



WISCONSIN LEGISLATIVE COUNCIL
REPORT TO THE LEGISLATURE

SPECIAL COMMITTEE ON
PUBLIC ASSISTANCE
PROGRAM INTEGRITY

[2011 SENATE BILL 400]

March 15, 2012

RL 2011-11

Special Committee on Public Assistance Program Integrity

Prepared by:
Anne Sappenfield and Pam Shannon, Senior Staff Attorneys, and Anna Henning, Staff Attorney
March 15, 2012

CONTENTS

PART I - KEY PROVISIONS OF COMMITTEE RECOMMENDATION	3
2011 Senate Bill 400, Relating to Reorganization of Ch. 49, Stats., Changes Affecting Public Assistance Programs, Granting Rule-Making Authority; and Providing a Penalty.....	3
PART II - COMMITTEE ACTIVITY.....	5
Assignment	5
Summary of Meetings.....	5
PART III - RECOMMENDATION INTRODUCED BY THE JOINT LEGISLATIVE COUNCIL	11
2011 Senate Bill 400, Relating to Reorganization of Ch. 49, Stats., Changes Affecting Public Assistance Programs, Granting Rule-Making Authority; and Providing a Penalty.....	11
Appendix 1 - Committee and Joint Legislative Council Votes	15
Appendix 2 - Lists of Joint Legislative Council Members.....	17
Appendix 3 - List of Committee Members	19
Appendix 4 - Committee Materials List	21

PART I

KEY PROVISIONS

OF COMMITTEE RECOMMENDATION

The Joint Legislative Council recommends the following for introduction in the 2011-12 Session of the Legislature.

2011 Senate Bill 400, Relating to Reorganization of Ch. 49, Stats., Changes Affecting Public Assistance Programs, Granting Rule-Making Authority; and Providing a Penalty

2011 Senate Bill 400 makes the following changes to current law:

- Reorganizes ch. 49, Stats., into six subchapters so that general provisions are at the beginning of the chapter and Department of Health Services (DHS) and Department of Children and Families (DCF) programs and authority are more logically organized. This bill also moves many of the criminal offenses and penalties relating to public assistance fraud and other misconduct to the Criminal Code.
- Requires child care providers to keep accurate attendance records and to maintain the records on the premises of the child care provider.
- Permits DCF to recover overpayments under the emergency assistance program that are made to program participants and to others, such as landlords, who receive payments under the program but fail to use the payments for the purpose the payments were made.
- Limits the amount of time DCF may suspend a child care providers payments based upon a reasonable suspicion that the provider has violated a program rule. DCF would be required to allow the suspension to lapse or to pursue a longer-term suspension before the expiration of the temporary suspension.
- Requires DHS, in consultation with DCF, to promulgate rules requiring ongoing training to county and Wisconsin Works (W-2) agency employees relating to fraud prevention and investigation, error reduction, and related activities.
- Makes clear that a W-2 agency may determine if a W-2 participant has committed an intentional program violation and provides appeal rights and graduated sanctions for first and second violations. As under current law, benefits may be permanently denied upon a third intentional violation under the bill.
- Requires DHS and DCF to promulgate rules under which statements made in a benefits application are sworn to or otherwise affirmed as being true to the best of an applicant's knowledge. The bill also permits public assistance workers to administer an oath to applicants.
- Adds payments to parents of supplemental security income recipients to the list of benefits that are currently exempt from taxation, execution, garnishment, attachment, and other processes.

- Requires DCF to waive recovery of overpayments made to a child care provider who provided child care based upon reasonable reliance on information provided by an authorizing agency.

PART II

COMMITTEE ACTIVITY

Assignment

The Joint Legislative Council established the Special Committee on Public Assistance Program Integrity and appointed the initial chairperson by a May 7, 2010 mail ballot. The committee was directed to: study current laws, rules, and policies relating to fraud prevention, detection, investigation, and prosecution, and the current fraud penalty structure, in public assistance programs under ch. 49, Stats. The study was required to include consideration of all of the following: (a) the findings and recommendations of recent Legislative Audit Bureau audits of the Wisconsin Shares child care subsidy program and child care regulation in Wisconsin, and implementation of those recommendations; (b) whether current fraud provisions in ch. 49 should be recodified, streamlined, and made uniform throughout the chapter; (c) the effectiveness of current prohibitions and investigatory and enforcement mechanisms; (d) whether current penalties and associated consequences of a finding of public assistance fraud achieve the goals of fraud prevention and deterrence; (e) incentives for fraud detection by entities administering public assistance programs; (f) whether eligibility provisions in certain public assistance programs increase the likelihood of fraudulent activity; and (g) funding for fraud prevention, detection, investigation, and enforcement at the state and local level.

Membership of the Special Committee was appointed by June 30, 2010 and October 14, 2010, and January 6, 2011 mail ballots. The January 6, 2011 mail ballot also appointed a new chairperson. The final committee membership consisted of two Senators, two Representatives, and eight public members. A list of committee members is included as **Appendix 3** to this report.

Summary of Meetings

The Special Committee held five meetings on the following dates:

August 4, 2010
September 8, 2010
October 12, 2010
November 16, 2010
December 14, 2010

In addition, a subcommittee was established and met twice (see below).

