§ 260.35 Misrepresentation by, or on behalf of, a caregiver for a child or children.

1. A person is guilty of misrepresentation by, or on behalf of, a caregiver for a child or children when he or she:

(a) intentionally makes a false written statement about himself, herself, or another person while he or she, or such other person, is being considered for employment, or while under employment as a caregiver to a parent or guardian of a child or children, or the agent of a parent or guardian, and

(b) such statement contains a materially false representation regarding the caregiver's background related to the ability to safely care for a child or children, and

(c) a reasonable person would have relied upon such statement in making an employment decision.

2. For the purposes of this section, "caregiver" shall mean a person employed by or being considered for employment to provide fifteen or more hours of care per week to a child or children in the home of such child or children or in the home of such caregiver, provided that such term shall not apply to a child day care provider required to be licensed pursuant to the social services law.

Misrepresentation by, or on behalf of, a caregiver for a child or children is a class A misdemeanor, provided, however, that if any sentence of imprisonment is imposed for a conviction under this section, term of imprisonment shall not exceed six months.