**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 43‑5‑1187 AND ARTICLE 11 TO CHAPTER 5, TITLE 43 SO AS TO REQUIRE APPLICANTS FOR AND RECIPIENTS OF BENEFITS UNDER THE FAMILY INDEPENDENCE PROGRAM AND THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM WHOM THE DEPARTMENT OF SOCIAL SERVICES (DSS) REASONABLY SUSPECTS ARE ENGAGED IN THE ILLEGAL USE OF A CONTROLLED SUBSTANCE TO UNDERGO A DRUG TEST AS A CONDITION OF ELIGIBILITY TO RECEIVE THOSE BENEFITS, WITH EXCEPTIONS, TO PROVIDE THAT AN INDIVIDUAL WHO TESTS POSITIVE FOR THE USE OF A CONTROLLED SUBSTANCE IN VIOLATION OF STATE OR FEDERAL LAW IS INELIGIBLE TO RECEIVE CERTAIN BENEFITS FOR AN ESTABLISHED PERIOD OF TIME, UNLESS THE PERSON SUCCESSFULLY COMPLETES A SUBSTANCE ABUSE TREATMENT PROGRAM OR MEETS OTHER EXCEPTIONS, TO REQUIRE DSS TO CONTRACT WITH THE SOUTH CAROLINA DEPARTMENT OF ALCOHOL AND OTHER DRUG ABUSE SERVICES TO PROVIDE CERTAIN SERVICES, TO ESTABLISH CRITERIA FOR DETERMINING WHETHER REASONABLE SUSPICION EXISTS TO REQUIRE DRUG SCREENING AND TESTING, AND FOR OTHER PURPOSES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 9, Chapter 5, Title 43 of the 1976 Code is amended by adding:

“Section 43‑5‑1187. (A) Notwithstanding another provision of law, the department shall require a drug test to screen an individual applying for or receiving FI benefits whom the department reasonably suspects is engaged in the illegal use of a controlled substance.

(B) The department shall provide notice of drug testing to each applicant or recipient. The notice must advise the applicant or recipient that drug screening, and testing if there is reasonable suspicion that an individual is engaged in the illegal use of a controlled substance, will be conducted as a condition of receiving FI benefits and that the results of any drug test will remain confidential and will not be released to law enforcement. The notice also must advise the applicant or recipient that an individual who tests positive for the use of a controlled substance in violation of state or federal law is ineligible to receive FI benefits as well as any other public assistance and unemployment compensation benefits. The cost of an initial drug test pursuant to this section is the responsibility of the department. Dependent children under the age of eighteen are exempt from the requirements of this section. The department shall:

(1) require, for two‑parent households, both parents to comply with the requirements of this section;

(2) require a teen parent who is emancipated to comply with the requirements of this section;

(3) advise each applicant or recipient before drug testing of the right to inform the agent administering the test of any prescription or over‑the‑counter medication he is taking;

(4) advise each applicant or recipient who fails a drug test of the right to take one or more additional tests at his own expense;

(5) require each applicant or recipient being tested to sign a written acknowledgement that he has received and understands the notice and advice provided pursuant to this subsection; and

(6) provide each applicant or recipient who fails a drug test information regarding substance abuse, substance abuse counseling, and substance abuse treatment options, including a list of substance abuse treatment programs that may be available to the individual.

(C)(1) An applicant or recipient who undergoes a drug test pursuant to this section and tests positive for use of a controlled substance in violation of state or federal law is ineligible to receive FI benefits for one year from the date of the positive drug test, except as provided in items (2) and (3). The individual may reapply after one year. However, if the individual has a subsequent positive drug test, the individual is ineligible for FI benefits for three years from the date of the subsequent positive drug test, except as provided in items (2) and (3).

(2) An applicant or recipient deemed ineligible pursuant to item (1) may reapply for FI benefits after the expiration of thirty days from the date of the positive drug test if the individual can document either the successful completion of or the current satisfactory participation in a substance abuse treatment program offered by a provider pursuant to subsection (E). The applicant or recipient who reapplies for FI benefits after successful completion of a substance abuse program must pass a drug test. The cost of any drug testing and substance abuse program provided pursuant to subsection (E) is the responsibility of the individual being tested and receiving treatment. An applicant or recipient who reapplies for FI benefits pursuant to this subsection may reapply only one time.

