



2003 SENATE BILL 363

December 30, 2003 - Introduced by Senators MOORE, JAUCH, CARPENTER, COGGS, ERPENBACH, HANSEN, ROBSON, CHVALA, DECKER, WIRCH, BRESKE, M. MEYER and PLALE, cosponsored by Representatives JESKEWITZ, HINES, SINICKI, MORRIS, COLON, TAYLOR, TURNER, CULLEN, J. LEHMAN, RICHARDS, ZEPNICK, POCAN, BERCEAU and MILLER. Referred to Committee on Education, Ethics and Elections.

1 **AN ACT** *to repeal* 119.23 (7) (b); *to renumber* 119.23 (1) (a); *to renumber and*
2 *amend* 119.23 (7) (am); and *to create* 119.23 (1) (am), 119.23 (7) (am) 2. and
3 3., 119.23 (7) (d), 119.23 (7) (e), 119.23 (10) and 119.23 (11) of the statutes;
4 **relating to:** the Milwaukee Parental Choice Program and granting
5 rule-making authority.

Analysis by the Legislative Reference Bureau

This bill makes a number of changes to the Milwaukee Parental Choice Program (MPCP), under which certain low-income pupils who reside in the city of Milwaukee may attend participating private schools in the city at state expense. The changes include the following:

1. The bill requires a private school participating in the MPCP annually to conduct a criminal background check on all persons employed as instructional staff.

2. With certain exceptions, the bill prohibits a private school participating in the MPCP from employing a person who has been convicted of any of the specified felonies for six years following the conviction.

3. The bill requires a private school to submit to the Department of Public Instruction (DPI), before the school begins participating in the MPCP, a copy of the school's certificate of occupancy issued by the city of Milwaukee, evidence of financial viability, and proof that the administrator of the school participated in a fiscal management training program approved by DPI. Annually, a private school participating in the MPCP must submit to DPI evidence of sound fiscal practices.

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4. The bill authorizes DPI to issue an order banning a private school from participating in the MPCP in the succeeding school year if DPI determines that the private school misrepresented information provided to DPI, failed to provide certain information to DPI by the date or within the period required, failed to refund overpayments to the state by the date required, or failed to meet at least one of the currently required academic or other standards by the required date.

5. The bill authorizes DPI to issue an order immediately terminating a private school's participation in the MPCP if DPI determines that conditions at the private school present an imminent danger to the health or safety of pupils or that the private school failed to provide certain information to DPI by the date or within the period required.

6. Finally, the bill authorizes DPI to withhold payment from a private school participating in the MPCP if the private school violates any law or administrative rule governing the MPCP.

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.** 119.23 (1) (a) of the statutes is renumbered 119.23 (1) (ar).

2 **SECTION 2.** 119.23 (1) (am) of the statutes is created to read:

3 119.23 (1) (am) "Instructional staff" means professional employees who have
4 as part of their responsibilities direct contact with pupils or with the instructional
5 program of the private school, and employees who supervise such employees.

6 **SECTION 3.** 119.23 (7) (am) of the statutes is renumbered 119.23 (7) (am) (intro.)
7 and amended to read:

8 119.23 (7) (am) (intro.) Each private school participating in the program under
9 this section is subject to uniform financial accounting standards established by the
10 department and annually. Annually by September 1 following a school year in which
11 a private school participated in the program under this section, the private school
12 shall submit to the department an all of the following:

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1 1. An independent financial audit of the private school conducted by a certified
2 public accountant, accompanied by the auditor's statement that the report is free of
3 material misstatements and fairly presents pupil costs under sub. (4) (b) 1.

4 **SECTION 4.** 119.23 (7) (am) 2. and 3. of the statutes are created to read:

5 119.23 (7) (am) 2. Evidence of sound fiscal practices, as prescribed by the
6 department by rule.

7 3. Certification by the auditor under subd. 1. that criminal background checks
8 of all instructional staff were conducted as specified under par. (d) 2.

9 **SECTION 5.** 119.23 (7) (b) of the statutes is repealed.

