



State of Wisconsin  
2017 - 2018 LEGISLATURE

January 2018 Special Session

LRB-5288/1

TJD:ahe

## SENATE BILL 8

January 26, 2018 - Introduced by COMMITTEE ON SENATE ORGANIZATION, Senators KAPENGA, CRAIG, COWLES, DARLING, LEMAHIEU, NASS, STROEBEL and WANGGAARD, cosponsored by Representatives VOS, KRUG, FELZKOWSKI, THIESFELDT, JAGLER, SANFELIPPO, TUSLER, PETERSEN, DUCHOW, PETRYK, KUGLITSCH, TITTL, HORLACHER, KNODL, BRANDTJEN, MURPHY, SPIROS, NEYLON, WICHGERS, BERNIER, KLEEFISCH, ROHRKASTE, KATSMA, BORN, KREMER and SWEARINGEN, by request of Governor Scott Walker. Referred to Committee on Public Benefits, Licensing and State-Federal Relations.

1     **AN ACT to repeal** 49.45 (19) (a) 1.; **to consolidate, renumber and amend** 49.45  
2           (19) (a) (intro.) and 2.; **to amend** 49.45 (19) (title); and **to create** 49.463 of the  
3           statutes; **relating to:** requiring child support compliance in the Medical  
4           Assistance program.

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### *Analysis by the Legislative Reference Bureau*

The bill prohibits certain able-bodied adults and able-bodied parents who refuse to cooperate in determining the paternity of a child, establishing or enforcing any support order, or obtaining any other payments or property to which the adult or the child has rights from being eligible for the Medical Assistance program. The bill also prohibits certain parents who are delinquent in child support payments and do not satisfy an exception specified in the bill or who refuse to cooperate in providing or obtaining support for their child from being eligible for the Medical Assistance program. Under the bill, a dependent child remains eligible for the Medical Assistance program even if a person charged with the care and custody of the dependent child is ineligible for the Medical Assistance program because he or she did not comply with those requirements. Under current law, a person is required, as a condition of eligibility for Medical Assistance, to fully cooperate in good faith with efforts directed at establishing the paternity of a nonmarital child and obtaining support payments or any other payments or property to which the person and the dependent child may have rights.

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

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

1           **SECTION 1.** 49.45 (19) (title) of the statutes is amended to read:

2           49.45 **(19)** (title) ~~ESTABLISHING PATERNITY AND ASSIGNING~~ ASSIGNING MEDICAL  
3           SUPPORT RIGHTS.

4           **SECTION 2.** 49.45 (19) (a) (intro.) and 2. of the statutes are consolidated,  
5           renumbered 49.45 (19) (a) and amended to read:

6           49.45 **(19)** (a) As a condition of eligibility for medical assistance, a person shall:  
7           ~~2. Notwithstanding, notwithstanding~~ other provisions of the statutes, be deemed to  
8           have assigned to the state, by applying for or receiving medical assistance, any rights  
9           to medical support or other payment of medical expenses from any other person,  
10          including rights to unpaid amounts accrued at the time of application for medical  
11          assistance as well as any rights to support accruing during the time for which  
12          medical assistance is paid.

13          **SECTION 3.** 49.45 (19) (a) 1. of the statutes is repealed.

14          **SECTION 4.** 49.463 of the statutes is created to read:

15          **49.463     Ineligibility for noncompliance with child support**  
16          **determinations and obligations. (1) DEFINITIONS.** In this section:

17               (a) “Able-bodied adult” means an adult who is not elderly, as defined in s.  
18               49.468 (1) (a) 2., or disabled, as defined in s. 49.471 (1) (cm), and who is able-bodied,  
19               as defined by the department.

20               (b) “Custodial parent” has the meaning given in s. 49.141 (1) (b).

21               (c) “Noncustodial parent” has the meaning given in s. 49.141 (1) (h).

1           **(2) ELIGIBILITY DENIAL; CHILD SUPPORT NONCOMPLIANCE.** (a) In this subsection,  
2           what constitutes a refusal to cooperate is determined by the department in  
3           accordance with 42 USC 1396k and any federal regulations promulgated under 42  
4           USC 1396k.

5           (b) An able-bodied adult is ineligible for the Medical Assistance program under  
6           this subchapter in a month in which any of the following is true:

7           1. The able-bodied adult satisfies all of the following:

8           a. The able-bodied adult is a custodial parent of or lives with and exercises  
9           parental control over a child who is under the age of 18 and who has an absent parent.

10          b. The able-bodied adult refuses to cooperate fully, in good faith, with efforts  
11          directed at establishing or enforcing any support order or obtaining any other  
12          payments or property to which that adult or the child may have rights.

13          c. The able-bodied adult does not have good cause for refusing to cooperate, as  
14          determined by the department in accordance with 42 USC 1396k and any federal  
15          regulations promulgated under 42 USC 1396k.

16          2. The able-bodied adult is a noncustodial parent of a child under the age of  
17          18 and the adult refuses to cooperate in providing or obtaining support for the child.

18           **(3) ELIGIBILITY DENIAL; PATERNITY.** (a) In this subsection, what constitutes a  
19           refusal to cooperate is determined by the department in accordance with 42 USC  
20           1396k and any federal regulations promulgated under 42 USC 1396k.

21           (b) An able-bodied adult is ineligible for the Medical Assistance program under  
22           this subchapter in a month in which any of the following is true:

23           1. The able-bodied adult satisfies all of the following:

24           a. The able-bodied adult is a custodial parent of or lives with and exercises  
25           parental control over a child who is under the age of 18 and who has an absent parent.

1           b. The able-bodied adult refuses to cooperate fully, in good faith, with  
2 applicable efforts directed at establishing the paternity of the child.

3           c. The able-bodied adult does not have good cause for refusing to cooperate, as  
4 determined by the department in accordance with 42 USC 1396k and any federal  
5 regulations promulgated under 42 USC 1396k.

6           2. The able-bodied adult is one of the following and refuses to cooperate fully,  
7 in good faith, with efforts directed at establishing the paternity of the child:

8           a. Alleged to be the father under s. 767.80 of a child under the age of 18.

9           b. A noncustodial parent of a child under the age of 18 for whom paternity has  
10 not been established.

11           **(4) ELIGIBILITY DENIAL; DELINQUENT SUPPORT.** An able-bodied adult is ineligible  
12 for the Medical Assistance program under this subchapter in a month in which the  
13 adult is obligated by court order to provide support payments and is delinquent in  
14 making those court-ordered payments, unless any of the following is true:

15           (a) The delinquency balance equals less than 3 months of the court-ordered  
16 support payment amount.

17           (b) A court or a county child support agency under s. 59.53 (5) is allowing the  
18 able-bodied adult to delay the child support payments.

19           (c) The able-bodied adult is complying with a payment plan approved by a  
20 county child support agency under s. 59.53 (5) to provide support for the child of the  
21 adult.

22           (d) The able-bodied adult is participating in an employment and training  
23 program, as determined by the department.

24           (e) The able-bodied adult is participating in a substance abuse treatment  
25 program, as determined by the department.

