



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1144/1
TY&GM.....

Rmrc
kg

ARC:.....Kratochwill - no #, Criminal background checks

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

wpo: search
"sub-A"

1 At the locations indicated, amend the substitute amendment as follows:

2 ✓ 1. Page 651, line 25: after that line insert:

3 "SECTION 1151[✓]d. 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) (4[✓]m) (a) 1. to 5.

History: 1983 a. 193; 1985 a. 176; 1995 a. 289, 404; 1997 a. 27, 35, 252.

7 SECTION 1159[✓]d. 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 and who has, or is expected to have, direct, regular contact with 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 at an entity 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 1159r.** 48.685 (1) (b) of the statutes is amended to read:

13 48.685 (1) (b) "Entity" means a child welfare agency that is licensed under s.
14 48.60 to provide care and maintenance for children, to place children for adoption or
15 to license foster homes or treatment foster homes; a foster home or treatment foster
16 home that is licensed under s. 48.62; a group home that is licensed under s. 48.625;
17 a shelter care facility that is licensed under s. 938.22; a day care center that is
18 licensed under s. 48.65 or established or contracted for under s. 120.13 (14); ~~or~~ a day
19 care provider that is certified under s. 48.651; or a temporary employment agency
20 that provides caregivers to another entity.

21 **2.** Page 652, line 4: after that line insert:

22 "SECTION 1160e. 48.685 (1) (bm) of the statutes is created to read:

1 48.685 (1) (bm) "Nonclient resident" means a person who resides, or is expected
2 to reside, at an entity, who is not a client of the entity and who has, or is expected to
3 have, direct, regular contact with clients of the entity.

4 **SECTION 1160f.** 48.685 (1) (c) of the statutes is repealed and recreated to read:

5 48.685 (1) (c) "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) or (2), 948.025, 948.03 (2), 948.05, 948.055,
8 948.06, 948.07, 948.08, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1) or 948.30 or
9 a violation of the law of any other state or United States jurisdiction that would be
10 a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (3), (4), (5) or (6),
11 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2) ~~(a)~~, 940.29, 940.295, 948.02 (1) or
12 (2), 948.025, 948.03 (2), 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 (2) (a) or
13 (am), 948.12, 948.13, 948.21 (1) or 948.30 if committed in this state."

14 **3.** Page 652, line 9: delete lines 9 to 16 and substitute:

15 **"SECTION 1161d.** 48.685 (2) (a) (intro.) of the statutes is renumbered 48.685

16 (4m) (intro.) (a)

17 **SECTION 1161g.** 48.685 (2) (a) 1. of the statutes is renumbered 48.685 (4m) (a)

18 1.

19 **SECTION 1161h.** 48.685 (2) (a) 2. of the statutes is repealed.

20 **SECTION 1161i.** 48.685 (2) (a) 3. of the statutes is renumbered 48.685 (4m) (a)

21 3.

22 **SECTION 1161j.** 48.685 (2) (a) 4. of the statutes is renumbered 48.685 (4m) (a)

23 4.

1 SECTION 1161k. 48.685 (2) (a) 5. of the statutes is renumbered 48.685 (4m) (a)
2 5.

3 SECTION 1161m. 48.685 (2) (ad) of the statutes is renumbered 48.685 (4m) (ad)
4 and amended to read:

5 48.685 (4m) (ad) The department, a county department or a child welfare
6 agency may license a foster home or treatment foster home under s. 48.62, a county
7 department may certify a day care provider under s. 48.651 and a school board may
8 contract with a person under s. 120.13 (14), conditioned on the receipt of the
9 information specified in ~~par.~~ sub. (2) (am) indicating that the person is not ineligible
10 to be licensed, certified or contracted with for a reason specified in par. (a) 1. to 5.

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

11 SECTION 1163d. 48.685 (2) (ag) (intro.) of the statutes is renumbered 48.685
12 (4m) (b) (intro.) and amended to read:

13 48.685 (4m) (b) (intro.) Notwithstanding s. 111.335, and except as provided in
14 sub. (5), an entity may not ~~employ~~ or contract with a person who will be under the
15 entity's control, as defined by the department by rule, and who is expected to have
16 access to its clients, caregiver or permit a nonclient resident to reside at the entity
17 ~~a person who is not a client and who is expected to have access to a client~~, if the entity
18 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:

NOTE: (ag) Notwithstanding s. 111.335, and except as provided in sub. (5), an 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 has, or is expected to have, access 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, if the entity knows or should have known any of the following:

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

19 SECTION 1163g. 48.685 (2) (ag) 1. of the statutes is renumbered 48.685 (4m) (b)
20 1. and amended to read:

21 48.685 (4m) (b) 1. That the person has been convicted of a serious crime or, if
22 the person is an ~~employee, prospective employee, contractor, prospective contractor,~~
23 ~~nonclient resident or prospective~~ a caregiver or nonclient resident of a day care

1 center that is licensed under s. 48.65 or established or contracted for under s. 120.13
2 (14) or of a day care provider that is certified under s. 48.651, that the person has been
3 convicted of a serious crime or adjudicated delinquent on or after his or her 12th
4 birthday for committing a serious crime.

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

5 **SECTION 1163h.** 48.685 (2) (ag) 2. of the statutes is repealed.

6 **SECTION 1163i.** 48.685 (2) (ag) 3. of the statutes is renumbered 48.685 (4m) (b)
7 3.

8 **SECTION 1163j.** 48.685 (2) (ag) 4. of the statutes is renumbered 48.685 (4m) (b)
9 4.

10 **SECTION 1163k.** 48.685 (2) (ag) 5. of the statutes is renumbered 48.685 (4m) (b)
11 5.

12 **SECTION 1165d.** 48.685 (2) (am) (intro.) of the statutes is amended to read:

13 48.685 (2) (am) (intro.) ~~Subject to subd. 5. and par. (bd), the~~ The department,
14 a county department, a child welfare agency or a school board shall obtain all of the
15 following with respect to a ~~person specified under par. (a) (intro.) and caregiver~~
16 specified in sub. (1) (ag) 1. b., a person specified under par. (ag) (intro.) who is a
17 ~~nonclient resident or prospective nonclient resident of an entity and shall obtain the~~
18 information specified in subds. 1. to 5. with respect to a person specified in par. (ag)
19 (intro.) who is under 18 years of age, but not under 12 years of age, and who is an
20 ~~employe, prospective employe, contractor, prospective contractor, nonclient resident~~
21 ~~or prospective nonclient resident~~ a caregiver of a day care center that is licensed
22 under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care
23 provider that is certified under s. 48.651:

NOTE: 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).NOTE:

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

24 **SECTION 1165g.** 48.685 (2) (am) 5. of the statutes is amended to read:

1 48.685 (2) (am) 5. Information maintained by the department under this
 2 section and under ss. 48.651 (2m), 48.75 (1m) and 120.13 (14) regarding any denial
 3 to the person of a license, continuation or renewal of a license, certification or a
 4 contract to operate an entity for a reason specified in ~~par. sub. (4m)~~ (a) 1. to 5. and
 5 regarding any denial to the person of employment at, a contract with or permission
 6 to reside at an entity for a reason specified in ~~par. (ag) sub. (4m)~~ (b) 1. to 5. If the
 7 information obtained under this subdivision indicates that the person has been
 8 denied a license, continuation or renewal of a license, certification, a contract,
 9 employment or permission to reside as described in this subdivision, the department,
 10 a county department, a child welfare agency or a school board need not obtain the
 11 information specified in subs. 1. to 4.

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

12 **SECTION 1167d.** 48.685 (2) (b) 1. (intro.) of the statutes is amended to read:
 13 48.685 (2) (b) 1. (intro.) ~~Subject to subs. 1. e. and 2., and 4. par. (bd), every~~
 14 Every entity shall obtain all of the following with respect to a person specified under
 15 ~~par. (ag) (intro.) who is an employe, prospective employe, contractor or prospective~~
 16 ~~contractor~~ caregiver 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).

17 **SECTION 1167g.** 48.685 (2) (b) 1. e. of the statutes is amended to read:
 18 48.685 (2) (b) 1. e. Information maintained by the department under this
 19 section and under ss. 48.651 (2m), 48.75 (1m) and 120.13 (14) regarding any denial
 20 to the person of a license, continuation or renewal of a license, certification or a
 21 contract to operate an entity for a reason specified in ~~par. sub. (4m)~~ (a) 1. to 5. and
 22 regarding any denial to the person of employment at, a contract with or permission
 23 to reside at an entity for a reason specified in ~~par. (ag) sub. (4m)~~ (b) 1. to 5. If the

1 information obtained under this subd. 1. e. indicates that the person has been denied
2 a license, continuation or renewal of a license, certification, a contract, employment
3 or permission to reside as described in this subd. 1. e., the entity need not obtain the
4 information specified in subd. 1. a. to d.

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

5 **SECTION 1168d.** 48.685 (2) (b) 2. ✓ of the statutes is repealed.

6 **SECTION 1168g.** 48.685 (2) (b) 4. ✓ of the statutes is amended to read:

7 48.685 (2) (b) 4. Subdivision 1. does not apply with respect to a person under
8 18 years of age, but not under 12 years of age, who is ~~an employe, prospective~~
9 ~~employe, contractor, prospective contractor, nonclient resident or prospective a~~
10 caregiver or nonclient resident of a day care center that is licensed under s. 48.65 or
11 established or contracted for under s. 120.13 (14) or of a day care provider that is
12 certified under s. 48.651 and with respect to whom the department, a county
13 department or a school board is required under par. (am) (intro.) to obtain the
14 information specified in par. (am) 1. to 5.

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

15 **SECTION 1169m.** 48.685 (2) (bb) of the statutes is created to read:

16 48.685 (2) (bb) If information obtained under par. (am) or (b) indicates a charge
17 of a serious crime or of a violation of s. 940.19 (1), 940.195, 940.20, 941.30, 942.08,
18 947.01 or 947.013 without a recorded disposition, the department or entity shall
19 make every reasonable effort to determine the disposition of the charge.

