

1999 DRAFTING REQUEST

Bill

Received: **11/25/98**

Received By: **kenneda**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 7-7980**

By/Representing: **Geisler**

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

Drafter: **kenneda**

May Contact:

Alt. Drafters: **malaigm**

Subject: **Children - miscellaneous
Health - long-term care**

Extra Copies: **TAY**

Topic:

DOA:.....Geisler - Caregiver background checks; persons covered

Instructions:

See Attached

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>
/1	kenneda 11/30/98 malaigm 12/3/98	jgeller 12/3/98	martykr 12/4/98	_____	lrb_docadmin 12/4/98		S&L
/2	malaigm 01/19/99	jgeller 01/19/99	hhagen 01/19/99	_____	lrb_docadmin 01/19/99		S&L
/3	malaigm 02/2/99	jgeller 02/2/99	hhagen 02/3/99	_____	lrb_docadmin 02/3/99		S&L

FE Sent For:

<END>

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FE Sent For: *1/3 2/2 jlg* *1/2/3* *1/2/3*
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1/?	kenneda	11/23 jlg	11/24 km	11/24 km			

FE Sent For:

<END>

Miller, Steve

From: Geisler, Jeffrey [jeffrey.geisler@doa.state.wi.us]
Sent: Tuesday, November 24, 1998 2:27 PM
To: Miller, Steve
Subject: Geisler 1999-01 Statutory Language Drafting Request #4

Steve,

As background I submit the following narrative that I shamelessly stole from the DHFS web site.

BACKGROUND

=====

The 1997-99 Biennial Budget (Wisconsin Act 27) included provisions requiring expanded background and criminal history checks of persons responsible for the care, safety and security of children and adults. The law also expands the requirements for reporting and investigating claims of client abuse, neglect or misappropriation of a client's property.

What programs are covered under the law?

The following "Caregiving Entities" are covered under the law. The term "entity" means a facility, agency, organization or service that is regulated, licensed, certified by or registered with the State Department of Health and Family Services (DHFS). Entities also include day care providers certified by county social/human services agencies; day care providers contracted with by school boards under s. 120.13 (14), Stats.; and foster homes or treatment foster homes licensed by the DHFS, by county social/human services agencies, or by licensed private child placing agencies.

Programs Regulated Under Chapter 48 of Wisconsin Statutes
Treatment Foster Care, Family Day Care Centers, Group Day Care Centers, Child Caring Institutions, Child-placing Agencies, Day Camps for Children, Family Foster Homes for Children, Group Homes for Children, Shelter Care Facilities for Children, and Certified Family Day Care.

Programs Regulated Under Chapter 50 of Wisconsin Statutes
Emergency Mental Health Service Programs, Mental Health Day Treatment Services for Children, Community Mental Developmental Disabilities/AODA, Community Support Program, Community Based Residential Facilities, 3-4 Bed Adult Family Homes, Residential Care Apartment Complexes, Ambulance services (EMT - Basic, Intermediate, Paramedic), EMS 1st Responders/Defibrillators, Hospitals, Rural Medical Centers, Hospices, Nursing homes, Facilities for the Developmentally Disabled, and Home Health Agencies-including those providing personal care services.

Others
Day Care Providers contracted through Local School Boards.

What persons are covered under the law?

Caregiver background checks apply to current and prospective employees who provide direct care and to other personnel who also have access to clients, including non-caregiving employees such as housekeeping, maintenance, kitchen staff, employers, owners, operators, administrators, license holders (including corporate officers and board members who have access to clients), contracted services personnel, and non-clients who reside on the premises. Contracted services that are not directly related to the care of clients and

are infrequent or sporadic are not covered

Covered persons also include those under other types of contractual arrangements, such as physicians with admitting privileges and students and interns completing educational clinical or in-service training requirements. While volunteers are generally not subject to background checks, covered persons do include volunteers who contract to fill staff positions or are used to document compliance with staff-to-patient/client ratio requirements

DRAFTING REQUEST

Change the "persons covered under this law" to include

- * only current and prospective employees who provide meaningful (i.e., is not de minimis) direct care,
- * persons under other types of contractual arrangements who provide meaningful (i.e., is not de minimis) direct care
- * and non-clients who reside on the premises.

The intent is to eliminate the background check requirement for persons who do not provide meaningful direct care to clients. A background check would remain in effect where currently prescribed for all non-client residents.

It appears that my last e-mail made it to you, so I will drop the "cc" to Debora Kennedy.

Jeffrey A. Geisler
267-7980
DOA State Budget Office

From Jeff Geisler 11/29: Keep "access" requirement for non-clients who reside on premises



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1059/1
DAK & GMM:.....

SOON

note

Jlg

DOA:.....Geisler - Caregiver background checks; persons covered

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

W/O
PRINT
W/LINE
NUMBERS

do not gen

AN ACT ...; relating to: the budget. ✓

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES ✓

OTHER HEALTH AND HUMAN SERVICES ✓

Under current law, an adult treatment facility, organization or service may not hire certain persons if the person may have access to clients and may not allow the person to reside as a nonclient at the facility. The persons to whom these restrictions apply have been convicted of or have pending a charge for a serious crime; have been found to have abused or neglected a facility client or misappropriated client money; have abused or neglected a child; or are not sufficiently credentialed to provide adequate client care. The prohibitions do not apply if the person demonstrates to the department of health and family services (DHFS) by clear and convincing evidence and under specific procedures that he or she has been rehabilitated, unless the person has been convicted of certain offenses. Each adult treatment facility, organization or service must obtain specific personal background information, including that obtained from criminal history searches, about persons applying to operate facilities, organizations and services and must obtain the information every four years for employees or contractors.

This bill changes the type of interaction with clients that prospective employees or prospective contractors must have in order to require investigation of their backgrounds and to prohibit them from being hired by or contracting with adult treatment facilities, organizations or services. The bill, rather than requiring

investigation of a person who has or is expected to have access to the clients of the facility, organization or service, instead requires investigation of a person who provides to the clients or is expected to provide to them, direct care that is more intensive than negligible care in quantity or quality or in the amount of time required to provide the care. Restrictions on non-client residents at the facility, organization or service are unchanged by the bill.

