

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0448.01 Brita Darling x2241

HOUSE BILL 12-1046

HOUSE SPONSORSHIP

Sonnenberg,

SENATE SPONSORSHIP

Brophy,

House Committees

Health and Environment
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING REQUIRING DRUG TESTING AS A CONDITION OF**
102 **ELIGIBILITY FOR THE COLORADO WORKS PROGRAM, AND, IN**
103 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill requires a person applying for assistance through the Colorado works program (works program) to take a drug test for the presence of controlled substances as a condition of eligibility for assistance. If an applicant fails the drug test, the applicant may reapply for

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

assistance 1 year after the date of the drug test. However, a person may reapply after 6 months if the person successfully completes a substance abuse treatment program.

The applicant is required to pay the cost of the drug test. If the applicant passes the drug test, the applicant's initial assistance will be increased by the cost of the drug test.

The dependent child of an applicant who fails the drug test shall still be eligible to receive assistance, but the county department of human services will be required to approve a protective payee to receive the assistance on behalf of the dependent child. The protective payee will also need to pass the drug test.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-18-114 as
3 follows:

4 **24-18-114. Mandatory drug testing - disclosure.** THE
5 GOVERNOR, LIEUTENANT GOVERNOR, SECRETARY OF STATE, TREASURER,
6 ATTORNEY GENERAL, AND MEMBERS OF THE GENERAL ASSEMBLY SHALL
7 ANNUALLY SUBMIT TO A DRUG TEST FOR CONTROLLED SUBSTANCES AND
8 SHALL BEAR THE COST OF THE DRUG TESTING. FOR PURPOSES OF THIS
9 SECTION, "CONTROLLED SUBSTANCES" MEANS A SUBSTANCE, A DRUG, OR
10 AN IMMEDIATE PRECURSOR INCLUDED IN SCHEDULES I TO V OF PART 2 OF
11 PART 2 OF ARTICLE 18 OF TITLE 18, C.R.S., AND ANY "ALCOHOL
12 BEVERAGE" AS DEFINED IN SECTION 12-47-103 (2), C.R.S.

13 **SECTION 2.** In Colorado Revised Statutes, 26-2-706, **amend**
14 (1.5) (h) and (1.5) (i); and **add** (1.5) (j) as follows:

15 **26-2-706. Target populations.** (1.5) To participate in the
16 Colorado works program, an applicant or person shall:

17 (h) Provide verification of earned income received in the thirty
18 days immediately prior to the date of application; ~~and~~

19 (i) Provide verification of pregnancy, if applicable; AND

1 (j) SATISFY THE REQUIREMENT OF SECTION 26-2-706.3 RELATING
2 TO DRUG SCREENING OF APPLICANTS FOR THE WORKS PROGRAM.

3 **SECTION 3.** In Colorado Revised Statutes, **add** 26-2-706.3 as
4 follows:

5 **26-2-706.3. Drug screening - applicants for works program -**
6 **rules.** (1) AN APPLICANT FOR THE WORKS PROGRAM SHALL BE REQUIRED
7 TO TAKE A DRUG TEST AS A CONDITION OF ELIGIBILITY FOR ASSISTANCE
8 THROUGH THE WORKS PROGRAM. THE PERSON BEING TESTED IS
9 RESPONSIBLE FOR THE COST OF DRUG TESTING. EXCEPT AS PROVIDED IN
10 SUBSECTION (4) OF THIS SECTION, A PERSON WHO TESTS POSITIVE FOR
11 CONTROLLED SUBSTANCES AS A RESULT OF A DRUG TEST REQUIRED
12 PURSUANT TO THIS SECTION IS INELIGIBLE TO RECEIVE ASSISTANCE FOR
13 ONE YEAR AFTER THE DATE OF THE POSITIVE DRUG TEST.

14 (2) THE COUNTY DEPARTMENT SHALL PROVIDE NOTICE OF DRUG
15 TESTING TO EACH PERSON AT THE TIME THE PERSON APPLIES FOR THE
16 WORKS PROGRAM. THE NOTICE SHALL INFORM THE PERSON THAT:

17 (a) AS A CONDITION OF RECEIVING ASSISTANCE THROUGH THE
18 WORKS PROGRAM, EACH PERSON SHALL BE REQUIRED TO BE TESTED FOR
19 CONTROLLED SUBSTANCES;

20 (b) THE PERSON MUST BEAR THE COST OF DRUG TESTING; EXCEPT
21 THAT IF THE PERSON TESTS NEGATIVE, THE PERSON'S INITIAL ASSISTANCE
22 PAYMENT SHALL BE INCREASED BY AN AMOUNT EQUAL TO THE COST OF
23 THE DRUG TESTING;

24 (c) DEPENDENT CHILDREN UNDER EIGHTEEN YEARS OF AGE ARE
25 NOT REQUIRED TO TAKE A DRUG TEST;

