

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0131-01
Bill No.: SB 7
Subject: Public Assistance; Department of Social Services; Drugs and Controlled Substances
Type: Original
Date: January 24, 2011

Bill Summary: This legislation requires drug testing for work-eligible Temporary Assistance for Needy Families applicants and recipients based upon reasonable suspicion.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(Up to \$1,904,632)	(Up to \$2,204,202)	(Up to \$2,296,674)
Total Estimated Net Effect on General Revenue Fund	(Up to \$1,904,632)	(Up to \$2,204,202)	(Up to \$2,296,674)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>Other State Funds</u>	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Federal	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

* Income and costs would net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	6.42 FTE	6.42 FTE	6.42 FTE
Federal	3.08 FTE	3.08 FTE	3.08 FTE
Total Estimated Net Effect on FTE	9.5 FTE	9.5 FTE	9.5 FTE

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 208.027:

Officials from the **Department of Health and Senior Services** assume the proposal would have no fiscal impact on their agency.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Mental Health (DMH)** states the proposed legislation requires the Department of Social Services (DSS) to refer applicants who test positive for the use of a controlled substance to an appropriate substance abuse treatment program approved by the Division of Alcohol and Drug Abuse. DMH assumes that it will treat the applicant or recipient and also pay for the services.

A significant cost would be incurred if the proposed drug testing program was actually successful in identifying drug users, if drug users were effectively referred to DMH treatment providers, if the drug users in fact presented themselves for treatment, and if DMH was required to fund treatment for all referred applicants/recipients. However, the Department cannot estimate the number of TANF clients that will test positive for drugs or the number of those who test positive that will present for treatment. Treatment costs per person in a CSTAR program is \$2,809 (\$1,028 General Revenue and \$1,781 Federal). To treat an additional 100 persons will cost

ASSUMPTION (continued)

\$102,800 in General Revenue alone. Therefore, the fiscal impact is estimated as an unknown to greater than \$100,000 cost for General Revenue and Federal Funds.

Oversight notes that states can earn the federal medical assistance percentage (FMAP) on Medicaid program expenditures.

Officials from the **Office of the Attorney General (AGO)** responds that the Department of Social Services (DSS) estimates that the proposal would result in an additional 1,700 administrative hearings, and that approximately 10% of those hearings then receive judicial review in circuit court. AGO assumes it would need an additional 1.5 Assistant Attorney General I and 1 Legal Secretary to handle the increased in caseload. If there is a significant increase in claims over time, the AGO may seek an additional appropriation to adequately represent DSS.

In response to a similar proposal from last year (HB1377), officials from the **Department of Social Services-Division of Legal Services (DSS/DLS)** states that currently there are approximately 43,715 families consisting of approximately 112,602 individuals receiving Temporary Assistance benefits. Additionally, there are approximately 6,240 applications per month (this number does not reflect how many are new applications and how many are reapplications. This legislation targets applicants or recipients "who are eligible for employment". The statistics referenced above do not reflect this additional criteria. Regarding the controlled substance drug testing; assuming that 10% of this number is adversely impacted over 4,370 people will be subject to testing with regard to recipients and approximately 620 per month with regard to applicants). This figure is based on the number of families receiving benefits as opposed to the number of individuals as the legislation applies to work-eligible recipients or applicants. The way the proposed legislation is written the Family Support Division cannot declare an applicant or recipient ineligible until after an administrative hearing; this will likely result in a high percentage of hearings. Assuming 40% of the individuals subject to testing object, this would result in a minimum of approximately 1,700 additional hearings annually (based on recipients alone). Regarding applicants, there is the potential for an additional 248 hearings per month. With current staff levels this increase could not be absorbed. Additional staff (five hearing officers and two support staff) would have to be hired so additional space would have to be provided. This is based on the assumption that the hearing officers hold approximately 900 hearings per year. These numbers could be lower depending on how the provision requiring that the applicant or recipient be eligible for employment is interpreted.

