



1997 SENATE BILL 451

February 10, 1998 – Introduced by Senators WIRCH, DARLING, BURKE and CLAUSING, cosponsored by Representatives GREEN, KREUSER, STEINBRINK, PORTER, MUSSER, DOBYNS, R. YOUNG, TURNER, MURAT, JESKEWITZ and L. YOUNG. Referred to Committee on Judiciary, Campaign Finance Reform and Consumer Affairs.

1 **AN ACT to amend** 48.19 (1) (c), 48.685 (2) (ag) (intro.), 48.685 (2) (am) 5., 48.685
2 (2) (b) 1. e., 48.685 (2) (b) 2., 48.685 (2) (b) 3., 48.685 (2) (bg), 48.685 (2) (bm),
3 48.685 (2) (c), 48.685 (3m), 48.685 (4), 48.685 (5) (intro.), 48.685 (5c) (a), 48.685
4 (5m), 48.685 (6) (b) and 48.981 (7) (a) 11r.; **to repeal and recreate** 48.685 (2)
5 (ag) (intro.); and **to create** 48.02 (2p), 48.19 (1) (d) 8., 48.245 (2) (a) 5., 48.245
6 (2) (a) 6., 48.245 (2) (d), 48.32 (1m), 48.345 (7), 48.48 (17) (a) 12., 48.57 (1) (k),
7 48.61 (8), 48.685 (2) (b) 1m., 48.685 (2) (b) 1p., 48.685 (3) (c), 48.685 (5c) (bm),
8 48.685 (6) (ap), 59.53 (7m) and 895.56 of the statutes; **relating to:** dispositional
9 orders, consent decrees and informal dispositions for certain children in need
10 of protection or services; taking a child into custody; criminal history and child
11 abuse record searches of employes, contractors and volunteers of
12 court-appointed special advocate programs; immunity from civil liability for
13 volunteers appointed by and employes of court-appointed special advocate
14 programs; and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law authorizes a court assigned to exercise jurisdiction under the children's code (juvenile court) to impose certain dispositions with respect to a child who has been found to be in need of protection or services. Those dispositions include

placing the child under the supervision of an agency under conditions prescribed by the juvenile court designed for the well-being of the child. Current law also authorizes the juvenile court, in a proceeding in which a child has been found to be in need of protection or services, to order the child's parent, guardian or legal custodian to comply with any condition determined by the juvenile court to be necessary for the child's welfare. In addition, under current law, at any time after the filing of a petition alleging a child to be in need of protection or services and before the entry of judgment, the juvenile court may, with the agreement of the child, if 12 years of age or over, the child's parent, guardian or legal custodian and the person filing the petition, suspend the proceedings and place the child under supervision in his or her own home or present placement under terms and conditions applicable to the parent, guardian or legal custodian, and to the child, established by the juvenile court (consent decree). Moreover, under current law, the juvenile court intake worker (intake worker) may enter into an informal disposition requiring a child who has been referred to the intake worker as in need of protection or services and the child's parent, guardian or legal custodian to abide by such obligations as will tend to ensure the child's rehabilitation, protection or care if the intake worker has determined that neither the interests of the child nor of the public require the filing of a petition, if the facts persuade the intake worker that the jurisdiction of the juvenile court, if sought, would exist and if the child and the child's parent, guardian or legal custodian consent.

This bill authorizes the juvenile court to order, as part of a dispositional order or an extension or revision of a dispositional order (dispositional order), the parent, guardian or legal custodian of a child who has been found to be in need of protection or services because the child has been the victim of physical or sexual abuse, and the child, to permit a designee of the agency primarily responsible for providing services to the child under the order to inspect the child visually immediately upon the request of the agency or designee. The bill also authorizes the juvenile court to impose a similar order, as part of a consent decree, requiring the parent, guardian or legal custodian of a child who is alleged to be in need of protection or services because the child has been the victim of physical or sexual abuse, and the child, to permit a designee of the agency supervising the child under the consent decree to inspect the child visually immediately upon the request of the agency or designee. In addition, the bill authorizes an intake worker to enter into an informal disposition with the parent, guardian or legal custodian of a child who has been referred to the intake worker as in need of protection or services because the child has been the victim of physical or sexual abuse, and with the child, requiring the parent, guardian or legal custodian and the child to permit a designee of the agency supervising the child under the informal disposition to inspect the child visually immediately upon the request of the agency or designee.

