

1991 Assembly Bill 977

Date of enactment: **June 3, 1992**  
Date of publication\*: **June 17, 1992**

# 1991 WISCONSIN ACT 313

AN ACT *to renumber* 49.123; *to amend* 49.123 (title), 49.19 (11) (a) 1. a. (intro.) and 767.457 (1); *to repeal and recreate* 49.19 (16); and *to create* 49.015 (4), 49.123 (2), 49.19 (4e), 49.19 (4h), 49.19 (5) (as), 49.19 (11g), 49.19 (11m), 49.50 (7b) (c) 4, 49.50 (7b) (c) 5, 49.50 (7b) (d), 73.03 (48) and 767.254 of the statutes, **relating to:** suspension of aid to families with dependent children payments because of certain acts and eligibility for general relief; the treatment of student loans and grants under the aid to families with dependent children program; satisfaction of job program participation requirements by certain recipients of aid to families with dependent children; requiring a teenage noncustodial parent who cannot pay child support to participate in a job training program or attend school; allowing the parties to a paternity action to waive the 30-day waiting period before the first appearance; providing information about the earned income tax credit; requiring the department of health and social services to submit a report regarding electronic benefit transfer systems; requiring the department of health and social services to submit a report on the reevaluation of the need and payment standards for the aid to families with dependent children program to the appropriate standing committees of the legislature; a classification system for participants in the job program for recipients of aid to families with dependent children; the aid to families with dependent children earned income disregard; priority for receipt of services under the job opportunities and basic skills program for recipients of aid to families with dependent children; aid to families with dependent children payments for individuals who move from other states; living arrangement requirements for certain recipients of aid to families with dependent children; and granting rule-making authority.

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

**SECTION 1.** 49.015 (4) of the statutes is created to read:

49.015 (4) (a) Except as provided in par. (b), no person is eligible for general relief under this chapter for a month in which the person's needs are removed from a grant of aid to families with dependent children under s. 49.123 (2).

(b) A general relief agency may provide general relief under this chapter to a person for a month in which the person's needs are removed from a grant of aid to families with dependent children under s. 49.123 (2) in case of extreme hardship, as determined by the general relief agency.

**SECTION 2.** 49.123 (title) of the statutes is amended to read:

**49.123 (title) Loss of eligibility or participation.**

**SECTION 3.** 49.123 of the statutes is renumbered 49.123 (1).

**SECTION 4.** 49.123 (2) of the statutes is created to read:

49.123 (2) If a court finds that an individual who is a member of a family applying for or receiving aid under s. 49.19, for the purpose of establishing or maintaining eligibility for aid under s. 49.19 or of increasing the amount of aid received under s. 49.19, intentionally made a false or misleading statement, misrepresented or withheld facts or committed an act intended to mislead or to misrepresent or withhold facts, the department shall consider the income and assets of the person but shall remove

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the needs of the person in determining the amount of any payment made to the person's family under s. 49.19 as follows:

- (a) Upon the first occurrence, for 6 months.
- (b) Upon the 2nd occurrence, for one year.
- (c) Upon the 3rd occurrence, permanently.

**SECTION 5.** 49.19 (4e) of the statutes is created to read:

49.19 (4e) (a) Except as provided in par. (b), if a person applying for aid is under 18 years of age, has never married and is pregnant or has a dependent child in his or her care, the person is not eligible for aid unless he or she lives in a place maintained by his or her parent, legal guardian or other adult relative as the parent's, guardian's or other adult relative's own home or lives in a foster home, maternity home or other supportive living arrangement supervised by an adult.

(b) Paragraph (a) does not apply in any of the following situations:

- 1. The person applying for aid has no parent or legal guardian whose whereabouts are known.
- 2. No parent or legal guardian of the person applying for aid allows the person to live in the home of that parent or legal guardian.
- 3. The department determines that the physical or emotional health or safety of the person applying for aid or the dependent child would be jeopardized if the person and the dependent child lived with the person's parent or guardian.
- 4. The person applying for aid lived apart from his or her parent or legal guardian for at least one year before the birth of any dependent child or before the person applied for aid.
- 5. The county department under s. 46.215, 46.22 or 46.23 otherwise determines that there is good cause not to apply par. (a).

**SECTION 6.** 49.19 (4h) of the statutes is created to read:

49.19 (4h) Student loans and grants, including work study funds, are not considered income in determining eligibility for aid under this section or the amount of monthly payments under this section.

**SECTION 7.** 49.19 (5) (as) of the statutes is created to read:

49.19 (5) (as) The department shall request, but may not implement, a waiver from the secretary of the federal department of health and human services to establish an earned income disregard that is equal to the first \$200 of earned income plus 50% of the remaining earned income, instead of the amount under par. (a) or (am), and that is not reduced after a specified period. The department shall request the waiver no later than September 1, 1992.

