

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 02 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 an 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.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3047/P1
GMM:kjf:jf

IN 9/17

Wanted Mon 9/21

Stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

(Friday 9/18 if possible)

see aff'd ✓

Repeal it

1 **AN ACT** to renumber 49.133 (3) and 49.133 (4); to renumber and amend 49.133
2 (intro.), 49.133 (1) and 49.133 (2); to amend 20.435 (6) (jm), 48.685 (1) (c) 4.,
3 48.685 (2) (am) (intro.), 48.685 (2) (am) 5., 48.685 (2) (b) 4., 48.685 (2) (bb),
4 48.685 (2) (bd), 48.685 (2) (bm), 48.685 (3) (a), 48.685 (3m), 48.685 (4m) (a) 1.,
5 48.685 (4m) (ad), 48.685 (5) (a), 48.685 (5c) (a), 48.685 (6) (b) 2., 48.685 (8) and
6 120.13 (14); to repeal and recreate 48.685 (4m) (ad) and 49.155 (7); and to
7 create 48.651 (3), 48.685 (1) (c) 3m., 48.685 (2) (ar), 48.685 (3) (am), 48.685 (5)
8 (br), 48.715 (4g) and 49.133 (2m) (intro.) of the statutes; relating to:

9 ~~prohibiting a person who has committed any felony or a misdemeanor involving~~
~~been convicted or adjudicated delinquent for committing certain serious crimes~~
10 ~~sexual abuse, child abuse, domestic abuse, or financial dishonesty,~~ who is the ~~crim~~
~~subject of a pending criminal charge for any felony or such a misdemeanor,~~ ~~or delinquency proceeding petition~~ ~~committing a serious crime~~
11 ~~or~~ who has had entered against him or her a domestic abuse, child abuse,
12 individual-at-risk abuse, or harassment temporary restraining order or
13 injunction in the preceding 15 years from being licensed, certified, or contracted
14 with to provide child care, ~~prohibiting a person who has committed any felony~~
15

requiring suspected fraudulent activity on the part of a
2009 - 2010 Legislature
participant in the Wisconsin Works Program,
including a person receiving a child care
subsidy under that program, to be reported to ~~any~~

the appropriate law
enforcement authorities
LRB-3047/PT
GMM:kjf:jf

for a child care provider

1 ~~or such a misdemeanor~~ from being employed or contracted as a caregiver of a
2 child care provider, or from being permitted to reside at a premises where child
3 care is provided, ~~granting rule making authority,~~ and making an
4 appropriation.

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

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.
3. A person who has had 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 of those misdemeanors from being employed or contracted as a

person who has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing any of the following serious crimes

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.

Insert
A-1

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 substantially relates to the care of children, or has been determined to have abused or neglected a child.

~~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 applies:~~

~~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.~~

~~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.~~

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

Insert
A-2

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:

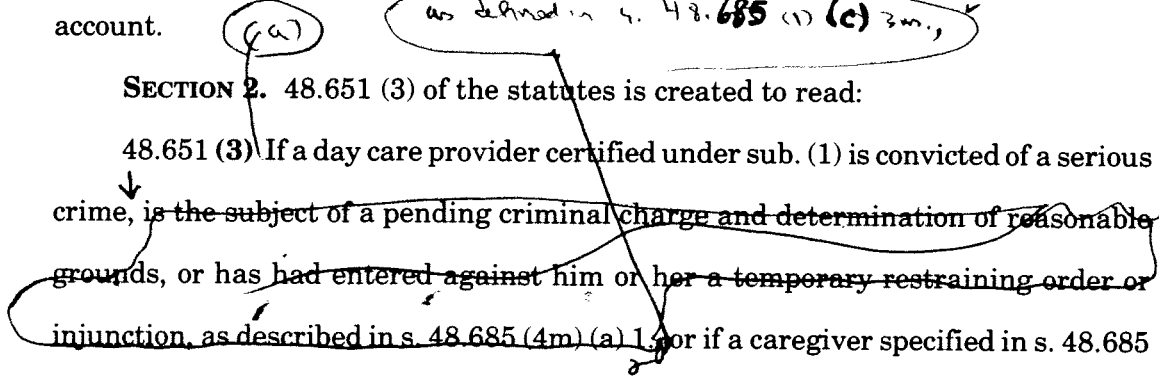
3 20.435 (6) (jm) *Licensing and support services*. The amounts in the schedule
4 for the purposes specified in ss. 48.685 (2) (am), (ar), and (b) 1., (3) (a) and (b), and
5 (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.031, 50.065 (2) (am) and (b) 1., (3) (a) and (b),
6 and (5), 50.13, 50.135, 50.36 (2), 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,
9 and homes for the aged, to conduct capital construction and remodeling plan reviews
10 under ss. 50.02 (2) (b) and 50.36 (2), and for the costs of inspecting, licensing or
11 certifying, and approving facilities, issuing permits, and providing technical
12 assistance, that are not specified under any other paragraph in this subsection. All
13 moneys received under ss. 48.685 (8), 49.45 (42) (c), 49.45 (47) (c), 50.02 (2), 50.025,
14 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
15 (1) (c), and 50.981, all moneys received from fees for the costs of inspecting, licensing
16 or certifying, and approving facilities, issuing permits, and providing technical
17 assistance, that are not specified under any other paragraph in this subsection, and
18 all moneys received under s. 50.135 (2) shall be credited to this appropriation
19 account.

