

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCS for HB 409 Temporary Cash Assistance Eligibility

**SPONSOR(S):** Children, Families & Seniors Subcommittee

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Children, Families & Seniors Subcommittee		Osborne	Brazzell

**SUMMARY ANALYSIS**

Public assistance programs help low-income families meet their basic needs, such as housing, food, and utilities. Two of the most commonly utilized public assistance programs in Florida are the Supplemental Nutrition Assistance Program (SNAP) or food assistance, and the Temporary Assistance for Needy Families (TANF) Temporary Cash Assistance (TCA) program. Both programs operate through federal and state level coordination and administration.

Federal law prohibits TCA and food assistance eligibility for any individual with a felony drug conviction and imposes a lifetime ban on such benefits, unless a state elects to opt out of the provision. Florida has opted out of this federal provision, with one limitation. Florida has implemented a modified ban wherein an applicant may not be denied benefits solely based on a felony drug conviction, unless the conviction is for drug trafficking. Studies have shown that public assistance such as TANF and SNAP reduces recidivism, while banning access to assistance has been linked to increased recidivism.

Human trafficking is a form of modern-day slavery involving the transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploiting that person. Victims of human trafficking are often subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor. Victims of human trafficking often do not trust the police and rarely seek their assistance. When victims of human trafficking do interact with the criminal justice system, they are often perceived as criminals, rather than victims. Trafficking victims are frequently compelled to break the law and may be arrested as a result of that criminal act before they are recognized as a victim of trafficking.

PCS for HB 409 leaves the existing prohibition against individuals with felony drug trafficking convictions receiving TCA and SNAP assistance intact, but creates an exemption for victims of human trafficking. Under the bill, TCA and food assistance benefits may not be denied to an individual solely on the basis of a drug trafficking conviction if DCF has determined the individual to be a victim of human trafficking.

The bill has an indeterminant, negative fiscal impact on state government, and no fiscal impact on local government.

The bill provides an effective date of July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

Public assistance programs help low-income families meet their basic needs, such as housing, food, and utilities.<sup>1</sup> The social safety net for American families depends on the coordination of a complex patchwork of federal, state, and local funding and program administration.<sup>2</sup> Through various programs, public assistance is capable of helping families to keep children in their family home through economic difficulties<sup>3</sup> and reducing the material hardship that has been linked to negative outcomes in children;<sup>4</sup> as well as driving the economy in times of market downturns<sup>5</sup> and supporting the career advancement of low-income adults striving to break the cycle of intergenerational poverty.<sup>6</sup>

Two of the most commonly utilized public assistance programs in Florida are the Supplemental Nutrition Assistance Program (SNAP) or food assistance, and the Temporary Assistance for Needy Families (TANF) Temporary Cash Assistance (TCA) program.<sup>7</sup>

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

The Temporary Assistance for Needy Families (TANF) system was established at the federal level in 1996 through the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996.<sup>8</sup> PRWORA ended the Aid to Families with Dependent Children (AFDC) program, a federal program which provided dedicated funding for cash assistance to needy families with children, and alternatively created the broad-purpose TANF block grant.<sup>9</sup> TANF became effective July 1, 1997, and was reauthorized by the Deficit Reduction Act of 2005.

#### *Temporary Cash Assistance (TCA)*

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<sup>1</sup> National Conference of State Legislatures, *Introduction to Benefits Cliffs and Public Assistance Programs* (2023). Available at <https://www.ncsl.org/human-services/introduction-to-benefits-cliffs-and-public-assistance-programs> (last visited January 17, 2024).

<sup>2</sup> Brookings Institute, *State Social Safety Net Policy: How are States Addressing Economic Need?* (2023). Available at <https://www.brookings.edu/events/state-social-safety-net-policy-how-are-states-addressing-economic-need/> (last visited January 17, 2024).

<sup>3</sup> Providing assistance to needy families so that children can be cared for in their own homes is one of the four purposes of the TANF program. See, Office of Family Assistance, *About TANF* (2022). Available at <https://www.acf.hhs.gov/ofa/programs/tanf/about> (last visited January 17, 2024). See also, Gennetian, L. & Magnuson, K., *Three Reasons Why Providing Cash to Families with Children is a Sound Policy Investment* (2022). Center on Budget and Policy Priorities. Available at <https://www.cbpp.org/research/income-security/three-reasons-why-providing-cash-to-families-with-children-is-a-sound> (last visited January 17, 2024).

<sup>4</sup> Karpman, M., Gonzalez, D., Zuckerman, S., & Adams, G., *What Explains the Widespread Material Hardships among Low-Income Families with Children?* (2018). Urban Institute. Available at [https://www.urban.org/sites/default/files/publication/99521/what\\_explains\\_the\\_widespread\\_material\\_hardship\\_among\\_low-income\\_families\\_with\\_children\\_0.pdf](https://www.urban.org/sites/default/files/publication/99521/what_explains_the_widespread_material_hardship_among_low-income_families_with_children_0.pdf) (last visited January 17, 2024).

