

Appendix A ... segment I



LEGISLATIVE REFERENCE BUREAU
DRAFTING HISTORY RESEARCH APPENDIX

☞ The drafting file for 2017 LRB-0240/2 (For: DCF)
has been copied/transferred to the drafting file for
2017 LRB-4468 (For: Rep. Snyder)



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

RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

☞ Request Made By: EAW

☞ Date: 11/16/2017

2017 DRAFTING REQUEST

Bill

For: **Children and Families 261-8678**

Drafter: **eshea**

By: **Lonna**

Secondary Drafters: **ewheeler**

Date: **9/26/2016**

May Contact:

Same as LRB:

Submit via email: **YES**

Requester's email: **lonnas.morouney@wisconsin.gov**

Carbon copy (CC) to: **elizabeth.shea@legis.wisconsin.gov**

Elizabeth.Wheeler@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Transfer of foster home licenses issued by child welfare agency when agency's license is revoked, suspended, or surrendered

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	eshea 10/4/2016	kfollett 10/7/2016			
/P1	eshea 11/30/2016		lparisi 10/7/2016		State S&L
/P2	ewheeler 1/6/2017	kfollett 1/9/2017	rmilford 12/5/2016		State S&L
/P3	ewheeler 1/31/2017	kfollett 2/1/2017	lparisi 1/9/2017		State S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P4	ewheeler 2/16/2017	kfollett 2/16/2017	mbarman 2/1/2017		State S&L
/P5		kfollett 3/6/2017	hkohn 2/16/2017		State S&L
/P6	ewheeler 3/20/2017	kfollett 3/20/2017	lparisi 3/6/2017		State S&L
/P7	ewheeler 3/30/2017	kfollett 3/30/2017	lparisi 3/20/2017		State S&L
/1	ewheeler 9/5/2017	kfollett 9/5/2017	lparisi 3/30/2017		State S&L
/2			lparisi 9/5/2017		State S&L

FE Sent For:

<END>

Shea, Elisabeth

From: Morouney, Lonna S - DCF
Sent: Tuesday, October 04, 2016 9:43 AM
To: Shea, Elisabeth
Subject: RE: transfer of foster parent licenses drafting request

Hi Lis,

I looked back at DCF communications about the draft you attached and there were concerns that it went beyond the transfer of a foster parent license. Specifically, there are added provisions about withholding payments, prohibiting communications with current foster parents and prohibiting renewal of existing foster parent licenses during an appeal.

It is my understanding that the draft for this session should be narrowly focused on the transfer of a foster parent license when the child placing agency's license is revoked. We will need a new draft. Thanks!

From: Shea, Elisabeth [mailto:Elisabeth.Shea@legis.wisconsin.gov]
Sent: Tuesday, October 04, 2016 9:24 AM
To: Morouney, Lonna S - DCF
Subject: RE: transfer of foster parent licenses drafting request

Hi Lonna,

With respect to the transfer of foster parent licenses drafting request, I looked back and found this DCF draft from last session. Does this look like what you would like? If so I will redraft it for this session.

Lis

Elisabeth H. Shea
Legislative Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 266 - 5446
elisabeth.shea@legis.wisconsin.gov

The information contained in this communication may be confidential and protected by the attorney-client privilege.

From: Morouney, Lonna S - DCF
Sent: Monday, September 26, 2016 12:53 PM
To: Shea, Elisabeth <Elisabeth.Shea@legis.wisconsin.gov>
Subject: transfer of foster parent licenses drafting request

Hi Lis, I've attached our bill proposal relating to transfer of foster parent licenses and am requesting a p-draft. Let me know if you have any questions. Thank you!

Lonna Morouney
Legislative Liaison
Department of Children and Families

201 East Washington Avenue
Madison, WI 53703
T: 608.422.7072
E: LonnaS.Morouney@wisconsin.gov

Proposed Legislation for 2015-16 Legislative Session

Division Name - DSP

Division Contact – Jonelle Brom

Title – Clarifying when a foster parent’s license can be transferred to another agency or the state, under certain circumstances

Was this Introduced or Drafted Last Session? - No

Bill/LRB #

Program Impacted – Foster Parent Licensing

Priority (High, Medium, or Low) - Medium

Priority Rationale – Changes to clarify transfer of a foster parent license when the licensing agency’s license has been revoked, is necessary; however, DSP does not contemplate this being an issue very often.

Summary

Under current law, it is unclear what happens to a foster parent license if the Child Placing Agency’s (CPA) license is revoked. This proposal will clarify, that a foster parent license can be transferred to another agency or the Department under certain circumstances.

Administrative Significance

This will provide a clear understanding of what happens with a foster parent license if a CPA license is revoked.

Fiscal Effect

Unknown

Impact on Counties or Other Departments – Will provide a clear understanding for foster parents

Known Supporters/Opponents

Unknown



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1032/P2
GMM:kjf
EHS
0240/P1

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

In 10/4
Due 10/7

D-NOTE

Person

1 AN ACT to amend 48.78 (2) (a); and to create 48.66 (6) of the statutes; relating
2 to: continuity of foster care when the license of a child welfare agency to license
3 foster homes is revoked, suspended, or surrendered or when a contract under
4 which a child welfare agency provides foster home licensing services is
5 terminated.

