



**SENATE SUBSTITUTE AMENDMENT 1,  
TO 1995 SENATE BILL 24**

September 21, 1995 - Offered by COMMITTEE ON HEALTH, HUMAN SERVICES AND AGING.

1 **AN ACT to amend** 48.22 (7) (a), 48.60 (1), 48.625 (1), 48.65 (1), 48.68 (1) and 48.75  
2 (1); and **to create** 48.22 (7m), 48.60 (1m), 48.625 (1m), 48.65 (1m), 48.68 (1m),  
3 48.715 (2) (bm) and 48.75 (1m) of the statutes; **relating to:** criminal  
4 background investigations of certain persons who provide care for children and  
5 granting rule-making authority.

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

6 **SECTION 1.** 48.22 (7) (a) of the statutes, as affected by 1995 Wisconsin Act 27,  
7 is amended to read:  
8 48.22 (7) (a) No person may establish a shelter care facility without first  
9 obtaining a license under s. 48.66 (1). To obtain a license under s. 48.66 (1) to operate  
10 a shelter care facility, a person must meet the minimum requirements for a license  
11 established by the department under s. 48.67, conduct the background investigation  
12 specified in sub. (7m) and pay the license fee under par. (b). A license issued under  
13 s. 48.66 (1) to operate a shelter care facility is valid for 2 years after the date of  
14 issuance, unless sooner revoked or suspended.

1           **SECTION 2.** 48.22 (7m) of the statutes is created to read:

2           48.22 **(7m)** (a) In this subsection, “adult resident” means a person 18 years of  
3 age or over who lives at a shelter care facility with the intent of making the shelter  
4 care facility his or her home or who lives at a shelter care facility for more than 30  
5 days cumulative in any 6-month period.

6           (b) 1. Before applying for initial licensure to operate a shelter care facility, the  
7 applicant, with the assistance of the department of justice, shall conduct a  
8 background investigation of each employe and prospective employe of the applicant  
9 and of each adult resident.

10           2. Any person who, on the effective date of this subdivision .... [revisor inserts  
11 date], is licensed to operate a shelter care facility or who, on the effective date of this  
12 subdivision .... [revisor inserts date], has an application for a license pending shall,  
13 within 6 months after the effective date of this subdivision .... [revisor inserts date],  
14 or on applying for license renewal, whichever is earlier, conduct, with the assistance  
15 of the department of justice, a background investigation of each employe and  
16 prospective employe of the licensee and of each adult resident.

17           3. Subject to subd. 2., a person licensed to operate a shelter care facility may,  
18 at the time of renewal of that license or at any other time that the person considers  
19 to be appropriate, conduct, with the assistance of the department of justice, a  
20 background investigation of each employe and prospective employe of the licensee  
21 and of each adult resident.

22           4. Before employing any person or permitting any person to be an adult  
23 resident, a person licensed to operate a shelter care facility shall conduct, with the  
24 assistance of the department of justice, a background investigation of the prospective

1 employe or prospective adult resident, unless that prospective employe or  
2 prospective adult resident has already been investigated under subd. 1., 2. or 3.

3 (c) If the person being investigated under par. (b) is a nonresident, or if at any  
4 time within the 5 years preceding the date of the investigation that person has been  
5 a nonresident, or if the applicant or licensee determines that the person's  
6 employment, licensing or state court records provide a reasonable basis for further  
7 investigation, the applicant or licensee shall require the person to be photographed  
8 and fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's  
9 fingerprints. The department of justice may provide for the submission of the  
10 fingerprint cards to the federal bureau of investigation for the purposes of verifying  
11 the identity of the person fingerprinted and obtaining his or her arrest and conviction  
12 record.

13 (d) Upon request, a person being investigated under par. (b) shall provide the  
14 applicant or licensee with all of the following information:

- 15 1. The person's name.
- 16 2. The person's social security number.
- 17 3. Other identifying information, including the person's birthdate, gender, race  
18 and any identifying physical characteristics.
- 19 4. Information regarding the conviction record of the person under the law of  
20 this state or any other state or under federal law. This information shall be provided  
21 on a notarized background verification form that the department shall provide by  
22 rule promulgated under s. 48.67.

23 (e) An applicant or licensee may not employ a person or permit a person to be  
24 an adult resident until the applicant or licensee receives information from the  
25 department of justice indicating that the person's conviction record under the law of

1 this state is satisfactory according to the criteria specified in subds. 1. to 3. An  
2 applicant or licensee may employ a person or permit a person to be an adult resident  
3 conditioned on the receipt of information from the federal bureau of investigation  
4 indicating that the person's conviction record under the law of any other state or  
5 under federal law is satisfactory according to the criteria specified in subds. 1. to 3.  
6 An applicant or licensee may not employ a person or permit a person to be an adult  
7 resident if any of the following applies:

8 1. The person has been convicted of a violation of ch. 161 that is punishable as  
9 a felony or of a violation of the law of any other state or federal law that would be a  
10 violation of ch. 161 that is punishable as a felony if committed in this state.

11 2. The person has had imposed on him or her a penalty specified in s. 939.62,  
12 939.621, 939.63, 939.64, 939.641 or 939.645 or has been convicted of a violation of the  
13 law of any other state or federal law under circumstances under which the person  
14 would be subject to a penalty specified in any of those sections if convicted in this  
15 state.

