



# 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 03 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.



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-3047/1  
GMM:kjfrs

1  
2  
RMR

LM 9/22

Went to W+2 9/23

(analysis insert only)

**2009 BILL**

+  
p. 5

see affd ✓

Reyen

1 **AN ACT to renumber** 49.133 (3), 49.133 (4) and 120.13 (14); **to renumber and**  
2 **amend** 49.133 (intro.), 49.133 (1) and 49.133 (2); **to amend** 20.435 (6) (jm),  
3 48.685 (1) (c) 4., 48.685 (2) (am) (intro.), 48.685 (2) (am) 5., 48.685 (2) (b) 4.,  
4 48.685 (2) (bb), 48.685 (2) (bd), 48.685 (2) (bm), 48.685 (3) (a), 48.685 (3) (b),  
5 48.685 (3m), 48.685 (4m) (a) 1., 48.685 (4m) (ad), 48.685 (4m) (b) 1., 48.685 (5)  
6 (a), 48.685 (5c) (a), 48.685 (6) (b) 2., 48.685 (8) and 49.845 (4); **to repeal and**  
7 **recreate** 48.685 (4m) (ad) and 49.155 (7); and **to create** 48.651 (3), 48.685 (1)  
8 (c) 3m., 48.685 (2) (ar), 48.685 (2) (b) 2., 48.685 (3) (am), 48.685 (3) (bm), 48.685  
9 (5) (br), 48.715 (4g), 49.133 (1m) (a), 49.133 (1m) (c), 49.133 (1m) (d), 49.133 (2m)  
10 (intro.), 49.197 (6) and 120.13 (14) (b) of the statutes; **relating to:** prohibiting  
11 a person who has been convicted or adjudicated delinquent for committing  
12 certain serious crimes, who is the subject of a pending criminal charge or  
13 delinquency petition for committing a serious crime, or who has had entered  
14 against him or her a domestic abuse, child abuse, individual-at-risk abuse, or

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1 harassment temporary restraining order or injunction in the preceding 15  
2 years from being licensed, certified, or contracted with to provide child care,  
3 from being employed or contracted as a caregiver of a child care provider, or  
4 from being permitted to reside at a premises where child care is provided;  
5 requiring suspected fraudulent activity on the part of a participant in the  
6 Wisconsin Works Program, including a person receiving a child care subsidy  
7 under that program, to be reported to the appropriate law enforcement  
8 authorities; and making an appropriation.

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***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 person who has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing any of the following serious crimes 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 and prohibits such a person from showing that he or she has been rehabilitated:

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,

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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 ten years before the date of the background investigation of the person.

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 ten 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.



Insert  
A

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

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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.

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 the 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 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 birthday. The bill also requires DCF or a county department to refuse to pay a child care provider in those circumstances or if the child care provider has been convicted of a crime involving financial dishonesty 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 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 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

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provider for any child care provided under the Wisconsin Works Program in those circumstances, depending on the gravity of those circumstances.

DHS

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.

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

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***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), (am), and (b),  
5 and (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.031, 50.065 (2) (am) and (b) 1., (3) (a) and  
6 (b), and (5), 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.981,  
7 and 146.40 (4r) (b) and (er), and subch. IV of ch. 50 and to conduct health facilities  
8 plan and rule development activities, for accrediting nursing homes, convalescent  
9 homes, and homes for the aged, to conduct capital construction and remodeling plan  
10 reviews under ss. 50.02 (2) (b) and 50.36 (2), and for the costs of inspecting, licensing  
11 or 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

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1 all moneys received under s. 50.135 (2) shall be credited to this appropriation  
2 account.

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

4 48.651 (3) (a) If a day care provider certified under sub. (1) is convicted of a  
5 serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s. 48.685  
6 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day care  
7 provider is convicted or adjudicated delinquent for committing a serious crime on or  
8 after his or her 12th birthday, the department in a county having a population of  
9 500,000 or more, a county department, or an agency contracted with under sub. (2)  
10 shall revoke the certification of the day care provider immediately upon providing  
11 written notice of revocation and the grounds for revocation and an explanation of the  
12 process for appealing the revocation.

