



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #430

Child Abuse Prevention and Child Mental Health Surcharge (Child Abuse and Neglect Prevention Board and DHFS -- Children and Families)

[LFB 2005-07 Budget Summary: Page 98, #5, Page 291, #5, and Page 292, #6]

CURRENT LAW

Child Welfare Services. The child welfare system in Wisconsin is county operated and state supervised, with the exception of Milwaukee County, where the Bureau of Milwaukee Child Welfare in the Department of Health and Family Services (DHFS) administers child welfare services. Child welfare services encompass a broad range of services and activities that assist in assuring the health, safety, and well-being of children and their families. These include prevention services families receive during times of crisis, services to children or juveniles in need of protection and services, other child and family support services, and child protective services. Child welfare services focus on children's safety and permanency.

Federal Child and Family Services Review. In August, 2003, the U.S. Department of Health and Human Services conducted a comprehensive review of Wisconsin's child welfare program. This federal child and family services review (CFSR) was conducted in all 50 states over a three-year period. All 50 states failed some portion of the review. The CFSR is an examination of a state's conformance with federal requirements under Titles IV-B (general child welfare) and IV-E (foster care/out-of-home placement) of the federal Social Security Act. The review examined 14 aspects of the state program, including seven outcome measures relating to safety, permanency, and well-being of children, and seven systemic factors relating to the overall capacity of the state program to serve children and families. Wisconsin was required to develop a program enhancement plan to address each item of nonconformance. Wisconsin's plan was approved in November, 2004, and the state has two years to achieve the outcomes identified in the plan. The results of the review are described in more detail in the Legislative Fiscal Bureau's Informational Paper #50, *Child Welfare Services in Wisconsin*.

Child Abuse and Neglect Prevention Board. The Child Abuse and Neglect Prevention (CANP) Board is budgeted \$2,726,000 (\$390,000 FED, \$2,312,900 PR, and \$23,100 SEG) in 2004-05 to support three grant programs and the Board's operations costs. The federal funding is available under Title II of the Child Abuse Prevention and Treatment Act (CAPTA), which supports networks of community-based, prevention focused family resource and support programs. The PR funding is available from three sources: (a) \$1,822,900 in revenue from the sale of birth certificates; (b) \$340,000 from temporary assistance for needy families (TANF) funds transferred to the Board from the Department of Workforce Development; and (c) \$150,000 in federal access and visitation funds that are transferred to the Board from DHFS. The SEG funding is supported by revenue the Board receives as gifts and donations made to the Board, as well as interest on the revenue from the sale of "Celebrate Children" license plates.

GOVERNOR

Child Abuse Prevention and Child Mental Health Surcharge. Create a child abuse prevention and child mental health surcharge equal to \$20 for each misdemeanor offense or count and for each felony offense or count. Require a court to impose this surcharge when it imposes a sentence or places a person on probation on or after the bill's general effective date. Specify that this surcharge would be in addition to any fines imposed.

Require the clerk of court to collect and transmit revenue from the surcharge to the county treasurer, who would then make payment to the Secretary of the Department of Administration (DOA). Specify that, of the \$20 surcharge: (a) \$14 would be credited to a new, annual PR appropriation in DHFS to support grants for mental health and substance abuse services for families involved in the child welfare system; and (b) \$6 would be credited to a current, continuing PR appropriation in the CANP Board to support grants awarded by the Board, which would be modified to reflect the transfer of these surcharge revenues.

Modify current law that states that payments made by offenders toward fines owed by the offender, to include the child abuse prevention and child mental health surcharge, to be paid in full after the crime victim and witness surcharge is paid in full and before the crime laboratories and drug enforcement surcharge is paid.

If an inmate in a state prison or a person sentenced to a state prison has not paid the child abuse prevention and child mental health surcharge, require the Department of Corrections to assess and collect the amount owed from the inmate's wages or other moneys, and to transmit the amount to the DOA Secretary. Direct Corrections to disburse salaries or wages of any employed inmate towards this surcharge, as the fourth priority, after the crime victim and witness surcharge, if the offender has not fully paid this surcharge. Permit Corrections to use property or earned wages of patients, residents, prisoners, and probationers towards paying owed child abuse prevention and child mental health surcharge revenue.

