

2005 ASSEMBLY BILL 987

February 7, 2006 – Introduced by Representatives MOULTON, KRAWCZYK, GUNDERSON, BIES, TOWNSEND, ALBERS, PETROWSKI and GIELOW, cosponsored by Senators GROTHMAN and ROESSLER. Referred to Committee on Health.

1 **AN ACT** *to amend* 50.065 (2) (bb), 50.065 (2) (bd), 50.065 (4m) (c), 50.065 (6) (am)
2 and 50.065 (6) (c) of the statutes; **relating to:** caregiver background
3 information and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, entities that provide direct care or treatment services, such as hospitals and personal care worker agencies, must obtain certain background information regarding prospective caregivers. The background information includes criminal history, history of abuse or neglect, and information regarding credentials and past denials of credentials. Every four years the entity must obtain updated background information regarding its caregivers. Also, an entity must require its caregivers to complete a background information form provided by the Department of Health and Family Services (DHFS) every four years. A person who provides false information on a background information form is subject to a civil penalty.

This bill provides that, if an entity requires its caregivers to disclose to the entity any criminal conviction or criminal charge and notifies its caregivers of the disclosure requirements annually, the entity need not require its caregivers to complete the background information form provided by the DHFS. Under the bill, a caregiver who fails to report a criminal charge or conviction as required in a disclosure policy is subject to a civil penalty.

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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.** 50.065 (2) (bb) of the statutes is amended to read:

2 50.065 (2) (bb) If information obtained under par. (am) or (b) indicates a charge
3 of a serious crime, but does not completely and clearly indicate the final disposition
4 of the charge, the department or entity shall make every reasonable effort to contact
5 the clerk of courts to determine the final disposition of the charge. If a background
6 information form under sub. (6) (a) or (am), or any disclosure made pursuant to a
7 disclosure policy described under sub. (6) (am), indicates a charge or a conviction of
8 a serious crime, but information obtained under par. (am) or (b) does not indicate
9 such a charge or conviction, the department or entity shall make every reasonable
10 effort to contact the clerk of courts to obtain a copy of the criminal complaint and the
11 final disposition of the complaint. If information obtained under par. (am) or (b), a
12 background information form under sub. (6) (a) or (am), any disclosure made
13 pursuant to a disclosure policy described under sub. (6) (am), or any other
14 information indicates a conviction of a violation of s. 940.19 (1), 940.195, 940.20,
15 941.30, 942.08, 947.01 or 947.013 obtained not more than 5 years before the date on
16 which that information was obtained, the department or entity shall make every
17 reasonable effort to contact the clerk of courts to obtain a copy of the criminal
18 complaint and judgment of conviction relating to that violation.

19 **SECTION 2.** 50.065 (2) (bd) of the statutes is amended to read:

20 50.065 (2) (bd) Notwithstanding pars. (am) and (b) 1., the department is not
21 required to obtain the information specified in par. (am) 1. to 5., and an entity is not

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1 required to obtain the information specified in par. (b) 1. to 5., with respect to a person
2 under 18 years of age whose background information form under sub. (6) (am), or
3 whose response or lack of response to a disclosure policy described under sub. (6)
4 (am), indicates that the person is not ineligible to be employed, contracted with or
5 permitted to reside at an entity for a reason specified in sub. (4m) (b) 1. to 5. and with
6 respect to whom the department or entity otherwise has no reason to believe that the
7 person is ineligible to be employed, contracted with or permitted to reside at an entity
8 for any of those reasons. This paragraph does not preclude the department from
9 obtaining, at its discretion, the information specified in par. (am) 1. to 5. with respect
10 to a person described in this paragraph who is a nonclient resident or a prospective
11 nonclient resident of an entity.

12 **SECTION 3.** 50.065 (4m) (c) of the statutes is amended to read:

13 50.065 **(4m)** (c) If the background information form completed by a person
14 under sub. (6) (am), or a person's response or lack of response to a disclosure policy
15 described under sub. (6) (am), indicates that the person is not ineligible to be
16 employed or contracted with for a reason specified in par. (b) 1. to 5., an entity may
17 employ or contract with the person for not more than 60 days pending the receipt of
18 the information sought under sub. (2) (b). If the background information form
19 completed by a person under sub. (6) (am), or a person's response or lack of response
20 to a disclosure policy described under sub. (6) (am), indicates that the person is not
21 ineligible to be permitted to reside at an entity for a reason specified in par. (b) 1. to
22 5. and if an entity otherwise has no reason to believe that the person is ineligible to
23 be permitted to reside at an entity for any of those reasons, the entity may permit
24 the person to reside at the entity for not more than 60 days pending receipt of the
25 information sought under sub. (2) (am). An entity shall provide supervision for a

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1 person who is employed or contracted with or permitted to reside as permitted under
2 this paragraph.

3 **SECTION 4.** 50.065 (6) (am) of the statutes is amended to read:

4 50.065 **(6)** (am) Every 4 years an entity shall require its caregivers and
5 nonclient residents to complete a background information form that is provided to
6 the entity by the department, except an entity need not require its caregivers to
7 complete the form if the entity requires its caregivers to disclose to the entity any
8 criminal charge issued against the caregiver or any conviction of the caregiver and
9 notifies its caregivers annually of the disclosure requirements.

10 **SECTION 5.** 50.065 (6) (c) of the statutes is amended to read:

11 50.065 **(6)** (c) A person who provides false information on a background
12 information form required under this subsection or a caregiver who fails to report a
13 criminal charge or conviction as required under a disclosure policy described under
14 par. (am) may be required to forfeit not more than \$1,000 and may be subject to other
15 sanctions specified by the department by rule.

16 **SECTION 6. Initial applicability.**

17 (1) The treatment of section 50.065 (6) (c) of the statutes first applies to acts
18 or omissions that occur on the effective date of this subsection.

19 (END)