



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2317-3

ARG&PG:kmg:rs

Handwritten notes in a circle: "Needed by 10/30 end of day"

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2003 BILL

Large handwritten note in an oval: "Today, 10/29, By 4 p.m."

Handwritten note: "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 (4) (b), 343.21 (1) (c) to (e), 343.23 (2) (a) (intro.), 343.237 (title) and (2), 343.237
 4 (3) (intro.), 343.237 (3) (a), 343.237 (3) (c) (intro.) and 343.237 (3) (d), (4m), (5),
 5 (6), (7), (8) and (10); and to create 121.52 (5), 121.555 (3), 121.555 (4), 121.555
 6 (5), 121.555 (6), 121.555 (7), 121.555 (8), 343.12 (2) (dm), 343.12 (2) (em), 343.12
 7 (6), 343.12 (7), 343.12 (8), 343.20 (1) (d) 2. and 343.21 (3) of the statutes;
 8 relating to: qualifications for endorsements authorizing the operation of a
 9 school bus and for operators of certain other motor vehicles transporting pupils,
 10 school board contracts for the transportation of pupils, studying the use of video
 11 cameras on school buses, extending the time limit for emergency rule
 12 procedures, providing an exemption from emergency rule procedures and from

Handwritten note: "the and training of operators of school buses and certain other motor vehicles transporting pupils"

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1 rule-making procedures, granting rule-making authority, making an
2 appropriation, and providing 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 or adjudicated delinquent for 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 in DOT's files the date on which the investigation was completed. DOT must also make a good faith effort to obtain out-of-state criminal history information for an applicant who has not resided in the state at anytime in the prior two years. 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.).

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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 and retains them, 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 retained fingerprints to law enforcement for law enforcement purposes.

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

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. The bill also allows DOT to establish by rule fees for applicants for whom DOT must make a good faith effort to obtain out-of-state criminal history information, limited to the fees incurred by DOT in obtaining such information.

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.

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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 DOJ, request the individual's motor vehicle operating record, and obtain a completed background information form from the individual. If the individual has not resided in the state at anytime in the prior two years, the person must also make a good faith effort to obtain out-of-state criminal history information on 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 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. The bill further requires DPI, in consultation with DOT

and
others

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and on strategies related to training of operators of school buses and school vans or temporary school vehicles

to study and report on the costs and benefits of installing and maintaining video cameras on school buses.

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.

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.

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 under sub. (2) (a) or (b).

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

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

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

8 1. Notwithstanding ss. 111.321, 111.322, and 111.335, request from the records
9 maintained by the department of justice a criminal history search of the individual.
10 Notwithstanding ss. 111.321, 111.322, and 111.335, if the individual who is the
11 subject of the criminal history search has not resided in this state at anytime within
12 the 2 years preceding the date of the search, the person shall make a good faith effort
13 to obtain additional criminal history information from any state in which the
14 individual has resided during this time period or from any other applicable federal
15 or state agency.

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

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

23 (b) Any person that employs or contracts with an individual to operate a motor
24 vehicle under sub. (1) to transport pupils, except an individual who holds a valid
25 school bus endorsement issued under s. 343.12, may require the individual to be

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1 fingerprinted on 2 fingerprint cards, each bearing a complete set of the individual's
2 fingerprints, or by other technologies approved by law enforcement agencies. The
3 department of justice may provide for the submission of the fingerprint cards or
4 fingerprints by other technologies to the federal bureau of investigation for the
5 purposes of verifying the identity of the individual fingerprinted and obtaining
6 records of his or her criminal arrests and convictions. Except as provided in this
7 paragraph, fingerprints obtained under this paragraph shall be kept confidential.

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

13 1. The person knows or should know that the individual has a record of
14 conviction or operating privilege revocation or adjudicated delinquency that would
15 disqualify the person from issuance or renewal of a school bus endorsement under
16 s. 343.12 (7) and rules promulgated by the department of transportation under s.
17 343.12 (7) and (8).

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

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

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

23 121.555 (4) (a) An individual who is employed by or under contract with a
24 person to operate a motor vehicle under sub. (1) to transport pupils shall report to
25 the person in writing within 10 days of the occurrence of any of the following:

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

5 2. Notwithstanding ss. 111.321, 111.322, and 111.335, any conviction or
6 operating privilege revocation that, under sub. (3) (c), makes the individual ineligible
7 to operate a motor vehicle under sub. (1) to transport pupils or, if the individual holds
8 a valid school bus endorsement issued under s. 343.12, that disqualifies the
9 individual from issuance or renewal of a school bus endorsement under s. 343.12 (7)
10 and rules promulgated by the department of transportation under s. 343.12 (7) and
11 (8).

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

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

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

17 121.555 (5) No individual may operate a motor vehicle under sub. (1) to
18 transport pupils if the individual is ineligible to do so under sub. (2) (c) and (cm) or
19 under sub. (3) (c).

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

21 121.555 (6) (a) The department shall prepare and make available to school
22 districts, private schools, and contractors providing pupil transportation services
23 informational materials, in printed or electronic form, relating to compliance with
24 this section.

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1 (b) In consultation with persons that employ or contract with individuals to
2 operate motor vehicles under sub. (1), the department shall prescribe a background
3 information form for purposes of sub. (3). The form shall require an individual under
4 sub. (3) (a) to specify whether the individual is listed in the registry under s. 146.40
5 (4g).

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

7 121.555 (7) Any person that employs or contracts with an individual to operate
8 a motor vehicle under sub. (1) to transport pupils shall maintain all records and
9 furnish all information determined necessary to determine compliance with this
10 section.

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

12 121.555 (8) (a) Any individual who violates sub. (4) (a) or (5) may be required
13 to forfeit not more than \$100 for the first offense and not more than \$200 for each
14 subsequent offense.

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

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

19 343.12 (2) (intro.) Except as provided in sub. (2m), the department shall issue
20 or, except as provided in par. (h), renew a school bus endorsement to a person only
21 if such person meets all of the following requirements:

22 **SECTION 11.** 343.12 (2) (d) of the statutes is repealed.

23 **SECTION 12.** 343.12 (2) (dm) of the statutes is created to read:

24 343.12 (2) (dm) Notwithstanding ss. 111.321, 111.322, and 111.335, has been
25 subject to the background investigation specified in sub. (6) (a) and does not have a

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1 record of conviction or of adjudication of delinquency or operating privilege
2 revocation that disqualifies the person from issuance or renewal of a school bus
3 endorsement under sub. (7) or rules promulgated by the department under subs. (7)
4 and (8).

5 **SECTION 13.** 343.12 (2) (e) of the statutes is repealed.

6 **SECTION 14.** 343.12 (2) (em) of the statutes is created to read:

7 343.12 (2) (em) Is not, based upon the person's application, listed in the registry
8 under s. 146.40 (4g).

9 **SECTION 15.** 343.12 (4) (b) of the statutes is amended to read:

10 343.12 (4) (b) The department ~~may~~ shall, by rule, establish standards for the
11 employment by an employer of a person under par. (a) 3. as an operator of a school
12 bus in this state. The rules may require the person to meet the qualifications
13 contained in sub. (2) or (3) and any rules of the department applicable to residents,
14 except that the rules shall require the person to meet the qualifications contained in
15 sub. (2) (dm) and (em). The rules shall also require the employer to perform the
16 actions specified in s. 121.555 (3) (a) 1. and 3.

17 **SECTION 16.** 343.12 (5) of the statutes is renumbered 343.12 (9).