16 3. The person has been convicted of a violation of ch. 940, 944 or 948, other than  
17 a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63 or 948.70, or of a violation of  
18 the law of any other state or federal law that would be a violation of ch. 940, 944 or  
19 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63 or 948.70, if  
20 committed in this state, except that an applicant or licensee may employ or permit  
21 to be an adult resident a person who has been convicted of a violation of s. 944.30,  
22 944.31 or 944.33 or of a violation of the law of any other state or federal law that  
23 would be a violation of s. 944.30, 944.31 or 944.33 if committed in this state, if that  
24 violation occurred 20 years or more before the date of the investigation.

1 (f) An applicant or licensee shall keep confidential all information received  
2 under this subsection from the department of justice or the federal bureau of  
3 investigation.

4 **SECTION 3.** 48.60 (1) of the statutes is amended to read:

5 48.60 (1) No person may receive children, with or without transfer of legal  
6 custody, to provide care and maintenance for 75 days in any consecutive 12 months'  
7 period for 4 or more such children at any one time unless that person obtains a license  
8 to operate a child welfare agency from the department. To obtain a license under this  
9 subsection to operate a child welfare agency, a person must meet the minimum  
10 requirements for a license established by the department under s. 48.67, conduct the  
11 background investigations specified in sub. (1m) and pay the applicable license fee  
12 under s. 48.615 (1) (a) or (b). A license issued under this subsection is valid for 2 years  
13 after the date of issuance, unless sooner revoked or suspended.

14 **SECTION 4.** 48.60 (1m) of the statutes is created to read:

15 48.60 (1m) (a) In this subsection, "adult resident" means a person 18 years of  
16 age or over who lives at a facility operated by a child welfare agency with the intent  
17 of making that facility his or her home or who lives for more than 30 days cumulative  
18 in any 6-month period at a facility operated by a child welfare agency.

19 (b) 1. Before applying for initial licensure to operate a child welfare agency, the  
20 applicant, with the assistance of the department of justice, shall conduct a  
21 background investigation of each employe and prospective employe of the applicant  
22 and of each adult resident.

23 2. Any person who, on the effective date of this subdivision .... [revisor inserts  
24 date], is licensed to operate a child welfare agency or who, on the effective date of this  
25 subdivision .... [revisor inserts date], has an application for a license pending shall,

1 within 6 months after the effective date of this subdivision .... [revisor inserts date],  
2 or on applying for license renewal, whichever is earlier, conduct, with the assistance  
3 of the department of justice, a background investigation of each employe and  
4 prospective employe of the licensee and of each adult resident.

5 3. Subject to subd. 2., a person licensed to operate a child welfare agency may,  
6 at the time of renewal of that license or at any other time that the person considers  
7 to be appropriate, conduct, with the assistance of the department of justice, a  
8 background investigation of each employe and prospective employe of the licensee  
9 and of each adult resident.

10 4. Before employing any person or permitting any person to be an adult  
11 resident, a person licensed to operate a child welfare agency shall conduct, with the  
12 assistance of the department of justice, a background investigation of the prospective  
13 employe or prospective adult resident, unless that prospective employe or  
14 prospective adult resident has already been investigated under subd. 1., 2. or 3.

15 (c) If the person being investigated under par. (b) is a nonresident, or if at any  
16 time within the 5 years preceding the date of the investigation that person has been  
17 a nonresident, or if the applicant or licensee determines that the person's  
18 employment, licensing or state court records provide a reasonable basis for further  
19 investigation, the applicant or licensee shall require the person to be photographed  
20 and fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's  
21 fingerprints. The department of justice may provide for the submission of the  
22 fingerprint cards to the federal bureau of investigation for the purposes of verifying  
23 the identity of the person fingerprinted and obtaining his or her arrest and conviction  
24 record.

1 (d) Upon request, a person being investigated under par. (b) shall provide the  
2 applicant or licensee with all of the following information:

- 3 1. The person's name.
- 4 2. The person's social security number.
- 5 3. Other identifying information, including the person's birthdate, gender, race  
6 and any identifying physical characteristics.
- 7 4. Information regarding the conviction record of the person under the law of  
8 this state or any other state or under federal law. This information shall be provided  
9 on a notarized background verification form that the department shall provide by  
10 rule promulgated under s. 48.67.

11 (e) An applicant or licensee may not employ a person or permit a person to be  
12 an adult resident until the applicant or licensee receives information from the  
13 department of justice indicating that the person's conviction record under the law of  
14 this state is satisfactory according to the criteria specified in subds. 1. to 3. An  
15 applicant or licensee may employ a person or permit a person to be an adult resident  
16 conditioned on the receipt of information from the federal bureau of investigation  
17 indicating that the person's conviction record under the law of any other state or  
18 under federal law is satisfactory according to the criteria specified in subds. 1. to 3.  
19 An applicant or licensee may not employ a person or permit a person to be an adult  
20 resident if any of the following applies:

21 1. The person has been convicted of a violation of ch. 161 that is punishable as  
22 a felony or of a violation of the law of any other state or federal law that would be a  
23 violation of ch. 161 that is punishable as a felony if committed in this state.

24 2. The person has had imposed on him or her a penalty specified in s. 939.62,  
25 939.621, 939.63, 939.64, 939.641 or 939.645 or has been convicted of a violation of the

1 law of any other state or federal law under circumstances under which the person  
2 would be subject to a penalty specified in any of those sections if convicted in this  
3 state.

4 3. The person has been convicted of a violation of ch. 940, 944 or 948, other than  
5 a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63 or 948.70, or of a violation of  
6 the law of any other state or federal law that would be a violation of ch. 940, 944 or  
7 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63 or 948.70, if  
8 committed in this state, except that an applicant or licensee may employ or permit  
9 to be an adult resident a person who has been convicted of a violation of s. 944.30,  
10 944.31 or 944.33 or of a violation of the law of any other state or federal law that  
11 would be a violation of s. 944.30, 944.31 or 944.33 if committed in this state, if that  
12 violation occurred 20 years or more before the date of the investigation.

