

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0448.01 Brita Darling x2241

HOUSE BILL 12-1046

HOUSE SPONSORSHIP

Sonnenberg,

SENATE SPONSORSHIP

Brophy,

House Committees
Health and Environment

Senate Committees

A BILL FOR AN ACT

101 CONCERNING REQUIRING DRUG TESTING AS A CONDITION OF
102 ELIGIBILITY FOR THE COLORADO WORKS PROGRAM.

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 assistance 1 year after the date of the drug test. However, a person may

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.

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, 26-2-706, **amend**
3 (1.5) (h) and (1.5) (i); and **add** (1.5) (j) as follows:

4 **26-2-706. Target populations.** (1.5) To participate in the
5 Colorado works program, an applicant or person shall:

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

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

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

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

13 **26-2-706.3. Drug screening - applicants for works program -**
14 **rules.** (1) AN APPLICANT FOR THE WORKS PROGRAM SHALL BE REQUIRED
15 TO TAKE A DRUG TEST AS A CONDITION OF ELIGIBILITY FOR ASSISTANCE
16 THROUGH THE WORKS PROGRAM. THE PERSON BEING TESTED IS
17 RESPONSIBLE FOR THE COST OF DRUG TESTING. EXCEPT AS PROVIDED IN
18 SUBSECTION (4) OF THIS SECTION, A PERSON WHO TESTS POSITIVE FOR
19 CONTROLLED SUBSTANCES AS A RESULT OF A DRUG TEST REQUIRED
20 PURSUANT TO THIS SECTION IS INELIGIBLE TO RECEIVE ASSISTANCE FOR

1 ONE YEAR AFTER THE DATE OF THE POSITIVE DRUG TEST.

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

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

8 (b) THE PERSON MUST BEAR THE COST OF DRUG TESTING; EXCEPT
9 THAT IF THE PERSON TESTS NEGATIVE, THE PERSON'S INITIAL ASSISTANCE
10 PAYMENT SHALL BE INCREASED BY AN AMOUNT EQUAL TO THE COST OF
11 THE DRUG TESTING;

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

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

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

21 (3) THE DRUG-TESTING PROGRAM PURSUANT TO THIS SECTION
22 SHALL:

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

25 (b) REQUIRE THAT ANY UNMARRIED PARENT UNDER EIGHTEEN
26 YEARS OF AGE WHO IS NOT REQUIRED TO LIVE WITH A PARENT OR
27 SPECIFIED CARETAKER IN AN ADULT-SUPERVISED HOME PURSUANT TO

1 SECTION 26-2-706 (2) (b) COMPLY WITH THE DRUG-TESTING
2 REQUIREMENT;

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

7 (d) ADVISE EACH PERSON OF THE APPROVED SITES FOR DRUG
8 TESTING;

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

13 (f) REQUIRE EACH PERSON PRIOR TO BEING TESTED TO SIGN A
14 WRITTEN ACKNOWLEDGMENT THAT HE OR SHE HAS RECEIVED AND
15 UNDERSTANDS THE NOTICE AND ADVICE PROVIDED PURSUANT TO
16 PARAGRAPH (e) OF THIS SUBSECTION (3) AND SUBSECTION (2) OF THIS
17 SECTION;

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

22 (h) SPECIFY THE CRITERIA FOR A POSITIVE TEST RESULT AND THE
23 CIRCUMSTANCES UNDER WHICH A PERSON WHO TESTS POSITIVE FOR A
24 CONTROLLED SUBSTANCE HAS THE RIGHT TO TAKE ONE OR MORE
25 ADDITIONAL TESTS;

26 (i) INFORM A PERSON WHO TESTS POSITIVE FOR A CONTROLLED
27 SUBSTANCE AND IS INELIGIBLE TO RECEIVE ASSISTANCE THROUGH THE

