

2001 DRAFTING REQUEST

Bill

Received: **01/10/2002**

Received By: **malaigm**

Wanted: **As time permits**

Identical to LRB:

For: **Steve Wieckert (608) 266-3070**

By/Representing: **Laura Rose**

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

Drafter: **malaigm**

May Contact:

Addl. Drafters:

Subject: **Children - day care**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Wieckert@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Voluntary child care provider registry

Instructions:

See Attached--create voluntary registry for child care providers who are not otherwise required to be licensed or certified so that parents can search registry for criminal background of provider.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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1/?	malaigm	<i>[Signature]</i> 2-15-02 1	<i>[Signature]</i> 2/27 02	<i>[Signature]</i> 2/27 2			

FE Sent For:

<END>

Malaise, Gordon

From: Rose, Laura
Sent: Thursday, January 24, 2002 10:31 AM
To: Malaise, Gordon
Subject: Proposal for Rep. Wieckert: "Trustline"

Hi Gordon,

I spoke with Ann Carmody of DHFS and Scott Becher of Rep. Wieckert's office last week. Some modifications are necessary of the drafting instructions I gave you on January 9 with respect to the registry for child care providers which is based on the California "Trustline" idea.

Basically, Ann Carmody said that child care providers who are not currently subject to the criminal background check law may already submit to this on a voluntary basis. She also stated that a parent wanting to employ such a person may already voluntarily obtain the information that is gathered from the criminal background check process. Given that information, I spoke with Scott Becher about his drafting request. He said that they would still like to go forward with a bill draft, but that it would be necessary to only create a registry for those who voluntarily go through this process. DHFS would not be required to do anything other than maintain the registry (and perhaps make available the forms and instructions on how to go about doing a background check).

How does that sound? I will call you later today, to see if you have any questions, but I wanted to put this in writing to you.

Thanks Gordon!

Laura

Laura Rose
Legislative Council
266-9791
laura.rose@legis.state.wi.us

January 9, 2002

Gordon,

Representative Wieckert would like legislation drafted that would create a voluntary registry for persons who are age 18 or older, who provide care for less than four minor children, and who are not currently required to comply with the caregiver background check law because they are not employed by an "entity" that is required to perform the caregiver background checks. The registry, which would be modeled after the California "Trustline" program, would have the following characteristics:

- The registry would be voluntary.
- A person who wants to be listed in the registry would complete the caregiver background check forms currently in use by the DHFS (or something similar). They would submit the forms to DHFS.
- DHFS would charge a fee that would have to accompany an application for inclusion in the registry. The fee would be set high enough to support their costs in conducting the background check.
- DHFS would be responsible for searching for the following information:
 - A criminal history search from the DOJ records.
 - Information that is contained in the registry under s. 146.40(4g) regarding any findings against the person.
 - Information maintained by the Department of Regulation and Licensing regarding the status of the person's credentials, if applicable.

- Ha?
- Information maintained by the DHFS regarding any substantiated reports of child abuse or neglect against the person.
 - Information maintained by the DHFS regarding any denial to the person of a license continuation or a renewal of a license, certification or contract to operate an entity for a reasons specified in the first four items above, regarding any denial to the person of employment at, a contract with or permission to reside at an entity for a reasons specified in the first four items above.
 - Parents who are seeking a childcare provider who is not currently subject to the caregiver background check law could contact DHFS to see if an applicant for the job is listed in the registry. Examples of persons who would be listed in this registry would include in home babysitters, au pairs, and nannies.
 - A fine would be imposed on a person who applies to be included in the registry and who falsified information on the caregiver background check form that they submit to the DHFS.

I've enclosed information about the California "Trustline" program for your information.

Please give me a call at 266-9791 if you would like to discuss this further.

Thanks,

Laura Rose



EXAMINER / KATY RADDATZ

Mary Beth Phillips and her 14-year-old daughter, Elizabeth, who as an infant was partially paralyzed and permanently blinded when a nanny shook her almost to death.

TrustLine: New way to check out baby sitters

Parents use hot line to learn if au pairs, nannies have rap sheet

By Vicki Haddock
OF THE EXAMINER STAFF

MORAGA MOTHER Mary Beth Phillips sat in stunned silence as a judge passed sentence on the neighbor's nanny, just convicted of felony child abuse for shaking Phillips' 6-month-old daughter so violently that baby Elizabeth lay partially paralyzed and permanently blinded.

Justice, in the eyes of the former Alameda County Superior Court Judge Martin Pulich, called for the nanny to pay a \$100 fine and perform 2,000 hours of

community service. No jail time. Just probation. In fact, reasoning it would be wrong to deprive the nanny of a means to support herself, he approved her new job as another family's live-in baby sitter.

An outraged Phillips vowed to herself and to Elizabeth that she would change things.

It was 1985, 12 years before the nation would lock in bitter debate about the case of a convicted au pair and the baby who suffered at her hands.

Phillips united with two others grieving under similar circumstances: a

Fueled by paranoia, parents turn to secretly videotaping their baby sitters [B-6]

"We've had convicted murderers apply ... people with 10- to 15-page rap sheets"

Temecula woman and a Fremont mother, Bonnie Reeves, whose baby shared a room with Elizabeth at Oakland Children's Hospital. She lobbied long and hard to tighten California's loose system for license-exempt child care givers.

The result of the efforts is TrustLine, a state government hot line that allows parents, usually for a fee, to run criminal and abuse background checks on potential baby sitters, nannies and au pairs. Since 1994, TrustLine has given California parents access to the nation's most comprehensive research on child care providers. And

[See CHILD CARE, B-6]

State has new way to check nannies

anybody can use it.

The catch is, most people don't even know about it.

And it's pricey — \$90 per screening.

Yet for parents apprehensive about hiring someone to watch their children — a trepidation heightened by last week's sentencing of British au pair Louise Woodward for shaking to death a baby boy in Massachusetts — TrustLine holds the promise of a baseline assurance.

Spreading the word

Now, its founders have won a grant from the Pacific Mutual Foundation to pay for a spring public service campaign tentatively keyed to the theme "When you need to rely on more than your instincts."

"We're trying to figure out how to really get the word out," said Phillips, who would love to see the service heralded on utility bills, milk cartons, billboards. "Right now, TrustLine really is the best kept secret in the state of California."

It works like this: Parents wishing to research a particular applicant can call TrustLine to see whether the individual already has passed the background screening. If not, they can order one for \$90, so long as the applicant agrees to provide a fingerprint. Sometimes, providers submit their own names and pay the research fee in order to offer themselves as precertified by TrustLine.

And if parents are low-income and qualify for subsidized child care, the state does the TrustLine check for free.

Experts say the incidence of "shaken baby syndrome" nationally has increased to 1,300 cases in 1995 from 800 a decade earlier, perhaps partly because of doctors' increased awareness.

TrustLine is administered by the state Department of Justice, which contracts with the California Child Care Resource and Referral Network to handle inquiries — about 500 per week. Next year, TrustLine will go under the juris-

CHILD CARE HELP

How to choose an au pair, nanny or baby sitter:

► **REFERENCES:** Thoroughly check applicants' work histories and call all their references.

► **INTERVIEW:** Interview potential caregivers in depth, asking what activities they like to do with children, how they handle emergencies.

► **QUESTIONS:** Ask a lot of "what if" questions: What if my child cries all day? What if she refuses to eat or nap? An applicant who can't respond may not have adequate experience.

► **CPR:** Determine whether an applicant is certified in child-infant CPR and first aid. If not, consider requiring your sitter to take a class, typically offered by the Red Cross and area hospitals.

► **TRUSTLINE:** Check to make sure an applicant is registered on TrustLine by calling 1-800-822-8490. If not, offer to pay the \$90 fee so they can be screened by TrustLine.

► **INTERACTION:** Have sitters spend time with your child before you offer the job. Watch them interact for a day or two before leaving them alone at home.

► **TRIAL:** Hire someone for a trial period before establishing a long-term arrangement.

SOURCE: California Child Care Resource and Referral Network

EXAMINER GRAPHICS

diction of the Department of Social Services, with wider investigative powers — for example, the opportunity to consider a pattern of arrests without convictions, and to screen for convictions in other states via the FBI.

To date, 27,000 child-care givers have been investigated by TrustLine. Some 22,000 qualified applicants appear on the database, meaning their past is unmarred by substantiated child-abuse allegations or significant criminal convictions in California and, where an FBI check is requested, nationwide. The remaining 5,000 applicants either are in the midst of the approval process, have withdrawn from consideration or have been rejected.

"Believe it or not, about 5 to 6 percent of applicants are disqualified," said Cindy Swanson, program manager for TrustLine at the Cali-

fornia Child Care Resource and Referral Network, in San Francisco. "We've had convicted murderers apply, we've had people with 10- to 15-page rap sheets — it's quite amazing."

That doesn't even count the nanny and baby sitter wannabes who lose interest in a job when they discover a parent wants to check them out on TrustLine. Others suddenly get honest, like the applicant who said, "I suppose this might be a good time to tell you that I've had my own children taken away for neglect..."

Parents and agencies who run checks on applicants will receive simple yes-or-no notices from the state. Rejected applicants will receive detailed letters from the Justice Department explaining the decision. Accepted applicants remain on the TrustLine Registry, which is updated continually.

It's not a cure-all

Even so, the system has its limits. Registrants are not required to have training or experience working with children, or to have mastered infant CPR or first aid. A TrustLine check often may take a couple of weeks.

And for now, the \$90 screening covers only California — an FBI search of the other 49 states requires a second set of fingerprints and another \$24. Likewise, the records of foreign au pairs in their home countries are not accessible through TrustLine, although theoretically such employees cannot obtain green cards through the Immigration and Naturalization Service if they have criminal records in their native lands.

