

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1173 Session of 2011

INTRODUCED BY D. WHITE, JUNE 23, 2011

REFERRED TO PUBLIC HEALTH AND WELFARE, JUNE 23, 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
13 who is otherwise eligible to receive public assistance shall not
14 be denied assistance solely because he has been convicted of a
15 felony drug offense, provided:

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

18 (2) He is actively engaged in or has completed a court-
19 ordered substance abuse treatment program and participates in
20 periodic drug screenings for five years after the drug-related

conviction or for the duration of probation, whichever is of longer duration.

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

(1) Require a recipient be scheduled to be tested if he has either a felony conviction for a drug offense which occurred within five years or a felony conviction for a drug offense for which he is presently on probation. The following apply:

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

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

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

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

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

(1) For failing a drug test or retest the first time, an individual shall be provided an assessment for addiction and provided treatment for addiction as indicated by treatment criteria developed by the Single State Authority on Drugs and

Alcohol. Assessments shall be conducted by the Single County Authority (SCA) on Drugs and Alcohol or designee. Treatment recommended shall be provided by facilities licensed by the Division of Drug and Alcohol Program Licensure in the Department of Health. Medicaid eligibility and determinations shall be expedited to ensure access to assessment and addiction treatment through Medicaid. If the individual cooperates with the assessment and treatment, no penalty will be imposed. If the individual refuses to cooperate with the assessment and treatment, the public assistance shall be suspended for six months. The department must notify the individual of the failed drug test no later than seven days after receipt of the drug test results, and the suspension in public assistance will begin on the next scheduled distribution of public assistance and for every other distribution of public assistance until the suspension period lapses. After suspension, an individual may apply for public assistance, but shall submit to a retest.

(2) For failing a drug test or retest the second time, the public assistance to which the individual is entitled shall be suspended for twelve months. The department must notify the individual of the failed drug test no later than seven days after receipt of the drug test results, and the suspension in public assistance shall begin on the next scheduled distribution of public assistance and for every other distribution of public assistance until the suspension period lapses. After suspension, an individual may reapply for public assistance, but shall submit to a retest.

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

(d) Nothing in this section shall be construed to render

applicants or recipients who fail a drug test or drug retest
ineligible for:

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

(2) a medical assistance program; or

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

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

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

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

"Public assistance" means Temporary Assistance to Needy
Families (TANF), Federal food stamps, general assistance and
State supplemental assistance.

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