

**SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 ASSEMBLY BILL 847**

March 9, 2004 – Offered by Senators MOORE and JAUCH.

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 (7) (g), 119.23 (10) and 119.23 (11) of the
4 statutes; **relating to:** the Milwaukee Parental Choice Program and granting
5 rule-making authority.

Analysis by the Legislative Reference Bureau

This substitute amendment 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 substitute amendment requires a private school participating in the MPCP annually to conduct a criminal background check on all persons employed by the private school.

2. With certain exceptions, the substitute amendment prohibits a private school participating in the MPCP from employing a person as instructional staff if he or she has been convicted of any of the specified felonies for six years following the conviction.

3. The substitute amendment 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.

4. The substitute amendment 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 substitute amendment 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 substitute amendment 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.

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:

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 staff were conducted as specified under par. (g).

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.

1 d. A notarized statement by a person legally authorized to act on behalf of the
2 private school that a criminal background check of each person who will be employed
3 by the private school when the school begins to participate in the program under this
4 section was conducted within the immediately preceding 5 years or will be conducted
5 before the school begins to participate, and will be conducted at least once every 5
6 years thereafter, using the procedure specified in par. (g).

7 2. Annually by February 1, a notarized statement by a person legally
8 authorized to act on behalf of the private school that the private school will conduct
9 criminal background checks as required under par. (g).

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

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

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

1 **SECTION 8.** 119.23 (7) (g) of the statutes is created to read:

2 119.23 **(7)** (g) Each private school participating in the program under this
3 section shall conduct a criminal background check through the department of justice
4 on each person employed by the private school when the person is initially employed
5 and at least once every 5 years thereafter. If the person is a nonresident, the private
6 school shall require the person to be fingerprinted on 2 fingerprint cards, each
7 bearing a complete set of the person's fingerprints, and shall submit the cards to the
8 department of justice. The department of justice may provide for the submission of
9 the fingerprint cards to the federal bureau of investigation for the purposes of
10 verifying the identity of the person fingerprinted and obtaining records of his or her
11 criminal arrests and convictions.

12 **SECTION 9.** 119.23 (10) of the statutes is created to read:

13 119.23 **(10)** (a) The state superintendent may issue an order barring a private
14 school from participating in the program under this section in the succeeding school
15 year if the state superintendent determines that the private school has done any of
16 the following:

17 1. Misrepresented information required under sub. (7) (d).

18 2. Failed to provide the notice required under sub. (2) (a) 3., or the information
19 required under sub. (7) (am), by the date or within the period specified.

20 3. Failed to refund to the state any overpayment made under sub. (4) (b) or (4m)
21 by the date specified by department rule.

22 4. Failed to meet at least one of the standards under sub. (7) (a) by the date
23 specified by department rule.

24 (b) The state superintendent may issue an order immediately terminating a
25 private school's participation in the program under this section if he or she

1 determines that conditions at the private school present an imminent threat to the
2 health or safety of pupils or that the private school has failed to provide the
3 information required under sub. (7) (d) by the date or within the period specified.

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

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

10 **SECTION 10.** 119.23 (11) of the statutes is created to read:

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

13 **SECTION 11. Nonstatutory provisions.**

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

18 (2) Within 120 days after the effective date of this subsection, a private school
19 participating in the program under section 119.23 of the statutes shall conduct a
20 criminal background check through the department of justice on each person
21 employed by the private school using the procedure specified in section 119.23 (7) (g)
22 of the statutes, as created by this act.

23 **SECTION 12. Initial applicability.**

24 (1) This act first applies to private schools that participate in the Milwaukee
25 Parental Choice Program under section 119.23 of the statutes in the 2004–05 school

1 year, except as provided in SECTION 11 of this act and except that the treatment of
2 section 119.23 (7) (am) 3. of the statutes first applies to certifications under that
3 subdivision that are due by September 1, 2005.

4 (END)