

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 813 Eligibility for Temporary Cash Assistance and Food Assistance

**SPONSOR(S):** Smith

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1128

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Access Subcommittee	9 Y, 6 N	Batchelor	Schoolfield
2) Appropriations Committee	14 Y, 6 N	Fontaine	Leznoff
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

House Bill 813 deletes a provision in s. 414.095, F.S., which prohibits the denial of temporary cash assistance and food assistance benefits based exclusively on a felony drug conviction, unless that conviction was for drug trafficking pursuant to s. 893.135, F.S. This elimination will require the Department of Children and Family Services (DCF) to comport with federal law that denies cash assistance benefits and food assistance benefits to any individual convicted of a felony offense for the possession of a controlled substance on or after the bill's effective date. The bill provides an exception for persons who have successfully completed a treatment program or regimen for drug addiction or drug abuse. DCF reports that they will rely on self attestations by applicants to determine whether the applicant has been convicted of a drug felony.

This bill also provides for the appointment of an alternate payee to receive benefits on behalf of the other members of the assistance group if assistance is denied based on a felony drug possession conviction.

This bill is anticipated to have an insignificant fiscal impact.

The bill provides an effective date of July 1, 2012.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### *Temporary Assistance for Needy Families (TANF)*

Under the welfare reform legislation of 1996, the Personal Responsibility and Work Opportunity Reconciliation Act (PWRORA), Public Law 104-193, the Temporary Assistance for Needy Families (TANF) program replaced the welfare programs known as Aid to Families with Dependent Children (AFDC), the Job Opportunities and Basic Skills Training (JOBS) program and the Emergency Assistance (EA) program. The law ended federal entitlement to assistance and instead created TANF as a block grant that provides States, territories and tribes federal funds each year. These funds cover benefits, administrative expenses, and services targeted to needy families. TANF became effective July 1, 1997, and was reauthorized in February 2006 under the Deficit Reduction Act of 2005.<sup>1</sup> States receive block grants to operate their individual programs and to accomplish the goals of the TANF program. DCF administers the TANF program in conjunction with the Agency for Workforce Innovation (AWI).

##### *Temporary Cash Assistance Program (Cash Assistance)*

DCF administers the cash assistance program with TANF funds to help families become self-supporting while allowing children to remain in their own homes.<sup>2</sup> Current law provides that families are eligible for temporary cash assistance for a lifetime cumulative total of 48 months (4 years).<sup>3</sup> DCF reports that approximately 92,979 people are currently receiving temporary cash assistance.<sup>4</sup> The FY 2011-2012 appropriation of TANF funds to support temporary cash assistance was \$177,522,123.

##### *Supplemental Nutrition Assistance Program-SNAP (Food Assistance)*

The Food Assistance Program is a federally funded program to help low-income people buy food they need for good health. The benefits portion of the program is 100% federally funded and administration of the program is split between the state and the federal government.<sup>5</sup> The U.S. Department of Agriculture (USDA) determines the amount of food assistance benefits an individual or family receives. Food assistance benefits are a supplement to a family's food budget. Households may need to spend some of their own cash, along with their food assistance benefits, to buy enough food for a month.<sup>6</sup> DCF reports that approximately 3,311,095 people are currently receiving food stamps at approximately \$450 million dollars annually.<sup>7</sup>

##### *Public Law 104-193 Section 115, Denial of Assistance and Benefits for Certain Drug-Related Convictions*

Public Law 104-193, section 115 states that any individual who is convicted under state or federal law of any offense which is classified as a felony for the possession, use, or distribution of a controlled substance<sup>8</sup> shall not be eligible for any State program funded under part A of the Title IV of the Social

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<sup>1</sup> US Dept. of Health and Human Services, Administration on Children and Families  
<http://www.acf.hhs.gov/programs/ofa/tanf/about.html> (last visited on 12/21/11).

<sup>2</sup> DCF Food Assistance Program Fact Sheet, [www.dcf.state.fl.us/programs/access/docs/fafactsheet.pdf](http://www.dcf.state.fl.us/programs/access/docs/fafactsheet.pdf) (last visited 1/4/12).

<sup>3</sup> Section 414.105, F.S.

<sup>4</sup> DCF Standard Data Reports. <http://www.dcf.state.fl.us/programs/access/StandardDataReports.asp>. (last visited 12/22/11).

<sup>5</sup> DCF ACCESS Florida Food Medical Assistance and Cash Program Policy Manual,  
<http://www.dcf.state.fl.us/programs/access/esspolicymanual.shtml>. (last visited 12/27/11).

<sup>6</sup> DCF Food Assistance Program Fact Sheet, [www.dcf.state.fl.us/programs/access/docs/fafactsheet.pdf](http://www.dcf.state.fl.us/programs/access/docs/fafactsheet.pdf) (last visited 12/21/11).

<sup>7</sup> DCF Standard Data Reports. <http://www.dcf.state.fl.us/programs/access/StandardDataReports.asp>. (last visited 1/3/12).

<sup>8</sup> As defined in 21.U.S.C.802(6).

