

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 751 Children, Families, & Seniors Subcommittee; Public Assistance

**SPONSOR(S):** Eagle

**TIED BILLS:** IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	9 Y, 2 N, As CS	Langston	Brazzell
2) Health Care Appropriations Subcommittee		Fontaine	Pridgeon
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

Florida's Temporary Cash Assistance (TCA) Program provides cash assistance to needy families with children that meet eligibility requirements. To be eligible for full-family TCA, applicants must participate in work activities unless they qualify for an exemption. The regional workforce boards support and monitor applicants' compliance with work activity requirements. The Department of Children and Families (DCF) may sanction TCA recipients who fail to meet work activity requirements by withholding cash assistance for a specified minimum time or until the participant complies, whichever is later. The sanctions are either full-family (where no members of the noncompliant recipient's family may receive TCA) or allow child-only TCA (where any children under 16 may continue to receive TCA). In Florida, TCA and other social welfare benefits are placed on electronic benefits transfer (EBT) cards. Currently, DCF does not charge a fee for replacement EBT cards, although federal regulations allow such fees under certain conditions.

HB 751 increases the penalties for the first three instances of noncompliance with the TCA work requirements to align with the food assistance program's sanctions and creates a fourth sanction. The bill:

- Increases the first sanction from 10 days to one month, and permits child-only TCA during the first month of sanction.
- Increases the second sanction from one month or until compliance, whichever is later, to three months or until compliance, whichever is later; and limits child-only TCA to the first three months of the sanction period.
- Increases the third sanction from three months or until compliance, whichever is later, to six months or until compliance, whichever is later; and limits child-only TCA to the first six months of the sanction period.
- Creates a fourth sanction of twelve months or until compliance, whichever is later, and that the individual must reapply to the program; and limits child-only TCA to the first twelve months of the sanction period.

DCF must refer sanctioned participants to appropriate free and low-cost community services, including food banks. Additionally, the Department of Economic Opportunity, with DCF and CareerSource Florida, must work with the participant to develop strategies on how to overcome barriers to compliance with the TCA work requirements that the recipient faces. They must also inform the participant, in plain language, and have the participant agree to, in writing, what is expected of the applicant to continue to receive benefits, under what circumstances the applicant would be sanctioned, and potential penalties for noncompliance with work requirements, including how long benefits would not be available.

The bill requires EBT cardholders to pay a fee for the fifth and every subsequent EBT card requested within a 12-month span. The bill allows DCF to deduct the fee from the cardholder's benefits and provides for a waiver of the fee upon a showing of good cause, such as that the card malfunctioned or the fee would cause extreme financial hardship.

Additionally, the bill prohibits the use of EBT cards at medical marijuana treatment centers or dispensing organizations; cigar stores and stands, pipe stores, smoke shops and tobacco shops; and business establishments primarily engaged in the practice of body piercing, branding or tattooing.

The bill has a recurring, positive fiscal impact of \$4,428,430 from TCA benefit reductions for participant noncompliance, and \$188,840 in fees for EBT card replacements, on DCF. The bill has a nonrecurring, negative fiscal impact of \$952,360 to implement changes to the TCA program and EBT card system, on DCF.

The bill provides an effective date of July 1, 2018.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h0751b.HCA

**DATE:** 1/29/2018

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### Temporary Assistance for Needy Families (TANF)

Under the federal welfare reform legislation of 1996, the Temporary Assistance for Needy Families (TANF) program replaced the welfare programs known as Aid to Families with Dependent Children, the Job Opportunities and Basic Skills Training program, and the Emergency Assistance program. The law ended federal entitlement to assistance and instead created TANF as a block grant that provides states, territories, and tribes federal funds each year. These funds cover benefits, administrative expenses, and services targeted to needy families. TANF became effective July 1, 1997, and was reauthorized in 2006 by the Deficit Reduction Act of 2005. States receive block grants to operate their individual programs and to accomplish the goals of the TANF program.

