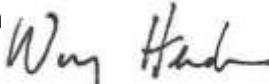




July 16, 2021

Child Welfare Licensing Memo Series 2021-19L

To: DCF/DMCPS Administrator
DCF Area Administrators
Child Placing Agency Directors
Child Welfare Agency Directors
County Departments of Community Programs 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: Wendy Henderson
Administrator 

RE: **2021 Wisconsin Act 72**

Purpose:

2021 Wisconsin Act 72, also known as Ethan's Law, was signed by the Governor and became effective July 17, 2021. This memo provides further clarifying information on the implications of 2021 Wisconsin Act 72 for congregate care providers.

Background:

Current background check requirements for licensees and employees of congregate care facilities are outlined in statute and administrative rule. Under current law, entities may not employ a congregate care worker who had been convicted of specified law violations related to abuse of a child. 2021 Wisconsin Act 72 adds a prohibition on employing or contracting with a congregate care worker who has pleaded no contest to, or been charged with and has had charges dismissed or amended as a result of a plea agreement, specified law violations related to abuse of a child even if there is no resulting conviction.

Information Summary:

2021 Wisconsin Act 72 amends parts of Wis. Stats § 48.685(4m)(b), which directly impacts congregate care providers:

Wis. Stats § 48.685 (4m)(b) reads, "Notwithstanding s. 111.335 and except as provided in sub. (5), an entity may not employ or contract with a caregiver specified in sub. (1) (ag) 1. a. or am. or permit a nonclient resident to reside at the entity or with a caregiver

specified in sub. (1) (ag) 1.am. of the entity if the entity knows or should have known any of the following:

Wis Stats § 48.685 (4m)(b)2. has been amended to read, "That the person was charged for a violation of s. 948.02 (1) or (2), 948.025, 948.03 (2) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.081, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21, 948.215, 948.30, or 948.53, or a similar law of another state, and the charge was dismissed or amended as part of a plea agreement."

Wis Stats § 48.685 (4m)(b)2m. has been amended to read, "That the person has pleaded no contest to a violation of s. 948.02 (1) or (2), 948.025, 948.03 (2) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.081, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21, 948.215, 948.30, or 948.53, or a similar law of another state."

Under 2021 Wisconsin Act 72 , congregate care providers may not employ or contract with a caregiver who has pleaded no contest to, or been charged with and had charges dismissed or amended as a result of a plea agreement, the above-listed law violations related to abuse of a child. An individual who meets any of these criteria is entitled to a rehabilitation review. Information about the Department's rehabilitation review process can be found in a link below.

The above restrictions do not apply retroactively to currently processed caregiver background checks. Facilities do not need to re-run background checks on currently employed caregivers. However, any caregiver background checks run following the implementation of 2021 Wisconsin Act 72, including those for already employed caregivers, will be subject to the above-noted restrictions.

This Act also amends the criminal background information a court must consider regarding unlicensed relatives and unlicensed non-relatives when making placement decisions at disposition and criminal background information for non-client residents. Those restrictions and requirements will be outlined in a DSP numbered memo.

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

LINKS: <https://dcf.wisconsin.gov/rehab-review>
<https://docs.legis.wisconsin.gov/2021/related/acts/72.pdf>