State of Wisconsin
2005 – 2006 LEGISLATURE

LRB–0404/4
GMM:wlj:~~rs~~ stays

DOA:.....Fath, BB0138 – Transfer of day care licensing from DHFS to DWD

FOR 2005–07 BUDGET -- NOT READY FOR INTRODUCTION

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AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, no person may for compensation provide care and supervision for four or more children under the age of seven for less than 24 hours a day unless the person obtains a license from DHFS to operate a day care center. To obtain a license to operate a day care center, a person must, among other things, meet the minimum requirements for a license promulgated by DHFS by rule. Current law also authorizes DHFS to inspect and investigate day care centers and to impose certain sanctions and penalties on a person who operates a day care center without a license or who violates a provision of licensure or a minimum standard for the operation of a day care center promulgated by DHFS by rule.

This bill transfers from DHFS to DWD the authority to license day care centers, to promulgate rules establishing minimum requirements for day care center licensure and minimum standards for day care center operation, to inspect and investigate day care centers, and to impose sanctions and penalties for operating a day care center without a license or for violating a provision of day care center licensure or a minimum standard for the operation of a day care center.

Under current law, before DHFS may issue a license to a day care center that provides care and supervision for nine or more children, the day care center must pay a biennial fee of $30.25, plus a biennial fee of $8.47 per child, based on the number

of children that the day care center is licensed to serve. This bill increases that per child fee to $16.94.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 16.841 (1) (b) of the statutes is amended to read:

16.841 **(1)** (b) "Child care provider" means a provider licensed under s. ~~48.65~~ 49.98, certified under s. ~~48.651~~ 49.156, or established or contracted for under s. 120.13 (14).

SECTION 2. 20.435 (3) (jm) of the statutes is amended to read:

20.435 **(3)** (jm) *Licensing activities.* The amounts in the schedule for the costs of licensing child welfare agencies under s. 48.60, foster homes and treatment foster homes under s. 48.62, group homes under s. 48.625, ~~day care centers under s. 48.65~~ and shelter care facilities under s. 938.22 (7). All moneys received for these licensing activities and from fees under ss. 48.615, 48.625, ~~48.65 (3)~~ and 938.22 (7) (b) and (c) shall be credited to this appropriation account.

SECTION 3. 20.445 (3) (cm) of the statutes is amended to read:

20.445 **(3)** (cm) *Wisconsin ~~works~~ Works child care and day care center licensing.* The amounts in the schedule for paying child care subsidies under s. 49.155 and for the cost of licensing day care centers under s. 49.98.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 4. 20.445 (3) (jm) of the statutes is created to read:

20.445 **(3)** (jm) *Day care center licensing.* All moneys received from day care center licensing activities and from fees under s. 49.98 (3) to be used for the costs of licensing day care centers under s. 49.98.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 5. 20.445 (3) (mc) of the statutes is amended to read:

20.445 **(3)** (mc) *Federal block grant operations.* The amounts in the schedule, less the amounts withheld under s. 49.143 (3), for the purposes of operating and administering the block grant programs for which the block grant moneys are received ~~and transferring moneys to the appropriation accounts under s. 20.435 (3) (kx) and (6) (kx)~~. All block grant moneys received for these purposes from the federal government or any of its agencies for the state administration of federal block grants shall be credited to this appropriation account.

****NOTE: This is reconciled s. 20.445 (3) (mc). This SECTION has been affected by drafts with the following LRB numbers: LRB–0404/3 and LRB–1662/1.

SECTION 6. 21.72 (1) (a) 3m. of the statutes is created to read:

21.72 **(1)** (a) 3m. A license issued under ss. 49.98 and 49.99.

SECTION 7. 46.03 (7) (c) of the statutes is repealed.

SECTION 8. 46.03 (7) (cm) of the statutes is repealed.

SECTION 9. 46.16 (2) of the statutes is amended to read:

46.16 **(2)** CHILD WELFARE AGENCIES; FOSTER HOMES; TREATMENT FOSTER HOMES; ~~CHILD CARE CENTERS; DAY NURSERIES; NURSERY SCHOOLS.~~ ~~It.~~ The department may license and revoke licenses of and exercise supervision over all child welfare agencies and the placement of children in foster homes and treatment foster homes, and grant ~~permits~~ licenses to foster homes~~,~~ and treatment foster homes~~, child care centers, day nurseries and nursery schools~~. In the discharge of this duty ~~it~~ the department may inspect the records of child welfare agencies~~, child care centers, day nurseries, nursery schools~~ and visit all institutions ~~conducted by them~~ operated by child

welfare agencies and all foster homes and treatment foster homes in which children are placed.

SECTION 10. 46.16 (2m) of the statutes is repealed.

SECTION 11. 46.16 (2s) of the statutes is repealed.

SECTION 12. 48.48 (10) of the statutes is amended to read:

48.48 **(10)** To license child welfare agencies ~~and day care centers~~ as provided in s. 48.66 (1) (a).

SECTION 13. Subchapter XV (title) of chapter 48 [precedes 48.65] of the statutes is renumbered subchapter VII (title) of chapter 49 [precedes 49.97] and amended to read:

CHAPTER 49

SUBCHAPTER VII

DAY CARE ~~PROVIDERS~~ LICENSING

SECTION 14. 48.65 (title) of the statutes is renumbered 49.98 (title) and amended to read:

49.98 (title) **~~Day~~ Licensing of day care centers ~~licensed~~; fees.**

SECTION 15. 48.65 (1) of the statutes is renumbered 49.98 (1) and amended to read:

49.98 **(1)** No person may for compensation provide care and supervision for 4 or more children under the age of 7 for less than 24 hours a day unless that person obtains a license to operate a day care center from the department. To obtain a license under this subsection to operate a day care center, a person must meet the minimum requirements for a license established by the department under s. ~~48.67~~ 49.986, meet the requirements specified in s. 48.685, and pay the license fee under

sub. (3). A license issued under this subsection is valid until revoked or suspended, but shall be reviewed every 2 years as provided in s. ~~48.66~~ 49.984 (5).

SECTION 16. 48.65 (2) (intro.) of the statutes is renumbered 49.98 (2) (intro.) and amended to read:

49.98 **(2)** (intro.) This section does not ~~include~~ apply to any of the following:

SECTION 17. 48.65 (2) (a) of the statutes is renumbered 49.98 (2) (a).

SECTION 18. 48.65 (2) (b) of the statutes is renumbered 49.98 (2) (b) and amended to read:

49.98 **(2)** (b) A public or ~~parochial~~ private school.

SECTION 19. 48.65 (2) (c) of the statutes is renumbered 49.98 (2) (c).

SECTION 20. 48.65 (2) (d) of the statutes is renumbered 49.98 (2) (d).

SECTION 21. 48.65 (3) of the statutes is renumbered 49.98 (3) and amended to read:

49.98 **(3)** (a) Before the department may issue a license under sub. (1) to a day care center that provides care and supervision for 4 to 8 children, the day care center must pay to the department a biennial fee of $60.50. Before the department may issue a license under sub. (1) to a day care center that provides care and supervision for 9 or more children, the day care center must pay to the department a biennial fee of $30.25, plus a biennial fee of ~~$8.47~~ $16.94 per child, based on the number of children that the day care center is licensed to serve. A day care center that wishes to continue a license issued under sub. (1) shall pay the applicable fee under this paragraph by the continuation date of the license. A new day care center shall pay the applicable fee under this paragraph no later than 30 days before the opening of the day care center.

(b) A day care center that wishes to continue a license issued under par. (a) and that fails to pay the applicable fee under par. (a) by the continuation date of the license or a new day care center that fails to pay the applicable fee under par. (a) by 30 days before the opening of the day care center shall pay an additional fee of $5 per day for every day after the deadline that the ~~group home~~ day care center fails to pay the fee.