(am), (am),

as defined in s. 48.685 (1) (c) 3m.,

20 SECTION 2. 48.651 (3) of the statutes is created to read:

21 48.651 (3) If a day care provider certified under sub. (1) is convicted of a serious
22 crime, is the subject of a pending criminal charge and determination of reasonable
23 grounds, or has had entered against him or her a temporary restraining order or
24 injunction, as described in s. 48.685 (4m) (a) 1, or if a caregiver specified in s. 48.685
25 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day care



on or after his ^{or} her 12th birthday

1 provider is convicted of a serious crime or adjudicated delinquent for committing a
2 serious crime, as described in s. 48.685 (4m) (b) 1, the department in a county having
3 a population of 500,000 or more, a county department, or an agency contracted with
4 under sub. (2) shall revoke the certification of the day care provider immediately
5 upon providing written notice of revocation and the grounds for revocation and an
6 explanation of the process for appealing the revocation.

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

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

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

16 48.685 (1) (c) 4. A violation of the law of any other state or United States
17 jurisdiction that would be a violation listed in subd. 1., 2., or 3. or 3m. if committed
18 in this state.

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

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

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

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

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

a nonresident resident of such an entity, or a person under 18 years of age, but not under 12 years of age, who is a caregiver of such an entity.

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

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

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

25
Insert
6-24

Subdivisions 1. and 2. do

nonclient resident or

①

48.685 (2) (b) 4. ~~Subdivision 1. does~~ not apply with respect to a person under

②

18 years of age, but not under 12 years of age, who is a caregiver ~~or nonclient resident~~

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of a day care center that is licensed under s. 48.65 or established or contracted for

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under s. 120.13 (14) or of a day care provider that is certified under s. 48.651 and with

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respect to whom the department, a county department, an agency contracted with

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under s. 48.651 (2), or a school board is required under par. (am) (intro.) to obtain the

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information specified in par. (am) 1. to 5.

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

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48.685 (2) (bb) If information obtained under par. (am) or (b) 1. indicates a

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charge of a serious crime, but does not completely and clearly indicate the final

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disposition of the charge, the department, county department, agency contracted

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with under s. 48.651 (2), child welfare agency, school board, or entity shall make

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every reasonable effort to contact the clerk of courts to determine the final disposition

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of the charge. If a background information form under sub. (6) (a) or (am) indicates

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a charge or a conviction of a serious crime, but information obtained under par. (am)

16

or (b) 1. does not indicate such a charge or conviction, the department, county

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department, agency contracted with under s. 48.651 (2), child welfare agency, school

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board, or entity shall make every reasonable effort to contact the clerk of courts to

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obtain a copy of the criminal complaint and the final disposition of the complaint.

20

If information obtained under par. (am) or (b) 1., a background information form

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under sub. (6) (a) or (am), or any other information indicates a conviction of a

22

violation of s. 940.19 (1), 940.195, 940.20, 941.30, 942.08, 947.01, or 947.013 obtained

23

not more than 5 years before the date on which that information was obtained, the

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

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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.

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.

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),
24 child welfare agency, school board, or entity determines that the person's
25 employment, licensing, or state court records provide a reasonable basis for further

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

12 **SECTION 12.** 48.685 (3) (a) of the statutes is amended to read:

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

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

24 48.685 (3) (am) Every 6 months or at any time within that period that the
 25 department, a county department, an agency contracted with under s. 48.651 (2), or

~~and for all persons who are nonclient residents of such a~~
~~caregivers - 10 - and for all~~
~~persons under 18 years of age, but not~~
~~of~~
~~under 12 years of age, who are caregivers~~
~~in spec. great in sub. (1) (ag) 1. a. of such a caregiver~~

And (af)

1 a school board considers appropriate, the department, county department,
 2 contracted agency, or school board shall request the information specified in sub. (2)
 3 (am) 1. for all caregivers specified in sub. (1) (ag) 1. b. who are licensed under s. 48.65
 to operate a day care center, certified as a day care provider under s. 48.651, or
 contracted under s. 120.13 (14) to operate a day care center.

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

7 48.685 (3m) Notwithstanding subs. (2) (b) 1. and (3) (b), if the department, a
 8 county department, an agency contracted with under s. 48.651 (2), a child welfare
 9 agency, or a school board has obtained the information required under sub. (2) (am)
 10 or (3) or (am) with respect to a person who is a caregiver specified in sub. (1) (ag) 1. b. and
 11 that person is also an employee, contractor, or nonclient resident of an entity, the
 12 entity is not required to obtain the information specified in sub. (2) (b) 1. or (3) (b)
 13 with respect to that person.

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

15 48.685 (4m) (a) 1. That the person has been convicted of a serious crime or, if
 16 the person is an applicant for issuance or continuation of a license to operate a day
 17 care center or for initial certification under s. 48.651 or for renewal of that
 18 certification or if the person is proposing to contract with a school board under s.
 19 120.13 (14) or to renew a contract under that subsection, that the person has been
 20 convicted of a serious crime or adjudicated delinquent on or after his or her 12th
 21 birthday for committing a serious crime; that the person is the subject of a pending
 22 criminal charge ^{or delinquency petition} alleging that the person has committed a serious crime and of a
 23 determination by the department, county department, agency contracted with under
 24 s. 48.651 (2), or school board that there are reasonable grounds, as defined in s.
 25 813.12 (1) (cg), to believe that the person has committed the serious crime or that

on or after his or her 12th birthday

1 the person has had a temporary restraining order or injunction under s. 813.120,
 2 813.122, 813.123, 813.125, 813.127, or 813.128 entered against him or her not more
 3 than 15 years before the date of the investigation under sub. (2) (ar).