At the August 4, 2010 meeting, the Special Committee heard testimony from invited speakers.

Reggie Bicha, Secretary, DCF, provided an overview of program integrity efforts at DCF, including several specific organizational changes intended to increase the department's focus on program integrity. He also updated the committee regarding the fraud detection and investigation unit established to combat fraud in the Wisconsin Shares program. He made several recommendations for committee recommendations, including a revision of ch. 49, Stats.; a creation of a risk assessment officer in each agency; and treating child care providers more like businesses or vendors than like beneficiaries of state aid.

Janice Mueller, State Auditor, Legislative Audit Bureau (LAB), described LAB's role and summarized LAB's findings from audits of the Wisconsin Shares program. In addition, she discussed best practices for reducing fraud, waste, and abuse. Specifically, she highlighted the importance of increasing transparency; holding agencies accountable for waste; creating incentives for compliance; targeting resources to areas most susceptible to fraud; and imposing reporting requirements.

Following the testimony, the Special Committee had an initial discussion regarding its assignment, during which committee members shared priorities and concerns related to the committee's assignment. Among other ideas, committee members mentioned a need to consider the organizational structure for fraud detection, the possibility of moving statutory provisions with criminal penalties to the Criminal Code, and the importance of emphasizing front-end verification of program eligibility.

At the September 8, 2010 meeting, the Special Committee heard testimony from several invited speakers. First, **Jason Helgerson, Administrator, Division of Health Care Access and Accountability; Jim Jones, Deputy Administrator and Director, Food Share Program; and Alan White, Director, Bureau of Program Integrity, DHS**, described several programs administered by DHS and detailed the department's program integrity efforts with respect to each program. They mentioned the following steps taken to improve program integrity in the Medical Assistance (MA) and Food Share programs: (1) front-end verification, under which error prone cases are identified before a person receives benefits; (2) an income maintenance quality assurance system, which requires 1% of the most error prone cases to be reviewed by a supervisor each month; and (3) the federal Public Assistance Reporting Information System, which matches Wisconsin data with that of other states and federal agencies to identify duplicate benefits. They also noted efforts on the part of local agencies, including investigation and referral of potentially fraudulent activity, data entry to track fraud investigations, administrative disqualification hearings for the Food Share program, and referral of intentional program violations in Food Share and MA for criminal prosecution.

Next, **J.B. Van Hollen, Attorney General**, and **Tom Storm, Assistant Attorney General and Director, Medicaid Fraud Control Unit, Department of Justice (DOJ)**, provided an overview of the Medicaid Fraud and Elder Abuse Unit in DOJ, which investigates and prosecutes Medicaid fraud. Attorney General Van Hollen explained that the unit is effective because of the unit's: (1) independence; (2) expertise; and (3) "special unit" function. He recommended that the unit's model be applied to the investigation and prosecution of other types of public assistance fraud.

Finally, a panel of representatives from county agencies testified. The panel was moderated by **Sarah Diedrick-Kasdorf, Senior Legislative Associate, Wisconsin Counties Association** and included **John Rathman, Deputy Director, Outagamie County Department of Health and Human Services; Marcia MacKenzie, Dane County Corporation Counsel; and Sue Rohde, Fraud Investigator, Waukesha County Department of Health and Human Services**. The panelists discussed the decrease and fragmentation of funding for counties' fraud investigation efforts. They also described typical fraud investigations, including the resources entailed in pursuing different types of fraud.

The meeting concluded with a discussion of the Special Committee's assignment. Chair Jauch suggested that themes that had emerged during the Special Committee's deliberations included the need for greater resources at the county level and the need to provide incentives for prosecutions.

At the October 12, 2010 meeting, the Special Committee heard testimony from **Hal Bergan, Administrator, Division of Unemployment Insurance, Department of Workforce Development (DWD)**. Mr. Bergan provided an overview of the Unemployment Insurance Division's approach to reducing overpayments and fraud with respect to unemployment benefits. He discussed the most common types of overpayments and the process by which the division cross-matches the names of recipients with quarterly wage records collected by DWD, state new hire records, and information shared by neighboring states. He also detailed the division's self-executing system for collecting overpayments.

The Special Committee then discussed an option to establish a new state-level unit to investigate fraud in public assistance programs. The members reached a consensus that a regional consortia approach should be explored and directed Legislative Council staff to develop an option for a regional consortia program that would potentially be established as a pilot project.

Next, the Special Committee reviewed a draft letter addressed to U.S. Department of Agriculture Undersecretary Kevin Concannon at the request of the Special Committee, in response to concerns raised by committee member Jonathan Delagrave regarding federal regulations limiting agencies' ability to report a household's lack of utilization of Food Share benefits to a child protective agency.

Finally, the Special Committee discussed Memo No. 6, *Options for Committee Discussion*. Specific options discussed included the addition of mechanisms to develop more accurate profiles of fraud-prone participants; the correction of inconsistencies with regard to sanctions; and the development of a system to identify red flags to improve system integrity in the Food Share program. The Special Committee agreed that the Drafting Subcommittee could incorporate some of the proposals in a revision of ch. 49, Stats., and that other proposals might be incorporated into a possible pilot program for regional consortia.

