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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2151 Session of  
2018

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INTRODUCED BY METZGAR, DUNBAR, MILLARD, TOPPER, KAUFFMAN,  
PICKETT, CAUSER, KNOWLES, TALLMAN, SNYDER, WARD, SIMMONS,  
REESE, A. HARRIS, SAYLOR, MOUL, MARSICO, SACCONI, GROVE,  
STAATS, GILLEN, ZIMMERMAN, COX, FARRY, GABLER AND WARNER,  
MARCH 19, 2018

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REFERRED TO COMMITTEE ON HEALTH, MARCH 19, 2018

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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 public  
8 assistance benefits, an issue uniquely within the purview of the  
9 General Assembly as the body most representative of the people  
10 of this Commonwealth; and

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

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

16 WHEREAS, Public assistance must be a temporary bridge to help  
17 citizens join the work force and achieve self-sufficiency; and

18 WHEREAS, The participation in the illegal drug trade is a

1 substantial barrier to a public assistance recipient returning  
2 to the work force; and

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

5 (1) To ensure taxpayer-funded public assistance benefits  
6 are not used to purchase illicit drugs.

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

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

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

13 Section 1. Section 432.24 of the act of June 13, 1967  
14 (P.L.31, No.21), known as the Human Services Code, is amended to  
15 read:

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

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

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

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

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

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

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

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

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

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

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

29 (1) For failing a drug test or retest the first time, [an  
30 individual shall be provided an assessment for addiction and

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

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

30 (3) For failing a drug test or retest the third time, the

1 individual shall no longer be entitled to public assistance.

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

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

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

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

14 (2) a medical assistance program; or

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

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

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

1 (f.1) Within six months of the effective date of this  
2 subsection, the department shall submit a written report  
3 detailing the department's activities with respect to  
4 implementing the provisions of this section. The report shall be  
5 submitted to the Governor, the General Assembly, the chairperson  
6 and minority chairperson of the Health and Human Services  
7 Committee of the Senate, the chairperson and minority  
8 chairperson of the Health Committee of the House of  
9 Representatives and the Inspector General.

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

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

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

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

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