



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 01/02/2014 (Per: GMM)

Compile Draft – Appendix B

A  The 2013 drafting file for
LRB-3930

C  The 2013 drafting file for
LRB-3939

B  The 2013 drafting file for
LRB-3938

D  The 2013 drafting file for
LRB-3948

This file has been copied/added to the drafting file for

2013 LRB-4038

2013 DRAFTING REQUEST

Bill

Received: 1/8/2014 Received By: gmalaise
Wanted: Soon Same as LRB:
For: Children and Families 1-8678 By/Representing: Kimber Liedl
May Contact: Drafter: gmalaise
Subject: Children - out-of-home placement Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: kimberly.liedl@wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Changes to DCF rules governing child-placing agencies; rule-making procedures

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

<END>

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1/?	gmalaise	1/13/14	1/14/14	_____	_____		

FE Sent For:

<END>

Malaise, Gordon

From: Liedl, Kimberly - DCF <Kimberly.Liedl@wisconsin.gov>
Sent: Friday, January 03, 2014 5:16 PM
To: Malaise, Gordon
Cc: Buschman, Sara - DCF
Subject: Administrative rule bill
Attachments: DCF Right the Rules Changes for Drafting.doc

Hi, Gordon, here is the beginning of our drafting instructions for our admin rule change bill. Please let me know if you have any questions. We will send the rest of the changes early next week.

Thanks and have a good weekend,
Kimber

Kimberly Liedl

Legislative Liaison

Department of Children and Families

201 East Washington Avenue

Madison, WI 53703

T: 608.261.8678

E: kimberly.liedl@wisconsin.gov

agencies shall use an appeal process equivalent to the process in ch. 68, Stats. Decisions by the child care provider services unit in Milwaukee County are reviewable pursuant to ch. 227, Stats.

G.N.M. / 4.
L.A.S.

4. Modify DCF 54 to reflect LAB audit recommendation: application submission deadline

LAB audited the department's oversight of Child Placing Agencies (LAB REPORT 13-15, October 2013). One recommendation in the report is that DCF "revise DCF 54.02(3)(d), Wis. Adm. Code, to be consistent with s. 48.66(5), Wis. Stats., by requiring child-placing agencies to submit their applications at least 30 days prior to the continuation date;"

DCF 54.02 Organization and administration.

(3) (d) Subsequent applications shall be submitted to the department:

1. At least ~~3 weeks~~ 30 days prior to the ~~expiration~~ continuation date of the current licensing.
2. When an additional office is to be opened.
3. When a new program subject to licensing is to be initiated.
4. When the geographic area served is to be extended.
5. When the address of the agency is to be changed.
6. When the name of the agency is to be changed.

48.66 Licensing duties of the department.

(5) A child welfare agency, group home, child care center, or shelter care facility license, other than a probationary license, is valid until revoked or suspended, but shall be reviewed every 2 years after the date of issuance as provided in this subsection. **At least 30 days prior to the continuation date** of the license, the licensee shall submit to the department an application for continuance of the license in the form and containing the information that the department requires. If the minimum requirements for a license established under s. 48.67 are met, the application is approved, the applicable fees referred to in ss. 48.68 (1) and 48.685 (8) are paid, and any forfeiture under s. 48.715 (3) (a) or penalty under s. 48.76 that is due is paid, the department shall continue the license for an additional 2-year period, unless sooner suspended or revoked. If the application is not timely filed, the department shall issue a warning to the licensee. If the licensee fails to apply for continuance of the license within 30 days after receipt of the warning, the department may revoke the license as provided in s. 48.715 (4) and (4m) (b).



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-39387
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AN ACT ...; relating to: rule-making procedures and modifying certain rules promulgated by the Department of Children and Families governing the licensing of child welfare agencies.

Analysis by the Legislative Reference Bureau

STATUTORY TREATMENTS

Rule-making procedures

Current law sets forth a procedure for the promulgation of administrative rules (rules). Generally, that procedure consists of the following steps:

1. The agency planning to promulgate the rule prepares a statement of the scope of the proposed rule, which the governor and the agency head must approve before any state employee or official may perform any activity in connection with the drafting of the proposed rule.

