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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 **AN ACT to repeal** 49.141 (7) (b), 49.141 (9) (title), 49.141 (10) (title) and (b), 49.49
2 (1) (title) and (a) (intro.), 49.49 (1) (b), 49.49 (2) (title) and (2) (a) (title), 49.49
3 (2) (b) (title), 49.49 (2) (c) (title), 49.49 (3) (title), 49.49 (3m) (title), 49.49 (3m)
4 (b), 49.49 (4) (title), 49.795 (1) (cm), 49.795 (7), 49.795 (8) (a), (b) and (c) and
5 49.95; **to renumber** 49.495 (title) and 49.795 (title) and (1) (intro.); **to**
6 **renumber and amend** 49.141 (7) (a), 49.141 (9) (a) to (c), 49.141 (10) (a), 49.49
7 (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
8 (3m) (a), 49.495, 49.795 (1) (a), (b), (c), (d) and (e), 49.795 (2) to (6), 49.795 (8)
9 (d) 1., 49.795 (8) (d) 1m., 49.795 (8) (d) 2. and 49.795 (8) (e) and (f); **to**
10 **consolidate, renumber and amend** 49.49 (4) (a) and (b); **to amend** 49.141
11 (7) (c) (intro.) and 1., 49.141 (8), 49.32 (8), 49.45 (2) (b) 7. (intro.) and a., and (11),
12 49.49 (3p) (title), 49.49 (5), 49.49 (7) (d), 49.688 (9) (a), 49.797 (2) (a), 59.54 (23)
13 and 940.11 (2); **to repeal and recreate** 49.141 (7) (title); and **to create** 49.835,
14 49.846 (1), 946.90 (title), 946.90 (1), 946.90 (2), 946.91 (title), (1) and (2) (intro.),
15 946.92 (3) (a) and 946.93 of the statutes; **relating to:** applications for public

1 assistance programs, offenses in public assistance programs, granting
2 rule-making authority, providing a penalty, and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, various offenses related to the Medical Assistance program (MA), Wisconsin Works (W-2), the federal Supplemental Nutrition Assistance Program, formerly known as the food stamp program and currently known in Wisconsin as FoodShare, and other public assistance programs administered by the Department of Children and Families (DCF) and the Department of Health Services (DHS) (public assistance programs) are subject to criminal penalties. For example, a person who makes or causes to be made any false statement or representation of a material fact in an application for a benefit or payment, or for use in determining rights to any benefit or payment, under MA is subject to a Class H felony. Similarly, a person who knowingly and willfully makes or causes to be made any false statement or representation of a material fact in an application for W-2 benefits or payments may be fined not more than \$10,000, imprisoned for not more than nine months, or both. This bill moves offenses related to public assistance programs to the chapter of the Wisconsin Statutes that relates to crimes against government and its administration. Specifically, under the bill, that chapter of the Wisconsin Statutes contains provisions related to W-2 fraud, MA fraud, FoodShare fraud, and general public assistance fraud. In addition, the bill adds 12 employee positions to DCF for the purpose of performing functions related to field auditing, risk management assessment, quality assurance, and asset collection as a tool for collecting debts.

Under current law, the Department of Justice (DOJ) or a district attorney is authorized to prosecute violations of criminal laws affecting MA. Under the bill, DOJ or a district attorney is authorized to prosecute violations of criminal laws affecting any public assistance program, including W-2, FoodShare, and MA.

Under current law, any person who 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, which may be used in an enforcement action. Under the bill, an employee who accepts an application for public assistance is authorized to administer an oath to the applicant that the information given is true and correct to the best of the applicant's knowledge. The bill also requires DCF and DHS to promulgate rules providing standards and procedures for the administration of such an oath.

For further information see the *state* 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.** 49.141 (7) (title) of the statutes is repealed and recreated to read:

2 49.141 (7) (title) SUSPENSIONS.

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

5 946.90 (3) ~~A person who is convicted of violating sub. (6) in connection with the~~
6 Whoever violates sub. (2) by furnishing by that person of items or services for which
7 payment is or may be made under Wisconsin ~~works~~ Works is guilty of a Class H
8 felony.

 ****NOTE: It is not clear to me how a person could violate sub. (2) by furnishing items
or services. However, this is based on current law. You may want to confirm with DCF
how this provision is applied or interpreted under current law and clarify the language
accordingly.

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

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

11 49.141 (7) (c) (intro.) Except as provided in par. (d), in addition to the penalties
12 applicable under ~~par. (a) or (b) s. 946.90 (2) or (3)~~, a person shall be suspended from
13 participating in Wisconsin ~~works~~ Works for a period of 10 years, beginning on the
14 date of conviction, if the person is convicted in a federal or state court for any of the
15 following:

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

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

21 49.141 (8) DAMAGES. If a person is convicted under ~~sub. (6) s. 946.90 (2) or (3)~~,
22 the state has a cause of action for relief against the person in an amount equal to 3
23 times the amount of actual damages sustained as a result of any excess payments

SECTION 5

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

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

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

11 946.90 (4) (a) Whoever solicits or receives ~~any remuneration in cash or in-kind~~
12 money, goods, services, or any other thing of value, in return for referring an
13 individual to a person for the furnishing or arranging for the furnishing of any item
14 or service for which payment may be made in whole or in part under Wisconsin ~~works~~
15 Works, or in return for purchasing, leasing, ordering, or arranging for or
16 recommending purchasing, leasing, or ordering any good, facility, service, or item for
17 which payment may be made in whole or in part under Wisconsin ~~works~~ Works, is
18 guilty of a Class H felony, except that, notwithstanding the maximum fine specified
19 in s. 939.50 (3) (h), the person may be fined not more than \$25,000.

20 (b) Whoever offers or pays ~~any remuneration in cash or in-kind~~ money, goods,
21 services, or any other thing of value to any person to induce the person to refer an
22 individual to a person for the furnishing or arranging for the furnishing of any item
23 or service for which payment may be made in whole or in part under Wisconsin ~~works~~
24 Works, or to purchase, lease, order, or arrange for or recommend purchasing, leasing,
25 or ordering any good, facility, service or item for which payment may be made in

1 whole or in part under any provision of Wisconsin ~~works~~ Works, is guilty of a Class
2 H felony, except that, notwithstanding the maximum fine specified in s. 939.50 (3)
3 (h), the person may be fined not more than \$25,000.

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

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

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

11 946.90 (5) A provider ~~may not~~ who knowingly impose imposes upon a ~~recipient~~
12 participant in Wisconsin Works charges in addition to payments received by the
13 provider for services under Wisconsin ~~works~~ Works or knowingly ~~impose~~ imposes
14 direct charges upon a ~~recipient~~ participant in Wisconsin Works in lieu of obtaining
15 payment under Wisconsin ~~works~~ Works unless Works is guilty of a Class H felony, except
16 that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may
17 be fined not more than \$25,000. This subsection does not apply if benefits or services
18 are not provided under Wisconsin ~~works~~ Works and the ~~recipient~~ Wisconsin Works
19 participant is advised of this fact prior to receiving the service.