18 **SECTION 17.** 343.12 (6) of the statutes is created to read:

19 343.12 (6) (a) Notwithstanding ss. 111.321, 111.322, and 111.335, prior to the
20 initial issuance or renewal of a school bus endorsement, the department shall
21 conduct a background investigation of the applicant. In conducting the background
22 investigation, the department shall obtain from the records maintained by the
23 department of justice a criminal history search of the applicant. If the applicant has
24 not resided in this state at anytime within the 2 years preceding the date of the
25 search, the department shall make a good faith effort to obtain additional criminal

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1 history information from any state in which the applicant has resided during this
2 time period of from any other applicable federal or state agency. The department
3 shall record in the applicant's file specified in s. 343.23 (2) (a) the date on which the
4 background investigation was completed.

5 (b) The department may require an applicant for the initial issuance or renewal
6 of a school bus endorsement to be fingerprinted on 2 fingerprint cards, each bearing
7 a complete set of the person's fingerprints, or by other technologies approved by law
8 enforcement agencies. The department of justice may provide for the submission of
9 the fingerprint cards or fingerprints by other technologies to the federal bureau of
10 investigation for the purposes of verifying the identity of the person fingerprinted
11 and obtaining records of his or her criminal arrests and convictions.

12 (c) The department shall require an applicant for an endorsement under this
13 section to specify on the application whether the applicant is listed in the registry
14 under s. 146.40 (4g).

15 (d) Notwithstanding ss. 111.321, 111.322, and 111.335, 4 years after the initial
16 issuance or renewal of a school bus endorsement, the department of transportation
17 shall obtain from the records maintained by the department of justice a criminal
18 history search of the person to whom the school bus endorsement is issued and, if
19 applicable, take action under s. 343.20 (1) (d) 2.

20 **SECTION 18.** 343.12 (7) of the statutes is created to read:

21 343.12 (7) (a) Notwithstanding ss. 111.321, 111.322, and 111.335, the
22 department may not issue or renew a school bus endorsement if, within the time
23 period specified by the department by rule but not less than 2 years immediately
24 preceding the date of application, the applicant has been convicted of a violation of
25 any of the following state laws or any local ordinance in conformity with any of the

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1 following state laws or any federal law or law of a federally recognized American
2 Indian tribe or band in this state or law of another jurisdiction that would be a
3 violation of any of the following state laws if the person had committed the offense
4 in this state and been convicted of the offense under the laws of this state:

5 1. Reckless driving under s. 346.62.

6 2. Operating a motor vehicle while operating privileges are suspended or
7 revoked or while the operator is disqualified under s. 343.44 (1) (a), (b), or (d).

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

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

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

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

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

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

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

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

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

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

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

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1 14. Operating a commercial motor vehicle or being on duty time while having
2 any alcohol concentration, within 4 hours of consuming alcohol or being intoxicated,
3 or while possessing alcohol under s. 346.63 (7) (a) if the applicant has been previously
4 convicted of any offense under s. 346.63 (7) (a) or any local ordinance in conformity
5 with s. 346.63 (7) (a) or any federal law or law of a federally recognized American
6 Indian tribe or band in this state or law of another jurisdiction that would be a
7 violation of s. 346.63 (7) (a) if the applicant had committed the offense in this state
8 and been convicted of the offense under the laws of this state.

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

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

25 1. First-degree intentional homicide under s. 940.01.

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- 1 2. First-degree reckless homicide under s. 940.02.
- 2 3. Felony murder under s. 940.03.
- 3 4. Second-degree intentional homicide under s. 940.05.
- 4 5. Assisting suicide under s. 940.12.
- 5 6. Felony battery under s. 940.19 (2), (3), (4), (5), or (6).
- 6 7. Sexual exploitation by a therapist under s. 940.22 (2).
- 7 8. Felony sexual assault under s. 940.225 (1), (2), or (3).
- 8 9. Abuse of a vulnerable adult under circumstances constituting a felony under
9 s. 940.285 (2).
- 10 10. Abuse of a resident of a penal facility under s. 940.29.
- 11 11. Abuse or neglect of a patient or resident under circumstances constituting
12 a felony under s. 940.295.
- 13 12. Sexual assault of a child under s. 948.02 (1) or (2).
- 14 13. Engaging in repeated acts of sexual assault of the same child under s.
15 948.025.
- 16 14. Physical abuse of a child under s. 948.03 (2).
- 17 15. Sexual exploitation of a child under s. 948.05.
- 18 16. Causing a child to view or listen to sexual activity under s. 948.055.
- 19 17. Incest with a child under s. 948.06.
- 20 18. Child enticement under s. 948.07.
- 21 19. Use of a computer to facilitate a child sex crime under s. 948.075.
- 22 20. Soliciting a child for prostitution under s. 948.08.
- 23 21. Sexual assault of a student by a school instructional staff person under s.
24 948.095.

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1 22. Felony exposing a child to harmful material or harmful descriptions or
2 narrations under s. 948.11 (2) (a) or (am).

3 23. Possession of child pornography under s. 948.12.

4 24. Child sex offender working with children under s. 948.13 (2).

5 25. Neglecting a child under circumstances constituting a felony under s.
6 948.21.

7 26. Abduction of a child under s. 948.30.

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

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

16 **SECTION 19.** 343.12 (8) of the statutes is created to read:

17 343.12 (8) (a) The department shall promulgate rules specifying crimes or
18 other offenses, in addition to those specified in sub. (7), the conviction for which, or
19 adjudication of delinquency for which, disqualifies the applicant from initial
20 issuance or renewal of a school bus endorsement and, for each such crime or offense,
21 the time period within which the disqualification applies. The time period may be
22 permanent but may not be less than the time period specified in sub. (7) (a) to (c) for
23 a crime or other offense specified in sub. (7) (a) to (c). The disqualifying crimes or
24 other offenses specified by the department shall apply notwithstanding ss. 111.321,
25 111.322, and 111.335 and shall include crimes under chs. 940 and 944.

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1 (b) Notwithstanding ss. 111.321, 111.322, and 111.335, the department may
2 promulgate rules specifying any registry maintained by an agency of the state
3 related to a person being reported or investigated for criminal activity, in addition
4 to the registry specified in sub. (6) (c), the listing of the applicant on which
5 disqualifies the applicant from initial issuance or renewal of a school bus
6 endorsement.

7 (c) The department shall promulgate rules to implement and administer this
8 section, including all of the following:

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

11 2. Procedures for obtaining additional criminal history information in
12 compliance with sub. (6) (a) for applicants who have not resided in this state at
13 anytime in the preceding 2 years. The department may by rule establish fees for
14 obtaining such information that are not greater than the fees charged to the
15 department in connection with acquiring such information.

16 **SECTION 20.** 343.20 (1) (d) of the statutes is renumbered 343.20 (1) (d) 1.

17 **SECTION 21.** 343.20 (1) (d) 2. of the statutes is created to read:

18 343.20 (1) (d) 2. The department shall cancel an operator's license that is
19 endorsed for the operation of school buses under s. 343.12, regardless of the license
20 expiration date, upon receiving a record of conviction or of adjudication of
21 delinquency or results of a criminal history search showing that the person has been
22 convicted of, or adjudicated delinquent for, a crime or other offense specified under
23 s. 343.12 (7) or rules of the department promulgated under s. 343.12 (7) and (8) after
24 issuance or renewal of the endorsement or at a time when, if known by the

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1 department, the conviction or adjudication would have prevented issuance or
2 renewal of the endorsement.

3 **SECTION 22.** 343.21 (1) (c) to (e) of the statutes are amended to read:

4 343.21 (1) (c) For the initial issuance or renewal of authorization to operate
5 school buses that are not commercial motor vehicles, ~~\$5~~ \$10.

6 (d) For the initial issuance or renewal of authorization to operate “Class A”,
7 “Class B” or “Class C” motor vehicles, or upgrading an existing regular license which
8 only authorizes the operation of “Class D” motor vehicles, \$64. This fee includes
9 issuance of any “H”, “N”, “P”, ~~“S”~~ or “T” endorsements or “Class D” authorization
10 applied for at the same time for which the applicant is qualified. An additional fee
11 of \$5 is required for the issuance or renewal of any “S” endorsement applied for or
12 renewed at the same time for which the applicant is qualified.