13 (f) An applicant or licensee shall keep confidential all information received  
14 under this subsection from the department of justice or the federal bureau of  
15 investigation.

16 **SECTION 5.** 48.625 (1) of the statutes is amended to read:

17 48.625 (1) Any person who receives, with or without transfer of legal custody,  
18 5 to 8 children, to provide care and maintenance for those children shall obtain a  
19 license to operate a group home from the department. To obtain a license under this  
20 subsection to operate a group home, a person must meet the minimum requirements  
21 for a license established by the department under s. 48.67, conduct the background  
22 investigations specified in sub. (1m) and pay the license fee under sub. (2). A license  
23 issued under this subsection is valid for 2 years after the date of issuance, unless  
24 sooner revoked or suspended.

25 **SECTION 6.** 48.625 (1m) of the statutes is created to read:



1           48.625 **(1m)** (a) In this subsection, “adult resident” means a person 18 years  
2 of age or over who lives at a group home with the intent of making the group home  
3 his or her home or who lives at a group home for more than 30 days cumulative in  
4 any 6-month period.

5           (b) 1. Before applying for initial licensure to operate a group home, the  
6 applicant, with the assistance of the department of justice, shall conduct a  
7 background investigation of each employe and prospective employe of the applicant  
8 and of each adult resident.

9           2. Any person who, on the effective date of this subdivision .... [revisor inserts  
10 date], is licensed to operate a group home or who, on the effective date of this  
11 subdivision .... [revisor inserts date], has an application for a license pending shall,  
12 within 6 months after the effective date of this subdivision .... [revisor inserts date],  
13 or before applying for license renewal, whichever is earlier, conduct, with the  
14 assistance of the department of justice, a background investigation of each employe  
15 and prospective employe of the licensee and of each adult resident.

16           3. Subject to subd. 2., a person licensed to operate a group home may, at the time  
17 of renewal of that license or at any other time that the person considers to be  
18 appropriate, conduct, with the assistance of the department of justice, a background  
19 investigation of each employe and prospective employe of the licensee and of each  
20 adult resident.

21           4. Before employing any person or permitting any person to be an adult  
22 resident, a person licensed to operate a group home shall conduct, with the assistance  
23 of the department of justice, a background investigation of the prospective employe  
24 or prospective adult resident, unless that prospective employe or prospective adult  
25 resident has already been investigated under subd. 1., 2. or 3.

1 (c) If the person being investigated under par. (b) is a nonresident, or if at any  
2 time within the 5 years preceding the date of the investigation that person has been  
3 a nonresident, or if the applicant or licensee determines that the person's  
4 employment, licensing or state court records provide a reasonable basis for further  
5 investigation, the applicant or licensee shall require the person to be photographed  
6 and fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's  
7 fingerprints. The department of justice may provide for the submission of the  
8 fingerprint cards to the federal bureau of investigation for the purposes of verifying  
9 the identity of the person fingerprinted and obtaining his or her arrest and conviction  
10 record.

11 (d) Upon request, a person being investigated under par. (b) shall provide the  
12 applicant with all of the following information:

- 13 1. The person's name.
- 14 2. The person's social security number.
- 15 3. Other identifying information, including the person's birthdate, gender, race  
16 and any identifying physical characteristics.
- 17 4. Information regarding the conviction record of the person under the law of  
18 this state or any other state or under federal law. This information shall be provided  
19 on a notarized background verification form that the department shall provide by  
20 rule promulgated under s. 48.67.

21 (e) An applicant or licensee may not employ a person or permit a person to be  
22 an adult resident until the applicant or licensee receives information from the  
23 department of justice indicating that the person's conviction record under the law of  
24 this state is satisfactory according to the criteria specified in subds. 1. to 3. An  
25 applicant or licensee may employ a person or permit a person to be an adult resident

1 conditioned on the receipt of information from the federal bureau of investigation  
2 indicating that the person's conviction record under the law of any other state or  
3 under federal law is satisfactory according to the criteria specified in subds. 1. to 3.  
4 An applicant or licensee may not employ a person or permit a person to be an adult  
5 resident if any of the following applies:

6 1. The person has been convicted of a violation of ch. 161 that is punishable as  
7 a felony or of a violation of the law of any other state or federal law that would be a  
8 violation of ch. 161 that is punishable as a felony if committed in this state.

9 2. The person has had imposed on him or her a penalty specified in s. 939.62,  
10 939.621, 939.63, 939.64, 939.641 or 939.645 or has been convicted of a violation of the  
11 law of any other state or federal law under circumstances under which the person  
12 would be subject to a penalty specified in any of those sections if convicted in this  
13 state.

14 3. The person has been convicted of a violation of ch. 940, 944 or 948, other than  
15 a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63 or 948.70, or of a violation of  
16 the law of any other state or federal law that would be a violation of ch. 940, 944 or  
17 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63 or 948.70, if  
18 committed in this state, except that an applicant or licensee may employ or permit  
19 to be an adult resident a person who has been convicted of a violation of s. 944.30,  
20 944.31 or 944.33 or of a violation of the law of any other state or federal law that  
21 would be a violation of s. 944.30, 944.31 or 944.33 if committed in this state, if that  
22 violation occurred 20 years or more before the date of the investigation.

