

## 2007 SENATE BILL 350

December 10, 2007 – Introduced by LAW REVISION COMMITTEE. Referred to  
Committee on Judiciary, Corrections, and Housing.

1     **AN ACT** *to repeal* 48.982 (1) (c) and 48.983 (1) (g); *to renumber* 48.981 (1) (d),  
2           49.137 (1) (a) and 101.123 (1) (a); *to renumber and amend* 49.136 (1) (d),  
3           49.136 (1) (e), 49.137 (1) (b) and 49.137 (1) (d); and *to amend* 13.48 (2) (j), 13.83  
4           (4) (a) 4., 16.85 (1), 20.437 (2) (jm), 36.25 (26), 48.195 (2) (a), 48.195 (2) (b),  
5           48.195 (2) (c), 48.32 (1) (b) 1. c., 48.33 (4) (c), 48.335 (3g) (c), 48.345 (2m), 48.355  
6           (2) (b) 6., 48.355 (2c) (a) 3. c., 48.356 (1), 48.365 (2g) (b) 2., 48.365 (2m) (a) 1.,  
7           48.38 (5) (c) 7., 48.47 (7) (cm), 48.48 (10), subchapter XV (title) of chapter 48  
8           [precedes 48.65], 48.65 (title), 48.65 (1), 48.65 (3) (a), 48.65 (3) (b), 48.651 (title),  
9           48.651 (1) (intro.), 48.651 (1) (a), 48.651 (1) (b), 48.653, 48.655, 48.656, 48.657  
10          (title), 48.657 (1) (intro.), 48.657 (1) (a), 48.657 (1) (b), 48.657 (1) (c), 48.657 (2),  
11          48.657 (2g), 48.657 (2r), 48.657 (3), subchapter XVI (title) of chapter 48  
12          [precedes 48.66], 48.66 (1) (a), 48.66 (2), 48.66 (2m) (a) 1., 48.66 (2m) (b), 48.66  
13          (5), 48.67, 48.685 (1) (b), 48.685 (2) (am) (intro.), 48.685 (2) (b) 4., 48.685 (3) (a),  
14          48.685 (3) (b), 48.685 (4m) (a) (intro.), 48.685 (4m) (a) 1., 48.685 (4m) (ad),

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1 48.685 (4m) (b) 1., 48.685 (5m), 48.685 (6) (a), 48.685 (6) (b) 1., 48.69, 48.715 (1),  
2 48.715 (2) (a), 48.715 (4) (c), 48.715 (6), 48.715 (7), 48.73, 48.735, 48.737, 48.78  
3 (1), 48.78 (2) (a), 48.981 (2) (a) 18., 48.981 (2) (a) 19., 49.136 (1) (j), 49.136 (1)  
4 (k), 49.136 (2) (b), 49.137 (1) (e), 49.155 (1) (am), 49.155 (1) (b), 49.155 (1d) (a),  
5 49.155 (1d) (b), 49.155 (1g) (a) 2., 49.155 (4), 49.155 (6) (b), 49.155 (6) (c), 49.155  
6 (6) (cm), 66.1017 (title), 66.1017 (1) (a), 66.1017 (2), 71.07 (2dd) (a) 1., 71.28  
7 (1dd) (a) 1., 71.47 (1dd) (a) 1., 73.0301 (1) (d) 2., 77.54 (20) (c) 4., 101.123 (1) (ad),  
8 101.123 (2) (bm), 101.123 (4) (a) 2., 115.812 (1), 115.817 (8), 118.51 (2), 120.125  
9 (title), 120.125 (1), 120.125 (2) (a) (intro.), 120.125 (2) (a) 3., 120.125 (2) (a) 4.,  
10 120.125 (2) (b), 120.125 (2) (c), 120.125 (3) (a) (intro.), 120.125 (3) (a) 1., 120.125  
11 (3) (a) 2., 120.125 (3) (a) 3., 120.125 (3) (b), 120.125 (4) (intro.), 120.125 (4) (a),  
12 120.125 (4) (b), 120.125 (4) (c), 120.125 (4) (d), 120.125 (4) (e), 120.125 (4) (f),  
13 120.125 (4) (g), 120.125 (4) (h), 120.13 (14), 120.13 (36), 121.54 (2) (am), 121.545  
14 (2), 234.83 (3) (a) 2., 252.04 (2), 252.04 (3), 252.04 (4), 252.04 (5) (a), 252.04 (5)  
15 (b) 1., 252.04 (5) (b) 2., 252.04 (5) (b) 3., 252.04 (6), 252.21 (1), 253.15 (2), 253.15  
16 (4), 254.162 (1) (c), 254.168 (4), 254.168 (5), 285.63 (10) (d) 5., 301.12 (14) (a),  
17 301.46 (4) (a) 2., 562.06 (3), 767.511 (1m) (e), 905.04 (4) (e) 1. b., 938.32 (1) (c)  
18 1. c., 938.33 (4) (c), 938.335 (3g) (c), 938.34 (2) (b), 938.355 (2) (b) 6., 938.355 (2c)  
19 (a) 3. c., 938.356 (1), 938.365 (2g) (b) 2., 938.365 (2m) (a) 1., 938.38 (5) (c) 7.,  
20 948.53 (1) (a), 980.01 (1j) and 980.02 (1) (b) 3. of the statutes; **relating to:**  
21 required judicial findings and orders when a child is placed outside the home,  
22 termination of parental rights warnings, mandatory child abuse or neglect  
23 reporters, the confidentiality of social services records, changing from child  
24 caring institution to residential care center for children and youth the term  
25 used to describe a facility operated by a licensed child welfare agency for the

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1 care and maintenance of children residing in that facility, changing from day  
2 care to child care the term used to describe care and supervision for children for  
3 less than 24 hours a day, and renumbering the definition of neglect (suggested  
4 as remedial legislation by the Department of Health and Family Services).

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***Analysis by the Legislative Reference Bureau******Introduction***

This bill makes various changes to the Children’s Code and the Juvenile Justice Code, including changes relating to required judicial findings and orders when a child is placed outside the home, termination of parental rights (TPR) warnings, mandatory child abuse or neglect reporters, the confidentiality of social services records, changing from “child caring institution” to “residential care center for children and youth” the term used to describe a facility operated by a licensed child welfare agency for the care and maintenance of children residing in that facility, changing from “day care” to “child care” the term used to describe care and supervision for children for less than 24 hours a day, and renumbering from the section of the Children’s Code relating to child abuse and neglect reporting to the definitions section of that code the definition of “neglect.”

***Required judicial findings and orders when child placed outside the home***

Under current law, a court assigned to exercise jurisdiction under the Children’s Code and the Juvenile Justice Code (juvenile court) is required to include in a dispositional order placing a child outside the home, in an extension of a dispositional order continuing the placement of a child outside the home, and in a consent decree maintaining a child in a placement outside the home findings that continued placement of the child in the home would be contrary to the welfare of the child, that reasonable efforts have been made to prevent the removal of the child from the home, and that reasonable efforts have been made to achieve the goal of the child’s permanency plan, which is a plan designed to ensure that the child is reunified with his or her family whenever appropriate or that the child quickly attains a placement providing long-term stability.

The juvenile court, however, is not required to make a finding that reasonable efforts have been made to achieve the goal of the child’s permanency plan if return of the child to the home is the goal of the permanency plan and the juvenile court has found that a parent has committed certain crimes of homicide against a child of the parent; has committed battery, sexual assault, or physical or sexual abuse resulting in great bodily harm or substantial bodily harm to a child of the parent; has had his or her parental rights terminated with respect to another child; or has subjected the child to aggravated circumstances, which are defined as including criminal abandonment, torture, chronic abuse, and sexual abuse. This bill eliminates that exception to the requirement that the juvenile court make a finding that reasonable efforts have been made to achieve the goal of the child’s permanency plan.

**SENATE BILL 350*****TPR warnings***

Under current law, when the juvenile court orders a child to be placed outside the home because the child has been adjudged to be in need of protection or services under a dispositional order, a change-in-placement order, a revision of a dispositional order, or an extension of a dispositional order, the juvenile court is required to inform orally the parent or parents who appear in juvenile court of any grounds for TPR that may be applicable and of the conditions necessary for the child to be returned to the home. This bill requires a TPR warning to be given also when the juvenile court orders a child to be placed outside the home because the child has been adjudged delinquent and when the juvenile court holds a hearing to review a child's permanency plan.

***Mandatory child abuse or neglect reporters***

Current law requires certain persons who have reasonable cause to suspect that a child seen in the course of professional duties has been abused or neglected to report that suspected abuse or neglect to the sheriff or police department or to the county department or, in Milwaukee County, the Department of Health and Family Services (DHFS) or a child welfare agency under contract with DHFS (mandatory reporter). Currently, a child care worker in a group home that is authorized solely to provide a safe and structured living arrangement for children 12 years of age or over who are custodial parents or expectant mothers is a mandatory reporter. This bill makes a child care worker in any group home a mandatory reporter.

***Confidentiality of social services records***

Under the current Juvenile Justice Code, the Department of Corrections (DOC), a county department, or a child welfare agency, subject to certain exceptions, is required to maintain the confidentiality of records kept or information received about an individual *who is or was* in its care or legal custody. Under the current Children's Code, DHFS, a county department, a child welfare agency, or a day care center (collectively "agency"), subject to certain exceptions, is required to maintain the confidentiality of records kept or information received about an individual who is currently in its care or legal custody. This bill conforms the Children's Code to the Juvenile Justice Code by requiring an agency to maintain the confidentiality of records kept or information received about an individual *who is or was* in its care or legal custody.

***Residential care centers for children and youth***

Under current law, a "residential care center for children and youth" is defined as a facility operated by a licensed child welfare agency for the care and maintenance of children residing in that facility. Under prior law, what is currently called a "residential care center for children and youth" was called a "child caring institution." Certain references to "child caring institution," however, remain in the statutes. This bill changes those references to "residential care center for children and youth."

***Child care***

Current law requires a person who for compensation provides care and supervision for four or more children under the age of seven for less than 24 hours

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a day to obtain a license from DHFS to operate a day care center. Current law also permits a school board to provide or contract for the provision of day care programs for children. In addition, current law requires a person who is not licensed to operate a day care center or who is not under contract with a school board to provide a day care program to be certified as a day care provider by a county department of human services or social services to receive reimbursement under the Wisconsin Works program for child care services provided by the person. Current law also includes numerous other references to facilities and services involved in the care of children for less than 24 hours a day that include the term “day care.” This bill changes the term used to describe care and supervision for children for less than 24 hours a day from “day care” to “child care.”

***Neglect***

Under current law, “neglect” is defined in the section of the Children’s Code relating to child abuse and neglect reporting as failure, refusal, or inability on the part of a parent, guardian, legal custodian, or other person exercising temporary or permanent control over a child, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care, or shelter so as to seriously endanger the physical health of the child. This bill moves that definition to the definitions section of the Children’s Code, thereby making it applicable throughout that code.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Health and Family Services and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

- 1           **SECTION 1.** 13.48 (2) (j) of the statutes is amended to read:
- 2           13.48 (2) (j) No later than the first day of the 7th month after the effective date
- 3           of each biennial budget act, the director of the office of state employment relations
- 4           shall report to the building commission, in writing, regarding the desirability of
- 5           including plans for day child care facility space in the plans for any construction or
- 6           major remodeling project, enumerated in the state building program in the biennial
- 7           budget act, for any state office building. Based upon the report of the director of the

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1 office of state employment relations, the building commission may direct that plans  
2 for day child care facility space be included in the plans for that construction or major  
3 remodeling project.

4 **SECTION 2.** 13.83 (4) (a) 4. of the statutes is amended to read:

5 13.83 (4) (a) 4. Ways in which the results from the scientific study of attachment  
6 and brain development can be incorporated into public schools, day child care  
7 centers, and homes.

