



# State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

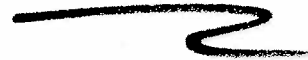
## RESEARCH APPENDIX -

**PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 10/01/2009 (Per: GMM)




 Appendix A ... Part 01 of 09




  The 2009 drafting file for LRB-3047/7 (For: Rep. Gundrum)


has been copied/added to the drafting file for

**2009 LRB-3596** (For: Rep. Gundrum)

 Are These “Companion Bills” ?? ... No

If yes, who in the initial requestor’s office authorized the copy/transfer of the drafting history (“guts”) from the original file: \_\_\_\_\_

 The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

 This cover sheet was added to rear of the original 2009 drafting file. The drafting file was then returned, intact, to its folder and filed.

**2009 DRAFTING REQUEST**

**Bill**

Received: **06/29/2009**

Received By: **gmalaise**

Wanted: **Soon**

Identical to LRB:

For: **Mark Gundrum (608) 267-5158**

By/Representing: **Steve Knudson**

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.Gundrum@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Child care; certain persons prohibited from providing

---

**Instructions:**

See attached

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
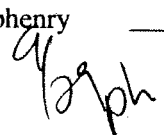
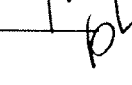
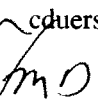
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09/21/2009 11:32:34 AM

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**Malaise, Gordon**

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**From:** Rep.Gundrum  
**Sent:** Monday, June 15, 2009 8:58 AM  
**To:** Malaise, Gordon  
**Cc:** Knudson, Steve  
**Subject:** Drafting Instructions - Child Care Reform Bill - Rep. Gundrum

Gordon,

Below are the drafting instructions my assistant, Steve Knudson, spoke to you about this morning. If you have any questions, please feel free to contact my office.

Over the weekend, the Milwaukee Journal Sentinel ran a story about yet more concerns with Wisconsin's subsidized child care program, including concerns about criminals being subsidized in their questionable child care operations. Here is a link to the article:  
<http://www.jsonline.com/watchdog/watchdogreports/48010777.html>.

With what has come to light so far regarding this system, I would like legislation drafted to address many of the highlighted concerns. I would like the bill to ensure, at a minimum, that the following is accomplished:

- 1. Prohibit anyone with any felony conviction or any misdemeanor conviction involving sexual offenses, child abuse, domestic abuse, or financial dishonesty from being licensed as a child-care provider;
- 2. Prohibit anyone who has had a restraining order issued against them within the last 15 years from being licensed as a child-care provider;
- 3. Prohibit any licensed day care facility from being operated at a premises where a person convicted of any of the above offenses resides;
- 4. Prohibit any licensed facility from employing any individuals who have been convicted of any of the above offenses;
- 5. Require that as soon as it comes to the attention of the state that a person who resides at or works at a licensed day care facility is in violation of any of the above prohibitions, the facility's license shall be revoked and payments to that facility stopped.
- 6. Require that no less than every six months, the Department of Children and Families will do a review of all license holders to ensure they have not been convicted of a crime falling into one of the above categories. If, for example, the Dept. reviews CCAP and finds that a license holder has apparently been convicted of a crime falling into one of the above categories, they will need to confirm that conviction with a certified judgment of conviction within no less than 30 days and, once confirmed, immediately revoke that person's license and cease any payments being made to that provider, including payments for any child-care services provided by that person after the date of the conviction; and
- 7. Require that once Dept. officials are alerted (from the review that is required every six months at a minimum OR if alerted through any other mechanism) that a licensed provider has been charged with one of the above offenses (though not yet convicted), the Dept. shall immediately begin its own inquiry

06/15/2009

into the legitimacy of the offense.

If the Dept. concludes that it is more likely than not (a lower standard than the criminal requirement of "beyond a reasonable doubt") that one of the above offenses has been committed, regardless of whether the person has been criminally convicted of that offense or not, the Dept. shall immediately revoke that person's license (or refuse to issue) and shall cease any payments from being made to that provider including for any services rendered by that provider after the date of the determination

Thanks.

Rep. Mark Gundrum

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- Newsvine
- e-mail
- reddit
- Digg it
- Delicious
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- Mixx

CASHING IN ON KIDS | A JOURNAL SENTINEL WATCHDOG REPORT

Child-care providers with criminal past getting licenses, state funds



Kristyna Wentz-Graff

Stephanie Whittley drops off her child last month at Joy's Day Care Center in Milwaukee, owned by Patricia Carter-Lee. Carter-Lee has been investigated several times by county and state regulators on accusations including child abuse.

By Raquel Rutledge of the Journal Sentinel

Posted: Jun. 13, 2009

Photo Gallery



Kristyna Wentz-Graff Patricia Carter-Lee, owner of Joy's Day Care Center in Milwaukee, had her state day care license suspended in 2002 while she was investigated on allegations of hitting her foster child with a belt. County welfare workers deemed the allegations were true and pulled her county certification, but the state ended up rescinding its suspension.

See more photos

A couple of days before Thanksgiving in 1996, Lisa Johnson took her 12-year-old foster daughter to the basement, pulled out an extension cord and whipped her with it, repeatedly.

Johnson turned on some music and cranked up the volume to drown out the girl's cries. Still, other foster children in the house later told Milwaukee police that they could hear the girl beg for mercy.

"I swear to God, Mama, I will be good," the children reported hearing.

Good - meaning she would never chew gum in school again.

Johnson, now 42, was charged with felony child abuse and in 1997 pleaded guilty to battery and domestic abuse. Her foster license was revoked.

Yet three years later, she opened a certified day care center in Milwaukee County called Planting Seeds.

And as of April 2009, she had taken in more than \$430,000 from the taxpayer-supported Wisconsin Shares child-care program, while running a center with numerous violations and recurring problems.

Johnson's story isn't that unusual. The Journal Sentinel found that child abusers and people who have committed other serious crimes are becoming licensed child-care providers and are earning hundreds of

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Some who have previous records

Nearly 500 child-care providers collecting Wisconsin Shares money have criminal records. They include:



**LaToya Robinson**, who was found guilty of a felony for fraudulent use of public-assistance funds in 2004. She still runs a day care center in Madison and has collected nearly \$3,800 in subsidies so far this year.



**Synthia Bruce**, who was convicted in 2003 and again in 2004 of disorderly conduct. In January 2009, Bruce was charged with battery, criminal damage to property and disorderly conduct. That has not stopped her from running her Racine day care center and collecting more than \$17,000 in public child-care funding this year.



**Christina Froemel**, who was charged with felony battery and disorderly conduct in 2006. The Hayward woman pleaded guilty to a misdemeanor and continues to run Wee Care Day Care. She has received more than \$10,000 from Wisconsin Shares this year.

Tougher law may be on the way

Changes in the law would give regulators the ability to suspend Wisconsin Shares payments if providers are convicted of a felony or misdemeanor that relates to the operation of a business. They could also cut off payments if they suspect a person has intentionally violated any rules of the Wisconsin Shares program.

thousands of dollars through the Wisconsin Shares system. Nearly 500 child-care providers in Wisconsin with criminal records have received funding from the state in the first half of 2009 alone, according to a computer analysis by the Journal Sentinel.

The \$350 million-a-year program subsidizes child-care costs for roughly 35,000 low-income working families. But the system has been easily scammed by parents and providers.

