



BARBARA DITTRICH

STATE REPRESENTATIVE • 38th ASSEMBLY DISTRICT

October 13, 2021

Assembly Committee on Children and Families

RE: Rep. Dittrich Testimony on AB 412 – relating to: creating a foster parents’ bill of rights.

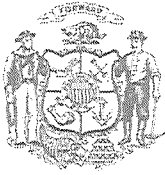
Hello Assembly Committee Chair Snyder and members of the committee. I am pleased to share with you today information regarding Assembly Bill 412, creating a foster parents’ bill of rights.

First, I wanted to thank Senator Jacque for introducing this much needed legislation. Although he cannot be here to join us today, his leadership on this bill has been helpful to move it through the legislative process.

Foster parents are uniquely compassionate in filling a vital role of caring for at-risk or otherwise endangered children until they can be reunited with their biological family or be settled into other permanency. Foster parents are tasked with the challenge of caring for the mental, emotional, social, and physical wellbeing of the child in an emergency situation. However, they are not always provided the information by the social workers that might assist in making the best care decisions for the child. The foster parents’ bill of rights has already been passed in over 20 states and details what information needs to be shared with the foster parents so they can assist in the proper care of the child.

Currently, foster parents are in the dark on what information they can or should receive when caring for a child. This disclosure of information, or lack thereof, can and does vary from county to county, a reoccurring problem with foster care and permanency cases. Under this legislation, the foster parents’ bill of rights would be distributed to foster parents by the Department of Children and Families, the respective county department, or licensed child welfare agency when a foster care license is issued or renewed. By codifying the information that should be received, the ambiguity involved with the child’s needs is removed. Additionally, as shared in this legislation, the foster parents would be provided an opportunity to inform the court of what they perceive to be the best plan for the child going forward, as the delineated in the child’s permanency plan.

As Wisconsin joins the rest of the nation in a desperate need for more foster parents willing to share their homes with children in need, we as a legislature can ensure they are provided with basic information and input in the child’s care plan so they can provide that care to the best of their ability.



ANDRÉ JACQUE

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*Testimony before the Assembly Committee on Children and Families
Senator André Jacque
October 13, 2021*

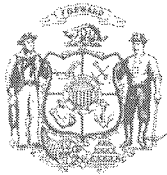
Chairman Snyder and Committee Members,

Foster parents fill a vital role in providing a temporary home for children until they can be safely reunited with biological family or be adopted. Foster care is 24-hour care provided by licensed foster parents for children who cannot live with their parents because they are unsafe, have special care or treatment needs, or other circumstances exist where parents or family are unable to care for them. Wisconsin, like the rest of the country, has a critical need for more foster parents- you have likely seen signs across Wisconsin asking people to consider opening their hearts and homes for this crucial responsibility.

Many states have focused on attracting and retaining foster parents by building trust through statutory enactment of a formal Foster Parent's Bill of Rights, providing guarantees of state commitment to respect and support current and potential caregivers and informing foster parents of their rights within the child welfare system. Foster Parents' Bill of Rights have now been enacted in over 20 states, including Michigan, Illinois, and Iowa.

Assembly Bill 412, the Wisconsin Foster Parents Bill of Rights, ensures that the State of Wisconsin and all county departments and licensed child welfare agencies establish and respect the following basic rights for all foster parents, as already recognized in other states:

- 1.) Be treated with dignity, respect, and consideration as a member of the child welfare team.
- 2.) Be notified of and be given appropriate education and continuing education and training to develop and enhance foster-parenting skills.
- 3.) Be informed of how to contact the appropriate agency in order to receive information on and assistance in accessing supportive services for any child in the foster parent's care.
- 4.) Receive timely financial reimbursement commensurate with the care needs of a foster child in the foster parent's care as specified in the foster child's permanency plan.
- 5.) Be provided a clear, written understanding of the permanency plan and case plan of a child placed in the foster parent's care to the extent that those plans concern the placement of the foster child in the foster parent's home.
- 6.) Receive information that is necessary and relevant to the care of a foster child placed in the foster parent's care at any time during which the foster child is placed with the foster parent.
- 7.) Be notified of scheduled review meetings, permanency-planning meetings, and special staffing concerning the foster child in order to actively participate in the case planning and decision-making process regarding the child.
- 8.) Provide input concerning the case plan of a foster child placed in the foster parent's care, have that input given full consideration in the same manner as information presented by any other professional member of the child welfare team, and communicate with other professionals who work with the foster child within the context of the child welfare team, including therapists, physicians, and teachers.



