State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX -

PLEASE DO NOT REMOVE FROM DRAFTING FILE

Date Transfer Requested: 10/02/2009 (Per: GMM)

☞ Appendix A ... Part 1 of 3

☞ The 2009 drafting file for LRB–3533/2 (For: Senator Darling)

has been copied/added to the drafting file for

2009 LRB–3597 (For: Senator Darling)

☞ Are These "Companion Bills" ?? ... No

☞ The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

☞ This cover sheet was added to rear of the original 2009 drafting file. The drafting file was then returned, intact, to its folder and filed.

2009 DRAFTING REQUEST

Bill

Received: **09/24/2009**

Received By: **gmalaise**

Wanted: **Today**

Identical to LRB:

For: **Alberta Darling (608) 266-5830**

By/Representing: **Connie Schulze**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Children - day care**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Darling@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Child care; certain persons prohibited from providing

Instructions:

See attached--draftcompanion to -3047/3

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	gmalaise 09/24/2009	kfollett 09/24/2009		_____ _____			S&L
/1			mduchek 09/24/2009	_____ _____	cduerst 09/24/2009		S&L
/2	gmalaise 10/01/2009	wjackson 10/01/2009	phenry 10/02/2009	_____ _____	mbarman 10/02/2009		

FE Sent For:

<END>

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/1		/2 WLJ 10/1	mduchek 09/24/2009	~~10~~ 10/2 ph	cduerst 09/24/2009		

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09/2 ph

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Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	gmalaise	/lkjf 9/24	WD 9/24	WD JF			

FE Sent For:

<END>

Malaise, Gordon

From: Schulze, Connie
Sent: Thursday, September 24, 2009 1:24 PM
To: Malaise, Gordon
Subject: FW: /3 of Child Care Reform Bill
Attachments: 09-30473.pdf

Hi Gordon,

I hope this week finds you happy and well. I am in the office with my young son who is slightly ill by my side today. A four-year-old tends to dampen my productivity. Anyway, Alberta would like a senate companion drafted for this bill. The sooner the better. Thanks!

BTW, my husband John says "hello."

Sincerely,

Connie Schulze

Office of Sen. Darling

PHONE: 608/266-5830

From: Knudson, Steve
Sent: Thursday, September 24, 2009 11:51 AM
To: Sen.Darling
Cc: Schulze, Connie
Subject: /3 of Child Care Reform Bill

Attached.

Steve Knudson
Office of State Representative Mark Gundrum
Room 119 West, State Capitol
P.O. Box 8952
Madison, WI 53708
(608) 267-5158

State of Wisconsin
~~2009 – 2010~~ LEGISLATURE

IN 9/24
TODAY!!!

-3533/1
LRB ~~-3047/3~~
GMM:kjf:ph
Stays

2009 BILL

(Companion - No change)

pp. 5, 26 & 27

Regen

AN ACT ***to renumber*** 49.133 (3), 49.133 (4) and 120.13 (14); ***to renumber and amend*** 49.133 (intro.), 49.133 (1) and 49.133 (2); ***to amend*** 20.435 (6) (jm), 48.685 (1) (c) 4., 48.685 (2) (am) (intro.), 48.685 (2) (am) 5., 48.685 (2) (b) 4., 48.685 (2) (bb), 48.685 (2) (bd), 48.685 (2) (bg), 48.685 (2) (bm), 48.685 (3) (a), 48.685 (3) (b), 48.685 (3m), 48.685 (4m) (a) 1., 48.685 (4m) (ad), 48.685 (4m) (b) 1., 48.685 (5) (a), 48.685 (5c) (a), 48.685 (6) (am), 48.685 (6) (b) 2., 48.685 (8) and 49.845 (4); ***to repeal and recreate*** 48.685 (4m) (ad) and 49.155 (7); and ***to create*** 48.651 (3), 48.685 (1) (c) 3m., 48.685 (2) (ar), 48.685 (2) (b) 2., 48.685 (3) (am), 48.685 (3) (bm), 48.685 (5) (br), 48.715 (4g), 49.133 (1m) (a), 49.133 (1m) (c), 49.133 (1m) (d), 49.133 (2m) (intro.), 49.197 (6) and 120.13 (14) (b) of the statutes; **relating to:** prohibiting a person who has been convicted or adjudicated delinquent for committing certain serious crimes, who is the subject of a pending criminal charge or delinquency petition for committing a serious crime, or who has had entered against him or her a domestic abuse,

1 child abuse, individual–at–risk abuse, or harassment temporary restraining
2 order or injunction in the preceding 15 years from being licensed, certified, or
3 contracted with to provide child care, from being employed or contracted as a
4 caregiver of a child care provider, or from being permitted to reside at a
5 premises where child care is provided; requiring suspected fraudulent activity
6 on the part of a participant in the Wisconsin Works Program, including a person
7 receiving a child care subsidy under that program, to be reported to the
8 appropriate law enforcement authorities; making an appropriation; and
9 providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Children and Families (DCF) may not license a person to operate a day care center; DCF in a county having a population of 500,000 or more, a county department of human services or social services (county department), or an agency contracted by DCF to certify day care providers for purposes of reimbursement under the Wisconsin Works Program (contracted agency) may not certify a day care provider for those purposes; and a school board may not contract with a person to provide a day care program (collectively "child care provider") if the person has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime, as defined under current law, unless the person shows that he or she has been rehabilitated.

Similarly, a child care provider may not employ or contract with a caregiver or permit a nonclient resident to reside at a premises where child care is provided if the caregiver or nonclient resident has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime, as defined under current law, unless the caregiver or nonclient resident shows that he or she has been rehabilitated. Currently, "serious crime" is defined to include certain crimes against life or bodily security and certain crimes against children that are felonies.

This bill prohibits any person who has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing any of the following serious crimes or who is the subject of a pending criminal charge or delinquency petition alleging that the person has committed any of the following serious crimes on or after his or her 12th birthday from being licensed, certified, or contracted with to provide child care, from being employed or contracted as a caregiver of a child care provider, or from being permitted to be a nonclient resident of a premises where child care is provided and prohibits such a person from showing that he or she has been rehabilitated:

1. Any crime against children, other than failure to pay child support or hazing.

2. Felony battery, if the victim is the spouse of the person.

3. First–degree or second–degree intentional or reckless homicide, felony murder, mayhem, felony sexual assault, reckless injury, taking hostages, kidnapping, felony endangering safety by use of a dangerous weapon, disarming a police officer, armed burglary, carjacking, or armed robbery.

