

1867/P1

Friday

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

D-note

Inserts

Regen

1 AN ACT to amend 48.78 (2) (a) (intro.), 48.981 (7) (a) 15. and 253.01; and to create  
 2 15.197 (15), 19.85 (1) (j), 51.30 (4) (b) 29., 118.125 (2) (o), 146.82 (2) (a) 23.,  
 3 subchapter I (title) of chapter 253 [precedes 253.01], subchapter II of chapter  
 4 253 [precedes 253.30] and 905.17 of the statutes; relating to: creating a  
 5 statewide program to review child deaths and providing a penalty.

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

6 SECTION 1. 15.197 (15) of the statutes is created to read:  
 7 15.197 (15) CHILD DEATH REVIEW COUNCIL. (a) There is created in the  
 8 department of health services a child death review council consisting of all of the  
 9 following members:

**SECTION 1**

- 1 1. The secretary of health services or his or her designee.
- 2 2. The secretary of children and families or his or her designee.
- 3 3. The attorney general or his or her designee.
- 4 4. The state superintendent of public instruction or his or her designee.
- 5 5. The secretary of transportation or his or her designee.
- 6 6. The secretary of natural resources or his or her designee.
- 7 7. A representative of a federally recognized American Indian tribe or band in
- 8 this state who is appointed by the secretary of health services.
- 9 8. At least 17 other members who have demonstrated a continuing interest in
- 10 the problem of unexplained or preventable childhood deaths, appointed by the
- 11 secretary of health services.

✓

12 **SECTION 2.** 19.85 (1) (j) of the statutes is created to read:

13 19.85 (1) (j) Review of a child's death by the child death review council or by  
14 a local review team under s. 253.33.

✓

15 **SECTION 3.** 48.78 (2) (a) (intro.) of the statutes is amended to read:

16 48.78 (2) (a) (intro.) No agency may make available for inspection or disclose  
17 the contents of any record kept or information received about an individual who is  
18 or was in its care or legal custody, except as provided under s. 48.371, 48.38 (5) (b)  
19 or (d) or (5m) (d), 48.396 (3) (bm) or (c) 1r., 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m),  
20 48.93, 48.981 (7), 253.36, 938.396 (2m) (c) 1r., 938.51, or 938.78 or by order of the  
21 court.

\*\*\*\*NOTE: This provision allows a local review team and the Child Death Review  
Council to have access to day care records as provided in s. 253.36.

✓

22 **SECTION 4.** 48.981 (7) (a) 15. of the statutes is amended to read:

1 48.981 (7) (a) 15. A child fatality local review team ~~recognized by the county~~  
2 ~~department or, in a county having a population of 500,000 or more, the department~~  
3 ~~or a licensed child welfare agency under contract with the department~~ under s.  
4 253.33 or the child death review council.

5 SECTION 5. 51.30 (4) (b) 29. of the statutes is created to read:

6 51.30 (4) (b) 29. To an authorized member of the child death review council or  
7 of a local review team under s. 253.33, upon an oral or written request from that  
8 person, if the individual's treatment records are relevant, as determined by the  
9 member, to the review of a child's death under subch. II of ch. 253. A custodian of  
10 treatment records may initiate contact with the child death review council or a local  
11 review team to inform the council or team of treatment records of a deceased child  
12 that may be relevant to the completion of a review of a child's death under subch. II

13 of ch. 253. The recipient of any <sup>a treatment records released</sup> information under this subdivision shall keep the  
14 <sup>a records</sup> information confidential.

\*\*\*\*NOTE: This provision provides that the recipient must keep the information received under this subdivision confidential. Should I modify it so that the information can be shared with other members of the local review team, the council, or another local review team?

15 SECTION 6. 118.125 (2) (o) of the statutes is created to read:

16 118.125 (2) (o) The school district clerk or his or her designee shall, upon  
17 request, make pupil records available to a designated member of the child death  
18 review council or a local review team under s. 253.33 if the pupil records involve or  
19 are relevant to, as determined by the child death review council or local review team,  
20 the review of a child's death under subch. II of ch. 253.

\*\*\*\*NOTE: This paragraph provides an exemption from the general rule under state law that pupil records must remain confidential. "Pupil records" is defined broadly under s. 118.125 (1) (d) to include behavioral records (defined under s. 118.125 (1) (a)), progress records (defined under s. 118.125 (1) (c)), and pupil physical health records (defined under

Ins  
3-14

s. 118.125 (1) (cm)). Please review these definitions to confirm that the exemption from confidentiality created under this paragraph accomplishes your intent.

SECTION 7. 146.82 (2) (a) 23. of the statutes is created to read:

146.82 (2) (a) 23. To the child death review council or a local review team under

s. 253.33. *for the purpose of investigating the death of a child*

\*\*\*\*NOTE: *Should I add language here to clarify that these records may only be disclosed in connection with an investigation of a child's death?* *Is this OK?*

SECTION 8. Subchapter I (title) of chapter 253 [precedes 253.01] of the statutes

is created to read:

CHAPTER 253

SUBCHAPTER I

MATERNAL AND CHILD HEALTH

SECTION 9. 253.01 of the statutes is amended to read:

253.01 Definition. In this chapter subchapter, "division" means the division within the department that has primary responsibility for health issues.

SECTION 10. Subchapter II of chapter 253 [precedes 253.30] of the statutes is created to read:

CHAPTER 253

SUBCHAPTER II

CHILD DEATH REVIEWS

253.30 Definitions. In this subchapter:

(1) "Child" means an individual under the age of 18.

(2) "Council" means the child death review council.

(3) "Local review team" means a local review team under s. 253.33.

\*\*\*\*NOTE: Do you envision that there may be local review teams that are not recognized by DHS? Should the term used in the draft instead be "registered local review team," so that the provisions in the bill apply to teams that have been so registered?

*recognized*  
*recognized*

1           **253.31 Child death review program.** (1) The department shall develop and  
2 maintain a statewide program to review the deaths of children in this state for the  
3 purpose of reducing preventable childhood deaths. The department shall develop  
4 the program to include the council and local review teams. Under the program, the  
5 department shall do all of the following:

6           (a) Provide professional and administrative support to the council.

7           (b) Collect data that pertains to childhood deaths, including by entering into  
8 data-sharing agreements with other state agencies that collect similar data.

9           (c) Cooperate with other state agencies to develop and implement programs  
10 and polices to prevent the deaths of children in this state.

11           (d) After considering any recommendations received from the council, provide  
12 information to the public about the incidents and causes of childhood deaths in this  
13 state and about specific strategies to prevent childhood deaths.

\*\*\*NOTE: Let me know if you want "incidence" here instead of "incidents."

14           (e) After considering any recommendations received from the council, establish  
15 standards and protocols for conducting child death reviews, including standards or  
16 protocols for when a local review team is required to refer a specific death to the  
17 council for the council to review.

\*\*\*\*NOTE: I added specific language here requiring DHS to establish standards or  
protocols for when a death should be referred to the Child Death Review Council. Please  
review this added language and confirm that it reflects your intent.

18           (f) After considering any recommendations received from the council, assist  
19 local review teams, including by doing all of the following:

20           1. Recognizing local review teams.

21           2. Facilitating the formation of individual local review teams.

22           3. Providing assistance with training and data collection procedures.

1 4. Adopting standards and protocols for local review teams.

\*\*\*NOTE: Is this subdivision 4. intended to capture anything beyond what DHS already does under par. (e), above?

2 5. Creating forms and tools for child death reviews.

3 (2) The department may enter into a contract with an entity to perform any of  
4 the department's duties under this section.

\*\*\*NOTE: Should this provision specify what DHS must do and what may be done by the contracted entity?

5 **253.32 Child death review council.** (1) The council shall do all of the  
6 following:

7 (a) Collect and review data pertaining to all child deaths that occur in this state.

8 (b) Review an individual child's death upon a referral from a local review team.