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

24 (c) If a day care provider certified under sub. (1) or a caregiver specified in s.  
25 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day

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1 care provider has entered against him or her a temporary restraining order or  
2 injunction under s. 813.12, 813.122, 813.123, 813.125, 813.127, or 813.128, the  
3 department in a county having a population of 500,000 or more, a county  
4 department, or an agency contracted with under sub. (2) shall investigate the  
5 circumstances giving rise to the temporary restraining order or injunction and may  
6 suspend or revoke the certification of the day care provider, depending on the gravity  
7 of those circumstances, as determined by the department, county department, or  
8 agency.

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

10 48.685 (1) (c) 3m. For purposes of licensing a person to operate a day care center  
11 under s. 48.65, certifying a day care provider under s. 48.651, or contracting with a  
12 person under s. 120.13 (14) to operate a day care center, or of permitting a person to  
13 be a caregiver or nonclient resident of such a day care center or day care provider,  
14 any violation listed in subds. 1. to 3. or sub. (5) (br) 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



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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.

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, a nonclient resident of such an  
21 entity, or a person under 18 years of age, but not under 12 years of age, who is a  
22 caregiver of such an entity, the department, a county department, an agency  
23 contracted with under s. 48.651 (2), or a school board shall obtain information that  
24 is contained in the circuit court automated information system under s. 758.19 (4)

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1 regarding any temporary restraining order or injunction under s. 813.12, 813.122,  
2 813.123, 813.125, or 813.127 entered against the person.

3 **SECTION 8.** 48.685 (2) (b) 2. of the statutes is created to read:

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

12 **SECTION 9.** 48.685 (2) (b) 4. of the statutes is amended to read:

13 48.685 (2) (b) 4. ~~Subdivision 1. does~~ Subdivisions 1. and 2. do not apply with  
14 respect to a nonclient resident or person under 18 years of age, but not under 12 years  
15 of age, who is a caregiver ~~or nonclient resident~~ 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 and with respect to whom the department,  
18 a county department, an agency contracted with under s. 48.651 (2), or a school board  
19 is required under par. (am) (intro.) to obtain the information specified in par. (am)  
20 1. to 5.

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

22 48.685 (2) (bb) If information obtained under par. (am) or (b) 1. indicates a  
23 charge of a serious crime, but does not completely and clearly indicate the final  
24 disposition of the charge, the department, county department, agency contracted  
25 with under s. 48.651 (2), child welfare agency, school board, or entity shall make

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

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

17 48.685 (2) (bd) Notwithstanding pars. (am) and (b) 1., the department, a county  
18 department, an agency contracted with under s. 48.651 (2), a child welfare agency,  
19 or a school board is not required to obtain the information specified in par. (am) 1.  
20 to 5., and an entity is not required to obtain the information specified in par. (b) 1.  
21 a. to e., with respect to a person under 18 years of age whose background information  
22 form under sub. (6) (am) indicates that the person is not ineligible to be employed,  
23 contracted with, or permitted to reside at an entity for a reason specified in sub. (4m)  
24 (b) 1. to 5. and with respect to whom the department, county department, contracted  
25 agency, child welfare agency, school board, or entity otherwise has no reason to

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1 believe that the person is ineligible to be employed, contracted with, or permitted to  
2 reside at an entity for any of those reasons. This paragraph does not preclude the  
3 department, a county department, an agency contracted with under s. 48.651 (2), a  
4 child welfare agency, or a school board from obtaining, at its discretion, the  
5 information specified in par. (am) 1. to 5. with respect to a person described in this  
6 paragraph who is a nonclient resident or a prospective nonclient resident of an entity.

