

2015 DRAFTING REQUEST

Bill

Received: 1/8/2015 Received By: swalkenh
Wanted: As time permits Same as LRB:
For: Administration-Budget 6082662214 By/Representing: Dombrowski
May Contact: Drafter: swalkenh
Subject: Public Assistance - fdshre(SNAP) Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email:
Carbon copy (CC) to: sbostatlanguage@webapps.wi.gov
sarah.walkenhorstbarber@legis.wisconsin.gov
pam.kahler@legis.wisconsin.gov
tamara.dodge@legis.wisconsin.gov

Pre Topic:

DOA:.....Dombrowski, BB0414 -

Topic:

Requiring DHS to screen foodshare employment and training participants for drug use and requiring DHS to seek approval from federal USDA for screening

Instructions:

See attached

Drafting History:

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/?	swalkenh 1/16/2015	wjackson 1/16/2015	rschluet 1/16/2015	_____	_____		
/P1	swalkenh 1/23/2015			_____	lparisi 1/16/2015		State

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/P4	swalkenh 1/29/2015	kfollett 1/28/2015	jfrantze 1/28/2015	_____	lparisi 1/28/2015		State
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STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

1/28/15

Call w/ Jana S. and Cindy D.

LRB-1174

Add testing to the waiver request such
that it will be for screening and testing

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[Handwritten signature]
1/27

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<END>

Walkenhorst Barber, Sarah

From: Dombrowski, Cynthia A - DOA <Cynthia.Dombrowski@wisconsin.gov>
Sent: Tuesday, January 27, 2015 4:58 PM
To: Walkenhorst Barber, Sarah
Cc: Steinmetz, Jana D - DOA
Subject: FSET Drug Screening 1174

Hi Sarah –

Can you please amend this draft to:

1. Screen for illegal use of a controlled substance, without presenting evidence of a valid prescription.
2. delete the reporting of savings in the 2015-17 biennium under 9118 (1)(a). Retain the requirement under (1)(b).

Please let me know if you have any questions or concerns, or you wish to discuss these changes.

Thank you!
Cindy

Cynthia Dombrowski
Executive Policy and Budget Analyst
Wisconsin State Budget Office
608-267-7980 (p)
cynthia.dombrowski@wisconsin.gov

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Walkenhorst Barber, Sarah

To: Walkenhorst Barber, Sarah
Subject: FW: Statutory Language Drafting Request - BB0414

From: Cynthia.Dombrowski@Wisconsin.gov [mailto:Cynthia.Dombrowski@Wisconsin.gov]
Sent: Thursday, January 08, 2015 3:40 PM
To: Hanaman, Cathlene
Cc: Steinmetz, Jana D - DOA; Dombrowski, Cynthia A - DOA; Connor, Christopher B - DOA
Subject: Statutory Language Drafting Request - BB0414

Biennial Budget: 2015-17

DOA Tracking Code: BB0414

Topic: Drug Testing for FSET

SBO Team: HSI

SBO Analyst: Dombrowski, Cynthia A - DOA
Phone: (608) 266-2214
E-mail: Cynthia.Dombrowski@Wisconsin.gov

Agency Acronym: DHS

Agency Number: 435

Priority: Medium

Intent:

Please draft a statutory provision requiring DHS to seek approval from the federal USDA to screen FoodShare Employment and Training (FSET) participants for drug use.

Create a provision requiring DHS to screen FSET participants for drug use pending federal approval.

Attachments: False

Please send completed drafts to SBOStatlanguage@webapps.wi.gov



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-1174/20 / P1
SWB:.....
WJ

IN 1/16/15 DNOTE
(Before Tuesday if possible - please
of 1/21/15 today)

DOA:.....Dombrowski, BB0414 - Requiring DHS to screen foodshare employment and training participants for drug use and requiring DHS to seek approval from federal USDA for screening

FOR 2015-2017 BUDGET - NOT READY FOR INTRODUCTION

Do Not Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

PUBLIC ASSISTANCE

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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:

2 SECTION 1. 49.79 (9) (d) of the statutes is created to read:

3 49.79 (9) (d) 1. The department shall request from the federal department of
4 agriculture a waiver to permit the department to screen participants in an
5 employment and training program under this subsection for use of a controlled
6 substance.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1174/?dn

SWB:.....

wj yj

Date

Please review this preliminary draft to ensure that it is consistent with your intent. Please be aware that there are several embedded notes within the draft that will require your consideration in order to move the draft forward.

