

## APPENDIX B

## KEY STATUTES RELATED TO LICENSING OF CHILD CARE CENTERS

This appendix is based upon the 2019-20 Wisconsin Statutes updated through all Supreme Court and Controlled Substances Board Orders filed before and in effect on January 1, 2021. Only pertinent portions of the statutes are included here and were obtained at [docs.legis.wisconsin.gov](https://docs.legis.wisconsin.gov). Action by the legislature may result in changes to these statutes. Only printed volumes are Official Text under s. 35.18(2), Wis. Stats.

**48.02 Definitions. [2019]**

(8) "Guardian" means the person named by the court having the duty and authority of guardianship.

(13) "Parent" means a biological parent, a husband who has consented to the artificial insemination of his wife under s. 891.40, or a parent by adoption. If the child is a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, "parent" includes a person conclusively determined from genetic test results to be the father under s. 767.804 or a person acknowledged under s. 767.805 or a substantially similar law of another state or adjudicated to be the biological father. "Parent" does not include any person whose parental rights have been terminated. For purposes of the application of s. 48.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, "parent" means a biological parent, an Indian husband who has consented to the artificial insemination of his wife under s. 891.40, or an Indian person who has lawfully adopted an Indian child, including an adoption under tribal law or custom, and includes, in the case of a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, a person conclusively determined from genetic test results to be the father under s. 767.804, a person acknowledged under s. 767.805, a substantially similar law of another state, or tribal law or custom to be the biological father, or a person adjudicated to be the biological father, but does not include any person whose parental rights have been terminated.

(15) "Relative" means a parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, aunt, step-uncle, step-aunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person named in this subsection, even if the marriage is terminated by death or divorce. For purposes of the application of s. 48.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, "relative" includes an extended family member, as defined in s. 48.028 (2) (am), whether by blood, marriage, or adoption, including adoption under tribal law or custom. For purposes of placement of a child, "relative" also includes a parent of a sibling of the child who has legal custody of that sibling.

**48.48 Authority of department. [2019]** The department shall have authority: (10) To license child welfare agencies and child care centers as provided in s. 48.66(1)(a).

**48.65 Child care centers licensed; fees. [2017]**

(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. 48.686, 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).

(2) This section does not include any of the following:

(a) A parent, grandparent, great-grandparent, step-parent, brother, sister, first cousin, nephew, niece, uncle, or aunt of a child, whether by blood, marriage, or legal adoption, who provides care and supervision for the child.

(am) A guardian of a child who provides care and supervision for the child.

(b) A public or parochial school or a tribal school.

(c) A person employed to come to the home of the child's parent or guardian for less than 24 hours a day.

(d) A county, city, village, town, school district or library that provides programs primarily intended for recreational or social purposes.

(3) (a) Except as provided in par. (c), before the department may issue a license under sub. (1) to a child care center that provides care and supervision for 4 to 8 children, the child care center must pay to the department a biennial fee of \$60.50. Except as provided in par. (c), before the department may issue a license under sub. (1) to a child care center that provides care and supervision for 9 or more children, the child care center must pay to the department a biennial fee of \$30.25, plus a biennial fee of \$16.94 per child, based on the number of children that the child care center is licensed to serve. A child care center that wishes to continue a license issued under sub. (1) shall pay the applicable fee under this paragraph by the continuation date of the license. A new child care center shall pay the applicable fee under this paragraph no later than 30 days before the opening of the child care center.

(b) A child care center that wishes to continue a license issued under par. (a) and that fails to pay the applicable fee under par. (a) by the continuation date of the license or a new child care center that fails to pay the applicable fee under par. (a) by 30 days before the opening of the child care center shall pay an additional fee of \$5 per day for every day after the deadline that the child care center fails to pay the fee.

(c) An individual who is eligible for a fee waiver under the veterans fee waiver program under s. 45.44 is not required to pay a fee under par. (a) for a license under sub. (1).

**48.66 Licensing duties of the department. [2019]**

(1)(a) Except as provided in s. 48.715 (6) and (7), the department shall license and supervise child welfare agencies, as required by s. 48.60, group homes, as required by s. 48.625, shelter care facilities, as required by s. 938.22, and child care centers, as required by s. 48.65. The department may license foster homes, as provided by s. 48.62, and may license and supervise county departments in accordance with the procedures specified in this section and in ss. 48.67 to 48.74. The department may supervise a child care program established or contracted for under s. 120.13 (14) that receives payment under s. 49.155 for the child care provided. In the discharge of this duty the department may inspect the records and visit the premises of all child welfare agencies, group homes, shelter care facilities, and child care centers and visit the premises of all foster homes in which children are placed. The department may also inspect the records and visit the premises of all child care programs established or contracted for under s. 120.13 (14) that receive payment under s. 49.155 for the child care provided.

(c) A license issued under par. (a) or (b), other than a license to operate a foster home or secured residential care center for children and youth, is valid until revoked or suspended. A license issued under this subsection to operate a foster home or secured residential care center for children and youth may be for any term not to exceed 2 years from the date of issuance. No license issued under par. (a) or (b) is transferable.

(2) The department shall prescribe application forms to be used by all applicants for licenses from it. The application forms prescribed by the department shall require that the social security numbers of all applicants for a license to operate a child welfare agency, group home, shelter care facility, or child care center who are individuals, other than an individual who does not have a social security number and who submits a statement made or subscribed under oath or affirmation as required under sub. (2m) (a) 2., be provided and that the federal employer identification numbers of all applicants for a license to operate a child welfare agency, group home, shelter care facility, or child care center who are not individuals be provided.

(2m)(a)1. Except as provided in subd. 2., the department shall require each applicant for a license under sub. (1) (a) to operate a child welfare agency, group home, shelter care facility, or child care center who is an individual to provide that department with the applicant's social security number, and shall require each applicant for a license under sub. (1) (a) to operate a child welfare agency, group home, shelter care facility, or child care center who is not an individual to provide that department with the applicant's federal employer identification number, when initially applying for or applying to continue the license.

2. If an applicant who is an individual does not have a social security number, the applicant shall submit a statement made or subscribed under oath or affirmation to the department that the applicant does not have a social security number. The form of the statement shall be prescribed by the department. A license issued in reliance upon a false statement submitted under this subdivision is invalid.

