



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBa1055/2
GMM:kjf&jld:md

**SENATE AMENDMENT 1,
TO SENATE AMENDMENT 3,
TO 2009 SENATE BILL 331**

November 4, 2009 – Offered by JOINT COMMITTEE ON FINANCE.

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

2 **1. Page 1, line 2:** delete lines 2 to 4 and substitute:

3 “1d. Page 2, line 2: delete “and making an appropriation” and substitute “;
4 requiring suspected fraudulent activity on the part of a recipient of public assistance
5 or a participant in the Wisconsin Works Program, including a person receiving a
6 child care subsidy under that program, to be reported to an immediate supervisor,
7 to the sheriff, and to the departmental fraud investigation unit; ineligibility for a
8 child care subsidy under Wisconsin Shares for a violation under the program; use of
9 funds recovered for detecting fraud under Wisconsin Shares; making an
10 appropriation; and providing a penalty”.”.

11 **2. Page 6, line 19:** delete the material beginning with that line and ending with
page 9, line 15, and substitute:

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

2 49.197 (6) REPORTING OF SUSPECTED FRAUDULENT ACTIVITY. (a) 1. If any employee
3 of the department, a county, or a tribal governing body reasonably suspects that
4 fraudulent activity as described in sub. (1m) or (2) (b) has occurred or is occurring,
5 the employee shall immediately report the facts and circumstances contributing to
6 that suspicion to the employee’s immediate supervisor.

7 2. An immediate supervisor who receives a report under subd. 1. shall
8 immediately evaluate the report to determine whether there is reason to suspect that
9 the fraudulent activity has occurred or is occurring. If the immediate supervisor
10 determines that there is reason to suspect that the fraudulent activity has occurred
11 or is occurring, the immediate supervisor shall immediately report the facts and
12 circumstances contributing to that suspicion to the unit of the department that is
13 responsible for investigating suspected fraudulent activity under sub. (1m). If the
14 immediate supervisor is an employee of the department or of a county having a
15 population of 145,000 or more, the immediate supervisor shall also immediately
16 report those facts and circumstances to the sheriff.

17 3. Except as provided in subd. 2., an immediate supervisor who receives a
18 report under subd. 1. shall keep the identity of the reporter confidential. A sheriff
19 or unit of the department that receives a report under subd. 2. shall keep the identity
20 of the employee reporting under subd. 1. and the immediate supervisor reporting
21 under subd. 2. confidential until the sheriff or unit determines that the report merits
22 further investigation. If the sheriff or unit conducts a full investigation, the sheriff
23 or unit shall keep the identity of that employee and immediate supervisor
24 confidential if it is reasonably possible to do so. Any person who fails to report as
25 required in subd. 1. or 2. may be required to forfeit not more than \$1,000.

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

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

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

23 **SECTION 37q.** 49.845 (4) of the statutes is renumbered 49.845 (4) (a) 1. and
24 amended to read:

1 49.845 (4) (a) 1. Notwithstanding s. 49.197 (1m) and (3), the department of
2 children and families may contract with the department of health services to
3 investigate suspected fraudulent activity on the part of recipients of aid to families
4 with dependent children under s. 49.19 and participants in Wisconsin Works under
5 ss. 49.141 to 49.161 and to conduct activities to reduce payment errors in Wisconsin
6 Works under ss. 49.141 to 49.161, as provided in this section. If any employee of the
7 department of health services reasonably suspects that fraudulent activity as
8 described in this subdivision has occurred or is occurring, the employee shall
9 immediately report the facts and circumstances contributing to that suspicion to the
10 employee's immediate supervisor.

11 **SECTION 37s.** 49.895 (4) (a) 2. and 3. of the statutes are created to read:

12 49.895 (4) (a) 2. An immediate supervisor who receives a report under subd.
13 1. shall immediately evaluate the report to determine whether there is reason to
14 suspect that the fraudulent activity has occurred or is occurring. If the immediate
15 supervisor determines that there is reason to suspect that the fraudulent activity has
16 occurred or is occurring, the immediate supervisor shall immediately report the facts
17 and circumstances contributing to that suspicion to the sheriff and to the unit of the
18 department of health services that is responsible for investigating suspected
19 fraudulent activity as described in subd. 1.

20 3. Except as provided in subd. 2., an immediate supervisor who receives a
21 report under subd. 1. shall keep the identity of the reporter confidential. A sheriff
22 or unit of the department of health services that receives a report under subd. 2. shall
23 keep the identity of the employee reporting under subd. 1. and the immediate
24 supervisor reporting under subd. 2. confidential until the sheriff or unit determines
25 that the report merits further investigation. If the sheriff or unit conducts a full

1 investigation, the sheriff or unit shall keep the identity of that employee and
2 immediate supervisor confidential if it is reasonably possible to do so. Any person
3 who fails to report as required in subd. 1. or 2. may be required to forfeit not more
4 than \$1,000.

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

6 49.895 (4) (b) Any person participating in good faith in the making of a report
7 under par. (a) 1. or 2. or in initiating, participating in, or testifying in, any action or
8 proceeding in which fraudulent activity as described in par. (a) 1. is alleged shall have
9 immunity from any liability, civil or criminal, that results by reason of the action.
10 For the purpose of any proceeding, civil or criminal, the good faith of any person
11 reporting under par. (a) 1. or 2. shall be presumed.

12 (c) The department of health services or an employee of that department may
13 not take disciplinary action against, or threaten to take disciplinary action against,
14 any person because the person in good faith reported any information under par. (a)
15 1. or 2. or initiated, participated in, or testified in, any action or proceeding in which
16 fraudulent activity as described in par. (a) 1. was alleged or because that department
17 or employee believes that the person in good faith reported any information under
18 par. (a) 1. or 2. or initiated, participated in, or testified in, such an action or
19 proceeding.

20 (d) Any person who is subjected to disciplinary action, or who is threatened
21 with disciplinary action, in violation of par. (c) may file a complaint with the
22 department of workforce development under s. 106.54 (9). If that department finds
23 that a violation of par. (c) has been committed, that department may take such action
24 under s. 111.39 as will effectuate the purpose of this section. Section 111.322 (2m)

1 applies to a disciplinary action arising in connection with any proceeding under this
2 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) (d) or 49.845
5 (4) (d) 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) (d) or 49.845 (4) (d) or testifies or assists in any action or
10 proceeding under s. 49.197 (6) (d) or 49.845 (4) (d).”.”.

11 (END)