

2009 DRAFTING REQUEST

Bill

Received: **12/23/2008**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Stinebrink**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Children - abuse and neglect**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Stinebrink, BB0274 -

Topic:

Alternative responses for child protective services

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

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6 min?

2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Alternative Response for Child Protective Services
- Tracking Code: BBO274
- SBO team: Education, Children & Families
- SBO analyst: Cory Stinebrink
 - Phone: 266-8219
 - Email: Cory.Stinebrink@Wisconsin.gov
- Agency acronym: DCF
- Agency number: 437
- Priority (Low, Medium, High): High

Intent:

Develop and implement a Wisconsin alternative response system that allows for three possible tracks by which families can receive services.

1. *Community Response* is used for reports that have traditionally been screened out by CPS agencies or cases that are closed after the Initial Assessment process. These families do not have safety issues and are offered community services. This track does not require an assessment by CPS and can refer families to structured Community Response programs (like programs funded by the Children's Trust Fund) or community services in general.
2. *Assessment Response* is used for reports screened in for CPS response, but that are less severe than reports assigned to the investigation track. These are cases where no threats to child safety are identified at Access and are unlikely to warrant court intervention. A comprehensive assessment of family strengths and needs is completed by CPS, but there are no case findings regarding maltreatment of the child or identifying the maltreater. CPS agencies could open the cases for voluntary services based on the assessment or refer the families to community services.
3. *Investigation Response* is used for reports screened in for CPS response and the allegations are serious in nature [severe maltreatment or threats to child safety] and the investigation will likely result in juvenile or criminal court action. A comprehensive assessment of family strengths and needs is completed along with a maltreatment case finding and generally identification of the maltreater. These cases would continue to be handled under the current state policy and opened for CPS services if safety issues. Cases where the investigation showed no threats to child safety could be opened for voluntary services or referred to community services.

The alternative response program should be implemented on a pilot basis in the 2009-11 biennium with statewide expansion in future years. The pilot implementation will allow alternative response procedures to be evaluated and refined prior to statewide implementation. Appendix 1 "Proposed Statutory Language for Pilot Program" could be introduced in the 2009 legislative session to provide authorization. Specific policies and procedures would be developed in collaboration with county child welfare agencies and BMCW.

DEPARTMENT OF CHILDREN AND FAMILIES
2009-11 Biennial Budget
Governor's Budget Issue Paper

Issue: Child Protective Services Alternative Response Program

Problem Description

Screening reports of child maltreatment is one of the most difficult decisions in child protective services. There is wide variation in screening practice statewide, causing confusion about which cases truly require a CPS response and case finding. While all CPS cases require a comprehensive assessment in order to assure children are safe and protected, not all cases need a maltreatment and maltreater determination for the family to receive services. In fact, these maltreater determinations may interfere with service provision by creating an atmosphere that feels adversarial for families.

To better meet the needs of children and families, as well as more effectively utilize limited CPS staff resources, the Department should explore ways to allow low-risk CPS reports to be assessed without the requirement of a maltreatment case finding through an Alternative CPS Response Program.

Background

In CY 2006, Wisconsin CPS agencies received 50,294 referrals of possible maltreatment and 57% or 28,464 were screened in for a CPS initial assessment, requiring assessments of the families to evaluate child safety and make maltreatment determinations. The 28,464 referrals included maltreatment allegations involving 41,294 children (each child = a CPS report) for which maltreatment findings were made. The screen-in rate varies significant among counties across the state, from a low of 13% to a high of 99%.

Of the 43% of referrals that were not screened in for CPS initial assessment, some were screened in as "child welfare" referrals which involve contact by a social worker but not an initial assessment while other referrals were screened out and had no contact by a social worker. Child welfare referrals are typically used as a response to family conditions that do not rise to the level of alleged abuse or neglect, but the CPS agency has resources to support families in a preventative manner. There are no state policy requirements to guide case practice for child welfare referrals in terms of assessing child safety or offering services to families.

For the 41,294 CPS reports in 2006, 18.1% or 7,485 resulted in a substantiation that maltreatment occurred. Maltreatment case findings can be made when children are maltreated without identifying the maltreater. Similar to screening practice, there is inconsistency among counties in making case findings, with substantiation rates ranging from a low of 5% to a high of 62%. The substantiation rate has been declining steadily in recent years, from 38% in CY 1996 to 18% in CY 2006.

Fifteen states, including North Carolina, Minnesota, Missouri, and Hawaii have implemented an alternative response model for child protective services. While there is great variation among the state models, alternative response is generally applied to low- and moderate-risk cases with no immediate threats to child safety. The alternative response cases are provided an assessment and offered timely, strength-based services without a formal determination or substantiation of child maltreatment. The full CPS investigative response, which also includes an assessment, is used for reports where there is present danger or other threats of egregious harm to children and typically includes involvement from law enforcement and medical professionals.

Alternative response allows a flexible approach for CPS agencies to respond to allegations of maltreatment based on the severity of reported concerns, threats to child safety, and family needs. The alternative response approach offers an opportunity for CPS agencies to engage families and assess their service needs without the adversarial investigation approach necessary for maltreatment determinations. It is important to note that cases screened in for an assessment approach can be elevated to an investigative response when needed.

The Wisconsin initial assessment process currently requires a comprehensive assessment of family strengths and needs. As a result, an alternative response program in Wisconsin would focus on clearly identifying which case types receive 1) a traditional Investigation Response with an assessment and maltreatment and maltreater determinations, and 2) an Assessment Response with an assessment but no case finding determinations. An alternative response program could also include a third approach for a Community Response, which would not require a full assessment of the family by CPS social workers, but rather would include referrals to community service providers to connect families with services and supports.

Child welfare agencies in Wisconsin have advocated for an alternative response program that would allow for a different approach to low to moderate-risk referrals. Completing maltreatment case findings requires contacts with collateral sources of information to establish a preponderance of evidence to determine whether abuse and neglect occurred and to identify an individual as a maltreater. The appeal process allowed when an individual is named as a maltreater requires extensive case documentation and is not necessary to offer families CPS services.

