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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

**EIGHTY-SIXTH  
SESSION**

**HOUSE FILE No. 2125**

March 25, 2009

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The bill was read for the first time and referred to the Committee on Public Safety Policy and Oversight

March 1, 2010

By motion, recalled and re-referred to the Committee on Finance

A bill for an act

relating to crime prevention; providing for an aggressive initiative against chemical dependency; increasing the tax on alcoholic beverages to fund this initiative; eliminating obsolete language and making technical corrections; appropriating money; amending Minnesota Statutes 2008, sections 169A.275, subdivision 5; 169A.284, subdivision 1; 169A.54, subdivision 11; 169A.70, subdivisions 2, 3, 7, by adding subdivisions; 254B.01, subdivision 2; 254B.02, subdivision 1; 254B.04, subdivisions 1, 3; 254B.06, subdivision 1; 297G.03, subdivisions 1, 2; 297G.04, subdivisions 1, 2; 609.115, subdivision 8; 609.135, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 254A; 373; 609; repealing Minnesota Statutes 2008, sections 254B.02, subdivisions 2, 3, 4; 254B.03, subdivision 4; 254B.09, subdivisions 4, 5, 7.

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

**Section 1. LEGISLATIVE FINDINGS AND INTENT.**

The legislature finds that:

(1) impaired driving offenses kill and injure more Minnesotans than any other crime; and

(2) alcohol and drug abuse contribute to domestic violence and destroy families.

The legislature considers the need to address the problem of alcohol abuse to be a high priority. Furthermore, the legislature determines that the costs of fighting alcohol abuse should be funded by those who abuse alcohol. Consequently, the legislature is increasing the tax on the sale of alcohol to fund aggressive efforts to reduce impaired driving offenses and generally prevent crime, injury, and loss of life through chemical dependency prevention, screening, and treatment.

Sec. 2. Minnesota Statutes 2008, section 169A.275, subdivision 5, is amended to read:

2.1 Subd. 5. **Level of care recommended in chemical use assessment.** Unless the  
2.2 court commits the person to the custody of the commissioner of corrections as provided in  
2.3 section 169A.276 (mandatory penalties; felony violations), in addition to other penalties  
2.4 required under this section, if the person has not already done so, the court shall order  
2.5 a person to submit to the ~~level of care recommended in the chemical use assessment~~  
2.6 treatment services clinically justified by a rule 25 (Minnesota Rules, parts 9530.6600  
2.7 through 9530.6655) conducted under section 169A.70 (alcohol safety program; chemical  
2.8 use assessments) if the person: (1) is convicted of violating section 169A.20 (driving  
2.9 while impaired) while having an alcohol concentration of 0.20 or more as measured at  
2.10 the time, or within two hours of the time, of the offense or if the violation occurs within  
2.11 ten years of one or more qualified prior impaired driving incidents; or (2) is arrested  
2.12 for violating section 169A.20, but is convicted of another offense arising out of the  
2.13 circumstances surrounding the arrest.

2.14 Sec. 3. Minnesota Statutes 2008, section 169A.284, subdivision 1, is amended to read:

2.15 Subdivision 1. **When required.** (a) When a court sentences a person convicted of  
2.16 an offense enumerated in section 169A.70, subdivision 2, paragraph (b), clause (1) or (2),  
2.17 (chemical use assessment; requirement; form), it shall impose a chemical dependency  
2.18 assessment charge of \$125. A person shall pay an additional surcharge of \$5 if the  
2.19 person is convicted of a violation of section 169A.20 (driving while impaired) within five  
2.20 years of a prior impaired driving conviction or a prior conviction for an offense arising  
2.21 out of an arrest for a violation of section 169A.20 or Minnesota Statutes 1998, section  
2.22 169.121 (driver under influence of alcohol or controlled substance) or 169.129 (aggravated  
2.23 DWI-related violations; penalty). This section applies when the sentence is executed,  
2.24 stayed, or suspended. The court may not waive payment or authorize payment of the  
2.25 assessment charge and surcharge in installments unless it makes written findings on the  
2.26 record that the convicted person is indigent or that the assessment charge and surcharge  
2.27 would create undue hardship for the convicted person or that person's immediate family.

2.28 (b) The chemical dependency assessment charge and surcharge required under  
2.29 this section are in addition to the surcharge required by section 357.021, subdivision 6  
2.30 (surcharges on criminal and traffic offenders).

2.31 Sec. 4. Minnesota Statutes 2008, section 169A.54, subdivision 11, is amended to read:

2.32 Subd. 11. **Chemical use assessment.** When the evidentiary test shows an alcohol  
2.33 concentration of 0.07 or more, that result must be reported to the commissioner. The  
2.34 commissioner shall record that fact on the driver's record. When the driver's record shows

3.1 a second or subsequent report of an alcohol concentration of 0.07 or more within two  
 3.2 years of a recorded report, the commissioner may require that the driver have a chemical  
 3.3 use assessment meeting the commissioner's requirements and those of section 169A.70.  
 3.4 The assessment must be at the driver's expense. In no event shall the commissioner deny  
 3.5 the license of a person who refuses to take the assessment or to undertake treatment, if  
 3.6 treatment is indicated by the assessment, for longer than 90 days. If an assessment is  
 3.7 made pursuant to this section, the commissioner may waive the assessment required  
 3.8 by section 169A.70.