##### Florida's Temporary Cash Assistance Program

The Temporary Cash Assistance (TCA) Program, administered by the Department of Children and Families (DCF), provides cash assistance to families with children under the age of 18 or under age 19<sup>1</sup> if full time secondary school students, that meet the technical, income, and asset requirements. The purpose of the TCA Program is to help families become self-supporting while allowing children to remain in their own homes. In October 2017, 11,757 adults and 65,133 children received TCA.<sup>2</sup>

##### *Full-Family and Child-Only TCA*

Florida law specifies two categories of families who are eligible for TCA: those families that are work-eligible and may receive TCA for the full-family, and those families who are eligible to receive child-only TCA. Within the full-family cases, the parent or parents are required to comply with work requirements to receive TCA for the parent(s) and child(ren). Additionally, there are two types of child-only TCA:

- Where the child has not been adjudicated dependent, but is living with a relative,<sup>3</sup> or still resides with his or her custodial parent, but that parent is not eligible to receive TCA;<sup>4</sup> and
- The Relative Caregiver Program, where the child has been adjudicated dependent and has been placed with relatives by the court. These relatives are eligible for a payment that is higher than the typical child-only TCA.

The majority of cash assistance benefits are child-only, through the relative caregiver program, or to work-eligible cases where the adult is ineligible due to sanction for failure to meet TCA work requirements. In October 2017, 35,753 of the 47,013 families receiving TCA were child-only cases; many of these families are not subject to work requirements.<sup>5</sup> In October 2017, there were 11,260 families receiving TCA through full-family cases containing an adult, 380 of which were two-parent families; these families are subject to work requirements.<sup>6</sup>

---

<sup>1</sup> Parents, children and minor siblings who live together must apply together. Additionally, pregnant women may also receive TCA, either in the third trimester of pregnancy if unable to work, or in the 9th month of pregnancy.

<sup>2</sup> Department of Children and Families, Monthly Flash Report Caseload Data: October 2017, <http://www.dcf.state.fl.us/programs/access/reports/flash2005.xlsx> (last visited January 11, 2018).

<sup>3</sup> Grandparents or other relatives receiving child-only payments are not subject to the TANF work requirement or the TANF time limit.

<sup>4</sup> Child-only families also include situations where a parent is receiving federal Supplemental Security Income (SSI) payments, situations where the parent is not a U.S. citizen and is ineligible for TCA due to their immigration status, and situations where the parent has been sanctioned for noncompliance with work requirements.

<sup>5</sup> *Supra*, note 2.

<sup>6</sup> *Id.*

## *Administration*

Various state agencies and entities work together through a series of contracts or memorandums of understanding to administer the TCA Program. DCF is the recipient of the federal TANF block grant. DCF monitors eligibility and disperses benefits. CareerSource Florida, Inc., the state's workforce policy and investment board, has planning and oversight responsibilities for all workforce-related programs. The Department of Economic Opportunity (DEO) implements the policy created by CareerSource.<sup>7</sup> DEO submits financial and performance reports ensuring compliance with federal and state measures and provides training and technical assistance to Regional Workforce Boards (RWBs). RWBs provide a coordinated and comprehensive delivery of local workforce services. The RWBs focus on strategic planning, policy development and oversight of the local workforce investment system within their respective areas, and contracting with one-stop career centers. The contracts with the RWBs are performance- and incentive- based.

## *Eligibility Determination*

An applicant must meet all eligibility requirements to receive TCA benefits. In order to be eligible, an applicant's gross family income must be 185 percent or less of the federal poverty level<sup>8</sup> and may not have more than \$2,000 of counted liquid and nonliquid resources.<sup>9</sup> DCF processes the initial application for TANF. The applicant may submit his or her application in person, online or through the mail. DCF then determines an applicant's eligibility. To be eligible for full-family TCA, applicants must participate in work activities unless they qualify for an exemption.

Exemptions from the work requirement are available for:

- An individual who receives benefits under the Supplemental Security Income program or the Social Security Disability Insurance program.
- An adult who is not defined as a work-eligible individual under federal law.
- A single parent of a child less than 3 months of age, except that the parent may be required to attend parenting classes or other activities to better prepare for raising a child.
- An individual who is exempt from the time period pursuant to s. 414.105, F.S.

