

2003 Senate Bill 103

Date of enactment: **March 15, 2004**
Date of publication*: **March 29, 2004**

2003 WISCONSIN ACT 151

AN ACT *to renumber and amend* 440.03 (13); and *to create* 440.03 (13) (b) and 440.03 (13) (c) of the statutes; **relating to:** criminal background investigations by the Department of Regulation and Licensing of applicants for certain professional credentials and granting rule-making authority.

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

SECTION 1. 440.03 (13) of the statutes is renumbered 440.03 (13) (a) and amended to read:

440.03 (13) (a) The department may conduct an investigation to determine whether an applicant for a credential issued under chs. 440 to 480 satisfies any of the eligibility requirements specified for the credential, including whether the applicant does not have an arrest or conviction record. In conducting an investigation under this subsection ~~paragraph~~, the department may require an applicant to provide any information that is necessary for the investigation ~~or, for the purpose of obtaining information related to, except that, for an investigation of an arrest or conviction record of an applicant, to complete forms provided by the department of justice or the federal bureau of investigation, the department shall comply with the requirements of pars. (b) and (c).~~

(d) The department shall charge the an applicant any fees, costs, or other expenses incurred in conducting the any investigation under this subsection or s. 440.26.

SECTION 2. 440.03 (13) (b) of the statutes is created to read:

440.03 (13) (b) The department may investigate whether an applicant for or holder of any of the following

credentials has been charged with or convicted of a crime only pursuant to rules promulgated by the department under this paragraph, except as provided in par. (c):

1. Accountant, certified public.
2. Acupuncturist.
3. Advanced practice nurse prescriber.
4. Aesthetician.
5. Aesthetics instructor.
6. Appraiser, real estate, certified general.
7. Appraiser, real estate, certified residential.
8. Appraiser, real estate, licensed.
9. Architect.
10. Athletic trainer.
11. Auctioneer.
12. Audiologist.
13. Barber or cosmetologist.
14. Barbering or cosmetology instructor.
15. Barbering or cosmetology manager.
16. Boxer.
17. Cemetery preneed seller.
18. Cemetery salesperson.
19. Chiropractor.
20. Dental hygienist.
21. Dentist.
22. Designer of engineering systems.
23. Dietitian.
24. Drug distributor.

* Section 991.11, WISCONSIN STATUTES 2001-02 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

25. Drug manufacturer.
26. Electrologist.
27. Electrology instructor.
28. Engineer, professional.
29. Fund-raising counsel.
30. Funeral director.
31. Hearing instrument specialist.
32. Home inspector.
33. Landscape architect.
34. Land surveyor.
35. Manicuring instructor.
36. Manicurist.
37. Marriage and family therapist.
38. Massage therapist or bodyworker.
39. Music, art, or dance therapist.
40. Nurse, licensed practical.
41. Nurse, registered.
42. Nurse-midwife.
43. Nursing home administrator.
44. Occupational therapist.
45. Occupational therapy assistant.
46. Optometrist.
47. Perfusionist.
48. Pharmacist.
49. Physical therapist.
50. Physical therapist assistant.
51. Physician.
52. Physician assistant.
53. Podiatrist.
54. Private detective.
55. Private practice school psychologist.
56. Private security person.
57. Professional counselor.
58. Professional fund-raiser.
59. Professional geologist.
60. Professional hydrologist.
61. Professional soil scientist.
62. Psychologist.
63. Real estate broker.
64. Real estate salesperson.
65. Registered interior designer.
66. Respiratory care practitioner.

67. Social worker.
68. Social worker, advanced practice.
69. Social worker, independent.
70. Social worker, independent clinical.
71. Speech-language pathologist.
72. Time-share salesperson.
73. Veterinarian.
74. Veterinary technician.
75. Any other profession or occupation specified by law that is regulated by the department or a credentialing board.

SECTION 3. 440.03 (13) (c) of the statutes is created to read:

440.03 (13) (c) The department shall require an applicant for a private detective license or a private security permit under s. 440.26, and a person for whom the department conducts an investigation under par. (b), to be photographed and fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints. The department of justice may submit the fingerprint cards to the federal bureau of investigation for the purpose of verifying the identity of the persons fingerprinted and obtaining records of their criminal arrests and convictions.

SECTION 4. Nonstatutory provisions.

(1) The department of regulation and licensing may, using the procedure under section 227.24 of the statutes, promulgate the rules under section 440.03 (13) (b) of the statutes, as created by this act, for the period before permanent rules become effective, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), 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.

SECTION 5. Effective date.

(1) This act takes effect on the first day of the 4th month beginning after publication.