

2023

## HB 129 - Expanding Temporary Assistance for Needy Families to Low-Income Pregnant Women

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## SOCIAL SERVICES

***Public Assistance: Amend Chapter 4 of Title 49 of the Official Code of Georgia Annotated, Relating to Public Assistance, so as to Expand Temporary Assistance for Needy Families Eligibility Criteria to Pregnant Women; Revise Definitions; Repeal a Provision Relating to Elimination of Increment in Benefits; Provide for Conforming Changes; Provide for Related Matters; Repeal Conflicting Laws; and for Other Purposes***

CODE SECTIONS: O.C.G.A. §§ 49-4-170, -171, -181, -182, -183, -184 (amended), -186 (repealed)

BILL NUMBER: HB 129

ACT NUMBER: 228

GEORGIA LAWS: 2023 Ga. Laws 314

SUMMARY: The Act extends Temporary Assistance for Needy Families (TANF) aid to low-income, pregnant women. The Act rewords and redefines existing statutory language to include pregnant women in the definition of family. In addition, the Act removes the family cap, which imposed restrictions on providing additional assistance to recipient families under the TANF program for the birth of a child during their eligibility period.

EFFECTIVE DATE: July 1, 2023

### *History*

Congress created the Temporary Assistance for Needy Families (TANF) cash assistance program through the Personal Responsibility

and Work Opportunity Reconciliation Act (PRWORA) of 1996.<sup>1</sup> Through TANF, the federal government provides a fixed block grant to states, and states use the funds to operate their own welfare programs.<sup>2</sup> To receive the full federal block grant, states must spend some of their own dollars and use the funds to satisfy any of the four purposes enumerated in the statute.<sup>3</sup> States have broad discretion to determine TANF eligibility and benefit levels for low-income resident families.<sup>4</sup> Federal law only requires the cash assistance be provided to “needy” families and children, leaving it up to the states to define the term.<sup>5</sup>

In Georgia, TANF provides cash assistance to families whose net income is below certain established limits adjusted for the number of persons in the family unit.<sup>6</sup> Among several other requirements, all adults must participate in work activities or training for at least thirty hours a week, and a child must be considered “deprived” under one of the qualifying reasons listed in the law.<sup>7</sup> Families that include an adult in the grant are limited to forty-eight months of assistance over that adult’s lifetime.<sup>8</sup>

Before the introduction of House Bill (HB) 129, Georgia had not considered pregnant women eligible to receive TANF benefits unless

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1. *Policy Basics: Temporary Assistance for Needy Families*, CTR. ON BUDGET & POL’Y PRIORITIES, <https://www.cbpp.org/research/income-security/temporary-assistance-for-needy-families> [<https://perma.cc/U2SW-ZZVW>] (Mar. 1, 2022).

2. *Id.*

3. The four permissible purposes in PRWORA include: “(1) assisting families in need so children can be cared for in their own homes or the homes of relatives; (2) reducing the dependency of parents in need by promoting job preparation, work, and marriage; (3) preventing pregnancies among unmarried persons; and (4) encouraging the formation and maintenance of two-parent families.” *Id.*; 42 U.S.C. § 601(a) (Westlaw through Pub. L. No. 118-7).

4. CTR. ON BUDGET & POL’Y PRIORITIES, *supra* note 1.

5. *Id.*

6. *TANF Eligibility Requirements*, GA. DEP’T HUM. SERVS., <https://dfcs.georgia.gov/services/temporary-assistance-needy-families/tanf-eligibility-requirements> [<https://perma.cc/B4YN-DRT8>].

7. *Id.* (listing the three reasons a child will be considered deprived: (1) “continued absence from the home of at least one parent;” (2) “physical or mental incapacity of at least one parent;” or (3) “death of a parent”).

8. O.C.G.A. § 49-4-182(b) (2022).

the family qualified under an already-born child.<sup>9</sup> Federal law allows states to extend eligibility to pregnant women with no other children, and according to The Center on Budget and Policy Priorities, two-thirds of states already do.<sup>10</sup> Meanwhile, the last decade of welfare policy in Georgia focused on reducing enrollment in its programs.<sup>11</sup> Consequently, prior to HB 129, Georgia capped benefits for families, preventing TANF increases for families who had additional children if the family had already been receiving benefits for ten months.<sup>12</sup> As of December 2022, 5,343 families receive TANF benefits in Georgia.<sup>13</sup>

