



PATRICK TESTIN

STATE SENATOR

DATE: January 30, 2020
RE: **Testimony on Assembly Bill 671**
TO: The Assembly Committee on Judiciary
FROM: Senator Patrick Testin

I would like to thank Chairman Ott and members of the committee for accepting my testimony on Assembly Bill 671 (AB 671).

I drafted this bill at the request of my constituent, Dana Kaminski. I have known Dana for a number of years, and was aware that she and her husband, Ron, were foster parents. Last year, Dana invited me to meet with her and some other foster parents in Stevens Point. Listening to the hurdles and troubles that they faced in caring for these kids opened my eyes to a world that people who aren't foster parents seldom see.

When the Assembly convened their Task Force on Adoption, I kept Dana up-to-date on the legislation that they produced and asked for her feedback. During those discussions, Dana suggested the idea for AB 671. Sometimes foster parents are accused of child abuse, but are vindicated following an investigation. However, despite the fact that no abuse or fault was substantiated, the accusation remains on their report. This legislation prevents the abuse/neglect reports or records from being disclosed if there was a determination that no abuse or neglect occurred.

At this point, I would like to turn things over to Dana, and allow her to tell you her story. Following her testimony, we can answer any questions you have.

Thank you for your time; and I hope that you will join us in supporting this bill.



PATRICK SNYDER

STATE REPRESENTATIVE • 85th ASSEMBLY DISTRICT

Dear Chairman Ott and Members of the Committee on Judiciary,

Thank you for hearing public testimony on Assembly Bill 671, which will help to provide protections for foster parents against allegations of abuse and neglect made against them.

From the Speaker's Task Force on Foster Care, we frequently heard that the system does not support foster parents, which ultimately impacts their ability to care for the children in their custody. Foster parents have indicated that support is particularly lacking in situations in which allegations of abuse or neglect are made about the foster parent.

As foster parents, individuals and their families take on incredible risk and vulnerability. We have heard from licensing agencies that "it is not if allegations are made against you, but when". Allegations of abuse or neglect happen regularly for foster parents. In reaction, statements have been made such as "that is just part of the job" or "they knew that was a possibility when they started". Dismissing these situations in this way is unacceptable.

When a person has been falsely accused of abuse or neglect, and it is found to be completely false, this should not be held against him or her in future foster licensing reviews or placements for adoption. Foster parents are particularly vulnerable to these situations because they care for children that have significant trauma and must engage with families that are dealing with significant hardship and trauma.

As a state, when we ask individuals and families to open their homes to foster children, we should ensure they have tools and protections necessary to protect themselves from undue harm. Current practice fails to provide these protections. Assembly Bill 671 aims to mitigate this problem.

This legislation will ensure that, when false allegations of abuse or neglect occur against a person, the licensing agency cannot use that report against him or her when considering licensing or relicensing. By prohibiting the transmittal of these reports, it will prevent the licensing agency from being predisposed to the belief that the individual is a danger, which may occur despite the allegations being false.

In conclusion, I ask you to join me in supporting our foster parent community, who place themselves in vulnerable situations to care for children in our state. I would be happy to respond to any questions or concerns about the legislation.



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Governor Tony Evers
Secretary Emilie Amundson

Secretary's Office

TO: Chair Ott and Members of the Assembly Committee on Judiciary

FROM: Emily Erickson, Director, Bureau of Permanence and Out-of-Home Care
Jonelle Brom, Chief, Out-of-Home Care Section

DATE: January 30, 2020

SUBJECT: 2019 Assembly Bill 671

Thank you for the opportunity to provide testimony on Assembly Bill (AB) 671. The Department of Children and Families (DCF) is testifying for information. The Department of Children and Families is committed to the goal that **all** Wisconsin children and youth are safe and loved members of thriving families and communities.

AB 671 would diminish critical protections for the safety of foster and adoptive children by prohibiting the disclosure of unsubstantiated child welfare reports to agencies that license foster and adoptive parents. It is critical that a thorough review is completed regarding the background of potential foster and adoptive parents to assure a safe home for children who are being removed from their birth families for safety reasons. AB 671 conflicts with current practices, state administrative rules, and federal guidance and law that seek to ensure the safety of children in foster and adoptive homes. In addition, DCF has technical questions about the statutory provisions referenced in the bill.

Child Welfare Process

Current law requires certain professionals, such as teachers and health professionals, to report suspected abuse and neglect of children if the professional, in the course of his or her professional duties, has reasonable cause to suspect that a child has been abused or neglected or has been threatened with abuse or neglect. Current law also allows any person who is not a mandated reporter to report if he or she has reasonable cause to suspect abuse or neglect of a child or that a child has been threatened with abuse or neglect. After receiving reports of suspected abuse or neglect the local child welfare agency determines whether there is reason to suspect child maltreatment; if so, the report is "screened-in" for an investigation (also known as an Initial Assessment) by the child welfare agency. If not, the case is "screened-out" and not subject to further assessment or investigation by the child welfare agency. For screened-in cases, the child welfare agency collects and reviews information from the family and others



familiar with the family to determine if the child(ren) are safe and if abuse or neglect has occurred. The child welfare agency makes a determination of abuse or neglect if there is a preponderance of evidence that abuse, or neglect has occurred or is likely to occur. If there is not a preponderance of evidence, the suspected abuse or neglect is “unsubstantiated”.

