



# 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 04 of 09


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


has been copied/added to the drafting file for

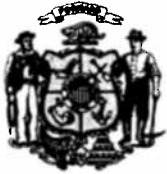
**2009 LRB-3596** (For: Rep. Gundrum)

 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-3047/2  
GMM:kjf:ph

3  
RMR

TH 9/23  
TH 9/24  
2009 BILL

ASAP

Regen

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. ; and providing a penalty

***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,

or who is the subject of a pending criminal charge or delinquency petition  
 alleging that the person has committed any of the following serious crimes  
 on or after his or her 12th birthday

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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.

X 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.

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

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*charge or petition*  
any pending criminal charges or delinquency petitions  
alleging that

has committed a serious crime and

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.

injunction entered against such a provider, nonclient resident, or caregiver,

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.

90 days

90 days

or a person

90 days

resident  
is a caregiver

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 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

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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 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, DHS, 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.

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

the facts and circumstances contributing to that suspicion to the sheriff or to the city, village, or town police department. Any person who intentionally fails to report as required under the bill may be fined \$1,000 or imprisoned not more than six months or both.

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

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

21           48.651 (3) (a) If a day care provider certified under sub. (1) is convicted of a  
22 serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s. 48.685  
23 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day care  
24 provider is convicted or adjudicated delinquent for committing a serious crime on or  
25 after his or her 12th birthday, the department in a county having a population of

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1 500,000 or more, a county department, or an agency contracted with under sub. (2)  
2 shall revoke the certification of the day care provider immediately upon providing  
3 written notice of revocation and the grounds for revocation and an explanation of the  
4 process for appealing the revocation.

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

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



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

2           48.685 (1) (c) 3m. For purposes of licensing a person to operate a day care center  
3           under s. 48.65, certifying a day care provider under s. 48.651, or contracting with a  
4           person under s. 120.13 (14) to operate a day care center, or of permitting a person to  
5           be a caregiver or nonclient resident of such a day care center or day care provider,  
6           any violation listed in subds. 1. to 3. or sub. (5) (br) 1. to 8.

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

8           48.685 (1) (c) 4. A violation of the law of any other state or United States  
9           jurisdiction that would be a violation listed in subd. 1., 2., ~~or 3.~~ or 3m. if committed  
10          in this state.

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

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

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

20          48.685 (2) (am) 5. Information maintained by the department of health services  
21          under this section and under ss. 48.651 (2m), 48.75 (1m), and 120.13 (14) regarding  
22          any denial to the person of a license, continuation or renewal of a license,  
23          certification, or a contract to operate an entity for a reason specified in sub. (4m) (a)  
24          1. to 5. and regarding any denial to the person of employment at, a contract with, or  
25          permission to reside at an entity for a reason specified in sub. (4m) (b) 1. to 5. If the

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or delinquency petition

1 information obtained under this subdivision indicates that the person has been  
2 denied a license, continuation or renewal of a license, certification, a contract,  
3 employment, or permission to reside as described in this subdivision, the  
4 department, a county department, an agency contracted with under s. 48.651 (2), a  
5 child welfare agency, or a school board need not obtain the information specified in  
6 subds. 1. to 4.

any pending criminal charge alleging that the person  
has committed a serious crime and

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

8 48.685 (2) (ar) In addition to obtaining the information specified in par. (am)  
9 with respect to a person who has, or is seeking, a license to operate a day care center  
10 under s. 48.65, certification as a day care provider under s. 48.651, or a contract  
11 under s. 120.13 (14) to operate a day care center, a nonclient resident of such an  
12 entity, or a person under 18 years of age, but not under 12 years of age, who is a  
13 caregiver of such an entity, the department, a county department, an agency  
14 contracted with under s. 48.651 (2), or a school board shall obtain information that  
15 is contained in the circuit court automated information system under s. 758.19 (4)  
16 regarding any temporary restraining order or injunction under s. 813.12, 813.122,  
17 813.123, 813.125, or 813.127 entered against the person.

