

**1999 DRAFTING REQUEST**

**Assembly Amendment (AA-ASA1-AB133)**

Received: **09/28/1999**

Received By: **malaigm**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Morgan**

This file may be shown to any legislator: **NO**

Drafter: **malaigm**

May Contact:

Alt. Drafters:

Subject: **Children - day care  
Children - out-of-home placement  
Health - miscellaneous**

Extra Copies:

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**Pre Topic:**

LFB:.....Morgan -

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**Topic:**

Background checks

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	malaigm 09/28/1999	gilfokm 09/28/1999		_____			
/1			jfrantze 09/29/1999	_____	lrb_docadmin 09/29/1999	<del>lrb_docadmin 09/29/1999</del>	
/2	malaigm 09/30/1999	gilfokm 09/30/1999	jfrantze 09/30/1999	_____	lrb_docadmin 09/30/1999	<del>lrb_docadmin 10/01/1999 lrb_docadmin 10/01/1999</del>	
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/3			haugeca 10/04/1999	_____	lrb_docadmin 10/04/1999		

FE Sent For:

<END>

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**Instructions:**

See Attached

*Requestor  
changed*

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/?	malaigm 09/28/1999	gilfokm 09/28/1999		_____			
/1			jfrantze 09/29/1999	_____	lrb_docadmin 09/29/1999	<del>lrb_docadmin 09/29/1999</del>	
/2	malaigm 09/30/1999	gilfokm 09/30/1999	jfrantze 09/30/1999	_____	lrb_docadmin 09/30/1999	<del>lrb_docadmin 10/01/1999 lrb_docadmin 10/01/1999</del>	

FE Sent For:

<END>

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**Assembly Amendment (AA-ASA1-AB133)**

Received: **09/28/1999**

Received By: **malaigm**

Wanted: **Soon**

Identical to LRB:

For: **Administration 6-1353**

By/Representing: **Montgomery**

This file may be shown to any legislator: **NO**

Drafter: **malaigm**

May Contact:

Alt. Drafters:

Subject: **Children - day care  
Children - out-of-home placement  
Health - miscellaneous**

Extra Copies:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Background checks

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**Instructions:**

See Attached

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/1		12-9-30-99 Kmg	jfrantze 09/29/1999	_____	lrb_docadmin 09/29/1999	lrb_docadmin 09/29/1999	

FE Sent For:

*9/30*     *J/mc*  
*1/30*  
 <END>  
*MRC*     *MRC/JF*  
*10/2*     *10/2*

**1999 DRAFTING REQUEST**

**Assembly Amendment (AA-ASA1-AB133)**

Received: 09/28/1999

Received By: malaigm

Wanted: Soon

Identical to LRB:

For: Administration 6-1353

By/Representing: Montgomery

This file may be shown to any legislator: NO

Drafter: malaigm J TAY

May Contact:

Alt. Drafters:

Subject: Children - day care  
Children - out-of-home placement  
Health - miscellaneous

Extra Copies: ~~10~~

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Background checks

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketcd</u>	<u>Required</u>
/?	malaigm	1-9-28-99 King	J 9/29	J/KM 9/29			

FE Sent For:

<END>

B. ~~Section 9123 (1n) of the bill creates a non-statutory directive to the department to seek federal waivers to implement an alternative model of long term care reform. In sub. (a) 5., the word "for" should be changed to "in comparison to". As drafted, this provision appears to require that a county must reduce average costs prior to participating in the alternative. In sub. (a) 8., after the word "services," the phrase "similar to those" should be inserted. The sections referred to are quite specific to Family Care; the intent was that Resource Centers in the Alternative Model would provide similar functions to those provided by Family Care Resource Centers.~~

C. Clarify the requirements for facility referrals of private pay individuals to the Resource Center. Both the Assembly and the Senate adopted amendments designed to assure that private pay individuals would not be required to disclose financial information to the state. The department has never intended that private pay individuals would be required to disclose private financial information as a condition of admission, on a private pay basis, to a long term care facility, and do not object to the policy intent of the Legislature.

However, the manner in which the Chapter 50 provisions were constructed is potentially problematic. A strict reading would infer that facilities are still required to refer private pay individuals for a functional screen, although not for a financial screen. As drafted, however, there is considerable potential for confusion and disagreement about which admissions facilities are required to refer to the Resource Center. Facilities may argue that they are not required to refer private pay people to the Resource Center at all. Without referral of all individuals seeking admission, it will not be possible to assure that everyone making important long-term care decisions has access to good information about service options.

Proposed clarification:

Delete the language inserted by AA2 to ASA1 and by SA1 to SSA1 as s. 50.033 (2s) (d), s. 50.034 (5n) (d), s. 50.035 (4n) (d), s. 50.04 (2h) (a) 4., and the following language added to s. 50.06 (7): ". For performance of a financial screen, the individual who consents, if seeking admission for the individual or if the individual is about to be admitted on a private pay basis, may waive the requirement under s. 46.283 (4) (g), unless the person will be eligible for medical assistance within 6 months after performance of the financial screen"

2. Caregiver Background Checks (Sections 23 and 36 in AA 30 creating sections 1169p and 1521xd of AA2 to ASA 1)

The Assembly created ss. 48.685(2)(bb) and 50.065(2)(bb), which require licensing agencies and providers to obtain judgments of conviction and criminal complaints from circuit court clerks if:

- A. The results of DOJ and DHFS computer database searches indicate a charge of a serious crime, but not the final disposition of that crime. *or conviction*
- B. The license applicant or employe indicates a charge of a serious crime on the background information form, and the DOJ and DHFS database searches show no such charge.
- C. The results of the DOJ and DHFS computer searches indicate a conviction for disorderly conduct, battery, harassment, reckless endangerment, or invasion of privacy. *or the BIF*

There is no fiscal effect.

The changes described above are among a number of revisions the Assembly makes to the caregiver background check statutes under ss. 48.685 and 50.065. Legislators, providers, and the department agreed to these changes after lengthy negotiations.

However, as drafted, ss. 48.685(2)(bb) and 50.065(2)(bb) are inconsistent with the agreement and should be amended to:

- Require agencies and providers to contact the court clerk if the background information form shows either a conviction or a charge of a crime and the computer searches do not indicate such a crime.
- Require agencies and providers to contact the court clerk if convictions of the lesser crimes listed are indicated either by the computer database searches or the background information form, not only the background information form.

### 3. Restoring Funds for the SSI Administration Budget

The Governor's 99-01 Biennial Budget provides an additional \$101,000 TANF in FY 00 and \$63,000 TANF in FY 01 to cover new costs associated with the Caretaker Supplement program. However, \$232,400 GPR in base funding in FY 00 and in FY 01 was inadvertently deleted from the department's budget, a 20% cut in base funding.

Neither DOA nor the Governor intended to cut the level of SSI administrative funding. Both Secretary Bugher, in his April 15<sup>th</sup> letter to the Joint Finance Committee, and Secretary Leean, in his April 14<sup>th</sup> letter to the Committee, identified this item as a technical error and requested that funding be provided to correct the error. Due to the press of time, the Joint Finance Committee did not address the issue.

DHFS uses the SSI administrative funding to contract with EDS, the state's Medical Assistance fiscal agent, to carry out the implementation of the SSI program, including making eligibility determinations, calculating payment amounts, generating checks, distributing checks to recipients, answering recipient questions, and assisting in the resolution of recipient problems and concerns.

EDS would not be willing to carry out all its current administrative functions if the department cut its funding by 20%. Under federal law, Wisconsin must continue to make State SSI payments in order to receive federal funding for the Medical Assistance program. Under state law, Wisconsin residents are entitled to state SSI benefits if they meet the eligibility requirements in the statutes.

If the funding is not restored, the department would have to cut a function performed by EDS other than the direct production and distribution of SSI benefit checks.

### **MISCELLANEOUS PROVISIONS**

#### Publication of Legal Notices in Newspapers

Under s.985.06(2), cities of the fourth class are required to designate one or more newspapers which are published in the city, or if there are no newspapers published in the city, then newspapers published in the county and having a general circulation in the city, to be the official newspaper for publication of city legal notices. Additionally, for the newspaper to be compensated, any newspaper designated by the city must meet certain requirements under s.985.03(1).



1999 - 2000 LEGISLATURE

D-Note

(pp 8+23)

LRBb1055/6

TY&GM:kg:hmh

61852/1

Today

LFB:.....Morgan - Background checks

~~FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION~~

**ASSEMBLY AMENDMENT ,  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1999 ASSEMBLY BILL 133**

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 651, line 25: after that line insert:

3 "SECTION 1151d. 48.651 (2m) of the statutes is amended to read:

4 48.651 (2m) Each county department shall provide the department with  
5 information about each person who is denied certification for a reason specified in  
6 s. 48.685 (2) (4m) (a) 1. to 5.

7 SECTION 1159d. 48.685 (1) (a) of the statutes is renumbered 48.685 (1) (am).

8 SECTION 1159g. 48.685 (1) (ag) of the statutes is created to read:

9 48.685 (1) (ag) 1. "Caregiver" means any of the following:

1 a. A person who is, or is expected to be, an employe or contractor of an entity,  
2 who is or is expected to be under the control of the entity, as defined by the  
3 department by rule, and who has, or is expected to have, regular, direct contact with  
4 clients of the entity.

5 b. A person who has, or is seeking, a license, certification or contract to operate  
6 an entity.

7 2. "Caregiver" does not include a person who is certified as an emergency  
8 medical technician under s. 146.50 if the person is employed, or seeking employment,  
9 as an emergency medical technician.

10 **SECTION 1159m.** 48.685 (1) (ar) of the statutes is created to read:

11 48.685 (1) (ar) "Contractor" means, with respect to an entity, a person, or that  
12 person's agent, who provides services to the entity under an express or implied  
13 contract or subcontract, including a person who has staff privileges at the entity.

14 **SECTION 1159p.** 48.685 (1) (av) of the statutes is created to read:

15 48.685 (1) (av) "Direct contact" means face-to-face physical proximity to a  
16 client that affords the opportunity to commit abuse or neglect of a client or to  
17 misappropriate the property of a client.

18 **SECTION 1159r.** 48.685 (1) (b) of the statutes is amended to read:

19 48.685 (1) (b) "Entity" means a child welfare agency that is licensed under s.  
20 48.60 to provide care and maintenance for children, to place children for adoption or  
21 to license foster homes or treatment foster homes; a foster home or treatment foster  
22 home that is licensed under s. 48.62; a group home that is licensed under s. 48.625;  
23 a shelter care facility that is licensed under s. 938.22; a day care center that is  
24 licensed under s. 48.65 or established or contracted for under s. 120.13 (14); or a day

1 care provider that is certified under s. 48.651; or a temporary employment agency  
2 that provides caregivers to another entity."

3 **2.** Page 652, line 4: after that line insert:

4 "SECTION 1160e. 48.685 (1) (bm) of the statutes is created to read:

5 48.685 (1) (bm) "Nonclient resident" means a person who resides, or is expected  
6 to reside, at an entity, who is not a client of the entity and who has, or is expected to  
7 have, regular, direct contact with clients of the entity.

8 SECTION 1160em. 48.685 (1) (br) of the statutes is created to read:

9 48.685 (1) (br) "Reservation" means land in this state within the boundaries  
10 of a reservation of a tribe or within the bureau of Indian affairs service area for the  
11 Ho-Chunk Nation.

12 SECTION 1160f. 48.685 (1) (c) of the statutes is repealed and recreated to read:

13 48.685 (1) (c) "Serious crime" means a violation of s. 940.01, 940.02, 940.03,  
14 940.05, 940.12, 940.19 (2), (3), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3),  
15 940.285 (2), 940.29, 940.295, 948.02 (1) or (2), 948.025, 948.03 (2), 948.05, 948.055,  
16 948.06, 948.07, 948.08, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1) or 948.30 or  
17 a violation of the law of any other state or United States jurisdiction that would be  
18 a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (3), (4), (5) or (6),  
19 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 948.02 (1) or (2),  
20 948.025, 948.03 (2), 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 (2) (a) or (am),  
21 948.12, 948.13, 948.21 (1) or 948.30 if committed in this state."

22 **3.** Page 652, line 8: after that line insert:

23 "SECTION 1160gm. 48.685 (1) (e) of the statutes is created to read:

1           48.685 (1) (e) "Tribe" means a federally recognized American Indian tribe or  
2 band in this state."

3           **4.** Page 652, line 9: delete lines 9 to 16 and substitute:

4           "SECTION 1161d. 48.685 (2) (a) (intro.) of the statutes is renumbered 48.685  
5 (4m) (a) (intro.).

6           SECTION 1161g. 48.685 (2) (a) 1. of the statutes is renumbered 48.685 (4m) (a)  
7 1.

8           SECTION 1161h. 48.685 (2) (a) 2. of the statutes is repealed.

9           SECTION 1161i. 48.685 (2) (a) 3. of the statutes is renumbered 48.685 (4m) (a)  
10 3.

11           SECTION 1161j. 48.685 (2) (a) 4. of the statutes is renumbered 48.685 (4m) (a)  
12 4.

13           SECTION 1161k. 48.685 (2) (a) 5. of the statutes is renumbered 48.685 (4m) (a)  
14 5.

15           SECTION 1161m. 48.685 (2) (ad) of the statutes is renumbered 48.685 (4m) (ad)  
16 and amended to read:

17           48.685 (4m) (ad) The department, a county department or a child welfare  
18 agency may license a foster home or treatment foster home under s. 48.62, a county  
19 department may certify a day care provider under s. 48.651 and a school board may  
20 contract with a person under s. 120.13 (14), conditioned on the receipt of the  
21 information specified in ~~par. sub. (2)~~ (am) indicating that the person is not ineligible  
22 to be licensed, certified or contracted with for a reason specified in par. (a) 1. to 5.

23           SECTION 1163d. 48.685 (2) (ag) (intro.) of the statutes is renumbered 48.685  
24 (4m) (b) (intro.) and amended to read:

1           48.685 (4m) (b) (intro.) Notwithstanding s. 111.335, and except as provided in  
2 sub. (5), an entity may not hire or contract with a ~~person who will be under the~~  
3 ~~entity's control, as defined by the department by rule, and who is expected to have~~  
4 ~~access to its clients, caregiver~~ or permit a nonclient resident to reside at the entity  
5 ~~a person who is not a client and who is expected to have access to a client~~, if the entity  
6 knows or should have known any of the following:

7           **SECTION 1163g.** 48.685 (2) (ag) 1. of the statutes is renumbered 48.685 (4m) (b)  
8 1. and amended to read:

9           48.685 (4m) (b) 1. That the person has been convicted of a serious crime or, if  
10 the person is ~~an employe, prospective employe, contractor, prospective contractor,~~  
11 ~~nonclient resident or prospective~~ a caregiver or nonclient resident of a day care  
12 center that is licensed under s. 48.65 or established or contracted for under s. 120.13  
13 (14) or of a day care provider that is certified under s. 48.651, that the person has been  
14 convicted of a serious crime or adjudicated delinquent on or after his or her 12th  
15 birthday for committing a serious crime.