In addition, the drafting instructions stated that a provision should be created to require DHS to screen "pending federal approval." If that was intended to mean that DHS should screen even without federal approval of a waiver, and if this testing is going to be used to determine eligibility for FoodShare, there may be a conflict with federal law. I raise for your consideration 7 USC (s) 2014 (b) regarding "Eligibility standards," which states that "[n]o plan of operation submitted by a State agency shall be approved unless the standards of eligibility meet those established by the Secretary, and no State agency shall impose any other standards of eligibility as a condition of participating in the program." For purposes of this draft, I have therefore made the DHS screening requirement contingent upon approval of a waiver from the federal department of agriculture. Please let me know if you would like to take another approach or if this is okay.

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Legislative Attorney
(608) 267-3215
sarah.walkenhorstbarber@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1174/P1dn
SWB:wlj:wj

January 16, 2015

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State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-1174/P1
SWB:wlj:rs

IN 1/23/15 INSERT

1/22
RMR

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FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

Don't Gen

Due 1/25

5/5

1 AN ACT ...; relating to: the budget.

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4 agriculture a waiver to permit the department to screen participants in an
5 employment and training program under this subsection for use of a controlled
6 substance.

secretary of the
A

***NOTE: Do you want to include a date certain by which the department shall make the request for a waiver?

***NOTE: What is intended by the term "screening"? Does this refer to an actual drug test, or could it be a written survey (or something else)?

***NOTE: Your instructions indicated the waiver request (and screening) should be related to FSET "participants." For purposes of this version, I have drafted the language to relate to those already in the program (versus those applying to participate). Also, the instructions were not entirely clear whether the proposed screening is to relate to sub. (9) or sub. (10). For purposes of this draft, I have put the provisions under sub. (9). Please let me know if this should be under sub. (10) instead.

*

1

2. If a waiver is granted under subd. 1) and is in effect, the department shall

2

screen, in the manner approved in the waiver granted by the ^{secretary of the} federal department of

3 agriculture, participants in an employment and training program under this

4 subsection for use of a controlled substance.

5

INS 2-5

(END)

INSERT

INSERT ANALYSIS

X 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 (recipients) 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 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.

X This bill requires DHS to submit to the secretary of the federal Department of Agriculture (USDA) a request for a waiver that would authorize DHS to screen participants in the FSET program for use of a controlled substance. DHS must then screen FSET participants for use of a controlled substance in a manner approved by the USDA if the waiver is approved. The bill also requires that if the amendments are approved in the 2015-17 fiscal biennium, DHS must identify any savings resulting from the new requirements in a report that DHS must submit to the Joint Committee on Finance and must also address any future fiscal impact resulting from the requirements in its biennial budget request for the 2017-19 biennium.

(END OF INSERT ANALYSIS)

fiscal

INSERT 2-5

1 **SECTION 9118. Nonstatutory provisions; Health Services.** ✓

2 (1) REQUIREMENTS FOR FOODSHARE EMPLOYMENT AND TRAINING PROGRAM DRUG
3 SCREENING. If, during the 2015-17 fiscal biennium, the secretary of the federal
4 department of agriculture approves the waiver requested under section 49.79 (9) (d)
5 1. of the statutes, as created by this act, the department of health services shall do
6 all of the following:

7 (a) Submit a report to the joint committee on finance that identifies any savings
8 realized in the 2015-17 fiscal biennium as a result of actions taken under section
9 49.79 (9) (d) 2. of the statutes, as created by this act.

1 (b) Address, in the department's biennial budget request under section 16.42 ✓
2 of the statutes for the 2017-19 fiscal biennium, any future fiscal impact resulting
3 from actions taken under section 49.79 (9) (d) 2. of the statutes, as created by this act. ✓

(END OF INSERT 2-5)

Walkenhorst Barber, Sarah

From: Dombrowski, Cynthia A - DOA <Cynthia.Dombrowski@wisconsin.gov>
Sent: Friday, January 23, 2015 10:08 AM
To: Walkenhorst Barber, Sarah
Subject: RE: LRB -1174/P1 FSET Waiver

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Sarah –

Please draft a non-statutory provision which would require DHS, if the waiver request is approved, to do a one-time notification to the Joint Committee on Finance on any savings anticipated in the 2015-17 biennium.

Will that work?

