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## WISCONSIN LEGISLATIVE COUNCIL

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### PERMANENCY FOR YOUNG CHILDREN IN THE CHILD WELFARE SYSTEM

Room 412 East  
State Capitol

July 24, 2012  
10:00 a.m. – 4:45 p.m.

[The following is a summary of the July 24, 2012 meeting of the Special Committee on Permanency for Young Children in the Child Welfare System. 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>.]

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#### Call to Order and Roll Call

Chair Kerkman called the committee to order. The roll was called and a quorum was present.

COMMITTEE MEMBERS PRESENT: Rep. Samantha Kerkman, Chair; Sen. Mary Lazich, Vice Chair; Rep. Jill Billings; and Public Members Colleen Ellingson, Chris Foley, Mark Gumz, Amy Herbst, Molly Jasmer, Robin Neeson, Rändi Othrow, Ron Rogers, Michelle Snead, and Mary Sowinski.

COMMITTEE MEMBERS  
EXCUSED: Rep. Tamara Grigsby; and Public Members Esie Leoso-Corbine, Laura Maki, and Jessica Murphy.

COUNCIL STAFF PRESENT: Melissa Schmidt and Margit Kelley, Staff Attorneys.

APPEARANCES: MaryAnn Lippert, Executive Assistant, Department of Children and Families (DCF); John Elliott, Division of Safety and Permanence (DSP) Deputy Administrator, DCF; Michelle Rawlings, DSP Research and Program Operations Manager, DCF; Nina Williams-Mbengue, National Conference of State Legislatures (NCSL) Children and Families Child Welfare Program Director; Amy Herbst, Child Welfare Vice-President, Children's Service Society of Wisconsin (CSSW); Rick Lockwood, Project Director, CSSW; Ron Hauser, Program Services – Children & Families Vice-President, Lutheran Social Services of Wisconsin and Upper Michigan (LSS); Heather Yaeger, Out-of-Home Care and Adoption Services Executive Director, LSS; Sarah Hotchkiss, Permanency and Stability Services Executive Director, LSS; Colleen Ellingson, Chief Executive Officer, Adoption Resources of Wisconsin (ARW); Kristina Finnel, Mental Health America of Wisconsin (MHA) Chief Executive Officer; Karissa Vogel, MHA Strong Families Healthy Homes Program

APPEARANCES CONT.:

Manager; Christye Johnson, MHA Peer Support Specialist and biological parent; Melanie Deavers, MHA Peer Support Specialist and biological parent; Adam Plotkin, State Public Defender (SPD) Legislative Liaison; and Diane Rondini-Harness, Assistant SPD.

**Approval of the Minutes of the Special Committee's June 27, 2012 Meeting**

Ms. Othrow highlighted an error in the committee's June 27, 2012 minutes found on page 7. She requested that a correction be made to her comments listed in the seventh paragraph, that the committee should discuss eliminating the right to a jury trial for "CHIPS adjudications," not a "TPR."

*Senator Lazich moved, seconded by Ms. Othrow, that the minutes of the committee's June 27, 2012 meeting be approved, as corrected. The motion passed on a voice vote.*

**Introduction of Committee Members**

Chair Kerkman welcomed the committee members. She informed the committee that the next two scheduled meetings will be on September 11 and October 9, 2012, in Madison. Upon the Chair's request, the committee members briefly introduced themselves.

**Presentation Follow-Up on Out-of-Home Care (OHC) Statistics, by DCF**

***MaryAnn Lippert, Executive Assistant, DCF; John Elliott, Deputy Administrator, DSP; and Michelle Rawlings, Manager, DSP Research and Program Operations***

[Note: PowerPoint slides, including all charts and data, are available on the committee's website at: <http://www.legis.wisconsin.gov/lc>.]

Ms. Lippert, Mr. Elliott, and Ms. Rawlings presented data on OHC for Wisconsin's child welfare system, in response to the following nine questions that were asked at the committee's June 27, 2012 meeting: (1) the number of children in OHC of Hispanic ethnicity; (2) the number of children in OHC placed with relatives; (3) the length of time that aged-out youth were in OHC and their county of residence; (4) more information about outcomes for children who are not reunified; (5) the ages of children in OHC for at least 17 months who are not legally free for adoption; (6) the number of children by age that re-enter OHC after 12 months; (7) the caseload data for children under age eight for the years 2005-2012; (8) the length of time between when the termination of parental rights (TPR) is granted and adoption is completed; and (9) the trends in Special Needs Adoptions Program (SNAP) over the past six years.