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

21 49.32 (8) PERIODIC EARNINGS CHECK BY DEPARTMENT. The department shall make
22 a periodic check of the amounts earned by recipients of aid to families with dependent
23 children under s. 49.19 and by participants under Wisconsin works under ss. 49.141
24 to 49.161 through a check of the amounts credited to the recipient's social security
25 number. The department shall make an investigation into any discrepancy between

1 the amounts credited to a social security number and amounts reported as income
2 on the declaration application and take appropriate action under s. ~~49.95~~ 946.93
3 when warranted. The department shall use the state wage reporting system under
4 1985 Wisconsin Act 17, section 65 (1), when the system is implemented, to make
5 periodic earnings checks.

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

8 49.45 (2) (b) 7. (intro.) Require, as a condition of certification under par. (a) 11.,
9 all providers of a specific service that is among those enumerated under s. 49.46 (2),
10 49.47 (6) (a), or 49.471 (11), as specified in this subdivision, to file with the
11 department a surety bond issued by a surety company licensed to do business in this
12 state. Providers subject to this subdivision provide those services specified under s.
13 49.46 (2), 49.47 (6) (a), or 49.471 (11) for which providers have demonstrated
14 significant potential to violate s. ~~49.49 (1) (a), (2) (a) or (b), (3), (3m) (a), (3p), (4) (a),~~
15 ~~or (4m) (a) or~~ 946.91 (2), (3) (a) or (b), (4), (5), or (6), to require recovery under par.
16 (a) 10., or to need additional sanctions under par. (a) 13. The surety bond shall be
17 payable to the department in an amount that the department determines is
18 reasonable in view of amounts of former recoveries against providers of the specific
19 service and the department's costs to pursue those recoveries. The department shall
20 promulgate rules to implement this subdivision that specify all of the following:

21 a. Services under ~~medical assistance~~ Medical Assistance for which providers
22 have demonstrated significant potential to violate s. ~~49.49 (1) (a), (2) (a) or (b), (3),~~
23 ~~(3m) (a), (3p), (4) (a), or (4m) (a) or~~ 946.91 (2), (3) (a) or (b), (4), (5), or (6), to require
24 recovery under par. (a) 10., or to need additional sanctions under par. (a) 13.

1 (11) PENALTY. Any person who receives or assists another in receiving
2 assistance under this section, to which the recipient is not entitled, shall be subject
3 to the penalties under ~~s. 49.95~~ ^{Strike} ss. 946.91 and 946.93.

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

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

7 946.91 (2) (a) ~~Knowingly and willfully make~~ Intentionally makes or ~~cause~~
8 causes to be made any false statement or representation of a material fact in any
9 application for any Medical Assistance benefit or payment.

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

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

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

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

SECTION 15

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

3 **49.49 (1d) DAMAGES.** If any person is convicted under ~~this subsection~~ s. 946.91
4 (2), the state shall have a cause of action for relief against such person in an amount
5 3 times the amount of actual damages sustained as a result of any excess payments
6 made in connection with the offense for which the conviction was obtained. Proof by
7 the state of a conviction under ~~this section~~ s. 946.91 (2) in a civil action shall be
8 conclusive regarding the state's right to damages and the only issue in controversy
9 shall be the amount, if any, of the actual damages sustained. Actual damages shall
10 consist of the total amount of excess payments, any part of which is paid by state
11 funds. In any such civil action the state may elect to file a motion in expedition of
12 the action. Upon receipt of the motion, the presiding judge shall expedite the action.

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

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

16 **946.91 (3) (a)** ~~Any person who~~ Whoever solicits or receives ~~any remuneration,~~
17 ~~including any kickback, bribe, or rebate, directly or, indirectly, overtly, or covertly, in~~
18 ~~cash or in kind,~~ money, goods, services, or any other thing of value in return for
19 referring an individual to a person for the furnishing or arranging for the furnishing
20 of any item or service for which payment may be made in whole or in part under ~~a~~
21 ~~medical assistance program~~ Medical Assistance, or in return for purchasing, leasing,
22 ordering, or arranging for or recommending purchasing, leasing, or ordering any
23 good, facility, service, or item for which payment may be made in whole or in part
24 under ~~a medical assistance program~~ Medical Assistance, is guilty of a Class H felony,

1 except that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the
2 person may be fined not more than \$25,000.

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

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

6 946.91 (3) (b) Whoever offers or pays any remuneration including any
7 ~~kickback, bribe, or rebate~~, directly or, indirectly, overtly, or covertly, ~~in cash or in kind~~
8 money, goods, services, or any other thing of value to any person to induce such
9 person to refer an individual to a person for the furnishing or arranging for the
10 furnishing of any item or service for which payment may be made in whole or in part
11 under ~~a~~[✓] ~~medical assistance program~~ Medical Assistance, or to purchase, lease,
12 order, or arrange for or recommend purchasing, leasing, or ordering any good,
13 facility, service or item for which payment may be made in whole or in part under
14 ~~a~~^{OK} ~~medical assistance program~~ Medical Assistance, is guilty of a Class H felony,
15 except that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the
16 person may be fined not more than \$25,000.

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

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

20 946.91 (3) (c) This subsection ~~shall~~ does not apply to any of the following:

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

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

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

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

7 946.91 (4) ~~No person may~~ Whoever knowingly and willfully ~~make~~ makes or
8 ~~cause~~ causes to be made, or ~~induce~~ induces or ~~seek~~ seeks to induce the making of, any
9 false statement or representation of a material fact with respect to the conditions or
10 operation of any institution or facility in order that such institution or facility may
11 qualify either upon initial certification or upon recertification as a hospital, skilled
12 nursing facility, intermediate care facility, or home health agency. ~~A person who~~
13 ~~violates this subsection~~ is guilty of a Class H felony, except that, notwithstanding the
14 maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than
15 \$25,000.

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

17 **SECTION 25.** 49.49 (3m) (a) of the statutes is renumbered 946.91 (5), and 946.91
18 (5) (intro.), (a) ~~and~~ ^{and (c),} (b) ~~is~~ as renumbered, are amended to read:

19 946.91 (5) (intro.) ~~No provider may~~ Whoever knowingly ~~impose~~ imposes upon
20 a Medical Assistance recipient charges in addition to payments received for services
21 under ss. 49.45 to 49.471 or knowingly ~~impose~~ imposes direct charges upon a
22 recipient in lieu of obtaining payment under ss. 49.45 to 49.471 ~~except under the~~
23 ~~following conditions~~ is guilty of a Class H felony, except that, notwithstanding the
24 maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than
25 \$25,000. This subsection does not apply under any of the following circumstances:

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

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

Insert 11-12

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

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

15 49.49 (3p) (title) ~~OTHER~~ PROHIBITED PROVIDER CHARGES.

