

Senate Bill 292

By: Senators Albers of the 56th, Rogers of the 21st, Gooch of the 51st, Shafer of the 48th,
Goggans of the 7th and others

A BILL TO BE ENTITLED
AN ACT

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

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 This Act shall be known and may be cited as the "Social Responsibility and Accountability
12 Act."

13 **SECTION 2.**

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

17 "49-4-193.

18 (a) As used in this Code section, the term 'established drug test' means the collection and
19 testing of bodily fluids administered in a manner equivalent to that required by the
20 Mandatory Guidelines for Federal Workplace Drug Testing Programs (HHS Regulations
21 53 C.F.R. 11979, et seq., as amended) or other professionally valid procedures approved
22 by the department.

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

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

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

62 (3) Require that any teen parent who is not required to live with a parent, legal guardian,
63 or other adult caretaker relative shall comply with the drug testing requirement;

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

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

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

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

75 (8) Inform an individual who tests positive for a controlled substance and is deemed
76 ineligible for TANF benefits that the individual may reapply for those benefits one year
77 after the date of the positive drug test unless the individual meets the requirements of
78 subsection (f) of this Code section. If the individual tests positive again, he or she shall
79 be ineligible to receive TANF benefits for three years after the date of the second positive
80 drug test unless the individual meets the requirements of subsection (f) of this Code
81 section; and

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

86 (f) An individual who tests positive for an illegal drug and is denied TANF benefits for
87 one year may reapply for those benefits after six months if the individual can document the
88 successful completion of a substance abuse treatment program offered by a provider
89 approved by the department. An individual who has met the requirements of this
90 subsection and reapplies for TANF benefits shall also pass an initial drug test and meet the
91 requirements of subsection (c) of this Code section. Any drug test conducted while the
92 individual is undergoing substance abuse treatment shall meet the requirements of
93 subsection (b) of this Code section. The cost of any drug testing provided under this Code
94 section and substance abuse treatment shall be the responsibility of the individual being
95 tested and receiving treatment. An individual who fails the drug test required under
96 subsection (c) of this Code section may reapply for benefits under this subsection only
97 once.

- 98 (g) If a parent is deemed ineligible for TANF benefits as a result of failing a drug test
 99 conducted under this Code section:
- 100 (1) The dependent child's eligibility for TANF benefits shall not be affected;
 101 (2) An appropriate protective payee shall be designated to receive benefits on behalf of
 102 the child; and
 103 (3) The parent may choose to designate another individual to receive benefits for the
 104 parent's dependent child. Such designated individual must be an immediate family
 105 member or, if an immediate family member is not available or the family member
 106 declines the option, another individual approved by the department. The designated
 107 individual shall also undergo drug testing before being approved to receive benefits on
 108 behalf of the child. If the designated individual tests positive for controlled substances,
 109 he or she shall be ineligible to receive benefits on behalf of the child.
- 110 (h) The department shall adopt rules to implement this Code section."

111 **SECTION 3.**

112 Said chapter is further amended in Article 7, the "Georgia Medical Assistance Act of 1977,"
 113 by adding a new Code section to read as follows:

114 "49-4-158.

- 115 (a) As used in this Code section, the term 'established drug test' means the collection and
 116 testing of bodily fluids administered in a manner equivalent to that required by the
 117 Mandatory Guidelines for Federal Workplace Drug Testing Programs (HHS Regulations
 118 53 C.F.R. 11979, et seq., as amended) or other professionally valid procedures approved
 119 by the department.
- 120 (b) The department shall adopt rules and regulations to adopt an established drug test
 121 which shall include the following:
- 122 (1) Which illegal drugs will be the subject of testing;
 123 (2) Methods for assuring minimal privacy intrusions during collection of body fluid
 124 specimens for such testing;
 125 (3) Methods for assuring proper storage, transportation, and handling of such specimens
 126 in order to ensure the integrity of the testing process;
 127 (4) The identity of those persons entitled to the results of such tests and methods for
 128 ensuring that only authorized persons are given access to such results;
 129 (5) A list of laboratories qualified to conduct established drug tests;
 130 (6) A list of approved substance abuse treatment providers; and
 131 (7) Procedures for persons undergoing drug testing, prior to the collection of body fluid
 132 specimens for such testing, to provide information to their employers regarding use of

133 any drug pursuant to a medical prescription or as otherwise authorized by law which may
134 affect the results of such test.

