dcf056_EmR0937.pdf **Children and Families – Revises Chs. DCF 56 and 58 - EmR0937**

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State of Wisconsin Department of Children and Families
EMERGENCY RULE
Foster Care and Kinship Care, Chs. DCF 56 and 58

The Wisconsin Department of Children and Families orders the repeal of ss. DCF 56.05(1)(e)2.; the amendment of ss. DCF 56.01; 56.02(2)(a)1. and (2)(b)1.(note), 5., 6., and 7.b.; 56.03(3); 56.04(4)(a)2., (b)2, and (c); 56.05(1)(b)2., (b)(note), (c)8.; 56.06(12); 56.07(4)(a)1. and 2., (5)(a), (6)(d)1.; 56.08(5)(b) and (note); 56.09(1)(d), (g) and (m), (2)(a) and (g), (3)(a), (4)(b), (5)(e)(note), (5)(f), (11)(a)4. and 8.; 56.10(1)(note); 58.03(18); and 58.04; the repeal and recreation of ss. DCF 56.04 (4)(a)3., (a)4., and (b)5.; DCF 56.05(1)(e)1. and (f); 56.08(4)(b) and (c); 56.09(7); 56.12; and 58.02; the creation of ss. DCF 56.02(2)(c), 56.04(4)(a)2.(note), 56.05(4)(b)5m., 56.07(4)(a)1m., 56.08(10m), 56.09(1m), 56.11(2)(a)(note), 56.13, 56.14, 56.15, 58.065, 58.066, 58.13(3), 58.16(3), relating to foster care and kinship care.

Finding of Emergency

The Department of Children and Families finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

2009 Wisconsin Act 28 assumes that court-ordered kinship care relatives will be applying for a license to operate a foster home beginning after January 1, 2010, and continuing throughout 2010. This rule creates the first two levels of the new levels of care system for foster care. The newly-licensed kinship care relatives will be incorporated into the foster care program. Licensing these relatives will allow the state to claim an additional $6.5 million in Title IV-E funds for 2010. Act 28 appropriates this $6.5 million to be expended in 2011.

Analysis Prepared by the Department of Children and Families

Statutory authority: Sections 48.62 (1) (a) and (8) (a), 48.67 (1) and (4), and 227.11 (2) (a), Stats.
Statutes interpreted: Section 48.57 (3m) and (3n), Stats., as affected by 2009 Wisconsin Act 71; Sections 48.62 and 48.67, Stats., as affected by 2009 Wisconsin Act 28, and Section 48.685, Stats.

Explanation of Agency Authority

Section 48.62 (1) (a), Stats., provides that any person who receives, with or without transfer of legal custody, 4 or fewer children or, if necessary to enable a sibling group to remain together, 6 or fewer children or, if the department promulgates rules permitting a different number of children, the number of children permitted under those rules, to provide care and maintenance for those children shall obtain a license to operate a foster home from the department, a county department or a licensed child welfare agency as provided in s. 48.75, Stats.

Section 48.62 (8) (a), Stats., as created by 2009 Wisconsin Act 28, provides that the department shall promulgate rules relating to foster homes providing levels of care that a licensed foster home is certified to provide. Those levels of care shall be based on the level of knowledge, skill, training, experience, and other qualifications that are required of the licensee, the level of responsibilities that are expected of the licensee, the needs of the children who are placed with the licensee, and any other requirements relating to the ability of the licensee to provide for those needs that the department may promulgate by rule.

Section 48.67 (1), Stats., provides that the department shall promulgate rules establishing minimum requirements for the issuance of licenses to, and establishing standards for the operation of, child welfare agencies, day care centers, foster homes, treatment foster homes, group homes, shelter care facilities, and county departments. Those rules shall be designed to protect and promote the health, safety, and welfare of the children in the care of all licensees.

Section 48.67 (4), Stats., as created by 2009 Wisconsin Act 28, provides that the department shall promulgate rules that require that all foster parents successfully complete training in the care and support needs of children who are placed in foster care that has been approved by the department. The department shall promulgate rules prescribing the training that is required under this subsection and shall monitor compliance with this subsection according to those rules.

Summary of the Rule

Licensing of Court-Ordered Kinship Care Relatives to Operate Foster Homes and Limits on Kinship Care Payments

2009 Wisconsin Act 28 assumes that kinship care relatives who are providing care and maintenance for a child who is placed in the kinship care relative's home under an order of the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court) will apply for a license to operate a foster home in 2010. Licensing these relatives as foster parents will enable the Department to claim an additional $6,524,300 federal reimbursement under Title IV-E of the Social Security Act for 2010. Act 28 appropriates this $6.5 million to be expended in 2011.

New applicants. Sections 48.57 (3m) (ap) and (3n) (ap), as created by 2009 Wisconsin Act 71, and this rule provide the specifics on licensing new court-ordered kinship care applicants as foster parents. These statutory provisions apply to kinship care relatives who apply after January 1, 2010, or who have an application pending on that date.

As a condition of eligibility, a court-ordered kinship care relative who applies to the county department or the department for kinship care payments must apply for a license to operate a foster home. With certain limits, applicants will receive kinship care payments during the foster care licensure process. A county department or, in Milwaukee County, the Department, may make kinship care payments to a kinship care relative who is providing care and maintenance for a child who is placed in the home of the kinship care relative under a juvenile court order for no more than 60 days after the date on which the county department or the Department received the completed application of the kinship care relative for a license to operate a foster home or, if the application is approved or denied within those 60 days, until the date on which the application is approved or denied.

If the application is not approved or denied within those 60 days for any reason other than an act or omission of the kinship care relative, the county department or the Department may make kinship care payments for 4 months after the date on which the county department or the Department received the completed application or, if the application is approved or denied within those 4 months, until the date on which the application is approved or denied.

Notwithstanding that an application of a kinship care relative for a foster home license is denied, the county department or the Department may make kinship care payments to the kinship care relative for as long as the kinship care relative continues to meet the conditions for eligibility for those payments if the county department or the Department submits to the juvenile court information relating to the background investigation required when a kinship care relative applies for kinship care payments, an assessment of the safety of the kinship care relative's home and the ability of the kinship care relative to care for the child, and a recommendation that the child remain in the home of the kinship care relative, and the juvenile court, after considering that information, assessment, and recommendation, orders the child to remain in the kinship care relative's home.

Current kinship care providers. A non-statutory provision of 2009 Wisconsin Act 71 at Section 26 and this rule provide the specifics on the transition of current kinship care and long−term kinship care providers to be foster care providers. The non-statutory provision applies to a child who already is in kinship care on the date before the effective date of January 1, 2010. A court-ordered kinship care relative or long-term kinship care relative shall apply for a license to operate a foster home prior to or at the time of the reassessment or review of eligibility in calendar year 2010. The kinship care relative or long-term kinship care relative shall obtain a license to operate a foster home by no later than 6 months after the date of their first reassessment or review of eligibility following January 1, 2010.

If the kinship care relative or long−term kinship care relative refuses to obtain a license to operate a foster home or is unable to meet the minimum requirements for the issuance of a license, the agency that prepared the child's permanency plan shall make a recommendation regarding the continuing necessity for and safety and appropriateness of the placement at the next permanency plan review or permanency plan hearing. The court or panel conducting the review or hearing shall make the determination. If the court or panel determines that the placement continues to be necessary, safe, and

appropriate, the child may remain in the placement and the kinship care relative or long−term kinship care relative may continue to receive kinship care payments.

Levels of Care

Section 48.62 (8), Stats., as created by 2008 Wisconsin Act 28, provides that the Department shall promulgate rules to provide levels of care that a foster home is certified to provide, establish a standardized assessment tool to assess the needs of a child and determine the level of care that is required, and provide monthly rates of reimbursement for foster care that are commensurate with the level of care that the foster home is certified to provide and the needs of the child who is placed in the foster home.

