

2009 DRAFTING REQUEST

Bill

Received: 12/16/2009

Received By: gmalaise

Wanted: 12/18/2009

Identical to LRB:

For: Mark Gundrum (608) 267-5158

By/Representing: Himself

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject: Children - day care

Extra Copies:

Submit via email: YES

Requester's email: Rep.Gundrum@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Child care; reporting of drug offenses and child abuse

Instructions:

Require DCF and county employees to report to their supervisor and to the sheriff if employee reasonably suspects a child care provider, employee, or nonclient resident is committing a drug-related offense or child abuse

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>
/?	gmalaise 12/17/2009	jdye 12/17/2009		_____			S&L
/1			mduchek 12/18/2009	_____	sbasford 12/18/2009	cdurst 01/07/2010	

FE Sent For:

at
intro

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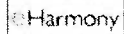
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/?	gmalaise	1/12/17 jld	[Signature] 12/17	[Signature] 12/18			

FE Sent For:

<END>



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CASHING IN ON KIDS | A JOURNAL SENTINEL WATCHDOG UPDATE

Leaders vow more child-care oversight

Officials will focus on safety at centers

By Raquel Rutledge of the Journal Sentinel

Posted: Dec. 14, 2009

Cashing in on Kids



Ongoing Journal Sentinel investigation details how parents and child-care providers work in cahoots to easily scam the \$350 million Wisconsin Shares program. Read the series and ongoing coverage

Local and state politicians said Monday that more still needs to be done to ensure the safety of children in day care centers, after the latest Journal Sentinel investigation published Sunday that found some child-care providers tied to dangerous drug dealers.

Willie Hines, president of the Milwaukee Common Council, said that for too long, local leaders have been left out while state and county regulators oversee the troubled Wisconsin Shares program. The \$350 million-a-year taxpayer-financed program provides child-care subsidies for low-income working families.

"The City of Milwaukee cannot afford to sit on the sidelines while there is extensive corruption, including drug dealing operations fronting as child care centers, as a Milwaukee Journal Sentinel investigation illustrated over the weekend," Hines wrote in a prepared statement which he plans to release Tuesday. "We must be at the table as State and County leaders seek solutions, sharing our expertise to make the program as responsible as possible."

Hines said he plans to introduce legislation at the next full council meeting that would give the city a stronger voice in regulating child-care

centers.

He did not specify exactly how the city would be involved. In an interview, Hines said he had met with Reggie Bicha, the secretary of the state Department of Children and Families, as well as administrators of various city departments and is working on a plan.

The city's role could include more stringent zoning and special-use rules or taking into consideration the concentration of child-care centers in neighborhoods as it does with liquor licenses, he said. In addition, the city is talking with regulators in Madison, which has an accreditation program that promotes higher-quality centers.

To date, the city has done little in the way of regulating child-care centers. The council passed an ordinance forbidding new child-care centers within 300 feet of taverns, liquor stores and other places that sell alcohol. But nothing is in place to stop a new liquor store from locating next to a child-care center, for example.

"We just want to make sure that we're playing an active role," Hines said.

Meanwhile, state Rep. Mark Gundrum (R-New Berlin) plans to resurrect one bill and introduce another that, if approved, would make it more difficult for convicted criminals to get into the child-care profession and would require regulators to report suspected drug activity to law enforcement. Gundrum introduced legislation in recent months that would require criminals convicted of some serious crimes to wait 10 years after serving their sentences before being eligible to become child-care providers. The legislature passed a version that cut the time to five years. Gundrum said he once again will push for the 10 years.

In addition, he plans to introduce a bill that would require state and county child-care regulators to report any suspected drug activity to law enforcement. The legislature passed a bill in recent months that requires government workers to report suspected fraud. This takes it a step further, Gundrum said.

The Journal Sentinel found child-care inspectors don't always follow through on complaints of drug activity in day care centers. In one case, an inspector wrote in a report that she was unable to respond because the person who complained was anonymous, and she couldn't contact them to tell them to call police and that her department doesn't investigate drug usage.

"Everybody else on the planet would call police," Gundrum said.

Gundrum said he hopes to present his bills before the end of the year.

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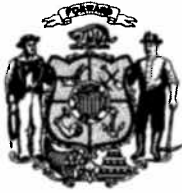
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State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-4015/A

GMM... ①

Jld

SN 12/17
Wanted Fri: 12/18

X

Gen

1 AN ACT ...; relating to: requiring suspected drug activity on the part of a
2 caregiver or nonclient resident of a child care provider to be reported to an
3 immediate supervisor and to the sheriff and suspected or threatened child
4 abuse or neglect on the part of such an individual to be reported under the child
5 abuse and neglect reporting law and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, certain persons, such as physicians, teachers, social workers, and child care workers, who have reasonable cause to suspect that a child seen in the course of professional duties has been abused or neglected or who have reason to believe that a child seen in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur must report the facts and circumstances contributing to that suspicion or belief to the county department of human services or social services (county department) or, in Milwaukee County, the Department of Children and Families (DCF) or a licensed child welfare agency under contract with DCF or to the sheriff or city, village, or town police department (child abuse and neglect reporting law). A person who makes a report under the child abuse and neglect reporting law may not be discharged from employment for doing so and is immune from any liability, civil or criminal, that may result by reason of making the report.