The registry's most critical shortcoming is that it can never predict first-time offenders. The nanny who so severely injured Elizabeth most likely would have cleared TrustLine before that incident. Only one thing might have raised a red flag: In a bizarre twist to the Phillips saga, the nanny had recently legally changed her name because, unbeknownst to her employer, she was a transsexual man undergoing a sex-change operation.

Like it was yesterday, Phillips recalls going to a neuropsychology class one afternoon 14 years ago and leaving Elizabeth for a few

hours with her neighbor's live-in nanny. When she returned, she was met at the door by the neighbor, who broke the news: "There's been a little accident."

By that time, Elizabeth was in the hospital, and the nanny already was attributing her injuries to a mischievous pet Highland terrier — a story the authorities quickly jettisoned.

"I think what's so remarkable about TrustLine is that it was parents who took their personal and extraordinary pain and said, 'This happened to my child, and I want to do everything I can to make sure it doesn't ever happen to another child,'" said Patty Siegel, executive director of the California Child Care Resource and Referral Network. "It's one tool to ensure that people who've abused children before won't be entrusted with the opportunity to do so again."

"It was a healing thing for me," said Phillips, who credits former San Francisco Mayor Art Agnos, among others, for championing her cause during his years in the Legislature. "I know some people would curl up in a closet and never come out again, but that's not me."

As for Elizabeth? An honor student who long ago mastered her Braille computer, she has all but vanquished lingering signs of paralysis, has carried the Olympic Torch, plays piano and attends prestigious College Preparatory School in Oakland.

"She's a miracle child, and her courage keeps me going," said Phillips. "She once asked me if I thought it was a good thing that she got blinded. I said no, but I do believe that out of that awful thing, we made good things happen."

TrustLine can be reached at 1-800-822-8490 Mondays through Fridays from 9 a.m. to 5 p.m.

Los Angeles Times

SUNDAY, SEPTEMBER 1, 1996

Lawmakers Respond to a Mother's Mission

After her baby was blinded by a caregiver's shaking, Mary Beth Phillips descended on Sacramento, determined to make a difference.

By MELISSA HEALY

Mary Beth Phillips is the mother of a 10-year-old daughter named Elizabeth and a 3-year-old son named Jonathan. Elizabeth, blindfolded by a caregiver's shaking and trauma, and was diagnosed with epilepsy and autism. Her nanny named Colene Andrews.

When Elizabeth's mother returned to her Oakland home from a graduate class in neuropsychology to horrifying news. Her baby left with Andrews for an hour and had been rushed to a hospital. Elizabeth was blindfolded and convulsing. The victim of severe shaking by her caregiver, both

children were since this same caregiver was in the state's criminal justice system. She was charged with child abuse and child neglect. Andrews was charged with child abuse and child neglect. Andrews was charged with child abuse and child neglect.

Most of the time, however, she seeks inclusion on the state's criminal justice system. Andrews was charged with child abuse and child neglect. Andrews was charged with child abuse and child neglect.

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LAST IN A SERIES

Elizabeth survived her ordeal to become a gifted student, songwriter and champion of children's causes. But she was blinded for life.

Three years after Elizabeth lay near death from her injuries, Andrews was convicted of felony child abuse. She was fined \$100, required to perform 2,000 hours of community service and put on five years probation. The judge ignored entreaties from the Phillips family and from Alameda County Dist. Atty. Robert Platt to let Andrews remain with children again. For a time at least, the court said child abuse worked again as a nanny for other families.

For Mary Beth Phillips, then a 30-year-old mother juggling a graduate program, a doctoral dissertation, a disabled child and a newborn, began a campaign to spare other parents the pain she had experienced. "I was clearly distraught," she said.

Descending on Sacramento, she urged lawmakers to create a registry of caregivers whose names and fingerprints would be screened for criminal pasts or histories of abuse. Parents could check the registry for future hires.

A Push to Take Program Nationwide

And at a time when few Californians know about Brustline, Phillips also wanted to see the program national. A caregiver in recent years has taken steps to make it easier for states to maintain criminal background checks on caregivers. But lawmakers have shied away from creating a national registry.

Phillips urged Brustline to urge Californians to create a national registry of caregivers. Phillips urged Brustline to urge Californians to create a national registry of caregivers. Phillips urged Brustline to urge Californians to create a national registry of caregivers.



Mary Beth Phillips with Elizabeth, who was 37 at the time of her rape. Phillips is a senior editor at *The New York Times*.

Child Abuse in California

There are nearly 5 million children under 18 in California. The cases of reported child abuse in 1999:

Physical	54,919
Sexual	26,113
Emotional	21,444
Other	1,584

Source: Department of Child Welfare Services. Data is preliminary and subject to change.

and many other people who have not been interviewed. Phillips says she is "not comfortable" about the fact that she has not interviewed all of the people who have turned up. Phillips says she has often received information about the case through other sources, but she says she has not had a chance to interview all of the people who have turned up.

To such objections, one can add a more inoperable obstacle: lack of

information from state to state.

Phillips keeps pressing, however. We did someone like software mogul Bill Gates with lots of money, but we can't

and his own computer resources to mount a new state-wide effort to get a better picture of the problem. Phillips says that the collaboration between departments within and between states shall be never worked together before.

Honored last year at the White House for her work on the same, Phillips is someone who has long had a hope for a "lady" Hillary Rodham Clinton, with whom she has discussed the program in detail. The Clintons were to have a Senate seat in New York, Phillips believes that she would have the clout and the commitment to get the program implemented and set up for a national registry of offenders.

But Phillips also knows that if the President's model is to take hold, she will need a "lady" Hillary Rodham Clinton.

like her. No, Collins says Phillips said in the passion of her profession, for the first time in her life she had a chance to do it. "I'm not doing it," she said. "I'm doing it."

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Mobilizing an Army of Angels

Working out of the Los Angeles office of Phillips and the children of Los Angeles, she is a senior editor at *The New York Times*. Phillips is a senior editor at *The New York Times*. Phillips is a senior editor at *The New York Times*.

Phillips is a senior editor at *The New York Times*. Phillips is a senior editor at *The New York Times*. Phillips is a senior editor at *The New York Times*.

For More Child Care Information

An extensive list of child care resources and complete listing for Day Care centers are available on the *The Times* Web site <http://www.nytimes.com/childcare>

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BILL NUMBER: AB 753 CHAPTERED
BILL TEXT

CHAPTER 843
FILED WITH SECRETARY OF STATE OCTOBER 10, 1997
APPROVED BY GOVERNOR OCTOBER 9, 1997
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PASSED THE SENATE SEPTEMBER 5, 1997
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AMENDED IN SENATE AUGUST 8, 1997
AMENDED IN SENATE JULY 18, 1997
AMENDED IN SENATE JULY 9, 1997
AMENDED IN SENATE JUNE 26, 1997
AMENDED IN ASSEMBLY MAY 23, 1997
AMENDED IN ASSEMBLY MAY 1, 1997

INTRODUCED BY Assembly Member Escutia
(Coauthor: Senator Alpert)

FEBRUARY 26, 1997

An act to amend Section 8181 of, to add Sections 8179.5 and 8182.5 to, to repeal Chapter 1.8 (commencing with Section 8170) of, and to repeal Chapter 1.9 (commencing with Section 8180) of, Part 6 of Title 1 of the Education Code, to add Chapter 3.35 (commencing with Section 1596.60) to Division 2 of the Health and Safety Code, and to amend Section 11170 of the Penal Code, relating to child care, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 753, Escutia. Child care: trustline registration system.

Existing law authorizes in provisions of the Education Code a child care provider, as defined, who possesses any one of 4 identification cards to initiate a background examination process by submitting one set of fingerprints and a completed trustline application to the Department of Justice. These provisions require the department to use the fingerprints submitted by a trustline registry system applicant to search the California Criminal History System and the California Child Abuse Central Index. Existing law requires the department to establish a trustline registry and, upon submission of the trustline application and fingerprints, to enter into the trustline registry the provider's name, identification card number, and an indicator that the provider has submitted an application and fingerprints, which would be known as a "trustline applicant." These provisions also prescribe procedures by which a child care provider may become known as a "registered trustline child care provider."

This bill would, as of July 1, 1998, repeal these provisions in the Education Code and recast them in the Health and Safety Code. The bill would exempt a person, who is a current licensee or employee in a facility licensed by the department who is initiating a background examination to be a trustline provider, from the requirement to submit fingerprints to the department and allow them to instead transfer a current criminal records clearance, from one facility to another if the clearance has been processed through a state licensing district office and is being transferred to another state licensing district office.

The bill would further revise the trustline registry provisions as follows:

(1) Revise the criminal record background check procedures for a trustline provider applicant, including adding a requirement that the applicant sign a declaration verifying his or her identity, and

making a willful false declaration a misdemeanor.

(2) Prescribe circumstances under which the department is authorized to revoke a provider's trustline registration and under which a provider's registration is considered forfeited.

(3) Add the actual costs incurred by the Department of Justice for a Federal Bureau of Investigation criminal record check and to process the automated child abuse system checks under the trustline provisions to the costs to which a trustline provider applicant fee may apply.

(4) Require a trustline provider applicant and registered trustline provider to inform the department of any new mailing address in writing within 10 days of the change in address.

(5) Delete provisions that require the Department of Education to evaluate the trustline and to select a private consultant to evaluate the trustline.

(6) Revise provisions related to the previous exemption from trustline registration for certain child care providers operating under special programs and authorized to receive compensation from funds provided pursuant to federal law.

(7) Make its provisions operative on July 1, 1998, and authorize the department to adopt regulations.

(8) Upon the effective date of this bill, require the Department of Justice to transfer all trustline application and registration materials to the State Department of Social Services. Because the moneys previously collected by, and continuously appropriated to, the Department of Justice would instead be continuously appropriated to the department, the bill would make an appropriation.

The moneys collected by the Department of Justice to implement these provisions are continuously appropriated. Because this bill would increase the moneys in a continuously appropriated fund, it would make an appropriation.