13 (e) For upgrading an existing commercial driver license to add an “H”, “N”, “P”,
14 ~~“S”~~ or “T” endorsement, ~~\$5~~, or, to add an “S” endorsement, \$10.

15 **SECTION 23.** 343.21 (3) of the statutes is created to read:

16 343.21 (3) In addition to any fee required under sub. (1) (c), (d), or (e), the
17 department may require payment to the department of any fee established by rule
18 under s. 343.12 (8) (c) 2.

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

21 343.23 (2) (a) (intro.) The department shall maintain a file for each licensee or
22 other person containing the application for license, permit or endorsement, a record
23 of reports or abstract of convictions, any notice received from the federal
24 transportation security administration concerning the person’s eligibility for an “H”
25 endorsement specified in s. 343.17 (3) (d) 1m., the status of the person’s authorization

BILL**SECTION 24**

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

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

9 **343.237 (title) Access to license and identification card photographs**
10 **and fingerprints.**

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

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

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

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

BILL

1 343.237 (3) (a) The name of the person whose photograph or fingerprint is
2 requested.

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

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

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

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

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

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

23 **(6)** For each copy of a photograph or fingerprint provided under sub. (3) or (4),
24 the department shall record and maintain the written request for the copy of the
25 photograph or fingerprint and may not disclose any record or other information

BILL**SECTION 29**

1 concerning or relating to the written request to any person other than a court, district
2 attorney, county corporation counsel, city, village, or town attorney, law enforcement
3 agency, the applicant or identification card holder or, if the applicant or identification
4 card holder is under 18 years of age, his or her parent or guardian.

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

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

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

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

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

SECTION 30. Nonstatutory provisions.

23 (1) The department of transportation shall submit in proposed form the rules
24 required under section 343.12 (7) and (8) of the statutes, as created by this act, to the
25

BILL

1 legislative council staff under section 227.15 (1) of the statutes no later than the first
2 day of the 7th month beginning after the effective date of this subsection.

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

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

BILL

MSH 22-2

auto ref. "KA"

1

(4) The department of public instruction, in consultation with the department

2

of transportation, ~~shall study the costs and benefits of installing and maintaining~~

3

~~video cameras on school buses transporting children.~~ By the first day of the ~~12th~~ ^{7th}

4

month beginning after the effective date of this ~~subsection~~, the department of public

5

instruction shall report to the legislature, in the manner provided under section

6

13.172 (2) of the statutes, the findings, conclusions, and recommendations of the

7

study. *under paragraph (a) → auto ref. "KA"*

→ paragraph

SECTION 31. Appropriation changes.

9

(1) In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of transportation under section 20.395 (5) (cq) of the statutes, as affected by the acts of 2003, the dollar amount is increased by \$10,000 for fiscal year 2004-05 to increase funding for determining the qualifications of applicants for issuance or renewal of school bus endorsements to operators' licenses.

14

SECTION 32. Initial applicability.

15

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

20

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

22

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

24

BILL

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

3 (1) The treatment of section 343.12 (8) of the statutes and SECTION 30 (1), (2),
4 (3), and (4) of this act take effect on the day after publication.

5 (2) The treatment of section 343.23 (2) (a) (intro.) of the statutes takes effect
6 on November 1, 2003, or on the day after publication, whichever is later.

7 **(END)**

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2317/3ins
ARG&PG;.....

INSERT 22-2:

(no R) the Wisconsin School Bus Association, state child advocacy groups, and other persons or organizations as appropriate, shall study: *all of the following*

1. The costs and benefits of installing and maintaining video cameras on school buses, including the availability of federal funds and grants that may be used for this purpose.

2. Strategies to increase the availability and effectiveness of, and participation in, training of operators of school buses and motor vehicles specified under section 121.555 (1) of the statutes with respect to all of the following:

- a. Special needs involved in transporting children with disabilities.
- b. Safe and effective methods of maintaining order and discipline on the school bus or motor vehicle specified under section 121.555 (1) of the statutes.

12/10

Hc w/ Tom

- dis regard HFS study
- make proposed rule 10th month
- keep other exp-t time periods same
- jacket

He w/ Tom

12/9/03

- Joyce & Krasnick etc. worked
out language

- ~~make~~ make delay 9 mos. ⇒

other study 6 mos.

Gary, Aaron

From: Van Ess, Thomas (Legislature)
Sent: Tuesday, December 09, 2003 2:12 PM
To: Gary, Aaron
Subject: FW: School Bus/Van Background Check Draft--Draft Language for DHFS Study

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

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

From: Moran, Christian
Sent: Tuesday, December 09, 2003 12:56 PM
To: Van Ess, Thomas (Legislature)
Subject: FW: School Bus/Van Background Check Draft--Draft Language for DHFS Study

Here's the language. I left a message for Peggy re introduction, and will let you know as soon as I hear from her.

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

From: Kiel, Joyce
Sent: Monday, December 08, 2003 11:56 AM
To: Moran, Christian
Subject: School Bus/Van Background Check Draft--Draft Language for DHFS Study

Christian:

Per Representative Krusick's request, the following is language I drafted relating to a DHFS study about access to information indicating that there is a substantiated report of child abuse and neglect against a person. You requested the language for inclusion in the school bus/school van background check draft (the latest version of which I have is LRB-2317/3).

For LRB-2317/3, add to page 22, following line 17:

[SECTION 30] (5) (a) The department of health and family services shall study the costs and benefits of providing to persons who are conducting background investigations under s. 121.555 (3) of the statutes and to the department of transportation in connection with a background investigation under s. 343.12 (6) of the statutes information maintained by the department of health and family services regarding any substantiated reports of child abuse or neglect against the person being investigated, including information maintained in the state automated child welfare information system. The study also shall include: (1) an evaluation of the implementation of ss. 48.685 (2) (am) 4. and (b) 1. d. and 50.065 (2) (am) 4. and (b) 4. of the statutes which require that information maintained by the department of health and family services regarding any substantiated reports of abuse or neglect against a person being investigated under the caregiver background check laws be obtained; (2) the effectiveness of that requirement; and (3) recommendations, if any, relating to improving the implementation of that requirement.

(b) By the first day of the 12th month beginning after the effective date of this paragraph, the department of health and family services 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 under paragraph (a).

Christian, if you want any changes, let me know.

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

Gary, Aaron

From: Kiel, Joyce
Sent: Monday, December 01, 2003 3:16 PM
To: Gary, Aaron
Subject: RE: LRB-2317: school bus bill

Aaron:

The caretaker background check laws (ss. 48.685 and 50.065, Stats.) require the investigator to obtain "Information that is contained in the registry under s. 146.40 (4g) regarding any findings **against** the person." [See, e.g., s. 50.065 (2) (am) 2. and (b) 2., Stats.] They then prohibit licensing, employment, etc., if the entity knows or should have known "That a unit of government or a state agency, as defined in s. 16.61 (2) (d), has made a finding that the person has abused or neglected any client or misappropriated the property of any client." [See, e.g., s. 50.065 (4m) (a) 3. and (b) 3., Stats.] The investigator can check the registry (see <http://www.dhfs.state.wi.us/caregiver/misconduct.HTM>).

People can be listed on one part of the registry for other than misconduct (see <http://www.dhfs.state.wi.us/caregiver/NATD/NAsRemoved.HTM>, listing people for inadequate training or testing); plus there is a listing under s. 146.40 (4g) (a) 1., for people who have successfully completed an evaluation program.

The authors' intention was disqualification just because of the misconduct listing. Therefore, I think there needs to be a new draft (hopefully, this can be done before introduction), clarifying that it is a listing under s. 146.40 (4g) (a) 2., Stats. I'm glad you caught that.