3.9 Sec. 5. Minnesota Statutes 2008, section 169A.70, subdivision 2, is amended to read:

3.10 Subd. 2. **Chemical use assessment requirement.** (a) As used in this subdivision,  
 3.11 "violent crime" has the meaning given in section 609.133, subdivision 1.

3.12 (b) A chemical use assessment must be conducted and an assessment report  
 3.13 submitted to the court and to the Department of Public Safety by the county agency  
 3.14 administering the alcohol safety program when:

3.15 (1) the defendant is convicted of an offense described in section 169A.20 (driving  
 3.16 while impaired), 169A.31 (alcohol-related school bus and Head Start bus driving), or  
 3.17 360.0752 (impaired aircraft operation); ~~or~~

3.18 (2) the defendant is arrested for committing an offense described in clause (1) but is  
 3.19 convicted of another offense arising out of the circumstances surrounding the arrest; or

3.20 (3) the defendant is convicted of a violent crime.

3.21 Sec. 6. Minnesota Statutes 2008, section 169A.70, subdivision 3, is amended to read:

3.22 Subd. 3. **Assessment report.** ~~(a) The assessment and assessment report for this~~  
 3.23 ~~section must be on a form prescribed by the commissioner and shall contain an evaluation~~  
 3.24 ~~of the convicted defendant concerning the defendant's prior traffic and criminal record,~~  
 3.25 ~~characteristics and history of alcohol and chemical use problems, and amenability to~~  
 3.26 ~~rehabilitation through the alcohol safety program. The report is classified as private data~~  
 3.27 ~~on individuals as defined in section 13.02, subdivision 12.~~

3.28 ~~(b) The assessment report must include:~~

3.29 ~~(1) a diagnosis of the nature of the offender's chemical and alcohol involvement;~~

3.30 ~~(2) an assessment of the severity level of the involvement;~~

3.31 ~~(3) a recommended level of care for the offender in accordance with the criteria~~

3.32 ~~contained in rules adopted by the commissioner of human services under section 254A.03;~~

3.33 ~~subdivision 3 (chemical dependency treatment rules);~~

3.34 ~~(4) an assessment of the offender's placement needs;~~

4.1 ~~(5) recommendations for other appropriate remedial action or care, including~~  
4.2 ~~aftercare services in section 254B.01, subdivision 3, that may consist of educational~~  
4.3 ~~programs, one-on-one counseling, a program or type of treatment that addresses mental~~  
4.4 ~~health concerns, or a combination of them; and~~

4.5 ~~(6) a specific explanation why no level of care or action was recommended, if~~  
4.6 ~~applicable~~ meet the requirements of section 254A.03 and rules adopted under the authority  
4.7 granted in section 254A.10. Additionally, the assessment must include access to and  
4.8 review of criminal records and most recent arrest reports.

4.9 Sec. 7. Minnesota Statutes 2008, section 169A.70, subdivision 7, is amended to read:

4.10 Subd. 7. **Preconviction assessment.** (a) The court may not accept a chemical use  
4.11 assessment conducted before conviction as a substitute for the assessment required by this  
4.12 section unless the court ensures that the preconviction assessment meets the standards  
4.13 ~~described in this section~~ required under sections 254A.03 and 254A.10.

4.14 (b) If the commissioner of public safety is making a decision regarding reinstating  
4.15 a person's driver's license based on a chemical use assessment, the commissioner shall  
4.16 ensure that the assessment meets the standards described in this section.

4.17 Sec. 8. Minnesota Statutes 2008, section 169A.70, is amended by adding a subdivision  
4.18 to read:

4.19 Subd. 8. **Timing of assessment interview.** It is a strong preference that the  
4.20 chemical use assessment interview with the offender be conducted while the offender is  
4.21 being initially held in custody after arrest.

4.22 Sec. 9. Minnesota Statutes 2008, section 169A.70, is amended by adding a subdivision  
4.23 to read:

4.24 Subd. 9. **Court's authority to require assessments in other instances.** A court  
4.25 having jurisdiction over a person in a juvenile, criminal, or civil proceeding may order that  
4.26 the person submit to a chemical use assessment under this section if the court has reason  
4.27 to believe that the person may have a chemical dependency problem.