16           **SECTION 1163h.** 48.685 (2) (ag) 2. of the statutes is repealed.

17           **SECTION 1163i.** 48.685 (2) (ag) 3. of the statutes is renumbered 48.685 (4m) (b)  
18 3.

19           **SECTION 1163j.** 48.685 (2) (ag) 4. of the statutes is renumbered 48.685 (4m) (b)  
20 4.

21           **SECTION 1163k.** 48.685 (2) (ag) 5. of the statutes is renumbered 48.685 (4m) (b)  
22 5.

23           **SECTION 1165d.** 48.685 (2) (am) (intro.) of the statutes is amended to read:

24           48.685 (2) (am) (intro.) ~~Subject to subd. 5. and par. (bd), the~~ The department,  
25 a county department, a child welfare agency or a school board shall obtain all of the

1 following with respect to a ~~person specified under par. (a) (intro.) and a person~~  
2 ~~specified under par. (ag) (intro.) who is a nonclient resident or prospective caregiver~~  
3 specified in sub. (1) (ag) 1. b., a nonclient resident of an entity and shall obtain the  
4 information specified in subds. 1. to 5. with respect to a person specified in par. (ag)  
5 (intro.) who is under 18 years of age, but not under 12 years of age, and who is an  
6 employee, prospective employee, contractor, prospective contractor, nonclient resident  
7 or prospective nonclient resident a caregiver of a day care center that is licensed  
8 under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care  
9 provider that is certified under s. 48.651:

10 **SECTION 1165g.** 48.685 (2) (am) 5. of the statutes is amended to read:

11 48.685 (2) (am) 5. Information maintained by the department under this  
12 section and under ss. 48.651 (2m), 48.75 (1m) and 120.13 (14) regarding any denial  
13 to the person of a license, continuation or renewal of a license, certification or a  
14 contract to operate an entity for a reason specified in ~~par. sub. (4m)~~ (a) 1. to 5. and  
15 regarding any denial to the person of employment at, a contract with or permission  
16 to reside at an entity for a reason specified in ~~par. (ag) sub. (4m)~~ (b) 1. to 5. If the  
17 information obtained under this subdivision indicates that the person has been  
18 denied a license, continuation or renewal of a license, certification, a contract,  
19 employment or permission to reside as described in this subdivision, the department,  
20 a county department, a child welfare agency or a school board need not obtain the  
21 information specified in subds. 1. to 4.

22 **SECTION 1167d.** 48.685 (2) (b) 1. (intro.) of the statutes is amended to read:

23 48.685 (2) (b) 1. (intro.) ~~Subject to subds. 1. e. and 2., and 4. par. (bd), every~~  
24 Every entity shall obtain all of the following with respect to a ~~person specified under~~

1 ~~par. (ag) (intro.) who is an employe, prospective employe, contractor or prospective~~  
2 ~~contractor~~ caregiver of the entity:

3 **SECTION 1167g.** 48.685 (2) (b) 1. e. of the statutes is amended to read:

4 48.685 (2) (b) 1. e. Information maintained by the department under this  
5 section and under ss. 48.651 (2m), 48.75 (1m) and 120.13 (14) regarding any denial  
6 to the person of a license, continuation or renewal of a license, certification or a  
7 contract to operate an entity for a reason specified in ~~par. sub. (4m)~~ (a) 1. to 5. and  
8 regarding any denial to the person of employment at, a contract with or permission  
9 to reside at an entity for a reason specified in ~~par. (ag) sub. (4m)~~ (b) 1. to 5. If the  
10 information obtained under this subd. 1. e. indicates that the person has been denied  
11 a license, continuation or renewal of a license, certification, a contract, employment  
12 or permission to reside as described in this subd. 1. e., the entity need not obtain the  
13 information specified in subd. 1. a. to d.

14 **SECTION 1168d.** 48.685 (2) (b) 2. of the statutes is repealed.

15 **SECTION 1168g.** 48.685 (2) (b) 4. of the statutes is amended to read:

16 48.685 (2) (b) 4. Subdivision 1. does not apply with respect to a person under  
17 18 years of age, but not under 12 years of age, who is ~~an employe, prospective~~  
18 ~~employe, contractor, prospective contractor, nonclient resident or prospective a~~  
19 caregiver or nonclient resident of a day care center that is licensed under s. 48.65 or  
20 established or contracted for under s. 120.13 (14) or of a day care provider that is  
21 certified under s. 48.651 and with respect to whom the department, a county  
22 department or a school board is required under par. (am) (intro.) to obtain the  
23 information specified in par. (am) 1. to 5.

24 **SECTION 1169p.** 48.685 (2) (bb) of the statutes is created to read:

or a conviction

or conviction

1 48.685 (2) (bb) If information obtained under par. (am) or (b) 1. indicates a  
 2 charge of a serious crime, but does not completely and clearly indicate the final  
 3 disposition of the charge, the department, county department, child welfare agency,  
 4 school board or entity shall make every reasonable effort to contact the clerk of courts  
 5 to determine the disposition of the charge. If a background information form under  
 6 sub. (6) (a) or (am) indicates a charge of a serious crime, but information obtained  
 7 under par. (am) or (b) 1. does not indicate such a charge, the department, county  
 8 department, child welfare agency, school board or entity shall make every reasonable  
 9 effort to contact the clerk of courts to obtain a copy of the criminal complaint and  
 10 judgment of conviction relating to that charge. If information obtained under par.

11 (am) or (b) 1. indicates a conviction of a violation of s. 940.19 (1), 940.195, 940.20,  
 12 941.30, 942.08, 947.01 or 947.013 obtained not more than 5 years before the date on  
 13 which that information was obtained, the department, county department, child  
 14 welfare agency, school board or entity shall make every reasonable effort to contact  
 15 the clerk of courts to obtain a copy of the criminal complaint and judgment of  
 16 conviction relating to that violation.

**SECTION 1170d.** 48.685 (2) (bd) of the statutes is amended to read:

18 48.685 (2) (bd) Notwithstanding pars. (am) and (b) 1., the department, a county  
 19 department, a child welfare agency or a school board is not required to obtain the  
 20 information specified in par. (am) 1. to 5., and an entity is not required to obtain the  
 21 information specified in par. (b) 1. a. to e., with respect to a person under 18 years  
 22 of age whose background information form under sub. (6) (am) indicates that the  
 23 person is not ineligible to be employed, contracted with or permitted to reside at an  
 24 entity for a reason specified in ~~par. (ag)~~ sub. (4m) (b) 1. to 5. and with respect to whom  
 25 the department, county department, child welfare agency, school board or entity

or a background information form under sub. (b)(a) or (am)



1 otherwise has no reason to believe that the person is ineligible to be employed,  
2 contracted with or permitted to reside at an entity for any of those reasons. This  
3 paragraph does not preclude the department, a county department, a child welfare  
4 agency or a school board from obtaining, at its discretion, the information specified  
5 in par. (am) 1. to 5. with respect to a person described in this paragraph who is a  
6 nonclient resident or a prospective nonclient resident of an entity.

7 **SECTION 1170m.** 48.685 (2) (bg) of the statutes is amended to read:

8 48.685 (2) (bg) If an entity ~~takes an action specified in par. (ag) (intro.) with~~  
9 ~~respect to an employe, prospective employe, contractor or prospective contractor~~  
10 hires or contracts with a caregiver for whom, within the last 4 years, the information  
11 required under par. (b) 1. a. to c. and e. has already been obtained, ~~either~~ by another  
12 entity ~~or by a temporary employment agency~~, the entity may obtain ~~the~~ that  
13 ~~information required under par. (b) 1. a. to c. and e.~~ from that other entity ~~or~~  
14 ~~temporary employment agency~~, which shall provide the information, if possible, to  
15 the requesting entity. If an entity cannot obtain the information required under par.  
16 (b) 1. a. to c. and e. from another entity ~~or from a temporary employment agency~~ or  
17 if an entity has reasonable grounds to believe that any information obtained from  
18 another entity ~~or from a temporary employment agency~~ is no longer accurate, the  
19 entity shall obtain that information from the sources specified in par. (b) 1. a. to c.  
20 and e.

21 **SECTION 1170n.** 48.685 (2) (bg) of the statutes, as affected by 1999 Wisconsin  
22 Act .... (this act), is amended to read:

23 48.685 (2) (bg) If an entity ~~hires~~ employs or contracts with a caregiver for  
24 whom, within the last 4 years, the information required under par. (b) 1. a. to c. and  
25 e. has already been obtained by another entity, the entity may obtain that

1 information from that other entity, which shall provide the information, if possible,  
2 to the requesting entity. If an entity cannot obtain the information required under  
3 par. (b) 1. a. to c. and e. from another entity or if an entity has reasonable grounds  
4 to believe that any information obtained from another entity is no longer accurate,  
5 the entity shall obtain that information from the sources specified in par. (b) 1. a. to  
6 c. and e.

7 **SECTION 1171d.** 48.685 (2) (bm) of the statutes is amended to read:

8 48.685 (2) (bm) If the person who is the subject of the search under par. (am)  
9 or (b) 1. is not a resident of this state, or if at any time within the 3 years preceding  
10 the date of the search that person has not been a resident of this state, or if the  
11 department, county department, child welfare agency, school board or entity  
12 determines that the person's employment, licensing or state court records provide a  
13 reasonable basis for further investigation, the department, county department, child  
14 welfare agency, school board or entity shall make a good faith effort to obtain from  
15 any state or other United States jurisdiction in which the person is a resident or was  
16 a resident within the 3 years preceding the date of the search information that is  
17 equivalent to the information specified in par. (am) 1. or (b) 1. a. The department,  
18 county department, child welfare agency, school board or entity may require the  
19 person to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the  
20 person's fingerprints. The department of justice may provide for the submission of  
21 the fingerprint cards to the federal bureau of investigation for the purposes of  
22 verifying the identity of the person fingerprinted and obtaining records of his or her  
23 criminal arrests and convictions.

24 **SECTION 1171g.** 48.685 (2) (c) of the statutes is renumbered 48.685 (4m) (c) and  
25 amended to read:

1           48.685 (4m) (c) If the background information form completed by a person  
2 under sub. (6) (am) indicates that the person is not ineligible to be employed or  
3 contracted with for a reason specified in par. ~~(ag)~~ (b) 1. to 5., an entity may employ  
4 or contract with the person for not more than 60 days pending the receipt of the  
5 information sought under ~~par. sub. (2)~~ (am) 1. to 5. or (b) 1. If the background  
6 information form completed by a person under sub. (6) (am) indicates that the person  
7 is not ineligible to be permitted to reside at an entity for a reason specified in par. ~~(ag)~~  
8 (b) 1. to 5. and if an entity otherwise has no reason to believe that the person is  
9 ineligible to be permitted to reside at an entity for any of those reasons, the entity  
10 may permit the person to reside at the entity for not more than 60 days pending  
11 receipt of the information sought under ~~par. sub. (2)~~ (am). An entity shall provide  
12 supervision for a person who is employed, contracted with or permitted to reside as  
13 permitted under this paragraph.

14           **SECTION 1171j.** 48.685 (2) (d) of the statutes is created to read:

15           48.685 (2) (d) Every entity shall maintain, or shall contract with another  
16 person to maintain, the most recent background information obtained on a caregiver  
17 under par. (b). The information shall be made available for inspection by authorized  
18 persons, as defined by the department by rule.

19           **SECTION 1172d.** 48.685 (3) (a) of the statutes is amended to read:

20           48.685 (3) (a) Every 4 years or at any time within that period that the  
21 department, a county department, a child welfare agency or a school board considers  
22 appropriate, the department, county department, child welfare agency or school  
23 board shall request the information specified in sub. (2) (am) 1. to 5. for all persons  
24 who are licensed, certified or contracted to operate an entity ~~and~~, for all persons  
25 ~~specified in par. (ag) (intro.)~~ who are nonclient residents of an entity and shall

1 ~~request the information specified in sub. (2) (am) 1. to 5.~~ for all persons under 18  
2 years of age, but not under 12 years of age, who are ~~employees, contractors or~~  
3 ~~nonclient residents~~ caregivers of a day care center that is licensed under s. 48.65 or  
4 established or contracted for under s. 120.13 (4) or of a day care provider that is  
5 certified under s. 48.651.

6 **SECTION 1172g.** 48.685 (3) (b) of the statutes is amended to read:

7 48.685 (3) (b) Every 4 years or at any time within that period that an entity  
8 considers appropriate, the entity shall request the information specified in sub. (2)  
9 (b) 1. a. to e. for all persons ~~specified in sub. (2) (ag) (intro.) employees or contractors~~  
10 who are caregivers of the entity other than persons ~~who are~~ under 18 years of age,  
11 but not under 12 years of age ~~and,~~ who are ~~employees, contractors or nonclient~~  
12 ~~residents~~ caregivers of a day care center that is licensed under s. 48.65 or established  
13 or contracted for under s. 120.13 (14) or of a day care provider that is certified under  
14 s. 48.651.

15 **SECTION 1173d.** 48.685 (3m) of the statutes is amended to read:

16 48.685 (3m) Notwithstanding subs. (2) (h) 1. and (3) (b), if the department, a  
17 county department, a child welfare agency or a school board has obtained the  
18 information required under sub. (2) (am) or (3) (a) with respect to a person ~~specified~~  
19 ~~in sub. (2) (a) (intro.)~~ who is a caregiver specified in sub. (1) (ag) 1. b. and that person  
20 is also an employe, contractor or nonclient resident of an entity, the entity is not  
21 required to obtain the information specified in sub. (2) (b) 1. or (3) (b) with respect  
22 to that person.

23 **SECTION 1173g.** 48.685 (4) of the statutes is amended to read:

1           48.685 (4) An entity that violates sub. (2) ~~or~~, (3) or (4m) (b) may be required to  
2           forfeit not more than \$1,000 and may be subject to other sanctions specified by the  
3           department by rule.

4           **SECTION 1173j.** 48.685 (4m) (b) (intro.) of the statutes, as affected by 1999  
5           Wisconsin Act .... (this act), is amended to read:

6           48.685 (4m) (b) (intro.) Notwithstanding s. 111.335, and except as provided in  
7           sub. (5), an entity may not ~~hire~~ employ or contract with a caregiver or permit a  
8           nonclient resident to reside at the entity, if the entity knows or should have known  
9           any of the following:

10          **SECTION 1174d.** 48.685 (5) (a) of the statutes is amended to read:

11          48.685 (5) (a) The department may license to operate an entity, a county  
12          department may certify under s. 48.651, a county department or a child welfare  
13          agency may license under s. 48.62 and a school board may contract with under s.  
14          120.13 (14) a person who otherwise may not be licensed, certified or contracted with  
15          for a reason specified in sub. ~~(2)~~ (4m) (a) 1. to 5., and an entity may employ, contract  
16          with or permit to reside at the entity a person who otherwise may not be employed,  
17          contracted with or permitted to reside at the entity for a reason specified in sub. ~~(2)~~  
18          ~~(ag)~~ (4m) (b) 1. to 5., if the person demonstrates to the department, the county  
19          department, the child welfare agency or the school board or, in the case of an entity  
20          that is located within the boundaries of a reservation, to the person or body  
21          designated by the tribe under sub. (5d) (a) 3., by clear and convincing evidence and  
22          in accordance with procedures established by the department by rule or by the tribe  
23          that he or she has been rehabilitated.

