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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 898

02/07/2019 Authored by Lesch, Runbeck, Hausman, Wolgamott and McDonald
The bill was read for the first time and referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to transportation; making the license reinstatement diversion pilot program
1.3 permanent; requiring a report; amending Laws 2009, chapter 59, article 3, section
1.4 4, subdivision 9, as amended; proposing coding for new law in Minnesota Statutes,
1.5 chapter 171.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. [171.2405] LICENSE REINSTATEMENT DIVERSION PROGRAM.

1.8 Subdivision 1. Establishment. A city or county may establish a license reinstatement
1.9 diversion program for holders of class D drivers' licenses who have been charged with
1.10 violating section 171.24, subdivision 1 or 2. An individual charged with driving after
1.11 revocation under section 171.24, subdivision 2, is eligible for diversion only if the revocation
1.12 was due to a violation of section 169.791; 169.797; 169A.52; 169A.54; or 171.17, subdivision
1.13 1, paragraph (a), clause (6). An individual who is a holder of a commercial driver's license
1.14 or who has committed an offense in a commercial motor vehicle is not eligible to participate
1.15 in the diversion program.

1.16 Subd. 2. Contract. (a) Notwithstanding any law or ordinance to the contrary, a city or
1.17 county may contract with a third party to create and administer the diversion program under
1.18 this section.

1.19 (b) The department's Driver and Vehicle Services Division (DVS) may charge a
1.20 third-party administrator a fee of \$3 per applicant who has been accepted into the program
1.21 and completed the license reinstatement diversion program class required under subdivision
1.22 5, paragraph (a), clause (1), with the third-party administrator. The fee is to help offset the
1.23 cost in processing applicants into the diversion program. The fees paid are based on the

2.1 number of participants who have successfully completed the class and signed a registration
2.2 roster, which is used to calculate the payment required to be made by the third-party
2.3 administrator. The third-party administrator must make payments to DVS 30 days after
2.4 each individual has successfully completed the class. All funds received by DVS must be
2.5 used to review and authorize new individuals to participate in the diversion program.

2.6 Subd. 3. **Diversion of an individual.** (a) A prosecutor for a participating city or county
2.7 may determine whether to accept an individual for diversion. When making the determination,
2.8 the prosecutor must consider:

2.9 (1) whether the individual has a record of driving without a valid license or other criminal
2.10 record, or has previously participated in a diversion program;

2.11 (2) the strength of the evidence against the individual, along with any mitigating factors;
2.12 and

2.13 (3) the apparent ability and willingness of the individual to participate in the diversion
2.14 program and comply with program requirements.

2.15 (b) A city or county attorney may request an individual be reviewed for a diversion
2.16 program without a formal city or county diversion program being established. The city or
2.17 county attorney must follow the requirements of subdivisions 1 and 2 and may submit the
2.18 individual's application to a contract administrator for processing in collaboration with DVS
2.19 to determine if an individual is eligible for approval into the diversion program. The
2.20 participant must meet the requirements in subdivision 5.

2.21 (c) A judge may submit a request for an individual to apply for entry into a diversion
2.22 program under subdivisions 1 and 2. The participant must meet the requirements in
2.23 subdivision 5.

2.24 Subd. 4. **Diversion driver's license.** (a) Notwithstanding any law to the contrary, the
2.25 commissioner may issue a diversion driver's license to a person who is an eligible participant
2.26 in a diversion program, after receiving an application and payment of:

2.27 (1) the reinstatement fee under section 171.20, subdivision 4, by a participant whose
2.28 driver's license has been suspended;

2.29 (2) the reinstatement fee under section 171.29, subdivision 2, paragraph (a), by a
2.30 participant whose driver's license has been revoked under section 169.791; 169.797; or
2.31 171.17, subdivision 1, paragraph (a), clause (6); or

2.32 (3) the reinstatement fee under section 171.29, subdivision 2, paragraph (a), by a
2.33 participant whose driver's license has been revoked under section 169A.52 or 169A.54. The

3.1 reinstatement fee and surcharge under section 171.29, subdivision 2, paragraph (b), must
3.2 also be paid during the course of and as a condition of the diversion program.

3.3 (b) The commissioner may impose restrictions on a diversion driver's license that are
3.4 suitable to the licensee's driving ability or applicable to the licensee as the commissioner
3.5 deems appropriate to ensure the safe operation of a motor vehicle by the licensee. Restrictions
3.6 may include but are not limited to participation in the ignition interlock device program
3.7 under section 171.306. A third-party administrator for the program and an ignition interlock
3.8 provider may work together to allow an eligible participant to be accepted into the program.
3.9 The participant must follow all requirements of this section, the requirements set out by
3.10 DVS, court restrictions, and ignition interlock procedures.

3.11 (c) Payments made by participants in the diversion program of the reinstatement fee and
3.12 surcharge under section 171.29, subdivision 2, paragraph (b), must be applied first toward
3.13 payment of the reinstatement fee and, after the reinstatement fee has been fully paid, toward
3.14 payment of the surcharge. Each payment that is applied toward the reinstatement fee must
3.15 be credited as provided in section 171.29, subdivision 2, paragraph (b), and each payment
3.16 that is applied toward the surcharge must be credited as provided in section 171.29,
3.17 subdivision 2, paragraphs (c) and (d). After the reinstatement fee and surcharge are satisfied,
3.18 the participant must pay the program participation fee.

3.19 (d) Notwithstanding any law to the contrary, a diversion driver's license issued to a
3.20 participant in the program must not be revoked or suspended for convictions entered due
3.21 to payments made under subdivision 5.

