

**1999 DRAFTING REQUEST**

**Bill**

Received: **11/12/1999**

Received By: **malaigm**

Wanted: **As time permits**

Identical to LRB:

For: **Peggy Krusick (608) 266-1733**

By/Representing: **Christian**

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

Drafter: **malaigm**

May Contact:

Alt. Drafters:

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

Extra Copies:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Caregiver background checks; inclusion of certain property crimes

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**Instructions:**

Include certain crimes against property as "serious crimes" that would bar licensure, employment or nonclient residence at an entity--burglary, theft, misappropriation of personal identifying information, robbery and retail theft.

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	malaigm 11/12/1999	jgeller' 11/15/1999		_____			S&L
/1			hhagen 11/16/1999	_____	lrb-docadmin 11/16/1999		S&L
/2	malaigm 02/08/2000	jgeller 02/08/2000	jfrantze 02/09/2000	_____	lrb-docadmin 02/09/2000	lrb-docadmin 03/15/2000	

FE Sent For:.

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FE Sent  
03-21-00

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Page 2

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<END>

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Extra Copies: ISR

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FE Sent For:

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1 AN ACT.... relating to: prohibiting a person who has been convicted of certain  
2 serious crimes against property from being licensed to operate, hired or  
3 contracted by or permitted to reside at an entity that provides direct care or  
4 treatment services to clients.

stat

shows

**Analysis by the Legislative Reference Bureau**

Under current law, the department of health and human services (DHHS) may not license, certify, issue a certificate of approval to or register a person to operate a child welfare agency, foster home, treatment foster home, group home, shelter care facility, day care center or any other facility, organization or service, such as a hospital, <sup>stat</sup> personal care worker agency or <sup>plain</sup> supportive home care agency, that provide; direct care or treatment services to clients (entity) or to operate a temporary employment agency that provides caregivers to an entity if the person has been convicted of a serious crime, as defined under current law, or, in the case of a day care center, has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime, unless the person ~~has shown~~ <sup>shows</sup> that he or she has been rehabilitated. Similarly, an entity may not hire or contract with a caregiver or permit a nonclient to reside at the entity if the caregiver or nonclient resident has been convicted of a serious crime or, in the case of a day care center, has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime, unless the caregiver or onclient resident shows that he or she has been rehabilitated.

15 defined under current law to

For purposes of those prohibitions, "serious crimes" include certain crimes against life or bodily security and certain crimes against children. Specifically, under current law, a person may not operate an entity, be hired or contracted with by an

entity or be permitted to reside at an entity if the person has been convicted of ~~first-degree~~ intentional or reckless homicide, felony murder, ~~second-degree~~ intentional homicide, assisting suicide, felony battery, sexual exploitation by a therapist, felony sexual assault, abuse of a vulnerable adult, abuse of a resident of a penal facility, abuse or neglect of a patient or resident, sexual assault of a child, repeated sexual assault of a child, intentional physical abuse of a child, sexual exploitation of a child, causing a child to view or listen to sexual activity, incest with a child, child enticement, soliciting a child for prostitution, exposing a child to harmful materials, possession of child pornography, working with children as a child sex offender, neglect of a child resulting in the child's death or abduction of a child or, in the case of a day care center, has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing one of those crimes, unless the person shows that he or she has been rehabilitated.

This bill adds certain crimes against property to that definition of "serous crime". Specifically, under the bill, a person may not operate an entity, be hired or contracted with by an entity or be permitted to reside at an entity if the person has been convicted of burglary, theft, misappropriation of personal identifying information, robbery or retail theft or, in the case of a day care center, has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing one of those crimes, unless the person shows that he or she has been rehabilitated.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 48.685 (1) <sup>(c)</sup> of the statutes, as affected by 1999 Wisconsin Act 9, is amended to read:

48.685 (1) (c) "Serious crime" means a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (3), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 943.10, 943.20, 943.201, 943.32, 943.50, 948.02 (1) or (2), 948.025, 948.03 (2), 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1) or 948.30 or a violation of the law of any other state or United States jurisdiction that would be a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (3), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 943.10, 943.20, 943.201, 943.32, 943.50, 948.02 (1) or



1 (2), 948.025, 948.03 (2), 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 (2) (a) or  
2 (am), 948.12, 948.13, 948.21 (1) or 948.30 if committed in this state.

3 History: 1999 a. 9.

3 SECTION 2. 50.065 (1) (e) 1. <sup>✓</sup> of the statutes, as affected by 1999 Wisconsin Act  
4 9, is amended 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, 943.10, 943.20, 943.201, 943.32, 943.50 948.02 (1),  
8 948.025 or 948.03 (2) (a), or a violation of the law of any other state or United States  
9 jurisdiction that would be a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12,  
10 940.19 (2), (3), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2),  
11 940.29, 940.295, 943.10, 943.20, 943.201, 943.32, 943.50, 948.02 (1), 948.025 or  
12 948.03 (2) (a) if committed in this state.

