

Senate Bill 541

Sponsored by Senator KRUSE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits grants of public assistance to individuals who test positive for substances of abuse.

A BILL FOR AN ACT

1
2 Relating to drug testing of public assistance clients; creating new provisions; and amending ORS
3 412.009 and 412.089.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS chapter 411.**

6 **SECTION 2. (1) The Department of Human Services shall adopt rules that require all**
7 **adult applicants for and recipients of public assistance to undergo testing for substances of**
8 **abuse as defined in ORS 438.010.**

9 **(2) The rules adopted under subsection (1) of this section must provide that the testing**
10 **be:**

11 **(a) A condition of eligibility for public assistance;**

12 **(b) Repeated after every six consecutive months of receipt of public assistance; and**

13 **(c) In compliance with the requirements of ORS 438.435.**

14 **(3) The department shall deny or terminate public assistance to any individual for whom**
15 **the testing described in this section produces a positive result.**

16 **SECTION 3. ORS 412.009, as amended by section 3a, chapter 861, Oregon Laws 2007, is**
17 **amended to read:**

18 412.009. (1) The need for and amount of aid pursuant to the temporary assistance for needy
19 families to be granted for any dependent child or relative pursuant to ORS 412.006 shall be deter-
20 mined, in accordance with the rules of the Department of Human Services, taking into account:

21 (a) The income, resources and maintenance available to such child and relative from whatever
22 source derived, allowable deductions and the statewide income and payment standards.

23 (b) The income and financial condition of the stepparent, if any, of the child for whom aid is
24 sought.

25 (2) Subsection (1)(b) of this section is not intended to relieve any parent of any legal obligation
26 in respect of the support of the natural or adopted children of the parent.

27 (3) In determining the need for and amount of aid to be granted under subsection (1) of this
28 section and under ORS 411.070, the department shall:

29 (a) Disregard no less than \$50 of the amount of child support received for each child per month,
30 up to a total of \$200 or the maximum established by federal law, for the family; and

31 (b) Disregard any other amounts of income and resources of the family as the department may
32 prescribe by rule.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (4) The department by rule shall adopt proven methods of encouraging participants' full en-
2 gagement in the job opportunity and basic skills program, including the development of an individ-
3 ualized case plan in accordance with ORS 412.006.

4 (5)(a) The department may not reduce the family's aid payment as a method of encouraging full
5 engagement in the job opportunity and basic skills program pursuant to subsection (4) of this section
6 until the department determines that the noncompliant needy caretaker relative:

7 (A) Has no barriers or refuses to take appropriate steps to address identified barriers to par-
8 ticipation in the program;

9 (B) Has the ability to be fully engaged in the program as defined by the department by rule; and

10 (C) Is willfully noncompliant with the requirements of the individualized case plan.

11 (b) The department may not reduce aid payments under this subsection to families:

12 (A) Receiving aid pursuant to ORS 412.014 or 412.124;

13 (B) In which the caretaker relative participates in suitable activities for the number of hours
14 required each month to satisfy federally required participation rates; or

15 (C) Until the department has screened for and, if appropriate, assessed barriers to participation,
16 including but not limited to physical or mental health needs, [*substance abuse*,] domestic violence
17 or learning needs.

18 (c) The department may not reduce aid payments under this subsection before assessing the risk
19 of harm posed to the children in the household by the reduction in aid payments and taking steps
20 to ameliorate the risk.

21 (6)(a) The department may reduce the aid payment to a family in accordance with subsection (5)
22 of this section following notice and an opportunity for a hearing under ORS chapter 183, as follows:

23 (A) The department may reduce the aid payment by the portion attributable to the needs of the
24 noncompliant individual for up to three months.

25 (B) After three months of noncompliance and subject to subsection (5)(c) of this section, the
26 department may terminate the aid payment to the family.

27 (b) Any reduction or termination in aid under this section may continue until the noncompliant
28 individual participates in suitable activities required by the case plan for two consecutive weeks.

29 (c) A caretaker relative may request a hearing to contest the basis for a reduction in or termi-
30 nation of an aid payment within 90 days of a reduction in or termination of aid.

31 (7) Every six months, the department shall report to the Family Services Review Commission
32 established under ORS 411.125 the status of and outcomes for families for whom aid has been re-
33 duced or terminated under subsection (6) of this section. The department shall work with the com-
34 mission to establish the details to be provided in the report.

35 **SECTION 4.** ORS 412.089, as amended by section 5b, chapter 861, Oregon Laws 2007, is
36 amended to read:

37 412.089. (1) The Department of Human Services shall refer a person applying for or receiving
38 temporary assistance for needy families to an evaluation by a mental health [*or drug abuse*] profes-
39 sional if the department reasonably believes such referral is necessary. The Department of Human
40 Services shall develop guidelines to assist in the identification and referral of individuals requiring
41 mental health [*or drug abuse*] treatment.

42 (2) If an evaluation conducted under subsection (1) of this section determines that mental health
43 [*or drug abuse*] treatment is necessary for the person to function successfully in the workplace, the
44 department shall provide such resources as are necessary and available for the person to participate
45 in and successfully complete treatment.

1 (3) A person who refuses to participate in an evaluation under subsection (1) of this section or
2 treatment under subsection (2) of this section shall be subject to the provisions of ORS 412.009 (5)
3 and (6).

4 (4) The department shall provide training to staff who work directly with persons applying for
5 or receiving temporary assistance for needy families in assessment and evaluation of mental health
6 disorders, addictions and battered women's syndrome as may be necessary to implement the pro-
7 visions of subsection (1) of this section.

8 **SECTION 5. (1) Section 2 of this 2009 Act and the amendments to ORS 412.009 and 412.089**
9 **by sections 3 and 4 of this 2009 Act become operative on July 1, 2010.**

10 (2) **Notwithstanding the operative date specified in subsection (1) of this section, the**
11 **Department of Human Services may take any action before the operative date that is nec-**
12 **essary to enable the department to exercise, on and after the operative date specified in**
13 **subsection (1) of this section, all the duties, functions and powers conferred on the depart-**
14 **ment by this 2009 Act.**

15 (3) **Section 2 of this 2009 Act applies to persons who apply for or receive public assistance**
16 **on or after the operative date specified in subsection (1) of this section.**

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