7 **SECTION 12.** 48.685 (2) (bm) of the statutes is amended to read:

8 48.685 (2) (bm) If the person who is the subject of the search under par. (am),  
9 (ar), or (b) 1. is not a resident of this state, or if at any time within the 3 years  
10 preceding the date of the search that person has not been a resident of this state, or  
11 if the department, county department, agency contracted with under s. 48.651 (2),  
12 child welfare agency, school board, or entity determines that the person's  
13 employment, licensing, or state court records provide a reasonable basis for further  
14 investigation, the department, county department, contracted agency, child welfare  
15 agency, school board, or entity shall make a good faith effort to obtain from any state  
16 or other United States jurisdiction in which the person is a resident or was a resident  
17 within the 3 years preceding the date of the search information that is equivalent to  
18 the information specified in par. (am) 1., (ar), or (b) 1. a. The department, county  
19 department, contracted agency, child welfare agency, school board, or entity may  
20 require the person to be fingerprinted on 2 fingerprint cards, each bearing a complete  
21 set of the person's fingerprints. The department of justice may provide for the  
22 submission of the fingerprint cards to the federal bureau of investigation for the  
23 purposes of verifying the identity of the person fingerprinted and obtaining records  
24 of his or her criminal arrests and convictions.

25 **SECTION 13.** 48.685 (3) (a) of the statutes is amended to read:

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

12           **SECTION 14.** 48.685 (3) (am) of the statutes is created to read:

13           48.685 (3) (am) Every 6 months or at any time within that period that the  
14           department, a county department, an agency contracted with under s. 48.651 (2), or  
15           a school board considers appropriate, the department, county department,  
16           contracted agency, or school board shall request the information specified in sub. (2)  
17           (am) 1. and (ar) for all caregivers specified in sub. (1) (ag) 1. b. who are licensed under  
18           s. 48.65 to operate a day care center, certified as a day care provider under s. 48.651,  
19           or contracted under s. 120.13 (14) to operate a day care center for all persons who are  
20           nonclient residents of such a caregiver, and for all persons under 18 years of age, but  
21           not under 12 years of age, who are caregivers specified in sub. (1) (ag) 1. a. of such  
22           a caregiver.

23           **SECTION 15.** 48.685 (3) (b) of the statutes is amended to read:

24           48.685 (3) (b) Every Subject to par. (bm), every 4 years or at any time within  
25           that period that an entity considers appropriate, the entity shall request the

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1 information specified in sub. (2) (b) 1. a. to e. for all persons who are caregivers  
2 specified in sub. (1) (ag) 1. a. of the entity ~~other than persons under 18 years of age,~~  
3 ~~but not under 12 years of age, who are caregivers of a day care center that is licensed~~  
4 ~~under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care~~  
5 ~~provider that is certified under s. 48.651.~~

6 **SECTION 16.** 48.685 (3) (bm) of the statutes is created to read:

7 48.685 (3) (bm) Every 6 months or at any time within that period that a day  
8 care center that is licensed under s. 48.65 or established or contracted for under s.  
9 120.13 (14) or a day care provider that is certified under s. 48.651 considers  
10 appropriate, the day care center or day care provider shall request the information  
11 specified in sub. (2) (b) 1. a. to e. and 2. for all persons who are caregivers specified  
12 in sub. (1) (ag) 1. a. of the day care center or day care provider other than persons  
13 under 18 years of age, but not under 12 years of age.

14 **SECTION 17.** 48.685 (3m) of the statutes is amended to read:

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

22 **SECTION 18.** 48.685 (4m) (a) 1. of the statutes is amended to read:

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

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1 certification or if the person is proposing to contract with a school board under s.  
2 120.13 (14) or to renew a contract under that subsection, that the person has been  
3 convicted of a serious crime or adjudicated delinquent on or after his or her 12th  
4 birthday for committing a serious crime; that the person is the subject of a pending  
5 criminal charge or delinquency petition alleging that the person has committed a  
6 serious crime on or after his or her 12th birthday; or that the person has had a  
7 temporary restraining order or injunction under s. 813.12, 813.122, 813.123,  
8 813.125, 813.127, or 813.128 entered against him or her not more than 15 years  
9 before the date of the investigation under sub. (2) (ar).