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

17 **SECTION 29.** 49.49 (4) (a) and (b) of the statutes are consolidated, renumbered
18 946.91 (6) and amended to read:

19 946.91 (6) ~~No person~~ Whoever, in connection with the ~~medical assistance~~
20 ~~program~~ Medical Assistance when the cost of the services provided to the patient is
21 paid for in whole or in part by the state, ~~may knowingly and willfully charge, solicit,~~
22 ~~accept or receive~~ intentionally charges, solicits, accepts, or receives, in addition to
23 any amount otherwise required to be paid under ~~a medical assistance program~~
24 Medical Assistance, any gift, money, donation, or other consideration, other than a
25 charitable, religious, or philanthropic contribution from an organization or from a

1 person unrelated to the patient, as a precondition of admitting a patient to a hospital,
2 skilled nursing facility, or intermediate care facility, or as a requirement for the
3 patient's continued stay in such a facility. ~~(b) A person who violates this subsection~~
4 is guilty of a Class H felony, except that, notwithstanding the maximum fine specified
5 in s. 939.50 (3) (h), the person may be fined not more than \$25,000.

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

7 49.49 (5) COUNTY COLLECTION. Any county may retain ~~15%~~ 15 percent of state
8 medical assistance funds that are recovered due to the efforts of a county employee
9 or officer or, if the county initiates action by the department of justice, due to the
10 efforts of the department of justice under s. ~~49.495~~ 49.846. This subsection applies
11 only to recovery of medical assistance that was provided as a result of fraudulent
12 activity by a recipient or by a provider.

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

14 49.49 (7) (d) A commission's imposition of an assessment described under par.
15 (b), a member's payment of the assessment as described under par. (c), and
16 acceptance of the payment by the commission do not constitute conduct prohibited
17 under sub. ~~(4)~~ ^{S.} 946.91 (6) or prohibited under s. DHS 106.04 (3), Wis. Adm. Code, in
18 effect on May 26, 2010. It is the intent of the legislature to create a mechanism
19 whereby 2 or more political subdivisions may share in the operation, use, and
20 funding of a nursing home or intermediate care facility without violating 42 USC
21 1320a-7b (d) or 42 USC 1396a (a) (25) (C).

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

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

✓ or any other public assistance program

1 49.846 (2) The department of justice or the district attorney may institute,
 2 manage, control, and direct, in the proper county, any prosecution for violation of
 3 criminal laws affecting ~~the medical~~ a public assistance program, including ~~but not~~
 4 ~~limited to laws in this chapter, chs. 939 to 951~~ relating to ~~medical assistance~~
 5 ~~contained in this subchapter~~ Medical Assistance, Wisconsin Works, the food stamp
 6 program, and emergency assistance under s. 49.138, and laws affecting the health,
 7 safety, and welfare of public assistance program recipients of ~~medical assistance~~. For
 8 this purpose the department of justice shall have and exercise all powers conferred
 9 upon district attorneys in such cases. The If a prosecution under this section involves
 10 a person holding a license granted by the medical examining board or an interested
 11 affiliated credentialing board, the department of justice or district attorney shall
 12 notify the medical examining board or the interested affiliated credentialing board
 13 of any such the prosecution of a person holding a license granted by the board or
 14 affiliated credentialing board.

15 **SECTION 34.** 49.688 (9) (a) of the statutes is amended to read:
 16 49.688 (9) (a) The department shall promulgate rules relating to prohibitions
 17 on fraud that are substantially similar to applicable provisions under s. 49.49 (1) (a)
 18 946.91 (2).

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

21 **SECTION 36.** 49.795 (1) (a), (b), (c), (d) and (e) of the statutes are renumbered
 22 946.92 (1) (a), (b), (c), (d) and (e), and 946.92 (1) (b), (c) and (d), as renumbered, are
 23 amended to read:

24 946.92 (1) (b) "Food" means items which that may be purchased using food
 25 coupons stamp program benefits under 7 USC 2012 (g) and 2016 (b).

1 (c) “Food stamp program” means the federal food stamp program under 7 USC
2 2011 to ~~2029~~ 2036a.

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

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

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

9 946.92 (2) (c) No person may knowingly issue food ~~coupons~~ stamp program
10 benefits to a person who is not an eligible person or knowingly issue food ~~coupons~~
11 stamp program benefits to an eligible person in excess of the amount for which the
12 person’s household is eligible.

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

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

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

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

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

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

1 946.92 (3) (b) In addition to the penalties applicable under par. (a), ~~(b) or (c)~~,
2 the court shall suspend a person who violates ~~this section sub. (2)~~ from participation
3 in the food stamp program as follows:

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

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

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

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

13 946.92 (3) (c) In addition to the penalties applicable under par. (a), ~~(b) or (c)~~,
14 a court shall permanently suspend from the food stamp program a person who has
15 been convicted of an offense under 7 USC 2024 (b) or (c) involving an item covered
16 by 7 USC 2024 (b) or (c) having a value of \$500 or more.

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

19 **49.796 Food stamp reinstatement.** The A person may apply to ~~the a~~
20 ~~multicounty consortium, as defined in s. 49.78 (1) (br), or the a~~ federally recognized
21 American Indian tribal governing body or, if the person is a supplier, as defined in
22 s. 946.92 (1) (d), to the federal department of agriculture for reinstatement of benefits
23 following ~~the a~~ period of suspension imposed under s. 946.92, if the suspension is not
24 permanent.

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

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

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

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

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

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

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

19 49.797 (2) (a) Notwithstanding s. 46.028 and except as provided in par. (b) and
20 sub. (8), the department shall administer a statewide program to deliver food stamp
21 benefits to recipients of food stamp benefits by an electronic benefit transfer system.
22 All suppliers, as defined in s. ~~49.795~~ 946.92 (1) (d), may participate in the delivery
23 of food stamp benefits under the electronic benefit transfer system. The department
24 shall explore methods by which nontraditional retailers, such as farmers' markets,

1 may participate in the delivery of food stamp benefits under the electronic benefit
2 transfer system.

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

4 **49.835 Affirmation of statements in applications.** (1) A person who
5 makes a statement in a written application for any aid or benefit provided under this
6 chapter is considered to have made an admission as to the existence, correctness, or
7 validity of any fact stated. Such a statement is prima facie evidence against the
8 person who made it in any complaint, information, or indictment, or in any action
9 brought for enforcement of any provision of this chapter.

10 (2) An employee of a county department, a Wisconsin Works agency, a
11 multicounty consortium, the department of health services, or the department of
12 children and families who accepts an application for any aid or benefit under this
13 chapter has the authority to administer an oath to the applicant that the information
14 given is true and correct to the best of the applicant's knowledge.

15 (3) The department of children and families and the department of health
16 services shall promulgate rules that specify standards and procedures for the
17 administration of an oath to an applicant for any aid or benefit under this chapter
18 that the information provided by the applicant is true and correct to the best of the
19 applicant's knowledge.

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

21 49.846 (1) In this section, "public assistance program" means any program
22 administered by the department of health services or the department of children and
23 families under this chapter under which the department administering the program
24 provides services, benefits, or other assistance to individuals or families.

25 **SECTION 48.** 49.95 of the statutes is repealed.

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

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

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

7 940.11 (2) Whoever hides or buries a corpse, with intent to conceal a crime or
8 avoid apprehension, prosecution, or conviction for a crime or notwithstanding s.
9 ~~49.141 (7), 49.49 (1), or 49.795~~ 946.90 (2) or (3), 946.91 (2), 946.92, or 946.93 (2) or
10 (3) with intent to collect benefits under one of those sections the assistance program
11 for families with dependent children, administered under ss. 49.141 to 49.161, the
12 Medical Assistance program administered under subch. IV of ch. 49, or the food
13 stamp program, as defined in s. 49.79 (1) (c), is guilty of a Class G felony.

