

State of Wisconsin



2013 Senate Bill 245

Date of enactment: April 8, 2014
Date of publication*: April 9, 2014

2013 WISCONSIN ACT 226

AN ACT *to repeal* 49.141 (7) (b), 49.141 (9) (title), 49.141 (10) (title) and (b), 49.49 (1) (title) and (a) (intro.), 49.49 (1) (b), 49.49 (2) (title) and (2) (a) (title), 49.49 (2) (b) (title), 49.49 (2) (c) (title), 49.49 (3) (title), 49.49 (3m) (title), 49.49 (3m) (b), 49.49 (4) (title), 49.795 (1) (cm), 49.795 (7), 49.795 (8) (a), (b) and (c) and 49.95; *to renumber* 49.495 (title) and 49.795 (title) and (1) (intro.); *to renumber and amend* 49.141 (7) (a), 49.141 (9) (a) to (c), 49.141 (10) (a), 49.49 (1) (a) 1. to 4., 49.49 (1) (c), 49.49 (2) (a), 49.49 (2) (b), 49.49 (2) (c), 49.49 (3), 49.49 (3m) (a), 49.495, 49.795 (1) (a), (b), (c), (d) and (e), 49.795 (2) to (6), 49.795 (8) (d) 1., 49.795 (8) (d) 1m., 49.795 (8) (d) 2. and 49.795 (8) (e) and (f); *to consolidate, renumber and amend* 49.49 (4) (a) and (b); *to amend* 49.141 (7) (c) (intro.) and 1., 49.141 (8), 49.32 (8), 49.45 (2) (b) 7. (intro.) and a., and (11), 49.49 (3p) (title), 49.49 (5), 49.49 (7) (d), 49.688 (9) (a), 49.797 (2) (a), 59.54 (23) and 940.11 (2); *to repeal and recreate* 49.141 (7) (title); and *to create* 49.835, 49.846 (1), 946.90 (title), 946.90 (1), 946.90 (2), 946.91 (title), (1) and (2) (intro.), 946.92 (3) (a) and 946.93 of the statutes; **relating to:** applications for public assistance programs, offenses in public assistance programs, granting rule-making authority, and providing a penalty.

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

SECTION 1. 49.141 (7) (title) of the statutes is repealed and recreated to read:

49.141 (7) (title) SUSPENSIONS.

SECTION 2. 49.141 (7) (a) of the statutes is renumbered 946.90 (3) and amended to read:

946.90 (3) ~~A person who is convicted of violating sub. (6) in connection with the~~ Whoever violates sub. (2) by furnishing by that person of items or services for which payment is or may be made under Wisconsin works Works is guilty of a Class H felony.

SECTION 3. 49.141 (7) (b) of the statutes is repealed.

SECTION 4. 49.141 (7) (c) (intro.) and 1. of the statutes are amended to read:

49.141 (7) (c) (intro.) Except as provided in par. (d), in addition to the penalties applicable under ~~par. (a) or (b)~~

s. 946.90 (2) or (3), a person shall be suspended from participating in Wisconsin works Works for a period of 10 years, beginning on the date of conviction, if the person is convicted in a federal or state court for any of the following:

1. Violating sub. (6) (a) or s. 946.90 (2) (a) with respect to his or her identity or place of residence for the purpose of receiving simultaneously from this state and at least one other state assistance funded by a block grant under Title I of the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SECTION 5. 49.141 (8) of the statutes is amended to read:

49.141 (8) DAMAGES. If a person is convicted under ~~sub. (6)~~ s. 946.90 (2) or (3), the state has a cause of action for relief against the person in an amount equal to 3 times the amount of actual damages sustained as a result of any excess payments made in connection with the offense for

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

which the conviction was obtained. Proof by the state of a conviction under ~~sub. (6) s. 946.90 (2) or (3)~~ is conclusive proof in a civil action of the state's right to damages and the only issue in controversy shall be the amount, if any, of the actual damages sustained. Actual damages consist of the total amount of excess payments, any part of which is paid with state funds. In a civil action under this subsection, the state may elect to file a motion in expedition of the action. Upon receipt of the motion, the presiding judge shall expedite the action.

