



Ohio Legislative Service Commission

Bill Analysis

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S.B. 182

130th General Assembly
(As Introduced)

Sens. Schaffer, Hughes, Gardner, Jordan, Uecker, Burke

BILL SUMMARY

- Requires the Director of Job and Family Services to establish a drug testing pilot program for Ohio Works First (OWF) in three counties selected by the Director, but permits the Director to select a county only if its board of county commissioners volunteers to have the county participate.
- Requires the county department of job and family services (CDJFS) of a participating county to conduct an assessment of each adult member of an assistance group that applies for OWF to determine whether there is reasonable cause to suspect that an adult member has a chemical dependency.
- Requires an adult to undergo a drug test if an assessment reveals a reasonable cause to suspect that the adult has a chemical dependency.
- Makes an adult undergoing a drug test responsible for the test's cost.
- Requires a participating county's CDJFS to refer an adult who fails a drug test to a board of alcohol, drug addiction, and mental health services and requires the board to refer an adult who requests services to a certified alcohol and drug addiction program.
- Provides for an assistance group's OWF cash assistance to be provided to a protective payee approved by a CDJFS for one year if an adult member refuses to cooperate with a chemical dependency assessment, refuses to undergo a drug test when required to do so, or fails a drug test.
- Requires the Director of Job and Family Services to prepare a report on the pilot program.

- Makes an appropriation.

CONTENT AND OPERATION

Drug testing pilot program

The bill requires the Director of Job and Family Services to establish a drug testing pilot program for Ohio Works First (OWF). OWF is a public assistance program that provides cash assistance to low-income families with children. OWF is funded in part with federal funds provided under the Temporary Assistance for Needy Families (TANF) block grant. OWF is also funded with state and county funds.

The Director must establish the OWF drug testing pilot program not later than 90 days after the bill's effective date. The pilot program is to be operated for two years in three counties. The Director is to select the counties, but may select a county only if the county's board of county commissioners volunteers to have the county participate. The Director must strive to have one rural, one suburban, and one urban county included in the program.¹

Assessment of adult assistance group members

The county department of job and family services (CDJFS) of each county participating in the pilot program is to conduct an assessment of each adult member of an assistance group that applies to participate in OWF. The bill defines "assistance group" as a group of individuals treated as a unit for purposes of determining eligibility for and the amount of assistance provided under OWF.² The purpose of the assessment is to determine whether there is reasonable cause to suspect that any of the adults have a chemical dependency.³ The bill provides that an adult has a chemical dependency if the adult uses a drug of abuse to the extent that the adult becomes physically or psychologically dependent on the drug or endangers the adult's health, safety, or welfare or that of others.⁴ The following are considered drugs of abuse:⁵

(1) A drug, compound, mixture, preparation, or substance included in schedule I, II, III, IV, or V. (Drugs are included in the schedules based on their potential for abuse.

¹ Section 1(B).

² Section 1(A)(1), referencing R.C. 5107.02, (not in the bill).

³ Section 1(B).

⁴ Section 1(A)(2).

⁵ Section 1(A)(3).

Those in schedules II, III, and IV can be legally obtained only pursuant to a prescription. No prescriptions may be written for schedule I drugs.)⁶

(2) A harmful intoxicant (i.e., any compound, mixture, preparation, or substance, other than beer or intoxicating liquor, the gas, fumes, or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation, or other harmful physiological effects);

(3) A drug considered a dangerous drug under Ohio's pharmacy law.

The assessment must be conducted in accordance with rules the Director of Job and Family Services is to adopt. It is to be part of the process of determining whether the assistance group is initially eligible to participate in OWF. The bill prohibits an assessment from being conducted as part of an OWF eligibility redetermination.⁷

Drug test

A CDJFS must require an adult member of an assistance group to undergo a drug test if an assessment reveals a reasonable cause to suspect that the adult has a chemical dependency.⁸ The drug test is to consist of either a chemical test of the adult's urine or an oral fluid test that uses a swab and is to determine whether a drug of abuse is present in the biological specimen taken from the adult's body.⁹ The CDJFS is to determine which type of test to use. An adult undergoing the drug test is responsible for its cost.¹⁰

Referrals to treatment programs

A CDJFS must refer an adult member of an assistance group who fails a drug test to the board of alcohol, drug addiction, and mental health services (ADAMHS board) that serves the same county as the CDJFS. If the adult, acting on the referral, requests services from the ADAMHS board, the board must refer the adult to an alcohol and

⁶ U.S. Department of Justice, Drug Enforcement Administration, Office of Diversion Control, *Practitioner's Manual – Section V (Valid Prescription Requirements)* (last visited January 16, 2014), available at <<http://www.deadiversion.usdoj.gov/pubs/manuals/pract/section5.htm>>.

⁷ Section 1(B) and (H).

⁸ Section 1(B).

⁹ Section 1(A)(4).