The bill also authorizes the juvenile court to order, as part of a dispositional order, the parent, guardian or legal custodian of a child under 6 years of age who has been found to be in need of protection or services because the child has been the victim of physical abuse to permit to inspect the child visually immediately upon request a volunteer appointed by or an employe of a court-appointed special

advocate (CASA) program that is recognized by a county department of human services or social services (county department), county board or, in a county having a population of 500,000 or more, the department of health and family services (DHFS) or a licensed child welfare agency under contract with DHFS to perform advocacy services for a child who is the subject of a child in need of protection or services proceeding. In addition, the bill authorizes the juvenile court to impose a similar order, as part of a consent decree, requiring the parent, guardian or legal custodian of a child under 6 years of age who is alleged to be in need of protection or services because the child has been the victim of physical abuse, and the child, to permit a volunteer appointed by or an employe of a CASA program to inspect the child visually immediately upon the request of the volunteer or employe. Moreover, the bill authorizes an intake worker to enter into an informal disposition with the parent, guardian or legal custodian of a child under 6 years of age who has been referred to the intake worker as in need of protection or services because the child has been the victim of physical abuse, and with the child, requiring the parent, guardian or legal custodian and the child to permit a volunteer appointed by or an employe of a CASA program to inspect the child visually immediately upon the request of the volunteer or employe.

Under the bill, a person who is refused permission to inspect a child visually in violation of a dispositional order must, as soon as possible, report that refusal to the agency primarily responsible for providing services to the child under the dispositional order. Similarly, a person who is refused that permission in violation of a consent decree or informal disposition must, as soon as possible, report the refusal to the agency supervising the child under the consent decree or informal disposition. The agency may then seek a juvenile court order for the immediate removal of the child from his or her present custody or notify a law enforcement officer who may take the child into custody on the grounds of that refusal. The bill specifies that refusal to permit a visual inspection of a child in violation of a dispositional order, consent decree or informal disposition constitutes a satisfactory showing to judge that the welfare of the child demands that the child be immediately removed from his or her present custody and constitutes a circumstance under which a law enforcement officer may take a child into custody.

The bill also specifies that an agency or designee of an agency may request permission to inspect a child visually, notwithstanding that a requirement to grant that permission is not included in a dispositional order, consent decree or informal disposition, if that inspection is necessary to provide appropriate protection or services to the child.

In addition, the bill provides that a CASA volunteer or employe is immune from civil liability for any act or omission done in good faith within the scope of his or her duty and authority as a CASA volunteer or employe.

Finally, under current law, beginning on October 1, 1998, a child welfare agency, group home, shelter care facility, day care center or day care provider (entity) may not hire or contract with a person who will be under the entity's control and who is expected to have access to a child who receives services from the entity (client) if, the entity knows or should have known that the person has been convicted of, or has

pending against him or her a charge for, a serious crime, as defined by DHFS by rule, that is substantially related to the care of a client; that a unit of government or a state agency has made a finding that the person has abused or neglected a client or misappropriated the property of a client; that a determination has been made under the child abuse reporting law that the person has abused or neglected a child; or that, in the case of a position for which the person must be credentialed by the department of regulation and licensing (DORL), the person's credential is not current or is limited so as to restrict the person from providing adequate care to a client. Current law, however, permits a person who otherwise may not be hired or contracted with by an entity to demonstrate by clear and convincing evidence that he or she has been rehabilitated. Under current law, before an entity may hire or contract with a person who will be under the entity's control and who is expected to have access to the entity's clients, and every 4 years, the entity must obtain a criminal history search of the person, information that is contained in the client abuse registry maintained by DHFS regarding any findings against the person, information maintained by DORL regarding the person's credentials, if the person must be credentialed by DORL, information maintained by DHFS regarding any substantiated reports of child abuse or neglect against the person and information regarding any previous denials to the person of a license, continuation of a license, certification, employment, a contract with or permission to reside at an entity for a reason specified under current law (criminal history and child abuse record search).

This bill extends current law that requires a criminal history and child abuse record search and that prohibits certain persons from being hired, or contracted with, by an entity to CASA programs. Under the bill, the county department, county board, DHFS or licensed child welfare agency that recognizes a CASA program is responsible for conducting, or for appointing an organization to conduct, criminal history and child abuse record searches for all employees and contractors of the CASA program who are under the control of the CASA program and who have access to the clients of the CASA program and the county department, county board, DHFS, child welfare agency, organization or CASA program is responsible for conducting those searches for all volunteers of the CASA program who are under the control of the CASA program and who have access to the clients of the CASA program.