Representative Soo Hong (R-103rd) introduced HB 129 as part of Governor Brian Kemp's (R) initiative to protect women and lower birth mortality rates in Georgia.<sup>14</sup> Representative Hong believed Georgia's exclusion of pregnant women from TANF eligibility in the past was an "oversight" and that HB 129 is a "logical" change to support women during their pregnancy so they are better positioned once they give birth.<sup>15</sup> Voicing full support, Governor Kemp considered the bill a "critical step" to "ensuring the most vulnerable among us are receiving the assistance they need."<sup>16</sup>

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9. Sarah Kallis, *Lawmakers: Bill Extending Some Welfare Benefits to Pregnant Georgians Passes Senate on Day 29*, GA. PUB. BROAD. (Mar. 7, 2023, 4:22 PM), <https://www.gpb.org/news/2023/03/07/lawmakers-bill-extending-some-welfare-benefits-pregnant-georgians-passes-senate-on> [<https://perma.cc/C82J-LGLD>].

10. CTR. ON BUDGET & POL'Y PRIORITIES, *supra* note 1.

11. Maya T. Prabhu, *Kemp Pushes Bill to Grant Welfare During Pregnancy*, ATLANTA J.-CONST., <https://www.ajc.com/politics/gov-kemp-pushes-bill-to-grant-welfare-during-pregnancy/224VV2IPTZCA7AWNJCXIZ7VIMQ/> [<https://perma.cc/KE3F-D7E9>] (Jan. 31, 2023).

12. O.C.G.A. § 49-4-186 (2022).

13. Video Recording of House Public Health Committee at 13 min., 22 sec. (Feb. 7, 2023) [hereinafter Feb. 7, 2023 House Committee Video] (remarks by Rep. Soo Hong (R-103rd)), <https://www.youtube.com/watch?v=hsSZm-SeVdc&t=1664s> [<https://perma.cc/TPJ6-JVYQ>].

14. Telephone Interview with Rep. Soo Hong (R-103rd) (May 24, 2023) [hereinafter Hong Interview] (on file with the Georgia State University Law Review).

15. *Id.*

16. Press Release, Office of the Governor, Gov. Kemp Signs Legislation Strengthening Healthcare Access, Supporting Healthcare Heroes, and Expanding Assistance to Expectant Mothers (May 2, 2023), <https://gov.georgia.gov/press-releases/2023-05-02/gov-kemp-signs-legislation-strengthening-healthcare-access-supporting> [<https://perma.cc/AB8Z-7CDE>].

*Bill Tracking of HB 129*

*Consideration and Passage by the House*

Representative Soo Hong (R-103rd) sponsored HB 129 in the House with Representative Sharon Cooper (R-45th), Representative Lee Hawkins (R-27th), Representative Darlene Taylor (R-173rd), Representative Jesse Petrea (R-166th), and Representative David Huddleston (R-72nd) cosponsoring.<sup>17</sup> Representative Hong placed the bill in the House hopper on January 30, 2023.<sup>18</sup> The House first read the bill on January 31, 2023, and committed the bill to the House Public Health Committee that same day.<sup>19</sup> The House read the bill for a second time on February 1, 2023.<sup>20</sup> The Committee reported favorably on the bill with no opposition on February 8, 2023.<sup>21</sup> The House read the bill for the third time on February 13, 2023, and the House passed the bill the same day by a vote of 173 to 1.<sup>22</sup>

*Consideration and Passage by the Senate*

Senator Mike Hodges (R-3rd) sponsored the bill in the Senate, and the Senate first read the bill on February 14, 2023.<sup>23</sup> The Senate then committed the bill to the Senate Children and Families Committee that same day.<sup>24</sup> The Committee reported favorably on the bill with no opposition on March 1, 2023.<sup>25</sup> The Senate read the bill for the second time on March 2, 2023.<sup>26</sup> Then, on March 7, 2023, the Senate read the

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17. Georgia General Assembly, HB 129, Bill Tracking [hereinafter HB 129, Bill Tracking], <https://www.legis.ga.gov/legislation/63759> [<https://perma.cc/829A-MH2X>].

18. *Id.*

19. State of Georgia Final Composite Status Sheet, HB 129, May 9, 2023.

20. *Id.*

21. *Id.*; Feb. 7, 2023 House Committee Video, *supra* note 13, at 27 min., 33 sec. (remarks by Rep. Sharon Cooper (R-45th)).

22. State of Georgia Final Composite Status Sheet, HB 129, May 9, 2023; Georgia House of Representatives Voting Record, HB 129, #32 (Feb. 13, 2023).

23. HB 129, Bill Tracking, *supra* note 17.

24. *Id.*

25. State of Georgia Final Composite Status Sheet, HB 129, May 9, 2023; Video Recording of Senate Committee on Children and Families at 20 min., 32 sec. (Feb. 28, 2023) [hereinafter Feb. 28, 2023 Senate Committee Video] (remarks by Sen. Kay Kirkpatrick (R-32nd)), <https://www.youtube.com/watch?v=LrMzF0scCbQ> [<https://perma.cc/KHJ2-LE9U>].