10 **SECTION 6.** 119.23 (7) (d) of the statutes is created to read:

11 119.23 (7) (d) Each private school participating in the program under this
12 section shall submit to the department all of the following:

13 1. By August 1 before the first school term of participation in the program, or
14 by May 1 if the private school begins participating in the program during summer
15 school, all of the following:

16 a. A copy of the school's current certificate of occupancy issued by the city. If
17 the private school moves to a new location, the private school shall submit a copy of
18 the new certificate of occupancy issued by the city to the department before the
19 attendance of pupils at the new location and before the next succeeding date specified
20 in s. 121.05 (1) (a). A temporary certificate of occupancy does not meet the
21 requirement of this subd. 1. a.

22 b. Evidence of financial viability, as prescribed by the department by rule.

23 c. Proof that the private school's administrator has participated in a fiscal
24 management training program approved by the department.

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1 2. Annually by February 1, a notarized statement by a person legally
2 authorized to act on behalf of the private school that the private school will conduct
3 a criminal background check through the department of justice on each individual
4 who will be employed as instructional staff by the private school in the following
5 school year. If the individual is a nonresident, the department of justice may provide
6 for the submission of information to the federal bureau of investigation for the
7 purposes of verifying the identity of the individual and obtaining records of his or her
8 criminal arrest and conviction.

9 **SECTION 7.** 119.23 (7) (e) of the statutes is created to read:

10 119.23 (7) (e) 1. Notwithstanding subch. II of ch. 111, except as provided in
11 subd. 2. a private school participating in the program under this section may not
12 employ as instructional staff an individual convicted of any Class A, B, C, D, E, F, G,
13 or H felony under ch. 940 or 948, except ss. 940.08 and 940.205, or of any Class BC
14 felony under ch. 940 or 948, 1999 stats., for 6 years following the date of the
15 conviction, and may employ as instructional staff such an individual after 6 years
16 only if the individual establishes by clear and convincing evidence that he or she is
17 entitled to be employed.

18 2. A private school participating in the program under this section may employ
19 as instructional staff an individual convicted of a crime enumerated in subd. 1., prior
20 to the expiration of the 6-year period following the conviction, if the private school
21 receives from the court in which the conviction occurred a certificate stating that the
22 conviction has been reversed, set aside, or vacated.

23 **SECTION 8.** 119.23 (10) of the statutes is created to read:

24 119.23 (10) (a) The state superintendent may issue an order barring a private
25 school from participating in the program under this section in the succeeding school

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1 year if the state superintendent determines that the private school has done any of
2 the following:

- 3 1. Misrepresented information required under sub. (7) (d).
- 4 2. Failed to provide the notice required under sub. (2) (a) 3., or the information
5 required under sub. (7) (am), by the date or within the period specified.
- 6 3. Failed to refund to the state any overpayment made under sub. (4) (b) or (4m)
7 by the date specified by department rule.
- 8 4. Failed to meet at least one of the standards under sub. (7) (a) by the date
9 specified by department rule.

10 (b) The state superintendent may issue an order immediately terminating a
11 private school's participation in the program under this section if he or she
12 determines that conditions at the private school present an imminent threat to the
13 health or safety of pupils or that the private school has failed to provide the
14 information required under sub. (7) (d) by the date or within the period specified.

15 (c) Whenever the state superintendent issues an order under par. (a) or (b), he
16 or she shall immediately notify the parent or guardian of each pupil attending the
17 private school under this section.

18 (d) The state superintendent may withhold payment from a parent or guardian
19 under subs. (4) and (4m) if the private school attended by the child of the parent or
20 guardian violates this section.

21 **SECTION 9.** 119.23 (11) of the statutes is created to read:

22 119.23 (11) The department shall promulgate rules to implement and
23 administer this section.

24 **SECTION 10. Nonstatutory provisions.**

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1 (1) Notwithstanding section 119.23 (7) (d) 2. of the statutes, as created by this
2 act, if this subsection takes effect on or after January 1, 2004, the first notarized
3 statement required under that subdivision is due within 60 days after the effective
4 date of this subsection.

SECTION 11. Initial applicability.

6 (1) This act first applies to private schools that participate in the Milwaukee
7 Parental Choice Program under section 119.23 of the statutes in the 2004–05 school
8 year, except that the treatment of section 119.23 (7) (am) 3. of the statutes first
9 applies to certifications under that subdivision that are due by September 1, 2005.

10 (END)