Creating an alternative response program that allows multiple types of response depending on the circumstances of the family will allow CPS agencies to more effectively use limited social worker resources. Studies of alternative response programs in other states have found no difference in the recurrence rate for subsequent maltreatment between the investigation and assessment approaches. Some studies have shown that the assessment approach is more effective in reducing subsequent reports of maltreatment.

The impact of not addressing this problem is that CPS agencies will continue to struggle with screening decisions and intervening with families in the most effective and efficient manner. Additionally, since Wisconsin requires case determinations for all screened in CPS reports, the current practice likely results in more reoccurrence of maltreatment, which impacts the workload for CPS agencies and negatively impacts state achievement of federal safety performance standards.

Minnesota Alternative Response Program

In 1999, the Minnesota legislature specifically authorized the use of an alternative response to reports of child maltreatment that did not allege substantial child endangerment. The Legislature eliminated the need for a maltreatment case finding in these cases and directed the Minnesota Department of Human Services (MDHS) to create guidelines for the implementation of alternative response and evaluate the outcomes for families under this approach. The Alternative Response (AR) demonstration project ran from 2000 through 2003 and based on interim results of the demonstration project, this approach was implemented statewide. In 2005, the Legislature authorized the two pathways of child protective services: the traditional investigation and the AR approach.

The MDHS, along with county and community partners, created the assessment and service guidelines for the demonstration project. A RFP was issued for the AR demonstration project and 20 counties (representing 70% of the state's child maltreatment reports) were approved to participate in the initial pilot. The counties agreed to test the efficacy of prevention and early intervention with families at risk of maltreatment by implementing the alternative response assessment and service protocol, attending training, and cooperating with evaluation efforts.

As part of the demonstration project, \$16,000,000 was made available to support county agencies and the state in implementing AR. The McKnight Foundation contributed \$5,000,000 in foundation funding for flexible purposes while the state and counties used federal Title IV-B Parts 1 and 2 funds, state funds and county funds to support implementation, training, evaluation, and changes to Minnesota's automated child welfare information system.

The pilot counties received additional funding to serve an expanded number of families using an early intervention service model. In the past, families with minor allegations or low to moderate risk situations typically were not offered services. Pilot counties were directed to serve these families when identified needs threatened family stability or child well-being. A holistic assessment was conducted, families were offered services to meet their needs, and families were engaged in a collaborative process in developing and implementing a case plan. Counties were required to use 25% of the program funding to address a family's basic needs while the remaining funds could be used for case management services, counseling, education, therapy, or treatment for substance abuse or domestic violence.

Two full-time state positions were created to lead the demonstration project. The MDHS provided onsite technical assistance, community presentations, and knowledge and skill based training. The training plan was informed by an alternative response parent advisory group that advised, coordinated, and provided training. The training plan also had multiple phases that started with providing strength based, family-oriented assessments and eventually focused on nine strength-based intervention areas that were incorporated into the Minnesota Child Welfare Training System.

The AR approach, now known as Family Response, is current statewide in Minnesota with two state staff dedicated to supporting counties and community based agencies. All county agencies receive annual Family Response grant funds to assist in developing program infra-structure

necessary to provide expanded family support and preservation services. County allocations are based on the available state and IV-B Part 1 and 2 funds and are calculated using the number of screened-in Family Response reports based on the last published maltreatment data. This number is divided by the total available dollars to arrive at a per family dollar amount which is then multiplied by the number of family assessments per county. For example, a \$1,000,000 dollar allocation is divided by 10,000 screened in family response reports resulting in \$100 per family. If a county agency conducted 300 family assessments, the allocation would be \$30,000.

III. Options

Option 1. Develop and implement a Wisconsin alternative response system that allows for three possible tracks by which families can receive services.

1. *Community Response* is used for reports that have traditionally been screened out by CPS agencies or cases that are closed after the Initial Assessment process. These families do not have safety issues and are offered community services. This track does not require an assessment by CPS and can refer families to structured Community Response programs (like programs funded by the Children's Trust Fund) or community services in general.
2. *Assessment Response* is used for reports screened in for CPS response, but that are less severe than reports assigned to the investigation track. These are cases where no threats to child safety are identified at Access and are unlikely to warrant court intervention. A comprehensive assessment of family strengths and needs is completed by CPS, but there are no case findings regarding maltreatment of the child or identifying the maltreater. CPS agencies could open the cases for voluntary services based on the assessment or refer the families to community services.
3. *Investigation Response* is used for reports screened in for CPS response and the allegations are serious in nature [severe maltreatment or threats to child safety] and the investigation will likely result in juvenile or criminal court action. A comprehensive assessment of family strengths and needs is completed along with a maltreatment case finding and generally identification of the maltreater. These cases would continue to be handled under the current state policy and opened for CPS services if safety issues. Cases where the investigation showed no threats to child safety could be opened for voluntary services or referred to community services.

Option 1A – Implement the alternative response approach creating the Assessment Response track on a phase-in basis, starting with a limited number of counties and rolling out to other counties in subsequent years similar to the Minnesota approach. Unlike the Minnesota approach, the Wisconsin program would address only the CPS Initial Assessment response.

Option 1B – Implement the alternative response approach by making the option available statewide, with counties having the option whether to participate. Counties would be required to notify DCF when implementing the alternative response approach.

Note: Under either option, additional funds to expand community services would not be included. Compared with Minnesota, the Wisconsin alternative response approach would only address the Initial Assessment response by CPS. Services to families would be provided out of existing resources. This would not increase the number of families served, but would allow CPS to be more efficient in assessing family needs and avoid the need for maltreatment determinations in cases that do not present safety threats.