\*\*\*NOTE: I changed "request" here to "referral" based on my understanding that a local review team would only refer deaths to the Child Death Review Council in accordance with DHS's standards and protocols. If you would also like a local review team to be able to refer *any* death to the council, or if you would like something else, please let me know.

9 (c) Identify trends in childhood deaths in this state, and make  
10 recommendations to the legislature and applicable state agencies related to  
11 interventions to prevent childhood deaths, including any necessary state resources  
12 that are required to implement the recommended interventions.

13 (d) Make recommendations to the legislature, the department, and any other  
14 state agency on matters related to unexpected or unexplained deaths among  
15 children.

16 (e) Make recommendations to the department related to assisting local review  
17 teams.

\*\*\*NOTE: Here, I deleted "managing and advising" and replaced it with "assisting" to match the requested change in s. 253.31 (1) (f). Is this OK?

18

(f) Suggest criteria and a process for recognizing local review teams.

\*\*\*NOTE: Please review this provision and let me know if I captured your intent.

Recommend

1 (g) Make information available to the public about the council and the council's  
2 role in public policy related to preventing childhood deaths.

3 (h) By March 1, 2015, and biennially thereafter, prepare and submit to the  
4 governor and the chief clerk of each house of the legislature, for distribution to the  
5 legislature under s. 13.172 (2), a report on the incidents and causes of childhood  
6 deaths in this state during the previous 2 years. The council shall include in the  
7 report any policy recommendations that result from compiling the data for the  
8 report.

\*\*\*\*NOTE: ~~Let me know if you want "incidence" here instead of "incidents."~~ Will  
there have been enough time by March 1 to prepare the report on the previous two years?

9 (2) The council may review an individual child's death when no review is  
10 conducted by a local review team under s. 253.35 (1) or (2).

\*\*\*\*NOTE: In addition to reviewing child deaths upon referral from a local review  
team, this provision also allows the Child Death Review Council to review a child's death  
on its own initiative when no such review has been conducted by any local review team.  
Please review this provision and make sure it captures your intent.

11 **253.33 Local review teams.** A local review team may apply for recognition  
12 by the department. A local review team that is recognized by the department shall  
13 do all of the following:

14 (1) Follow and apply the standards and protocols for child death reviews that  
15 are established by the department.

16 (2) Review the deaths of children as provided under 253.35.

17 (3) Enter data collected in connection with the review of a child's death into a  
18 state-designated case reporting system, as required by the department.

19 (4) Identify trends in childhood deaths in the geographical area for which the  
20 local review team is recognized and work with local organizations to make  
21 recommendations to local governmental officials related to interventions to prevent

1 childhood deaths, including any necessary local resources that are required to  
2 implement the recommended interventions.

3 (5) Share information with other local review teams, as required by the  
4 department.

5 (6) Refer specific reviews of child deaths to the council, as required by the  
6 department.

7 **253.35 Child death reviews by local review teams.** (1) (a) Except as  
8 provided in par. (b), a local review team recognized by the department shall review  
9 the deaths of all children that occur in the geographical area for which the local  
10 review team is recognized.

11 (b) A local review team recognized by the department shall refer a child's death  
12 to the council for review when required by the standards or protocols established by  
13 the department.

\*\*\*\*NOTE: If a local review team refers a death to the Child Death Review Council,  
may, or must, the local review team also conduct its own review?

14 (2) If no local review team is recognized by the department for the geographical  
15 area in which a child dies, or if the local review team recognized for the geographical  
16 area in which a child dies so requests, a local review team may review the death of  
17 a child that occurs outside of the geographical area for which the local review team  
18 is recognized in any of the following circumstances:

\*\*\*\*NOTE: If a local review team requests another team to review a death under this  
sub. (2), may, or must, the original team still conduct a review itself? In other words, can  
there be two reviews of the same death by different teams?

19 (a) An incident that substantially contributed to the death of the child occurred  
20 in the geographical area for which the local review team is recognized.

21 (b) Before his or her death, the child resided in the geographical area for which  
22 the local review team is recognized.



\*\*\*NOTE: I made substantial changes to this subsection to capture what I believe was your intent. Please review this entire provision carefully and let me know if I have done so and whether my language is broad or narrow enough to capture your intent.

1           **253.36 Child death reviews; records.** (1) Except as provided in sub. (3),  
2           upon receiving an oral or written request for access to or copies of information and  
3           records related to a child who is the subject of a review under this subchapter from  
4           the council or a representative of a local review team, a person shall provide the  
5           requested information and records to the council or local review team.

\*\*\*NOTE: In this version of the draft, we have added several provisions to permit access to various types of records. We took out the additional list of references in this subsection. Is this provision still necessary, or can it be made more specific so that it indicates to whom would it apply? What do you intend if someone does not comply with this provision?

6           (2) Notwithstanding s. 69.21 or any other state law to the contrary, any state  
7           or local agency, board, commission, committee, council, department, or public body  
8           corporate and politic that receives a request under sub. (1) shall release the  
9           requested records to the council or local review team.

\*\*\*NOTE: In this version of the draft, we have added several provisions to permit access to various types of records. If the added references are sufficient, the language here should be narrowed, and the reference here to “any other state law to the contrary” should be taken out because it is not specific. If there are other records not covered by the added provisions, let me know.

\*\*\*NOTE: Section 69.20 (2) prohibits access to certain information in vital records, with certain exceptions, which are laid out in s. 69.20 (3). Will local review teams need access to information under s. 69.20 (2) as well?

10           (3) A law enforcement agency may withhold investigative information or  
11           records requested under sub. (1) if the release of the information or records would  
12           interfere with a pending proceeding or investigation related to a criminal matter, a  
13           delinquency matter under ch. 938, a juvenile in need of protective services under ch.  
14           938, a child or unborn child in need of protection or services under ch. 48, or an issue  
15           of child protection under ch. 48.

Except as provided in s. 51.30(4)(b) 29.5

1 **253.37 Child death reviews; confidentiality.** (1) Information and records  
2 acquired by the council or a local review team are confidential and not open to public  
3 inspection or copying under s. 19.35 (1). Members of the council or a local review  
4 team and any person who attends a child death review or presents information to the  
5 council or a local review team related to a child death review shall keep all  
6 information presented in connection with the child death review and any opinions  
7 formed as a result of the child death review confidential

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\*\*\*\*NOTE: This provision provides that recipients must keep information confidential. Should I modify it so that the information can be shared with the council or with another local review team?

8 (2) A person who intentionally violates this section may be fined not more than  
9 \$1,000 or imprisoned not more than 6 months, or both.

10 **253.38 Child death reviews; actions and proceedings.** (1) USE OF  
11 INFORMATION IN COURT AND ADMINISTRATIVE PROCEEDINGS. The information and any  
12 records acquired in the course of a child death review by a local review team or the  
13 council are not subject to discovery or subpoena in a civil or criminal action or an  
14 administrative proceeding and are not admissible as evidence during the course of  
15 a civil or criminal action or an administrative proceeding.

16 (2) IMMUNITY. Any person participating in a child death review under this  
17 subchapter is immune from any civil or criminal liability for any good faith act or  
18 omission in connection with that participation. The immunity granted under this  
19 subsection applies to persons conducting the child death review as well as persons  
20 providing information or records pursuant to the child death review. For the purpose  
21 of any civil or criminal action, any person participating in a child death review under  
22 this subchapter is presumed to be acting in good faith.

\*\*\*\*NOTE: Please review these provisions, which include the material relating to use of child death review materials in court proceedings, and immunity for persons



2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1867/P1ins  
MED:.....

INSERT 3-14

*g records released*

1 *No #*, except that a member of a local review team may share information disclosed  
2 under this subdivision<sup>✓</sup> with the other members of that local review team, with  
3 another local review team conducting a review of that child's death, or with the child  
4 death review council.

\*\*\*\*NOTE: Please review these changes and let me know if further changes are needed.

INSERT 10-7

5 *No #*, except as provided in sub. (2).<sup>✓</sup>  
6 (2) A member of a local review team may share information disclosed to the  
7 local review team with another local review team conducting a review of that child's  
8 death or with the child death review council.

