

**2001 DRAFTING REQUEST**

**Bill**

Received: 01/31/2001

Received By: malaigm

Wanted: As time permits

Identical to LRB:

For: DuWayne Johnsrud (608) 266-3534

By/Representing: Larry Konopacki

This file may be shown to any legislator: NO

Drafter: malaigm

May Contact:

Alt. Drafters:

Subject: **Employ Priv - health and safety**

Extra Copies:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Mandatory overtime for health care workers

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**Instructions:**

See Attached--prohibit mandatory overtime for health care workers.

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	malaigm 02/15/2001	jdyer 02/19/2001					S&L
/1			martykr 02/19/2001		lrb docadmin 02/19/2001	lrb docadmin 02/20/2001	S&L
/2	malaigm 02/23/2001	jdyer 02/23/2001	pgreensl 02/27/2001		lrb docadmin 02/27/2001	lrb docadmin 02/27/2001	

FE Sent For:

<END>

↳ At Intro.

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2/27  
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1/?	malaigm	1 2/16 jld	2/19	PC 2 RM 19			

FE Sent For:

<END>

**B I L L**  
**REQUEST FORM**

**LEGISLATIVE REFERENCE BUREAU**  
**Legal Section Telephone: 266-3561**  
**5th Floor, 100 N. Hamilton Street**

Use of this form is optional. It is often better to talk directly with the LRB attorney who will draft the bill.

Use this form only for **BILL** drafts. Attach more pages if necessary.

Legislator, agency or other body requesting this draft: Rep. DuWayne Johnson

Date: 1/29/01 Person submitting request (name, phone number): Larry Konopacki 6-3534

Persons to contact for questions about this draft (names, phone numbers): Larry Konopacki

**Describe the problem, including any helpful examples.**

**How do you want to solve the problem?**

*See attachment*

Please attach a copy of any correspondence or other material that may help us.

If you know of any statute sections that might be affected, list them or provide a marked-up (not retyped) copy. \_\_\_\_\_

You may attach a marked-up (not retyped) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67): \_\_\_\_\_

**Requests are confidential unless stated otherwise.**

- May we tell others that we are working on this for you?  Yes  No
- If yes: Anyone who asks?  Yes  No Any legislator?  Yes  No Only the following persons: \_\_\_\_\_

Do you consider this request urgent?  Yes  No If yes, please indicate why: \_\_\_\_\_

Should we give this request priority over any other pending request of this legislator, agency or body?  Yes  No If yes, sign your name here: \_\_\_\_\_



# DuWayne Johnsrud

---

State Representative

January 29, 2001

Bill drafting request for Rep. Johnsrud

**The Problem:** Currently, health care facilities are not prohibited from requiring that their hourly wage employees accept overtime work. Although overtime is generally viewed as a voluntary offering, health care facilities can demand that their hourly wage employees perform paid involuntary overtime services or be subject to employment decisions adverse to the workers, such as discharge or demotion.

**The Solution:** Require health care facilities to set a predetermined, scheduled work shift of 8, 10 or 12 hours, not to exceed 40 hours per week, and not require any hourly wage employee involved in direct patient care activities or clinical services to accept work in excess of this established work shift. The exception to this rule would be in the case of an unforeseen emergent circumstance when the overtime is required only as a last resort. This should include state-owned health-care facilities.

Please reference the copy of New Jersey's A2607 for specifics.

## [1R] ACS for 2607 COLLINS, CONNERS

2

1 AN ACT concerning work hours for certain health care facility  
2 employees and supplementing P.L.1966, c.113 (C.34:11-56a et  
3 seq.).  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. It is declared to be the public policy of this State to establish  
9 a maximum work day and work week for certain hourly wage health  
10 care facility employees, beyond which the employees cannot be  
11 required to perform overtime work, in order to safeguard their health,  
12 efficiency, and general well-being as well as the health and general  
13 well-being of the persons to whom these employees provide services.  
14

15 2. As used in this act:

16 "Employee" means an individual employed by a health care facility  
17 who is involved in direct patient care activities or clinical services and  
18 who receives an hourly wage.

19 "Employer" means an individual, partnership, association,  
20 corporation or person or group of persons acting directly or indirectly  
21 in the interest of a health care facility.