Pros:

- A multiple response to family situations allows CPS to craft the intervention based upon the strengths and needs of the family.
- The Assessment Response is less adversarial (no finding of maltreatment or wrongdoing) and more focused on partnering with families for change.
- The Investigation Response allows for the more intensive work and detail of evidence gathering on fewer cases; those cases likely requiring legal intervention (juvenile or criminal court)
- A multiple response system will likely lessen the number of substantiation appeals that CPS agencies must provide since a smaller set of cases that will receive a formal maltreater and maltreatment determination.
- Many Wisconsin counties are supportive of an Alternative Response approach and view it as a way to reduce workload.

Cons:

- CPS may view cases receiving an Assessment Responses as less important and may not pay sufficient attention to gathering information necessary to understand and assess child safety.
- The Assessment Responses focuses on engaging and partnering with families to identify what needs to change. This may then insinuate there is not a need to engage families in the Investigation Response.
- The Assessment Response is based on the premise that involvement in services is voluntary. However, if the assessment indicates threats to child safety, then CPS intervention may be necessary regardless of whether the family refuses/does not see the need for intervention.
- This option will require statutory change to allow for no case finding determinations in Assessment Response cases. Statutory change could be difficult to achieve and open the statutes to other changes that could affect CPS workloads.
- The Assessment Response program could increase the number of families being referred to community services for support; making it important to build community capacity to serve family needs.

Option 2. Maintain the current Initial Assessment procedures for CPS reports, but eliminate the requirement to make maltreatment and maltreater determination on all cases. Substantiation case findings would be replaced with the finding of whether or not a child and family are in need of protection or services. Essentially all CPS reports would be handled as Assessment Responses. Under this approach, there could still be a Community Response track for existing Child Welfare reports.

As an alternative to eliminating both maltreatment and maltreater determinations, current statutes do not require that a maltreater determination be made. County agencies could continue to make maltreatment determinations, but not make maltreater determinations. This would support less adversarial process and would minimize workload related to the CPS appeal process.

Pros:

- This approach is consistent with efforts over the last several years in policy development, training, and technical assistance to move CPS intervention from an authoritative, investigative approach to a respectful, engaging and family centered approach in all cases.
- Situations involving severe maltreatment typically trigger criminal investigations and these situations are best handled by law enforcement. Currently, initial assessments in cases with criminal investigations are often delayed pending whether criminal charges are filed. CPS agencies would still be involved to collect evidence for prosecution and to determine the service needs of the family.
- Removing findings of "fault" and focusing on identifying needs alters the CPS approach to one of a supportive and change based system of intervention.
- Applying a strengths based approach can alter a family's perception of CPS and their motivation to voluntarily work towards change needed to provide a safe environment for their children.
- Not making a differentiation in response tracks will support practice that views all families similarly in terms of intervention. CPS staff must engage, assess and assure child safety with all families.

Cons:

- May still have some adversarial intervention in cases where children are unsafe and families are unwilling to voluntarily participate with intervention.
- The lack of maltreatment findings may be perceived as going "soft" on child maltreatment
- The lack of a maltreatment and maltreater determination may make it more difficult to obtain a CHIPS order when needed or to criminally prosecute child maltreatment cases.
- The lack of a maltreatment and maltreater finding would make it difficult to enforce caregiver background checks and would allow maltreaters to work with vulnerable populations.
- The Federal government would count the finding that services are necessary the same as a substantiation finding. This could increase the appearance of maltreatment for national performance standards.

Stakeholders and Affected Individuals/Organizations

CPS agencies will support an approach to CPS cases that provides clarity in how to respond to reports of alleged child maltreatment and an enhanced system that assures children are safe and protected. Mandated reporters generally want the needs of the family assessed and to assure safety and the current requirement that CPS reports include case findings may dissuade some stakeholders from reporting concerns about families.

Either option will require extensive community education with mandated reporters. Additionally, both options will have an impact on law enforcement, district attorneys, and the court system

which will require cross system training and technical assistance to clarify roles, responsibilities, etc. These systems may oppose any change to the current system and Option 2 in particular since CPS case determinations are frequently used as a basis for criminal proceedings.

Recommendation

Option 1A. CPS intervention should be flexible to respond to families based on the circumstances and respond based on the needs of children and families. Implementing an alternative response program with multiple levels of response will allow CPS agencies to intervene more effectively with families, better manage the CPS staff workload, and likely improve state performance on federal performance standards.

Implementing the alternative response approach on a phased-in basis similar to Minnesota will ensure cases are assigned to the appropriate response track and consistency in how counties implement the approach.

Statutory Change

The alternative response program should be implemented on a pilot basis in the 2009-11 biennium with statewide expansion in future years. The pilot implementation will allow alternative response procedures to be evaluated and refined prior to statewide implementation. Appendix 1 "Proposed Statutory Language for Pilot Program" could be introduced in the 2009 legislative session to provide authorization. Specific policies and procedures would be developed in collaboration with county child welfare agencies and BMCW.

Policy Change

Current CPS policy will need to be adapted to fully support the two pathways to child protective services. Wisconsin already requires a comprehensive initial assessment process focused on family strengths and needs. Therefore, policy for an alternative response program will need to outline requirements for both tracks from the time a report is received by the agency through case closure. Additionally, guidance is needed related to interview protocols and documentation requirements.

DCF can use the new National Quality Improvement Center on Differential Response through the American Humane Association to support development and implementation in Wisconsin.