The Department is implementing the rules on levels of care in two phases. This rule amends the base foster care licensing code and creates a process for certification of foster homes at Level 1 and Level 2. A future rulemaking order will create the requirements for foster homes with certification levels above Level 2, establish the customized assessment tool, and provide the process to determine monthly rates of reimbursement above the basic maintenance payment under levels of care.

Requirements for Level One Certification. The rule provides that a licensing agency may grant a Level one certification only to a foster home with a child-specific license. A "child-specific license" is a license that is issued to a relative of a child or an individual who has a previous existing relationship with the child or the child's family.

A foster parent who operates a foster home with a Level one certification shall receive a minimum of 6 hours of pre-placement training within 6 months after the date of initial licensure.

The basic maintenance payment is $215 for care and maintenance provided for a child of any age by a foster home that is certified to provide Level one care.

Requirements for Level 2 Certification. An individual who applies for a license to operate a foster home with a Level 2 certification must submit at least 3 favorable reference letters written by persons unrelated to the applicant.

Level 2 requires the same amount of pre-placement training as Level one, which is a minimum of 6 hours. A foster parent must complete the pre-placement training before or after initial licensure but prior to the placement of any child in the home, except if the foster parent has a child-specific license, the training must be completed within 6 months after the date of initial licensure.

A foster parent who operates a foster home with a Level 2 certification must also complete a minimum of 30 hours of initial licensing training during the initial licensing period and complete 10 hours of ongoing training in each 12-month period of licensure subsequent to the initial licensing period.

The basic maintenance payment for care and maintenance provided by a foster home with a Level 2 certification is the age−related payment established by s. 48.62 (4), Stats.

Waiver of Non-Safety Requirements for Relatives

42 USC 671(a)(10) provides that a state must establish and maintain standards for foster family homes that are reasonably in accord with recommended standards of national organizations concerned with these standards, including standards related to admission policies, safety, sanitation, and protection of civil rights. The state must apply those standards equally to all foster family homes, unless a waiver of a standard has been granted with respect to a particular relative foster family home. A waiver of a standard may be made only on a case-by-case basis and applied only to non-safety related standards in relative foster family homes for specific children in care. States must determine which of their foster care licensing standards are not safety related.

This rule provides that the licensing agency may grant waivers of the following non-safety standards in ch. DCF 56 when licensing a foster home:

- Documents that an applicant must submit when applying for a license:
  - Applicant's employment history for 5 years prior to application.
- Licensee qualification requirements:
  - An applicant for an initial license or a foster parent applying for renewal of a license shall furnish proof to the licensing agency of having homeowner's or renter's liability insurance. A licensing agency shall have on file verification that each foster parent licensed by that agency has insurance coverage, or shall have on file

documentation that the foster parent has been granted a waiver, or has been issued a license for a period not to exceed 90 days to allow the foster parent to obtain necessary documentation to request a waiver.

- Requirements for the physical environment:
  - A foster home must have an interior living area with a minimum of 200 square feet for each household member, including each foster child.
  - Sleeping arrangements
    - Each foster child shall be provided with a separate bed except that 2 related children under 12 years of age may share a double or larger bed.
    - There shall be a minimum of 2 feet horizontally between beds except that between bunk beds there shall be a minimum of 5 feet.
    - A sleeping room that someone must pass through to get to another part of the building may not be used for a foster child.
    - A foster child may not regularly sleep in a room to which access can be gained only through another occupied sleeping room.
    - No more than 4 children may regularly occupy one bedroom.
  - The licensee shall provide enough drawer and closet space to reasonably accommodate each foster child's clothing and other personal belongings.
  - Each foster home shall have available outdoor recreation and play space either on the premises or nearby.
- Requirements on care of foster children:
  - Clothing
    - The licensee shall ensure that funds allocated for the purchase of clothing for foster children are used in such a manner and that children in the licensee's care are comfortably and appropriately dressed within the limits of the funds. Foster children's clothing shall be maintained in a state of good repair and cleanliness.
    - Clothing purchased for a foster child or otherwise provided to a foster child with the understanding that the clothing belongs to the foster child shall be the property of the child and shall be given to the child to take when he or she leaves the foster home.
  - Personal belongings
    - When a foster child leaves a foster home, he or she may take all special equipment or other personal belongings that the child had when placed in the foster home, that were given to the child to keep, that the child received as gifts, or that were purchased on behalf of the child with public funds, unless the items are permanently affixed to the foster home.
  - Spending money
    - The foster parent shall give each foster child spending money each week. The amount of spending money given to a foster child shall be appropriate to the child's age and maturity and in accordance with the child's case plan established by the supervising agency.
  - Education
    - The foster parent shall make every reasonable effort to participate, as appropriate, in school activities involving foster children in their care.
    - The foster parent may not provide a home-based private educational program to foster children in their care. This does not apply to homebound study under s. 118.15 (1), Stats., or as defined in the child's individualized education program.
    - Foster children shall be given the opportunity to develop appropriate friendships with schoolmates and to visit their friends.
    - The foster parent shall provide suitable reading material and facilities for undisturbed reading and study for all foster children in their home who wish to read or who have homework assignments.
    - The foster parent shall assist the agency and any contracted agency with the transfer of independent living skills to and the preparation for independent living of a foster child whose permanency plan indicates the need for these skills and preparation.

The rule provides that the Department exceptions panel may grant waivers of the following non-safety related standards in ch. DCF 56 when a foster home is licensed:

- Documents that an applicant must submit when applying for a license:
  - The applicant must submit verification of homeowner's or renter's liability insurance coverage or a request for a waiver. A licensing agency need not retain a copy of the documentation in its files.
- Requirements for the physical environment
  - Sleeping arrangements
    - No foster child one year of age or older may regularly share a bedroom with an adult unless a physician determines that it is medically necessary and the licensing agency approves.
  - Heating
    - No foster home may be maintained at any time at a temperature of less than 68 degrees Fahrenheit during waking hours or 58 degrees Fahrenheit during sleeping hours unless written approval has been obtained from the licensing agency.

Other Changes To Foster Care Rules

- Agency contact. A licensing agency or placing agency shall have at least one contact per month with a foster parent who operates a foster home with a Level 1 or 2 certification if a child is placed in the foster home.
- Disaster plan. Each licensed foster home shall file a disaster plan with the licensing agency that would allow the licensing agency to identify, locate, and ensure continuity of services to children under the placement and care responsibility or supervision of an agency who are displaced or adversely affected by a disaster.
- Foster parent handbook. A licensing agency shall provide each licensed or prospective foster parent with a copy of the agency's foster parent handbook prior to or at the time of the issuance of the license to operate foster home.
- Prohibit co-sleeping with infant. Each infant child, birth to 12 months of age, shall sleep alone in a crib, bassinet, or playpen.
- Sibling and parental connections. Licensing agencies may grant an exception to allow more than 6 but no more than 8 foster children in a foster home if necessary to keep a minor parent and minor child together or to keep siblings together. Licensing agencies shall apply to the department exceptions panel to place more than 8 children in a foster home if necessary to keep siblings together or to keep a minor parent and minor child together.
- Background check. Before an initial foster home license is issued or a license is renewed, the licensing agency shall conduct a reverse search by address of the Wisconsin sex offender registry. The background check section is also updated based on changes to s. 48.685 (2) (c), Stats., and 42 USC 671(a)(20).
- Vehicle liability insurance. Waivers of motor vehicle liability insurance may no longer be granted. Section 344.62, Stats., requires motor vehicle liability insurance effective June 1, 2010.
- Child safety restraint systems. The rule incorporates the requirements of s. 347.48 (4), Stats.

Summary of Factual Data and Analytical Methodologies

The non-statutory requirements of the rule are based on recommendations from the Foster Parent Training Committee, the Out-of-Home Care/Adoption Committee, and listening sessions held by the Department regarding implementation of levels of care.