Existing law, the Child Abuse and Neglect Reporting Act, requires the Department of Justice to maintain an index of all reports of child abuse, authorizes the department to charge the person or entity making the report a fee whenever information contained in these files is furnished to the State Department of Social Services as the result of certain applications for employment or licensing, and requires that all moneys received for this purpose be deposited in the Department of Justice Sexual Habitual Offender Fund, for expenditure to offset various costs.

This bill would require that all moneys received under this provision to process trustline applications for purposes of this bill be deposited in a special account in the General Fund created by this bill, named the Department of Justice Child Abuse Fund. The moneys in this fund would be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process trustline applications pursuant to this bill.

This bill would incorporate additional changes in Section 11170 of the Penal Code, proposed by AB 1065 or SB 644, or both, to become operative only if AB 1065 or SB 644, or both, and this bill are chaptered and become effective on or before January 1, 1998, and this bill is chaptered last.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 8179.5 is added to the Education Code, immediately after Section 8179, to read:

8179.5. This chapter shall remain in effect only until July 1, 1998, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 1998, deletes or extends that date.

SEC. 2. Section 8181 of the Education Code is amended to read:

8181. (a) To the extent permitted by federal law, each child care provider, as defined by Section 8170, who is compensated, in whole or in part, with funds provided pursuant to subchapter IV (commencing with Section 601) of Chapter 7 of Title 42 of the United States Code, except a provider who is, by marriage, blood, or court decree, the grandparent, aunt, or uncle of the child in care, shall be registered pursuant to Sections 8171 and 8172 in order to be eligible to receive this compensation. Registration is required for providers who receive compensation pursuant to Subchapter IV (commencing with Section 601) of Chapter 7 of Title 42 of the United States Code only to the extent permitted by that law and the regulations adopted pursuant thereto. This section applies only to child care providers, as defined by Section 8170, who register for payment under subchapter IV (commencing with Section 601) of Chapter 7 of Title 42 of the United States Code after the implementation of the trustline registration system in those programs. A provider, as defined by Section 8170, who was exempted from trustline registration because the provider was not compensated, in whole or in part, with funds provided pursuant to Subchapter IV (commencing with Section 601) of Chapter 7 of Title 42 of the United States Code shall be registered, at no cost to the provider, pursuant to Sections 8171 and 8172 when either of the following occur:

(1) The provider begins to provide child care to an eligible family for which he or she has not provided care.

(2) The provider begins to provide child care to an eligible family subsequent to a lapse in providing care that is compensated pursuant to Subchapter IV (commencing with Section 601) of Chapter 7 of Title 42 of the United States Code.

(b) Subdivision (a) shall not be implemented unless funding for trustline registration is appropriated to the Department of Justice for this purpose in the annual Budget Act or in other legislation. To the extent permitted by federal law, the State Department of Social Services shall enter into an interagency agreement with the Department of Justice to provide federal matching funds for the trustline registration system. The Department of Justice shall enter into a contract with the California Child Care Resource and Referral Network to administer the trustline as it relates to providers who are compensated pursuant to Subchapter IV (commencing with Section 601) of Chapter 7 of Title 42 of the United States Code.

SEC. 3. Section 8182.5 is added to the Education Code, immediately after Section 8182, to read:

8182.5. This chapter shall remain in effect only until July 1, 1998, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 1998, deletes or extends that date.

SEC. 4. Chapter 3.35 (commencing with Section 1596.60) is added to Division 2 of the Health and Safety Code, to read:

CHAPTER 3.35. CHILD CARE PROVIDER REGISTRATION

1596.60. For the purposes of this chapter, the following definitions shall apply:

(a) "Department" means the State Department of Social Services.

(b) "Director" means the Director of Social Services.

(c) "Trustline provider," "license exempt child care provider," or "provider," for the purposes of this chapter means a person 18 years of age or older who provides child care or supervision and who is

not required to be licensed pursuant to Section 1596.792.

1596.601. Any child care provider who possesses any one of the following identification cards may initiate a background examination to be a trustline provider:

(a) A valid California driver's license.

(b) A valid identification card issued by the Department of Motor Vehicles.

(c) A valid Alien Registration Card.

(d) In the case of a person living in a state other than California, a valid numbered photo identification card issued by an agency of the state other than California.

1596.603. (a) Each person initiating a background examination to be a trustline provider shall obtain one set of fingerprints from a law enforcement agency or other local agency on a fingerprint card authorized by the Department of Justice and shall submit the fingerprints, unless exempted in subdivision (e), and a completed trustline application to the department, or the local child care resource and referral agency which will immediately forward the application package to the department. The agency taking the fingerprints shall inscribe the serial number from the identification card described in Section 1596.601 on the fingerprint cards.

(b) A law enforcement agency or other local agency authorized to take fingerprints may charge a reasonable fee to offset the costs of fingerprinting for the purposes of this chapter.

(c) Upon receipt, the department shall transmit the fingerprint card and a copy of the application to the Department of Justice. The Department of Justice shall use the fingerprints and the application to search the state criminal history information pursuant to Section 1596.871 and the automated child abuse system pursuant to subdivision (b) of Section 1596.877.

(d) A provider may request the department, through the Department of Justice, to use a second set of fingerprints to search the records of the Federal Bureau of Investigation, in addition to the searches mandated in subdivision (c).

(e) A person who is a current licensee or employee in a facility licensed by the department need not submit fingerprints to the department and may transfer their criminal record clearance pursuant to subdivision (h) of Section 1596.871. The person shall instead submit to the department, along with the person's application, a copy of the person's identification card described in Section 1596.601 and sign a declaration verifying the person's identity. A willful false declaration is a violation of this subdivision punishable in the same manner as provided under Section 1596.890.

1596.605. (a) (1) The department shall establish a trustline registry pursuant to this chapter and shall continuously update the registry information. Upon submission of the trustline application and fingerprints or other identification documents pursuant to either subdivision (a) or (e) of Section 1596.603, the department shall enter into the trustline registry the provider's name, identification card number, and an indicator that the provider has submitted an application and fingerprints or identification documentation. This provider shall be known as a "trustline applicant."

(2) A person shall not be entitled to apply to be a trustline provider and shall have his or her application returned without the right to appeal if the provider would not be eligible to obtain a child care license pursuant to Section 1596.851.

(b) (1) Before approving the person's application, the department shall check the individual criminal history pursuant to Section 1596.871 and against the child abuse index pursuant to subdivision (b) of Section 1596.877. Upon completion of the searches of the state summary criminal history information and the child abuse index, and, if applicable, the records of the Federal Bureau of Investigation, the department shall grant the trustline application if grounds do not exist for denial pursuant to Section 1596.607 and the department shall enter that finding in the provider's record in

the trustline registry and shall notify the provider of the action. This provider shall be known as a "registered trustline child care provider."

(2) The department may transfer the criminal record clearance granted to a registered trustline child care provider and hold the registered trustline child care provider's criminal record clearance in its active files pursuant to subdivision (h) of Section 1596.871.

1596.607. (a) (1) If the department finds that the trustline applicant has been convicted of a crime, other than a minor traffic violation, the department shall deny the application, unless the director grants an exemption pursuant to subdivision (f) of Section 1596.871.

(2) If the department finds that the trustline applicant has an arrest as described in subdivision (a) of Section 1596.871, the department may deny the application if the trustline applicant may pose a risk to the health and safety of any person who is or may become a client and the department complies with subdivision (e) of Section 1596.871.

(3) The department shall comply with the requirements of Section 1596.877 and may deny the application of a trustline applicant for substantiated child abuse that may pose a threat to the health and safety of any person who is or may become a client.

(4) The department may deny the application for registration of the trustline applicant if it discovers that it had previously revoked a license or certificate to be a certified family home held by the trustline applicant or excluded the trustline applicant from a licensed facility.

(5) The department may deny the application for registration of the trustline applicant if it discovers that it had previously denied the trustline applicant's application for a license from the department or certificate of approval to be a certified family home.

(b) (1) If, the department denies registration pursuant to subdivision (a), it shall advise the provider of the right to appeal. The provider shall have 15 days to appeal the denial.

(2) Upon receipt by the department of the appeal, the appeal shall be set for hearing. The hearing shall be conducted in accordance with Section 1596.887.

1596.608. (a) (1) The department may revoke a provider's trustline registration for any of the following:

(A) Procuring trustline registration by fraud or misrepresentation.

(B) Knowingly making or giving any false statement or information in conjunction with the application for issuance of trustline registration.

(C) Criminal conviction unless an exemption is granted pursuant to Section 1596.871.

(D) Incident of child abuse or neglect or other conduct that poses a threat to the health and safety of any person who is or may become a client.

(2) The hearing to revoke the trustline registration shall be conducted in accordance with Section 1596.887.

(b) The trustline provider's registration shall be considered forfeited under the following conditions:

(1) The trustline provider has had a license or certificate of approval revoked, suspended, or denied as authorized under Section 1534, 1550, 1568.082, 1569.50, or 1596.885.

(2) The trustline provider has been denied employment, residence, or presence in a facility based on action resulting from an administrative hearing pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897.

(3) The trustline provider fails to maintain a current mailing address with the department.

1596.61. (a) The department may charge a fee to a trustline

applicant. The department may enter into an interagency agreement for the purpose of transferring funds to offset the costs incurred by the California Child Care Resource and Referral Network to implement the trustline program pursuant to this chapter.

(b) The maximum fee shall not exceed the total actual costs of all of the following:

(1) The searches of the state summary criminal history information and the child abuse index performed by the Department of Justice. The cost to check the criminal history information shall not subsidize the cost to check the criminal history of other persons by the State Department of Social Services who are not charged a fee by the Department of Justice.

(2) The cost incurred by the Department of Justice for the searches of the records of the Federal Bureau of Investigation.

(3) The information and technical assistance provided by the California Child Care Resource and Referral Network to parents, providers, and employment agencies.

