

Needed by  
9/19 end  
of day

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen. Cat.

1 AN ACT *to repeal* 121.555 (2) (c) 5., 343.12 (2) (d), 343.12 (2) (e) and 343.12 (4)

2 (a) 2.; *to renumber* 343.12 (5) and 343.20 (1) (d); *to amend* 121.52 (2) (b), ✓

3 343.12 (2) (intro.), ✓ 343.23 (2) (a) (intro.) and 343.237 (title), (2), (3) (intro.), (a),

4 (c) (intro.) and (d), (4m), (5), (6), (7), (8) and (10); and *to create* 121.555 (3),

5 121.555 (4), 121.555 (5), 121.555 (6), 121.555 (7), 121.555 (8), 343.12 (2) (dm),

6 343.12 (2) (em), 343.12 (6), 343.12 (7), 343.12 (8), 343.20 (1) (d) 2. and 3. and

7 343.28 (3m) of the statutes; **relating to:** qualifications for endorsements

8 authorizing the operation of a school bus and for operators of certain other

9 motor vehicles transporting pupils, school board contracts for the

10 transportation of pupils, extending the time limit for emergency rule

11 procedures, providing an exemption from emergency rule procedures and from

1 rule-making procedures, granting rule-making authority, and providing  
2 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 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 law 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. DOT may renew a school bus endorsement to an applicant who would not otherwise be qualified for renewal of a school bus endorsement because of a conviction if at least five years have passed since the conviction and the applicant holds a valid school bus endorsement on the effective date of the bill.

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 the results of the investigation in DOT's files.

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, DOT must generally keep the fingerprints confidential in the same manner required of photographs taken by DOT for operator's licenses. However, as

statutes

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if appropriate, cancel the endorsement (as described in Item 4.)

Although a school bus endorsement is renewed every eight years, DOT must conduct a criminal history search every four years and,

with photographs taken for operator's licenses, DOT may, under certain circumstances and with certain limitations, release copies of the fingerprints to law enforcement for law enforcement purposes.

4. Prohibits DOT from issuing or renewing a school bus endorsement to an applicant who has had more than two traffic accidents resulting in convictions in the 12 months immediately preceding the application.

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

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 ~~obtain~~ <sup>request</sup> a criminal history search of the individual from the Department of Justice (DOJ), ~~obtain~~ the individual's motor vehicle operating record, and obtain a completed background information form from 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.

or adjudicated delinquency

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 that would disqualify the individual from issuance or renewal of a school bus endorsement. However, the person may permit operation of such a vehicle by an individual who would otherwise be disqualified from operation of the vehicle because of a conviction if the individual is employed by the person on the effective date of the bill and has been so employed continuously for at least three years and at least five years have passed since the conviction.

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. Prohibits the person from permitting the individual to operate such a vehicle if the person knows or should know that the individual has had more than two traffic accidents resulting in convictions in the 12 months immediately preceding the proposed operation.

5. ~~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. ~~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 ~~also~~ requires the Department of Public Instruction to prepare and make available informational materials related to the requirements imposed under the bill. ~~(DPI) to create a background information form and~~

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 DOT, within approximately six 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 six months, and delays for approximately six additional months the applicability of its provisions to those individual who are employed by or under

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The bill also requires DOT <sup>in consultation with DOT, DPI, and DHFS,</sup> to study and report on certain information technology aspects related to background investigation of applicants for

bus school bus endorsements.

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:***

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

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

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

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

9 121.555 (3) (a) <sup>Subject to par. (c),</sup> Any person that employs or contracts with an individual, except  
10 an individual who holds a valid school bus endorsement issued under s. 343.12, to  
11 operate a motor vehicle under sub. (1) to transport pupils shall do all of the following  
12 before the individual is initially permitted to operate the vehicle and every 4 years  
13 thereafter:

sub

14 1. Notwithstanding ss. 111.321, 111.322, and 111.335, <sup>request</sup> ~~obtain~~ from the records  
15 maintained by the department of justice a criminal history search of the individual.  
16 Notwithstanding ss. 111.321, 111.322, and 111.335, if the individual who is the  
17 subject of the criminal history search is not a resident of this state or was not a  
18 resident of this state at any time within the 3 years preceding the date of the search,  
19 the person shall make a good faith effort to ~~obtain~~ <sup>request</sup> from any state in which the  
20 individual is a resident or was a resident within the 3 years preceding the date of the

under sub. (b) (b)

1 search information that is equivalent to the criminal history provided by the  
2 department of justice.

3 2. ~~Obtain~~ <sup>Request</sup> the individual's operating record from the department of  
4 transportation under s. 343.24 or, if the operating record has already been obtained  
5 by another entity, from that entity if there are reasonable grounds to believe that the  
6 operating record obtained from that entity is accurate and was furnished by the  
7 department of transportation to that entity not more than 2 months previously.

8 3. Obtain a background information form, prescribed by the department  
9 ~~that is~~ completed by the individual.

10 (b) Any person that employs or contracts with an individual to operate a motor  
11 vehicle under sub. (1) to transport pupils, except an individual who holds a valid  
12 school bus endorsement issued under s. 343.12, may require the individual to be  
13 fingerprinted on 2 fingerprint cards, each bearing a complete set of the individual's  
14 fingerprints. The department of justice may provide for the submission of the  
15 fingerprint cards to the federal bureau of investigation for the purposes of verifying  
16 the identity of the individual fingerprinted and obtaining records of his or her  
17 criminal arrests and convictions. Except as provided in this paragraph, fingerprints  
18 obtained under this paragraph shall be kept confidential.

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

24 1. ~~Subject to par. (a)~~ the person knows or should know that the individual has  
25 a record of conviction or operating privilege revocation that would disqualify the

or adjudicated delinquency

1 person from issuance or renewal of a school bus endorsement under s. 343.12 (7) and  
2 rules promulgated by the department of transportation under s. 343.12 (7) and (8).

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

*is listed in the registry  
under s. 146.40 (4g).*

5 3. The person knows or should know that the individual was involved as the  
6 operator of a motor vehicle in more than 2 traffic accidents, occurring within the 12  
7 months immediately preceding the proposed operation, that resulted in convictions  
8 for any violation of law related to motor vehicle use or operation.

9 (d) A person that employs or contracts with an individual to operate a motor  
10 vehicle under sub. (1) to transport pupils may permit an individual who would  
11 otherwise not be eligible to operate the vehicle under par. (c) 1. because of a conviction  
12 or operating privilege revocation to operate the vehicle if all of the following apply:  
13 1. At least 5 years have elapsed since any conviction or operating privilege  
14 revocation that would cause the individual to be ineligible to operate the vehicle.  
15 2. The individual was employed by or under contract with the person on the  
16 effective date of this subdivision .... [revisor inserts date], and had been so employed  
17 continuously for at least 3 years.

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

19 121.555 (4) (a) An individual who is employed by or under contract with a  
20 person to operate a motor vehicle under sub. (1) to transport pupils shall report to  
21 the person in writing within 10 days of the occurrence of any of the following:

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

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

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

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

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

13           121.555 (5) No individual may operate a motor vehicle under sub. (1)  
 14 <sup>to transport</sup> ~~transporting~~ pupils <sup>if</sup> ~~unless~~ the individual <sup>is ineligible to do so</sup> ~~satisfies all requirements~~ under this  
 15 ~~section for eligibility to operate such a vehicle.~~ <sup>sub. (2)(c) or (3)(c) ✓</sup>

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

17           121.555 (6) <sup>(a)</sup> ~~The department of public instruction~~ shall prepare and make  
 18 available to school districts, private schools, and contractors providing pupil  
 19 transportation services informational materials, in printed or electronic form,  
 20 relating to compliance with this section and establish a method of communication,  
 21 which may include a statewide, toll-free telephone hotline, to respond to questions  
 22 regarding compliance with this section.

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

24           121.555 (7) Any person that employs or contracts with an individual to operate  
 25 a motor vehicle under sub. (1) to transport pupils shall maintain all records and

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1 furnish all information determined necessary by the department to determine  
2 compliance with this section.

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

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

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

9 SECTION 9. 165.825 of the statutes is amended to read:

10 ~~165.825 Information link; department of health and family services.~~

11 ~~The department of justice shall cooperate with the departments of regulation and~~  
12 ~~licensing and, health and family services, and transportation in developing and~~  
13 ~~maintaining a computer linkup to provide access to the information obtained from~~  
14 ~~a criminal history search.~~

15 SECTION 10. 343.12 (2) (intro.) of the statutes is amended to read:

16 343.12 (2) (intro.) The department shall issue or, except as provided in par. (h),  
17 renew a school bus endorsement to a person only if such person meets all of the  
18 following requirements:

19 SECTION 11. 343.12 (2) (intro.) of the statutes, as affected by 2003 Wisconsin  
20 Act 33, is amended to read:

21 343.12 (2) (intro.) Except as provided in sub. (2m), the department shall issue  
22 or, except as provided in par. (h), renew a school bus endorsement to a person only  
23 if such person meets all of the following requirements:

24 SECTION 12. 343.12 (2) (d) of the statutes is repealed.

25 SECTION 13. 343.12 (2) (dm) of the statutes is created to read:

1 343.12 (2) (dm) Notwithstanding ss. 111.321, 111.322, and 111.335, has been  
2 subject to the background investigation specified in sub. (6) (a) and does not have a  
3 record of conviction or operating privilege revocation that disqualifies the person  
4 from issuance or renewal of a school bus endorsement under sub. (7) or rules  
5 promulgated by the department under subs. (7) and (8).