SECTION 22. 48.651 (title) of the statutes is renumbered 49.156 (title) and amended to read:

49.156 (title) ~~**Certification**~~ **Wisconsin Works; certification of day care providers.**

SECTION 23. 48.651 (1) (intro.) of the statutes is renumbered 49.156 (1) (intro.) and amended to read:

49.156 **(1)** (intro.) Each county department shall certify, according to the standards adopted by the department ~~of workforce development~~ under s. 49.155 (1d), each day care provider reimbursed for child care services provided to families determined eligible under s. 49.155, unless the provider is a day care center licensed under s. ~~48.65~~ 49.98 or is established or contracted for under s. 120.13 (14). Each county may charge a fee to cover the costs of certification. To be certified under this section, a person must meet the minimum requirements for certification established by the department ~~of workforce development~~ under s. 49.155 (1d), meet the requirements specified in s. 48.685, and pay the fee ~~specified~~ referred to in this section. The county shall certify the following categories of day care providers:

SECTION 24. 48.651 (1) (a) of the statutes is renumbered 49.156 (1) (a) and amended to read:

49.156 **(1)** (a) Level I certified family day care providers, as established by the department ~~of workforce development~~ under s. 49.155 (1d). No county may certify a provider under this paragraph if the provider is a relative of all of the children for whom he or she provides care.

SECTION 25. 48.651 (1) (b) of the statutes is renumbered 49.156 (1) (b) and amended to read:

49.156 **(1)** (b) Level II certified family day care providers, as established by the department ~~of workforce development~~, under s. 49.155 (1d).

SECTION 26. 48.651 (2m) of the statutes is renumbered 49.156 (2m) and amended to read:

49.156 **(2m)** Each county department shall provide the department of health and family services with information about each person who is denied certification for a reason specified in s. 48.685 (4m) (a) 1. to 5.

SECTION 27. 48.653 of the statutes is renumbered 49.982 (1) and amended to read:

49.982 **(1)** ~~**Information for day care providers.**~~ The department shall provide each day care center licensed under s. ~~48.65~~ 49.98 and each county ~~agency~~ department providing child welfare services with a brochure containing information on basic child care and the licensing and certification requirements for day care providers. Each county ~~agency~~ department shall provide each day care provider that it certifies with a copy of the brochure.

SECTION 28. 48.655 of the statutes is renumbered 49.982 (2) and amended to read:

49.982 **(2)** ~~**Parental access.**~~ A day care provider that holds a license under s. ~~48.65~~ 49.98, that is certified under s. ~~48.651~~ 49.156, that holds a probationary

license under s. ~~48.69~~ 49.99, or that is established or contracted for under s. 120.13 (14) shall permit any parent or guardian of a child enrolled in the program to visit and observe the program of child care at any time during the provider's hours of operation, unless the visit or observation is contrary to an existing court order.

SECTION 29. 48.656 of the statutes is renumbered 49.982 (3) and amended to read:

49.982 **(3)** ~~**Parent's right to know.**~~ Every parent, guardian, or legal custodian of a child who is receiving care and supervision, or of a child who is a prospective recipient of care and supervision, from a day care center that holds a license under s. ~~48.65~~ 49.98 (1) or a probationary license under s. ~~48.69~~ 49.99 has the right to know certain information about the day care center that would aid the parent, guardian, or legal custodian in assessing the quality of care and supervision provided by the day care center.

SECTION 30. 48.657 (title) of the statutes is repealed.

SECTION 31. 48.657 (1) (intro.) of the statutes is renumbered 49.982 (4) (a) (intro.) and amended to read:

49.982 **(4)** (a) (intro.) The department shall provide each day care center that holds a license under s. ~~48.65~~ 49.98 (1) or a probationary license under s. ~~48.69~~ 49.99 with an annual report that includes the following information:

SECTION 32. 48.657 (1) (a) of the statutes is renumbered 49.982 (4) (a) 1. and amended to read:

49.982 **(4)** (a) 1. Violations of statutes, rules promulgated by the department under s. ~~48.67~~ 49.986, or provisions of licensure under s. ~~48.70 (1)~~ 49.988 (2) by the day care center. In providing information under this ~~paragraph~~ subdivision, the department may not disclose the identity of any employee of the day care center.

SECTION 33. 48.657 (1) (b) of the statutes is renumbered 49.982 (4) (a) 2. and amended to read:

49.982 **(4)** (a) 2. A telephone number at the department that a person may call to complain of any alleged violation of a statute, rule promulgated by the department under s. ~~48.67~~ 49.986, or provision of licensure under s. ~~48.70 (1)~~ 49.988 (2) by the day care center.

SECTION 34. 48.657 (1) (c) of the statutes is renumbered 49.982 (4) (a) 3. and amended to read:

49.982 **(4)** (a) 3. The results of the most recent inspection of the day care center under s. ~~48.73~~ 49.996 (1).

SECTION 35. 48.657 (2) of the statutes is renumbered 49.982 (4) (b) and amended to read:

49.982 **(4)** (b) A day care center shall post the report under ~~sub. (1)~~ par. (a) next to the day care center's license or probationary license in a place where the report and the inspection results can be seen by parents, guardians, or legal custodians during the day care center's hours of operation.

SECTION 36. 48.657 (2g) of the statutes is renumbered 49.982 (4) (c) and amended to read:

49.982 **(4)** (c) If the report under ~~sub. (1)~~ par. (a) indicates that the day care center is in violation of a statute, a rule promulgated by the department under s. ~~48.67~~ 49.986, or a provision of licensure under s. ~~48.70 (1)~~ 49.988 (2), the day care center shall post with the report any notices received from the department relating to that violation.

SECTION 37. 48.657 (2r) of the statutes is renumbered 49.982 (4) (d) and amended to read:

49.982 **(4)** (d) Each day care center that receives a report under ~~sub. (1)~~ par. (a) shall make available to a parent, guardian, or legal custodian of a child who is receiving, or who is a prospective recipient of, care and supervision from the day care center the reports under ~~sub. (1)~~ par. (a) from the previous 2 years and any notices received from the department relating to any violations identified in those reports. In providing information under this ~~subsection~~ paragraph, a day care center may withhold any information that would disclose the identity of an employee of the day care center.

SECTION 38. 48.657 (3) of the statutes is renumbered 49.982 (4) (e) and amended to read:

49.982 **(4)** (e) The department may require a day care center to provide to the department any information that is necessary for the department to prepare the report under ~~sub. (1)~~ par. (a).

SECTION 39. Subchapter XVI (title) of chapter 48 [precedes 48.66] of the statutes is amended to read:

CHAPTER 48

SUBCHAPTER XVI

LICENSING PROCEDURES AND REQUIREMENTS FOR CHILD WELFARE AGENCIES, FOSTER HOMES, TREATMENT FOSTER HOMES, GROUP HOMES, ~~DAY CARE CENTERS~~ AND COUNTY DEPARTMENTS

SECTION 40. 48.66 (1) (a) of the statutes is amended to read:

48.66 **(1)** (a) Except as provided in s. 48.715 (6) and (7), the department shall license and supervise child welfare agencies, as required by s. 48.60, group homes, as required by s. 48.625, and shelter care facilities, as required by s. 938.22~~, and day care centers, as required by s. 48.65~~. The department may license foster homes or

treatment foster homes, as provided by s. 48.62, and may license and supervise county departments in accordance with the procedures specified in this section and in ss. 48.67 to 48.74.

SECTION 41. 48.66 (2) of the statutes is amended to read:

48.66 **(2)** The department shall prescribe application forms to be used by all applicants for licenses from it. The application forms prescribed by the department shall require that the social security numbers of all applicants for a license to operate a child welfare agency, group home, or shelter care facility ~~or day care center~~ who are individuals, other than an individual who does not have a social security number and who submits a statement made or subscribed under oath or affirmation as required under sub. (2m) (a) 2., be provided and that the federal employer identification numbers of all applicants for a license to operate a child welfare agency, group home, or shelter care facility ~~or day care center~~ who are not individuals be provided.

SECTION 42. 48.66 (2m) (a) 1. of the statutes is amended to read:

48.66 **(2m)** (a) 1. Except as provided in subd. 2., the department of health and family services shall require each applicant for a license under sub. (1) (a) to operate a child welfare agency, group home, or shelter care facility ~~or day care center~~ who is an individual to provide that department with the applicant's social security number, and shall require each applicant for a license under sub. (1) (a) to operate a child welfare agency, group home, or shelter care facility ~~or day care center~~ who is not an individual to provide that department with the applicant's federal employer identification number, when initially applying for or applying to continue the license.