10 **SECTION 19.** 48.685 (4m) (ad) of the statutes, as affected by 2009 Wisconsin Act  
11 28, section 1073d, is amended to read:

12 48.685 (4m) (ad) The department, a county department, or a child welfare  
13 agency may license a foster home or treatment foster home under s. 48.62; the  
14 department may license a day care center under s. 48.65; the department in a county  
15 having a population of 500,000 or more, a county department, or an agency  
16 contracted with under s. 48.651 (2) may certify a day care provider under s. 48.651;,  
17 and a school board may contract with a person under s. 120.13 (14), conditioned on  
18 the receipt of the information specified in sub. (2) (am) and (ar) indicating that the  
19 person is not ineligible to be licensed, certified, or contracted with for a reason  
20 specified in par. (a) 1. to 5.

21 **SECTION 20.** 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:

24 48.685 (4m) (ad) The department, a county department, or a child welfare  
25 agency may license a foster home under s. 48.62; the department may license a day

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1 care center under s. 48.65; the department in a county having a population of 500,000  
2 or more, a county department, or an agency contracted with under s. 48.651 (2) may  
3 certify a day care provider under s. 48.651; and a school board may contract with a  
4 person under s. 120.13 (14), conditioned on the receipt of the information specified  
5 in sub. (2) (am) and (ar) indicating that the person is not ineligible to be licensed,  
6 certified, or contracted with for a reason specified in par. (a) 1. to 5.

7 **SECTION 21.** 48.685 (4m) (b) 1. of the statutes is amended to read:

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

19 **SECTION 22.** 48.685 (5) (a) of the statutes, as affected by 2009 Wisconsin Act 28,  
20 is amended to read:

21 48.685 (5) (a) Subject to ~~par. pars.~~ (bm) and (br), the department may license  
22 to operate an entity, the department in a county having a population of 500,000 or  
23 more, a county department, or an agency contracted with under s. 48.651 (2) may  
24 certify under s. 48.651, a county department or a child welfare agency may license  
25 under s. 48.62, and a school board may contract with under s. 120.13 (14) a person



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1 who otherwise may not be licensed, certified, or contracted with for a reason specified  
2 in sub. (4m) (a) 1. to 5., and an entity may employ, contract with, or permit to reside  
3 at the entity a person who otherwise may not be employed, contracted with, or  
4 permitted to reside at the entity for a reason specified in sub. (4m) (b) 1. to 5., if the  
5 person demonstrates to the department, the county department, the contracted  
6 agency, the child welfare agency, or the school board or, in the case of an entity that  
7 is located within the boundaries of a reservation, to the person or body designated  
8 by the tribe under sub. (5d) (a) 3., by clear and convincing evidence and in accordance  
9 with procedures established by the department by rule or by the tribe that he or she  
10 has been rehabilitated.

11 **SECTION 23.** 48.685 (5) (br) of the statutes is created to read:

12 48.685 (5) (br) For purposes of licensing a person to operate a day care center  
13 under s. 48.65, certifying a day care provider under s. 48.651, or contracting with a  
14 person under s. 120.13 (14) to operate a day care center or of permitting a person to  
15 be a nonclient resident or caregiver specified in sub. (1) (ag) 1. a. of a day care center  
16 or day care provider, no person who has been convicted or adjudicated delinquent on  
17 or after his or her 12th birthday for committing any of the following offenses may be  
18 permitted to demonstrate that he or she has been rehabilitated:

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

21 2. A violation of s. 940.19 (3), 1999 stats., or of s. 940.19 (2), (4), (5), or (6) or  
22 940.20 (1) or (1m), if the victim is the spouse of the person.

23 3. A violation of s. 943.23 (1m) or (1r), 1999 stats., or of s. 940.01, 940.02, 940.03,  
24 940.05, 940.06, 940.21, 940.225 (1), (2), or (3), 940.23, 940.305, 940.31, 941.20 (2) or  
25 (3), 941.21, 943.10 (2), 943.23 (1g), or 943.32 (2).

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1           4. A misdemeanor involving sexual abuse, child abuse, or domestic abuse, if the  
2 person has ever been convicted or adjudicated delinquent for committing any felony.