24          **SECTION 1174g.** 48.685 (5) (b) of the statutes is repealed.

25          **SECTION 1175m.** 48.685 (5d) of the statutes is created to read:

1           48.685 (5d) (a) Any tribe that chooses to conduct rehabilitation reviews under  
2 sub. (5) shall submit to the department a rehabilitation review plan that includes all  
3 of the following:

4           1. The criteria to be used to determine if a person has been rehabilitated.

5           2. The title of the person or body designated by the tribe to whom a request for  
6 review must be made.

7           3. The title of the person or body designated by the tribe to determine whether  
8 a person has been rehabilitated.

9           3m. The title of the person or body, designated by the tribe, to whom a person  
10 may appeal an adverse decision made by the person specified under subd. 3. and  
11 whether the tribe provides any further rights to appeal.

12           4. The manner in which the tribe will submit information relating to a  
13 rehabilitation review to the department so that the department may include that  
14 information in its report to the legislature required under sub. (5g).

15           5. A copy of the form to be used to request a review and a copy of the form on  
16 which a written decision is to be made regarding whether a person has demonstrated  
17 rehabilitation.

18           (b) If, within 90 days after receiving the plan, the department does not  
19 disapprove the plan, the plan shall be considered approved. If, within 90 days after  
20 receiving the plan, the department disapproves the plan, the department shall  
21 provide notice of that disapproval to the tribe in writing, together with the reasons  
22 for the disapproval. The department may not disapprove a plan unless the  
23 department finds that the plan is not rationally related to the protection of clients.  
24 If the department disapproves the plan, the tribe may, within 30 days after receiving  
25 notice of the disapproval, request that the secretary review the department's

1 decision. A final decision under this paragraph is not subject to further review under  
2 ch. 227.

3 **SECTION 1176d.** 48.685 (5m) of the statutes is amended to read:

4 48.685 (5m) Notwithstanding s. 111.335, the department may refuse to license  
5 a person to operate an entity, a county department or a child welfare agency may  
6 refuse to license a foster home or treatment foster home under s. 48.62, and an entity  
7 may refuse to ~~employ, hire or contract with a caregiver or permit a nonclient resident~~  
8 ~~to reside at the entity a person specified in sub. (2) (ag) (intro.)~~ if the person has been  
9 convicted of an offense that ~~the department has not defined as a “serious crime” by~~  
10 ~~rule promulgated under sub. (7) (a), or specified in the list established by rule under~~  
11 ~~sub. (7) (b) is not a serious crime~~, but that is, in the estimation of the department,  
12 county department, child welfare agency, or entity, substantially related to the care  
13 of a client. Notwithstanding s. 111.335, the department may refuse to license a  
14 person to operate a day care center, a county department may refuse to certify a day  
15 care provider under s. 48.651, a school board may refuse to contract with a person  
16 under s. 120.13 (14), a day care center that is licensed under s. 48.65 or established  
17 or contracted for under s. 120.13 (14) and a day care provider that is certified under  
18 s. 48.651 may refuse to ~~employ, hire or contract with a caregiver or permit a nonclient~~  
19 ~~resident to reside at the day care center or day care provider a person specified in sub.~~  
20 ~~(2) (ag) (intro.)~~ if the person has been convicted of or adjudicated delinquent on or  
21 after his or her 12th birthday for an offense that ~~the department has not defined as~~  
22 ~~a “serious crime” by rule promulgated under sub. (7) (a), or specified in the list~~  
23 ~~established by rule under sub. (7) (b) is not a serious crime~~, but that is, in the  
24 estimation of the department, county department, school board, day care center or  
25 day care provider, substantially related to the care of a client.

1           **SECTION 1176g.** 48.685 (5m) of the statutes, as affected by 1999 Wisconsin Act  
2 .... (this act), is amended to read:

3           **48.685 (5m)** Notwithstanding s. 111.335, the department may refuse to license  
4 a person to operate an entity, a county department or a child welfare agency may  
5 refuse to license a foster home or treatment foster home under s. 48.62, and an entity  
6 may refuse to ~~hire~~ employ or contract with a caregiver or permit a nonclient resident  
7 to reside at the entity if the person has been convicted of an offense that is not a  
8 serious crime, but that is, in the estimation of the department, county department,  
9 child welfare agency or entity, substantially related to the care of a client.  
10 Notwithstanding s. 111.335, the department may refuse to license a person to  
11 operate a day care center, a county department may refuse to certify a day care  
12 provider under s. 48.651, a school board may refuse to contract with a person under  
13 s. 120.13 (14), a day care center that is licensed under s. 48.65 or established or  
14 contracted for under s. 120.13 (14) and a day care provider that is certified under s.  
15 48.651 may refuse to ~~hire~~ employ or contract with a caregiver or permit a nonclient  
16 resident to reside at the day care center or day care provider if the person has been  
17 convicted of or adjudicated delinquent on or after his or her 12th birthday for an  
18 offense that is not a serious crime, but that is, in the estimation of the department,  
19 county department, school board, day care center or day care provider, substantially  
20 related to the care of a client.

21           **SECTION 1177r.** 48.685 (6) (am) (intro.) of the statutes is renumbered 48.685  
22 (6) (am) and amended to read:

23           **48.685 (6) (am)** Every 4 years an entity shall require all of the following persons  
24 its caregivers and nonclient residents to complete a background information form  
25 that is provided to the entity by the department.



1           **SECTION 1178d.** 48.685 (6) (am) 1. of the statutes is repealed.

2           **SECTION 1178g.** 48.685 (6) (am) 2. of the statutes is repealed.

3           **SECTION 1179d.** 48.685 (6) (b) of the statutes is renumbered 48.685 (6) (b) 1.  
4 and amended to read:

5           48.685 **(6)** (b) 1. For ~~persons specified under par. (a)~~ caregivers who are licensed  
6 by the department, for persons ~~specified in par. (am) 1.~~ who are under 18 years of age,  
7 but not under 12 years of age, and who are ~~employes, prospective employes,~~  
8 ~~contractors or prospective contractors~~ caregivers of a day care center that is licensed  
9 under s. 48.65 or established or contracted for under s. 120.13 (4) or of a day care  
10 provider that is certified under s. 48.651, for persons ~~specified in par. (am) 2.~~ who are  
11 ~~nonclient residents or prospective~~ nonclient residents of an entity that is licensed by  
12 the department, and for other persons specified by the department by rule, the entity  
13 shall send the background information form to the department.

14           2. For ~~persons specified under par. (a)~~ caregivers who are licensed or certified  
15 by a county department, for persons ~~specified in par. (am) 2.~~ who are ~~nonclient~~  
16 ~~residents or prospective~~ nonclient residents of an entity that is licensed or certified  
17 by a county department and for other persons specified by the department by rule,  
18 the entity shall send the background information form to the county department.

19           3. For ~~persons specified under par. (a)~~ caregivers who are licensed by a child  
20 welfare agency, for persons ~~specified in par. (am) 2.~~ who are ~~nonclient residents or~~  
21 ~~prospective~~ nonclient residents of an entity that is licensed by a child welfare agency  
22 and for other persons specified by the department by rule, the entity shall send the  
23 background information form to the child welfare agency

24           4. For ~~persons specified under par. (a)~~ caregivers who are contracted with by  
25 a school board, for persons ~~specified in par. (am) 2.~~ who are ~~nonclient residents or~~

1 prospective nonclient residents of an entity that is contracted with by a school board  
2 and for other persons specified by the department by rule, the entity shall send the  
3 background information form to the school board. ~~For all other persons specified~~  
4 ~~under par. (am) 1., the entity shall maintain the background information form on file~~  
5 ~~for inspection by the department, county department, child welfare agency or school~~  
6 ~~board, whichever is applicable.~~

7 **SECTION 1180g.** 48.685 (7) (a) of the statutes is repealed.

8 **SECTION 1180h.** 48.685 (7) (b) of the statutes is repealed.”.

9 **5.** Page 653, line 3: after that line insert:

10 **“SECTION 1189r.** 48.75 (1m) of the statutes is amended to read:

11 48.75 **(1m)** Each child welfare agency and public licensing agency shall provide  
12 the subunit of the department that administers s. 48.685 with information about  
13 each person who is denied a license for a reason specified in s. 48.685 ~~(2)~~ **(4m)** (a) 1.  
14 to 5.”.

15 **6.** Page 749, line 17: after that line insert:

16 **“SECTION 1521b.** 50.065 (1) (ag) of the statutes is created to read:

17 50.065 **(1)** (ag) 1. “Caregiver” means any of the following:

18 a. A person who is, or is expected to be, an employe or contractor of an entity,  
19 who is or is expected to be under the control of an entity, as defined by the department  
20 by rule, and who has, or is expected to have, regular, direct contact with clients of the  
21 entity.

22 b. A person who has, or is seeking, a license, certification, registration, or  
23 certificate of approval issued or granted by the department to operate an entity.

1           c. A person who is, or is expected to be, an employe of the board on aging and  
2 long-term care and who has, or is expected to have, regular, direct contact with  
3 clients.

4           2. “Caregiver” does not include a person who is certified as an emergency  
5 medical technician under s. 146.50 if the person is employed, or seeking employment,  
6 as an emergency medical technician.

7           **SECTION 1521c.** 50.065 (1) (bm) of the statutes is created to read:

8           50.065 (1) (bm) “Contractor” means, with respect to an entity, a person, or that  
9 person’s agent, who provides services to the entity under an express or implied  
10 contract or subcontract, including a person who has staff privileges at the entity.

11           **SECTION 1521cm.** 50.065 (1) (br) of the statutes is created to read:

12           50.065 (1) (br) “Direct contact” means face-to-face physical proximity to a  
13 client that affords the opportunity to commit abuse or neglect of a client or to  
14 misappropriate the property of a client.

15           **SECTION 1521d.** 50.065 (1) (c) (intro.) of the statutes is amended to read:

16           50.065 (1) (c) (intro.) “Entity” means a facility, organization or service that is  
17 licensed or certified by or registered with the department to provide direct care or  
18 treatment services to clients. “Entity” includes a hospital, a personal care worker  
19 agency ~~and, a supportive home care service agency, a temporary employment agency~~  
20 that provides caregivers to another entity and the board on aging and long-term  
21 care. “Entity” does not include any of the following:

22           **SECTION 1521e.** 50.065 (1) (cn) of the statutes is created to read:

23           50.065 (1) (cn) “Nonclient resident” means a person who resides, or is expected  
24 to reside, at an entity, who is not a client of the entity and who has, or is expected to  
25 have, regular, direct contact with clients of the entity.

1           **SECTION 1521em.** 50.065 (1) (dm) of the statutes is created to read:

2           50.065 (1) (dm) "Reservation" means land in this state within the boundaries  
3 of a reservation of a tribe or within the bureau of Indian affairs service area for the  
4 Ho-Chunk Nation.

5           **SECTION 1521f.** 50.065 (1) (e) of the statutes is repealed and recreated to read:

6           50.065 (1) (e) 1. "Serious crime" means a violation of s. 940.01, 940.02, 940.03,  
7 940.05, 940.12, 940.19 (2), (3), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3),  
8 940.285 (2), 940.29, 940.295, 948.02 (1), 948.025 or 948.03 (2) (a), or a violation of the  
9 law of any other state or United States jurisdiction that would be a violation of s.  
10 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (3), (4), (5) or (6), 940.22 (2) or (3),  
11 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 948.02 (1), 948.025 or 948.03 (2)  
12 (a) if committed in this state.

13           2. For the purposes of an entity that serves persons under the age of 18, "serious  
14 crime" includes a violation of s. 948.02 (2), 948.03 (2) (b) or (c), 948.05, 948.055,  
15 948.06, 948.07, 948.08, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1) or 948.30 or  
16 a violation of the law of any other state or United States jurisdiction that would be  
17 a violation of s. 948.02 (2), 948.03 (2) (b) or (c), 948.05, 948.055, 948.06, 948.07,  
18 948.08, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1) or 948.30 if committed in this  
19 state.

20           **SECTION 1521fm.** 50.065 (1) (g) of the statutes is created to read:

21           50.065 (1) (g) "Tribe" means a federally recognized American Indian tribe or  
22 band in this state.

23           **SECTION 1521g.** 50.065 (2) (a) (intro.) of the statutes is renumbered 50.065 (4m)

24 (a) (intro.).

1           **SECTION 1521h.** 50.065 (2) (a) 1. of the statutes is renumbered 50.065 (4m) (a)

2           1.

3           **SECTION 1521i.** 50.065 (2) (a) 2. of the statutes is repealed.

4           **SECTION 1521j.** 50.065 (2) (a) 3. of the statutes is renumbered 50.065 (4m) (a)

5           3.

6           **SECTION 1521k.** 50.065 (2) (a) 4. of the statutes is renumbered 50.065 (4m) (a)

7           4.

8           **SECTION 1521L.** 50.065 (2) (a) 5. of the statutes is renumbered 50.065 (4m) (a)

9           5.

10          **SECTION 1521m.** 50.065 (2) (ag) (intro.) of the statutes is renumbered 50.065

11          (4m) (b) (intro.) and amended to read:

12           50.065 (4m) (b) (intro.) Notwithstanding s. 111.335, and except as provided in  
13          sub. (5), an entity may not hire or contract with a ~~person who will be under the~~  
14          ~~entity's control, as defined by the department by rule, and who is expected to have~~  
15          ~~access to its clients, caregiver~~ or permit to reside at the entity a ~~person who is not a~~  
16          ~~client and who is expected to have access to a client~~ nonclient resident, if the entity  
17          knows or should have known any of the following:

18           **SECTION 1521n.** 50.065 (2) (ag) 1. of the statutes is renumbered 50.065 (4m)

19           (b) 1.

20           **SECTION 1521p.** 50.065 (2) (ag) 2. of the statutes is repealed.

21           **SECTION 1521q.** 50.065 (2) (ag) 3. of the statutes is renumbered 50.065 (4m) (b)

22           3.

23           **SECTION 1521r.** 50.065 (2) (ag) 4. of the statutes is renumbered 50.065 (4m) (b)

24           4.

1           **SECTION 1521s.** 50.065 (2) (ag) 5. of the statutes is renumbered 50.065 (4m) (b)

2           5.

3           **SECTION 1521t.** 50.065 (2) (am) (intro.) of the statutes is amended to read:

4           50.065 (2) (am) (intro.) ~~Subject to subd. 5. and par. (bd), the~~ The department  
5 shall obtain all of the following with respect to a person specified under ~~par. (a)~~  
6 ~~(intro.)~~ sub. (1) (ag) 1. b. and a person ~~specified under par. (ag) (intro.)~~ who is a  
7 nonclient resident or prospective nonclient resident of an entity:

8           **SECTION 1521u.** 50.065 (2) (am) 5. of the statutes is amended to read:

9           50.065 (2) (am) 5. Information maintained by the department under this  
10 section regarding any denial to the person of a license, certification, certificate of  
11 approval or registration or of a continuation of a license, certification, certificate of  
12 approval or registration to operate an entity for a reason specified in ~~par. sub. (4m)~~  
13 ~~(a) 1. to 5.~~ and regarding any denial to the person of employment at, a contract with  
14 or permission to reside at an entity for a reason specified in ~~par. (ag) sub. (4m) (b) 1.~~  
15 to 5. If the information obtained under this subdivision indicates that the person has  
16 been denied a license, certification, certificate of approval or registration,  
17 continuation of a license, certification, certificate of approval or registration, a  
18 contract, employment or permission to reside as described in this subdivision, the  
19 department need not obtain the information specified in subs. 1. to 4.