(4) The implementation by the local child care resource and referral programs of the trustline program.

(5) The cost to the department to process the applications and maintain the trustline registry.

1596.615. All moneys collected by the department to implement this chapter shall, notwithstanding Section 13340 of the Government Code, be continuously appropriated to the department without regard to fiscal year for expenditure pursuant to this chapter.

1596.62. (a) (1) The Department of Justice shall maintain and continually update an index of reports of child abuse by, and pertinent criminal convictions of, providers and shall inform the department of subsequent reports received from the child abuse index pursuant to Section 11170 of the Penal Code and the criminal history.

The department shall continually update the trustline registry pursuant to the actions required in Section 1596.607.

(2) The trustline applicant and registered trustline provider shall inform the department of any new mailing address in writing within 10 days of the change in address.

(b) The department shall provide the California Child Care Resource and Referral Network with a continually updated record of the trustline applicants, trustline applicants that the department denied, the registered trustline child care providers, and providers whose registration that the department revoked.

(c) Notwithstanding any other law, including Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code, state officers or employees shall not be liable for any damages caused by their conduct pursuant to this chapter except for intentional acts or gross negligence.

(d) On July 1, 1998, the Department of Justice shall transfer all trustline application and registration material to the department. The department shall be responsible for all pending applications and hearings and shall transfer all trustline application and registration information.

1596.63. It is a misdemeanor for a person to falsely represent or present himself or herself as a trustline applicant or a registered trustline child care provider.

1596.64. (a) The department shall enter into a contract with the California Child Care Resource and Referral Network to administer the trustline duties as described in this chapter.

(b) The California Child Care Resources and Referral Network may subcontract with local resource and referral programs for the implementation of the trustline program at the local level.

1596.643. (a) The California Child Care Resource and Referral Network shall have the following responsibilities:

(1) Establish and maintain a toll-free line to allow parents, employment agencies, child care referral groups and registries, alternative payment programs, and others to determine if a provider is a trustline applicant or a registered trustline child care

provider.

(2) Develop a statewide promotion plan, publicize statewide existence, benefits, and methods of accessing the trustline for both parents and providers, and distribute trustline applications statewide.

(3) Monitor and provide assistance to the child care resource and referral agencies in carrying out their trustline responsibilities.

(4) Seek private financial support for the trustline.

(5) Ensure that the trustline is accessible to all persons in the state, regardless of their ability to speak English.

(b) Officers or employees of the California Child Care Resource and Referral Network shall not be liable for any injury caused by their conduct pursuant to paragraph (1) of subdivision (a), except for intentional conduct or gross negligence.

1596.645. The California Child Care Resource and Referral Network, in consultation with representatives of private industry, parents, child care resource and referral agencies, the department, the State Department of Education, trustline providers, employment agencies, and the pediatric health sector, shall review and make recommendations concerning the operation of the trustline. This review shall include a consideration of strategies for reducing the processing time for trustline application denials, and to the extent possible, an evaluation of, or proposed methodology for measuring, whether those child care providers for whom trustline applications are denied are still providing care when denial letters are sent to them.

1596.65. An employment agency, as defined in Section 1812.501 of the Civil Code, that refers a child care provider to parents or guardians who are not required to be a licensed child day care facility shall not make a placement of a provider who is not a trustline applicant or a registered child care provider.

1596.655. A child care resource and referral agency established pursuant to Article 2 (commencing with Section 8210) of Chapter 2 of Part 6 of the Education Code shall have the following responsibilities in the administration of the trustline within its local geographic area of service:

(a) Implement the local elements of the promotion plan designed by the California Child Care Resource and Referral Network pursuant to Section 1596.643 and publicize the availability, purpose, and benefits of the trustline to parents, child care providers, prospective child care providers, and institutions and agencies that have frequent contact with parents and providers.

(b) Cooperate with the California Child Care Resource and Referral Network in promotional and data collection efforts.

(c) Report annually to the California Child Care Resource and Referral Network on local promotional efforts, problems encountered, and recommendations for program improvement.

(d) Ensure that the trustline is accessible to all persons in the state, regardless of their ability to speak English.

(e) Provide information and technical assistance on the trustline process to parents, child care providers, and other interested parties.

1596.66. (a) Each license-exempt child care provider, as defined pursuant to Section 1596.60, who is compensated, in whole or in part, with funds provided pursuant to the Alternative Payment Program, Article 3 (commencing with Section 8220) of Chapter 2 of Part 6 of the Education Code or pursuant to the federal Child Care and Development Block Grant Program, except a provider who is, by marriage, blood, or court decree, the grandparent, aunt, or uncle of the child in care, shall be registered pursuant to Sections 1596.603 and 1596.605 in order to be eligible to receive this compensation. Registration under this chapter shall be required for providers who receive funds under Section 9858 and following of Title 42 of the United States Code only to the extent permitted by that law and the regulations adopted pursuant thereto. Registration under this

chapter shall be required for providers who receive funds under the federal Child Care and Development Block Grant Program only to the extent permitted by that program and the regulations adopted pursuant thereto.

(b) For the purposes of registration of the providers identified in subdivision (a), the following procedures shall apply:

(1) Notwithstanding subdivision (a) of Section 1596.603, the provider shall submit the fingerprints and trustline application to the local child care resource and referral agency established pursuant to Article 2 (commencing with Section 8210) of Chapter 2 of Part 6 of the Education Code. The local child care resource and referral agency shall transmit the fingerprints and completed trustline applications to the department and address any local problems that occur in the registration system. If a fee is charged by the local child care resource and referral agency that takes a provider's fingerprints, the provider shall be reimbursed for this charge by the State Department of Education, through the local child care resource and referral agency, from federal Child Care and Development Block Grant funds to the extent that those funds are available.

(2) The department shall adhere to the requirements of Sections 1596.603, 1596.605, 1596.606, and 1596.607 and shall notify the California Child Care Resource and Referral Network of any action it takes pursuant to Sections 1596.605, 1596.606, and 1596.607.

(3) The California Child Care Resource and Referral Network shall notify the applicable local child care resource and referral agencies, alternative payment programs, and county welfare departments of the status of the trustline applicants and registered trustline child care providers. The network shall maintain a toll-free telephone line to provide information to the local resource and referral agencies, the alternative payment programs, and the child care recipients of the status of providers.

(c) This chapter shall become operative only if funds appropriated for the purposes of this article from Item 6110-196-890 of Section 2 of the Budget Act of 1991 are incorporated into and approved as part of the state plan that is required pursuant to Section 658(E)(a) of the federal Child Care Block Grant Act of 1990 (Sec. 5082, P.L. 101-508).

1596.67. (a) To the extent permitted by federal law, each child care provider, as defined by Section 1596.60, who is compensated, in whole or in part, with funds provided pursuant to Subchapter II-B (commencing with Section 9858) of Chapter 105 of Title 42 of the United States Code, except a provider who is, by marriage, blood, or court decree, the grandparent, aunt, or uncle of the child in care, shall be registered pursuant to Sections 1596.603 and 1596.605 in order to be eligible to receive this compensation. Active trustline registration is required for providers who receive compensation pursuant to Subchapter II-B (commencing with Section 9858) of Chapter 105 of Title 42 of the United States Code only to the extent permitted by that law and the regulations adopted pursuant thereto. This section applies only to a license-exempt child care provider, as defined by Section 1596.60, who registers for payment under Subchapter II-B (commencing with Section 9858) of Chapter 105 of Title 42 of the United States Code after the implementation of the trustline registration system in those programs. A provider, as defined by Section 1596.60, who was exempted from trustline registration because the provider was not compensated, in whole or in part, with funds provided pursuant to Subchapter IV (commencing with Section 601) of Chapter 7 of Title 42 of the United States Code shall be registered, at no cost to the provider, pursuant to Sections 1596.603 and 1596.605 when either of the following occur:

(1) The provider begins to provide child care to an eligible family for which he or she has not provided care.

(2) The provider begins to provide child care to an eligible family subsequent to a lapse in providing care that is compensated

pursuant to Subchapter II-B (commencing with Section 9858) of Chapter 105 of Title 42 of the United States Code.

(b) Payment provided pursuant to subdivision (a) shall cease if the provider has a criminal conviction for which the department has not granted a criminal record exemption pursuant to subdivision (f) of Section 1596.871.

(c) Subdivision (a) shall not be implemented unless funding for trustline registration is appropriated to the department for this purpose in the annual Budget Act or in other legislation. The department shall enter into a contract with the California Child Care Resource and Referral Network to administer the trustline as it relates to providers who are compensated pursuant to Subchapter II-B (commencing with Section 9858) of Chapter 105 of Title 42 of the United States Code.

1596.68. (a) This chapter shall be operative on July 1, 1998.

(b) (1) Before, on, or after July 1, 1998, the department may adopt regulations to implement this chapter.

(2) The initial adoption of any emergency regulations for purposes of this chapter following January 1, 1998, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. Emergency regulations adopted pursuant to this subdivision shall remain in effect for no more than 180 days.

SEC. 5. Section 11170 of the Penal Code is amended to read:

11170. (a) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) (1) The Department of Justice shall immediately notify a child protective agency that submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) or (c) of Section 11166, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services or to any county licensing agency that has contracted with the state for the performance of licensing duties any information received subsequent to January 1, 1981, pursuant to this section concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisory or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code. If the department has information that has been received subsequent to January 1, 1981, concerning a person, it also shall make available to the State Department of Social Services or to the county licensing agency any other information maintained pursuant to subdivision (a).

(4) Persons or agencies, as specified in subdivision (b), if

investigating a case of known or suspected child abuse, or the State Department of Social Services or any county licensing agency pursuant to paragraph (3), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, or licensing.

(5) (A) Effective January 1, 1993, whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to paragraph (3), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars (\$15).