4 **SECTION 16.** 48.685 (4m) (ad) of the statutes, as affected by 2009 Wisconsin Act
 5 28, section 1073d, is amended to read: ; the department may license a day care
 6 48.685 (4m) (ad) The department, a county department, or a child welfare center under s. 48.65;
 7 agency may license a foster home or treatment foster home under s. 48.62, the
 8 department in a county having a population of 500,000 or more, a county
 9 department, or an agency contracted with under s. 48.651 (2) may certify a day care
 10 provider under s. 48.651, and a school board may contract with a person under s.
 11 120.13 (14), conditioned on the receipt of the information specified in sub. (2) (am)
 12 and (ar) indicating that the person is not ineligible to be licensed, certified, or
 13 contracted with for a reason specified in par. (a) 1. to 5.

14 **SECTION 17.** 48.685 (4m) (ad) of the statutes, as affected by 2009 Wisconsin Act
 15 28, section 1074d, and 2009 Wisconsin Act (this act), is repealed and recreated to
 16 read: ; the department may license a day care center under s. 48.65;
 17 48.685 (4m) (ad) The department, a county department, or a child welfare
 18 agency may license a foster home under s. 48.62, the department in a county having
 19 a population of 500,000 or more, a county department, or an agency contracted with
 20 under s. 48.651 (2) may certify a day care provider under s. 48.651, and a school board
 21 may contract with a person under s. 120.13 (14), conditioned on the receipt of the
 22 information specified in sub. (2) (am) and (ar) indicating that the person is not
 23 ineligible to be licensed, certified, or contracted with for a reason specified in par. (a)
 24 1. to 5.

Insert
11-24

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

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

18 SECTION 19. 48.685 (5) (br) of the statutes is created to read:
*Handwritten notes: or of permitting a person to be employed by to contract ✓
non-client resident or caregiver specified in
of → at a day care center or day care provider sub. (1)(ag) i.a.*

19 48.685 (5) (br) For purposes of licensing a person to operate a day care center
20 under s. 48.65, certifying a day care provider under s. 48.651, or contracting with a
21 person under s. 120.13 (14) to operate a day care center, no person who has been
22 ~~convicted of a serious crime specified in sub. (1) (c) 3m., or who has had a temporary~~
23 ~~restraining order or injunction under s. 813.12, 813.122, 813.123, 813.125, 813.127,~~
24 ~~or 813.128 entered against him or her not more than 15 years before the date of the~~
25 ~~investigation under sub. (2) (a), may be permitted to demonstrate that he or she has~~

1 ~~been rehabilitated. For purposes of permitting a person to be a caregiver or nonclient~~
 2 ~~resident of such a day care center or day care provider, no person who has been~~
 3 ~~convicted of a serious crime specified in sub. (1) (c) 3m. may be permitted to~~
 4 ~~demonstrate that he or she has been rehabilitated.~~

Insert
13-4

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

6 48.685 (5c) (a) Any person who is permitted but fails under sub. (5) (a) to
 7 demonstrate to the department, an agency contracted with under s. 48.651 (2), or a
 8 child welfare agency that he or she has been rehabilitated may appeal to the
 9 secretary or his or her designee. Any person who is adversely affected by a decision
 10 of the secretary or his or her designee under this paragraph has a right to a contested
 11 case hearing under ch. 227.

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

13 48.685 (6) (b) 2. For caregivers who are licensed or certified by a county
 14 department or an agency contracted with under s. 48.651 (2), for persons who are
 15 nonclient residents of an entity that is licensed or certified by a county department
 16 or an agency contracted with under s. 48.651 (2), and for other persons specified by
 17 the department by rule, the entity shall send the background information form to the
 18 county department or contracted agency.

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

20 48.685 (8) The department, the department of health services, a county
 21 department, an agency contracted with under s. 48.651 (2), a child welfare agency,
 22 or a school board may charge a fee for obtaining the information required under sub.
 23 (2) (am), (ar), or (3) (a) or (am) for providing information to an entity to enable the entity
 24 to comply with sub. (2) (b) 1. or (3) (b). The fee may not exceed the reasonable cost
 25 of obtaining the information. No fee may be charged to a nurse aide, as defined in

(a) In this subsection, "crime involving financial dishonesty" means an offense under subch. II or IV of ch. 943 that is a felony or misdemeanor.

s. 146.40 (1) (d), for obtaining or maintaining information if to do so would be inconsistent with federal law.

SECTION 23. 48.715 (4g) of the statutes is created to read:

48.715 (4g) If a person who has been issued a license under s. 48.66 (1) (a) or a probationary license under s. 48.69 to operate a day care center 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 day care center is convicted of a serious crime or adjudicated delinquent for committing a serious crime, as described in s. 48.685 (4m) (b) 1., the department shall revoke the license of the day care center immediately upon providing written notice of revocation and the grounds for revocation and an explanation of the process for appealing the revocation.