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, a foster home, treatment foster home, group home, shelter care facility, child welfare agency or day care center (entity) may not hire or contract with a person who will be under the entity's control and who is expected to have access to the entity's clients if the person has been convicted of or has pending a charge for a serious crime, as defined by the department of health and family services (DHFS) by rule, has abused or neglected a client or has misappropriated the property of a client, has abused or neglected a child or is not sufficiently credentialed to provide adequate care to a client. Current law, however, permits, subject to certain exceptions, such a person to be hired or contracted with if the person demonstrates to DHFS that the person has been rehabilitated. Current law requires an entity to obtain, at the time of initial hiring or contracting and every four years after that, certain personal background information about an employe or contractor of the entity, including a criminal history search.

This bill requires an entity to conduct a background investigation of, and prohibits an entity from hiring or contracting with, a person who is expected to provide meaningful direct care to the entity's clients, rather than to have access to the entity's clients.

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 (2) (a) (intro.)^X of the statutes is amended to read:

48.685 (2) (a) (intro.) Notwithstanding s. 111.335, and except as provided in par. (ad) and sub. (5), if the department, a county department, a child welfare agency or a school board knows or should know any of the following,^{plain space} the department may not license, or continue or renew the license of, a person to operate an entity, a county department may not certify a day care provider under s. 48.651, a county department or a child welfare agency may not license, or renew the license of, a foster home or

treatment foster home under s. 48.62 and a school board may not contract with a person under s. 120.13 (14), [✓]if the department, county department, child welfare agency or school board knows or should have known any of the following:

History: 1997 a. 27, 237, 281; s. 13.93 (2) (c).

SECTION 2. 48.685 (2) (ag) (intro.) [✓]of the statutes is amended to read:

48.685 (2) (ag) (intro.) Notwithstanding s. 111.335, and except as provided in sub. (5), if an entity knows or should know any of the following, the entity may not hire or contract with a person who will be under the entity's control, as defined by the department by rule, and who is expected to ~~have access~~ [✓]provide meaningful direct care to its clients, or permit to reside at the entity a person who is not a client and who is expected to have access to a client, [✓]if the entity knows or should have known any of the following:

SECTION 3. 48.685 (2) (ag) (intro.) [✓]of the statutes, as affected by 1997 Act 27, section 1664f and 1999 Wisconsin Act [✓] (this act), is repealed and recreated to read:

TAKE OUT EXTRA SPACES

48.685 (2) (ag) (intro.) Notwithstanding s. 111.335, and except as provided in sub. (5), [✓]if an entity knows or should know any of the following, the entity may not employ [✓]or contract with a person who will be under the entity's control, as defined by the department [✓]by rule, and who provides, or is expected to provide, meaningful direct care to its clients or permit to reside at the entity a person who is not a client and who has, or is expected to have, access to a client:

Insert

History: 1997 a. 27, 237, 281; s. 13.93 (2) (c).

SECTION 4. 48.685 (2) (b) 1. (intro.) [✓]of the statutes is amended to read:

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

NOTE:NOTE: Subd. 1. (intro.) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c). The bracketed "and" must be added as the result of the treatment by 1997 Wis. Act 281. Corrective legislation is pending. NOTE:

History: 1997 a. 27, 237, 281; s. 13.93 (2) (c).

SECTION 5. 48.685 (2) (b) 2. of the statutes is repealed.

History: 1997 a. 27, 237, 281; s. 13.93 (2) (c).

SECTION 6. 48.685 (3) (a) of the statutes is amended to read:

48.685 (3) (a) Every 4 years or at any time within that period that the department, a county department, a child welfare agency or a school board considers appropriate, the department, county department, child welfare agency or school board shall request the information specified in sub. (2) (am) 1. to 5. for all persons who are licensed, certified or contracted to operate an entity ~~and~~ for all persons specified in par. (ag) (intro.) sub. (2) (ag) (intro.) who are nonclient residents of an entity and ~~shall request the information specified in sub. (2) (am) 1. to 5.~~ for all persons specified in sub. (2) (ag) (intro.) who are under 18 years of age, but not under 12 years of age, and who are employes, contractors or nonclient residents of a day care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (4) or of a day care provider that is certified under s. 48.651.

NOTE:NOTE: Par. (a) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c). The bracketed language reflects the correct cross-reference. Corrective legislation is pending. NOTE:

History: 1997 a. 27, 237, 281; s. 13.93 (2) (c).

SECTION 7. 48.685 (6) (am) 1. of the statutes is amended to read:

48.685 (6) (am) 1. A person who is an employe, prospective employe, contractor or prospective contractor of the entity, who will be under the entity's control and who has provides, or is expected to have, access provide meaningful direct care to its clients, ~~other than a person specified in sub. (2) (b) 2.~~

History: 1997 a. 27, 237, 281; s. 13.93 (2) (c).

SECTION 8. 50.065 (2) (a) (intro.) of the statutes is amended to read:

50.065 (2) (a) (intro.) Notwithstanding s. 111.335, and except as provided in sub. (5), if the department knows or should know any of the following, the department may not license, certify, issue a certificate of approval to or register a

person to operate an entity or continue the license, certification, certificate of approval or registration of a person to operate an entity if the department knows or should have known any of the following:

History: 1997 a. 27, 105, 237.