\*\*\*\*NOTE: Please review this change and let me know if further changes are needed.

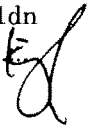
9 (3) *No #*

*End insert*

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

LRB-1867/P1dn

MED:...



Date

Michelle Merdler:

As requested, this is a new LRB number for the child death review draft that incorporates the requested changes.

Michael Duchek  
Legislative Attorney  
Phone: (608) 266-0130  
E-mail: michael.duchek@legis.wisconsin.gov

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

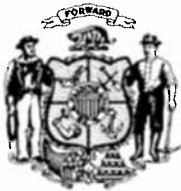
LRB-1867/P1dn  
MED:kjf:jf

March 14, 2013

Michelle Merdler:

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Michael Duchek  
Legislative Attorney  
Phone: (608) 266-0130  
E-mail: [michael.duchek@legis.wisconsin.gov](mailto:michael.duchek@legis.wisconsin.gov)



In 4-25-13

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

DUF ✓

Regen

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- 2           2. The secretary of children and families or his or her designee.
- 3           3. The attorney general or his or her designee.
- 4           4. The state superintendent of public instruction or his or her designee.
- 5           5. The secretary of transportation or his or her designee.

6           6. The secretary of natural resources or his or her designee. *tribes or bands*

7           7. A representative <sup>*One or more representatives*</sup> of a federally recognized American Indian tribe or band <sup>*tribes or bands*</sup> in  
 8 this state who <sup>*is*</sup> appointed by the secretary of health services. <sup>*one or more*</sup>

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\*\*\*NOTE: This provision allows a local review team and the Child Death Review Council to have access to day care records as provided in ~~s. 253.36.~~

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individual is a deceased child whose death is the subject of a review under subch. II of ch. 253 and the

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\*\*\*\*NOTE: Please review these changes and let me know if further changes are needed.

INS 3-18

SECTION 6. 118.125 (2) (e) of the statutes is created to read:  
 118.125 (2) (e) The school district clerk or his or her designee shall, upon request, make pupil records available to a designated member of the child death review council or a <sup>recognized</sup> local review team under s. 253.33 <sup>as defined in s. 253.30(3)</sup> if the pupil records involve or are relevant to, as determined by the child death review council or <sup>recognized</sup> local review team, the review of a child's death under subch. II of ch. 253.

\*\*\*NOTE: This paragraph provides an exemption from the general rule under state law that pupil records must remain confidential. "Pupil records" is defined broadly under s. 118.125 (1) (d) to include behavioral records (defined under s. 118.125 (1) (a)), progress records (defined under s. 118.125 (1) (c)), and pupil physical health records (defined under s. 118.125 (1) (cm)). Please review these definitions to confirm that the exemption from confidentiality created under this paragraph accomplishes your intent.

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*that is recognized by the department under s. 253.31(4)(e)1*

Recognized

\*\*\*\*NOTE: Do you envision that there may be local review teams that are not recognized by DHS? Should the term used in the draft instead be "recognized local review team," so that the provisions in the bill apply to teams that have been so recognized?

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16 protocols for when a local review team is required to refer a specific death to the  
17 council for the council to review.

\*\*\*\*NOTE: I added specific language here requiring DHS to establish standards or protocols for when a death should be referred to the Child Death Review Council. Please review this added language and confirm that it reflects your intent.

- 18           (f) <sup>e (e)</sup> After considering any recommendations received from the council, assist  
19 local review teams, including by doing all of the following:
- 20           1. Recognizing local review teams.
- 21           2. Facilitating the formation of individual local review teams.

1 3. Providing assistance with training and data collection procedures.

2 4. Adopting standards and protocols for local review teams.

\*\*\*NOTE: Is this subdivision 4. intended to capture anything beyond what DHS already does under par. (e), above?

3 5. Creating forms and tools for child death reviews.

4 (2) The department may enter into a contract with an entity to perform any of  
5 the department's duties under this section.

\*\*\*NOTE: Should this provision specify what DHS must do and what may be done by the contracted entity?

6 **253.32 Child death review council.** (1) The council shall do all of the  
7 following:

8 (a) Collect and review data pertaining to all child deaths that occur in this state.

9 (b) Review an individual child's death upon a referral from a local review team.

\*\*\*NOTE: I changed "request" here to "referral" based on my understanding that a local review team would only refer deaths to the Child Death Review Council in accordance with DHS's standards and protocols. If you would also like a local review team to be able to refer any death to the council, or if you would like something else, please let me know.

10 (c) Identify trends in childhood deaths in this state, and make  
11 recommendations to the legislature and applicable state agencies related to  
12 interventions to prevent childhood deaths, including any necessary state resources  
13 that are required to implement the recommended interventions.

14 (d) Make recommendations to the legislature, the department, and any other  
15 state agency on matters related to unexpected or unexplained deaths among  
16 children.

17 (e) Make recommendations to the department related to assisting local review  
18 teams.

\*\*\*NOTE: Here, I deleted "managing and advising" and replaced it with "assisting" to match the requested change in s. 253.31 (f). Is this OK?

19 (f) Recommend criteria and a process for recognizing local review teams.

\*\*\*NOTE: Should this par. (f) be merged with par. (e)?

INS  
6-16

recognized

e

e

e request

recognized

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recognized

e

→

\*\*\*\*NOTE: Please review this provision and let me know if I captured your intent.

1 (g) Make information available to the public about the council and the council's  
2 role in public policy related to preventing childhood deaths.

3 (h) By March 1, 2015, and biennially thereafter, prepare and submit to the  
4 governor and the chief clerk of each house of the legislature, for distribution to the  
5 legislature under s. 13.172 (2), a report on the incidents and causes of childhood  
6 deaths in this state during the previous 2 years. The council shall include in the  
7 report any policy recommendations that result from compiling the data for the  
8 report.

\*\*\*\*NOTE: Will there have been enough time by March 1 to prepare the report on  
the previous two years?

9 (2) The council may review an individual child's death when no review is  
10 conducted by a <sup>recognized</sup> local review team under s. 253.35 (1) or (2).

\*\*\*\*NOTE: In addition to reviewing child deaths upon referral from a local review  
team, this provision also allows the Child Death Review Council to review a child's death  
on its own initiative when no such review has been conducted by any local review team.  
Please review this provision and make sure it captures your intent.

11 **253.33 Local review teams.** A local review team may apply for recognition  
12 by the department. A <sup>recognized</sup> local review team (that is recognized by the department) shall  
13 do all of the following:

14 (1) Follow and apply the standards and protocols for child death reviews that  
15 are established by the department.

16 (2) Review the deaths of children as provided under 253.35.

17 (3) Enter data collected in connection with the review of a child's death into a  
18 state-designated case reporting system, as required by the department.

19 (4) Identify trends in childhood deaths in the geographical area for which the  
20 local review team is recognized and work with local organizations to make  
21 recommendations to local governmental officials related to interventions to prevent

Insert 7-8  
→

INS 7-5

1 childhood deaths, including <sup>descriptions of</sup> any necessary local resources that are required to  
2 implement the recommended interventions.

→ ~~\*\*\*NOTE~~: Please review my changes here.

3 (5) Share information with other <sup>recognized</sup> local review teams, as required by the  
4 department <sup>provided in the standards and protocols adopted by the department</sup>

5 (6) Refer specific reviews of child deaths to the council, as required by the  
6 department.

7 **253.35 Child death reviews by local review teams.** (1) (a) Except as

8 provided in par. (b), a <sup>recognized</sup> local review team recognized by the department shall review  
9 the deaths of all children that occur in the geographical area for which the local  
10 review team is recognized.

11 <sup>by</sup> (b) A <sup>recognized</sup> local review team recognized by the department shall <sup>request review of</sup> refer a child's death  
12 to the council for review when required by the standards or protocols established by  
13 the department.

\*\*\*\*NOTE: If a local review team refers a death to the Child Death Review Council, may, or must, the local review team also conduct its own review?