SECTION 6. 49.141 (9) (title) of the statutes is repealed.

SECTION 7. 49.141 (9) (a) to (c) of the statutes are renumbered 946.90 (4) (a) to (c), and 946.90 (4) (a), (b) and (c) 1., as renumbered, are amended to read:

946.90 (4) (a) Whoever solicits or receives ~~any remuneration in cash or in-kind~~ money, goods, services, or any other thing of value, in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under Wisconsin works Works, or in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under Wisconsin works Works, is guilty of a Class H felony, except that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than \$25,000.

(b) Whoever offers or ~~pays any remuneration in cash or in-kind~~ provides money, goods, services, or any other thing of value to any person to induce the person to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under Wisconsin works Works, or to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service or item for which payment may be made in whole or in part under any provision of Wisconsin works Works, is guilty of a Class H felony, except that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than \$25,000.

(c) 1. A discount or other reduction in price obtained by a provider of services or other entity under chs. 46 to 51 and 58 if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under Wisconsin works Works.

SECTION 8. 49.141 (10) (title) and (b) of the statutes are repealed.

SECTION 9. 49.141 (10) (a) of the statutes is renumbered 946.90 (5) and amended to read:

946.90 (5) A provider ~~may not who~~ knowingly ~~impose~~ imposes upon a ~~recipient participant in Wisconsin Works~~ charges in addition to payments received ~~by the provider~~ for services under Wisconsin works Works or knowingly ~~impose~~ imposes direct charges upon a

~~recipient participant in Wisconsin Works~~ in lieu of obtaining payment under Wisconsin works ~~unless Works is guilty of a Class H felony, except that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than \$25,000.~~ This subsection ~~does not apply if~~ benefits or services are not provided under Wisconsin works Works and the ~~recipient Wisconsin Works participant~~ is advised of this fact prior to receiving the service.

SECTION 10. 49.32 (8) of the statutes is amended to read:

49.32 (8) PERIODIC EARNINGS CHECK BY DEPARTMENT. The department shall make a periodic check of the amounts earned by recipients of aid to families with dependent children under s. 49.19 and by participants under Wisconsin works under ss. 49.141 to 49.161 through a check of the amounts credited to the recipient's social security number. The department shall make an investigation into any discrepancy between the amounts credited to a social security number and amounts reported as income on the declaration application and take appropriate action under s. ~~49.95~~ 946.93 when warranted. The department shall use the state wage reporting system under 1985 Wisconsin Act 17, section 65 (1), when the system is implemented, to make periodic earnings checks.

SECTION 11. 49.45 (2) (b) 7. (intro.) and a., and (11) of the statutes are amended to read:

49.45 (2) (b) 7. (intro.) Require, as a condition of certification under par. (a) 11., all providers of a specific service that is among those enumerated under s. 49.46 (2), 49.47 (6) (a), or 49.471 (11), as specified in this subdivision, to file with the department a surety bond issued by a surety company licensed to do business in this state. Providers subject to this subdivision provide those services specified under s. 49.46 (2), 49.47 (6) (a), or 49.471 (11) for which providers have demonstrated significant potential to violate s. 49.49 (1) (a), (2) (a) or (b), (3), (3m) (a), (3p), (4) (a), or (4m) (a) ~~or 946.91 (2), (3) (a) or (b), (4), (5), or (6)~~, to require recovery under par. (a) 10., or to need additional sanctions under par. (a) 13. The surety bond shall be payable to the department in an amount that the department determines is reasonable in view of amounts of former recoveries against providers of the specific service and the department's costs to pursue those recoveries. The department shall promulgate rules to implement this subdivision that specify all of the following:

a. Services under ~~medical assistance~~ Medical Assistance for which providers have demonstrated significant potential to violate s. 49.49 (1) (a), (2) (a) or (b), (3), (3m) (a), (3p), (4) (a), or (4m) (a) ~~or 946.91 (2), (3) (a) or (b), (4), (5), or (6)~~, to require recovery under par. (a) 10., or to need additional sanctions under par. (a) 13.

