

SECOND REGULAR SESSION

# HOUSE BILL NO. 2342

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES WILSON (130) (Sponsor), NIEVES, SMITH (150), SILVEY, WELLS, PORTWOOD, PRATT, PEARCE, FISHER, ERVIN, KRAUS, YATES, RUESTMAN, FRANZ, NOLTE, FUNDERBURK, EMERY, RICHARD, KASTEN AND JETTON (Co-sponsors).

Read 1st time March 4, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5384L.03I

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### AN ACT

To repeal section 208.040, RSMo, and to enact in lieu thereof three new sections relating to drug testing.

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

Section A. Section 208.040, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 21.433, 208.038, and 208.040, to read as follows:

**21.433. 1. Beginning January 1, 2009, the Missouri general assembly shall implement a program of random drug testing of all members of the general assembly. Such random drug testing program shall be conducted in such a manner as to assure that every member of the general assembly is tested at least once every two years.**

**2. Refusal to submit to a drug test as authorized under this section is an admission that the member of the general assembly has taken a controlled substance without legal authorization. A member who refuses to submit to a drug test under this section shall be subject to any sanction authorized by law or rule of the respective house of the general assembly.**

**3. A member who tests positive for drugs that have not been lawfully prescribed or based on the testing has been shown to have abused the use of drugs that were otherwise lawfully prescribed shall participate in a drug treatment program. A member who tests positive for drugs under such circumstances and who fails to participate in a drug**

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.

14 treatment program shall be subject to any sanction authorized by law or rule of the  
15 respective house of the general assembly.

16 4. For purposes of this section, "drug" means marijuana, any narcotic drug or  
17 controlled substance as defined in chapter 195, RSMo, or the metabolite of any such  
18 substance.

208.038. 1. Beginning January 1, 2009, the department of social services shall  
2 implement a program of random drug testing of all persons who receive temporary  
3 assistance for needy families benefits under section 208.040 and who are work eligible. As  
4 used in this section, "work eligible" means parents able to receive benefits under section  
5 208.040 who are not exempt or excluded from the requirement to participate in work  
6 activities.

7 2. A recipient who tests positive for drugs that have not been lawfully prescribed  
8 or based on the testing has been shown to have abused the use of drugs that were otherwise  
9 lawfully prescribed shall participate in a drug treatment program. A recipient who tests  
10 positive for drugs under such circumstances and who fails to participate in a drug  
11 treatment program shall not be eligible to receive temporary assistance for needy families  
12 benefits under section 208.040.

13 3. For purposes of this section, "drug" means marijuana, any narcotic drug or  
14 controlled substance as defined in chapter 195, RSMo, or the metabolite of any such  
15 substance.

16 4. If a recipient fails or refuses to submit to testing, any application for benefits  
17 shall be denied or any benefits currently being received shall be terminated.

18 5. On or before February 1, 2010, and every year thereafter that the program  
19 established in this section is in operation, the department of social services shall submit an  
20 evaluation of such program to the governor, the speaker of the house of representatives,  
21 and the president pro tem of the senate. The evaluation shall include the following:

22 (1) The number of individuals tested, the drug tested for, the results of the testing,  
23 and the number of referrals for treatment;

24 (2) The cost of the testing and the resulting treatment;

25 (3) The number of recipients who tested positive for drugs and who were denied  
26 assistance for failure to comply with a drug treatment program.

27 6. The department shall promulgate rules to implement the provisions of this  
28 section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,  
29 that is created under the authority delegated in this section shall become effective only if  
30 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if  
31 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable

32 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**  
33 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**  
34 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
35 **adopted after August 28, 2008, shall be invalid and void.**

208.040. 1. Temporary assistance benefits shall be granted on behalf of a dependent  
2 child or children and may be granted to the parents or other needy eligible relative caring for a  
3 dependent child or children who:

4 (1) Is under the age of eighteen years; or is under the age of nineteen years and a  
5 full-time student in a secondary school (or at the equivalent level of vocational or technical  
6 training), if before the child attains the age of nineteen the child may reasonably be expected to  
7 complete the program of the secondary school (or vocational or technical training);

