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## WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

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Memo No. 8

TO: MEMBERS OF THE SPECIAL COMMITTEE ON PUBLIC ASSISTANCE PROGRAM INTEGRITY

FROM: Anna Henning, Staff Attorney, and Anne Sappenfield, Senior Staff Attorney

RE: Update on the Drafting Subcommittee of the Special Committee on Public Assistance Program Integrity

DATE: November 16, 2010

At its November 10, 2010 meeting, the Drafting Subcommittee reviewed four bill drafts. It also considered various recommendations proposed by the Department of Children and Families (DCF) and others. Many of the recommendations were technical in nature and will be included in revised bill drafts for further discussion by the subcommittee and the full committee. Other recommendations made to the subcommittee are more substantive in nature and are summarized below for discussion by the full committee.

### **Summary of Bill Drafts Discussed by the Subcommittee**

The Drafting Subcommittee reviewed the following four bill drafts and provided guidance for their revision:

- **A draft relating to updating terminology to reflect changes to the federal supplemental nutrition assistance program. [WLC: 0009/1.]** This bill draft makes technical changes to ss. 49.79, 49.793, 49.795, and 49.797, Stats., to reflect changes made at the federal level to the federal supplemental nutrition assistance program, formerly the food stamp program. Changes include updating the program name and eliminating outdated references to terms such as “food coupons.”
- **A draft relating to criminal penalties for public assistance violations. [WLC: 00017/1.]** This bill draft moves several provisions of ch. 49, Stats., that contain criminal penalties to ch. 946, Stats., which contains crimes against government and its administration. Where

appropriate, the draft codifies language regarding prohibited conduct in both chapters but provides administrative penalties in ch. 49 and criminal penalties in ch. 946.

- **A draft relating to terms defined in ch. 49, Stats. [WLC: 0020/1.]** This bill draft reorganizes definitions within ch. 49, Stats. With some exceptions, it removes definitions from the general chapter definitions that are used in only one or two sections in the chapter and adds definitions to the general chapter definitions if they are used in more than two sections. It also creates a new definition for the term “intentional program violation.”
- **A draft relating to the reorganization of provisions of ch. 49, Stats. [WLC: 0021/1.]** This bill draft reorganizes the provisions of ch. 49, Stats., to group related provisions, move general provisions to the front of the chapter, and divide the current subchapter relating to DCF programs into two separate subchapters.

### **Substantive Changes Proposed by DCF**

Representatives from DCF made the following recommendations for substantive changes at the subcommittee meeting:

- Amend s. 49.138 (4) (c), Stats., to make the timeframe for petitioning DCF to review a Wisconsin Works (W-2) agency decision relating to the Emergency Assistance program (currently 14 days) mirror the timeline that generally applies to decisions regarding W-2 (currently 21 days).
- Amend s. 49.143 (2) (a), Stats., to eliminate the requirement that appointments to community steering committees be made by each county’s county executive to recognize that W-2 agencies now often serve more than one county.
- Amend s. 49.143 (3g), Stats., to give DCF greater flexibility in determining performance bonuses by directing the department to establish performance criteria through a rule promulgation rather than adhering to factors provided in the current statute. The current factors are:
  - The placement of participants in W-2 employment positions into unsubsidized employment.
  - Whether the above placement is full-time or part-time.
  - The job retention rate, as defined by the department, of former participants in W-2 employment positions.
  - Wages and benefits earned by former participants in W-2 employment positions.
  - Appropriate implementation of W-2.
  - Customer satisfaction.

[s. 49.143 (3g) (a).]

- Amend s. 49.143 (3g), relating to requests for information that a W-2 agency may make and to whom requested information may be disclosed, as follows:
  - Instead of permitting a W-2 agency to request from any person any information that it determines appropriate and necessary, permit it to request information to determine eligibility for W-2 and placement in a W-2 employment position.
  - Cross reference s. 49.32 (10) and (10m), relating to release of information to law enforcement offices and release of addresses to recipients involved in legal proceedings, and s. 49.83, which limits what information may be used or disclosed by a W-2 agency, in s. 49.143 (3g).
- Amend s. 49.145 (2) (n), Stats., to make the lifetime limit for receipt of benefits through the W-2 program applicable only to the receipt of cash assistance. Under current law, a person may not participate in specified W-2 programs or receive W-2 benefits for more than 60 months after the person's 18th birthday. The change would retain the 60-day lifetime limit for cash assistance but remove it for participation in federal block grant and employment programs.
- Amend the eligibility criteria for Wisconsin Shares under s. 49.155 (1m), Stats., to remove the term "unsubsidized" from the phrase "work in an unsubsidized job, including training provided by an employer during the regular hours of employment." The change would enable DCF to include transitional jobs in eligibility criteria for the Wisconsin Shares program.
- Amend s. 49.155 (6m ) (a), Stats., which provides recordkeeping requirements for providers in the Wisconsin Shares program, to clarify that records must be accurately kept on the premises where child care is provided.
- Create new authority to recover overpayments of emergency assistance benefits.
- Amend s. 49.854 (5) (f) to permit DCF to instruct a financial institution to release funds that have been frozen to enforce a levy to pay a child support arrearage. Under current law, if a court determines that child support arrearages are not owed, DCF is required to release the frozen funds. However, it is really the financial institution that may release the funds it has been instructed to freeze.
- Amend s. 49.854 (6) to specify that the county sheriff must seize property that is levied for the purpose of paying a child support arrearage. In addition, require notice of the seizure to be provided to any person having an ownership interest in such property.

**Substantive Change Proposed by Subcommittee Member Hal Menendez**

Subcommittee member Hal Menendez suggested a substantive change appropriate for discussion by the full committee. He suggested that s. 49.96, Stats., be amended to add the caretaker supplement under s. 49.775, Stats., to the list of public assistance benefits that are exempt from tax levy.

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