



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1895/1
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2015 ASSEMBLY BILL 191

April 24, 2015 – Introduced by Representatives ROHRKASTE, KNODL, JAGLER, GANNON, A. OTT, MURPHY, R. BROOKS, KERKMAN, QUINN, T. LARSON, EDMING, MACCO, PETERSEN, KLEEFISCH, KAPENGA and BALLWEG. Referred to Committee on Public Benefit Reform.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to amend* 49.159 (1) (a) (intro.) and 49.36 (3) (a); and *to create* 20.435
2 (4) (bq), 20.437 (2) (em), 49.162, 49.163 (2) (am) 7., 49.36 (3m) and 49.79 (9) (d)
3 of the statutes; **relating to:** requiring drug testing and treatment for eligibility
4 for certain work experience programs; requiring the Department of Health
5 Services to request a waiver to screen and, if indicated, test and provide
6 treatment to FoodShare employment and training participants for illegal use
7 of a controlled substance; and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Children and Families (DCF) administers various work experience programs. The Transform Milwaukee Jobs program in Milwaukee County and the Transitional Jobs program outside of Milwaukee County provide work experience for unemployed individuals by providing a subsidy for wages and other employment expenses to employers that employ the individuals. Under the Wisconsin Works (W-2) program, DCF may provide job search assistance, placement in a subsidized job, or a stipend for up to four months to a noncustodial parent who would be eligible for W-2 except that he or she is not a custodial parent, if the noncustodial parent is subject to a child support order and the custodial parent of the noncustodial parent's child is a participant in W-2. Also under current law, DCF may contract with any county, tribal governing

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body, or W-2 agency to administer a work experience and job training program for noncustodial parents who have failed to pay child support due to unemployment or underemployment. Such individuals may be ordered by a court to register for a work experience and job training program.

This bill requires every individual who applies to participate in the Transform Milwaukee Jobs program or the Transitional Jobs program, who applies for W-2 services and benefits for noncustodial parents, or who applies for or is ordered by a court to register for a work experience and job training program (all four programs collectively, a program), to complete a questionnaire that screens for the abuse of a controlled substance. If, based on the answers to the questionnaire, DCF or the agency with which DCF has contracted to administer a program determines that there is a reasonable suspicion that an individual who is otherwise eligible for a program is abusing a controlled substance, the individual must undergo a test for the use of a controlled substance. If the test results are positive and the individual does not present satisfactory evidence that he or she has a valid prescription for the controlled substance, to remain eligible for a program the individual must participate in substance abuse treatment, the cost of which is paid by DCF. While the individual is undergoing treatment, he or she must submit to random testing for the use of a controlled substance, and the test results must be negative, or positive with evidence of a valid prescription, for the individual to remain eligible for a program. If any test results are positive and the individual does not have a valid prescription, the individual may begin treatment again one time and will remain eligible for a program as long as all test results are negative, or positive with a valid prescription. If the individual completes treatment and tests negative, or positive with a valid prescription, for the use of a controlled substance at the completion of treatment, he or she will have satisfactorily completed the substance abuse screening and testing and treatment requirements for the program.

Under current law, the federal food stamp program, now known as the Supplemental Nutrition Assistance Program (SNAP) and called FoodShare in this state, assists eligible low-income individuals to purchase food. SNAP benefits are paid entirely with federal moneys. The cost of administration is split between the federal and state governments. The program is administered in this state by the Department of Health Services (DHS). Under current law, DHS may require a recipient of SNAP benefits who is able and who is 18 to 60 years of age to participate in the FoodShare employment and training program (FSET) to be eligible for SNAP benefits, unless the recipient is participating in a Wisconsin Works employment position, is the caretaker of a child under the age of six years, or is enrolled at least half time in school or in a training program or an institution of higher education.

