



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1939/1
GMM:jld

2015 SENATE BILL 202

June 26, 2015 - Introduced by Senators LEMAHIEU, HARRIS DODD and OLSEN, cosponsored by Representatives VORPAGEL, KNODL, KRUG, MURSAU, QUINN, SPREITZER, SUBECK and THIESFELDT. Referred to Committee on Health and Human Services.

1 **AN ACT to amend** 48.57 (3m) (f), 48.57 (3m) (g) 1. (intro.), 48.57 (3n) (f), 48.57 (3n)
2 (g) 1. (intro.), 48.57 (3p) (h) 5. and 48.57 (3p) (hm) of the statutes; **relating to:**
3 appeals of denials of kinship care payments based on arrest or conviction
4 record.

Analysis by the Legislative Reference Bureau

Under current law, monthly kinship care payments may be made to a relative of a child (kinship care relative) who is providing care and maintenance for the child if certain conditions are met. One of those conditions is that the county department of human services or social services (county department) or, in Milwaukee County, the Department of Children and Families (DCF) conducts a background investigation of the kinship care relative, any employee and prospective employee of the kinship care relative who has or would have regular contact with the child for whom the payments would be made, and any other adult resident of the kinship care relative's home to determine if the kinship care relative, employee, prospective employee, or adult resident has any arrests or convictions that could adversely affect the child or the kinship care relative's ability to care for the child (arrest or conviction record). Current law permits a person who is denied kinship care payments based on arrest or conviction record to request a review of that decision by the director of the county department (county director) or, in Milwaukee County, by a person designated by the secretary of children and families to conduct those reviews (secretary's designee). Under current law, the decision of the county director or secretary's designee is final and is not subject to further administrative review.

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This bill permits a person who is aggrieved by a decision of a county director or secretary's designee denying kinship care payments based on arrest or conviction record to petition DCF for a hearing on that decision. Under the bill, DCF must give the petitioner an opportunity for a fair hearing, and the decision of DCF after the hearing is final, subject to judicial review or to revocation or modification as altered conditions may require.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 48.57 (3m) (f) of the statutes is amended to read:

2 48.57 **(3m)** (f) Any person whose application for payments under par. (am) is
3 not acted on promptly ~~or~~, is denied on the grounds that a condition specified in par.
4 (am) 1., 1m., 2., 5., 5m., or 6. has not been met, or is denied following a review under
5 sub. (3p) (h) on the grounds that a condition specified in par. (am) 4. or 4m. has not
6 been met, and any person whose payments under par. (am) are discontinued under
7 par. (d), may petition the department under par. (g) for a review of that action or
8 failure to act. Review is unavailable if the action or failure to act arose more than
9 45 days before submission of the petition for review.

10 **SECTION 2.** 48.57 (3m) (g) 1. (intro.) of the statutes is amended to read:

11 48.57 **(3m)** (g) 1. (intro.) Upon receipt of a timely petition under par. (f) the
12 department shall give the applicant or recipient reasonable notice and an
13 opportunity for a fair hearing. The department may make such additional
14 investigation as it considers necessary. Notice of the hearing shall be given to the
15 applicant or recipient and to the county department or subunit of the department
16 whose action or failure to act is the subject of the petition. That county department
17 or subunit of the department may be represented at the hearing. The department
18 shall render its decision as soon as possible after the hearing and shall send a

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1 certified copy of its decision to the applicant or recipient and to the county
2 department or subunit of the department whose action or failure to act is the subject
3 of the petition. The decision of the department shall have the same effect as an order
4 of the county department or subunit of the department whose action or failure to act
5 is the subject of the petition. The decision shall be final, but may be reviewed under
6 ss. 227.52 to 227.58 or revoked or modified as altered conditions may require. The
7 department shall deny a petition for review or shall refuse to grant relief if any of the
8 following applies:

9 **SECTION 3.** 48.57 (3n) (f) of the statutes is amended to read:

10 48.57 (3n) (f) Any person whose application for payments under par. (am) is not
11 acted on promptly ~~or~~, is denied on the grounds that a condition specified in par. (am)
12 1., 2., 5., 5m., or 5r. has not been met, or is denied following a review under sub. (3p)
13 (hm) on the grounds that a condition specified in par. (am) 4. or 4m. has not been met,
14 and any person whose payments under par. (am) are discontinued under par. (d), may
15 petition the department under par. (g) for a review of that action or failure to act.
16 Review is unavailable if the action or failure to act arose more than 45 days before
17 submission of the petition for review.

18 **SECTION 4.** 48.57 (3n) (g) 1. (intro.) of the statutes is amended to read:

19 48.57 (3n) (g) 1. (intro.) Upon receipt of a timely petition under par. (f) the
20 department shall give the applicant or recipient reasonable notice and an
21 opportunity for a fair hearing. The department may make such additional
22 investigation as it considers necessary. Notice of the hearing shall be given to the
23 applicant or recipient and to the county department or subunit of the department
24 whose action or failure to act is the subject of the petition. That county department
25 or subunit of the department may be represented at the hearing. The department

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1 shall render its decision as soon as possible after the hearing and shall send a
2 certified copy of its decision to the applicant or recipient and to the county
3 department or subunit of the department whose action or failure to act is the subject
4 of the petition. The decision of the department shall have the same effect as an order
5 of the county department or subunit of the department whose action or failure to act
6 is the subject of the petition. The decision shall be final, but may be reviewed under
7 ss. 227.52 to 227.58 or revoked or modified as altered conditions may require. The
8 department shall deny a petition for review or shall refuse to grant relief if any of the
9 following applies:

10 **SECTION 5.** 48.57 (3p) (h) 5. of the statutes is amended to read:

11 48.57 **(3p)** (h) 5. A person who is aggrieved by a decision under this paragraph
12 is not subject to review under ch. 227 may obtain a hearing on that decision under
13 sub. (3m) (g) as provided in sub. (3m) (f).

14 **SECTION 6.** 48.57 (3p) (hm) of the statutes is amended to read:

15 48.57 **(3p)** (hm) A county department or, in a county having a population of
16 500,000 or more, the department may not make payments to a person under sub. (3n)
17 and a person receiving payments under sub. (3n) may not employ a person in a
18 position in which that person would have regular contact with the child for whom
19 payments are being made or permit a person to be an adult resident if the director
20 of the county department or, in a county having a population of 500,000 or more, the
21 person designated by the secretary to review conviction records under this
22 paragraph determines that the person has any arrest or conviction that is likely to
23 adversely affect the child or the person's ability to care for the child. A person who
24 is aggrieved by a decision under this paragraph may obtain a hearing on that
25 decision under sub. (3n) (g) as provided in sub. (3n) (f).

