



WISCONSIN LEGISLATIVE COUNCIL

ADOPTION AND TERMINATION OF PARENTAL RIGHTS LAW

Legislative Council Conference Room
Madison, Wisconsin

January 21, 2005
9:30 a.m. - 2:30 p.m.

[The following is a summary of the January 21, 2005 meeting of the Special Committee on Adoption and Termination of Parental Rights Law. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc/2004studies.htm>.]

Call to Order and Roll Call

Chair Jeskewitz called the meeting to order. The roll was called and a quorum was determined to be present.

COMMITTEE MEMBERS PRESENT: Rep. Suzanne Jeskewitz, Chair; Sen. Tom Reynolds; Rep. Steve Kestell; and Public Members Joseph Ehmann, Stephen Hayes, Patrick Kenney, Mary Jane Proft, and Jodi Timmerman.

COMMITTEE MEMBERS ABSENT Sen. Jeff Plale; Rep. Chris Sinicki; and Public Members Susan Dreyfus and Christopher Foley.

COUNCIL STAFF PRESENT: Anne Sappenfield, Senior Staff Attorney; and Laura Rose, Deputy Director.

Approval of the Minutes of the December 14, 2004 Meeting of the Special Committee

Mr. Hayes moved, seconded by Mr. Kenney, to approve the minutes of the December 14, 2004 meeting of the committee. The motion carried by a unanimous voice vote.

Comments by Public Member Mary Jane Proft

Public Member Mary Jane Proft presented comments to the committee on her experiences as an adoptive parent of special needs children. She related some of her experiences in order to illustrate the need to provide training and support to persons who wish to pursue adopting special needs children, as well as the need to provide support to these children once they turn 18.

Description of Materials Distributed

WLC: 0026/2, relating to fair hearings for head of foster, treatment foster, or group home

Ms. Sappenfield described the draft. Mr. Hayes stated that as an attorney who has represented foster parents, that it is important to be able to get information in front of the court in order to defend the foster parent's interests. He said that it should not be left up to the guardian ad litem alone to represent the child's interests, which may include being kept in a stable foster home placement rather than being returned to a parent who is barely meeting the conditions for return. The committee discussed the advantages and disadvantages of granting status of a full party to a foster parent, and deferred action on the draft until the next meeting. Chair Jeskewitz instructed members with an interest in this issue to meet prior to the next meeting to work out some of these areas of concern.

WLC: 0027/2, relating to prohibiting visitation prior to termination of parental rights

Discussion on this draft was deferred until the next meeting of the committee.

WLC: 0030/2, relating to time limit for collateral attack on termination of parental rights judgment

Ms. Rose explained the draft.

Stephen Hayes moved, seconded by Patrick Kenney, that WLC: 0030/2 be approved. The motion was approved by a vote of Ayes, 8 (Reps. Jeskewitz and Kestell; Sen. Reynolds; and Public Members Ehmman, Hayes, Kenney, Proft, and Timmerman); and Absent, 4 (Rep. Sinicki; Sen. Plale; and Public Members Dreyfus and Foley).

WLC: 0033/1, relating to involuntary termination of parental rights ground of continuing need of protection and services

Ms. Sappenfield described the draft. Mr. Kenney stated that the draft would make it easier for district attorneys to litigate this particular ground for the termination of parental rights (TPR). Mr.

Ehmann objected to the change in time limits contained in the draft. The Committee discussed various modifications of the time limit in the draft of a three-month period following the fact-finding hearing.

The Committee deferred voting on the draft until the next meeting.

WLC: 0044/2, relating to the role of a guardian ad litem appointed for a parent in a contested termination of parental rights proceeding involving a child found to be in need of protection or services

Ms. Rose explained the draft.

Patrick Kenney moved, seconded by Stephen Hayes, that WLC: 0044/2 be approved. The motion was approved by a vote of Ayes, 8 (Reps. Jeskewitz and Kestell; Sen. Reynolds; and Public Members Ehmann, Hayes, Kenney, Proft, and Timmerman); and Absent, 4 (Rep. Sinicki; Sen. Plale; and Public Members Dreyfus and Foley).

