



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-6199/1
MIM:emw

2021 SENATE BILL 1052

March 9, 2022 - Introduced by Senators WIRCH, AGARD, BEWLEY, CARPENTER, ERPENBACH, JOHNSON, LARSON, RINGHAND and ROYS, cosponsored by Representatives SINICKI, ANDRACA, BALDEH, BOWEN, CABRERA, CONLEY, DRAKE, DOYLE, EMERSON, HAYWOOD, HEBL, HONG, MILROY, NEUBAUER, OHNSTAD, POPE, SHANKLAND, SHELTON, SNODGRASS, STUBBS, SUBECK, VRUWINK and SPREITZER. Referred to Committee on Labor and Regulatory Reform.

1 **AN ACT** *to amend* 102.125 (2) and 102.125 (3); and *to create* 102.125 (1m) and
2 943.395 (1) (e) of the statutes; **relating to:** worker misclassification and
3 providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, if an insurer or self-insured employer has evidence that a worker's compensation claim is false or fraudulent, the insurer or self-insured employer must generally report the claim to the Department of Workforce Development. If, based on the investigation, DWD has a reasonable basis to believe that criminal insurance fraud has occurred, DWD must refer the matter to the district attorney for prosecution. Also under current law, DWD may request assistance from the Department of Justice to investigate false or fraudulent activity related to a worker's compensation claim. If, based on that investigation, DWD has a reasonable basis to believe that theft, forgery, fraud, or any other criminal violation has occurred, DWD must refer the matter to the district attorney or DOJ for prosecution. The bill extends these requirements to insurers who have evidence that an application for worker's compensation insurance coverage is fraudulent or that an employer has committed fraud by misclassifying employees to lower the employer's worker's compensation insurance premiums.

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Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

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

1 **SECTION 1.** 102.125 (1m) of the statutes is created to read:

2 102.125 (1m) APPLICATION AND PREMIUM FRAUD. If an insurer has evidence that
3 an application for worker's compensation insurance coverage is fraudulent or that
4 an employer has committed fraud by misclassifying employees to lower the
5 employer's worker's compensation insurance premiums in violation of s. 943.395, the
6 insurer shall report the claim to the department. The department may require an
7 insurer to investigate an allegedly fraudulent application or alleged fraud by
8 misclassification of employees and may provide the insurer with any records of the
9 department relating to that alleged fraud. An insurer that investigates alleged fraud
10 under this subsection shall report the results of that investigation to the department.

11 **SECTION 2.** 102.125 (2) of the statutes is amended to read:

12 102.125 (2) ASSISTANCE BY DEPARTMENT OF JUSTICE. The department of workforce
13 development may request the department of justice to assist the department of
14 workforce development in an investigation under sub. (1) or (1m) or in the
15 investigation of any other suspected fraudulent activity on the part of an employer,
16 employee, insurer, health care provider, or other person related to worker's
17 compensation.

18 **SECTION 3.** 102.125 (3) of the statutes is amended to read:

19 102.125 (3) PROSECUTION. If based on an investigation under sub. (1), (1m), or
20 (2) the department has a reasonable basis to believe that a violation of s. 943.20,

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1 943.38, 943.39, 943.392, 943.395, 943.40, or any other criminal law has occurred, the
2 department shall refer the results of the investigation to the department of justice
3 or to the district attorney of the county in which the alleged violation occurred for
4 prosecution.

5 **SECTION 4.** 943.395 (1) (e) of the statutes is created to read:

6 943.395 (1) (e) Presents an application for worker's compensation insurance
7 coverage that is false or fraudulent or that falsely or fraudulently misclassifies
8 employees to lower worker's compensation insurance premiums.

9 (END)