Joyce L. Kiel, Senior Staff Attorney
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608-266-3830 (fax)
Joyce.Kiel@legis.state.wi.us

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

From: Gary, Aaron
Sent: Wednesday, November 26, 2003 12:33 PM
To: Kiel, Joyce
Subject: LRB-2317: school bus bill

Hi Joyce,

I'm looking at whether a discrete aspect of this bill meets the drafting intent - can you tell me whether the "abuse registry" that you discussed in the drafting process is the registry under s. 146.40 (4g) (a) 2.? I'm trying to discern whether I have mistakenly identified the registry or only partially identified it. Thanks for your help. Aaron

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



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2317/4 4

ARG&PG:kmg:rs

Neded
TODAY

RMR

To Editors/LPS:

Please ignore
"LRB-2317/4 ins" →
they decided not to
do this but it
could be "revived"
later so I don't want
it deleted. Thank.
mg

2003 BILL

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 (4) (b), 343.21 (1) (c) to (e), 343.23 (2) (a) (intro.), 343.237 (title) and (2), 343.237
4 (3) (intro.), 343.237 (3) (a), 343.237 (3) (c) (intro.) and 343.237 (3) (d), (4m), (5),
5 (6), (7), (8) and (10); and to create 121.52 (5), 121.555 (3), 121.555 (4), 121.555
6 (5), 121.555 (6), 121.555 (7), 121.555 (8), 343.12 (2) (dm), 343.12 (2) (em), 343.12
7 (6), 343.12 (7), 343.12 (8), 343.20 (1) (d) 2. and 343.21 (3) of the statutes;
8 relating to: qualifications for endorsements authorizing the operation of a
9 school bus and for operators of certain other motor vehicles transporting pupils,
10 school board contracts for the transportation of pupils, studying the use of video
11 cameras on school buses and the training of operators of school buses and
12 certain other motor vehicles transporting pupils, extending the time limit for
13 emergency rule procedures, providing an exemption from emergency rule

BILL

1 procedures and from rule-making procedures, granting rule-making
2 authority, making an appropriation, and providing 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 or adjudicated delinquent for 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 in DOT's files the date on which the investigation was completed. DOT must also make a good faith effort to obtain out-of-state criminal history information for an applicant who has not resided in the state at anytime in the prior two years. 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.).

BILL

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 and retains them, 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 retained fingerprints to law enforcement for law enforcement purposes.

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

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. The bill also allows DOT to establish by rule fees for applicants for whom DOT must make a good faith effort to obtain out-of-state criminal history information, limited to the fees incurred by DOT in obtaining such information.

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.

BILL

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 DOJ, request the individual's motor vehicle operating record, and obtain a completed background information form from the individual. If the individual has not resided in the state at anytime in the prior two years, the person must also make a good faith effort to obtain out-of-state criminal history information on 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 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. The bill further requires DPI, in consultation with DOT and others, to study and report on the costs and benefits of installing and

BILL

maintaining video cameras on school buses and on strategies related to training of operators of school buses and school vans or temporary school vehicles.

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.

nine 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. *nine* 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.

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 under sub. (2) (a) or (b).

BILL**SECTION 3**

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

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

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

8 1. Notwithstanding ss. 111.321, 111.322, and 111.335, request from the records
9 maintained by the department of justice a criminal history search of the individual.
10 Notwithstanding ss. 111.321, 111.322, and 111.335, if the individual who is the
11 subject of the criminal history search has not resided in this state at anytime within
12 the 2 years preceding the date of the search, the person shall make a good faith effort
13 to obtain additional criminal history information from any state in which the
14 individual has resided during this time period or from any other applicable federal
15 or state agency.

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

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

23 (b) Any person that employs or contracts with an individual to operate a motor
24 vehicle under sub. (1) to transport pupils, except an individual who holds a valid
25 school bus endorsement issued under s. 343.12, may require the individual to be

BILL

1 fingerprinted on 2 fingerprint cards, each bearing a complete set of the individual's
2 fingerprints, or by other technologies approved by law enforcement agencies. The
3 department of justice may provide for the submission of the fingerprint cards or
4 fingerprints by other technologies to the federal bureau of investigation for the
5 purposes of verifying the identity of the individual fingerprinted and obtaining
6 records of his or her criminal arrests and convictions. Except as provided in this
7 paragraph, fingerprints obtained under this paragraph shall be kept confidential.

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

13 1. The person knows or should know that the individual has a record of
14 conviction or operating privilege revocation or adjudicated delinquency that would
15 disqualify the person from issuance or renewal of a school bus endorsement under
16 s. 343.12 (7) and rules promulgated by the department of transportation under s.
17 343.12 (7) and (8).

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

20 3. The person knows or should know that the individual is listed in the registry
21 under s. 146.40 (4g) ^{(a) 2.0e}

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

23 121.555 (4) (a) An individual who is employed by or under contract with a
24 person to operate a motor vehicle under sub. (1) to transport pupils shall report to
25 the person in writing within 10 days of the occurrence of any of the following:

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

5 2. Notwithstanding ss. 111.321, 111.322, and 111.335, any conviction or
6 operating privilege revocation that, under sub. (3) (c), makes the individual ineligible
7 to operate a motor vehicle under sub. (1) to transport pupils or, if the individual holds
8 a valid school bus endorsement issued under s. 343.12, that disqualifies the
9 individual from issuance or renewal of a school bus endorsement under s. 343.12 (7)
10 and rules promulgated by the department of transportation under s. 343.12 (7) and
11 (8).

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

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

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

17 121.555 (5) No individual may operate a motor vehicle under sub. (1) to
18 transport pupils if the individual is ineligible to do so under sub. (2) (c) and (cm) or
19 under sub. (3) (c).

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

21 121.555 (6) (a) The department shall prepare and make available to school
22 districts, private schools, and contractors providing pupil transportation services
23 informational materials, in printed or electronic form, relating to compliance with
24 this section.

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

5 (4g) (a) 20

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

7 121.555 (7) Any person that employs or contracts with an individual to operate
8 a motor vehicle under sub. (1) to transport pupils shall maintain all records and
9 furnish all information determined necessary to determine compliance with this
10 section.

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

12 121.555 (8) (a) Any individual who violates sub. (4) (a) or (5) may be required
13 to forfeit not more than \$100 for the first offense and not more than \$200 for each
14 subsequent offense.

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

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

19 343.12 (2) (intro.) Except as provided in sub. (2m), the department shall issue
20 or, except as provided in par. (h), renew a school bus endorsement to a person only
21 if such person meets all of the following requirements:

22 **SECTION 11.** 343.12 (2) (d) of the statutes is repealed.

23 **SECTION 12.** 343.12 (2) (dm) of the statutes is created to read:

24 343.12 (2) (dm) Notwithstanding ss. 111.321, 111.322, and 111.335, has been
25 subject to the background investigation specified in sub. (6) (a) and does not have a

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1 record of conviction or of adjudication of delinquency or operating privilege
2 revocation that disqualifies the person from issuance or renewal of a school bus
3 endorsement under sub. (7) or rules promulgated by the department under subs. (7)
4 and (8).

5 **SECTION 13.** 343.12 (2) (e) of the statutes is repealed.

6 **SECTION 14.** 343.12 (2) (em) of the statutes is created to read:

7 343.12 (2) (em) Is not, based upon the person's application, listed in the registry

8 under s. 146.40 (4g) ^(a) (a) 2 ^e

9 **SECTION 15.** 343.12 (4) (b) of the statutes is amended to read:

10 343.12 (4) (b) The department ~~may~~ shall, by rule, establish standards for the
11 employment by an employer of a person under par. (a) 3. as an operator of a school
12 bus in this state. The rules may require the person to meet the qualifications
13 contained in sub. (2) or (3) and any rules of the department applicable to residents,
14 except that the rules shall require the person to meet the qualifications contained in
15 sub. (2) (dm) and (em). The rules shall also require the employer to perform the
16 actions specified in s. 121.555 (3) (a) 1. and 3.

