



## 1997 ASSEMBLY BILL AB-341

May 6, 1997 - Introduced by Representatives KRUSICK, UNDERHEIM, ALBERS, BALDWIN, BLACK, BOCK, BOYLE, CARPENTER, COGGS, CULLEN, DOBYNS, DUFF, FREESE, GARD, GREEN, GRONEMUS, GUNDERSON, HANSON, HARSDORF, HASENOHRL, HOVEN, HUBER, JESKEWITZ, KAUFERT, KEDZIE, KELSO, KREIBICH, KREUSER, KRUG, KUNICKI, LADWIG, LA FAVE, LAZICH, M. LEHMAN, LINTON, MEYER, MURAT, MUSSER, NOTESTEIN, OLSEN, OTT, OURADA, PLALE, PLOUFF, PORTER, R. POTTER, POWERS, RILEY, ROBSON, RYBA, SERATTI, SPRINGER, STASKUNAS, STEINBRINK, SYKORA, TRAVIS, TURNER, URBAN, VANDER LOOP, VRAKAS, WALKER, WARD, WASSERMAN, ZIEGELBAUER and ZUKOWSKI, cosponsored by Senators MOEN, BURKE, ROESSLER, CLAUSING, DARLING, FARROW, GROBSCHMIDT, A. LASEE, MOORE, PANZER, ROSENZWEIG, WELCH and WIRCH, by request of Wisconsin Board on Aging and Long-Term, Access to Independence, Alzheimer's Association, Citizen Advocates for Nursing Home Residents, Coalition of Wisconsin Aging Groups, Curative Workshop Rehabilitation Center, Geriatric Support Associates, Service Employees Local 150, Milwaukee County Department on Aging, Wisconsin Adult Daycare Association, Wisconsin Coalition for Advocacy, Wisconsin Coalition of Independent Living Centers, Wisconsin Coalition of Visiting Nurse Associations, Wisconsin Council of Senior Citizens, Wisconsin Homecare Organization, Wisconsin Nurse's Association, Attorney General James Doyle and Wisconsin Professional Police Association. Referred to Committee on Health.

1     **AN ACT to renumber** 146.40 (1) (a); **to renumber and amend** 71.07 (8) (a); **to**  
2     **amend** 49.498 (3) (b) 1., 50.065 (2) (intro.), 55.043 (1) (a) (intro.), (4) (intro.), (e)  
3     and (f) and (5), 146.40 (title), 146.40 (4g) (a) 2. (intro.), 146.40 (4g) (a) 2. b.,  
4     146.40 (4g) (a) 3., 146.40 (4r) (a), 146.40 (4r) (b), 146.40 (4r) (d) and 813.123 (5)  
5     (a) 3. a.; and **to create** 20.435 (6) (gu), 20.455 (2) (kt), 50.01 (1r), 50.065, 71.07  
6     (8) (a) 1. to 3., 146.40 (1) (ad), 146.40 (1) (ag), 146.40 (1) (aj), 146.40 (1) (am),  
7     146.40 (1) (em), 146.40 (1) (fm), 146.40 (1) (gm), 146.40 (1) (h), 146.40 (4r) (am),  
8     146.40 (4t), 440.03 (3q) and 440.035 (5) of the statutes; **relating to:** requiring  
9     criminal history searches of certain persons hired or proposed to be hired by  
10    certain facilities or services, clarifying requirements for reporting the  
11    misappropriation of property, abuse or neglect of certain patients or facility

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- 1 residents, limiting the personal exemptions tax credit, granting rule-making  
2 authority, making appropriations and providing a penalty.
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***Analysis by the Legislative Reference Bureau***

Under current law, the department of health and family services (DHFS) is required to maintain a registry that includes a listing of all nurse's assistants, home health aides and hospice aides whom DHFS has found to have neglected or abused or misappropriated property of a nursing home resident or a hospital patient.

This bill requires that a home health agency, community-based residential facility, hospital, adult day care center, adult family home, assisted living facility, hospice, treatment facility, personal care worker agency, supportive home care service agency or nursing home report to DHFS for inclusion in the registry any instance of resident, patient or client neglect or abuse or misappropriation of the property of a resident, patient or client by any employee. The bill also requires DHFS to conduct a review and investigation of any such report that it receives and in certain cases to report its findings to the department of regulation and licensing (DORL) or to the appropriate examining board or affiliated credentialing board. The bill requires DORL or the examining board or affiliated credentialing board to conduct an investigation of any abuse report that it receives from DHFS.

