

2009 DRAFTING REQUEST

Bill

Received: **06/06/2009**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Jauch (608) 266-3510**

By/Representing: **Carrie Kahn**

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

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Children - out-of-home placement
Children - TPR and adoption
Children - juvenile justice
Children - abuse and neglect**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Jauch@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Out-of-home placements and child abuse reporting; federal compliance

Instructions:

See attached--redraft 2007 AB 856, as modified by attached instructions

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>
/?	gmalaise 08/30/2009	csicilia 09/03/2009		_____			S&L
/1			rschluet 09/04/2009	_____	cduerst 09/04/2009		S&L
/2	gmalaise 09/10/2009	csicilia 09/16/2009	jfrantze 09/16/2009	_____	sbasford 09/16/2009	lparisi 09/16/2009	

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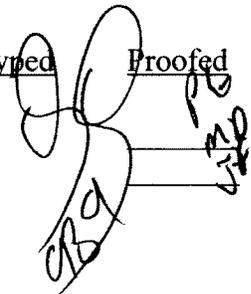
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FE Sent For:

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Malaise, Gordon

From: Kahn, Carrie
Sent: Tuesday, June 02, 2009 10:32 AM
To: Malaise, Gordon
Subject: FW: Federal Compliance Legislation Memo

Attachments: Proposal Summary FederalChanges 4-14-09.doc

Gordon,

Below is a document that details statutory changes to help the state come into federal compliance in several areas. This should be one bill.

Again, if you require more detail or information, we can be in touch with DCF staff.

Thanks,

Carrie Kahn
Legislative Assistant
State Senator Bob Jauch
P.O. Box 7882
Madison, WI 53707-7882

608-266-3510
1-800-469-6562

From: Collins, Kimmie L - DCF [<mailto:Kimmie.Collins@wisconsin.gov>]
Sent: Thursday, April 16, 2009 2:35 PM
To: Kahn, Carrie
Subject: FW: Federal Compliance Legislation Memo



Proposal Summary
FederalChange...

I guess the attachment would be helpful....here you go

Kimmie Collins
Legislative Liaison
Department of Children and Families
201 East Washington Ave., G220
Madison, WI 53708
608-266-8692-phone
608-219-1048-cell phone
kimmie.collins@wisconsin.gov

From: Collins, Kimmie L - DCF
Sent: Thursday, April 16, 2009 2:30 PM
To: Kahn, Carrie - LEGIS
Subject: Federal Compliance Legislation Memo

Carrie,

Attached is a memo regarding our federal compliance legislation. It has anyone who we guess could support or

oppose the legislation and why. Please let me know if you have any questions and when we can get started on drafting this stuff! Thanks

Kimie Collins

Legislative Liaison

Department of Children and Families

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608-266-8692-phone

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**Department of Children and Families
Division of Safety and Permanence**

**Proposal Topic:
Federal Compliance Legislation**

Current Problem:

DCF is out of compliance with recent federal law amendments and as a result could lose federal funding without statutory changes.

Proposals (divided by governing federal law):

1. Fostering Connections Act:

- a. Require notice to certain adult relatives and others to inform those individuals when a child is removed from the parental home and provide information on how they may support the child or provide care. This will also necessitate changes in confidentiality laws to authorize the release of the information to these relatives. Statutes already require consideration of relatives for placement so this will support that effort.
- b. Require reasonable efforts to place siblings together, or if siblings are not placed together to provide frequent visitation or other interaction. Current law has requirements to consider sibling placements; this will also require reasonable efforts to make those placements.
- c. Require that during the 90 day period immediately prior to a child aging out of foster care that a caseworker must provide the child with assistance and support in developing a transition plan which includes plans for housing, education, health care, and work force supports. Current policy already requires that a similar plan be developed during the 6 months before a child ages out of foster care.

Affected Groups:

- Relatives of children placed in out-of-home care will support this bill because they will be contacted earlier in the process regarding minor family members who are placed in out-of-home care as well as provided information about the benefits of becoming a foster parent for their relative.
- State Bar: Children and the Law Section: May support the improvements for children, but have concerns about parents' privacy
- Child advocacy groups (Kids Matter and others) will support increased efforts to maintain sibling connections when it is safe and appropriate, and support better access to information about becoming a provider
- The Youth Advisory Council will support increased efforts to maintain sibling connections when it is safe and appropriate
- Out-of-home care providers: would support the bill because it would provide better access to information about becoming a provider
- County staff: will express concerns about the impact on staff resources and the ability to locate adult relatives
- Judges and other court staff: may express concerns about more court time spent on cases, but would probably support efforts to better support children
- Parents whose children enter out-of-home care may object to having their relatives notified regarding involvement with the child welfare system, which is a very personal situation

2. Safe and Timely Placement Interstate Act:

- a. Require that out of state placements be considered when appropriate at placement, during permanency hearings and when engaging in concurrent planning.

