

By Senator Oelrich

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1                   A bill to be entitled  
2           An act relating to drug screening of potential and  
3           existing beneficiaries of temporary cash assistance;  
4           creating s. 414.0652, F.S.; providing legislative  
5           intent; requiring the Department of Children and  
6           Family Services to establish a drug-screening program;  
7           requiring consent to drug screening as a condition to  
8           eligibility for or receipt of temporary cash  
9           assistance; limiting screening to certain persons;  
10          providing definitions; providing for notice; providing  
11          terms of disqualification for temporary cash  
12          assistance; requiring the department to supply  
13          information concerning substance abuse treatment;  
14          providing screening procedures; providing for the  
15          preservation of screening and confirmatory testing  
16          specimens; directing the department to submit a report  
17          to the Governor and Legislature; amending s. 414.095,  
18          F.S.; revising requirements for determination of  
19          eligibility for temporary cash assistance to conform  
20          to changes made by the act; providing an effective  
21          date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25           Section 1. Section 414.0652, Florida Statutes, is created  
26 to read:

27           414.0652 Drug-screening program.—

28           (1) LEGISLATIVE INTENT.—It is the intent of the Legislature  
29 to create a drug-screening program within the Department of

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30 Children and Family Services.

31 (2) CREATION AND IMPLEMENTATION.—

32 (a) The department shall establish a drug-screening program  
33 that requires an individual, as a condition to eligibility for  
34 or receipt of temporary cash assistance, to consent to being  
35 subject to drug screening.

36 (b) The department shall:

37 1. Make a determination of eligibility under s. 414.095  
38 before an applicant is selected for drug screening.

39 2. Provide notice of the potential for drug screening to  
40 individuals applying for or receiving temporary cash assistance.

41 3. Require an applicant or participant to sign an  
42 acknowledgment that he or she has received notice of the  
43 department's drug-screening policy and that he or she has a  
44 right to refuse to undergo the drug screening.

45 (c) The department may only screen an applicant who has  
46 been convicted of a drug felony within the prior 3 years and  
47 shall continue to screen that individual for 3 years after the  
48 date upon which the individual begins receiving temporary cash  
49 assistance.

50 (d) The program must be implemented no later than July 1,  
51 2012.

52 (3) DEFINITIONS.—As used in this section, the term:

53 (a) "Confirmation test" or "confirmatory testing" means a  
54 second analytical procedure used to identify the presence of a  
55 specific drug or metabolite in a specimen. The confirmation test  
56 must be different in scientific principle from that of the  
57 initial drug-screening procedure and must be capable of  
58 providing the requisite specificity, sensitivity, and

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59 quantitative accuracy. A confirmation test may only be  
60 administered if an applicant or participant tests positive for a  
61 drug during an initial drug screening.

62 (b) "Drug" means an amphetamine, a tetrahydrocannabinol,  
63 oxycodone, cocaine, phencyclidine (PCP), an opiate, a  
64 barbiturate, a benzodiazepine, a methamphetamine, a  
65 propoxyphene, a tricyclic antidepressant, or a metabolite of any  
66 of the substances listed in this paragraph.

67 (c) "Drug screening" or "screen" means any chemical,  
68 biological, or physical instrumental analysis administered by a  
69 laboratory certified by the United States Department of Health  
70 and Human Services or licensed by the Agency for Health Care  
71 Administration for the purpose of determining the presence or  
72 absence of a drug or its metabolites.

73 (d) "Initial drug screening" or "initial screen" means a  
74 sensitive, rapid, and reliable procedure to identify negative  
75 and presumptive positive specimens. All initial screens shall  
76 use an immunoassay procedure or an equivalent or shall use a  
77 more accurate scientifically accepted method approved by the  
78 United States Food and Drug Administration or the Agency for  
79 Health Care Administration, as more accurate technology becomes  
80 available in a cost-effective form.

81 (e) "Nonprescription medication" means a medication that is  
82 authorized pursuant to federal or state law for general  
83 distribution and use without a prescription for the treatment of  
84 human diseases, ailments, or injuries.

85 (f) "Prescription medication" means a drug or medication  
86 obtained pursuant to a prescription as defined in s. 893.02.

87 (g) "Specimen" means a tissue, hair, or product of the

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88 human body capable of revealing the presence of a drug or its  
89 metabolites. A urine specimen shall be collected and analyzed  
90 for all initial drug screens and confirmation tests under this  
91 section.

92 (4) DRUG SCREENING AND CONFIRMATORY TESTING.—

93 (a) An individual is disqualified from receiving or  
94 continuing to receive temporary cash assistance if the  
95 individual:

96 1. Refuses to submit to drug screening under this section.  
97 Eligibility for temporary cash assistance is restored when the  
98 individual agrees to be screened; or

99 2. Tests positive for drugs as a result of a confirmation  
100 test performed under this section.

101 (b) If the individual fails the confirmation test required  
102 under this section, the individual:

103 1. Is not eligible to receive temporary cash assistance for  
104 3 years.

