

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1394

SPONSOR: Senator Cowin

SUBJECT: Random Drug Testing

DATE: March 3, 1999

REVISED: 03/11/99 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barnes</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable/1 Amend</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>FP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

Senate Bill 1394 requires that within the Department of Children and Family Services, persons providing care or serving as volunteers to children, persons with developmental disabilities, disabled adults, and elderly persons for 15 hours or more a week (including those who supervise those persons and volunteers) and all employees of the central abuse hotline be tested for drugs pursuant to the procedures and requirements contained in s. 112.0455, F.S., the "Drug-Free Workplace Act." The Department of Children and Family Services may develop a program for random drug testing for these persons and for persons who are certified as firefighters under ch. 633, F.S., or certified as correctional or law enforcement officers under ch. 943, F.S.

This bill creates section 402.355, Florida Statutes.

## II. Present Situation:

Section 112.0455, F.S., establishes the "Drug-Free Workplace Act" to further three objectives:

- 1) to promote the goal of a drug-free workplace within government through fair and reasonable drug testing methods for the protection of public employees and employers;
- 2) to encourage employers to provide employees who have drug use problems with an opportunity to participate in an employee assistance program or a substance abuse treatment and rehabilitation program; and
- 3) to provide for confidentiality of testing results.

An employer, under the act, has control over the type of drug testing used to screen for drug or alcohol abuse, subject to the availability of laboratories which are authorized to analyze drug specimens and are licensed by the Agency for Health Care Administration.

The “Drug-Free Workplace Act” provides that any state agency may test certain employees and job applicants for use of drugs in accordance with procedures prescribed or authorized by the act. There is no legal duty to test employees or job applicants. However, an employer may conduct the following types of drug tests: job applicant testing, reasonable suspicion testing, routine fitness for duty testing, and follow up testing.

The act requires that: 1) at least 60 days elapse between a general one-time notice to all employees that a drug-testing program is being implemented and the beginning of actual drug testing; 2) prior to testing, all employees and job applicants be given a written policy statement including certain information; 3) a notice of drug testing be included on job vacancy announcements for positions that mandate drug testing; 4) the employer's drug testing policy be posted in a conspicuous location on the employer's premises; and 5) copies of the employer's drug testing policy be made available to the general public.

Provisions are also included in the act for: specimen collection and testing, notification of test results, substance abuse treatment options, confirmation testing, employer protection, confidentiality of records, laboratory drug testing standards, adoption of rules, discipline and nondiscipline remedies, federal compliance, and laboratory licensure fees.

Section 39.001(2)(d), F.S., was amended by ch. 98-403, L.O.F., to require that all employees, volunteers, and contracted personnel who perform child protective investigations in the Department of Children and Family Services or all job applicants seeking employment by the department to perform child protective investigations, be drug tested pursuant to the procedures and requirements contained in s. 112.0455, F.S. The Department of Children and Family Services has designated all department employees who perform child protective investigations and who work at the abuse hotline as safety-sensitive positions. In April, 1999, as a result of ch. 98-403, L.O.F., the department will begin drug testing 1,350 persons including all child protective investigators and their supervisors and all staff of the abuse hotline.

Section 112.0455(5)(m), F.S., defines a “safety-sensitive position” as any position, including a supervisory or management position, in which a drug impairment would constitute an immediate and direct threat to public health or safety.

The Department of Children and Family Services requires drug testing for all job applicants for special risk positions. “Special risk” is defined in s. 112.0455(5)(n), F.S., as employees who are required as conditions of employment to be certified under ch. 633, F.S., (firefighters) or ch. 943, F.S., (correctional or law enforcement officers). The department employs certified firefighters at Florida State Hospital in Chattahoochee, Florida. Forensic institutional officers certified under ch. 943, F.S., are hired at Florida State Hospital’s Forensic Unit, North Florida Evaluation and Treatment Center in Gainesville, Florida, and South Florida Evaluation and Treatment Center in Miami, Florida.

### **III. Effect of Proposed Changes:**

Senate Bill 1394 creates s. 402.355, F.S. requiring that all persons who are employees, volunteers, or job applicants of the Department of Children and Family Services whose duties include providing care for 15 hours or more per week, to children, the developmentally disabled,

disabled adults, and elderly persons and all persons who supervise these positions be tested for drugs pursuant to the procedures and requirement of s. 112.0455, the “Drug-Free Workplace Act.”

Also, the bill specifies that all employees of the central abuse hotline are deemed to be in safety-sensitive positions defined in s. 112.0455, F.S., and must be tested pursuant to s. 112.0455, F.S. The bill authorizes the Department of Children and Family Services to develop a program for random drug testing for the groups specified in s. 402.355(2), F.S., and for persons who require certification under ch. 633, F.S., (firefighters) and under ch. 943, F.S., (forensic institutional security officers).

The department is directed to adopt rules, policies, and procedures for implementing the provisions of SB 1394.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

None.

##### **C. Government Sector Impact:**

According to the Department of Children and Family Services, an estimated \$319,410 is needed to implement SB 1394 during FY 1999-2000. The department estimates that 10,140 persons would be tested for drugs (8,450 current employees, volunteers, and job applicants plus 1,690 persons to allow for a 20 percent turnover rate). A single drug test costs \$31.50. (10,140 x \$31.50 equals \$319,410.)

During FY 2000-01, it would cost the department \$92,610 to comply with SB 1394 which includes drug testing 10 percent of all employees and volunteers (9,800 x .10 equals 980) by using a valid method of random sampling and allowing for a turnover rate of 20 percent (2,940 x 31.50 equals \$92,610).

**VI. Technical Deficiencies:**

The bill does not specify that persons who are certified under chs. 633 or 943, F.S., and are employed by the Department of Children and Family Services may be randomly tested pursuant to s. 402.355, F.S.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Children and Families

Specifies that the Department of Children and Family Services may develop a random drug testing program for persons who require certification under chs. 633 and 943, F.S., and are employed by the Department of Children and Family Services.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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