



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-1391/P4
EAW:wlj&amn

DOA:.....Bong, BB0243 - Child care and development block grant
background check requirements

FOR 2017-2019 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

This bill makes certain changes relating to background checks of 1) a person who has or who is seeking a license to operate a child care center, certification for purposes of reimbursement under the Wisconsin Shares child care subsidy program, or a contract with a school board to operate a child care center (collectively "child care program"); 2) an employee or contractor of a child care provider (caregiver); and 3) a nonclient resident of the child care provider's home to conform to the federal Child Care and Development Block Grant Act of 2014. The bill also makes certain changes relating to the training required of a person certified as a child care provider for purposes of reimbursement under Wisconsin Shares and of a caregiver of such a provider to conform those training requirements to the Child Care and Development Block Grant Act of 2014.

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:

SECTION 1. 20.435 (6) (jm) of the statutes is amended to read:

20.435 (6) (jm) *Licensing and support services.* The amounts in the schedule for the purposes specified in ss. 48.685 (2) (am) and (b) ~~1~~, (3) (a), ~~(am)~~, and (b), and ~~(bm)~~, and (5) (a), 48.686 (2) (am), (3) (am) and (bm), and (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.065 (2) (am) and (b) 1., (3) (a) and (b), and (5), 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.981, and 146.40 (4r) (b) and (er), and subch. VI of ch. 50 and to conduct health facilities plan and rule development activities, for accrediting nursing homes, convalescent homes, and homes for the aged, to conduct capital construction and remodeling plan reviews under ss. 50.02 (2) (b) and 50.36 (2), and for the costs of inspecting, licensing or certifying, and approving facilities, issuing permits, and providing technical assistance, that are not specified under any other paragraph in this subsection. All moneys received under ss. 48.685 (8), 48.686 (2) (ag), 49.45 (42) (c), 49.45 (47) (c), 50.02 (2), 50.025, 50.065 (8), 50.13, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.93 (1) (c), and 50.981, all moneys received from fees for the costs of inspecting, licensing or certifying, and approving facilities, issuing permits, and providing technical assistance, that are not specified under any other paragraph in this subsection, and all moneys received under s. 50.135 (2) shall be credited to this appropriation account.

SECTION 2. 20.437 (1) (jm) of the statutes is amended to read:

20.437 (1) (jm) *Licensing activities.* All moneys received from licensing activities under ss. 48.60, 48.62, 48.625, and 938.22 (7), and from fees under ss. 48.615, 48.625, 48.685 (8), and 938.22 (7) (b) and (c), ~~and from fees under s. 48.685 (8) charged to entities other than child care centers or child care providers,~~ for the costs of licensing child welfare agencies under s. 48.60, foster homes under s. 48.62, group homes under s. 48.625, and shelter care facilities under s. 938.22 (7) and for

the purposes specified in s. 48.685 (2) (am) and (b) 1., (3) (a) and (b), and (5) (a) with respect to those entities.

SECTION 3. 20.437 (2) (jn) of the statutes is amended to read:

20.437 (2) (jn) *Child care licensing and certification activities.* All moneys received from licensing activities under s. 48.65, from certifying activities under s. 48.651, and from fees under ss. 48.65 (3) and, 48.651 (2), and ~~from fees under s. 48.685 (8) charged to child care centers and child care providers~~ 48.686 (2) (ag) for the costs of licensing child care centers under s. 48.65 and of certifying child care providers under s. 48.651 and for the purposes specified in s. ~~48.685~~ 48.686 (2) (am), ~~(ar), and (b) 1. and 2.,~~ (3) (am) and (bm), and (5) (a) ~~with respect to child care centers and child care providers.~~

SECTION 4. 48.65 (1) of the statutes is amended to read:

48.65 (1) No person may for compensation provide care and supervision for 4 or more children under the age of 7 for less than 24 hours a day unless that person obtains a license to operate a child care center from the department. To obtain a license under this subsection to operate a child care center, a person must meet the minimum requirements for a license established by the department under s. 48.67, meet the requirements specified in s. ~~48.685~~ 48.686, and pay the license fee under sub. (3). A license issued under this subsection is valid until revoked or suspended, but shall be reviewed every 2 years as provided in s. 48.66 (5).

SECTION 5. 48.651 (1) (intro.) of the statutes is amended to read:

48.651 (1) (intro.) Except as provided in s. 49.155 (4) (c), no person, other than a child care center licensed under s. 48.65 or established or contracted for under s. 120.13 (14), may receive payment for providing child care services for an individual who is determined eligible for a child care subsidy under s. 49.155 unless the person

is certified, according to the standards adopted by the department under ~~s. 49.155 sub.~~ (1d), by the department in a county having a population of 750,000 or more, a county department, or an agency with which the department contracts under sub. (2). To be certified under this section, a person must meet the minimum requirements for certification established by the department under ~~s. 49.155 sub.~~ (1d), meet the requirements specified in s. ~~48.685~~ 48.686, and pay the fee specified in sub. (2). The department in a county having a population of 750,000 or more, a county department, or an agency contracted with under sub. (2) shall certify the following categories of child care providers:

SECTION 6. 48.651 (1) (a) of the statutes is amended to read:

48.651 (1) (a) Level I certified family child care providers, as established by the department under ~~s. 49.155 sub.~~ (1d). ~~No provider may be certified under this paragraph if the provider is a relative of all of the children for whom the provider provides care.~~

SECTION 7. 48.651 (1) (b) of the statutes is amended to read:

48.651 (1) (b) Level II certified family child care providers, as established by the department under ~~s. 49.155 sub.~~ (1d).

SECTION 8. 48.651 (1d) (b) of the statutes is created to read:

48.651 (1d) (b) 1. A level I certified family child care provider shall successfully complete department-approved preservice health and safety training in the topics specified in subd. 1. a. to j. by no later than the date of certification. A level II certified family child care provider or an employee or volunteer of a level I or level II certified family child care provider who is not the primary provider of care and supervision for children shall successfully complete department-approved preservice health and safety training in the topics specified in subd. 1. a. to j. by no later than the end of

the orientation period available under [42 USC 9858c](#) (c) (2) (I) (i) (XI). The health and safety training required under this subdivision shall include training in all of the following topics:

a. The prevention and control of infectious diseases, including by means of immunizations.

b. The prevention of sudden infant death syndrome and use of safe sleeping practices.

c. The administration of medication, consistent with parental consent.

d. The prevention of and response to emergencies due to allergic reactions to food or other allergens.

e. Building and physical premises safety, including identification of and protection from electrical hazards, bodies of water, vehicular traffic, and other hazards that can cause bodily injury.

f. The prevention of shaken baby syndrome and abusive head trauma.

g. Emergency preparedness and response planning for emergencies resulting from natural disaster or human-caused events.

h. The handling and storage of hazardous materials and the appropriate disposal of biocontaminants.

i. If applicable, appropriate precautions in transporting children.

j. First aid and cardiopulmonary resuscitation.

2. A child care provider or employee or volunteer of a child care provider shall also complete ongoing in-service training on an annual basis including training on the topics listed under subd. 1. a. to j.

SECTION 9. 48.651 (2) of the statutes is amended to read:

SECTION 9

48.651 (2) The department in a county having a population of 750,000 or more or a county department shall certify child care providers under sub. (1) or the department may contract with a Wisconsin Works agency, as defined in s. 49.001 (9), child care resource and referral agency, Indian tribe, or other agency to certify child care providers under sub. (1) in a particular geographic area or for a particular Indian tribal unit. The department in a county having a population of 750,000 or more or a county department that certifies child care providers under sub. (1) may charge a fee to cover the costs of certifying those providers. An agency or Indian tribe contracted with under this subsection may charge a fee specified by the department to supplement the amount provided by the department under the contract for certifying child care providers.

SECTION 10. 48.651 (2m) of the statutes is repealed.

SECTION 11. 48.651 (3) (a) of the statutes is amended to read:

48.651 (3) (a) If a child care provider certified under sub. (1) is convicted of a serious crime, as defined in s. ~~48.685~~ 48.686 (1) (c) ~~3m.~~, or if a caregiver specified in s. ~~48.685~~ 48.686 (1) (ag) 1. ~~a.~~ or a nonclient resident, as defined in s. ~~48.685~~ 48.686 (1) (bm), of the child care provider is convicted or adjudicated delinquent for committing a serious crime, as defined in s. 48.686 (1) (c), on or after his or her 12th 10th birthday, or if the department provides written notice of a decision under s. 48.686 (4p) that the child care provider, caregiver, or nonclient resident is ineligible for certification, employment, or residence at the child care provider, the department in a county having a population of 750,000 or more, a county department, or an agency contracted with under sub. (2) shall revoke the certification of the child care provider immediately upon providing written notice of revocation and the grounds for revocation and an explanation of the process for appealing the revocation.

