

2009 DRAFTING REQUEST

Assembly Amendment (AA-AB462)

Received: 11/02/2009

Received By: gmalaise

Wanted: 11/02/2009

Identical to LRB:

For: **Legislative Fiscal Bureau 6-3847**

By/Representing: **Rob Reinhart**

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

Drafter: **gmalaise**

May Contact:

Adl. Drafters: **pkahler**

Subject: **Children - day care
Public Assistance - Wis works**

Extra Copies:

Submit via email: **YES**

Requester's email: **rob.reinhardt@legis.wisconsin.gov**

Carbon copy (CC:) to: **Vicki.Holten@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Background checks of child care providers; barred offenses; Wisconsin Shares fraud

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>
/?	gmalaise 11/02/2009	jdyer 11/02/2009		_____			
/1			mduchek 11/02/2009	_____	mbarman 11/02/2009	mbarman 11/02/2009	
/2	pkahler 11/03/2009	kfollett 11/03/2009	jfrantze 11/03/2009	_____	mbarman 11/03/2009	mbarman 11/03/2009	

FE Sent For:

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/1			mduchek 11/02/2009	_____	mbarman 11/02/2009	mbarman 11/02/2009	
/2	pkahler 11/03/2009	lrb_editor		_____			

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Public Assistance - Wis works

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Requester's email: rob.reinhardt@legis.wisconsin.gov

Carbon copy (CC:) to:

fixed
email to "fiscal bureau"

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/?	gmalaise 11/02/2009	jdye 11/02/2009		_____			
/1		<i>12/6/09</i> <i>11/3</i>	mduchek 11/02/2009	_____	mbarman 11/02/2009	mbarman 11/02/2009	

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/1			mduchek 11/02/2009	_____	mbarman 11/02/2009	mbarman 11/02/2009	

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/?	gmalaise	1 1/2 jld	MD	MD JD			

FE Sent For:

<END>

Malaise, Gordon

From: Reinhardt, Rob
Sent: Monday, November 02, 2009 10:17 AM
To: Kahler, Pam; Malaise, Gordon
Cc: McGinnis, Cindy; Kahn, Carrie; Lang, Bob
Subject: Child Care Amendments

Gordon and Pam,

Here's where we are for tomorrow.

We'll work from AB 462.

There will be a "super simple" and an amendment to the super simple for Rep. Grigsby.

The super simple will include the following:

- ✓ AA 1
- ✓ AA 2, as amended by LRB 0943/1 (appropriation fix)
- ✓ LRB 1008/1 (five-year ineligibility)
- ✓ LRB 1009/1 (allow counties to use recovered funds for any TANF-eligible purpose)

The amendment to the super simple will include the provisions of LRB 929/4 (fraud reporting requirement) redrafted to amend the super simple rather than AA 2.

Please send the stripes to me.

At the end of JFC, the Committee will vote to have all of its actions also apply to SB 331.

An outstanding question is whether JFC substitutes will be drafted to reflect all of these changes.

Is this correct Cindy and Carrie?

Thanks everyone.



State of Wisconsin
2009 - 2010 LEGISLATURE

SN 112

Now!!!

a 1019 / 1
LRB 0855/3
GMM/ndph
e all
+ PJK

ASSEMBLY AMENDMENT 1,
TO 2009 ASSEMBLY BILL 462

October 20, 2009 - Offered by COMMITTEE ON CHILDREN AND FAMILIES,

Insert 1-1 ✓

1 At the locations indicated, amend the bill as follows:

2 1. Page 4, line 1: delete the material beginning with that line and ending with
3 page 5, line 17, and substitute:

4 "SECTION 1d. 20.435 (6) (jm) of the statutes, as affected by 2009 Wisconsin Act
5 28, is amended to read:

Insert 1-8 ✓

6 20.435 (6) (jm) *Licensing and support services*. The amounts in the schedule
7 for the purposes specified in ss. 48.685 (2) (am) and (b) 1., (3) (a) and (b), and (5) (a),
8 49.45 (47), 50.02 (2), 50.025, 50.031, 50.065 (2) (am) and (b) 1., (3) (a) and (b), and (5),
9 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.981, and 146.40
10 (4r) (b) and (er), and subch. IV of ch. 50 and to conduct health facilities plan and rule
11 development activities, for accrediting nursing homes, convalescent homes, and
12 homes for the aged, to conduct capital construction and remodeling plan reviews
13 under ss. 50.02 (2) (b) and 50.36 (2), and for the costs of inspecting, licensing or

1 certifying, and approving facilities, issuing permits, and providing technical
2 assistance, that are not specified under any other paragraph in this subsection. All
3 moneys received under ss. 48.685 (8), 49.45 (42) (c), 49.45 (47) (c), 50.02 (2), 50.025,
4 50.031 (6), 50.065 (8), 50.13, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.93
5 (1) (c), and 50.981, all moneys received from fees for the costs of inspecting, licensing
6 or certifying, and approving facilities, issuing permits, and providing technical
7 assistance, that are not specified under any other paragraph in this subsection, and
8 all moneys received under s. 50.135 (2) shall be credited to this appropriation
9 account.

