



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2003 ASSEMBLY BILL 836**

March 2, 2004 - Offered by Representative JENSEN.

1 **AN ACT** *to renumber* 119.23 (7) (am); and *to create* 119.23 (7) (am) 2., 119.23 (7)
2 (d), 119.23 (7) (e), 119.23 (7) (f), 119.23 (7) (g) and 119.23 (10) of the statutes;
3 **relating to:** the employment of personnel by private schools participating in
4 the Milwaukee Parental Choice Program.

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

5 **SECTION 1.** 119.23 (7) (am) of the statutes is renumbered 119.23 (7) (am) 1.

6 **SECTION 2.** 119.23 (7) (am) 2. of the statutes is created to read:

7 119.23 (7) (am) 2. Annually by September 1 following a school year in which
8 a private school participated in the program under this section, the private school
9 shall submit to the department certification by the auditor under subd. 1. that
10 criminal background checks of all school employees were conducted as specified
11 under par. (g).

12 **SECTION 3.** 119.23 (7) (d) of the statutes is created to read:

1 119.23 (7) (d) Each private school participating in the program under this
2 section shall submit to the department all of the following:

3 1. By August 1 before the first school term of participation in the program, or
4 by May 1 if the private school begins participating in the program during summer
5 school, a notarized statement by a person legally authorized to act on behalf of the
6 private school that a criminal background check of each person who will be employed
7 by the private school when the school begins to participate in the program under this
8 section was conducted within the immediately preceding 5 years or will be conducted
9 within 120 days after the school begins to participate, and will be conducted at least
10 once every 5 years thereafter, using the procedure specified in par. (g).

11 2. Annually by February 1, a notarized statement by a person legally
12 authorized to act on behalf of the private school that the private school will conduct
13 criminal background checks as required in par. (g).

14 **SECTION 4.** 119.23 (7) (e) of the statutes is created to read:

15 119.23 (7) (e) 1. Notwithstanding subch. II of ch. 111, except as provided in
16 subd. 2. a private school participating in the program under this section may not
17 employ a person convicted of any Class A, B, C, D, E, F, G, or H felony under ch. 940
18 or 948, except ss. 940.08 and 940.205, or of an equivalent crime in another state or
19 United States jurisdiction, or of any Class BC felony under ch. 940 or 948, 1999 stats.,
20 or of an equivalent crime in another state or United States jurisdiction, for 6 years
21 following the date of the conviction, and may employ such a person after 6 years only
22 if the person establishes by clear and convincing evidence that he or she is entitled
23 to be employed.

24 2. A private school participating in the program under this section may employ
25 a person convicted of a crime enumerated in subd. 1., prior to the expiration of the

1 6-year period following the conviction, if the private school receives from the court
2 in which the conviction occurred a certificate stating that the conviction has been
3 reversed, set aside, or vacated.

4 **SECTION 5.** 119.23 (7) (f) of the statutes is created to read:

5 119.23 (7) (f) Notwithstanding subch. II of ch. 111, a private school
6 participating in the program under this section may refuse to employ or may
7 terminate the employment of any person who has been convicted of a felony unless
8 the private school receives from the court in which the conviction occurred a
9 certificate stating that the conviction has been reversed, set aside, or vacated.

10 **SECTION 6.** 119.23 (7) (g) of the statutes is created to read:

11 119.23 (7) (g) Each private school participating in the program under this
12 section shall conduct a criminal background check through the department of justice
13 on each person employed by the private school when the person is initially employed
14 and at least once every 5 years thereafter. When the person is initially employed, the
15 private school shall require the person to be fingerprinted on 2 fingerprint cards,
16 each bearing a complete set of the person's fingerprints, and shall submit the cards
17 to the department of justice. The department of justice may provide for the
18 submission of the fingerprint cards to the federal bureau of investigation for the
19 purposes of verifying the identity of the person fingerprinted and obtaining records
20 of his or her criminal arrests and convictions.

21 **SECTION 7.** 119.23 (10) of the statutes is created to read:

22 119.23 (10) (a) The state superintendent may issue an order immediately
23 terminating a private school's participation in the program under this section if the
24 state superintendent determines that the private school has done any of the
25 following:

1 1. Misrepresented information required under sub. (7) (d).

2 2. Failed to provide the certification required under sub. (7) (am) 2., or a
3 statement required under sub. (7) (d), by the date specified.

4 (c) Whenever the state superintendent issues an order under par. (a), he or she
5 shall immediately notify the parent or guardian of each pupil attending the private
6 school under this section.

7 (d) The state superintendent may withhold payment from a parent or guardian
8 under subs. (4) and (4m) if the private school attended by the child of the parent or
9 guardian violates this section.

10 **SECTION 8. Nonstatutory provisions.**

11 (1) Notwithstanding section 119.23 (7) (d) 2. of the statutes, as created by this
12 act, the first notarized statement required under that subdivision is due within 60
13 days after the effective date of this subsection.

14 (2) Within 120 days after the effective date of this subsection, using the
15 procedure specified in section 119.23 (7) (g) of the statutes, as created by this act, a
16 private school participating in the program under section 119.23 of the statutes shall
17 conduct a criminal background check through the department of justice on each
18 person employed by the private school unless the private school has conducted a
19 criminal background check on the person within the 5 years immediately preceding
20 the effective date of this subsection.

21 **SECTION 9. Initial applicability.**

22 (1) This act first applies to private schools that participate in the Milwaukee
23 Parental Choice Program under section 119.23 of the statutes in the 2004–05 school
24 year, except as provided in SECTION 8 of this act and except that the treatment of

1 section 119.23 (7) (am) 2. of the statutes first applies to reports under that
2 subdivision that are due by September 1, 2005.

3 (END)