

1 **H. B. 4585**

2  
3 (By Delegate Manchin)

4 [Introduced February 17, 2014; referred to the  
5 Committee on the Judiciary then Finance.]  
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10 A BILL to amend and reenact §9-9-2, §9-9-3, §9-9-5, §9-9-6, §9-9-9,  
11 §9-9-11 and §9-9-20 of the Code of West Virginia, 1931, as  
12 amended; and to amend said code by adding thereto a new  
13 section, designated §9-9-9a, all relating to drug screening  
14 for West Virginia Work Program applicants; amending the  
15 program's legislative findings and purpose; amending the  
16 lawful purposes for which the West Virginia works program fund  
17 may be used; amending program participation requirements;  
18 amending the personal responsibility contract requirements;  
19 including drug testing requirements; amending the provisions  
20 related to a breach of the personal responsibility contract  
21 and associated sanctions; and amending provisions related to  
22 the confidentiality of the program.

23 *Be it enacted by the Legislature of West Virginia:*

24 That §9-9-2, §9-9-3, §9-9-5, §9-9-6, §9-9-9, §9-9-11 and §9-9-

1 20 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted; and that said code be amended by adding thereto a new  
3 section, designated §9-9-9a, all to read as follows:

4 **ARTICLE 9. WEST VIRGINIA WORK PROGRAM.**

5 **§9-9-2. Legislative findings; purpose.**

6 (a) The Legislature hereby finds and declares that:

7 (1) The entitlement of any person to receive federal-state  
8 cash assistance is hereby discontinued;

9 (2) At-risk families are capable of becoming self-supporting;

10 (3) An assistance program should both expect and assist a  
11 parent and caretaker-relatives in at-risk families to support their  
12 dependent children and children for which they are caretakers;

13 (4) Every parent or caretaker-relative can exhibit responsible  
14 patterns of behavior so as to be a positive role model;

15 (5) Every parent or caretaker-relative who receives cash  
16 assistance has a responsibility to participate in an activity to  
17 help them prepare for, obtain and maintain gainful employment;

18 (6) For a parent or caretaker-relative who receives cash  
19 assistance and for whom full-time work is not feasible,  
20 participation in some activity is required to further himself or  
21 herself, his or her family or his or her community;

22 (7) The state should promote the value of work and the  
23 capabilities of individuals;

24 (8) Job development efforts should enhance the employment

1 opportunities of participants;

2 (9) Education is the key to achieving and maintaining life-  
3 long self-sufficiency; ~~and~~

4 (10) An assistance program should be structured to achieve a  
5 clear set of outcomes; deliver services in an expedient, effective  
6 and efficient manner; and maximize community support for  
7 participants;

8 (11) Cash assistance should ultimately be utilized for the  
9 intended purpose of alleviating the effects of poverty and should  
10 not be diverted to illicit drug use;

11 (12) Children of poverty should be protected by ensuring that  
12 cash assistance strengthens family life and reduces the danger that  
13 illicit drugs will be introduced into the home environment;

14 (13) Persons who suffer from an addiction to drugs should be  
15 assisted so as to avoid the temptation of illicit drugs and  
16 restructure their lives by focusing on employment and becoming  
17 better parents; and

18 (14) An assistance program should ensure that the government  
19 does not subsidize the public health risk posed by drug use and the  
20 associated criminal activities.

21 (b) The goals of the program are to achieve more efficient and  
22 effective use of public assistance funds; reduce dependency on  
23 public programs by promoting self-sufficiency; and structure the  
24 assistance programs to emphasize employment and personal

1 responsibility. The success of the program is to be evaluated on  
2 the following activities, including, but not limited to, the  
3 following: Job entry, job retention, federal work participation  
4 requirements and completion of educational activities.

5 **§9-9-3. Definitions.**

6 In addition to the rules for the construction of statutes in  
7 section ten, article two, chapter two of this code and the words  
8 and terms defined in section two, article one of this chapter,  
9 unless a different meaning appears from the context:

10 ~~(a)~~ (1) "At-risk family" means a group of persons living in  
11 the same household, living below the federally designated poverty  
12 level, lacking the resources to become self-supporting and  
13 consisting of a dependent minor child or children living with a  
14 parent, stepparent or caretaker-relative; an "at-risk family" may  
15 include an unmarried minor parent and his or her dependent child or  
16 children who live in an adult-supervised setting;

17 ~~(b)~~ (2) "Applicant" means a parent, work-eligible individual  
18 or caretaker-relative in an at-risk family who applies for cash  
19 assistance for himself or herself and family members.