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

49.133 (1m) 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 is convicted of a serious crime or adjudicated delinquent for committing a serious crime, as described in s. 48.685 (4m) (b) 1., the department or a county department under s. 46.215, 46.22, or 46.23 may shall refuse to pay a the child care provider for any child care provided under s. 49.132, 1995 stats., or any other program if any of

or a crime involving financial dishonesty on or after his or her 12th birthday

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1 ~~the following applies to the child care provider, employee or person living on the~~
2 ~~premises where child care is provided: beginning on the date of the conviction or~~
3 ~~delinquency adjudication, determination of reasonable grounds, or entry of the~~
4 ~~temporary restraining order or injunction, as described in s. 48.665 (4m) (a) 1. or (b)~~

Insert
15-15

40

5
6 **SECTION 25.** 49.133 (1) of the statutes, as affected by 2009 Wisconsin Act 28,
7 is renumbered 49.133 (2m) (a) and amended to read:

8 49.133 (2m) (a) The person has been convicted of ~~a felony or misdemeanor that~~
9 or adjudicated delinquent on or after his or her 12th birthday for an offense that is
10 not a serious crime, as defined in s. 48.685 (1) (c) 3m., but the department or, county
11 department under s. 46.215, 46.22, or 46.23, agency contracted with under s. 48.651
12 (2), or school board determines under s. 48.685 (5m) that the offense substantially
13 relates to the care of children or the department or county department determines
14 that the offense substantially relates to the operation of a business.

Insert
15-14

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

17 49.133 (2m) (b) The person is a caregiver specified in s. 48.685 (1) (ag) 1. a. or
18 a nonclient resident, as defined in s. 48.685 (1) (bm), and is the subject of a pending
19 criminal charge that the department or, county department under s. 46.215, 46.22,
20 or 46.23, agency contracted with under s. 48.651 (2), or school board determines
21 substantially relates to the care of children.

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

23 49.133 (2m) (intro.) The department or a county department under s. 46.215,
24 46.22, or 46.23 may refuse to pay a child care provider for child care provided under
25 s. 49.132, 1995 stats., or any other program if any of the following applies to the child

1. In this paragraph, "crime involving financial dishonesty" means an offense under subch. III or IV of ch. 943.

¶ 2.

1 care provider or to a caregiver specified in s. 48.685 (1) (ag) 1. a. or nonclient resident,
2 as defined in s. 48.685 (1) (bm), of the child care provider:

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

4 SECTION 29. 49.133 (4) of the statutes, as created by 2009 Wisconsin Act 28, is
5 renumbered 49.133 (2m) (c).

6 SECTION 30. 49.155 (7) of the statutes, as affected by 2009 Wisconsin Act 28,
7 is repealed and recreated to read:

8 49.155 (7) REFUSAL TO PAY CHILD CARE PROVIDERS. (a) If a child care provider is
9 convicted of a serious crime, ~~is the subject of a pending criminal charge and~~
10 ~~determination of reasonable grounds, or has had entered against him or her a~~
11 ~~temporary restraining order or injunction, as described in s. 48.685 (4m) (a) 1,~~ or if

12 a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in
13 s. 48.685 (1) (bm), of the child care provider is convicted of a serious crime or
14 adjudicated delinquent for committing a serious crime, as described in s. 48.685 (4m)

15 (b) 1, ~~on or after his or her 12th birthday,~~ the department or the county department under s. 46.215, 46.22, or 46.23 shall
16 refuse to pay the child care provider for any child care provided under this section

17 beginning on the date of the conviction or delinquency adjudication, ~~determination~~
18 ~~of reasonable grounds, or entry of the temporary restraining order or injunction, as~~
19 ~~described in s. 48.685 (4m) (b) 1.~~

INS
16-19

20 (b) The department or the county department under s. 46.215, 46.22, or 46.23
21 may refuse to pay a child care provider for child care provided under this section if
22 any of the following applies to the child care provider or to a caregiver specified in
23 s. 48.685 (1) (ag) 1. a. or nonclient resident, as defined in s. 48.685 (1) (bm), of the child
24 care provider:

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

8 2. The person is a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient
9 resident, as defined in s. 48.685 (1) (bm), and is the subject of a pending criminal
10 charge that the department, county department, agency contracted with under s.
11 48.651 (2), or school board determines substantially relates to the care of children.

12 3. The person has been determined under s. 48.981 to have abused or neglected
13 a child.

14 4. The department or county department reasonably suspects that the person
15 has violated any provision under the program under this section or any rule
16 promulgated under this section.

17 ~~SECTION 31. 120.13 (14) of the statutes is amended to read:~~

18 ~~120.13 (14) DAY CARE PROGRAMS. Establish and provide or contract for the~~
19 ~~provision of day care programs for children. The school board may receive federal~~
20 ~~or state funds for this purpose. The school board may charge a fee for all or part of~~
21 ~~the cost of the service for participation in a day care program established under this~~
22 ~~subsection. Costs associated with a day care program under this subsection may not~~
23 ~~be included in shared costs under s. 121.07 (6). Day care programs established under~~
24 ~~this subsection shall meet the standards for licensed day care centers established by~~
25 ~~the department of children and families. If a school board proposes to contract for~~

1 or renew a contract for the provision of a day care program under this subsection or
2 if on July 1, 1996, a school board is a party to a contract for the provision of a day care
3 program under this subsection, the school board shall refer the contractor or
4 proposed contractor to the department of children and families for the criminal
5 history and child abuse record search required under s. 48.685. Each school board
6 shall provide the department of health services with information about each person
7 who is denied a contract for a reason specified in s. 48.685 (4m) (a) 1. to 5. If a person
8 who has contracted under this subsection to provide a day care program is convicted
9 of a serious crime, is the subject of a pending criminal charge and determination of
10 reasonable grounds, or has had entered against him or her a temporary restraining
11 order or injunction, as described in s. 48.685 (4m) (a) 1., or if a caregiver specified in
12 s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the
13 day care program is convicted of a serious crime or adjudicated delinquent, as
14 described in s. 48.685 (4m) (b) 1., the school board shall rescind the contract of the
15 contractor immediately upon providing written notice of revocation and the grounds
16 for revocation and an explanation of the process for appealing the revocation.