If no exemptions from work requirements apply, DCF refers the applicant to DEO.<sup>10</sup> Upon referral, the participant must complete an in-take application and undergo assessment by RWB staff which includes:

- Identifying barriers to employment.
- Identifying the participant's skills that will translate into employment and training opportunities.
- Reviewing the participant's work history
- Identifying whether a participant needs alternative requirements due to domestic violence, substance abuse, medical problems, mental health issues, hidden disabilities, learning disabilities or other problems which prevent the participant from engaging in full-time employment or activities.

Once the assessment is complete, the staff member and participant create an individual responsibility plan (IRP). The IRP includes:

- The participant's employment goal;
- The participant's assigned activities;
- Services provided through program partners, community agencies and the workforce system;

---

<sup>7</sup> S. 445.007(13), F.S.

<sup>8</sup> S. 414.085(1)(a), F.S.

<sup>9</sup> Licensed vehicles with a combined value of \$8,500 are excluded. S. 414.075, F.S.

<sup>10</sup> This is an electronic referral through a system interface between DCF's computer system and DEO's computer system. Once the referral has been entered into the DEO system, the information may be accessed by any of the RWBs or One-Stop Career Centers.

- The weekly number of hours the participant is expected to complete; and
- Completion dates and deadlines for particular activities.

DCF does not disburse any benefits to the participant until DEO or the RWB confirms that the participant has registered and attended orientation.

#### TCA Income Limit and Maximum Benefit<sup>11</sup>

Household Size	Maximum Monthly Income (185% FPL)	Maximum Monthly Benefit, If Shelter Obligation > \$50	Maximum Monthly Benefit, If Shelter Obligation ≤ \$50	Maximum Monthly Benefit, If No Shelter Obligation
1	\$1860	\$180	\$153	\$95
2	\$2504	\$241	\$205	\$158
4	\$3793	\$364	\$309	\$254

#### *Work Requirement*

Individuals receiving TCA who are not otherwise exempt from work activity requirements must participate in work activities for the maximum number of hours allowable under federal law.<sup>12</sup> The number of required work or activities hours is determined by calculating the value of the cash benefits and then dividing that number by the hourly minimum wage amount.

Federal law requires individuals to participate in work activities for at least:

- 20 hours per week, or attend a secondary school or the equivalent or participate in education directly related to employment if under the age of 20 and married or single head-of-household.
- 20 hours per week for single parents with a child under the age of six.
- 30 hours per week for all other single parents.
- 35 hours per week, combined, for two-parent families not receiving subsidized child care.
- 55 hours per week, combined, for two-parent families receiving subsidized child care.

Pursuant to federal rule<sup>13</sup> and state law,<sup>14</sup> the following activities may be used individually or in combination to satisfy the work requirements for a participant in the TCA program:

- Unsubsidized employment.
- Subsidized private sector employment.
- Subsidized public sector employment.
- On-the-job training.
- Community service programs.
- Work experience.
- Job search and job readiness assistance.
- Vocational educational training.
- Job skills training directly related to employment.
- Education directly related to employment.
- Attendance at school or course of study for graduate equivalency diploma.
- Providing child care services.<sup>15</sup>

<sup>11</sup> Email from Lindsey Zander, Deputy Legislative Affairs Director, Department of Children and Families, RE: HB 751 Question (Jan. 12, 2018) (on file with Children, Families, and Seniors Subcommittee staff).

<sup>12</sup> S. 445.024(2), F.S.

<sup>13</sup> 45 C.F.R. § 261.30

<sup>14</sup> S. 445.024, F.S.

<sup>15</sup> S. 445.024(1)(a)-(l), F.S.

RWBs currently have discretion to assign an applicant to a work activity, including job search, before receiving TCA. Some RWBs already require applicants to complete an initial job search as part of the application process.<sup>16</sup> Currently, Florida's TANF Work Verification Plan<sup>17</sup> requires participants to record each on-site job contact and a representative of the employer or RWB provider staff to certify the validity of the log by signing each entry. If the applicant conducts a job search by phone or internet, the activity must be recorded on a job search report form and include detailed, specific information to allow follow-up and verification by the RWB provider staff.<sup>18</sup>