Ms. Lippert, Mr. Elliott, and Ms. Rawlings all responded to questions from committee members. In response to questions about SNAP adoptions, Ron Hermes, Director, Bureau of Permanence and OHC, DSP, explained that SNAP adoptions are attempted to be completed within three to six months after TPR is granted. He also stated that Lafayette County is an example of a county that finalizes SNAP adoptions themselves. There was discussion among various committee members about how TPR appeals greatly impact the time it takes to finalize adoptions. Concern was raised about TPR cases being appealed when the parent is in default for being absent from court prior to TPR being granted. Senator Lazich stated that she has been working on a bill draft with Judge Foley to address this issue.

**Presentation on Improving Child Welfare: State Legislative Experience  
and Child and Family Services Review Findings, by NCSL**

*Nina Williams-Mbengue, NCSL Children and Families Child Welfare Program Director*

[Note: PowerPoint slides and handouts are available on the committee's website at: <http://www.legis.wisconsin.gov/lc>.]

Ms. Williams-Mbengue provided background information on the federal Children and Families Services Review (CFSR) and the Program Improvement Plan processes. She included key findings in the most recent review conducted in 2010. Ms. Williams-Mbengue also provided information on other states' legislative policies regarding kinship care, jury trials in TPR cases, and improving permanency for children in OHC.

Ms. Williams-Mbengue reviewed CFSR's two safety outcomes, two permanency outcomes, and three well-being outcomes. Based on the committee's scope, she provided in-depth information on Wisconsin's results from the 2010 CFSR review for the two permanency outcomes: (1) whether children have permanency and stability in their living situations; and (2) whether the continuity of family relationships and connections were preserved. Ms. Williams-Mbengue highlighted each outcome's strengths and challenges at the national level and in Wisconsin's 2010 CFSR review related to the stability of foster care placements; permanency goals for the child; reunification, guardianship, and permanent placement with relatives; adoption; and relative placements.

The legislative approaches to improve the achievement of permanency noted by Ms. Williams-Mbengue included the following: (1) reducing court delays; (2) creating new court models, (3) improving legal representation for children and families; (4) requiring various methods of youth participation in court hearings; (5) requiring concurrent planning; and (6) utilizing family group conferences.

The legislative kinship care initiatives highlighted by Ms. Williams-Mbengue included the following: (1) strengthening family searches; (2) expanding the definition of kinship care; (3) subsidizing guardianships; (4) providing services and supports for relatives; (5) authorizing kinship caregivers to consent to the child's medical care or enroll the child in school; (6) removing barriers to licensing and increasing the percentage of licensed relative caregivers through recruitment and training; and (7) creating programs to help kinship caregivers navigate the various systems and services.

Ms. Williams-Mbengue explained that as of 2010, five states permit or require jury trials for TPR determinations. She noted Arizona's experience of authorizing jury trials for a three-year period. After three years, the enabling legislation was not reauthorized.

Ms. Williams-Mbengue responded to questions from committee members, explaining that family drug treatment courts generally provide coordination of services for the family and that family group conferencing had been identified by NCSL as a promising approach, but is not yet evidence-based.

**Presentation on Supporting Birth, Foster, and Adoptive Families, by Members of the Wisconsin Association of Family & Children's Agencies (WAFCA)**

[Note: Handouts are available on the committee's website at: <http://www.legis.wisconsin.gov/lc>.]

***Linda Hall, Executive Director, WAFCA***

Ms. Hall provided an overview of WAFCA and the services that its members provide to children and families in the child welfare system. She explained that the various panels would be providing information based on questions asked at the committee's meeting on June 27, 2012. She also introduced the various speakers from CSSW, LSS, and ARW.