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

15 946.90 (title) **Wisconsin Works fraud.**

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

17 946.90 (1) In this section:

18 (a) "Provider" means a Wisconsin Works agency ~~or~~ a person that contracts with
19 a Wisconsin Works agency to provide services to a participant in Wisconsin Works

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

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

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

24 946.90 (2) Whoever does any of the following is guilty of a Class A
25 misdemeanor:

Insert 18-20

Insert 18-19

18

19

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

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

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

10 **946.91 (title) Medical Assistance fraud. (1)** In this section:

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

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

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

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

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

23 946.92 **(3)** (a) Whoever violates sub. (2) is subject to the following penalties:

24 1. If the value of the food stamp program benefits does not exceed \$100, a Class
25 B misdemeanor.

****NOTE: This is essentially the recreation of s. 49.795 (8) (a) 1. and (b) 1. However, because the penalty is now in the criminal code, it needs to be a classified penalty, i.e. a certain class of misdemeanor or felony. For purposes of this draft, I based the classification on the existing fine under s. 49.795 (8), which is up to \$1,000. Please note as a Class B misdemeanor, the amount of possible jail time is reduced from not more than one year, under current law, to no more than 90 days. If this is not consistent with your intent, please let me know what the penalty should be if the value of the benefits do not exceed \$100. Also, please note that there is not a separate provision for 2nd or subsequent offenses at this value level because the penalty is the same for first and subsequent offenses under current law.

1 2. Except as provided in subd. 3., if the value of the food stamp program benefits
2 exceeds \$100, but is less than \$5,000, a Class I felony.

3 3. If the value of the food stamp program benefits exceeds \$100, but is less than
4 \$5,000, and the person has a prior conviction under this section, a Class H felony.

5 4. If the value of the food stamp program benefits is \$5,000 or more, a Class G
6 felony.

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

8 **946.93 Public assistance fraud.** (1) In this section, "public assistance"
9 means any aid, benefit, or services provided under ch. 49.

10 (2) Whoever intentionally makes or causes to be made any false statement or
11 representation of material fact in any application for or receipt of public assistance
12 is guilty of a Class ~~H felony~~ *A misdemeanor*

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

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

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

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

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

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

9 1. If the value of the payment or benefit does not exceed \$300, a Class B
10 forfeiture.

11 2. If the value of the payment or benefit is more than \$300 but does not exceed
12 \$1,000, a Class B misdemeanor.

13 3. If the value of the payment or benefit is more than \$1,000 but does not exceed
14 \$2,000, a Class A misdemeanor.

15 4. If the value of the payment or benefit is more than \$2,000 but does not exceed
16 \$5,000, a Class I felony.

17 5. If the value of the payment or benefit is more than \$5,000 but does not exceed
18 \$10,000, a Class H felony.

19 6. If the value of the payment or benefit is more than \$10,000, a Class G felony.

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

1 **(5)** (a) Whoever solicits or receives money, goods, services, or any other thing
2 of value in return for referring an individual to a person for the furnishing or
3 arranging for the furnishing of any item or service for which a public assistance
4 payment may be made in whole or in part, or in return for purchasing, leasing,
5 ordering, or arranging for or recommending purchasing, leasing, or ordering any
6 good, facility, service, or item for which public assistance payment may be made in
7 whole or in part, is guilty of a Class H felony, except that, notwithstanding the
8 maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than
9 \$25,000.

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

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

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

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

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

6 **SECTION 57. Nonstatutory provisions.**

7 (1) PUBLIC ASSISTANCE APPLICATIONS; RULES.

8 (a) The department of children and families shall present the statement of
9 scope of the rules required under section 49.835 (3) of the statutes, as created by this
10 act, to the governor for the approval under section 227.135 (2) of the statutes no later
11 than the 30th day after the effective date of this paragraph. The department of
12 children and families shall submit in proposed form the rules required under section
13 49.835 (3) of the statutes, as created by this act, to the legislative council staff under
14 section 227.15 (1) of the statutes no later than the first day of the 10th month
15 beginning after the governor approves the statement of scope for the rules.

16 (b) The department of health services shall present the statement of scope of
17 the rules required under section 49.835 (3) of the statutes, as created by this act, to
18 the governor for the approval under section 227.135 (2) of the statutes no later than
19 the 30th day after the effective date of this paragraph. The department of health
20 services shall submit in proposed form the rules required under section 49.835 (3) of
21 the statutes, as created by this act, to the legislative council staff under section
22 227.15 (1) of the statutes no later than the first day of the 10th month beginning after
23 the governor approves the statement of scope for the rules.

24 (2) RISK MANAGEMENT, QUALITY ASSURANCE, AND DEBT COLLECTION. The authorized
25 FTE positions for the department of children and families are increased by 3.0 FED

1 positions, to be funded from the appropriation under section 20.437 (1) (n) of the
2 statutes, for the purpose of performing functions related to field auditing, risk
3 management assessment, quality assurance, and asset collection.

4 **SECTION 58. Fiscal changes.**

5 (1) RISK MANAGEMENT, QUALITY ASSURANCE, AND DEBT COLLECTION. In the schedule
6 under section 20.005 (3) of the statutes for the appropriation to the department of
7 children and families under section 20.437 (1) (a) of the statutes, as affected by the
8 acts of 2013, the dollar amount is increased by \$643,000 for the first fiscal year of the
9 fiscal biennium in which this subsection takes effect to increase the authorized FTE
10 positions for the department by 9.0 GPR positions for functions related to field
11 auditing, risk management assessment, quality assurance, and asset collection. In
12 the schedule under section 20.005 (3) of the statutes for the appropriation to the
13 department of children and families under section 20.437 (1) (a) of the statutes, as
14 affected by the acts of 2013, the dollar amount is increased by \$782,300 for the second
15 fiscal year of the fiscal biennium in which this subsection takes effect to provide
16 funding for the positions authorized under this subsection.

17 **SECTION 59. Initial applicability.**

18 (1) PUBLIC ASSISTANCE APPLICATIONS. The treatment of section 49.835 of the
19 statutes first applies to applications for aid or benefits under chapter 49 of the
20 statutes that are received by the department of health services or the department of
21 children and families on the effective date of this subsection.

22 (2) PUBLIC ASSISTANCE FRAUD. The treatment of section 946.93 of the statutes
23 first applies to acts and omissions that occur on the effective date of this subsection.

24 (END)

D - note

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1949/P3ins

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in is run

INSERT 11-12

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

History: 1977 c. 418; 1979 c. 89; 1981 c. 317; 1985 a. 29 s. 3202 (23); 1985 a. 269; 1989 a. 23, 31; 1995 a. 27; 1997 a. 283; 2001 a. 109; 2003 a. 309; 2007 a. 20; 2009 a. 283.