The federal Administration for Children and Families requires states to meet work participation rates for the TCA program; the required rates vary by family type and state.<sup>19</sup> Florida must meet federal work participation rates for two categories of TCA families: (1) all families, meaning all cash assistance families with any work-eligible recipient(s) and (2) two-parent families with a work-eligible individual.<sup>20</sup> Nationally, the target participation rates are 50% of all families and 90% of two-parent families; these rates are adjusted based on caseload reduction credits, earned by reducing TCA caseloads and spending state funds in excess of required levels.<sup>21</sup> States that do not meet their required rates may be penalized; for at least the past three federal fiscal years, Florida has exceeded its required work participation rates.<sup>22</sup>

### *Sanctions for Noncompliance*

RWBs can sanction TANF recipients who fail to comply with the work requirements by withholding cash assistance for a specified time, which lengthens with repeated lack of compliance.<sup>23</sup> Sanctions for non-compliant participants involve processes at both DEO and DCF. Because DEO administers the work programs, the RWB first becomes aware of participants' noncompliance and then notifies DCF to request a sanction; DCF then applies the sanctions.<sup>24</sup>

When a participant fails to comply with a mandatory work activity, the RWB records the non-compliance in DEO's tracking system and sends the recipient a notice of adverse action; the recipient then has 10 days to contact DEO to show good cause<sup>25</sup> for missing the requirement.<sup>26</sup> During the 10-day period, the RWB must make both oral and written attempts to contact the participant to:<sup>27</sup>

- Determine if the participant had good cause for failing to meet the work requirement;
- Refer to or provide services to the participant, if appropriate, to assist with the removal of barriers to participation;
- Counsel the participant on the consequences for failure to comply with work or alternative requirement plan activity requirements without good cause;

---

<sup>16</sup> Department of Children and Families, Agency Analysis of 2016 House Bill 563 (Nov. 20, 2015)(on file with Children, Families, and Seniors Subcommittee staff).

<sup>17</sup> DEPARTMENT OF CHILDREN AND FAMILIES ECONOMIC SELF-SUFFICIENCY PROGRAM OFFICE, *Temporary Assistance for Needy Families State Plan Renewal October 1, 2014 – September 30, 2017*, Nov. 14, 2014, available at [www.dcf.state.fl.us/programs/access/docs/TANF-Plan.pdf](http://www.dcf.state.fl.us/programs/access/docs/TANF-Plan.pdf) (last visited January 10, 2018).

<sup>18</sup> *Supra*, note 16 at 2.

<sup>19</sup> OFFICE OF PROGRAM POLICY ANALYSIS & GOVERNMENT ACCOUNTABILITY, *Mandatory Work Requirements for Recipients of the Food Assistance and Cash Assistance Programs*, page 4, (Jan. 8, 2018)(on file with the Children Families and Seniors Subcommittee staff).

<sup>20</sup> *Id.* at 5.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 4. DCF and DEO also report state fiscal year cash assistance work participation rates; however, these calculated rates differ from the federally calculated rates.

<sup>23</sup> *Id.* at 11.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* DCF captures limited information regarding good-cause for noncompliance in three categories: temporary illness, household emergency, and temporary transportation unavailable.

<sup>26</sup> *Id.* at 11, see also rule 65A-4.205(3), F.A.C.

<sup>27</sup> Rule 65A-4.205(3), F.A.C.

- Provide information transitional benefits if the participant subsequently obtained employment; and
- Make sure the participant understands that compliance with work activity<sup>28</sup> during 10-day period will avoid the imposition of a sanction.

If the recipient complies within 10 days, the RWB does not request a sanction. However, if the recipient does not show good cause to the RWB and does not comply, the RWB sends DCF a sanction request.<sup>29</sup> Once DCF receives the sanction request from the RWB, it then sends the recipient a notice of intent to sanction.<sup>30</sup> If the recipient does not show good cause within 10 days, the recipient is sanctioned by DCF, and DCF notifies DEO.<sup>31</sup>

Section 414.065(4), F.S., provides that noncompliance related to the following shall constitute exceptions to the penalties for noncompliance with work participation requirements:

- Unavailability of child care in certain circumstances;<sup>32</sup>
- Treatment or remediation of past effects of domestic violence;
- Medical incapacity;
- Outpatient mental health or substance abuse treatment; and
- Decision pending for Supplemental Security Income or Social Security Disability Income.

