

**STORAGE NAME:** h0401.cfe  
**DATE:** March 28, 1997

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
CHILDREN AND FAMILY EMPOWERMENT  
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 0401  
**RELATING TO:** Public Assistance  
**SPONSOR(S):** Representative Lynn  
**STATUTE(S) AFFECTED:** Chapter 414, Florida Statutes  
**COMPANION BILL(S):** SB 674 (Similar)  
HB 271 (Similar)

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

- (1) CHILDREN AND FAMILY EMPOWERMENT
- (2) HEALTH AND HUMAN SERVICES [FISCAL]
- (3)
- (4)
- (5)

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**I. SUMMARY:**

The bill establishes state policy on drug testing of applicants for temporary assistance or services under the Work and Gain Economic Self-Sufficiency (WAGES) act, Medicaid and other assistance programs for illegal use of controlled substances . The bill provides for drug testing based on reasonable suspicion that an applicant or participant is using or has used drugs.

The department would be permitted to test only those participants for whom department employees had a "reasonable suspicion" of drug use. Those who tested positive on the initial drug test and a confirmation test would be provided appropriate drug abuse treatment services to assist the applicant to fulfill work and other program requirements. The department may not drug test any applicant or participant until there are locally "available" drug abuse treatment programs.

Participants would be disqualified from WAGES participation under the following conditions;

- a refusal to submit to drug testing,
- a refusal to submit to a drug abuse treatment program
- failure to successfully complete a drug abuse treatment program
- failure or refusal to sign a written consent form allowing the department to obtain information regarding the progress and successful completion of a drug abuse treatment program

Disqualified participants who comply with the basis of their disqualification are reinstated as long as they continue to comply with program requirements.

Total annual costs to the department to implement the provisions of this bill are indeterminate at this time. Research by the U.S. Department of Health and Human Services indicates that the expense of this program may be more than offset by a reduction in costs related to drug-related crime and welfare dependency.

## II. SUBSTANTIVE ANALYSIS:

### A. PRESENT SITUATION:

Children exposed to adult substance abuse are more likely than other children to display problem behaviors such as short attention span, extreme distractibility, speech and language disorders, aggressive and disruptive behavior, and social incompetence. While it is difficult to quantify the costs to society of the reduced prospects for productive lives of children exposed to adult substance abuse, research suggests that these inter-generational effects are likely to be large (U.S. Department of Health and Human Services and U.S. Department of Education, 1994).

*“Time limits, increasing employment and training participation requirements, and strict economic sanctions for non-compliance with program expectations, all increase the importance of engaging a broader share of the AFDC caseload in employment or employment-related activities. Over time, these policy changes will require states and local welfare offices to develop strategies to engage welfare recipients who have traditionally been exempted from participation in education or training activities, as well as other long-term recipients, in welfare-to-work programs.”*(Olson and Pavetti, 1996)

Analysis of data from the National Longitudinal Study of Youth reveals that almost 90 percent of welfare recipients between the age of 27 and 35 experience one of five potential barriers to employment (Olson and Pavetti, 1996). Substance abuse has been identified as one of these major barriers to economic self-sufficiency. Two 1994 HHS reports (U.S. Department of Health and Human Services, 1994 a & b) used data from the National Household Survey on Drug Abuse (NHSDA) to show the following:

- 10.5% of persons aged 15 and older in Aid to Families with Dependent Children (AFDC) households reported past month illicit drug use.
- 5.2% of adults in AFDC households had significant alcohol or other drug abuse problems that may be sufficiently debilitating to preclude immediate participation in employment or training activities.
- 11.2% of adults in AFDC households were somewhat impaired by alcohol or drug use and might need substance abuse treatment concurrent with participation in employment and training activities. In addition, the National Longitudinal Alcohol Epidemiologic Survey indicated that 9.6% of adult men and 7.3% of adult women who received welfare assistance were dependent on alcohol and 5.6% of men and 3.3% of women who received welfare abused or were dependent on illicit drugs (Grant, B.F. and Dawson, D.A., 1996).

