

117TH CONGRESS
1ST SESSION

H. R. 3678

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 1, 2021

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 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Drug Testing for Wel-
5 fare Recipients Act”.

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

4 (a) PROHIBITION.—Section 408(a) of the Social Se-
5 curity Act (42 U.S.C. 608(a)) is amended by adding at
6 the end the following:

7 “(13) NO ASSISTANCE FOR INDIVIDUALS WHO
8 FAIL DRUG SCREENING OR TESTING OR ARE NOT
9 SCREENED OR TESTED FOR DRUG USE.—

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

15 “(i) the State makes a determination,
16 in a manner the State considers appro-
17 priate, of whether the individual has or has
18 not been arrested for a drug-related of-
19 fense during the 5-year period immediately
20 preceding the date on which the determina-
21 tion is made;

22 “(ii) in the case of an individual who
23 is determined by the State to have been ar-
24 rested for a drug-related offense during the
25 5-year period provided in clause (i), the in-
26 dividual tests negative for not less than 1

1 controlled substance, as specified by the
2 State, in such manner and at such times
3 as the State determines to be appropriate;
4 and

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

10 “(I) completes substance abuse
11 screening in such manner and at such
12 times as the State considers appro-
13 priate; and

14 “(II)(aa) is determined pursuant
15 to such screening not to have a high
16 risk of abuse of a controlled sub-
17 stance; or

18 “(bb) is determined pursuant to
19 such screening to have a high risk of
20 abuse of a controlled substance and
21 tests negative for not less than 1 con-
22 trolled substance, as specified by the
23 State, in such manner and at such
24 times as the State determines to be
25 appropriate.

1 “(B) EFFECT OF FAILING DRUG TEST.—In
2 the case of an individual who tests positive for
3 a controlled substance pursuant to subpara-
4 graph (A)(ii) or (A)(iii)(II)(bb), a State shall
5 not provide assistance under the State program
6 funded under this part for the individual for a
7 period beginning on the date on which the State
8 determines that the test result is positive and
9 ending on the latest of—

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

13 “(ii) the date on which the individual
14 successfully completes a treatment pro-
15 gram for each controlled substance for
16 which the individual tested positive; or

17 “(iii) the date on which the individual
18 tests negative for each such controlled sub-
19 stance, in such manner and at such times
20 as the State determines to be appropriate.

21 “(C) RESPONSIBILITY FOR TESTING AND
22 SCREENING.—

23 “(i) MANNER AND TIME.—A State
24 may provide for testing and screening pur-
25 suant to paragraph (1), and retesting and

1 rescreening pursuant to paragraph (2), in
2 such manner and at such times as the
3 State agency considers appropriate.

4 “(ii) COSTS.—A State may not re-
5 quire an individual to pay the cost of test-
6 ing or screening conducted pursuant to
7 this paragraph.

8 “(D) NO EFFECT ON ASSISTANCE FOR
9 OTHER FAMILY MEMBERS.—The amount of as-
10 sistance payable for a family member of an in-
11 dividual for whom assistance is denied pursuant
12 to this paragraph shall not be affected by the
13 denial.

14 “(E) DEFINITIONS.—In this paragraph:

15 “(i) CONTROLLED SUBSTANCE.—The
16 term ‘controlled substance’ means, with re-
17 spect to an individual, any controlled sub-
18 stance as defined in section 102 of the
19 Controlled Substances Act (21 U.S.C. 802)
20 that is not used by such individual pursu-
21 ant to a valid prescription or as otherwise
22 authorized by law.

23 “(ii) DRUG-RELATED OFFENSE.—The
24 term ‘drug-related offense’ means any
25 criminal offense under State or Federal

1 law relating to the manufacture, sale, dis-
2 tribution, use, or possession with intent to
3 manufacture, sell, distribute, or use, of a
4 controlled substance.

5 “(iii) SUBSTANCE ABUSE SCREEN-
6 ING.—The term ‘substance abuse screen-
7 ing’ means an interview, questionnaire, or
8 other screening instrument approved by
9 the State, that is designed to be used to
10 determine whether an individual has a high
11 risk of abuse of a controlled substance.”.

12 (b) PENALTY.—

13 (1) IN GENERAL.—Section 409(a) of such Act
14 (42 U.S.C. 609(a)) is amended by adding at the end
15 the following:

16 “(17) FAILURE TO CONDITION RECEIPT OF
17 BENEFITS ON PASSING DRUG TESTING OR SCREEN-
18 ING.—If the Secretary determines that a State to
19 which a grant is made under section 403 for a fiscal
20 year has substantially failed to comply with section
21 408(a)(13) during the fiscal year, the Secretary
22 shall reduce the grant payable to the State under
23 section 403 for the immediately succeeding fiscal
24 year by an amount equal to 15 percent of the State
25 family assistance grant.”.

1 eligible to participate in such program only if before
2 such assistance is provided with respect to such indi-
3 vidual—

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

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

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

21 “(i) completes substance abuse screen-
22 ing, in such manner and at such times as
23 the State considers appropriate; and

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

4 “(II) is determined pursuant to such
5 screening to have a high risk of abuse of
6 a controlled substance and tests negative
7 for not less than 1 controlled substance, as
8 specified by the State, in such manner and
9 at such times as the State considers appro-
10 prium.

