

Sixty-third
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1385

Introduced by

Representatives D. Johnson, Brandenburg, Hofstad, N. Johnson, Kempenich, Pollert

Senators Campbell, Larsen, Sitte

1 A BILL for an Act to create and enact a new section to chapter 50-06 and a new subdivision to
2 subsection 1 of section 50-09-29 of the North Dakota Century Code, relating to drug testing for
3 the temporary assistance for needy families program ~~and the supplemental nutrition assistance~~
4 ~~program.~~

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new section to chapter 50-06 of the North Dakota Century Code is created
7 and enacted as follows:

8 **Screening for controlled substances - Eligibility for temporary assistance for needy**
9 **families ~~and supplemental nutrition assistance programs~~ program.**

- 10 1. ~~The~~ If a reasonable suspicion exists, the department shall require ~~every applicant an~~
11 eligible recipient for the temporary assistance for needy families program ~~and every~~
12 applicant for the supplemental nutrition assistance program to submit to a drug test to
13 determine if the ~~applicant~~ eligible recipient is engaged in the illegal use of a controlled
14 substance. The cost of the drug testing is the responsibility of the individual tested.
- 15 2. An individual who tests positive for controlled substances as a result of a drug test
16 required under this section is ineligible to receive temporary assistance for needy
17 families program ~~or supplemental nutrition assistance program~~ benefits for one year
18 after the date of the positive drug test unless the individual meets the requirements of
19 subsection 4. An individual who tests positive in a second drug test is ineligible to
20 receive temporary assistance for needy families program ~~or supplemental nutrition~~
21 assistance program benefits for three years after the date of the second positive drug
22 test.
- 23 3. The department shall:

- 1 a. Provide notice of drug testing to each individual at the time of application. The
2 notice must advise the individual that drug testing will be conducted as a
3 condition for receiving temporary assistance for needy families program-or-
4 supplemental nutrition assistance program benefits and that the individual must
5 bear the cost of testing. If the individual tests negative for controlled substances,
6 the department shall increase the amount of the initial benefit by the amount paid
7 by the individual for the drug testing. ~~The individual must be advised that the~~
8 ~~required drug testing may be avoided if the individual does not apply for-~~
9 ~~temporary assistance for needy families program or supplemental nutrition-~~
10 ~~assistance program benefits.~~ Dependent children under the age of eighteen are
11 exempt from the drug testing requirement;
- 12 b. Require that for two-parent families, both parents must comply with the drug
13 testing requirement.
- 14 c. Require that any teen parent who is not required to live with a parent, legal
15 guardian, or other adult caretaker relative must comply with the drug testing
16 requirement.
- 17 d. Advise each individual to be tested, before the test is conducted, that the
18 individual may advise the agent administering the test of any prescription or
19 over-the-counter medication the individual is taking.
- 20 e. Inform an individual who tests positive for a controlled substance and is deemed
21 ineligible for temporary assistance for needy families program-or-supplemental-
22 nutrition assistance program benefits that the individual may reapply for those
23 benefits one year after the date of the positive drug test unless the individual
24 meets the requirements of subsection 4.
- 25 f. Provide any individual who tests positive with a list of licensed substance abuse
26 treatment providers available in the area in which the individual resides. The
27 department is not responsible for providing or paying for substance abuse
28 treatment as part of the screening conducted under this section.
- 29 g. Comply with the confidentiality requirements for substance abuse treatment
30 records as governed by title 42, Code of Federal Regulations, part 2.

h. Require an eligible recipient for the temporary assistance for needy families program to sign a release of information form at the time of application. The release must allow the county to receive treatment records and disclose that information to the department and to the office of administrative hearings when necessary.

4. An individual who tests positive under this section and is denied temporary assistance for needy families program ~~or supplemental nutrition assistance program~~ benefits as a result may reapply for those benefits after six months if the individual can document the successful completion of a substance abuse treatment program offered by a licensed substance abuse treatment provider. An individual who fails the drug test required under subsection 1 may reapply for benefits under this subsection only once.

5. If a parent is deemed ineligible for temporary assistance for needy families program ~~or supplemental nutrition assistance program~~ benefits as a result of failing a drug test conducted under this section:

a. The dependent child's eligibility for temporary assistance for needy families program ~~or supplemental nutrition assistance program~~ benefits is not affected.

b. An appropriate protective payee must be designated to receive benefits on behalf of the child. The parent may choose to designate another individual to receive benefits for the parent's minor child. The designated individual must be an immediate family member or, if an immediate family member is not available or the family member declines the option, another individual, approved by the department, may be designated. The designated individual also must undergo drug testing before being approved to receive benefits on behalf of the child.

6. The department shall adopt rules to implement this section.

SECTION 2. A new subdivision to subsection 1 of section 50-09-29 of the North Dakota Century Code is created and enacted as follows:

Require applicants to comply with the drug testing requirements of section 1 of this Act.