The Department of Children and Families reports that during 1995-96, there were 46,984 applicants for WAGES programs and services. The department estimates that 10.8% or 5,074 1995-96 applicants for WAGES would test positive for illegal substances.

There are currently about 1,400 people in Florida waiting for admission for treatment in a substance abuse program. This indicates that the current treatment system would need to be expanded in order to accommodate the number of referrals that would result

from drug testing. Each person testing positive for illicit drugs would initially be referred to a provider for assessment of the needed level of treatment.

### **References**

Olson, Krista, and Pavetti, LaDonna, 1996 *"Personal and Family Challenges to the Successful; Transition from Welfare to Work,"* The Urban Institute.

Grant, B.F. and Dawson, D.A., 1996 *"Alcohol and Drug Use, Abuse, and Dependence among Welfare Recipients,"* American Journal of Public Health 86:1450-1454.

U.S. Department of Health and Human Services and U.S. Department of Education, *Risk and Reality: Teaching Preschool Children Affected by Substance Abuse*, 1994.

U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation and the National Institute on Drug Abuse, *Patterns of Substance Abuse and Program Participation*, 1994(a).

U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, the Substance Abuse and Mental Health Services Administration, and the National Institute on Drug Abuse, *Patterns of Substance Abuse and Substance-Related Impairment Among Participants in the Aid to Families with Dependent Children Program (AFDC)*, 1994(b).

#### **B. EFFECT OF PROPOSED CHANGES:**

The bill would have the Department of Children and Families subject certain applicants/participants of temporary assistance under Work and Gain Economic Self-Sufficiency (WAGES), Medicaid and other assistance programs to mandatory drug testing. The department would be permitted to test only those participants for whom department employees had a "reasonable suspicion" of drug use. Those who tested positive on the initial drug test and a confirmation test would be disqualified from WAGES participation until completion of a drug treatment program with accompanying negative drug test results. The department may not drug test any applicant or participant until there are locally "available" drug abuse treatment programs. The bill requires that individuals who have tested positive be provided substance abuse services. The bill does not specify an age limit for drug testing.

The Department of Children and Families notes that the provisions of this bill will have a significant impact on families and the agency. The impact on families results from ensuring that parents or caretaker relatives are drug free while receiving public assistance. The impact on the agency results in referrals to local substance abuse programs. A specialized case management system would have to be implemented to assure coordination among substance abuse providers, Family Safety and Preservation staff, Economic Self-Sufficiency Services staff, district office staff and Department of Labor and Employment Security staff. There are currently approximately 1,400 individuals on waiting lists for substance abuse treatment at any given time. Additional local program slots would be needed to accommodate a potential increase of as many as 29,590 referrals.

The Department of Children and Families notes that the advantages to requiring recipients testing positive to enter treatment include the contribution of the intended outcome to return welfare recipients to work and identification of children who are at risk of abuse and neglect.

**C. APPLICATION OF PRINCIPLES:**

1. Less Government:

a. *Does the bill create, increase or reduce, either directly or indirectly:*

i. *Any authority to make rules or adjudicate disputes?*

The Department of Children and Families is provided with the authority to promulgate rules in order to implement the program.

ii. *Any new responsibilities, obligations or work for other governmental or private organizations or individuals?*

The bill would increase drug testing and drug treatment and would require the department to offer appeals and retesting.

iii. *Any entitlement to a government service or benefit?*

No.

b. *If an agency or program is eliminated or reduced:*

i. *What responsibilities, costs and powers are passed on to another program, agency, level or government, or private entity?*

Not applicable.

ii. *What is the cost of such responsibility at the new level/agency?*

Not applicable.

iii. *How is the new agency accountable to the people governed?*

Not applicable.

2. Lower Taxes:

a. *Does the bill increase anyone's taxes?*

Not applicable.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

Not applicable.