(END OF INSERT 11-12)

INSERT 18-19

5 *no G*, or a person that provides child care for reimbursement under s. 49.155 *✓* *NO G*

(END OF INSERT 18-19)

INSERT 18-20

****NOTE: I used the word "person" in the definition above, instead of "entity," because it has the meaning given in s. 990.01 (26), *✓* so is not limited to natural persons.

(END OF INSERT 18-20)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1949/P3dn

PJK:.....

rm
jld

date

This redraft includes all of the changes we most recently discussed. I can add any changes requested by DHS in an introducible version, or this version can be made introducible without further changes. ✓

Pamela J. Kahler
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1949/P3dn
PJK:jld:jf

May 8, 2013

This redraft includes all of the changes we most recently discussed. I can add any changes requested by DHS in an introducible version, or this version can be made introducible without further changes.

Pamela J. Kahler
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S-13

Note

Sen Darling's Office

by phone

re: LRB-1949

- ① change timing for rules to 18 months
(is 10 now)
- ② to position authorizations, limit
to programs administered
by DCF



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1949/PS
FFK&PJK:jld:jf

r m i r m

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2013 Bill

SOON
(w/5-13)

4

Reger

1 AN ACT *to repeal* 49.141 (7) (b), 49.141 (9) (title), 49.141 (10) (title) and (b), 49.49

2 (1) (title) and (a) (intro.), 49.49 (1) (b), 49.49 (2) (title) and (2) (a) (title), 49.49

3 (2) (b) (title), 49.49 (2) (c) (title), 49.49 (3) (title), 49.49 (3m) (title), 49.49 (3m)

4 (b), 49.49 (4) (title), 49.795 (1) (cm), 49.795 (7), 49.795 (8) (a), (b) and (c) and

5 49.95; *to renumber* 49.495 (title) and 49.795 (title) and (1) (intro.); *to*

6 *renumber and amend* 49.141 (7) (a), 49.141 (9) (a) to (c), 49.141 (10) (a), 49.49

7 (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

8 (3m) (a), 49.495, 49.795 (1) (a), (b), (c), (d) and (e), 49.795 (2) to (6), 49.795 (8)

9 (d) 1., 49.795 (8) (d) 1m., 49.795 (8) (d) 2. and 49.795 (8) (e) and (f); *to*

10 *consolidate, renumber and amend* 49.49 (4) (a) and (b); *to amend* 49.141

11 (7) (c) (intro.) and 1., 49.141 (8), 49.32 (8), 49.45 (2) (b) 7. (intro.) and a., and (11),

12 49.49 (3p) (title), 49.49 (5), 49.49 (7) (d), 49.688 (9) (a), 49.797 (2) (a), 59.54 (23)

13 and 940.11 (2); *to repeal and recreate* 49.141 (7) (title); and *to create* 49.835,

14 49.846 (1), 946.90 (title), 946.90 (1), 946.90 (2), 946.91 (title), (1) and (2) (intro.),

15 946.92 (3) (a) and 946.93 of the statutes; **relating to:** applications for public

1 assistance programs, offenses in public assistance programs, granting
2 rule-making authority, providing a penalty, and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, various offenses related to the Medical Assistance program (MA), Wisconsin Works (W-2), the federal Supplemental Nutrition Assistance Program, formerly known as the food stamp program and currently known in Wisconsin as FoodShare, and other public assistance programs administered by the Department of Children and Families (DCF) and the Department of Health Services (DHS) (public assistance programs) are subject to criminal penalties. For example, a person who makes or causes to be made any false statement or representation of a material fact in an application for a benefit or payment, or for use in determining rights to any benefit or payment, under MA is subject to a Class H felony. Similarly, a person who knowingly and willfully makes or causes to be made any false statement or representation of a material fact in an application for W-2 benefits or payments may be fined not more than \$10,000, imprisoned for not more than nine months, or both. This bill moves offenses related to public assistance programs to the chapter of the Wisconsin Statutes that relates to crimes against government and its administration. Specifically, under the bill, that chapter of the Wisconsin Statutes contains provisions related to W-2 fraud, MA fraud, FoodShare fraud, and general public assistance fraud. In addition, the bill adds 12 employee positions to DCF for the purpose of performing functions related to field auditing, risk management assessment, quality assurance, and asset collection as a tool for collecting debts.

Under current law, the Department of Justice (DOJ) or a district attorney is authorized to prosecute violations of criminal laws affecting MA. Under the bill, DOJ or a district attorney is authorized to prosecute violations of criminal laws affecting any public assistance program, including W-2, FoodShare, and MA.

Under current law, any person who 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, which may be used in an enforcement action. Under the bill, an employee who accepts an application for public assistance is authorized to administer an oath to the applicant that the information given is true and correct to the best of the applicant's knowledge. The bill also requires DCF and DHS to promulgate rules providing standards and procedures for the administration of such an oath.

For further information see the *state* 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.** 49.141 (7) (title) of the statutes is repealed and recreated to read:
2 49.141 (7) (title) SUSPENSIONS.

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

5 946.90 (3) ~~A person who is convicted of violating sub. (6) in connection with the~~
6 Whoever violates sub. (2) by furnishing ~~by that person~~ of items or services for which
7 payment is or may be made under Wisconsin works Works is guilty of a Class H
8 felony.

****NOTE: It is not clear to me how a person could violate sub. (2) by furnishing items or services. However, this is based on current law. You may want to confirm with DCF how this provision is applied or interpreted under current law and clarify the language accordingly.

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

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

11 49.141 (7) (c) (intro.) Except as provided in par. (d), in addition to the penalties
12 applicable under ~~par. (a) or (b) s. 946.90 (2) or (3)~~, a person shall be suspended from
13 participating in Wisconsin works Works for a period of 10 years, beginning on the
14 date of conviction, if the person is convicted in a federal or state court for any of the
15 following:

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

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

21 49.141 (8) DAMAGES. If a person is convicted under ~~sub. (6) s. 946.90 (2) or (3)~~,
22 the state has a cause of action for relief against the person in an amount equal to 3
23 times the amount of actual damages sustained as a result of any excess payments

SECTION 5

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

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

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

11 946.90 (4) (a) Whoever solicits or receives ~~any remuneration in cash or in-kind~~
12 money, goods, services, or any other thing of value, in return for referring an
13 individual to a person for the furnishing or arranging for the furnishing of any item
14 or service for which payment may be made in whole or in part under Wisconsin ~~works~~
15 Works, or in return for purchasing, leasing, ordering, or arranging for or
16 recommending purchasing, leasing, or ordering any good, facility, service, or item for
17 which payment may be made in whole or in part under Wisconsin ~~works~~ Works, is
18 guilty of a Class H felony, except that, notwithstanding the maximum fine specified
19 in s. 939.50 (3) (h), the person may be fined not more than \$25,000.

20 (b) Whoever offers or pays ~~any remuneration in cash or in-kind~~ money, goods,
21 services, or any other thing of value to any person to induce the person to refer an
22 individual to a person for the furnishing or arranging for the furnishing of any item
23 or service for which payment may be made in whole or in part under Wisconsin ~~works~~
24 Works, or to purchase, lease, order, or arrange for or recommend purchasing, leasing,
25 or ordering any good, facility, service or item for which payment may be made in

1 whole or in part under any provision of Wisconsin ~~works~~ Works, is guilty of a Class
2 H felony, except that, notwithstanding the maximum fine specified in s. 939.50 (3)
3 (h), the person may be fined not more than \$25,000.