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

21 48.685 (2) (bd) Notwithstanding pars. (am) and (b) 1., the department, a county
22 department, a child welfare agency or a school board is not required to obtain the
23 information specified in par. (am) 1. to 5., and an entity is not required to obtain the
24 information specified in par. (b) 1. a. to e., with respect to a person under 18 years

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

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

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

12 48.685 (2) (bg) If an entity takes an action specified in par. (ag) (intro.) with
13 respect to an employe, prospective employe, contractor or prospective contractor
14 hires or contracts with a caregiver for whom, within the last 4 years, the information
15 required under par. (b) 1. a. to c. and e. has already been obtained, either by another
16 entity or by a temporary employment agency, the entity may obtain the that
17 information required under par. (b) 1. a. to c. and e. from that other entity or
18 temporary employment agency, which shall provide the information, if possible, to
19 the requesting entity. If an entity cannot obtain the information required under par.
20 (b) 1. a. to c. and e. from another entity or from a temporary employment agency or
21 if an entity has reasonable grounds to believe that any information obtained from
22 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 c.
2 and e.

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

3 **SECTION 1170n.** 48.685 (2) (bg) of the statutes, as affected by 1999 Wisconsin

4 Act. . . . (this act), is amended to read: *who: fix*

plain

5 48.685 (2) (bg) If an entity ~~hires~~ employs or contracts with a caregiver for
6 whom, within the last 4 years, the information required under par. (b) 1. a. to c. and
7 e. has already been obtained by another entity, the entity may obtain that
8 information from that other entity, which shall provide the information, if possible,
9 to the requesting entity. If an entity cannot obtain the information required under
10 par. (b) 1. a. to c. and e. from another entity or if an entity has reasonable grounds
11 to believe that any information obtained from another entity is no longer accurate,
12 the entity shall obtain that information from the sources specified in par. (b) 1. a. to
13 c. and e.

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

15 48.685 (2) (bm) If the person who is the subject of the search under par. (am)
16 or (b) 1. is not a resident of this state, or if at any time within the 3 years preceding
17 the date of the search that person has not been a resident of this state, the
18 department, county department, child welfare agency, school board or entity shall
19 make a good faith effort to obtain from any state or other United States jurisdiction
20 in which the person is a resident or was a resident within the 3 years preceding the
21 date of the search information that is equivalent to the information specified in par.
22 (am) 1. or (b) 1. a.

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

23 **SECTION 1171g.** 48.685 (2) (c) of the statutes is renumbered 48.685 (4m) (c) and

24 amended to read:

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

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

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

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

15 48.685 (2) (d) Every entity shall maintain, or shall contract with another
16 person to maintain, the most recent background information obtained on a caregiver
17 under par. (b). The information shall be made available for inspection by authorized
18 persons, as defined by the department by rule.

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

20 48.685 (3) (a) Every 4 years or at any time within that period that the
21 department, a county department, a child welfare agency or a school board considers
22 appropriate, the department, county department, child welfare agency or school
23 board shall request the information specified in sub. (2) (am) 1. to 5. for all persons
24 who are licensed, certified or contracted to operate an entity and, for all persons

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

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

8 48.685 (3) (b) Every 4 years or at any time within that period that an entity
 9 considers appropriate, the entity shall request the information specified in sub. (2)
 10 (b) 1. a. to e. for all persons ~~specified in sub. (2) (ag) (intro.)~~ who are employes or
 11 contractors caregivers of the entity other than persons who are under 18 years of age,
 12 but not under 12 years of age and who are employes, contractors or nonclient
 13 residents caregivers of a day care center that is licensed under s. 48.65 or established
 14 or contracted for under s. 120.13 (14) or of a day care provider that is certified under
 15 s. 48.651.

NOTE: NOTE: Par. (b) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c). NOTE:
 History: 1997 a. 27, 237, 281; s. 13.93 (2) (c).

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

17 48.685 (3m) Notwithstanding subs. (2) (b) 1. and (3) (b), if the department, a
 18 county department, a child welfare agency or a school board has obtained the
 19 information required under sub. (2) (am) or (3) (a) with respect to a person specified
 20 in sub. (2) (a) (intro.) who is a caregiver specified in sub. (1) (ag) 1. b. and that person
 21 is also an employe, contractor or nonclient resident of an entity, the entity is not

1 required to obtain the information specified in sub. (2) (b) 1. or (3) (b) with respect
2 to that person.

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

3 **SECTION 1173g.** 48.685 (4) of the statutes is amended to read:

4 48.685 (4) An entity that violates sub. (2) ~~or~~ (3) or (4m) (b) may be required to
5 forfeit not more than \$1,000 and may be subject to other sanctions specified by the
6 department by rule.

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

7 **SECTION 1173j.** 48.685 (4m) (b) (intro.) of the statutes, as affected by 1999

8 Wisconsin Act. ... (this act), is amended to read: *WPO: Six*

9 48.685 (4m) (b) (intro.) Notwithstanding s. 111.335, and except as provided in
10 sub. (5), an entity may not ~~hire~~ employ or contract with a caregiver or permit a
11 nonclient resident to reside at the entity, if the entity knows or should have known
12 any of the following:

13 **SECTION 1174d.** 48.685 (5) (a) of the statutes is amended to read:

14 48.685 (5) (a) The department may license to operate an entity, a county
15 department may certify under s. 48.651, a county department or a child welfare
16 agency may license under s. 48.62 and a school board may contract with under s.
17 120.13 (14) a person who otherwise may not be licensed, certified or contracted with
18 for a reason specified in sub. (2) (4m) (a) 1. to 5., and an entity may employ, contract
19 with or permit to reside at the entity a person who otherwise may not be employed,
20 contracted with or permitted to reside at the entity for a reason specified in sub. (2)
21 (ag) (4m) (b) 1. to 5., if the person demonstrates to the department, ~~the~~ the county
22 department, ~~the~~ the child welfare agency or ~~the~~ the school board or, in the case of an entity
23 that located within the boundaries of a federally recognized American Indian
24 reservation, to the tribal governing body of that reservation by clear and convincing

1 evidence and in accordance with procedures established by the department by rule
2 or by the tribal governing body that he or she has been rehabilitated.

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

SECTION 1174g. 48.685 (5) (b) (intro.) of the statutes is amended to read:

4 48.685 (5) (b) (intro.) For purposes other than licensing a foster home or
5 treatment foster home, no person who has been convicted of any of the following
6 offenses, and no person who is an applicant for issuance or continuation of a license
7 to operate a day care center or for initial certification as a day care provider under
8 s. 48.651 or for renewal of that certification, who is proposing to contract with a school
9 board under s. 120.13 (14) or to renew a contract under that subsection or who is ~~an~~
10 ~~employe, prospective employe, contractor, prospective contractor, nonclient resident~~
11 ~~or prospective a caregiver or nonclient resident~~ of a day care center that is licensed
12 under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care
13 provider that is certified under s. 48.651, and who has been convicted of any of the
14 following offenses or adjudicated delinquent on or after his or her 12th birthday for
15 committing any of the following offenses, may be permitted to demonstrate that he
16 or she has been rehabilitated until the later of at least 5 years after the date of that
17 conviction or adjudication or at least 5 years after the date of the person's release
18 from imprisonment, a secured juvenile facility or a commitment order:

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

SECTION 1174j. 48.685 (5) (b) 1. of the statutes is repealed.

20 **SECTION 1174k.** 48.685 (5) (b) 4. of the statutes is repealed.

21 **SECTION 1174L.** 48.685 (5) (b) 5. of the statutes is repealed.

22 **SECTION 1175m.** 48.685 (5d) of the statutes is created to read:

1 48.685 (5d) (a) Any tribal governing body that chooses to conduct
2 rehabilitation reviews under sub. (5) shall submit to the department a rehabilitation
3 review plan that includes all 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 4. The manner in which the tribe will submit information relating to a
10 rehabilitation review to the department so that the department may include that
11 information in its report to the legislature required under sub. (5g).

12 5. A copy of the form to be used to request a review and a copy of the form on
13 which a written decision is to be made regarding whether a person has demonstrated
14 rehabilitation. (b)

15 ⑤ The department shall approve or disapprove the plan under par. (a) within
16 90 days after receiving the plan. If the department disapproves the plan, the tribe
17 may, within 30 days after receiving notice of the disapproval, request that the
18 secretary review the department's decision.

19 **SECTION 1176d.** 48.685 (5m) of the statutes is amended to read:

20 48.685 (5m) Notwithstanding s. 111.335, the department may refuse to license
21 a person to operate an entity, a county department or a child welfare agency may
22 refuse to license a foster home or treatment foster home under s. 48.62, and an entity
23 may refuse to employ, hire or contract with a caregiver or permit a nonclient resident
24 to reside at the entity ~~a person specified in sub. (2) (ag) (intro.)~~ if the person has been
25 convicted of an offense that ~~the department has not defined as a "serious crime" by~~

1 rule promulgated under sub. (7) (a), or specified in the list established by rule under
 2 sub. (7) (b) [✓] is not a serious crime, but that is, in the estimation of the department,
 3 county department, child welfare agency, or entity, substantially related to the care
 4 of a client. Notwithstanding s. 111.335, the department may refuse to license a
 5 person to operate a day care center, a county department may refuse to certify a day
 6 care provider under s. 48.651, a school board may refuse to contract with a person
 7 under s. 120.13 (14), a day care center that is licensed under s. 48.65 or established
 8 or contracted for under s. 120.13 (14) and a day care provider that is certified under
 9 s. 48.651 may refuse to employ, hire or contract with a caregiver or permit a nonclient
 10 resident to reside at the day care center or day care provider a person specified in sub.
 11 (2) (ag) (intro.) if the person has been convicted of or adjudicated delinquent on or
 12 after his or her 12th birthday for an offense that the department has not defined as
 13 a "serious crime" by rule promulgated under sub. (7) (a), or specified in the list
 14 established by rule under sub. (7) (b) [✓] is not a serious crime, but that is, in the
 15 estimation of the department, county department, school board, day care center or
 16 day care provider substantially related to the care of a client. 2

NOTE: NOTE: Sub. (5m) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:

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

17 SECTION 1176g. 48.685 (5m) of the statutes, as affected by 1999 Wisconsin Act

18 (this act), is amended to read: ^{WPO: fix}

19 48.685 (5m) Notwithstanding s. 111.335, the department may refuse to license
 20 a person to operate an entity, a county department or a child welfare agency may
 21 refuse to license a foster home or treatment foster home under s. 48.62, and an entity
 22 may refuse to hire employ or contract with a caregiver or permit a nonclient resident
 23 to reside at the entity if the person has been convicted of an offense that is not a
 24 serious crime, but that is, in the estimation of the department, county department,

1 child welfare agency or entity, substantially related to the care of a client.
 2 Notwithstanding s. 111.335, the department may refuse to license a person to
 3 operate a day care center, a county department may refuse to certify a day care
 4 provider under s. 48.651, a school board may refuse to contract with a person under
 5 s. 120.13 (14), a day care center that is licensed under s. 48.65 or established or
 6 contracted for under s. 120.13 (14) and a day care provider that is certified under s.
 7 48.651 may refuse to ~~hire~~ employ or contract with a caregiver or permit a nonclient
 8 resident to reside at the day care center or day care provider if the person has been
 9 convicted of or adjudicated delinquent on or after his or her 12th birthday for an
 10 offense that is not a serious crime, but that is, in the estimation of the department,
 11 county department, school board, day care center or day care provider, substantially
 12 related to the care of a client.

plain

13 **SECTION 1177r.** 48.685 (6) (am) (intro.) of the statutes is renumbered 48.685
 14 (6) (am) and amended to read:

15 48.685 (6) (am) Every 4 years an entity shall require all of the following persons
 16 its caregivers and nonclient residents to complete a background information form
 17 that is provided to the entity by the department.