6 SECTION 14. 343.12 (2) (e) of the statutes is repealed.

7 SECTION 15. 343.12 (2) (em) of the statutes is created to read:

8 343.12 (2) (em) <sup>It's</sup> ~~Has~~ not, based upon the person's application and operating  
9 record maintained by the department, been involved as the operator of a motor  
10 vehicle in more than 2 traffic accidents occurring within the 12 months immediately  
11 preceding the application that resulted in convictions for any violation of law related  
12 to motor vehicle use or operation.

listed in  
the registry ✓  
under s. 146.40(4g).

13 SECTION 16. 343.12 (4) (b) of the statutes is amended to read:

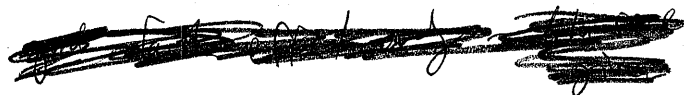
14 343.12 (4) (b) The department ~~may~~ shall, by rule, establish standards for the  
15 employment by an employer of a person under par. (a) 3. as an operator of a school  
16 bus in this state. The rules may require the person to meet the qualifications  
17 contained in sub. (2) or (3) and any rules of the department applicable to residents,  
18 except that the rules shall require the person to meet the qualifications contained in  
19 sub. (2) (dm) <sup>and (em)</sup> The rules shall also require the employer to <sup>perform</sup> ~~satisfy~~ the <sup>actions</sup> requirements  
20 specified in s. 121.555 (3) (a) 1. and 3.

21 SECTION 17. 343.12 (5) of the statutes is renumbered 343.12 (9).

22 SECTION 18. 343.12 (6) of the statutes is created to read:

23 343.12 (6) (a) Notwithstanding ss. 111.321, 111.322, and 111.335, prior to the  
24 initial issuance or renewal of a school bus endorsement, the department shall  
25 conduct a background investigation of the applicant. In conducting the background

1 investigation, the department shall obtain from the records maintained by the  
 2 department of justice a criminal history search of the applicant. If the applicant is  
 3 not a resident of this state or was not a resident of this state at any time within the  
 4 3 years preceding the date of the search, the department shall make a good faith  
 5 effort to obtain from any state in which the applicant is a resident or was a resident  
 6 within the 3 years preceding the date of the search information that is equivalent to  
 7 the criminal history provided by the department of justice. The department shall  
 8 record in the applicant's file specified in s. 343.23 (2) (a) that the background  
 9 investigation was made, the date on which it was completed, and the results of the  
 10 background investigation.



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

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17 SECTION 19. 343.12 (7) of the statutes is created to read:

18 343.12 (7) (a) Notwithstanding ss. 111.321, 111.322, and 111.335, the  
 19 department may not issue or renew a school bus endorsement if ~~the applicant has~~  
 20 ~~been convicted~~, within the time period specified by the department by rule, but not  
 21 less than 2 years immediately preceding the date of application, <sup>the applicant has been</sup> of a violation of any <sup>convicted</sup>  
 22 of the following state laws or any local ordinance in conformity with any of the  
 23 following state laws or any federal law or law of a federally recognized American  
 24 Indian tribe or band in this state or law of another jurisdiction that would be a

1 violation of any of the following state laws if the person had committed the offense  
2 in this state and been convicted of the offense under the laws of this state:

- 3 1. Reckless driving under s. 346.62.
- 4 2. Operating a motor vehicle while operating privileges are suspended or  
5 revoked or while the operator is disqualified under s. 343.44 (1) (a), (b), or (d).
- 6 3. Second-degree reckless homicide under s. 940.06 if the offense results from  
7 the operation of a motor vehicle.
- 8 4. Homicide by intoxicated use of a vehicle under s. 940.09 (1).
- 9 5. Homicide by negligent operation of a vehicle under s. 940.10.
- 10 6. Injury by intoxicated use of a vehicle under s. 940.25 (1).
- 11 7. Causing injury by operating a motor vehicle under the influence of an  
12 intoxicant or other drug under s. 346.63 (2).
- 13 8. Causing injury by operating a commercial motor vehicle with a prohibited  
14 alcohol concentration under s. 346.63 (6).
- 15 9. Operating a motor vehicle under the influence of an intoxicant or other drug  
16 or with a prohibited alcohol concentration under s. 346.63 (1).
- 17 10. Operating a commercial motor vehicle with a prohibited alcohol  
18 concentration under s. 346.63 (5).
- 19 11. Operating a motor vehicle while under the legal drinking age with a  
20 prohibited alcohol concentration under s. 346.63 (2m).
- 21 12. Failure to stop and render assistance at the scene of a motor vehicle  
22 accident under s. 346.67 (1) (c).
- 23 13. Fleeing from or attempting to elude a traffic officer under s. 346.04 (3).
- 24 14. Operating a commercial motor vehicle or being on duty time while having  
25 any alcohol concentration, within 4 hours of consuming alcohol or being intoxicated,

1 or while possessing alcohol under s. 346.63 (7) (a) if the applicant has been previously  
2 convicted of any offense under s. 346.63 (7) (a) or any local ordinance in conformity  
3 with s. 346.63 (7) (a) or any federal law or law of a federally recognized American  
4 Indian tribe or band in this state or law of another jurisdiction that would be a  
5 violation of s. 346.63 (7) (a) if the applicant had committed the offense in this state  
6 and been convicted of the offense under the laws of this state.

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

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

- 23 1. First-degree intentional homicide under s. 940.01.
- 24 2. First-degree reckless homicide under s. 940.02.
- 25 3. Felony murder under s. 940.03.

- 1 4. Second-degree intentional homicide under s. 940.05.
- 2 5. Assisting suicide under s. 940.12.
- 3 6. Felony battery under s. 940.19 (2), (3), (4), (5), or (6).
- 4 7. Sexual exploitation by a therapist under s. 940.22 (2).
- 5 8. Felony sexual assault under s. 940.225 (1), (2), or (3).
- 6 9. Abuse of a vulnerable adult under circumstances constituting a felony under  
7 s. 940.285 (2).
- 8 10. Abuse of a resident of a penal facility under s. 940.29.
- 9 11. Abuse or neglect of a patient or resident under circumstances constituting  
10 a felony under s. 940.295.
- 11 12. Sexual assault of a child under s. 948.02 (1) or (2).
- 12 13. Engaging in repeated acts of sexual assault of the same child under s.  
13 948.025.
- 14 14. Physical abuse of a child under s. 948.03 (2).
- 15 15. Sexual exploitation of a child under s. 948.05.
- 16 16. Causing a child to view or listen to sexual activity under s. 948.055.
- 17 17. Incest with a child under s. 948.06.
- 18 18. Child enticement under s. 948.07.
- 19 19. Use of a computer to facilitate a child sex crime under s. 948.075.
- 20 20. Soliciting a child for prostitution under s. 948.08.
- 21 21. Sexual assault of a student by a school instructional staff person under s.  
22 948.095.
- 23 22. Felony exposing a child to harmful material or harmful descriptions or  
24 narrations under s. 948.11 (2) (a) or (am).
- 25 23. Possession of child pornography under s. 948.12.

- 1           24. Child sex offender working with children under s. 948.13 (2).
- 2           25. Neglecting a child under circumstances constituting a felony under s.
- 3           948.21.
- 4           26. Abduction of a child under s. 948.30.
- 5           27. Any felony crime in the commission of which a motor vehicle is used other
- 6           than those crimes specified in this paragraph or par. (b).

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7           (d) Notwithstanding pars. (a) to (c), the department may renew the school bus  
 8           endorsement of an applicant who would otherwise be disqualified because of any  
 9           conviction for a crime or other offense specified by the department under this  
 10          subsection if all of the following apply:

- 11           1. At least 5 years have elapsed since any conviction for a crime or other offense
- 12           that would cause the applicant to be disqualified from renewal of a school bus
- 13           endorsement under this subsection.
- 14           2. The applicant held a valid school bus endorsement issued under s. 343.12,
- 15           2001 stats., on the effective date of this subdivision .... [revisor inserts date].

