February 16, 2004 – Introduced by Representative Sinicki, cosponsored by Senator Moore. Referred to Committee on Education Reform.

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

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**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.
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:

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

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

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

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

119.23 (7) (am) (intro.) Each private school participating in the program under this section is subject to uniform financial accounting standards established by the department and annually. Annually by September 1 following a school year in which a private school participated in the program under this section, the private school shall submit to the department all of the following:
1. An independent financial audit of the private school conducted by a certified public accountant, accompanied by the auditor's statement that the report is free of material misstatements and fairly presents pupil costs under sub. (4) (b) 1.

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

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

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

SECTION 5. 119.23 (7) (b) of the statutes is repealed.

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

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

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

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

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

c. Proof that the private school's administrator has participated in a fiscal management training program approved by the department.
2. Annually by February 1, a notarized statement by a person legally authorized to act on behalf of the private school that the private school will conduct a criminal background check through the department of justice on each individual who will be employed as instructional staff by the private school in the following school year. If the individual is a nonresident, the department of justice may provide for the submission of information to the federal bureau of investigation for the purposes of verifying the identity of the individual and obtaining records of his or her criminal arrest and conviction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 11. Initial applicability.

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