***Amy Herbst, Child Welfare Vice-President, and Rick Lockwood, Project Director, CSSW***

Ms. Herbst and Mr. Lockwood described CSSW's Family Finding project, which helps locate and engage relatives of children living in OHC. Mr. Lockwood explained that the project utilizes the family finding methods founded by Kevin Campbell, based on procedures used by the Red Cross in war-torn countries and countries suffering from natural disasters. Mr. Lockwood stated that CSSW received a \$1.2 million grant from the federal Children's Bureau in 2009 to demonstrate the effectiveness of CSSW's Family Finding model. Since then, it has served over 300 children.

Ms. Herbst explained that CSSW originally started as an adoption agency and continues to do so. As such, they continue to value foster parents and adoptions. She said that CSSW implemented the Family Finding program to help reduce the number of children returning to foster care after a failed adoption. In response to questions from the committee, Ms. Herbst stated that in the first year, CSSW served roughly 70 children, but the annual number of served children has increased with each passing year.

In response to questions, Mr. Lockwood stated that the program makes the initial contact through various forms of communication, such as email, telephone, and written letters, and then must work hard to engage family members to be a support for the child. Mr. Lockwood explained that the family finding process is child-driven and that CSSW includes the child in the process. Ms. Herbst shared that CSSW has found families in other countries and gave an example of reunifying a child with a grandmother in Puerto Rico.

In response to questions about the effectiveness of the Family Finding Program, Mr. Lockwood explained that the Family Finding project is in the process of being reviewed by a nonprofit, nonpartisan research center called Child Trends. A final report is anticipated in December 2012.

***Ron Hauser, Program Services – Children and Families Vice-President; Heather Yeager, OHC and Adoption Services Executive Director; and Sarah Hotchkiss, Permanency and Stability Services Executive Director, LSS***

Mr. Hauser provided an overview of LSS. He explained that LSS is a full-service social services agency that began in 1882 as an orphanage. It now serves 100,000 people annually with 330 programs. Roughly 29% of its programming is related to child services.

Ms. Yeager listed numerous factors that can delay the length of time that it can take for a child to achieve permanency, and how LSS can help improve the process. She explained that the agency uses various programs because each family and each area of the state varies in its needs. She described one type of support for foster families that later adopt the foster child is to have community gatherings.

Ms. Hotchkiss explained LSS's Family Interactions Program as a multi-dimensional program that promotes attachment and permanence in a safe and supervised setting. She said the program is seven years old now and is expanding rapidly around the state. It started in Eau Claire County, and expanded into Dunn, Jackson, and Walworth Counties. LSS is in the process of expanding into other counties as well.

Ms. Hotchkiss stated that supervised family interactions can take place in various settings, including the home, at school, or in a park. She also stated that over 85% of cases in the Family Interactions Program were closed within the 15-months federally mandated time frame for permanence; that there have been no substantiated reports of abuse or neglect while families were receiving these services; that fewer than 4% of the cases are re-referred; and that 85% of the parents demonstrated improvement in parenting skills.

Mr. Hauser provided a brief overview of LSS's Family Partnerships Initiative. The Family Partnerships Initiative is community-based, facilitating open dialogue and brainstorming between families and the various stakeholders involved with the family. This includes the child, foster parents, the school, and professionals providing services to the child and his or her family. The group comes together to review the plan of care and make adjustments as needed, and provide support. Mr. Hauser explained that through this program, LSS purchases services for the family. He noted that it is challenging to find medical providers willing to care for Medicaid eligible patients, as this number is decreasing, especially in rural counties, and this is a barrier to matching children and parents with the right kind of service.

***Colleen Ellingson, ARW, Chief Executive Officer***

Ms. Ellingson described ARW's program, Our Home Our Family. She explained that in 2005, ARW received a four-year federal grant from the U.S. Department of Health and Human Services to create this program, which provides post-adoption training support to adoptive families. Ms. Ellingson noted that the program was created to strengthen adoptive families, recognizing that adopted children that were abused and neglected have behavioral challenges that place the adoptive family under stress. She stated that evidence-based testing of the program showed improved results for both adoptive parents and children.