1 WORKS PROGRAM THAT HE OR SHE MAY REAPPLY FOR ASSISTANCE ONE
2 YEAR AFTER THE DATE OF THE POSITIVE DRUG TEST UNLESS THE PERSON
3 MEETS THE REQUIREMENTS OF SUBSECTION (4) OF THIS SECTION. IF, UPON
4 APPLICATION AFTER A YEAR HAS ELAPSED, THE PERSON AGAIN TESTS
5 POSITIVE FOR A CONTROLLED SUBSTANCE, THE PERSON IS INELIGIBLE TO
6 RECEIVE ASSISTANCE THROUGH THE WORKS PROGRAM FOR A PERIOD OF
7 THREE YEARS AFTER THE DATE OF THE SECOND POSITIVE DRUG TEST
8 UNLESS THE PERSON MEETS THE REQUIREMENTS OF SUBSECTION (4) OF
9 THIS SECTION.

10 (j) PROVIDE A PERSON WHO TESTS POSITIVE FOR CONTROLLED
11 SUBSTANCES WITH A LIST OF ADDICTION COUNSELORS LICENSED OR
12 CERTIFIED PURSUANT TO PART 8 OF ARTICLE 43 OF TITLE 12, C.R.S., IN THE
13 AREA IN WHICH HE OR SHE RESIDES AND INFORM THE PERSON THAT
14 NEITHER THE STATE DEPARTMENT NOR THE COUNTY DEPARTMENT IS
15 RESPONSIBLE FOR PROVIDING OR PAYING FOR SUBSTANCE ABUSE
16 TREATMENT AS PART OF THE DRUG SCREENING REQUIRED PURSUANT TO
17 THIS SECTION.

18 (4) A PERSON DENIED ASSISTANCE THROUGH THE WORKS PROGRAM
19 AS A RESULT OF TESTING POSITIVE FOR CONTROLLED SUBSTANCES
20 PURSUANT TO THE DRUG SCREENING REQUIRED PURSUANT TO THIS
21 SECTION MAY REAPPLY FOR ASSISTANCE SIX MONTHS AFTER THE POSITIVE
22 DRUG TEST IF THE PERSON CAN DOCUMENT THAT HE OR SHE SUCCESSFULLY
23 COMPLETED A SUBSTANCE ABUSE TREATMENT PROGRAM WITH AN
24 ADDICTION COUNSELOR LICENSED OR CERTIFIED PURSUANT TO PART 8 OF
25 ARTICLE 43 OF TITLE 12, C.R.S. A PERSON REAPPLYING AFTER
26 SUCCESSFULLY COMPLETING A SUBSTANCE ABUSE TREATMENT PROGRAM
27 MUST PASS A DRUG TEST AS REQUIRED PURSUANT TO SUBSECTION (1) OF

1 THIS SECTION. THE PERSON BEING TESTED OR RECEIVING TREATMENT IS
2 RESPONSIBLE FOR THE COST OF DRUG TESTING AND SUBSTANCE ABUSE
3 TREATMENT. A PERSON FAILING A DRUG TEST PURSUANT TO SUBSECTION
4 (1) OF THIS SECTION IS ELIGIBLE TO REAPPLY UNDER THE PROVISIONS OF
5 THIS SUBSECTION (4) ONLY ONCE.

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

10 (b) THE PARENT MAY DESIGNATE AN APPROPRIATE PROTECTIVE
11 PAYEE TO RECEIVE ASSISTANCE FOR THE BENEFIT OF THE DEPENDENT
12 CHILD. THE DESIGNATED PERSON MUST BE AN IMMEDIATE FAMILY MEMBER
13 OR ANOTHER INDIVIDUAL APPROVED BY THE COUNTY DEPARTMENT. THE
14 DESIGNATED PERSON MUST COMPLY WITH THE DRUG-TESTING
15 REQUIREMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION BEFORE
16 BEING APPROVED BY THE COUNTY DEPARTMENT OR RECEIVING
17 ASSISTANCE ON BEHALF OF THE DEPENDANT CHILD.

18 (6) THE STATE DEPARTMENT SHALL PROMULGATE ANY RULES
19 NECESSARY FOR THE EFFECTIVE AND UNIFORM APPLICATION OF THE
20 DRUG-TESTING REQUIREMENT FOR ALL APPLICANTS FOR THE WORKS
21 PROGRAM.

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

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