

STORAGE NAME: h0271.cfe

DATE: March 9, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CHILDREN AND FAMILY EMPOWERMENT
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 0271 (as passed by the 1997 House of Representatives)

RELATING TO: Public Assistance

SPONSOR(S): Representatives Arnall, Fasano, Sanderson, Albright, Feeney, Wise, Morroni, Byrd, Lacasa, Bainter, Thrasher, Bitner, Ziebarth, Culp

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CHILDREN AND FAMILY EMPOWERMENT YEAS 3, NAYS 2
- (2) HEALTH AND HUMAN SERVICES FISCAL [WITHDRAWN]
- (3)
- (4)
- (5)

I. SUMMARY:

This bill provides for random drug testing of applicants for temporary assistance or services under the Work and Gain Economic Self-Sufficiency (WAGES) act for illegal use of controlled substances . The bill requires that individuals who have tested positive be notified of the availability of local substance abuse services and provides for a 90-day rehabilitation period for recipients who have failed the drug tests. A precedent has been established for this type of legislation in St. Johns County where the board of county commissioners passed a resolution implementing a drug testing program for welfare applicants and recipients.

The cost of this bill is limited by the provisions of the bill to the funds appropriated specifically for this purpose. Random tests are only conducted as long as funds are available for treatment. For purposes of comparison, the annual cost to test and to treat all applicants is estimated at \$11.5 million. Research by the U.S. Department of Health and Human Services indicates that the expense of this program may be more than offset by a reduction in costs related to drug-related crime. Recently published federal regulations provide for the non-medical costs to be funded from the TANF block grant.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Children exposed to adult substance abuse are more likely than other children to display problem behaviors such as short attention span, extreme distractibility, speech and language disorders, aggressive and disruptive behavior, and social incompetence. While it is difficult to quantify the costs to society of the reduced prospects for productive lives of children exposed to adult substance abuse, research suggests that these inter-generational effects are likely to be large (U.S. Department of Health and Human Services and U.S. Department of Education, 1994).

“Time limits, increasing employment and training participation requirements, and strict economic sanctions for non-compliance with program expectations, all increase the importance of engaging a broader share of the AFDC caseload in employment or employment-related activities. Over time, these policy changes will require states and local welfare offices to develop strategies to engage welfare recipients who have traditionally been exempted from participation in education or training activities, as well as other long-term recipients, in welfare-to-work programs.”(Olson and Pavetti, 1996)

Analysis of data from the National Longitudinal Study of Youth reveals that almost 90 percent of welfare recipients between the age of 27 and 35 experience one of five potential barriers to employment (Olson and Pavetti, 1996). Substance abuse has been identified as one of these major barriers to economic self-sufficiency. Two 1994 HHS reports (U.S. Department of Health and Human Services, 1994 a & b) used data from the National Household Survey on Drug Abuse (NHSDA) to show the following:

- 10.5% of persons aged 15 and older in Aid to Families with Dependent Children (AFDC) households reported past month illicit drug use.
- 5.2% of adults in AFDC households had significant alcohol or other drug abuse problems that may be sufficiently debilitating to preclude immediate participation in employment or training activities.
- 11.2% of adults in AFDC households were somewhat impaired by alcohol or drug use and might need substance abuse treatment concurrent with participation in employment and training activities. In addition, the National Longitudinal Alcohol Epidemiologic Survey indicated that 9.6% of adult men and 7.3% of adult women who received welfare assistance were dependent on alcohol and 5.6% of men and 3.3% of women who received welfare abused or were dependent on illicit drugs (Grant, B.F. and Dawson, D.A., 1996).

The Department of Children and Families reports that during 1995-96, there were 46,984 applicants for WAGES programs and services. The department estimates that 10.8% or 5,074 1995-96 applicants for WAGES would test positive for illegal substances.

There are currently about 1,400 people in Florida waiting for admission for treatment in a substance abuse program. This indicates that the current treatment system would

need to be expanded in order to accommodate the number of referrals that would result from drug testing. Each person testing positive for illicit drugs would initially be referred to a provider for assessment of the needed level of treatment. Recently published federal regulations provide for the non-medical costs to be funded from the TANF block grant.

References

Olson, Krista, and Pavetti, LaDonna, 1996 *"Personal and Family Challenges to the Successful; Transition from Welfare to Work,"* The Urban Institute.

Grant, B.F. and Dawson, D.A., 1996 *"Alcohol and Drug Use, Abuse, and Dependence among Welfare Recipients,"* American Journal of Public Health 86:1450-1454.

U.S. Department of Health and Human Services and U.S. Department of Education, *Risk and Reality: Teaching Preschool Children Affected by Substance Abuse*, 1994.