WLC: 0045/1, relating to specifying that evidentiary privilege does not apply to statements made by a parent during the course of an alcohol and drug abuse assessment or a mental, physical, psychological or developmental examination of the parent in a termination of parental rights proceeding

Ms. Rose explained the draft. Mr. Kenney noted that the information that is sought is the results of tests and any diagnosis of the parent; and that this information should be made available to the person who must decide whether the child should be returned to the home. Mr. Ehmann suggested incorporating a fifth amendment warning to the parent into the draft. Mr. Kenney said this was not necessary, because it is not a criminal case. Mr. Kenney and Mr. Ehmann agreed to provide suggested changes to Ms. Rose for a redraft that would be voted on at the next meeting of the committee.

WLC: 0071/1, relating to permitting adoptees to obtain access to medical and genetic and identifying information about their birth siblings

Ms. Rose described the draft.

Stephen Hayes moved, seconded by Patrick Kenney, that WLC: 0071/1 be approved. The motion was approved by a vote of Ayes, 8 (Reps. Jeskewitz and Kestell; Sen. Reynolds; and Public Members Ehmann, Hayes, Kenney, Proft, and Timmerman); and Absent, 4 (Rep. Sinicki; Sen. Plale; and Public Members Dreyfus and Foley).

WLC: 0087/1, relating to advertising related to adoption

Ms. Sappenfield explained the draft. Mr. Hayes suggested requiring advertisers to attach a copy of their license to any request for an advertisement under the draft. The committee agreed that this provision should be inserted, and action was deferred on the draft until the next meeting of the committee.

WLC: 0088/1, relating to involuntary termination of parental rights on the grounds of continuing need of protection or services

Ms. Sappenfield explained the draft. Mr. Kenney said that having to prove elements in addition to the fact that services were not required while the parent was incarcerated will cause confusion. Mr. Ehmann suggested using the term “confinement” rather than “incarceration,” since “incarceration” covers jail time in addition to imprisonment. The committee agreed to this provision, and action was deferred on the draft until the next meeting of the committee.

WLC: 0091/1, relating to post termination of parental rights contact between a child and the child's birth parents, birth siblings, and other birth relatives

Ms. Sappenfield explained the draft. She noted that the draft is based on a prior LRB draft. Mr. Hayes noted that Arizona and Oregon have similar laws regarding post-TPR contacts. Ms. Proft expressed her concern with the provisions of the draft, saying that contact that might seem acceptable at the time of the TPR but may not be realistic five years down the road.

Mr. Hayes agreed to discuss the draft with some judges and report his findings to the committee. The committee deferred action on the draft until the next meeting.

WLC: 0092/1, relating to notice that a person receiving child welfare services has changed his or her county of residence

Ms. Sappenfield described the draft, noting that it was based on a draft that had been presented to the committee at a prior meeting by Representative Ward.

Representative Kestell moved, seconded by Patrick Kenney, that WLC: 0092/1 be approved. The motion was approved by a vote of Ayes, 8 (Reps. Jeskewitz and Kestell; Sen. Reynolds; and Public Members Ehmann, Hayes, Kenney, Proft, and Timmerman); and Absent, 4 (Rep. Sinicki; Sen. Plale; and Public Members Dreyfus and Foley).

WLC: 0094/1, relating to training for prospective adoptive parents

Ms. Rose described the draft. Ms. Proft suggested that the training requirement apply only to first-time adoptive parents. The committee agreed that the number of hours and topics that the training should cover should not be specified in the draft, but rather the Department of Health and Family Services should be required to promulgate rules on these subjects.

Other Business

There was no other business brought before the committee at this time.

Plans for Future Meetings

The next meeting of the Special Committee will be held on *Friday, February 18, 2005, at 9:30 a.m., in the Legislative Council Conference Room.*

Adjournment

The meeting was adjourned at 2:30 p.m.

LR:tlu