4. A misdemeanor involving sexual abuse, child abuse, or domestic abuse, if the person has ever been convicted or adjudicated delinquent for committing any felony.

5. Any drug or alcohol–related felony, felony battery, sexual exploitation by a therapist, abuse of an adult–at–risk, abuse or neglect of a patient, video voyeurism, felony failure to pay child support, or felony hazing, if the person has ever been convicted or adjudicated delinquent for committing any other crime.

6. Any drug or alcohol–related felony, felony battery, sexual exploitation by a therapist, abuse of an adult–at–risk, abuse or neglect of a patient, video voyeurism, felony failure to pay child support, or felony hazing, if the person has never been convicted or adjudicated delinquent for committing any other crime and the person completed his or her sentence, including any probation, parole, or extended supervision, or was discharged by the Department of Corrections (DOC), less than ten years before the date of the background investigation of the person.

7. A misdemeanor involving sexual abuse, child abuse, or domestic abuse, if the person has never been convicted or adjudicated delinquent for committing a felony, but has ever been convicted or adjudicated delinquent for committing any other misdemeanor, and the person completed his or her sentence, including any probation, parole, or extended supervision, or was discharged by the DOC, less than ten years before the date of the background investigation of the person.

8. A misdemeanor involving sexual abuse, child abuse, or domestic abuse, if the person has never been convicted or adjudicated delinquent for committing any other misdemeanor, and the person completed his or her sentence, including any probation, parole, or extended supervision, or was discharged by the DOC, less than five years before the date of the background investigation of the person.

The bill also prohibits a person who has had entered against him or her a domestic abuse, child abuse, individual–at–risk abuse, or harassment temporary restraining order or injunction (TRO or injunction) in the 15 years preceding the background investigation of the person from being licensed, certified, or contracted with to provide child care, from being employed or contracted as a caregiver of a child care provider, or from being permitted to be a nonclient resident of a premises where child care is provided, but permits such a person to show that he or she has been rehabilitated.

Current law requires DCF, a county department, a contracting agency, or a school board, prior to licensing, certifying, or contracting with a child care provider and every four years after that, to conduct a criminal history search of the child care provider, of all nonclient residents of the premises where the child care is provided, and of all persons under 18 years of age who are caregivers of the child care provider and to obtain certain other information with respect to those individuals, specifically: 1) information from the client abuse registry maintained by the

Department of Health Services (DHS); 2) information maintained by the Department of Regulation and Licensing regarding the individual's credentials; 3) information maintained by DCF regarding any substantiated reports of child abuse or neglect against the individual; and 4) information maintained by DHS regarding any denial of a license, certification, or contract to provide child care, of employment as a caregiver of a child care provider, or of permission to reside at a premises where child care is provided. Similarly, current law also requires a child care provider to conduct such a criminal history search and to obtain that information with respect to a caregiver 18 years of age or over prior to employing or contracting with the caregiver and every four years after that.

This bill requires DCF, a county department, a contracting agency, or a school board to conduct that criminal history search and to obtain that information every six months after a child care provider is licensed, certified, or contracted with and requires a child care provider to conduct that criminal history search and to obtain that information every six months after a caregiver 18 years of age or over is employed or contracted with. In addition, the bill requires DCF, a county department, a contracting agency, or a school board, prior to licensing, certifying, or contracting with a child care provider and every 90 days after that, to obtain information that is contained in the circuit court automated information system regarding any pending criminal charge or delinquency petition alleging that a child care provider, a nonclient resident of the premises where the child care is provided, or a person under 18 years of age who is a caregiver of the child care provider has committed a serious crime and regarding any TRO or injunction entered against such a provider, nonclient resident, or caregiver, and requires a child care provider to obtain that information with respect to a caregiver 18 years of age or over prior to employing or contracting with the caregiver and every 90 days after that.

Under current law, DCF *may* revoke the license of a person to operate a day care center if the licensee or a person under the supervision of the licensee commits certain actions, including a repeated or substantial violation of a rule or order of DCF or of a condition of licensure or an action that directly threatens the health, safety, or welfare of any child under the care of the licensee. Similarly, under current law, DCF or a county department *may* refuse to pay a child care provider for child care provided under the Wisconsin Works Program if the child care provider, an employee of the child care provider, or a person living on the premises where child care is provided is convicted of a felony or misdemeanor that substantially relates to the care of children, is the subject of a pending charge that substantiality relates to the care of children, or has been determined to have abused or neglected a child.

This bill *requires* all of the following:

1. DCF to revoke the license of a day care center; DCF in a county having a population of 500,000 or more, a county department, or a contracted agency to revoke the certification of a day care provider for purposes of reimbursement under the Wisconsin Works Program; and a school board to rescind the contract of the person to operate a day care program; if the person licensed to operate the day care center, the person certified as a child care provider, or the person contracting to provide the day care program is convicted of a serious crime or if a caregiver or nonclient resident

of the day care center, child care provider, or day care program is convicted or adjudicated delinquent for committing a serious crime on or after his or her 12th birthday. The bill also requires DCF or a county department to refuse to pay a child care provider in those circumstances or if the child care provider has been convicted of a crime involving financial dishonestly beginning on the date of the conviction or delinquency adjudication.

2. DCF to immediately suspend the license of a day care center; DCF in a county having a population of 500,000 or more, a county department, or a contracted agency to immediately suspend the certification of a day care provider for purposes of reimbursement under the Wisconsin Works Program; and a school board to immediately suspend the contract of a person to operate a day care program; if the person licensed to operate the day care center, the person certified as a child care provider, or the person contracting to provide the day care program is the subject of a pending criminal charge alleging that the person has committed a serious crime or if a caregiver or nonclient resident of the day care center, child care provider, or day care program is the subject of a pending charge or delinquency petition alleging that the person has committed a serious crime on or after his or her 12th birthday. The bill also requires DCF or a county department to immediately suspend payment to a child care provider for any child care provided under the Wisconsin Works Program in those circumstances or if the child care provider is the subject of a pending criminal charge alleging that he or she has committed a crime involving financial dishonesty until DCF or the county department obtains information regarding the final disposition of the charge or delinquency proceeding indicating that the person is not ineligible to receive such a payment.

