

# STATE OF NEW YORK

3839--A

2017-2018 Regular Sessions

## IN SENATE

January 27, 2017

Introduced by Sens. RITCHIE, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Social Services -- recommitted to the Committee on Social Services in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to drug testing of certain public assistance applicants, prohibiting the sale or purchase of alcoholic beverages, tobacco products or lottery tickets with public assistance benefits and prohibiting use of or access to such benefits in a casino, liquor store or adult entertainment facility; and to amend the state finance law, in relation to establishing the public assistance integrity fund

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "welfare reform act".

§ 2. Subdivision 4 of section 132 of the social services law, as added by section 23 of part B of chapter 436 of the laws of 1997, paragraphs (a) and (c) as amended by chapter 214 of the laws of 1998, paragraphs (d), (e), (f) and (g) as amended by section 43-a and paragraph (i) as added by section 44 of part C of chapter 58 of the laws of 2008, is amended to read as follows:

4. (a) Investigation into ~~[the cause of]~~ the condition of a head of household or of any adult applicant ~~[or recipient and the treatment which will be helpful to such person]~~, who is under the age of sixty-five years, shall include a urine drug test screening process for ~~[alcohol and/or substance abuse]~~ illegal use of controlled substances using a standardized screening ~~[instrument]~~ process to be developed by the office of alcoholism and substance abuse services in consultation with the department of health. Such screening shall be performed by a social services district at the time of application ~~[and periodically thereafter]~~

EXPLANATION--Matter in italics (underscored) is new; matter in brackets ~~[-]~~ is old law to be omitted.

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~~er but not more frequently than every six months, unless the district has reason to believe that an applicant or recipient is abusing or dependent on alcohol or drugs, in accordance with regulations promulgated by the department]~~ at the expense of such head of household or adult applicant.

(b) When the screening process indicates that there is reason to believe that an applicant or recipient is ~~[abusing or dependent on alcohol or drugs]~~ engaged in the illegal use of a controlled substance, the social services district shall ~~[require a formal alcohol or substance abuse assessment, which may include drug testing, to be performed by an alcohol and/or substance abuse professional credentialed by the office of alcoholism and substance abuse services. The assessment may be performed directly by the district or pursuant to contract with the district]~~ immediately deny such head of household or applicant, who is under the age of sixty-five years, from receiving any public assistance benefits.

(c) The social services official shall refer applicants and recipients whom it determines are presently ineligible for public assistance benefits due to a positive drug test result and thus unable to work by reason of their need for treatment for ~~[alcohol or]~~ substance abuse ~~[based on the formal assessment]~~ to a treatment program licensed or certified by the office of alcoholism and substance abuse services or operated by the United States office of veterans affairs and determined by the social services official to meet the rehabilitation needs of the individual. When residential treatment is appropriate for a single custodial parent, the social services official shall make diligent efforts to refer the parent to a program that would allow the family to remain intact for the duration of the treatment.

(d) A person, who is under the age of sixty-five years, who fails to participate in the urine drug test screening or in the assessment shall be ineligible for public assistance. Other members of a household ~~[which includes a person who has failed to participate in the screening or assessment]~~ under the age of eighteen years shall, if otherwise eligible, receive public assistance only through ~~[safety net assistance]~~ a custodian of such assistance appointed by the social services district, if ~~[they]~~ such members are otherwise eligible for public assistance.

