

Senate Bill 268

By: Senators Seabaugh of the 28th and Rogers of the 21st

A BILL TO BE ENTITLED  
AN ACT

1 To amend Titles 34 and 49 of the Official Code of Georgia Annotated, relating to labor and  
2 industrial relations and social services, respectively, so as to define certain terms; to provide  
3 that the Department of Labor shall develop a program of mandatory drug testing of  
4 applicants for unemployment benefits; to provide for a review; to provide that any applicant  
5 who refuses to be tested or whose test results in a positive identification of certain substances  
6 shall be ineligible to receive benefits; to provide that the Department of Human Resources  
7 shall develop a program of mandatory drug testing of applicants for public assistance; to  
8 provide for a review; to provide that any applicant who refuses to be tested or whose test  
9 results in a positive identification of certain substances shall be ineligible to receive public  
10 assistance; to provide for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,  
14 is amended by adding a new Code section to read as follows:

15 "34-8-94.

16 (a) As used in this Code section, the term:

17 (1) 'Applicant' means a candidate who applies for unemployment benefits under this  
18 chapter.

19 (2) 'Department' means the Department of Labor.

20 (3) 'Established test' means the collection and testing of bodily fluids administered in a  
21 manner equivalent to that required by the Mandatory Guidelines for Federal Workplace  
22 Drug Testing Programs (HHS Regulations 53 Fed. Reg. 11979, et seq., as amended).

23 (4) 'Illegal drug' means marijuana or any controlled substance or dangerous drug, as such  
24 terms are defined in Chapter 13 of Title 16. The term 'illegal drug' shall not include any  
25 drug when used pursuant to a valid prescription or when used as otherwise authorized by  
26 state or federal law.

1 (5) 'Medical review officer' means a properly licensed physician who reviews and  
 2 interprets results of drug testings and evaluates those results together with medical history  
 3 or any other relevant biomedical information to confirm positive and negative results.

4 (b) The department is authorized and directed to establish a program of mandatory drug  
 5 testing for applicants.

6 (c) Every applicant shall, prior to receiving a benefit, submit to an established test for  
 7 illegal drugs. All costs of such testing shall be paid from public funds. Any such test which  
 8 indicates the presence of illegal drugs shall be followed by a confirmatory test using gas  
 9 chromatography/mass spectrometry analysis. If the results of the confirmatory test indicate  
 10 the presence of illegal drugs, such results shall be reviewed and interpreted by a medical  
 11 review officer to determine if there is an alternative medical explanation. If the applicant  
 12 provides appropriate documentation and the medical review officer determines that it was  
 13 a legitimate usage of the substance, the result shall be reported as negative. Any applicant  
 14 who fails to provide an alternative medical explanation shall be reported by the medical  
 15 review officer as having a positive test result. Any applicant who refuses to submit to an  
 16 established test for illegal drugs or whose test results are positive shall be disqualified from  
 17 receiving a benefit. Such disqualification shall not be removed for a period of two years  
 18 from the date that such test was administered. The department shall develop rules for the  
 19 administration of the test and any verification procedures as provided in this Code section.  
 20 The results of such tests shall remain confidential and shall not be a public record unless  
 21 necessary for the administration of these provisions or otherwise mandated by other state  
 22 or federal law."

## 23 SECTION 2.

24 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended  
 25 by revising Code Section 49-4-181, relating to definitions relative to temporary assistance  
 26 for needy families, as follows:

27 "49-4-181.

28 As used in this article, the term:

29 (1) 'Applicant' means a person who applies for assistance under the state plan.

30 (2) 'Assistance' means the temporary assistance provided to needy families with children  
 31 in accordance with Part A of Title IV of the federal Social Security Act, as amended,  
 32 regulations promulgated pursuant thereto by the secretary of health and human services,  
 33 all applicable laws of this state, the state plan, and regulations of the Board of Human  
 34 Resources.

35 (3) 'Board' means the Board of Human Resources.

36 (4) 'Cash assistance' means the money payment component of TANF assistance.

1 (5) 'Department' means the Department of Human Resources.

2 (6) 'Established test' means the collection and testing of bodily fluids administered in a  
 3 manner equivalent to that required by the Mandatory Guidelines for Federal Workplace  
 4 Drug Testing Programs (HHS Regulations 53 Fed. Reg. 11979, et seq., as amended).

5 ~~(6)~~(7) 'Family' means one or more children living with a responsible parent, both parents,  
 6 or other caretaker relative or legal guardian.

7 (8) 'Illegal drug' means marijuana or any controlled substance or dangerous drug, as such  
 8 terms are defined in Chapter 13 of Title 16. The term 'illegal drug' shall not include any  
 9 drug when used pursuant to a valid prescription or when used as otherwise authorized by  
 10 state or federal law.

