LRB-3878

2003 DRAFTING REQUEST

Bill

Received: **12/15/2003**

Received By: **agary**

Wanted: **Today**

Identical to LRB:

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

By/Representing: **Herself**

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

Drafter: **agary**

May Contact:

Addl. Drafters: **pgrant**

Subject: **Transportation - driver licenses**
Education - miscellaneous

Extra Copies: **PJH**

Submit via email: **YES**

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

Carbon copy (CC:) to: **aaron.gary@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Background investigations and other qualifications for school bus drivers and drivers of alternative school vehicles (school vans)

Instructions:

Wants companion bill to LRB-2317/4

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	agary 12/15/2003	csicilia 12/15/2003					S&L
/1	chanaman 12/16/2003		jfrantze 12/15/2003		sbasford 12/15/2003	sbasford 12/15/2003	S&L

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Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/2			chaugen 12/17/2003	_____ _____	lemery 12/17/2003	lemery 12/17/2003	

FE Sent For:

<END>

↳ At Intro.

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/?	agary	/1 gjs 12/15/03	12/12/15	Self 12/15			

FE Sent For:

<END>

* Please send "/1" out jacketed to Krusick's office. Thanks. Aa

3878/1

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TODAY Wanted this morning

2003 BILL

Req cat

AN ACT ***to repeal*** 121.555 (2) (c) 5., 343.12 (2) (d) and 343.12 (2) (e); ***to renumber*** 343.12 (5) and 343.20 (1) (d); ***to amend*** 121.52 (2) (b), 343.12 (2) (intro.), 343.12 (4) (b), 343.21 (1) (c) to (e), 343.23 (2) (a) (intro.), 343.237 (title) and (2), 343.237 (3) (intro.), 343.237 (3) (a), 343.237 (3) (c) (intro.) and 343.237 (3) (d), (4m), (5), (6), (7), (8) and (10); and ***to create*** 121.52 (5), 121.555 (3), 121.555 (4), 121.555 (5), 121.555 (6), 121.555 (7), 121.555 (8), 343.12 (2) (dm), 343.12 (2) (em), 343.12 (6), 343.12 (7), 343.12 (8), 343.20 (1) (d) 2. and 343.21 (3) of the statutes; **relating to:** qualifications for endorsements authorizing the operation of a school bus and for operators of certain other motor vehicles transporting pupils, school board contracts for the transportation of pupils, studying the use of video cameras on school buses and the training of operators of school buses and certain other motor vehicles transporting pupils, extending the time limit for emergency rule procedures, providing an exemption from emergency rule

procedures and from rule–making procedures, granting rule–making authority, making an appropriation, and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, a person may not operate a school bus without a school bus endorsement issued by the Department of Transportation (DOT). DOT may issue a school bus endorsement to a person's valid motor vehicle operator's license if the person meets certain qualifications. DOT may not issue a school bus endorsement to an applicant if he or she has been convicted of specified offenses (including operating while intoxicated and operating with a suspended or revoked license) within the past two years, regardless of whether the circumstances of the offense are substantially related to the circumstances of operating a school bus, or has been convicted of other offenses (including a felony or an "offense against public morals") within the past five years, if the circumstances of the offense are substantially related to the circumstances of operating a school bus. A school bus endorsement is valid for the eight–year duration of the person's operator's license. Under certain circumstances, DOT must cancel the operator's license of a person to whom a school bus endorsement has been issued.

This bill modifies the existing criminal history requirements, and imposes additional requirements, for the initial issuance or renewal of a school bus endorsement. The bill:

1. Prohibits DOT from issuing or renewing a school bus endorsement to an applicant if the applicant has been convicted of or adjudicated delinquent for any specified disqualifying crime or offense within a prior minimum specified time period. These disqualifying crimes and offenses and minimum time periods for disqualification include those specified under current statutes as well as many new disqualifying crimes and offenses, including various crimes against children. The bill also authorizes DOT to specify by rule additional disqualifying crimes and offenses and the time period during which the disqualification applies. All disqualifying crimes and offenses provided for under the bill apply regardless of whether the circumstances of the offense are substantially related to the circumstances of operating a school bus. Under the bill, DOT also may not issue or renew a school bus endorsement to an applicant who identifies himself or herself as a person listed on the abuse registry maintained by the Department of Health and Family Services (DHFS).

2. Requires DOT to conduct a background investigation, including a criminal history search, of each applicant for initial issuance or renewal of a school bus endorsement, and to record in DOT's files the date on which the investigation was completed. DOT must also make a good faith effort to obtain out–of–state criminal history information for an applicant who has not resided in the state at anytime in the prior two years. Although a school bus endorsement is renewed every eight years, DOT must conduct a criminal history search every four years and, if appropriate, cancel the endorsement (as described in Item 4.).