20           **SECTION 1521v.** 50.065 (2) (b) 1. of the statutes is renumbered 50.065 (2) (b),  
21 and 50.065 (2) (b) (intro.) and 5., as renumbered, are amended to read:

22           50.065 (2) (b) (intro.) ~~Subject to subs. 1. c. and 2. and par. (bd), every~~ Every  
23 entity shall obtain all of the following with respect to a ~~person specified under par.~~  
24 ~~(ag) (intro.) who is an employe or contractor or a prospective employe or contractor~~  
25 caregiver of the entity:

1           5. Information maintained by the department under this section regarding any  
 2 denial to the person of a license, certification, certificate of approval or registration  
 3 or of a continuation of a license, certification, certificate of approval or registration  
 4 to operate an entity for a reason specified in ~~par. sub. (4m)~~ (a) 1. to 5. and regarding  
 5 any denial to the person of employment at, a contract with or permission to reside  
 6 at an entity for a reason specified in ~~par. (a) sub. (4m)~~ (b) 1. to 5. If the information  
 7 obtained under this ~~subd. 1. e. subdivision~~ indicates that the person has been denied  
 8 a license, certification, certificate of approval or registration, continuation of a  
 9 license, certification, certificate of approval or registration, a contract, employment  
 10 or permission to reside as described in this ~~subd. 1. e. subdivision~~, the entity need  
 11 not obtain the information specified in ~~subd. subs. 1. a. to d. to 4.~~

12           **SECTION 1521w.** 50.065 (2) (b) 2. of the statutes is repealed.

13           **SECTION 1521xd.** 50.065 (2) (bb) of the statutes is created to read:

14           50.065 (2) (bb) If information obtained under par. (am) or (b) indicates a charge  
 15 of a serious crime, but does not completely and clearly indicate the final disposition  
 16 of the charge, the department or entity shall make every reasonable effort to contact  
 17 the clerk of courts to determine the disposition of the charge. If a background  
 18 information form under sub. (6) (a) or (am) indicates a charge of a serious crime, but  
 19 information obtained under par. (am) or (b) does not indicate such a charge, the  
 20 department or entity shall make every reasonable effort to contact the clerk of courts  
 21 to obtain a copy of the criminal complaint and judgment of conviction relating to that  
 22 charge. If information obtained under par. (am) or (b) indicates a conviction of a  
 23 violation of s. 940.19 (1), 940.195, 940.20, 941.30, 942.08, 947.01 or 947.013 obtained  
 24 not more than 5 years before the date on which that information was obtained, the  
 25 department or entity shall make every reasonable effort to contact the clerk of courts

or a conviction

or conviction

or a background information form under sub. (6) (a) or (am)

1 to obtain a copy of the criminal complaint and judgment of conviction relating to that  
2 violation.

3 **SECTION 1521y.** 50.065 (2) (bd) of the statutes is amended to read:

4 50.065 (2) (bd) Notwithstanding pars. (am) and (b) 1., the department is not  
5 required to obtain the information specified in par. (am) 1. to 5., and an entity is not  
6 required to obtain the information specified in par. (b) 1. ~~a. to e. to 5.~~, with respect  
7 to a person under 18 years of age whose background information form under sub. (6)  
8 (am) indicates that the person is not ineligible to be employed, contracted with or  
9 permitted to reside at an entity for a reason specified in ~~par. (ag) sub. (4m) (b) 1.~~ to  
10 5. and with respect to whom the department or entity otherwise has no reason to  
11 believe that the person is ineligible to be employed, contracted with or permitted to  
12 reside at an entity for any of those reasons. This paragraph does not preclude the  
13 department from obtaining, at its discretion, the information specified in par. (am)  
14 1. to 5. with respect to a person described in this paragraph who is a nonclient  
15 resident or a prospective nonclient resident of an entity.

16 **SECTION 1521z.** 50.065 (2) (bg) of the statutes is amended to read:

17 50.065 (2) (bg) If an entity ~~takes an action specified in par. (ag) (intro.) with~~  
18 ~~respect to an employe, prospective employe, contractor or prospective contractor~~  
19 hires or contracts with a caregiver for whom, within the last 4 years, the information  
20 required under par. (b) 1. ~~a. to e. 3. and e. 5.~~ has already been obtained, ~~either by~~  
21 ~~another entity or by a temporary employment agency,~~ the entity may obtain ~~the that~~  
22 ~~information required under par. (b) 1. a. to e. and e. from that other entity or~~  
23 ~~temporary employment agency,~~ which shall provide the information, if possible, to  
24 the requesting entity. If an entity cannot obtain the information required under par.  
25 (b) 1. ~~a. to e. 3. and e. 5.~~ from another entity ~~or from a temporary employment agency~~



1 or if an entity has reasonable grounds to believe that any information obtained from  
2 another entity ~~or from a temporary employment agency~~ is no longer accurate, the  
3 entity shall obtain that information from the sources specified in par. (b) 1. ~~a.~~ to 3.  
4 and ~~e.~~ 5.

5 **SECTION 1521zb.** 50.065 (2) (bm) of the statutes is amended to read:

6 50.065 (2) (bm) If the person who is the subject of the search under par. (am)  
7 or (b) ~~1.~~ is not a resident of this state, or if at any time within the 3 years preceding  
8 the date of the search that person has not been a resident of this state, or if the  
9 department or entity determines that the person's employment, licensing or state  
10 court records provide a reasonable basis for further investigation, the department or  
11 entity shall make a good faith effort to obtain from any state or other United States  
12 jurisdiction in which the person is a resident or was a resident within the 3 years  
13 preceding the date of the search information that is equivalent to the information  
14 specified in par. (am) 1. or (b) 1. ~~a.~~ The department or entity may require the person  
15 to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's  
16 fingerprints. The department of justice may provide for the submission of the  
17 fingerprint cards to the federal bureau of investigation for the purposes of verifying  
18 the identity of the person fingerprinted and obtaining records of his or her criminal  
19 arrests and convictions.

20 **SECTION 1521zc.** 50.065 (2) (c) of the statutes is renumbered 50.065 (4m) (c)  
21 and amended to read:

22 50.065 (4m) (c) If the background information form completed by a person  
23 under sub. (6) (am) indicates that the person is not ineligible to be employed or  
24 contracted with for a reason specified in par. ~~(ag)~~ (b) 1. to 5., an entity may employ  
25 or contract with the person for not more than 60 days pending the receipt of the

1 information sought under ~~par. sub. (2)~~ (b) 1. If the background information form  
2 completed by a person under sub. (6) (am) indicates that the person is not ineligible  
3 to be permitted to reside at an entity for a reason specified in par. ~~(ag)~~ (b) 1. to 5. and  
4 if an entity otherwise has no reason to believe that the person is ineligible to be  
5 permitted to reside at an entity for any of those reasons, the entity may permit the  
6 person to reside at the entity for not more than 60 days pending receipt of the  
7 information sought under ~~par. sub. (2)~~ (am). An entity shall provide supervision for  
8 a person who is employed or contracted with or permitted to reside as permitted  
9 under this paragraph.

10 **SECTION 1521zd.** 50.065 (2) (d) of the statutes is created to read:

11 50.065 (2) (d) Every entity shall maintain, or shall contract with another  
12 person to maintain, the most recent background information obtained on a caregiver  
13 under par. (b). The information shall be made available for inspection by authorized  
14 persons, as defined by the department by rule.

15 **SECTION 1521ze.** 50.065 (3) (a) of the statutes is amended to read:

16 50.065 (3) (a) Every 4 years or at any time within that period that the  
17 department considers appropriate, the department shall request the information  
18 specified in sub. (2) (am) 1. to ~~4.~~ 5. for all persons who are licensed to operate an entity  
19 and for all persons ~~specified in par. (ag) (intro.)~~ who are nonclient residents of an  
20 entity.

21 **SECTION 1521zf.** 50.065 (3) (b) of the statutes is amended to read:

22 50.065 (3) (b) Every 4 years or at any other time within that period that an  
23 entity considers appropriate, the entity shall request the information specified in  
24 sub. (2) (b) 1. ~~a. to d.~~ 5. for all persons ~~specified in sub. (2) (ag) (intro.)~~ who are  
25 ~~employees or contractors~~ caregivers of the entity.

1           **SECTION 1521zg.** 50.065 (3m) of the statutes is amended to read:

2           50.065 **(3m)** Notwithstanding subs. (2) (b) ~~1~~, and (3) (b), if the department  
3 obtains the information required under sub. (2) (am) or (3) (a) with respect to a person  
4 ~~specified in sub. (2) (a) (intro.)~~ who is a caregiver specified under sub. (1) (ag) 1. b.  
5 and that person is also an employe, contractor or nonclient resident of the entity, the  
6 entity is not required to obtain the information specified in sub. (2) (b) ~~1~~ or (3) (b)  
7 with respect to that person.

8           **SECTION 1521zh.** 50.065 (4) of the statutes is amended to read:

9           50.065 **(4)** An entity that violates sub. (2) ~~or~~, (3) or (4m) (b) may be required to  
10 forfeit not more than \$1,000 and may be subject to other sanctions specified by the  
11 department by rule.

12           **SECTION 1521zi.** 50.065 (4m) (b) (intro.) of the statutes, as affected by 1999  
13 Wisconsin Act .... (this act), is amended to read:

14           50.065 **(4m)** (b) (intro.) Notwithstanding s. 111.335, and except as provided in  
15 sub. (5), an entity may not ~~hire~~ employ or contract with a caregiver or permit to reside  
16 at the entity a nonclient resident, if the entity knows or should have known any of  
17 the following:

18           **SECTION 1521zj.** 50.065 (5) (intro.) of the statutes is renumbered 50.065 (5) and  
19 amended to read:

20           50.065 **(5)** The department may license, certify, issue a certificate of approval  
21 to or register to operate an entity a person who otherwise may not be licensed,  
22 certified, issued a certificate of approval or registered for a reason specified in sub.  
23 ~~(2) (4m)~~ (a) 1. to 5. , and an entity may employ, contract with or permit to reside at  
24 the entity a person who otherwise may not be employed, contracted with or permitted  
25 to reside at the entity for a reason specified in sub. ~~(2) (ag)~~ (4m) (b) 1. to 5., if the

1 person demonstrates to the department, or, in the case of an entity that is located  
2 within the boundaries of a reservation, to the person or body designated by the tribe  
3 under sub. (5d) (a) 3. by clear and convincing evidence and in accordance with  
4 procedures established by the department by rule, or by the tribe, that he or she has  
5 been rehabilitated. ~~No person who has been convicted of any of the following offenses~~  
6 ~~may be permitted to demonstrate that he or she has been rehabilitated:~~

7 **SECTION 1521zk.** 50.065 (5) (a) to (e) of the statutes are repealed.

8 **SECTION 1521zL.** 50.065 (5d) of the statutes is created to read:

9 50.065 (5d) (a) Any tribe that chooses to conduct rehabilitation reviews under  
10 sub. (5) shall submit to the department a rehabilitation review plan that includes all  
11 of the following:

12 1. The criteria to be used to determine if a person has been rehabilitated.

13 2. The title of the person or body designated by the tribe to whom a request for  
14 review must be made.

15 3. The title of the person or body designated by the tribe to determine whether  
16 a person has been rehabilitated.

17 3m. The title of the person or body designated by the tribe to whom a person  
18 may appeal an adverse decision made by the person specified under subd. 3. and  
19 whether the tribe provides any further rights of appeal.

20 4. The manner in which the tribe will submit information relating to a  
21 rehabilitation review to the department so that the department may include that  
22 information in its report to the legislature required under sub. (5g).

23 5. A copy of the form to be used to request a review and a copy of the form on  
24 which a written decision is to be made regarding whether a person has demonstrated  
25 rehabilitation.

1 (b) If, within 90 days after receiving the plan, the department does not  
2 disapprove the plan, the plan shall be considered approved. If, within 90 days after  
3 receiving the plan, the department disapproves the plan, the department shall  
4 provide notice of that disapproval to the tribe in writing, together with the reasons  
5 for the disapproval. The department may not disapprove a plan unless the  
6 department finds that the plan is not rationally related to the protection of clients.  
7 If the department disapproves the plan, the tribe may, within 30 days after receiving  
8 notice of the disapproval, request that the secretary review the department's  
9 decision. A final decision under this paragraph is not subject to further review under  
10 ch. 227.

11 **SECTION 1521zm.** 50.065 (5m) of the statutes is amended to read:

12 50.065 (5m) Notwithstanding s. 111.335, the department may refuse to license,  
13 certify or register, or issue a certificate of approval to, ~~a person to operate an entity,~~  
14 caregiver and an entity may refuse to employ, or contract with a caregiver or to  
15 permit a nonclient resident to reside at the entity ~~a person specified in sub. (2) (ag)~~  
16 ~~(intro.),~~ if the ~~person~~ caregiver or nonclient resident has been convicted of an offense  
17 that ~~the department has not defined as a "serious crime" by rule promulgated under~~  
18 ~~sub. (7) (a), or specified in the list established by rule under sub. (7) (b)~~ is not a serious  
19 crime, but that is, in the estimation of the department or entity, substantially related  
20 to the care of a client.

21 **SECTION 1521zn.** 50.065 (6) (am) (intro.) of the statutes is renumbered 50.065

22 (6) (am) and amended to read:

23 50.065 (6) (am) Every 4 years an entity shall require ~~all of the following persons~~  
24 its caregivers and nonclient residents to complete a background information form  
25 that is provided to the entity by the department.

1           **SECTION 1521zp.** 50.065 (6) (am) 1. and 2. of the statutes are repealed.

2           **SECTION 1521zq.** 50.065 (6) (b) of the statutes is amended to read:

3           50.065 (6) (b) For ~~persons specified under par. (a)~~ caregivers who are licensed,  
4 issued a certificate of approval or certified by, or registered with, the department, for  
5 ~~person specified in par. (am) 2.~~ nonclient residents, and for other persons specified  
6 by the department by rule, the entity shall send the background information form  
7 to the department. ~~For persons specified under par. (am) 1., the entity shall maintain~~  
8 ~~the background information form on file for inspection by the department.~~

9           **SECTION 1521zr.** 50.065 (7) (a) and (b) of the statutes are repealed.”.

10          **7.** Page 749, line 21: delete “1.”.