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

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

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

11 946.90 (5) A provider ~~may not~~ who knowingly ~~impose~~ imposes upon a recipient
12 participant in Wisconsin Works charges in addition to payments received by the
13 provider for services under Wisconsin works Works or knowingly ~~impose~~ imposes
14 direct charges upon a ~~recipient~~ participant in Wisconsin Works in lieu of obtaining
15 payment under Wisconsin ~~works~~ unless Works is guilty of a Class H felony, except
16 that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may
17 be fined not more than \$25,000. This subsection does not apply if benefits or services
18 are not provided under Wisconsin ~~works~~ Works and the recipient Wisconsin Works
19 participant is advised of this fact prior to receiving the service.

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

21 49.32 (8) PERIODIC EARNINGS CHECK BY DEPARTMENT. The department shall make
22 a periodic check of the amounts earned by recipients of aid to families with dependent
23 children under s. 49.19 and by participants under Wisconsin works under ss. 49.141
24 to 49.161 through a check of the amounts credited to the recipient's social security
25 number. The department shall make an investigation into any discrepancy between

1 the amounts credited to a social security number and amounts reported as income
2 on the declaration application and take appropriate action under s. ~~49.95~~ 946.93
3 when warranted. The department shall use the state wage reporting system under
4 1985 Wisconsin Act 17, section 65 (1), when the system is implemented, to make
5 periodic earnings checks.

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

8 49.45 (2) (b) 7. (intro.) Require, as a condition of certification under par. (a) 11.,
9 all providers of a specific service that is among those enumerated under s. 49.46 (2),
10 49.47 (6) (a), or 49.471 (11), as specified in this subdivision, to file with the
11 department a surety bond issued by a surety company licensed to do business in this
12 state. Providers subject to this subdivision provide those services specified under s.
13 49.46 (2), 49.47 (6) (a), or 49.471 (11) for which providers have demonstrated
14 significant potential to violate s. 49.49 (1) (a), (2) (a) or (b), (3), (3m) (a), (3p), (4) (a),
15 or (4m) (a) or 946.91 (2), (3) (a) or (b), (4), (5), or (6), to require recovery under par.
16 (a) 10., or to need additional sanctions under par. (a) 13. The surety bond shall be
17 payable to the department in an amount that the department determines is
18 reasonable in view of amounts of former recoveries against providers of the specific
19 service and the department's costs to pursue those recoveries. The department shall
20 promulgate rules to implement this subdivision that specify all of the following:

21 a. Services under ~~medical assistance~~ Medical Assistance for which providers
22 have demonstrated significant potential to violate s. 49.49 (1) (a), (2) (a) or (b), (3),
23 (3m) (a), (3p), (4) (a), or (4m) (a) or 946.91 (2), (3) (a) or (b), (4), (5), or (6), to require
24 recovery under par. (a) 10., or to need additional sanctions under par. (a) 13.

1 (11) PENALTY. Any person who receives or assists another in receiving
2 assistance under this section, to which the recipient is not entitled, shall be subject
3 to the penalties under ~~s. 49.95~~ ss. 946.91 and 946.93.

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

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

7 946.91 (2) (a) ~~Knowingly and willfully make~~ Intentionally makes or ~~cause~~
8 causes to be made any false statement or representation of a material fact in any
9 application for any Medical Assistance benefit or payment.

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

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

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

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

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

3 **49.49 (1d) DAMAGES.** If any person is convicted under ~~this subsection~~ s. 946.91
4 (2), the state shall have a cause of action for relief against such person in an amount
5 3 times the amount of actual damages sustained as a result of any excess payments
6 made in connection with the offense for which the conviction was obtained. Proof by
7 the state of a conviction under ~~this section~~ s. 946.91 (2) in a civil action shall be
8 conclusive regarding the state's right to damages and the only issue in controversy
9 shall be the amount, if any, of the actual damages sustained. Actual damages shall
10 consist of the total amount of excess payments, any part of which is paid by state
11 funds. In any such civil action the state may elect to file a motion in expedition of
12 the action. Upon receipt of the motion, the presiding judge shall expedite the action.

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

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

16 **946.91 (3) (a)** ~~Any person who~~ Whoever solicits or receives ~~any remuneration,~~
17 ~~including any kickback, bribe, or rebate,~~ directly or, indirectly, overtly, or covertly, in
18 ~~cash or in kind,~~ money, goods, services, or any other thing of value in return for
19 referring an individual to a person for the furnishing or arranging for the furnishing
20 of any item or service for which payment may be made in whole or in part under ~~a~~
21 ~~medical assistance program~~ Medical Assistance, or in return for purchasing, leasing,
22 ordering, or arranging for or recommending purchasing, leasing, or ordering any
23 good, facility, service, or item for which payment may be made in whole or in part
24 under ~~a medical assistance program~~ Medical Assistance, is guilty of a Class H felony,

1 except that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the
2 person may be fined not more than \$25,000.

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

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

6 946.91 (3) (b) Whoever offers or pays ~~any remuneration including any~~
7 ~~kickback, bribe, or rebate,~~ directly ~~or,~~ indirectly, overtly, or covertly, ~~in cash or in kind~~
8 money, goods, services, or any other thing of value to any person to induce such
9 person to refer an individual to a person for the furnishing or arranging for the
10 furnishing of any item or service for which payment may be made in whole or in part
11 under ~~a medical assistance program~~ Medical Assistance, or to purchase, lease, order,
12 or arrange for or recommend purchasing, leasing, or ordering any good, facility,
13 service or item for which payment may be made in whole or in part under ~~a medical~~
14 ~~assistance program~~ Medical Assistance, is guilty of a Class H felony, except that,
15 notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may be
16 fined not more than \$25,000.

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

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

20 946.91 (3) (c) This subsection ~~shall~~ does not apply to any of the following:

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

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

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

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

7 946.91 (4) ~~No person may~~ Whoever knowingly and willfully ~~make~~ makes or
8 ~~cause~~ causes to be made, or ~~induce~~ induces or ~~seek~~ seeks to induce the making of, any
9 false statement or representation of a material fact with respect to the conditions or
10 operation of any institution or facility in order that such institution or facility may
11 qualify either upon initial certification or upon recertification as a hospital, skilled
12 nursing facility, intermediate care facility, or home health agency. ~~A person who~~
13 ~~violates this subsection~~ is guilty of a Class H felony, except that, notwithstanding the
14 maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than
15 \$25,000.

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

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

19 946.91 (5) (intro.) ~~No provider may~~ Whoever knowingly ~~impose~~ imposes upon
20 a Medical Assistance recipient charges in addition to payments received for services
21 under ss. 49.45 to 49.471 or knowingly ~~impose~~ imposes direct charges upon a
22 recipient in lieu of obtaining payment under ss. 49.45 to 49.471 ~~except under the~~
23 ~~following conditions~~ is guilty of a Class H felony, except that, notwithstanding the
24 maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than
25 \$25,000. This subsection does not apply under any of the following circumstances:

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

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

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

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

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

19 49.49 (3p) (title) OTHER PROHIBITED PROVIDER CHARGES.

