

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 for disqualification or
11 continuation of temporary cash assistance; requiring the
12 department to supply information concerning substance
13 abuse treatment; providing screening procedures; requiring
14 the individual being screened or tested to pay the cost of
15 the screening or testing; requiring approved laboratories
16 to conduct screening and testing in accordance with
17 standards established by the department; requiring
18 approved laboratories to defend results and conclusions in
19 appeal hearings; providing for the preservation of
20 screening and confirmatory testing specimens; directing
21 the department to submit a report to the Governor and
22 Legislature; authorizing the department to adopt rules;
23 amending s. 414.095, F.S.; revising requirements for
24 determination of eligibility for temporary cash assistance
25 to conform to changes made by the act; providing an
26 effective date.

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28 Be It Enacted by the Legislature of the State of Florida:

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

414.0652 Drug-screening program.—

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

(2) CREATION AND IMPLEMENTATION.—

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

(b) The department shall:

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

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

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

(c) The department may only screen an individual who has been convicted of a drug felony within the prior 3 years. The department shall continue to screen an eligible drug felon at least annually for 3 years after the date he or she passes the initial drug screening or confirmation test.

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

56 (a) "Applicant" or "recipient" means a parent, or an
57 eligible caretaker relative, as described in s. 414.095(4), who
58 applies for or receives temporary cash assistance.

59 (b) "Confirmation test" or "confirmatory testing" means a
60 second analytical procedure used to identify the presence of a
61 specific drug or metabolite in a specimen. The confirmation test
62 must be different in scientific principle from that of the
63 initial drug-screening procedure and must be capable of
64 providing the requisite specificity, sensitivity, and
65 quantitative accuracy. A confirmation test may only be
66 administered if an applicant or recipient tests positive for a
67 drug during an initial drug screening.

68 (c) "Drug" means an amphetamine, a tetrahydrocannabinol,
69 oxycodone, cocaine, phencyclidine (PCP), an opiate, a
70 barbiturate, a benzodiazepine, a methamphetamine, a
71 propoxyphene, a tricyclic antidepressant, or a metabolite of any
72 of the substances listed in this paragraph.

73 (d) "Drug screening" or "screen" means any chemical,
74 biological, or physical instrumental analysis administered by a
75 laboratory approved by the department for the purpose of
76 determining the presence or absence of a drug or its
77 metabolites.

78 (e) "Initial drug screening" or "initial screen" means a
79 sensitive, rapid, and reliable procedure to identify negative
80 and presumptive positive specimens. All initial screens shall
81 use an immunoassay procedure or an equivalent or shall use a
82 more accurate scientifically accepted method approved by the

83 department, as more accurate technology becomes available in a
 84 cost-effective form.

85 (f) "Nonprescription medication" means a medication that
 86 is authorized pursuant to federal or state law for general
 87 distribution and use without a prescription for the treatment of
 88 human diseases, ailments, or injuries.

89 (g) "Prescription medication" means a drug or medication
 90 obtained pursuant to a prescription as defined in s. 893.02.

91 (h) "Specimen" means any tissue, hair, urine, saliva, or
 92 other product of the human body capable of revealing the
 93 presence of a drug or its metabolites. A urine specimen shall be
 94 collected and analyzed for all initial drug screens and
 95 confirmation tests under this section.

96 (4) DRUG SCREENING AND CONFIRMATORY TESTING.—

97 (a) An individual is disqualified from receiving or
 98 continuing to receive temporary cash assistance if the
 99 individual:

100 1. Refuses to submit to drug screening under this section.
 101 Eligibility for temporary cash assistance is restored when the
 102 individual agrees to be screened and screens negatively for
 103 drugs or passes a confirmation test;

104 2. Fails a drug screening and refuses to take a
 105 confirmation test; or

106 3. Tests positive for drugs as a result of a confirmation
 107 test performed under this section.

108 (b) If the individual fails or refuses the confirmation
 109 test required under this section, the individual is not eligible

110 to receive temporary cash assistance for 3 years after the date
111 of the failed screening.

112 (c) Temporary cash assistance benefits may be continued
113 for the child or children in the family with a disqualified
114 member, if the benefits are made payable to a protective payee
115 as described in s. 414.065(2). However, the protective payee
116 must not have been convicted of a drug felony within the prior 3
117 years.

118 (d) The individual may reapply at the end of the 3-year
119 ineligibility period and shall again be subject to drug
120 screening and testing if the individual has been convicted of a
121 drug felony in the 3-year period immediately preceding the new
122 application.