Section 414.065(4)(g), F.S., grants rulemaking authority to DCF to determine other situations that would constitute good cause for noncompliance with work participation requirements. It specifies that these situations must include caring for a disabled family member when the need for the care has been verified and alternate care is not available.<sup>33</sup> DCF adopted rules stating that other good causes for noncompliance include the temporary inability to participate due to circumstances beyond the participant's control, such as:

- A family emergency due to the inability to find suitable child care for a sick child under age 12;
- Hospitalization, medical emergency or death of an immediate family member;
- Natural disaster;
- Lack of transportation; and
- Court appearance.<sup>34</sup>

In its database, DEO classifies the reasons for sanctions for noncompliance in the following categories:<sup>35</sup>

- Failure to respond to a mandatory letter.<sup>36</sup> Typically, this is the letter recipients receive from DEO upon referral from DCF requiring them to register with DEO.
- Failure to attend a work activity.

<sup>28</sup> The RWB designee must provide the participant with another work activity within the 10-day period if it is impossible for the participant to comply with the original assigned activity.

<sup>29</sup> *Supra*, note 19 DCF only receives a request for sanction and not the reasons for the sanction. See also rule 65A-4.205(4), F.A.C.

<sup>30</sup> *Id.* at 11.

<sup>31</sup> *Id.*, see also rule 65A-4.205(4), F.A.C.

<sup>32</sup> Specifically, if the individual is a single parent caring for a child who has not attained 6 years of age, and the adult proves to the RWB an inability to obtain needed child care for one or more of the following reasons, as defined in the Child Care and Development Fund State Plan required by 45 C.F.R. part 98: (1) the unavailability of appropriate child care within a reasonable distance from the individual's home or worksite; (2) the unavailability or unsuitability of informal child care by a relative or under other arrangements; or (3) the unavailability of appropriate and affordable formal child care arrangements. S. 414.065(4)(a), F.S.

<sup>33</sup> S. 414.065(4)(g), F.S.,

<sup>34</sup> Rule 65A-4.205(2), F.A.C.

<sup>35</sup> *Supra*, note 19 at 19.

<sup>36</sup> *Id.* at 18. For work-eligible individuals with at least one sanction in FFY 2017, over half the sanctions were for failure to respond to a mandatory letter in 14 of 24 RWBs.

- Failure to turn in a timesheet.
- Failure to attend training.
- Failure to turn in necessary documentation.

The consequences of sanctions are as follows:<sup>37</sup>

- First noncompliance - cash assistance is terminated for the full-family for a minimum of 10 days or until the individual complies.
- Second noncompliance - cash assistance is terminated for the full-family for one month or until the individual complies, whichever is later.
- Third noncompliance - cash assistance is terminated for the full-family for three months or until the individual complies, whichever is later.

From November 2016 through September 2017, the number of TCA families sanctioned for noncompliance with the work requirements breaks down as follows:

- 16,444 families were sanctioned for a first instance of non-compliance; 5,311, or 32.3 percent, of those families complied with work requirements to be reinstated in the program.<sup>38</sup>
- 4,806 families were sanctioned for a second instance of non-compliance; 2,229, or 46.4 percent, of those families complied with the work requirements to be reinstated in the program. An estimated 1,346 children continued to receive benefits through child-only case.<sup>39</sup>
- 2,954 families were sanctioned for a third instance of non-compliance; 1,273, or 43.1 percent, of those families complied with the work requirements to be reinstated in the program. An estimated 767 children in these families continued to receive benefits through child only cases.<sup>40</sup>

For the second and subsequent instances of noncompliance, the TCA for the child or children in a family who are under age 16 may be continued (i.e. the case becomes a child-only case). Any such payments must be made through a protective payee, and under no circumstances may temporary cash assistance or food assistance be paid to an individual who has not complied with program requirements.<sup>41</sup>

However, if a previously sanctioned participant fully complies with work activity requirements for at least six months, the participant must be reinstated as being in full compliance with program requirements for purpose of sanctions imposed under this section.<sup>42</sup> Once the participant has been reinstated, a subsequent instance of noncompliance would be treated as the first violation.