Analysis by the Legislative Reference Bureau

¶ Under current law, subject to certain exceptions, no person may provide care and maintenance for children unless the person obtains a license to operate a foster home from the Department of Children and Families (DCF) or a county department of human services or social services (county department) or from a child welfare agency, if that agency is licensed by DCF to license foster homes. Current law also permits DCF to enter into contracts with nonprofit or proprietary agencies, including child welfare agencies, for the purchase of services.

This bill provides for the continuity of foster care when the license of a child welfare agency to license foster homes is revoked, suspended, or surrendered or when a contract under which a child welfare agency provides foster home licensing services is terminated. Specifically the bill provides that if DCF revokes or suspends the license of a child welfare agency to license foster homes or terminates a contract under which a child welfare agency provides foster home licensing services for DCF or if a child welfare agency surrenders such a license or terminates such a contract, DCF may do any of the following:

Not This

1. Withhold any further funding for the child welfare agency, including funding for any foster care maintenance payments payable to a foster parent licensed by the child welfare agency and funding for the administrative portion of any foster care services provided by the child welfare agency.

2. Transfer each foster home license issued by the child welfare agency to a county department, DCF, or another child welfare agency. A license so transferred remains valid until a date specified by DCF, which (date) may be no later than 90 days after the date of the transfer, until the date on which the foster home license terminates; or until the date on which the foster home is relicensed by a county department or, in Milwaukee County, by DCF (collectively, "public licensing agency")^{or} by another child welfare agency, whichever occurs first.

3. Require the child welfare agency to provide DCF with complete copies of the child welfare agency's financial, child placement, and foster care licensing records.

4. Transfer any child placement or foster care licensing records obtained from a child welfare agency to any county department or child welfare agency to which a foster home license issued by the child welfare agency is transferred under the bill or to any public licensing agency or child welfare agency that relicenses a foster home licensed by the child welfare agency as provided in the bill.

The bill further provides that if DCF terminates a contract under which a child welfare agency provides foster home licensing services for DCF or if a child welfare agency surrenders its license to provide those services or terminates a contract under which it provides those services, DCF, in addition, may do any of the following:

1. Prohibit, limit, or restrict the child welfare agency from placing or accepting for placement any additional children in a foster home licensed by the child welfare agency.

2. Prohibit, limit, or restrict the child welfare agency from issuing any additional foster home licenses or from renewing any foster home licenses previously issued by the child welfare agency.

3. Prohibit, limit, or restrict the child welfare agency from any further communication with any foster parent licensed by the child welfare agency.

Finally, the bill provides that if DCF revokes or suspends the license of a child welfare agency to license foster homes, during the pendency of the revocation or suspension proceeding the child welfare agency may not do any of the following without the prior written approval of DCF:

1. Place or accept for placement any additional children in a foster home licensed by the child welfare agency.

2. Issue any additional foster home licenses or renew any foster home licenses previously issued by the child welfare agency.

3. Communicate with any person who is licensed to operate a foster home or any applicant for such licensure.

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

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

1 SECTION 1. 48.66 (6) of the statutes is created to read:

2 48.66 (6) (a) If the department revokes or suspends the license of a child welfare
3 agency to license foster homes or terminates a contract under which a child welfare
4 agency provides foster home licensing services for the department or if a child
5 welfare agency surrenders such a license or terminates such a contract, the
6 department may do any of the following:

7 1. Withhold any further funding for the child welfare agency, including funding
8 for any foster care maintenance payments payable to a foster parent licensed by the
9 child welfare agency and funding for the administrative portion of any foster care
10 services provided by the child welfare agency.

11 (a) 2 Transfer each foster home license issued by the child welfare agency to a
12 county department, the department, or another child welfare agency. A license
13 transferred under this paragraph remains valid until a date specified by the
14 department, which date may be no later than 90 days after the date of the transfer,
15 until the date on which the foster home license terminates, or until the date on which
16 the foster home is relicensed by a public licensing agency, as defined in s. 48.75 (1b),
17 or by another child welfare agency, whichever occurs first.

18 (b) 3 Require the child welfare agency to provide the department with complete
19 copies of the child welfare agency's financial, child placement, and foster care
20 licensing records.

1 (c) (4) Transfer any child placement or foster care licensing records obtained under
2 subd. 3) to any county department or child welfare agency to which a foster home
3 license issued by the child welfare agency is transferred under subd. 2) or to any
4 public licensing agency or child welfare agency that relicenses a foster home licensed
5 by the child welfare agency as provided in subd. 2) par. (a),

6 (b) If the department terminates a contract under which a child welfare agency
7 provides foster home licensing services for the department or if a child welfare
8 agency surrenders its license to provide those services or terminates a contract under
9 which it provides those services, the department, in addition to taking any of the
10 actions specified in par. (a), may do any of the following:

11 1. Prohibit, limit, or restrict the child welfare agency from placing or accepting
12 for placement any additional children in a foster home licensed by the child welfare
13 agency.

14 2. Prohibit, limit, or restrict the child welfare agency from issuing any
15 additional foster home licenses or from renewing any foster home licenses previously
16 issued by the child welfare agency.

17 3. Prohibit, limit, or restrict the child welfare agency from any further
18 communication with any foster parent licensed by the child welfare agency.

