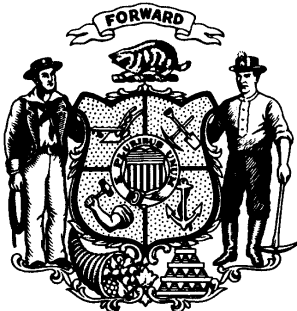


# State of Wisconsin



2003 Assembly Bill 836

Date of enactment:  
Date of publication\*:

## 2003 WISCONSIN ACT

**AN ACT** to renumber 119.23 (7) (am); and to create 119.23 (7) (am) 2., 119.23 (7) (d), 119.23 (7) (e), 119.23 (7) (f), 119.23 (7) (g) and 119.23 (10) of the statutes; relating to: the employment of personnel by private schools participating in the Milwaukee Parental Choice Program.

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

**SECTION 1.** 119.23 (7) (am) of the statutes is renumbered 119.23 (7) (am) 1.

**SECTION 2.** 119.23 (7) (am) 2. of the statutes is created to read:

119.23 (7) (am) 2. Annually by September 1 following a school year in which a private school participated in the program under this section, the private school shall submit to the department certification by the auditor under subd. 1. that criminal background checks of all school employees were conducted as specified under par. (g).

**SECTION 3.** 119.23 (7) (d) of the statutes is created to read:

119.23 (7) (d) Each private school participating in the program under this section shall submit to the department all of the following:

1. By August 1 before the first school term of participation in the program, or by May 1 if the private school begins participating in the program during summer school, a notarized statement by a person legally authorized to act on behalf of the private school that a criminal background check of each person who will be employed by the private school when the school begins to partici-

pate in the program under this section was conducted within the immediately preceding 5 years or will be conducted within 120 days after the school begins to participate, and will be conducted at least once every 5 years thereafter, using the procedure specified in par. (g).

2. Annually by February 1, a notarized statement by a person legally authorized to act on behalf of the private school that the private school will conduct criminal background checks as required in par. (g).

**SECTION 4.** 119.23 (7) (e) of the statutes is created to read:

119.23 (7) (e) 1. Notwithstanding subch. II of ch. 111, except as provided in subd. 2. a private school participating in the program under this section may not employ a person convicted of any Class A, B, C, D, E, F, G, or H felony under ch. 940 or 948, except ss. 940.08 and 940.205, or of an equivalent crime in another state or United States jurisdiction, or of any Class BC felony under ch. 940 or 948, 1999 stats., or of an equivalent crime in another state or United States jurisdiction, for 6 years following the date of the conviction, and may employ such a person after 6 years only if the person establishes by clear and convincing evidence that he or she is entitled to be employed.

2. A private school participating in the program under this section may employ a person convicted of a crime enumerated in subd. 1., prior to the expiration of

\* Section 991.11, WISCONSIN STATUTES 2001-02 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

the 6-year period following the conviction, if the private school receives from the court in which the conviction occurred a certificate stating that the conviction has been reversed, set aside, or vacated.

**SECTION 5.** 119.23 (7) (f) of the statutes is created to read:

119.23 (7) (f) Notwithstanding subch. II of ch. 111, a private school participating in the program under this section may refuse to employ or may terminate the employment of any person who has been convicted of a felony unless the private school receives from the court in which the conviction occurred a certificate stating that the conviction has been reversed, set aside, or vacated.

**SECTION 6.** 119.23 (7) (g) of the statutes is created to read:

119.23 (7) (g) Each private school participating in the program under this section shall conduct a criminal background check through the department of justice on each person employed by the private school when the person is initially employed and at least once every 5 years thereafter. When the person is initially employed, the private school shall require the person to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints, and shall submit the cards to the department of justice. The department of justice may provide for the submission of the fingerprint cards to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions.

**SECTION 7.** 119.23 (10) of the statutes is created to read:

119.23 (10) (a) The state superintendent may issue an order immediately terminating a private school's participation in the program under this section if the state superintendent determines that the private school has done any of the following:

1. Misrepresented information required under sub. (7) (d).

2. Failed to provide the certification required under sub. (7) (am) 2., or a statement required under sub. (7) (d), by the date specified.

(c) Whenever the state superintendent issues an order under par. (a), he or she shall immediately notify the parent or guardian of each pupil attending the private school under this section.

(d) The state superintendent may withhold payment from a parent or guardian under subs. (4) and (4m) if the private school attended by the child of the parent or guardian violates this section.

**SECTION 8. Nonstatutory provisions.**

(1) Notwithstanding section 119.23 (7) (d) 2. of the statutes, as created by this act, the first notarized statement required under that subdivision is due within 60 days after the effective date of this subsection.

(2) Within 120 days after the effective date of this subsection, using the procedure specified in section 119.23 (7) (g) of the statutes, as created by this act, a private school participating in the program under section 119.23 of the statutes shall conduct a criminal background check through the department of justice on each person employed by the private school unless the private school has conducted a criminal background check on the person within the 5 years immediately preceding the effective date of this subsection.

**SECTION 9. Initial applicability.**

(1) This act first applies to private schools that participate in the Milwaukee Parental Choice Program under section 119.23 of the statutes in the 2004-05 school year, except as provided in SECTION 8 of this act and except that the treatment of section 119.23 (7) (am) 2. of the statutes first applies to reports under that subdivision that are due by September 1, 2005.

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