<sup>5</sup> Vogel, S., Miller, C., & Ralston, K., *Impact of USDA's Supplemental Nutrition Assistance Program (SNAP) on Rural and Urban Economies in the Aftermath of the Great Recession* (2021). USDA, Economic Research Service Economic Research Report Number 296. Available at <https://ssrn.com/abstract=3938336> (last visited January 17, 2024).

<sup>6</sup> Duncan, G. & Holzer, H., *Policies that Reduce Intergenerational Poverty* (2023). The Brookings Institute. Available at <https://www.brookings.edu/articles/policies-that-reduce-intergenerational-poverty/> (last visited January 17, 2024).

<sup>7</sup> Office of Program Policy Analysis and Government Accountability (OPPAGA). *Research Memorandum: Economic Self-Sufficiency*, Research Product 10. On file with the Children, Families & Seniors Subcommittee.

<sup>8</sup> Center on Budget and Policy Priorities. *Policy Basics: Temporary Assistance for Needy Families* (2022). Available at <https://www.cbpp.org/research/family-income-support/policy-basics-an-introduction-to-tanf> (last visited January 24, 2024). See also, US Department of Health & Human Services, Office of Family Assistance, *Major Provisions of the Welfare Law* (1997). Available at <https://www.acf.hhs.gov/ofa/policy-guidance/major-provisions-welfare-law> (last visited January 24, 2024), for more information on PRWORA.

<sup>9</sup> Congressional Research Service. *Temporary Assistance for Needy Families: The Decline in Assistance Receipt Among Eligible Individuals* (2023). Available at <https://crsreports.congress.gov/product/pdf/R/R47503> (last visited January 24, 2024).

Direct cash assistance to needy families is the foundation of public welfare in the US.<sup>10</sup> Prior to the establishment of TANF in 1996, direct cash assistance to needy families was the primary method of providing support to low-income families with children. Since the transition to the TANF block grant system, the number of families receiving direct cash assistance has waned significantly, even among eligible populations, and the majority of TANF funds are allocated for indirect methods of assisting families.<sup>11</sup>

The Temporary Cash Assistance (TCA) Program is Florida's direct cash assistance program for needy families. The TCA program is one of several Florida programs funded with the TANF block grant. Through the TCA program, families who meet specific technical, income, and asset requirements<sup>12</sup> may receive cash assistance in the form of monthly payments deposited into an electronic benefits transfer (EBT) account.<sup>13</sup>

TCA is administered by several state agencies through a series of contracts and memoranda of understanding. The Department of Children and Families (DCF) receives the federal TANF block grant funds, processes applications, determines initial eligibility, monitors ongoing eligibility, and disburses benefits to recipients. The Department of Commerce<sup>14</sup> (Florida Commerce) is responsible for financial and performance reporting to ensure compliance with federal and state measures and for providing training and technical assistance to Local Workforce Development Boards (LWDBs). LWDBs provide information about available jobs, on-the-job training, and education and training services within their respective areas and contract with one-stop career centers.<sup>15</sup> CareerSource Florida has planning and oversight responsibilities for all workforce-related programs and contracts with the LWDBs on a performance-basis.<sup>16</sup>

The number of families receiving TCA dramatically increased during the COVID-19 pandemic, peaking at more than 50,000 families receiving TCA payments in July of 2020.<sup>17</sup> While TCA caseloads have not yet returned to pre-pandemic levels, they have decreased steadily since July 2020. In November 2023, 34,015 families, including 44,309 children, received TCA.<sup>18</sup>

## TCA Eligibility

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<sup>10</sup> Public cash assistance to needy families has its origin in the early 1900s; state and local entities financed “mother’s pension” programs that provided support to single, often widowed, mothers so that children could be raised in their family homes rather than be institutionalized. See, Congressional Research Service, *The Temporary Assistance for Needy Families (TANF) Block Grant: A Legislative History* (2023). Available at <https://crsreports.congress.gov/product/pdf/R/R44668> (last visited January 24, 2024).  
<sup>11</sup> *Supra*, note 9.

<sup>12</sup> Children must be under the age of 18, or under age 19 if they are full time secondary school students. 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. See, Florida Department of Children and Families, *Temporary Cash Assistance (TCA)*. Available at <https://www.myflfamilies.com/services/public-assistance/temporary-cash-assistance> (last visited January 14, 2024).

<sup>13</sup> Florida Department of Children and Families. *Temporary Cash Assistance Fact Sheet* (2019). Available at [https://www.myflfamilies.com/sites/default/files/2022-10/tcafactsheet\\_0.pdf](https://www.myflfamilies.com/sites/default/files/2022-10/tcafactsheet_0.pdf) (last visited January 10, 2024).

<sup>14</sup> The Department of Commerce, formerly known as the Department of Economic Opportunity, was renamed as such in the 2023 Legislative session. See, Governor DeSantis Signs Legislation to Streamline Economic Development in Florida (2023). Available at <https://www.flgov.com/2023/05/31/governor-desantis-signs-legislation-to-streamline-economic-development-in-florida/> (last visited January 24, 2024).

