



**ASSEMBLY AMENDMENT 1,  
TO 2003 ASSEMBLY BILL 470**

January 5, 2004 – Offered by Representative WIECKERT.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 7: after “Services” insert “or a local agency contracted by that  
3 department”.

4 **2.** Page 4, line 17: after that line insert:

5 “**SECTION 4m.** 48.685 (1) (bj) of the statutes is created to read:

6 48.685 (1) (bj) “Local agency” means a nonprofit, tax-exempt corporation  
7 contracted with under sub. (2) (ar) 3. to administer sub. (2) (ar).”.

8 **3.** Page 5, line 1: delete lines 1 to 25.

9 **4.** Page 6, line 1: delete lines 1 to 25.

10 **5.** Page 7, line 1: delete lines 1 to 8 and substitute:

11 “**SECTION 6d.** 48.685 (2) (am) (intro.) of the statutes is amended to read:

12 48.685 (2) (am) (intro.) The department, a county department, a child welfare  
13 agency, or a school board shall obtain all of the following with respect to a caregiver

1 specified in sub. (1) (ag) 1. b., a nonclient resident of an entity, and a person under  
2 18 years of age, but not under 12 years of age, who is a caregiver of a day care center  
3 that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14)  
4 or of a day care provider that is certified under s. 48.651 and the department or a local  
5 agency shall obtain all of the following with respect to a caregiver specified in sub.  
6 (1) (ag) 1. c. who applies for registration under par. (ar) 1. and, if applicable, a  
7 nonclient resident of that caregiver:

8 **SECTION 7d.** 48.685 (2) (am) 5. of the statutes is amended to read:

9 48.685 (2) (am) 5. Information maintained by the department under this  
10 section and under ss. 48.651 (2m), 48.75 (1m) and 120.13 (14) regarding any denial  
11 to the person of a license, continuation or renewal of a license, certification, or a  
12 contract to operate an entity for a reason specified in sub. (4m) (a) 1. to 5. and  
13 regarding any denial to the person of employment at, a contract with, or permission  
14 to reside at an entity for a reason specified in sub. (4m) (b) 1. to 5. and information  
15 maintained by the department or a local agency under this section regarding any  
16 denial to the person of registration under par. (ar) 1. for a reason specified in sub.  
17 (4m) (a) 1. to 5. If the information obtained under this subdivision indicates that the  
18 person has been denied a license, continuation or renewal of a license, certification,  
19 a contract, registration, employment, or permission to reside as described in this  
20 subdivision, the department, a local agency, a county department, a child welfare  
21 agency, or a school board need not obtain the information specified in subs. 1. to 4.

22 **SECTION 8d.** 48.685 (2) (ar) of the statutes is created to read:

23 48.685 (2) (ar) 1. The department or a local agency shall establish and maintain  
24 a registry listing all caregivers specified in sub. (1) (ag) 1. c. who have applied for  
25 registration under this subdivision and who have been determined by the

1 department or local agency to be eligible for listing in the registry. Any caregiver  
2 specified in sub. (1) (ag) 1. c. may request the department or local agency to list the  
3 caregiver's name in the registry. On receipt of such a request, the department or local  
4 agency shall obtain the information specified in sub. (2) (am) 1. to 5. for the caregiver  
5 and, if the caregiver is providing, or is expected to provide, care and supervision for  
6 clients in the caregiver's home, all nonclient residents of the caregiver. If none of the  
7 circumstances specified in sub. (4m) (a) 1. to 5. apply to the caregiver or, if applicable,  
8 to any nonclient resident of the caregiver, the department or local agency shall list  
9 the caregiver in the registry and so advise the caregiver. If any of the circumstances  
10 specified in sub. (4m) (a) 1. to 5. apply to the caregiver or, if applicable, to any  
11 nonclient resident of the caregiver, the department or local agency may not list the  
12 caregiver in the registry and shall so advise the caregiver, stating the specific reason  
13 why the caregiver is ineligible for listing in the registry. A caregiver who is denied  
14 listing in the registry may demonstrate to the department or local agency under sub.  
15 (5) (a) that the caregiver or, if applicable, any nonclient resident of the caregiver has  
16 been rehabilitated.

17 2. Any individual who has employed or contracted with, or who is expecting to  
18 employ or contract with, a caregiver specified in sub. (1) (ag) 1. c. to provide care and  
19 supervision for a child of the individual may request the department or local agency  
20 to search the registry for the name of the caregiver. On receipt of such a request, the  
21 department or local agency shall search the registry for the name of the caregiver and  
22 shall advise the individual whether the person is listed in the registry.

23 3. The department may contract with a nonprofit, tax-exempt corporation, as  
24 defined in s. 49.134 (1) (c), that provides child care resource and referral services to  
25 administer this paragraph.