17 **SECTION 32. Nonstatutory provisions.**

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

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

24 (b) *Emergency rules.* Using the procedure under section 227.24 of the statutes,
25 the department of children and families may promulgate the rules required under

1 ~~section 48.685 (1) (c) 3m. of the statutes, as created by this act, for the period before~~
 2 ~~the effective date of the rules submitted under paragraph (a), but not to exceed the~~
 3 ~~period authorized under section 227.24 (1) (c) and (2) of the statutes.~~
 4 ~~Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department~~
 5 ~~is not required to provide evidence that promulgating a rule under this paragraph~~
 6 ~~as an emergency rule is necessary for the preservation of the public peace, health,~~
 7 ~~safety, or welfare and is not required to provide a finding of emergency for a rule~~
 8 ~~promulgated under this paragraph.~~

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9 **SECTION 33. Effective dates.** This act takes effect on the first day of the 6th
 10 month beginning after publication, except as follows:

11 (1) **ELIMINATION OF TREATMENT FOSTER HOMES.** The repeal and recreation of
 12 section 48.685 (4m) (ad) of the statutes takes effect on the date stated in the notice
 13 provided by the secretary of children and families and published in the Wisconsin
 14 Administrative Register under section 48.62 (9) of the statutes, ~~as created by 2009~~
 15 ~~Wisconsin Act 28.~~

16 (END)

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

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(INSERT 5-6)

1 (b) If a day care provider certified under sub. (1) is the subject of a pending
2 criminal charge alleging that the person has committed a serious crime, as defined
3 in s. 48.685 (1) (c) 3m., or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient
4 resident, as defined in s. 48.685 (1) (bm), of the day care provider is the subject of a
5 pending criminal charge or delinquency petition alleging that the person has
6 committed a serious crime on or after his or her 12th birthday, the department in a
7 county having a population of 500,000 or more, a county department, or an agency
8 contracted with under sub. (2) shall immediately suspend the certification of the day
9 care provider until the department, county department, or agency obtains
10 information regarding the final disposition of the charge or delinquency petition
11 indicating that the person is not ineligible to be certified under sub. (1).

12 (c) If a day care provider certified under sub. (1) or a caregiver specified in s.
13 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day
14 care provider has entered against him or her a temporary restraining order or
15 injunction under s. 813.12, 813.122, 813.123, 813.125, 813.127, or 813.128, the
16 department in a county having a population of 500,000 or more, a county
17 department, or an agency contracted with under sub. (2) shall investigate the
18 circumstances giving rise to the temporary restraining order or injunction and may
19 suspend or revoke the certification of the day care provider, depending on the gravity
20 of those circumstances, as determined by the department, county department, or
21 agency.

(END OF INSERT)

(INSERT 6-24)

1 **SECTION 1.** 48.685 (2) (b) 2. of the statutes is created to read:

2 48.685 (2) (b) 2. In addition to obtaining the information specified in subd. 1.
3 with respect to a caregiver specified in sub. (1) (ag) 1. a. of a day care center that is
4 licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of a
5 day care provider that is certified under s. 48.651, the day care center or day care
6 provider shall obtain information that is contained in the circuit court automated
7 information system under s. 758.19 (4) regarding any temporary restraining order
8 or injunction under s. 813.12, 813.122, 813.123, 813.125, or 813.127 entered against
9 the person.

(END OF INSERT)

(INSERT 10-5)

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

11 48.685 (3) (b) ~~Every Subject to par. (bm), every~~ 4 years or at any time within
12 that period that an entity considers appropriate, the entity shall request the
13 information specified in sub. (2) (b) 1. a. to e. for all persons who are caregivers
14 specified in sub. (1) (ag) 1. a. of the entity ~~other than persons under 18 years of age,~~
15 ~~but not under 12 years of age, who are caregivers of a day care center that is licensed~~
16 ~~under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care~~
17 ~~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; 2009 a. 28.

18 **SECTION 3.** 48.685 (3) (bm) of the statutes is created to read:

19 48.685 (3) (bm) Every 6 months or at any time within that period that a day
20 care center that is licensed under s. 48.65 or established or contracted for under s.
21 120.13 (14) or a day care provider that is certified under s. 48.651 considers
22 appropriate, the day care center or day care provider shall request the information

1 specified in sub. (2) (b) 1. a. to e. and 2. for all persons who are caregivers specified
 2 in sub. (1) (ag) 1. a. of the day care center or day care provider other than persons
 3 under 18 years of age, but not under 12 years of age.

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; 2009 a. 28.

(END OF INSERT)

(INSERT 11-24)

4 **SECTION 4.** 48.685 (4m) (b) 1. of the statutes is amended to read:
 5 48.685 (4m) (b) 1. That the person has been convicted of a serious crime or, if
 6 the person is a caregiver or nonclient resident of a day care center that is licensed
 7 under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care
 8 provider that is certified under s. 48.651, that the person has been convicted of a
 9 serious crime or adjudicated delinquent on or after his or her 12th birthday for
 10 committing a serious crime; that the person is the subject of a pending criminal
 11 charge or delinquency petition alleging that the person has committed a serious
 12 crime on or after his or her 12th birthday; or that the person has had a temporary
 13 restraining order or injunction under s. 813.12, 813.122, 813.123, 813.125, 813.127,
 14 or 813.128 entered against him or her not more than 15 years before the date of the
 15 investigation under sub. (2) (b) 2.