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

21 **SECTION 29.** 49.49 (4) (a) and (b) of the statutes are consolidated, renumbered
22 946.91 (6) and amended to read:

23 946.91 (6) No person Whoever, in connection with the ~~medical assistance~~
24 ~~program~~ Medical Assistance when the cost of the services provided to the patient is
25 paid for in whole or in part by the state, ~~may knowingly and willfully charge, solicit,~~

1 ~~accept or receive intentionally charges, solicits, accepts, or receives~~, in addition to
2 any amount otherwise required to be paid under ~~a medical assistance program~~
3 Medical Assistance, any gift, money, donation, or other consideration, other than a
4 charitable, religious, or philanthropic contribution from an organization or from a
5 person unrelated to the patient, as a precondition of admitting a patient to a hospital,
6 skilled nursing facility, or intermediate care facility, or as a requirement for the
7 patient's continued stay in such a facility. ~~(b) A person who violates this subsection~~
8 is guilty of a Class H felony, except that, notwithstanding the maximum fine specified
9 in s. 939.50 (3) (h), the person may be fined not more than \$25,000.

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

11 49.49 (5) COUNTY COLLECTION. Any county may retain ~~15%~~ 15 percent of state
12 medical assistance funds that are recovered due to the efforts of a county employee
13 or officer or, if the county initiates action by the department of justice, due to the
14 efforts of the department of justice under s. ~~49.495~~ 49.846. This subsection applies
15 only to recovery of medical assistance that was provided as a result of fraudulent
16 activity by a recipient or by a provider.

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

18 49.49 (7) (d) A commission's imposition of an assessment described under par.
19 (b), a member's payment of the assessment as described under par. (c), and
20 acceptance of the payment by the commission do not constitute conduct prohibited
21 under ~~sub. (4) s. 946.91 (6)~~ or prohibited under s. DHS 106.04 (3), Wis. Adm. Code,
22 in effect on May 26, 2010. It is the intent of the legislature to create a mechanism
23 whereby 2 or more political subdivisions may share in the operation, use, and
24 funding of a nursing home or intermediate care facility without violating 42 USC
25 1320a-7b (d) or 42 USC 1396a (a) (25) (C).

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

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

4 49.846 (2) The department of justice or the district attorney may institute,
5 manage, control, and direct, in the proper county, any prosecution for violation of
6 criminal laws affecting ~~the medical~~ a public assistance program, including ~~but not~~
7 ~~limited to laws in this chapter, chs. 939 to 951~~ relating to medical assistance
8 ~~contained in this subchapter~~ Medical Assistance, Wisconsin Works, the food stamp
9 program, or any other public assistance program, and laws affecting the health,
10 safety, and welfare of public assistance program recipients of medical assistance. For
11 this purpose the department of justice shall have and exercise all powers conferred
12 upon district attorneys in such cases. ~~The~~ If a prosecution under this section involves
13 a person holding a license granted by the medical examining board or an interested
14 affiliated credentialing board, the department of justice or district attorney shall
15 notify the medical examining board or the interested affiliated credentialing board
16 of any such ~~the~~ prosecution of a person holding a license granted by the board or
17 ~~affiliated credentialing board.~~

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

19 49.688 (9) (a) The department shall promulgate rules relating to prohibitions
20 on fraud that are substantially similar to applicable provisions under s. 49.49 (1) (a)
21 946.91 (2).

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

1 **SECTION 36.** 49.795 (1) (a), (b), (c), (d) and (e) of the statutes are renumbered
2 946.92 (1) (a), (b), (c), (d) and (e), and 946.92 (1) (b), (c) and (d), as renumbered, are
3 amended to read:

4 946.92 (1) (b) “Food” means items which that may be purchased using food
5 ~~coupons stamp program benefits~~ under 7 USC 2012 ~~(g)~~ and 2016 (b).

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

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

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

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

14 946.92 (2) (c) No person may knowingly issue food ~~coupons stamp program~~
15 benefits to a person who is not an eligible person or knowingly issue food ~~coupons~~
16 stamp program benefits to an eligible person in excess of the amount for which the
17 person’s household is eligible.

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

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

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

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

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

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

5 946.92 (3) (b) In addition to the penalties applicable under par. (a), ~~(b) or (e)~~,
6 the court shall suspend a person who violates ~~this section sub. (2)~~ from participation
7 in the food stamp program as follows:

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

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

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

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

17 946.92 (3) (c) In addition to the penalties applicable under par. (a), ~~(b) or (e)~~,
18 a court shall permanently suspend from the food stamp program a person who has
19 been convicted of an offense under 7 USC 2024 (b) or (c) involving an item covered
20 by 7 USC 2024 (b) or (c) having a value of \$500 or more.

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

23 **49.796 Food stamp reinstatement.** The A person may apply to the a
24 multicounty consortium, as defined in s. 49.78 (1) (br), or ~~the~~ a federally recognized
25 American Indian tribal governing body or, if the person is a supplier, as defined in

1 s. 946.92 (1) (d), to the federal department of agriculture for reinstatement of benefits
2 following ~~the~~ a period of suspension imposed under s. 946.92, if the suspension is not
3 permanent.

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

6 946.92 (3) (d) 1. If ~~a court finds that~~ a person ~~traded~~ violated sub. (2) by trading
7 a controlled substance, as defined in s. 961.01 (4), for food ~~coupons~~ stamp program
8 benefits, the court shall suspend the person from participation in the food stamp
9 program as follows:

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

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

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

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

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

22 49.797 (2) (a) Notwithstanding s. 46.028 and except as provided in par. (b) and
23 sub. (8), the department shall administer a statewide program to deliver food stamp
24 benefits to recipients of food stamp benefits by an electronic benefit transfer system.
25 All suppliers, as defined in s. ~~49.795~~ 946.92 (1) (d), may participate in the delivery

1 of food stamp benefits under the electronic benefit transfer system. The department
2 shall explore methods by which nontraditional retailers, such as farmers' markets,
3 may participate in the delivery of food stamp benefits under the electronic benefit
4 transfer system.

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

6 **49.835 Affirmation of statements in applications.** (1) A person who
7 makes a statement in a written application for any aid or benefit provided under this
8 chapter is considered to have made an admission as to the existence, correctness, or
9 validity of any fact stated. Such a statement is prima facie evidence against the
10 person who made it in any complaint, information, or indictment, or in any action
11 brought for enforcement of any provision of this chapter.

12 (2) An employee of a county department, a Wisconsin Works agency, a
13 multicounty consortium, the department of health services, or the department of
14 children and families who accepts an application for any aid or benefit under this
15 chapter has the authority to administer an oath to the applicant that the information
16 given is true and correct to the best of the applicant's knowledge.

17 (3) The department of children and families and the department of health
18 services shall promulgate rules that specify standards and procedures for the
19 administration of an oath to an applicant for any aid or benefit under this chapter
20 that the information provided by the applicant is true and correct to the best of the
21 applicant's knowledge.

