

Arkansas Senate approves random drug testing for the unemployed

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On April 8, the Arkansas Senate approved a measure (25-5) that would require random drug testing of residents who receive state unemployment benefits. The bill, which has the potential to affect 85,000 residents, now passes on to a Republican-controlled House committee. The passage of this proposal follows another bill, passed the same day (19-12), which seeks to cut the maximum weekly benefits paid from \$451 to \$325.

If this measure becomes law, those seeking unemployment benefits in Arkansas will have to sign a waiver that allows for random drug testing. Any who refuse to sign, or who test positive for drug use, will be denied benefits.

The Arkansas bill's sponsor, Republican Senator Jeremy Hutchinson, called the measure an "enforcement mechanism." According to Hutchinson, those receiving unemployment are required by law to be adequately seeking employment. Since so many employers require drug tests, 80 percent according to his statement, such a measure will help produce savings.

While many of the state senators are seeking to elicit such savings, especially after the state has had to borrow federal funds to maintain benefits, opponents criticize both proposals saying that they would hurt the unemployed and their families as the state is still reeling from the financial crisis.

This follows a federal law passed in early 2012 that allows states to drug test applicants for unemployment compensation under two circumstances: if they were fired for using drugs, or if the only occupation they are suited for is one that the Department of Labor has listed as commonly requiring drug testing. While the first provision was not new, and laws in 20 states had already made such applicants ineligible, the second is

much more dubious.

George Wentworth, a senior staff attorney at the National Employment Law Project's Connecticut office, stated of the 2012 law that previously the only criteria for eligibility are fact and cause—fact being that someone is unemployed, and the cause being that it was not the fault of the applicant. Therefore, drug testing applicants violates federal law and Fourth Amendment rights which require "individualized suspicion."

Previously, the Supreme Court has permitted such testing in cases where the occupation sought constituted a "public safety" issue, such as customs agents or railroad workers. However, the 2012 federal law created a loophole, wherein sectors of the economy such as retail, where applicants are routinely tested for drugs, could also be considered under the second provision.

Measures requiring drug testing for public benefits have been held unconstitutional in the past. Last October, federal judge Mary Scriven halted Florida's program for drug testing people on public assistance. She wrote that fighting the "war on drugs" and keeping TANF (Temporary Assistance for Needy Families) funds out of the hands of the drug trade may be an important concern, but such logic could potentially "impose drug testing as an eligibility requirement for every beneficiary of every government program." She further wrote that such incursions by the government should be reserved for cases where there exists reasonable suspicion or probable cause, as suggested in the Fourth Amendment.

The case in Florida also showed no evidence that the TANF population was more likely to use drugs at a higher rate than the regular population. On the contrary, a study performed between 1999 and 2001 actually showed that only 5 percent of TANF residents tested

positive for drugs, as opposed to the 8 percent average in the rest of the population in Florida.

Ultimately, these measures and laws showcase the blaming of the unemployed for unemployment by politicians who are unable to put forth any kind of proactive jobs agenda. On a larger scale, such attacks on the working class are bound up with the drive for profit and an economic system which requires the creation of an ever more destitute working class.



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