



STATE REPRESENTATIVE

# SAMANTHA KERKMAN

## Assembly Bill 533 / Senate Bill 401

### Unemployment Insurance Benefit Theft

Assembly Committee on Public Benefit Reform

Thursday, January 21, 2016

Chairman Born and committee members: thank you holding a hearing today on Assembly Bill 533 and the giving me the opportunity to testify in favor of this legislation.

Assembly Bill 533 provides consistency in punishment for those who steal by making the penalties for someone who intentionally defrauds the Unemployment Insurance system match the penalties in our statutes for theft.

Current penalties for UI benefits theft are substantially lower than those for other theft – and arguably not much of a deterrent. The current penalties for UI benefit theft also do not provide much of an incentive for District Attorneys to prosecute individuals who steal from the UI system. Theft is theft, and it makes no sense to have the penalties be lower if an individual steals UI benefits than they would be if that same individual stole money from a cash register.

The penalties under this bill for knowingly making a false statement or representation to obtain a UI benefit are:

| Value of Benefits Obtained | Penalty   |
|----------------------------|---|
| Up to \$2,500              | Class A misdemeanor<br>\$10,000 / 9 months      |
| \$2,500 - \$5,000          | Class I felony<br>\$10,000 / 3 years & 6 months |
| \$5,000 - \$10,000         | Class H felony<br>\$10,000 / 6 years            |
| Exceeds \$10,000           | Class G felony<br>\$25,000 / 10 years           |

Matching the penalties for Unemployment Insurance benefit theft to those for other theft is fair, protects the integrity of the Unemployment Insurance fund, and helps ensure that the program functions for its intended purpose: a temporary safety net for those who are out of work through no fault of their own.

Thank you for considering Assembly Bill 533 today and I look forward to the committee's support.



# CHRIS KAPENGA

WISCONSIN STATE SENATOR

## Testimony on Assembly Bill 533

*Assembly Committee on Public Benefit Reform*

January 21, 2016

First, I would like to thank Chairman Born and the members of the committee for holding a hearing on Assembly Bill 533. Additionally, I would like to thank Representative Kerkman for her leadership on this issue in the Assembly.

Currently, Wisconsin views UI fraud as a less severe crime than other comparable offenses, such as theft. Defrauding the UI system is no less wrong than any other form of theft. When people look at this bill, they see that it is common sense to treat similar crimes with similar, commensurate penalties.

During a recent review of the UI laws here in Wisconsin, we noted that the penalties for someone who intentionally defrauds the UI system are substantially lower than the theft statutes. This bill seeks to remedy this situation by ensuring similar penalties for similar behavior. The penalties this bill would impose are as follows:

- If the value of any benefits obtained does not exceed \$2,500, is subject to a fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both;
- If the value of any benefits obtained exceeds \$2,500 but does not exceed \$5,000, is guilty of a Class I felony;
- If the value of any benefits obtained exceeds \$5,000 but does not exceed \$10,000, is guilty of a Class H felony;
- If the value of any benefits obtained exceeds \$10,000, is guilty of a Class G felony.

If we put more of a deterrent in place for someone breaking the law, they are less likely to do it. When the potential benefit from scamming the system outweighs the deterrent, there is an incentive for criminals to break the law. The bill, when passed, will create a disincentive to steal taxpayer money. We have already seen an increase in case referrals over the last year, and these penalties will encourage district attorneys to take on even more case referrals from the Department of Workforce Development in the future.

I ask you to consider the recommendation of Assembly Bill 533 for a vote in front of the full Assembly. Thank you again, Chairman Born and members of the committee, for taking the time to hold this public hearing. I look forward to working with you on the passage of this legislation.

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Scott Walker, Governor  
Reginald J. Newson, Secretary

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## Assembly Committee on Public Benefit Reform

January 21, 2016

### Testimony on AB 533, Provided by Georgia Maxwell, Deputy Secretary

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Chairperson Born and members of the Committee:

I am Georgia Maxwell, the Deputy Secretary for the Department of Workforce Development, and I come before you today to testify in support of Assembly Bill 533.

