) If a recipient refuses to engage in work and work  
31 activities required by the department, the family's grant shall be  
32 reduced by the recipient's share, and may, if the department determines  
33 it appropriate, be terminated.

34 ((+5)) (6) The department may waive the penalties required under  
35 subsection ((+4)) (5) of this section, subject to a finding that the  
36 recipient refused to engage in work for good cause provided in RCW  
37 74.08A.270.

1       (~~(6)~~) (7) In consultation with the recipient, the department or  
2 contractor shall place the recipient into a work activity that is  
3 available in the local area where the recipient resides.

4       (~~(7)~~) (8) Assessments conducted under this section shall include  
5 a consideration of the potential benefit to the recipient of engaging  
6 in financial literacy activities. The department shall consider the  
7 options for financial literacy activities available in the community,  
8 including information and resources available through the financial  
9 education public-private partnership created under RCW 28A.300.450.  
10 The department may authorize up to ten hours of financial literacy  
11 activities as a core activity or an optional activity under WorkFirst.

12       (~~(8)~~) (9)(a) From July 1, 2011, through June 30, 2012,  
13 subsections (2) and (4) through (~~(6)~~) (7) of this section are  
14 suspended for a recipient who is a parent or other relative personally  
15 providing care for one child under the age of two years, or two or more  
16 children under the age of six years. This suspension applies to both  
17 one and two parent families. However, both parents in a two-parent  
18 family cannot use the suspension during the same month. Beginning July  
19 1, 2012, the department shall phase in the work activity requirements  
20 that were suspended, beginning with those recipients closest to  
21 reaching the sixty-month limit of receiving temporary assistance for  
22 needy families under RCW 74.08A.010(1). The phase in shall be  
23 accomplished so that a fairly equal number of recipients required to  
24 participate in work activities are returned to those activities each  
25 month until the total number required to participate is participating  
26 by June 30, 2013. Nothing in this subsection shall prevent a recipient  
27 from participating in the WorkFirst program on a voluntary basis.  
28 Recipients who participate in the WorkFirst program on a voluntary  
29 basis shall be provided an option to participate in the program on a  
30 part-time basis, consisting of sixteen or fewer hours of activities per  
31 week. Recipients also may participate voluntarily on a full-time  
32 basis.

33       (b)(i) The period of suspension of work activities under this  
34 subsection provides an opportunity for the legislative and executive  
35 branches to oversee redesign of the WorkFirst program. To realize this  
36 opportunity, both during the period of suspension and following  
37 reinstatement of work activity requirements as redesign is being

1 implemented, a legislative-executive WorkFirst oversight task force is  
2 established, with members as provided in this subsection ((+8+))  
3 (9)(b).

4 (ii) The president of the senate shall appoint two members from  
5 each of the two largest caucuses of the senate.

6 (iii) The speaker of the house of representatives shall appoint two  
7 members from each of the two largest caucuses of the house of  
8 representatives.

9 (iv) The governor shall appoint members representing the department  
10 of social and health services, the department of early learning, the  
11 department of commerce, the employment security department, the office  
12 of financial management, and the state board for community and  
13 technical colleges.

14 (v) The task force shall choose cochairs, one from among the  
15 legislative members and one from among the executive branch members.  
16 The legislative members shall convene the initial meeting of the task  
17 force.

18 (c) The task force shall:

19 (i) Oversee the partner agencies' implementation of the redesign of  
20 the WorkFirst program and operation of the temporary assistance for  
21 needy families program to ensure that the programs are achieving  
22 desired outcomes for their clients;

23 (ii) Determine evidence-based outcome measures for the WorkFirst  
24 program, including measures related to equitably serving the needs of  
25 historically underrepresented populations, such as English language  
26 learners, immigrants, refugees, and other diverse communities;

27 (iii) Develop accountability measures for WorkFirst recipients and  
28 the state agencies responsible for their progress toward self-  
29 sufficiency;

30 (iv) Make recommendations to the governor and the legislature  
31 regarding:

32 (A) Policies to improve the effectiveness of the WorkFirst program  
33 over time;

34 (B) Early identification of those recipients most likely to  
35 experience long stays on the program and strategies to improve their  
36 ability to achieve progress toward self-sufficiency; and

37 (C) Necessary changes to the program, including taking into account  
38 federal changes to the temporary assistance for needy families program.