23 (f) An applicant or licensee shall keep confidential all information received  
24 under this subsection from the department of justice or the federal bureau of  
25 investigation.

1           **SECTION 7.** 48.65 (1) of the statutes is amended to read:

2           48.65 (1) No person may for compensation provide care and supervision for 4  
3 or more children under the age of 7 for less than 24 hours a day unless that person  
4 obtains a license to operate a day care center from the department. To obtain a  
5 license under this subsection to operate a day care center, a person must meet the  
6 minimum requirements for a license established by the department under s. 48.67,  
7 conduct the background investigations specified in sub. (1m), if applicable, and pay  
8 the license fee under sub. (3). A license issued under this subsection is valid for 2  
9 years after the date of issuance, unless sooner revoked or suspended.

10           **SECTION 8.** 48.65 (1m) of the statutes is created to read:

11           48.65 (1m) (a) In this subsection, “adult resident” means a person 18 years of  
12 age or over who lives at a day care center that provides care and supervision for 9 or  
13 more children with the intent of making the day care center that provides care and  
14 supervision for 9 or more children his or her home or who lives for more than 30 days  
15 cumulative in any 6-month period at a day care center that provides care and  
16 supervision for 9 or more children.

17           (b) 1. Before applying for initial licensure to operate a day care center that  
18 provides care and supervision for 9 or more children, the applicant, with the  
19 assistance of the department of justice, shall conduct a background investigation of  
20 each employe and prospective employe of the applicant and of each adult resident.

21           2. Any person who, on the effective date of this subdivision .... [revisor inserts  
22 date], is licensed to operate a day care center that provides care and supervision for  
23 9 or more children or who, on the effective date of this subdivision .... [revisor inserts  
24 date], has an application for a license pending shall, within 6 months after the  
25 effective date of this subdivision .... [revisor inserts date], or on applying for license

1 renewal, whichever is earlier, conduct, with the assistance of the department of  
2 justice, a background investigation of each employe and prospective employe of the  
3 licensee and of each adult resident.

4 3. Subject to subd. 2., a person licensed to operate a day care center that  
5 provides care and supervision for 9 or more children may, at the time of renewal of  
6 that license or at any other time that the person considers to be appropriate, conduct,  
7 with the assistance of the department of justice, a background investigation of each  
8 employe and prospective employe of the licensee and of each adult resident.

9 4. Before employing any person or permitting any person to be an adult  
10 resident, a person licensed to operate a day care center that provides care and  
11 supervision for 9 or more children shall conduct, with the assistance of the  
12 department of justice, a background investigation of the prospective employe or  
13 prospective adult resident, unless that prospective employe or prospective adult  
14 resident has already been investigated under subd. 1., 2. or 3.

15 (c) If the person being investigated under par. (b) is a nonresident, or if at any  
16 time within the 5 years preceding the date of the investigation that person has been  
17 a nonresident, or if the applicant or licensee determines that the person's  
18 employment, licensing or state court records provide a reasonable basis for further  
19 investigation, the applicant or licensee shall require the person to be photographed  
20 and fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's  
21 fingerprints. The department of justice may provide for the submission of the  
22 fingerprint cards to the federal bureau of investigation for the purposes of verifying  
23 the identity of the person fingerprinted and obtaining his or her arrest and conviction  
24 record.

1 (d) Upon request, a person being investigated under par. (b) shall provide the  
2 applicant with all of the following information:

3 1. The person's name.

4 2. The person's social security number.

5 3. Other identifying information, including the person's birthdate, gender, race  
6 and any identifying physical characteristics.

7 4. Information regarding the conviction record of the person under the law of  
8 this state or any other state or under federal law. This information shall be provided  
9 on a notarized background verification form that the department shall provide by  
10 rule promulgated under s. 48.67.

11 (e) An applicant or licensee may not employ a person or permit a person to be  
12 an adult resident until the applicant or licensee receives information from the  
13 department of justice indicating that the person's conviction record under the law of  
14 this state is satisfactory according to the criteria specified in subds. 1. to 3. An  
15 applicant or licensee may employ a person or permit a person to be an adult resident  
16 conditioned on the receipt of information from the federal bureau of investigation  
17 indicating that the person's conviction record under the law of any other state or  
18 under federal law is satisfactory according to the criteria specified in subds. 1. to 3.  
19 An applicant or licensee may not employ a person or permit a person to be an adult  
20 resident if any of the following applies:

21 1. The person has been convicted of a violation of ch. 161 that is punishable as  
22 a felony or of a violation of the law of any other state or federal law that would be a  
23 violation of ch. 161 that is punishable as a felony if committed in this state.

24 2. The person has had imposed on him or her a penalty specified in s. 939.62,  
25 939.621, 939.63, 939.64, 939.641 or 939.645 or has been convicted of a violation of the

1 law of any other state or federal law under circumstances under which the person  
2 would be subject to a penalty specified in any of those sections if convicted in this  
3 state.

4 3. The person has been convicted of a violation of ch. 940, 944 or 948, other than  
5 a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63 or 948.70, or of a violation of  
6 the law of any other state or federal law that would be a violation of ch. 940, 944 or  
7 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63 or 948.70, if  
8 committed in this state, except that an applicant or licensee may employ or permit  
9 to be an adult resident a person who has been convicted of a violation of s. 944.30,  
10 944.31 or 944.33 or of a violation of the law of any other state or federal law that  
11 would be a violation of s. 944.30, 944.31 or 944.33 if committed in this state, if that  
12 violation occurred 20 years or more before the date of the investigation.