26 (d) IF THE PERSON DOES NOT APPLY FOR ASSISTANCE THROUGH THE
27 WORKS PROGRAM, THE DRUG-TESTING REQUIREMENT IS AVOIDED; AND

1 (e) IF THE PERSON IS A PARENT WHO TESTS POSITIVE FOR
2 CONTROLLED SUBSTANCES, THE PARENT'S DEPENDENT CHILD REMAINS
3 ELIGIBLE FOR ASSISTANCE. HOWEVER, PURSUANT TO THE PROVISIONS OF
4 SUBSECTION (5) OF THIS SECTION, A PROTECTIVE PAYEE WILL BE
5 DESIGNATED TO RECEIVE THE ASSISTANCE FOR THE DEPENDENT CHILD.

6 (3) THE DRUG-TESTING PROGRAM PURSUANT TO THIS SECTION
7 SHALL:

8 (a) REQUIRE THAT, FOR TWO-PARENT FAMILIES, BOTH PARENTS
9 COMPLY WITH THE DRUG-TESTING REQUIREMENT;

10 (b) REQUIRE THAT ANY UNMARRIED PARENT UNDER EIGHTEEN
11 YEARS OF AGE WHO IS NOT REQUIRED TO LIVE WITH A PARENT OR
12 SPECIFIED CARETAKER IN AN ADULT-SUPERVISED HOME PURSUANT TO
13 SECTION 26-2-706 (2) (b) COMPLY WITH THE DRUG-TESTING
14 REQUIREMENT;

15 (c) REQUIRE THAT ANY PARENT OR SPECIFIED CARETAKER WHO IS
16 INCLUDED IN THE ASSISTANCE UNIT, INCLUDING A PERSON WHO MAY BE
17 EXEMPT FROM WORK ACTIVITY REQUIREMENTS UNDER THE WORKS
18 PROGRAM, COMPLY WITH THE DRUG-TESTING REQUIREMENT;

19 (d) ADVISE EACH PERSON OF THE APPROVED SITES FOR DRUG
20 TESTING;

21 (e) ADVISE EACH PERSON TESTED, BEFORE THE TEST IS
22 CONDUCTED, THAT HE OR SHE MAY, BUT IS NOT REQUIRED TO, ADVISE THE
23 AGENT ADMINISTERING THE DRUG TEST OF ANY PRESCRIPTION OR
24 OVER-THE-COUNTER MEDICATION HE OR SHE IS TAKING;

25 (f) REQUIRE EACH PERSON PRIOR TO BEING TESTED TO SIGN A
26 WRITTEN ACKNOWLEDGMENT THAT HE OR SHE HAS RECEIVED AND
27 UNDERSTANDS THE NOTICE AND ADVICE PROVIDED PURSUANT TO

1 PARAGRAPH (e) OF THIS SUBSECTION (3) AND SUBSECTION (2) OF THIS
2 SECTION;

3 (g) ASSURE EACH PERSON TESTED A REASONABLE DEGREE OF
4 DIGNITY WHILE PRODUCING AND SUBMITTING A SAMPLE FOR DRUG
5 TESTING, CONSISTENT WITH THE STATE'S NEED TO ENSURE RELIABILITY OF
6 THE SAMPLE;

7 (h) SPECIFY THE CRITERIA FOR A POSITIVE TEST RESULT AND THE
8 CIRCUMSTANCES UNDER WHICH A PERSON WHO TESTS POSITIVE FOR A
9 CONTROLLED SUBSTANCE HAS THE RIGHT TO TAKE ONE OR MORE
10 ADDITIONAL TESTS;

11 (i) INFORM A PERSON WHO TESTS POSITIVE FOR A CONTROLLED
12 SUBSTANCE AND IS INELIGIBLE TO RECEIVE ASSISTANCE THROUGH THE
13 WORKS PROGRAM THAT HE OR SHE MAY REAPPLY FOR ASSISTANCE ONE
14 YEAR AFTER THE DATE OF THE POSITIVE DRUG TEST UNLESS THE PERSON
15 MEETS THE REQUIREMENTS OF SUBSECTION (4) OF THIS SECTION. IF, UPON
16 APPLICATION AFTER A YEAR HAS ELAPSED, THE PERSON AGAIN TESTS
17 POSITIVE FOR A CONTROLLED SUBSTANCE, THE PERSON IS INELIGIBLE TO
18 RECEIVE ASSISTANCE THROUGH THE WORKS PROGRAM FOR A PERIOD OF
19 THREE YEARS AFTER THE DATE OF THE SECOND POSITIVE DRUG TEST
20 UNLESS THE PERSON MEETS THE REQUIREMENTS OF SUBSECTION (4) OF
21 THIS SECTION.

