



Welcome to the Caregiver Background Unit's (CBU) on-line training; Everything You Wanted to Know about Wisconsin's Caregiver Background Check Law...For Licensed Child Care Providers.

Learning Objectives

- Identify acronyms and definitions related to the CBC
- Understand the Caregiver Background Check (CBC) Law
- 2009 Wisconsin Act 76
- 2013 Wisconsin Act 20
- Five components of the CBC process
- Your role as a licensed child care provider
- The role of Department of Children & Families (DCF)
- Wisconsin Statutes and Administrative Rules
- Where to go if you have questions

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During this training you will:

- Be able to identify and understand the acronyms and definitions used as they relate to the Caregiver Background Check (CBC)
- Gain understanding about the Caregiver Background Check (CBC) Law
- Gain awareness of Wisconsin Act 20 and how it impacts Caregiver Background Checks
- Learn the five components of the CBC process
- Understand your role as a licensed provider
- Understand the Department of Children & Families (DCF) role in the CBC process
- Review of Wisconsin Statutes and Administrative Rules including reporting requirements and information to be included in your personnel policies
- Where to go if you have questions or need clarification.

Throughout this training, contact information and websites have been added to find forms, instructions and additional information.

Acronyms

BID	Background Information Disclosure Form (DCF-F-2978) – Self disclosure of background information, completed prior to beginning work.
CBC	Caregiver Background Check – The process to obtain background information on child care licensees, their applicable employees and household members.
CBU	Caregiver Background Unit – The unit responsible for CBC's conducted by the Department of Children & Families
CPS	Child Protective Services
DCF	Department of Children & Families
DHS	Department of Health Services
DOC	Department of Corrections
DOJ	Department of Justice
DSPS	Department of Safety and Professional Services
SOR	Sex Offender Registry

These are the acronyms you will find throughout this presentation that represent agencies and the caregiver background check process. Please familiarize yourself with the acronyms, what they stand for and how they relate to the Caregiver Background Check process. You can refer back to list if needed.

Caregiver Defined



“Caregiver” is defined in Wisconsin Statute 48.685(1)(ag) as:

- A person who is, or is expected to be, an employee or contractor of any *entity*, who is or is expected to be under the control of the *entity*, as defined by the department by rule, and who has, or is expected to have, regular, *direct contact* with *clients* of the entity.
- A person who has, or is seeking, a license, certification or contract to operate an *entity*.

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To understand the caregiver definition S. 48.658(1)(ag) Stats. defines “entity,” “direct contact,” and “client” as well.

An “entity” is

- A child care center that is licensed under S. 48.65 Stats., or established or contracted for under S. 120.13(14) Stats.
- A child care provider that is certified under S 48.651 Stats.

“Direct contact” means face to face physical proximity to a client that affords the opportunity to commit abuse or neglect of a client or to misappropriate the property of a client

“Client” means a child who receives direct care or treatment services from an entity or from a caregiver.

Caregiver Background Checks (CBC)

(s. 48.685, Wis. Stats. – aka The Caregiver Law)



- Defines serious crimes that bar individuals from owning, working as a caregiver or living at a regulated child care facility
- Specifies when an initial, complete CBC is needed and the frequency thereafter
- Requires completion of a Background Information Disclosure (BID) form
- Requires multiple database checks
- Identifies reporting requirements for persons subject to CBCs and for regulated programs (Chapters 250, 251 and 252, Wis. Admin. Code)

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The Caregiver Law was enacted to protect vulnerable persons in regulated settings such as a licensed child care facility. A law addressing caregiver background checks was originally enacted in 1998. In February 2010, the law was modified to require more frequent Caregiver Background Checks (CBC) and increased the type of criminal convictions that affect an individual's ability to work as a caretaker in a licensed child care facility or hold a child care license.

The law requires that any person who will work as a caregiver in a child care setting to complete a self disclosure form called the Background Information Disclosure (BID) prior to working with children and directs a licensed child care program to complete the caregiver background check within 60 days of the person starting to work with children. It is important to note that the entire CBC process must be completed within this 60 days. If there is nothing disclosed on the BID form that would prohibit the person from working with children, the person can work under supervision for up to 60 days while all components of the background check are completed.

Caregiver background checks (CBC) for child care licensees, household residents and employees also check juvenile adjudications for serious crimes described in the law. In addition to checking a person's criminal history through the Department of Justice (DOJ), the Caregiver Background Law also requires a check of a person's professional licenses, a check of any revocations or denials for a child or adult program, any rehabilitation review decisions, the sex offender registry and a check of the Nurse Aid registry for findings related to the abuse or neglect of a vulnerable adult or the misappropriation of a client's property.

Finally the licensing administrative rules requires that licensees include in their personnel policies a requirement that a person who has a pending charge or a conviction to report that information to the licensee by the next business day. The law then requires the licensee to report this information to the Department of Children & Families (DCF) immediately.

2013 Wisconsin Act 20



- **Reduced** the frequency a caregiver background check is conducted on a licensee to once every 12 months.
- **Added** a one-time fingerprint-based background check of national and Wisconsin criminal history databases for child care licensees, their adult caregiver employees and non-client residents (aka household members) if the center is receiving or eligible to receive payments from Wisconsin Shares. See Slide #17 for more information on fingerprint-based background checks.

**The One-time Only Fingerprint-based
Background Checks must be completed by
December 31, 2015**

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Wisconsin Act 20

On June 30, 2013, Wisconsin Act 20 was enacted that requires providers participating in YoungStar and who are or wish to be eligible to receive WI Shares payments to run a one-time only fingerprint-based background check for providers, their employees and their non-client residents. Once the fingerprint-based background check is completed, subsequent name-based CBC's will be completed annually (providing the caregiver is and has been a resident of Wisconsin for at least three years).