10 **SECTION 1g.** 20.437 (1) (jm) of the statutes, as affected by 2009 Wisconsin Act
11 28, section 493d, is amended to read:

12 20.437 (1) (jm) *Licensing activities.* All moneys received from licensing
13 activities under ss. 48.60, 48.62, 48.625, and 938.22 (7) ~~and~~, from fees under ss.
14 48.615, 48.625, and 938.22 (7) (b) and (c), and from fees under s. 48.685 (8) charged
15 to entities other than day care centers or day care providers, for the costs of licensing
16 child welfare agencies under s. 48.60, foster homes and treatment foster homes
17 under s. 48.62, group homes under s. 48.625, and shelter care facilities under s.
18 938.22 (7) and for the purposes specified in s. 48.685 (2) (am) and (b) 1., (3) (a) and
19 (b), and (5) (a) with respect to those entities.

20 **SECTION 1j.** 20.437 (1) (jm) of the statutes, as affected by 2009 Wisconsin Act
21 28, section 476h, and 2009 Wisconsin Act (this act), is repealed and recreated to
22 read:

23 20.437 (1) (jm) *Licensing activities.* All moneys received from licensing
24 activities under ss. 48.60, 48.62, 48.625, and 938.22 (7), from fees under ss. 48.615,
25 48.625, and 938.22 (7) (b) and (c), and from fees under s. 48.685 (8) charged to entities

1 other than day care centers or day care providers, for the costs of licensing child
2 welfare agencies under s. 48.60, foster homes under s. 48.62, group homes under s.
3 48.625, and shelter care facilities under s. 938.22 (7) and for the purposes specified
4 in s. 48.685 (2) (am) and (b) 1., (3) (a) and (b), and (5) (a) with respect to those entities.

5 **SECTION 1m.** 20.437 (2) (jn) of the statutes, as created by 2009 Wisconsin Act
6 28, is amended to read:

7 20.437 (2) (jn) *Child care licensing and certification activities.* All moneys
8 received from licensing activities under s. 48.65, from certifying activities under s.
9 48.651, ~~and from fees under ss. 48.65 (3) and 48.651 (2), and from fees under s. 48.685~~
10 (8) charged to day care centers and day care providers for the costs of licensing day
11 care centers under s. 48.65 and of certifying day care providers under s. 48.651 and
12 for the purposes specified in s. 48.685 (2) (am), (ar), and (b) 1. and 2., (3) (am) and
13 (bm), and (5) (a) with respect to day care centers and day care providers.”.

14 **2.** Page 6, line 13: after that line insert:

15 **“SECTION 2r.** 48.685 (1) (c) 2. of the statutes is amended to read:
16 48.685 (1) (c) 2. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19
17 (2), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295,
18 942.09 (2), 948.02 (1) or (2), 948.025, 948.03 (2), 948.05, 948.051, 948.055, 948.06,
19 948.07, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1), 948.30, or
20 948.53.”.

21 **3.** Page 16, line 16: delete “or 943.32 (2).” and substitute “943.201, 943.203,
22 943.32 (2), or 943.38 (1) or (2); a violation of s. 943.34 (1), 943.395 (1), 943.41 (3) (e),
23 (4) (a), (5), (6), or (6m), 943.45 (1), 943.455 (2), 943.46 (2), 943.47 (2), 943.50 (1m), or

Insert 3-20 ✓

1 943.70 (2) (a) or (am) or (3) (a) that is a felony; or an offense under subch. IV of ch.
2 943 that is a felony.”

3 4. Page 16, line 18: after “information to” insert “or the intentional
4 withholding of information from”.

5 5. Page 17, line 8: delete “if committed not more” and substitute “if the person
6 completed his or her sentence, including any probation, parole, or extended
7 supervision, or was discharged by the department of corrections, less”.

8 6. Page 17, line 10: delete “if committed not more” and substitute “if the person
9 completed his or her sentence, including any probation, parole, or extended
10 supervision, or was discharged by the department of corrections, less”.

Insert ✓
4-10
Insert ✓
4-11 (12)
43

7. Page 23, line 3: after that line insert:

SECTION 370. 49.197 (6) of the statutes is created to read:

49.197 (6) REPORTING OF SUSPECTED FRAUD. If any employee of the department,
14 a county, or a tribal governing body reasonably suspects fraudulent activity as
15 described in sub. (1m) or (2) (b) and reports the facts and circumstances contributing
16 to that suspicion to any management employee of the department, county, or tribal
17 governing body or to the district attorney, all of the following apply:

18 (a) Any person participating in good faith in the making of a report under sub.
19 (6) (intro.) or in initiating, participating in, or testifying in, any action or proceeding
20 in which fraudulent activity as described in sub. (1m) or (2) (b) is alleged shall have
21 immunity from any liability, civil or criminal, that results by reason of the action.
22 For the purpose of any proceeding, civil or criminal, the good faith of any person
23 reporting under sub. (6) (intro.) shall be presumed.

1 (b) The department, a county, a tribal governing body, or an employee of the
2 department, a county, or a tribal governing body may not take disciplinary action
3 against, or threaten to take disciplinary action against, any person because the
4 person in good faith reported any information under sub. (6) (intro.) or initiated,
5 participated in, or testified in, any action or proceeding in which fraudulent activity
6 described in sub. (1m) or (2) (b) was alleged or because the department, county, tribal
7 governing body, or employee believes that the person in good faith reported any
8 information under sub. (6) (intro.) or initiated, participated in, or testified in, such
9 an action or proceeding.

