

By the Committee on Children, Families and Seniors and Senator Holzendorf

300-2016A-98

1 A bill to be entitled
2 An act relating to public assistance; providing
3 legislative intent and findings; providing for
4 demonstration projects to be implemented which
5 require drug screening and possibly drug
6 testing for individuals who apply for temporary
7 assistance or services under the "Work and Gain
8 Economic Self-sufficiency (WAGES) Act";
9 providing for expiration of the demonstration
10 projects unless reauthorized by the
11 Legislature; directing the Department of
12 Children and Family Services to implement the
13 demonstration projects in specified local WAGES
14 coalitions; requiring certain notice; providing
15 procedures for screening, testing, retesting,
16 and appeal of test results; providing for
17 notice of local substance abuse programs;
18 providing that, if a parent is deemed
19 ineligible due to a failure of a drug test, the
20 eligibility of the children of the parent will
21 not be affected; requiring the department to
22 provide for substance abuse treatment programs
23 for certain persons; giving the Department of
24 Children and Family Services rulemaking
25 authority; specifying circumstances resulting
26 in termination of temporary assistance or
27 services; requiring the department and the
28 local WAGES coalitions to evaluate the
29 demonstration projects and report to the WAGES
30 Program State Board of Directors and the
31 Legislature; providing that, in the event of

1 conflict, federal requirements and regulations
2 control; providing an effective date.

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4 Be It Enacted by the Legislature of the State of Florida:

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6 Section 1. Legislative intent and findings.--

7 (1) It is the intent of the Legislature that the
8 provisions of this act enhance the employability of
9 participants in the WAGES Program through drug screening,
10 testing, and treatment.

11 (2) The Legislature finds that there is a perception
12 on the part of employers that the individuals who receive
13 temporary assistance or services under the WAGES Program are
14 likely to use drugs, and that such perception adds to the
15 difficulties such individuals have in securing employment.

16 (3) The Legislature also finds that the failure of
17 individuals to achieve the independence provided by gainful
18 employment results in welfare costs that burden the state's
19 taxpayers.

20 (4) The Legislature further finds that drug use
21 adversely effects a significant portion of the workforce,
22 which results in billions of dollars of lost productivity each
23 year and poses a threat to the safety of the workplace and to
24 public safety and security.

25 (5) In balancing the interests of taxpayers,
26 participants in the WAGES Program, and potential employers
27 against the interests of those who will be screened and tested
28 under this act, the Legislature finds that drug screening,
29 testing, and treatment as provided for in this act are in the
30 greater interests of all concerned.

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1 Section 2. Drug testing and screening program;
2 procedures.--

3 (1) The Department of Children and Family Services, in
4 consultation with local WAGES coalitions 3 and 8, shall
5 develop and, as soon as possible after January 1, 1999,
6 implement a demonstration project in WAGES regions 3 and 8 to
7 screen each applicant and test applicants for temporary cash
8 assistance provided under chapter 414, Florida Statutes, who
9 the department has reasonable cause to believe, based on the
10 screening, engage in illegal use of controlled substances.

11 Unless reauthorized by the Legislature, this demonstration
12 project expires June 30, 2001. As used in this act, the term

13 "applicant" means an individual who first applies for

14 assistance or services under the WAGES Program. Screening and
15 testing for the illegal use of controlled substances is not
16 required if the individual reapplies during any continuous
17 period in which the individual receives assistance or
18 services. However, an individual may volunteer for drug
19 testing and treatment if funding is available.

20 (2) Under the demonstration project the Department of
21 Children and Family Services shall:

22 (a) Provide notice of drug screening and the potential
23 for possible drug testing to each applicant at the time of
24 application. The notice must advise the applicant that drug
25 screening and possibly drug testing will be conducted as a
26 condition for receiving temporary assistance or services under
27 chapter 414, Florida Statutes, and shall specify the
28 assistance or services that are subject to this requirement.

29 The notice must also advise the applicant that a prospective
30 employer may require the applicant to submit to a

31 pre-employment drug test. The applicant shall be advised that

1 the required drug screening and possible drug testing may be
2 avoided if the applicant does not apply for or receive
3 assistance or services. The drug screening and testing program
4 is not applicable in child-only cases.

5 (b) Develop a procedure for drug screening and
6 conducting drug testing of applicants for temporary assistance
7 or services under the WAGES Program.

8 (c) Provide a procedure to advise each person to be
9 tested, before the test is conducted, that he or she may, but
10 is not required to, advise the agent administering the test of
11 any prescription or over-the-counter medication he or she is
12 taking.