Ins  
8-13

14 (2) If no local review team is recognized by the department for the geographical  
15 area in which a child dies, or if the <sup>recognized</sup> local review team recognized for the geographical  
16 area in which a child dies so requests, a <sup>recognized</sup> local review team may review the death of  
17 a child that occurs outside of the geographical area for which the local review team  
18 is recognized in any of the following circumstances:

\*\*\*\*NOTE: If a local review team requests another team to review a death under this sub. (2), may, or must, the original team still conduct a review itself? In other words, can there be two reviews of the same death by different teams?

19 (a) An incident that substantially contributed to the death of the child occurred  
20 in the geographical area for which the local review team is recognized.

21 (b) Before his or her death, the child resided in the geographical area for which  
22 the local review team is recognized.

\*\*\*\*NOTE: I made substantial changes to this subsection to capture what I believe was your intent. Please review this entire provision carefully and let me know if I have done so and whether my language is broad or narrow enough to capture your intent.

1           **253.36 Child death reviews; records.** (1) Except as provided in sub. (3),  
2 upon receiving an oral or written request for access to or copies of information and  
3 records related to a child who is the subject of a review under this subchapter from  
4 the council or a representative of a <sup>recognized</sup> local review team, a person shall provide the  
5 requested information and records to the council or <sup>recognized</sup> local review team.

\*\*\*\*NOTE: In this version of the draft, we have added several provisions to permit access to various types of records. We took out the additional list of references in this subsection. Is this provision still necessary, or can it be made more specific so that it indicates to whom would it apply? What do you intend if someone does not comply with this provision? all ins 9-5

6           (2) Notwithstanding s. 69.21 or any other state law to the contrary, any state  
7 or local agency, board, commission, committee, council, department, or public body  
8 corporate and politic that receives a request under sub. (1) shall release the  
9 requested records to the council or <sup>recognized</sup> local review team.

\*\*\*\*NOTE: In this version of the draft, we have added several provisions to permit access to various types of records. If the added references are sufficient, the language here should be narrowed, and the reference here to "any other state law to the contrary" should be taken out because it is not specific. If there are other records not covered by the added provisions, let me know.

\*\*\*\*NOTE: Section 69.20 (2) prohibits access to certain information in vital records, with certain exceptions, which are laid out in s. 69.20 (3). Will local review teams need access to information under s. 69.20 (2) as well?

10           (3) A law enforcement agency may withhold investigative information or  
11 records requested under sub. (1) if the release of the information or records would  
12 interfere with a pending proceeding or investigation related to a criminal matter, a  
13 delinquency matter under ch. 938, a juvenile in need of protective services under ch.  
14 938, a child or unborn child in need of protection or services under ch. 48, or an issue  
15 of child protection under ch. 48.

1           **253.37 Child death reviews; confidentiality.** (1) Except as provided in s.  
 2 51.30 (4) (b) 29., information and records acquired by the council or a local review  
 3 team are confidential and not open to public inspection or copying under s. 19.35 (1).  
 4 Members of the council or a local review team and any person who attends a child  
 5 death review or presents information to the council or a local review team related to  
 6 a child death review shall keep all information presented in connection with the child  
 7 death review and any opinions formed as a result of the child death review  
 8 confidential except as provided in sub. (2)

9           (2) A member of a local review team may share information disclosed to the  
 10 local review team with another local review team conducting a review of that child's  
 11 death or with the child death review council.

\*\*\*NOTE: Please review this change and let me know if further changes are needed.

12           (3) A person who intentionally violates this section may be fined not more than  
 13 \$1,000 or imprisoned not more than 6 months, or both.

14           **253.38 Child death reviews; actions and proceedings.** (1) USE OF  
 15 INFORMATION IN COURT AND ADMINISTRATIVE PROCEEDINGS. The information and any  
 16 records acquired in the course of a child death review by a local review team or the  
 17 council are not subject to discovery or subpoena in a civil or criminal action or an  
 18 administrative proceeding and are not admissible as evidence during the course of  
 19 a civil or criminal action or an administrative proceeding.

20           (2) IMMUNITY. Any person participating in a child death review under this  
 21 subchapter is immune from any civil or criminal liability for any good faith act or  
 22 omission in connection with that participation. The immunity granted under this  
 23 subsection applies to persons conducting the child death review as well as persons  
 24 providing information or records pursuant to the child death review. For the purpose



1 of any civil or criminal action, any person participating in a child death review under  
2 this subchapter is presumed to be acting in good faith.

\*\*\*\*NOTE: Please review these provisions, which include the material relating to use of child death review materials in court proceedings, and immunity for persons participating in a child review. Please let me know if this captures your intent. Also, I provided here that a person participating in a child death review is presumed to be acting in good faith. Is this OK? Do you want to add anything about the standard of proof to overcome this presumption?

3 **SECTION 11.** 905.17 of the statutes is created to read:

4 **905.17 Child death review participant privilege.** (1) **DEFINITION.** In this  
5 section, “person participating in a child death review” means any person conducting  
6 a child death review under subch. II of ch. 253 and any person providing information  
7 or records in connection with a child death review under subch. II of ch. 253.

8 (2) **GENERAL RULE OF PRIVILEGE.** A person participating in a child death review  
9 has a privilege to refuse to disclose and to prevent any other person from disclosing  
10 any information provided or obtained or opinions formed or offered in the course of  
11 a child death review.

12 (3) **WHO MAY CLAIM THE PRIVILEGE.** Any person participating in a child death  
13 review may claim the privilege.

14 (4) **EXCEPTION.** There is no privilege under this rule for information obtained  
15 independent of a child death review or information that is available for public  
16 inspection or copying under s. 19.35 (1).

\*\*\*\*NOTE: This provision creates a privilege that protects a “person participating in a child death review,” which is defined above, from having to testify about information provided or obtained or opinions formed or offered in the course of a child death review, and permits those persons to claim the privilege. Does this accomplish your intent in this matter?

17

(END)

D-Note

ms  
11-11

2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1867/P2ins

.....

INSERT 2-9

1 , or who have expertise that the secretary of health services determines is  
2 relevant to,

INSERT 2-11

\*\*\*NOTE: Are my changes here sufficient?

INSERT 3-18

3 SECTION 1. 118.125 (2) (o) of the statutes is created to read:

4 118.125 (2) (o) The school district clerk or his or her designee shall, upon a  
5 request by a recognized local review team, as defined in s. 253.30 (3), or by the child  
6 death review council, make pupil records available to the team or council if the pupil  
7 records involve or are relevant, as determined by the team or council, to the review  
8 of a child's death under subch. II of ch. 253.

\*\*\*NOTE: Do the changes here reflect your intent?

INSERT 6-16

\*\*\*NOTE: The question was written whether this limited who the council may make  
recommendations to. I do not believe it would. However, if you want to add something  
else here, let me know.

INSERT 7-5

9 data collected by the council on the causes

INSERT 7-8

\*\*\*NOTE: Are my changes here correct? I did not add "recommendations" as  
requested because it already says that in the last sentence.

INSERT 8-13

\*\*\*NOTE: I modified the language here about referral to match the changes you  
made to 253.32 (1) (b). Is this OK?

INSERT 9-5

\*\*\*\*NOTE: The term "person" in Wisconsin law already includes agencies and entities (see s. 990.01 (26), stats.).

INSERT 11-~~5~~11

*wanted*

\*\*\*\*NOTE: I wasn't sure exactly what changes you wanted here. Please let me know what you think might be necessary here.

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

LRB-1867/P2dn

MED: *kyf*

*Date*

Please review this latest version of the draft and the embedded notes. Also, note that I changed the defined term in the draft to “recognized local review team” and changed all of the appropriate instances in the draft to correspond with this change. With these changes, the provisions in the bill only apply to local review teams that are recognized by the department. Please let me know if you have any questions.