(b) If an applicant who is an individual fails to provide the applicant's social security number to the department or if an applicant who is not an individual fails to provide the applicant's federal employer identification number to the department, that department may not issue or continue a license under sub. (1) (a) to operate a child welfare agency, group home, shelter care facility, or child care center to or for the applicant unless the applicant is an individual who does not have a social security number and the applicant submits a statement made or subscribed under oath or affirmation as required under par. (a) 2.

(c) The subunit of the department that obtains a social security number or a federal employer identification number under par. (a) 1. may not disclose that information to any person except to the department of revenue for the sole purpose of requesting certifications under s. 73.0301 and to the department of workforce development for the sole purpose of requesting certifications under s. 108.227 or on the request of the subunit of the department that administers the child and spousal support program under s. 49.22 (2m).

(3) The department shall prescribe the form and content of records to be kept and information to be reported by persons licensed by it.

(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), 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).

**48.67 Rules governing child welfare agencies, child care centers, foster homes, group homes, shelter care facilities, and county departments. [2015]**

The department shall promulgate rules establishing minimum requirements for the issuance of licenses to, and establishing standards for the operation of, child welfare agencies, child care centers, foster homes, group homes, shelter care facilities, and county departments. Those rules shall be designed to protect and promote the health, safety, and welfare of the children in the care of all licensees. The department shall consult with the department of safety and professional services, the department of public instruction, and the child abuse and neglect prevention board before promulgating those rules. For foster homes, those rules shall include the rules promulgated under s. 48.62 (8). Those rules shall include rules that require all of the following:

(1) That all child care center licensees, and all employees and volunteers of a child care center, who provide care and supervision for children under one year of age receive, before the date on which the license is issued or the employment or volunteer work commences, whichever is applicable, training in the most current medically accepted methods of preventing sudden infant death syndrome. The rules shall provide that any training in those methods that a licensee has obtained in connection with military service, as defined in s. 111.32 (12g), counts toward satisfying the training requirement under this subsection if the licensee demonstrates to the satisfaction of the department that the training obtained in that connection is substantially equivalent to the training required under this subsection.

(2) That all child care center licensees, and all employees and volunteers of a child care center, who provide care and supervision for children under 5 years of age receive, before the date on which the license is issued or the employment or volunteer work commences, whichever is applicable, the training relating to shaken baby syndrome and impacted babies required under s. 253.15 (4) (a) or (c).

(3) (a) That all child care center licensees, and all employees of a child care center, who provide care and supervision for children have current proficiency in the use of an automated external defibrillator, as defined in s. 256.15 (1) (cr), achieved through instruction provided by an individual, organization, or institution of higher education that is approved under s. 46.03 (38) to provide such instruction or through instruction obtained by the licensee in connection with military service, as defined in s. 111.32 (12g), if the licensee demonstrates to the satisfaction of the department that the instruction obtained in that connection is substantially equivalent to the instruction provided by a person approved under s. 46.03 (38).

**48.68 Investigation of applicant; issuing of license. [2017]**

(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 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.

**48.686 Criminal history and child abuse record search; child care. [2019]**

(1) In this section:

(ac) "Approval" means a child care center license under s. 48.65, a child care provider certification under s. 48.651, or a contract with a child care provider under s. 120.13(14).

(ag) "Caregiver" means any of the following:

1. An employee or contractor of a child care program who is involved in the care or supervision of clients.

1m. A person who has direct contact and 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.

(bm) "Household member" 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.

(bo) "Licensing entity" means all of the following:

1. The department when licensing a child care center under s. 48.65.
2. The department in a county with a population of 750,000 or more, a county department, or an agency or Indian tribe contracted with under s. 48.651(2) when certifying a child care provider under s. 48.651.
3. A school board when contracting with a child care provider under s. 120.13(14).

(bp) "Noncaregiver employee" means a person who provides services to a child care program as an employee or a contractor and is not a caregiver, but whose work at the child care program provides the ability to move freely throughout the premises and opportunities for interactions with clients of the child care program.

(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, 943.02, 943.03, 943.04, 943.10(2), 943.32(2), 948.081, 948.21, 948.215, or 948.53(2)(b)1.
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. 346.63(1), (2), (5), or (6) that is a felony under s. 346.65(2)(am)4., 5., 6., or 7. or (f), (2j)(d), or (3m), or an offense under ch. 961 that is a felony.

10. A violation of s. 948.22(2), 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 s. 940.225 if the victim was a child.

(2)(a) A licensing entity shall require any person who applies for an initial approval to operate a child care program to submit the information required for a background check request under par. (ag). If the licensing entity is a school board, county department, or contracted agency or tribe, the licensing entity shall submit the completed background information request to the department.

(ab) Each child care program shall submit a request to the department for a background check for each potential caregiver, noncaregiver employee, and household member prior to the date on which an individual becomes a caregiver, noncaregiver employee, or household member, and at least once

during every 5-year period for each existing caregiver, noncaregiver employee, or household member, except if all of the following apply to the individual:

1. The individual has received a background check as described in par. (am) while working or seeking work with 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 individual.

3. The individual works or resides at a child care program within the state or has been separated from work 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 background check.

2. A request for a 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 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 the individual who is the subject of the request:

1. A fingerprint-based or name-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 background check records.

(ar) After receiving a request under par. (a) or (ab), the department shall conduct the background check as expeditiously as possible and shall make a good faith effort to complete all components of the 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 household member under 18 years of age whose background check request under par. (ag) indicates that the household member 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 at the child care program 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 household member described in this paragraph.

(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, noncaregiver employees, and household members.

(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), a licensing entity may not issue an approval to operate a child care program to a person, and a child care program may not employ or contract with a caregiver or noncaregiver employee or permit a household member to reside at the child care program if the licensing entity 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 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.

2. That the person is registered or is required to be registered on a state sex offender registry or repository or the national sex offender registry.

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 receive an approval to operate a child care program, to be employed by a child care program, or to be a household member of 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 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 background check described in sub. (2).

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

(ad) A licensing entity may issue an approval to operate a child care program to a person 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 noncaregiver employee or permit a potential household member 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 individual is not ineligible to work or reside at a child care program. At all times that clients of a child care program 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 caregiver, noncaregiver employee, or household member permitted to work or reside at the child care program under this paragraph.

(4p)(a) The department shall provide the results of the 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 offense or other information regarding the individual.

(b) The department shall provide the results of the 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 offense 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, noncaregiver employee, or household member 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 working or residing at a child care program on the basis of a background check under sub. (2)(am)1. or 7. If the individual is ineligible to work or reside 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 offense.