In addition to posing a potential safety risk to the state's neediest children, some criminals appear to be conning the child-care system, doctoring attendance records, the Journal Sentinel found.

It's difficult to gauge the full scope of child abusers in the system because even when police and child-welfare workers find substantiated cases, not all abusers are criminally charged. And when they have been charged, many of the details are considered private information. To tell this story, the Journal Sentinel reviewed thousands of pages of public documents and obtained from sources dozens of additional documents that state and county regulators refused to release.

State regulators typically conduct background checks on a child-care provider every two years, when the provider's license needs to be renewed. If a provider commits a crime in the interim, the person is supposed to report it to regulators. The state does not run systemwide criminal-activity scans of providers.

"That makes me nervous," said Beverly Anderson, executive director of Ebenezer Child Care Centers and co-chairwoman of the Milwaukee Child Care Alliance. "I certainly hope someone is taking a look at this."

Nothing in the regulations prohibits people convicted of crimes from getting into the child-care business. There is no permanent ban, no matter what crime has been committed. If the crimes are directly related to children or are considered serious, the child-care providers need to prove to regulators that they have been rehabilitated before they are eligible. Even those convicted of homicide or sexual assault can qualify, as long as they can convince a three- or four-member panel that they are fit to operate a center.

Proving rehabilitation

That's what Lisa Johnson did after her domestic abuse conviction. She told state and county panel members in July 2000 that she was going through a stressful time when she beat her foster child. Her husband had just been killed in a car accident, according to a hearing transcript. She said the girl was the most difficult of her four foster children, and the child had been shouting obscenities at her teachers the day of the beating.

"I guess I allowed a lot of anger to build up within myself," she told the panel. "I know what I did was wrong, and I'm not trying to minimize it. . . And I do take full responsibility."

Johnson also acknowledged that it was not the first time she had whipped the girl with an electrical cord. But Johnson said she had since taken parenting classes that taught her it was not the proper way to discipline a child.

"I have changed," she said.

The panel was convinced. A few days later, the state Department of Health and Family Services issued a letter informing her, "You have demonstrated sufficient evidence to support rehabilitation approval."

Milwaukee County certified her as a day care provider, and a year later, she became licensed by the state with the stipulation that she take two anger management classes or consult with a mentor.

In subsequent years, she was cited repeatedly for numerous violations, including not keeping proper attendance records and not taking the biennial training classes on child abuse and neglect, but she had not been cited for abusing children.

State regulators revoked Johnson's license in April after questioning by the Journal Sentinel. The reason: She owed the Department of Revenue more than \$5,700 in back taxes. Johnson did not pay the taxes or appeal within the required 30 days and was officially shut down May 14, according to Erika Monroe-Kane of the state Department of Children and Families.

But in an interview last week, Johnson said she had not lost her license and continues to operate her day care center. She said she was not aware of any back taxes and had never been notified by the state of any revocation.

In fact, she received nearly \$2,000 in child-care subsidies June 6 for care delivered in the last two weeks in May, state records show.

State regulators said they sent the revocation letter by certified and regular mail but don't follow up with a phone call or visit.

"If the letter sent through the regular mail is not returned, the presumption is that this was received," Monroe-Kane wrote in an e-mail

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The legislation, which is expected to be voted on later this month, also forbids providers from caring only for the children of their employees. If approved, it would limit the percentage of employees' children enrolled at centers to 40%.

The state is launching a new fraud unit in the coming months. State inspectors will then be able to move quickly when they suspect fraud.

In addition, regulators plan to assign some of their inspectors to second and third shifts, when many of the problems occur. Inspectors also will be trained to spot potential fraudulent activities.

"We're doing business differently in terms of how we connect the dots," said Henry Wilde, deputy secretary of the state Department of Children and Families.

### Cashing in on Kids



The Journal Sentinel spent four months investigating the \$340 million taxpayer-financed child-care system known as Wisconsin Shares and uncovered a trail of phony companies, fake reports and shoddy oversight. [Read the series and ongoing coverage](#)

In fact, the state's own documents show he earned nearly \$75,000 in 2004 and 2005 working for Metz Baking Co. Those same years, the state paid him about \$175,000 for reportedly taking care of children.

Other complaints at the time claimed that Pamela Kohlheim offered parents employment and kickbacks if they would enroll their children. Employees told inspectors that the Kohlheims billed for kids not in attendance and left older kids in charge while they stayed in their bedroom.

Sometimes, the Kohlheims fought in front of children, kicking over furniture, punching each other and using obscenities, employees said.

In the midst of it all, Willie Kohlheim received more than \$725,000 from the Wisconsin Shares program from 2003 to 2008.

And then, in 2008, instead of shutting down the day care center, the state licensed Pamela Kohlheim to care for up to 31 children at a new Milwaukee day care center called From Up Above on N. Humboldt Blvd.

Throughout the year, as she received public funding, Pamela Kohlheim repeatedly was cited by the department for not keeping accurate attendance reports, not properly supervising children, keeping or serving leftover milk and old food, not cleaning the diaper changing area, leaving dangerous materials within reach of children and other violations.

Inspectors visited her center 13 times in 2008, mostly in response to complaints, records show.

Also that year, the Kohlheims filed restraining orders against each other, with both claiming that one had threatened to kill the other. The court granted the injunctions.

Yet the Kohlheims still qualified to care for kids.

In that one year alone, Pamela Kohlheim received more than \$540,000 from Wisconsin Shares.

### Billing suggests scam

And if December's billing is indicative of earlier months, the money was spent on what police and regulators consider a likely scam.

All 19 children for whom Pamela Kohlheim charged the state that month belonged to employees of the center. Authorities say that type of situation often indicates fraud. Parents would not need to show up for work, under those circumstances, if they were just taking care of their own kids.

In December, Pamela Kohlheim voluntarily closed her center with the hopes of reopening a smaller center in her home.

to the Journal Sentinel. "We expect that once a business has received a closure notice, they will cease operations. In our experience, it would be rare that a center continue to operate after this."

After her interview Wednesday with the newspaper, Johnson contacted the state and paid her back taxes. Monroe-Kane said Thursday that Johnson's day care license will be reinstated.

### 'This lady is really bad'

A lack of oversight and lax rules allow people whom the state has warned to stay away from day care centers to become licensed child-care providers.

In 2003, Willie Kohlheim was licensed by the state to care for up to eight children at his home on N. 17th St. Regulators granted Kohlheim the license with one stipulation: His wife, Pamela, would not be allowed on the premises.

Pamela Kohlheim had been denied certification to run a child-care business by Milwaukee County the prior year.

"This lady is really bad," a county worker warned in an e-mail to state regulators about Willie Kohlheim's pending license in 2002.

Pamela Kohlheim's history includes arrests, charges or convictions for various crimes such as dealing drugs and writing bad checks. She also was accused of threatening to kill Willie Kohlheim's ex-girlfriend. She was sentenced to 90 days in the House of Correction and 18 months' probation in 2002 for violating a domestic abuse order.

The state Department of Health and Family Services determined that Pamela Kohlheim had "exhibited past behavior that establishes a pattern of criminality." Her conduct gave regulators "concern for the health, safety and welfare of children," Cinda Jones, regional licensing chief with the state, wrote in the stipulation letter.

There were other red flags. Willie Kohlheim had a full-time job for 17 years, making it difficult for him to run a child-care center on the side.

"This lady will probably be doing the care. That is scary!!" a county worker wrote in an e-mail to the state.