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

19 48.685 (2) (b) 2. In addition to obtaining the information specified in subd. 1.  
20 with respect to a caregiver specified in sub. (1) (ag) 1. a. of a day care center that is  
21 licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of a  
22 day care provider that is certified under s. 48.651, the day care center or day care  
23 provider shall obtain information that is contained in the circuit court automated  
24 information system under s. 758.19 (4) regarding any temporary restraining order

any pending criminal charge  
alleging that the person has committed  
a serious crime and

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1 or injunction under s. 813.12, 813.122, 813.123, 813.125, or 813.127 entered against  
2 the person.

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

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

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

13 48.685 (2) (bb) If information obtained under par. (am) or (b) 1. indicates a  
14 charge of a serious crime, but does not completely and clearly indicate the final  
15 disposition of the charge, the department, county department, agency contracted  
16 with under s. 48.651 (2), child welfare agency, school board, or entity shall make  
17 every reasonable effort to contact the clerk of courts to determine the final disposition  
18 of the charge. If a background information form under sub. (6) (a) or (am) indicates  
19 a charge or a conviction of a serious crime, but information obtained under par. (am)  
20 or (b) 1. does not indicate such a charge or conviction, the department, county  
21 department, agency contracted with under s. 48.651 (2), child welfare agency, school  
22 board, or entity shall make every reasonable effort to contact the clerk of courts to  
23 obtain a copy of the criminal complaint and the final disposition of the complaint.  
24 If information obtained under par. (am) or (b) 1., a background information form  
25 under sub. (6) (a) or (am), or any other information indicates a conviction of a

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1 violation of s. 940.19 (1), 940.195, 940.20, 941.30, 942.08, 947.01, or 947.013 obtained  
2 not more than 5 years before the date on which that information was obtained, the  
3 department, county department, agency contracted with under s. 48.651 (2), child  
4 welfare agency, school board, or entity shall make every reasonable effort to contact  
5 the clerk of courts to obtain a copy of the criminal complaint and judgment of  
6 conviction relating to that violation.

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

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

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

24 48.685 (2) (bm) If the person who is the subject of the search under par. (am),  
25 (ar), or (b) 1. is not a resident of this state, or if at any time within the 3 years

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

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

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

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- 13 -  
90 days

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

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

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

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

15 48.685 (3) (b) ~~Every Subject to par. (bm), every~~ 4 years or at any time within  
16 that period that an entity considers appropriate, the entity shall request the  
17 information specified in sub. (2) (b) 1. a. to e. for all persons who are caregivers  
18 specified in sub. (1) (ag) 1. a. of the entity ~~other than persons under 18 years of age,~~  
19 ~~but not under 12 years of age, who are caregivers of a day care center that is licensed~~  
20 ~~under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care~~  
21 ~~provider that is certified under s. 48.651.~~

90 days

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

23 48.685 (3) (bm) Every ~~6 months~~ or at any time within that period that a day  
24 care center that is licensed under s. 48.65 or established or contracted for under s.  
25 120.13 (14) or a day care provider that is certified under s. 48.651 considers

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

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

6 48.685 (3m) Notwithstanding subs. (2) (b) 1. and (3) (b), if the department, a  
7 county department, an agency contracted with under s. 48.651 (2), a child welfare  
8 agency, or a school board has obtained the information required under sub. (2) (am)  
9 or (3) (a) or (am) with respect to a person who is a caregiver specified in sub. (1) (ag)  
10 1. b. and that person is also an employee, contractor, or nonclient resident of an  
11 entity, the entity is not required to obtain the information specified in sub. (2) (b) 1.  
12 or (3) (b) with respect to that person.

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

14 48.685 (4m) (a) 1. That the person has been convicted of a serious crime or, if  
15 the person is an applicant for issuance or continuation of a license to operate a day  
16 care center or for initial certification under s. 48.651 or for renewal of that  
17 certification or if the person is proposing to contract with a school board under s.  
18 120.13 (14) or to renew a contract under that subsection, that the person has been  
19 convicted of a serious crime or adjudicated delinquent on or after his or her 12th  
20 birthday for committing a serious crime; that the person is the subject of a pending  
21 criminal charge or delinquency petition alleging that the person has committed a  
22 serious crime on or after his or her 12th birthday; or that the person has had a  
23 temporary restraining order or injunction under s. 813.12, 813.122, 813.123,  
24 813.125, 813.127, or 813.128 entered against him or her not more than 15 years  
25 before the date of the investigation under sub. (2) (ar).