17 **SECTION 16.** 343.12 (5) of the statutes is renumbered 343.12 (9).

18 **SECTION 17.** 343.12 (6) of the statutes is created to read:

19 343.12 (6) (a) Notwithstanding ss. 111.321, 111.322, and 111.335, prior to the
20 initial issuance or renewal of a school bus endorsement, the department shall
21 conduct a background investigation of the applicant. In conducting the background
22 investigation, the department shall obtain from the records maintained by the
23 department of justice a criminal history search of the applicant. If the applicant has
24 not resided in this state at anytime within the 2 years preceding the date of the
25 search, the department shall make a good faith effort to obtain additional criminal

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1 history information from any state in which the applicant has resided during this
2 time period of from any other applicable federal or state agency. The department
3 shall record in the applicant's file specified in s. 343.23 (2) (a) the date on which the
4 background investigation was completed.

5 (b) The department may require an applicant for the initial issuance or renewal
6 of a school bus endorsement to be fingerprinted on 2 fingerprint cards, each bearing
7 a complete set of the person's fingerprints, or by other technologies approved by law
8 enforcement agencies. The department of justice may provide for the submission of
9 the fingerprint cards or fingerprints by other technologies to the federal bureau of
10 investigation for the purposes of verifying the identity of the person fingerprinted
11 and obtaining records of his or her criminal arrests and convictions.

12 (c) The department shall require an applicant for an endorsement under this
13 section to specify on the application whether the applicant is listed in the registry

14 under s. 146.40 (4g) ^a (a) 20

15 (d) Notwithstanding ss. 111.321, 111.322, and 111.335, 4 years after the initial
16 issuance or renewal of a school bus endorsement, the department of transportation
17 shall obtain from the records maintained by the department of justice a criminal
18 history search of the person to whom the school bus endorsement is issued and, if
19 applicable, take action under s. 343.20 (1) (d) 2.

20 **SECTION 18.** 343.12 (7) of the statutes is created to read:

21 343.12 (7) (a) Notwithstanding ss. 111.321, 111.322, and 111.335, the
22 department may not issue or renew a school bus endorsement if, within the time
23 period specified by the department by rule but not less than 2 years immediately
24 preceding the date of application, the applicant has been convicted of a violation of
25 any of the following state laws or any local ordinance in conformity with any of the

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1 following state laws or any federal law or law of a federally recognized American
2 Indian tribe or band in this state or law of another jurisdiction that would be a
3 violation of any of the following state laws if the person had committed the offense
4 in this state and been convicted of the offense under the laws of this state:

5 1. Reckless driving under s. 346.62.

6 2. Operating a motor vehicle while operating privileges are suspended or
7 revoked or while the operator is disqualified under s. 343.44 (1) (a), (b), or (d).

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

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

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

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

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

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

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

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

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

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

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

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1 14. Operating a commercial motor vehicle or being on duty time while having
2 any alcohol concentration, within 4 hours of consuming alcohol or being intoxicated,
3 or while possessing alcohol under s. 346.63 (7) (a) if the applicant has been previously
4 convicted of any offense under s. 346.63 (7) (a) or any local ordinance in conformity
5 with s. 346.63 (7) (a) or any federal law or law of a federally recognized American
6 Indian tribe or band in this state or law of another jurisdiction that would be a
7 violation of s. 346.63 (7) (a) if the applicant had committed the offense in this state
8 and been convicted of the offense under the laws of this state.

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

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

25 1. First-degree intentional homicide under s. 940.01.

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- 1 2. First-degree reckless homicide under s. 940.02.
- 2 3. Felony murder under s. 940.03.
- 3 4. Second-degree intentional homicide under s. 940.05.
- 4 5. Assisting suicide under s. 940.12.
- 5 6. Felony battery under s. 940.19 (2), (3), (4), (5), or (6).
- 6 7. Sexual exploitation by a therapist under s. 940.22 (2).
- 7 8. Felony sexual assault under s. 940.225 (1), (2), or (3).
- 8 9. Abuse of a vulnerable adult under circumstances constituting a felony under
9 s. 940.285 (2).
- 10 10. Abuse of a resident of a penal facility under s. 940.29.
- 11 11. Abuse or neglect of a patient or resident under circumstances constituting
12 a felony under s. 940.295.
- 13 12. Sexual assault of a child under s. 948.02 (1) or (2).
- 14 13. Engaging in repeated acts of sexual assault of the same child under s.
15 948.025.
- 16 14. Physical abuse of a child under s. 948.03 (2).
- 17 15. Sexual exploitation of a child under s. 948.05.
- 18 16. Causing a child to view or listen to sexual activity under s. 948.055.
- 19 17. Incest with a child under s. 948.06.
- 20 18. Child enticement under s. 948.07.
- 21 19. Use of a computer to facilitate a child sex crime under s. 948.075.
- 22 20. Soliciting a child for prostitution under s. 948.08.
- 23 21. Sexual assault of a student by a school instructional staff person under s.
24 948.095.

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1 22. Felony exposing a child to harmful material or harmful descriptions or
2 narrations under s. 948.11 (2) (a) or (am).

3 23. Possession of child pornography under s. 948.12.

4 24. Child sex offender working with children under s. 948.13 (2).

5 25. Neglecting a child under circumstances constituting a felony under s.
6 948.21.

7 26. Abduction of a child under s. 948.30.

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

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

16 **SECTION 19.** 343.12 (8) of the statutes is created to read:

17 343.12 (8) (a) The department shall promulgate rules specifying crimes or
18 other offenses, in addition to those specified in sub. (7), the conviction for which, or
19 adjudication of delinquency for which, disqualifies the applicant from initial
20 issuance or renewal of a school bus endorsement and, for each such crime or offense,
21 the time period within which the disqualification applies. The time period may be
22 permanent but may not be less than the time period specified in sub. (7) (a) to (c) for
23 a crime or other offense specified in sub. (7) (a) to (c). The disqualifying crimes or
24 other offenses specified by the department shall apply notwithstanding ss. 111.321,
25 111.322, and 111.335 and shall include crimes under chs. 940 and 944.

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1 (b) Notwithstanding ss. 111.321, 111.322, and 111.335, the department may
2 promulgate rules specifying any registry maintained by an agency of the state
3 related to a person being reported or investigated for criminal activity, in addition
4 to the registry specified in sub. (6) (c), the listing of the applicant on which
5 disqualifies the applicant from initial issuance or renewal of a school bus
6 endorsement.

7 (c) The department shall promulgate rules to implement and administer this
8 section, including all of the following:

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

11 2. Procedures for obtaining additional criminal history information in
12 compliance with sub. (6) (a) for applicants who have not resided in this state at
13 anytime in the preceding 2 years. The department may by rule establish fees for
14 obtaining such information that are not greater than the fees charged to the
15 department in connection with acquiring such information.

16 **SECTION 20.** 343.20 (1) (d) of the statutes is renumbered 343.20 (1) (d) 1.

17 **SECTION 21.** 343.20 (1) (d) 2. of the statutes is created to read:

18 343.20 (1) (d) 2. The department shall cancel an operator's license that is
19 endorsed for the operation of school buses under s. 343.12, regardless of the license
20 expiration date, upon receiving a record of conviction or of adjudication of
21 delinquency or results of a criminal history search showing that the person has been
22 convicted of, or adjudicated delinquent for, a crime or other offense specified under
23 s. 343.12 (7) or rules of the department promulgated under s. 343.12 (7) and (8) after
24 issuance or renewal of the endorsement or at a time when, if known by the

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1 department, the conviction or adjudication would have prevented issuance or
2 renewal of the endorsement.

3 **SECTION 22.** 343.21 (1) (c) to (e) of the statutes are amended to read:

4 343.21 (1) (c) For the initial issuance or renewal of authorization to operate
5 school buses that are not commercial motor vehicles, \$5 \$10.