13 (f) An applicant or licensee shall keep confidential all information received  
14 under this subsection from the department of justice or the federal bureau of  
15 investigation.

16 **SECTION 9.** 48.68 (1) of the statutes, as affected by 1995 Wisconsin Act 27, is  
17 amended to read:

18 48.68 (1) After receipt of an application for a license, the department shall  
19 investigate to determine if the applicant meets the minimum requirements for a  
20 license adopted by the department under s. 48.67. The investigation shall include  
21 a background investigation under sub. (1m) (b) and, if applicable, a background  
22 investigation under sub. (1m) (c). In determining whether to issue a license, the  
23 department may consider any action by the applicant, or by an employe of the  
24 applicant, that constitutes a substantial failure by the applicant or employe to  
25 protect and promote the health, safety and welfare of a child. Upon satisfactory

1 completion of this investigation and payment of the fee required under s. 48.22 (7)  
2 (b), 48.615 (1) (a) or (b), 48.625 (2) (a) or 48.65 (3) (a), the department shall issue a  
3 license under s. 48.66 (1) or, if applicable, a probationary license under s. 48.69. At  
4 the time of initial licensure and license renewal, the department shall provide a  
5 foster home licensee with written information relating to the age-related monthly  
6 foster care rates and supplemental payments specified in s. 48.62 (4), including  
7 payment amounts, eligibility requirements for supplemental payments and the  
8 procedures for applying for supplemental payments.

9 **SECTION 10.** 48.68 (1m) of the statutes is created to read:

10 48.68 **(1m)** (a) In this subsection, “adult resident” means a person 18 years of  
11 age or over who lives at a foster home or treatment foster home that is licensed by  
12 the department, a group home or a day care center that provides care and supervision  
13 for 4 to 8 children with the intent of making that premises his or her home or who  
14 lives for more than 30 days cumulative in any 6-month period at a foster home or  
15 treatment foster home that is licensed by the department, a group home or a day care  
16 center that provides care and supervision for 4 to 8 children.

17 (b) 1. After receipt of an application for a license to operate a shelter care  
18 facility, child welfare agency, foster home, treatment foster home, group home or day  
19 care center, the department, with the assistance of the department of justice, shall  
20 conduct a background investigation of the applicant.

21 2. The department, with the assistance of the department of justice, shall  
22 conduct a background investigation of any person who, on the effective date of this  
23 subdivision .... [revisor inserts date], is licensed by the department to operate a  
24 shelter care facility, child welfare agency, foster home, treatment foster home, group  
25 home or day care center or who, on the effective date of this subdivision .... [revisor



1 inserts date], has an application for a license pending with the department within  
2 6 months after the effective date of this subdivision ... [revisor inserts date], or on  
3 renewing the license of that person, whichever is earlier.

4 3. Subject to subd. 2., the department, with the assistance of the department  
5 of justice, may conduct a background investigation of any person who is licensed by  
6 the department to operate a shelter care facility, child welfare agency, foster home,  
7 treatment foster home, group home or day care center at the time of license renewal  
8 or at any other time that the department considers to be appropriate.

9 (c) 1. After receipt of an application for a license to operate a foster home,  
10 treatment foster home or day care center that provides care and supervision for 4 to  
11 8 children, the department, with the assistance of the department of justice, shall,  
12 in addition to the investigation under par. (b), conduct a background investigation  
13 of each employe and prospective employe of the applicant and of each adult resident.

14 2. The department, with the assistance of the department of justice, shall  
15 conduct a background investigation of each employe, prospective employe and adult  
16 resident of any foster home, treatment foster home or day care center that provides  
17 care and supervision for 4 to 8 children that, on the effective date of this subdivision  
18 .... [revisor inserts date], is licensed under s. 48.66 (1) or 48.69 or that, on the effective  
19 date of this subdivision ... [revisor inserts date], has an application for a license  
20 pending with the department within 6 months after the effective date of this  
21 subdivision ... [revisor inserts date], or on renewing the license, whichever is earlier.

22 3. Subject to subd. 2., the department, with the assistance of the department  
23 of justice, may conduct a background investigation of any employe, prospective  
24 employe or adult resident of a foster home or treatment foster home that is licensed  
25 by the department or a day care center that provides care and supervision for 4 to

1 8 children at the time of license renewal or at any other time that the department  
2 considers to be appropriate.

3 4. Before a foster home or treatment foster home that is licensed by the  
4 department or a day care center that provides care and supervision for 4 to 8 children  
5 may employ any person or permit any person to be an adult resident, the department,  
6 with the assistance of the department of justice, shall conduct a background  
7 investigation of the prospective employe or prospective adult resident unless that  
8 person has already been investigated under subd. 1., 2. or 3.

9 (d) If the person being investigated under par. (b) or (c) is a nonresident, or if  
10 at any time within the 5 years preceding the date of the investigation that person has  
11 been a nonresident, or if the department determines that the person's employment,  
12 licensing or state court records provide a reasonable basis for further investigation,  
13 the department shall require the person to be photographed and fingerprinted on 2  
14 fingerprint cards, each bearing a complete set of the person's fingerprints. The  
15 department of justice may provide for the submission of the fingerprint cards to the  
16 federal bureau of investigation for the purposes of verifying the identity of the person  
17 fingerprinted and obtaining records of his or her criminal arrest and conviction.

18 (e) Upon request, a person being investigated under par. (b) or (c) shall provide  
19 the department with all of the following information:

20 1. The person's name.

21 2. The person's social security number.

22 3. Other identifying information, including the person's birthdate, gender, race  
23 and any identifying physical characteristics.