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1           **SECTION 19.** 48.685 (4m) (ad) of the statutes, as affected by 2009 Wisconsin Act  
2 28, section 1073d, is amended to read:

3           48.685 (4m) (ad) The department, a county department, or a child welfare  
4 agency may license a foster home or treatment foster home under s. 48.62; ~~the~~  
5 department may license a day care center under s. 48.65; the department in a county  
6 having a population of 500,000 or more, a county department, or an agency  
7 contracted with under s. 48.651 (2) may certify a day care provider under s. 48.651;  
8 and a school board may contract with a person under s. 120.13 (14), conditioned on  
9 the receipt of the information specified in sub. (2) (am) and (ar) indicating that the  
10 person is not ineligible to be licensed, certified, or contracted with for a reason  
11 specified in par. (a) 1. to 5.

12           **SECTION 20.** 48.685 (4m) (ad) of the statutes, as affected by 2009 Wisconsin Act  
13 28, section 1074d, and 2009 Wisconsin Act .... (this act), is repealed and recreated to  
14 read:

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

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

24           48.685 (4m) (b) 1. That the person has been convicted of a serious crime or, if  
25 the person is a caregiver or nonclient resident of a day care center that is licensed



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

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

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

on or after his or her 12th birthday

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

or who is the subject of a pending charge or delinquency petition alleging that the person has committed any of the following offenses

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

4 48.685 (5) (br) For purposes of licensing a person to operate a day care center  
5 under s. 48.65, certifying a day care provider under s. 48.651, or contracting with a  
6 person under s. 120.13 (14) to operate a day care center or of permitting a person to  
7 be a nonclient resident or caregiver specified in sub. (1) (ag) 1. a. of a day care center  
8 or day care provider, no person who has been convicted or adjudicated delinquent on  
9 or after his or her 12th birthday for committing any of the following offenses may be  
10 permitted to demonstrate that he or she has been rehabilitated:

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

13 2. A violation of s. 940.19 (3), 1999 stats., or of s. 940.19 (2), (4), (5), or (6) or  
14 940.20 (1) or (1m), if the victim is the spouse of the person.

15 3. A violation of s. 943.23 (1m) or (1r), 1999 stats., or of s. 940.01, 940.02, 940.03,  
16 940.05, 940.06, 940.21, 940.225 (1), (2), or (3), 940.23, 940.305, 940.31, 941.20 (2) or  
17 (3), 941.21, 943.10 (2), 943.23 (1g), or 943.32 (2).

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

20 5. A violation of s. 940.19 (3), 1999 stats., or of s. 125.075 (1), 125.085 (3) (a) 2.,  
21 125.105 (2) (b), 125.66 (3), 125.68 (12), 940.09, 940.12, 940.19 (2), (4), (5), or (6),  
22 940.20, 940.203, 940.205, 940.207, 940.22 (2) or (3), 940.25, 940.285 (2), 940.295,  
23 942.09 (2), or 948.22 (2), a violation of s. 948.51 (2) that is a felony under s. 948.51  
24 (3) (b) or (c), a violation of s. 346.63 (1), (2), (5), or (6) that is a felony under s. 346.65

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1 (2) (am) 5., 6., or 7., or (f), (2j) (d), or (3m), or an offense under ch. 961 that is a felony,  
2 if the person has ever been convicted or adjudicated delinquent for any other crime.

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

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

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

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

21 48.685 (5c) (a) Any person who is permitted but fails under sub. (5) (a) to  
22 demonstrate to the department, an agency contracted with under s. 48.651 (2), or a  
23 child welfare agency that he or she has been rehabilitated may appeal to the  
24 secretary or his or her designee. Any person who is adversely affected by a decision

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1 of the secretary or his or her designee under this paragraph has a right to a contested  
2 case hearing under ch. 227.