But Willie Kohlheim claimed he was separated from his wife. He guaranteed she would not be involved in the day care center.

The state licensed Willie Kohlheim.

Soon after, complaints began rolling in. Parents and employees reported in 2004 and 2005 that Pamela Kohlheim actually was running her husband's business while he worked elsewhere.



She was denied a license in February when she reapplied. State regulators now are considering legal options to recover some of the \$540,000 she received in 2008.

Regulators can't say why Pamela Kohlheim went from being barred from her husband's business to being licensed to run her own center.

"I don't want there to be any confusion about our opinion of the service they were providing," Monroe-Kane said. "This is not a quality center, and as result they no longer have a license."

Willie Kohlheim voluntarily closed his business in 2008, shortly after Pamela Kohlheim opened hers. He reapplied in January of this year for a new child-care license. The state Department of Children and Families denied his application May 29, weeks after the Journal Sentinel began asking questions.

New rules being put in place or considered by lawmakers will make it easier for regulators to shut down providers like Willie and Pamela Kohlheim more swiftly, Monroe-Kane said.

### State-county miscues

Poor communication between state and local agencies allows some providers to remain in the system when they shouldn't.

In the case of Patricia Carter-Lee, the state and Milwaukee County were aware of accusations that she had abused a child. Yet they failed to communicate, and Carter-Lee's home-based business, Joy's Day Care Center on N. 25th St., kept on chugging.

In April 2002, regulators with the Bureau of Milwaukee Child Welfare investigated accusations that Carter-Lee hit one of her foster children with a belt.

Carter-Lee was certified by the county to provide day care for as many as six children. She also was licensed by the state to care for eight children.

State regulators suspended her day care license immediately during the investigation.

Carter-Lee and her husband, Terry Lee, denied physically punishing their foster children, records show. They did, however, admit to using belts, paddles and their hands to "whoop" their own children.

Still, an attorney with the state division of appeals wasn't convinced that Carter-Lee was a threat to children. Attorney Brian Schneider ordered that the suspension be rescinded. There were no allegations that Carter-Lee abused children in the day care, Schneider reasoned.

"I question whether there is imminent danger to the day care children, even with the investigation pending," Schneider wrote.

Then in July 2002, when county welfare workers concluded their investigation and found the allegations to be substantiated, Milwaukee County regulators yanked her child-care provider certification.

The state allowed her to keep her child-care license.

It's unclear if the state was aware of the county's findings. The state declined to release some of the documents that would explain exactly what transpired, citing confidentiality laws.

There was another allegation of child abuse against Carter-Lee in 2001 that was unsubstantiated. And one in 1997 that was substantiated by local child welfare workers but overruled years later by a state administrative law judge.

It's also unclear whether state regulators knew that Milwaukee County had revoked her child-care certification.

Carter-Lee did nothing to clue in state regulators. In fact, records show, she lied repeatedly on her license renewal applications. On four separate occasions, she denied that she had ever had a certification revoked.

### Repeated violations

Over the years, Carter-Lee expanded her business, collecting more and more Wisconsin Shares funding. In 2008, she brought in nearly \$125,000. By April 2009, she was on pace to make more than \$140,000.

All the while, state regulators have cited her repeatedly for not keeping accurate attendance records. She also has been cited for inadequate training of her staff, failure to serve proper meals to children and other serious rule violations.

In 2003, her day care center was investigated for reported sexual abuse of a child. Milwaukee child welfare workers could not substantiate the allegation, according to records.

In 2005, someone complained that kids were left alone in Carter-Lee's van in the parking lot of a Dollar Store for 20 minutes, records show. A state inspector at the time, Mark Mitchell, confronted Carter-Lee a week later. She denied the allegation.

"Not able to substantiate," Mitchell wrote in his report.

Regulators suspected her of fraudulent billing in 2007. And that same year, she admitted that all the children in her care belonged to people who worked for her center.

In April, she was cited for 18 rule violations, including not keeping accurate attendance reports, state records show. Regulators issued yet another warning in May.

That hasn't stopped Carter-Lee.

When the Journal Sentinel stopped by her house last month, she had two children in her care. She usually bills for between 16 and 24 kids per day. She said the others wouldn't be coming that day because her husband had jury duty and couldn't pick them up.

None of her employees was available to help, either, she said. She said she wrote a letter to parents notifying them that they would have to find other arrangements. But she could not find a copy of the letter.

She said she has never abused a child at her day care center.

"I ain't going to whip no day care kids," she said. "That ain't my responsibility."

**Still around kids**

Sometimes, it's not the provider who commits the crime or abuse, but someone who lives in the house and is around the children in the day care center.

Regulators with Milwaukee County revoked Rodney Bowman's child-care provider certification in 2003, based on criminal arrests for battery in 1994, 1998 and 2002.

"You have established a pattern of behavior that could put day care children at risk," the revocation letter states.

Bowman had run his home-based operation, called Milwaukee's Finest Child Care, for two years out of a house on W. Galena St., around the corner from a day care of the same name run by his mother, Fannie Bowman. Fannie Bowman's business also is based in her home.

Within weeks of his license revocation, Rodney Bowman moved in with his mother, according to court records and interviews with the Bowmans.

He lived there while he had been convicted of felony drug dealing and violating a domestic abuse order. Documents show he lived there in 2006, when he was charged with felony child abuse, and in 2007, when he was convicted of criminal trespassing and violating another domestic abuse order. That same year, he also was found guilty of obstructing an officer.

Rules require home-based day care providers to disclose the names of all individuals living in their homes. And day care providers are restricted from having certain types of felons, such as convicted drug dealers, living in the home where they care for kids, unless they've received approval from regulators.

Fannie Bowman told the Journal Sentinel that her son moved out a couple of months ago but that it was no secret that he lived there all those years. State regulators knew it all along, she said.

"He had to live somewhere," she said. "He was always here when they (state inspectors) came around."

Rodney Bowman was at his mother's house while she cared for children when the Journal Sentinel stopped by last month.

He said he regretted having drugs in his mother's house and said he had learned from his mistakes. He said all the other criminal charges against him were fabricated by a former girlfriend.

Over a two-year period, Fannie Bowman was cited by the state for violating rules nearly 30 times - including not keeping accurate attendance records. In January, regulators issued an enforcement order warning her to comply with transportation, safety and record-keeping rules, records show.

State regulators said they were never notified by Fannie Bowman that Rodney Bowman was living in her home.

Fannie Bowman collected \$46,000 from the state's subsidized child-care program in 2008. She is on pace this year to double her income from the program.

*Ben Poston of the Journal Sentinel staff contributed to this report.*

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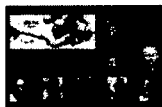
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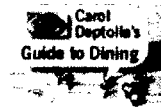
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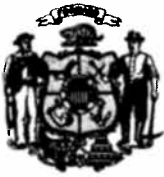


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**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

LN 715

Gen has

1 AN ACT ...; relating to: prohibiting a person who has committed any felony or a  
 2 misdemeanor involving sexual abuse, child abuse, domestic abuse, or financial  
 3 dishonesty, who is the subject of a pending criminal charge for any felony or  
 4 such a misdemeanor, or who had had entered against him or her a domestic  
 5 abuse, child abuse, individual-at-risk abuse, or harassment temporary  
 6 restraining order or injunction in the preceding 15 years from being licensed,  
 7 certified, or contracted with to provide child care, prohibiting a person who has  
 8 committed any felony or such a misdemeanor from being employed or  
 9 contracted as a caregiver of a child care provider or from being permitted to  
 10 reside at a premises where child care is provided, granting rule-making  
 11 authority, and making an appropriation.

