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## WISCONSIN LEGISLATIVE COUNCIL

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### REPORTING OF CHILD ABUSE AND CHILD NEGLECT

Legislative Council Conference Room  
Madison, WI

October 11, 2012  
10:00 a.m. – 2:30 p.m.

[The following is a summary of the October 11, 2012 meeting of the Special Committee on Reporting of Child Abuse and Child Neglect. 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 Darling called the committee to order. The roll was called and a quorum was present.

COMMITTEE MEMBERS PRESENT: Sen. Alberta Darling, Chair; Reps. Terese Berceau and Jeremy Thiesfeldt; and Public Members Kristen Iniguez, Katharine Kucharski, Bill Orth, Michael Schmidtke, Lynn Sheets, and Mary Triggiano.

COMMITTEE MEMBERS EXCUSED: Sen. Jennifer Shilling, Vice-Chair; and Public Members Susan Dreyfus and Henry Plum.

COUNCIL STAFF PRESENT: Anna Henning and David Moore, Staff Attorneys.

APPEARANCES: Kathy Park, Vice-President, National Center on Crime and Delinquency; Patina Park Zink, J.D., MCWIC Best Outcomes for Indian Children Project Coordinator, Ho-Chunk Nation Department of Justice; Nic Dibble and Jennifer Kammerud, Department of Public Instruction (DPI); and Jessica Tormey, La Vonne Cornell Swanson, Elizabeth Dionne, and Erin Kastberg, University of Wisconsin (UW) System.

#### Approval of the Minutes of the September 6, 2012 Meeting

*Representative Berceau moved, seconded by Mr. Orth, to approve the minutes of the September 6, 2012 meeting. The motion carried by unanimous consent.*

## **Description of Materials Presented**

Mr. Moore described Memo No. 4, prepared by Legislative Council staff. He noted that the Memo would serve as a basis for discussion of legislative options later during the meeting.

### **Report from the Recodification Subcommittee**

Ms. Henning updated the committee on the recodification subcommittee's work. She told the committee that the subcommittee had agreed on a number of modifications that will improve the organization of s. 48.981, Stats., and that it had worked with the Department of Children and Families (DCF) to ensure DCF had no objections to these modifications. Ms. Henning said that the subcommittee is currently working with DCF to refine language that would address a court decision that called into question certain language within s. 48.981, Stats.

### **Presentation by National Center on Crime and Delinquency**

#### ***Kathy Park, Vice-President***

Ms. Park delivered a presentation on the Mandatory Reporting Guide that her organization developed for the Australian state of New South Wales. Ms. Park explained that the Guide was developed to help mandatory reporters in New South Wales ascertain whether to report in particular situations. She said that the Guide provides mandatory reporters access to an online standardized set of criteria and questions, which functions as a decision tree and assists them in determining where best to report. Ms. Park told the committee that since the Guide was implemented, reports in New South Wales have decreased substantially. In response to questions from the committee, Ms. Park said that reporters in New South Wales have said they feel more confident about their ability to make reporting decisions; however, her agency does not have the resources to conduct an adequate longitudinal study to ascertain whether the Guide is enabling the state to reduce the incidences and severity of child abuse and neglect.

### **Presentation on Tribal Notification Requirement**

#### ***Patina Park Zink, J.D., MCWIC Best Outcomes for Indian Children Project Coordinator, Ho-Chunk Nation, Department of Justice***

Ms. Park Zink told the committee that under current law, any county that has within its boundaries a federally recognized Indian reservation or a Bureau of Indian Affairs service area for the Ho-Chunk Tribe must provide notice to a tribal agent if it receives a report of suspected abuse or neglect of a child who the county knows or has reason to know is an Indian child. She said this requirement creates confusion for two reasons. First, it does not specify what "notice" means. She noted that this is problematic because the Wisconsin Indian Child Welfare Act (WICWA) contains specific, but different, notice requirements. Second, she said that current law requires only certain counties to provide notice to tribes; whereas Indian children live throughout the state. WICWA's notice requirement, by contrast, applies statewide.

Ms. Park Zink suggested that the committee amend the current requirements to address the ambiguity about what "notice" means, and apply the requirement to all counties. With respect to the proposal that the requirement be applied throughout the state, she said that this would bring the law in line with DCF's best practices recommendation and would eliminate some confusion with regard to the

differences between the child abuse reporting law and WICWA. Ms. Park Zink told the committee that she has worked with DCF to develop language that would address the tribes' concerns.

### **Follow-Up from Department of Public Instruction**

Jennifer Kammerud, Legislative Liaison at the Department of Public Instruction (DPI), and Nic Dibble, Education Consultant for School Social Work Services at DPI, provided the committee with recommendations for modifying the mandatory reporting requirements for individuals who interact with children at public schools. DPI suggested that the committee add to the list of individuals who are required to report: contracted school district personnel who are expected to work with students for 40 hours per school year; and volunteers who are expected to work with students for 40 hours per school year. The department also suggested exempting from reporting: school board members; school district employees who are minors or have not yet graduated from high school; and school district employees who are anticipated to work less than 40 hours in a school year.

### **Follow-Up from the University of Wisconsin (UW) System**

Jessica Tormey, Legislative Liaison; La Vonne Cornell-Swanson, Senior Academic Planner & Director; Erin Kastberg, Associate System Legal Counsel; and Elizabeth Dionne, Director of Operations Review and Audit, delivered a presentation updating the committee on what the UW System is doing to implement Executive Order 54.