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

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

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

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

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

20 48.715 (4g) (a) If a person who has been issued a license under s. 48.66 (1) (a)  
21 or a probationary license under s. 48.69 to operate a day care center is convicted of  
22 a serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s.  
23 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day  
24 care center is convicted or adjudicated delinquent for committing a serious crime on  
25 or after his or her 12th birthday, the department shall revoke the license of the day

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

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

14 (c) If a person who has been issued a license under s. 48.66 (1) (a) or a  
15 probationary license under s. 48.69 to operate a day care center or a caregiver  
16 specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1)  
17 (bm), of the day care center has entered against him or her a temporary restraining  
18 order or injunction under s. 813.12, 813.122, 813.123, 813.125, 813.127, or 813.128,  
19 the department shall investigate the circumstances giving rise to the temporary  
20 restraining order or injunction and may suspend or revoke the license of the day care  
21 center, depending on the gravity of those circumstances, as determined by the  
22 department.

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

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1           49.133 (1m) (b) The If a child care provider is convicted of a serious crime, as  
2 defined in s. 48.685 (1) (c) 3m., or a crime involving financial dishonesty, or if a  
3 caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s.  
4 48.685 (1) (bm), of the child care provider is convicted or adjudicated delinquent for  
5 committing a serious crime on or after his or her 12th birthday, the department or  
6 a county department under s. 46.215, 46.22, or 46.23 may shall refuse to pay -a the  
7 child care provider for any child care provided under s. 49.132, 1995 stats., or any  
8 other program if any of the following applies to the child care provider, employee or  
9 person living on the premises where child care is provided: beginning on the date of  
10 the conviction or delinquency adjudication.

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

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

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

21           49.133 (1m) (a) In this subsection, "crime involving financial dishonesty"  
22 means an offense under subch. III or IV of ch. 943.

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

24           49.133 (1m) (c) If a child care provider is the subject of a pending criminal  
25 charge alleging that the person has committed a serious crime, as defined in s. 48.685

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1 (1) (c) 3m., or a crime involving financial dishonesty 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 child  
3 care provider 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 department or county department under s. 46.215, 46.22, or 46.23 shall  
6 immediately suspend payment to the child care provider for any child care provided  
7 under s. 49.132, 1995 stats., or any other program until the department obtains  
8 information regarding the final disposition of the charge or delinquency petition  
9 indicating that the person is not ineligible to receive such a payment.

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

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

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

22 49.133 (2m) (b) The person is a caregiver specified in s. 48.685 (1) (ag) 1. a. or  
23 a nonclient resident, as defined in s. 48.685 (1) (bm), and is the subject of a pending  
24 criminal charge that the department or, county department under s. 46.215, 46.22,

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1 or 46.23, ~~agency contracted with under s. 48.651 (2), or school board~~ determines  
2 substantially relates to the care of children.

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

4 49.133 (2m) (intro.) The department or a county department under s. 46.215,  
5 46.22, or 46.23 may refuse to pay a child care provider for child care provided under  
6 s. 49.132, 1995 stats., or any other program if any of the following applies to the child  
7 care provider or to a caregiver specified in s. 48.685 (1) (ag) 1. a. or nonclient resident,  
8 as defined in s. 48.685 (1) (bm), of the child care provider:

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

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

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

14 49.155 (7) REFUSAL TO PAY CHILD CARE PROVIDERS. (a) 1. In this paragraph,  
15 "crime involving financial dishonestly" means an offense under subch. III or IV of ch.  
16 943.

17 2. If a child care provider is convicted of a serious crime, as defined in s. 48.685  
18 (1) (c) 3m., or a crime involving financial dishonesty, 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 child  
20 care provider is convicted or adjudicated delinquent for committing a serious crime  
21 on or after his or her 12th birthday, the department or the county department under  
22 s. 46.215, 46.22, or 46.23 shall refuse to pay the child care provider for any child care  
23 provided under this section beginning on the date of the conviction or delinquency  
24 adjudication.