22 "Health care facility" means a health care facility licensed by the  
23 Department of Health and Senior Services pursuant to P.L.1971, c.136  
24 (C.26:2H-1 et seq.).  
25

26 3. The requirement that an employee of a health care facility  
27 accept work in excess of an agreed to, predetermined scheduled work  
28 shift of eight, 10 or 12 hours, not to exceed 40 hours per week, except  
29 in the case of an unforeseen emergent circumstance when the overtime  
30 is required only as a last resort, is declared to be contrary to public  
31 policy and any such requirement contained in any contract, agreement  
32 or understanding executed after the effective date of this act shall be  
33 void.  
34

35 ~~A. A.~~ Notwithstanding any provision of law to the contrary, no  
36 health care facility shall require an employee to accept work in excess  
37 of an agreed to, predetermined scheduled work shift of eight, 10 or  
38 12 hours, not to exceed 40 hours per week.

39 ~~B.~~ The acceptance by any employee of such work in excess of an  
40 agreed to, predetermined scheduled work shift of eight, 10 or 12  
41 hours, not to exceed 40 hours per week shall be strictly voluntary and  
42 the refusal of any employee to accept such overtime work shall not be

**EXPLANATION** - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate floor amendments adopted June 29, 2000.

## [IR] ACS for 2607 COLLINS. CONNERS

3

1 grounds for discrimination, dismissal, discharge or any other penalty  
2 or employment decision adverse to the employee.

3 ~~4~~ The provisions of this section shall not apply in the case of an  
4 unforeseen emergent circumstance when the overtime is required only  
5 as a last resort.

6

7 5. Any employer who violates the provisions of this act shall be  
8 subject to the sanctions provided by law for violations of the "New  
9 Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et  
10 seq.).

11

12 6. This act shall take effect <sup>1</sup>[immediately] one year after the date  
13 of enactment<sup>1</sup>.





State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-2335/10

GMM.....

JLD

- 1 <sup>gen</sup> AN ACT ...; relating to: mandatory overtime hours worked by health care workers  
2 employed by health care facilities and providing penalties. ✓

---

*Analysis by the Legislative Reference Bureau*

Under current law, subject to certain exceptions, an employer must pay an employee who receives an hourly wage one and one-half times the employee's regular rate of pay for all hours worked in excess of 40 hours per week. Current law, however, subject to certain exceptions for child labor, does not prohibit an employer from requiring an employee to work in excess of 40 hours per week.

<sup>twelve</sup> This bill prohibits a health care facility from requiring an employee who is involved in the direct care of patients or residents or in clinical services (health care worker) and who is paid an hourly wage to work for more than a ~~8~~ work shift of eight, ~~ten~~, or ~~12~~ <sup>twelve</sup> hours that has been determined and agreed to before the performance of the work or to work for more than 40 hours per week (overtime) without the consent of the health care worker, except in cases of emergency in which the health care facility has first exhausted all other options. The bill also prohibits a health care facility from discharging or discriminating against a health care worker in promotion, compensation, or in terms, conditions, or privileges of employment for refusing to work overtime, for opposing a health care facility's practice of requiring health care workers to work overtime, for filing a complaint or attempting to enforce the right of a health care worker to refuse to work overtime, or for testifying or assisting in any action or proceeding to enforce that right.

A health care worker who is discharged or discriminated against in violation of the bill may file a complaint with the department of workforce development (DWD) or, in the case of a state employee, the personnel commission, and DWD or the personnel commission must process the complaint in the same manner that

employment discrimination complaints are processed under current law, which processing may include the ordering of back pay, reinstatement, costs, and attorney's fees. In addition, a health care facility that discharges or discriminates against a health care worker in violation of the bill may be required to forfeit not more than \$1,000 for a first violation, not more than \$5,000 for a violation committed within 12 months of a previous violation, and not more than \$10,000 for a violation committed within 12 months of two or more previous violations.