¹⁰ Section 1(G).

drug addiction program certified by the Department of Alcohol and Drug Addiction Services.¹¹

Under the bill, an adult fails a drug test if the test reveals the presence of a drug of abuse in a biological specimen taken from the adult's body. However, the adult is not to be considered to have failed a drug test if the adult obtained the drug pursuant to a prescription and injected, ingested, or inhaled the drug in accordance with the prescriber's directions.¹²

OWF payments to a protective payee

The bill requires that an assistance group's OWF cash assistance be provided to a protective payee approved by the appropriate CDJFS if an adult member of the assistance group refuses to cooperate with an assessment conducted under the pilot program, refuses to undergo a drug test when required to do so under the pilot program, or fails a drug test conducted under the pilot program. A protective payee may not be a member of the assistance group. The protective payee must act as a representative of the assistance group and manage the assistance group's cash assistance on behalf of the assistance group. Except as discussed below (see "**Early termination of penalty**," below), the assistance group's cash assistance must be provided to the protective payee for one year. After the one-year period, the cash assistance must be provided to the assistance group unless OWF rules adopted under existing law provide for the cash assistance to be provided to a protective payee due to another circumstance.¹³

Early termination of penalty

The bill authorizes an adult member who causes an assistance group's OWF cash assistance to be provided to a protective payee to request, not sooner than six months after the cash assistance begins to be provided to the protective payee, to have the cash assistance be provided to the assistance group instead. The adult member must include with the request documentation that is acceptable to the CDJFS and shows that the adult member successfully completed the treatment provided by the certified alcohol and drug addiction program to which the adult member was referred (see "**Referrals to treatment programs**," above). The CDJFS may approve the request if the adult member

¹¹ Section 1(D). The bill refers to the Department of Alcohol and Drug Addiction Services which has been consolidated with the Department of Mental Health to create the Department of Mental Health and Addiction Services. Also, addiction programs are now certified under R.C. 5119.36 as "community addiction services providers." Amendments to the bill are needed to update these references.

¹² Section 1(A).

¹³ Section 1(C); R.C. 5107.05 (not in the bill).



undergoes a drug test and passes the drug test. The CDJFS must disapprove the request, however, if OWF rules adopted under existing law provide for the cash assistance to be provided to a protective payee due to another circumstance. If the adult member fails to undergo a drug test or fails the drug test, the cash assistance must continue to be provided to the protective payee for an additional year beginning on the date that is 12 months after the date that the cash assistance first began to be provided to the protective payee.¹⁴

Payments following termination of the pilot program

The bill specifies that an assistance group's OWF cash assistance must be provided to a protective payee for the applicable period specified in the bill regardless of whether that period extends beyond the date the pilot program ends.¹⁵

Compliance with OWF requirements

The bill specifies that the provision of an assistance group's OWF cash assistance to a protective payee does not excuse the members of the assistance group or any work-eligible individuals from compliance with any of the OWF requirements applicable to them. Under federal TANF regulations, a work-eligible individual includes a parent who does not receive TANF assistance but lives with a child receiving TANF assistance unless the parent is (1) a minor who is not the head of household, (2) a noncitizen who is ineligible to receive assistance due to immigration status, (3) a recipient of Supplemental Security Income benefits or Social Security Disability Insurance benefits (this is at the option of the state and on a case-by-case basis), or (4) providing care for a disabled family member living in the home if there is medical documentation to support the need for the member to remain in the home to care for the disabled family member.¹⁶

Rules

The bill requires the Director of Job and Family Services to adopt rules as necessary to implement the pilot program, including rules governing chemical dependency assessments of each adult member of an assistance group. The rules are to be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119).¹⁷

¹⁴ Section 1(D).

¹⁵ Section 1(E).

¹⁶ 42 Code of Federal Regulations 261.2(n).

¹⁷ Section 1(H).



Report

The bill requires the Director of Job and Family Services to prepare a report regarding the pilot program. The report must include all of the following information:

- (1) The number of adults for whom assessments reveal a reasonable cause to suspect they have a chemical dependency;
- (2) The number of adults required to undergo drug tests;
- (3) The number of adults who fail drug tests;
- (4) The costs of the drug tests;
- (5) The total amount of time that OWF cash assistance is provided to protective payees under the pilot program as of the date the report is prepared;
- (6) Regarding the adults who are referred to an alcohol and drug addiction program: (a) how many complete the treatment provided by the program, (b) how many are employed as of the date the report is prepared, and (c) in the case of the adults who are not employed at the time they complete the treatment but become employed by the date the report is prepared, the average number of months it takes to become employed.

The CDJFS of each county participating in the pilot program must provide any information the Director needs to prepare the report. Not later than 90 days after the pilot program's conclusion, the Director must submit the report to the Governor, Senate President, Senate Minority Leader, Speaker of the House of Representatives, House Minority Leader, and Director of the Legislative Service Commission.¹⁸

HISTORY

ACTION	DATE
Introduced	09-03-13

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¹⁸ Section 1(I).