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

18 **SECTION 1178d.** 48.685 (6) (am) 1. of the statutes is repealed. ✓

19 **SECTION 1178g.** 48.685 (6) (am) 2. of the statutes is repealed. ✓

20 **SECTION 1179d.** 48.685 (6) (b) of the statutes is renumbered 48.685 (6) (b) 1.
 21 and amended to read:

22 48.685 (6) (b) 1. For ~~persons specified under par. (a)~~ caregivers who are licensed
 23 by the department, for persons ~~specified in par. (am) 1.~~ who are under 18 years of age,
 24 but not under 12 years of age, and who are ~~employees, prospective employees,~~

1 ~~contractors or prospective contractors~~ caregivers of a day care center that is licensed
2 under s. 48.65 or established or contracted for under s. 120.13 (4) or of a day care
3 provider that is certified under s. 48.651, for persons specified in par. (am) 2, who are
4 ~~nonclient residents or prospective~~ nonclient residents of an entity that is licensed by
5 the department, and for other persons specified by the department by rule, the entity
6 shall send the background information form to the department.

7 2. For persons specified under par. (a) caregivers who are licensed or certified
8 by a county department, for persons specified in par. (am) 2, who are ~~nonclient~~
9 ~~residents or prospective~~ nonclient residents of an entity that is licensed or certified
10 by a county department and for other persons specified by the department by rule,
11 the entity shall send the background information form to the county department.

12 3. For persons specified under par. (a) caregivers who are licensed by a child
13 welfare agency, for persons specified in par. (am) 2, who are ~~nonclient residents or~~
14 ~~prospective~~ nonclient residents of an entity that is licensed by a child welfare agency
15 and for other persons specified by the department by rule, the entity shall send the
16 background information form to the child welfare agency

17 4. For persons specified under par. (a) caregivers who are contracted with by
18 a school board, for persons specified in par. (am) 2, who are ~~nonclient residents or~~
19 ~~prospective~~ nonclient residents of an entity that is contracted with by a school board
20 and for other persons specified by the department by rule, the entity shall send the
21 background information form to the school board. ~~For all other persons specified~~
22 ~~under par. (am) 1., the entity shall maintain the background information form on file~~
23 ~~for inspection by the department, county department, child welfare agency or school~~
24 ~~board, whichever is applicable.~~

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

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

2 SECTION 1180g. 48.685 (7) (a) of the statutes is repealed.

3 SECTION 1180h. 48.685 (7) (b) of the statutes is repealed.))

4 4. Page 653, line 3: after that line insert:

5 "SECTION 1189r. 48.75 (1m) of the statutes is amended to read:

6 48.75 (1m) Each child welfare agency and public licensing agency shall provide

7 the subunit of the department that administers s. 48.685 with information about

8 each person who is denied a license for a reason specified in s. 48.685 (2) (4m) (a) 1.

9 to 5."

History: 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 336; 1993 a. 395, 446; 1995 a. 225; 1997 a. 27, 237.

10 5. Page 749, line 17: after that line insert: ag

11 "SECTION 1521b. 50.065 (1) (ag) of the statutes is created to read:

12 50.065 (1) (ag) 1. "Caregiver" means any of the following:

13 a. A person who is, or is expected to be, an employe or contractor of an entity
14 and who has, or is expected to have, direct, regular contact with clients of the entity.

15 b. A person who has, or is seeking, a license, certification, registration, or
16 certificate of approval issued or granted by the department to operate an entity.

17 c. A person who is, or is expected to be, an employe of the board on aging and
18 long-term care and who has, or is expected to have, regular, direct contact with
19 clients.

20 2. "Caregiver" does not include a person who is certified as an emergency
21 medical technician under s. 146.50 if the person is employed, or seeking employment,
22 at the entity as an emergency medical technician.

23 SECTION 1521c. 50.065 (1) (bm) of the statutes is created to read:

out of order

1 50.065 (1) (bm) "Contractor" means, with respect to an entity, a person, or that
2 person's agent, who provides services to the entity under an express or implied
3 contract or subcontract, including a person who has staff privileges at the entity.

4 **SECTION 1521d.** 50.065 (1) (c) (intro.) of the statutes is amended to read:

5 50.065 (1) (c) ^(Intro.) "Entity" means a facility, organization or service that is licensed
6 or certified by or registered with the department to provide direct care or treatment
7 services to clients. "Entity" includes a hospital, a personal care worker agency and,
8 a supportive home care service agency, a temporary employment agency that
9 provides caregivers to another entity and the board on aging and long-term care.

10 "Entity" does not include any of the following:

11 History: 1997 a. 27, 105, 237.

11 **SECTION 1521e.** 50.065 (1) (cn) of the statutes is created to read:

12 50.065 (1) (cn) "Nonclient resident" means a person who resides, or is expected
13 to reside, at an entity, who is not a client of the entity and who has, or is expected to
14 have, direct, regular contact with clients of the entity.

15 **SECTION 1521f.** 50.065 (1) (e) of the statutes is repealed and recreated to read:

16 50.065 (1) (e) 1. "Serious crime" means a violation of s. 940.01, 940.02, 940.03,
17 940.05, 940.12, 940.19 (2), (3), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3),
18 940.285 (2), 940.29, 940.295, 948.02 (1), 948.025 and 948.03 (2) (a), or a violation of
19 the law of any other state or United States jurisdiction that would be a violation of
20 s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (3), (4), (5) or (6), 940.22 (2) or
21 (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 948.02 (1), 948.025 and 948.03
22 (2) (a) if committed in this state. *AM*

23 2. For the purposes of an entity that serves persons under the age of 18, "serious
24 crimes" includes a violation of s. 948.02 (2), 948.03 (2) (b) and (c), 948.05, 948.055,

1 948.06, 948.07, 948.08, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1) or 948.30 or
 2 a violation of the law of any other state or United States jurisdiction that would be
 3 a violation of ~~s.~~ ^{se} 948.02 (2), 948.03 (2) (b) and (c), 948.05, 948.055, 948.06, 948.07,
 4 948.08, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1) or 948.30 if committed in this
 5 state. *De*

6 SECTION 1521g. 50.065 (2) (a) (intro.) of the statutes is renumbered 50.065 (4m)
 7 (a) (intro.).

8 SECTION 1521h. 50.065 (2) (a) 1. [✓] of the statutes is renumbered 50.065 (4m) (a)
 9 1.

10 SECTION 1521i. 50.065 (2) (a) 2. of the statutes is repealed.

11 SECTION 1521j. 50.065 (2) (a) 3. of the statutes is renumbered 50.065 (4m) (a)
 12 3.

13 SECTION 1521k. 50.065 (2) (a) 4. of the statutes is renumbered 50.065 (4m) (a)
 14 4.

15 SECTION 1521L. 50.065 (2) (a) 5. of the statutes is renumbered 50.065 (4m) (a)
 16 5.

17 SECTION 1521m. 50.065 (2) (ag) (intro.) of the statutes is renumbered 50.065
 18 (4m) (b) (intro.) and amended to read:

19 50.065 (4m) (b) (intro.) Notwithstanding s. 111.335, and except as provided in
 20 sub. (5), an entity may not hire or contract with a ~~person who will be under the~~
 21 ~~entity's control, as defined by the department by rule, and who is expected to have~~
 22 ~~access to its clients, caregiver or permit to reside at the entity a person who is not a~~
 23 ~~client and who is expected to have access to a client~~ nonclient resident, if the entity
 24 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:

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

History: 1997 a. 27, 105, 237.

4 SECTION 1521n. 50.065 (2) (ag) 1. of the statutes, renumbered 50.065 (4m) (b)

5 1.

is

6 SECTION 1521p. 50.065 (2) (ag) 2. of the statutes is repealed.

7 SECTION 1521q. 50.065 (2) (ag) 3. of the statutes is renumbered 50.065 (4m) (b)

8 3.

9 SECTION 1521r. 50.065 (2) (ag) 4. of the statutes is renumbered 50.065 (4m) (b)

10 4.

11 SECTION 1521s. 50.065 (2) (ag) 5. of the statutes is renumbered 50.065 (4m) (b)

12 5.

13 SECTION 1521t. 50.065 (2) (am) (intro.) of the statutes is amended to read:

14 50.065 (2) (am) (intro.) ~~Subject to subd. 5. and par. (bd), the~~ The department
15 shall obtain all of the following with respect to a person specified under par. (a)
16 (intro.) ~~sub. (1) (a) 1. b. and a person specified under par. (ag) (intro.)~~ who is a
17 nonclient resident or prospective nonclient resident of an entity:

History: 1997 a. 27, 105, 237.