6 (d) For the initial issuance or renewal of authorization to operate “Class A”,
7 “Class B” or “Class C” motor vehicles, or upgrading an existing regular license which
8 only authorizes the operation of “Class D” motor vehicles, \$64. This fee includes
9 issuance of any “H”, “N”, “P”, ~~“S”~~ or “T” endorsements or “Class D” authorization
10 applied for at the same time for which the applicant is qualified. An additional fee
11 of \$5 is required for the issuance or renewal of any “S” endorsement applied for or
12 renewed at the same time for which the applicant is qualified.

13 (e) For upgrading an existing commercial driver license to add an “H”, “N”, “P”,
14 ~~“S” or “T” endorsement, \$5, or, to add an “S” endorsement, \$10.~~

15 **SECTION 23.** 343.21 (3) of the statutes is created to read:

16 343.21 (3) In addition to any fee required under sub. (1) (c), (d), or (e), the
17 department may require payment to the department of any fee established by rule
18 under s. 343.12 (8) (c) 2.

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

21 343.23 (2) (a) (intro.) The department shall maintain a file for each licensee or
22 other person containing the application for license, permit or endorsement, a record
23 of reports or abstract of convictions, any notice received from the federal
24 transportation security administration concerning the person’s eligibility for an “H”
25 endorsement specified in s. 343.17 (3) (d) 1m., the status of the person’s authorization

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

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

9 **343.237 (title) Access to license and identification card photographs**
10 **and fingerprints.**

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

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

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

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

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1 343.237 (3) (a) The name of the person whose photograph or fingerprint is
2 requested.

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

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

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

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

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

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

23 **(6)** For each copy of a photograph or fingerprint provided under sub. (3) or (4),
24 the department shall record and maintain the written request for the copy of the
25 photograph or fingerprint and may not disclose any record or other information

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1 concerning or relating to the written request to any person other than a court, district
2 attorney, county corporation counsel, city, village, or town attorney, law enforcement
3 agency, the applicant or identification card holder or, if the applicant or identification
4 card holder is under 18 years of age, his or her parent or guardian.

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

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

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

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

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

SECTION 30. Nonstatutory provisions.

23
24 (1) The department of transportation shall submit in proposed form the rules
25 required under section 343.12 (7) and (8) of the statutes, as created by this act, to the

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1 legislative council staff under section 227.15 (1) of the statutes no later than the first
2 day of the ~~1st~~^{10th} month beginning after the effective date of this subsection.

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

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

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1 (4) (a) The department of public instruction, in consultation with the
2 department of transportation, the Wisconsin School Bus Association, state child
3 advocacy groups, and other persons or organizations as appropriate, shall study all
4 of the following:

5 1. The costs and benefits of installing and maintaining video cameras on school
6 buses, including the availability of federal funds and grants that may be used for this
7 purpose.

8 2. Strategies to increase the availability and effectiveness of, and participation
9 in, training of operators of school buses and motor vehicles specified under section
10 121.555 (1) of the statutes with respect to all of the following:

- 11 a. Special needs involved in transporting children with disabilities.
- 12 b. Safe and effective methods of maintaining order and discipline on the school
13 bus or motor vehicle specified under section 121.555 (1) of the statutes.

14 (b) By the first day of the 7th month beginning after the effective date of this
15 paragraph, the department of public instruction shall report to the legislature, in the
16 manner provided under section 13.172 (2) of the statutes, the findings, conclusions,
17 and recommendations of the study under paragraph (a).

SECTION 31. Appropriation changes.

18 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
19 to the department of transportation under section 20.395 (5) (cq) of the statutes, as
20 affected by the acts of 2003, the dollar amount is increased by \$10,000 for fiscal year
21 2004–05 to increase funding for determining the qualifications of applicants for
22 issuance or renewal of school bus endorsements to operators' licenses.
23

SECTION 32. Initial applicability.

24

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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 33. Effective dates.** This act takes effect on the first day of the ~~7th~~^{10th}
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 (3), and (4) of this act take effect on the day after publication.

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

17 (END)



State of Wisconsin
2003 - 2004 LEGISLATURE

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2003 BILL

D-note

see p. 9

Repeal

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 (4) (b), 343.21 (1) (c) to (e), 343.23 (2) (a) (intro.), 343.237 (title) and (2), 343.237
4 (3) (intro.), 343.237 (3) (a), 343.237 (3) (c) (intro.) and 343.237 (3) (d), (4m), (5),
5 (6), (7), (8) and (10); and *to create* 121.52 (5), 121.555 (3), 121.555 (4), 121.555
6 (5), 121.555 (6), 121.555 (7), 121.555 (8), 343.12 (2) (dm), 343.12 (2) (em), 343.12
7 (6), 343.12 (7), 343.12 (8), 343.20 (1) (d) 2. and 343.21 (3) of the statutes;
8 **relating to:** qualifications for endorsements authorizing the operation of a
9 school bus and for operators of certain other motor vehicles transporting pupils,
10 school board contracts for the transportation of pupils, studying the use of video
11 cameras on school buses and the training of operators of school buses and
12 certain other motor vehicles transporting pupils, extending the time limit for
13 emergency rule procedures, providing an exemption from emergency rule

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1 procedures and from rule-making procedures, granting rule-making
2 authority, making an appropriation, and providing 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 or adjudicated delinquent for 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 in DOT's files the date on which the investigation was completed. DOT must also make a good faith effort to obtain out-of-state criminal history information for an applicant who has not resided in the state at anytime in the prior two years. 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.).

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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 and retains them, 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 retained fingerprints to law enforcement for law enforcement purposes.

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

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. The bill also allows DOT to establish by rule fees for applicants for whom DOT must make a good faith effort to obtain out-of-state criminal history information, limited to the fees incurred by DOT in obtaining such information.

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.

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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 DOJ, request the individual's motor vehicle operating record, and obtain a completed background information form from the individual. If the individual has not resided in the state at anytime in the prior two years, the person must also make a good faith effort to obtain out-of-state criminal history information on 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 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. The bill further requires DPI, in consultation with DOT and others, to study and report on the costs and benefits of installing and

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maintaining video cameras on school buses and on strategies related to training of operators of school buses and school vans or temporary school vehicles.

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.

The bill requires DOT, within approximately nine 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 nine 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.

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 under sub. (2) (a) or (b).

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

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

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

8 1. Notwithstanding ss. 111.321, 111.322, and 111.335, request from the records
9 maintained by the department of justice a criminal history search of the individual.
10 Notwithstanding ss. 111.321, 111.322, and 111.335, if the individual who is the
11 subject of the criminal history search has not resided in this state at anytime within
12 the 2 years preceding the date of the search, the person shall make a good faith effort
13 to obtain additional criminal history information from any state in which the
14 individual has resided during this time period or from any other applicable federal
15 or state agency.

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

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

23 (b) Any person that employs or contracts with an individual to operate a motor
24 vehicle under sub. (1) to transport pupils, except an individual who holds a valid
25 school bus endorsement issued under s. 343.12, may require the individual to be

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1 fingerprinted on 2 fingerprint cards, each bearing a complete set of the individual's
2 fingerprints, or by other technologies approved by law enforcement agencies. The
3 department of justice may provide for the submission of the fingerprint cards or
4 fingerprints by other technologies to the federal bureau of investigation for the
5 purposes of verifying the identity of the individual fingerprinted and obtaining
6 records of his or her criminal arrests and convictions. Except as provided in this
7 paragraph, fingerprints obtained under this paragraph shall be kept confidential.

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

13 1. The person knows or should know that the individual has a record of
14 conviction or operating privilege revocation or adjudicated delinquency that would
15 disqualify the person from issuance or renewal of a school bus endorsement under
16 s. 343.12 (7) and rules promulgated by the department of transportation under s.
17 343.12 (7) and (8).

