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STATE REPRESENTATIVE • 85th ASSEMBLY DISTRICT

Testimony in Support of Study Committee on Public Disclosure and Oversight of Child Abuse and Neglect Incidents Legislation

Assembly Committee on Children and Families

October 13th, 2021

Vice-Chairman Ramthun and members of the Committee:

Good morning. It was my pleasure to serve as chair of the Study Committee on Public Disclosure and Oversight of Child Abuse and Neglect Incidents. I am here today to describe the three bills that the committee has recommended for introduction by the Joint Legislative Council.

Membership of the study committee consisted of two representatives, two senators, and six public members. The public members represented professionals from county departments of human services, and two community-based organizations that provide services to neglected and abused children.

The committee was directed to examine the requirements created by 2009 Wisconsin Act 78, and analyze whether those requirements provide an effective mechanism for public disclosure and legislative oversight. Basically, Act 78 requires the Department of Children and Families (DCF) to send reports to the Legislature and Governor when certain egregious incidents of child abuse or neglect occur, so as to provide information publicly about these incidents. Act 78 does not affect the investigatory process by child protective services (CPS) that must occur for any reported case of abuse or neglect.

In response to the scope, the study committee met four times and received testimony and discussed: (1) the types of reports that DCF is required to prepare and transmit to the Governor and Legislature under Act 78; (2) the safety science model that DCF has used since 2016 when conducting an in-depth practice review of critical incidents and completing the reports required under Act 78; (3) the information about a critical incident that should be publicly disclosed; and (4) the requirement that legislative standing committees hold hearings annually to review the Act 78 reports submitted by DCF.

Testimony received by the committee included presentations from DCF; the Wisconsin County Human Service Association; the co-founders of Collaborative Safety, the entity with whom DCF has consulted when adopting a safety science model for reviewing critical incidents; and the associate director of the National Partnership for Child Safety, a safety science demonstration project that is supported by the Casey Family Programs.

The committee voted unanimously to recommend the following three bill drafts for introduction by the Joint Legislative Council:

The First Bill, Assembly Bill 423, Relates to Reports of Sexual Abuse of Children Placed in Out-of-Home Care

Act 78 requires DCF to prepare quarterly reports of sexual abuse of children placed in out-of-home care. DCF includes in these quarterly reports any alleged incident of sexual abuse of the child that was received while that child was in out-of-home care. Thus, these reports may include reported incidents of sexual abuse of a child that occurred while the child was placed in out-of-home care, as well as reported incidents of sexual abuse that occurred when the child was not placed in out-of-home care.

It was the committee's general belief, however, that these quarterly reports were intended to inform the public on the safety of out-of-home care placements in Wisconsin. AB 423 specifies that the quarterly reports of sexual abuse in out-of-home care must include only reported incidents of certain types of sexual abuse of a child who was placed in out-of-home care at the time that the reported incident of abuse was alleged to have occurred.

AB 423 also requires that DCF specify in the reports whether, in substantiated cases of certain types of sexual abuse, the abuse was caused by the child's out-of-home care provider.

The Second Bill, Assembly Bill 424, Relates to Requiring Citizen Review Panels to Report Annually to the Appropriate Legislative Standing Committees

The federal Child Abuse Prevention and Treatment Act (CAPTA) generally requires states to establish at least three citizen review panels in order to receive federal CAPTA funds. CAPTA requires that each citizen review panel report annually and provide a summary of its activities and recommendations to improve the child protective services system at the state and local levels. CAPTA also requires that DCF must submit a written response to the citizen review panel that describes whether or how the state will incorporate the panel's recommendations, where appropriate, to make measurable progress in improving the state and local child protective systems.

Pursuant to this requirement, eight citizen review panels currently exist in Wisconsin. The committee expressed interest in the Legislature receiving the citizen review panels' reports, as well as DCF's written responses to that information.

AB 424 requires DCF to transmit to the appropriate legislative standing committees the annual citizen review panel reports and DCF's written responses to these reports.

The Third Bill, Assembly Bill 425, Relates to Annual Reports to and Hearings by the Legislature on Child Abuse and Neglect

Act 78 requires DCF to prepare summary reports on certain information related to certain critical incidents of child abuse or neglect. Among other requirements, DCF must send the summary reports to the appropriate legislative standing committees. Those committees must review the summary reports, conduct public hearings on the reports no less often than annually, and submit recommendations to DCF regarding the reports.

Current law also requires DCF to prepare and submit to the Governor and the Legislature an annual report, currently entitled the "Wisconsin Child Abuse and Neglect Report (CAN Report)." The CAN Report includes a wide range of information, including the status of child abuse and neglect programs and unborn child abuse programs.