At the November 16, 2010 meeting, the Special Committee discussed several options for potential committee recommendation. First, the Special Committee discussed an option to form multi-county consortia to conduct fraud prevention and detection activities. Next, the Special Committee discussed the possibility of creating a state-level office to oversee fraud prevention and detection activities. Committee members raised questions regarding where such an office might be housed and whether DOJ's existing prosecutorial authority needs to be extended.

The Special Committee also discussed a need to increase the amount of training provided to county program administrators to investigate fraud and requested a bill draft addressing that issue.

The Special Committee then discussed concerns regarding the suspension of payments made to child care providers if there is reason to suspect they have violated a statute or rule related to the Wisconsin Shares program. There was consensus to consider a draft placing a 30-day time limit on the suspension of payments on that basis.

Next, the Special Committee discussed statutory authority related to the waiver of recovery of overpayments in the Wisconsin Shares program. The committee directed Legislative Council staff to prepare draft language to codify current administrative rules allowing agencies to waive overpayment recovery and require a waiver if a provider provides a service due to incorrect information from an agency.

In addition, the Special Committee requested a bill draft to require public assistance recipients to take an oath or an affirmation that an applicant's information is accurate and true when applying for public assistance.

Next, the Special Committee directed staff to prepare letters from the committee to DHS and DCF to recommend that both agencies improve training and information-sharing to better detect or prevent fraud.

Finally, the Special Committee reviewed the progress of the Drafting Subcommittee, including numerous technical revisions recommended by the subcommittee in consultation with DCF and DHS. In addition, the committee reviewed several changes presented by the Drafting Subcommittee that could be construed as substantive in nature. There was consensus to draft legislation to permit DCF to recover overpayments made in the emergency assistance program. In addition, the Special Committee requested drafts to require attendance records kept by child care providers participating in Wisconsin Shares to be accurate and kept on the premises and to exempt caretaker supplement payments from execution, garnishment, and attachment.

At the December 14, 2010 meeting, the Special Committee reviewed 11 bill drafts, several draft letters, and a proposal to establish an office of inspector general in the Department of Administration (DOA). At the meeting, the Special Committee preliminarily approved the following bill drafts:

- WLC: 0028/1, a bill draft that had been reviewed by the Drafting Subcommittee. The committee members generally approved the bill draft but directed Legislative Council staff to consult with DCF regarding two minor outstanding issues.

- WLC: 0029/1, which requires child care providers to maintain accurate written records, on the provider's premises, of the daily hours of attendance for each child for whom a provider provides care under the Wisconsin Shares program.

- WLC: 0032/1, which would require DCF to recover overpayments made under the emergency assistance for families with needy children program.

- WLC: 0035/1, which would place a time limitation on DCF's authority to temporarily suspend payments to child care providers based on the department's reasonable suspicion that a provider has violated a statutory provision or administrative rule. The consensus of the committee was that the draft language should be modified to require the department, within a 30-day period, to either rescind the suspension of payments to child care providers or initiate a permanent suspension of such payments.

- WLC: 0036/1, which requires DHS to promulgate rules related to the training of county and W-2 agency employees in fraud prevention and investigation, error reduction, and related activities.

- WLC: 0047/1, which amends and clarifies the process for the denial of benefits based on a determination that an individual intentionally violated a statutory provision or rule related to W-2 or the emergency assistance program on three separate occasions and creates consequences for first and second intentional program violations.

- WLC: 0048/1, which requires administering departments to promulgate rules governing affirmation of statements made in applications for any aid or benefit under ch. 49, Stats.

- WLC: 0049/1, which adds payments made to custodial parents receiving supplemental security income to the list of payments and benefits exempt from levy, attachment, garnishment, and specified other methods of execution.

The Special Committee also reviewed WLC: 0051/1, which provides statutory standards governing DCF's waiver of the recovery of overpayments made under the W-2 and Aid to Families with Dependent Children programs. The committee determined that Legislative Council staff should work with the department to ensure that the bill draft would not jeopardize overpayment recovery efforts.

In addition, the committee discussed a proposal to establish a new entity within DOA that would oversee program integrity activities throughout the state.

The Special Committee also discussed WLC: 0033/1, which directs DHS to establish a four-year pilot program for the formation of consortia comprised of multiple counties or tribal governing bodies.

The Special Committee approved a draft letter addressed to the Co-Chairs-elect of the Joint Legislative Audit Committee, which requests, that the Joint Legislative Audit Committee direct the LAB to conduct a series of reviews of recipient fraud in Wisconsin's public assistance programs.

The Special Committee also approved draft letters, addressed to the Secretaries of DHS and DCF, which recommend that the respective department collaborate with other agencies to facilitate information sharing; conduct a review of formats prone to error; focus on front-end verification in addition to fraud investigation; and increase the amount of training provided to local agency staff.

Finally, the Special Committee reviewed WLC: 0034/1, which authorizes DOJ to prosecute crimes related to programs under ch. 49, Stats., and increases an appropriation to provide DOJ with

one additional full-time equivalent position. The committee directed Legislative Council staff to confirm that the bill draft retains concurrent jurisdiction for district attorney offices.

This was the final meeting of the Special Committee.

The Special Committee formed a Drafting Subcommittee, which met two times, on October 20, 2010 and November 10, 2010.