13 (d) Require each person to be tested to sign a written
14 acknowledgment that he or she has received and understood the
15 notice and advice provided under paragraphs (a) and (c).

16 (e) Provide a procedure to assure each person being
17 tested a reasonable degree of dignity while producing and
18 submitting a sample for drug testing, consistent with the
19 state's need to ensure the reliability of the sample.

20 (f) Specify circumstances under which a person who
21 fails a drug test has the right to take one or more additional
22 tests.

23 (g) Provide a procedure for appealing the results of a
24 drug test by a person who fails a test and for advising the
25 appellant that he or she may, but is not required to, advise
26 appropriate staff of any prescription or over-the-counter
27 medication he or she has been taking.

28 (h) Notify each person who fails a drug test of the
29 local substance abuse treatment programs that may be available
30 to such person.

31 Section 3. Children.--

1 (1) If a parent is deemed ineligible for cash
2 assistance due to the failure of a drug test under this act,
3 his or her dependent child's eligibility for cash assistance
4 is not affected.

5 (2) If a parent is deemed ineligible for cash
6 assistance due to the failure of a drug test, an appropriate
7 protective payee will be established for the benefit of the
8 child.

9 (3) If the parent refuses to cooperate in establishing
10 an appropriate protective payee for the child, the Department
11 of Children and Family Services will appoint one.

12 Section 4. Treatment.--

13 (1) Subject to the availability of funding, the
14 Department of Children and Family Services shall provide a
15 substance-abuse-treatment program for a person who fails a
16 drug test conducted under this act and is eligible to receive
17 temporary assistance or services under the WAGES Program. The
18 department shall provide for a retest at the end of the
19 treatment period. Failure to pass the retest will result in
20 the termination of temporary assistance or services provided
21 under chapter 414, Florida Statutes, and of any right to
22 appeal the termination.

23 (2) The Department of Children and Family Services
24 shall develop rules regarding the disclosure of information
25 concerning applicants who enter treatment, including the
26 requirement that applicants sign a consent to release
27 information to the Department of Children and Family Services
28 or the Department of Labor and Employment Security, as
29 necessary, as a condition of entering the treatment program.

30 (3) The Department of Children and Family Services may
31 develop rules for assessing the status of persons formerly

1 treated under this act who reapply for assistance or services
2 under the WAGES act as well as the need for drug testing as a
3 part of the reapplication process.

4 Section 5. Evaluations and recommendations.--

5 (1) The Department of Children and Family Services, in
6 conjunction with the local WAGES coalitions in service areas 3
7 and 8, shall conduct a comprehensive evaluation of the
8 demonstration projects operated under this act. By January 1,
9 2000, the department, in conjunction with the local WAGES
10 coalitions involved, shall report to the WAGES Program State
11 Board of Directors and to the Legislature on the status of the
12 initial implementation of the demonstration projects and shall
13 specifically describe the problems encountered and the funds
14 expended during the first year of operation.

15 (2) By January 1, 2001, the department, in conjunction
16 with the local WAGES coalitions involved, shall provide a
17 comprehensive evaluation to the WAGES Program State Board of
18 Directors and to the Legislature, which must include:

19 (a) The impact of the drug screening and testing
20 program on employability, job placement, job retention, and
21 salary levels of program participants.

22 (b) Recommendations, based in part on a cost and
23 benefit analysis, as to the feasibility of expanding the
24 program to other local WAGES service areas, including specific
25 recommendations for implementing such expansion of the
26 program.

27 Section 6. In the event of a conflict between the
28 implementation procedures described in this program and
29 federal requirements and regulations, federal requirements and
30 regulations shall control.

31 Section 7. This act shall take effect October 1, 1998.

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2172

- 4 - A clause is added to provide that, in the event of
5 conflict, federal requirements will control.
- 6 - Language is clarified to provide that all applicants will
7 be screened and some applicants, based upon reasonable
8 cause, will be tested.
- 9 - Notice will be given of drug screening and the potential
10 for possible drug testing to each WAGES applicant.
- 11 - Subject to funding availability, an individual may
12 volunteer for drug testing and treatment.
- 13 - If a parent is deemed ineligible for WAGES services and
14 benefits, the child's eligibility for cash assistance
15 will not be affected.
- 16 - Two sections are added to provide for the establishment
17 of a protective payee for such a child.
- 18 - The Department of Children and Family Services is
19 directed to develop rules regarding the disclosure of
20 information and is authorized to develop rules regarding
21 the assessment of reapplicants for WAGES assistance or
22 services and the need for drug-testing as part of the
23 reapplication process.
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