

**SENATE AMENDMENT 2,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 508**

March 10, 2004 – Offered by Senator CARPENTER.

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 **1.** Page 1, line 3: after “services” insert “and granting rule-making authority”.
- 3 **2.** Page 2, line 1: delete lines 1 to 10.
- 4 **3.** Page 3, line 1: delete lines 1 to 18 and substitute:
- 5 “**SECTION 4m.** 103.027 of the statutes is created to read:
- 6 **103.027 Hours of labor; companionship services. (1)** In this section:
- 7 (a) “Care” means intimate personal care services provided to a person who,
- 8 because of advanced age or physical or mental infirmity, cannot care for his or her
- 9 own needs, such as feeding the person or assisting the person with bathing, dressing,
- 10 grooming, or toileting.
- 11 (b) “Companionship services” means services that provide fellowship and
- 12 protection for a person who, because of advanced age or physical or mental infirmity,

1 cannot care for his or her own needs. “Companionship services” does not include
2 services relating to the care and protection of a person who, because of age or physical
3 or mental infirmity, cannot care for his or her own needs that require and are
4 performed by a trained individual, regardless of whether the trained individual is a
5 registered nurse or a licensed practical nurse, such as catheter and ostomy care,
6 injections, and tube feeding.

7 (c) “Household work” means household work that is directly related to the care
8 of a person who, because of advanced age or physical or mental infirmity, cannot care
9 for his or her own needs, such as preparing the person’s meals, making the person’s
10 bed, washing the person’s clothes, and other similar services that are directly related
11 to the care of the person.

12 (d) “Protection” means being present in the home of a person who, because of
13 advanced age or physical or mental infirmity, cannot care for his or her own needs
14 to ensure the safety and well-being of the person.

15 **(2)** An employer is not required to pay overtime compensation, as defined in
16 s. 103.025 (1) (c), to an individual engaged in providing companionship services if all
17 of the following conditions are met:

18 (a) Fellowship and protection are the sole core duties of the individual, and the
19 individual spends not less than 80 percent of his or her total weekly hours worked
20 exclusively providing fellowship and protection.

21 (b) The individual spends no more than 20 percent of his or her total weekly
22 hours worked providing care and household work.

23 **(3)** The department shall promulgate rules requiring employers that employ
24 individuals to provide companionship services to report information to the
25 department as necessary for the department to enforce this section and may conduct

1 periodic compliance audits of those employers. Those rules shall require an
2 employer that hires an individual to provide any amount of companionship services
3 to notify the department within 30 days after the individual is hired and shall require
4 an employer that employs an individual to provide companionship services to keep
5 a weekly time log that provides a detailed accounting of the individual's tasks as
6 verified by the person for whom the companionship services are provided, the
7 employer, and a 3rd party that may not be the individual that provides the
8 companionship services but that may be a deputy of the department.”.

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(END)