



State of Wisconsin
2009 - 2010 LEGISLATURE

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GMM:jld:jf

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

October 15, 2009 – Offered by COMMITTEE ON CHILDREN AND FAMILIES AND
WORKFORCE DEVELOPMENT.

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
page 5, line 17, and substitute:

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

5 20.435 (6) (jm) *Licensing and support services.* The amounts in the schedule
6 for the purposes specified in ss. ~~48.685 (2) (am) and (b) 1., (3) (a) and (b), and (5) (a),~~
7 49.45 (47), 50.02 (2), 50.025, 50.031, 50.065 (2) (am) and (b) 1., (3) (a) and (b), and (5),
8 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.981, and 146.40
9 (4r) (b) and (er), and subch. IV of ch. 50 and to conduct health facilities plan and rule
10 development activities, for accrediting nursing homes, convalescent homes, and
11 homes for the aged, to conduct capital construction and remodeling plan reviews
12 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 15, line 25: after that line insert:

22 “**SECTION 23m.** 48.685 (5) (bm) 4. of the statutes is amended to read:

23 48.685 (5) (bm) 4. A violation of s. 940.19 (3), 1999 stats., or of s. 125.075 (1),
24 125.085 (3) (a) 2., 125.105 (2) (b), 125.66 (3), 125.68 (12), 940.09, 940.19 (2), (4), (5),

1 or (6), 940.20, 940.203, 940.205, 940.207, or 940.25, a violation of s. 346.63 (1), (2),
2 (5), or (6) that is a felony under s. 346.65 (2) (am) 5., 6., or 7., or (f), (2j) (d), or (3m),
3 or an offense under ch. 961 that is a felony, if ~~committed not more~~ the person
4 completed his or her sentence, including any probation, parole, or extended
5 supervision, or was discharged by the department of corrections, less than 5 years
6 before the date of the investigation under sub. (2) (am).”.

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

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

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

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

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

12 “**SECTION 37m.** 49.197 (6) of the statutes is created to read:

13 49.197 (6) REPORTING OF SUSPECTED FRAUDS. 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

1 to that suspicion to any management employee of the department, county, or tribal
2 governing body or to the district attorney, all of the following apply:

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

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

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

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

3 49.845 (4) (intro.) Notwithstanding s. 49.197 (1m) and (3), the department of
4 children and families may contract with the department of health services to
5 investigate suspected fraudulent activity on the part of recipients of aid to families
6 with dependent children under s. 49.19 and participants in Wisconsin Works under
7 ss. 49.141 to 49.161 and to conduct activities to reduce payment errors in Wisconsin
8 Works under ss. 49.141 to 49.161, as provided in this section. If any employee of the
9 department of health services reasonably suspects fraudulent activity as described
10 in this paragraph and reports the facts and circumstances contributing to that
11 suspicion to any management employee of that department or to the district
12 attorney, all of the following apply:

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

14 49.895 (4) (a) Any person participating in good faith in the making of a report
15 under sub. (4) (intro.) or in initiating, participating in, or testifying in, any action or
16 proceeding in which fraudulent activity as described in sub. (4) (intro.) is alleged
17 shall have immunity from any liability, civil or criminal, that results by reason of the
18 action. For the purpose of any proceeding, civil or criminal, the good faith of any
19 person reporting under sub. (4) (intro.) shall be presumed.

20 (b) The department of health services or an employee of that department may
21 not take disciplinary action against, or threaten to take disciplinary action against,
22 any person because the person in good faith reported any information under sub. (4)
23 (intro.) or initiated, participated in, or testified in, any action or proceeding in which
24 fraudulent activity as described in sub. (4) (intro.) was alleged or because that
25 department or employee believes that the person in good faith reported any

1 information under sub. (4) (intro.) or initiated, participated in, or testified in, such
2 an action or proceeding.

3 (c) Any employee of the department of health services who is subjected to
4 disciplinary action, or who is threatened with disciplinary action, in violation of par.
5 (b) may file a complaint with the department of workforce development under s.
6 106.54 (9). If that department finds that a violation of par. (b) has been committed,
7 that department may take such action under s. 111.39 as will effectuate the purpose
8 of this section. Section 111.322 (2m) applies to a disciplinary action arising in
9 connection with any proceeding under this paragraph.

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

11 106.54 (9) The division shall receive complaints under s. 49.197 (6) (c) or 49.845
12 (4) (c) and shall process the complaints in the same manner that employment
13 discrimination complaints are processed under s. 111.39.

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

15 111.322 (2m) (bm) The individual files a complaint or attempts to enforce a
16 right under s. 49.197 (6) (c) or 49.845 (4) (c) or testifies or assists in any action or
17 proceeding under s. 49.197 (6) (c) or 49.845 (4) (c).”.

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

19 (END)