11          **8.** Page 1121, line 18: after that line insert:

12          “**SECTION 2124m.** 120.13 (14) of the statutes is amended to read:

13          **120.13 (14) DAY CARE PROGRAMS.** Establish and provide or contract for the  
14 provision of day care programs for children. The school board may receive federal  
15 or state funds for this purpose. The school board may charge a fee for all or part of  
16 the cost of the service for participation in a day care program established under this  
17 subsection. Costs associated with a day care program under this subsection may not  
18 be included in shared costs under s. 121.07 (6). Day care programs established under  
19 this subsection shall meet the standards for licensed day care centers established by  
20 the department of health and family services. If a school board proposes to contract  
21 for or renew a contract for the provision of a day care program under this subsection  
22 or if on July 1, 1996, a school board is a party to a contract for the provision of a day  
23 care program under this subsection, the school board shall refer the contractor or  
24 proposed contractor to the department of health and family services for the criminal

1 history and child abuse record search required under s. 48.685. Each school board  
2 shall provide the department of health and family services with information about  
3 each person who is denied a contract for a reason specified in s. 48.685 ~~(2)~~ (4m) (a)  
4 1. to 5.”.

5 **9.** Page 1435, line 8: after that line insert:

6 “SECTION 3171m. 938.396 (9) of the statutes is amended to read:

7 938.396 (9) Notwithstanding sub. (2) (a), if a juvenile is adjudged delinquent  
8 for committing a serious crime, as defined in s. 48.685 ~~(7)~~ ~~(a)~~ (1) (c), the court clerk  
9 shall notify the department of justice of that fact. No other information from the  
10 juvenile’s court records may be disclosed to the department of justice except by order  
11 of the court. The department of justice may disclose any information provided under  
12 this subsection only as part of a criminal history record search under s. 48.685 (2)  
13 (am) 1. or (b) 1. a.”.

14 **10.** Page 1462, line 24: after that line insert:

15 “SECTION 3261b. 1997 Wisconsin Act 27, section 1664f is repealed.

16 SECTION 3261c. 1997 Wisconsin Act 27, section 2059f is repealed.”.

17 **11.** Page 1464, line 3: after that line insert:

18 “SECTION 3262g. 1997 Wisconsin Act 27, section 9423 (9ptt) is repealed.”.

19 **12.** Page 1511, line 12: after that line insert:

20 “~~(4xx)~~ CAREGIVER CRIMINAL BACKGROUND CHECKS. The department of corrections,  
21 in conjunction with the University of Wisconsin–Madison, shall prepare a report on  
22 the correlation between prior convictions and the propensity to commit future acts  
23 of abuse, neglect or misappropriation. The department of corrections shall submit


1 the report to the legislature in the manner provided under section 13.172 (3) of the  
2 statutes no later than June 30, 2001.”

3 **13.** Page 1610, line 16: after that line insert:

4 “(12xx) CAREGIVER BACKGROUND CHECKS. The treatment of sections 48.685 (2)  
5 (bg) (by SECTION 1170n), (4m) (b) (intro.) (by SECTION 1173j) and (5m) (by SECTION  
6 1176g) and 50.065 (4m) (b) (intro.) (by SECTION 1521zi) of the statutes takes effect on  
7 February 1, 2000.”

8 (END)

D-Note

Because the caregiver background check changes were not  
included in the Joint Committee on ~~Finance~~ <sup>on</sup> Finance substitute amendment,  
but rather in an assembly amendment to the JCF <sup>amdt.</sup> sub<sub>2</sub> to make the  
technical changes requested by DPA to ss. 48.68<sup>5</sup> (2) (bb)  
and 50.06<sup>5</sup> (2) (bb), it was necessary to redraft the  
entire assembly amendment, as affected by your requested  
changes. Accordingly, the only parts of this draft that are changed  
are ss. 48.68<sup>5</sup> (2) (bb) and 50.06<sup>5</sup> (2) (bb). 



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBb1852/1dn  
GM:kg:jf

September 29, 1999

Because the caregiver background check changes were not included in the Joint Committee on Finance substitute amendment, but rather in an assembly amendment to the JCF sub. amdt., to make the technical changes requested by DOA to ss. 48.685 (2) (bb) and 50.065 (2) (bb), it was necessary to redraft the entire assembly amendment, as affected by your requested changes. Accordingly, the only parts of this draft that are changed are ss. 48.685 (2) (bb) and 50.065 (2) (bb).

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*HWJ*

*(pp 7, 8 + 23)*

**ASSEMBLY AMENDMENT ,  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1999 ASSEMBLY BILL 133**

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 651, line 25: after that line insert:

3 **"SECTION 1151d.** 48.651 (2m) of the statutes is amended to read:

4 48.651 (2m) Each county department shall provide the department with  
5 information about each person who is denied certification for a reason specified in  
6 s. 48.685 (2) (4m) (a) 1. to 5.

7 **SECTION 1159d.** 48.685 (1) (a) of the statutes is renumbered 48.685 (1) (am).

8 **SECTION 1159g.** 48.685 (1) (ag) of the statutes is created to read:

9 48.685 (1) (ag) 1. "Caregiver" means any of the following:

10 a. A person who is, or is expected to be, an employe or contractor of an entity,  
11 who is or is expected to be under the control of the entity, as defined by the

1 department by rule, and who has, or is expected to have, regular, direct contact with  
2 clients of the entity.

3 b. A person who has, or is seeking, a license, certification or contract to operate  
4 an entity.

5 2. "Caregiver" does not include a person who is certified as an emergency  
6 medical technician under s. 146.50 if the person is employed, or seeking employment,  
7 as an emergency medical technician.

8 **SECTION 1159m.** 48.685 (1) (ar) of the statutes is created to read:

9 48.685 (1) (ar) "Contractor" means, with respect to an entity, a person, or that  
10 person's agent, who provides services to the entity under an express or implied  
11 contract or subcontract, including a person who has staff privileges at the entity.

12 **SECTION 1159p.** 48.685 (1) (av) of the statutes is created to read:

13 48.685 (1) (av) "Direct contact" means face-to-face physical proximity to a  
14 client that affords the opportunity to commit abuse or neglect of a client or to  
15 misappropriate the property of a client.

16 **SECTION 1159r.** 48.685 (1) (b) of the statutes is amended to read:

17 48.685 (1) (b) "Entity" means a child welfare agency that is licensed under s.  
18 48.60 to provide care and maintenance for children, to place children for adoption or  
19 to license foster homes or treatment foster homes; a foster home or treatment foster  
20 home that is licensed under s. 48.62; a group home that is licensed under s. 48.625;  
21 a shelter care facility that is licensed under s. 938.22; a day care center that is  
22 licensed under s. 48.65 or established or contracted for under s. 120.13 (14); ~~or~~ a day  
23 care provider that is certified under s. 48.651; or a temporary employment agency  
24 that provides caregivers to another entity."

1           **2.** Page 652, line 4: after that line insert:

2           “**SECTION 1160e.** 48.685 (1) (bm) of the statutes is created to read:

3           48.685 (1) (bm) “Nonclient resident” means a person who resides, or is expected  
4           to reside, at an entity, who is not a client of the entity and who has, or is expected to  
5           have, regular, direct contact with clients of the entity.

6           **SECTION 1160em.** 48.685 (1) (br) of the statutes is created to read:

7           48.685 (1) (br) “Reservation” means land in this state within the boundaries  
8           of a reservation of a tribe or within the bureau of Indian affairs service area for the  
9           Ho–Chunk Nation.

10          **SECTION 1160f.** 48.685 (1) (c) of the statutes is repealed and recreated to read:

11          48.685 (1) (c) “Serious crime” means a violation of s. 940.01, 940.02, 940.03,  
12          940.05, 940.12, 940.19 (2), (3), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3),  
13          940.285 (2), 940.29, 940.295, 948.02 (1) or (2), 948.025, 948.03 (2), 948.05, 948.055,  
14          948.06, 948.07, 948.08, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1) or 948.30 or  
15          a violation of the law of any other state or United States jurisdiction that would be  
16          a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (3), (4), (5) or (6),  
17          940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 948.02 (1) or (2),  
18          948.025, 948.03 (2), 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 (2) (a) or (am),  
19          948.12, 948.13, 948.21 (1) or 948.30 if committed in this state.”.

20          **3.** Page 652, line 8: after that line insert:

21          “**SECTION 1160gm.** 48.685 (1) (e) of the statutes is created to read:

22          48.685 (1) (e) “Tribe” means a federally recognized American Indian tribe or  
23          band in this state.”.

24          **4.** Page 652, line 9: delete lines 9 to 16 and substitute:

1           **"SECTION 1161d.** 48.685 (2) (a) (intro.) of the statutes is renumbered 48.685  
2 (4m) (a) (intro.).

3           **SECTION 1161g.** 48.685 (2) (a) 1. of the statutes is renumbered 48.685 (4m) (a)  
4 1.

5           **SECTION 1161h.** 48.685 (2) (a) 2. of the statutes is repealed.

6           **SECTION 1161i.** 48.685 (2) (a) 3. of the statutes is renumbered 48.685 (4m) (a)  
7 3.

8           **SECTION 1161j.** 48.685 (2) (a) 4. of the statutes is renumbered 48.685 (4m) (a)  
9 4.

10          **SECTION 1161k.** 48.685 (2) (a) 5. of the statutes is renumbered 48.685 (4m) (a)  
11 5.

12          **SECTION 1161m.** 48.685 (2) (ad) of the statutes is renumbered 48.685 (4m) (ad)  
13 and amended to read:

14           48.685 (4m) (ad) The department, a county department or a child welfare  
15 agency may license a foster home or treatment foster home under s. 48.62, a county  
16 department may certify a day care provider under s. 48.651 and a school board may  
17 contract with a person under s. 120.13 (14), conditioned on the receipt of the  
18 information specified in ~~par. sub. (2)~~ (am) indicating that the person is not ineligible  
19 to be licensed, certified or contracted with for a reason specified in par. (a) 1. to 5.

20          **SECTION 1163d.** 48.685 (2) (ag) (intro.) of the statutes is renumbered 48.685  
21 (4m) (b) (intro.) and amended to read:

22           48.685 (4m) (b) (intro.) Notwithstanding s. 111.335, and except as provided in  
23 sub. (5), an entity may not hire or contract with a ~~person who will be under the~~  
24 ~~entity's control, as defined by the department by rule, and who is expected to have~~  
25 ~~access to its clients,~~ caregiver or permit a nonclient resident to reside at the entity

1 ~~a person who is not a client and who is expected to have access to a client~~, if the entity  
2 knows or should have known any of the following:

3 **SECTION 1163g.** 48.685 (2) (ag) 1. of the statutes is renumbered 48.685 (4m) (b)  
4 1. and amended to read:

5 48.685 (4m) (b) 1. That the person has been convicted of a serious crime or, if  
6 the person is ~~an employe, prospective employe, contractor, prospective contractor,~~  
7 ~~nonclient resident or prospective~~ a caregiver or nonclient resident of a day care  
8 center that is licensed under s. 48.65 or established or contracted for under s. 120.13  
9 (14) or of a day care provider that is certified under s. 48.651, that the person has been  
10 convicted of a serious crime or adjudicated delinquent on or after his or her 12th  
11 birthday for committing a serious crime.

12 **SECTION 1163h.** 48.685 (2) (ag) 2. of the statutes is repealed.

13 **SECTION 1163i.** 48.685 (2) (ag) 3. of the statutes is renumbered 48.685 (4m) (b)  
14 3.

15 **SECTION 1163j.** 48.685 (2) (ag) 4. of the statutes is renumbered 48.685 (4m) (b)  
16 4.

17 **SECTION 1163k.** 48.685 (2) (ag) 5. of the statutes is renumbered 48.685 (4m) (b)  
18 5.

19 **SECTION 1165d.** 48.685 (2) (am) (intro.) of the statutes is amended to read:

20 48.685 (2) (am) (intro.) ~~Subject to subd. 5. and par. (bd), the~~ The department,  
21 a county department, a child welfare agency or a school board shall obtain all of the  
22 following with respect to a ~~person specified under par. (a) (intro.) and a person~~  
23 ~~specified under par. (ag) (intro.) who is a nonclient resident or prospective caregiver~~  
24 specified in sub. (1) (ag) 1. b., a nonclient resident of an entity and shall obtain the  
25 ~~information specified in subds. 1. to 5. with respect to a person specified in par. (ag)~~

1 ~~(intro.) who is~~ under 18 years of age, but not under 12 years of age, ~~and who is an~~  
2 ~~employee, prospective employe, contractor, prospective contractor, nonclient resident~~  
3 ~~or prospective nonclient resident~~ a caregiver of a day care center that is licensed  
4 under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care  
5 provider that is certified under s. 48.651:

6 **SECTION 1165g.** 48.685 (2) (am) 5. of the statutes is amended to read:

7 48.685 (2) (am) 5. Information maintained by the department under this  
8 section and under ss. 48.651 (2m), 48.75 (1m) and 120.13 (14) regarding any denial  
9 to the person of a license, continuation or renewal of a license, certification or a  
10 contract to operate an entity for a reason specified in ~~par. sub. (4m)~~ (a) 1. to 5. and  
11 regarding any denial to the person of employment at, a contract with or permission  
12 to reside at an entity for a reason specified in ~~par. (ag) sub. (4m) (b)~~ 1. to 5. If the  
13 information obtained under this subdivision indicates that the person has been  
14 denied a license, continuation or renewal of a license, certification, a contract,  
15 employment or permission to reside as described in this subdivision, the department,  
16 a county department, a child welfare agency or a school board need not obtain the  
17 information specified in subds. 1. to 4.

18 **SECTION 1167d.** 48.685 (2) (b) 1. (intro.) of the statutes is amended to read:

19 48.685 (2) (b) 1. (intro.) ~~Subject to subds. 1. e. and 2., and 4. par. (bd), every~~  
20 Every entity shall obtain all of the following with respect to a ~~person specified under~~  
21 ~~par. (ag) (intro.) who is an employe, prospective employe, contractor or prospective~~  
22 ~~contractor~~ caregiver of the entity:

23 **SECTION 1167g.** 48.685 (2) (b) 1. e. of the statutes is amended to read:

24 48.685 (2) (b) 1. e. Information maintained by the department under this  
25 section and under ss. 48.651 (2m), 48.75 (1m) and 120.13 (14) regarding any denial

1 to the person of a license, continuation or renewal of a license, certification or a  
2 contract to operate an entity for a reason specified in ~~par. sub. (4m)~~ (a) 1. to 5. and  
3 regarding any denial to the person of employment at, a contract with or permission  
4 to reside at an entity for a reason specified in ~~par. (ag) sub. (4m) (b)~~ 1. to 5. If the  
5 information obtained under this subd. 1. e. indicates that the person has been denied  
6 a license, continuation or renewal of a license, certification, a contract, employment  
7 or permission to reside as described in this subd. 1. e., the entity need not obtain the  
8 information specified in subd. 1. a. to d.

9 **SECTION 1168d.** 48.685 (2) (b) 2. of the statutes is repealed.