3. Authorizes DOT to obtain fingerprints from an applicant for initial issuance or renewal of a school bus endorsement, and to submit the fingerprints for a record check by the Federal Bureau of Investigation (FBI). If DOT takes fingerprints of an applicant and retains them, DOT must generally keep the fingerprints confidential in the same manner required of photographs taken by DOT for operator's licenses. However, as with photographs taken for operator's licenses, DOT may, under certain circumstances and with certain limitations, release copies of the retained fingerprints to law enforcement for law enforcement purposes.

4. Requires DOT to cancel a school bus endorsement upon receipt of a record of conviction or adjudication of delinquency for a crime or offense that would disqualify the person from holding a school bus endorsement.

The fee for initial issuance of a school bus endorsement authorizing operation of a school bus that is not a commercial motor vehicle is $5. The fee for upgrading an existing commercial driver license (CDL) to include a school bus endorsement is $5, and there is no fee for initial issuance or renewal of a school bus endorsement to a CDL applied for with the initial issuance or renewal of the CDL. This bill increases, from $5 to $10, the existing fee for initial issuance of a non–CDL school bus endorsement and an upgrade of a CDL to include a school bus endorsement, clarifies that this fee applies upon renewal of a non–CDL school bus endorsement, and creates a $5 fee for initial issuance or renewal of a school bus endorsement to a CDL applied for at the same time as the CDL. The bill also allows DOT to establish by rule fees for applicants for whom DOT must make a good faith effort to obtain out–of–state criminal history information, limited to the fees incurred by DOT in obtaining such information.

Under current law, a person who is a resident of Iowa, Illinois, Michigan, or Minnesota and who is licensed to operate a school bus in the person's state of residence may be employed to operate a school bus in this state without holding a valid school bus endorsement issued by DOT. DOT may, however, impose standards on the employment of such persons, including requiring such persons to meet qualifications applicable to resident school bus operators. This bill requires DOT to impose standards prohibiting the employment of any such person who has been convicted of any specified disqualifying crime or offense and requiring employers to conduct background investigations of such persons.

Under current law, a school board, private school, or contractor providing pupil transportation services under contract with a school board may provide for the transportation of pupils to and from school using a motor vehicle that transports no more than nine passengers (school van), or a motor vehicle that transports ten or more passengers and that is authorized by DOT to be used temporarily under emergency circumstances (temporary school vehicle), if the vehicle and the operator meet certain requirements. Among the operator requirements is that the operator may not have been convicted of certain offenses within the past two years or certain other offenses within the past five years. These offenses are similar, but not identical, to the disqualifying offenses for a school bus endorsement under current law.

This bill modifies the existing requirements for operators of a school van or temporary school vehicle and imposes additional requirements that create more consistency between the requirements for operation of a school bus and the requirements for operation of a school van or temporary school vehicle. With respect to an individual employed by or under contract with any person (including a school district, private school, or contractor) to operate a school van or temporary school vehicle, other than an individual who holds a school bus endorsement, the bill:

1. Requires the person, before permitting the individual to operate such a vehicle and every four years thereafter, to request a criminal history search of the individual from DOJ, request the individual's motor vehicle operating record, and obtain a completed background information form from the individual. If the individual has not resided in the state at anytime in the prior two years, the person must also make a good faith effort to obtain out–of–state criminal history information on the individual.

2. Authorizes the person to obtain fingerprints from the individual and to submit the fingerprints for a record check by the FBI. The fingerprints must otherwise be kept confidential.

3. Prohibits the person from permitting the individual to operate such a vehicle if the person knows or should know that the individual has a record of conviction or operating privilege revocation or adjudicated delinquency that would disqualify the individual from issuance or renewal of a school bus endorsement.

4. Prohibits the person from permitting the individual to operate such a vehicle if the person knows or should know that the individual has been convicted of providing materially false information on a background information form.

5. Requires the individual to inform the person of any traffic accident, conviction that would make the individual ineligible to be an operator, or suspension or revocation of the individual's operator's license or cancellation of the individual's school bus endorsement. (This requirement also applies to an individual who holds a school bus endorsement.)

6. Prohibits an individual from operating such a vehicle if the individual does not meet the eligibility requirements for operating such a vehicle.