DHFS -- Mental Health and Substance Abuse Services for Child Welfare Families. Provide \$313,800 (\$121,100 FED and \$192,700 PR) in 2005-06 and \$1,059,200 (\$424,500 FED and \$634,700 PR) in 2006-07 to support a pilot mental health and substance abuse screening, assessment, and treatment program for families involved in the child welfare system. The federal funding is available from medical assistance (MA) and the PR funding is from the proposed child abuse prevention and child mental health surcharge.

Authorize DHFS to award not more than \$57,500 in 2005-06 and not more than \$229,800 in 2006-07 as grants for up to three years to tribes and counties other than Milwaukee County to demonstrate collaboration for intervention for the mental health and substance abuse screening, assessment, and treatment of children who have been abused or neglected and their parents for whom the county departments and tribal agencies determine there is a need to provide services.

The funding in this item includes: (a) \$93,600 FED and \$125,800 PR in 2005-06 and \$371,600 FED and \$505,700 PR in 2006-07 to support two pilot programs in medium-sized counties or three pilot programs in small counties that would provide assessment and treatment services for children and adults involved with the child welfare system who are not eligible for MA; (b) \$2,100 FED and \$4,700 PR annually for county worker training on the use of the mental health and substance abuse screening tool; and (c) \$25,400 FED and \$62,200 PR in 2005-06 and \$50,800 FED and \$124,300 PR in 2006-07 to hire a consultant for an evaluation of the process and outcomes of the pilot programs.

Child Abuse and Neglect Prevention Board -- Child Sexual Abuse Prevention. Provide \$57,300 PR in 2005-06 and \$365,300 PR in 2006-07 from the child abuse prevention and child mental health surcharge to support grants administered by the Board. While the bill would not require the Board to use these additional funds exclusively for sexual abuse prevention, the Board intends to use the funding to support child sexual abuse prevention strategies, as recommended by workgroups formed from the Governor's Summit to Prevent Child Abuse in April, 2004. These activities may include: (a) identification and intervention with potential child sexual abuse perpetrators; and (b) promoting adult responsibility for protecting children from child sexual abuse.

DISCUSSION POINTS

Creation of Child Abuse Prevention and Child Mental Health Surcharge

1. The bill would create a new child abuse prevention and child mental health surcharge of \$20 for each misdemeanor offense or count and \$20 for each felony offense or count. The surcharge would apply to sentences imposed on individuals on or after the effective date of the bill. Of the \$20 surcharge, \$14 or 70% of the revenues would be credited to DHFS and \$6 or 30% of the revenues would be credited to the CANP Board.

2. In developing this proposal, the administration estimated that one-quarter of the fully-realized revenue growth from the creation of the surcharge would be realized in 2005-06, that

three-quarters of the fully-realized revenue growth from the creation of the surcharge would be realized in 2006-07, but then partially reduced each year's estimate to be conservative. Consequently, the administration estimates that \$250,000 in 2005-06 and \$1,000,000 in 2006-07 would be collected from this new surcharge, resulting in allocations of \$192,700 in 2005-06 and \$634,700 in 2006-07 to DHFS to support mental health and substance abuse services for child welfare families and \$57,300 in 2005-06 and \$365,300 in 2006-07 to the CANP Board to support grants for child sexual abuse prevention efforts.

3. Currently, there is a \$50 crime victim and witness surcharge assessed against any person who is convicted of a misdemeanor and a \$70 surcharge for each felony violation of state law. The surcharge is divided into two parts (Part A and Part B). The "Part B" surcharge is \$20 of the amounts imposed for both a misdemeanor and a felony count or offense. Part B revenues provide funding for the sexual assault victim services program.

4. Courts began imposing the Part B surcharge in August, 1993. It took approximately five years for the projected revenues from the creation of Part B to be fully realized, meaning that total Part B actual collections have equaled the amount one would expect, based on the amount of the Part B surcharge. While Part B revenues have averaged approximately 35% of total victim and witness surcharge revenues in recent years, it was not until five years after the creation of the Part B portion of the surcharge that these revenues made up approximately 33% of the victim and witness surcharge revenue for the year. However, approximately half of the revenue growth from the fully implemented Part B portion of the surcharge was received through the second year of the surcharge increase.