11 (9) 'Medical review officer' means a properly licensed physician who reviews and  
 12 interprets results of drug testings and evaluates those results together with medical history  
 13 or any other relevant biomedical information to confirm positive and negative results.

14 ~~(7)~~(10) 'Recipient' means a person who receives assistance pursuant to the state plan.

15 ~~(8)~~(11) 'State plan' means the plan submitted by the State of Georgia to the secretary of  
 16 health and human services, pursuant to Part A of Title IV of the federal Social Security  
 17 Act, as amended, particularly by the Act of August 22, 1996, Public Law 104-193, the  
 18 Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended.

19 ~~(9)~~(12) 'TANF' means temporary assistance for needy families.

20 ~~(10)~~(13) 'Work activity' means a work activity as defined by Part A of Title IV of the  
 21 federal Social Security Act, as amended. The term currently includes any of the  
 22 following:

23 (A) Unsubsidized employment;

24 (B) Subsidized private sector employment;

25 (C) Subsidized public sector employment;

26 (D) Work experience, including work associated with the refurbishing of publicly  
 27 assisted housing, if sufficient private sector employment is not available;

28 (E) On-the-job training;

29 (F) Job search and job readiness assistance, but such activity by a recipient shall be  
 30 limited to no more than six weeks, only four weeks of which may be consecutive,  
 31 unless the state's unemployment rate is 50 percent above the national average, in which  
 32 case such activity shall be limited to no more than 12 weeks, only four weeks of which  
 33 may be consecutive;

34 (G) Community service programs;

35 (H) Vocational educational training, not to exceed 12 months with respect to any  
 36 individual;

37 (I) Job skills training directly related to employment;

(J) Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency;

(K) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate of high school equivalency; and

(L) The provision of child care services to an individual who is participating in a community service program.

In the event the definition of work activities in Part A of Title IV of the federal Social Security Act is amended to delete from or add to the list of activities contained in this paragraph, any such change or changes shall be incorporated into this paragraph. The minimum average number of hours per week of such work activity for not less than the percentage of recipients comprising the minimum work participation rate in a given federal fiscal year shall be as follows:

If the month is in federal fiscal year	The minimum average number of hours per week is:
1997 .....	20
1998 .....	20
1999 .....	25
2000 or thereafter .....	30

~~(H)~~(14) 'Work participation rate' means the percentage of TANF recipients who are required to engage in a work activity in accordance with Part A of Title IV of the federal Social Security Act, as amended. The minimum work participation rate with respect to all families receiving assistance under the Georgia TANF Program shall be, in accordance with current federal law, as follows:

If the federal fiscal year is:	The minimum participation rate is:
1997 .....	25%
1998 .....	30%
1999 .....	35%
2000 .....	40%
2001 .....	45%
2002 or thereafter .....	50%

1 The minimum work participation rate with respect to two-parent families receiving  
2 assistance under the Georgia TANF Program shall be, in accordance with current federal  
3 law, as follows:

	The minimum
4 If the federal	participation
5 fiscal year is:	rate is:
6 1997 .....	75%
7 1998 .....	75%
8 1999 or thereafter .....	90%

9  
10 Provided, however, that the work participation rates reflected in this paragraph may be  
11 adjusted due to caseload reductions in accordance with Part A of Title IV of the federal  
12 Social Security Act, as amended."

13 **SECTION 3.**

14 Said title is further amended by revising Code Section 49-4-189, which is reserved, as  
15 follows:

16 "49-4-189.

17 ~~Reserved.~~ (a) The department is authorized and directed to establish a program of  
18 mandatory drug testing for adult applicants.

19 (b) Every applicant shall, prior to receiving the public assistance requested or within ten  
20 days after the commencement of such assistance, submit to an established test for illegal  
21 drugs. All costs of such testing shall be paid from public funds. Any such test which  
22 indicates the presence of illegal drugs shall be followed by a confirmatory test using gas  
23 chromatography/mass spectrometry analysis. If the results of the confirmatory test indicate  
24 the presence of illegal drugs, such results shall be reviewed and interpreted by a medical  
25 review officer to determine if there is an alternative medical explanation. If the applicant  
26 provides appropriate documentation and the medical review officer determines that it was  
27 a legitimate usage of the substance, the result shall be reported as negative. Any applicant  
28 who fails to provide an alternative medical explanation shall be reported by the medical  
29 review officer as having a positive test result. Any applicant who refuses to submit to an  
30 established test for illegal drugs or whose test results are positive shall be disqualified from  
31 receiving public assistance. Such disqualification shall not be removed for a period of two  
32 years from the date that such test was administered. The department shall develop rules  
33 for the administration of the test and any verification procedures as provided in this Code  
34 section. The results of such tests shall remain confidential and shall not be a public record

1 unless necessary for the administration of these provisions or otherwise mandated by other  
2 state or federal law."

3 **SECTION 4.**

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