The bill provides penalties for violation of its requirements by an individual (operator). Generally, the individual may be required to forfeit not more than $100 for the first offense and not more than $200 for each subsequent offense. However, an individual convicted of providing materially false or incomplete information on a background information form may be required to forfeit not more than $1,000 and is permanently barred from subsequently operating a school van or temporary school vehicle.

The bill requires the Department of Public Instruction (DPI) to create a background information form and to prepare and make available informational materials related to the requirements imposed under the bill. The bill also requires DOT, in consultation with DOJ, DPI, and DHFS, to study and report on certain information technology aspects related to background investigation of applicants for school bus endorsements. The bill further requires DPI, in consultation with DOT and others, to study and report on the costs and benefits of installing and

maintaining video cameras on school buses and on strategies related to training of operators of school buses and school vans or temporary school vehicles.

Under current law, the use of privately owned motor vehicles to transport pupils must be under written contract between the owner or lessee of the vehicles and the school district for which the transportation is provided. Under this bill, the contract must require the owner or lessee to perform any action necessary for the owner or lessee or the school board to fulfill its legal obligations with respect to transporting pupils by means of school vans or temporary school vehicles. The bill requires the school district and owner or lessee, upon written request from a parent or guardian of a pupil enrolled in the school district, to disclose the name of each driver who transports the pupil.

The bill requires DOT, within approximately nine months, to submit proposed rules to administer the provisions of the bill to the Legislative Council Staff and to promulgate emergency rules to administer the provisions of the bill until the proposed rules submitted to the Legislative Council Staff become final. The bill delays the applicability of all of its provisions, except the rule–making provisions, for approximately nine months, and delays for approximately six additional months the applicability of its provisions to those individual who are employed by or under contract with a school district, private school, or contractor to operate a school van or temporary school vehicle at the time of enactment of the bill.

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

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

SECTION 1. 121.52 (2) (b) of the statutes is amended to read:

121.52 **(2)** (b) The owner or lessee of all privately owned motor vehicles transporting pupils for compensation shall be under written contract with the school board of the district for which such transportation is provided. <u>The contract shall require the owner or lessee to perform any action necessary for the owner or lessee or the school board to fulfill any obligation specified in sub. (5) or s. 121.555.</u>

SECTION 2. 121.52 (5) of the statutes is created to read:

121.52 **(5)** Upon written request of a parent or guardian of a pupil for whom the school district provides transportation, the school board shall disclose the name of each driver who transports the pupil under sub. (2) (a) or (b).

SECTION 3. 121.555 (2) (c) 5. of the statutes is repealed.

SECTION 4. 121.555 (3) of the statutes is created to read:

121.555 **(3)** (a) Subject to par. (c), any person that employs or contracts with an individual, except an individual who holds a valid school bus endorsement issued under s. 343.12, to operate a motor vehicle under sub. (1) to transport pupils shall do all of the following before the individual is initially permitted to operate the vehicle and every 4 years thereafter:

1. Notwithstanding ss. 111.321, 111.322, and 111.335, request from the records maintained by the department of justice a criminal history search of the individual. Notwithstanding ss. 111.321, 111.322, and 111.335, if the individual who is the subject of the criminal history search has not resided in this state at anytime within the 2 years preceding the date of the search, the person shall make a good faith effort to obtain additional criminal history information from any state in which the individual has resided during this time period or from any other applicable federal or state agency.

2. Request the individual's operating record from the department of transportation under s. 343.24 or, if the operating record has already been obtained by another entity, from that entity if there are reasonable grounds to believe that the operating record obtained from that entity is accurate and was furnished by the department of transportation to that entity not more than 2 months previously.

3. Obtain a background information form, prescribed by the department under sub. (6) (b), completed by the individual.

(b) Any person that employs or contracts with an individual to operate a motor vehicle under sub. (1) to transport pupils, except an individual who holds a valid school bus endorsement issued under s. 343.12, may require the individual to be

fingerprinted on 2 fingerprint cards, each bearing a complete set of the individual's fingerprints, or by other technologies approved by law enforcement agencies. The department of justice may provide for the submission of the fingerprint cards or fingerprints by other technologies to the federal bureau of investigation for the purposes of verifying the identity of the individual fingerprinted and obtaining records of his or her criminal arrests and convictions. Except as provided in this paragraph, fingerprints obtained under this paragraph shall be kept confidential.

(c) Notwithstanding ss. 111.321, 111.322, and 111.335, no person that employs or contracts with an individual, except an individual who holds a valid school bus endorsement issued under s. 343.12, to operate a motor vehicle under sub. (1) to transport pupils may permit the individual to operate such a vehicle if any of the following applies:

1. The person knows or should know that the individual has a record of conviction or operating privilege revocation or adjudicated delinquency that would disqualify the person from issuance or renewal of a school bus endorsement under s. 343.12 (7) and rules promulgated by the department of transportation under s. 343.12 (7) and (8).