16           **SECTION 20.** 343.12 (8) of the statutes is created to read:

17           343.12 (8) (a) The department may promulgate rules specifying crimes or other  
 18           offenses, in addition to those specified in sub. (7), the conviction for which  
 19           disqualifies the applicant from initial issuance or renewal of a school bus  
 20           endorsement and, for each such crime or offense, the time period within which the  
 21           disqualification applies. The time period may be permanent but may not be less than  
 22           the time period specified in sub. (7) (a) to (c) for a conviction for a crime or other  
 23           offense specified in sub. (7) (a) to (c). The disqualifying crimes or other offenses  
 24           specified by the department shall apply notwithstanding ss. 111.321, 111.322, and  
 25           111.335.

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

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

5 2. Procedures for conducting criminal background checks under sub. (6) (a).

6 SECTION 21. 343.20 (1) (d) of the statutes is renumbered 343.20 (1) (d) 1.

7 SECTION 22. 343.20 (1) (d) 2. ~~and 3.~~ of the statutes <sup>is</sup> ~~are~~ created to read:

8 343.20 (1) (d) 2. The department shall cancel an operator's license that is  
9 endorsed for the operation of school buses under s. 343.12, regardless of the license  
10 expiration date, upon receiving a record of conviction showing that the person has  
11 been convicted of a crime or other offense specified under s. 343.12 (7) or rules of the  
12 department promulgated under s. 343.12 (7) and (8).

13 3. The department shall cancel an operator's license that is endorsed for the  
14 operation of school buses under s. 343.12, regardless of the license expiration date,  
15 upon receiving a record of conviction showing that the person has been involved as  
16 the operator of a motor vehicle in a traffic accident resulting in a conviction for any  
17 violation of law related to motor vehicle use or operation if, within the 12 months  
18 immediately preceding the accident giving rise to the conviction, the person was  
19 involved as the operator of a motor vehicle in a traffic accident that resulted in a  
20 conviction for any violation of law related to motor vehicle use or operation. This  
21 subdivision does not prevent the person from applying for issuance of a school bus  
22 endorsement after the person satisfies the requirements of s. 343.12 (2) (em).

23 SECTION 23. 343.23 (2) (a) (intro.) of the statutes is amended to read:

24 343.23 (2) (a) (intro.) The department shall maintain a file for each licensee or  
25 other person containing the application for license, permit or endorsement, a record



1 of reports or abstract of convictions, the status of the person's authorization to  
2 operate different vehicle groups, a record of any out-of-service orders issued under  
3 s. 343.305 (7) (b) or (9) (am), a record of any background investigation as specified  
4 in s. 343.12 (6) (a) <sup>or (d)</sup> and a record of any reportable accident in which the person has  
5 been involved, including specification of any type of license and endorsements issued  
6 under this chapter under which the person was operating at the time of the accident  
7 and an indication whether or not the accident occurred in the course of any of the  
8 following:

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

11 343.23 (2) (a) (intro.) The department shall maintain a file for each licensee or  
12 other person containing the application for license, permit or endorsement, a record  
13 of reports or abstract of convictions, any notice received from the federal  
14 transportation security administration concerning the person's eligibility for an "H"  
15 endorsement specified in s. 343.17 (3) (d) 1m., the status of the person's authorization  
16 to operate different vehicle groups, a record of any out-of-service orders issued  
17 under s. 343.305 (7) (b) or (9) (am), a record of any background investigation as  
18 specified in s. 343.12 (6) (a) <sup>or (d)</sup> and a record of any reportable accident in which the  
19 person has been involved, including specification of any type of license and  
20 endorsements issued under this chapter under which the person was operating at  
21 the time of the accident and an indication whether or not the accident occurred in the  
22 course of any of the following:

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

24 **343.237 (title) Access to license and identification card photographs**  
25 **and fingerprints.**

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

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

8           343.237 (3) (intro.) The department shall provide a Wisconsin law enforcement  
9           agency or a federal law enforcement agency with a copy of a photograph taken on or  
10           after September 1, 1997, of an applicant under s. 343.14 (3) or 343.50 (4), or a printed  
11           or electronic copy of a fingerprint taken of an applicant under s. 343.12<sup>(6)(b)</sup>~~(2)~~ if  
12           the department receives a written request on the law enforcement agency's  
13           letterhead that contains all of the following:

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

15           343.237 (3) (a) The name of the person whose photograph or fingerprint is  
16           requested.

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

19           343.237 (3) (c) (intro.) A statement signed by a division commander or higher  
20           authority within the law enforcement agency that the photograph or fingerprint is  
21           requested for any of the following purposes:

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

1           343.237 (3) (d) ~~A~~ For requests for photographs only, a statement that the  
2 request is not made solely to obtain a photograph for use as part of a photo lineup or  
3 photo array.

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

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

14           (6) For each copy of a photograph or fingerprint provided under sub. (3) or (4),  
15 the department shall record and maintain the written request for the copy of the  
16 photograph or fingerprint and may not disclose any record or other information  
17 concerning or relating to the written request to any person other than a court, district  
18 attorney, county corporation counsel, city, village, or town attorney, law enforcement  
19 agency, the applicant or identification card holder or, if the applicant or identification  
20 card holder is under 18 years of age, his or her parent or guardian.

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

23           (8) (a) Any law enforcement agency that receives a photograph or fingerprint  
24 provided to a law enforcement agency under this section shall keep the copy of the  
25 photograph or fingerprint confidential and may disclose it only if disclosure is

1 necessary to perform a law enforcement function and the person to whom the copy  
2 of the photograph or fingerprint is disclosed agrees to comply with par. (c).

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

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

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

14 ~~SECTION 30. 343.28 (3m) of the statutes is created to read:~~

15 ~~343.28 (3m) If a person who holds a valid school bus endorsement issued under~~  
16 ~~s. 343.12 is convicted of any crime or other offense specified under s. 343.12 (7) or~~  
17 ~~rules of the department promulgated under s. 343.12 (7) and (8), the clerk of the~~  
18 ~~court, or the justice, judge, or magistrate if the court has no clerk, shall, as provided~~  
19 ~~in s. 345.48, forward to the department the record of conviction.~~

20 **SECTION 31. Nonstatutory provisions.**

21 (1) The department of transportation shall submit in proposed form the rules  
22 required under section 343.12 (7) and (8) of the statutes, as created by this act, to the  
23 legislative council staff under section 227.15 (1) of the statutes no later than the first  
24 day of the 7th month beginning after the effective date of this subsection.

*auto. ref. "2"*

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

*insert 21-13*

**SECTION 32. Initial applicability.**

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

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

21 (3) This act first applies to applications for initial issuance or renewal of a  
 22 school bus endorsement submitted to the department of transportation on the  
 23 effective date of this subsection.  
 24

auto ref.  
"2"

1 SECTION 33. Effective dates. This act takes effect on the first day of the 7th  
2 month beginning after publication, except as follows:

auto ref.  
"3"

3 (1) The treatment of section 343.12 (8) of the statutes and SECTION 31 (1) and  
4 of this act take effect on the day after publication.

(3)  
~~(2)~~

auto ref. SEC.  
24

5 (2) The treatment of section 343.23 (2) (a) (intro.) (by SECTION 11) of the statutes  
6 takes effect on November 1, 2003.

~~7~~

8 (3) The treatment of section 343.12 (2) (intro.) (by SECTION 29) of the statutes  
9 takes effect on September 30, 2005.

(END)

auto. ref.  
SEC. 11

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2317/P3ins  
ARG:.....

**INSERT ANAL-A:** ✓

*NO* 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).

**INSERT ANAL-B:** ✓

*NO* 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 to or from school.

**INSERT 5-6:** ✓

**SECTION 1.** 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 to or from the school under sub. (2) (a).

**INSERT 8-22:** ✓

(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).

**INSERT 11-16:** ✓

(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).

(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 shall obtain from

*of transportation*

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.

**INSERT 15-6:**

(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.

**INSERT 21-13:**

<sup>#</sup>(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) 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 publication of this act~~, 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.

*nonstat: sub*  
*auto. ref. "3"*

*after the effective date of this subsection*



**Gary, Aaron**

**From:** Gary, Aaron  
**Sent:** Monday, October 13, 2003 10:19 AM  
**To:** Kiel, Joyce; Van Ess, Thomas (Legislature)  
**Cc:** Grant, Peter; Hurley, Peggy  
**Subject:** RE: Comments on LRB-2317/P3

Tom,

I have provisionally redrafted this to a /P4 and will provide it to co-drafter Grant, who has not reviewed it yet, but before I proceed further I want to make sure that the changes meet your expectations. I have a few specific questions and comments, which appear after each numbered item in the e-mail below. Please get back to me as to whether you want anything changed from what I have indicated below. Thanks. Aaron

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Legislative Reference Bureau  
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aaron.gary@legis.state.wi.us

-----Original Message-----

**From:** Kiel, Joyce  
**Sent:** Tuesday, September 30, 2003 2:54 PM  
**To:** Van Ess, Thomas (Legislature)  
**Cc:** Gary, Aaron  
**Subject:** Comments on LRB-2317/P3

Tom:

I have reviewed LRB-2317/P3 and have the following comments:

1. Page 5, line 10, requires the disclosure of driver names, upon request, under "sub. (2) (a)." However, sub. (2) (a) is just school board owned vehicles. I think that leaves out most of the school buses and alternative vehicles because, I think, most of them are not owned by school boards. If the intent is to also let a parent request the name of the driver of a contracted school bus or alternative vehicle, then it appears that page 5, line 10, also should refer to sub. (2) (b).