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; 2009 a. 28.

(END OF INSERT)

(INSERT 13-4)

16 ← convicted or adjudicated delinquent on or after his or her 12th birthday for
 17 committing any of the following offenses may be permitted to demonstrate that he
 18 or she has been rehabilitated:

1 1. An offense under ch. 948 that is a felony, other than a violation of s. 948.22
2 (2) or 948.51 (2).

3 2. A violation of s. 940.19 (3), 1999 stats., or of s. 940.19 (2), (4), (5), or (6) or
4 940.20 (1) or (1m), if the victim is the spouse of the person.

5 3. A violation of s. 943.23 (1m) or (1r), 1999 stats., or of s. 940.01, 940.02, 940.03,
6 940.05, 940.06, 940.21, 940.225 (1), (2), or (3), 940.23, 940.305, 940.31, 941.20 (2) or
7 (3), 941.21, 943.10 (2), 943.23 (1g), or 943.32 (2).

8 4. A misdemeanor involving sexual abuse, child abuse, or domestic abuse, if the
9 person has ever been convicted or adjudicated delinquency for committing any
10 felony.

11 5. A violation of s. 940.19 (3), 1999 stats., or of s. 125.075 (1), 125.085 (3) (a) 2.,
12 125.105 (2) (b), 125.66 (3), 125.68 (12), 940.09, 940.12, 940.19 (2), (4), (5), or (6),
13 940.20, 940.203, 940.205, 940.207, 940.22 (2) or (3), 940.25, 940.285 (2), 940.295,
14 942.09 (2), or 948.22 (2), a violation of s. 948.51 (2) that is a felony under s. 948.51
15 (3) (b) or (c), a violation of s. 346.63 (1), (2), (5), or (6) that is a felony under s. 346.65
16 (2) (am) 5., 6., or 7., or (f), (2j) (d), or (3m), or an offense under ch. 961 that is a felony,
17 if the person has ever been convicted or adjudicated delinquent for any other crime.

18 6. A violation listed in subd. 5., if the person has never been convicted or
19 adjudicated delinquent for committing any other crime and the person completed his
20 or her sentence, including any probation, parole, or extended supervision, or was
21 discharged by the department of corrections, less than 10 years before the date of the
22 investigation under sub. (2) (am) or (b) 1.

23 7. A misdemeanor involving sexual abuse, child abuse, or domestic abuse, if the
24 person has never been convicted or adjudicated delinquency for committing a felony,
25 but has ever been convicted or adjudicated delinquent for committing any other

1 misdemeanor, and the person completed his or her sentence, including any
2 probation, parole, or extended supervision, or was discharged by the department of
3 corrections, less than 10 years before the date of the investigation under sub. (2) (am)
4 or (b) 1.

5 8. A misdemeanor involving sexual abuse, child abuse, or domestic abuse, if the
6 person has never been convicted or adjudicated delinquency for committing any
7 other misdemeanor and the person completed his or her sentence, including any
8 probation, parole, or extended supervision, or was discharged by the department of
9 corrections, less than 5 years before the date of the investigation under sub. (2) (am)
10 or (b) 1.

(INSERT 14-4)

11 (b) If a person who has been issued a license under s. 48.66 (1) (a) or a
12 probationary license under s. 48.69 to operate a day care center is the subject of a
13 pending criminal charge alleging that the person has committed a serious crime, as
14 defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or
15 a nonclient resident, as defined in s. 48.685 (1) (bm), of the day care center is the
16 subject of a pending criminal charge or delinquency petition alleging that the person
17 has committed a serious crime on or after his or her 12th birthday, the department
18 shall immediately suspend the license of the day care center until the department
19 obtains information regarding the final disposition of the charge or delinquency
20 petition indicating that the person is not ineligible to be licensed to operate a day care
21 center.

22 (c) If a person who has been issued a license under s. 48.66 (1) (a) or a
23 probationary license under s. 48.69 to operate a day care center or a caregiver

1 specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1)
 2 (bm), of the day care center has entered against him or her a temporary restraining
 3 order or injunction under s. 813.12, 813.122, 813.123, 813.125, 813.127, or 813.128,
 4 the department shall investigate the circumstances giving rise to the temporary
 5 restraining order or injunction and may suspend or revoke the license of the day care
 6 center, depending on the gravity of those circumstances, as determined by the
 7 department.

(END OF INSERT)

(INSERT 15-4)

8 SECTION 5. 49.133 (1m) (a) of the statutes is created to read:

9 49.133 (1m) (a) In this subsection, "crime involving financial dishonesty"
 10 means an offense under subch. III or IV of ch. 943.

11 SECTION 6. 49.133 (1m) (c) of the statutes is created to read:

12 49.133 (1m) (c) If a child care provider is the subject of a pending criminal
 13 charge alleging that the person has committed a serious crime, as defined in s. 48.685
 14 (1) (c) 3m., or a crime involving financial dishonesty or if a caregiver specified in s.
 15 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the child
 16 care provider is the subject of a pending criminal charge or delinquency petition
 17 alleging that the person has committed a serious crime ~~or a crime involving financial~~
 18 ~~dishonesty~~ on or after his or her 12th birthday, the department or county department
 19 under s. 46.215, 46.22, or 46.23 shall immediately suspend payment to the child care
 20 provider for any child care provided under s. 49.132, 1995 stats., or any other
 21 program until the department obtains information regarding the final disposition of

1 the charge or delinquency petition indicating that the person is not ineligible to
2 receive such a payment.

