

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Committee on Health and Human Services

BILL: CS/SB 776

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Powell

SUBJECT: Temporary Cash Assistance Eligibility

DATE: February 12, 2024

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Hall | Tuszynski | CF | Fav/CS |
| 2. | Sneed | McKnight | AHS | Favorable |
| 3. | | | FP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 776 leaves the existing prohibition from receiving Temporary Cash Assistance (TCA) and Supplemental Nutrition Assistance Program (SNAP) assistance for individuals with felony drug trafficking convictions, but creates an exemption for victims of human trafficking. Under the bill, these public benefits may not be denied to an individual solely on the basis of a drug trafficking conviction if the Department of Children and Families has determined the individual is a victim of human trafficking.

The bill has an indeterminate, negative fiscal impact on state government. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Public Assistance

Public assistance programs help low-income families meet their basic needs, such as housing, food, and utilities.¹ The social safety net for American families depends on the coordination of a

¹ National Conference of State Legislatures, *Introduction to Benefit Cliffs and Public Assistance Programs*, available at <https://www.ncsl.org/human-services/introduction-to-benefits-cliffs-and-public-assistance-programs> (last visited February 1, 2024).

complex patchwork of federal, state, and local funding and program administration.² Through various programs, public assistance can help families to keep children in their family home through economic difficulties³, reduce the material hardship that has been linked to negative outcomes in children⁴, drive the economy in times of market downturns⁵, and support the career advancement of low-income adults striving to break the cycle of intergenerational poverty.⁶

Two of the most commonly utilized public assistance programs in Florida are the Temporary Assistance for Needy Families Temporary Cash Assistance (TANF or TCA) program and the Supplemental Nutrition Assistance Program (SNAP) or food assistance program

Temporary Assistance for Needy Families

The Temporary Assistance for Needy Families (TANF) system was established at the federal level in 1996 through the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996.⁷ PRWORA ended the Aid to Families with Dependent Children (AFDC) program, a federal program that provided dedicated funding for cash assistance to needy families with children, and alternatively created the broad-purpose federal TANF block grant.⁸ The TANF block grant became effective July 1, 1997, and was reauthorized by the Deficit Reduction Act of 2005.

Temporary Cash Assistance (TCA)

Direct cash assistance to needy families is the foundation of public welfare in the U.S.⁹ Prior to the establishment of TANF in 1996, direct cash assistance to needy families was the primary

² Brookings Institute, *State Social Safety Net Policy: How are States Addressing Economic Need*, available at <https://www.brookings.edu/events/state-social-safety-net-policy-how-are-states-addressing-economic-need/> (last visited February 1, 2024).

³ Providing assistance to needy families so that children can be cared for in their own homes is one of the four purposes of the TANF program. See Office of Family Assistance, *About TANF*, available at <https://www.acf.hhs.gov/ofa/programs/tanf/about> (last visited February 1, 2024); see also Center on Budget and Policy Priorities, *Three Reasons Why Providing Cash to Families with Children is a Sound Policy Investment*, available at <https://www.cbpp.org/research/income-security/three-reasons-why-providing-cash-to-families-with-children-is-a-sound> (last visited February 1, 2024).

⁴ Urban Institute, *What Explains the Widespread Material Hardship among Low-Income Families with Children?*, available at https://www.urban.org/sites/default/files/publication/99521/what_explains_the_widespread_material_hardship_among_low-income_families_with_children_0.pdf (last visited February 1, 2024).

⁵ Stephen Vogen, Cristina Miller, Katherine Ralston, *Impact of USDA's Supplemental Nutrition Assistance Program (SNAP) on Rural and Urban Economies in the Aftermath of the Great Recession*, Economic Research Service (2021), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3938336 (last visited February 1, 2024).

⁶ Brookings, *Policies that Reduce Intergenerational Policy*, available at <https://www.brookings.edu/articles/policies-that-reduce-intergenerational-poverty/> (last visited February 1, 2024).

⁷ Center on Budget and Policy Priorities, *Policy Basics: Temporary Assistance for Needy Families*, available at <https://www.cbpp.org/research/family-income-support/policy-basics-an-introduction-to-tanf> (last visited February 1, 2024). See also Department of Health and Human Services, Office of Family Assistance, *Major Provisions of the Welfare Law*, available at <https://www.acf.hhs.gov/ofa/policy-guidance/major-provisions-welfare-law> (last visited February 1, 2024).

⁸ Congressional Research Service, *Temporary Assistance for Needy Families: The Decline in Assistance Receipt Among Eligible Individuals*, available at <https://crsreports.congress.gov/product/pdf/R/R47503> (last visited February 1, 2024).