5. Based on the revenue growth following the creation of Part B of the surcharge, and assuming that revenue collections under a child abuse prevention and child mental health surcharge would follow a similar growth pattern, it is estimated that one-quarter of the fully-realized revenue growth from the creation of the child abuse prevention and child mental health surcharge would be received in 2005-06 (\$369,800 PR), and that one-half of the fully-realized revenue growth from this surcharge creation would be received in 2006-07 (\$739,600 PR). It is estimated that annual revenues from the surcharge would, in time, equal approximately \$1.5 million annually.

To reflect these revised revenue estimates, funding in the bill should be increased by \$119,800 in 2005-06 and reduced by \$260,400 in 2006-07. The following table identifies funding that would be budgeted for each agency, based on these reestimates and the provision in the bill that allocates \$14 of the surcharge (70%) to DHFS and \$6 (30%) to the CANP Board. By making this change, DHFS and the CANP Board would be budgeted funding for grants that reflect the current revenue estimates.

Estimate of Surcharge Revenues Under AB 100 and as Reestimated

<u>Year</u>	<u>DHFS</u>			<u>CANP Board</u>		
	<u>AB 100</u>	<u>Reestimate</u>	<u>Change to Bill</u>	<u>AB 100</u>	<u>Reestimate</u>	<u>Change to Bill</u>
2005-06	\$192,700	\$258,900	\$66,200	\$57,300	\$110,900	\$53,600
2006-07	<u>634,700</u>	<u>517,700</u>	<u>-117,000</u>	<u>365,300</u>	<u>221,900</u>	<u>-143,400</u>
Biennium	\$827,400	\$776,600	-\$50,800	\$422,600	\$332,800	-\$89,800

6. Under current law, Part A revenue from the crime victim and witness surcharge funds court-related services to crime victims and witnesses. It may be appropriate to assess a crime victim and witness surcharge on all individuals who are convicted of a misdemeanor or felony violation of state law to support court-related services to crime victims and witnesses, since many of these offenses involve crime victims and witnesses. However, it may be less appropriate to assess a new \$20 surcharge on all individuals convicted of misdemeanor or felony violations of state law to support child abuse prevention and child mental health services, since, in many instances, there may be no direct connection between the offense the violator committed and the services that would be funded with the surcharge revenue.

7. On the other hand, the Governor's proposal to create the surcharge reflects the limited availability of GPR funding to support increases in prevention and mental health programs. In addition, there is not always a close relationship between the underlying violations for which a surcharge is assessed and the services being funded with the surcharge.

8. The child abuse prevention and child mental health surcharge would be collected after the imposition of the crime victim and witness surcharge but before the imposition of the crime laboratory and drug law enforcement surcharge, both of which would also be increased under the bill. The creation of this new surcharge could affect crime laboratory and drug law enforcement surcharge collections, since the collection of this new surcharge would take priority over the collection of the crime laboratory and drug law enforcement surcharge. If collections to the crime laboratory and drug law enforcement surcharge were reduced, it could affect funding for: (a) the DNA databank; (b) DNA evidence prosecution efforts; (c) the crime laboratories; and (d) drug law enforcement efforts. Further, under the provisions of AB 100, if crime laboratory and drug law enforcement collections are reduced, it could reduce funding being lapsed to the general fund.

9. The Committee could conclude that the need for the programs that would be supported by the child abuse prevention and child mental health surcharge justifies the creation of this surcharge. Alternatively, the Committee could decide that funding one or both of these programs is a priority, but fund one or both of these programs with GPR funding, rather than by creating a surcharge.

DHFS - Mental Health and Substance Abuse Services for Child Welfare Families

10. One of the well-being outcomes under the CFSR examines the state's proficiency at providing children with adequate services to meet their physical and mental health needs. The CFSR review team found that in 68.8% of the cases they reviewed, children received adequate services to meet their physical and mental needs. However, since the CFSR review team needed to make this finding in 90% of the reviewed cases in order for the team to determine that Wisconsin met this outcome, the review team determined that Wisconsin did not conform to this standard.