(B) All moneys received by the department pursuant to this section to process trustline applications for purposes of Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code shall be deposited in a special account in the General Fund that is hereby established and named the Department of Justice Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process trustline automated child abuse system checks pursuant to this section.

(C) All moneys, other than that described in subparagraph (B), received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and Section 290.2, and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and Section 290.2.

SEC. 6. Section 11170 of the Penal Code is amended to read:

11170. (a) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) (1) The Department of Justice shall immediately notify a child protective agency that submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) or (c) of Section 11166, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services or to any county licensing agency that has contracted with the state for the performance of licensing duties any

information received subsequent to January 1, 1981, pursuant to this section concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisory or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code. If the department has information that has been received subsequent to January 1, 1981, concerning a person, it also shall make available to the State Department of Social Services or to the county licensing agency any other information maintained pursuant to subdivision (a).

(4) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse, or the State Department of Social Services or any county licensing agency pursuant to paragraph (3), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, or licensing.

(5) (A) Effective January 1, 1993, whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to paragraph (3), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars (\$15).

(B) All moneys received by the department pursuant to this section to process trustline applications for purposes of Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code shall be deposited in a special account in the General Fund that is hereby established and named the Department of Justice Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process trustline automated child abuse system checks pursuant to this section.

(C) All moneys, other than that described in subparagraph (B), received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and Section 290.2, and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and Section 290.2.

(c) The Department of Justice shall make available to any child protective agency responsible for placing children pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, upon request, relevant information concerning child abuse reports contained in the index, when making a placement with a responsible relative pursuant to Sections 281.5, 305, and 361.3 of the Welfare and Institutions Code. Upon receipt of relevant information concerning child abuse reports contained in the index from the Department of Justice pursuant to this subdivision, the child protective agency shall also notify in writing the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the location of the original investigative report and the submitting

agency. The notification shall be submitted to the person listed at the same time that all other parties are notified of the information, and no later than the actual judicial proceeding that determines placement.

If Child Abuse Central Index information is requested by a child protective agency for the placement of a child with a responsible relative in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

SEC. 7. Section 11170 of the Penal Code is amended to read:

11170. (a) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) (1) The Department of Justice shall immediately notify a child protective agency that submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) or (c) of Section 11166, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services or to any county licensing agency that has contracted with the state for the performance of licensing duties information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisory or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code.

(4) For purposes of child death review, the Department of Justice shall make available to the chairperson, or the chairperson's designee, for each county child death review team, or the State Child Death Review Council, information maintained in the Child Abuse Central Index pursuant to subdivision (a) of Section 11170 relating to the death of one or more children and any prior child abuse investigation reports maintained involving the same victims, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(5) The department shall make available to child protective agencies, or court investigators acting pursuant to Section 1513 of the Probate Code, responsible for placing children or assessing the possible placement of children pursuant to Article 6 (commencing with Section 300), Article 7 (commencing with Section 305), Article 10

(commencing with Section 360), or Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, Article 2 (commencing with Section 1510) or Article 3 (commencing with Section 1540) of Chapter 1 of Part 2 of Division 4 of the Probate Code, information regarding a known or suspected child abuser contained in the index concerning any adult residing in the home where the child may be placed, when this information is requested for purposes of ensuring that the placement is in the best interests of the child. Upon receipt of relevant information concerning child abuse investigation reports contained in the index from the Department of Justice pursuant to this subdivision, the child protective agency or court investigator shall notify, in writing, the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the name of the reporting agency and the date of the report.

(6) (A) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse, or the State Department of Social Services or any county licensing agency pursuant to paragraph (3), or a child protective agency or court investigator responsible for placing children or assessing the possible placement of children pursuant to paragraph (5), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, licensing, or placement of a child.

(B) If Child Abuse Central Index information is requested by a child protective agency for the temporary placement of a child in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

(7) (A) Whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to paragraph (3), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars (\$15).

(B) All moneys received by the department pursuant to this section to process trustline applications for purposes of Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code shall be deposited in a special account in the General Fund that is hereby established and named the Department of Justice Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process trustline automated child abuse system checks pursuant to this section.

(C) All moneys, other than that described in subparagraph (B), received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and Section 290.2, and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section

13885) of Title 6 of Part 4 and Section 290.2.

(c) The department shall make available any information maintained pursuant to Section 11169 to out-of-state law enforcement agencies conducting investigations of known or suspected child abuse only when an agency makes the request for information in writing and on official letterhead, identifying the suspected abuser or victim by name. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written requests shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the criminal penalties for unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision. In the absence of a specified out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(d) Any person may determine if he or she is listed in the Child Abuse Central Index by making a request in writing to the Department of Justice. The request shall be notarized and include the person's name, address, date of birth, and either a social security number or a California identification number. Upon receipt of a notarized request, the Department of Justice shall make available to the requesting person information identifying the date of the report and the submitting agency. The requesting person is responsible for obtaining the investigative report from the submitting agency pursuant to paragraph (11) of subdivision (a) of Section 11167.5.

(e) If a person is listed in the Child Abuse Central Index only as a victim of child abuse, and that person is 18 years of age or older, that person may have his or her name removed from the index by making a written request to the Department of Justice. The request shall be notarized and include the person's name, address, social security number, and date of birth.

SEC. 8. Section 11170 of the Penal Code is amended to read:

11170. (a) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) (1) The Department of Justice shall immediately notify a child protective agency that submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) or (c) of Section 11166, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services or to any county licensing agency that has contracted with the state for the performance of licensing duties information regarding a known or suspected child abuser maintained

pursuant to this section and subdivision (a) of Section 11169 concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisory or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code.

(4) For purposes of child death review, the Department of Justice shall make available to the chairperson, or the chairperson's designee, for each county child death review team, or the State Child Death Review Council, information maintained in the Child Abuse Central Index pursuant to subdivision (a) of Section 11170 relating to the death of one or more children and any prior child abuse investigation reports maintained involving the same victims, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(5) The department shall make available to child protective agencies, or court investigators acting pursuant to Section 1513 of the Probate Code, responsible for placing children or assessing the possible placement of children pursuant to Article 6 (commencing with Section 300), Article 7 (commencing with Section 305), Article 10 (commencing with Section 360), or Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, Article 2 (commencing with Section 1510) or Article 3 (commencing with Section 1540) of Chapter 1 of Part 2 of Division 4 of the Probate Code, information regarding a known or suspected child abuser contained in the index concerning any adult residing in the home where the child may be placed, when this information is requested for purposes of ensuring that the placement is in the best interests of the child. Upon receipt of relevant information concerning child abuse investigation reports contained in the index from the Department of Justice pursuant to this subdivision, the child protective agency or court investigator shall notify, in writing, the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the name of the reporting agency and the date of the report.

(6) (A) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse, or the State Department of Social Services or any county licensing agency pursuant to paragraph (3), or a child protective agency or court investigator responsible for placing children or assessing the possible placement of children pursuant to paragraph (5), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, licensing, or placement of a child.

(B) If Child Abuse Central Index information is requested by a child protective agency for the temporary placement of a child in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

(7) (A) Whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to paragraph (3), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of

providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars (\$15).

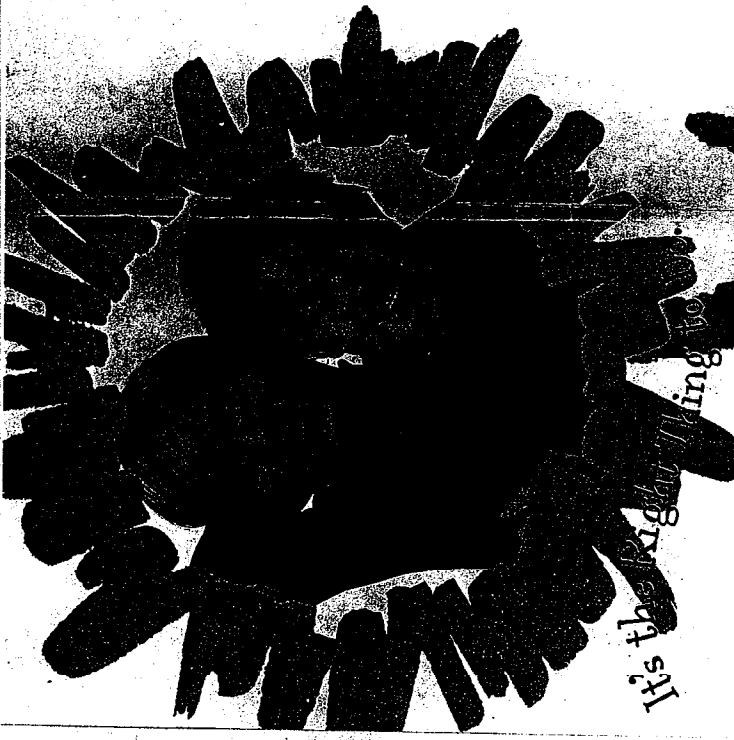
(B) All moneys received by the department pursuant to this section to process trustline applications for purposes of Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code shall be deposited in a special account in the General Fund that is hereby established and named the Department of Justice Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process trustline automated child abuse system checks pursuant to this section.

(C) All moneys, other than that described in subparagraph (B), received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and Section 290.2, and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and Section 290.2.

(c) The Department of Justice shall make available to any child protective agency responsible for placing children pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, upon request, relevant information concerning child abuse reports contained in the index, when making a placement with a responsible relative pursuant to Sections 281.5, 305, and 361.3 of the Welfare and Institutions Code. Upon receipt of relevant information concerning child abuse reports contained in the index from the Department of Justice pursuant to this subdivision, the child protective agency shall also notify in writing the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the location of the original investigative report and the submitting agency. The notification shall be submitted to the person listed at the same time that all other parties are notified of the information, and no later than the actual judicial proceeding that determines placement.

