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State of Minnesota HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 28

01/05/2017 Authored by Quam, Drazkowski and Lucero The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to human services; requiring screening for use of controlled substances
1.3 in the MFIP and general assistance programs; making certain individuals ineligible
1.4 for MFIP and general assistance benefits; providing for rulemaking; amending
1.5 Minnesota Statutes 2016, sections 256D.024, by adding a subdivision; 256D.05,
1.6 subdivision 1; 256J.26, by adding a subdivision; proposing coding for new law in
1.7 Minnesota Statutes, chapters 256D; 256J.

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

1.9 Section 1. Minnesota Statutes 2016, section 256D.024, is amended by adding a subdivision
1.10 to read:

1.11 Subd. 5. Person with two or more DWI convictions. An applicant or recipient who
1.12 has two or more driving while impaired (DWI) convictions within a period of five years
1.13 shall, after an administrative hearing under section 256D.10, be ineligible for general
1.14 assistance benefits for a period of three years from the date of the administrative hearing
1.15 decision affirming the applicant's or recipient's ineligibility. For purposes of this subdivision,
1.16 "DWI" means a conviction under section 169A.20 or a similar conviction in another
1.17 jurisdiction.

1.18 EFFECTIVE DATE. This section is effective for a new applicant submitting an
1.19 application on or after July 1, 2017, and for a current recipient at the time of the recipient's
1.20 next eligibility recertification on or after July 1, 2017.

1.21 Sec. 2. [256D.025] TESTING FOR USE OF CONTROLLED SUBSTANCE.

1.22 Subdivision 1. Screening and testing required. The department shall screen and test
1.23 each general assistance applicant or recipient under this chapter who the department has

2.1 reasonable suspicion to believe, based on screening, engages in illegal use of a controlled
2.2 substance as defined in section 152.02. Screening and testing is not required for an applicant
2.3 or recipient who meets the eligibility requirements under section 256D.05, subdivision 1,
2.4 paragraph (a), clause (14), due to the applicant's or recipient's illegal use of controlled
2.5 substances.

2.6 Subd. 2. Reasonable suspicion. (a) Reasonable suspicion of illegal use of controlled
2.7 substances is established when two or more of the following occur:

2.8 (1) the applicant or recipient has an arrest record;

2.9 (2) a local welfare agency accepts a report for investigation or family assessment under
2.10 section 626.556 alleging abuse or neglect due to substance abuse by the applicant or recipient;
2.11 and

2.12 (3) the department witnesses a behavior indicating illegal use of controlled substances,
2.13 including but not limited to:

2.14 (i) dilated pupils;

2.15 (ii) involuntary eye movements;

2.16 (iii) nausea or vomiting;

2.17 (iv) twitching;

2.18 (v) violent behavior;

2.19 (vi) odor of alcohol;

2.20 (vii) lack of muscular coordination;

2.21 (viii) inability to verbalize;

2.22 (ix) slurred speech;

2.23 (x) bizarre behavior;

2.24 (xi) needle marks;

2.25 (xii) possession of drug paraphernalia; or

2.26 (xiii) possession of a substance that appears to possibly be a controlled substance or
2.27 alcohol.

2.28 (b) Reasonable suspicion of illegal use of controlled substances is also established if the
2.29 department witnesses any two or more of the behaviors in paragraph (a), clause (3).

3.1 Subd. 3. **Reports of arrests.** Local law enforcement shall provide to the appropriate
3.2 county social services agency once per month a list of all arrests that occurred during the
3.3 previous reporting period. The agency shall use the lists provided by local law enforcement
3.4 to determine whether or not any applicant or recipient of general assistance has an arrest
3.5 record for purposes of subdivision 2 and shall transmit this information to the department
3.6 at a time and in a manner established by the department.

3.7 Subd. 4. **Payment for drug test.** The applicant or recipient must pay for the drug test.
3.8 The department must reimburse an applicant or recipient for the cost of the drug test when
3.9 the applicant or recipient provides the department with proof of a negative test for controlled
3.10 substances.

