BILL HISTORY FOR ASSEMBLY BILL 778 (LRB –2801)

An Act to amend 48.981 (3) (cm), 48.981 (7) (cm) and 48.981 (7) (d); and to create 48.981 (3) (c) 5m., 48.981 (7) (a) 15g. and 48.981 (7) (cr) of the statutes; relating to: appeals of substantiated child abuse or neglect findings, public disclosure of certain child abuse and neglect information when there is a child fatality or near fatality and access to child abuse and neglect information by a citizen review panel established or designated by the department of health and family services or a county department of human services or social services. (FE)

2000

02–22. A. Introduced by Representatives **Hundertmark, Spillner, Stone, Ladwig, Kelso, Owens, Musser, Pettis, Miller** and **Albers**; cosponsored by Senators **Robson, Welch, Huelsman, Wirch, Darling** and **Rosenzweig.**

02–22. A. Read first time and referred to committee on Children and Families 673

02–25. A. Assembly substitute amendment 1 offered by Representative Hundertmark **(LRB s0297)** 679

03–02. A. Public hearing held.

03–02. A. Executive action taken.

03–08. A. Report Assembly substitute amendment 1 adoption recommended by committee on Children and Families, Ayes 9, Noes 0 713

03–08. A. Report passage as amended recommended by committee on Children and Families, Ayes 8, Noes 1 713

03–08. A. Referred to committee on Rules 714

03–08. A. Fiscal estimate received.

03–15. A. Placed on calendar 3–21–2000 by committee on Rules.

03–21. A. Read a second time 788

03–21. A. Assembly substitute amendment 1 **adopted** 788

03–21. A. Ordered to a third reading 788

03–21. A. Rules suspended 788

03–21. A. Read a third time and **passed**, Ayes 99, Noes 0 788

03–21. A. Ordered immediately messaged 789

03–23. S. Received from Assembly 519

03–23. S. Read first time and referred to committee on Human Services and Aging 522

03–30. S. Rules suspended and taken up 572

03–30. S. Read a second time 572

03–30. S. Senate amendment 1 offered by Senator Robson **(LRB f114)** 572

03–30. S. Refused to table Senate amendment 1, Ayes 16, Noes 17 572

03–30. S. Placed after Senate Bill 456 on the calendar of 3–30–2000 572

03–30. S. Senate amendment 1 **adopted** 573

03–30. S. Ordered to a third reading 573

03–30. S. Rules suspended 573

03–30. S. Read a third time and **concurred in** as amended 573

03–30. S. Ordered immediately messaged 575

04–25. A. Received from Senate amended and concurred in as amended (Senate amendment 1 adopted) . 929

04–25. A. Referred to committee on Rules 929

04–25. A. Placed on calendar 5–2–2000 by committee on Rules.

05–02. A. Senate amendment 1 **concurred in.**

05–02. A. Action ordered immediately messaged.

1999
ENROLLED BILL

99en AB-728

ADOPTED DOCUMENTS:

☐ **Orig** ☐ **Engr** A **SubAmdt** 1 **99s** 0297/1

Amendments to above (if none, write "NONE"): SA1

Corrections – show date (if none, write "NONE"): none

Topic Child abuse and neglect information

5/5/00 Peter Dykman

Date **Enrolling Drafter**

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ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 778

February 25, 2000 – Offered by Representative HUNDERTMARK.

SA-1

AN ACT ***to amend*** 48.981 (3) (cm), 48.981 (7) (cm) and 48.981 (7) (d); and ***to create*** 48.981 (3) (c) 5m., 48.981 (7) (a) 15g. and 48.981 (7) (cr) of the statutes; **relating to:** appeals of substantiated child abuse or neglect findings, public disclosure of certain child abuse and neglect information when there is a child fatality or near fatality and access to child abuse and neglect information by a citizen review panel established or designated by the department of health and family services or a county department of human services or social services.

SA-1

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

SECTION 1. 48.981 (3) (c) 5m. of the statutes is created to read:

48.981 **(3)** (c) 5m. If the county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department determines under subd. 4. that a specific person has abused or neglected a child, the county department, department or licensed child welfare

2-5 SA1

agency, within 15 days after the date of the determination, shall notify the person in writing of the determination, the person's right to appeal the determination and the procedure by which the person may appeal the determination, and the person may appeal the determination in accordance with the procedures established by the department under this subdivision. The department shall establish procedures for conducting an appeal under this subdivision. Those procedures shall include a procedure permitting an appeal under this subdivision to be held in abeyance pending the outcome of any criminal proceedings or any proceedings under s. 48.13 based on the alleged abuse or neglect or the outcome of any investigation that may lead to the filing of a criminal complaint or a petition under s. 48.13 based on the alleged abuse or neglect. ~~Those procedures need not be promulgated as rules.~~ SA1

SECTION 2. 48.981 (3) (cm) of the statutes is amended to read:

48.981 **(3)** (cm) *Contract with licensed child welfare agencies.* A county department may contract with a licensed child welfare agency to fulfill the county department's duties specified under par. (c) 1., 2. b., 2m. b., 5., 6., 6m. and 8. The department may contract with a licensed child welfare agency to fulfill the department's duties specified under par. (c) 1., 2. a., 2m. b., 3., 4., 5., 5m., 6., 6m., 7., 8. and 9. in a county having a population of 500,000 or more. The confidentiality provisions specified in sub. (7) shall apply to any licensed child welfare agency with which a county department or the department contracts.

SECTION 3. 48.981 (7) (a) 15g. of the statutes is created to read:

48.981 **(7)** (a) 15g. A citizen review panel established or designated by the department or a county department.