Thanks,
Cindy

From: Walkenhorst Barber, Sarah [mailto:Sarah.WalkenhorstBarber@legis.wisconsin.gov]
Sent: Thursday, January 22, 2015 5:17 PM
To: Dombrowski, Cynthia A - DOA
Subject: RE: LRB -1174/P1 FSET Waiver

Hi Cindy,

I've spoken with Pam about the nonstat language you requested. As you may be aware, there's a specific quarterly reporting requirement in s. 49.45 (2n) of the statutes for the MA program, but neither Pam nor I know of any parallel requirement with respect to the Foodshare program. Are you aware of such a requirement such that you can point me in the right direction? Otherwise, if there isn't one, we could draft something to require DHS to file a one-time report with joint finance after the waiver is approved, or something along those lines.

I'll be around all day tomorrow if you'd like to discuss.

Thanks!
Sarah

From: Dombrowski, Cynthia A - DOA [mailto:Cynthia.Dombrowski@wisconsin.gov]
Sent: Tuesday, January 20, 2015 1:18 PM
To: Walkenhorst Barber, Sarah
Subject: LRB -1174/P1 FSET Waiver

Hi Sarah –

Could you please add a non-stat provision to this draft that any fiscal impact DHS would experience in the 2015-17 biennium will be reported in one of its currently required quarterly reports to the Joint Committee on Finance and any future fiscal impact will be addressed in the department's 2017-19 biennial budget request.

Please let me know if you have any questions about this. I asked Pam to include similar language on a draft she is working on so perhaps the same language can be used for both?

Thanks,
Cindy

Cynthia Dombrowski
Executive Policy and Budget Analyst
Wisconsin State Budget Office
608-267-7980 (p)
cynthia.dombrowski@wisconsin.gov



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-1174/P2
SWB:wlj&kjf:rs

P3
RMR

DOA:.....Dombrowski, BB0414 - Requiring DHS to screen foodshare employment and training participants for drug use and requiring DHS to seek approval from federal USDA for screening

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

IN 1/27/15

Don't Ger

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

PUBLIC ASSISTANCE

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 (recipients) 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 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 (USDA) a request for a waiver that would authorize DHS to screen participants in the FSET program for use of a controlled substance. DHS must then screen FSET participants for use of a controlled substance in a manner approved by

Walkenhorst Barber, Sarah

From: Dombrowski, Cynthia A - DOA <Cynthia.Dombrowski@wisconsin.gov>
Sent: Monday, January 19, 2015 10:27 AM
To: Walkenhorst Barber, Sarah
Cc: Steinmetz, Jana D - DOA
Subject: RE: Draft review: LRB -1174/P1 Topic: Requiring DHS to screen foodshare employment and training participants for drug use and requiring DHS to seek approval from federal USDA for screening

Hi Sarah –

In response to your questions in the drafters note and in the draft, I have pulled the questions out and answered them below. My responses are in red. Please let me know if this clarifies the intent of the request and provision or if you have further questions.

1. "If that was intended to mean that DHS should screen even without federal approval of a waiver, and if this testing is going to be used to determine eligibility for FoodShare, there may be a conflict with federal law."

No. DHS will seek a federal waiver from the USDA and implement any waiver granted at the time it is granted. No individual would be screened in advance of the approval.

2. Do you want to include a date certain by which the department shall make the request for a waiver?

No.

3. What is intended by the term “screening”? Does this refer to an actual drug test, or could it be a written survey (or something else)?

Screening is not intended to be a drug test. It would be a questionnaire or other tool that would be defined in the waiver request.

Please let me know if there is anything further I can do to clarify or if there are further questions.

Cindy

From: Walkenhorst Barber, Sarah [mailto:Sarah.WalkenhorstBarber@legis.wisconsin.gov]
Sent: Saturday, January 17, 2015 9:36 AM
To: Dombrowski, Cynthia A - DOA
Cc: Steinmetz, Jana D - DOA
Subject: FW: Draft review: LRB -1174/P1 Topic: Requiring DHS to screen foodshare employment and training participants for drug use and requiring DHS to seek approval from federal USDA for screening

Cindy and Jana,

I just wanted to give you a heads up about this particular draft (your number BB0414), as there are a few questions I think need some review before we can move this one forward. I wanted to at least send a preliminary draft, so we'd have something from which to work. I've included a drafter's note on it, as you'll see, and there are also a few notes in the draft. Happy to discuss whenever you have a chance. I will be in on Monday; otherwise, if we can talk on Tuesday, I can turn around a new draft pretty quickly. I'll also be checking email intermittently over the weekend.

Thanks!
Sarah

From: LRB.Legal

Sent: Friday, January 16, 2015 5:04 PM

To: Walkenhorst Barber, Sarah

Subject: Draft review: LRB -1174/P1 Topic: Requiring DHS to screen foodshare employment and training participants for drug use and requiring DHS to seek approval from federal USDA for screening

Draft Requester: Administration-Budget

Following is the PDF version of draft LRB -1174/P1 and drafter's note.

