

**Testimony of Jennifer Hatton  
Staff Attorney, Legal Aid Society of the District of Columbia<sup>1</sup>**

**Before the Committee on Health,  
Council of the District of Columbia**

**Public Hearing on**

**B17-186: Dialysis Patient Care Amendment Act of 2007  
B17-323: Emergency Contraception and Information for Sexual Assault Victims  
Establishment Act of 2007  
B17-661: The Drug Abuse Screening and Treatment Act of 2008  
B17-709: Health-Care Nonlicensed Personnel Criminal Background Check Amendment  
Act of 2008**

**Thursday, November 6, 2008**

**10:00 a.m.**

**Room 500**

**1350 Pennsylvania Avenue NW**

**Washington, D.C. 20004**

**Introduction**

My name is Jennifer Hatton, and I appreciate this opportunity to submit my written testimony. I am a staff attorney at the Legal Aid Society of DC, and my colleagues and I work closely with families who receive Temporary Assistance to Needy Families (TANF). We are deeply concerned about Bill 17-661 (The Drug Abuse Screening and Treatment Act), which would require substance abuse screening of all TANF applicants and recipients and would punish even those who are unable to comply with treatment programs due to no fault of their own. In effect, this punishes their children as well. Based on our clients' experiences and the challenges they face, we oppose Bill 17-661 for the following reasons:

1. The District already has a mechanism for identifying and referring TANF recipients who need drug treatment; we should work to improve the existing program's ability to connect recipients to appropriate treatment services instead of replacing it with a system that emphasizes punishment over treatment.
2. The bill punishes children for their parents' inability to complete substance abuse treatment, even when the parents lack access to treatment. This poses a threat to the entire family's health.

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<sup>1</sup> The Legal Aid Society was formed in 1932 to "provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs." Over the last 76 years, tens of thousands of District residents have been served by Legal Aid staff and volunteers. Legal Aid provides assistance in public benefits, housing, domestic violence, and family law matters.

3. The Bill would be expensive and administratively cumbersome; District dollars would be better spent by giving parents additional financial support and services and creating new treatment options.

**Legal Aid's clients would face unnecessary barriers under this bill.**

Families living in poverty face a number of serious challenges in obtaining and preserving their TANF benefits. Many parents face barriers in complying with the TANF work requirements due to disability, domestic violence, or lack of access to child care or transportation. Few parents are able to get exemptions to these requirements without the assistance of an advocate and, as a result, get sanctioned. Because of the significant challenges that families living in poverty face on a day-to-day basis, many are unable to challenge these sanctions or even to seek help in doing so. To impose yet another barrier on these families would unduly complicate a program that is already filled with administrative error and delay.

- 1. Bill 17-661 would diminish the existence and effectiveness of the existing procedures for handling TANF cases in which parents need drug treatment.**

The District's existing Program on Work, Employment, and Responsibility (POWER) serves TANF recipients who are unable to work because of mental or physical disabilities, including substance abuse. POWER participants must comply with an individual responsibility plan (IRP), which contains individually-tailored means of overcoming the disability and requires substance abuse treatment where applicable. Individuals can be sanctioned for non-compliance with their IRP or their treatment program. The existing POWER program takes seriously the issue of substance abuse and rightly emphasizes the importance of getting treatment for substance abuse problems. Indeed, the District's POWER program is a progressive one that has chosen to sanction parents only and not to punish entire families.

This bill would be a serious regression. It duplicates the existing POWER provisions while adding punitive measures and ignoring the need for more treatment options in the District. In so doing, the bill fails to achieve a chief objective of the TANF program: empowering and enabling individuals to return to work.

- 2. Bill 17-661 would harm children and endanger families' health.**

This bill also contemplates measures that would not only punish non-compliant parents, but would also punish innocent parents and innocent children. First, where non-compliant POWER participants can be sanctioned such that the parents' portion of the TANF grant is eliminated, Bill 17-661 would render *entire families* ineligible for TANF. Children would be punished for their parents' actions, and the entire family would be left without crucial safety net benefits.