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

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

15           7. A misdemeanor involving sexual abuse, child abuse, or domestic abuse, if the  
16 person has never been convicted or adjudicated delinquent for committing a felony,  
17 but has ever been convicted or adjudicated delinquent for committing any other  
18 misdemeanor, and the person completed his or her sentence, including any  
19 probation, parole, or extended supervision, or was discharged by the department of  
20 corrections, less than 10 years before the date of the investigation under sub. (2) (am)  
21 or (b) 1.

22           8. A misdemeanor involving sexual abuse, child abuse, or domestic abuse, if the  
23 person has never been convicted or adjudicated delinquent for committing any other  
24 misdemeanor and the person completed his or her sentence, including any probation,

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1 parole, or extended supervision, or was discharged by the department of corrections,  
2 less than 5 years before the date of the investigation under sub. (2) (am) or (b) 1.

3 **SECTION 24.** 48.685 (5c) (a) of the statutes is amended to read:

4 48.685 (5c) (a) Any person who is permitted but fails under sub. (5) (a) to  
5 demonstrate to the department, an agency contracted with under s. 48.651 (2), or a  
6 child welfare agency that he or she has been rehabilitated may appeal to the  
7 secretary or his or her designee. Any person who is adversely affected by a decision  
8 of the secretary or his or her designee under this paragraph has a right to a contested  
9 case hearing under ch. 227.

10 **SECTION 25.** 48.685 (6) (b) 2. of the statutes is amended to read:

11 48.685 (6) (b) 2. For caregivers who are licensed or certified by a county  
12 department or an agency contracted with under s. 48.651 (2), for persons who are  
13 nonclient residents of an entity that is licensed or certified by a county department  
14 or an agency contracted with under s. 48.651 (2), and for other persons specified by  
15 the department by rule, the entity shall send the background information form to the  
16 county department or contracted agency.

17 **SECTION 26.** 48.685 (8) of the statutes is amended to read:

18 48.685 (8) The department, the department of health services, a county  
19 department, an agency contracted with under s. 48.651 (2), a child welfare agency,  
20 or a school board may charge a fee for obtaining the information required under sub.  
21 (2) (am), (ar), or (3) (a) or (am) or for providing information to an entity to enable the  
22 entity to comply with sub. (2) (b) 1. or (3) (b). The fee may not exceed the reasonable  
23 cost of obtaining the information. No fee may be charged to a nurse aide, as defined  
24 in s. 146.40 (1) (d), for obtaining or maintaining information if to do so would be  
25 inconsistent with federal law.

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1           **SECTION 27.** 48.715 (4g) of the statutes is created to read:

2           48.715 (4g) (a) If a person who has been issued a license under s. 48.66 (1) (a)  
3 or a probationary license under s. 48.69 to operate a day care center is convicted of  
4 a serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s.  
5 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day  
6 care center is convicted or adjudicated delinquent for committing a serious crime on  
7 or after his or her 12th birthday, the department shall revoke the license of the day  
8 care center immediately upon providing written notice of revocation and the grounds  
9 for revocation and an explanation of the process for appealing the revocation.

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

21           (c) If a person who has been issued a license under s. 48.66 (1) (a) or a  
22 probationary license under s. 48.69 to operate a day care center or a caregiver  
23 specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1)  
24 (bm), of the day care center has entered against him or her a temporary restraining  
25 order or injunction under s. 813.12, 813.122, 813.123, 813.125, 813.127, or 813.128,

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1 the department shall investigate the circumstances giving rise to the temporary  
2 restraining order or injunction and may suspend or revoke the license of the day care  
3 center, depending on the gravity of those circumstances, as determined by the  
4 department.