105 2. If a parent, may choose to designate another individual  
106 to receive benefits for the parent's minor child. The designated  
107 individual must be an immediate family member or, if an  
108 immediate family member is not available or the family member  
109 declines the option, another individual, approved by the  
110 department, may be designated. Approval may not be granted if  
111 the designated individual has been convicted of a drug felony  
112 within the prior 3 years.

113 (c) The department shall provide any individual who tests  
114 positive with information concerning substance abuse treatment  
115 programs that may be available in the area in which he or she  
116 resides. Neither the department nor the state is responsible for

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117 providing or paying for substance abuse treatment as part of the  
118 screening conducted under this section.

119 (d) The cost of screening and confirmatory testing shall be  
120 paid by the individual being screened and tested, and the  
121 department shall solicit competitive bids for drug-screening and  
122 confirmatory testing services to ensure the lowest possible cost  
123 for administering the drug screen and confirmation test.

124 (5) USE OF RESULTS.—

125 (a) All specimen collection and screening and testing for  
126 drugs under this section must be performed in accordance with  
127 the following procedures:

128 1. The individual to be screened or tested must provide  
129 written consent to be screened or tested for drugs on a form  
130 developed by the department.

131 2. A specimen shall be collected with due regard to the  
132 privacy of the individual providing the specimen and in a manner  
133 reasonably calculated to prevent substitution or contamination  
134 of the specimen.

135 3. Specimen collection must be documented, and the  
136 documentation procedures must include:

137 a. Labeling of specimen containers so as to reasonably  
138 preclude the likelihood of erroneous identification of drug-  
139 screen or confirmation-test results.

140 b. A form on which the individual undergoing drug screening  
141 or confirmatory testing may provide any information he or she  
142 considers relevant to the screen or test, including  
143 identification of currently or recently used prescription or  
144 nonprescription medication or other relevant medical  
145 information. The form must provide notice of the most common

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146 medications by brand name or common name, as applicable, as well  
147 as by chemical name, which may alter or affect a drug screen or  
148 confirmation test. The providing of information does not  
149 preclude the administration of the drug screen or test, but must  
150 be taken into account in interpreting any positive drug-screen  
151 or confirmation-test result.

152 4. Specimen collection, storage, and transportation to the  
153 screening or testing site must be performed in a manner that  
154 reasonably precludes contamination or adulteration of specimens  
155 as specified in the department's drug-screening and  
156 confirmatory-testing protocols, policies, and procedures.

157 (b) A specimen that produces a positive screen or positive  
158 test result must be preserved for a certain period of time as  
159 established by the department's drug-screening and confirmatory-  
160 testing protocols, policies, and procedures. The length of time  
161 for the preservation of specimens shall be consistent with  
162 industry standards. However, if the screened or tested  
163 individual undertakes an administrative or legal challenge to  
164 the drug-screen or confirmatory-test result, the specimen must  
165 be preserved until the case or administrative appeal is settled.

166 (6) REPORT.—The department shall submit a report to the  
167 Governor, the President of the Senate, and the Speaker of the  
168 House of Representatives by January 1, 2013, which includes:

169 (a) The number of individuals screened and tested, a list  
170 of the substances for which individuals were screened and  
171 tested, and the results of the screening and testing.

172 (b) The number of applicants denied temporary cash  
173 assistance for failing a confirmation test and the number of  
174 recipients for whom temporary cash assistance was terminated for

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175 refusing to submit to a drug screen or confirmation test or  
176 failing a confirmation test while receiving benefits.

177 (c) The number of individuals who refused to be screened.

178 (d) The number of weeks and the amount of temporary cash  
179 assistance for which individuals would have been eligible if  
180 they had not tested positive or refused to be screened.

181 (e) An estimate of the costs of the drug-screening program,  
182 including the average cost of individual drug screens and  
183 confirmation tests and the cost of administering the program.

184 Section 2. Subsection (1) of section 414.095, Florida  
185 Statutes, is amended to read:

186 414.095 Determining eligibility for temporary cash  
187 assistance.—

188 (1) ELIGIBILITY.—An applicant must meet eligibility  
189 requirements of this section before receiving services or  
190 temporary cash assistance under this chapter, except that an  
191 applicant shall be required to register for work and engage in  
192 work activities in accordance with s. 445.024, as designated by  
193 the regional workforce board, and may receive support services  
194 or child care assistance in conjunction with such requirement.  
195 The department shall make a determination of eligibility based  
196 on the criteria listed in this chapter. The department shall  
197 monitor continued eligibility for temporary cash assistance  
198 through periodic reviews consistent with the food assistance  
199 eligibility process. ~~Benefits shall not be denied to an~~  
200 ~~individual solely based on a felony drug conviction, unless the~~  
201 ~~conviction is for trafficking pursuant to s. 893.135.~~ To be  
202 eligible under this section, an individual convicted of a drug  
203 felony must be satisfactorily meeting the requirements of the

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204 temporary cash assistance program and s. 414.0652, including all  
205 substance abuse treatment requirements. Within the limits  
206 specified in this chapter, the state opts out of the provision  
207 of Pub. L. No. 104-193, s. 115, that eliminates eligibility for  
208 temporary cash assistance and food assistance for any individual  
209 convicted of a controlled substance felony.

210 Section 3. This act shall take effect July 1, 2011.