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- 9.) Be given, in a timely and consistent manner, information, as allowed by law, regarding the child and the child's family that is pertinent to the care and needs of the child and to the development of a permanency plan for the child.
- 10.) Be given reasonable notice of any change in, or addition to, the services provided to the child pursuant to the child's individual permanency or case plan.
- 11.) Be given written notice, except in emergency circumstances, of plans to terminate the placement of the child with the foster parent and the reasons for the changes or termination of the placement.
- 12.) Be notified in a timely and complete manner of all court hearings and of the rights of the foster parent at the hearing.
- 13.) Be considered as a preferred placement option if a foster child who was formerly placed with the foster parent is to reenter foster care and if that placement is consistent with the best interest of the child and any other children in the home.
- 14.) Be provided a fair, timely, and impartial investigation of complaints concerning the licensing of the foster parent.
- 15.) Be provided the opportunity to request and receive a fair and impartial hearing regarding decisions that affect licensing retention.
- 16.) Provide or withhold permission, without prior approval of the caseworker, department, child welfare agency, educational advocate, or court, to allow a child in his or her care to participate in normal childhood activities based on a reasonable and prudent parent standard in accordance with the provisions of part E of title IV of the federal Social Security Act.
- 17.) Have timely access to any administrative or judicial appeals process and be free from acts of harassment and retaliation by any other party when exercising the right to appeal.

Under Assembly Bill 412, the Department of Children and Families, county department, or licensed child welfare agency shall provide a foster parent with a written copy of the foster parents' bill of rights when the department, county department, or licensed child welfare agency issues or renews a foster care license.

Thank you for your consideration of Assembly Bill 412.



TO: Chair Snyder, Vice-Chair Ramthun, and Honorable Members of the Assembly
Committee on Children and Families

FROM: Wendy Henderson, Administrator, Division of Safety and Permanence
Amanda Merkwae, Legislative Advisor

DATE: October 14, 2021

SUBJECT: 2021 Assembly Bill 412

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. To support this goal, the Wisconsin child welfare system is guided by the following priorities, which are also embodied in the new federal child welfare law, the Family First Prevention Services Act, which Wisconsin must implement beginning in October 2021:

- **Prevention:** Child welfare increasingly focuses on preventing children from being removed from their homes by strengthening families to raise their children.
- **Relatives:** Relatives play an important part in children's lives as caregivers or ongoing supports and should be used as out-of-home placement resources whenever possible.
- **Reunification:** The primary goal is to reunify a child with his/her family whenever it is safe to do so.
- **Permanence:** The child welfare system strives to transition children placed in out-of-home care (OHC) safely and quickly back with their family, whenever possible, or to another permanent home.

For children who do enter out-of-home care, supporting foster parents and relative caregivers as families work toward reunification is critical. This is especially true as the system prioritizes keeping children with their relatives or in other family-like settings, shifting away from placing children in congregate (group) care. It is through the lens of these priorities that DCF reviewed AB-412 and will be testifying for information.

This bill would require DCF, county departments, and licensed child welfare agencies to provide foster parents with a written copy of the foster parents' bill of rights when the department, county department, or licensed child welfare agency issues or renews a foster care license. This bill also requires that these rights be provided in the primary language of the foster parent, if possible.

AB-412 recognizes the important role of foster parents in the lives of children and youth. Foster parents open their homes to provide a safe, stable place for children in out-of-home care while parents work to enhance their protective capacities so those children can safely return home. It is also important to note that the relational dynamics and decisions in a child welfare case—including the daily decisions made by the out-of-home care provider regarding the needs of a child—can be complicated. As a team supporting a child works towards reunification, the trust that is established between the child, caseworker, biological parent, out-of-home care provider, and tribe (in a case where the Indian Child Welfare Act (ICWA) and Wisconsin Indian Child Welfare Act (WICWA) applies) is critical for co-parenting to occur.