ASSUMPTION (continued)

Officials from the **Department of Social Services-Information Technology Services Division (ITSD)** states the system changes that would be needed to fulfill the requirements of this proposal are:

1. Application programming must be modified to include a Question & Answer screening tool in the TA application process to help determine suspicion of drug use.
2. A second new screen will be needed in FAMIS to display and allow entry of data related to requesting a drug test, storing the results of the test, tracking the hearing process and imposing and tracking the period of ineligibility.
3. Modification to the eligibility determination modules to discontinue the portion of cash grant attributable to the offending individual and generate a letter advising of the benefit reduction and the date when the 1 year ineligibility period ends.
4. System must send the appropriate correspondence to client regarding disqualification for use of a non-prescribed controlled substance.
5. Produce reports on disqualified individuals for case management purposes through FAMIS Managed Reporting.

<u>Function</u>	<u>Work Effort (hours)</u>
Analysis/Design	120 hours
Create/Update Specification Documents	120 hours
Update Data Model	120 hours
Modify Eligibility Determination Process	80 hours
Create Q/A Screen	20 hours
Create Screen to Capture/Display Eligibility Factor Data	120 hours
Notices extract programming	80 hours
AFP programming for notices	60 hours
Update Code Tables	40 hours
Development Coordination	40 hours
Testing (Unit and System)	120 hours
Managed Reporting (data warehouse extracts)	120 hours
Managed Reporting (WebFOCUS report coding)	80 hours
Total:	1,120 hrs

ASSUMPTION (continued)

Assumptions:

- Existing programming in FAMIS will automatically adjust any cases (such as Food Stamps) that consider the TA grant as income when the eligibility determination is executed on the TA case with the reduced grant.
- Estimates for programming to generate notices to recipients assume that contract staff will code the extracts and state staff will code the AFP (Advanced Function Printing) modules.
- Estimate for the Managed Reporting function assumes that consultants will complete the changes for data warehouse extract programming and existing state staff will complete the programming for the WebFOCUS reports.
- State staff will perform all updates to code tables.
- There will be no impact after implementation in FY12 so projecting no costs beyond the first year.
- Based on the above assumptions, state staff will perform 180 hours of the effort and consultants will perform 940 hours.

Current rate for IT consultants for the FAMIS project averages \$90.00 per hour. Current rate for ITSD staff averages \$42.56 per hour.

Total Cost: (180 hours X \$42.56/hr) + (940 hours X \$90.00/hr) = \$92,261

Officials from the **Department of Social Services-Family Support Division (FSD)** assumes the FSD would be responsible for conducting drug screening/testing for work-eligible applicants and recipients for Temporary Assistance for Needy Families (TANF) benefits. The FSD's plan is to test all work eligible applicants and recipients. The FSD expects to procure a private vendor to administer its drug testing program. At a minimum, the contractor would provide the following services: collection of samples, testing, transmitting results, program evaluation, and retention of urine samples.

In September 2010, there were 36,450 adult recipients of TANF benefits. 7,096 are exempt from work participation. 29,354 adults are considered work-eligible and would be required to submit to a drug test. (36,450 - 7,096 = 29,354). Of the 7,096 who are exempt, 1,736 are temporarily

ASSUMPTION (continued)

disabled, 4,933 have a child under age one, 101 are excluded because of domestic violence, 18 are over age 60, and 308 are two parent families that meet a work exemption.

Based on information provided by the Office of Administration, the average cost to drug test a TANF recipient would be \$55.

The yearly cost for FSD to test all work-eligible recipients is \$1,614,470 ($29,354 \times \$55 = \$1,614,470$).

The FSD is also responsible for testing all work-eligible applicants. The FSD received an average of 6,100 applications from July 2010 through September 2010. 24% of the applications are estimated to be exempt from work participation. 76% of the applications are estimated to have a work-eligible individual. ($6,100 \times 76\% = 4,636$).

