

House Bill 698

By: Representative Stephens of the 164<sup>th</sup>

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 relative to public assistance, so as to require random drug  
3 testing for recipients of certain public assistance; to provide for related matters; to provide  
4 for an effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Article 1 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to  
8 general provisions relative 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, such recipient shall not be considered to have failed a drug  
24 test for such substance.

25 (c) A recipient of state assistance or state administered federal assistance shall submit, not  
26 less than once per year, to the department's random drug testing program as a requirement

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

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

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

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

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

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

56 **SECTION 2.**

57 This Act shall become effective on January 1, 2013.

58 **SECTION 3.**

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