11 “(2) EFFECT OF A POSITIVE DRUG TEST RE-
12 SULT.—If an individual tests positive for a con-
13 trolled substance pursuant to paragraph (1), such
14 assistance may not be provided with respect to such
15 individual for a period beginning on the date on
16 which the State agency determines that the test re-
17 sult is positive and ending on the latest of—

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

21 “(B) the date on which such individual
22 successfully completes a treatment program for
23 each controlled substance for which the indi-
24 vidual tested positive pursuant to paragraph
25 (1); and

1 “(C) the date by which the test result for
2 such individual is not positive for each con-
3 trolled substance for which the individual tested
4 positive pursuant to paragraph (1).

5 “(3) RESPONSIBILITY FOR TESTING AND
6 SCREENING.—

7 “(A) The State agency may provide for
8 testing and screening pursuant to paragraph
9 (1), and retesting and rescreening pursuant to
10 paragraph (2), in such manner and at such
11 times as the State agency considers appro-
12 priate.

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

17 “(4) DEFINITIONS.—For purposes of this sub-
18 section:

19 “(A) CONTROLLED SUBSTANCE.—The
20 term ‘controlled substance’ means a controlled
21 substance as defined in section 102 of the Con-
22 trolled Substances Act (21 U.S.C. 802) that is
23 not used by the tested individual pursuant to a
24 valid prescription or as otherwise authorized by
25 law.

1 “(B) DRUG-RELATED OFFENSE.—The
2 term ‘drug-related offense’ means any criminal
3 offense under State or Federal law relating to
4 the manufacture, sale, distribution, use, or pos-
5 session with intent to manufacture, sell, dis-
6 tribute, or use, of a controlled substance.

7 “(C) SUBSTANCE ABUSE SCREENING.—
8 The term ‘substance abuse screening’ means an
9 interview, questionnaire, or other screening in-
10 strument approved by the State, that is de-
11 signed to be used to determine whether an indi-
12 vidual has a high risk of abuse of a controlled
13 substance.”.

14 (b) REDUCTION OF REIMBURSEMENT FOR ADMINIS-
15 TRATIVE COSTS.—Section 16 of the Food and Nutrition
16 Act of 2008 (7 U.S.C. 2025) is amended—

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

19 (2) by adding at end the following:

20 “(l) FAILURE TO ENFORCE DRUG TESTING AND
21 SCREENING REQUIREMENTS.—If the Secretary deter-
22 mines that the State agency failed substantially to enforce
23 the eligibility requirement established in section 6(t) in a
24 fiscal year, the Secretary shall reduce by 15 percent the

1 amount otherwise payable under subsection (a) to such
2 State agency for the immediately succeeding fiscal year.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect 240 days after the date of
5 the enactment of this Act.

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

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

12 “(j) PROHIBITION OF HOUSING ASSISTANCE FOR IN-
13 DIVIDUALS WHO FAIL DRUG SCREENING OR TESTING OR
14 ARE NOT SCREENED OR TESTED.—

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

21 “(A) the applicable administrative entity
22 makes a determination, in a manner the entity
23 considers appropriate, of whether the individual
24 has or has not been arrested for a drug-related
25 offense during the 5-year period immediately

1 preceding the date on which the determination
2 is made;

3 “(B) in the case of an individual who is de-
4 termined by the applicable administrative entity
5 to have been arrested for a drug-related offense
6 during the 5-year period provided in subpara-
7 graph (A), the individual tests negative for each
8 controlled substance that the entity has deter-
9 mined to be appropriate for testing; and

10 “(C) in the case of an individual who is de-
11 termined by the applicable administrative entity
12 not to have been arrested for a drug-related of-
13 fense during the 5-year period provided in
14 clause (i), the individual—

15 “(i) completes substance abuse screen-
16 ing in such manner and at such times as
17 the entity considers appropriate; and

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

21 “(II) is determined pursuant to such
22 screening to have a high risk of abuse of
23 a controlled substance and tests negative
24 for each controlled substance that the enti-

1 ty has determined to be appropriate for
2 testing.

3 The applicable administrative entity shall determine
4 that not less than 1 controlled substance, as speci-
5 fied by the entity, is appropriate for testing for pur-
6 poses of this paragraph.

7 “(2) EFFECT OF FAILING DRUG TEST.—If an
8 individual tests positive for a controlled substance
9 pursuant to paragraph (1)(B) or (1)(C)(ii)(II), cov-
10 ered housing assistance may not be provided with re-
11 spect to such individual for the period beginning on
12 the date on which the applicable administrative enti-
13 ty determines that the test result is positive and
14 ending on the latest of—

15 “(A) the date that is 12 months after the
16 date on which the applicable administrative en-
17 tity determines that the test result is positive;

18 “(B) the date on which the individual suc-
19 cessfully completes a treatment program for
20 each controlled substance for which the indi-
21 vidual tested positive; and

22 “(C) the date on which the individual tests
23 negative for each such controlled substance, in
24 such manner and at such times as the applica-

1 ble administrative entity determines to be ap-
2 propriate.