2. Page 5, line 20 through page 6, line 5; and page 10, lines 15 to 20, concern the issue discussed in the earlier email when Aaron asked which option regarding criminal background checks was requested at the 8/28/03 meeting for non-Wisconsin residents or arrivals to Wisconsin within the past 3 years, that is, requiring a good faith effort to obtain the records from the other state or letting the employer or contractor or DOT decide when it would be appropriate to request the records from the other state. As I stated in my 9/19/02 email to you, I thought the discussion was to let the employer or contractor or DOT decide. As my email to you mentioned, that would be different from the approach in the HSV draft. For the /P4, Aaron said he was planning to change this unless you instruct him otherwise. (If it is retained, then page 6, line 2, should refer to a good faith effort to "obtain" the records, rather than a good faith effort to "request" the records--See page 10, line 18.)

[Gary, Aaron] On this issue, I have redrafted to let the employer or contractor or DOT decide. Accordingly, I have deleted what appears as p. 5 lines 20-21 through p. 6 lines 1 to 5 and p. 10 mid line 15 to mid line 20. Each entity may in its discretion do an out-of-state background check without specific statutory authority if it believes such a check is warranted.

OK

*He of Tom Van Ess 10/13*  
*\* make sure it applies all alt. vehicles & school buses*

3. Page 8, line 9, seems to need an exception for the individuals who are permitted to drive under sub. (2) (cm).

4. Page 9, line 19; page 15 lines 9 to 17; page 16, line 3; (and perhaps other places) also should refer to a record of adjudication of delinquency, not just a conviction, in order to be consistent with page 15, lines 3 to 7. Also, page 3 in the analysis discussing the "S" endorsement, should mention adjudications of delinquency in a manner similar to the mention of adjudications of delinquency on page 4 (first line) regarding alternative vehicles inasmuch as this would be a significant departure from current law.

5. Page 10, lines 7 to 8, requires the employer to check for criminal background for non-Wisconsin residents operating a school bus. It is not clear what penalty applies if the employer fails to do so. [Gary, Aaron] The draft does not include a penalty for the employer of the out-of-state school bus driver, and no existing penalty covers the situation. I note that, in the course of this draft, it was determined that no penalty should be imposed on the similarly-situated school district and school bus contractor providing transportation through alternative vehicles. If you want to impose a penalty, we could use the penalties under s. 343.12 (5), but this seems pretty severe - they make offenses criminal and may include jail time. Or we could create a less penalty. Do you want any penalty and, if so, what? Right now, I have left it without a penalty. OK

6. Page 11, lines 8 to 12, requires DOT to do the DOJ record search four years after initial issuance or renewal of the "S" endorsement. DOT staff indicated at the meeting that DOT does a DOJ record search every time there is activity on a license with an "S" endorsement, like a change in address. (I don't know the exact mechanism, but I think the DOT computer periodically (like weekly?) asks the computer at DOJ to run the names of all the "S" endorsement licenses on which there has been activity since the last computer run was made.) If DOT has just done a DOJ run on someone (perhaps because of an address change), do you want to require another check at exactly four years, or do you want an exception if a run was done within a certain time period before the four-year recheck? (If so, what time period?) [Gary, Aaron] Do you want an exception and, if so, for checks done how long before? Based upon our conversation, I haven't included an exception since you wanted to make sure checks were done a minimum of every 4 years. I note that an exception would have a spill-over effect in that, if you allow an exception if DOT has done a check, for example, within a year previously, that means the person will thereafter go up to 5 years and not 4 before the next check.

7. Page 11, lines 16 to 17, requires no issuance or renewal of an "S" endorsement if there have been certain convictions within the time period specified by DOT by rule, but not "less than 2 years immediately preceding the date of application". Page 13, lines 4 to 5, includes the phrase for revocation for refusal for chemical testing "within 2 years immediately preceding the date of application". Page 13, lines 12 to 13, refers to convictions for certain crimes during a period "not less than 5 years immediately preceding the date of application." The phrase "immediately preceding the date of application" seems problematic because if the conviction were after the date of application (for example, 3 years after issuance of the "S" endorsement), the person wouldn't necessarily be disqualified. It appears that the provisions should refer to the appropriate number of years (which DOT can increase by rule) on a rolling timetable from the present when the check is occurring, not just the period before application. [Gary, Aaron] I don't believe the language is problematic. The language refers to a check done prior to issuing or renewing a license, so it is customary to speak of events up to the time of application for issuance or renewal, since events after the issuance or renewal cannot affect whether the issuance or renewal occurs. The concern about events occurring later is covered by s. 343.20 relating to cancellation after issuance or renewal. See response to item 10. below for more. I think it would be more problematic to use a less definite point in time to calculate from.

8. Page 15, lines 3 to 7, provides that DOT may not issue or renew an "S" endorsement if the person has been adjudicated delinquent on or after the person's 12th birthday for any of the specified offenses or offenses specified by DOT rule. However, in contrast to convictions, no time period for adjudication of delinquency is specified. It appears that it should be.

9. Page 15 line 22, requires DOT to promulgate administrative rules to conduct the criminal background check under s. 343.12 (6) (a). Senator Lazich may want to consider if requiring rulemaking for this is appropriate as it is not clear what DOT would need to specify by rule beyond what is in the statutes. (Even if this provision were omitted, DOT would have sufficient authority to promulgate a rule for procedures on this if DOT thought it necessary.) [Gary, Aaron] I have not made any change with respect to this item.

*pull this out*

10. Page 16, line 3, consideration should be given to requiring the conviction or adjudication of delinquency within the time periods specified in the statutes or rules. [Gary, Aaron] I cleaned this language up a little, but I don't think it is necessary to specify time periods here, though it may be a policy decision. This provision relates to cancellation of the license and comes into play only for existing license holders. Thus, in determining whether to issue or renew the license, DOT runs a criminal history and only issues or renews if the person has a clean record in terms of disqualifying offenses. Any disqualifying conviction after that criminal history check would occur while the person is holding the license, so in essence it wouldn't matter what the "look back" period is. There is a potential gap where a person could obtain a license, be convicted a few months later, not get caught for 3 years, and thus be holding a license for 3 years while having an undetected disqualifying offense that, when the look back period is applied, would be long enough ago so that the person could still obtain renewal or get a new license. But to draft the cancellation provision to allow an exception for such persons basically rewards them for hiding the disqualifying conviction when it occurs and for not getting caught - so I did not see a reason to draft the language to allow for this unusual possibility.

11. Page 21, lines 15 to 16, is not clear as to how the treatment of s. 343.23 (2) (a) (intro.) (SECTION 24) takes effect 11/1/03 when the material being added to s. 343.23 (2) doesn't go into effect until later.

12. Did Senator Lazich want to include anything about checking the sex offender registry or being disqualified if the person is on the sex offender registry? (I thought there was some discussion of that at the 8/28 meeting, but /P3 just refers to having the person indicate on the background form or application whether he or she is on the DHFS client abuse/neglect registry.) [Gary, Aaron] Unlike the inclusion of disqualifying crimes and abuse registry listing, I don't believe there was any consensus or directive at the meeting to include sex offender registry.

*rule can provide for other registries of state*

13. I thought reference had been made at the 8/28 meeting to allowing conditional employment for alternative vehicle drivers (like under the caregiver background check law (ss. 48.685 (4m) (c) and 50.065 (4m) (c), Stats.), because DOJ said it takes a little longer to turn around the paper requests for a background check (as opposed to an electronic check). (Your decision on this may also depend on whether the check of out-of-state records is required or optional, as discussed above.) [Gary, Aaron] This is addressed in the draft. From the "/P2" draft to the "/P3" draft, I changed the word "obtain" the background check to the word "request" the background check; this was done to allow employment after the request pending receipt of the background check results if the other prohibitions on employment did not also apply.

*age y  
exot  
or  
denied*

14. I thought reference had been made at the meeting to allowing use of another entity's recent criminal background check under certain circumstances--patterned after ss. 48.685 (2) (bg) and 50.065 (1) (bg), Stats., under the caregiver background check law. (/P3 does this only for the operating record (page 6, lines 6 to 10.) [Gary, Aaron] I think this idea was abandoned. If I understand what this refers to, there was discussion that, for example, DPI does its own background checks on teachers so that if a teacher drives an alternative vehicle, there shouldn't have to be another background check. However, the discussion turned to the fact that the background check is only as good as the similarity in what it is checking for. The disqualifying crimes for being a teacher are not the same as those for being a driver. A teacher may have a background check in year 1, have an OWI but no conviction for a crime that would disqualify the person from being a teacher, and pass the check and receive the license. In year 2, if the teacher wanted to drive a vehicle, we couldn't just say, oh, the person has had a background check and passed - a background check in year 2 for the distinct purpose of driving and not teaching would yield the disqualifying OWI conviction and the person would actually not be able to drive despite the prior passing background check. I believe the end result of the discussion was that there was not an effective consistent method for getting around the fact that the background check has to be done in light of the list of disqualifying convictions that bear upon the employment, and that there was not a more efficient method than to just do the background check again.