19 (c) If the department revokes or suspends the license of a child welfare agency
20 to license foster homes, during the pendency of the revocation or suspension
21 proceeding the child welfare agency may not do any of the following without the prior
22 written approval of the department:

23 1. Place or accept for placement any additional children in a foster home
24 licensed by the child welfare agency.

1 2. Issue any additional foster home licenses or renew any foster home licenses
2 previously issued by the child welfare agency.

3 3. Communicate with any person who is licensed to operate a foster home or
4 any applicant for such licensure.

5 **SECTION 2.** 48.78 (2) (a) of the statutes is amended to read:

6 48.78 (2) (a) No agency may make available for inspection or disclose the
7 contents of any record kept or information received about an individual who is or was
8 in its care or legal custody, except as provided under s. 48.371, 48.38 (5) (b) or (d) or
9 (5m) (d), 48.396 (3) (bm) or (c) 1r., 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m), 48.66
10 (6) (a) 3. or 4., 48.93, 48.981 (7), 938.396 (2m) (c) 1r., 938.51, or 938.78 or by order of
11 the court. *Sub. (2m) or (b) or (c)*

12 **SECTION 3. Initial applicability.**

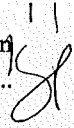
13 (1) CONTINUITY OF FOSTER CARE. This act first applies to a foster home license
14 that is revoked, suspended, or surrendered, or to a contract for the provision of foster
15 care services containing provisions inconsistent with this act that is entered into or
16 extended, modified, or renewed, on the effective date of this subsection.

17 (END)

D-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0240/?dn
EHS:...

11




Lonna:

I included provisions about providing copies of records to DCF and transferring records to the entity to which the license is transferred. Let me know if you do not want to include these provisions.

Elisabeth Shea
Legislative Attorney
(608) 266-5446
elisabeth.shea@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0240/P1dn
EHS:kjf

October 7, 2016

Lonna:

I included provisions about providing copies of records to DCF and transferring records to the entity to which the license is transferred. Let me know if you do not want to include these provisions.

Elisabeth Shea
Legislative Attorney
(608) 266-5446
elisabeth.shea@legis.wisconsin.gov

Shea, Elisabeth

From: Morouney, Lonna S - DCF
Sent: Friday, November 18, 2016 9:44 AM
To: Shea, Elisabeth
Subject: RE: DCF revisions for LRB 0240/P1

Hi Lis,
Here is the answer from our attorneys:

1. For the comment that the records should be transferred as prescribed by DCF, the drafter should draft that the licensee be required to transfer records to DCF as prescribed by DCF or in accordance with rules DCF may promulgate regarding the license transfers.
2. As for the comment to clarify that the license will be transferred when it expires as provided in 227.51, the drafter should clarify that the license transfer will be effective when an existing license is revoked or suspended and that provisions of s. 227.51 shall apply. Or the drafter can tie this to the clarifying language in 227.51 by reciting the same relevant language from 227.51.

From: Shea, Elisabeth [mailto:Elisabeth.Shea@legis.wisconsin.gov]
Sent: Monday, October 31, 2016 1:56 PM
To: Morouney, Lonna S - DCF
Subject: RE: DCF revisions for LRB 0240/P1

Hi Lonna,

Regarding the first item, I'm not sure I understand how s. 227.51 interacts with the process created in the draft. Can you give me some more information on that?

Lis

Elisabeth H. Shea
Legislative Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 266 - 5446
elisabeth.shea@legis.wisconsin.gov

The information contained in this communication may be confidential and protected by the attorney-client privilege.

From: Morouney, Lonna S - DCF
Sent: Friday, October 28, 2016 3:15 PM
To: Shea, Elisabeth <Elisabeth.Shea@legis.wisconsin.gov>
Subject: DCF revisions for LRB 0240/P1

Hi Lis,
Here are the revisions from DCF for LRB 0240/P1 relating to transfer of foster parent licenses:

✓ Pg 2, Section 1: Should include some context or cross-reference to 227.51 that occurs when an agency is appealing the decision to revoke or suspended.

✓ Pg 2, Section 1, line 7: Should include information that the agency receiving the transfer consents to the receipt of the licenses.

✓ Pg 3, Section 1, line 3: 48.66(6)(b): Should include that the record should be provided in accordance with department requirements.

✓ Page 3, section 1, line 4: 48.66(6)(c): Should include that the records should be transferred to the secondary agency in accordance with department requirements.

? ^{note} New Section: Should include a modification to s. 48.75 that states that the license expiration must end within 2 years to include the exception of the provision created here in s. 48.66(6)

? ^{Note} New Section: Add statutory language stating that if the Department revokes a CPA license, the CPA is not permitted to issue any new foster parent licenses and is not permitted to place any new children through the agency. *need exception to transfer prohibition*

Lonna Morouney

Legislative Liaison

Department of Children and Families

201 East Washington Avenue

Madison, WI 53703

T: 608.422.7072

E: LonnaS.Morouney@wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0240/P2dn
EHS:kjf

Date

If DCF revokes a child welfare agency's license, under current law the agency would already be prohibited from issuing foster home licenses and placing children (see ss. 48.60 and 48.61). Therefore, I did not add language saying this.