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

23 49.846 (1) In this section, "public assistance program" means any program
24 administered by the department of health services or the department of children and

1 families under this chapter under which the department administering the program
2 provides services, benefits, or other assistance to individuals or families.

3 SECTION 48. 49.95 of the statutes is repealed.

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

5 59.54 (23) PUBLIC ASSISTANCE; FALSE REPRESENTATION. The board may enact and
6 enforce an ordinance to prohibit conduct that is the same as or similar to conduct that
7 is prohibited by s. ~~49.95 (1)~~ 946.93 (2) and provide a forfeiture for a violation of the
8 ordinance.

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

10 940.11 (2) Whoever hides or buries a corpse, with intent to conceal a crime or
11 avoid apprehension, prosecution, or conviction for a crime or notwithstanding s.
12 ~~49.141 (7), 49.49 (1), or 49.795~~ 946.90 (2) or (3), 946.91 (2), 946.92, or 946.93 (2) or
13 (3) with intent to collect benefits under one of those sections the assistance program
14 for families with dependent children, administered under ss. 49.141 to 49.161, the
15 Medical Assistance program administered under subch. IV of ch. 49, or the food
16 stamp program, as defined in s. 49.79 (1) (c), is guilty of a Class G felony.

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

18 **946.90 (title) Wisconsin Works fraud.**

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

20 946.90 (1) In this section:

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

****NOTE: I used the word "person" in the definition above, instead of "entity,"
because it has the meaning given in s. 990.01 (26), so is not limited to natural persons.

1 (b) “Wisconsin Works” means the assistance program for families with
2 dependent children, administered under ss. 49.141 to 49.161.

3 (c) “Wisconsin Works agency” has the meaning given in s. 49.001 (9).

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

5 **946.90 (2)** Whoever does any of the following is guilty of a Class A
6 misdemeanor:

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

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

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

16 **946.91 (title) Medical Assistance fraud. (1)** In this section:

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

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

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

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

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

5 946.92 **(3)** (a) Whoever violates sub. (2) is subject to the following penalties:

6 1. If the value of the food stamp program benefits does not exceed \$100, a Class
7 B misdemeanor.

8 2. Except as provided in subd. 3., if the value of the food stamp program benefits
9 exceeds \$100, but is less than \$5,000, a Class I felony.

10 3. If the value of the food stamp program benefits exceeds \$100, but is less than
11 \$5,000, and the person has a prior conviction under this section, a Class H felony.

12 4. If the value of the food stamp program benefits is \$5,000 or more, a Class G
13 felony.

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

15 **946.93 Public assistance fraud.** **(1)** In this section, “public assistance”
16 means any aid, benefit, or services provided under ch. 49.

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

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

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

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

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

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

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

12 1. If the value of the payment or benefit does not exceed \$300, a Class B
13 forfeiture.

14 2. If the value of the payment or benefit is more than \$300 but does not exceed
15 \$1,000, a Class B misdemeanor.

16 3. If the value of the payment or benefit is more than \$1,000 but does not exceed
17 \$2,000, a Class A misdemeanor.

18 4. If the value of the payment or benefit is more than \$2,000 but does not exceed
19 \$5,000, a Class I felony.

20 5. If the value of the payment or benefit is more than \$5,000 but does not exceed
21 \$10,000, a Class H felony.

22 6. If the value of the payment or benefit is more than \$10,000, a Class G felony.

23 (4) A person who obtains money, goods, services, or any other thing of value
24 because he or she sends or brings a person to a county department, federally
25 recognized American Indian tribe or band, a multicounty consortium, or Wisconsin

1 Works agency for the purpose of obtaining public assistance is guilty of a Class C
2 misdemeanor.

3 (5) (a) Whoever solicits or receives money, goods, services, or any other thing
4 of value in return for referring an individual to a person for the furnishing or
5 arranging for the furnishing of any item or service for which a public assistance
6 payment may be made in whole or in part, or in return for purchasing, leasing,
7 ordering, or arranging for or recommending purchasing, leasing, or ordering any
8 good, facility, service, or item for which public assistance payment may be made in
9 whole or in part, is guilty of a Class H felony, except that, notwithstanding the
10 maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than
11 \$25,000.

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

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

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

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

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

9 **SECTION 57. Nonstatutory provisions.**

10 (1) PUBLIC ASSISTANCE APPLICATIONS; RULES.

11 (a) The department of children and families shall present the statement of
12 scope of the rules required under section 49.835 (3) of the statutes, as created by this
13 act, to the governor for the approval under section 227.135 (2) of the statutes no later
14 than the 30th day after the effective date of this paragraph. The department of
15 children and families shall submit in proposed form the rules required under section
16 49.835 (3) of the statutes, as created by this act, to the legislative council staff under
17 section 227.15 (1) of the statutes no later than the first day of the ~~30~~¹⁸th month
18 beginning after the governor approves the statement of scope for the rules.

19 (b) The department of health services shall present the statement of scope of
20 the rules required under section 49.835 (3) of the statutes, as created by this act, to
21 the governor for the approval under section 227.135 (2) of the statutes no later than
22 the 30th day after the effective date of this paragraph. The department of health
23 services shall submit in proposed form the rules required under section 49.835 (3) of
24 the statutes, as created by this act, to the legislative council staff under section

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227.15 (1) of the statutes no later than the first day of the 18th month beginning after the governor approves the statement of scope for the rules.

3 (2) RISK MANAGEMENT, QUALITY ASSURANCE, AND DEBT COLLECTION. The authorized
4 FTE positions for the department of children and families are increased by 3.0 FED
5 positions, to be funded from the appropriation under section 20.437 (1) (n) of the
6 statutes, for the purpose of performing functions related to field auditing, risk
7 management assessment, quality assurance, and asset collection. ✓

Insert 24-7

8 **SECTION 58. Fiscal changes.**

9 (1) RISK MANAGEMENT, QUALITY ASSURANCE, AND DEBT COLLECTION. In the schedule
10 under section 20.005 (3) of the statutes for the appropriation to the department of
11 children and families under section 20.437 (1) (a) of the statutes, as affected by the
12 acts of 2013, the dollar amount is increased by \$643,000 for the first fiscal year of the
13 fiscal biennium in which this subsection takes effect to increase the authorized FTE
14 positions for the department by 9.0 GPR positions for functions related to field
15 auditing, risk management assessment, quality assurance, and asset collection. In
16 the schedule under section 20.005 (3) of the statutes for the appropriation to the
17 department of children and families under section 20.437 (1) (a) of the statutes, as
18 affected by the acts of 2013, the dollar amount is increased by \$782,300 for the second
19 fiscal year of the fiscal biennium in which this subsection takes effect to provide
20 funding for the positions authorized under this subsection.

21 **SECTION 59. Initial applicability.**

22 (1) PUBLIC ASSISTANCE APPLICATIONS. The treatment of section 49.835 of the
23 statutes first applies to applications for aid or benefits under chapter 49 of the
24 statutes that are received by the department of health services or the department of
25 children and families on the effective date of this subsection.