**SECTION 8.** 49.19 (11) (a) 1. a. (intro.) of the statutes, as affected by 1991 Wisconsin Act 39, is amended to read:

49.19 (11) (a) 1. a. (intro.) ~~Monthly~~ Except as provided in sub. (11m), monthly payments made under s. 20.435 (4) (d) and (p) to persons or to families with dependent children shall be based on family size and shall be at 80% of the total of the allowances under subds. 2 and 4 plus the following standards of assistance beginning on September 1, 1987:

**SECTION 9.** 49.19 (11g) of the statutes is created to read:

49.19 (11g) When the department submits a copy of the reevaluation of the need standard and payment standard under sub. (11) (a), as required by 42 USC 602 (h), the department shall submit a copy of that reevaluation to the chief clerk of each house of the legislature for distribution to the legislature in the manner provided under s. 13.172 (3).

**SECTION 10.** 49.19 (11m) of the statutes is created to read:

49.19 (11m) (a) The department shall apply to the secretary of the federal department of health and human services for approval of a demonstration project under which the department provides a person eligible for aid under this section who is described in par. (am) with monthly payments, for the first 6 months that he or she lives in this state, calculated on the basis of the aid to families with dependent children benefit level in the state in which the family most recently resided. The department shall promulgate a rule, which it shall update annually, establishing the aid to families with dependent children benefit that will be paid under the demonstration project according to family size and state of former residence. The department shall base the benefit for a family on the aid to families with dependent children benefit available to a typical family of the same size in the other state, taking into account all factors that may affect the amount of the benefit. The rule shall specify the factors that the department uses to establish the benefit for participants in the demonstration project. If a family moves from a state that allows a family to keep a different amount of income without reducing benefits than a family would be allowed to keep in this state, the department shall allow the family to keep a similar amount of income without reducing benefits.

(am) Under the demonstration project, a person is subject to receiving the payments under par. (a) if he or she has not previously resided in this state for at least 6 months and either:

- 1. Applies for benefits more than 90 days but fewer than 180 days after moving to this state and is unable to demonstrate to the satisfaction of the county department of social services or human services that he or she was employed for at least 13 weeks after moving to this state; or
- 2. Applies for benefits within 90 days after moving to this state.

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(b) If approval under par. (a) is granted and if the supreme court determines, within 9 months after the department notifies the attorney general that the approval has been granted, that the demonstration project does not violate either the state constitution or the U.S. constitution or the supreme court does not make a decision on the constitutionality of the demonstration project within that time, the department shall implement the demonstration project. The department may conduct the demonstration project for a period not to exceed 36 months. The department may not start the demonstration project before a computerized system for determining the amount of benefits payable to recipients under the demonstration project is complete.

(c) Subject to pars. (b) and (d), the department shall conduct the demonstration project in Kenosha county, Milwaukee county, Racine county and up to 3 other counties. If the department does not initially select Rock county as one of the other counties and if one of the counties specified in this paragraph or initially selected by the department enacts an ordinance or adopts a resolution under par. (d), the department shall give Rock county priority for consideration as a replacement county.

(d) The department may not conduct the demonstration project in a county if the county enacts an ordinance or adopts a resolution objecting to participating in the demonstration project.

(e) If the department conducts the demonstration project, the department shall enter into a contract with the legislative audit bureau under which the legislative audit bureau will contract with a private or public agency for the performance of an evaluation of the demonstration project, including whether the demonstration project deters persons from moving to this state, and will submit the evaluation of the demonstration project to the governor and to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2).

**SECTION 11.** 49.19 (16) of the statutes, as created by 1991 Wisconsin Act 39, is repealed and recreated to read:

49.19 (16) The department shall provide written notice of the penalties under s. 49.123 (2) to each applicant for aid under this section at the time of application and to each person who receives aid under this section on the effective date of this subsection .... [revisor inserts date], at the time of the next redetermination of the person's eligibility.

**SECTION 12.** 49.50 (7b) (c) 4. of the statutes is created to read:

49.50 (7b) (c) 4. Provisions that permit parents who are under age 20 to satisfy the requirements for participation in the program under this subsection by attending high school or attending a program to obtain a declaration of equivalency of high school graduation under s. 115.29 (4), participating in parenting programs or participating in other job training programs.

**SECTION 13.** 49.50 (7b) (c) 5. of the statutes is created to read:

49.50 (7b) (c) 5. A system for classifying participants in the program under this subsection based on work experience, educational attainment levels and length of time receiving aid under s. 49.19 to determine the types of services that each participant will receive in order to encourage long-term self-sufficiency.

**SECTION 14.** 49.50 (7b) (d) of the statutes is created to read:

49.50 (7b) (d) 1. The department shall ensure that at least 55% of the funds expended for the program under this subsection are expended with respect to recipients described in 42 USC 603 (L) (2) (B).