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

Under current law, the Department of Children and Families (DCF) may not license a person to operate a day care center; DCF in a county having a population of 500,000 or more, a county department of human services or social services (county department), or an agency contracted by DCF to certify day care providers for

purposes of reimbursement under the Wisconsin Works Program (contracted agency) may not certify a day care provider for those purposes; and a school board may not contract with a person to provide a day care program (collectively "child care provider") if the person has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime, as defined under current law, unless the person shows that he or she has been rehabilitated.

Similarly, a child care provider may not employ or contract with a caregiver or permit a nonclient resident to reside at a premises where child care is provided if the caregiver or nonclient resident has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime, as defined under current law, unless the caregiver or nonclient resident shows that he or she has been rehabilitated. Currently, "serious crime" is defined to include certain crimes against life or bodily security and certain crimes against children that are felonies.

This bill prohibits any of the following persons from being licensed, certified, or contracted with to provide child care and from showing that he or she has been rehabilitated:

1. A person who has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing any felony or for committing a misdemeanor that involves sexual abuse, child abuse, domestic abuse, or financial dishonesty.

2. A person who is the subject of a pending criminal charge alleging that the person has committed any felony or such a misdemeanor and of a determination by DCF, the county department, the contracted agency, or the school board that there are reasonable grounds to believe that the person has committed the felony or misdemeanor.

X 3. A person who ~~had~~ <sup>had</sup> entered against him or her a domestic abuse, child abuse, individual-at-risk abuse, or harassment temporary restraining order or injunction (TRO or injunction) in the 15 years preceding the background investigation of the person.

The bill also prohibits any person who has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing any felony or for committing any of those misdemeanors from being employed or contracted as a caregiver, or from being permitted to be a nonclient resident of a premises where child care is provided, and prohibits such a person from showing that he or she has been rehabilitated.

X Under current law, DCF *may* revoke the license of a person to operate a day care center if the licensee or a person under the supervision of the licensee commits certain actions, including a repeated or substantial violation of a rule or order of DCF or of a condition of licensure or an action that directly threatens the health, safety, or welfare of any child under the care of the licensee. Similarly, under current law, DCF or a county department *may* refuse to pay a child care provider for child care provided under the Wisconsin Works Program if the child care provider, an employee of the child care provider, or a person living on the premises where child care is provided is convicted of a felony or misdemeanor that substantially relates to the care of children, is the subject of a pending charge that substantiality relates to the care of children, or has been determined to have abused or neglected a child.

②

*applies*

X

This bill *requires* DCF to revoke the license of a day care center; DCF in a county having a population of 500,000 or more, a county department, or a contracted agency to revoke the certification of a day care provider for purposes of reimbursement under the Wisconsin Works Program; and a school board to rescind the contract of a person to operate a day care program; if any of the following apply:

1. The child care provider is convicted for committing any felony or for committing a misdemeanor that involves sexual abuse, child abuse, domestic abuse, or financial dishonesty or has had entered against him or her a TRO or injunction.

2. The child care provider is the subject of a pending criminal charge alleging that he or she has committed any felony or has committed such a misdemeanor and of a determination by DCF, the county department, the contracted agency, or the school board that there are reasonable grounds to believe that the person has committed the felony or misdemeanor.

3. Any caregiver employed or contracted by the child care provider or any nonclient resident of the premises where the child care is provided is convicted or adjudicated delinquent on or after his or her 12th birthday for committing any felony or for committing such a misdemeanor.

X  
X

The bill also *requires* DCF or a county department to refuse to pay a child care provider who has been so convicted or determined, who has had a TRO or injunction entered against him or her, who employs or contracts with a caregiver who has been so convicted or adjudicated delinquent, or who has a nonclient resident who has been so convicted or adjudicated delinquent effective beginning on the date of the conviction or delinquency adjudication, the date of the determination of reasonable grounds, or the date of entry of the TRO or injunction.

*provider*

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

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

1           SECTION 1. 20.435 (6) (jm) of the statutes, as affected by 2009 Wisconsin Act  
2 28, is amended to read:

3           20.435 (6) (jm) *Licensing and support services.* The amounts in the schedule  
4 for the purposes specified in ss. 48.685 (2) (am), (ar), and (b) 1., (3) (a) and (b), and  
5 (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.031, 50.065 (2) (am) and (b) 1., (3) (a) and (b),  
6 and (5), 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.981, and  
7 146.40 (4r) (b) and (er), and subch. IV of ch. 50 and to conduct health facilities plan  
8 and rule development activities, for accrediting nursing homes, convalescent homes,

1 and homes for the aged, to conduct capital construction and remodeling plan reviews  
 2 under ss. 50.02 (2) (b) and 50.36 (2), and for the costs of inspecting, licensing or  
 3 certifying, and approving facilities, issuing permits, and providing technical  
 4 assistance, that are not specified under any other paragraph in this subsection. All  
 5 moneys received under ss. 48.685 (8), 49.45 (42) (c), 49.45 (47) (c), 50.02 (2), 50.025,  
 6 50.031 (6), 50.065 (8), 50.13, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.93  
 7 (1) (c), and 50.981, all moneys received from fees for the costs of inspecting, licensing  
 8 or certifying, and approving facilities, issuing permits, and providing technical  
 9 assistance, that are not specified under any other paragraph in this subsection, and  
 10 all moneys received under s. 50.135 (2) shall be credited to this appropriation  
 11 account.

**History:** 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327; 2005 a. 15, 22; 2005 a. 25 ss. 299 to 331, 2498 to 2500, 2510; 2005 a. 74, 107, 199, 228, 264, 388, 406, 434; 2007 a. 20 ss. 331 to 422, 9121 (6) (a); 2007 a. 39, 88, 107, 111, 130; 2009 a. 2; 2009 a. 15; s. 13.92 (i).

12 SECTION 2. 48.651 (3) ~~WA~~ of the statutes is created to read:

13 48.651 (3) ~~WA~~ If a day care provider certified under sub. (1) is convicted of a  
 14 serious crime, is the subject of a pending criminal charge and determination of  
 15 reasonable grounds, or has had entered against him or her a temporary restraining  
 16 order or injunction, as described in s. 48.685 (4m) (a) 1., or if a caregiver specified in  
 17 s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the  
 18 day care provider is convicted of a serious crime or adjudicated delinquent for  
 19 committing a serious crime, as described in s. 48.685 (4m) (b) 1., the department in  
 20 a county having a population of 500,000 or more, a county department, or an agency  
 21 contracted with under sub. (2) shall revoke the certification of the day care provider

1 immediately upon providing written notice of revocation and the grounds for  
2 revocation and an explanation of the process for appealing the revocation.

3 **SECTION 3.** 48.685 (1) (c) 3m. of the statutes is created to read:

4 48.685 (1) (c) 3m. For purposes of licensing a person to operate a day care center  
5 under s. 48.65, certifying a day care provider under s. 48.651, or contracting with a  
6 person under s. 120.13 (14) to operate a day care center, or of permitting a person to  
7 be a caregiver or nonclient resident of such a day care center or day care provider,  
8 any offense that is a felony or that is a misdemeanor involving sexual abuse, child  
9 abuse, domestic abuse, or financial dishonesty, as determined by the department by  
10 rule.