SECTION 9. 50.065 (2) (ag) (intro.)^X of the statutes is amended to read:

50.065 (2) (ag) (intro.) Notwithstanding s. 111.335, and except as provided in sub. (5), if an entity knows or should know any of the following, the entity may not hire or contract with a person who will be under the entity's control, as defined by the department by rule, and who is expected to have access to its clients, provide to clients of the entity direct care that is more intensive than negligible care in quantity or quality or in amount of time required to provide the care, or; or the entity may not permit to reside at the entity a person who is not a client and who is expected to have access to a client,[✓] ~~if the entity knows or should have known any of the following:~~

~~NOTE: NOTE: Par. (ag) (intro.) is amended eff. 10-1-99 by 1997 Wis. Act 27 to read: NOTE:~~

SECTION 10. 50.065 (2) (ag) (intro.)[✓] of the statutes, as affected by 1997 Wisconsin Act 27, section 2059f, and 1999 Wisconsin Act 11¹¹ (this act), is repealed and recreated to read:
rule out extra spaces

50.065 (2) (ag) (intro.) Notwithstanding s. 111.335, and except as provided in sub. (5),[✓] if an entity knows or should have known any of the following, the entity may not employ[✓] or contract with a person who will be under the entity's control, as defined by the department by rule, and who provides to clients of the entity, or is expected to provide to them, direct care that is more intensive than negligible care in quantity or quality or in the amount of time required to provide the care; or the entity may not permit to reside at the entity a person who is not a client and who has, or is expected to have, access to a client:

History: 1997 a. 27, 105, 237.

SECTION 11. 50.065 (2) (b) 1. (intro.)^X of the statutes is amended to read:

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

History: 1997 a. 27, 105, 237.

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

SECTION 13. 50.065 (6) (am) 1. of the statutes is amended to read:

50.065 (6) (am) 1. A person who is an employe, prospective employe, contractor or prospective contractor of the entity, who will be under the entity's control and who has, or is expected to have, access to its clients, other than a person specified in sub. (2) (b) 2 provides to clients of the entity, or is expected to provide to them, direct care that is more intensive than negligible care in quantity or quality or in the amount of time required to provide the care.

History: 1997 a. 27, 105, 237.

SECTION 9423. Effective dates; health and family services.

(1) BACKGROUND INVESTIGATIONS OF EMPLOYEES AND CONTRACTORS WHO CARE FOR CHILDREN OR VULNERABLE ADULTS. The repeal and recreation of sections 48.685 (2) (ag) (intro.) and 50.065 (2) (ag) (intro.) of the statutes takes effect on October 1, 1999.

(END)

DAK

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

LRB-1059/1dn

GMM: a:...

Jlg

Jeff:

Note that this draft gives you the choice of two approaches with which to accomplish your intent. Specifically, note how the created language in s. 48.685 (2) (ag) (intro.) differs from the created language in s. 50.065 (2) (ag) (intro.). If you have no preference between the two approaches, then no change is necessary, although it is probably better to keep the two provisions as parallel as possible. If, however, you prefer one approach over the other, please advise and we will redraft the draft to apply the preferred approach in both places.

Gordon M. Malaise
Senior Legislative Attorney
266-9738

Insert

x

Section #. 48.685 (2) (am) (intro.) of the statutes is amended to read:

5

48.685 (2) (am) (intro.) Subject to subd. 5. and par. (bd), the department, a county department, a child welfare agency or a school board shall obtain all of the following with respect to a person specified under par. (a) (intro.) ~~and~~ a person specified under par. (ag) (intro.) who is a nonclient resident or prospective nonclient resident of an entity and ~~shall obtain the information specified in subds. 1. to 5. with respect to~~ a person specified in par. (ag) (intro.) who is under 18 years of age, but not under 12 years of age, and who is an employe, prospective employe, contractor, prospective contractor, nonclient resident or prospective nonclient resident of a day care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care provider that is certified under s. 48.651:

~~NOTE: Par. (am) (intro.) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c).~~

History: 1997 a. 27, 237, 281; s. 13.93 (2) (c).

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

LRB-1059/1dn
GMM:jl:km

December 4, 1998

Jeff:

Note that this draft gives you the choice of two approaches with which to accomplish your intent. Specifically, note how the created language in s. 48.685 (2) (ag) (intro.) differs from the created language in s. 50.065 (2) (ag) (intro.). If you have no preference between the two approaches, then no change is necessary, although it is probably better to keep the two provisions as parallel as possible. If, however, you prefer one approach over the other, please advise and we will redraft the draft to apply the preferred approach in both places.

Gordon M. Malaise
Senior Legislative Attorney
266-9738

1/18/99 Jeff Beisler called to say that the final decision on 99-1059 is to use the phraseology that I used in the chapter 50 language, rather than "meaningful direct care".



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1059/1 (2)
DAK & GMM:jlg:km (RMK)

SOON

DOA:.....Geisler - Caregiver background checks; persons covered

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget. do not gen

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

Under current law, an adult treatment facility, organization or service may not hire certain persons if the person may have access to clients and may not allow the person to reside as a nonclient at the facility. The persons to whom these restrictions apply have been convicted of or have pending a charge for a serious crime; have been found to have abused or neglected a facility client or misappropriated client money; have abused or neglected a child; or are not sufficiently credentialed to provide adequate client care. The prohibitions do not apply if the person demonstrates to the department of health and family services (DHFS) by clear and convincing evidence and under specific procedures that he or she has been rehabilitated, unless the person has been convicted of certain offenses. Each adult treatment facility, organization or service must obtain specific personal background information, including that obtained from criminal history searches, about persons applying to operate facilities, organizations and services and must obtain the information every four years for employees or contractors.

This bill changes the type of interaction with clients that prospective employees or prospective contractors must have in order to require investigation of their backgrounds and to prohibit them from being hired by or contracting with adult treatment facilities, organizations or services. The bill, rather than requiring

~~promotes~~, about an employe, prospective employe,
contractor or prospective contractor who has, or is expected to
have access to the entity's clients

investigation of a person who has or is expected to have access to the clients of the facility, organization or service, instead requires investigation of a person who provides to the clients or is expected to provide to them, direct care that is more intensive than negligible care in quantity or quality or in the amount of time required to provide the care. Restrictions on nonclient residents at the facility, organization or service are unchanged by the bill.

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, a foster home, treatment foster home, group home, shelter care facility, child welfare agency or day care center (entity) may not hire or contract with a person who will be under the entity's control and who is expected to have access to the entity's clients if the person has been convicted of or has pending a charge for a serious crime, as defined by the department of health and family services (DHFS) by rule, has abused or neglected a client or has misappropriated the property of a client, has abused or neglected a child or is not sufficiently credentialed to provide adequate care to a client. Current law, however, permits, subject to certain exceptions, such a person to be hired or contracted with if the person demonstrates to DHFS that the person has been rehabilitated. Current law requires an entity to obtain, at the time of initial hiring or contracting and every four years after that, certain personal background information ~~about an employe or contractor of the entity~~, including a criminal history search.