(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 background check.

**(4s)(a)** An individual who is the subject of the department's report on the results of a 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 10 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 10 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 electronic mail 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 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 individual background report it issues, except that the department may release aggregated data by crime as listed in sub. (1)(c) from background check results so long as the data does not contain personally identifiable information. The department may disclose and use information obtained in conducting background checks as necessary during an appeal or reconsideration under this subsection or for another lawful purpose.

**(5)(a)** A person may have the opportunity to demonstrate his or her rehabilitation to the department or to a tribe authorized to conduct a rehabilitation review under sub. (5d) if any of the following apply:

1. An investigation under sub. (2)(am) indicates that sub. (4m)(a)2., 3., or 4. applies to the person.

2. An investigation under sub. (2)(am) indicates that the person has been convicted or adjudicated delinquent of a serious crime as specified under sub. (1)(c)9. 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)9. if committed in this state, and the person completed his or her sentence, including any probation, parole, or extended supervision, or was discharged by the department of corrections, more than 5 years before the date of the investigation under sub. (2)(am).

(b) If the department or tribe determines that the person has demonstrated rehabilitation in accordance with procedures established by the department by rule or by the tribe and by clear and convincing evidence, the prohibition in sub. (4m)(a) does not apply.

**(5c)** 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.

**(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), the number of persons who successfully demonstrated that they have been rehabilitated under sub. (5), 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, a licensing entity may refuse to issue an approval to operate a child care program to a person, and a child care program may refuse to employ or contract with a caregiver or noncaregiver employee or permit a household member to reside at the child care program if the person has been convicted of or adjudicated delinquent 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 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 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.

History: 2017 a. 59; 2017 a. 364 s. 49; 2019 a. 9; s. 35.17 correction in (1)(c)12. In this case, the revocation of the petitioner's license under the caregiver law did not violate the petitioner's due process rights because the state provided adequate post-deprivation remedies. Petitioner's equal protection claim failed because the law does pass the rational basis test. Regardless of whether the law is rationally related to the goal of protecting children,



the law is rationally related to the legitimate purpose of prohibiting individuals who dishonestly benefitted from government welfare in the past from obtaining government funding in the form of childcare subsidies. *Brown v. Department of Children and Families*, 2012 WI App 61, 341 Wis. 2d 449, 819 N.W.2d 827, 11–1350. See also *Blake v. Jossart*, 2016 WI 57, 370 Wis. 2d 1, 884 N.W.2d 484, 12–2578.

*Jamerson*, 2013 WI 7, instructs that prior to establishing that a conviction satisfies the requirements of s. 48.685(5)(br)5. [now sub. (1)(c)8.], evidence must clearly show that the conviction was for fraudulent activity. The title of the conviction and an uncorroborated criminal complaint presented at the administrative appeal hearing were insufficient to meet this standard. *Blake v. Racine County Human Services Department*, 2013 WI App 45, 347 Wis. 2d 499, 831 N.W.2d 439, 12–0031.

NOTE: The above annotations relate to licensure under the caregiver law under s. 48.685, stats., prior to the repeal of that section and the creation of s. 48.686 by 2017 Wis. Act 59.

**48.69 Probationary licenses. [2009]** Except as provided under s. 48.715(6) and (7), if any child welfare agency, shelter care facility, group home, or child care center that has not been previously issued a license under s. 48.66(1)(a) applies for a license, meets the minimum requirements for a license established under s. 48.67, and pays the applicable fee referred to in s. 48.68(1), the department shall issue a probationary license to that child welfare agency, shelter care facility, group home, or child care center. A probationary license is valid for up to 6 months after the date of issuance unless renewed under this section or suspended or revoked under s. 48.715. Before a probationary license expires, the department shall inspect the child welfare agency, shelter care facility, group home, or child care center holding the probationary license and, except as provided under s. 48.715(6) and (7), if the child welfare agency, shelter care facility, group home, or child care center meets the minimum requirements for a license established under s. 48.67, the department shall issue a license under s. 48.66(1)(a). A probationary license issued under this section may be renewed for one 6-month period.

**48.70 Provisions of licenses. [2009]**

(1) GENERAL. Each license shall state the name of the person licensed, the premises included under the license, the maximum number of children who can be received and their age and sex and such additional information and special conditions as the department may prescribe.

**48.715 Sanctions and penalties. [2019]**

(1) In this section, "licensee" means a person who holds a license under s. 48.66(1)(a) or a probationary license under s. 48.69 to operate a child welfare

agency, shelter care facility, group home, or child care center.

(2) If the department provides written notice of the grounds for a sanction, an explanation of the types of sanctions that may be imposed under this subsection and an explanation of the process for appealing a sanction imposed under this subsection, the department may order any of the following sanctions:

(a) That a person stop operating a child welfare agency, shelter care facility, group home, or child care center if the child welfare agency, shelter care facility, group home, or child care center is without a license in violation of s. 48.66(1)(a) or a probationary license in violation of s. 48.69.

(b) That a person who employs a person who has had a license under s. 48.66(1)(a) or a probationary license under s. 48.69 revoked within the previous 5 years terminate the employment of that person within 30 days after the date of the order. This paragraph includes employment of a person in any capacity, whether as an officer, director, agent or employee.

(c) That a licensee stop violating any provision of licensure under s. 48.70(1) or rule promulgated by the department under s. 48.658(4)(a) or 48.67.

(d) That a licensee submit a plan of correction for violation of any provision of licensure under s. 48.70(1) or rule promulgated by the department under s. 48.658(4)(a) or 48.67.

(e) That a licensee implement and comply with a plan of correction provided by the department or previously submitted by the licensee and approved by the department.

(f) That a licensee close the intake of any new children until all violations of the provisions of licensure under s. 48.70(1) and the rules promulgated by the department under s. 48.658(4)(a) or 48.67 are corrected.

(g) That a licensee provide training for the licensee's staff members as specified by the department.

(3) If the department provides written notice of the grounds for a penalty, an explanation of the types of penalties that may be imposed under this subsection, and an explanation of the process for appealing a penalty imposed under this subsection, the department may impose any of the following penalties against a licensee or any other person who violates a provision of licensure under s. 48.70(1) or rule promulgated by the department under s. 48.658(4)(a) or 48.67 or who fails to comply with an order issued under sub. (2) by the time specified in the order:

(a) A daily forfeiture amount per violation of not less than \$10 nor more than \$1,000. All of the following apply to a forfeiture under this paragraph:

1. Within the limits specified in this paragraph, the department may, by rule, set daily forfeiture amounts

and payment deadlines based on the size and type of facility or agency and the seriousness of the violation. The department may set daily forfeiture amounts that increase periodically within the statutory limits if there is continued failure to comply with an order issued under sub. (2).