18 SECTION 1521u. 50.065 (2) (am) 5. of the statutes is amended to read:

19 50.065 (2) (am) 5. Information maintained by the department under this
20 section regarding any denial to the person of a license, certification, certificate of
21 approval or registration or of a continuation of a license, certification, certificate of
22 approval or registration to operate an entity for a reason specified in par. sub. (a) 1. *(4m)*
23 to 5. and regarding any denial to the person of employment at, a contract with or
24 permission to reside at an entity for a reason specified in par. (ag) sub. (4m) (b) 1. to
25 5. If the information obtained under this subdivision indicates that the person has
26 been denied a license, certification, certificate of approval or registration,

1 continuation of a license, certification, certificate of approval or registration, a
2 contract, employment or permission to reside as described in this subdivision, the
3 department need not obtain the information specified in subs. 1. to 4.

History: 1997 a. 27, 105, 237.

4 **SECTION 1521v.** 50.065 (2) (b) 1. of the statutes is renumbered 50.065 (2) (b) and

5 50.065 (b) (intro.) and 5., as renumbered, are amended to read:

6 **50.065 (2) (b) (intro.)** ~~Subject to subs. 1. e. and 2. and par. (bd), every~~ Every
7 entity shall obtain all of the following with respect to a ~~person specified under par.~~
8 ~~(ag) (intro.) who is an employe or contractor or a prospective employe or contractor~~
9 caregiver of the entity:

History: 1997 a. 27, 105, 237.

10 **5.** Information maintained by the department under this section regarding any
11 denial to the person of a license, certification, certificate of approval or registration
12 or of a continuation of a license, certification, certificate of approval or registration
13 to operate an entity for a reason specified in ~~par. sub. (4m)~~ sub. (4m) (a) 1. to 5. and regarding
14 any denial to the person of employment at, a contract with or permission to reside
15 at an entity for a reason specified in ~~par. (ag) sub. (4m)~~ sub. (4m) (b) 1. to 5. If the information
16 obtained under this ~~subd. 1. e.~~ subdivision indicates that the person has been denied
17 a license, certification, certificate of approval or registration, continuation of a
18 license, certification, certificate of approval or registration, a contract, employment
19 or permission to reside as described in this ~~subd. 1. e.~~ subdivision, the entity need
20 not obtain the information ~~specified in subd. 1. a. to d. to 4.~~ specified in subs. 1. a. to d. to 4.

History: 1997 a. 27, 105, 237.

21 **SECTION 1521w.** 50.065 (2) (b) 2. of the statutes is repealed.

22 **SECTION 1521x.** 50.065 (2) (bb) of the statutes is created to read:

23 50.065 (2) (bb) If information obtained under par. (am) or (b) indicates a charge
24 of a crime or violation of s. 940.19 (1), 940.195, 940.20, 941.30, 942.08, 947.01 or

1 947.013 without a recorded disposition, the department or entity shall make every
2 reasonable effort to determine the disposition of the charge.

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

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

16 History: 1997 a. 27, 105, 237.

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

17 50.065 (2) (bg) If an entity ~~takes an action specified in par. (ag) (intro.) with~~
18 ~~respect to an employe, prospective employe, contractor or prospective contractor~~
19 hires or contracts with a caregiver for whom, within the last 4 years, the information
20 required under par. (b) 1. ~~a. to e.~~ [✓] 3. and ~~e.~~ [✓] 5. has already been obtained, ~~either by~~
21 another entity ~~or by a temporary employment agency~~, the entity may obtain ~~the that~~
22 information ~~required under par. (b) 1. a. to e. and e.~~ from that other entity ~~or~~
23 ~~temporary employment agency~~, which shall provide the information, if possible, to
24 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 ~~5.~~

6 History: 1997 a. 27, 105, 237.

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, the
 10 department or entity shall make a good faith effort to obtain from any state or other
 11 United States jurisdiction in which the person is a resident or was a resident within
 12 the 3 years preceding the date of the search information that is equivalent to the
 13 information specified in par. (am) 1. or (b) 1. a.

14 History: 1997 a. 27, 105, 237.

SECTION 1521zc. 50.065 (2) (c) of the statutes is renumbered 50.065 (4m) (c)

15 and amended to read:

16 50.065 (4m) (c) If the background information form completed by a person
 17 under sub. (6) (am) indicates that the person is not ineligible to be employed or
 18 contracted with for a reason specified in par. ~~(ag)~~ (b) 1. to 5., an entity may employ
 19 or contract with the person for not more than 60 days pending the receipt of the
 20 information sought under ~~par. sub. (2) (b) 1.~~ plain If the background information form
 21 completed by a person under sub. (6) (am) indicates that the person is not ineligible
 22 to be permitted to reside at an entity for a reason specified in par. ~~(ag)~~ (b) 1. to 5. and plain space
 23 if an entity otherwise has no reason to believe that the person is ineligible to be
 24 permitted to reside at an entity for any of those reasons, the entity may permit the

1 person to reside at the entity for not more than 60 days pending receipt of the
2 information sought under ~~par. sub. (2)~~ (am). An entity shall provide supervision for
3 a person who is employed or contracted with or permitted to reside as permitted
4 under this paragraph.

History: 1997 a. 27, 105, 237.

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

6 50.065 (2) (d) Every entity shall maintain, or shall contract with another
7 person to maintain, the most recent background information obtained on a caregiver
8 under par. (b). The information shall be made available for inspection by authorized
9 persons, as defined by the department by rule.

strike a space

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

11 50.065 (3) (a) Every 4 years or at any time within that period that the
12 department considers appropriate, the department shall request the information
13 specified in sub. (2) (am) 1. to ~~4.~~ 5. for all persons who are licensed to operate an entity
14 and for all persons ~~specified in par. (ag) (intro.) (sub. (2) (ag) (intro.))~~ who are
15 nonclient residents of an entity.

NOTE: NOTE: The bracketed language indicates the correct cross-reference. Corrective legislation is pending. NOTE:

History: 1997 a. 27, 105, 237.

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

17 50.065 (3) (b) Every 4 years or at any other time within that period that an
18 entity considers appropriate, the entity shall request the information specified in
19 sub. (2) (b) 1. ~~a. to d.~~ 5. for all persons ~~specified in sub. (2) (ag) (intro.)~~ who are
20 ~~employees or contractors~~ caregivers of the entity.

History: 1997 a. 27, 105, 237.

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

22 50.065 (3m) Notwithstanding subs. (2) (b) ~~1.~~ and (3) (b), if the department
23 obtains the information required under sub. (2) (am) or (3) (a) with respect to a person

ag

1 specified in sub. (2) (a) (intro.) who is a caregiver specified under sub. (1) (b) 1. b. and
2 that person is also an employe, contractor or nonclient resident of the entity, the
3 entity is not required to obtain the information specified in sub. (2) (b) 1. or (3) (b)
4 with respect to that person.

History: 1997 a. 27, 105, 237.

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

6 50.065 (4) An entity that violates sub. (2) or (3) or (4m) (b) may be required to
7 forfeit not more than \$1,000 and may be subject to other sanctions specified by the
8 department by rule.

History: 1997 a. 27, 105, 237.

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

11 50.065 (4m) (b) (intro.) Notwithstanding s. 111.335, and except as provided in sub. (5),
12 an entity may not hire employ or contract with a caregiver or permit to reside at the
13 entity a nonclient resident, if the entity knows or should have known any of the
14 following:

15 SECTION 1521zj. 50.065 (5) (intro.) of the statutes is amended to read:

16 50.065 (5) (intro.) The department may license, certify, issue a certificate of
17 approval to or register to operate an entity a person who otherwise may not be
18 licensed, certified, issued a certificate of approval or registered for a reason specified
19 in sub. (2) (4m) (a) 1. to 5. , and an entity may employ, contract with or permit to reside
20 at the entity a person who otherwise may not be employed, contracted with or
21 permitted to reside at the entity for a reason specified in sub. (2) (ag) (4m) 1. to 5.,
22 if the person demonstrates to the department, or in the case of an entity that is
23 located within the boundaries of a federally recognized American Indian reservation,
24 to the tribal governing body of that reservation, by clear and convincing evidence and

(b)

1 in accordance with procedures established by the department by rule, or by the tribal
 2 governing body, that he or she has been rehabilitated. No person who has been
 3 convicted of any of the following offenses may be permitted to demonstrate that he
 4 or she has been rehabilitated until the later of at least 5 years after the date of the
 5 conviction or adjudication for that ~~offense~~ or at least 5 years after the date of the
 6 person's release ~~from~~ imprisonment, a secured juvenile facility or a commitment
 7 order for that offense:

SECTION 1521zk. 50.065 (5) (a), (d) and (e) of the statutes are repealed.

History: 1997 a. 27, 105, 237.

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

9 **50.065 (5d)** (a) Any tribal governing body that chooses to conduct
 10 rehabilitation reviews under sub. (5) shall submit to the department a rehabilitation
 11 review plan that includes all of the following:
 12

- 13 1. The criteria to be used to determine if a person has been rehabilitated.
- 14 2. The title of the person or body designated by the tribe to whom a request for
 15 review must be made.
- 16 3. The title of the person or body designated by the tribe to determine whether
 17 a person has been rehabilitated.
- 18 4. The manner in which the tribe will submit information relating to a
 19 rehabilitation review to the department so that the department may include that
 20 information in its report to the legislature required under sub. (5g).
- 21 5. A copy of the form to be used to request a review and a copy of the form on
 22 which a written decision is to be made regarding whether a person has demonstrated
 23 rehabilitation.

Handwritten annotations:
 - A large checkmark at the top right.
 - A checkmark above the word "or" in line 1.
 - A checkmark above the word "offense" in line 5.
 - A checkmark above the word "offense" in line 7.
 - A circle around the number "2" in line 2.
 - A circle around the word "from" in line 6.
 - A circle around the word "offense" in line 7.
 - The word "from" written vertically on the left side, with an arrow pointing to the word "from" in line 6.
 - The word "offense" written vertically on the right side, with an arrow pointing to the word "offense" in line 7.

1 (b)

2 The department shall approve or disapprove the plan under par. (a) within
3 90 days after receiving the plan. If the department disapproves the plan, the tribe
4 may, within 30 days after receiving notice of the disapproval, request that the
5 secretary review the department's decision.

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

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

15 History: 1997 a. 27, 105, 237.

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

18 50.065 (6) (am) Every 4 years an entity shall require ~~all of the following persons~~
19 its caregivers and nonclient residents to complete a background information form
that is provided to the entity by the department.

