

**2009 DRAFTING REQUEST**

**Assembly Amendment (AA-AB462)**

Received: 10/02/2009

Received By: gmalaise

Wanted: 10/05/2009

Identical to LRB:

For: Tamara Grigsby (608) 266-0645

By/Representing: Cindy McGinnis

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject: Children - day care

Extra Copies:

Submit via email: YES

Requester's email: Rep.Grigsby@legis.wisconsin.gov

Carbon copy (CC:) to: Anne.Sappenfield@legis.wisconsin.gov

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Background checks of providers of care for children; substantiated reports of child abuse

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**Instructions:**

See attached--require substantiated reports of child abuse or neglect to be reported to DCF for purposes of background checks of persons who provide care for children; move effective date up to 3 months after publication

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 10/02/2009	jdye 10/05/2009		_____			
/1			jfrantze 10/05/2009	_____	mbarman 10/05/2009	mbarman 10/05/2009	

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/?	gmalaise	1/10/09 sjd		10/2			

FE Sent For:

<END>

**Malaise, Gordon**

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**From:** Kahn, Carrie  
**Sent:** Tuesday, September 29, 2009 9:54 AM  
**To:** Malaise, Gordon  
**Subject:** FW: Document  
**Importance:** High

Gordon,

I hear you're still out sick—sorry you're feeling under the weather, get plenty of rest.

We are moving forward with circulating the /2 draft of the child care regulations bill and will have you craft an amendment on the issue mentioned below rather than create a /3 draft.

Thanks,

Carrie Kahn  
Legislative Assistant  
State Senator Bob Jauch  
P.O. Box 7882  
Madison, WI 53707-7882

608-266-3510  
1-800-469-6562

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**From:** Kahn, Carrie  
**Sent:** Monday, September 28, 2009 1:18 PM  
**To:** Malaise, Gordon  
**Cc:** Mcginnis, Cindy; Sappenfield, Anne  
**Subject:** FW: Document

Hi Gordon,

We will need a /3 of the child care regulations bill LRB 3492—see the email string below. We would really like to start circulating the bill today if possible. How soon can we get the updated draft?

Thanks!

Carrie Kahn  
Legislative Assistant  
State Senator Bob Jauch  
P.O. Box 7882  
Madison, WI 53707-7882

608-266-3510  
1-800-469-6562

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**From:** Mcginnis, Cindy  
**Sent:** Monday, September 28, 2009 1:16 PM  
**To:** Kahn, Carrie

10/02/2009

**Subject:** FW: Document

Carrie-

Do you want to forward this string to Gordon and have him fix it for a /3?

Cindy

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**From:** Sappenfield, Anne  
**Sent:** Monday, September 28, 2009 1:15 PM  
**To:** Mcginnis, Cindy  
**Subject:** RE: Document

Hi Cindy,

I don't think the bill covers that point. I am wondering if you would need to put something in s. 48.981, relating to reporting abuse and neglect to require the county to cross reference any substantiations of abuse or neglect with the list of day care providers.

I'm leaving for the day, but I'll be in all day tomorrow.

Anne

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**From:** Mcginnis, Cindy  
**Sent:** Monday, September 28, 2009 12:59 PM  
**To:** Sappenfield, Anne  
**Cc:** Kahn, Carrie  
**Subject:** FW: Document

Anne-

Can you please scroll down to Caregiver Background Checks, Item #3 Statute Changes and let me know if our bill covers all 3. I think you and Carrie have had a conversation about item b. and you and Gordon Malaise believe this is covered under current statute (Kimmie is checking with the Department on this). I know our bill covers item a., what about c? If our bill doesn't cover this, then we definitely need to add it.

Thanks

Cindy

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**From:** Sweeney, Matthew - GOV [mailto:Matthew.Sweeney@wisconsin.gov]  
**Sent:** Monday, September 28, 2009 12:55 PM  
**To:** Mcginnis, Cindy  
**Subject:** Document

Was it this?

## **Department of Children and Families**

### **Update and Background: Wisconsin Shares Anti-Fraud and Child Care Background Checks**

#### **Wisconsin Shares**

##### **Personnel**

- ◆ Dan Harris, the current Division Administrator for the Division of Early Care and Education, was relieved of his duties starting September 25, 2009. Secretary Bicha has asked Deputy

10/02/2009

Secretary Henry Wilde to lead this Division and the Departments child care initiatives. Ron Hunt, Division Administrator of Enterprise Solutions, will assume the responsibilities of the Deputy Secretary.