immediately

3. DCF to investigate the circumstances giving rise to a TRO or injunction entered against a day care center; DCF in a county having a population of 500,000 or more, a county department, or a contracted agency to investigate the circumstances giving rise to a TRO or injunction entered against a day care provider who is certified for purposes of reimbursement under the Wisconsin Works Program; and a school board to investigate the circumstances giving rise to a TRO or injunction entered against a person contracted to operate a day care program. DCF, the county department, the agency, or the school board may then suspend or revoke the license, certification, or contract, depending on the gravity of those circumstances. DCF or a county department may also suspend or discontinue payment to a child care provider for any child care provided under the Wisconsin Works Program in those circumstances, depending on the gravity of those circumstances.

immediately

Finally, the bill requires any employee of DCF, DHS, a county, or a tribal governing body who reasonably suspects fraudulent activity on the part of a participant in the Wisconsin Works Program, including a person receiving a child care subsidy under that program, to report the facts and circumstances contributing to that suspicion to the ~~sheriff or to the city, village, or town police department.~~ Any person who ~~intentionally~~ fails to report as required under the bill may be fined $1,000 or imprisoned not more than six months or both.

district attorney

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.** 20.435 (6) (jm) of the statutes, as affected by 2009 Wisconsin Act
2 28, is amended to read:
3 20.435 **(6)** (jm) *Licensing and support services.* The amounts in the schedule
4 for the purposes specified in ss. 48.685 (2) (am), (ar), and (b) 1., (3) (a), (am), and (b),
5 and (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.031, 50.065 (2) (am) and (b) 1., (3) (a) and
6 (b), and (5), 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.981,
7 and 146.40 (4r) (b) and (er), and subch. IV of ch. 50 and to conduct health facilities
8 plan and rule development activities, for accrediting nursing homes, convalescent
9 homes, and homes for the aged, to conduct capital construction and remodeling plan
10 reviews under ss. 50.02 (2) (b) and 50.36 (2), and for the costs of inspecting, licensing
11 or certifying, and approving facilities, issuing permits, and providing technical
12 assistance, that are not specified under any other paragraph in this subsection. All
13 moneys received under ss. 48.685 (8), 49.45 (42) (c), 49.45 (47) (c), 50.02 (2), 50.025,
14 50.031 (6), 50.065 (8), 50.13, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.93
15 (1) (c), and 50.981, all moneys received from fees for the costs of inspecting, licensing
16 or certifying, and approving facilities, issuing permits, and providing technical
17 assistance, that are not specified under any other paragraph in this subsection, and
18 all moneys received under s. 50.135 (2) shall be credited to this appropriation
19 account.
20 **SECTION 2.** 48.651 (3) of the statutes is created to read:

1 48.651 **(3)** (a) If a day care provider certified under sub. (1) is convicted of a
2 serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s. 48.685
3 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day care
4 provider is convicted or adjudicated delinquent for committing a serious crime on or
5 after his or her 12th birthday, the department in a county having a population of
6 500,000 or more, a county department, or an agency contracted with under sub. (2)
7 shall revoke the certification of the day care provider immediately upon providing
8 written notice of revocation and the grounds for revocation and an explanation of the
9 process for appealing the revocation.

10 (b) If a day care provider certified under sub. (1) is the subject of a pending
11 criminal charge alleging that the person has committed a serious crime, as defined
12 in s. 48.685 (1) (c) 3m., or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient
13 resident, as defined in s. 48.685 (1) (bm), of the day care provider is the subject of a
14 pending criminal charge or delinquency petition alleging that the person has
15 committed a serious crime on or after his or her 12th birthday, the department in a
16 county having a population of 500,000 or more, a county department, or an agency
17 contracted with under sub. (2) shall immediately suspend the certification of the day
18 care provider until the department, county department, or agency obtains
19 information regarding the final disposition of the charge or delinquency petition
20 indicating that the person is not ineligible to be certified under sub. (1).

21 (c) If a day care provider certified under sub. (1) or a caregiver specified in s.
22 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day
23 care provider has entered against him or her a temporary restraining order or
24 injunction under s. 813.12, 813.122, 813.123, 813.125, 813.127, or 813.128, the
25 department in a county having a population of 500,000 or more, a county

department, or an agency contracted with under sub. (2) shall investigate the circumstances giving rise to the temporary restraining order or injunction and may suspend or revoke the certification of the day care provider, depending on the gravity of those circumstances, as determined by the department, county department, or agency.

SECTION 3. 48.685 (1) (c) 3m. of the statutes is created to read:

48.685 **(1)** (c) 3m. For purposes of licensing a person to operate a day care center under s. 48.65, certifying a day care provider under s. 48.651, or contracting with a person under s. 120.13 (14) to operate a day care center, or of permitting a person to be a caregiver or nonclient resident of such a day care center or day care provider, any violation listed in subds. 1. to 3. or sub. (5) (br) 1. to 8.

SECTION 4. 48.685 (1) (c) 4. of the statutes is amended to read:

48.685 **(1)** (c) 4. A violation of the law of any other state or United States jurisdiction that would be a violation listed in subd. 1., 2., ~~or~~ 3., or 3m. if committed in this state.

SECTION 5. 48.685 (2) (am) (intro.) of the statutes is amended to read:

48.685 **(2)** (am) (intro.) The department, a county department, an agency contracted with under s. 48.651 (2), a child welfare agency, or a school board shall obtain all of the following with respect to a caregiver specified in sub. (1) (ag) 1. b., a nonclient resident of an entity, and a person under 18 years of age, but not under 12 years of age, who is a caregiver of a day care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care provider that is certified under s. 48.651:

SECTION 6. 48.685 (2) (am) 5. of the statutes is amended to read:

48.685 **(2)** (am) 5. Information maintained by the department of health services under this section and under ss. 48.651 (2m), 48.75 (1m), and 120.13 (14) regarding any denial to the person of a license, continuation or renewal of a license, certification, or a contract to operate an entity for a reason specified in sub. (4m) (a) 1. to 5. and regarding any denial to the person of employment at, a contract with, or permission to reside at an entity for a reason specified in sub. (4m) (b) 1. to 5. If the information obtained under this subdivision indicates that the person has been denied a license, continuation or renewal of a license, certification, a contract, employment, or permission to reside as described in this subdivision, the department, a county department, an agency contracted with under s. 48.651 (2), a child welfare agency, or a school board need not obtain the information specified in subds. 1. to 4.