2. The department may directly assess a forfeiture imposed under this paragraph by specifying the amount of that forfeiture in the notice provided under this subsection.

3. A person against whom the department has assessed a forfeiture shall pay that forfeiture to the department within 10 days after receipt of notice of the assessment or, if that person contests that assessment under s. 48.72, within 10 days after receipt of the final decision after exhaustion of administrative review or, if that person petitions for judicial review under ch. 227, within 10 days after receipt of the final decision after exhaustion of judicial review. The department shall remit all forfeitures paid under this subdivision to the secretary of administration for deposit in the school fund.

4. The attorney general may bring an action in the name of the state to collect any forfeiture imposed under this paragraph that has not been paid as provided in subd. 3. The only contestable issue in an action under this subdivision is whether or not the forfeiture has been paid.

(b) Suspension of the licensee's license for not more than 2 weeks.

(c) Refusal to continue a license or a probationary license.

(d) Revocation of a license or a probationary license as provided in sub. (4).

**(4)** If the department provides written notice of revocation and the grounds for revocation as provided in sub. (4m) and an explanation of the process for appealing a revocation under this subsection, the department may revoke a license issued under s. 48.66(1)(a) or a probationary license issued under s. 48.69 for any of the following reasons:

(a) The department has imposed a penalty on the licensee under sub. (3) and the licensee or a person under the supervision of the licensee either continues to violate or resumes violation of a rule promulgated under s. 48.658(4)(a) or 48.67, a provision of licensure under s. 48.70(1), or an order under this section forming any part of the basis for the penalty.

(b) The licensee or a person under the supervision of the licensee has committed a substantial violation, as determined by the department, of a rule promulgated under s. 48.658(4)(a) or 48.67, a provision of licensure under s. 48.70(1), or an order under this section.

(c) The licensee or a person under the supervision of the licensee has committed an action or has created a condition relating to the operation or

maintenance of the child welfare agency, shelter care facility, group home, or child care center that directly threatens the health, safety, or welfare of any child under the care of the licensee.

(d) The licensee or a person under the supervision of the licensee has violated, as determined by the department, a rule promulgated under s. 48.658(4)(a) or 48.67, a provision of licensure under s. 48.70(1), or an order under this section that is the same as or similar to a rule promulgated under s. 48.658(4)(a) or 48.67, a provision of licensure under s. 48.70(1), or an order under this section that the licensee or a person under the supervision of the licensee has violated previously.

(e) The licensee has failed to apply for a continuance of the license within 30 days after receipt of the warning under s. 48.66(5).

**(4g)(a)** If a person subject to a background check under s. 48.686 (2) who operates, works at, or resides at a child care center is convicted or adjudicated delinquent for committing a serious crime, or if the results of a background check conducted under s. 48.686 indicate that the caregiver, household member, or noncaregiver employee is not eligible to be licensed, certified, employed, or permitted 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.

(b) If a person subject to a background check under s. 48.686 (2) who operates, works at, or resides at a child care center is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime, 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 operate, work at, or reside at a child care center.

**(4m)(a)** For a revocation under sub. (4)(a) or (d), the department shall provide to the licensee written notice of the revocation and the grounds for revocation not less than 30 days before the date of the revocation. The revocation will take effect only if the violation on which the revocation is based remains substantially uncorrected at the end of the 30-day notice period.

(b) For revocations under sub. (4)(b), (c) or (e), the department may revoke the license or probationary license immediately upon written notice to the licensee of the revocation and the grounds for revocation.

**(5)** The department may deny a license under s. 48.66(1)(a) or a probationary license under s. 48.69 to any person who has had a license under s. 48.66(1)(a) or a probationary license under s. 48.69 revoked within the previous 5 years.

(6) The department shall deny, suspend, restrict, refuse to renew, or otherwise withhold a license under s. 48.66(1)(a) or a probationary license under s. 48.69 to operate a child welfare agency, group home, shelter care facility, or child care center, and the department of corrections shall deny, suspend, restrict, refuse to renew, or otherwise withhold a license under s. 48.66(1)(b) to operate a secured residential care center for children and youth, for failure of the applicant or licensee to pay court-ordered payments of child or family support, maintenance, birth expenses, medical expenses, or other expenses related to the support of a child or former spouse or for failure of the applicant or licensee to comply, after appropriate notice, with a subpoena or warrant issued by the department or a county child support agency under s. 59.53(5) and related to paternity or child support proceedings, as provided in a memorandum of understanding entered into under s. 49.857. Notwithstanding s. 48.72, an action taken under this subsection is subject to review only as provided in the memorandum of understanding entered into under s. 49.857 and not as provided in s. 48.72.

(7) The department shall deny an application for the issuance or continuation of a license under s. 48.66(1)(a) or a probationary license under s. 48.69 to operate a child welfare agency, group home, shelter care facility, or child care center, or revoke such a license already issued, if the department of revenue certifies under s. 73.0301 that the applicant or licensee is liable for delinquent taxes or if the department of workforce development certifies under s. 108.227 that the applicant or licensee is liable for delinquent unemployment insurance contributions. An action taken under this subsection is subject to review only as provided under s. 73.0301(5) or 108.227(5) and not as provided in s. 48.72.

**48.72 Appeal procedure. [2005]** Except as provided in s. 48.715(6) and (7), any person aggrieved by the department's refusal or failure to issue, renew, or continue a license or by any action taken by the department under s. 48.715 has the right to an administrative hearing provided for contested cases in ch. 227. To receive an administrative hearing under ch. 227, the aggrieved person shall send to the department a written request for a hearing under s. 227.44 within 10 days after the date of the department's refusal or failure to issue, renew, or continue a license or the department's action taken under s. 48.715. The department shall hold an administrative hearing under s. 227.44 within 30 days after receipt of the request for the administrative hearing unless the aggrieved person consents to an extension of that time period. Judicial review of the department's decision may be had by any party in the contested case as provided in ch. 227.

