H. R. 3047

To require certain welfare programs to deny benefits to persons who fail a drug test, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2015

Mr. ROUZER introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Agriculture and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require certain welfare programs to deny benefits to persons who fail a drug test, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3
4 SECTION 1. SHORT TITLE.
5 This Act may be cited as the “Drug Testing for Wel-
6 fare Recipients Act”.

SEC. 2. DRUG SCREENING AND TESTING UNDER STATE PROGRAMS FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.

(a) Prohibition.—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by adding at the end the following:

“(13) No assistance for individuals who fail drug screening or testing or are not screened or tested for drug use.—

“(A) In general.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance for an individual who has attained 18 years of age, unless, before receipt of the assistance—

“(i) the State makes a determination, in a manner the State considers appropriate, of whether the individual has or has not been arrested for a drug-related offense during the 5-year period immediately preceding the date on which the determination is made;

“(ii) in the case of an individual who is determined by the State to have been arrested for a drug-related offense during the 5-year period provided in clause (i), the individual tests negative for not less than 1
controlled substance, as specified by the State, in such manner and at such times as the State determines to be appropriate; and

“(iii) in the case of an individual who is determined by the State not to have been arrested for a drug-related offense during the 5-year period provided in clause (i), the individual—

“(I) completes substance abuse screening in such manner and at such times as the State considers appropriate; and

“(II)(aa) is determined pursuant to such screening not to have a high risk of abuse of a controlled substance; or

“(bb) is determined pursuant to such screening to have a high risk of abuse of a controlled substance and tests negative for not less than 1 controlled substance, as specified by the State, in such manner and at such times as the State determines to be appropriate.
“(B) Effect of failing drug test.—In the case of an individual who tests positive for a controlled substance pursuant to subparagraph (A)(ii) or (A)(iii)(II)(bb), a State shall not provide assistance under the State program funded under this part for the individual for a period beginning on the date on which the State determines that the test result is positive and ending on the latest of—

“(i) the date that is 12 months after the date on which the State determines that the test result is positive;

“(ii) the date on which the individual successfully completes a treatment program for each controlled substance for which the individual tested positive; or

“(iii) the date on which the individual tests negative for each such controlled substance, in such manner and at such times as the State determines to be appropriate.

“(C) Responsibility for testing and screening.—

“(i) Manner and time.—A State may provide for testing and screening pursuant to paragraph (1), and retesting and
rescreening pursuant to paragraph (2), in such manner and at such times as the State agency considers appropriate.

“(ii) Costs.—A State may not require an individual to pay the cost of testing or screening conducted pursuant to this paragraph.

“(D) NO EFFECT ON ASSISTANCE FOR OTHER FAMILY MEMBERS.—The amount of assistance payable for a family member of an individual for whom assistance is denied pursuant to this paragraph shall not be affected by the denial.

“(E) DEFINITIONS.—In this paragraph:

“(i) CONTROLLED SUBSTANCE.—The term ‘controlled substance’ means, with respect to an individual, any controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802) that is not used by such individual pursuant to a valid prescription or as otherwise authorized by law.

“(ii) DRUG-RELATED OFFENSE.—The term ‘drug-related offense’ means any criminal offense under State or Federal
law relating to the manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance.

“(iii) Substance abuse screening.—The term ‘substance abuse screening’ means an interview, questionnaire, or other screening instrument approved by the State, that is designed to be used to determine whether an individual has a high risk of abuse of a controlled substance.”.

(b) Penalty.—

(1) In general.—Section 409(a) of such Act (42 U.S.C. 609(a)) is amended by adding at the end the following:

“(17) Failure to condition receipt of benefits on passing drug testing or screening.—If the Secretary determines that a State to which a grant is made under section 403 for a fiscal year has substantially failed to comply with section 408(a)(13) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403 for the immediately succeeding fiscal year by an amount equal to 15 percent of the State family assistance grant.”.
(2) INAPPLICABILITY OF GOOD CAUSE EXCEPTION.—Section 409(b)(2) of such Act (42 U.S.C. 609(b)(2)) is amended by striking “or (13)” and inserting “(13), or (17)”.

(3) INAPPLICABILITY OF CORRECTIVE COMPLIANCE PLAN REQUIREMENT.—Section 409(c)(4) of such Act (42 U.S.C. 609(c)) is amended by striking “or (16)” and inserting “(16), or (17)”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar month that begins after the 240-day period that begins with the date of the enactment of this Act.

SEC. 3. DRUG SCREENING AND TESTING UNDER THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.