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.** 48.02 (2p) of the statutes is created to read:
- 2 48.02 (2p) "Court-appointed special advocate program" means a program that
- 3 is recognized by a county board, a county department or, in a county having a
- 4 population of 500,000 or more, the department or a licensed child welfare agency

1 under contract with the department to perform advocacy services for a child who is
2 the subject of a proceeding related to a petition under s. 48.13.

3 **SECTION 2.** 48.19 (1) (c) of the statutes is amended to read:

4 48.19 (1) (c) An order of the judge if made upon a showing satisfactory to the
5 judge that the welfare of the child demands that the child be immediately removed
6 from his or her present custody. Refusal of the parent, guardian or legal custodian
7 of a child or the child to permit a visual inspection of the child in violation of an
8 informal disposition under s. 48.245 (2) (a) 5. or 6., a consent decree under s. 48.32
9 (1m) (a) or an order under s. 48.345 (7) (a) constitutes a satisfactory showing under
10 this paragraph. The order shall specify that the child be held in custody under s.
11 48.207.

12 **SECTION 3.** 48.19 (1) (d) 8. of the statutes is created to read:

13 48.19 (1) (d) 8. The parent, guardian or legal custodian of a child or the child
14 refuses to permit a visual inspection of the child in violation of an informal
15 disposition under s. 48.245 (2) (a) 5. or 6., a consent decree under s. 48.32 (1m) (a) or
16 an order under s. 48.345 (7) (a).

17 **SECTION 4.** 48.245 (2) (a) 5. of the statutes is created to read:

18 48.245 (2) (a) 5. That the child's parent, guardian or legal custodian and the
19 child permit a designee of the agency supervising the child under the informal
20 disposition to inspect the child visually immediately upon the request of the agency
21 or designee, if the facts persuade the intake worker that the jurisdiction of the court,
22 if sought, would exist under s. 48.13 (3) because the child has been the victim of
23 abuse, as defined in s. 48.02 (1) (a) or (b).

24 **SECTION 5.** 48.245 (2) (a) 6. of the statutes is created to read:

1 48.245 (2) (a) 6. That the child's parent, guardian or legal custodian and the
2 child permit a volunteer appointed by or an employe of a court-appointed special
3 advocate program to inspect the child visually immediately upon the request of the
4 volunteer or employe, if the facts persuade the intake worker that the jurisdiction
5 of the court, if sought, would exist under s. 48.13 (3) because the child has been the
6 victim of abuse, as defined in s. 48.02 (1) (a), and if the child is less than 6 years of
7 age.

8 **SECTION 6.** 48.245 (2) (d) of the statutes is created to read:

9 48.245 (2) (d) 1. If a child or the parent, guardian or legal custodian of a child
10 refuses to permit a visual inspection of the child in violation of an informal
11 disposition under par. (a) 5. or 6., the individual who is refused permission to inspect
12 the child visually shall, as soon as possible after the refusal, report the refusal to the
13 agency supervising the child under the informal disposition. The agency may seek
14 a court order under s. 48.19 (1) (c) for the immediate removal of the child from his
15 or her present custody or may notify a law enforcement officer of the refusal and the
16 law enforcement officer may take the child into custody under s. 48.19 (1) (d) 8.

17 2. Notwithstanding that an informal disposition does not include the
18 requirement specified in par. (a) 5., the agency supervising the child under the
19 informal disposition or a designee of that agency may request the parent, guardian
20 or legal custodian of the child and the child to permit a designee of the agency to
21 inspect the child visually if the visual inspection of the child is necessary to provide
22 appropriate protection or services for the child.

23 **SECTION 7.** 48.32 (1m) of the statutes is created to read:

24 48.32 (1m) (a) 1. If the petition alleges that the child is in need of protection
25 or services under s. 48.13 (3) because the child has been the victim of abuse, as

1 defined in s. 48.02 (1) (a) or (b), the consent decree may require that the child's parent,
2 guardian or legal custodian and the child permit a designee of the agency supervising
3 the child under the consent decree to inspect the child visually immediately upon the
4 request of the agency or designee.

5 2. If the petition alleges that the child is in need of protection or services under
6 s. 48.13 (3) because the child has been the victim of abuse, as defined in s. 48.02 (1)
7 (a), and if the child is less than 6 years of age, the consent decree may require that
8 the child's parent, guardian or legal custodian and the child permit a volunteer
9 appointed by or an employe of a court-appointed special advocate program to inspect
10 the child visually immediately upon the request of the volunteer or employe.