If Child Abuse Central Index information is requested by a child protective agency for the placement of a child with a responsible relative in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

(d) The department shall make available any information maintained pursuant to Section 11169 to out-of-state law enforcement agencies conducting investigations of known or suspected child abuse only when an agency makes the request for information in writing and on official letterhead, identifying the suspected abuser or victim by name. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written requests shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the criminal penalties for unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision. In the absence of a specified out-of-state statute or



It's the Right Thing to

Trustline helps ensure the safety of your child. A Trustline clearance is the minimal qualifications your caregiver should provide, in addition to experience with children, a warm and caring manner, and a commitment to ensuring your child's safety and well-being. Trustline uses the most up-to-date and detailed databases at the California Department of Justice and the FBI to protect children. Trustline has screened out significant numbers of individuals who have applied to the registry with criminal histories such as murder, manslaughter, state impersonation, assault with a deadly weapon, child abuse, cruelty and other crimes.

With talk of fingerprinting and criminal records, some parents may feel uncomfortable requiring their caregiver to be registered with Trustline.

1-800-822-8490

Remember, all child care providers who operate in state-licensed settings, such as child care centers, must undergo a similar screening process. All employment agencies are also required by law to register their caregivers with Trustline upon placement. So call Trustline to make sure the employment agency has registered your caregiver.

If a potential caregiver is insulted that you've asked, or is unwilling to apply, you should be concerned about this person's commitment to providing good care. Don't hesitate to call Trustline. It's the right thing to do.



TrustLine Tips

- 1. Interview potential caregivers right above you. Ask targeted and relevant questions about their skills.
- 2. Interview state-licensed facilities. Ask for lists of names from those who are registered with Trustline by calling 1-800-822-8490.
- 3. Interview potential caregivers right above you. Ask targeted and relevant questions about their skills.

Endorsed by the California Academy of Pediatrics
Funded by the California State Board of Child Welfare
Trustline is a service of the California Department of Justice

- 1. Tell me about your previous experience working with children.
- 2. What activities do you like to do with children?
- 3. What are your feelings about discipline?
- 4. How would you handle a child who is having a tantrum or acting out?
- 5. Are you comfortable following directions?
- 6. How do you handle a child who is not getting along with another child?

- 7. When is my child due for my child's next check-up?
- 8. How do you handle a child who is not getting along with another child?
- 9. How do you handle a child who is not getting along with another child?
- 10. How do you handle a child who is not getting along with another child?

- 11. How do you handle a child who is not getting along with another child?
- 12. How do you handle a child who is not getting along with another child?
- 13. How do you handle a child who is not getting along with another child?
- 14. How do you handle a child who is not getting along with another child?
- 15. How do you handle a child who is not getting along with another child?

For more information on choosing child care and for state-licensed facilities, contact your local child care resource and referral agency. For the one nearest you, call Trustline at 1-800-822-8490.



TrustLine
California's Background Check for In-Home Child Care

111 New Montgomery St.
Seventh Floor
San Francisco, CA 94105

1-800-822-8490
FAX: 1-415-882-6233
www.trustline.org



Did you ever imagine
you could love
someone so much?

1-800-822-8490



TrustLine
California's Background Check for In-Home Child Care

An Invaluable Resource for Parents.

You can never do too much to see that your children are safe — especially when choosing an in-home caregiver like a nanny or baby sitter.

TrustLine is the California registry of in-home child care providers who have passed a background screening. All caregivers listed with TrustLine have been cleared through a fingerprint check of records at the California Department of Justice. This means they have no disqualifying criminal convictions or substantial abuse reports in California. It's invaluable information.



Parents can check if a provider is registered on TrustLine by calling 1-800-822-8490 and giving the person's full name, driver's license number or other approved identification. If your current caregiver or the caregiver you are interviewing is not registered, just call TrustLine's 800 number to learn how they can apply. TrustLine is continually updated and caregivers who have committed a disqualifying crime are removed. So you should call periodically to make sure your caregivers are registered.

Providers' registering is simple. Just call TrustLine to obtain a one-page application and send it in with two sets of fingerprints and a one-time only fee. If there are disqualifying criminal convictions or substantial abuse reports, your name will be added to the registry.

1-800-822-8490

interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(c) Any person may determine if he or she is listed in the Child Abuse Central Index by making a request in writing to the Department of Justice. The request shall be notarized and include the person's name, address, date of birth, and either a social security number or a California identification number. Upon receipt of a notarized request, the Department of Justice shall make available to the requesting person information identifying the date of the report and the submitting agency. The requesting person is responsible for obtaining the investigative report from the submitting agency pursuant to paragraph (11) of subdivision (a) of Section 11167.5.

(f) If a person is listed in the Child Abuse Central Index only as a victim of child abuse, and that person is 10 years of age or older, that person may have his or her name removed from the index by making a written request to the Department of Justice. The request shall be notarized and include the person's name, address, social security number, and date of birth.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 10. (a) Section 6 of this bill incorporates amendments to Section 11170 of the Penal Code proposed by both this bill and AB 1065. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 11170 of the Penal Code, (3) SB 644 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1065, in which case Sections 5, 7, and 8 of this bill shall not become operative.

(b) Section 7 of this bill incorporates amendments to Section 11170 of the Penal Code proposed by both this bill and SB 644. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 11170 of the Penal Code, (3) AB 1065 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 644, in which case Sections 5, 6, and 8 of this bill shall not become operative.

(c) Section 8 of this bill incorporates amendments to Section 11170 of the Penal Code proposed by this bill, AB 1065, and SB 644. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, (2) all three bills amend Section 11170 of the Penal Code, and (3) this bill is enacted after AB 1065 and SB 644, in which case Sections 5, 6, and 7 of this bill shall not become operative.



TrustLine

California's Background Check for In-Home Child Care

Fact Sheet

1-800-822-8490

What is TrustLine?

TrustLine was created by the California Legislature in 1987 and is a powerful resource for parents hiring a nanny or babysitter. TrustLine is California's registry of in-home child care providers who have passed a background screening. All caregivers listed with TrustLine have been cleared through a fingerprint check of records at the California Department of Justice. This means they have no disqualifying criminal convictions or substantiated child abuse reports in California.

Administration

TrustLine is a child protection program of the State of California and the California Child Care Resource & Referral Network. The California Department of Social Services and the California Department of Justice assist in managing and distributing the information.

Program Highlights

- * TrustLine is the only child care registry in California with access to the most up-to-date and detailed databases at the California Department of Justice and the FBI.
- * TrustLine is effective. Its database, which is updated continuously, screens out individuals who have been convicted of murder, manslaughter, child molestation, assault with a deadly weapon, willful child cruelty and other crimes. Thousands of individuals with criminal records have been denied a listing on the registry.
- * All employment agencies are required by law to register their caregivers with TrustLine upon placement. Parents should call TrustLine to make sure the employment agency has registered their caregiver with TrustLine.

Easy to Use

Parents can check if a provider is listed on TrustLine by calling 1-800-822-8490 and giving the provider's full name, driver's license number or other approved identification.

Easy to Register

Child care providers complete an application from TrustLine and send it to the California Department of Social Services along with two sets of fingerprints (used to check CA Department of Justice and FBI records) and appropriate fees. If there are no disqualifying California or FBI criminal convictions or substantiated child abuse reports, the provider's name is added to the registry.

Information

The general public can receive more information about TrustLine by calling 800-822-8490 or logging on at www.trustline.org. News media or program sponsors should contact Cindy Mall at the California Child Care Resource & Referral Network at 415-882-0234.

TrustLine: 1-800-822-8490 • <http://www.trustline.org>

A Child Protection Program of the State of California and California Child Care Resource & Referral Network

111 New Montgomery Street, 7th Floor, San Francisco, CA 94105 • (415) 882-0234



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-4665/8 ✓ 1
GMMO:.....
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TODAY

Ger

1 AN ACT ...; relating to: requiring the department of health and family services
2 to maintain a voluntary registry of persons who provide care and supervision
3 for children, but who are not licensed to provide that care and supervision or
4 employed or contracted with by a person who is licensed to provide that care and
5 supervision, and making an appropriation. ✓

Analysis by the Legislative Reference Bureau

Under current law, a person who for compensation provides day care for four or more children must obtain a license to operate a day care center from the department of health and family services (DHFS). Currently, DHFS may not license an applicant to operate a day care center, and a person operating a day care center may not employ or contract with a caregiver or permit a nonclient to reside at the day care center, if the applicant, caregiver, or nonclient resident has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime, has abused or neglected a client or misappropriated the property of a client, or has abused or neglected a child or, in the case of a position for which a person must be credentialed by the department of regulation and licensing (DORL), the person's credential is not current or is limited so as to prevent the person from providing adequate care to a client (disqualifying circumstances), unless the applicant, caregiver, or nonclient resident demonstrates that he or she has been rehabilitated. To determine whether any disqualifying circumstances apply to a person, DHFS must obtain a criminal history search from records maintained by the department of justice, information contained in a registry maintained by DHFS of individuals who have abused or neglected a client or who have misappropriated the property of

a client, information maintained by DORL regarding the person's credentials, information maintained by DHFS regarding substantiated reports of child abuse or neglect, and information maintained by DHFS regarding any denial of a license, certification, or contract to operate, employment at or a contract with, or permission to reside at a day care center, a child welfare agency, a foster or treatment foster home, a group home, or a shelter care facility (entity) due to a disqualifying circumstance (background check). These requirements, however, do not apply to a person, such as a baby-sitter, nanny, or au pair, who provides care for less than four children.