2. The agency drafts the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, and submits those materials to the Legislative Council Staff for review.

3. Subject to certain exceptions, a public hearing is held on the proposed rule.

4. The final draft of the proposed rule is submitted to the governor for approval.

5. The final draft of the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, are submitted to the legislature for review by one standing committee in each house and by the Joint Committee for Review of Administrative Rules.

6. The proposed rule is filed with the Legislative Reference Bureau (LRB) for publication in the Wisconsin Administrative Code (code) and the Wisconsin Administrative Register (register), and, subject to certain exceptions, the rule becomes effective on the first day of the first month beginning after publication.

Under this bill, if a bill that repeals or modifies a rule is enacted, the ordinary rule-making procedures under current law do not apply. Instead, the LRB must publish the repeal or modification, in the code and the register, and the repeal or modification, subject to certain exceptions, takes effect on the first day of the first month beginning after publication.

TREATMENTS OF ADMINISTRATIVE RULES

Under current law, no person may provide care and maintenance for four or more children for 75 days in a 12-month period unless the person obtains from the Department of Children and Families (DCF) a license to operate a child welfare agency. A child welfare agency license is valid until revoked or suspended, but must be reviewed every two years. To continue a child welfare agency license for an additional two years, a child welfare agency must submit an application for continuance of the license to DCF at least 30 days prior to the continuation date of the license. If DCF approves the application, DCF must continue the license for an additional two years.

Current rules promulgated by DCF governing the licensing of child welfare agencies, however, require a subsequent application by a child welfare agency to be submitted to DCF at least *three weeks* prior to the *expiration* of the current license. This bill conforms those rules to the statutes by modifying those rules to require a subsequent application by a child welfare agency to be submitted to DCF at least *thirty* days prior to the *continuation date* of the current license.

I
30

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

- 1 **SECTION 1.** 13.92 (4) (bm) of the statutes is created to read:
- 2 13.92 (4) (bm) If 2 or more rules filed under s. 227.20 or modified under s.
- 3 227.265 affect the same unit of the Wisconsin administrative code without taking
- 4 cognizance of the effect thereon of the other rules and if the legislative reference
- 5 bureau finds that there is no mutual inconsistency in the changes made by each such
- 6 rule, the legislative reference bureau shall incorporate the changes made by each
- 7 rule into the text of the unit and document the incorporation in a note to the unit.
- 8 For each such incorporation, the legislative reference bureau shall include in a
- 9 correction bill a provision formally validating the incorporation. Section 227.27 (2)

1 is not affected by printing decisions made by the legislative reference bureau under
2 this paragraph.

3 **SECTION 2.** 13.92 (4) (c) of the statutes is amended to read:

4 13.92 (4) (c) The legislative reference bureau may insert in the Wisconsin
5 administrative code a note explaining any change made under par. (b) or (bm).

6 **SECTION 3.** 13.92 (4) (d) of the statutes is amended to read:

7 13.92 (4) (d) Sections 227.114, 227.116, 227.135, and 227.14 to 227.24 do not
8 apply to any change made by the legislative reference bureau under par. (b) or (bm).

9 **SECTION 4.** 13.92 (4) (e) of the statutes is amended to read:

10 13.92 (4) (e) The legislative reference bureau shall prepare and keep on file a
11 record of each change made under par. (b) or (bm).

12 **SECTION 5.** 13.92 (4) (f) of the statutes is amended to read:

13 13.92 (4) (f) The legislative reference bureau shall notify the agency involved
14 of each change made under par. (b) or (bm).

15 **SECTION 6.** 35.93 (2) (b) 4. of the statutes, as affected by 2013 Wisconsin Act 20,
16 is amended to read:

17 35.93 (2) (b) 4. Copies of all rules filed with the legislative reference bureau
18 under s. 227.20 (1) or modified under s. 227.265 since the compilation of the
19 preceding register, including emergency rules filed under s. 227.24 (3).

