

CHAPTER 328

**HUMAN SERVICES - SOCIAL SERVICES**

**HOUSE BILL 99-1203**

BY REPRESENTATIVES Hefley, Fairbank, Kaufman, Lawrence, McPherson, Mitchell, Paschall, Witwer, Bacon, Decker, Hagedorn, and Spence; also SENATORS Epps, Congrove, Musgrave, and Powers.

**AN ACT**

CONCERNING TESTING FOR CONTROLLED SUBSTANCES OF PARTICIPANTS IN THE COLORADO WORKS PROGRAM.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 26-2-708 (3), Colorado Revised Statutes, is amended to read:

**26-2-708. Benefits - assessment - individual responsibility contract - screening for domestic violence.** (3) The IRC shall contain provisions in bold print at the beginning of the document that notify the participant of the following:

(a) That no individual is legally entitled to any form of assistance under the Colorado works program;

(b) That the IRC is a contract that contains terms and conditions governing the participant's receipt of assistance under the Colorado works program and that nothing in such contract may be deemed to create a legal entitlement to assistance under the Colorado works program; ~~and~~

(c) That the participant's failure to comply with the terms and conditions of the IRC may result in sanctions, including but not limited to the termination of any cash assistance; AND

(d) FOR A COUNTY THAT HAS ELECTED TO IMPLEMENT A COLORADO WORKS CONTROLLED SUBSTANCE ABUSE CONTROL PROGRAM DESCRIBED IN SECTION 26-2-708.5, THAT THE IRC MAY REQUIRE THE PARTICIPANT TO PARTICIPATE IN SUCH COLORADO WORKS CONTROLLED SUBSTANCE ABUSE CONTROL PROGRAM BASED UPON THE PARTICIPANT'S USE OF A CONTROLLED SUBSTANCE BY REQUIRING THE

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

PARTICIPANT TO TAKE ACTION TOWARD REHABILITATION CONSISTENT WITH THE RECOMMENDATIONS OF THE ASSESSMENT PURSUANT TO SECTION 26-2-711 (5) (c). THE PROGRAM MAY BE INCLUDED AS A COUNTY-DEFINED WORK ACTIVITY. THE REHABILITATION PLAN MAY INCLUDE RANDOM DRUG TESTING, DRUG TREATMENT, OR OTHER REHABILITATION ACTIVITIES. THE PARTICIPANT MAY BE SUBJECT TO ANY SANCTIONS FOR NONPARTICIPATION IN A WORK ACTIVITY IF THE PARTICIPANT FAILS TO MEET THE REQUIREMENTS OF THE REHABILITATION PLAN; EXCEPT THAT A PARTICIPANT MAY NOT BE SANCTIONED FOR FAILING TO MEET THE REQUIREMENTS OF THE REHABILITATION PLAN IF SERVICES REQUIRED UNDER SUCH PLAN ARE NOT AVAILABLE, IF TRANSPORTATION OR CHILD CARE IS NOT AVAILABLE, OR IF THE COSTS OF THE SERVICES ARE PROHIBITIVE.

**SECTION 2.** Part 7 of article 2 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**26-2-708.5. Colorado works controlled substance abuse control program.**

(1) A COUNTY MAY ELECT TO IMPLEMENT A COLORADO WORKS CONTROLLED SUBSTANCE ABUSE CONTROL PROGRAM PURSUANT TO THE PROVISIONS OF THIS SECTION. UNDER SUCH A PROGRAM, IF THE USE OF A CONTROLLED SUBSTANCE PREVENTS THE PARTICIPANT FROM SUCCESSFULLY PARTICIPATING IN HIS OR HER WORK ACTIVITY, THEN A COUNTY DEPARTMENT MAY REQUIRE THE PARTICIPANT TO PARTICIPATE IN A SUBSTANCE ABUSE CONTROL PROGRAM BASED IN WHOLE OR IN PART UPON A REPRESENTATION BY THE PARTICIPANT THAT THE PARTICIPANT IS USING CONTROLLED SUBSTANCES OR UPON A FINDING BY THE COUNTY DEPARTMENT PURSUANT TO AN ASSESSMENT BY A CERTIFIED DRUG TREATMENT PROVIDER THAT THE PARTICIPANT IS OR IS LIKELY TO BE USING CONTROLLED SUBSTANCES. IF A COUNTY CHOOSES TO REQUIRE THE PARTICIPANT TO PARTICIPATE IN A CONTROLLED SUBSTANCE ABUSE CONTROL PROGRAM, THEN THE COUNTY DEPARTMENT SHALL:

(a) REQUIRE THE PARTICIPANT TO HAVE AN ASSESSMENT BY A CERTIFIED DRUG TREATMENT PROVIDER AND TO FOLLOW A REHABILITATION PLAN, BASED UPON THE ASSESSMENT, DEVELOPED BY A CERTIFIED DRUG TREATMENT PROVIDER, INCLUDING, BUT NOT LIMITED TO, PARTICIPATION IN A CONTROLLED SUBSTANCE TREATMENT PROGRAM AS A CONDITION OF CONTINUED RECEIPT OF ASSISTANCE UNDER THE WORKS PROGRAM. THIS PARAGRAPH (a) SHALL NOT CREATE AN ENTITLEMENT TO REHABILITATION SERVICES OR PAYMENT FOR SUCH SERVICES.

(b) IF REQUIRED BY THE REHABILITATION PLAN, CONDUCT RANDOM TESTING ON SUCH PARTICIPANT TO DETERMINE IF HE OR SHE IS REMAINING FREE OF CONTROLLED SUBSTANCES; AND

(c) IMPOSE ANY APPLICABLE SANCTIONS FOR NONPARTICIPATION IN A WORK ACTIVITY ON SUCH PARTICIPANT IN THE EVENT THAT HE OR SHE FAILS TO FOLLOW THE REHABILITATION PLAN, INCLUDING TESTING POSITIVE ON A RANDOM TEST IF CONDUCTED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (1) OR REFUSAL TO PARTICIPATE IN A RANDOM TEST IF CONDUCTED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (1).

(2) A PARTICIPANT MAY NOT BE SANCTIONED FOR FAILING TO MEET THE REQUIREMENTS OF THE REHABILITATION PLAN PURSUANT TO PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION IF THE SERVICES REQUIRED UNDER SUCH PLAN ARE

NOT AVAILABLE, IF TRANSPORTATION OR CHILD CARE IS NOT AVAILABLE, OR IF THE COSTS OF THE SERVICES ARE PROHIBITIVE.

**SECTION 3.** 26-2-711 (5), Colorado Revised Statutes, is amended to read:

**26-2-711. Works program sanctions against participants.** (5) (a) A person shall not be required to participate in work activities if good cause exists as determined by the county.

(b) Good cause does not constitute an exemption from work or time limits. Good cause is, however, a proper basis for not imposing a sanction for nonparticipation in a work activity, AND MAY INCLUDE, BUT NEED NOT BE LIMITED TO, PARTICIPATION IN A COLORADO WORKS CONTROLLED SUBSTANCE ABUSE CONTROL PROGRAM PURSUANT TO SECTION 26-2-708.5.

**SECTION 4.** 26-2-716, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**26-2-716. County duties - appropriations - penalties - incentives.** (8) A COUNTY MAY ADMINISTER A COLORADO WORKS CONTROLLED SUBSTANCE ABUSE CONTROL PROGRAM PURSUANT TO SECTION 26-2-708.5.

**SECTION 5.** 26-2-703, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**26-2-703. Definitions.** As used in this part 7, unless the context otherwise requires:

(5.5) "CONTROLLED SUBSTANCE" MEANS A SUBSTANCE, A DRUG, OR AN IMMEDIATE PRECURSOR INCLUDED IN SCHEDULES I TO V OF PART 2 OF ARTICLE 18 OF TITLE 18, C.R.S., AND ANY "ALCOHOL BEVERAGE" AS DEFINED IN SECTION 12-47-103 (2), C.R.S.

**SECTION 6. No appropriation.** The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

**SECTION 7. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 3, 1999