(3) An applicant or recipient deemed ineligible pursuant to item (1) may reapply for FI benefits after the expiration of thirty days from the date of the positive drug test if a qualified professional in substance abuse or a physician certified by the American Society of Addiction Medicine determines a substance abuse program is not appropriate for the individual and that individual has passed a subsequent drug test. The cost of any drug test provided pursuant to this item is the responsibility of the individual being tested. An applicant or recipient who reapplies for FI benefits pursuant to this item may reapply only one time.

(4) An applicant or recipient who undergoes a drug test pursuant to this section and tests positive for use of a controlled substance in violation of state or federal law also is ineligible as provided for FI benefits in item (1) to receive any other public assistance administered by the State or an entity on behalf of the State including, but not limited to, assistance pursuant to Chapters 1, 3, 5, and 7, Title 43, energy assistance through Low Income Home Energy Assistance Program (LIHEAP), post‑secondary education need‑based grants pursuant to Section 59‑142‑10, ABC Voucher Program childcare subsidies, and public housing and housing choice vouchers, and unemployment compensation benefits pursuant to Chapter 35, Title 41.

(D) The department shall promulgate regulations and adopt guidelines pertaining to:

(1) the screening of applicants and recipients pursuant to this section, including approved screening tools such as the Drug Abuse Screening Test (DAST);

(2) the testing of applicants and recipients pursuant to this section, including approved specimen collection and laboratory testing facilities; and

(3) the successful completion of, or the satisfactory participation in, a substance abuse treatment program pursuant to subsection (C)(2), including regulations and guidelines regarding timely reporting of completion of or participation in the substance abuse treatment program.

(E) The department shall contract with the South Carolina Department of Alcohol and Other Drug Abuse Services to provide services related to specimen collection, drug testing, and substance abuse counseling and treatment.

(F) For the purposes of this section, ‘reasonable suspicion’ that an applicant for or recipient of FI benefits is engaged in the illegal use of a controlled substance may be established only by:

(1) a criminal record check conducted by the State Law Enforcement Division that discloses a conviction, arrest, or outstanding warrant relating to illegal controlled substances within the three years prior to the date the criminal record check is conducted;

(2) a screening tool relating to the use of controlled substances that yields a result indicating that the applicant or recipient may be engaged in the illegal use of a controlled substance;

(3) a determination by a qualified professional in substance abuse or a physician certified by the American Society of Addiction Medicine that an individual is addicted to an illegal controlled substance;

(4) a blood or urine test of an infant at birth that shows the presence of any amount of a controlled substance or a metabolite of a controlled substance unless the presence of the substance or the metabolite is the result of medical treatment administered to the mother of the infant; or

(5) any other screening method, as determined by the department pursuant to subsection (D).

(G) Child‑only cases are exempt from the requirements of this section.”

SECTION 2. Chapter 5, Title 43 of the 1976 Code is amended by adding:

“Article 11

Supplemental Nutrition Assistance Program

Section 43‑5‑1410. (A) For purposes of this article, ‘SNAP’ means the Supplemental Nutrition Assistance Program, which is the federal food‑purchasing assistance program for low‑ and no‑income individuals created pursuant to the Food Stamp Act of 1977.

(B) The Department of Social Services shall serve as the single state agency designated to receive SNAP funding and manage the program. The provisions of this article, regulations promulgated pursuant to this article, and department policy and procedure must be consistent with the Food Stamp Act of 1977, as amended, and with federal regulations promulgated to implement that act.

Section 43‑5‑1420. (A) Except as otherwise prohibited by federal law, the department shall require a drug test to screen an individual applying for or receiving SNAP benefits whom the department reasonably suspects is engaged in the illegal use of a controlled substance.

(B) The department shall provide notice of drug testing to each applicant or recipient. The notice must advise the applicant or recipient that drug screening, and testing if there is reasonable suspicion that an individual is engaged in the illegal use of a controlled substance, will be conducted as a condition of receiving SNAP benefits and that the results of any drug test will remain confidential and will not be released to law enforcement. The notice also must advise the applicant or recipient that an individual who tests positive for the use of a controlled substance in violation of state or federal law is ineligible to receive SNAP benefits as well as any other public assistance and unemployment compensation benefits. The cost of an initial drug test pursuant to this section is the responsibility of the department. Dependent children under the age of eighteen are exempt from the requirements of this section. The department shall:

(1) require, for two‑parent households, both parents to comply with the requirements of this section;

(2) require a teen parent who is emancipated to comply with the requirements of this section;

(3) advise each applicant or recipient before drug testing of the right to inform the agent administering the test of any prescription or over‑the‑counter medication he is taking;

(4) advise each applicant or recipient who fails a drug test of the right to take one or more additional tests at his own expense;

(5) require each applicant or recipient being tested to sign a written acknowledgement that he has received and understands the notice and advice provided pursuant to this subsection; and

(6) provide each applicant or recipient who fails a drug test information regarding substance abuse, substance abuse counseling, and substance abuse treatment options, including a list of substance abuse treatment programs that may be available to the individual.