The Drafting Subcommittee was directed to review the provisions of ch. 49, Stats., Public Assistance and Children and Family Services, relating to fraud investigation, identification and collection of benefit overpayments, sanctions for program violations, and the procedures for imposing and appealing sanctions; make recommendations to recodify these provisions; and consider whether sections of the chapter should be reorganized. It was comprised of the following committee members: Representative Kelda Roys, and public members David Feiss, Hal Menendez, Jonathan Delagrave, and LaTonya Johnson. Various representatives from DCF and DHS also attended the meetings of the Drafting Subcommittee.

At its meetings, the Drafting Subcommittee reviewed proposals and bill drafts relating to the recodification of ch. 49, Stats.; updating terminology to reflect changes to the federal Supplemental Nutrition Assistance Program; the revision of criminal penalties for public assistance violations; and terms defined in ch. 49, Stats. It solicited feedback from DHS and DCF throughout its deliberations.

An update regarding the work of the Drafting Subcommittee was presented to the Special Committee at the Special Committee's November 16, 2010 meeting. Memo No. 8, *Update on the Drafting Subcommittee of the Special Committee on Public Assistance Program Integrity*, presented by Legislative Council staff, detailed the bill drafts reviewed by the subcommittee, including several proposals that entailed program changes recommended by the departments or that were otherwise substantive in nature.

PART III

RECOMMENDATION INTRODUCED BY THE JOINT LEGISLATIVE COUNCIL

This part of the report provides background information on, and a description of, the bill as recommended by the Special Committee on Public Assistance Program Integrity and introduced by the Joint Legislative Council.

The Special Committee was directed to: study current laws, rules, and policies relating to fraud prevention, detection, investigation, and prosecution, and the current fraud penalty structure, in public assistance programs under ch. 49, Stats. The study was required to include consideration of all of the following: (a) the findings and recommendations of recent Legislative Audit Bureau audits of the Wisconsin Shares child care subsidy program and child care regulation in Wisconsin, and implementation of those recommendations; (b) whether current fraud provisions in ch. 49 should be recodified, streamlined, and made uniform throughout the chapter; (c) the effectiveness of current prohibitions and investigatory and enforcement mechanisms; (d) whether current penalties and associated consequences of a finding of public assistance fraud achieve the goals of fraud prevention and deterrence; (e) incentives for fraud detection by entities administering public assistance programs; (f) whether eligibility provisions in certain public assistance programs increase the likelihood of fraudulent activity; and (g) funding for fraud prevention, detection, investigation, and enforcement at the state and local level.

2011 Senate Bill 400, Relating to Reorganization of Ch. 49, Stats., Changes Affecting Public Assistance Programs, Granting Rule-Making Authority; and Providing a Penalty

Background

Reorganization of Ch. 49

Concerns were raised by committee members that ch. 49, Stats., is difficult to navigate as currently organized. In addition, committee members suggested that awareness among law enforcement of public assistance offenses may increase if offenses are placed in the Criminal Code.

Penalty Structure for Intentional Program Violations

Under current law, if a court finds or it is determined after an administrative hearing that a person has intentionally violated, on three separate occasions, any statute or rules governing the W-2 program, a W-2 agency may permanently deny the individual W-2 benefits. No current penalties are imposed under current law for first and second intentional program violations.

Testimony to the committee indicated that there is confusion relating to findings that there has been an intentional program violation. In addition, committee members discussed the possible effectiveness of graduated sanctions.

Emergency Assistance Program Overpayments

Under current law, DCF and DHS are statutorily obligated to recover overpayments made to participants through various public assistance programs. No statutory authority exists under current law to collect overpayments made in the Emergency Assistance for Families with Needy Children program.

Suspension of Payments to Child Care Providers Based on Reasonable Suspicion

Under current law, DCF is authorized to suspend payments to child care providers based on the department's reasonable suspicion that the provider has violated any provision of the statute governing the Wisconsin Shares program, or any rule promulgated to implement the program. Current law does not specify the length of time that the department may suspend payments on that basis.

Under a separate provision, DCF is required to promulgate rules to establish policies and procedures permitting DCF to withhold payments from a child care provider if the provider is found to have submitted false, misleading, or irregular information to DCF or to have failed to comply with the terms of the Wisconsin Shares program and fails to provide an explanation for the noncompliance to the satisfaction of the department.

In addition, if a court finds or if it is determined after an administrative hearing that an individual who is receiving or has received a child care subsidy under the Wisconsin Shares program has violated any provision of the Wisconsin Shares law or rule promulgated under the Wisconsin Shares program, the individual is ineligible to receive a child care subsidy for up to five years, beginning on the date of the judgment or decision.

Concerns were raised to the committee that a child care provider could have his or her license indefinitely suspended based on a reasonable suspicion, but no finding, of a violation.

Oath Requirement for Applicants

Under current law, any person who makes any statement in a written application for aid under ch. 49, Stats., is considered to have made an admission as to the existence, correctness, or validity of any fact stated. This admission may be used in an enforcement action under ch. 49. Applicants for public assistance are not currently required to affirmatively verify the information on an application by oath or affirmation.