SECTION 12. 48.651 (3) (b) of the statutes is amended to read:

48.651 (3) (b) If a child care provider certified under sub. (1) is the subject of a pending criminal charge alleging that the person has committed a serious crime, as defined in s. ~~48.685~~ 48.686 (1) (c) ~~3m.~~, or if a caregiver specified in s. ~~48.685~~ 48.686 (1) (ag) 1. ~~a.~~ or a nonclient resident, as defined in s. ~~48.685~~ 48.686 (1) (bm), of the child care provider is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime on or after his or her ~~12th~~ 10th birthday, the department in a county having a population of 750,000 or more, a county department, or an agency contracted with under sub. (2) shall immediately suspend the certification of the child care provider until the department, county department, or agency obtains information regarding the final disposition of the charge or delinquency petition indicating that the person is not ineligible to be certified under sub. (1).

SECTION 13. 48.66 (5) of the statutes is amended to read:

48.66 (5) A child welfare agency, group home, child care center, or shelter care facility license, other than a probationary license, is valid until revoked or suspended, but shall be reviewed every 2 years after the date of issuance as provided in this subsection. At least 30 days prior to the continuation date of the license, the licensee shall submit to the department an application for continuance of the license in the form and containing the information that the department requires. If the minimum requirements for a license established under s. 48.67 are met, the application is approved, the applicable fees referred to in ss. 48.68 (1) ~~and~~, 48.685 (8), and 48.686 (2) (ag) are paid, and any forfeiture under s. 48.715 (3) (a) or penalty under s. 48.76 that is due is paid, the department shall continue the license for an additional 2-year period, unless sooner suspended or revoked. If the application is

not timely filed, the department shall issue a warning to the licensee. If the licensee fails to apply for continuance of the license within 30 days after receipt of the warning, the department may revoke the license as provided in s. 48.715 (4) and (4m) (b).

SECTION 14. 48.68 (1) of the statutes is amended to read:

48.68 (1) After receipt of an application for a license, the department shall investigate to determine if the applicant meets the minimum requirements for a license adopted by the department under s. 48.67 and meets the requirements specified in s. 48.685, if or 48.686, whichever is applicable. In determining whether to issue or continue a license, the department may consider any action by the applicant, or by an employee of the applicant, that constitutes a substantial failure by the applicant or employee to protect and promote the health, safety, and welfare of a child. Upon satisfactory completion of this investigation and payment of the fee required under s. 48.615 (1) (a) or (b), 48.625 (2) (a), 48.65 (3) (a), or 938.22 (7) (b), the department shall issue a license under s. 48.66 (1) (a) or, if applicable, a probationary license under s. 48.69 or, if applicable, shall continue a license under s. 48.66 (5). At the time of initial licensure and license renewal, the department shall provide a foster home licensee with written information relating to the monthly foster care rates and supplemental payments specified in s. 48.62 (4), including payment amounts, eligibility requirements for supplemental payments, and the procedures for applying for supplemental payments.

SECTION 15. 48.685 (1) (ag) 1. b. of the statutes is amended to read:

48.685 (1) (ag) 1. b. A person who has, or is seeking, a license, ~~certification or contract~~ to operate an entity, who is receiving, or is seeking, payment under s. 48.623

(6) (am) for operating an entity, or who is seeking payment under s. 48.623 (6) (bm) for operating an entity.

SECTION 16. 48.685 (1) (am) of the statutes is renumbered 48.685 (1) (am) (intro.) and amended to read:

48.685 (1) (am) (intro.) “Client” means a person who receives direct care or treatment services from an entity or from a caregiver specified in par. (ag) 1. am. or from a child care program under s. 48.686 (1) (aj), including all of the following:

SECTION 17. 48.685 (1) (am) 1., 2. and 3. of the statutes are created to read:

48.685 (1) (am) 1. An adopted child for whom adoption assistance payments are being made under s. 48.975.

2. A child for whom subsidized guardianship payments are being made under s. 48.623.

3. A person who is 18 to 21 years old, is receiving independent living services under [42 USC 677](#) (a), is no longer placed in out-of-home care, and is residing in the foster home in which he or she was previously placed.

SECTION 18. 48.685 (1) (b) of the statutes is amended to read:

48.685 (1) (b) “Entity” means a child welfare agency that is licensed under s. 48.60 to provide care and maintenance for children, to place children for adoption, or to license foster homes; a foster home that is licensed under s. 48.62; an interim caretaker to whom subsidized guardianship payments are made under s. 48.623 (6); a person who is proposed to be named as a successor guardian in a successor subsidized guardianship agreement under s. 48.623 (2); a group home that is licensed under s. 48.625; a shelter care facility that is licensed under s. 938.22; ~~a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14); a child care provider that is certified under s. 48.651;~~ an organization

that facilitates delegations of the care and custody of children under s. 48.979; or a temporary employment agency that provides caregivers to another entity.

SECTION 19. 48.685 (1) (bm) of the statutes is amended to read:

48.685 (1) (bm) “Nonclient resident” means a person, including a person who is under 18 years of age, but not under 10 years of age, who resides, or is expected to reside, at an entity or with a caregiver specified in par. (ag) 1. am., who is not a client of the entity or caregiver, and who has, or is expected to have, regular, direct contact with clients of the entity or caregiver.

SECTION 20. 48.685 (1) (c) 3m. of the statutes is repealed.

SECTION 21. 48.685 (1) (c) 4. of the statutes is amended to read:

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

SECTION 22. 48.685 (2) (am) (intro.) of the statutes is amended to read:

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

SECTION 23. 48.685 (2) (am) 5. of the statutes is amended to read:

48.685 (2) (am) 5. Information maintained by the department of health services under this section and under ss. 48.623 (6) (am) 2. and (bm) 5., ~~48.651 (2m),~~ 48.75 (1m), and 48.979 (1) (b), ~~and 120.13 (14)~~ regarding any denial to the person of a

license, or continuation or renewal of a license, ~~certification, or a contract~~ to operate an entity, or of payments under s. 48.623 (6) for operating an entity, for a reason specified in sub. (4m) (a) 1. to 5. and regarding any denial to the person of employment at, a contract with, or permission to reside at an entity or of permission to reside with a caregiver specified in sub. (1) (ag) 1. am. for a reason specified in sub. (4m) (b) 1. to 5. If the information obtained under this subdivision indicates that the person has been denied a license, or continuation or renewal of a license, ~~certification, a contract,~~ payments, employment, a contract, or permission to reside as described in this subdivision, the department, a county department, ~~an agency contracted with under s. 48.651 (2), or~~ a child welfare agency, ~~or a school board~~ need not obtain the information specified in subds. 1. to 4.

SECTION 24. 48.685 (2) (ar) of the statutes is repealed.

SECTION 25. 48.685 (2) (b) 1. (intro.), a., b., c. and d. of the statutes are renumbered 48.685 (2) (b) (intro.), 1m., 2m., 3m. and 4m.

SECTION 26. 48.685 (2) (b) 1. e. of the statutes is renumbered 48.685 (2) (b) 5m. and amended to read:

48.685 (2) (b) 5m. Information maintained by the department of health services under this section and under ss. 48.623 (6) (am) 2. and (bm) 5., ~~48.651 (2m), 48.75 (1m), and~~ 48.979 (1) (b), ~~and 120.13 (14)~~ regarding any denial to the person of a license, or continuation or renewal of a license, ~~certification, or a contract~~ to operate an entity, or of payments under s. 48.623 (6) for operating an entity, for a reason specified in sub. (4m) (a) 1. to 5. and regarding any denial to the person of employment at, a contract with, or permission to reside at an entity or of permission to reside with a caregiver specified in sub. (1) (ag) 1. am. for a reason specified in sub. (4m) (b) 1. to 5. If the information obtained under this ~~subd. 1. e.~~ subdivision

indicates that the person has been denied a license, continuation or renewal of a license, ~~certification~~, a contract, payments, employment, or permission to reside as described in this ~~subd. 1. e. subdivision~~, the entity need not obtain the information specified in ~~subd. 1. a. to d. subds. 1m. to 4m.~~

SECTION 27. 48.685 (2) (b) 2. of the statutes is repealed.

SECTION 28. 48.685 (2) (b) 4. of the statutes is repealed.

SECTION 29. 48.685 (2) (bb) of the statutes is amended to read:

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

effort to contact the clerk of courts to obtain a copy of the criminal complaint and judgment of conviction relating to that violation.

