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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 1889

01/24/2012 Authored by Quam, Drazkowski, Scott, Daudt and Lohmer

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 program; proposing coding for new law in
1.4 Minnesota Statutes, chapters 256D; 256J.

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

1.6 Section 1. [256D.025] TESTING FOR USE OF CONTROLLED SUBSTANCE.

1.7 (a) The department shall screen and test each applicant and recipient for general
1.8 assistance benefits under this chapter, except for applicants and recipients who meet
1.9 the eligibility requirements under section 256D.05, subdivision 1, paragraph (a), clause
1.10 (14), and who the department has reasonable suspicion to believe, based on screening,
1.11 engages in illegal use of controlled substances.

1.12 (b) Reasonable suspicion of illegal use of controlled substances is established when
1.13 two of the following occur:

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

1.15 (2) the local welfare agency accepts a report for investigation or family assessment
1.16 under section 626.556 alleging abuse or neglect due to parental substance abuse; and

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

1.19 (i) dilated pupils;

1.20 (ii) involuntary eye movements;

1.21 (iii) nausea or vomiting;

1.22 (iv) twitching;

1.23 (v) violent behavior;

1.24 (vi) odor of alcohol;

2.1 (vii) muscular incoordination;
2.2 (viii) inability to verbalize;
2.3 (ix) slurred speech;
2.4 (x) bizarre behavior;
2.5 (xi) needle marks;
2.6 (xii) possession of drug paraphernalia; or
2.7 (xiii) possession of a substance that appears to possibly be a controlled substance
2.8 or alcohol.

2.9 Reasonable suspicion of illegal use of controlled substances is also established by
2.10 witnessing any two of the behaviors in this clause.

2.11 (c) Local law enforcement shall provide to the appropriate county social services
2.12 office once per month a list of all arrests that occurred during the previous reporting
2.13 period. The county shall use the lists provided by local law enforcement to determine
2.14 whether or not any applicant or recipient of general assistance has an arrest record for
2.15 purposes of paragraph (b).

2.16 (d) The applicant or recipient must pay for the drug test. The department must
2.17 reimburse applicants and recipients for the cost of the drug test when proof of a negative
2.18 test for controlled substances is provided.

2.19 (e) Any applicant or recipient who is found to have tested positive for a controlled
2.20 substance under section 152.02, which is not prescribed for the applicant or recipient by a
2.21 licensed health care provider or who has two or more DWI convictions in a period of five
2.22 years shall, after an administrative hearing under section 256D.10, be declared ineligible
2.23 for general assistance for a period of three years from the date of the administrative
2.24 hearing decision.

2.25 (f) The department shall refer an applicant or recipient who tested positive for
2.26 the use of a controlled substance under this section to an appropriate substance abuse
2.27 treatment program approved by the department. Referral to a substance abuse treatment
2.28 program does not obligate the state to pay for the treatment.

2.29 (g) The commissioner shall promulgate rules to develop the screening and testing
2.30 procedures under this section.

2.31 **EFFECTIVE DATE.** This section is effective for new applicants submitting
2.32 applications on or after July 1, 2012, and for current recipients at the time of their next
2.33 eligibility recertification.

2.34 **Sec. 2. [256J.261] TESTING FOR USE OF CONTROLLED SUBSTANCE.**

3.1 (a) The department shall screen and test each applicant and recipient for MFIP
3.2 benefits under this chapter and who the department has reasonable suspicion to believe,
3.3 based on screening, engages in illegal use of controlled substances.

3.4 (b) Reasonable suspicion of illegal use of controlled substances is established when
3.5 two of the following occur:

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

3.7 (2) the local welfare agency accepts a report for investigation or family assessment
3.8 under section 626.556 alleging abuse or neglect due to parental substance abuse; and

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

3.11 (i) dilated pupils;

3.12 (ii) involuntary eye movements;

3.13 (iii) nausea or vomiting;

3.14 (iv) twitching;

3.15 (v) violent behavior;

3.16 (vi) odor of alcohol;

3.17 (vii) muscular incoordination;

3.18 (viii) inability to verbalize;

3.19 (ix) slurred speech;

3.20 (x) bizarre behavior;

3.21 (xi) needle marks;

3.22 (xii) possession of drug paraphernalia; or

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

3.25 Reasonable suspicion of illegal use of controlled substances is also established by
3.26 witnessing any two of the behaviors in this clause.

3.27 (c) Local law enforcement shall provide to the appropriate county social services
3.28 office once per month a list of all arrests that occurred during the previous reporting period.

3.29 The county shall use the lists provided by local law enforcement to determine whether or
3.30 not any applicant or recipient of MFIP has an arrest record for purposes of paragraph (b).

3.31 (d) The applicant or recipient must pay for the drug test. The department must
3.32 reimburse applicants and recipients for the cost of the drug test when proof of a negative
3.33 test for controlled substances is provided.

3.34 (e) Any applicant or recipient who is found to have tested positive for a controlled
3.35 substance under section 152.02, which is not prescribed for the applicant or recipient by a
3.36 licensed health care provider or who has two or more DWI convictions in a period of five

4.1 years shall, after a fair hearing under section 256J.40, be declared ineligible for MFIP for
4.2 a period of three years from the date of the fair hearing decision.

4.3 (f) The department shall refer an applicant or recipient who tested positive for
4.4 the use of a controlled substance under this section to an appropriate substance abuse
4.5 treatment program approved by the department. Referral to a substance abuse treatment
4.6 program does not obligate the state to pay for the treatment.

4.7 (g) Minor children in an assistance unit in which a caregiver has been determined to
4.8 be ineligible for MFIP under this section continue to be eligible for MFIP assistance, but
4.9 the assistance payment must be received by a protective payee.

4.10 (h) The commissioner shall promulgate rules to develop the screening and testing
4.11 procedures under this section.

4.12 **EFFECTIVE DATE.** This section is effective for new applicants submitting
4.13 applications on or after July 1, 2012, and for current recipients at the time of their next
4.14 eligibility recertification.