Attendance Records Maintained by Child Care Providers

Under current law, a child care provider who provides care for children eligible for the Wisconsin Shares child care subsidy program must maintain attendance records. Specifically, the child care provider must maintain a written record of the daily hours of attendance of each child for whom the provider is providing care under Wisconsin Shares, including the actual arrival and departure times for each child. In addition, such a provider must retain these records for each child for at least three years after the child's last day of attendance, regardless of whether the child care provider is still receiving or eligible to receive payments under Wisconsin Shares.

There was testimony to the committee that the fact that current law does not specify where such records must be maintained has been problematic for enforcement efforts.

Payments Made to Custodial Parents Exempt from Taxation

Under current law, payments made under numerous public assistance programs are exempt from every tax, and from execution, garnishment, attachment, and every other process and shall be inalienable.

Committee members discussed that payments made to custodial parents of supplemental security income recipients are not currently covered by that exemption.

Description

2011 Senate Bill 400 is a consolidated bill, which includes several proposals approved by the Special Committee.

Reorganization of Ch. 49, Stats.

The bill reorganizes ch. 49, Stats., which includes the statutes governing public assistance programs and children and family services. Under the bill, the chapter is divided into the following six subchapters:

Subchapter I – General Provisions.

Subchapter II – Children and Families; Wisconsin Works, Aid to Families, and Child Care Subsidy.

Subchapter III – Children and Families; Other Support Services.

Subchapter IV – Health; Medical Assistance.

Subchapter V – Health; Other Support and Medical Programs and Relief Block Grants.

Subchapter VI – Children and Families; Child Support.

The bill also reorganizes current definitions within ch. 49, Stats., to remove duplication and place definitions in the sections in which they are used or at the beginning of the chapter if they are used throughout the chapter.

Terms defined in the section providing general chapter definitions, s. 49.001, are retained there only if they are used throughout the chapter. If terms appear in only one or two sections of the chapter, the bill moves them to ensure that they are located in the subchapters or sections in which the terms are used.

Cross references are updated throughout the chapter to reflect the reorganization.

Placement of Criminal Provisions in Criminal Code

The bill moves several provisions of ch. 49, Stats., that are offenses with criminal penalties to ch. 946, Stats., of the Criminal Code, relating to crimes against government and its administration. Specifically, the bill creates four new criminal offenses in ch. 946: W-2 fraud, MA fraud, food stamp fraud, and public assistance fraud.

Definition and Penalty Structure for Intentional Program Violations

The bill creates a definition for the term “intentional program violation,” which is not currently defined in ch. 49, Stats. The bill also clarifies that a W-2 agency determines whether a person has intentionally violated a provision of the W-2 program and includes emergency assistance in the list of programs to which the provision applies; creates sanctions for first and second intentional program violations; and provides an opportunity for a person to have a determination of each intentional program violation reviewed.

Recovery of Emergency Assistance Program Overpayments

The bill requires DCF to recover overpayments made under the Emergency Assistance for Families with Needy Children program. Under the bill, the amount recovered may not exceed the amount of emergency assistance paid. The bill requires DCF to promulgate rules to implement the provision.

Waiver of Overpayment Recovery

The bill requires DCF to waive recovery of incorrect payments to a child care provider if the child care provider provided services in reliance on incorrect information provided to the child care provider by a county department or an agency with which DCF contracts.

Suspension of Payments to Child Care Providers Based on Reasonable Suspicion

The bill establishes a time limitation for DCF's authority to suspend payments to child care providers based solely on reasonable suspicion that a provider has violated the program statute or rules. The bill preserves the department's authority to suspend payments based on that basis but requires the department to either rescind the suspension of payments or initiate an action for permanent suspension of payments within 30 working days after an initial suspension on the basis of reasonable suspicion.

Oath Requirement for Applicants

Under the bill, an employee who accepts an application for aid or a benefit has the authority to administer an oath to the applicant that the information given is true and correct to the best of the applicant's knowledge. The bill also requires DCF and DHS to promulgate rules requiring that information provided by an applicant for any aid or benefit under ch. 49, Stats., must be sworn to or otherwise affirmed as being true and correct to the best of the applicant's knowledge.

Attendance Records Maintained by Child Care Providers

The bill requires a child care provider who provides care for children who are eligible for the Wisconsin Shares child care subsidy program to maintain an accurate written record of the daily hours of attendance for each child for whom the provider is providing care under Wisconsin Shares. In addition, under the bill, the attendance records must be kept on the premises where child care is provided.

DHS Required to Provide Training

The bill requires DHS, in consultation with DCF, to provide training related to program integrity to county and W-2 agency employees who administer programs under ch. 49, Stats.

Payments Made to Custodial Parents Exempt from Taxation

The bill adds payments made to custodial parents of supplemental security income recipients to the list of payments and benefits that are exempt from taxation, execution, garnishment, attachment, and other processes.

