

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 AND DELOZIER, APRIL 6, 2011

REFERRED TO COMMITTEE ON HEALTH, APRIL 6, 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

1 be denied assistance solely because he has been convicted of a
2 felony drug offense, provided:

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

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

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

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

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

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

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

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

1 section.

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

4 (1) For failing a drug test or retest the first time, the
5 public assistance to which the individual is entitled shall be
6 suspended for six months. The department must notify the
7 individual of the failed drug test no later than seven days
8 after receipt of the drug test results, and the suspension in
9 public assistance will begin on the next scheduled distribution
10 of public assistance and for every other distribution of public
11 assistance until the suspension period lapses. After suspension,
12 an individual may apply for public assistance, but shall submit
13 to a retest.

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

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

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

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

1 (2) a medical assistance program; or
2 (3) another benefit not included within the definition of
3 public assistance as defined under this act.

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

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

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

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

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