

Senate Bill 229

By: Senator Harp of the 16th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 16 of Title 45 of the Official Code of Georgia Annotated, relating to
2 coroners, so as to require accountability for the seizure of illegal or prescription drugs; to
3 provide a method to dispose of seized drugs; to allow random drug testing of the coroner,
4 medical examiner, or any employee working in such offices; to require applicants for
5 employment in such offices to undergo drug testing; to provide for related matters; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 16 of Title 45 of the Official Code of Georgia Annotated, relating to coroners, is
10 amended in paragraph (1) of subsection (b) of Code Section 45-16-1, relating to the election
11 and qualifications of the coroner, by striking "and" at the end of subparagraph (F); by striking
12 the period at the end of subparagraph (G) and inserting in its place "; and"; and by adding a
13 new subparagraph (H) to read as follows:

14 "(H) Has complied with Code Section 45-16-12."

15 **SECTION 2.**

16 Said chapter is further amended by adding a new Code section following Code Section
17 45-16-11, relating to compensation for coroners for deaths in state correctional institutions,
18 to read as follows:

19 "45-16-12.

20 (a) Any person who is offered employment with the coroner or medical examiner's office
21 shall, prior to commencing employment or within ten days after commencing employment,
22 submit to an established drug test in the manner required by the Mandatory Guidelines for
23 Federal Workplace Drug Testing Programs (HHS Regulations 53 Fed. Reg. 11979, et seq.,
24 as amended) for illegal drugs.

1 (b) 'Illegal drug' means marijuana/cannabinoids (THC); controlled substances as defined
2 in paragraph (4) of Code Section 16-13-21, as amended; or a dangerous drug as defined
3 in Code Section 16-13-71, as amended. The term illegal drug shall not include any drug
4 when used pursuant to a valid prescription or when used as otherwise authorized by state
5 or federal law.

6 (c) All costs of such testing shall be paid by the county governing authority.

7 (d) Any such test which indicates the presence of illegal drugs shall be followed by a
8 confirmatory test using gas chromatography/mass spectrometry analysis. If the results of
9 the confirmatory test indicate the presence of illegal drugs, such results shall be reviewed
10 and interpreted by a properly licensed physician who reviews and interprets results of drug
11 tests and evaluates those results together with medical history or any other relevant
12 biomedical information to confirm positive and negative results to determine if there is an
13 alternative medical explanation. If the applicant provides appropriate documentation and
14 the medical review officer determines that it was a legitimate usage of the substance, the
15 result shall be reported as negative. Any applicant who fails to provide an alternative
16 medical explanation shall be reported by the medical review officer as having a positive
17 test result. Any applicant offered employment who refuses to submit to an established test
18 for illegal drugs or whose test results are positive shall be disqualified from employment
19 by the coroner or medical examiner's office. The results of such tests shall remain
20 confidential and shall not be a public record unless necessary for the administration of
21 these provisions or otherwise mandated by other state or federal law.

22 (e) Any person employed by the coroner or medical examiner's office, including the
23 coroner and medical examiner, shall be subject to random testing for evidence of use of
24 illegal drugs.

25 (f) The coroner or medical examiner and the county governing authority shall adopt
26 policies to establish:

- 27 (1) The number or percentage of employees that may be selected at random for testing
28 at each testing period;
- 29 (2) Methods for assuring that employees are selected for testing on a random basis;
- 30 (3) Methods for assuring that privacy intrusions are minimized during collection of body
31 fluid specimens;
- 32 (4) Methods for assuring that any body fluid specimens are stored and transported to
33 testing laboratories at proper temperatures and under such conditions that the integrity of
34 the specimens shall not be jeopardized;
- 35 (5) Methods for assuring that the identity of employees whose tests show the usage of
36 an illegal drug is limited to the staff who are entitled to this information; and
- 37 (6) The identification of those persons entitled to such information

1 and shall adopt such other policies as the coroner or medical examiner and county
2 governing authority may deem appropriate to carry out the purposes of this Code section.

3 (g) Any employee found to have used an illegal drug shall be terminated from his or her
4 employment.

5 (h) Any employee who refuses to provide body fluid when requested to do so in
6 accordance with the random drug testing conducted pursuant to this Code section and
7 administrative rules and regulations promulgated under this Code section shall be
8 terminated from his or her employment."

9 SECTION 3.

10 Said chapter is further amended by striking subsection (c) of Code Section 45-16-25, relating
11 to the duties of a coroner or county medical examiner upon receipt of notice of suspicious
12 or unusual death, and inserting a new subsection (c) to read as follows:

13 "(c) The coroner or county medical examiner shall, in the absence of the next of kin of the
14 deceased person, take possession of all property of value found on such person, make an
15 exact inventory thereof on his or her report, and surrender the same to the person entitled
16 to its custody or possession. The coroner, medical examiner, or peace officer shall take
17 possession of any objects, anatomical specimens, or articles which, in his or her opinion,
18 may be helpful in establishing the cause of death, manner of death, or identification of the
19 deceased; and in cooperation with the division he or she may make such tests and
20 examinations of said objects, specimens, or articles as may be necessary or useful in
21 determining the cause of death, manner of death, or the identity of the deceased. At his or
22 her discretion, the medical examiner or coroner may dispose of such objects, specimens,
23 or articles when the medical examiner's or coroner's need for their retention has ended,
24 unless any of the items include prescription or illegal drugs. In the event that a criminal
25 prosecution arises, all such objects and articles together with reports of any examinations
26 made upon them shall be retained in the custody of the director of the division until their
27 production as evidence is required by the prosecuting officer or upon written order of the
28 peace officer in charge or court having proper jurisdiction. The medical examiner or
29 coroner shall account for all prescription or illegal drugs seized from the deceased person
30 or from the area surrounding the deceased person's body and shall account for the seizure
31 in his or her report. If such drugs are utilized in a criminal prosecution, the coroner or
32 medical examiner shall have no further accountability for such drugs. In the event that no
33 criminal prosecution arises, and if the need for such drug retention has ended, such drugs
34 shall be destroyed by incineration, when possible, or otherwise delivered to the division for
35 destruction. In either method of destruction, the coroner or medical examiner shall
36 maintain a log evidencing the method of destruction of any drug seized and any destruction

1 shall be witnessed by another person. Such drug destruction shall be recorded in the
2 coroner's or medical examiner's supplemental report."

3 **SECTION 4.**

4 Said chapter is further amended by striking Code Section 45-16-32, relating to coroner's or
5 medical examiner's investigation and examination reports, and inserting in lieu thereof a new
6 Code section to read as follows:

7 "45-16-32.

8 The medical examiner and coroner shall file a report with the director of the division of
9 each medical examiner's inquiry and coroner's investigation ~~with the director of the~~
10 ~~division~~ and a report in any other case where a death occurs and there is a seizure of
11 prescription or illegal drugs. The division shall maintain the reports and function as a
12 central repository for the storage and dissemination of such reports pursuant to Article 4
13 of Chapter 18 of Title 50. The coroner or county medical examiner shall maintain
14 permanent records of such reports. The coroner or county medical examiner may file all
15 original reports with the clerk of the superior court of the county. In cases where such
16 report indicates a suspicion of foul play, the medical examiner and peace officer in charge
17 shall transmit any specimens, samples, or other evidence to the division for analysis. In
18 cases where reports indicating foul play are verified by the division, the director of the
19 division shall provide a completed crime lab report to the appropriate prosecuting attorney
20 where the acts or events leading to the death occurred."

21 **SECTION 5.**

22 All laws and parts of laws in conflict with this Act are repealed.