

HEALTH AND FAMILY

368 Attachment 1

Menominee Indian Tribe

Laws of Wisconsin Related to Licensing Group Foster Homes

Department's authority in child welfare:

§ 48.67. Rules governing child welfare agencies, day care centers, foster homes, county departments of public welfare or county children's boards.

- (1) The Department shall prescribe rules establishing standards for the issuance of licenses to and establishing standards for the operation of . . .foster homes. . . These rules shall be designed to protect and promote the health, safety and welfare of the children in care of all licensees. The Department shall consult with the Department of Industry, Labor and Human Relations and the Department of Public Instruction before prescribing these rules.

For licensing:

§ 48.66. Licensing duties of the department.

The Department shall license and supervise . . . foster homes as required by § 48.62...

**§ 48.62. Foster homes licensed.

- (1) No person shall receive, with or without transfer of legal custody, any child to provide care and maintenance for that child unless he obtains a license to operate a foster home from the Department or from a county agency or licensed child welfare agency as provided in § 48.75.
- (2) This section does not include a relative, as defined in § 48.02(12) or as specified in § 49.19(1)(a), or a guardian of a child who provides care and maintenance for the child.

**Although § 48.62(1) allows county agencies and licensed child welfare agencies to license foster homes, § 48.64(3) allows only the Department to make exceptions allowing more than four children not related as brothers and sisters to be placed in one foster home. Therefore § 48.62(1) cannot be construed to allow other than the Department to license group foster homes, wherein five to eight children may be placed.

For placement and supervision:

§ 48.63. Restrictions on independent placements.

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- (1) No person, except the child's parent or guardian or the Department, a county agency performing child welfare services under § 48.56(1), a child welfare agency licensed to place children in foster homes, or a court of record, may:
 - (a) Place a child or negotiate or act as intermediary for the placement of a child in a foster home; or
 - (b) Offer to hold himself out as able to place a child in a foster home.

§ 48.64. Placement of children in foster homes.

- (1) Foster home agreement. If the Department, a county agency specified in § 48.56, a juvenile court or a child welfare agency authorized to do so places a child in a foster home, it shall enter into a written agreement with the head of such home, which agreement shall provide that the agency shall have access at all times to the child and the home and that the child will be released to the agency whenever, in the opinion of the agency placing the child or the Department, the best interests of the child require it.

Where a child has been in the foster home for six months or more, the Department or agency shall give the foster parents written notice of intent to remove the child, stating the reasons for such removal. The child may not be removed before completion of the hearing under sub. (4a), if requested, or 30 days from the receipt of the notice, whichever is later, unless the safety of the child requires it.

- (2) Supervision of foster home placement. Every child in a foster home shall be under the supervision of a county agency, specified in § 48.56, a child welfare agency authorized to place children in foster homes, or the Department.
- (3) Number of children in foster homes. No more than four children may be placed in a foster home unless all are in the relationship to each other of brother or sister or unless the Department in accordance with its rules adopted under § 48.67 makes an exception.
- (4a) Any decision or order issued by a Department affecting foster parents or the children involved may be appealed to the Tribal Social Services Committee and to the Tribal Legislature for a fair hearing procedure.
- (4b) Judicial review of the Department's decision may be had.

§ 48.52. Facilities for care of children in legal custody of the department.

- (1) Facilities maintained or used for children. The Department may maintain or use the following facilities for the care of children in its legal custody:
 - (a) Receiving homes to be used for the temporary care of children.
 - (b) Foster homes.

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(c) Group homes.

§ 48.48. Authority of department. The Department shall have authority:

(4m) To continue to provide appropriate care, training and services to any person who:

- (a) Was at least 18 years of age on March 23, 1972.
- (b) Is in legal custody of the Department or county agency established under §§ 48.56 and 48.57 on March 23, 1972.
- (c) Is less than 21 years of age on the effective date of this Act (1973).

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- (2) The Department shall prescribe application forms to be used by all applicants for licenses from it.
- (3) The Department shall prescribe the form and content of records to be kept and information to be reported by persons licensed by it.

§ 48.68. Investigation of applicant; granting of license.

After receipt of application for a license, the Department shall investigate to determine if the applicant meets all minimum requirements for a license adopted by the Department under § 48.67. Upon satisfactory completion of this investigation, the license shall be granted.

§ 48.70. Provisions of licenses.

- (1) General. Each license shall bear the name of the person licensed, describe the premises included and state the maximum number of children who can be received and their age and sex.

§ 48.71. Expiration and revocation of licenses.

- (1) All licenses issued by the Department shall be for any term not to exceed two years from the date of issuance. No license shall be transferable. Licenses may be revoked by the Department because the licensee has substantially violated any provision of this chapter or of the rules of the Department adopted pursuant to § 48.67 or because the licensee fails to meet the minimum requirements for a license.

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- (2) The Department shall give the licensee written notice of any revocation and of the grounds for revocation. The written notice shall be given at least 30 days prior to any revocation, and the revocation shall take place only if the violation remains substantially uncorrected at the end of the thirty-day notice period.

§ 48.72. Appeal procedure.

Any person aggrieved by the Department's refusal or failure to issue or renew a license or by its revocation of a license has the right to an administrative hearing. Judicial review of the Department's decision may be had.

§ 48.73. Inspection of licensees.

The Department may visit and inspect each ... foster home ... licensed by it and for such purpose shall be given unrestricted access to the premises described in the license.

§ 48.74. Authority of department to investigate alleged violations.

Whenever the Department is advised or has reason to believe that any person is violating any of the provisions of § 48.60, 48.62 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 § 48.76.

§ 48.76. Penalties.

Any person who violates § 48.60, 48.62, 48.63 or 48.65 may be fined not more than \$500 or imprisoned not more than six months in tribal jail, or both.

§ 48.77. Injunction against violations.

In addition to the penalties provided in § 48.76, the Tribal Court shall have jurisdiction to prevent and restrain by injunction violations of § 48.60, 48.62, 48.63 or 48.65. It shall be the duty of the Tribal Prosecutor, upon request of the Department, to institute action for such injunction.

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Child abuse:

§ 48.981. Reports on abused or injured children.

- (1) A physician or surgeon being of the opinion as specified in § 885.21(1)(f) or nurse, hospital administrator, dentist, social worker, or school administrator having reasonable cause to believe that a child brought to him or coming before him has had physical injury or other abuse inflicted upon him by another, other than by accidental means, shall orally report the same and the facts and circumstances forming the opinion. The report shall be made immediately, by telephone or otherwise, and followed by a report in writing to a county child welfare agency specified in § 48.56(1), the sheriff of the county or the city police department...