Elisabeth Shea
Legislative Attorney
(608) 266-5446
elisabeth.shea@legis.wisconsin.gov



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

In 11/30
Due 12/5

D-NOTE

1 **AN ACT to amend** 48.78 (2) (a); and **to create** 48.66 (6) of the statutes; **relating**
 2 **to:** continuity of foster care when the license of a child welfare agency to license
 3 foster homes is revoked, suspended, or surrendered or when a contract under
 4 which a child welfare agency provides foster home licensing services is
 5 terminated *and granting rule-making authority*

Analysis by the Legislative Reference Bureau

This bill provides for the continuity of foster care when the license of a child welfare agency to license foster homes is revoked, suspended, or surrendered or when a contract under which a child welfare agency provides foster home licensing services is terminated.

Under current law, subject to certain exceptions, no person may provide care and maintenance for children unless the person obtains a license to operate a foster home from the Department of Children and Families or a county department of human services or social services (county department) or from a child welfare agency, if that agency is licensed by DCF to license foster homes. Current law also permits DCF to enter into contracts with nonprofit or proprietary agencies, including child welfare agencies, for the purchase of services. This bill provides that if DCF revokes or suspends the license of a child welfare agency to license foster homes or terminates a contract under which a child welfare agency provides foster home licensing services for DCF or if a child welfare agency surrenders such a license or terminates such a contract, DCF may do any of the following:

that consents to the transfer

1. Transfer each foster home license issued by the child welfare agency to a county department, DCF, or another child welfare agency. A license so transferred remains valid until a date specified by DCF, which may be no later than 90 days after the date of the transfer, until the date on which the foster home license terminates, or until the date on which the foster home is relicensed by a county department or, in Milwaukee County, by DCF (collectively, "public licensing agency") or by another child welfare agency, whichever occurs first.

2. Require the child welfare agency to provide DCF with complete copies of the child welfare agency's financial, child placement, and foster care licensing records.

3. Transfer any child placement or foster care licensing records obtained from a child welfare agency to any county department or child welfare agency to which a foster home license issued by the child welfare agency is transferred under the bill or to any public licensing agency or child welfare agency that relicenses a foster home licensed by the child welfare agency as provided in the bill.

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

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

1 SECTION 1. 48.66 (6) of the statutes is created to read:

2 48.66 (6) If the department revokes or suspends the license of a child welfare

3 agency to license foster homes ^{subject to s. 227.51 (3)} or terminates a contract under which a child welfare

4 agency provides foster home licensing services for the department or if a child

5 welfare agency surrenders such a license or terminates such a contract, the

6 department may do any of the following:

that consents to the transfer

7 (a) Transfer each foster home license issued by the child welfare agency to a

8 county department, ^{or} the department, or ^{to} another child welfare agency. A license

9 transferred under this paragraph remains valid until a date specified by the

10 department, which may be no later than 90 days after the date of the transfer, until

11 the date on which the foster home license terminates, or until the date on which the

12 foster home is relicensed by a public licensing agency, as defined in s. 48.75 (1b), or

13 by another child welfare agency, whichever occurs first.

1 (b) Require the child welfare agency to provide the department with complete
2 copies of the child welfare agency's financial, child placement, and foster care
3 licensing records, *according to rules promulgated by the department*

4 (c) Transfer any child placement or foster care licensing records obtained under
5 par. (b) to any county department or child welfare agency to which a foster home
6 license issued by the child welfare agency is transferred under par. (a) or to any
7 public licensing agency or child welfare agency that relicenses a foster home licensed
8 by the child welfare agency as provided in par. (a) *according to rules promulgated*
by the department

MS.3-9 →

9 **SECTION 2.** 48.78 (2) (a) of the statutes is amended to read:

10 48.78 (2) (a) No agency may make available for inspection or disclose the
11 contents of any record kept or information received about an individual who is or was
12 in its care or legal custody, except as provided under sub. (2m) or s. 48.371, 48.38 (5)
13 (b) or (d) or (5m) (d), 48.396 (3) (bm) or (c) 1r., 48.432, 48.433, 48.48 (17) (bm), 48.57
14 (2m), 48.66 (6) (b) or (c), 48.93, 48.981 (7), 938.396 (2m) (c) 1r., 938.51, or 938.78 or
15 by order of the court.

16 **SECTION 3. Initial applicability.**

17 (1) CONTINUITY OF FOSTER CARE. This act first applies to a foster home license
18 that is revoked, suspended, or surrendered, or to a contract for the provision of foster
19 care services containing provisions inconsistent with this act that is entered into or
20 extended, modified, or renewed, on the effective date of this subsection.

21 (END)

**2017-2018 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0240/P2ins
EHS:kjf

1

2 INSERT 3-9

3 **SECTION 1.** 48.75 (1d) of the statutes is amended to read:

4 **48.75 (1d)** Child welfare agencies, if licensed to do so by the department, and
5 public licensing agencies may license foster homes under the rules promulgated by
6 the department under s. 48.67 governing the licensing of foster homes. A foster home
7 license shall be issued for a term not to exceed 2 years from the date of issuance, is
8 not transferable, except as provided under s. 48.66 (6), and may be revoked by the
9 child welfare agency or by the public licensing agency because the licensee has
10 substantially and intentionally violated any provision of this chapter or of the rules
11 of the department promulgated under s. 48.67 or because the licensee fails to meet
12 the minimum requirements for a license. The licensee shall be given written notice
13 of any revocation and the grounds for the revocation.