The committee acknowledged the CAN Report's value, citing the recent custom to include that report in standing committees' annual Act 78 legislative hearings, despite the absence of any statutory requirement to do so. The committee also agreed that aggregated information on, and trend data from, the summary reports would provide a better mechanism for legislative oversight and policymaking.

AB 425 requires DCF's CAN Report to include all of the following information about DCF's summary reports on critical incidents:

- Aggregated information from DCF's summary reports.
- Trend data identified by DCF.
- Trends identified by DCF based on its in-depth practice reviews of certain critical incidents.
- Changes in policies or practices that have been made to address any issues raised in DCF's review of critical incidents in the Act 78 summary reports.

AB 425 also requires the appropriate legislative standing committees to conduct a hearing at least annually on the CAN Report.

I appreciate the opportunity to have chaired the Study Committee on Public Disclosure and Oversight of Child Abuse and Neglect Incidents, and the opportunity to provide testimony before you today on these important recommendations. I welcome any questions you may

have at this time. Also, Amber Otis and Melissa Schmidt, of the Legislative Council, are with me today to assist in answering any questions.

STATE SENATOR KATHY BERNIER
TWENTY-THIRD SENATE DISTRICT



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From: Senator Kathy Bernier
To: The Assembly Committee on Children and Families
Re: Testimony on Assembly Bills 423, 424, and 425
Date: October 13, 2021

Thank you Vice-Chairman Ramthun and committee members for allowing me to provide testimony on Assembly Bills 423, 424, and 425. I am grateful for the opportunity to serve as Vice Chair of the Joint Legislative Council's Study Committee on Public Disclosure and Oversight of Child Abuse and Neglect Incidents, alongside Representative Snyder who chaired the study committee.

The three bills before you today were recommended by the study committee and introduced by the Joint Legislative Council, by unanimous votes. They are the product of four study committee meetings where we reviewed and discussed what information must be disclosed and made publicly available to receive federal CAPTA funding, as well as what should be reviewed by the Legislature, when a child is critically injured, dies, or is sexually abused while in out-of-home care.

Assembly Bill 423 clarifies that the quarterly reports of certain types of sexual abuse of a child in out-of-home care, prepared by the Department of Children and Families (DCF), must only include incidents of alleged abuse that occurred while the child was in out-of-home care. The bill also requires DCF to specify in these reports, whether, in substantiated cases of certain types of sexual abuse of a child, the abuse was caused by the child's out-of-home care provider. These changes help the public and legislators better understand the safety of a child's out-of-home care placement.

Assembly Bill 424 requires DCF to transmit to the appropriate legislative standing committees, such as this committee, annual reports prepared by citizen review panels, and the written responses that DCF prepares for those reports. To receive federal CAPTA funding, states must have citizen review panels that meet at least quarterly, to determine whether the state's child welfare system is meeting its child protection responsibilities according to the state's CAPTA plan, as well as to prepare annual reports about their activities and child protective services improvement recommendations.

Assembly Bill 425 requires DCF to add certain information in its annual Child Abuse and Neglect (CAN) report to help legislators make policy decisions about the child welfare system based upon aggregated information. Specifically, the bill requires DCF to include the following information in its CAN report: (1) aggregated information from DCF's summary reports; (2) trends identified by DCF in the summary reports; (3) trends identified by DCF based on its in-depth practice reviews of certain critical incidents; and (4) changes in policies or practices that have been made to address any issues raised in DCF's review of critical incidents in the summary reports. The bill also requires the appropriate legislative standing committees, such as this committee, to conduct a hearing at least annually on the CAN Report. This hearing requirement codifies current practice.

Please consider passage of Assembly Bills 423, 424, and 425 and thank you for allowing me to provide this testimony.



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 13, 2021

SUBJECT: 2021 Assembly Bill 423; 2021 Assembly Bill 424; 2021 Assembly Bill 425

The Department of Children and Families (DCF) appreciates the thoughtful work of the Legislative Council Study Committee on Public Disclosure and Oversight of Child Abuse and Neglect Incidents. The Study Committee worked hard to identify ways to strengthen the 2009 Wisconsin Act 78 ("Act 78") process so there is a greater understanding of our child welfare system and increased opportunities to consider areas of improvement. Throughout the Study Committee meetings between August and December 2020, DCF had the opportunity to share recent efforts to engage national leaders in improving child safety and reducing child maltreatment fatalities and highlight DCF's vision for incorporating findings from Act 78-related reviews into overall learnings about child abuse and neglect in Wisconsin.

For example, in 2017 DCF implemented a more data-driven and trauma-informed approach to conducting reviews of the tragic and complex incidents subject to public disclosure under Act 78 that uses principles from the field of Human Factors and System Safety Science used in other safety critical industries. The Systems Change Review (SCR) process recognizes the complex influences that impact child welfare practice and emphasizes increased partnership and trust with county leadership and front-line workers to promote more thoughtful system accountability.