This bill requires an entity to conduct a background investigation of, and prohibits an entity from hiring or contracting with, a person who is ~~expected to provide meaningful direct care to the entity's clients, rather than to have access to the entity's clients.~~

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

✓
Insert
A

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

- 1 **SECTION 1.** 48.685 (2) (a) (intro.) of the statutes is amended to read:
- 2 48.685 (2) (a) (intro.) Notwithstanding s. 111.335, and except as provided in
- 3 par. (ad) and sub. (5), if the department, a county department, a child welfare agency
- 4 or a school board knows or should know any of the following, the department may not
- 5 license, or continue or renew the license of, a person to operate an entity, a county
- 6 department may not certify a day care provider under s. 48.651, a county department
- 7 or a child welfare agency may not license, or renew the license of, a foster home or

provide to clients of the entity direct care that is more intensive than negligible care in quantity or quality or in amount of time required to provide the care; or the entity may not

1 treatment foster home under s. 48.62 and a school board may not contract with a
2 person under s. 120.13(14), if the department, county department, child welfare
3 agency or school board knows or should have known any of the following:

4 SECTION 2. 48.685 (2) (ag) (intro.) of the statutes is amended to read:

5 48.685 (2) (ag) (intro.) Notwithstanding s. 111.335, and except as provided in
6 sub. (5), if an entity knows or should know any of the following, the entity may not
7 hire or contract with a person who will be under the entity's control, as defined by
8 the department by rule, and who is expected to have access ~~provide meaningful direct~~
9 ~~care to its clients, or~~ permit to reside at the entity a person who is not a client and
10 who is expected to have access to a client, if the entity knows or should have known
11 any of the following:

12 SECTION 3. 48.685 (2) (ag) (intro.) of the statutes, as affected by 1997 Act 27,
13 section 1664f, and 1999 Wisconsin Act ... (this act), is repealed and recreated to read:

14 48.685 (2) (ag) (intro.) Notwithstanding s. 111.335, and except as provided in
15 sub. (5), if an entity knows or should know any of the following, the entity may not
16 employ or contract with a person who will be under the entity's control, as defined
17 by the department by rule, and who provides, or is expected to provide, meaningful

18 ~~direct care to its clients or~~ permit to reside at the entity a person who is not a client
19 and who has, or is expected to have, access to a client:

20 SECTION 4. 48.685 (2) (am) (intro.) of the statutes is amended to read:

21 48.685 (2) (am) (intro.) Subject to subd. 5. and par. (bd), the department, a
22 county department, a child welfare agency or a school board shall obtain all of the
23 following with respect to a person specified under par. (a) (intro.) and, a person
24 ✓ specified under par. (ag) (intro.) who is a nonclient resident or prospective nonclient

that is more intensive than negligible care in quantity or quality or in amount of time required to provide the care; or the entity may not

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

8 **SECTION 5.** 48.685 (2) (b) 1. (intro.) of the statutes is amended to read:

9 48.685 (2) (b) 1. (intro.) Subject to subds. 1. e. ~~and 2.~~, and 4. and par. (bd), every
10 entity shall obtain all of the following with respect to a person specified under par.
11 (ag) (intro.) who is an employe, prospective employe, contractor or prospective
12 contractor of the entity:

13 **SECTION 6.** 48.685 (2) (b) 2. of the statutes is repealed.

14 **SECTION 7.** 48.685 (3) (a) of the statutes is amended to read:

15 48.685 (3) (a) Every 4 years or at any time within that period that the
16 department, a county department, a child welfare agency or a school board considers
17 appropriate, the department, county department, child welfare agency or school
18 board shall request the information specified in sub. (2) (am) 1. to 5. for all persons
19 who are licensed, certified or contracted to operate an entity ~~and~~, for all persons
20 specified in ~~par. (ag) (intro.)~~ sub. (2) (ag) (intro.) who are nonclient residents of an
21 entity and ~~shall request the information specified in sub. (2) (am) 1. to 5.~~ for all
22 persons specified in sub. (2) (ag) (intro.) who are under 18 years of age, but not under
23 12 years of age, and who are employes, contractors or nonclient residents of a day
24 care center that is licensed under s. 48.65 or established or contracted for under s.
25 120.13 (4) or of a day care provider that is certified under s. 48.651.

~~provides to clients of the entity, or is expected to provide to them, direct care that is more intensive than negligible care in quantity or quality or in amount of time required to provide the care.~~

1 **SECTION 8.** 48.685 (6) (am) 1. of the statutes is amended to read:

2 48.685 (6) (am) 1. A person who is an employe, prospective employe, contractor
3 or prospective contractor of the entity, who will be under the entity's control and who
4 has ~~provided~~ or is expected to have, access, ~~provide a meaningful direct care to its~~
5 ~~clients, other than a person specified in sub. (2) (b) 2.~~

6 **SECTION 9.** 50.065 (2) (a) (intro.) of the statutes is amended to read:

7 50.065 (2) (a) (intro.) Notwithstanding s. 111.335, and except as provided in
8 sub. (5), if the department knows or should know any of the following, the
9 department may not license, certify, issue a certificate of approval to or register a
10 person to operate an entity or continue the license, certification, certificate of
11 approval or registration of a person to operate an entity ~~if the department knows or~~
12 ~~should have known any of the following:~~

13 **SECTION 10.** 50.065 (2) (ag) (intro.) of the statutes is amended to read:

14 50.065 (2) (ag) (intro.) Notwithstanding s. 111.335, and except as provided in
15 sub. (5), if an entity knows or should know any of the following, the entity may not
16 hire or contract with a person who will be under the entity's control, as defined by
17 the department by rule, and who is expected to ~~have access to its clients, or provide~~
18 to clients of the entity direct care that is more intensive than negligible care in
19 quantity or quality or in amount of time required to provide the care; or the entity
20 may not permit to reside at the entity a person who is not a client and who is expected
21 to have access to a client, ~~if the entity knows or should have known any of the~~
22 ~~following:~~

