



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Senate Bill 103

**Assembly Substitute
Amendment 1**

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Current Law

Currently, the Department of Regulation and Licensing (DRL) regulates the credentialing of numerous professions in the state. DRL investigates applicants for certain professional credentials to determine whether the applicants satisfy the eligibility requirements for the credentials. Among the things checked by DRL is an applicant's arrest and conviction record background. Generally, a person may not be issued a private detective or private security license by DRL if the person has been convicted of a felony for which he or she has not been pardoned. For other credentials, a person may not be eligible for a credential, or may have a credential suspended or revoked, if he or she has an arrest or conviction, the circumstances of which substantially relate to the credentialed activity. DRL may require an applicant for a credential to provide to it any information necessary for DRL to investigate the person's arrest and conviction record background. Criminal histories from other states are obtained from the Federal Bureau of Investigation (FBI) via the Wisconsin Department of Justice (DOJ). Generally, the costs of such investigations are charged to the applicant being investigated.

According to information in the drafting file of Senate Bill 103, DRL has indicated that the FBI has advised DRL that state law needs to be revised so as to be consistent with federal regulations in order to allow the FBI to continue processing these criminal background requests.

Senate Bill 103

The bill specifies that if DRL receives credible evidence that an applicant for or holder of a credential issued by DRL has been charged with or convicted of a crime, DRL may investigate the charge or conviction. In addition, the bill provides that DRL must require an applicant for a private detective license or a private security permit and any other applicant or credential holder for whom DRL conducts an investigation, to be photographed and fingerprinted on two fingerprint cards. Each card must bear a complete set of the person's fingerprints. The bill authorizes DOJ to submit the fingerprint

cards to the FBI for the purpose of verifying the person's identity and to obtain records of their criminal arrests and convictions.

Assembly Substitute Amendment 1

Assembly Substitute Amendment 1 provides that DRL may conduct an investigation into whether an applicant for or holder of a credential issued by DRL has been charged with or convicted of a crime *only pursuant to rules promulgated by DRL*.

In addition, Assembly Substitute Amendment 1 provides that DRL must require an applicant for a private detective license or a private security permit and any other applicant or credential holder for whom DRL conducts an investigation, to be photographed and fingerprinted on two fingerprint cards. Each card must bear a complete set of the person's fingerprints. Assembly Substitute Amendment 1 authorizes DOJ to submit the fingerprint cards to the FBI for the purpose of verifying the person's identity and to obtain records of their criminal arrests and convictions.

Assembly Substitute Amendment 1 authorizes DRL to promulgate the rules required by Assembly Substitute Amendment 1 as emergency rules without the necessity of finding an emergency. Finally, Assembly Substitute Amendment 1 provides that it takes effect on the first day of the fourth month beginning after publication as an act.

Legislative History

Assembly Substitute Amendment 1 was offered by Representative Nass on February 16, 2004. It was recommended for adoption by the Assembly Committee on Labor on February 18, 2004 on a vote of Ayes, 9; Noes, 0. The committee recommended concurrence in the bill, as amended, on a vote of Ayes, 9; Noes, 0, on February 18, 2004.

On March 2, 2004, the Assembly adopted Assembly Substitute Amendment 1 and concurred in the bill, as amended, on voice votes.

RJC:jal:wu:rv;tlu