The bill prohibits, with certain exceptions, a community-based residential facility, home health agency, adult day care center, adult family home, assisted living facility, hospice, hospital, treatment facility, personal care worker agency, supportive home care service agency or nursing home from employing a person who may have access to residents or patients unless it has done all of the following:

1. Requested from DHFS a criminal history record search of the person and made a determination that the person does not have a conviction relating to patient abuse and has not been convicted or, if convicted, has been pardoned, of certain serious crimes.

2. Requested from DHFS any information regarding that person that is contained in the DHFS registry and made a determination that the person has no record of patient, resident or client abuse.

3. Verified the validity of the person's professional license, if necessary.

A violation of this prohibition is punishable by a forfeiture of not more than \$1,000.

In addition, this bill makes a change in the current law regarding the kind of abuse or neglect allegedly engaged in by a nurse's assistant that must be reported in the DHFS registry, in order to conform state law to federal law. Under current state law, an individual need only report to DHFS that he or she believes a nurse's assistant has neglected, abused or misappropriated the property of a resident or patient. The standard required under federal law includes not only the misappropriation of property, but also patient abuse or neglect. This bill incorporates this federal standard into state law.

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Finally, under current law, every individual who reaches the age of 65 before the close of the taxable year to which his or her income tax return relates may claim a credit of \$25. Under this bill, for taxable years beginning on or after January 1, 1998, the credit may be claimed by such a person only if his or her adjusted gross income (AGI) is less than \$71,200 or, if the person is married and files a joint return, if the couple's AGI is less than \$95,000 or, if the person is married and files a separate return, if the taxpayer's AGI is less than \$47,500.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 20.435 (6) (gu) of the statutes is created to read:

2           20.435 (6) (gu) *Abuse background checks.* All moneys received from fees  
3 charged under s. 50.065 (6) to be used for criminal history record searches and to  
4 transfer all moneys in excess of \$1.15 per criminal history record search to the  
5 appropriation under s. 20.455 (2) (kt).

6           **SECTION 2.** 20.455 (2) (kt) of the statutes is created to read:

7           20.455 (2) (kt) *Interagency criminal history searches.* All moneys transferred  
8 from s. 20.435 (6) (gu) for the purpose of assisting with criminal history record  
9 searches conducted by the department of health and family services under s. 50.065.

10          **SECTION 3.** 49.498 (3) (b) 1. of the statutes is amended to read:

11          49.498 (3) (b) 1. Inform each resident, orally and in writing at the time of  
12 admission to the nursing facility, of the resident's legal rights during the stay at the  
13 nursing facility, including a description of the protection of personal funds under sub.  
14 (8) and a statement that a resident may file a complaint with the department under  
15 s. 146.40 (4r) (a) concerning neglect, abuse or misappropriation of property, neglect  
16 or abuse of a resident.

17          **SECTION 4.** 50.01 (1r) of the statutes is created to read:

**ASSEMBLY BILL AB-341****SECTION 4**

1           50.01 (1r) "Home health agency" has the meaning given under s. 50.49 (1) (a).

2           **SECTION 5.** 50.065 of the statutes is created to read:

3           **50.065 Criminal history and patient abuse record search.** (1) In this  
4 section:

5           (a) "Adult day care center" means a facility that is operated by an adult day care  
6 provider that provides care and services to persons who are aged 60 or older for less  
7 than 24 hours a day.

8           (b) "Hospice" has the meaning given in s. 50.90 (1).

9           (c) "Hospital" has the meaning given in s. 50.33 (2).

10          (d) "Personal care worker agency" has the meaning specified by the department  
11 by rule.

12          (e) "Serious crime" has the meaning specified by the department by rule under  
13 sub. (7).

14          (f) "Supportive home care service agency" has the meaning specified by the  
15 department by rule.

16          (g) "Treatment facility" has the meaning given in s. 51.01 (19).