<sup>15</sup> Florida Department of Commerce, CareerSource Florida, *Workforce Innovation and Opportunity Act Annual Statewide Performance Report* (2023). Available at <https://careersourceflorida.com/wp-content/uploads/2023/12/2022-23-WIOA-Annual-Performance-Report.pdf> (last visited January 20, 2024).

<sup>16</sup> *Id.*  
<sup>17</sup> Florida Department of Children and Families. *ESS Standard Reports: Caseload Report*. Available at <https://www.myflfamilies.com/services/public-assistance/additional-resources-and-services/ess-standard> (last visited January 5, 2024).

<sup>18</sup> Florida Department of Children and Families. *ESS Standard Reports: Flash Points*. Available at <https://www.myflfamilies.com/services/public-assistance/additional-resources-and-services/ess-standard> (last visited January 5, 2024).

States have broad discretion in determining who is eligible for cash assistance. Florida's TCA program requires applicants to meet all of the following criteria to be eligible:<sup>19</sup>

- Be a U.S. citizen or qualified noncitizen;<sup>20</sup>
- Be a legal resident of Florida;
- Have a minor child residing with a custodial parent or relative caregiver, or be a pregnant woman in the 9<sup>th</sup> month of pregnancy;
- Have a gross income of 185 percent or less of the federal poverty level;<sup>21</sup>
- Have liquid or nonliquid resources, of all members of the family, valued at less than \$2,000.<sup>22</sup>
- Register for work with the Local Workforce Development Board (LWDB), unless an applicant qualifies for an exemption.

Florida imposes a lifetime limit of 48 cumulative months for an adult to be eligible for and receive cash assistance. Current law outlines specific, limited circumstances under which a person may be exempt from the time limitation;<sup>23</sup> however, most households receive TCA for fewer than six months.<sup>24</sup>

### *TCA Work Requirements*

To be eligible for full-family TCA, work-eligible adult family members must participate in work activities in accordance with s. 445.024, F.S., unless they qualify for an exemption.<sup>25</sup> Individuals who fail to comply with the work requirements may be sanctioned.<sup>26</sup> Individuals are required to participate in work activities for the maximum number of hours allowable under federal law.<sup>27</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.

<b>Work Participation Requirements<sup>28</sup></b>	
<b>Family Composition</b>	<b>Required Work Participation Hours</b>
Single parent with a child under age 6	20 hours weekly of core work activities
Single parent with a child over 6, or two-	30 hours weekly with at least 20 hours of

<sup>19</sup> Florida Department of Children and Families. *Temporary Assistance for Needy Families – State Plan Renewal, October 1, 2020 – September 30, 2023*. Available at <https://www.myflfamilies.com/sites/default/files/2022-10/TANF-Plan.pdf> (last visited January 5, 2024).

<sup>20</sup> S. 414.095(3), F.S. A qualified noncitizen includes an individual who is admitted to the United States as a refugee or who is granted asylum, a Cuban or Haitian entrant, or a noncitizen who has been admitted as a permanent resident. It also includes an individual who, or an individual whose child or parent, has been battered or subject to extreme cruelty in the United States by a spouse, a parent, or other household member, and has applied for or received protection under the federal Violence Against Women Act, if certain criteria are met.

<sup>21</sup> Gross income cannot exceed 185% FPL, and a family's countable income cannot exceed the payment standard for the family size. There is a \$90 deduction on earned income per individual. See, Florida Department of Children and Families, *Temporary Cash Assistance (TCA)*. Available at <https://www.myflfamilies.com/services/public-assistance/temporary-cash-assistance> (last visited January 22, 2024). For 2024, 185% FPL for a family of four is \$57,720; See, US Department of Health and Human Services, *Poverty Guidelines* (2024). Available at <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines> (last visited January 23, 2024).

<sup>22</sup> Licensed vehicles with a combined value of not more than \$8,500 are excluded if a family includes individuals subject to the work requirement, or if the vehicle is necessary to transport a disabled family member and the vehicle has been specially equipped to transport the disabled person. See, s. 414.075, F.S.

<sup>23</sup> S. 414.105, F.S.

<sup>24</sup> CareerSource Florida, *Temporary Assistance for Needy Families (TANF) Transitional Benefits Feasibility Study*. (2023). On file with the Children, Families & Seniors Subcommittee.

<sup>25</sup> S. 414.095(1), F.S. A person may be exempt from the work requirement if they receive benefits under the Supplemental Security Income Program or the Security Disability Program, is a single parent of a child under three months of age (parenting preparation activities may be alternatively required), is exempt from the TCA time limitation due to hardship, or not considered work-eligible under federal policy. See also, Florida Department of Children and Families. *Temporary Assistance for Needy Families – State Plan Renewal, October 1, 2020 – September 30, 2023*. Available at <https://www.myflfamilies.com/sites/default/files/2022-10/TANF-Plan.pdf> (last visited January 5, 2024).

<sup>26</sup> S. 414.065, F.S.

<sup>27</sup> S. 445.024(2), F.S.

