

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 719 Session of 2011

INTRODUCED BY WOZNIAK, KASUNIC, D. WHITE, VOGEL, WARD, SOLOBAY,
M. WHITE, ORIE AND ALLOWAY, FEBRUARY 28, 2011

REFERRED TO PUBLIC HEALTH AND WELFARE, FEBRUARY 28, 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," 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
15 applicant or recipient over eighteen years of age but under
16 sixty-five years of age must meet the requirements of this
17 section as a condition for receiving cash assistance benefits.

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

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

5 (2) Develop and implement a system for randomly testing no
6 less than 5% of the individuals receiving cash assistance
7 benefits during each six-month period following the effective
8 date of this section who are subject to testing for the presence
9 of illegal drugs under this section.

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

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

16 (ii) the required testing may be avoided by not applying for
17 or receiving cash assistance benefits.

18 The department may require each applicant and recipient to sign
19 a written acknowledgment that the applicant or recipient has
20 received and understands the notice and advice.

21 (4) Deny cash assistance benefits to any individual who
22 refuses to take the drug test or drug retest required by this
23 section and shall terminate the cash assistance benefits of any
24 recipient who refuses to submit to the random drug test required
25 by this section.

26 (c) Any individual who is denied cash assistance benefits or
27 whose cash assistance benefits are terminated because the
28 individual failed to pass a drug retest after failing to pass a
29 drug test shall be ineligible for cash assistance benefits for a
30 twelve-month period beginning with the date of the denial or

1 termination, unless a lesser period is mandated under Federal
2 law.

3 (d) (1) No applicant who fails the drug test may be
4 entitled to cash assistance benefits until the applicant passes
5 a drug retest, regardless of whether the applicant appeals the
6 test results.

7 (2) A recipient of cash assistance benefits may continue to
8 receive cash assistance benefits for a period of not more than
9 sixty days after failing a drug test if the recipient files a
10 departmental appeal of the results of the drug test within
11 fifteen days following the administration of the test. The
12 department shall decide the appeal within this sixty-day period.

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

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

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

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

28 "Cash assistance benefits" means cash benefits authorized
29 under the Federal temporary assistance to needy families
30 program, authorized as general assistance as provided for in

1 section 432(3) or benefits authorized under a medical assistance
2 program of the Commonwealth.

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

7 "Drug test" or "drug retest" means a test that involves the
8 collection of a urine sample for the purpose of determining the
9 presence of drugs.

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

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

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