SECTION 30. 48.685 (2) (bd) of the statutes is amended to read:

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

SECTION 31. 48.685 (2) (bg) of the statutes is amended to read:

48.685 (2) (bg) If an entity employs or contracts with a caregiver for whom, within the last year, the information required under par. (b) ~~1. a. to e. and e. 1m. to 3m. and 5m.~~ 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 e. and e. 1m. to 3m. and 5m.~~ 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 e. and e. 1m. to 3m. and 5m.~~

SECTION 32. 48.685 (2) (bm) of the statutes is amended to read:

48.685 (2) (bm) If the person who is the subject of the search under par. (am), ~~(ar)~~, or (b) ~~1.~~ is not a resident of this state, or if at any time within the ~~3~~ 5 years preceding the date of the search that person has not been a resident of this state, or if the department, county department, ~~agency contracted with under s. 48.651 (2),~~ child welfare agency, ~~school board,~~ or entity determines that the person's employment, licensing, or state court records provide a reasonable basis for further investigation, the department, county department, ~~contracted agency,~~ child welfare agency, ~~school board,~~ or entity shall make a good faith effort to obtain from any state or other United States jurisdiction in which the person is a resident or was a resident within the 3 years preceding the date of the search information that is equivalent to the information specified in par. (am) ~~1., (ar),~~ or (b) ~~1. a. 1m.~~ The department, county department, ~~contracted agency,~~ child welfare agency, ~~school board,~~ or entity may require the person to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints, or by other technologies approved by law enforcement agencies. The department of justice may provide for the submission of the fingerprint cards or fingerprints by other technologies to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions.

SECTION 33. 48.685 (2) (br) of the statutes is repealed.

SECTION 34. 48.685 (3) (a) of the statutes is amended to read:

48.685 (3) (a) ~~Subject to par. (am), every~~ Every 4 years or at any time within that period that the department, a county department, or a child welfare agency considers appropriate, the department, county department, or child welfare agency shall request the information specified in sub. (2) (am) 1. to 5. for all caregivers specified in sub. (1) (ag) 1. b. who are licensed, ~~certified, or contracted~~ to operate an entity, or who are receiving payments under s. 48.623 (6) (am) for operating an entity, and for all persons who are nonclient residents of such a caregiver.

SECTION 35. 48.685 (3) (am) of the statutes is repealed.

SECTION 36. 48.685 (3) (b) of the statutes is amended to read:

48.685 (3) (b) ~~Subject to par. (bm), every~~ Every 4 years or at any time within that period that an entity considers appropriate, the entity shall request the information specified in sub. (2) (b) ~~1. a. to e.~~ 1m. to 5m. for all persons who are caregivers specified in sub. (1) (ag) 1. a. or am. of the entity and for all nonclient residents of a caregiver specified in sub. (1) (ag) 1. am. of the entity.

SECTION 37. 48.685 (3) (bm) of the statutes is repealed.

SECTION 38. 48.685 (3m) of the statutes is amended to read:

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

SECTION 39. 48.685 (4m) (a) (intro.) of the statutes is amended to read:

48.685 (4m) (a) (intro.) Notwithstanding s. 111.335, and except as provided in par. (ad) and sub. (5), the department may not license, or continue or renew the license of, a person to operate an entity, ~~the department in a county having a population of 750,000 or more, a county department, or an agency contracted with~~ under s. 48.651 (2) may not certify a child care provider under s. 48.651, a county department or a child welfare agency may not license, or renew the license of, a foster home under s. 48.62, and the department in a county having a population of 750,000 or more or a county department may not provide subsidized guardianship payments to an interim caretaker under s. 48.623 (6) (am) or to a person seeking those payments as a successor guardian under s. 48.623 (6) (bm), ~~and a school board may not contract with a person under s. 120.13 (14), if the department, county department, contracted agency, or child welfare agency, or school board knows or should have known any of the following:~~

SECTION 40. 48.685 (4m) (a) 1. of the statutes is amended to read:

48.685 (4m) (a) 1. That the person has been convicted of a serious crime ~~or, if the person is an applicant for issuance or continuation of a license to operate a child care center or for initial certification under s. 48.651 or for renewal of that certification or if the person is proposing to contract with a school board under s. 120.13 (14) or to renew a contract under that subsection, that the person has been convicted of a serious crime~~ or adjudicated delinquent on or after his or her ~~12th~~ 10th birthday for committing a serious crime or that the person is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime on or after his or her ~~12th~~ 10th birthday.

SECTION 41. 48.685 (4m) (ad) of the statutes is amended to read:

48.685 (4m) (ad) The department, a county department, or a child welfare agency may license a foster home under s. 48.62; ~~the department may license a child care center under s. 48.65; the department in a county having a population of 750,000 or more, a county department, or an agency contracted with under s. 48.651 (2) may certify a child care provider under s. 48.651; or the department in a county having a population of 750,000 or more or a county department may provide subsidized guardianship payments to an interim caretaker under s. 48.623 (6) (am) or to a person seeking those payments as a successor guardian under s. 48.623 (6) (bm); and a school board may contract with a person under s. 120.13 (14), conditioned on the receipt of the information specified in sub. (2) (am) and (ar) indicating that the person is not ineligible to be so licensed, ~~certified, or provided those payments, or contracted with~~ for a reason specified in par. (a) 1. to 5.~~

SECTION 42. 48.685 (4m) (b) 1. of the statutes is amended to read:

48.685 (4m) (b) 1. That the person has been convicted of a serious crime ~~or, if the person is a caregiver or nonclient resident of a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of a child care provider that is certified under s. 48.651, that the person has been convicted of a serious crime~~ or adjudicated delinquent on or after his or her ~~12th~~ 10th birthday for committing a serious crime or that the person is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime on or after his or her ~~12th~~ 10th birthday.

SECTION 43. 48.685 (4m) (c) of the statutes is amended to read:

48.685 (4m) (c) If the background information form completed by a person under sub. (6) (am) indicates that the person is not ineligible to be employed or contracted with for a reason specified in par. (b) 1. to 5., an entity may employ or

contract with the person for not more than ~~60~~ 45 days pending the receipt of the information sought under sub. (2) (am) or (b) ~~1~~. If the background information form completed by a person under sub. (6) (am) indicates that the person is not ineligible to be permitted to reside at an entity or with a caregiver specified in sub. (1) (ag) 1. am. for a reason specified in par. (b) 1. to 5. and if an entity otherwise has no reason to believe that the person is ineligible to be permitted to reside at an entity or with that caregiver for any of those reasons, the entity may permit the person to reside at the entity or with the caregiver for not more than ~~60~~ 45 days pending receipt of the information sought under sub. (2) (am) or (b) ~~1~~. An entity shall provide supervision for a person who is employed, contracted with, or permitted to reside as permitted under this paragraph.

SECTION 44. 48.685 (4m) (d) of the statutes is created to read:

48.685 **(4m)** (d) If the department learns that a caregiver or nonclient resident is the subject of a pending investigation for a crime or offense that, under this subsection or sub. (5), could result in a bar to employment as a caregiver or residence at an entity, the department is the entity of the pending investigation.

SECTION 45. 48.685 (5) (a) of the statutes is amended to read:

48.685 **(5)** (a) Subject to ~~pars. par. (bm) and (br)~~, the department may license to operate an entity, ~~the department in a county having a population of 750,000 or more, a county department, or an agency contracted with under s. 48.651 (2) may certify under s. 48.651, a county department or a child welfare agency may license to operate a foster home~~ under s. 48.62, the department in a county having a population of 750,000 or more or a county department may provide subsidized guardianship payments under s. 48.623 (6), ~~and a school board may contract with under s. 120.13 (14) to~~ a person who otherwise may not be so licensed, certified, or

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

SECTION 46. 48.685 (5) (bm) (intro.) of the statutes is amended to read:

48.685 **(5)** (bm) (intro.) For purposes of licensing a foster home for the placement of a child ~~on whose behalf foster care maintenance payments under s. 48.62 (4) will be provided~~ or of providing subsidized guardianship payments to an interim caretaker under s. 48.623 (6) (am) or to a person seeking those payments as a successor guardian under s. 48.623 (6) (bm), no person, including a caregiver or nonclient resident under this section, who has been convicted of any of the following offenses may be permitted to demonstrate that he or she has been rehabilitated:

SECTION 47. 48.685 (5) (br) of the statutes is repealed.

SECTION 48. 48.685 (5c) (a) of the statutes is amended to read:

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

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

SECTION 49. 48.685 (5c) (c) of the statutes is repealed.