3.11 Subd. 5. **Referral to treatment program.** The department shall refer an applicant or
3.12 recipient who tested positive under this section for a controlled substance, which is not
3.13 prescribed for the applicant or recipient by a licensed health care provider, to an appropriate
3.14 substance abuse treatment program approved by the department. Referral to a substance
3.15 abuse treatment program does not obligate the state to pay for the treatment.

3.16 Subd. 6. **Ineligibility for benefits.** Any applicant or recipient who tests positive for a
3.17 controlled substance and who refuses to participate in a substance abuse treatment program
3.18 shall, after an administrative hearing under section 256D.10, be ineligible for general
3.19 assistance for a period of three years from the date of the administrative hearing decision
3.20 affirming the applicant's or recipient's ineligibility.

3.21 Subd. 7. **Rulemaking.** The commissioner shall adopt rules to develop the screening and
3.22 testing procedures under this section.

3.23 **EFFECTIVE DATE.** This section is effective for a new applicant submitting an
3.24 application on or after July 1, 2017, and for a current recipient at the time of the recipient's
3.25 next eligibility recertification on or after July 1, 2017.

3.26 Sec. 3. Minnesota Statutes 2016, section 256D.05, subdivision 1, is amended to read:

3.27 Subdivision 1. **Eligibility.** (a) Each assistance unit with income and resources less than
3.28 the standard of assistance established by the commissioner and with a member who is a
3.29 resident of the state shall be eligible for and entitled to general assistance if the assistance
3.30 unit is:

3.31 (1) a person who is suffering from a professionally certified permanent or temporary
3.32 illness, injury, or incapacity which is expected to continue for more than 45 days and which
3.33 prevents the person from obtaining or retaining employment;

4.1 (2) a person whose presence in the home on a substantially continuous basis is required
4.2 because of the professionally certified illness, injury, incapacity, or the age of another
4.3 member of the household;

4.4 (3) a person who has been placed in, and is residing in, a licensed or certified facility
4.5 for purposes of physical or mental health or rehabilitation, or in an approved chemical
4.6 dependency domiciliary facility, if the placement is based on illness or incapacity and is
4.7 according to a plan developed or approved by the county agency through its director or
4.8 designated representative;

4.9 (4) a person who resides in a shelter facility described in subdivision 3;

4.10 (5) a person not described in clause (1) or (3) who is diagnosed by a licensed physician,
4.11 psychological practitioner, or other qualified professional, as developmentally disabled or
4.12 mentally ill, and that condition prevents the person from obtaining or retaining employment;

4.13 (6) a person who has an application pending for, or is appealing termination of benefits
4.14 from, the Social Security disability program or the program of Supplemental Security Income
4.15 for the aged, blind, and disabled, provided the person has a professionally certified permanent
4.16 or temporary illness, injury, or incapacity which is expected to continue for more than 30
4.17 days and which prevents the person from obtaining or retaining employment;

4.18 (7) a person who is unable to obtain or retain employment because advanced age
4.19 significantly affects the person's ability to seek or engage in substantial work;

4.20 (8) a person who has been assessed by a vocational specialist and, in consultation with
4.21 the county agency, has been determined to be unemployable for purposes of this clause; a
4.22 person is considered employable if there exist positions of employment in the local labor
4.23 market, regardless of the current availability of openings for those positions, that the person
4.24 is capable of performing. The person's eligibility under this category must be reassessed at
4.25 least annually. The county agency must provide notice to the person not later than 30 days
4.26 before annual eligibility under this item ends, informing the person of the date annual
4.27 eligibility will end and the need for vocational assessment if the person wishes to continue
4.28 eligibility under this clause. For purposes of establishing eligibility under this clause, it is
4.29 the applicant's or recipient's duty to obtain any needed vocational assessment;

4.30 (9) a person who is determined by the county agency, according to permanent rules
4.31 adopted by the commissioner, to have a condition that qualifies under Minnesota's special
4.32 education rules as a specific learning disability, provided that a rehabilitation plan for the
4.33 person is developed or approved by the county agency, and the person is following the plan;

