
SENATE BILL NO. 298—SENATORS ROBERSON, GUSTAVSON,
SETTELMAYER; GOICOECHEA, HAMMOND, HARDY AND
HARRIS

MARCH 17, 2017

JOINT SPONSOR: ASSEMBLYMAN ELLISON

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing public assistance.
(BDR 38-844)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public assistance; requiring persons who apply for public assistance to submit to a test to detect the presence of a controlled substance; requiring a person who receives public assistance to submit to a test to detect the presence of a controlled substance based on the reasonable suspicion of an employee of the Division of Welfare and Supportive Services of the Department of Health and Human Services that the person is a user of a controlled substance; requiring the Division to deny public assistance to a person whose test result indicates the presence of a controlled substance unless the person participates in a treatment program; providing exceptions for certain persons; providing for the confidentiality of test results; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law provides for the receipt of public assistance, including welfare and
- 2 other supportive services, for eligible persons. (Chapter 422A of NRS) This bill
- 3 requires a person who applies for public assistance to submit to an oral fluid drug
- 4 screen as a condition to the receipt of public assistance. If the result of the test
- 5 indicates the presence of a controlled substance, the person may request a urinalysis
- 6 to verify that result. As a condition to the receipt of public assistance, a person



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7 whose test indicates the presence of a controlled substance must attend a treatment
8 program and must submit to a subsequent oral fluid drug screen. Failure to submit
9 to a drug screen test or to participate in a treatment program will result in the denial
10 or termination of public assistance under the provisions of this bill. This bill also
11 requires a person who receives public assistance to submit to an oral fluid drug
12 screen if an employee of the Division of Welfare and Supportive Services of the
13 Department of Health and Human Services has reasonable suspicion to believe the
14 person is a user of a controlled substance. This bill provides an exemption to this
15 requirement for persons who are 65 years of age or older. Persons who are enrolled
16 in a substance abuse program at the time of an application for public assistance are
17 also exempt until they complete the program. If a person: (1) submits to an oral
18 fluid drug screen and the results indicate the presence of marijuana or a marijuana
19 metabolite; or (2) submits evidence that he or she is lawfully taking a controlled
20 substance, he or she may receive public assistance even though his or her test result
21 indicates the presence of that controlled substance. This bill also authorizes a
22 person whose test result indicates the presence of a controlled substance to request
23 a hearing and to rebut the result of that test.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 422A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 to 10, inclusive,
3 of this act.

4 **Sec. 2.** *As used in sections 2 to 10, inclusive, of this act,*
5 *unless the context otherwise requires, the words and terms defined*
6 *in sections 3, 4 and 5 of this act have the meanings ascribed to*
7 *them in those sections.*

8 **Sec. 3.** *“Controlled substance” has the meaning ascribed to*
9 *it in 21 U.S.C. § 802(6).*

10 **Sec. 4.** *“Oral fluid drug screen” means an analysis of saliva*
11 *that is used to detect the presence of a controlled substance.*

12 **Sec. 5.** *“Urinalysis” means a laboratory analysis of urine*
13 *that is used to detect the presence of a controlled substance.*

14 **Sec. 6.** *The provisions of sections 2 to 10, inclusive, of this*
15 *act do not apply to persons whose eligibility for public assistance is*
16 *determined in accordance with NRS 422A.345.*

17 **Sec. 7. 1.** *Except as otherwise provided in this section, as a*
18 *condition to the receipt of public assistance, a person must submit*
19 *to an oral fluid drug screen. If the result of the oral fluid drug*
20 *screen indicates the presence of a controlled substance, the person*
21 *may request a urinalysis to verify that result. The Division shall*
22 *provide for a urinalysis upon request. If the result of the urinalysis*
23 *confirms the presence of a controlled substance, the cost of the*
24 *urinalysis must be deducted from the public assistance that may*
25 *otherwise be available to the person.*



1 2. *As a condition to the receipt of public assistance, if the*
2 *result of an oral fluid drug screen or urinalysis, as applicable,*
3 *indicates the presence of a controlled substance, the person must*
4 *participate in a program for the treatment of the abuse of*
5 *controlled substances that has been approved by the Division. If*
6 *the person:*

7 (a) *Participates in such a program, the Division shall provide*
8 *public assistance to the person, if he or she is otherwise eligible,*
9 *until the result of a second test pursuant to subsection 3.*

10 (b) *Fails to participate in such a program, the Division shall*
11 *deny public assistance to the person.*

12 3. *As a condition to the receipt of public assistance, if a*
13 *person participates in a program for the treatment of the abuse of*
14 *controlled substances pursuant to subsection 2, the person must*
15 *submit to an oral fluid drug screen:*

16 (a) *Thirty business days after the date of the initial test*
17 *conducted pursuant to subsection 1; or*