Foster parents, family caregivers, and any other person or provider involved with the care of a child in out-of-home care should **always** be treated with dignity and respect. Under current statutes and administrative rules, child welfare agencies are required to provide foster parents and family caregivers with information about a child, including the child's developmental, medical, cultural, emotional, behavioral, and educational needs; the child's placement history and permanence goal(s); considerations for making reasonable and prudent parenting decisions about normal childhood activities; and any additional information critical to the care of the child. Foster parents and family caregivers must also be given notice of permanency reviews held every six months and their right to be heard at these reviews in addition to notice and the right to be heard in a change of placement proceeding. Further, current law gives foster parents or relative caregivers the right to appeal decisions or orders made by a child welfare agency.

DCF agrees that providing foster parents and relative caregivers with information about their rights in an easily digestible format would be a valuable practice to help support foster parents and relative caregivers in their role. However, as currently drafted, the language in several provisions of the bill is challenging to reconcile with existing law. This ambiguity could result in litigation delays that also delay permanency for children in care. DCF proposes two potential avenues that capture the spirit of AB-412, ensure family caregivers are also apprised of their rights, and provide necessary clarity to the child welfare team and court partners responsible for operationalizing these rights:

- 1) **Require DCF to create and maintain a foster parents' and relative caregivers' bill of rights that encompasses all rights provided under state child welfare laws; or**

- 2) **Amend the bill to resolve any ambiguity between the bill language and state and federal law.**
 - a. DCF recommends the bill apply to both foster parents and relative caregivers, defined as relatives other than a parent who fall within the definition of "out-of-home care provider" under s. 48.02(12r) or s. 938.02(12r).
 - b. DCF recommends removing the term "case plan" from the bill, as "case plans" in Wisconsin practice are used only for families being served in-home.
 - c. DCF recommends including language that information sharing between foster parents or relative caregivers and professionals who work with the foster child must be consistent with state and federal confidentiality laws.
 - d. DCF recommends language clarifying that the enumerated rights regarding payments for the care and maintenance provided for a child, information sharing, notice requirements, parenting decisions, and appealing decisions of the agency apply as required by law.
 - e. DCF recommends adding language that protects the rights of the Indian child, their parents, and their tribe within the bill.
 - f. DCF recommends changing the phrase "preferred placement option" to "placement option." Under federal claiming statutes, consideration must be given to a preference for relative placements. Further, specific placement preferences must apply for Indian children under ICWA and WICWA.
 - g. DCF recommends citing directly to the prudent parenting standard outlined in state law.
 - h. DCF recommends that in addition to clarifying that s. 48.649 should not be construed to create a private action or claim, that the bill should not be construed to confer party status upon a foster parent or relative care provider.

Proposed language for these amendment options is attached to this testimony.

Thank you for the opportunity to testify about this legislation. DCF recognizes and appreciates the dedication of legislators to issues affecting children and families involved in the child welfare system. We would be pleased to respond to any questions.

Proposed Amendments to AB-412

Option 1

SECTION 1. 48.649 of the statutes is created to read:

48.649 Foster parents' and relative caregivers' bill of rights.

(1) The department and all county departments and licensed child welfare agencies shall respect the rights of all foster parents and relative caregivers, defined as relatives other than a parent who fall within the definition of "out-of-home care provider" under s. 48.02(12r) or s. 938.02(12r). All foster parents and relative caregivers shall be treated with dignity, respect, and consideration as members of the child welfare team.

(2) The department shall maintain a foster parents' and relative caregivers' bill of rights containing all rights held by foster parents and relative caregivers under state child welfare laws.

(3) The department, county department, or licensed child welfare agency shall provide a foster parent or relative caregiver with a written copy of the foster parents' and relative caregivers' bill of rights in their primary language, if possible, at the time a foster child is placed in their home.

Option 2

SECTION 1. 48.649 of the statutes is created to read:

48.649 Foster parents' and relative caregivers' bill of rights. (1) The department and all county departments and licensed child welfare agencies shall respect the rights of all foster parents and relative caregivers, defined as relatives other than a parent who fall within the definition of "out-of-home care provider" under s. 48.02(12r) or s. 938.02(12r). These rights shall include the right to all of the following:

(a) Be treated with dignity, respect, and consideration as a member of the child welfare team.

(b) Be notified of and be given appropriate education and continuing education and training to develop and enhance foster-parenting skills.

(c) Be informed of how to contact the appropriate agency in order to receive information on and assistance in accessing supportive services for any child in the foster parent or relative caregiver's care.

(d) Receive payments for the care and maintenance provided for a child as required by and in the timeframes established by s. 48.57(3m) or (3n) or s. 48.62(4) and (8) timely financial reimbursement commensurate with the care needs of a foster child in the foster parent, as specified in the foster child's permanency plan.