26. State of Georgia Final Composite Status Sheet, HB 129, May 9, 2023.

bill for a third time.<sup>27</sup> However, before the Senate achieved final passage, Senator Colton Moore (R-53rd) introduced an amendment to the bill.<sup>28</sup> The amendment preserved the family cap limitations on TANF benefits by eliminating section seven of the bill; however, the amendment did not pass.<sup>29</sup> The Senate adopted the bill by a vote of 50 to 1.<sup>30</sup> The House sent the bill to Governor Kemp on March 30, 2023, and Governor Kemp signed the bill into law as Act 228 on May 2, 2023.<sup>31</sup> The Act’s effective date is July 1, 2023.<sup>32</sup>

### *The Act*

The Act amends Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to public assistance.<sup>33</sup> The overall purpose of the Act is to expand the TANF eligibility criteria to include pregnant women.<sup>34</sup>

#### *Section 1*

Section 1 of the Act amends Code section 49-4-170, which relates to “grounds for appointing a personal representative and petition[s] by county and district directors.”<sup>35</sup> The Act adds the phrases “or herself,” “or the pregnant woman,” and “or her” where applicable.<sup>36</sup>

#### *Section 2*

Section 2 of the Act amends Code section 49-4-171, which relates to hearings on petitions, appointments, duties, removal of

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27. HB 129, Bill Tracking, *supra* note 17.

28. Failed Senate Floor Amendment to HB 129, introduced by Sen. Colton Moore (R-53rd), Mar. 7, 2023.

29. *Id.*; Georgia Senate Voting Record, HB 129, #198 (Mar. 7, 2023).

30. Georgia Senate Voting Record, HB 129, #199 (Mar. 7, 2023).

31. State of Georgia Final Composite Status Sheet, HB 129, May 9, 2023.

32. HB 129, Bill Tracking, *supra* note 17.

33. 2023 Ga. Laws 314, at 314.

34. *Id.*

35. 2023 Ga. Laws 314, § 1, at 314–15.

36. *Id.* (codified at O.C.G.A. § 49-4-170 (2023)).

representatives, and waiver of court costs.<sup>37</sup> The amendment adds “herself” and “she” to contemplate the existence of a female personal representative and adds “pregnant woman” as potential beneficiaries of applicable TANF benefits.<sup>38</sup>

### *Section 3*

Section 3 of the Act amends Code section 49-4-181, “relating to definitions applicable to the [TANF] Program, by revising paragraphs (2) and (6).”<sup>39</sup> Paragraph (2), which defines assistance, is amended by removing the explanatory phrase “with children” as associated with the term “needy families.”<sup>40</sup> Further, paragraph (6), which defines family, is amended by adding the term “pregnant woman” as an alternative definition of family.<sup>41</sup>

### *Section 4*

Section 4 of the Act amends Code section 49-4-182, relating to the TANF Program.<sup>42</sup> The Act revises the purpose of the TANF Program in subsection (a) by removing the explanatory phrase “with children” as associated with the term “needy families.”<sup>43</sup>

### *Section 5*

Section 5 of the Act amends Code section 49-4-183, relating to the rules and regulations issued by the Board of Human Services for the Georgia TANF Program to be administered by the Department of Human Services (DHS).<sup>44</sup> DHS is required to provide the Governor and the General Assembly an annual, and occasionally interim, report containing statistics related to TANF beneficiaries.<sup>45</sup> The Act removes

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37. 2023 Ga. Laws 314, § 2, at 315.

38. *Id.* (codified at O.C.G.A. § 49-4-171 (2023)).

39. 2023 Ga. Laws 314, § 3, at 316.

40. *Id.* (codified at O.C.G.A. § 49-4-181(2) (2023)).

41. *Id.* (codified at § 49-4-181(6)).

42. 2023 Ga. Laws 314, § 4, at 316.

43. *Id.* (codified at O.C.G.A. § 49-4-182(a) (2023)).