11. The primary area of concern expressed in the CFSR is that children, particularly children in out-of-home care, were not receiving mental health assessments even when the nature of the maltreatment, the dynamics of the family, or the family's and child's history indicated that a mental health assessment is warranted. The CFSR review team also found that Wisconsin's efforts were not sufficient to address the mental health needs of children, there was a lack of consistency in providing mental health assessment services, and there was an insufficient number of mental health providers to meet the needs of children in the child welfare system. Studies have shown that between one-third and two-thirds of child maltreatment cases involve substance abuse and that 48% of children who come into contact with the child welfare system need mental health services. However, only 11% of these children received these services in the previous year.

12. Wisconsin's program enhancement plan (PEP), which includes strategies to address this and other areas of non-conformance identified in the CFSR, states that DHFS will work with children's mental health and tribal child welfare agencies to: (a) develop a statewide policy and child welfare worker support for the screening and assessment of the mental health needs of children who have been abused or neglected; and (b) develop a capacity improvement plan for screening, assessment, and treatment.

13. In addition to addressing the concerns identified under the review for mental health services for children, DHFS expects that this strategy will also reduce the number of children who re-enter foster care and improve foster care placement stability, two other areas that were identified as needing improvement under the CFSR. The PEP indicates that appropriately assessing and treating mental health needs supports both birth and foster families in enhancing their capacity to care for and provide permanency for children.

14. Beginning January 1, 2006, DHFS would award grants to two medium-sized or three small counties to support pilot mental health and substance abuse screening, assessment, and treatment program for families involved in the child welfare system. There are three funding components under this item -- evaluation and treatment costs for children and parents involved with the child welfare system, county worker training, and a program evaluation.

15. The bill provides \$219,400 (\$93,600 FED and \$125,800 PR) in 2005-06 and \$877,300 (\$371,600 FED and \$505,700 PR) in 2006-07 for evaluation and treatment services to 2.5% of the statewide (not including Milwaukee County) child welfare population in 2005-06 and 5% in 2006-07. A child whose family is involved in the child welfare system may be living at home

or placed in out-of-home care. DHFS assumes that 75% of the child welfare cases would require mental health evaluations and that 60% of those children evaluated and 50% of the parents evaluated would need treatment. For the MA-eligible children and parents, a portion of the evaluation and treatment costs would be supported with federal MA funding.

16. The bill also provides \$6,800 (\$2,100 FED and \$4,700 PR) annually for county worker training on the use of the mental health and substance abuse screening tool and \$87,500 (\$25,400 FED and \$62,200 PR) in 2005-06 and \$175,100 (\$50,800 FED and \$124,300 PR) in 2006-07 to hire a consultant for an evaluation of the pilot programs to assist DHFS in developing a statewide policy or program for assessing the mental health and substance abuse treatment needs of families involved with the child welfare system.

17. The bill provides \$313,800 (all funds) in 2005-06 and \$1,059,200 in 2006-07 for this program based on the estimated costs of the program. However, under the re-estimated amounts available from the surcharge, \$421,500 (all funds) would be available in 2005-06 and \$863,900 in 2006-07. DHFS would still administer the grants, but at a reduced level, or to reflect the actual amount of surcharge revenue DHFS receives.

18. Under the bill, the federal MA matching funds is budgeted in the Division of Disability and Elder Services, but the PR funding is budgeted in the Division of Children and Family Services. To correctly align the surcharge revenue (PR) funds and the federal MA matching funds in the administering division, the Committee could budget the federal funds in the Division of Children and Families, federal operations appropriation.

Child Abuse and Neglect Prevention Board - Child Sexual Abuse Prevention

19. Research and national studies indicate that one in four girls and one in six boys are sexually abused before they reach the age of 18. Of the children who have been sexually abused, 30% to 40% were abused by a family member and an additional 50% of children were abused by someone outside of the family whom they know and trust; approximately 10% of children who have been sexually abused were abused by strangers. In addition, older children and teenagers perpetrate a significant number of child sexual abuse cases. The median age for reported abuse is nine years old and more than 20% of children are sexually abused before they are eight years old.