(C)(1) An applicant or recipient who undergoes a drug test pursuant to this section and tests positive for use of a controlled substance in violation of state or federal law is ineligible to receive SNAP benefits for one year from the date of the positive drug test, except as provided in items (2) and (3). The individual may reapply after one year. However, if the individual has a subsequent positive drug test, the individual is ineligible for SNAP benefits for three years from the date of the subsequent positive drug test, except as provided in items (2) and (3).

(2) An applicant or recipient deemed ineligible pursuant to item (1) may reapply for SNAP benefits after the expiration of thirty days from the date of the positive drug test if the individual can document either the successful completion of or the current satisfactory participation in a substance abuse treatment program offered by a provider pursuant to subsection (E). The applicant or recipient who reapplies for SNAP benefits after successful completion of a substance abuse program must pass a drug test. The cost of any drug testing and substance abuse program provided pursuant to subsection (E) is the responsibility of the individual being tested and receiving treatment. An applicant or recipient who reapplies for SNAP benefits pursuant to this subsection may reapply only one time.

(3) An applicant or recipient deemed ineligible pursuant to item (1) may reapply for SNAP benefits after the expiration of thirty days from the date of the positive drug test if a qualified professional in substance abuse or a physician certified by the American Society of Addiction Medicine determines a substance abuse program is not appropriate for the individual and that individual has passed a subsequent drug test. The cost of any drug test provided pursuant to this item is the responsibility of the individual being tested. An applicant or recipient who reapplies for SNAP benefits pursuant to this item may reapply only one time.

(4) An applicant or recipient who undergoes a drug test pursuant to this section and tests positive for use of a controlled substance in violation of state or federal law also is ineligible as provided for SNAP benefits in item (1) to receive any other public assistance administered by the State or an entity on behalf of the State including, but not limited to, assistance pursuant to Chapters 1, 3, 5, and 7, Title 43, energy assistance through Low Income Home Energy Assistance Program (LIHEAP), post‑secondary education need‑based grants pursuant to Section 59‑142‑10, ABC Voucher Program childcare subsidies, and public housing and housing choice vouchers, and unemployment compensation benefits pursuant to Chapter 35, Title 41.

(D) The department shall promulgate regulations and adopt guidelines pertaining to:

(1) the screening of applicants and recipients pursuant to this section, including approved screening tools such as the Drug Abuse Screening Test (DAST);

(2) the testing of applicants and recipients pursuant to this section, including approved specimen collection and laboratory testing facilities; and

(3) the successful completion of, or the satisfactory participation in, a substance abuse treatment program pursuant to subsection (C)(2), including regulations and guidelines regarding timely reporting of completion of or participation in the substance abuse treatment program.

(E) The department shall contract with the South Carolina Department of Alcohol and Other Drug Abuse Services to provide services related to specimen collection, drug testing, and substance abuse counseling and treatment.

(F) For the purposes of this section, ‘reasonable suspicion’ that an applicant for or recipient of SNAP benefits is engaged in the illegal use of a controlled substance may be established only by:

(1) a criminal record check conducted by the State Law Enforcement Division that discloses a conviction, arrest, or outstanding warrant relating to illegal controlled substances within the three years prior to the date the criminal record check is conducted;

(2) a screening tool relating to the use of controlled substances that yields a result indicating that the applicant or recipient may be engaged in the illegal use of a controlled substance;

(3) a determination by a qualified professional in substance abuse or a physician certified by the American Society of Addiction Medicine that an individual is addicted to an illegal controlled substance;

(4) a blood or urine test of an infant at birth that shows the presence of any amount of a controlled substance or a metabolite of a controlled substance unless the presence of the substance or the metabolite is the result of medical treatment administered to the mother of the infant; or

(5) any other screening method, as determined by the department pursuant to subsection (D).”

SECTION 3. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