24 4. Information regarding the conviction record of the person under the law of  
25 this state or any other state or under federal law. This information shall be provided

1 on a notarized background verification form that the department shall provide by  
2 rule promulgated under s. 48.67.

3 (f) 1. The department may not issue a license to operate a shelter care facility,  
4 child welfare agency, foster home, treatment foster home, group home or day care  
5 center until the department receives information from the department of justice  
6 indicating that the conviction record of the applicant or licensee under the law of this  
7 state is satisfactory according to the criteria specified in par. (g) 1. to 3. The  
8 department may issue a license to operate a shelter care facility, child welfare agency,  
9 foster home, treatment foster home, group home or day care center conditioned on  
10 the receipt of information from the federal bureau of investigation indicating that the  
11 person's conviction record under the law of any other state or under federal law is  
12 satisfactory according to the criteria specified in par. (g) 1. to 3.

13 2. A foster home or treatment foster home that is licensed by the department  
14 or a day care center that provides care and supervision for 4 to 8 children may not  
15 employ a person or permit a person to be an adult resident until the department  
16 receives information from the department of justice indicating that the person's  
17 conviction record under the law of this state is satisfactory according to the criteria  
18 specified in par. (g) 1. to 3. and the department so advises the foster home, treatment  
19 foster home or day care center. A foster home or treatment foster home that is  
20 licensed by the department or a day care center that provides care and supervision  
21 for 4 to 8 children may employ a person or permit a person to be an adult resident  
22 conditioned on the receipt of information from the federal bureau of investigation  
23 indicating that the person's conviction record under the law of any other state or  
24 under federal law is satisfactory according to the criteria specified in par. (g) 1. to 3.

1           (g) Subject to par. (h), the department may not issue or renew a license to  
2 operate a shelter care facility, child welfare agency, foster home, treatment foster  
3 home, group home or day care center and a foster home or treatment foster home that  
4 is licensed by the department or a day care center that provides care and supervision  
5 for 4 to 8 children may not employ a person or permit a person to be an adult resident  
6 if any of the following applies:

7           1. The applicant, licensee or other person has been convicted of a violation of  
8 ch. 161 that is punishable as a felony or of a violation of the law of any other state  
9 or federal law that would be a violation of ch. 161 that is punishable as a felony if  
10 committed in this state.

11           2. The applicant, licensee or other person has had imposed on him or her a  
12 penalty specified in s. 939.62, 939.621, 939.63, 939.64, 939.641 or 939.645 or has  
13 been convicted of a violation of the law of any other state or federal law under  
14 circumstances under which the applicant, licensee or other person would be subject  
15 to a penalty specified in any of those sections if convicted in this state.

16           3. The applicant, licensee or other person has been convicted of a violation of  
17 ch. 940, 944 or 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63  
18 or 948.70, or of a violation of the law of any other state or federal law that would be  
19 a violation of ch. 940, 944 or 948, other than a violation of s. 940.291, 940.34, 944.36,  
20 948.45, 948.63 or 948.70, if committed in this state, except that the department may  
21 issue a license to or renew the license of, and a foster home or treatment foster home  
22 that is licensed by the department or a day care center that provides care and  
23 supervision for 4 to 8 children may employ or permit to be an adult resident, a person  
24 who has been convicted of a violation of s. 944.30, 944.31 or 944.33 or of a violation  
25 of the law of any other state or federal law that would be a violation of s. 944.30,

1 944.31 or 944.33 if committed in this state, if that violation occurred 20 years or more  
2 before the date of the investigation.

3 (h) Notwithstanding par. (g), a person whose application to the department for  
4 initial licensure to operate a foster home or treatment foster home or renewal of a  
5 license to operate a foster home or treatment foster home has been denied on one of  
6 the grounds specified in par. (g) 1. to 3. may petition the department for a review of  
7 that denial under s. 48.64 (4) (a). If the department determines that issuing or  
8 renewing the license would be in the best interests of a child, the department shall  
9 order that the license be issued or renewed. The department shall promulgate rules  
10 to provide standards under which to review a petition under this paragraph.

11 (i) The department shall keep confidential all information received under this  
12 subsection from the department of justice or the federal bureau of investigation,  
13 except that the department may disclose any information obtained under this  
14 subsection to a person who is conducting a background investigation under s. 48.22  
15 (7m), 48.60 (1m), 48.625 (1m), 48.65 (1m), 48.75 (1m) or 118.19 (10). Such  
16 information is not subject to inspection or copying under s. 19.35.

17 (j) The department may charge a fee for conducting a background investigation  
18 under this subsection. The fee may not exceed the reasonable cost of conducting the  
19 investigation.

20 **SECTION 11.** 48.715 (2) (bm) of the statutes is created to read:

21 48.715 (2) (bm) That a person who employs in any capacity, whether as an  
22 officer, director, agent or employe, a person to whom any of the following applies, or  
23 who permits to be an adult resident, as defined in s. 48.22 (7m) (a), 48.60 (1m) (a),  
24 48.625 (1m) (a), 48.65 (1m) (a) or 48.68 (1m) (a), a person to whom any of the following

1 applies, terminate the employment or residence of that person immediately on  
2 receipt of the order:

3 1. The person has been convicted of a violation of ch. 161 that is punishable as  
4 a felony or of a violation of the law of any other state or federal law that would be a  
5 violation of ch. 161 that is punishable as a felony if committed in this state.