17          (h) "Vulnerable person" means a patient, resident or client of a  
18 community-based residential facility, home health agency, adult day care center,  
19 adult family home, assisted living facility, hospice, hospital, treatment facility,  
20 personal care worker agency, supportive home care service agency or nursing home.

21          (2) Notwithstanding s. 111.335, and except as provided in sub. (5), no  
22 community-based residential facility, home health agency, adult day care center,  
23 adult family home, assisted living facility, hospice, hospital, treatment facility,  
24 personal care worker agency, supportive home care service agency or nursing home

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1 may hire a person who may have access to its residents, patients or clients unless it  
2 has done all of the following:

3 (a) Requested from the department a criminal history record search of that  
4 person and made a determination that the person does not have a conviction in any  
5 jurisdiction relating to patient abuse described in 42 USC 1320a-7 (a) (2) and has  
6 not been convicted of a serious crime or, if convicted, that the person has been  
7 pardoned for the violation resulting in the conviction.

8 (b) Requested from the department any information regarding that person that  
9 is contained in the registry under s. 146.40 (4g) and made a determination that the  
10 person has no record of misappropriation of property, abuse or neglect of a vulnerable  
11 person.

12 (c) For a position for which the person must be licensed by the department of  
13 regulation and licensing, verified with the department of regulation and licensing  
14 that the person's license is valid.

15 **(3)** Every adult day care center, adult family home, assisted living facility,  
16 community-based residential facility, home health agency, hospice, hospital,  
17 treatment facility, personal care worker agency, supportive home care service agency  
18 and nursing home shall, in accordance with rules promulgated by the department,  
19 periodically request the department to conduct a criminal history record search and  
20 a search of the registry under s. 146.40 (4g) for all of the employes of the adult day  
21 care center, adult family home, assisted living facility, community-based residential  
22 facility, home health agency, hospice, hospital, treatment facility, personal care  
23 worker agency, supportive home care service agency or nursing home who may have  
24 access to patients, residents or clients of the adult day care center, adult family home,  
25 assisted living facility, community-based residential facility, home health agency,

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1 hospice, hospital, treatment facility, personal care worker agency, supportive home  
2 care service agency or nursing home.

3 (4) Whoever violates sub. (2) or (3) may be required to forfeit not more than  
4 \$1,000.

5 (5) An adult day care center, adult family home, assisted living facility,  
6 community-based residential facility, home health agency, hospice, hospital,  
7 treatment facility, personal care worker agency, supportive home care service agency  
8 or nursing home may employ a person who has been convicted of a serious crime and  
9 who has not been pardoned for the violation resulting in the conviction if the person  
10 demonstrates in accordance with procedures established by the department by rule,  
11 in consultation with the board on aging and long-term care, evidence of  
12 rehabilitation. No person who has been convicted, and not pardoned, of a serious  
13 crime involving the abuse or neglect of a vulnerable person may be permitted to  
14 demonstrate evidence of rehabilitation.

15 (5m) Notwithstanding s. 111.335, an adult day care center, adult family home,  
16 assisted living facility, community-based residential facility, home health agency,  
17 hospice, hospital, treatment facility, personal care worker agency, supportive home  
18 care service agency or nursing home may refuse to employ a person who may have  
19 access to its residents, patients or clients if the person has been convicted of an  
20 offense that the department has not defined as a "serious crime" under sub. (7) but  
21 that is, in the estimation of the adult day care center, adult family home, assisted  
22 living facility, community-based residential facility, home health agency, hospice,  
23 hospital, treatment facility, personal care worker agency, supportive home care  
24 service agency or nursing home significantly related to the care of a vulnerable  
25 person.

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1           **(6)** The department of health and family services shall request the department  
2 of justice to conduct a criminal history record search of all persons for whom a search  
3 is required under subs. (2) (a) and (3). The department of health and family services  
4 shall charge to an adult day care center, adult family home, assisted living facility,  
5 community-based residential facility, home health agency, hospice, hospital,  
6 treatment facility, personal care worker agency, supportive home care service agency  
7 or nursing home that makes the requests required under subs. (2) (a) and (b) and (3)  
8 the following:

9           (a) For each criminal history record search requested by a nonprofit  
10 organization, as defined in s. 108.02 (19), \$2.

11           (b) For each criminal history record search requested by a governmental  
12 agency, \$5.