20 History: 1997 a. 27, 105, 237.

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

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

23 50.065 (6) (b) For ~~persons specified under par. (a)~~ caregivers who are licensed,
24 issued a certificate of approval or certified by, or registered with, the department, for
~~person specified in par. (am) 2.~~ nonclient residents, and for other persons specified

1 by the department by rule, the entity shall send the background information form
2 to the department. ~~For persons specified under par. (am) 1., the entity shall maintain~~
3 ~~the background information form on file for inspection by the department.~~

4 History: 1997 a. 27, 105, 237.

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

5 ✓ 6. Page 749, line 21: delete “1.”.

6 ✓ 7. Page 1121, line 18: after that line insert:

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

8 120.13 (14) DAY CARE PROGRAMS. Establish and provide or contract for the
9 provision of day care programs for children. The school board may receive federal
10 or state funds for this purpose. The school board may charge a fee for all or part of
11 the cost of the service for participation in a day care program established under this
12 subsection. Costs associated with a day care program under this subsection may not
13 be included in shared costs under s. 121.07 (6). Day care programs established under
14 this subsection shall meet the standards for licensed day care centers established by
15 the department of health and family services. If a school board proposes to contract
16 for or renew a contract for the provision of a day care program under this subsection
17 or if on July 1, 1996, a school board is a party to a contract for the provision of a day
18 care program under this subsection, the school board shall refer the contractor or
19 proposed contractor to the department of health and family services for the criminal
20 history and child abuse record search required under s. 48.685. Each school board
21 shall provide the department of health and family services with information about
22 each person who is denied a contract for a reason specified in s. 48.685 (2) (4m) (a)

23 1. to 5.))

History: 1973 c. 94, 290; 1975 c. 115, 321; 1977 c. 206, 211, 418, 429; 1979 c. 20, 202, 221, 301, 355; 1981 c. 96, 314, 335; 1983 a. 27, 193, 207, 339, 370, 518, 538; 1985 a. 29 ss. 1725e to 1726m, 1731; 1985 a. 101, 135, 211; 1985 a. 218 ss. 12, 13, 22; 1985 a. 332; 1987 a. 88, 187; 1989 a. 31, 201, 336, 359; 1991 a. 39, 226, 269; 1993 a. 16, 27, 284, 334, 399, 450, 481, 491; 1995 a. 27 ss. 4024, 9126 (19), 9145 (1); 1995 a. 29, 32, 33, 65, 75, 225, 235, 289, 439; 1997 a. 27, 155, 164, 191, 237, 335.

1 ✓ **8.** Page 1435, line 8: after that line insert:

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

3 938.396 (9) Notwithstanding sub. (2) (a), if a juvenile is adjudged delinquent
4 for committing a serious crime, as defined in s. 48.685 (7) (a) (1) (c), the court clerk
5 shall notify the department of justice of that fact. No other information from the
6 juvenile’s court records may be disclosed to the department of justice except by order
7 of the court. The department of justice may disclose any information provided under
8 this subsection only as part of a criminal history record search under s. 48.685 (2)
9 (am) 1. or (b) 1. a.”

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 80, 95, 181, 205, 252, 258, 281; s. 13.93 (1) (b), (2) (c).

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

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

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

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

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

11*
12*
↓
Fix these:
action: Act: repeal
14*

15 ✓ **11.** Page 1511, line 12: after that line insert:

16 (b) CAREGIVER CRIMINAL BACKGROUND CHECKS. The department of corrections,
17 in conjunction with the University of Wisconsin–Madison, shall prepare a report on
18 the correlation between prior convictions and the propensity to commit future acts
19 of abuse, neglect or misappropriation. The department of corrections shall submit
20 the report to the legislature in the manner provided under section 13.172 (3) of the
21 statutes no later than June 30, 2001.”

16
17
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22
Noted.

22 **12.** Page 1610, line 16: after that line insert:

1
2
3
4

~~sections~~ (1) CAREGIVER BACKGROUND CHECKS. The treatment of sections 48.685 (2)
(bg) (by SECTION 1170n), (4m) (b) (intro.) and (5m) (by SECTION 1176g) and 50.065
(4m) (b) (intro.) of the statutes takes effect on February 1, 2000. "

(END)

(by SECTION 1521zi)

(by SECTION 1173j)

12XX

CS

CS

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

LRBb1144/1dn
TY&GM...:...

19

The definition of "regular, direct contact" was no clearer than the phrase itself and may, in fact, have been more limiting than the caucus intends. Therefore, we did not include the definition.

Is there a reason to determine the disposition of disorderly conduct, harassment, etc.? Nothing in the motion indicates that the department or entity must do anything in response to that information.

The NCIC is a federally operated system. Only the federal government can authorize the use of the NCIC. Therefore, we did not include a provision authorizing NCIC checks.

Finally, we did not include Sue Dow's recommended change regarding child abuse records. If those records are confidential and are not obtainable, it makes no sense to require an entity ~~to obtain the records~~ "to obtain [them] to the extent possible." Entities should either not be required to obtain those records, or an exception to the confidentiality provisions should be made. ✓

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

LRBb1144/1dn
TY&GM:kg:ch

June 26, 1999

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State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1144/1
TY&GM:kg:ch

ARC:.....Kratochwill - no #, Criminal background checks

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS 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 and who has, or is expected to have, direct, regular contact with 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 at an entity 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 1159r.** 48.685 (1) (b) of the statutes is amended to read:

13 48.685 (1) (b) "Entity" means a child welfare agency that is licensed under s.
14 48.60 to provide care and maintenance for children, to place children for adoption or
15 to license foster homes or treatment foster homes; a foster home or treatment foster
16 home that is licensed under s. 48.62; a group home that is licensed under s. 48.625;
17 a shelter care facility that is licensed under s. 938.22; a day care center that is
18 licensed under s. 48.65 or established or contracted for under s. 120.13 (14); ~~or~~ a day
19 care provider that is certified under s. 48.651; or a temporary employment agency
20 that provides caregivers to another entity."

21 **2.** Page 652, line 4: after that line insert:

22 **"SECTION 1160e.** 48.685 (1) (bm) of the statutes is created to read:

1 48.685 (1) (bm) “Nonclient resident” means a person who resides, or is expected
2 to reside, at an entity, who is not a client of the entity and who has, or is expected to
3 have, direct, regular contact with clients of the entity.

4 **SECTION 1160f.** 48.685 (1) (c) of the statutes is repealed and recreated to read:

5 48.685 (1) (c) “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) or (2), 948.025, 948.03 (2), 948.05, 948.055,
8 948.06, 948.07, 948.08, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1) or 948.30 or
9 a violation of the law of any other state or United States jurisdiction that would be
10 a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (3), (4), (5) or (6),
11 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 948.02 (1) or (2),
12 948.025, 948.03 (2), 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 (2) (a) or (am),
13 948.12, 948.13, 948.21 (1) or 948.30 if committed in this state.”.

14 **3.** Page 652, line 9: delete lines 9 to 16 and substitute:

15 “**SECTION 1161d.** 48.685 (2) (a) (intro.) of the statutes is renumbered 48.685
16 (4m) (a) (intro.).”

17 **SECTION 1161g.** 48.685 (2) (a) 1. of the statutes is renumbered 48.685 (4m) (a)
18 1.

19 **SECTION 1161h.** 48.685 (2) (a) 2. of the statutes is repealed.

20 **SECTION 1161i.** 48.685 (2) (a) 3. of the statutes is renumbered 48.685 (4m) (a)
21 3.

22 **SECTION 1161j.** 48.685 (2) (a) 4. of the statutes is renumbered 48.685 (4m) (a)
23 4.

1 **SECTION 1161k.** 48.685 (2) (a) 5. of the statutes is renumbered 48.685 (4m) (a)
2 5.

3 **SECTION 1161m.** 48.685 (2) (ad) of the statutes is renumbered 48.685 (4m) (ad)
4 and amended to read:

5 48.685 (4m) (ad) The department, a county department or a child welfare
6 agency may license a foster home or treatment foster home under s. 48.62, a county
7 department may certify a day care provider under s. 48.651 and a school board may
8 contract with a person under s. 120.13 (14), conditioned on the receipt of the
9 information specified in ~~par. sub. (2)~~ (am) indicating that the person is not ineligible
10 to be licensed, certified or contracted with for a reason specified in par. (a) 1. to 5.

11 **SECTION 1163d.** 48.685 (2) (ag) (intro.) of the statutes is renumbered 48.685
12 (4m) (b) (intro.) and amended to read:

13 48.685 (4m) (b) (intro.) Notwithstanding s. 111.335, and except as provided in
14 sub. (5), an entity may not hire or contract with a ~~person who will be under the~~
15 ~~entity's control, as defined by the department by rule, and who is expected to have~~
16 ~~access to its clients,~~ caregiver or permit a nonclient resident to reside at the entity
17 ~~a person who is not a client and who is expected to have access to a client,~~ if the entity
18 knows or should have known any of the following:

19 **SECTION 1163g.** 48.685 (2) (ag) 1. of the statutes is renumbered 48.685 (4m) (b)
20 1. and amended to read:

21 48.685 (4m) (b) 1. That the person has been convicted of a serious crime or, if
22 the person is ~~an employe, prospective employe, contractor, prospective contractor,~~
23 ~~nonclient resident or prospective~~ a caregiver or nonclient resident of a day care
24 center that is licensed under s. 48.65 or established or contracted for under s. 120.13
25 (14) or of a day care provider that is certified under s. 48.651, that the person has been

1 convicted of a serious crime or adjudicated delinquent on or after his or her 12th
2 birthday for committing a serious crime.

3 **SECTION 1163h.** 48.685 (2) (ag) 2. of the statutes is repealed.

4 **SECTION 1163i.** 48.685 (2) (ag) 3. of the statutes is renumbered 48.685 (4m) (b)

5 3.

6 **SECTION 1163j.** 48.685 (2) (ag) 4. of the statutes is renumbered 48.685 (4m) (b)

7 4.

8 **SECTION 1163k.** 48.685 (2) (ag) 5. of the statutes is renumbered 48.685 (4m) (b)

9 5.