Tom, on the last few items, I am not sure that resolution was reached, but I did want to highlight the issues for consideration.

Let me know if you have any questions or if you would like me to review the next draft.

Regards,

Joyce L. Kiel, Senior Staff Attorney  
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-----Original Message-----

**From:** Gary, Aaron  
**Sent:** Friday, September 19, 2003 3:14 PM  
**To:** Kiel, Joyce  
**Subject:** LRB-2317/P3

<< File: 03-2317/P3 >>

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10/10

file w/ Tom

• rule: include ch. 940 & 944 crimes

\* • require DPI, ~~in~~ in consultation w/ DOT,  
to study feasibility of cameras on school  
buses

10/13

He w/ Tom Van ~~ESS~~

- he spoke w/ Bob Christensen at

School bus assn → wants

to keep in part requiring DOT

to do FBI check on anybody who hasn't

lived in the state for 3 yrs.

→ increase "S" fee to \$12.50 to

offset this

10/13

- no, make it only a \$5 increase

Hler a/ Tom

10/13

\* **DPI**: want to make sure it covers  
all transportation to school functions  
not just to & from schools

\* • name release → to ad from  
any school function, not  
just to ad from school

→ • add stuff from law revision  
bill being sent over ⇒ sending  
(fingerprints)

\* ✓ - school board or school district → #5  
- same fee as agency

- ~~(2) p. 8, sub. (7)~~  
use standard language

3 gov. #52 →

## Gary, Aaron

---

**From:** Van Ess, Thomas (Legislature)  
**Sent:** Monday, October 13, 2003 1:46 PM  
**To:** Gary, Aaron  
**Subject:** RE: school district search fee

Excellent Aaron. Thanks.

*Thomas C. Van Ess*  
*Chief of Staff*  
*Office of Senator Mary A. Lazich*

-----Original Message-----

**From:** Gary, Aaron  
**Sent:** Monday, October 13, 2003 1:45 PM  
**To:** Van Ess, Thomas (Legislature)  
**Subject:** school district search fee

Tom,

The statutory fee (and statutory language) for school districts and DOT in doing the background check is exactly the same. For all governmental agencies, the fee is \$5 (see s. 165.82 (1) (ag)). So there shouldn't be any concern about the school district fee being increased and DOT's fee not being, since they both operate under the same statutory fee provision. Accordingly, I did not include treatment of this issue in the draft. Aaron

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From Tom  
received 10/13

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Aaron, see Page two

1 AN ACT *to amend* 118.19 (10) (c) of the statutes; **relating to:** allowing the use  
2 of technologies other than fingerprint cards for background checks related to  
3 teacher licensing (suggested as remedial legislation by the Department of  
4 Public Instruction).

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***Analysis by the Legislative Reference Bureau***

Currently, as part of the background check for teacher licensing, the Department of Public Instruction must fingerprint certain applicants using fingerprint cards. This bill allows the use of technologies other than fingerprint cards for the fingerprinting.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Public Instruction and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 SECTION 1. 118.19 (10) (c) of the statutes is amended to read:

2 118.19 (10) (c) If the person under par. (b) is a nonresident, or if the state  
3 superintendent determines that the person's employment, licensing or state court  
4 records provide a reasonable basis for further investigation, the state  
5 superintendent shall require the person to be fingerprinted on 2 fingerprint cards,  
6 each bearing a complete set of the person's fingerprints, of by other technologies  
7 approved by law enforcement agencies. The department of justice may provide for  
8 the submission of the fingerprint cards to the federal bureau of investigation for the  
9 purposes of verifying the identity of the person fingerprinted and obtaining records  
10 of his or her criminal arrest and conviction.

11

(END)

*add this for fingerprinting*



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-2317/███ P4  
ARG&PG:kmg:ch

Needed  
by 10/15  
end of day

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen. Cat.

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

studying the use of video cameras  
on school buses,

- 1 exemption from emergency rule procedures and from rule-making procedures,  
2 granting rule-making authority, and providing penalties.

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***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 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 the results of the investigation in DOT's files. 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

*or adjudicated delinquent for*

*The bill requires DOT to ~~obtain~~ <sup>conduct</sup> this FBI fingerprint search if the applicant is not, or was not at any time in the preceding three years, a resident of this state.*

applicant, 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 fingerprints to law enforcement for law enforcement purposes.

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

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 the Department of Justice (DOJ), request the individual's motor vehicle operating record, and obtain a completed background information form from 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

The bill requires the person to conduct this FBI fingerprint search if the individual is not, or was not at any time in the preceding three years, a resident of this state.

or adjudication  
of delinquency

use  
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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.

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 to or from school.

The bill requires DOT, within approximately six 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 six 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.

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

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

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

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

8           121.52 (5) Upon written request of a parent or guardian of a pupil for whom  
9 the school district provides transportation, the school board shall disclose the name  
10 of each driver who transports the pupil ~~by or from the school~~ under sub. (2) (a). or (b) ✓

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

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

13           121.555 (3) (a) Subject to par. (c), any person that employs or contracts with  
14 an individual, except an individual who holds a valid school bus endorsement issued  
15 under s. 343.12, to operate a motor vehicle under sub. (1) to transport pupils shall  
16 do all of the following before the individual is initially permitted to operate the  
17 vehicle and every 4 years thereafter:

18           1. Notwithstanding ss. 111.321, 111.322, and 111.335, request from the records  
19 maintained by the department of justice a criminal history search of the individual.  
20 Notwithstanding ss. 111.321, 111.322, and 111.335, if the individual who is the  
21 subject of the criminal history search is not a resident of this state or was not a

*obtain the individual's fingerprints and submit them to the department of justice for submission to the federal bureau of investigation as provided under par. (b).*

1 resident of this state at any time within the 3 years preceding the date of the search,  
2 the person shall make a good faith effort to request from any state in which the  
3 individual is a resident or was a resident within the 3 years preceding the date of the  
4 search information that is equivalent to the criminal history provided by the  
5 department of justice.

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

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

13 (b) <sup>Subject to par. (a) 1.)</sup> Any person that employs or contracts with an individual to operate a motor  
14 vehicle under sub. (1) to transport pupils, except an individual who holds a valid  
15 school bus endorsement issued under s. 343.12, may require the individual to be  
16 fingerprinted on 2 fingerprint cards, each bearing a complete set of the individual's  
17 fingerprints. <sup>or by other technologies approved by law enforcement agencies</sup> The department of justice may provide for the submission of the  
18 fingerprint cards <sup>or fingerprints by other technologies</sup> to the federal bureau of investigation for the purposes of verifying  
19 the identity of the individual fingerprinted and obtaining records of his or her  
20 criminal arrests and convictions. Except as provided in this paragraph, fingerprints  
21 obtained under this paragraph shall be kept confidential.

22 (c) Notwithstanding ss. 111.321, 111.322, and 111.335, no person that employs  
23 or contracts with an individual, except an individual who holds a valid school bus  
24 endorsement issued under s. 343.12, to operate a motor vehicle under sub. (1) to



1 transport pupils may permit the individual to operate such a vehicle if any of the  
2 following applies:

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

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

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

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

13 121.555 (4) (a) An individual who is employed by or under contract with a  
14 person to operate a motor vehicle under sub. (1) to transport pupils shall report to  
15 the person in writing within 10 days of the occurrence of any of the following:

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

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

**SECTION 5**

1 and rules promulgated by the department of transportation under s. 343.12 (7) and  
2 (8).

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

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

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

8 121.555 (5) No individual may operate a motor vehicle under sub. (1) to  
9 transport pupils if the individual is ineligible to do so under sub. (2) (c) <sup>and (cm)</sup> or (3) (c). <sub>under sub.</sub>

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

11 121.555 (6) (a) The department shall prepare and make available to school  
12 districts, private schools, and contractors providing pupil transportation services  
13 informational materials, in printed or electronic form, relating to compliance with  
14 this section.

15 (b) In consultation with persons that employ or contract with individuals to  
16 operate motor vehicles under sub. (1), the department shall prescribe a background  
17 information form for purposes of sub. (3). The form shall require an individual under  
18 sub. (3) (a) to specify whether the individual is listed in the registry under s. 146.40  
19 (4g).

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

21 121.555 (7) Any person that employs or contracts with an individual to operate  
22 a motor vehicle under sub. (1) to transport pupils shall maintain all records and  
23 furnish all information determined necessary ~~by the department~~ to determine  
24 compliance with this section.