13           (c) For each criminal history record search by any other requester, \$13.

14           **(7)** The department, in conjunction with the board on aging and long-term care  
15 and after consultation with the department of justice, shall establish by rule a  
16 definition of “serious crime” for the purposes of this section and s. 146.40. The  
17 definition shall include only crimes that are substantially related to the care of a  
18 vulnerable person.

19           **SECTION 6.** 50.065 (2) (intro.) of the statutes, as created by 1997 Wisconsin Act  
20 .... (this act), is amended to read:

21           50.065 **(2)** (intro.) Notwithstanding s. 111.335, and except as provided in sub.  
22 (5), no community-based residential facility, home health agency, adult day care  
23 center, adult family home, assisted living facility, hospice, hospital, treatment  
24 facility, personal care worker agency, supportive home care service agency or nursing

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1 home may hire employ a person who may have access to its residents, patients or  
2 clients unless it has done all of the following:

3 **SECTION 7.** 55.043 (1) (a) (intro.), (4) (intro.), (e) and (f) and (5) of the statutes  
4 are amended to read:

5 55.043 (1) (a) (intro.) If a county protective services agency has probable cause  
6 to believe that there is ~~abuse, neglect or misappropriation of property, neglect or~~  
7 abuse, the county protective services agency may conduct an investigation in  
8 Milwaukee county to determine if the vulnerable adult in question is in need of  
9 protective services. The county protective services agency shall conduct the  
10 investigation in accordance with standards established by the department for  
11 conducting the investigations. The investigation shall include at least one of the  
12 following:

13 (4) OFFER OF SERVICES. (intro.) If upon investigation the county protective  
14 services agency finds ~~abuse, neglect or misappropriation of property, neglect or~~  
15 abuse, the county protective services agency may do one or more of the following:

16 (e) Refer the case to the department of regulation and licensing or the  
17 appropriate examining board if the ~~abuse, neglect or misappropriation of property,~~  
18 neglect or abuse involves an individual who is required to be licensed, permitted,  
19 certified or registered under chs. 440 to 459.

20 (f) Bring a petition for a guardianship and protective service or protective  
21 placement if necessary to prevent ~~abuse, neglect or misappropriation of property,~~  
22 neglect or abuse and if the vulnerable adult would otherwise be at risk of serious  
23 harm because of an inability to arrange for necessary food, clothing, shelter and  
24 services.

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1           **(5) APPLICABILITY.** This section does not apply to patients or residents of  
2 state-operated or county-operated inpatient institutions or hospitals issued  
3 certificates of approval under s. 50.35 unless the alleged ~~abuse, neglect or~~  
4 misappropriation of property, neglect or abuse of such a patient or resident is alleged  
5 to have been done by a person other than an employe of the inpatient institution or  
6 hospital.

7           **SECTION 8.** 71.07 (8) (a) of the statutes is renumbered 71.07 (8) (a) (intro.) and  
8 amended to read:

9           71.07 **(8)** (a) (intro.) An exemption of \$25 if the taxpayer has reached the age  
10 of 65 prior to the close of the calendar or fiscal year: and if one of the following applies:

11           **SECTION 9.** 71.07 (8) (a) 1. to 3. of the statutes are created to read:

12           71.07 **(8)** (a) 1. The taxpayer is an individual, files an individual return, and  
13 has adjusted gross income of less than \$71,200 in the year to which the claim relates.

14           2. The taxpayer is married, files a joint return, and has adjusted gross income  
15 of less than \$95,000 in the year to which the claim relates.

16           3. The taxpayer is married, files a separate return, and has adjusted gross  
17 income of less than \$47,500 in the year to which the claim relates.

18           **SECTION 10.** 146.40 (title) of the statutes is amended to read:

19           **146.40** (title) **Instructional programs for nurse's assistants and home**  
20 **health and hospice aides; reporting patient, resident and client abuse.**

21           **SECTION 11.** 146.40 (1) (a) of the statutes is renumbered 146.40 (1) (as).

22           **SECTION 12.** 146.40 (1) (ad) of the statutes is created to read:

23           146.40 **(1)** (ad) "Adult day care center" means a facility that is operated by an  
24 adult day care provider that provides care and services to persons who are aged 60  
25 or older for less than 24 hours a day.

