



2003 SENATE BILL 406

January 26, 2004 - Introduced by Senators PLALE, DARLING, STEPP, KANAVAS, WELCH and LEIBHAM, cosponsored by Representatives JENSEN, KRUG, KRUSICK, NISCHKE, LADWIG, KRAWCZYK, HUNDERTMARK, HONADEL, AINSWORTH, OTT, ALBERS, OWENS, NASS, STONE and JESKEWITZ. Referred to Committee on Education, Ethics and Elections.

1 **AN ACT** *to repeal* 119.23 (7) (b); *to renumber and amend* 119.23 (7) (am); and
2 *to create* 119.23 (7) (am) 2. and 3., 119.23 (7) (d), 119.23 (7) (e), 119.23 (7) (f),
3 119.23 (10) and 119.23 (11) of the statutes; **relating to:** the Milwaukee Parental
4 Choice Program and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill makes a number of changes to the Milwaukee Parental Choice Program (MPCP), under which certain low-income pupils who reside in the city of Milwaukee may attend participating private schools in the city at state expense. The changes include the following:

1. The bill requires a private school participating in the MPCP annually to conduct a criminal background check on each new employee. The bill also requires the private school to conduct a background check of all existing employees within 120 days after this bill's effective date.

2. With certain exceptions, the bill prohibits a private school that is participating in the MPCP from employing a person who has been convicted of any of the specified felonies for six years following the conviction. The bill also permits the private school to refuse to employ, or to terminate the employment of, any person convicted of any felony within the previous six years.

3. The bill requires a private school to submit to the Department of Public Instruction (DPI), before the school begins participating in the MPCP, a copy of the school's certificate of occupancy issued by the city of Milwaukee, evidence of financial viability, and proof that the administrator of the school participated in a fiscal

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management training program approved by DPI. Annually, a private school participating in the MPCP must submit to DPI evidence of sound fiscal practices.

4. The bill authorizes DPI to issue an order banning a private school from participating in the MPCP in the succeeding school year if DPI determines that the private school misrepresented information provided to DPI, failed to provide information to DPI by the date or within the period required, failed to refund overpayments to the state by the date required, or failed to meet at least one of the currently required academic or other standards by the required date.

5. The bill authorizes DPI to issue an order immediately terminating a private school's participation in the MPCP if DPI determines that conditions at the private school present an imminent danger to the health or safety of pupils.

6. Finally, the bill authorizes DPI to withhold payment from a private school participating in the MPCP if the private school violates any law or administrative rule governing the MPCP.

For further information see the *state and local* 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.** 119.23 (7) (am) of the statutes is renumbered 119.23 (7) (am) (intro.)
2 and amended to read:

3 119.23 (7) (am) (intro.) Each private school participating in the program under
4 this section is subject to uniform financial accounting standards established by the
5 department ~~and annually.~~ Annually by September 1 following a school year in which
6 a private school participated in the program under this section, the private school
7 shall submit to the department an all of the following:

8 1. An independent financial audit of the private school conducted by a certified
9 public accountant, accompanied by the auditor's statement that the report is free of
10 material misstatements and fairly presents pupil costs under sub. (4) (b) 1.

11 **SECTION 2.** 119.23 (7) (am) 2. and 3. of the statutes are created to read:

12 119.23 (7) (am) 2. Evidence of sound fiscal practices, as prescribed by the
13 department by rule.

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1 3. Certification by the auditor under subd. 1. that criminal background checks
2 of all newly hired school employees were conducted as specified under par. (d) 2.

3 **SECTION 3.** 119.23 (7) (b) of the statutes is repealed.

4 **SECTION 4.** 119.23 (7) (d) of the statutes is created to read:

5 119.23 (7) (d) Each private school participating in the program under this
6 section shall submit to the department all of the following:

7 1. By August 1 before the first school term of participation in the program, or
8 by May 1 if the private school begins participating in the program during summer
9 school, all of the following:

10 a. A copy of the school's current certificate of occupancy issued by the city. If
11 the private school moves to a new location, the private school shall submit a copy of
12 the new certificate of occupancy issued by the city to the department before the
13 attendance of pupils at the new location and before the next succeeding date specified
14 in s. 121.05 (1) (a). A temporary certificate of occupancy does not meet the
15 requirement of this subd. 1. a.

16 b. Evidence of financial viability, as prescribed by the department by rule.

17 c. Proof that the private school's administrator has participated in a fiscal
18 management training program approved by the department.

19 2. Annually by February 1, a notarized statement by a person legally
20 authorized to act on behalf of the private school that the private school will conduct
21 a criminal background check through the department of justice on each person who
22 will be employed by the private school for the first time in the following school year.
23 If the person is a nonresident, the department of justice may provide for the
24 submission of information to the federal bureau of investigation for the purposes of

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1 verifying the identity of the person and obtaining records of his or her criminal arrest
2 and conviction.

3 **SECTION 5.** 119.23 (7) (e) of the statutes is created to read:

4 119.23 (7) (e) 1. Notwithstanding subch. II of ch. 111, except as provided in
5 subd. 2. a private school participating in the program under this section may not
6 employ a person convicted of any Class A, B, C, D, E, F, G, or H felony under ch. 940
7 or 948, except ss. 940.08 and 940.205, for 6 years following the date of the conviction,
8 and may employ such a person after 6 years only if the person establishes by clear
9 and convincing evidence that he or she is entitled to be employed.

10 2. A private school participating in the program under this section may employ
11 a person convicted of a crime enumerated in subd. 1., prior to the expiration of the
12 6-year period following the conviction, if the private school receives from the court
13 in which the conviction occurred a certificate stating that the conviction has been
14 reversed, set aside, or vacated.

15 **SECTION 6.** 119.23 (7) (f) of the statutes is created to read:

16 119.23 (7) (f) Notwithstanding subch. II of ch. 111, a private school
17 participating in the program under this section may refuse to employ or may
18 terminate the employment of any person who has been convicted of a felony within
19 the previous 6 years unless the private school receives from the court in which the
20 conviction occurred a certificate stating that the conviction has been reversed, set
21 aside, or vacated.

22 **SECTION 7.** 119.23 (10) of the statutes is created to read:

23 119.23 (10) (a) The state superintendent may issue an order barring a private
24 school from participating in the program under this section in the succeeding school

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1 year if the state superintendent determines that the private school has done any of
2 the following:

3 1. Misrepresented information required under sub. (7) (d).

4 2. Failed to provide the notice required under sub. (2) (a) 3., or the information
5 required under sub. (7) (am) or (d), by the date or within the period specified.

6 3. Failed to refund to the state any overpayment made under sub. (4) (b) or (rm)
7 by the date specified by department rule.

8 4. Failed to meet at least one of the standards under sub. (7) (a) by the date
9 specified by department rule.

10 (b) The state superintendent may issue an order immediately terminating a
11 private school's participation in the program under this section if he or she
12 determines that conditions at the private school present an imminent threat to the
13 health or safety of pupils.

14 (c) Whenever the state superintendent issues an order under par. (a) or (b), he
15 or she shall immediately notify the parent or guardian of each pupil attending the
16 private school under this section.

17 (d) The state superintendent may withhold payment from a parent or guardian
18 under subs. (4) and (4m) if the private school attended by the child of the parent or
19 guardian violates this section.

20 **SECTION 8.** 119.23 (11) of the statutes is created to read:

21 119.23 (11) The department shall promulgate rules to implement and
22 administer this section.

23 **SECTION 9. Nonstatutory provisions.**