(a) Drug Testing and Screening Required for Eligibility.—Section 6 of the Food and Nutrition Act of 2008 (7 U.S.C. 2015) is amended by adding at end the following:

“(t) ELIGIBILITY BASED ON REQUIRED DRUG TESTING AND SCREENING.—

“(1) IN GENERAL.—An individual who has attained 18 years of age and who is otherwise eligible to participate in the supplemental nutrition assistance program as a member of a household shall be
eligible to participate in such program only if before
such assistance is provided with respect to such indi-
vidual—

“(A) the State determines, in a manner
the State considers appropriate, whether such
individual has or has not been arrested for a
drug-related offense during the 5-year period
ending on the date on which the determination
is made;

“(B) in the case of an individual who is de-
termined by the State to have been arrested for
a drug-related offense during such 5-year pe-
riod, such individual tests negative for not less
than 1 controlled substance, as specified by the
State, in such manner and at such times as the
State considers appropriate; and

“(C) in the case of an individual who is de-
termined by the State not to have been arrested
for a drug-related offense during such 5-year
period, such individual—

“(i) completes substance abuse screen-
ing, in such manner and at such times as
the State considers appropriate; and
“(ii)(I) is determined pursuant to such screening not to have a high risk of abuse of a controlled substance; or

“(II) is determined pursuant to such screening to have a high risk of abuse of a controlled substance and tests negative for not less than 1 controlled substance, as specified by the State, in such manner and at such times as the State considers appropriate.

“(2) Effect of a positive drug test result.—If an individual tests positive for a controlled substance pursuant to paragraph (1), such assistance may not be provided with respect to such individual for a period beginning on the date on which the State agency determines that the test result is positive and ending on the latest of—

“(A) the date that is 1 year after the date on which the State agency determines that the test result is positive;

“(B) the date on which such individual successfully completes a treatment program for each controlled substance for which the individual tested positive pursuant to paragraph (1); and
“(C) the date by which the test result for such individual is not positive for each controlled substance for which the individual tested positive pursuant to paragraph (1).

“(3) Responsibility for testing and screening.—

“(A) The State agency may provide for testing and screening pursuant to paragraph (1), and retesting and rescreening pursuant to paragraph (2), in such manner and at such times as the State agency considers appropriate.

“(B) The State agency may not require an individual or a household to pay the cost of a test or screening conducted pursuant to this subsection.

“(4) Definitions.—For purposes of this subsection:

“(A) Controlled substance.—The term ‘controlled substance’ means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802) that is not used by the tested individual pursuant to a valid prescription or as otherwise authorized by law.
“(B) Drug-related offense.—The term ‘drug-related offense’ means any criminal offense under State or Federal law relating to the manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance.

“(C) Substance abuse screening.—The term ‘substance abuse screening’ means an interview, questionnaire, or other screening instrument approved by the State, that is designed to be used to determine whether an individual has a high risk of abuse of a controlled substance.”.

(b) Reduction of reimbursement for administrative costs.—Section 16 of the Food and Nutrition Act of 2008 (7 U.S.C. 2025) is amended—

(1) in subsection (a) by striking “subsection (k)” and inserting “subsections (k) and (l)”, and

(2) by adding at end the following:

“(l) Failure to enforce drug testing and screening requirements.—If the Secretary determines that the State agency failed substantially to enforce the eligibility requirement established in section 6(t) in a fiscal year, the Secretary shall reduce by 15 percent the
amount otherwise payable under subsection (a) to such
State agency for the immediately succeeding fiscal year.”.

c E F F E C T I V E D A T E.—The amendments made by
this section shall take effect 240 days after the date of
the enactment of this Act.

SEC. 4. DRUG SCREENING AND TESTING UNDER PUBLIC
HOUSING AND SECTION 8 RENTAL ASSIST-
ANCE PROGRAMS.

(a) Prohibition.—Section 214 of the Housing and
Community Development Act of 1980 (42 U.S.C. 1436a)
is amended by adding at the end the following:

“(j) Prohibition of Housing Assistance for In-
dividuals Who Fail Drug Screening or Testing or
Are Not Screened or Tested.—

“(1) In general.—Notwithstanding any other
provision of law, the applicable administrative entity
may not make covered housing assistance available
for the benefit of any individual who has attained 18
years of age, unless, before such assistance is pro-
vided with respect to such individual—

“(A) the applicable administrative entity
makes a determination, in a manner the entity
considers appropriate, of whether the individual
has or has not been arrested for a drug-related
offense during the 5-year period immediately
preceding the date on which the determination is made;

“(B) in the case of an individual who is determined by the applicable administrative entity to have been arrested for a drug-related offense during the 5-year period provided in subparagraph (A), the individual tests negative for each controlled substance that the entity has determined to be appropriate for testing; and

“(C) in the case of an individual who is determined by the applicable administrative entity not to have been arrested for a drug-related offense during the 5-year period provided in clause (i), the individual—

“(i) completes substance abuse screening in such manner and at such times as the entity considers appropriate; and

“(ii)(I) is determined pursuant to such screening not to have a high risk of abuse of a controlled substance; or

“(II) is determined pursuant to such screening to have a high risk of abuse of a controlled substance and tests negative for each controlled substance that the enti-
ty has determined to be appropriate for testing.

