

MEMORANDUM

TO: Honorable Members of the Legislative Council Special Committee on State-Tribal Relations

FROM: Sarah Diedrick-Kasdorf, Deputy Director of Government Affairs

DATE: August 1, 2016

SUBJECT: Opposition to LRB-2058/P5 – Safe Haven Law and Indian Child Welfare Act

After consulting with county child welfare professionals, the Wisconsin Counties Association (WCA) wishes to raise concerns with LRB-2058/P5 relating to the collection and sharing of information regarding an Indian child relinquished under the Safe Haven law and restoration of physical custody of an Indian child less than 11 days of age to a parent.

It is the role of county child welfare workers to first and foremost ensure the safety of all children in this state. After reviewing the bill draft, counties have raised concern that soliciting information from a mother at the time of relinquishment could result in enough discomfort to the point a mother decides to forego a hospital birth, placing both the mother and child in danger.

More specifically, counties have raised concern with the language contained in Section 6 and Section 11 of the bill draft relating to the restoration of an Indian child to parental custody. The language states that a county department or the Department of Children and Families:

... shall restore physical custody of the child to the biological parent without conditions or further proceedings if the biological parent provides evidence to the satisfaction of the county department or department that all of the following apply:

- 1. The person is the child's biological parent.*
- 2. The child is an Indian child.*
- 3. The child has not attained the age of 11 days.*

Counties are concerned that the bill does not more clearly define satisfactory evidence. Absent genetic testing, it may be difficult for a county worker, in good conscience, to

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turn over an infant to an individual indicating he/she is the parent. It becomes even more difficult if a non-Indian mother relinquishes her child and an Indian father approaches the county for physical custody, especially if the mother is unknown (Safe Haven) or refuses to indicate whom the father of her child may be.

Additionally, counties would feel more comfortable if the statutory language required a home visit to ensure a safe environment for the child before turning over physical custody to a parent. In most, if not all, Safe Haven cases, parents and children would likely benefit from the vast array of services available through child welfare agencies, whether offered by the county or a tribal agency.

Thank you for considering our comments.

Safe Haven LRB-2058/P5 Amendment

Page 6, delete lines 24-25 and replace it with: Play an electronic recording that explains par. (a) 5. to the parent who relinquishes custody of the child. If the entity receiving the child does not have an electronic device the explanation shall be read aloud.

Explanation – The original language requires that the person, most likely a hospital social worker, that is discussing the Safe Haven option with a parent read aloud a statement developed by DCF with consultation with tribes that describes the importance of an Indian child being raised by the parent's tribe. The amendment replaces the required reading of a statement with playing an electronic recording (like a YouTube video) of the message. If the entity receiving the child from the parent does not have available an electronic recording device they would then be required to read a statement.

QUESTIONS ABOUT YOU AND THE INFANT

You do not have to complete this form or share any information with the person who accepted the infant.

We ask that you fill out this form to help us give the infant the best possible care now and in the future. However, if any of the situations listed below are true, you no longer have the right to keep your information private.

1. The infant has been harmed, or
2. You are being forced by someone to give up the infant, or
3. The infant is more than 72 hours old.

Please answer these questions as best you can and mail the form to the Bureau of Milwaukee Child Welfare in Milwaukee, or to the County Department of Human or Social Services in the county in which the infant was relinquished.

The infant was born on _____ / _____ / _____
(month) (day) (year)

The infant was born at about _____ in the morning in the afternoon at night.
(time)

The infant was born in _____, _____
(city) (state)

The infant is entirely or partly: (Check all that apply.)

- White
- Black or African-American
- American Indian or Alaska Native

What is the tribal affiliation? _____

- Asian
- Native Hawaiian or other Pacific Islander
- Other race - Specify: _____

Yes No Were there any problems with the pregnancy or delivery? If "Yes" what were the problems?

Please provide any information about the infant's family's social and health histories that would be helpful to the future care of the infant. (For example, is there a history of heart disease, diabetes, asthma, allergies or seizures; did the mother use alcohol or other drugs during the pregnancy, etc.?) The information provided need not identify the parents of the child.