13 History: 1999 a. 9.

(END)

2/8/00 Christian

-3956

Add

943.38 Forgery

943.395 Fraud Insurance

940.21 Mayhem



# 1999 BILL

Regen

employed ✓  
Atayhem or

1 **AN ACT** to **amend** 48.685 (1)(c) and 50.065 (1)(e) 1. of the statutes; **relating to:**  
2 prohibiting a person who has been convicted of certain serious crimes against  
3 property from being licensed to operate, ~~hire~~ or contracted by or permitted to  
4 reside at an entity that provides direct care or treatment services to clients.

---

**Analysis by the Legislative Reference Bureau**

employ ✓

Under current law, the department of health and human services may not license, certify, issue a certificate of approval to or register a person to operate a child welfare agency, foster home, treatment foster home, group home, shelter care facility, day care center or any other facility, organization or service, such as a hospital, a personal care worker agency or a supportive home care agency, that provides direct care or treatment services to clients (entity) or to operate a temporary employment agency that provides caregivers to an entity if the person has been convicted of a serious crime, as defined under current law, or, in the case of a day care center, has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime, unless the person shows that he or she has been rehabilitated. Similarly, an entity may not ~~hire~~ or contract with a caregiver or permit a nonclient to reside at the entity if the caregiver or nonclient resident has been convicted of a serious crime or, in the case of a day care center, has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime, unless the caregiver or onclient resident shows that he or she has been rehabilitated.

**BILL**

✓  
forgery, insurance fraud ✓

✓  
employed

For purposes of those prohibitions, "serious crime" is defined under current law to include certain crimes against life or bodily security and certain crimes against children. Specifically, under current law, a person may not operate an entity, be hired or contracted with by an entity or be permitted to reside at an entity if the person has been convicted of first-degree intentional or reckless homicide, felony murder, second-degree intentional homicide, assisting suicide, felony battery, sexual exploitation by a therapist, felony sexual assault, abuse of a vulnerable adult, abuse of a resident of a penal facility, abuse or neglect of a patient or resident, sexual assault of a child, repeated sexual assault of a child, intentional physical abuse of a child, sexual exploitation of a child, causing a child to view or listen to sexual activity, incest with a child, child enticement soliciting a child for prostitution, exposing a child to harmful materials, possession of child pornography, working with children as a child sex offender, neglect of a child resulting in the child's death or abduction of a child or, in the case of a day care center, has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing one of those crimes, unless the person shows that he or she has been rehabilitated.

✓  
mayhem and

✓  
employed

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✓  
mayhem,

For further information see the state **and** local fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 48.685 (1) (c) of the statutes, as affected by 1999 Wisconsin Act 9,  
2 is amended to read:

940.21, ✓

943.38, 943.395 ✓

3 48.685 (1) (c) "Serious crime" means a violation of s. 940.01, 940.02, 940.03,  
4 940.05, 940.12, 940.19 (2), (3), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3),  
5 940.285 (2), 940.29, 940.295, 943.10, 943.20, 943.201, 943.32, 943.50, 948.02 (1) or  
6 (2), 948.025, 948.03 (2), 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 (2) (a) or  
7 (am), 948.12, 948.13, 948.21 (1) or 948.30 or a violation of the law of any other state  
8 or United States jurisdiction that would be a violation of s. 940.01, 940.02, 940.03,

**BILL**

✓ 940.21, ✓ 943.38, 943.395

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4 (am), 948.12, 948.13, 948.21 (1) or 948.30 if committed in this state.

5 SECTION 2. 50.065 (1) (e) 1. of the statutes, as affected by 1999 Wisconsin Act  
6 9, is amended to read:

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10 948.025 or 948.03 (2) (a), or a violation of the law of any other state or United States  
11 jurisdiction that would be a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12,

12 940.19 (2), (3), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2),  
13 940.29, 940.295, 943.10, 943.20, 943.201, 943.32, 943.50, 948.02 (1), 948.025 or  
14 948.03 (2) (a) if committed in this state.

(END)

940.21, ✓

943.38, 943.395, ✓

**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

**Date:** 02/09/2000

**To:** Representative Krusick

**Relating to LRB drafting number:** LRB-3956

**Topic**

Caregiver background checks; inclusion of certain property crimes

**Subject(s)**

Children - day care, Children - out-of-home placement, Health - facility licensure

1. **JACKET** the draft for introduction  \_\_\_\_\_

**in the Senate** or the **Assembly**  **(check only one).** Only the requester under whose name the drafting request is entered in the **LRB's** drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached \_\_\_\_\_.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW, prior to introduction** \_\_\_\_\_.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-356 1. If you have any questions relating to the attached draft, please feel free to call me.

Gordon M. Malaise, Senior Legislative Attorney  
Telephone: (608) 266-9738



STEPHEN R MILLER  
CHIEF

# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
P O. BOX 2037  
MADISON, WI 53701-2037

LEGAL SECTION (608) 266-3561  
LEGAL FAX (608) 264-8522

REFERENCE SECTION (608) 266-0341  
REFERENCE FAX (608) 266-5648

# ***FISCAL ESTIMATES***

BILL NUMBER:

ASSEMBLY BILL 913

Note: The analysis of this bill states that a fiscal estimate was required for this bill. A request was made though the department of administration to have a fiscal estimate prepared. The agency(s) assigned to prepare a fiscal estimate for this bill did not return a estimate for this bill so none are included in this file.