The applicable administrative entity shall determine that not less than 1 controlled substance, as specified by the entity, is appropriate for testing for purposes of this paragraph.

“(2) Effect of failing drug test.—If an individual tests positive for a controlled substance pursuant to paragraph (1)(B) or (1)(C)(ii)(II), covered housing assistance may not be provided with respect to such individual for the period beginning on the date on which the applicable administrative entity determines that the test result is positive and ending on the latest of—

“(A) the date that is 12 months after the date on which the applicable administrative entity determines that the test result is positive;

“(B) the date on which the individual successfully completes a treatment program for each controlled substance for which the individual tested positive; and

“(C) the date on which the individual tests negative for each such controlled substance, in such manner and at such times as the applica-
ble administrative entity determines to be appropriate.

“(3) Responsibility for testing and screening.—

“(A) Manner and time.—An applicable administrative entity may provide for testing and screening pursuant to paragraph (1), and retesting and rescreening pursuant to paragraph (2), in such manner and at such times as the entity determines to be appropriate.

“(B) Costs.—An applicable administrative entity may not require an individual or family to pay the cost of a test or screening conducted pursuant to this subsection.

“(4) Proration of financial assistance.—

If an individual for whose benefit covered housing assistance is prohibited pursuant to this subsection is a member of family that includes at least one other member whose eligibility under this subsection for such assistance has been affirmatively established pursuant to testing under this subsection, covered housing assistance made available to such family shall be prorated, based on the number of individuals in the family for whom eligibility under this subsection for such assistance has been affirmatively
established pursuant to testing under this subsection as compared with the total number of individuals who are members of the family.

“(5) Failure to Enforce Drug Testing Requirement.—If the Secretary of Housing and Urban Development determines that a public housing agency has substantially failed to comply with this subsection during a fiscal year, the Secretary shall reduce by 15 percent the amount otherwise provided to the agency, for the immediately succeeding fiscal year, under each of the following programs:

“(A) The public housing Capital Fund program under section 9(d) of the United States Housing Act of 1937 (42 U.S.C. 1437g(d)).

“(B) The public housing Operating Fund program under section 9(e) of the United States Housing Act of 1937 (42 U.S.C. 1437g(e)).

“(C) All programs for rental housing assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

“(6) Use of Housing Assistance Amounts for Testing.—Notwithstanding any other provision of law, amounts made available under the following
provisions of law may be used for costs of testing individuals for controlled substances for purposes of compliance with this section, as follows:

“(A) Amounts made available under the public housing Operating Fund program under section 9(e) of the United States Housing Act of 1937 (42 U.S.C. 1437g(e)) may be used for such testing for residents of, and applicants for residency in, public housing.

“(B) Amounts made available to a public housing agency for administrative fees under section 8(q) of the United States Housing Act of 1937 (42 U.S.C. 1437f(q)) may be used for such testing for individuals on behalf of whom rental assistance under such section is provided by the agency and applicants for such assistance.

“(C) Amounts made available for project-based rental assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) may be used for such testing for residents of, and applicants for residency in, dwelling units in housing projects for which such assistance is provided.
“(7) Definitions.—For purposes of this subsection, the following definitions shall apply:

“(A) Applicable administrative entity.—The term ‘applicable administrative entity’ means—

“(i) a public housing agency, with respect to covered housing assistance administered by such agency; and

“(ii) the Secretary, with respect to project-based rental assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

“(B) Controlled substance.—The term ‘controlled substance’ means, with respect to an individual, a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802) that is not used by such individual pursuant to a valid prescription or as otherwise authorized by law.

“(C) Covered housing assistance.—The term ‘covered housing assistance’ means financial assistance made available pursuant to the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.).
“(D) Drug-related offense.—The term ‘drug-related offense’ means any criminal offense under State or Federal law relating to the manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance.

“(E) Substance abuse screening.—The term ‘substance abuse screening’ means an interview, questionnaire, or other screening instrument approved by the applicable administrative entity that is designed to be used to determine whether an individual has a high risk of abuse of a controlled substance.

“(8) Other provisions of law.—This subsection may not be construed to affect the applicability of any provision of section 576 or 577 of the Quality Housing and Work Responsibility Act of 1998 (42 U.S.C. 13661, 13662) or of sections 6(l), 8(o)(7), or 16(f) of the United States Housing Act of 1937 (42 U.S.C. 1437n(f)), except that the Secretary of Housing and Urban Development shall ensure that any standards or lease provisions established pursuant to such sections are consistent with this subsection.”
(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar month that begins after the 240-day period that begins with the date of the enactment of this Act.