

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.