



State of Wisconsin
1997 - 1998 LEGISLATURE

LRBs0355/2
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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1997 ASSEMBLY BILL 500**

February 17, 1998 - Offered by COMMITTEE ON JUDICIARY.

1 **AN ACT** *to renumber and amend* 46.90 (4) (b) 1.; *to amend* 46.90 (4) (a) 1. and
2 2., 50.07 (1) (e), 106.06 (5) and 230.45 (1) (j); and *to create* 16.009 (5), 46.90 (4)
3 (b) 1. b. and c., 46.90 (4) (b) 2. c., 46.90 (4) (d), 50.07 (1) (em) and 50.07 (3) of the
4 statutes; **relating to:** protection against retaliation for reporting to any state
5 official abuse or neglect in certain facilities, providing a cause of action and
6 providing a penalty.

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

7 **SECTION 1.** 16.009 (5) of the statutes is created to read:
8 16.009 (5) (a) No person may do any of the following:
9 1. Discharge or otherwise retaliate or discriminate against any person for
10 contacting, providing information to or otherwise cooperating with any
11 representative of the board.

1 2. Discharge or otherwise retaliate or discriminate against any person on
2 whose behalf another person has contacted, provided information to or otherwise
3 cooperated with any representative of the board.

4 (b) Any person who violates par. (a) may be fined not more than \$1,000 or
5 imprisoned for not more than 6 months or both.

6 (c) 1. In this paragraph, "agency" has the meaning given in s. 111.32 (6) (a).

7 2. Any employe of a state agency who is discharged or otherwise retaliated or
8 discriminated against in violation of par. (a) may file a complaint with the personnel
9 commission under s. 230.45 (1) (j).

10 (d) Any employe of an employer not described in par. (c) and who is discharged
11 or otherwise retaliated or discriminated against in violation of par. (a) may file a
12 complaint with the department of workforce development under s. 106.06 (5).

13 (e) Any person not described in par. (c) or (d) who is retaliated or discriminated
14 against in violation of par. (a) may commence an action in circuit court for damages
15 incurred as a result of the violation.

16 **SECTION 2.** 46.90 (4) (a) 1. and 2. of the statutes are amended to read:

17 46.90 (4) (a) 1. Any person may report to the county agency or to any state
18 official, including any representative of the office of the long-term care ombudsman
19 under s. 16.009 (4), that he or she believes that abuse, material abuse or neglect has
20 occurred if the person is aware of facts or circumstances that would lead a reasonable
21 person to believe or suspect that abuse, material abuse or neglect has occurred. The
22 person shall indicate the facts and circumstances of the situation as part of the
23 report.

24 2. Any person who believes that self-neglect has occurred may report that
25 belief and the facts and circumstances contributing to the belief to the county agency

1 or to any state official, including any representative of the office of the long-term care
2 ombudsman under s. 16.009 (4).

3 **SECTION 3.** 46.90 (4) (b) 1. of the statutes is renumbered 46.90 (4) (b) 1. a. and
4 amended to read:

5 46.90 (4) (b) 1. a. No ~~employer~~ person may discharge or otherwise retaliate or
6 discriminate against any person for reporting in good faith under this subsection.

7 **SECTION 4.** 46.90 (4) (b) 1. b. and c. of the statutes are created to read:

8 46.90 (4) (b) 1. b. No person may discharge or otherwise retaliate or
9 discriminate against any person on whose behalf another person has reported in
10 good faith under this subsection.

11 c. Any person who violates this subdivision may be fined not more than \$1,000
12 or imprisoned for not more than 6 months or both.

13 **SECTION 5.** 46.90 (4) (b) 2. c. of the statutes is created to read:

14 46.90 (4) (b) 2. c. Any person not described in this subd. 2. a. or b. who is
15 retaliated or discriminated against in violation of subd. 1. may commence an action
16 in circuit court for damages incurred as a result of the violation.

17 **SECTION 6.** 46.90 (4) (d) of the statutes is created to read:

18 46.90 (4) (d) If a report under par. (a) is made to a state official, the state official
19 shall refer the report to the appropriate county agency.

20 **SECTION 7.** 50.07 (1) (e) of the statutes is amended to read:

21 50.07 (1) (e) Intentionally retaliate or discriminate against any resident or
22 employe for contacting or providing information to any state official, including any
23 representative of the office of the long-term care ombudsman under s. 16.009 (4), or
24 for initiating, participating in, or testifying in an action for any remedy authorized
25 under this subchapter.

1 **SECTION 8.** 50.07 (1) (em) of the statutes is created to read:

2 50.07 (1) (em) Intentionally retaliate or discriminate against any resident or
3 employee on whose behalf another person contacted or provided information to any
4 state official, including any representative of the office of the long-term care
5 ombudsman under s. 16.009 (4), or initiated, participated in or testified in an action
6 for any remedy authorized under this subchapter.

7 **SECTION 9.** 50.07 (3) of the statutes is created to read:

8 50.07 (3) (a) 1. In this paragraph, “agency” has the meaning given in s. 111.32
9 (6) (a).

10 2. Any employe of a state agency who is discharged or otherwise retaliated or
11 discriminated against in violation of sub. (1) (e) or (em) may file a complaint with the
12 personnel commission under s. 230.45 (1) (j).

13 (b) Any employe of an employer not described in par. (a) who is discharged or
14 otherwise retaliated or discriminated against in violation of sub. (1) (e) or (em) may
15 file a complaint with the department of workforce development under s. 106.06 (5).

16 (c) Any person not described in par. (a) or (b) who is retaliated or discriminated
17 against in violation of sub. (1) (e) or (em) may commence an action in circuit court for
18 damages incurred as a result of the violation.

19 **SECTION 10.** 106.06 (5) of the statutes is amended to read:

20 106.06 (5) The division shall receive complaints of discharge, retaliation or
21 discrimination under s. 16.009 (5) (d), 46.90 (4) (b) or 50.07 (3) (b) and shall process
22 the complaints in the same manner that employment discrimination complaints are
23 processed under s. 111.39.

24 **SECTION 11.** 230.45 (1) (j) of the statutes is amended to read:

1 230.45 (1) (j) Receive complaints of discharge, retaliation or discrimination
2 under s. 16.009 (5) (c) 2., 46.90 (4) (b) or 50.07 (3) (a) 2. and, except as provided in sub.
3 (1m), process the complaints in the same manner that employment discrimination
4 complaints are processed under s. 111.39.

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(END)