23 **SECTION 11.** 50.065 (2) (ag) (intro.) of the statutes, as affected by 1997
24 Wisconsin Act 27, section 2059f, and 1999 Wisconsin Act (this act), is repealed and
25 recreated to read:

1 50.065 (2) (ag) (intro.) Notwithstanding s. 111.335, and except as provided in
2 sub. (5), if an entity knows or should have known any of the following, the entity may
3 not employ or contract with a person who will be under the entity's control, as defined
4 by the department by rule, and who provides to clients of the entity, or is expected
5 to provide to them, direct care that is more intensive than negligible care in quantity
6 or quality or in the amount of time required to provide the care; or the entity may not
7 permit to reside at the entity a person who is not a client and who has, or is expected
8 to have, access to a client:

9 **SECTION 12.** 50.065 (2) (b) 1. (intro.) of the statutes is amended to read:

10 50.065 (2) (b) 1. (intro.) Subject to subds. 1. e. ~~and 2.~~ and par. (bd), every entity
11 shall obtain all of the following with respect to a person specified under par. (ag)
12 (intro.) who is an employe or contractor or a prospective employe or contractor of the
13 entity:

14 **SECTION 13.** 50.065 (2) (b) 2. of the statutes is repealed.

15 **SECTION 14.** 50.065 (6) (am) 1. of the statutes is amended to read:

16 50.065 (6) (am) 1. A person who is an employe, prospective employe, contractor
17 or prospective contractor of the entity, who will be under the entity's control and who
18 ~~has, or is expected to have, access to its clients, other than a person specified in sub-~~
19 ~~(2) (b) 2 provides to clients of the entity, or is expected to provide to them, direct care~~
20 that is more intensive than negligible care in quantity or quality or in the amount
21 of time required to provide the care.

22 **SECTION 9423. Effective dates; health and family services.**

Insert A

This bill, rather than requiring an entity to conduct a background investigation of ~~and prohibiting an entity from hiring or contracting with~~ a person who has, or is expected to have, ~~access to~~ the entity's clients, ~~and rather than prohibiting an entity from hiring or contracting with such a person,~~ instead requires an entity to conduct a background investigation of ~~and prohibits an entity from hiring or~~ a person who provides to clients, or is expected to provide to them, direct care that is more intensive than negligible care in quantity, or quality or in the amount of time required to provide the care ✓

(end of rule)



State of Wisconsin
1999 - 2000 LEGISLATURE

D-Note

LRB-1059/3
DAK&GMM:jlg:hmh RMR

DOA:.....Geisler - Caregiver background checks; persons covered

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

Do not gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

Under current law, an adult treatment facility, organization or service may not hire certain persons if the person may have access to clients and may not allow the person to reside as a nonclient at the facility. The persons to whom these restrictions apply have been convicted of or have pending a charge for a serious crime; have been found to have abused or neglected a facility client or misappropriated client money; have abused or neglected a child; or are not sufficiently credentialed to provide adequate client care. The prohibitions do not apply if the person demonstrates to the department of health and family services (DHFS) by clear and convincing evidence and under specific procedures that he or she has been rehabilitated, unless the person has been convicted of certain offenses. Each adult treatment facility, organization or service must obtain specific personal background information, including that obtained from criminal history searches, about persons applying to operate facilities, organizations and services and must obtain the information every four years for employees or contractors.

This bill changes the type of interaction with clients that prospective employees or prospective contractors must have in order to require investigation of their backgrounds and to prohibit them from being hired by or contracting with adult treatment facilities, organizations or services. The bill, rather than requiring

investigation of a person who has or is expected to have access to the clients of the facility, organization or service, instead requires investigation of a person who provides to the clients or is expected to provide to them, direct care that is more intensive than negligible care in quantity or quality or in the amount of time required to provide the care. Restrictions on nonclient residents at the facility, organization or service are unchanged by the bill.

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, a foster home, treatment foster home, group home, shelter care facility, child welfare agency or day care center (entity) may not hire or contract with a person who will be under the entity's control and who is expected to have access to the entity's clients if the person has been convicted of or has pending a charge for a serious crime, as defined by the department of health and family services (DHFS) by rule, has abused or neglected a client or has misappropriated the property of a client, has abused or neglected a child or is not sufficiently credentialed to provide adequate care to a client. Current law, however, permits, subject to certain exceptions, such a person to be hired or contracted with if the person demonstrates to DHFS that the person has been rehabilitated. Current law requires an entity to obtain, at the time of initial hiring or contracting and every four years after that, certain personal background information, including a criminal history search, about an employe, prospective employe, contractor or prospective contractor who has, or is expected to have access to the entity's clients.

This bill, rather than requiring an entity to conduct a background investigation of a person who has, or is expected to have, access to the entity's clients, instead requires an entity to conduct a background investigation of a person who provides to clients, or is expected to provide to them, direct care that is more intensive than negligible care in quantity or quality or in the amount of time required to provide the care.

