

AMENDED IN ASSEMBLY APRIL 17, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2469

Introduced by Assembly Member Grove
(Coauthors: Assembly Members Olsen and Silva)

February 24, 2012

An act to add Sections 11267 and 11267.2 to the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2469, as amended, Grove. CalWORKs eligibility: periodic drug testing.

Existing law requires each county to provide cash assistance and other social services to needy families through the California Work Opportunity and Responsibility to Kids (CalWORKs) program, using federal Temporary Assistance to Needy Families (TANF) program, state, and county funds. Under existing law, the county is required to annually redetermine eligibility for CalWORKs benefits. Existing law requires a county to develop a plan describing how the county intends to deliver the full range of activities and services necessary to move CalWORKs recipients from welfare to work. The county plan is required to include a plan for the provision of substance abuse treatment services.

This bill would require an applicant for, or recipient of, CalWORKs cash aid to undergo drug testing on a periodic basis, as a condition of eligibility. The bill would specify the substances for which drug testing would be conducted, and would require the department to seek any federal approvals necessary for the implementation of the bill. The bill would specify the duties of the department and county welfare departments in connection with the drug testing procedures, including

paying the costs of a licensed substance abuse program, as specified. This bill would provide that otherwise eligible children in the household of an applicant or recipient who is ineligible for aid because of a positive drug test shall receive CalWORKs aid, under specified conditions.

This bill would authorize the department to implement the bill through all-county letters or similar instructions from the director until regulations are adopted. The bill would require counties to implement the bill's requirements within 60 days from the date of issuance of the all-county letters.

Because counties administer the CalWORKs program, by increasing county duties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11267 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 11267. (a) For purposes of this section and Section 11267.2,
- 4 the following terms have the following meanings:
- 5 (1) "Drug" means any of the following:
- 6 (A) A controlled substance classified as Schedule I, as specified
- 7 in Section 11054 of the Health and Safety Code.
- 8 (B) The following controlled substances, classified as Schedule
- 9 II, as specified in Section 11055 of the Health and Safety Code:
- 10 (i) Cocaine.
- 11 (ii) Opium.
- 12 (iii) Phencyclidine.
- 13 (iv) Methamphetamine.
- 14 (C) A prescription medication for which an individual does not
- 15 have a valid prescription.

1 (2) “Drug testing” means a chemical test administered for the
2 purpose of determining the presence or absence of a drug or its
3 metabolites in a person’s bodily tissue, fluids, or products.

4 (b) Notwithstanding any other law, as a condition of initial or
5 continued eligibility for cash assistance under this chapter, an
6 applicant or recipient shall be required to undergo periodic drug
7 testing.

8 (c) The department shall seek any federal approvals necessary
9 for the implementation of this section and Section 11267.2.

10 SEC. 2. Section 11267.2 is added to the Welfare and
11 Institutions Code, to read:

12 11267.2. (a) Pursuant to the requirements of this section, an
13 applicant for, or recipient of, CalWORKs cash assistance 18 years
14 of age or older, including a caretaker relative who is included in
15 the assistance unit, shall be required to undergo periodic drug
16 testing, as defined in Section 11267. Both parents in a two-parent
17 household, and a teenage parent who is not required to reside with
18 a parent, legal guardian, or other caretaker, shall be required to
19 submit to the drug testing described in this section.

20 (b) (1) The department shall provide written notice of the drug
21 testing required by this section to each individual at the time of
22 application, and to each recipient at the time of annual
23 redetermination, advising the individual that drug testing will be
24 conducted as a condition for receiving CalWORKs cash assistance,
25 and that the individual shall bear the cost of testing. The notice
26 shall advise the individual that he or she may advise the department
27 of any drugs for which he or she has a valid prescription. The
28 notice shall include a statement that the required drug testing may
29 be avoided if the individual elects not to apply for or continue
30 receiving benefits.