11 **SECTION 4.** 48.685 (1) (c) 4. of the statutes is amended to read:

12 48.685 (1) (c) 4. A violation of the law of any other state or United States  
13 jurisdiction that would be a violation listed in subd. 1., 2., or 3., or 3m. if committed  
14 in this state.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153.

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

16 48.685 (2) (am) (intro.) The department, a county department, an agency  
17 contracted with under s. 48.651 (2), a child welfare agency, or a school board shall  
18 obtain all of the following with respect to a caregiver specified in sub. (1) (ag) 1. b.,  
19 a nonclient resident of an entity, and a person under 18 years of age, but not under  
20 12 years of age, who is a caregiver of a day care center that is licensed under s. 48.65  
21 or established or contracted for under s. 120.13 (14) or of a day care provider that is  
22 certified under s. 48.651:

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153.

23 **SECTION 6.** 48.685 (2) (am) 5. of the statutes is amended to read:

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

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153.

13           **SECTION 7.** 48.685 (2) (ar) of the statutes is created to read:

14           48.685 (2) (ar) In addition to obtaining the information specified in par. (am)  
15 with respect to a person who has, or is seeking, a license to operate a day care center  
16 under s. 48.65, certification as a day care provider under s. 48.651, or a contract  
17 under s. 120.13 (14) to operate a day care center, the department, a county  
18 department, an agency contracted with under s. 48.651 (2), or a school board shall  
19 obtain information that is contained in the circuit court automated information  
20 system under s. 758.19 (4) regarding any temporary restraining order or injunction  
21 under s. 813.12, 813.122, 813.123, 813.125, or 813.127 entered against the person.

22           **SECTION 8.** 48.685 (2) (b) 4. of the statutes is amended to read:

23           48.685 (2) (b) 4. Subdivision 1. does not apply with respect to a person under  
24 18 years of age, but not under 12 years of age, who is a caregiver or nonclient resident



1 of a day care center that is licensed under s. 48.65 or established or contracted for  
2 under s. 120.13 (14) or of a day care provider that is certified under s. 48.651 and with  
3 respect to whom the department, a county department, an agency contracted with  
4 under s. 48.651 (2), or a school board is required under par. (am) (intro.) to obtain the  
5 information specified in par. (am) 1. to 5.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153.

6 **SECTION 9.** 48.685 (2) (bb) of the statutes is amended to read:

7 48.685 (2) (bb) If information obtained under par. (am) or (b) 1. indicates a  
8 charge of a serious crime, but does not completely and clearly indicate the final  
9 disposition of the charge, the department, county department, agency contracted  
10 with under s. 48.651 (2), child welfare agency, school board, or entity shall make  
11 every reasonable effort to contact the clerk of courts to determine the final disposition  
12 of the charge. If a background information form under sub. (6) (a) or (am) indicates  
13 a charge or a conviction of a serious crime, but information obtained under par. (am)  
14 or (b) 1. does not indicate such a charge or conviction, the department, county  
15 department, agency contracted with under s. 48.651 (2), child welfare agency, school  
16 board, or entity shall make every reasonable effort to contact the clerk of courts to  
17 obtain a copy of the criminal complaint and the final disposition of the complaint.  
18 If information obtained under par. (am) or (b) 1., a background information form  
19 under sub. (6) (a) or (am), or any other information indicates a conviction of a  
20 violation of s. 940.19 (1), 940.195, 940.20, 941.30, 942.08, 947.01, or 947.013 obtained  
21 not more than 5 years before the date on which that information was obtained, the  
22 department, county department, agency contracted with under s. 48.651 (2), child  
23 welfare agency, school board, or entity shall make every reasonable effort to contact

1 the clerk of courts to obtain a copy of the criminal complaint and judgment of  
2 conviction relating to that violation.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153.

3 **SECTION 10.** 48.685 (2) (bd) of the statutes is amended to read:

4 48.685 (2) (bd) Notwithstanding pars. (am) and (b) 1., the department, a county  
5 department, an agency contracted with under s. 48.651 (2), a child welfare agency,  
6 or a school board is not required to obtain the information specified in par. (am) 1.  
7 to 5., and an entity is not required to obtain the information specified in par. (b) 1.  
8 a. to e., with respect to a person under 18 years of age whose background information  
9 form under sub. (6) (am) indicates that the person is not ineligible to be employed,  
10 contracted with, or permitted to reside at an entity for a reason specified in sub. (4m)  
11 (b) 1. to 5. and with respect to whom the department, county department, contracted  
12 agency, child welfare agency, school board, or entity otherwise has no reason to  
13 believe that the person is ineligible to be employed, contracted with, or permitted to  
14 reside at an entity for any of those reasons. This paragraph does not preclude the  
15 department, a county department, an agency contracted with under s. 48.651 (2), a  
16 child welfare agency, or a school board from obtaining, at its discretion, the  
17 information specified in par. (am) 1. to 5. with respect to a person described in this  
18 paragraph who is a nonclient resident or a prospective nonclient resident of an entity.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153.

19 **SECTION 11.** 48.685 (2) (bm) of the statutes is amended to read:

20 48.685 (2) (bm) If the person who is the subject of the search under par. (am),  
21 (ar), or (b) 1. is not a resident of this state, or if at any time within the 3 years  
22 preceding the date of the search that person has not been a resident of this state, or  
23 if the department, county department, agency contracted with under s. 48.651 (2),

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

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153.

14 **SECTION 12.** 48.685 (3) (a) of the statutes is amended to read:  
 15 48.685 (3) (a) Every Subject to par. (am), every 4 years or at any time within  
 16 that period that the department, a county department, an agency contracted with  
 17 under s. 48.651 (2), a child welfare agency, or a school board considers appropriate,  
 18 the department, county department, contracted agency, child welfare agency, or  
 19 school board shall request the information specified in sub. (2) (am) 1. to 5. for all  
 20 caregivers specified in sub. (1) (ag) 1. b. who are licensed, certified, or contracted to  
 21 operate an entity, for all persons who are nonclient residents of such a caregiver, and  
 22 for all persons under 18 years of age, but not under 12 years of age, who are caregivers

1 of a day care center that is licensed under s. 48.65 or established or contracted for  
2 under s. 120.13 (4) or of a day care provider that is certified under s. 48.651.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153.

3 SECTION 13. 48.685 (3) (am) of the statutes is created to read:

4 48.685 (3) (am) Every 6 months or at any time within that period that the  
5 department, a county department, an agency contracted with under s. 48.651 (2), or  
6 a school board considers appropriate, the department, county department,  
7 contracted agency, or school board shall request the information specified in sub. (2)  
8 (am) 1. for all caregivers specified in sub. (1) (ag) 1. b. who are licensed under s. 48.65  
9 to operate a day care center, certified as a day care provider under s. 48.651, or  
10 contracted under s. 120.13 (14) to operate a day care center.

11 SECTION 14. 48.685 (3m) of the statutes is amended to read:

12 48.685 (3m) Notwithstanding subs. (2) (b) 1. and (3) (b), if the department, a  
13 county department, an agency contracted with under s. 48.651 (2), a child welfare  
14 agency, or a school board has obtained the information required under sub. (2) (am)  
15 or (3) (a) with respect to a person who is a caregiver specified in sub. (1) (ag) 1. b. and  
16 that person is also an employee, contractor, or nonclient resident of an entity, the  
17 entity is not required to obtain the information specified in sub. (2) (b) 1. or (3) (b)  
18 with respect to that person.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153.