As the committee knows, Unemployment Insurance (UI) fraud impacts UI programs throughout the nation. In 2013, a St. Louis Federal Reserve study found that of the \$108 billion in UI benefits paid nationally, \$3.3 billion was obtained fraudulently. Under the leadership of Governor Walker and the legislature, the Department has put a greater emphasis on ensuring that we protect the employer funded UI Trust Fund which is used solely to pay benefits to workers who lose their employment through no fault of their own. In 2014, the Department collected over \$21 million in fraudulently obtained benefits from previous years.

At the Department, we have a diverse set of tools available to detect fraud. Some of the most successful include our wage record cross match, the state and national new hire cross matches, incarceration cross matches, and fraud detected by agency staff. Although we have many staff who are dedicated to detecting and preventing fraud, all staff play a role in ensuring that accurate and timely benefit payments are made to those who are eligible. We owe this to the employers who fund benefit payments and we owe it to UI claimants who responsibly use the program while dedicating themselves to become reemployed quickly.

Under Governor Walker's leadership, the Department has increased our ability to detect and recover fraudulently obtained benefits while increasing our efforts to prevent future fraud attempts. The Department has taken an active approach in educating both employers and claimants on the consequences of inaccurate reporting of necessary claim information and has continuously encouraged UI claimants to contact the Department with any questions regarding UI before filing their UI claim. By communicating to claimants the repercussions of reporting inaccurate information on their weekly claims and the many penalties for committing fraud, while making more information available to claimants over the internet and making staff available to answer questions through our inquiry line, the Department is working to curtail UI fraud and reduce instances of improper payments.

The Department also works to deter future fraud attempts, in part by referring the most egregious fraud cases to law enforcement for potential criminal prosecution. In 2015 the Division identified and referred 115 cases to local district attorneys. Unfortunately the Division is finding that the existing criminal consequences for fraud are minimal. The maximum fine is \$500, and the most common sentences call for repayment orders, which essentially mirror what the Department can pursue administratively under current law. These consequences fuel the perception that UI benefits theft is less severe than stealing from a brick and mortar store, a bank, or an individual's home. This legislation will correct this imbalance, protect the integrity of the program, and help deter future UI fraud attempts.

The Department will continue to share information, strengthen existing relationships and forge new strategies in an effort to ensure that the UI program remains a fair and reliable system for Wisconsin workers and employers. And, by working with our partners in the Legislature, we will strengthen our state's UI system overall.

Thank you again for your time and for the opportunity to testify today. I am happy to answer any questions the committee may have at this time.



| <b>Summary of Unemployment Insurance Benefit Appeals – 2014</b>   |        |
|---|--------|
| Benefit appeals of Department determinations to <b>Appeal Tribunals (ALJs)</b> :  | 21,694 |
| Benefit appeals of appeal tribunal decisions to <b>LIRC</b> :   | 2,424  |
| <b>Summary of Concealment Cases - 2014</b>  |        |
| Department determinations finding concealment:  | 11,040 |
| Appeals of concealment determinations to <b>Appeal Tribunals</b> :<br>(4.3% of concealment determinations are appealed to appeal tribunals.)  | 470    |
| Appeal tribunal decisions affirming concealment determinations:<br>(54% of concealment determinations are affirmed on appeal.)  | 254    |
| Appeal tribunal decisions reversing concealment determinations:<br>(46% of concealment determinations are reversed on appeal.)  | 216    |
| Appeals of concealment appeal tribunal decisions to <b>LIRC</b> :<br>(42% of concealment appeal tribunal decisions are appealed to LIRC.)<br><br>(Concealment cases appealed to LIRC represent less than 1% of <b>all</b> determinations appealed.) | 196    |
| LIRC decisions affirming concealment appeal tribunal decisions:<br>(17% of concealment appeal tribunal decisions affirmed on review.)   | 34     |
| LIRC decisions reversing concealment appeal tribunal decisions:<br>(63% of concealment appeal tribunal decisions reversed on review.)   | 123    |
| LIRC decisions remanding concealment decisions for additional evidence:<br>(20% of concealment appeal tribunal decisions remanded on review.)   | 39     |