Michael Duchek  
Legislative Attorney  
Phone: (608) 266-0130  
E-mail: michael.duchek@legis.wisconsin.gov



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-0444/P1  
MED&TKK:kjf:rs

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

\* These notes reflect the outcome of the CDR Council  
Sub-Committee, as of 1-18-13.  
The committee agreed with drafter to place language  
in chapter 253.

1     **AN ACT to amend** 48.78 (2) (a) (intro.), 48.981 (7) (a) 15. and 253.01; and **to create**  
2             15.197 (15), 19.85 (1) (j), 51.30 (4) (b) 29., 118.125 (2) (o), 146.82 (2) (a) 23.,  
3             subchapter I (title) of chapter 253 [precedes 253.01], subchapter II of chapter  
4             253 [precedes 253.30] and 905.17 of the statutes; **relating to:** creating a  
5             statewide program to review child deaths and providing a penalty.

---

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a subsequent version  
of this draft.

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

6             **SECTION 1.** 15.197 (15) of the statutes is created to read:  
7             15.197 (15) CHILD DEATH REVIEW COUNCIL. (a) There is created in the  
8             department of health services a child death review council consisting of all of the  
9             following members:

- 1 1. The secretary of health services or his or her designee.
- 2 2. The secretary of children and families or his or her designee.
- 3 3. The attorney general or his or her designee.
- 4 4. The state superintendent of public instruction or his or her designee.
- 5 5. The secretary of transportation or his or her designee.
- 6 6. The secretary of natural resources or his or her designee.
- 7 7. A representative<sup>(s)</sup> of a federally recognized American Indian tribe or band in  
8 this state who is appointed by the secretary of health services.
- 9 8. At least 17 other members who have demonstrated a continuing interest in  
10 the problem of unexplained or preventable childhood deaths,<sup>and/or have content expertise,</sup> appointed by the  
11 secretary of health services.

12 **SECTION 2.** 19.85 (1) (j) of the statutes is created to read:

13 19.85 (1) (j) Review of a child's death by the child death review council or by  
14 a local review team under s. 253.33.

15 **SECTION 3.** 48.78 (2) (a) (intro.) of the statutes is amended to read:

16 48.78 (2) (a) (intro.) No agency may make available for inspection or disclose  
17 the contents of any record kept or information received about an individual who is  
18 or was in its care or legal custody, except as provided under s. 48.371, 48.38 (5) (b)  
19 or (d) or (5m) (d), 48.396 (3) (bm) or (c) 1r., 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m),  
20 48.93, 48.981 (7), 253.36, 938.396 (2m) (c) 1r., 938.51, or 938.78 or by order of the  
21 court.

\*\*\*\*NOTE: This provision allows a local review team and the Child Death Review  
Council to have access to day care records as provided in s. 253.36.

22 **SECTION 4.** 48.981 (7) (a) 15. of the statutes is amended to read:

1 48.981 (7) (a) 15. A ~~child fatality local~~ review team recognized by the county  
2 ~~department or, in a county having a population of 500,000 or more, the department~~  
3 ~~or a licensed child welfare agency under contract with the department~~ under s.  
4 253.33 or the child death review council.

5 SECTION 5. 51.30 (4) (b) 29. of the statutes is created to read:

6 51.30 (4) (b) 29. To an authorized member of the child death review council or  
7 of a local review team under s. 253.33, upon an oral or written request from that  
8 person, if the <sup>deceased child's</sup> ~~individual's~~ treatment records are relevant, as determined by the  
9 member, to the review of a child's death under subch. II of ch. 253. A custodian of  
10 treatment records may initiate contact with the child death review council or a local  
11 review team to inform the council or team of treatment records of a deceased child  
12 that may be relevant to the completion of a review of a child's death under subch. II  
13 of ch. 253. ~~The recipient of any information under this subdivision shall keep the~~  
14 ~~information confidential.~~

\*\*\*\*NOTE: This provision provides that the recipient must keep the information received under this subdivision confidential. Should I modify it so that the information can be shared with other members of the local review team, the council, or another local review team? Answer Yes

Ask conflict

15 SECTION 6. 118.125 (2) (o) of the statutes is created to read:

16 118.125 (2) (o) The school district clerk or his or her designee shall, upon  
17 request, <sup>shall</sup> make pupil records available to a designated member of the child death  
18 review council or a local review team under s. 253.33 if the pupil records involve or  
19 are relevant to, as determined by the child death review council or local review team,  
20 the review of a child's death under subch. II of ch. 253.

\*\*\*\*NOTE: This paragraph provides an exemption from the general rule under state law that pupil records must remain confidential. "Pupil records" is defined broadly under s. 118.125 (1) (d) to include behavioral records (defined under s. 118.125 (1) (a)), progress records (defined under s. 118.125 (1) (c)), and pupil physical health records (defined under

upon request of a local CDR team or CDR Council

s. 118.125 (1) (cm)). Please review these definitions to confirm that the exemption from confidentiality created under this paragraph accomplishes your intent. *Answer Yes*

1           **SECTION 7.** 146.82 (2) (a) 23. of the statutes is created to read:  
2           146.82 (2) (a) 23. To the child death review council or a local review team under  
3           s. 253.33.

      \*\*\*\*NOTE: Should I add language here to clarify that these records may only be disclosed in connection with an investigation of a child's death? *Answer No*

4           **SECTION 8.** Subchapter I (title) of chapter 253 [precedes 253.01] of the statutes  
5           is created to read:

**CHAPTER 253**

**SUBCHAPTER I**

**MATERNAL AND CHILD HEALTH**

6           **SECTION 9.** 253.01 of the statutes is amended to read:

7           **253.01 Definition.** In this ~~chapter~~ subchapter, "division" means the division  
8           within the department that has primary responsibility for health issues.

9           **SECTION 10.** Subchapter II of chapter 253 [precedes 253.30] of the statutes is  
10          created to read:

**CHAPTER 253**

**SUBCHAPTER II**

**CHILD DEATH REVIEWS**

11          **253.30 Definitions.** In this subchapter:

12          (1) "Child" means an individual under the age of 18.

13          (2) "Council" means the child death review council.

14          (3) "Local review team" means a local review team under s. 253.33.

15          (4) "Department" means Department of Health Services unless otherwise specified.

      \*\*\*\*NOTE: Do you envision that there may be local review teams that are not recognized by DHS? Should the term used in the draft instead be "registered local review team," so that the provisions in the bill apply to teams that have been so registered?

*Answer No*



1           **253.31 Child death review program.** (1) The department shall develop and  
2 maintain a statewide program to review the deaths of children in this state for the  
3 purpose of reducing preventable childhood deaths. The department shall develop  
4 the program to include the council and local review teams. Under the program, the  
5 department shall do all of the following:

6           (a) Provide professional and administrative support to the council.

7           (b) Collect data that pertains to childhood deaths, including by entering into  
8 data-sharing agreements with other state agencies that collect similar data.

9           (c) Cooperate with other state agencies to develop and implement programs  
10 and polices to prevent the deaths of children in this state.

11           (d) After considering any recommendations received from the council, provide  
12 information to the public about the <sup>risk factors and circumstances surrounding</sup> ~~incidents and causes~~ of childhood deaths in this  
13 state and about specific strategies to prevent childhood deaths.

\*\*\*\*NOTE: Let me know if you want "incidence" here instead of "incidents." (new lang.)

14           (e) After considering any recommendations received from the council, establish  
15 standards and protocols for conducting child death reviews, ~~including standards or~~  
16 ~~protocols for when a local review team is required to refer a specific death to the~~  
17 ~~council for the council to review.~~ (lang. not needed)

\*\*\*\*NOTE: I added specific language here requiring DHS to establish standards or  
protocols for when a death should be referred to the Child Death Review Council. Please  
review this added language and confirm that it reflects your intent. (Will cover in guide book)

18           (f) After considering any recommendations received from the council, assist  
19 local review teams, including by doing all of the following:

20           1. Recognizing local review teams.

21           2. Facilitating the formation of individual local review teams.

22           3. Providing assistance with training and data collection procedures.

1 4. Adopting standards and protocols for local review teams.