19 SECTION 15. 48.685 (4m) (a) 1. of the statutes is amended to read:

20 48.685 (4m) (a) 1. That the person has been convicted of a serious crime or, if  
21 the person is an applicant for issuance or continuation of a license to operate a day  
22 care center or for initial certification under s. 48.651 or for renewal of that  
23 certification or if the person is proposing to contract with a school board under s.

1 120.13 (14) or to renew a contract under that subsection, that the person has been  
 2 convicted of a serious crime or adjudicated delinquent on or after his or her 12th  
 3 birthday for committing a serious crime; that the person is the subject of a pending  
 4 criminal charge alleging that the person has committed a serious crime and of a  
 5 determination by the department, county department, agency contracted with under  
 6 s. 48.651 (2), or school board that there are reasonable grounds, as defined in s.  
 7 813.12 (1) (cg), to believe that the person has committed the serious crime; or that  
 8 the person has had a temporary restraining order or injunction under s. 813.122,  
 9 813.122, 8113.123, 813.125, 813.127, or 813.128 entered against him or her not more  
 10 than 15 years before the date of the investigation under sub. (2) (ar).

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153.

11 **SECTION 16.** 48.685 (4m) (ad) of the statutes, as affected by 2009 Wisconsin Act  
 12 28, section 1073d, is amended to read:

13 48.685 (4m) (ad) The department, a county department, or a child welfare  
 14 agency may license a foster home or treatment foster home under s. 48.62, the  
 15 department in a county having a population of 500,000 or more, a county  
 16 department, or an agency contracted with under s. 48.651 (2) may certify a day care  
 17 provider under s. 48.651, and a school board may contract with a person under s.  
 18 120.13 (14), conditioned on the receipt of the information specified in sub. (2) (am)  
 19 and (ar) indicating that the person is not ineligible to be licensed, certified, or  
 20 contracted with for a reason specified in par. (a) 1. to 5.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153.

21 **SECTION 17.** 48.685 (4m) (ad) of the statutes, as affected by 2009 Wisconsin Act  
 22 28, section 1074d, and 2009 Wisconsin Act .... (this act), is repealed and recreated to  
 23 read:

1           48.685 (4m) (ad) The department, a county department, or a child welfare  
2 agency may license a foster home under s. 48.62, the department in a county having  
3 a population of 500,000 or more, a county department, or an agency contracted with  
4 under s. 48.651 (2) may certify a day care provider under s. 48.651, and a school board  
5 may contract with a person under s. 120.13 (14), conditioned on the receipt of the  
6 information specified in sub. (2) (am) and (ar) indicating that the person is not  
7 ineligible to be licensed, certified, or contracted with for a reason specified in par. (a)  
8 1. to 5.

9           **SECTION 18.** 48.685 (5) (a) of the statutes, as affected by 2009 Wisconsin Act 28,  
10 is amended to read:

11           48.685 (5) (a) Subject to ~~par. pars.~~ (bm) and (br), the department may license  
12 to operate an entity, the department in a county having a population of 500,000 or  
13 more, a county department, or an agency contracted with under s. 48.651 (2) may  
14 certify under s. 48.651, a county department or a child welfare agency may license  
15 under s. 48.62, and a school board may contract with under s. 120.13 (14) a person  
16 who otherwise may not be licensed, certified, or contracted with for a reason specified  
17 in sub. (4m) (a) 1. to 5., and an entity may employ, contract with, or permit to reside  
18 at the entity a person who otherwise may not be employed, contracted with, or  
19 permitted to reside at the entity for a reason specified in sub. (4m) (b) 1. to 5., if the  
20 person demonstrates to the department, the county department, the contracted  
21 agency, the child welfare agency, or the school board or, in the case of an entity that  
22 is located within the boundaries of a reservation, to the person or body designated  
23 by the tribe under sub. (5d) (a) 3., by clear and convincing evidence and in accordance

1 with procedures established by the department by rule or by the tribe that he or she  
2 has been rehabilitated.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153.

3 **SECTION 19.** 48.685 (5) (br) of the statutes is created to read:

4 48.685 (5) (br) For purposes of licensing a person to operate a day care center  
5 under s. 48.65, certifying a day care provider under s. 48.651, or contracting with a  
6 person under s. 120.13 (14) to operate a day care center, no person who has been  
7 convicted of a serious crime specified in sub. (1) (c) 3m., or who has had a temporary  
8 restraining order or injunction under s. 813.12, 813.122, 813.123, 813.125, 813.127,  
9 or 813.128 entered against him or her not more than 15 years before the date of the  
10 investigation under sub. (2) (ar), may be permitted to demonstrate that he or she has  
11 been rehabilitated. For purposes of permitting a person to be a caregiver or nonclient  
12 resident of such a day care center or day care provider, no person who has been  
13 convicted of a serious crime specified in sub. (1) (c) 3m. may be permitted to  
14 demonstrate that he or she has been rehabilitated.

15 **SECTION 20.** 48.685 (5c) (a) of the statutes is amended to read:

16 48.685 (5c) (a) Any person who is permitted but fails under sub. (5) (a) to  
17 demonstrate to the department, an agency contracted with under s. 48.651 (2), or a  
18 child welfare agency that he or she has been rehabilitated may appeal to the  
19 secretary or his or her designee. Any person who is adversely affected by a decision  
20 of the secretary or his or her designee under this paragraph has a right to a contested  
21 case hearing under ch. 227.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153.

22 **SECTION 21.** 48.685 (6) (b) 2. of the statutes is amended to read:

1           48.685 (6) (b) 2. For caregivers who are licensed or certified by a county  
2           department or an agency contracted with under s. 48.651 (2), for persons who are  
3           nonclient residents of an entity that is licensed or certified by a county department  
4           or an agency contracted with under s. 48.651 (2), and for other persons specified by  
5           the department by rule, the entity shall send the background information form to the  
6           county department or contracted agency.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153.

7           **SECTION 22.** 48.685 (8) of the statutes is amended to read:

8           48.685 (8) The department, the department of health services, a county  
9           department, an agency contracted with under s. 48.651 (2), a child welfare agency,  
10          or a school board may charge a fee for obtaining the information required under sub.  
11          (2) (am), (ar), or (3) (a) or for providing information to an entity to enable the entity  
12          to comply with sub. (2) (b) 1. or (3) (b). The fee may not exceed the reasonable cost  
13          of obtaining the information. No fee may be charged to a nurse aide, as defined in  
14          s. 146.40 (1) (d), for obtaining or maintaining information if to do so would be  
15          inconsistent with federal law.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153.

16          **SECTION 23.** 48.715 (4g) of the statutes is ~~created~~ <sup>created</sup> to read:

17          48.715 (4g) If a person who has been issued a license under s. 48.66 (1) (a) or  
18          a probationary license under s. 48.69 to operate a day care center is convicted of a  
19          serious crime, is the subject of a pending criminal charge and determination of  
20          reasonable grounds, or has had entered against him or her a temporary restraining  
21          order or injunction, as described in s. 48.685 (4m) (a) 1., or if a caregiver specified in  
22          s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the  
23          day care center is convicted of a serious crime or adjudicated delinquent for



1 committing a serious crime, as described in s. 48.685 (4m) (b) 1., the department shall  
2 revoke the license of the day care center immediately upon providing written notice  
3 of revocation and the grounds for revocation and an explanation of the process for  
4 appealing the revocation.

