
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1597 Session of 2007

INTRODUCED BY CAPPELLI, ARGALL, BARRAR, BEAR, BELFANTI, BENNINGHOFF, CAUSER, CLYMER, COX, CREIGHTON, CRUZ, CUTLER, DALLY, DeLUCA, DENLINGER, EVERETT, FAIRCHILD, FLECK, GEIST, GILLESPIE, GINGRICH, GODSHALL, GRELL, HALUSKA, HARHAI, HARHART, HARRIS, HERSHEY, HESS, HICKERNELL, KAUFFMAN, M. KELLER, KILLION, KIRKLAND, MAHONEY, MAJOR, MANTZ, MARKOSEK, MARSHALL, McILHATTAN, MILLARD, R. MILLER, MILNE, MOUL, MURT, MUSTIO, NAILOR, O'NEILL, PAYNE, PEIFER, PERRY, PHILLIPS, PICKETT, PYLE, QUIGLEY, READSHAW, REED, REICHLEY, ROAE, ROHRER, SAYLOR, SCAVELLO, SONNEY, STERN, TRUE, TURZAI, VULAKOVICH, GIBBONS, BOYD, MENSCH, STAIRS, HUTCHINSON, RAPP, MARSICO, R. STEVENSON AND METCALFE, JUNE 21, 2007

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES,
JUNE 21, 2007

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," providing for the
4 screening for illegal drug use by certain applicants for
5 assistance.

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. Screening for Illegal Drug Use.--(a) The
12 department shall develop and implement a drug test and drug
13 retest program approved by the Department of Health to screen
14 applicants for and recipients of cash assistance benefits. Each

applicant or recipient over 18 years of age but under 65 years of age must meet the requirements of this section as a condition for receiving cash assistance benefits.

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

(1) Require that recipients already receiving cash assistance benefits as of the effective date of this section be scheduled to be tested at the time their request for assistance is reviewed.

(2) Develop and implement a system for randomly testing no less than 20% of the individuals receiving cash 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) Compile a list of drug treatment programs throughout this Commonwealth that are acceptable to the department in which applicants and recipients who fail the drug test or drug retest may participate without paying a fee or charge as a condition for such participation and shall take steps to develop and to encourage the development of additional programs in areas where there are limited drug treatment programs. The department shall notify each individual who fails a drug test for the presence of illegal drugs of the availability of substance abuse assistance programs in the geographical area where the individual resides.

(4) Provide advance notice or a reasonable opportunity for advance notice to each applicant for or recipient of cash assistance benefits of screening pursuant to this section advising that:

(i) a drug testing requirement is a condition for the receipt of cash assistance benefits;

1 (ii) the applicant or recipient may, but is not required to,
2 advise the administrator of the test of any prescription or
3 other over-the-counter medication that the applicant or
4 recipient takes; and

5 (iii) the required testing may be avoided by not applying
6 for or receiving cash assistance benefits.

7 The department may require each applicant and recipient to sign
8 a written acknowledgment that the applicant or recipient has
9 received and understands the notice and advice.

10 (5) Provide a procedure to assure each individual being
11 tested a reasonable degree of dignity consistent with the
12 department's need to ensure the reliability of the urine sample.

13 (6) Deny cash assistance benefits to any individual who
14 refuses to take the drug test or drug retest required by this
15 section and shall terminate the cash assistance benefits of any
16 recipient who refuses to submit to the random drug test required
17 by this section.

18 (7) Not charge applicants or recipients a fee for any drug
19 test or drug retest conducted pursuant to this section.

20 (c) Any individual who is denied cash assistance benefits or
21 whose cash assistance benefits are terminated because the
22 individual failed to pass a drug retest after failing to pass a
23 drug test shall be ineligible for cash assistance benefits for a
24 12-month period beginning with the date of the denial or
25 termination, unless a lesser period is mandated under Federal
26 law.

27 (d) (1) No applicant who fails the drug test may be
28 entitled to cash assistance benefits until the applicant passes
29 a drug retest, regardless of whether the applicant appeals the
30 test results.

1 (2) A recipient of cash assistance benefits may continue to
2 receive cash assistance benefits for a period of not more than
3 sixty days after failing a drug test if the recipient files a
4 departmental appeal of the results of the drug test within
5 fifteen days following the administration of the test. The
6 department shall decide the appeal within this sixty-day period.

7 (3) The drug test required by this subsection shall be
8 administered by the department within sixty days after the final
9 failure to pass the drug test required under this section.

10 (4) If a recipient fails a drug test, the recipient shall be
11 deemed an applicant for purposes of any drug retest provided for
12 under this section.

13 (5) Any applicant or recipient who fails a drug test shall
14 not be eligible for cash assistance benefits until the applicant
15 or recipient completes a drug treatment program approved by the
16 department, unless participation in such a program is waived in
17 accordance with subsection (e).

18 (e) (1) The department shall waive the drug treatment
19 requirement as a condition for the receipt of cash assistance
20 benefits if there is no program acceptable to the department
21 within a reasonable geographic proximity to the residence of the
22 recipient or applicant in which the applicant or recipient can
23 participate without paying a fee or charge as a condition for
24 such participation.

25 (2) This subsection shall not be construed to waive any
26 denial or termination of cash assistance benefits as a
27 consequence of failing a drug test or drug retest mandated under
28 this section.

29 (f) Nothing in this section shall be construed to render
30 applicants or recipients who fail a drug test or drug retest

ineligible for any Commonwealth program that pays their costs for participating in any drug treatment program, for any medical assistance program or for any other benefit not included within the definition of cash assistance as defined under this act.

(g) Testing under this section shall be limited solely to the detection of the use of illegal drugs and shall not be conducted or used for any other purpose. The department shall not develop or implement any procedure designed to advise law enforcement authorities as to whether an applicant or recipient has failed a screening test under this section.

(h) The department shall submit an annual report on the screening testing program to the President pro tempore of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives and the Minority Leader of the House of Representatives. The report shall include the number of individuals tested, the illegal drugs tested for, the number of individuals who failed drug tests and drug retests and the costs associated with the testing.

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

"Cash assistance benefits" means cash benefits authorized under the Federal temporary assistance to needy families program or authorized as general assistance as provided for in section 432(3).

"Drug" or "illegal drug" means a controlled substance as defined in section 2 of the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act."

"Drug test" or "drug retest" means a test that involves the

1 collection of a urine sample for the purpose of determining the
2 presence of drugs.

3 "Drug treatment program" means a public, nonprofit or other
4 nonpublic program for the assessment, treatment and
5 rehabilitation of persons who use illegal drugs which shall not
6 exceed thirty days for purposes of this section.

7 "Drug use" or "illegal drug use" means the use of drugs in
8 violation of the act of April 14, 1972 (P.L.233, No.64), known
9 as "The Controlled Substance, Drug, Device and Cosmetic Act," or
10 any other law.

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