1           **SECTION 9d.** 48.685 (2) (b) 1. e. of the statutes is amended to read:

2           48.685 (2) (b) 1. e. Information maintained by the department under this  
3 section and under ss. 48.651 (2m), 48.75 (1m), and 120.13 (14) regarding any denial  
4 to the person of a license, continuation or renewal of a license, certification, or a  
5 contract to operate an entity for a reason specified in sub. (4m) (a) 1. to 5. and  
6 regarding any denial to the person of employment at, a contract with, or permission  
7 to reside at an entity for a reason specified in sub. (4m) (b) 1. to 5. and information  
8 maintained by the department or a local agency under this section regarding any  
9 denial to the person of registration under par. (ar) 1. for a reason specified in sub.  
10 (4m) (a) 1. to 5. If the information obtained under this subd. 1. e. indicates that the  
11 person has been denied a license, continuation or renewal of a license, certification,  
12 a contract, registration, employment, or permission to reside as described in this  
13 subd. 1. e., the entity need not obtain the information specified in subd. 1. a. to d.”.

14           **6.** Page 7, line 16: delete lines 16 to 25.

15           **7.** Page 8, line 1: delete lines 1 to 25.

16           **8.** Page 9, line 1: delete lines 1 to 11 and substitute:

17           “**SECTION 11d.** 48.685 (2) (bd) of the statutes is amended to read:

18           48.685 (2) (bd) Notwithstanding pars. (am) and (b) 1., the department, a local  
19 agency, a county department, a child welfare agency, or a school board is not required  
20 to obtain the information specified in par. (am) 1. to 5., and an entity is not required  
21 to obtain the information specified in par. (b) 1. a. to e., with respect to a person under  
22 18 years of age whose background information form under sub. (6) (a) or (am)  
23 indicates that the person is not ineligible to be registered under par. (ar) 1. for a  
24 reason specified in sub. (4m) (a) 1. to 5. or to be employed, contracted with, or

1 permitted to reside at an entity for a reason specified in sub. (4m) (b) 1. to 5. and with  
2 respect to whom the department, local agency, county department, child welfare  
3 agency, school board, or entity otherwise has no reason to believe that the person is  
4 ineligible to be registered employed, contracted with, or permitted to reside at an  
5 entity for any of those reasons. This paragraph does not preclude the department,  
6 a county department, a child welfare agency, or a school board from obtaining, at its  
7 discretion, the information specified in par. (am) 1. to 5. with respect to a person  
8 described in this paragraph who is a nonclient resident or a prospective nonclient  
9 resident of an entity or the department or a local agency from obtaining, at its  
10 discretion, that information with respect to a person described in this paragraph who  
11 is a nonclient resident or a prospective nonclient resident of a caregiver specified in  
12 sub. (1) (ag) 1. c.

13 **SECTION 12d.** 48.685 (3) (a) of the statutes is amended to read:

14 48.685 (3) (a) Every 4 years or at any time within that period that the  
15 department, a county department, a child welfare agency, or a school board considers  
16 appropriate, the department, county department, child welfare agency, or school  
17 board shall request the information specified in sub. (2) (am) 1. to 5. for all persons  
18 who are licensed, certified, or contracted to operate an entity, for all persons who are  
19 nonclient residents of an entity, and for all persons under 18 years of age, but not  
20 under 12 years of age, who are caregivers of a day care center that is licensed under  
21 s. 48.65 or established or contracted for under s. 120.13 (4) or of a day care provider  
22 that is certified under s. 48.651. Every 4 years or at any time within that period that  
23 the department or a local agency considers appropriate, the department or local  
24 agency shall request the information specified in sub. (2) (am) 1. to 5. for all

1 caregivers who are registered under sub. (2) (ar) 1. and, if applicable, all nonclient  
2 residents of those caregivers.

3 **SECTION 13d.** 48.685 (3m) of the statutes is amended to read:

4 48.685 (3m) Notwithstanding subs. (2) (b) 1. and (3) (b), if the department, a  
5 local agency, a county department, a child welfare agency, or a school board has  
6 obtained the information required under sub. (2) (am) or (3) (a) with respect to a  
7 person who is a caregiver specified in sub. (1) (ag) 1. b., a caregiver registered under  
8 sub. (2) (ar) 1., or, if applicable, a nonclient resident of a caregiver registered under  
9 sub. (2) (ar) 1., and if that person is also an employee, contractor, or nonclient  
10 resident of an entity, the entity is not required to obtain the information specified in  
11 sub. (2) (b) 1. or (3) (b) with respect to that person.

12 **SECTION 14d.** 48.685 (4m) (a) (intro.) of the statutes is amended to read:

13 48.685 (4m) (a) (intro.) Notwithstanding s. 111.335, and except as provided in  
14 par. (ad) and sub. (5), the department may not license, or continue or renew the  
15 license of, a person to operate an entity, the department or a local agency may not  
16 register a person under sub. (2) (ar) 1., a county department may not certify a day  
17 care provider under s. 48.651, a county department or a child welfare agency may not  
18 license, or renew the license of, a foster home or treatment foster home under s. 48.62,  
19 and a school board may not contract with a person under s. 120.13 (14), if the  
20 department, local agency, county department, child welfare agency or school board  
21 knows or should have known any of the following:".

22 **9.** Page 10, line 10: delete lines 10 to 25.