5.1 (10) a child under the age of 18 who is not living with a parent, stepparent, or legal
5.2 custodian, and only if: the child is legally emancipated or living with an adult with the
5.3 consent of an agency acting as a legal custodian; the child is at least 16 years of age and the
5.4 general assistance grant is approved by the director of the county agency or a designated
5.5 representative as a component of a social services case plan for the child; or the child is
5.6 living with an adult with the consent of the child's legal custodian and the county agency.
5.7 For purposes of this clause, "legally emancipated" means a person under the age of 18 years
5.8 who: (i) has been married; (ii) is on active duty in the uniformed services of the United
5.9 States; (iii) has been emancipated by a court of competent jurisdiction; or (iv) is otherwise
5.10 considered emancipated under Minnesota law, and for whom county social services has not
5.11 determined that a social services case plan is necessary, for reasons other than the child has
5.12 failed or refuses to cooperate with the county agency in developing the plan;

5.13 (11) a person who is eligible for displaced homemaker services, programs, or assistance
5.14 under section 116L.96, but only if that person is enrolled as a full-time student;

5.15 (12) a person who is involved with protective or court-ordered services that prevent the
5.16 applicant or recipient from working at least four hours per day;

5.17 (13) a person over age 18 whose primary language is not English and who is attending
5.18 high school at least half time; or

5.19 (14) a person whose alcohol and drug addiction is a material factor that contributes to
5.20 the person's disability; applicants who assert this clause as a basis for eligibility must be
5.21 assessed by the county agency to determine if they are amenable to treatment; if the applicant
5.22 has alcohol addiction and is determined to be not amenable to treatment, but is otherwise
5.23 eligible for benefits, then general assistance must be paid in vendor form, for the individual's
5.24 shelter costs up to the limit of the grant amount, with the residual, if any, paid according to
5.25 section 256D.09, subdivision 2a; if the applicant has alcohol or drug addiction and is
5.26 determined to be amenable to treatment, then in order to receive benefits, the applicant must
5.27 be in a treatment program or on a waiting list and the benefits must be paid in vendor form,
5.28 for the individual's shelter costs, up to the limit of the grant amount, with the residual, if
5.29 any, paid according to section 256D.09, subdivision 2a. An applicant who has drug addiction
5.30 and is determined to be not amenable to treatment shall be ineligible for benefits.

5.31 (b) As a condition of eligibility under paragraph (a), clauses (1), (3), (5), (8), and (9),
5.32 the recipient must complete an interim assistance agreement and must apply for other
5.33 maintenance benefits as specified in section 256D.06, subdivision 5, and must comply with
5.34 efforts to determine the recipient's eligibility for those other maintenance benefits.

6.1 (c) The burden of providing documentation for a county agency to use to verify eligibility
6.2 for general assistance or for exemption from the food stamp employment and training
6.3 program is upon the applicant or recipient. The county agency shall use documents already
6.4 in its possession to verify eligibility, and shall help the applicant or recipient obtain other
6.5 existing verification necessary to determine eligibility which the applicant or recipient does
6.6 not have and is unable to obtain.

6.7 **EFFECTIVE DATE.** This section is effective for a new applicant submitting an
6.8 application on or after July 1, 2017, and for a current recipient at the time of the recipient's
6.9 next eligibility recertification on or after July 1, 2017.

6.10 Sec. 4. Minnesota Statutes 2016, section 256J.26, is amended by adding a subdivision to
6.11 read:

6.12 Subd. 4a. **Person with two or more DWI convictions.** An individual who has two or
6.13 more driving while impaired (DWI) convictions within a period of five years shall, after a
6.14 fair hearing under section 256J.40, be ineligible for MFIP for a period of three years from
6.15 the date of the fair hearing decision affirming the individual's ineligibility. For the purposes
6.16 of this subdivision, "DWI" means a conviction under section 169A.20 or a similar conviction
6.17 in another jurisdiction.