#### *TCA Sanctions Compared to Supplemental Nutrition Assistance Program Sanctions*

The Food Assistance Program, Supplemental Nutrition Assistance Program (SNAP), formerly called food stamps, also contains similar sanctions for failure to comply with its Employment and Training Program. However, the SNAP sanctions are a longer duration. For the first instance of noncompliance, food assistance benefits are terminated for one month or until compliance, whichever is later; for the second instance, food assistance benefits are terminated for three months or until compliance, whichever is later; and for the third instance, food assistance benefits are terminated for six months or until compliance, whichever is longer.<sup>43</sup>

---

<sup>37</sup> S. 414.065(1), F.S.

<sup>38</sup> *Supra*, note 11.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> S. 414.065(2), F.S.

<sup>42</sup> S. 414.065(1), F.S.

<sup>43</sup> Rule 65A-1.605(3), F.A.C.

## Electronic Benefits Transfer Card Program

Electronic benefits transfer (EBT) is an electronic system that allows a recipient to authorize transfer of their government benefits, including from the SNAP and TCA programs, to a retailer account to pay for products received.<sup>44</sup> The EBT card program is administered on the federal level by the Food and Nutrition Service (FNS) within the United States Department of Agriculture and at the state level by DCF.

In Florida, benefits are deposited into a TCA or SNAP account each month; the benefits in the TCA or SNAP account are accessed using the Florida EBT Automated Community Connection to Economic Self Sufficiency (ACCESS) card.<sup>45</sup> Even though the EBT card is issued in the name of an applicant, any eligible member of the household is allowed to use the EBT card.<sup>46</sup> Additionally, recipients may designate an authorized representative as a secondary cardholder who can receive an EBT card and access the food assistance account. Authorized representatives are often someone responsible for caring for the recipient. The ACCESS Florida system allows recipients to designate one authorized representative per household.

### *Prohibited Usage*

The Middle Class Tax Relief and Job Creation Act of 2012 required states receiving TANF to create policies and practices as necessary to prevent assistance provided under the program from being used in any EBT transaction in the following establishments:

- Any liquor store;
- Any casino, gambling casino, or gaming establishment; or
- Any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.<sup>47</sup>

In 2013, Florida enacted legislation<sup>48</sup> that prohibits EBT cards from being accepted at the following locations or for the following activities:

- The purchase of an alcoholic beverage as defined in s. 561.01, F.S., and sold pursuant to the Florida Beverage Law.
- An adult entertainment establishment, as defined in s. 847.001, F.S.;
- A pari-mutuel facility, as defined in s. 550.02, F.S.;
- A slot machine facility, as defined in s. 551.102, F.S.;
- A commercial bingo facility that operates outside the provisions of s. 849.0931, F.S.; and
- A casino, gaming facility, or Internet café, including gaming activities authorized under part II of chapter 285.<sup>49</sup>

### *EBT Card Replacement*

When a recipient loses an EBT card, he or she must call the EBT vendor's customer service telephone number to request a replacement EBT card.<sup>50</sup> The vendor then deactivates the card, and sends the

---

<sup>44</sup> U.S. DEPARTMENT OF AGRICULTURE, FOOD AND NUTRITION SERVICES, *EBT: General Electronic Benefit Transfer (EBT) Information*, <http://www.fns.usda.gov/ebt/general-electronic-benefit-transfer-ebt-information> (last visited March 24, 2017).

<sup>45</sup> DEPARTMENT OF CHILDREN AND FAMILIES, *Welcome to EBT*, <http://www.myflfamilies.com/service-programs/access-florida-food-medical-assistance-cash/welcome-ebt> (last visited March 24, 2017).

<sup>46</sup> 7 C.F.R. § 273.2(n)(3).

<sup>47</sup> P.L. 112-96. Section 4004.

<sup>48</sup> S. 1, chapter 2013-88, Laws of Florida.

<sup>49</sup> S. 402.82(4), F.S.

<sup>50</sup> The Florida Legislature's Office of Program Policy Analysis & Government Accountability, *Supplemental Nutrition Assistance Program: DCF Has Mechanisms in Place to Facilitate Eligibility, Verify Participant Identity, and Monitor Benefit Use*, Dec. 3, 2015, p. 8 (research memorandum on file with Children, Families, and Seniors Subcommittee staff).



household a new card.<sup>51</sup> Federal regulations allow recipients to request an unlimited number of replacement EBT cards.<sup>52</sup> While states cannot limit the number of replacement cards, frequent requests for replacement cards can be an indicator of EBT card fraud, such as trafficking, which occurs when an EBT card containing benefits is exchanged for cash. FNS and DCF consider multiple replacement cards a preliminary indicator of trafficking.