20 (3) "Beneficiary" or "participant" means any parent, work  
21 eligible individuals or caretaker-relative in an at-risk family who  
22 receives cash assistance for himself or herself and family members;

23 ~~(c)~~ (4) "Caretaker-relative" means grandparents or other  
24 nonparental caretakers not included in the assistance group or

1 receiving cash assistance directly;

2       ~~(d)~~ (5) "Cash assistance" means temporary assistance for needy  
3 families;

4       ~~(e)~~ (6) "Challenge" means any fact, circumstance or situation  
5 that prevents a person from becoming self-sufficient or from  
6 seeking, obtaining or maintaining employment of any kind, including  
7 physical or mental disabilities, lack of education, testing,  
8 training, counseling, child care arrangements, transportation,  
9 medical treatment or substance abuse treatment;

10       ~~(f)~~ (7) "Community or personal development" means activities  
11 designed or intended to eliminate challenges to participation in  
12 self-sufficiency activities. These activities are to provide  
13 community benefit and enhance personal responsibility, including,  
14 but not limited to, classes or counseling for learning life skills  
15 or parenting, dependent care, job readiness, volunteer work,  
16 participation in sheltered workshops or substance abuse treatment;

17       ~~(g)~~ (8) "Department" means the State Department of Health and  
18 Human Resources;

19       ~~(h)~~ (9) "Education and training" means hours spent regularly  
20 attending and preparing for classes in any approved course of  
21 schooling or training;

22       ~~(i)~~ (10) "Family assessments" means evaluation of the  
23 following: Work skills, prior work experience, employability,  
24 education and challenges to becoming self-sufficient such as mental

1 health and physical health issues along with lack of transportation  
2 and child care;

3 ~~(j)~~ (11) "Income" means money received by any member of an at-  
4 risk family which can be used at the discretion of the household to  
5 meet its basic needs: *Provided*, That income does not include:

6 ~~(1)~~ (A) Supplemental security income paid to any member or  
7 members of the at-risk family;

8 ~~(2)~~ (B) Earnings of minor children;

9 ~~(3)~~ (C) Payments received from earned income tax credit or tax  
10 refunds;

11 ~~(4)~~ (D) Earnings deposited in an individual development  
12 account approved by the department;

13 ~~(5)~~ (E) Any educational grant or scholarship income regardless  
14 of source; or

15 ~~(6)~~ (F) Any moneys specifically excluded from countable income  
16 by federal law;

17 ~~(k)~~ (12) "Minor child head of household" means an emancipated  
18 minor under the age of eighteen years;

19 ~~(l)~~ (13) "Nonrecipient parent" means an adult or adults  
20 excluded or disqualified by federal or state law from receiving  
21 cash assistance;

22 ~~(m)~~ (14) "Personal responsibility contract" means a written  
23 agreement entered into by the department and a beneficiary for  
24 purposes of participation in the West Virginia Works Program;

1       ~~(n)~~ (15) "Secretary" means the secretary of the State  
2 Department of Health and Human Resources;

3       ~~(o)~~ (16) "Subsidized employment" means employment with  
4 earnings provided by an employer who receives a subsidy from the  
5 department for the creation and maintenance of the employment  
6 position;

7       ~~(p)~~ (17) "Support services" includes, but is not limited to,  
8 the following services: Child care; Medicaid; transportation  
9 assistance; information and referral; resource development services  
10 which includes assisting families to receive child support and  
11 supplemental security income; family support services which  
12 includes parenting, budgeting and family planning; relocation  
13 assistance; and mentoring services;

14       ~~(q)~~ (18) "Temporary assistance to needy families" is the  
15 federal program funded under Part A, Title IV of the Social  
16 Security Act, codified at 42 U.S.C. §601, *et. seq.*;

17       ~~(r)~~ (19) "Transitional assistance" may include medical  
18 assistance, food stamp assistance, child care and supportive  
19 services as defined by the secretary and as funding permits;

20       ~~(s)~~ (20) "Two-parent family" means two parents with a common  
21 child residing in the same household and included in a common West  
22 Virginia Works grant payment or, two parents with a common child  
23 residing in the same home and one or both of the parents are "work  
24 eligible individuals", as that term is defined in this section, but

1 are excluded from the West Virginia Works payments unless the  
2 exclusion is due to an exemption as provided in section eight of  
3 this article.