\*\*\*\*NOTE: Is this subdivision 4. intended to capture anything beyond what DHS already does under par. (e), above? Answer No

2 5. Creating forms and tools for child death reviews.

3 (2) The department may enter into a contract with an entity to perform any of  
4 the department's duties under this section.

\*\*\*\*NOTE: Should this provision specify what DHS must do and what may be done by the contracted entity? Language as proposed is fine.

5 **253.32 Child death review council.** (1) The council shall do all of the  
6 following:

7 (a) Collect and review data pertaining to all child deaths that occur in this state.

8 (b) Review an individual child's death upon a <sup>request</sup> referral from a local review team.

\*\*\*\*NOTE: I changed "request" here to "referral" based on my understanding that a local review team would only refer deaths to the Child Death Review Council in accordance with DHS's standards and protocols. If you would also like a local review team to be able to refer any death to the council, or if you would like something else, please let me know.

9 (c) Identify trends in childhood deaths in this state, and make  
10 recommendations to the legislature and applicable state agencies related to  
11 interventions to prevent childhood deaths, including any necessary state resources  
12 that are required to implement the recommended interventions.

13 (d) Make recommendations to the legislature, the department, and any other  
14 state agency on matters related to unexpected or unexplained deaths among  
15 children. Does this limit us on who else we can make recommendations to?

16 (e) Make recommendations to the department related to assisting local review  
17 teams.

\*\*\*\*NOTE: Here, I deleted "managing and advising" and replaced it with "assisting" to match the requested change in s. 253.31 (1) (f). Is this OK? Yes

18 <sup>Recommend</sup> (f) <sup>Suggest</sup> criteria and a process for recognizing local review teams.

\*\*\*\*NOTE: Please review this provision and let me know if I captured your intent.

1 (g) Make information available to the public about the council and the council's  
2 role in public policy related to preventing childhood deaths.

3 (h) By March 1, 2015, and biennially thereafter, prepare and submit to the  
4 governor and the chief clerk of each house of the legislature, for distribution to the  
5 legislature under s. 13.172 (2), a report on ~~the (incidents) and~~ <sup>data and any recommendations regarding</sup> causes of childhood  
6 deaths in this state during ~~the~~ previous ~~2~~ years. The council shall include in the  
7 report any policy recommendations that result from compiling the data for the  
8 report.

\*\*\*\*NOTE: Let me know if you want "incidence" here instead of "incidents." Will there have been enough time by March 1 to prepare the report on the previous two years?

9 (2) The council may review an individual child's death when no review is  
10 conducted by a local review team under s. 253.35 (1) or (2).

\*\*\*\*NOTE: In addition to reviewing child deaths upon referral from a local review team, this provision also allows the Child Death Review Council to review a child's death on its own initiative when no such review has been conducted by any local review team. Please review this provision and make sure it captures your intent.

11 **253.33 Local review teams.** A local review team may apply for recognition  
12 by the department. A local review team that is recognized by the department shall  
13 do all of the following:

14 (1) Follow and apply the standards and protocols for child death reviews that  
15 are established by the department.

16 (2) Review the deaths of children as provided under 253.35.

17 (3) Enter data collected in connection with the review of a child's death into a  
18 state-designated case reporting system, as required by the department.

19 (4) Identify trends in childhood deaths in the geographical area for which the  
20 local review team is recognized and work with local organizations to make  
21 recommendations to ~~local governmental officials~~ <sup>(don't limit)</sup> related to interventions to prevent

1 childhood deaths, including any necessary local resources that are required to  
2 implement the recommended interventions.

3 (5) Share information with other local review teams, as required by the  
4 department. *and covered in the protocol.*

5 (6) Refer specific reviews of child deaths to the council, as required by the  
6 department.

7 **253.35 Child death reviews by local review teams.** (1) (a) Except as  
8 provided in par. (b), a local review team recognized by the department shall review  
9 the deaths of all children that occur in the geographical area for which the local  
10 review team is recognized.

11 (b) A local review team recognized by the department shall refer a child's death  
12 to the council for review when required by the standards or protocols established by  
13 the department. *Harmonize language with (6) and prior sections.*

Answer *(may)* **\*\*\*\*NOTE:** If a local review team refers a death to the Child Death Review Council,  
*(may)* or must, the local review team also conduct its own review?

14 (2) If no local review team is recognized by the department for the geographical  
15 area in which a child dies, or if the local review team recognized for the geographical  
16 area in which a child dies so requests, a local review team may review the death of  
17 a child that occurs outside of the geographical area for which the local review team  
18 is recognized in any of the following circumstances:

**\*\*\*\*NOTE:** If a local review team requests another team to review a death under this  
sub. (2), may, or must, the original team still conduct a review itself? In other words, can  
there be two reviews of the same death by different teams?

19 (a) An incident that substantially contributed to the death of the child occurred  
20 in the geographical area for which the local review team is recognized.

21 (b) Before his or her death, the child resided in the geographical area for which  
22 the local review team is recognized.

\*\*\*\*NOTE: I made substantial changes to this subsection to capture what I believe was your intent. Please review this entire provision carefully and let me know if I have done so and whether my language is broad or narrow enough to capture your intent.

1           **253.36 Child death reviews; records.** (1) Except as provided in sub. (3),  
2 upon receiving an oral or written request for access to or copies of information and  
3 records related to a child who is the subject of a review under this subchapter from  
4 the council or a representative of a local review team, a person<sup>agency or entity,</sup> shall provide the  
5 requested information and records to the council or local review team.

\*\*\*\*NOTE: In this version of the draft, we have added several provisions to permit access to various types of records. We took out the additional list of references in this subsection. Is this provision still necessary, or can it be made more specific so that it indicates to whom would it apply? What do you intend if someone does not comply with this provision?

6           (2) Notwithstanding s. 69.21 or any other state law to the contrary, any state  
7 or local agency, board, commission, committee, council, department, or public body  
8 corporate and politic that receives a request under sub. (1) shall release the  
9 requested records to the council or local review team.

\*\*\*\*NOTE: In this version of the draft, we have added several provisions to permit access to various types of records. If the added references are sufficient, the language here should be narrowed, and the reference here to "any other state law to the contrary" should be taken out because it is not specific. If there are other records not covered by the added provisions, let me know. *This may be okay.*

*DHS needs to review.*

\*\*\*\*NOTE: Section 69.20 (2) prohibits access to certain information in vital records, with certain exceptions, which are laid out in s. 69.20 (3). Will local review teams need access to information under s. 69.20 (2) as well?

10           (3) A law enforcement agency may withhold investigative information or  
11 records requested under sub. (1) if the release of the information or records would  
12 interfere with a pending proceeding or investigation related to a criminal matter, a  
13 delinquency matter under ch. 938, a juvenile in need of protective services under ch.  
14 938, a child or unborn child in need of protection or services under ch. 48, or an issue  
15 of child protection under ch. 48.

1           **253.37 Child death reviews; confidentiality.** (1) Information and records  
2 acquired by the council or a local review team are confidential and not open to public  
3 inspection or copying under s. 19.35 (1). Members of the council or a local review  
4 team and any person who attends a child death review or presents information to the  
5 council or a local review team related to a child death review shall keep all  
6 information presented in connection with the child death review and any opinions  
7 formed as a result of the child death review confidential.

      \*\*\*NOTE: This provision provides that recipients must keep information  
confidential. Should I modify it so that the information can be shared with the council  
or with another local review team? *We think Yes.*

8           (2) A person who intentionally violates this section may be fined not more than  
9 \$1,000 or imprisoned not more than 6 months, or both.

10           **253.38 Child death reviews; actions and proceedings.** (1) USE OF  
11 INFORMATION IN COURT AND ADMINISTRATIVE PROCEEDINGS. The information and any  
12 records acquired in the course of a child death review by a local review team or the  
13 council are not subject to discovery or subpoena in a civil or criminal action or an  
14 administrative proceeding and are not admissible as evidence during the course of  
15 a civil or criminal action or an administrative proceeding.