The average monthly cost for FSD to test all work-eligible applicants is: \$254,980 ($4,636 \times \$55 = \$254,980$). The average yearly cost for FSD to test all work-eligible applicants is: \$3,059,760 ($\$254,980 \times 12 = \$3,059,760$).

The overall annual cost for FSD to drug test work-eligible recipients and applicants is: \$4,674,230 ($\$1,614,470 + \$3,059,760 = \$4,674,230$).

There would be FAMIS programming costs. The OA-ITSD section includes these costs.

FSD has no way to determine how many of those tested will test positive and be referred to a drug treatment program.

If this legislation is implemented, it will increase the amount of time it takes to complete a TANF application interview. The increase in time will result in eligibility staff being able to serve fewer clients in a day. Additional staff would allow FSD to serve all its clients. It is unknown how many additional staff each office would need to continue to perform at current capacity. Therefore the fiscal impact for additional staff needed is unknown.

Oversight assumes the DSS-FSD could absorb the additional caseload (application interview) that may result from this proposal within existing resources. Oversight assumes any significant increase in the workload of the DSS-FSD would be reflected in future budget request.

Oversight assumes, for fiscal note purposes only, DSS would only test approved work-eligible applicants. There was an average of 3,240 approved applicants from May - July 2010. Applying

ASSUMPTION (continued)

DSS's 76%, 2,462 individuals would be work-eligible (3,240 X 76%). Therefore, Oversight, assumes the yearly cost for applicants is \$1,624,920 (2,462 X \$55 X 12).

Oversight assumes a savings might be realized based on failed drug testing ineligibility. The standard TANF grant is \$292 for a family of three (a parent and two children). If the parent tested positive and was declared ineligible for TANF benefits the grant would decrease to \$234 and a \$58 savings would be realized. Based on the 7.99% statistic used by the DMH in 2010, 2,345 parents would be ineligible (29,354 work-eligible recipients X 7.99%), Oversight believes the DSS could have a saving of up to \$1,632,120 (\$58 X 2,345 X 12). Oversight believes any reduction in the savings from suspended recipients coming back onto TANF benefits will be offset by new recipients being ineligible.

Oversight assumes, based on drug testing cost research, a drug test can cost as low as \$5. DSS assumed a drug test would cost \$55. Since there is a variation/range of drug testing cost Oversight will assume, for fiscal note purposes only, a fiscal impact "up to" the stated amount.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE FUND			
<u>Savings - Department of Social Services</u>			
Reduced TANF Payments	<u>Up to</u> \$1,632,120	<u>Up to</u> \$1,632,120	<u>Up to</u> \$1,632,120
<u>Costs - Department of Mental Health</u>			
Program Cost	<u>(Greater than</u> \$100,000)	<u>(Greater than</u> \$100,000)	<u>(Greater than</u> \$100,000)
<u>Costs - Office of the Attorney General</u>			
Personal Services	(\$78,125)	(\$94,688)	(\$95,634)
Fringe Benefits	(\$40,891)	(\$49,560)	(\$50,055)
Equipment and Expense	(\$41,021)	(\$25,779)	(\$26,423)
<u>Total Costs - AGO</u>	<u>(\$160,037)</u>	<u>(\$170,027)</u>	<u>(\$172,112)</u>
FTE Change - AGO	2.5 FTE	2.5 FTE	2.5 FTE
<u>Costs - Department of Social Services</u>			
Personal Service-DLS	(\$115,222)	(\$142,471)	(\$146,745)
Fringe Benefits-DLS	(\$60,422)	(\$74,712)	(\$76,953)
Equipment and Expense-DLS	(\$40,782)	(\$28,737)	(\$29,599)
<u>Total Costs - DSS-DLS</u>	<u>(\$216,426)</u>	<u>(\$245,920)</u>	<u>(\$253,297)</u>
FTE Change - DSS-DLS	3.92 FTE	3.92 FTE	3.92 FTE
<u>Costs - Department of Social Services</u>			
ITSD Program Costs	<u>(\$92,261)</u>	<u>\$0</u>	<u>\$0</u>
<u>Costs - Department of Social Services</u>			
FSD Drug Testing for Applicants	(\$1,353,558)	(\$1,665,543)	(\$1,707,182)
FSD Drug Testing for Recipients	(\$1,614,470)	(\$1,654,832)	(\$1,696,203)
<u>Total Costs - DSS-FSD</u>	<u>(\$2,968,028)</u>	<u>(\$3,320,375)</u>	<u>(\$3,403,385)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
	<u>(Up to</u> <u>\$1,904,632)</u>	<u>(Up to</u> <u>\$2,204,202)</u>	<u>(Up to</u> <u>\$2,296,674)</u>
Estimated Net FTE Change for General Revenue Fund	6.42 FTE	6.42 FTE	6.42 FTE