11 (b) If a child or the parent, guardian or legal custodian of a child refuses to
12 permit a visual inspection of the child in violation of a consent decree entered under
13 par. (a), the individual who is refused permission to inspect the child visually shall,
14 as soon as possible after the refusal, report the refusal to the agency supervising the
15 child under the consent decree. The agency may seek a court order under s. 48.19
16 (1) (c) for the immediate removal of the child from his or her present custody or may
17 notify a law enforcement officer of the refusal and the law enforcement officer may
18 take the child into custody under s. 48.19 (1) (d) 8.

19 (c) Notwithstanding that a consent decree does not include the requirement
20 specified in par. (a) 1., the agency supervising the child under the consent decree or
21 a designee of that agency may request the parent, guardian or legal custodian of the
22 child and the child to permit a designee of the agency to inspect the child visually if
23 a visual inspection of the child is necessary to provide appropriate protection or
24 services to the child.

25 **SECTION 8.** 48.345 (7) of the statutes is created to read:

1 48.345 (7) (a) 1. If the court finds that the child is in need of protection or
2 services under s. 48.13 (3) because the child has been the victim of abuse, as defined
3 in s. 48.02 (1) (a) or (b), the court may order that the child's parent, guardian or legal
4 custodian and the child permit a designee of the agency primarily responsible for
5 providing services to the child under the order to inspect the child visually
6 immediately upon the request of the agency or designee.

7 2. If the court finds that the child is in need of protection or services under s.
8 48.13 (3) because the child has been the victim of abuse, as defined in s. 48.02 (1) (a),
9 and if the child is less than 6 years of age, the court may order that the child's parent,
10 guardian or legal custodian and the child permit a volunteer appointed by or an
11 employe of a court-appointed special advocate program to inspect the child visually
12 immediately upon the request of the volunteer or employe.

13 (b) If a child or the parent, guardian or legal custodian of a child refuses to
14 permit a visual inspection of the child in violation of an order entered under par. (a),
15 the individual who is refused permission to inspect the child visually shall, as soon
16 as possible after the refusal, report the refusal to the agency primarily responsible
17 for providing services to the child under the order. The agency may seek a court order
18 under s. 48.19 (1) (c) for the immediate removal of the child from his or her present
19 custody or may notify a law enforcement officer of the refusal and the law
20 enforcement officer may take the child into custody under s. 48.19 (1) (d) 8.

21 (c) Notwithstanding that an order under this section or under s. 48.363 or
22 48.365 does not include the requirement specified in par. (a) 1., the agency primarily
23 responsible for providing services to the child under the order or a designee of that
24 agency may request the parent, guardian or legal custodian of the child and the child

1 to permit a designee of the agency to inspect the child visually if a visual inspection
2 of the child is necessary to provide appropriate protection or services to the child.

3 **SECTION 9.** 48.48 (17) (a) 12. of the statutes is created to read:

4 48.48 (17) (a) 12. Recognize court-appointed special advocate programs.

5 **SECTION 10.** 48.57 (1) (k) of the statutes is created to read:

6 48.57 (1) (k) To recognize court-appointed special advocate programs.

7 **SECTION 11.** 48.61 (8) of the statutes is created to read:

8 48.61 (8) To recognize court-appointed special advocate programs in a county
9 having a population of 500,000 or more, if contracted to do so by the department.

10 **SECTION 12.** 48.685 (2) (ag) (intro.) of the statutes, as created by 1997 Wisconsin
11 Act 27, is amended to read:

12 48.685 (2) (ag) (intro.) Notwithstanding s. 111.335, and except as provided in
13 sub. (5), an entity may not hire or contract with a person who will be under the
14 entity's control, as defined by the department by rule, and who is expected to have
15 access to its clients, or permit to reside at the entity a person who is not a client and
16 who is expected to have access to a client and a court-appointed special advocate
17 program may not hire or contract with, or appoint as a volunteer, a person who will
18 be under its control, as defined by the department by rule, and who is expected to
19 have access to its clients, if the entity or court-appointed special advocate program
20 knows or should have known any of the following:

21 **SECTION 13.** 48.685 (2) (ag) (intro.) of the statutes, as affected by 1997
22 Wisconsin Act 27, section 1664f, and 1997 Wisconsin Act ... (this act), is repealed and
23 recreated to read:

24 48.685 (2) (ag) (intro.) Notwithstanding s. 111.335, and except as provided in
25 sub. (5), an entity may not employ or contract with a person who will be under the

