

105TH CONGRESS  
2D SESSION

# H. RES. 503

Amending the Rules of the House of Representatives to provide for mandatory drug testing of Members, officers, and employees of the House of Representatives.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 16, 1998

Mr. BARTON of Texas (for himself, Mr. SOLOMON, and Mr. HASTERT) submitted the following resolution; which was referred to the Committee on Rules

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## RESOLUTION

Amending the Rules of the House of Representatives to provide for mandatory drug testing of Members, officers, and employees of the House of Representatives.

1       *Resolved,*

2       **SECTION 1. MANDATORY DRUG TESTING OF MEMBERS, OF-**  
3                   **FICERS, AND EMPLOYEES OF THE HOUSE OF**  
4                   **REPRESENTATIVES.**

5       (a) IN GENERAL.—The Rules of the House of Rep-  
6       resentatives are amended by adding at the end the follow-  
7       ing new Rule:

1 “RULE LII.

2 “DRUG TESTING.

3 “1. Each Member, officer, and employee of the House  
4 of Representatives shall participate in accordance with  
5 this rule in a program for testing for illegal use of con-  
6 trolled substances, and participation in the program shall  
7 be considered a condition of new and continuing employ-  
8 ment for officers and employees of the House of Rep-  
9 resentatives.

10 “2. Not later than 3 months after the date on which  
11 the resolution enacting this rule is agreed to, the Clerk  
12 of the House of Representatives shall contract with a pri-  
13 vate, nongovernmental entity to carry out the drug testing  
14 program under this rule.

15 “3. The drug testing program under this rule shall  
16 include the following features:

17 “(a) The program shall be mandatory for each  
18 Member, officer, and employee of the House of Rep-  
19 resentatives.

20 “(b) Except as otherwise provided in this rule,  
21 the program shall be conducted in accordance with  
22 the Mandatory Guidelines for Federal Workplace  
23 Drug Testing Programs, as prescribed pursuant to  
24 section 503 of the Supplemental Appropriations Act,  
25 1987 (5 U.S.C. 7301 note).

1           “(c) Members, officers, and employees of the  
2       House of Representatives shall be assigned to a pool,  
3       with one pool consisting of all Members and a sec-  
4       ond pool consisting of all officers and employees. All  
5       individuals in a pool shall be subject to random drug  
6       testing on a neutral selection basis, in an appro-  
7       priate testing frequency and ratio (as described in  
8       clause 9).

9           “(d) In addition to any methods prescribed  
10      under the Guidelines referred to in paragraph (b),  
11      the program shall provide for testing using urinal-  
12      ysis, hair testing, and other appropriate methods of  
13      testing for illegal use of controlled substances.

14          “(e) Each confirmed positive result (as de-  
15      scribed in clause 9) under the program shall be pro-  
16      vided as follows:

17               “(1) To the Member, officer, or employee  
18      involved.

19               “(2) In the case of a Member, to the Com-  
20      mittee on Standards of Official Conduct, which  
21      shall take such action as may be necessary  
22      under the Rules of the House of Representa-  
23      tives.

24               “(3) In the case of an employee of a Mem-  
25      ber, to the Member involved.

1           “(4) In the case of an employee of a com-  
2           mittee, to the Chair and ranking minority mem-  
3           ber of the committee involved.

4           “(5) In the case of an officer or employee  
5           not described in subparagraph (3) or (4), to the  
6           Speaker, Majority Leader, Majority Whip, Mi-  
7           nority Leader, and Minority Whip.

8           “(f) The final results of each test of Members  
9           shall be included in a biennial report of the Clerk of  
10          the House of Representatives and printed as a  
11          House document in October of each even-numbered  
12          year.

13          “4. (a) At the request of the supervising Member of  
14          an officer or employee of the House of Representatives,  
15          such officer or employee of the House shall be subject to  
16          a drug test under any of the following conditions:

17               “(1) Evidence exists that supports a reasonable  
18               suspicion that the officer or employee may be engag-  
19               ing in or has engaged in the illegal use of controlled  
20               substances, or is otherwise in violation of a policy of  
21               the supervising Member regarding the illegal use of  
22               controlled substances.

23               “(2) The officer or employee is participating in  
24               or has participated in a substance abuse treatment  
25               program under an employee assistance program, or

1 is otherwise receiving treatment or counseling for  
2 substance abuse.

3 “(3) The officer or employee has been involved  
4 in an incident which may have involved human error  
5 and which caused or may have caused a fatality, an  
6 injury, or significant property damage in an esti-  
7 mated amount of not less than \$200.

8 “(4) The supervising Member proposes to pro-  
9 mote the officer or employee.

10 “(5) The officer or employee is returning to em-  
11 ployment with the House of Representatives after a  
12 period of absence of not less than 6 months.

13 “(b) In paragraph (a), the term ‘supervising Member’  
14 means—

15 “(1) in the case of an employee of a Member,  
16 the Member involved;

17 “(2) in the case of an employee of a committee,  
18 the chair of the committee involved (or, in the case  
19 of an employee designated as a member of the com-  
20 mittee minority staff, the ranking minority member  
21 of the committee involved); and

22 “(3) in the case of an officer or employee not  
23 described in subparagraph (1) or (2), the Speaker of  
24 the House of Representatives.