Summary of Related Federal Requirements

In general, a state can be eligible for federal funding under Title IV-E of the Social Security Act for foster care assistance if:

- The child was removed and placed in foster care in accordance with either of the following:
  - A voluntary placement agreement between the state agency, or any other agency acting on behalf of the state, and the parents or guardians. If the child has remained in voluntary placement for a period in excess of 180 days, a judicial determination must be made.
  - A judicial determination that:
    - The placement is in the best interests of the child.

    - Continuation in the home from which removed would be contrary to the welfare of the child and that reasonable or, in the case of an Indian child, active efforts have been made to preserve and unify the family, with the child's health and safety as the paramount concern.
- The child's placement and care are the responsibility of the state agency or any other public agency with which the state has made an agreement.
- The child has been placed in a foster family home, treatment foster home, group home, shelter care, or residential care center for children and youth.
- The child, while in the home, would have met the eligibility criteria for Aid to Families with Dependent Children as the program existed on July 16, 1996.

42 USC 671(a)(24) requires that the state plan for foster care and adoption assistance include a certification that, before a child in foster care under the responsibility of the state is placed with prospective foster parents, the prospective foster parents will be prepared adequately with the appropriate knowledge and skills to provide for the needs of the child, and that such preparation will be continued, as necessary, after the placement of the child.

45 CFR 1355(a) includes in the definition of "foster family home" a provision that states may claim Title IV-E reimbursement during the period of time between the date a prospective foster family home satisfies all requirements for licensure and the date the actual license is issued, not to exceed 60 days.

Comparison to Adjacent States

Michigan. Michigan is operating its child welfare system under the terms of a settlement agreement in the class action lawsuit *Dwayne B. v. Granholm.* The settlement was approved on October 24, 2008. One of the goals of the settlement agreement is increased supervision, services, and support to children placed in relative care. The settlement agreement includes the following provisions:

- Other than certain exceptional circumstances, all foster parents shall be licensed. Relative caregivers of all children who enter state foster care custody on or after 10/1/08 must be licensed. The department will implement a plan to license current unlicensed relative caregivers in a phased-in time period. Unlicensed relative providers must still meet the same safety standards as nonrelative providers. The settlement monitor shall conduct a review of the department's implementation of the settlement if more than 10% of unlicensed relative caregivers decline to be licensed.
- All licensed relative foster care providers shall receive the same foster care maintenance rates as similarly situated unrelated foster care providers. Historically, relative caregivers were encouraged to apply for public assistance and would be eligible for a child-only grant regardless of income. A relative caregiver would only be eligible for a standard foster care payment if the parental rights of the child's parents were terminated.
- The department will publicize the procedures on obtaining variances from standard foster care licensing requirements for purposes of licensing relative homes. The department shall not waive any licensing standards that are essential for the safety and well-being of the child.

The department may grant a variance from an administrative rule if the proposed variance assures that the health, care, safety, protection, and supervision of a foster child are maintained.

Minnesota. A license is required for foster care by an individual who is a relative to the child except for an unlicensed emergency relative placement. In licensing a relative, the commissioner shall consider the importance of maintaining the child's relationship with relatives as an additional significant factor in determining whether a background study disqualification should be set aside or a variance should be granted.

A license applicant or license holder may request, in writing, a variance from rule requirements that do not affect the health, safety, or rights of the child or others. A variance request must include alternative equivalent measures the foster care applicant or license holder will take to ensure the health and safety of children if the variance is granted.

Illinois. Relatives who care for children for whom the Department is legally responsible may, but need not, apply for licensure as a foster family home. Only placements in licensed foster family homes receive the foster care payment rate. Relatives who are unlicensed receive the child-only standard of need.

Unless prohibited by law, the director of the department may waive, or may conditionally waive, any requirement in the foster care licensing rules if doing so is in the best interest of the foster care children.

Iowa. Relatives who are caring for a child may be eligible to receive financial assistance through foster care or a child-only or family grant under the state's Temporary Assistance to Needy Families program. To receive foster care payments, a relative must be licensed as a foster parent.

On a case-by-case basis, the service area manager or area social work administrator may waive any licensing standard unless the requirement is set in state or federal law or the waiver could have a negative impact on the safety and well-being of a child placed in the foster family home.

Agency Contact Person

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SECTION 1. DCF 56.01 is amended to read:

DCF 56.01 Authority and purpose. (1) This chapter is promulgated under the authority of ss. 48.62 ~~(4)~~, 48.64 (4), and 48.67, ~~and 48.675 (2),~~ Stats., to establish licensing requirements for foster homes and foster parents directed at protecting the health and safety and promoting the welfare of children placed in the homes; to establish a fair hearing procedure for foster parents; and to establish criteria for making supplemental and exceptional payments to foster parents.

SECTION 2. DCF 56.02 (2) (a) 1. and (b) 1. (note), 5., 6., and 7. b. are amended to read:

DCF 56.02 (2) EXCEPTION TO A REQUIREMENT. (a) *Licensing agency authority.* 1. A licensing agency may grant an exception to any requirement in this chapter if the licensing agency determines that the exception will not jeopardize the health, safety or welfare of the foster children, except that the licensing agency may not grant an exception to any of the following requirements: s. DCF 56.04 (1), (2), (4) (a) 1., 2., 5., 8., or 9. or (b) 2., (6), (7) or (8); s. DCF 56.05 (1) (a), (b) 2., (c) 2., 3., 4., 5., 6., 7. or 9., (d), (f) or (3) (a); s. DCF 56.07 (3) (a), (4) (b), (c), (e), (f), (g) or (h), (5) (a), (6) or (10) (a); s. DCF 56.08 (1), (2), (3), (4), (5), (6) (c) 1., 2., 3. or 4. a., (7) (a) 3., (8) (a) 1. or 2., or (c), (10), or (10m); s. DCF 56.09 (1), (1m), (2) (c), (3), (4) (c) or (d), (5), (9), (11) or (12) (a), (c) or (d); ~~or~~ s. DCF 56.11, s. DCF 56.12, s. DCF 56.13 (1), (2), (3), (4) (a) 1., 2., or (b), s. DCF 56.14 (1), (2), (3), (4), (5), (6), (7), (8) (a) or (b) 3., or s. DCF 56.15.

(b) 1. (note) Note: Copies of the Department's request form, "Application to ~~DHFS~~ DCF Exceptions Panel for Exception to Ch. DCF 56 or Ch. DCF 38," can be obtained from the licensing agency or by visiting the Department's website at: ~~http://dcf.wisconsin.gov/forms/doc/CFS0847.doc~~.
http://dcf.wisconsin.gov/children/foster/forms/formsINDX.htm.

5. If the licensing agency approves the request or some alternative to the request, the licensing agency shall submit the completed request form to the department within 10 working days after the agency's receipt of the request form from the applicant or licensee. The licensing agency ~~does~~ shall not ~~need to~~ submit to the department any request that it does not support.

6. The department exceptions panel shall, in writing, indicate its approval or disapproval of the request within 10 working days after the department receives the request form from the licensing agency and has all the information required to make its decision.

7. b. The chairperson of the panel shall be designated by the director of the department's bureau of ~~programs and policies~~ permanence and out-of-home care.

SECTION 3. DCF 56.02 (2) (c) is created to read:

DCF 56.02 (2) (c) *Non-safety-related waiver for relatives.* The licensing agency or the department exceptions panel may grant a waiver to the following non-safety-related requirements for the relative of a child without an alternative provision to meet the intent of the requirement:

1. The licensing agency may grant a waiver to any of requirement in s. DCF 56.04 (4) (a) 7.; s. DCF 56.05 (4); s. DCF 56.07 (2), (4) (a) 1. or 4., (d), (j), (k), (L), (7), or (8); or s. DCF 56.09 (6), (7), (8), or (10) (b), (c), (d), (e), or (f).

2. The department exceptions panel may grant a waiver to any requirement in s. DCF 56.04 (4) (a) 2. or 56.07 (4) (b) or (6) (b). A request for a waiver shall follow the same procedure as a request for an exception under par. (b), except an explanation of an alternative under par. (b) 2. e. is not required.