For purposes of coverage of the bill, the bill defines a "health care facility" as a hospital, nursing home, community-based residential facility, county home, county infirmary, county hospital, county mental health center, adult family home, assisted living facility, residential care apartment complex, rural medical center, hospice, mental health treatment facility, public dispensary for the diagnosis and treatment of tuberculosis, facility providing care under a continuing care contract, the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Veterans Home at King, the Southern Wisconsin Veterans Retirement Center, the Mendota Mental Health Institute, the Winnebago Mental Health Institute, the Milwaukee County Mental Health Complex, and the northern, central, and southern centers for the developmentally disabled.

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. 106.54 (7) of the statutes is created to read:

2 106.54 (7) The division shall receive complaints under s. 146.999 (4) (a) of  
3 violations of s. 146.999 (2) and (3) and shall process those complaints in the same  
4 manner that employment discrimination complaints are processed under s. 111.39.

5 SECTION 2. 111.322 (2m) (a) of the statutes is amended to read:

6 111.322 (2m) (a) The individual files a complaint or attempts to enforce any  
7 right under s. 103.02, 103.10, 103.13, 103.28, 103.32, 103.455, 103.50, 104.12,  
8 109.03, 109.07, 109.075 or, 146.997 or 146.999 or ss. 101.58 to 101.599 or 103.64 to  
9 103.82.

History: 1981 c. 334; 1989 a. 228, 359; 1997 a. 237; 1999 a. 150, 672; 1999 a. 167, 176.

10 SECTION 3. 111.322 (2m) (b) of the statutes is amended to read:

1           111.322 (2m) (b) The individual testifies or assists in any action or proceeding  
 2 held under or to enforce any right under s. 103.02, 103.10, 103.13, 103.28, 103.32,  
 3 103.455, 103.50, 104.12, 109.03, 109.07, 109.075 or, 146.997<sup>OK</sup> or 146.999 or ss. 101.58  
 4 to 101.599 or 103.64 to 103.82.

History: 1981 c. 334; 1989 a. 228, 359; 1997 a. 237; 1999 a. 150 s. 672; 1999 a. 167, 176.

5           **SECTION 4.** 111.91 (2) (t) of the statutes is created to read:

6           111.91 (2) (t) Hours of work above the maximum hours specified in s. 146.999  
 7 (2) for health care workers, as defined in s. 146.999 (1) (c), employed by a health care  
 8 facility, as defined in s. 146.999 (1) (b). Nothing in this paragraph prohibits a health  
 9 care facility from bargaining on fewer hours of work than the hours provided in s.  
 10 146.999 (2).

11           **SECTION 5.** 146.999 of the statutes is created to read:

12           **146.999 Health care worker overtime.** (1) DEFINITIONS. In this section:

13           (a) "Department" means the department of workforce development.

14           (b) "Health care facility" means a facility, as defined in s. 647.01 (4), or any  
 15 hospital, nursing home, community-based residential facility, county home, county  
 16 hospital, county infirmary, county mental health center, assisted living facility,  
 17 residential care apartment complex, rural medical center, hospice, treatment  
 18 facility, or other place licensed, certified, or approved by the department of health  
 19 and family services under s. 49.70, 49.71, 49.72, 50.02, 50.03, 50.034, 50.35, 50.52,  
 20 50.90, 51.04, 51.08, or 51.09, an adult family home licensed or certified by the  
 21 department of health and family services or a county department under s. 50.032 or  
 22 50.033, or a facility under s. 45.365, 51.05, 51.06, or 252.10 or under ch. 233.

23           (c) "Health care worker" means an employee of a health care facility who is  
 24 involved in the direct care of patients or residents or in clinical services.

1           (2) MANDATORY OVERTIME LIMITED. Except in cases of emergency in which a  
2 health care facility has first exhausted all other options, a health care facility may  
3 not require a health care worker who is paid an hourly wage to work for more than  
4 a work shift of 8, 10, or 12<sup>✓</sup> hours that has been determined and agreed to before the  
5 performance of the work or to work for more than 40 hours per week without the  
6 consent of the health care worker.