SECTION 43. 48.66 (2m) (b) of the statutes is amended to read:

48.66 **(2m)** (b) If an applicant who is an individual fails to provide the applicant's social security number to the department of health and family services

or if an applicant who is not an individual fails to provide the applicant's federal employer identification number to that department, that department may not issue or continue a license under sub. (1) (a) to operate a child welfare agency, group home, or shelter care facility ~~or day care center~~ to or for the applicant unless the applicant is an individual who does not have a social security number and the applicant submits a statement made or subscribed under oath or affirmation as required under par. (a) 2.

SECTION 44. 48.66 (5) of the statutes is amended to read:

48.66 **(5)** A child welfare agency, group home, ~~day 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).

SECTION 45. 48.67 of the statutes is amended to read:

48.67 Rules governing child welfare agencies, ~~day care centers,~~ foster homes, treatment foster homes, group homes, shelter care facilities, and

county departments. 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. These rules shall be designed to protect and promote the health, safety, and welfare of the children in the care of all licensees. The department shall consult with the department of commerce and the department of public instruction before promulgating these rules. ~~In establishing the minimum requirements for the issuance of licenses to day care centers that provide care and supervision for children under one year of age, the department shall include a requirement that all licensees who are individuals and all employees and volunteers of a licensee who provide care and supervision for children receive, before the date on which the license is issued or the employment or volunteer work commences, whichever is applicable, training in the most current medically accepted methods of preventing sudden infant death syndrome.~~

SECTION 46. 48.68 (1) of the statutes is amended to read:

48.68 **(1)** After receipt of an application for a license, the department shall investigate to determine if the applicant meets the minimum requirements for a license adopted by the department under s. 48.67 and meets the requirements specified in s. 48.685, if applicable. In determining whether to issue or continue a license, the department may consider any action by the applicant, or by an employee of the applicant, that constitutes a substantial failure by the applicant or employee to protect and promote the health, safety, and welfare of a child. Upon satisfactory completion of this investigation and payment of the fee required under s. 48.615 (1) (a) or (b), 48.625 (2) (a), ~~48.65 (3) (a)~~ or 938.22 (7) (b), the department shall issue a

license under s. 48.66 (1) (a) or, if applicable, a probationary license under s. 48.69 or, if applicable, shall continue a license under s. 48.66 (5). At the time of initial licensure and license renewal, the department shall provide a foster home licensee with written information relating to the age–related monthly foster care rates and supplemental payments specified in s. 48.62 (4), including payment amounts, eligibility requirements for supplemental payments and the procedures for applying for supplemental payments.

SECTION 47. 48.685 (1) (b) of the statutes is amended to read:

48.685 **(1)** (b) "Entity" means a child welfare agency that is licensed under s. 48.60 to provide care and maintenance for children, to place children for adoption, or to license foster homes or treatment foster homes; a foster home or treatment foster home that is licensed under s. 48.62; a group home that is licensed under s. 48.625; a shelter care facility that is licensed under s. 938.22; a day care center that is licensed under s. ~~48.65~~ 49.98 or established or contracted for under s. 120.13 (14); a day care provider that is certified under s. ~~48.651~~ 49.156; or a temporary employment agency that provides caregivers to another entity.

SECTION 48. 48.685 (2) (am) (intro.) of the statutes is amended to read:

48.685 **(2)** (am) (intro.) The department of health and family services, the department of workforce development, a county department, a child welfare agency, or a school board shall obtain all of the following with respect to a caregiver specified in sub. (1) (ag) 1. b., a nonclient resident of an entity, and a person under 18 years of age, but not under 12 years of age, who is a caregiver of a day care center that is licensed under s. ~~48.65~~ 49.98 or established or contracted for under s. 120.13 (14) or of a day care provider that is certified under s. ~~48.651~~ 49.156:

SECTION 49. 48.685 (2) (am) 5. of the statutes is amended to read:

48.685 **(2)** (am) 5. Information maintained by the department under this section and under ss. ~~48.651 (2m),~~ 48.75 (1m), 49.156 (2m), 49.988 (1), and 120.13 (14) regarding any denial to the person of a license, continuation or renewal of a license, certification, or a contract to operate an entity for a reason specified in sub. (4m) (a) 1. to 5. and regarding any denial to the person of employment at, a contract with, or permission to reside at an entity for a reason specified in sub. (4m) (b) 1. to 5. If the information obtained under this subdivision indicates that the person has been denied a license, continuation or renewal of a license, certification, a contract, employment, or permission to reside as described in this subdivision, the department of health and family services, the department of workforce development, a county department, a child welfare agency, or a school board need not obtain the information specified in subds. 1. to 4.

SECTION 50. 48.685 (2) (b) 1. e. of the statutes is amended to read:

48.685 **(2)** (b) 1. e. Information maintained by the department under this section and under ss. ~~48.651 (2m),~~ 48.75 (1m), 49.156 (2m), 49.988 (1), and 120.13 (14) regarding any denial to the person of a license, continuation or renewal of a license, certification, or a contract to operate an entity for a reason specified in sub. (4m) (a) 1. to 5. and regarding any denial to the person of employment at, a contract with, or permission to reside at an entity for a reason specified in sub. (4m) (b) 1. to 5. If the information obtained under this subd. 1. e. indicates that the person has been denied a license, continuation or renewal of a license, certification, a contract, employment, or permission to reside as described in this subd. 1. e., the entity need not obtain the information specified in subd. 1. a. to d.

SECTION 51. 48.685 (2) (b) 4. of the statutes is amended to read:

48.685 **(2)** (b) 4. Subdivision 1. does not apply with respect to a person under 18 years of age, but not under 12 years of age, who is a caregiver or nonclient resident of a day care center that is licensed under s. ~~48.65~~ 49.98 or established or contracted for under s. 120.13 (14) or of a day care provider that is certified under s. ~~48.651~~ 49.156 and with respect to whom the department of workforce development, a county department, or a school board is required under par. (am) (intro.) to obtain the information specified in par. (am) 1. to 5.

SECTION 52. 48.685 (2) (bb) of the statutes is amended to read:

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

agency, school board, or entity shall make every reasonable effort to contact the clerk of courts to obtain a copy of the criminal complaint and judgment of conviction relating to that violation.

SECTION 53. 48.685 (2) (bd) of the statutes is amended to read:

48.685 **(2)** (bd) Notwithstanding pars. (am) and (b) 1., the department of health and family services, the department of workforce development, a county department, a child welfare agency, or a school board is not required to obtain the information specified in par. (am) 1. to 5., and an entity is not required to obtain the information specified in par. (b) 1. a. to e., with respect to a person under 18 years of age whose background information form under sub. (6) (am) indicates that the person is not ineligible to be employed, contracted with, or permitted to reside at an entity for a reason specified in sub. (4m) (b) 1. to 5. and with respect to whom the department of health and family services, department of workforce development, county department, child welfare agency, school board, or entity otherwise has no reason to believe that the person is ineligible to be employed, contracted with, or permitted to reside at an entity for any of those reasons. This paragraph does not preclude the department of health and family services, the department of workforce development, a county department, a child welfare agency, or a school board from obtaining, at its discretion, the information specified in par. (am) 1. to 5. with respect to a person described in this paragraph who is a nonclient resident or a prospective nonclient resident of an entity.

SECTION 54. 48.685 (2) (bm) of the statutes is amended to read:

48.685 **(2)** (bm) If the person who is the subject of the search under par. (am) or (b) 1. is not a resident of this state, or if at any time within the 3 years preceding the date of the search that person has not been a resident of this state, or if the

department of health and family services, department of workforce development, county department, child welfare agency, school board, or entity determines that the person's employment, licensing, or state court records provide a reasonable basis for further investigation, the department of health and family services, department of workforce development, county department, child welfare agency, school board, or entity shall make a good faith effort to obtain from any state or other United States jurisdiction in which the person is a resident or was a resident within the 3 years preceding the date of the search information that is equivalent to the information specified in par. (am) 1. or (b) 1. a. The department of health and family services, department of workforce development, county department, child welfare agency, school board, or entity may require the person to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints. The department of justice may provide for the submission of the fingerprint cards to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions.

