

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 - Child abuse citizen review panels

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 09/29/98	gilfokm 09/29/98	lpaasch 09/30/98	_____	lrb_docadmin 09/30/98		State
/2	malaigm 11/20/98	gilfokm 11/20/98	lpaasch 11/23/98	_____	gretskl 11/23/98		State
/3	malaigm 12/23/98	gilfokm 12/23/98	ismith 12/28/98	_____	lrb_docadmin 12/28/98		State
/4	malaigm 01/19/99	gilfokm 01/19/99	lpaasch 01/19/99	_____	lrb_docadmin 01/19/99		State

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/3	malaigm 12/23/98	gilfokm 12/23/98	ismith 12/28/98	_____	lrb_docadmin 12/28/98		State

FE Sent For: *14-1-19-99 kmg* *1/19 LT* *1/19 LP pgt*
<END>

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/2	malaigm 11/20/98	gilfokm 11/20/98	lpaasch 11/23/98	_____	gretskl 11/23/98		State

FE Sent For: *13-12-23 kmj*

<END>

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/1	malaigm 09/29/98	gilfokm 09/29/98	lpaasch 09/30/98	_____	lrb_docadmin 09/30/98		State
FE Sent For:		12-11-20 kmg	11/23 LP	11/23 LP km <END>			

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1?	malaigm	1-9-29 kmg	9-30-P.	9-30-L.P. JK			

FE Sent For:

<END>

DHFS

Department of Health and Family Services 1999-2001 Biennial Budget Statutory Language Request

Title: Child Abuse Citizen Review Panels

Current Language

Section 48.981(7) relates to the sharing of information from reports and records concerning abused or neglected children. 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 have citizen review panels with certain prescribed responsibilities. Among these responsibilities is evaluating the extent to which the Department is effectively fulfilling its child protection responsibilities in accordance with the CAPTA state plan. The panels would also review the extent to which the child protective services system is coordinated with the foster care and adoption programs and would also review child fatalities and near fatalities. CAPTA requires the state to provide the panel access to information on cases that the panel desires to review in order to carry out its functions. The proposal is to authorize the creation of not less than three panels, authorize the Department to appoint panel members, and add the panels to those parties currently identified in statute who are authorized access to records of child abuse and neglect. As described in the federal law, the panels should be composed of volunteer members who are broadly representative of the community in which the panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect.

Functions
furnish info

Composition

Effect of the Change

This will allow the sharing of child abuse and neglect case-specific information when required for the panel to fulfill its responsibilities.

Rationale for the Change

This will bring Wisconsin into compliance with federal requirements. DOA had raised the possibility of using an existing group to perform this function when the Department sought to have this statutory change included in the annual budget bill. It is not possible for another group, such as a child fatality panel, to perform this function. This panel currently has access

to child abuse and neglect records under s. 48.981. Based on the federal interpretation of CAPTA, states may designate child fatality panels or foster care review panels to serve as citizen review panels under CAPTA, so long as the panels perform all the functions required of citizen review panels. Since neither the child fatality panels nor foster care review panels are statewide, and since they are volunteer groups with neither the expertise nor interest in performing the functions of the citizen review panels, separate panels must be set up to perform these functions. The state risks loss of federal foster care and adoption CAPTA funds if it does not comply with the federal CAPTA provisions.

Desired Effective Date: Passage of the bill
Agency: DHFS
Agency Contact: Sherwood Seigel
Phone: 267-7805

“(8) developing, implementing, or operating—

“(A) information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for—

“(i) professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health-care facilities; and

“(ii) the parents of such infants; and

“(B) programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—

“(i) existing social and health services;

“(ii) financial assistance; and

“(iii) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption; or

“(9) developing and enhancing the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level.

“(b) ELIGIBILITY REQUIREMENTS.—

“(1) STATE PLAN.—

“(A) IN GENERAL.—To be eligible to receive a grant under this section, a State shall, at the time of the initial grant application and every 5 years thereafter, prepare and submit to the Secretary a State plan that specifies the areas of the child protective services system described in subsection (a) that the State intends to address with amounts received under the grant.

“(B) ADDITIONAL REQUIREMENT.—After the submission of the initial grant application under subparagraph (A), the State shall provide notice to the Secretary of any substantive changes to any State law relating to the prevention of child abuse and neglect that may affect the eligibility of the State under this section.

