



1 offense. The program shall contain, at a minimum, random testing,  
2 probable cause testing, testing at the time of application and  
3 treatment for substance abuse. The controlled substances for which  
4 tests shall be conducted shall include, at a minimum, amphetamines,  
5 tetrahydrocannabinol, oxycodone, cocaine, phencyclidine (PCP), any  
6 opiate, barbiturate, benzodiazepine, methamphetamine, propoxyphene,  
7 and any tricyclic antidepressants. No individual may be considered  
8 to have failed any such test if their positive test result is for  
9 a legally obtained medication prescribed to that person which is  
10 being used for its indicated purpose.

11 (b) Ineligibility generally --

12 (1) The commissioner shall deny, or otherwise determine  
13 ineligible, any applicant for federal-state or state assistance in  
14 the form of temporary assistance for needy families cash benefits,  
15 if the previously-convicted applicant or recipient twice fails a  
16 drug test for illegal consumption of those controlled substances  
17 which the commissioner designates: *Provided*, That the commissioner  
18 shall refer a work-eligible applicant or work-eligible recipient  
19 who tests positive for the use of a controlled substance under this  
20 section to an appropriate substance abuse treatment program  
21 approved by the division.

22 (2) Other members of a household that includes a person who  
23 has been declared ineligible for temporary assistance for needy  
24 families assistance, and who has been convicted of a prior

1 drug-related offense, shall, if otherwise eligible, continue to  
2 receive temporary assistance for needy families benefits.

3 (A) No dependent child's eligibility for TANF benefits may be  
4 affected by a parent's failure to pass a drug test.

5 (B) An appropriate protective payee shall be designated to  
6 receive benefits on behalf of the child.

7 (C) The parent may choose to designate another individual to  
8 receive benefits for the parent's minor child. The designated  
9 individual must be an immediate family member or, if an immediate  
10 family member is not available or the family member declines the  
11 designation, another individual, approved by the division, may be  
12 so designated. The designated individual must also undergo drug  
13 testing before being approved to receive benefits on behalf of the  
14 child. If the designated individual tests positive for controlled  
15 substances, he or she is ineligible to receive benefits on behalf  
16 of the child.

17 (c) Any applicant or recipient of, federal-state or state  
18 assistance in the form of temporary assistance for needy families  
19 cash benefits who has been convicted of a prior drug-related  
20 offense shall submit to the commissioner's drug testing program as  
21 a requirement for eligibility or continued receipt of the  
22 assistance. Failure to submit to the testing has the same result as  
23 twice failing a drug test. Each individual to be tested, before  
24 the test is conducted, is to be informed that he or she may, but is

1 not required to, advise the agent administering the test of any  
2 over-the-counter medication and of any legally obtained  
3 prescription medication he or she is taking. Each individual to be  
4 tested must be assured a reasonable degree of privacy while  
5 producing and submitting a sample for drug testing, consistent with  
6 the state's need to ensure the reliability of the sample.

7 (d) Any applicant or recipient of, federal-state or state  
8 assistance in the form of temporary assistance for needy families  
9 cash benefits who has been convicted of a prior drug-related  
10 offense who fails an initial drug test shall submit to a second  
11 drug test no less than thirty days following the initial drug test,  
12 but no later than sixty days therefrom. The commissioner may not  
13 deny, or otherwise determine ineligible, any applicant or recipient  
14 until he or she has failed the second drug test.

15 (e) The commissioner may not deny, or otherwise determine  
16 ineligible, any applicant or recipient who fails the second drug  
17 test if the applicant or recipient immediately enrolls in a drug  
18 treatment program authorized by the Commissioner of the Division of  
19 Human Services.

20 (f) Reapplication following ineligibility --

21 (1) Any applicant or recipient of, federal-state or state  
22 assistance in the form of temporary assistance for needy families  
23 cash benefits who has been convicted of a prior drug-related  
24 offense who is denied, or otherwise determined ineligible to

1 receive benefits by the commissioner following a failure of an  
2 initial drug test and the mandatory secondary test, is ineligible  
3 to receive, and prohibited from reapplying for, the benefits for a  
4 period of two years from the date that commissioner denied the  
5 applicant's or recipient's claim or determined the applicant or  
6 recipient to be ineligible. Any applicant or recipient denied or  
7 determine to be ineligible under this section shall submit to a  
8 mandatory drug test as part of a reapplication for federal-state or  
9 state assistance in the form of temporary assistance for needy  
10 families cash benefits.

11       (2) Any individual who is forbidden to receive benefits under  
12 this section may reapply for the benefits no sooner than six months  
13 after the commissioner declares he or she is ineligible for the  
14 benefits if the individual can document the successful completion  
15 of a drug treatment program authorized by the Commissioner of the  
16 Division of Human Services. An individual who has met the  
17 requirements of this subsection and reapplies for benefits must  
18 also pass an initial drug test. The cost of any drug testing and  
19 drug treatment provided under this section is the responsibility of  
20 the individual being tested and receiving treatment. An individual  
21 may reapply for benefits pursuant to the exception contained in  
22 this subsection only once.

23       (g) The commissioner is responsible for ensuring that  
24 applicants and recipients who have been convicted of a prior

1 drug-related offense chosen for random drug testing are selected at  
2 random, and not by any other criteria.

3       (h) The commissioner is responsible for ensuring the  
4 confidentiality of any and all drug test results administered as  
5 part of the program. Drug test results shall only be used for the  
6 purpose of denying, or determining eligibility for continued  
7 receipt of, federal-state or state assistance in the form of  
8 temporary assistance for needy families cash benefits. At no time  
9 may drug test results be released to any public or private person  
10 or entity or any law-enforcement agency, except as otherwise  
11 authorized by this code.

12       (i) The commissioner, after the testing process established  
13 in this section has been in place for two years, shall report to  
14 the Legislature on the effectiveness of drug testing as observed  
15 during those two years.

NOTE: The purpose of this bill is to create a drug testing program for applicants and recipients of temporary assistance for needy families cash benefits who have been convicted of a prior drug-related offense. Any applicant or recipient who fails an initial drug test will be required to pass a second drug test in the following thirty to sixty days to maintain eligibility for receipt of benefits. Failing the secondary drug test results in ineligibility for benefits for a period of two years, and requires a mandatory drug test as part of a reapplication for benefits. The bill provides for a substance abuse treatment program. The bill provides for protective or vendor payments to a third-party payee for the benefit of the members of the household. The bill also ensures confidentiality of records.

§9-3-6 is new; therefore, it has been completely underscored.