20. Child sexual abuse or sexual molestation can include any kind of sexual act directed toward a child by an adult or an older or more powerful child or any sexual act which involves a threat or violence. Sexual abuse as defined in Wisconsin state law includes the following: (a) sexual intercourse or sexual contact with a child 15 years of age or less; (b) sexual intercourse with a 16- or 17-years old child without his or her consent; (c) inducement of a child to engage in sexually explicit conduct in order to videotape, photograph, etc., that child or videotaping, photographing, etc., a child for such purposes, or producing, distributing, selling, or otherwise profiting from such a videotape, photograph, etc.; (d) encouragement or permission of a person responsible for a child's welfare for a child to engage in sexually explicit conduct for the purpose of videotaping, photographing, etc.; (e) causing a child to view or listen to sexual activity; (f) exposing genitals to a

child; or (g) permitting or encouraging a child to engage in prostitution.

21. Research indicates that children who were sexually abused are more likely to experience physical or mental health problems, including major depressive disorder as adults, 70% to 80% report excessive drug and alcohol abuse, exhibit long-term and more frequent behavioral problems, including inappropriate sexual behaviors. Additionally, males who have been sexually abused are more likely to violently victimize others.

22. In 2003, there were 7,812 reports of alleged child sexual abuse and 4,076 substantiated findings of child sexual abuse in Wisconsin. Of the substantiated findings of child sexual abuse, 29 were for children up to two years old, 383 were children between three and five years old, 510 were children between six and eight years old, 466 were children between nine and 11 years old, 1,298 were children between 12 and 14 years old, and 1,389 were children between 15 and 17 years old. 73% of alleged victims of child sexual abuse were girls and 78% of alleged maltreaters for sexual abuse were male. These numbers reflect reported allegations of child sexual abuse. However, some research suggests that up to 88% of child sexual abuse is not reported.

23. In April, 2004, Governor Doyle held a Summit to Prevent Child Abuse. Following the summit, a work group developed recommendations on how to prevent child sexual abuse. The work group found that most existing child sexual abuse prevention programs involve working with children to teach them of the dangers of sexual abuse to help them learn behaviors and strategies to protect themselves from abusive situations. Currently, there is no coordinated sexual abuse prevention program in Wisconsin. The work group recommended that the state create a program that targets adults who care for children, acknowledging that it is the responsibility of adults to assure the safety and well being of children.

24. The CANP Board would use its allocation of surcharge revenue to develop and implement a statewide sexual abuse prevention program. The Board would adapt portions of the "Stop It Now!" and "Darkness Into Light" public education and outreach campaigns on child sexual abuse that highlights adults' responsibility to protect children from sexual abuse. The program would help adults understand the manifestation and consequences of child sexual abuse, recognize situations posing increased risk of such abuse, and learn appropriate responses to suspected abuse.

The funding provided to the Board under the Governor's bill would support: (a) a contract with "Stop It Now" to create a toll-free help line for adults to receive answers to questions and concerns relating to child sexual abuse; (b) public service announcements to promote the help line; (c) printing and distributing public education materials on child sexual abuse prevention; (d) grants to pilot sites for local child sexual abuse prevention activities; (e) training for individuals who train others in child sexual abuse prevention techniques; and (f) a program evaluation.

ALTERNATIVES

1. Approve the Governor's recommendation, but adjust the funding that would be budgeted for DHFS and the CANP Board to reflect current estimates of the amount of surcharge

revenue that would be collected in the 2005-07 biennium, as shown in the table in Discussion Point 5, and incorporate the change in budgeting federal MA funds as identified in Discussion Point 18.

<u>DHFS - Alternative 1</u>	<u>FED</u>	<u>PR-REV</u>	<u>PR</u>	<u>TOTAL</u>
2005-07 REVENUE (Change to Bill)		- \$50,800		
2005-07 FUNDING (Change to Bill)	- \$36,700		- \$50,800	- \$87,500

<u>CANP Board - Alternative 1</u>	<u>PR-REV</u>	<u>PR</u>
2005-07 REVENUE (Change to Bill)	- \$89,800	
2005-07 FUNDING (Change to Bill)		- \$89,800

2. Create the surcharge as recommended by the Governor, but allocate 100% of the surcharge revenues to one of the following:

a. DHFS for mental health and substance abuse treatment services for child welfare families (\$232,200 FED and \$369,800 PR in 2005-06 and \$494,700 FED and \$739,600 PR in 2006-07).