“(2) COORDINATION.—A State plan submitted under paragraph (1) shall, to the maximum extent practicable, be coordinated with the State plan under part B of title IV of the Social Security Act relating to child welfare services and family preservation and family support services, and shall contain an outline of the activities that the State intends to carry out using amounts received under the grant to achieve the purposes of this title, including—

“(A) an assurance in the form of a certification by the chief executive officer of the State that the State has in effect and is enforcing a State law, or has in effect and is operating a Statewide program, relating to child abuse and neglect that includes—

“(i) provisions or procedures for the reporting of known and suspected instances of child abuse and neglect;

“(ii) procedures for the immediate screening, safety assessment, and prompt investigation of such reports;

“(iii) procedures for immediate steps to be taken to ensure and protect the safety of the abused or

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

of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

"(iii) authority, under State law, for the State child protective services system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life threatening conditions;

"(C) a description of—

"(i) the services to be provided under the grant to individuals, families, or communities, either directly or through referrals aimed at preventing the occurrence of child abuse and neglect;

"(ii) the training to be provided under the grant to support direct line and supervisory personnel in report taking, screening, assessment, decision making, and referral for investigating suspected instances of child abuse and neglect; and

"(iii) the training to be provided under the grant for individuals who are required to report suspected cases of child abuse and neglect; and

"(D) an assurance or certification that the programs or projects relating to child abuse and neglect carried out under part B of title IV of the Social Security Act comply with the requirements set forth in paragraph (1) and this paragraph.

"(3) LIMITATION.—With regard to clauses (v) and (vi) of paragraph (2)(A), nothing in this section shall be construed as restricting the ability of a State to refuse to disclose identifying information concerning the individual initiating a report or complaint alleging suspected instances of child abuse or neglect, except that the State may not refuse such a disclosure where a court orders such disclosure after such court has reviewed, in camera, the record of the State related to the report or complaint and has found it has reason to believe that the reporter knowingly made a false report.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'near fatality' means an act that, as certified by a physician, places the child in serious or critical condition; and

"(B) the term 'serious bodily injury' means bodily injury which involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(c) CITIZEN REVIEW PANELS.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each State to which a grant is made under this section shall establish not less than 3 citizen review panels.

"(B) EXCEPTIONS.—

"(i) ESTABLISHMENT OF PANELS BY STATES RECEIVING MINIMUM ALLOTMENT.—A State that receives the minimum allotment of \$175,000 under section

203(b)(1)(A) for a fiscal year shall establish not less than 1 citizen review panel.

"(ii) DESIGNATION OF EXISTING ENTITIES.—A State may designate as panels for purposes of this subsection one or more existing entities established under State or Federal law, such as child fatality panels or foster care review panels, if such entities have the capacity to satisfy the requirements of paragraph (4) and the State ensures that such entities will satisfy such requirements.

~~(2)~~ MEMBERSHIP.—Each panel established pursuant to paragraph (1) shall be composed of volunteer members who are broadly representative of the community in which such panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect.

"(3) MEETINGS.—Each panel established pursuant to paragraph (1) shall meet not less than once every 3 months.

~~(4)~~ FUNCTIONS.—

"(A) IN GENERAL.—Each panel established pursuant to paragraph (1) shall, by examining the policies and procedures of State and local agencies and where appropriate, specific cases, evaluate the extent to which the agencies are effectively discharging their child protection responsibilities in accordance with—

- ~~(i)~~ the State plan under subsection (b);
- ~~(ii)~~ the child protection standards set forth in subsection (b); and
- ~~(iii)~~ any other criteria that the panel considers important to ensure the protection of children, including—

~~(i)~~ a review of the extent to which the State child protective services system is coordinated with the foster care and adoption programs established under part E of title IV of the Social Security Act; and

~~(ii)~~ a review of child fatalities and near fatalities (as defined in subsection (b)(4)).

"(B) CONFIDENTIALITY.—

"(i) IN GENERAL.—The members and staff of a panel established under paragraph (1)—

"(I) shall not disclose to any person or government official any identifying information about any specific child protection case with respect to which the panel is provided information; and

"(II) shall not make public other information unless authorized by State statute.

"(ii) CIVIL SANCTIONS.—Each State that establishes a panel pursuant to paragraph (1) shall establish civil sanctions for a violation of clause (i).

~~(5)~~ STATE ASSISTANCE.—Each State that establishes a panel pursuant to paragraph (1)—

~~(A)~~ shall provide the panel access to information on cases that the panel desires to review if such information is necessary for the panel to carry out its functions under paragraph (4); and

~~(B)~~ shall provide the panel, upon its request, staff assistance for the performance of the duties of the panel.

*LE-E
= 42 USC
670 to 679*

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"(6) REPORTS.—Each panel established under paragraph (1) shall prepare and make available to the public, on an annual basis, a report containing a summary of the activities of the panel.

"(d) ANNUAL STATE DATA REPORTS.—Each State to which a grant is made under this section shall annually work with the Secretary to provide, to the maximum extent practicable, a report that includes the following:

"(1) The number of children who were reported to the State during the year as abused or neglected.

"(2) Of the number of children described in paragraph (1), the number with respect to whom such reports were—

"(A) substantiated;

"(B) unsubstantiated; or

"(C) determined to be false.

