

1999 DRAFTING REQUEST

Bill

Received: **09/9/98**

Received By: **malaigm**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-2288**

By/Representing: **Fossum**

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

Drafter: **malaigm**

May Contact:

Alt. Drafters:

Subject: **Children - abuse and neglect**

Extra Copies: **DHFS**

Topic:

DOA:.....Fossum - Public disclosure of abuse and neglect information

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>
/1	malaigm 09/28/98	gilfokm 09/29/98	lpaasch 09/30/98	_____	lrb_docadmin 09/30/98		
/2	malaigm 11/20/98	gilfokm 11/20/98	jfrantze 11/20/98	_____	lrb_docadmin 11/20/98		
/3	malaigm 12/22/98	gilfokm 12/22/98	martykr 12/23/98	_____	lrb_docadmin 12/23/98		

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: 09/9/98

Received By: malaigm

Wanted: As time permits

Identical to LRB:

For: Administration-Budget 6-2288

By/Representing: Fossum

This file may be shown to any legislator: NO

Drafter: malaigm

May Contact:

Alt. Drafters:

Subject: Children - abuse and neglect

Extra Copies: DHFS

Topic:

DOA:.....Fossum - Public disclosure of abuse and neglect information

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>
/1	malaigm 09/28/98	gilfokm 09/29/98	lpaasch 09/30/98	_____	lrh_docadmin 09/30/98		
FE Sent For:		12-11-20 KMG	J 11/20	Jb/lp 11/20			

<END>

1999 DRAFTING REQUEST

Bill

Received: 09/9/98

Received By: malaigm

Wanted: As time permits

Identical to LRB:

For: Administration-Budget 6-2288

By/Representing: Fossum

This file may be shown to any legislator: NO

Drafter: malaigm

May Contact:

Alt. Drafters:

Subject: Children - abuse and neglect

Extra Copies: DHFS

Topic:

DOA:.....Fossum - Public disclosure of abuse and neglect information

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>
1?	malaigm	1-9-29 Kmg	9-30 LP.	9-30 LP. JP			

FE Sent For:

<END>

Title: Public Disclosure of Abuse and Neglect Information

Current Language

Section 48.981(7) relates to the sharing of information from reports and records of child protective services. A number of agencies and individuals are currently allowed such access for specifically identified purposes.

Proposed Change

Pursuant to the reauthorization of the federal Child Abuse Prevention and Treatment Act (CAPTA), each state must provide assurances to the federal government that it has in effect a state law which provides for the "...public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality." The Governor has provided the assurance that this requirement will be in place by June 30, 1999. It is proposed that section 48.981(7)(b) be amended to state, in cases of the death or near death of a child caused by abuse or neglect that a county agency or, in a county having a population of 500,000 or more, the Department, may disclose to the media or the general public certain information from its records, pursuant to policies established by the Department.

Effect of the Change

This change will allow the public disclosure of certain information in cases of the death or near death of a child caused by abuse or neglect.

Rationale for the Change

This will allow Wisconsin to come into compliance with federal requirements. The state risks loss of federal CAPTA funds if it does not comply with the federal CAPTA provisions within the required timeframes.

Desired Effective Date: Passage of Budget Bill
Agency: DHFS
Agency Contact: Sherwood Seigel
Phone: 267-7805

neglected child and of any other child under the same care who may also be in danger of abuse or neglect and ensuring their placement in a safe environment;

"(iv) provisions for immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect;

"(v) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including requirements ensuring that reports and records made and maintained pursuant to the purposes of this Act shall only be made available to--

"(I) individuals who are the subject of the report;

"(II) Federal, State, or local government entities, or any agent of such entities, having a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;

"(III) child abuse citizen review panels;

"(IV) child fatality review panels;

"(V) a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and

"(VI) other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose;

"(vi) provisions which allow for public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality;

"(vii) the cooperation of State law enforcement officials, court of competent jurisdiction, and appropriate State agencies providing human services in the investigation, assessment, prosecution, and treatment of child abuse or neglect;

"(viii) provisions requiring, and procedures in place that facilitate the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false, except that nothing in this section shall prevent State child protective services agencies from keeping information on unsubstantiated reports in their case-work files to assist in future risk and safety assessment;

"(ix) provisions and procedures requiring that in every case involving an abused or neglected child which results in a judicial proceeding, a guardian ad litem, who may be an attorney or a court appointed special advocate (or both), shall be appointed to represent the child in such proceedings--

"(I) to obtain first-hand, a clear understanding of the situation and needs of the child; and



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0088/1

...GMM: King

D.N. 6
Soon

DOA:.....Fossum – Public disclosure of abuse and neglect information
FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT <sup>Don't
Gen Cat</sup> relating to: the budget.