Pilot Process

The recommended timeframe for implementing a phased-in alternative response approach (mirroring Minnesota's pilot process) with initial pilots and subsequent statewide expansion is as follows:

- Obtain statutory authorization in 2009-11 budget bill
- Develop policy with counties in first half of 2010
- Issuing a RFP for initial pilots by 7/2010
- Selecting pilot sites by 9/2010; contract technical assistance funds

- Host learning labs at each site to assure buy in from administrators and staff in 10/2010
- Issue policy and procedure by 11/2010
- Providing on and off site technical assistance and training during 2011
- Engaging, meeting, and educating community stakeholders during 2011
- Evaluating the process and make adjustments to policy and procedure as needed by end of 2011
- Implement subsequent rounds of counties in 2012 and following years

Fiscal Impact

DCF Position

- A CPS policy position would be needed to implement the program, including developing alternative response policies and procedures and providing technical assistance to the pilot counties. The position cost is approximately \$80,000 including salary, fringe, DCF charges, travel and supplies and services. Additional staff may be needed for statewide expansion. The position cost would be 100% GPR as CPS investigation/assessment activities are not IV-E reimbursable.

eWiSACWIS

- eWiSACWIS changes would be necessary to create the different types of response options for Access staff to use with referrals and separate the maltreatment allegations and case findings functionality from the initial assessment functionality. Additional changes may be necessary to distinguish Community Response cases from other child welfare service requests, such as requests for home studies. The system changes would be significant, so additional funds may be needed on a one-time basis to make the changes under a change order with the system maintenance vendor. Costs could be as much as \$250,000, with the cost partially IV-E reimbursable based on the eWiSACWIS IV-E cost share.

If implementation is scheduled for 2011, systems work could be done during 2010 using existing maintenance contract resources. If so, it may be necessary to defer implementation of other program initiatives that require system support.

Technical Assistance

- Technical assistance funds should be provided to county agencies to allow counties to dedicate local staff time to implementation of the program and purchase consultation services to support implementation. The consultants would be responsible for evaluating local implementation of alternative response procedures to advise the Department on how to refine the procedures and assisting the counties with cross-system community education efforts. Participating counties should be given \$25,000 per county for the first year pilots (CY 2011) and \$10,000 per county in the second year (CY 2012) and subsequent years. The technical assistance funds would amount to \$125,000 (5 counties x \$25,000), allowing approximately 12 counties per year to be added in subsequent years.

Training

- Child Welfare training would need to be updated to incorporate the alternative response program. \$75,000 would be needed in SFY 2010 to develop an alternative response training course and update other courses to support statewide implementation. The training cost would be 100% GPR as CPS investigation/assessment activities are not IV-E reimbursable.

Educating community stakeholders about the philosophy and process of AR is vital to the successful implementation. The training funds would also be used to develop educational materials to use with community stakeholders.

Note: Minnesota added the following trainings for the implementation and ongoing support of the AR program:

- Alternative Response Foundation Training
- Solution-Oriented Therapy
- Framework for Understanding the Culture of Poverty
- Parent/Child Attachment Past and Present
- Ethnographic Interviewing
- Family Unity/Family Group Decision Making Orientation
- Collaborative Negotiation
- Responding to Domestic Violence
- How Our Potential Explodes

Fiscal Effect Summary

Program Activity	SFY 2010	SFY 2011
DSP Position (start 1/1/10)	\$40,000	\$80,000
eWiSACWIS	Use existing maintenance resources	
Training	\$75,000	
Technical Assistance	\$125,000	\$125,000
<ul style="list-style-type: none"> • SFY 10 5 counties at \$25,000 • SFY 11 approx. 12 counties at \$10,000 		
	\$240,000	\$205,000

The Department could seek foundation support for implementation costs, but given the current economic situation, it is uncertain whether grant funds could be obtained.

Attachment 1

Proposed Statutory Language for Pilot Program

48.981(11) CHILD PROTECTIVE SERVICES ALTERNATIVE RESPONSE PILOT PROGRAM. (a) Legislative findings and purpose. The legislature finds that protecting children from abuse or neglect is a statewide responsibility. The legislature recognizes the need to allow for the response to allegations of abuse or neglect to be based on the severity of reported concerns, threats to child safety, and family needs. To develop the most appropriate, most effective, and least intrusive response to reports of child abuse or neglect, the legislature deems it necessary to authorize an alternative response approach pilot to child protective services in a limited number of counties. The purpose of the program is to allow the development of improved procedures for investigation and initial assessment responses to reports of child abuse or neglect.

(b) Definitions. In this section:

1. "Access" means
2. "Alternative response" means
3. "Community response" means
4. "Initial assessment" means
5. "Investigation" means

(c) Department responsibilities. 1. The department shall establish standards for determining the appropriate type of intervention in defined case situations. These types of intervention shall include:

- a. Investigation response.
- b. Initial assessment response.
- c. Community response.

2. The department may select county departments to pilot an alternative response child protection services program. The department shall establish selection criteria, which shall include an assessment of the effectiveness of the county department's plan for community involvement in child protective services and a determination of whether local agencies have effective agreements with law enforcement agencies and the representative of the public under s. 48.09 to ensure interagency cooperation. The department shall develop and provide training for all county department staff persons involved in the pilot program

(d) Duties of county departments. 1. The county agencies selected to participate in this pilot program shall comply with the requirements of s. 48.981(3)(c) when conducting a child protective services investigation under par. (c)1.a.

2. In cases where the county department determines according to guidelines established by the department that the appropriate level of intervention is an initial assessment under par. (c)1.b., the county department shall comply with standards established by the department under this pilot program. In addition, when conducting an initial assessment, the county department is not required to do either of the following:

- a. Notify a law enforcement agency under s. 48.981(3)(a)3. of the report.
- b. Determine whether abuse or neglect has occurred or is likely to occur under s. 48.981(3)(c)4.

(e) Evaluation of the pilot program. 1. The department shall evaluate and publish a report on the impact and effectiveness of the alternative response pilot program.