(e) ~~[A person referred to a treatment program pursuant to paragraph (c) of this subdivision, and the household with which he or she resides shall receive safety net assistance while the person is participating in such treatment, if the household is otherwise eligible for public assistance. If a person referred to treatment cannot participate in that treatment because treatment is not presently available, that person and the household with which he or she resides shall receive safety net assistance if the household is otherwise eligible for public assistance.]~~

(f) ~~If an applicant or recipient is required, pursuant to paragraph (c) of this subdivision, to participate in an appropriate rehabilitation program and refuses to participate in such program without good cause or leaves such program prior to completion of the program without good cause, provided that program completion shall be solely determined by the guidelines and rules of such rehabilitation program, or if an applicant or recipient has been suspended from the receipt of social security disability benefits or supplemental security income benefits by reason of noncompliance with requirements of the federal social security administration for treatment for substance abuse or alcohol abuse, the person will be disqualified from receiving public assistance as follows:~~

~~(i) for the first failure to participate in or complete the program, until the failure ceases or for forty five days, whichever period of time is longer;~~

~~(ii) for the second such failure, until the failure ceases or for one hundred twenty days, whichever period of time is longer; and~~

~~(iii) for the third and subsequent failures, until the failure ceases or for one hundred eighty days, whichever period is longer.~~

~~Good cause shall be defined in regulations by the commissioner.~~

~~The household with which the person resides shall continue to receive safety net assistance if otherwise eligible.~~

~~(g) Persons disqualified from receiving public assistance pursuant to paragraph (f) of this subdivision who would otherwise be eligible for public assistance and who return to required treatment prior to the end of the disqualification period and are receiving residential care as defined in paragraph (d) of subdivision three of section two hundred nine of this chapter shall be eligible for safety net assistance.~~

~~(h) Notwithstanding any inconsistent provision of section one hundred thirty-one of this article, if a recipient required to participate in an appropriate treatment program pursuant to paragraph (c) of this subdivision receives a personal needs allowance, such allowance shall be made as a restricted payment to the treatment program and shall be a conditional payment. If such recipient leaves the treatment program prior to the completion of such program, any accumulated personal needs allowance will be considered an overpayment and returned to the social services district which provided the personal needs allowance.~~

~~(i) Compliance with the provisions of this subdivision shall not be required as a condition of applying for or receiving medical assistance]~~

Any person who submits to a drug test pursuant to this subdivision and his or her test is negative for the illegal use of controlled substances, shall be reimbursed by the social services district for the expense of such test.

(f) Any person denied benefits pursuant to this subdivision may reapply for such benefits upon submission to another drug test and the return result of such test which is negative for the illegal use of controlled substances.

§ 3. The social services law is amended by adding two new sections 147-a and 147-b to read as follows:

§ 147-a. Penalties for the purchase or sale of alcoholic beverages, tobacco products or lottery tickets with public assistance benefits. 1. For the purposes of this section, "public assistance benefits" means money or property provided directly or indirectly through programs of the federal government, the state or any political subdivision thereof, and administered by the office of temporary and disability assistance or social services districts.

2. No recipient of public assistance benefits shall use all or any portion of such benefits for the purchase of any alcoholic beverage, tobacco product or lottery ticket. Any person who violates the provisions of this subdivision shall upon the first such violation be disqualified from receiving public assistance benefits by means of direct cash payment or electronic benefits transfer access device for a period of one month, upon a finding of a second such violation be disqualified from receiving public assistance benefits by means of direct cash payment or electronic benefits transfer access device for a period of three months, and upon a finding of a third or subsequent such violation shall be permanently disqualified from receiving public assistance benefits by means of direct cash payment or electronic bene-

1 fits transfer access device. Such person shall have the right to a fair  
2 hearing pursuant to section twenty-two of this chapter. Notwithstanding  
3 any provision of this chapter or any other law to the contrary, no  
4 applicant for public assistance benefits shall be approved unless he or  
5 she attests to the fact that alcoholic beverages, tobacco products and  
6 lottery tickets are products which are prohibited from being purchased  
7 with such benefits pursuant to this section. Such attestation shall be  
8 in a form prescribed by the commissioner of temporary and disability  
9 assistance.