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

20 3. The person knows or should know that the individual is listed in the registry
21 under s. 146.40 (4g) (a) 2.

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

23 121.555 (4) (a) An individual who is employed by or under contract with a
24 person to operate a motor vehicle under sub. (1) to transport pupils shall report to
25 the person in writing within 10 days of the occurrence of any of the following:

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

5 2. Notwithstanding ss. 111.321, 111.322, and 111.335, any conviction or
6 operating privilege revocation that, under sub. (3) (c), makes the individual ineligible
7 to operate a motor vehicle under sub. (1) to transport pupils or, if the individual holds
8 a valid school bus endorsement issued under s. 343.12, that disqualifies the
9 individual from issuance or renewal of a school bus endorsement under s. 343.12 (7)
10 and rules promulgated by the department of transportation under s. 343.12 (7) and
11 (8).

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

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

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

17 121.555 (5) No individual may operate a motor vehicle under sub. (1) to
18 transport pupils if the individual is ineligible to do so under sub. (2) (c) and (cm) or
19 under sub. (3) (c).

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

21 121.555 (6) (a) The department shall prepare and make available to school
22 districts, private schools, and contractors providing pupil transportation services
23 informational materials, in printed or electronic form, relating to compliance with
24 this section.

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1 (b) In consultation with persons that employ or contract with individuals to
2 operate motor vehicles under sub. (1), the department shall prescribe a background
3 information form for purposes of sub. (3). The form shall require an individual under
4 sub. (3) (a) to specify whether the individual is listed in the registry under s. 146.40
5 (4g) (a) 2.

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

7 121.555 (7) Any person that employs or contracts with an individual to operate
8 a motor vehicle under sub. (1) to transport pupils shall maintain all records and
9 furnish all information determined necessary to determine compliance with this
10 section.

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

12 121.555 (8) (a) Any individual who violates sub. (4) (a) or (5) may be required
13 to forfeit not more than \$100 for the first offense and not more than \$200 for each
14 subsequent offense.

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

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

19 343.12 (2) (intro.) Except as provided in sub. (2m), The department shall issue
20 or, except as provided in par. (h), renew a school bus endorsement to a person only
21 if such person meets all of the following requirements:

22 **SECTION 11.** 343.12 (2) (d) of the statutes is repealed.

23 **SECTION 12.** 343.12 (2) (dm) of the statutes is created to read:

24 343.12 (2) (dm) Notwithstanding ss. 111.321, 111.322, and 111.335, has been
25 subject to the background investigation specified in sub. (6) (a) and does not have a

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1 record of conviction or of adjudication of delinquency or operating privilege
2 revocation that disqualifies the person from issuance or renewal of a school bus
3 endorsement under sub. (7) or rules promulgated by the department under subs. (7)
4 and (8).

5 **SECTION 13.** 343.12 (2) (e) of the statutes is repealed.

6 **SECTION 14.** 343.12 (2) (em) of the statutes is created to read:

7 343.12 (2) (em) Is not, based upon the person's application, listed in the registry
8 under s. 146.40 (4g) (a) 2.

9 **SECTION 15.** 343.12 (4) (b) of the statutes is amended to read:

10 343.12 (4) (b) The department ~~may~~ shall, by rule, establish standards for the
11 employment by an employer of a person under par. (a) 3. as an operator of a school
12 bus in this state. The rules may require the person to meet the qualifications
13 contained in sub. (2) or (3) and any rules of the department applicable to residents,
14 except that the rules shall require the person to meet the qualifications contained in
15 sub. (2) (dm) and (em). The rules shall also require the employer to perform the
16 actions specified in s. 121.555 (3) (a) 1. and 3.

17 **SECTION 16.** 343.12 (5) of the statutes is renumbered 343.12 (9).

18 **SECTION 17.** 343.12 (6) of the statutes is created to read:

19 343.12 (6) (a) Notwithstanding ss. 111.321, 111.322, and 111.335, prior to the
20 initial issuance or renewal of a school bus endorsement, the department shall
21 conduct a background investigation of the applicant. In conducting the background
22 investigation, the department shall obtain from the records maintained by the
23 department of justice a criminal history search of the applicant. If the applicant has
24 not resided in this state at anytime within the 2 years preceding the date of the
25 search, the department shall make a good faith effort to obtain additional criminal

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1 history information from any state in which the applicant has resided during this
2 time period of from any other applicable federal or state agency. The department
3 shall record in the applicant's file specified in s. 343.23 (2) (a) the date on which the
4 background investigation was completed.

5 (b) The department may require an applicant for the initial issuance or renewal
6 of a school bus endorsement to be fingerprinted on 2 fingerprint cards, each bearing
7 a complete set of the person's fingerprints, or by other technologies approved by law
8 enforcement agencies. The department of justice may provide for the submission of
9 the fingerprint cards or fingerprints by other technologies to the federal bureau of
10 investigation for the purposes of verifying the identity of the person fingerprinted
11 and obtaining records of his or her criminal arrests and convictions.

12 (c) The department shall require an applicant for an endorsement under this
13 section to specify on the application whether the applicant is listed in the registry
14 under s. 146.40 (4g) (a) 2.

15 (d) Notwithstanding ss. 111.321, 111.322, and 111.335, 4 years after the initial
16 issuance or renewal of a school bus endorsement, the department of transportation
17 shall obtain from the records maintained by the department of justice a criminal
18 history search of the person to whom the school bus endorsement is issued and, if
19 applicable, take action under s. 343.20 (1) (d) 2.

20 **SECTION 18.** 343.12 (7) of the statutes is created to read:

21 343.12 (7) (a) Notwithstanding ss. 111.321, 111.322, and 111.335, the
22 department may not issue or renew a school bus endorsement if, within the time
23 period specified by the department by rule but not less than 2 years immediately
24 preceding the date of application, the applicant has been convicted of a violation of
25 any of the following state laws or any local ordinance in conformity with any of the

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1 following state laws or any federal law or law of a federally recognized American
2 Indian tribe or band in this state or law of another jurisdiction that would be a
3 violation of any of the following state laws if the person had committed the offense
4 in this state and been convicted of the offense under the laws of this state:

5 1. Reckless driving under s. 346.62.

6 2. Operating a motor vehicle while operating privileges are suspended or
7 revoked or while the operator is disqualified under s. 343.44 (1) (a), (b), or (d).

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

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

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

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

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

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

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

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

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

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

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

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1 14. Operating a commercial motor vehicle or being on duty time while having
2 any alcohol concentration, within 4 hours of consuming alcohol or being intoxicated,
3 or while possessing alcohol under s. 346.63 (7) (a) if the applicant has been previously
4 convicted of any offense under s. 346.63 (7) (a) or any local ordinance in conformity
5 with s. 346.63 (7) (a) or any federal law or law of a federally recognized American
6 Indian tribe or band in this state or law of another jurisdiction that would be a
7 violation of s. 346.63 (7) (a) if the applicant had committed the offense in this state
8 and been convicted of the offense under the laws of this state.

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

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

25 1. First-degree intentional homicide under s. 940.01.

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- 1 2. First-degree reckless homicide under s. 940.02.
- 2 3. Felony murder under s. 940.03.
- 3 4. Second-degree intentional homicide under s. 940.05.
- 4 5. Assisting suicide under s. 940.12.
- 5 6. Felony battery under s. 940.19 (2), (3), (4), (5), or (6).
- 6 7. Sexual exploitation by a therapist under s. 940.22 (2).
- 7 8. Felony sexual assault under s. 940.225 (1), (2), or (3).
- 8 9. Abuse of a vulnerable adult under circumstances constituting a felony under
9 s. 940.285 (2).
- 10 10. Abuse of a resident of a penal facility under s. 940.29.
- 11 11. Abuse or neglect of a patient or resident under circumstances constituting
12 a felony under s. 940.295.
- 13 12. Sexual assault of a child under s. 948.02 (1) or (2).
- 14 13. Engaging in repeated acts of sexual assault of the same child under s.
15 948.025.
- 16 14. Physical abuse of a child under s. 948.03 (2).
- 17 15. Sexual exploitation of a child under s. 948.05.
- 18 16. Causing a child to view or listen to sexual activity under s. 948.055.
- 19 17. Incest with a child under s. 948.06.
- 20 18. Child enticement under s. 948.07.
- 21 19. Use of a computer to facilitate a child sex crime under s. 948.075.
- 22 20. Soliciting a child for prostitution under s. 948.08.
- 23 21. Sexual assault of a student by a school instructional staff person under s.
24 948.095.