5 **SECTION 28.** 49.133 (intro.) of the statutes is renumbered 49.133 (1m) (b) and  
6 amended to read:

7 49.133 (1m) (b) The If a child care provider is convicted of a serious crime, as  
8 defined in s. 48.685 (1) (c) 3m., or a crime involving financial dishonesty, or if a  
9 caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s.  
10 48.685 (1) (bm), of the child care provider is convicted or adjudicated delinquent for  
11 committing a serious crime on or after his or her 12th birthday, the department or  
12 a county department under s. 46.215, 46.22, or 46.23 may shall refuse to pay -a the  
13 child care provider for any child care provided under s. 49.132, 1995 stats., or any  
14 other program if any of the following applies to the child care provider, employee or  
15 person living on the premises where child care is provided: beginning on the date of  
16 the conviction or delinquency adjudication.

17 **SECTION 29.** 49.133 (1) of the statutes, as affected by 2009 Wisconsin Act 28,  
18 is renumbered 49.133 (2m) (a) and amended to read:

19 49.133 (2m) (a) The person has been convicted of a felony or misdemeanor that  
20 or adjudicated delinquent on or after his or her 12th birthday for an offense that is  
21 not a serious crime, as defined in s. 48.685 (1) (c) 3m., but the department or, county  
22 department under s. 46.215, 46.22, or 46.23, agency contracted with under s. 48.651  
23 (2), or school board determines under s. 48.685 (5m) that the offense substantially  
24 relates to the care of children or the department or county department determines  
25 that the offense substantially relates to the operation of a business.

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1           **SECTION 30.** 49.133 (1m) (a) of the statutes is created to read:

2           49.133 (1m) (a) In this subsection, "crime involving financial dishonesty"  
3 means an offense under subch. III or IV of ch. 943.

4           **SECTION 31.** 49.133 (1m) (c) of the statutes is created to read:

5           49.133 (1m) (c) If a child care provider is the subject of a pending criminal  
6 charge alleging that the person has committed a serious crime, as defined in s. 48.685  
7 (1) (c) 3m., or a crime involving financial dishonesty or if a caregiver specified in s.  
8 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the child  
9 care provider is the subject of a pending criminal charge or delinquency petition  
10 alleging that the person has committed a serious crime on or after his or her 12th  
11 birthday, the department or county department under s. 46.215, 46.22, or 46.23 shall  
12 immediately suspend payment to the child care provider for any child care provided  
13 under s. 49.132, 1995 stats., or any other program until the department obtains  
14 information regarding the final disposition of the charge or delinquency petition  
15 indicating that the person is not ineligible to receive such a payment.

16           **SECTION 32.** 49.133 (1m) (d) of the statutes is created to read:

17           49.133 (1m) (d) If a child care provider or a caregiver specified in s. 48.685 (1)  
18 (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the child care  
19 provider has entered against him or her a temporary restraining order or injunction  
20 under s. 813.12, 813.122, 813.123, 813.125, 813.127, or 813.128, the department or  
21 county department under s. 46.215, 46.22, or 46.23 shall investigate the  
22 circumstances giving rise to the temporary restraining order or injunction and may  
23 suspend or discontinue payments to the child care provider for any child care  
24 provided under s. 49.132, 1995 stats., or any other program, depending on the gravity  
25 of those circumstances, as determined by the department or county department.

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1           **SECTION 33.** 49.133 (2) of the statutes is renumbered 49.133 (2m) (b) and  
2 amended to read:

3           49.133 (2m) (b) The person is a caregiver specified in s. 48.685 (1) (ag) 1. a. or  
4 a nonclient resident, as defined in s. 48.685 (1) (bm), and is the subject of a pending  
5 criminal charge that the department ~~or~~, county department under s. 46.215, 46.22,  
6 or 46.23, agency contracted with under s. 48.651 (2), or school board determines  
7 substantially relates to the care of children.

8           **SECTION 34.** 49.133 (2m) (intro.) of the statutes is created to read:

9           49.133 (2m) (intro.) The department or a county department under s. 46.215,  
10 46.22, or 46.23 may refuse to pay a child care provider for child care provided under  
11 s. 49.132, 1995 stats., or any other program if any of the following applies to the child  
12 care provider or to a caregiver specified in s. 48.685 (1) (ag) 1. a. or nonclient resident,  
13 as defined in s. 48.685 (1) (bm), of the child care provider:

14           **SECTION 35.** 49.133 (3) of the statutes is renumbered 49.133 (2m) (c).