2. The evaluation shall include, but not be limited to, the following:

- a. The turnover rate of child protective services caseworkers.
- b. The number of families referred for each of the types of intervention under par. (c)1.a. to c.
- c. The number of families who receive and decline services.
- d. The effectiveness of the access function in determining the appropriate type of intervention
- e. The impact of the program pilot on the number of out-of-home care placements.
- f. The availability of needed services.
- g. An assessment of implementation issues encountered.
- h. The overall operation of the alternative response program and recommendations for improvement.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1270/2

GMM

IN 1/22

11
JLD

DOA:.....Stinebrink, BB0274 - Alternative responses for child protective services

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, immediately after receiving a report of suspected or threatened child abuse or neglect, a county department of human services or social services (county department) must evaluate the report to determine whether a caregiver of the child is suspected of the abuse or neglect. If a caregiver is suspected of the abuse or neglect, the county department must initiate a diligent investigation to determine whether the child is in need of protection or services. If a person who is not a caregiver is suspected of the abuse or neglect, the county department may initiate such an investigation. If the report is of suspected or threatened child sexual abuse, the county department must refer the report to the sheriff or police department. Within 60 days after receiving a report that it investigates, a county department must determine by a preponderance of the evidence whether abuse or neglect has occurred or is likely to occur. If a county department determines that a specific person has abused or neglected a child, that person may appeal that determination under procedures promulgated by DCF by rule.

This bill requires DCF to establish a pilot program under which a county department may employ alternative responses to a report of suspected or threatened

child abuse or neglect. Under the pilot program, immediately after receiving such a report, a county department must, based on an evaluation of the report, respond as follows:

1. If the county department determines that there is reason to suspect that substantial abuse or neglect has occurred or is likely to occur or that an investigation of the report is otherwise necessary to ensure the safety of the child and his or her family, the county department must investigate the report as provided under current law. The bill defines "substantial abuse or neglect" as abuse or neglect or threatened abuse or neglect that under guidelines developed by DCF under the bill constitutes severe abuse or neglect or a threat of severe abuse or neglect and a significant threat to the safety of a child and his or her family.

2. If the county department determines that there is reason to suspect that abuse or neglect, other than substantial abuse or neglect, has occurred or is likely to occur, but that under the guidelines developed by DCF there is no immediate threat to the safety of the child and his or her family and intervention by the court assigned to exercise jurisdiction under the Children's Code is not necessary, the county department must conduct a comprehensive assessment of the safety of the child and his or her family, the risk of subsequent abuse or neglect, and the strengths and needs of the child's family to determine whether services are needed to address those issues. Based on the assessment, the county department must offer to provide appropriate services to the child's family on a voluntary basis or refer the child's family to a service provider in the community for the provision of those services. If the county department employs the assessment response, the county department is not required as under current law to refer the report to the sheriff or police department or determine by a preponderance of the evidence that abuse or neglect has occurred or is likely to occur or that a specific person has abused or neglected the child.

3. If the county department determines that there is no reason to suspect that abuse or neglect has occurred or is likely to occur, the county department must refer the child's family to a service provider in the community for the provision of appropriate services on a voluntary basis. If the county department employs the community services response, the county department is not required to conduct an assessment under the bill and is not required as under current law to refer the report to the sheriff or police department or determine by a preponderance of the evidence that abuse or neglect has occurred or is likely to occur or that a specific person has abused or neglected the child.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 48.981 (3) (a) 3. of the statutes is amended to read:

1 48.981 (3) (a) 3. ~~A~~ Except as provided in sub. (3m), a county department, the
 2 department, or a licensed child welfare agency under contract with the department
 3 shall within 12 hours, exclusive of Saturdays, Sundays, or legal holidays, refer to the
 4 sheriff or police department all cases of suspected or threatened abuse, as defined in
 5 s. 48.02 (1) (b) to (f), reported to it. For cases of suspected or threatened abuse, as
 6 defined in s. 48.02 (1) (a), (am), (g), or (gm), or neglect, each county department, the
 7 department, and a licensed child welfare agency under contract with the department
 8 shall adopt a written policy specifying the kinds of reports it will routinely report to
 9 local law enforcement authorities.

History: Sup. Ct. Order, 59 Wis. 2d R1, R3 (1973); 1977 c. 355; 1977 c. 447 s. 210; 1979 c. 300; 1983 a. 172, 190, 299, 538; 1985 a. 29 ss. 917 to 930m, 3200 (56); 1985 a. 176, 234; 1987 a. 27, 186, 209; 1987 a. 332 s. 64; 1987 a. 334, 355, 399, 403; 1989 a. 31, 41, 102, 316, 359; 1991 a. 160, 263; 1993 a. 16, 105, 218, 227, 230, 246, 272, 318, 395, 443, 446, 491; 1995 a. 275, 289, 369, 456; 1997 a. 27, 114, 292, 293; 1999 a. 9, 20, 32, 56, 84, 149, 192; 2001 a. 16, 38, 59, 69, 70, 103, 105; 2003 a. 33, 279, 321; 2005 a. 113, 232, 344, 406, 434; 2005 a. 443 s. 265; 2007 a. 20 ss. 1370 to 1373, 912 (6) (a); 2007 a. 97.

10 **SECTION 2.** 48.981 (3) (c) 1. a. of the statutes is amended to read:

11 48.981 (3) (c) 1. a. Immediately after receiving a report under par. (a), the
 12 agency shall evaluate the report to determine whether there is reason to suspect that
 13 a caregiver has abused or neglected the child, has threatened the child with abuse
 14 or neglect, or has facilitated or failed to take action to prevent the suspected or
 15 threatened abuse or neglect of the child. If Except as provided in sub. (3m), if the
 16 agency determines that a caregiver is suspected of abuse or neglect or of threatened
 17 abuse or neglect of the child, determines that a caregiver is suspected of facilitating
 18 or failing to take action to prevent the suspected or threatened abuse or neglect of
 19 the child, or cannot determine who abused or neglected the child, within 24 hours
 20 after receiving the report the agency shall, in accordance with the authority granted
 21 to the department under s. 48.48 (17) (a) 1. or the county department under s. 48.57
 22 (1) (a), initiate a diligent investigation to determine if the child is in need of
 23 protection or services. If the agency determines that a person who is not a caregiver

ALTERNATIVE RESPONSE PILOT PROGRAM

1 is suspected of abuse or of threatened abuse, the agency may, in accordance with that
 2 authority, initiate a diligent investigation to determine if the child is in need or
 3 protection or services. Within 24 hours after receiving a report under par. (a) of
 4 suspected unborn child abuse, the agency, in accordance with that authority, shall
 5 initiate a diligent investigation to determine if the unborn child is in need of
 6 protection or services. An investigation under this subd. 1. a. shall be conducted in
 7 accordance with standards established by the department for conducting child abuse
 8 and neglect investigations or unborn child abuse investigations.