SECTION 4. DCF 56.03 (3) is amended to read:

DCF 56.03 (3) "Basic maintenance payment" means $215 for care and maintenance provided for a child of any age by a foster home that is certified to provide level one care and, for care and maintenance provided by a foster home that is certified to provide care at a level of care that is higher than level one care, an age–related foster care payment established by s. 48.62 (4), Stats., to reimburse a foster parent for the cost of a foster child's food, clothing, housing, basic transportation, and personal items.

SECTION 5. DCF 56.04 (4) (a) 2. is amended to read:

DCF 56.04 (4) (a) 2. Verification of homeowner's or renter's ~~and vehicle liability~~ insurance coverage required under s. DCF 56.05 ~~(3) and~~ (4) or a request for a waiver ~~from homeowner's or renter's and vehicle liability in accordance with~~ under s. DCF 56.05 (5). Verification of vehicle liability insurance required under s. DCF 56.05 (3) if the applicant plans to transport foster children in his or her own vehicle. Verification means that the licensing agency representative has personally seen the appropriate documentation. A licensing agency need not retain a copy of the documentation in its files.

SECTION 6. DCF 56.04 (4) (a) 2. (note) is created to read:

DCF 56.04 (a) 2. (note) Note: Section 344.62, Stats., requires motor vehicle liability insurance effective June 1, 2010. Foster parents who currently have a waiver of vehicle liability insurance may continue under this waiver through May 31, 2010.

SECTION 7. DCF 56.04 (4) (a) 3. and 4. are repealed and recreated to read:

DCF 56.04 (4) (a) 3. A written statement from a physician, physician assistant, or nurse practitioner that indicates any physical or mental conditions of the applicant or any household members that would affect the ability of the family to provide care for a foster child or threaten the health or safety of a foster child. The statement shall be based upon a medical examination performed within the previous 6 months, except as provided in subd. 4.

4. If a member of the household of an applicant who is a relative of a foster child is not covered by health insurance or a medical examination would be a significant financial burden to the household member, the licensing agency may grant an exception to the requirement in subd. 3. that each member of the applicant's household submit a written statement from a physician, physician assistant, or nurse practitioner. If the licensing agency grants this exception, the household member shall submit a personally signed statement that indicates any physical or mental conditions he or she has that would affect the ability of family to provide care for a foster child or threaten the health of a foster child.

SECTION 8. DCF 56.04 (4) (b) 2. is amended to read:

DCF 56.04 (4) (b) 2. Verification of homeowner's or renter's ~~and vehicle liability~~ insurance coverage required under s. DCF 56.05 ~~(3) and~~ (4) or a request for a waiver ~~from homeowner's or renter's and vehicle liability in accordance with~~ under s. DCF 56.05 (5). Verification of vehicle liability insurance required under s. DCF 56.05 (3) if the applicant plans to transport foster children in his or her own vehicle. Verification means that the licensing agency representative has personally seen the appropriate documentation. A licensing agency need not retain a copy of the documentation in its files.

SECTION 9. DCF 56.04 (4) (b) 5. is repealed and recreated to read:

DCF 56.04 (4) (b) 5. If required by the licensing agency, a written statement from a physician, physician assistant, or nurse practitioner that indicates any physical or mental conditions of any household member that would affect the ability of the family to provide care for a foster child or threaten the health or safety of a foster child. The statement shall be based upon a medical examination performed within the previous 6 months.

SECTION 10. DCF 56.04 (4) (b) 5m. is created to read:

DCF 56.04 (4) (b) 5m. If a member of the household of an applicant who is a relative of a foster child is not covered by health insurance or a medical examination would be a significant financial burden to the household member, the licensing agency may grant an exception to the requirement in subd. 3. that each member of the applicant's household submit a written statement from a physician, physician assistant, or nurse practitioner. If the licensing agency grants this exception, the household member shall submit a personally signed statement that indicates any physical or mental conditions he or she has that would affect the ability of family to provide care for a foster child or threaten the health of a foster child.

SECTION 11. DCF 56.04 (4) (c) is amended to read:

DCF 56.04 (4) (c) *License modifications.* 1. A licensing agency may modify a foster home license~~, and an~~. An applicant for a license may request modification of the license at the time of the initial licensure~~ or a~~. A licensee may request modification of the license at any time during the effective period of the license ~~may request modification of the license~~.

SECTION 12. DCF 56.05 (1) (b) 2., (b) (note), and (c) 8. are amended to read:

DCF 56.05 (1) (b) 2. A history of managing or an indication of the ability to manage stress related to economic resources, employment, home, neighborhood, family size, ~~or~~ health problems, or other factors and an indication of an ability to cope with an additional stress factor of ~~a foster~~ the placement of a foster child.

(b)(note) **Note**: The Department has recommended the use of the ~~Foster Family Assessment System~~ Resource Family Assessment but any formalized assessment system can be used.

(c) 8. Allow the supervising agency up to 30 days in which to make an alternate placement ~~plans~~ when the licensee asks that a foster child be removed from the home.

SECTION 13. DCF 56.05 (1) (e) 1. is repealed and recreated to read:

DCF 56.05 (1) (e) 1. The applicant for an initial license to operate a foster home and all members of the household shall be free of physical or mental conditions that would interfere with the ability of the family to provide care for a foster child or threaten the health or safety of a foster child.

SECTION 14. DCF 56.05 (1) (e) 2. is repealed.

SECTION 15. DCF 56.05 (1) (f) is repealed and recreated to read:

DCF 56.05 (1) (f) *Background.* 1. The applicant shall provide the following:

a. Before a foster home license is issued or renewed, the applicant and any non−client resident of that person's home who is age 12 or older shall complete the background information disclosure form and shall provide written authorization for the licensing agency to make follow−up contact with the Wisconsin department of justice and any other agency to determine if there is any reason under subd. 3. why the applicant should not be granted a license or have an existing license renewed.

Note: To obtain a master copy of the Background Information Disclosure Form, in order to reproduce it, either download the form from the internet website at http://dhs.wisconsin.gov/forms/F8/F82064.pdf, or request copies of the form from the Division of Safety and Permanence Forms Center at Forms Manager, P.O. Box 8916, Madison, WI 53708−8916.

b. Before an initial foster home license is issued or a license is renewed after a break in licensure, the applicant shall provide the licensing agency or its designated agent with a set of fingerprints sufficiently clear to submit to the Wisconsin department of justice or other law enforcement agency for submission to the national crime information database as provided in s. 48.685 (2) (c) 1., Stats.

c. Before an initial foster home license is issued or a license is renewed after a break in licensure, the applicant and any adult residing in the applicant's home shall provide the licensing agency or its designated agent with information on their places of residence during the 5-year period prior to submission of the license application.

2. The licensing agency shall do the following:

a. Conduct criminal and other background checks in accordance with s. 48.685, Stats., and ch. DHS 12 before issuing a foster home license or at any time during licensure that the licensing agency considers appropriate.

b. Submit the applicant's fingerprints to the Wisconsin department of justice or other law enforcement agency for submission to the national crime information database as provided in s. 48.685 (2) (c) 1., Stats., before an initial foster home license is issued or a license is renewed after a break in licensure,

c. If the licensing agency is informed that the applicant or any adult residing in the applicant's home resided in the state of Wisconsin during the 5-year period prior to the submission of the license application, the licensing agency shall check any child abuse and neglect reports or findings from counties in Wisconsin in which the person is a resident or was a resident within those 5 years before licensure or relicensure after a break in licensure.

d. If the licensing agency is informed that the applicant or any adult residing in the applicant's home resided outside the state of Wisconsin during any period within the 5 years prior to the submission of the license application, the licensing agency shall check any child abuse or neglect registry maintained by any state or other U.S. jurisdiction in

which the person is a resident or was a resident within those 5 years for information on child abuse or neglect substantiations or similar findings before licensure or relicensure after a break in licensure.

e. Before an initial foster home license is issued or a license is renewed, the licensing agency shall conduct a reverse search by address of the Wisconsin sex offender registry.