20 **SECTION 7.** 35.93 (2) (c) 1. of the statutes, as affected by 2013 Wisconsin Act 20,
21 is amended to read:

22 35.93 (2) (c) 1. Each chapter of the Wisconsin administrative code that has been
23 affected by rules filed with the legislative reference bureau under s. 227.20 (1) or
24 modified under s. 227.265, in accordance with sub. (3) (e) 1.

25 **SECTION 8.** 35.93 (3) of the statutes is amended to read:

1 35.93 (3) The legislative reference bureau shall compile and deliver to the
2 department for printing copy for a register which shall contain all the rules filed
3 under s. 227.20 or modified under s. 227.265 since the compilation of rules for the
4 preceding issue of the register was made and those executive orders which are to be
5 in effect for more than 90 days or an informative summary thereof. The complete
6 register shall be compiled and published before the first day of each month and a
7 notice section of the register shall be compiled and published before the 15th day of
8 each month. Each issue of the register shall contain a title page with the name
9 "Wisconsin administrative register", the number and date of the register, and a table
10 of contents. Each page of the register shall also contain the date and number of the
11 register of which it is a part in addition to the other necessary code titles and page
12 numbers. The legislative reference bureau may include in the register such
13 instructions or information as in the bureau's judgment will help the user to correctly
14 make insertions and deletions in the code and to keep the code current.

15 **SECTION 9.** 35.93 (3) (e) (intro.) of the statutes, as affected by 2013 Wisconsin
16 Act 20, is amended to read:

17 35.93 (3) (e) (intro.) The legislative reference bureau shall incorporate into the
18 appropriate chapters of the Wisconsin administrative code each permanent rule filed
19 with the legislative reference bureau under s. 227.20 (1) or modified under s. 227.265
20 and, for each chapter of the administrative code affected by a rule, do all of the
21 following:

22 **SECTION 10.** 35.93 (3) (e) 1. of the statutes, as affected by 2013 Wisconsin Act
23 20, is amended to read:

24 35.93 (3) (e) 1. Publish the chapter in the appropriate end-of-month register
25 in accordance with the filing deadline for publication established in the rules

1 procedures manual published under s. 227.15 (7) ~~or~~, in an end-of-month register
2 agreed to by the submitting agency and the legislative reference bureau, or, in the
3 case of a rule modified under s. 227.265, in the end-of-month register for the month
4 in which the bill modifying the rule is enacted.

5 **SECTION 11.** 227.01 (13) (intro.) of the statutes is amended to read:

6 227.01 (13) (intro.) "Rule" means a regulation, standard, statement of policy,
7 or general order of general application which has the effect of law and which is issued
8 by an agency to implement, interpret, or make specific legislation enforced or
9 administered by the agency or to govern the organization or procedure of the agency.
10 "Rule" includes a modification of a rule under s. 227.265. "Rule" does not include, and
11 s. 227.10 does not apply to, any action or inaction of an agency, whether it would
12 otherwise meet the definition under this subsection, which:

13 **SECTION 12.** 227.11 (2) (intro.) of the statutes is amended to read:

14 227.11 (2) (intro.) Rule-making authority is expressly conferred on an agency
15 as follows:

16 **SECTION 13.** 227.265 of the statutes is created to read:

17 **227.265 Repeal or modification of rules.** If a bill to repeal or modify a rule
18 is enacted, the procedures under ss. 227.114 to 227.21 and 227.26 do not apply.
19 Instead, the legislative reference bureau shall publish the repeal or modification in
20 the Wisconsin administrative code and register as required under s. 35.93, and the
21 repeal or modification shall take effect as provided in s. 227.22.

22 **SECTION 14.** 227.27 (2) of the statutes is amended to read:

23 227.27 (2) The code shall be prima facie evidence in all courts and proceedings
24 as provided by s. 889.01, but this does not preclude reference to or, in case of a
25 discrepancy, control over a rule filed with the legislative reference bureau ~~or the~~

1 ~~secretary of state under s. 227.20 or modified under s. 227.265~~, and the certified copy
2 of a rule shall also and in the same degree be prima facie evidence in all courts and
3 proceedings.