You can find information on the fingerprint-based background checks process on our website or by calling the Department's Caregiver Background Unit at 608-266-8001.

What is a Caregiver Background Check (CBC)?

The CBC is the process by which the DCF or the licensee gathers prescribed information from a variety of sources to determine whether an individual may:

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

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Some background checks will be done by the Department of Children and Families (DCF) Caregiver Background Unit (CBU) while others will be completed by the licensee.

DCF conducts the background checks on all licensees, adults who reside in the center (home), minors (ages 12-17) who reside in center (home) and any minor caregivers (ages 12-17). A background check is only completed for a minor household resident if certain disclosures on a BID form prompt a background check to be run. Minor employee caregivers receive the same background check as a licensee or other adult.

Licensees conduct the checks on adult employees, volunteers and student teachers (working more than 60 days) who are counted in the staff to child ratios.

Regardless of who conducts the CBC, the information obtained is the same.

Who is Required to Have a CBC?

- Applicants for licensure; licensees
- Caregivers in a regulated facility
 - Employees (including minor caregiver employees)
 - Assistants & Volunteers counted in staff to child ratio
- Household members in a regulated facility
 - Non-client residents including all adults and minors ages 12-17 (if certain BID disclosures require it);
- Students whose placement is more than 60 days
- Extended stay visitors who live on the premises more than 60 days.

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Any person who wishes to be licensed to operate a child care center, reside in a child care center, work for or volunteer in a child care program as a caregiver is subject to a CBC.

An adult or minor student who will be completing an internship, practicum or clinical training for more than 60 days or a student placed in a community service or at risk program at the facility is required to have a CBC.

An adult extended stay visitor who will be living on the premises for more than 60 days is required to have a CBC. A minor extended stay visitor is required to submit a completed BID to DCF. A CBC will be completed on minor household members only if certain BID disclosures require it.

Direct, regular contact means that the person has face-to-face physical proximity to a child that affords a person the opportunity to commit abuse or neglect of a child or to misappropriate the property of a child.

Some persons working in your facility are not considered caregivers and may not need a CBC. Examples may include:

- A person who performs solely clerical, administrative, maintenance or other support functions for a facility and who is not expected to have regular direct contact with children.
- A person who is employed by or under contract with a facility to provide infrequent or occasional services that are not directly related to the care of a child.
- A volunteer who serves as an “extra pair of hands” in a classroom and is not counted in the staff-to-child ratio or left alone with the children.

Ultimately, the licensee makes the determination whether the employee is considered a caregiver or not.

There are 5 Parts to the CBC

1. Background Information Disclosure (BID)
2. Wisconsin Department of Justice (DOJ) Criminal Record Check
3. DHS Response to Caregiver Background Check
4. Sex Offender Registry Check (SOR)
5. Obtain Records (if required)



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The CBC has five components:

1. The first part of the CBC is the Background Information Disclosure (BID) form.
2. Second, the CBU or the Licensee requests that the Wisconsin Department of Justice (DOJ) run a Criminal Record Check on the individual.
3. Third, after the DOJ runs the record check, additional databases are checked. This is known as the “DHS Response to the Caregiver Background Check.”
4. Fourth, you will need to run each name (including any aliases) through the Sex Offender Registry (SOR).
5. Fifth, the caregiver law requires the licensee to make every effort to obtain the criminal complaint and the final disposition of the complaint from the clerk of courts under circumstances outlined in s. 48.685(2)(bb), Wis. Stats.

In order for the CBC to be considered complete, all required components must be completed within 60 days of the employee’s start date. This includes obtaining any required records and/or making a determination if the individual’s background is substantially related to their position.

Part One Background Information Disclosure (BID)

DEPARTMENT OF CHILDREN AND FAMILIES
DCF-F-2978-E (R. 06/2016)

STATE OF WISCONSIN
Wis. Stat. § 48.685
Wis. Admin. Code § DCF 12.03

BACKGROUND INFORMATION DISCLOSURE (BID)

Completion of this form is required under the provisions of Wis. Stat. § 48.685 and Wis. Admin. Code § DCF 12.03. Pursuant to Wis. Stat. § 48.685, this form must be completed prior to licensure, certification, employment or non-client residency and is only valid for 120 days. Failure to comply may result in a denial or revocation of your license or certification; denial or termination of your employment or contract; or denial or revocation of the license or certification for a child care center location at which you reside.

Providing your social security number (SSN) is voluntary; not providing it could result in an information processing delay. Personal information you provide may be used for secondary purposes [Privacy Law, Wis. Stat. §15.04(1)(m)].

What is it?

A form used as an initial screening tool to determine if an individual is eligible to work with children.

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The first part of the CBC is the Background Information Disclosure (BID) form. This is an initial screening tool to determine if an individual is eligible to work with children. All applicants for a license and all household members aged 12 and above are required to submit a completed BID form to DCF to begin the background check process. All caregivers subject to the Caregiver Law must complete a BID form prior to beginning to work with children.

Part One Background Information Disclosure (BID)

How often is the BID form filled out and who keeps it on file?

The Licensee collects a BID prior to a new employee beginning to work with children and files it:

- For each adult employee, volunteer or assistant (age 18+) counted in the staff-to-child ratio
- For students (age 18+) counted in the staff-to-child ratio on the premises for more than 60 days

The CBU collects a BID and files it:

- For each applicant for a license at the time of application
- For each minor age 12 or older living on the premises at the time of the application for a license; when the minor turns age 12; or when a minor age 12 or above begins to reside on the premises
- For each adult (age 18+) living on the premises at the time of the application for a license or when adult begins to reside on the premises
- For each minor employee (age 12-17) before the individual begins working with children

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The licensee collects a BID form for new adult caregiver employees, providers and substitute teachers BEFORE their first day of work and must review it to determine if the individual is eligible to work with children. New employees may only work with children under supervision until the caregiver background check is complete and the employer has determined the employee is not prohibited by law from being in a caregiver role.