10 3. No person engaged in retail sales, or any agent or employee there-  
11 of, shall sell or offer for sale any alcoholic beverage, tobacco product  
12 or lottery ticket to any other person in exchange for or for consider-  
13 ation of public assistance benefits by means of an electronic benefits  
14 transfer access device. Any person who violates the provisions of this  
15 subdivision shall be subject to a civil fine of one hundred dollars for  
16 the first such violation, a civil fine of five hundred dollars for the  
17 second such violation within any five year period of time, and upon a  
18 finding of a third or a subsequent violation within any five year period  
19 of time the license, permit or certification issued to such person  
20 pursuant to the alcoholic beverage control law, and/or article twenty  
21 and/or article thirty-four of the tax law shall be suspended.

22 4. In any proceeding brought against the operator of a retail business  
23 engaged in retail sales, pursuant to subdivision three of this section  
24 when the unlawful sale was made by an agent or employee of the operator  
25 of such business, it shall be an affirmative defense in favor of such  
26 operator that, at the time of such alleged violation, the business oper-  
27 ator can and does produce proof that the agent or employee who committed  
28 such violation completed a training program established pursuant to  
29 subdivision five of this section.

30 5. a. The commissioner of temporary and disability assistance shall  
31 promulgate rules and regulations that would develop and establish crite-  
32 ria for training programs on the prohibition on the sale and purchase of  
33 alcoholic beverages, tobacco products and lottery tickets in exchange  
34 for public assistance benefits. Such training may be given and adminis-  
35 tered by schools; other entities including trade associations whose  
36 members are engaged in the retail sale of alcoholic beverages, tobacco  
37 products and/or lottery tickets; and national and regional franchisors  
38 with at least five franchises in the state which engage in the sales of  
39 alcoholic beverages, tobacco products and/or lottery tickets. The office  
40 of temporary and disability assistance shall provide for the issuance of  
41 certificates of approval to all certified training programs on the  
42 prohibition on the sale and purchase of alcoholic beverages, tobacco  
43 products and/or lottery tickets in exchange for public assistance bene-  
44 fits. Certificates of approval may be revoked by the office of temporary  
45 and disability assistance for failure to adhere to the commissioner's  
46 rules and regulations. Such rules and regulations shall afford those who  
47 have been issued a certificate of approval an opportunity for a hearing  
48 prior to any determination of whether such certificate should be  
49 revoked. The commissioner of temporary and disability assistance shall  
50 adopt rules to effectuate the provisions of this subdivision, including  
51 minimum requirements for the curriculum of each such training program  
52 and the regular training of agents and employees holding certificates of  
53 completion or renewal certificates.

54 b. To effectuate the provisions of this subdivision, the office of  
55 temporary and disability assistance is empowered to require in  
56 connection with an application the submission of such information as

1 such office may direct; to prescribe forms of applications and of all  
2 reports it deems necessary to be made by any applicant or certificate  
3 holder; to conduct investigations, to require maintenance of such books  
4 and records as such office may direct; and to cancel, revoke or suspend  
5 for cause any certificate provided for in this subdivision.

6 c. Each entity authorized to give and administer a training program on  
7 the prohibition on the sale and purchase of alcoholic beverages, tobacco  
8 products and lottery tickets in exchange for public assistance benefits  
9 shall issue certificates of completion to all persons engaged in retail  
10 sales, and the agents and employees thereof who successfully complete  
11 such approved training program. Such entity shall regularly transmit to  
12 the office of temporary and disability assistance the names, addresses  
13 and dates of attendance of all such persons, agents and employees who  
14 successfully complete an approved training program. Such transmittal  
15 shall be in a form and manner prescribed by such office. A certificate  
16 of completion or renewal thereof issued by an entity authorized to give  
17 and administer a training program pursuant to this subdivision to  
18 persons engaged in retail sales, and the agents and employees thereof  
19 shall not be invalidated by a change of employer. Attendance at any  
20 course established pursuant to this subdivision shall be in person,  
21 through distance learning methods or through an internet based online  
22 program. Each certificate of approval, renewal and completion thereof  
23 shall be issued for a period of three years.

