

1       **AN ACT** *to amend* 49.495 of the statutes; **relating to:** department of justice authority  
2       to prosecute fraud in relation to public assistance programs.

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

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This draft was prepared for the Joint Legislative Council's Special Committee on Public Assistance Program Integrity.

The draft amends s. 49.495, Stats., to authorize the Department of Justice to prosecute fraud related to public assistance programs. Under current law, the department is specifically authorized to prosecute cases related to the Medical Assistance program. The department also has general statutory authority under current law to prosecute crimes that are statewide in nature or importance. No specific authority exists for the prosecution of fraud related to other public assistance programs.

The draft also allocates funding and authorizes one full-time employment position to enable the department's prosecution of public assistance-related crimes.

3       **SECTION 1.** 49.495 of the statutes is amended to read:

4       **49.495 Jurisdiction of the department of justice.** The department of justice or the  
5       district attorney may institute, manage, control and direct, in the proper county, any  
6       prosecution for violation of criminal laws affecting the ~~medical assistance program~~ public  
7       assistance programs under this chapter including ~~but not limited to~~ laws contained in this  
8       chapter and provisions of the criminal code relating to medical assistance ~~contained in this~~  
9       ~~subchapter.~~ Wisconsin works, the supplemental nutrition assistance program, emergency  
10      assistance, and other public assistance programs, and laws affecting the health, safety and  
11      welfare of recipients of ~~medical assistance~~ public assistance programs. For this purpose the  
12      department of justice shall have and exercise all powers conferred upon district attorneys in

1 such cases. ~~The~~ In cases related to the medical assistance program, the department of justice  
2 or district attorney shall notify the medical examining board or the interested affiliated  
3 credentialing board of any ~~such~~ prosecution of a person holding a license granted by the board  
4 or affiliated credentialing board.

5 **SECTION 2. Nonstatutory provision.** In the schedule under section 20.005 (3) of the  
6 statutes for the appropriation to the department of justice under section 20.455 (1) (a) of the  
7 statutes, as affected by the acts of 2011, the dollar amount is increased by [-0-] for fiscal year  
8 2011-12 and the dollar amount is increased by [-0-] for fiscal year 2012-13 to increase the  
9 authorized FTE positions for the department of justice by 1.0 GPR position, to prosecute  
10 public assistance fraud.

**COMMENT:** Does the draft language adequately ensure that the  
department's new prosecutorial authority would exist concurrently with  
district attorneys' existing prosecutorial authority?

11 (END)