6 2. The person has had imposed on him or her a penalty specified in s. 939.62,  
7 939.621, 939.63, 939.64, 939.641 or 939.645 or has been convicted of a violation of the  
8 law of any other state or federal law under circumstances under which the person  
9 would be subject to a penalty specified in any of those sections if convicted in this  
10 state.

11 3. The person has been convicted of a violation of ch. 940, 944 or 948, other than  
12 a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63 or 948.70, or of a violation of  
13 the law of any other state or federal law that would be a violation of ch. 940, 944 or  
14 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63 or 948.70, if  
15 committed in this state, except that the person may not be required to terminate the  
16 employment or residence of a person who has been convicted of a violation of s.  
17 944.30, 944.31 or 944.33 or of a violation of the law of any other state or federal law  
18 that would be a violation of s. 944.30, 944.31 or 944.33 if committed in this state, if  
19 that violation occurred 20 years or more before the date of the investigation.

20 **SECTION 12.** 48.75 (1) of the statutes is amended to read:

21 48.75 (1) Child welfare agencies, if licensed to do so by the department, and  
22 county departments may license foster homes and treatment foster homes. After  
23 receipt of an application for a license, the child welfare agency or county department  
24 shall investigate to determine if the applicant meets the minimum requirements for  
25 a license under the rules promulgated by the department under s. 48.67 governing

1 the licensing of foster homes and treatment foster homes. The investigation shall  
2 include a background investigation as provided in sub. (1m). A foster home or  
3 treatment foster home license shall be issued for a term not to exceed 2 years from  
4 the date of issuance, is not transferable and may be revoked by the child welfare  
5 agency or by the county department because the licensee has substantially and  
6 intentionally violated any provision of this chapter or of the rules of the department  
7 promulgated pursuant to s. 48.67 or because the licensee fails to meet the minimum  
8 requirements for a license. The licensee shall be given written notice of any  
9 revocation and the grounds therefor.

10 **SECTION 13.** 48.75 (1m) of the statutes is created to read:

11 48.75 (1m) (a) In this subsection, “adult resident” means a person 18 years of  
12 age or over who lives at a foster home or treatment foster home that is licensed by  
13 a child welfare agency or county department with the intent of making the foster  
14 home or treatment foster home his or her home or who lives for more than 30 days  
15 cumulative in any 6-month period at a foster home or treatment foster home that is  
16 licensed by a child welfare agency or county department.

17 (b) 1. After receipt of an application for a license to operate a foster home or  
18 treatment foster home, the child welfare agency or county department, with the  
19 assistance of the department of justice, shall conduct a background investigation of  
20 the applicant.

21 2. The child welfare agency or county department, with the assistance of the  
22 department of justice, shall conduct a background investigation of any person who,  
23 on the effective date of this subdivision .... [revisor inserts date], is licensed by the  
24 child welfare agency or county department to operate a foster home or treatment  
25 foster home or who, on the effective date of this subdivision .... [revisor inserts date],

1 has an application for a license pending with the child welfare agency or county  
2 department within 6 months after the effective date of this subdivision .... [revisor  
3 inserts date], or on renewing the license of that person, whichever is earlier.

4 3. Subject to subd. 2., the child welfare agency or county department, with the  
5 assistance of the department of justice, may conduct a background investigation of  
6 any person who is licensed by the child welfare agency or county department to  
7 operate a foster home or treatment foster home at the time of license renewal or at  
8 any other time that the child welfare agency or county department considers to be  
9 appropriate.

10 (c) 1. After receipt of an application for a license to operate a foster home or  
11 treatment foster home, the child welfare agency or county department, with the  
12 assistance of the department of justice, shall, in addition to the investigation under  
13 par. (b), conduct a background investigation of each employe and prospective  
14 employe of the applicant and of each adult resident.

15 2. The child welfare agency or county department, with the assistance of the  
16 department of justice, shall conduct a background investigation of each employe,  
17 prospective employe and adult resident of any foster home or treatment foster home  
18 that, on the effective date of this subdivision .... [revisor inserts date], is licensed  
19 under this section or that, on the effective date of this subdivision .... [revisor inserts  
20 date], has an application for a license pending with the child welfare agency or county  
21 department within 6 months after that date or on renewing the license, whichever  
22 is earlier.

23 3. Subject to subd. 2., the child welfare agency or county department, with the  
24 assistance of the department of justice, may conduct a background investigation of  
25 any employe, prospective employe or adult resident of a foster home or treatment



1 foster home that is licensed by the child welfare agency or county department at the  
2 time of license renewal or at any other time that the child welfare agency or county  
3 department considers to be appropriate.

4 4. Before a foster home or treatment foster home that is licensed by the child  
5 welfare agency or county department may employ any person or permit any person  
6 to be an adult resident, the child welfare agency or county department, with the  
7 assistance of the department of justice, shall conduct a background investigation of  
8 the prospective employe or prospective adult resident unless that person has already  
9 been investigated under subd. 1., 2. or 3.

10 (d) If the person being investigated under par. (b) or (c) is a nonresident, or at  
11 any time within the 5 years preceding the date of the application has been a  
12 nonresident, or if the child welfare agency or county department determines that the  
13 person's employment, licensing or state court records provide a reasonable basis for  
14 further investigation, the child welfare agency or county department shall require  
15 the person to be photographed and fingerprinted on 2 fingerprint cards, each bearing  
16 a complete set of the person's fingerprints. The department of justice may provide  
17 for the submission of the fingerprint cards to the federal bureau of investigation for  
18 the purposes of verifying the identity of the person fingerprinted and obtaining  
19 records of his or her criminal arrest and conviction.