History: Sup. Ct. Order, 59 Wis. 2d R1, R3 (1973); 1977 c. 355; 1977 c. 447 s. 210; 1979 c. 300; 1983 a. 172, 190, 299, 538; 1985 a. 29 ss. 917 to 930m, 3200 (56); 1985 a. 176, 234; 1987 a. 27, 186, 209; 1987 a. 332 s. 64; 1987 a. 334, 355, 399, 403; 1989 a. 31, 41, 102, 316, 359; 1991 a. 160, 263; 1993 a. 16, 105, 218, 227, 230, 246, 272, 318, 395, 443, 446, 491; 1995 a. 275, 289, 369, 456; 1997 a. 27, 114, 292, 293; 1999 a. 9, 20, 32, 56, 84, 149, 192; 2001 a. 16, 38, 59, 69, 70, 103, 105; 2003 a. 33, 279, 321; 2005 a. 113, 232, 344, 406, 434; 2005 a. 443 s. 165; 2007 a. 20 ss. 1370, 1373, 9121 (6) (a); 2007 a. 97.

9 **SECTION 3.** 48.981 (3m) of the statutes is created to read:

10 48.981 (3m) (a) In this subsection, "substantial abuse or neglect" means abuse
 11 or neglect or threatened abuse or neglect that under the guidelines developed by the
 12 department under par. (b) constitutes severe abuse or neglect or a threat of severe
 13 abuse or neglect and a significant threat to the safety of a child and his or her family.

14 (b) The department shall establish a pilot program under which a county
 15 department that is selected to participate in the pilot program may employ
 16 alternative responses to a report of abuse or neglect or of threatened abuse or neglect.

17 The department shall select county departments to participate in the pilot program
 18 in accordance with the department's request-for-proposal procedures and according
 19 to criteria developed by the department. Those criteria shall include an assessment
 20 of a county department's plan for involving the community in providing services for
 21 a family that is participating in the pilot program and a determination whether a
 22 county department has an agreement with local law enforcement agencies and the
 23 representative of the public under s. 48.09 to ensure interagency cooperation in

1 implementing the pilot program. To implement the pilot program, the department
2 shall provide all of the following:

3 1. Guidelines for determining the appropriate alternative response to a report
4 of abuse or neglect or of threatened abuse or neglect, including guidelines for
5 determining what types of abuse or neglect or threatened abuse or neglect constitute
6 substantial abuse or neglect. The department need not promulgate those guidelines
7 as rules under ch. 227.

8 2. Training and technical assistance for a county department that is selected
9 to participate in the pilot program.

10 (c) Immediately after receiving a report under sub. (3) (a), a county department
11 that is participating in the pilot program shall evaluate the report to determine the
12 most appropriate alternative response under subs. 1. to 3. to the report. Based on
13 that evaluation, the county department shall respond to the report as follows:

14 1. If the county department determines that there is reason to suspect that
15 substantial abuse or neglect has occurred or is likely to occur or that an investigation
16 under sub. (3) is otherwise necessary to ensure the safety of the child and his or her
17 family, the county department shall investigate the report as provided in sub. (3).
18 If in conducting that investigation the county department determines that it is not
19 necessary for the safety of the child and his or her family to complete the
20 investigation, the county department may terminate the investigation and conduct
21 an assessment under subd. 2. If the county department terminates an investigation,
22 the county department shall document the reasons for terminating the investigation
23 and notify any law enforcement agency that is cooperating in the investigation.

24 2. ^{a.} If the county department determines that there is reason to suspect that
25 abuse or neglect, other than substantial abuse or neglect, has occurred or is likely

1 to occur, but that under the guidelines developed by the department under par. (b)
2 there is no immediate threat to the safety of the child and his or her family and court
3 intervention is not necessary, the county department shall conduct a comprehensive
4 assessment of the safety of the child and his or her family, the risk of subsequent
5 abuse or neglect, and the strengths and needs of the child's family to determine
6 whether services are needed to address those issues assessed and, based on the
7 assessment, shall offer to provide appropriate services to the child's family on a
8 voluntary basis or refer the child's family to a service provider in the community for
9 the provision of those services.

10 b. If the county department employs the assessment response under subd. 2.
11 a., the county department is not required to refer the report to the sheriff or police
12 department under sub. (3) (a) 3. or determine by a preponderance of the evidence
13 under sub. (3) (c) 4. that abuse or neglect has occurred or is likely to occur or that a
14 specific person has abused or neglected the child. If in conducting the assessment
15 the county department determines that there is reason to suspect that substantial
16 abuse or neglect has occurred or is likely to occur or that an investigation under sub.
17 (3) is otherwise necessary to ensure the safety of the child and his or her family, the
18 county department shall immediately commence an investigation under sub. (3).

19 3. If the county department determines that there is no reason to suspect that
20 abuse or neglect has occurred or is likely to occur, the county department shall refer
21 the child's family to a service provider in the community for the provision of
22 appropriate services on a voluntary basis. If the county department employs the
23 community services response under this subdivision, the county department is not
24 required to conduct an assessment under subd. 2., refer the report to the sheriff or
25 police department under sub. (3) (a) 3., or determine by a preponderance of the

1 evidence under sub. (3) (c) 4. that abuse or neglect has occurred or is likely to occur
2 or that a specific person has abused or neglected the child.