10 **SECTION 1168g.** 48.685 (2) (b) 4. of the statutes is amended to read:

11 48.685 (2) (b) 4. Subdivision 1. does not apply with respect to a person under  
12 18 years of age, but not under 12 years of age, who is ~~an employe, prospective~~  
13 ~~employe, contractor, prospective contractor, nonclient resident or prospective a~~  
14 caregiver or nonclient resident of a day care center that is licensed under s. 48.65 or  
15 established or contracted for under s. 120.13 (14) or of a day care provider that is  
16 certified under s. 48.651 and with respect to whom the department, a county  
17 department or a school board is required under par. (am) (intro.) to obtain the  
18 information specified in par. (am) 1. to 5.

19 **SECTION 1169p.** 48.685 (2) (bb) of the statutes is created to read:

20 48.685 (2) (bb) If information obtained under par. (am) or (b) 1. indicates a  
21 charge of a serious crime, but does not completely and clearly indicate the final  
22 disposition of the charge, the department, county department, child welfare agency,  
23 school board or entity shall make every reasonable effort to contact the clerk of courts  
24 to determine the <sup>(final)</sup> disposition of the charge. If a background information form under  
25 sub. (6) (a) or (am) indicates a charge or a conviction of a serious crime, but



*into the final disposition of the complaint*

1 information obtained under par. (am) or (b) 1. does not indicate such a charge or  
2 conviction, the department, county department, child welfare agency, school board  
3 or entity shall make every reasonable effort to contact the clerk of courts to obtain  
4 a copy of the criminal complaint and ~~judgment of conviction relating to that charge.~~

5 If information obtained under par. (am) or (b) 1. or a background information form  
6 under sub. (6) (a) or (am) indicates a conviction of a violation of s. 940.19 (1), 940.195,  
7 940.20, 941.30, 942.08, 947.01 or 947.013 obtained not more than 5 years before the  
8 date on which that information was obtained, the department, county department,  
9 child welfare agency, school board or entity shall make every reasonable effort to  
10 contact the clerk of courts to obtain a copy of the criminal complaint and judgment  
11 of conviction relating to that violation.

12 **SECTION 1170d.** 48.685 (2) (bd) of the statutes is amended to read:

13 48.685 (2) (bd) Notwithstanding pars. (am) and (b) 1., the department, a county  
14 department, a child welfare agency or a school board is not required to obtain the  
15 information specified in par. (am) 1. to 5., and an entity is not required to obtain the  
16 information specified in par. (b) 1. a. to e., with respect to a person under 18 years  
17 of age whose background information form under sub. (6) (am) indicates that the  
18 person is not ineligible to be employed, contracted with or permitted to reside at an  
19 entity for a reason specified in ~~par. (ag) sub. (4m) (b)~~ 1. to 5. and with respect to whom  
20 the department, county department, child welfare agency, school board or entity  
21 otherwise has no reason to believe that the person is ineligible to be employed,  
22 contracted with or permitted to reside at an entity for any of those reasons. This  
23 paragraph does not preclude the department, a county department, a child welfare  
24 agency or a school board from obtaining, at its discretion, the information specified

1 in par. (am) 1. to 5. with respect to a person described in this paragraph who is a  
2 nonclient resident or a prospective nonclient resident of an entity.

3 **SECTION 1170m.** 48.685 (2) (bg) of the statutes is amended to read:

4 48.685 (2) (bg) If an entity ~~takes an action specified in par. (ag) (intro.) with~~  
5 ~~respect to an employe, prospective employe, contractor or prospective contractor~~  
6 hires or contracts with a caregiver for whom, within the last 4 years, the information  
7 required under par. (b) 1. a. to c. and e. has already been obtained, ~~either~~ by another  
8 entity ~~or by a temporary employment agency~~, the entity may obtain ~~the~~ that  
9 information ~~required under par. (b) 1. a. to c. and e.~~ from that other entity ~~or~~  
10 ~~temporary employment agency~~, which shall provide the information, if possible, to  
11 the requesting entity. If an entity cannot obtain the information required under par.  
12 (b) 1. a. to c. and e. from another entity ~~or from a temporary employment agency~~ or  
13 if an entity has reasonable grounds to believe that any information obtained from  
14 another entity ~~or from a temporary employment agency~~ is no longer accurate, the  
15 entity shall obtain that information from the sources specified in par. (b) 1. a. to c.  
16 and e.

17 **SECTION 1170n.** 48.685 (2) (bg) of the statutes, as affected by 1999 Wisconsin  
18 Act .... (this act), is amended to read:

19 48.685 (2) (bg) If an entity ~~hires~~ employs or contracts with a caregiver for  
20 whom, within the last 4 years, the information required under par. (b) 1. a. to c. and  
21 e. has already been obtained by another entity, the entity may obtain that  
22 information from that other entity, which shall provide the information, if possible,  
23 to the requesting entity. If an entity cannot obtain the information required under  
24 par. (b) 1. a. to c. and e. from another entity or if an entity has reasonable grounds  
25 to believe that any information obtained from another entity is no longer accurate,

1 the entity shall obtain that information from the sources specified in par. (b) 1. a. to  
2 c. and e.

3 **SECTION 1171d.** 48.685 (2) (bm) of the statutes is amended to read:

4 48.685 (2) (bm) If the person who is the subject of the search under par. (am)  
5 or (b) 1. is not a resident of this state, or if at any time within the 3 years preceding  
6 the date of the search that person has not been a resident of this state, or if the  
7 department, county department, child welfare agency, school board or entity  
8 determines that the person's employment, licensing or state court records provide a  
9 reasonable basis for further investigation, the department, county department, child  
10 welfare agency, school board or entity shall make a good faith effort to obtain from  
11 any state or other United States jurisdiction in which the person is a resident or was  
12 a resident within the 3 years preceding the date of the search information that is  
13 equivalent to the information specified in par. (am) 1. or (b) 1. a. The department,  
14 county department, child welfare agency, school board or entity may require the  
15 person to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the  
16 person's fingerprints. The department of justice may provide for the submission of  
17 the fingerprint cards to the federal bureau of investigation for the purposes of  
18 verifying the identity of the person fingerprinted and obtaining records of his or her  
19 criminal arrests and convictions.

20 **SECTION 1171g.** 48.685 (2) (c) of the statutes is renumbered 48.685 (4m) (c) and  
21 amended to read:

22 48.685 (4m) (c) If the background information form completed by a person  
23 under sub. (6) (am) indicates that the person is not ineligible to be employed or  
24 contracted with for a reason specified in par. (ag) (b) 1. to 5., an entity may employ  
25 or contract with the person for not more than 60 days pending the receipt of the

1 information sought under ~~par. sub. (2)~~ (am) 1. to 5. or (b) 1. If the background  
2 information form completed by a person under sub. (6) (am) indicates that the person  
3 is not ineligible to be permitted to reside at an entity for a reason specified in par. ~~(ag)~~  
4 (b) 1. to 5. and if an entity otherwise has no reason to believe that the person is  
5 ineligible to be permitted to reside at an entity for any of those reasons, the entity  
6 may permit the person to reside at the entity for not more than 60 days pending  
7 receipt of the information sought under ~~par. sub. (2)~~ (am). An entity shall provide  
8 supervision for a person who is employed, contracted with or permitted to reside as  
9 permitted under this paragraph.

10 **SECTION 1171j.** 48.685 (2) (d) of the statutes is created to read:

11 48.685 (2) (d) Every entity shall maintain, or shall contract with another  
12 person to maintain, the most recent background information obtained on a caregiver  
13 under par. (b). The information shall be made available for inspection by authorized  
14 persons, as defined by the department by rule.

15 **SECTION 1172d.** 48.685 (3) (a) of the statutes is amended to read:

16 48.685 (3) (a) Every 4 years or at any time within that period that the  
17 department, a county department, a child welfare agency or a school board considers  
18 appropriate, the department, county department, child welfare agency or school  
19 board shall request the information specified in sub. (2) (am) 1. to 5. for all persons  
20 who are licensed, certified or contracted to operate an entity ~~and~~, for all persons  
21 ~~specified in par. (ag) (intro.)~~ who are nonclient residents of an entity and shall  
22 ~~request the information specified in sub. (2) (am) 1. to 5.~~ for all persons under 18  
23 years of age, but not under 12 years of age, who are ~~employees, contractors or~~  
24 ~~nonclient residents~~ caregivers of a day care center that is licensed under s. 48.65 or

1 established or contracted for under s. 120.13 (4) or of a day care provider that is  
2 certified under s. 48.651.

3 **SECTION 1172g.** 48.685 (3) (b) of the statutes is amended to read:

4 48.685 (3) (b) Every 4 years or at any time within that period that an entity  
5 considers appropriate, the entity shall request the information specified in sub. (2)  
6 (b) 1. a. to e. for all persons ~~specified in sub. (2) (ag) (intro.) employes or contractors~~  
7 who are caregivers of the entity other than persons ~~who are~~ under 18 years of age,  
8 but not under 12 years of age ~~and, who are employes, contractors or nonclient~~  
9 ~~residents~~ caregivers of a day care center that is licensed under s. 48.65 or established  
10 or contracted for under s. 120.13 (14) or of a day care provider that is certified under  
11 s. 48.651.

12 **SECTION 1173d.** 48.685 (3m) of the statutes is amended to read:

13 48.685 (3m) Notwithstanding subs. (2) (b) 1. and (3) (b), if the department, a  
14 county department, a child welfare agency or a school board has obtained the  
15 information required under sub. (2) (am) or (3) (a) with respect to a person ~~specified~~  
16 ~~in sub. (2) (a) (intro.)~~ who is a caregiver specified in sub. (1) (ag) 1. b. and that person  
17 is also an employe, contractor or nonclient resident of an entity, the entity is not  
18 required to obtain the information specified in sub. (2) (b) 1. or (3) (b) with respect  
19 to that person.

20 **SECTION 1173g.** 48.685 (4) of the statutes is amended to read:

21 48.685 (4) An entity that violates sub. (2) ~~or~~ (3) or (4m) (b) may be required to  
22 forfeit not more than \$1,000 and may be subject to other sanctions specified by the  
23 department by rule.

24 **SECTION 1173j.** 48.685 (4m) (b) (intro.) of the statutes, as affected by 1999  
25 Wisconsin Act .... (this act), is amended to read:

1           48.685 (4m) (b) (intro.) Notwithstanding s. 111.335, and except as provided in  
2 sub. (5), an entity may not hire employ or contract with a caregiver or permit a  
3 nonclient resident to reside at the entity, if the entity knows or should have known  
4 any of the following:

5           **SECTION 1174d.** 48.685 (5) (a) of the statutes is amended to read:

6           48.685 (5) (a) The department may license to operate an entity, a county  
7 department may certify under s. 48.651, a county department or a child welfare  
8 agency may license under s. 48.62 and a school board may contract with under s.  
9 120.13 (14) a person who otherwise may not be licensed, certified or contracted with  
10 for a reason specified in sub. ~~(2)~~ (4m) (a) 1. to 5., and an entity may employ, contract  
11 with or permit to reside at the entity a person who otherwise may not be employed,  
12 contracted with or permitted to reside at the entity for a reason specified in sub. ~~(2)~~  
13 ~~(ag)~~ (4m) (b) 1. to 5., if the person demonstrates to the department, the county  
14 department, the child welfare agency or the school board or, in the case of an entity  
15 that is located within the boundaries of a reservation, to the person or body  
16 designated by the tribe under sub. (5d) (a) 3., by clear and convincing evidence and  
17 in accordance with procedures established by the department by rule or by the tribe  
18 that he or she has been rehabilitated.

19           **SECTION 1174g.** 48.685 (5) (b) of the statutes is repealed.

20           **SECTION 1175m.** 48.685 (5d) of the statutes is created to read:

21           48.685 (5d) (a) Any tribe that chooses to conduct rehabilitation reviews under  
22 sub. (5) shall submit to the department a rehabilitation review plan that includes all  
23 of the following:

24           1. The criteria to be used to determine if a person has been rehabilitated.

1           2. The title of the person or body designated by the tribe to whom a request for  
2 review must be made.

3           3. The title of the person or body designated by the tribe to determine whether  
4 a person has been rehabilitated.

5           3m. The title of the person or body, designated by the tribe, to whom a person  
6 may appeal an adverse decision made by the person specified under subd. 3. and  
7 whether the tribe provides any further rights to appeal.

8           4. The manner in which the tribe will submit information relating to a  
9 rehabilitation review to the department so that the department may include that  
10 information in its report to the legislature required under sub. (5g).

11           5. A copy of the form to be used to request a review and a copy of the form on  
12 which a written decision is to be made regarding whether a person has demonstrated  
13 rehabilitation.

14           (b) If, within 90 days after receiving the plan, the department does not  
15 disapprove the plan, the plan shall be considered approved. If, within 90 days after  
16 receiving the plan, the department disapproves the plan, the department shall  
17 provide notice of that disapproval to the tribe in writing, together with the reasons  
18 for the disapproval. The department may not disapprove a plan unless the  
19 department finds that the plan is not rationally related to the protection of clients.  
20 If the department disapproves the plan, the tribe may, within 30 days after receiving  
21 notice of the disapproval, request that the secretary review the department's  
22 decision. A final decision under this paragraph is not subject to further review under  
23 ch. 227.

24           **SECTION 1176d.** 48.685 (5m) of the statutes is amended to read:

1           48.685 (5m) Notwithstanding s. 111.335, the department may refuse to license  
2 a person to operate an entity, a county department or a child welfare agency may  
3 refuse to license a foster home or treatment foster home under s. 48.62, and an entity  
4 may refuse to employ, hire or contract with a caregiver or permit a nonclient resident  
5 to reside at the entity ~~a person specified in sub. (2) (ag) (intro.)~~ if the person has been  
6 convicted of an offense that ~~the department has not defined as a “serious crime” by~~  
7 ~~rule promulgated under sub. (7) (a), or specified in the list established by rule under~~  
8 sub. (7) (b) is not a serious crime, but that is, in the estimation of the department,  
9 county department, child welfare agency, or entity, substantially related to the care  
10 of a client. Notwithstanding s. 111.335, the department may refuse to license a  
11 person to operate a day care center, a county department may refuse to certify a day  
12 care provider under s. 48.651, a school board may refuse to contract with a person  
13 under s. 120.13 (14), a day care center that is licensed under s. 48.65 or established  
14 or contracted for under s. 120.13 (14) and a day care provider that is certified under  
15 s. 48.651 may refuse to employ, hire or contract with a caregiver or permit a nonclient  
16 resident to reside at the day care center or day care provider ~~a person specified in sub.~~  
17 ~~(2) (ag) (intro.)~~ if the person has been convicted of or adjudicated delinquent on or  
18 after his or her 12th birthday for an offense that ~~the department has not defined as~~  
19 ~~a “serious crime” by rule promulgated under sub. (7) (a), or specified in the list~~  
20 ~~established by rule under sub. (7) (b) is not a serious crime~~, but that is, in the  
21 estimation of the department, county department, school board, day care center or  
22 day care provider, substantially related to the care of a client.