2. In addition to complying with subd. 1, the department shall do all of the following:

a. Give priority for expenditure of 50% of the remaining funds expended for services under this subsection to provide services to recipients who have been unemployed for 36 months or have not graduated from high school or obtained a declaration of equivalency of high school graduation under s. 115.29 (4).

b. Among the recipients described in subd. 2. a., give a higher priority for receipt of services to those who volunteer to participate.

**SECTION 15.** 73.03 (48) of the statutes is created to read:

73.03 (48) To provide the public with information concerning the availability of the earned income tax credit, and the availability of the federal earned income tax credit under section 32 of the internal revenue code, under criteria, and with a description of the methods that the department uses to provide the information, that the department shall promulgate as rules.

**SECTION 16.** 767.254 of the statutes is created to read:  
**767.254 Unemployed teenage parent.** (1) In this section, "unemployed teenage parent" means a parent who satisfies all of the following criteria:

(a) Is less than 20 years of age.

(b) Is unemployed.

(c) Is financially unable to pay child support.

(d) Would be ordered to make payments for the support of a child but for par. (c).

(2) In an action for revision of a judgment or order providing for child support under s. 767.32 or an action in which an order for child support is required under s. 767.25 (1) or 767.51 (3), the court shall order an unemployed teenage parent to do one or more of the following:

(a) Register for work at a public employment office established under s. 101.23.

(b) Apply for jobs.

(c) Participate in a job training program.

(d) Pursue or continue to pursue an accredited course of instruction leading to the acquisition of a high school diploma or its equivalent if the unemployed teenage par-

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ent has not completed a recognized high school course of study or its equivalent, except that the court may not order the unemployed teenage parent to pursue instruction if the instruction requires the expenditure of funds by the unemployed teenage parent other than normal transportation and personal expenses.

**SECTION 17.** 767.457 (1) of the statutes is amended to read:

767.457 (1) The first appearance under s. 767.458 may not be held any sooner than 30 days after service or receipt of the summons and petition unless the parties agree that the first appearance may be held sooner.

**SECTION 9125. Nonstatutory provisions; health and social services.**

(1) RULES FOR CLASSIFICATION SYSTEM. The department of health and social services shall submit the proposed rules required under section 49.50 (7b) (c) 5. of the statutes, as created by this act, to the legislative council staff for review under section 227.15 (1) of the statutes no later than July 1, 1993.

(2) ELECTRONIC BENEFIT TRANSFER SYSTEMS. The department of health and social services shall submit a report on the possible uses, advantages and disadvantages, and costs, of using different types of electronic benefit transfer systems to the chief clerk of each house of the legislature, for distribution to the appropriate standing committees in the manner provided in section 13.172 (3) of the statutes, by January 1, 1993. The report shall include information regarding the use of electronic benefit transfer systems by other states and cities.

**SECTION 9135. Nonstatutory provisions; justice.**

(1) ACTION CONCERNING DEMONSTRATION PROJECT. If the secretary of the federal department of health and human services grants approval of the project under section 49.19 (11m) (a) of the statutes, as created by this act, the attorney general shall promptly seek a declaratory judgment by the supreme court of whether the demon-

stration project under section 49.19 (11m) of the statutes, as created by this act, violates the state constitution or the U.S. constitution.

**SECTION 9149. Nonstatutory provisions; revenue.**

(1) RULES ON EARNED INCOME TAX CREDIT INFORMATION. The department of revenue shall submit proposed rules establishing criteria and explaining the methods that the department uses to disseminate information to the public concerning the earned income tax credit, and the federal earned income tax credit under section 32 of the internal revenue code, under section 73.03 (48) of the statutes, as created by this act, to the legislative council staff for review under section 227.15 (1) of the statutes no later than March 1, 1993.

**SECTION 9325. Initial applicability; health and social services.**

(1) SUSPENSION OF AID TO FAMILIES WITH DEPENDENT CHILDREN. The treatment of section 49.123 (2) of the statutes first applies to statements made, facts misrepresented or withheld and acts committed on the effective date of this subsection.

**SECTION 9349. Initial applicability; revenue.**

(1) EARNED INCOME TAX CREDIT. The treatment of section 73.03 (48) of the statutes first applies to taxable years beginning on January 1, 1993.

**SECTION 9400. Effective dates; general statement. Except as otherwise provided in SECTIONS 9401 to 9460, this act takes effect on the day after publication.**

**SECTION 9425. Effective dates; health and social services.**

(1) JOB PROGRAM TARGET POPULATIONS. The treatment of section 49.50 (7b) (d) of the statutes takes effect on January 1, 1993.

(2) AID TO FAMILIES WITH DEPENDENT CHILDREN LIVING ARRANGEMENT. The treatment of section 49.19 (4e) of the statutes takes effect on January 1, 1993.