**48.73 Inspection of licensees and school district child care programs. [2017]** The department may visit and inspect each child welfare agency, foster home, group home, and child care center licensed by the department, and for that purpose shall be given unrestricted access to the premises described in the license. The department may visit and inspect each child care program established or contracted for under s. 120.13(14) that receives payment under s. 49.155 for the child care provided, and for that purpose shall be given unrestricted access to the premises used for the child care program.

**48.735 Immunization requirements; child care centers. [2009]** The department, after notice to a child care center licensee, may suspend, revoke, or refuse to continue a child care center license in any case in which the department finds that there has been a substantial failure to comply with the requirements of s. 252.04.

**48.737 Lead screening, inspection and reduction requirements; child care centers. [2009]** The department, after notice to a child care provider certified under s. 48.651, or a child care center that holds a license under s. 48.65 or a probationary license under s. 48.69, may suspend, revoke, or refuse to renew or continue a license or certification in any case in which the department finds that there has been a substantial failure to comply with any rule promulgated under s. 254.162, 254.168, or 254.172.

**48.74 Authority of department to investigate alleged violations. [1979]** Whenever the department is advised or has reason to believe that any person is violating any of the provisions of ss. 48.60, 48.62, 48.625 or 48.65, it shall make an investigation to determine the facts. For the purposes of this investigation, it shall have authority to inspect the premises where the violation is alleged to occur. If it finds that the person is violating any of the specified sections, it may either issue a license if the person is qualified or may institute a prosecution under s. 48.76.

**48.76 Penalties. [1993]** In addition to the sanctions and penalties provided in s. 48.715, any person who violates s. 48.60, 48.62, 48.625, 48.63 or 48.65 may be fined not more than \$500 or imprisoned for not more than one year in county jail or both.

**48.77 Injunction against violations. [1979]** In addition to the penalties provided in s. 48.76, the circuit courts shall have jurisdiction to prevent and restrain by injunction violations of s. 48.60, 48.62, 48.625, 48.63 or 48.65. It shall be the duty of the district attorneys, upon request of the department, to institute action for such injunction under ch. 813.

**48.78 Confidentiality of records. [2017]**

(1) Definition. In this section, unless otherwise qualified, "agency" means the department, a county

department, a licensed child welfare agency, or a licensed child care center.

**(2) Confidentiality; exceptions.**

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

(ag) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the request of the parent, guardian, or legal custodian of the child who is the subject of the record or upon the request of the child, if 14 years of age or over, to the parent, guardian, legal custodian, or child, unless the agency determines that inspection of the record by the child, parent, guardian, or legal custodian would result in imminent danger to anyone.

(aj) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the request of a parent, guardian, or legal custodian of a child expectant mother of an unborn child who is the subject of the record, upon the request of an expectant mother of an unborn child who is the subject of the record, if 14 years of age or over, or upon the request of an unborn child's guardian ad litem, to the parent, guardian, legal custodian, expectant mother, or unborn child's guardian ad litem, unless the agency determines that inspection of the record by the parent, guardian, legal custodian, expectant mother, or unborn child's guardian ad litem would result in imminent danger to anyone.

(am) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the written permission of the parent, guardian, or legal custodian of the child who is the subject of the record or upon the written permission of the child, if 14 years of age or over, to the person named in the permission if the parent, guardian, legal custodian, or child specifically identifies the record in the written permission, unless the agency determines that inspection of the record by the person named in the permission would result in imminent danger to anyone.

(ap) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the written permission of the parent, guardian, or legal custodian of a child expectant mother of an unborn child who is the subject of the record, or of an expectant mother of an unborn child who is the subject of the record, if 14 years of age or over, and of the unborn child's guardian ad litem, to the person named in the permission if the parent, guardian, legal custodian, or

expectant mother, and unborn child's guardian ad litem, specifically identify the record in the written permission, unless the agency determines that inspection of the record by the person named in the permission would result in imminent danger to anyone.

(b) Paragraph (a) does not apply to the confidential exchange of information between an agency and another social welfare agency, a law enforcement agency, a health care provider, as defined in s. 146.81(1)(a) to (p), a public school, or a private school regarding an individual in the care or legal custody of the agency. A social welfare agency that obtains information under this paragraph shall keep the information confidential as required under this section and s. 938.78. A law enforcement agency that obtains information under this paragraph shall keep the information confidential as required under ss. 48.396(1) and 938.396(1)(a). A health care provider that obtains information under this paragraph shall keep the information confidential as provided under s. 146.82. A public school that obtains information under this paragraph shall keep the information confidential as required under s. 118.125, and a private school that obtains information under this paragraph shall keep the information confidential in the same manner as is required of a public school under s. 118.125. Paragraph (a) does not apply to the confidential exchange of information between an agency and officials of a tribal school regarding an individual in the care or legal custody of the agency if the agency determines that enforceable protections are provided by a tribal school policy or tribal law that requires tribal school officials to keep the information confidential in a manner at least as stringent as is required of a public school official under s. 118.125.

(c) Paragraph (a) does not prohibit the department or a county department from using in the media a picture or description of a child in the guardianship of the department or a county department for the purpose of finding adoptive parents for that child.

(d) Paragraph (a) does not prohibit the department of health services or a county department from disclosing information about an individual formerly in the legal custody or under the supervision of that department under s. 48.34(4m), 1993 stats., or formerly under the supervision of that department or county department under s. 48.34(4n), 1993 stats., to the department of corrections, if the individual is at the time of disclosure any of the following:

1. The subject of a presentence investigation under s. 972.15.
2. Under sentence to the Wisconsin state prisons under s. 973.15.
4. On probation to the department of corrections under s. 973.09.
5. On parole under s. 302.11 or ch. 304 or on extended supervision under s. 302.113 or 302.114.

(e) Notwithstanding par. (a), an agency shall, upon request, disclose information to authorized representatives of the department of corrections, the department of health services, the department of justice, or a district attorney for use in the prosecution of any proceeding or any evaluation conducted under ch. 980, if the information involves or relates to an individual who is the subject of the proceeding or evaluation. The court in which the proceeding under ch. 980 is pending may issue any protective orders that it determines are appropriate concerning information made available or disclosed under this paragraph. Any representative of the department of corrections, the department of health services, the department of justice, or a district attorney may disclose information obtained under this paragraph for any purpose consistent with any proceeding under ch. 980.