SECTION 50. 48.685 (5m) of the statutes is amended to read:

48.685 (5m) Notwithstanding s. 111.335, the department may refuse to license a person to operate an entity, a county department or a child welfare agency may refuse to license a foster home under s. 48.62, the department in a county having a population of 750,000 or more or a county department may refuse to provide subsidized guardianship payments to a person under s. 48.623 (6), and an entity may refuse to employ or contract with a caregiver or permit a nonclient resident to reside at the entity or with a caregiver specified in sub. (1) (ag) 1. am. of the entity if the person has been convicted of an offense that is not a serious crime, but that is, in the estimation of the department, county department, child welfare agency, or entity, substantially related to the care of a client. ~~Notwithstanding s. 111.335, the department may refuse to license a person to operate a child care center, the department in a county having a population of 750,000 or more, a county department, or an agency contracted with under s. 48.651 (2) may refuse to certify a child care provider under s. 48.651, a school board may refuse to contract with a person under s. 120.13 (14), and a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or a child care provider that is certified under s. 48.651 may refuse to employ or contract with a caregiver or permit a nonclient resident to reside at the child care center or child care provider if the person has been convicted of or adjudicated delinquent on or after his or her 12th birthday for an offense that is not a serious crime, but that is, in the estimation of~~

~~the department, county department, contracted agency, school board, child care center, or child care provider, substantially related to the care of a client.~~

SECTION 51. 48.685 (6) (a) of the statutes is amended to read:

48.685 (6) (a) Except as provided in this paragraph, the department shall require any person who applies for issuance, continuation, or renewal of a license to operate an entity, a county department or a child welfare agency shall require any person who applies for issuance or renewal of a license to operate a foster home under s. 48.62, and the department in a county having a population of 750,000 or more or a county department shall require any person who applies for subsidized guardianship payments under s. 48.623 (6) to complete a background information form that is provided by the department. ~~The department shall require any person who applies for issuance, but not continuation, of a license to operate a child care center under s. 48.65, a school board shall require any person who proposes to contract, but not renew a contract, with the school board under s. 120.13 (14), and the department in a county having a population of 750,000 or more, a county department, or an agency contracted with under s. 48.651 (2) shall require any child care provider who applies for initial certification, but not renewal of that certification, under s. 48.651 to complete a background information form that is provided by the department.~~

SECTION 52. 48.685 (6) (am) of the statutes is amended to read:

48.685 (6) (am) ~~Except as provided in this paragraph, every~~ Every 4 years an entity shall require all of its caregivers and all nonclient residents of the entity or of a caregiver specified in sub. (1) (ag) 1. am. of the entity to complete a background information form that is provided to the entity by the department. ~~A child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13~~

~~(14) or a child care provider that is certified under s. 48.651 is exempt from the 4-year requirement, but shall require any new caregiver or nonclient resident to complete a background information form that is provided to the child care center or child care provider by the department.~~

SECTION 53. 48.685 (6) (b) 1. of the statutes is amended to read:

48.685 **(6)** (b) 1. For caregivers who are licensed by the department, ~~for persons under 18 years of age, but not under 12 years of age, who are caregivers of a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13~~ ~~(14) or of a child care provider that is certified under s. 48.651,~~ for persons who are nonclient residents of an entity that is licensed by the department, and for other persons specified by the department by rule, the entity shall send the background information form to the department.

SECTION 54. 48.685 (6) (b) 2. of the statutes is amended to read:

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

SECTION 55. 48.685 (6) (b) 4. of the statutes is repealed.

SECTION 56. 48.685 (8) of the statutes is amended to read:

48.685 **(8)** The department, the department of health services, a county department, ~~an agency contracted with under s. 48.651 (2),~~ or a child welfare agency, ~~or a school board~~ may charge a fee for obtaining the information required under sub. (2) (am) ~~or (ar)~~ or (3) (a) ~~or (am)~~, for providing information to an entity to enable the

entity to comply with sub. (2) (b) ~~1.~~ or (3) (b), or for obtaining and submitting fingerprints under sub. (2) (bm) ~~or (br)~~. The fee may not exceed the reasonable cost of obtaining the information or of obtaining and submitting fingerprints. No fee may be charged to a nurse aide, as defined in s. 146.40 (1) (d), for obtaining or maintaining information or for obtaining and submitting fingerprints if to do so would be inconsistent with federal law.

SECTION 57. 48.685 (9) of the statutes is created to read:

48.685 (9) The department may promulgate any rules necessary for the administration of this section.

SECTION 58. 48.686 of the statutes is created to read:

48.686 Criminal history and child abuse record search; child care. (1)

In this section:

(ag) “Caregiver” means any of the following:

1. A person who is any of the following:

a. An employee or independent contractor of a child care program.

b. Involved in the care or supervision of clients of a child care program or has unsupervised access to clients of a child care program.

2. A person who has, or is seeking, a license, certification, or contract to operate a child care program.

(aj) “Child care program” means a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14), a child care provider that is certified under s. 48.651, or a temporary employment agency that provides caregivers to another child care program.

(am) “Client” means a person who receives direct care from a child care program, from an entity under s. 48.685 (1) (b) or from a caregiver specified in s. 48.685 (1) (ag) 1. am., including all of the following:

1. An adopted child for whom adoption assistance payments are being made under s. 48.975.

2. A child for whom subsidized guardianship payments are being made under s. 48.623.

3. A person who is 18 to 21 years old, is receiving independent living services under [42 USC 677](#) (a) from an agency, is no longer placed in out-of-home care, and is residing in the foster home in which he or she was previously placed.

(ar) “Contractor” means, with respect to a child care program, a person, or that person’s agent, who provides services to the child care program under an express or implied contract or subcontract.

(bm) “Nonclient resident” means a person who is age 10 or older, who resides, or is expected to reside, at a child care program, and who is not a client of the child care program or caregiver.

(br) “Reservation” means land in this state within the boundaries of a reservation of a tribe or within the bureau of Indian affairs service area for the Ho-Chunk Nation.

(c) “Serious crime” means any of the following:

1. A violation of s. 940.12, 940.22 (2) or (3), 940.285 (2), 940.29, 940.295, or 942.09 (2).

2. A violation of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

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

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

5. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.21, 940.225 (1), (2), or (3), 940.23, 940.305, 940.31, 941.20 (2) or (3), 941.21, 943.04, 943.10 (2), 943.32 (2), or 948.21 (1) (a).

6. Only for a caregiver, as defined in par. (ag) 2., a violation of s. 943.201, 943.203, or 943.38 (1) or (2); a violation of s. 943.34 (1), 943.395 (1), 943.41 (3) (e), (4) (a), (5), (6), or (6m), 943.45 (1), 943.455 (2), 943.46 (2), 943.47 (2), 943.50 (1m), or 943.70 (2) (a) or (am) or (3) (a) that is a felony; or an offense under subch. IV of ch. 943 that is a felony.

7. A violation of sub. (2) or s. 48.685 (2), (3), (4m) (b), or (6), 2015 stats., if the violation involves the provision of false information to or the intentional withholding of information from, the department, a county department, an agency contracting under s. 48.651 (2), a school board, or a child care program.

8. An offense involving fraudulent activity as a participant in the Wisconsin Works program under ss. 49.141 to 49.161, including as a recipient of a child care subsidy under s. 49.155, or as a recipient of aid to families with dependent children under s. 49.19, medical assistance under subch. IV of ch. 49, food stamps benefits under the food stamp program under [7 USC 2011 to 2036](#), supplemental security income payments under s. 49.77, payments for the support of children of supplemental security income recipients under s. 49.775, or health care benefits under the Badger Care health care program under s. 49.665.

9. A violation of s. 125.075 (1), 125.085 (3) (a) 2., 125.105 (2) (b), 125.66 (3), 125.68 (12), 940.09, 940.19 (2), (4), (5), or (6), 940.20, 940.203, 940.205, 940.207, 940.25, or 943.23 (1g), a violation of s. 948.51 (2) that is a felony under s. 948.51 (3)

(b) or (c), a violation of s. 346.63 (1), (2), (5), or (6) that is a felony under s. 346.65 (2) (am) 5., 6., or 7. or (f), (2j) (d), or (3m), or an offense under ch. 961 that is a felony, if the person completed his or her sentence, including any probation, parole, or extended supervision, or was discharged by the department of corrections, less than 5 years before the date of the investigation under sub. (2) (am).

10. A violation of s. 948.22 (2), if the person completed his or her sentence, including any probation, parole, or extended supervision, or was discharged by the department of corrections, less than 5 years before the date of the investigation under sub. (2) (am), unless the person has paid all arrearages due and is meeting his or her current support obligations.

11. A violation of the law of any other state or United States jurisdiction that would be a violation listed in subd. 1. to 10. if committed in this state.

12. A violation of the laws of another state or United States jurisdiction that if committed in this state would constitute felony battery under s. 940.19 (2), (4), (5), or (6) or 940.20, a felony offense of domestic abuse, as defined in s. 813.12 (1) (am), a sex offense or a violent crime under ch. 948, or a violation of 940.225 if the victim was a child.

(2) (a) The department shall require any person who applies for issuance of an initial license to operate a child care center under s. 48.65, a school board shall require any person who proposes an initial contract with the school board under s. 120.13 (14), and the department in a county having a population of 750,000 or more, a county department, or an agency contracted with under s. 48.651 (2) shall require any child care provider who applies for initial certification under s. 48.651 to submit the information required for a background check request under par. (ag). A school

board, county department, or contracted agency shall submit the completed background information request to the department.

(ab) Each child care program shall submit a request to the department for a criminal background check for each potential caregiver and potential nonclient resident prior to the date on which an individual becomes a caregiver or nonclient resident, and at least once during every 5-year period for each existing caregiver or nonclient resident, except if all of the following apply:

1. The caregiver, potential caregiver, nonclient resident, or potential nonclient resident has received a background check as described in par. (am) while employed or seeking employment by another child care program within the state within the last 5 years.