Licensees maintain their employees, volunteers and student teacher BID forms on file at their center.

It is very important that BID forms are filled out timely and kept on file. Failure to complete the required BID forms may result in a licensing violation, penalty or sanction as authorized under s. 48.715, Wis. Stats.

Part One Background Information Disclosure (BID)

What should be disclosed on the BID?

Some information requested on the BID include:

- Felony & misdemeanor criminal convictions
- Pending criminal charges
- Findings of abuse/neglect or misappropriated client property

All information and answers to questions on the BID must be truthful and accurate.

If you have a question whether or not something should be disclosed, disclose it.

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When an individual completes the BID form, he/she must disclose information that is truthful and accurate including any felony convictions, misdemeanor convictions, pending criminal charges, findings of abuse/neglect, misappropriated client property and all other information requested on the BID form. Information on the BID form is subject to verification.

If an individual has questions whether something should be disclosed, he/she should disclose it or contact the Department's Caregiver Background Unit for clarification.

Part Two

Name-Based Checks vs Fingerprint-Based Checks

- Licensees, Caregiver Employees and Adult household members in centers participating in the YoungStar Rating System are required to have a one-time only fingerprint check. For information on Fingerprinting, see slide # 17.
- Licensees, Caregiver Employees and Adult household members who have completed a fingerprint-based check after 2013 are required to have an annual name-based check.
- Licensees, Caregiver Employees and Adult household members in centers that do not participate in the YoungStar Rating System do not need to have a fingerprint-based background check. Rather these individuals will need to have an annual name-based check. For information on Name-based checks see slide #14.

Part Two Department of Justice (DOJ) Name-Based Criminal Record Check

The CBU runs Name-Based Criminal Record Checks...

- **At the time of BID submission** for minor employees and minors living on the premises (ages 12-17) if pertinent offenses appear on the BID
- **Yearly** for household members (age 18+, including visitors staying on the premises for more than 60 days)
- **Yearly** for licensees

➔ Licensees are invoiced for Name-Based Criminal Record Checks run by the CBU (unless payment is authorized through Wisconsin Shares)

The Licensee runs Name-Based Criminal Record Checks...

- **Within 60 days** of a new employee's start date
- **Yearly** for employees, volunteers and students

➔ Licensee pays DOJ for these Name-Based Caregiver Criminal Record Checks

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The second part of the CBC process is the name-based criminal record check through the Wisconsin Department of Justice (DOJ).

The CBU runs Name-Based Criminal Record Checks each year for the licensee; household members age 18 and older; and visitors staying for an extended period of time (more than 60 days). The CBU will also run a Name-Based Criminal Record Check at the time of BID submission for minor employees and minors living on the premises (ages 12-17) only if pertinent offenses appear on the BID form. The cost of the Name-Based Criminal Record Check (\$10.00 each) is invoiced directly to the licensee or deducted from Wisconsin Shares payments if an agreement is on file.

Licensees must complete all components of the CBC including the Name-Based Criminal Record Checks within 60 days of a new employee's start date and yearly for employees, volunteers and students on the premises more than 60 days that count in the staff to child ratio. The cost of the Name-Based Caregiver Criminal Record Check (\$10 each) completed by the licensee is paid directly to DOJ by the licensee either through a credit card payment or through an account established with the DOJ.

Part Two Department of Justice (DOJ) Criminal Record Check

To run a Name-Based Criminal Record Check,
go to the DOJ Website: <http://wi-recordcheck.org>

Set up an account on-line or pay by credit card to obtain
electronic record results using your child care license ID#

Cost \$10.00 per Name-Based Criminal Record Check

OR

Print forms and have the record check done by mail

Cost \$15.00 per Name-Based Criminal Record Check

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Licenses may request name-based Wisconsin DOJ caregiver criminal background searches without an account and pay by credit card or set up an account with the DOJ and be invoiced by the DOJ for the cost of a name-based caregiver background check

When the criminal record check is completed electronically, the DOJ checks the criminal history database and sends two separate results of this check to the licensee through their website. Both results (DOJ criminal history search results and the DHS Response to Caregiver Background Check results) must be printed and put in the employee's file, even if it indicates the individual has no criminal record. It should be noted that the electronic results are only available for 30 days so be sure to print them as soon as possible to avoid paying for an additional background check. The cost for a CBC done on-line is \$10.00 per Criminal Record Check (\$7.00 for the DOJ and \$3.00 for the DHS check).

Name-based criminal record checks completed through the mail will take longer (a week or more). The DOJ checks the criminal history database and sends the results of both checks to the licensee through the regular mail. Both results (DOJ criminal history search results and the DHS Response to Caregiver Background Check results) must be placed in the employee's file, even if it indicates that the individual has no criminal record. The cost for a CBC done through the mail is \$15.00 per Criminal Record Check. (\$12.00 for the DOJ check and \$3.00 for the DHS Check) Forms to request checks by mail are available from DOJ's website or you may call their customer service desk for assistance.

The licensee is invoiced for Criminal Record Checks run by the CBU (licensees, household members and minor employees) and payment should be sent to the CBU. The licensee can opt to have payment for these criminal record checks taken directly out of their Wisconsin Shares payments.

Part Two Department of Justice (DOJ) Criminal Record Check

Out of State Criminal Record Check...

If a caregiver resides outside of Wisconsin or lived in another state within the previous 3 years (including military service), a FBI fingerprint-based background check must be done or the criminal record search results must be obtained from each state the person resided in during that time.

The Cost of a Criminal Record Check will vary by state

Note: Some states criminal history information is not available to anyone except the individual. A national fingerprint-background check conducted through the FBI includes a criminal record check from all states and may be easier to obtain than information from an individual state.