1 entity's control, as defined by the department by rule, and who has, or is expected to
2 have, access to its clients, or permit to reside at the entity a person who is not a client
3 and who has, or is expected to have, access to a client and a court-appointed special
4 advocate program may not employ or contract with, or appoint as a volunteer, a
5 person who will be under its control, as defined by the department by rule, and who
6 has, or is expected to have, access to its clients, if the entity or court-appointed
7 special advocate program knows or should have known any of the following:

8 **SECTION 14.** 48.685 (2) (am) 5. of the statutes, as created by 1997 Wisconsin Act
9 27, is amended to read:

10 48.685 (2) (am) 5. Information maintained by the department under this
11 ~~section, under section~~ and under ss. 48.651 (2m) and under s. 120.13 (14) regarding
12 any denial to the person of a license, continuation of a license, certification or a
13 contract to operate an entity for a reason specified in par. (a) 1. to 5. ~~and, regarding~~
14 any denial to the person of employment at, a contract with or permission to reside
15 at an entity for a reason specified in par. (ag) 1. to 5. and regarding any denial to the
16 person of employment at, a contract with or a volunteer appointment with a
17 court-appointed special advocate program for a reason specified in par. (ag) 1. to 5.

18 If the information obtained under this subdivision indicates that the person has been
19 denied a license, continuation of a license, certification, a contract, a volunteer
20 appointment, employment or permission to reside as described in this subdivision,
21 the department, a county department or a school board need not obtain the
22 information specified in subds. 1. to 4.

23 **SECTION 15.** 48.685 (2) (b) 1. e. of the statutes, as created by 1997 Wisconsin
24 Act 27, is amended to read:

1 48.685 (2) (b) 1. e. Information maintained by the department under this
2 section, ~~under section and under ss. 48.651 (2m) and under s. 120.13 (14) regarding~~
3 any denial to the person of a license, continuation of a license, certification or a
4 contract to operate an entity for a reason specified in par. (a) 1. to 5. ~~and, regarding~~
5 any denial to the person of employment at, a contract with or permission to reside
6 at an entity for a reason specified in par. (ag) 1. to 5. and regarding any denial to the
7 person of employment at, a contract with or a volunteer appointment with a
8 court-appointed special advocate program for a reason specified in par. (ag) 1. to 5.
9 If the information obtained under this subd. 1. e. indicates that the person has been
10 denied a license, continuation of a license, certification, a contract, a volunteer
11 appointment, employment or permission to reside as described in this subd. 1. e., the
12 entity need not obtain the information specified in subd. 1. a. to d.

13 **SECTION 16.** 48.685 (2) (b) 1m. of the statutes is created to read:

14 48.685 (2) (b) 1m. Subject to subds. 1m. e., 2. and 3., a county department,
15 county board or, in a county having a population of 500,000 or more, the department
16 or a licensed child welfare agency under contract with the department that has
17 recognized a court-appointed special advocate program under s. 48.48 (17) (a) 12.,
18 48.57 (1) (k), 48.61 (8) or 59.53 (7m) shall obtain, or shall appoint an organization to
19 obtain, all of the following with respect to a prospective employe or contractor of the
20 court-appointed special advocate program and that county department, county
21 board, department, licensed child welfare agency, organization or court-appointed
22 special advocate program shall obtain all of the following with respect to a
23 prospective volunteer of the court-appointed special advocate program:

24 a. A criminal history search from the records maintained by the department
25 of justice.

1 b. Information that is contained in the registry under s. 146.40 (4g) regarding
2 any findings against the person.

3 c. Information maintained by the department of regulation and licensing
4 regarding the status of the person's credentials, if applicable.

5 d. Information maintained by the department regarding any substantiated
6 reports of child abuse or neglect against the person.

7 e. Information maintained by the department under this section and under ss.
8 48.651 (2m) and 120.13 (14) regarding any denial to the person of a license,
9 continuation of a license, certification or a contract to operate an entity for a reason
10 specified in par. (a) 1. to 5., regarding any denial to the person of employment at, a
11 contract with or permission to reside at an entity for a reason specified in par. (ag)
12 1. to 5. and regarding any denial to the person of employment at, a contract with or
13 a volunteer appointment with a court-appointed special advocate program for a
14 reason specified in par. (ag) 1. to 5. If the information obtained under this subd. 1.
15 e. indicates that the person has been denied a license, continuation of a license,
16 certification, a contract, a volunteer appointment, employment or permission to
17 reside as described in this subd. 1. e., the county department, county board,
18 department, child welfare agency, organization or court-appointed special advocate
19 program need not obtain the information specified in subd. 1. a. to d.