10 **SECTION 1165d.** 48.685 (2) (am) (intro.) of the statutes is amended to read:

11 48.685 (2) (am) (intro.) ~~Subject to subd. 5. and par. (bd), the~~ The department,
12 a county department, a child welfare agency or a school board shall obtain all of the
13 following with respect to a ~~person specified under par. (a) (intro.) and a person~~
14 ~~specified under par. (ag) (intro.) who is a nonclient resident or prospective caregiver~~
15 specified in sub. (1) (ag) 1. b., a nonclient resident of an entity and shall obtain the
16 ~~information specified in subds. 1. to 5. with respect to a person specified in par. (ag)~~
17 ~~(intro.) who is under 18 years of age, but not under 12 years of age, and who is an~~
18 ~~employe, prospective employe, contractor, prospective contractor, nonclient resident~~
19 ~~or prospective nonclient resident~~ a caregiver of a day care center that is licensed
20 under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care
21 provider that is certified under s. 48.651:

22 **SECTION 1165g.** 48.685 (2) (am) 5. of the statutes is amended to read:

23 48.685 (2) (am) 5. Information maintained by the department under this
24 section and under ss. 48.651 (2m), 48.75 (1m) and 120.13 (14) regarding any denial
25 to the person of a license, continuation or renewal of a license, certification or a

1 contract to operate an entity for a reason specified in ~~par. sub. (4m)~~ (a) 1. to 5. and
2 regarding any denial to the person of employment at, a contract with or permission
3 to reside at an entity for a reason specified in ~~par. (ag) sub. (4m) (b)~~ 1. to 5. If the
4 information obtained under this subdivision indicates that the person has been
5 denied a license, continuation or renewal of a license, certification, a contract,
6 employment or permission to reside as described in this subdivision, the department,
7 a county department, a child welfare agency or a school board need not obtain the
8 information specified in subs. 1. to 4.

9 **SECTION 1167d.** 48.685 (2) (b) 1. (intro.) of the statutes is amended to read:

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

14 **SECTION 1167g.** 48.685 (2) (b) 1. e. of the statutes is amended to read:

15 48.685 (2) (b) 1. e. Information maintained by the department under this
16 section and under ss. 48.651 (2m), 48.75 (1m) and 120.13 (14) regarding any denial
17 to the person of a license, continuation or renewal of a license, certification or a
18 contract to operate an entity for a reason specified in ~~par. sub. (4m)~~ (a) 1. to 5. and
19 regarding any denial to the person of employment at, a contract with or permission
20 to reside at an entity for a reason specified in ~~par. (ag) sub. (4m) (b)~~ 1. to 5. If the
21 information obtained under this subd. 1. e. indicates that the person has been denied
22 a license, continuation or renewal of a license, certification, a contract, employment
23 or permission to reside as described in this subd. 1. e., the entity need not obtain the
24 information specified in subd. 1. a. to d.

25 **SECTION 1168d.** 48.685 (2) (b) 2. of the statutes is repealed.

1 **SECTION 1168g.** 48.685 (2) (b) 4. of the statutes is amended to read:

2 48.685 (2) (b) 4. Subdivision 1. does not apply with respect to a person under
3 18 years of age, but not under 12 years of age, who is ~~an employe, prospective~~
4 ~~employe, contractor, prospective contractor, nonclient resident or prospective a~~
5 caregiver or nonclient resident of a day care center that is licensed under s. 48.65 or
6 established or contracted for under s. 120.13 (14) or of a day care provider that is
7 certified under s. 48.651 and with respect to whom the department, a county
8 department or a school board is required under par. (am) (intro.) to obtain the
9 information specified in par. (am) 1. to 5.

10 **SECTION 1169m.** 48.685 (2) (bb) of the statutes is created to read:

11 48.685 (2) (bb) If information obtained under par. (am) or (b) indicates a charge
12 of a serious crime or of a violation of s. 940.19 (1), 940.195, 940.20, 941.30, 942.08,
13 947.01 or 947.013 without a recorded disposition, the department or entity shall
14 make every reasonable effort to determine the disposition of the charge.

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

16 48.685 (2) (bd) Notwithstanding pars. (am) and (b) 1., the department, a county
17 department, a child welfare agency or a school board is not required to obtain the
18 information specified in par. (am) 1. to 5., and an entity is not required to obtain the
19 information specified in par. (b) 1. a. to e., with respect to a person under 18 years
20 of age whose background information form under sub. (6) (am) indicates that the
21 person is not ineligible to be employed, contracted with or permitted to reside at an
22 entity for a reason specified in ~~par. (ag) sub. (4m)(b)~~ 1. to 5. and with respect to whom
23 the department, county department, child welfare agency, school board or entity
24 otherwise has no reason to believe that the person is ineligible to be employed,
25 contracted with or permitted to reside at an entity for any of those reasons. This

1 paragraph does not preclude the department, a county department, a child welfare
2 agency or a school board from obtaining, at its discretion, the information specified
3 in par. (am) 1. to 5. with respect to a person described in this paragraph who is a
4 nonclient resident or a prospective nonclient resident of an entity.

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

6 48.685 (2) (bg) If an entity ~~takes an action specified in par. (ag) (intro.) with~~
7 ~~respect to an employe, prospective employe, contractor or prospective contractor~~
8 hires or contracts with a caregiver for whom, within the last 4 years, the information
9 required under par. (b) 1. a. to c. and e. has already been obtained, ~~either~~ by another
10 entity ~~or by a temporary employment agency~~, the entity may obtain ~~the~~ that
11 information ~~required under par. (b) 1. a. to c. and e.~~ from that other entity ~~or~~
12 ~~temporary employment agency~~, which shall provide the information, if possible, to
13 the requesting entity. If an entity cannot obtain the information required under par.
14 (b) 1. a. to c. and e. from another entity ~~or from a temporary employment agency~~ or
15 if an entity has reasonable grounds to believe that any information obtained from
16 another entity ~~or from a temporary employment agency~~ is no longer accurate, the
17 entity shall obtain that information from the sources specified in par. (b) 1. a. to c.
18 and e.

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

21 48.685 (2) (bg) If an entity ~~hires~~ employs or contracts with a caregiver for
22 whom, within the last 4 years, the information required under par. (b) 1. a. to c. and
23 e. has already been obtained by another entity, the entity may obtain that
24 information from that other entity, which shall provide the information, if possible,
25 to the requesting entity. If an entity cannot obtain the information required under

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

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

6 48.685 (2) (bm) If the person who is the subject of the search under par. (am)
7 or (b) 1. is not a resident of this state, or if at any time within the 3 years preceding
8 the date of the search that person has not been a resident of this state, the
9 department, county department, child welfare agency, school board or entity shall
10 make a good faith effort to obtain from any state or other United States jurisdiction
11 in which the person is a resident or was a resident within the 3 years preceding the
12 date of the search information that is equivalent to the information specified in par.
13 (am) 1. or (b) 1. a.

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

16 48.685 (4m) (c) If the background information form completed by a person
17 under sub. (6) (am) indicates that the person is not ineligible to be employed or
18 contracted with for a reason specified in par. ~~(ag)~~ (b) 1. to 5., an entity may employ
19 or contract with the person for not more than 60 days pending the receipt of the
20 information sought under ~~par. sub. (2)~~ (am) 1. to 5. or (b) 1. If the background
21 information form completed by a person under sub. (6) (am) indicates that the person
22 is not ineligible to be permitted to reside at an entity for a reason specified in par. ~~(ag)~~
23 (b) 1. to 5. and if an entity otherwise has no reason to believe that the person is
24 ineligible to be permitted to reside at an entity for any of those reasons, the entity
25 may permit the person to reside at the entity for not more than 60 days pending

1 receipt of the information sought under ~~par. sub. (2)~~ (am). An entity shall provide
2 supervision for a person who is employed, contracted with or permitted to reside as
3 permitted under this paragraph.

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

5 48.685 (2) (d) Every entity shall maintain, or shall contract with another
6 person to maintain, the most recent background information obtained on a caregiver
7 under par. (b). The information shall be made available for inspection by authorized
8 persons, as defined by the department by rule.

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

10 48.685 (3) (a) Every 4 years or at any time within that period that the
11 department, a county department, a child welfare agency or a school board considers
12 appropriate, the department, county department, child welfare agency or school
13 board shall request the information specified in sub. (2) (am) 1. to 5. for all persons
14 who are licensed, certified or contracted to operate an entity and, for all persons
15 specified in ~~par. (ag) (intro.)~~ who are nonclient residents of an entity and shall
16 request the information specified in ~~sub. (2) (am) 1. to 5.~~ for all persons under 18
17 years of age, but not under 12 years of age, who are ~~employees, contractors or~~
18 ~~nonclient residents~~ caregivers of a day care center that is licensed under s. 48.65 or
19 established or contracted for under s. 120.13 (4) or of a day care provider that is
20 certified under s. 48.651.

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

22 48.685 (3) (b) Every 4 years or at any time within that period that an entity
23 considers appropriate, the entity shall request the information specified in sub. (2)
24 (b) 1. a. to e. for all persons specified in ~~sub. (2) (ag) (intro.)~~ ~~employees or contractors~~
25 who are caregivers of the entity other than persons ~~who are~~ under 18 years of age,

1 but not under 12 years of age and, who are ~~employees, contractors or nonclient~~
2 ~~residents~~ caregivers of a day care center that is licensed under s. 48.65 or established
3 or contracted for under s. 120.13 (14) or of a day care provider that is certified under
4 s. 48.651.

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

6 48.685 (3m) Notwithstanding subs. (2) (b) 1. and (3) (b), if the department, a
7 county department, a child welfare agency or a school board has obtained the
8 information required under sub. (2) (am) or (3) (a) with respect to a person ~~specified~~
9 ~~in sub. (2) (a) (intro.)~~ who is a caregiver specified in sub. (1) (ag) 1. b. and that person
10 is also an employe, contractor or nonclient resident of an entity, the entity is not
11 required to obtain the information specified in sub. (2) (b) 1. or (3) (b) with respect
12 to that person.

13 **SECTION 1173g.** 48.685 (4) of the statutes is amended to read:

14 48.685 (4) An entity that violates sub. (2) ~~or~~ (3) or (4m) (b) may be required to
15 forfeit not more than \$1,000 and may be subject to other sanctions specified by the
16 department by rule.