3 SECTION 7. 49.133 (1m) (d) of the statutes is created to read:

4 49.133 (1m) (d) If a child care provider or a caregiver specified in s. 48.685 (1)
5 (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the child care
6 provider has entered against him or her a temporary restraining order or injunction
7 under s. 813.12, 813.122, 813.123, 813.125, 813.127, or 813.128, the department or
8 county department under s. 46.215, 46.22, or 46.23 shall investigate the
9 circumstances giving rise to the temporary restraining order or injunction and may
10 suspend or discontinue payments to the child care provider for any child care
11 provided under s. 49.132, 1995 stats., or any other program, depending on the gravity
12 of those circumstances, as determined by the department or county department.

(END OF INSERT)

(INSERT 16-9)

13 3. If a child care provider is the subject of a pending criminal charge alleging
14 that the person has committed a serious crime, as defined in s. 48.685 (1) (c) 3m., or
15 a crime involving financial dishonesty or if a caregiver specified in s. 48.685 (1) (ag)
16 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the child care provider
17 is the subject of a pending criminal charge or delinquency petition alleging that the
18 person has committed a serious crime, ~~or a crime involving financial dishonesty~~ on
19 or after his or her 12th birthday, the department or the county department under s.
20 46.215, 46.22, or 46.23 shall immediately suspend payment to the child care provider
21 for any child care provided under this section until the department obtains

1 information regarding the final disposition of the charge or delinquency petition
2 indicating that the person is not ineligible to receive such a payment.

3 4. If a child care provider or a caregiver specified in s. 48.685 (1) (ag) 1. a. or
4 a nonclient resident, as defined in s. 48.685 (1) (bm), of the child care provider has
5 entered against him or her a temporary restraining order or injunction under s.
6 813.12, 813.122, 813.123, 813.125, 813.127, or 813.128, the department or county
7 department under s. 46.215, 46.22, or 46.23 shall investigate the circumstances
8 giving rise to the temporary restraining order or injunction and may suspend or
9 discontinue payments to the child care provider for any child care provided under
10 this section, depending on the gravity of those circumstances, as determined by the
11 department or county department.

(END OF INSERT)

(INSERT 19-8)

12 SECTION 8. 49.197 (6) of the statutes is created to read:

13 49.197 (6) REPORTING TO LAW ENFORCEMENT AUTHORITIES. If any employee of the
14 department, a county, or a tribal governing body reasonably suspects fraudulent
15 activity as described in sub. (1m) or (2) (b), the employee shall report that suspected
16 fraudulent activity to the appropriate law enforcement authorities.

17 SECTION 9. 49.845 (4) of the statutes is amended to read:

18 49.845 (4) CONTRACT FOR WISCONSIN WORKS. Notwithstanding s. 49.197 (1m)
19 and (3), the department of children and families may contract with the department
20 of health services to investigate suspected fraudulent activity on the part of
21 recipients of aid to families with dependent children under s. 49.19 and participants
22 in Wisconsin Works under ss. 49.141 to 49.161 and to conduct activities to reduce

1 payment errors in Wisconsin Works under ss. 49.141 to 49.161, as provided in this
 2 section. If any employee of the department of children and families reasonably
 3 suspects fraudulent activity as described in this subsection, the employee shall
 4 report that suspected fraudulent activity to the appropriate law enforcement
 5 authorities.

6 **History:** 2005 a. 25; 2007 a. 20 ss. 1681 to 1684, 9121 (6) (a).

6 **SECTION 10.** 120.13 (14) of the statutes is renumbered 120.13 (14) (a).

7 **SECTION 11.** 120.13 (14) (b) of the statutes is created to read:

8 120.13 (14) (b) 1. If a person who has contracted under par. (a) to provide a day
 9 care program is convicted of a serious crime, as defined in s. 48.685 (1) (c) 3m., or if
 10 a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in
 11 s. 48.685 (1) (bm), of the day care program is convicted or adjudicated delinquent for
 12 committing a serious crime on or after his or her 12th birthday, the school board shall
 13 rescind the contract of the contractor immediately upon providing written notice of
 14 the rescission and the grounds for the rescission and an explanation of the process
 15 for appealing the rescission.

16 2. If a person who has contracted under par. (a) to provide a day care program
 17 is the subject of a pending criminal charge alleging that the person has committed
 18 a serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s.
 19 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day
 20 care program is the subject of a pending criminal charge or delinquency petition
 21 alleging that the person has committed a serious crime on or after his or her 12th
 22 birthday, the school board shall immediately suspend the contract of the contractor
 23 until the school board obtains information regarding the final disposition of the

1 charge or delinquency petition indicating that the person is not ineligible to provide
2 a day care program under this subsection.

3 3. If a person who has contracted under par. (a) to provide a day care program
4 or a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined
5 in s. 48.685 (1) (bm), of the day care program has entered against him or her a
6 temporary restraining order or injunction under s. 813.12, 813.122, 813.123,
7 813.125, 813.127, or 813.128, the school board shall investigate the circumstances
8 giving rise to the temporary restraining order or injunction and may suspend or
9 rescind the contract of the contractor, depending on the gravity of those
10 circumstances, as determined by the school board.