<sup>28</sup> Department of Children and Families, *Temporary Assistance for Needy Families (TANF): An Overview of Program Requirements* (2016). On file with the Children, Families & Seniors Subcommittee.

parent families where one parent is disabled	core work activities
Married teen or teen head of household under age 20	Maintains satisfactory attendance at secondary school or the equivalent, or participates in education related directly to employment for at least 20 hours weekly
Two-parent families who do not receive subsidized child care	35 hours weekly with at least 30 hours of core work activities, combined between both parents
Two-parent families who receive subsidized child care	55 hours weekly with at least 50 hours in core activities, combined between both parents

Pursuant to federal rule<sup>29</sup> and state law,<sup>30</sup> there are 12 distinct types of work activities which can be used to satisfy a TCA recipient's work requirement.<sup>31</sup> The recognized work activities count toward a TCA participant's work requirement differently dependent on personal and family characteristics. Not every TCA participant may use each activity to satisfy the entirety of their work requirement. The list of recognized work activities include:

- 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>32</sup>

TCA recipients who fail to comply with work requirements may be sanctioned by the LWDBs. Sanctions result in cash assistance being withheld for a specified period of time, the length of which increases with repeated lack of compliance. Consequences for failure to participate in work activities include:<sup>33</sup>

- 1st penalty: Cash assistance is terminated for entire family for a minimum of 10-days or until the individual who failed to comply does so, whichever is later.
- 2nd penalty: Cash assistance is terminated for entire family for one-month or until the individual who failed to comply does so, whichever is later.
- 3rd penalty: Cash assistance is terminated for entire family for three-months or until the individual who failed to comply does so, whichever is later.

### Supplemental Nutrition Assistance Program (SNAP)

The Food and Nutrition Service (FNS), under the U.S. Department of Agriculture (USDA), administers the Supplemental Nutrition Assistance Program (SNAP).<sup>34</sup> SNAP is the nation's largest domestic food

<sup>29</sup> 45 C.F.R. § 261.30

<sup>30</sup> S. 445.024, F.S.

<sup>31</sup> 45 CFR 261.30; S. 445.024(1), F.S.; See also, Florida Department of Children and Families, *Temporary Assistance for Needy Families (TANF) – An Overview of Program Requirements* (2016). Available at [https://www.myflfamilies.com/sites/default/files/2022-10/TANF%20101%20final\\_1.pdf](https://www.myflfamilies.com/sites/default/files/2022-10/TANF%20101%20final_1.pdf) (last visited January 6, 2024).

<sup>32</sup> S. 445.024(1)(a)-(l), F.S.

<sup>33</sup> S. 414.065, F.S.

<sup>34</sup> The Food Stamp Program (FSP) originated in 1939 as a pilot program for certain individuals to buy stamps equal to their normal food expenditures: for every \$1 of orange stamps purchased, people received 50 cents worth of blue stamps, which could be used to buy surplus food. The FSP expanded nationwide in 1974. Under the federal welfare reform legislation of 1996, Congress enacted major changes to the FSP, including limiting eligibility for certain adults who did not meet work requirements. The Food and Nutrition Act of 2008 renamed the FSP the Supplemental Nutrition Assistance Program (SNAP) and implemented priorities to strengthen program

and nutrition program for low-income Americans, offering nutritional assistance to millions of individuals and families each year through the provision of funds that can be used to purchase eligible foods.<sup>35</sup> In fiscal year 2020, SNAP provided assistance to approximately 39.9 million people living in 20.5 million households across the US.<sup>36</sup> SNAP benefits support individual households by reducing the effects of poverty and increasing food security while supporting economic activity across communities, as SNAP benefits directly benefit farmers, retailers, food processors and distributors, and their employees.<sup>37</sup>

SNAP is administered at the state level in Florida by DCF.<sup>38</sup> DCF determines and monitors eligibility and disburses benefits to SNAP participants. The state and federal governments share the administrative costs of the program, while the federal government funds 100 percent of the benefit amount received by participants.<sup>39</sup> Federal laws, regulations, and waivers provide states with various policy options to better target benefits to those most in need, streamline program administration and field operations, and coordinate SNAP activities with those of other programs.<sup>40</sup>

The amount of benefits, or allotment, for which a household qualifies depends on the number of individuals in the household and the household's net income. To calculate a household's allotment, 30% of its net income is subtracted from the maximum allotment for that household size.<sup>41</sup> This is because SNAP households are expected to spend about 30% of their own resources on food.<sup>42</sup> As of October 2023, 3,311,241 Floridians are participating in SNAP.<sup>43</sup>

### *SNAP Eligibility & Work Requirements*

To be eligible for SNAP, households must meet the following criteria: (1) gross monthly income must be at or below 200 percent of the poverty level; (2) net income must be equal to or less than the poverty level; and (3) assets must be below the limits set based on household composition.<sup>44</sup>

Individuals may be deemed ineligible for SNAP due to any of the following:<sup>45</sup>

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integrity; simplify program administration; maintain states' flexibility in how they administer their programs; and improve access to SNAP. See, US Department of Agriculture, Food and Nutrition Service, *Short History of SNAP*. Available at <https://www.fns.usda.gov/snap/short-history-snap> (last visited January 24, 2024).