5 SECTION 24. 49.133 (intro.) of the statutes is renumbered 49.133 (1m) and  
6 amended to read:

7 49.133 (1m) The If a child care provider is convicted of a serious crime, is the  
8 subject of a pending criminal charge and determination of reasonable grounds, or has  
9 had entered against him or her a temporary restraining order or injunction, as  
10 described in s. 48.685 (4m) (a) 1., or if a caregiver specified in s. 48.685 (1) (ag) 1. a.  
11 or a nonclient resident, as defined in s. 48.685 (1) (bm), of the child care provider is  
12 convicted of a serious crime or adjudicated delinquent for committing a serious  
13 crime, as described in s. 48.685 (4m) (b) 1., the department or a county department  
14 under s. 46.215, 46.22, or 46.23 may shall refuse to pay the child care provider for  
15 any child care provided under s. 49.132, 1995 stats., or any other program if any of  
16 the following applies to the child care provider, employee or person living on the  
17 premises where child care is provided: beginning on the date of the conviction or  
18 delinquency adjudication, determination of reasonable grounds, or entry of the  
19 temporary restraining order or injunction, as described in s. 48.685 (4m)(b) 1.

History: 1989 a. 31; 1995 a. 404 s. 122; Stats. 1995 s. 49.133; 1997 a. 252.

20 SECTION 25. 49.133 (1) of the statutes is renumbered 49.133 (2m) (a) and  
21 amended to read:

22 49.133 (2m) (a) The person has been convicted of a felony or misdemeanor that  
23 or adjudicated delinquent on or after his or her 12th birthday for an offense that is  
24 not a serious crime, as defined in s. 48.685 (1) (c) 3m., but the department or, county

(a) → (a) 1. or  
as affected by 2009 Wisconsin Act 28

~~the department or county department determines that the offense substantially~~  
~~relates to the care of children.~~ *plain*  
department under s. 46.215, 46.22, or 46.23, agency contracted with under s. 48.651  
(2), or school board determines under s. 48.685 (5m) that the offense substantially  
relates to the care of children. *or to the operation of a business* *plain*

History: 1989 a. 31; 1995 a. 404 s. 122; Stats. 1995 s. 49.133; 1997 a. 252.

SECTION 26. 49.133 (2) of the statutes is renumbered 49.133 (2m) (b) and amended to read:

49.133 (2m) (b) The person is a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), and is the subject of a pending criminal charge that the department or county department under s. 46.215, 46.22, or 46.23, agency contracted with under s. 48.651 (2), or school board determines substantially relates to the care of children.

History: 1989 a. 31; 1995 a. 404 s. 122; Stats. 1995 s. 49.133; 1997 a. 252.

SECTION 27. 49.133 (2m) (intro.) of the statutes is created to read:

49.133 (2m) (intro.) The department or a county department under s. 46.215, 46.22, or 46.23 may refuse to pay a child care provider for child care provided under s. 49.132, 1995 stats., or any other program if any of the following applies to the child care provider or to a caregiver specified in s. 48.685 (1) (ag) 1. a. or nonclient resident, as defined in s. 48.685 (1) (bm), of the child care provider:

History: 1989 a. 31; 1995 a. 404 s. 122; Stats. 1995 s. 49.133; 1997 a. 252.

SECTION 28. 49.133 (3) of the statutes is renumbered 49.133 (2m) (c).

SECTION 29. 49.155 (7) (a) (intro.) of the statutes is renumbered 49.155 (7) (a) and amended to read:

~~49.155 (7) (a) (intro.) The If a child care provider is convicted of a serious crime, is the subject of a pending criminal charge and determination of reasonable grounds, or has had entered against him or her a temporary restraining order or injunction, as described in s. 48.685 (4m) (a) 1., or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the child care provider~~

SEC RN, 49.133 (4), 49.133 (2m) (c),  
as created by 2009 Wisconsin Act 28,

1 is convicted of a serious crime or adjudicated delinquent for committing a serious  
 2 crime, as described in s. 48.685 (4m) (b) 1., the department or the county department  
 3 under s. 46.215, 46.22, or 46.23 may shall refuse to pay ↓ the child care provider for  
 4 any child care provided under this section if any of the following applies to the child  
 5 care provider, employee or person living on the premises where child care is provided:  
 6 beginning on the date of the conviction or delinquency adjudication, determination  
 7 of reasonable grounds, or entry of the temporary restraining order or injunction, as  
 8 described in s. 48.685 (4m) (b) 1.

History: 1995 a. 289; 1997 a. 27, s. 1766 to 1775, 1838 to 1857; 1997 a. 41, 105, 237, 252; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 165; 2007 a. 20.

9 **SECTION 30.** 49.155 (7) (a) 1. of the statutes is renumbered 49.155 (7) (b) 1. and  
 10 amended to read:

11 49.155 (7) (b) 1. The person has been convicted of a felony or misdemeanor that  
 12 or adjudicated delinquent on or after his or her 12th birthday for committing an  
 13 offense that is not a serious crime, as defined in s. 48.685 (1) (c) 3m., but the  
 14 department or, county department, agency contracted with under s. 48.651 (2), or  
 15 school board determines under s. 48.685 (5m) substantially relates to the care of  
 16 children or to the operation of a business ← (plain)

History: 1995 a. 289; 1997 a. 27, s. 1766 to 1775, 1838 to 1857; 1997 a. 41, 105, 237, 252; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 165; 2007 a. 20.

17 **SECTION 31.** 49.155 (7) (a) 2. of the statutes is renumbered 49.155 (7) (b) 2. and  
 18 amended to read:

19 49.155 (7) (b) 2. The person is a caregiver specified in s. 48.685 (1) (ag) 1. a. or  
 20 a nonclient resident, as defined in s. 48.685 (1) (bm), and is the subject of a pending  
 21 criminal charge that the department or, county department, agency contracted with  
 22 under s. 48.651 (2), or school board determines substantially relates to the care of  
 23 children.

History: 1995 a. 289; 1997 a. 27, s. 1766 to 1775, 1838 to 1857; 1997 a. 41, 105, 237, 252; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 165; 2007 a. 20.

24 **SECTION 32.** 49.155 (7) (a) 3. of the statutes is renumbered 49.155 (7) (b) 3.

1           **SECTION 33.** 49.155 (7) (b) (intro.) of the statutes is created to read:

2           49.155 (7) (b) (intro.) The department or the county department under s.  
3 46.215, 46.22, or 46.23 may refuse to pay a child care provider for child care provided  
4 under this section if any of the following applies to the child care provider or to a  
5 caregiver specified in s. 48.685 (1) (ag) 1. a. or nonclient resident, as defined in s.  
6 48.685 (1) (bm), of the child care provider:  
7

5  
Insert  
6  
18-6  
7

8           **SECTION 34.** 120.13 (14) of the statutes is amended to read:

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

1 order or injunction, as described in s. 48.685 (4m) (a) 1., or if a caregiver specified in  
 2 s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the  
 3 day care program is convicted of a serious crime or adjudicated delinquent, as  
 4 described in s. 48.685 (4m) (b) 1., the school board shall rescind the contract of the  
 5 contractor immediately upon providing written notice of revocation and the grounds  
 6 for revocation and an explanation of the process for appealing the revocation.