2. The person knows or should know that the individual has been convicted of a violation of sub. (4) (b).

3. The person knows or should know that the individual is listed in the registry under s. 146.40 (4g) (a) 2.

SECTION 5. 121.555 (4) of the statutes is created to read:

121.555 **(4)** (a) An individual who is employed by or under contract with a person to operate a motor vehicle under sub. (1) to transport pupils shall report to the person in writing within 10 days of the occurrence of any of the following:

1. Any accident in which the individual was involved as the operator of a motor vehicle, regardless of whether the individual was issued a uniform traffic citation or charged with any offense or whether the individual was operating a motor vehicle under sub. (1) to transport pupils.

2. Notwithstanding ss. 111.321, 111.322, and 111.335, any conviction or operating privilege revocation that, under sub. (3) (c), makes the individual ineligible to operate a motor vehicle under sub. (1) to transport pupils or, if the individual holds a valid school bus endorsement issued under s. 343.12, that disqualifies the individual from issuance or renewal of a school bus endorsement under s. 343.12 (7) and rules promulgated by the department of transportation under s. 343.12 (7) and (8).

3. Any suspension or revocation of the individual's operating privilege, or cancellation of a school bus endorsement, by this state or another jurisdiction.

(b) No individual may provide false or incomplete information with respect to any material fact on a background information form specified in sub. (3) (a) 3.

SECTION 6. 121.555 (5) of the statutes is created to read:

121.555 **(5)** No individual may operate a motor vehicle under sub. (1) to transport pupils if the individual is ineligible to do so under sub. (2) (c) and (cm) or under sub. (3) (c).

SECTION 7. 121.555 (6) of the statutes is created to read:

121.555 **(6)** (a) The department shall prepare and make available to school districts, private schools, and contractors providing pupil transportation services informational materials, in printed or electronic form, relating to compliance with this section.

(b) In consultation with persons that employ or contract with individuals to operate motor vehicles under sub. (1), the department shall prescribe a background information form for purposes of sub. (3). The form shall require an individual under sub. (3) (a) to specify whether the individual is listed in the registry under s. 146.40 (4g) (a) 2.

SECTION 8. 121.555 (7) of the statutes is created to read:

121.555 **(7)** Any person that employs or contracts with an individual to operate a motor vehicle under sub. (1) to transport pupils shall maintain all records and furnish all information determined necessary to determine compliance with this section.

SECTION 9. 121.555 (8) of the statutes is created to read:

121.555 **(8)** (a) Any individual who violates sub. (4) (a) or (5) may be required to forfeit not more than $100 for the first offense and not more than $200 for each subsequent offense.

(b) Any individual who violates sub. (4) (b) may be required to forfeit not more than $1,000.

SECTION 10. 343.12 (2) (intro.) of the statutes, as affected by 2003 Wisconsin Act 33, is amended to read:

343.12 **(2)** (intro.) Except as provided in sub. (2m), the department shall issue or, except as provided in par. (h), renew a school bus endorsement to a person only if such person meets all of the following requirements:

SECTION 11. 343.12 (2) (d) of the statutes is repealed.

SECTION 12. 343.12 (2) (dm) of the statutes is created to read:

343.12 **(2)** (dm) Notwithstanding ss. 111.321, 111.322, and 111.335, has been subject to the background investigation specified in sub. (6) (a) and does not have a

record of conviction or of adjudication of delinquency or operating privilege revocation that disqualifies the person from issuance or renewal of a school bus endorsement under sub. (7) or rules promulgated by the department under subs. (7) and (8).

SECTION 13. 343.12 (2) (e) of the statutes is repealed.

SECTION 14. 343.12 (2) (em) of the statutes is created to read:

343.12 **(2)** (em) Is not, based upon the person's application, listed in the registry under s. 146.40 (4g) (a) 2.

SECTION 15. 343.12 (4) (b) of the statutes is amended to read:

343.12 **(4)** (b) The department ~~may~~ shall, by rule, establish standards for the employment by an employer of a person under par. (a) 3. as an operator of a school bus in this state. The rules may require the person to meet the qualifications contained in sub. (2) or (3) and any rules of the department applicable to residents, except that the rules shall require the person to meet the qualifications contained in sub. (2) (dm) and (em). The rules shall also require the employer to perform the actions specified in s. 121.555 (3) (a) 1. and 3.