(11) PENALTY. Any person who receives or assists another in receiving assistance under this section, to

which the recipient is not entitled, shall be subject to the penalties under ~~s. 49.95~~ ss. 946.91 and 946.93.

SECTION 12. 49.49 (1) (title) and (a) (intro.) of the statutes are repealed.

SECTION 13. 49.49 (1) (a) 1. to 4. of the statutes are renumbered 946.91 (2) (a) to (d) and amended to read:

946.91 (2) (a) ~~Knowingly and willfully make~~ Intentionally makes or ~~cause~~ causes to be made any false statement or representation of a material fact in any application for any Medical Assistance benefit or payment.

(b) ~~Knowingly and willfully make~~ Intentionally makes or ~~cause~~ causes to be made any false statement or representation of a material fact for use in determining ~~rights to such~~ eligibility for any Medical Assistance benefit or payment.

(c) Having knowledge of the occurrence of any event affecting the initial or continued ~~right to~~ eligibility for any such Medical Assistance benefit or payment or the initial or continued ~~right to~~ eligibility for any such benefit or payment of any other individual in whose behalf he or she has applied for or is receiving such benefit or payment, ~~conceal~~ conceals or ~~fail~~ fails to disclose such event with an intent to fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized.

(d) Having ~~made application~~ applied to receive any such Medical Assistance benefit or payment for the use and benefit of another and having received it, knowingly and willfully ~~convert such~~ converts the benefit or payment or any part thereof to a use ~~other than for the use and that is not for the~~ benefit of such other person.

SECTION 14. 49.49 (1) (b) of the statutes is repealed.

SECTION 15. 49.49 (1) (c) of the statutes is renumbered 49.49 (1d) and amended to read:

49.49 (1d) DAMAGES. If any person is convicted under ~~this subsection s. 946.91 (2)~~, the state shall have a cause of action for relief against such person in an amount 3 times the amount of actual damages sustained as a result of any excess payments made in connection with the offense for which the conviction was obtained. Proof by the state of a conviction under ~~this section s. 946.91 (2)~~ in a civil action shall be conclusive regarding the state's right to damages and the only issue in controversy shall be the amount, if any, of the actual damages sustained. Actual damages shall consist of the total amount of excess payments, any part of which is paid by state funds. In any such civil action the state may elect to file a motion in expedition of the action. Upon receipt of the motion, the presiding judge shall expedite the action.

SECTION 16. 49.49 (2) (title) and (2) (a) (title) of the statutes are repealed.

SECTION 17. 49.49 (2) (a) of the statutes is renumbered 946.91 (3) (a) and amended to read:

946.91 (3) (a) ~~Any person who~~ Whoever solicits or receives ~~any remuneration, including any kickback, bribe, or rebate, directly or, indirectly, overtly, or~~

~~covertly, in cash or in kind, money, goods, services, or any other thing of value~~ in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under ~~a medical assistance program~~ Medical Assistance, or in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under ~~a medical assistance program~~ Medical Assistance, is guilty of a Class H felony, except that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than \$25,000.

SECTION 18. 49.49 (2) (b) (title) of the statutes is repealed.

SECTION 19. 49.49 (2) (b) of the statutes is renumbered 946.91 (3) (b) and amended to read:

946.91 (3) (b) Whoever offers or pays ~~any remuneration including any kickback, bribe, or rebate~~ provides, directly or, indirectly, overtly, or covertly, in cash or in kind money, goods, services, or any other thing of value to any person to induce such person to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under ~~a medical assistance program~~ Medical Assistance, or to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service or item for which payment may be made in whole or in part under ~~a medical assistance program~~ Medical Assistance, is guilty of a Class H felony, except that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than \$25,000.

