



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0072/4
GMM:kjf:jf

DOA:.....Major, BB0185 - Criminal background checks

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Current law requires a person who is seeking a license to operate a child care center, certification as a child care provider for purposes of reimbursement under the Wisconsin Works child care subsidy program (Wisconsin Shares), or a contract with a school board to operate a child care program (collectively, "child care provider") to undergo a criminal history and child abuse background investigation (background investigation) before the person may receive such a license or certification or may enter into such a contract. Current law similarly requires a person to undergo a background investigation before the person may be a caregiver or nonclient resident of a child care provider. Currently, a person who is the subject of a background investigation may be required to be fingerprinted if the person is not a resident of this state or has not been a resident of this state at any time within the three years preceding the date of the investigation.

This bill requires a child care provider or an adult nonclient resident or caregiver of a child care provider to be fingerprinted if the child care provider is receiving, or wishes to receive, reimbursement under Wisconsin Shares, unless the person has previously been fingerprinted as required under the bill. The bill also permits a person who is fingerprinted as part of a background investigation to be charged a fee for the fingerprinting.

Current law requires a person who may be required to be fingerprinted under the Children's Code, specifically, a person required to undergo a background investigation, a prospective court-appointed special advocate, and a person applying for kinship care payments, to be fingerprinted on two fingerprint cards. This bill permits those individuals, together with an individual who is required to be fingerprinted under the bill, to be fingerprinted on two fingerprint cards or by other technologies approved by law enforcement agencies.

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:

SECTION 1. 48.07 (5) (b) 2. of the statutes is amended to read:

48.07 (5) (b) 2. On receipt of an application from a prospective court-appointed special advocate, the court-appointed special advocate program, with the assistance of the department of justice, shall conduct a background investigation of the applicant. If the court-appointed special advocate program determines that any information obtained as a result of the background investigation provides a reasonable basis for further investigation, the court-appointed special advocate program may require the applicant to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the applicant's fingerprints, or by other technologies approved by law enforcement agencies. The department of justice may provide for the submission of the fingerprint cards or fingerprints by other technologies to the federal bureau of investigation for the purposes of verifying the identification of the applicant and obtaining the applicant's criminal arrest and conviction record. The court-appointed special advocate program shall keep confidential all information received from the department of justice and the federal bureau of investigation under this subdivision.

SECTION 2. 48.57 (3p) (d) of the statutes is amended to read:

48.57 **(3p)** (d) If the person being investigated under par. (b) or (c) is a nonresident, or at any time within the 5 years preceding the date of the application has been a nonresident, or if the county department or, in a county having a population of 500,000 or more, the department determines that the person's employment, licensing or state court records provide a reasonable basis for further investigation, the county department or department shall require the person to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints, or by other technologies approved by law enforcement agencies. The department of justice may provide for the submission of the fingerprint cards or fingerprints by other technologies to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrest and conviction.

SECTION 3. 48.685 (2) (bm) of the statutes is amended to read:

48.685 **(2)** (bm) If the person who is the subject of the search under par. (am), (ar), or (b) 1. is not a resident of this state, or if at any time within the 3 years preceding the date of the search that person has not been a resident of this state, or if the department, county department, agency contracted with under s. 48.651 (2), child welfare agency, school board, or entity determines that the person's employment, licensing, or state court records provide a reasonable basis for further investigation, the department, county department, contracted agency, child welfare agency, school board, or entity shall make a good faith effort to obtain from any state or other United States jurisdiction in which the person is a resident or was a resident within the 3 years preceding the date of the search information that is equivalent to the information specified in par. (am) 1., (ar), or (b) 1. a. The department, county department, contracted agency, child welfare agency, school board, or entity may

require the person to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints, or by other technologies approved by law enforcement agencies. The department of justice may provide for the submission of the fingerprint cards or fingerprints by other technologies to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions.

SECTION 4. 48.685 (2) (br) of the statutes is created to read:

48.685 (2) (br) If the person who is the subject of a search under par. (am) or (b) 1. has, or is seeking, a license to operate a child care center under s. 48.65, certification as a child care provider under s. 48.651, or a contract under s. 120.13 (14) to operate a child care program, or is an adult nonclient resident or caregiver of such an entity, and if the entity is receiving, or wishes to receive, reimbursement under s. 49.155 for providing child care services, the department, county department, agency contracted with under s. 48.651 (2), or school board shall require the person to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints, or by other technologies approved by law enforcement agencies, unless the person has previously been fingerprinted under this paragraph. The department of justice may provide for the submission of the fingerprint cards or fingerprints by other technologies to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions.

SECTION 5. 48.685 (8) of the statutes is amended to read:

48.685 (8) The department, the department of health services, a county department, an agency contracted with under s. 48.651 (2), a child welfare agency, or a school board may charge a fee for obtaining the information required under sub.

(2) (am), or (ar), or (3) (a) or (am) ~~or~~, for providing information to an entity to enable the entity to comply with sub. (2) (b) 1. or (3) (b), or for obtaining fingerprints under sub. (2) (bm) or (br). The fee may not exceed the reasonable cost of obtaining the information or fingerprints. No fee may be charged to a nurse aide, as defined in s. 146.40 (1) (d), for obtaining or maintaining information or fingerprints if to do so would be inconsistent with federal law.

(END)