Appendix 1

Committee and Joint Legislative Council Votes

The following bill draft was recommended by the Special Committee on Public Assistance Program Integrity to the Joint Legislative Council for introduction in the 2011-12 Session of the Legislature. The votes on the draft are as follows:

Special Committee Vote

The Special Committee voted to recommend the following bill draft to the Joint Legislative Council for introduction in the 2011-12 Session of the Legislature. The vote on the bill draft is as follows:

- WLC: 0106/1, relating to reorganization of ch. 49 and changes affecting public assistance programs, on a vote of Ayes, 8 (Sens. Darling and Jauch; Reps. Hintz and Roys; and Public Members Cook, Feiss, Menendez, and Struck); Noes, 1 (Public Member Irvin-Vitela); and Not Voting, 3 (Public Members Basiliere, Delagrave, and Johnson).

Joint Legislative Council Vote

At its May 18, 2011 meeting, the Joint Legislative Council voted as follows on the recommendation of the Special Committee:

*Rep. Ballweg moved, seconded by Rep. Kaufert, that **WLC: 0106/1**, relating to reorganization of ch. 49 and changes affecting public assistance programs, be introduced by the Joint Legislative Council. The motion passed on a roll call vote as follows: Ayes, 18 (Sens. Lazich, Darling, Erpenbach, Galloway, Lasee, Leibham, Miller, Schultz and Taylor; and Reps. Ballweg, Barca, Berceau, Fitzgerald, Grigsby, Kaufert, Nygren, Pasch and Vos); Noes, 0; and Absent, 4 (Sens. Cullen and Fitzgerald; and Reps. Kramer and Suder).*

[Sen. Fitzgerald indicated that he would have voted “aye” had he been present.]

Appendix 2

Joint Legislative Council

[Joint Legislative Council Members Who Selected and Appointed Committee and Its Membership]

Co-Chair

FRED A. RISSER

Senate President

100 Wisconsin Avenue, Unit 501
Madison, WI 53703

Co-Chair

MARLIN D. SCHNEIDER

Representative

3820 Southbrook Lane
Wisconsin Rapids, WI 54494

SENATORS

SPENCER COGGS

7819 W. Potomac Avenue
Milwaukee, WI 53222

SHEILA HARSDORF

N6627 County Road E
River Falls, WI 54022

JUDY ROBSON

2411 E. Ridge Road
Beloit, WI 53511

ALBERTA DARLING

1325 West Dean Road
River Hills, WI 53217

PAT KREITLOW

President Pro Tempore
15854 93rd Avenue
Chippewa Falls, WI 54729

DALE SCHULTZ

515 North Central Avenue
Richland Center, WI 53581

RUSSELL DECKER

Majority Leader

6803 Lora Lee Lane
Schofield, WI 54476

MARK MILLER

4903 Roigan Terrace
Monona, WI 53716

ROBERT WIRCH

3007 Springbrook Road
Pleasant Prairie, WI 53158

SCOTT FITZGERALD

Minority Leader

N4692 Maple Road
Juneau, WI 53039

REPRESENTATIVES

JOAN BALLWEG

170 W. Summit Street
Markesan, WI 53946

DEAN KAUFERT

1360 Alpine Lane
Neenah, WI 54956

MICHAEL SHERIDAN

Speaker

1032 Nantucket Drive
Janesville, WI 53546

TERESE BERCEAU

4326 Somerset Lane
Madison, WI 53711

THOMAS NELSON

Majority Leader
1510 Orchard Drive
Kaukauna, WI 54130

TONY STASKUNAS

Speaker Pro Tempore
2010 South 103rd Court
West Allis, WI 53227

SPENCER BLACK

5742 Elder Place
Madison, WI 53705

MARK POCAN

309 N. Baldwin Street
Madison, WI 53703

ROBIN VOS

4710 Eastwood Ridge
Racine, WI 53406

JEFF FITZGERALD

Minority Leader

910 Sunset
Horicon, WI 53032

This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 Senators and 5 Representatives appointed as are members of standing committees.

Joint Legislative Council

[Current Joint Legislative Council Members Receiving Committee Report]

SENATE MEMBERS

MARY LAZICH, Co-Chair

4405 South 129th Street
New Berlin, WI 53151

TIM CULLEN

3711 N. Spring Hill Drive
Janesville, WI 53545

ALBERTA DARLING

1325 West Dean Road
River Hills, WI 53217

JON ERPENBACH

6150 Briggs Road
Waunakee, WI 53597

SCOTT FITZGERALD

Majority Leader

N4692 Maple Road
Juneau, WI 53039

PAM GALLOWAY

1506 Pine View Lane
Wausau, WI 54403

FRANK LASEE

Room 104 South, State Capitol
P.O. Box 7882
Madison, WI 53707-7882

JOE LEIBHAM

President Pro Tempore

3618 River Ridge Drive
Sheboygan, WI 53083

MARK MILLER

Minority Leader

4903 Roigan Terrace
Monona, WI 53716

DALE SCHULTZ

515 North Central Avenue
Richland Center, WI 53581

LENA TAYLOR

1518 West Capitol
Milwaukee, WI 53206

ASSEMBLY MEMBERS

JOAN BALLWEG, Co-Chair

170 W. Summit Street
Markesan, WI 53946

PETER BARCA

Minority Leader

1339 38 Ave.
Kenosha, WI 53144

TERESE BERCEAU

4326 Somers Lane
Madison, WI 53711

JEFF FITZGERALD

Speaker

910 Sunset
Horicon, WI 53032

TAMARA GRIGSBY

2354 N. 41st Street
Milwaukee, WI 53210

DEAN KAUFERT

1360 Alpine Lane
Neenah, WI 54956

BILL KRAMER

Speaker Pro Tempore

2005 Cliff Alex Ct. South, #3
Waukesha, WI 53189

JOHN NYGREN

N2118 Keller Rd.
Marinette, WI 54143

SANDY PASCH

6301 N. Berkeley Blvd.
Whitefish Bay, WI 53217

SCOTT SUDER

Majority Leader

102 South 4th Avenue
Abbotsford, WI 54405

ROBIN VOS

960 Rock Ridge Road
Burlington, WI 53105

This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 Senators and 5 Representatives appointed as are members of standing committees.