20 (e) Upon request, a person being investigated under par. (b) or (c) shall provide  
21 the child welfare agency or county department with all of the following information:

- 22 1. The person's name.
- 23 2. The person's social security number.
- 24 3. Other identifying information, including the person's birthdate, gender, race  
25 and any identifying physical characteristics.

1           4. Information regarding the conviction record of the person under the law of  
2 this state or any other state or under federal law. This information shall be provided  
3 on a notarized background verification form that the department shall provide by  
4 rule promulgated under s. 48.67.

5           (f) 1. The child welfare agency or county department may not issue a license  
6 to operate a foster home or treatment foster home until the child welfare agency or  
7 county department receives information from the department of justice indicating  
8 that the conviction record of the applicant or licensee under the law of this state is  
9 satisfactory according to the criteria specified in par (g). 1. to 3. The department may  
10 issue a license to operate a foster home or treatment foster home conditioned on the  
11 receipt of information from the federal bureau of investigation indicating that the  
12 person's conviction record under the law of any other state or under federal law is  
13 satisfactory according to the criteria specified in par (g). 1. to 3.

14           2. A foster home or treatment foster home that is licensed by a child welfare  
15 agency or county department may not employ a person or permit a person to be an  
16 adult resident until the child welfare agency or county department receives  
17 information from the department of justice indicating that the person's conviction  
18 record under the law of this state is satisfactory according to the criteria specified in  
19 par. (g) 1. to 3. and the child welfare agency or county department so advises the  
20 foster home or treatment foster home. A foster home or treatment foster home may  
21 employ a person or permit a person to be an adult resident conditioned on the receipt  
22 of information from the federal bureau of investigation indicating that the person's  
23 conviction record under the law of any other state or under federal law is satisfactory  
24 according to the criteria specified in par. (g) 1. to 3.

1 (g) Subject to par. (h), the child welfare agency or county department may not  
2 issue or renew a license to operate a foster home or treatment foster home and a foster  
3 home or treatment foster home that is licensed by a child welfare agency or county  
4 department may not employ a person or permit a person to be an adult resident if any  
5 of the following applies:

6 1. The applicant, licensee or other person has been convicted of a violation of  
7 ch. 161 that is punishable as a felony or of a violation of the law of any other state  
8 or federal law that would be a violation of ch. 161 that is punishable as a felony if  
9 committed in this state.

10 2. The applicant, licensee or other person has had imposed on him or her a  
11 penalty specified in s. 939.62, 939.621, 939.63, 939.64, 939.641 or 939.645 or has  
12 been convicted of a violation of the law of any other state or federal law under  
13 circumstances under which the applicant, licensee or other person would be subject  
14 to a penalty specified in any of those sections if convicted in this state.

15 3. The applicant, licensee or other person has been convicted of a violation of  
16 ch. 940, 944 or 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63  
17 or 948.70, or of a violation of the law of any other state or federal law that would be  
18 a violation of ch. 940, 944 or 948, other than a violation of s. 940.291, 940.34, 944.36,  
19 948.45, 948.63 or 948.70, if committed in this state, except that the child welfare  
20 agency or county department may issue a license to or renew the license of, and a  
21 foster home or treatment foster home may employ or permit to be an adult resident  
22 a person who has been convicted of a violation of s. 944.30, 944.31 or 944.33 or of a  
23 violation of the law of any other state or federal law that would be a violation of s.  
24 944.30, 944.31 or 944.33 if committed in this state, if that violation occurred 20 years  
25 or more before the date of the investigation.

1 (h) Notwithstanding par. (g), a person whose application to a child welfare  
2 agency or county department for initial licensure to operate a foster home or  
3 treatment foster home or renewal of a license to operate a foster home or treatment  
4 foster home has been denied on one of the grounds specified in par. (g) 1. to 3. may  
5 petition the department for a review of that denial under s. 48.64 (4) (a). If the  
6 department determines that issuing or renewing the license would be in the best  
7 interests of a child, the department shall order that the license be issued or renewed.  
8 The department shall promulgate rules to provide standards under which to review  
9 a petition under this paragraph.

10 (i) The child welfare agency or county department shall keep confidential all  
11 information received under this subsection from the department of justice or the  
12 federal bureau of investigation, except that the child welfare agency may disclose  
13 any information obtained under this subsection to any other child welfare agency or  
14 county department conducting an investigation under this subsection or to any  
15 person conducting an investigation under s. 48.22 (7m), 48.60 (1m), 48.625 (1m),  
16 48.65 (1m), 48.68 (1m) or 118.19 (10). Such information is not subject to inspection  
17 or copying under s. 19.35.

18 (j) The child welfare agency or county department may charge a fee for  
19 conducting a background investigation under this subsection. The fee may not  
20 exceed the reasonable cost of conducting the investigation.

21 **SECTION 14. Initial applicability; health and social services.**

22 (1) CRIMINAL BACKGROUND INVESTIGATIONS. The treatment of sections 48.22 (7)  
23 (a) and (7m), 48.60 (1) and (1m), 48.625 (1) and (1m), 48.65 (1) and (1m), 48.68 (1) and  
24 (1m) and 48.75 (1) and (1m) of the statutes first applies to applications to operate a

1 child welfare agency, group home, shelter care facility, day care center, foster home  
2 or treatment foster home received on the effective date of this subsection.

3 (2) SANCTIONS AND PENALTIES. The treatment of section 48.715 (2) (bm) of the  
4 statutes first applies to proceedings under section 48.715 of the statutes, as affected  
5 by this act, commenced on the effective date of this subsection.

6 (END)