

2009 DRAFTING REQUEST

Bill

Received: **02/10/2010**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Daniel Knodl (608) 266-3796**

By/Representing: **BJ Dernbach**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Administrative Law
Agriculture - food safety
Public Assistance - Wis works**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Knodl@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Drug testing under W-2

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 02/10/2010	jdyer 02/18/2010		_____			State
/P1			jfrantze 02/18/2010	_____	cduerst 02/18/2010		State
/1	pkahler 02/18/2010	jdyer 02/19/2010	rschluet 02/19/2010	_____	cduerst 02/19/2010	lparisi 03/04/2010	

FE Sent For:

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intro

<END>

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/?	pkahler	PI 2/18 jld	J	2/18			

FE Sent For:

<END>

Kahler, Pam

From: Dernbach, BJ
Sent: Tuesday, February 09, 2010 2:40 PM
To: Kahler, Pam
Subject: Bill Draft Request: 49.148(4)

Pam,

I would like to put in a request for a bill. If possible, could it be done by the end of next week?

The bill would amend 49.148(4)(a), would like to change the 15% to 50%

Also, I would like to add a paragraph to the effect of what Missouri HB 1377 does

"Any member of a household which includes a person who has been declared ineligible for TANF benefits, if otherwise eligible, will continue to receive protective or vendor payments through a third-party payee."

*per BJ, do limit application of
to a reduction in benefits for drug test*

Have it so it would read, the Department would establish rules so that "Any member..." The goal is to make sure that any children in the household could keep receiving benefits, even though a parent was getting a reduction, and that the money would be handled through a third-party vendor.

Please let me know if you have any questions.

Thanks.

BJ Dernbach
Office of Representative Dan Knodl
24th Assembly District
(608) 266-3796

49.19(4)(h)2,

49.19(1)(c)1,

17 **5. An official who tests positive for drugs that have not been lawfully prescribed**
18 **or based on the testing has been shown to have abused the use of drugs that were otherwise**
19 **lawfully prescribed shall participate in a drug treatment program. An official who tests**
20 **positive for drugs under such circumstances and who fails to participate in a drug**
21 **treatment program shall be subject to any sanction authorized by law or rule covering the**
22 **respective official.**

23 **6. For purposes of this section, "drug" means marijuana, any narcotic drug or**
24 **controlled substance as defined in chapter 195, RSMo, or the metabolite of any such**
25 **substance.**

26 **7. No person administering a chemical test under this section or any other person,**
27 **firm, or corporation with whom such person is associated shall be civilly liable for damages**
28 **to the person tested except for negligence or by willful or wanton act or omission.**

208.027. 1. The department of social services shall develop a program to screen
2 **each work-eligible applicant or work-eligible recipient who is otherwise eligible for**
3 **temporary assistance for needy families benefits under this chapter and then test each**
4 **applicant or recipient who the department has reasonable suspicion to believe, based on**
5 **the screening, engages in illegal use of controlled substances. Any applicant or recipient**
6 **who refuses to participate in the testing process shall be declared ineligible for temporary**
7 **assistance for needy families benefits for a period of one year. Any applicant or recipient**
8 **who is found to have tested positive for the illegal use of a controlled substance, which was**
9 **not prescribed for such applicant or recipient by a licensed health care provider, shall,**
10 **after an administrative hearing conducted by the department under the provisions of**
11 **chapter 536, be declared ineligible for temporary assistance for needy families benefits for**
12 **a period of one year from the date of the administrative hearing decision. Other members**
13 **of a household which includes a person who has been declared ineligible for temporary**
14 **assistance for needy families assistance shall, if otherwise eligible, continue to receive**
15 **temporary assistance for needy families benefits as protective or vendor payments to a**
16 **third-party payee for the benefit of the members of the household.**

17 **2. By July 1, 2011, the department of social services shall promulgate rules to**
18 **develop the screening and testing provisions of this section. Any rule or portion of a rule,**
19 **as that term is defined in section 536.010, that is created under the authority delegated in**
20 **this section shall become effective only if it complies with and is subject to all of the**
21 **provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536**
22 **are nonseverable and if any of the powers vested with the general assembly pursuant to**
23 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**



FRIDAY, if possible jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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COON
for 2-107

gen. cat

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- 1 AN ACT λ ; relating to: increasing the reduction in Wisconsin Works benefits
- 2 based on a positive drug test, paying the amount of the reduction to other
- 3 members of the group, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Among the types of assistance that the Wisconsin Works (W-2) program under current law provides are work experience and benefits for low-income custodial parents who are at least 18 years old. W-2 has three categories of employment positions: 1) trial jobs, under which an individual receives at least minimum wage from an employer and the W-2 agency pays a wage subsidy of up to \$300 per month to the employer; 2) community service jobs, under which an individual works in a project that serves a useful public purpose or that will generate revenue to wholly or partially offset the project's cost and receives a monthly grant of up to \$673 from the W-2 agency; and 3) transitional placements, under which an individual participates in work activities in a community rehabilitation program, a job similar to a community service job, or volunteer activities and receives a monthly grant of up to \$628 from the W-2 agency.