31 (2) In addition to the written notice required by paragraph (1),
32 the department may conduct informational sessions to explain
33 application of the drug testing policy to applicants and recipients.

34 (3) Drug testing pursuant to this section shall be conducted with
35 a reasonable level of dignity, and reasonable efforts shall be
36 undertaken to make the process as easy as possible for the applicant
37 or recipient.

38 (c) The initial drug test shall be performed after providing the
39 applicant or recipient with 48 hours’ notice. Following the initial

1 test, a recipient shall be subject to one random drug test per year,
2 upon 48 hours' notice.

3 (d) (1) Drug testing pursuant to this section shall consist of a
4 preliminary urine test, or other minimally intrusive screening test.
5 If that test detects the presence of drugs, a subsequent confirmation
6 test, ~~such as a blood test~~, shall be performed.

7 (2) The costs of testing shall be borne by the applicant or
8 recipient, and shall be paid at the time of testing. If the individual's
9 drug test results are negative, the costs of testing shall be
10 reimbursed in the individual's next aid payment.

11 (e) (1) If an individual's drug test is positive for drug use, the
12 individual shall be provided with a list of licensed substance abuse
13 treatment providers in his or her county of residence, and shall be
14 ineligible to apply for or receive cash benefits for a period of one
15 year, except as provided in paragraph (2).

16 (2) Notwithstanding paragraph (1), an individual shall be eligible
17 to reapply for cash benefits under this chapter after six months, if
18 the individual provides proof that he or she has successfully
19 completed a licensed substance abuse treatment program.

20 (3) If an individual elects to participate in a substance abuse
21 treatment program, the state shall bear the cost of treatment, up to
22 the maximum amount the individual would have received in cash
23 benefits under this chapter, for the period of treatment.

24 (4) If an individual has a second positive drug test after regaining
25 eligibility, the individual shall be ineligible to apply for or receive
26 cash benefits for a period of three years.

27 (f) Any otherwise eligible child or children in the applicant's
28 or recipient's household shall receive the aid amount required
29 under this chapter. The applicant or recipient shall designate
30 another adult to receive benefits on behalf of the child or children,
31 subject to the approval of the county welfare department. If the
32 applicant or recipient is unable or unwilling to appoint an
33 acceptable person for this purpose, one shall be appointed by the
34 county welfare department. The county welfare department shall
35 report the results of the applicant's or recipient's positive drug test
36 to the appropriate child welfare services agency.

37 SEC. 3. (a) Notwithstanding the rulemaking provisions of the
38 Administrative Procedure Act (Chapter 3.5 (commencing with
39 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
40 Code), the department may implement this act through all-county

1 letters or similar instructions from the director until regulations
2 are adopted. A county shall have 60 days from the date of issuance
3 of the all-county letters to implement the drug testing procedures
4 required by this act.

5 (b) The department shall adopt emergency regulations
6 ~~implementing these provisions to implement this act~~ no later than
7 July 1, 2013. The department may readopt any emergency
8 regulation authorized by this section that is the same as, or
9 substantially equivalent to, any emergency regulation previously
10 adopted under this section.

11 (c) The initial adoption of regulations pursuant to this section
12 and one readoption of emergency regulations shall be deemed to
13 be an emergency and necessary for the immediate preservation of
14 the public peace, health, safety, or general welfare. Initial
15 emergency regulations and the one readoption of emergency
16 regulations authorized by this section shall be exempt from review
17 by the Office of Administrative Law. The initial emergency
18 regulations and the one readoption of emergency regulations
19 authorized by this section shall be submitted to the Office of
20 Administrative Law for filing with the Secretary of State and each
21 shall remain in effect for no more than 180 days, by which time
22 final regulations shall be adopted.

23 SEC. 4. If the Commission on State Mandates determines that
24 this act contains costs mandated by the state, reimbursement to
25 local agencies and school districts for those costs shall be made
26 pursuant to Part 7 (commencing with Section 17500) of Division
27 4 of Title 2 of the Government Code.