

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 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.**

- 10 1. The department shall require every applicant for the temporary assistance for needy
11 families program and every applicant for the supplemental nutrition assistance
12 program to submit to a drug test to determine if the applicant is engaged in the illegal
13 use of a controlled substance. The cost of the drug testing is the responsibility of the
14 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 4. An individual who tests positive under this section and is denied temporary assistance
30 for needy families program or supplemental nutrition assistance program benefits as a
31 result may reapply for those benefits after six months if the individual can document

- 1 the successful completion of a substance abuse treatment program offered by a
2 licensed substance abuse treatment provider. An individual who fails the drug test
3 required under subsection 1 may reapply for benefits under this subsection only once.
4 5. If a parent is deemed ineligible for temporary assistance for needy families program or
5 supplemental nutrition assistance program benefits as a result of failing a drug test
6 conducted under this section:
7 a. The dependent child's eligibility for temporary assistance for needy families
8 program or supplemental nutrition assistance program benefits is not affected.
9 b. An appropriate protective payee must be designated to receive benefits on behalf
10 of the child. The parent may choose to designate another individual to receive
11 benefits for the parent's minor child. The designated individual must be an
12 immediate family member or, if an immediate family member is not available or
13 the family member declines the option, another individual, approved by the
14 department, may be designated. The designated individual also must undergo
15 drug testing before being approved to receive benefits on behalf of the child.
16 6. The department shall adopt rules to implement this section.

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

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