

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 375 Session of 2013

INTRODUCED BY KRIEGER, METZGAR, CUTLER, GINGRICH, EMRICK,
 TALLMAN, STEPHENS, TRUITT, BLOOM, COX, RAPP, AUMENT, KNOWLES,
 KAUFFMAN, DUNBAR, C. HARRIS, BOBACK, SWANGER, FLECK, REESE,
 F. KELLER, HICKERNELL, MILLARD, READSHAW, MARSICO,
 EVANKOVICH, KORTZ, GROVE, HESS, MOUL, MILLER, DENLINGER,
 MILNE, DELUCA, GILLEN, PEIFER, GABLER AND GRELL,
 JANUARY 29, 2013

REFERRED TO COMMITTEE ON HEALTH, JANUARY 29, 2013

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 further providing for eligibility for persons with drug-
 5 related felonies.

6 WHEREAS, The General Assembly has the responsibility to
 7 prevent and deter the misuse of taxpayer-funded welfare
 8 benefits, an issue uniquely within the purview of the General
 9 Assembly as the body most representative of the people of this
 10 Commonwealth; and

11 WHEREAS, A person's participation in welfare programs is
 12 optional and conditioned on accepting the terms set by the
 13 General Assembly; and

14 WHEREAS, No one has a right or legal claim to taxpayer-funded
 15 welfare benefits; and

16 WHEREAS, Welfare must be a temporary bridge to help citizens
 17 join the workforce and achieve self-sufficiency; and

1 WHEREAS, The participation in the illegal drug trade is a
2 substantial barrier to a welfare recipient returning to the work
3 force; and

4 WHEREAS, The General Assembly finds and declares that the
5 intent of this legislation is:

6 (1) To ensure taxpayer-funded welfare benefits are not
7 used to purchase illicit drugs.

8 (2) To reduce the illegal drug trade, which causes
9 substantial damage to the social, moral and financial fabric
10 of this Commonwealth.

11 (3) To discourage the use of illicit drugs.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Section 432.24 of the act of June 13, 1967
15 (P.L.31, No.21), known as the Public Welfare Code, added June
16 30, 2011 (P.L.89, No.22), is amended to read:

17 Section 432.24. [Eligibility for Persons with Drug-related
18 Felonies] Screening for Illegal Drug Use.--(a) To the extent
19 permitted by Federal law, [a person who is otherwise eligible to
20 receive public assistance shall not be denied assistance solely
21 because he has been convicted of a felony drug offense,
22 provided:

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

25 (2) He is actively engaged in or has completed a court-
26 ordered substance abuse treatment program and participates in
27 periodic drug screenings for five years after the drug-related
28 conviction or for the duration of probation, whichever is of
29 longer duration] the department shall develop and implement a
30 drug test and drug retest program to screen applicants for and

1 recipients of public assistance. Each applicant or recipient
2 eighteen years of age or older and less than sixty-five years of
3 age must meet the requirements of this section as a condition
4 for receiving public assistance.

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

7 (1) Require a recipient be scheduled to be tested [if he has
8 either a felony conviction for a drug offense which occurred
9 within five years or a felony conviction for a drug offense for
10 which he is presently on probation] subject to the following
11 conditions:

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

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

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

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

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

30 (1) For failing a drug test or retest the first time[, an

1 individual shall be provided an assessment for addiction and
2 provided treatment for addiction as indicated by treatment
3 criteria developed by the Single State Authority on Drugs and
4 Alcohol. Assessments shall be conducted by the Single County
5 Authority (SCA) on Drugs and Alcohol or a designee. Treatment
6 recommended shall be provided by facilities licensed by the
7 Division of Drug and Alcohol Program Licensure in the Department
8 of Health. Medicaid eligibility and determinations shall be
9 expedited to ensure access to assessment and addiction treatment
10 through Medicaid. If the individual cooperates with the
11 assessment and treatment, no penalty will be imposed. If the
12 individual refuses to cooperate with the assessment and
13 treatment,] the public assistance shall be suspended for six
14 months. The department must notify the individual of the failed
15 drug test no later than seven days after receipt of the drug
16 test results, and the suspension in public assistance will begin
17 on the next scheduled distribution of public assistance and for
18 every other distribution of public assistance until the
19 suspension period lapses. After suspension, an individual may
20 apply for public assistance, but shall submit to a retest.

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

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

3 (c.1) During the time that an applicant or recipient is
4 under a sanction under subsection (c), the department shall
5 appoint a protective payee to receive public assistance on
6 behalf of the children of the applicant or recipient.

7 (c.2) The department shall keep all results of the drug test
8 or retest confidential to all parties, including law
9 enforcement, except as required by a subpoena or court order.

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

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

15 (2) a medical assistance program; or

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

18 [(e) Notwithstanding any other provision in this section,
19 the department shall, in its sole discretion, determine when it
20 is cost effective to implement the provisions of this section.

21 (f) Within six months of the effective date of this section,
22 the department shall submit a written report detailing the
23 department's determination whether it is cost effective to
24 implement the provisions of this section. Nothing in this
25 section shall prohibit the department from implementation of
26 this program prior to the issuance of the report. The report
27 shall be submitted to the Governor, the General Assembly, the
28 chairperson and minority chairperson of the Public Health and
29 Welfare Committee of the Senate, the chairperson and minority
30 chairperson of the Health Committee of the House of

1 Representatives and the Inspector General.]

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

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

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

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

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