

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	HB 171	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Diaz, J. and others	113 Y's	4 N's
COMPANION BILLS:	SB 308	GOVERNOR'S ACTION:	Approved

SUMMARY ANALYSIS

HB 171 passed the House on April 22, 2014, as SB 308.

The Division of Public Assistance Fraud (DPAF), housed within the Department of Financial Services (DFS), works to prevent, detect, and prosecute public assistance fraud. The Public Assistance Fraud unit is currently staffed with 63 non-sworn law enforcement positions assigned to investigate fraud in the following programs:

- Cash Assistance/Temporary Assistance for Needy Families (TANF); Supplemental Nutritional Assistance Program (SNAP) formerly known as Food Stamps; Medicaid Recipient Fraud; Trafficking in SNAP benefits; Subsidized Day Care; School Readiness Program; Voluntary Pre-K Program; Emergency Financial Assistance for Housing; Low Income Energy Assistance; Disaster Assistance/Emergency SNAP benefits; and Cooperative Disability Investigations (Social Security Disability, SNAP, and Medicaid Eligibility).

Currently, DPAF investigators do not have statutory authority to administer oaths and affirmations. In order to do so, they must be a Notary Public, which costs approximately \$120 per investigator, and must be renewed every 4 years. Additionally, DPAF investigators do not have statutory authority to issue subpoenas for business and education records that are frequently necessary for public assistance fraud investigations. In order to obtain such records, DPAF investigators must request state attorneys to issue subpoenas on their behalf.

The bill amends s. 414.411, F.S., to allow DFS to do the following when conducting public assistance fraud investigations:

- Administer oaths and affirmations; and
- Issue and serve subpoenas for the attendance of witnesses or the production of business records, books, papers, correspondence, memoranda, and other records.

The bill allows the subpoenas to be served by representatives designated by DFS. If a person fails to obey the subpoena, the court may issue an order requiring compliance with the subpoena. Failure to obey the court order may be punished by the court as civil or criminal contempt. The person refusing the subpoena is liable for costs incurred by DFS and reasonable attorney fees.

DFS indicates that reducing the need and costs for Notary Public commissions will result in a \$3,600 savings over a four-year period. The bill does not appear to have any fiscal impact on local governments.

The bill was approved by the Governor on June 13, 2014, ch. 2014-69, L.O.F., and will become effective on July 1, 2014.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Current Situation

The Division of Public Assistance Fraud (DPAF), housed within the Department of Financial Services (DFS), works to prevent, detect, and prosecute public assistance fraud. The Public Assistance Fraud unit is currently staffed with 63 non-sworn law enforcement positions assigned to nine field offices.¹

DPAF investigates fraud in the following programs:

- Cash Assistance/Temporary Assistance for Needy Families (TANF);
- Supplemental Nutritional Assistance Program (SNAP) formerly known as Food Stamps;
- Medicaid Recipient Fraud;
- Trafficking in SNAP benefits;
- Subsidized Day Care;
- School Readiness Program;
- Voluntary Pre-K Program;
- Emergency Financial Assistance for Housing;
- Low Income Energy Assistance;
- Disaster Assistance/Emergency SNAP benefits; and
- Cooperative Disability Investigations (Social Security Disability, SNAP, and Medicaid Eligibility).²

Currently, DPAF investigators do not have statutory authority to administer oaths and affirmations. In order to do so, they must be a Notary Public,³ which costs approximately \$120 per investigator, and must be renewed every 4 years.⁴

Additionally, while DFS does have statutory authority to issue certain subpoenas,⁵ DPAF investigators do not have statutory authority to issue subpoenas for business and education records that are frequently necessary for public assistance fraud investigations.⁶ In order to obtain such records, DPAF investigators must request state attorneys to issue subpoenas on their behalf.⁷ This process is often time-consuming, particularly for the state attorneys and clerks of court.⁸ Further, because not all of DPAF investigations are criminal in nature, state attorneys are limited in their ability to issue a subpoena for information necessary to complete a successful public assistance fraud investigation.⁹

Effect of the Bill

The bill amends s. 414.411, F.S., to allow DFS to do the following when conducting public assistance fraud investigations:

- Administer oaths and affirmations; and
- Issue and serve subpoenas for the attendance of witnesses or the production of business records, books, papers, correspondence, memoranda, and other records.

The bill allows the subpoenas to be served by representatives designated by DFS. If a person fails to obey the subpoena, the court that has jurisdiction in the geographical area where the inquiry is being

¹ <http://www.myfloridacfo.com/division/PAF/#.UtRFS6NOncs> (last visited on April 28, 2014).

² *Id.*

³ DFS Bill Analysis, January 13, 2014 (on file with the Criminal Justice Subcommittee).

⁴ *Id.* DPAF averages 10 renewals per year at a cost to DPAF of approximately \$1,200 per year.

⁵ DFS may issue subpoenas for the enforcement of employer workers' compensation coverage requirements (s. 440.107(3)(f), F.S.); investigations under the Insurance Code (s. 624.321(1)(b), F.S.); State Fire Marshal investigations under ch. 633, F.S. (s. 633.112, F.S.); and the disposition of unclaimed property investigations (s. 717.1301, F.S.).

⁶ Section 414.411, F.S.

⁷ DFS Bill Analysis, January 13, 2014.

⁸ *Id.*

⁹ *Id.*

carried out or in the area where the person who has refused the subpoena is found, resides, or transacts business may issue an order requiring compliance with the subpoena. Failure to obey the court order may be punished by the court as civil or criminal contempt. The person refusing the subpoena is liable for costs incurred by DFS and reasonable attorney fees.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill has an insignificant positive impact on state expenditures. Currently, 45 of 63 positions within the DPAF are investigators who are also commissioned Notaries Public. With passage of this legislation, the DPAF will only retain 10 Notary Public commissions for the 45 investigators. The cost of these Notary Public commissions will be \$1,200, rather than \$4,800, providing for a cost savings of \$3,600 over 4 years.¹⁰ In addition, DFS indicates that there could be a potential insignificant cost associated with paying process servers to serve a subpoena in cases where DFS staff is unable to do so. However, DFS indicates that any costs related to serving a subpoena are insignificant and can be absorbed within current resources.¹¹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

¹⁰ DFS Bill Analysis, January 13, 2014.

¹¹ See e-mail from DFS dated January 29, 2014 (on file with the Judiciary Committee).