2001 DRAFTING REQUEST

Bill

Received: **09/14/2000**

Received By: **malaigm**

Wanted: **As time permits**

Identical to LRB:

For: **Suzanne Jeskewitz (608) 266-3796**

By/Representing: **Erin Bilot**

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

Drafter: **malaigm**

May Contact:

Addl. Drafters:

Subject: **Children - out-of-home placement**

Extra Copies:

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Second-chance homes for teenage mothers

Instructions:

See Attached--redraft 99-4981/4, but with changes agreed to at 9/13/00 meeting.

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"/7" 8/28/01

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LRB-0308

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Requester's email:

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1999 DRAFTING REQUEST

Bill

Received: **07/06/2000**

Received By: **malaigm**

Wanted: **07/17/2000**

Identical to LRB:

For: **Suzanne Jeskewitz (608) 266-3796**

By/Representing: **Joyce Kiel**

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May Contact:

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Subject: **Children - out-of-home placement**

Extra Copies: See attached

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See Attached--Redraft LRB-4788 but with attached changes.

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/4 gs 8/24/00 kr 8/25 ~~8/25~~ 8/26 km

LRB-4981

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Extra Copies: (2) LFB - Rachel Carabell
Joanne Simpson

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FE Sent For:

<END>

Larson, Rebecca

From: Lewis, Kevin
Sent: Saturday, January 08, 2000 4:36 PM
To: Niemcek, Kerry; Larson, Rebecca; Manley, Scott
Subject: Second Chance Homes Legislative Language

SecondCh.doc

Dear Kerry, Scott, and Rebecca,

Attached is the language that DHFS proposes to enable the full use of Second Chance Homes. This language is designed to meet both the needs of the providers/child welfare workers who met with us in November and still provide assurances that either the child is placed under our voluntary placement measures (parental involvement) or is placed by court order. Please let me know if you have any questions/concerns.

Once we come to agreement on the draft, I leave it up to you to find the lead sponsors for what I would imagine to be companion bills. Of course I would be happy to help in the process.

As for our work with existing group homes to enable them to serve a "Second Chance Home" model, our regional staff have made repeated attempts to contact the interested representatives from the Salvation Army, but have not heard back from them. We understand that the holiday season is the busiest time for the S.A., and we will be happy to work with them as soon as they are ready. They should contact the Northeast Regional Director for Regulation and Licensing: 920/448-5316 or 920/448-5312.

Best,
Kevin Lewis
Legislative Liaison
DHFS
266-3262

Section 48.13(9m) is created to read:

(9m) Who is at least 14 years of age, signs the petition requesting jurisdiction under this subsection and is in need of special treatment or care due to pregnancy or the birth of a child with whom the child is residing which the parent, guardian or legal custodian is unwilling, neglecting, unable or needs assistance to provide;

~~Section 48.207(1)(cr) is created to read:~~

~~(1)(cr) For a child who is under the jurisdiction of the court under s. 48.13(9m), a foster home or a group home, if the group home is specifically licensed to care for pregnant children or children who reside with their child.~~

Section 48.625(3) is amended to read:

(3) This section does not apply to a foster home licensed under s. 48.62(1)(a) ~~in which care and maintenance is provided for more than 4 siblings~~.

Section 48.63(1) is renumbered 48.63(1)(a) and (c) and amended to read:

(1)(a) Acting pursuant to court order or voluntary agreement, the child's parent or guardian or the department of health and family services, the department of corrections, a county department or a child welfare agency licensed to place children in foster homes or treatment foster homes may place a child or negotiate or act as intermediary for the placement of a child in a foster home, treatment foster home or group home. Voluntary ~~agreements~~ placements under this ~~subsection~~ may ~~not~~ be ~~used in placements in facilities other than~~ made only in foster, treatment foster or group homes and may not be extended, except as provided under par. (b). A foster home or treatment foster home placement under a voluntary agreement may not exceed 6 months. A group home placement under a voluntary agreement may not exceed 15 days, except

as provided under par. (b). These time limitations do not apply to placements made under s. 48.345, 938.183, 938.34 or 938.345.

(2) Voluntary agreements may be made only under this subsection and shall be in writing and shall specifically state that the agreement may be terminated at any time by the parent or by the child if the child's consent to the agreement is required. The child's consent to the agreement is required whenever the child is 12 years of age or older.

Section 48.63(1)(b) is created to read:

(b) A pregnant child or a child who has given birth and is residing with her child may be placed under a voluntary agreement in a foster home or treatment foster home or a group home if that group home is specifically licensed to care for pregnant children or children who have given birth and who reside with their child. A voluntary agreement under this paragraph may not exceed 6 months but may be extended.