2. The department provided to the child care program under subd. 1. a qualifying background check result for the caregiver, potential caregiver, nonclient resident, or potential nonclient resident.

3. The caregiver, potential caregiver, nonclient resident, or potential nonclient resident is employed by or resides at a child care program within the state or has been separated from employment or residence at a child care program within the state for a period of not more than 180 consecutive days.

(ag) 1. A request for a background check to the department under par. (a) or (ab) shall be in the manner and on forms prescribed by the department, and shall include all of the following:

- a. Fingerprints of the subject that meet the standards of the department.
- b. Any additional information that the department deems necessary to perform the criminal background check.

2. A request for a criminal background check is considered submitted on the day that the department receives all of the information required under subd. 1.

3. The requester of a background check under this paragraph shall submit all fees required by the department pursuant to the instructions provided by the department, not to exceed the actual cost of conducting the criminal background check.

(am) Upon receipt of a request submitted under par. (a) or (ab), the department shall obtain all of the following with respect to a caregiver or a nonclient resident who is not under 10 years of age:

1. A fingerprint-based criminal history search from the records maintained by the department of justice.

2. Information that is contained in the registry under s. 146.40 (4g) regarding any findings against the person.

3. Information maintained by the department of safety and professional services regarding the status of the person's credentials, if applicable.

4. Information maintained by the department regarding any final determination under s. 48.981 (3) (c) 5m. or, if a contested case hearing is held on such a determination, any final decision under s. 48.981 (3) (c) 5p. that the person has abused or neglected a child.

5. Information maintained by the department of health services under s. 48.685 regarding any denial to the person of a license, continuation or renewal of a license, certification, or a contract to operate an entity or a child care program, for a reason specified in s. 48.685 (4m) (a) 1. to 5. and regarding any denial to the person of employment at, a contract with, or permission to reside at an entity or a child care program for a reason specified in s. 48.685 (4m) (a) 1. to 5.

6. Information that is contained in the sex offender registry under s. 301.45 regarding whether the person has committed a sex offense that is a serious crime.

7. A fingerprint-based criminal history search using the federal bureau of investigation next generation identification.

8. A search of the national crime information center's national sex offender registry.

9. A search of the following registries, repositories, or databases in the state where the caregiver or nonclient resident resided for the period starting on the date 5 years prior to the department's receipt of the background check request and ending on the date the department received the background check request:

- a. The state criminal registry or repository.
- b. The state sex offender registry or repository.
- c. The state-based child abuse and neglect registry and database.

10. A search of the department's criminal background check records.

(ar) After receiving a request under par. (a) or (ab), the department shall conduct the criminal background check as expeditiously as possible and shall make a good faith effort to complete all components of the criminal background check no later than 45 days after the date on which the request was submitted.

(bb) If information obtained under par. (am) indicates a charge of a serious crime, but does not completely and clearly indicate the final disposition of the charge, the department shall make every reasonable effort to contact the clerk of courts to determine the final disposition of the charge. If information submitted to the department under par. (ag) indicates a charge or a conviction of a serious crime, but information obtained under par. (am) does not indicate such a charge or conviction, the department shall make every reasonable effort to contact the clerk of courts to

obtain a copy of the criminal complaint and the final disposition of the complaint. If information obtained under par. (am), information submitted under par. (ag), or any other information indicates a conviction of a violation of s. 940.19 (1), 940.195, 940.20, 941.30, 942.08, 947.01 (1), or 947.013 obtained not more than 5 years before the date on which that information was obtained, the department shall make every reasonable effort to contact the clerk of courts to obtain a copy of the criminal complaint and judgment of conviction relating to that violation.

(bd) Notwithstanding par. (am), the department is not required to obtain the information specified in par. (am) 1. to 10., with respect to a person under 18 years of age whose background check request under par. (ag) indicates that the person is not ineligible to be permitted to reside at a child care program for a reason specified in sub. (4m) (a) 1. to 8. and with respect to whom the department otherwise has no reason to believe that the person is ineligible to be permitted to reside for any of those reasons. This paragraph does not preclude the department from obtaining, at its discretion, the information specified in par. (am) 1. to 10. with respect to a person described in this paragraph who is a nonclient resident or a potential nonclient resident of a child care program.

(br) The department shall require the person who is the subject of a search under par. (am) to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints, or by other technologies approved by law enforcement agencies, unless the person has previously been fingerprinted under this paragraph.

(3) (am) Every year or at any time that the department considers appropriate, the department may request the information specified in sub. (2) (am) 1. to 5. for all caregivers under sub. (1) (ag) 2., nonclient residents of such a caregiver, and caregivers under sub. (1) (ag) 1. who have direct contact with clients. For the

purposes of this paragraph, “direct contact” means face-to-face physical proximity to a client that affords the opportunity to commit abuse or neglect of a client or to misappropriate the property of a client.

(bm) Annually, by January 1, the department shall submit a report to the appropriate standing committees of the legislature under s. 13.172 (3) describing the report prepared under sub. (4p) (a) with respect to caregivers specified in sub. (1) (ag) 2., specifically any information indicating that the caregiver is ineligible under sub. (4m) (a) to be licensed, certified, or contracted to operate a child care program, and describing any action taken in response to the receipt of information under sub. (2) (am) indicating that such a caregiver is so ineligible.

(4) (a) A child care program that violates sub. (2), (3), or (4m) (a) is subject to a forfeiture of not more than \$1,000 and to other sanctions specified by the department by rule.

(b) A person who provides false information to the department under sub. (2) is subject to a forfeiture of not more than \$1,000 and to other sanctions specified by the department by rule.

(4m) (a) Notwithstanding s. 111.335, and except as provided in par. (ad) and sub. (5), the department may not license, or continue or renew the license of, a person to operate a child care center under s. 48.65, the department in a county having a population of 750,000 or more, a county department, or an agency contracted with under s. 48.651 (2) may not certify a child care provider under s. 48.651, a school board may not contract with a person under s. 120.13 (14), and a child care program may not employ or contract with a caregiver specified in sub. (1) (ag) 1. if the department, county department, contracted agency, school board, or child care program knows or should have known any of the following:

1. That the person has been convicted of a serious crime or adjudicated delinquent on or after his or her 10th birthday for committing a serious crime or that the person is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime on or after his or her 10th birthday.

3. That a unit of government or a state agency, as defined in s. 16.61 (2) (d), has made a finding that the person has abused or neglected any client or misappropriated the property of any client.

4. That a final determination has been made under s. 48.981 (3) (c) 5m. or, if a contested case hearing is held on such a determination, a final decision has been made under s. 48.981 (3) (c) 5p. that the person has abused or neglected a child.

5. That the department has determined the person ineligible to be licensed to operate a child care center under s. 48.65, to be certified to operate a child care provider under s. 48.651, to contract with a school board under s. 120.13 (14), to be employed as a caregiver at a child care program, or to be a nonclient resident at a child care program.

6. That the person has refused to provide information under sub. (2) (ag), or that the person refused to participate in, cooperate with, or submit required information for the criminal background check described in sub. (2) (am), including fingerprints.

7. That the person knowingly made a materially false statement in connection with the person's criminal background check described in sub. (2).

8. That the person knowingly omitted material information requested in connection with the person's criminal background check conducted under sub. (2).

(ad) The department may license a child care center under s. 48.65; the department in a county having a population of 750,000 or more, a county department, or an agency contracted with under s. 48.651 (2) may certify a child care provider under s. 48.651; and a school board may contract with a person under s. 120.13 (14), conditioned on the receipt of the information specified in sub. (4p) (a) indicating that the person is not ineligible to be so licensed, certified, or contracted with for a reason specified in par. (a) 1. to 8.

(c) A child care program may employ or contract with a potential caregiver or permit a potential nonclient resident to reside at the child care program for up to 45 days from the date a background check request is submitted to the department pending the completion of the department's report under sub. (4p) (a) if the department provides a preliminary report under sub. (4p) (c) to the child care program indicating that the potential caregiver or nonclient resident is not ineligible to work or reside at a child care program. At all times that children in care are present, an individual who received a qualifying result on a background check described in sub. (2) (am) within the past 5 years must supervise a potential employee or nonclient resident permitted to work or reside at the child care program under this paragraph.

(4p) (a) The department shall provide the results of the criminal background check to the child care program in a written report that indicates only that the individual on whom the background check was conducted is eligible or ineligible for employment or to reside at the child care program, without revealing any disqualifying crime or other information regarding the individual.

(b) The department shall provide the results of the criminal background check to the individual on whom the background check was conducted in a written report

that indicates whether the individual is eligible or ineligible for employment or to reside at the child care program. If the individual is ineligible for employment or to reside at the child care program, the department's report shall include information on each disqualifying crime and information on the right to appeal.