History: 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 336; 1993 a. 395, 446; 1995 a. 225; 1997 a. 27, 237; 1999 a. 9, 103; 2005 a. 232; 2007 a. 20 ss. 1362, 1363, 9121 (6) (a); 2007 a. 186; 2009 a. 28, 71; 2015 a. 172, 373, 378.

****NOTE: It was requested that this draft make an exception to the 2-year term of a foster home license to allow for s. 48.66 (6). However, s. 48.66 (6), as drafted, does not affect the term of any foster home license. It only allows those licenses to be transferred to a new agency or a county department or DCF. The foster home would keep its license.

However, an exception is needed for the prohibition on transferring a foster home license, which has been added here.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0240/P2dn
EHS:kjf

December 5, 2016

If DCF revokes a child welfare agency's license, under current law the agency would already be prohibited from issuing foster home licenses and placing children (see ss. 48.60 and 48.61). Therefore, I did not add language saying this.

Elisabeth Shea
Legislative Attorney
(608) 266-5446
elisabeth.shea@legis.wisconsin.gov

Shea, Elisabeth

From: Morouney, Lonna S - DCF
Sent: Tuesday, December 13, 2016 4:12 PM
To: Shea, Elisabeth
Subject: DCF revisions to LRB 0240/P2 relating to foster care licensing

Hi Lis,
Here are our revisions to LRB 0240/P2 relating to foster care licensing:

- ✓ Page 2, Section 1, Line 2: after "department" insert "notifies the licensee of its intent to revoke" , delete "revokes"
 - ✓ Page 2, Section 1, Line 3: after "foster homes" remove ", subject to s. 227.51(3)," after "or" insert "notifies its intent to terminate or terminate" delete "terminates"
 - ✓ Page 2, Section 1, Line 5: after "agency" insert "notifies to surrender or"
 - ✓ Page 2, Section 1, Line 11: after "transfer" insert a "." and delete the remainder of the line and lines 12 and 13.
 - ✓ Page 3, Section 1, Line 3: after "records" insert "in accordance with department requirements" and remove "according to rules promulgated by the department."
 - ✓ Page 3, Section 1, Line 8: after "agency" insert a "." and delete the remainder of the line and line 9.
 - ✓ Page 3, Section 1: create 48.66(6)(d) Prohibit the child welfare agency from accepting new placements or issuing initial foster care licenses. *new*
 - Page 3, Section 2, Line 13: after "foster homes." insert "Except as provided under s. 48.66(6), a"
 - Page 3, Section 2, Line 15: after "transferable" remove ", except as provided under s. 48.66(6),"
- Create a Section 5. Which provides the department emergency rule making authority to implement this section.

Lonna Morouney

Legislative Liaison

Department of Children and Families

201 East Washington Avenue

Madison, WI 53703

T: 608.422.7072

E: LonnaS.Morouney@wisconsin.gov

Rules:



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-0240/P2/PS
EHS:kjf
EAW

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

INSERT

in: 1/06
Due: 1/09

Reger

1 AN ACT to amend 48.75 (1d) and 48.78 (2) (a); and to create 48.66 (6) of the
2 statutes; relating to: continuity of foster care when the license of a child
3 welfare agency to license foster homes is revoked, suspended, or surrendered
4 or when a contract under which a child welfare agency provides foster home
5 licensing services is terminated and granting rule-making authority

and providing an exemption from emergency rule procedures

Analysis by the Legislative Reference Bureau

This bill provides for the continuity of foster care when the license of a child welfare agency to license foster homes is revoked, suspended, or surrendered or when a contract under which a child welfare agency provides foster home licensing services is terminated.

Under current law, subject to certain exceptions, no person may provide care and maintenance for children unless the person obtains a license to operate a foster home from the Department of Children and Families or a county department of human services or social services (county department) or from a child welfare agency, if that agency is licensed by DCF to license foster homes. Current law also permits DCF to enter into contracts with nonprofit or proprietary agencies, including child welfare agencies, for the purchase of services. This bill provides that if DCF revokes or suspends the license of a child welfare agency to license foster homes or terminates a contract under which a child welfare agency provides foster home licensing services for DCF or if a child welfare agency surrenders such a license or terminates such a contract, DCF may do any of the following:

informs a licensee of its intent to child welfare agency

agency's

informs DCF of its intent to

1. Transfer each foster home license issued by the child welfare agency to a county department, DCF, or another child welfare agency that consents to the transfer. A license so transferred remains valid until a date specified by DCF, which may be no later than 90 days after the date of the transfer, until the date on which the foster home license terminates, or until the date on which the foster home is relicensed by a county department or, in Milwaukee County, by DCF (collectively, "public licensing agency") or by another child welfare agency, whichever occurs first.

2. Require the child welfare agency to provide DCF with complete copies of the child welfare agency's financial, child placement, and foster care licensing records.

3. Transfer any child placement or foster care licensing records obtained from a child welfare agency to any county department or child welfare agency to which a foster home license issued by the child welfare agency is transferred under the bill or to any public licensing agency or child welfare agency that relicenses a foster home licensed by the child welfare agency as provided in the bill.