8 **SECTION 3.** 16.85 (1) of the statutes is amended to read:

9 16.85 (1) To take charge of and supervise all engineering or architectural  
10 services or construction work, as defined in s. 16.87, performed by, or for, the state,  
11 or any department, board, institution, commission, or officer thereof of the state,  
12 including nonprofit-sharing corporations organized for the purpose of assisting the  
13 state in the construction and acquisition of new buildings or improvements and  
14 additions to existing buildings as contemplated under ss. 13.488, 36.09, and 36.11,  
15 except the engineering, architectural, and construction work of the department of  
16 transportation, and the engineering service performed by the department of  
17 commerce, department of revenue, public service commission, department of health  
18 and family services, and other departments, boards, and commissions when the  
19 service is not related to the maintenance, and construction and planning, of the  
20 physical properties of the state. The department shall may not authorize  
21 construction work for any state office facility in the city of Madison after May 11,  
22 1990, unless the department first provides suitable space for a day child care center  
23 primarily for use by children of state employees.

24 **SECTION 4.** 20.437 (2) (jm) of the statutes, as affected by 2007 Wisconsin Act  
25 20, is amended to read:

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1           20.437 (2) (jm) *Licensing activities.* The amounts in the schedule for the costs  
2 of licensing child welfare agencies under s. 48.60, foster homes and treatment foster  
3 homes under s. 48.62, group homes under s. 48.625, day child care centers under s.  
4 48.65, and shelter care facilities under s. 938.22 (7). All moneys received for these  
5 licensing activities and from fees under ss. 48.615, 48.625, 48.65 (3), and 938.22 (7)  
6 (b) and (c) shall be credited to this appropriation account.

7           **SECTION 5.** 36.25 (26) of the statutes is amended to read:

8           36.25 (26) DAY CHILD CARE CENTERS. A college campus may establish a day child  
9 care center and may use funds received from the appropriation under s. 20.285 (1)  
10 (a) to operate it.

11           **SECTION 6.** 48.195 (2) (a) of the statutes is amended to read:

12           48.195 (2) (a) Except as provided in this paragraph, a parent who relinquishes  
13 custody of a child under sub. (1) and any person who assists the parent in that  
14 relinquishment have the right to remain anonymous. The exercise of that right shall  
15 not affect the manner in which a law enforcement officer, emergency medical  
16 technician, or hospital staff member performs his or her duties under this section.  
17 No person may induce or coerce or attempt to induce or coerce a parent or person  
18 assisting a parent who wishes to remain anonymous into revealing his or her  
19 identity, unless the person has reasonable cause to suspect that the child has been  
20 the victim of abuse or neglect, ~~as defined in s. 48.981 (1) (d),~~ or that the person  
21 assisting the parent is coercing the parent into relinquishing custody of the child.

22           **SECTION 7.** 48.195 (2) (b) of the statutes is amended to read:

23           48.195 (2) (b) A parent who relinquishes custody of a child under sub. (1) and  
24 any person who assists the parent in that relinquishment may leave the presence of  
25 the law enforcement officer, emergency medical technician, or hospital staff member

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1 who took custody of the child at any time, and no person may follow or pursue the  
2 parent or person assisting the parent, unless the person has reasonable cause to  
3 suspect that the child has been the victim of abuse or neglect, ~~as defined in s. 48.981~~  
4 ~~(1) (d)~~, or that the person assisting the parent has coerced the parent into  
5 relinquishing custody of the child.

6 **SECTION 8.** 48.195 (2) (c) of the statutes is amended to read:

7 48.195 (2) (c) No officer, employee, or agent of this state or of a political  
8 subdivision of this state may attempt to locate or ascertain the identity of a parent  
9 who relinquishes custody of a child under sub. (1) or any person who assists the  
10 parent in that relinquishment, unless the officer, employee, or agent has reasonable  
11 cause to suspect that the child has been the victim of abuse or neglect, ~~as defined in~~  
12 ~~s. 48.981 (1) (d)~~, or that the person assisting the parent has coerced the parent into  
13 relinquishing custody of the child.

14 **SECTION 9.** 48.32 (1) (b) 1. c. of the statutes, as affected by 2007 Wisconsin Act  
15 20, is amended to read:

16 48.32 (1) (b) 1. c. A finding as to whether the county department, department,  
17 or agency has made reasonable efforts to achieve the goal of the child's permanency  
18 plan, ~~unless return of the child to the home is the goal of the permanency plan and~~  
19 ~~the judge or circuit court commissioner finds that any of the circumstances specified~~  
20 ~~in s. 48.355 (2d) (b) 1. to 5. applies.~~

21 **SECTION 10.** 48.33 (4) (c) of the statutes is amended to read:

22 48.33 (4) (c) Specific information showing that continued placement of the child  
23 in his or her home would be contrary to the welfare of the child, specific information  
24 showing that the county department, the department, in a county having a  
25 population of 500,000 or more, or the agency primarily responsible for providing



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1 services to the child has made reasonable efforts to prevent the removal of the child  
2 from the home, while assuring that the child's health and safety are the paramount  
3 concerns, unless any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5.  
4 applies, and specific information showing that the county department, department,  
5 or agency has made reasonable efforts to achieve the goal of the child's permanency  
6 plan, ~~unless return of the child to the home is the goal of the permanency plan and~~  
7 ~~any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies.~~

8 **SECTION 11.** 48.335 (3g) (c) of the statutes, as affected by 2007 Wisconsin Act  
9 20, is amended to read:

10 48.335 **(3g)** (c) That the county department, department, or agency has made  
11 reasonable efforts to achieve the goal of the child's permanency plan, ~~unless return~~  
12 ~~of the child to the home is the goal of the permanency plan and any of the~~  
13 ~~circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies.~~

14 **SECTION 12.** 48.345 (2m) of the statutes is amended to read:

15 48.345 **(2m)** Place the child in the child's home under the supervision of an  
16 agency or the department, if the department approves, and order the agency or  
17 department to provide specified services to the child and the child's family, which  
18 may include ~~but are not limited to~~ individual, family, or, group counseling,  
19 homemaker or parent aide services, respite care, housing assistance, ~~day~~ child care,  
20 parent skills training, or prenatal development training or education.

21 **SECTION 13.** 48.355 (2) (b) 6. of the statutes is amended to read:

22 48.355 **(2)** (b) 6. If the child is placed outside the home, a finding that continued  
23 placement of the child in his or her home would be contrary to the welfare of the child,  
24 a finding as to whether the county department, the department, in a county having  
25 a population of 500,000 or more, or the agency primarily responsible for providing

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1 services under a court order has made reasonable efforts to prevent the removal of  
2 the child from the home, while assuring that the child's health and safety are the  
3 paramount concerns, unless the court finds that any of the circumstances specified  
4 in sub. (2d) (b) 1. to 5. applies, and a finding as to whether the county department,  
5 department, or agency has made reasonable efforts to achieve the goal of the child's  
6 permanency plan, ~~unless return of the child to the home is the goal of the permanency~~  
7 ~~plan and the court finds that any of the circumstances specified in sub. (2d) (b) 1. to~~  
8 ~~5. applies.~~ The court shall make the findings specified in this subdivision on a  
9 case-by-case basis based on circumstances specific to the child and shall document  
10 or reference the specific information on which those findings are based in the court  
11 order. A court order that merely references this subdivision without documenting  
12 or referencing that specific information in the court order or an amended court order  
13 that retroactively corrects an earlier court order that does not comply with this  
14 subdivision is not sufficient to comply with this subdivision.

15 **SECTION 14.** 48.355 (2c) (a) 3. c. of the statutes is amended to read:

16 48.355 (2c) (a) 3. c. Community support services, such as ~~day~~ child care, parent  
17 skills training, housing assistance, employment training, and emergency mental  
18 health services.

19 **SECTION 15.** 48.356 (1) of the statutes is amended to read:

20 48.356 (1) Whenever the court orders a child to be placed outside his or her  
21 home, orders an expectant mother of an unborn child to be placed outside of her  
22 home, or denies a parent visitation because the child or unborn child has been  
23 adjudged to be in need of protection or services under s. 48.345, 48.347, 48.357,  
24 48.363, or 48.365 and whenever the court reviews a permanency plan under s. 48.38  
25 (5m), the court shall orally inform the parent or parents who appear in court or the

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1 expectant mother who appears in court of any grounds for termination of parental  
2 rights under s. 48.415 which may be applicable and of the conditions necessary for  
3 the child or expectant mother to be returned to the home or for the parent to be  
4 granted visitation.

NOTE: This SECTION requires termination of parental rights warnings to be given at annual permanency plan review hearings, which requirement was inadvertently omitted when 2001 Wisconsin Act 109 replaced annual dispositional order extension hearings with annual permanency plan review hearings. According to the Department of Health and Family Services (DHFS), these warnings must be given at permanency plan review hearings to avoid delaying a petition for termination of parental rights.

5 **SECTION 16.** 48.365 (2g) (b) 2. of the statutes is amended to read:

6 48.365 (2g) (b) 2. An evaluation of the child's adjustment to the placement and  
7 of any progress the child has made, suggestions for amendment of the permanency  
8 plan, and specific information showing the efforts that have been made to achieve the  
9 goal of the permanency plan, including, if applicable, the efforts of the parents to  
10 remedy the factors that contributed to the child's placement, ~~unless return of the~~  
11 ~~child to the home is the goal of the permanency plan and any of the circumstances~~  
12 ~~specified in s. 48.355 (2d) (b) 1. to 5. applies.~~

13 **SECTION 17.** 48.365 (2m) (a) 1. of the statutes is amended to read:

14 48.365 (2m) (a) 1. Any party may present evidence relevant to the issue of  
15 extension. If the child is placed outside of his or her home, the person or agency  
16 primarily responsible for providing services to the child shall present as evidence  
17 specific information showing that the person or agency has made reasonable efforts  
18 to achieve the goal of the child's permanency plan, ~~unless return of the child to the~~  
19 ~~home is the goal of the permanency plan and any of the circumstances specified in~~  
20 ~~s. 48.355 (2d) (b) 1. to 5. applies.~~ The judge shall make findings of fact and  
21 conclusions of law based on the evidence. The findings of fact shall include a finding  
22 as to whether reasonable efforts were made by the agency primarily responsible for

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1 providing services to the child to achieve the goal of the child's permanency plan,  
2 ~~unless return of the child to the home is the goal of the permanency plan and the~~  
3 ~~judge finds that any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies.~~

4 An order shall be issued under s. 48.355.

5 **SECTION 18.** 48.38 (5) (c) 7. of the statutes is amended to read:

6 48.38 (5) (c) 7. Whether reasonable efforts were made by the agency to achieve  
7 the goal of the permanency plan, ~~unless return of the child to the home is the goal~~  
8 ~~of the permanency plan and any of the circumstances specified in s. 48.355 (2d) (b)~~  
9 ~~1. to 5. applies.~~

10 **SECTION 19.** 48.47 (7) (cm) of the statutes, as affected by 2007 Wisconsin Act  
11 20, is amended to read:

12 48.47 (7) (cm) Promote the establishment of adequate child care facilities and  
13 services in this state by providing start-up grants to newly operating day child care  
14 facilities and services under rules promulgated by the department.

15 **SECTION 20.** 48.48 (10) of the statutes is amended to read:

16 48.48 (10) To license child welfare agencies and day child care centers as  
17 provided in s. 48.66 (1) (a).

18 **SECTION 21.** Subchapter XV (title) of chapter 48 [precedes 48.65] of the statutes  
19 is amended to read:

20 **CHAPTER 48**

21 **SUBCHAPTER XV**

22 **DAY CHILD CARE PROVIDERS**

23 **SECTION 22.** 48.65 (title) of the statutes is amended to read:

24 **48.65 (title) Day Child care centers licensed; fees.**

25 **SECTION 23.** 48.65 (1) of the statutes is amended to read:

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1           48.65 (1) No person may for compensation provide care and supervision for 4  
2 or more children under the age of 7 for less than 24 hours a day unless that person  
3 obtains a license to operate a day child care center from the department. To obtain  
4 a license under this subsection to operate a day child care center, a person must meet  
5 the minimum requirements for a license established by the department under s.  
6 48.67, meet the requirements specified in s. 48.685, and pay the license fee under  
7 sub. (3). A license issued under this subsection is valid until revoked or suspended,  
8 but shall be reviewed every 2 years as provided in s. 48.66 (5).

