

2019 DRAFTING REQUEST**Bill**

For: **Joan Ballweg (608) 266-8077** Drafter: **ewheeler**
 By: Secondary Drafters:
 Date: **9/23/2019** May Contact: **Fredi/Nadia at DCF**
 Same as LRB: **-4887**

Submit via email: **YES**
 Requester's email: **Rep.Ballweg@legis.wisconsin.gov**
 Carbon copy (CC) to: **Elizabeth.Wheeler@legis.wisconsin.gov**
elisabeth.shea@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Qualified Residential Treatment Program

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	ewheeler 9/30/2019	aernstr 10/1/2019			
/P1	ewheeler 10/8/2019	aernstr 10/8/2019	dwalker 10/1/2019		State
/P2	ewheeler 10/21/2019	aernstr 10/21/2019	jmurphy 10/8/2019		State
/P3			mbarman 10/21/2019		State
/1			jmurphy	dwalker	State

Vers. Drafted

Reviewed

Submitted
11/12/2019

Jacketed
11/14/2019

Required

FE Sent For:

At

Intro

<END>

2019 DRAFTING REQUEST

Bill

For: **Children and Families 422-6891** Drafter: **ewheeler**
 By: **Fredi** Secondary Drafters:
 Date: **9/23/2019** May Contact:

Same as LRB:

Submit via email: **YES**
 Requester's email: **FrediEllen.Bove@wisconsin.gov**
 Carbon copy (CC) to: **Elizabeth.Wheeler@legis.wisconsin.gov**
elisabeth.shea@legis.wisconsin.gov

Original Requestor ←

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Qualified Residential Treatment Program

Instructions:

See attached

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	ewheeler 9/30/2019	aernstr 10/1/2019			
/P1	ewheeler 10/8/2019	aernstr 10/8/2019	dwalker 10/1/2019		State
/P2	ewheeler 10/21/2019	aernstr 10/21/2019	jmurphy 10/8/2019		State
/P3			mbarman 10/21/2019		State

FE Sent For:

<END>



TO: Elizabeth Shea, Legislative Reference Bureau

FROM: Fredi Bove, Senior Policy Advisor, Department of Children and Families

DATE: September 18, 2019

RE: Request for Statutory Language Draft: Designation for Qualified Residential Treatment Program in State Statute

Summary

Background: The federal Family First Prevention Services Act (FFPSA or Family First) was signed into law on February 9, 2018, as part of the Bipartisan Budget Act (Public Law 115-123). The law changes federal investments in child welfare to address concerns about insufficient resources to prevent entry into the child welfare system and the overuse of non-family settings (congregate care) for children removed from their home.

The federal FFPSA alters the types of congregate care settings that are eligible for reimbursement with federal Title IV-E child welfare funding. FFPSA defines a new type of congregate care setting, called a Qualified Residential Treatment Program (QRTP) and specifies that QRTPs are the only type of congregate care setting that is eligible for federal Title IV-E child welfare reimbursement following the child's initial two weeks in congregate care. In response to the discretion provided to states in the bill regarding implementation dates, Wisconsin plans to implement the FFPSA prevention and congregate care provisions on October 1, 2021.

Currently, Wisconsin statute and administrative rules provide for three types of licensed child welfare congregate care providers: shelters, group homes, and Residential Care Centers. None of these current licensed provider types match the QRTP criteria. To preserve the opportunity to claim federal Title IV-E reimbursement for congregate care placements after October 1, 2021, Wisconsin needs to establish a QRTP as a licensed provider type in statute and administrative rule.

To support a smooth implementation of the FFPSA, including having as much QRTP service capacity as possible in place by October 2021, interested QRTP service providers will need as much lead time as possible to determine whether and how to establish programs that meet QRTP criteria and the Department will need time to review and approve QRTP certification applications. Providing the Department the authority to promulgate emergency administrative rule provisions will maximize the lead time available for interested providers and the Department to plan and establish QRTPs. It is expected that to comply with the federal FFPSA requirements, the QRTP administrative rule provisions resulting from the proposed legislation will involve more intensive treatment and a higher operating cost, and therefore higher daily rate paid by DCF/DMCPS, counties, and Tribes than current child welfare congregate care settings.

