

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 3736

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DATE	D-PG	OFFICIAL STATUS
02/27/2020	5035	Introduction and first reading
		Referred to Human Services Reform Finance and Policy
03/11/2020		Author added Bigham
		Comm report: To pass as amended and re-refer to Judiciary and Public Safety Finance and Policy

1.1 A bill for an act

1.2 relating to human services; revising treatment of self-employment income for

1.3 purposes of eligibility for cash assistance programs; establishing fraudulent uses

1.4 of self-employment records or income that constitute wrongfully obtaining

1.5 assistance; amending Minnesota Statutes 2018, sections 119B.09, subdivision 4;

1.6 256P.02, subdivisions 1a, 2; 256P.04, subdivision 4; 256P.05; Minnesota Statutes

1.7 2019 Supplement, section 256.98, subdivision 1.

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

1.9 Section 1. Minnesota Statutes 2018, section 119B.09, subdivision 4, is amended to read:

1.10 Subd. 4. **Eligibility; annual income; calculation.** (a) Annual income of the applicant

1.11 family is the current monthly income of the family multiplied by 12 or the income for the

1.12 12-month period immediately preceding the date of application, or income calculated by

1.13 the method which provides the most accurate assessment of income available to the family.

1.14 (b) Self-employment income must be calculated based on ~~gross receipts less operating~~

1.15 ~~expenses~~ section 256P.05, subdivision 2.

1.16 (c) Income changes are processed under section 119B.025, subdivision 4. Included lump

1.17 sums counted as income under section 256P.06, subdivision 3, must be annualized over 12

1.18 months. Income must be verified with documentary evidence. If the applicant does not have

1.19 sufficient evidence of income, verification must be obtained from the source of the income.

1.20 Sec. 2. Minnesota Statutes 2019 Supplement, section 256.98, subdivision 1, is amended

1.21 to read:

1.22 Subdivision 1. **Wrongfully obtaining assistance.** A person who commits any of the

1.23 following acts or omissions with intent to defeat the purposes of sections 145.891 to 145.897,

2.1 the MFIP program formerly codified in sections 256.031 to 256.0361, the AFDC program
2.2 formerly codified in sections 256.72 to 256.871, chapter 256B, 256D, 256I, 256J, 256K, or
2.3 256L, child care assistance programs, and emergency assistance programs under section
2.4 256D.06, is guilty of theft and shall be sentenced under section 609.52, subdivision 3, clauses
2.5 (1) to (5):

2.6 (1) obtains or attempts to obtain, or aids or abets any person to obtain by means of a
2.7 willfully false statement or representation, by intentional concealment of any material fact,
2.8 or by impersonation or other fraudulent device, assistance or the continued receipt of
2.9 assistance, to include child care assistance or vouchers produced according to sections
2.10 145.891 to 145.897 and MinnesotaCare services according to sections 256.9365, 256.94,
2.11 and 256L.01 to 256L.15, to which the person is not entitled or assistance greater than that
2.12 to which the person is entitled;

2.13 (2) knowingly aids or abets in buying or in any way disposing of the property of a
2.14 recipient or applicant of assistance without the consent of the county agency; ~~or~~

2.15 (3) obtains or attempts to obtain, alone or in collusion with others, the receipt of payments
2.16 to which the individual is not entitled as a provider of subsidized child care, or by furnishing
2.17 or concurring in a willfully false claim for child care assistance; or

2.18 (4) knowingly conceals self-employment income or assets by:

2.19 (i) transferring funds between financial accounts, including business and personal
2.20 accounts;

2.21 (ii) submitting a tax form to a state, county, or tribal authority inconsistent with the
2.22 person's tax form filed with the state or federal tax authority;

2.23 (iii) submitting business records to a state, county, or tribal authority that do not accurately
2.24 reflect the person's earnings, income, expenses, or activities;

2.25 (iv) using business accounts to pay expenses that are not allowable business expenses
2.26 under the Internal Revenue Code; or

2.27 (v) using business records in any other manner that conceals the person's self-employment
2.28 income or assets.

2.29 The continued receipt of assistance to which the person is not entitled or greater than
2.30 that to which the person is entitled as a result of any of the acts, failure to act, or concealment
2.31 described in this subdivision shall be deemed to be continuing offenses from the date that
2.32 the first act or failure to act occurred.