9           **SECTION 24.** 48.65 (3) (a) of the statutes is amended to read:

10           48.65 (3) (a) Before the department may issue a license under sub. (1) to a day  
11 child care center that provides care and supervision for 4 to 8 children, the day child  
12 care center must pay to the department a biennial fee of \$60.50. Before the  
13 department may issue a license under sub. (1) to a day child care center that provides  
14 care and supervision for 9 or more children, the day child care center must pay to the  
15 department a biennial fee of \$30.25, plus a biennial fee of \$10.33 per child, based on  
16 the number of children that the day child care center is licensed to serve. A day child  
17 care center that wishes to continue a license issued under sub. (1) shall pay the  
18 applicable fee under this paragraph by the continuation date of the license. A new  
19 day child care center shall pay the applicable fee under this paragraph no later than  
20 30 days before the opening of the day child care center.

21           **SECTION 25.** 48.65 (3) (b) of the statutes is amended to read:

22           48.65 (3) (b) A day child care center that wishes to continue a license issued  
23 under par. (a) and that fails to pay the applicable fee under par. (a) by the  
24 continuation date of the license or a new day child care center that fails to pay the  
25 applicable fee under par. (a) by 30 days before the opening of the day child care center

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1 shall pay an additional fee of \$5 per day for every day after the deadline that the  
2 ~~group home~~ child care center fails to pay the fee.

NOTE: This SECTION corrects an erroneous reference in s. 48.65 (3) (b), stats., which provides a penalty for a child care center that is late in paying its licensing fee. The statute contains a reference to a group home, but should instead refer to a child care center.

3 **SECTION 26.** 48.651 (title) of the statutes is amended to read:

4 **48.651 (title) Certification of day child care providers.**

5 **SECTION 27.** 48.651 (1) (intro.) of the statutes, as affected by 2007 Wisconsin  
6 Act 20, is amended to read:

7 48.651 (1) (intro.) Each county department shall certify, according to the  
8 standards adopted by the department under s. 49.155 (1d), each day child care  
9 provider reimbursed for child care services provided to families determined eligible  
10 under s. 49.155, unless the provider is a day child care center licensed under s. 48.65  
11 or is established or contracted for under s. 120.13 (14). Each county may charge a  
12 fee to cover the costs of certification. To be certified under this section, a person must  
13 meet the minimum requirements for certification established by the department  
14 under s. 49.155 (1d), meet the requirements specified in s. 48.685, and pay the fee  
15 specified in this section. The county shall certify the following categories of day child  
16 care providers:

17 **SECTION 28.** 48.651 (1) (a) of the statutes, as affected by 2007 Wisconsin Act 20,  
18 is amended to read:

19 48.651 (1) (a) Level I certified family day child care providers, as established  
20 by the department under s. 49.155 (1d). No county may certify a provider under this  
21 paragraph if the provider is a relative of all of the children for whom ~~he or she~~ the  
22 provider provides care.

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1           **SECTION 29.** 48.651 (1) (b) of the statutes, as affected by 2007 Wisconsin Act 20,  
2 is amended to read:

3           48.651 (1) (b) Level II certified family day child care providers, as established  
4 by the department under s. 49.155 (1d).

5           **SECTION 30.** 48.653 of the statutes is amended to read:

6           **48.653 Information for day child care providers.** The department shall  
7 provide each day child care center licensed under s. 48.65 and each county agency  
8 providing child welfare services with a brochure containing information on basic  
9 child care and the licensing and certification requirements for day child care  
10 providers. Each county agency shall provide each day child care provider that it  
11 certifies with a copy of the brochure.

12           **SECTION 31.** 48.655 of the statutes is amended to read:

13           **48.655 Parental access.** A day child care provider that holds a license under  
14 s. 48.65, that is certified under s. 48.651, that holds a probationary license under s.  
15 48.69, or that is established or contracted for under s. 120.13 (14) shall permit any  
16 parent or guardian of a child enrolled in the program to visit and observe the program  
17 of child care at any time during the provider's hours of operation, unless the visit or  
18 observation is contrary to an existing court order.

19           **SECTION 32.** 48.656 of the statutes is amended to read:

20           **48.656 Parent's right to know.** Every parent, guardian, or legal custodian  
21 of a child who is receiving care and supervision, or of a child who is a prospective  
22 recipient of care and supervision, from a day child care center that holds a license  
23 under s. 48.65 (1) or a probationary license under s. 48.69 has the right to know  
24 certain information about the day child care center that would aid the parent,

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1 guardian, or legal custodian in assessing the quality of care and supervision provided  
2 by the day child care center.

3 **SECTION 33.** 48.657 (title) of the statutes is amended to read:

4 **48.657 (title) Day Child care center reports.**

5 **SECTION 34.** 48.657 (1) (intro.) of the statutes is amended to read:

6 48.657 (1) (intro.) The department shall provide each day child care center that  
7 holds a license under s. 48.65 (1) or a probationary license under s. 48.69 with an  
8 annual report that includes the following information:

9 **SECTION 35.** 48.657 (1) (a) of the statutes is amended to read:

10 48.657 (1) (a) Violations of statutes, rules promulgated by the department  
11 under s. 48.67, or provisions of licensure under s. 48.70 (1) by the day child care  
12 center. In providing information under this paragraph, the department may not  
13 disclose the identity of any employee of the day child care center.

14 **SECTION 36.** 48.657 (1) (b) of the statutes is amended to read:

15 48.657 (1) (b) A telephone number at the department that a person may call  
16 to complain of any alleged violation of a statute, rule promulgated by the department  
17 under s. 48.67, or provision of licensure under s. 48.70 (1) by the day child care center.

18 **SECTION 37.** 48.657 (1) (c) of the statutes is amended to read:

19 48.657 (1) (c) The results of the most recent inspection of the day child care  
20 center under s. 48.73.

21 **SECTION 38.** 48.657 (2) of the statutes is amended to read:

22 48.657 (2) A day child care center shall post the report under sub. (1) next to  
23 the day child care center's license or probationary license in a place where the report  
24 and the inspection results can be seen by parents, guardians, or legal custodians  
25 during the day child care center's hours of operation.





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1 TREATMENT FOSTER HOMES, GROUP  
2 HOMES, DAY CHILD CARE CENTERS,  
3 AND COUNTY DEPARTMENTS

4 **SECTION 43.** 48.66 (1) (a) of the statutes, as affected by 2007 Wisconsin Act 20,  
5 is amended to read:

6 48.66 (1) (a) Except as provided in s. 48.715 (6) and (7), the department shall  
7 license and supervise child welfare agencies, as required by s. 48.60, group homes,  
8 as required by s. 48.625, shelter care facilities, as required by s. 938.22, and day child  
9 care centers, as required by s. 48.65. The department may license foster homes or  
10 treatment foster homes, as provided by s. 48.62, and may license and supervise  
11 county departments in accordance with the procedures specified in this section and  
12 in ss. 48.67 to 48.74. In the discharge of this duty the department may inspect the  
13 records and visit the premises of all child welfare agencies, group homes, shelter care  
14 facilities, and day child care centers and visit the premises of all foster homes and  
15 treatment foster homes in which children are placed.

16 **SECTION 44.** 48.66 (2) of the statutes is amended to read:

17 48.66 (2) The department shall prescribe application forms to be used by all  
18 applicants for licenses from it. The application forms prescribed by the department  
19 shall require that the social security numbers of all applicants for a license to operate  
20 a child welfare agency, group home, shelter care facility, or day child care center who  
21 are individuals, other than an individual who does not have a social security number  
22 and who submits a statement made or subscribed under oath or affirmation as  
23 required under sub. (2m) (a) 2., be provided and that the federal employer  
24 identification numbers of all applicants for a license to operate a child welfare

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1 agency, group home, shelter care facility, or day child care center who are not  
2 individuals be provided.

3 **SECTION 45.** 48.66 (2m) (a) 1. of the statutes, as affected by 2007 Wisconsin Act  
4 20, is amended to read:

5 48.66 **(2m)** (a) 1. Except as provided in subd. 2., the department shall require  
6 each applicant for a license under sub. (1) (a) to operate a child welfare agency, group  
7 home, shelter care facility, or day child care center who is an individual to provide  
8 that department with the applicant's social security number, and shall require each  
9 applicant for a license under sub. (1) (a) to operate a child welfare agency, group  
10 home, shelter care facility, or day child care center who is not an individual to provide  
11 that department with the applicant's federal employer identification number, when  
12 initially applying for or applying to continue the license.

13 **SECTION 46.** 48.66 (2m) (b) of the statutes, as affected by 2007 Wisconsin Act  
14 20, is amended to read:

15 48.66 **(2m)** (b) If an applicant who is an individual fails to provide the  
16 applicant's social security number to the department or if an applicant who is not an  
17 individual fails to provide the applicant's federal employer identification number to  
18 the department, that department may not issue or continue a license under sub. (1)  
19 (a) to operate a child welfare agency, group home, shelter care facility, or day child  
20 care center to or for the applicant unless the applicant is an individual who does not  
21 have a social security number and the applicant submits a statement made or  
22 subscribed under oath or affirmation as required under par. (a) 2.

23 **SECTION 47.** 48.66 (5) of the statutes is amended to read:

24 48.66 **(5)** A child welfare agency, group home, day child care center, or shelter  
25 care facility license, other than a probationary license, is valid until revoked or

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

13 **SECTION 48.** 48.67 of the statutes is amended to read:

14 **48.67 Rules governing child welfare agencies, day child care centers,**  
15 **foster homes, treatment foster homes, group homes, shelter care facilities,**  
16 **and county departments.** The department shall promulgate rules establishing  
17 minimum requirements for the issuance of licenses to, and establishing standards  
18 for the operation of, child welfare agencies, day child care centers, foster homes,  
19 treatment foster homes, group homes, shelter care facilities, and county  
20 departments. Those rules shall be designed to protect and promote the health,  
21 safety, and welfare of the children in the care of all licensees. The department shall  
22 consult with the department of commerce, the department of public instruction, and  
23 the child abuse and neglect prevention board before promulgating those rules. In  
24 establishing the minimum requirements for the issuance of licenses to day child care  
25 centers, the department shall include a requirement that all licensees who are

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1 individuals and all employees and volunteers of a licensee who provide care and  
2 supervision for children receive, before the date on which the license is issued or the  
3 employment or volunteer work commences, whichever is applicable, training in the  
4 most current medically accepted methods of preventing sudden infant death  
5 syndrome, if the licensee, employee, or volunteer provides care and supervision for  
6 children under one year of age, and the training relating to shaken baby syndrome  
7 and impacted babies required under s. 253.15 (4), if the licensee, employee, or  
8 volunteer provides care and supervision for children under 5 years of age.

9 **SECTION 49.** 48.685 (1) (b) of the statutes is amended to read:

10 48.685 (1) (b) “Entity” means a child welfare agency that is licensed under s.  
11 48.60 to provide care and maintenance for children, to place children for adoption,  
12 or to license foster homes or treatment foster homes; a foster home or treatment  
13 foster home that is licensed under s. 48.62; a group home that is licensed under s.  
14 48.625; a shelter care facility that is licensed under s. 938.22; a day child care center  
15 that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14);  
16 a day child care provider that is certified under s. 48.651; or a temporary employment  
17 agency that provides caregivers to another entity.