23 **10.** Page 11, line 1: delete lines 1 to 25.

24 **11.** Page 12, line 1: delete lines 1 to 18 and substitute:

1           **SECTION 18d.** 48.685 (5) (a) of the statutes is amended to read:

2           48.685 (5) (a) The department may license to operate an entity, the department  
3           or a local agency may register under sub. (2) (ar) 1., a county department may certify  
4           under s. 48.651, a county department or a child welfare agency may license under  
5           s. 48.62, and a school board may contract with under s. 120.13 (14) a person who  
6           otherwise may not be licensed, registered, certified, or contracted with for a reason  
7           specified in sub. (4m) (a) 1. to 5., and an entity may employ, contract with, or permit  
8           to reside at the entity a person who otherwise may not be employed, contracted with,  
9           or permitted to reside at the entity for a reason specified in sub. (4m) (b) 1. to 5., if  
10          the person demonstrates to the department, the local agency, the county department,  
11          the child welfare agency, or the school board or, in the case of an entity that is located  
12          within the boundaries of a reservation, to the person or body designated by the tribe  
13          under sub. (5d) (a) 3., by clear and convincing evidence and in accordance with  
14          procedures established by the department by rule or by the tribe that he or she has  
15          been rehabilitated.

16          **SECTION 18m.** 48.685 (5c) (a) of the statutes is amended to read:

17          48.685 (5c) (a) Any person who is permitted but fails under sub. (5) (a) to  
18          demonstrate to the department, a local agency, or a child welfare agency that he or  
19          she has been rehabilitated may appeal to the secretary of health and family services  
20          or his or her designee. Any person who is adversely affected by a decision of the  
21          secretary or his or her designee under this paragraph has a right to a contested case  
22          hearing under ch. 227.

23          **SECTION 19d.** 48.685 (5m) of the statutes is amended to read:

24          48.685 (5m) Notwithstanding s. 111.335, the department may refuse to license  
25          a person to operate an entity, a county department or a child welfare agency may

1 refuse to license a foster home or treatment foster home under s. 48.62, and an entity  
2 may refuse to employ or contract with a caregiver or permit a nonclient resident to  
3 reside at the entity if the person has been convicted of an offense that is not a serious  
4 crime, but that is, in the estimation of the department, county department, child  
5 welfare agency, or entity, substantially related to the care of a client.  
6 Notwithstanding s. 111.335, the department may refuse to license a person to  
7 operate a day care center, the department or a local agency may refuse to register a  
8 person under sub. (2) (ar) 1., a county department may refuse to certify a day care  
9 provider under s. 48.651, a school board may refuse to contract with a person under  
10 s. 120.13 (14), and a day care center that is licensed under s. 48.65 or established or  
11 contracted for under s. 120.13 (14) and or a day care provider that is certified under  
12 s. 48.651 may refuse to employ or contract with a caregiver or permit a nonclient  
13 resident to reside at the day care center or day care provider if the person or, if  
14 applicable under sub. (2) (ar) 1., a nonclient resident of the person has been convicted  
15 of or adjudicated delinquent on or after his or her 12th birthday for an offense that  
16 is not a serious crime, but that is, in the estimation of the department, local agency,  
17 county department, school board, day care center, or day care provider, substantially  
18 related to the care of a client.

19 **SECTION 20d.** 48.685 (6) (a) of the statutes is amended to read:

20 48.685 (6) (a) The department shall require any person who applies for  
21 issuance, continuation, or renewal of a license to operate an entity, the department  
22 or a local agency shall require any person who applies for registration under sub. (2)  
23 (ar) 1. and, if applicable, a nonclient resident of a person who applies for registration  
24 under sub. (2) (ar) 1., a county department shall require any day care provider who  
25 applies for initial certification under s. 48.651 or for renewal of that certification, a



1 county department or a child welfare agency shall require any person who applies  
2 for issuance or renewal of a license to operate a foster home or treatment foster home  
3 under s. 48.62, and a school board shall require any person who proposes to contract  
4 with the school board under s. 120.13 (14) or to renew a contract under that  
5 subsection, to complete a background information form that is provided by the  
6 department. Every 4 years the department or a local agency shall require all person  
7 who are registered under sub. (2) (ar) 1. and, if applicable, all nonclient residents of  
8 those persons to complete a background information form that is provided to the  
9 person or nonclient resident by the department or local agency.

10 **SECTION 21d.** 48.685 (8) of the statutes is amended to read:

11 48.685 (8) The department, a local agency, a county department, a child welfare  
12 agency, or a school board may charge a fee for obtaining the information required  
13 under sub. (2) (am) or (3) (a), for providing information to individuals under sub. (2)  
14 (ar) 2., or for providing information to an entity to enable the entity to comply with  
15 sub. (2) (b) 1. or (3) (b). The fee may not exceed the reasonable cost of obtaining or  
16 providing the information. No fee may be charged to a nurse's assistant, as defined  
17 in s. 146.40 (1) (d), for obtaining or maintaining information if to do so would be  
18 inconsistent with federal law.”.

19 (END)