18 (b) *More than 30 business days after the date of the initial test*
19 *conducted pursuant to subsection 1 as prescribed by the Division if*
20 *the Division determines that, due to the chemical structure or rate*
21 *of elimination of the applicable controlled substance or other*
22 *relevant factors, the controlled substance may still be detectable in*
23 *the person's oral fluid 30 business days after the date of the initial*
24 *test even in the absence of the use of that controlled substance.*

25 4. *If the result of an oral fluid drug screen pursuant to*
26 *subsection 3 indicates the presence of a controlled substance, the*
27 *person may request a urinalysis to verify that result. The Division*
28 *shall provide for a urinalysis upon request. If the result of the*
29 *urinalysis confirms the presence of a controlled substance, the*
30 *cost of the urinalysis must be deducted from the public assistance*
31 *that may otherwise be available to that person. If the result of the*
32 *oral fluid drug screen or urinalysis, as applicable, confirms the*
33 *presence of a controlled substance, the Division shall terminate*
34 *the public assistance.*

35 5. *The Administrator shall require the personnel of the*
36 *Division to report to him or her, as soon as practicable, any*
37 *reasonable suspicion that a person receiving public assistance is a*
38 *user of a controlled substance. The Administrator shall, as soon as*
39 *practicable, require the person to submit to an oral fluid drug*
40 *screen. If the result of the oral fluid drug screen indicates the*
41 *presence of a controlled substance, the person may request a*
42 *urinalysis to verify that result. The Division shall provide for a*
43 *urinalysis upon request. If the result of the urinalysis confirms the*
44 *presence of a controlled substance, the cost of the urinalysis must*
45 *be deducted from the public assistance that may otherwise be*



1 available to the person. If the result of an oral fluid drug screen or
2 urinalysis, as applicable, indicates the presence of a controlled
3 substance, as a condition to the continued receipt of public
4 assistance, the person must comply with subsections 2 and 3, and
5 the provisions of subsection 4 apply to the person.

6 6. If public assistance is denied or terminated pursuant to this
7 section, the person whose assistance is denied or terminated may
8 request a hearing pursuant to NRS 422A.275.

9 7. If public assistance is denied or terminated pursuant to this
10 section, the person whose assistance is denied or terminated may:

11 (a) Reapply for public assistance not earlier than 90 calendar
12 days after the denial or termination of public assistance; or

13 (b) If the person requests a hearing pursuant to NRS 422A.275
14 and the denial or termination is upheld, reapply for public
15 assistance not earlier than 90 calendar days after the date on
16 which the denial or termination of public assistance is upheld.

17 8. The Division shall not deny or terminate public assistance
18 pursuant to this section if the person applying for public
19 assistance submits:

20 (a) To an oral fluid drug screen and the result of the person's
21 test indicates the presence of marijuana or marijuana metabolite.

22 (b) Proof satisfactory to the Division that the person holds a
23 lawfully issued prescription for a controlled substance and the
24 result of the person's test indicates the presence of that controlled
25 substance.

26 9. The Division shall not require a person to submit to an
27 oral fluid drug screen pursuant to this section if the person:

28 (a) Is 65 years of age or older; or

29 (b) Submits proof satisfactory to the Division that he or she is
30 currently participating in a program for the treatment of the abuse
31 of controlled substances that has been approved by the Division.
32 As a condition to the receipt of public assistance, the person who
33 is exempt from submitting to an oral fluid drug screen pursuant to
34 this paragraph must submit to an oral fluid drug screen upon
35 completion of the program.

36 10. The Division shall not provide public assistance to a
37 person who is required to submit to an oral fluid drug screen
38 pursuant to this section if the person refuses to do so.

39 **Sec. 8. 1.** If a person submits to an oral fluid drug screen
40 pursuant to section 7 of this act and the result indicates the
41 presence of a controlled substance, the result must be confirmed
42 by an appropriate laboratory or testing facility before the Division
43 denies or terminates public assistance for that person.

44 2. The Division shall provide a person with an opportunity to
45 rebut the result of his or her oral fluid drug screen or urinalysis by



1 *providing evidence satisfactory to the Division that the result was*
2 *erroneous, including, without limitation, that the result was a false*
3 *positive.*

4 *3. The Division shall keep confidential the results of an oral*
5 *fluid drug screen or a urinalysis submitted pursuant to section 7 of*
6 *this act. Such results may not be used in a criminal proceeding*
7 *against the person who submitted to the test.*

8 *4. As used in this section, "false positive" means the result of*
9 *an oral fluid drug screen or a urinalysis which erroneously*
10 *indicates the presence of a controlled substance.*

11 **Sec. 9. 1. On or before January 1 of each year, the Division**
12 **shall prepare a written report containing statistical data about:**

13 *(a) The number of oral fluid drug screens submitted to and the*
14 *number of urinalyses requested;*

15 *(b) The number of persons with a test result pursuant to*
16 *section 7 of this act which indicates the presence of a controlled*
17 *substance other than marijuana or marijuana metabolite, reported*
18 *separately for persons submitting to an oral fluid drug screen or a*
19 *urinalysis;*