⁹ Public cash assistance to needy families has its origin in the early 1900s; state and local entities financed “mother’s pension” programs that provided support to single, often widowed, mothers so that children could be raised in their family homes rather than be institutionalized. See Congressional Research Service, *Temporary Assistance for Needy Families: The Decline in Assistance Receipt Among Eligible Individuals*, available at <https://crsreports.congress.gov/product/pdf/R/R47503> (last visited February 1, 2024).

method of providing support to low-income families with children. Since the transition to TANF federal block grant funding, the number of families receiving direct cash assistance has waned significantly even among eligible populations, and currently, the majority of TANF funds are allocated for indirect methods of assisting families.¹⁰

The Temporary Cash Assistance (TCA) program is Florida's direct cash assistance program for needy families. The TCA program is one of several Florida programs funded with the TANF block grant. Through the TCA program, families who meet specific technical, income, and asset requirements¹¹ may receive cash assistance. The cash assistance is provided in the form of monthly payments deposited into an electronic benefits transfer (EBT) account.¹²

TCA is administered by several state agencies through a series of contracts and memoranda of understanding. The Department of Children and Families (DCF) receives federal TANF block grant funds, processes applications, determines initial eligibility, monitors ongoing eligibility, and disburses benefits to recipients. The Florida Department of Commerce¹³ is responsible for financial and performance reporting to ensure compliance with federal and state measures and for providing training and technical assistance to local workforce development boards (LWDBs). LWDBs provide information about available jobs, on-the-job training, and education and training services within their respective areas and contract with one-stop career centers.¹⁴ CareerSource Florida has planning and oversight responsibilities for all workforce-related programs and contracts with the LWDBs on a performance-basis.¹⁵

The number of families receiving TCA dramatically increased during the COVID-19 pandemic, peaking at more than 50,000 families receiving TCA payments in July 2020.¹⁶ While TCA caseloads have not yet returned to pre-pandemic levels, they have decreased steadily since July 2020. In November 2023, a total of 34,015 families, including 44,309 children, received TCA.¹⁷

¹⁰ Public cash assistance to needy families has its origin in the early 1900s; state and local entities financed “mother’s pension” programs that provided support to single, often widowed, mothers so that children could be raised in their family homes rather than be institutionalized. See Congressional Research Service, *Temporary Assistance for Needy Families: The Decline in Assistance Receipt Among Eligible Individuals*, available at <https://crsreports.congress.gov/product/pdf/R/R47503> (last visited February 1, 2024).

¹¹ Children must be under the age of 18, or under age 19 if they are full-time secondary school students. Parents, children, and minor siblings who live together must apply together. Additionally, pregnant women may also receive TCA, either in the third trimester of pregnancy if unable to work, or in the ninth month of pregnancy. See DCF, *Temporary Cash Assistance (TCA)*, available at <https://www.myflfamilies.com/services/public-assistance/temporary-cash-assistance> (last visited February 1, 2024).

¹² DCF, *Temporary Cash Assistance Fact Sheet*, available at https://www.myflfamilies.com/sites/default/files/2022-10/tcafactsheet_0.pdf (last visited February 1, 2024).

¹³ Florida’s Department of Commerce, formerly known as the Department of Economic Opportunity, was renamed as such in the 2023 Legislative session. See Ron DeSantis, *Governor DeSantis Signs Legislation to Streamline Economic Development in Florida*, available at <https://www.flgov.com/2023/05/31/governor-desantis-signs-legislation-to-streamline-economic-development-in-florida/> (last visited February 1, 2024).

¹⁴ Florida Department of Commerce, CareerSource Florida, *Workforce Innovation and Opportunity Act Annual Statewide Performance Report*, available at <https://careersourceflorida.com/wp-content/uploads/2023/12/2022-23-WIOA-Annual-Performance-Report.pdf> (last visited February 1, 2024).

¹⁵ *Id.*

¹⁶ DCF, *ESS Standard Reports: Caseload Report*, available at <https://www.myflfamilies.com/services/public-assistance/additional-resources-and-services/ess-standard> (last visited February 1, 2024).

¹⁷ DCF, *ESS Standard Reports: Flash Points*, available at <https://www.myflfamilies.com/services/public-assistance/additional-resources-and-services/ess-standard> (last visited February 1, 2024).