<sup>35</sup> US Department of Agriculture, Economic Research Service, *Supplemental Nutrition Assistance Program (SNAP) Overview*. Available at <https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/> (last visited January 24, 2024).

<sup>36</sup> US Department of Agriculture, Food and Nutrition Service, *Characteristics of SNAP Households: FY2020 and Early Months of the COVID-19 Pandemic: Characteristics of SNAP Households*. Available at <https://www.fns.usda.gov/snap/characteristics-snap-households-fy-2020-and-early-months-covid-19-pandemic-characteristics> (last visited January 25, 2024).

<sup>37</sup> US Department of Agriculture, Economic Research Service, *Supplemental Nutrition Assistance Program (SNAP) Economic Linkages*. Available at <https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/economic-linkages/> (last visited January 24, 2024).

<sup>38</sup> S. 414.31, F.S.

<sup>39</sup> Center on Budget and Policy Priorities, *Policy Basics: The Supplemental Nutrition Assistance Program (SNAP)*. Available at <https://www.cbpp.org/research/food-assistance/the-supplemental-nutrition-assistance-program-snap#:~:text=The%20federal%20government%20pays%20the,the%20states%2C%20which%20operate%20it>. (last visited January 25, 2024).

<sup>40</sup> US Department of Agriculture, Food and Nutrition Service, *State Options Report*. Available at <https://www.fns.usda.gov/snap/waivers/state-options-report> (last visited January 25, 2024).

<sup>41</sup> U.S. Department of Agriculture Food and Nutrition Service, *SNAP Eligibility*. Available at <https://www.fns.usda.gov/snap/recipient/eligibility> (last visited January 25, 2024).

<sup>42</sup> *Id.*

<sup>43</sup> US Department of Agriculture, Food and Nutrition Service, *Supplemental Nutrition Assistance Program: Number of Persons Participating* (2024). Available at <https://fns-prod.azureedge.us/sites/default/files/resource-files/snap-persons-1.pdf> (last visited January 25, 2024).

<sup>44</sup> Florida Department of Children and Families, *SNAP Eligibility*. Available at <https://www.myflfamilies.com/services/public-assistance/supplemental-nutrition-assistance-program-snap/snap-eligibility> (last visited January 16, 2024). See also, s. 414.32, F.S.

<sup>45</sup> *Id.* See also, s. 414.32, F.S.

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- Conviction of drug trafficking;
- Fleeing a felony warrant;
- Breaking SNAP or TANF program rules;
- Failure to cooperate with the child support enforcement agency; or
- Being a noncitizen without qualified status.

Able-bodied, non-elderly adults are generally required to participate in work activities in order to be eligible for SNAP. Federal policy outlines two tiers of work requirements for SNAP recipients: the general work requirement and the Able-Bodied Adult Without Dependents (ABAWD) work requirement.

The general work requirement applies to all recipients between 16 and 59 years of age, unless they qualify for an exemption. The general work requirements include requiring a recipient register for work, participating in SNAP Employment and Training (E&T) or workfare if assigned, taking a suitable job if offered, and not voluntarily quitting a job or reducing work hours below 30 a week without a good reason.<sup>46</sup>

Individuals are exempt from the general work requirements if they are:<sup>47</sup>

- Already working at least 30 hours a week (or earning wages at least equal to the federal minimum wage multiplied by 30 hours);
- Meeting work requirements for another program (TANF or unemployment compensation);
- Taking care of a child under 6 or an incapacitated person;
- Unable to work due to a physical or mental limitation;
- Participating regularly in an alcohol or drug treatment program; or
- Studying in school or a training program at least half-time (but college students are subject to additional eligibility rules).

If an individual capable of meeting the general work requirements fails to do so, they are disqualified from getting SNAP for at least a month and must start meeting the requirements to get SNAP again. If the person gets back on SNAP and fails to meet the requirements again, they are disqualified for longer than a month and could be permanently disqualified.<sup>48</sup>

The ABAWD work requirement applies to Adults between 18 and 52 years of age, able-bodied, and without dependents, unless otherwise exempt from the general work requirement.<sup>49</sup> ABAWDs are required to work or participate in a qualifying work program for a combined total of at least 80 hours per month. ABAWDs who fail to comply with the ABAWD work requirement for three months in a 36-month period will lose their SNAP benefits.<sup>50</sup>

### Prohibition on Receiving TCA and Food Assistance - Felony Drug Convictions

Federal law prohibits TCA and food assistance eligibility for any individual with a felony drug conviction and imposes a lifetime ban on such benefits, unless a state elects to opt out of the provision.<sup>51</sup> Florida has opted out of this federal provision,<sup>52</sup> with one limitation. Florida has implemented a modified ban wherein an applicant may not be denied benefits solely based on a felony drug conviction, unless the

<sup>46</sup> US Department of Agriculture, Food and Nutrition Service, *SNAP Work Requirements*. Available at <https://www.fns.usda.gov/snap/work-requirements> (last visited January 26, 2024).