Section 48.63(4) is amended to read:

(4) A permanency plan under s. 48.38 is required for each child placed in a foster home or treatment foster home under sub. (1) and for each child placed in a group home under sub. (1)(b). If the child is living in a foster home or treatment foster home or a group home under sub. (1)(b) under a voluntary agreement, the agency that negotiated or acted as an intermediary for the placement shall prepare the permanency plan within 60 days after placement. A copy of each plan shall be provided to the child if he or she is 12 years of age or over and to the child's parent or guardian. If the agency which arranged the voluntary placement intends to seek a court order to place the child outside of his or her home at the expiration of the voluntary placement, the agency shall prepare a revised permanency plan and file that revised plan with the court prior to the date of the hearing on the proposed placement.

tance to an individual who has not attained 18 years of age, is not married, has a minor child at least 12 weeks of age in his or her care, and has not successfully completed a high-school education (or its equivalent), if the individual does not participate in—

(A) educational activities directed toward the attainment of a high school diploma or its equivalent; or

(B) an alternative educational or training program that has been approved by the State.

(5) No assistance for teenage parents not living in adult-supervised settings.

(A) In general. (i) Requirement. Except as provided in subparagraph (B), a State to which a grant is made under section 403 [42 USCS § 603] shall not use any part of the grant to provide assistance to an individual described in clause (ii) of this subparagraph if the individual and the minor child referred to in clause (ii)(II) do not reside in a place of residence maintained by a parent, legal guardian, or other adult relative of the individual as such parent's, guardian's, or adult relative's own home.

(ii) Individual described. For purposes of clause (i), an individual described in this clause is an individual who—

(I) has not attained 18 years of age; and

(II) is not married, and has a minor child in his or her care.

(B) Exception. (i) Provision of, or assistance in locating, adult-supervised living arrangement. In the case of an individual who is described in clause (ii), the State agency referred to in section 402(a)(4) [42 USCS § 602(a)(4)] shall provide, or assist the individual in locating, a second chance home, maternity home, or other appropriate adult-supervised supportive living arrangement, taking into consideration the needs and concerns of the individual, unless the State agency determines that the individual's current living arrangement is appropriate, and thereafter shall require that the individual and the minor child referred to in subparagraph (A)(ii)(II) reside in such living arrangement as a condition of the continued receipt of assistance under the State program funded under this part [42 USCS §§ 601 et seq.] attributable to funds provided by the Federal Government (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate).

(ii) Individual described. For purposes of clause (i), an individual is described in this clause if the individual is described in subparagraph (A)(ii), and—

(I) the individual has no parent, legal guardian, or other appropriate adult relative described in subclause (II) of his or her own who is living or whose whereabouts are known;

(II) no living parent, legal guardian, or other appropriate adult relative, who would otherwise meet applicable State criteria to act as the individual's legal guardian, of such individual allows the individual to live in the home of such parent, guardian, or relative;

(III) the State agency determines that—

(aa) the individual or the minor child referred to in subparagraph (A)(ii)(II) is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of the individual's own parent or legal guardian; or

(bb) substantial evidence exists of an act or failure to act that presents an imminent or serious harm if the individual and the minor child lived in the same residence with the individual's own parent or legal guardian; or

(IV) the State agency otherwise determines that it is in the best interest of the minor child to waive the requirement of subparagraph (A) with respect to the individual or the minor child.

(iii) Second-chance home. For purposes of this subparagraph, the term "second-chance home" means an entity that provides individuals described in clause (ii) with a supportive and supervised living arrangement in which such individuals are required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their children.

(6) No medical services. (A) In general. A State to which a grant is made under section 403 [42 USCS § 603] shall not use any part of the grant to provide medical services.

(B) Exception for prepregnancy family planning services. As used in subparagraph (A), the term "medical services" does not include prepregnancy family planning services.

(7) No assistance for more than 5 years. (A) In general. A State to which a grant is made under section 403 [42 USCS § 603] shall not use any part of the grant to provide assistance to a family that includes an adult who has received assistance under any State program funded under this part [42 USCS §§ 601 et seq.] attributable to funds provided by the Federal Government, for 60 months (whether or not consecutive) after the date the State program funded under this part [42 USCS §§ 601 et seq.] commences, subject to this paragraph.

(B) Minor child exception. In determining the number of months for which an individual who is a parent or pregnant has received assistance under the State program funded under this part [42 USCS §§ 601 et seq.], the State shall disregard any month for which such assistance was provided with respect to the individual and during which the individual was—

(i) a minor child; and

(ii) not the head of a household or married to the head of a household.

