

2003 DRAFTING REQUEST

Bill

Received: 09/23/2003

Received By: gmalaise

Wanted: Soon

Identical to LRB:

For: Thomas Reynolds (608) 266-2512

By/Representing: Les Wakefield

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject: Children - abuse and neglect

Extra Copies:

Submit via email: YES

Requester's email: Sen.Reynolds@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Child abuse; investigations; training

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>
/?	gmalaise 09/23/2003	jdye 09/24/2003		_____			S&L
		jdye 09/24/2003		_____			
/1			chaugen 09/25/2003	_____	lnorthro 09/25/2003	lnorthro 01/27/2004	

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

AA
Intro.

<END>

2003 DRAFTING REQUEST

Bill

Received: 09/23/2003

Received By: gmalaise

Wanted: Soon

Identical to LRB:

For: Thomas Reynolds (608) 266-2512

By/Representing: Les Wakefield

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject: Children - abuse and neglect

Extra Copies:

Submit via email: YES

Requester's email: Sen.Reynolds@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Child abuse; investigations; training

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>
/?	gmalaise 09/23/2003	jdyer 09/24/2003		_____			S&L
		jdyer 09/24/2003		_____			
/1			chaugen 09/25/2003	_____	lnorthro 09/25/2003		

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

2003 DRAFTING REQUEST

Bill

Received: 09/23/2003

Received By: gmalaise

Wanted: Soon

Identical to LRB:

For: Thomas Reynolds (608) 266-2512

By/Representing: Les Wakefield

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject: Children - abuse and neglect

Extra Copies:

Submit via email: YES

Requester's email: Sen.Reynolds@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Child abuse; investigations; training

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?	gmalaise	1 9/24 jld	ck 9-25	ck 9-25 dub			

FE Sent For:

<END>



STAFF MEMORANDUM
 OFFICE OF WISCONSIN
 STATE SENATOR TOM REYNOLDS

TO: STEPHEN R. MILLER, CHIEF
 LEGISLATIVE REFERENCE BUREAU

From: LES WAKEFIELD, CHIEF POLICY ADVISOR

Date: September 22, 2003

SUBJECT: Child Welfare Legislation

Senator Reynolds would like to have state legislation drafted to mirror recent changes in the Federal Child Abuse Prevention and Treatment Act. The changes were contained in a bill entitled "Keeping Children and Families Safe Act of 2003". The amendments contain two major provisions that the Senator would like to have drafted into the state statutes. The amendments are as follows:

Amendment 1

"All representatives of the child protection services agency shall, at the initial time of contacts with the individual subject to a child abuse and neglect investigation, advise the individual of the specific complaints or allegations made against the individual".

in a manner that is consistent w/ laws protecting rights of informant

= donot disclose ID of reporter

Amendment 2

"All child protective services workers must be trained in their legal duties to protect the constitutional and statutory rights of children and families from the initial time of contact during investigation through treatment. [The training curriculum must include instruction in the Fourth Amendment to the U.S. Constitution and parents rights.]"

other legal

safe

in order

rights guaranteed under

Should you have any further questions, please contact Les Wakefield at 6-2512.

42 USC 5106 a (b)(2)(A)

Eligibility for CAPTA grants

right of a parents to direct the upbringing of their children guaranteed under the 14th Am. to the U.S. Const.

education

Meyer v. Nebraska 262 US 390, 43 Sct 625 (1923)

Pierce v Society of Sisters 268 US 510, 45 Sct 571 (1925)

AM 48-981(3) (c) 1.

AM 48-981 (8)(d) 1.



State of Wisconsin
2003 - 2004 LEGISLATURE

Soon

LRB-3338/1

GMM

.....
A
jld (1)

Gen Cat

1 AN ACT^{Gen Cat}; relating to: requiring an individual who is suspected of child abuse
2 or neglect to be advised of the specific allegations that have been made against
3 him or her and requiring training for persons who investigate or treat child
4 abuse and neglect to include training in the constitutional and other legal
5 rights of a child who is being observed or interviewed in connection with the
6 investigation and the 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.

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.

12 b. If the investigation is of a report of child abuse or neglect or of threatened
13 child abuse or neglect by a caregiver specified in sub. (1) (am) 5. to 8. who continues
14 to have access to the child or a caregiver specified in sub. (1) (am) 1. to 4., or of a report
15 that does not disclose who is suspected of the child abuse or neglect and in which the

1 investigation does not disclose who abused or neglected the child, the investigation
 2 shall also include observation of or an interview with the child, or both, and, if
 3 possible, an interview with the child's parents, guardian, or legal custodian. If the
 4 investigation is of a report of child abuse or neglect or threatened child abuse or
 5 neglect by a caregiver who continues to reside in the same dwelling as the child, the
 6 investigation shall also include, if possible, a visit to that dwelling.