20 **SECTION 17.** 48.685 (2) (b) 1p. of the statutes is created to read:

21 48.685 (2) (b) 1p. A person who is required to obtain the information specified
22 in sub. 1m. a. to e. shall provide the department with information about each person
23 who is denied employment, a contract or a volunteer appointment for a reason
24 specified in par. (ag) 1. to 5.

1 **SECTION 18.** 48.685 (2) (b) 2. of the statutes, as created by 1997 Wisconsin Act
2 27, is amended to read:

3 48.685 (2) (b) 2. ~~Subdivision 1. does~~ Subdivisions 1. and 1m. do not apply with
4 respect to a person with whom the entity or court-appointed special advocate
5 program contracts or whom the entity or court-appointed special advocate program
6 employs to perform infrequent or sporadic services, including maintenance services
7 and other services that are not directly related to the care of a client.

8 **SECTION 19.** 48.685 (2) (b) 3. of the statutes, as created by 1997 Wisconsin Act
9 27, is amended to read:

10 48.685 (2) (b) 3. ~~Subdivision 1. does~~ Subdivisions 1. and 1m. do not apply with
11 respect to a person under 18 years of age whose background information form under
12 sub. (6) (am) or (ap) indicates that the person is not ineligible to be employed,
13 contracted with or permitted to reside at the entity, or to be employed, contracted
14 with or appointed as a volunteer with the court-appointed special advocate program,
15 for a reason specified in par. (ag) 1. to 5. and with respect to whom the entity or
16 court-appointed special advocate program otherwise has no reason to believe that
17 the person is ineligible to be employed, contracted with or permitted to reside at the
18 entity, or to be employed, contracted with or appointed as a volunteer with the
19 court-appointed special advocate program, for any of those reasons.

20 **SECTION 20.** 48.685 (2) (bg) of the statutes, as created by 1997 Wisconsin Act
21 27, is amended to read:

22 48.685 (2) (bg) If an entity or a court-appointed special advocate program takes
23 an action specified in par. (ag) (intro.) with respect to a person for whom, within the
24 last 4 years, the information required under par. (b) 1. a. to c. and e. or 1m. a. to c.
25 and e. has already been obtained, either by another entity or court-appointed special

1 advocate program or by a temporary employment agency, the entity or
2 court-appointed special advocate program may obtain the information required
3 under par. (b) 1. a. to c. and e. or 1m. a. to c. and e. from that other entity,
4 court-appointed special advocate program or temporary employment agency, which
5 shall provide the information, if possible, to the entity or court-appointed special
6 advocate program. If an entity or a court-appointed special advocate program
7 cannot obtain the information required under par. (b) 1. a. to c. and e. or 1m. a. to c.
8 and e. from another entity or court-appointed special advocate program or from a
9 temporary employment agency, the entity or court-appointed special advocate
10 program shall obtain that information from the sources specified in par. (b) 1. a. to
11 c. and e. or 1m. a. to c. and e.

12 **SECTION 21.** 48.685 (2) (bm) of the statutes, as created by 1997 Wisconsin Act
13 27, is amended to read:

14 48.685 (2) (bm) If the person who is the subject of the search under par. (am)
15 or (b) 1. or 1m. is not a resident of this state, or if at any time within the 3 years
16 preceding the date of the search that person has not been a resident of this state, the
17 ~~department, county department, school board or entity~~ person who is required to
18 conduct the search under par. (am) or (b) 1. or 1m. shall make a good faith effort to
19 obtain from any state in which the person is a resident or was a resident within the
20 3 years preceding the date of the search information that is equivalent to the
21 information specified in par. (am) 1. or (b) 1. a. or 1m. a.

22 **SECTION 22.** 48.685 (2) (c) of the statutes, as created by 1997 Wisconsin Act 27,
23 is amended to read:

24 48.685 (2) (c) If the background information form completed by a person under
25 sub. (6) (am) or (ap) indicates that the person is not ineligible to be employed,

1 contracted with or permitted to reside at an entity, or to be employed, contracted with
2 or permitted to volunteer with a court-appointed special advocate program, for a
3 reason specified in par. (ag) 1. to 5., an entity may employ or contract with the person
4 or permit the person to reside at the entity, and a court-appointed special advocate
5 program may employ, contract with or permit to volunteer with the court-appointed
6 special advocate program, for not more than 60 days pending the receipt of the
7 information sought under par. (b) 1. or 1m. An entity shall provide supervision for
8 a person who is employed, contracted with or permitted to reside as permitted under
9 this paragraph and a court-appointed special advocate program shall provide
10 supervision for a person who is employed, contracted with or permitted to volunteer
11 as permitted under this paragraph.