Note: A reverse search by address can be done by entering the entity or placement address at http://wisconsindoc.familywatchdog.us/. The Registry and Family Watchdog information does not contain information on all convicted sex offenders. The information is limited by the effective date of the applicable law and to those offenders who have been arrested and convicted, adjudicated or committed for a crime specified under the law and who meet registration and publication requirements. For example, certain sex offenses by juveniles or other persons may not meet registration or publication requirements. Please consider these limitations when obtaining information from the Registry or Family Watchdog.

3. Pursuant to s. 48.685, Stats., and ch. DHS 12, an applicant or licensee is unqualified to hold a license if the applicant or any other nonclient resident living in the household meets any of the following conditions:

a. Is the subject of a pending state or federal criminal charge if the circumstances of the charge substantially relate to caring for children or operating a foster home.

b. Has been convicted of a felony, misdemeanor, or other state or federal offense, the circumstances of which substantially relate to caring for children or operating a foster home or who is otherwise prohibited from licensure by statute or ch. DHS 12, including any governmental finding that the person misappropriated a client's property.

4. An applicant or licensee shall immediately notify the licensing agency of any arrests or convictions, any allegations or determinations specified under subd. 3. b., or investigations of maltreatment of a child under s. 48.981, Stats., relating to the applicant or licensee or any member of the applicant's or licensee's household. This information shall be used by the licensing agency in making a determination to issue or deny a license, to renew or not renew a license, or to revoke a license.

SECTION 16. DCF 56.06 (12) is amended to read:

DCF 56.06 (12) If transporting a foster child, possess a valid driver's license~~,~~ and automobile insurance.

SECTION 17. DCF 56.07 (4) (a) 1. is amended to read:

DCF 56.07 (4) SLEEPING ARRANGEMENTS. (a) 1. Each foster child shall be provided with a separate bed, except ~~that 2 brothers or 2 sisters,~~ 2 related children of the same sex under 12 years of age~~,~~ may share a double or larger bed.

SECTION 18. DCF 56.07 (4) (a) 1m. is created to read:

DCF 56.07 (4) (a) 1m. Each infant child, birth to 12 months of age, shall sleep alone in a crib, bassinet, or playpen.

SECTION 19. DCF 56.07 (4) (a) 2., (5) (a) and (6) (d) 1. are amended to read:

DCF 56.07 (4) (a) 2. Each crib shall have crib slats that are securely fastened in place and are spaced no more than 2 3/8 inches apart. The mattress shall fit snugly so that there are no more than 1½ inches between the edge of the mattress and crib side. Crib sheets shall fit snugly to the mattress. Blankets used to cover the child shall be tucked tightly under the mattress and shall be kept away from the child's mouth and nose.

(5) TELEPHONE. (a) A foster home shall have at least one operating telephone ~~in operating condition that does not require a coin for operation~~ accessible to a child at all times when a child is present in the home.

(6) (d) 1. All wood-burning or other alternative heating source equipment in a foster home, except a fireplace, shall be inspected by a fire safety expert at least biennially and certified as properly installed and maintained as defined by the manufacturer's recommendations or specifications or other standards utilized by the fire safety expert. The licensee shall forward documentation of compliance with this paragraph to the licensing agency. If required by the licensing agency, a fireplace shall also be inspected by a fire safety expert.

SECTION 20. DCF 56.08 (4) (b) and (c) is repealed and recreated to read:

DCF 56.08 (4) (b) No licensee or person acting on behalf of a licensee may transport any foster child under the age of 8 years or less than 80 pounds in weight in any private motor vehicle unless the following conditions are met, as required in s. 347.48 (4), Stats.:

1. Each child who is less than one year old or who weighs less than 20 pounds being transported in a vehicle shall be properly seated and restrained in a rear−facing individual child car safety seat in the back seat of the vehicle.

2. Each child who is at least one year old but less than 4 years old or who weighs at least 20 pounds but less than 40 pounds shall be properly restrained in a forward−facing individual child car safety seat in the back seat of the vehicle.

3. Each child who is at least 4 years old but less than 8 years old, who weighs at least 40 pounds but not more than 80 pounds, or who is 4 feet 9 inches tall or less, shall be properly restrained in a shoulder−positioning child booster seat.

(c) Each child who is not required to be in an individual child car safety seat or booster seat when being transported shall be properly restrained by a seat belt, except as provided in s. 347.48 (2m), Stats., and ch. Trans 315.

SECTION 21. DCF 56.08 (5) (b) and (note) is amended to read:

DCF 56.08 (5) (b) No unloaded firearm or other dangerous weapon may be kept in a foster home unless stored and locked in an area not readily accessible to foster children. Ammunition materials and firearms shall be stored ~~and~~ in separate locked ~~separately from weapons in an area~~ areas that are not readily accessible to foster children.

Note: A firearm need not be locked in an area not readily accessible to foster children if the firearm has been disassembled in such a manner that it is not operable. Trigger locks alone do not meet the above requirement but may be a supplemental safety measure in addition to the firearm being stored and locked in an area not readily accessible to foster children. A weapon cabinet with a glass front is not considered secure, even if it can be locked.

SECTION 22. DCF 56.08 (10m) is created to read:

DCF 56.08 (10m) DISASTER PLAN. Each licensed foster home shall file a disaster plan with the licensing agency that would allow the licensing agency to identify, locate, and ensure continuity of services to children under the placement and care responsibility or supervision of an agency who are displaced or adversely affected by a disaster. Disaster plans shall include all of the following information:

(a) Where a family, provider, or child would go in an evacuation, including one location in the nearby area and one location out of the area.

(b) Phone numbers, electronic mail addresses, and other contact information for the foster parent.

(c) Contact information for a relative or friend out of the area who will know where the family is located.

(d) A list of items that the licensee will take if evacuated, including any medication and medical equipment for the child.

(e) A phone number the licensee will call to check in with the licensing agency or caseworker.

SECTION 23. DCF 56.09 (1) (d), (g), and (m) is amended to read:

DCF 56.09 (1) (d) Does not deny a foster child access to confidential family planning and reproductive health services.

(g) Gives the child reasonable opportunity to voluntarily participate or not participate in religious practices, activities, and services of the child's choice or the choice of the child's parents. Any discrepancy ~~in~~ between the child's choice and the choice of the child's parents shall be resolved by the child's ~~case manager~~ caseworker.

(m) Allows the child access to clothing and written and recorded materials and other items appropriate to the child's age and comprehension. None of these materials may be permanently withheld from the child without the specific consent of the child's case manager. Any withheld material shall be given to the child's ~~worker~~ caseworker who shall determine whether the material should be returned to the child or given to the child's parent or guardian. A foster child's personal belongings may not be damaged or destroyed.

SECTION 24. DCF 56.09 (1m) is created to read:

DCF 56.09 (1m) NUMBER OF CHILDREN FOR WHOM CARE MAY BE PROVIDED. (a) Care and maintenance may be provided for no more than 4 foster children or, if necessary to keep siblings together, for no more than 6 foster children.

(b) Notwithstanding par. (a), for the purpose of maintaining sibling connections, licensing agencies may grant an exception to allow more than 6 but no more than 8 foster children in a foster home. Licensing agencies shall apply to the department exceptions panel to place more than 8 children in a foster home if necessary to keep siblings together. Agencies shall follow the requirements established under s. DCF 56.02 (2) when granting or requesting an exception under this subsection.

(c) Notwithstanding par. (a), for the purpose of maintaining a parental connection for a minor parent and minor child who are placed together, licensing agencies may grant an exception to allow more than 6 but no more than 8 foster children in a foster home. Licensing agencies shall apply to the department exceptions panel to place more than 8

children in a foster home if necessary to keep a minor parent and minor child together. Agencies shall follow the requirements established under s. DCF 56.02 (2) when granting or requesting an exception under this section.

Note: In order to exceed the limit of 4 children in a foster home, any additional child must be related to one of the initial 4 children placed in the home.