SECTION 20. 49.49 (2) (c) (title) of the statutes is repealed.

SECTION 21. 49.49 (2) (c) of the statutes is renumbered 946.91 (3) (c) and amended to read:

946.91 (3) (c) This subsection ~~shall~~ does not apply to any of the following:

1. A discount or other reduction in price obtained by a provider of services or other entity under chs. 46 to 51 and 58 if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under ~~a medical assistance program~~ Medical Assistance.

2. ~~Any~~ An amount paid by an employer to an employee who has a bona fide employment relationship with such employer for employment in the provision of covered items or services.

SECTION 22. 49.49 (3) (title) of the statutes is repealed.

SECTION 23. 49.49 (3) of the statutes is renumbered 946.91 (4) and amended to read:

946.91 (4) ~~No person may~~ Whoever knowingly and willfully make makes or ~~cause~~ causes to be made, or ~~induce~~ induces or ~~seek~~ seeks to induce the making of, any

false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify either upon initial certification or upon recertification as a hospital, skilled nursing facility, intermediate care facility, or home health agency. ~~A person who violates this subsection is guilty of a Class H felony, except that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than \$25,000.~~

SECTION 24. 49.49 (3m) (title) of the statutes is repealed.

SECTION 25. 49.49 (3m) (a) of the statutes is renumbered 946.91 (5), and 946.91 (5) (intro.), (a), (b) and (c), as renumbered, are amended to read:

946.91 (5) (intro.) ~~No provider may~~ Whoever knowingly ~~impose~~ imposes upon a Medical Assistance recipient charges in addition to payments received for services under ss. 49.45 to 49.471 or knowingly ~~impose~~ imposes direct charges upon a recipient in lieu of obtaining payment under ss. 49.45 to 49.471 ~~except under the following conditions is guilty of a Class H felony, except that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than \$25,000. This subsection does not apply under any of the following circumstances:~~

(a) Benefits or services are not provided under s. 49.46 (2) or 49.471 (11) and the Medical Assistance recipient is advised of this fact prior to receiving the service.

(b) ~~If an~~ An applicant is determined to be eligible retroactively under s. 49.46 (1) (b), 49.47 (4) (d), or 49.471 and, a provider bills the applicant directly for services and benefits rendered during the retroactive period, the provider shall, upon notification of the applicant's retroactive eligibility, ~~submit claims~~ submits a claim for payment under s. 49.45 for covered services or benefits rendered to the recipient during the retroactive period. ~~Upon receipt of payment under s. 49.45, the provider shall reimburse, and the provider reimburses~~ the recipient or other person who has made prior payment to the provider for services provided to the recipient during the retroactive eligibility period, by the amount of the prior payment made upon receipt of payment under s. 49.45.

(c) Benefits or services are provided for which recipient copayment, coinsurance, or deductible is required under s. 49.45 (18), not to exceed maximum amounts allowable under 42 CFR 447.53 to 447.58, or for which recipient copayment or coinsurance is required under s. 49.471 (11).

SECTION 26. 49.49 (3m) (b) of the statutes is repealed.

SECTION 27. 49.49 (3p) (title) of the statutes is amended to read:

49.49 (3p) (title) ~~OTHER PROHIBITED PROVIDER CHARGES.~~

SECTION 28. 49.49 (4) (title) of the statutes is repealed.

SECTION 29. 49.49 (4) (a) and (b) of the statutes are consolidated, renumbered 946.91 (6) and amended to read:

946.91 (6) ~~No person~~ Whoever, in connection with the ~~medical assistance program~~ Medical Assistance when the cost of the services provided to the patient is paid for in whole or in part by the state, ~~may knowingly and willfully charge, solicit, accept or receive~~ intentionally charges, solicits, accepts, or receives, in addition to any amount otherwise required to be paid under ~~a medical assistance program~~ Medical Assistance, any gift, money, donation, or other consideration, other than a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to the patient, as a precondition of admitting a patient to a hospital, skilled nursing facility, or intermediate care facility, or as a requirement for the patient's continued stay in such a facility. ~~(b) A person who violates this subsection is guilty of a Class H felony, except that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than \$25,000.~~