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

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

1 SECTION 1. 48.66 (6) of the statutes ^{notifies a child welfare agency} is created to read:

2 48.66 (6) If the department ^{of its intent to revoke} ~~revokes~~ or ^{is license} ~~suspends~~ the ^e ~~license of~~ a child welfare
 3 agency to license foster homes, ^e ~~subject to s. 227.51 (3)~~, or ^e ~~terminates~~ a contract under
 4 which ^{e the} (a) child welfare agency provides foster home licensing services for the ^{notifies a child welfare agency of its intent to}
 5 department or if a child welfare agency ^e ~~surrenders~~ such a license or ^e ~~terminates~~ such
 6 a contract, ^{notifies the department of its intent to} the department may do any of the following:

7 (a) Transfer each foster home license issued by the child welfare agency to a
 8 county department or the department, or to another child welfare agency that
 9 consents to the transfer. A license transferred under this paragraph remains valid
 10 until a date specified by the department, which may be no later than 90 days after
 11 the date of the transfer, until the date on which the foster home license terminates,
 12 or until the date on which the foster home is relicensed by a public licensing agency,
 13 as defined in s. 48.75 (1b), or by another child welfare agency, whichever occurs first.

1 (b) Require the child welfare agency to provide the department with complete
2 copies of the child welfare agency's financial, child placement, and foster care
3 licensing records according to rules promulgated by the department.

4 ^{in accordance with department requirements} (c) Transfer any child placement or foster care licensing records obtained under
5 par. (b) to any county department or child welfare agency to which a foster home
6 license issued by the child welfare agency is transferred under par. (a) or to any
7 public licensing agency or child welfare agency that relicenses a foster home licensed
8 by the child welfare agency as provided in par. (a) according to rules promulgated by
9 the department.

10 **SECTION 2.** 48.75 (1d) of the statutes is amended to read:

11 48.75 (1d) Child welfare agencies, if licensed to do so by the department, and
12 public licensing agencies may license foster homes under the rules promulgated by
13 the department under s. 48.67 governing the licensing of foster homes. (A) foster home
14 license shall be issued for a term not to exceed 2 years from the date of issuance, is
15 not transferable, except as provided under s. 48.66 (6), and may be revoked by the
16 child welfare agency or by the public licensing agency because the licensee has
17 substantially and intentionally violated any provision of this chapter or of the rules
18 of the department promulgated under s. 48.67 or because the licensee fails to meet
19 the minimum requirements for a license. The licensee shall be given written notice
20 of any revocation and the grounds for the revocation.

****NOTE: It was requested that this draft make an exception to the 2-year term of a foster home license to allow for s. 48.66 (6). However, s. 48.66 (6), as drafted, does not affect the term of any foster home license. It only allows those licenses to be transferred to a new agency or a county department or DCF. The foster home would keep its license.

However, an exception is needed for the prohibition on transferring a foster home license, which has been added here.

21 **SECTION 3.** 48.78 (2) (a) of the statutes is amended to read:

1 48.78 (2) (a) No agency may make available for inspection or disclose the
2 contents of any record kept or information received about an individual who is or was
3 in its care or legal custody, except as provided under sub. (2m) or s. 48.371, 48.38 (5)
4 (b) or (d) or (5m) (d), 48.396 (3) (bm) or (c) 1r., 48.432, 48.433, 48.48 (17) (bm), 48.57
5 (2m), 48.66 (6) (b) or (c), 48.93, 48.981 (7), 938.396 (2m) (c) 1r., 938.51, or 938.78 or
6 by order of the court.

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SECTION 4. Initial applicability.

8 (1) CONTINUITY OF FOSTER CARE. This act first applies to a foster home license
9 that is revoked, suspended, or surrendered, or to a contract for the provision of foster
10 care services containing provisions inconsistent with this act that is entered into or
11 extended, modified, or renewed, on the effective date of this subsection.

12 (END)

INS -A

4. Prohibit the child welfare agency from accepting new placements or issuing new foster care licenses.

1 INS 3-10

2 (d) Prohibit the child welfare agency from accepting new placements or issuing
3 new foster care licenses.

4 **SECTION 1. Nonstatutory provisions.**

5 (1) EMERGENCY RULES. The department of children and families may
6 promulgate emergency rules under section 227.24 of the statutes that it deems
7 necessary to implement ^(section) 48.66 (6) of the statutes. Notwithstanding section 227.24 (1)
8 (a) and (3) of the statutes, the department is not required to provide evidence that
9 promulgating a rule under this subsection [✓] as an emergency rule is necessary for the
10 preservation of the public peace, health, safety, or welfare and is not required to
11 provide a finding of emergency for a rule promulgated under this subsection.

12 X
****NOTE: Do you also want to extend the default time period for how long the emergency rule can be in effect to accommodate a permanent rulemaking process? Default under law is 150 days plus up to 120 days if extended. If so, how long would you like the emergency rules to be in effect?

Wheeler, Elizabeth

From: Morouney, Lonna S - DCF
Sent: Monday, January 23, 2017 2:22 PM
To: Wheeler, Elizabeth; Shea, Elisabeth
Subject: DCF revisions to LRB 0240/P3 foster care licensing
Attachments: 17-0240_P3.pdf

Hi Lis and Elizabeth,

Here are the revisions we have to LRB 0240/P3 relating to foster care licensing:

1. Page 2, Section 1, Line 8 before "Transfer" insert "If the license is revoked or suspended under s. 227.51" also change the "T" in transfer to a "t" ✓
2. Page 2, Section 1, Line 11 after until insert "it expires or 180 days whichever is later." and remove the remainder of the Line 11 and 12. ✓
3. Page 3, Section 1, Line 2 replace "care" with "home" ✓
4. Page 3, Section 1, Line 10 replace "care" with "home" ✓
5. Page 3, Section 2, Line 16 after "issuance" insert "and"
6. Page 3, Section 2, Line 16 insert a ". " after "transferable" and strike ", except as provided under s. 48.66"
7. Page 3, Section 2, Line 17 insert "A foster home license" after the inserted "." in #6 above.
8. Page 3, Section 2, Line 18 remove "substantially and intentionally"
9. Page 4, Section 5. Remove. The provisions should be effective upon enactment of the bill.

