

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

SPONSOR(S): Health & Human Services Committee; 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	12 Y, 6 N, As CS	Batchelor	Gormley

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.

The bill will require the Department of Children and Families (DCF) to deny cash assistance benefits 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.

The bill will also require DCF to deny cash assistance benefits and food assistance benefits to any individual who has been convicted of an offense classified as a felony for drug trafficking pursuant to s. 893.135, F.S.

The bill provides an exception from denial of cash assistance and food assistance benefits for an individual that has been convicted of an offense classified as a felony for drug possession, if that individual successfully completes a treatment program 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 a protective 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 2005.¹ 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.² Current law provides that families are eligible for temporary cash assistance for a lifetime cumulative total of 48 months (4 years).³ DCF reports that approximately 92,979 people are currently receiving temporary cash assistance.⁴ 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.⁵ 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.⁶ DCF reports that approximately 3,311,095 people are currently receiving food stamps at approximately \$450 million dollars annually.⁷

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 substance⁸ shall not be eligible for any State program funded under part A of the Title IV of the Social Security Act (cash assistance) or for benefits under the supplemental nutrition assistance program

¹ 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).

² DCF Food Assistance Program Fact Sheet, www.dcf.state.fl.us/programs/access/docs/fafactsheet.pdf (last visited 1/4/12).

³ Section 414.105, F.S.

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

⁵ 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).

⁶ DCF Food Assistance Program Fact Sheet, www.dcf.state.fl.us/programs/access/docs/fafactsheet.pdf (last visited 12/21/11).

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

⁸ As defined in 21.U.S.C.802(6).

(food assistance), as defined in the Food Stamp Act of 1977.⁹ 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.¹⁰ 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.”¹¹

Protective Payees

The cash assistance program¹² and the food assistance program¹³ 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.¹⁴ 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 18.¹⁵ The protective payee shall be designated by DCF and may include:¹⁶

- 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 or drug trafficking on or after July 1, 2012.

A person, who has been convicted of felony for the possession of a controlled substance, will be denied cash assistance or food assistance unless the person can provide verification that he or she has successfully completed a treatment program for drug addiction or abuse. DCF is authorized to develop rules to specify what successful completion of a drug treatment program is. The bill requires the drug treatment program to be licensed pursuant to s. 397.401, F.S.

⁹ P.L.104-193, Section 115.

¹⁰ *Id.*

¹¹ Section 414.095(1), F.S.

¹² *Id.*

¹³ P.L. 104-193. Section 815

¹⁴ Section 414.065, F.S.

¹⁵ Section 414.095(4), F.S.

¹⁶ Section 414.065(2), F.S.

If a person has been convicted of drug trafficking, the person is not eligible for cash assistance or food assistance and that person does not have the option to complete a drug treatment program.

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).

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:

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.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 21, 2012, the Health and Human Services Committee adopted an amendment to House Bill 813. The amendment does the following:

- Requires a drug treatment program to be licensed by DCF pursuant to s. 397.401, F.S.
- Requires DCF to specify through rule what "successful" completion of a drug treatment program is.
- Makes technical clarifying changes to the bill.

The bill was reportedly favorably as a Committee Substitute. This analysis reflects the Committee Substitute.