18 **SECTION 50.** 48.685 (2) (am) (intro.) of the statutes is amended to read:

19 48.685 (2) (am) (intro.) The department, a county department, a child welfare  
20 agency, or a school board shall obtain all of the following with respect to a caregiver  
21 specified in sub. (1) (ag) 1. b., a nonclient resident of an entity, and a person under  
22 18 years of age, but not under 12 years of age, who is a caregiver of a day child care  
23 center that is licensed under s. 48.65 or established or contracted for under s. 120.13  
24 (14) or of a day child care provider that is certified under s. 48.651:

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

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

8           **SECTION 52.** 48.685 (3) (a) of the statutes, as affected by 2007 Wisconsin Act 20,  
9           is amended to read:

10           48.685 (3) (a) Every 4 years or at any time within that period that the  
11           department, a county department, a child welfare agency, or a school board considers  
12           appropriate, the department, county department, child welfare agency, or school  
13           board shall request the information specified in sub. (2) (am) 1. to 5. for all all  
14           caregivers specified in sub. (1) (ag) 1. b. who are licensed, certified, or contracted to  
15           operate an entity, for persons who are nonclient residents of such a caregiver, and for  
16           all persons under 18 years of age, but not under 12 years of age, who are caregivers  
17           of a day child care center that is licensed under s. 48.65 or established or contracted  
18           for under s. 120.13 (4) or of a day child care provider that is certified under s. 48.651.

19           **SECTION 53.** 48.685 (3) (b) of the statutes, as affected by 2007 Wisconsin Act 20,  
20           is amended to read:

21           48.685 (3) (b) Every 4 years or at any time within that period that an entity  
22           considers appropriate, the entity shall request the information specified in sub. (2)  
23           (b) 1. a. to e. for all persons who are caregivers specified in sub. (1) (ag) 1. a. of the  
24           entity other than persons under 18 years of age, but not under 12 years of age, who  
25           are caregivers of a day child care center that is licensed under s. 48.65 or established

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1 or contracted for under s. 120.13 (14) or of a ~~day~~ child care provider that is certified  
2 under s. 48.651.

3 **SECTION 54.** 48.685 (4m) (a) (intro.) of the statutes is amended to read:

4 48.685 (4m) (a) (intro.) Notwithstanding s. 111.335, and except as provided in  
5 par. (ad) and sub. (5), the department may not license, or continue or renew the  
6 license of, a person to operate an entity, a county department may not certify a ~~day~~  
7 child care provider under s. 48.651, a county department or a child welfare agency  
8 may not license, or renew the license of, a foster home or treatment foster home under  
9 s. 48.62, and a school board may not contract with a person under s. 120.13 (14), if  
10 the department, county department, child welfare agency, or school board knows or  
11 should have known any of the following:

12 **SECTION 55.** 48.685 (4m) (a) 1. of the statutes is amended to read:

13 48.685 (4m) (a) 1. That the person has been convicted of a serious crime or, if  
14 the person is an applicant for issuance or continuation of a license to operate a ~~day~~  
15 child care center or for initial certification under s. 48.651 or for renewal of that  
16 certification or if the person is proposing to contract with a school board under s.  
17 120.13 (14) or to renew a contract under that subsection, that the person has been  
18 convicted of a serious crime or adjudicated delinquent on or after his or her 12th  
19 birthday for committing a serious crime.

20 **SECTION 56.** 48.685 (4m) (ad) of the statutes is amended to read:

21 48.685 (4m) (ad) The department, a county department, or a child welfare  
22 agency may license a foster home or treatment foster home under s. 48.62, a county  
23 department may certify a ~~day~~ child care provider under s. 48.651, and a school board  
24 may contract with a person under s. 120.13 (14), conditioned on the receipt of the

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1 information specified in sub. (2) (am) indicating that the person is not ineligible to  
2 be licensed, certified, or contracted with for a reason specified in par. (a) 1. to 5.

3 **SECTION 57.** 48.685 (4m) (b) 1. of the statutes is amended to read:

4 48.685 (4m) (b) 1. That the person has been convicted of a serious crime or, if  
5 the person is a caregiver or nonclient resident of a day child care center that is  
6 licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of a  
7 day child care provider that is certified under s. 48.651, that the person has been  
8 convicted of a serious crime or adjudicated delinquent on or after his or her 12th  
9 birthday for committing a serious crime.

10 **SECTION 58.** 48.685 (5m) of the statutes is amended to read:

11 48.685 (5m) Notwithstanding s. 111.335, the department may refuse to license  
12 a person to operate an entity, a county department or a child welfare agency may  
13 refuse to license a foster home or treatment foster home under s. 48.62, and an entity  
14 may refuse to employ or contract with a caregiver or permit a nonclient resident to  
15 reside at the entity if the person has been convicted of an offense that is not a serious  
16 crime, but that is, in the estimation of the department, county department, child  
17 welfare agency, or entity, substantially related to the care of a client.  
18 Notwithstanding s. 111.335, the department may refuse to license a person to  
19 operate a day child care center, a county department may refuse to certify a day child  
20 care provider under s. 48.651, a school board may refuse to contract with a person  
21 under s. 120.13 (14), a day child care center that is licensed under s. 48.65 or  
22 established or contracted for under s. 120.13 (14), and a day child care provider that  
23 is certified under s. 48.651 may refuse to employ or contract with a caregiver or  
24 permit a nonclient resident to reside at the day child care center or day child care  
25 provider if the person has been convicted of or adjudicated delinquent on or after his



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1 or her 12th birthday for an offense that is not a serious crime, but that is, in the  
2 estimation of the department, county department, school board, day child care center  
3 or day child care provider, substantially related to the care of a client.

4 **SECTION 59.** 48.685 (6) (a) of the statutes is amended to read:

5 48.685 (6) (a) The department shall require any person who applies for  
6 issuance, continuation, or renewal of a license to operate an entity, a county  
7 department shall require any day child care provider who applies for initial  
8 certification under s. 48.651 or for renewal of that certification, a county department  
9 or a child welfare agency shall require any person who applies for issuance or  
10 renewal of a license to operate a foster home or treatment foster home under s. 48.62,  
11 and a school board shall require any person who proposes to contract with the school  
12 board under s. 120.13 (14) or to renew a contract under that subsection, to complete  
13 a background information form that is provided by the department.

14 **SECTION 60.** 48.685 (6) (b) 1. of the statutes is amended to read:

15 48.685 (6) (b) 1. For caregivers who are licensed by the department, for persons  
16 under 18 years of age, but not under 12 years of age, who are caregivers of a day child  
17 care center that is licensed under s. 48.65 or established or contracted for under s.  
18 120.13 (14) or of a day child care provider that is certified under s. 48.651, for persons  
19 who are nonclient residents of an entity that is licensed by the department, and for  
20 other persons specified by the department by rule, the entity shall send the  
21 background information form to the department.

22 **SECTION 61.** 48.69 of the statutes is amended to read:

23 **48.69 Probationary licenses.** Except as provided under s. 48.715 (6) and (7),  
24 if any child welfare agency, shelter care facility, group home, or day child care center  
25 that has not been previously issued a license under s. 48.66 (1) (a) applies for a

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1 license, meets the minimum requirements for a license established under s. 48.67,  
2 and pays the applicable fee referred to in s. 48.68 (1), the department shall issue a  
3 probationary license to that child welfare agency, shelter care facility, group home,  
4 or ~~day~~ child care center. A probationary license is valid for up to 6 months after the  
5 date of issuance unless renewed under this section or suspended or revoked under  
6 s. 48.715. Before a probationary license expires, the department shall inspect the  
7 child welfare agency, shelter care facility, group home, or ~~day~~ child care center  
8 holding the probationary license and, except as provided under s. 48.715 (6) and (7),  
9 if the child welfare agency, shelter care facility, group home, or ~~day~~ child care center  
10 meets the minimum requirements for a license established under s. 48.67, the  
11 department shall issue a license under s. 48.66 (1) (a). A probationary license issued  
12 under this section may be renewed for one 6-month period.

13 **SECTION 62.** 48.715 (1) of the statutes is amended to read:

14 48.715 (1) In this section, “licensee” means a person who holds a license under  
15 s. 48.66 (1) (a) or a probationary license under s. 48.69 to operate a child welfare  
16 agency, shelter care facility, group home, or ~~day~~ child care center.

17 **SECTION 63.** 48.715 (2) (a) of the statutes is amended to read:

18 48.715 (2) (a) That a person stop operating a child welfare agency, shelter care  
19 facility, group home, or ~~day~~ child care center if the child welfare agency, shelter care  
20 facility, group home, or ~~day~~ child care center is without a license in violation of s.  
21 48.66 (1) (a) or a probationary license in violation of s. 48.69.

22 **SECTION 64.** 48.715 (4) (c) of the statutes is amended to read:

23 48.715 (4) (c) The licensee or a person under the supervision of the licensee has  
24 committed an action or has created a condition relating to the operation or  
25 maintenance of the child welfare agency, shelter care facility, group home, or ~~day~~

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1 child care center that directly threatens the health, safety, or welfare of any child  
2 under the care of the licensee.

3 **SECTION 65.** 48.715 (6) of the statutes, as affected by 2007 Wisconsin Act 20,  
4 is amended to read:

5 48.715 (6) The department shall deny, suspend, restrict, refuse to renew, or  
6 otherwise withhold a license under s. 48.66 (1) (a) or a probationary license under s.  
7 48.69 to operate a child welfare agency, group home, shelter care facility, or ~~day~~ child  
8 care center, and the department of corrections shall deny, suspend, restrict, refuse  
9 to renew, or otherwise withhold a license under s. 48.66 (1) (b) to operate a secured  
10 residential care center for children and youth, for failure of the applicant or licensee  
11 to pay court-ordered payments of child or family support, maintenance, birth  
12 expenses, medical expenses, or other expenses related to the support of a child or  
13 former spouse or for failure of the applicant or licensee to comply, after appropriate  
14 notice, with a subpoena or warrant issued by the department or a county child  
15 support agency under s. 59.53 (5) and related to paternity or child support  
16 proceedings, as provided in a memorandum of understanding entered into under s.  
17 49.857. Notwithstanding s. 48.72, an action taken under this subsection is subject  
18 to review only as provided in the memorandum of understanding entered into under  
19 s. 49.857 and not as provided in s. 48.72.

20 **SECTION 66.** 48.715 (7) of the statutes is amended to read:

21 48.715 (7) The department shall deny an application for the issuance or  
22 continuation of a license under s. 48.66 (1) (a) or a probationary license under s. 48.69  
23 to operate a child welfare agency, group home, shelter care facility, or ~~day~~ child care  
24 center, or revoke such a license already issued, if the department of revenue certifies  
25 under s. 73.0301 that the applicant or licensee is liable for delinquent taxes. An

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1 action taken under this subsection is subject to review only as provided under s.  
2 73.0301 (5) and not as provided in s. 48.72.

3 **SECTION 67.** 48.73 of the statutes is amended to read:

4 **48.73 Inspection of licensees.** The department may visit and inspect each  
5 child welfare agency, foster home, treatment foster home, group home, and day child  
6 care center licensed by it, and for such purpose shall be given unrestricted access to  
7 the premises described in the license.

8 **SECTION 68.** 48.735 of the statutes is amended to read:

9 **48.735 Immunization requirements; day child care centers.** The  
10 department, after notice to a day child care center licensee, may suspend, revoke, or  
11 refuse to continue a day child care center license in any case in which the department  
12 finds that there has been a substantial failure to comply with the requirements of  
13 s. 252.04.

14 **SECTION 69.** 48.737 of the statutes is amended to read:

15 **48.737 Lead screening, inspection and reduction requirements; day**  
16 **child care centers.** The department, after notice to a day child care provider  
17 certified under s. 48.651, or a day child care center that holds a license under s. 48.65  
18 or a probationary license under s. 48.69, may suspend, revoke, or refuse to renew or  
19 continue a license or certification in any case in which the department finds that  
20 there has been a substantial failure to comply with any rule promulgated under s.  
21 254.162, 254.168, or 254.172.

22 **SECTION 70.** 48.78 (1) of the statutes is amended to read:

23 **48.78 (1)** In this section, unless otherwise qualified, “agency” means the  
24 department, a county department, a licensed child welfare agency, or a licensed day  
25 child care center.