Security Act (cash assistance) or for benefits under the supplemental nutrition assistance program (food assistance), as defined in the Food Stamp Act of 1977.<sup>9</sup> The public law specifies that a state may chose to opt-out of this act or may chose to exempt any or all individuals in the state, or limit the time frame for the prohibition.<sup>10</sup> Currently, Florida has opted-out of the act and state law provides as follows:

Section 414.095(1), F.S. "Benefits shall not be denied to an individual solely based on a felony drug conviction, unless the conviction is for trafficking pursuant to s. 893.135, F.S. To be eligible under this section an individual convicted of a drug felony must be satisfactorily meeting the requirements of the temporary cash assistance program, including all substance abuse treatment requirements. Within the limits specified in this chapter, the state opts out of the provision of Pub. L. No 104-193, s. 115, that eliminates eligibility for temporary cash assistance and food assistance for any individual convicted of a controlled substance felony."<sup>11</sup>

### *Protective Payees*

The cash assistance program<sup>12</sup> and the food assistance program<sup>13</sup> require participants to satisfy work requirements established in federal law. In the event that a cash assistance or food assistance recipient is noncompliant with the work activity requirements, DCF has authority to terminate cash assistance to the family.<sup>14</sup> In the event that assistance is terminated, DCF will establish a protective payee that will receive cash assistance or food assistance funds on behalf of any children in the home who are under the age of 16.<sup>15</sup> The protective payee shall be designated by DCF and may include:<sup>16</sup>

- A relative or other individual who is interested in or concerned with the welfare of the child or children and agrees in writing to utilize the assistance in the best interest of the child or children.
- A member of the community affiliated with a religious, community, neighborhood, or charitable organization who agrees in writing to utilize the assistance in the best interest of the child or children.
- A volunteer or member of an organization who agrees in writing to fulfill the role of protective payee and utilize the assistance in the best interest of the child or children.

### **Effect of Proposed Changes**

This bill eliminates the language in s. 414.095, F.S. which currently prohibits the denial of temporary cash assistance and food assistance benefits solely based on a felony drug conviction unless that conviction was for drug trafficking pursuant to s. 893.135, F.S.

The bill creates a new subsection to s. 414.095, F.S., titled Ineligibility Due to Felony Convictions. Specifically, the bill will require DCF to deny cash assistance and food assistance benefits to any individual who has been convicted of an offense classified as a felony for the possession of a controlled substance on or after July 1, 2012. A person will be denied cash assistance or food assistance unless the person can provide verification that he or she has successfully completed a treatment program or regimen for drug addiction or abuse. Persons convicted of the offense of drug trafficking remain ineligible for these benefits. DCF reports that they will rely on self attestations by applicants to determine whether the applicant has been convicted of a drug felony.

The bill also specifies that if an individual is deemed ineligible as a result of a felony drug conviction an alternative payee will be designated to receive the assistance on behalf of others in the assistance group (e.g. children or other family in the home).

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<sup>9</sup> P.L.104-193, Section 115.

<sup>10</sup> *Id.*

<sup>11</sup> Section 414.095(1), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> P.L. 104-193. Section 815

<sup>14</sup> Section 414.065, F.S.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

**B. SECTION DIRECTORY:**

**Section 1:** Amends s. 414.095, F.S., relating to eligibility for temporary cash assistance.

**Section 2:** Amends s. 409.2564, F.S., relating to actions for support.

**Section 3:** Amends s. 409.902, F.S., relating to designated single state agency; payment requirements; program title; release of medical records.

**Section 4:** Amends s. 414.045, F.S., relating to cash assistance program.

**Section 5:** Amends s. 414.0652, F.S., relating to drug screening for applicants for Temporary Cash Assistance for Needy Families.

**Section 6:** Amends s. 414.0655, relating to medical incapacity due to substance abuse or mental health impairment.

**Section 7:** Provides an effective date of July 1, 2012.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

There may be a reduction of eligible cash assistance or food assistance beneficiaries. The resulting reduction in program expenditures is unknown but expected to be insignificant. Additional workload issues can be absorbed within existing department resources.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

There may be a reduction of eligible cash assistance or food assistance beneficiaries. The resulting reduction in program expenditures is unknown but expected to be insignificant. Additional workload issues can be absorbed within existing department resources.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

Line 54 states that an individual may be eligible for cash assistance or food assistance if he or she has successfully completed a drug addiction or drug abuse program or regimen, however the bill does not define what "successfully completing a program" means. The bill also does not define the term "treatment program" and does not specify that the drug abuse program or regimen is required to be licensed by the state.

The relevant federal law, P.L. 104-193, Section 115, provides that states can prohibit any or all individuals from cash assistance or food assistance if the individual has been convicted of any offense classified as a felony in the law of the jurisdiction involved and which has an element, the possession, use or distribution of a controlled substance. The bill only specifies the word "possession", and does not include use or distribution of a controlled substance as in the federal law.

Although line 48 of the bill references the date of July 1, 2012, as written it is unclear whether only individuals who are convicted of a drug offense on or after July 1, 2012 will be ineligible for cash or food assistance or whether this would also apply to individuals who were convicted of such an offense prior to that date.

The bill indicates that an individual "convicted of an offense classified as a felony for possession of a controlled substance....pursuant to s. 893.135, F.S." is ineligible for cash or food assistance. However, s. 893.135, F.S. relates to drug trafficking, not drug possession; the section of statute relating to felony drug possession, s. 893.13, F.S., is not referenced in this sentence.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**