



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRBa1054/1  
GMM&PJK:all:jf

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

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

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  
under Wisconsin Shares for a violation under the program; use of funds recovered for  
detecting fraud under Wisconsin Shares;”.

3 **2.** Page 4, line 1: delete the material beginning with that line and ending with  
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:

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, (am), (b), and~~  
8 ~~(bm),~~ and (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.031, 50.065 (2) (am) and (b) 1., (3)  
9 (a) and (b), and (5), 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57,  
10 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: after that line insert:

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

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

10          **8.** 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”.

11          **9.** 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”.

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

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

14          48.981 (3) (c) 5r. If the county department or, in a county having a population  
15 of 500,000 or more, the department or a licensed child welfare agency under contract  
16 with the department determines under subd. 4. that a specific person has abused or  
17 neglected a child, the county department, department, or licensed child welfare  
18 agency, within 15 days after the date of the determination, shall provide the subunit

1 of the department that administers s. 48.685 with information about the person who  
2 has been determined to have abused or neglected the child.

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

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

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

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

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

20 **SECTION 37k.** 49.197 (2) (c) of the statutes, as affected by 2009 Wisconsin Act  
21 28, section 1262, is amended to read:

22 49.197 (2) (c) A county department, Wisconsin Works agency, or tribal  
23 governing body that establishes a program under par. (b) shall advise both the  
24 department and the department of health services of the date on which the program

1 was established and, on an ongoing basis, of any amounts recovered as a result of the  
2 program. A county department, Wisconsin Works agency, or tribal governing body  
3 may retain any amounts recovered under a program under this subsection and ~~must~~  
4 use the moneys retained to ~~pay cash benefits to Wisconsin Works participants~~ for any  
5 purpose for which moneys under the Temporary Assistance for Needy Families block  
6 grant program may be used under federal law.

7 **SECTION 37m.** 49.197 (2) (c) of the statutes, as affected by 2009 Wisconsin Act  
8 28, section 1262m, is amended to read:

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

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

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

1           (a) Any person participating in good faith in the making of a report under sub.  
2           (6) (intro.) 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 sub. (6) (intro.) shall be presumed.

7           (b) 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 sub. (6) (intro.) 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 sub. (6) (intro.) or initiated, participated in, or testified in, such  
15          an action or proceeding.

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

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

1           49.845 (4) (intro.) 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 fraudulent activity as described  
8 in this paragraph and reports the facts and circumstances contributing to that  
9 suspicion to any management employee of that department or to the district  
10 attorney, all of the following apply:

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

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

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



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

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

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

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

13 111.322 (2m) (bm) The individual files a complaint or attempts to enforce a  
14 right under s. 49.197 (6) (c) or 49.845 (4) (c) or testifies or assists in any action or  
15 proceeding under s. 49.197 (6) (c) or 49.845 (4) (c).”.

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

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

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

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

