

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 222 Session of 2015

INTRODUCED BY REGAN, SACCONI, BAKER, PICKETT, MILLARD, BARRAR, LONGIETTI, JAMES, REESE, BOBACK, D. COSTA, SAYLOR, TOEPEL, KNOWLES, TOPPER, KAUFFMAN, SANKEY, EMRICK, GABLER, HICKERNELL, A. HARRIS, O'NEILL, BARBIN, READSHAW, MAJOR, MURT, FEE, ZIMMERMAN, MASSER, TALLMAN, MARSICO, DeLUCA, KORTZ, PEIFER, DAY, GILLEN, SIMMONS, METCALFE, TRUITT, MOUL, ROZZI AND PHILLIPS-HILL, JANUARY 27, 2015

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, FEBRUARY 10, 2016

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 prohibiting eligibility for individuals convicted of drug
5 distribution.

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~~ HUMAN SERVICES Code, is amended by adding <--
10 a section to read:

11 ~~Section 432.25. Eligibility for Individuals Convicted of~~ <--
12 ~~Drug Distribution. (a) No individual who, after the effective~~
13 ~~date of this section, has been convicted of any of the following~~
14 ~~while receiving Temporary Assistance to Needy Families (TANF),~~
15 ~~the Supplemental Nutrition Assistance Program (SNAP), general~~
16 ~~assistance or State supplemental assistance shall be eligible~~

1 ~~for TANF, Federal food stamps, general assistance or State~~
2 ~~supplemental assistance:~~

3 ~~(1) A violation of section 13(a)(30) of the act of April 14,~~
4 ~~1972 (P.L.233, No.64), known as "The Controlled Substance, Drug,~~
5 ~~Device and Cosmetic Act," the violation of which is punishable~~
6 ~~by 10 years or more in prison.~~

7 ~~(2) A violation of section 13(a)(38)(ii) of "The Controlled~~
8 ~~Substance, Drug, Device and Cosmetic Act."~~

9 ~~(3) A violation for which 18 Pa.C.S. § 7508 (relating to~~
10 ~~drug trafficking sentencing and penalties) prescribes a sentence~~
11 ~~of five years or more in prison.~~

12 ~~(b) Subsection (a) shall not apply to benefits which are~~
13 ~~afforded to the minor children of those individuals who are~~
14 ~~denied eligibility to receive benefits under subsection (a).~~

15 SECTION 432.25. ELIGIBILITY FOR INDIVIDUALS CONVICTED OF <--
16 DRUG DISTRIBUTION.--(A) (1) NOTWITHSTANDING SECTIONS 405.1 AND
17 432.24, NO INDIVIDUAL WHO, AFTER THE EFFECTIVE DATE OF THIS
18 SECTION, HAS BEEN CONVICTED UNDER SECTION 13(A)(14), (30) OR
19 (37) OF THE ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS
20 "THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT," WHEN
21 THE AMOUNT OF CONTROLLED SUBSTANCES INVOLVED IS EQUIVALENT TO OR
22 GREATER THAN THE AMOUNT OF CONTROLLED SUBSTANCES SET FORTH IN 18
23 PA.C.S. § 7508(A)(1)(III), (2)(III), (3)(III), (4)(III), (7)
24 (III) OR (8)(III) (RELATING TO DRUG TRAFFICKING SENTENCING AND
25 PENALTIES) WHILE RECEIVING PUBLIC ASSISTANCE SHALL BE ELIGIBLE
26 FOR PUBLIC ASSISTANCE UNLESS:

27 (I) THE INDIVIDUAL IS COMPLYING WITH OR HAS ALREADY COMPLIED
28 WITH THE OBLIGATIONS IMPOSED BY THE CRIMINAL COURT; AND

29 (II) THE INDIVIDUAL IS ACTIVELY ENGAGED IN OR HAS COMPLETED
30 A COURT-ORDERED SUBSTANCE ABUSE TREATMENT PROGRAM AND

1 PARTICIPATES IN PERIODIC DRUG TESTS FOR TEN YEARS AFTER THE
2 DRUG-RELATED CONVICTION OR FOR THE DURATION OF PROBATION,
3 WHICHEVER IS OF LONGER DURATION.

4 (2) UPON A SECOND OR SUBSEQUENT CONVICTION UNDER SECTION
5 13(A) (14), (30) OR (37) OF "THE CONTROLLED SUBSTANCE, DRUG,
6 DEVICE AND COSMETIC ACT," WHEN THE AMOUNT OF CONTROLLED
7 SUBSTANCES INVOLVED IS EQUIVALENT TO OR GREATER THAN THE AMOUNT
8 OF CONTROLLED SUBSTANCES SET FORTH IN 18 PA.C.S. § 7508 (A) (1)
9 (III), (2) (III), (3) (III), (4) (III), (7) (III) OR (8) (III), THE
10 INDIVIDUAL SHALL NO LONGER BE ELIGIBLE FOR PUBLIC ASSISTANCE.

