AN ACT to renumber and amend 49.162 (2); to amend 49.162 (3), 49.162 (4) (a), 49.162 (4) (b), 49.162 (4) (c) and 49.162 (7); and to create 49.162 (1) (bg), 49.162 (1) (hm), 49.162 (1) (br), 49.162 (1) (c) 4., 49.162 (1) (e), 49.162 (1) (f), 49.162 (1) (g), 49.162 (2m) and 49.162 (4m) of the statutes; relating to:

1. substance abuse screening, testing, and treatment requirements for certain work experience programs.
2. rule-making procedures, and requiring the exercise of rule-making authority.

Analysis by the Legislative Reference Bureau

This bill makes changes to the existing substance abuse screening, testing, and treatment requirements for certain work experience programs and expands the requirement to additional work experience programs.

Under current law, every individual who applies to participate in certain work experience programs administered by the Department of Children and Families is required 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, the individual must participate in substance abuse treatment to remain eligible for a program. 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.

This bill eliminates reference to the questionnaire for screening controlled substance abuse and instead allows DCF to determine the appropriate mechanism by which to screen applicants. The bill also exempts from the controlled substances screening and testing requirements a custodial parent of a child who is eight weeks old or less, a woman with a high-risk pregnancy, a Wisconsin Works (W-2) participant who moves to an unsubsidized job and receives only case management services, and a dependent child.

Under current law, the controlled substances screening and testing requirements apply to an individual who applies for 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. This bill adds the following W-2 work experience programs for custodial parents to the programs to which the screening and testing requirements apply: the Temporary Employment Match program, which provides a subsidy for wages to an individual's employer, and the Community Service Jobs program and Transitional Placement program, both of which provide a participant with a monthly grant. With respect to an individual applying for a W-2 program, the bill also applies the screening, testing, and treatment requirements to all adult members of an individual's W-2 group whose income or assets are included in determining the individual's eligibility for a program.

Also under the bill, an individual applying for a community service job or a transitional placement is eligible for the monthly grants under those programs even if the individual or his or her group member tests positive for the use of a controlled substance without presenting evidence of a valid prescription and refuses to participate in substance abuse treatment or the individual or his or her group member fails to cooperate with the testing or treatment requirements. However, the bill requires DCF to reduce the monthly grant and pay it not to the individual but to a protective payee who must hold the money and use it exclusively on behalf of the individual's dependent children. The bill limits this partial eligibility to 12 months or until the individual again becomes eligible for full participation in a W-2 program, if sooner. The bill requires DCF to promulgate rules to establish and implement the monthly grant eligibility and the protective payee structure.
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:

SECTION 1. 49.162 (1) (bg) of the statutes is created to read:

49.162 (1) (bg) “Controlled substance abuse screening” means a questionnaire,
a criminal background check, or any other controlled substance abuse screening
mechanism identified by the department by rule.

SECTION 2. 49.162 (1) (bm) of the statutes is created to read:

49.162 (1) (bm) “Dependent child” has the meaning given in s. 49.141 (1) (c).

SECTION 3. 49.162 (1) (br) of the statutes is created to read:

49.162 (1) (br) “Group member” means an adult member of an individual’s
Wisconsin Works group whose income or assets are included in determining the
individual’s eligibility for a program.

SECTION 4. 49.162 (1) (c) 4. of the statutes is created to read:

49.162 (1) (c) 4. A Wisconsin Works employment position.

SECTION 5. 49.162 (1) (e) of the statutes is created to read:

49.162 (1) (e) “Wisconsin Works” has the meaning given in s. 49.141 (1) (p).

SECTION 6. 49.162 (1) (f) of the statutes is created to read:

49.162 (1) (f) “Wisconsin Works employment position” has the meaning given
in s. 49.141 (1) (t).

SECTION 7. 49.162 (1) (g) of the statutes is created to read:

49.162 (1) (g) “Wisconsin Works group” has the meaning given in s. 49.141 (1) (s).