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1           **SECTION 71.** 48.78 (2) (a) of the statutes is amended to read:

2           48.78 (2) (a) No agency may make available for inspection or disclose the  
3 contents of any record kept or information received about an individual who is or was  
4 in its care or legal custody, except as provided under s. 48.371, 48.38 (5) (b) or (d) or  
5 (5m) (d), 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m), 48.93, 48.981 (7), 938.51, or  
6 938.78 or by order of the court.

NOTE: This SECTION conforms s. 48.78, stats., of the Children's Code to s. 938.78, stats., its analogous provision in the Juvenile Justice Code, by requiring an agency that provides services under the Children's Code to maintain the confidentiality of records kept or information received about an individual who *is or was* in the agency's care or custody. According to DHFS, 2005 Wisconsin Act 344, which recodified ch. 938, stats., (the Juvenile Justice Code), amended s. 938.78, stats., but did not conform the analogous provision of s. 48.78, stats.

7           **SECTION 72.** 48.981 (1) (d) of the statutes is renumbered 48.02 (12g).

8           **SECTION 73.** 48.981 (2) (a) 18. of the statutes is amended to read:

9           48.981 (2) (a) 18. A ~~child-care~~ child care worker in a ~~day~~ child care center, group  
10 home, ~~as described in s. 48.625 (1m)~~, or residential care center for children and youth.

NOTE: This SECTION makes a child care worker in any group home a mandatory child abuse or neglect reporter. Under current law, only a child care worker in a group home that is authorized solely to provide a safe and structured living arrangement for children who are custodial parents or expectant mothers is a mandatory reporter. According to DHFS, all child care workers in group homes should be mandatory reporters and the reference limiting mandatory reporting to a subset of group home child care workers appears to be an error.

11           **SECTION 74.** 48.981 (2) (a) 19. of the statutes is amended to read:

12           48.981 (2) (a) 19. A ~~day~~ child care provider.

13           **SECTION 75.** 48.982 (1) (c) of the statutes is repealed.

14           **SECTION 76.** 48.983 (1) (g) of the statutes, as affected by 2007 Wisconsin Act 20,  
15 is repealed.

16           **SECTION 77.** 49.136 (1) (d) of the statutes is renumbered 49.136 (1) (ad) and  
17 amended to read:

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1           49.136 (1) (ad) “Day Child care center” means a facility operated by a child care  
2 provider that provides care and supervision for 4 or more children under 7 years of  
3 age for less than 24 hours a day.

4           **SECTION 78.** 49.136 (1) (e) of the statutes is renumbered 49.136 (1) (am) and  
5 amended to read:

6           49.136 (1) (am) “Day Child care program” means a program established and  
7 provided by a school board under s. 120.13 (14) or purchased by a school board from  
8 a provider licensed under s. 48.65, which combines care for a child who resides with  
9 a student parent who is a parent of that child with parenting education and  
10 experience for that student parent.

11           **SECTION 79.** 49.136 (1) (j) of the statutes is amended to read:

12           49.136 (1) (j) “Family day child care center” means a day child care center that  
13 provides care and supervision for not less than 4 nor more than 8 children.

14           **SECTION 80.** 49.136 (1) (k) of the statutes is amended to read:

15           49.136 (1) (k) “Group day child care center” means a day child care center that  
16 provides care and supervision for 9 or more children.

17           **SECTION 81.** 49.136 (2) (b) of the statutes is amended to read:

18           49.136 (2) (b) If the department awards grants under this section, the  
19 department shall attempt to award the grants to head start agencies designated  
20 under 42 USC 9836, employers that provide or wish to provide child care services for  
21 their employees, family day child care centers, group day child care centers and day  
22 child care programs for the children of student parents, organizations that provide  
23 child care for sick children, and child care providers that employ participants or  
24 former participants in a Wisconsin Works employment position under s. 49.147 (3)  
25 to (5).

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1           **SECTION 82.** 49.137 (1) (a) of the statutes is renumbered 49.137 (1) (am).

2           **SECTION 83.** 49.137 (1) (b) of the statutes is renumbered 49.137 (1) (ab) and  
3 amended to read:

4           49.137 (1) (ab) “Day Child care center” has the meaning given in s. 49.136 (1)  
5 ~~(d)~~ (ad).

6           **SECTION 84.** 49.137 (1) (d) of the statutes is renumbered 49.137 (1) (bd) and  
7 amended to read:

8           49.137 (1) (bd) “Family day child care center” has the meaning given in s.  
9 49.136 (1) (j).

10          **SECTION 85.** 49.137 (1) (e) of the statutes is amended to read:

11          49.137 (1) (e) “Group day child care center” has the meaning given in s. 49.136  
12 (1) (k).

13          **SECTION 86.** 49.155 (1) (am) of the statutes is amended to read:

14          49.155 (1) (am) “Level I certified family day child care provider” means a day  
15 child care provider certified under s. 48.651 (1) (a).

16          **SECTION 87.** 49.155 (1) (b) of the statutes is amended to read:

17          49.155 (1) (b) “Level II certified family day child care provider” means a day  
18 child care provider certified under s. 48.651 (1) (b).

19          **SECTION 88.** 49.155 (1d) (a) of the statutes is amended to read:

20          49.155 (1d) (a) The department shall promulgate rules establishing standards  
21 for the certification of child care providers under s. 48.651. The department shall  
22 consult with the child abuse and neglect prevention board before promulgating those  
23 rules. In establishing the requirements for certification under this paragraph of a  
24 child care provider, the department shall include a requirement that all providers  
25 and all employees and volunteers of a provider who provide care and supervision for

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1 children receive, before the date on which the provider is certified or the employment  
2 or volunteer work commences, whichever is applicable, training in the most current  
3 medically accepted methods of preventing sudden infant death syndrome, if the  
4 provider, employee, or volunteer provides care and supervision for children under  
5 one year of age, and the training relating to shaken baby syndrome and impacted  
6 babies required under s. 253.15 (4), if the provider, employee, or volunteer provides  
7 care and supervision for children under 5 years of age. In establishing the  
8 requirements for certification as a Level II certified family day child care provider,  
9 the department may not include any other requirement for training for providers.

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

11 49.155 (1d) (b) The department shall promulgate rules to establish quality of  
12 care standards for child care providers that are higher than the quality of care  
13 standards required for licensure under s. 48.65 or for certification under s. 48.651.  
14 The standards established by rules promulgated under this paragraph shall consist  
15 of the standards provided for the accreditation of day child care centers by the  
16 ~~national association for the education of young children~~ National Association for the  
17 Education of Young Children or any other comparable standards that the  
18 department may establish, including standards regarding the turnover of child care  
19 provider staff and the training and benefits provided for child care provider staff.

20 **SECTION 90.** 49.155 (1g) (a) 2. of the statutes, as affected by 2007 Wisconsin Act  
21 20, is amended to read:

22 49.155 (1g) (a) 2. Grants under s. 49.134 (2) for child day care resource and  
23 referral services, in the amount of at least \$1,225,000 per fiscal year.

24 **SECTION 91.** 49.155 (4) of the statutes is amended to read:



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1           49.155 (4) CHOICE OF PROVIDER. An eligible individual shall choose whether the  
2 child care will be provided by a day child care center licensed under s. 48.65, a Level  
3 I certified family day child care provider, a Level II certified family day child care  
4 provider, or a day child care program provided or contracted for by a school board  
5 under s. 120.13 (14).

6           **SECTION 92.** 49.155 (6) (b) of the statutes is amended to read:

7           49.155 (6) (b) Subject to review and approval by the department, each county  
8 shall set a maximum reimbursement rate for Level I certified family day child care  
9 providers for services provided to eligible individuals under this section. The  
10 maximum rate set under this paragraph may not exceed 75% of the rate established  
11 under par. (a).

12           **SECTION 93.** 49.155 (6) (c) of the statutes is amended to read:

13           49.155 (6) (c) Subject to review and approval by the department, each county  
14 shall set a maximum reimbursement rate for Level II certified family day child care  
15 providers for services provided to eligible individuals under this section. The  
16 maximum rate set under this paragraph may not exceed 50% of the rate established  
17 under par. (a).

18           **SECTION 94.** 49.155 (6) (cm) of the statutes is amended to read:

19           49.155 (6) (cm) The department shall modify child care provider  
20 reimbursement rates established under pars. (a) to (c) so that reimbursement rates  
21 are lower for providers of after-school day child care.

22           **SECTION 95.** 66.1017 (title) of the statutes is amended to read:

23           **66.1017 (title) Family day child care homes.**

24           **SECTION 96.** 66.1017 (1) (a) of the statutes, as affected by 2007 Wisconsin Act  
25 20, is amended to read:

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1           66.1017 (1) (a) “Family ~~day~~ child care home” means a dwelling licensed as a ~~day~~  
2 child care center by the department of children and families under s. 48.65 where  
3 care is provided for not more than 8 children.

4           **SECTION 97.** 66.1017 (2) of the statutes is amended to read:

5           66.1017 (2) No municipality may prevent a family ~~day~~ child care home from  
6 being located in a zoned district in which a single-family residence is a permitted  
7 use. No municipality may establish standards or requirements for family ~~day~~ child  
8 care homes that are different from the licensing standards established under s.  
9 48.65. This subsection does not prevent a municipality from applying to a family ~~day~~  
10 child care home the zoning regulations applicable to other dwellings in the zoning  
11 district in which it is located.

12           **SECTION 98.** 71.07 (2dd) (a) 1. of the statutes is amended to read:

13           71.07 (2dd) (a) 1. “Day care center benefits” means benefits provided at a ~~day~~  
14 child care facility that is licensed under s. 48.65 or 48.69 and that for compensation  
15 provides care for at least 6 children or benefits provided at a facility for persons who  
16 are physically or mentally incapable of caring for themselves.

17           **SECTION 99.** 71.28 (1dd) (a) 1. of the statutes is amended to read:

18           71.28 (1dd) (a) 1. “Day care center benefits” means benefits provided at a ~~day~~  
19 child care facility that is licensed under s. 48.65 or 48.69 and that for compensation  
20 provides care for at least 6 children or benefits provided at a facility for persons who  
21 are physically or mentally incapable of caring for themselves.

22           **SECTION 100.** 71.47 (1dd) (a) 1. of the statutes is amended to read:

23           71.47 (1dd) (a) 1. “Day care center benefits” means benefits provided at a ~~day~~  
24 child care facility that is licensed under s. 48.65 or 48.69 and that for compensation

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1 provides care for at least 6 children or benefits provided at a facility for persons who  
2 are physically incapable of caring for themselves.

3 **SECTION 101.** 73.0301 (1) (d) 2. of the statutes, as affected by 2007 Wisconsin  
4 Act 20, is amended to read:

5 73.0301 (1) (d) 2. A license issued by the department of children and families  
6 under s. 48.66 (1) (a) to a child welfare agency, group home, shelter care facility, or  
7 day child care center, as required by s. 48.60, 48.625, 48.65, or 938.22 (7).

8 **SECTION 102.** 77.54 (20) (c) 4. of the statutes is amended to read:

9 77.54 (20) (c) 4. Taxable sales do not include meals, food, food products, or  
10 beverages sold by hospitals, sanatoriums, nursing homes, retirement homes,  
11 community-based residential facilities, as defined in s. 50.01 (1g), or day child care  
12 centers licensed under ch. 48 and served at a hospital, sanatorium, nursing home,  
13 retirement home, community-based residential facility, or day child care center. In  
14 this subdivision “retirement home” means a nonprofit residential facility where 3 or  
15 more unrelated adults or their spouses have their principal residence and where  
16 support services, including meals from a common kitchen, are available to residents.  
17 Taxable sales do not include meals, food, food products, or beverages sold to the  
18 elderly or handicapped by persons providing “mobile meals on wheels”.