### **Wisconsin Shares Overall**

- ◆ The purpose of the Wisconsin Shares is to provides financial child care assistance to low-income parents who are working or preparing to enter the workforce. It is administered by local Wisconsin Works (W-2) agencies and county or tribal human services agencies.
- ◆ The budget for the Wisconsin Shares Program is \$400 million.
- ◆ The Wisconsin Shares program serves 34,084 families and 60,000 children throughout the state.
- ◆ Fraud is a current problem within the Wisconsin Shares program. In addition to fraud eroding the basic integrity of the Wisconsin Shares program, the amount of funds fraudulently paid to providers reduces the amount available to reimburse honest providers for appropriate child care.
- ◆ In their Spring Audit of the Wisconsin Shares Program, the Legislative Audit Bureau estimated that \$25 - \$28 million in Wisconsin Shares overpayments (which includes fraud).
- ◆ Wisconsin Shares child care subsidy overpayment resulting from inaccurate attendance records and/or other discrepancies displays a failure to comply with all laws and/or a failure to ensure all information is current and accurate and may result in a license revocation and suspension of future Shares payments.

### **Latasha Jackson**

- ◆ Latasha Jackson, a former child care provider, has received over \$3 million of Wisconsin Shares child care payments since 1999. She as made a great deal of profit from the Wisconsin Shares program – in fact, she owns a house worth \$1.5 million and drives a Jaguar.
- ◆ In November 2008, DCF incorrectly re-licensed Ms. Jackson to provide child care. Her license had previously been revoked due to child abuse.
- ◆ In applying for her new license Ms. Jackson did not reveal that she had a background of public assistance fraud. In learning this, DCF revoked her license and stopped Wisconsin Shares Payment.
- ◆ That same day, Secretary Bicha instructed DCF not to issue another check to Ms. Jackson. DCF staff allowed Ms. Jackson to receive an additional \$25,000 Wisconsin Shares payment.

### **DCF Anti-Fraud Actions to date**

- ◆ DCF suspended 34 providers on the basis of Intentional Program Violations identified by Milwaukee County, which led the Department to suspect program violations. This week, DCF will suspend three additional providers from balance of state on the basis of indications of fraud identified by counties. Our policy is to review those within 30 days to confirm fraud, which we are currently in the process of doing.
- ◆ DCF has suspended 9 additional providers, based on observations made by O'Brien

and Associates, an investigative firm hired by the Department, which constituted reasonable suspicion of fraud. Examples of O'Brien's observations included zero children at a provider authorized to serve 43; four children at a center authorized to serve 28; three children at a center authorized to serve 24; and two children at a center authorized to serve 13.

- ◆ Over the next several days, O'Brien and Associates and DCF licensors/auditors will be conducting spot visits and collecting attendance records at more than 60 providers. These providers have been identified via calls to our fraud hotline and quantitative data analysis of suspicious reimbursement patterns. Based on their reported observations, we anticipate that we will suspend those about whom we have reasonable suspicion of fraud.
- ◆ Created the Child Care Anti-Fraud Task Force to review high priority criminal investigations. This Task Force now includes representatives from DCF, the Milwaukee District Attorney, WI DOJ, Milwaukee County Shrieff's Office, the FBI, and Department of Revenue. The Task Force will prioritize and investigate cases most promising for criminal prosecution.
- ◆ The DCF 5-person Fraud Prevention and Detection Unit is now fully hired and includes two former Milwaukee Police Officers and the lead detective on the state's largest child care prosecution in the past two years.
- ◆ The Department is in the process of developing an RFP for an automated attendance system (e.g. swipe card) which is expected to be released in January 2010.
- ◆ Current issue: We suspect that there could be an additional 200 providers who are defrauding the Shares program.

### **Child Care Background Checks**

There was a gap in the child care background check process. Upon learning this gap, the Department took immediate steps to ensure the safety of children currently in child care and developed and implemented solutions to close the systemic gap.

#### **1. Address Checks:**

- a. Background checks are currently conducted, by law, on individuals who reside in a home, as reported by the provider and confirmed by a regulator – but those checks are only conducted by checking individual names, not addresses.
- b. Beginning in August 2009, the Department requires counties and child care licensors to search both individual background checks *and* addresses for possible offender matches.
- c. DCF will perform a regular address match to be shared with counties which shows any sex offenders who have moved to the address of a licensed or certified child care provider.
- d. DCF will work with DOC to perform address match searches for juvenile sex offenders and DCF will share with counties any information regarding addresses that match applicants for licensure, currently licensed or currently certified child care providers.