TCA Eligibility

States have broad discretion in determining who is eligible for cash assistance. Florida's TCA program requires applicants to meet all of the following criteria to be eligible:¹⁸

- Be a U.S. citizen or qualified noncitizen¹⁹;
- Be a legal resident of Florida;
- Have a minor child residing with a custodial parent or relative caregiver, or be a pregnant woman in the ninth month of pregnancy;
- Have a gross income of 185 percent or less of the federal poverty level;²⁰
- Have liquid or nonliquid resources, of all members of the family, valued at less than \$2,000;²¹
- Register for work with the local workforce development board (LWDB), unless an applicant qualifies for an exemption.

Florida imposes a lifetime limit of 48 cumulative months for an adult to be eligible for and receive cash assistance. Current law outlines specific, limited circumstances under which a person may be exempt from the time limitation;²² however, most households receive TCA for fewer than six months.

TCA Work Requirements

To be eligible for full-family TCA, work-eligible adult family members must participate in work activities in accordance with s. 445.024, F.S., unless they qualify for an exemption.²³ Individuals who fail to comply with the work requirements may be sanctioned.²⁴ Individuals are required to participate in work activities for the maximum number of hours allowable under federal law.²⁵ The number of required work or activity hours is determined by calculating the value of the cash benefits and then dividing that number by the hourly minimum wage amount.

¹⁸ DCF, *Temporary Assistance for Needy Families – State Plan Renewal*, available at <https://www.myflfamilies.com/sites/default/files/2022-10/TANF-Plan.pdf> (last visited February 1, 2024).

¹⁹ Section 414.095(3), F.S. A qualified noncitizen includes an individual who is admitted to the United States as a refugee or who is granted asylum, a Cuban or Haitian entrant, or a noncitizen who has been admitted as a permanent resident. It also includes an individual who, or an individual whose children or parent, has been battered or subject to extreme cruelty in the U.S. by a spouse, a parent, or other household member, and has applied for or received protection under the federal Violence Against Women Act, if certain criteria are met.

²⁰ Gross income cannot exceed 185% of the federal poverty level, and a family's countable income cannot exceed the payment standard for the family size. There is a \$90 deduction on earned income per individual. See Florida Department of Children and Families, *Temporary Cash Assistance (TCA)*, available at <https://www.myflfamilies.com/services/public-assistance/temporary-cash-assistance> (last visited January 25, 2024).

²¹ Licensed vehicles with a combined value of not more than \$8,500 are excluded if a family includes individuals subject to the work requirement, or if the vehicle is necessary to transport a disabled family member and the vehicle has been specially equipped to transport the disabled person. See s. 414.075, F.S.

²² Section 414.105, F.S.

²³ Section 414.095(1), F.S. A person may be exempt from the work requirement if they receive benefits under the Supplemental Security Income Program or the Security Disability Program, is a single parent of a child under three months of age (parenting preparation activities may be alternatively required), is exempt from the TCA time limitation due to hardship, or not considered work-eligible under federal policy. See also DCF, *Temporary Assistance for Needy Families – State Plan Renewal*, available at <https://www.myflfamilies.com/sites/default/files/2022-10/TANF-Plan.pdf> (last visited February 1, 2024).

²⁴ Section 414.065, F.S.

²⁵ Section 445.024(2), F.S.

| Work Participation Requirements | |
|--|---|
| Family Composition | Required Work Participation Hours |
| Single parent with a child under age 6 | 20 hours weekly of “core” work activities |
| Single parent with a child over 6, or two-parent families where one parent is disabled | 30 hours weekly with at least 20 hours of “core” work activities |
| Married teen or teen head of household under age 20 | Maintains satisfactory attendance at secondary school or the equivalent, or participates in education related directly to employment for at least 20 hours weekly |
| Two-parent families who do not receive subsidized child care | 35 hours weekly with at least 30 hours of “core” work activities, combined between both parents |
| Two-parent families who receive subsidized child care | 55 hours weekly with at least 50 hours in “core” activities, combined between both parents |

Pursuant to state and federal law, there are 12 distinct types of work activities which can be used to satisfy a TCA recipient’s work requirement.²⁶ The 12 activities are categorized as either “core” or “supplemental” activities; such categorization impacts how the activity is counted toward a TCA recipient’s work requirement.

| Work Activities | |
|---|--|
| “Core” Activities | “Supplemental” Activities |
| <ul style="list-style-type: none"> • Unsubsidized employment • Subsidized private-sector employment • Subsidized public-sector employment • Work experience • On-the-job training • Job search and job readiness assistance • Community service programs • Vocational educational training • Providing child care services to an individual participating in a community service program | <ul style="list-style-type: none"> • Job skills training directly related to employment • Education directly related to employment • Completion of a secondary school program |