**ASSEMBLY BILL AB-341****SECTION 13**

1           **SECTION 13.** 146.40 (1) (ag) of the statutes is created to read:

2           146.40 (1) (ag) "Adult family home" has the meaning given in s. 50.01 (1).

3           **SECTION 14.** 146.40 (1) (aj) of the statutes is created to read:

4           146.40 (1) (aj) "Assisted living facility" has the meaning given in s. 50.01 (1d).

5           **SECTION 15.** 146.40 (1) (am) of the statutes is created to read:

6           146.40 (1) (am) "Community-based residential facility" has the meaning given  
7 under s. 50.01 (1g).

8           **SECTION 16.** 146.40 (1) (em) of the statutes is created to read:

9           146.40 (1) (em) "Personal care worker agency" has the meaning specified by the  
10 department by rule.

11          **SECTION 17.** 146.40 (1) (fm) of the statutes is created to read:

12          146.40 (1) (fm) "Serious crime" has the meaning specified by the department  
13 by rule under s. 50.065 (7).

14          **SECTION 18.** 146.40 (1) (gm) of the statutes is created to read:

15          146.40 (1) (gm) "Supportive home care service agency" has the meaning  
16 specified by the department by rule.

17          **SECTION 19.** 146.40 (1) (h) of the statutes is created to read:

18          146.40 (1) (h) "Treatment facility" has the meaning given in s. 51.01 (19).

19          **SECTION 20.** 146.40 (4g) (a) 2. (intro.) of the statutes is amended to read:

20          146.40 (4g) (a) 2. (intro.) A listing of all individuals about whom the  
21 department is notified under sub. (4r) (a) or (am), for whom the department makes  
22 findings under sub. (4r) (b) and to whom any of the following applies:

23          **SECTION 21.** 146.40 (4g) (a) 2. b. of the statutes is amended to read:

24          146.40 (4g) (a) 2. b. A hearing officer finds reasonable cause to believe that the  
25 individual performed an action alleged under sub. (4r) (a) or (am).

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1           **SECTION 22.** 146.40 (4g) (a) 3. of the statutes is amended to read:

2           146.40 **(4g)** (a) 3. Findings of the department under sub. (4r) (b) or of the  
3 hearing officer under sub. (4r) (d) concerning the ~~neglect, abuse or misappropriation~~  
4 of property, neglect or abuse of a resident or patient by an individual listed under  
5 subd. 2.

6           **SECTION 23.** 146.40 (4r) (a) of the statutes is amended to read:

7           146.40 **(4r)** (a) Any individual may report to the department that he or she  
8 believes that a nurse's assistant or other person employed by or under contract with  
9 a nursing home or hospital has neglected, or abused a nursing home resident or a  
10 hospital patient or misappropriated the resident's or patient's property of a nursing  
11 home resident or a hospital patient or that a home health aide or other person  
12 employed by or under contract with a home health agency has neglected, or abused  
13 a home health agency patient or misappropriated the patient's property of a home  
14 health agency patient.

15           **SECTION 24.** 146.40 (4r) (am) of the statutes is created to read:

16           146.40 **(4r)** (am) A home health agency, nursing home, hospital,  
17 community-based residential facility, adult day care center, adult family home,  
18 assisted living facility, hospice, personal care worker agency, supportive home care  
19 service agency or treatment facility shall report any misappropriation of property,  
20 neglect or abuse of a resident, patient or client by a nurse's assistant, home health  
21 aide or other person employed by or under contract with the home health agency,  
22 nursing home, hospital, community-based residential facility, adult day care center,  
23 adult family home, assisted living facility, hospice, personal care worker agency,  
24 supportive home care service agency or treatment facility to the department.