U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation and the National Institute on Drug Abuse, *Patterns of Substance Abuse and Program Participation*, 1994(a).

U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, the Substance Abuse and Mental Health Services Administration, and the National Institute on Drug Abuse, *Patterns of Substance Abuse and Substance-Related Impairment Among Participants in the Aid to Families with Dependent Children Program (AFDC)*, 1994(b).

B. EFFECT OF PROPOSED CHANGES:

This bill provides for random drug testing of applicants for temporary assistance or services under the Work and Gain Economic Self-Sufficiency (WAGES) act. Each applicant for and recipient of temporary assistance may be required to pass one or more tests and be referred to drug treatment as a condition of eligibility for receiving assistance or services. The bill requires that individuals who have tested positive be notified of the availability of local substance abuse services and provides for a 90-day rehabilitation period for recipients who have failed the drug tests. The bill does not specify an age limit for drug testing.

The Department of Children and Families notes that the provisions of this bill will have a significant impact on families and the agency. The impact on families results from ensuring that parents or caretaker relatives are drug free while receiving public assistance. The impact on the agency results in referrals to local substance abuse programs. A specialized case management system would have to be implemented to assure coordination among substance abuse providers, Family Safety and Preservation staff, Economic Self-Sufficiency Services staff, district office staff and Department of Labor and Employment Security staff. There are currently approximately 1,400 individuals on waiting lists for substance abuse treatment at any given time. Additional

local program slots would be needed to accommodate a potential increase of 5,168 referrals.

The Department of Children and Families notes that the advantages to requiring recipients testing positive to enter treatment include the contribution of the intended outcome to return welfare recipients to work and identification of children who are at risk of abuse and neglect.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

The Department of Children and Families would need to promulgate rules in order to implement the program.

(2) Any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The bill would increase drug testing and drug treatment and would require the department to offer appeals and retesting.

(3) Any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) What responsibilities, costs and powers are passed on to another program, agency, level or government, or private entity?

Not applicable.

(2) What is the cost of such responsibility at the new level/agency?

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Not applicable.

(3) How is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

Not applicable.

b. Does the bill require or authorize an increase in any fees?

Not applicable.

c. Does the bill reduce total taxes, both rates and revenues?

Not applicable.

d. Does the bill reduce total fees, both rates and revenues?

Not applicable.

e. Does the bill authorize any fee or tax increase by any local government?

Not applicable.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

Individuals who test positive for illegal substances and fail to undergo rehabilitation or who continue to test positive will lose temporary assistance benefits.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not Applicable.

- (2) Who makes the decisions?

Not Applicable.

- (3) Are private alternatives permitted?

Not Applicable.

- (4) Are families required to participate in a program?

Not Applicable.

- (5) Are families penalized for not participating in a program?

Not Applicable.

- b. Does the bill directly affect the legal rights and obligations between family members?

The bill places the benefits of a family into jeopardy as a result of substance abuse by one member.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) Parents and guardians?

Parents and guardians would be expected to maintain themselves and their dependent children free of illegal substances.

- (2) Services providers?

Not Applicable.

- (3) Government employees/agencies?

Department of Children and Families would be responsible for ensuring that testing is conducted and for establishing procedures for appeals. The appeals procedures would specify responsibility for decisions on appeals.

D. STATUTE(S) AFFECTED:

Chapter 414, Florida Statutes

E. SECTION-BY-SECTION RESEARCH:

SECTION 1. Creates section 414.103, Florida Statutes, which provides for random testing of illegal use of controlled substances by applicants for temporary assistance and other services provided through chapter 414 of the Florida Statutes. The provisions of this section are only to take effect to the extent that funds and treatment slots are available for providing a 90-day non-residential rehabilitation treatment program for individuals who test positive for illegal use of controlled substances.

Subsection (1) provides the duties and responsibilities of the Department of Children and Families and of the applicants.

Paragraph (a) provides for the advance notice of that random testing is a condition for applying for and receiving services.

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Paragraph (b) prior to testing provides for a second notice that testing is a condition for applying for and receiving services, that testing may be avoided by not applying for assistance or services, and that in the event of a positive test, the person tested will be referred to a local substance abuse program.

Paragraph © provides for advise to applicants that he or she may notify the agent administering the test of any prescription or over-the-counter medication currently being taken.

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

Paragraph (e) provides for the department to adopt a procedure for the random test.

Paragraph (f) provides for the assurance of those being tested of provisions for maintaining a reasonable degree of dignity during the procedure.

Paragraph (g) requires that the department specify circumstance under which persons have the rights to take a retest.

Paragraph (h) requires that the department specify circumstance regarding the rights of persons tested for appeals.