While these activities may contribute toward a TCA recipient’s work requirement, federal policy limits the extent to which certain activities may satisfy the work requirement. Federal and state law further limits how the different work activities may count toward a person’s work requirement based on the characteristics of the individual and the length of time in which the individual engages in the activity.²⁷

TCA recipients who fail to comply with work requirements may be sanctioned by the LWDBs. Sanctions result in cash assistance being withheld for a specified period of time, the length of which increases with repeated lack of compliance. Consequences for failure to participate in work activities include:²⁸

²⁶ 45 CFR 261-30; s. 445.024(1), F.S.; *see also* DCF, *Temporary Assistance for Needy Families (TANF) – An Overview of Program Requirements* (2016), available at https://www.myflfamilies.com/sites/default/files/2022-10/TANF%20101%20final_1.pdf (last visited January 25, 2024).

²⁷ 45 CFR § 261.31; s. 445.024, F.S.; *see also* Congressional Research Service, *Temporary Assistance for Needy Families (TANF): The Work Participation Standard and Engagement in Welfare-to-Work Activities*, available at <https://crsreports.congress.gov/product/pdf/R/R44751> (last visited January 26, 2024).

²⁸ Section 414.065, F.S.

- First noncompliance – cash assistance is terminated for the entire family for a minimum of ten days or until the individual complies, whichever is later.
- Second noncompliance – cash assistance is terminated for the entire family for one month or until the individual complies, whichever is later.
- Third noncompliance – cash assistance is terminated for the entire family for three months or until the individual complies, whichever is later.

Supplemental Nutrition Assistance Program (SNAP)

The Food and Nutrition Service (FNS), under the U.S. Department of Agriculture (USDA), administers the Supplemental Nutrition Assistance Program (SNAP).²⁹ SNAP is the nation's largest domestic food and nutrition program for low-income Americans, offering nutritional assistance to millions of individuals and families each year through the provision for funds that can be used to purchase eligible foods.³⁰ In fiscal year 2020, SNAP provided assistance to approximately 39.9 million people living in 20.5 million households across the U.S.³¹ SNAP benefits support individual households by reducing the effects of poverty and increasing food security while supporting economic activity across communities, as SNAP benefits directly benefit farmers, retailers, food processors and distributors, and their employees.³²

SNAP is administered at the state level in Florida by the DCF.³³ The DCF determines and monitors eligibility and disburses benefits to SNAP participants. The state and federal governments share the administrative costs of the program, while the federal government funds 100 percent of the benefit amount received by participants.³⁴ Federal laws, regulations, and waivers provide states with various policy options to better target benefits to those most in need,

²⁹ The Food Stamp Program (FSP) originated in 1939 as a pilot program for certain individuals to buy stamps equal to their normal food expenditures: for every \$1 of orange stamps purchased, people received 50 cents worth of blue stamps, which could be used to buy surplus food. The FSP expanded nationwide in 1974. Under the federal welfare reform legislation of 1996, Congress enacted major changes to the FSP, including limiting eligibility for certain adults who did not meet work requirements. The Food and Nutrition Act of 2008 renamed the FSP the Supplemental Nutrition Assistance Program (SNAP) and implemented priorities to strengthen program integrity, simplify program administration, maintain states' flexibility in how they administer their programs, and improve access to SNAP. See US Department of Agriculture, Food and Nutrition Service, *Short History of SNAP*, available at <https://www.fns.usda.gov/snap/short-history-snap> (last visited February 2, 2024).

³⁰ US Department of Agriculture, Economic Research Service, *Supplemental Nutrition Assistance Program (SNAP) Overview*, available at <https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/> (last visited February 2, 2024).

³¹ US Department of Agriculture, Food and Nutrition Service, *Characteristics of SNAP Households: FY 2020 and Early Months of the COVID-19 Pandemic: Characteristics of SNAP Households*, available at <https://www.fns.usda.gov/snap/characteristics-snap-households-fy-2020-and-early-months-covid-19-pandemic-characteristics> (last visited February 2, 2024).

³² US Department of Agriculture, Economic Research Service, *Supplemental Nutrition Assistance Program (SNAP) Economic Linkages*, available at <https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/economic-linkages/> (last visited February 2, 2024).

³³ Section 414.31, F.S.