16           (2) IMMUNITY. Any person participating in a child death review under this  
17 subchapter is immune from any civil or criminal liability for any good faith act or  
18 omission in connection with that participation. The immunity granted under this  
19 subsection applies to persons conducting the child death review as well as persons  
20 providing information or records pursuant to the child death review. For the purpose  
21 of any civil or criminal action, any person participating in a child death review under  
22 this subchapter is presumed to be acting in good faith.

      \*\*\*NOTE: Please review these provisions, which include the material relating to  
use of child death review materials in court proceedings, and immunity for persons

participating in a child review. Please let me know if this captures your intent. Also, I provided here that a person participating in a child death review is presumed to be acting in good faith. Is this OK? Do you want to add anything about the standard of proof to overcome this presumption? Shelly and Tom need to think thru.

1 SECTION 11. 905.17 of the statutes is created to read:

2 **905.17 Child death review participant privilege.** (1) DEFINITION. In this  
3 section, "person participating in a child death review" means any person conducting  
4 a child death review under subch. II of ch. 253 and any person providing information  
5 or records in connection with a child death review under subch. II of ch. 253.

6 (2) GENERAL RULE OF PRIVILEGE. [A person participating in a child death review  
7 has a privilege to refuse to disclose and to prevent any other person from disclosing  
8 any information provided or obtained or opinions formed or offered in the course of  
9 a child death review.] Also reference this same language on page 10 -Immunity.

10 (3) WHO MAY CLAIM THE PRIVILEGE. Any person participating in a child death  
11 review may claim the privilege.

12 (4) EXCEPTION. There is no privilege under this rule for information obtained  
13 independent of a child death review or information that is available for public  
14 inspection or copying under s. 19.35 (1).

\*\*\*\*NOTE: This provision creates a privilege that protects a "person participating in a child death review," which is defined above, from having to testify about information provided or obtained or opinions formed or offered in the course of a child death review, and permits those persons to claim the privilege. Does this accomplish your intent in this matter?

15

(END)

## Duchek, Michael

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**From:** Duchek, Michael  
**Sent:** Monday, April 08, 2013 8:24 AM  
**To:** 'Collier, Abigael'  
**Subject:** RE: Child Death Review

Thank you Abby,

Can you also further clarify what changes you would like with regards to 253.33 (6) on page 8, lines 5 and 6, and 253.35 (1) (b) on page 8, lines 11-13? I believe the intent was to somehow harmonize these with the changes to s. 253.32 (1) (b) on page 6, line 8, but I am not exactly sure what your intent is here regarding review of deaths by the council and how these should be changed, so if you could elaborate on this that would help me out. Thanks,

-Mike

---

**From:** Collier, Abigael [<mailto:AJCollier@chw.org>]  
**Sent:** Friday, April 05, 2013 12:34 PM  
**To:** Duchek, Michael; Ordinans, Karen  
**Subject:** RE: Child Death Review

Hi Mike,

Our comments are below. Feel free to contact me with any questions.

### Abby Collier, MS

Injury Prevention and Death Review Project Manager  
Children's Health Alliance of Wisconsin  
[www.chawisconsin.org](http://www.chawisconsin.org)  
Office: 414-292-4016

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**From:** Duchek, Michael [<mailto:Michael.Duchek@legis.wisconsin.gov>]  
**Sent:** Friday, April 05, 2013 8:28 AM  
**To:** Ordinans, Karen  
**Cc:** Collier, Abigael  
**Subject:** RE: Child Death Review

Karen and Abby, here are some follow up questions for you guys in response to your responses. Page and line #s reference the copy of LRB-0444/P1 that you wrote on (which has since been redrafted to LRB-1867/P1 and will become/P2). Any questions, feel free to call or email:

**Page 2, line 10** – The suggested change appears to be “and/or have content expertise.” Am I reading this correctly? If so, what does content expertise mean? Essentially we wanted to leave room for someone who might not fit into one of the official categories but would bring a valuable perspective to the CDR Council. This language can be removed if the current language is broad enough.

**Page 3, line 8** – Is the intent of this suggested change to say that the only treatment records that would be sought under this provision would be those of the deceased child himself/herself? If yes, then I will make changes to do this. If no, then this change should not be included. Yes, you are correct. We only want the records for the deceased child.



**Page 3, lines 13-14** – I already made a change in the latest version in this last sentence that would accomplish what was described in the note to which someone responded “Yes.” However, the last sentence on those lines is also marked for deletion. So, I need to know which of these changes you want (delete sentence entirely, or keep sentence but with changes to allow disclosure to other members of the team, other teams, and the council?). We would like you to keep the sentence but with the changes to allow disclosure.

**Page 4, lines 2-3** – Here the response to the note was “No.” But Michelle in Senator Olsen’s office said “Yes” to make this change. In the most recent version, it reads:

“146.82 **(2)** (a) 23. To the child death review council or a local review team under s. 253.33 *for the purpose of investigating the death of a child.*” (italics is the language that was added)

So, please let me know if you want to go back to what it was before or if you want to keep the language in italics. Our concern is that the local CDR teams do not actually investigate the deaths, they review them. Could it read “for the purpose of investigating or reviewing the death of a child”?

**Page 4, line 20** – We do not need to define “department” here because it is already defined in section 250.01(2), which applies to chapter 253. It does not look like there are references in the created subchapter to any department other than DHS. If there are any concerns with this that you had in mind, let me know. This makes sense.

**Page 4, line 20** – In response to my note someone wrote “No” but I am not sure what question this was saying no to. Can you clarify? Our intent is to have the legislation only apply to teams that have been recognized by DHS. I do not anticipate there will be teams that are not recognized. However, we want to ensure that only recognized teams can access the information outlined in this legislation.

**Page 6, line 15** – There was a question wrote in. This provision is already fairly broad and non-specific and is not specific about when and how the council would make any recommendations, and nothing would prevent the council from making recommendations to anyone else. However, if you want to specifically mention anything else here (even something broad), you could. It is fine to leave this language as written.

**Page 7, line 6** – If your intent is to not make this refer to any specific number of years, I would be inclined to take out the reference to “during the previous years” entirely. Is that OK? If not, please clarify. It is fine to remove that phrase.

Thanks,

**Mike Duchek**  
**Legislative Attorney**  
**Wisconsin Legislative Reference Bureau**  
**(608) 266-0130**

## Duchek, Michael

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**From:** Ordinans, Karen <KOrdinans@chw.org>  
**Sent:** Tuesday, April 09, 2013 4:13 PM  
**To:** Duchek, Michael  
**Cc:** Collier, Abigail  
**Subject:** Response to CDR language draft

Hi Mike,


Abby forwarded your most recent questions below. I am attempting to answer them below in red, however, if it is easier to call me to discuss, please feel free to do so:

Can you also further clarify what changes you would like with regards to 253.33 (6) on page 8, lines 5 and 6, and 253.35 (1) (b) on page 8, lines 11-13? I believe the intent was to somehow harmonize these with the changes to s. 253.32 (1) (b) on page 6, line 8, but I am not exactly sure what your intent is here regarding review of deaths by the council and how these should be changed, so if you could elaborate on this that would help me out. Thanks,

- Page 6: 253.32 (1) (b) should read "Review an individual child's death upon a request from a local review team." (This reflects the Councils' responsibility.)
- Page 8: 253:33 (6). For clarity, I think we should delete (6) since it is covered under (1) in terms of being included in standards and protocols.
- Page 8: 253.35 (1) (b). This language can remain as is as it aligns with 253.33 (1). (It is our and DHS's expectation that the standards and protocols will be covered in detail in the Keeping Kids Alive in WI guidebook, which currently exists and is scheduled to be updated this next year.)

Please let me know if you have additional questions. And thank you for your work on this.