Second, to the extent that it would impose sanctions based on failure to complete treatment, this bill could also harm parents who are attempting to comply with the bill's requirements but are unsuccessful due to no fault of their own. For example, sanctions could be imposed against families where the parents were making their best effort but could not locate

appropriate treatment. The harm from the initial sanction would be compounded by prohibiting this same family from receiving TANF for twelve months even if the family came into compliance sooner. This family has no incentive to comply with the drug testing and treatment rules if they are still going to be prohibited from receiving benefits. Furthermore, parents in this family would not be able to participate in treatment when they would have no money for basic needs such as food, rent, and clothing.

Finally, this bill would create barriers even for parents who are in treatment. For example, it requires the payment of the entire household's benefits to a third-party payee until treatment has been completed. In so doing, the bill restricts access to cash benefits that are needed to pay for basic necessities such as food; this could create family health problems. We also echo Dr. Vigilance's concern that this third-party payee assignment would be administered by the Department of Health, which lacks the capacity to make such assignments.

**3. Finally, Bill 17-661 would be expensive and administratively cumbersome.**

The costs of a mandatory drug testing program would overburden an agency already strapped for resources. And, such a program would create yet another obstacle between impoverished families and safety-net benefits. Not only would the parent and the agency have to deal with the common TANF-related issues of securing child care, transportation, and applicable exemptions, but now the parent *and* agency would be responsible for ensuring that an additional requirement is met. The likelihood of agency error is increased. And, in this case—unlike with POWER—an agency error threatens an entire household's income and not merely the parent's portion.

**Recommendations**

For the foregoing reasons, we oppose this bill. We trust that the intent behind the proposed legislation is to help people who struggle with substance abuse to work toward recovery and not to punish parents and families. Yet, the effects of this bill, whatever the intent, would be punitive and harmful. Thus, we appreciate Mr. Catania's interest in improving the current system and expanding access to treatment options. We further appreciate his request for input from the advocacy community. In that spirit, we recommend the following:

- 1. Fund the expansion of existing treatment programs and the creation of more treatment options.** As recognized by Mr. Catania and affirmed by Department of Health officials and community advocates, the lack of treatment options and resources in the District poses perhaps the biggest obstacle to compliance with POWER rules. Without available treatment options, parents cannot be expected to meet their obligations. We urge that existing and future treatment programs provide child care services to account for the needs of parents with young children.
- 2. Dedicate resources that would train POWER staff to screen for substance abuse problems and make appropriate referrals to treatment programs,<sup>2</sup>** instead of spending money on the proposed drug testing mechanism.

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<sup>2</sup> Please note that anecdotal evidence suggests that effective screening is lacking in other contexts as well. For example, TANF recipients are not being screened effectively for eligibility for domestic violence waivers. Investing

3. **Fund enhancements to management information systems** at the relevant agencies to make sure that referrals to treatment programs are made and received promptly and to ensure timely removal of sanctions upon commencement of participation in treatment.
4. **Set a deadline by which the Department of Health and the Department of Human Services develop a formal protocol on referring TANF beneficiaries to treatment.** We support Dr. Vigilance's interest in developing such a formal protocol, and we hope that DHS officials would collaborate with him to develop this protocol in a timely manner. The Council could serve a useful oversight function by setting timetables and reviewing this protocol.

Instead of creating more barriers and adding punitive measures to the current POWER framework, the Committee on Health and the Committee on Human Services should work together to support long-term solutions that provide people living in poverty with the means of overcoming addiction and transitioning from welfare to work. Money that would be spent on testing under this bill should be spent instead on expanding access to treatment. And, while parents are in recovery, they should be provided with the safety net benefits that they need to meet their families' health needs.

We thank Mr. Catania and the Committee on Health for considering our concerns, and we welcome the opportunity to collaborate with the Committee in promoting recovery, as opposed to punishment, and in making treatment options more accessible for District residents.

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resources in the training of agency staff would promote family health on many levels, including protection from domestic violence and treatment for substance abuse.