23           **SECTION 1176g.** 48.685 (5m) of the statutes, as affected by 1999 Wisconsin Act  
24 .... (this act), is amended to read:



1           48.685 (5m) Notwithstanding s. 111.335, the department may refuse to license  
2 a person to operate an entity, a county department or a child welfare agency may  
3 refuse to license a foster home or treatment foster home under s. 48.62, and an entity  
4 may refuse to ~~hire~~ employ or contract with a caregiver or permit a nonclient resident  
5 to reside at the entity if the person has been convicted of an offense that is not a  
6 serious crime, but that is, in the estimation of the department, county department,  
7 child welfare agency or entity, substantially related to the care of a client.  
8 Notwithstanding s. 111.335, the department may refuse to license a person to  
9 operate a day care center, a county department may refuse to certify a day care  
10 provider under s. 48.651, a school board may refuse to contract with a person under  
11 s. 120.13 (14), a day care center that is licensed under s. 48.65 or established or  
12 contracted for under s. 120.13 (14) and a day care provider that is certified under s.  
13 48.651 may refuse to ~~hire~~ employ or contract with a caregiver or permit a nonclient  
14 resident to reside at the day care center or day care provider if the person has been  
15 convicted of or adjudicated delinquent on or after his or her 12th birthday for an  
16 offense that is not a serious crime, but that is, in the estimation of the department,  
17 county department, school board, day care center or day care provider, substantially  
18 related to the care of a client.

19           **SECTION 1177r.** 48.685 (6) (am) (intro.) of the statutes is renumbered 48.685  
20 (6) (am) and amended to read:

21           48.685 (6) (am) Every 4 years an entity shall require all of ~~the following persons~~  
22 its caregivers and nonclient residents to complete a background information form  
23 that is provided to the entity by the department.

24           **SECTION 1178d.** 48.685 (6) (am) 1. of the statutes is repealed.

25           **SECTION 1178g.** 48.685 (6) (am) 2. of the statutes is repealed.

1           **SECTION 1179d.** 48.685 (6) (b) of the statutes is renumbered 48.685 (6) (b) 1.  
2           and amended to read:

3           48.685 (6) (b) 1. For ~~persons specified under par. (a)~~ caregivers who are licensed  
4           by the department, for persons ~~specified in par. (am) 1.~~ who are under 18 years of age,  
5           but not under 12 years of age, and who are ~~employees, prospective employees,~~  
6           ~~contractors or prospective contractors~~ caregivers of a day care center that is licensed  
7           under s. 48.65 or established or contracted for under s. 120.13 (4) or of a day care  
8           provider that is certified under s. 48.651, for persons ~~specified in par. (am) 2.~~ who are  
9           ~~nonclient residents or prospective nonclient residents~~ of an entity that is licensed by  
10          the department, and for other persons specified by the department by rule, the entity  
11          shall send the background information form to the department.

12          2. For ~~persons specified under par. (a)~~ caregivers who are licensed or certified  
13          by a county department, for persons ~~specified in par. (am) 2.~~ who are ~~nonclient~~  
14          ~~residents or prospective nonclient residents~~ of an entity that is licensed or certified  
15          by a county department and for other persons specified by the department by rule,  
16          the entity shall send the background information form to the county department.

17          3. For ~~persons specified under par. (a)~~ caregivers who are licensed by a child  
18          welfare agency, for persons ~~specified in par. (am) 2.~~ who are ~~nonclient residents or~~  
19          ~~prospective nonclient residents~~ of an entity that is licensed by a child welfare agency  
20          and for other persons specified by the department by rule, the entity shall send the  
21          background information form to the child welfare agency

22          4. For ~~persons specified under par. (a)~~ caregivers who are contracted with by  
23          a school board, for persons ~~specified in par. (am) 2.~~ who are ~~nonclient residents or~~  
24          ~~prospective nonclient residents~~ of an entity that is contracted with by a school board  
25          and for other persons specified by the department by rule, the entity shall send the

1 background information form to the school board. ~~For all other persons specified~~  
2 ~~under par. (am) 1., the entity shall maintain the background information form on file~~  
3 ~~for inspection by the department, county department, child welfare agency or school~~  
4 ~~board, whichever is applicable.~~

5 **SECTION 1180g.** 48.685 (7) (a) of the statutes is repealed.

6 **SECTION 1180h.** 48.685 (7) (b) of the statutes is repealed.”.

7 **5.** Page 653, line 3: after that line insert:

8 **“SECTION 1189r.** 48.75 (1m) of the statutes is amended to read:

9 48.75 (1m) Each child welfare agency and public licensing agency shall provide  
10 the subunit of the department that administers s. 48.685 with information about  
11 each person who is denied a license for a reason specified in s. 48.685 ~~(2)~~ (4m) (a) 1.  
12 to 5.”.

13 **6.** Page 749, line 17: after that line insert:

14 **“SECTION 1521b.** 50.065 (1) (ag) of the statutes is created to read:

15 50.065 (1) (ag) 1. “Caregiver” means any of the following:

16 a. A person who is, or is expected to be, an employe or contractor of an entity,  
17 who is or is expected to be under the control of an entity, as defined by the department  
18 by rule, and who has, or is expected to have, regular, direct contact with clients of the  
19 entity.

20 b. A person who has, or is seeking, a license, certification, registration, or  
21 certificate of approval issued or granted by the department to operate an entity.

22 c. A person who is, or is expected to be, an employe of the board on aging and  
23 long-term care and who has, or is expected to have, regular, direct contact with  
24 clients.

1           2. “Caregiver” does not include a person who is certified as an emergency  
2 medical technician under s. 146.50 if the person is employed, or seeking employment,  
3 as an emergency medical technician.

4           **SECTION 1521c.** 50.065 (1) (bm) of the statutes is created to read:

5           50.065 (1) (bm) “Contractor” means, with respect to an entity, a person, or that  
6 person’s agent, who provides services to the entity under an express or implied  
7 contract or subcontract, including a person who has staff privileges at the entity.

8           **SECTION 1521cm.** 50.065 (1) (br) of the statutes is created to read:

9           50.065 (1) (br) “Direct contact” means face-to-face physical proximity to a  
10 client that affords the opportunity to commit abuse or neglect of a client or to  
11 misappropriate the property of a client.

12           **SECTION 1521d.** 50.065 (1) (c) (intro.) of the statutes is amended to read:

13           50.065 (1) (c) (intro.) “Entity” means a facility, organization or service that is  
14 licensed or certified by or registered with the department to provide direct care or  
15 treatment services to clients. “Entity” includes a hospital, a personal care worker  
16 agency ~~and~~, a supportive home care service agency, a temporary employment agency  
17 that provides caregivers to another entity and the board on aging and long-term  
18 care. “Entity” does not include any of the following:

19           **SECTION 1521e.** 50.065 (1) (cn) of the statutes is created to read:

20           50.065 (1) (cn) “Nonclient resident” means a person who resides, or is expected  
21 to reside, at an entity, who is not a client of the entity and who has, or is expected to  
22 have, regular, direct contact with clients of the entity.

23           **SECTION 1521em.** 50.065 (1) (dm) of the statutes is created to read:

1           50.065 (1) (dm) “Reservation” means land in this state within the boundaries  
2 of a reservation of a tribe or within the bureau of Indian affairs service area for the  
3 Ho–Chunk Nation.

4           **SECTION 1521f.** 50.065 (1) (e) of the statutes is repealed and recreated to read:

5           50.065 (1) (e) 1. “Serious crime” means a violation of s. 940.01, 940.02, 940.03,  
6 940.05, 940.12, 940.19 (2), (3), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3),  
7 940.285 (2), 940.29, 940.295, 948.02 (1), 948.025 or 948.03 (2) (a), or a violation of the  
8 law of any other state or United States jurisdiction that would be a violation of s.  
9 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (3), (4), (5) or (6), 940.22 (2) or (3),  
10 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 948.02 (1), 948.025 or 948.03 (2)  
11 (a) if committed in this state.

12           2. For the purposes of an entity that serves persons under the age of 18, “serious  
13 crime” includes a violation of s. 948.02 (2), 948.03 (2) (b) or (c), 948.05, 948.055,  
14 948.06, 948.07, 948.08, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1) or 948.30 or  
15 a violation of the law of any other state or United States jurisdiction that would be  
16 a violation of s. 948.02 (2), 948.03 (2) (b) or (c), 948.05, 948.055, 948.06, 948.07,  
17 948.08, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1) or 948.30 if committed in this  
18 state.

19           **SECTION 1521fm.** 50.065 (1) (g) of the statutes is created to read:

20           50.065 (1) (g) “Tribe” means a federally recognized American Indian tribe or  
21 band in this state.

22           **SECTION 1521g.** 50.065 (2) (a) (intro.) of the statutes is renumbered 50.065 (4m)  
23 (a) (intro.).

24           **SECTION 1521h.** 50.065 (2) (a) 1. of the statutes is renumbered 50.065 (4m) (a)

25           1.

1           **SECTION 1521i.** 50.065 (2) (a) 2. of the statutes is repealed.

2           **SECTION 1521j.** 50.065 (2) (a) 3. of the statutes is renumbered 50.065 (4m) (a)

3           3.

4           **SECTION 1521k.** 50.065 (2) (a) 4. of the statutes is renumbered 50.065 (4m) (a)

5           4.

6           **SECTION 1521L.** 50.065 (2) (a) 5. of the statutes is renumbered 50.065 (4m) (a)

7           5.

8           **SECTION 1521m.** 50.065 (2) (ag) (intro.) of the statutes is renumbered 50.065  
9 (4m) (b) (intro.) and amended to read:

10           50.065 (4m) (b) (intro.) Notwithstanding s. 111.335, and except as provided in  
11 sub. (5), an entity may not hire or contract with a ~~person who will be under the~~  
12 ~~entity's control, as defined by the department by rule, and who is expected to have~~  
13 ~~access to its clients, caregiver~~ or permit to reside at the entity a ~~person who is not a~~  
14 ~~client and who is expected to have access to a client~~ nonclient resident, if the entity  
15 knows or should have known any of the following:

16           **SECTION 1521n.** 50.065 (2) (ag) 1. of the statutes is renumbered 50.065 (4m)  
17 (b) 1.

18           **SECTION 1521p.** 50.065 (2) (ag) 2. of the statutes is repealed.

19           **SECTION 1521q.** 50.065 (2) (ag) 3. of the statutes is renumbered 50.065 (4m) (b)  
20 3.

21           **SECTION 1521r.** 50.065 (2) (ag) 4. of the statutes is renumbered 50.065 (4m) (b)  
22 4.

23           **SECTION 1521s.** 50.065 (2) (ag) 5. of the statutes is renumbered 50.065 (4m) (b)  
24 5.

25           **SECTION 1521t.** 50.065 (2) (am) (intro.) of the statutes is amended to read:

1           50.065 (2) (am) (intro.) ~~Subject to subd. 5. and par. (bd), the~~ The department  
2 shall obtain all of the following with respect to a person specified under ~~par. (a)~~  
3 ~~(intro.) sub. (1) (ag) 1. b.~~ and a person specified under ~~par. (ag) (intro.)~~ who is a  
4 nonclient resident or prospective nonclient resident of an entity:

5           **SECTION 1521u.** 50.065 (2) (am) 5. of the statutes is amended to read:

6           50.065 (2) (am) 5. Information maintained by the department under this  
7 section regarding any denial to the person of a license, certification, certificate of  
8 approval or registration or of a continuation of a license, certification, certificate of  
9 approval or registration to operate an entity for a reason specified in ~~par. sub. (4m)~~  
10 (a) 1. to 5. and regarding any denial to the person of employment at, a contract with  
11 or permission to reside at an entity for a reason specified in ~~par. (ag) sub. (4m) (b) 1.~~  
12 to 5. If the information obtained under this subdivision indicates that the person has  
13 been denied a license, certification, certificate of approval or registration,  
14 continuation of a license, certification, certificate of approval or registration, a  
15 contract, employment or permission to reside as described in this subdivision, the  
16 department need not obtain the information specified in subds. 1. to 4.

17           **SECTION 1521v.** 50.065 (2) (b) 1. of the statutes is renumbered 50.065 (2) (b),  
18 and 50.065 (2) (b) (intro.) and 5., as renumbered, are amended to read:

19           50.065 (2) (b) (intro.) ~~Subject to subds. 1. e. and 2. and par. (bd), every~~ Every  
20 entity shall obtain all of the following with respect to a ~~person specified under par.~~  
21 ~~(ag) (intro.) who is an employe or contractor or a prospective employe or contractor~~  
22 caregiver of the entity:

23           5. Information maintained by the department under this section regarding any  
24 denial to the person of a license, certification, certificate of approval or registration  
25 or of a continuation of a license, certification, certificate of approval or registration

1 to operate an entity for a reason specified in ~~par. sub. (4m)~~ (a) 1. to 5. and regarding  
 2 any denial to the person of employment at, a contract with or permission to reside  
 3 at an entity for a reason specified in ~~par. (ag) sub. (4m) (b)~~ 1. to 5. If the information  
 4 obtained under this ~~subd. 1. e. subdivision~~ indicates that the person has been denied  
 5 a license, certification, certificate of approval or registration, continuation of a  
 6 license, certification, certificate of approval or registration, a contract, employment  
 7 or permission to reside as described in this ~~subd. 1. e. subdivision~~, the entity need  
 8 not obtain the information specified in ~~subd. subds. 1. a. to d. to 4.~~

*and the final disposition of the complaint*

9 **SECTION 1521w.** 50.065 (2) (b) 2. of the statutes is repealed.

10 **SECTION 1521xd.** 50.065 (2) (bb) of the statutes is created to read:

11 50.065 (2) (bb) If information obtained under par. (am) or (b) indicates a charge  
 12 of a serious crime, but does not completely and clearly indicate the final disposition  
 13 of the charge, the department or entity shall make every reasonable effort to contact  
 14 the clerk of courts to determine the <sup>final</sup> disposition of the charge. If a background  
 15 information form under sub. (6) (a) or (am) indicates a charge or a conviction of a  
 16 serious crime, but information obtained under par. (am) or (b) does not indicate such  
 17 a charge or conviction, the department or entity shall make every reasonable effort  
 18 to contact the clerk of courts to obtain a copy of the criminal complaint and ~~judgment~~  
 19 ~~of conviction relating to that charge.~~ If information obtained under par. (am) or (b)  
 20 or a background information form under sub. (6) (a) or (am) indicates a conviction of  
 21 a violation of s. 940.19 (1), 940.195, 940.20, 941.30, 942.08, 947.01 or 947.013  
 22 obtained not more than 5 years before the date on which that information was  
 23 obtained, the department or entity shall make every reasonable effort to contact the  
 24 clerk of courts to obtain a copy of the criminal complaint and judgment of conviction  
 25 relating to that violation.



1           **SECTION 1521y.** 50.065 (2) (bd) of the statutes is amended to read:

2           50.065 (2) (bd) Notwithstanding pars. (am) and (b) 1., the department is not  
3 required to obtain the information specified in par. (am) 1. to 5., and an entity is not  
4 required to obtain the information specified in par. (b) 1. ~~a. to e.~~ to 5., with respect  
5 to a person under 18 years of age whose background information form under sub. (6)  
6 (am) indicates that the person is not ineligible to be employed, contracted with or  
7 permitted to reside at an entity for a reason specified in ~~par. (ag) sub. (4m) (b) 1.~~ to  
8 5. and with respect to whom the department or entity otherwise has no reason to  
9 believe that the person is ineligible to be employed, contracted with or permitted to  
10 reside at an entity for any of those reasons. This paragraph does not preclude the  
11 department from obtaining, at its discretion, the information specified in par. (am)  
12 1. to 5. with respect to a person described in this paragraph who is a nonclient  
13 resident or a prospective nonclient resident of an entity.