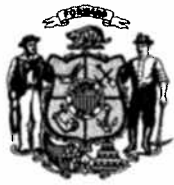
2. **Quarterly data matches:**

- a. Background checks are only conducted on licensees every four years, with the expectation that intermediate crimes and substantiations of child abuse and neglect are either self reported or identified by individual counties.
- b. This process must be strengthened to ensure that the dots are connected each and every time. As such, we are automating quarterly data matches between CCAP, the Sex Offender Registry, and eWISACWIS and the databases that contain data on certified and licensed child care providers to ensure that neither crimes nor child abuse can fall through the cracks of the current background check process.

3. **Statute Changes:**

- a. Further strengthening of this process is required to ensure that children in Wisconsin's child care facilities are safe. Specifically, the background checks of certified and licensed child care providers do not cover the Sex Offender Registry. We have changed this in practice, but it should be changed in statute.
- b. Second, background checks conducted by providers on their employees – background checks that are not conducted directly on behalf of state and county staff – should be changed by statute to include substantiations of abuse and neglect.
- c. As the system currently stands, if a county does not connect the fact that a person substantiated as a maltreater works in a child care center, the system is dependent upon individuals self reporting abuse or neglect, despite a clear economic disincentive to do so. We need statutory change to fix this loophole.

**Matt Sweeney**  
**Assistant to the Legislative Director**  
**Office of Governor Jim Doyle**  
State Capitol 115 East  
Madison, WI 53702  
matthew.sweeney@wisconsin.gov  
608-261-2163  
608-261-6804 (f)



State of Wisconsin  
2009 - 2010 LEGISLATURE

IN 10/2  
Wanted Mar 10/5

LRBa0805/1  
GMM:....  
JLD

ASSEMBLY AMENDMENT,  
TO 2009 ASSEMBLY BILL 462

1 At the locations indicated, amend the bill as follows:

2 1. Page 19, line 14: after that line insert:

3 "SECTION 29m. 48.981 (3) (c) 5r. of the statutes is created to read:

4 48.981 (3) (c) 5r. If the county department or, in a county having a population  
5 of 500,000 or more, the department or a licensed child welfare agency under contract  
6 with the department determines under subd. 4. that a specific person has abused or  
7 neglected a child, the county department, department, or licensed child welfare  
8 agency, within 15 days after the date of the determination, shall provide the subunit  
9 of the department that administers s. 48.685 with information about the person who  
10 has been determined to have abused or neglected the child.

11 SECTION 29p. 48.981 (3) (cm) of the statutes is amended to read:

12 48.981 (3) (cm) Contract with licensed child welfare agencies. A county  
13 department may contract with a licensed child welfare agency to fulfill the county



1 department's duties specified under par. (c) 1., 2. b., 2m. b., 5., 5r. 6., 6m., and 8. The  
2 department may contract with a licensed child welfare agency to fulfill the  
3 department's duties specified under par. (c) 1., 2. a., 2m. b., 3., 4., 5., 5m., 5r. 6., 6m.,  
4 7., 8., and 9. in a county having a population of 500,000 or more. The confidentiality  
5 provisions specified in sub. (7) shall apply to any licensed child welfare agency with  
6 which a county department or the department contracts." ✓

**History:** Sup. Ct. Order, 59 Wis. 2d R1, R3 (1973); 1977 c. 355; 1977 c. 447 s. 210; 1979 c. 300; 1983 a. 172, 190, 299, 538; 1985 a. 29 ss. 917 to 930m, 3200 (56); 1985 a. 176, 234; 1987 a. 27, 186, 209; 1987 a. 332 s. 64; 1987 a. 334, 355, 399, 403; 1989 a. 31, 41, 102, 316, 359; 1991 a. 160, 263; 1993 a. 16, 105, 218, 227, 230, 246, 272, 318, 395, 443, 446, 491; 1995 a. 275, 289, 369, 456; 1997 a. 27, 114, 292, 293; 1999 a. 9, 20, 32, 56, 84, 149, 192; 2001 a. 16, 38, 59, 69, 70, 103, 105; 2003 a. 33, 279, 321; 2005 a. 113, 232, 344, 406, 434; 2005 a. 443 s. 265; 2007 a. 20 ss. 1370 to 1373, 9121 (6) (a); 2007 a. 97; 2009 a. 28.

7 **2.** Page 24, line 8: delete "6th" and substitute "3rd". ✓

8

(END)