20 *(c) The number of persons who participated in a program for*
21 *the treatment of the abuse of controlled substances pursuant to*
22 *section 7 of this act;*

23 *(d) The number of persons with a test result which indicates*
24 *the presence of a controlled substance after completing a program*
25 *for the treatment of the abuse of controlled substances pursuant to*
26 *section 7 of this act;*

27 *(e) The cost of providing for oral fluid drug screens and*
28 *urinalyses pursuant to section 7 of this act; and*

29 *(f) The number of persons who are denied public assistance*
30 *and the number of persons whose public assistance is terminated*
31 *pursuant to section 7 of this act.*

32 **2. The Division shall submit the report to:**

33 *(a) In each odd-numbered year, the Director of the Legislative*
34 *Counsel Bureau for transmittal to the next regular session of the*
35 *Legislature.*

36 *(b) In each even-numbered year, the Legislative Committee on*
37 *Health Care.*

38 **Sec. 10. The Administrator may adopt regulations to carry**
39 **out the provisions of sections 2 to 10, inclusive, of this act.**

40 **Sec. 11. NRS 239.010 is hereby amended to read as follows:**

41 239.010 1. Except as otherwise provided in this section and
42 NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440,
43 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320,
44 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246,
45 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355,



1 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730,
2 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260,
3 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370,
4 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161,
5 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817,
6 130.312, 130.712, 136.050, 159.044, 172.075, 172.245, 176.015,
7 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,
8 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160,
9 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651,
10 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040,
11 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350,
12 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270,
13 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300,
14 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140,
15 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020,
16 241.030, 241.039, 242.105, 244.264, 244.335, 250.087, 250.130,
17 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195,
18 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438,
19 289.025, 289.080, 289.387, 289.830, 293.5002, 293.503, 293.558,
20 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335,
21 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420,
22 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100,
23 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610,
24 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008,
25 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259,
26 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147,
27 392.264, 392.271, 392.850, 394.167, 394.1698, 394.447, 394.460,
28 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,
29 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749,
30 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872,
31 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430,
32 432B.560, 433.534, 433A.360, 439.840, 439B.420, 440.170,
33 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665,
34 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 453.720,
35 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866,
36 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240,
37 463.3403, 463.3407, 463.790, 467.1005, 480.365, 481.063, 482.170,
38 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070,
39 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655,
40 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070,
41 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315,
42 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110,
43 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230,
44 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336,
45 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301,



1 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
2 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
3 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190,
4 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524,
5 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082,
6 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135,
7 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945,
8 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110,
9 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310,
10 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243,
11 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690,
12 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873,
13 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115,
14 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190,
15 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615,
16 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230,
17 710.159, 711.600, *and section 8 of this act*, sections 35, 38 and 41
18 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter
19 391, Statutes of Nevada 2013 and unless otherwise declared by law
20 to be confidential, all public books and public records of a
21 governmental entity must be open at all times during office hours to
22 inspection by any person, and may be fully copied or an abstract or
23 memorandum may be prepared from those public books and public
24 records. Any such copies, abstracts or memoranda may be used to
25 supply the general public with copies, abstracts or memoranda of the
26 records or may be used in any other way to the advantage of the
27 governmental entity or of the general public. This section does not
28 supersede or in any manner affect the federal laws governing
29 copyrights or enlarge, diminish or affect in any other manner the
30 rights of a person in any written book or record which is
31 copyrighted pursuant to federal law.

32 2. A governmental entity may not reject a book or record
33 which is copyrighted solely because it is copyrighted.

34 3. A governmental entity that has legal custody or control of a
35 public book or record shall not deny a request made pursuant to
36 subsection 1 to inspect or copy or receive a copy of a public book or
37 record on the basis that the requested public book or record contains
38 information that is confidential if the governmental entity can
39 redact, delete, conceal or separate the confidential information from
40 the information included in the public book or record that is not
41 otherwise confidential.

42 4. A person may request a copy of a public record in any
43 medium in which the public record is readily available. An officer,
44 employee or agent of a governmental entity who has legal custody
45 or control of a public record:



1 (a) Shall not refuse to provide a copy of that public record in a
2 readily available medium because the officer, employee or agent has
3 already prepared or would prefer to provide the copy in a different
4 medium.

5 (b) Except as otherwise provided in NRS 239.030, shall, upon
6 request, prepare the copy of the public record and shall not require
7 the person who has requested the copy to prepare the copy himself
8 or herself.

9 **Sec. 12.** The provisions of subsection 1 of NRS 218D.380 do
10 not apply to any provision of this act which adds or revises a
11 requirement to submit a report to the Legislature.

12 **Sec. 13.** This act becomes effective:

13 1. Upon passage and approval for the purpose of adopting any
14 regulations and performing any other preparatory administrative
15 tasks that are necessary to carry out the provisions of this act; and

16 2. On January 1, 2018, for all other purposes.