12 **SECTION 23.** 48.685 (3) (c) of the statutes is created to read:

13 48.685 (3) (c) Every 4 years or at any time within that period that a person
14 required to obtain the information specified in sub. (2) (b) 1m. a. to e. considers
15 appropriate, that person shall request that information for all persons who are
16 employees, contractors or volunteers of a court-appointed special advocate program.

17 **SECTION 24.** 48.685 (3m) of the statutes, as created by 1997 Wisconsin Act 27,
18 is amended to read:

19 48.685 (3m) Notwithstanding subs. (2) (b) 1. and 1m. and (3) (b) and (c), if the
20 department, a county department or a school board has obtained the information
21 required under sub. (2) (am) or (3) (a) with respect to a person specified in sub. (2)
22 (a) (intro.) and that person is also an employe, contractor or resident of an entity, or
23 is also an employe, contractor or volunteer of a court-appointed special advocate
24 program, the entity or person who is required to obtain the information under sub.

1 (2) (b) 1m. or (3) (c) is not required to obtain the information specified in sub. (2) (b)
2 1. or 1m. or (3) (b) or (c) with respect to that person.

3 **SECTION 25.** 48.685 (4) of the statutes, as created by 1997 Wisconsin Act 27, is
4 amended to read:

5 48.685 (4) An entity or a court-appointed special advocate program that
6 violates sub. (2) or (3) may be required to forfeit not more than \$1,000 and may be
7 subject to other sanctions specified by the department by rule.

8 **SECTION 26.** 48.685 (5) (intro.) of the statutes, as created by 1997 Wisconsin Act
9 27, is amended to read:

10 48.685 (5) (intro.) The department may license to operate an entity, a county
11 department may certify under s. 48.651 and a school board may contract with under
12 s. 120.13 (14) a person who otherwise may not be licensed, certified or contracted
13 with for a reason specified in sub. (2) (a) 1. to 5., and an entity may employ, contract
14 with or permit to reside at the entity a person who otherwise may not be employed,
15 contracted with or permitted to reside at the entity for a reason specified in sub. (2)
16 (ag) 1. to 5. and a court-appointed special advocate program may employ, contract
17 with or appoint as a volunteer a person who otherwise may not be employed,
18 contracted with or appointed as a volunteer of the court-appointed special advocate
19 program for a reason specified in sub. (2) (ag) 1. to 5., if the person demonstrates to
20 the department, the county department or the, licensed child welfare agency, county
21 board or school board by clear and convincing evidence and in accordance with
22 procedures established by the department by rule that he or she has been
23 rehabilitated. No person who has been convicted of any of the following offenses may
24 be permitted to demonstrate that he or she has been rehabilitated:

1 **SECTION 27.** 48.685 (5c) (a) of the statutes, as created by 1997 Wisconsin Act
2 27, is amended to read:

3 48.685 **(5c)** (a) Any person who is permitted but fails under sub. (5) to
4 demonstrate to the department or to a licensed child welfare agency that he or she
5 has been rehabilitated may appeal to the secretary of health and family services or
6 his or her designee. Any person who is adversely affected by a decision of the
7 secretary or his or her designee under this paragraph has a right to a contested case
8 hearing under ch. 227.

9 **SECTION 28.** 48.685 (5c) (bm) of the statutes is created to read:

10 48.685 **(5c)** (bm) Any person who is permitted but fails under sub. (5) to
11 demonstrate to the county board that he or she has been rehabilitated may appeal
12 to the chairperson of the county board or his or her designee or, in a county that has
13 a county executive or a county administrator, to the county executive or county
14 administrator or his or her designee. Any person who is adversely affected by a
15 decision of the chairperson of the county board, the county executive, the county
16 administrator or his or her designee under this paragraph has a right to appeal the
17 decision under ch. 68.

18 **SECTION 29.** 48.685 (5m) of the statutes, as created by 1997 Wisconsin Act 27,
19 is amended to read:

20 48.685 **(5m)** Notwithstanding s. 111.335, the department may refuse to license
21 a person to operate an entity, a county department may refuse to certify a day care
22 provider under s. 48.651, a school board may refuse to contract with a person under
23 s. 120.13 (14), ~~and~~ an entity may refuse to employ, contract with or permit to reside
24 at the entity a person specified in sub. (2) (ag) (intro.) and a court-appointed special
25 advocate program may refuse to employ, contract with or appoint as a volunteer a

1 person specified in sub. (2) (ag) (intro.) if the person has been convicted of an offense
2 that the department has not defined as a “serious crime” by rule promulgated under
3 sub. (7) (a), or specified in the list established by rule under sub. (7) (b), but that is,
4 in the estimation of the department, county department, licensed child welfare
5 agency, county board, school board or entity, substantially related to the care of a
6 client.