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.* Adults who are unable to work due to a physical or mental limitation, are pregnant, have someone under 18 in their SNAP household, are excused from the general work requirement, are a veteran, experiencing homelessness, or were in foster care on their 18<sup>th</sup> birthday and are under age 24 are exempt from the ABAWD requirements.

<sup>50</sup> US Department of Agriculture, Food and Nutrition Service, *Supplemental Nutrition Assistance Program (SNAP) ABAWD Policy Guide* (2023). Available at <https://fns-prod.azureedge.us/sites/default/files/resource-files/SNAP-ABAWD-Policy-Guide-September-2023.pdf> (last visited January 26, 2024).

<sup>51</sup> Pub. L. No. 104-193, s. 115.

<sup>52</sup> S. 414.095(1), F.S.

conviction is for drug trafficking,<sup>53</sup> including agreeing, conspiring, combining, or confederating with another person to commit an act after August 22, 1996.<sup>54</sup>

Under Florida law, drug trafficking is a first-degree felony punishable by up to 30 years of imprisonment and—depending upon the drug type and amount trafficked—fines from \$25,000 to \$500,000.<sup>55</sup> During the application process, individuals seeking public benefits self-attest if they have been convicted of felony drug trafficking. This information is then confirmed by an eligibility specialist during the applicant's interview. If the illegal behavior that led to the conviction occurred on or before August 22, 1996, the disqualification does not apply regardless of the date of the conviction. If a court expunges the felony drug trafficking conviction, the individual is not subject to the disqualification.<sup>56</sup>

In Florida, while an individual is disqualified, his or her family may still apply for and receive benefits. In such instances, the disqualified individual's needs are excluded in calculating the family's benefits, although the individual's income and assets are included in determining the household's eligibility. This means that while those with felony drug trafficking convictions may still apply for assistance for their children, the overall household receives less support because of the current bans.

DCF reports that in the 2023 calendar year, 402 individuals were denied benefits due to a drug trafficking conviction.<sup>57</sup> The number of people otherwise eligible who choose not to apply due to disqualification due to a felony drug trafficking conviction is unknown.

### *Prohibition Policy by State*

Many states have chosen to opt-out or implement a modified ban on the receipt of SNAP and TCA benefits for individuals with felony drug convictions. Except for South Carolina, all other states and Washington D.C., have chosen to modify or remove the ban for at least one of the two affected programs.<sup>58</sup>

As of April 2022, seven<sup>59</sup> states fully ban TANF benefits, including TCA, for individuals with prior felony drug convictions; while 17<sup>60</sup> states, including Florida, have modified bans; and 26<sup>61</sup> states and Washington D.C., have no bans. South Carolina is the only state with a full ban on SNAP benefits for individuals with prior felony drug convictions. Florida is one of 21<sup>62</sup> states with modified bans, and 28<sup>63</sup> states and Washington D.C., have no ban for SNAP benefits.

### *Recidivism Studies*

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<sup>53</sup> S. 414.095, F.S. Any person may be convicted of drug trafficking if they knowingly sell, purchase, manufacture, deliver, or bring into this state specified illegal drugs, such as cannabis, morphine, cocaine, fentanyl, hydrocodone, oxycodone, or if they are knowingly in actual or constructive possession of these drugs and the drugs are over a certain amount. S. 893.135, F.S., Drug trafficking also includes those who agree, conspire, combine, or confederate with another person to commit the act.

<sup>54</sup> See, DCF's ESS Policy Manual 1420.2200, Individual Convicted of Felony Drug Trafficking (TCA). Available at <https://www.myflfamilies.com/sites/default/files/2023-02/1410.pdf> (last visited January 25, 2024).

<sup>55</sup> S. 893.135, F.S.

<sup>56</sup> *Supra*, note 54.

<sup>57</sup> Department of Children & Families, Agency Bill Analysis for HB 409 (2024). On file with the Children, Families & Seniors Subcommittee.

<sup>58</sup> The Center for Law and Social Policy, *No More Double Punishments: Lifting the Ban on SNAP and TANF for People with Prior Felony Drug Convictions* (2022). Available at <https://www.clasp.org/publications/report/brief/no-more-double-punishments/> (last visited January 25, 2024).

<sup>59</sup> Arizona, Georgia, Missouri, Nebraska, South Carolina, Texas, and West Virginia.

<sup>60</sup> Alaska, Colorado, Connecticut, Florida, Hawaii, Idaho, Indiana, Iowa, Montana, Maryland, Massachusetts, Michigan, Minnesota, North Carolina, Pennsylvania, Tennessee, and Utah.

<sup>61</sup> Alabama, Arkansas, California, Delaware, District of Columbia, Illinois, Kansas, Kentucky, Louisiana, Maine, Mississippi, New Hampshire, New Jersey, New Mexico, New York, Nevada, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Dakota, Vermont, Virginia, Washington, Wisconsin, and Wyoming.

<sup>62</sup> Alabama, Alaska, Arizona, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Indiana, Kansas, Maryland, Minnesota, Missouri, Montana, Nebraska, North Carolina, Tennessee, Texas, West Virginia, and Wisconsin.

