



WISCONSIN LEGISLATIVE COUNCIL

REPORTING OF CHILD ABUSE AND CHILD NEGLECT

Room 411 South
State Capitol
Madison, WI

December 4, 2012
10:00 a.m. – 2:00 p.m.

[The following is a summary of the December 4, 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>.]

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, Henry Plum, Michael Schmidtknecht, and Lynn Sheets.

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

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

***ATTENTION:** This was the final meeting of the Special Committee on Reporting of Child Abuse and Child Neglect. Committee members are requested to send any corrections regarding these Minutes to the Legislative Council staff. After the incorporation of any corrections, these Minutes will be considered approved by the committee.

Approval of the Minutes of the October 11, 2012 Meeting

Ms. Sheets moved, seconded by Mr. Schmidtknecht, to approve the minutes of the committee's October 11, 2012 meeting. The motion carried by unanimous voice vote.

Description of Materials Presented

Ms. Henning described the materials that had been mailed or distributed to committee members for the meeting. She explained that six bill drafts had been requested by the committee at its October 11, 2012 meeting, and that the committee heard testimony relating to a seventh bill draft, relating to tribal notification, at its October meeting. She also described Memo No. 5, *Technical Changes to Bill Drafts*, and noted that memoranda from the Department of Children and Families (DCF), the University of Wisconsin (UW) System, and the Wisconsin Association of School Boards had been distributed.

Chair Darling noted that representatives of various groups were present at the meeting and would be invited to answer questions from committee members.

Ms. Henning explained the process for amendments and votes on the bills before the committee.

WLC: 0001/2, Relating to Recodification of Child Abuse and Neglect Reporting Law

Ms. Henning described WLC: 0001/2, relating to the recodification of the child abuse and neglect reporting law, which was developed by the Subcommittee on Recodification.

Fredi-Ellen Bove, Administrator, Division of Safety and Permanence, and Therese Durkin, Attorney, DCF, offered several recommendations for revisions to the bill draft and answered committee members' questions.

The committee agreed to modify the bill draft as follows:

- In a provision clarifying the authority of county agencies to contact, observe, and interview children at any location without permission, remove specific references to the Fourth Amendment to the U.S. Constitution and Article I, Section 11 of the Wisconsin Constitution to account for other constitutional provisions at issue in relevant federal case law.
- In a provision regarding the confidentiality of reports of child abuse and neglect, remove changes to the wording of the phrase "persons, officials and institutions."
- In a provision authorizing an appeal of a determination that abuse or neglect has occurred to be held in abeyance pending the outcome of certain proceedings, remove the words "investigation or" where they appear in the phrases "any criminal proceedings" and "any proceedings."
- In a provision requiring certain entities to cooperate with county agencies when making investigations, amend a cross-reference to include investigations made as part of the alternative response pilot program under s. 48.981 (3m), Stats.

Mr. Orth moved, seconded by Ms. Kucharski, to approve WLC: 0001/2, as modified. The motion passed on a roll call vote of Ayes, 9 (Sen. Darling; Reps. Berceau and Thiesfeldt; and Public Members Iniguez, Kucharski, Orth, Plum, Schmidknecht, and Sheets); Noes, 0; and Absent, 3 (Sen. Shilling; and Public Members Dreyfus and Triggiano).

WLC: 0036/P1, Relating to Making Probation and Parole Agents Mandated Reporters of Child Abuse and Neglect

Ms. Henning described WLC: 0036/P1, which adds probation agents and parole agents to the list of persons who are mandated to report child abuse and neglect under s. 48.981 (2), Stats.

Ms. Sheets moved, seconded by Representative Thiesfeldt, to approve WLC: 0036/P1. The motion passed on a roll call vote of Ayes, 9 (Sen. Darling; Reps. Berceau and Thiesfeldt; and Public Members Iniguez, Kucharski, Orth, Plum, Schmidtknecht, and Sheets); Noes, 0; and Absent, 3 (Sen. Shilling; and Public Members Dreyfus and Triggiano).