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 (2) (a) (intro.) of the statutes is amended to read:
- 2 48.685 (2) (a) (intro.) Notwithstanding s. 111.335, and except as provided in
- 3 par. (ad) and sub. (5), if the department, a county department, a child welfare agency
- 4 or a school board knows or should know any of the following, the department may not
- 5 license, or continue or renew the license of, a person to operate an entity, a ~~county~~
- 6 ~~department~~ may not certify a day care provider under s. 48.651, a county department

certifying agency ✓

1 or a child welfare agency may not license, or renew the license of, a foster home or
 2 treatment foster home under s. 48.62 and a school board may not contract with a
 3 person under s. 120.13 (14), ~~if the department, county department, child welfare~~
 4 ~~agency or school board knows or should have known any of the following:~~

5 **SECTION 2.** 48.685 (2) (ag) (intro.) of the statutes is amended to read:

6 48.685 (2) (ag) (intro.) Notwithstanding s. 111.335, and except as provided in
 7 sub. (5), if an entity knows or should know any of the following, the entity may not
 8 hire or contract with a person who will be under the entity's control, as defined by
 9 the department by rule, and who is expected to have access to its clients, or provide
 10 to clients of the entity direct care that is more intensive than negligible care in
 11 quantity or quality or in amount of time required to provide the care; or the entity
 12 may not permit to reside at the entity a person who is not a client and who is expected
 13 to have access to a client, ~~if the entity knows or should have known any of the~~
 14 ~~following:~~

15 **SECTION 3.** 48.685 (2) (ag) (intro.) of the statutes, as affected by 1997 Act 27,
 16 section 1664f, and 1999 Wisconsin Act ... (this act), is repealed and recreated to read:

17 48.685 (2) (ag) (intro.) Notwithstanding s. 111.335, and except as provided in
 18 sub. (5), if an entity knows or should know any of the following, the entity may not
 19 employ or contract with a person who will be under the entity's control, as defined
 20 by the department by rule, and who provides to clients of the entity, or is expected
 21 to provide to them, direct care that is more intensive than negligible care in quantity
 22 or quality or in amount of time required to provide the care; or the entity may not
 23 permit to reside at the entity a person who is not a client and who has, or is expected
 24 to have, access to a client:

25 **SECTION 4.** 48.685 (2) (am) (intro.) of the statutes is amended to read:

✓
Insert
3-4

, a certifying agency ✓

1 48.685 (2) (am) (intro.) Subject to subd. 5. and par. (bd), the department, a
2 county department, a child welfare agency or a school board shall obtain all of the
3 following with respect to a person specified under par. (a) (intro.) ~~and~~, a person
4 specified under par. (ag) (intro.) who is a nonclient resident or prospective nonclient
5 resident of an entity and ~~shall obtain the information specified in subds. 1. to 5. with~~
6 ~~respect to~~ a person specified in par. (ag) (intro.) who is under 18 years of age, but not
7 under 12 years of age, and who is an employe, prospective employe, contractor,
8 prospective contractor, nonclient resident or prospective nonclient resident of a day
9 care center that is licensed under s. 48.65 or established or contracted for under s.
10 120.13 (14) or of a day care provider that is certified under s. 48.651:

✓
Insert
4-10
→

11 **SECTION 5.** 48.685 (2) (b) 1. (intro.) of the statutes is amended to read:

12 48.685 (2) (b) 1. (intro.) Subject to subds. 1. e. ~~and 2.~~, and 4. and par. (bd), every
13 entity shall obtain all of the following with respect to a person specified under par.
14 (ag) (intro.) who is an employe, prospective employe, contractor or prospective
15 contractor of the entity:

16 **SECTION 6.** 48.685 (2) (b) 2. of the statutes is repealed.

17 **SECTION 7.** 48.685 (3) (a) of the statutes is amended to read:

✓ , a certifying agency

✓ , certifying agency

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

Insert
5-3

1 12 years of age, and who are employes, contractors or nonclient residents of a day
2 care center that is licensed under s. 48.65 or established or contracted for under s.
3 120.13 (4) or of a day care provider that is certified under s. 48.651.

4 **SECTION 8.** 48.685 (6) (am) 1. of the statutes is amended to read:

5 48.685 (6) (am) 1. A person who is an employe, prospective employe, contractor
6 or prospective contractor of the entity, who will be under the entity's control and who
7 ~~has, or is expected to have, access to its clients, other than a person specified in sub.~~
8 (2) (b) 2 provides to clients of the entity, or is expected to provide to them, direct care
9 that is more intensive than negligible care in quantity or quality or in amount of time
10 required to provide the care.

11 **SECTION 9.** 50.065 (2) (a) (intro.) of the statutes is amended to read:

12 50.065 (2) (a) (intro.) Notwithstanding s. 111.335, and except as provided in
13 sub. (5), if the department knows or should know any of the following, the
14 department may not license, certify, issue a certificate of approval to or register a
15 person to operate an entity or continue the license, certification, certificate of
16 approval or registration of a person to operate an entity ~~if the department knows or~~
17 ~~should have known any of the following:~~

18 **SECTION 10.** 50.065 (2) (ag) (intro.) of the statutes is amended to read:

19 50.065 (2) (ag) (intro.) Notwithstanding s. 111.335, and except as provided in
20 sub. (5), if an entity knows or should know any of the following, the entity may not
21 hire or contract with a person who will be under the entity's control, as defined by
22 the department by rule, and who is expected to ~~have access to its clients, or provide~~
23 to clients of the entity direct care that is more intensive than negligible care in
24 quantity or quality or in amount of time required to provide the care; or the entity
25 may not permit to reside at the entity a person who is not a client and who is expected

1 to have access to a client, ~~if the entity knows or should have known any of the~~
2 following:

3 **SECTION 11.** 50.065 (2) (ag) (intro.) of the statutes, as affected by 1997
4 Wisconsin Act 27, section 2059f, and 1999 Wisconsin Act (this act), is repealed and
5 recreated to read:

6 50.065 (2) (ag) (intro.) Notwithstanding s. 111.335, and except as provided in
7 sub. (5), if an entity knows or should have known any of the following, the entity may
8 not employ or contract with a person who will be under the entity's control, as defined
9 by the department by rule, and who provides to clients of the entity, or is expected
10 to provide to them, direct care that is more intensive than negligible care in quantity
11 or quality or in the amount of time required to provide the care; or the entity may not
12 permit to reside at the entity a person who is not a client and who has, or is expected
13 to have, access to a client:

14 **SECTION 12.** 50.065 (2) (b) 1. (intro.) of the statutes is amended to read:

15 50.065 (2) (b) 1. (intro.) Subject to subs. 1. e. ~~and 2.~~ and par. (bd), every entity
16 shall obtain all of the following with respect to a person specified under par. (ag)
17 (intro.) who is an employe or contractor or a prospective employe or contractor of the
18 entity:

19 **SECTION 13.** 50.065 (2) (b) 2. of the statutes is repealed.