"(3) Of the number of children described in paragraph (2)—

"(A) the number that did not receive services during the year under the State program funded under this section or an equivalent State program;

"(B) the number that received services during the year under the State program funded under this section or an equivalent State program; and

"(C) the number that were removed from their families during the year by disposition of the case.

"(4) The number of families that received preventive services from the State during the year.

"(5) The number of deaths in the State during the year resulting from child abuse or neglect.

"(6) Of the number of children described in paragraph (5), the number of such children who were in foster care.

"(7) The number of child protective services workers responsible for the intake and screening of reports filed in the previous year.

"(8) The agency response time with respect to each such report with respect to initial investigation of reports of child abuse or neglect.

"(9) The response time with respect to the provision of services to families and children where an allegation of abuse or neglect has been made.

"(10) The number of child protective services workers responsible for intake, assessment, and investigation of child abuse and neglect reports relative to the number of reports investigated in the previous year.

"(11) The number of children reunited with their families or receiving family preservation services that, within five years, result in subsequent substantiated reports of child abuse and neglect, including the death of the child.

"(12) The number of children for whom individuals were appointed by the court to represent the best interests of such children and the average number of out of court contacts between such individuals and children.

"(e) ANNUAL REPORT BY THE SECRETARY.—Within 6 months after receiving the State reports under subsection (d), the Secretary shall prepare a report based on information provided by the States for the fiscal year under such subsection and shall make the report



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0090/1

✓...GMM:.....
KMG

5200

DOA:.....Fossum – Child abuse citizen review panels

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ^{Don't Gen. Cat.} relating to: the budget.

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES

CHILDREN

Under current federal law, each state that receives a grant under the federal Child Abuse Prevention and Treatment Act (CAPTA) must establish not less than three citizen review panels to evaluate the extent to which local agencies responsible for providing child protective services are effectively discharging their responsibilities. This bill brings this state into compliance with the citizen review panel requirement of CAPTA by directing the department of health and family services (DHFS) to establish not less than three citizen review panels. Under the bill, each panel must evaluate the extent to which the agencies responsible for investigating and treating child abuse and neglect (usually the county department of human services or social services, but in some cases DHFS or a child welfare agency) in the area served by the panel are effectively discharging their child protection responsibilities in accordance with the state plan submitted under CAPTA, the child protection standards specified in CAPTA and any other criteria that the panel considers important in ensuring the protection of children. The bill also requires each panel to review the extent to which the child protective services system in the area served by the panel is coordinated with the foster care and adoption programs in the area and to review any cases of child abuse or neglect in the area that resulted in the death of a child or in a child being placed in serious or

assistance

critical condition. Finally, the bill permits a panel to have access to confidential child abuse and neglect records as necessary for the panel to carry out its functions.

For further information see the *state* 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 (7) (a) 18. of the statutes is created to read:

2 48.981 (7) (a) 18. A citizen review panel under sub. (11) if the panel determines
3 that access to specified records is necessary for the panel to carry out its functions
4 under sub. (11) (b).

5 SECTION 2. 48.981 (11) of the statutes is created to read:

6 48.981 (11) CITIZEN REVIEW PANELS. (a) *Establishment.* The department shall
7 establish not less than 3 citizen review panels consisting of volunteer members
8 appointed by the department who are broadly representative of the communities in
9 which the panels are established, including members who have expertise in the
10 prevention and treatment of child abuse and neglect.

11 (b) *Functions.* Each panel shall evaluate the extent to which the agencies
12 responsible for child protection in the area served by the panel are effectively
13 discharging their child protection responsibilities in accordance with the state plan
14 submitted to the federal secretary of health and human services under 42 USC
15 5106a^A(b), the child protection standards specified in 42 USC 5106a^A(b) and any other
16 criteria that the panel considers important in ensuring the protection of children.
17 Each panel shall also review all of the following:

18 1. The extent to which the child protective services systems in the area served
19 by the panel are coordinated with the foster care and adoption programs funded
20 under 42 USC 670 to 679a in that area.

1 2. Any cases of child abuse or neglect in the area served by the panel that
2 resulted in the death of a child or in a child being placed in serious or critical
3 condition, as certified by a physician.

4 (c) *Assistance.* On the request of a panel, the department shall provide the
5 panel with staff assistance to assist the panel in performing its functions under par.

6 (b).

7 (d) *Meetings and reports.* Each panel shall meet not less than once every 3
8 months and shall prepare and submit a report of its activities to the department
9 annually.

10

(END)



State of Wisconsin
1999 - 2000 LEGISLATURE

RMR

LRB-0090

GMM:kmg:lp

Note

5-20-00

DOA:.....Fossum - Child abuse citizen review panels

FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

1

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

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Secretary

5 **SECTION 2.** 48.981 (11) of the statutes is created to read:

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10 prevention and treatment of child abuse and neglect.