3.22 Subd. 5. **Program components.** (a) At a minimum, the diversion program must require
3.23 individuals to:

3.24 (1) successfully attend and complete, at the individual's expense, educational classes
3.25 that provide, among other things, information on driver's licensure;

3.26 (2) pay, under a schedule approved by the prosecutor, all required related fees, fines,
3.27 and charges, including applicable statutory license reinstatement fees and costs of
3.28 participation in the program;

3.29 (3) comply with all traffic laws; and

3.30 (4) demonstrate compliance with motor vehicle insurance requirements.

3.31 (b) An individual accepted into the diversion program is eligible to apply for a diversion
3.32 driver's license.

4.1 Subd. 6. Termination of participation; reinstatement of driver's license. (a) An
4.2 individual's participation in the diversion program must be terminated if:

4.3 (1) the individual is found guilty of a moving traffic violation;

4.4 (2) the individual fails to provide proof of vehicle insurance; or

4.5 (3) the third-party administrator of the diversion program informs the commissioner that
4.6 the individual is no longer satisfying the conditions of the diversion program.

4.7 (b) The commissioner must cancel an individual's diversion driver's license upon receiving
4.8 notice from the third-party administrator that the individual is not complying with the
4.9 requirements of the program.

4.10 (c) The original charge against the individual of a violation of section 171.24 may be
4.11 reinstated against an individual whose participation in the diversion program terminates
4.12 under paragraph (a), clause (1) or (2).

4.13 (d) If an individual satisfies all requirements of the diversion program, including, at a
4.14 minimum, satisfactory fulfillment of the components under subdivision 5, the third-party
4.15 administrator must inform the court, the prosecutor, and the commissioner of the individual's
4.16 satisfactory completion of the diversion program.

4.17 (e) Upon receiving notice under paragraph (d), the commissioner must reinstate the
4.18 individual's driver's license, including the license of an individual whose participation in
4.19 the diversion program terminates under paragraph (a), clause (3).

4.20 (f) Upon receiving notice under paragraph (d), the court must dismiss the charge or the
4.21 prosecutor must decline to prosecute the individual.

4.22 Subd. 7. Fees held on termination of participant. (a) Upon termination of the participant
4.23 in the program under subdivision 6, where there are any held funds and only after the
4.24 third-party administrator has made payouts on citations and fees, the third-party administrator
4.25 shall hold remaining participant fees for 12 months from the date of termination under
4.26 subdivision 6, paragraph (a), clause (1) or (2).

4.27 (b) A participant who meets DVS requirements to re-enter the diversion program may
4.28 use held funds to pay fees to be reinstated into the program.

4.29 (c) After 12 months, the third-party administrator shall retain the funds for the work
4.30 performed during the participant's enrollment period, prior to the participant's termination
4.31 date in the diversion program.

5.1 Subd. 8. **Biennial report.** (a) By February 1 of each even-numbered year, the third-party
 5.2 administrator must report on each eligible city and county that participated in the diversion
 5.3 program and provide a report to each participating city and county, the commissioner, and
 5.4 the legislative committees with jurisdiction over transportation and the judiciary concerning
 5.5 the results of the program. The report must be made available electronically and, upon
 5.6 request, in print. The report must include, without limitation, the effect of the program on:

5.7 (1) recidivism rates for participants in the diversion program;

5.8 (2) the number of participants who successfully completed the program;

5.9 (3) the amount charged to individuals for program fees;

5.10 (4) payment of the fees and fines collected in the diversion program to cities, counties,
 5.11 and the state;

5.12 (5) the total amount of money collected from participants in the program;

5.13 (6) the total amount of money, by category, paid or applied to reinstatement;

5.14 (7) educational support provided to participants in the diversion program;

5.15 (8) the total number of participants in the diversion program;

5.16 (9) the total number of participants terminated from the program under subdivision 6,
 5.17 paragraph (a), clauses (1) to (3);

5.18 (10) the reimbursement policy for all payments listed under clause (4); and

5.19 (11) the amount of all payments listed under clause (4) retained from participants who
 5.20 were terminated from the program.

5.21 (b) The report must include all recommendations made by cities or counties regarding
 5.22 the future of the program and any necessary or suggested legislative changes.

5.23 (c) Any participating city or county, at its own expense, may request an audit of the
 5.24 third-party administrator.

5.25 **EFFECTIVE DATE.** This section is effective July 1, 2019. A city or county participating
 5.26 in the diversion program may accept an individual into the program until June 30, 2019.
 5.27 The third party administering the diversion program may collect and disperse fees collected
 5.28 pursuant to Minnesota Statutes, section 171.2405, subdivision 6, paragraph (a), clause (2),
 5.29 through June 30, 2019.

5.30 Sec. 2. Laws 2009, chapter 59, article 3, section 4, subdivision 9, as amended by Laws
 5.31 2010, chapter 197, section 1, Laws 2011, chapter 87, section 1, subdivision 9, Laws 2013,

6.1 chapter 127, section 60, and Laws 2017, chapter 95, article 3, section 29, is amended to
6.2 read:

6.3 Subd. 9. **Sunset; transition.** A city or county participating in this pilot program may
6.4 accept an individual for diversion into the pilot program ~~until June 30, 2019.~~ and the third
6.5 party administering the diversion program may collect and disburse fees collected pursuant
6.6 to subdivision 6, paragraph (a), clause (2), ~~through December 31, 2020~~ until the day following
6.7 the date the permanent diversion program established under Minnesota Statutes, section
6.8 171.2405, is effective, at which time the pilot program under this section expires. An
6.9 individual participating in but who has not completed the pilot program on the date the pilot
6.10 program expires is automatically transferred and enrolled in the permanent diversion program
6.11 under Minnesota Statutes, section 171.2405, and credited for any fees paid or activities
6.12 completed under the pilot program.

6.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.