(e) Be provided notice of the time, place, and purpose of a permanency plan hearing or review for a child placed in the care of the foster parent or relative caregiver, the issues to be determined as part of the review, and the right to be heard at the review, as provided in ss.48.38(5)(b),(5m)(b) or 938.38(5)(b), (5m)(b), and a written summary of the determinations made by the court or panel as part of the review, as required by s.48.38(5)(e), (5m)(e) or 938.38(5)(e), (5m)(e). ~~a clear, written understanding of the permanency plan and case plan of a child placed in the foster parent to the extent that those plans concern the placement of the foster child in the foster parent's home.~~

(f) Receive information that is necessary and relevant to the care of a foster child placed in the foster parent's care at any time during which the foster child is placed with the foster parent or relative caregiver, as required by s.48.371 or 938.371 and DCF 37.

(g) Be notified of scheduled review meetings, permanency-planning meetings, and special staffing concerning the foster child in order to actively participate in the case planning and decision-making process regarding the child, to the extent appropriate.

(h) Provide input concerning the ease permanency plan of a foster child placed in the foster parent or relative caregiver's care, as provided in 48.38(5)(bm), (5m)(c) or 938.38(5)(bm), (5m)(c) ~~have that input given full consideration in the same manner as information presented by any other professional member of the child welfare team, and communicate with other professionals who work with the foster child within the context of the child welfare team, as provided by law, including therapists, physicians, and teachers.~~

(i) Be given, in a timely and consistent manner, information, ~~as allowed~~ as provided by law, regarding the child and the child's family that is pertinent to the care and needs of the child and to the development of a permanency plan for the child.

(j) Be given reasonable notice of any change in, or addition to, the services provided to the child pursuant to the child's individual permanency ~~or case plan,~~ as required by law.

(k) Be given written notice, except in emergency circumstances, of plans to terminate the placement of the child with the foster parent or relative caregiver and the reasons for the changes or termination of the placement, as required by law.

(L) Be notified in a timely and complete manner of all court hearings and of the rights of the foster parent at the hearing, as required by law.

(m) Be considered as a ~~preferred~~ placement option if a foster child who was formerly placed with the foster parent or relative caregiver is to reenter foster care and if that placement is consistent with the best interest of the child and any other children in the home. The wishes of the child shall be considered in making that determination. If the child is an Indian child, the department, county department, or child welfare agency shall comply with the order of placement preference under s.48.012(7), unless there is good cause, as described in s.48.028(7)(e), for departing from that order.

(n) Be provided a fair, timely, and impartial investigation of complaints concerning the licensing of the foster parent, as required by law and any existing agency complaint process.

(o) Be provided the opportunity to request and receive a fair and impartial hearing regarding licensure decisions that affect licensing retention, required by law.

(p) ~~Provide or withhold permission, without prior approval of the caseworker, department, child welfare agency, educational advocate, or court, to allow a child in his or her care to~~ Allow a child in the care of a foster parent or relative care giver to participate in normal childhood activities, in accordance with the based on a reasonable and prudent parent standard under s.48.383 and in accordance with the provisions of part E of title IV of the federal Social Security Act.

(q) Have timely access to any administrative or judicial appeals process ~~and be free from acts of harassment and retaliation by any other party when exercising the right to appeal,~~ as required by law.

(2) The department, county department, or licensed child welfare agency shall provide a foster parent with a written copy of the foster parents' bill of rights in their ~~his or her~~ primary language, if possible, when the department, county department, or licensed child welfare agency issues or renews a foster care license or when a child is placed with a relative caregiver.

(3) Nothing in this section shall be construed to confer party status upon a foster parent or relative caregiver in proceedings under this chapter or create a private right of action or claim on the part of any individual, group, department, or other state agency.

CHILDREN & THE LAW SECTION

To: Assembly Children and Families Committee Members
From: Children and the Law Section, State Bar of Wisconsin
Date: October 13, 2021
Re: Opposition to AB 412 – foster parent bill of rights

The Children & the Law Section of the State Bar of Wisconsin opposes AB 412, creating a foster parents' bill of rights. The Section believes that existing laws and regulations address the concerns of foster parents and allow them to fully participate in the actions that affect the children placed with them. The creation of a "Bill of Rights" for a non-party to an action under Chapter 48 creates ambiguity and imbalance which could negatively affect and distract from the best interests of children.