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, an agency responsible for investigating reports of suspected or threatened child abuse or neglect (usually the county department of human services or social services, but in some cases the department of family services (DHFS) or a child welfare agency) must keep its records confidential and may disclose those records only under certain exceptions. This bill permits such an agency, subject to policies established by DHFS, to disclose to the news media and the general public information from ~~the~~ records in cases in which a child died or was placed in serious or critical condition as a result of abuse or neglect.

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

2 SECTION 1. 48.981 (7) (cm) of the statutes is amended to read:

3 48.981 (7) (cm) ~~An~~ Notwithstanding par. (a), an agency may disclose
4 information from its records for use in proceedings under s. 48.25 (6), 813.122 or
5 813.125.

health and

the agency's

1 SECTION 2. 48.981 (7) (d) of the statutes is amended to read:

2 48.981 (7) (d) The Notwithstanding par. (a), the department may have access
3 to any report or record maintained by an agency under this section.

4 SECTION 3. 48.981 (7) (dm) of the statutes is created to read: ^{ca}

5 48.981 (7) (dm) Notwithstanding par. (a), an agency may, subject to policies
6 established by the department, disclose to the news media and the general public
7 information from ~~the~~ ^{the agency's} records concerning a case in which ~~the~~ child died or was placed
8 in serious or critical condition, as certified by a physician, as a result of abuse or
9 neglect. An agency may not disclose under this paragraph any information that
10 would identify a reporter. Any person who receives any information under this
11 paragraph may disclose that information to anyone.

12 (END)

DNote

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0088/1dn

GMM.....
mg

✓ I note from your instructions that the Governor has provided assurances that the public disclosure of fatal and near fatal abuse and neglect cases requirement will be in place by June 30, 1999. That date might be slightly problematical in that the budget is not usually signed by the Governor until sometime in August. If the June 30 date is essential, we can provide for a retroactive effective date, but that would create a practical problem in that an agency might disclose the information on June 30 in anticipation of final passage of the budget only to have the provision yanked at the last minute. Accordingly, I would hope that the Feds would grant a few weeks' grace period in meeting this requirement.

✓ Note that this draft, in addition to creating the fatal and near fatal child abuse or neglect disclosure option, also supplies "notwithstandings" for s. 48.981 (7) (cm) and (d) ✓ and that the draft includes standard language prohibiting the disclosure of information that would identify the reporter. Finally, note that the draft permits the media and members of the general public who receive information about a fatal or near fatal case of child abuse or neglect to further disclose the information anyone. That provision was added to avoid a conflict with s. 48.981 (7) (e) ✓, which prohibits further disclosure except as permitted in s. 48.981. ✓

Gordon M. Malaise
Senior Legislative Attorney
266-9738

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0088/1dn
GMM:kmg:lp

September 30, 1998

I note from your instructions that the Governor has provided assurances that the public disclosure of fatal and near fatal abuse and neglect cases requirement will be in place by June 30, 1999. That date might be slightly problematical in that the budget is not usually signed by the Governor until sometime in August. If the June 30 date is essential, we can provide for a retroactive effective date, but that would create a practical problem in that an agency might disclose the information on June 30 in anticipation of final passage of the budget only to have the provision yanked at the last minute. Accordingly, I would hope that the Feds would grant a few weeks' grace period in meeting this requirement.

Note that this draft, in addition to creating the fatal and near fatal child abuse or neglect disclosure option, also supplies "notwithstanding" for s. 48.981 (7) (cm) and (d) and that the draft includes standard language prohibiting the disclosure of information that would identify the reporter. Finally, note that the draft permits the media and members of the general public who receive information about a fatal or near fatal case of child abuse or neglect to further disclose the information anyone. That provision was added to avoid a conflict with s. 48.981 (7) (e), which prohibits further disclosure except as permitted in s. 48.981.

Gordon M. Malaise
Senior Legislative Attorney
266-9738



State of Wisconsin
1999 - 2000 LEGISLATURE

RMR
LRB-00884
GMM:kmg:lp

Soon
DRAFT

DOA:.....Fossum - Public disclosure of abuse and neglect information
FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

1

*Don't
con't*
AN ACT relating to: the budget.

Such limitations as
May prescribe

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES
CHILDREN

Under current law, an agency responsible for investigating reports of suspected or threatened child abuse or neglect (usually the county department of human services or social services, but in some cases the department of health and family services (DHFS) or a child welfare agency) must keep its records confidential and may disclose those records only under certain exceptions. This bill permits such an agency, subject to ~~policies established by DHFS,~~ to disclose to the news media and the general public information from the agency's records in cases in which a child died or was placed in serious or critical condition as a result of abuse or neglect.

