

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0371-01
Bill No.: SB 73
Subject: Children and Minors; Public Assistance; Department of Social Services
Type: Original
Date: February 9, 2009

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(Unknown but Greater than \$16,707,924)	(Unknown but Greater than \$20,329,097)	(Unknown but Greater than \$21,101,074)
Total Estimated Net Effect on General Revenue Fund	(Unknown but Greater than \$16,707,924)	(Unknown but Greater than \$20,329,097)	(Unknown but Greater than \$21,101,074)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Federal	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

* Income and costs of approximately Unknown but Greater than \$100,000 in FY10, FY11 and FY12 would net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on FTE	0	0	0

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 2010	FY 2011	FY 2012
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. 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 FY08 data) in a Primary Recovery (General Revenue) program is \$1,106. Treatment costs per person in a CSTAR program is \$2,726 (*36.81%-GR rate=\$1,003 General Revenue). To treat an additional 100 persons will cost between \$103,000 and \$110,600. Therefore, the fiscal impact is estimated as unknown to greater than \$100,000 for General Revenue and Federal Funds.

ASSUMPTION (continued)

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

In response to a similar proposal from last year (HB 2330), officials from the **Office of the Attorney General (AGO)** state that this proposal makes changes to Temporary Assistance for Needy Families (TANF) eligibility. AGO assumes that costs may arise from this proposal because it represents the Department of Social Services in defending agency decisions. AGO assumes that because costs are dependant on the number of appeals that may arise, costs are unknown, but are assumed to be under \$100,000.

AGO also states that aside from the costs of making changes to the implementation of this program, AGO assumes that this proposal has the potential to be the subject of state and federal litigation. Potential costs for such defense are unknown.

Officials from the **Department of Social Services-Division of Legal Services (DSS/DLS)** assume the proposal may increase the number of appeals of decisions to deny temporary assistance based on the determination that the applicant is abusing drugs. This will have an impact on DLS-Hearings. At this writing, the effected population is unknown. It is also believed that if this legislation is enacted, lawsuits may be filed in the state and federal courts challenging the law on constitutional grounds. It is assumed the Attorney General's Office would defend these cases.

Officials from the **Department of Social Services-Family Support Division (FSD)** assume the FSD would be responsible for conducting drug screening/testing for applicants and recipients for Temporary Assistance for Needy Families (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. Utilizing information from a current Department of Corrections contract, the average cost per drug test is \$75.

Since the guide lines for who is to be drug tested is 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 Division is providing a range of unknown up to the maximum.

In October 2008, there were 101,916 persons receiving TANF benefits. All of these recipients would be required to submit to a drug test. The cost for FSD to test all recipients would be $101,916 \times \$75 = \$7,643,700$.

ASSUMPTION (continued)

The FSD is also responsible for testing all applicants. The FSD received an average of 6,422 applications from August 2008 to October 2008. Each application has an average of three (3) people. $6,422 \times 3 = 19,266$ applicants per month (231,192 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 is: $19,266 \times \$75 = \$1,444,950$.

The average yearly cost is: $\$1,444,950 \times 12 = \$17,339,400$.

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

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

The Department is required to appoint an appropriate protective payee for a child whose parent is deemed ineligible for TANF due to a positive drug test, and the parent refuses to cooperate in establishing the protective payee. This would not affect the number of eligibles. There would not be a fiscal impact to FSD.

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

Oversight assumes per phone conversation with DSS that a savings might be realized. 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 Oversight believes the DSS could have a saving of \$0 to \$5,603,496 ($\$58 \times 8,051 \times 12$).

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE FUND			
<u>Savings - Department of Social Services*</u>			
Reduced TANF Payments	\$0 to \$5,603,496	\$0 to \$5,603,496	\$0 to \$5,603,496
<u>Costs - Department of Mental Health</u>			
Program Cost	(Greater than \$100,000)	(Greater than \$100,000)	(Greater than \$100,000)
<u>Costs - Office of the Attorney General</u>			
Defending Agency Decisions	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Litigation Costs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<u>Total Costs - AGO</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<u>Costs - Department of Social Services</u>			
Program Costs-DLS	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)
Drug Testing for Applicants	(\$14,443,720)	(\$17,859,582)	(\$18,395,369)
Drug Testing for Recipients	(\$7,643,700)	(\$7,873,011)	(\$8,109,201)
FAMIS Programming Costs	<u>(\$24,000)</u>	<u>\$0</u>	<u>\$0</u>
<u>Total Costs - DSS</u>	<u>(Unknown but Greater than \$22,211,420)</u>	<u>(Unknown but Greater than \$25,832,593)</u>	<u>(Unknown but Greater than \$26,604,570)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND*	<u>(Unknown but Greater than \$16,707,924)</u>	<u>(Unknown but Greater than \$20,329,097)</u>	<u>(Unknown but Greater than \$21,101,074)</u>

*Oversight used \$5,603,496 savings in the net effect total.

FEDERAL FUNDS

Income - Department of Mental Health
 Federal Assistance

Greater than \$100,000	Greater than \$100,000	Greater than \$100,000
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Costs - Department of Mental Health
 Program Costs

(Greater than \$100,000)	(Greater than \$100,000)	(Greater than \$100,000)
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**ESTIMATED NET EFFECT ON
 FEDERAL FUNDS**

<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Local Government

FY 2010 (10 Mo.)	FY 2011	FY 2012
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<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

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 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 legislation to an appropriate substance abuse treatment program approved by the Division of Alcohol and Drug Abuse within the Department of Mental Health.

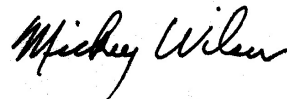
FISCAL DESCRIPTION (continued)

Also, if a parent is deemed ineligible for TANF benefits due to the provisions of this legislation, 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.

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



Mickey Wilson, CPA
Director
February 9, 2009