Being a foster parent is one of the most difficult roles in the child welfare system. It is important to maintain good homes for children that have been abused or neglected. However, a bill of rights for foster parents is unnecessary. Current law allows for what is listed in the legislation including training, education and financial reimbursement consistent with a child's needs. A foster parent is also presently allowed to attend court hearings, staff meetings, and communicate with professionals treating the foster child in their home.

The additional allowances granted to foster parents in this legislation include concerning provisions, such as requiring an agency to give notice to a foster parent when there is a change in case plan, thus, providing them with information a child's lawyer or a party would not be privileged to, and providing information about the child's parent or family, such as AODA, mental health issues or domestic violence, to the foster parent. The section is concerned that sharing confidential information about the parent/family creates the possibility that this information could be used by the foster parents to harm the relationship between the child and his/her family.

Another concern is that this legislation proposes mandating a particular foster parent to be the preferred placement option on re-entry. This may contradict other parts of the statute which requires the consideration of family or a child's Native American heritage.

Lastly, the section is concerned that this legislation creates an imbalance of rights towards foster parents. It potentially gives foster parents more rights than the children themselves and certainly differentiates foster parents from relatives. Relatives may not be licensed caregivers for a number of reasons, but should not have less rights than any other caregiver, including foster parents, whom this legislation benefits. This imbalance of power within a particular case could create a more adversarial system and delay permanency while these issues are dealt with by the court system.

For these reasons, the Children and the Law Section opposes AB 412.

If you have questions or concerns, please do not hesitate to contact our Government Relations Coordinator, Lynne Davis, ldavis@wisbar.org or 608-852-3603.

The State Bar of Wisconsin establishes and maintains sections for carrying on the work of the association, each within its proper field of study defined in its bylaws. Each section consists of members who voluntarily enroll in the section because of a special interest in the particular field of law to which the section is dedicated. Section positions are taken on behalf of the section only.

The views expressed on this issue have not been approved by the Board of Governors of the State Bar of Wisconsin and are not the views of the State Bar as a whole. These views are those of the Section alone.



STATE BAR OF WISCONSIN



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Assembly Committee on Children & Families
2021 Assembly Bill 412
Wednesday, October 13, 2021

Mr. Chairman and members,

The State Public Defender's Office (SPD) offers the following comments on Assembly Bill (AB) 412, which creates a foster parents' bill of rights.

Foster parents are vital to the child welfare system by providing care for children in need of protection or services. That said, as stated in Chapter 48, one of the guiding principles of the Children's Code is to "...preserve the unity of the family, whenever appropriate by strengthening family life through assisting parents..." Ensuring that the rights of parents to remain the guardian of their children is vital to the best interests of the child.

Of course, there are times that a child welfare agency determines that the best interests of the child warrant the engagement of the judicial system and the temporary removal of the child from the home or even termination of the parent's rights. The SPD is authorized to provide representation in those cases; Children in need of Protection and Services (CHIPS) and Termination of Parental Rights (TPR) cases.

These are incredibly complex and important cases. Courts have even referred to TPR cases as the "civil death penalty." The statute and case law is difficult to follow and involves many different individuals such as attorneys for the parents and children, a guardian ad litem, expert witnesses, and child welfare department personnel. Trying to navigate all of this in the context of a judicial proceeding can be difficult in the best of circumstances.

AB 412 is well-intentioned legislation that will have serious unintended consequences. This bill is very similar in content and structure to the constitutional amendment known as "Marsy's Law" which took effect in May 2020. The purpose of the amendment was to place the crime victim's rights detailed in Chapter 950 into the Wisconsin Constitution. The implementation of Marsy's Law has had a significant impact on the criminal justice system.

Though it was stated repeatedly that the intent of the bill was not to give alleged victims standing in criminal proceedings, that is what has functionally happened. The day-to-day impact of Marsy's Law on the operations of courts statewide has had a significant effect. Having hearings to ensure that the victim is included in scheduling of future court appearances, the redaction of discovery material, and the non-identification of the complaining witness in direct contradiction of the federal and state constitutions have been just a few of the issues that have come up.