4 ~~(t)~~ (21) "Unsubsidized employment" means employment with  
5 earnings provided by an employer who does not receive a subsidy  
6 from the department for the creation and maintenance of the  
7 employment position;

8 ~~(u)~~ (22) "Vocational educational training" means organized  
9 educational programs, not to exceed twelve months for any  
10 individual, that are directly related to the preparation of  
11 individuals for employment in current or emerging occupations  
12 requiring training other than a baccalaureate or advance degree;

13 ~~(v)~~ (23) "Work" means unsubsidized employment, subsidized  
14 employment, work experience, community or personal development and  
15 education and training;

16 ~~(w)~~ (24) "Work eligible individual" means an adult or minor  
17 child head-of-household receiving assistance under the West  
18 Virginia Works Program or a nonrecipient parent living with a child  
19 receiving the assistance; and

20 ~~(x)~~ (25) "Work experience" means a publicly assisted work  
21 activity, including work associated with the refurbishing of  
22 publicly assisted housing, performed in return for program benefits  
23 that provide general skills, training, knowledge and work habits  
24 necessary to obtain employment. This activity must be supervised

1 daily and on an ongoing basis by an employer, work site sponsor or  
2 other responsible party.

3 **§9-9-5. WV works program fund.**

4       There is continued a special account within the State Treasury  
5 to be known as the "WV Works Program Fund". Expenditures from the  
6 fund shall be used exclusively to meet the necessary expenditures  
7 of the program, including wage reimbursements to participating  
8 employers, temporary assistance to needy families, payments for  
9 support services, employment-related child care payments,  
10 transportation expenses, drug testing expenses, substance use  
11 disorder treatment services and administrative costs directly  
12 associated with the operation of the program. Moneys paid into the  
13 account shall be from specific annual appropriations of funds by  
14 the Legislature.

15 **§9-9-6. Program participation.**

16       (a) Unless otherwise noted in this article, all adult  
17 beneficiaries of cash assistance and work eligible individuals  
18 shall participate in the West Virginia Works Program in accordance  
19 with the provisions of this article. The level of participation,  
20 services to be delivered and work requirements shall be defined  
21 through legislative rules established by the secretary.

22       (b) Any individual exempt under the provisions of section  
23 eight of this article may participate in the activities and  
24 programs offered through the West Virginia Works Program.

1 (c) Support services other than cash assistance through the  
2 West Virginia Works Program may be provided to at-risk families to  
3 assist in meeting the work requirements or to eliminate the need  
4 for cash assistance.

5 (d) Cash assistance through the West Virginia Works Program  
6 may be provided to an at-risk family if the combined family income,  
7 as defined in section three of this article, is below the income  
8 test levels established by the department, subject to the  
9 following:

10 (1) Any adult member of an at-risk family who receives  
11 supplemental security income shall be excluded from the benefit  
12 group;

13 (2) Within the limits of funds appropriated therefor, an at-  
14 risk family that includes a married man and woman and dependent  
15 children of either one or both may receive an additional cash  
16 assistance benefit in an amount of \$100 or less; and

17 (3) An at-risk family shall receive an additional cash  
18 assistance benefit in the amount of \$25 regardless of the amount of  
19 child support collected in a month on behalf of a child or children  
20 of the at-risk family, as allowed by federal law.

21 (e) All applicants for cash assistance shall complete an  
22 assessment of the applicant's likelihood of a substance use  
23 disorder involving the misuse of a controlled substance.

24 (1) The assessment required by this subsection shall include

1 a written questionnaire to be completed by the applicant designed  
2 to accurately determine the likelihood of the applicant having a  
3 substance use disorder involving the misuse of a controlled  
4 substance.

5 (2) In addition to the other requirements of this article, if  
6 the results of the written questionnaire taken by an applicant  
7 indicate a reasonable likelihood that the applicant has a substance  
8 use disorder involving the misuse of a controlled substance, the  
9 applicant may only receive cash assistance provided under this  
10 article in accordance with the additional requirements of section  
11 nine-a.

