



State of Wisconsin
2009 - 2010 LEGISLATURE

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**ASSEMBLY AMENDMENT 9,
TO 2009 SENATE BILL 331**

November 5, 2009 – Offered by Representative Vos.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 23, line 3: after that line, in the material inserted by senate
amendment 3, delete the material beginning with page 6, line 19 and ending with
page 9, line 15, and substitute:

3 **“SECTION 37n.** 49.197 (6) of the statutes is created to read:

4 49.197 (6) REPORTING OF SUSPECTED FRAUDULENT ACTIVITY. (a) 1. If any employee
5 of the department, a county, or a tribal governing body reasonably suspects that
6 fraudulent activity as described in sub. (1m) or (2) (b) has occurred or is occurring,
7 the employee shall immediately report the facts and circumstances contributing to
8 that suspicion to the employee’s immediate supervisor.

9 2. An immediate supervisor who receives a report under subd. 1. shall
10 immediately evaluate the report to determine whether there is reason to suspect that
11 the fraudulent activity has occurred or is occurring. If the immediate supervisor

1 determines that there is reason to suspect that the fraudulent activity has occurred
2 or is occurring, the immediate supervisor shall immediately report the facts and
3 circumstances contributing to that suspicion to the sheriff and to the unit of the
4 department that is responsible for investigating suspected fraudulent activity under
5 sub. (1m).

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

15 (b) Any person participating in good faith in the making of a report under par.
16 (a) 1. or 2. or in initiating, participating in, or testifying in, any action or proceeding
17 in which fraudulent activity as described in sub. (1m) or (2) (b) is alleged shall have
18 immunity from any liability, civil or criminal, that results by reason of the action.
19 For the purpose of any proceeding, civil or criminal, the good faith of any person
20 reporting under par. (a) 1. or 2. shall be presumed.

21 (c) The department, a county, a tribal governing body, or an employee of the
22 department, a county, or a tribal governing body may not take disciplinary action
23 against, or threaten to take disciplinary action against, any person because the
24 person in good faith reported any information under par. (a) 1. or 2. or initiated,
25 participated in, or testified in, any action or proceeding in which fraudulent activity

1 described in sub. (1m) or (2) (b) was alleged or because the department, county, tribal
2 governing body, or employee believes that the person in good faith reported any
3 information under par. (a) 1. or 2. or initiated, participated in, or testified in, such
4 an action or proceeding.

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

12 **SECTION 37q.** 49.845 (4) of the statutes is renumbered 49.845 (4) (a) 1. and
13 amended to read:

14 49.845 (4) (a) 1. Notwithstanding s. 49.197 (1m) and (3), the department of
15 children and families may contract with the department of health services to
16 investigate suspected fraudulent activity on the part of recipients of aid to families
17 with dependent children under s. 49.19 and participants in Wisconsin Works under
18 ss. 49.141 to 49.161 and to conduct activities to reduce payment errors in Wisconsin
19 Works under ss. 49.141 to 49.161, as provided in this section. If any employee of the
20 department of health services reasonably suspects that fraudulent activity as
21 described in this subdivision has occurred or is occurring, the employee shall
22 immediately report the facts and circumstances contributing to that suspicion to the
23 employee's immediate supervisor.

24 **SECTION 37s.** 49.895 (4) (a) 2. and 3. of the statutes are created to read:

1 49.895 (4) (a) 2. An immediate supervisor who receives a report under subd.
2 1. shall immediately evaluate the report to determine whether there is reason to
3 suspect that the fraudulent activity has occurred or is occurring. If the immediate
4 supervisor determines that there is reason to suspect that the fraudulent activity has
5 occurred or is occurring, the immediate supervisor shall immediately report the facts
6 and circumstances contributing to that suspicion to the sheriff and to the unit of the
7 department of health services that is responsible for investigating suspected
8 fraudulent activity as described in subd. 1.

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

19 **SECTION 37t.** 49.895 (4) (b), (c) and (d) of the statutes are created to read:

20 49.895 (4) (b) Any person participating in good faith in the making of a report
21 under par. (a) 1. or 2. or in initiating, participating in, or testifying in, any action or
22 proceeding in which fraudulent activity as described in par. (a) 1. is alleged shall have
23 immunity from any liability, civil or criminal, that results by reason of the action.
24 For the purpose of any proceeding, civil or criminal, the good faith of any person
25 reporting under par. (a) 1. or 2. shall be presumed.

1 (c) The department of health services or an employee of that department may
2 not take disciplinary action against, or threaten to take disciplinary action against,
3 any person because the person in good faith reported any information under par. (a)
4 1. or 2. or initiated, participated in, or testified in, any action or proceeding in which
5 fraudulent activity as described in par. (a) 1. was alleged or because that department
6 or employee believes that the person in good faith reported any information under
7 par. (a) 1. or 2. or initiated, participated in, or testified in, such an action or
8 proceeding.

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

16 **SECTION 37v.** 106.54 (9) of the statutes is created to read:

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

20 **SECTION 37x.** 111.322 (2m) (bm) of the statutes is created to read:

21 111.322 (2m) (bm) The individual files a complaint or attempts to enforce a
22 right under s. 49.197 (6) (d) or 49.845 (4) (d) or testifies or assists in any action or
23 proceeding under s. 49.197 (6) (d) or 49.845 (4) (d).”.”.

24 (END)