

Caregiver Background Check (CBC) FAQ - Certified Operators

1. What is the Caregiver Law?

Answer: The Caregiver Law was enacted to protect vulnerable persons in regulated settings such as a certified child care program. The law:

- Defines serious crimes that bar individuals from owning, working as a caregiver or living at a regulated child care facility;
- Specifies when an initial Caregiver Background Check is required and the frequency thereafter;
- Specifies when an initial Background Information Disclosure (BID) form is required;
- Requires multiple database checks.

2. Does the Caregiver Law apply to agencies that a certified program contracts with to provide services, such as a transportation company?

Answer: Yes, if the child care program is providing the service (either by transporting children themselves or contracting with a company to provide the transportation on behalf of the certified program) the Caregiver Law applies to any person who will serve as a caregiver. A driver of a vehicle is considered a caregiver because s/he will have regular, direct contact with the children in care.

3. What is a “caregiver”?

Answer: “Caregiver” is defined in s. 48.685(1)(ag), Wis. Stats. To summarize, it is the certified operator, employee, contractor or other individual the child care program is responsible for, and has, or is expected to have, regular direct contact with children in care. Some individuals working in a certified program are not considered caregivers and may not need a CBC. Examples may include:

- A person who performs solely clerical, administrative, maintenance or other support functions for a program and who is not expected to have regular direct contact with children in care;
- A person who is employed by or under contract with a program to provide infrequent or occasional services that are not directly related to the care of children;

4. What is a “nonclient resident”?

Answer: “Nonclient resident” is defined in s. 48.685(1)(bm), Wis. Stats. To summarize, it is any individual that resides at the child care home/center and has, or is expected to have, regular direct contact with children in care.

5. What does “direct contact” mean?

Answer: “Direct contact” is defined in s. 48.685(1)(av), Wis. Stats. To summarize, it is a face-to-face physical presence that would allow an opportunity for the person to abuse or neglect a child in care.

6. Who is subject to a Caregiver Background Check?

Answer:

- Applicants for certification; certified operators;
- Caregivers in a regulated program including adult employees, minor employees, assistants and volunteers who provide care and supervision to children;
- Adult household members in a regulated program (minor household members ages 12-17 if BID form disclosure requires a CBC);
- Students whose placement is more than 60 days;
- In some cases, extended stay visitors who live on the premises more than 60 days.

7. What are the components of a “complete” caregiver background check?

Answer: The CBC is the process by which the certifying agency (or in some cases, the dually regulated child care provider) gathers prescribed information from a variety of sources to determine whether an individual may:

- Hold a child care certification;
- Have direct regular contact with children; or
- Be a household member in a child care setting.

A complete CBC consists of the following components:

1. Background Information Disclosure (BID) form;
2. Wisconsin Department of Justice (DOJ) Criminal Record Name-Based Check;
3. DHS/IBIS results, otherwise known as “Response to the Caregiver Background Check” that is included when requesting a “day care” criminal record check;
4. National Sex Offender Registry check;
5. Records required by s. 48.685(2)(bb), Wis. Stats.: the criminal complaint or final disposition from the clerk of courts when the CBC information indicates a charge of a serious crime but does not completely and clearly indicate the final disposition; or the BID form indicates a charge or conviction of a serious crime but the charge or conviction is not contained in the CBC results. The criminal complaint and judgment of conviction must be obtained from the clerk of courts when the CBC results contain a conviction of a violation of s. 940.19(1), 940.195, 940.20, 941.30, 942.08, 947.01(1), or 947.013 within 5 years of the date of the CBC;
6. A review of child abuse and neglect findings or pending investigations related to applicants, employees and prospective employees, volunteers, and individuals living in the applicant/operator’s home;
7. Wisconsin Act 20 was passed on July 2, 2013, which requires a one-time fingerprint based criminal background search for certified operators, adult household members, and all adult caregivers in the regulated child care program if the child care program is receiving or eligible to receive Wisconsin Shares.

8. Who conducts the Caregiver Background Check (CBC)?

Answer: The local certification agency conducts the caregiver background checks on the applicant/operator, adults who reside in the home, minors (ages 12-17) who reside in home and any adult or minor caregivers (ages 12-17). A criminal background check (DOJ) is completed for a minor if certain disclosures on a BID form require it. In some cases the certified operator (if the operator also holds a license) is responsible for conducting the caregiver background checks on adult caregivers.

9. What documentation must a certification worker maintain in a certified operator file/record to demonstrate a complete caregiver background check has been conducted?

Answer:

- The BID form completed prior to certification for individuals subject to the Caregiver Law and for any new adults household members or caregivers before work commences;
- The DOJ criminal record name-based search results, even if it indicates no record was found;
- DHS/IBIS result otherwise known as “Response to the Caregiver Background Check”;
- Information that is contained in the national sex offender registry regarding whether the person has committed a sex offense that is a serious crime;
- Any court records required by s. 48.685(2)(bb), Wis. Stats. and/or the results of any subsequent investigation of information obtained as part of the background check. This may include police records, court records or other documentation used to determine if an offense is substantially related to caring for children;
- Documentation of a check of child abuse/neglect records;
- If applicable, results of the fingerprint-based record search results, even if it indicates no record found.