**History:** 1973 c. 94, 290; 1975 c. 115, 321; 1977 c. 206, 211, 418, 429; 1979 c. 20, 202, 221, 301, 355; 1981 c. 96, 314, 335; 1983 a. 27, 193, 207, 339, 370, 518, 538; 1985 a. 29 ss. 1725e to 1726m, 1731; 1985 a. 101, 135, 211; 1985 a. 218 ss. 12, 13, 22; 1985 a. 332; 1987 a. 88, 187; 1989 a. 31, 201, 336, 359; 1991 a. 39, 226, 269; 1993 a. 16, 27, 284, 334, 399, 450, 481, 491; 1995 a. 27 ss. 4024, 9126 (19), 9145 (1); 1995 a. 29, 32, 33, 65, 75, 225, 235, 289, 439; 1997 a. 27, 155, 164, 191, 237, 335; 1999 a. 9, 19, 73, 83, 115, 128; 1999 a. 150 s. 672; 1999 a. 186; 2001 a. 38, 98, 103, 105; 2003 a. 254; 2005 a. 22, 194, 290, 346; 2005 a. 443 s. 265; 2007 a. 20 ss. 2738, 9121 (6) (a); 2007 a. 36, 70, 97; 2009 a. 14.

7 **SECTION 35. Nonstatutory provisions.**

8 (1) MISDEMEANORS RELATING TO CARE OF CHILDREN; RULES.

9 (a) *Permanent rules.* The department of children and families shall submit in  
 10 proposed form the rules required under section 48.685 (1) (c) 3m. of the statutes, as  
 11 created by this act, to the legislative council staff under section 227.15 (1) of the  
 12 statutes no later than the first day of the 4th month beginning after the effective date  
 13 of this paragraph.

14 (b) *Emergency rules.* Using the procedure under section 227.24 of the statutes,  
 15 the department of children and families may promulgate the rules required under  
 16 section 48.685 (1) (c) 3m. of the statutes, as created by this act, for the period before  
 17 the effective date of the rules submitted under paragraph (a), but not to exceed the  
 18 period authorized under section 227.24 (1) (c) and (2) of the statutes.  
 19 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department  
 20 is not required to provide evidence that promulgating a rule under this paragraph  
 21 as an emergency rule is necessary for the preservation of the public peace, health,  
 22 safety, or welfare and is not required to provide a finding of emergency for a rule  
 23 promulgated under this paragraph.



16 -  
Insert 18-6

~~department under s. 46.215, 46.22, or 46.23, agency contracted with under s. 48.651 (2), or school board determines under s. 48.685 (5m) that the offense substantially relates to the care of children, or to the operation of a business~~ ← plain

History: 1989 a. 31; 1995 a. 404 s. 122; Stats. 1995 s. 49.133; 1997 a. 252.

~~SECTION 26. 49.133 (2) of the statutes is renumbered 49.133 (2m) (b) and amended to read:~~

~~49.133 (2m) (b) The person is a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), and is the subject of a pending criminal charge that the department or, county department under s. 46.215, 46.22, or 46.23, agency contracted with under s. 48.651 (2), or school board determines substantially relates to the care of children.~~

History: 1989 a. 31; 1995 a. 404 s. 122; Stats. 1995 s. 49.133; 1997 a. 252.

~~SECTION 27. 49.133 (2m) (intro.) of the statutes is created to read:~~

~~49.133 (2m) (intro.) The department or a county department under s. 46.215, 46.22, or 46.23 may refuse to pay a child care provider for child care provided under s. 49.132, 1995 stats., or any other program if any of the following applies to the child care provider or to a caregiver specified in s. 48.685 (1) (ag) 1. a. or nonclient resident, as defined in s. 48.685 (1) (bm), of the child care provider:~~

History: 1989 a. 31; 1995 a. 404 s. 122; Stats. 1995 s. 49.133; 1997 a. 252.

~~SECTION 28. 49.133 (3) of the statutes is renumbered 49.133 (2m) (c).~~

change component

~~SECTION 29. 49.155 (7) (intro.) of the statutes is renumbered 49.155 (7) and amended to read:~~ prepared and recreated

~~49.155 (7) (intro.) If a child care provider is convicted of a serious crime, is the subject of a pending criminal charge and determination of reasonable grounds, or has had entered against him or her a temporary restraining order or injunction, as described in s. 48.685 (4m) (a) 1., or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the child care provider~~

as attached by 2009 Wisconsin Act 28;  
see Act

no scoring (plan)

(a) REFUSAL TO PAY CHILD CARE PROVIDER

18-6





The department or county department determines that the offense substantially relates

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341) Library (608-266-7040) Legal (608-266-3561)

LRB

What the offense

Inset 18-6

History: 1995 a. 289; 1997 a. 27, s. 1766 to 1775, 1838 to 1857; 1997 a. 41, 105, 237, 252; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 165; 2007 a. 20.

9 SECTION 30. 49.155 (7) (a) 1. of the statutes is renumbered 49.155 (7) (b) 1. and

10 amended to read:

11 49.155 (7) (b) 1. The person has been convicted of a felony or misdemeanor

12 or adjudicated delinquent on or after his or her 12th birthday for committing

13 offense that is not a serious crime, as defined in s. 48.685 (1) (c) 3m., but the

14 department or county department, agency contracted with under s. 48.651 (2), or

15 school board determines under s. 48.685 (5m) substantially relates to the care of

16 children or to the operation of a business ← plain

NO SCORING

History: 1995 a. 289; 1997 a. 27, s. 1766 to 1775, 1838 to 1857; 1997 a. 41, 105, 237, 252; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 165; 2007 a. 20.

17 SECTION 31. 49.155 (7) (a) 2. of the statutes is renumbered 49.155 (7) (b) 2. and

18 amended to read:

19 49.155 (7) (b) 2. The person is a caregiver specified in s. 48.685 (1) (ag) 1. a. or

20 a nonclient resident, as defined in s. 48.685 (1) (bm), and is the subject of a pending

21 criminal charge that the department or county department, agency contracted with

22 under s. 48.651 (2), or school board determines substantially relates to the care of

23 children.

NO SCORING

History: 1995 a. 289; 1997 a. 27, s. 1766 to 1775, 1838 to 1857; 1997 a. 41, 105, 237, 252; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 165; 2007 a. 20.

24 SECTION 32. 49.155 (7) (a) 3. of the statutes is renumbered 49.155 (7) (b) 3.

this is from 49.155 (7) (a) 3.

3. The person has been determined under s. 48.481 to have abused or neglected a child.

\*This is from Act 28, s. 1214f. Sub 18-6

09 Wis. Act 28, s. 1214d

**Section 1214d.** 49.155 (7) (a) 1. of the statutes is renumbered 49.155 (7), and 49.155 (7) (a), as renumbered, is amended to read:

09 Wis. Act 28, s. 1214d - continued

49.155 (7) (a) The person has been convicted of a felony or misdemeanor that the department or county department determines substantially relates to the care of children or to the operation of a business.

09 Wis. Act 28, s. 1214f

**Section 1214f.** 49.155 (7) (d) of the statutes is created to read:

09 Wis. Act 28, s. 1214f - continued

~~49.155 (7) (d)~~ The department or county department reasonably suspects that the person has [REDACTED] violated any provision under the program under this section or any rule promulgated under this section.

(Act not)