SECTION 25 DCF 56.09 (2) (a) and (g), (3) (a), (4) (b), (5) (e) (note), and (f) are amended to read:

DCF 56.09 (2) (a) The licensee may not combine the care of foster children with regular part-time care of other non-related children or adults or conduct business or provide services in the foster home without the written approval of the licensing agency. Approval by the licensing agency shall depend on the foster parent presenting satisfactory evidence that the additional activities will not interfere with the quality or manner of care provided to foster children.

(g) A foster parent shall secure approval of the supervising agency before making plans for the care of a foster child by any other person in or away from the foster home for any period in excess of 48 hours. ~~The~~ Pursuant to specified information in the placement agreement for a foster child, the supervising agency may require a foster parent to secure agency authorization for periods less than 48 hours ~~for specific foster children that shall be specified in a placement agreement for the foster child~~.

(3) (a) A foster parent may require a foster child to share in household chores appropriate to the child's age, degree of maturity, mental capability, health, and physical ability. These duties ~~may~~ shall not interfere with a child's school attendance, family visits, sleep, studies, or religious practice and may not violate the humane and nurturing care described in sub. (1).

(4) (b) All foster children shall receive medical and dental care under the HealthCheck program unless they have private insurance that covers services required in this chapter. The Health-Check program shall supplement any required services not covered by private insurance. A foster child's case record shall contain medical records utilizing the HealthCheck program forms.

(5) (e) (note) Note: If the licensee leaves the foster child in the care of another person, such as a babysitter, that other person is responsible for providing the discipline in accordance with this chapter and any licensing agency policies.

(f) No foster child may be punished by being deprived of meals, mail, or family ~~visits~~ interaction.

SECTION 26. DCF 56.09 (7) is repealed and recreated to read:

DCF 56.09 (7) PERSONAL BELONGINGS. When a foster child leaves a foster home, he or she may take all special equipment or other personal belongings that the child had when placed in the foster home, that were given to the child to keep, that the child received as gifts, or that were purchased on behalf of the child with public funds, unless the items are permanently affixed to the foster home.

SECTION 27. DCF 56.09 (11) (a) 4. and 8. are amended to read:

DCF 56.09 (11) (a) 4. The date the child was ~~received by the licensee for care~~ placed in the foster home.

8. The name and address of the child's dentist and dates the child received dental care since the child was placed in the foster home.

SECTION 28. DCF 56.10 (1) (note) is amended to read:

DCF 56.10 (1) (note) Note: The appeal rights described in this section relate only to licensure decisions. Foster parents also have appeal rights for non-licensure decisions as provided under s. 48.64 (4), Stats., and ch. HA 3 rules. Any decision made by a circuit court regarding a placement or a placed child is not appealable by the foster parent under this section. ~~Appeal of a finding that a foster parent abused or neglected a child shall also be pursuant to ch. 227, Stats.~~

SECTION 29. DCF 56.11 (2) (a) (note) is created to read:

DCF 56.11 (2) (a) (note) Note: Under s. 48.62 (4), Stats., supplemental rates are available only to foster homes that are receiving an age-related rate and are not available to foster homes that are certified at level one.

SECTION 30. DCF 56.12 is repealed and recreated to read:

DCF 56.12 Foster parent handbook. A licensing agency shall provide each licensed or prospective foster parent with a copy of the agency's foster parent handbook prior to or at the time of the issuance of the license to operate a foster home. The foster parent handbook shall include information on the following topics:

(a) General information, including:

1. Overview of the child welfare system.
2. Description of the purpose of foster care.
3. Overview of the juvenile court system.
4. Description of the concept of and procedures for permanency planning, permanence goal options, and concurrent permanency planning.
5. Requirements for foster parents to report child abuse or neglect under s. DCF 56.05 (1) (c) 6.
6. A brochure that explains the foster parent insurance program and information regarding how to file a claim under that program.
7. A brochure that explains the foster care reimbursement and rate structure, including the clothing allowance.

(b) Agency-specific information, including:
1. Agency expectations of foster parents in working with children's families and supporting family interaction plans.
2. Expectations for foster parents in working with the licensing and placing agencies.
3. Confidentiality requirements.
4. Description of agency policies and procedures in cases of allegations of child maltreatment against foster parents.
5. Procedures in the event of emergencies affecting the foster parent or any foster child.
6. Procedures for filing grievances and appeals and the processes used by the agency in responding to such grievances and appeals.
7. Procedures for reimbursement for such expenditures as travel costs, clothing for foster children, and school fees.

(c) Information about caring for children, including:
1. Attachment.
2. Child development.
3. Grief and loss.
4. Discipline of foster children.
5. Independent living and the transfer of independent living skills.

(d) Information about resources for foster families, including:
1. A description of the support services available through the agency, including the availability of respite care services and how foster parents can access those services.
2. Contact information for the Wisconsin Foster and Adoptive Parent Association (WFAPA), the National Foster Parent Association (NFPA), the Wisconsin Foster Care and Adoption Resource Center, and, if available, local foster parent associations or support groups.

SECTION 31. DCF 56.13 is created to read:

DCF 56.13 Level of care certification. (1) DEFINITION. In this section, "child-specific license" means a license to operate a foster home that is issued to a relative of a child or an individual who has a previous existing relationship with the child or the child's family.

(2) CERTIFICATION. A licensing agency shall certify each foster home for a level of care under sub. (3) or (4) commensurate with the foster parent's knowledge, training, skills, experience, and relationship to the child.

(3) LEVEL ONE CERTIFICATION. (a) *Child-specific license*. A licensing agency may grant a level one certification only to a foster home with a child-specific license.

(b) *Training*. Each foster parent who operates a foster home with a level one certification shall complete a minimum of 6 hours of pre-placement training under s. DCF 56.14 (6) within 6 months after the date of initial licensure.

(4) LEVEL 2 CERTIFICATION. (a) *Training*. 1. a. Each foster parent who operates a foster home with a Level 2 certification shall complete a minimum of 6 hours of pre-placement training under s. DCF 56.14 (6) before or after initial licensure but prior to the placement of any child in the home, except as provided in subd. 1. b.

b. Each foster parent who operates a foster home with a child-specific license and a level 2 certification shall complete the pre-placement training under s. DCF 56.14 (6) within 6 months after the date of initial licensure.

2. Each foster parent who operates a foster home with a level 2 certification shall complete a minimum of 30 hours of initial licensing training under s. DCF 56.14 (7) during the initial licensing period.

3. Each foster parent who operates a foster home with a level 2 certification shall complete 10 hours of ongoing training under s. DCF 56.14 (8) in each 12-month period of licensure subsequent to the initial licensing period.

(b) *References*. An applicant for a license to operate a foster home with a level 2 certification shall submit at least 3 favorable reference letters written by persons unrelated to the applicant. A reference letter shall include a statement indicating how long the person giving the reference has known the applicant, under what circumstances he or she knows the applicant, and his or her knowledge of the applicant's qualifications and characteristics under s. DCF 56.05 (1) (b).

SECTION 32. DCF 56.14 is created to read:

DCF 56.14 Foster parent training. (1) PURPOSES. This section implements s. 48.67 (4), Stats., which requires all foster parents to successfully complete training in the care and support needs of children who are placed in foster care that has been approved by the department. The purposes of foster parent training are to:

1. Improve the quality of care provided to children who live in foster or adoptive homes.
2. Prepare foster and adoptive families to care for and provide stability for foster children in their homes.
3. Promote communication, respect, and understanding among all involved parties, with a focus on working for the best interests of the foster child.
4. Provide opportunities to foster parents to mutually explore their values, strengths, limitations, and needs as they relate to compatibility with foster and adoptive children.
5. Develop an understanding of the child welfare system and the importance of permanency for children.
6. Encourage foster and adoptive parent networking and the use of resources.

(2) ADVISORY COMMITTEE. A statewide advisory committee appointed by the department and representing county agencies, private child-placing agencies, tribal agencies, foster parents, vocational-technical education, the university system, and the department shall study needs and resources and advise the department on specific training needs and quality of materials.

