

STORAGE NAME: h3429b.cp
DATE: April 15, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CRIME AND PUNISHMENT
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3429
RELATING TO: Drug-Free Postsecondary Educ. Act
SPONSOR(S): Rep. Putnam & others
COMPANION BILL(S): SB 966 (Identical)

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

- (1) College and Universities (WITHDRAWN)
 - (2) Crime and Punishment YEAS 7 NAYS 2
 - (3) Education Appropriations
 - (4)
 - (5)
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I. SUMMARY:

This Bill Research Statement Reflects a strike-everything amendment offered by Rep. Putnam.

This bill Research Statement is written to reflect a Strike-everything amendment offered by Rep. Putnam and adopted by the Crime and Punishment Committee on April 14, 1998.

The bill provides that a person, who receives a conviction for a felony or the second degree or higher or an attempted sexual battery, is ineligible to receive financial assistance for postsecondary education **or** cash assistance from the WAGES program. A conviction does not include persons who receive a withhold of adjudication.

The bill also requires a judge to order repayment of all benefits and assistance the felon has received since the commission of the enumerated offense, and the suspension of all future benefits. In addition, the bill makes repayment a standard automatic condition of probation so that it is not necessary for the judge to orally pronounce this requirement.

The bill clarifies that a postsecondary institution authority to have hearings to suspend a person who has been convicted on one of the enumerated felonies.

The penalties imposed by the bill only apply to offenses that occur, either, while a person is receiving or applying for WAGES cash assistance, or after a person has initially received state financial assistance for postsecondary education.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

WAGES

Chapter 414 creates the WAGES program which provides benefits for needy families for a lifetime maximum of four years. Chapter 414 creates a State Board of Directors which must update the statewide implementation plan annually and submit reports to the Governor, the President of the Senate, and the Speaker of the House. The WAGES Program State Board of Directors is also required to create and charter local WAGES coalitions which must plan and coordinate the delivery of services at the local level. Local WAGES coalitions must coordinate the implementation of one-stop career centers and services. To receive cash assistance, recipients must comply with certain work and training requirements and, if needed, to help establish paternity of dependant children.

Federal law allows states to deny WAGES benefits to persons convicted of a felony drug offense. However, Florida has opted out of that provision and only denies benefits if the conviction is for drug trafficking. Section 404.095, F.S.

Financial Assistance

Section 240.133, F.S., provides that each student in the State University System and each student in a community college is subject to federal and state law and all rules and regulations of the Board of Regents or board of trustees of the community college. Violations of these laws and rules may subject the student to appropriate action by the university or community college authorities. Each president of a state university and each president of a community college has the authority, after notifying the student of the charges and after a hearing, to expel, suspend, or otherwise discipline any student who has violated any law, ordinance, rule, or regulation of the Board of Regents, or board of trustees or the community college.

Section 240.40202(1)(e), F.S., provides that a student is not eligible for the Florida Bright Futures Scholarship Program, if the student has been found guilty of, or has pleaded nolo contendere to, a felony charge. The only exception would be if the student were granted clemency by the Governor and Cabinet.

B. EFFECT OF PROPOSED CHANGES:

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future benefits. In addition, the bill makes repayment a standard automatic condition of probation so that it is not necessary for the judge to orally pronounce this requirement.

The bill clarifies that a postsecondary institution authority to have hearings to suspend a person who has been convicted on one of the enumerated felonies.

The penalties imposed by the bill only apply to offenses that occur, either, while a person is receiving or applying for WAGES cash assistance, or after a person has initially received state financial assistance for postsecondary education.

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?

No.

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

Yes, the Department of Corrections must transmit data to the Department of Education and presumably to the Department of Children and Families which shows who is not eligible for WAGES benefits or financial assistance. The local university has to review this information to determine whether financial assistance should be terminated for any student.

(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 of government, or private entity?

Fewer people will qualify for government benefits.

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

See Fiscal Comments.

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

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

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

No.

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

No.

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

No.

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

No.

3. Personal Responsibility:

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

Yes.

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?

The bill limits access to government programs.

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

The bill limits access to government programs for those convicted of certain crimes.

5. Family Empowerment:

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

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

- N/A

- (2) Who makes the decisions?

- N/A

- (3) Are private alternatives permitted?

- N/A

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

- N/A

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

- N/A

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

No.

- 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?

- N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 240.404, 240.40402, 414.095, 775.161, 775.16, 775.0891, 948.03, 112.011, 414.39, 921.0022, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Prohibits a person who has been convicted of an enumerated felony from receiving financial assistance.

Section 2. Requires the Department of Corrections to send quarterly data to the Department of Education on all persons convicted of an enumerated offense. The Department of Education must then transmit this data to all postsecondary institutions which must immediately terminate assistance to students who have been convicted of an enumerated offense, and may suspend the student from school.

Section 3. Requires termination of WAGES cash assistance, except that benefits for dependents may be provided through a protective payee.

Section 4. Lists enumerated offense including all second degree felonies or higher. This section also requires a judge to order repayment of all benefits and assistance the felon has received since the commission of the enumerated offense, and the suspension of all future benefits.

Section 5. Provides that repayment shall be back to the agency that paid the funds, and provides procedures for the repayment of the funds.

Section 6. Makes the repayment of funds a standard condition of probation or community control.

Section 7. Provides that a person convicted of drug trafficking is disqualified from receiving temporary cash assistance.

Section 8. Removes statutory provision that allows a felony drug offender to receive temporary cash assistance.

Section 9. Incorporates current law.

Section 10. Restates and Incorporates current law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See Fiscal Comments.

4. Total Revenues and Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

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

N/A

D. FISCAL COMMENTS:

The Department of Children and Families estimates that the bill will impose recurring annual costs of \$2,710,872 to implement and maintain the additional staff needed to process the claims generated by the bill. The bill would generate \$4,331,250 annually, of which \$2,165,625 would be forwarded to the United States Department of Agriculture and the Department of Health and Human Services. The \$2,710,872 cost of the bill was calculate by increasing the operating costs of the Department's recovery units by 25% and by increasing the contract costs with the Auditor General by 25%.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill is not an unfunded mandate because it does not require local government to expend additional money.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce any revenue raising authority.

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

The bill does not reduce the state tax shared with counties and municipalities.

V. COMMENTS:

The bill clearly explains how data is to be transferred from D.O.C. to the educational institutions, but how the data is to be transmitted to the Department of Children and Families is not addressed by the bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Crime and Punishment Committee adopted a strike-everything amendment on April 14, 1998. The strike-everything amendment was amended so that a withhold of adjudication would not cause a person to lose benefits. The strike-everything amendment was also amended so that the penalties for welfare fraud are not enhanced.

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VII. SIGNATURES:

COMMITTEE ON CRIME AND PUNISHMENT:

Prepared by:

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