19 **SECTION 103.** 101.123 (1) (a) of the statutes is renumbered 101.123 (1) (ag).

20 **SECTION 104.** 101.123 (1) (ad) of the statutes is amended to read:

21 101.123 (1) (ad) “Day Child care center” has the meaning given in s. 49.136 (1)  
22 (~~d~~) (ad).

23 **SECTION 105.** 101.123 (2) (bm) of the statutes is amended to read:

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1           101.123 (2) (bm) Notwithstanding par. (a) and sub. (3), no person may smoke  
2 on the premises, indoors or outdoors, of a day child care center when children who  
3 are receiving day child care services are present.

4           **SECTION 106.** 101.123 (4) (a) 2. of the statutes is amended to read:

5           101.123 (4) (a) 2. A person in charge or his or her agent may not designate an  
6 entire building as a smoking area or designate any smoking areas in the state capitol  
7 building, in the immediate vicinity of the state capitol, in a Type 1 juvenile  
8 correctional facility, on the grounds of a Type 1 juvenile correctional facility, in a  
9 motor bus, hospital, or physician's office or on the premises, indoors or outdoors, of  
10 a day child care center when children who are receiving day child care services are  
11 present, in a residence hall or dormitory that is owned or operated by the Board of  
12 Regents of the University of Wisconsin System, or in any location that is 25 feet or  
13 less from such a residence hall or dormitory, except that in a hospital or a unit of a  
14 hospital that has as its primary purpose the care and treatment of mental illness,  
15 alcoholism, or drug abuse a person in charge or his or her agent may designate one  
16 or more enclosed rooms with outside ventilation as smoking areas for the use of adult  
17 patients who have the written permission of a physician. Subject to this subdivision  
18 and sub. (3) (b), a person in charge or his or her agent may not designate an entire  
19 room as a smoking area.

20           **SECTION 107.** 115.812 (1) of the statutes, as affected by 2007 Wisconsin Act 20,  
21 is amended to read:

22           115.812 (1) PLACEMENT DISPUTES. If a dispute arises between a local educational  
23 agency and the department of children and families, the department of corrections,  
24 or a county department under s. 46.215, 46.22, or 46.23, or between local educational  
25 agencies under s. 115.81 (4) (c), over the placement of a child, the state

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1 superintendent shall resolve the dispute. This subsection applies only to placements  
2 in nonresidential educational programs made under s. 48.57 (1) (c) and to placements  
3 in residential care centers for children and youth made under s. 115.81.

4 **SECTION 108.** 115.817 (8) of the statutes is amended to read:

5 115.817 **(8)** TRANSPORTATION. The board may promulgate a plan for the  
6 transportation at county expense of children who are receiving special education and  
7 related services under this section, special education and related services provided  
8 at ~~day~~ child care centers, or special education and related services provided by a  
9 private organization within whose attendance area the child resides and which is  
10 situated not more than 5 miles beyond the boundaries of the area the board serves,  
11 as measured along the usually traveled route. The plan, upon approval of the state  
12 superintendent, shall govern the transportation of such children. Any such plan for  
13 transportation during the school term supersedes ss. 115.88 and 121.54 (3).

14 **SECTION 109.** 118.51 (2) of the statutes is amended to read:

15 118.51 **(2)** APPLICABILITY. A pupil may attend a public school, including a  
16 prekindergarten, 4-year-old kindergarten, early childhood, or school-operated ~~day~~  
17 child care program, in a nonresident school district under this section, except that  
18 a pupil may attend a prekindergarten, 4-year-old kindergarten, early childhood, or  
19 school-operated ~~day~~ child care program in a nonresident school district only if the  
20 pupil's resident school district offers the same type of program that the pupil wishes  
21 to attend and the pupil is eligible to attend that program in his or her resident school  
22 district.

23 **SECTION 110.** 120.125 (title) of the statutes is amended to read:

24 **120.125** (title) **Before- and after-school day child care.**

25 **SECTION 111.** 120.125 (1) of the statutes is amended to read:

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1           120.125 (1) In this section, “before– and after–school day child care program”  
2 means a program which that provides day child care services before school, after  
3 school, or both before and after school.

4           **SECTION 112.** 120.125 (2) (a) (intro.) of the statutes is amended to read:

5           120.125 (2) (a) (intro.) A school board shall permit a day child care provider who  
6 has submitted a request which meets all of the requirements under sub. (3) to  
7 administer a before– and after–school day child care program in any elementary  
8 school within the school district unless:

9           **SECTION 113.** 120.125 (2) (a) 3. of the statutes is amended to read:

10           120.125 (2) (a) 3. Before– and after–school day child care programs exist in the  
11 elementary school;

12           **SECTION 114.** 120.125 (2) (a) 4. of the statutes is amended to read:

13           120.125 (2) (a) 4. The school board intends to provide before– and after–school  
14 day child care services in the elementary school;

15           **SECTION 115.** 120.125 (2) (b) of the statutes is amended to read:

16           120.125 (2) (b) The school board may deny a request under par. (a) 6. if the  
17 school board intends to solicit day child care providers to submit requests to provide  
18 before– and after–school day child care programs in the elementary school for which  
19 a request under par. (a) was submitted. If a school board denies a request under this  
20 paragraph, the request submitted under par. (a) shall be considered along with  
21 requests that are submitted as a result of the school board solicitation.

22           **SECTION 116.** 120.125 (2) (c) of the statutes is amended to read:

23           120.125 (2) (c) If a school board denies a request under par. (a) or (b), the school  
24 board shall specify the reasons for denial, in writing, to the day child care provider  
25 within 60 days after the date on which the request is received.

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1           **SECTION 117.** 120.125 (3) (a) (intro.) of the statutes is amended to read:

2           120.125 (3) (a) (intro.) A request submitted to a school board under sub. (2)  
3 shall be in writing, shall name the elementary school in which the before- and  
4 after-school day child care program is to be provided, and shall specify the amount  
5 of space needed, the number and ages of the pupils to be served, and the time the  
6 provider intends to operate the program. The request shall also contain all of the  
7 following assurances:

8           **SECTION 118.** 120.125 (3) (a) 1. of the statutes is amended to read:

9           120.125 (3) (a) 1. That the day child care provider will be responsible for all  
10 actual incremental costs incurred by the school as a result of permitting the day child  
11 care provider to provide a before- and after-school day child care program in the  
12 school building.

13           **SECTION 119.** 120.125 (3) (a) 2. of the statutes is amended to read:

14           120.125 (3) (a) 2. That the day child care provider will be liable to the school  
15 district for any damage to property in the operation of the before- and after-school  
16 day child care program, that the day child care provider shall hold the school district  
17 harmless from any liability, claim, or damages caused by the acts or omissions of the  
18 day child care provider, and that the day child care provider will acquire adequate  
19 insurance coverage, as determined by the school district.

20           **SECTION 120.** 120.125 (3) (a) 3. of the statutes is amended to read:

21           120.125 (3) (a) 3. That the day child care provider will not provide religious  
22 instruction or permit religious practices to be conducted during the before- and  
23 after-school day child care program.

24           **SECTION 121.** 120.125 (3) (b) of the statutes is amended to read:

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1           120.125 (3) (b) A school board shall conditionally grant a request submitted by  
2 a day child care provider if all the requirements under par. (a) are met and sub. (2)  
3 (a) 1. to 6. and (b) does not apply.

4           **SECTION 122.** 120.125 (4) (intro.) of the statutes is amended to read:

5           120.125 (4) (intro.) If a request under sub. (3) is conditionally accepted by the  
6 school board, the school board shall enter into a written agreement with the day child  
7 care provider that specifies the hours during the day in which the day child care  
8 provider is to occupy the school premises and the rooms, facilities, or equipment that  
9 are to be used by the day child care provider. The agreement shall also provide all  
10 of the following:

11           **SECTION 123.** 120.125 (4) (a) of the statutes is amended to read:

12           120.125 (4) (a) Except as provided under s. 121.545 (2), that the school board  
13 is not responsible for providing transportation to or from the before- and  
14 after-school day child care program.

15           **SECTION 124.** 120.125 (4) (b) of the statutes is amended to read:

16           120.125 (4) (b) That nothing in the agreement would prohibit the school board  
17 from permitting other day child care providers to provide day child care services to  
18 pupils in the same building during the same time and that nothing in the agreement  
19 would prohibit the school district from providing before- and after-school day child  
20 care programs in the same building and during the same time in which the day child  
21 care provider provides before- and after-school day child care programs.

22           **SECTION 125.** 120.125 (4) (c) of the statutes is amended to read:

23           120.125 (4) (c) That the agreement may be terminated by the school board at  
24 the end of a school year if the school board intends to provide day child care for the



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1 pupils in the elementary school or intends to solicit other day child care providers to  
2 provide services during the following school year.

3 **SECTION 126.** 120.125 (4) (d) of the statutes is amended to read:

4 120.125 (4) (d) That the school board may review and terminate the agreement  
5 at any time, with 30 days' prior written notice to the day child care provider, if any  
6 of the conditions in the agreement are violated by the day child care provider.

7 **SECTION 127.** 120.125 (4) (e) of the statutes is amended to read:

8 120.125 (4) (e) That the day child care provider shall be responsible for all  
9 actual costs incurred by the school district as a result of the agreement, the costs of  
10 which shall be paid to the school district at times specified by the school board in the  
11 agreement.

12 **SECTION 128.** 120.125 (4) (f) of the statutes is amended to read:

13 120.125 (4) (f) That the day child care provider shall be liable to the school  
14 district for any damage to property in the operation of the before- and after-school  
15 day child care program, that the day child care provider shall hold the school district  
16 harmless from any liability, claim, or damages caused by the acts or omissions of the  
17 day child care provider, and that the day child care provider shall acquire adequate  
18 insurance, as determined by the school district, to be in effect beginning the first day  
19 on which the day child care provider provides the before- and after-school day child  
20 care program.

21 **SECTION 129.** 120.125 (4) (g) of the statutes is amended to read:

22 120.125 (4) (g) That the day child care provider shall not provide religious  
23 instruction or permit religious practices to be conducted during the before- and  
24 after-school day child care program.

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1           **SECTION 130.** 120.125 (4) (h) of the statutes, as affected by 2007 Wisconsin Act  
2 20, is amended to read:

3           120.125 (4) (h) That the day child care provider shall meet the standards for  
4 licensed day child care centers established by the department of children and  
5 families.

6           **SECTION 131.** 120.13 (14) of the statutes, as affected by 2007 Wisconsin Act 20,  
7 is amended to read:

8           120.13 (14) ~~DAY~~ CHILD CARE PROGRAMS. Establish and provide or contract for  
9 the provision of day child care programs for children. The school board may receive  
10 federal or state funds for this purpose. The school board may charge a fee for all or  
11 part of the cost of the service for participation in a day child care program established  
12 under this subsection. Costs associated with a day child care program under this  
13 subsection may not be included in shared costs under s. 121.07 (6). ~~Day~~ Child care  
14 programs established under this subsection shall meet the standards for licensed  
15 day child care centers established by the department of children and families. If a  
16 school board proposes to contract for or renew a contract for the provision of a day  
17 child care program under this subsection or if on July 1, 1996, a school board is a  
18 party to a contract for the provision of a day child care program under this subsection,  
19 the school board shall refer the contractor or proposed contractor to the department  
20 of children and families for the criminal history and child abuse record search  
21 required under s. 48.685. Each school board shall provide the department of health  
22 and family services with information about each person who is denied a contract for  
23 a reason specified in s. 48.685 (4m) (a) 1. to 5.

24           **SECTION 132.** 120.13 (36) of the statutes is amended to read:

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1           120.13 **(36)** PREKINDERGARTEN AND KINDERGARTEN PROGRAM AGREEMENTS. Enter  
2 into an agreement with a licensed public or private nonsectarian day child care  
3 center to lease space for prekindergarten or kindergarten programs offered by the  
4 school district or to place school district employees in day child care centers to provide  
5 instruction in prekindergarten or kindergarten programs offered by the school  
6 district.