11 **SECTION 12. Initial applicability.**

12 (1) RETROACTIVE APPLICATION. This act first applies to a decision to deny,
13 suspend, revoke, rescind, or refuse to renew a license under s. 48.65, a certification
14 under s. 48.651 or a contract under s. 120.13 (14) of the statutes, or to refuse to pay
15 a child care provider under s. 49.133 or 49.155 (7) of the statutes made on the effective
16 date of this subsection, notwithstanding that the conviction, adjudication, charge,
17 temporary restraining order, or injunction on which the decision is based was
18 obtained, filed, or granted before the effective date of this subsection.

of the statutes (circled) *section* (circled) *of the statutes* (circled)

(END OF INSERT)

(INSERT A-1)

1. Any crime against children, other than failure to pay child support or hazing.
2. Felony battery, if the victim is the spouse of the person.
3. First-degree or second-degree intentional or reckless homicide, felony murder, mayhem, felony sexual assault, reckless injury, taking hostages, kidnapping, felony endangering safety by use of a dangerous weapon, disarming a police officer, armed burglary, carjacking, or armed robbery.
4. A misdemeanor involving sexual abuse, child abuse, or domestic abuse, if the person has ever been convicted or adjudicated delinquent for committing any felony.

5. Any drug or alcohol-related felony, felony battery, sexual exploitation by a therapist, abuse of an adult-at-risk, abuse or neglect of a patient, video voyeurism, felony failure to pay child support, or felony hazing, if the person has ever been convicted or adjudicated delinquent for committing any other crime.

6. Any drug or alcohol-related felony, felony battery, sexual exploitation by a therapist, abuse of an adult-at-risk, abuse or neglect of a patient, video voyeurism, felony failure to pay child support, or felony hazing, if the person has never been convicted or adjudicated delinquent for committing any other crime and the person completed his or her sentence, including any probation, parole, or extended supervision, or was discharged by the Department of Corrections (DOC), less than 10 years before the date of the background investigation of the person.

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7. A misdemeanor involving sexual abuse, child abuse, or domestic abuse, if the person has never been convicted or adjudicated delinquent for committing a felony, but has ever been convicted or adjudicated delinquent for committing any other misdemeanor, and the person completed his or her sentence, including any probation, parole, or extended supervision, or was discharged by the DOC, less than 10 years before the date of the background investigation of the person.

8. A misdemeanor involving sexual abuse, child abuse, or domestic abuse, if the person has never been convicted or adjudicated delinquent for committing any other misdemeanor, and the person completed his or her sentence, including any probation, parole, or extended supervision, or was discharged by the DOC, less than five years before the date of the background investigation of the person.

The bill also prohibits a person who is the subject of a pending charge for a serious crime or who has had 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 from being licensed, certified, or contracted with to provide child care, from being employed or contracted as a caregiver of a child care provider, or from being permitted to be a nonclient resident of a premises where child care is provided, but permits such a person to show that he or she has been rehabilitated.

(END OF INSERT)

(INSERT A-2)

X

This bill requires all of the following:

1. 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 the person licensed to operate the day care center, the person certified as a child care provider, or the person contracting to provide a day care program is convicted of a serious crime or if a caregiver or nonclient resident of the day care center, child care provider, or day care program is convicted or adjudicated delinquent for committing a serious crime on or after his or her 12th

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or if the child care provider has been convicted of a crime involving financial dishonesty

birthday. The bill also requires DCF or a county department to refuse to pay a child care provider in those circumstances beginning on the date of the conviction or delinquency adjudication.

2. DCF to immediately suspend 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 immediately suspend the certification of a day care provider for purposes of reimbursement under the Wisconsin Works Program; and a school board to immediately suspend the contract of a person to operate a day care program; if the person licensed to operate the day care center, the person certified as a child care provider, or the person contracting to provide the day care program is the subject of a pending criminal charge alleging that the person has committed a serious crime or if a caregiver or nonclient resident of the day care center, child care provider, or day care program is the subject of a pending charge or delinquency petition alleging that the person has committed a serious crime on or after his or her 12th birthday. The bill also requires DCF or a county department to immediately suspend payment to a child care provider for any child care provided under the Wisconsin Works Program in those circumstances until DCF or the county department obtains information regarding the final disposition of the charge or delinquency proceeding indicating that the person is not ineligible to receive such a payment.

3. DCF to investigate the circumstances giving rise to a TRO or injunction entered against a day care center; DCF in a county having a population of 500,000 or more, a county department, or a contracted agency to investigate the circumstances giving rise to a TRO or injunction entered against a day care provider who is certified for purposes of reimbursement under the Wisconsin Works Program; and a school board to investigate the circumstances giving rise to a TRO or injunction entered against a person contracted to operate a day care program. DCF, the county department, the agency, or the school board may then suspend or revoke the license, certification, or contract, depending on the gravity of those circumstances. DCF or a county department may also suspend or discontinue payment to a child care provider for any child care provided under the Wisconsin Works Program in those circumstances, depending on the gravity of those circumstances.

Finally, the bill requires any employee of DCF, the Department of Health Services, a county, or a tribal governing body who reasonably suspects fraudulent activity on the part of a participant in the Wisconsin Works Program, including a person receiving a child care subsidy under that program, to report that suspected fraudulent activity to the appropriate law enforcement authorities.

(END OF INSERT)

or if the child care provider is the subject of a pending criminal charge alleging that he or she has committed a crime involving financial dishonesty