7           (3) RETALIATION PROHIBITED.<sup>✓</sup> A health care facility may not discharge or  
8 discriminated against a health care worker in promotion, compensation, or in terms,  
9 conditions, or privileges of employment for refusing to work for more than the hours  
10 specified in sub. (2),<sup>✓</sup> opposing a practice prohibited under sub. (2), filing a complaint  
11 or attempting to enforce any right under sub. (2),<sup>✓</sup> or testifying or assisting in any  
12 action or proceeding to enforce any right under sub. (2).<sup>✓</sup>

13           (4) ENFORCEMENT. (a) Subject to par. (b),<sup>✓</sup> any health care worker who is  
14 discharged or discriminated against in violation of sub. (3) may file a complaint with  
15 the department,<sup>✓</sup> and the department shall process the complaint in the same manner  
16 that employment discrimination complaints are processed under s. 111.39. If the  
17 department finds that a violation of sub. (3) has been committed, the department  
18 may order the health care facility to take such action under s. 111.39 as will effectuate  
19 the purpose of this section.

20           (b) Any health care worker employed by a state agency, as defined in s. 111.32  
21 (6),<sup>✓</sup> who is discharged or discriminated against in violation of sub. (3)<sup>✓</sup> may file a  
22 complaint with the personnel commission, and the personnel commission shall  
23 process the complaint in the same manner that employment discrimination  
24 complaints are processed under s. 111.39. If the personnel commission finds that a  
25 violation of sub. (3) has been committed, the personnel commission may order the

1 health care facility to take such action under s. 111.39 as will effectuate the purpose  
2 of this section.

3 (c) Section 111.322 (2m) applies to discharge or other discriminatory acts  
4 arising in connection with any proceeding under par. (a) or (b).

5 (5) CIVIL PENALTY. In addition to ordering a health care facility that has violated  
6 sub. (3) to take such action as will effectuate the purpose of this section, the  
7 department or personnel commission may require the health care facility to forfeit  
8 not more than \$1,000 for a first violation, not more than \$5,000 for a violation  
9 committed within 12 months of a previous violation, and not more than \$10,000 for  
10 a violation committed within 12 months of 2 or more previous violations. The  
11 12-month period shall be measured by using the dates of the violations that resulted  
12 in convictions.

13 (6) POSTING OF NOTICE. Each health care facility shall post, in one or more  
14 conspicuous places where notices to employees are customarily posted, a notice in a  
15 form approved by the department setting forth the rights of health care workers  
16 under this section. Any health care facility that violates this subsection shall forfeit  
17 not more than \$100 for each offense.

18 **SECTION 6.** 230.45 (1) (m) of the statutes is created to read:

19 230.45 (1) (m) Receive complaints under s. 146.999 (4) (b) of violations of s.  
20 146.999 (2) and (3) and, except as provided in sub. (1m), process those complaints in  
21 the same manner that employment discrimination complaints are processed under  
22 s. 111.39.

23 **SECTION 7. Initial applicability.**

24 (1) COLLECTIVE BARGAINING AGREEMENTS. This act first applies to a health care  
25 worker, as defined in section 146.999 (1) (c) of the statutes, as created by this act, who

1 is affected by a collective bargaining agreement that contains provisions inconsistent  
2 with this act on the day on which the collective bargaining agreement expires or is  
3 extended, modified, or renewed, ✓ whichever occurs first.

4 (END)



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
5TH FLOOR  
MADISON, WI 53701-2037

STEPHEN R. MILLER  
CHIEF

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-6948

February 19, 2001

### MEMORANDUM

To: Representative Johnsrud

From: Gordon M. Malaise, Senior Legislative Attorney

Re: LRB-2335 Mandatory overtime for health care workers

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY     JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-9738 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266 3561 if you have any questions regarding this memorandum.



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-2335/12  
GMM:jld:km (2) (PWR)

2001 BILL

Regen

Unforeseeable ✓

1 AN ACT to amend 111.322 (2m) (a) and 111.322 (2m) (b); and to create 106.54  
2 (7), 111.91 (2) (t), 146.999 and 230.45 (1) (m) of the statutes; relating to:  
3 mandatory overtime hours worked by health care workers employed by health  
4 care facilities and providing penalties.

---

**Analysis by the Legislative Reference Bureau**

Under current law, subject to certain exceptions, an employer must pay an employee who receives an hourly wage one and one-half times the employee's regular rate of pay for all hours worked in excess of 40 hours per week. Current law, however, subject to certain exceptions for child labor, does not prohibit an employer from requiring an employee to work in excess of 40 hours per week.