FNS aims to preserve food assistance access for vulnerable populations (e.g., mentally ill and homeless people) who are at risk of losing their cards but who are not committing fraud,<sup>53</sup> while preventing others from trafficking and replacing their EBT cards. In the interest of preventing fraud, FNS regulations require states to monitor all client requests for EBT card replacements and send a notice, upon the fourth request in a 12-month period, alerting the household that their account is being monitored for potential suspicious activity.<sup>54</sup>

In Fiscal Year 2014-15, DCF sent 13,967 letters to households that had requested four or more cards.<sup>55</sup> The letter informs the recipient that the card does not need to be replaced each month and that it is important to keep track of the card.<sup>56</sup> The letter also informs the recipient that this number of replacement requests is not normal and that the household's EBT behavior is being monitored.<sup>57</sup> Additionally, in Fiscal Year 2014-15, less than one-third of the households who requested four cards (4,653 households) requested yet another replacement card after receiving the letter, and the DCF Office of Public Benefits Integrity referred these cases to the Department of Financial Services Division of Public Assistance Fraud (DPAF) for potential fraud investigation.<sup>58</sup>

Federal regulations allow states to charge recipients for the cost to replace an excessive<sup>59</sup> number of cards. FNS allows states to charge for the cost of the EBT card after four replaced cards. Under DCF's EBT contract, the vendor reports that replacements costs \$3.50 per card.<sup>60</sup> A number of other states that charge for replacement cards. Those states charge between \$2.00 to \$5.00<sup>61</sup> per replacement card with some exceptions for good cause or financial hardship.

## **Effect of the Bill**

### Temporary Cash Assistance

#### *Sanctions for Noncompliance*

HB 751 increases the sanctions for TCA recipients subject to work requirements for the first three instances of noncompliance and creates a sanction for the fourth instance of noncompliance. The bill amends s. 414.065(1) and (2), F.S., to:

- Increase the first sanction from 10 days to one month or until compliance, whichever is later; and provides that child-only TCA is exempt from the first month of this sanction.
- Increase the second sanction from one month or until compliance, whichever is later, to three months or until compliance, whichever is later; and provides that child-only TCA, for children in the family under 16 years old, is only available for the first three months of the sanction period even if the participant takes longer to comply.

---

<sup>51</sup> Id.

<sup>52</sup> 7 C.F.R. § 276.4

<sup>53</sup> 7 C.F.R. § 274.6(b)(5)(iii).

<sup>54</sup> 7 C.F.R. § 274.6(b)(6); in Florida, after the EBT vendor provides a fourth replacement card to a household within a 12-month span, DCF sends a letter to the household.

<sup>55</sup> *Supra*, note 50.

<sup>56</sup> Id.

<sup>57</sup> Id.

<sup>58</sup> Id.

<sup>59</sup> Defined by federal regulation as in excess of four cards within a 12-month span.

<sup>60</sup> *Supra*, note 50.

<sup>61</sup> By way of example, Louisiana and Maryland charge \$2.00, New Mexico charges \$2.50, and Massachusetts charges \$5.00.

- Increase the third sanction from three months or until compliance, whichever is later, to six months or until compliance, whichever is later; and provides that child-only TCA, for children in the family under 16 years old, is only available for the first six months of the sanction period even if the participant takes longer to comply.
- Create a fourth sanction of twelve months or until compliance, whichever is later, and that the individual must reapply to the program to resume receiving benefits; and provides that child-only TCA, for children in the family under 16 years old, is only available for the first twelve months of the sanction period even if the participant takes longer to comply.

Because the bill limits the period when a family can receive child-only TCA following noncompliance, it may provide an additional incentive for noncompliant households to comply with work activities once they have served the minimum penalty period.<sup>62</sup>

The bill aligns the sanctions for the first through third occurrences of noncompliance with TCA work requirements with the sanctions for noncompliance with the SNAP program's Employment and Training Program. Additionally, when a participant is sanctioned, the bill requires DCF to refer that person to appropriate free and low-cost community services, including food banks. Additionally, the bill clarifies that participants may comply with the work activity requirements before the end of the minimum penalty period.