The changes proposed in AB-423, AB-424, and AB-425 enhance the meaningful partnership between DCF and the legislature and ensure that recommendations for policy, practice, or legislative changes to improve the child welfare system derive from multiple sources of information.

Assembly Bill 423

Under current law, DCF is required to prepare and transmit quarterly and annual summary reports of certain types of reports of sexual abuse of a child placed in out-of-home care. The sexual abuse in out-of-home care (SAOHC) report summary must include a number of data elements related to each allegation of sexual abuse in out-of-home care.

DCF supports AB-423 because it provides important clarity as to what is required in the SAOHC report. The background information within the Joint Legislative Council Note in the bill indicates that DCF's quarterly reports may include reported incidents of sexual abuse of a child that occurred while the child was placed in OHC, as well as reported incidents of sexual abuse that occurred when a child was not placed in OHC, based on previous information provided by DCF. DCF wants to clarify that in operationalizing the current SAOHC report requirements (since 2015), DCF has included only incidents of sexual abuse that are alleged to have occurred while a child was placed in out-of-home care, which is consistent with what would be required under AB-423.

This clarification highlights the need for AB-423. As discussed during Study Committee meetings, the current law may result in different interpretations as to whether the SAOHC report should include reports of sexual abuse only when the alleged sexual abuse incident occurred while the child was in out-of-home care or should also include *reports* of sexual abuse made while the child was in out-of-home care, even if the alleged sexual abuse incident did not actually occur while the child was in out-of-home care. Current law does not expressly address that the date in which a Child Protective Services (CPS) report is received may be different from when the incident occurred. The bill clarifies this issue, so DCF SAOHC reports will continue to include any alleged incidents of sexual abuse that occurred while a child was in out-of-home care, no matter where the child was residing when the report was made during the previous calendar quarter.

Assembly Bill 424

As a condition of federal grant funds, the Child Abuse Prevention and Treatment Act (CAPTA) requires states to establish at least three citizen review panels (CRPs) that meet quarterly and evaluate the extent to which a state is fulfilling its child protection responsibilities. Wisconsin currently has eight local CRPs made up of volunteers who are either representative of the community or have expertise in child abuse and neglect. CRPs complete annual reports containing information on the broad range of activities in which the panels engage through the

year in addition to recommendations for improving the child protection system at the state and local levels. DCF must submit a written response to each report describing whether or how the state will incorporate the panel's recommendations. These annual reports and DCF's written responses are published and available for review on DCF's website at <https://dcf.wisconsin.gov/prevention/crp>.

AB-424 would require DCF to send a copy of these annual reports and written responses to the legislative standing committees. **DCF supports this bill**, as it would provide the legislature with localized perspectives about state and county child welfare practice and potential areas for improvement.

Assembly Bill 425

Under current law, DCF is required under Act 78 to prepare summary reports on certain information related to child abuse or neglect incidents of death, serious injury, or egregious abuse or neglect (critical incidents) and send the summary reports to the legislative standing committees. The standing committees must conduct public hearings on these reports at least annually. During these informational Act 78 hearings in recent years, DCF has also provided testimony and responded to questions regarding the annual Child Abuse and Neglect (CAN) Report (currently required to be transmitted to the legislature under Wis. Stat. s. 48.47(8)) that provides a comprehensive picture of the child protective services process, including statewide and county-level data on child maltreatment.

AB-425 would require the annual CAN Report to include aggregated information from summary reports on critical incidents; trend data identified by DCF from the summary reports and in-depth practice reviews of critical incidents; changes in policies or practices made to address issues raised in DCF's review of the incidents in the summary reports; and recommendations for any further changes in policies, practices, rules, or statutes that may be needed to address those issues. Further, the bill would require the standing committees to hold a hearing at least annually on the CAN Report.

DCF supports these changes. The results of critical incident reviews are most meaningful at an aggregated level and when evaluated with other relevant administrative and case review data. Considering policy and/or practice changes for each critical incident individually and independent

of other critical incidents does not go far enough to improve systems learning nor does it adequately address the complexity of the child welfare system. In order to use learnings from critical incidents to effect positive change in policy and programs on a state level, it is important to look at how systems factors within and across cases affect the decision making and practice of our workforce. Further, requiring an annual public hearing on the CAN Report that will likely coincide with the annual Act 78 hearing is consistent with DCF's current practice and ensures that discussions regarding critical incidents are held in context with a review of the child welfare system as a whole.

Thank you for the opportunity to testify about these important bills. We again thank the committee for the deep engagement on these difficult topics and would be pleased to respond to any questions.