(g) Paragraph (a) does not prohibit an agency from disclosing information about an individual in its care or legal custody on the written request of the department of safety and professional services or of any interested examining board or affiliated credentialing board in that department for use in any investigation or proceeding relating to any alleged misconduct by any person who is credentialed or who is seeking credentialing under ch. 448, 455 or 457. Unless authorized by an order of the court, the department of safety and professional services and any examining board or affiliated credentialing board in that department shall keep confidential any information obtained under this paragraph and may not disclose the name of or any other identifying information about the individual who is the subject of the information disclosed, except to the extent that redisclosure of that information is necessary for the conduct of the investigation or proceeding for which that information was obtained.

(h) Paragraph (a) does not prohibit the department, a county department, or a licensed child welfare agency from entering the content of any record kept or information received by the department, county department, or licensed child welfare agency into the statewide automated child welfare information system established under s. 48.47(7g) or the department from transferring any information maintained in that system to the court under s. 48.396(3)(bm). If the department transfers that information to the court, the court and the director of state courts may allow access to that information as provided in s. 48.396(3)(c)2.

(i) Paragraph (a) does not prohibit an agency from disclosing information to a relative of a child placed outside of his or her home only to the extent necessary to facilitate the establishment of a relationship between the child and the relative or a placement of the child with the relative or from disclosing information under s. 48.21(5)(e), 48.355(2)(cm), or 48.357(2v)(d). In this paragraph, "relative" includes a relative whose relationship is derived through a parent of the child whose parental rights are terminated.

(j) Paragraph (a) does not prohibit an agency from disclosing information to any public or private agency in this state or any other state that is investigating a person for purposes of licensing the person to operate a foster home or placing a child for adoption in the home of the person.

(k) Paragraph (a) does not prohibit the department of children and families from providing to the department of revenue, upon request, information concerning a recipient of payments under s. 48.57(3m) or (3n) or aid under s. 48.645, including information contained in the electronic records of the department of children and families, solely for the purposes of administering state taxes, including verifying a claim for a state tax refund or a refundable state tax credit, and collecting debts owed to the department of revenue. Any information obtained by the department of revenue under this paragraph is subject to the confidentiality provisions specified in s. 71.78.

(L)1. In this paragraph, "qualified independent researcher" means a faculty member of a university who satisfies all of the following:

a. The faculty member has an approved protocol from an institutional review board for human subjects research to work with data containing personal information for the purposes of evaluating the program under s. 119.23.

b. The faculty member has received from the state and properly managed data containing personal information for the purposes of evaluating the program under s. 119.23 before July 14, 2015.

2. Notwithstanding par. (a), the department shall permit a qualified independent researcher to have access to any database maintained by the department for the purpose of cross-matching information contained in any such database with a database that both is in the possession of the qualified independent researcher and contains information regarding pupils participating in the program under s. 119.23. The department may charge a fee to the qualified independent researcher for the information that does not exceed the cost incurred by the department to provide the information.

**48.981 Abused or neglected children and abused unborn children. [2019]****(2) PERSONS REQUIRED TO REPORT.**

(a) Any of the following persons who has reasonable cause to suspect that a child seen by the person in the course of professional duties has been abused or neglected or who has reason to believe that a child seen by the person in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur shall, except as provided under subs. (2m) and (2r), report as provided in sub. (3):

1. A physician.
  2. A coroner.
  3. A medical examiner.
  4. A nurse.
  5. A dentist.
  6. A chiropractor.
  7. An optometrist.
  8. An acupuncturist.
  9. A medical or mental health professional not otherwise specified in this paragraph.
  10. A social worker.
  11. A marriage and family therapist.
  12. A professional counselor.
  13. A public assistance worker, including a financial and employment planner, as defined in s. 49.141(1)(d).
  14. A school teacher.
  15. A school administrator
  16. A school counselor.
  - 16m. A school employee not otherwise specified in this paragraph.
  17. A mediator under s. 767.405.
  18. A child care worker in a child care center, group home, or residential care center for children and youth.
  19. A child care provider.
  20. An alcohol or other drug abuse counselor.
  21. A member of the treatment staff employed by or working under contract with a county department under s. 46.23, 51.42, or 51.437 or a residential care center for children and youth.
  22. A physical therapist.
  - 22m. A physical therapist assistant.
  23. An occupational therapist.
  24. A dietitian.
  25. A speech-language pathologist.
  26. An audiologist.
  27. An emergency medical services practitioner.
  28. An emergency medical responder, as defined in s. 256.01(4p).
  29. A police or law enforcement officer.
  30. A juvenile correctional officer.
- (e) No person making a report under this subsection in good faith may be discharged from employment, disciplined or otherwise discriminated against in regard to employment, or threatened with any such treatment for so doing.

**(3) REPORTS; INVESTIGATION.****(a) Referral of report.**

1. A person required to report under sub. (2) shall immediately inform, by telephone or personally, the county department or, in a county having a population of 750,000 or more, the department or a licensed child welfare agency under contract with the department or the sheriff or city, village, or town police department of the facts and circumstances contributing to a suspicion of child abuse or neglect or of unborn child abuse or to a belief that abuse or neglect will occur.

**(4) IMMUNITY FROM LIABILITY.** Any person or institution participating in good faith in the making of a report, conducting an investigation, ordering or taking of photographs or ordering or performing medical examinations of a child or of an expectant mother under this section shall have immunity from any liability, civil or criminal, that results by reason of the action. For the purpose of any proceeding, civil or criminal, the good faith of any person reporting under this section shall be presumed. The immunity provided under this subsection does not apply to liability for abusing or neglecting a child or for abusing an unborn child.

**(6) PENALTY.** Whoever intentionally violates this section by failure to report as required may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

**66.1017 Family child care homes. [2009]****(1) In this section:**

- (a) "Family child care home" means a dwelling licensed as a child care center by the department of children and families under s. 48.65 where care is provided for not more than 8 children.
- (b) "Municipality" means a county, city, village or town.

**(2)** No municipality may prevent a family child care home from being located in a zoned district in which a single-family residence is a permitted use. No municipality may establish standards or requirements for family child care homes that are different from the licensing standards established under s. 48.65. This subsection does not prevent a municipality from applying to a family child care home the zoning regulations applicable to other dwellings in the zoning district in which it is located.

