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Jennifer Meinig, Ellen Allen: Welfare drug testing is wrong for WV (Gazette)

By Jennifer Meinig and Ellen Allen

On the first day legislators met to address our state's most pressing problems and our glaring budget shortfall, an ill-advised drug-testing bill was introduced. Senate Bill 6 would subject Temporary Assistance for Needy Families (TANF) applicants to invasive drug screening based on the false stereotype that welfare recipients are more likely than others to suffer from substance abuse. This bill not only raises serious constitutional concerns, it risks wasting precious taxpayer dollars to address an unsubstantiated problem by implementing a "solution" that has been shown to increase costs.

The state and federal constitutions require the government to have individualized suspicion of illegal drug use before requiring someone to take a drug test. We all have the right to be secure from unreasonable government searches — even the poorest among us — unless the government has probable cause to believe that we are breaking the law.

But instead of requiring probable cause, Senate Bill 6 applies a less-exact "reasonable suspicion" standard. To be able to use this standard when performing a search, the government has to show that there is a sufficiently high probability that criminal conduct is occurring. And since welfare applicants are no more likely than any other segment of the population to suffer from substance abuse, the justification is unconvincing. In fact, the only known and shared characteristic of TANF applicants is that they are financially needy families with children.

The bill does not define what kind of behaviors will create reasonable suspicion, detail exactly how applicants will be screened or discuss how case workers will be trained to make this important determination in any objective manner. The devil is in the details, and these specifics are vital to determine whether this proposal could ever approach constitutional muster. And, troublingly, it would create criminal penalties and fines for those least able to afford it.

We don't ask anyone else to sacrifice their Fourth Amendment rights to receive government benefits. Almost all of us receive government assistance in one form or another, yet we don't treat veterans, seniors or the disabled — or even our elected officials — as suspected drug users and force them to prove their innocence. Drug testing a class of citizens simply because they are poor is dangerously at odds with the tenets of our democracy.

Moreover, other states that have tried to implement testing schemes have shown that they do not save money. In fact, these programs actually cost more money to administer and operate than they save in benefits that are not paid out. Virginia and Maryland rejected similar bills after the states projected that they would cost between \$1 million and \$2.9 million dollars per year. While there are legitimate and valid concerns regarding how best to address the scourge of substance abuse in our communities, this is not the right approach.

Drug testing people as a condition of receiving public assistance is not only economically unsound, it is simply state-sanctioned shaming of citizens as a way of intimidating them to opt themselves out of the system, a system of social supports designed to keep our most vulnerable citizens stably housed and fed. It is cruel, and it does not work.

No one in our city enjoyed seeing the residents of tent city displaced last week. Scenes such as this will become ubiquitous as struggling populations lose benefits or opt out of the system for fear of reprisals. We have yet to meet the person who is proud to be on public assistance. We should not further humiliate them by asking them to undergo testing as condition for receiving housing and food assistance when there is no real basis to believe that they are using illegal drugs other than their economic status.

The money spent on shaming vulnerable citizens should be used to shore up our ailing system of social supports, not picking on the economically vulnerable.

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