WLC: 0037/P1, Relating to Requiring Training for Certain Mandated Reporters of Child Abuse and Neglect and Granting Rule-Making Authority

Ms. Henning described WLC: 0037/P1, which creates a training requirement for certain mandated reporters of child abuse and neglect who are members of a profession for which state licensure or certification is required, or for which employment, registration, appointment, or assignment is subject to statutory requirements.

Ms. Sheets suggested that the bill draft be modified to remove the requirement that rules promulgated by DCF regarding mandated reporter training specify the duration of approved training courses.

Representative Thiesfeldt suggested that the bill draft be modified to apply the training requirement to parole and probation agents.

There was general consensus to modify the bill draft to make the changes suggested by Ms. Sheets and Representative Thiesfeldt.

Mr. Schmidtknecht moved, seconded by Mr. Orth, to approve WLC: 0037/P1, as modified. The motion passed on a roll call vote of Ayes, 9 (Sen. Darling; Reps. Berceau and Thiesfeldt; and Public Members Iniguez, Kucharski, Orth, Plum, Schmidtknecht, and Sheets); Noes, 0; and Absent, 3 (Sen. Shilling; and Public Members Dreyfus and Triggiano).

WLC: 0043/P1, Relating to Definitions of Physical Injury and Neglect for Purposes of Mandated Reporting of Child Abuse and Neglect

Ms. Henning described WLC: 0043/P1, which amends the definitions of “physical injury” and “neglect” for purposes of mandated reporting of child abuse and neglect.

Fredi-Ellen Bove and Therese Durkin of DCF answered committee members’ questions. They explained that the department opposes the bill draft because it creates a misalignment between definitions applicable to reporting and definitions applicable to the investigation and substantiation of abuse and neglect.

Ms. Sheets expressed support for the bill draft, noting that it is difficult for reporters to know whether bruising is “severe or frequent” or whether inadequate care is occurring for reasons of poverty. Ms. Iniguez expressed support for the bill draft for similar reasons.

Mr. Orth stated that, based on his conversations with the Wisconsin Counties Association and representatives of other counties, he does not support the bill draft, because the changes will require more resources of counties, and because county agencies generally do not perceive current reporting levels to be problematic.

Representative Berceau suggested that the committee's goal should be to increase reporting.

Mr. Plum said that he does not believe it makes sense to draw thresholds regarding reporting of child abuse and neglect based on concerns regarding county resources.

Ms. Sheets moved, seconded by Ms. Iniguez, to approve WLC: 0043/P1. The motion passed on a roll call vote of Ayes, 8 (Sen. Darling; Reps. Berceau and Thiesfeldt; and Public Members Iniguez, Kucharski, Plum, Schmidtknecht, and Sheets); Noes, 1 (Public Member Orth); and Absent, 3 (Sen. Shilling; and Public Members Dreyfus and Triggiano).

WLC: 0044/P1, Relating to Making Certain School Volunteers and School Contractors Mandated Reporters of Child Abuse and Neglect

Mr. Moore described WLC: 0044/P1, which modifies which school employees are mandated reporters of child abuse and neglect and makes certain school volunteers and contractors mandated reporters.

Dan Rossmiller, Director of Government Relations, Wisconsin Association of School Boards, answered questions from committee members. He described concerns regarding the interplay between the bill draft and s. 118.07 (5), Stats., which requires the Department of Public Instruction (DPI) to provide training to school employees.

After a discussion, the committee agreed to modify the bill draft by amending s. 118.07 (5), Stats., as follows:

- Apply the DPI training requirement only to those school employees who are mandated reporters of abuse and neglect under s. 48.981 (2), Stats.
- Allow training for school employees to be satisfied through training courses approved by DCF.
- Exempt school employees from initial training requirements if they have received the required training within the five-year period prior to commencement of employment with the school.