*Terry C. Anderson, Director, Legislative Council Staff
1 East Main Street, Suite 401, P.O. Box 2536, Madison, Wisconsin 53701-2536*

Appendix 3

Public Assistance Program Integrity

Senator Alberta Darling, **Chair**
(Chair 1/11 to completion)
1325 West Dean Road
River Hills, WI 53217

Representative Gordon Hintz, **Vice-Chair**
1209 Waugoo Avenue
Oshkosh, WI 54901

Senator Robert Jauch
(Chair 6/10 to 1/11)
5271 South Maple Drive
Poplar, WI 54864

Representative Kelda Roys
2215 N. Sherman Avenue
Madison, WI 53704

Richard Basiliere
Investigative Auditor Medical Fraud Control &
Elder Abuse Unit
Wisconsin Department of Justice
17 W. Main Street
Madison, WI 53703

Steven Cook
Institute for Research on Poverty,
UW - Madison
1180 Observatory Drive
3412 Social Science Building
Madison, WI 53706-1393

Jonathan Delagrave, Director
Racine County Human Services
2512 Charles Street
Racine, WI 53404

David Feiss, Director
Public Integrity Unit
Milwaukee County District Attorney
Safety Bldg., Room 405
Milwaukee, WI 53233-1485

Lilly B. Irvin-Vitela, Executive Director
Supporting Families Together Assoc.
700 Rayovac Drive
Madison, WI 53711

LaTonya Johnson, President
Local 502 AFSCME
3427 West Saint Paul Avenue
Milwaukee, WI 53208-4124

Hal Menendez, Staff Attorney
Legal Action of Wisconsin, Inc.
315 S. Mills Street
Madison, WI 53715

Linda Struck
Employment & Economic Resource Team
Leader
Eau Claire County Dept. of Human Services
P.O. Box 840
Eau Claire, WI 54702-0840

STUDY ASSIGNMENT: The Special Committee is directed to study current laws, rules, and policies relating to fraud prevention, detection, investigation, and prosecution, and the current fraud penalty structure, in public assistance programs under ch. 49, Stats. The study shall include consideration of all of the following: (a) the findings and recommendations of recent Legislative Audit Bureau audits of the Wisconsin Shares child care subsidy program and child care regulation in Wisconsin, and implementation of those recommendations; (b) whether current fraud provisions in ch. 49 should be recodified, streamlined, and made uniform throughout the chapter; (c) the effectiveness of current prohibitions and investigatory and enforcement mechanisms; (d) whether current penalties and associated consequences of a finding of public assistance fraud achieve the goals of fraud prevention and deterrence; (e) incentives for fraud detection by entities administering public assistance programs; (f) whether eligibility provisions in certain public assistance programs increase the likelihood of fraudulent activity; and (g) funding for fraud prevention, detection, investigation, and enforcement at the state and local level.

12 MEMBERS: 2 Senators; 2 Representatives; and 8 Public Members.

LEGISLATIVE COUNCIL STAFF: Anne Sappenfield and Pam Shannon, Senior Staff Attorneys; Anna Henning, Staff Attorney; and Tracey Young, Support Staff.

Appendix 4

Committee Materials List (Copies of documents are available at www.legis.state.wi.us/lc)

Results of the May 18, 2011 Joint Legislative Council Meeting
<ul style="list-style-type: none">• Results Letter
April 15, 2011 Mail Ballot
<ul style="list-style-type: none">• WLC: 0106/1, relating to reorganization of ch. 49 and changes affecting the public assistance programs.
February 21, 2011 Meeting of the Drafting Subcommittee – CANCELLED
<ul style="list-style-type: none">• WLC: 0089/2, relating to creating an office of inspector general for public assistance, granting rule-making authority, and making an appropriation.
January 27, 2011 Meeting of the Drafting Subcommittee – CANCELLED
December 14, 2010
<ul style="list-style-type: none">• Memo No. 9, Option to Establish a New Unit in the Department of Administration (December 10, 2010).• WLC: 0028/1, relating to recodifying and updating ch. 49, stats.• WLC: 0029/1, relating to child care attendance records.• WLC: 0032/1, relating to recovery of overpayments in the emergency assistance for families with needy children program.• WLC: 0033/1, relating to establishment of county and tribal consortia to conduct public assistance program integrity activities.• WLC: 0034/1, relating to department of justice authority to prosecute fraud in relation to public assistance programs.• WLC: 0035/1, relating to procedures for suspension of payments to child care providers in the Wisconsin Shares program.• WLC: 0036/1, relating to fraud investigation training requirements.• WLC: 0047/1, relating to determinations of intentional program violations.• WLC: 0048/1, relating to statements made and information provided in applications for public assistance.• WLC: 0049/1, relating to exemption from levy of payments to parents of supplemental security income recipients.• WLC: 0051/1, relating to waiver of recovery overpayments.• Draft Letter to Reggie Bicha, Secretary, Department of Children and Families.• Draft Letter to Karen Timberlake, Secretary, Department of Health Services.• Letter to Senator Bob Jauch, from Kevin W. Concannon, Under Secretary, Food, Nutrition, and Consumer Services, United States Department of Agriculture.
November 16, 2010 Meeting
<ul style="list-style-type: none">• Map, 2009 FPI Pilot Agencies.• Memorandum, from Jason Helgerson, Administrator, Division of Health Care Access and Accountability.• Memorandum, <i>Public Benefits Program Integrity Staff Memo No. 6</i>, submitted by Public Member Hal Menendez.• Memo No. 7, <i>Options for Legislation</i> (November 10, 2010).• Memo No. 8, <i>Update on the Drafting Subcommittee of the Special Committee on Public Assistance Program Integrity</i> (November 16, 2010).• WLC: 0017/2, relating to criminal penalties for public assistance violations.• Re-write of Intention Program Violation Statute 49.151 (2), submitted by the Department of Children and Families.