135 (c) The department shall require a drug test consistent with subsection (b) of this Code
136 section to screen each individual who applies for medical assistance. The cost of drug
137 testing shall be the responsibility of the individual tested.

138 (d) Any recipient of medical assistance under this article who tests positive for controlled
139 substances as a result of a drug test required under this Code section shall be ineligible to
140 receive medical assistance as follows:

141 (1) For a first positive result, the recipient shall be ineligible for medical assistance for
142 one month and until he or she tests negative in a retest;

143 (2) For a second positive result, the recipient shall be ineligible for medical assistance
144 for three months and until he or she tests negative in a retest; and

145 (3) For a third and each subsequent positive result, the recipient shall be ineligible for
146 medical assistance for one year and until he or she tests negative in a retest unless the
147 individual meets the requirements of subsection (f) of this Code section.

148 (e) The department shall:

149 (1) Provide notice of drug testing to each individual at the time of application. The
150 notice shall advise the individual that drug testing will be conducted as a condition for
151 receiving medical assistance and that the individual shall bear the cost of testing. If the
152 individual tests negative for controlled substances, the department shall increase the
153 amount of the initial medical assistance by the amount paid by the individual for the drug
154 testing. The individual shall be advised that the required drug testing may be avoided if
155 the individual does not apply for medical assistance. Dependent children under the age
156 of 18 shall be exempt from the drug testing requirement;

157 (2) Require that for two-parent families, both parents must comply with the drug testing
158 requirement;

159 (3) Require that any teen parent who is not required to live with a parent, legal guardian,
160 or other adult caretaker relative shall comply with the drug testing requirement;

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

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

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

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

172 (8) Inform an individual who tests positive for a controlled substance and is deemed
173 ineligible for medical assistance that the individual may reapply for medical assistance
174 one year after the date of the positive drug test unless the individual meets the
175 requirements of subsection (f) of this Code section. If the individual tests positive again,
176 he or she shall be ineligible to receive medical assistance for three years after the date of
177 the second positive drug test unless the individual meets the requirements of subsection
178 (f) of this Code section; and

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

183 (f) An individual who tests positive for an illegal drug and is denied medical assistance for
184 one year may reapply for medical assistance after six months if the individual can
185 document the successful completion of a substance abuse treatment program offered by a
186 provider approved by the department. An individual who has met the requirements of this
187 subsection and reapplies for medical assistance shall also pass an initial drug test and meet
188 the requirements of subsection (c) of this Code section. Any drug test conducted while the
189 individual is undergoing substance abuse treatment shall meet the requirements of
190 subsection (b) of this Code section. The cost of any drug testing provided under this Code
191 section and substance abuse treatment shall be the responsibility of the individual being
192 tested and receiving treatment. An individual who fails the drug test required under
193 subsection (c) of this Code section may reapply for medical assistance under this
194 subsection only once.

195 (g) If a parent is deemed ineligible for medical assistance as a result of failing a drug test
196 conducted under this Code section:

197 (1) The dependent child's eligibility for medical assistance shall not be affected;
198 (2) An appropriate protective payee shall be designated to receive medical assistance on
199 behalf of the child; and

200 (3) The parent may choose to designate another individual to receive medical assistance
201 for the parent's dependent child. Such designated individual must be an immediate family
202 member or, if an immediate family member is not available or the family member
203 declines the option, another individual approved by the department. The designated
204 individual shall also undergo drug testing before being approved to receive medical
205 assistance on behalf of the child. If the designated individual tests positive for controlled

206 substances, he or she shall be ineligible to receive medical assistance on behalf of the
207 child.
208 (h) The department shall adopt rules to implement this Code section."

209

SECTION 4.

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