SECTION 16. 343.12 (5) of the statutes is renumbered 343.12 (9).

SECTION 17. 343.12 (6) of the statutes is created to read:

343.12 **(6)** (a) Notwithstanding ss. 111.321, 111.322, and 111.335, prior to the initial issuance or renewal of a school bus endorsement, the department shall conduct a background investigation of the applicant. In conducting the background investigation, the department shall obtain from the records maintained by the department of justice a criminal history search of the applicant. If the applicant has not resided in this state at anytime within the 2 years preceding the date of the search, the department shall make a good faith effort to obtain additional criminal

history information from any state in which the applicant has resided during this time period of from any other applicable federal or state agency. The department shall record in the applicant's file specified in s. 343.23 (2) (a) the date on which the background investigation was completed.

(b) The department may require an applicant for the initial issuance or renewal of a school bus endorsement to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints, or by other technologies approved by law enforcement agencies. The department of justice may provide for the submission of the fingerprint cards or fingerprints by other technologies to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions.

(c) The department shall require an applicant for an endorsement under this section to specify on the application whether the applicant is listed in the registry under s. 146.40 (4g) (a) 2.

(d) Notwithstanding ss. 111.321, 111.322, and 111.335, 4 years after the initial issuance or renewal of a school bus endorsement, the department of transportation shall obtain from the records maintained by the department of justice a criminal history search of the person to whom the school bus endorsement is issued and, if applicable, take action under s. 343.20 (1) (d) 2.

SECTION 18. 343.12 (7) of the statutes is created to read:

343.12 **(7)** (a) Notwithstanding ss. 111.321, 111.322, and 111.335, the department may not issue or renew a school bus endorsement if, within the time period specified by the department by rule but not less than 2 years immediately preceding the date of application, the applicant has been convicted of a violation of any of the following state laws or any local ordinance in conformity with any of the

following state laws or any federal law or law of a federally recognized American Indian tribe or band in this state or law of another jurisdiction that would be a violation of any of the following state laws if the person had committed the offense in this state and been convicted of the offense under the laws of this state:

1. Reckless driving under s. 346.62.

2. Operating a motor vehicle while operating privileges are suspended or revoked or while the operator is disqualified under s. 343.44 (1) (a), (b), or (d).

3. Second–degree reckless homicide under s. 940.06 if the offense results from the operation of a motor vehicle.

4. Homicide by intoxicated use of a vehicle under s. 940.09 (1).

5. Homicide by negligent operation of a vehicle under s. 940.10.

6. Injury by intoxicated use of a vehicle under s. 940.25 (1).

7. Causing injury by operating a motor vehicle under the influence of an intoxicant or other drug under s. 346.63 (2).

8. Causing injury by operating a commercial motor vehicle with a prohibited alcohol concentration under s. 346.63 (6).

9. Operating a motor vehicle under the influence of an intoxicant or other drug or with a prohibited alcohol concentration under s. 346.63 (1).

10. Operating a commercial motor vehicle with a prohibited alcohol concentration under s. 346.63 (5).

11. Operating a motor vehicle while under the legal drinking age with a prohibited alcohol concentration under s. 346.63 (2m).

12. Failure to stop and render assistance at the scene of a motor vehicle accident under s. 346.67 (1) (c).

13. Fleeing from or attempting to elude a traffic officer under s. 346.04 (3).

14. Operating a commercial motor vehicle or being on duty time while having any alcohol concentration, within 4 hours of consuming alcohol or being intoxicated, or while possessing alcohol under s. 346.63 (7) (a) if the applicant has been previously convicted of any offense under s. 346.63 (7) (a) or any local ordinance in conformity with s. 346.63 (7) (a) or any federal law or law of a federally recognized American Indian tribe or band in this state or law of another jurisdiction that would be a violation of s. 346.63 (7) (a) if the applicant had committed the offense in this state and been convicted of the offense under the laws of this state.

(b) Notwithstanding ss. 111.321, 111.322, and 111.335, the department may not issue or renew a school bus endorsement if, within 2 years immediately preceding the date of application, the applicant has had his or her operating privilege revoked under s. 343.305 (10) for refusal to submit to chemical testing or has been convicted in another jurisdiction or had his or her operating privilege in another jurisdiction suspended or revoked under any law of that jurisdiction prohibiting refusal of chemical testing that is comparable to s. 343.305.