X
the USDA if the waiver is approved. The bill also requires that if the amendments are approved in the 2015-17 fiscal biennium, DHS must identify any savings resulting from the new requirements in a report that DHS must submit to the Joint Committee on Finance and must also 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. 49.79 (9) (d) of the statutes is created to read:

2 49.79 (9) (d) 1. The department shall request from the secretary of the federal
3 department of agriculture a waiver to permit the department to screen participants
4 in an employment and training program under this subsection for use of a controlled
5 substance. *without presenting evidence of a valid prescription* *illegal*

6 2. If a waiver under subd. 1. is granted and in effect, the department shall
7 screen, in the manner approved in the waiver granted by the secretary of the federal
8 department of agriculture, participants in an employment and training program
9 under this subsection for use of a controlled substance. *without presenting evidence of a valid prescription* *illegal*

10 SECTION 9118. Nonstatutory provisions; Health Services.

11 (1) REQUIREMENTS FOR FOODSHARE EMPLOYMENT AND TRAINING PROGRAM DRUG
12 SCREENING. If, during the 2015-17 fiscal biennium, the secretary of the federal
13 department of agriculture approves the waiver requested under section 49.79 (9) (d)

14 1. of the statutes, as created by this act, the department of health services shall do
15 all of the following:

16 (a) Submit a report to the joint committee on finance that identifies any savings
17 realized in the 2015-17 fiscal biennium as a result of actions taken under section
18 49.79 (9) (d) 2. of the statutes, as created by this act.

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(b) Address, in the department's biennial budget request under section 16.42 of the statutes for the 2017-19 fiscal biennium, any future fiscal impact resulting from actions taken under section 49.79 (9) (d) 2. of the statutes, as created by this act.

(END)



State of Wisconsin
2015 - 2016 LEGISLATURE

IN 4/28/15

LRB-1174/P3
SWB:wlj&kjf:jm

P4

RMR

DOA:.....Dombrowski, BB0414 - Requiring DHS to screen foodshare employment and training participants for drug use and requiring DHS to seek approval from federal USDA for screening

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

INSERT

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

PUBLIC ASSISTANCE

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This bill requires DHS to submit to the secretary of the federal Department of Agriculture (USDA) a request for a waiver that would authorize DHS to screen participants in the FSET program for use of a controlled substance. DHS must then screen FSET participants for use of a controlled substance in a manner approved by

*
*
and test

Without presenting evidence of a valid prescription
(2x)

INSERT Analysis

the USDA if the waiver is approved (The bill also requires that if the amendments are 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.

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4 in an employment and training program under this subsection for illegal use of a
5 controlled substance without presenting evidence of a valid prescription.

6 2. If a waiver under subd. 1. is granted and in effect, the department shall
7 screen, ^{and test a} in the manner approved in the waiver granted by the secretary of the federal
8 department of agriculture, participants in an employment and training program
9 under this subsection for illegal use of a controlled substance without presenting
10 evidence of a valid prescription.

11 SECTION 9118. Nonstatutory provisions; Health Services.

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15 1. of the statutes, as created by this act, the department of health services shall
16 address, in the department's biennial budget request under section 16.42 of the
17 statutes for the 2017-19 fiscal biennium, any future fiscal impact resulting from
18 actions taken under section 49.79 (9) (d) 2. of the statutes, as created by this act.

19 (END)

~~INSERT~~

**2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1174/P4ins
SWB:wlj&kjf:jm

INSERT ANALYSIS

no # If the waiver is approved, DHS must then screen and test, in a manner approved by the USDA, FSET participants for illegal use of a controlled substance without presenting evidence of a valid prescription.

(END INSERT ANALYSIS)

STATE OF WISCONSIN – LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Per Cindy

1/29/15

Add "if indicated" to test phrasing -
i.e., screen and, if indicated, test...



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1174/P4 PS
SWB:wlj&kjf:jf
RMR

IN 1/29/15

DOA:.....Dombrowski, BB0414 - Requiring DHS to screen foodshare employment and training participants for drug use and requiring DHS to seek approval from federal USDA for screening

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

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if indicated

1

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3 (END)



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1174/P5
SWB:wlj&kjf:jf

DOA:.....Dombrowski, BB0414 - Requiring DHS to screen foodshare employment and training participants for drug use and requiring DHS to seek approval from federal USDA for screening

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