

2003 SENATE BILL 510

March 1, 2004 – Introduced by Senator REYNOLDS, cosponsored by Representatives MUSSER, LADWIG, ALBERS, HINES and PETROWSKI. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

1 **AN ACT to renumber and amend** 48.981 (3) (c) 1.; **to amend** 48.981 (7) (a) 1.
2 and 48.981 (8) (d) 1.; and **to create** 48.981 (3) (c) 1. d. of the statutes; **relating**
3 **to:** requiring an individual who is suspected of child abuse or neglect to be
4 advised of the specific allegations that have been made against him or her and
5 requiring training for persons who investigate or treat child abuse and neglect
6 to include training in the constitutional and other legal rights of a child who is
7 being observed or interviewed in connection with the investigation and the
8 child's family.

Analysis by the Legislative Reference Bureau

Under current law, reports of suspected or threatened child abuse or neglect are confidential and may be disclosed only under certain exceptions. One of those exceptions permits a report to be disclosed to a person who is suspected of the abuse or neglect, except that any information that would identify the reporter may not be disclosed. This bill requires a person making an investigation of a report of suspected or threatened child abuse or neglect, at the initial contact with an individual who is suspected of the abuse or neglect, to advise the individual of the specific allegations that have been made against him or her, but prohibits the disclosure of any information that would identify the reporter or any other person who has provided information relating to the abuse or neglect.

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Under current law, each staff member and supervisor of a county department of human services or social services (county department), the Department of Health and Family Services (DHFS), or a licensed child welfare agency under contract with a county department or DHFS to conduct child abuse and neglect investigations (collectively “agency”) whose responsibilities include investigation or treatment of child abuse and neglect is required to complete training in child abuse and neglect protective services approved by DHFS. This bill requires that training to include training in the constitutional and other legal rights of a child who is being observed or interviewed in connection with an investigation and the child’s family, including training in the rights guaranteed under the Fourth Amendment to the U. S. Constitution (the right to be secure against unreasonable search and seizure) and the right of a parent to direct the upbringing of his or her child guaranteed under the 14th Amendment to the U.S. Constitution, and training in the duty of an agency staff member or supervisor to protect those rights from the time of initial contact with the child and family until the investigation and all treatment provided to the child and family are concluded.

For further information see the *state and local* 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 (3) (c) 1. of the statutes is renumbered 48.981 (3) (c) 1. a. and
2 amended to read:

3 48.981 **(3)** (c) 1. a. Within 24 hours after receiving a report under par. (a), the
4 agency shall, ~~in accordance with the authority granted to the department under s.~~
5 ~~48.48 (17) (a) 1. or the county department under s. 48.57 (1) (a),~~ initiate a diligent
6 investigation to determine if the child or unborn child is in need of protection or
7 services. The investigation shall be conducted in accordance with the authority
8 granted to the department under s. 48.48 (17) (a) 1. or the county department under
9 s. 48.57 (1) (a) and in accordance with standards established by the department for
10 conducting child abuse and neglect investigations or unborn child abuse
11 investigations.

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1 b. If the investigation is of a report of child abuse or neglect or of threatened
2 child abuse or neglect by a caregiver specified in sub. (1) (am) 5. to 8. who continues
3 to have access to the child or a caregiver specified in sub. (1) (am) 1. to 4., or of a report
4 that does not disclose who is suspected of the child abuse or neglect and in which the
5 investigation does not disclose who abused or neglected the child, the investigation
6 shall also include observation of or an interview with the child, or both, and, if
7 possible, an interview with the child's parents, guardian, or legal custodian. If the
8 investigation is of a report of child abuse or neglect or threatened child abuse or
9 neglect by a caregiver who continues to reside in the same dwelling as the child, the
10 investigation shall also include, if possible, a visit to that dwelling.

11 c. At the initial visit to the child's dwelling, the person making the investigation
12 shall identify himself or herself and the agency involved to the child's parents,
13 guardian, or legal custodian. The agency may contact, observe, or interview the child
14 at any location without permission from the child's parent, guardian, or legal
15 custodian if necessary to determine if the child is in need of protection or services,
16 except that the person making the investigation may enter a child's dwelling only
17 with permission from the child's parent, guardian, or legal custodian or after
18 obtaining a court order to do so.

19 **SECTION 2.** 48.981 (3) (c) 1. d. of the statutes is created to read:

20 48.981 (3) (c) 1. d. At the initial contact with an individual who is suspected of
21 abuse or neglect or of threatened abuse or neglect, the person making the
22 investigation shall advise the individual of the specific allegations that have been
23 made against him or her, but may not disclose any information that would identify
24 the reporter or any other person who has provided information relating to the
25 suspected or threatened abuse or neglect.

