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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1719

02/25/2019 Authored by Noor; Moran; Xiong, J.; Cantrell; Olson and others
The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to human services; modifying drug testing provisions for MFIP and general
1.3 assistance; amending Minnesota Statutes 2018, sections 256D.024, subdivision 1;
1.4 256J.26, subdivision 1; 609B.425, subdivision 2; 609B.435, subdivision 2.

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

1.6 Section 1. Minnesota Statutes 2018, section 256D.024, subdivision 1, is amended to read:

1.7 Subdivision 1. Person convicted of drug offenses. (a) If an applicant or recipient has
1.8 been convicted of a drug offense after July 1, 1997, the assistance unit is ineligible for
1.9 benefits under this chapter until five years after the applicant has completed terms of the
1.10 court-ordered sentence, unless the person is participating in a drug treatment program, has
1.11 successfully completed a drug treatment program, or has been assessed by the county and
1.12 determined not to be in need of a drug treatment program. Persons subject to the limitations
1.13 of this subdivision who become eligible for assistance under this chapter shall may be subject
1.14 to random drug testing as a condition of continued eligibility ~~and shall lose eligibility for~~
1.15 ~~benefits for five years beginning the month following:~~ The county may provide resources
1.16 and referrals to drug treatment programs for a person who tests positive for an illegal
1.17 controlled substance.

- 1.18 ~~(1) any positive test result for an illegal controlled substance; or~~
1.19 ~~(2) discharge of sentence after conviction for another drug felony.~~

1.20 (b) For the purposes of this subdivision, "drug offense" means a conviction that occurred
1.21 after July 1, 1997, of sections 152.021 to 152.025, 152.0261, 152.0262, or 152.096. Drug
1.22 offense also means a conviction in another jurisdiction of the possession, use, or distribution
1.23 of a controlled substance, or conspiracy to commit any of these offenses, if the offense

2.1 occurred after July 1, 1997, and the conviction is a felony offense in that jurisdiction, or in
2.2 the case of New Jersey, a high misdemeanor.

2.3 Sec. 2. Minnesota Statutes 2018, section 256J.26, subdivision 1, is amended to read:

2.4 Subdivision 1. **Person convicted of drug offenses.** (a) An individual who has been
2.5 convicted of a felony level drug offense committed during the previous ten years from the
2.6 date of application or recertification is subject to the following:

2.7 (1) Benefits for the entire assistance unit must be paid in vendor form for shelter and
2.8 utilities during any time the applicant is part of the assistance unit.

2.9 (2) The convicted applicant or participant ~~shall~~ may be subject to random drug testing
2.10 as a condition of continued eligibility ~~and~~. Following any positive test for an illegal controlled
2.11 substance ~~is subject to the following sanctions;~~ the county may provide resources and
2.12 referrals to drug treatment programs.

2.13 ~~(i) for failing a drug test the first time, the residual amount of the participant's grant after~~
2.14 ~~making vendor payments for shelter and utility costs, if any, must be reduced by an amount~~
2.15 ~~equal to 30 percent of the MFIP standard of need for an assistance unit of the same size.~~
2.16 ~~When a sanction under this subdivision is in effect, the job counselor must attempt to meet~~
2.17 ~~with the person face-to-face. During the face-to-face meeting, the job counselor must explain~~
2.18 ~~the consequences of a subsequent drug test failure and inform the participant of the right to~~
2.19 ~~appeal the sanction under section 256J.40. If a face-to-face meeting is not possible, the~~
2.20 ~~county agency must send the participant a notice of adverse action as provided in section~~
2.21 ~~256J.31, subdivisions 4 and 5, and must include the information required in the face-to-face~~
2.22 ~~meeting; or~~

2.23 ~~(ii) for failing a drug test two times, the participant is permanently disqualified from~~
2.24 ~~receiving MFIP assistance, both the cash and food portions. The assistance unit's MFIP~~
2.25 ~~grant must be reduced by the amount which would have otherwise been made available to~~
2.26 ~~the disqualified participant. Disqualification under this item does not make a participant~~
2.27 ~~ineligible for food stamps or food support. Before a disqualification under this provision is~~
2.28 ~~imposed, the job counselor must attempt to meet with the participant face-to-face. During~~
2.29 ~~the face-to-face meeting, the job counselor must identify other resources that may be available~~
2.30 ~~to the participant to meet the needs of the family and inform the participant of the right to~~
2.31 ~~appeal the disqualification under section 256J.40. If a face-to-face meeting is not possible,~~
2.32 ~~the county agency must send the participant a notice of adverse action as provided in section~~
2.33 ~~256J.31, subdivisions 4 and 5, and must include the information required in the face-to-face~~
2.34 ~~meeting.~~

3.1 ~~(3) A participant who fails a drug test the first time and is under a sanction due to other~~
3.2 ~~MFIP program requirements is considered to have more than one occurrence of~~
3.3 ~~noncompliance and is subject to the applicable level of sanction as specified under section~~
3.4 ~~256J.46, subdivision 1, paragraph (d).~~