SECTION 7. 48.685 (2) (ar) of the statutes is created to read:

48.685 **(2)** (ar) In addition to obtaining the information specified in par. (am) with respect to a person who has, or is seeking, a license to operate a day care center under s. 48.65, certification as a day care provider under s. 48.651, or a contract under s. 120.13 (14) to operate a day care center, a nonclient resident of such an entity, or a person under 18 years of age, but not under 12 years of age, who is a caregiver of such an entity, the department, a county department, an agency contracted with under s. 48.651 (2), or a school board shall obtain information that is contained in the circuit court automated information system under s. 758.19 (4) regarding any pending criminal charge or delinquency petition alleging that the person has committed a serious crime and any temporary restraining order or injunction under s. 813.12, 813.122, 813.123, 813.125, or 813.127 entered against the person.

1 **SECTION 8.** 48.685 (2) (b) 2. of the statutes is created to read:

2 48.685 **(2)** (b) 2. In addition to obtaining the information specified in subd. 1.
3 with respect to a caregiver specified in sub. (1) (ag) 1. a. of a day care center that is
4 licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of a
5 day care provider that is certified under s. 48.651, the day care center or day care
6 provider shall obtain information that is contained in the circuit court automated
7 information system under s. 758.19 (4) regarding any pending criminal charge
8 alleging that the person has committed a serious crime and any temporary
9 restraining order or injunction under s. 813.12, 813.122, 813.123, 813.125, or
10 813.127 entered against the person.

11 **SECTION 9.** 48.685 (2) (b) 4. of the statutes is amended to read:

12 48.685 **(2)** (b) 4. ~~Subdivision 1. does~~ Subdivisions 1. and 2. do not apply with
13 respect to a nonclient resident or person under 18 years of age, but not under 12 years
14 of age, who is a caregiver ~~or nonclient resident~~ of a day care center that is licensed
15 under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care
16 provider that is certified under s. 48.651 and with respect to whom the department,
17 a county department, an agency contracted with under s. 48.651 (2), or a school board
18 is required under par. (am) (intro.) to obtain the information specified in par. (am)
19 1. to 5.

20 **SECTION 10.** 48.685 (2) (bb) of the statutes is amended to read:

21 48.685 **(2)** (bb) If information obtained under par. (am) or (b) 1. indicates a
22 charge of a serious crime, but does not completely and clearly indicate the final
23 disposition of the charge, the department, county department, agency contracted
24 with under s. 48.651 (2), child welfare agency, school board, or entity shall make
25 every reasonable effort to contact the clerk of courts to determine the final disposition

of the charge. If a background information form under sub. (6) (a) or (am) indicates a charge or a conviction of a serious crime, but information obtained under par. (am) or (b) 1. does not indicate such a charge or conviction, the department, county department, agency contracted with under s. 48.651 (2), child welfare agency, school board, or entity shall make every reasonable effort to contact the clerk of courts to obtain a copy of the criminal complaint and the final disposition of the complaint. If information obtained under par. (am) or (b) 1., a background information form under sub. (6) (a) or (am), or any other information indicates a conviction of a violation of s. 940.19 (1), 940.195, 940.20, 941.30, 942.08, 947.01, or 947.013 obtained not more than 5 years before the date on which that information was obtained, the department, county department, agency contracted with under s. 48.651 (2), child welfare agency, school board, or entity shall make every reasonable effort to contact the clerk of courts to obtain a copy of the criminal complaint and judgment of conviction relating to that violation.

SECTION 11. 48.685 (2) (bd) of the statutes is amended to read:

48.685 **(2)** (bd) Notwithstanding pars. (am) and (b) 1., the department, a county department, an agency contracted with under s. 48.651 (2), a child welfare agency, or a school board is not required to obtain the information specified in par. (am) 1. to 5., and an entity is not required to obtain the information specified in par. (b) 1. a. to e., with respect to a person under 18 years of age whose background information form under sub. (6) (am) indicates that the person is not ineligible to be employed, contracted with, or permitted to reside at an entity for a reason specified in sub. (4m) (b) 1. to 5. and with respect to whom the department, county department, contracted agency, child welfare agency, school board, or entity otherwise has no reason to believe that the person is ineligible to be employed, contracted with, or permitted to

reside at an entity for any of those reasons. This paragraph does not preclude the department, a county department, an agency contracted with under s. 48.651 (2), a child welfare agency, or a school board from obtaining, at its discretion, the information specified in par. (am) 1. to 5. with respect to a person described in this paragraph who is a nonclient resident or a prospective nonclient resident of an entity.

SECTION 12. 48.685 (2) (bg) of the statutes is amended to read:

48.685 **(2)** (bg) If an entity employs or contracts with a caregiver for whom, within the last ~~4 years~~ 90 days, the information required under par. (b) 1. a. to c. and e. has already been obtained by another entity, the entity may obtain that information from that other entity, which shall provide the information, if possible, to the requesting entity. If an entity cannot obtain the information required under par. (b) 1. a. to c. and e. from another entity or if an entity has reasonable grounds to believe that any information obtained from another entity is no longer accurate, the entity shall obtain that information from the sources specified in par. (b) 1. a. to c. and e.

SECTION 13. 48.685 (2) (bm) of the statutes is amended to read:

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

within the 3 years preceding the date of the search information that is equivalent to the information specified in par. (am) 1., (ar), or (b) 1. a. The department, county department, contracted agency, child welfare agency, school board, or entity may require the person to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints. 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 14. 48.685 (3) (a) of the statutes is amended to read:

48.685 **(3)** (a) ~~Every~~ Subject to par. (am), every 4 years or at any time within that period that the department, a county department, an agency contracted with under s. 48.651 (2), a child welfare agency, or a school board considers appropriate, the department, county department, contracted agency, child welfare agency, or school board shall request the information specified in sub. (2) (am) 1. to 5. for all caregivers specified in sub. (1) (ag) 1. b. who are licensed, certified, or contracted to operate an entity~~,~~ and for all persons who are nonclient residents of such a caregiver~~, and for all persons under 18 years of age, but not under 12 years of age, who are caregivers of a day care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care provider that is certified under s. 48.651~~.

