

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3217-01
Bill No.: SB 602
Subject: Public Assistance; Department of Social Services; Drugs and Controlled Substances
Type: Original
Date: January 25, 2010

Bill Summary: This legislation requires drug screening and testing for Temporary Assistance for Needy Families applicants.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(Unknown but Greater than \$10,029,496)	(Unknown but Greater than \$12,733,606)	(Unknown but Greater than \$13,320,752)
Total Estimated Net Effect on General Revenue Fund	(Unknown but Greater than \$10,029,496)	(Unknown but Greater than \$12,733,606)	(Unknown but Greater than \$13,320,752)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
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 2011	FY 2012	FY 2013
General Revenue	3.92 FTE	3.92 FTE	3.92 FTE
Federal	3.08 FTE	3.08 FTE	3.08 FTE
Total Estimated Net Effect on FTE	7 FTE	7 FTE	7 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 2011	FY 2012	FY 2013
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.

DMH is currently utilizing all current treatment capacity. A significant cost would be incurred if DMH were to be required to treat all referred applicants/recipients. The Division does not know the number of TANF clients that will test positive for drugs nor the number of those that test positive that will present for treatment. Treatment costs per person (based on FY09 data) in a Primary Recovery (General Revenue) program is \$1,081. Treatment costs per person in a CSTAR program is \$3,194 (\$1,144 General Revenue and \$2,050 Federal). If only an additional 100 persons were treated, it would cost between \$108,100 and \$114,400. Therefore, the fiscal impact is estimated as unknown to greater than \$100,000 for GR and Federal Funds.

ASSUMPTION (continued)

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)** assumes that DSS/DLS would defend individual eligibility determinations, but that costs would be incurred by AGO in defending against any challenges to constitutionality of the proposal. AGO assumes that because costs are dependent on the number of cases that may arise, costs are unknown, but are assumed to be under \$100,000. If there is a significant increase in claims over time, the AGO may seek appropriation to adequately represent the Department.

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. 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). These figures are based primarily on the number of households receiving benefits. It is possible that the legislation could apply to more members of the household as the proposed legislation does not have any age restrictions or restrictions regarding an individual being able to work. The way the proposed legislation is written the FSD 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. Again, these numbers could conceivably be low given that there is no age restriction or requirement that the individual be able to work. This is evident in that there are 112,602 individuals receiving Temporary Assistance as compared to 43,715 household's with presumably only one member that is able to work.

Officials from the **Department of Social Services-Family Support Division (FSD)** assume the FSD would be responsible for conducting drug screening/testing for work-eligible applicants and recipients for TANF benefits. 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.

ASSUMPTION (continued)

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

Since the guide lines for who is to be drug tested are not set, it is difficult to project an exact number. For example, it is difficult at this time to set the age minimum at which children would be tested. Therefore, the FSD is providing a range of unknown up to the maximum.

In September 2009, there were 108,617 persons receiving TANF benefits. If all of these recipients would be required to submit to a drug test, the yearly cost for FSD to test all recipients would be $108,617 \times \$55 = \$5,973,935$.

The FSD is also responsible for testing all applicants. The FSD received an average of 6,459 applications from July 2009 through September 2009. Each application has an average of three (3) people. $6,459 \times 3 = 19,377$ applicants per month (232,5324 annually). It may be necessary to test recipients on an annual basis; therefore the fiscal impact includes the amount to test current recipients each year.

The average monthly cost for FSD to test all applicants is: $19,377 \times \$55 = \$1,065,735$.

The average yearly cost for FSD to test all applicants is: $\$1,065,735 \times 12 = \$12,788,820$.

The overall annual cost for FSD to drug test recipients and applicants is: $\$18,762,755$
($\$5,973,935 + \$12,788,820 = \$18,762,755$)

There would be FAMIS programming costs of \$24,000.

Existing FSD staff would be able to manage the increase in job duty as a result of this legislation.

Per a similar proposal from last year (HB30), **Oversight** assumes a savings might be realized based on discussions with DSS. The average 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 7.9% statistic used by the DMH in 2008, resulting in 10,112 parents ($127,994 \times 7.9\%$), Oversight believes the DSS could have a saving of \$0 to \$7,037,952 ($\$58 \times 10,112 \times 12$).

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE FUND			
<u>Savings - Department of Social Services*</u>			
Reduced TANF Payments	\$0 to \$7,037,952	\$0 to \$7,037,952	\$0 to \$7,037,952
<u>Costs - Department of Mental Health</u>	(Greater than	(Greater than	(Greater than
Program Cost	\$100,000)	\$100,000)	\$100,000)
<u>Costs - Office of the Attorney General</u>	(Less than	(Less than	(Less than
Program Costs	\$100,000)	\$100,000)	\$100,000)
<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>			
FSD Drug Testing for Applicants	(Unknown up to \$10,653,087)	(Unknown up to \$13,172,485)	(Unknown up to \$13,567,659)
FSD Drug Testing for Recipients	(Unknown up to \$5,973,935)	(Unknown up to \$6,153,153)	(Unknown up to \$6,337,748)
FSD FAMIS Programming Costs	(\$24,000)	\$0	\$0
<u>Total Costs - DSS-FSD</u>	<u>(Unknown up to \$16,651,022)</u>	<u>(Unknown up to \$19,325,638)</u>	<u>(Unknown up to \$19,905,407)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND*	<u>(Unknown but Greater than \$10,029,496)</u>	<u>(Unknown but Greater than \$12,733,606)</u>	<u>(Unknown but Greater than \$13,320,752)</u>
Estimated Net FTE Change for General Revenue Fund	3.92 FTE	3.92 FTE	3.92 FTE

*Oversight used \$7,037,952 savings in the net effect total.

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2011 (10 Mo.)	FY 2012	FY 2013
FEDERAL FUNDS			
<u>Income</u> - Department of Mental Health Federal Assistance	Greater than \$100,000	Greater than \$100,000	Greater than \$100,000
<u>Income</u> - Department of Social Services- DLS Federal Assistance	\$170,049	\$193,222	\$199,019
<u>Costs</u> - Department of Mental Health Program Costs	(Greater than \$100,000)	(Greater than \$100,000)	(Greater than \$100,000)
<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 2011 (10 Mo.)	 FY 2012	 FY 2013
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

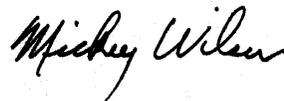
Section 208.027:

This legislation requires the Department of Social Services to develop a program to screen and test applicants or recipients of temporary assistance for needy families (TANF) benefits who the Department has reasonable cause to believe, based on the screening, 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. The Department shall refer an applicant or recipient who tested positive for the use of a controlled substance under this act to an appropriate substance abuse treatment program approved by the Division of Alcohol and Drug Abuse within the Department of Mental Health. 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.

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



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