(c) Before the department completes its report under par. (a), a caregiver under sub. (1) (ag) 2. may submit a written request to the department for a preliminary report indicating whether a potential caregiver or nonclient resident is eligible to work or reside at a child care program under sub. (4m) (c). If the department receives such a request, it shall provide a written preliminary report to that caregiver indicating whether the individual is barred from employment as a caregiver or residence as a nonclient resident on the basis of a background check under sub. (2) (am) 1. or 7. If the individual is ineligible for employment or residence at a child care program based on the results of the preliminary report, the department shall also provide a preliminary report to the individual containing information related to each disqualifying crime.

(d) The results of a report under par. (c) may not be appealed by the individual until receipt of the department's report under par. (b) following completion of all components of the criminal background check.

(4s) (a) An individual who is the subject of the department's report on the results of a criminal background check may appeal the department's decision. Only the person who is the subject of the department's report may appeal the department's decision. Neither the child care program nor any other person may appeal the department's decision.

(b) An appeal request shall be submitted to the department at the address, e-mail address, or fax number identified in the statement of appeal rights no later

than 60 days after the date of the department's decision, unless the appellant requests, and the department grants, an extension for a specific amount of time prior to expiration of the 60 day appeal period. Extensions may be granted for good cause shown.

(c) An appeal shall be submitted in the manner and on forms prescribed by the department, and must include all of the following information:

1. The information or issue disputed by the individual.
2. Any information known to the individual, or available to the individual through the exercise of reasonable diligence, that supports the individual's position.
3. The current or last known names, addresses, telephone numbers, and email addresses of any persons known or believed to have information relevant to determination of the appeal.
4. Copies of any documents or other materials in the possession of the individual, or reasonably available to the individual, that support the individual's position regarding the disputed information.

(e) The department shall attempt to verify the accuracy of the information challenged by the appellant, including making reasonable good faith efforts to locate any missing information regarding the disqualifying crime that is relevant to the issue identified for appeal.

(f) The department shall sustain the results of its criminal background check report if supported by a preponderance of the available evidence.

(g) The department shall issue its appeal decision in writing. If the results of the original report are sustained upon review, the decision shall indicate the department's efforts to verify the accuracy of the information challenged by the

individual. The decision shall also indicate any additional reconsideration and appeal rights available to the appellant.

(h) An appellant under this subsection may seek reconsideration of the department's decision under par. (g) by the secretary or the secretary's designee.

(i) A request for reconsideration detailing the basis for the request must be sent to the secretary at the address, e-mail address, or fax number identified in the department's decision no later than 30 days after the date of the department's decision.

(j) The secretary or secretary's designee shall issue his or her reconsideration decision in writing and shall include information about any additional appeal rights available to the individual.

(k) A denial of reconsideration under this subsection is a final decision of the department, and the appellant has a right to a contested case hearing under ch. 227.

(L) The appeal and reconsideration process set forth in this subsection is the exclusive method for disputing a criminal history background report issued by the department. The department's decision may not be appealed in a ch. 68 or 227 proceeding challenging the denial of a license, certification, or contract to operate a child care program based on the department's criminal history background check report or challenging any other child care regulatory action taken in reliance upon that report.

(m) Notwithstanding s. 19.35, the department may not publicly release or disclose the results of any criminal individual background report it issues, except that the department may release aggregated data by crime as listed in sub. (1) (c) from criminal background check results so long as the data does not contain personally identifiable information. The department may disclose and use

information obtained in conducting criminal background checks as necessary during an appeal or reconsideration under this subsection.

(5) (a) Subject to par. (br), the department may license to operate a child care program, the department in a county having a population of 750,000 or more, a county department, or an agency contracted with under s. 48.651 (2) may certify under s. 48.651, and a school board may contract with under s. 120.13 (14) a person who otherwise may not be licensed, certified, or contracted with for a reason specified in sub. (4m) (a) 1. to 8., and a child care program may employ, contract with, or permit to reside at the child care program a person who otherwise may not be so employed, contracted with, or permitted to reside for a reason specified in sub. (4m) (a) 1. to 8., if the person demonstrates to the department, the county department, the contracted agency, or the school board or, in the case of a child care program that is located within the boundaries of a reservation, to the person or body designated by the Indian tribe under sub. (5d) (a) 3., by clear and convincing evidence and in accordance with procedures established by the department by rule or by the tribe that he or she has been rehabilitated.

(br) No person who has been convicted or adjudicated delinquent on or after his or her 10th birthday for committing any of the offenses identified in sub. (1) (c) 1. to 8. or 12. or for a violation of the law of any other state or United States jurisdiction that would be a violation listed in sub. (1) (c) 1. to 8. if committed in this state or who is the subject of a pending criminal charge or delinquency petition alleging that the person has committed any of those offenses on or after his or her 10th birthday may be permitted to demonstrate that he or she has been rehabilitated.

(cm) Notwithstanding sub. (4m) (a) 1., if a person was convicted or adjudicated delinquent on or after his or her 10th birthday for committing any of the offenses

listed in sub. (1) (c) 9. or 10. and the person completed his or her sentence, including any probation, parole, or extended supervision, or was discharged by the department of corrections, 5 or more years before the date of the investigation under sub. (2) (am), then the conviction or delinquency adjudication alone does not make the person ineligible to be licensed as a child care center under s. 48.65, certified as a child care provider under s. 48.651, contracted with under s. 120.13 (14), or employed by, contracted with, or permitted to reside at a child care program and, with respect to that conviction or delinquency adjudication, the person need not demonstrate that he or she has been rehabilitated under par. (a) before being so licensed, certified, contracted with, employed, or permitted to reside.

(5c) (a) Any person who is permitted but fails under sub. (5) (a) to demonstrate to the department that he or she has been rehabilitated may appeal to the secretary or his or her designee. Any person who is adversely affected by a decision of the secretary or his or her designee under this paragraph has a right to a contested case hearing under ch. 227.

(b) Any person who is permitted but fails under sub. (5) (a) to demonstrate to a county department or an agency contracted with under s. 48.651 (2) that he or she has been rehabilitated may appeal to the director of the county department or his or her designee. Any person who is adversely affected by a decision of the director or his or her designee under this paragraph has a right to appeal the decision under ch. 68.

(c) Any person who is permitted but fails under sub. (5) (a) to demonstrate to a school board that he or she has been rehabilitated may appeal to the state superintendent of public instruction or his or her designee. Any person who is

adversely affected by a decision of the state superintendent or his or her designee under this paragraph has a right to a contested case hearing under ch. 227.

(5d) (a) Any Indian tribe that chooses to conduct rehabilitation reviews under sub. (5) shall submit to the department a rehabilitation review plan that includes all of the following:

1. The criteria to be used to determine if a person has been rehabilitated.
2. The title of the person or body designated by the Indian tribe to whom a request for review must be made.
3. The title of the person or body designated by the Indian tribe to determine whether a person has been rehabilitated.
- 3m. The title of the person or body, designated by the Indian tribe, to whom a person may appeal an adverse decision made by the person specified under subd. 3. and whether the Indian tribe provides any further rights to appeal.
4. The manner in which the Indian tribe will submit information relating to a rehabilitation review to the department so that the department may include that information in its report to the legislature required under sub. (5g).
5. A copy of the form to be used to request a review and a copy of the form on which a written decision is to be made regarding whether a person has demonstrated rehabilitation.

(b) If, within 90 days after receiving the plan, the department does not disapprove the plan, the plan shall be considered approved. If, within 90 days after receiving the plan, the department disapproves the plan, the department shall provide notice of that disapproval to the Indian tribe in writing, together with the reasons for the disapproval. The department may not disapprove a plan unless the department finds that the plan is not rationally related to the protection of clients.

If the department disapproves the plan, the Indian tribe may, within 30 days after receiving notice of the disapproval, request that the secretary review the department's decision. A final decision under this paragraph is not subject to further review under ch. 227.

(5g) On January 1 of each year, the department shall submit a report to the legislature under s. 13.172 (2) that specifies the number of persons in the previous year who have requested to demonstrate that they have been rehabilitated under sub. (5) (a), the number of persons who successfully demonstrated that they have been rehabilitated under sub. (5) (a), and the reasons for the success or failure of a person who has attempted to demonstrate that he or she has been rehabilitated.

(5m) Notwithstanding s. 111.335, the department may refuse to license a person to operate a child care center, the department in a county having a population of 750,000 or more, a county department, or an agency contracted with under s. 48.651 (2) may refuse to certify a child care provider under s. 48.651, a school board may refuse to contract with a person under s. 120.13 (14), and a child care program may refuse to employ or contract with a caregiver or permit a nonclient resident to reside at the child care program if the person has been convicted of or adjudicated delinquent on or after his or her 10th birthday for an offense that is not a serious crime, but that is, in the estimation of the department, substantially related to the care of a client. The department shall notify the provider and the individual of the results of a substantially related determination pursuant to the process set forth in sub. (4p) for criminal background check determinations. The individual shall have the same appeal rights as set forth in sub. (4s), and the same appeal procedures apply.