SECTION 15. 48.685 (3) (am) of the statutes is created to read:

48.685 **(3)** (am) Every 90 days or at any time within that period that the department, a county department, an agency contracted with under s. 48.651 (2), or a school board considers appropriate, the department, county department, contracted agency, or school board shall request the information specified in sub. (2)

(am) 1. and (ar) for all caregivers specified in sub. (1) (ag) 1. b. who are licensed under s. 48.65 to operate a day care center, certified as a day care provider under s. 48.651, or contracted under s. 120.13 (14) to operate a day care center for all persons who are nonclient residents of such a caregiver, and for all persons under 18 years of age, but not under 12 years of age, who are caregivers specified in sub. (1) (ag) 1. a. of such a caregiver.

SECTION 16. 48.685 (3) (b) of the statutes is amended to read:

48.685 **(3)** (b) ~~Every~~ Subject to par. (bm), every 4 years or at any time within that period that an entity considers appropriate, the entity shall request the information specified in sub. (2) (b) 1. a. to e. for all persons who are caregivers specified in sub. (1) (ag) 1. a. of the entity ~~other than persons under 18 years of age, but not under 12 years of age, who are caregivers of a day care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care provider that is certified under s. 48.651~~.

SECTION 17. 48.685 (3) (bm) of the statutes is created to read:

48.685 **(3)** (bm) Every 90 days or at any time within that period that a day care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or a day care provider that is certified under s. 48.651 considers appropriate, the day care center or day care provider shall request the information specified in sub. (2) (b) 1. a. to e. and 2. for all persons who are caregivers specified in sub. (1) (ag) 1. a. of the day care center or day care provider other than persons under 18 years of age, but not under 12 years of age.

SECTION 18. 48.685 (3m) of the statutes is amended to read:

48.685 **(3m)** Notwithstanding subs. (2) (b) 1. and (3) (b), if the department, a county department, an agency contracted with under s. 48.651 (2), a child welfare

agency, or a school board has obtained the information required under sub. (2) (am) or (3) (a) or (am) with respect to a person who is a caregiver specified in sub. (1) (ag) 1. b. and that person is also an employee, contractor, or nonclient resident of an entity, the entity is not required to obtain the information specified in sub. (2) (b) 1. or (3) (b) with respect to that person.

SECTION 19. 48.685 (4m) (a) 1. of the statutes is amended to read:

48.685 **(4m)** (a) 1. That the person has been convicted of a serious crime or, if the person is an applicant for issuance or continuation of a license to operate a day care center or for initial certification under s. 48.651 or for renewal of that certification or if the person is proposing to contract with a school board under s. 120.13 (14) or to renew a contract under that subsection, that the person has been convicted of a serious crime or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime; that the person is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime on or after his or her 12th birthday; or that the person has had a temporary restraining order or injunction under s. 813.12, 813.122, 813.123, 813.125, 813.127, or 813.128 entered against him or her not more than 15 years before the date of the investigation under sub. (2) (ar).

SECTION 20. 48.685 (4m) (ad) of the statutes, as affected by 2009 Wisconsin Act 28, section 1073d, is amended to read:

48.685 **(4m)** (ad) The department, a county department, or a child welfare agency may license a foster home or treatment foster home under s. 48.62~~.~~; the department may license a day care center under s. 48.65; the department in a county having a population of 500,000 or more, a county department, or an agency contracted with under s. 48.651 (2) may certify a day care provider under s. 48.651~~.~~;

and a school board may contract with a person under s. 120.13 (14), conditioned on the receipt of the information specified in sub. (2) (am) and (ar) indicating that the person is not ineligible to be licensed, certified, or contracted with for a reason specified in par. (a) 1. to 5.

SECTION 21. 48.685 (4m) (ad) of the statutes, as affected by 2009 Wisconsin Act 28, section 1074d, and 2009 Wisconsin Act .... (this act), is repealed and recreated to read:

48.685 **(4m)** (ad) The department, a county department, or a child welfare agency may license a foster home under s. 48.62; the department may license a day care center under s. 48.65; the department in a county having a population of 500,000 or more, a county department, or an agency contracted with under s. 48.651 (2) may certify a day care provider under s. 48.651; and a school board may contract with a person under s. 120.13 (14), conditioned on the receipt of the information specified in sub. (2) (am) and (ar) indicating that the person is not ineligible to be licensed, certified, or contracted with for a reason specified in par. (a) 1. to 5.

SECTION 22. 48.685 (4m) (b) 1. of the statutes is amended to read:

48.685 **(4m)** (b) 1. That the person has been convicted of a serious crime or, if the person is a caregiver or nonclient resident of a day care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care provider that is certified under s. 48.651, that the person has been convicted of a serious crime or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime; that the person is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime on or after his or her 12th birthday; or that the person has had a temporary restraining order or injunction under s. 813.12, 813.122, 813.123, 813.125, 813.127,

1 or 813.128 entered against him or her not more than 15 years before the date of the
2 investigation under sub. (2) (b) 2.

3 **SECTION 23.** 48.685 (5) (a) of the statutes, as affected by 2009 Wisconsin Act 28,
4 is amended to read:

5 48.685 **(5)** (a) Subject to ~~par.~~ pars. (bm) and (br), the department may license
6 to operate an entity, the department in a county having a population of 500,000 or
7 more, a county department, or an agency contracted with under s. 48.651 (2) may
8 certify under s. 48.651, a county department or a child welfare agency may license
9 under s. 48.62, and a school board may contract with under s. 120.13 (14) a person
10 who otherwise may not be licensed, certified, or contracted with for a reason specified
11 in sub. (4m) (a) 1. to 5., and an entity may employ, contract with, or permit to reside
12 at the entity a person who otherwise may not be employed, contracted with, or
13 permitted to reside at the entity for a reason specified in sub. (4m) (b) 1. to 5., if the
14 person demonstrates to the department, the county department, the contracted
15 agency, the child welfare agency, or the school board or, in the case of an entity that
16 is located within the boundaries of a reservation, to the person or body designated
17 by the tribe under sub. (5d) (a) 3., by clear and convincing evidence and in accordance
18 with procedures established by the department by rule or by the tribe that he or she
19 has been rehabilitated.