(c) Notwithstanding ss. 111.321, 111.322, and 111.335, the department may not issue or renew a school bus endorsement if, within the time period specified by the department by rule but not less than 5 years immediately preceding the date of application, the applicant has been convicted of a violation of any of the following state laws or any local ordinance in conformity with any of the following state laws or any federal law or law of a federally recognized American Indian tribe or band in this state or law of another jurisdiction that would be a violation of any of the following state laws if the person had committed the offense in this state and been convicted of the offense under the laws of this state:

1. First–degree intentional homicide under s. 940.01.

2. First–degree reckless homicide under s. 940.02.

3. Felony murder under s. 940.03.

4. Second–degree intentional homicide under s. 940.05.

5. Assisting suicide under s. 940.12.

6. Felony battery under s. 940.19 (2), (3), (4), (5), or (6).

7. Sexual exploitation by a therapist under s. 940.22 (2).

8. Felony sexual assault under s. 940.225 (1), (2), or (3).

9. Abuse of a vulnerable adult under circumstances constituting a felony under s. 940.285 (2).

10. Abuse of a resident of a penal facility under s. 940.29.

11. Abuse or neglect of a patient or resident under circumstances constituting a felony under s. 940.295.

12. Sexual assault of a child under s. 948.02 (1) or (2).

13. Engaging in repeated acts of sexual assault of the same child under s. 948.025.

14. Physical abuse of a child under s. 948.03 (2).

15. Sexual exploitation of a child under s. 948.05.

16. Causing a child to view or listen to sexual activity under s. 948.055.

17. Incest with a child under s. 948.06.

18. Child enticement under s. 948.07.

19. Use of a computer to facilitate a child sex crime under s. 948.075.

20. Soliciting a child for prostitution under s. 948.08.

21. Sexual assault of a student by a school instructional staff person under s. 948.095.

22. Felony exposing a child to harmful material or harmful descriptions or narrations under s. 948.11 (2) (a) or (am).

23. Possession of child pornography under s. 948.12.

24. Child sex offender working with children under s. 948.13 (2).

25. Neglecting a child under circumstances constituting a felony under s. 948.21.

26. Abduction of a child under s. 948.30.

27. Any felony crime in the commission of which a motor vehicle is used other than those crimes specified in this paragraph or par. (b).

(d) Notwithstanding ss. 111.321, 111.322, and 111.335, the department may not issue or renew a school bus endorsement if the applicant has been adjudicated delinquent on or after his or her 12th birthday for committing any crime or other offense specified under pars. (a) to (c) or by the department by rule under this subsection within the time period specified under pars. (a) to (c) or by the department by rule under this subsection.

SECTION 19. 343.12 (8) of the statutes is created to read:

343.12 **(8)** (a) The department shall promulgate rules specifying crimes or other offenses, in addition to those specified in sub. (7), the conviction for which, or adjudication of delinquency for which, disqualifies the applicant from initial issuance or renewal of a school bus endorsement and, for each such crime or offense, the time period within which the disqualification applies. The time period may be permanent but may not be less than the time period specified in sub. (7) (a) to (c) for a crime or other offense specified in sub. (7) (a) to (c). The disqualifying crimes or other offenses specified by the department shall apply notwithstanding ss. 111.321, 111.322, and 111.335 and shall include crimes under chs. 940 and 944.

(b) Notwithstanding ss. 111.321, 111.322, and 111.335, the department may promulgate rules specifying any registry maintained by an agency of the state related to a person being reported or investigated for criminal activity, in addition to the registry specified in sub. (6) (c), the listing of the applicant on which disqualifies the applicant from initial issuance or renewal of a school bus endorsement.

(c) The department shall promulgate rules to implement and administer this section, including all of the following:

1. For each disqualifying crime or offense specified in sub. (7) (a) and (c), the time period within which the disqualification applies.

2. Procedures for obtaining additional criminal history information in compliance with sub. (6) (a) for applicants who have not resided in this state at anytime in the preceding 2 years. The department may by rule establish fees for obtaining such information that are not greater than the fees charged to the department in connection with acquiring such information.

SECTION 20. 343.20 (1) (d) of the statutes is renumbered 343.20 (1) (d) 1.

SECTION 21. 343.20 (1) (d) 2. of the statutes is created to read:

343.20 **(1)** (d) 2. The department shall cancel an operator's license that is endorsed for the operation of school buses under s. 343.12, regardless of the license expiration date, upon receiving a record of conviction or of adjudication of delinquency or results of a criminal history search showing that the person has been convicted of, or adjudicated delinquent for, a crime or other offense specified under s. 343.12 (7) or rules of the department promulgated under s. 343.12 (7) and (8) after issuance or renewal of the endorsement or at a time when, if known by the

department, the conviction or adjudication would have prevented issuance or renewal of the endorsement.