17 **SECTION 1173j.** 48.685 (4m) (b) (intro.) of the statutes, as affected by 1999
18 Wisconsin Act (this act), is amended to read:

19 48.685 (4m) (b) (intro.) Notwithstanding s. 111.335, and except as provided in
20 sub. (5), an entity may not ~~hire~~ employ or contract with a caregiver or permit a
21 nonclient resident to reside at the entity, if the entity knows or should have known
22 any of the following:

23 **SECTION 1174d.** 48.685 (5) (a) of the statutes is amended to read:

24 48.685 (5) (a) The department may license to operate an entity, a county
25 department may certify under s. 48.651, a county department or a child welfare

1 agency may license under s. 48.62 and a school board may contract with under s.
2 120.13 (14) a person who otherwise may not be licensed, certified or contracted with
3 for a reason specified in sub. ~~(2)~~ (4m) (a) 1. to 5., and an entity may employ, contract
4 with or permit to reside at the entity a person who otherwise may not be employed,
5 contracted with or permitted to reside at the entity for a reason specified in sub. ~~(2)~~
6 ~~(ag)~~ (4m) (b) 1. to 5., if the person demonstrates to the department, the county
7 department, the child welfare agency or the school board or, in the case of an entity
8 that is located within the boundaries of a federally recognized American Indian
9 reservation, to the tribal governing body of that reservation by clear and convincing
10 evidence and in accordance with procedures established by the department by rule
11 or by the tribal governing body that he or she has been rehabilitated.

12 **SECTION 1174g.** 48.685 (5) (b) (intro.) of the statutes is amended to read:

13 48.685 (5) (b) (intro.) For purposes other than licensing a foster home or
14 treatment foster home, no person who has been convicted of any of the following
15 offenses, and no person who is an applicant for issuance or continuation of a license
16 to operate a day care center or for initial certification as a day care provider under
17 s. 48.651 or for renewal of that certification, who is proposing to contract with a school
18 board under s. 120.13 (14) or to renew a contract under that subsection or who is ~~an~~
19 ~~employe, prospective employe, contractor, prospective contractor, nonclient resident~~
20 ~~or prospective~~ a caregiver or nonclient resident of a day care center that is licensed
21 under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care
22 provider that is certified under s. 48.651, and who has been convicted of any of the
23 following offenses or adjudicated delinquent on or after his or her 12th birthday for
24 committing any of the following offenses, may be permitted to demonstrate that he
25 or she has been rehabilitated until the later of at least 5 years after the date of that

1 conviction or adjudication or at least 5 years after the date of the person's release
2 from imprisonment, a secured juvenile facility or a commitment order:

3 **SECTION 1174j.** 48.685 (5) (b) 1. of the statutes is repealed.

4 **SECTION 1174k.** 48.685 (5) (b) 4. of the statutes is repealed.

5 **SECTION 1174L.** 48.685 (5) (b) 5. of the statutes is repealed.

6 **SECTION 1175m.** 48.685 (5d) of the statutes is created to read:

7 48.685 (5d) (a) Any tribal governing body that chooses to conduct
8 rehabilitation reviews under sub. (5) shall submit to the department a rehabilitation
9 review plan that includes all of the following:

10 1. The criteria to be used to determine if a person has been rehabilitated.

11 2. The title of the person or body designated by the tribe to whom a request for
12 review must be made.

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

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

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

21 (b) The department shall approve or disapprove the plan under par. (a) within
22 90 days after receiving the plan. If the department disapproves the plan, the tribe
23 may, within 30 days after receiving notice of the disapproval, request that the
24 secretary review the department's decision.

25 **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 employes,~~
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 **4.** 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 **5.** 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 and who has, or is expected to have, direct, regular contact with clients of the entity.

18 b. A person who has, or is seeking, a license, certification, registration, or
19 certificate of approval issued or granted by the department to operate an entity.

20 c. A person who is, or is expected to be, an employe of the board on aging and
21 long-term care and who has, or is expected to have, regular, direct contact with
22 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 at the entity 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 1521d.** 50.065 (1) (c) (intro.) of the statutes is amended to read:

9 50.065 (1) (c) (intro.) “Entity” means a facility, organization or service that is
10 licensed or certified by or registered with the department to provide direct care or
11 treatment services to clients. “Entity” includes a hospital, a personal care worker
12 agency ~~and~~, a supportive home care service agency, a temporary employment agency
13 that provides caregivers to another entity and the board on aging and long-term
14 care. “Entity” does not include any of the following:

15 **SECTION 1521e.** 50.065 (1) (cn) of the statutes is created to read:

16 50.065 (1) (cn) “Nonclient resident” means a person who resides, or is expected
17 to reside, at an entity, who is not a client of the entity and who has, or is expected to
18 have, direct, regular contact with clients of the entity.

19 **SECTION 1521f.** 50.065 (1) (e) of the statutes is repealed and recreated to read:

20 50.065 (1) (e) 1. “Serious crime” means a violation of s. 940.01, 940.02, 940.03,
21 940.05, 940.12, 940.19 (2), (3), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3),
22 940.285 (2), 940.29, 940.295, 948.02 (1), 948.025 and 948.03 (2) (a), or a violation of
23 the law of any other state or United States jurisdiction that would be a violation of
24 s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (3), (4), (5) or (6), 940.22 (2) or

1 (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 948.02 (1), 948.025 and 948.03
2 (2) (a) if committed in this state.

3 2. For the purposes of an entity that serves persons under the age of 18, “serious
4 crime” includes a violation of s. 948.02 (2), 948.03 (2) (b) and (c), 948.05, 948.055,
5 948.06, 948.07, 948.08, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1) or 948.30 or
6 a violation of the law of any other state or United States jurisdiction that would be
7 a violation of s. 948.02 (2), 948.03 (2) (b) and (c), 948.05, 948.055, 948.06, 948.07,
8 948.08, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1) or 948.30 if committed in this
9 state.

10 **SECTION 1521g.** 50.065 (2) (a) (intro.) of the statutes is renumbered 50.065 (4m)
11 (a) (intro.).

12 **SECTION 1521h.** 50.065 (2) (a) 1. of the statutes is renumbered 50.065 (4m) (a)
13 1.

14 **SECTION 1521i.** 50.065 (2) (a) 2. of the statutes is repealed.

15 **SECTION 1521j.** 50.065 (2) (a) 3. of the statutes is renumbered 50.065 (4m) (a)
16 3.

17 **SECTION 1521k.** 50.065 (2) (a) 4. of the statutes is renumbered 50.065 (4m) (a)
18 4.

19 **SECTION 1521L.** 50.065 (2) (a) 5. of the statutes is renumbered 50.065 (4m) (a)
20 5.

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

23 50.065 (4m) (b) (intro.) Notwithstanding s. 111.335, and except as provided in
24 sub. (5), an entity may not hire or contract with a ~~person who will be under the~~
25 ~~entity's control, as defined by the department by rule, and who is expected to have~~

1 ~~access to its clients, caregiver~~ or permit to reside at the entity a ~~person who is not a~~
2 ~~client and who is expected to have access to a client~~ nonclient resident, if the entity
3 knows or should have known any of the following:

4 **SECTION 1521n.** 50.065 (2) (ag) 1. of the statutes is renumbered 50.065 (4m)

5 (b) 1.

6 **SECTION 1521p.** 50.065 (2) (ag) 2. of the statutes is repealed.

7 **SECTION 1521q.** 50.065 (2) (ag) 3. of the statutes is renumbered 50.065 (4m) (b)

8 3.

9 **SECTION 1521r.** 50.065 (2) (ag) 4. of the statutes is renumbered 50.065 (4m) (b)

10 4.

11 **SECTION 1521s.** 50.065 (2) (ag) 5. of the statutes is renumbered 50.065 (4m) (b)

12 5.

13 **SECTION 1521t.** 50.065 (2) (am) (intro.) of the statutes is amended to read:

14 50.065 (2) (am) (intro.) ~~Subject to subd. 5. and par. (bd), the~~ The department
15 shall obtain all of the following with respect to a person specified under ~~par. (a)~~
16 ~~(intro.) sub. (1) (ag) 1. b.~~ and a person specified under ~~par. (ag) (intro.)~~ who is a
17 nonclient resident or prospective nonclient resident of an entity:

18 **SECTION 1521u.** 50.065 (2) (am) 5. of the statutes is amended to read:

19 50.065 (2) (am) 5. Information maintained by the department under this
20 section regarding any denial to the person of a license, certification, certificate of
21 approval or registration or of a continuation of a license, certification, certificate of
22 approval or registration to operate an entity for a reason specified in ~~par. sub. (4m)~~
23 (a) 1. to 5. and regarding any denial to the person of employment at, a contract with
24 or permission to reside at an entity for a reason specified in ~~par. (ag) sub. (4m) (b) 1.~~
25 to 5. If the information obtained under this subdivision indicates that the person has

1 been denied a license, certification, certificate of approval or registration,
2 continuation of a license, certification, certificate of approval or registration, a
3 contract, employment or permission to reside as described in this subdivision, the
4 department need not obtain the information specified in subs. 1. to 4.

5 **SECTION 1521v.** 50.065 (2) (b) 1. of the statutes is renumbered 50.065 (2) (b),
6 and 50.065 (2) (b) (intro.) and 5., as renumbered, are amended to read:

7 50.065 (2) (b) (intro.) ~~Subject to subs. 1. e. and 2. and par. (bd), every~~ Every
8 entity shall obtain all of the following with respect to a ~~person specified under par.~~
9 ~~(ag) (intro.) who is an employe or contractor or a prospective employe or contractor~~
10 caregiver of the entity:

11 5. Information maintained by the department under this section regarding any
12 denial to the person of a license, certification, certificate of approval or registration
13 or of a continuation of a license, certification, certificate of approval or registration
14 to operate an entity for a reason specified in ~~par. sub. (4m)~~ (a) 1. to 5. and regarding
15 any denial to the person of employment at, a contract with or permission to reside
16 at an entity for a reason specified in ~~par. (ag) sub. (4m)~~ (b) 1. to 5. If the information
17 obtained under this ~~subd. 1. e. subdivision~~ indicates that the person has been denied
18 a license, certification, certificate of approval or registration, continuation of a
19 license, certification, certificate of approval or registration, a contract, employment
20 or permission to reside as described in this ~~subd. 1. e. subdivision~~, the entity need
21 not obtain the information specified in ~~subd. subs. 1. a. to d. to 4.~~

22 **SECTION 1521w.** 50.065 (2) (b) 2. of the statutes is repealed.