7           **SECTION 133.** 121.54 (2) (am) of the statutes is amended to read:

8           121.54 **(2)** (am) In lieu of transporting a pupil who is eligible for transportation  
9 under par. (a) to and from his or her residence, a school district may transport the  
10 pupil to or from, or both, a before– and after–school day child care program under s.  
11 120.125, a day child care program under s. 120.13 (14), or any other day child care  
12 program, family day child care home, or child care provider.

13           **SECTION 134.** 121.545 (2) of the statutes is amended to read:

14           121.545 **(2)** A school board may provide transportation for children residing in  
15 the school district whom the school district is not required to transport under s.  
16 121.54 to or from, or both, a before– and after–school day child care program under  
17 s. 120.125, a prekindergarten class under s. 120.13 (13), a day child care program  
18 under s. 120.13 (14), or any other day child care program, family day child care home,  
19 child care provider, or prekindergarten class. The school board may charge a fee for  
20 the cost of providing such transportation. The school board may waive the fee or any  
21 portion of the fee for any person who is unable to pay the fee. State aid shall not be  
22 provided for transportation under this subsection.

23           **SECTION 135.** 234.83 (3) (a) 2. of the statutes is amended to read:

24           234.83 **(3)** (a) 2. The start–up of a day child care business, including the  
25 purchase or improvement of land, buildings, machinery, equipment, or inventory.

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1           **SECTION 136.** 252.04 (2) of the statutes is amended to read:

2           252.04 (2) Any student admitted to any elementary, middle, junior, or senior  
3 high school or into any day child care center or nursery school shall, within 30 school  
4 days after the date on which the student is admitted, present written evidence to the  
5 school, day child care center, or nursery school of having completed the first  
6 immunization for each vaccine required for the student's grade and being on  
7 schedule for the remainder of the basic and recall (booster) immunization series for  
8 mumps, measles, rubella (German measles), diphtheria, pertussis (whooping  
9 cough), poliomyelitis, tetanus, and other diseases that the department specifies by  
10 rule or shall present a written waiver under sub. (3).

11           **SECTION 137.** 252.04 (3) of the statutes is amended to read:

12           252.04 (3) The immunization requirement is waived if the student, if an adult,  
13 or the student's parent, guardian, or legal custodian submits a written statement to  
14 the school, day child care center, or nursery school objecting to the immunization for  
15 reasons of health, religion, or personal conviction. At the time any school, day child  
16 care center, or nursery school notifies a student, parent, guardian, or legal custodian  
17 of the immunization requirements, it shall inform the person in writing of the  
18 person's right to a waiver under this subsection.

19           **SECTION 138.** 252.04 (4) of the statutes is amended to read:

20           252.04 (4) The student, if an adult, or the student's parent, guardian, or legal  
21 custodian shall keep the school, day child care center, or nursery school informed of  
22 the student's compliance with the immunization schedule.

23           **SECTION 139.** 252.04 (5) (a) of the statutes is amended to read:

24           252.04 (5) (a) By the 15th and the 25th school day after the date on which the  
25 student is admitted to a school, day child care center, or nursery school, the school,

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1 day child care center, or nursery school shall notify in writing any adult student or  
2 the parent, guardian, or legal custodian of any minor student who has not met the  
3 immunization or waiver requirements of this section. The notices shall cite the terms  
4 of those requirements and shall state that court action and forfeiture penalty could  
5 result due to noncompliance. The notices shall also explain the reasons for the  
6 immunization requirements and include information on how and where to obtain the  
7 required immunizations.

8 **SECTION 140.** 252.04 (5) (b) 1. of the statutes is amended to read:

9 252.04 (5) (b) 1. A school, day child care center, or nursery school may exclude  
10 from the school, day child care center, or nursery school any student who fails to  
11 satisfy the requirements of sub. (2).

12 **SECTION 141.** 252.04 (5) (b) 2. of the statutes is amended to read:

13 252.04 (5) (b) 2. Beginning on July 1, 1993, if the department determines that  
14 fewer than 98% of the students in a day child care center, nursery school, or school  
15 district who are subject to the requirements of sub. (2) have complied with sub. (2),  
16 the day child care center or nursery school shall exclude any child who fails to satisfy  
17 the requirements of sub. (2) and the school district shall exclude any student enrolled  
18 in grades kindergarten to 6 who fails to satisfy the requirements of sub. (2).

19 **SECTION 142.** 252.04 (5) (b) 3. of the statutes is amended to read:

20 252.04 (5) (b) 3. Beginning on July 1, 1995, if the department determines that  
21 fewer than 99% of the students in a day child care center, nursery school, or school  
22 district who are subject to the requirements of sub. (2) have complied with sub. (2),  
23 the day child care center or nursery school shall exclude any child who fails to satisfy  
24 the requirements of sub. (2) and the school district shall exclude any student enrolled  
25 in grades kindergarten to 6 who fails to satisfy the requirements of sub. (2).

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1           **SECTION 143.** 252.04 (6) of the statutes is amended to read:

2           252.04 (6) The school, day child care center, or nursery school shall notify the  
3 district attorney of the county in which the student resides of any minor student who  
4 fails to present written evidence of completed immunizations or a written waiver  
5 under sub. (3) within 60 school days after being admitted to the school, day child care  
6 center, or nursery school. The district attorney shall petition the court exercising  
7 jurisdiction under chs. 48 and 938 for an order directing that the student be in  
8 compliance with the requirements of this section. If the court grants the petition, the  
9 court may specify the date by which a written waiver shall be submitted under sub.  
10 (3) or may specify the terms of the immunization schedule. The court may require  
11 an adult student or the parent, guardian, or legal custodian of a minor student who  
12 refuses to submit a written waiver by the specified date or meet the terms of the  
13 immunization schedule to forfeit not more than \$25 per day of violation.

14           **SECTION 144.** 252.21 (1) of the statutes is amended to read:

15           252.21 (1) If a teacher, school nurse, or principal of any school or day child care  
16 center knows or suspects that a communicable disease is present in the school or  
17 center, he or she shall at once notify the local health officer.

18           **SECTION 145.** 253.15 (2) of the statutes, as affected by 2007 Wisconsin Act 20,  
19 is amended to read:

20           253.15 (2) INFORMATIONAL MATERIALS. The board shall purchase or prepare or  
21 arrange with a nonprofit organization to prepare printed and audiovisual materials  
22 relating to shaken baby syndrome and impacted babies. The materials shall include  
23 information regarding the identification and prevention of shaken baby syndrome  
24 and impacted babies, the grave effects of shaking or throwing on an infant or young  
25 child, appropriate ways to manage crying, fussing, or other causes that can lead a

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1 person to shake or throw an infant or young child, and a discussion of ways to reduce  
2 the risks that can lead a person to shake or throw an infant or young child. The  
3 materials shall be prepared in English, Spanish, and other languages spoken by a  
4 significant number of state residents, as determined by the board. The board shall  
5 make those written and audiovisual materials available to all hospitals, maternity  
6 homes, and nurse–midwives licensed under s. 441.15 that are required to provide or  
7 make available materials to parents under sub. (3) (a) 1., to the department and to  
8 all county departments and nonprofit organizations that are required to provide the  
9 materials to ~~day~~ child care providers under sub. (4), and to all school boards and  
10 nonprofit organizations that are permitted to provide the materials to pupils in one  
11 of grades 5 to 8 and in one of grades 10 to 12 under sub. (5). The board shall also make  
12 those written materials available to all county departments and Indian tribes that  
13 are providing home visitation services under s. 48.983 (4) (b) 1. or 2. and to all  
14 providers of prenatal, postpartum, and young child care coordination services under  
15 s. 49.45 (44). The board may make available the materials required under this  
16 subsection to be made available by making those materials available at no charge on  
17 the board’s Internet site.

18 **SECTION 146.** 253.15 (4) of the statutes is amended to read:

19 253.15 (4) TRAINING FOR ~~DAY~~ CHILD CARE PROVIDERS. Before an individual may  
20 obtain a license to operate a day child care center under s. 48.65 for the care and  
21 supervision of children under 5 years of age or enter into a contract to provide a day  
22 child care program under s. 120.13 (14) for the care and supervision of children under  
23 5 years of age, the individual shall receive training relating to shaken baby syndrome  
24 and impacted babies that is approved or provided by the department or that is  
25 provided by a nonprofit organization arranged by the department to provide that

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1 training. Before an individual may be certified under s. 48.651 as a day child care  
2 provider of children under 5 years of age, the individual shall receive training  
3 relating to shaken baby syndrome and impacted babies that is approved or provided  
4 by the certifying county department or that is provided by a nonprofit organization  
5 arranged by that county department to provide that training. Before an employee  
6 or volunteer of a day child care center licensed under s. 48.65, a day child care  
7 provider certified under s. 48.651, or a day child care program established under s.  
8 120.13 (14) may provide care and supervision for children under 5 years of age, the  
9 employee or volunteer shall receive training relating to shaken baby syndrome and  
10 impacted babies that is approved or provided by the department or the certifying  
11 county department or that is provided by a nonprofit organization arranged by the  
12 department or county department to provide that training. The person conducting  
13 the training shall provide to the individual receiving the training, without cost to the  
14 individual, a copy of the written materials purchased or prepared under sub. (2), a  
15 presentation of the audiovisual materials purchased or prepared under sub. (2), and  
16 an oral explanation of those written and audiovisual materials.

17 **SECTION 147.** 254.162 (1) (c) of the statutes is amended to read:

18 254.162 (1) (c) Day Child care providers certified under s. 48.651 and day child  
19 care centers licensed under s. 48.65, provisionally licensed under s. 48.69<sub>1</sub> or  
20 established or contracted for under s. 120.13 (14).

21 **SECTION 148.** 254.168 (4) of the statutes is amended to read:

22 254.168 (4) A day child care provider certified under s. 48.651.

23 **SECTION 149.** 254.168 (5) of the statutes is amended to read:

24 254.168 (5) A day child care center licensed under s. 48.65, provisionally  
25 licensed under s. 48.69<sub>1</sub> or established or contracted for under s. 120.13 (14).



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1           **SECTION 150.** 285.63 (10) (d) 5. of the statutes is amended to read:

2           285.63 **(10)** (d) 5. Schools, churches, hospitals, nursing homes, or day child care  
3 facilities.

4           **SECTION 151.** 301.12 (14) (a) of the statutes is amended to read:

5           301.12 **(14)** (a) Except as provided in pars. (b) and (c), liability of a person  
6 specified in sub. (2) or s. 301.03 (18) for care and maintenance of persons under 17  
7 years of age in residential, nonmedical facilities such as group homes, foster homes,  
8 treatment foster homes, ~~child caring institutions~~ residential care centers for children  
9 and youth, and juvenile correctional institutions is determined in accordance with  
10 the cost-based fee established under s. 301.03 (18). The department shall bill the  
11 liable person up to any amount of liability not paid by an insurer under s. 632.89 (2)  
12 or (2m) or by other 3rd-party benefits, subject to rules which include formulas  
13 governing ability to pay promulgated by the department under s. 301.03 (18). Any  
14 liability of the resident not payable by any other person terminates when the  
15 resident reaches age 17, unless the liable person has prevented payment by any act  
16 or omission.

17           **SECTION 152.** 301.46 (4) (a) 2. of the statutes is amended to read:

18           301.46 **(4)** (a) 2. A day child care provider that holds a license under s. 48.65,  
19 that is certified under s. 48.651, that holds a probationary license under s. 48.69, or  
20 that is established or contracted for under s. 120.13 (14).

21           **SECTION 153.** 562.06 (3) of the statutes, as affected by 2007 Wisconsin Act 20,  
22 is amended to read:

23           562.06 **(3)** DAY CHILD CARE. Nothing in this section prohibits a licensee from  
24 operating a day child care area at a track if the day child care area is licensed by the  
25 department of children and families under s. 48.65.

