

By Senator Oelrich

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

22
23 Be It Enacted by the Legislature of the State of Florida:

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

27 414.0652 Drug-screening program.—

28 (1) LEGISLATIVE INTENT.—It is the intent of the Legislature
29 to create a drug-screening program within the Department of

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30 Children and Family Services.

31 (2) CREATION AND IMPLEMENTATION.—

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

36 (b) The department shall:

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

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

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

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

50 (d) The program must be implemented no later than July 1,
51 2012.

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

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

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

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

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

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

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

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

87 (g) "Specimen" means a tissue, hair, or product of the

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88 human body capable of revealing the presence of a drug or its
89 metabolites. A urine specimen shall be collected and analyzed
90 for all initial drug screens and confirmation tests under this
91 section.

92 (4) DRUG SCREENING AND CONFIRMATORY TESTING.—

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

96 1. Refuses to submit to drug screening under this section.
97 Eligibility for temporary cash assistance is restored when the
98 individual agrees to be screened; or

99 2. Tests positive for drugs as a result of a confirmation
100 test performed under this section.

101 (b) If the individual fails the confirmation test required
102 under this section, the individual:

103 1. Is not eligible to receive temporary cash assistance for
104 3 years.

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

113 (c) The department shall provide any individual who tests
114 positive with information concerning substance abuse treatment
115 programs that may be available in the area in which he or she
116 resides. Neither the department nor the state is responsible for

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117 providing or paying for substance abuse treatment as part of the
118 screening conducted under this section.

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

124 (5) USE OF RESULTS.—

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

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

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

135 3. Specimen collection must be documented, and the
136 documentation procedures must include:

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

140 b. A form on which the individual undergoing drug screening
141 or confirmatory testing may provide any information he or she
142 considers relevant to the screen or test, including
143 identification of currently or recently used prescription or
144 nonprescription medication or other relevant medical
145 information. The form must provide notice of the most common

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146 medications by brand name or common name, as applicable, as well
147 as by chemical name, which may alter or affect a drug screen or
148 confirmation test. The providing of information does not
149 preclude the administration of the drug screen or test, but must
150 be taken into account in interpreting any positive drug-screen
151 or confirmation-test result.

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

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

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

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

172 (b) The number of applicants denied temporary cash
173 assistance for failing a confirmation test and the number of
174 recipients for whom temporary cash assistance was terminated for

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175 refusing to submit to a drug screen or confirmation test or
176 failing a confirmation test while receiving benefits.

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

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

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

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

186 414.095 Determining eligibility for temporary cash
187 assistance.—

188 (1) ELIGIBILITY.—An applicant must meet eligibility
189 requirements of this section before receiving services or
190 temporary cash assistance under this chapter, except that an
191 applicant shall be required to register for work and engage in
192 work activities in accordance with s. 445.024, as designated by
193 the regional workforce board, and may receive support services
194 or child care assistance in conjunction with such requirement.
195 The department shall make a determination of eligibility based
196 on the criteria listed in this chapter. The department shall
197 monitor continued eligibility for temporary cash assistance
198 through periodic reviews consistent with the food assistance
199 eligibility process. ~~Benefits shall not be denied to an~~
200 ~~individual solely based on a felony drug conviction, unless the~~
201 ~~conviction is for trafficking pursuant to s. 893.135.~~ To be
202 eligible under this section, an individual convicted of a drug
203 felony must be satisfactorily meeting the requirements of the

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204 temporary cash assistance program and s. 414.0652, including all
205 substance abuse treatment requirements. Within the limits
206 specified in this chapter, the state opts out of the provision
207 of Pub. L. No. 104-193, s. 115, that eliminates eligibility for
208 temporary cash assistance and food assistance for any individual
209 convicted of a controlled substance felony.

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