12 **§9-9-9. Personal responsibility contract.**

13 (a) (1) Every eligible adult beneficiary and work eligible  
14 individual shall participate in a program orientation, family  
15 assessments and in the development, and subsequent revisions, of a  
16 personal responsibility contract. The contract shall be defined  
17 based on the program time limits, support services available, work  
18 requirements and family assessments.

19 (2) The participant's contract shall include the following  
20 requirements:

21 (A) That the participant develop and maintain, with the  
22 appropriate health care provider, a schedule of preventive care for  
23 his or her dependent child or children, including routine  
24 examinations and immunizations;

1 (B) Assurance of school attendance for school-age children  
2 under his or her care;

3 (C) Assurance of properly supervised child care, including  
4 after-school care;

5 (D) Establishment of paternity or active pursuit of child  
6 support, or both, if applicable and if considered necessary; and

7 (E) Nutrition or other counseling, parenting or family-  
8 planning classes.

9 (3) If the participant is a teenage parent, he or she may  
10 work, but the contract shall include the requirements that the  
11 participant:

12 (A) Remain in an educational activity to complete high school,  
13 obtain a general equivalency diploma or obtain vocational training  
14 and make satisfactory scholastic progress;

15 (B) Attend parenting classes or participate in a mentorship  
16 program, or both, if appropriate; and

17 (C) Live at home with his or her parent or guardian or in some  
18 other adult-supervised arrangements if he or she is an  
19 unemancipated minor.

20 (4) If the participant is under the age of twenty years and  
21 does not have a high school diploma or its equivalent, the contract  
22 shall include requirements to participate in mandatory education or  
23 training which, if the participant is unemployed, may include a  
24 return to high school, with satisfactory scholastic progress

1 required.

2       (5) If the participant tests positive for the unlawful use of  
3 a controlled substance after taking a drug test under section nine-  
4 a, the personal responsibility contract shall include an agreement  
5 by the participant to participate in treatment for a substance use  
6 disorder and meet the other requirements of section nine-a.

7       (b) In order to receive cash assistance, the participant shall  
8 enter into a personal responsibility contract. If the participant  
9 refuses to sign the personal responsibility contract, the  
10 participant and family members are ineligible to receive cash  
11 assistance: *Provided*, That a participant who alleges that the  
12 terms of a personal responsibility contract are inappropriate based  
13 on his or her individual circumstances may request and shall be  
14 provided a fair and impartial hearing in accordance with  
15 administrative procedures established by the department and due  
16 process of law. A participant who signs a personal responsibility  
17 contract or complies with a personal responsibility contract does  
18 not waive his or her right to request and receive a hearing under  
19 this subsection.

20       (c) Personal responsibility contracts shall be drafted by the  
21 department on a case-by-case basis; take into consideration the  
22 individual circumstances of each beneficiary; reviewed and  
23 reevaluated periodically, but not less than on an annual basis;  
24 and, in the discretion of the department, amended on a periodic

1 basis.

2 **§9-9-9a. Drug testing requirements.**

3 (a) If the results of a questionnaire required by subsection  
4 (d), section six, indicate a reasonable likelihood that an  
5 applicant may have a substance use disorder involving the misuse of  
6 a controlled substance, the department shall require the applicant  
7 to take a drug test at the department's expense in order to  
8 continue to receive cash assistance under this article.

9 (b) If an applicant refuses to take a drug test required by  
10 subsection (a), the department shall terminate cash assistance  
11 under this article and the applicant may not reapply for cash  
12 assistance under this article for:

13 (1) Ninety days after a first refusal to take a drug test  
14 within one year; or

15 (2) One year after a second refusal to take a drug test within  
16 one year.

17 (c) Before taking a drug test under this section, an applicant  
18 may advise the person administering the test regarding any  
19 prescription or over-the-counter medication the applicant is  
20 taking.

21 (d) The result of a drug test given under this section is a  
22 confidential record in accordance with section twenty of this  
23 article and disclosure to a third party is prohibited except as  
24 provided under subsection (a), section twenty.

1 (e) If a applicant tests negative for the unlawful use of a  
2 controlled substance after taking a drug test under subsection (a),  
3 the applicant remains eligible for cash assistance, subject to the  
4 other eligibility requirements of this article and rules  
5 promulgated by the secretary pursuant to section four of this  
6 article.