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1           **SECTION 154.** 767.511 (1m) (e) of the statutes is amended to read:

2           767.511 **(1m)** (e) The cost of day child care if the custodian works outside the  
3 home, or the value of custodial services performed by the custodian if the custodian  
4 remains in the home.

5           **SECTION 155.** 905.04 (4) (e) 1. b. of the statutes is amended to read:

6           905.04 **(4)** (e) 1. b. “Neglect” has the meaning given in s. ~~48.981 (1) (d)~~ 48.02  
7 (12g).

NOTE: SECTIONS 6 to 8, 75 and 76, and 155 move the definition of “neglect” from the child abuse and neglect reporting statute (s. 48.981, stats.) to the beginning of ch. 48, stats., (the Children’s Code). The term “neglect” is used throughout the Children’s Code, so it is more appropriate to define that term at the beginning of that chapter.

8           **SECTION 156.** 938.32 (1) (c) 1. c. of the statutes is amended to read:

9           938.32 **(1)** (c) 1. c. A finding as to whether the county department or agency has  
10 made reasonable efforts to achieve the goal of the juvenile’s permanency plan, ~~unless~~  
11 ~~return of the juvenile to the home is the goal of the permanency plan and the court~~  
12 ~~finds that any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies.~~

13           **SECTION 157.** 938.33 (4) (c) of the statutes is amended to read:

14           938.33 **(4)** (c) Specific information showing that continued placement of the  
15 juvenile in his or her home would be contrary to the welfare of the juvenile, specific  
16 information showing that the county department or the agency primarily  
17 responsible for providing services to the juvenile has made reasonable efforts to  
18 prevent the removal of the juvenile from the home, while assuring that the juvenile’s  
19 health and safety are the paramount concerns, unless any of the circumstances  
20 specified in s. 938.355 (2d) (b) 1. to 4. applies, and specific information showing that  
21 the county department or agency has made reasonable efforts to achieve the goal of  
22 the juvenile’s permanency plan, ~~unless return of the juvenile to the home is the goal~~

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1 of the permanency plan and any of the circumstances specified in s. 938.355 (2d) (b)  
2 1. to 4. applies.

3 **SECTION 158.** 938.335 (3g) (c) of the statutes is amended to read:

4 938.335 (3g) (c) That the county department or agency has made reasonable  
5 efforts to achieve the goal of the juvenile's permanency plan, ~~unless return of the~~  
6 ~~juvenile to the home is the goal of the permanency plan and any of the circumstances~~  
7 ~~specified in s. 938.355 (2d) (b) 1. to 4. applies.~~

8 **SECTION 159.** 938.34 (2) (b) of the statutes is amended to read:

9 938.34 (2) (b) If the juvenile is placed in the juvenile's home under the  
10 supervision of an agency or the department, order the agency or department to  
11 provide specified services to the juvenile and the juvenile's family, including  
12 individual, family, or group counseling, homemaker or parent aide services, respite  
13 care, housing assistance, day child care, or parent skills training.

14 **SECTION 160.** 938.355 (2) (b) 6. of the statutes is amended to read:

15 938.355 (2) (b) 6. If the juvenile is placed outside the home, a finding that  
16 continued placement of the juvenile in his or her home would be contrary to the  
17 welfare of the juvenile or, if the juvenile has been adjudicated delinquent and is  
18 placed outside the home under s. 938.34 (3) (a), (c), (cm), or (d) or (4d), a finding that  
19 the juvenile's current residence will not safeguard the welfare of the juvenile or the  
20 community due to the serious nature of the act for which the juvenile was adjudicated  
21 delinquent. The court order shall also contain a finding as to whether the county  
22 department or the agency primarily responsible for providing services under a court  
23 order has made reasonable efforts to prevent the removal of the juvenile from the  
24 home, while assuring that the juvenile's health and safety are the paramount  
25 concerns, unless the court finds that any of the circumstances under sub. (2d) (b) 1.

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1 to 4. applies, and a finding as to whether the county department or agency has made  
2 reasonable efforts to achieve the goal of the juvenile's permanency plan, ~~unless~~  
3 ~~return of the juvenile to the home is the goal of the permanency plan and the court~~  
4 ~~finds that any of the circumstances under sub. (2d) (b) 1. to 4. applies.~~ The court shall  
5 make the findings specified in this subdivision on a case-by-case basis based on  
6 circumstances specific to the juvenile and shall document or reference the specific  
7 information on which those findings are based in the court order. A court order that  
8 merely references this subdivision without documenting or referencing that specific  
9 information in the court order or an amended court order that retroactively corrects  
10 an earlier court order that does not comply with this subdivision is not sufficient to  
11 comply with this subdivision.

12 **SECTION 161.** 938.355 (2c) (a) 3. c. of the statutes is amended to read:

13 938.355 (2c) (a) 3. c. Community support services, such as day child care,  
14 parenting skills training, housing assistance, employment training, and emergency  
15 mental health services.

16 **SECTION 162.** 938.356 (1) of the statutes is amended to read:

17 938.356 (1) ORAL WARNING. Whenever the court orders a juvenile to be placed  
18 outside his or her home or denies a parent visitation because the juvenile has been  
19 adjudged to be delinquent or to be in need of protection or services under s. 938.34,  
20 938.345, 938.357, 938.363, or 938.365 and whenever the court reviews a permanency  
21 plan under s. 938.38 (5m), the court shall orally inform the parent or parents who  
22 appear in court of any grounds for termination of parental rights under s. 48.415  
23 which may be applicable and of the conditions necessary for the juvenile to be  
24 returned to the home or for the parent to be granted visitation.

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NOTE: This SECTION requires the same termination of parental rights warning when a juvenile is placed outside the home as a result of delinquency as when a child or juvenile is placed outside the home due to a need for protection or services.

This SECTION also requires termination of parental rights warnings to be given at annual permanency plan review hearings, which requirement was inadvertently omitted when 2001 Wisconsin Act 109 replaced annual dispositional order extension hearings with annual permanency plan review hearings. According to DHFS, these warnings must be given at permanency plan review hearings to avoid delaying a petition for termination of parental rights.

1           **SECTION 163.** 938.365 (2g) (b) 2. of the statutes is amended to read:

2           938.365 **(2g)** (b) 2. An evaluation of the juvenile's adjustment to the placement  
3 and of any progress the juvenile has made, suggestions for amendment of the  
4 permanency plan, and specific information showing the efforts that have been made  
5 to achieve the goal of the permanency plan, including, if applicable, the efforts of the  
6 parents to remedy the factors that contributed to the juvenile's placement, ~~unless~~  
7 ~~return of the juvenile to the home is the goal of the permanency plan and any of the~~  
8 ~~circumstances under s. 938.355 (2d) (b) 1. to 4. applies.~~

9           **SECTION 164.** 938.365 (2m) (a) 1. of the statutes is amended to read:

10           938.365 **(2m)** (a) 1. Any party may present evidence relevant to the issue of  
11 extension. If the juvenile is placed outside of his or her home, the person or agency  
12 primarily responsible for providing services to the juvenile shall present as evidence  
13 specific information showing that the person or agency has made reasonable efforts  
14 to achieve the goal of the juvenile's permanency plan, ~~unless return of the juvenile~~  
15 ~~to the home is the goal of the permanency plan and any of the circumstances under~~  
16 ~~s. 938.355 (2d) (b) 1. to 4. applies.~~ The court shall make findings of fact and  
17 conclusions of law based on the evidence. The findings of fact shall include a finding  
18 as to whether reasonable efforts were made by the agency primarily responsible for  
19 providing services to the juvenile to achieve the goal of the juvenile's permanency  
20 plan, ~~unless return of the juvenile to the home is the goal of the permanency plan and~~

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1 ~~the court finds that any of the circumstances under s. 938.355 (2d) (b) 1. to 4. applies.~~

2 An order shall be issued under s. 938.355.

3 **SECTION 165.** 938.38 (5) (c) 7. of the statutes is amended to read:

4 938.38 (5) (c) 7. Whether reasonable efforts were made by the agency to achieve  
5 the goal of the permanency plan, ~~unless return of the juvenile to the home is the goal~~  
6 ~~of the permanency plan and any of the circumstances specified in s. 938.355 (2d) (b)~~  
7 ~~1. to 4. applies.~~

NOTE: SECTIONS 9 to 11, 13, 16 to 18, 156 to 158, 160, and 163 to 165 remove some language that was added to the statutes by 2001 Wisconsin Act 109 exempting a juvenile court from the requirement that it make a finding that reasonable efforts have been made to achieve the goal of a child's permanency plan in a situation in which return of the child to the home is the goal of the permanency plan and the parent has been found to have committed certain crimes against his or her child, has had his or her parental rights terminated with respect to another child, or has subjected the child to certain aggravated circumstances. According to DHFS, that language is redundant and confusing and, therefore, should be removed.

8 **SECTION 166.** 948.53 (1) (a) of the statutes is amended to read:

9 948.53 (1) (a) "Child care provider" means a day child care center that is  
10 licensed under s. 48.65 (1), a day child care provider that is certified under s. 48.651,  
11 or a day child care program that is established or contracted for under s. 120.13 (14).

NOTE: SECTIONS 1 to 5, 12, 14, 19 to 70, 73 and 74, 77 to 106, 108 to 150, 152 to 154, 159, 161, and 166 change current statutory references from "day care" to "child care" to reflect current terminology in the child care field and to reflect current licensing standards.

12 **SECTION 167.** 980.01 (1j) of the statutes is amended to read:

13 980.01 (1j) "Incarceration" includes confinement in a secured juvenile  
14 correctional facility, as defined in s. 938.02 (15m) (10p), or a secured child-caring  
15 institution residential care center for children and youth, as defined in s. 938.02  
16 (15g), ~~or a secured group home, as defined in s. 938.02 (15p)~~, if the person was placed  
17 in the facility for being adjudicated delinquent under s. 48.34, 1993 stats., or under  
18 s. 938.183 or 938.34 on the basis of a sexually violent offense.

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1           **SECTION 168.** 980.02 (1) (b) 3. of the statutes is amended to read:

2           980.02 (1) (b) 3. The county in which the person is in custody under a sentence,  
3 a placement to a secured juvenile correctional facility, as defined in s. 938.02 (15m),  
4 (10p), or a secured child caring institution residential care center for children and  
5 youth, as defined in s. 938.02 (15g), ~~or a secured group home, as defined in s. 938.02~~  
6 ~~(15p)~~, or a commitment order.

NOTE: SECTIONS 107, 151, 167, and 168 change current statutory references from “child caring institutions” to “residential care centers for children and youth.” Most of the references to “child caring institutions” were changed by 2001 Wisconsin Act 59, but these remaining statutory references were inadvertently omitted from that act.

7           **SECTION 169. Initial applicability.**

8           (1) OUT-OF-HOME PLACEMENTS OF CHILDREN.

9           (a) *Juvenile court reports.* The treatment of sections 48.33 (4) (c), 48.365 (2g)  
10 (b) 2., 938.33 (4) (c), and 938.365 (2g) (b) 2. of the statutes first applies to reports filed  
11 with the court assigned to exercise jurisdiction under chapters 48 and 938 of the  
12 statutes on the effective date of this paragraph.

13           (b) *Orders placing child outside home.* The treatment of sections 48.32 (1) (b)  
14 1. c., 48.355 (2) (b) 6., 48.365 (2m) (a) 1., 938.32 (1) (c) 1. c., 938.355 (2) (b) 6., 938.356  
15 (1) (with respect to court orders), and 938.365 (2m) (a) 1. of the statutes first applies  
16 to court orders granted on the effective date of this paragraph.

17           (c) *Permanency plan reviews and hearings.* The treatment of sections 48.356  
18 (1), 48.38 (5) (c) 7., 938.356 (1) (with respect to permanency plan reviews), and 938.38  
19 (5) (c) 7. of the statutes first applies to permanency plan reviews and hearings held  
20 on the effective date of this paragraph.

21           **SECTION 170. Effective date.**