11 (B) AN INDIVIDUAL WHO TAKES A DRUG TEST PURSUANT TO
12 SUBSECTION (A) (1) (II) AND FAILS THE TEST SHALL BE SUBJECT TO THE
13 FOLLOWING SANCTIONS:

14 (1) FOR FAILING A DRUG TEST THE FIRST TIME, AN INDIVIDUAL
15 SHALL BE PROVIDED AN ASSESSMENT FOR ADDICTION AND PROVIDED
16 TREATMENT FOR ADDICTION AS INDICATED BY TREATMENT CRITERIA
17 DEVELOPED BY THE SINGLE STATE AUTHORITY ON DRUGS AND ALCOHOL.
18 ASSESSMENTS SHALL BE CONDUCTED BY THE SINGLE COUNTY AUTHORITY
19 (SCA) ON DRUGS AND ALCOHOL OR A DESIGNEE. TREATMENT RECOMMENDED
20 SHALL BE PROVIDED BY FACILITIES LICENSED BY THE DIVISION OF DRUG
21 AND ALCOHOL PROGRAM LICENSURE IN THE DEPARTMENT OF DRUG AND
22 ALCOHOL PROGRAMS. MEDICAID ELIGIBILITY AND DETERMINATIONS SHALL
23 BE EXPEDITED TO ENSURE ACCESS TO ASSESSMENT AND ADDICTION
24 TREATMENT THROUGH MEDICAID. IF THE INDIVIDUAL COOPERATES WITH
25 THE ASSESSMENT AND TREATMENT, NO PENALTY SHALL BE IMPOSED. IF
26 THE INDIVIDUAL REFUSES TO COOPERATE WITH THE ASSESSMENT AND
27 TREATMENT, THE PUBLIC ASSISTANCE SHALL BE SUSPENDED FOR SIX
28 MONTHS. THE DEPARTMENT MUST NOTIFY THE INDIVIDUAL OF THE FAILED
29 DRUG TEST NO LATER THAN SEVEN DAYS AFTER RECEIPT OF THE DRUG
30 TEST RESULTS, AND THE SUSPENSION IN PUBLIC ASSISTANCE WILL BEGIN

1 ON THE NEXT SCHEDULED DISTRIBUTION OF PUBLIC ASSISTANCE AND FOR
2 EVERY OTHER DISTRIBUTION OF PUBLIC ASSISTANCE UNTIL THE
3 SUSPENSION PERIOD LAPSES. AFTER SUSPENSION, AN INDIVIDUAL MAY
4 APPLY FOR PUBLIC ASSISTANCE, BUT SHALL SUBMIT TO A RETEST.

5 (2) FOR FAILING A DRUG TEST OR RETEST THE SECOND TIME, THE
6 INDIVIDUAL SHALL NO LONGER BE ENTITLED TO PUBLIC ASSISTANCE.

7 (C) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO RENDER
8 APPLICANTS OR RECIPIENTS WHO FAIL A DRUG TEST OR DRUG RETEST
9 INELIGIBLE FOR:

10 (1) A COMMONWEALTH PROGRAM THAT PAYS THE COSTS FOR
11 PARTICIPATING IN A DRUG TREATMENT PROGRAM;

12 (2) A MEDICAL ASSISTANCE PROGRAM; OR

13 (3) ANOTHER BENEFIT NOT INCLUDED WITHIN THE DEFINITION OF
14 PUBLIC ASSISTANCE AS DEFINED UNDER SUBSECTION (F).

15 (D) NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION, THE
16 DEPARTMENT SHALL, IN ITS SOLE DISCRETION, DETERMINE WHEN IT IS
17 COST EFFECTIVE TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

18 (E) THIS SECTION SHALL NOT APPLY TO BENEFITS WHICH ARE
19 AFFORDED TO THE MINOR CHILDREN OF THOSE INDIVIDUALS WHO ARE
20 DENIED ELIGIBILITY TO RECEIVE PUBLIC ASSISTANCE BENEFITS UNDER
21 SUBSECTION (A).

22 (F) AS USED IN THIS SECTION, THE TERM "PUBLIC ASSISTANCE"
23 MEANS TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF), GENERAL
24 ASSISTANCE AND STATE SUPPLEMENTAL ASSISTANCE.

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