7 (f) If an applicant tests positive for the unlawful use of a  
8 controlled substance after taking a drug test under subsection (a),  
9 the participant:

10 (1) Shall be given a list of approved substance use disorder  
11 treatment providers that are available in the area in which the  
12 individual resides; and

13 (2) May continue to receive benefits if the applicant enters  
14 into and follows the requirements of the personal responsibility  
15 contract required by section nine of this article, including:

16 (A) Receiving treatment, at the department's expense, from an  
17 approved substance use disorder treatment provider for at least  
18 sixty days;

19 (B) Testing negative for the unlawful use of a controlled  
20 substance:

21 (i) In each subsequent drug test during treatment; and

22 (ii) In an additional drug test given at the conclusion of  
23 treatment; and

24 (C) Meeting the other requirements for receiving cash

1 assistance under this article and rules promulgated by the  
2 secretary pursuant to section four of this article.

3 (g) If an applicant declines to enter into a personal  
4 responsibility contract pursuant to subsection (f), or if the  
5 participant enters into, but fails to meet, a requirement of a  
6 personal responsibility contract under subsection (f), including if  
7 the participant refuses to take a drug test required by the  
8 personal responsibility contract or tests positive for the unlawful  
9 use of a controlled substance in a drug test required by the  
10 personal responsibility contract, the department shall terminate  
11 cash assistance under this article and the participant may not  
12 reapply for cash assistance under this article for:

13 (1) Except as provided in subdivision (2), ninety days after  
14 the day on which the department determines, under this subsection  
15 (f), that the participant is no longer eligible for cash  
16 assistance; or

17 (2) One year after the day on which the department determines,  
18 under subsection (f), that the participant is no longer eligible  
19 for cash assistance, if the department has previously determined on  
20 at least one other occasion in the past year that the participant  
21 is no longer eligible for cash assistance under subsection (f).

22 (h) If an applicant is deemed ineligible for cash assistance  
23 pursuant to subsection (g):

24 (1) A dependent child's eligibility for cash assistance may

1 not be affected;

2 (2) An appropriate protective payee shall be designated to  
3 receive cash assistance on behalf of the child; and

4 (3) The applicant may choose to designate another individual  
5 to receive cash assistance for the applicant's minor child. The  
6 designated individual must be an immediate family member or, if an  
7 immediate family member is not available or the family member  
8 declines the option, another individual approved by the department.  
9 The designated individual shall also undergo drug testing before  
10 being approved to receive cash assistance on behalf of the child.  
11 If the designated individual tests positive for controlled  
12 substances, he or she is ineligible to receive cash assistance on  
13 behalf of the child.

14 (i) The department shall:

15 (1) Adopt rules for drug tests that shall include the  
16 following:

17 (A) The illegal drugs that will be the subject of testing;

18 (B) Methods for assuring minimal privacy intrusions and the  
19 dignity of the person being tested during the collection of body  
20 fluid specimens for such testing;

21 (C) Methods for assuring proper storage, transportation, and  
22 handling of such specimens in order to ensure the integrity of the  
23 testing process;

24 (D) The identity of those persons entitled to the results of

1 such tests and methods for ensuring that only authorized persons  
2 are given access to such results;

3 (E) A list of laboratories qualified to conduct established  
4 drug tests;

5 (F) A list of approved substance abuse treatment providers;  
6 and

7 (G) Procedures for persons undergoing drug testing, prior to  
8 the collection of body fluid specimens for such testing, to provide  
9 information regarding use of any drug pursuant to a medical  
10 prescription or as otherwise authorized by law which may affect the  
11 results of such test.

12 (2) Provide notice of drug testing to each applicant at the  
13 time of application. The notice shall advise the applicant that  
14 drug testing will be conducted as a condition for receiving cash  
15 assistance and that the department shall bear the cost of testing.  
16 Dependent children under the age of 18 are exempt from the drug  
17 testing requirement;

18 (3) Require that for two-parent families, one parent shall  
19 comply with the drug testing requirement;

20 (4) Require that any minor child head of household shall  
21 comply with the drug testing requirement;

22 (5) Advise each individual to be tested, before the test is  
23 conducted, that he or she may, but is not required to, advise the  
24 agent administering the test of any prescription or over the

1 counter medication he or she is taking;