November 10, 2010 Meeting of the Drafting Subcommittee

- [WLC: 0009/1](#), relating to updating terminology to reflect changes to the federal supplemental nutrition assistance program.
- [WLC: 0017/1](#), relating to criminal penalties for public assistance violations.
- [WLC: 0020/1](#), relating to terms defined in chapter 49 of the statutes.
- [WLC: 0021/1](#), relating to reorganization of provisions of ch. 49.
- [Suggestions](#) to Recodify Provisions of Ch. 49, Stats., submitted by the Department of Health Services.

October 20, 2010 Meeting of the Drafting Subcommittee

- [Memo No. 4](#), *Introduction to the Process for Recodification of Provisions of Ch. 49, Stats., Public Assistance and Children and Family Services* (September 30, 2010).

October 12, 2010 Meeting

- [Memo No. 5](#), *Current Law and Options Relating to the Responsibility to Investigate Fraud in Public Assistance Programs* (October 4, 2010).
- [Memo No. 6](#), Options for Committee Discussion (October 5, 2010).
- [Draft Letter](#), to Kevin Concannon, Under Secretary, Food, Nutrition, and Consumer Services, U.S. Department of Agriculture (October 1, 2010).
- [PowerPoint](#) Presentation by Hal Bergan, Administrator, Unemployment Insurance Division, Wisconsin Department of Workforce Development.

September 8, 2010 Meeting

- [Memo No. 2](#), *Program Integrity Provisions Relating to the Wisconsin Medical Assistance and FoodShare Programs* (September 1, 2010).
- [Letter](#), distributed at the request of committee member Hal Menendez (September 1, 2010).>
- [Memo No. 3](#), *Materials from the Department of Children and Families* (September 8, 2010).
 - [Enclosure](#), *Annual Percent Growth CC Expenditures 10/2007 - 8/2010 (Adjusted Twelve-Week Rolling Average)*
 - [Enclosure](#), *CY10 County/Tribe CC Fraud Allocations*
- [PowerPoint](#) Presentation, by Department of Health Services staff.
- [Memo](#), from Sarah Diedrick-Kasdorf, Senior Legislative Associate, Wisconsin Counties Association (September 8, 2010).
- [Memo](#), from Thomas L. Storm, Director, Medicaid Fraud Control and Elder Abuse Unit, Department of Justice (September 8, 2010).
- [Presentation](#), by John Rathman, Deputy Director, Outagamie County Department of Health and Human Services.
- Handouts, from Sue Röhde, Fraud Investigator, Waukesha County Department of Health and Human Services.
 - [Spreadsheet](#), 2009 Overpayments and Savings.
 - [WAPAF](#) Board Meeting Notes 7-26-10.
 - [Income](#) Maintenance Advisory Committee Minutes 8-8-03.
 - [Wisconsin Association on Public Assistance Fraud 2009-10 Board of Directors](#).

August 4, 2010 Meeting

- [Memo No. 1](#), *Wisconsin Works and Wisconsin Shares: Fraud Prevention and Detection, Collection of Overpayments, and Penalties for Fraudulent Activity* (July 28, 2010).
- Legislative Audit Bureau Reports:
 - [Letter Report](#), *Wisconsin Shares Child Care Subsidy Program* (June 2009).
 - [Letter Report](#), *Matching Addresses of Registered Sex Offenders and Child Care Providers* (September 2009).
 - [Report 09-15](#), *Child Care Regulation* (December 2009).
- [Letter](#) from Reggie Bicha, Secretary of Children and Families, to Senator Vinehout and Representative Barca, Co-Chairs, Joint Legislative Audit Committee, regarding progress the Department of Children and Families has made to improve child care regulation and quality in Wisconsin (June 30, 2010).
- [Testimony](#), from Reggie Bicha, Secretary of Children and Families.
- [Handout](#), *Shares Investigation Process*, submitted by Reggie Bicha, Secretary of Children and Families.