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

1 121.555 (8) (a) Any individual who violates sub. (4) (a) or (5) may be required  
2 to forfeit not more than \$100 for the first offense and not more than \$200 for each  
3 subsequent offense.

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

6 SECTION 10. 343.12 (2) (intro.) of the statutes is amended to read:

7 343.12 (2) (intro.) The department shall issue or, except as provided in par. (h),  
8 renew a school bus endorsement to a person only if such person meets all of the  
9 following requirements:

10 SECTION 11. 343.12 (2) (intro.) of the statutes, as affected by 2003 Wisconsin  
11 Act 33, is amended to read:

12 343.12 (2) (intro.) Except as provided in sub. (2m), the department shall issue  
13 or, except as provided in par. (h), renew a school bus endorsement to a person only  
14 if such person meets all of the following requirements:

15 SECTION 12. 343.12 (2) (d) of the statutes is repealed.

16 SECTION 13. 343.12 (2) (dm) of the statutes is created to read:

17 343.12 (2) (dm) Notwithstanding ss. 111.321, 111.322, and 111.335, has been  
18 subject to the background investigation specified in sub. (6) (a) and does not have a  
19 record of conviction or operating privilege revocation that disqualifies the person  
20 from issuance or renewal of a school bus endorsement under sub. (7) or rules  
21 promulgated by the department under subs. (7) and (8).

22 SECTION 14. 343.12 (2) (e) of the statutes is repealed.

23 SECTION 15. 343.12 (2) (em) of the statutes is created to read:

24 343.12 (2) (em) Is not, based upon the person's application, listed in the registry  
25 under s. 146.40 (4g).

or of adjudication of delinquency

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1 SECTION 16. 343.12 (4) (b) of the statutes is amended to read:

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

9 SECTION 17. 343.12 (5) of the statutes is renumbered 343.12 (9).

10 SECTION 18. 343.12 (6) of the statutes is created to read:

11 343.12 (6) (a) Notwithstanding ss. 111.321, 111.322, and 111.335, prior to the  
12 initial issuance or renewal of a school bus endorsement, the department shall  
13 conduct a background investigation of the applicant. In conducting the background  
14 investigation, the department shall obtain from the records maintained by the  
15 department of justice a criminal history search of the applicant. If the applicant is  
16 not a resident of this state or was not a resident of this state at any time within the

17 3 years preceding the date of the search, the department shall make a good faith  
18 effort to obtain from any state in which the applicant is a resident or was a resident  
19 within the 3 years preceding the date of the search information that is equivalent to  
20 the criminal history provided by the department of justice. The department shall  
21 record in the applicant's file specified in s. 343.23 (2) (a) that the background  
22 investigation was made, the date on which it was completed, and the results of the  
23 background investigation.

24 (b) <sup>subject to par. (a),</sup> ~~The~~ department may require an applicant for the initial issuance or renewal  
25 of a school bus endorsement to be fingerprinted on 2 fingerprint cards, each bearing

*obtain the applicant's fingerprints and submit them to the department of justice for  
submission to the federal bureau of investigation as provided under par. (b).*

**SECTION 18**

*or by other technologies approved by law enforcement agencies*

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a complete set of the person's fingerprints. The department of justice may provide

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for the submission of the fingerprint cards *or fingerprints by other technologies* to the federal bureau of investigation for

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the purposes of verifying the identity of the person fingerprinted and obtaining

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records of his or her criminal arrests and convictions.

5

(c) The department shall require an applicant for an endorsement under this

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section to specify on the application whether the applicant is listed in the registry

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under s. 146.40 (4g).

8

(d) Notwithstanding ss. 111.321, 111.322, and 111.335, 4 years after the initial

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issuance or renewal of a school bus endorsement, the department of transportation

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shall obtain from the records maintained by the department of justice a criminal

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history search of the person to whom the school bus endorsement is issued and, if

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applicable, take action under s. 343.20 (1) (d) 2.

13

**SECTION 19.** 343.12 (7) of the statutes is created to read:

14

343.12 (7) (a) Notwithstanding ss. 111.321, 111.322, and 111.335, the

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department may not issue or renew a school bus endorsement if, within the time

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period specified by the department by rule but not less than 2 years immediately

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preceding the date of application, the applicant has been convicted of a violation of

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any of the following state laws or any local ordinance in conformity with any of the

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following state laws or any federal law or law of a federally recognized American

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Indian tribe or band in this state or law of another jurisdiction that would be a

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violation of any of the following state laws if the person had committed the offense

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in this state and been convicted of the offense under the laws of this state:

23

1. Reckless driving under s. 346.62.

24

2. Operating a motor vehicle while operating privileges are suspended or

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revoked or while the operator is disqualified under s. 343.44 (1) (a), (b), or (d).

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

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

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

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

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

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

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

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

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

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

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

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

1 violation of s. 346.63 (7) (a) if the applicant had committed the offense in this state  
2 and been convicted of the offense under the laws of this state.

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

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

- 19 1. First-degree intentional homicide under s. 940.01.
- 20 2. First-degree reckless homicide under s. 940.02.
- 21 3. Felony murder under s. 940.03.
- 22 4. Second-degree intentional homicide under s. 940.05.
- 23 5. Assisting suicide under s. 940.12.
- 24 6. Felony battery under s. 940.19 (2), (3), (4), (5), or (6).
- 25 7. Sexual exploitation by a therapist under s. 940.22 (2).

- 1           8. Felony sexual assault under s. 940.225 (1), (2), or (3).
- 2           9. Abuse of a vulnerable adult under circumstances constituting a felony under  
3 s. 940.285 (2).
- 4           10. Abuse of a resident of a penal facility under s. 940.29.
- 5           11. Abuse or neglect of a patient or resident under circumstances constituting  
6 a felony under s. 940.295.
- 7           12. Sexual assault of a child under s. 948.02 (1) or (2).
- 8           13. Engaging in repeated acts of sexual assault of the same child under s.  
9 948.025.
- 10          14. Physical abuse of a child under s. 948.03 (2).
- 11          15. Sexual exploitation of a child under s. 948.05.
- 12          16. Causing a child to view or listen to sexual activity under s. 948.055.
- 13          17. Incest with a child under s. 948.06.
- 14          18. Child enticement under s. 948.07.
- 15          19. Use of a computer to facilitate a child sex crime under s. 948.075.
- 16          20. Soliciting a child for prostitution under s. 948.08.
- 17          21. Sexual assault of a student by a school instructional staff person under s.  
18 948.095.
- 19          22. Felony exposing a child to harmful material or harmful descriptions or  
20 narrations under s. 948.11 (2) (a) or (am).
- 21          23. Possession of child pornography under s. 948.12.
- 22          24. Child sex offender working with children under s. 948.13 (2).
- 23          25. Neglecting a child under circumstances constituting a felony under s.  
24 948.21.
- 25          26. Abduction of a child under s. 948.30.



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

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

8           **SECTION 20.** 343.12 (8) of the statutes is created to read:

9           343.12 (8) (a) The department <sup>shall</sup> ~~may~~ promulgate rules specifying crimes or other  
10 offenses, in addition to those specified in sub. (7), the conviction for which  
11 disqualifies the applicant from initial issuance or renewal of a school bus  
12 endorsement and, for each such crime or offense, the time period within which the  
13 disqualification applies. The time period may be permanent but may not be less than  
14 the time period specified in sub. (7) (a) to (c) ~~for a conviction~~ for a crime or other  
15 offense specified in sub. (7) (a) to (c). The disqualifying crimes or other offenses  
16 specified by the department shall apply notwithstanding ss. 111.321, 111.322, and  
17 111.335. *and shall include crimes under chapters 940 and 944 ~~ae~~ <sup>chs.</sup>*

18           (c) ~~or~~ The department shall promulgate rules to implement and administer this  
19 section, *including* ~~all of the following~~.

20           ~~For~~ <sup>f</sup> For each disqualifying crime or offense specified in sub. (7) (a) and (c), the  
21 time period within which the disqualification applies.

22           ~~2. Procedures for conducting criminal background checks under sub. (6) (a).~~

23           **SECTION 21.** 343.20 (1) (d) of the statutes is renumbered 343.20 (1) (d) 1.