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The Caregiver Background Check Law requires a child care licensee make a good faith effort to obtain a criminal record check information when a caregiver has resided in a state other than Wisconsin within the last 3 years.

Some states may not release information about a person's criminal history to any person other than the person being checked. Licensees are encouraged to document the steps taken to request a criminal record check on a caregivers who lived outside of Wisconsin. Each state's department of justice should have information on how to obtain criminal records from that state. A FBI fingerprint-based background check can be done on an individual who has lived out of state in the last 3 years. Doing a FBI fingerprint-based check will eliminate the need to check another state's criminal history database.

Once an out-of-state criminal record is obtained and the person remains a Wisconsin state resident, subsequent record checks can be done through the Wisconsin DOJ as long as the individual has not moved out of state again.

If a caregiver resides out-of-state and works in Wisconsin, then the licensee must conduct a Wisconsin criminal record check on these individuals at least once per year. An annual background check in the state where the person resides needs to be completed as well. An annual FBI fingerprint-based background check may be used to meet the requirement for the out-of-state and Wisconsin check.

Part Two Department of Justice (DOJ) Fingerprint-based Criminal Record Check

The Volunteers for Children Act allows child care providers to conduct a fingerprint check with the FBI that:

- Meets the requirement of a WI DOJ check and an out-of-state criminal record check.
- Provides information about convictions in other states
- Meets the requirement for the one-time only fingerprint check required for programs that want to be eligible to participate in the WI Shares programs
- Costs \$32.75 plus the cost of capturing the fingerprints.

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The Volunteers for Children Act allows child care facilities to conduct a fingerprint check with the FBI. This check will meet the requirements for a Wisconsin criminal record check as well as provide information about convictions in another state. You can find more information about this act at this link.

http://www.doj.state.wi.us/dles/cib/forms/brochures/vol_children.pdf. An application to do fingerprint checks under the Volunteers for Children Act can be found at this link: <http://www.doj.state.wi.us/sites/default/files/dles/cib-forms/record-check-unit/vca-reg-form.pdf>.

The cost for a fingerprint check is \$32.75 (\$29.75 for the FBI & DOJ search and \$3.00 for the DHS search) plus any fees incurred to be fingerprinted. Some local law enforcement agencies charge a fee for fingerprinting an individual while others do not. Some law enforcement agencies do not provide this service at all. Wisconsin has a contract with Fieldprint to digitally capture fingerprints and submit them directly to the DOJ for a FBI Fingerprint-based Background Check. The cost of a digital fingerprint capture done by Fieldprint is \$7.75. To find the nearest Fieldprint location and schedule an appointment follow this link: <http://fieldprintwisconsin.com/>

Part Two
Department of Justice
Fingerprint-based Criminal Record Check

- Fingerprints can be captured and submitted digitally through FieldPrint. <http://fieldprintwisconsin.com/>
- For those programs wishing to have employee fingerprints captured manually (rolled using ink and placed on cards), contact FieldPrint.
- For licensees and adult household members wishing to have fingerprints captured manually, contact the DCF Caregiver Background Unit.
- Results of a fingerprint-based background check are available in the program's DOJ account within 24 – 482 hours after being submitted.

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There are two ways that fingerprints can be captured to conduct a fingerprint-based background check.

- Digital capture involves placing a finger on a scan machine and the machine scans the individual's fingers to capture the finger print. This method is more precise in capturing fingerprints so that the chances that fingerprints will be rejected as unreadable are lessened. The fingerprints are not stored on the machine so the fingerprints can't be retrieved after the prints are sent to the DOJ and FBI. FieldPrint has a contract with Wisconsin to collect digital fingerprints and submit them directly to the DOJ/FBI for a background check. The cost to have FieldPrint capture fingerprints is \$7.75 per individual. FieldPrint maintains a record of the names of people who have had a fingerprint check completed.
- Manual capture involves the use of ink on the fingertips and rolling the finger over a card to release the imprint of the fingerprint onto the card. This method is less reliable than the digital capture process. Fingerprints can be smudged or leave a faint impression which may make them unreadable by the DOJ/FBI. A trained person should do the manual capture of fingerprints so that a useable capture is more likely. Law enforcement agencies may do a manual capture. Some law enforcement agencies charge a fee for the manual capture of a person's fingerprints while other law enforcement agencies may not charge a fee.
- Fingerprint background check results for licensees, household members and minor caregiver employees are sent directly to DCF. Fingerprint-based background check results for caregiver employees are available to child care providers within 24 – 48 hours after the prints have been submitted from the center's DOJ account and remain there

for only 30 days. If a licensee fails to go into the center's DOJ account and print the results within 30 days after the check is completed, the results are no longer available. For information on how to get a DOJ account please seek the following link:
<http://www.doj.state.wi.us/sites/default/files/dles/cib-forms/record-check-unit/DJ-LE-251.docx>.

Part Three DHS Response to Caregiver Background Check

Report checks several databases as well as the status of professional licenses.

[Usually] available on-line the day after the Criminal Record Check is run. Mailed results may take up to a week to be sent.

If there are matches, specific information about the status of the license will be available. **You must call the phone number provided to gather more information from the agency involved.**

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The third part of the CBC process is the DHS Response to the Caregiver Background Check. Once the DOJ runs the Criminal Record Check, a second report is run that accompanies the Criminal Record Check findings. It is usually available electronically a day after the Criminal Record Check is run. The DHS Response to the Caregiver Background Check must be current (within the last 12 months) and available for the licensing specialist to review during monitoring visits.

This report checks the Department of Health Services integrated background information system database, the Nurse Aide Registry as well as the Department of Safety and Professional Services (DSPS) database of professional licenses. If there are matches, information will be provided in the report on how to contact that agency. You must call the phone number provided to gather more information from the agency involved. You cannot hire the person, or continue employment of a current employee until you learn more about the information contained in the report and whether or not the finding is substantially related to the individual's role as caretaker.