7 **SECTION 30.** 48.685 (6) (ap) of the statutes is created to read:

8 48.685 (6) (ap) Every 4 years a court-appointed special advocate program shall
9 require all employes, prospective employes, contractors, prospective contractors,
10 volunteers and prospective volunteers who will be under the control of the
11 court-appointed special advocate program and who have, or are expected to have,
12 access to its clients to complete a background information form that is provided by
13 the department.

14 **SECTION 31.** 48.685 (6) (b) of the statutes, as created by 1997 Wisconsin Act 27,
15 is amended to read:

16 48.685 (6) (b) For persons specified under par. (a) who are regulated, licensed
17 or certified by, or registered with, the department, for persons specified in par. (am)
18 2., and for other persons specified by the department by rule, the entity shall send
19 the background information form to the department. For all other persons specified
20 in par. (a) and for persons specified under par. (am) 1. or (ap), the entity or
21 court-appointed special advocate program shall maintain the background
22 information form on file for inspection by the department, county department,
23 county board, licensed child welfare agency or school board, whichever is applicable.

24 **SECTION 32.** 48.981 (7) (a) 11r. of the statutes, as affected by 1997 Wisconsin
25 Act 27, is amended to read:

1 48.981 (7) (a) 11r. A volunteer appointed ~~or person employed by~~ or an employe
2 of a court-appointed special advocate program recognized by the county board or the
3 county department or, in a county having a population of 500,000 or more, the
4 department or a licensed child welfare agency under contract with the department,
5 to the extent necessary to perform the advocacy services in proceedings related to a
6 petition under s. 48.13 for which the court-appointed special advocate program is
7 recognized by the county board, county department or, in a county having a
8 population of 500,000 or more, the department or a licensed child welfare agency
9 under contract with the department.

10 **SECTION 33.** 59.53 (7m) of the statutes is created to read:

11 59.53 (7m) COURT-APPOINTED SPECIAL ADVOCATE PROGRAMS. The board may
12 recognize court-appointed special advocate programs to perform advocacy services
13 for a child who is the subject of a proceeding related to a petition under s. 48.13.

14 **SECTION 34.** 895.56 of the statutes is created to read:

15 **895.56 Civil liability exemption; court-appointed special advocates.**

16 (1) In this section, “court-appointed special advocate program” means a program
17 that is recognized by a county board, a county department, as defined in s. 48.02 (2g),
18 or, in a county having a population of 500,000 or more, the department of health and
19 family services or a licensed child welfare agency under contract with that
20 department to perform advocacy services for a child who is the subject of a proceeding
21 related to a petition under s. 48.13.

22 (2) Any volunteer appointed by or employe of a court-appointed special
23 advocate program is immune from civil liability for any act or omission of the
24 volunteer or employe done within the scope of his or her duty and authority as a

1 volunteer appointed by or an employe of the court-appointed special advocate
2 program.

3 (3) The immunity under sub. (2) does not apply if the act or omission of the
4 volunteer appointed by or the employe of the court-appointed special advocate
5 program was not done in good faith. The good faith of a volunteer appointed by or
6 an employe of a court-appointed special advocate program acting within the scope
7 of his or her duty and authority as a volunteer appointed by or an employe of the
8 court-appointed special advocate program is presumed in a civil action. Any person
9 who asserts that a volunteer appointed by or an employe of a court-appointed special
10 advocate program did not act in good faith has the burden of proving that assertion.

11 **SECTION 35. Effective dates.** This act takes effect on the day after publication,
12 except as follows:

13 (1) The treatment of sections 48.685 (2) (am) 5., (b) 1. e., 1m., 1p., 2. and 3., (bg),
14 (bm) and (c), (3) (c), (3m), (4), (5) (intro.), (5c) (a) and (bm), (5m) and (6) (ap) and (b)
15 of the statutes and the amendment of section 48.685 (2) (ag) (intro.) of the statutes
16 take effect on October 1, 1998, or on the day after publication, whichever is later.

17 (2) The repeal and recreation of section 48.685 (2) (ag) (intro.) of the statutes
18 takes effect on October 1, 1999, or on the day after publication, whichever is later.

19 (END)