³⁴ Center on Budget and Policy Priorities, *Policy Basics: The Supplemental Nutrition Assistance Program (SNAP)*, available at <https://www.cbpp.org/research/policy-basics-the-supplemental-nutrition-assistance-program-snap#:~:text=The%20federal%20government%20pays%20the,the%20states%2C%20which%20operate%20it> (last visited February 2, 2024).

streamline program administration and field operations, and coordinate SNAP activities with those of other programs.³⁵

The amount of benefits, or allotment, for which a household qualified depends on the number of individuals in the household and the household's net income. To calculate a household's allotment, 30% of its net income is subtracted from the maximum allotment for that household size.³⁶ This is because SNAP households are expected to spend about 30 percent of their own resources on food.³⁷ As of October 2023, 3,112,411 Floridians were participating in SNAP.³⁸

SNAP Eligibility & Work Requirements

To be eligible for SNAP, households must meet the following criteria:

- (1) Gross monthly income must be at or below 200 percent of the poverty level;
- (2) Net income must be equal to or less than the poverty level; and
- (3) Assets must be below the limits set based on household composition.³⁹

Individuals may be deemed ineligible for SNAP due to any of the following:⁴⁰

- Conviction of drug trafficking;
- Fleeing a felony warrant;
- Breaking SNAP or TANF program rules;
- Failure to cooperate with the child support enforcement agency; or
- Being a noncitizen without qualified status.

Able-bodied adults are generally required to participate in work activities in order to be eligible for SNAP. Federal policy outlines two tiers of work requirements for SNAP recipients: the general work requirement and the Able-Bodied Adult without Dependents (ABAWD) work requirement.

The general work requirement applies to all recipients between 16 and 59 years of age, unless they qualify for an exemption. The general work requirements include requiring a recipient register for work, participating in SNAP Employment and Training (E&T) or workfare if assigned, taking a suitable job if offered, and not voluntarily quitting a job or reducing work hours below 30 a week without a good reason.⁴¹

Individuals are exempt from the general work requirements if they are:⁴²

³⁵ US Department of Agriculture, Food and Nutrition Service, *State Options Report*, available at <https://www.fns.usda.gov/snap/waivers/state-options-report> (last visited February 2, 2024).

³⁶ US Department of Agriculture, Food and Nutrition Service, *SNAP Eligibility*, available at <https://www.fns.usda.gov/snap/recipient/eligibility> (last visited February 2, 2024).

³⁷ *Id.*

³⁸ US Department of Agriculture, Food and Nutrition Service, *Supplemental Nutrition Assistance Program: Number of Persons Participating*, available at <https://fns-prod.azureedge.us/sites/default/files/resource-files/snap-persons-1.pdf> (last visited February 2, 2024).

³⁹ DCF, *SNAP Eligibility*, available at <https://www.myflfamilies.com/services/public-assistance/supplemental-nutrition-assistance-program-snap/snap-eligibility> (last visited February 2, 2024). See also s. 414.32, F.S.

⁴⁰ *Id.* See also s. 414.32, F.S.

⁴¹ US Department of Agriculture, Food and Nutrition Service, *SNAP Work Requirements*, available at <https://www.fns.usda.gov/snap/work-requirements> (last visited February 2, 2024).

⁴² *Id.*

- Already working at least 30 hours a week (or earning wages at least equal to the federal minimum wage multiplied by 30 hours);
- Meeting work requirements for another program (TANF or unemployment compensation);
- Taking care of a child under six or an incapacitated person;
- Unable to work due to a physical or mental limitation;
- Participating regularly in an alcohol or drug treatment program; or
- Studying in school or a training program at least half-time (but college students are subject to additional eligibility rules).

If an individual capable of meeting the general work requirements fails to do so, they are disqualified from getting SNAP for at least a month and must start meeting the requirements to get SNAP again. If the person gets back on SNAP and fails to meet the requirements again, they are disqualified for longer than a month and could be permanently disqualified.⁴³

The ABAWD work requirement applies to Adults between 18 and 52 years of age, able-bodied, and without dependents, unless otherwise exempt from the general work requirement.⁴⁴ ABAWDs are required to work or participate in a qualifying work program for a combined total of at least 80 hours per month. ABAWDs who fail to comply with the ABAWD work requirement for three months in a 36-month period will lose their SNAP benefits.⁴⁵

Prohibition on Receiving TCA and Food Assistance – Felony Drug Convictions

Federal law prohibits TCA and food assistance eligibility for any individual with a felony drug conviction and imposes a lifetime ban on such benefits, unless a state elects to opt out of the provision.⁴⁶ Florida has opted out of this federal provision⁴⁷, with one limitation. Florida has implemented a modified ban wherein an applicant may not be denied benefits solely based on a felony drug conviction, unless the conviction is for drug trafficking⁴⁸, including agreeing, conspiring, combining, or confederating with another person to commit an act after August 22, 1996.⁴⁹

⁴³ US Department of Agriculture, Food and Nutrition Service, *SNAP Work Requirements*, available at <https://www.fns.usda.gov/snap/work-requirements> (last visited February 2, 2024).