3 (d) The department shall conduct an evaluation of the pilot program and, by
4 July 1, 2012, shall submit a report of that evaluation to the governor and to the
5 appropriate standing committees of the legislature under s. 13.172 (3). The
6 evaluation shall assess the issues encountered in implementing the pilot program
7 and the overall operations of the pilot program, include specific measurements of the
8 effectiveness of the pilot program, and make recommendations to improve that
9 effectiveness. Those specific measurements shall include all of the following:

10 1. The turnover rate of the county department caseworkers providing services
11 under the pilot program.

12 2. The number of families referred for each type of response specified in par.
13 (c) 1. to 3.

14 3. The number of families that accepted, and the number of families that
15 declined to accept, services offered under par. (c) 2. and 3.

16 4. The effectiveness of the evaluation under par. (c) (intro.) in determining the
17 appropriate response under par. (c) 1. to 3.

18 5. The impact of the pilot program on the number of out-of-home placements
19 of children by the county departments participating in the pilot program.

20 6. The availability of services to address the issues of child and family safety,
21 risk of subsequent abuse or neglect, and family strengths and needs in the
22 communities served under the pilot project.

23 (END)



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1270/1
GMM:jld:md

DOA:.....Stinebrink, BB0274 - Alternative responses for child protective services

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, immediately after receiving a report of suspected or threatened child abuse or neglect, a county department of human services or social services (county department) must evaluate the report to determine whether a caregiver of the child is suspected of the abuse or neglect. If a caregiver is suspected of the abuse or neglect, the county department must initiate a diligent investigation to determine whether the child is in need of protection or services. If a person who is not a caregiver is suspected of the abuse or neglect, the county department may initiate such an investigation. If the report is of suspected or threatened child sexual abuse, the county department must refer the report to the sheriff or police department. Within 60 days after receiving a report that it investigates, a county department must determine by a preponderance of the evidence whether abuse or neglect has occurred or is likely to occur. If a county department determines that a specific person has abused or neglected a child, that person may appeal that determination under procedures promulgated by DCF by rule.

This bill requires DCF to establish a pilot program under which a county department may employ alternative responses to a report of suspected or threatened

child abuse or neglect. Under the pilot program, immediately after receiving such a report, a county department must, based on an evaluation of the report, respond as follows:

1. If the county department determines that there is reason to suspect that substantial abuse or neglect has occurred or is likely to occur or that an investigation of the report is otherwise necessary to ensure the safety of the child and his or her family, the county department must investigate the report as provided under current law. The bill defines "substantial abuse or neglect" as abuse or neglect or threatened abuse or neglect that under guidelines developed by DCF under the bill constitutes severe abuse or neglect or a threat of severe abuse or neglect and a significant threat to the safety of a child and his or her family.

2. If the county department determines that there is reason to suspect that abuse or neglect, other than substantial abuse or neglect, has occurred or is likely to occur, but that under the guidelines developed by DCF there is no immediate threat to the safety of the child and his or her family and intervention by the court assigned to exercise jurisdiction under the Children's Code is not necessary, the county department must conduct a comprehensive assessment of the safety of the child and his or her family, the risk of subsequent abuse or neglect, and the strengths and needs of the child's family to determine whether services are needed to address those issues. Based on the assessment, the county department must offer to provide appropriate services to the child's family on a voluntary basis or refer the child's family to a service provider in the community for the provision of those services. If the county department employs the assessment response, the county department is not required as under current law to refer the report to the sheriff or police department or determine by a preponderance of the evidence that abuse or neglect has occurred or is likely to occur or that a specific person has abused or neglected the child.

3. If the county department determines that there is no reason to suspect that abuse or neglect has occurred or is likely to occur, the county department must refer the child's family to a service provider in the community for the provision of appropriate services on a voluntary basis. If the county department employs the community services response, the county department is not required to conduct an assessment under the bill and is not required as under current law to refer the report to the sheriff or police department or determine by a preponderance of the evidence that abuse or neglect has occurred or is likely to occur or that a specific person has abused or neglected the child.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 48.981 (3) (a) 3. of the statutes is amended to read:

1 48.981 (3) (a) 3. ~~A~~ Except as provided in sub. (3m), a county department, the
2 department, or a licensed child welfare agency under contract with the department
3 shall within 12 hours, exclusive of Saturdays, Sundays, or legal holidays, refer to the
4 sheriff or police department all cases of suspected or threatened abuse, as defined in
5 s. 48.02 (1) (b) to (f), reported to it. For cases of suspected or threatened abuse, as
6 defined in s. 48.02 (1) (a), (am), (g), or (gm), or neglect, each county department, the
7 department, and a licensed child welfare agency under contract with the department
8 shall adopt a written policy specifying the kinds of reports it will routinely report to
9 local law enforcement authorities.

10 **SECTION 2.** 48.981 (3) (c) 1. a. of the statutes is amended to read:

11 48.981 (3) (c) 1. a. Immediately after receiving a report under par. (a), the
12 agency shall evaluate the report to determine whether there is reason to suspect that
13 a caregiver has abused or neglected the child, has threatened the child with abuse
14 or neglect, or has facilitated or failed to take action to prevent the suspected or
15 threatened abuse or neglect of the child. ~~If~~ Except as provided in sub. (3m), ~~if~~ the
16 agency determines that a caregiver is suspected of abuse or neglect or of threatened
17 abuse or neglect of the child, determines that a caregiver is suspected of facilitating
18 or failing to take action to prevent the suspected or threatened abuse or neglect of
19 the child, or cannot determine who abused or neglected the child, within 24 hours
20 after receiving the report the agency shall, in accordance with the authority granted
21 to the department under s. 48.48 (17) (a) 1. or the county department under s. 48.57
22 (1) (a), initiate a diligent investigation to determine if the child is in need of
23 protection or services. If the agency determines that a person who is not a caregiver
24 is suspected of abuse or of threatened abuse, the agency may, in accordance with that
25 authority, initiate a diligent investigation to determine if the child is in need or

1 protection or services. Within 24 hours after receiving a report under par. (a) of
2 suspected unborn child abuse, the agency, in accordance with that authority, shall
3 initiate a diligent investigation to determine if the unborn child is in need of
4 protection or services. An investigation under this subd. 1. a. shall be conducted in
5 accordance with standards established by the department for conducting child abuse
6 and neglect investigations or unborn child abuse investigations.

