

# Welfare Recipient Drug Testing

This Act requires drug tests whenever state officials have a reasonable suspicion that someone receiving or applying for welfare or unemployment benefits is using drugs. Suspicion could be raised during addiction screening by welfare administering agency caseworkers or by missed meetings or criminal records. Recipients of state benefits would not receive assistance until they complete a drug treatment program and a job skills training. This Act allows drug tests for governor, lieutenant governor, attorney general and members of the legislature.

Submitted as:

Kansas

[Senate Bill 149](#)

Status: Enacted into law in 2013.

## Suggested State Legislation

(Title, enacting clause, etc.)

1           Section 1. [*Short Title.*] This Act may be cited as the “Welfare Recipient Drug Testing Act.”

2  
3           Section 2. [*Definitions.*]

4           As used in this Act:

5           (1) “Cash assistance” means cash assistance provided to individuals under the provisions of  
6 [relevant state statutes].

7           (2) “Controlled substance” means the same as in [relevant state statutes].

8           (3) “Controlled substance analogue” means the same as in 21 U.S. Code § 813.

9  
10          Section 3. [*Drug Screening for Cash Assistance Recipients.*]

11          (A) A program of drug screening for applicants for cash assistance as a condition of  
12 eligibility for cash assistance and persons receiving cash assistance as a condition of continued  
13 receipt of cash assistance shall be established, subject to applicable federal law, by the secretary for  
14 [insert administering agency] on or before [insert date]. Under such program of drug screening, the  
15 secretary for [insert administering agency] shall order a drug screening of an applicant for or a  
16 recipient of cash assistance at any time when reasonable suspicion exists that such applicant for or  
17 recipient of cash assistance is unlawfully using a controlled substance or controlled substance  
18 analogue. The secretary for [insert administering agency] may use any information obtained by the  
19 secretary for [insert administering agency] to determine whether such reasonable suspicion exists,  
20 including, but not limited to, an applicant’s or recipient’s demeanor, missed appointments and arrest  
21 or other police records, previous employment or application for employment in an occupation or  
22 industry that regularly conducts drug screening, termination from previous employment due to  
23 unlawful use of a controlled substance or controlled substance analogue or prior drug screening  
24 records of the applicant or recipient indicating unlawful use of a controlled substance or controlled  
25 substance analogue.

26          (B) Any applicant for or recipient of cash assistance whose drug screening results in a  
27 positive test may request that the drug screening specimen be sent to a different drug testing facility  
28 for an additional drug screening. Any applicant for or recipient of cash assistance who requests an  
29 additional drug screening at a different drug testing facility shall be required to pay the cost of drug  
30 screening. Such applicant or recipient who took the additional drug screening and who tested

1 negative for unlawful use of a controlled substance and controlled substance analogue shall be  
2 reimbursed for the cost of such additional drug screening.

3 (C) Any applicant for or recipient of cash assistance who tests positive for unlawful use of a  
4 controlled substance or controlled substance analogue shall be required to complete a substance  
5 abuse treatment program approved by the secretary for [insert appropriate agencies]. Subject to  
6 applicable federal laws, any applicant for or recipient of cash assistance who fails to complete or  
7 refuses to participate in the substance abuse treatment program or job skills program as required  
8 under this subsection shall be ineligible to receive cash assistance until completion of such substance  
9 abuse treatment and job skills programs. Upon completion of both substance abuse treatment and job  
10 skills programs, such applicant for or recipient of cash assistance may be subject to periodic drug  
11 screening, as determined by the secretary for [insert administering agency]. Upon a second positive  
12 test for unlawful use of a controlled substance or controlled substance analogue, a recipient of cash  
13 assistance shall be ordered to complete again a substance abuse treatment program and job skills  
14 program, and shall be terminated from cash assistance for a period of 12 months, or until such  
15 recipient of cash assistance completes both substance abuse treatment and job skills programs,  
16 whichever is later. Upon a third positive test for unlawful use of a controlled substance or controlled  
17 substance analogue, a recipient of cash assistance shall be terminated from cash assistance, subject to  
18 applicable federal law.

19 (D) If an applicant for or recipient of cash assistance is ineligible for or terminated from cash  
20 assistance as a result of a positive test for unlawful use of a controlled substance or controlled  
21 substance analogue, and such applicant for or recipient of cash assistance is the parent or legal  
22 guardian of a minor child, an appropriate protective payee shall be designated to receive cash  
23 assistance on behalf of such child. Such parent or legal guardian of the minor child may choose to  
24 designate an individual to receive cash assistance for such parent's or legal guardian's minor child,  
25 as approved by the secretary for children and families. Prior to the designated individual receiving  
26 any cash assistance, the secretary for [insert administering agency] shall review whether reasonable  
27 suspicion exists that such designated individual is unlawfully using a controlled substance or  
28 controlled substance analogue.

29 (1) In addition, any individual designated to receive cash assistance on behalf of an  
30 eligible minor child shall be subject to drug screening at any time when reasonable suspicion exists  
31 that such designated individual is unlawfully using a controlled substance or controlled substance  
32 analogue. The secretary for [insert administering agency] may use any information obtained by the  
33 secretary for [insert administering agency] to determine whether such reasonable suspicion exists,  
34 including, but not limited to, the designated individual's demeanor, missed appointments and arrest  
35 or other police records, previous employment or application for employment in an occupation or  
36 industry that regularly conducts drug screening, termination from previous employment due to  
37 unlawful use of a controlled substance or controlled substance analogue or prior drug screening  
38 records of the designated individual indicating unlawful use of a controlled substance or controlled  
39 substance analogue.