Paragraph (i) requires that the department notify persons tested of opportunities for local substance abuse programs.

Paragraph (j) provides for a 90-day non-residential rehabilitation period for a person who has been determined to be eligible to receive WAGES assistance and services and who fails a drug test. The bill provides for a mandatory retest. Failure on the retest results in termination of services and benefits.

Subsection (2) provides that random drug testing provided under this section shall be limited solely to the detection of the illegal use of controlled substances and shall not be conducted for any other purpose. Subsection (2) further provides that the department shall not develop or implement any procedure designed to advise law enforcement authorities as to whether a person has passed or failed a drug test under this section.

Section 2 provides for an effective date of October 1, 1997.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

The bill limits the program to funds appropriated. Recently published federal regulations provide for the non-medical costs to be funded from the TANF block grant. If all applicants were to be tested, the cost estimate is as follows:

| | |
|--|-----------------------|
| Testing of 46,984 applicants | \$846,000 per year |
| Retesting of 2,537 who initially tested positive | \$46,000 per year |
| Substance abuse treatment | \$10,000,000 per year |
| Training of department staff | \$450,000 per year |
| Child welfare (foster care referrals, etc.) | Indeterminable |
| Legal costs due to challenges | Indeterminable |

3. Long Run Effects Other Than Normal Growth:

The bill could result in long-term benefits to society in the form of net savings due to the increased employability of WAGES participants and a reduction in drug-related crime. The amount of such benefits is indeterminable.

4. Total Revenues and Expenditures:

The total expenditures would be determined by the appropriations process. The maximum expenditures are estimated to be approximately \$11.5 million per year.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

The department contracts substance abuse treatment programs to private agencies on the local level. This would provide employment opportunities in the private sector.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

The Department of Children and Families estimates the maximum annual cost to implement the provisions of this bill at \$11.5 million, although the program is designed to make use of a lessor appropriation. In determining the fiscal impact, the following assumptions were made:

- It is estimated that 10.8% of the WAGES population will test positive for substance abuse.
- During 1995-96, there were 46,984 applicants for WAGES. Although this figure is used as a basis of the calculations, it probably represents a significant overestimate of the number of applicants in 1997-98.
- Cost of substance abuse testing is estimated at \$18 per individual.
- The estimated cost of providing substance abuse treatment to adults and children is \$1,950 per person. This cost includes salaries and benefits and all costs associated with treatment. Substance abuse treatment services are contracted to private providers on the local level. The current treatment system cannot accommodate the additional referrals so new contracts would have to be negotiated.
- Costs to child welfare are indeterminable. There would be an indeterminable percentage of the caseloads that would result in referrals for foster care.
- Should individuals challenge the law, there would be legal fees involved. The amount of these fees is indeterminable.

In a report funded by the U.S. Department of Health & Human Services (Gerstein, Johnson & Larison, 1997) it was found that an average alcohol and drug treatment episode lasted about three months, cost about \$1,400, and yielded benefits to taxpayers during and after treatment worth about \$10,000, with the greatest share of benefit deriving from reductions in the economic burden of crime. The measured benefit to taxpayers exceeded the cost of treatment by 6 to 1 for women with children who did not receive welfare and 2 to 1 for women with children who did receive welfare. Benefits were lower among women than men, and especially among women who were parents or received welfare, principally because women, especially those with children or receiving welfare initially committed less crime than men. Additional benefits could be expected from the reduction in dependency on

government cash assistance. Recently published federal regulations provide for the non-medical costs to be funded from the TANF block grant.

References

Gerstein, Dean R., Robert A. Johnson, and Cindy L. Larson, *Alcohol and Other Drug Treatment for Parents and Welfare Recipients: Outcomes, Costs and Benefits*, U.S. Department of Health and Human Services. 1997.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

This bill was introduced in the 1997 Session and did not pass the Legislature. Pursuant to House Rule 96, the bill was carried over to the 1998 Session.

The Fourth Amendment to the United States Constitution prohibits the government from illegal searches and seizures. The ultimate determination of a search's reasonableness requires the balancing of the intrusiveness of the search against its promotion of a legitimate government interest.

The bill currently provides an effective date of October 1, 1997. The bill should be amended on the floor to provide an effective date of October 1, 1998.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

In 1997 the bill was amended in committee to change the process. The original bill provided for an initial screening of all applicants followed by additional random testing of participants. The terms screening and testing were not defined. The committee substitute limits testing to a random test of applicants. In addition, the committee substitute only allows the department to test when funds are available for treatment.

VII. SIGNATURES:

COMMITTEE ON CHILDREN AND FAMILY EMPOWERMENT:

Prepared by:

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