



STATE OF WISCONSIN  
**JOINT LEGISLATIVE COUNCIL**

# **MEETING MINUTES**

## **STUDY COMMITTEE ON PUBLIC DISCLOSURE AND OVERSIGHT OF CHILD ABUSE AND NEGLECT INCIDENTS**

Virtual

December 10, 2020  
9:00 a.m. – 12:00 p.m.

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### **CALL TO ORDER AND ROLL CALL**

Chair Snyder called the meeting to order and a quorum was present.

**COMMITTEE MEMBERS PRESENT:** Rep. Patrick Snyder, Chair; Sen. Kathy Bernier, Vice Chair; Sens. André Jacque and LaTonya Johnson; Rep. Lisa Subeck; and Public Members Diane Cable, Emily Coddington, Susan Conwell, Tim Easker, Jermaine Reed, and Lisa Roberts.

**PRESENTATION BY INVITED SPEAKER:** Wendy Henderson, Administrator, Division of Safety and Permanence, Department of Children and Families.

**COUNCIL STAFF PRESENT:** Amber Otis, Staff Attorney, and Melissa Schmidt, Senior Staff Attorney.

### **APPROVAL OF THE MINUTES FROM THE NOVEMBER 18, 2020 MEETING**

*Public Member Susan Conwell moved, seconded by Vice Chair Bernier, to approve the minutes from the committee's meeting on November 18, 2020. The motion passed by unanimous consent.*

## **PRESENTATION BY WENDY HENDERSON, ADMINISTRATOR, DIVISION OF SAFETY AND PERMANENCE, DEPARTMENT OF CHILDREN AND FAMILIES**

Wendy Henderson, Administrator of Division of Safety and Permanence, Department of Children and Families (DCF), thanked the committee for its engagement with the issues surrounding the child welfare practice, processes, and outcomes for incidents of child death, serious injury, or egregious abuse or neglect (critical incident), also commonly referred to as Act 78 cases.

Ms. Henderson reminded the committee that DCF is working with two partners, Collaborative Safety, LLC, and the National Partnership for Child Safety (NPCS), to improve Wisconsin's child welfare system through safety science. She explained that safety science was highlighted and recommended by the Commission to Eliminate Child Abuse and Neglect Fatalities, which was created under the federal Protect our Kids Act of 2012.

Ms. Henderson explained that because of these two partnerships, DCF is already learning and making strides to improve the process of reviewing critical incidents. In this context, Ms. Henderson stated that DCF supports WLC: 0001/1, WLC: 0003/1, and WLC: 0006/1. With respect to WLC: 0006/1, Ms. Henderson provided an example of how DCF could provide aggregated and trend data on critical incidents in the annual Child Abuse and Neglect (CAN) Report. For example, DCF could correlate critical incident cases with other identified trends, such as trends related to drug endangerment.

Ms. Henderson also described various ways that DCF plans to provide specific policy recommendations to the Legislature and the public. As an example, she explained that DCF will be using the CAN Report as a partnership tool with the Legislature and will be making specific legislative recommendations in it. She stated that DCF is very interested in having a legislative venue to pursue child safety measures and believes that including information about critical incidents in the CAN Report will help foster DCF's legislative partnership.

## **DESCRIPTION OF MATERIALS DISTRIBUTED AND DISCUSSION OF COMMITTEE ASSIGNMENT**

### **WLC: 0001/1**

Amber Otis, Staff Attorney, Legislative Council, provided a brief explanation of WLC: 0001/1, relating to reports of sexual abuse of children placed in out-of-home care (OHC). She explained that the committee previously reviewed this draft, and the updated version further 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 OHC provider.

In response to questions, Ms. Otis explained that the bill draft maintains the requirement under current law that the quarterly reports of sexual abuse of a child placed in OHC state the nature of the relationship between the child and the person who sexually abused the child. Ms. Henderson explained that the reports would also still include both substantiated and unsubstantiated types of sexual abuse that occurred while the child was in OHC. She explained that the bill expands the type of information related to the OHC provider with whom the child was placed when the abuse occurred.

*Representative Subeck moved, seconded by Senator Johnson, to approve the draft. The motion was approved on a unanimous vote.*

### **WLC: 0003/1**

Ms. Otis briefly explained WLC: 0003/1, relating to limiting the disclosure of certain information about critical incidents of child abuse or neglect to information that is pertinent to the child abuse and neglect and granting rule-making authority. She explained that the committee had previously reviewed this draft, and the updated version further requires DCF to promulgate administrative rules to specify the types of information that may be considered pertinent to the child abuse or neglect that led to a critical incident. Ms. Otis reminded the committee that the term “pertinent” is used in the federal Child Abuse Protection and Treatment Act (CAPTA).

Committee members discussed whether the information that is disclosed by DCF should be limited to that which is pertinent to the critical incident. Some committee members expressed concern about any narrowing of information that DCF publicly discloses related to a critical incident. Other members raised concerns about the ambiguity of what the term “pertinent” means, even if DCF is required to, by rule, specify the scope of the term. Other committee members noted that the bill draft strikes a balance on what information is needed for policymaking purposes, that the focus of legislative review should be based upon aggregated data, and that any information that might be excluded under the bill draft may still be included in the CAN Report.

Based upon committee discussion, Chair Snyder determined that the committee lacked consensus to move forward with this draft.