20 **SECTION 14.** 50.065 (6) (am) 1. of the statutes is amended to read:

21 50.065 (6) (am) 1. A person who is an employe, prospective employe, contractor
22 or prospective contractor of the entity, who will be under the entity's control and who
23 ~~has, or is expected to have, access to its clients, other than a person specified in sub.~~
24 (2) (b) 2 provides to clients of the entity, or is expected to provide to them, direct care

1 that is more intensive than negligible care in quantity or quality or in the amount
2 of time required to provide the care.

3 **SECTION 9423. Effective dates; health and family services.**

4 (1) BACKGROUND INVESTIGATIONS OF EMPLOYES AND CONTRACTORS WHO CARE FOR
5 CHILDREN OR VULNERABLE ADULTS. The repeal and recreation of sections 48.685 (2) (ag)
6 (intro.) and 50.065 (2) (ag) (intro.) of the statutes takes effect on October 1, 1999.

7 (END)

D-Note

Jeff Greisler and Jennifer Sajna:

This draft reconciles LRB-0492/6 and LRB-1059/2.

Both LRB-0492 and LRB-1059 should continue to appear

~~It replaces~~

in the compiled bill.

GMM

Insert 3 - 4

**** NOTE: This is reconciled s. 48.685 (2)(a) (intro)

This section has been affected by drafts with

the following LRB #'s: LRB-0492/6 and LRB-1059/2.

(end of insert)

Inset 4 - 10

**** NOTE: This is reconciled s. 48.685 (2)(am) (intro.).

This section has been affected by drafts with

the following LRB #'s: LRB-0492/6 and LRB-1059/2.

(end of report)

Insert 5-3

**** NOTE: This is reconciled s. 48.695(3)(a).

This section has been affected by drafts with

the following LRB #'s: LRB-0492/6 and LRB-1059/2.

(end of insert)

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

LRB-1059/3dn
DAK&GMM;jlg:hmh

Wednesday, February 3, 1999

Jeff Geisler and Jennifer Sajna:

This draft reconciles LRB-0492/6, and LRB-1059/2. Both LRB-0492 and LRB-1059 should continue to appear in the compiled bill.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: Gordon.Malaise@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1059/3
DAK&GMM;jlg:hmh

DOA:.....Geisler - Caregiver background checks; persons covered
FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

Under current law, an adult treatment facility, organization or service may not hire certain persons if the person may have access to clients and may not allow the person to reside as a nonclient at the facility. The persons to whom these restrictions apply have been convicted of or have pending a charge for a serious crime; have been found to have abused or neglected a facility client or misappropriated client money; have abused or neglected a child; or are not sufficiently credentialed to provide adequate client care. The prohibitions do not apply if the person demonstrates to the department of health and family services (DHFS) by clear and convincing evidence and under specific procedures that he or she has been rehabilitated, unless the person has been convicted of certain offenses. Each adult treatment facility, organization or service must obtain specific personal background information, including that obtained from criminal history searches, about persons applying to operate facilities, organizations and services and must obtain the information every four years for employes or contractors.

This bill changes the type of interaction with clients that prospective employes or prospective contractors must have in order to require investigation of their backgrounds and to prohibit them from being hired by or contracting with adult treatment facilities, organizations or services. The bill, rather than requiring

investigation of a person who has or is expected to have access to the clients of the facility, organization or service, instead requires investigation of a person who provides to the clients or is expected to provide to them, direct care that is more intensive than negligible care in quantity or quality or in the amount of time required to provide the care. Restrictions on nonclient residents at the facility, organization or service are unchanged by the bill.

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, a foster home, treatment foster home, group home, shelter care facility, child welfare agency or day care center (entity) may not hire or contract with a person who will be under the entity's control and who is expected to have access to the entity's clients if the person has been convicted of or has pending a charge for a serious crime, as defined by the department of health and family services (DHFS) by rule, has abused or neglected a client or has misappropriated the property of a client, has abused or neglected a child or is not sufficiently credentialed to provide adequate care to a client. Current law, however, permits, subject to certain exceptions, such a person to be hired or contracted with if the person demonstrates to DHFS that the person has been rehabilitated. Current law requires an entity to obtain, at the time of initial hiring or contracting and every four years after that, certain personal background information, including a criminal history search, about an employe, prospective employe, contractor or prospective contractor who has, or is expected to have access to the entity's clients.

This bill, rather than requiring an entity to conduct a background investigation of a person who has, or is expected to have, access to the entity's clients, instead requires an entity to conduct a background investigation of a person who provides to clients, or is expected to provide to them, direct care that is more intensive than negligible care in quantity or quality or in the amount of time required to provide the care.

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 (2) (a) (intro.) of the statutes is amended to read:
- 2 48.685 (2) (a) (intro.) Notwithstanding s. 111.335, and except as provided in
- 3 par. (ad) and sub. (5), if the department, a county department, a child welfare agency,
- 4 a certifying agency or a school board knows or should know any of the following, the
- 5 department may not license, or continue or renew the license of, a person to operate
- 6 an entity, a ~~county department~~ certifying agency may not certify a day care provider

1 under s. 48.651, a county department or a child welfare agency may not license, or
2 renew the license of, a foster home or treatment foster home under s. 48.62 and a
3 school board may not contract with a person under s. 120.13 (14), ~~if the department,~~
4 ~~county department, child welfare agency or school board knows or should have~~
5 ~~known any of the following:~~

****NOTE: This is reconciled s. 46.685 (2) (a) (intro.) This SECTION has been affected
by drafts with the following LRB numbers: LRB-0492/6 and LRB-1059/2.