SECTION 4. 48.981 (7) (cm) of the statutes is amended to read:

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

SECTION 5. 48.981 (7) (cr) of the statutes is created to read:

48.981 **(7)** (cr) 1. Notwithstanding par. (a) and subject to subd. 3., an agency may disclose to the general public a written summary of the information specified in subd. 2. relating to any child who has died or been placed in serious or critical condition, as determined by a physician, as a result of any suspected abuse or neglect that has been reported under this section if any of the following circumstances apply:

a. A person has been charged with a crime for causing the death or serious or critical condition of the child as a result of the suspected abuse or neglect, or the district attorney indicates that a person who is deceased would have been charged with a crime for causing the death or serious or critical condition of the child as a result of the suspected abuse or neglect, but for the fact that the person is deceased.

b. A judge, district attorney, law enforcement officer, law enforcement agency or any other officer or agency whose official duties include the investigation or prosecution of crime has previously disclosed to the public, in the performance of the official duties of the officer or agency, that the suspected abuse or neglect of the child has been investigated under sub. (3) or that child welfare services have been provided to the child or the child's family under this chapter.

c. A parent, guardian or legal custodian of the child or the child, if 14 years of age or over, has previously disclosed or authorized the disclosure of the information specified in subd. 2.

2. If an agency is permitted to disclose information under subd. 1. relating to a child who has died or been placed in serious or critical condition as a result of any

1 suspected abuse or neglect that has been reported under this section, the agency may
2 disclose all of the following information from its records:

3 a. A description of any investigation made by the agency in response to the
4 report of the suspected abuse or neglect, a statement of the determination made by
5 the agency under sub. (3) (c) 4. with respect to the report and the basis for that
6 determination, a statement of whether any services were offered or provided to the
7 child, the child's family or the person suspected of the abuse or neglect and a
8 statement of whether any other action was taken by the agency to protect the child
9 who is the subject of the report or any other child residing in the same dwelling as
10 the child who is the subject of the report.

11 b. Whether any previous report of suspected or threatened abuse or neglect of
12 the child has been made to the agency and the date of the report, a statement of the
13 determination made by the agency under sub. (3) (c) 4. with respect to the report and
14 the basis for that determination, a statement of whether any services were offered
15 or provided to the child, the child's family or the person suspected of the abuse or
16 neglect and a statement of whether any other action was taken by the agency to
17 protect the child who is the subject of the report or any other child residing in the
18 same dwelling as the child who is the subject of the report.

19 c. Whether the child or the child's family has received any services under this
20 chapter prior to the report of suspected abuse or neglect that caused the child's death
21 or serious or critical condition or any previous report of suspected or threatened
22 abuse or neglect.

23 3. An agency may not disclose any of the information described in subd. 2. if
24 any of the following applies:

1 a. The agency determines that disclosure of the information would be contrary
2 to the best interests of the child who is the subject of the report, the child's siblings
3 or any other child residing in the same dwelling as the child who is the subject of the
4 report or that disclosure of the information is likely to cause mental, emotional or
5 physical harm or danger to the child who is the subject of the report, the child's
6 siblings, any other child residing in the same dwelling as the child who is the subject
7 of the report or any other person.

8 b. The district attorney determines that disclosure of the information would
9 jeopardize any ongoing or future criminal investigation or prosecution or would
10 jeopardize a defendant's right to a fair trial.

11 c. The agency determines that disclosure of the information would jeopardize
12 any ongoing or future civil investigation or proceeding or would jeopardize the
13 fairness of such a proceeding.

14 d. Disclosure of the information is not authorized by state law or rule or federal
15 law or regulation.

16 e. The investigation under sub. (3) of the report of the suspected abuse or
17 neglect has not been completed, in which case the agency may only disclose that the
18 report is under investigation.

19 f. Disclosure of the information would reveal the identity of the child who is the
20 subject of the report, the child's siblings, the child's parent, guardian or legal
21 custodian or any other person residing in the same dwelling as the child, and
22 information that would reveal the identity of those persons has not previously been
23 disclosed to the public.

g. Disclosure of the information would reveal the identity of a reporter or any other person who provides information relating to the suspected abuse or neglect of the child.

4. Any person who requests the information specified in subd. 2. under the circumstances specified in subd. 1. and whose request is denied may petition the court to order the disclosure of that information. On receiving a petition under this subdivision, the court shall notify the agency, the district attorney, the child and the child's parent, guardian or legal custodian of the petition. If any person notified objects to the disclosure, the court may hold a hearing to take evidence and hear argument relating to the disclosure of the information. The court shall make an in camera inspection of the information sought to be disclosed and shall order disclosure of the information, unless the court finds that any of the circumstances specified in subd. 3. apply.

5. Any person acting in good faith in disclosing or refusing to disclose the information specified in subd. 2. under the circumstances specified in subd. 1. is immune from any liability, civil or criminal, that may result by reason of that disclosure or nondisclosure. For purposes of any proceeding, civil or criminal, the good faith of a person in disclosing or refusing to disclose the information specified in subd. 2. under the circumstances specified in subd. 1. shall be presumed.

SECTION 6. 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.

(END)

SENATE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 778

March 30, 2000 – Offered by Senator ROBSON.

At the locations indicated, amend the bill, as shown by assembly substitute amendment 1, as follows:

1. Page 1, line 5: delete "fatality and" and substitute "fatality,".

2. Page 1, line 7: after "social services" insert "and granting rule–making authority".

1-7

3. Page 2, line 5: delete "establish" and substitute "promulgate rules establishing".

2-5

4. Page 2, line 11: delete "Those procedures need not be promulgated as rules.".

(END)