22 (j) PROVIDE A PERSON WHO TESTS POSITIVE FOR CONTROLLED
23 SUBSTANCES WITH A LIST OF ADDICTION COUNSELORS LICENSED OR
24 CERTIFIED PURSUANT TO PART 8 OF ARTICLE 43 OF TITLE 12, C.R.S., IN THE
25 AREA IN WHICH HE OR SHE RESIDES AND INFORM THE PERSON THAT
26 NEITHER THE STATE DEPARTMENT NOR THE COUNTY DEPARTMENT IS
27 RESPONSIBLE FOR PROVIDING OR PAYING FOR SUBSTANCE ABUSE

1 TREATMENT AS PART OF THE DRUG SCREENING REQUIRED PURSUANT TO
2 THIS SECTION.

3 (4) A PERSON DENIED ASSISTANCE THROUGH THE WORKS PROGRAM
4 AS A RESULT OF TESTING POSITIVE FOR CONTROLLED SUBSTANCES
5 PURSUANT TO THE DRUG SCREENING REQUIRED PURSUANT TO THIS
6 SECTION MAY REAPPLY FOR ASSISTANCE SIX MONTHS AFTER THE POSITIVE
7 DRUG TEST IF THE PERSON CAN DOCUMENT THAT HE OR SHE SUCCESSFULLY
8 COMPLETED A SUBSTANCE ABUSE TREATMENT PROGRAM WITH AN
9 ADDICTION COUNSELOR LICENSED OR CERTIFIED PURSUANT TO PART 8 OF
10 ARTICLE 43 OF TITLE 12, C.R.S. A PERSON REAPPLYING AFTER
11 SUCCESSFULLY COMPLETING A SUBSTANCE ABUSE TREATMENT PROGRAM
12 MUST PASS A DRUG TEST AS REQUIRED PURSUANT TO SUBSECTION (1) OF
13 THIS SECTION. THE PERSON BEING TESTED OR RECEIVING TREATMENT IS
14 RESPONSIBLE FOR THE COST OF DRUG TESTING AND SUBSTANCE ABUSE
15 TREATMENT. A PERSON FAILING A DRUG TEST PURSUANT TO SUBSECTION
16 (1) OF THIS SECTION IS ELIGIBLE TO REAPPLY UNDER THE PROVISIONS OF
17 THIS SUBSECTION (4) ONLY ONCE.

18 (5) (a) IF A PARENT IS INELIGIBLE FOR ASSISTANCE AS A RESULT OF
19 FAILING A DRUG TEST PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE
20 DEPENDENT CHILD'S ELIGIBILITY FOR ASSISTANCE THROUGH THE WORKS
21 PROGRAM IS NOT AFFECTED.

22 (b) THE PARENT MAY DESIGNATE AN APPROPRIATE PROTECTIVE
23 PAYEE TO RECEIVE ASSISTANCE FOR THE BENEFIT OF THE DEPENDENT
24 CHILD. THE DESIGNATED PERSON MUST BE AN IMMEDIATE FAMILY MEMBER
25 OR ANOTHER INDIVIDUAL APPROVED BY THE COUNTY DEPARTMENT. THE
26 DESIGNATED PERSON MUST COMPLY WITH THE DRUG-TESTING
27 REQUIREMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION BEFORE

1 BEING APPROVED BY THE COUNTY DEPARTMENT OR RECEIVING
2 ASSISTANCE ON BEHALF OF THE DEPENDANT CHILD.

3 (6) THE STATE DEPARTMENT SHALL PROMULGATE ANY RULES
4 NECESSARY FOR THE EFFECTIVE AND UNIFORM APPLICATION OF THE
5 DRUG-TESTING REQUIREMENT FOR ALL APPLICANTS FOR THE WORKS
6 PROGRAM.

7 **SECTION 4. Appropriation.** In addition to any other
8 appropriation, there is hereby appropriated, out of any moneys in the
9 general fund not otherwise appropriated, to the department of human
10 services, for the fiscal year beginning July 1, 2012, the sum of \$219,520,
11 or so much thereof as may be necessary, for allocation to the office of
12 information technology services for the Colorado benefits management
13 system related to the implementation of this act.

14 (2) In addition to any other appropriation, there is hereby
15 appropriated to the governor - lieutenant governor - state planning and
16 budgeting, for the fiscal year beginning July 1, 2012, the sum of
17 \$219,520, or so much thereof as may be necessary, for allocation to the
18 office of information technology, for the provision of computer center
19 services for the department of human services related to the
20 implementation of this act. Said sum is from reappropriated funds
21 received from the department of human services out of the appropriation
22 made in subsection (1) of this section.

23 **SECTION 5. Act subject to petition - effective date.** This act
24 takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly (August
26 7, 2012, if adjournment sine die is on May 9, 2012); except that, if a
27 referendum petition is filed pursuant to section 1 (3) of article V of the

1 state constitution against this act or an item, section, or part of this act
2 within such period, then the act, item, section, or part will not take effect
3 unless approved by the people at the general election to be held in
4 November 2012 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.