This bill permits any person who provides, or who is expected to provide, care and supervision for a child, but who does not have, and is not seeking, a license to operate an entity and who is not, and is not expected to be, an employee or contractor of an entity (nonlicensed caregiver), to request DHFS to list the nonlicensed caregiver's name in a registry that DHFS is required to maintain under the bill. On receipt of such a request, DHFS must conduct a background check of the nonlicensed caregiver and, if the nonlicensed caregiver is providing, or is expected to provide, care in the nonlicensed caregiver's home, all nonclients who reside in the nonlicensed caregiver's home to determine whether any disqualifying circumstance applies to the nonlicensed caregiver or a nonclient resident. If no disqualifying circumstances apply, DHFS must list the nonlicensed caregiver in the registry. If a disqualifying circumstance applies, DHFS may not list the nonlicensed caregiver in the registry and must so advise the nonlicensed caregiver, stating the reason why the nonlicensed caregiver is ineligible for listing in the registry. A nonlicensed caregiver who is denied listing in the registry may demonstrate to DHFS that he or she or, if applicable, a nonclient resident of the nonlicensed caregiver has been rehabilitated. ✓

Any individual who has employed or contracted with, or who is expecting to employ or contract with, a nonlicensed caregiver to provide care and supervision for the individual's child may request DHFS to search the registry for the name of the nonlicensed caregiver. The bill also requires a temporary employment agency that places nonlicensed caregivers with or refers nonlicensed caregivers to persons who are not entities to conduct background checks of those nonlicensed caregivers and prohibits a temporary employment agency from employing or contracting with a nonlicensed caregiver if any disqualifying circumstance applies to the nonlicensed caregiver.

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

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

- 1 SECTION 1. 20.435 (6) (jm) of the statutes is amended to read:
- 2 20.435 (6) (jm) *Licensing and support services*. The amounts in the schedule
- 3 for the purposes specified in ss. 48.685 (2) (am), (ar), and (b) 1., (3) (a) and (b), and

1 (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.065 (2) (am) and (b) 1., (3) (a) and (b), and (5),
 2 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, and 50.981 and
 3 subch. IV of ch. 50 and to conduct health facilities plan and rule development
 4 activities, for accrediting nursing homes, convalescent homes, and homes for the
 5 aged, to conduct capital construction and remodeling plan reviews under ss. 50.02
 6 (2) (b) and 50.36 (2), and for the costs of inspecting, licensing, and approving
 7 facilities, issuing permits, and providing technical assistance that are not specified
 8 under any other paragraph in this subsection. All moneys received under ss. 48.685
 9 (8), 49.45 (47) (c), 50.02 (2), 50.025, 50.065 (8), 50.13, 50.36 (2), 50.49 (2) (b), 50.495,
 10 50.52 (2) (a), 50.57, 50.93 (1) (c), and 50.981, all moneys received from fees for the
 11 costs of inspecting, licensing, and approving facilities, issuing permits, and
 12 providing technical assistance that are not specified under any other paragraph in
 13 this subsection, and all moneys received under 50.135 (2), less the amounts credited
 14 to the appropriation account under sub. (4) (gm), shall be credited to this
 15 appropriation account.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 43; 1979 c. 102 s. 237; 1979 c. 111, 175, 177, 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 396; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 193, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 295, 332; 1987 a. 27, 339, 368, 399, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961, 9126 (19); 1995 a. 77, 98; 1995 a. 311 ss. 26, 27; 1995 a. 206, 270, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16.

16 **SECTION 2.** 48.685 (1) (ag) 1. c. of the statutes is created to read:

17 48.685 (1) (ag) 1. c. A person who provides, or is expected to provide, care and
 18 supervision for a client, but who is not, and is not expected to be, an employee or
 19 contractor of an entity and who does not have, and is not seeking, a license,
 20 certification, or contract to operate an entity.

21 **SECTION 3.** 48.685 (1) (am) of the statutes is amended to read:

1 48.685 (1) (am) "Client" means a child who receives direct care or treatment
2 services from a caregiver specified in par. (ag) 1. c. or an entity.

3 ~~History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186.~~ ✓

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

4 48.685 (1) (b) "Entity" means a child welfare agency that is licensed under s.
5 48.60 to provide care and maintenance for children, to place children for adoption,
6 or to license foster homes or treatment foster homes; a foster home or treatment
7 foster home that is licensed under s. 48.62; a group home that is licensed under s.
8 48.625; a shelter care facility that is licensed under s. 938.22; a day care center that
9 is licensed under s. 48.65 or established or contracted for under s. 120.13 (14); a day
10 care provider that is certified under s. 48.651; or a temporary employment agency
11 that provides caregivers to another entity or that places caregivers with or refers
12 caregivers to a person who is not an entity. ✓

13 ~~History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186.~~ ✓

SECTION 5. 48.685 (1) (bm) of the statutes is amended to read:

14 48.685 (1) (bm) "Nonclient resident" means a person who resides, or is expected
15 to reside, at an entity, who is not a client of the entity, and who has, or is expected
16 to have, regular, direct contact with clients of the entity or a person who resides, or
17 is expected to reside, with a caregiver specified in par. (ag) 1. c. who provides care and
18 supervision for clients in the caregiver's home, who is not a client of the caregiver,
19 and who has, or is expected to have, regular, direct contact with clients of the
20 caregiver.

21 ~~History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186.~~ ✓

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

22 48.685 (2) (am) (intro.) The department, a county department, a child welfare
23 agency, or a school board shall obtain all of the following with respect to a caregiver
24 specified in sub. (1) (ag) 1. b., a caregiver specified in sub. (1) (ag) 1. c. who applies

1 for registration under par. (ar) 1. and, if applicable, a nonclient resident of that
2 caregiver, a nonclient resident of an entity, and a person under 18 years of age, but
3 not under 12 years of age, who is a caregiver of a day care center that is licensed under
4 s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care provider
5 that is certified under s. 48.651:

~~History: 1997 a. 27, 237, 281, 1999 a. 9, 32, 56, 185, 186.~~

6 SECTION 7. 48.685 (2) (am) 5. of the statutes is amended to read:

7 48.685 (2) (am) 5. Information maintained by the department under this
8 section and under ss. 48.651 (2m), 48.75 (1m), and 120.13 (14) regarding any denial
9 to the person of a license, continuation or renewal of a license, certification, or a
10 contract to operate an entity for a reason specified in sub. (4m) (a) 1. to 5., regarding
11 any denial to the person of registration under par. (ar) 1. for a reason specified in sub.
12 (4m) (a) 1. to 5., and regarding any denial to the person of employment at, a contract
13 with, or permission to reside at an entity for a reason specified in sub. (4m) (b) 1. to
14 5. If the information obtained under this subdivision indicates that the person has
15 been denied a license, continuation or renewal of a license, certification, a contract,
16 registration, employment, or permission to reside as described in this subdivision,
17 the department, a county department, a child welfare agency, or a school board need
18 not obtain the information specified in subs. 1. to 4.

~~History: 1997 a. 27, 237, 281, 1999 a. 9, 32, 56, 185, 186.~~

19 SECTION 8. 48.685 (2) (ar) of the statutes is created to read:

20 48.685 (2) (ar) 1. The department shall establish and maintain a registry listing
21 all caregivers specified in sub. (1) (ag) 1. c. who have applied for registration under
22 this subdivision and who have been determined by the department to be eligible for
23 listing in the registry. Any caregivers specified in sub. (1) (ag) 1. c. may request the
24 department to list the caregiver's name in the registry. On receipt of such a request,

2 the department shall obtain the information specified in sub. (2) (am) 1. to 5. for the
3 caregiver and, if the caregiver is providing, or is expected to provide, care and
4 supervision for clients in the caregiver's home, all nonclient residents of the
5 caregiver. If none of the circumstances specified in sub. (4m) (a) 1. to 5. apply to the
6 caregiver or, if applicable, to any nonclient resident of the caregiver, the department
7 shall list the caregiver in the registry and so advise the caregiver. If any of the
8 circumstances specified in sub. (4m) (a) 1. to 5. apply to the caregiver or, if applicable,
9 to any nonclient resident of the caregiver, the department may not list the caregiver
10 in the registry and shall so advise the caregiver, stating the specific reason why the
11 caregiver is ineligible for listing in the registry. A caregiver who is denied listing in
12 the registry may demonstrate to the department under sub. (5) (a) that the caregiver
13 or, if applicable, any nonclient resident of the caregiver has been rehabilitated.

14 2. Any individual who has employed or contracted with, or who is expecting to
15 employ or contract with, a caregiver specified in sub. (b) (ag) 1. c. to provide care and
16 supervision for a child of the individual may request the department to search the
17 registry for the name of the caregiver. On receipt of such a request, the department
18 shall search the registry for the name of the caregiver and shall advise the individual
19 whether the person is listed in the registry.

20 SECTION 9. 48.685 (2) (b) 1. e. of the statutes is amended to read:

21 48.685 (2) (b) 1. e. Information maintained by the department under this
22 section and under ss. 48.651 (2m), 48.75 (1m), and 120.13 (14) regarding any denial
23 to the person of a license, continuation or renewal of a license, certification, or a
24 contract to operate an entity for a reason specified in sub. (4m) (a) 1. to 5., regarding
25 any denial to the person of registration under par. (ar) 1. for a reason specified in sub.
(4m) (a) 1. to 5., and regarding any denial to the person of employment at, a contract

1 with, or permission to reside at an entity for a reason specified in sub. (4m) (b) 1. to
2 5. If the information obtained under this subd. 1. e. indicates that the person has
3 been denied a license, continuation or renewal of a license, certification, a contract,
4 registration, employment, or permission to reside as described in this subd. 1. e., the
5 entity need not obtain the information specified in subd. 1. a. to d.

~~History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186.~~ ✓

6 SECTION 10. 48.685 (2) (b) 4. of the statutes is amended to read:

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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 a caregiver ~~or nonclient resident~~
9 of a day care center that is licensed under s. 48.65 or established or contracted for
10 under s. 120.13 (14) or of a day care provider that is certified under s. 48.651 and with
11 respect to whom the department, a county department, or a school board is required
12 under par. (am) (intro.) to obtain the information specified in par. (am) 1. to 5.