Part Four Sex Offender Registry (SOR) Check

- Go to the following web site and enter the caregiver's name (including any aliases):
<https://www.nsopw.gov/en/Search/Verification>
- If there is a match, verify that it is the same person.
- A person found on the Sex Offender Registry cannot work in a caregiver role.

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The fourth step of the Caregiver Background Check is a name check (including any aliases) in the National Sex Offender Registry (SOR) <https://www.nsopw.gov/en/Search/Verification>. If there are any name matches, verify that it is the same person. If the individual is found on the Sex Offender Registry he/she is barred from working as a caregiver.

It is recommended that the licensee maintain documentation of the search in the employee's file regardless if a finding is found, but it is not required by rule to do so.

Part Five Obtain Records (if required)

- Obtain criminal complaints and final disposition of the complaint from the clerk of courts
- May need to contact your local county agency for CPS records
 - The individual may need to sign a confidential release of information to allow the agency to disclose information to the licensee/employer

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The fifth step in the Caregiver Background Check process is to obtain records if necessary. The caregiver law requires the licensee to make every effort to obtain the criminal complaint and the final disposition of the complaint from the clerk of courts under circumstances outlined in s. 48.685(2)(bb), Wis. Stats. The licensee may also need to contact their local county agency for child protective services (CPS) records if the BID form discloses a child abuse or neglect substantiation, or there are other indications in the criminal record check that indicate possible child abuse or neglect concerns. The CPS record search may require the individual to sign a confidential release of information allowing the agency to disclose this information to the licensee/employer.

Next Steps

When each part of the CBC is received:

- Carefully read over each report
- Cross reference findings on the Criminal Record Check, Criminal Record Check Response, FBI results (if a fingerprint-based background check was completed) and results of the search from the SOR with the BID to determine if information is complete and accurate
- Determine if any findings (i.e. convictions, pending charges) are...
 - Offenses on the Child Care Crimes Table
 - Substantially related to the job the person will do

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Once the licensee receives the BID; Criminal Record Check from the DOJ; the DHS Response to the Caregiver Background Check; and Sex Offender Registry check and the results of the FBI fingerprint-based background check (if one is completed), each record must be carefully reviewed.

If an individual has no criminal history “No criminal history found” will be printed on the first page of the Criminal Record Check. If the individual has past/current criminal history “Wisconsin Criminal History” will be printed on the first page of the Criminal Record Check. Instructions on how to read the results of a Criminal Record Check can be found on the DOJ website: <http://www.doj.state.wi.us/dles/cib/background-check-criminal-history-information>.

The DHS Response to the Caregiver Background Check will identify any licenses held by the individual and if there have been any denials or revocations to that license. If there is a phone number, you must call to get pertinent information regarding the status of the license. You cannot hire or continue employment of a caregiver until you determine if the status of the license is substantially related to the individual’s role as a caregiver.

Review any matches with the Sex Offender Registry. If there are any matches, the individual is barred from working with children.

Compare the Criminal Record Check from DOJ, the DHS Response the Criminal Record Check and any matches with the Sex Offender Registry with the BID to determine if the information is complete and accurate. If items appear on the reports that don’t appear on the BID the individual may have not been entirely truthful or accurate in representing themselves.

Review any findings (convictions, pending charges, etc.) on the Criminal Record Check and compare them with the offenses listed on the Child Care Crimes Table. Any findings revealed on the FBI check or check of another state’s criminal history database must be reviewed to determine if a conviction that is substantially similar to a conviction on the Child Care Crimes Table. If there are matches that individual may be subjected to a bar as specified on the Child Care Crimes Table. If there are no matches you may need to determine whether or not the finding is substantially related to individual’s role as caretaker.

If the BID form reveals a substantiated finding of abuse or neglect or the criminal record check results indicate an arrest or charge for child abuse or neglect, the licensee should contact the appropriate county agency or Division of Milwaukee Child Protective Services to determine if the individual has a substantiated finding by that agency. This may require the individual to sign a confidential information release form. The department form Confidential Information Release Authorization (DCF-F-369-E) may be used for this purpose.

Child Care Crimes Table

Child Care Crimes Table

Child Care Crimes Table (Revised 03-2015)

1

Barred Crimes and Other Offenses
Child Care

Statute	Conviction or Pending Charge OR Adjudicated Delinquent or Delinquency Petition on or after 12 th birthday	Action
48.685(2), (3), (4m)(b), or (6)	Providing false information or the intentional withholding of information from the Department, a county department, an agency contracting under s. 48.651(2), a school board, or an entity.	Permanent Bar, rehabilitation not permitted
125.075 (1)	Injury or death by providing alcohol to a person under age 18	Bar for 5 years after completion of sentence, including probation, parole, or extended supervision, or discharge by Dept. of Corrections
125.085 (3) (a) 2.	Make, alter, duplicate ID for money or compensation	Bar for 5 years after completion of sentence, including probation, parole, or extended supervision, or discharge by Dept. of Corrections
125.105 (2) (b)	Impersonate or abet impersonation of an inspector, agent or employee of Dept of Revenue or Justice	Bar for 5 years after completion of sentence, including probation, parole, or extended supervision, or discharge by Dept. of Corrections
125.66 (3)	Make or rectify intoxicating beverage without a permit	Bar for 5 years after completion of sentence, including probation, parole, or extended supervision, or discharge by Dept. of Corrections
125.68 (12)	Recover, use, conceal or dispose of alcohol from denatured alcohol	Bar for 5 years after completion of sentence, including probation, parole, or extended supervision, or discharge by Dept. of Corrections
346.63 (1) (2) (5)	Operating or causing injury by intoxicated use of a	Bar for 5 years after completion of sentence, including probation, parole, or

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The Caregiver Law lists various convictions for serious crimes that result in a bar. There are four types of bars that may result from a conviction for a serious crime.