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2012 (10 Mo.)	FY 2013	FY 2014
FEDERAL FUNDS			
<u>Income</u> - Department of Mental Health Federal Assistance	<u>Greater than</u> <u>\$100,000</u>	<u>Greater than</u> <u>\$100,000</u>	<u>Greater than</u> <u>\$100,000</u>
<u>Income</u> - Department of Social Services- DLS Federal Assistance	<u>\$170,049</u>	<u>\$193,222</u>	<u>\$199,019</u>
<u>Costs</u> - Department of Mental Health Program Costs	<u>(Greater than</u> <u>\$100,000)</u>	<u>(Greater than</u> <u>\$100,000)</u>	<u>(Greater than</u> <u>\$100,000)</u>
<u>Costs</u> - Department of Social Services- DLS Personal Service	(\$90,531)	(\$111,941)	(\$115,300)
Fringe Benefits	(\$47,475)	(\$58,702)	(\$60,463)
Equipment and Expense	<u>(\$32,043)</u>	<u>(\$22,579)</u>	<u>(\$23,256)</u>
<u>Total Costs - DSS-DLS</u>	<u>(\$170,049)</u>	<u>(\$193,222)</u>	<u>(\$199,019)</u>
FTE Change - DSS-DLS	3.08 FTE	3.08 FTE	3.08 FTE
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Estimated Net FTE Change for Federal Fund	3.08 FTE	3.08 FTE	3.08 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Section 208.027:

Most of the drugs testing facilities in the major metropolitan areas are small businesses and this legislation could have a significant positive impact on the number of drug tests each of those businesses would complete.

If the testing facilities were part of the state government, there would be no impact on small businesses.

FISCAL DESCRIPTION

Section 208.027:

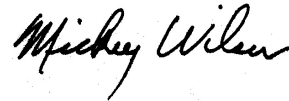
This legislation requires the Department of Social Services to develop a program to test applicants or recipients of temporary assistance for needy families (TANF) benefits who are eligible for employment when a case worker believes, based on reasonable suspicion, that such person engages in illegal use of controlled substances. Any applicant or recipient who is found to have tested positive for the use of a controlled substance after an administrative hearing shall be declared ineligible for temporary assistance for needy families benefits for a period of three years from the date of the administrative hearing decision. The Department shall refer an applicant or recipient who tested positive for the use of a controlled substance under this proposal to an appropriate substance abuse treatment program approved by the Division of Alcohol and Drug Abuse within the Department of Mental Health. Also, if a parent is deemed ineligible for TANF benefits due to the provisions of this proposal, his or her dependent child's eligibility for such benefits shall not be affected and an appropriate protective payee may be established for the benefit of the child. The Department shall promulgate rules to develop the screening and testing provisions of this section.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

L.R. No. 0131-01
Bill No. SB 7
Page 12 of 12
January 24, 2011

SOURCES OF INFORMATION

Department of Mental Health
Department of Health and Senior Services
Department of Social Services
Office of the Secretary of State
Office of the Attorney General

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, slightly slanted style.

Mickey Wilson, CPA
Director
January 24, 2011