SECTION 55. 48.685 (3) (a) of the statutes is amended to read:

48.685 **(3)** (a) Every 4 years or at any time within that period that the department of health and family services, the department of workforce development, a county department, a child welfare agency, or a school board considers appropriate, the department of health and family services, department of workforce development, county department, child welfare agency, or school board shall request the information specified in sub. (2) (am) 1. to 5. for all persons who are licensed, certified, or contracted to operate an entity, for all persons who are nonclient residents of an entity, and for all persons under 18 years of age, but not under 12 years of age, who are caregivers of a day care center that is licensed under s. ~~48.65~~

49.98 or established or contracted for under s. 120.13 (4) or of a day care provider that is certified under s. ~~48.651~~ 49.156.

SECTION 56. 48.685 (3) (b) of the statutes is amended to read:

48.685 **(3)** (b) Every 4 years or at any time within that period that an entity considers appropriate, the entity shall request the information specified in sub. (2) (b) 1. a. to e. for all persons who are caregivers of the entity other than persons under 18 years of age, but not under 12 years of age, who are caregivers of a day care center that is licensed under s. ~~48.65~~ 49.98 or established or contracted for under s. 120.13 (14) or of a day care provider that is certified under s. ~~48.651~~ 49.156.

SECTION 57. 48.685 (3m) of the statutes is amended to read:

48.685 **(3m)** Notwithstanding subs. (2) (b) 1. and (3) (b), if the department of health and family services, the department of workforce development, a county department, a child welfare agency, or a school board has obtained the information required under sub. (2) (am) or (3) (a) with respect to a person who is a caregiver specified in sub. (1) (ag) 1. b. and that person is also an employee, contractor, or nonclient resident of an entity, the entity is not required to obtain the information specified in sub. (2) (b) 1. or (3) (b) with respect to that person.

SECTION 58. 48.685 (4m) (a) (intro.) of the statutes is amended to read:

48.685 **(4m)** (a) (intro.) Notwithstanding s. 111.335, and except as provided in par. (ad) and sub. (5), the department of health and family services may not license, or continue or renew the license of, a person to operate an entity, the department of workforce development may not license, or continue the license of, a person to operate a day care center, a county department may not certify a day care provider under s. ~~48.651~~ 49.156, a county department or a child welfare agency may not license, or renew the license of, a foster home or treatment foster home under s. 48.62,

and a school board may not contract with a person under s. 120.13 (14), if the department of health and family services, department of workforce development, county department, child welfare agency, or school board knows or should have known any of the following:

SECTION 59. 48.685 (4m) (a) 1. of the statutes is amended to read:

48.685 **(4m)** (a) 1. That the person has been convicted of a serious crime or, if the person is an applicant for issuance or continuation of a license to operate a day care center or for initial certification under s. ~~48.651~~ 49.156 or for renewal of that certification or if the person is proposing to contract with a school board under s. 120.13 (14) or to renew a contract under that subsection, that the person has been convicted of a serious crime or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime.

SECTION 60. 48.685 (4m) (ad) of the statutes is amended to read:

48.685 **(4m)** (ad) The department of health and family services, a county department, or a child welfare agency may license a foster home or treatment foster home under s. 48.62, the department of workforce development may license a day care center under s. 49.98, a county department may certify a day care provider under s. ~~48.651~~ 49.156, and a school board may contract with a person under s. 120.13 (14), conditioned on the receipt of the information specified in sub. (2) (am) indicating that the person is not ineligible to be licensed, certified, or contracted with for a reason specified in par. (a) 1. to 5.

SECTION 61. 48.685 (4m) (b) 1. of the statutes is amended to read:

48.685 **(4m)** (b) 1. That the person has been convicted of a serious crime or, if the person is a caregiver or nonclient resident of a day care center that is licensed under s. ~~48.65~~ 49.98 or established or contracted for under s. 120.13 (14) or of a day

care provider that is certified under s. ~~48.651~~ 49.156, that the person has been convicted of a serious crime or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime.

SECTION 62. 48.685 (5) (a) of the statutes is amended to read:

48.685 **(5)** (a) The department of health and family services may license to operate an entity, the department of workforce development may license to operate a day care center, a county department may certify under s. ~~48.651~~ 49.156, a county department or a child welfare agency may license under s. 48.62, and a school board may contract with under s. 120.13 (14) a person who otherwise may not be licensed, certified, or contracted with for a reason specified in sub. (4m) (a) 1. to 5., and an entity may employ, contract with, or permit to reside at the entity a person who otherwise may not be employed, contracted with, or permitted to reside at the entity for a reason specified in sub. (4m) (b) 1. to 5., if the person demonstrates to the department of health and family services, the department of workforce development, the county department, the child welfare agency, or the school board or, in the case of an entity that is located within the boundaries of a reservation, to the person or body designated by the tribe under sub. (5d) (a) 3., by clear and convincing evidence and in accordance with procedures established by the department by rule or by the tribe that he or she has been rehabilitated.

SECTION 63. 48.685 (5c) (a) of the statutes is amended to read:

48.685 **(5c)** (a) Any person who is permitted but fails under sub. (5) (a) to demonstrate to the department of health and family services or a child welfare agency that he or she has been rehabilitated may appeal to the secretary of health and family services or his or her designee. Any person who is adversely affected by

a decision of the secretary or his or her designee under this paragraph has a right to a contested case hearing under ch. 227.

SECTION 64. 48.685 (5c) (am) of the statutes is created to read:

48.685 **(5c)** (am) Any person who is permitted but fails under sub. (5) (a) to demonstrate to the department of workforce development that he or she has been rehabilitated may appeal to the secretary of workforce development or his or her designee. Any person who is adversely affected by a decision of the secretary or his or her designee under this paragraph has a right to a contested case hearing under ch. 227.

SECTION 65. 48.685 (5m) of the statutes is amended to read:

48.685 **(5m)** Notwithstanding s. 111.335, the department of health and family services may refuse to license a person to operate an entity, a county department or a child welfare agency may refuse to license a foster home or treatment foster home under s. 48.62, and an entity may refuse to employ or contract with a caregiver or permit a nonclient resident to reside at the entity if the person has been convicted of an offense that is not a serious crime, but that is, in the estimation of the department of health and family services, county department, child welfare agency, or entity, substantially related to the care of a client. Notwithstanding s. 111.335, the department of workforce development may refuse to license a person to operate a day care center, a county department may refuse to certify a day care provider under s. ~~48.651~~ 49.156, a school board may refuse to contract with a person under s. 120.13 (14), a day care center that is licensed under s. ~~48.65~~ 49.98 or established or contracted for under s. 120.13 (14) and a day care provider that is certified under s. ~~48.651~~ 49.156 may refuse to employ or contract with a caregiver or permit a nonclient resident to reside at the day care center or day care provider if the person

has been convicted of or adjudicated delinquent on or after his or her 12th birthday for an offense that is not a serious crime, but that is, in the estimation of the department of workforce development, county department, school board, day care center, or day care provider, substantially related to the care of a client.

SECTION 66. 48.685 (6) (a) of the statutes is amended to read:

48.685 **(6)** (a) The department of health and family services shall require any person who applies for issuance, continuation, or renewal of a license to operate an entity, the department of workforce development shall require any person who applies for issuance or continuation of a license to operate a day care center, a county department shall require any day care provider who applies for initial certification under s. ~~48.651~~ 49.156 or for renewal of that certification, a county department or a child welfare agency shall require any person who applies for issuance or renewal of a license to operate a foster home or treatment foster home under s. 48.62, and a school board shall require any person who proposes to contract with the school board under s. 120.13 (14) or to renew a contract under that subsection, to complete a background information form that is provided by the department.

SECTION 67. 48.685 (6) (b) 1. of the statutes is amended to read:

48.685 **(6)** (b) 1. For caregivers who are licensed by the department~~, for persons under 18 years of age, but not under 12 years of age, who are caregivers of a day care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care provider that is certified under s. 48.651~~ of health and family services, for persons who are nonclient residents of an entity that is licensed by the department of health and family services, and for other persons specified by the department of health and family services by rule, the entity shall send the background information form to the department of health and family services.

SECTION 68. 48.685 (6) (b) 1m. of the statutes is created to read:

48.685 **(6)** (b) 1m. For caregivers who are licensed by the department of workforce development, for persons under 18 years of age, but not under 12 years of age, who are caregivers of a day care center that is licensed under s. 49.98 or established or contracted for under s. 120.13 (14) or of a day care provider that is certified under s. 49.156, for persons who are nonclient residents of an entity that is licensed by the department of workforce development, and for other persons specified by the department of workforce development by rule, the entity shall send the background information form to the department of workforce development.