10 (c) Any employee of the department, a county, or a tribal governing body who
11 is subjected to disciplinary action, or who is threatened with disciplinary action, in
12 violation of par. (b) may file a complaint with the department of workforce
13 development under s. 106.54 (9). If that department finds that a violation of par. (b)
14 has been committed, that department may take such action under s. 111.39 as will
15 effectuate the purpose of this section. Section 111.322 (2m) applies to a disciplinary
16 action arising in connection with any proceeding under this paragraph.

17 **SECTION 37p.** [✓] 49.845 (4) of the statutes is renumbered 49.845 (4) (intro.) and
18 amended to read:

19 49.845 (4) (intro.) Notwithstanding s. 49.197 (1m) and (3), the department of
20 children and families may contract with the department of health services to
21 investigate suspected fraudulent activity on the part of recipients of aid to families
22 with dependent children under s. 49.19 and participants in Wisconsin Works under
23 ss. 49.141 to 49.161 and to conduct activities to reduce payment errors in Wisconsin
24 Works under ss. 49.141 to 49.161, as provided in this section. If any employee of the
25 department of health services reasonably suspects fraudulent activity as described

1 in this paragraph and reports the facts and circumstances contributing to that
2 suspicion to any management employee of that department or to the district
3 attorney, all of the following apply:

4 **SECTION 37r.** 49.895 (4) (a), (b) and (c) of the statutes are created to read:

5 49.895 (4) (a) Any person participating in good faith in the making of a report
6 under sub. (4) (intro.) or in initiating, participating in, or testifying in, any action or
7 proceeding in which fraudulent activity as described in sub. (4) (intro.) is alleged
8 shall have immunity from any liability, civil or criminal, that results by reason of the
9 action. For the purpose of any proceeding, civil or criminal, the good faith of any
10 person reporting under sub. (4) (intro.) shall be presumed.

11 (b) The department of health services or an employee of that department may
12 not take disciplinary action against, or threaten to take disciplinary action against,
13 any person because the person in good faith reported any information under sub. (4)
14 (intro.) or initiated, participated in, or testified in, any action or proceeding in which
15 fraudulent activity as described in sub. (4) (intro.) was alleged or because that
16 department or employee believes that the person in good faith reported any
17 information under sub. (4) (intro.) or initiated, participated in, or testified in, such
18 an action or proceeding.

19 (c) Any employee of the department of health services who is subjected to
20 disciplinary action, or who is threatened with disciplinary action, in violation of par.
21 (b) may file a complaint with the department of workforce development under s.
22 106.54 (9). If that department finds that a violation of par. (b) has been committed,
23 that department may take such action under s. 111.39 as will effectuate the purpose
24 of this section. Section 111.322 (2m) applies to a disciplinary action arising in
25 connection with any proceeding under this paragraph.



State of Wisconsin
2009-2010 LEGISLATURE

LRBa1008/1
PJK:bjk:jf

Insert 1-1

~~ASSEMBLY AMENDMENT~~
~~TO 2009 ASSEMBLY BILL 462~~

Use of funds recovered for detecting fraud
under Wisconsin Shares;

1 ~~At the locations indicated, amend the bill as follows:~~

2 1. Page 2, line 2: after "provided" insert "; ineligibility for a child care subsidy
3 under Wisconsin Shares for a violation under the program." (end ins)

4 2. Page 23, line 3: after that line insert:

5 "SECTION 37f. 49.155 (8) of the statutes is created to read:

6 49.155 (8) INELIGIBILITY FOR CONVICTION OR VIOLATION. Notwithstanding sub.
7 (1m) and ss. 49.141 (7) (c) and 49.151 (2), if a court finds or it is determined after an
8 administrative hearing that an individual who is receiving or has received a child
9 care subsidy under this section has violated any provision of, or rule promulgated
10 under, this section, the individual shall be ineligible for up to 5 years, beginning on
11 the date of the judgment or decision, to receive a child care subsidy under this
12 section."



**SENATE AMENDMENT,
TO SENATE AMENDMENT 2,
TO 2009 SENATE BILL 331**

Insert 1-8

1 At the locations indicated, amend the amendment as follows:

2 **1.** Page 1, line 7: delete that line and substitute "for the purposes specified in
3 ss. 48.685 (2) (am) and (b) 1., (3) (a) ~~and~~, (am), (b), and (bm), and (5) (a),".

4 **2.** Page 3, line 20: after that line insert.

5 ~~am~~ Page 12, line 2: after "(am) 1." insert "to 5."
← not frozen

6 ~~2D~~ Page 12, line 16: after "(am) 1." insert "to 5."
#

7 (END)

Insert 3-20



State of Wisconsin
2009 ~~2010~~ LEGISLATURE

LRBa0805/1
GMM:jld:jf

Insert 4-10

ASSEMBLY AMENDMENT 1,
TO 2009 ASSEMBLY BILL 462

~~October 20, 2009 - Offered by COMMITTEE ON CHILDREN AND FAMILIES.~~

1 ~~At the locations indicated, amend the bill as follows:~~

2 1. Page 19, line 14: after that line insert: ✓

3 "SECTION 29m. ✓ 48.981 (3) (c) 5r. of the statutes is created to read:

4 48.981 (3) (c) 5r. If the county department or, in a county having a population
5 of 500,000 or more, the department or a licensed child welfare agency under contract
6 with the department determines under subd. 4. that a specific person has abused or
7 neglected a child, the county department, department, or licensed child welfare
8 agency, within 15 days after the date of the determination, shall provide the subunit
9 of the department that administers s. 48.685 with information about the person who
10 has been determined to have abused or neglected the child.

11 SECTION 29p. ✓ 48.981 (3) (cm) of the statutes is amended to read:

12 48.981 (3) (cm) Contract with licensed child welfare agencies. A county
13 department may contract with a licensed child welfare agency to fulfill the county



-2
First 4-10
cont

1 department's duties specified under par. (c) 1., 2. b., 2m. b., 5., 5r. 6., 6m., and 8. The
2 department may contract with a licensed child welfare agency to fulfill the
3 department's duties specified under par. (c) 1., 2. a., 2m. b., 3., 4., 5., 5m., 5r. 6., 6m.,
4 7., 8., and 9. in a county having a population of 500,000 or more. The confidentiality
5 provisions specified in sub. (7) shall apply to any licensed child welfare agency with
6 which a county department or the department contracts." ✓

7 ~~Page 24, line 8: delete "6th" and substitute "3rd"~~

8 (END)

(ed 6/10/09)



Insert 4-11

~~ASSEMBLY AMENDMENT~~
~~TO 2009 ASSEMBLY BILL 462~~

1
2
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12

At the locations indicated, amend the bill as follows.

1. Page 2, line 2: after "provided" insert ", ineligibility for a child care subsidy under Wisconsin Shares for a violation under the program;"

2. Page 23, line 3: after that line insert:

SECTION 37f. 49.155 (8) of the statutes is created to read:
49.155 (8) INELIGIBILITY FOR CONVICTION OF VIOLATION. Notwithstanding sub. (1m) and ss. 49.141 (7) (c) and 49.151 (2), if a court finds or it is determined after an administrative hearing that an individual who is receiving or has received a child care subsidy under this section has violated any provision of, or rule promulgated under, this section, the individual shall be ineligible for up to 5 years, beginning on the date of the judgment or decision, to receive a child care subsidy under this section.

12





State of Wisconsin
2009 - 2010 LEGISLATURE

LRBa1009/1
PJK:kjf:jf

Insert 4-11
Cont

~~ASSEMBLY AMENDMENT ,
TO 2009 ASSEMBLY BILL 462~~

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 2, line 2: after "provided" insert ", use of funds recovered for detecting
- 3 fraud under Wisconsin Shares,".
- 4 **2.** Page 23, line 3: after that line insert:

5 **SECTION 37k.** 49.197 (2) (c) ✓ of the statutes, as affected by 2009 Wisconsin Act
6 28, section 1262, is amended to read:

7 49.197 (2) (c) A county department, Wisconsin Works agency, or tribal
8 governing body that establishes a program under par. (b) shall advise both the
9 department and the department of health services of the date on which the program
10 was established and, on an ongoing basis, of any amounts recovered as a result of the
11 program. A county department, Wisconsin Works agency, or tribal governing body
12 may retain any amounts recovered under a program under this subsection and ~~must~~
13 use the moneys retained to pay cash benefits to Wisconsin Works participants for any



Insert 4-11

1 purpose for which moneys under the Temporary Assistance for Needy Families block
2 grant program may be used under federal law.

3 **SECTION 37m.** ✓ 49.197 (2) (c) of the statutes, as affected by 2009 Wisconsin Act
4 28, section 1262m, is amended to read:

5 49.197 (2) (c) A county department, Wisconsin Works agency, or tribal
6 governing body that establishes a program under par. (b) shall advise both the
7 department and the department of health services of the date on which the program
8 was established and, on an ongoing basis, of any amounts recovered as a result of the
9 program. Except as provided in par. (cm), a county department, Wisconsin Works
10 agency, or tribal governing body may retain any amounts recovered under a program
11 under this subsection and must use the moneys retained to pay cash benefits to
12 ~~Wisconsin Works participants for any purpose for which moneys under the~~
13 ~~Temporary Assistance for Needy Families block grant program may be used under~~
14 ~~federal law.~~ *g*

15 ~~3. Page 24, line 1: delete "This act" and substitute "Except for the treatment~~
16 ~~of section 49.197 (2) (c) (by SECTIONS 37k and 37m) of the statutes, this act"~~
17 ~~4. Page 24, line 13: after that line insert:~~
18 ~~"(2m) INCENTIVE PROGRAM FOR WISCONSIN SHARES FRAUD DETECTION.~~
19 ~~(a) The treatment of section 49.197 (2) (by SECTION 37k) of the statutes takes~~
20 ~~effect on the day after publication.~~
21 ~~(b) The treatment of section 49.197 (2) (by SECTION 37m) of the statutes takes~~
22 ~~effect on January 1, 2010, or on the day after publication, whichever is later."~~

(END)

(ed of ms +)

and 49.197 (2)(c) (by SECTION 37K and 37m)

LRBa1008/1 PJK:bjk:jl

Sections ✓

Inset 7-8

1 3. Page 24, line 1: delete "This act" and substitute "Except for the treatment
2 of ~~now~~ 49.155 (8), of the statutes, this act". ✓

3 4. Page 24, line 7: after that line insert:

4 "(2) INELIGIBILITY FOR CONVICTION OF VIOLATION. The treatment of section 49.155
5 (8) of the statutes first applies to convictions that occur on the effective date of this
6 subsection."

7 5. Page 24, line 13: after that line insert.

8 "(2) INELIGIBILITY FOR CONVICTION OF VIOLATION. The treatment of section 49.155
9 (8) of the statutes and SECTION 40 (2) of this act take effect on the day after
10 publication."

(END)

judgments granted
and decisions made



- 2 -
Inset 7-8
cont

1 department's duties specified under par. (c) 1., 2. b., 2m. b., 5., 5r. 6., 6m., and 8. The
 2 department may contract with a licensed child welfare agency to fulfill the
 3 department's duties specified under par. (c) 1., 2. a., 2m. b., 3., 4., 5., 5m., 5r. 6., 6m.,
 4 7., 8., and 9. in a county having a population of 500,000 or more. The confidentiality
 5 provisions specified in sub. (7) shall apply to any licensed child welfare agency with
 6 which a county department or the department contracts."

7 **2.** Page 24, line 8: delete "6th" and substitute "3rd". ✓

8 (END)
(end of insert)

- 2 -
Insert 7-10

1 ~~3. Page 24, line 1. delete "This act" and substitute "Except for the treatment~~
2 ~~of section 49.155 (8) of the statutes, this act".~~

3 ~~4. Page 24, line 7: after that line insert:~~
4 ~~"(2) INELIGIBILITY FOR CONVICTION OF VIOLATION. The treatment of section 49.155~~
5 ~~(8) of the statutes first applies to convictions that occur on the effective date of this~~
6 ~~subsection."~~

7 **5.** Page 24, line 13: after that line insert:
8 "(2) INELIGIBILITY FOR CONVICTION OF VIOLATION. ✓ The treatment of section 49.155
9 (8) of the statutes and SECTION 40 (2) ✓ of this act take effect on the day after
10 publication. ~~~~~

11 (END)



Insert 7-10
cont

1 ~~purpose for which moneys under the Temporary Assistance for Needy Families block~~
2 ~~grant program may be used under federal law.~~

3 ~~SECTION 37m. 49.197 (2) (c) of the statutes, as affected by 2009 Wisconsin Act~~
4 ~~28, section 1262m, is amended to read:~~

5 ~~49.197 (2) (c) A county department, Wisconsin Works agency, or tribal~~
6 ~~governing body that establishes a program under par. (b) shall advise both the~~
7 ~~department and the department of health services of the date on which the program~~
8 ~~was established and, on an ongoing basis, of any amounts recovered as a result of the~~
9 ~~program. Except as provided in par. (cm), a county department, Wisconsin Works~~
10 ~~agency, or tribal governing body may retain any amounts recovered under a program~~
11 ~~under this subsection and must use the moneys retained to pay cash benefits to~~
12 ~~Wisconsin Works participants for any purpose for which moneys under the~~
13 ~~Temporary Assistance for Needy Families block grant program may be used under~~
14 ~~federal law.”.~~

15 ~~3. Page 24, line 1: delete “This act” and substitute “Except for the treatment~~
16 ~~of section 49.197 (2) (c) (by SECTIONS 37k and 37m) of the statutes, this act”.~~

17 ~~4. Page 24, line 13: after that line insert:~~

18 ~~(2m) INCENTIVE PROGRAM FOR WISCONSIN SHARES FRAUD DETECTION.~~ ✓

19 (a) The treatment of section 49.197 (2) (b) by SECTION 37k) of the statutes takes
20 effect on the day after publication.

21 (b) The treatment of section 49.197 (2) (b) by SECTION 37m) of the statutes takes
22 effect on January 1, 2010, or on the day after publication, whichever is later.”. ✓

23 (END)

(end of insert)

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

fiscal bureau 11-3
by Ann Sappanfield

need to change a 1019/1

instead of change on p 4, lines 2-6

create a 3m. for all licensed providers
(so exclude nonresident ^{resident or} caretakers)

w/a violation of stats. letter on p. 4,
l 2-6



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBa1019/2
GMM&PJK:all:md

pm is new

ASSEMBLY AMENDMENT,
TO 2009 ASSEMBLY BILL 462

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 2: after “provided” insert “; ineligibility for a child care subsidy
3 under Wisconsin Shares for a violation under the program; use of funds recovered for
4 detecting fraud under Wisconsin Shares;”.

5 **2.** Page 4, line 1: delete the material beginning with that line and ending with
6 page 5, line 17, and substitute:

7 “SECTION 1d. 20.435 (6) (jm) of the statutes, as affected by 2009 Wisconsin Act
8 28, is amended to read:

9 20.435 (6) (jm) *Licensing and support services.* The amounts in the schedule
10 for the purposes specified in ss. 48.685 (2) (am) and (b) 1., (3) (a) ~~and~~, (am), (b), ~~and~~
11 (~~bm~~), and (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.031, 50.065 (2) (am) and (b) 1., (3)
12 (a) and (b), and (5), 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57,
13 50.981, and 146.40 (4r) (b) and (er), and subch. IV of ch. 50 and to conduct health

1 facilities plan and rule development activities, for accrediting nursing homes,
2 convalescent homes, and homes for the aged, to conduct capital construction and
3 remodeling plan reviews under ss. 50.02 (2) (b) and 50.36 (2), and for the costs of
4 inspecting, licensing or certifying, and approving facilities, issuing permits, and
5 providing technical assistance, that are not specified under any other paragraph in
6 this subsection. All moneys received under ss. 48.685 (8), 49.45 (42) (c), 49.45 (47)
7 (c), 50.02 (2), 50.025, 50.031 (6), 50.065 (8), 50.13, 50.36 (2), 50.49 (2) (b), 50.495,
8 50.52 (2) (a), 50.57, 50.93 (1) (c), and 50.981, all moneys received from fees for the
9 costs of inspecting, licensing or certifying, and approving facilities, issuing permits,
10 and providing technical assistance, that are not specified under any other paragraph
11 in this subsection, and all moneys received under s. 50.135 (2) shall be credited to this
12 appropriation account.

13 **SECTION 1g.** 20.437 (1) (jm) of the statutes, as affected by 2009 Wisconsin Act
14 28, section 493d, is amended to read:

15 20.437 (1) (jm) *Licensing activities.* All moneys received from licensing
16 activities under ss. 48.60, 48.62, 48.625, and 938.22 (7) ~~and~~, from fees under ss.
17 48.615, 48.625, and 938.22 (7) (b) and (c), and from fees under s. 48.685 (8) charged
18 to entities other than day care centers or day care providers, for the costs of licensing
19 child welfare agencies under s. 48.60, foster homes and treatment foster homes
20 under s. 48.62, group homes under s. 48.625, and shelter care facilities under s.
21 938.22 (7) and for the purposes specified in s. 48.685 (2) (am) and (b) 1., (3) (a) and
22 (b), and (5) (a) with respect to those entities.

23 **SECTION 1j.** 20.437 (1) (jm) of the statutes, as affected by 2009 Wisconsin Act
24 28, section 476h, and 2009 Wisconsin Act (this act), is repealed and recreated to
25 read:

1 20.437 (1) (jm) *Licensing activities.* All moneys received from licensing
2 activities under ss. 48.60, 48.62, 48.625, and 938.22 (7), from fees under ss. 48.615,
3 48.625, and 938.22 (7) (b) and (c), and from fees under s. 48.685 (8) charged to entities
4 other than day care centers or day care providers, for the costs of licensing child
5 welfare agencies under s. 48.60, foster homes under s. 48.62, group homes under s.
6 48.625, and shelter care facilities under s. 938.22 (7) and for the purposes specified
7 in s. 48.685 (2) (am) and (b) 1., (3) (a) and (b), and (5) (a) with respect to those entities.

8 **SECTION 1m.** 20.437 (2) (jn) of the statutes, as created by 2009 Wisconsin Act
9 28, is amended to read:

10 20.437 (2) (jn) *Child care licensing and certification activities.* All moneys
11 received from licensing activities under s. 48.65, from certifying activities under s.
12 48.651, and from fees under ss. 48.65 (3) and 48.651 (2), and from fees under s. 48.685
13 (8) charged to day care centers and day care providers for the costs of licensing day
14 care centers under s. 48.65 and of certifying day care providers under s. 48.651 and
15 for the purposes specified in s. 48.685 (2) (am), (ar), and (b) 1. and 2., (3) (am) and
16 (bm), and (5) (a) with respect to day care centers and day care providers.”.

17 **3.** Page 6, line 13: after that line insert:

18 “**SECTION 2r.** 48.685 (1) (c) 2. of the statutes is amended to read:

19 48.685 (1) (c) 2. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19
20 (2), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295,
21 942.09 (2), 948.02 (1) or (2), 948.025, 948.03 (2), 948.05, 948.051, 948.055, 948.06,
22 948.07, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1), 948.30, or
23 948.53.”.

24 **4.** Page 12, line 2: after “(am) 1.” insert “to 5.”.

1 **5.** Page 12, line 16: after “(am) 1.” insert “to 5.”

2 **6.** Page 16, line 16: delete “or 943.32 (2).” and substitute “943.201, 943.203,
3 943.32 (2), or 943.38 (1) or (2); a violation of s. 943.34 (1), 943.395 (1), 943.41 (3) (e),
4 (4) (a), (5), (6), or (6m), 943.45 (1), 943.455 (2), 943.46 (2), 943.47 (2), 943.50 (1m), or
5 943.70 (2) (a) or (am) or (3) (a) that is a felony; or an offense under subch. IV of ch.
6 943 that is a felony.”

Insert 4-6

7 **7.** Page 16, line 18: after “information to” insert “or the intentional
8 withholding of information from”.

9 **8.** Page 17, line 8: delete “if committed not more” and substitute “if the person
10 completed his or her sentence, including any probation, parole, or extended
11 supervision, or was discharged by the department of corrections, less”.

12 **9.** Page 17, line 10: delete “if committed not more” and substitute “if the person
13 completed his or her sentence, including any probation, parole, or extended
14 supervision, or was discharged by the department of corrections, less”.

15 **10.** Page 19, line 14: after that line insert:

16 “**SECTION 29m.** 48.981 (3) (c) 5r. of the statutes is created to read:

17 48.981 (3) (c) 5r. If the county department or, in a county having a population
18 of 500,000 or more, the department or a licensed child welfare agency under contract
19 with the department determines under subd. 4. that a specific person has abused or
20 neglected a child, the county department, department, or licensed child welfare
21 agency, within 15 days after the date of the determination, shall provide the subunit
22 of the department that administers s. 48.685 with information about the person who
23 has been determined to have abused or neglected the child.

24 **SECTION 29p.** 48.981 (3) (cm) of the statutes is amended to read:

1 48.981 (3) (cm) Contract with licensed child welfare agencies. A county
2 department may contract with a licensed child welfare agency to fulfill the county
3 department's duties specified under par. (c) 1., 2. b., 2m. b., 5., 5r., 6., 6m., and 8. The
4 department may contract with a licensed child welfare agency to fulfill the
5 department's duties specified under par. (c) 1., 2. a., 2m. b., 3., 4., 5., 5m., 5r., 6., 6m.,
6 7., 8., and 9. in a county having a population of 500,000 or more. The confidentiality
7 provisions specified in sub. (7) shall apply to any licensed child welfare agency with
8 which a county department or the department contracts.”.

9 **11.** Page 23, line 3: after that line insert:

10 “**SECTION 37f.** 49.155 (8) of the statutes is created to read:

11 49.155 (8) INELIGIBILITY FOR CONVICTION OF VIOLATION. Notwithstanding sub.
12 (1m) and ss. 49.141 (7) (c) and 49.151 (2), if a court finds or it is determined after an
13 administrative hearing that an individual who is receiving or has received a child
14 care subsidy under this section has violated any provision of, or rule promulgated
15 under, this section, the individual shall be ineligible for up to 5 years, beginning on
16 the date of the judgment or decision, to receive a child care subsidy under this section.

17 **SECTION 37k.** 49.197 (2) (c) of the statutes, as affected by 2009 Wisconsin Act
18 28, section 1262, is amended to read:

19 49.197 (2) (c) A county department, Wisconsin Works agency, or tribal
20 governing body that establishes a program under par. (b) shall advise both the
21 department and the department of health services of the date on which the program
22 was established and, on an ongoing basis, of any amounts recovered as a result of the
23 program. A county department, Wisconsin Works agency, or tribal governing body
24 may retain any amounts recovered under a program under this subsection and ~~must~~

1 use the moneys retained to pay cash benefits to Wisconsin Works participants for any
2 purpose for which moneys under the Temporary Assistance for Needy Families block
3 grant program may be used under federal law.

4 **SECTION 37m.** 49.197 (2) (c) of the statutes, as affected by 2009 Wisconsin Act
5 28, section 1262m, is amended to read:

6 49.197 (2) (c) A county department, Wisconsin Works agency, or tribal
7 governing body that establishes a program under par. (b) shall advise both the
8 department and the department of health services of the date on which the program
9 was established and, on an ongoing basis, of any amounts recovered as a result of the
10 program. Except as provided in par. (cm), a county department, Wisconsin Works
11 agency, or tribal governing body may retain any amounts recovered under a program
12 under this subsection and ~~must use the moneys retained to pay cash benefits to~~
13 ~~Wisconsin Works participants~~ for any purpose for which moneys under the
14 Temporary Assistance for Needy Families block grant program may be used under
15 federal law.

16 **SECTION 37n.** 49.197 (6) of the statutes is created to read:

17 49.197 (6) REPORTING OF SUSPECTED FRAUD. If any employee of the department,
18 a county, or a tribal governing body reasonably suspects fraudulent activity as
19 described in sub. (1m) or (2) (b) and reports the facts and circumstances contributing
20 to that suspicion to any management employee of the department, county, or tribal
21 governing body or to the district attorney, all of the following apply:

22 (a) Any person participating in good faith in the making of a report under sub.
23 (6) (intro.) or in initiating, participating in, or testifying in, any action or proceeding
24 in which fraudulent activity as described in sub. (1m) or (2) (b) is alleged shall have
25 immunity from any liability, civil or criminal, that results by reason of the action.

1 For the purpose of any proceeding, civil or criminal, the good faith of any person
2 reporting under sub. (6) (intro.) shall be presumed.

3 (b) The department, a county, a tribal governing body, or an employee of the
4 department, a county, or a tribal governing body may not take disciplinary action
5 against, or threaten to take disciplinary action against, any person because the
6 person in good faith reported any information under sub. (6) (intro.) or initiated,
7 participated in, or testified in, any action or proceeding in which fraudulent activity
8 described in sub. (1m) or (2) (b) was alleged or because the department, county, tribal
9 governing body, or employee believes that the person in good faith reported any
10 information under sub. (6) (intro.) or initiated, participated in, or testified in, such
11 an action or proceeding.

12 (c) Any employee of the department, a county, or a tribal governing body who
13 is subjected to disciplinary action, or who is threatened with disciplinary action, in
14 violation of par. (b) may file a complaint with the department of workforce
15 development under s. 106.54 (9). If that department finds that a violation of par. (b)
16 has been committed, that department may take such action under s. 111.39 as will
17 effectuate the purpose of this section. Section 111.322 (2m) applies to a disciplinary
18 action arising in connection with any proceeding under this paragraph.

19 **SECTION 37p.** 49.845 (4) of the statutes is renumbered 49.845 (4) (intro.) and
20 amended to read:

21 49.845 (4) (intro.) Notwithstanding s. 49.197 (1m) and (3), the department of
22 children and families may contract with the department of health services to
23 investigate suspected fraudulent activity on the part of recipients of aid to families
24 with dependent children under s. 49.19 and participants in Wisconsin Works under
25 ss. 49.141 to 49.161 and to conduct activities to reduce payment errors in Wisconsin

1 Works under ss. 49.141 to 49.161, as provided in this section. If any employee of the
2 department of health services reasonably suspects fraudulent activity as described
3 in this paragraph and reports the facts and circumstances contributing to that
4 suspicion to any management employee of that department or to the district
5 attorney, all of the following apply:

6 **SECTION 37r.** 49.895 (4) (a), (b) and (c) of the statutes are created to read:

7 49.895 (4) (a) Any person participating in good faith in the making of a report
8 under sub. (4) (intro.) or in initiating, participating in, or testifying in, any action or
9 proceeding in which fraudulent activity as described in sub. (4) (intro.) is alleged
10 shall have immunity from any liability, civil or criminal, that results by reason of the
11 action. For the purpose of any proceeding, civil or criminal, the good faith of any
12 person reporting under sub. (4) (intro.) shall be presumed.

13 (b) The department of health services or an employee of that department may
14 not take disciplinary action against, or threaten to take disciplinary action against,
15 any person because the person in good faith reported any information under sub. (4)
16 (intro.) or initiated, participated in, or testified in, any action or proceeding in which
17 fraudulent activity as described in sub. (4) (intro.) was alleged or because that
18 department or employee believes that the person in good faith reported any
19 information under sub. (4) (intro.) or initiated, participated in, or testified in, such
20 an action or proceeding.

21 (c) Any employee of the department of health services who is subjected to
22 disciplinary action, or who is threatened with disciplinary action, in violation of par.
23 (b) may file a complaint with the department of workforce development under s.
24 106.54 (9). If that department finds that a violation of par. (b) has been committed,
25 that department may take such action under s. 111.39 as will effectuate the purpose

1 of this section. Section 111.322 (2m) applies to a disciplinary action arising in
2 connection with any proceeding under this paragraph.

3 **SECTION 37v.** 106.54 (9) of the statutes is created to read:

4 106.54 (9) The division shall receive complaints under s. 49.197 (6) (c) or 49.845
5 (4) (c) and shall process the complaints in the same manner that employment
6 discrimination complaints are processed under s. 111.39.

7 **SECTION 37x.** 111.322 (2m) (bm) of the statutes is created to read:

8 111.322 (2m) (bm) The individual files a complaint or attempts to enforce a
9 right under s. 49.197 (6) (c) or 49.845 (4) (c) or testifies or assists in any action or
10 proceeding under s. 49.197 (6) (c) or 49.845 (4) (c).”.

11 **12.** Page 24, line 1: delete “This act” and substitute “Except for the treatment
12 of sections 49.155 (8) and 49.197 (2) (c) (by SECTIONS 37k and 37m) of the statutes,
13 this act”.

14 **13.** Page 24, line 7: after that line insert:

15 “(2) INELIGIBILITY FOR CONVICTION OF VIOLATION. The treatment of section 49.155
16 (8) of the statutes first applies to judgments granted and decisions made on the
17 effective date of this subsection.”.

18 **14.** Page 24, line 8: delete “6th” and substitute “3rd”.

19 **15.** Page 24, line 11: delete “section” and substitute “sections 20.437 (1) (jm)
20 and”.

21 **16.** Page 24, line 13: after that line insert:

22 “(2) INELIGIBILITY FOR CONVICTION OF VIOLATION. The treatment of section 49.155
23 (8) of the statutes and SECTION 40 (2) of this act take effect on the day after
24 publication.

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1019/2ins
PJK:.....

INSERT 4-6

1 **1.** Page 16, line 16: after that line insert:

2 “3m. Except for purposes of permitting a person to be a nonclient resident or
3 caregiver specified in sub. (1) (ag) 1. a. of a day care center or day care provider, a
4 violation of s. 943.201, 943.203, 943.32 (2), or 943.38 (1) or (2); a violation of s. 943.34
5 (1), 943.395 (1), 943.41 (3) (e), (4) (a), (5), (6), or (6m), 943.45 (1), 943.455 (2), 943.46
6 (2), 943.47 (2), 943.50 (1m), or 943.70 (2) (a) or (am) or (3) (a) that is a felony; or an
7 offense under subch. IV of ch. 943 that is a felony.”

(END OF INSERT 4-6)