Ms. Ellingson pointed out that adoption does not solve behavioral problems stemming from trauma the child experienced earlier in life. She said adopted children continue to need treatment after the adoption is finalized. She also noted that it is more economical to provide upfront services to adoptive families than to wait until a child is removed from the home. She noted that this is in part because adopted children reentering OHC are twice as likely to be placed in residential treatment as children that enter OHC for the first time. In response to questions, Ms. Ellingson stated that most adopted children reentering OHC are teenagers.

## **Presentation on Reunification Barrier Experiences of a Mental Health Provider and Biological Parents**

[Note: PowerPoint slides are available on the committee's website at: <http://www.legis.wisconsin.gov/lc>.]

***Kristina Finnel, MHA, Chief Executive Officer; Karissa Vogel, MHA Strong Families Healthy Homes Program Manager; Christye Johnson, MHA Peer Support Specialist and Biological Parent; and Melanie Deavers, MHA Peer Support Specialist and Biological Parent***

Ms. Finnel provided a brief overview of MHA. She stated that MHA advocates for changes in mental health policy, educates the public, and delivers programs and services.

Ms. Vogel explained MHA's program called Strong Families Healthy Homes (SFHH). She said that the program works closely with the Bureau of Milwaukee Child Welfare to provide intensive case management services. She stated that the services SFHH provides include intensive in-home services; short-term reunification services; mental health home visits; specialized parent aid; mental health consultation; nurturing parenting classes; and anger and stress management.

Ms. Vogel stated that the average length of time for a family receiving SFHH services to achieve permanence is nine months. She stated that 85% of families are reunified. She further stated that since 2010, 100% of the families that were reunified while receiving SFHH services have remained reunified. Ms. Finnel explained that 72% of the clients referred to SFHH had been hospitalized for psychiatric reasons. She noted that only 12% of these clients were re-hospitalized while receiving SFHH services.

Ms. Johnson described her experience as a parent receiving SFHH services. She explained that her children were removed due to her mental illness and placed in OHC around 2006, she had three to four caseworkers, and she was required to use some services unrelated to her mental health disorder. She said it took a little under one year to reunify. She explained that during this time period, her children were placed with her mother, but that it took three to four weeks for the children to be placed there. She attributes the services SFHH provided her as what helped her reunify, including the parent aid who came to the home when she was debilitated with her mental health disorder. She is now a peer support specialist with MHA.

Ms. Deavers also described her experience as a parent receiving SFHH services. She said that her children were removed from the home and placed in OHC after a school employee filed a complaint that one of the children smelled bad. She said that her children were fed and were always at school on time, but that she had difficulty completing some tasks, such as clothes washing, because of her depression. She noted that even though she is married and believed her husband was capable of caring for the children, the court still placed her children in OHC. Ms. Deavers also described the difficulties in getting the necessary medications because once her children were removed she lost W-2 insurance benefits. Ms. Deavers stated that it took about nine months to reunify with her children and she attributes her success to the quick referral to SFHH services, though it took four to five months to get the psychological evaluation, and she had four different caseworkers. She is also a peer support specialist now with MHA.

Ms. Vogel and Ms. Finnel explained that it can take months to treat a parent with mental illnesses. They explained this is one reason why it is important to have the 15-month time period afforded under the federal Adoption and Safe Families Act (ASFA) before a TPR filing is required. Ms.



Finnel stated that better training is needed regarding psychological evaluations and symptoms of mental illnesses. Ms. Finnell pointed out that symptoms of mental illnesses are often viewed as character flaws.

Ms. Vogel and Ms. Finnell responded to questions from the committee. Judge Foley and Ms. Sowinski noted that defense attorneys almost always object to a judge ordering a psychological evaluation at the custody hearing so that the results are not used against the birth parent in the CHIPS disposition. Ms. Herbst stated that two issues the Legislature could address to improve mental health treatment for families in the child welfare system include: (1) the lack of providers willing to treat patients on Medicaid; and (2) prior authorizations for mental health treatment.

### **Presentation on Data From Termination of Parental Rights Trials, by SPD**

[Note: A handout with charts and data is available on the committee's website at: <http://www.legis.wisconsin.gov/lc>.]

