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**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

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**2007 Senate Bill 393**

**Senate Substitute Amendment 1  
and Senate Amendment 1 to  
Senate Substitute Amendment 1**

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**2007 SENATE BILL 393**

The bill provides that a *personal care worker agency that employs or contracts with a caregiver to serve as a personal care worker* in a private residence must disclose to the client or client's guardian the following information that is obtained by the agency from a background check of the caregiver: (1) the *caregiver's criminal history*; (2) findings of abuse or neglect of a client or misappropriation of a client's property; (3) substantiated reports of child abuse or neglect; and (4) certain other information maintained by the Department of Health and Family Services (DHFS). The bill also requires that a personal care worker agency request the information for a background check of all personal care workers of the agency every *two years*.

**SENATE SUBSTITUTE AMENDMENT 1**

The substitute amendment provides that a *person who employs or contracts with an individual to provide personal care services* must conduct a background check of the individual. "Personal care services" are defined as assistance with eating, bathing, grooming, dressing, transferring, toileting, meal preparation, food purchasing, changing or laundering of a client's linens or clothing, routine care of vision or hearing aids, or light cleaning in areas of the residence that are used during the provision of the above services.

The substitute amendment further requires that any *entity that places a caregiver in a client's residence to provide personal care services* disclose to the client or client's guardian in writing all information obtained from the background check of the caregiver regarding: (1) *certain convictions*; (2) findings of abuse or neglect of a client or misappropriation of a client's property; (3) substantiated reports of child abuse or neglect; and (4) certain other information maintained by DHFS. If an entity assigns a substitute caregiver to provide personal care services to a client when the regularly assigned caregiver is not available, the entity is not required to make the background check disclosure for the substitute caregiver. Further, if an entity must disclose a conviction and the caregiver who provides

personal care services has demonstrated to DHFS that the caregiver has been rehabilitated, the entity must provide notice in the background check disclosure that the caregiver has demonstrated rehabilitation.

Under the substitute amendment, an entity that places a caregiver in a client's residence to provide personal care services must notify the client or client's guardian that, for a fee, the Department of Justice performs for any person a criminal history record search on an individual and that the entity is not required to make the background check disclosure for a substitute caregiver provided to the client, as described above.

The substitute amendment requires that an entity request the information for a background check of all caregivers every *four years*. In addition, each time that an entity that places a caregiver in a client's residence requests background check information regarding a caregiver, the entity must make the background check disclosure to each client for whom the caregiver provides personal care services or to the client's guardian.

### **SENATE AMENDMENT 1 TO SENATE SUBSTITUTE AMENDMENT 1**

The amendment modifies the provision in the substitute amendment that provides that a *person* who employs or contracts with an individual to provide personal care services must conduct a background check of the individual. Under the amendment, an *agency* that employs or contracts with an individual to provide personal care services must conduct a background check of the individual.

### **LEGISLATIVE HISTORY**

On February 7, 2008, the Senate Committee on Public Health, Senior Issues, Long-Term Care and Privacy introduced Senate Substitute Amendment 1 by unanimous consent. The committee then recommended adoption of Senate Substitute Amendment 1 and passage of Senate Bill 393, as amended, on votes of Ayes, 5; Noes, 0.

Senate Amendment 1 to Senate Substitute Amendment 1 was offered by Senator Carpenter. On February 19, 2008, the Senate adopted Senate Amendment 1 to Senate Substitute Amendment 1 on a voice vote. The Senate then adopted Senate Substitute Amendment 1, as amended, and passed Senate Bill 393, as amended, on voice votes.

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