2 (6) Require each individual to be tested to sign a written  
3 acknowledgment that he or she has received and understood the  
4 notice and advice provided under this subsection;

5 (7) Assure each individual being tested a reasonable degree of  
6 dignity while producing and submitting a sample for drug testing,  
7 consistent with the state's need to ensure the reliability of the  
8 sample;

9 (8) Specify circumstances under which an individual who fails  
10 a drug test has the right to take one or more additional tests;

11 (9) Inform an individual who declines to enter into a personal  
12 responsibility contract pursuant to subsection (f), or if the  
13 participant enters into, but fails to meet, a requirement of a  
14 personal responsibility contract under subsection (f), including if  
15 the participant refuses to take a drug test required by the  
16 personal responsibility contract or tests positive for the unlawful  
17 use of a controlled substance in a drug test required by the  
18 personal responsibility contract, the department shall terminate  
19 cash assistance under this article and the participant may not  
20 reapply for cash assistance for the time periods specified in  
21 subsection (g); and

22 (10) Provide any individual who tests positive with a list of  
23 substance abuse treatment providers approved by the department  
24 which are available in the area in which he or she resides.

1 (k) As used in this section, "drug test" means the collection  
2 and testing of bodily fluids administered in a manner equivalent to  
3 that required by the Mandatory Guidelines for Federal Workplace  
4 Drug Testing Programs (53 C.F.R. 11979, 32 et seq., as amended) or  
5 other professionally valid procedures approved by the department:  
6 Provided, That, where possible and practicable, a swab test shall  
7 be used in lieu of a urinalysis.

8 **§9-9-11. Breach of contract; notice; sanctions.**

9 (a) The department may terminate cash assistance benefits to  
10 an at-risk family if it finds any of the following:

11 (1) Fraud or deception by the beneficiary in applying for or  
12 receiving program benefits;

13 (2) A substantial breach by the beneficiary of the  
14 requirements and obligations set forth in the personal  
15 responsibility contract and any amendments or addenda to the  
16 contract;

17 (3) A refusal to enter into a personal responsibility contract  
18 pursuant to subsection (f), section nine-a, or the failure to meet  
19 a requirement of a personal responsibility contract under  
20 subsection (f), section nine-a, including the refusal to take a  
21 drug test required by the personal responsibility contract, or  
22 testing positive for the unlawful use of a controlled substance in  
23 a drug test required by the personal responsibility contract; or

24 ~~(3)~~ (4) A violation by the beneficiary of any provision of the

1 personal responsibility contract or any amendments or addenda to  
2 the contract, this article, or any rule promulgated by the  
3 secretary pursuant to this article.

4 (b) In the event the department determines that benefits  
5 received by the beneficiary are subject to reduction or  
6 termination, written notice of the reduction or termination and the  
7 reason for the reduction or termination shall be deposited in the  
8 United States mail, postage prepaid and addressed to the  
9 beneficiary at his or her last known address at least thirteen days  
10 prior to the termination or reduction. The notice shall state the  
11 action being taken by the department and grant to the beneficiary  
12 a reasonable opportunity to be heard at a fair and impartial  
13 hearing before the department in accordance with administrative  
14 procedures established by the department and due process of law.

15 (c) In any hearing conducted pursuant to the provisions of  
16 this section, the beneficiary has the burden of proving that his or  
17 her benefits were improperly reduced or terminated and shall bear  
18 his or her own costs, including attorneys fees.

19 (d) The secretary shall determine by rule what constitutes de  
20 minimis violations and those violations subject to sanctions and  
21 maximum penalties. In the event the department finds that:

22 (1) A beneficiary has violated any provision of this article,  
23 of his or her personal responsibility contract or any amendment or  
24 addenda to the contract, or any applicable department rule, the

1 department shall impose sanctions against the beneficiary as  
2 follows:

3 ~~(1)~~ (A) For the first violation, a one-third reduction of  
4 benefits for three months;

5 ~~(2)~~ (B) For a second violation, a two-thirds reduction of  
6 benefits for three months;

7 ~~(3)~~ (C) For a third or subsequent violation, a total  
8 termination of benefits for three months.