Reports that are screened-out or unsubstantiated can include important information about an individual’s parenting abilities and the home environment. For example, even though there is not a finding of abuse or neglect at the time of the investigation, an unsubstantiated report may include information about a parent’s alcohol abuse, domestic violence, mental health issues or inability to meet the physical, mental health or behavioral needs of a special needs child that could affect the individual’s ability to care safely for a foster or adoptive child in the home.

As another example, an unsubstantiated report could include information about friends, relatives, or frequent visitors to the home who may not be appropriate or safe to be in close contact with foster or adoptive children in certain age ranges.

Current Practice

Foster parents and adoptive parents play a critical role in the child welfare system. We appreciate and value greatly the love and support they provide to children who cannot remain safely in their own homes.

The most fundamental and important responsibility of the child welfare system is to keep children safe. When the child welfare agency determines through its assessment that a child cannot remain safely at home, the child is placed in an out-of-home placement, typically with a relative or foster parent. For children removed from their own home due to abuse or neglect, it is critical that the child welfare system places them with relatives or foster parents where they will be safe and not subject to further maltreatment.

Currently, licensing agencies carry out a robust and thorough review process to determine that foster and adoptive parents are fit and qualified to provide safe and supportive homes to the children in their care. These licensing agencies collect and review a broad, comprehensive range of information about foster and adoptive parent applicants, including information from unsubstantiated and screened-out reports.

By statute, information about unsubstantiated and screened-out reports can only be accessed by a very limited number of parties for limited purposes. Members of the public and employers do not have access to this information, and it is not reported as part of employment background checks. It is critical

that agencies that license foster and adoptive parents continue to have access to this information so that they do not place vulnerable children in homes where their safety may be at risk.

State Law and Administrative Code

Current licensing practices are based on state law and administrative code. State licensing statutes for foster and adoptive parents were revised recently, in 2015, through legislation developed by the 2014 Legislative Council Study Committee on Adoption Disruption and Dissolution to assure foster care licensing and adoption agencies would obtain information needed to assess applicants' ability to care for children needing foster care and adoptive placements. That legislation, 2015 Act 378, requires that foster care and adoption licensing agencies conduct a robust, valid and reliable home study. To implement this legislation, the Department, in consultation with legislators, identified the Structured Analysis Family Evaluation, referred to as the SAFE Home Study, as the robust valid and reliable tool to be used statewide by all licensing agencies to determine if prospective foster and adoptive homes are fit and qualified foster and adoptive parents. These license qualifications are specified in Ch. DCF 56.05 Admin. Code and include consideration of information that AB 671 would prohibit the licensing and adoption agencies from obtaining. Through the home study process, the person performing the SAFE assessment is evaluating a broad range of information compiled from interviews, recommendations, background checks, and home visits to make a determination to approve or deny the person's application. Individual applicants who are denied a foster care license and disagree with the decision may appeal the decision to the division of hearings and appeals. In addition to the approval decision, the licensing agency uses the information gathered, including information from screened-out or unsubstantiated reports, to inform training and support plans for approved individuals. Gathering this information helps protect foster children from abuse or neglect before it happens rather than protecting them only after it happens.

Federal Laws and Guidance

AB 671 also conflicts with federal child abuse and neglect funding law and is inconsistent with federal guidance promulgated in relation to the federal foster care and adoption assistance funding statute. The federal Native American Children's Safety Act also contains requirements relating to checking child abuse and neglect registries prior to approving a foster parent. Specifically, with respect to utilizing child abuse and neglect information, the federal government "encourage[s] States to be as forthcoming as possible to permit States to make appropriate decisions about approval or licensure of prospective foster or adoptive parents." [Federal Children's Bureau Child Welfare Policy Manual, 8.4F, question 29]. Prohibiting agencies from accessing certain child abuse and neglect records related to prospective or current foster and adoptive parents, as proposed in AB 671, is not consistent with this guidance.

Purpose of Legislation

Based on the January 22 Senate Committee hearing on the companion bill, our understanding is that this bill is motivated by a constituent of the bill sponsor who serves as a foster parent and was subject to maltreatment allegations that were unsubstantiated. In this case, the unfounded allegation appeared to be reported as a form of harassment by a client the individual served in her professional capacity. We thank this constituent for opening her heart and her home to care for foster children. We regret that she experienced this harassment and the stress of the child welfare investigation process, but the child welfare system is required to follow up in appropriate ways on all reports. This bill does not eliminate these types of incidents of “baseless” reports of suspected maltreatment to child welfare agencies. More importantly the bill has the broader, presumably unintended, effect of compromising the safety of children placed in foster and adoptive homes by weakening the review process for licensing foster and adoptive parents.