123 (e) The department shall provide any individual who tests
124 positive with information concerning substance abuse treatment
125 programs that may be available in the area in which he or she
126 resides. Neither the department nor the state is responsible for
127 providing or paying for substance abuse treatment as part of the
128 screening conducted under this section.

129 (f) The cost of screening and confirmatory testing shall
130 be paid by the individual being screened and tested, and the
131 department shall solicit competitive bids for drug-screening and
132 confirmatory testing services to ensure the lowest possible cost
133 for administering the drug screen and confirmation tests. The
134 approved laboratories must conduct the screening and testing in
135 accordance with standards established by the department. The
136 laboratories must also agree to defend their results and
137 conclusions in appeal hearings, as described in s. 409.285.

138 (5) USE OF RESULTS.—

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

142 1. The individual to be screened or tested must provide
 143 written consent to be screened or tested for drugs on a form
 144 developed by the department.

145 2. A specimen shall be collected with due regard to the
 146 privacy of the individual providing the specimen and in a manner
 147 reasonably calculated to prevent substitution or contamination
 148 of the specimen.

149 3. Specimen collection must be documented, and the
 150 documentation procedures must include:

151 a. Labeling of specimen containers so as to reasonably
 152 preclude the likelihood of erroneous identification of drug-
 153 screen or confirmation-test results.

154 b. A form on which the individual undergoing drug
 155 screening or confirmatory testing may provide any information he
 156 or she considers relevant to the screen or test, including
 157 identification of currently or recently used prescription or
 158 nonprescription medication or other relevant medical
 159 information. The form must provide notice of the most common
 160 medications by brand name or common name, as applicable, as well
 161 as by chemical name, which may alter or affect a drug screen or
 162 confirmation test. The providing of information does not
 163 preclude the administration of the drug screen or test, but must
 164 be taken into account in interpreting any positive drug-screen
 165 or confirmation-test result.

166 4. Specimen collection, storage, and transportation to the
167 screening or testing site must be performed in a manner that
168 reasonably precludes contamination or adulteration of specimens
169 as specified in the department's drug-screening and
170 confirmatory-testing protocols, policies, and procedures.

171 (b) A specimen that produces a positive screen or positive
172 test result must be preserved for a certain period of time as
173 established by the department's drug-screening and confirmatory-
174 testing protocols, policies, and procedures. The length of time
175 for the preservation of specimens shall be consistent with
176 industry standards. However, if the screened or tested
177 individual undertakes an administrative or legal challenge to
178 the drug-screen or confirmatory-test result, the specimen must
179 be preserved until the case or administrative appeal is settled.

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

183 (a) The number of individuals screened and tested, a list
184 of the substances for which individuals were screened and
185 tested, and the results of the screening and testing.

186 (b) The number of applicants denied temporary cash
187 assistance for failing a confirmation test and the number of
188 recipients for whom temporary cash assistance was terminated for
189 refusing to submit to a drug screen or confirmation test or
190 failing a confirmation test while receiving benefits.

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

192 (d) The number of months and the amount of temporary cash
193 assistance for which individuals would potentially have been

194 eligible if they had not tested positive or refused to be
 195 screened.

196 (e) An estimate of the costs of the drug-screening
 197 program, including the average cost of individual drug screens
 198 and confirmation tests and the cost of administering the
 199 program.

200 (7) RULES.—The department may adopt rules to develop and
 201 implement the drug-screening program as required by this
 202 section.

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

205 414.095 Determining eligibility for temporary cash
 206 assistance.—

207 (1) ELIGIBILITY.—An applicant must meet eligibility
 208 requirements of this section before receiving services or
 209 temporary cash assistance under this chapter, except that an
 210 applicant shall be required to register for work and engage in
 211 work activities in accordance with s. 445.024, as designated by
 212 the regional workforce board, and may receive support services
 213 or child care assistance in conjunction with such requirement.
 214 The department shall make a determination of eligibility based
 215 on the criteria listed in this chapter. The department shall
 216 monitor continued eligibility for temporary cash assistance
 217 through periodic reviews consistent with the food assistance
 218 eligibility process. Food assistance benefits shall not be
 219 denied to an individual solely based on a felony drug
 220 conviction, unless the conviction is for trafficking pursuant to
 221 s. 893.135. To be eligible for temporary cash assistance under

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222 | this section, an individual convicted of a drug felony must be
223 | satisfactorily meeting the requirements of the temporary cash
224 | assistance program and s. 414.0652, including all substance
225 | abuse treatment requirements. Within the limits specified in
226 | this chapter, the state opts out of the provision of Pub. L. No.
227 | 104-193, s. 115, that eliminates eligibility for temporary cash
228 | assistance and food assistance for any individual convicted of a
229 | controlled substance felony.

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