- b. Require that foster parents receive notice of all substantive hearings involving their foster child and that they have a “right to be heard” at those hearing rather than an “opportunity to be heard” as provided currently under Wisconsin law (this change will not have a substantive effect on practice but is necessary to meet federal requirements).
- c. In ICPC cases:
 - Require courts to cooperate with courts in other states in the sharing of information.
 - Expressly authorize courts to obtain information and testimony from agencies and parties in other states without requiring interstate travel by the agencies and parties.
 - Expressly permit courts to allow the participation of parents, children, attorneys and other necessary parties in cases involving interstate placement without requiring their interstate travel.

Affected Groups:

- State Bar monitors legislation and may have an interest, but we do not know if they will have specific concerns about these provisions
- Foster Parent Association: Out-of-home care providers will support language giving them the right to be heard in court regarding the children they are caring for day in and day out.
- County staff: may express concerns about the impact on staff resources.
- Judges and other court staff may express concerns regarding additional requirements to involve out-of-home caregivers, and making it clear that the right to be heard does not necessarily mean the right to speak in court.

3. Child and Family Services Improvement Act of 2006:

- a. Require that at the permanency plan hearing or review, courts or review panels consult with children in an age appropriate manner about their permanency plan and if the child is over age 15 and has an independent living plan, about the independent living plan.

Affected Groups:

- Judges and court commissioners would be minimally affected and probably support this change
- Youth Advisory Council representing children in out-of-home care will support a more active role in the court and permanency planning process
- County staff may have concerns about workload
- Out-of-home care providers would support this change

4. Title IVE requirements:

- a. Clarify that circuit court commissioners may conduct permanency plan hearings. As a result of the enactment of 2001 Wisconsin Act 61, the duties of circuit court commissioners, which had been embedded in various chapters pertaining to the substantive subject of their judicial duties, were consolidated into Chapter 757 of the Wisconsin statutes. Prior to the Act, circuit court commissioners in several judicial districts were conducting permanency plan hearings, at the direction of the district’s chief judge. Subsequent to the enactment of Act 61, the practice of assigning circuit court commissioners responsibility for permanency plan hearings continues in several judicial districts even though it is not expressly permitted in statutes.
- b. Allow amendment or revision of the original TPC order to support compliance with required IVE judicial findings.
- c. Remove any time spent in a non-title IVE facility from the 15 of 22 months TPR calculation which requires the agency to consider a termination of parental rights at that point, consistent with federal interpretations.

- d. Revise the requirement that a court make reasonable efforts to achieve the goals of the permanency plan finding if the disposition hearing occurs before the 60 day deadline for a permanency plan because until a permanency plan is completed there is no permanence goal.
- e. Correct drafting error in s. 48.315(2m)(b) so that a court is required to make timely IVE judicial findings if a request to delay proceedings is made.
- f. Amend s. 48.245(2)(b), to clarify that the word “residential” refers to all out of home placements.

Affected Groups:

- Judges, court commissioners, other court staff would be minimally affected, but would probably not oppose the changes because they are required by federal law; they might also raise concerns if the provision in (e) would result in an additional hearing
- BMCW and counties would be affected, but would probably not voice any opposition
- Child advocacy groups might oppose the revision outlined in (d)

5. Child Abuse Protection and Treatment Act (CAPTA):

- a. Change provisions on drug affected infants to conform to CAPTA requirements that health care providers notify CPS of an infant affected by substance abuse. Current state statutes require health care providers to make a report to human or social services agencies, but not necessarily to CPS.

Affected Groups:

- Health care providers – they may oppose legislation because they would prefer to make a referral for services rather than a CPS report; We are working with DHS and stakeholders on these issues
 - County child welfare staff would be affected but we do not anticipate them raising objections
- b. Add a requirement that unsubstantiated or false cases must be expunged for purposes of employment background checks to meet the CAPTA requirement.

Affected Groups:

- County staff will have concerns about the substantiation appeals process and workload issues
- DCF eWiSACWIS staff will need be involved in any changes needed to eWiSACWIS for implementation

6. Federal Licensing Law:

Current state statutes do not specifically allow for the release of CPS information to private in-state or out-of-state agencies licensing foster homes or adoptive homes. These background checks are required by federal law for licensing purposes.

- a. Amend Chapter 48 to clarify that CPS information may be given to private agencies licensing homes for foster homes, and domestic or international adoptive homes. Federal policy would support this change.

Affected Groups:

- Private child placing agencies will support this change so that they do not have difficulties gathering this required information from county and BMCW staff
- County staff will have concerns about workload

Agency Contact:

Julie Bachir, DSP Policy and Legislative Advisor, 7-2073, julie.bachir@wi.gov