SECTION 69. 48.685 (8) of the statutes is amended to read:

48.685 **(8)** The department of health and family services, the department of workforce development, a county department, a child welfare agency, or a school board may charge a fee for obtaining the information required under sub. (2) (am) or (3) (a) or for providing information to an entity to enable the entity to comply with sub. (2) (b) 1. or (3) (b). The fee may not exceed the reasonable cost of obtaining the information. No fee may be charged to a nurse's assistant, as defined in s. 146.40 (1) (d), for obtaining or maintaining information if to do so would be inconsistent with federal law.

SECTION 70. 48.69 of the statutes is amended to read:

48.69 Probationary licenses. Except as provided under s. 48.715 (6) and (7), if any child welfare agency, shelter care facility, or group home ~~or day care center~~ that has not been previously issued a license under s. 48.66 (1) (a) applies for a license, meets the minimum requirements for a license established under s. 48.67, and pays the applicable fee referred to in s. 48.68 (1), the department shall issue a probationary license to that child welfare agency, shelter care facility, or group home

~~or day care center~~. A probationary license is valid for up to 6 months after the date of issuance unless renewed under this section or suspended or revoked under s. 48.715. Before a probationary license expires, the department shall inspect the child welfare agency, shelter care facility, or group home ~~or day care center~~ holding the probationary license and, except as provided under s. 48.715 (6) and (7), if the child welfare agency, shelter care facility, or group home ~~or day care center~~ meets the minimum requirements for a license established under s. 48.67, the department shall issue a license under s. 48.66 (1) (a). A probationary license issued under this section may be renewed for one 6–month period.

SECTION 71. 48.715 (1) of the statutes is amended to read:

48.715 **(1)** In this section, "licensee" means a person who holds a license under s. 48.66 (1) (a) or a probationary license under s. 48.69 to operate a child welfare agency, shelter care facility, or group home ~~or day care center~~.

SECTION 72. 48.715 (2) (a) of the statutes is amended to read:

48.715 **(2)** (a) That a person stop operating a child welfare agency, shelter care facility, or group home ~~or day care center~~ if the child welfare agency, shelter care facility, or group home ~~or day care center~~ is without a license in violation of s. 48.66 (1) (a) or a probationary license in violation of s. 48.69.

SECTION 73. 48.715 (4) (c) of the statutes is amended to read:

48.715 **(4)** (c) The licensee or a person under the supervision of the licensee has committed an action or has created a condition relating to the operation or maintenance of the child welfare agency, shelter care facility, or group home ~~or day care center~~ that directly threatens the health, safety, or welfare of any child under the care of the licensee.

SECTION 74. 48.715 (6) of the statutes is amended to read:

48.715 **(6)** The department of health and family services shall deny, suspend, restrict, refuse to renew, or otherwise withhold a license under s. 48.66 (1) (a) or a probationary license under s. 48.69 to operate a child welfare agency, group home, or shelter care facility ~~or day care center~~, and the department of corrections shall deny, suspend, restrict, refuse to renew, or otherwise withhold a license under s. 48.66 (1) (b) to operate a secured child caring institution, for failure of the applicant or licensee to pay court–ordered payments of child or family support, maintenance, birth expenses, medical expenses, or other expenses related to the support of a child or former spouse or for failure of the applicant or licensee to comply, after appropriate notice, with a subpoena or warrant issued by the department of workforce development or a county child support agency under s. 59.53 (5) and related to paternity or child support proceedings, as provided in a memorandum of understanding entered into under s. 49.857. Notwithstanding s. 48.72, an action taken under this subsection is subject to review only as provided in the memorandum of understanding entered into under s. 49.857 and not as provided in s. 48.72.

SECTION 75. 48.715 (7) of the statutes is amended to read:

48.715 **(7)** The department of health and family services shall deny an application for the issuance or continuation of a license under s. 48.66 (1) (a) or a probationary license under s. 48.69 to operate a child welfare agency, group home, or shelter care facility ~~or day care center~~, or revoke such a license already issued, if the department of revenue certifies under s. 73.0301 that the applicant or licensee is liable for delinquent taxes. An action taken under this subsection is subject to review only as provided under s. 73.0301 (5) and not as provided in s. 48.72.

SECTION 76. 48.73 of the statutes is amended to read:

48.73 Inspection of licensees. The department may visit and inspect each child welfare agency, foster home, treatment foster home, and group home ~~and day care center~~ licensed by ~~it~~ the department, and for such purpose shall be given unrestricted access to the premises described in the license.

SECTION 77. 48.735 of the statutes is renumbered 49.998 (1) and amended to read:

49.998 **(1)** ~~**Immunization requirements; day care centers.** The~~ If the department of health and family services finds that there has been a substantial failure by a day care center to comply with the requirements of s. 252.04, that department shall notify the department of workforce development, and the department of workforce development, after notice to ~~a~~ the day care center licensee, may suspend, revoke, or refuse to continue ~~a~~ the licensee's day care center license ~~in any case in which the department finds that there has been a substantial failure to comply with the requirements of s. 252.04~~.

SECTION 78. 48.737 of the statutes is renumbered 49.998 (2) and amended to read:

49.998 **(2)** ~~**Lead screening, inspection and reduction requirements; day care centers.** The~~ If the department of health and family services finds that there has been a substantial failure by a day care center that holds a license under s. 49.98 or a probationary license under s. 49.99 or by a day care provider certified under s. 49.156 to comply with any rule promulgated under s. 254.162, 254.168, or 254.172, that department shall notify the department of workforce development, and the department of workforce development, after notice to ~~a day care provider certified under s. 48.651, or a~~ the day care center ~~that holds a license under s. 48.65 or a probationary license under s. 48.69~~ or day care provider, may suspend, revoke, or

refuse to renew or continue ~~a~~ the license or certification ~~in any case in which the department finds that there has been a substantial failure to comply with any rule promulgated under s. 254.162, 254.168 or 254.172~~ of the day care center or day care provider.

SECTION 79. 48.74 of the statutes is amended to read:

48.74 Authority of department to investigate alleged violations. Whenever the department is advised or has reason to believe that any person is violating ~~any of the provisions of ss.~~ s. 48.60, 48.62, or 48.625 ~~or 48.65, it,~~ the department shall make an investigation to determine the facts. For the purposes of this investigation, ~~it~~ the department shall have authority to inspect the premises where the violation is alleged to occur. If ~~it~~ the department finds that the person is violating any of ~~the specified~~ those sections, ~~it~~ the department may either issue a license if the person is qualified or may institute a prosecution under s. 48.76.

SECTION 80. 48.76 of the statutes is amended to read:

48.76 Penalties. In addition to the sanctions and penalties provided in s. 48.715, any person who violates s. 48.60, 48.62, 48.625, or 48.63 ~~or 48.65~~ may be fined not more than $500 or imprisoned for not more than one year in county jail or both.

SECTION 81. 48.77 of the statutes is amended to read:

48.77 Injunction against violations. In addition to the penalties provided in s. 48.76, the circuit courts shall have jurisdiction to prevent and restrain by injunction violations of s. 48.60, 48.62, 48.625, or 48.63 ~~or 48.65~~. It shall be the duty of the district attorneys, upon request of the department, to institute action for such injunction under ch. 813.

SECTION 82. 49.001 (1) of the statutes is amended to read:

49.001 **(1)** "Child care provider" means a child care provider that is licensed under s. ~~48.65~~ 49.98 (1), certified under s. ~~48.651~~ 49.156, or established or contracted for under s. 120.13 (14).

SECTION 83. 49.136 (1) (b) of the statutes is amended to read:

49.136 **(1)** (b) "Child care provider" means a provider licensed under s. ~~48.65~~ 49.98, certified under s. ~~48.651~~ 49.156, or established or contracted for under s. 120.13 (14).

SECTION 84. 49.136 (1) (e) of the statutes is amended to read:

49.136 **(1)** (e) "Day care program" means a program established and provided by a school board under s. 120.13 (14) or purchased by a school board from a provider licensed under s. ~~48.65~~ 49.98, which combines care for a child who resides with a student parent who is a parent of that child with parenting education and experience for that student parent.