(C) Hardship exception. (i) In general. The State may exempt a family from the application of subparagraph (A) by reason of hardship or if the family includes an individual who has been battered or subjected to extreme cruelty.

(ii) Limitation. The average number of families with respect to which

et seq.], Federal payments may be made under this part [42 USCS §§ 671 et seq.] with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a), only if (at the time such amounts were expended) the State has fulfilled all of the requirements of section 422(b)(10) [42 USCS § 622(b)(10)].

(e) Placements in best interests of child. No Federal payment may be made under this part [42 USCS §§ 671 et seq.] with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of any child who was removed from his or her home pursuant to a voluntary placement agreement as described in subsection (a) and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) to the effect that such placement is in the best interests of the child.

(f) "Voluntary placement" and "voluntary placement agreement" defined. For the purposes of this part [42 USCS §§ 671 et seq.] and part B of this title [42 USCS §§ 620 et seq.], (1) the term "voluntary placement" means an out-of-home placement of a minor, by or with participation of a State agency, after the parents or guardians of the minor have requested the assistance of the agency and signed a voluntary placement agreement; and (2) the term "voluntary placement agreement" means a written agreement, binding on the parties to the agreement, between the State agency, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.

(g) Revocation of voluntary placement agreement. In any case where—

(1) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of such child as provided in subsection (a), and

(2) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative,

the voluntary placement agreement shall be deemed to be revoked unless the State agency opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return of the child to such home would be contrary to the child's best interests.

(h) Aid to families with dependent children. (1) For purposes of title XIX [42 USCS §§ 1396 et seq.], any child with respect to whom foster care maintenance payments are made under this section is deemed to be a dependent child as defined in section 406 (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect). For purposes of title XX [42 USCS §§ 1397 et seq.], any child with respect to whom foster care maintenance payments are made under this section is deemed to be a minor child in a needy family

Legislative Fiscal Bureau
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March 7, 2000

TO: Representative Suzanne Jeskewitz
Room 109 West, State Capitol

FROM: Joanne Simpson, Fiscal Analyst

SUBJECT: Using TANF Funds for Second Chance Homes

At your request, I am providing information regarding the use of federal and state funding under the temporary assistance to needy families (TANF) program for second chance homes. Federal law and regulations restrict how a state may use federal TANF funds and any state funds that are counted toward the maintenance of effort requirement for the TANF program. This memorandum describes these restrictions as they apply to the use of these funds for second chance homes.

General Information Regarding the Use of TANF Funding

Wisconsin's annual TANF block grant allocation from the federal government is $318.2 million. Under federal law, a tribal organization in a state may elect to operate a separate tribal public assistance program. For a tribe that submits an acceptable plan, the federal government will provide funding to the tribe and reduce the state's TANF block grant by an equivalent amount. After accounting for the four separate tribal programs, Wisconsin's TANF block grant is estimated at $317.5 million annually. Federal law and proposed regulations restrict the use of TANF funding. These restrictions as they apply to the use of TANF funding for second chance homes are described below.

Federal law also requires the state to spend an amount of state dollars equal to 75% of historic state expenditures if the state meets federal mandatory work requirements, or 80% if the state does not meet these requirements. This is called the state's maintenance of effort (MOE) requirement. Historic state expenditures generally means federal fiscal year (FFY) 1994 expenditures for the former aid to families with dependent children (AFDC) and the job

opportunities and basic skills (JOBS) programs, AFDC-emergency assistance, AFDC-related child care and at-risk child care. In addition, the MOE may be reduced by the percentage reduction in the state's TANF block grant attributable to tribal programs. It is estimated that the state's annual MOE requirement is $168.9 million, based on 75% of historic state expenditures. Federal law and regulations also restrict how the state may expend funding to meet the MOE requirement, and these restrictions differ to some extent from those regarding the use of federal TANF funds. The major provisions regarding expenditures of state dollars that could count toward the MOE requirement are described in a later section of this memorandum.

There are two potential ways to use TANF funding for second chance homes. First, if the services provided are allowable under federal law and regulations for the use of TANF dollars, TANF funding may be used directly for the program. Second, if the services provided meet the requirements for the use of state funds to count toward the MOE requirement, state funds currently appropriated to DWD for the W-2 program could be replaced with available TANF dollars. The state funds currently budgeted could then be allocated to the second chance home program.

The following sections describe restrictions on the use of TANF funding and the use of state dollars that count toward the MOE requirement.

Restrictions on the Use of TANF Funding for Second Chance Homes

Second Chance Homes. The federal welfare reform legislation enacted in 1996 (P.L. 104-193) defines second chance homes as "an entity that provides certain minor parents with a supportive and supervised living arrangement in which the minor parent is required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote long-term economic independence and the well-being of their children."

custodial

other children

their

It should be noted that this definition would not prevent a state from enacting legislation that would provide funding for homes that provide a supportive and supervised living arrangement to parents who are no longer minors, within the restrictions of the TANF program described below.