4.28 Sec. 10. **[254A.25] CARE COORDINATION RELATED TO CHEMICAL USE**  
4.29 **ASSESSMENTS.**

4.30 The commissioner shall establish a process to distribute grant funds to counties that  
4.31 provide care coordination to individuals who receive chemical use assessments. For  
4.32 counties receiving grants, the care coordination must be provided to individuals eligible

5.1 for a chemical use assessment under Minnesota Rules, parts 9530.6600 to 9530.6655, if  
5.2 the chemical use assessment establishes the need for treatment, and a plan of care is  
5.3 developed. The care coordinator must meet the requirements of Minnesota Rules, part  
5.4 9530.6615, subpart 2. The care coordination may include, but is not limited to, discharge  
5.5 planning from treatment and routine follow-up with the client, access to community  
5.6 resources that address the needs identified in the chemical use assessment, monitoring  
5.7 services and the functioning of the client, and monitoring the client's chemical use and  
5.8 modifying the plan as necessary.

5.9 Sec. 11. Minnesota Statutes 2008, section 254B.01, subdivision 2, is amended to read:

5.10 Subd. 2. **American Indian.** For purposes of services provided under ~~section~~  
5.11 ~~254B.09, subdivision 7~~ this chapter, "American Indian" means (1) a person who is a  
5.12 member of an Indian tribe, and the commissioner shall use the definitions of "Indian" and  
5.13 "Indian tribe" and "Indian organization" provided in Public Law 93-638. ~~For purposes of~~  
5.14 ~~services provided under section 254B.09, subdivision 4, "American Indian" means, or (2)~~  
5.15 a resident of federally recognized tribal lands who is recognized as an Indian person by  
5.16 the federally recognized tribal governing body.

5.17 Sec. 12. Minnesota Statutes 2008, section 254B.02, subdivision 1, is amended to read:

5.18 Subdivision 1. **Chemical dependency treatment allocation.** The chemical  
5.19 dependency funds appropriated for allocation shall be placed in a special revenue account.  
5.20 The commissioner shall annually transfer funds from the chemical dependency fund  
5.21 to pay for operation of the drug and alcohol abuse normative evaluation system and  
5.22 to pay for all costs incurred by adding ~~two~~ three positions for licensing of chemical  
5.23 dependency treatment and rehabilitation programs ~~located in hospitals for which funds~~  
5.24 ~~are not otherwise appropriated. Six percent of the remaining money must be reserved~~  
5.25 ~~for tribal allocation under section 254B.09, subdivisions 4 and 5. The commissioner~~  
5.26 ~~shall annually divide the money available in the chemical dependency fund that is not~~  
5.27 ~~held in reserve by counties from a previous allocation, or allocated to the American~~  
5.28 ~~Indian chemical dependency tribal account. Six percent of the remaining money must be~~  
5.29 ~~reserved for the nonreservation American Indian chemical dependency allocation for~~  
5.30 ~~treatment of American Indians by eligible vendors under section 254B.05, subdivision~~  
5.31 ~~4. The remainder of the money must be allocated among the counties according to the~~  
5.32 ~~following formula, using state demographer data and other data sources determined by~~  
5.33 ~~the commissioner.~~

6.1 ~~(a) For purposes of this formula, American Indians and children under age 14 are~~  
6.2 ~~subtracted from the population of each county to determine the restricted population.~~

6.3 ~~(b) The amount of chemical dependency fund expenditures for entitled persons for~~  
6.4 ~~services not covered by prepaid plans governed by section 256B.69 in the previous year is~~  
6.5 ~~divided by the amount of chemical dependency fund expenditures for entitled persons for~~  
6.6 ~~all services to determine the proportion of exempt service expenditures for each county.~~

6.7 ~~(c) The prepaid plan months of eligibility is multiplied by the proportion of exempt~~  
6.8 ~~service expenditures to determine the adjusted prepaid plan months of eligibility for~~  
6.9 ~~each county.~~

6.10 ~~(d) The adjusted prepaid plan months of eligibility is added to the number of~~  
6.11 ~~restricted population fee for service months of eligibility for the Minnesota family~~  
6.12 ~~investment program, general assistance, and medical assistance and divided by the county~~  
6.13 ~~restricted population to determine county per capita months of covered service eligibility.~~

6.14 ~~(e) The number of adjusted prepaid plan months of eligibility for the state is added~~  
6.15 ~~to the number of fee for service months of eligibility for the Minnesota family investment~~  
6.16 ~~program, general assistance, and medical assistance for the state restricted population and~~  
6.17 ~~divided by the state restricted population to determine state per capita months of covered~~  
6.18 ~~service eligibility.~~

6.19 ~~(f) The county per capita months of covered service eligibility is divided by the~~  
6.20 ~~state per capita months of covered service eligibility to determine the county welfare~~  
6.21 ~~easeload factor.~~

6.22 ~~(g) The median married couple income for the most recent three-year period~~  
6.23 ~~available for the state is divided by the median married couple income for the same period~~  
6.24 ~~for each county to determine the income factor for each county.~~

6.25 ~~(h) The county restricted population is multiplied by the sum of the county welfare~~  
6.26 ~~easeload factor and the county income factor to determine the adjusted population.~~