SECTION 30. 49.49 (5) of the statutes is amended to read:

49.49 (5) COUNTY COLLECTION. Any county may retain ~~15%~~ 15 percent of state ~~medical assistance~~ Medical Assistance funds that are recovered due to the efforts of a county employee or officer or, if the county initiates action by the department of justice, due to the efforts of the department of justice under s. 49.495 ~~49.846~~. This subsection applies only to recovery of medical assistance that was provided as a result of fraudulent activity by a recipient or by a provider.

SECTION 31. 49.49 (7) (d) of the statutes is amended to read:

49.49 (7) (d) A commission's imposition of an assessment described under par. (b), a member's payment of the assessment as described under par. (c), and acceptance of the payment by the commission do not constitute conduct prohibited under ~~sub. (4) s. 946.91 (6)~~ or prohibited under s. DHS 106.04 (3), Wis. Adm. Code, in effect on May 26, 2010. It is the intent of the legislature to create a mechanism whereby 2 or more political subdivisions may share in the operation, use, and funding of a nursing home or intermediate care facility without violating 42 USC 1320a-7b (d) or 42 USC 1396a (a) (25) (C).

SECTION 32. 49.495 (title) of the statutes is renumbered 49.846 (title).

SECTION 33. 49.495 of the statutes is renumbered 49.846 (2) and amended to read:

49.846 (2) The department of justice or the district attorney may institute, manage, control, and direct, in the proper county, any prosecution for violation of criminal laws affecting the ~~medical~~ a public assistance program,

including ~~but not limited to~~ laws in this chapter, chs. 939 to 951 relating to ~~medical assistance contained in this subchapter~~ Medical Assistance, Wisconsin Works, the food stamp program, or any other public assistance program, and laws affecting the health, safety, and welfare of public assistance program recipients of ~~medical assistance~~. For this purpose the department of justice shall have and exercise all powers conferred upon district attorneys in such cases. ~~The~~ If a prosecution under this section involves a person holding a license granted by the medical examining board or an interested affiliated credentialing board, the department of justice or district attorney shall notify the medical examining board or the interested affiliated credentialing board of ~~any such~~ the prosecution of a person holding a license granted by the board or affiliated credentialing board.

SECTION 34. 49.688 (9) (a) of the statutes is amended to read:

49.688 (9) (a) The department shall promulgate rules relating to prohibitions on fraud that are substantially similar to applicable provisions under s. ~~49.49 (1) (a)~~ 946.91 (2).

SECTION 35. 49.795 (title) and (1) (intro.) of the statutes are renumbered 946.92 (title) and (1) (intro.).

SECTION 36. 49.795 (1) (a), (b), (c), (d) and (e) of the statutes are renumbered 946.92 (1) (a), (b), (c), (d) and (e), and 946.92 (1) (b), (c) and (d), as renumbered, are amended to read:

946.92 (1) (b) “Food” means items ~~which~~ that may be purchased using ~~food coupons~~ stamp program benefits under 7 USC ~~2012 (g)~~ and 2016 (b).

(c) “Food stamp program” means the federal food stamp program under 7 USC 2011 to ~~2029~~ 2036a.

(d) “Supplier” means a retail grocery store or other person authorized by the federal department of agriculture to accept ~~food coupons~~ stamp program benefits in exchange for food under the food stamp program.

SECTION 37. 49.795 (1) (cm) of the statutes is repealed.

SECTION 38. 49.795 (2) to (6) of the statutes are renumbered 946.92 (2) (a) to (f), and 946.92 (2) (c), (d), (e) and (f), as renumbered, are amended to read:

946.92 (2) (c) No person may knowingly issue ~~food coupons~~ stamp program benefits to a person who is not an eligible person or knowingly issue ~~food coupons~~ stamp program benefits to an eligible person in excess of the amount for which the person’s household is eligible.