Meeting the TANF Purposes. A state may expend TANF funds in any manner that is reasonably calculated to accomplish the purposes of the TANF program. There are four purposes specified in federal law. These are: (1) to provide assistance to "needy families" so children may be cared for in their homes or in the homes of caretaker relatives; (2) to end the dependence of "needy parents" on government by promoting job preparation, work and marriage; (3) to prevent and reduce the incidence of out-of-wedlock pregnancies; and (4) to encourage the formation and maintenance of two-parent families.

baby remain w/ teen mom

It appears that the use of TANF funding for second chance homes meets the first two purposes of the TANF program. With regard to the first purpose, second chance homes allow children to remain with their parents in a safe, supervised environment. With regard to the second purpose, as described in the definition of second chance homes under the federal law, services

provided in these homes are designed to promote the long-term economic well-being of minor parents. These homes often support the parent in completing high school, preparing for independent living, and finding and keeping a good job.

It could be argued that second chance homes also serve purpose three of the TANF program -- to prevent and reduce out of wedlock pregnancies. However, based on data from programs in other states, the extent to which these homes meet the third purpose is unclear. According to information obtained from a study by the Social Policy Action Network, minor parents who have lived in second chance homes in New Mexico and Massachusetts had few repeat pregnancies while they were in the home. However, most of the minor parents in these programs participated for less than one year and it is unclear whether these minor parents continued to have few repeat pregnancies even after leaving the home.

Eligibility for Services. As described above, expenditures for second chance homes would correspond primarily to the first two purposes of the TANF program. Under these purposes, participants would have to be determined eligible for services under financial criteria established by the state. According to the federal TANF regulations, the state may establish different financial eligibility criteria for different programs funded with TANF dollars. For example, in Wisconsin, to be eligible for the W-2 program, a person must have income at or below 115% of the federal poverty level. To be eligible for the workforce advancement and attachment program, a person would have to have income below 200% of the federal poverty level.

Any legislation to provide TANF funding for second chance homes should include the financial eligibility criteria that would apply to minor parents receiving services. It should be noted that the state could choose the disregards that would be allowable when counting income for this program. For example, the state could choose to disregard the income of the parents of the minor parent when determining eligibility.

In addition, the second purpose applies to "needy parents." Therefore, individuals who receive services must be parents of minor children. Minor parents would meet this criteria. It should also be noted that minor noncustodial parents could also be eligible for services. For example, some second chance homes may choose to provide services to fathers to help foster better relationships among the fathers of the children, the children and the mother. Some job preparation services could also be provided to help fathers maintain support for their children. It may be desirable to specify the level of services that could be available to the noncustodial parent in legislation that would provide funding for second chance homes.

Types of Services. Federal regulations make a distinction between services that are classified as "assistance" and those that are not. Expenditures that are classified as "assistance" include cash payments, vouchers and other forms of benefits designed to meet a family's basic needs such as food, clothing, shelter, utilities, household goods, personal care items and general incidental expenses. These benefits also include child care, transportation and work supports for families that are not employed.

Expenditures that are not considered "assistance" include: (a) nonrecurring short-term benefits that are designed to deal with a specific crisis situation or episode of need, are not intended to meet recurrent or ongoing needs and will not extend beyond four months; (b) work subsidies; (c) supportive services such as child care and transportation for families that are employed; (d) refundable earned income tax credits; (e) contributions to and distributions from individual development accounts; (f) services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement and other employment related activities that do not provide basic income support; and (g) certain transportation benefits related to the job access and reverse commute program.

Funding provided to second chance homes for rent or mortgage costs, food and clothing for parents in the home, and other items that provide an ongoing basic need to families would be considered "assistance," if provided for longer than four months. Services such as counseling, financial planning, parenting classes, and other supportive services would not be considered "assistance."

If expenditures that involve "assistance" are made for an adult or minor head of household, the individual must cooperate in establishing paternity for any minor children in the household and must assign any rights to child support to the state. Furthermore, the person could receive such assistance, or any other assistance funded with TANF dollars, for a maximum of five years. Finally, the person would have to comply with work requirements and the state would have to include the person in calculating certain federal work participation rates.

As noted, the above requirements apply to a minor head of household. Federal law does not provide for a definition of minor head of household. The state may choose whether a minor who is placed in second chance homes would be considered a head of household. Legislation that would provide TANF funding for second chance should clarify this issue.

Regardless of whether the services provided meet the definition of "assistance" or not, TANF funds may not be used for medical services, except pre-pregnancy family planning services.