This bill requires an employee of DCF, a county department, an agency contracted by DCF to certify day care providers for purposes of reimbursement under the Wisconsin Works Program (contracted agency), or a school board whose job duties include performing activities relating to the licensing of day care centers by DCF, the

* certification of day care providers by a county department or contracted agency, or
 * the establishment of or contracting for day care programs by a school board
 * (employee) and who has reasonable cause to suspect that a caregiver or nonclient
 resident of a day care center, day care provider, or day care program (caregiver or
 nonclient resident) has abused or neglected a child who is in the care of the day care
 center, day care provider, or day care program or who has reason to believe that a
 caregiver or nonclient resident has threatened such a child with abuse or neglect and
 that abuse or neglect of the child will occur to report the facts and circumstances
 contributing to that suspicion or belief as required under the child abuse and neglect
 reporting law.

The bill also requires an employee who reasonably suspects that a caregiver or
 nonclient resident has engaged or is engaging in any drug-related offense to
 immediately report the facts and circumstances contributing to that suspicion to the
 employee's immediate supervisor, who must immediately evaluate the report to
 determine whether there is reason to suspect that the offense has occurred or is
 occurring. If the immediate supervisor determines that there is reason to suspect
 that the offense has occurred or is occurring, the immediate supervisor must
 immediately report the facts and circumstances contributing to that suspicion to the
 sheriff.

The immediate supervisor must keep the identity of the reporting employee
 confidential. The sheriff must keep the identity of the reporting employee and the
 immediate supervisor confidential until the sheriff determines that the report merits
 further investigation. If the sheriff conducts a full investigation, the sheriff must
 keep the identity of the reporting employee and immediate supervisor confidential
 if it is reasonably possible to do so.

Any person participating in good faith in reporting a suspected drug-related
 offense by a caregiver or nonclient resident or in initiating, participating in, or
 testifying in, any action or proceeding in which such a drug-related offense is alleged
 is immune from any liability, civil or criminal, that may result by reason of the action
 and may not be disciplined, or threatened with disciplinary action, for doing so.

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.** 48.685 (6m) of the statutes is created to read:
- 2 48.685 (6m) (a) 1. If any employee of the department, a county department, an
- 3 agency contracted with under s. 48.651 (2), or a school board whose job duties include
- 4 performing activities relating to the licensing of day care centers under s. 48.65,
- 5 certification of day care providers under s. 120.13 (14), or the establishment of or

5

48.651

1 contracting for day care programs under s. 120.13 (14) reasonably suspects that a
2 caregiver or nonclient resident of a day care center, day care provider, or day care
3 program has engaged or is engaging in any offense under ch. 961, the employee shall
4 immediately report the facts and circumstances contributing to that suspicion to the
5 employee's immediate supervisor.

6 2. An immediate supervisor who receives a report under subd. 1. shall
7 immediately evaluate the report to determine whether there is reason to suspect that
8 the offense has occurred or is occurring. If the immediate supervisor determines that
9 there is reason to suspect that the offense has occurred or is occurring, the immediate
10 supervisor shall immediately report the facts and circumstances contributing to that
11 suspicion to the sheriff.

12 3. Except as provided in subd. 2., an immediate supervisor who receives a
13 report under subd. 1. shall keep the identity of the reporter confidential. A sheriff
14 that receives a report under subd. 2. shall keep the identity of the employee reporting
15 under subd. 1. and the immediate supervisor reporting under subd. 2. confidential
16 until the sheriff determines that the report merits further investigation. If the
17 sheriff conducts a full investigation, the sheriff shall keep the identity of that
18 employee and immediate supervisor confidential if it is reasonably possible to do so.
19 Any person who fails to report as required in subd. 1. or 2. may be required to forfeit
20 not more than \$1,000.

21 (b) Any person participating in good faith in the making of a report under par.
22 (a) 1. or 2. or in initiating, participating in, or testifying in, any action or proceeding
23 in which an offense as described in par. (a) 1. is alleged shall have immunity from any
24 liability, civil or criminal, that results by reason of the action. For the purpose of any

1 proceeding, civil or criminal, the good faith of any person reporting under par. (a) 1.
2 or 2. shall be presumed.