(d) No eligible person may knowingly transfer ~~food coupons~~ stamp program benefits except to purchase food from a supplier or knowingly obtain or use ~~food coupons~~ stamp program benefits for which the person’s household is not eligible.

(e) No supplier may knowingly obtain ~~food coupons~~ stamp program benefits except as payment for food or knowingly obtain ~~food coupons~~ stamp program benefits from a person who is not an eligible person.

(f) No unauthorized person may knowingly obtain, possess, transfer, or use ~~food coupons~~ stamp program benefits.

SECTION 39. 49.795 (7) of the statutes is repealed.

SECTION 40. 49.795 (8) (a), (b) and (c) of the statutes are repealed.

SECTION 41. 49.795 (8) (d) 1. of the statutes is renumbered 946.92 (3) (b) and amended to read:

946.92 (3) (b) In addition to the penalties applicable under par. (a), ~~(b) or (c)~~, the court shall suspend a person who violates ~~this section~~ sub. (2) from participation in the food stamp program as follows:

1. For a first ~~offense~~ conviction under this section, ~~for not less than~~ one year. ~~The court may extend the suspension by~~ and not more than ~~18 months~~ 2 years and 6 months.

2. For a 2nd ~~offense~~ conviction under this section, ~~for not less than~~ 2 years. ~~The court may extend the suspension by~~ and not more than ~~18 months~~ 3 years and 6 months.

3. For a 3rd ~~offense~~ conviction under this section, permanently.

SECTION 42. 49.795 (8) (d) 1m. of the statutes is renumbered 946.92 (3) (c) and amended to read:

946.92 (3) (c) In addition to the penalties applicable under par. (a), ~~(b) or (c)~~, a court shall permanently suspend from the food stamp program a person who has been convicted of an offense under 7 USC 2024 (b) or (c) involving an item covered by 7 USC 2024 (b) or (c) having a value of \$500 or more.

SECTION 43. 49.795 (8) (d) 2. of the statutes is renumbered 49.796 and amended to read:

49.796 Food stamp reinstatement. ~~The~~ A person may apply to ~~the~~ a multicounty consortium, ~~as defined in s. 49.78 (1) (br),~~ or ~~the~~ a federally recognized American Indian tribal governing body or, if the person is a supplier, ~~as defined in s. 946.92 (1) (d),~~ to the federal department of agriculture for reinstatement ~~of benefits~~ following ~~the~~ a period of suspension ~~imposed under s. 946.92,~~ if the suspension is not permanent.

SECTION 44. 49.795 (8) (e) and (f) of the statutes are renumbered 946.92 (3) (d) and (e) and amended to read:

946.92 (3) (d) 1. If ~~a court finds that~~ a person ~~traded~~ violated sub. (2) by trading a controlled substance, as defined in s. 961.01 (4), for ~~food coupons~~ stamp program benefits, the court shall suspend the person from participation in the food stamp program as follows:

a. Upon ~~the first such finding~~ a first conviction, for 2 years.

b. Upon ~~the~~ a 2nd ~~such finding~~ conviction, permanently.

2. If ~~a court finds that~~ a person ~~traded~~ violated sub. (2) by trading firearms, ammunition, or explosives for ~~food coupons~~ stamp program benefits, the court shall suspend the person permanently from participation in the food stamp program.

(e) Notwithstanding ~~par. (d)~~ par. (b) and (c), in addition to the penalties applicable under par. (a), ~~(b) or (c)~~, the court shall suspend from the food stamp program for a period of 10 years a person who violates sub. (2) by fraudulently misstates misstating or misrepresents misrepresenting his or her identity or place of residence for the purpose of receiving multiple benefits simultaneously under the food stamp program.