9 (2) An applicant or beneficiary who declines to enter into a  
10 personal responsibility contract pursuant to subsection (f),  
11 section nine-a, or the participant enters into, but fails to meet,  
12 a requirement of a personal responsibility contract under  
13 subsection (f), section nine-a, including if the participant  
14 refuses to take a drug test required by the personal responsibility  
15 contract, or tests positive for the unlawful use of a controlled  
16 substance in a drug test required by the personal responsibility  
17 contract, the department shall terminate cash assistance under this  
18 article and the participant may not reapply for cash assistance  
19 under this article for:

20 (A) Except as provided in paragraph (B), ninety days after the  
21 day on which the department determines, under this subsection (f),  
22 section nine-a, that the participant is no longer eligible for cash  
23 assistance; or

24 (B) One year after the day on which the department determines,

1 under section nine-a, that the participant is no longer eligible  
2 for cash assistance, if the department has previously determined on  
3 at least one other occasion in the past year that the participant  
4 is no longer eligible for cash assistance.

5 (e) For any sanction imposed pursuant to subdivision (1),  
6 subsection (d) ~~of this section,~~ if the beneficiary is found to have  
7 good cause for noncompliance, as defined by the secretary, the  
8 reduction or termination in benefits shall not be imposed and the  
9 violation shall not count in determining the level of sanction to  
10 be imposed for any future violation. Once a reduction in benefits  
11 is in effect, it shall remain in effect for the designated time  
12 period: *Provided,* That if a participant incurs a subsequent  
13 sanction before the sanction for a previous violation has expired,  
14 the sanctions shall run concurrently: *Provided, however,* That if  
15 a third violation occurs before the period for a previous sanction  
16 has expired, benefits shall be terminated and may not be reinstated  
17 until the three-month termination period has expired.

18 (f) If an applicant is deemed ineligible for cash assistance  
19 pursuant to subdivision (2), subsection (d):

20 (1) A dependent child's eligibility for cash assistance may  
21 not be affected;

22 (2) An appropriate protective payee shall be designated to  
23 receive cash assistance on behalf of the child; and

24 (3) The applicant may choose to designate another individual

1 to receive cash assistance for the applicant's minor child. The  
2 designated individual must be an immediate family member or, if an  
3 immediate family member is not available or the family member  
4 declines the option, another individual approved by the department.  
5 The designated individual shall also undergo drug testing before  
6 being approved to receive cash assistance on behalf of the child.  
7 If the designated individual tests positive for controlled  
8 substances, he or she shall be ineligible to receive cash  
9 assistance on behalf of the child.

10 **§9-9-20. Confidentiality, fines and penalties.**

11 (a) Except as otherwise provided in this code or rules, all  
12 records and information of the department regarding any beneficiary  
13 or beneficiary's family members, including food stamps, child  
14 support, results of drug testing and Medicaid records, are  
15 confidential and shall not be released, except under the following  
16 circumstances:

17 (1) If permissible under state or federal rules or  
18 regulations;

19 (2) Upon the express written consent of the beneficiary or his  
20 or her legally authorized representative;

21 (3) Pursuant to an order of any court of record of this state  
22 or the United States based upon a finding that the information is  
23 sufficiently relevant to a proceeding before the court to outweigh  
24 the importance of maintaining the confidentiality established by

1 this section: *Provided*, That all confidential records and  
2 information presented to the court shall after review be sealed by  
3 the clerk and shall not be open to any person except upon order of  
4 the court upon good cause being shown for the confidential records  
5 and information to be opened; or

6 (4) To a department or division of the state or other entity,  
7 pursuant to the terms of an interagency or other agreement:  
8 *Provided*, That any agreement specifically references this section  
9 and extends its requirements for confidentiality to the other  
10 entity receiving the records or information, its agents and  
11 employees.

12 (b) Any person who knowingly and willfully releases or causes  
13 to be released the confidential records and information described  
14 in this section, except under the specific circumstances enumerated  
15 in this section, is guilty of a misdemeanor and, upon conviction  
16 thereof, shall be fined not more than \$500 or confined in ~~the~~  
17 ~~county or regional~~ jail for not more than six months, or both.

NOTE: The purpose of this bill is to amend the lawful purposes for which the West Virginia works program fund may be used. It amends program participation requirements and the personal responsibility contract requirements, including drug testing requirements. The bill amends the provisions related to a breach of the personal responsibility contract and associated sanctions and provisions related to the confidentiality of the program.

§9-9-9a is new; therefore, it has been completely underscored.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.