(7) The department shall conduct throughout the state periodic training sessions that cover procedures and uses of criminal background investigations; reporting and investigating misappropriation of property or abuse or neglect of a client; and any other material that will better enable entities to comply with the requirements of this section.

(8) The department may promulgate any rules necessary for the administration of this section.

SECTION 59. 48.715 (4g) (a) of the statutes is amended to read:

48.715 (4g) (a) If a person who has been issued a license under s. 48.66 (1) (a) or a probationary license under s. 48.69 to operate a child care center is convicted of a serious crime, as defined in s. ~~48.685~~ 48.686 (1) (c) ~~3m., or~~, or if a caregiver specified in s. ~~48.685~~ 48.686 (1) (ag) 1. -a. or a nonclient resident, as defined in s. ~~48.685~~ 48.686 (1) (bm), of the child care center is convicted or adjudicated delinquent for committing a serious crime on or after his or her ~~12th~~ 10th birthday, or if the results of a criminal background check conducted under s. 48.686 indicate that the person, caregiver, or nonclient resident is not eligible to be licensed, certified, or employed or to reside at a child care program, the department shall revoke the license of the child care center immediately upon providing written notice of revocation and the grounds for revocation and an explanation of the process for appealing the revocation.

SECTION 60. 48.715 (4g) (b) of the statutes is amended to read:

48.715 (4g) (b) If a person who has been issued a license under s. 48.66 (1) (a) or a probationary license under s. 48.69 to operate a child care center is the subject of a pending criminal charge alleging that the person has committed a serious crime, as defined in s. ~~48.685~~ 48.686 (1) (c) ~~3m., or~~ if a caregiver specified in s. ~~48.685~~ 48.686

(1) (ag) 1. ~~a.~~ or a nonclient resident, as defined in s. ~~48.685~~ 48.686 (1) (bm), of the child care center is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime on or after his or her ~~12th~~ 10th birthday, the department shall immediately suspend the license of the child care center until the department obtains information regarding the final disposition of the charge or delinquency petition indicating that the person is not ineligible to be licensed to operate a child care center.

SECTION 61. 48.981 (7) (cp) of the statutes is amended to read:

48.981 (7) (cp) Notwithstanding par. (a), an agency may disclose a determination made before January 1, 2015, that a person has abused or neglected a child for purposes of a background check under s. 48.685, 48.686, or 50.065 only if that determination has not been reversed or modified on appeal and may disclose such a determination made on or after January 1, 2015, for those purposes only as provided in sub. (3) (c) 5r. Nothing in this paragraph prevents the disclosure of a report or record as otherwise permitted under this subsection.

SECTION 62. 49.133 (1m) (a) of the statutes is amended to read:

49.133 (1m) (a) If a child care provider is convicted of a serious crime, as defined in s. ~~48.685~~ 48.686 (1) (c) ~~3m.~~, or if a caregiver specified in s. ~~48.685~~ 48.686 (1) (ag) 1. ~~a.~~ or a nonclient resident, as defined in s. ~~48.685~~ 48.686 (1) (bm), of the child care provider is convicted or adjudicated delinquent for committing a serious crime on or after his or her ~~12th~~ 10th birthday or if the department provides written notice under s. 48.686 (4p) that the child care provider, caregiver, or nonclient resident is ineligible for certification, employment, or residence at the child care provider, the department or a county department under s. 46.215, 46.22, or 46.23 shall refuse to pay the child

care provider for any child care provided under s. 49.132, 1995 stats., or any other program beginning on the date of the conviction or delinquency adjudication.

SECTION 63. 49.133 (1m) (b) of the statutes is amended to read:

49.133 **(1m)** (b) If a child care provider is the subject of a pending criminal charge alleging that the person has committed a serious crime, as defined in s. ~~48.685~~ 48.686 (1) (c) ~~3m.~~, or if a caregiver specified in s. ~~48.685~~ 48.686 (1) (ag) 1. ~~a.~~ or a nonclient resident, as defined in s. ~~48.685~~ 48.686 (1) (bm), of the child care provider is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime on or after his or her ~~12th~~ 10th birthday, the department or county department under s. 46.215, 46.22, or 46.23 shall immediately suspend payment to the child care provider for any child care provided under s. 49.132, 1995 stats., or any other program until the department obtains information regarding the final disposition of the charge or delinquency petition indicating that the person is not ineligible to receive such a payment.

SECTION 64. 49.133 (2m) (intro.) of the statutes is amended to read:

49.133 **(2m)** (intro.) The department or a county department under s. 46.215, 46.22, or 46.23 may refuse to pay a child care provider for child care provided under s. 49.132, 1995 stats., or any other program if any of the following applies to the child care provider or to a caregiver specified in s. ~~48.685~~ 48.686 (1) (ag) 1. ~~a.~~ or nonclient resident, as defined in s. ~~48.685~~ 48.686 (1) (bm), of the child care provider:

SECTION 65. 49.133 (2m) (a) of the statutes is amended to read:

49.133 **(2m)** (a) The person has been convicted of or adjudicated delinquent on or after his or her ~~12th~~ 10th birthday for an offense that is not a serious crime, as defined in s. ~~48.685~~ 48.686 (1) (c) ~~3m.~~, but the department, ~~county department under s. 46.215, 46.22, or 46.23, agency contracted with under s. 48.651 (2), or school board~~

determines under s. ~~48.685~~ 48.686 (5m) that the offense substantially relates to the care of children or the department ~~or county department~~ determines that the offense substantially relates to the operation of a business.

SECTION 66. 49.133 (2m) (b) of the statutes is amended to read:

49.133 **(2m)** (b) The person is a caregiver specified in s. ~~48.685~~ 48.686 (1) (ag) 1. ~~a.~~ or a nonclient resident, as defined in s. ~~48.685~~ 48.686 (1) (bm), and is the subject of a pending criminal charge that the department, ~~county department~~ under s. ~~46.215, 46.22, or 46.23~~, agency contracted with under s. ~~48.651 (2)~~, or school board determines substantially relates to the care of children.

SECTION 67. 49.137 (2) (a) of the statutes is amended to read:

49.137 **(2)** (a) From the allocation under s. 49.155 (1g), the department may award grants to child care providers that meet the quality of care standards established under s. 49.155 (1d) ~~(b)~~ to improve the retention of skilled and experienced child care staff. In awarding grants under this subsection, the department shall consider the applying child care provider's total enrollment of children and average enrollment of children who receive or are eligible for publicly funded care from the child care provider.

SECTION 68. 49.137 (3) (a) of the statutes is amended to read:

49.137 **(3)** (a) From the allocation under s. 49.155 (1g), the department may award grants to child care providers for assistance in meeting the quality of care standards established under s. 49.155 (1d) ~~(b)~~.

SECTION 69. 49.155 (1) (am) of the statutes is repealed.

SECTION 70. 49.155 (1) (b) of the statutes is repealed.

SECTION 71. 49.155 (1d) (title) of the statutes is amended to read:

49.155 **(1d)** (title) CHILD CARE ~~CERTIFICATION RULES~~ QUALITY OF CARE STANDARDS.

SECTION 72. 49.155 (1d) (a) (intro.) of the statutes is renumbered 48.651 (1d) (a) and amended to read:

48.651 **(1d)** (a) The department shall promulgate rules establishing standards for the certification of child care providers under ~~s. 48.651 sub. (1)~~. The department shall consult with the child abuse and neglect prevention board before promulgating those rules. In establishing the requirements ~~for certification~~ under this paragraph for certification of a child care provider, the department shall include a requirement that all providers and all employees and volunteers of a provider who provide care and supervision for children receive, ~~before the date on which the provider is certified or the employment or volunteer work commences, whichever is applicable, all of the following:~~ the minimum health and safety training required under par. (b).

SECTION 73. 49.155 (1d) (a) 1. of the statutes is repealed.

SECTION 74. 49.155 (1d) (a) 2. of the statutes is repealed.

SECTION 75. 49.155 (1d) (am) of the statutes is repealed.

SECTION 76. 49.155 (1d) (b) of the statutes is renumbered 49.155 (1d).

SECTION 77. 49.155 (4) (a) of the statutes is amended to read:

49.155 **(4)** (a) An eligible individual shall choose whether the child care will be provided by a child care center licensed under s. 48.65, a Level I certified family child care provider certified under s. 48.651 (1) (a), a Level II certified family child care provider certified under s. 48.651 (1) (b), or a child care program provided or contracted for by a school board under s. 120.13 (14).

SECTION 78. 49.155 (6) (b) of the statutes is amended to read:

49.155 **(6)** (b) The department shall set maximum payment rates for Level I certified family child care providers certified under s. 48.651 (1) (a) for services

provided to eligible individuals under this section. The maximum rates set under this paragraph may not exceed 75 percent of the rates established under par. (a).