44. *Id.*

45. 2023 Ga. Laws 314, § 5, at 316–17

the reporting requirement in paragraph (3) of subsection (c) that previously called for an evaluation of the effect of the family cap on the number of births to TANF recipient families.<sup>46</sup>

### *Section 6*

Section 6 of the Act amends Code section 49-4-184, which relates to eligibility of assistance.<sup>47</sup> The Act makes pregnant women eligible for TANF benefits by adding the phrase “unless the applicant or recipient is a pregnant woman” to the first limitation in paragraph (1) of subsection (a), which requires an applicant’s or recipient’s family to have minor children.<sup>48</sup>

### *Section 7*

Section 7 of the Act repeals Code section 49-4-186, which related to the schedule of assistance to eliminate increments in benefits under the TANF Program as a result of childbirth during the eligibility period.<sup>49</sup> The repealed Code section limited the amount of assistance a family could receive based on the number of children they had while receiving benefits.<sup>50</sup>

### *Analysis*

#### *Unresolved Issues*

Much of the discussion surrounding HB 129, both on the House floor and in Committee meetings, centered not on whether the Act was a step in the right direction but whether the Act went far enough.<sup>51</sup> Despite the significant rise in the cost of living over the past thirty

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46. *Id.* (codified at O.C.G.A. § 49-4-183 (2023)).

47. 2023 Ga. Laws 314, § 6, at 317.

48. *Id.* (codified at O.C.G.A. § 49-4-184(a)(1) (2023)).

49. 2023 Ga. Laws 314, § 7, at 317.

50. O.C.G.A. § 49-4-186 (2022).

51. *See, e.g.*, Video Recording of House Floor Debate at 1 hr., 25 min., 32 sec. (Feb. 13, 2023) [hereinafter Feb. 13, 2023 House Floor Debate Video] (remarks by Rep. Michelle Au (D-50th)), [https://www.youtube.com/watch?v=6qRF9eB6DLc&list=PLIgKJe7\\_xdLVG2Z1u-FWiDQsGwhskNLJ5&index=31](https://www.youtube.com/watch?v=6qRF9eB6DLc&list=PLIgKJe7_xdLVG2Z1u-FWiDQsGwhskNLJ5&index=31) [https://perma.cc/JF3E-3SCT].



years, Georgia's TANF benefits have not changed since 1991.<sup>52</sup> A needy family of three receiving TANF benefits in 2023 receives the same \$280 as a needy family of three in 1991.<sup>53</sup> Although the purpose of the Act (to extend TANF eligibility to pregnant women) was fulfilled,<sup>54</sup> many representatives and community advocates insist that the Georgia legislature's work on TANF benefits is incomplete.<sup>55</sup> In the house floor debate, Representative Michelle Au (D-50th) explained that "sixty percent of very impoverished parents earning below the federal poverty level earn too much to qualify for TANF assistance."<sup>56</sup>

Members in the House Public Health Committee also raised concerns that childcare costs are not considered in the formula for eligibility calculations, even though enrollees likely need childcare to maintain their requisite thirty-hour workweek.<sup>57</sup> The numeric impact of expanding TANF eligibility to pregnant women is presently unknown, and skepticism remains about the Act's actual reach.<sup>58</sup> Alternatively, supporters are hopeful that positive data regarding the tactical impact of the Act will be tracked by DHS and insist that welfare benefits are only intended to be a temporary form of assistance to "get [people] back on their feet" and working again.<sup>59</sup> Further, TANF benefits are typically granted to needy families, among several other benefits, such as food stamps, the Supplemental Nutrition

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52. *Id.*

53. *Id.*

54. See Hong Interview, *supra* note 14.

55. See Feb. 7, 2023, House Committee Video, *supra* note 13, at 22 min., 55 sec. (remarks by Ife Finch Floyd, Director of Economic Justice, Georgia Budget & Policy Institute, Rep. Michelle Au (D-50th), Callan Wells, Senior Health Policy Manager, Georgia Early Education Alliance for Ready Students, & Rep. Spencer Frye (D-122nd)).

56. Feb. 13, 2023 House Floor Debate Video, *supra* note 51, at 1 hr., 26 min., 35 sec.

57. Feb. 7, 2023 House Committee Video, *supra* note 13, at 23 min., 56 sec. (remarks by Rep. Michelle Au (D-50th)).

58. See, e.g., Feb. 13, 2023 House Floor Debate Video, *supra* note 51, at 1 hr., 29 min., 44 sec. (remarks by Rep. Mary Margaret Oliver (D-82nd)) (estimating only 300 out of 140,000 women giving birth this year will become eligible for TANF because of the Act).

59. Hong Interview, *supra* note 14; Feb. 7, 2023 House Committee Video, *supra* note 13, at 6 min. (remarks by Rep. Soo Hong (R-103rd)); *id.* at 14 min., 10 sec. (remarks by Rep. Soo Hong (R-103rd) & Jackie Williams, Georgia TANF State Director).