The proposed legislation will create qualified residential treatment programs as a certified type of program within a group home, shelter care, residential care center and provide the Department the authority to revise the group home, shelter care, and residential care center administrative rules to incorporate a QRTP certification within each of these provider types.

Background

This change is needed so that DCF can establish a new type of congregate care facility in accordance with federal law and a new federal reimbursement process that will go into effect in October 2021.

Qualified Residential Treatment Program (QRTP) Certification

A QRTP is a new type of congregate care setting that meets federal guidelines by providing trauma-informed care, 24/7 nursing care access, clinical services and aftercare. DCF needs to amend statutes to provide for rulemaking authority for the QRTP setting as part of the current statutes for group homes, residential care centers, and shelter care, to comply with the requirements of the Family First Prevention Services Act, which becomes effective in Wisconsin in October 2021.

Issue:

New designation needed in statute for QRTP to comply with federal law and new reimbursement process effective October 1, 2021.

Proposal

Amend statutes to provide the Department rulemaking authority for congregate care and QRTPs for implementation of Family First Prevention Services Act.

Proposed Language changes

Following are the specific statutory language changes:

- In s.48.02, add "Qualified residential treatment program for children and youth" means a program in a residential care center, group home or shelter that the department has certified as meeting the requirements under 42 USC 472 (k) (4) and 42 USC 475A (c)
- In s. 48.67, specify that the Department shall promulgate rules for certifying and establishing standards for the operation of qualified residential treatment programs
- Provide the Department the authority to issue emergency administrative rule provisions for certification of QRTPs without providing a finding of an emergency

The direct effect of the proposed legislation is to require the Department to develop emergency and permanent administrative rule provisions for QRTPs, which is a new policy.

The broader effects of the proposed legislation are that the establishment of QRTPs as a new type of congregate care program will require training for DSP child welfare licensing staff, changes to the eWiSACWIS child welfare information system, changes to child welfare standards, and informational outreach efforts through memos and other mechanisms to counties, Tribes, and providers.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4439(2) P1
EAW:...\n
ahc

in: 9/30
due: 10/11

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gen⁺ sa[✓]

1
2

AN ACT ...; relating to: qualified residential treatment programs, providing an exemption from rule-making procedures and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill allows the Department of Children and Families to certify a program operated by a residential care center, group home, or shelter care facility as a qualified residential treatment program for children and youth (QRTP) if it determines that the program meets the federal requirements for such a program to receive Title IV-E child welfare funding. Under the bill, DCF is required to promulgate rules for the establishment, certification, and operation of a QRTP.

For further information see the **state** 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:

3 **SECTION 1.** 48.675 of the statutes is created to read:
4 **48.675 Qualified residential treatment programs.** (1) The department
5 may certify a program operated by a residential care center, group home, or shelter
6 care facility as a qualified residential treatment program for children and youth if

672

① it determines that the program meets the requirements of 42 USC 472(k) (4) and 42
 ② USC 475A(c).
 675a

3 (2) The department shall promulgate rules for the establishment, certification,
 4 and operation of a program under sub. (1).

****NOTE: This provision would allow DCF to certify a program that is run by a residential care center, group home, or shelter care facility. The residential care center, group home, or shelter care facility would still need a license under s. 48.67. Also this section does not require DCF to certify any particular program and does not require the programs to be certified in order to operate. Please let me know if this is not consistent with your intent.

5 **SECTION 2. Nonstatutory provisions.**

6 (1) EMERGENCY RULE-MAKING AUTHORITY. The department of children and
 7 families may use the procedure under s. 227.24 to promulgate rules under s. 48.675

8 (2). Notwithstanding s. 227.24 (1) (a) and (3), the department is not required to
 9 provide evidence that promulgating a rule under this subsection as an emergency
 10 rule is necessary for the preservation of the public peace, health, safety, or welfare
 11 and is not required to provide a finding of emergency for a rule promulgated under
 12 this subsection.

13 (END)



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4439/P1
EAW:ahc

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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

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6 may certify a program operated by a residential care center, group home, or shelter

1 care facility ^{to operate} as a qualified residential treatment program for children and youth ^{if}

2 it determines that the program meets the requirements of 42 USC 672 (k) (4) and 42

3 USC 675a (c) ^{in accordance with rules promulgated by the department}

4 (2) The department shall promulgate rules for the establishment, certification,
5 and operation of a program under sub. (1).