Ms. Cornell-Swanson provided an overview of the programs the UW System operates that serve children. She explained that this includes sports camps, music programs, continuing studies and other educational programs, child care facilities, university-based training clinics that provide services to children, and university-operated child care facilities.

Ms. Dionne reminded the committee that at the July 12, 2012 meeting of the committee she told the committee about recommendations that had arisen from the UW System's recent review of its policies and procedures related to protecting children. She explained that the UW System has been working to implement those recommendations.

Ms. Kastberg explained that the UW System's first step in implementing Executive Order 54 was to work with all of the System campuses to identify the programs that work directly with children. She said that her office then worked on ascertaining the level of knowledge mandatory reporters within the System had with respect to the obligations Executive Order 54 imposed on them. Ms. Kastberg then described some of the programs and resources the UW System is developing to facilitate the education of both university leadership and university employees. Among other efforts, she said the UW System has: published child abuse and neglect reporting guidelines for UW System employees on a child safety website; developed a child abuse reporting brochure template that universities within the system can customize for their own campuses; and conducted training sessions throughout the state.

Ms. Kastberg then said that all of the UW System institutions have implemented or are working on implementing institutional policies and procedures for reporting child abuse and neglect. Among other provisions, these policies and procedures provide definitions relevant to reporting child abuse and neglect; set forth the reporting requirements of employees, volunteers, and contractors; and outline the consequences for failing to report. Ms. Kastberg also explained that the UW System is working to develop a *Children in the Workplace* policy and has revised its criminal background check policy.

### **Discussion of Memo No. 4, *Options for Legislation***

The Special Committee reviewed Memo No. 4, *Options for Legislation*, dated October 4, 2012.

#### ***Revise the Categories of Mandatory Reporters***

First, the committee discussed the option to revise the list of professionals who are required to report suspected child abuse or neglect under Wisconsin law.

##### *School Employees*

Mr. Schmidtknecht opined that the committee should accept the recommendations DPI presented to the committee. Chair Darling asked whether there was consensus to adopt DPI's recommendations and determined there was. She then instructed committee staff to draft legislation that:

- Adds school district volunteers and contracted personnel who are anticipated to work directly with students for at least 40 hours in a school year to the list of mandatory reporters.
- Exempts minors, school board members, and school district employees who are expected to work less than 40 hours in a school year from the requirement that all school district employees report child abuse or neglect.

##### *Higher Education Employees*

There was general agreement that higher education employees who have contact with minor children in the course of their employment should be added to the list of mandatory reporters. Chair Darling instructed committee staff to draft legislation that would add to the list of mandatory reporters: all employees, volunteers, and contracted personnel of higher education institutions who are anticipated to work with minors for at least 40 hours in a year.

##### *Probation Employees*

Ms. Kucharski expressed her support for adding probation agents to the list of mandatory reporters; however, she asked whether it would be possible for the committee to hear from any agencies that would be affected by this proposal. Chair Darling directed committee staff to solicit agency feedback on this issue.

#### ***Require Training for Mandatory Reporters***

The committee discussed a proposal Ms. Dreyfus raised at the September 6, 2012 meeting with respect to training certain mandatory reporters of child abuse and neglect. Specifically, Ms. Dreyfus had proposed that reporters who are members of professions that are licensed by the state be required to obtain training on reporting child abuse and child neglect as a condition of licensure.

There was general agreement to pursue this option. Chair Darling instructed committee staff to draft legislation that would:

- Require mandatory reporters who are licensed by the state to obtain training as a condition of licensure.

- Direct DCF to set criteria for the training and to approve programs that satisfy the training requirement.

***Amend the Definition of “Abuse” for Purposes of s. 48.981, Stats.***

The committee discussed a proposal raised at the September 6, 2012 meeting to amend the definition of abuse so that the threshold for what constitutes abuse is lower for certain purposes in the child abuse reporting statute.

There was disagreement about whether the threshold for what constitutes abuse should be lowered throughout the child abuse statute. Mr. Orth and Representative Thiesfeldt expressed concern that doing so would overwhelm county departments and was outside the scope of the committee’s charge. Ms. Kucharski, Ms. Iniguez, and Ms. Sheets opined that the current threshold is so high that it impedes reporting and investigation of many cases that should be reported and investigated.

Chair Darling said that she believed the committee should adhere closely to its charge and that she was wary of defining “abuse” for purposes other than reporting without further study. Following discussion on lowering the threshold for what constitutes abuse, but only for the purpose of reporting abuse, Chair Darling instructed committee staff to draft legislation creating a definition of abuse that applies only for the purposes of reporting abuse. Chair Darling directed that this definition should be the same as the current definition of abuse in s. 48.02, Stats., except in two respects. Under the amended definition:

- Bruising need not be “frequent or severe” in order to constitute a physical injury; and
- Poverty is not relevant to whether neglect has occurred.

***Eliminate the Spiritual Treatment Exemption to a County’s Authority to Make an Abuse Determination; Disclosures in Investigations Involving Death, Serious Injury, or Egregious Incidents***

Chair Darling asked for unanimous consent that these issues are beyond the purview of the committee. Following discussion, the committee agreed to not pursue these issues.

**Other Business**

Chair Darling announced that the committee would hold its fourth and likely final meeting on December 4, 2012.

**Adjournment**

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

DM:jal