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

2

SECTION 1. 48.981 (7) (cm) of the statutes is amended to read:

3

48.981 (7) (cm) ~~An~~ Notwithstanding par. (a), an agency may disclose

4

information from its records for use in proceedings under s. 48.25 (6), 813.122 or

5

813.125.

such limitations as

may prescribe

1
2
3
4
5
6
7
8
9
10
11
12

SECTION 2. 48.981 (7) (d) of the statutes is amended to read:

48.981 (7) (d) The Notwithstanding par. (a), the department may have access to any report or record maintained by an agency under this section.

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

48.981 (7) (dm) Notwithstanding par. (a), an agency may, subject to ~~police~~
~~established by~~ the department, disclose to the news media and the general public information from the agency's records concerning a case in which a child died or was placed in serious or critical condition, as certified by a physician, as a result of abuse or neglect. An agency may not disclose under this paragraph any information that would identify a reporter. Any person who receives any information under this paragraph may disclose that information to anyone.

(END)

DNste

Based on the advice of Attorneys Peter J. Dykman and Jeffrey T. Kuesel, this redraft changes the "subject to" phrase, at page 2, lines 5 and 6, of the draft from "subject to policies established by the department" to "subject to such limitations as the department may prescribe". In the alternative, you might wish to require the department to promulgate formal rules governing the disclosure of fatalities and near fatalities to the media.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0088/2dn
GMM:kmg:jf

November 20, 1998

Based on the advice of Attorneys Peter J. Dykman and Jeffrey T. Kuesel, this redraft changes the "subject to" phrase, at page 2, lines 5 and 6, of the draft from "subject to policies established by the department" to "subject to such limitations as the department may prescribe". In the alternative, you might wish to require the department to promulgate formal rules governing the disclosure of fatalities and near fatalities to the media.

Gordon M. Malaise
Senior Legislative Attorney
266-9738



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0088/4

GMM:kmg:jf

3

RMR

500

DOA:.....Fossum – Public disclosure of abuse and neglect information
FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

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

Don't
Gen. Cat

standards established by

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, an agency responsible for investigating reports of suspected or threatened child abuse or neglect (usually the county department of human services or social services, but in some cases the department of health and family services (DHFS) or a child welfare agency) must keep its records confidential and may disclose those records only under certain exceptions. This bill permits such an agency, subject to such limitations as DHFS may prescribe, to disclose to the news media and the general public information from the agency's records in cases in which a child died or was placed in serious or critical condition as a result of abuse or neglect.

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

2 SECTION 1. 48.981 (7) (cm) of the statutes is amended to read:

standards established by the

1 48.981 (7) (cm) ~~An~~ Notwithstanding par. (a), an agency may disclose
2 information from its records for use in proceedings under s. 48.25 (6), 813.122 or
3 813.125.

4 **SECTION 2.** 48.981 (7) (d) of the statutes is amended to read:

5 48.981 (7) (d) ~~The~~ Notwithstanding par. (a), the department may have access
6 to any report or record maintained by an agency under this section.

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

8 48.981 (7) (dm) Notwithstanding par. (a), an agency may, subject to ~~such~~
9 ~~limitations as the department may prescribe,~~ disclose to the news media and the
10 general public information from the agency's records concerning a case in which a
11 child died or was placed in serious or critical condition, as certified by a physician,
12 as a result of abuse or neglect. An agency may not disclose under this paragraph any
13 information that would identify a reporter. Any person who receives any information
14 under this paragraph may disclose that information to anyone.

15

(END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0088/3
GMM:kmg:km

DOA:.....Fossum - Public disclosure of abuse and neglect information
FOR 1999-01 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, an agency responsible for investigating reports of suspected or threatened child abuse or neglect (usually the county department of human services or social services, but in some cases the department of health and family services (DHFS) or a child welfare agency) must keep its records confidential and may disclose those records only under certain exceptions. This bill permits such an agency, subject to standards established by DHFS, to disclose to the news media and the general public information from the agency's records in cases in which a child died or was placed in serious or critical condition as a result of abuse or neglect.

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

2 SECTION 1. 48.981 (7) (cm) of the statutes is amended to read:

3 48.981 (7) (cm) ~~An~~ Notwithstanding par. (a), an agency may disclose
4 information from its records for use in proceedings under s. 48.25 (6), 813.122 or
5 813.125.

1 **SECTION 2.** 48.981 (7) (d) of the statutes is amended to read:

2 48.981 (7) (d) ~~The Notwithstanding par. (a), the~~ department may have access
3 to any report or record maintained by an agency under this section.

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

5 48.981 (7) (dm) Notwithstanding par. (a), an agency may, subject to standards
6 established by the department, disclose to the news media and the general public
7 information from the agency's records concerning a case in which a child died or was
8 placed in serious or critical condition, as certified by a physician, as a result of abuse
9 or neglect. An agency may not disclose under this paragraph any information that
10 would identify a reporter. Any person who receives any information under this
11 paragraph may disclose that information to anyone.

12

(END)