



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1852/1 (B)
TY&GM:kgjf RMR

→ LFB - Morgan
~~A ASSEMBLY AMENDMENT,~~

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

- Switch to LFB
- Change request sheet
→

- 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 ~~employee, prospective employee, 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 employe, 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 subs. 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 subs. 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 final disposition of the charge. If a background information form
25 under sub. (6) (a) or (am) indicates a charge or a conviction of a serious crime, but

or any other information

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 the final disposition of the complaint. If
 5 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.

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.) ~~employees 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 ~~employees, 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.~~

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 final 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 the final
19 disposition of the complaint. If information obtained under par. (am) or (b) ~~or~~ a
20 background information form under sub. (6) (a) or (am) indicates a conviction of a
21 violation of s. 940.19 (1), 940.195, 940.20, 941.30, 942.08, 947.01 or 947.013 obtained
22 not more than 5 years before the date on which that information was obtained, the
23 department or entity shall make every reasonable effort to contact the clerk of courts
24 to obtain a copy of the criminal complaint and judgment of conviction relating to that
25 violation.

or any other information

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) 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 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) 1. 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. ~~(ag)~~ (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. (ag) (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) (ag) (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)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1852/3
TY&GM:kg:mrc

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 employe, prospective employe, 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:

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

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

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

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

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

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

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

24 48.685 (2) (bg) If an entity hires employs or contracts with a caregiver for
25 whom, within the last 4 years, the information required under par. (b) 1. a. to c. and

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

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

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

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

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

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

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

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

22 48.685 (3) (a) Every 4 years or at any time within that period that the
23 department, a county department, a child welfare agency or a school board considers
24 appropriate, the department, county department, child welfare agency or school
25 board shall request the information specified in sub. (2) (am) 1. to 5. for all persons

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

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

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

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

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

25 **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 ~~employees, prospective employees,~~
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 subds. 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 subds. 1. e. 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. (ag) 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. subds. 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 final disposition of the charge. If a background
18 information form under sub. (6) (a) or (am) indicates a charge or a conviction of a
19 serious crime, but information obtained under par. (am) or (b) does not indicate such
20 a charge or conviction, the department or entity shall make every reasonable effort
21 to contact the clerk of courts to obtain a copy of the criminal complaint and the final
22 disposition of the complaint. If information obtained under par. (am) or (b), a
23 background information form under sub. (6) (a) or (am) or any other information
24 indicates a conviction of a violation of s. 940.19 (1), 940.195, 940.20, 941.30, 942.08,
25 947.01 or 947.013 obtained not more than 5 years before the date on which that

1 information was obtained, the department or entity shall make every reasonable
2 effort to contact the clerk of courts to obtain a copy of the criminal complaint and
3 judgment of conviction relating to that violation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 50.065 (3) (b) Every 4 years or at any other time within that period that an
24 entity considers appropriate, the entity shall request the information specified in

1 sub. (2) (b) 1. a. to d. 5. for all ~~persons specified in sub. (2) (ag) (intro.) who are~~
2 ~~employees or contractors~~ caregivers of the entity.

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

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

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

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

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

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

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

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

1 the entity a person who otherwise may not be employed, contracted with or permitted
2 to reside at the entity for a reason specified in sub. ~~(2) (ag)~~ (4m) (b) 1. to 5., if the
3 person demonstrates to the department, or, in the case of an entity that is located
4 within the boundaries of a reservation, to the person or body designated by the tribe
5 under sub. (5d) (a) 3., by clear and convincing evidence and in accordance with
6 procedures established by the department by rule, or by the tribe, that he or she has
7 been rehabilitated. ~~No person who has been convicted of any of the following offenses~~
8 ~~may be permitted to demonstrate that he or she has been rehabilitated:~~

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

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

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

14 1. The criteria to be used to determine if a person has been rehabilitated.
15 2. The title of the person or body designated by the tribe to whom a request for
16 review must be made.

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

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

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

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

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

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

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

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

1 50.065 (6) (am) Every 4 years an entity shall require ~~all of the following persons~~
2 its caregivers and nonclient residents to complete a background information form
3 that is provided to the entity by the department.

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

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

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

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

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

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

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

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

1 or if on July 1, 1996, a school board is a party to a contract for the provision of a day
2 care program under this subsection, the school board shall refer the contractor or
3 proposed contractor to the department of health and family services for the criminal
4 history and child abuse record search required under s. 48.685. Each school board
5 shall provide the department of health and family services with information about
6 each person who is denied a contract for a reason specified in s. 48.685 ~~(2)~~ (4m) (a)
7 1. to 5.”.

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

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

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

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

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

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

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

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

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

23 “(4xx) CAREGIVER CRIMINAL BACKGROUND CHECKS. The department of corrections,
24 in conjunction with the University of Wisconsin–Madison, shall prepare a report on

1 the correlation between prior convictions and the propensity to commit future acts
2 of abuse, neglect or misappropriation. The department of corrections shall submit
3 the report to the legislature in the manner provided under section 13.172 (3) of the
4 statutes no later than June 30, 2001.”.

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

6 “(12xx) CAREGIVER BACKGROUND CHECKS. The treatment of sections 48.685 (2)
7 (bg) (by SECTION 1170n), (4m) (b) (intro.) (by SECTION 1173j) and (5m) (by SECTION
8 1176g) and 50.065 (4m) (b) (intro.) (by SECTION 1521zi) of the statutes takes effect on
9 February 1, 2000.”.

10

(END)