SECTION 22. 343.21 (1) (c) to (e) of the statutes are amended to read:

343.21 **(1)** (c) For the initial issuance or renewal of authorization to operate school buses that are not commercial motor vehicles, ~~$5~~ $10.

(d) For the initial issuance or renewal of authorization to operate "Class A", "Class B" or "Class C" motor vehicles, or upgrading an existing regular license which only authorizes the operation of "Class D" motor vehicles, $64. This fee includes issuance of any "H", "N", "P", ~~"S"~~ or "T" endorsements or "Class D" authorization applied for at the same time for which the applicant is qualified. An additional fee of $5 is required for the issuance or renewal of any "S" endorsement applied for or renewed at the same time for which the applicant is qualified.

(e) For upgrading an existing commercial driver license to add an "H", "N", "P", ~~"S"~~ or "T" endorsement, $5, or, to add an "S" endorsement, $10.

SECTION 23. 343.21 (3) of the statutes is created to read:

343.21 **(3)** In addition to any fee required under sub. (1) (c), (d), or (e), the department may require payment to the department of any fee established by rule under s. 343.12 (8) (c) 2.

SECTION 24. 343.23 (2) (a) (intro.) of the statutes, as affected by 2003 Wisconsin Act 33, is amended to read:

343.23 **(2)** (a) (intro.) The department shall maintain a file for each licensee or other person containing the application for license, permit or endorsement, a record of reports or abstract of convictions, any notice received from the federal transportation security administration concerning the person's eligibility for an "H" endorsement specified in s. 343.17 (3) (d) 1m., the status of the person's authorization

to operate different vehicle groups, a record of any out–of–service orders issued under s. 343.305 (7) (b) or (9) (am), a record of the date on which any background investigation specified in s. 343.12 (6) (a) or (d) was completed, and a record of any reportable accident in which the person has been involved, including specification of any type of license and endorsements issued under this chapter under which the person was operating at the time of the accident and an indication whether or not the accident occurred in the course of any of the following:

SECTION 25. 343.237 (title) and (2) of the statutes are amended to read:

343.237 (title) **Access to license and identification card photographs and fingerprints.**

(2) Any photograph taken of an applicant under s. 343.14 (3) or 343.50 (4), and any fingerprint taken of an applicant under s. 343.12 (6) (b), may be maintained by the department and, except as provided in this section, shall be kept confidential. Except as provided in this section, the department may release a photograph or fingerprint only to the person whose photograph or fingerprint was taken.

SECTION 26. 343.237 (3) (intro.) of the statutes, as affected by 2003 Wisconsin Act 36, is amended to read:

343.237 **(3)** (intro.) The department shall provide a Wisconsin law enforcement agency or a federal law enforcement agency with a copy of a photograph taken on or after September 1, 1997, of an applicant under s. 343.14 (3) or 343.50 (4), or a printed or electronic copy of a fingerprint taken of an applicant under s. 343.12 (6) (b), if the department receives a written request on the law enforcement agency's letterhead that contains all of the following:

SECTION 27. 343.237 (3) (a) of the statutes is amended to read:

343.237 **(3)** (a) The name of the person whose photograph or fingerprint is requested.

SECTION 28. 343.237 (3) (c) (intro.) of the statutes, as affected by 2003 Wisconsin Act 36, is amended to read:

343.237 **(3)** (c) (intro.) A statement signed by a division commander or higher authority within the law enforcement agency that the photograph or fingerprint is requested for any of the following purposes:

SECTION 29. 343.237 (3) (d), (4m), (5), (6), (7), (8) and (10) of the statutes are amended to read:

343.237 **(3)** (d) ~~A~~ For requests for photographs only, a statement that the request is not made solely to obtain a photograph for use as part of a photo lineup or photo array.

(4m) The department shall attach to each copy of a photograph or fingerprint provided under this section the notation: "This photograph is subject to the requirements and restrictions of section 343.237 of the Wisconsin Statutes." or "This fingerprint is subject to the requirements and restrictions of section 343.237 of the Wisconsin Statutes."

(5) Any law enforcement agency that has in its possession a copy of a photograph or fingerprint provided to it under sub. (3) or (4) shall destroy any copies of the photograph or fingerprint in its possession when the photograph or fingerprint is no longer necessary for the investigatory or identification purpose specified in its request for the copy of the photograph or fingerprint.