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

~~NOTE: NOTE: Subd. 1. was held unconstitutional as applied by the U.S. 7th Circuit Court of Appeals in *Dee v. Heck*, 327 F.3d 492 (2003).NOPE:~~

History: Sup. Ct. Order, 59 Wis. 2d R1, R3 (1973); 1977 c. 355; 1977 c. 447 s. 210; 1979 c. 300; 1983 a. 172, 190, 299, 538; 1985 a. 29 ss. 917 to 930m, 3200 (56); 1985 a. 176, 234; 1987 a. 27, 186, 209; 1987 a. 332 s. 64; 1987 a. 334, 355, 399, 403; 1989 a. 31, 41, 102, 316, 359; 1991 a. 160, 263; 1993 a. 16, 105, 218, 227, 230, 246, 272, 318, 395, 443, 446, 491; 1995 a. 275, 289, 369, 456; 1997 a. 27, 114, 292, 293; 1999 a. 9, 20, 32, 56, 84, 149, 192; 2001 a. 16, 38, 59, 69, 70, 103, 105; 2003 a. 33.

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

16 48.981 (3) (c) 1. d. At the initial contact with an individual who is suspected of
 17 abuse or neglect or of threatened abuse or neglect, the person making the
 18 investigation shall advise the individual of the specific allegations that have been
 19 made against him or her, but may not disclose any information that would identify
 20 the reporter or any other person who has provided information relating to the
 21 suspected or threatened abuse or neglect.

22 **SECTION 3.** 48.981 (7) (a) 1. of the statutes is amended to read:

1 48.981 (7) (a) 1. The subject of a report, except that the person or agency
 2 maintaining the record or report may not disclose any information that would
 3 identify the reporter or any other person who has provided information relating to
 4 the suspected or threatened abuse or neglect.

History: Sup. Ct. Order, 59 Wis. 2d R1, R3 (1973); 1977 c. 355; 1977 c. 447 s. 210; 1979 c. 300; 1983 a. 172, 190, 299, 538; 1985 a. 29 ss. 917 to 930m, 3200 (56); 1985 a. 176, 234; 1987 a. 27, 186, 209; 1987 a. 332 s. 64; 1987 a. 334, 355, 399, 403; 1989 a. 31, 41, 102, 316, 359; 1991 a. 160, 263; 1993 a. 16, 105, 218, 227, 230, 246, 272, 318, 395, 443, 446, 491; 1995 a. 275, 289, 369, 456; 1997 a. 27, 114, 292, 293; 1999 a. 9, 20, 32, 56, 84, 149, 192; 2001 a. 16, 38, 59, 69, 70, 103, 105; 2003 a. 33.

5 **SECTION 4.** 48.981 (8) (d) 1. of the statutes is amended to read:

6 48.981 (8) (d) 1. Each agency staff member and supervisor whose
 7 responsibilities include investigation or treatment of child abuse and neglect or of
 8 unborn child abuse shall successfully complete training in child abuse and neglect
 9 protective services and in unborn child abuse protective services approved by the
 10 department. The training shall include training in the constitutional and other legal
 11 rights of a child who is being observed or interviewed in connection with an
 12 investigation and the child's family, including training in the rights guaranteed
 13 under the ^{4th} ~~14th~~ Amendment to the U.S. Constitution and the right of a parent to
 14 direct the upbringing of his or her child guaranteed under the ^{14th} Amendment to
 15 the U.S. Constitution, and training in the duty of the agency staff member or
 16 supervisor to protect those rights from the time of initial contact with the child and
 17 family until the investigation and all treatment provided to the child and the family
 18 are concluded. The training shall also include information on means of recognizing
 19 and appropriately responding to domestic abuse, as defined in s. 46.95 (1) (a). The
 20 department shall monitor compliance with this subdivision according to rules
 21 promulgated by the department.

History: Sup. Ct. Order, 59 Wis. 2d R1, R3 (1973); 1977 c. 355; 1977 c. 447 s. 210; 1979 c. 300; 1983 a. 172, 190, 299, 538; 1985 a. 29 ss. 917 to 930m, 3200 (56); 1985 a. 176, 234; 1987 a. 27, 186, 209; 1987 a. 332 s. 64; 1987 a. 334, 355, 399, 403; 1989 a. 31, 41, 102, 316, 359; 1991 a. 160, 263; 1993 a. 16, 105, 218, 227, 230, 246, 272, 318, 395, 443, 446, 491; 1995 a. 275, 289, 369, 456; 1997 a. 27, 114, 292, 293; 1999 a. 9, 20, 32, 56, 84, 149, 192; 2001 a. 16, 38, 59, 69, 70, 103, 105; 2003 a. 33.

(END)

Barman, Mike

From: Malaise, Gordon
Sent: Tuesday, January 27, 2004 9:42 AM
To: Barman, Mike
Subject: FW: Jacket for LRB 3338/1

Mike:

Senator Reynolds would like the above-captioned draft jacketed. Thanks.

Gordon

-----Original Message-----

From: Wakefield, Les
Sent: Tuesday, January 27, 2004 9:22 AM
To: Malaise, Gordon
Subject: Jacket for LRB 3338/1

Could you please jacket this proposal dealing with Child Welfare.