15           **SECTION 36.** 49.133 (4) of the statutes, as created by 2009 Wisconsin Act 28, is  
16 renumbered 49.133 (2m) (c).

17           **SECTION 37.** 49.155 (7) of the statutes, as affected by 2009 Wisconsin Act 28,  
18 is repealed and recreated to read:

19           49.155 (7) REFUSAL TO PAY CHILD CARE PROVIDERS. (a) 1. In this paragraph,  
20 "crime involving financial dishonestly" means an offense under subch. III or IV of ch.  
21 943.

22           2. If a child care provider is convicted of a serious crime, as defined in s. 48.685  
23 (1) (c) 3m., or a crime involving financial dishonesty, or if a caregiver specified in s.  
24 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the child  
25 care provider is convicted or adjudicated delinquent for committing a serious crime

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1 on or after his or her 12th birthday, the department or the county department under  
2 s. 46.215, 46.22, or 46.23 shall refuse to pay the child care provider for any child care  
3 provided under this section beginning on the date of the conviction or delinquency  
4 adjudication.

5 3. If a child care provider is the subject of a pending criminal charge alleging  
6 that the person has committed a serious crime, as defined in s. 48.685 (1) (c) 3m., or  
7 a crime involving financial dishonesty or if a caregiver specified in s. 48.685 (1) (ag)  
8 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the child care provider  
9 is the subject of a pending criminal charge or delinquency petition alleging that the  
10 person has committed a serious crime on or after his or her 12th birthday, the  
11 department or the county department under s. 46.215, 46.22, or 46.23 shall  
12 immediately suspend payment to the child care provider for any child care provided  
13 under this section until the department obtains information regarding the final  
14 disposition of the charge or delinquency petition indicating that the person is not  
15 ineligible to receive such a payment.

16 4. If a child care provider or a caregiver specified in s. 48.685 (1) (ag) 1. a. or  
17 a nonclient resident, as defined in s. 48.685 (1) (bm), of the child care provider has  
18 entered against him or her a temporary restraining order or injunction under s.  
19 813.12, 813.122, 813.123, 813.125, 813.127, or 813.128, the department or county  
20 department under s. 46.215, 46.22, or 46.23 shall investigate the circumstances  
21 giving rise to the temporary restraining order or injunction and may suspend or  
22 discontinue payments to the child care provider for any child care provided under  
23 this section, depending on the gravity of those circumstances, as determined by the  
24 department or county department.



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

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

13 2. The person is a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient  
14 resident, as defined in s. 48.685 (1) (bm), and is the subject of a pending criminal  
15 charge that the department, county department, agency contracted with under s.  
16 48.651 (2), or school board determines substantially relates to the care of children.

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

19 4. The department or county department reasonably suspects that the person  
20 has violated any provision under the program under this section or any rule  
21 promulgated under this section.

22 **SECTION 38.** 49.197 (6) of the statutes is created to read:

23 49.197 (6) REPORTING TO LAW ENFORCEMENT AUTHORITIES. If any employee of the  
24 department, a county, or a tribal governing body reasonably suspects fraudulent

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1 activity as described in sub. (1m) or (2) (b), the employee shall report that suspected  
2 fraudulent activity to the appropriate law enforcement authorities.

3 **SECTION 39.** 49.845 (4) of the statutes is amended to read:

4 49.845 (4) CONTRACT FOR WISCONSIN WORKS. Notwithstanding s. 49.197 (1m)  
5 and (3), the department of children and families may contract with the department  
6 of health services to investigate suspected fraudulent activity on the part of  
7 recipients of aid to families with dependent children under s. 49.19 and participants  
8 in Wisconsin Works under ss. 49.141 to 49.161 and to conduct activities to reduce  
9 payment errors in Wisconsin Works under ss. 49.141 to 49.161, as provided in this  
10 section. If any employee of the department of children and families reasonably  
11 suspects fraudulent activity as described in this subsection, the employee shall  
12 report that suspected fraudulent activity to the appropriate law enforcement  
13 authorities.