### **WLC: 0004/1 and Memo No. 4**

Ms. Otis briefly explained WLC: 0004/1, relating to requiring citizen review panels to report annually to the appropriate legislative standing committees, and Memo. No. 4, *Annual Reports from Citizen Review Panels in Wisconsin* (December 3, 2020). She explained that Memo No. 4 provided the committee with a link to DCF’s website where members may find citizen review panels’ annual reports and DCF’s written responses to those reports.

Ms. Otis explained that the bill draft requires the legislative standing committees to hold an annual hearing on the citizen review panels’ annual reports and DCF’s written responses to these reports. She explained that the bill draft could specify that the hearing to be conducted at the same time as a hearing on the CAN Report if the committee want to do so. She said that WLC: 0004/1, as drafted, gives flexibility to the committees in the event that it is not possible to schedule a hearing on all of the reports at the same time, and that standing committees generally have the authority to conduct informational hearings, even in the absence of a statutory requirement to conduct a legislative hearing.

Committee members discussed the content of citizen review panels’ reports and whether to subject them to a legislative standing committee hearing. Comments included an observation that few of the reports contained recommendations related to improving the child protection system. The committee members also discussed the potential value in holding a legislative hearing on citizen review panels’ reports in conjunction with a hearing on the CAN Report.

Chair Snyder asked committee members whether they support amending the bill draft by removing the requirement that the legislative standing committees hold an annual hearing on the annual reports and written responses.

*Public Member Emily Coddington moved, seconded by Public Member Jermaine Reed, to amend the bill draft by deleting the requirement that the legislative standing committees conduct public hearings at least annually on the citizen review panels' annual reports and DCF's written responses to these reports. The motion was approved on a unanimous vote.*

*Vice Chair Bernier moved, seconded by Senator Johnson, to approve WLC: 0004/1, as amended. The motion was approved on a unanimous vote.*

### **WLC: 0005/1, WLC: 0006/1, and WLC: 0007/1**

Melissa Schmidt, Senior Staff Attorney, Legislative Council, briefly explained that bill drafts WLC: 0005/1, WLC: 0006/1, and WLC: 0007/1, contain different options requiring DCF to prepare reports on critical incidents, systems change reviews, or both, over a specified period of time (annually, biennially, three-year trends, or five-year retrospective review). She cautioned the committee to not recommend all three bill drafts in their present form to avoid redundant or inconsistent reporting requirements. Chair Snyder directed the committee to discuss all three bills drafts together.

Ms. Schmidt briefly explained WLC: 0005/1, relating to reports of in-depth practice reviews of incidents of death, serious injury, or egregious abuse or neglect of a child submitted to legislative standing committees. Ms. Otis then briefly explained WLC: 0006/1, relating to annual reports to and hearings by the Legislature on child abuse and neglect. Ms. Otis noted that the bill draft's requirement for annual legislative hearings on the CAN Report codifies current practice. Lastly, Ms. Schmidt briefly explained WLC: 0007/1, relating to annual three-year trend reports and a five-year retrospective report of incidents of death, serious injury, or egregious abuse or neglect of a child submitted to legislative standing committees.

Committee members discussed the benefits of aggregated data and what kind of report, prepared by DCF, would be the most useful way to present the data. Committee members also discussed reviewing Wisconsin's critical incident data over a period of time and comparing it with other states. In response to questions, Ms. Henderson explained how WLC: 0006/1 requires DCF to report on data over a period of years in the CAN Report, as it requires a report on trends, while still providing DCF with flexibility to present data in a meaningful way. Ms. Henderson noted the difficulties for DCF to do a full statistical analysis of in-depth practice reviews as required under WLC: 0005/1. In response to committee discussion regarding WLC: 0007/1, Ms. Henderson explained that DCF's partnership with NPCS may allow for a report comparing critical incidents in Wisconsin with other states.

Committee members discussed how aggregated information related to in-depth practice reviews could be reported.

*Vice Chair Bernier moved, seconded by Public Member Tim Easker, to amend WLC: 0006/1 to require the CAN Report to also include trends identified by DCF related to in-depth practice reviews. The motion was approved on a unanimous vote.*

*Vice Chair Bernier moved, seconded by Senator Johnson, to approve WLC: 0006/1, as amended. The motion was approved on a unanimous vote.*

## **OTHER BUSINESS**

Ms. Otis explained that legislation must be drafted by the Legislative Reference Bureau (LRB) before it may be formally introduced into the Legislature, and thus the committee's recommendations may appear slightly different once converted by LRB. She explained that Legislative Council staff will work with LRB drafters to reflect amendments made by the committee. Ms. Schmidt explained that Legislative Council staff will also be preparing a final report to the Joint Legislative Council that outlines the committee's work. She informed members that they will be notified when the Joint Legislative Council notices a public meeting to consider this report and the recommended bill drafts, as well as any time a public hearing is scheduled for a bill introduced by the Joint Legislative Council based on the committee's recommendation.

## **PLANS FOR FUTURE MEETINGS**

Chair Snyder stated that there would be no future committee meetings. He said it was an honor to serve as chair and thanked everyone for their service on the committee.

## **ADJOURNMENT**

The meeting adjourned at 12:00 p.m.

[The preceding is a summary of the meeting of the Study Committee on Public Disclosure and Oversight of Child Abuse and Neglect Incidents on December 10, 2020, which was recorded by WisconsinEye. The video recording is available in the WisconsinEye archives.]

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