<sup>63</sup> Arkansas, California, Delaware, District of Columbia, Illinois, Iowa, Kentucky, Louisiana, Maine, Michigan, Massachusetts, Mississippi, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Virginia, Washington, and Wyoming.

Studies have shown that public assistance such as TANF and SNAP reduces recidivism, while banning access to assistance has been linked to increased recidivism. The Bureau of Justice Statistics reports that approximately 66 percent of state prisoners were rearrested within three years of release, and 82 percent were arrested within 10 years.<sup>64</sup> Such odds of recidivating can be offset through providing support; the barriers to re-entering society as productive members of society are reduced when people are able to meet their basic needs. A Harvard Law School study found that access to SNAP and TANF significantly reduced an individual's risk of being reincarcerated by up to 10 percent within one year.<sup>65</sup> Additionally, a study of recidivism before and after the Florida ban took effect estimated the ban increased drug traffickers' likelihood of returning to prison by at least 9.5 percent.<sup>66</sup>

## Human Trafficking

Human trafficking is a form of modern-day slavery involving the transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploiting that person.<sup>67</sup> Victims of human trafficking are often subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.<sup>68</sup> Human trafficking does not necessarily involve movement or relocation of a person, nor does it necessarily involve physical captivity.

Human trafficking can affect individuals of any age, gender, or nationality; however, some people are more vulnerable than others. Significant risk factors include recent migration or relocation, substance use, mental health concerns, and involvement in the child welfare system.<sup>69</sup> Vulnerable people are lured and coerced through a myriad of means including economic abuse, psychological coercion, threats against family, drug addiction, physical abuse, and sexual abuse.<sup>70</sup>

It is estimated that at any given time in 2021, there were approximately 27.6 million people engaging in forced labor.<sup>71</sup> In 2021, the National Human Trafficking Hotline<sup>72</sup> identified 16,710 trafficking victims in the US, of which 1,253 were in Florida;<sup>73</sup> however, these figures do not reflect the true scope and scale of the issue, which cannot be easily quantified due to its underground nature.

Trafficking of illegal drugs and human trafficking often co-occur.<sup>74</sup> Victims of trafficking may be exploited for the transport illegal drugs and illegal drugs may also serve as a means of coercion by the trafficker.<sup>75</sup> Substance use as a means of coercion occurs in various settings, including sexual

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<sup>64</sup> U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Recidivism of Prisoners Released in 24 States in 2008: A 10-Year Follow-Up Period (2008–2018)*, Special Report (2021). Available at [https://bjs.ojp.gov/BJS\\_PUB/rpr24s0810yup0818/Web%20content/508%20compliant%20PDFs](https://bjs.ojp.gov/BJS_PUB/rpr24s0810yup0818/Web%20content/508%20compliant%20PDFs) (last visited January 25, 2024).

<sup>65</sup> Yang, C., *Does Public Assistance Reduce Recidivism?* (2017). Harvard Law School. Available at [http://www.law.harvard.edu/programs/olin\\_center/papers/pdf/Yang\\_920.pdf](http://www.law.harvard.edu/programs/olin_center/papers/pdf/Yang_920.pdf) (last visited January 25, 2024).

<sup>66</sup> Tuttle, C., *Snapping Back: Food Stamp Bans and Criminal Recidivism* (2019). American Economic Journal: Economic Policy, 11 (2): 301–327, <https://pubs.aeaweb.org/doi/pdfplus/10.1257/pol.20170490>.

<sup>67</sup> S. 787.06, F.S.

<sup>68</sup> *Id.*

<sup>69</sup> National Human Trafficking Hotline. *Human Trafficking: What Human Trafficking is, and isn't*. Available at <https://humantraffickinghotline.org/en/human-trafficking> (last visited January 25, 2024).

<sup>70</sup> Stoklosa, H., MacGibbon, M., & Stoklosa, J. *Human Trafficking, Mental Illness, and Addiction: Avoiding Diagnostic Overshadowing*. (2017). AMA Journal of Ethics. 19(1):23-24. doi: 10.1001/journalofethics.2017.19.1.ecas3-1701.

<sup>71</sup> International Labour Organization, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage* (Sep. 2022). Available at [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---ipecc/documents/publication/wcms\\_854733.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipecc/documents/publication/wcms_854733.pdf) (last visited January 25, 2024).

<sup>72</sup> The National Human Trafficking Hotline is a free service to connect victims and survivors of sex and labor trafficking with services and supports to find help and safety. The Hotline also receives tips about potential situations of sex and labor trafficking and facilitates reporting that information to the appropriate authorities. See also, National Human Trafficking Hotline, *About Us*. Available at <https://humantraffickinghotline.org/en/about-us> (last visited January 25, 2024).

<sup>73</sup> National Human Trafficking Hotline, *National Statistics (2021)*. Available at <https://humantraffickinghotline.org/en/statistics> (last visited January 25, 2024).

<sup>74</sup> US Drug Enforcement Administration, *Violent Drug Organizations Use Human Trafficking to Expand Profits* (2021). Available at <https://www.dea.gov/stories/2021/2021-01/2021-01-28/violent-drug-organizations-use-human-trafficking-expand-profits> (last visited January 25, 2024).