### *Work Plan*

The bill requires that, prior to receipt of TCA, DEO, DCF, or CareerSource must inform the participant, in plain language, and have the participant agree to, in writing:

- What is expected of the applicant to continue to receive benefits;
- Under what circumstances the applicant would be sanctioned; and
- Potential penalties for noncompliance with work requirements, including how long benefits would not be available to the applicant.

The bill also requires that, prior to receipt of TCA, DEO, DCF, or CareerSource must work with the participant to develop strategies on how to overcome barriers to compliance with the TCA work requirements that the recipient faces.

## EBT Cards

### *Prohibited Usage*

The bill expands the locations where EBT cards may not be used to include:

- Medical marijuana treatment centers or dispensing organizations;
- Cigar stores and stands, pipe stores, smoke shops and tobacco shops; and
- Business establishments primarily engaged in the practice of body piercing, branding or tattooing.

### *Replacement Fee*

The bill requires EBT cardholders to pay a fee for the fifth and all subsequent EBT replacement cards requested within a 12-month span. DCF currently sends a letter with the fourth replacement card informing the cardholder that his or her case is being monitored for potential trafficking activity. By charging the fee beginning with the fifth card, DCF may inform the cardholder in the letter that it sends with the fourth replacement card about replacement fees for subsequent new cards.

<sup>62</sup> Department of Children and Families, Agency Analysis of 2018 House Bill 751, p. 7 (Nov. 30, 2017)(on file with Children, Families, and Seniors Subcommittee staff).

The bill allows DCF to deduct the fee from the cardholder's benefits and provides for a waiver of the fee upon a showing of good cause, such as that the card malfunctioned or the fee would cause extreme financial hardship.

The bill provides an effective date of July 1, 2018.

**B. SECTION DIRECTORY:**

**Section 1:** Amends s. 414.069, F.S., relating to noncompliance with work requirements.

**Section 2:** Amends s. 445.024, F.S., relating to work requirements.

**Section 3:** Amends s. 402.82, F.S., relating to electronic benefits transfer program.

**Section 4:** Provides an effective date of July 1, 2018.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

**1. Revenues:**

None.

**2. Expenditures:**

The bill increases the length of time during which TCA recipients are ineligible for benefits when not meeting the program's work requirements. The bill expands three existing penalty periods and creates a new fourth period. It is expected that these provisions will decrease recurring state expenditures for temporary cash assistance in the amount of \$4,428,430.<sup>63</sup>

In addition to the enhanced penalties, the bill imposes a fee for a fifth, and subsequent, replacement EBT card(s) within a 12-month period and provides such fee may be deducted from the participant's TCA benefits. The total, annual amount of such fees is estimated to be \$188,840 and will result in state savings since it will be deducted from the cash assistance recipient's benefits. One-time programming modifications to DCF's public benefits disbursement system are expected to cost \$952,360.<sup>64</sup>

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

**1. Revenues:**

None.

**2. Expenditures:**

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

DCF may charge the costs of replacement cards against an EBT cardholder's benefits. The cardholder's benefits will be reduced by the cost to replace his or her EBT card. Assuming a replacement cost of \$5.00 per card, the estimated card replacement fees recouped could approach

---

<sup>63</sup> Id. at p. 6.

<sup>64</sup> Id.

\$188,840 based on replacing 37,768 cards.<sup>65</sup> Fee collections could diminish as the new process affects customer behaviors.<sup>66</sup>

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not applicable. This bill does not appear to affect county or municipal governments.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 17, 2018, the Children, Families, and Seniors Subcommittee adopted an amendment that corrected a conflict between provisions of the bill to clarify that TCA may be continued though a protective payee for children under age 16 whose caregiver has been sanctioned for a first instance of noncompliance. The bill was reported favorably as a committee substitute. The analysis is drafted to the committee substitute as passed by the Children, Families, and Seniors Subcommittee.

---

<sup>65</sup> Id.

<sup>66</sup> Id.