SECTION 45. 49.797 (2) (a) of the statutes is amended to read:

49.797 (2) (a) Notwithstanding s. 46.028 and except as provided in par. (b) and sub. (8), the department shall administer a statewide program to deliver food stamp benefits to recipients of food stamp benefits by an electronic benefit transfer system. All suppliers, as defined in s. ~~49.795~~ 946.92 (1) (d), may participate in the delivery of food stamp benefits under the electronic benefit transfer system. The department shall explore methods by which nontraditional retailers, such as farmers' markets, may participate in the delivery of food stamp benefits under the electronic benefit transfer system.

SECTION 46. 49.835 of the statutes is created to read:

49.835 Statements in applications. A person who makes a statement in a written application for any aid or benefit provided under this chapter is considered to have made an admission as to the existence, correctness, or validity of any fact stated. Such a statement is prima facie evidence against the person who made it in any complaint, information, or indictment, or in any action brought for enforcement of any provision of this chapter.

SECTION 47. 49.846 (1) of the statutes is created to read:

49.846 (1) In this section, "public assistance program" means any program administered by the department of health services or the department of children and families under this chapter under which the department administering the program provides services, benefits, or other assistance to individuals or families.

SECTION 48. 49.95 of the statutes is repealed.

SECTION 49. 59.54 (23) of the statutes is amended to read:

59.54 (23) PUBLIC ASSISTANCE; FALSE REPRESENTATION. The board may enact and enforce an ordinance to prohibit conduct that is the same as or similar to conduct that is prohibited by s. ~~49.95 (1)~~ 946.93 (2) and provide a forfeiture for a violation of the ordinance.

SECTION 50. 940.11 (2) of the statutes is amended to read:

940.11 (2) Whoever hides or buries a corpse, with intent to conceal a crime or avoid apprehension, prosecution, or conviction for a crime or notwithstanding s. ~~49.141 (7), 49.49 (1), or 49.795~~ 946.90 (2) or (3), 946.91 (2), 946.92, or 946.93 (2) or (3) with intent to collect benefits under ~~one of those sections~~ the assistance program for families with dependent children administered under ss. 49.141 to 49.161, the Medical Assistance pro-

gram administered under subch. IV of ch. 49, or the food stamp program, as defined in s. 49.79 (1) (c), is guilty of a Class G felony.

SECTION 51. 946.90 (title) of the statutes is created to read:

946.90 (title) Wisconsin Works fraud.

SECTION 52. 946.90 (1) of the statutes is created to read:

946.90 (1) In this section:

(a) "Provider" means a Wisconsin Works agency, a person that contracts with a Wisconsin Works agency to provide services to a participant in Wisconsin Works, or a person that provides child care for reimbursement under s. 49.155.

(b) "Wisconsin Works" means the assistance program for families with dependent children administered under ss. 49.141 to 49.161.

(c) "Wisconsin Works agency" has the meaning given in s. 49.001 (9).

SECTION 53. 946.90 (2) of the statutes is created to read:

946.90 (2) Whoever does any of the following is guilty of a Class A misdemeanor:

(a) Intentionally makes or causes to be made any false statement or representation of a material fact in any application for or receipt of any Wisconsin Works benefit or payment.

(b) Having knowledge of the occurrence of any event affecting the initial or continued eligibility for a Wisconsin Works benefit or payment under Wisconsin Works, conceals or fails to disclose that event with an intent to fraudulently secure a Wisconsin Works benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized.

SECTION 54. 946.91 (title), (1) and (2) (intro.) of the statutes are created to read:

946.91 (title) Medical Assistance fraud. (1) In this section:

(a) "Facility" means a nursing home or a community-based residential facility that is licensed under s. 50.03 and that is certified by the department of health services as a provider of aid under Medical Assistance.

(b) "Medical Assistance" means the program providing aid under subch. IV of ch. 49, except ss. 49.468 and 49.471.

(c) "Provider" means a person, corporation, limited liability company, partnership, incorporated business, or professional association, and any agent or employee thereof, who provides services under Medical Assistance.