SECTION 8. 49.162 (2) of the statutes is renumbered 49.162 (2) (a) and amended
to read:

49.162 (2) (a) Beginning on the effective date of the rules promulgated under
sub. (3), or on the effective date of the emergency rules promulgated under 2015
Wisconsin Act 55, section 9106 (2c), whichever is earlier, Except as provided in sub.
(2m), in order to participate in a program, an individual who applies to participate
in a program or who registers for a program under sub. (1) (c) 3., and with respect
to an individual applying for a program under sub. (1) (c) 4., all of the individual’s
group members shall complete a controlled substance abuse screening
questionnaire. If, on the basis of answers to the questionnaire the screening results,
the administering agency determines that there is a reasonable suspicion that an
individual who is otherwise eligible for a program or any of the individual’s group
members is abusing a controlled substance, the administering agency shall require
the individual or group member to undergo a test for the use of a controlled
substance. If
(b) Except as provided in sub. (4m), if the individual or group member refuses
to submit to a test under par. (a), the individual is not eligible to participate in a
program until the individual or group member complies with the requirement to
undergo a test for the use of a controlled substance.

SECTION 9. 49.162 (2m) of the statutes is created to read:

49.162 (2m) (a) The screening and testing requirements under sub. (2) do not
apply to an individual if the individual is any of the following:
1. A custodial parent of a child who is 8 weeks old or less.
2. A woman who is in a pregnancy that is medically verified and is shown
by medical documentation to be at risk.
3. A participant in a Wisconsin Works employment position who moves to an
unsubsidized employment position and receives case management services under s.
49.147 (5).
4. A dependent child.
(b) The screening and testing requirements under sub. (2) do not apply to a
group member if the group member is any of the following:
1. A custodial parent of a child who is 8 weeks old or less.
2. A woman who is in a pregnancy that is medically verified and is shown
by medical documentation to be at risk.
3. Specified as exempt from the screening and testing requirements by
department rule.

SECTION 10. 49.162 (3) of the statutes is amended to read:

49.162 (3) If an individual or group member who undergoes a test under sub.
(2) tests negative for the use of a controlled substance, the administering agency
that the individual or group member possesses a valid prescription for each
controlled substance for which the individual or group member tests positive, the
individual or group member will have satisfactorily completed the substance abuse
testing requirements under this section.

SECTION 11. 49.162 (4) (a) of the statutes is amended to read:

49.162 (4) (a) If an individual or group member who undergoes a test under sub.
(2) tests positive for the use of a controlled substance without presenting evidence
of a valid prescription as described in sub. (3), the administering agency shall require
the individual or group member to participate in substance abuse treatment to
remain eligible to participate in a program. If the individual or group member
remains eligible to participate in a program, an individual who applies to participate
in a program or who registers for a program under sub. (1) (c) 3., and with respect
to an individual applying for a program under sub. (1) (c) 4., all of the individual’s
group members shall complete a controlled substance abuse screening
questionnaire. If, on the basis of answers to the questionnaire the screening results,
the administering agency determines that there is a reasonable suspicion that an
individual who is otherwise eligible for a program or any of the individual’s group
members is abusing a controlled substance, the administering agency shall require
the individual or group member to undergo a test for the use of a controlled
substance. If
(b) Except as provided in sub. (4m), if the individual or group member refuses
to submit to a test under par. (a), the individual is not eligible to participate in a
program until the individual or group member complies with the requirement to
undergo a test for the use of a controlled substance.

refuses to participate in substance abuse treatment, the individual is not eligible to
participate in a program until the individual or group member complies with the
requirement to participate in substance abuse treatment.

Section 12. 49.162 (4) (b) of the statutes is amended to read:
49.162 (4) (b) During the time that an individual or group member is receiving
substance abuse treatment under par. (a), the administering agency shall require
the individual or group member to undergo random testing for the use of a controlled
substance. For except as provided in sub. (4m), for the individual to remain eligible
for a program, the individual or his or her group member must cooperate with the
testing and the results of the tests must be negative or, if any results are positive, the
individual or group member must present evidence of a valid prescription as
described in sub. (3). If the results of any test during treatment are positive for the
use of a controlled substance and the individual or group member does not present
evidence of a valid prescription for the controlled substance, the individual or group
member shall have the opportunity to begin the treatment again one time, as
determined by the administering agency. For except as provided in sub. (4m), if the
individual or group member begins the substance abuse treatment again, he or she
shall remain eligible for a program as long as the results of
all tests for the use of a controlled substance during the subsequent treatment are
negative for the use of a controlled substance or, if any results are positive, the
individual or group member presents evidence of a valid prescription for the
controlled substance.

Section 13. 49.162 (4) (c) of the statutes is amended to read:
49.162 (4) (c) If an individual or group member receiving treatment under par.
(b) completes treatment and, at the conclusion of the treatment, tests negative for
the use of a controlled substance or presents evidence of a valid prescription for any
controlled substance for which the individual or group member tests positive, the
individual or group member will have satisfactorily completed the substance abuse
testing requirements under this section.