****NOTE: This provision would allow DCF to certify a program that is run by a residential care center, group home, or shelter care facility. The residential care center, group home, or shelter care facility would still need a license under s. 48.67. Also this section does not require DCF to certify any particular program and does not require the programs to be certified in order to operate. Please let me know if this is not consistent with your intent.

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10 provide evidence that promulgating a rule under this subsection as an emergency
11 rule is necessary for the preservation of the public peace, health, safety, or welfare
12 and is not required to provide a finding of emergency for a rule promulgated under
13 this subsection.

14

(END)

Wheeler, Elizabeth

From: Bove, Fredi-Ellen E - DCF
Sent: Friday, October 04, 2019 10:16 AM
To: Wheeler, Elizabeth
Cc: Henderson, Wendy P - DCF; Elliott, John M - DCF; Erickson, Emily L - DCF; Sorenson, David M - DCF; Brom, Jonelle Q - DCF; Durkin, Therese A - DCF; Nili, Rachel B - DCF; Mueller, Jill E - DCF; Perez-Reyes, Nadya - DCF; Melfi, Danielle - DCF; Mitchell, Mankah Z - DCF; Pridgen, Elaine - DCF; Henery, Sarah L - DCF; Klyve, Charmian J - DCF
Subject: DCF comments on LRB -4439/P1 (QRTP legislation)
Attachments: 19-4439/P1.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Elizabeth—

Thank you again for preparing the attached draft. Below are DCF comments, based on our review to date. Please be aware that there is a possibility that we may identify additional comments next week. However, given the time sensitivity of this legislation, we appreciate it if you could proceed with preparing as soon as possible an updated draft of the bill incorporating the comments below and providing it to us for review. Please let me know if you have any questions. Thank you.

Fredi

- Revise Section 1, 48.675 (1) to read: The department may certify a residential care center, group home, or shelter care facility to operate a qualified residential treatment program for children and youth if it determines that the program meets the requirements of 42 USC 672(k)(4) and any other requirements set in rule by the Department.

Rationale for changes: (1) clarify that a QRTP is a program within a facility; (2) delete the reference to 42 USC 675a (c) because it does not address the definition of a QRTP; and (3) clarify that the Department may set additional requirements for a QRTP in addition to the federal QRTP requirements.

- In 48.02, add ““Qualified residential treatment program for children and youth” means a program in a residential care center, group home or shelter that the department has certified as meeting the requirements under 42 USC 472 (k) (4) and any other requirements set in rule by the Department.

Rationale for change: It is likely that we will need additional state statutory changes in future state legislation related to QRTPs to comply with all aspects of the federal Family First Prevention Services Act; it will be beneficial to refer back to a statutory QRTP definition in s.48.02 in any such future QRTP-related legislation.

From: Bove, Fredi-Ellen E - DCF
Sent: Tuesday, October 1, 2019 3:46 PM
To: Wheeler, Elizabeth A - LEGIS <Elizabeth.Wheeler@legis.wisconsin.gov>
Subject: FW: Draft review: LRB -4439/P1

Elizabeth—

Thank you for preparing the attached draft, which we received today. We will provide any comments to you later this week or early next week.

Fredi

Fredi-Ellen Bove

Policy Initiatives Advisor

Department of Children and Families

201 East Washington Avenue

Madison, WI 53703

T: 608.422.6891

E: frediellen.bove@wisconsin.gov

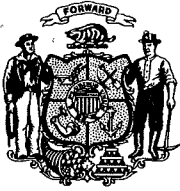
From: LRB.Legal <lrblegal@legis.wisconsin.gov>

Sent: Tuesday, October 1, 2019 11:25 AM

To: Bove, Fredi-Ellen E - DCF <FrediEllen.Bove@wisconsin.gov>

Subject: Draft review: LRB -4439/P1

Following is the PDF version of draft LRB -4439/P1.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4439/P1 **OP2**
EAW:ahc

in 10/8
due 10/9

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to create** 48.675 of the statutes; **relating to:** qualified residential
2 treatment programs, providing an exemption from rule-making procedures,
3 and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill allows the Department of Children and Families to certify a program
operated by a residential care center, group home, or shelter care facility as
a qualified residential treatment program for children and youth (QRTP) if it
determines that the program meets the federal requirements for such a program to
receive Title IV-E child welfare funding. Under the bill, DCF is required to
promulgate rules for the establishment, certification, and operation of a QRTP.