1 (d) The partner agencies must provide the task force with regular  
2 reports on:

3 (i) The partner agencies' progress toward meeting the outcome and  
4 performance measures established under (c) of this subsection;

5 (ii) Caseload trends and program expenditures, and the impact of  
6 those trends and expenditures on client services, including services to  
7 historically underrepresented populations; and

8 (iii) The characteristics of families who have been unsuccessful on  
9 the program and have lost their benefits either through sanction or the  
10 sixty-month time limit.

11 (e) Staff support for the task force must be provided by senate  
12 committee services, the house of representatives office of program  
13 research, and the state agency members of the task force.

14 (f) The task force shall meet on a quarterly basis beginning  
15 September 2011, or as determined necessary by the task force cochairs.

16 (g) During its tenure, the state agency members of the task force  
17 shall respond in a timely manner to data requests from the cochairs.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.08A RCW  
19 to read as follows:

20 (1) If the results of an assessment conducted under RCW  
21 74.08A.260(1) indicate a reasonable likelihood that a recipient may  
22 have a substance use disorder involving the misuse of a controlled  
23 substance, the department must require the recipient to take a drug  
24 test at the department's expense.

25 (2) If a recipient, without good cause, refuses to take a drug test  
26 as required under subsection (1) of this section, the department must  
27 place the recipient's case in sanction status for noncompliance with  
28 the individual responsibility plan and reduce the family's grant by the  
29 recipient's share or by forty percent of the grant amount, whichever is  
30 greater. If the recipient remains in noncompliance sanction status for  
31 more than four months for failure to take a drug test pursuant to  
32 subsection (1) of this section, the department must terminate the  
33 recipient's case. If the department terminates the recipient's case  
34 under this subsection, the recipient may not reapply to receive  
35 temporary assistance for needy families benefits until twenty-eight  
36 days after the date of termination.

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

3 (4) Before taking a drug test under this section, a recipient may  
4 advise the person administering the test regarding any prescription or  
5 over-the-counter medication the recipient is taking.

6 (5) If a recipient tests negative for the unlawful use of a  
7 controlled substance after taking a drug test pursuant to subsection  
8 (1) of this section, the recipient remains in compliance with the  
9 temporary assistance for needy families program, subject to the other  
10 program requirements of this chapter.

11 (6) If a recipient tests positive for the unlawful use of a  
12 controlled substance after taking a drug test pursuant to subsection  
13 (1) of this section:

14 (a) The department must provide the recipient with a list of  
15 approved substance use disorder treatment providers that are available  
16 in the area in which the individual resides; and

17 (b) The recipient may continue to receive benefits under the  
18 temporary assistance for needy families program if the recipient enters  
19 into and follows the requirements of an individual responsibility plan  
20 which may include any of the following:

21 (i) Receiving treatment, at the department's expense, from an  
22 approved substance use disorder treatment provider for at least sixty  
23 days;

24 (ii) Testing negative for the unlawful use of a controlled  
25 substance:

26 (A) In each subsequent drug test required by the department during  
27 treatment; and

28 (B) In an additional drug test given at the conclusion of  
29 treatment; and

30 (iii) Meeting the other requirements for receiving benefits under  
31 the temporary assistance for needy families program under this chapter.

32 (7) If a recipient fails to meet the requirements of subsection (6)  
33 of this section, the department must place the recipient's case in  
34 sanction status for noncompliance with the individual responsibility  
35 plan. If the recipient remains in noncompliance sanction status for  
36 more than four months, the department must terminate the recipient's  
37 case. Upon termination pursuant to this subsection, the recipient may

1 not reapply to receive temporary assistance for needy families benefits  
2 until twenty-eight days after the date of termination.

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