20 **SECTION 24.** 48.685 (5) (br) of the statutes is created to read:

21 48.685 **(5)** (br) For purposes of licensing a person to operate a day care center
22 under s. 48.65, certifying a day care provider under s. 48.651, or contracting with a
23 person under s. 120.13 (14) to operate a day care center or of permitting a person to
24 be a nonclient resident or caregiver specified in sub. (1) (ag) 1. a. of a day care center
25 or day care provider, no person who has been convicted or adjudicated delinquent on

1 or after his or her 12th birthday for committing any of the following offenses or who
2 is the subject of a pending charge or delinquency petition alleging that the person has
3 committed any of the following offenses on or after his or her 12th birthday may be
4 permitted to demonstrate that he or she has been rehabilitated:

5 1. An offense under ch. 948 that is a felony, other than a violation of s. 948.22
6 (2) or 948.51 (2).

7 2. A violation of s. 940.19 (3), 1999 stats., or of s. 940.19 (2), (4), (5), or (6) or
8 940.20 (1) or (1m), if the victim is the spouse of the person.

9 3. A violation of s. 943.23 (1m) or (1r), 1999 stats., or of s. 940.01, 940.02, 940.03,
10 940.05, 940.06, 940.21, 940.225 (1), (2), or (3), 940.23, 940.305, 940.31, 941.20 (2) or
11 (3), 941.21, 943.10 (2), 943.23 (1g), or 943.32 (2).

12 4. A misdemeanor involving sexual abuse, child abuse, or domestic abuse, if the
13 person has ever been convicted or adjudicated delinquent for committing any felony.

14 5. A violation of s. 940.19 (3), 1999 stats., or of s. 125.075 (1), 125.085 (3) (a) 2.,
15 125.105 (2) (b), 125.66 (3), 125.68 (12), 940.09, 940.12, 940.19 (2), (4), (5), or (6),
16 940.20, 940.203, 940.205, 940.207, 940.22 (2) or (3), 940.25, 940.285 (2), 940.295,
17 942.09 (2), or 948.22 (2), a violation of s. 948.51 (2) that is a felony under s. 948.51
18 (3) (b) or (c), a violation of s. 346.63 (1), (2), (5), or (6) that is a felony under s. 346.65
19 (2) (am) 5., 6., or 7., or (f), (2j) (d), or (3m), or an offense under ch. 961 that is a felony,
20 if the person has ever been convicted or adjudicated delinquent for any other crime.

21 6. A violation listed in subd. 5., if the person has never been convicted or
22 adjudicated delinquent for committing any other crime and the person completed his
23 or her sentence, including any probation, parole, or extended supervision, or was
24 discharged by the department of corrections, less than 10 years before the date of the
25 investigation under sub. (2) (am) or (b) 1.

7. A misdemeanor involving sexual abuse, child abuse, or domestic abuse, if the person has never been convicted or adjudicated delinquent for committing a felony, but has ever been convicted or adjudicated delinquent for committing any other misdemeanor, and the person completed his or her sentence, including any probation, parole, or extended supervision, or was discharged by the department of corrections, less than 10 years before the date of the investigation under sub. (2) (am) or (b) 1.

8. A misdemeanor involving sexual abuse, child abuse, or domestic abuse, if the person has never been convicted or adjudicated delinquent for committing any other misdemeanor and the person completed his or her sentence, including any probation, parole, or extended supervision, or was discharged by the department of corrections, less than 5 years before the date of the investigation under sub. (2) (am) or (b) 1.

SECTION 25. 48.685 (5c) (a) of the statutes is amended to read:

48.685 **(5c)** (a) Any person who is permitted but fails under sub. (5) (a) to demonstrate to the department, an agency contracted with under s. 48.651 (2), or a child welfare agency that he or she has been rehabilitated may appeal to the secretary or his or her designee. Any person who is adversely affected by a decision of the secretary or his or her designee under this paragraph has a right to a contested case hearing under ch. 227.

SECTION 26. 48.685 (6) (am) of the statutes is amended to read:

48.685 **(6)** (am) ~~Every~~ Except as provided in this paragraph, every 4 years an entity shall require all of its caregivers and nonclient residents to complete a background information form that is provided to the entity by the department. Every 90 days a day care center that is licensed under s. 48.65 or established or contracted with under s. 120.13 (14) or a day care provider that is certified under s. 48.651 shall

1 require all of its caregivers and nonclient residents to complete a background
2 information form that is provided to the day care center or day care provider by the
3 department.

4 **SECTION 27.** 48.685 (6) (b) 2. of the statutes is amended to read:

5 48.685 **(6)** (b) 2. For caregivers who are licensed or certified by a county
6 department or an agency contracted with under s. 48.651 (2), for persons who are
7 nonclient residents of an entity that is licensed or certified by a county department
8 or an agency contracted with under s. 48.651 (2), and for other persons specified by
9 the department by rule, the entity shall send the background information form to the
10 county department or contracted agency.

11 **SECTION 28.** 48.685 (8) of the statutes is amended to read:

12 48.685 **(8)** The department, the department of health services, a county
13 department, an agency contracted with under s. 48.651 (2), a child welfare agency,
14 or a school board may charge a fee for obtaining the information required under sub.
15 (2) (am), (ar), or (3) (a) or (am) or for providing information to an entity to enable the
16 entity to comply with sub. (2) (b) 1. or (3) (b). The fee may not exceed the reasonable
17 cost of obtaining the information. No fee may be charged to a nurse aide, as defined
18 in s. 146.40 (1) (d), for obtaining or maintaining information if to do so would be
19 inconsistent with federal law.

20 **SECTION 29.** 48.715 (4g) of the statutes is created to read:

21 48.715 **(4g)** (a) If a person who has been issued a license under s. 48.66 (1) (a)
22 or a probationary license under s. 48.69 to operate a day care center is convicted of
23 a serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s.
24 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day
25 care center is convicted or adjudicated delinquent for committing a serious crime on

1 or after his or her 12th birthday, the department shall revoke the license of the day
2 care center immediately upon providing written notice of revocation and the grounds
3 for revocation and an explanation of the process for appealing the revocation.

4 (b) If a person who has been issued a license under s. 48.66 (1) (a) or a
5 probationary license under s. 48.69 to operate a day care center is the subject of a
6 pending criminal charge alleging that the person has committed a serious crime, as
7 defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or
8 a nonclient resident, as defined in s. 48.685 (1) (bm), of the day care center is the
9 subject of a pending criminal charge or delinquency petition alleging that the person
10 has committed a serious crime on or after his or her 12th birthday, the department
11 shall immediately suspend the license of the day care center until the department
12 obtains information regarding the final disposition of the charge or delinquency
13 petition indicating that the person is not ineligible to be licensed to operate a day care
14 center.