Legal Immigrant Restrictions. Federal law contains certain restrictions on using TANF funds to provide assistance to families that include a qualified legal immigrant, depending upon the individual's immigration status and when the person entered the U.S. Qualified legal immigrants are defined as lawful permanent residents, refugees, asylees, individuals granted parole for more than one year, individuals whose deportation has been withheld, individuals who are considered conditional entrants before 1980, and certain victims of domestic violence.

States have the option to allow TANF assistance to all qualified legal immigrants who entered the U.S. prior to August 22, 1996. Refugees, asylees, immigrants who have been granted withholding of deportation, veterans, active duty military personnel, spouses and dependents of veterans or active duty military personnel and Cuban-Haitian refugees who enter the country after

August 22, 1996, are eligible for TANF funded assistance for five years after the date they enter the country. After this time, the state has the option to provide assistance to these families. Other qualified legal immigrants who enter the U.S. after August 22, 1996, are not eligible for assistance funded with federal TANF dollars until five years after the date they enter the country. After this time, the state has the option to provide assistance to these families.

Immigrants who are not qualified generally include illegal immigrants, immigrants who are categorized as persons residing under the color of law (PRUCOL), temporary agricultural workers and asylum applicants. These non-qualified immigrants are ineligible for TANF funded assistance.

Second chance homes would have to adhere to these legal immigrant restrictions.

Administration and Data Reporting. Administrative costs may not exceed 15% of all TANF expenditures. Agencies receiving TANF funds would have to comply with federal data reporting requirements.

Maintenance of Effort Requirements

As noted earlier, if the services provided under a program to provide funding for second chance homes meet the requirements for the use of state funds to count toward the MOE requirement, state funds currently appropriated to DWD for the W-2 program could be replaced with available TANF dollars. The state funds currently budgeted could then be allocated to the second chance home program. Restrictions regarding the use of state dollars that can count toward the MOE requirement differ somewhat from the restrictions on the use of TANF dollars. The restrictions regarding the maintenance of effort are described below.

Meeting the TANF Purposes. Allowable state expenditures that may count toward the MOE requirement include: (a) cash assistance; (b) child care assistance; (c) educational activities designed to increase self-sufficiency, job training and work; or (d) any other use of funds reasonably calculated to accomplish the purposes of the TANF program. As described above, it appears that expenditures for second chance homes would meet the purposes of the TANF program. Therefore, such expenditures involving state funding could count toward the MOE requirement for the TANF program.

Eligibility for Services. Expenditures that count toward the MOE requirement must be for "eligible families," regardless of which purpose of the TANF program the expenditure meets. An eligible family must meet financial criteria in order to be eligible for services. This differs from the use of TANF dollars in which the purpose dictates whether the state must establish financial eligibility criteria. In addition, the family must include a minor child or pregnant individual. Noncustodial parents of minor children may be eligible for services. Any legislation that would provide funding for second chance homes that would involve the use of state dollars that would count toward the MOE for the TANF program should include the financial eligibility criteria that

would apply to all families receiving services. As noted above, the state could choose the disregards that apply when calculating income for these families.

Types of Services. Unlike expenditures that involve the use of TANF dollars, federal regulations regarding expenditures of state dollars that count toward the MOE requirement do not differentiate between services that are classified as "assistance" and those that are not. Further, states do not have to comply with the provisions relating to work requirements, time limits and the assignment of child support with regard to MOE expenditures. Finally, states may count toward the MOE requirement expenditures for medical assistance, with the exception that expenditures for Medicaid under Title XIX are not allowable MOE expenditures.

It is important to note that countable expenditures for programs that would not have previously been authorized under the former AFDC, emergency assistance or JOBS programs are limited to the amount by which total current fiscal year expenditures for eligible families exceed total expenditures in the program in federal fiscal year 1995. Because expenditures for second chance homes were not included in the former AFDC, emergency assistance or JOBS programs, state expenditures for second chance homes may only count toward the TANF maintenance of effort requirement to the extent that expenditures for eligible families exceed FFY 1995 expenditure levels. It does not appear that state funds were used for second change homes in FFY 1995.

Legal Immigrant Restrictions. State dollars that count toward the MOE requirement may be expended for services for all lawfully present immigrants. Illegal immigrants would not be eligible for services.

Administration and Data Reporting. Administrative costs may not exceed 15% of all MOE expenditures. Agencies receiving MOE funds would have to comply with federal data reporting requirements.

