

Sixty-third  
Legislative Assembly  
of North Dakota

## ENGROSSED 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.

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

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

7 **Screening for controlled substances - Eligibility for temporary assistance for needy**  
8 **families program.**

- 9 1. If a reasonable suspicion exists, the department shall require an eligible recipient for  
10 the temporary assistance for needy families program to submit to a drug test to  
11 determine if the eligible recipient is engaged in the illegal use of a controlled  
12 substance. The cost of the drug testing is the responsibility of the individual tested.  
13 2. An individual who tests positive for controlled substances as a result of a drug test  
14 required under this section is ineligible to receive temporary assistance for needy  
15 families program benefits for one year after the date of the positive drug test unless  
16 the individual meets the requirements of subsection 4. An individual who tests positive  
17 in a second drug test is ineligible to receive temporary assistance for needy families  
18 program benefits for three years after the date of the second positive drug test.  
19 3. The department shall:  
20 a. Provide notice of drug testing to each individual at the time of application. The  
21 notice must advise the individual that drug testing will be conducted as a  
22 condition for receiving temporary assistance for needy families program benefits  
23 and that the individual must bear the cost of testing. If the individual tests  
24 negative for controlled substances, the department shall increase the amount of

- 1           the initial benefit by the amount paid by the individual for the drug testing.
- 2           Dependent children under the age of eighteen are exempt from the drug testing
- 3           requirement:
- 4           b. Require that for two-parent families, both parents must comply with the drug
- 5           testing requirement.
- 6           c. Require that any teen parent who is not required to live with a parent, legal
- 7           guardian, or other adult caretaker relative must comply with the drug testing
- 8           requirement.
- 9           d. Advise each individual to be tested, before the test is conducted, that the
- 10           individual may advise the agent administering the test of any prescription or
- 11           over-the-counter medication the individual is taking.
- 12           e. Inform an individual who tests positive for a controlled substance and is deemed
- 13           ineligible for temporary assistance for needy families program benefits that the
- 14           individual may reapply for those benefits one year after the date of the positive
- 15           drug test unless the individual meets the requirements of subsection 4.
- 16           f. Provide any individual who tests positive with a list of licensed substance abuse
- 17           treatment providers available in the area in which the individual resides. The
- 18           department is not responsible for providing or paying for substance abuse
- 19           treatment as part of the screening conducted under this section.
- 20           g. Comply with the confidentiality requirements for substance abuse treatment
- 21           records as governed by title 42, Code of Federal Regulations, part 2.
- 22           h. Require an eligible recipient for the temporary assistance for needy families
- 23           program to sign a release of information form at the time of application. The
- 24           release must allow the county to receive treatment records and disclose that
- 25           information to the department and to the office of administrative hearings when
- 26           necessary.
- 27           4. An individual who tests positive under this section and is denied temporary assistance
- 28           for needy families program benefits as a result may reapply for those benefits after six
- 29           months if the individual can document the successful completion of a substance abuse
- 30           treatment program offered by a licensed substance abuse treatment provider. An

1           individual who fails the drug test required under subsection 1 may reapply for benefits  
2           under this subsection only once.

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

5        a. The dependent child's eligibility for temporary assistance for needy families  
6        program benefits is not affected.

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

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

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

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