6 **SECTION 2.** 48.685 (2) (ag) (intro.) of the statutes is amended to read:

7 48.685 (2) (ag) (intro.) Notwithstanding s. 111.335, and except as provided in
8 sub. (5), if an entity knows or should know any of the following, the entity may not
9 hire or contract with a person who will be under the entity's control, as defined by
10 the department by rule, and who is expected to ~~have access to its clients, or provide~~
11 ~~to clients of the entity direct care that is more intensive than negligible care in~~
12 ~~quantity or quality or in amount of time required to provide the care; or the entity~~
13 ~~may not~~ permit to reside at the entity a person who is not a client and who is expected
14 to have access to a client, ~~if the entity knows or should have known any of the~~
15 ~~following:~~

16 **SECTION 3.** 48.685 (2) (ag) (intro.) of the statutes, as affected by 1997 Act 27,
17 section 1664f, and 1999 Wisconsin Act (this act), is repealed and recreated to read:

18 48.685 (2) (ag) (intro.) Notwithstanding s. 111.335, and except as provided in
19 sub. (5), if an entity knows or should know any of the following, the entity may not
20 employ or contract with a person who will be under the entity's control, as defined
21 by the department by rule, and who provides to clients of the entity, or is expected
22 to provide to them, direct care that is more intensive than negligible care in quantity
23 or quality or in amount of time required to provide the care; or the entity may not

1 permit to reside at the entity a person who is not a client and who has, or is expected
2 to have, access to a client:

3 **SECTION 4.** 48.685 (2) (am) (intro.) of the statutes is amended to read:

4 48.685 (2) (am) (intro.) Subject to subd. 5. and par. (bd), the department, a
5 county department, a child welfare agency, a certifying agency or a school board shall
6 obtain all of the following with respect to a person specified under par. (a) (intro.) ~~and,~~
7 a person specified under par. (ag) (intro.) who is a nonclient resident or prospective
8 nonclient resident of an entity and ~~shall obtain the information specified in subs.~~
9 ~~1. to 5. with respect to~~ a person specified in par. (ag) (intro.) who is under 18 years
10 of age, but not under 12 years of age, and who is an employe, prospective employe,
11 contractor, prospective contractor, nonclient resident or prospective nonclient
12 resident of a day care center that is licensed under s. 48.65 or established or
13 contracted for under s. 120.13 (14) or of a day care provider that is certified under s.
14 48.651:

****NOTE: This is reconciled s. 46.685 (2) (am) (intro.) This SECTION has been
affected by drafts with the following LRB numbers: LRB-0492/6 and LRB-1059/2.

15 **SECTION 5.** 48.685 (2) (b) 1. (intro.) of the statutes is amended to read:

16 48.685 (2) (b) 1. (intro.) Subject to subds. 1. e. ~~and 2.~~, and 4. and par. (bd), every
17 entity shall obtain all of the following with respect to a person specified under par.
18 (ag) (intro.) who is an employe, prospective employe, contractor or prospective
19 contractor of the entity:

20 **SECTION 6.** 48.685 (2) (b) 2. of the statutes is repealed.

21 **SECTION 7.** 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, a certifying agency or a

1 school board considers appropriate, the department, county department, child
2 welfare agency, certifying agency or school board shall request the information
3 specified in sub. (2) (am) 1. to 5. for all persons who are licensed, certified or
4 contracted to operate an entity ~~and, for all persons specified in par. (ag) (intro.) sub.~~
5 ~~(2) (ag) (intro.)~~ who are nonclient residents of an entity and ~~shall request the~~
6 ~~information specified in sub. (2) (am) 1. to 5.~~ for all persons specified in sub. (2) (ag)
7 (intro.) who are under 18 years of age, but not under 12 years of age, and who are
8 employes, contractors or nonclient residents 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.

****NOTE: This is reconciled s. 46.685 (3) (a). This SECTION has been affected by
drafts with the following LRB numbers: LRB-0492/6 and LRB-1059/2.

11 **SECTION 8.** 48.685 (6) (am) 1. of the statutes is amended to read:

12 48.685 (6) (am) 1. A person who is an employe, prospective employe, contractor
13 or prospective contractor of the entity, who will be under the entity's control and who
14 ~~has, or is expected to have, access to its clients, other than a person specified in sub.~~
15 ~~(2) (b) 2 provides to clients of the entity, or is expected to provide to them, direct care~~
16 ~~that is more intensive than negligible care in quantity or quality or in amount of time~~
17 ~~required to provide the care.~~

18 **SECTION 9.** 50.065 (2) (a) (intro.) of the statutes is amended to read:

19 50.065 (2) (a) (intro.) Notwithstanding s. 111.335, and except as provided in
20 sub. (5), if the department knows or should know any of the following, the
21 department may not license, certify, issue a certificate of approval to or register a
22 person to operate an entity or continue the license, certification, certificate of

1 approval or registration of a person to operate an entity ~~if the department knows or~~
2 ~~should have known any of the following:~~

3 **SECTION 10.** 50.065 (2) (ag) (intro.) of the statutes is amended to read:

4 50.065 (2) (ag) (intro.) Notwithstanding s. 111.335, and except as provided in
5 sub. (5), if an entity knows or should know any of the following, the entity may not
6 hire or contract with a person who will be under the entity's control, as defined by
7 the department by rule, and who is expected to have access to its clients, or provide
8 to clients of the entity direct care that is more intensive than negligible care in
9 quantity or quality or in amount of time required to provide the care; or the entity
10 may not permit to reside at the entity a person who is not a client and who is expected
11 to have access to a client, ~~if the entity knows or should have known any of the~~
12 ~~following:~~

13 **SECTION 11.** 50.065 (2) (ag) (intro.) of the statutes, as affected by 1997
14 Wisconsin Act 27, section 2059f, and 1999 Wisconsin Act (this act), is repealed and
15 recreated to read:

16 50.065 (2) (ag) (intro.) Notwithstanding s. 111.335, and except as provided in
17 sub. (5), if an entity knows or should have known any of the following, the entity may
18 not employ or contract with a person who will be under the entity's control, as defined
19 by the department by rule, and who provides to clients of the entity, or is expected
20 to provide to them, direct care that is more intensive than negligible care in quantity
21 or quality or in the amount of time required to provide the care; or the entity may not
22 permit to reside at the entity a person who is not a client and who has, or is expected
23 to have, access to a client:

24 **SECTION 12.** 50.065 (2) (b) 1. (intro.) of the statutes is amended to read:

