SENATE BILL 280 (LRB -3043)

An Act to renumber 49.155 (7m); and to create 49.155 (7m) (b) of the statutes; relating to: personal liability of officers, directors, and employees of child care providers.

2009

08-31.	S.	Introduced by Senators **Jauch**, **Vinehout**, **Coggs**, **Darling** and **Taylor**; cosponsored by Representatives **Grigsby**, **Jorgensen**, **Pasch**, **Pope-Roberts**, **Berceau**, **A. Williams**, **Fields**, **Sinicki**, **Mason**, **Barca** and **Petrowski**.	
08-31.	S.	Read first time and referred to committee on Children and Families and Workforce Development	271
09-09.	S.	Public hearing held.	
09-16.	S.	Executive action taken.	
09-17.	S.	Report passage recommended by committee on Children and Families and Workforce Development, Ayes 5, Noes 0	312
09-17.	S.	Available for scheduling.	
10-13.	S.	Placed on calendar 10-20-2009 by committee on Senate Organization	358
10-20.	S.	Senator Cowles added as a coauthor.	
10-20.	S.	Read a second time.	
10-20.	S.	Ordered to a third reading.	
10-20.	S.	Rules suspended.	
10-20.	S.	Read a third time and **passed**.	
10-20.	S.	Ordered immediately messaged.	
10-20.	A.	Received from Senate.	
10-20.	A.	Read.	
10-20.	A.	Rules suspended and taken up	438
10-20.	A.	Read a second time	438
10-20.	A.	Ordered to a third reading	438
10-20.	A.	Rules suspended	438
10-20.	A.	Read a third time and **concurred in**	438
10-20.	A.	Ordered immediately messaged	438
10-20.	S.	Received from Assembly concurred in.	

CMD

2009
ENROLLED BILL

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ADOPTED DOCUMENTS:

☒ Orig ☐ Engr ___ SubAmdt ___ 09-3043/1

Amendments to above (if none, write "NONE"): None

Corrections - show date (if none, write "NONE"): None

Topic Rel

Oct 21, 09
Date

Enrolling Drafter

State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3043/1
PJK:bjk:jf

2009 SENATE BILL 280

August 31, 2009 – Introduced by Senators JAUCH, VINEHOUT, COGGS, DARLING and TAYLOR, cosponsored by Representatives GRIGSBY, JORGENSEN, PASCH, POPE-ROBERTS, BERCEAU, A. WILLIAMS, FIELDS, SINICKI, MASON, BARCA and PETROWSKI. Referred to Committee on Children and Families and Workforce Development.

1 AN ACT ***to renumber*** 49.155 (7m); and ***to create*** 49.155 (7m) (b) of the statutes;
2 **relating to:** personal liability of officers, directors, and employees of child care
3 providers.

Analysis by the Legislative Reference Bureau

Current law specifies that the Department of Children and Families (DCF) may by rule establish policies and procedures permitting DCF to impose certain penalties on a child care provider who provides care for children under the Wisconsin Works child care subsidy program and who submits false, misleading, or irregular information to DCF or who fails to comply with the terms of the program without providing a satisfactory explanation for the failure to comply. The penalties that DCF may impose include recouping or withholding payments from the child care provider and imposing a forfeiture. This bill provides that if a child care provider is a corporation or a limited liability company and is unable to satisfy a penalty imposed by DCF, any officer, director, or employee of the corporation, or any member, manager, or employee of the limited liability company, who holds at least 20 percent of the ownership interest of the corporation or limited liability company and who has control or supervision of or responsibility for operating the child care business may be held personally liable. The bill provides that the personal liability of any officer, director, member, manager, or employee is an independent obligation that survives

the dissolution, reorganization, bankruptcy, receivership, or analogous situation of the corporation or limited liability company.

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

1 **SECTION 1.** 49.155 (7m) of the statutes, as created by 2009 Wisconsin Act 28,
2 is renumbered 49.155 (7m) (a).

3 **SECTION 2.** 49.155 (7m) (b) of the statutes is created to read:

4 49.155 **(7m)** (b) The penalties under par. (a) may be imposed on any child care
5 provider subject to this section. Any officer, director, or employee of a child care
6 provider that is a corporation, and any member, manager, or employee of a child care
7 provider that is a limited liability company, who holds at least 20 percent of the
8 ownership interest of the corporation or limited liability company and who has
9 control or supervision of or responsibility for operating the child care business,
10 including reporting for and receipt of payments under this section, may be found
11 personally liable for such amounts, including overpayments made under this
12 section, if the business, corporation, or limited liability company is unable to pay
13 such amounts to the department. Ownership interest of a corporation or limited
14 liability company includes ownership or control, directly or indirectly, by legally
15 enforceable means or otherwise, by the individual, by the individual's spouse or
16 child, by the individual's parent if the individual is under age 18, or by a combination
17 of 2 or more of them, and such ownership interest of a parent corporation or limited
18 liability company of which the corporation or limited liability company unable to pay
19 such amounts is a wholly owned subsidiary. The personal liability of the officers,
20 directors, and employees of a corporation and of the members, managers, and
21 employees of a limited liability company as provided in this paragraph is an

1 independent obligation and survives dissolution, reorganization, bankruptcy,
2 receivership, assignment for the benefit of creditors, judicially confirmed extension
3 or composition, or any analogous situation of the corporation or limited liability
4 company.

5 **SECTION 3. Initial applicability.**

6 (1) This act first applies to penalties imposed on the effective date of this
7 subsection.

8 **(END)**