8 (2) Has been deprived of parental support or care by reason of the death, continued  
9 absence from the home, or physical or mental incapacity of a parent, and who is living with  
10 father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother,  
11 stepsister, uncle, aunt, first cousin, nephew or niece, in a place of residence maintained by one  
12 or more of such relatives as the child's own home, and financial aid for such child is necessary  
13 to save the child from neglect and to secure for the child proper care in such home. Physical or  
14 mental incapacity shall be certified to by competent medical or other appropriate authority  
15 designated by the **family support** division [of family services], and such certificate is hereby  
16 declared to be competent evidence in any proceedings concerning the eligibility of such claimant  
17 to receive aid to families with dependent children benefits. Benefits may be granted and  
18 continued for this reason only while it is the judgment of the **family support** division [of family  
19 services] that a physical or mental defect, illness or disability exists which prevents the parent  
20 from performing any gainful work;

21 (3) Is not receiving supplemental aid to the blind, blind pension, supplemental payments,  
22 or aid or public relief as an unemployable person;

23 (4) Is a resident of the state of Missouri.

24 2. The **family support** division [of family services] shall require as additional conditions  
25 of eligibility for benefits that each applicant for or recipient of aid:

26 (1) Shall furnish to the division the applicant or recipient's Social Security number or  
27 numbers, if the applicant or recipient has more than one such number;

28 (2) Shall assign to the **family support** division [of family services] in behalf of the state  
29 any rights to support from any other person such applicant may have in the applicant's own  
30 behalf or in behalf of any other family member for whom the applicant is applying for or  
31 receiving aid. An application for benefits made under this section shall constitute an assignment  
32 of support rights which shall take effect, by operation of law, upon a determination that the

33 applicant is eligible for assistance under this section. The assignment is effective as to both  
34 current and accrued support obligations and authorizes the **family support** division [of child  
35 support enforcement of the department of social services] to bring any administrative or judicial  
36 action to establish or enforce a current support obligation, to collect support arrearages accrued  
37 under an existing order for support, or to seek reimbursement of support provided by the  
38 division;

39 (3) Shall cooperate with the [divisions of family services and of child support  
40 enforcement] **family support division** unless the division [of family services] determines in  
41 accordance with federally prescribed standards that such cooperation is contrary to the best  
42 interests of the child on whose behalf aid is claimed or to the caretaker of such child, in  
43 establishing the paternity of a child born out of wedlock with respect to whom aid is claimed,  
44 and in obtaining support payments for such applicant and for a child with respect to whom such  
45 aid is claimed, or in obtaining any other payments or property due such applicant or such child.  
46 The [divisions of family services and of child support enforcement] **family support division**  
47 shall impose all penalties allowed pursuant to federal participation requirements;

48 (4) Shall cooperate with the department of social services in identifying and providing  
49 information to assist the state in pursuing any third party who may be liable to pay for care and  
50 services available under the state's plan for medical assistance as provided in section 208.152,  
51 unless such individual has good cause for refusing to cooperate as determined by the department  
52 of social services in accordance with federally prescribed standards; [and]

53 (5) Shall participate in any program designed to reduce the recipient's dependence on  
54 welfare, if requested to do so by the department of social services; **and**

55 (6) **Shall participate in any program of random drug testing established by the**  
56 **department under section 208.038.**

57 3. The division shall require as a condition of eligibility for temporary assistance benefits  
58 that a minor child under the age of eighteen who has never married and who has a dependent  
59 child in his or her care, or who is pregnant and otherwise eligible for temporary assistance  
60 benefits, shall reside in a place of residence maintained by a parent, legal guardian, or other adult  
61 relative or in some other adult-supervised supportive living arrangement, as required by Section  
62 403 of P.L. 100-485. Exceptions to the requirements of this subsection shall be allowed in  
63 accordance with requirements of the federal Family Support Act of 1988 in any of the following  
64 circumstances:

65 (1) The individual has no parent or legal guardian who is living or the whereabouts of  
66 the individual's parent or legal guardian is unknown; or

67 (2) The **family support** division [of family services] determines that the physical health  
68 or safety of the individual or the child of the individual would be jeopardized; or

69 (3) The individual has lived apart from any parent or legal guardian for a period of at  
70 least one year prior to the birth of the child or applying for benefits; or

71 (4) The individual claims to be or to have been the victim of abuse while residing in the  
72 home where she would be required to reside and the case has been referred to the child abuse  
73 hotline and a "reason to suspect finding" has been made. Households where the individual  
74 resides with a parent, legal guardian or other adult relative or in some other adult-supervised  
75 supportive living arrangement shall, subject to federal waiver to retain full federal financial  
76 participation and appropriation, have earned income disregarded from eligibility determinations  
77 up to one hundred percent of the federal poverty level.

78 4. If the relative with whom a child is living is found to be ineligible because of refusal  
79 to cooperate as required in subdivision (3) of subsection 2 of this section, any aid for which such  
80 child is eligible will be paid in the manner provided in subsection 2 of section 208.180, without  
81 regard to subsections 1 and 2 of this section.

82 5. The department of social services may implement policies designed to reduce a  
83 family's dependence on welfare. The department of social services is authorized to implement  
84 these policies by rule promulgated pursuant to section 660.017, RSMo, and chapter 536, RSMo,  
85 including the following:

86 (1) The department shall increase the earned income and resource disregards allowed  
87 recipients to help families achieve a gradual transition to self-sufficiency, including  
88 implementing policies to simplify employment-related eligibility standards by increasing the  
89 earned income disregard to two-thirds by October 1, 1999. The expanded earned income  
90 disregard shall apply only to recipients of cash assistance who obtain employment but not to new  
91 applicants for cash assistance who are already working. Once the individual has received the  
92 two-thirds disregard for twelve months, the individual would not be eligible for the two-thirds  
93 disregard until the individual has not received temporary assistance benefits for twelve  
94 consecutive months. The department shall promulgate rules pursuant to chapter 536, RSMo, to  
95 implement the expanded earned income disregard provisions;

96 (2) The department shall permit a recipient's enrollment in educational programs beyond  
97 secondary education to qualify as a work activity for purposes of receipt of temporary assistance  
98 for needy families. Such education beyond secondary education shall qualify as a work activity  
99 if such recipient is attending and according to the standards of the institution and the **family**  
100 **support** division [of family services], making satisfactory progress towards completion of a  
101 postsecondary or vocational program. Weekly classroom time and allowable study time shall  
102 be applied toward the recipient's weekly work requirement. Such recipient shall be subject to  
103 the sixty-month lifetime limit for receipt of temporary assistance for needy families unless  
104 otherwise excluded by rule of the **family support** division [of family services];

105 (3) Beginning January 1, 2002, and every two years thereafter, the department of social  
106 services shall make a detailed report and a presentation on the temporary assistance for needy  
107 families program to the house appropriations for social services committee and the house social  
108 services, Medicaid and the elderly committee, and the senate aging, families and mental health  
109 committee, or comparable committees;

110 (4) Other policies designed to reduce a family's dependence on welfare may include  
111 supplementing wages for recipients for the lesser of forty-eight months or the length of the  
112 recipient's employment by diverting the temporary assistance grant.

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114 The provisions of this subsection shall be subject to compliance by the department with all  
115 applicable federal laws and rules regarding temporary assistance for needy families.

116 6. The work history requirements and definition of "unemployed" shall not apply to any  
117 parents in order for these parents to be eligible for assistance pursuant to section 208.041.

118 7. The department shall continue to apply uniform standards of eligibility and benefits,  
119 excepting pilot projects, in all political subdivisions of the state.

120 8. Consistent with federal law, the department shall establish income and resource  
121 eligibility requirements that are no more restrictive than its July 16, 1996, income and resource  
122 eligibility requirements in determining eligibility for temporary assistance benefits.

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