Mr. Plum moved, seconded by Ms. Kucharski, to approve WLC: 0044/P1, as modified. The motion passed on a roll call vote of Ayes, 9 (Sen. Darling; Reps. Berceau and Thiesfeldt; and Public Members Iniguez, Kucharski, Orth, Plum, Schmidtknecht, and Sheets); Noes, 0; and Absent, 3 (Sen. Shilling; and Public Members Dreyfus and Triggiano).

WLC: 0045/P1, Relating to Making Certain Employees, Volunteers, and Contractors of Institutions of Higher Education Mandated Reporters of Child Abuse and Neglect

Mr. Moore described WLC: 0045/P1, which makes certain employees, contractors, and volunteers of institutions of higher education mandated reporters of child abuse and neglect.

Jessica Tormey, Legislative Liaison, UW System, responded to questions from committee members. She noted that the UW System has implemented Executive Order 54, which requires all UW System employees to report child abuse and child neglect. She described several concerns with regard to the bill draft and recommended that the committee either forgo a statutory change or treat higher education employees in a different section of the statutes, to which criminal penalties would not apply.

Don Nelson, Assistant Director, State Relations, UW-Madison, recommended that the bill draft be tailored to apply only to those employees who have regular, ongoing contact with children in a professional setting.

Following further discussion, there was general consensus among committee members to modify the bill to make the following persons mandated reporters of child abuse and neglect under s. 48.981 (2), Stats.: an employee, volunteer, or contractor of an institution of higher education, other than a minor, who has regular, ongoing contact with children, other than matriculated students, in a professional or primary setting.

Mr. Plum moved, seconded by Mr. Orth, to approve WLC: 0045/P1, as modified. The motion passed on a roll call vote of Ayes, 9 (Sen. Darling; Reps. Berceau and Thiesfeldt; and Public Members Iniguez, Kucharski, Orth, Plum, Schmidtknecht, and Sheets); Noes, 0; and Absent, 3 (Sen. Shilling; and Public Members Dreyfus and Triggiano).

WLC: 0050/P1, Relating to Requiring Child Protective Service Agencies to Notify Tribal Agents of Reports of Suspected Child Abuse or Child Neglect

Mr. Moore described WLC: 0050/P1, which reflects changes requested by DCF and a policy and law working group comprised primarily of tribal representatives.

Fredi-Ellen Bove and Therese Durkin of DCF provided background regarding the draft and made several recommendations for modifications to the draft, based on feedback on the bill draft from the policy and law working group.

Following a discussion, the committee agreed to make all of the following changes to the bill draft:

- Require notification if a county agency knows or has reason to know the Indian tribe with which a child or unborn child is affiliated.
- Replace the phrase “consist of the name and address” with the phrase “consist, at a minimum, of the name and address” in a provision requiring that notification must include the name and address of an Indian child or expectant mother of an unborn Indian child, together with the fact that a report has been made.
- Specify that a county agency may provide additional information to a tribe, as allowed by law.

- Add the phrase “of the report or of identification of the Indian child’s tribe” after the phrase “notice shall be made within 24 hours,” to clarify the start of the relevant 24-hour notification period.

Representative Thiesfeldt moved, seconded by Mr. Orth, to approve WLC: 0050/P1, as modified. The motion passed on a roll call vote of Ayes, 9 (Sen. Darling; Reps. Berceau and Thiesfeldt; and Public Members Iniguez, Kucharski, Orth, Plum, Schmidtknecht, and Sheets); Noes, 0; and Absent, 3 (Sen. Shilling; and Public Members Dreyfus and Triggiano).

Memo No. 5, Technical Changes to Bill Drafts (December 4, 2012)

Ms. Henning explained that Memo No. 5, *Technical Changes to Bill Drafts*, lists recommended technical changes to various bill drafts. The committee agreed by unanimous consent to adopt all technical changes listed in Memo No. 5.

Discussion of Committee Assignment

The committee agreed by unanimous consent to combine all of the approved bill drafts into a single, consolidated draft, to be reviewed by committee members in a mail ballot. Ms. Henning explained the mail ballot process.

Chair Darling thanked committee members for their time and dedication to the committee’s work.

Adjournment

The meeting was adjourned at 2:00 p.m.

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