Other Restrictions. The following expenditures of state dollars could not count toward the MOE requirement: (a) expenditures of funds that originate with the federal government; (b) any state funds used to match federal funds or spent as a condition of receiving federal funds, with the exception of certain child care dollars; (c) any state or local funds used to match welfare-to-work funds; (d) any state funds expended for Medicaid under Title XIX; or (e) expenditures that a state made in a prior fiscal year.

Penalties. Under federal law, the state's basic TANF grant will be reduced by the amount, if any, by which qualified state expenditures in the previous year are less than the MOE requirement. If the TANF grant is reduced in a fiscal year under this provision, the state must expend additional state revenues in the following year equal to the amount of the reduction. In addition, if a state receives a welfare-to-work (WtW) formula grant and fails to meet the TANF maintenance of effort, the amount of the TANF block will be reduced in the following year by an amount equal to the WtW grant (approximately $12.0 million in Wisconsin).

Summary

As noted earlier in this memorandum, There are two potential ways to use TANF funding for second chance homes. First, if the services provided are allowable under federal law and regulations for the use of TANF dollars, TANF funding may be used directly for the program. Second, if the services provided meet the requirements for the use of state funds to count toward the MOE requirement, state funds currently appropriated to DWD for the W-2 program could be replaced with available TANF dollars. The state funds currently budgeted could then be allocated to the second chance home program.

It appears that using state funds that count toward MOE to fund second chance homes would have fewer administrative requirements as compared to using TANF dollars directly for the program. Using state dollars that would count toward the MOE would involve less monitoring with regard to work requirements, time limits and the assignment of child support. In addition, the Department and the second chance homes would not have to track detailed information regarding immigrant status. Finally, whether the minor parent should be considered the head of household applies only with regard to the use of TANF funds, but is not of concern with regard to the use of state MOE dollars.

Availability of TANF Funding

The following sources of TANF funds could be accessed under legislation regarding second chance homes.

Funding in the Joint Committee on Finance's Appropriation. Under 1999 Wisconsin Act 9 (the 1999-01 biennial budget), $102.0 million in TANF funding was placed in the Joint Finance Committee's appropriation as contingency funding for W-2 agencies, with criteria for expending contingency funding to be developed by DWD. The proposed legislation could reduce the amount of the contingency fund, and instead allocate funding for second chance homes. Further, an additional $3,519,000 was placed in the Committee's appropriation for start-up costs for W-2 agencies that received a W-2 agency contract for the first time beginning January 1, 2000. The Department has not yet submitted a request for the release of these funds, and has indicated that approximately $100,000 may be needed. The remaining funds could be made available for other uses.

Unallotted Reserve. Section 49.175 of the Wisconsin statutes establishes a number of statutory allocations of funding for various components of the W-2 program. DWD may transfer funds allocated for one allocation to another with the approval of the Secretary of the Department of Administration. Prior to the Governor's partial veto of Act 9, the statutory allocations under s. 49.175 included (among other items): (a) $3,000,000 annually for credit assistance; (b) $100,000 annually for the Milwaukee Jobs Initiative (MJI); (c) $300,000 in 1999-00 for the campaign for a sustainable Milwaukee; and (d) $150,000 annually for runaway services.

The Governor's partial veto eliminated the statutory allocation of funding for credit assistance, the campaign for a sustainable Milwaukee and runaway services. In addition, the partial veto eliminated the annual allocation of $100,000 for MJI and instead provided $100,000 for the biennium. In the veto message, the Governor directed DOA to place the funding that was originally allocated for each of the above items into unallotted reserve. The appropriation for DWD under s. 20.445(3)(md) of the statutes was not reduced to reflect the elimination of the statutory allocations for these items.

Therefore, as a result of the Governor's partial vetoes, $3,450,000 in 1999-00 and $3,250,000 in 2000-01 is included in DWD's appropriation for the TANF block grant, but has been placed in the unallotted balance for that appropriation. The proposed legislation could allocate these funds for the second chance home program.

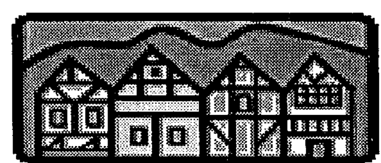
Unappropriated TANF Balance. Approximately $2.2 million in federal TANF funding was not appropriated under 1999 Act 9. Any legislation to use these funds would have to include an increase in DWD's appropriation for the federal TANF block grant.

Availability of Other Funding for Second Chance Homes

The President's 2001 budget bill would increase funding for the social services block grant and would earmark $25.0 million of this increase for second chance homes. It is currently unclear how these funds would be distributed to the states.

I hope this information responds to your request. Please contact me if you have further questions.

JS/sas



SECOND CHANCE HOMES CONFERENCE

MONDAY, JULY 24
10:00 a.m. - 5:00 p.m.