Assistance Program (SNAP), and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).<sup>60</sup>

### *An Unintended Consequence*

In addition to its primary purpose of extending TANF benefits to pregnant women, the Act also repealed the family cap.<sup>61</sup> Prior to the Act, the family cap limited the amount of financial assistance a family could receive if they had an additional child while already receiving TANF benefits.<sup>62</sup> Furthermore, the Act eliminated the requirement that the DHS publish annual and interim reports that include an evaluation of the effect of the family cap on the number of births to TANF recipient families.<sup>63</sup> Now, with the elimination of the family cap and associated reporting requirements, some believe the Act has created an undesirable incentive.<sup>64</sup>

Although recognizing the intentions behind HB 129, Senator Colton Moore (R-53rd) is among those who raised questions regarding the potential unintended consequences that may arise from the elimination of the family cap.<sup>65</sup> While introducing an amendment to the bill that would have kept the family cap in place, Senator Moore stated that removing the family cap was “only going to incentivize more people to take advantage of the system.”<sup>66</sup> Senator Moore explained this apprehension regarding the elimination of the cap by highlighting the potential consequence of individuals being able to bolster their net wealth by twenty percent through government assistance.<sup>67</sup> Though some senators acknowledged the possibility of a negative incentive and shared the desire to protect taxpayer funds, the majority remained

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60. Feb. 7, 2023 House Committee Video, *supra* note 13, at 17 min., 23 sec. (remarks by Jackie Williams, Georgia TANF State Director & Rep. Sharon Cooper (R-45th)); *see also* Hong Interview, *supra* note 14.

61. 2023 Ga. Laws 314, § 7, at 317.

62. O.C.G.A. § 49-4-186 (2022).

63. 2023 Ga. Laws 314, § 5, at 316–17.

64. Video Recording of Senate Floor Debate at 1 hr., 44 min., 6 sec. (Mar. 7, 2023) [hereinafter Mar. 7, 2023 Senate Floor Debate Video] (remarks by Sen. Colton Moore (R-53rd)), <https://www.youtube.com/watch?v=MmLstW1-Uq0> [<https://perma.cc/39SX-JEUA>].

65. *Id.*

66. *Id.*

67. *Id.* at 1 hr., 49 min., 6 sec. (remarks by Sen. Colton Moore (R-53rd)).

unconvinced.<sup>68</sup> One senator voiced concerns that the floor amendment to keep the family cap in place would be “punitive,” and would punish women for having a baby, while another called the amendment “morally wrong.”<sup>69</sup>

For several years, opponents of the family cap have advocated for its repeal, challenging its effectiveness in incentivizing women to refrain from having more children.<sup>70</sup> Opponents argue that the justification for the family cap relies on the outdated assumption that women enrolled in TANF purposely have additional children to increase their benefits.<sup>71</sup> Some national research suggests this is not the case and that family caps fail to influence parental decisions as intended.<sup>72</sup>

### *Conclusion*

HB 129 was introduced as a part of Governor Brian Kemp’s (R) initiative to protect women and lower birth mortality rates.<sup>73</sup> The Act was signed into law by Governor Kemp with bipartisan support.<sup>74</sup> The Act extends TANF welfare benefits to low-income, pregnant women and removes the cap on additional benefits for the birth of additional children for families already receiving TANF benefits.<sup>75</sup>

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68. *Id.* at 1 hr., 54 min., 7 sec. (remarks by Sen. Blake Tillery (R-19th)); Georgia Senate Voting Record, HB 129, #198 (Mar. 7, 2023).

69. Mar. 7, 2023 Senate Floor Debate Video, *supra* note 64, at 1 hr., 52 min., 59 sec. (remarks by Sen. Nan Orrock (D-36th)); *id.* at 1 hr., 56 min., 8 sec. (remarks by Sen. Jason Anavitarte (R-31st)).

70. Alex Camardelle, *Repeal Georgia’s Cap on Kids*, GA. BUDGET & POL’Y INST., (Feb. 3, 2020), <https://gbpi.org/repeal-georgias-cap-on-kids/> [https://perma.cc/4K8J-GAC8].

71. *Id.*

72. See Patricia Donovan, *Does the Family Cap Influence Birthrates? Two New Studies Say ‘No’*, GUTTMACHER INST. (Feb. 1, 1998), <https://www.guttmacher.org/gpr/1998/02/does-family-cap-influence-birthrates-two-new-studies-say-no> [https://perma.cc/8DUV-5Q8K].

73. Hong Interview, *supra* note 14.

74. HB 129, Bill Tracking, *supra* note 17; Georgia House of Representatives Voting Record, HB 129, #32 (Feb. 13, 2023); Georgia Senate Voting Record, HB 129, #199 (Mar. 7, 2023).

75. See generally 2023 Ga. Laws 314.