


To: DCF Area Administrators
Child Placing Agency Directors
Child Welfare Agency Directors
County Departments of Community Programs Directors
County Departments of Developmental Disabilities Services Directors
County Departments of Human Services Directors
County Departments of Social Services Directors
Group Home Providers
Tribal Social Service/Indian Child Welfare Directors
Private Child Placing Agencies
Residential Care Center Providers
Shelter Care Providers
Tribal Chairpersons

From: Fredi-Ellen Bove 
Administrator

Re: Implementation of Ch. DCF 12 Administrative Code: Caregiver Background Checks

PURPOSE

This memo provides notice of the implementation of a Department of Children and Families caregiver background check rule as required under s. 48.685 Wis. Stats. Wisconsin's Caregiver Background Check law, s. 48.685 Wis. Stats., applies to caregivers and entities that are regulated by the Department of Children and Families.

BACKGROUND

The Department's rule is similar to the existing caregiver background check rule in Ch. DHS 12 Admin. Code. Chapter DHS 12 is a Department of Health Services rule that applied prior to July 1, 2016 to background checks required under ss. 48.685 and 50.065 Wis. Stats. Many of the entities subject to the background check requirements under s. 48.685 Wis. Stats. were previously in the former Department of Health and Family Services. The Department of Health and Family Services split in 2008 and became the Department of Health Services and the Department of Children and Families. Many of these programs were transferred when the Department of Children and Families was created. Chapter DHS 12 applied to background checks under s. 48.685 Wis. Stats., until the issuance of Ch. DCF 12 Admin. Code.

In general, s. 48.685 Wis. Stats., requires a background check as a condition of regulatory approval or employment at, contract with, or nonclient residency at specified entities that care for children, including child placing agencies, foster homes, group homes, residential care centers for children and youth, shelter care facilities.. A background check is also required for an interim caretaker or successor guardian seeking subsidized guardianship payments and any nonclient residents.

POLICY AND PROCEDURE REQUIREMENTS

Chapter DCF 12 Admin. Code specifies caregiver background check requirements for the issuance of licenses to, and establishing standards for the operation of, child placing agencies, foster homes, group

homes, shelter care facilities, residential care centers for children and youth, interim caretakers, and successor guardians. Ch. DCF 12 Admin. Code establishes requirements related to the following:

- Entities contracting to conduct background checks and retain records
- Obtaining armed forces information
- Bars and substantially-related convictions and delinquency adjudications:
 - *Specified offenses that are a bar.* Chapter DCF 12.02 (24) includes a revised interpretation of the effect of a conviction or delinquency adjudication for the offenses specified in s. 48.685 (5) (bm) 4. Wis. Stats. Under the revised interpretation, a conviction or delinquency adjudication for these offenses will remain a bar to eligibility after the 5-year period, *unless the person demonstrates rehabilitation.* The 5-year period is a waiting period before a person may request a rehabilitation review.
 - This applies to all new licenses and license renewals issued after July 1, 2016.
- Reporting requirements
- Sanctions
- Rehabilitation reviews
- Delegation under section 48.979 Wis. Stats.
- Adoption Assistance, adoption approval, Subsidized Guardianship, and foster homes
- The Background Information Disclosure (BID) must be completed by caregivers and nonclient residents no more than 120 days before the agency or entity submits a request for information required under s. 48.685 (2) (am) or (b) and (3) (a) or (b) Wis. Stats.
- The age at which household members are required to complete the Background Information Disclosure (BID) is now age 12 consistently in all effected administrative rules.

ACTION SUMMARY

The issuance of Ch. DCF 12 Admin. Code, related to caregiver background check requirements for the issuance of licenses to, and establishing standards for the operation of, child placing agencies, , foster homes, group homes, shelter care facilities, residential care centers for children and youth, interim caretakers, and successor guardians became effective July 1, 2016.

REGIONAL OFFICE CONTACT: DCF Area Administrator

CENTRAL OFFICE CONTACT: Out-of-Home Care Specialist
Bureau of Permanency and Out-of-Home Care
(608) 422-6937

MEMO WEB SITE: <http://dcf.wisconsin.gov/cwportal/policy>

Attachments [Ch. DCF 12 Administrative Code](#)
[Ch. DCF 56 Administrative Code](#)
[Ch. DCF 56 Administrative Code – Annotated Version](#)
[DCF-F-CFS0787: Child Foster Care Licensing Checklist](#)
Foster Care and Subsidized Guardianship Barred Crimes
[DCF-F-2978-E: Background Information Disclosure \(BID\)](#)
[DCF-F-419: Rehabilitation Review Application Instructions](#)
[DCF-F-418-E: Rehabilitation Review Panel Decision Report](#)
[DCF-F-2857-E: Rehabilitation Review Appeals Report](#)
[DCF-F-CFS2191-E: DCF 12 Negative Action Notice](#)

Barring Crimes and Other Offenses under Section 48.685, Stats.

Foster Care and Subsidized Guardianship

This table applies to applicants for a foster care license, foster parents, subsidized guardianship, and foster parents licensed for placement of children for adoption for whom adoption assistance will be provided.