14 **SECTION 40.** 120.13 (14) of the statutes is renumbered 120.13 (14) (a).

15 **SECTION 41.** 120.13 (14) (b) of the statutes is created to read:

16 120.13 (14) (b) 1. If a person who has contracted under par. (a) to provide a day  
17 care program is convicted of a serious crime, as defined in s. 48.685 (1) (c) 3m., or if  
18 a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in  
19 s. 48.685 (1) (bm), of the day care program is convicted or adjudicated delinquent for  
20 committing a serious crime on or after his or her 12th birthday, the school board shall  
21 rescind the contract of the contractor immediately upon providing written notice of  
22 the rescission and the grounds for the rescission and an explanation of the process  
23 for appealing the rescission.

24 2. If a person who has contracted under par. (a) to provide a day care program  
25 is the subject of a pending criminal charge alleging that the person has committed

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1 a serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s.  
2 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day  
3 care program is the subject of a pending criminal charge or delinquency petition  
4 alleging that the person has committed a serious crime on or after his or her 12th  
5 birthday, the school board shall immediately suspend the contract of the contractor  
6 until the school board obtains information regarding the final disposition of the  
7 charge or delinquency petition indicating that the person is not ineligible to provide  
8 a day care program under this subsection.

9 3. If a person who has contracted under par. (a) to provide a day care program  
10 or a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined  
11 in s. 48.685 (1) (bm), of the day care program has entered against him or her a  
12 temporary restraining order or injunction under s. 813.12, 813.122, 813.123,  
13 813.125, 813.127, or 813.128, the school board shall investigate the circumstances  
14 giving rise to the temporary restraining order or injunction and may suspend or  
15 rescind the contract of the contractor, depending on the gravity of those  
16 circumstances, as determined by the school board.

17 **SECTION 42. Initial applicability.**

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



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

LRB-3047/2ins  
GMM.....

(INSERT A)

Current law requires DCF, a county department, a contracting agency, or a school board, prior to licensing, certifying, or contracting with a child care provider and every four years after that, to conduct a criminal history search of the child care provider, of all nonclient residents of the premises where the child care is provided, and of all persons under 18 years of age who are caregivers of the child care provider and to obtain certain other information with respect to those individuals, specifically: 1) information from the client abuse registry maintained by the Department of Health Services (DHS); 2) information maintained by the Department of Regulation and Licensing regarding the individual's credentials; 3) information maintained by DCF regarding any substantiated reports of child abuse or neglect against the individual; and 4) information maintained by DHS regarding any denial of a license, certification, or contract to provide child care, of employment as a caregiver of a child care provider, or of permission to reside at a premises where child care is provided. Similarly, current law also requires a child care provider to conduct such a criminal history search and to obtain that information with respect to a caregiver 18 years of age or over prior to employing or contracting with the caregiver and every four years after that.

This bill requires DCF, a county department, a contracting agency, or a school board to conduct that criminal history search and to obtain that information every six months after a child care provider is licensed, certified, or contracted with and requires a child care provider to conduct that criminal history search and to obtain that information every six months after a caregiver 18 years of age or over is employed or contracted with. In addition, the bill requires DCF, a county department, a contracting agency, or a school board, prior to licensing, certifying, or contracting with a child care provider and every six months after that, to obtain information that is contained in the circuit court automated information system regarding any TRO's or injunctions entered against a child care provider, all nonclient residents of the premises where the child care is provided, and all persons under 18 years of age who are caregivers of the child care provider and requires a child care provider to obtain that information with respect to a caregiver 18 years of age or over prior to employing or contracting with the caregiver and every six months after that.

(END OF INSERT)

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

9/23

Rep Gundrum

- Pending charge - no rehabilitation
- CCAP - search for pending charges too
- Reporting suspected fraud
  - report to sheriff or police facts & circumstances
  - leading to suspicion
- Intentional failure to report \$1,000 fine / 6 mo prison