6.27 ~~(i) \$15,000 shall be allocated to each county.~~

6.28 ~~(j) The remaining funds shall be allocated proportional to the county adjusted~~  
6.29 ~~population.~~

6.30 Sec. 13. Minnesota Statutes 2008, section 254B.04, subdivision 1, is amended to read:

6.31 Subdivision 1. **Eligibility.** (a) Persons eligible for benefits under Code of Federal  
6.32 Regulations, title 25, part 20, persons ~~eligible for medical assistance benefits under~~  
6.33 ~~sections 256B.055, 256B.056, and 256B.057, subdivisions 1, 2, 5, and 6, or who meet~~  
6.34 ~~the income standards of section 256B.056, subdivision 4, and persons eligible for general~~  
6.35 ~~assistance medical care under section 256D.03, subdivision 3, whose income is at or~~

7.1 below 400 percent of the federal poverty guidelines who do not have insurance coverage  
7.2 are entitled to chemical dependency fund services. ~~State money appropriated for this~~  
7.3 ~~paragraph must be placed in a separate account established for this purpose.~~

7.4 Persons with dependent children who are determined to be in need of chemical  
7.5 dependency treatment pursuant to an assessment under section 626.556, subdivision 10, or  
7.6 a case plan under section 260C.201, subdivision 6, or 260C.212, shall be assisted by the  
7.7 local agency to access needed treatment services. Treatment services must be appropriate  
7.8 for the individual or family, which may include long-term care treatment or treatment in a  
7.9 facility that allows the dependent children to stay in the treatment facility. The county  
7.10 shall pay for out-of-home placement costs, if applicable.

7.11 (b) A person not entitled to services under paragraph (a), ~~but with family income~~  
7.12 ~~that is less than 215 percent of the federal poverty guidelines for the applicable family~~  
7.13 ~~size, shall be eligible to receive chemical dependency fund services within the limit~~  
7.14 ~~of funds appropriated for this group for the fiscal year. If notified by the state agency~~  
7.15 ~~of limited funds, a county must give preferential treatment to persons with dependent~~  
7.16 ~~children who are in need of chemical dependency treatment pursuant to an assessment~~  
7.17 ~~under section 626.556, subdivision 10, or a case plan under section 260C.201, subdivision~~  
7.18 ~~6, or 260C.212. A county may spend money from its own sources to serve persons under~~  
7.19 ~~this paragraph. State money appropriated for this paragraph must be placed in a separate~~  
7.20 ~~account established for this purpose.~~

7.21 (c) ~~Persons whose income is between 215 percent and 412 percent of the federal~~  
7.22 ~~poverty guidelines for the applicable family size shall be eligible for chemical dependency~~  
7.23 ~~services on a sliding fee basis, within the limit of funds appropriated for this group for the~~  
7.24 ~~fiscal year. Persons eligible under this paragraph must contribute to the cost of services~~  
7.25 ~~according to the sliding fee scale established under subdivision 3. A county may spend~~  
7.26 ~~money from its own sources to provide services to persons under this paragraph. State~~  
7.27 ~~money appropriated for this paragraph must be placed in a separate account established~~  
7.28 ~~for this purpose.~~

7.29 Sec. 14. Minnesota Statutes 2008, section 254B.04, subdivision 3, is amended to read:

7.30 Subd. 3. **Amount of contribution.** The commissioner shall adopt a sliding fee scale  
7.31 to determine the amount of contribution to be required from persons under this section.  
7.32 The commissioner may adopt rules to amend existing fee scales. The commissioner  
7.33 may establish a separate fee scale for recipients of chemical dependency transitional and  
7.34 extended care rehabilitation services that provides for the collection of fees for board  
7.35 and lodging expenses. The fee schedule shall ensure that employed persons are allowed

8.1 the income disregards and savings accounts that are allowed residents of community  
 8.2 mental illness facilities under section 256D.06, subdivisions 1 and 1b. ~~The fee scale~~  
 8.3 ~~must not provide assistance to persons whose income is more than 115 percent of the~~  
 8.4 ~~state median income.~~ Payments of liabilities under this section are medical expenses for  
 8.5 purposes of determining spenddown under sections 256B.055, 256B.056, 256B.06, and  
 8.6 256D.01 to 256D.21. The required amount of contribution established by the fee scale in  
 8.7 this subdivision is also the cost of care responsibility subject to collection under section  
 8.8 254B.06, subdivision 1.

8.9 Sec. 15. Minnesota Statutes 2008, section 254B.06, subdivision 1, is amended to read:

8.10 Subdivision 1. **State collections.** The commissioner is responsible for all collections  
 8.11 from persons determined to be partially responsible for the cost of care of an eligible  
 8.12 person receiving services under ~~Laws 1986, chapter 394, sections 8 to 20~~ this chapter.  
 8.13 The commissioner may initiate, or request the attorney general to initiate, necessary civil  
 8.14 action to recover the unpaid cost of care. The commissioner may collect all third-party  
 8.15 payments for chemical dependency services provided under ~~Laws 1986, chapter 394,~~  
 8.16 ~~sections 8 to 20~~ this chapter, including private insurance and federal Medicaid and  
 8.17 Medicare financial participation. The commissioner shall deposit in a dedicated account  
 8.18 a percentage of collections to pay for the cost of operating the chemical dependency  
 8.19 consolidated treatment fund invoice processing and vendor payment system, billing, and  
 8.20 collections. The remaining receipts must be deposited in the chemical dependency fund.

8.21 Sec. 16. Minnesota Statutes 2008, section 297G.03, subdivision 1, is amended to read:

8.22 Subdivision 1. **General rate; distilled spirits and wine.** The following excise tax is  
 8.23 imposed on all distilled spirits and wine manufactured, imported, sold, or possessed in  
 8.24 this state:

	Standard	Metric
8.25		
8.26 (a) Distilled spirits, liqueurs,	\$ <del>5.03</del> <u>17.69</u> per	\$ <del>1.33</del> <u>4.73</u>
8.27 cordials, and specialties regardless	gallon	per liter
8.28 of alcohol content (excluding ethyl		
8.29 alcohol)		
8.30 (b) Wine containing 14 percent	\$ <del>.30</del> <u>2.40</u> per	\$ <del>.08</del> <u>0.64</u>
8.31 or less alcohol by volume (except	gallon	per liter
8.32 cider as defined in section 297G.01,		
8.33 subdivision 3a)		
8.34 (c) Wine containing more than	\$ <del>.95</del> <u>3.01</u> per	\$ <del>.25</del> <u>0.81</u>
8.35 14 percent but not more than 21	gallon	per liter
8.36 percent alcohol by volume		

9.1	(d) Wine containing more than	\$ <del>1.82</del> <u>3.88</u> per	\$ <del>.48</del> <u>1.04</u>
9.2	21 percent but not more than 24	gallon	per liter
9.3	percent alcohol by volume		
9.4	(e) Wine containing more than 24	\$ <del>3.52</del> <u>5.56</u> per	\$ <del>.93</del> <u>1.49</u>
9.5	percent alcohol by volume	gallon	per liter
9.6	(f) Natural and artificial sparkling	\$ <del>1.82</del> <u>3.88</u> per	\$ <del>.48</del> <u>1.04</u>
9.7	wines containing alcohol	gallon	per liter
9.8	(g) Cider as defined in section	\$ <del>.15</del> <u>2.25</u> per	\$ <del>.04</del> <u>0.60</u>
9.9	297G.01, subdivision 3a	gallon	per liter
9.10	(h) Low alcohol dairy cocktails	\$ .08 per gallon	\$ .02 per liter

9.11 In computing the tax on a package of distilled spirits or wine, a proportional tax at a  
 9.12 like rate on all fractional parts of a gallon or liter must be paid, except that the tax on a  
 9.13 fractional part of a gallon less than 1/16 of a gallon is the same as for 1/16 of a gallon.

9.14 Sec. 17. Minnesota Statutes 2008, section 297G.03, subdivision 2, is amended to read:

9.15 Subd. 2. **Tax on miniatures; distilled spirits.** The tax on miniatures is ~~14~~ 24  
 9.16 cents per bottle.

9.17 Sec. 18. Minnesota Statutes 2008, section 297G.04, subdivision 1, is amended to read:

9.18 Subdivision 1. **Tax imposed.** The following excise tax is imposed on all fermented  
 9.19 malt beverages that are imported, directly or indirectly sold, or possessed in this state:

9.20 (1) on fermented malt beverages containing not more than 3.2 percent alcohol by  
 9.21 weight, ~~\$2.40~~ \$35.32 per 31-gallon barrel; and

9.22 (2) on fermented malt beverages containing more than 3.2 percent alcohol by  
 9.23 weight, ~~\$4.60~~ \$37.52 per 31-gallon barrel.

9.24 For fractions of a 31-gallon barrel, the tax rate is calculated proportionally.

9.25 Sec. 19. Minnesota Statutes 2008, section 297G.04, subdivision 2, is amended to read:

9.26 Subd. 2. **Tax credit.** A qualified brewer producing fermented malt beverages is  
 9.27 entitled to a tax credit of ~~\$4.60~~ \$37.52 per barrel on 25,000 barrels sold in any fiscal year  
 9.28 beginning July 1, regardless of the alcohol content of the product. Qualified brewers may  
 9.29 take the credit on the 18th day of each month, but the total credit allowed may not exceed  
 9.30 in any fiscal year the lesser of:

9.31 (1) the liability for tax; or

9.32 (2) \$115,000.

9.33 For purposes of this subdivision, a "qualified brewer" means a brewer, whether  
 9.34 or not located in this state, manufacturing less than 100,000 barrels of fermented malt  
 9.35 beverages in the calendar year immediately preceding the calendar year for which the

10.1 credit under this subdivision is claimed. In determining the number of barrels, all brands  
10.2 or labels of a brewer must be combined. All facilities for the manufacture of fermented  
10.3 malt beverages owned or controlled by the same person, corporation, or other entity  
10.4 must be treated as a single brewer.

10.5 Sec. 20. **[373.50] REQUIREMENT TO PROVIDE CHEMICAL DEPENDENCY**  
10.6 **TREATMENT.**

10.7 The state shall provide adequate funding for counties to provide comprehensive,  
10.8 needs-specific chemical dependency treatment programs and services to individuals within  
10.9 the county. The programs and services must be provided based on rule 25 (Minnesota  
10.10 Rules, parts 9530.6600 through 9530.6655) placement criteria.

10.11 Sec. 21. Minnesota Statutes 2008, section 609.115, subdivision 8, is amended to read:

10.12 Subd. 8. **Chemical use assessment required.** (a) If a person is convicted of a  
10.13 felony, the probation officer shall determine in the report prepared under subdivision 1  
10.14 whether or not alcohol or drug use was a contributing factor to the commission of the  
10.15 offense. If so, the report shall contain the results of a chemical use assessment conducted  
10.16 in accordance with this subdivision. The probation officer shall make an appointment for  
10.17 the defendant to undergo the chemical use assessment if so indicated. If the person is  
10.18 convicted of a violent crime as defined in section 609.133, subdivision 1, the provisions of  
10.19 that section apply.

10.20 (b) The chemical use assessment report must include a recommended level of  
10.21 care for the defendant in accordance with the criteria contained in rules adopted by the  
10.22 commissioner of human services under section 254A.03, subdivision 3. The assessment  
10.23 must be conducted by an assessor qualified under rules adopted by the commissioner of  
10.24 human services under section 254A.03, subdivision 3. An assessor providing a chemical  
10.25 use assessment may not have any direct or shared financial interest or referral relationship  
10.26 resulting in shared financial gain with a treatment provider, except as authorized under  
10.27 section 254A.19, subdivision 3. If an independent assessor is not available, the probation  
10.28 officer may use the services of an assessor authorized to perform assessments for the  
10.29 county social services agency under a variance granted under rules adopted by the  
10.30 commissioner of human services under section 254A.03, subdivision 3.

10.31 (c) A chemical use assessment and report conducted under this subdivision must  
10.32 meet the standards described in section 169A.70.

11.1 Sec. 22. **[609.133] CHEMICAL DEPENDENCY TREATMENT; ASSESSMENT**  
11.2 **CHARGE.**

11.3 Subdivision 1. **Definition.** As used in this section, "violent crime" has the meaning  
11.4 given in section 609.1095, subdivision 1. The term also includes violations of sections  
11.5 609.2231, 609.224, and 609.2242.

11.6 Subd. 2. **Assessment conducted.** The court shall ensure that a chemical use  
11.7 assessment is conducted on a person convicted of a violent crime as required in section  
11.8 169A.70, subdivision 2.

11.9 Subd. 3. **Charge.** (a) When a court sentences a person convicted of a violent crime,  
11.10 it shall impose a chemical dependency assessment charge of \$125. The court may not  
11.11 waive payment or authorize payment of the assessment charge in installments unless it  
11.12 makes written findings on the record that the convicted person is indigent or that the  
11.13 assessment charge would create undue hardship for the convicted person or that person's  
11.14 immediate family.

11.15 (b) The county shall collect and forward to the commissioner of finance \$25 of  
11.16 the chemical dependency assessment charge on a quarterly basis. The commissioner  
11.17 shall credit the money to the general fund. The county shall collect and keep \$100 of the  
11.18 chemical dependency assessment charge.

11.19 (c) The chemical dependency assessment charge required under this section is in  
11.20 addition to the surcharge required by section 357.021, subdivision 6.

11.21 Sec. 23. Minnesota Statutes 2008, section 609.135, is amended by adding a subdivision  
11.22 to read:

11.23 Subd. 9. **Certain persons to receive mandatory chemical dependency treatment.**  
11.24 If a court stays the imposition or execution of sentence for a person convicted of a violent  
11.25 crime as defined in section 609.133, subdivision 1, as a condition of probation and in  
11.26 addition to any other conditions imposed, the court shall order the person to submit to the  
11.27 level of care recommended in the chemical use assessment described in section 169A.70,  
11.28 unless there are compelling reasons to do otherwise.

11.29 Sec. 24. **JUDICIAL TRAINING.**

11.30 The Supreme Court shall include in its judicial education program training relating  
11.31 to a judge's powers and duties regarding chemical use assessments.

11.32 Sec. 25. **REPEAT DUI OFFENDER PILOT PROGRAM.**

12.1 The commissioner of public safety shall establish a pilot program in up to three  
12.2 counties for repeat driving while impaired offenders. The pilot program is an alternative  
12.3 to incarceration or traditional chemical treatment, and must provide a highly structured  
12.4 treatment program with 12 months of supervision following treatment. The probation  
12.5 officer, treatment provider, chemical use assessor, and possibly police officers, must work  
12.6 as partners in the recovery of the client. The pilot program must explore and use different  
12.7 monitoring devices to monitor the client's chemical use.

12.8 Sec. 26. **APPROPRIATIONS.**

12.9 (a) \$..... for the fiscal year ending June 30, 2010, and \$..... for the fiscal year  
12.10 ending June 30, 2011, are appropriated from the general fund to the commissioner of  
12.11 public safety. Of these amounts:

12.12 (1) \$..... the first year and \$..... the second year are for grants to local units of  
12.13 government to conduct compliance checks for on-sale and off-sale intoxicating liquor  
12.14 license holders to determine whether the license holder is complying with Minnesota  
12.15 Statutes, section 340A.503;

12.16 (2) \$..... the first year and \$..... the second year are for grants to prevent domestic  
12.17 violence and to provide services to victims of domestic violence; and

12.18 (3) \$..... for the biennium for the repeat DUI offender pilot program.

12.19 (b) \$..... for the fiscal year ending June 30, 2010, and \$..... for the fiscal year  
12.20 ending June 30, 2011, are appropriated from the general fund to the commissioner of  
12.21 human services. Of these amounts:

12.22 (1) \$..... the first year and \$..... the second year are for the purpose of fully funding  
12.23 Minnesota Statutes, section 254B.04, subdivision 1. This appropriation must become part  
12.24 of the base appropriation for this program;

12.25 (2) \$..... the first year and \$..... the second year to fund the chemical dependency  
12.26 treatment requirements under Minnesota Statutes, section 373.50;

12.27 (3) \$..... for the biennium for care coordination related to chemical use assessments  
12.28 under Minnesota Statutes, section 254A.25; and

12.29 (4) \$..... for the biennium to be transferred to the Board of Behavioral Health  
12.30 and Therapy under Minnesota Statutes, chapter 148C, to hire staff to conduct timely  
12.31 licensing of counselors.

12.32 (c) \$..... for the fiscal year ending June 30, 2010, and \$..... for the fiscal year  
12.33 ending June 30, 2011, are appropriated from the general fund to the Chief Justice of the  
12.34 Supreme Court. Of these amounts:

- 13.1 (1) \$..... the first year and \$..... the second year are for the increased judicial  
13.2 training described in section 24;
- 13.3 (2) \$..... the first year and \$..... the second year to counties for drug courts; and  
13.4 (3) \$..... the first year and \$..... the second year are for grants to counties for court  
13.5 services and correctional costs related to conducting chemical use assessments.
- 13.6 (d) \$..... for the fiscal year ending June 30, 2010, and \$..... for the fiscal year  
13.7 ending June 30, 2011, are appropriated from the general fund to the commissioner of  
13.8 health. Of these amounts, \$..... the first year and \$..... the second year are for grants  
13.9 to public health for education and prevention initiatives designed to eliminate underage  
13.10 drinking.

13.11 **Sec. 27. REPEALER.**

- 13.12 Minnesota Statutes 2008, sections 254B.02, subdivisions 2, 3, and 4; 254B.03,  
13.13 subdivision 4; and 254B.09, subdivisions 4, 5, and 7, are repealed.

13.14 **Sec. 28. EFFECTIVE DATE.**

- 13.15 Sections 2 to 9 and 21 to 23 are effective August 1, 2009, and apply to crimes  
13.16 committed on or after that date. Sections 16 to 19 are effective for taxes imposed after  
13.17 June 30, 2009.

**254B.02 CHEMICAL DEPENDENCY ALLOCATION PROCESS.**

Subd. 2. **County adjustment; maximum allocation.** The commissioner shall determine the state money used by each county in fiscal year 1986, using all state data sources. If available records do not provide specific chemical dependency expenditures for every county, the commissioner shall determine the amount of state money using estimates based on available data. In state fiscal year 1988, a county must not be allocated more than 150 percent of the state money spent by or on behalf of the county in fiscal year 1986 for chemical dependency treatment services eligible for payment under section 254B.05 but not including expenditures made for persons eligible for placement under section 254B.09, subdivision 6. The allocation maximums must be increased by 25 percent each year. After fiscal year 1992, there must be no allocation maximum. The commissioner shall reallocate the excess over the maximum to counties allocated less than the fiscal year 1986 state money, using the following process:

(a) The allocation is divided by 1986 state expenditures to determine percentage of prior expenditure, and counties are ranked by percentage of prior expenditure less expenditures for persons eligible for placement under section 254B.09, subdivision 6.

(b) The allocation of the lowest ranked county is raised to the same percentage of prior expenditure as the second lowest ranked county. The allocation of these two counties is then raised to the percentage of prior expenditures of the third lowest ranked county.

