

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2715 Session of  
2012

INTRODUCED BY SIMMONS, CHRISTIANA, AUMENT, CREIGHTON, EVERETT,  
GINGRICH, HAHN, HEFFLEY, MILLARD, READSHAW AND ROCK,  
OCTOBER 17, 2012

REFERRED TO COMMITTEE ON EDUCATION, OCTOBER 17, 2012

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An  
2 act relating to the public school system, including certain  
3 provisions applicable as well to private and parochial  
4 schools; amending, revising, consolidating and changing the  
5 laws relating thereto," in preliminary provisions, further  
6 providing for definitions; and providing for screening for  
7 illegal drug use.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Section 102 of the act of March 10, 1949 (P.L.30,  
11 No.14), known as the Public School Code of 1949, is amended by  
12 adding definitions to read:

13 Section 102. Definitions.--When used in this act the  
14 following words and phrases shall have the following meanings:

15 \* \* \*

16 "Drug." A controlled substance as defined in section 2 of  
17 the act of April 14, 1972 (P.L.233, No.64), known as "The  
18 Controlled Substance, Drug, Device and Cosmetic Act."

19 "Drug retest." A repeat of a drug test.

20 "Drug test." The collection of a sample from the body of an

an individual for the purpose of determining the presence of a drug in the system of the individual.

"Drug treatment program." A public, nonprofit or other nonpublic program, which:

(1) is for the assessment, treatment and rehabilitation of individuals who use illegal drugs; and

(2) does not exceed thirty (30) days.

"Illegal drug use." The use of a drug in violation of a Federal or State statute.

\* \* \*

Section 2. The act is amended by adding a section to read:

Section 111.1 Screening for Illegal Drug Use.--(a) Applicability is as follows:

(1) Except as set forth in clause (2), this section shall apply to:

(i) all current and prospective teachers, substitutes, janitors, cafeteria workers, bus drivers and student teachers employed by a by a school district, private school, nonpublic school, intermediate unit or area vocational-technical school or by an independent contractor; and

(ii) independent contractors and their employes of a school district, private school, nonpublic school, intermediate unit or area vocational-technical school.

(2) This section shall not apply to employees and independent contractors and their employes who have no direct contact with children.

(b) Administrators of public and private schools, intermediate units and area vocational-technical schools shall require individuals in positions specified in subsection (a) to submit to periodic drug tests in accordance with regulations

1 under subsection (c).

2 (c) The State Board of Education shall, in the manner  
3 provided by law, promulgate the regulations necessary to carry  
4 out this section. The regulations shall do all of the following:

5 (1) Require each applicant for a position identified in  
6 subsection (a) to submit a report from a testing laboratory  
7 approved by the board on the results of a drug test.

8 (2) Require, on a random basis, each individual in a  
9 position specified in subsection (a) to submit a report from a  
10 testing laboratory approved by the board on the results of a  
11 drug test.

12 (3) Permit an individual to undergo a drug retest if the  
13 individual contests the results of a drug test.

14 (4) Provide for the confidentiality of drug test results  
15 obtained under this section.

16 (d) The drug test and report under subsection (c)(1):

17 (1) shall be at the expense of the individual seeking a  
18 position specified in subsection (a); and

19 (2) must be conducted and issued prior to placement of the  
20 individual in a position specified in subsection (a).

21 (e) The test and report under subsection (c)(2) shall be at  
22 the expense of the employing entity.

23 (f) The drug retest and report under subsection (c)(3) shall  
24 be at the expense of the individual taking the drug retest.

25 (g) Prohibitions are as follows:

26 (1) An individual may not begin to serve in a position  
27 specified in subsection (a) if a report of a drug test or, if  
28 applicable, a drug retest, indicates that the individual has  
29 engaged in illegal drug use.

30 (2) An individual may not continue to serve in a position

1 specified in subsection (a) if a report of a drug test or, if  
2 applicable, a drug retest, indicates that the individual has  
3 engaged in illegal drug use.

4 (h) Nothing in this section shall be construed to interfere  
5 with the ability of an employing entity to make employment,  
6 discipline or termination decisions. This subsection shall not  
7 be construed to conflict with subsection (g)

8 (i) An administrator or other person responsible for  
9 employment decisions in an employing entity that wilfully fails  
10 to comply with the provisions of this section commits a  
11 violation of this act and shall be subject to civil penalty as  
12 follows:

13 (1) The Department of Education shall have jurisdiction to  
14 determine violators of this section and may, following a  
15 hearing, assess a civil penalty not to exceed two thousand five  
16 hundred dollars (\$2,500).

17 (2) The civil penalty shall be payable to the Commonwealth.

18 (j) Definition.--As used in this section, the term "student  
19 teacher" shall have the meaning given in section 111(a.1)(3).

20 Section 3. This act shall take effect in 60 days.