<u>DHFS - Alternative 2a</u>	<u>FED</u>	<u>PR-REV</u>	<u>PR</u>	<u>TOTAL</u>
2005-07 REVENUE (Change to Bill)		\$282,000		
2005-07 FUNDING (Change to Bill)	\$181,400		\$282,000	\$463,400

<u>CANP Board - Alternative 2a</u>	<u>PR-REV</u>	<u>PR</u>
2005-07 REVENUE (Change to Bill)	- \$422,600	
2005-07 FUNDING (Change to Bill)		- \$422,600

b. The CANP Board for child sexual abuse prevention activities (\$162,700 PR in 2005-06 and \$739,600 PR in 2006-07).

<u>DHFS - Alternative 2b</u>	<u>FED</u>	<u>PR-REV</u>	<u>PR</u>	<u>TOTAL</u>
2005-07 REVENUE (Change to Bill)		- \$827,400		
2005-07 FUNDING (Change to Bill)	- \$545,500		- \$827,400	- \$1,373,000

<u>CANP Board - Alternative 2b</u>	<u>PR-REV</u>	<u>PR</u>
2005-07 REVENUE (Change to Bill)	\$686,800	
2005-07 FUNDING (Change to Bill)		\$686,800

3. Delete the Governor's recommendation to create the surcharge. Instead, provide GPR to support one of the following:

a. DHFS for mental health and substance abuse treatment services for child welfare families (\$192,700 GPR in 2005-06 and \$634,700 GPR in 2006-07).

<u>DHFS - Alternative 3a</u>	<u>GPR</u>	<u>PR-REV</u>	<u>PR</u>	<u>TOTAL</u>
2005-07 REVENUE (Change to Bill)		- \$827,400		
2005-07 FUNDING (Change to Bill)	\$827,400		- \$827,400	\$0

<u>CANP Board - Alternative 3a</u>	<u>PR-REV</u>	<u>PR</u>
2005-07 REVENUE (Change to Bill)	- \$422,600	
2005-07 FUNDING (Change to Bill)		- \$422,600

b. CANP Board for child sexual abuse prevention activities (\$57,300 GPR in 2005-06 and \$365,300 GPR in 2006-07).

<u>DHFS - Alternative 3b</u>	<u>FED</u>	<u>PR-REV</u>	<u>PR</u>	<u>TOTAL</u>
2005-07 REVENUE (Change to Bill)		- \$827,400		
2005-07 FUNDING (Change to Bill)	- \$545,600		\$827,400	\$1,373,000

<u>CANP Board - Alternative 3b</u>	<u>GPR</u>	<u>PR-REV</u>	<u>PR</u>	<u>TOTAL</u>
2005-07 REVENUE (Change to Bill)		- \$422,600		
2005-07 FUNDING (Change to Bill)	\$422,600		- \$422,600	\$0

c. Provide \$192,700 GPR in 2005-06 and \$634,700 GPR in 2006-07 to DHFS for mental health and substance abuse treatment services for child welfare families and \$57,300 GPR in 2005-06 and \$365,300 GPR in 2006-07 to the CANP Board for child sexual abuse prevention activities.

<u>DHFS - Alternative 3c</u>	<u>GPR</u>	<u>PR-REV</u>	<u>PR</u>	<u>TOTAL</u>
2005-07 REVENUE (Change to Bill)		- \$827,400		
2005-07 FUNDING (Change to Bill)	\$827,400		- \$827,400	\$0

<u>CANP Board - Alternative 3c</u>	<u>GPR</u>	<u>PR-REV</u>	<u>PR</u>	<u>TOTAL</u>
2005-07 REVENUE (Change to Bill)		- \$422,600		
2005-07 FUNDING (Change to Bill)	\$422,600		- \$422,600	\$0

4. Delete provision.

<u>DHFS - Alternative 4</u>	<u>FED</u>	<u>PR-REV</u>	<u>PR</u>	<u>TOTAL</u>
2005-07 REVENUE (Change to Bill)		- \$827,400		
2005-07 FUNDING (Change to Bill)	- \$545,600		- \$827,400	- \$1,373,000

<u>CANP Board - Alternative 4</u>	<u>PR-REV</u>	<u>PR</u>
2005-07 REVENUE (Change to Bill)	- \$422,600	
2005-07 FUNDING (Change to Bill)		- \$422,600

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