3 “(3) RESPONSIBILITY FOR TESTING AND
4 SCREENING.—

5 “(A) MANNER AND TIME.—An applicable
6 administrative entity may provide for testing
7 and screening pursuant to paragraph (1), and
8 retesting and rescreening pursuant to para-
9 graph (2), in such manner and at such times as
10 the entity determines to be appropriate.

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

15 “(4) PRORATION OF FINANCIAL ASSISTANCE.—
16 If an individual for whose benefit covered housing
17 assistance is prohibited pursuant to this subsection
18 is a member of family that includes at least one
19 other member whose eligibility under this subsection
20 for such assistance has been affirmatively estab-
21 lished pursuant to testing under this subsection, cov-
22 ered housing assistance made available to such fam-
23 ily shall be prorated, based on the number of indi-
24 viduals in the family for whom eligibility under this
25 subsection for such assistance has been affirmatively

1 established pursuant to testing under this subsection
2 as compared with the total number of individuals
3 who are members of the family.

4 “(5) FAILURE TO ENFORCE DRUG TESTING RE-
5 QUIREMENT.—If the Secretary of Housing and
6 Urban Development determines that a public hous-
7 ing agency has substantially failed to comply with
8 this subsection during a fiscal year, the Secretary
9 shall reduce by 15 percent the amount otherwise
10 provided to the agency, for the immediately suc-
11 ceeding fiscal year, under each of the following pro-
12 grams:

13 “(A) The public housing Capital Fund pro-
14 gram under section 9(d) of the United States
15 Housing Act of 1937 (42 U.S.C. 1437g(d)).

16 “(B) The public housing Operating Fund
17 program under section 9(e) of the United
18 States Housing Act of 1937 (42 U.S.C.
19 1437g(e)).

20 “(C) All programs for rental housing as-
21 sistance under section 8 of the United States
22 Housing Act of 1937 (42 U.S.C. 1437f).

23 “(6) USE OF HOUSING ASSISTANCE AMOUNTS
24 FOR TESTING.—Notwithstanding any other provision
25 of law, amounts made available under the following

1 provisions of law may be used for costs of testing in-
2 dividuals for controlled substances for purposes of
3 compliance with this section, as follows:

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

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

18 “(C) Amounts made available for project-
19 based rental assistance under section 8 of the
20 United States Housing Act of 1937 (42 U.S.C.
21 1437f) may be used for such testing for resi-
22 dents of, and applicants for residency in, dwell-
23 ing units in housing projects for which such as-
24 sistance is provided.

1 “(7) DEFINITIONS.—For purposes of this sub-
2 section, the following definitions shall apply:

3 “(A) APPLICABLE ADMINISTRATIVE ENTI-
4 TY.—The term ‘applicable administrative entity’
5 means—

6 “(i) a public housing agency, with re-
7 spect to covered housing assistance admin-
8 istered by such agency; and

9 “(ii) the Secretary, with respect to
10 project-based rental assistance under sec-
11 tion 8 of the United States Housing Act of
12 1937 (42 U.S.C. 1437f).

13 “(B) CONTROLLED SUBSTANCE.—The
14 term ‘controlled substance’ means, with respect
15 to an individual, a controlled substance as de-
16 fined in section 102 of the Controlled Sub-
17 stances Act (21 U.S.C. 802) that is not used by
18 such individual pursuant to a valid prescription
19 or as otherwise authorized by law.

20 “(C) COVERED HOUSING ASSISTANCE.—
21 The term ‘covered housing assistance’ means fi-
22 nancial assistance made available pursuant to
23 the United States Housing Act of 1937 (42
24 U.S.C. 1437 et seq.).

1 “(D) DRUG-RELATED OFFENSE.—The
2 term ‘drug-related offense’ means any criminal
3 offense under State or Federal law relating to
4 the manufacture, sale, distribution, use, or pos-
5 session with intent to manufacture, sell, dis-
6 tribute, or use, of a controlled substance.

7 “(E) SUBSTANCE ABUSE SCREENING.—
8 The term ‘substance abuse screening’ means an
9 interview, questionnaire, or other screening in-
10 strument approved by the applicable adminis-
11 trative entity that is designed to be used to de-
12 termine whether an individual has a high risk
13 of abuse of a controlled substance.

14 “(8) OTHER PROVISIONS OF LAW.—This sub-
15 section may not be construed to affect the applica-
16 bility of any provision of section 576 or 577 of the
17 Quality Housing and Work Responsibility Act of
18 1998 (42 U.S.C. 13661, 13662) or of sections 6(l),
19 8(o)(7), or 16(f) of the United States Housing Act
20 of 1937 (42 U.S.C. 1437n(f)), except that the Sec-
21 retary of Housing and Urban Development shall en-
22 sure that any standards or lease provisions estab-
23 lished pursuant to such sections are consistent with
24 this subsection.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall take effect on the first day of the first
3 calendar month that begins after the expiration of the
4 240-day period beginning on the date of the enactment
5 of this Act.

○