Regulatory approval, employment as a caregiver, nonclient residency at, and contracting with an entity are barred as follows:

Wis. Stats.	Conviction	Bar
125.075 (1)	Injury or death by providing alcoholic beverages to a minor	Bar for 5 years after crime committed, then bar unless rehabilitation approval
125.085 (3) (a) 2.	Make, alter, duplicate ID for money or other compensation	Bar for 5 years after crime committed, then bar unless rehabilitation approval
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 crime committed, then bar unless rehabilitation approval
125.66 (3)	Manufacture or rectify intoxicating liquor without a permit	Bar for 5 years after crime committed, then bar unless rehabilitation approval
125.68 (12)	Recover, use, conceal, or dispose of alcohol from denatured alcohol	Bar for 5 years after crime committed, then bar unless rehabilitation approval
346.63 (1), (2), (5) or (6)	Operating or causing injury by intoxicated use of a motor vehicle if a felony under s. 346.65 (2) (am) 5., 6., or 7., or (f); (2j) (d); or (3m), Stats.	Bar for 5 years after crime committed, then bar unless rehabilitation approval
940.01	1 st degree intentional homicide	Permanent bar
940.02	1 st degree reckless homicide	Permanent bar
940.03	Felony murder	Permanent bar
940.05	2 nd degree intentional homicide	Permanent bar
940.06	2 nd degree reckless homicide	Permanent bar
940.09	Homicide by intoxicated use of vehicle or firearm	Bar for 5 years after crime committed, then bar unless rehabilitation approval
940.12	Assisting suicide	Bar unless rehabilitation approval
940.19 (2), (4), (5), or (6)	Battery (felony)	Bar for 5 years after crime committed, then bar unless rehabilitation approval
940.19 (2), (4), (5), or (6)	Battery, if victim is spouse (felony)	Permanent bar
940.19 (3), 1999 Stats.	Battery (felony)	Bar for 5 years after crime committed, then bar unless rehabilitation approval
940.19 (3), 1999 Stats.	Battery, if victim is spouse (felony)	Permanent bar
940.20 (1) or (1m)	Battery by prisoners or battery by persons subject to certain injunctions, if victim is spouse	Permanent bar
940.20	Battery: special circumstances	Bar for 5 years after crime committed, then bar unless rehabilitation approval
940.203	Battery or threat to judge	Bar for 5 years after crime committed, then bar unless rehabilitation approval
940.205	Battery or threat to Dept. of Revenue employee	Bar for 5 years after crime committed, then bar unless rehabilitation approval
940.207	Battery or threat to Dept. of Safety and Professional Services or Workforce Development employee	Bar for 5 years after crime committed, then bar unless rehabilitation approval
940.21	Mayhem	Permanent bar
940.22 (2) or (3)	Sexual exploitation by therapist; duty to report	Bar unless rehabilitation approval
940.225 (1), (2), or (3)	1 st , 2 nd , 3 rd degree sexual assault	Permanent bar

Wis. Stats.	Conviction	Bar
940.23	Reckless injury	Permanent bar
940.25	Injury by intoxicated use of a vehicle	Bar for 5 years after crime committed, then bar unless rehabilitation approval
940.285 (2)	Abuse of vulnerable adults (misdemeanor or felony)	Bar unless rehabilitation approval
940.29	Abuse of residents of a penal facility	Bar unless rehabilitation approval
940.295	Abuse or neglect of patients and residents (misdemeanor or felony)	Bar unless rehabilitation approval
940.302 (2) if s. 940.302 (2) (a) 1.b. applies	Human trafficking for purposes of a commercial sex act	Bar unless rehabilitation approval
940.305	Taking hostages	Permanent bar
940.31	Kidnapping	Permanent bar
941.20 (2) or (3)	Endangering safety by use of dangerous weapon (felony)	Permanent bar
941.21	Disarming a peace officer	Permanent bar
942.09 (2)	Representations depicting nudity (felony)	Bar unless rehabilitation approval
943.10 (2)	Armed burglary or burglary with battery	Permanent bar
943.23 (1g)	Operating a motor vehicle without the owner's consent while possessing a dangerous weapon	Permanent bar
943.23 (1m) or (1r), 1999 Stats.		Permanent bar
943.32 (2)	Robbery with a dangerous weapon	Permanent bar
948.21 (1) (a)	Neglecting a child (misdemeanor)	Bar unless rehabilitation approval
948.21 (1) (b) to (d)	Neglecting a child (felony)	Permanent bar
948.53 (2) (b) 1.	Child unattended in child care vehicle (misdemeanor)	Bar unless rehabilitation approval
948.53 (2) (b) 2. to 4.	Child unattended in child care vehicle (felony)	Permanent bar
Any other offense under ch. 948, Stats., that is a felony	Crimes Against Children	Permanent bar
Any offense under ch. 961, Stats., that is a felony	Uniform Controlled Substances Act (includes convictions under previous numbering in ch. 161, Stats.)	Bar for 5 years after crime committed, then bar unless rehabilitation approval
	Other Offenses	
	Finding by a governmental agency of neglect or abuse of a client or of misappropriation of a client's property	Bar unless rehabilitation approval
	Finding by a governmental agency of child abuse or neglect	Bar unless rehabilitation approval

Note: Any comparable offense or conviction under federal law or another state's law has the same categorization as crimes and offenses included on this list.

Note: This appendix is based on s. 48.685 (1) (c), (5) (a), and (5) (bm), Stats., and 42 USC 671(20).