SECTION 85. 49.137 (1) (a) of the statutes is amended to read:

49.137 **(1)** (a) "Child care provider" means a provider licensed under s. ~~48.65~~ 49.98, certified under s. ~~48.651~~ 49.156, or established or contracted for under s. 120.13 (14).

SECTION 86. 49.155 (1) (ag) of the statutes is amended to read:

49.155 **(1)** (ag) "Child care provider" means a provider licensed under s. ~~48.65~~ 49.98, certified under s. ~~48.651~~ 49.156, or established or contracted for under s. 120.13 (14).

SECTION 87. 49.155 (1) (am) of the statutes is amended to read:

49.155 **(1)** (am) "Level I certified family day care provider" means a day care provider certified under s. ~~48.651~~ 49.156 (1) (a).

SECTION 88. 49.155 (1) (b) of the statutes is amended to read:

49.155 **(1)** (b) "Level II certified family day care provider" means a day care provider certified under s. ~~48.651~~ 49.156 (1) (b).

SECTION 89. 49.155 (1d) (a) of the statutes is amended to read:

49.155 **(1d)** (a) The department shall promulgate rules establishing standards for the certification of child care providers under s. ~~48.651~~ 49.156. In establishing the requirements for certification under this paragraph of a child care provider who provides care and supervision for children under one year of age, the department shall include a requirement that all providers and all employees and volunteers of a provider who provide care and supervision for children receive, before the date on which the provider is certified or the employment or volunteer work commences, whichever is applicable, training in the most current medically accepted methods of preventing sudden infant death syndrome. In establishing the requirements for certification as a Level II certified family day care provider, the department may not include any other requirement for training for providers.

SECTION 90. 49.155 (1d) (b) of the statutes is amended to read:

49.155 **(1d)** (b) The department shall promulgate rules to establish quality of care standards for child care providers that are higher than the quality of care standards required for licensure under s. ~~48.65~~ 49.98 or for certification under s. ~~48.651~~ 49.156. The standards established by rules promulgated under this paragraph shall consist of the standards provided for the accreditation of day care centers by the ~~national association for the education of young children~~ National Association for the Education of Young Children or any other comparable standards that the department may establish, including standards regarding the turnover of child care provider staff and the training and benefits provided for child care provider staff.

SECTION 91. 49.155 (1g) (c) of the statutes is repealed.

SECTION 92. 49.155 (3) (b) 5. of the statutes is amended to read:

49.155 **(3)** (b) 5. Certify child care providers under s. ~~48.651~~ 49.156.

SECTION 93. 49.155 (4) of the statutes is amended to read:

49.155 **(4)** CHOICE OF PROVIDER. An eligible individual shall choose whether the child care will be provided by a day care center licensed under s. ~~48.65~~ 49.98, a Level I certified family day care provider, a Level II certified family day care provider, or a day care program provided or contracted for by a school board under s. 120.13 (14).

SECTION 94. 49.857 (1) (d) 3m. of the statutes is created to read:

49.857 **(1)** (d) 3m. A license issued under s. 49.984 (1).

SECTION 95. 49.97 of the statutes is created to read:

49.97 Definition. In this subchapter, "department" means the department of workforce development.

SECTION 96. 49.982 (title) of the statutes is created to read:

49.982 (title) **Information for day care providers and parents.**

SECTION 97. 49.984 of the statutes is created to read:

49.984 Licensing duties of the department. (1) Except as provided in s. 49.992 (6) and (7), the department shall license and supervise day care centers as required by s. 49.98. A license issued under this subsection is valid until revoked or suspended. No license issued under this subsection is transferable.

(2) The department shall prescribe an application form to be used by all applicants for licenses to operate a day care center. In prescribing that form, the department shall require an applicant for a license to operate a day care center who is an individual, other than an individual who does not have a social security number and who submits a statement made or subscribed under oath or affirmation as

required under sub. (3) (a) 2., to provide his or her social security number, and an applicant for a license to operate a day care center who is not an individual to provide the applicant's federal employer identification number.

(3) (a) 1. Except as provided in subd. 2., when initially applying for or applying to continue a license issued under sub. (1) to operate a day care center, an applicant who is an individual shall provide the department with the applicant's social security number, and an applicant who is not an individual shall provide the department with the applicant's federal employer identification number.

2. If an applicant who is an individual does not have a social security number, the applicant shall submit a statement made or subscribed under oath or affirmation to the department that the applicant does not have a social security number. The department shall prescribe the form of the statement. A license issued in reliance upon a false statement submitted under this subdivision is invalid.

(b) If an applicant who is an individual fails to provide the applicant's social security number to the department or if an applicant who is not an individual fails to provide the applicant's federal employer identification number to the department, the department may not issue or continue a license under sub. (1) to operate a day care center to or for the applicant unless the applicant is an individual who does not have a social security number and the applicant submits a statement made or subscribed under oath or affirmation as required under par. (a) 2.

(c) The department of workforce development may not disclose any information obtained under par. (a) 1. to any person except to the department of revenue for the sole purpose of requesting certifications under s. 73.0301 or on the request of the subunit of the department of workforce development that administers the child and spousal support program under s. 49.22 (2m).

(4) The department shall prescribe the form and content of records to be kept and information to be reported by persons licensed by it.

(5) A day care center 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 established under s. 49.986 for a license are met, the application is approved, the applicable fees specified in ss. 48.685 (8) and 49.98 (3) (a) are paid, and any forfeiture under s. 49.992 (3) (a) or penalty under s. 49.999 (1) 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. 49.992 (4) and (4m) (b).

SECTION 98. 49.986 of the statutes is created to read:

49.986 Rules governing day care centers. The department shall promulgate rules establishing minimum requirements for the issuance of licenses to, and establishing standards for the operation of, day care centers. These rules shall be designed to protect and promote the health, safety, and welfare of the children in the care of all licensees. The department shall consult with the department of commerce and the department of public instruction before promulgating these rules. In establishing the minimum requirements for the issuance of licenses to day care centers that provide care and supervision for children under one year of age, the

department shall include a requirement that all licensees who are individuals and all employees and volunteers of a licensee who provide care and supervision for children receive, before the date on which the license is issued or the employment or volunteer work commences, whichever is applicable, training in the most current medically accepted methods of preventing sudden infant death syndrome.

SECTION 99. 49.988 of the statutes is created to read:

49.988 Investigation of applicant; issuance of license; provisions of licensure. (1) After receipt of an application for a license, the department shall investigate to determine if the applicant meets the minimum requirements for a license promulgated by the department by rule under s. 49.986 and meets the requirements specified in s. 48.685. In determining whether to issue or continue a license, the department may consider any action by the applicant, or by an employee of the applicant, that constitutes a substantial failure by the applicant or employee to protect and promote the health, safety, and welfare of a child. Upon satisfactory completion of this investigation and payment of the fee required under s. 49.98 (3) (a), the department shall issue a license under s. 49.984 (1) or, if applicable, a probationary license under s. 49.99 or, if applicable, shall continue a license under s. 49.984 (5). The department shall provide the department of health and family services with information about each person who is denied a license for a reason specified in s. 48.685 (4m) (a) 1. to 5.

(2) Each license shall state the name of the person licensed, the premises included under the license, the maximum number of children who can be received and their ages and sex, and such additional information and special conditions as the department may prescribe.

SECTION 100. 49.99 of the statutes is created to read:

49.99 Probationary licenses. Except as provided under s. 49.992 (6) and (7), if any day care center that has not been previously issued a license under s. 49.984 (1) applies for a license, meets the minimum requirements established under s. 49.986 for a license, and pays the applicable fee specified in s. 49.98 (3) (a), the department shall issue a probationary license to that day care center. A probationary license is valid for up to 6 months after the date of issuance unless renewed under this section or suspended or revoked under s. 49.992. Before a probationary license expires, the department shall inspect the day care center holding the probationary license and, except as provided under s. 49.992 (6) and (7), if the day care center meets the minimum requirements established under s. 49.986 for a license, the department shall issue a license under s. 49.984 (1). A probationary license issued under this section may be renewed for one 6–month period.

SECTION 101. 49.992 of the statutes is created to read:

49.992 Sanctions and penalties. (1) In this section, "licensee" means a person who holds a license under s. 49.984 (1) or a probationary license under s. 49.99 to operate a day care center.

