

House Bill 464

By: Representatives Harden of the 28th, Allison of the 8th, Pruett of the 144th, Smith of the 129th, Morris of the 155th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated,
2 relating to general provisions for public assistance, so as to require random drug testing for
3 recipients of certain public assistance; to provide for related matters; to provide for an
4 effective date and applicability; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 1 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to
8 general provisions relating to public assistance, is amended by adding a new Code section
9 to read as follows:

10 "49-4-3.1.

11 (a) The Department of Human Services shall institute a random drug testing program for
12 recipients of state public assistance and state administered federal public assistance where
13 the recipient is 18 years of age or older; provided, however, that the provisions of this
14 subsection shall not apply to any public assistance related to the provision of medical care
15 or any public assistance provided, directly or indirectly, for the benefit of persons under the
16 age 18. Nothing contained in this Code section shall be construed to provide a basis for
17 withholding, cancelling, or denying any public benefit to a person under the age of 18 or
18 to a person receiving benefits for or on behalf of a person under the age of 18.

19 (b) The department shall cancel, withhold, or otherwise deem ineligible any recipient of
20 state assistance or state administered federal assistance under this chapter if the recipient
21 fails a drug test for illegal consumption of marijuana or a controlled substance. Where a
22 recipient of public assistance has a valid medical prescription for a controlled substance for
23 which he or she tested positive for, such recipient shall not be considered to have failed a
24 drug test for such substance.

25 (c) A recipient of state assistance or state administered federal assistance shall submit at
26 least once per year to the department's random drug testing program as a requirement for

27 continued receipt of such assistance. Failure to comply with the drug testing requirements
28 of this Code section shall be deemed to be the same as failing a drug test, and the recipient
29 shall be considered ineligible for state assistance or state administered federal assistance
30 until agreeing to submit to and passing the department's random drug testing program.

31 (d) A recipient of state assistance or state administered federal assistance denied or
32 otherwise deemed ineligible by the department following a failure of a second drug test as
33 required by the drug testing program shall be ineligible to receive, or prohibited from
34 reapplying for, such benefits for a period of two years from the date that the department
35 determined the recipient to be ineligible pursuant to this Code section. A recipient found
36 ineligible under this Code section shall submit to a mandatory drug test as part of a
37 reapplication for state assistance or state administered federal assistance or both.

38 (e) The department shall be responsible for ensuring that recipients chosen for drug testing
39 are selected at random and not by any other criteria, including, but not limited to, suspicion
40 of drug use, previous drug use, or criminal conviction for drug use or possession.

41 (f) The department shall be responsible for ensuring the confidentiality of any and all drug
42 test results administered as part of the program. Random drug test results shall only be
43 used for the purpose of denying or determining eligibility for continued receipt of state
44 public assistance or state administered federal public assistance or both. At no time shall
45 drug test results be released to any public or private person or entity except as requested
46 by the person tested.

47 (g) The department shall provide for an administrative hearing and interdepartmental
48 appeal for review of the findings of the department to the commissioner or his or her
49 designee. A review of such proceedings shall be affirmed, provided there is any evidence
50 to support the findings of the department.

51 (h) The costs of the drug testing administered pursuant to this Code section shall be paid
52 by the recipient or deducted from benefits provided to the recipient; provided, however,
53 that a recipient of public benefits shall not be required to pay for more than one drug
54 screening per year."

55 **SECTION 2.**

56 This Act shall become effective on July 1, 2011, except that Section 1 of this Act shall
57 become effective on January 1, 2012.

58 **SECTION 3.**

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