It is important to note that the Child Care Crimes Table includes all subsections of the statute listed. An example would be “125.075(1)” listed on the top of the crimes table. This would include any sub section listed under (1) including (1)(a), (1)(b), (1)(m)(a-d). If a DOJ report listed a conviction under “125.075(1)(1m)(c)” that individual would have a bar for 5 years after completion of probation, parole or extended supervision.

Child Care Crimes Table Categorizations

Permanent Bar, rehabilitation not permitted...a person may not hold a license to operate a child care center, reside in or work for a child care program.

Permanent Bar, rehabilitation not permitted for licensee or certified provider only...a person may not hold a license or a certification for a child care program, but may be allowed to reside in or work as a caregiver in a program.

Bar unless rehabilitation approval...A person must have a rehabilitation review approval to lift the bar. Without this approval, the person is barred.

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If the report from the DOJ indicates any convictions, the DCF Child Care Crimes Table must be checked to determine if the conviction results in a bar to employment in a child care setting.

When the Crimes Table indicates a ***Permanent Bar, rehabilitation not permitted***, a person may not hold a license to operate a child care center, reside in or work for a child care program.

When the Crimes Table indicates a ***Permanent Bar, rehabilitation not permitted for licensee or certified provider only***, a person may not hold a license or a certification for a child care program, but may be allowed to reside in or work as a caregiver in a program. The licensee should consider if the conviction is substantially related to that individual's position.

When the Crimes Table indicates a ***Bar unless rehabilitation approval***, a person with these convictions/findings must have a rehabilitation review approval permitting them to work in a child care setting. Without this approval, the person is barred.

Child Care Crimes Table Categorizations

Bar for 5 years after completion of the sentence, including probation, parole, or extended supervision, or discharge by DOC...

A person must indicate the date when any sentence for the conviction including any probation, parole, or extended supervision has been completed. If it has been more than 5 years since the person was discharged by the DOC, the bar is lifted. If it is less than 5 years since the person was discharged by the DOC, the person is barred.

You may contact the DOC Master Records office at (608) 240-3750 to obtain the date the individual completed their sentence, including any supervision. You will need the individual's name and date of birth.

Note: For convictions under 948.22 (2) Failure to support: the bar is lifted when the person has paid all arrearages due and is meeting his or her current support obligation.

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When the Crimes Table indicates a ***Bar for 5 years after completion of the sentence, including probation, parole, or extended supervision, or discharge by Department of Corrections (DOC)*** the person must indicate the date when they completed any sentence for the conviction including any probation, parole, or extended supervision. If it has been more than 5 years since the person was discharged by the Department of Corrections, the bar is lifted. If it is less than 5 years since the person was discharged by the Department of Corrections, the person is barred.

Note: For conviction under 948.22 (2) Failure to Support: An individual is barred for 5 years after completion of the sentence, including probation, parole, or extended supervision, or discharge of DOC unless the person has paid all arrearages due and is meeting his or her current support obligation.

Rehabilitation Review

If the individual has a barred offense that is eligible for rehabilitation review on the Child Care Crimes Table, the individual may seek removal of the bar by a Rehabilitation Review panel.

The individual may seek the removal of the bar for regulatory approval, for employment as a caregiver or to reside in a regulated facility.



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There are several convictions or findings on the Child Care Crimes Table that bar a person from working as a caregiver unless the person has obtained rehabilitation approval. Rehabilitation review is the process where an individual with one of these convictions or findings appears before a panel to explain the circumstances surrounding the conviction or finding and to explain what s/he has done to assure the panel that a similar incident will not occur. The panel determines whether the bar against the person should be lifted and under what circumstances the person could once again work with children.

For persons wishing to become licensed or certified or work as a caregiver in a regulated child care setting, the rehabilitation review panel is convened by the Department of Children & Families. A form to request Rehabilitation Review can be found on the licensing web.

Establishing Substantial Relationship

DEPARTMENT OF CHILDREN AND FAMILIES
Division of Early Care and Education

dcf.wisconsin.gov/

CAREGIVER BACKGROUND CHECKS SUBSTANTIALLY RELATED INVESTIGATION REPORT

Use of form: Use of this form is voluntary. Personal information you provide may be used for secondary purposes [Privacy Law, s.15.04(1)(m), Wisconsin Statutes].

If an individual has a conviction for a crime that is not a barred offense, a determination whether the crime is “substantially related” to the job may be needed. The **Substantially Related Investigation Report (F-CFS2261-E)** is a voluntary form to assist the licensee in determining if a crime substantially relates to the care of children or the operation of the program.

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If the Criminal Record Check indicates a conviction that does not appear on the Child Care Crimes Table, the licensee may consider conducting a substantial relationship investigation. The intent of this investigation is to determine whether the conviction substantially relates to the job the individual will perform for the child care facility. DHS 12.06, Wis. Admin. Code, details how to make a substantially related determination.

The Substantially Related Investigation Report (DCF-F-CRS2261-E) is located on the licensing web.

During a substantially related investigation the licensee will want more information from the individual on the circumstances related to the incident that lead to the conviction. Some of the questions the licensee may try to answer during the investigation include:

- When did the conviction occur?
- Is there a pattern of offenses?
- Did the offense involve children?
- Was violence associated with the incident?
- Where weapons present or used?
- Does this conviction have anything to do with the job duties of the individual?

If you have questions, contact your licensing specialist or the CBU.

Pending Charges for Crimes on the Child Care Crimes Table

- Applicants will be denied a license if they have a pending charge for a serious crime identified on the Child Care Crimes Table.
- Caregivers must report any pending charges or offenses which could potentially relate to the care of children at the child care center.
- Caregivers may not work as a caregiver until pending charges for a serious crime on the Child Care Crimes Table are resolved.
- Once pending charges for a crime on the Child Care Crimes Table are resolved and a conviction is the result, follow the procedures for a conviction.

