

**2009 DRAFTING REQUEST**

**Bill**

Received: **06/26/2009**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Jauch (608) 266-3510**

By/Representing: **Anne Sappendfield**

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

Drafter: **pkahler**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Jauch@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Liability of individuals if child care provider is a corporation or LLC

---

**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>
/?	pkahler 06/30/2009	bkraft 07/07/2009		_____			
/1			jfrantze 07/07/2009	_____	lparisi 07/07/2009	mbarman 08/14/2009	

FE Sent For: *None*

<END>

**2009 DRAFTING REQUEST**

**Bill**

Received: **06/26/2009**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Jauch (608) 266-3510**

By/Representing: **Anne Sappendfield**

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

Drafter: **pkahler**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Jauch@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Liability of individuals if child care provider is a corporation or LLC

---

**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>
/?	pkahler 06/30/2009	bkraft 07/07/2009		_____			
/1			jfrantze 07/07/2009	_____	lparisi 07/07/2009		

FE Sent For:

<END>

**2009 DRAFTING REQUEST**

**Bill**

Received: 06/26/2009

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Jauch (608) 266-3510**

By/Representing: **Anne Sappendfield**

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

Drafter: **pkahler**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Jauch@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Liability of individuals if child care provider is a corporation or LLC

---

**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>
1/?	pkahler	11bjk 7/7	J 7/7	J 7/7			

FE Sent For:

<END>

## STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

6-23-09

Anne Sappanfeld

for ~~law~~ draft penalty provision  
from 60350 as separate bill  
i.e., (7m)

(7m) (a) is in budget, but (b)  
was removed before (7m) was  
put in budget

also, add "20% ownership  
interest" back in

(from LRB-2894)



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-3043/A

PJK:.....

Ljk

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

(ln 6-30)  
SA  
x-ref

Insert

LPS - Please check spelling.

per cent

1 AN ACT ~~relating to~~; relating to: personal liability of officers, directors, and employees of  
2 child care 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.

liability

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



*Insert 2-4*

1 provider submits false or misleading information to the department or if a child care  
2 provider fails to comply with the terms of the program under this section and fails  
3 to provide to the satisfaction of the department an explanation for the  
4 noncompliance:

- 5 1. Recoup payments made to the child care provider.
- 6 2. Withhold payments to be made to the child care provider.
- 7 3. Impose a forfeiture on the child care provider.

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



*Ins. 2-4 contd*

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

4 *>* **\*\*\*\*NOTE:** This is a combination of ss. 102.83 (8) and 108.22 (9). Is it okay? Do you  
need to include the requirement for a 20 percent ownership interest? Notice that s. 102.83  
(8) has no ownership interest requirement.

(END) *insert 2-4)*

**Barman, Mike**

---

**From:** Kahn, Carrie  
**Sent:** Friday, August 14, 2009 11:45 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-3043/1 Topic: Liability of individuals if child care provider is a corporation or LLC

Please Jacket LRB 09-3043/1 for the SENATE.