4 **SECTION 15.** DCF 54.02 (3) (d) 1. of the administrative code is amended to read:

5 DCF 54.02 (3) (d) 1. At least ~~3 weeks~~ 30 days prior to the expiration
6 continuation date of the current licensing license. x x ✓

7 **SECTION 16. Effective dates.** This act takes effect on the day after publication,
8 except as follows:

9 (1) The treatment of section 35.93 (2) (b) 4. and (c) 1. and (3) (e) (intro.) and 1.
10 of the statutes takes effect on January 1, 2015.

11 (END)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3938/1
GMM:cjs:rs

2013 BILL

1 **AN ACT to amend** 13.92 (4) (c), 13.92 (4) (d), 13.92 (4) (e), 13.92 (4) (f), 35.93 (2)
2 (b) 4., 35.93 (2) (c) 1., 35.93 (3), 35.93 (3) (e) (intro.), 35.93 (3) (e) 1., 227.01 (13)
3 (intro.), 227.11 (2) (intro.) and 227.27 (2); and **to create** 13.92 (4) (bm) and
4 227.265 of the statutes; **relating to:** rule-making procedures and modifying
5 certain rules promulgated by the Department of Children and Families
6 governing the licensing of child welfare agencies.

Analysis by the Legislative Reference Bureau

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2. The agency drafts the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, and submits those materials to the Legislative Council Staff for review.

3. Subject to certain exceptions, a public hearing is held on the proposed rule.

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4. The final draft of the proposed rule is submitted to the governor for approval.

5. The final draft of the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, are submitted to the legislature for review by one standing committee in each house and by the Joint Committee for Review of Administrative Rules.

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Under this bill, if a bill that repeals or modifies a rule is enacted, the ordinary rule-making procedures under current law do not apply. Instead, the LRB must publish the repeal or modification, in the code and the register, and the repeal or modification, subject to certain exceptions, takes effect on the first day of the first month beginning after publication.

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

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 4 cognizance of the effect thereon of the other rules and if the legislative reference
 5 bureau finds that there is no mutual inconsistency in the changes made by each such
 6 rule, the legislative reference bureau shall incorporate the changes made by each

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1 rule into the text of the unit and document the incorporation in a note to the unit.
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3 correction bill a provision formally validating the incorporation. Section 227.27 (2)
4 is not affected by printing decisions made by the legislative reference bureau under
5 this paragraph.

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10 register shall be compiled and published before the first day of each month and a
11 notice section of the register shall be compiled and published before the 15th day of
12 each month. Each issue of the register shall contain a title page with the name
13 "Wisconsin administrative register", the number and date of the register, and a table
14 of contents. Each page of the register shall also contain the date and number of the
15 register of which it is a part in addition to the other necessary code titles and page
16 numbers. The legislative reference bureau may include in the register such
17 instructions or information as in the bureau's judgment will help the user to correctly
18 make insertions and deletions in the code and to keep the code current.

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3 35.93 (3) (e) 1. Publish the chapter in the appropriate end-of-month register
4 in accordance with the filing deadline for publication established in the rules
5 procedures manual published under s. 227.15 (7) or, in an end-of-month register
6 agreed to by the submitting agency and the legislative reference bureau, or, in the
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15 s. 227.10 does not apply to, any action or inaction of an agency, whether it would
16 otherwise meet the definition under this subsection, which:

17 **SECTION 12.** 227.11 (2) (intro.) of the statutes is amended to read:

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21 **227.265 Repeal or modification of rules.** If a bill to repeal or modify a rule
22 is enacted, the procedures under ss. 227.114 to 227.21 and 227.26 do not apply.
23 Instead, the legislative reference bureau shall publish the repeal or modification in
24 the Wisconsin administrative code and register as required under s. 35.93, and the
25 repeal or modification shall take effect as provided in s. 227.22.