(3) QUALIFICATIONS OF TRAINERS. Persons preparing or presenting materials for foster parent training shall have expertise in the subject matter as evidenced by prior experience or education, an ability to communicate their knowledge, and cultural competence.

(4) TRAINING EXPENSES. The department shall provide funds to enable foster parents to attend training. The funds may be used for materials, fees, transportation, and child care expenses incurred to attend training that is required or approved under this section or s. DCF 56.13.

(5) TRAINING REQUIREMENTS. (a) *Level of care certification*. Each foster parent shall complete any pre-placement, initial licensing, or ongoing training required for the foster home's level of care certification under s. DCF 56.13, except as provided in subs. (6) (c) and (7) (d) and (e).

(b) *Each foster parent*. The foster parent training requirements in this section and s. DCF 56.13 apply to each foster parent identified on the license to operate the foster home.

(6) PRE-PLACEMENT TRAINING. (a) The department shall approve a standardized curriculum for pre-placement training for foster parents that includes information on all of the following:

1. The child welfare system.
2. Relevant law and policy, including the Indian Child Welfare Act.
3. Child development.
4. The importance of maintaining a foster child's family connections.
5. Expectations for foster families.
6. Cultural awareness.
7. Access to resources.

(b) With the department's approval, a child-placing agency may modify the pre-placement training curriculum for a foster parent who is a proposed adoptive parent for a private adoption under s. 48.837, Stats., or a foreign adoption under s. 48.839 or 48.97, Stats.

(c) A foster parent who obtains a license to operate a foster home before January 1, 2011, is not required to complete the pre-placement training under this subsection, unless otherwise required by the licensing agency.

(7) INITIAL LICENSING TRAINING. (a) The department shall approve a standardized curriculum for initial licensing training for foster parents that includes information on all of the following:

1. Permanency.
2. Cultural dynamics in placement.
3. Child abuse and neglect.
4. The impact of maltreatment on child development.
5. Attachment.
6. Separation and placement.
7. The importance of maintaining a foster child's family connections.
8. Guidance and positive discipline.
9. Access to resources.

Note: The standardized curriculum for initial licensing training is the *Wisconsin Foundation Training for Foster Parents*.

(b) With the department's approval, a child-placing agency may modify the initial licensing training curriculum for a foster parent who is a proposed adoptive parent for a private adoption under s. 48.837, Stats., or a foreign adoption under s. 48.839 or 48.97, Stats.

(c) Trainers for the initial licensing training shall be an agency staff person or contractor and a foster or adoptive parent.

(d) A foster parent who operates a foster home with a level 2 certification that is licensed before January 1, 2011, shall complete the initial licensing training before January 1, 2015, except as provided under par. (e).

(e) A foster parent who operates a foster home with a level 2 certification that is licensed before January 1, 2011, and who provides verification to the licensing agency that he or she successfully completed a competency-based, pre-service foster parent training as described in the department's DCFS Memo Series 2002-12 is not required to comply with par. (d).

Note: DCFS Memo Series 2002-12 was issued on September 18, 2002. It is available at http://dcf.wisconsin.gov/memos/num_memos/2002/2002-12.HTM. Acceptable competency-based, pre-service foster parent training includes the *Partners in Alternative Care Education* (PACE) curriculum.

(8) ONGOING TRAINING. (a) *Individualized training plan*. At the time of renewal of a license to operate a foster home, the licensing agency and the foster parent shall evaluate the foster parent's overall performance and develop an individualized training plan for the foster parent based on his or her demonstrated need for training in particular topics or in managing specific case situations.

(b) *Licensing agency approval*. The licensing agency shall approve a foster parent's ongoing training based on the following:

1. The content of the training shall meet at least one of the purposes of foster parent training under sub. (1) and conform with the foster parent's individualized training plan, unless a greater training need is demonstrated after the plan was developed.

2. The format of the training may include any of the following:

a. Face-to-face consultation with professionals with expertise in specific identified areas.

b. Video, audio, and web-based presentations.

c. Support groups.

d. Adult education courses.

e. Books, periodicals, and web-based resources.

f. Television and radio presentations.

g. Mentor family consultations.

h. Conferences, workshops, seminars, and webinars.

3. The total credit given for training using books, periodicals, and web-based resources under subd. 2. e. and television and radio presentations under subd. 2. f. may not exceed 2 hours.

4. The cost of a particular training option and the usefulness of the skills that are expected to be gained.

(c) *Department as training resource*. The department shall maintain an inventory of resources for foster parent training and shall coordinate statewide, regional, and local training programs to prevent duplication of effort.

SECTION 33. DCF 56.15 is created to read:

DCF 56.15 Agency contact requirement. (1) CONTACT WITH FOSTER PARENTS. A licensing agency or placing agency shall have at least one contact per month with a foster parent who operates a foster home with a level 1 or 2 certification if a child is placed in the foster home.

Note: If there is more than one foster parent on the license to operate a foster home, the agency may have contact with only one of the foster parents.

(2) MULTIPLE AGENCIES. If the licensing agency and the placing agency under sub. (1) are different agencies, those agencies shall determine a contact plan.

(3) METHOD OF CONTACT. The contact required under sub. (1) shall be any of the following methods:

(a) In person.

(b) Phone.

(c) An interactive electronic format.

(4) PURPOSES OF CONTACT. The agency contact with the foster care parent shall focus on the safety, permanence, and well-being of the child to evaluate the compatibility of the child with the foster parent and other household members and the ability of the foster care parent to meet the needs of the child in a safe manner. The contacts

shall include discussion of any additional support needs of the foster parent to safely maintain any child in foster care living in the foster home.

SECTION 34. DCF 58.02 is repealed and recreated to read:

DCF 58.02 Applicability. (1) TO WHOM THE RULES APPLY. This chapter applies to the following:

(a) Relatives who apply for or who are receiving kinship care or long-term kinship care benefits on behalf of a child residing with them without a court order.

(b) Relatives who apply for or who are receiving kinship care or long-term kinship care benefits under s. DCF 58.065 on behalf of a child residing with them under a court order and who apply for or who have applied for a license to operate a foster home under ch. DCF 56.

(c) Relatives who are receiving kinship care or long-term kinship care benefits on behalf of a child residing with them under a court order and who will be applying for a license to operate a foster home prior to or at the time of their next reassessment of eligibility under s. DCF 58.13 or review of eligibility under s. DCF 58.16 in calendar year 2010.

(d) County departments and tribal child welfare agencies administering the kinship care and long−term kinship care programs; the department as it administers the kinship care and long−term kinship care programs in a county with a population of 500,000 or more; and to other agencies under contract with the department, a county department, or a tribal child welfare agency for the purpose of administering the kinship care and long−term kinship care programs.

(2) APPLICABILITY OF SUBCHAPTERS. The provisions in subch. I apply to the entire chapter. The provisions in subch. II apply only to the kinship care program. The provisions in subch. III apply only to the long−term kinship care program.

SECTION 35. DCF 58.03 (18) is amended to read:

DCF 58.03 (18) "Relative" means an adult who is the child's stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in- law, sister-in-law, first cousin, 2nd cousin, nephew, niece, aunt, uncle, stepuncle, stepaunt, or any person of a preceding generation as denoted by the prefix of grand, great or great−great, whether by blood, marriage or legal adoption, or the spouse of any person named in this subsection, even if the marriage is terminated by death or divorce.

SECTION 36. DCF 58.04 is amended to read:

DCF 58.04 (1) APPLICATION. A relative who wants to apply for kinship care or long−term kinship care payments shall apply to the kinship care agency~~,~~ and shall complete any form or forms required by the agency. If the child is placed in the home of the kinship care relative or long-term kinship care relative under a court order, the relative shall apply for a license to operate a foster home under ch. DCF 56.