40 (2) Any designated individual whose drug screening results in a positive test may  
41 request that the drug screening specimen be sent to a different drug testing facility for an additional  
42 drug screening. Any designated individual who requests an additional drug screening at a different  
43 drug testing facility shall be required to pay the cost of drug screening. Such designated individual  
44 who took the additional drug screening and who tested negative for unlawful use of a controlled  
45 substance and controlled substance analogue shall be reimbursed for the cost of such additional drug  
46 screening.

47 (3) Upon any positive test for unlawful use of a controlled substance or controlled  
48 substance analogue, the designated individual shall not receive cash assistance on behalf of the  
49 parent's or legal guardian's minor child, and another designated individual shall be selected by the

1 secretary for [insert administering agency] to receive cash assistance on behalf of such parent's or  
2 legal guardian's minor child.

3 (E) If a person has been convicted under federal or state law of any offense which is  
4 classified as a felony by the law of the jurisdiction and which has as an element of such offense the  
5 manufacture, cultivation, distribution, possession or use of a controlled substance or controlled  
6 substance analogue, and the date of conviction is on or after [insert date], such person shall thereby  
7 become forever ineligible to receive any cash assistance under this subsection unless such conviction  
8 is the person's first conviction. First-time offenders convicted under federal or state law of any  
9 offense which is classified as a felony by the law of the jurisdiction and which has as an element of  
10 such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or  
11 controlled substance analogue, and the date of conviction is on or after [insert date], such person  
12 shall become ineligible to receive cash assistance for five years from the date of conviction.

13 (F) Except for hearings before the [insert administering agency] or, the results of any drug  
14 screening administered as part of the drug screening program authorized by this subsection shall be  
15 confidential and shall not be disclosed publicly.

16 (G) The secretary for [insert administering agency] may adopt such rules and regulations as  
17 are necessary to carry out the provisions of this subsection.

18 (H) Any authority granted to the secretary for [insert administering agency] under this  
19 subsection shall be in addition to any other penalties prescribed by law.

20  
21 Section 4. *[Drug Screening for Recipients of Unemployment Benefits.]*

22 (A) Any applicant for or recipient of unemployment benefits who tests positive for  
23 unlawful use of a controlled substance or controlled substance analogue shall be required to  
24 complete a substance abuse treatment program approved by the secretary for [insert administering  
25 agency], and a job skills program approved by the secretary for [insert administering agency].  
26 Subject to applicable federal laws, any applicant for or recipient of unemployment benefits who fails  
27 to complete or refuses to participate in the substance abuse treatment program or job skills program  
28 as required under this subsection shall be ineligible to receive unemployment benefits until  
29 completion of such substance abuse treatment and job skills programs. Upon completion of both  
30 substance abuse treatment and job skills programs, such applicant for or recipient of unemployment  
31 benefits may be subject to periodic drug screening, as determined by the secretary for [insert  
32 administering agency]. Upon a second positive test for unlawful use of a controlled substance or  
33 controlled substance analogue, an applicant for or recipient of unemployment benefits shall be  
34 ordered to complete again a substance abuse treatment program and job skills program, and shall be  
35 terminated from unemployment benefits for a period of 12 months, or until such applicant for or  
36 recipient of unemployment benefits completes both substance abuse treatment and job skills  
37 programs, whichever is later. Upon a third positive test for unlawful use of a controlled substance or  
38 controlled substance analogue, an applicant for or a recipient of unemployment benefits shall be  
39 terminated from receiving unemployment benefits, subject to applicable federal law.

40 (B) Any individual who has been discharged or refused employment for failing a pre-  
41 employment drug screen required by an employer may request that the drug screening specimen be  
42 sent to a different drug testing facility for an additional drug screening. Any such individual who  
43 requests an additional drug screening at a different drug testing facility shall be required to pay the  
44 cost of drug screening.

45  
46 Section 5. *[Drug Screening for State Officials.]*

47 (A) The director of the [insert appropriate agency] shall have the authority to establish

1 and implement a drug screening program for persons taking office as governor, lieutenant governor  
2 or, attorney general or members of the [insert state] senate or house of representatives and for  
3 applicants for safety sensitive positions in state government, but no applicant for a safety sensitive  
4 position shall be required to submit to a test as a part of this program unless the applicant is first  
5 given a conditional offer of employment.

6 (B) The director also shall have the authority to establish and implement a drug screening  
7 program based upon a reasonable suspicion of illegal drug use by any person currently holding one  
8 of the following positions or offices:

9 (1) The office of governor, lieutenant governor or attorney general;

10 (2) Members of the [insert state] senate or house of representatives;

11 (C) No person shall be terminated solely due to positive results of a test administered as a  
12 part of a program authorized by this section if:

13 (1) The employee has not previously had a valid positive test result; and

14 (2) The employee undergoes a drug evaluation and successfully completes any  
15 education or treatment program recommended as a result of the evaluation.

16  
17 Section 6. [*Severability.*] Insert severability clause.

18  
19 Section 7. [*Repealer.*] Insert repealer clause.

20  
21 Section 8. [*Effective Date.*] Insert effective date.