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

12           4. If a child care provider or a caregiver specified in s. 48.685 (1) (ag) 1. a. or  
13 a nonclient resident, as defined in s. 48.685 (1) (bm), of the child care provider has  
14 entered against him or her a temporary restraining order or injunction under s.  
15 813.12, 813.122, 813.123, 813.125, 813.127, or 813.128, the department or county  
16 department under s. 46.215, 46.22, or 46.23 shall investigate the circumstances  
17 giving rise to the temporary restraining order or injunction and may suspend or  
18 discontinue payments to the child care provider for any child care provided under  
19 this section, depending on the gravity of those circumstances, as determined by the  
20 department or county department.

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

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

18           49.197 (6) REPORTING TO LAW ENFORCEMENT AUTHORITIES. If any employee of the  
19 department, a county, or a tribal governing body reasonably suspects fraudulent  
20 activity as described in sub. (1m) or (2) (b), the employee shall report ~~that suspected~~  
21 ~~fraudulent activity to the appropriate law enforcement authorities.~~

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

23           49.845 (4) CONTRACT FOR WISCONSIN WORKS. Notwithstanding s. 49.197 (1m)  
24 and (3), the department of children and families may contract with the department  
25 of health services to investigate suspected fraudulent activity on the part of

*or to the facts and circumstances contributing to that suspicion to the sheriff  
or to the city, village, or town police department. Any person who intentionally fails  
to report as required in this subsection may be fined not more than \$1,000 or  
imprisoned not more than 6 months or both.*

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*report the facts and circumstances contributing to that suspicion to the sheriff or to the city, village, or town*

**SECTION 39.**

*Police departments. Any person who intentionally fails to report as required in this subsection may be fined not more than \$1,000 or imprisoned not more than 6 months or both.*

1 recipients of aid to families with dependent children under s. 49.19 and participants  
2 in Wisconsin Works under ss. 49.141 to 49.161 and to conduct activities to reduce  
3 payment errors in Wisconsin Works under ss. 49.141 to 49.161, as provided in this  
4 section. If any employee of the department of children and families reasonably  
5 suspects fraudulent activity as described in this subsection, the employee shall  
6 report that suspected fraudulent activity to the appropriate law enforcement  
7 authorities.

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

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

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

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

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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 42. 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 section 48.65 of the  
14 statutes, a certification under section 48.651 of the statutes, or a contract under  
15 section 120.13 (14) of the statutes, or to refuse to pay a child care provider under  
16 section 49.133 or 49.155 (7) of the statutes, made on the effective date of this  
17 subsection, notwithstanding that the conviction, adjudication, charge, temporary  
18 restraining order, or injunction on which the decision is based was obtained, filed,  
19 or granted before the effective date of this subsection.

20 **SECTION 43. Effective dates.** This act takes effect on the first day of the 6th  
21 month beginning after publication, except as follows:

22 (1) ELIMINATION OF TREATMENT FOSTER HOMES. The repeal and recreation of  
23 section 48.685 (4m) (ad) of the statutes takes effect on the date stated in the notice

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1 provided by the secretary of children and families and published in the Wisconsin  
2 Administrative Register under section 48.62 (9) of the statutes.

3 (END)

(Insert 11-22)

Section #. 48.685 (2) (bg) of the statutes is amended to read:

90 days

48.685 (2) (bg) If an entity employs or contracts with a caregiver for whom, within the last ~~4 years~~, the information required under par. (b) 1. a. to c. and e. has already been obtained by another entity, the entity may obtain that information from that other entity, which shall provide the information, if possible, to the requesting entity. If an entity cannot obtain the information required under par. (b) 1. a. to c. and e. from another entity or if an entity has reasonable grounds to believe that any information obtained from another entity is no longer accurate, the entity shall obtain that information from the sources specified in par. (b) 1. a. to c. and e.

**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.

(est nt)

Art 19-2

Section #. 48.685 (6) (am) of the statutes is amended to read:

Except as provided in this paragraph, every

48.685 (6) (am) Every 4 years an entity shall require all of its caregivers and nonclient residents to complete a background information form that is provided to the entity by the department.

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.

Every 90 days a day care center that is licensed

under s. 48.65 or established or contracted with

under s. 120.13 (14) or a day care provider

that is certified under s. 48.651 shall require

all of its caregivers and nonclient residents to

complete a background information form that

is provided by the department to the day

center or day care provider by the

department.

(ceda)