14           **SECTION 1521z.** 50.065 (2) (bg) of the statutes is amended to read:

15           50.065 (2) (bg) If an entity ~~takes an action specified in par. (ag) (intro.) with~~  
16 ~~respect to an employe, prospective employe, contractor or prospective contractor~~  
17 hires or contracts with a caregiver for whom, within the last 4 years, the information  
18 required under par. (b) 1. ~~a. to e.~~ 3. and ~~e.~~ 5. has already been obtained, ~~either~~ by  
19 another entity ~~or by a temporary employment agency~~, the entity may obtain ~~the~~ that  
20 information ~~required under par. (b) 1. a. to e. and e.~~ from that other entity ~~or~~  
21 ~~temporary employment agency~~, which shall provide the information, if possible, to  
22 the requesting entity. If an entity cannot obtain the information required under par.  
23 (b) 1. ~~a. to e.~~ 3. and ~~e.~~ 5. from another entity ~~or from a temporary employment agency~~  
24 or if an entity has reasonable grounds to believe that any information obtained from  
25 another entity ~~or from a temporary employment agency~~ is no longer accurate, the

1 entity shall obtain that information from the sources specified in par. (b) 1. ~~a.~~ to 3.  
2 and e. 5.

3 **SECTION 1521zb.** 50.065 (2) (bm) of the statutes is amended to read:

4 50.065 (2) (bm) If the person who is the subject of the search under par. (am)  
5 or (b) ~~4.~~ is not a resident of this state, or if at any time within the 3 years preceding  
6 the date of the search that person has not been a resident of this state, or if the  
7 department or entity determines that the person's employment, licensing or state  
8 court records provide a reasonable basis for further investigation, the department or  
9 entity shall make a good faith effort to obtain from any state or other United States  
10 jurisdiction in which the person is a resident or was a resident within the 3 years  
11 preceding the date of the search information that is equivalent to the information  
12 specified in par. (am) 1. or (b) 1. ~~a.~~ The department or entity may require the person  
13 to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's  
14 fingerprints. The department of justice may provide for the submission of the  
15 fingerprint cards to the federal bureau of investigation for the purposes of verifying  
16 the identity of the person fingerprinted and obtaining records of his or her criminal  
17 arrests and convictions.

18 **SECTION 1521zc.** 50.065 (2) (c) of the statutes is renumbered 50.065 (4m) (c)  
19 and amended to read:

20 50.065 (4m) (c) If the background information form completed by a person  
21 under sub. (6) (am) indicates that the person is not ineligible to be employed or  
22 contracted with for a reason specified in par. ~~(ag)~~ (b) 1. to 5., an entity may employ  
23 or contract with the person for not more than 60 days pending the receipt of the  
24 information sought under par. sub. (2) (b) ~~4.~~ If the background information form  
25 completed by a person under sub. (6) (am) indicates that the person is not ineligible

1 to be permitted to reside at an entity for a reason specified in par. ~~(a)~~ (b) 1. to 5. and  
2 if an entity otherwise has no reason to believe that the person is ineligible to be  
3 permitted to reside at an entity for any of those reasons, the entity may permit the  
4 person to reside at the entity for not more than 60 days pending receipt of the  
5 information sought under ~~par. sub. (2)~~ (am). An entity shall provide supervision for  
6 a person who is employed or contracted with or permitted to reside as permitted  
7 under this paragraph.

8 **SECTION 1521zd.** 50.065 (2) (d) of the statutes is created to read:

9 50.065 **(2)** (d) Every entity shall maintain, or shall contract with another  
10 person to maintain, the most recent background information obtained on a caregiver  
11 under par. (b). The information shall be made available for inspection by authorized  
12 persons, as defined by the department by rule.

13 **SECTION 1521ze.** 50.065 (3) (a) of the statutes is amended to read:

14 50.065 **(3)** (a) Every 4 years or at any time within that period that the  
15 department considers appropriate, the department shall request the information  
16 specified in sub. (2) (am) 1. to ~~4.~~ 5. for all persons who are licensed to operate an entity  
17 and for all persons ~~specified in par. (a)~~ ~~(intro.)~~ who are nonclient residents of an  
18 entity.

19 **SECTION 1521zf.** 50.065 (3) (b) of the statutes is amended to read:

20 50.065 **(3)** (b) Every 4 years or at any other time within that period that an  
21 entity considers appropriate, the entity shall request the information specified in  
22 sub. (2) (b) 1. ~~a. to d.~~ 5. for all ~~persons specified in sub. (2) (a)~~ ~~(intro.)~~ ~~who are~~  
23 ~~employees or contractors~~ caregivers of the entity.

24 **SECTION 1521zg.** 50.065 (3m) of the statutes is amended to read:

1           50.065 (3m) Notwithstanding subs. (2) (b) ~~1~~ and (3) (b), if the department  
2 obtains the information required under sub. (2) (am) or (3) (a) with respect to a person  
3 ~~specified in sub. (2) (a) (intro.)~~ who is a caregiver specified under sub. (1) (ag) 1. b.  
4 and that person is also an employe, contractor or nonclient resident of the entity, the  
5 entity is not required to obtain the information specified in sub. (2) (b) ~~1~~ or (3) (b)  
6 with respect to that person.

7           **SECTION 1521zh.** 50.065 (4) of the statutes is amended to read:

8           50.065 (4) An entity that violates sub. (2) ~~or~~ (3) or (4m) (b) may be required to  
9 forfeit not more than \$1,000 and may be subject to other sanctions specified by the  
10 department by rule.

11           **SECTION 1521zi.** 50.065 (4m) (b) (intro.) of the statutes, as affected by 1999  
12 Wisconsin Act .... (this act), is amended to read:

13           50.065 (4m) (b) (intro.) Notwithstanding s. 111.335, and except as provided in  
14 sub. (5), an entity may not ~~hire~~ employ or contract with a caregiver or permit to reside  
15 at the entity a nonclient resident, if the entity knows or should have known any of  
16 the following:

17           **SECTION 1521zj.** 50.065 (5) (intro.) of the statutes is renumbered 50.065 (5) and  
18 amended to read:

19           50.065 (5) The department may license, certify, issue a certificate of approval  
20 to or register to operate an entity a person who otherwise may not be licensed,  
21 certified, issued a certificate of approval or registered for a reason specified in sub.  
22 ~~(2) (4m) (a) 1. to 5. ,~~ and an entity may employ, contract with or permit to reside at  
23 the entity a person who otherwise may not be employed, contracted with or permitted  
24 to reside at the entity for a reason specified in sub. ~~(2) (ag) (4m) (b) 1. to 5.,~~ if the  
25 person demonstrates to the department, or, in the case of an entity that is located

1 within the boundaries of a reservation, to the person or body designated by the tribe  
2 under sub. (5d) (a) 3., by clear and convincing evidence and in accordance with  
3 procedures established by the department by rule, or by the tribe, that he or she has  
4 been rehabilitated. ~~No person who has been convicted of any of the following offenses~~  
5 ~~may be permitted to demonstrate that he or she has been rehabilitated:~~

6 **SECTION 1521zk.** 50.065 (5) (a) to (e) of the statutes are repealed.

7 **SECTION 1521zL.** 50.065 (5d) of the statutes is created to read:

8 50.065 **(5d)** (a) Any tribe that chooses to conduct rehabilitation reviews under  
9 sub. (5) shall submit to the department a rehabilitation review plan that includes all  
10 of the following:

11 1. The criteria to be used to determine if a person has been rehabilitated.

12 2. The title of the person or body designated by the tribe to whom a request for  
13 review must be made.

14 3. The title of the person or body designated by the tribe to determine whether  
15 a person has been rehabilitated.

16 3m. The title of the person or body designated by the tribe to whom a person  
17 may appeal an adverse decision made by the person specified under subd. 3. and  
18 whether the tribe provides any further rights of appeal.

19 4. The manner in which the tribe will submit information relating to a  
20 rehabilitation review to the department so that the department may include that  
21 information in its report to the legislature required under sub. (5g).

22 5. A copy of the form to be used to request a review and a copy of the form on  
23 which a written decision is to be made regarding whether a person has demonstrated  
24 rehabilitation.

1 (b) If, within 90 days after receiving the plan, the department does not  
2 disapprove the plan, the plan shall be considered approved. If, within 90 days after  
3 receiving the plan, the department disapproves the plan, the department shall  
4 provide notice of that disapproval to the tribe in writing, together with the reasons  
5 for the disapproval. The department may not disapprove a plan unless the  
6 department finds that the plan is not rationally related to the protection of clients.  
7 If the department disapproves the plan, the tribe may, within 30 days after receiving  
8 notice of the disapproval, request that the secretary review the department's  
9 decision. A final decision under this paragraph is not subject to further review under  
10 ch. 227.

11 **SECTION 1521zm.** 50.065 (5m) of the statutes is amended to read:

12 50.065 (5m) Notwithstanding s. 111.335, the department may refuse to license,  
13 certify or register, or issue a certificate of approval to, a ~~person to operate an entity,~~  
14 caregiver and an entity may refuse to employ, or contract with a caregiver or to  
15 permit a nonclient resident to reside at the entity ~~a person specified in sub. (2) (ag)~~  
16 ~~(intro.)~~, if the ~~person~~ caregiver or nonclient resident has been convicted of an offense  
17 that ~~the department has not defined as a "serious crime" by rule promulgated under~~  
18 ~~sub. (7) (a), or specified in the list established by rule under sub. (7) (b)~~ is not a serious  
19 crime, but that is, in the estimation of the department or entity, substantially related  
20 to the care of a client.

21 **SECTION 1521zn.** 50.065 (6) (am) (intro.) of the statutes is renumbered 50.065  
22 (6) (am) and amended to read:

23 50.065 (6) (am) Every 4 years an entity shall require ~~all of the following persons~~  
24 its caregivers and nonclient residents to complete a background information form  
25 that is provided to the entity by the department.

1           **SECTION 1521zp.** 50.065 (6) (am) 1. and 2. of the statutes are repealed.

2           **SECTION 1521zq.** 50.065 (6) (b) of the statutes is amended to read:

3           50.065 (6) (b) For ~~persons specified under par. (a)~~ caregivers who are licensed,  
4 issued a certificate of approval or certified by, or registered with, the department, for  
5 ~~person specified in par. (am) 2.~~ nonclient residents, and for other persons specified  
6 by the department by rule, the entity shall send the background information form  
7 to the department. ~~For persons specified under par. (am) 1., the entity shall maintain~~  
8 ~~the background information form on file for inspection by the department.~~

9           **SECTION 1521zr.** 50.065 (7) (a) and (b) of the statutes are repealed.”.

10          **7.** Page 749, line 21: delete “1.”.

11          **8.** Page 1121, line 18: after that line insert:

12          “**SECTION 2124m.** 120.13 (14) of the statutes is amended to read:

13          **120.13 (14) DAY CARE PROGRAMS.** Establish and provide or contract for the  
14 provision of day care programs for children. The school board may receive federal  
15 or state funds for this purpose. The school board may charge a fee for all or part of  
16 the cost of the service for participation in a day care program established under this  
17 subsection. Costs associated with a day care program under this subsection may not  
18 be included in shared costs under s. 121.07 (6). Day care programs established under  
19 this subsection shall meet the standards for licensed day care centers established by  
20 the department of health and family services. If a school board proposes to contract  
21 for or renew a contract for the provision of a day care program under this subsection  
22 or if on July 1, 1996, a school board is a party to a contract for the provision of a day  
23 care program under this subsection, the school board shall refer the contractor or  
24 proposed contractor to the department of health and family services for the criminal

1 history and child abuse record search required under s. 48.685. Each school board  
2 shall provide the department of health and family services with information about  
3 each person who is denied a contract for a reason specified in s. 48.685 ~~(2)~~ (4m) (a)  
4 1. to 5.”.

5 **9.** Page 1435, line 8: after that line insert:

6 “SECTION 3171m. 938.396 (9) of the statutes is amended to read:

7 938.396 (9) Notwithstanding sub. (2) (a), if a juvenile is adjudged delinquent  
8 for committing a serious crime, as defined in s. 48.685 ~~(7)~~ ~~(a)~~ (1) (c), the court clerk  
9 shall notify the department of justice of that fact. No other information from the  
10 juvenile’s court records may be disclosed to the department of justice except by order  
11 of the court. The department of justice may disclose any information provided under  
12 this subsection only as part of a criminal history record search under s. 48.685 (2)  
13 (am) 1. or (b) 1. a.”.

14 **10.** Page 1462, line 24: after that line insert:

15 “SECTION 3261b. 1997 Wisconsin Act 27, section 1664f is repealed.

16 SECTION 3261c. 1997 Wisconsin Act 27, section 2059f is repealed.”.

17 **11.** Page 1464, line 3: after that line insert:

18 “SECTION 3262g. 1997 Wisconsin Act 27, section 9423 (9ptt) is repealed.”.

19 **12.** Page 1511, line 12: after that line insert:

20 “(4xx) CAREGIVER CRIMINAL BACKGROUND CHECKS. The department of corrections,  
21 in conjunction with the University of Wisconsin–Madison, shall prepare a report on  
22 the correlation between prior convictions and the propensity to commit future acts  
23 of abuse, neglect or misappropriation. The department of corrections shall submit



1 the report to the legislature in the manner provided under section 13.172 (3) of the  
2 statutes no later than June 30, 2001.”.

3 **13.** Page 1610, line 16: after that line insert:

4 “(12xx) CAREGIVER BACKGROUND CHECKS. The treatment of sections 48.685 (2)  
5 (bg) (by SECTION 1170n), (4m) (b) (intro.) (by SECTION 1173j) and (5m) (by SECTION  
6 1176g) and 50.065 (4m) (b) (intro.) (by SECTION 1521zi) of the statutes takes effect on  
7 February 1, 2000.”.

8 (END)

**AMENDMENT JACKET**

\_\_\_\_\_  
**DATE**

b 1852  
**LRB NUMBER**

**ASSEMBLY AMENDMENT** \_\_\_\_\_

**to** \_\_\_\_\_ **amendment** \_\_\_\_\_

**to** \_\_\_\_\_ **sub. amdt.** \_\_\_\_\_

**TO** \_\_\_\_\_ **BILL** \_\_\_\_\_

**DO NOT WRITE IN THE SHADED AREA**

**Offered by Representative (s)** \_\_\_\_\_

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**Offered by (Joint) Committee on** \_\_\_\_\_

\_\_\_\_\_

To introduce this amendment: submit this amendment jacket, signed by the amendment authors, and all attached copies to the Assembly Journal and Records Section, Room 402, One East Main, or to a member of the Chief Clerk's staff at the front desk in the Assembly Chambers.