Lonna Morouney

Legislative Liaison

Department of Children and Families

201 East Washington Avenue

Madison, WI 53703

T: 608.422.7072

E: LonnaS.Morouney@wisconsin.gov



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-0240/P3
EHS&EAW:kjf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

IN: 1151
Duc: 2/1

Legen

1 AN ACT to amend 48.75 (1d) and 48.78 (2) (a); and to create 48.66 (6) of the
2 statutes; relating to: continuity of foster care when the license of a child
3 welfare agency to license foster homes is revoked, suspended, or surrendered
4 or when a contract under which a child welfare agency provides foster home
5 licensing services is terminated and providing an exemption from emergency
6 rule procedures.

Analysis by the Legislative Reference Bureau

This bill provides for the continuity of foster care when the license of a child welfare agency to license foster homes is revoked, suspended, or surrendered or when a contract under which a child welfare agency provides foster home licensing services is terminated. This bill also changes the standard for when a foster home license may be revoked.

Under current law, subject to certain exceptions, no person may provide care and maintenance for children unless the person obtains a license to operate a foster home from the Department of Children and Families or a county department of human services or social services (county department) or from a child welfare agency, if that agency is licensed by DCF to license foster homes. Current law also permits DCF to enter into contracts with nonprofit or proprietary agencies, including child welfare agencies, for the purchase of services. This bill provides that if DCF informs a child welfare agency of its intent to revoke or suspend the agency's license to license foster homes or to terminate a contract under which a child welfare agency provides

INS-A

foster home licensing services for DCF or if a child welfare agency informs DCF of its intent to surrender such a license or to terminate such a contract, DCF may do any of the following:

1. Transfer each foster home license issued by the child welfare agency to a county department, DCF, or another child welfare agency that consents to the transfer. A license so transferred remains valid until a date specified by DCF, which may be no later than 90 days after the date of the transfer.

2. Require the child welfare agency to provide DCF with complete copies of the child welfare agency's financial, child placement, and foster care licensing records.

3. Transfer any child placement or foster care licensing records obtained from a child welfare agency to any county department or child welfare agency to which a foster home license issued by the child welfare agency is transferred under the bill or to any public licensing agency or child welfare agency that relicenses a foster home licensed by the child welfare agency as provided in the bill.

4. Prohibit the child welfare agency from accepting new placements or issuing new foster care licenses.

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

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

1 SECTION 1. 48.66 (6) of the statutes is created to read:

2 48.66 (6) If the department notifies a child welfare agency of its intent to revoke
3 or suspend the child welfare agency's license to license foster homes or notifies a child
4 welfare agency of its intent to terminate a contract under which the child welfare
5 agency provides foster home licensing services for the department or if a child
6 welfare agency notifies the department of its intent to surrender such a license or
7 terminate such a contract, the department may do any of the following:

8 (a) Transfer each foster home license issued by the child welfare agency to a
9 county department or the department, or to another child welfare agency that
10 consents to the transfer. A license transferred under this paragraph remains valid
11 until a date specified by the department, which may be no later than 90 days after
12 the date of the transfer.

it expires for 180 days after the date of the transfer, whichever is later.

under s. 227.51

if expires on 180

whichever is later

1 (b) Require the child welfare agency to provide the department with complete
 2 copies of the child welfare agency's financial, child placement, and foster care
 3 licensing records in accordance with department requirements. home

4 (c) Transfer any child placement or foster care licensing records obtained under
 5 par. (b) to any county department or child welfare agency to which a foster home
 6 license issued by the child welfare agency is transferred under par. (a) or to any
 7 public licensing agency or child welfare agency that relicenses a foster home licensed
 8 by the child welfare agency.

9 (d) Prohibit the child welfare agency from accepting new placements or issuing
 10 new foster care licenses. home

11 SECTION 2. 48.75 (1d) of the statutes is amended to read:

12 48.75 (1d) Child welfare agencies, if licensed to do so by the department, and
 13 public licensing agencies may license foster homes under the rules promulgated by
 14 the department under s. 48.67 governing the licensing of foster homes. -A Except
 15 as provided under s. 48.66 (6), a foster home license shall be issued for a term not to
 16 exceed 2 years from the date of issuance, is not transferable, except as provided under
 17 s. 48.66 (6) and may be revoked by the child welfare agency or by the public licensing
 18 agency because the licensee has A foster home license substantially and intentionally violated any
 19 provision of this chapter or of the rules of the department promulgated under s. 48.67
 20 or because the licensee fails to meet the minimum requirements for a license. The
 21 licensee shall be given written notice of any revocation and the grounds for the
 22 revocation.