3.5 ~~(b) Applicants requesting only food stamps or food support or participants receiving~~
3.6 ~~only food stamps or food support, who have been convicted of a drug offense that occurred~~
3.7 ~~after July 1, 1997, may, if otherwise eligible, receive food stamps or food support if the~~
3.8 ~~convicted applicant or participant is subject to random drug testing as a condition of continued~~
3.9 ~~eligibility. Following a positive test for an illegal controlled substance, the applicant is~~
3.10 ~~subject to the following sanctions:~~

3.11 ~~(1) for failing a drug test the first time, food stamps or food support shall be reduced by~~
3.12 ~~an amount equal to 30 percent of the applicable food stamp or food support allotment. When~~
3.13 ~~a sanction under this clause is in effect, a job counselor must attempt to meet with the person~~
3.14 ~~face-to-face. During the face-to-face meeting, a job counselor must explain the consequences~~
3.15 ~~of a subsequent drug test failure and inform the participant of the right to appeal the sanction~~
3.16 ~~under section 256J.40. If a face-to-face meeting is not possible, a county agency must send~~
3.17 ~~the participant a notice of adverse action as provided in section 256J.31, subdivisions 4 and~~
3.18 ~~5, and must include the information required in the face-to-face meeting; and~~

3.19 ~~(2) for failing a drug test two times, the participant is permanently disqualified from~~
3.20 ~~receiving food stamps or food support. Before a disqualification under this provision is~~
3.21 ~~imposed, a job counselor must attempt to meet with the participant face-to-face. During the~~
3.22 ~~face-to-face meeting, the job counselor must identify other resources that may be available~~
3.23 ~~to the participant to meet the needs of the family and inform the participant of the right to~~
3.24 ~~appeal the disqualification under section 256J.40. If a face-to-face meeting is not possible,~~
3.25 ~~a county agency must send the participant a notice of adverse action as provided in section~~
3.26 ~~256J.31, subdivisions 4 and 5, and must include the information required in the face-to-face~~
3.27 ~~meeting.~~

3.28 ~~(e)~~(b) For the purposes of this subdivision, "drug offense" means an offense that occurred
3.29 during the previous ten years from the date of application or recertification of sections
3.30 152.021 to 152.025, 152.0261, 152.0262, 152.096, or 152.137. Drug offense also means a
3.31 conviction in another jurisdiction of the possession, use, or distribution of a controlled
3.32 substance, or conspiracy to commit any of these offenses, if the offense occurred during
3.33 the previous ten years from the date of application or recertification and the conviction is
3.34 a felony offense in that jurisdiction, or in the case of New Jersey, a high misdemeanor.

4.1 Sec. 3. Minnesota Statutes 2018, section 609B.425, subdivision 2, is amended to read:

4.2 Subd. 2. **Benefit eligibility.** (a) A person convicted of a drug offense after July 1, 1997,
4.3 is ineligible for general assistance benefits and Supplemental Security Income under chapter
4.4 256D until:

4.5 (1) five years after completing the terms of a court-ordered sentence; or

4.6 (2) unless the person is participating in a drug treatment program, has successfully
4.7 completed a program, or has been determined not to be in need of a drug treatment program.

4.8 (b) A person who becomes eligible for assistance under chapter 256D ~~is~~ may be subject
4.9 to random drug testing ~~and shall lose eligibility for benefits for five years beginning the~~
4.10 ~~month following.~~ The county may provide resources and referrals to drug treatment programs
4.11 for a person who tests positive for an illegal controlled substance.

4.12 ~~(1) any positive test for an illegal controlled substance; or~~

4.13 ~~(2) discharge of sentence for conviction of another drug felony.~~

4.14 (c) Parole violators and fleeing felons are ineligible for benefits and persons fraudulently
4.15 misrepresenting eligibility are also ineligible to receive benefits for ten years.

4.16 Sec. 4. Minnesota Statutes 2018, section 609B.435, subdivision 2, is amended to read:

4.17 Subd. 2. **Drug offenders; random testing; sanctions.** A person who is an applicant for
4.18 benefits from the Minnesota family investment program or MFIP, the vehicle for temporary
4.19 assistance for needy families or TANF, and who has been convicted of a drug offense ~~shall~~
4.20 ~~may be subject to certain conditions, including~~ random drug testing, in order to receive
4.21 MFIP benefits. Following any positive test for a controlled substance, the ~~convicted applicant~~
4.22 ~~or participant is subject to the following sanctions:~~ county may provide resources and
4.23 referrals to drug treatment programs.

4.24 ~~(1) a first time drug test failure results in a reduction of benefits in an amount equal to~~
4.25 ~~30 percent of the MFIP standard of need; and~~

4.26 ~~(2) a second time drug test failure results in permanent disqualification from receiving~~
4.27 ~~MFIP assistance.~~

4.28 ~~A similar disqualification sequence occurs if the applicant is receiving food stamps.~~