

**169A.70 ALCOHOL SAFETY PROGRAMS; CHEMICAL USE ASSESSMENTS.**

Subdivision 1. **Alcohol safety programs; establishment.** (a) The county board of every county shall establish an alcohol safety program designed to provide chemical use assessments of persons convicted of an offense enumerated in subdivision 2.

(b) County boards may enter into an agreement to establish a regional alcohol safety program. County boards may contract with other counties and agencies for alcohol problem screening and chemical use assessment services.

Subd. 2. **Chemical use assessment requirement.** A chemical use assessment must be conducted and an assessment report submitted to the court and to the Department of Public Safety by the county agency administering the alcohol safety program when:

(1) the defendant is convicted of an offense described in section 169A.20 (driving while impaired), 169A.31 (alcohol-related school bus and Head Start bus driving), or 360.0752 (impaired aircraft operation); or

(2) the defendant is arrested for committing an offense described in clause (1) but is convicted of another offense arising out of the circumstances surrounding the arrest.

Subd. 3. **Assessment report.** (a) The assessment report must be on a form prescribed by the commissioner and shall contain an evaluation of the convicted defendant concerning the defendant's prior traffic and criminal record, characteristics and history of alcohol and chemical use problems, and amenability to rehabilitation through the alcohol safety program. The report is classified as private data on individuals as defined in section 13.02, subdivision 12.

(b) The assessment report must include:

(1) a diagnosis of the nature of the offender's chemical and alcohol involvement;

(2) an assessment of the severity level of the involvement;

(3) a recommended level of care for the offender in accordance with the criteria contained in rules adopted by the commissioner of human services under section 254A.03, subdivision 3 (chemical dependency treatment rules);

(4) an assessment of the offender's placement needs;

(5) recommendations for other appropriate remedial action or care, including aftercare services in section 254B.01, subdivision 3, that may consist of educational programs, one-on-one counseling, a program or type of treatment that addresses mental health concerns, or a combination of them; and

(6) a specific explanation why no level of care or action was recommended, if applicable.

Subd. 4. **Assessor standards; rules; assessment time limits.** A chemical use assessment required by this section must be conducted by an assessor appointed by the court. The assessor must meet the training and qualification requirements of rules adopted by the commissioner of human services under section 254A.03, subdivision 3 (chemical dependency treatment rules). Notwithstanding section 13.82 (law enforcement data), the assessor shall have access to any police reports, laboratory test results, and other law enforcement data relating to the current offense or previous offenses that are necessary to complete the evaluation. An assessor providing an assessment under this section may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider, except as authorized

under section 254A.19, subdivision 3. If an independent assessor is not available, the court may use the services of an assessor authorized to perform assessments for the county social services agency under a variance granted under rules adopted by the commissioner of human services under section 254A.03, subdivision 3. An appointment for the defendant to undergo the assessment must be made by the court, a court services probation officer, or the court administrator as soon as possible but in no case more than one week after the defendant's court appearance. The assessment must be completed no later than three weeks after the defendant's court appearance. If the assessment is not performed within this time limit, the county where the defendant is to be sentenced shall perform the assessment. The county of financial responsibility must be determined under chapter 256G.

Subd. 5. **Applicability to nonresident.** This section does not apply to a person who is not a resident of the state of Minnesota at the time of the offense and at the time of the assessment.

Subd. 6. **Method of assessment.** (a) As used in this subdivision, "collateral contact" means an oral or written communication initiated by an assessor for the purpose of gathering information from an individual or agency, other than the offender, to verify or supplement information provided by the offender during an assessment under this section. The term includes contacts with family members and criminal justice agencies.

(b) An assessment conducted under this section must include at least one personal interview with the offender designed to make a determination about the extent of the offender's past and present chemical and alcohol use or abuse. It must also include collateral contacts and a review of relevant records or reports regarding the offender including, but not limited to, police reports, arrest reports, driving records, chemical testing records, and test refusal records. If the offender has a probation officer, the officer must be the subject of a collateral contact under this subdivision. If an assessor is unable to make collateral contacts, the assessor shall specify why collateral contacts were not made.

Subd. 7. **Preconviction assessment.** (a) The court may not accept a chemical use assessment conducted before conviction as a substitute for the assessment required by this section unless the court ensures that the preconviction assessment meets the standards described in this section.

(b) If the commissioner of public safety is making a decision regarding reinstating a person's driver's license based on a chemical use assessment, the commissioner shall ensure that the assessment meets the standards described in this section.

**History:** 2000 c 478 art 1 s 38; 2005 c 136 art 18 s 8-10; 2007 c 147 art 12 s 9