7 **SECTION 3.** 48.981 (3m) of the statutes is created to read:

8 48.981 (3m) ALTERNATIVE RESPONSE PILOT PROGRAM. (a) In this subsection,
9 “substantial abuse or neglect” means abuse or neglect or threatened abuse or neglect
10 that under the guidelines developed by the department under par. (b) constitutes
11 severe abuse or neglect or a threat of severe abuse or neglect and a significant threat
12 to the safety of a child and his or her family.

13 (b) The department shall establish a pilot program under which a county
14 department that is selected to participate in the pilot program may employ
15 alternative responses to a report of abuse or neglect or of threatened abuse or neglect.
16 The department shall select county departments to participate in the pilot program
17 in accordance with the department’s request-for-proposal procedures and according
18 to criteria developed by the department. Those criteria shall include an assessment
19 of a county department’s plan for involving the community in providing services for
20 a family that is participating in the pilot program and a determination whether a
21 county department has an agreement with local law enforcement agencies and the
22 representative of the public under s. 48.09 to ensure interagency cooperation in
23 implementing the pilot program. To implement the pilot program, the department
24 shall provide all of the following:

1 1. Guidelines for determining the appropriate alternative response to a report
2 of abuse or neglect or of threatened abuse or neglect, including guidelines for
3 determining what types of abuse or neglect or threatened abuse or neglect constitute
4 substantial abuse or neglect. The department need not promulgate those guidelines
5 as rules under ch. 227.

6 2. Training and technical assistance for a county department that is selected
7 to participate in the pilot program.

8 (c) Immediately after receiving a report under sub. (3) (a), a county department
9 that is participating in the pilot program shall evaluate the report to determine the
10 most appropriate alternative response under subs. 1. to 3. to the report. Based on
11 that evaluation, the county department shall respond to the report as follows:

12 1. If the county department determines that there is reason to suspect that
13 substantial abuse or neglect has occurred or is likely to occur or that an investigation
14 under sub. (3) is otherwise necessary to ensure the safety of the child and his or her
15 family, the county department shall investigate the report as provided in sub. (3).
16 If in conducting that investigation the county department determines that it is not
17 necessary for the safety of the child and his or her family to complete the
18 investigation, the county department may terminate the investigation and conduct
19 an assessment under subd. 2. If the county department terminates an investigation,
20 the county department shall document the reasons for terminating the investigation
21 and notify any law enforcement agency that is cooperating in the investigation.

22 2. a. If the county department determines that there is reason to suspect that
23 abuse or neglect, other than substantial abuse or neglect, has occurred or is likely
24 to occur, but that under the guidelines developed by the department under par. (b)
25 there is no immediate threat to the safety of the child and his or her family and court

1 intervention is not necessary, the county department shall conduct a comprehensive
2 assessment of the safety of the child and his or her family, the risk of subsequent
3 abuse or neglect, and the strengths and needs of the child's family to determine
4 whether services are needed to address those issues assessed and, based on the
5 assessment, shall offer to provide appropriate services to the child's family on a
6 voluntary basis or refer the child's family to a service provider in the community for
7 the provision of those services.

8 b. If the county department employs the assessment response under subd. 2.
9 a., the county department is not required to refer the report to the sheriff or police
10 department under sub. (3) (a) 3. or determine by a preponderance of the evidence
11 under sub. (3) (c) 4. that abuse or neglect has occurred or is likely to occur or that a
12 specific person has abused or neglected the child. If in conducting the assessment
13 the county department determines that there is reason to suspect that substantial
14 abuse or neglect has occurred or is likely to occur or that an investigation under sub.
15 (3) is otherwise necessary to ensure the safety of the child and his or her family, the
16 county department shall immediately commence an investigation under sub. (3).

17 3. If the county department determines that there is no reason to suspect that
18 abuse or neglect has occurred or is likely to occur, the county department shall refer
19 the child's family to a service provider in the community for the provision of
20 appropriate services on a voluntary basis. If the county department employs the
21 community services response under this subdivision, the county department is not
22 required to conduct an assessment under subd. 2., refer the report to the sheriff or
23 police department under sub. (3) (a) 3., or determine by a preponderance of the
24 evidence under sub. (3) (c) 4. that abuse or neglect has occurred or is likely to occur
25 or that a specific person has abused or neglected the child.

1 (d) The department shall conduct an evaluation of the pilot program and, by
2 July 1, 2012, shall submit a report of that evaluation to the governor and to the
3 appropriate standing committees of the legislature under s. 13.172 (3). The
4 evaluation shall assess the issues encountered in implementing the pilot program
5 and the overall operations of the pilot program, include specific measurements of the
6 effectiveness of the pilot program, and make recommendations to improve that
7 effectiveness. Those specific measurements shall include all of the following:

8 1. The turnover rate of the county department caseworkers providing services
9 under the pilot program.

10 2. The number of families referred for each type of response specified in par.
11 (c) 1. to 3.

12 3. The number of families that accepted, and the number of families that
13 declined to accept, services offered under par. (c) 2. and 3.

14 4. The effectiveness of the evaluation under par. (c) (intro.) in determining the
15 appropriate response under par. (c) 1. to 3.

16 5. The impact of the pilot program on the number of out-of-home placements
17 of children by the county departments participating in the pilot program.

18 6. The availability of services to address the issues of child and family safety,
19 risk of subsequent abuse or neglect, and family strengths and needs in the
20 communities served under the pilot project.

21 (END)