This bill prohibits a health care facility from requiring an employee who is involved in the direct care of patients or residents or in clinical services (health care worker) and who is paid an hourly wage to work for more than a work shift of eight, ten, or twelve hours that has been determined and agreed to before the performance of the work or to work for more than 40 hours per week (overtime) without the consent of the health care worker, except in cases of emergency in which the health care facility has first exhausted all other options. The bill also prohibits a health care facility from discharging or discriminating against a health care worker in promotion, compensation, or in terms, conditions, or privileges of employment for refusing to work overtime, for opposing a health care facility's practice of requiring health care workers to work overtime, for filing a complaint or attempting to enforce



**BILL**

the right of a health care worker to refuse to work overtime, or for testifying or assisting in any action or proceeding to enforce that right.

A health care worker who is discharged or discriminated against in violation of the bill may file a complaint with the department of workforce development (DWD) or, in the case of a state employee, the personnel commission, and DWD or the personnel commission must process the complaint in the same manner that employment discrimination complaints are processed under current law, which processing may include the ordering of back pay, reinstatement, costs, and attorney fees. In addition, a health care facility that discharges or discriminates against a health care worker in violation of the bill may be required to forfeit not more than \$1,000 for a first violation, not more than \$5,000 for a violation committed within 12 months of a previous violation, and not more than \$10,000 for a violation committed within 12 months of two or more previous violations.

For purposes of coverage of the bill, the bill defines a “health care facility” as a hospital, nursing home, community-based residential facility, county home, county infirmary, county hospital, county mental health center, adult family home, assisted living facility, residential care apartment complex, rural medical center, hospice, mental health treatment facility, public dispensary for the diagnosis and treatment of tuberculosis, facility providing care under a continuing care contract, the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Veterans Home at King, the Southern Wisconsin Veterans Retirement Center, the Mendota Mental Health Institute, the Winnebago Mental Health Institute, the Milwaukee County Mental Health Complex, and the northern, central, and southern centers for the developmentally disabled.

For further information see the *state and local* 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.** 106.54 (7) of the statutes is created to read:
- 2           106.54 (7) The division shall receive complaints under s. 146.999 (4) (a) of
- 3           violations of s. 146.999 (2) and (3) and shall process those complaints in the same
- 4           manner that employment discrimination complaints are processed under s. 111.39.
- 5           **SECTION 2.** 111.322 (2m) (a) of the statutes is amended to read:
- 6           111.322 (2m) (a) The individual files a complaint or attempts to enforce any
- 7           right under s. 103.02, 103.10, 103.13, 103.28, 103.32, 103.455, 103.50, 104.12,

**BILL**

1 109.03, 109.07, 109.075 ~~or~~, 146.997, or 146.999 or ss. 101.58 to 101.599 or 103.64 to  
2 103.82.

3 **SECTION 3.** 111.322 (2m) (b) of the statutes is amended to read:

4 111.322 (2m) (b) The individual testifies or assists in any action or proceeding  
5 held under or to enforce any right under s. 103.02, 103.10, 103.13, 103.28, 103.32,  
6 103.455, 103.50, 104.12, 109.03, 109.07, 109.075 ~~or~~, 146.997, or 146.999 or ss. 101.58  
7 to 101.599 or 103.64 to 103.82.

8 **SECTION 4.** 111.91 (2) (t) of the statutes is created to read:

9 111.91 (2) (t) Hours of work above the maximum hours specified in s. 146.999  
10 (2) for health care workers, as defined in s. 146.999 (1) (c), employed by a health care  
11 facility, as defined in s. 146.999 (1) (b). Nothing in this paragraph prohibits a health  
12 care facility from bargaining on fewer hours of work than the hours provided in s.  
13 146.999 (2).

14 **SECTION 5.** 146.999 of the statutes is created to read:

15 **146.999 Health care worker overtime. (1) DEFINITIONS.** In this section:

16 (a) “Department” means the department of workforce development.