24           **SECTION 22.** 343.20 (1) (d) 2. of the statutes is created to read:

*Insert  
5-17*

*or adjudication  
of delinquency  
for which,*

or of adjudication of delinquency  
or results of a criminal history search

or adjudicated delinquent for,

1 343.20 (1) (d) 2. The department shall cancel an operator's license that is  
2 endorsed for the operation of school buses under s. 343.12, regardless of the license  
3 expiration date, upon receiving a record of conviction showing that the person has  
4 been convicted of a crime or other offense specified under s. 343.12 (7) or rules of the  
5 department promulgated under s. 343.12 (7) and (8)

6 **SECTION 23.** 343.23 (2) (a) (intro.) of the statutes is amended to read:

7 343.23 (2) (a) (intro.) The department shall maintain a file for each licensee or  
8 other person containing the application for license, permit or endorsement, a record  
9 of reports or abstract of convictions, the status of the person's authorization to  
10 operate different vehicle groups, a record of any out-of-service orders issued under  
11 s. 343.305 (7) (b) or (9) (am), a record of any background investigation as specified  
12 in s. 343.12 (6) (a) or (d), and a record of any reportable accident in which the person  
13 has been involved, including specification of any type of license and endorsements  
14 issued under this chapter under which the person was operating at the time of the  
15 accident and an indication whether or not the accident occurred in the course of any  
16 of the following:

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

19 343.23 (2) (a) (intro.) The department shall maintain a file for each licensee or  
20 other person containing the application for license, permit or endorsement, a record  
21 of reports or abstract of convictions, any notice received from the federal  
22 transportation security administration concerning the person's eligibility for an "H"  
23 endorsement specified in s. 343.17 (3) (d) 1m., the status of the person's authorization  
24 to operate different vehicle groups, a record of any out-of-service orders issued  
25 under s. 343.305 (7) (b) or (9) (am), a record of any background investigation as

insert 6-5

insert 16-16

1 specified in s. 343.12 (6) (a) or (d), and a record of any reportable accident in which  
2 the person has been involved, including specification of any type of license and  
3 endorsements issued under this chapter under which the person was operating at  
4 the time of the accident and an indication whether or not the accident occurred in the  
5 course of any of the following:

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

7 **343.237 (title) Access to license and identification card photographs**  
8 **and fingerprints.**

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

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

16 343.237 (3) (intro.) The department shall provide a Wisconsin law enforcement  
17 agency or a federal law enforcement agency with a copy of a photograph taken on or  
18 after September 1, 1997, of an applicant under s. 343.14 (3) or 343.50 (4), or a printed  
19 or electronic copy of a fingerprint taken of an applicant under s. 343.12 (6) (b), if the  
20 department receives a written request on the law enforcement agency's letterhead  
21 that contains all of the following:

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

23 343.237 (3) (a) The name of the person whose photograph or fingerprint is  
24 requested.

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

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

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

8           343.237 (3) (d) ~~-A~~ For requests for photographs only, a statement that the  
9 request is not made solely to obtain a photograph for use as part of a photo lineup or  
10 photo array.

11           (4m) The department shall attach to each copy of a photograph or fingerprint  
12 provided under this section the notation: “This photograph is subject to the  
13 requirements and restrictions of section 343.237 of the Wisconsin Statutes.” or “This  
14 fingerprint is subject to the requirements and restrictions of section 343.237 of the  
15 Wisconsin Statutes.”

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

21           (6) For each copy of a photograph or fingerprint provided under sub. (3) or (4),  
22 the department shall record and maintain the written request for the copy of the  
23 photograph or fingerprint and may not disclose any record or other information  
24 concerning or relating to the written request to any person other than a court, district  
25 attorney, county corporation counsel, city, village, or town attorney, law enforcement

1 agency, the applicant or identification card holder or, if the applicant or identification  
2 card holder is under 18 years of age, his or her parent or guardian.

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

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

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

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

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

21 **SECTION 30. Nonstatutory provisions.**

22 (1) The department of transportation shall submit in proposed form the rules  
23 required under section 343.12 (7) and (8) of the statutes, as created by this act, to the  
24 legislative council staff under section 227.15 (1) of the statutes no later than the first  
25 day of the 7th month beginning after the effective date of this subsection.

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

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

**SECTION 31. Initial applicability.**

✓24 →  
 insert 20-23

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

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

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

11 **SECTION 32. Effective dates.** This act takes effect on the first day of the 7th  
12 month beginning after publication, except as follows:

13 (1) The treatment of section 343.12 (8) of the statutes and SECTION 30 (1), (2),  
14 ~~and~~ (3) <sup>and (4)</sup> of this act take effect on the day after publication. *auto ref. "KA"*

15 (2) The treatment of section 343.23 (2) (a) (intro.) ~~(by SECTION 24)~~ of the statutes  
16 takes effect on November 1, 2003, *or on the day after publication, whichever is later*

17 ~~The treatment of section 343.12 (2) (intro.) (by SECTION 11) of the statutes~~  
18 ~~takes effect on September 30, 2005.~~

(END)

*Stat. and make red changes.*

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2317/P4ins  
ARG:.....

**INSERT ANAL:** ✓

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.

**INSERT 15-17:** ✓

(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.

**INSERT 16-5:** ✓

*NO* 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.

**INSERT 16-16:** ✓

**SECTION 1.** 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 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.

**INSERT 20-23:**

<sup>#</sup>(4) The department of public instruction, in consultation with the department of transportation, shall study the costs and benefits of installing and maintaining video cameras on school buses transporting children. By the first day of the 12th month beginning after the effective date of this subsection, 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.

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2317/lins  
ARG:.....

**INSERT ANAL:**

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.

**INSERT 15-17:**

(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.

**INSERT 16-5:**

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.

**INSERT 16-16:**

**SECTION 1.** 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 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.~~

**INSERT 20-23:**

(4) The department of public instruction, in consultation with the department of transportation, shall study the costs and benefits of installing and maintaining video cameras on school buses transporting children. By the first day of the 12th month beginning after the effective date of this subsection, 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.

*Duplicate*

**Gary, Aaron**

---

**From:** Dyck, Jon  
**Sent:** Wednesday, October 15, 2003 10:28 AM  
**To:** Van Ess, Thomas (Legislature); Gary, Aaron  
**Subject:** RE: DMV comments on LRB 2371/P3

Tom,

In talking to Aaron, we've realized that the way the bill is drafted currently, the 4-year criminal checks would not begin until 4 years and 6 months after the bill is signed since the provisions initially apply to persons who apply for an S endorsement (initial or renewal) on the first day of the sixth month after passage. In this case, the fiscal effect of the new criminal checks certainly won't occur in this biennium. (The other fiscal effects associated with doing the enhanced checks upon issuance of endorsements and modifying the computer system will, however, start soon after passage.) Is this what you intended? Because if not the draft could be modified so that the interim, 4-year checks could begin sooner. If this is what you want, I would suggest providing the funding in 2004-05 only. At this stage in the fiscal year the cost of doing the checks in 2003-04 would be very small.

(Aaron, in this case, I would just increase the cq appropriation by \$10,000 in 2004-05.)

-----Original Message-----

**From:** Van Ess, Thomas (Legislature)  
**Sent:** Tuesday, October 14, 2003 2:08 PM  
**To:** Dyck, Jon; Gary, Aaron  
**Subject:** FW: DMV comments on LRB 2371/P3

*Thomas C. Van Ess  
Chief of Staff  
Office of Senator Mary A. Lazich*

-----Original Message-----

**From:** Alley, John  
**Sent:** Tuesday, October 14, 2003 2:05 PM  
**To:** Van Ess, Thomas (Legislature)  
**Subject:** DMV comments on LRB 2371/P3

Tom,

Here are DMV's comments on LRB 2371/P3. I have discussed this proposal with Executive Assistant Randy Romanski and he shares our concerns related to cost. Our estimates are based on the language of this proposal so they are different than previous information you were given. We used the standard "low-cost option" typically used for cost estimates. The biggest change is a lower cost for changes to automated systems and a higher cost for more manual processing based on the specific provisions of this bill.

## **LRB 2371/P3 Comments**

Given the short review time-frame, additional comments, questions and concerns may arise.

- We agree with many of the provisions of this bill. However, the Department would not be able to support it without receiving an appropriation to cover implementation costs.
- A 12 month future effective date is needed for completion of modifications to the driver license issuance system. All existing programming resources are obligated for the next

several years for other state and federally mandated projects such as the US Patriot Act and the Motor Carrier Safety Improvement Act (MCSIA). In addition, it is the Department's experience that twelve months is a more realistic time-frame for promulgation of an administrative rule.

- Please consider removing the language authorizing the Department to capture and store fingerprints. The Department of Justice, possibly in combination with a third party finger print collection vendor, may be better able to administer any fingerprint-related provisions. If not removed, we suggest eliminating the Department's obligation to maintain a file of fingerprints. Automated "live-scan" technology should also be considered versus ink-based finger print cards. This seems to be the direction Wisconsin state agencies are heading to meet other finger print requirements.
- Two technical notes:
  - Section 20, Page 15, end of line 10 and beginning of line 11 - looks like a wording/grammar problem
  - Section 22, Page 16, Line 1, we suggest cancellation of the school bus endorsement rather than cancellation of the complete operating privilege. This would be more consistent with the nature of a license cancellation, i.e. the person has only become ineligible for the "S" endorsement but remains eligible for their base driving privilege and any other endorsements.
- This bill would seem to be an appropriate place to address concerns related to the need for interim abbreviated skills testing for school bus drivers. When the driver license renewal cycle changed from 4 years to 8 years, this testing requirement was inadvertently changed to 8 years as well. The department and the school bus industry support more frequent testing of school bus drivers.