⁴⁴ *Id.* Adults who are unable to work due to a physical or mental limitation, are pregnant, have someone under 18 in their SNAP household, are excused from the general work requirement, are a veteran, experiencing homelessness, or were in foster care on their 18th birthday and are under age 24 are exempt from the ABAWD requirements.

⁴⁵ US Department of Agriculture, Food and Nutrition Service, *Supplemental Nutrition Assistance Program (SNAP) ABAWD Policy Guide*, available at <https://fns-prod.azureedge.us/sites/default/files/resource-files/SNAP-ABAWD-Policy-Guide-September-2023.pdf> (last visited February 2, 2024).

⁴⁶ Pub. L. No. 104-193, s. 115.

⁴⁷ Section 414.095(1), F.S.

⁴⁸ Section 414.095, F.S. Any person may be convicted of drug trafficking if they knowingly sell, purchase, manufacture, deliver, or bring into this state specified illegal drugs, such as cannabis, morphine, cocaine, fentanyl, hydrocodone, oxycodone, or if they are knowingly in actual or constructive possession of these drugs, and the drugs are over a certain amount. S. 893.135, F.S. Drug trafficking also includes those who agree, conspire, combine, or confederate with another person to commit the act.

⁴⁹ See DCF's ESS Policy Manual 1420.2200, Individual Convicted Felony Drug Trafficking (TCA), available at <https://www.myflfamilies.com/sites/default/files/2023-02/1410.pdf> (last visited February 2, 2024).

Under Florida law, drug trafficking is a first-degree felony punishable by up to 30 years of imprisonment and – depending upon the drug type and amount trafficked – fines from \$25,000 to \$500,000.⁵⁰ During the application process, individuals seeking public benefits self-attest if they have been convicted of felony drug trafficking. This information is then confirmed by an eligibility specialist during the applicant’s interview. If the illegal behavior that led to the conviction occurred on or before August 22, 1996, the disqualification does not apply regardless of the date of the conviction. If a court expunges the felony drug trafficking conviction, the individual is not subject to the disqualification.⁵¹

In Florida, while an individual is disqualified, his or her family may still apply for and receive benefits. In such instances, the disqualified individual’s needs are excluded in calculating the family’s benefits, although the individual’s income and assets are included in determining the household’s eligibility. This means that while those with felony drug trafficking convictions may still apply for assistance for their children, the overall household receives less support because of the current bans.

The Department of Children and Families reports that in the 2023 calendar year, 402 individuals were denied benefits due to a drug trafficking conviction.⁵² The number of people otherwise eligible who choose not to apply due to disqualification due to a felony drug trafficking conviction is unknown.

Prohibition Policy by State

Many states have chosen to opt out or implement a modified ban on the receipt of SNAP and TCA benefits for individuals with felony drug convictions. Except for South Carolina, all other states and Washington, D.C., have chosen to modify or remove the ban for at least one of the two affected programs.⁵³

As of April 2022, seven⁵⁴ states fully ban TANF benefits, including TCA, for individuals with prior felony drug convictions, while 17⁵⁵ states, including Florida, have modified bans, and 26⁵⁶ states and Washington, D.C., have no ban for SNAP benefits. South Carolina is the only state with a full ban on SNAP benefits for individuals with prior felony drug convictions. Florida is

⁵⁰ Section 893.135, F.S.

⁵¹ See DCF’s ESS Policy Manual 1420.2200, Individual Convicted Felony Drug Trafficking (TCA), available at <https://www.myflfamilies.com/sites/default/files/2023-02/1410.pdf> (last visited February 2, 2024).

⁵² DCF, Agency Bill Analysis for SB 776, on file with the Senate Children, Families, and Elder Affairs Committee.

⁵³ The Center for Law and Social Policy, *No More Double Punishments: Lifting the Ban on SNAP and TANF for People with Prior Felony Drug Convictions*, available at <https://www.clasp.org/publications/report/brief/no-more-double-punishments/> (last visited February 2, 2024).

⁵⁴ Arizona, Georgia, Missouri, Nebraska, South Carolina, Texas, and West Virginia.

⁵⁵ Alaska, Colorado, Connecticut, Florida, Hawaii, Idaho, Indiana, Iowa, Montana, Maryland, Massachusetts, Michigan, Minnesota, North Carolina, Pennsylvania, Tennessee, and Utah.