AB 412 provides many of the same rights from Marsy's Law for foster parents in child welfare cases. This will insert significant additional delays in a system that the Legislature has gone to great lengths to try and streamline, often to the detriment of birth parents. It will create another party to the case that has standing in the proceedings. Even if that is not directly authorized in the legislation, we know from experience with Marsy's Law that a legal argument will be made for just that. In short,

October 13, 2021

despite the best of intentions with AB 412, it has the very real prospect of leading to an increase in the amount of children who are removed from the home and ultimately have their parents' rights terminated.

Thank you for the opportunity to provide these comments. If you have additional questions, please feel free to contact Adam Plotkin at plotkina@opd.wi.gov or 608-264-8572.



HO-CHUNK NATION LEGISLATURE
Governing Body of the Ho-Chunk Nation

Written Comments
AB Bills 503, 577, 289, and 412
Wisconsin State Assembly
Committee on Children and Families
October 13, 2021

Thank you, Representative Snyder and the Committee on Children and Families, for accepting these written comments from the Ho-Chunk Nation Legislature on a set of bills that will have an impact on tribes, tribal children, and tribal families.

“The fundamental constitutional right to family integrity extends to all family members, both parents and children.” O’Donnell v. Brown, 335 F.Supp.2d 787, 820 (W.D. Mich. 2004), citing Wallis v. Spencer, 202 F.3d 1126, 1136 (9th Cir. 2000). The “right of a child to be raised and nurtured by his parents” is “fundamental. . .” Brokaw v. Mercer County, 235 F.3d 1000, 1019 (7th Cir. 2000).

AB 503 - Subsidized Guardianship Payments

- **Support Bill**

As to the Amendment, the Nation is less concerned with who makes the payments, and more concerned with the need for increased appropriations and infrastructure for these valuable forms of permanency to be utilized more often across the state.

The reason we submit our support for this bill is that by removing the Subsidized Guardianship language from the beginning section, it should free up some money for tribal high-cost pool needs. It is our understanding that the subsidized guardianship monies are skimmed off the top first by the counties. By removing subsidized guardianship from this section, it should return the high-cost pool to what it was meant to be- just a high-cost pool.

However, we would like to take this opportunity to stress the importance of subsidized guardianships, particularly for the Ho-Chunk Nation that has an expansive traditional kinship system. Many Tribes prefer guardianship as the primary permanency option, as opposed to adoption. This is particularly true for the Ho-Chunk Nation. The Ho-Chunk Nation does not support the permanent



HO-CHUNK NATION LEGISLATURE Governing Body of the Ho-Chunk Nation

severance of parental ties, and as such explicitly bans the use of termination of parental rights in tribal court and likewise does not support such in state courts.

Guardianship ensures parents' rights are not severed and leaves the door open for parents to come back once they get back on their feet. This is important because addiction typically prevents reunification within the 15-to-22-month timeframe set forth by the Adoption and Safe Families Act (ASFA). Therefore, this is a helpful tool to support families in reunifying once a parent can overcome their addiction. Due to the historical trauma inflicted upon tribal peoples, there is unfortunately a high rate of addiction within our communities. However, extended family members or tribal members can at times step in and provide the safety, love, and support to not only the children, but to their parents as well. Thus, nurturing the traditionally communal system of raising of a child through extended familial and clan relationships.

Some counties have pushed back on subsidized guardianships because some of those funds come from the county's coffers. Therefore, some of the smaller and poorer counties have claimed in the past to not have the funding to utilize subsidized guardianships when they are needed and appropriate. Whether the funding comes directly from DCF or through appropriations to the counties from DCF, does not matter as much as the need for more funding for these important forms of permanency. This aligns with the goals of the Family First Prevention Services Act, that being to increase and promote familial placements when a child cannot remain safely within their home after preventative services are exhausted.

While one of the main goals of the 2018 federal Family First Prevention Services Act is to ensure children can remain safely in their homes and avoid unnecessary removals, it recognizes that there will at times be a need for necessary removal. In that event, the counties should be looking towards identifying kinship/relative caregivers instead of foster homes to which the children have no relation to. If children are appropriately placed with kin in the event of removal, and a case needs to progress to permanency, then subsidized guardianship is the ideal form of permanency.

AB 577- Access to Adoptee's Bio Parent's Original Birth Certificate

- **Support Bill**

There have been massive numbers of traumatic removals of tribal children throughout history that were accomplished through unnecessary social services intervention and by the federal government's boarding school assimilation tactics. The passage of the Indian Child Welfare Act in 1978 was meant to help rectify these wrongs inflicted on tribal families and communities. While there are tools built into the federal and state Indian Child Welfare Acts to assist in gaining basic information regarding tribal affiliation, the Ho-Chunk Nation will always provide support for further legislation that will make it easier to bring our relatives back to the Tribe.

