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A resolution by Supervisor Moore Omokunde, to modify the policy of the Department of Health and Human Services (DHHS) and other Departments to adopt the Wisconsin Caregiver Law for barrable offenses as part of the background check process for contract agency employees who provide direct care and services to youth, adhere to the State of Wisconsin Rehabilitation appeals review process, retain the County’s policy to recognize Wisconsin Chapter 948 Crimes Against Children as a barrable offense (for those offenses not already barred by the State Caregiver Law) and urge the Milwaukee County Mental Health Board which oversees the DHHS-Behavioral Health Division to adopt this policy, by recommending adoption of the following:

A RESOLUTION

WHEREAS, many Department of Health and Human Services (DHHS) employees and vendors serve as caregivers for families and youth in Milwaukee County (the County); and

WHEREAS, a caregiver is defined by the Wisconsin (the State) Caregiver Law as a person who is employed by, under contract, or a volunteer that has direct contact with clients, client’s personal property, or client information that is planned, scheduled or expected, or periodic; and

WHEREAS, in April 1999, the Milwaukee County Board of Supervisors (County Board) adopted File No. 99-233, a resolution that among other things, requires all County departments that contract for youth services and programs to complete background checks on those individuals providing services, to ensure they are not involved in criminal and gang activity, and designated certain offenses, including Chapter 948 of the Wisconsin State Statutes (State Statutes) – Crimes Against Children as barrable offenses, and two or more misdemeanors involving separate incidences within the last three years; and

WHEREAS, in May 2000, the County Board amended File No. 99-233 to separate and bar individuals for five years who have committed crimes in violation of the Uniform Controlled Substances Act under Chapter 961, State Statutes, excluding simple possession, from those who have committed crimes against another individual(s) causing bodily harm or death who are permanently barred; and

WHEREAS, DHHS contracts with many vendors, which employ individuals who provide direct care and services to youth and families in the County that positively impact youth and their families; and

43 WHEREAS, under the current background check policy, automatic barrable
44 offenses, with no rehabilitation appeal process, may prevent individuals from sharing
45 relatable personal experiences that positively influence the attitudes and behaviors of
46 at-risk youth and prevent those individuals from working with families in the County; and
47

48 WHEREAS, the State Department of Health Services (DHS) Administrative
49 Code, Chapter 12 – Caregiver Background Checks, allows for the Substantially Related
50 Test to be utilized to allow convictions, such as for domestic violence, to be reviewed to
51 determine if it should disqualify the individual for the position they hold; and
52

53 WHEREAS, Chapter 50.065(5c), State Statutes, permits an individual who has
54 failed to demonstrate to the State DHS that he or she has been rehabilitated has the
55 right to appeal to the Secretary of DHS and request a judicial case review; and
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57 WHEREAS, the State outlines the required criteria that an individual must adhere
58 to and submit to the department in Chapter 50.065(5d), State Statutes; and
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60 WHEREAS, the State agency has 90 days to review the rehabilitation plan upon
61 receipt, and unless disapproved by the department, the plan is considered approved;
62 and
63

64 WHEREAS, under the current policy, the County does not have rehabilitation
65 review appeals process, which would allow an individual convicted of a barred offense
66 the opportunity to provide convincing evidence that he or she has been rehabilitated,
67 even if the State has already granted a rehabilitation review request under the
68 Caregiver Law guidelines; and
69

70 WHEREAS, any individual who has been barred from working with youth under
71 the State Caregiver Law shall be granted the opportunity to prove to the State, and the
72 County, that he or she has been rehabilitated, as individuals with prior convictions often
73 have relevant experience(s), which youth may relate to, will help strengthen
74 communities impacted by mass incarceration; and
75

76 WHEREAS, the Committee on Health and Human Needs, at its meeting of
77 May 20, 2020, recommended adoption of File No. 20-287 (vote 3-0); now, therefore,
78

79 BE IT RESOLVED, the Milwaukee County Board of Supervisors (County Board)
80 hereby adopts a policy to amend the background check process for the Department of
81 Health and Human Services (DHHS), and other departments that provide services to
82 youth directly or through contract vendors services, to adopt the barrable offenses
83 outlined in the Wisconsin (the State) Caregiver Law and to accept the rehabilitation of
84 any individual as determined by the State's appeal process under Chapter 50.065,
85 Wisconsin State Statutes (State Statutes); and
86

87 BE IT FURTHER RESOLVED, Milwaukee County (the County) shall maintain
88 Chapter 948, State Statutes, Crimes Against Children as barrable offenses, whether
89 also barred by the Wisconsin Caregiver Law or not, as part of the background check
90 process for contract agency employees who provide direct care to youth, a copy of
91 which is hereto attached to this file; and
92

93 BE IT FURTHER RESOLVED, the County shall also follow the State Department
94 of Health Services Administrative Code, Chapter 12 – Caregiver Background Checks,
95 for any criminal convictions using the Substantially Related Test to provide greater
96 uniformity and understanding by vendors; and
97

98 BE IT FURTHER RESOLVED, the DHHS is requested to collaborate with the
99 Office of Corporation Counsel to modify the current background check process to
100 comport with the direction provided in this resolution for implementation as soon as
101 practicable; and
102

103 BE IT FURTHER RESOLVED, the DHHS is requested to provide an
104 informational report to the County Board on the status of this reform as soon as
105 practical, and is requested to submit the new policy to the Mental Health Board for
106 consideration and possible adoption to ensure a uniform policy that comports with the
107 State Caregiver Law and appeal process, except for those Chapter 948, State Statutes,
108 offenses barred only by the County.
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