#### ***Adam Plotkin, SPD Legislative Liaison, and Ms. Diane Rondini-Harness, Assistant SPD***

Mr. Plotkin provided an overview of TPR cases that are handled by the SPD. He provided four charts detailing the number of cases and average number of days it took to achieve a resolution. The TPR cases included in the various charts were both opened and closed in Fiscal Year 2012 (FY 2012). The four charts provided the following information: (1) the number of TPR cases that were opened and closed in FY 2012 by disposition type (i.e., voluntary TPR, involuntary TPR, dismissed TPR, and other); (2) the average number of days before resolution, by case type; (3) the number of cases by type (i.e., jury trial, court trial, defaults, stipulations, dismissals, etc.); and (4) the average number of days before a resolution in FY 2003 compared to FY 2012. Ms. Sowinski requested that data regarding TPR cases be provided over a longer duration of time than a one-year snapshot.

Ms. Rondini-Harness explained that there are numerous barriers that exist for a child to be reunified with his or her birth parent, including the following: (1) the parent refuses to participate or is unsuccessful in completing court-ordered services; (2) the parent has untreated substance abuse or mental health issues and does not get services in a timely fashion; (3) the parent has a cognitive disability for which there is a lack in specialized services; (4) frequent changes in social workers and network providers; (5) the child has a special need, but there is an inability to provide those services while in the birth parent's home; (6) the parent is reluctant to make a change before a court order; (7) language barriers and the lack of bilingual services; (8) safety concerns that were not the basis for the child being placed in OHC; (9) the ability to identify, communicate, and access services for parents who are incarcerated, out-of-state, or out of the country; and (10) parents struggling with poverty-related issues, such as joblessness and homelessness.

Ms. Rondini-Harness also described numerous barriers that delay CHIPS cases or TPR, which include the following: (1) proper notice to all parties, particularly fathers; (2) parents not appearing in court; (3) time to appoint counsel or appoint new counsel; (4) time to obtain discovery materials from opposing counsel; (5) a parent has criminal cases pending in criminal court at the same time as a CHIPS or TPR case is pending; (6) the crowded court calendars; (7) errors by attorneys; (8) communication and transportation issues with incarcerated parents or parents out-of-state or out-of-country; (9) the child's placement requires time to find an alternative resource; (10) the use of stipulated delays as a means to obtain reunification; and (11) creative solutions used to achieve reunification that do not fit into ASFA's TPR timeline.

Mr. Plotkin and Ms. Rondini-Harness responded to questions from committee members. In response to concerns about the relationship between a parent's pending criminal case and CHIPS or TPR proceedings, Ms. Rondini-Harness and Ms. Sowinski explained that Milwaukee County assigns one district attorney to handle both proceedings, streamlining the process. This is done through the Milwaukee DA's Child Advocacy and Protection Unit.

In response to questions, Ms. Rondini-Harness stated that the Milwaukee SPD office does not have a policy on whether or not to appeal when a client's parental rights were terminated by default for not appearing in court for TPR hearings, because each case is very fact-specific. Ms. Rondini-Harness explained that *State v. Shirley E.* [2006 WI App 55] is being interpreted to require SPDs to represent parents in a TPR proceeding, even if the parent is not present in court and does not participate in his or her representation. Mr. Plotkin stated that representing a client who is absent from court is frustrating to SPDs. Ms. Rondini-Harness said that courts try to accommodate a parent's work schedule, but that parents still must attend court. Senator Lazich stated that she has been working on a bill to address this issue with Judge Foley. Judge Foley explained to the committee how a default TPR may be entered against a parent, and responded to a question that the vast majority of TPR cases would meet the SPD eligibility requirements, for purposes of assessing the SPD data.

### **Other Business**

Chair Kerkman explained to the committee that preparations are being made to have a presentation about Arizona's experience with TPR jury trials at a future meeting of the committee. She said that there are also preparations for a presentation about Minnesota's expedited process for handling child welfare cases.

Melissa Schmidt, Staff Attorney, Wisconsin Legislative Council, briefly mentioned that in the interest of time, Memo No. 2, *Termination of Parental rights When a Child is in Need of Protection or Services* (July 17, 2012), will be discussed at the September 11 committee meeting, and noted that a handout was provided to the committee from interested citizens.

### **Adjournment**

The meeting was adjourned at 4:45 p.m.

MS:ksm