23 **SECTION 1521x.** 50.065 (2) (bb) of the statutes is created to read:

24 50.065 (2) (bb) If information obtained under par. (am) or (b) indicates a charge
25 of a crime or violation of s. 940.19 (1), 940.195, 940.20, 941.30, 942.08, 947.01 or

1 947.013 without a recorded disposition, the department or entity shall make every
2 reasonable effort to determine the disposition of the charge.

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

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

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

17 50.065 (2) (bg) If an entity ~~takes an action specified in par. (ag) (intro.) with~~
18 ~~respect to an employe, prospective employe, contractor or prospective contractor~~
19 hires or contracts with a caregiver for whom, within the last 4 years, the information
20 required under par. (b) 1. ~~a. to e. 3. and e. 5.~~ has already been obtained, ~~either by~~
21 ~~another entity or by a temporary employment agency,~~ the entity may obtain the that
22 ~~information required under par. (b) 1. a. to e. and e. from that other entity or~~
23 ~~temporary employment agency,~~ which shall provide the information, if possible, to
24 the requesting entity. If an entity cannot obtain the information required under par.
25 (b) 1. ~~a. to e. 3. and e. 5.~~ from another entity ~~or from a temporary employment agency~~

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

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

6 50.065 (2) (bm) If the person who is the subject of the search under par. (am)
7 or (b) ~~1.~~ is not a resident of this state, or if at any time within the 3 years preceding
8 the date of the search that person has not been a resident of this state, the
9 department or entity shall make a good faith effort to obtain from any state or other
10 United States jurisdiction in which the person is a resident or was a resident within
11 the 3 years preceding the date of the search information that is equivalent to the
12 information specified in par. (am) 1. or (b) 1. ~~a.~~

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

15 50.065 (4m) (c) If the background information form completed by a person
16 under sub. (6) (am) indicates that the person is not ineligible to be employed or
17 contracted with for a reason specified in par. (ag) (b) 1. to 5., an entity may employ
18 or contract with the person for not more than 60 days pending the receipt of the
19 information sought under ~~par. sub. (2)~~ (b) 1. If the background information form
20 completed by a person under sub. (6) (am) indicates that the person is not ineligible
21 to be permitted to reside at an entity for a reason specified in par. (ag) (b) 1. to 5. and
22 if an entity otherwise has no reason to believe that the person is ineligible to be
23 permitted to reside at an entity for any of those reasons, the entity may permit the
24 person to reside at the entity for not more than 60 days pending receipt of the
25 information sought under ~~par. sub. (2)~~ (am). An entity shall provide supervision for

1 a person who is employed or contracted with or permitted to reside as permitted
2 under this paragraph.

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

4 50.065 (2) (d) Every entity shall maintain, or shall contract with another
5 person to maintain, the most recent background information obtained on a caregiver
6 under par. (b). The information shall be made available for inspection by authorized
7 persons, as defined by the department by rule.

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

9 50.065 (3) (a) Every 4 years or at any time within that period that the
10 department considers appropriate, the department shall request the information
11 specified in sub. (2) (am) 1. to ~~4.~~ 5. for all persons who are licensed to operate an entity
12 and for all persons ~~specified in par. (ag) (intro.)~~ who are nonclient residents of an
13 entity.

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

15 50.065 (3) (b) Every 4 years or at any other time within that period that an
16 entity considers appropriate, the entity shall request the information specified in
17 sub. (2) (b) 1. ~~a. to d.~~ 5. for all ~~persons specified in sub. (2) (ag) (intro.) who are~~
18 ~~employees or contractors~~ caregivers of the entity.

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

20 50.065 (3m) Notwithstanding subs. (2) (b) ~~1.~~ and (3) (b), if the department
21 obtains the information required under sub. (2) (am) or (3) (a) with respect to a person
22 ~~specified in sub. (2) (a) (intro.)~~ who is a caregiver specified under sub. (1) (ag) 1. b.
23 and that person is also an employe, contractor or nonclient resident of the entity, the
24 entity is not required to obtain the information specified in sub. (2) (b) ~~1.~~ or (3) (b)
25 with respect to that person.

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

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

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

7 50.065 (4m) (b) (intro.) Notwithstanding s. 111.335, and except as provided in
8 sub. (5), an entity may not ~~hire~~ employ or contract with a caregiver or permit to reside
9 at the entity a nonclient resident, if the entity knows or should have known any of
10 the following:

11 **SECTION 1521zj.** 50.065 (5) (intro.) of the statutes is amended to read:

12 50.065 (5) (intro.) The department may license, certify, issue a certificate of
13 approval to or register to operate an entity a person who otherwise may not be
14 licensed, certified, issued a certificate of approval or registered for a reason specified
15 in sub. (2) ~~(4m)~~ (a) 1. to 5., and an entity may employ, contract with or permit to reside
16 at the entity a person who otherwise may not be employed, contracted with or
17 permitted to reside at the entity for a reason specified in sub. (2) ~~(ag)~~ (4m) (b) 1. to
18 5., if the person demonstrates to the department, or, in the case of an entity that is
19 located within the boundaries of a federally recognized American Indian reservation,
20 to the tribal governing body of that reservation, by clear and convincing evidence and
21 in accordance with procedures established by the department by rule, or by the tribal
22 governing body, that he or she has been rehabilitated. No person who has been
23 convicted of any of the following offenses may be permitted to demonstrate that he
24 or she has been rehabilitated until the later of at least 5 years after the date of the
25 conviction or adjudication for that offense or at least 5 years after the date of the

1 person's release from imprisonment, a secured juvenile facility or a commitment
2 order for that offense:

3 **SECTION 1521zk.** 50.065 (5) (a), (d) and (e) of the statutes are repealed.

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

5 50.065 (5d) (a) Any tribal governing body that chooses to conduct
6 rehabilitation reviews under sub. (5) shall submit to the department a rehabilitation
7 review plan that includes all of the following:

8 1. The criteria to be used to determine if a person has been rehabilitated.

9 2. The title of the person or body designated by the tribe to whom a request for
10 review must be made.

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

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

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

19 (b) The department shall approve or disapprove the plan under par. (a) within
20 90 days after receiving the plan. If the department disapproves the plan, the tribe
21 may, within 30 days after receiving notice of the disapproval, request that the
22 secretary review the department's decision.

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

24 50.065 (5m) Notwithstanding s. 111.335, the department may refuse to license,
25 certify or register, or issue a certificate of approval to, a person to operate an entity,

1 caregiver and an entity may refuse to employ, or contract with a caregiver or to
2 permit a nonclient resident to reside at the entity ~~a person specified in sub. (2) (ag)~~
3 ~~(intro.)~~, if the ~~person~~ caregiver or nonclient resident has been convicted of an offense
4 that ~~the department has not defined as a “serious crime” by rule promulgated under~~
5 ~~sub. (7) (a), or specified in the list established by rule under sub. (7) (b)~~ is not a serious
6 crime, but that is, in the estimation of the department or entity, substantially related
7 to the care of a client.

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

10 50.065 (6) (am) Every 4 years an entity shall require ~~all of the following persons~~
11 its caregivers and nonclient residents to complete a background information form
12 that is provided to the entity by the department:

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

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

15 50.065 (6) (b) ~~For persons specified under par. (a)~~ caregivers who are licensed,
16 issued a certificate of approval or certified by, or registered with, the department, for
17 ~~person specified in par. (am) 2.~~ nonclient residents, and for other persons specified
18 by the department by rule, the entity shall send the background information form
19 to the department. ~~For persons specified under par. (am) 1., the entity shall maintain~~
20 ~~the background information form on file for inspection by the department.~~

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

22 **6.** Page 749, line 21: delete “1”.

23 **7.** Page 1121, line 18: after that line insert:

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

1 120.13 (14) DAY CARE PROGRAMS. Establish and provide or contract for the
2 provision of day care programs for children. The school board may receive federal
3 or state funds for this purpose. The school board may charge a fee for all or part of
4 the cost of the service for participation in a day care program established under this
5 subsection. Costs associated with a day care program under this subsection may not
6 be included in shared costs under s. 121.07 (6). Day care programs established under
7 this subsection shall meet the standards for licensed day care centers established by
8 the department of health and family services. If a school board proposes to contract
9 for or renew a contract for the provision of a day care program under this subsection
10 or if on July 1, 1996, a school board is a party to a contract for the provision of a day
11 care program under this subsection, the school board shall refer the contractor or
12 proposed contractor to the department of health and family services for the criminal
13 history and child abuse record search required under s. 48.685. Each school board
14 shall provide the department of health and family services with information about
15 each person who is denied a contract for a reason specified in s. 48.685 ~~(2)~~ (4m) (a)
16 1. to 5.”.

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

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

19 938.396 (9) Notwithstanding sub. (2) (a), if a juvenile is adjudged delinquent
20 for committing a serious crime, as defined in s. 48.685 ~~(7) (a)~~ (1) (c), the court clerk
21 shall notify the department of justice of that fact. No other information from the
22 juvenile’s court records may be disclosed to the department of justice except by order
23 of the court. The department of justice may disclose any information provided under

1 this subsection only as part of a criminal history record search under s. 48.685 (2)
2 (am) 1. or (b) 1. a.”.

3 **9.** Page 1462, line 24: after that line insert:

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

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

6 **10.** Page 1464, line 3: after that line insert:

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

8 **11.** Page 1511, line 12: after that line insert:

9 “(4xx) CAREGIVER CRIMINAL BACKGROUND CHECKS. The department of corrections,
10 in conjunction with the University of Wisconsin–Madison, shall prepare a report on
11 the correlation between prior convictions and the propensity to commit future acts
12 of abuse, neglect or misappropriation. The department of corrections shall submit
13 the report to the legislature in the manner provided under section 13.172 (3) of the
14 statutes no later than June 30, 2001.”.

15 **12.** Page 1610, line 16: after that line insert:

16 “(12xx) CAREGIVER BACKGROUND CHECKS. The treatment of sections 48.685 (2)
17 (bg) (by SECTION 1170n), (4m) (b) (intro.) (by SECTION 1173j) and (5m) (by SECTION
18 1176g) and 50.065 (4m) (b) (intro.) (by SECTION 1521zi) of the statutes takes effect on
19 February 1, 2000.”.

20

(END)