This bill requires DHS to submit to the secretary of the federal Department of Agriculture a request for a waiver that would authorize DHS to screen and, if indicated, test and treat participants in the FSET program who are childless adults for use of a controlled substance without a valid prescription for the controlled substance. The waiver must include certain provisions regarding testing procedures, treatment, and eligibility for continued participation in the FSET program. If the waiver is approved, DHS must submit a plan, consistent with the

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approved waiver, to the joint committee on finance (JCF) for approval. The plan must also include a cost estimate for state-sponsored treatment. If JCF approves the plan, DHS must then screen and, if indicated, test and treat FSET participants who are childless adults for use of a controlled substance without a valid prescription for the controlled substance. The bill also requires that if the waiver is approved in the 2015-17 fiscal biennium, DHS must address any future fiscal impact resulting from the requirements in its biennial budget request for the 2017-19 fiscal biennium.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
2 the following amounts for the purposes indicated:

	2015-16	2016-17
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4 **20.435 Health services, department of**

5 (4) HEALTH CARE ACCESS AND ACCOUNTABILITY

	(bq) Substance abuse treatment costs	GPR	B	-0-	-0-
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7 **20.437 Children and families, department of**

8 (2) ECONOMIC SUPPORT

	(em) Substance abuse treatment costs	GPR	B	250,000	250,000
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10 **SECTION 2.** 20.435 (4) (bq) of the statutes is created to read:

11 20.435 (4) (bq) *Substance abuse treatment costs.* Biennially, the amounts in the
12 schedule to pay substance abuse treatment costs under s. 49.79 (9) (d).

13 **SECTION 3.** 20.437 (2) (em) of the statutes is created to read:

14 20.437 (2) (em) *Substance abuse treatment costs.* Biennially, the amounts in
15 the schedule to pay substance abuse treatment costs under s. 49.162.

16 **SECTION 4.** 49.159 (1) (a) (intro.) of the statutes is amended to read:

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1 49.159 (1) (a) (intro.) An individual who would be eligible under s. 49.145
2 except that the individual is the noncustodial parent of a dependent child is eligible
3 for services and benefits under par. (b) if the individual is subject to a child support
4 order, the individual satisfies all of the requirements related to substance abuse
5 screening, testing, and treatment under s. 49.162 that apply to the individual, and
6 any of the following applies to the custodial parent of the dependent child:

7 **SECTION 5.** 49.162 of the statutes is created to read:

8 **49.162 Substance abuse screening and testing for certain work**
9 **experience programs. (1)** In this section:

10 (a) “Administering agency” means the department or an agency with which the
11 department contracts to administer a program.

12 (b) “Controlled substance” has the meaning given in s. 961.01 (4).

13 (c) “Program” means any of the following:

14 1. Services and benefits under s. 49.159 (1) (b).

15 2. The Transform Milwaukee Jobs program or the Transitional Jobs program
16 under s. 49.163.

17 3. A work experience and job training program under s. 49.36.

18 **(2)** In order to participate in a program, an individual shall complete a
19 controlled substance abuse screening questionnaire. If, on the basis of answers to
20 the questionnaire, the administering agency determines that there is a reasonable
21 suspicion that an individual who is otherwise eligible for a program is abusing a
22 controlled substance, the administering agency shall require the individual to
23 undergo a test for the use of a controlled substance. If the individual refuses to
24 submit to a test, the individual is not eligible to participate in a program until the

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1 individual complies with the requirement to undergo a test for the use of a controlled
2 substance.

3 (3) If an individual who undergoes a test under sub. (2) tests negative for the
4 use of a controlled substance, or tests positive for the use of a controlled substance
5 but presents evidence satisfactory to the administering agency that the individual
6 possesses a valid prescription for each controlled substance for which the individual
7 tests positive, the individual will have satisfactorily completed the substance abuse
8 testing requirements under this section.

9 (4) (a) If an individual who undergoes a test under sub. (2) tests positive for the
10 use of a controlled substance without presenting evidence of a valid prescription as
11 described in sub. (3), the administering agency shall require the individual to
12 participate in substance abuse treatment to remain eligible to participate in a
13 program. If the individual refuses to participate in substance abuse treatment, the
14 individual is not eligible to participate in a program until the individual complies
15 with the requirement to participate in substance abuse treatment.

16 (b) During the time that an individual is receiving substance abuse treatment
17 under par. (a), the administering agency shall require the individual to undergo
18 random testing for the use of a controlled substance. For the individual to remain
19 eligible for a program, the individual must cooperate with the testing and the results
20 of the tests must be negative or, if any results are positive, the individual must
21 present evidence of a valid prescription as described in sub. (3). If the results of any
22 test during treatment are positive for the use of a controlled substance and the
23 individual does not present evidence of a valid prescription for the controlled
24 substance, the individual shall have the opportunity to begin the treatment again
25 one time, as determined by the administering agency. If the individual begins the

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1 substance abuse treatment again, he or she shall remain eligible for a program as
2 long as the results of all tests for the use of a controlled substance during the
3 subsequent treatment are negative for the use of a controlled substance or, if any
4 results are positive, the individual presents evidence of a valid prescription for the
5 controlled substance.

6 (c) If an individual receiving treatment under par. (b) completes treatment and,
7 at the conclusion of the treatment, tests negative for the use of a controlled substance
8 or presents evidence of a valid prescription for any controlled substance for which the
9 individual tests positive, the individual will have satisfactorily completed the
10 substance abuse testing requirements under this section.

11 (5) The department shall manage the costs and reinvest the savings under this
12 section, and shall work with the administering agency, if different from the
13 department, to manage the costs and reinvest the savings.

14 (6) The department shall pay substance abuse treatment costs under this
15 section from the appropriation under s. 20.437 (2) (em). If treatment costs exceed the
16 moneys available under s. 20.437 (2) (em), the department shall request the joint
17 committee on finance to take action under s. 13.101. The requirement of a finding
18 of emergency under s. 13.101 (3) (a) 1. does not apply to such a request.

19 **SECTION 6.** 49.163 (2) (am) 7. of the statutes is created to read:

20 49.163 (2) (am) 7. Satisfy all of the requirements related to substance abuse
21 screening, testing, and treatment under s. 49.162 that apply to the individual.

22 **SECTION 7.** 49.36 (3) (a) of the statutes is amended to read:

23 49.36 (3) (a) Except as provided in par. (f) and subject to sub. (3m), a person
24 ordered to register under s. 767.55 (2) (am) shall participate in a work experience
25 program if services are available.

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1 **SECTION 8.** 49.36 (3m) of the statutes is created to read:

2 49.36 **(3m)** A person is not eligible to participate in a program under this
3 section unless the person satisfies all of the requirements related to substance abuse
4 screening, testing, and treatment under s. 49.162 that apply to the individual.

5 **SECTION 9.** 49.79 (9) (d) of the statutes is created to read:

6 49.79 **(9)** (d) 1. The department shall request from the secretary of the federal
7 department of agriculture a waiver to permit the department to screen and, if
8 indicated, test and treat, as specified by the department in the waiver request,
9 participants in an employment and training program under this subsection who are
10 childless adults for use of a controlled substance without a valid prescription for the
11 controlled substance. The waiver request shall include at least all of the following
12 elements:

13 a. Only participants for whom there is a reasonable suspicion of use of a
14 controlled substance without a valid prescription for the controlled substance may
15 be subjected to testing. The waiver shall include mechanisms for the determination
16 of a reasonable suspicion to require submission to a drug test.

17 b. If a participant tests negative for use of a controlled substance, or tests
18 positive for the use of a controlled substance but presents evidence satisfactory to the
19 department that the individual possesses a valid prescription for each controlled
20 substance for which the individual tests positive, the individual will have
21 satisfactorily completed the substance abuse testing requirements under this
22 subsection.

23 c. If a participant tests positive for use of a controlled substance for which he
24 or she does not have a valid prescription, then the individual must participate in

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1 state-sponsored substance abuse treatment to remain eligible for the employment
2 and training program.

3 d. While participating in state-sponsored treatment, an individual who has
4 tested positive for the use of a controlled substance without a valid prescription for
5 the controlled substance, shall submit to random testing for the use of a controlled
6 substance, and the test results must be negative, or positive with evidence of a valid
7 prescription, in order for the individual to remain eligible for the employment and
8 training program under this subsection. If a test result is positive and the individual
9 does not have a valid prescription for the controlled substance for which the
10 individual tests positive, the individual may begin treatment again one time and will
11 remain eligible for the employment and training program. If the individual
12 completes treatment and tests negative for use of a controlled substance, or tests
13 positive for the use of a controlled substance but presents evidence satisfactory to the
14 department that the individual possesses a valid prescription for each controlled
15 substance for which the individual tests positive, the individual will have
16 satisfactorily completed the substance abuse screening and testing requirements
17 under this subsection.

18 2. If a waiver under subd. 1. is granted and in effect, the department shall
19 submit to the joint committee on finance for approval a plan, consistent with the
20 approved waiver, for the screening, testing, and treatment of participants in an
21 employment and training program under this subsection who are childless adults for
22 the use of a controlled substance without a valid prescription for the controlled
23 substance. The plan shall include a cost estimate for providing state-sponsored
24 substance abuse treatment under the plan.