15 (c) If a person who has been issued a license under s. 48.66 (1) (a) or a
16 probationary license under s. 48.69 to operate a day care center or a caregiver
17 specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1)
18 (bm), of the day care center has entered against him or her a temporary restraining
19 order or injunction under s. 813.12, 813.122, 813.123, 813.125, 813.127, or 813.128,
20 the department shall investigate the circumstances giving rise to the temporary
21 restraining order or injunction and may suspend or revoke the license of the day care
22 center, depending on the gravity of those circumstances, as determined by the
23 department.

24 **SECTION 30.** 49.133 (intro.) of the statutes is renumbered 49.133 (1m) (b) and
25 amended to read:

49.133 **(1m)** (b) ~~The~~ If a child care provider is convicted of a serious crime, as defined in s. 48.685 (1) (c) 3m., or a crime involving financial dishonesty, or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the child care provider is convicted or adjudicated delinquent for committing a serious crime on or after his or her 12th birthday, the department or a county department under s. 46.215, 46.22, or 46.23 ~~may~~ shall refuse to pay ~~a~~ the child care provider for any child care provided under s. 49.132, 1995 stats., or any other program ~~if any of the following applies to the child care provider, employee or person living on the premises where child care is provided:~~ beginning on the date of the conviction or delinquency adjudication.

SECTION 31. 49.133 (1) of the statutes, as affected by 2009 Wisconsin Act 28, is renumbered 49.133 (2m) (a) and amended to read:

49.133 **(2m)** (a) The person has been convicted of ~~a felony or misdemeanor that~~ or adjudicated delinquent on or after his or her 12th birthday for an offense that is not a serious crime, as defined in s. 48.685 (1) (c) 3m., but the department ~~or~~, county department under s. 46.215, 46.22, or 46.23, agency contracted with under s. 48.651 (2), or school board determines under s. 48.685 (5m) that the offense substantially relates to the care of children or the department or county department determines that the offense substantially relates to the operation of a business.

SECTION 32. 49.133 (1m) (a) of the statutes is created to read:

49.133 **(1m)** (a) In this subsection, "crime involving financial dishonesty" means an offense under subch. III or IV of ch. 943.

SECTION 33. 49.133 (1m) (c) of the statutes is created to read:

49.133 **(1m)** (c) If a child care provider is the subject of a pending criminal charge alleging that the person has committed a serious crime, as defined in s. 48.685

(1) (c) 3m., or a crime involving financial dishonesty or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the child care provider is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime on or after his or her 12th birthday, the department or county department under s. 46.215, 46.22, or 46.23 shall immediately suspend payment to the child care provider for any child care provided under s. 49.132, 1995 stats., or any other program until the department obtains information regarding the final disposition of the charge or delinquency petition indicating that the person is not ineligible to receive such a payment.

SECTION 34. 49.133 (1m) (d) of the statutes is created to read:

49.133 **(1m)** (d) If a child care provider or a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the child care provider has entered against him or her a temporary restraining order or injunction under s. 813.12, 813.122, 813.123, 813.125, 813.127, or 813.128, the department or county department under s. 46.215, 46.22, or 46.23 shall investigate the circumstances giving rise to the temporary restraining order or injunction and may suspend or discontinue payments to the child care provider for any child care provided under s. 49.132, 1995 stats., or any other program, depending on the gravity of those circumstances, as determined by the department or county department.

SECTION 35. 49.133 (2) of the statutes is renumbered 49.133 (2m) (b) and amended to read:

49.133 **(2m)** (b) The person <u>is a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), and</u> is the subject of a pending criminal charge that the department ~~or~~, county department under s. 46.215, 46.22,

1 or 46.23, agency contracted with under s. 48.651 (2), or school board determines
2 substantially relates to the care of children.

3 **SECTION 36.** 49.133 (2m) (intro.) of the statutes is created to read:

4 49.133 **(2m)** (intro.) The department or a county department under s. 46.215,
5 46.22, or 46.23 may refuse to pay a child care provider for child care provided under
6 s. 49.132, 1995 stats., or any other program if any of the following applies to the child
7 care provider or to a caregiver specified in s. 48.685 (1) (ag) 1. a. or nonclient resident,
8 as defined in s. 48.685 (1) (bm), of the child care provider:

9 **SECTION 37.** 49.133 (3) of the statutes is renumbered 49.133 (2m) (c).

10 **SECTION 38.** 49.133 (4) of the statutes, as created by 2009 Wisconsin Act 28, is
11 renumbered 49.133 (2m) (c).

12 **SECTION 39.** 49.155 (7) of the statutes, as affected by 2009 Wisconsin Act 28,
13 is repealed and recreated to read:

14 49.155 **(7)** REFUSAL TO PAY CHILD CARE PROVIDERS. (a) 1. In this paragraph,
15 "crime involving financial dishonestly" means an offense under subch. III or IV of ch.
16 943.

17 2. If a child care provider is convicted of a serious crime, as defined in s. 48.685
18 (1) (c) 3m., or a crime involving financial dishonesty, or if a caregiver specified in s.
19 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the child
20 care provider is convicted or adjudicated delinquent for committing a serious crime
21 on or after his or her 12th birthday, the department or the county department under
22 s. 46.215, 46.22, or 46.23 shall refuse to pay the child care provider for any child care
23 provided under this section beginning on the date of the conviction or delinquency
24 adjudication.