3. Personal Responsibility:

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

Individuals who test positive for illegal substances and fail to undergo rehabilitation or who continue to test positive will lose temporary assistance benefits.

- 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?*

No.

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

No.

5. Family Empowerment:

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

- i. *Who evaluates the family's needs?*

Not Applicable.

- ii. *Who makes the decisions?*

Not Applicable.

- iii. *Are private alternatives permitted?*

Not Applicable.

iv. *Are families required to participate in a program?*

Not Applicable.

v. *Are families penalized for not participating in a program?*

Not Applicable.

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

The bill places the benefits of a family into jeopardy as a result of substance abuse by one member.

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:*

i. *Parents and guardians?*

Parents and guardians would be expected to maintain themselves and their dependent children free of illegal substances.

ii. *Services providers?*

Not Applicable.

iii. *Government employees/agencies?*

Department of Children and Families would be responsible for ensuring that testing is conducted and for establishing procedures for appeals. The appeals procedures would specify responsibility for decisions on appeals.

**D. SECTION-BY-SECTION ANALYSIS:**

**SECTION 1** creates s. 414.0951, F.S., Drug testing of applicants for and participants in WAGES, Medicaid and other public assistance programs.

Subsection (1) provides definitions.

Subsection (2) establishes state policy on drug testing.

Paragraph (a) limits drug testing to periods when local drug treatment is available.

Paragraph (b) requires that an applicant or participant submit to drug testing when there is a reasonable suspicion of drug use.

Paragraph (c) requires the department to provide drug abuse treatment when there is a positive confirmation of drug use.

Paragraph (d) requires the department to prohibit an individual from participation in program activities and receipt of benefits until the individual submits to drug testing or there is no longer a reasonable suspicion of drug use.

Subsection (3) states the expected outcome and objectives of the statute.

Subsection (4) establishes standards related to the drug testing.

Subsection (5) describes the notice provided to applicants and participants concerning the testing requirement, the consequences of a confirmed positive test, confidentiality, the consequences of refusing to submit to testing, and the rights of the individual being tested.

Subsection (6) describes the types of drug testing that may be used by the department.

Subsection (7) describes responsibilities for paying the cost of testing and treatment.

Subsection (8) describes the requirements related to confirmation testing.

Subsection (9) describes the procedures for testing, notification of results, retesting, and challenge to test results.

Subsection (10) describes the conditions under which an applicant or participant is prohibited from participating in work requirements or receiving benefits.

Subsection (11) describes the conditions of reinstatement of an applicant or participant.

Subsection (12) describes protections for the applicant, participant, and department.

Subsection (13) describes the opportunities for hearing and appeal.

Subsection (14) provides for preemption of state law by federal law.

Subsection (15) provides the authority for the department to adopt rules.

Subsection (16) provides authority for the department to pursue any federal waivers that may further the act.

**Subsection 2** provides for an effective date of October 1, 1997.

### III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

#### A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

##### 1. Non-recurring Effects:

None.

2. Recurring Effects:

Total annual costs to the department to implement the provisions of this bill are indeterminate at this time.

3. Long Run Effects Other Than Normal Growth:

The bill could result in long-term benefits to society in the form of net savings due to the increased employability of WAGES participants and a reduction in drug-related crime. The amount of such benefits is indeterminable.

4. Total Revenues and Expenditures:

Total annual costs to the department to implement the provisions of this bill are indeterminate at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

The department contracts substance abuse treatment programs to private agencies on the local level. This would provide employment opportunities in the private sector.

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

None.

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D. FISCAL COMMENTS:

Total annual costs to the department to implement the provisions of this bill are indeterminate at this time.

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

E. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

F. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities

IV. COMMENTS:

The Fourth Amendment to the United States Constitution prohibits the government from illegal searches and seizures. The ultimate determination of a search's reasonableness requires the balancing of the intrusiveness of the search against its promotion of a legitimate government interest.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VI. SIGNATURES:

COMMITTEE ON CHILDREN AND FAMILY EMPOWERMENT:

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