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1 22. Felony exposing a child to harmful material or harmful descriptions or
2 narrations under s. 948.11 (2) (a) or (am).

3 23. Possession of child pornography under s. 948.12.

4 24. Child sex offender working with children under s. 948.13 (2).

5 25. Neglecting a child under circumstances constituting a felony under s.
6 948.21.

7 26. Abduction of a child under s. 948.30.

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

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

16 **SECTION 19.** 343.12 (8) of the statutes is created to read:

17 343.12 (8) (a) The department shall promulgate rules specifying crimes or
18 other offenses, in addition to those specified in sub. (7), the conviction for which, or
19 adjudication of delinquency for which, disqualifies the applicant from initial
20 issuance or renewal of a school bus endorsement and, for each such crime or offense,
21 the time period within which the disqualification applies. The time period may be
22 permanent but may not be less than the time period specified in sub. (7) (a) to (c) for
23 a crime or other offense specified in sub. (7) (a) to (c). The disqualifying crimes or
24 other offenses specified by the department shall apply notwithstanding ss. 111.321,
25 111.322, and 111.335 and shall include crimes under chs. 940 and 944.

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1 (b) Notwithstanding ss. 111.321, 111.322, and 111.335, the department may
2 promulgate rules specifying any registry maintained by an agency of the state
3 related to a person being reported or investigated for criminal activity, in addition
4 to the registry specified in sub. (6) (c), the listing of the applicant on which
5 disqualifies the applicant from initial issuance or renewal of a school bus
6 endorsement.

7 (c) The department shall promulgate rules to implement and administer this
8 section, including all of the following:

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

11 2. Procedures for obtaining additional criminal history information in
12 compliance with sub. (6) (a) for applicants who have not resided in this state at
13 anytime in the preceding 2 years. The department may by rule establish fees for
14 obtaining such information that are not greater than the fees charged to the
15 department in connection with acquiring such information.

16 **SECTION 20.** 343.20 (1) (d) of the statutes is renumbered 343.20 (1) (d) 1.

17 **SECTION 21.** 343.20 (1) (d) 2. of the statutes is created to read:

18 343.20 (1) (d) 2. The department shall cancel an operator's license that is
19 endorsed for the operation of school buses under s. 343.12, regardless of the license
20 expiration date, upon receiving a record of conviction or of adjudication of
21 delinquency or results of a criminal history search showing that the person has been
22 convicted of, or adjudicated delinquent for, a crime or other offense specified under
23 s. 343.12 (7) or rules of the department promulgated under s. 343.12 (7) and (8) after
24 issuance or renewal of the endorsement or at a time when, if known by the

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1 department, the conviction or adjudication would have prevented issuance or
2 renewal of the endorsement.

3 **SECTION 22.** 343.21 (1) (c) to (e) of the statutes are amended to read:

4 343.21 (1) (c) For the initial issuance or renewal of authorization to operate
5 school buses that are not commercial motor vehicles, \$5 \$10.

6 (d) For the initial issuance or renewal of authorization to operate “Class A”,
7 “Class B” or “Class C” motor vehicles, or upgrading an existing regular license which
8 only authorizes the operation of “Class D” motor vehicles, \$64. This fee includes
9 issuance of any “H”, “N”, “P”, ~~“S”~~ or “T” endorsements or “Class D” authorization
10 applied for at the same time for which the applicant is qualified. An additional fee
11 of \$5 is required for the issuance or renewal of any “S” endorsement applied for or
12 renewed at the same time for which the applicant is qualified.

13 (e) For upgrading an existing commercial driver license to add an “H”, “N”, “P”,
14 ~~“S”~~ or “T” endorsement, \$5, or, to add an “S” endorsement, \$10.

15 **SECTION 23.** 343.21 (3) of the statutes is created to read:

16 343.21 (3) In addition to any fee required under sub. (1) (c), (d), or (e), the
17 department may require payment to the department of any fee established by rule
18 under s. 343.12 (8) (c) 2.

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

21 343.23 (2) (a) (intro.) The department shall maintain a file for each licensee or
22 other person containing the application for license, permit or endorsement, a record
23 of reports or abstract of convictions, any notice received from the federal
24 transportation security administration concerning the person’s eligibility for an “H”
25 endorsement specified in s. 343.17 (3) (d) 1m., the status of the person’s authorization

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

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

9 **343.237 (title) Access to license and identification card photographs**
10 **and fingerprints.**

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

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

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

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

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1 343.237 (3) (a) The name of the person whose photograph or fingerprint is
2 requested.

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

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

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

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

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

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

23 **(6)** For each copy of a photograph or fingerprint provided under sub. (3) or (4),
24 the department shall record and maintain the written request for the copy of the
25 photograph or fingerprint and may not disclose any record or other information

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1 concerning or relating to the written request to any person other than a court, district
2 attorney, county corporation counsel, city, village, or town attorney, law enforcement
3 agency, the applicant or identification card holder or, if the applicant or identification
4 card holder is under 18 years of age, his or her parent or guardian.

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

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

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

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

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

SECTION 30. Nonstatutory provisions.

23
24 (1) The department of transportation shall submit in proposed form the rules
25 required under section 343.12 (7) and (8) of the statutes, as created by this act, to the

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1 legislative council staff under section 227.15 (1) of the statutes no later than the first
2 day of the 10th month beginning after the effective date of this subsection.

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

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

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1 (4) (a) The department of public instruction, in consultation with the
2 department of transportation, the Wisconsin School Bus Association, state child
3 advocacy groups, and other persons or organizations as appropriate, shall study all
4 of the following:

5 1. The costs and benefits of installing and maintaining video cameras on school
6 buses, including the availability of federal funds and grants that may be used for this
7 purpose.

8 2. Strategies to increase the availability and effectiveness of, and participation
9 in, training of operators of school buses and motor vehicles specified under section
10 121.555 (1) of the statutes with respect to all of the following:

11 a. Special needs involved in transporting children with disabilities.

12 b. Safe and effective methods of maintaining order and discipline on the school
13 bus or motor vehicle specified under section 121.555 (1) of the statutes.

14 (b) By the first day of the 7th month beginning after the effective date of this
15 paragraph, the department of public instruction shall report to the legislature, in the
16 manner provided under section 13.172 (2) of the statutes, the findings, conclusions,
17 and recommendations of the study under paragraph (a).

SECTION 31. Appropriation changes.

18 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
19 to the department of transportation under section 20.395 (5) (cq) of the statutes, as
20 affected by the acts of 2003, the dollar amount is increased by \$10,000 for fiscal year
21 2004–05 to increase funding for determining the qualifications of applicants for
22 issuance or renewal of school bus endorsements to operators' licenses.
23

SECTION 32. Initial applicability.
24

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2317/5dn

ARG:1:...

[Handwritten signature]
ejr

ATTN: Tom Van Ess

The attached draft makes a technical correction to bill section 10 of the "4" draft.

[Handwritten signature]
[Handwritten mark: a circle with "CS" inside]
Aaron R. Gary
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2317/5dn
ARG:cjs:jf

December 15, 2003

ATTN: Tom Van Ess

The attached draft makes a technical correction to SECTION 10 of the "/4" draft.

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