<sup>75</sup> Asian Pacific Institute on Gender-Based Violence. *Intersections of Human Trafficking, Domestic Violence, and Sexual Assault – National Organizational Advocacy Roundtable* (2016). Available at <https://api-gbv.org/wp-content/uploads/2019/02/Trafficking-DV-SA-Intersections-2016-formatted2019.pdf> (last visited January 25, 2024).

exploitation and forced labor, as well as intimate personal violence.<sup>76</sup> Through substance use coercion a trafficker can maintain control over the victim through controlling the victim's access to the substance, forcing the victim to use substances, and using the victim's own substance use as a means of discrediting the victim and making the victim complicit in the victim's own oppression.<sup>77</sup>

The Legislature has made clear its intent that the perpetrators of human trafficking be penalized for their illegal conduct and that the victims of trafficking be protected and assisted by the state and the agencies;<sup>78</sup> however, in application it has proven difficult to hold human traffickers accountable, and victims of human trafficking face significant barriers in being recognized as such.

Victims of human trafficking often do not trust the police and rarely seek their assistance.<sup>79</sup> When victims of human trafficking do interact with the criminal justice system, they are often perceived as criminals, rather than victims. Trafficking victims are frequently compelled to break the law and may be arrested as a result of that criminal act before they are recognized as a victim of trafficking. Once a trafficking victim is charged with a crime, the circumstances around the arrest and the overtaxed criminal court system create a tremendous pressure on the victim to plead guilty, rather than contest the charge or seek to reveal the trafficking situation.<sup>80</sup>

## Effect of the Bill

PCS for HB 409 leaves the existing prohibition against individuals with felony drug trafficking convictions receiving TCA and SNAP assistance intact, but creates an exemption for victims of human trafficking.

Under the bill, TCA and food assistance benefits may not be denied to an individual solely on the basis of a drug trafficking conviction if DCF has determined the individual to be a victim of human trafficking. This will allow individuals with a drug trafficking conviction who are also victims of human trafficking to access TCA and SNAP assistance, as long as they meet the other eligibility requirements.

The bill defines a victim of human trafficking to be a person subjected to coercion<sup>81</sup> for the purpose of being used in human trafficking, a child under 18 years of age subjected to human trafficking, or an individual subjected to human trafficking as defined by federal law.

The bill provides an effective date of July 1, 2024.

## B. SECTION DIRECTORY:

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<sup>76</sup> US Department of Health and Human Services, *Understanding Substance Use Coercion as a Barrier to Economic Stability for Survivors of Intimate Partner Violence: Policy Implications* (2020). Available at <https://aspe.hhs.gov/sites/default/files/private/pdf/264166/Substance-Use-Coercion-Policy-Brief.pdf> (last visited January 25, 2024).

<sup>77</sup> *Id.* See also, Asian Pacific Institute on Gender-Based Violence. *Intersections of Human Trafficking, Domestic Violence, and Sexual Assault – National Organizational Advocacy Roundtable* (2016). Available at <https://api-gbv.org/wp-content/uploads/2019/02/Trafficking-DV-SA-Intersections-2016-formatted2019.pdf> (last visited January 25, 2024); Stoklosa, H., MacGibbon, M., & Stoklosa, J. *Human Trafficking, Mental Illness, and Addiction: Avoiding Diagnostic Overshadowing*. (2017). *AMA Journal of Ethics*. 19(1):23-24. doi: 10.1001/journalofethics.2017.19.1.ecas3-1701.

<sup>77</sup> International Labour Organization, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage* (Sep. 2022). Available at [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---ipecc/documents/publication/wcms\\_854733.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipecc/documents/publication/wcms_854733.pdf) (last visited November 27, 2023).

<sup>78</sup> S. 787.06(1)(d), F.S.

<sup>79</sup> Farrell, A., et al.. *Failing victims? Challenges of the police response to human trafficking*. (2019). *Criminology & Public Policy*, 18: 649–673 <https://doi.org/10.1111/1745-9133.12456>

<sup>80</sup> Phillips, S., Coates, C., Ortiz, C., Rast, L., Sheltry, J., & Thomas, K. *Clearing the Slate: Seeking Effective Remedies for Criminalized Trafficking Victims* (2013). CUNY School of Law. Available at <https://ncjtc-static.ftc.edu/Resources/RS00002861.pdf> (last visited January 25, 2024).

<sup>81</sup> See, s 786.06(2)(a), F.S., for a complete definition of “coercion.”

**Section 1:** Amends s. 414.095, F.S., relating to determining eligibility for temporary cash assistance.

**Section 2:** Provides an effective date of July 1, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill has an indeterminate, negative fiscal impact on DCF.<sup>82</sup>

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

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

Individuals previously disqualified from receiving cash or food assistance because of a felony drug trafficking conviction who are also human trafficking victims will now be eligible to receive such benefits, assuming they meet all of the other eligibility requirements, which will provide additional financial support to low-income families.

### 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:

DCF has sufficient rule-making authority to implement the provisions of the bill.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

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<sup>82</sup> *Supra*, note 57.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**