

House Bill 668

By: Representatives Spencer of the 180th, Willard of the 49th, Braddock of the 19th, Houston of the 170th, Atwood of the 179th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 9 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated,
2 relating to temporary assistance for needy families, so as to define certain terms; to provide
3 that the Department of Human Services shall create an established drug test to be
4 administered to each applicant for temporary assistance for needy families; to provide
5 requirements; to provide that each applicant shall undergo a drug test in order to qualify for
6 benefits; to provide that any person who fails such drug test shall be ineligible to receive
7 benefits; to provide for reapplication; to provide for children's benefits; to provide for
8 confidentiality of records; to provide for related matters; to repeal conflicting laws; and for
9 other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 9 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to
13 temporary assistance for needy families, is amended by adding a new Code section to read
14 as follows:

15 "49-4-193.

16 (a) As used in this Code section, the term 'established drug test' means the collection and
17 testing of bodily fluids administered in a manner equivalent to that required by the
18 Mandatory Guidelines for Federal Workplace Drug Testing Programs (HHS Regulations
19 53 C.F.R. 11979, et seq., as amended) or other professionally valid procedures approved
20 by the department.

21 (b) The department shall adopt rules and regulations to adopt an established drug test
22 which shall include the following:

23 (1) Which illegal drugs will be the subject of testing;

24 (2) Methods for assuring minimal privacy intrusions during collection of body fluid
25 specimens for such testing;

- 26 (3) Methods for assuring proper storage, transportation, and handling of such specimens
27 in order to ensure the integrity of the testing process;
- 28 (4) The identity of those persons entitled to the results of such tests and methods for
29 ensuring that only authorized persons are given access to such results;
- 30 (5) A list of laboratories qualified to conduct established drug tests;
- 31 (6) A list of approved substance abuse treatment providers; and
- 32 (7) Procedures for persons undergoing drug testing, prior to the collection of body fluid
33 specimens for such testing, to provide information to their employers regarding use of
34 any drug pursuant to a medical prescription or as otherwise authorized by law which may
35 affect the results of such test.
- 36 (c) The department shall require a drug test consistent with subsection (b) of this Code
37 section to screen each individual who applies for assistance. The cost of drug testing shall
38 be the responsibility of the individual tested.
- 39 (d) Any recipient of cash assistance under this article who tests positive for controlled
40 substances as a result of a drug test required under this Code section shall be ineligible to
41 receive TANF benefits as follows:
- 42 (1) For a first positive result, the recipient shall be ineligible for TANF benefits for one
43 month and until he or she tests negative in a retest;
- 44 (2) For a second positive result, the recipient shall be ineligible for TANF benefits for
45 three months and until he or she tests negative in a retest; and
- 46 (3) For a third and each subsequent positive result, the recipient shall be ineligible for
47 TANF benefits for three years and until he or she tests negative in a retest unless the
48 individual meets the requirements of subsection (f) of this Code section.
- 49 (e) The department shall:
- 50 (1) Provide notice of drug testing to each individual at the time of application. The
51 notice shall advise the individual that drug testing will be conducted as a condition for
52 receiving TANF benefits and that the individual shall bear the cost of testing. If the
53 individual tests negative for controlled substances, the department shall increase the
54 amount of the initial TANF benefit by the amount paid by the individual for the drug
55 testing. The individual shall be advised that the required drug testing may be avoided if
56 the individual does not apply for TANF benefits. Dependent children under the age of
57 18 are exempt from the drug testing requirement;
- 58 (2) Require that for two-parent families, both parents must comply with the drug testing
59 requirement;
- 60 (3) Require that any teen parent who is not required to live with a parent, legal guardian,
61 or other adult caretaker relative shall comply with the drug testing requirement;

62 (4) Advise each individual to be tested, before the test is conducted, that he or she may,
63 but is not required to, advise the agent administering the test of any prescription or over
64 the counter medication he or she is taking;

65 (5) Require each individual to be tested to sign a written acknowledgment that he or she
66 has received and understood the notice and advice provided under paragraphs (1) and (4)
67 of this subsection;

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

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

73 (8) Inform an individual who tests positive for a controlled substance and is deemed
74 ineligible for TANF benefits for three years pursuant to paragraph (3) of subsection (d)
75 of this Code section that the individual may reapply for those benefits one year after the
76 date of the positive drug test if he or she meets the requirements of subsection (f) of this
77 Code section; and

78 (9) Provide any individual who tests positive with a list of substance abuse treatment
79 providers approved by the department available in the area in which he or she resides.
80 Neither the department nor the state shall be responsible for providing or paying for
81 substance abuse treatment.

82 (f) An individual who tests positive for an illegal drug and is denied TANF benefits for
83 three years pursuant to paragraph (3) of subsection (d) of this Code section may reapply
84 for those benefits after one year if the individual can document the successful completion
85 of a substance abuse treatment program offered by a provider approved by the department.
86 An individual who has met the requirements of this paragraph and reapplies for TANF
87 benefits shall also pass an initial drug test and meet the requirements of subsection (c) of
88 this Code section. Any drug test conducted while the individual is undergoing substance
89 abuse treatment shall meet the requirements of subsection (b) of this Code section. The
90 cost of any drug testing provided under this Code section and substance abuse treatment
91 shall be the responsibility of the individual being tested and receiving treatment. An
92 individual who fails the drug test required under subsection (c) of this Code section may
93 reapply for benefits under this subsection only once. If the individual tests positive again,
94 he or she shall be ineligible to receive TANF benefits for three years after the date of the
95 subsequent positive drug test unless the individual meets the requirements of this
96 subsection.

97 (g) If a parent is deemed ineligible for TANF benefits as a result of failing a drug test
98 conducted under this Code section:

- 99 (1) The dependent child's eligibility for TANF benefits shall not be affected;
100 (2) An appropriate protective payee shall be designated to receive benefits on behalf of
101 the child; and
102 (3) The parent may choose to designate another individual to receive benefits for the
103 parent's minor child. The designated individual must be an immediate family member
104 or, if an immediate family member is not available or the family member declines the
105 option, another individual approved by the department. The designated individual shall
106 also undergo drug testing before being approved to receive benefits on behalf of the child.
107 If the designated individual tests positive for controlled substances, he or she shall be
108 ineligible to receive benefits on behalf of the child.
109 (h) The results of any drug test done according to this Code section shall not be subject to
110 disclosure under Article 4 of Chapter 18 of Title 50, relating to inspection of public
111 records. Such results shall not be used as a part of a criminal investigation or criminal
112 prosecution. Such results may not be used in a civil action or otherwise disclosed to any
113 person or entity without the express written consent of the person tested or his or her heirs
114 or legal representative. All such records shall be destroyed and deleted five years after the
115 date of the test.
116 (i) The department shall adopt rules to implement this Code section."

117

SECTION 2.

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