(2) (intro.) Whoever does any of the following is guilty of a Class H felony, except that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than \$25,000:

SECTION 55. 946.92 (3) (a) of the statutes is created to read:

946.92 (3) (a) Whoever violates sub. (2) is subject to the following penalties:

1. If the value of the food stamp program benefits does not exceed \$100, a Class B misdemeanor.
2. Except as provided in subd. 3., if the value of the food stamp program benefits exceeds \$100, but is less than \$5,000, a Class I felony.
3. If the value of the food stamp program benefits exceeds \$100, but is less than \$5,000, and the person has a prior conviction under this section, a Class H felony.
4. If the value of the food stamp program benefits is \$5,000 or more, a Class G felony.

SECTION 56. 946.93 of the statutes is created to read:

946.93 Public assistance fraud. (1) In this section, “public assistance” means any aid, benefit, or services provided under ch. 49.

(2) Whoever intentionally makes or causes to be made any false statement or representation of material fact in any application for or receipt of public assistance is guilty of a Class A misdemeanor.

(3) No person may do any of the following:

(a) Having knowledge of an event affecting the initial or continued eligibility for public assistance, conceal or fail to disclose that event with an intent to fraudulently secure public assistance, including payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized.

(b) Receive any income or assets and fail to notify the public assistance agency within 10 days after receiving the income or assets, unless a different time period is required under the applicable public assistance program.

(c) Fail to notify the public assistance agency within 10 days of any change in circumstances for which notification by the recipient must be provided under law, unless a different time period is required under the applicable public assistance program.

(d) Receive a voucher under a public assistance program for goods or services and use the funding granted under the voucher for purposes that are not authorized by the public assistance agency.

(e) Whoever violates par. (a), (b), (c), or (d) is subject to the following penalties:

1. If the value of the payment or benefit does not exceed \$300, a Class B forfeiture.
2. If the value of the payment or benefit is more than \$300 but does not exceed \$1,000, a Class B misdemeanor.
3. If the value of the payment or benefit is more than \$1,000 but does not exceed \$2,000, a Class A misdemeanor.
4. If the value of the payment or benefit is more than \$2,000 but does not exceed \$5,000, a Class I felony.
5. If the value of the payment or benefit is more than \$5,000 but does not exceed \$10,000, a Class H felony.
6. If the value of the payment or benefit is more than \$10,000, a Class G felony.

(4) A person who obtains money, goods, services, or any other thing of value because he or she sends or brings a person to a county department, federally recognized American Indian tribe or band, multicounty consortium, or Wisconsin Works agency for the purpose of obtaining public assistance is guilty of a Class C misdemeanor.

(5) (a) Whoever solicits or receives money, goods, services, or any other thing of value in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which a public assistance payment may be made in whole or in part, or in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which public assistance payment may be made in whole or in part, is guilty of a Class H felony, except that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than \$25,000.

(b) Whoever offers or provides money, goods, services, or any other thing of value to any person to induce the person to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which public assistance payment may be made in whole or in part, or to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which public assistance payment may be made in whole or in part, is guilty of a Class H felony, except that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than \$25,000.

(c) This subsection does not apply to any of the following:

1. A discount or other reduction in price obtained by a provider of services or other entity under chs. 46 to 51 and 58 if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under a public assistance program.

2. An amount paid by an employer to an employee who has a bona fide employment relationship with the employer for employment in the provision of covered items or services.

(6) Whoever makes any statement in a written application for public assistance is considered to have made an admission as to the existence, correctness, or validity of any fact stated. Such a statement is prima facie evidence against the person who made it in any complaint, information, or indictment, or in any action brought for enforcement of any provision of this section or ch. 49.

SECTION 58. Initial applicability.

(1) PUBLIC ASSISTANCE APPLICATIONS. The treatment of section 49.835 of the statutes first applies to applications for aid or benefits under chapter 49 of the statutes that are received by the department of health services or

the department of children and families on the effective date of this subsection.

(2) PUBLIC ASSISTANCE FRAUD. The treatment of sec-

tion 946.93 of the statutes first applies to acts and omissions that occur on the effective date of this subsection.