(c) The operations under paragraph (b) are repeated with each county by ranking until the money in excess of the allocation maximum has been allocated.

Subd. 3. **Reserve account.** The commissioner shall allocate money from the reserve account to counties that, during the current fiscal year, have met or exceeded the base level of expenditures for eligible chemical dependency services from local money. The commissioner shall establish the base level for fiscal year 1988 as the amount of local money used for eligible services in calendar year 1986. In later years, the base level must be increased in the same proportion as state appropriations to implement Laws 1986, chapter 394, sections 8 to 20, are increased. The base level must be decreased if the fund balance from which allocations are made under section 254B.02, subdivision 1, is decreased in later years. The local match rate for the reserve account is the same rate as applied to the initial allocation. Reserve account payments must not be included when calculating the county adjustments made according to subdivision 2. For counties providing medical assistance or general assistance medical care through managed care plans on January 1, 1996, the base year is fiscal year 1995. For counties beginning provision of managed care after January 1, 1996, the base year is the most recent fiscal year before enrollment in managed care begins. For counties providing managed care, the base level will be increased or decreased in proportion to changes in the fund balance from which allocations are made under subdivision 2, but will be additionally increased or decreased in proportion to the change in county adjusted population made in subdivision 1, paragraphs (b) and (c). Effective July 1, 2001, at the end of each biennium, any funds deposited in the reserve account funds in excess of those needed to meet obligations incurred under this section and sections 254B.06 and 254B.09 shall cancel to the general fund.

Subd. 4. **Allocation spending limits.** Money allocated according to subdivision 1 and section 254B.09, subdivision 4, is available for payments for up to two years. The commissioner shall deduct payments from the most recent year allocation in which money is available. Allocations under this section that are not used within two years must be reallocated to the reserve account for payments under subdivision 3. Allocations under section 254B.09, subdivision 4, that are not used within two years must be reallocated for payments under section 254B.09, subdivision 5.

**254B.03 RESPONSIBILITY TO PROVIDE CHEMICAL DEPENDENCY TREATMENT.**

Subd. 4. **Division of costs.** Except for services provided by a county under section 254B.09, subdivision 1, or services provided under section 256B.69 or 256D.03, subdivision 4, paragraph (b), the county shall, out of local money, pay the state for 15 percent of the cost of chemical dependency services, including those services provided to persons eligible for medical assistance under chapter 256B and general assistance medical care under chapter 256D. Counties may use the indigent hospitalization levy for treatment and hospital payments made under this section. Fifteen percent of any state collections from private or third-party pay, less 15 percent of the cost of payment and collections, must be distributed to the county that paid for a portion of the treatment under this section. If all funds allocated according to section 254B.02 are exhausted

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by a county and the county has met or exceeded the base level of expenditures under section 254B.02, subdivision 3, the county shall pay the state for 15 percent of the costs paid by the state under this section. The commissioner may refuse to pay state funds for services to persons not eligible under section 254B.04, subdivision 1, if the county financially responsible for the persons has exhausted its allocation.

**254B.09 INDIAN RESERVATION ALLOCATION OF CHEMICAL DEPENDENCY FUND.**

Subd. 4. **Tribal allocation.** Eighty-five percent of the American Indian chemical dependency tribal account must be allocated to the federally recognized American Indian tribal governing bodies that have entered into an agreement under subdivision 2 as follows: \$10,000 must be allocated to each governing body and the remainder must be allocated in direct proportion to the population of the reservation according to the most recently available estimates from the federal Bureau of Indian Affairs. When a tribal governing body has not entered into an agreement with the commissioner under subdivision 2, the county may use funds allocated to the reservation to pay for chemical dependency services for a current resident of the county and of the reservation.

Subd. 5. **Tribal reserve account.** The commissioner shall reserve 15 percent of the American Indian chemical dependency tribal account. The reserve must be allocated to those tribal units that have used all money allocated under subdivision 4 according to agreements made under subdivision 2 and to counties submitting invoices for American Indians under subdivision 1 when all money allocated under subdivision 4 has been used. An American Indian tribal governing body or a county submitting invoices under subdivision 1 may receive not more than 30 percent of the reserve account in a year. The commissioner may refuse to make reserve payments for persons not eligible under section 254B.04, subdivision 1, if the tribal governing body responsible for treatment placement has exhausted its allocation. Money must be allocated as invoices are received.

Subd. 7. **Nonreservation Indian account.** The nonreservation American Indian chemical dependency allocation must be held in reserve by the commissioner in an account for treatment of Indians not residing on lands of a reservation receiving money under subdivision 4. This money must be used to pay for services certified by county invoice to have been provided to an American Indian eligible recipient. Money allocated under this subdivision may be used for payments on behalf of American Indian county residents only if, in addition to other placement standards, the county certifies that the placement was appropriate to the cultural orientation of the client. Any funds for treatment of nonreservation Indians remaining at the end of a fiscal year shall be reallocated under section 254B.02.