

SESSION OF 2009

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2275

As Amended by House Committee of the Whole

Brief*

HB 2275, as amended, would require the Department of Social and Rehabilitation Services (SRS) to establish a program of random drug screening, within the limits of appropriations and subject to applicable federal law, for cash assistance recipients on or before January 1, 2010. Cash assistance recipients, as identified in the bill, would include households receiving Temporary Assistance to Families (TAF) and General Assistance (GA).

Under the bill:

- Applicants for cash assistance as a condition of eligibility and persons receiving cash assistance as a condition of continued receipt of cash assistance would be required to agree to participate in the program.
- The drug screening program would be required, subject to appropriations, to provide for screening of approximately one-third of cash assistance recipients each year.
- A person testing positive for the use of an illegal substance would be required to have a drug evaluation and, if recommended by the evaluation, the person would be required to complete an educational or treatment program. Upon a second positive test, the person would be required to complete again an educational or treatment program.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Failure to complete the educational or treatment program required by the bill would result in termination from cash assistance.
 - After completion of the educational or treatment program, the recipient will be subject to periodic drug screening.
 - If the recipient tests positive for a third time, the person would be terminated, subject to applicable federal law, from cash assistance.
- The results of any test administered as part of the drug screening programs would not be disclosed publicly, with the exception of hearings before the Department of Social and Rehabilitation Services and criminal prosecutions.
 - The Secretary of Social and Rehabilitation Services would be permitted to adopt rules and regulations as necessary to carry out the random drug screening program requirements.

The bill would require the Secretary of Social and Rehabilitation Services to report on or before January 31, 2012, and annually thereafter to the Chairpersons of the House Committee on Appropriations, the House Committee on Health and Human Services, the Senate Committee on Ways and Means, and the Senate Committee on Public Health and Welfare. The report would detail the operation and administration of the drug screening program.

The bill also would require review during the 2011 session of the Legislature. The Legislature would be required to review the progress and implementation of the program of drug screening for cash assistance recipients.

The bill will be effective and be in force from and after July 1, 2010, and publication in the statute book.

Background

The bill was introduced by Representative Kelley, who testified before the House Committee that the State has an obligation, as unemployment rises and the citizens of Kansas struggle to make ends meet, to make certain the programs sponsored by tax dollars are held accountable to the taxpayer for their effectiveness and the bill preserves public assistance for its original intent. The Secretary for the Department of Social and Rehabilitation Services testified as neutral to the bill, noting that federal food assistance laws prohibit drug testing for purposes of eligibility while the TAF (Temporary Assistance for Families) and General Assistance programs have no regulations prohibiting drug testing as a condition of eligibility. The Secretary noted that all adult TAF recipients who are mandatory work participants currently are assessed for drug and alcohol abuse.

The Kansas Health Policy Authority (KHPA) submitted written testimony in opposition to the introduced version of the bill. The testimony indicated that federal rules prohibit KHPA from implementing drug screening as a condition of eligibility for Medicaid and SCHIP (State Children's Health Insurance Program) as well as SRS for the Food Assistance and Child Care programs.

The House Committee on Health and Human Services amendments provide limitations to those subject to random drug testing by restricting the program to cash assistance recipients and requiring testing of one-third of recipients each year. The drug screening program and screening specified applicants would be subject to the limits of appropriations. The Committee also amended the bill to delay the implementation date for the program by one year, add a reporting requirement to certain legislative committees, and require review during the 2011 Session. The Committee also specified cash assistance recipients would include individuals under the Grandparents as Caregivers Act. The Committee also deleted a section of the bill specifying the expenditures of state forfeiture moneys for the drug screening program. Finally, the House Committee

recommended an amendment to specify an effective date for the bill.

The House Committee of the Whole amended the bill to remove persons recognized by the law as Grandparents as Caregivers from the definition of “cash assistance” and to specify that persons who have a second positive test would be required to again complete an education or treatment program. Persons who have a third positive test would be terminated from cash assistance (previously this termination provision applied to those persons who tested positive for a second time). Additionally, the Committee of the Whole made a technical amendment to the bill.

The fiscal note prepared by the Division of the Budget on the original bill states that because the number of applicants and recipients to be tested each month and the treatment options that would be available are not known, SRS cannot estimate a fiscal effect for the bill. The Kansas Health Policy Authority also could not provide an estimate of fiscal effect. The fiscal note also provided information on the use of forfeiture moneys to fund the random sampling. The forfeiture provision would no longer apply (removed by House Committee amendment).

A revised fiscal note was made available by SRS after the House Committee hearing and action on amendments to the bill. The fiscal note indicates that the fiscal impact would include the direct cost of administering the random drug testing, treatment costs, and administrative costs. Despite the bill’s language, this fiscal note assumes the drug tests would be limited to adults. The estimate assumes a January 1, 2010 effective date. Estimated expenditures for FY 2010 are projected at \$800,555 (\$674,493 for screening, drug testing and treatment; \$120,063 for staffing). Estimates for FY 2011 are \$1,649,144 (\$1,389,44 for screening, drug testing and treatment and \$259,689 for staffing); the projection for FY 2012 is \$1,698,619 (\$1,431,139 for screening, drug testing and treatment and \$267,480 for staffing). An estimated 5.0 FTE would be needed to implement the bill. Any fiscal effect

resulting from enactment of the bill is not accounted for in the
FY 2010 Governor's Budget Report.