Assembly Parlor, State Capitol, Madison, WI

I.) **Introductions - Sue Jeskewitz**

II.) **Review working session**

III.) **Review drafted language**

IV.) **Program Design/ Funding Issues**

V.) **Follow-up**

VI.) **Adjournment**

WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536
Telephone: (608) 266-1304
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Email: leg.council@legis.state.wi.us

DATE: June 30, 2000

TO: GORDON M. MALAISE, SENIOR ATTORNEY, LEGISLATIVE REFERENCE BUREAU

FROM: Joyce L. Kiel, Senior Staff Attorney JLK

SUBJECT: Drafting Instructions Relating to Second Chance Homes

Representative Jeskewitz has been meeting with various people to develop a legislative proposal relating to a concept which is sometimes referred to in other states as second chance homes. Representative Jeskewitz convened a meeting on June 20 and 21, 2000 of interested parties, and the group reached preliminary consensus on various issues to be included in a bill draft. Representative Jeskewitz would like for the group to discuss the bill draft at the group's next meeting, which will be held July 24. (Incidentally, I have suggested to Representative Jeskewitz' office that you be invited to attend that meeting.) Ideally, Representative Jeskewitz would like to send the draft to the group members for review prior to the meeting--hopefully mailing on July 17. ***Therefore, the hope is that you will be able to work on the draft right away when you return from vacation. If this is not feasible, please let me know immediately.***

You already have a preliminary start to the draft--namely LRB-4788/1. (References below to page, line and SECTION numbers are to LRB-4788/1.) However, that draft should be modified, and other items should be added, as follows:

1. The group agreed on creating a new child in need of protection or services (CHIPS) jurisdictional ground, similar to that in proposed s. 48.13 (9m) in LRB-4788/1. However, on page 4, line 4, the reference to 14 years should be changed to 12 years. Also, on page 8, line 7, the reference to 14 years should be changed to 12 years.

It is likely that this new CHIPS ground would primarily be used when the parent of the minor custodial parent ("child") objects to placement and there is no other CHIPS ground (as noted in item 4., below, there can be a voluntary placement if the parent agrees). It appears that, in order to protect the constitutional rights of an objecting parent, the draft could indicate that there would be harm to the well-being of the child if special treatment or care is not provided. On page 3, line 18, following "adult," could the following language be substituted: "that needs

to be provided to protect the well-being of a child who is a custodial parent, as defined in s. 49.141 (1) (b), or who is an expectant mother and in which the child is provided training in parenting skills . . . ." Do you have any other thoughts or suggestions?

2. The group did not want to create a new kind of licensed facility for second chance homes. Therefore, the facilities will have to fit under current licensure categories, that is, group home or child caring institution (CCI) for minors, or adult family home or community-based residential facility (CBRF) if the facility also serves adults. However, the draft should address only the placement of minors (with one exception for young adults as discussed in item 3., below).

Because CCIs are included, this will necessitate numerous changes in LRB-4788/1. For example:

a. SECTION 6 also should refer to a CCI that is specially licensed to provide special treatment or care as defined in proposed s. 48.02 (17m) (a) 3. (or use an alternative cross-reference as discussed below).

b. Numerous changes are needed in ss. 48.63 and 48.64, Stats., because, as noted in item 4., below, the draft should provide that there can be voluntary placements of up to six months in a group home that is specially licensed to provide special treatment or care as defined in proposed s. 48.02 (17m) (a) 3. or in a CCI that is specially licensed to provide special treatment or care as defined in proposed s. 48.02 (17m) (a) 3.

No – handle CCIs under ss. 48.60 & 48.61

c. Section 48.61 (3), Stats., should provide that a child welfare agency may also be licensed to place children in a CCI that is licensed to provide special treatment or care as defined in proposed s. 48.02 (17m) (a) 3. This change would necessitate changing s. 48.615 (1) (b), Stats., also.

No – CWA is a CCI

The draft should include some reference (probably under s. 48.60 or 48.61, Stats., or both, with respect to CCIs and probably under s. 48.625, Stats., with respect to group homes) that group homes and CCIs may be specially licensed by the Department of Health and Family Services (DHFS) to provide special treatment or care as defined in proposed s. 48.02 (17m) (a) 3. (If these provisions are created, it may be easier to draft other sections by a reference to a group home or CCI licensed under that provision, rather than repeating language each time about being specially licensed to provide special treatment or care as defined in proposed s. 48.02 (17m) (a) 3.)

DHFS should be required to promulgate administrative rules with respect to group homes or CCIs that have this special license. These rules should:

a. Provide for the health, safety and welfare of the child of a minor custodial parent, that is, the baby, if that parent has been placed in the group home or CCI which has this special license.