3.1 Sec. 3. Minnesota Statutes 2018, section 256P.02, subdivision 1a, is amended to read:

3.2 Subd. 1a. **Exemption.** Participants who qualify for child care assistance programs under
3.3 chapter 119B are exempt from this section, except that the personal property identified in
3.4 subdivision 2 is counted toward the asset limit of the child care assistance program under
3.5 chapter 119B.

3.6 Sec. 4. Minnesota Statutes 2018, section 256P.02, subdivision 2, is amended to read:

3.7 Subd. 2. **Personal property limitations.** The equity value of an assistance unit's personal
3.8 property listed in clauses (1) to ~~(4)~~ (5) must not exceed \$10,000 for applicants and
3.9 participants. For purposes of this subdivision, personal property is limited to:

3.10 (1) cash;

3.11 (2) bank accounts;

3.12 (3) liquid stocks and bonds that can be readily accessed without a financial penalty; ~~and~~

3.13 (4) vehicles not excluded under subdivision 3; and

3.14 (5) the full value of business accounts used to pay expenses not related to the business.

3.15 Sec. 5. Minnesota Statutes 2018, section 256P.04, subdivision 4, is amended to read:

3.16 Subd. 4. **Factors to be verified.** (a) The agency shall verify the following at application:

3.17 (1) identity of adults;

3.18 (2) age, if necessary to determine eligibility;

3.19 (3) immigration status;

3.20 (4) income;

3.21 (5) spousal support and child support payments made to persons outside the household;

3.22 (6) vehicles;

3.23 (7) checking and savings accounts, including any business accounts used to pay expenses
3.24 not related to the business;

3.25 (8) inconsistent information, if related to eligibility;

3.26 (9) residence;

3.27 (10) Social Security number; and

4.1 (11) use of nonrecurring income under section 256P.06, subdivision 3, clause (2), item
4.2 (ix), for the intended purpose for which it was given and received.

4.3 (b) Applicants who are qualified noncitizens and victims of domestic violence as defined
4.4 under section 256J.08, subdivision 73, clause (7), are not required to verify the information
4.5 in paragraph (a), clause (10). When a Social Security number is not provided to the agency
4.6 for verification, this requirement is satisfied when each member of the assistance unit
4.7 cooperates with the procedures for verification of Social Security numbers, issuance of
4.8 duplicate cards, and issuance of new numbers which have been established jointly between
4.9 the Social Security Administration and the commissioner.

4.10 Sec. 6. Minnesota Statutes 2018, section 256P.05, is amended to read:

4.11 **256P.05 SELF-EMPLOYMENT EARNINGS.**

4.12 Subdivision 1. **Exempted programs.** Participants who qualify for ~~child care assistance~~
4.13 ~~programs under chapter 119B~~, Minnesota supplemental aid under chapter 256D; and housing
4.14 support under chapter 256I on the basis of eligibility for Supplemental Security Income are
4.15 exempt from this section. Participants who qualify for child care assistance programs under
4.16 chapter 119B are exempt from subdivision 3.

4.17 Subd. 2. **Self-employment income determinations.** Applicants and participants must
4.18 choose one of the methods described in this subdivision for determining self-employment
4.19 earned income. An agency must determine self-employment income, which is either:

4.20 (1) one-half of gross earnings from self-employment; or

4.21 (2) taxable income as determined from an Internal Revenue Service tax form that has
4.22 been filed with the Internal Revenue Service ~~within the last~~ for the most recent year and in
4.23 alignment with guidance provided for the Supplemental Nutrition Assistance Program. A
4.24 12-month average using ~~net~~ taxable income shall be used to budget monthly income.

4.25 Subd. 3. **Self-employment budgeting.** (a) The self-employment budget period begins
4.26 in the month of application or in the first month of self-employment. ~~Applicants and~~
4.27 ~~participants must choose one of the methods described in subdivision 2 for determining~~
4.28 ~~self-employment earned income.~~

4.29 (b) Applicants and participants who elect to use taxable income as described in
4.30 subdivision 2, clause (2), to determine self-employment income must continue to use this
4.31 method until recertification, unless there is an unforeseen significant change in gross income
4.32 equaling a decline in gross income of the amount equal to or greater than the earned income

5.1 disregard as defined in section 256P.03 from the income used to determine the benefit for
5.2 the current month.

5.3 (c) For applicants and participants who elect to use one-half of gross earnings as described
5.4 in subdivision 2, clause (1), to determine self-employment income, earnings must be counted
5.5 as income in the month received.