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The report from the Department of Justice may indicate that an individual was arrested and charged with a crime but may not reveal the final disposition of the charges. This may happen because the case is still working its way through the court system, the court has not reported the final disposition of the charges or the charges may have been dropped. If the charge is for a serious crime, every effort must be made to obtain the final disposition from the clerk of courts.

A new child care applicant will be denied a license and existing licensees will have their license immediately suspended if they have a pending charge of a serious crime.

A caregiver may not work as a caregiver until the pending charges are resolved. When a case has been resolved but the disposition does not appear on the DOJ report, the licensee may contact the Clerk of Courts to find out how the case was settled. If there was a conviction, the licensee will need to determine whether there is a bar for that conviction. If no bar exists, then a substantial relationship determination may be necessary. If the charges have not been resolved and the crime with which the person was charged prohibits them from being a caregiver, the employee may not work in a caregiver role until the issue is resolved.

Deferred Prosecution and Dismissed Charges

Deferred Prosecution cases are held open for a specified length of time. If the person completes the conditions of the Court, the case is dismissed.

Dismissed charges will remain on a record but only convictions can bar an individual from employment as a caregiver or non-client residency.

Some convictions dismissed through the First Offender Program may be used for the basis to determine substantial relationship.



Deferred prosecution cases are held open for a specified length of time. If the person completes the conditions of the Court, the case is dismissed. Dismissed charges will remain on a record but only actual convictions can be used to bar from employment or non-client residency. Some convictions dismissed through the First Offender Program may be used for the basis to determine substantial relationship. If you need help reading a DOJ report there is information on the DOJ website at this link:

<http://www.doj.state.wi.us/dles/cib/background-check-criminal-history-information#readrecord>

What Parts of the CBC Should Be Kept On Site?

If the licensee ran the CBC, all components of the Caregiver Background Check (CBC) must be available upon request by a Licensing Specialist:

1. Background Information Disclosure (BID) form collected at the time the person started working
 2. Current Department of Justice (DOJ) Criminal Check
 3. FBI results or documentation that a fingerprint-based check was conducted (if applicable)
 4. Current Response to Caregiver Background Check
 5. Sex Offender Registry results (recommended)
- AND (only if completed)**
5. Documentation and results of any investigation conducted, included any court or other agency records

The CBU keeps on file the results of the CBC for the licensee, household members and minor employees.

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Child Care facilities are required to maintain information on CBCs for employees, volunteers and students counted in ratios, or anyone else who has direct regular contact with children.

The information collected as part of a CBC is required to be kept on-site and available to the licensing specialist for review. CBC information must be kept confidential.

CBCs conducted by the CBU are not required to be on-site at the child care center.



Licensee Reporting Requirements

Situations the licensee must report to the CBU:

- A change in board president (for a program operated by a corporation or church) so that a background check can be conducted.
- Whenever anyone 12 years of age or older moves in or out of the facility.

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Background checks on licensees, household members and minor employees are done by DCF through the Background Check Unit. For centers operated by a corporation, the board president is the person who will have a background check. The board president may designate another board member as a licensee. If there is a change in board president, the CBU must be notified by the licensee. The new Board President must complete a BID form and submit it to the CBU. A list of board members should also be submitted at this time. The CBU will run the CBC on the board president when notified of the change.

Whenever anyone moves in or out of the facility. If an individual moves into a facility then a CBC needs to be run on that individual. If an individual moves out, he/she will no longer need a CBC completed for them (unless they come back as an extended guest).



Licensee Reporting Requirements

Situations the licensee must report to your Licensing Specialist:

- Any incident involving law enforcement within 24 hours after the occurrence that involves a licensee, a household resident or an employee of the center in an incident that causes, or threatens to cause, physical or serious emotional harm to an individual, including a child in the care of the center.
- Any incident that involves any traffic-related incident where a person responsible for the violation transports children in the care of the center.

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Any incident involving law enforcement within 24 hours after the occurrence that involves a licensee, a household resident or any employee of the center in an incident that causes, or threatens to cause, physical or serious emotional harm to an individual, including a child in the care of the center.

Family Child Care reference: 250.04(3)(g)(1)

Group Child Care reference: 251.04(3)(k)(1)

Day Camp reference: 252.41(2)(h)(1)

Any incident that involves any traffic-related incident where a person responsible for the violation transports children in the care of the center.

250.04(3)(g)(2)

251.04(3)(k)(2)

252.41(2)(h)(2)



Licensee Reporting Requirements

Situations the licensee must report to your Licensing Specialist:

- Any known convictions, pending charges or other offenses of the licensee, a provider, employee, household member or other person subject to a CBC that may relate to the care of children by DCF's next business day.
- Any suspected abuse or neglect of a child by a provider, volunteer or household member that was reported or any inappropriate discipline of a child by a provider, volunteer or household member including any incident that results in a child being forcefully shaken or throw against a hard or soft surface during the child's hours of attendance within 24 hours of the incident.

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Any known convictions, pending charges or other offenses of the licensee, a provider, household member, employee or other person subject to a CBC that may relate to the care of the children by DCF's next business day.

Family Child Care reference: 250.04(3)(e)

Group Child Care reference: 251.04(3)(g)

Day Camp reference: 252.41(2)(f)

Any suspected abuse or neglect of a child by an employee or volunteer that was reported under s. DCF 251, 252, or 253 or any inappropriate discipline of a child by an employee or volunteer including any incident that results in a child being forcefully shaken or thrown against a surface, hard or soft, during the child's hours of attendance within 24 hours after the occurrence.