(6) For each copy of a photograph or fingerprint provided under sub. (3) or (4), the department shall record and maintain the written request for the copy of the photograph or fingerprint and may not disclose any record or other information

concerning or relating to the written request to any person other than a court, district attorney, county corporation counsel, city, village, or town attorney, law enforcement agency, the applicant or identification card holder or, if the applicant or identification card holder is under 18 years of age, his or her parent or guardian.

(7) The department may not charge a fee for providing a copy of any photograph or fingerprint to a Wisconsin law enforcement agency under this section.

(8) (a) Any law enforcement agency that receives a photograph or fingerprint provided to a law enforcement agency under this section shall keep the copy of the photograph or fingerprint confidential and may disclose it only if disclosure is necessary to perform a law enforcement function and the person to whom the copy of the photograph or fingerprint is disclosed agrees to comply with par. (c).

(b) If a law enforcement agency discloses a copy of a photograph or fingerprint to another person under par. (a), the copy of the photograph or fingerprint shall have attached to it the notation specified in sub. (4m).

(c) Any person who receives a copy of a photograph or fingerprint from a law enforcement agency under par. (a) shall destroy any copies of the photograph or fingerprint in his or her possession when the photograph or fingerprint is no longer necessary to perform the law enforcement function for which the photograph or fingerprint was disclosed.

(10) Any person who wilfully discloses a copy of a photograph or fingerprint in violation of this section may be required to forfeit not more than $500 for each violation. Each copy disclosed constitutes a separate offense.

SECTION 30. Nonstatutory provisions.

(1) The department of transportation shall submit in proposed form the rules required under section 343.12 (7) and (8) of the statutes, as created by this act, to the

legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 10th month beginning after the effective date of this subsection.

(2) Using the emergency rules procedure under section 227.24 of the statutes, the department of transportation shall promulgate the rules required under section 343.12 (7) and (8) of the statutes, as created by this act, for purposes of implementing this act, for the period before the effective date of the rules submitted under subsection (1). The department shall promulgate these emergency rules no later than the first day of the 10th month beginning after the effective date of this subsection. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, these emergency rules may remain in effect until June 30, 2005, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

(3) The department of transportation shall study the costs and benefits of integrating within the department the computer linkup specified in section 165.825 of the statutes and of developing an automated search system for searching the registry under section 146.40 (4g) (a) 2. of the statutes. The department of transportation shall consult with the department of justice, department of public instruction, and department of health and family services in conducting the study. By the first day of the 12th month beginning after the effective date of this subsection, the department of transportation shall report to the legislature, in the manner provided under section 13.172 (2) of the statutes, the findings, conclusions, and recommendations of the study.

(4) (a) The department of public instruction, in consultation with the department of transportation, the Wisconsin School Bus Association, state child advocacy groups, and other persons or organizations as appropriate, shall study all of the following:

1. The costs and benefits of installing and maintaining video cameras on school buses, including the availability of federal funds and grants that may be used for this purpose.

2. Strategies to increase the availability and effectiveness of, and participation in, training of operators of school buses and motor vehicles specified under section 121.555 (1) of the statutes with respect to all of the following:

a. Special needs involved in transporting children with disabilities.

b. Safe and effective methods of maintaining order and discipline on the school bus or motor vehicle specified under section 121.555 (1) of the statutes.

(b) By the first day of the 7th month beginning after the effective date of this paragraph, the department of public instruction shall report to the legislature, in the manner provided under section 13.172 (2) of the statutes, the findings, conclusions, and recommendations of the study under paragraph (a).

SECTION 31. Appropriation changes.

(1) In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of transportation under section 20.395 (5) (cq) of the statutes, as affected by the acts of 2003, the dollar amount is increased by $10,000 for fiscal year 2004–05 to increase funding for determining the qualifications of applicants for issuance or renewal of school bus endorsements to operators' licenses.

SECTION 32. Initial applicability.

(1) The treatment of section 121.555 (3), (4), (5), (6), (7), and (8) of the statutes first applies on the first day of the 7th month beginning after the effective date of this subsection with respect to any individual who is employed or under contract to transport pupils in a motor vehicle under section 121.555 (1) of the statutes immediately prior to the effective date of this subsection.

(2) This act first applies to contracts under section 121.52 (2) (b) of the statutes that are entered into, modified, or renewed on the effective date of this subsection.

(3) This act first applies to applications for initial issuance or renewal of a school bus endorsement submitted to the department of transportation on the effective date of this subsection.

SECTION 33. Effective dates. This act takes effect on the first day of the 10th month beginning after publication, except as follows:

(1) The treatment of section 343.12 (8) of the statutes and SECTION 30 (1), (2), (3), and (4) of this act take effect on the day after publication.

(END)