## **Costs**

These are not official cost estimates given the very short review time, but rather approximate "ball-park" figures.

- \$100,000 one-time costs for changes to driver license issuance systems.
- \$51,600 ongoing annual costs for manual processes related to these requirements (\$41,600 or 1 FTE) and for costs paid to the Department of Justice (\$10,000).

**John Alley, Legislative Liaison**  
**WisDOT DMV Bureau of Driver Services**  
**608 266 0614**  
**john.alley@dot.state.wi.us**

**Gary, Aaron**

**From:** Gary, Aaron  
**Sent:** Wednesday, October 15, 2003 9:16 AM  
**To:** Van Ess, Thomas (Legislature)  
**Cc:** Grant, Peter  
**Subject:** LRB-2317

Tom,  
LRB-2317/P4 should be to you today. It is finished with editing and just needs the change typed. It will not include any changes that we discussed in the last two days, as the draft went into editing prior to that time. I am compiling the changes for one last redraft. So far, the list includes:

1. Allowing DOT to establish a fee for the fingerprinting check that is no greater than the fee DOJ charges for processing fingerprint cards - it is set under s. 165.82 (1) (ar) at \$15. I note that this allows DOT to recoup the fee charged to it by DOJ but not the cost of taking the fingerprints or storing the cards.

✓ 2. Revising the \$5 fee increase to create a new supplemental fee that is deposited into the DMV appropriation. *→ Like DOT, DOT can require the applicant to bring in the fingerprints*  
*→ NO - do apprn. change instead*

✓ We haven't resolved what to do about s. 343.23 in the draft relating to maintaining a record of the background investigation. DOT may be objecting because they think the bill requires all background investigation information to be filed away in the driver record. I think a good compromise would be to keep the provision in but to modify the language so that it says something along the lines of "a notation that the background investigation was performed and when it was performed," or something similar. *yes see SB44 - bill sec. 2526*

At this time, no other changes have been identified. As to DOT's memo, the endorsement cancellation process in the bill is identical to that currently used by DOT. I think there is insufficient time for this bill to be the vehicle for DOT to change the cancellation procedure or skill testing requirements if you want to get this bill out this week. I plan to finish making these change on either a "P5" or "1" draft (at your direction) tomorrow by noon and getting the draft into editing so that you can get a final version by sometime on Friday. So I'll need any additional changes before then if you still want to have a final version by Friday.

Thanks. Aaron

Aaron R. Gary  
Legislative Attorney  
Legislative Reference Bureau  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

~~J. Van~~ 20.02.04

## Gary, Aaron

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**From:** Gary, Aaron  
**Sent:** Wednesday, October 15, 2003 10:02 AM  
**To:** Van Ess, Thomas (Legislature)  
**Subject:** FW: LRB-2317

Tom,

I looked at the statutes and talked to Peter Grant, and the language applicable to DPI is the identical language we have in the draft for DOT. When I reviewed the language again, I realized that the language (as DPI interprets it) does allow the agency to take the prints itself or to require the applicant to obtain the prints elsewhere and bring the cards in. So no change is necessary to the language in the draft - it allows DOT to follow the same process currently used by DPI. If you have any questions, please call. Aaron

Aaron R. Gary  
*Legislative Attorney*  
*Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

-----Original Message-----

**From:** Gary, Aaron  
**Sent:** Wednesday, October 15, 2003 9:16 AM  
**To:** Van Ess, Thomas (Legislature)  
**Cc:** Grant, Peter  
**Subject:** LRB-2317

Tom,

LRB-2317/P4 should be to you today. It is finished with editing and just needs the change typed. It will not include any changes that we discussed in the last two days, as the draft went into editing prior to that time. I am compiling the changes for one last redraft. So far, the list includes:

1. Allowing DOT to establish a fee for the fingerprinting check that is no greater than the fee DOJ charges for processing fingerprint cards - it is set under s. 165.82 (1) (ar) at \$15. I note that this allows DOT to recoup the fee charged to it by DOJ but not the cost of taking the fingerprints or storing the cards.
2. Revising the \$5 fee increase to create a new supplemental fee that is deposited into the DMV appropriation.

We haven't resolved what to do about s. 343.23 in the draft relating to maintaining a record of the background investigation. DOT may be objecting because they think the bill requires all background investigation information to be filed away in the driver record. I think a good compromise would be to keep the provision in but to modify the language so that it says something along the lines of "a notation that the background investigation was performed and when it was performed," or something similar.

At this time, no other changes have been identified. As to DOT's memo, the endorsement cancellation process in the bill is identical to that currently used by DOT. I think there is insufficient time for this bill to be the vehicle for DOT to change the cancellation procedure or skill testing requirements if you want to get this bill out this week. I plan to finish making these change on either a "/P5" or "/1" draft (at your direction) tomorrow by noon and getting the draft into editing so that you can get a final version by sometime on Friday. So I'll need any additional changes before then if you still want to have a final version by Friday.

Thanks. Aaron

Aaron R. Gary  
*Legislative Attorney*  
*Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

## Gary, Aaron

---

**From:** Gary, Aaron  
**Sent:** Friday, September 19, 2003 2:10 PM  
**To:** Kiel, Joyce; Van Ess, Thomas (Legislature)  
**Subject:** RE: 2317 - another question

You should have received the new draft (2317/P3) today. I'll add this (below) to the list of changes for a "/P4" draft (basically I'll just take out the applicable sentence). Let me know what other changes you want. thanks. Aaron

Aaron R. Gary  
*Legislative Attorney*  
*Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

-----Original Message-----

**From:** Kiel, Joyce  
**Sent:** Friday, September 19, 2003 8:56 AM  
**To:** Gary, Aaron; Van Ess, Thomas (Legislature)  
**Subject:** RE: 2317 - another question

Aaron:

Sorry it took a while to get back to you. This has been a very hectic week.

My notes (I assume you are talking about from the meeting in Rep. Krusick's office) were option 2--optional--

For "S" endorsement, that would mean DOT would decide whether to get out-of-state records for a person who wanted an "S" endorsement and had lived in another state during the last three years.

For school vans, that would mean the employer or contractor would decide whether to get out-of-state records for a person who was not a Wisconsin resident or not a Wisconsin resident in the last three years.

Tom:

Interestingly, that would be a different than the HSV bill, which is like the caregiver background check law. Namely, if the person is not a Wisconsin resident or not a Wisconsin resident in the last three years, the STS has to make a good faith effort to get criminal records from the other state. So, you might want to think about this.

Joyce L. Kiel, Senior Staff Attorney  
Wisconsin Legislative Council Staff  
Suite 401, One East Main Street  
Madison, WI 53703  
608-266-3137  
608-266-3830 (fax)  
Joyce.Kiel@legis.state.wi.us

-----Original Message-----



**From:** Gary, Aaron  
**Sent:** Tuesday, September 16, 2003 5:01 PM  
**To:** Kiel, Joyce; Van Ess, Thomas (Legislature)  
**Subject:** FW: 2317 - another question

So I can get this to you as soon as possible (I'm putting it into editing tonight), I will leave the 2317 draft "as is" on this issue (option 1.). If you decide to go with option 2., we can just delete the applicable sentence in the next iteration of the draft (as DOT would always have discretion to do such a check on its own). Aaron

Aaron R. Gary  
*Legislative Attorney*  
*Legislative Reference Bureau*  
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-----Original Message-----

**From:** Gary, Aaron  
**Sent:** Monday, September 15, 2003 1:03 PM  
**To:** Kiel, Joyce  
**Cc:** Van Ess, Thomas (Legislature)  
**Subject:** 2317 - another question

Joyce,

I have two different directives in my notes on a certain issue: 1. That DOT MUST make a good faith effort to get out-of-state records for persons who resided out-of-state within the past 3 years (the same as what is in 2317/P2), and 2. Based upon cost input from Karen, that the draft not require DOT to do anything, but simply allow DOT to get out-of-state records where it feels it should.

Was one of these adopted to the exclusion of the other - which approach should the draft take? Thanks.

Aaron

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Hle w/ Tom

2317

DOT: can we put something in to recoup  
the DOT fingerprinting charge? about \$28?

→ authorize by rule?

add \$ 393: the dept. may assess a fee ~~to~~ <sup>by rule</sup>  
~~fingerprinting~~ no greater than the fee specified  
 in s. 165.82(1)(a) for taking  
 fingerprints under s. 343.12 (?). Fee  
 credited to applicant's account  
 ALSO NEED TO AMEND THE APPR: ~~and in~~  
 schedule ... ad all money deposited/  
 credited under

→ don't want DOT to have to take  
the fingerprints - want to require  
person to bring in the fingerprint  
cards

→ DOT keeps fingerprint cards

Hle w/ Tom

10/20

→ "fingerprint fee" text OK → forget about  
 apprn charge adjustment or crediting it to  
 DMV apprn - leave for DOT where money goes  
 as long as DOT can get the money from  
 the applicant