10. When and how often does the certification agency conduct caregiver background checks?

Answer: The DOJ criminal record name-based search and the Response to Caregiver Background Check are conducted by the certification agency upon initial application and every 12 months thereafter. Additionally at initial application, the certification agency conducts a statewide search of the department’s child abuse and neglect records, the National Sex Offender Registry and, in some cases, the Wisconsin Circuit Court (CCAP) records. Once a child care provider becomes certified, automatic checks of CCAP, Wisconsin Sex Offender Registry and child abuse and neglect findings are conducted monthly by the Department of Children and Families.

Note: The certification agency will determine if a complete caregiver background check is required for household members 12 to 17 years of age using the responses provided on the BID form.

11. How much does the CBC cost?

Answer: Contact the certification agency in your county/tribe for detailed information regarding fee policies.

- The name-based Criminal Record Check and DHS Response to Caregiver Check request is \$10.00 per individual;
- National Sex Offender Registry: There is no cost to check the National Sex Offender Registry website;
- Check of state-wide child abuse/neglect records: There is no cost to check the CPS records;

- There may be additional fees to obtain police reports or court records from the clerk of courts including criminal complaints, final disposition of the complaint or judgments of conviction;
- A fingerprint-based criminal record search (if required) is \$32.75 (\$15.00 for the DOJ criminal record search, \$14.75 for the FBI criminal record search and \$3.00 for the DHS Response to Caregiver Check results). Depending on where an individual has their prints collected, there may be additional fees associated with the print capture.

12. How long does it take for a name-based DOJ/IBIS check to be done?

Answer: When the criminal name-based record check is completed electronically, the DOJ checks the criminal history database and sends two separate results of this check to the certification agency through the DOJ website, usually in less than 24 hours. The results will include the DOJ criminal name-based search and the DHS Response to Caregiver Check results (IBIS). Any subsequent investigation of Clerk of Court records, police reports, etc. may extend the time-frame for a CBC to be completed.

13. I hold both a license and certification to care for children. Which agency conducts the CBC?

Answer: If a provider is dually-regulated, the DCF Caregiver Background Unit will conduct the caregiver background check on the licensee, household members and minor caregiver employees (ages 12 – 17). The licensee/certified operator will conduct the CBC for any adult caregiver employees.

DCF 202.08(1)(d) requires certified operators to have substitutes, employees and volunteers approved by the certification agency before employment or volunteer work commences. DCF, however, requires the licensee to conduct caregiver background checks for their adult employees and certification workers must review the caregiver background check results/records at the certified site. The certifier may offer/ arrange with the licensee to conduct the CBC on the employees/volunteers who work during the certified hours of operation.

14. When is an out of state check required?

Answer: If an individual subject to the Caregiver Law resides outside of Wisconsin or was not a Wisconsin resident at any time within the last 3 years (including military service), a national fingerprint-based check is required or the certification agency must obtain the criminal record search results from the Wisconsin DOJ and each state or other US jurisdiction where the person resided during that time. The cost of a criminal record check varies by state. The department recommends the certification agency conduct a national fingerprint-based criminal record search when an out of state check is required for an individual. The national check meets the new one-time fingerprint-based background check requirement for Wisconsin Shares, covers all states, is faster and may be less expensive. Once an out of state criminal record is obtained and the person remains a Wisconsin state resident, subsequent name-based record checks are conducted through the Wisconsin DOJ.

If a caregiver or other individual subject to the Caregiver Law resides out of state and works in Wisconsin, there are two options:

Option 1: The certification agency conducts an annual fingerprint-based check, submitted through the Wisconsin DOJ, which will return the national criminal records search results, the Wisconsin DOJ results and the DHS Response to Caregiver Background Check results; or

Option 2: Conduct an annual Wisconsin DOJ name-based criminal record check and an annual background check in the state where the person resides.

Note: If the certified operator is receiving or eligible to receive Wisconsin Shares payments, the fingerprint-based criminal record check meets the 2013 Wisconsin Act 20 one-time fingerprint background check requirement.

15. What type of caregiver background related information is the certified operator required to report to the certification agency?

Answer: In order for the certification agency to conduct the required CBCs, the applicant/operator must report as soon as possible but no later than the certification agency's next working day:

- Any individuals moving in or out of the home;
- The hiring of a new employee or volunteer before the employment or volunteer work commences;
- Any incident involving law enforcement, including outstanding warrant or child protective services contact;
- Any convictions, pending charges or other offenses of the operator, a caregiver, employee, household member or other person subject to a CBC that may potentially relate to the care of children;
- Any suspected abuse or neglect of a child by an operator, volunteer, employee/caregiver, or household member that was reported or any inappropriate discipline of a child by a provider, volunteer or household member including any incident that results in a child being forcefully shaken or throw against a hard or soft surface during the child's hours of attendance;
- Changes in the physical address of the certified program and any changes in the hours of operation.

Note: For a complete list of changes that a certified operator must report to the certification agency by the agency's next working day see [DCF 202.08\(1\)\(c\)](#).