1       “5. The Committee on Standards of Official Conduct  
2 shall publicly disclose the identity of any Member of the  
3 House of Representatives who refuses to provide a sample  
4 for testing under the program, and shall take such other  
5 action as it considers appropriate against such a Member.

6       “6. (a) No individual who is an officer or employee  
7 of the House of Representatives as of August 1, 1998,  
8 may continue serving as an officer or employee of the  
9 House after the expiration of the 180-day period which  
10 begins on the date of the adoption of this resolution unless  
11 during such period the individual executes a witnessed  
12 statement agreeing to participate in random employee  
13 drug testing pursuant to this rule.

14       “(b) No individual who is first given an offer of em-  
15 ployment by the House of Representatives on or after Au-  
16 gust 1, 1998, may be hired as an officer or employee of  
17 the House unless—

18               “(1) the individual executes a witnessed state-  
19 ment agreeing to participate in random employee  
20 drug testing pursuant to this rule if hired;

21               “(2) the individual provides a sample for drug  
22 testing pursuant to this rule; and

23               “(3) the individual’s sample does not produce a  
24 confirmed positive result.

1       “7. The Committee on House Oversight shall issue  
2 such regulations as may be necessary to fully implement  
3 the purposes of this rule.

4       “8. No officer or employee may carry out any duties  
5 with respect to the fields of national defense, foreign pol-  
6 icy, intelligence, law enforcement, or any other field involv-  
7 ing national security or public safety (as determined in  
8 accordance with regulations issued by the Committee on  
9 House Oversight) unless the officer or employee partici-  
10 pates in the drug testing program established pursuant  
11 to this rule.

12       “9. In this rule, the following definitions shall apply:

13               “(a) The term ‘appropriate testing frequency  
14 and ratio’ means a frequency and ratio of random  
15 drug tests such that—

16                       “(1) the total number of random drug  
17 tests administered in any calendar year with re-  
18 spect to each pool described in clause 3(c) shall  
19 be equal to 25 percent of the number of individ-  
20 uals in the pool;

21                       “(2) random drug tests shall be conducted  
22 on not less than 4 and not more than 6 occa-  
23 sions during any calendar year; and

24                       “(3) any individual who is selected for a  
25 random drug test during a calendar year shall

1           be placed in a pool for further random drug  
2           testing with a selection frequency rate of 50  
3           percent of the rate applicable to individuals who  
4           have not been selected for a test during the  
5           year and shall remain in this pool for the re-  
6           mainder of the calendar year without regard of  
7           the number of times that such an individual is  
8           selected for a test during the calendar year.

9           “(b) The term ‘confirmed positive result’ means  
10          a drug screen—

11                 “(1) which has initially tested as positive  
12                 for the presence of an illegal controlled sub-  
13                 stance;

14                 “(2) for which the initially positive test has  
15                 been confirmed by a second test using a dif-  
16                 ferent chemical process than the process used  
17                 for the initial test; and

18                 “(3) which has been reviewed and certified  
19                 as positive by a medical review officer with  
20                 whom the House of Representatives has entered  
21                 into a contract to perform such reviews,

22          except that such term shall not include a drug  
23          screen which shows the presence of only a legal over-  
24          the-counter drug or drug which has been legally pre-  
25          scribed for the individual involved.



1           “(c) The term ‘controlled substance’ has the  
2           meaning given that term in section 102 of the Con-  
3           trolled Substances Act (21 U.S.C. 802).

4           “(d) A ‘Member’ of the House of Representa-  
5           tives includes a Delegate or Resident Commissioner  
6           to the Congress.

7           “(e) The term ‘neutral selection basis’ means a  
8           method under which individuals are selected for ran-  
9           dom drug testing through a neutral, computer-based  
10          random number generation program that ensures  
11          that every individual in a pool described in clause  
12          3(c) has the same chance of being selected for an  
13          initial random drug test as every other individual in  
14          that pool.

15          “(f) The term ‘random drug test’ means a test  
16          conducted for the purpose of detecting the illegal use  
17          of a controlled substance which is conducted on a  
18          periodic basis, without advance notice, and without  
19          individualized suspicion.”.

20          (b) PARTICIPATION IN PROGRAM AS CONDITION OF  
21          ACCESS TO HOUSE CHAMBER.—Rule XXXII of the Rules  
22          of the House of Representatives is amended by adding at  
23          the end the following new clause:

24          “6. No officer or employee of the House of Represent-  
25          atives may be entitled to admission to the Hall of the

1 House or rooms leading thereto during a session of Con-  
2 gress unless such individual participates in the program  
3 established pursuant to rule LII for testing for the illegal  
4 use of controlled substances.”.

5 (c) CONFORMING AMENDMENT.—Rule I of the Rules  
6 of the House of Representatives is amended by striking  
7 clause 13.

8 (d) SEVERABILITY OF PROVISIONS.—If any provision  
9 of rule LII of the Rules of the House of Representatives  
10 (as added by subsection (a)) or clause 6 of rule XXXII  
11 of the Rules of the House of Representatives (as added  
12 by subsection (b)), or the application of such a provision  
13 to any person or circumstance, is held to be unconstitu-  
14 tional, the remainder of rule LII or clause 6 of rule XXXII  
15 (as the case may be), and the application of the provision  
16 to any person or circumstance, shall not be affected by  
17 the holding, and the balance of such rules shall remain  
18 in full force and effect.

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