~~History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186.~~ ✓

13 SECTION 11. 48.685 (2) (bd) of the statutes is amended to read:

14 48.685 (2) (bd) Notwithstanding pars. (am) and (b) 1., the department, a county
15 department, a child welfare agency, or a school board is not required to obtain the
16 information specified in par. (am) 1. to 5., and an entity is not required to obtain the
17 information specified in par. (b) 1. a. to e., with respect to a person under 18 years
18 of age whose background information form under sub. (6) (a) or (am) indicates that
19 the person is not ineligible to be registered under par. (ar) 1. for a reason specified
20 in sub. (4m) (a) 1. to 5., or to be employed, contracted with, or permitted to reside at
21 an entity for a reason specified in sub. (4m) (b) 1. to 5., and with respect to whom the
22 department, county department, child welfare agency, school board, or entity
23 otherwise has no reason to believe that the person is ineligible to be registered,
24 employed, contracted with, or permitted to reside at an entity for any of those

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

6 ~~History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186.~~ ✓

SECTION 12. 48.685 (3) (a) of the statutes is amended to read:

7 48.685 (3) (a) Every 4 years or at any time within that period that the
8 department, a county department, a child welfare agency, or a school board considers
9 appropriate, the department, county department, child welfare agency, or school
10 board shall request the information specified in sub. (2) (am) 1. to 5. for all persons
11 who are licensed, certified, or contracted to operate an entity, for all caregivers who
12 are registered under sub. (2) (ar) 1. and, if applicable, all nonclient residents of those
13 caregivers, for all persons who are nonclient residents of an entity, and for all persons
14 under 18 years of age, but not under 12 years of age, who are caregivers of a day care
15 center that is licensed under s. 48.65 or established or contracted for under s. 120.13
16 (4) or of a day care provider that is certified under s. 48.651.

17 ~~History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186.~~ ✓

SECTION 13. 48.685 (3m) of the statutes is amended to read:

18 48.685 (3m) Notwithstanding subs. (2) (b) 1. and (3) (b), if the department, a
19 county department, a child welfare agency, [↓] or a school board has obtained the
20 information required under sub. (2) (am) or (3) (a) with respect to a person who is a
21 caregiver specified in sub. (1) (ag) 1. b., a caregiver registered under sub. (2) (ar) 1.,
22 or, if applicable, a nonclient resident of a caregiver registered under sub. (2) (ar) 1.,
23 and that person is also an employee, contractor, or nonclient resident of an entity, the

1 entity is not required to obtain the information specified in sub. (2) (b) 1. or (3) (b)
2 with respect to that person.

~~History: 1997 a. 27, 287, 281; 1999 a. 9, 32, 56, 185, 186.~~ ✓

3 **SECTION 14.** 48.685 (4m) (a) (intro.) of the statutes is amended to read:

4 48.685 (4m) (a) (intro.) Notwithstanding s. 111.335, and except as provided in
5 par. (ad) and sub. (5), the department may not license, or continue or renew the
6 license of, a person to operate an entity or register a person under sub. (2) (ar) 1. a
7 county department may not certify a day care provider under s. 48.651, a county
8 department or a child welfare agency may not license, or renew the license of, a foster
9 home or treatment foster home under s. 48.62, and a school board may not contract
10 with a person under s. 120.13 (14), if the department, county department, child
11 welfare agency, or school board knows or should have known any of the following:

~~History: 1997 a. 27, 287, 281; 1999 a. 9, 32, 56, 185, 186.~~ ✓

12 **SECTION 15.** 48.685 (4m) (a) 1. of the statutes is amended to read:

13 48.685 (4m) (a) 1. That the person has been convicted of a serious crime or, if
14 the person is an applicant for issuance or continuation of a license to operate a day
15 care center or for initial certification under s. 48.651 or for renewal of that
16 certification or if the person is proposing to contract with a school board under s.
17 120.13 (14) or to renew a contract under that subsection, that the person has been
18 convicted of a serious crime or adjudicated delinquent on or after his or her 12th
19 birthday for committing a serious crime or, if the person has requested registration
20 under sub. (2) (ar) 1., that the person or, if applicable, a nonclient resident of the
21 person has been convicted of a serious crime or adjudicated delinquent on or after his
22 or her 12th birthday for committing a serious crime. ✓

~~History: 1997 a. 27, 287, 281; 1999 a. 9, 32, 56, 185, 186.~~ ✓

23 **SECTION 16.** 48.685 (4m) (a) 3. of the statutes is amended to read:

1 48.685 (4m) (a) 3. That a unit of government or a state agency, as defined in
2 s. 16.61 (2) (d), has made a finding that the person has abused or neglected any client
3 or misappropriated the property of any client or, if the person has requested
4 registration under sub. (2) (ar) 1., that the person or, if applicable, a nonclient
5 resident of the person has abused or neglected any client or misappropriated the
6 property of any client.

7 ~~History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 135, 186.~~ ✓

SECTION 17. 48.685 (4m) (a) 4. of the statutes is amended to read:

8 48.685 (4m) (a) 4. That a determination has been made under s. 48.981 (3) (c)
9 4. that the person has abused or neglected a child or, if the person has requested
10 registration under sub. (2) (ar) 1., that the person or, if applicable, a nonclient
11 resident of the person has abused or neglected a child.

12 ~~History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 135, 186.~~ ✓

SECTION 18. 48.685 (5) (a) of the statutes is amended to read:

13 48.685 (5) (a) The department may license to operate an entity or register
14 under sub. (2) (ar) 1., a county department may certify under s. 48.651, a county
15 department or a child welfare agency may license under s. 48.62, and a school board
16 may contract with under s. 120.13 (14) a person who otherwise may not be licensed,
17 registered, certified, or contracted with for a reason specified in sub. (4m) (a) 1. to 5.,
18 and an entity may employ, contract with, or permit to reside at the entity a person
19 who otherwise may not be employed, contracted with, or permitted to reside at the
20 entity for a reason specified in sub. (4m) (b) 1. to 5., if the person demonstrates to the
21 department, the county department, the child welfare agency, or the school board or,
22 in the case of an entity that is located within the boundaries of a reservation, to the
23 person or body designated by the tribe under sub. (5d) (a) 3., by clear and convincing
24 evidence and in accordance with procedures established by the department by rule

1 or by the tribe that ~~he or she~~ the person or, if applicable under sub. (2) (ar) 1., a
2 nonclient resident of the person has been rehabilitated. ✓

~~History: 1997 a. 27, 287, 281; 1999 a. 9, 32, 56, 185, 186.~~ ✓

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

4 48.685 (5m) Notwithstanding s. 111.335, the department may refuse to license
5 a person to operate an entity, a county department or a child welfare agency may
6 refuse to license a foster home or treatment foster home under s. 48.62, and an entity
7 may refuse to employ or contract with a caregiver or permit a nonclient resident to
8 reside at the entity if the person has been convicted of an offense that is not a serious
9 crime, but that is, in the estimation of the department, county department, child
10 welfare agency, or entity, substantially related to the care of a client.
11 Notwithstanding s. 111.335, the department may refuse to license a person to
12 operate a day care center or to register a person under sub. (2) (ar) 1., a county
13 department may refuse to certify a day care provider under s. 48.651, a school board
14 may refuse to contract with a person under s. 120.13 (14), and a day care center that
15 is licensed under s. 48.65 or established or contracted for under s. 120.13 (14) and or
16 a day care provider that is certified under s. 48.651 may refuse to employ or contract
17 with a caregiver or permit a nonclient resident to reside at the day care center or day
18 care provider if the person or, if applicable under sub. (2) (ar) 1., a nonclient resident
19 of the person has been convicted of or adjudicated delinquent on or after his or her
20 12th birthday for an offense that is not a serious crime, but that is, in the estimation
21 of the department, county department, school board, day care center, or day care
22 provider, substantially related to the care of a client. ✓

~~History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186.~~ ✓

23 SECTION 20. 48.685 (6) (a) of the statutes is amended to read:

1 48.685 (6) (a) The department shall require any person who applies for
2 issuance, continuation, or renewal of a license to operate an entity or for registration
3 under sub. (2) (ar) 1. and, if applicable, a nonclient resident of a person who applies
4 for registration under sub. (2) (ar) 1., a county department shall require any day care
5 provider who applies for initial certification under s. 48.651 or for renewal of that
6 certification, a county department or a child welfare agency shall require any person
7 who applies for issuance or renewal of a license to operate a foster home or treatment
8 foster home under s. 48.62, and a school board shall require any person who proposes
9 to contract with the school board under s. 120.13 (14) or to renew a contract under
10 that subsection, to complete a background information form that is provided by the
11 department. Every 4 years the department shall require all persons who are
12 registered under sub. (2) (ar) 1. and, if applicable, all nonclient residents of those
13 persons to complete a background information form that is provided to the person or
14 nonclient resident by the department.

~~History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186.~~

15 **SECTION 21.** 48.685 (8) of the statutes is amended to read:

16 48.685 (8) The department, a county department, a child welfare agency, or a
17 school board may charge a fee for obtaining the information required under sub. (2)
18 (am) or (3) (a), for providing information to individuals under sub. (2) (ar) 2., or for
19 providing information to an entity to enable the entity to comply with sub. (2) (b) 1.
20 or (3) (b). The fee may not exceed the reasonable cost of obtaining or providing the
21 information. No fee may be charged to a nurse's assistant, as defined in s. 146.40 (1)
22 (d), for obtaining or maintaining information if to do so would be inconsistent with
23 federal law.

~~History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186.~~

24 (END)



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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LEGAL SECTION: (608) 266-3561
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February 27, 2002

MEMORANDUM

To: Representative Wieckert

From: Gordon M. Malaise, Senior Legislative Attorney

Re: LRB-4665/1 Voluntary child care provider registry

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-9738 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.

Basford, Sarah

From: Basford, Sarah
Sent: Tuesday, March 05, 2002 1:02 PM
To: Becher, Scott
Subject: LRB -4665/1 (attached)



01-4665/1

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