⁵⁶ Alabama, Arkansas, California, Delaware, Illinois, Kansas, Kentucky, Louisiana, Maine, Mississippi, New Hampshire, New Jersey, New Mexico, New York, Nevada, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Dakota, Vermont, Virginia, Washington, Wisconsin, and Wyoming.

one of 21⁵⁷ states with modified bans, and 28⁵⁸ states and Washington, D.C., have no ban for SNAP benefits.

Recidivism Studies

Studies have shown that public assistance such as TANF and SNAP reduces recidivism, while banning access has been linked to increased recidivism. The Bureau of Justice Statistics reports that approximately 66 percent of state prisoners were rearrested within three years of release, and 82 percent were arrested within 10 years.⁵⁹ Such odds of recidivating can be offset through providing support; the barriers to re-entering society as a productive member are reduced when people are able to meet their basic needs. A Harvard Law School study found that access to SNAP and TANF significantly reduced an individual's risk of being reincarcerated by up to 10 percent within one year.⁶⁰ Additionally, a study of recidivism before and after the Florida ban took effect estimated the ban increased drug traffickers' likelihood of returning to prison by at least 9.5 percent.⁶¹

Human Trafficking

Human trafficking is a form of modern-day slavery involving the transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining, another person for the purpose of exploiting that person.⁶² Victims of human trafficking are often subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.⁶³ Human trafficking does not necessarily involve the movement or relocation of a person, nor does it necessarily involve physical captivity.

Human trafficking can affect individuals of any age, gender, or nationality; however, some people are not more vulnerable than others. Significant risk factors include recent migration or relocation, substance use, mental health concerns, and involvement in the child welfare system.⁶⁴ Vulnerable people are lured and coerced through a myriad of means including economic abuse, psychological coercion, threats against family, drug addiction, physical abuse, and sexual abuse.⁶⁵

⁵⁷ Alabama, Alaska, Arizona, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Indiana, Kansas, Maryland, Minnesota, Missouri, Montana, Nebraska, North Carolina, Tennessee, Texas, West Virginia, and Wisconsin.

⁵⁸ Arkansas, California, Delaware, Illinois, Iowa, Kentucky, Louisiana, Maine, Michigan, Massachusetts, Mississippi, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Virginia, Washington, and Wyoming.

⁵⁹ U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Recidivism of Prisoners Released in 24 States in 2008: A 10-Year Follow-Up Period (2008-2018), Special Report*, available at https://bjs.ojp.gov/BJS_PUB/rpr24s0810yfup0818/Web%20content/508%20compliant%20PDFs (last visited February 2, 2024).

⁶⁰ Crystal S. Yang, *Does Public Assistance Reduce Recidivism?*, Vol. 107, No. 5, Am. Econ. Rev. 551 (2017).

⁶¹ Cody Tuttle, *Snapping Back: Food Stamp Bans and Criminal Recidivism*, Vol. 11, No. 2, Am. J. Econ. Pol'y 301 (2019).

⁶² Section 787.06, F.S.

⁶³ *Id.*

⁶⁴ National Human Trafficking Hotline, *Human Trafficking*, available at <https://humantraffickinghotline.org/en/human-trafficking> (last visited February 6, 2024).

⁶⁵ AMA Journal of Ethics, *Human Trafficking, Mental Illness, and Addiction, Avoiding Diagnostic Overshadowing*, available at <https://journalofethics.ama-assn.org/article/human-trafficking-mental-illness-and-addiction-avoiding-diagnostic-overshadowing/2017-01> (last visited February 6, 2024).

It is estimated that at any given time in 2021, there were approximately 27.6 million people engaging in forced labor.⁶⁶ In 2021, the National Human Trafficking Hotline⁶⁷ identified 16,710 trafficking victims in the U.S., of which 1,253 were in Florida⁶⁸; however, these figures do not reflect the true scope and scale of the issue, which cannot be easily quantified due to its underground nature.

Trafficking of illegal drugs and human trafficking often co-occur.⁶⁹ Victims of trafficking may be exploited for the transport of illegal drugs and illegal drugs may also serve as a means of coercion by the trafficker.⁷⁰ Substance use as a means of coercion occurs in various settings, including sexual exploitation and forced labor, as well as intimate personal violence.⁷¹ Through substance use coercion, a trafficker can maintain control over the victim through controlling the victim's access to the substance, forcing the victim to use substances, and using the victim's own substance use as a means of discrediting the victim and making the victim complicit in the victim's own oppression.⁷²

The Legislature has made clear its intent that the perpetrators of human trafficking be penalized for their illegal conduct and that the victims of trafficking be protected and assisted by the state and the agencies⁷³; however, in application it has proven difficult to hold human traffickers accountable, and victims of human trafficking face significant barriers to being recognized as such.

Victims of human trafficking often do not trust the police and rarely seek their assistance.⁷⁴ When victims of human trafficking do not interact with the criminal justice system, they are often perceived as criminals, rather than victims. Trafficking victims are frequently compelled to

⁶⁶ International Labor Organization, *Global Estimates of Modern Slavery Forced Labour and Forced Marriage*, available at https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_854733.pdf (last visited February 6, 2024).

⁶⁷ The National Human Trafficking Hotline is a free service to connect victims and survivors of sex and labor trafficking with services and supports to find help and safety. The hotline also receives tips about potential situations of sex and labor trafficking and facilitates reporting that information to the appropriate authorities. See National Human Trafficking Hotline, *About Us*, available at <https://humantraffickinghotline.org/en/about-us> (last visited February 6, 2024).

⁶⁸ National Human Trafficking Hotline, *Florida Statistics*, available at <https://humantraffickinghotline.org/en/statistics/florida> (last visited February 6, 2024).

⁶⁹ U.S. Drug Enforcement Administration, *Violent Drug Organizations Use Human Trafficking to Expand Profits*, available at <https://www.dea.gov/stories/2021/2021-01/2021-01-28/violent-drug-organizations-use-human-trafficking-expand-profits> (last visited February 6, 2024).

⁷⁰ Asian Pacific Institute on Gender-Based Violence, *Intersections of Human Trafficking, Domestic Violence, and Sexual Assault – National Organizational Advocacy Roundtable*, available at <https://api-gbv.org/wp-content/uploads/2019/02/Trafficking-DV-SA-Intersections-2016-formatted2019.pdf> (last visited February 6, 2024).

⁷¹ U.S. Department of Health and Human Services, *Understanding Substance Use Coercion as a Barrier to Economic Stability for Survivors of Intimate Partner Violence: Policy Implications*, available at <https://aspe.hhs.gov/sites/default/files/private/pdf/264166/Substance-Use-Coercion-Policy-Brief.pdf> (last visited February 6, 2024).

⁷² International Labor Organization, *Global Estimates of Modern Slavery Forced Labour and Forced Marriage*, available at https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_854733.pdf (last visited February 6, 2024).

⁷³ Section 787.06(1)(d), F.S.

⁷⁴ Amy Farrell, Meredith Dank, Ieke de Vries, Matthew Kafafian, Andrea Hughes, Sarah Lockwood, *Failing Victims? Challenges of the Police Response to Human Trafficking*, Vol. 18, No. 3, *Criminology & Pub. Pol'y*, 649, 649-673 (2019).

break the law and may be arrested as a result of that criminal act before they are recognized as a victim of human trafficking. Once a human trafficking victim is charged with a crime, the circumstances around the arrest and the overtaxed criminal court system create significant pressure on the victim to plead guilty, rather than contest the charge or seek to reveal the human trafficking situation.⁷⁵

III. Effect of Proposed Changes:

The bill amends s. 414.095, F.S., to create an exemption to eligibility for victims of human trafficking for Florida's Temporary Cash Assistance (TCA) and Supplemental Nutrition Assistance Program (food assistance) benefits. This will allow individuals with a drug trafficking conviction who are also victims of human trafficking to access benefits assistance, as long as they meet all other eligibility requirements.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁷⁵ The City University of New York, CUNY School of Law, *Clearing the Slate: Seeking Effective Remedies for Criminalized Trafficking Victims*, available at <https://ncjtc-static.fvtc.edu/Resources/RS00002861.pdf> (last visited February 6, 2024).

B. Private Sector Impact:

Individuals previously disqualified from receiving cash or food assistance because of felony drug trafficking convictions who are also human trafficking victims will now be eligible to receive such benefits, assuming they meet all of the other eligibility requirements, which will provide additional financial support to low-income families.

C. Government Sector Impact:

According to the Department of Children and Families (DCF), there is an indeterminate, negative fiscal impact to state government to provide for individuals who would now be eligible for Temporary Cash Assistance (TCA) and/or Supplemental Nutrition Assistance Program (food assistance) benefits. It is unknown how many applicants would be eligible and apply and receive benefits under this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 414.095 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Children, Families, and Elder Affairs on February 6, 2024:

The committee substitute narrows the bill language and allows an individual convicted of drug trafficking and also determined to be a victim of human trafficking to not be denied TCA and food assistance benefits.

B. Amendments:

None.