6.18 **EFFECTIVE DATE.** This section is effective for a new applicant submitting an
6.19 application on or after July 1, 2017, and for a current recipient at the time of the recipient's
6.20 next eligibility recertification on or after July 1, 2017.

6.21 Sec. 5. **[256J.261] TESTING FOR USE OF CONTROLLED SUBSTANCE.**

6.22 Subdivision 1. **Screening and testing required.** The department shall screen and test
6.23 each MFIP applicant or recipient under this chapter who the department has reasonable
6.24 suspicion to believe, based on screening, engages in illegal use of a controlled substance as
6.25 defined in section 152.02.

6.26 Subd. 2. **Reasonable suspicion.** (a) Reasonable suspicion of illegal use of controlled
6.27 substances is established when two or more of the following occur:

6.28 (1) the applicant or recipient has an arrest record;

6.29 (2) a local welfare agency accepts a report for investigation or family assessment under
6.30 section 626.556 alleging abuse or neglect due to substance abuse by the applicant or recipient;
6.31 and

7.1 (3) the department witnesses a behavior indicating illegal use of controlled substances,
7.2 including but not limited to:

7.3 (i) dilated pupils;

7.4 (ii) involuntary eye movements;

7.5 (iii) nausea or vomiting;

7.6 (iv) twitching;

7.7 (v) violent behavior;

7.8 (vi) odor of alcohol;

7.9 (vii) lack of muscular coordination;

7.10 (viii) inability to verbalize;

7.11 (ix) slurred speech;

7.12 (x) bizarre behavior;

7.13 (xi) needle marks;

7.14 (xii) possession of drug paraphernalia; or

7.15 (xiii) possession of a substance that appears to possibly be a controlled substance or
7.16 alcohol.

7.17 (b) Reasonable suspicion of illegal use of controlled substances is also established if the
7.18 department witnesses any two or more of the behaviors in paragraph (a), clause (3).

7.19 Subd. 3. **Reports of arrests.** Local law enforcement shall provide to the appropriate
7.20 county social services agency once per month a list of all arrests that occurred during the
7.21 previous reporting period. The agency shall use the lists provided by local law enforcement
7.22 to determine whether or not any applicant or recipient of MFIP has an arrest record for
7.23 purposes of subdivision 2 and shall transmit this information to the department at a time
7.24 and in a manner established by the department.

7.25 Subd. 4. **Payment for drug test.** The applicant or recipient must pay for the drug test.
7.26 The department must reimburse applicants and recipients for the cost of the drug test when
7.27 the applicant or recipient provides the department with proof of a negative test for controlled
7.28 substances.

7.29 Subd. 5. **Referral to treatment program.** The department shall refer an applicant or
7.30 recipient who tested positive under this section for a controlled substance, which is not

8.1 prescribed for the applicant or recipient by a licensed health care provider, to an appropriate
8.2 substance abuse treatment program approved by the department. Referral to a substance
8.3 abuse treatment program does not obligate the state to pay for the treatment.

8.4 Subd. 6. **Ineligibility for benefits.** Any applicant or recipient who tests positive for a
8.5 controlled substance and who refuses to participate in a substance abuse treatment program
8.6 shall, after a fair hearing under section 256J.40, be ineligible for MFIP for a period of three
8.7 years from the date of the fair hearing decision affirming the applicant's or recipient's
8.8 ineligibility.

8.9 Subd. 7. **Continued assistance for minor children.** Minor children in an assistance
8.10 unit in which a caregiver has been determined to be ineligible for MFIP under this section
8.11 continue to be eligible for MFIP assistance, but the assistance payment must be received
8.12 by a protective payee.

8.13 Subd. 8. **Rulemaking.** The commissioner shall adopt rules to develop the screening and
8.14 testing procedures under this section.

8.15 **EFFECTIVE DATE.** This section is effective for a new applicant submitting an
8.16 application on or after July 1, 2017, and for a current recipient at the time of the recipient's
8.17 next eligibility recertification on or after July 1, 2017.