Under current law, if an individual in a community service job or a transitional placement was convicted after August 22, 1996, in any state or federal court of a felony that has as an element possession, use, or distribution of a controlled substance, the individual must submit to a test for use of a controlled substance. If the test results are positive, the individual's benefit is reduced by up to 15 percent for at least 12 months, and the W-2 agency may require the individual to participate in a drug abuse evaluation, assessment, and treatment program.

This bill increases the possible reduction in an individual's benefit for a positive test result for the use of a controlled substance to up to 50 percent and provides that the other members of the individual's W-2 group would continue to receive the amount by which the individual's benefit is reduced in the form of protective or vendor payments in the manner prescribed by the Department of Children and Families by rule. A W-2 group consists of all of the following: 1) an individual who is a custodial parent and his or her dependent children; 2) all dependent children with respect to whom the individual's dependent child is a custodial parent; and 3) the individual's spouse or nonmarital coparent residing in the same household and all dependent children with respect to whom the spouse or nonmarital coparent is a custodial parent.

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.** 49.148 (4) (a) of the statutes is amended to read:

2 49.148 (4) (a) A Wisconsin ~~works~~ Works agency shall require a participant in
3 a community service job or transitional placement who, after August 22, 1996, was
4 convicted in any state or federal court of a felony that had as an element possession,
5 use, or distribution of a controlled substance to submit to a test for use of a controlled
6 substance as a condition of continued eligibility. If the test results are positive, the
7 Wisconsin ~~works~~ Works agency shall decrease the presanction benefit amount for
8 that participant by not more than 15% 50 percent for not fewer than 12 months, or
9 for the remainder of the participant's period of participation in a community service
10 job or transitional placement, if less than 12 months. If, at the end of 12 months, the
11 individual is still a participant in a community service job or transitional placement
12 and submits to another test for use of a controlled substance and if the results of the
13 test are negative, the Wisconsin ~~works~~ Works agency shall discontinue the reduction
14 under this paragraph.

History: 1995 a. 289; 1997 a. 27; 1999 a. 9; 2009 a. 28.

15 **SECTION 2.** 49.148 (4) (am) of the statutes is created to read:

1 49.148 (4) (am) During any period in which a participant's benefit amount is
2 reduced under par. (a),[✓] the other members of the participant's[✓] Wisconsin Works
3 group shall continue to receive the amount by which the participant's benefit amount
4 is reduced in the form of protective or vendor payments as prescribed by the
5 department by rule.[✓]

 ****NOTE: Do you want this limited to minor children in the[✓] participant's W-2
group?

6

(END)

Kahler, Pam

From: Dernbach, BJ
Sent: Thursday, February 18, 2010 1:46 PM
To: Kahler, Pam
Subject: RE: Bill Draft Request: 49.148(4)

Pam,

Yes, Could you please rewrite it so that the benefit reduction protection would only affect minor children. Thanks.

BJ Dernbach
Office of Representative Dan Knodl
24th Assembly District
(608) 266-3796

From: Dernbach, BJ
Sent: Thursday, February 18, 2010 11:18 AM
To: Kahler, Pam
Subject: RE: Bill Draft Request: 49.148(4)

Pam,

Wanted to find out if we could get the draft within the next week?

Thanks.

BJ Dernbach
Office of Representative Dan Knodl
24th Assembly District
(608) 266-3796

From: Dernbach, BJ
Sent: Tuesday, February 09, 2010 2:40 PM
To: Kahler, Pam
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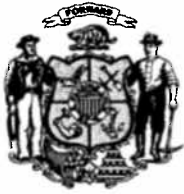
Have it so it would read, the Department would establish rules so that "Any member..." The goal is to make sure that any children in the household could keep receiving benefits, even though a parent was getting a reduction, and that the money would be handled through a third-party vendor.

Please let me know if you have any questions.

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BJ Dernbach
Office of Representative Dan Knodl
24th Assembly District
(608) 266-3796

02/18/2010



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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Friday or Monday, please

dependent children in

4

Regen

1 AN ACT *to amend* 49.148 (4) (a); and *to create* 49.148 (4) (am) of the statutes;

2 **relating to:** increasing the reduction in Wisconsin Works benefits based on a

3 positive drug test, paying the amount of the reduction to other members of the

4 group, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

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

Who are dependent children

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

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14 under this paragraph.

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4295/lins
PJK:.....

INSERT A

7091 ✓ A dependent child is defined as a child who lives with a ✓ parent and who is under 18 years old, or under 19 ✓ years old if he or she is a full-time ✓ student in a secondary school or a vocational or technical equivalent.

(END OF INSERT A)

Duerst, Christina

From: Dernbach, BJ

Sent: Thursday, March 04, 2010 3:45 PM

To: LRB.Legal

Subject: Draft Review: LRB 09-4295/1 Topic: Drug testing under W-2

Please Jacket LRB 09-4295/1 for the ASSEMBLY.

3/4/2010