3 (c) The department, a county department, an agency contracted with under s.
4 48.651 (2), a school board, or an employee of the department, a county department,
5 a contracted agency, or a school board may not take disciplinary action against, or
6 threaten to take disciplinary action against, any person because the person in good
7 faith reported any information under par. (a) 1. or 2. or initiated, participated in, or
8 testified in, any action or proceeding in which an offense described in par. (a) 1. was
9 alleged or because the department, county department, contracted agency, school
10 board, or employee believes that the person in good faith reported any information
11 under par. (a) 1. or 2. or initiated, participated in, or testified in, such an action or
12 proceeding.

13 (d) Any person who is subjected to disciplinary action, or who is threatened
14 with disciplinary action, in violation of par. (c) may file a complaint with the
15 department of workforce development under s. 106.54 (9). If that department finds
16 that a violation of par. (c) has been committed, that department may take such action
17 under s. 111.39 as will effectuate the purpose of this section. Section 111.322 (2m)
18 applies to a disciplinary action arising in connection with any proceeding under this
19 paragraph.

20 SECTION 11, 48.981 (2) (bg) of the statutes is created to read:

21 48.981 (2) (bg) An employee of the department, a county department, an agency
22 contracted with under s. 48.651 (2), or a school board whose job duties include
23 performing activities relating to the licensing of day care centers under s. 48.65,
24 certification of day care providers under s. 48.651, or the establishment of or
25 contracting for day care programs under s. 120.13 (14) and who has reasonable cause

1 to suspect that a caregiver, as defined in s. 48.685 (1) (ag), or nonclient resident, as
 2 defined in s. 48.685 (1) (bm), of a day care center, day care provider, or day care
 3 program has abuse or neglected a child who is in the care of the day care center, day
 4 care provider, or day care program or who has reason to believe that a caregiver or
 5 nonclient resident of a day care center, day care provider, or day care program has
 6 threatened such a child with abuse or neglect and that abuse or neglect of the child
 7 will occur shall, except as provided in sub. (2m), report as provided in sub. (3).

8 ~~SECTION 1.~~ 48.981 (2) (c) of the statutes is amended to read:

9 48.981 (2) (c) Any person not otherwise specified in par. (a), (b), (bg), or (bm),
 10 including an attorney, who has reason to suspect that a child has been abused or
 11 neglected or who has reason to believe that a child has been threatened with abuse
 12 or neglect and that abuse or neglect of the child will occur may report as provided in
 13 sub. (3).

History: Sup. Ct. Order, 59 Wis. 2d R1, R3 (1973); 1977 c. 355; 1977 c. 447 s. 210; 1979 c. 300; 1983 a. 172, 190, 299, 538; 1985 a. 29 ss. 917 to 930m, 3200 (56); 1985 a. 176, 234; 1987 a. 27, 186, 209; 1987 a. 332 s. 64; 1987 a. 334, 355, 399, 403; 1989 a. 31, 41, 102, 316, 359; 1991 a. 160, 263; 1993 a. 16, 105, 218, 227, 230, 246, 272, 318, 395, 443, 446, 491; 1995 a. 275, 289, 369, 456; 1997 a. 27, 114, 292, 293; 1999 a. 9, 20, 32, 56, 84, 149, 192; 2001 a. 16, 38, 59, 69, 70, 103, 105; 2003 a. 33, 279, 321; 2005 a. 113, 232, 344, 406, 434; 2005 a. 443 s. 265; 2007 a. 20 ss. 1370 to 1373, 9121 (6) (a); 2007 c. 497; 2009 a. 28.

14 **SECTION 2.** 106.54 (9) of the statutes, as created by 2009 Wisconsin Act 76, is
 15 amended to read:

16 106.54 (9) The division shall receive complaints under s. 48.685 (6m) (d),
 17 49.197 (6) (d), or 49.845 (4) (d) and shall process the complaints in the same manner
 18 that employment discrimination complaints are processed under s. 111.39.

19 **SECTION 3.** 111.322 (2m) (bm) of the statutes, as created by 2009 Wisconsin Act
 20 76, is amended to read:

1 111.322 **(2m)** (bm) The individual files a complaint or attempts to enforce a
 2 right under s. 48.685 (6m) (d),[✓] 49.197 (6) (d),[✓] or 49.845 (4) (d) or testifies or assists
 3 in any action or proceeding under s. 48.685 (6m) (d),[✓] 49.197 (6) (d),[✓] or 49.845 (4) (d).

(END)

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Duerst, Christina

From: Knudson, Steve

Sent: Thursday, January 07, 2010 10:19 AM

To: LRB.Legal

Subject: Draft Review: LRB 09-4015/1 Topic: Child care; reporting of drug offenses and child abuse

Please Jacket LRB 09-4015/1 for the ASSEMBLY.

1/7/2010