SECTION 79. 49.155 (6) (d) of the statutes is amended to read:

49.155 (6) (d) The department may promulgate rules to establish a system of rates or a program of grants for child care providers that meet the higher quality of care standards established by rules promulgated under sub. (1d) (b). If a system of rates is established under this paragraph, the rates under that system shall be higher than the rates established under pars. (a) to (c).

SECTION 80. 49.155 (7) (a) 1. of the statutes is amended to read:

49.155 (7) (a) 1. If a child care provider is convicted of a serious crime, as defined in s. ~~48.685~~ 48.686 (1) (c) ~~3m.~~, or if a caregiver specified in s. ~~48.685~~ 48.686 (1) (ag) 1. a. or a nonclient resident, as defined in s. ~~48.685~~ 48.686 (1) (bm), of the child care provider is convicted or adjudicated delinquent for committing a serious crime on or after his or her ~~12th~~ 10th birthday or if the department provides written notice under s. 48.686 (4p) that the child care provider, caregiver, or nonclient resident is ineligible for certification, employment, or residence at the child care provider, the department or the county department under s. 46.215, 46.22, or 46.23 shall refuse to allow payment to the child care provider for any child care provided under this section beginning on the date of the conviction or delinquency adjudication.

SECTION 81. 49.155 (7) (a) 2. of the statutes is amended to read:

49.155 (7) (a) 2. If a child care provider is the subject of a pending criminal charge alleging that the person has committed a serious crime, as defined in s. ~~48.685~~ 48.686 (1) (c) ~~3m.~~, or if a caregiver specified in s. ~~48.685~~ 48.686 (1) (ag) 1. ~~a.~~ or a nonclient resident, as defined in s. ~~48.685~~ 48.686 (1) (bm), of the child care provider is the subject of a pending criminal charge or delinquency petition alleging that the

person has committed a serious crime on or after his or her ~~12th~~ 10th birthday, the department or the county department under s. 46.215, 46.22, or 46.23 shall immediately suspend payment to the child care provider for any child care provided under this section until the department obtains information regarding the final disposition of the charge or delinquency petition indicating that the person is not ineligible to receive such a payment.

SECTION 82. 49.155 (7) (b) (intro.) of the statutes is amended to read:

49.155 (7) (b) (intro.) The department or the county department under s. 46.215, 46.22, or 46.23 may refuse to allow payment to a child care provider for child care provided under this section if any of the following applies to the child care provider or to a caregiver specified in s. ~~48.685~~ 48.686 (1) (ag) 1. a. or nonclient resident, as defined in s. ~~48.685~~ 48.686 (1) (bm), of the child care provider:

SECTION 83. 49.155 (7) (b) 1. of the statutes is amended to read:

49.155 (7) (b) 1. The person has been convicted of or adjudicated delinquent on or after his or her ~~12th~~ 10th birthday for committing an offense that is not a serious crime, as defined in s. ~~48.685~~ 48.686 (1) (c) ~~3m.~~, but the department, ~~county department, agency contracted with~~ under s. ~~48.651~~ (2), or school board determines under s. ~~48.685~~ 48.686 (5m) that the offense substantially relates to the care of children or the department ~~or county department~~ determines that the offense substantially relates to the operation of a business.

SECTION 84. 49.155 (7) (b) 2. of the statutes is amended to read:

49.155 (7) (b) 2. The person is a caregiver specified in s. ~~48.685~~ 48.686 (1) (ag) 1. ~~a.~~ or a nonclient resident, as defined in s. ~~48.685~~ 48.686 (1) (bm), and is the subject of a pending criminal charge that the department, county department, agency

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

SECTION 85. 120.13 (14) (a) of the statutes, as affected by 2017 Wisconsin Act (this act), is amended to read:

120.13 (14) (a) Establish and provide or contract for the provision of child care programs for children. The school board may receive federal or state funds for this purpose. The school board may charge a fee for all or part of the cost of the service for participation in a child care program established under this subsection. Costs associated with a child care program under this subsection may not be included in shared costs under s. 121.07 (6). Child care programs established under this subsection shall meet the standards for licensed child care centers established by the department of children and families. Pursuant to ss. 48.66 (1) (a), 48.73, and 48.74, the department of children and families may visit and inspect the premises of, inspect the records of, and investigate and prosecute any alleged violations occurring at any child care program established or contracted for under this subsection that receives payment under s. 49.155 for the child care provided. If a school board proposes to contract for the provision of a child care program under this subsection or if on July 1, 1996, a school board is a party to a contract for the provision of a child care program under this subsection, the school board shall refer the proposed contractor to the department of children and families for the criminal history and child abuse record search required under s. 48.685. ~~Each school board shall provide the department of health services with information about each person who is denied a contract for a reason specified in s. 48.685 (4m) (a) 1. to 5~~ 48.686.

***NOTE: This is reconciled s. 120.13 (14) (a). This SECTION has been affected by drafts with the following LRB numbers: -1355/P1 and -1391/P2.

SECTION 86. 120.13 (14) (b) 1. of the statutes is amended to read:

120.13 (14) (b) 1. If a person who has contracted under par. (a) to provide a child care program is convicted of a serious crime, as defined in s. ~~48.685~~ 48.686 (1) (c) ~~3m.~~, or if a caregiver specified in s. ~~48.685~~ 48.686 (1) (ag) 1. ~~a.~~ or a nonclient resident, as defined in s. ~~48.685~~ 48.686 (1) (bm), of the child care program is convicted or adjudicated delinquent for committing a serious crime on or after his or her ~~12th~~ 10th birthday, the school board shall rescind the contract of the contractor immediately upon providing written notice of the rescission and the grounds for the rescission and an explanation of the process for appealing the rescission.

SECTION 87. 120.13 (14) (b) 2. of the statutes is amended to read:

120.13 (14) (b) 2. If a person who has contracted under par. (a) to provide a child care program is the subject of a pending criminal charge alleging that the person has committed a serious crime, as defined in s. ~~48.685~~ 48.686 (1) (c) ~~3m.~~, or if a caregiver specified in s. ~~48.685~~ 48.686 (1) (ag) 1. ~~a.~~ or a nonclient resident, as defined in s. ~~48.685~~ 48.686 (1) (bm), of the child care program is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime on or after his or her ~~12th~~ 10th birthday, the school board shall immediately suspend the contract of the contractor until the school board obtains information regarding the final disposition of the charge or delinquency petition indicating that the person is not ineligible to provide a child care program under this subsection.

SECTION 88. 938.396 (2g) (o) of the statutes is amended to read:

938.396 (2g) (o) *Criminal history record search.* If a juvenile is adjudged delinquent for committing a serious crime, as defined in s. ~~48.685~~ (1) (c) or 48.686 (1) (c), the court clerk shall notify the department of justice of that fact. No other information from the juvenile's court records may be disclosed to the department of

justice except by order of the court. The department of justice may disclose any information provided under this subsection only as part of a criminal history record search under s. 48.685 (2) (am) 1. or (b) ~~1. a. 1m. or s. 48.686 (2) (am).~~

SECTION 9106. Nonstatutory provisions; Children and Families.

(1) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes, the department of children and families may promulgate the rules required under sections 48.685 (9) and 48.686 (8) of the statutes as emergency rules. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department of children and families is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

SECTION 9406. Effective dates; Children and Families.

(1) CHILD CARE BACKGROUND CHECKS. The treatment of sections 20.435 (6) (jm), 20.437 (1) (jm) and (2) (jn), 48.65 (1), 48.651 (1) (intro.), (a), and (b), (1d) (b), (2), (2m), and (3) (a) and (b), 48.66 (5), 48.68 (1), 48.685 (1) (ag) 1. b., (b), (bm), and (c) 3m. and 4., (2) (am) (intro.) and 5., (ar), (b) 1. (intro), a., b., c., d., and e., 2., and 4., (bb), (bd), (bg), (bm), and (br), (3) (a), (am), (b), and (bm), (3m), (4m) (a) (intro.) and 1., (ad), (b) 1., (c), and (d), (5) (a), (bm) (intro.), and (br), (5c) (a) and (c), (5m), (6) (a), (am), and (b) 1., 2., and 4., (8), and (9), 48.686, 48.715 (4g) (a) and (b), 48.981 (7) (cp), 49.133 (1m) (a) and (b) and (2m) (intro.), (a), and (b), 49.137 (2) (a) and (3) (a), 49.155 (1) (am) and (b), (1d) (title), (a) (intro.), 1., and 2., (am), and (b), (4) (a), (6) (b) and (d), (7) (a) 1. and 2., and (b) (intro.), 1., and 2., 120.13 (14) (a) (by SECTION 85) and (b) 1. and 2., and 938.396 (2g) (o) of the statutes, the renumbering and amendment of section 48.685

(1) (am) of the statutes, and the creation of section 48.685 (1) (am) 1., 2., and 3. of the statutes take effect on September 30, 2018.

(END)