25           **SECTION 25.** 146.40 (4r) (b) of the statutes is amended to read:

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1           146.40 (4r) (b) The department shall review and investigate any report  
2 received under par. (a) or (am) and, if the allegation is substantiated, make specific,  
3 documented findings concerning the ~~neglect, abuse or misappropriation of property,~~  
4 neglect or abuse. The department shall in writing by certified mail notify the nurse's  
5 assistant ~~or~~, home health aide or other person specified in the report that his or her  
6 name and the department's findings about him or her shall be listed in the registry  
7 under sub. (4g) (a) 2. and 3. unless he or she contests the listings in a hearing before  
8 the department. The written notification shall describe the investigation conducted  
9 by the department, enumerate the findings alleging ~~neglect, abuse or~~  
10 misappropriation of property, neglect or abuse of a ~~nursing home resident or home~~  
11 ~~health agency, patient~~ or client and explain the consequence to the nurse's assistant  
12 ~~or~~, home health aide or other person specified in the report of waiving a hearing to  
13 contest the findings. The nurse's assistant ~~or~~, home health aide ~~named~~ or other  
14 person specified in the report shall have 30 days after receipt of the notification to  
15 indicate to the department in writing whether he or she intends to contest the listing  
16 or to waive the hearing.

17           **SECTION 26.** 146.40 (4r) (d) of the statutes is amended to read:

18           146.40 (4r) (d) If the nurse's assistant ~~or~~, home health aide or other person  
19 specified in the report received under par. ~~(b)~~ (a) or (am) timely notifies the  
20 department that he or she contests the listings in the registry under par. (b), the  
21 department shall hold a hearing under the requirements of ch. 227. If after  
22 presentation of evidence a hearing officer finds that there is no reasonable cause to  
23 believe that the nurse's assistant ~~or~~, home health aide or other person specified in  
24 the report received under par. (a) or (am) performed an action alleged under par. (a)  
25 or (am), the hearing officer shall dismiss the proceeding. If after presentation of

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1 evidence a hearing officer finds that there is reasonable cause to believe that the  
2 nurse's assistant ~~or~~, home health aide or other person specified in the report received  
3 under par. (a) or (am) performed an action alleged under par. (a) or (am), the hearing  
4 officer shall so find and shall cause the name of the nurse's assistant ~~or~~, home health  
5 aide or other person specified in the report received under par. (a) or (am) to be  
6 entered under sub. (4g) (a) 2. and the hearing officer's findings about the nurse's  
7 assistant ~~or~~, home health aide or other person specified in the report received under  
8 par. (a) or (am) to be entered under sub. (4g) (a) 3.

9 **SECTION 27.** 146.40 (4t) of the statutes is created to read:

10 146.40 (4t) (a) In this subsection, "credential" has the meaning given in s.  
11 440.01 (2) (a).

12 (b) If the department of health and family services determines that a person  
13 who is the subject of a review and investigation under sub. (4r) (b) holds a credential  
14 that is related to the person's employment at the adult day care center, adult family  
15 home, assisted living facility, community-based residential facility, home health  
16 agency, hospice, hospital, treatment facility, personal care worker agency, supportive  
17 home care service agency or nursing home, the department of health and family  
18 services shall file a report with the department of regulation and licensing, with the  
19 examining board or with the affiliated credentialing board attached to the  
20 department of regulation and licensing or to the examining board, whichever issued  
21 the credential to the person, that details the findings of the review and investigation  
22 if the findings substantiate the report received by the department of health and  
23 family services under sub. (4r) (a) or (am).

24 **SECTION 28.** 440.03 (3q) of the statutes is created to read:

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1           440.03 **(3q)** Notwithstanding sub. (3m), the department shall investigate any  
2 report that it receives from the department of health and family services under s.  
3 146.40 (4t) (b).

4           **SECTION 29.** 440.035 (5) of the statutes is created to read:

5           440.035 **(5)** Investigate any report that it receives from the department of  
6 health and family services under s. 146.40 (4t) (b).

7           **SECTION 30.** 813.123 (5) (a) 3. a. of the statutes is amended to read:

8           813.123 **(5)** (a) 3. a. That the respondent has interfered with, or based upon  
9 prior conduct of the respondent may interfere with, an investigation of the  
10 vulnerable adult under s. 55.043 and that the interference complained of, if  
11 continued, would make it difficult to determine if ~~abuse, neglect or misappropriation~~  
12 of property, abuse or neglect is occurring or may recur.

13           **SECTION 31. Nonstatutory provisions.**

14           (1) CRIMINAL AND ABUSE HISTORY BACKGROUND CHECKS.

