

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1297 Session of  
2011

INTRODUCED BY EVERETT, REED, ADOLPH, AUMENT, BAKER, BARRAR, BENNINGHOFF, BOBACK, BOYD, CAUSER, CLYMER, D. COSTA, COX, CREIGHTON, CRUZ, CUTLER, DAY, DEASY, DeLUCA, DENLINGER, ELLIS, EVANKOVICH, FARRY, FLECK, GABLER, GEIST, GIBBONS, GILLEN, GILLESPIE, GINGRICH, GOODMAN, GRELL, GROVE, HAHN, HALUSKA, HARHAI, HARHART, HARRIS, HEFFLEY, HENNESSEY, HESS, HICKERNELL, HUTCHINSON, KAUFFMAN, M. K. KELLER, KNOWLES, KORTZ, KRIEGER, KULA, LAWRENCE, LONGIETTI, MAHONEY, MAJOR, MARSHALL, MARSICO, MASSER, METCALFE, METZGAR, MILLARD, MILLER, MILNE, MOUL, MURT, MUSTIO, OBERLANDER, O'NEILL, PAYNE, PEIFER, PERRY, PETRARCA, PICKETT, PYLE, QUIGLEY, QUINN, RAPP, READSHAW, REICHLEY, ROAE, ROCK, SAYLOR, SCAVELLO, SCHRODER, SIMMONS, K. SMITH, SONNEY, STEPHENS, STEVENSON, SWANGER, TALLMAN, TOEPEL, TOOHIL, VULAKOVICH, DELOZIER, MALONEY, SACCONI AND HELM, APRIL 6, 2011

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
APRIL 26, 2011

## AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An  
2 act to consolidate, editorially revise, and codify the public  
3 welfare laws of the Commonwealth," in public assistance,  
4 providing for eligibility for persons with drug-related  
5 felonies.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. The act of June 13, 1967 (P.L.31, No.21), known  
9 as the Public Welfare Code, is amended by adding a section to  
10 read:

11 Section 432.23. Eligibility for Persons with Drug-related  
12 Felonies.--(a) To the extent permitted by Federal law, a person

1 who is otherwise eligible to receive public assistance shall not  
2 be denied assistance solely because he has been convicted of a  
3 felony drug offense, provided:

4 (1) He is complying with or has already complied with the  
5 obligations imposed by the criminal court.

6 (2) He is actively engaged in or has completed a court-  
7 ordered substance abuse treatment program and participates in  
8 periodic drug screenings for five years after the drug-related  
9 conviction or for the duration of probation, whichever is of  
10 longer duration.

11 (b) Under the screening for the drug test and retest program  
12 the department shall:

13 (1) Require a recipient be scheduled to be tested if he has  
14 either a felony conviction for a drug offense which occurred  
15 within five years or a felony conviction for a drug offense for  
16 which he is presently on probation:

17 (i) An individual who is applying for public assistance is  
18 required to be tested and shall be tested at the time the  
19 application for public assistance is made.

20 (ii) A recipient already receiving public assistance as of  
21 the effective date of this section shall be scheduled to be  
22 tested in accordance with paragraph (2).

23 (2) Develop and implement a system for randomly testing no  
24 less than 20% of the individuals receiving public assistance  
25 benefits during each six-month period following the effective  
26 date of this section who are subject to testing for the presence  
27 of illegal drugs under this section.

28 (3) Deny public assistance to an individual who refuses to  
29 take the drug test or the drug retest required by this section  
30 and terminate the public assistance benefits for anyone who

1 refuses to submit to the random drug test required by this  
2 section.

3 (c) An individual who takes the drug test or retest and  
4 fails it shall be subject to the following sanctions:

5 (1) For failing a drug test or retest the first time, AN ←  
6 INDIVIDUAL SHALL BE PROVIDED AN ASSESSMENT FOR ADDICTION AND  
7 PROVIDED TREATMENT FOR ADDICTION AS INDICATED BY TREATMENT  
8 CRITERIA DEVELOPED BY THE SINGLE STATE AUTHORITY ON DRUGS AND  
9 ALCOHOL. ASSESSMENTS SHALL BE CONDUCTED BY THE SINGLE COUNTY  
10 AUTHORITY (SCA) ON DRUGS AND ALCOHOL OR DESIGNEE. TREATMENT  
11 RECOMMENDED SHALL BE PROVIDED BY FACILITIES LICENSED BY THE  
12 DIVISION OF DRUG AND ALCOHOL PROGRAM LICENSURE IN THE DEPARTMENT  
13 OF HEALTH. MEDICAID ELIGIBILITY AND DETERMINATIONS SHALL BE  
14 EXPEDITED TO ENSURE ACCESS TO ASSESSMENT AND ADDICTION TREATMENT  
15 THROUGH MEDICAID. IF THE INDIVIDUAL COOPERATES WITH THE  
16 ASSESSMENT AND TREATMENT, NO PENALTY WILL BE IMPOSED. IF THE  
17 INDIVIDUAL REFUSES TO COOPERATE WITH THE ASSESSMENT AND  
18 TREATMENT, the public assistance to which the individual is ←  
19 entitled shall be suspended for six months. The department must  
20 notify the individual of the failed drug test no later than  
21 seven days after receipt of the drug test results, and the  
22 suspension in public assistance will begin on the next scheduled  
23 distribution of public assistance and for every other  
24 distribution of public assistance until the suspension period  
25 lapses. After suspension, an individual may apply for public  
26 assistance, but shall submit to a retest.

27 (2) For failing a drug test or retest the second time, the  
28 public assistance to which the individual is entitled shall be  
29 suspended for twelve months. The department must notify the  
30 individual of the failed drug test no later than seven days

1 after receipt of the drug test results, and the suspension in  
2 public assistance shall begin on the next scheduled distribution  
3 of public assistance and for every other distribution of public  
4 assistance until the suspension period lapses. After suspension,  
5 an individual may then reapply for public assistance, but shall  
6 submit to a retest.

7 (3) For failing a drug test or retest the third time, the  
8 individual shall no longer be entitled to public assistance.

9 (d) Nothing in this section shall be construed to render  
10 applicants or recipients who fail a drug test or drug retest  
11 ineligible for:

12 (1) a Commonwealth program that pays the costs for  
13 participating in a drug treatment program;

14 (2) a medical assistance program; or

15 (3) another benefit not included within the definition of  
16 public assistance as defined under this act.

17 (e) As used in this section, the following words and phrases  
18 shall have the meanings given to them in this subsection unless  
19 the context clearly indicates otherwise:

20 "Drug offense" means an offense resulting in a conviction for  
21 the possession, use or distribution of a controlled substance,  
22 or conspiracy to commit the offense, whether the offense  
23 occurred in this Commonwealth or in another jurisdiction.

24 "Drug test" means a urinalysis, blood test or another  
25 scientific study of an individual's body which has been  
26 conclusively found to detect the presence or prior use of an  
27 illegal drug or substance and for which the accuracy has been  
28 accepted in the scientific community.

29 "Public assistance" means Temporary Assistance to Needy  
30 Families (TANF), Federal food stamps, general assistance and

1 State supplemental assistance.

2 Section 2. This act shall take effect in 60 days.