



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

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Joint Committee on Finance

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Child Care Background Checks (Children and Families -- Economic Support and Child Care)

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CURRENT LAW

Current law includes provisions regarding background checks and findings that disqualify persons from being licensed or certified to operate a facility that provides care and services to children, to be employed by such a facility, or to be a nonclient resident of such a facility. These statutes also include an appeal process and a process for persons to demonstrate that they have been rehabilitated after previously committing a relevant offense. The current statutes apply to the following entities: (a) a child welfare agency that is licensed to provide care and maintenance for children, to place children for adoption, or to license foster homes; (b) a licensed foster home; (c) an interim caretaker to whom subsidized guardianship payments are made; (d) a person who is proposed to be named as a successor guardian; (e) a licensed group home or shelter care facility; (f) an organization that facilitates delegations of the care and custody of children; (g) a temporary employment agency that provides caregivers to another entity; (h) a child care center that is licensed by DCF or established or contracted for by a school board; and (i) a certified child care provider. They also apply to individuals employed as caregivers by such facilities and nonclient residents.

GOVERNOR

In order to conform with federal law and update the licensing procedures and requirements of child care providers, the bill would remove child care providers under (h) and (i) above from the existing state statutes and create similar new provisions that would apply to such entities. The current statutes, with modifications, would continue to apply to the other types of entities identified above.

The new provisions regarding background checks of child care providers would be largely

similar to the current provisions that apply to child care facilities and other entities that provide care and services for children, except that the bill would make several changes to bring state law relating to child care providers into compliance with the Child Care Development Block Grant Act of 2014 and related federal regulations.

In relevant part, the bill would require a background check of a person who is not a resident of this state or who has not been a resident of this state at any time within the five preceding years to include a criminal history, sex offender registry, and child abuse and neglect registry search of all states in which the person was a resident in the preceding five years. Current law requires a background check to include those searches if the person is not a resident of this state or has not been a resident of this state at any time within the three years preceding the background check.

Further, the bill would delete a provision relating to criminal history and child abuse record searches for the purpose of licensing and certifying a person to operate a child care center or permitting a person to be a caregiver or nonclient resident of a child care provider. This provision defines the "serious crimes" that disqualify an applicant as including various violations, such as homicide, substantial bodily harm, and human trafficking. The provision would be recreated in the new section related to background checks of child care providers.

MODIFICATION

Modify the bill to change all references to the look-back period for background checks of residents of other states from three years to five years. Further, clarify that if DCF learns that a caregiver is the subject of a pending investigation for a crime or offense that could result in a bar to employment as a caregiver at an entity, DCF may notify the entity of the pending investigation. This would also modify the bill to remove notice for pending investigations of nonclient residents. Also, restore and modify a subdivision that would be repealed by the bill which defines the "serious crimes" that disqualify an applicant as including various violations, such as homicide, substantial bodily harm, and human trafficking. Instead of repealing this subdivision (after creating a substantially similar provision in the new section relating to child care provider background checks), the bill would be modified so that the definition would also apply for the purposes of licensing a foster care home and providing subsidized guardianship payments. Finally, in the provisions related to the duties of county child welfare departments and agencies, update a reference to child welfare background checks to also refer to the newly created section for child care provider background checks.

Explanation: This modification is intended to correct errors in the bill. In regards to background checks of residents of other states, the administration indicates that the bill inadvertently failed to update all references from "three years" to "five years" as intended for compliance with federal law. Further, the language of the bill relating to pending criminal investigations that could result to a bar to employment states that DCF may become "the entity of the pending investigation." This section was intended to state that DCF "may notify" the entity of the pending investigation. DCF also indicates that the bill contains two additional errors. First, a subdivision defining the "serious crimes" which may disqualify a child care provider from receiving a license was repealed from the background check section for child welfare because it related only to child care (which the bill transfers to another

section). However, DCF indicates that the provision should also exist for child welfare background checks. Second, the bill inadvertently left out a cross reference to the newly created section for child care provider background checks.

Prepared by: John D. Gentry