17 (b) “Health care facility” means a facility, as defined in s. 647.01 (4), or any  
18 hospital, nursing home, community-based residential facility, county home, county  
19 hospital, county infirmary, county mental health center, assisted living facility,  
20 residential care apartment complex, rural medical center, hospice, treatment  
21 facility, or other place licensed, certified, or approved by the department of health  
22 and family services under s. 49.70, 49.71, 49.72, 50.02, 50.03, 50.034, 50.35, 50.52,  
23 50.90, 51.04, 51.08, or 51.09, an adult family home licensed or certified by the  
24 department of health and family services or a county department under s. 50.032 or  
25 50.033, or a facility under s. 45.365, 51.05, 51.06, or 252.10 or under ch. 233.

**BILL**

unforeseeable ✓

1 (c) "Health care worker" means an employee of a health care facility who is  
2 involved in the direct care of patients or residents or in clinical services.

3 (2) MANDATORY OVERTIME LIMITED. Except in cases of emergency in which a  
4 health care facility has first exhausted all other options, a health care facility may  
5 not require a health care worker who is paid an hourly wage to work for more than  
6 a work shift of 8, 10, or 12 hours that has been determined and agreed to before the  
7 performance of the work or to work for more than 40 hours per week without the  
8 consent of the health care worker.

9 (3) RETALIATION PROHIBITED. A health care facility may not discharge or  
10 discriminated against a health care worker in promotion, compensation, or in terms,  
11 conditions, or privileges of employment for refusing to work for more than the hours  
12 specified in sub. (2), opposing a practice prohibited under sub. (2), filing a complaint  
13 or attempting to enforce any right under sub. (2), or testifying or assisting in any  
14 action or proceeding to enforce any right under sub. (2).

15 (4) ENFORCEMENT. (a) Subject to par. (b), any health care worker who is  
16 discharged or discriminated against in violation of sub. (3) may file a complaint with  
17 the department, and the department shall process the complaint in the same manner  
18 that employment discrimination complaints are processed under s. 111.39. If the  
19 department finds that a violation of sub. (3) has been committed, the department  
20 may order the health care facility to take such action under s. 111.39 as will effectuate  
21 the purpose of this section.

22 (b) Any health care worker employed by a state agency, as defined in s. 111.32  
23 (6), who is discharged or discriminated against in violation of sub. (3) may file a  
24 complaint with the personnel commission, and the personnel commission shall  
25 process the complaint in the same manner that employment discrimination

**BILL**

1 complaints are processed under s. 111.39. If the personnel commission finds that a  
2 violation of sub. (3) has been committed, the personnel commission may order the  
3 health care facility to take such action under s. 111.39 as will effectuate the purpose  
4 of this section.

5 (c) Section 111.322 (2m) applies to discharge or other discriminatory acts  
6 arising in connection with any proceeding under par. (a) or (b).

7 (5) CIVIL PENALTY. In addition to ordering a health care facility that has violated  
8 sub. (3) to take such action as will effectuate the purpose of this section, the  
9 department or personnel commission may require the health care facility to forfeit  
10 not more than \$1,000 for a first violation, not more than \$5,000 for a violation  
11 committed within 12 months of a previous violation, and not more than \$10,000 for  
12 a violation committed within 12 months of 2 or more previous violations. The  
13 12-month period shall be measured by using the dates of the violations that resulted  
14 in convictions.

15 (6) POSTING OF NOTICE. Each health care facility shall post, in one or more  
16 conspicuous places where notices to employees are customarily posted, a notice in a  
17 form approved by the department setting forth the rights of health care workers  
18 under this section. Any health care facility that violates this subsection shall forfeit  
19 not more than \$100 for each offense.

20 **SECTION 6.** 230.45 (1) (m) of the statutes is created to read:

21 230.45 (1) (m) Receive complaints under s. 146.999 (4) (b) of violations of s.  
22 146.999 (2) and (3) and, except as provided in sub. (1m), process those complaints in  
23 the same manner that employment discrimination complaints are processed under  
24 s. 111.39.

25 **SECTION 7. Initial applicability.**





# DuWayne Johnsrud

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State Representative

February 23, 2001

Subject: LRB 2335

Gordon, please add the word "unforseeable" before the word "emergency" on page 4, line 3 of LRB 2335/1. Thank you.