48.67 already covered

b. Require that these specially licensed group homes and CCIs have a policy with respect to visitation with the baby in the facility by the baby's noncustodial parent.

3. For the purpose of counting children to determine which type of license a facility should have, provide that for ss. 48.60 and 48.625, Stats., a "child" also includes a person who is 18 years of age or older, is enrolled in and regularly attending a secondary education classroom program leading to a high school diploma, was residing in a group home or CCI immediately prior to his or her 18th birthday and continues living in that group home or CCI. (To be consistent, it appears that the provisions relating to licensure of foster homes and treatment foster homes should have similar changes.) This language would be consistent with s. 48.57 (3) (a), Stats.

Incidentally, at the meeting, DHFS indicated that they have an opinion from their Office of Legal Counsel that the child of the minor custodial mother is not counted because the baby is in the care of its mother and was not "received" by the foster parent, group home or CCI or "placed" there. The group did not want to dispute DHFS' position on this.

4. Provide that there can be a voluntary placement of up to six months in a group home that is specially licensed to provide special treatment or care as defined in proposed s. 48.02 (17m) (a) 3. or in a CCI that is specially licensed to provide special treatment or care as defined in proposed s. 48.02 (17m) (a) 3.

Based in part on an understanding that federal IV-E funding apparently is not available for voluntary placements exceeding six months unless a court makes certain determinations, the group agreed that there could be an extension of a voluntary placement only if a juvenile court reviewed the placement and made the determinations required by IV-E. (We are double-checking the language required under IV-E. Unless you already know the language that is required, please insert language as a placeholder about making a determination that placement of the child in his or her own home would be contrary to the health, safety and welfare of the child.)

One alternative to get court review would be to file a CHIPS petition--if there were grounds. However, it is unlikely that proposed s. 48.13 (9m) would apply in all cases since the parent would be agreeing to the placement--although the case may fit under the "unable or needs assistance to provide" language. While the draft should not preclude filing a CHIPS petition to get the court review, please create a simple procedure in the draft under which the agency that arranged the voluntary placement or the parent and child may petition the juvenile court to review the voluntary placement to make the determination discussed above.

It appears that s. 48.63 (4), Stats., should be amended to provide that if the agency that arranged the voluntary placement intends to file such a petition for extension of the voluntary placement, the agency must prepare a revised permanency plan and file that revised permanency plan with the court prior to the date of the hearing on the proposed extension. (It would seem to be easier to separate s. 48.63 (4) into (a) for current law and (b) for the new provisions.) If you have any other ideas on how to handle the extension issue, please call me to discuss them.

Consistent with current s. 48.63 (4), Stats., the draft should provide that there would have to be a permanency plan for a minor custodial parent who is placed in a specially licensed group home or CCI under a voluntary agreement, and the permanency plan would have to be prepared within 60 days after the placement by the agency that negotiated or acted as intermediary for the placement. A copy of the permanency plan would have to be given to the child (if 12 or over) and the child's parent or guardian. As noted above, a revised copy of the permanency plan should be filed with the court if there will be a petition for an extension. However, it appears that current law [s. 48.38, Stats.] would not require that the original permanency plan be filed with the court in cases of voluntary placement because the conditions in s. 48.38 (3), Stats., would not apply since there would be no court order and the child was not "held" in physical custody. Is this your understanding of s. 48.38 (3), Stats.? Since the court would not have a record of the child, it seems somewhat pointless to send the permanency plan to the court. As for the normal six-month permanency plan review that occurs under s. 48.38 (5), Stats., there should be a variation since what is submitted to the court is the revised permanency plan discussed in the preceding paragraph. If you have any ideas for dealing with the permanency plan issue, please call me to discuss them.

5. Perhaps more in the way of a question than a drafting instruction, what is the basis for providing in SECTION 8 that s. 48.362, Stats., should not be applied to special treatment or care under the draft? Unless you received specific instructions from Representative Jeskewitz that s. 48.362, Stats., should not apply, please modify the draft to have it apply so that its application can be discussed by the group.

You will undoubtedly think of various statutes which need to be amended as a consequence of making these changes. Please include them in the draft.

Rachel Carabell and Joanne Simpson of the Legislative Fiscal Bureau are also involved in this project. ***Please send a preliminary version of the draft to all three of us for review before you send it to Representative Jeskewitz.***

If you have any questions, please contact me at 266-3137 or Rachel Carabell, at 266-3847 if I am not available. As always, thanks for your help and good ideas.

JLK:rv:jal

cc: Representative Suzanne Jeskewitz
Rachel Carabell, Legislative Fiscal Bureau
Joanne Simpson, Legislative Fiscal Bureau