(2) If the department provides written notice of the grounds for a sanction, an explanation of the types of sanctions that may be imposed under this subsection, and an explanation of the process for appealing a sanction imposed under this subsection, the department may order any of the following sanctions:

(a) That a person stop operating a day care center if the day care center is without a license in violation of s. 49.984 (1) or a probationary license in violation of s. 49.99.

(b) That a person who employs a person who has had a license under s. 49.984 (1) or a probationary license under s. 49.99 revoked within the previous 5 years

terminate the employment of that person within 30 days after the date of the order. This paragraph includes employment of a person in any capacity, whether as an officer, director, agent, or employee.

(c) That a licensee stop violating any provision of licensure under s. 49.988 (2) or rules promulgated by the department under s. 49.986.

(d) That a licensee submit a plan of correction for violation of any provision of licensure under s. 49.988 (2) or rule promulgated by the department under s. 49.986.

(e) That a licensee implement and comply with a plan of correction provided by the department or previously submitted by the licensee and approved by the department.

(f) That a licensee close the intake of any new children until all violations of the provisions of licensure under s. 49.988 (2) and the rules promulgated by the department under s. 49.986 are corrected.

(g) That a licensee provide training for the licensee's staff members as specified by the department.

(3) If the department provides written notice of the grounds for a penalty, an explanation of the types of penalties that may be imposed under this subsection, and an explanation of the process for appealing a penalty imposed under this subsection, the department may impose any of the following penalties against a licensee or any other person who violates a provision of licensure under s. 49.988 (2) or rule promulgated by the department under s. 49.986 or who fails to comply with an order issued under sub. (2) by the time specified in the order:

(a) A daily forfeiture amount per violation of not less than $10 nor more than $1,000. All of the following apply to a forfeiture under this paragraph:

1. Within the limits specified in this paragraph, the department may, by rule, set daily forfeiture amounts and payment deadlines based on the size and type of facility or agency and the seriousness of the violation. The department may set daily forfeiture amounts that increase periodically within the statutory limits if there is continued failure to comply with an order issued under sub. (2).

2. The department may directly assess a forfeiture imposed under this paragraph by specifying the amount of that forfeiture in the notice provided under this subsection.

3. A person against whom the department has assessed a forfeiture shall pay that forfeiture to the department within 10 days after receipt of notice of the assessment or, if that person contests that assessment under s. 49.994, within 10 days after receipt of the final decision after exhaustion of administrative review or, if that person petitions for judicial review under ch. 227, within 10 days after receipt of the final decision after exhaustion of judicial review. The department shall remit all forfeitures paid under this subdivision to the secretary of administration for deposit into the school fund.

4. The attorney general may bring an action in the name of the state to collect any forfeiture imposed under this paragraph that has not been paid as provided in subd. 3. The only contestable issue in an action under this subdivision is whether or not the forfeiture has been paid.

(b) Suspension of the licensee's license for not more than 2 weeks.

(c) Refusal to continue a license or a probationary license.

(d) Revocation of a license or a probationary license as provided in sub. (4).

(4) If the department provides written notice of revocation and the grounds for revocation as provided in sub. (4m) and an explanation of the process for appealing

a revocation under this subsection, the department may revoke a license issued under s. 49.984 (1) or a probationary license issued under s. 49.99 for any of the following reasons:

(a) The department has imposed a penalty on the licensee under sub. (3) and the licensee or a person under the supervision of the licensee either continues to violate or resumes violation of a rule promulgated under s. 49.986, a provision of licensure under s. 49.988 (2), or an order under this section forming any part of the basis for the penalty.

(b) The licensee or a person under the supervision of the licensee has committed a substantial violation, as determined by the department, of a rule promulgated under s. 49.986, a provision of licensure under s. 49.988 (2), or an order under this section.

(c) The licensee or a person under the supervision of the licensee has committed an action or has created a condition relating to the operation or maintenance of the day care center that directly threatens the health, safety, or welfare of any child under the care of the licensee.

(d) The licensee or a person under the supervision of the licensee has violated, as determined by the department, a rule promulgated under s. 49.986, a provision of licensure under s. 49.988 (2), or an order under this section that is the same as or similar to a rule promulgated under s. 49.986, a provision of licensure under s. 49.988 (2), or an order under this section that the licensee or a person under the supervision of the licensee has violated previously.

(e) The licensee has failed to apply for a continuance of the license within 30 days after receipt of the warning under s. 49.984 (5).

(4m) (a) For a revocation under sub. (4) (a) or (d), the department shall provide to the licensee written notice of the revocation and the grounds for revocation not less than 30 days before the date of the revocation. The revocation will take effect only if the violation on which the revocation is based remains substantially uncorrected at the end of the 30–day notice period.

(b) For revocations under sub. (4) (b), (c), or (e), the department may revoke the license or probationary license immediately upon written notice to the licensee of the revocation and the grounds for revocation.

(5) The department may deny a license under s. 49.984 (1) or a probationary license under s. 49.99 to any person who has had a license under s. 49.984 (1) or a probationary license under s. 49.99 revoked within the previous 5 years.

(6) The department shall deny, suspend, restrict, refuse to renew, or otherwise withhold a license under s. 49.984 (1) or a probationary license under s. 49.99 to operate a day care center for failure of the applicant or licensee to pay court–ordered payments of child or family support, maintenance, birth expenses, medical expenses, or other expenses related to the support of a child or former spouse or for failure of the applicant or licensee to comply, after appropriate notice, with a subpoena or warrant issued by the department or a county child support agency under s. 59.53 (5) and related to paternity or child support proceedings, as provided in a memorandum of understanding entered into under s. 49.857. Notwithstanding s. 49.994, an action taken under this subsection is subject to review only as provided in the memorandum of understanding entered into under s. 49.857 and not as provided in s. 49.994.

(7) The department of workforce development shall deny an application for the issuance or continuation of a license under s. 49.984 (1) or a probationary license

under s. 49.99 to operate a day care center, or revoke such a license already issued, if the department of revenue certifies under s. 73.0301 that the applicant or licensee is liable for delinquent taxes. An action taken under this subsection is subject to review only as provided under s. 73.0301 (5) and not as provided in s. 49.994.

SECTION 102. 49.994 of the statutes is created to read:

49.994 Appeal procedure. Except as provided in s. 49.992 (6) and (7), any person aggrieved by the department's refusal or failure to issue, renew, or continue a license or by any action taken by the department under s. 49.992 has the right to an administrative hearing provided for contested cases in ch. 227. To receive an administrative hearing under ch. 227, the aggrieved person shall send to the department a written request for a hearing under s. 227.44 within 10 days after the date of the department's refusal or failure to issue, renew, or continue a license or the department's action taken under s. 49.992. The department shall hold an administrative hearing under s. 227.44 within 30 days after receipt of the request for the administrative hearing unless the aggrieved person consents to an extension of that time period. Judicial review of the department's decision may be had as provided in ch. 227.

SECTION 103. 49.996 of the statutes is created to read:

49.996 Inspection and investigation of licensees. (1) The department may visit and inspect each day care center licensed by the department, and for such purpose shall be given unrestricted access to the premises described in the license.

(2) Whenever the department is advised or has reason to believe that any person is violating s. 49.98, the department shall make an investigation to determine the facts. For the purposes of this investigation, the department shall have authority to inspect the premises where the violation is alleged to occur. If the department

finds that the person is violating s. 49.98, the department may either issue a license if the person is qualified or may institute an action for the penalties and injunction specified under s. 49.999 (1).

SECTION 104. 49.998 (title) of the statutes is created to read:

49.998 (title) **Immunization and lead screening requirements.**

SECTION 105. 49.999 of the statutes is created to read:

49.999 Penalties and injunctions. (1) In addition to the sanctions and penalties provided in s. 49.992, any person who violates s. 49.98 may be fined not more than $500 or imprisoned for not more than one year in county jail or both.

(2) In addition to the penalties provided in sub. (1), the circuit courts shall have jurisdiction to prevent and restrain by injunction violations of s. 49.98. It shall be the duty of the district attorneys, upon request of the department, to institute action for such injunction under ch. 813.

SECTION 106. 66.1017 (1) (a) of the statutes is amended to read:

66.1017 **(1)** (a) "Family day care home" means a dwelling licensed as a day care center by the department of ~~health and family services under s. 48.65~~ workforce development under s. 49.98 where care is provided for not more than 8 children.