AB 289- providing permanency plan and comments to out-of-home care providers in advance of a permanency plan review or hearing

- **Oppose Bill**



HO-CHUNK NATION LEGISLATURE
Governing Body of the Ho-Chunk Nation

This bill is unnecessary. If the concern is ensuring that the foster parents have information to assist them in caring for children, they already receive this type of information through information sharing that is addressed through DCF Rules (DCF 37).

The Nation was opposed to the sharing of the Permanency Plan during the last session that this was addressed. Permanency Plans share highly confidential information (including HIPAA and 42 CFR Part 2 confidential medical/alcohol & drug information). Foster parents are not parties to the matter, and as such should never have access to these sensitive reports.

The redaction that is now being requested in this version will create an unnecessary burden on an already overly extended social services system. Social Workers need to be focused on case management and the provision of reasonable, and in the case of Indian Child Welfare Act matters-active efforts, so that families have the best chance at reunification.

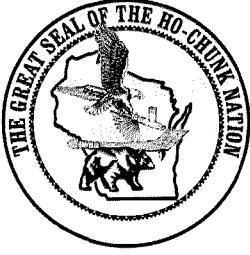
There is no ability to easily redact this information in the state's centralized database system that generates these reports. This was addressed by DCF the last time this topic was addressed. This will require individual redaction- that in addition to being time consuming (time that could be better spent on managing their overburdened caseloads) can and will lead to user error as we are only human. There is too great a chance of missing information that requires redaction. The chance for user error and the extra work on an overly taxed child welfare system outweighs the need to share these reports- particularly when the information that foster parents need to do their jobs well is already provided.

AB 412- creating foster parent bill of rights

- **Oppose Bill**

The ambiguity of AB-412 presents opportunities for foster parents to be errantly raised to the level of party status and on the same footing as a biological parent. The purpose of foster care is to provide a temporary home to ensure a child's safety while biological parents are provided support and services to develop the necessary protective parenting capacity needed to ensure their children's safety. Foster parents play an important role in providing this safety, but the primary goal is and should always be – except in those very rare and statutorily expressed egregious circumstances – reunification. To lose sight of this creates imbalance that will circumvent a biological parent's constitutionally protected fundamental right to parent and a child's constitutionally protected fundamental right to be with their parent.

Tribal attorneys are in a unique situation in that many have participated in contested hearings/trials in states where foster parents are granted party status. They have experienced firsthand how this imbalance negatively affects biological parents, but it also creates an imbalance as it pertains to the rights of Indian Tribes and Indian children established by the federal and Wisconsin Indian Child Welfare Act (ICWA/WICWA). For Tribes that do not have the financial ability to fight the cases themselves or find local counsel in states where pro hac vice is too difficult or denied, it creates an insurmountable barrier to protecting their actual party status rights when facing legal attacks by foster parents.



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Further, there is serious concern with language that proposes to create a preferred placement upon reentry. This is in direct conflict with ICWA placement preferences (unless the family was initially a preferred ICWA placement- but ICWA placement preferences already provide that potential protection if the family is still available and willing to take placement). ICWA/WICWA's placement preferences apply at reentry, just as they did when the first case opened/first removal occurred. A county social services agency has an ongoing duty up until the date of reunification/closure or termination of parental rights to provide active efforts, which includes seeking family members for placement and/or support. Again, an ongoing obligation to continually seek out placements that meet ICWA/WICWA's statutory placement preferences through the *entirety* of the case, and every case thereafter.

One of the most important parts of ICWA/WICWA is the establishment of standards that require that Indian children be placed in foster care, pre-adoptive, or adoptive placements that reflect the unique values of the Indian child's tribal culture. It is not enough that a non-Indian couple takes a child to a pow wow. Pow wows are, often, simply intertribal social gatherings. They are not necessarily a place in which to fully learn a particular tribe's culture- principally language and tribal roles. These types of learnings are only established through placement within one's tribal family, clan, or other tribal family.

It should never be forgotten when addressing the placement of Indian children, that Wisconsin unanimously voted to create a best interests of an Indian child standard. Wis. Stat. § 48.01(2) clearly sets forth that the best interests of an Indian child is to be placed "in a placement that reflects the unique values of the Indian child's tribal culture and that is best able to assist the Indian child in establishing, developing, and maintaining a political, cultural, and social relationship with the Indian child's tribe and tribal community."

Conclusion

We say it every time we present comments, but it is because it holds that much truth and meaning to tribal peoples. As such, our final words are as they should always be:

***There is nothing more important to a tribe than its children.
They are our future,
and they will ultimately be the links to our past.***

Thank you for taking the time to listen to how these bills will impact our tribal community. We would be happy to meet with any legislator to answer questions or elaborate on any information provided herein.



TO: The Honorable Members of the Assembly Committee on Children and Families
FROM: Emily Coddington, Associate Director
DATE: October 14, 2021
RE: **AB 412 – Foster Parents’ Bill of Rights**

Thank you for the opportunity to provide testimony regarding AB 412, which seeks to establish a bill of rights for Wisconsin foster parents. We appreciate the bill author’s acknowledgement that more can and should be done to honor those who care for children and families in our state. Relative and fictive kin caregivers, as well as foster and adoptive parents, all deserve support and recognition for the work they do. They deserve to be treated with dignity and respect, and to be provided with information and opportunities to be heard. They deserve to be valued members of the team, and to receive compensation commensurate with their time and dedication.

WAFCA is a statewide association that represents nearly fifty child and family serving agencies and advocates for the more than 200,000 individuals and families that they impact each year. Our members’ services include family, group and individual counseling; substance use treatment; crisis intervention; outpatient mental health therapy; and foster care and adoption programs, among others. Many of our member agencies license foster homes and facilitate both public and private adoptions, so ensuring those they serve are respected and supported is of utmost importance.

The principles outlined in AB 412 generally align well with Wisconsin’s Foster Parent Handbook¹ and administrative rules, and there is a desire among WAFCA members for these concepts to be more deeply embedded in statewide practice. There is concern, however, that incorporating the language into state statute may not be an effective tool to achieve this end and may generate confusion or conflict between current law and administrative rules and the rights proposed here. On a more practical level, embedding this language in statute would inhibit our ability to keep a foster parent bill of rights updated and aligned with current best practice, open to periodic review and amendments.

At the heart of the issue seems to be a desire to ensure shared power and decision-making, which will only come with true collaboration among the team members entrusted with a child’s care. For this reason, WAFCA recommends an amendment to this proposal directing the Department of Children and Families to collaborate with foster parents, birth parents, other caregivers, youth, county and tribal child welfare agencies, and licensing/placing agencies to create a foster parents’ bill of rights for Wisconsin. In addition, we would support the allocation of resources for training to effectively implement these values

¹ Retrieved from: <https://dcf.wisconsin.gov/fostercare/handbook>

in practice so that the workers who have the most contact with foster parents grow in their understanding of their role and actively engage them as core members of a child's team.

WAFCA also believes that for the vision of the bill to truly be accomplished, structural and financial changes are needed within our foster care system. As our member agencies have prepared for the new expectations under the federal Family First Act, we continue to gather input regarding the system changes needed to improve recruitment and retention of the highly skilled foster families we need. The following are examples of policy changes suggested by our members in consultation with their foster and kin families that the legislature could consider when taking steps to improve the experience of, and honor, foster parents, and other caregivers including relative caregivers ("in-home caregivers").

- Reimburse in-home caregivers according to the type of service they are expected to provide.
- Establish a baseline that in-home caregivers serving children with complex needs are not expected to hold other employment.
- Remove the current rate determination process that may result in a decrease in a foster care rate when a child has improved.
- Provide BadgerCare+ coverage for in-home caregivers who need it.
- Create more resources for childcare, respite, training, mentoring, and group support. Provide support, training, and resources for building relationships with biological family.
- Create advanced caregiver training to encourage highly trained caregivers and areas of specialization to better serve youth with complex needs.
- Have children in out-of-home care identified as a priority services population. There should be no waitlist for children in out-of-home care who need mental health services, including crisis services and respite.

These systemic changes for foster parents and other in-home caregivers would bring us one step closer to responding to the federal and state transformations currently underway.

As always, we appreciate the opportunity to share our thoughts with the Committee and value the ongoing commitment of the legislature to lift up issues related to foster care. We would be happy to work with bill authors should revisions be considered, and/or to discuss the additional recommendations for systemic change provided.