For further information see the **state** 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:***

4 **SECTION 1.** 48.675 of the statutes is created to read:
5 **48.675 Qualified residential treatment programs.** (1) The department
6 may certify a program operated by a residential care center, group home, or shelter

to operate

and DCF's requirements for such a program.

1 care facility ^{to operate} as a qualified residential treatment program for children and youth if

2 it determines that the program meets the requirements of 42 USC 672 (k) (4) and 42^e

3 USC 675a (c) ^{any other requirements established by the department}
^{under this section}

4 (2) The department shall promulgate rules for the establishment, certification,

5 and operation of a program under sub. (1).

****NOTE: This provision would allow DCF to certify a program that is run by a residential care center, group home, or shelter care facility. The residential care center, group home, or shelter care facility would still need a license under s. 48.67. Also this section does not require DCF to certify any particular program and does not require the programs to be certified in order to operate. Please let me know if this is not consistent with your intent.

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7 (1) EMERGENCY RULE-MAKING AUTHORITY. The department of children and
8 families may use the procedure under s. 227.24 to promulgate rules under s. 48.675

9 (2). Notwithstanding s. 227.24 (1) (a) and (3), the department is not required to
10 provide evidence that promulgating a rule under this subsection as an emergency
11 rule is necessary for the preservation of the public peace, health, safety, or welfare
12 and is not required to provide a finding of emergency for a rule promulgated under
13 this subsection.

14 (END)

Wheeler, Elizabeth

From: Bove, Fredi-Ellen E - DCF
Sent: Friday, October 18, 2019 3:29 PM
To: Wheeler, Elizabeth
Cc: Perez-Reyes, Nadya - DCF; Erickson, Emily L - DCF; Elliott, John M - DCF; Henderson, Wendy P - DCF; Pridgen, Elaine - DCF; Durkin, Therese A - DCF; Mueller, Jill E - DCF; Penner-Hoppe, Jane - DCF; Mitchell, Mankah Z - DCF; Melfi, Danielle - DCF; Nili, Rachel B - DCF; Swissdorf, Kim M - DCF
Subject: Additional comment on QRTP stat draft: LRB -4439/P2
Attachments: Act 9 s. 9106 (002).pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Elizabeth—

We have identified one additional change we would like to request on the QRTP stat draft LRB 4439/P2 based on further internal discussions regarding the implementation of this legislation:

- In the non-statutory provisions, please add: Notwithstanding 227.24(1)(c) and (2), emergency rules promulgated under this subsection remain in effect until July 1, 2022 or the date on which the permanent rule becomes effective, whichever is sooner.

Rationale: Based on the complexity of the rule, we expect to need 12 months to draft the emergency rule. Assuming that the bill passes and is signed into law in spring 2020 and our projected one-year timeframe for drafting the emergency rule, the projected effective date for the emergency rule is on or slightly before July 1, 2021. The emergency rule can be in effect for 9 months. To expedite the promulgation of the permanent rule, we expect to base the permanent rule on the emergency rule. However, based on the Department's experience, it may take approximately 12 months to complete the review and approval processes for a permanent rule, which would result in the promulgation of a permanent rule on July 2022. To avoid a gap between the expiration of the emergency rule and the effective date of the permanent rule, we are requesting non-statutory language to enable the emergency rule to be in effect until July 1, 2022 if the permanent rule has not gone into effect prior to that date. This proposed non-statutory provision is modeled after the attached provision in 2019 Act 9.

Please let me know if you have any questions. We appreciate receiving an updated draft as soon as possible as we are seeking to initiate the process for legislative consideration of the bill as soon as possible, to be prepared for the federal effective date for IV-E claiming for QRTPs.

Thank you for your assistance.