**73.0301 License denial, nonrenewal, discontinuation, suspension and revocation based on tax delinquency. [2017]****(2) DUTIES AND POWERS OF LICENSING DEPARTMENTS.**

(a) Each licensing department and the supreme court, if the supreme court agrees, shall enter into a memorandum of understanding with the department of revenue under sub. (4)(a) that requires the licensing department or supreme court to do all of

the following:

1. Request the department of revenue to certify whether an applicant for a license or license renewal or continuation is liable for delinquent taxes. With respect to an applicant for a license granted by a credentialing board, the department of safety and professional services shall make a request under this subdivision. This subdivision does not apply to the department of transportation with respect to licenses described in sub. (1)(d)7.

2. Request the department of revenue to certify whether a license holder is liable for delinquent taxes. With respect to a holder of a license granted by a credentialing board, the department of safety and professional services shall make a request under this subdivision.

(b) Each licensing department and the supreme court, if the supreme court agrees, shall do all of the following:

1. a. If, after a request is made under par. (a)1. or 2., the department of revenue certifies that the license holder or applicant for a license or license renewal or continuation is liable for delinquent taxes, revoke the license or deny the application for the license or license renewal or continuation. The department of transportation may suspend licenses described in sub. (1)(d)7. in lieu of revoking those licenses. A suspension, revocation or denial under this subd. 1. a. is not subject to administrative review or, except as provided in subd. 2. and sub. (5)(am), judicial review. With respect to a license granted by a credentialing board, the department of safety and professional services shall make a revocation or denial under this subd. 1. a. With respect to a license to practice law, the department of revenue shall not submit a certification under this subd. 1. a. to the supreme court until after the license holder or applicant has exhausted his or her remedies under sub. (5)(a) and (am) or has failed to make use of such remedies.

b. Send a notice of suspension, revocation, or denial under subd. 1. a. to the license holder or applicant. The notice shall include a statement of the facts that warrant the suspension, revocation, or denial and a statement that the license holder or applicant may, within 30 days after the date on which the notice of denial, suspension, or revocation is sent, file a written request with the department of revenue to have the certification of tax delinquency on which the suspension, revocation, or denial is based reviewed at a hearing under sub. (5)(a). With respect to a license granted by a credentialing board, the department of safety and professional services shall send a notice under this subd. 1. b. With respect to a license to practice law, the department of revenue shall send a notice under this subd. 1. b., and the notice shall indicate that the license holder or applicant may request a hearing under sub. (5)(a) and (am) and that the department of revenue shall

submit a certificate of delinquency to suspend, revoke, or deny a license to practice law to the supreme court after the license holder or applicant has exhausted his or her remedies under sub. (5)(a) and (am) or has failed to make use of such remedies. A notice sent to a person who holds a license to practice law or who is an applicant for a license to practice law shall also indicate that the department of revenue may not submit a certificate of delinquency to the supreme court if the license holder or applicant pays the delinquent tax in full or enters into an agreement with the department of revenue to satisfy the delinquency.

2. Except as provided in subd. 2m., if notified by the department of revenue that the department of revenue has affirmed a certification of tax delinquency after a hearing under sub. (5)(a), affirm a suspension, revocation or denial under subd. 1. a. A license holder or applicant may seek judicial review under ss. 227.52 to 227.60, except that the review shall be in the circuit court for Dane County, of an affirmation of a revocation or denial under this subdivision. With respect to a license granted by a credentialing board, the department of safety and professional services shall make an affirmation under this subdivision.

2m. With respect to a license to practice law, if notified by the department of revenue that the department of revenue has affirmed a certification of tax delinquency after any requested review under sub. (5)(a) and (am), decide whether to suspend, revoke, or deny a license to practice law.

3. If a person submits a nondelinquency certificate issued under sub. (5)(b)1., reinstate the license or grant the application for the license or license renewal or continuation, unless there are other grounds for suspending or revoking the license or for denying the application for the license or license renewal or continuation. If reinstatement is required under this subdivision, a person is not required to submit a new application or other material or to take a new test. No separate fee may be charged for reinstatement of a license under this subdivision. With respect to a license granted by a credentialing board, the department of safety and professional services shall reinstate a license or grant an application under this subdivision.

4. If a person whose license has been suspended or revoked or whose application for a license or license renewal or continuation has been denied under subd. 1. a. submits a nondelinquency certificate issued under sub. (3)(a)2., reinstate the license or grant the person's application for the license or license renewal or continuation, unless there are other grounds for not reinstating the license or for denying the application for the license or license renewal or continuation. With respect to a license granted by a credentialing board, the department of safety and professional services shall

reinstate a license or grant an application under this subdivision.

(c)1. Each licensing department and the supreme court may require a holder of a license to provide the following information upon request:

a. If the license holder is an individual and has a social security number, the license holder's social security number.

am. If the applicant is an individual and does not have a social security number, a statement made or subscribed under oath or affirmation that the applicant does not have a social security number. The form of the statement shall be prescribed by the department of children and families. A license issued in reliance upon a false statement submitted under this subd. 1. am. is invalid.

b. If the license holder is not an individual, the license holder's federal employer identification number.

2. A licensing department may not disclose any information received under subd. 1. a. or b. to any person except to the department of revenue for the purpose of requesting certifications under par. (a)1. or 2. in accordance with the memorandum of understanding under sub. (4) and administering state taxes, to the department of workforce development for the purpose of requesting certifications under s. 108.227(2)(a)1. or 2. in accordance with the memorandum of understanding under s. 108.227(4) and administering the unemployment insurance program, and to the department of children and families for the purpose of administering s. 49.22.

**(5) HEARING.**

(a) The department of revenue shall conduct a hearing requested by a license holder or applicant for a license or license renewal or continuation under sub. (2)(b)1 b. or by an applicant for certification or recertification or a certificate holder under s. 73.03(50) or 73.09(7m)(b) to review a certification or determination of tax delinquency that is the basis of a denial or revocation of a license in accordance with this section or of a certificate, certification or recertification under s. 73.03(50) or 73.09(7m). A hearing under this paragraph is limited to questions of mistaken identity of the license or certificate holder or applicant and of prior payment of the delinquent taxes for which the department of revenue certified or determined the license or certificate holder or applicant is liable. At a hearing under this paragraph, any statement filed by the department of revenue, the licensing department or the supreme court, if the supreme court agrees, may be admitted into evidence and is prima facie evidence of the facts that it contains. Notwithstanding ch. 227, a person entitled to a hearing under this paragraph is not entitled to any other notice, hearing or review, except as provided in par. (am) and sub. (2)(b)2.

