

HB 353

2011

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

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Section 414.0652, Florida Statutes, is created
24 to read:

25 414.0652 Drug-screening program.—

26 (1) LEGISLATIVE INTENT.—It is the intent of the
27 Legislature to create a drug-screening program within the
28 Department of Children and Family Services.

29 (2) CREATION AND IMPLEMENTATION.—

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

34 (b) The department shall:

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

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

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

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

48 (d) The program must be implemented no later than July 1,
 49 2012.

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

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

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

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

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

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

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

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

85 (g) "Specimen" means a tissue, hair, or product of the
 86 human body capable of revealing the presence of a drug or its
 87 metabolites. A urine specimen shall be collected and analyzed
 88 for all initial drug screens and confirmation tests under this
 89 section.

90 (4) DRUG SCREENING AND CONFIRMATORY TESTING.—

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

- 94 1. Refuses to submit to drug screening under this section.
 95 Eligibility for temporary cash assistance is restored when the
 96 individual agrees to be screened; or
 97 2. Tests positive for drugs as a result of a confirmation
 98 test performed under this section.

99 (b) If the individual fails the confirmation test required
 100 under this section, the individual:

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

111 (c) The department shall provide any individual who tests
 112 positive with information concerning substance abuse treatment

HB 353

2011

113 programs that may be available in the area in which he or she
114 resides. Neither the department nor the state is responsible for
115 providing or paying for substance abuse treatment as part of the
116 screening conducted under this section.

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

122 (5) USE OF RESULTS.—

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

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

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

133 3. Specimen collection must be documented, and the
134 documentation procedures must include:

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

138 b. A form on which the individual undergoing drug
139 screening or confirmatory testing may provide any information he
140 or she considers relevant to the screen or test, including

HB 353

2011

141 identification of currently or recently used prescription or
142 nonprescription medication or other relevant medical
143 information. The form must provide notice of the most common
144 medications by brand name or common name, as applicable, as well
145 as by chemical name, which may alter or affect a drug screen or
146 confirmation test. The providing of information does not
147 preclude the administration of the drug screen or test, but must
148 be taken into account in interpreting any positive drug-screen
149 or confirmation-test result.

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

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

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

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

170 (b) The number of applicants denied temporary cash
171 assistance for failing a confirmation test and the number of
172 recipients for whom temporary cash assistance was terminated for
173 refusing to submit to a drug screen or confirmation test or
174 failing a confirmation test while receiving benefits.

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

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

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

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

185 414.095 Determining eligibility for temporary cash
186 assistance.—

187 (1) ELIGIBILITY.—An applicant must meet eligibility
188 requirements of this section before receiving services or
189 temporary cash assistance under this chapter, except that an
190 applicant shall be required to register for work and engage in
191 work activities in accordance with s. 445.024, as designated by
192 the regional workforce board, and may receive support services
193 or child care assistance in conjunction with such requirement.
194 The department shall make a determination of eligibility based

HB 353

2011

195 on the criteria listed in this chapter. The department shall
196 monitor continued eligibility for temporary cash assistance
197 through periodic reviews consistent with the food assistance
198 eligibility process. ~~Benefits shall not be denied to an~~
199 ~~individual solely based on a felony drug conviction, unless the~~
200 ~~conviction is for trafficking pursuant to s. 893.135.~~ To be
201 eligible under this section, an individual convicted of a drug
202 felony must be satisfactorily meeting the requirements of the
203 temporary cash assistance program and s. 414.0652, including all
204 substance abuse treatment requirements. Within the limits
205 specified in this chapter, the state opts out of the provision
206 of Pub. L. No. 104-193, s. 115, that eliminates eligibility for
207 temporary cash assistance and food assistance for any individual
208 convicted of a controlled substance felony.

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