

2003 SENATE BILL 103

April 9, 2003 – Introduced by Senators COWLES, STEPP and HANSEN, cosponsored by Representatives KRAWCZYK, WEBER, VAN ROY, MCCORMICK, HAHN, HINES, OWENS and VRAKAS. Referred to Committee on Labor, Small Business Development and Consumer Affairs.

1 **AN ACT** *to renumber and amend* 440.03 (13); and *to create* 440.03 (13) (b) and
2 440.03 (13) (c) of the statutes; **relating to:** criminal background investigations
3 by the Department of Regulation and Licensing of applicants for certain
4 professional credentials.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Regulation and Licensing (DRL) investigates applicants for certain professional credentials issued by DRL and boards in DRL to determine whether the applicants satisfy the eligibility requirements for the credentials. For some credentials, an applicant is ineligible for the credential if he or she has an arrest or conviction record the circumstances of which substantially relate to the professional activity for which the credential is issued. Also, for some credentials, DRL or a board in DRL may take disciplinary action against a credential holder who has such an arrest or conviction. Current law allows DRL to require an applicant for a credential to provide any information that is necessary for investigating an applicant's eligibility.

This bill specifies that, if DRL receives credible evidence that an applicant for, or holder of, a credential has been charged with or convicted of a crime, DRL is allowed to investigate the charge or conviction. If DRL conducts such an investigation, DRL must require the applicant or credential holder to be photographed and fingerprinted.

Under the bill, DRL must require an applicant or credential holder for the following types of credentials to be photographed and fingerprinted, even if DRL has

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not received credible evidence regarding convictions or crimes: 1) private detectives; and 2) private security persons. (Under current law, an applicant for those credentials is ineligible if he or she has been convicted of an unpardoned felony, even if the circumstances do not substantially relate to private detective or security activities.)

The bill allows the state Department of Justice to submit fingerprints obtained by DRL under the bill to the Federal Bureau of Investigation for the purpose of verifying the identity of the applicant or credential holder and obtaining his or her records of criminal arrests and convictions.

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

3 440.03 **(13)** (a) The department may conduct an investigation to determine
4 whether an applicant for a credential issued under chs. 440 to 480 satisfies any of
5 the eligibility requirements specified for the credential, including whether the
6 applicant does not have an arrest or conviction record. In conducting an
7 investigation under this ~~subsection~~ paragraph, the department may require an
8 applicant to provide any information that is necessary for the investigation or, for the
9 purpose of obtaining information related to an arrest or conviction record of an
10 applicant, to complete forms provided by the department of justice ~~or the federal~~
11 ~~bureau of investigation.~~

12 (d) The department shall charge ~~the~~ an applicant any fees, costs, or other
13 expenses incurred in conducting ~~the~~ any investigation under this subsection or s.
14 440.26.

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

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1 440.03 (13) (b) Upon the receipt of credible evidence that an applicant for or
2 holder of any of the following credentials has been charged with or convicted of a
3 crime, the department may investigate the charge or conviction:

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

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- 1 23. Dietitian.
- 2 24. Drug distributor.
- 3 25. Drug manufacturer.
- 4 26. Electrologist.
- 5 27. Electrology instructor.
- 6 28. Engineer, professional.
- 7 29. Fund-raising counsel.
- 8 30. Funeral director.
- 9 31. Hearing instrument specialist.
- 10 32. Home inspector.
- 11 33. Landscape architect.
- 12 34. Land surveyor.
- 13 35. Manicuring instructor.
- 14 36. Manicurist.
- 15 37. Marriage and family therapist.
- 16 38. Massage therapist or bodyworker.
- 17 39. Music, art, or dance therapist.
- 18 40. Nurse, licensed practical.
- 19 41. Nurse, registered.
- 20 42. Nurse-midwife.
- 21 43. Nursing home administrator.
- 22 44. Occupational therapist.
- 23 45. Occupational therapy assistant.
- 24 46. Optometrist.
- 25 47. Perfusionist.

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- 1 48. Pharmacist.
- 2 49. Physical therapist.
- 3 50. Physical therapist assistant.
- 4 51. Physician.
- 5 52. Physician assistant.
- 6 53. Podiatrist.
- 7 54. Private detective.
- 8 55. Private practice school psychologist.
- 9 56. Private security person.
- 10 57. Professional counselor.
- 11 58. Professional fund-raiser.
- 12 59. Professional geologist.
- 13 60. Professional hydrologist.
- 14 61. Professional soil scientist.
- 15 62. Psychologist.
- 16 63. Real estate broker.
- 17 64. Real estate salesperson.
- 18 65. Registered interior designer.
- 19 66. Respiratory care practitioner.
- 20 67. Social worker.
- 21 68. Social worker, advanced practice.
- 22 69. Social worker, independent.
- 23 70. Social worker, independent clinical.
- 24 71. Speech-language pathologist.
- 25 72. Time-share salesperson.