1 3. If a child care provider is the subject of a pending criminal charge alleging
2 that the person has committed a serious crime, as defined in s. 48.685 (1) (c) 3m., or
3 a crime involving financial dishonesty or if a caregiver specified in s. 48.685 (1) (ag)
4 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the child care provider
5 is the subject of a pending criminal charge or delinquency petition alleging that the
6 person has committed a serious crime on or after his or her 12th birthday, the
7 department or the county department under s. 46.215, 46.22, or 46.23 shall
8 immediately suspend payment to the child care provider for any child care provided
9 under this section until the department obtains information regarding the final
10 disposition of the charge or delinquency petition indicating that the person is not
11 ineligible to receive such a payment.
12 4. If a child care provider or a caregiver specified in s. 48.685 (1) (ag) 1. a. or
13 a nonclient resident, as defined in s. 48.685 (1) (bm), of the child care provider has
14 entered against him or her a temporary restraining order or injunction under s.
15 813.12, 813.122, 813.123, 813.125, 813.127, or 813.128, the department or county
16 department under s. 46.215, 46.22, or 46.23 shall investigate the circumstances
17 giving rise to the temporary restraining order or injunction and may suspend or
18 discontinue payments to the child care provider for any child care provided under
19 this section, depending on the gravity of those circumstances, as determined by the
20 department or county department.
21 (b) The department or the county department under s. 46.215, 46.22, or 46.23
22 may refuse to pay a child care provider for child care provided under this section if
23 any of the following applies to the child care provider or to a caregiver specified in
24 s. 48.685 (1) (ag) 1. a. or nonclient resident, as defined in s. 48.685 (1) (bm), of the child
25 care provider:

1. The person has been convicted of or adjudicated delinquent on or after his or her 12th birthday for committing an offense that is not a serious crime, as defined in s. 48.685 (1) (c) 3m., but the department, county department, agency contracted with under s. 48.651 (2), or school board determines under s. 48.685 (5m) that the offense substantially relates to the care of children or the department or county department determines that the offense substantially relates to the operation of a business.

2. The person is a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), and is the subject of a pending criminal charge that the department, county department, agency contracted with under s. 48.651 (2), or school board determines substantially relates to the care of children.

3. The person has been determined under s. 48.981 to have abused or neglected a child.

4. The department or county department reasonably suspects that the person has violated any provision under the program under this section or any rule promulgated under this section.

district attorney ~~and the~~ ~~or~~ immediately

SECTION 40. 49.197 (6) of the statutes is created to read:

49.197 **(6)** REPORTING TO LAW ENFORCEMENT AUTHORITIES. If any employee of the department, a county, or a tribal governing body reasonably suspects fraudulent activity as described in sub. (1m) or (2) (b), the employee shall report the facts and circumstances contributing to that suspicion to the ~~sheriff or to the city, village, or town police department~~. Any person who ~~intentionally~~ fails to report as required in this subsection may be fined not more than $1,000 or imprisoned not more than 6 months or both.

SECTION 41. 49.845 (4) of the statutes is amended to read:

district attorney

49.845 **(4)** CONTRACT FOR WISCONSIN WORKS. Notwithstanding s. 49.197 (1m) and (3), the department of children and families may contract with the department of health services to investigate suspected fraudulent activity on the part of recipients of aid to families with dependent children under s. 49.19 and participants in Wisconsin Works under ss. 49.141 to 49.161 and to conduct activities to reduce payment errors in Wisconsin Works under ss. 49.141 to 49.161, as provided in this section. If any employee of the department of children and families reasonably suspects fraudulent activity as described in this subsection, the employee shall immediately report the facts and circumstances contributing to that suspicion to the sheriff or to the city, village, or town police department. Any person who intentionally fails to report as required in this subsection may be fined not more than $1,000 or imprisoned not more than 6 months or both.

SECTION 42. 120.13 (14) of the statutes is renumbered 120.13 (14) (a).

SECTION 43. 120.13 (14) (b) of the statutes is created to read:

120.13 **(14)** (b) 1. If a person who has contracted under par. (a) to provide a day care program is convicted of a serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day care program is convicted or adjudicated delinquent for committing a serious crime on or after his or her 12th birthday, the school board shall rescind the contract of the contractor immediately upon providing written notice of the rescission and the grounds for the rescission and an explanation of the process for appealing the rescission.

2. If a person who has contracted under par. (a) to provide a day care program is the subject of a pending criminal charge alleging that the person has committed a serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s.

1 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day
2 care program is the subject of a pending criminal charge or delinquency petition
3 alleging that the person has committed a serious crime on or after his or her 12th
4 birthday, the school board shall immediately suspend the contract of the contractor
5 until the school board obtains information regarding the final disposition of the
6 charge or delinquency petition indicating that the person is not ineligible to provide
7 a day care program under this subsection.

8 3. If a person who has contracted under par. (a) to provide a day care program
9 or a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined
10 in s. 48.685 (1) (bm), of the day care program has entered against him or her a
11 temporary restraining order or injunction under s. 813.12, 813.122, 813.123,
12 813.125, 813.127, or 813.128, the school board shall investigate the circumstances
13 giving rise to the temporary restraining order or injunction and may suspend or
14 rescind the contract of the contractor, depending on the gravity of those
15 circumstances, as determined by the school board.

16 **SECTION 44. Initial applicability.**

17 (1) RETROACTIVE APPLICATION. This act first applies to a decision to deny,
18 suspend, revoke, rescind, or refuse to renew a license under section 48.65 of the
19 statutes, a certification under section 48.651 of the statutes, or a contract under
20 section 120.13 (14) of the statutes, or to refuse to pay a child care provider under
21 section 49.133 or 49.155 (7) of the statutes, made on the effective date of this
22 subsection, notwithstanding that the conviction, adjudication, charge, temporary
23 restraining order, or injunction on which the decision is based was obtained, filed,
24 or granted before the effective date of this subsection.

1 **SECTION 45. Effective dates.** This act takes effect on the first day of the 6th
2 month beginning after publication, except as follows:
3 (1) ELIMINATION OF TREATMENT FOSTER HOMES. The repeal and recreation of
4 section 48.685 (4m) (ad) of the statutes takes effect on the date stated in the notice
5 provided by the secretary of children and families and published in the Wisconsin
6 Administrative Register under section 48.62 (9) of the statutes.
7 **(END)**

Malaise, Gordon

From: Schulze, Connie
Sent: Thursday, October 01, 2009 10:56 AM
To: Malaise, Gordon
Cc: Knudson, Steve
Subject: FW: LRB-3047/6
Attachments: 09-30476.pdf

Gordon,

Alberta has the companion to this bill. It's been amended by Gundrum a few times so AD needs the duplicate drafted. I believe in her case, the LRB number will be 3533/2. Would you please do that at your earliest convenience? We want to jacket it tomorrow.

Sincerely,
Connie

From: Knudson, Steve
Sent: Thursday, October 01, 2009 10:54 AM
To: Schulze, Connie
Subject: LRB-3047/6

Attached. Any questions please let me know.

Steve Knudson
Office of State Representative Mark Gundrum
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Madison, WI 53708
(608) 267-5158