Technical Question about Drafting

DCF wants to bring to the attention of the Committee that the terminology and statutory citations in the bill do not seem to reflect the intent of the bill as summarized in the Analysis by the Legislative Reference Bureau (LRB). The provision cited in the bill, s. 48.981(3m)(c)3, is part of a section relating to the alternative response pilot program, which is a program that is not statewide and operates in only 24 counties. Alternative response child welfare cases follow a somewhat different pathway and the initial assessment does not include a substantiation determination of abuse or neglect. According to the LRB analysis, the bill would prohibit disclosure of a report or record “if, pursuant to an investigation of a report, there was a determination that there is no reason to suspect that abuse or neglect has occurred” which implies that the bill is intended to apply statewide to all types of child welfare cases and not just to alternative response cases.

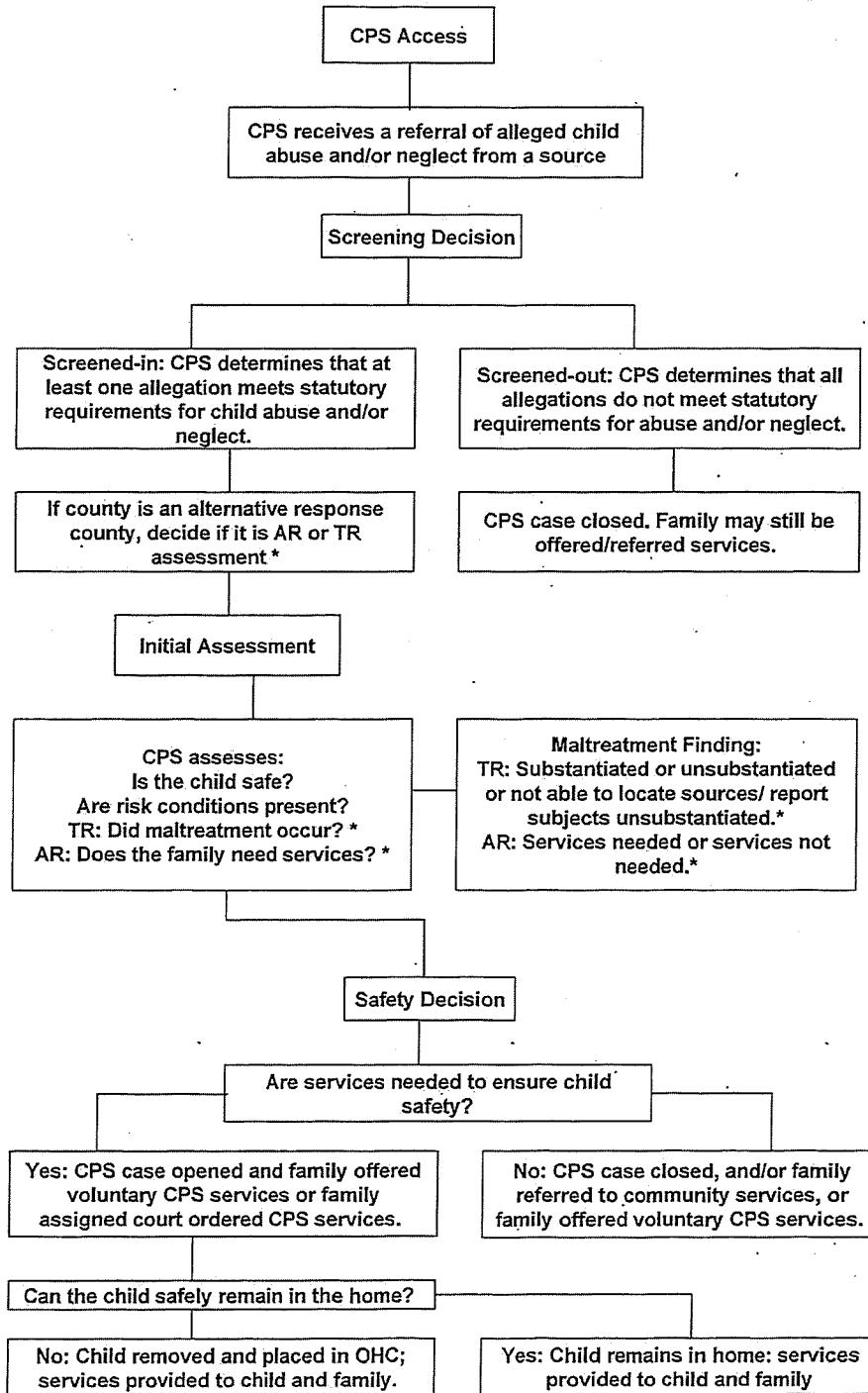
Conclusion

Thank you for the opportunity to present information on AB 671. We recognize the unique experiences of individuals who are involved with the child welfare system. We welcome the opportunity to engage in discussions with the bill sponsors, legislative constituent(s), and others to discuss further the concerns underlying the bill and effective ways of addressing them without imposing broad policy changes with the unintended effect of compromising the safety of children. We are pleased to respond to any questions.

Wisconsin Child Abuse and Neglect Report for CY2017

Appendix C

An Overview of the CPS Process



*Assessment Types:
 TR stands for Traditional Response
 AR stands for Alternative Response