(am) If a person who holds a license to practice law or who is an applicant for a license to practice

law receives a hearing under par. (a) to review a certification or determination of tax delinquency that is the basis for a denial, suspension, or revocation of a license to practice law and such certification or determination is affirmed as a result of the hearing under par. (a), the person may seek judicial review of the certification or determination of tax delinquency under ss. 227.52 to 227.60, except that the review shall be in the circuit court for Dane County.

(b) After a hearing conducted under par. (a) or, in the case of a determination related to a license to practice law, after a hearing under par. (a) or, if the hearing is appealed, after judicial review under par. (am), the department of revenue shall do one of the following:

1. Issue a nondelinquency certificate to a license holder or an applicant for a license or license renewal or continuation if the department determines that the license holder or applicant is not liable for delinquent taxes. For a hearing requested by an applicant for certification or recertification or a certificate holder under s. 73.03(50) or 73.09(7m)(b), the department shall grant a certification or recertification or reinstate a certification if the department determines that the applicant or certificate holder is not liable for delinquent taxes, unless there are other grounds for denying the application or revoking the certification.

2. Provide notice that the department of revenue has affirmed its certification of tax delinquency to a license holder; to an applicant for a license, a license renewal or a license continuation; and to the licensing department or the supreme court, if the supreme court agrees. For a hearing requested by an applicant for certification or recertification or a certificate holder under s. 73.03(50), or 73.09(7m)(b), the department of revenue shall provide notice to the applicant or certificate holder that the department of revenue has affirmed its determination of tax delinquency.

**101.123 Smoking prohibited. [2019]**

**(2) PROHIBITION AGAINST SMOKING.**

(a) Except as provided in sub. (3), no person may smoke in any of the following enclosed places:

1r. Child care centers.

8d. Common areas of multiple-unit residential properties.

(d) No person may smoke at any of the following outdoor locations:

2. Anywhere on the premises of a child care center when children who are receiving child care services are present.

**(8) PENALTIES.**

(d) Except as provided in par. (dm) or (em), any person in charge who violates sub. (2m)(b) to (d) shall be subject to a forfeiture of \$100 for each violation.



**347.48 Safety belts and child safety restraint systems. [2011]****(4) CHILD SAFETY RESTRAINT SYSTEMS REQUIRED; STANDARDS; EXEMPTIONS.**

(ag) In this subsection:

1. "Child booster seat" means a child passenger restraint system that meets the applicable federal standards under 49 CFR 571.213 and is designed to elevate a child from a vehicle seat to allow the vehicle's safety belt to be properly positioned over the child's body.

2. "Designated seating position" has the meaning given in 49 CFR 571.3.

3. "Properly restrained" means any of the following:

a. With respect to par. (as)1. and 2., fastened in a manner prescribed by the manufacturer of the child safety restraint system which permits the system to act as a body restraint but does not include a system in which the only body restraint is a safety belt of the type required under sub. (1).

b. With respect to par. (as)3., wearing a safety belt consisting of a combination lap belt and shoulder harness approved by the department under sub. (2) and fastened in a manner prescribed by the manufacturer of the safety belt so that the safety belt properly fits across the child's lap and the center of the child's chest in a manner appropriate to the child's height, weight, and age that permits the safety belt to act as a body restraint.

c. With respect to par. (as)4., fastened in a manner prescribed by the manufacturer of the system which permits the system to act as a body restraint.

(am) No person may transport a child under the age of 8 in a motor vehicle unless the child is restrained in compliance with par. (as) in a safety restraint system that is appropriate to the child's age and size and that meets the standards established by the department under this paragraph. The department shall, by rule, establish standards in compliance with applicable federal standards, including standards under 49 CFR 571.213, for child safety restraint systems.

(as) A child under the age of 8 years who is being transported in a motor vehicle shall be restrained as follows:

1. If the child is less than one year old or weighs less than 20 pounds, the child shall be properly restrained in a rear-facing child safety restraint system, positioned at a designated seating position in a back passenger seat of the vehicle if the vehicle is equipped with a back passenger seat.

2. Subject to subd. 1., if the child is at least one year old and weighs at least 20 pounds but is less than 4 years old or weighs less than 40 pounds, the child shall be properly restrained as provided in subd. 1. or properly restrained in a forward-facing child safety restraint system, positioned at a designated seating position in a back passenger seat of the vehicle if the vehicle is equipped with a back

passenger seat.

3. Subject to subds. 1. and 2., if the child is at least 4 years old but less than 8 years old, weighs at least 40 pounds but not more than 80 pounds, and is not more than 57 inches in height, the child shall be properly restrained as provided in subd. 2. or properly restrained in a child booster seat.

4. Subject to subds. 1. to 3., if the child is less than 8 years old, the child shall be properly restrained as provided in subds. 1. to 3. or properly restrained in a safety belt approved by the department under sub. (2).

(b) The department may, by rule, exempt from the requirements under pars. (am) and (as) any child who because of a physical or medical condition or body size cannot be placed in a child safety restraint system, child booster seat, or safety belt.

(c) This subsection does not apply if the motor vehicle is a motor bus, school bus, taxicab, moped, motorcycle or is not required to be equipped with safety belts under sub. (1) or 49 CFR 571.

(d) Evidence of compliance or failure to comply with pars. (am) and (as) is admissible in any civil action for personal injuries or property damage resulting from the use or operation of a motor vehicle but failure to comply with pars. (am) and (as) does not by itself constitute negligence.

**948.53 Child unattended in child care vehicle. [2009]**

(1) DEFINITIONS. In this section:

(a) "Child care provider" means a child care center that is licensed under s. 48.65(1), a child care provider that is certified under s. 48.651, or a child care program that is established or contracted for under s. 120.13(14).

(b) "Child care vehicle" means a vehicle that is owned or leased by a child care provider or a contractor of a child care provider and that is used to transport children to and from the child care provider.

(2) NO CHILD LEFT UNATTENDED.

(a) No person responsible for a child's welfare while the child is being transported in a child care vehicle may leave the child unattended at any time from the time the child is placed in the care of that person to the time the child is placed in the care of another person responsible for the child's welfare.

(b) Any person who violates par. (a) is guilty of one of the following:

1. A Class A misdemeanor.

2. A Class I felony if bodily harm is a consequence.

3. A Class H felony if great bodily harm is a

consequence.

4. A Class G felony if death is a consequence.