23 SECTION 3. 48.78 (2) (a) of the statutes is amended to read:

24 48.78 (2) (a) No agency may make available for inspection or disclose the
 25 contents of any record kept or information received about an individual who is or was

1 in its care or legal custody, except as provided under sub. (2m) or s. 48.371, 48.38 (5)
2 (b) or (d) or (5m) (d), 48.396 (3) (bm) or (c) 1r., 48.432, 48.433, 48.48 (17) (bm), 48.57
3 (2m), 48.66 (6) (b) or (c), 48.93, 48.981 (7), 938.396 (2m) (c) 1r., 938.51, or 938.78 or
4 by order of the court.

5 **SECTION 4. Nonstatutory provisions.**

6 (1) EMERGENCY RULES. The department of children and families may
7 promulgate emergency rules under section 227.24 of the statutes that it deems
8 necessary to implement section 48.66 (6) of the statutes. Notwithstanding section
9 227.24 (1) (a) and (3) of the statutes, the department is not required to provide
10 evidence that promulgating a rule under this subsection as an emergency rule is
11 necessary for the preservation of the public peace, health, safety, or welfare and is
12 not required to provide a finding of emergency for a rule promulgated under this
13 subsection.

****NOTE: Do you also want to extend the default time period for how long the
emergency rule can be in effect to accommodate a permanent rule-making process?
Default under law is 150 days plus up to 120 days if extended. If so, how long would you
like the emergency rules to be in effect?

14 **SECTION 5. Initial applicability.**

15 (1) CONTINUITY OF FOSTER CARE. This act first applies to a foster home license
16 that is revoked, suspended, or surrendered, or to a contract for the provision of foster
17 care services containing provisions inconsistent with this act that is entered into or
18 extended, modified, or renewed, on the effective date of this subsection.

19

(END)

2017-2018 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB
.....

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~~NO~~ Currently, a child welfare or public licensing agency may revoke a foster home license if the licensee has substantially and intentionally violated any provision of the Children's Code or rules promulgated by DCF. This bill provides that a child welfare or public licensing agency may revoke a foster home license if the licensee has violated any provision of the Children's code or rules promulgated by DCF.

X

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0240/P4
EAW: *[Signature]*

~~January 31, 2017~~

[Handwritten mark]
Dear Lonna,

[Handwritten mark]
1. You requested to insert the language "If the license is revoked or suspended under s. 227.51 at the beginning of s. 48.66 (6) (a). However, doing so will limit the applicability of that paragraph only to revoked or suspended licenses and not to terminated contracts. It makes more sense to refer to 227.51 in (6) (intro.), and so I have inserted the reference there in this draft. Please let me know if this is not your intent. If you do want it referred to under (a), please clarify your intent." *[Handwritten: par. s. sub.]*

2. An emergency rule can be in effect for 150 days plus up to 120 days if extended. This bill seeks an exception to emergency rulemaking requirements for DCF to promulgate emergency rules while permanent rules are being developed. Would you also like to extend the time for which an emergency rule can be in effect to accommodate DCF's rulemaking process?

Elizabeth Wheeler
Legislative Attorney
(608) 261-5543
Elizabeth.Wheeler@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0240/P4dn
EAW:kjf

February 1, 2017

Lonna,

1. You requested to insert the language "If the license is revoked or suspended under s. 227.51" at the beginning of s. 48.66 (6) (a). However, doing so will limit the applicability of that paragraph only to revoked or suspended licenses and not to terminated contracts. It makes more sense to refer to s. 227.51 in sub. (6) (intro.), and so I have inserted the reference there in this draft. Please let me know if this is not your intent. If you do want it referred to under par. (a), please clarify your intent.
2. An emergency rule can be in effect for 150 days plus up to 120 days if extended. This bill seeks an exception to emergency rule-making requirements for DCF to promulgate emergency rules while permanent rules are being developed. Would you also like to extend the time for which an emergency rule can be in effect to accommodate DCF's rule-making process?

Elizabeth Wheeler
Legislative Attorney
(608) 261-5543
Elizabeth.Wheeler@legis.wisconsin.gov

Wheeler, Elizabeth

From: Morouney, Lonna S - DCF
Sent: Tuesday, February 14, 2017 2:19 PM
To: Wheeler, Elizabeth
Subject: changes to 0240/P4 relating to foster care licensing

Hi Elizabeth,
Here are the changes to 0240/P4 relating to foster care licensing. Thanks!

Please remove the nonstat provisions about emergency rule authority.

Please make the following change Section 1, page 2, Line 8 before "Transfer" insert "If the license or contract is terminated or a child welfare agency license is revoked or suspended under s. 227.51 or surrendered" also change the "T" in transfer to a "t" and in Line 6 after "surrender" add "or surrenders"

Lonna Morouney

Legislative Liaison

Department of Children and Families

201 East Washington Avenue

Madison, WI 53703

T: 608.422.7072

E: LonnaS.Morouney@wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

0204/P5dn
EHS&EAW:kjf

February 15, 2017

 Dear Lonna,

X The draft incorporates your requested changes, however, I did have to rearrange the language slightly to clarify that transfer of licenses can happen only if the license or contract is revoked, terminated, suspended, or surrendered, and the other actions can happen after notice of intent to revoke, terminate, suspend or surrender a license or contract is issued.

Please let me know if this is not your intent, or if you have other questions.

Elizabeth Wheeler
Legislative Attorney
(608) 261-5543
Elizabeth.Wheeler@legis.wisconsin.gov