Family Child Care reference: 250.04(3)(i)

Group Child Care reference: 251.04(3)(j)

Day Camp reference: 252.41(2)(g)

Personnel Policy

A licensed group child care center's personnel policy shall contain a procedure that requires staff to notify the licensee and the licensee to notify DCF as soon as possible but no later than the next business day when an employee:

- Has been convicted of a crime
- Has been or is being investigated by any governmental agency for any other act, offense, or omission, including an investigation related to the abuse or neglect or threat of abuse or neglect, to a child or other client, or an investigation related to misappropriation of a client's property
- Has a substantiated governmental finding against them for abuse or neglect of a child or adult or for misappropriation of a client's property
- Has a professional license denied, revoked, restricted or otherwise limited.

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The personnel policy shall contain a procedure that requires caregivers to notify the licensee immediately but no later than the next business day when any of the following occurs:

A caregiver:

- Has been convicted of a crime.
- Has been or is being investigated by any governmental agency for any other act, offense, or omission, including an investigation related to the abuse or neglect or threat of abuse or neglect, to a child or other client, or an investigation related to misappropriation of a client's property.
- Has a substantiated governmental finding against them for abuse or neglect of a child or adult or for misappropriation of a client's property.
- Has a professional license denied, revoked, restricted or otherwise limited.

The licensee, in turn, notifies the DCF immediately, but no later than the next business day of the occurrence.

Testing Your Understanding



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The following questions are for you to test your understanding of the material covered.

What would you do?

What is required in the following situations?

1. Sarah will start work on July 20 to clean the center each night after it is closed. What CBC information will she need before she starts work?
2. The licensee hired 2 teachers prior to July 1 with a third teacher to start on July 25. When must background checks be completed by?
3. A technical college practicum student will have a 6-week placement beginning August 30th. Does the student need a CBC?

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Answers

1. Sarah would not be required to complete a BID or a CBC because her position does not meet the definition of a caregiver. The department recommends at minimum a BID form be completed however it is not required by rule or law. If Sarah met the definition of a caregiver because she ended up cleaning during the day and provided care to children as a substitute, a BID would be required on the day she begins providing care to children and all components of the CBC would need to be completed (BID, Criminal Record Check, Criminal Record Check Response and SOR check).
2. Before each teacher starts to work, s/he would need to complete a BID form that would be reviewed by the licensee. If the BID did not reveal any information that may prohibit the person from working, they could start with supervision. Then the licensee would run the Criminal Record Check, Criminal Record Check Response and SOR check to allow enough time to receive the results within 60 days of their date of hire.
3. The practicum student should complete a BID prior to beginning the practicum. A six-week placement is less than the 60 days allowed for a complete caregiver background check to be on file, so the licensee would not be required to have one on file for the student.

If the placement extended an additional six weeks (for a total of 12 weeks), the licensee would be required to have a complete caregiver background check on file for that student because the placement now exceeds 60 days. Many technical colleges complete a background check on practicum students.

Test Your Knowledge

1. What is a "BID"?
2. To determine whether a crime is substantially related to the care, what items may be considered?
3. Name are the 5 parts that make up the CBC?
4. What is the purpose of the Caregiver Law?
5. Who is subject to the Caregiver Law and CBC?
6. How often do BID forms have to be completed?
7. Who conducts the CBC and how often?
8. What is a bar? What types of bars are there?
9. When is an out of state CBC required?
10. What types of records are licensees required to maintain?
11. What information is the licensee required to report to the regulating agency?

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1. A "Background Information Disclosure form" is the Department's form, DCF-F-2978, on which a person provides certain information concerning their background.
2. Police reports, court documents, information from the individual
3. BID, Criminal Record Check, DHS Response to Criminal Record Check letter, SOR check, substantially related investigation documents
4. To protect children by prohibiting certain individuals with specific offenses/convictions from being residents, employees or operators in regulated child care.
5. Applicants for certification/licensure, certified/licensed providers, employees/assistants/substitutes, household members and minor caregivers.
6. At initial application; when a new household member begins to reside at a center or prior to starting work for all individuals subject to the Caregiver Law.
7. DCF CBU conducts the initial and subsequent CBCs on the licensees, household members and minor employees. The licensee is responsible for conducting the CBC on adult employees through DOJ. The CBC is required for the operator/licensee at the time of initial application and once a year after that. The CBC is required for other individuals subject to the Caregiver Law upon initial application and annually.
8. A restriction from receiving regulatory approval or from being employed as a caregiver or from residing as a non client resident in a licensed child care facility. Types of bars: Permanent Bar, Bar with Rehabilitation, 5-year Bar, Permanent Bar for Licensee/Operator Only
9. When the individual lives or has lived in another state in the last 3 years.
10. Employee current BID form, the DOJ criminal record report, the response to the CBC, SOR check, documentation and results of any substantially related investigation conducted
11. Individuals moving in/out of the home, incidents involving police, arrests, pending charges, convictions, change in Board President

Additional Resources

Licensing CBC Website

CBC Frequently Asked Questions

Certification Website

Sex Offender Registry

<http://wisconsin.doc.familywatchdog.us>

Department of Justice – Crime Information Bureau FAQ's:

<http://www.doj.state.wi.us/dles/cib/cib-frequently-asked-questions>

Department of Safety and Professional Services

<http://dsps.wi.gov/Home>

Contact Information

Department of Children & Families - Caregiver Background Unit

P.O. Box 8916; Room E200
Madison, WI 53708-8916
Phone: (608) 266-8001
FAX: (608) 267-2200
E-mail: DCFPlicBECRCBU@wisconsin.gov

Department of Justice

Phone: (608) 266-1221
<http://www.doj.state.wi.us/dles/cib>

Department of Corrections

Phone: (608) 240-3750

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If you have questions regarding the CBC process, please contact the CBU (not your licensing specialist).

Thank you for your participation in this training.

Thank you for keeping our children safe!



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