SECTION 107. 66.1017 (2) of the statutes is amended to read:

66.1017 **(2)** No municipality may prevent a family day care home from being located in a zoned district in which a single–family residence is a permitted use. No municipality may establish standards or requirements for family day care homes different from the licensing standards established under s. ~~48.65~~ 49.98. This subsection does not prevent a municipality from applying to a family day care home the zoning regulations applicable to other dwellings in the zoning district in which it is located.

SECTION 108. 71.07 (2dd) (a) 1. of the statutes is amended to read:

71.07 **(2dd)** (a) 1. "Day care center benefits" means benefits provided at a day care facility that is licensed under s. ~~48.65 or 48.69~~ 49.98 or 49.99 and that for compensation provides care for at least 6 children or benefits provided at a facility for persons who are physically or mentally incapable of caring for themselves.

SECTION 109. 71.28 (1dd) (a) 1. of the statutes is amended to read:

71.28 **(1dd)** (a) 1. "Day care center benefits" means benefits provided at a day care facility that is licensed under s. ~~48.65 or 48.69~~ 49.98 or 49.99 and that for compensation provides care for at least 6 children or benefits provided at a facility for persons who are physically or mentally incapable of caring for themselves.

SECTION 110. 71.47 (1dd) (a) 1. of the statutes is amended to read:

71.47 **(1dd)** (a) 1. "Day care center benefits" means benefits provided at a day care facility that is licensed under s. ~~48.65 or 48.69~~ 49.98 or 49.99 and that for compensation provides care for at least 6 children or benefits provided at a facility for persons who are physically incapable of caring for themselves.

SECTION 111. 73.0301 (1) (d) 2. of the statutes is amended to read:

73.0301 **(1)** (d) 2. A license issued by the department of health and family services under s. 48.66 (1) (a) to a child welfare agency, group home, or shelter care facility ~~or day care center~~, as required by s. 48.60, 48.625, ~~48.65~~ or 938.22 (7).

SECTION 112. 73.0301 (1) (d) 2m. of the statutes is created to read:

73.0301 **(1)** (d) 2m. A license issued by the department of workforce development under s. 49.984 (1) day care center, as required by s. 49.98.

SECTION 113. 77.54 (20) (c) 4. of the statutes is amended to read:

77.54 **(20)** (c) 4. Taxable sales do not include meals, food, food products, or beverages sold by hospitals, sanatoriums, nursing homes, retirement homes,

community–based residential facilities, as defined in s. 50.01 (1g), or day care centers ~~registered~~ licensed under ch. ~~48~~ 49 and served at a hospital, sanatorium, nursing home, retirement home, community–based residential facility, or day care center. In this subdivision "retirement home" means a nonprofit residential facility where 3 or more unrelated adults or their spouses have their principal residence and where support services, including meals from a common kitchen, are available to residents. Taxable sales do not include meals, food, food products, or beverages sold to the elderly or handicapped by persons providing "mobile meals on wheels".

SECTION 114. 120.13 (14) of the statutes is amended to read:

120.13 **(14)** DAY CARE PROGRAMS. Establish and provide or contract for the provision of day care programs for children. The school board may receive federal or state funds for this purpose. The school board may charge a fee for all or part of the cost of the service for participation in a day care program established under this subsection. Costs associated with a day care program under this subsection may not be included in shared costs under s. 121.07 (6). Day care programs established under this subsection shall meet the standards for licensed day care centers established by the department of ~~health and family services~~ workforce development. If a school board proposes to contract for or renew a contract for the provision of a day care program under this subsection or if on July 1, 1996, a school board is a party to a contract for the provision of a day care program under this subsection, the school board shall refer the contractor or proposed contractor to the department of health and family services for the criminal history and child abuse record search required under s. 48.685. Each school board shall provide the department of health and family services with information about each person who is denied a contract for a reason specified in s. 48.685 (4m) (a) 1. to 5.

SECTION 115. 231.01 (3m) (a) of the statutes is amended to read:

231.01 **(3m)** (a) Holds a license under s. ~~48.65~~ 49.98, is certified under s. ~~48.651~~ 49.156, is provisionally licensed under s. ~~48.69~~ 49.99, or is established or contracted for under s. 120.13 (14).

SECTION 116. 254.162 (1) (c) of the statutes is amended to read:

254.162 **(1)** (c) Day care providers certified under s. ~~48.651~~ 49.156 and day care centers licensed under s. ~~48.65~~ 49.98, provisionally licensed under s. ~~48.65~~ 49.99, or established or contracted for under s. 120.13 (14).

SECTION 117. 254.168 (4) of the statutes is amended to read:

254.168 **(4)** A day care provider certified under s. ~~48.651~~ 49.156.

SECTION 118. 254.168 (5) of the statutes is amended to read:

254.168 **(5)** A day care center licensed under s. ~~48.65~~ 49.98, provisionally licensed under s. ~~48.65~~ 49.99, or established or contracted for under s. 120.13 (14).

SECTION 119. 301.46 (4) (a) 2. of the statutes is amended to read:

301.46 **(4)** (a) 2. A day care provider that holds a license under s. ~~48.65~~ 49.98, that is certified under s. ~~48.651~~ 49.156, that holds a probationary license under s. ~~48.65~~ 49.99, or that is established or contracted for under s. 120.13 (14).

SECTION 120. 562.06 (3) of the statutes is amended to read:

562.06 **(3)** DAY CARE. Nothing in this section prohibits a licensee from operating a day care area at a track if the day care area is licensed by the department of ~~health and family services~~ workforce development under s. ~~48.65~~ 49.98.

SECTION 9121. Nonstatutory provisions; health and family services.

(1) TRANSFER OF DAY CARE CENTER LICENSING.

(a) *Assets and liabilities.* On the effective date of this paragraph, the assets and liabilities of the department of health and family services primarily related to the

licensing of day care centers, as determined by the secretary of administration, shall become the assets and liabilities of the department of workforce development.

(b) *Employee transfers.* All positions and all incumbent employees holding those positions in the department of health and family services primarily related to the licensing of day care centers, as determined by the secretary of administration, are transferred on the effective date of this paragraph to the department of workforce development.

(c) *Employee status.* Employees transferred under paragraph (b) have all the rights and the same status under subchapter V of chapter 111 and chapter 230 of the statutes in the department of workforce development that they enjoyed in the department of health and family services immediately before the transfer. Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who has attained permanent status in class is required to serve a probationary period.

(d) *Contracts.* All contracts entered into by the department of health and family services in effect on the effective date of this paragraph that are primarily related to the licensing of day care centers, as determined by the secretary of administration, remain in effect and are transferred to the department of workforce development. The department of workforce development shall carry out any obligations under such a contract until the contract is modified or rescinded by the department of workforce development to the extent allowed under the contract.

(e) *Rules and orders.* All rules promulgated by the department of health and family services that are in effect on the effective date of this paragraph and that are primarily related to the licensing of day care centers remain in effect until their specified expiration dates or until amended or repealed by the department of workforce development. All orders issued by the department of health and family

services that are in effect on the effective date of this paragraph and that are primarily related to the licensing of day care centers remain in effect until their specified expiration dates or until modified or rescinded by the department of workforce development.

(f) *Pending matters.* Any matter pending with the department of health and family services on the effective date of this paragraph that is primarily related to the licensing of day care centers is transferred to the department of workforce development and all materials submitted to or actions taken by the department of health and family services with respect to the pending matter are considered as having been submitted to or taken by the department of workforce development.

SECTION 9221. Appropriation changes; health and family services.

(1) TRANSFER OF DAY CARE CENTER LICENSING. The unencumbered balance in the appropriation account under section 20.435 (3) (jm) of the statutes, as affected by this act, that is attributable to day care center licensing and fees received by the department of health and family services under section 48.65 (3) (a), 2003 stats., as determined by the secretary of administration, is transferred to the appropriation account under section 20.445 (3) (jm) of the statutes, as created by this act.

(END)

Drafter Date GMM: kjf

Ecrin:

This redraft simply makes some technical changes at page 7, lines 16 and 24, page 8, line 7, page 10, lines 17 to 20, and at page 27, lines 7 and 17 to 18.

GMM