15           (a) The authorized FTE positions for the department of health and family  
16 services are increased by 6.0 PR positions on the effective date of this paragraph, to  
17 be funded from the appropriation under section 20.435 (6) (gu) of the statutes, as  
18 created by this act, for the purpose for which the appropriation is made.

19           (b) The authorized FTE positions for the department of health and family  
20 services are increased by 4.3 FED positions on the effective date of this paragraph,  
21 to be funded from the appropriation under section 20.435 (6) (n) of the statutes, for  
22 the purpose of conducting criminal and abuse history record searches under section  
23 50.065 of the statutes.

24           (2) REPORT TO THE LEGISLATURE. Not later than January 1, 1998, the department  
25 of health and family services shall submit to the legislature in the manner provided

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1 under section 13.172 (2) of the statutes a report that identifies a degree of abuse or  
2 neglect for which a person who would be barred under this act from employment in  
3 an adult day care center, adult family home, assisted living facility,  
4 community-based residential facility, home health agency, hospice, hospital,  
5 treatment facility, personal care worker agency, supportive home care service agency  
6 or nursing home should not, in the estimation of the department of health and family  
7 services, be so barred. The department, in its report, shall offer alternative  
8 consequences that are consistent with federal law and regulations for a person with  
9 a record of abuse or neglect identified in the report. The department shall prepare  
10 its report in consultation with the board on aging and long-term care.

11 (3) STUDY ON DETERMINING CONVICTIONS IN OTHER STATES. The department of  
12 health and family services and the department of justice, in consultation with the  
13 board on aging and long-term care, shall conduct a study to determine methods by  
14 which both departments may ascertain whether a person for whom a criminal  
15 history search must be conducted under this act has a relevant conviction in another  
16 jurisdiction or has been reported for misappropriation of property, abuse or neglect  
17 of a patient, resident or client of an adult day care center, adult family home, assisted  
18 living facility, community-based residential facility, home health agency, hospice,  
19 hospital, treatment facility, personal care worker agency, supportive home care  
20 service agency or nursing home in another jurisdiction. Not later than January 1,  
21 1998, the department of health and family services, in conjunction with the  
22 department of justice, shall submit to the legislature in the manner provided under  
23 section 13.172 (2) of the statutes a report detailing the results of the study.

24 (4) AUDIT OF ABUSE INVESTIGATIONS. The legislative audit bureau is requested  
25 to perform a performance evaluation audit to compare the investigation processes of

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1 the department of health and family services under section 146.40 (4r) (b) of the  
2 statutes, as affected by this act, the department of regulation and licensing under  
3 section 440.03 (3q) of the statutes, as created by this act, and examining boards and  
4 affiliated credentialing boards under section 440.035 (5) of the statutes, as created  
5 by this act. The audit shall compare methods and outcomes of the investigations.  
6 If the legislative audit bureau performs the audit, it shall file its report as described  
7 under section 13.94 (1) (b) of the statutes by the first day of the 25th month beginning  
8 after the effective date of this subsection or by June 30, 2000, whichever is earlier.

**SECTION 32. Appropriation changes.**

10 (1) VOLUNTEER OMBUDSMAN SERVICES COORDINATOR. In the schedule under  
11 section 20.005 (3) of the statutes for the appropriation to the board on aging and  
12 long-term care under section 20.432 (1) (a) of the statutes, as affected by the acts of  
13 1997, the dollar amount is increased by \$48,600 for fiscal year 1998-99 to increase  
14 the authorized FTE positions for the board on aging and long-term care by 1.0 GPR  
15 volunteer ombudsman services coordinator position.

16 (2) HEALTH CARE REGISTRY. In the schedule under section 20.005 (3) of the  
17 statutes for the appropriation to the department of health and family services under  
18 section 20.435 (6) (a) of the statutes, as affected by the acts of 1997, the dollar amount  
19 is increased by \$362,900 for fiscal year 1998-99 to increase the authorized FTE  
20 positions for the department by 8.7 GPR positions for investigations of  
21 misappropriation of property, abuse or neglect of a patient, resident or client in a  
22 home health agency, community-based residential facility, nursing home, adult day  
23 care center, adult family home, assisted living facility, hospice, personal care worker  
24 agency, supportive home care service agency or hospital.

**SECTION 33. Initial applicability.**