24 § 147-b. Prohibition of use of public assistance benefits in certain  
25 facilities. 1. For the purposes of this section:

26 a. "Electronic benefit transfer transaction" means the use of a credit  
27 card or debit card service, automated teller machine, point-of-sale  
28 terminal or access to an online system for the withdrawal of funds or  
29 the processing of a payment for merchandise or a service.

30 b. "Casino" means any casino, gaming establishment or gambling casino,  
31 but shall not include:

32 (i) any retail store which sells groceries including staple foods  
33 (within the meaning of section 3(r) of the Food and Nutrition Act of  
34 2008 (7 U.S.C. 2012 (r))), and which also offers or is located within  
35 the same building or complex as casino, gambling or gaming activities;  
36 or

37 (ii) any other establishment that offers casino, gambling or gaming  
38 activities incidental to the principal purpose of the business of such  
39 establishment.

40 c. "Liquor store" means any retail establishment which exclusively or  
41 primarily sells alcoholic beverages. Such term shall not include any  
42 grocery store which sells both alcoholic beverages and staple foods  
43 (within the meaning of section 3(r) of the Food and Nutrition Act of  
44 2008 (7 U.S.C. 2012 (r))).

45 d. "Public assistance benefits" means money or property provided  
46 directly or indirectly through programs of the federal government, the  
47 state or any political subdivision thereof, and administered by the  
48 office of temporary and disability assistance or social services  
49 districts.

50 2. No recipient of public assistance benefits shall by means of an  
51 electronic benefit transfer transaction withdraw or use such benefits in  
52 any liquor store, casino or retail establishment which provides adult-  
53 oriented entertainment in which performers disrobe or perform in an  
54 unclothed state for entertainment. Any person who violates the  
55 provisions of this subdivision shall upon the first such violation be  
56 disqualified from receiving public assistance benefits by means of

1 direct cash payment or electronic benefits transfer access device for a  
2 period of one month, upon a finding of a second such violation shall be  
3 disqualified from receiving public assistance benefits by means of  
4 direct cash payment or electronic benefits transfer access device for a  
5 period of three months, and upon a finding of a third or subsequent such  
6 violation shall be permanently disqualified from receiving public  
7 assistance benefits by means of direct cash payment or electronic bene-  
8 fits transfer access device. Such person shall have the right to a fair  
9 hearing pursuant to section twenty-two of this chapter.

10 3. The office of temporary and disability assistance shall establish  
11 and implement rules and regulations prohibiting recipients of public  
12 assistance benefits, by means of any electronic benefit transfer trans-  
13 action, from withdrawing or using any such benefits in any liquor store,  
14 casino or retail establishment which provides adult-oriented enter-  
15 tainment in which performers disrobe or perform in an unclothed state  
16 for entertainment.

17 § 4. The state finance law is amended by adding a new section 85 to  
18 read as follows:

19 § 85. Public assistance integrity fund. 1. There is hereby established  
20 in the joint custody of the state comptroller and the commissioner of  
21 taxation and finance a special revenue fund to be known as the "public  
22 assistance integrity fund".

23 2. The public assistance integrity fund shall consist of monies  
24 received by the state from fines and fees imposed pursuant to sections  
25 one hundred forty-seven-a and one hundred forty-seven-b of the social  
26 services law, and all other monies appropriated, credited or transferred  
27 thereto from any other fund or source.

28 3. Monies of the public assistance integrity fund, following appropri-  
29 ation thereof, shall be solely made available to the office of temporary  
30 and disability assistance for expenditure for the costs of such office  
31 associated with the prevention of misuse of public assistance benefits  
32 including, but not limited to, administration, oversight, training and  
33 enforcement related activities.

34 § 5. This act shall take effect February 22, 2019. Effective imme-  
35 diately, any actions necessary to implement the provisions of this act  
36 on its effective date are authorized to be made on or before such date.