

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 103**

February 16, 2004 – Offered by Representative NASS.

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 and granting rule-making authority.

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

5 **SECTION 1.** 440.03 (13) of the statutes is renumbered 440.03 (13) (a) and
6 amended to read:
7 440.03 **(13)** (a) The department may conduct an investigation to determine
8 whether an applicant for a credential issued under chs. 440 to 480 satisfies any of
9 the eligibility requirements specified for the credential, including whether the
10 applicant does not have an arrest or conviction record. In conducting an
11 investigation under this subsection paragraph, the department may require an
12 applicant to provide any information that is necessary for the investigation ~~or, for the~~

1 ~~purpose of obtaining information related to, except that, for an investigation of an~~
2 ~~arrest or conviction record of an applicant, to complete forms provided by the~~
3 ~~department of justice or the federal bureau of investigation, the department shall~~
4 ~~comply with the requirements of pars. (b) and (c).~~

5 (d) The department shall charge the an applicant any fees, costs, or other
6 expenses incurred in conducting the any investigation under this subsection or s.
7 440.26.

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

9 440.03 (13) (b) The department may investigate whether an applicant for or
10 holder of any of the following credentials has been charged with or convicted of a
11 crime only pursuant to rules promulgated by the department under this paragraph,
12 except as provided in par. (c):

- 13 1. Accountant, certified public.
- 14 2. Acupuncturist.
- 15 3. Advanced practice nurse prescriber.
- 16 4. Aesthetician.
- 17 5. Aesthetics instructor.
- 18 6. Appraiser, real estate, certified general.
- 19 7. Appraiser, real estate, certified residential.
- 20 8. Appraiser, real estate, licensed.
- 21 9. Architect.
- 22 10. Athletic trainer.
- 23 11. Auctioneer.
- 24 12. Audiologist.
- 25 13. Barber or cosmetologist.

- 1 14. Barbering or cosmetology instructor.
- 2 15. Barbering or cosmetology manager.
- 3 16. Boxer.
- 4 17. Cemetery preneed seller.
- 5 18. Cemetery salesperson.
- 6 19. Chiropractor.
- 7 20. Dental hygienist.
- 8 21. Dentist.
- 9 22. Designer of engineering systems.
- 10 23. Dietitian.
- 11 24. Drug distributor.
- 12 25. Drug manufacturer.
- 13 26. Electrologist.
- 14 27. Electrology instructor.
- 15 28. Engineer, professional.
- 16 29. Fund-raising counsel.
- 17 30. Funeral director.
- 18 31. Hearing instrument specialist.
- 19 32. Home inspector.
- 20 33. Landscape architect.
- 21 34. Land surveyor.
- 22 35. Manicuring instructor.
- 23 36. Manicurist.
- 24 37. Marriage and family therapist.
- 25 38. Massage therapist or bodyworker.

- 1 39. Music, art, or dance therapist.
- 2 40. Nurse, licensed practical.
- 3 41. Nurse, registered.
- 4 42. Nurse–midwife.
- 5 43. Nursing home administrator.
- 6 44. Occupational therapist.
- 7 45. Occupational therapy assistant.
- 8 46. Optometrist.
- 9 47. Perfusionist.
- 10 48. Pharmacist.
- 11 49. Physical therapist.
- 12 50. Physical therapist assistant.
- 13 51. Physician.
- 14 52. Physician assistant.
- 15 53. Podiatrist.
- 16 54. Private detective.
- 17 55. Private practice school psychologist.
- 18 56. Private security person.
- 19 57. Professional counselor.
- 20 58. Professional fund–raiser.
- 21 59. Professional geologist.
- 22 60. Professional hydrologist.
- 23 61. Professional soil scientist.
- 24 62. Psychologist.
- 25 63. Real estate broker.

- 1 64. Real estate salesperson.
- 2 65. Registered interior designer.
- 3 66. Respiratory care practitioner.
- 4 67. Social worker.
- 5 68. Social worker, advanced practice.
- 6 69. Social worker, independent.
- 7 70. Social worker, independent clinical.
- 8 71. Speech–language pathologist.
- 9 72. Time–share salesperson.
- 10 73. Veterinarian.
- 11 74. Veterinary technician.
- 12 75. Any other profession or occupation specified by law that is regulated by the
- 13 department or a credentialing board.

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

15 440.03 **(13)** (c) The department shall require an applicant for a private

16 detective license or a private security permit under s. 440.26, and a person for whom

17 the department conducts an investigation under par. (b), to be photographed and

18 fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's

19 fingerprints. The department of justice may submit the fingerprint cards to the

20 federal bureau of investigation for the purpose of verifying the identity of the persons

21 fingerprinted and obtaining records of their criminal arrests and convictions.

22 **SECTION 4. Nonstatutory provisions.**

23 (1) The department of regulation and licensing may, using the procedure under

24 section 227.24 of the statutes, promulgate the rules under section 440.03 (13) (b) of

25 the statutes, as created by this act, for the period before permanent rules become

1 effective, but not to exceed the period authorized under section 227.24 (1) (c) and (2)
2 of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes,
3 the department is not required to provide evidence that promulgating a rule under
4 this subsection as an emergency rule is necessary for the preservation of the public
5 peace, health, safety, or welfare and is not required to provide a finding of emergency
6 for a rule promulgated under this subsection.

7 **SECTION 5. Effective date.**

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

10 (END)