SECTION 37. DCF 58.065 and 58.066 are created to read:

DCF 58.065 Special provisions for court-ordered kinship care and long-term kinship care approved after January 1, 2010. (1) PAYMENTS PENDING DECISION ON FOSTER CARE APPLICATION. Subject to subs. (2) and (3), the agency may make kinship care payments to a kinship care relative or long-term kinship care payments to a long-term kinship care relative who is providing care and maintenance for a child who is placed in the home of the kinship care relative or long-term kinship care relative under a court order until the earlier of the following:

(a) Not more than 60 days after the date on which the county department or department received the completed application of the kinship care relative or long-term kinship care relative for a license to operate a foster home under s. DCF 58.04 (1).

(b) The date on which the application for a license to operate a foster home is approved or denied or the kinship care relative or long-term kinship care relative is otherwise determined to be ineligible for licensure if the application is approved or denied or the kinship care relative or long-term kinship care relative is otherwise determined to be ineligible for licensure within those 60 days.

(2) PAYMENT EXTENSION IF NO-FAULT DELAY. If the application for a license to operate a foster home is not approved or denied or the kinship care relative or long-term kinship care relative is not otherwise determined to be ineligible for licensure within 60 days after the date on which the county department or department received the completed application for any reason other than an act or omission of the kinship care relative or long-term kinship care relative, the county department or department may make payments until the earlier of the following:

(a) Four months after the date on which the county department or department received the completed application.

(b) The date on which the application is approved or denied or the kinship care relative or long-term kinship care relative is otherwise determined to be ineligible for licensure if the application is approved or denied or the kinship care relative or long-term kinship care relative is otherwise determined to be ineligible for licensure within those 4 months.

(3) COURT APPROVES CONTINUED KINSHIP CARE OR LONG-TERM KINSHIP CARE PLACEMENT. Notwithstanding that a kinship care relative's or long-term kinship care relative's application for a license to operate a foster home is denied or the kinship care relative is otherwise determined to be ineligible for licensure, the county department or, in a county having a population of 500,000 or more, the department may make payments to a kinship care relative for as long as all other requirements to receive kinship care or long-term kinship care, as applicable, are met if the court orders the child to remain in the kinship care relative's or long-term kinship care relative's home based on the following information submitted to the court by the county department or the department:

(a) The background investigation specified in s. 48.57 (3p), Stats., and s. DCF 58.04 (2).

(b) The county department's or department's assessment of the safety of the kinship care relative's or long-term kinship care relative's home and the ability of the kinship care relative or long-term kinship care relative to care for the child.

(c) A recommendation by the county department or the department that the child remain in the home of the kinship care relative or long-term kinship care relative.

(4) COURT DENIES CONTINUED KINSHIP CARE OR LONG-TERM KINSHIP CARE PLACEMENT. If a kinship care relative's or long-term kinship care relative's application for a license to operate a foster home is denied or the kinship care relative or long-term kinship care relative is otherwise determined to be ineligible for licensure and the court does not order the child to remain in the kinship care relative's or long-term kinship care relative's home under sub. (3), the court shall order the county department or department to request a change in placement under s. 48.357 (1) (am) or 938.357 (1) (am), Stats., or to request a termination of the guardianship order under s. 48.977 (7), Stats., for the long-term kinship care relative. Any person specified in s. 48.357 (2m) (a) or 938.357 (2m) (a), Stats., may also request a change in placement and any person who is authorized to file a petition for the appointment of a guardian for the child may also request a termination of the guardianship order.

DCF 58.066 Special provisions for court-ordered kinship care and long-term kinship care approved before January 1, 2010. (1) FOSTER HOME LICENSE REQUIRED. By no later than 6 months after the date of the first review under s. DCF 58.13 or 58.16, occurring after January 1, 2010, of the placement of a child who on December 31, 2009, was placed in the home of a kinship care relative or a long−term kinship care relative under an order of the court assigned to exercise jurisdiction under chapters 48 and 938, Stats., the kinship care relative or long−term kinship care relative shall obtain a license to operate a foster home under s. 48.62 (1), Stats.

(2) EXCEPTION. If the kinship care relative or long−term kinship care relative refuses to obtain a license to operate a foster home as required under sub. (1) or is unable to meet the minimum requirements for the issuance of such a license, at the first permanency plan review under s. 48.38 (5) or 938.38 (5), Stats., or permanency plan hearing under s. 48.38 (5m) or 938.38 (5m), Stats., occurring after the date by which the kinship care relative or long−term kinship care relative is required under sub. (1) to obtain the license, the agency, as defined in s. 48.38 (1) (a) or 938.38 (1) (a) Stats., that prepared the child's permanency plan shall make a recommendation, and the court or panel conducting the review or hearing shall make a determination under s. 48.38 (5) (c) 1. or 938.38 (5) (c) 1. Stats., regarding the continuing necessity for and safety and appropriateness of the placement. If the court or panel determines that the placement continues to be necessary, safe, and appropriate, the child may remain in the placement and the kinship care relative or long−term kinship care relative may continue to receive payments under s. 48.57 (3m) (am) or (3n) (am), Stats.

SECTION 38. DCF 58.13 (3) is created to read:

DCF 58.13 (3) Prior to or at the time of the reassessment of eligibility in calendar year 2010, a kinship care relative who is providing care and maintenance for a child who is placed in the home of the kinship care relative under a court order shall apply for a license to operate a foster home under s. DCF 58.04 (1).

SECTION 39. DCF 58.16 (3) is created to read:

DCF 58.16 (3) Prior to or at the time of the review of eligibility in calendar year 2010, a long-term kinship care relative who is providing care and maintenance for a child who is placed in the home of the long-term kinship care relative under a court order shall apply for a license to operate a foster home under s. DCF 58.04 (1).

SECTION 40. EFFECTIVE DATE. This rule shall take effect on January 1, 2010, as provided in s. 227.24 (1) (d), Stats.

FISCAL ESTIMATE DOA-2048 N(R03/97)	☒ ORIGINAL ☐ UPDATED ☐ CORRECTED ☐ SUPPLEMENTAL	**2009 Session** LRB or Bill No./Adm. Rule No. DCF 56 and 58 Amendment No. if Applicable

Subject
Kinship care and foster care

Fiscal Effect

State: ☒ No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

☐ Increase Existing Appropriation ☐ Increase Existing Revenues
☐ Decrease Existing Appropriation ☐ Decrease Existing Revenues
☐ Create New Appropriation

☐ Increase Costs - May be possible to Absorb Within Agency's Budget ☐ Yes ☐ No

☐ Decrease Costs

Local: ☒ No local government costs

1. ☐ Increase Costs
   ☐ Permissive ☐ Mandatory
2. ☐ Decrease Costs
   ☐ Permissive ☐ Mandatory
3. ☐ Increase Revenues
   ☐ Permissive ☐ Mandatory
4. ☐ Decrease Revenues
   ☐ Permissive ☐ Mandatory
5. Types of Local Governmental Units Affected:
   ☐Towns ☐ Villages ☐ Cities
   ☐ Counties ☐ Others _____
   ☐ School Districts ☐ WTCS Districts

Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐PRS ☐ SEG ☐ SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The rule implements the first two levels of the Graduated Licensing and Levels of Care policy, as directed in 2009 Wisconsin Act 28. This rule establishes the requirements for certification at these two levels of care. A foster home at these two levels is certified based on a number of factors, including the level of knowledge, skill, training and experience of the licensee, the level of responsibilities expected, and the needs of the child. The rule also establishes training requirements for these levels of licensure.

These changes will affect counties and the Department, which operates the child welfare program in Milwaukee County. The fiscal impact of these changes was included in the biennial budget; therefore implementation of these rules is not anticipated to have a fiscal effect.

Additionally, by not implementing the rule, DCF stands to lose a substantial amount of federal revenue. By licensing current court-ordered Kinship Care providers, Act 28 assumes that the Department will be able to claim an additional $6,524,300 in IV-E revenue as a result of the policy. Without the rule, DCF will not be able to require these providers to get certified and will lose the additional revenue assumed in Act 28.

Long-Range Fiscal Implications
None

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date

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