Fredi

Fredi-Ellen Bove

Policy Initiatives Advisor

Department of Children and Families

201 East Washington Avenue

Madison, WI 53703

T: 608.422.6891

E: frediellen.bove@wisconsin.gov

From: Wheeler, Elizabeth A - LEGIS <Elizabeth.Wheeler@legis.wisconsin.gov>
Sent: Monday, October 14, 2019 3:22 PM
To: Bove, Fredi-Ellen E - DCF <FrediEllen.Bove@wisconsin.gov>
Subject: RE: Draft review: LRB -4439/P2

Glad to hear it.

Elizabeth Wheeler
Legislative Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
Direct: 608-504-5880
Elizabeth.wheeler@legis.wisconsin.gov

From: Bove, Fredi-Ellen E - DCF <FrediEllen.Bove@wisconsin.gov>
Sent: Monday, October 14, 2019 3:11 PM
To: Wheeler, Elizabeth <Elizabeth.Wheeler@legis.wisconsin.gov>
Cc: Durkin, Therese A - DCF <Therese.Durkin@wisconsin.gov>; Nili, Rachel B - DCF <Rachel.Nili@wisconsin.gov>; Henderson, Wendy P - DCF <Wendy.Henderson@wisconsin.gov>; Elliott, John M - DCF <John.Elliott@wisconsin.gov>; Erickson, Emily L - DCF <Emily.Erickson@wisconsin.gov>; Melfi, Danielle - DCF <danielle.melfi@wisconsin.gov>; Perez-Reyes, Nadya - DCF <nadya.perez-reyes@wisconsin.gov>; Swissdorf, Kim M - DCF <KimM.Swissdorf@wisconsin.gov>; Sorenson, David M - DCF <David.Sorenson@wisconsin.gov>; Penner-Hoppe, Jane - DCF <Jane.PennerHoppe@wisconsin.gov>; Mueller, Jill E - DCF <jill.mueller@wisconsin.gov>; Mitchell, Mankah Z - DCF <mankahz.mitchell@wisconsin.gov>
Subject: FW: Draft review: LRB -4439/P2

Elizabeth-

DCF has no further comments on the attached statutory language draft (4439/P2) for Qualified Residential Treatment Programs (QRTPs). The material as drafted reflects DCF's intent. Thank you for your assistance in drafting this proposal.
Fredi

Fredi-Ellen Bove

Policy Initiatives Advisor
Department of Children and Families

201 East Washington Avenue
Madison, WI 53703
T: 608.422.6891
E: frediellen.bove@wisconsin.gov

From: LRB.Legal <lrblegal@legis.wisconsin.gov>
Sent: Tuesday, October 8, 2019 3:59 PM
To: Bove, Fredi-Ellen E - DCF <FrediEllen.Bove@wisconsin.gov>
Subject: Draft review: LRB -4439/P2

Following is the PDF version of draft LRB -4439/P2.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4439/P2
EAW:ahe

in 10/21
due today

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

sa ✓

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8 families may use the procedure under s. 227.24 to promulgate rules under s. 48.675

9 (2). Notwithstanding s. 227.24 (1) (a) and (3), the department is not required to
10 provide evidence that promulgating a rule under this subsection as an emergency
11 rule is necessary for the preservation of the public peace, health, safety, or welfare
12 and is not required to provide a finding of emergency for a rule promulgated under
13 this subsection.

14 (END)

Notwithstanding s. 227.24(1)(c) and (2), emergency rules promulgated under this subsection remain in effect until July 1, 2022, or the date on which permanent rules take effect, whichever is sooner.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4439/P3
EAW:ahc

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10 this subsection remain in effect until July 1, 2022, or the date on which permanent
11 rules take effect, whichever is sooner. Notwithstanding s. 227.24 (1) (a) and (3), the
12 department is not required to provide evidence that promulgating a rule under this
13 subsection as an emergency rule is necessary for the preservation of the public peace,
14 health, safety, or welfare and is not required to provide a finding of emergency for a
15 rule promulgated under this subsection.

16 (END)

Walker, Dan

From: Anderson, Bethany
Sent: Thursday, November 14, 2019 2:32 PM
To: LRB.Legal
Subject: Draft Review: LRB -4439/1

Please Jacket LRB -4439/1 for the ASSEMBLY.