



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-0656/1
FFK:jld

2017 ASSEMBLY BILL 493

September 13, 2017 - Introduced by Representatives GENRICH, HORLACHER, HEBL, ANDERSON, KOLSTE, POPE, BERCEAU, SARGENT, VRUWINK, WACHS, C. TAYLOR, BROSTOFF, CONSIDINE and SUBECK, cosponsored by Senators CARPENTER, L. TAYLOR and HANSEN. Referred to Committee on Education.

- 1 **AN ACT to create** 118.60 (10m), 119.23 (10m) and 946.94 of the statutes; **relating**
2 **to:** fraud in parental choice programs and providing a criminal penalty.

Analysis by the Legislative Reference Bureau

This bill subjects certain acts and omissions related to a Parental Choice Program (PCP) to criminal penalties. Under the bill, intentionally making a false statement or representation in an application to participate in a PCP is a Class A misdemeanor. The bill makes concealing or failing to disclose an event with an intent to fraudulently participate in a PCP or using a payment received under a PCP for an unauthorized purpose either a Class G or Class H felony, depending on the payment a person received under the PCP. Additionally, under the bill, a statement in a written application for a PCP is considered to be an admission of the existence, correctness, or validity of the statement. Finally, this bill authorizes the Department of Justice or a district attorney to prosecute violations of criminal laws affecting a PCP, including laws affecting the health, safety, and welfare of pupils attending a private school participating in a PCP.

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

- 3 **SECTION 1.** 118.60 (10m) of the statutes is created to read:
4 118.60 (**10m**) The department of justice or the district attorney may institute,
5 manage, control, and direct, in the proper county, any prosecution for violation of

ASSEMBLY BILL 493**SECTION 1**

1 criminal laws affecting a parental choice program under this section, including laws
2 relating to parental choice programs under ch. 946 and laws affecting the health,
3 safety, and welfare of pupils attending private schools under parental choice
4 programs. For this purpose the department of justice shall have and exercise all
5 powers conferred upon district attorneys in such cases. The department of justice
6 or district attorney shall notify the department of public instruction of any such
7 prosecution of a person holding a license granted by the department of public
8 instruction.

9 **SECTION 2.** 119.23 (10m) of the statutes is created to read:

10 119.23 **(10m)** The department of justice or the district attorney may institute,
11 manage, control, and direct, in the proper county, any prosecution for violation of
12 criminal laws affecting a parental choice program under this section, including laws
13 relating to parental choice programs under ch. 946 and laws affecting the health,
14 safety, and welfare of pupils attending private schools under parental choice
15 programs. For this purpose the department of justice shall have and exercise all
16 powers conferred upon district attorneys in such cases. The department of justice
17 or district attorney shall notify the department of public instruction of any such
18 prosecution of a person holding a license granted by the department of public
19 instruction.

20 **SECTION 3.** 946.94 of the statutes is created to read:

21 **946.94 Parental choice program fraud. (1)** In this section, “parental choice
22 program” means a parental choice program under s. 118.60 or 119.23.

23 **(2)** Whoever intentionally makes or causes to be made any false statement or
24 representation of material fact in any application to participate in a parental choice
25 program is guilty of a Class A misdemeanor.

ASSEMBLY BILL 493

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

2 (a) Having knowledge of an event affecting the person's eligibility to participate
3 in a parental choice program, conceal or fail to disclose that event with an intent to
4 fraudulently participate in a parental choice program.

5 (b) Receive a payment under a parental choice program and use the funding
6 for purposes that are not authorized under the parental choice program.

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

8 1. If the value of the payment that is obtained as the result of the violation is
9 more than \$5,000 but does not exceed \$10,000, a Class H felony.

10 2. If the value of the payment that is obtained as the result of the violation is
11 more than \$10,000, a Class G felony.

12 (4) Whoever makes any statement in a written application to participate in a
13 parental choice program is considered to have made an admission as to the existence,
14 correctness, or validity of any fact stated. Such a statement is prima facie evidence
15 against the person who made it in any complaint, information, or indictment, or in
16 any action brought for enforcement of any provision of this section.

17 **SECTION 4. Initial applicability.**

18 (1) PARENTAL CHOICE PROGRAM FRAUD. The treatment of section 946.94 of the
19 statutes first applies to acts and omissions that occur on the effective date of this
20 subsection.

21 (END)