11 (b) *Functions.* Each panel shall evaluate the extent to which the agencies
12 responsible for child protection in the area served by the panel are effectively
13 discharging their child protection responsibilities in accordance with the state plan
14 submitted to the federal secretary of health and human services under 42 USC 5106a
15 (b), the child protection standards specified in 42 USC 5106a (b) and any other
16 criteria that the panel considers important in ensuring the protection of children.
17 Each panel shall also review all of the following:

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

LRB-0090/2dn
GMM:kmg:lp

November 23, 1998

Based on the advice of Attorneys Peter J. Dykman and Jeffrey T. Kuesel, this redraft provides, at page 2, line 8, that the secretary of health and family services, rather than the department of health and family services, shall appoint the citizen review panel.

Gordon M. Malaise
Senior Legislative Attorney
266-9738



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0090/2

GMM:kmg:lp

3
RMR

500m

DOA:.....Fossum - Child abuse citizen review panels

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

1

*Don't
Gen. Cat.*
AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

child abuse and neglect

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Insert A

~~serious or critical condition. Finally, the bill permits a panel to have access to confidential child abuse and neglect records as necessary for the panel to carry out its functions.~~

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~~(b) *Functions.* Each panel shall evaluate the extent to which the agencies responsible for child protection in the area served by the panel are effectively discharging their child protection responsibilities in accordance with the state plan submitted to the federal secretary of health and human services under 42 USC 5106a (b), the child protection standards specified in 42 USC 5106a (b) and any other criteria that the panel considers important in ensuring the protection of children.~~

~~Each panel shall also review all of the following:~~

established by the department or a county department to evaluate the extent to which the [agencies responsible for child protection in the area served by the panel] are effectively discharging their child protection responsibilities,

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~~1. The extent to which the child protective services systems in the area served by the panel are coordinated with the foster care and adoption assistance programs funded under 42 USC 670 to 679a in that area.~~

~~2. Any cases of child abuse or neglect in the area served by the panel that resulted in the death of a child or in a child being placed in serious or critical condition, as certified by a physician.~~

~~(c) Assistance. On the request of a panel, the department shall provide the panel with staff assistance to assist the panel in performing its functions under paragraph (b).~~

~~(d) Meetings and reports. Each panel shall meet not less than once every 3 months and shall prepare and submit a report of its activities to the department annually.~~

13

(END)

SEC. CR- 48.981 (7)(a) 18.

48.981 (7)(a) 18. A child abuse and neglect citizen review panel established by the department or a county department if the panel determines that access to the records of an agency responsible for child protection in the area served by the panel is necessary for the panel to carry out its functions.

Insert A

and must ensure that otherwise confidential child abuse and neglect records are made available to those panels. This bill permits a child abuse ^{and neglect} citizen review panel established by the department of health and family services ^(DHFS) or a county department of human services or social services ^(county department) to have access to the otherwise confidential child abuse and neglect records ~~if the panel determines that access to the records~~ of an agency responsible for child protection in the area served by the panel as necessary for the panel to carry out its

Punctuations

(end of insert)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0090/8

GMM:kmg:ijs

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DOA:.....Fossum - Child abuse citizen review panels

FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

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Open Cal.*
AN ACT relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current federal law, each state that receives a grant under the federal Child Abuse Prevention and Treatment Act (CAPTA) must establish not less than three child abuse and neglect citizen review panels to evaluate the extent to which local agencies responsible for providing child protective services are effectively discharging their responsibilities and must ensure that otherwise confidential child abuse and neglect records are made available to those panels. This bill permits a child abuse and neglect citizen review panel established by the department of health and family services (DHFS) or a county department of human services or social services (county department) to have access to the otherwise confidential child abuse and neglect records of an agency responsible for child protection ~~in the area served by the panel~~ as necessary for the panel to carry out its functions.

For further information see the *state* 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:



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0090/4

GMM:kmg:lp

DOA:.....Fossum – Child abuse citizen review panels

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 federal law, each state that receives a grant under the federal Child Abuse Prevention and Treatment Act (CAPTA) must establish not less than three child abuse and neglect citizen review panels to evaluate the extent to which local agencies responsible for providing child protective services are effectively discharging their responsibilities and must ensure that otherwise confidential child abuse and neglect records are made available to those panels. This bill permits a child abuse and neglect citizen review panel established by the department of health and family services (DHFS) or a county department of human services or social services (county department) to have access to the otherwise confidential child abuse and neglect records of an agency responsible for child protection as necessary for the panel to carry out its functions.

For further information see the *state* 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 (7) (a) 18. of the statutes is created to read:
2 48.981 (7) (a) 18. A child abuse and neglect citizen review panel established by
3 the department or a county department if the panel determines that access to the
4 records of an agency responsible for child protection is necessary for the panel to
5 carry out its functions.

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(END)