*Karen*

Karen Ordinans  
Executive Director  
Children's Health Alliance of Wisconsin  
620 South 76<sup>th</sup> St., Suite 120  
Milwaukee, WI 53214  
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Fax: 414-231-4972  
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 [Find us on Facebook!](#)

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

LRB-1867/P2dn  
MED:kjf:ph

May 2, 2013

Please review this latest version of the draft and the embedded notes. Also, note that I changed the defined term in the draft to “recognized local review team” and changed all of the appropriate instances in the draft to correspond with this change. With these changes, the provisions in the bill only apply to local review teams that are recognized by the department. Please let me know if you have any questions.

Michael Duchek  
Legislative Attorney  
Phone: (608) 266-0130  
E-mail: [michael.duchek@legis.wisconsin.gov](mailto:michael.duchek@legis.wisconsin.gov)

## Duchek, Michael

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**From:** Merdler, Michelle  
**Sent:** Thursday, June 20, 2013 10:03 AM  
**To:** Duchek, Michael  
**Cc:** [ajcollier@chw.org](mailto:ajcollier@chw.org); Ordinans, Karen  
**Subject:** CDR Draft

Mike,

I am writing regarding the Child Death Review Legislation (LRB 1867/P2). We had some changes that we would like to make to the draft. They include:

- On Page 3, 48.981 (7) (a) 15, we would like the draft to read “a recognized local child death review team” for the sake of clarity and also to lessen the possibility that someone would interpret the language to include other types of review teams found within child welfare.
- On Page 6, under 253.32, we would like (1) (e) and (f) to be combined into one. However, we would still like it to reference both assistance to teams and recommending criteria and processes for recognizing local review teams.
- On Page 7, 253.35 (1) (a), we would like to delete the word “all” in the sentence “a recognized local review team shall review the deaths of ALL children that occur in the geographical area for which the team is recognized.” Similarly, on Page 6, 253.32 (1) (a), we would like to delete the word all in the sentence “collect and review data pertaining to ALL child deaths that occur in this state.”
- To answer your question at the top of Page 8, the goal is to only have one review of a case.
- To answer your question regarding immunity on Page 10, we feel that the section is very well written and does not need any changes.
- To answer your question on Page 11, we also feel that this section is well written and meets our intent.

I appreciate all your hard work on this draft, and ask if you have any question or concerns if you could also cc Abby and Karen who are included in this message. Also, we will probably have several more changes next week so if you could hold off sending a new draft to our office until that point I would appreciate it.

Thank you,

Michelle Merdler  
Office of Senator Luther Olsen  
14<sup>th</sup> Senate District  
[Michelle.Merdler@legis.wisconsin.gov](mailto:Michelle.Merdler@legis.wisconsin.gov)  
608-266-0751

**Duchek, Michael**

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**From:** Merdler, Michelle  
**Sent:** Monday, July 01, 2013 11:23 AM  
**To:** Duchek, Michael  
**Subject:** CDR Draft - FERPA Concerns  
**Attachments:** Nevada CDR FERPA.docx

Mike,

I am writing regarding the Child Death Review Draft, and the Family Educational Rights and Privacy Act (FERPA). On page 7, 118.125 (2) (o), it discusses how a school district clerk shall make pupil records available upon request – I have discussed how the section is impacted by FERPA with Anne Sappenfield from Legislative Council. Based on our conversation, several changes will need to be made to that section in order to allow individuals to comply with FERPA.

Anne sent over the below attached article on a challenge to Nevada’s CDR legislation based on FERPA. <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/library/nvconflict2.html>

The challenge centered on whether Nevada’s CDR legislation created a conflict in which it was impossible for the parties involved to comply with both FERPA and the state law. Under FERPA, records may be disclosed if there is a written consent from the parents or if there is a judicial order or subpoena. In the case the Anne referenced, it was found that under Nevada law it was possible to comply with both FERPA and state law as their law allows:

“A multidisciplinary team to review the death of a child may petition the district court for the issuance of, and the district court may issue, a subpoena to compel the production of any books, records or papers relevant to the cause of any death being investigated by the team. Except as otherwise provided in NRS 239.0115, any books, records or papers received by the team pursuant to the subpoena shall be deemed confidential and privileged and not subject to disclosure” NRS 432.407 (2).

Thus, either a School District could get written consent from a parent, or petition the court to issue a subpoena to compel the District to provide the records. Based on all this information, Anne and I talked about changing this section in the draft to say something along the lines of education records will be released upon the consent of a parent, or by petitioning the court. I have also attached a Word document containing the Nevada statute’s referenced in the case.

Please let me know if you have any questions, or need to discuss this issue further.

Thank you,

**Michelle Merdler**  
Office of Senator Luther Olsen  
14<sup>th</sup> Senate District  
[Michelle.Merdler@legis.wisconsin.gov](mailto:Michelle.Merdler@legis.wisconsin.gov)  
608-266-0751

## CHILD DEATH REVIEW TEAMS

**NRS 432B.403 Purpose of organizing child death review teams.** The purpose of organizing multidisciplinary teams to review the deaths of children pursuant to NRS 432B.403 to 432B.4095, inclusive, is to:

1. Review the records of selected cases of deaths of children under 18 years of age in this State;
2. Review the records of selected cases of deaths of children under 18 years of age who are residents of Nevada and who die in another state;
3. Assess and analyze such cases;
4. Make recommendations for improvements to laws, policies and practice;
5. Support the safety of children; and
6. Prevent future deaths of children.

(Added to NRS by 2003, 863; A 2007, 1508)

**NRS 432B.405 Organization of child death review teams.**

1. The director or other authorized representative of an agency which provides child welfare services:
  - (a) May provisionally appoint and organize one or more multidisciplinary teams to review the death of a child;
  - (b) Shall submit names to the Executive Committee to Review the Death of Children established pursuant to NRS 432B.409 for review and approval of persons whom the director or other authorized representative recommends for appointment to a multidisciplinary team to review the death of a child; and
  - (c) Shall organize one or more multidisciplinary teams to review the death of a child under any of the following circumstances:
    - (1) Upon receiving a written request from an adult related to the child within the third degree of consanguinity, if the request is received by the agency within 1 year after the date of death of the child;
    - (2) If the child dies while in the custody of or involved with an agency which provides child welfare services, or if the child's family previously received services from such an agency;
    - (3) If the death is alleged to be from abuse or neglect of the child;
    - (4) If a sibling, household member or day care provider has been the subject of a child abuse and neglect investigation within the previous 12 months, including, without limitation, cases in which the report was unsubstantiated or the investigation is currently pending;
    - (5) If the child was adopted through an agency which provides child welfare services; or
    - (6) If the child died of Sudden Infant Death Syndrome.
2. A review conducted pursuant to subparagraph (2) of paragraph (c) of subsection 1 must occur within 3 months after the issuance of a certificate of death.

(Added to NRS by 1993, 2051; A 2001 Special Session, 47; 2003, 864; 2007, 1508)

**NRS 432B.406 Composition of child death review teams.**

1. A multidisciplinary team to review the death of a child that is organized by an agency which provides child welfare services pursuant to NRS 432B.405 must include, insofar as possible:
    - (a) A representative of any law enforcement agency that is involved with the case under review;
    - (b) Medical personnel;
    - (c) A representative of the district attorney's office in the county where the case is under review;
    - (d) A representative of any school that is involved with the case under review;
    - (e) A representative of any agency which provides child welfare services that is involved with the case under review; and
    - (f) A representative of the coroner's office.
  2. A multidisciplinary team may include such other representatives of other organizations concerned with the death of the child as the agency which provides child welfare services deems appropriate for the review.
- (Added to NRS by 2003, 863)

**NRS 432B.407 Information available to child death review teams; sharing of certain information; subpoena to obtain information; confidentiality of information.**

1. A multidisciplinary team to review the death of a child is entitled to access to:
  - (a) All investigative information of law enforcement agencies regarding the death;
  - (b) Any autopsy and coroner's investigative records relating to the death;
  - (c) Any medical or mental health records of the child; and

(d) Any records of social and rehabilitative services or of any other social service agency which has provided services to the child or the child's family.

2. Each organization represented on a multidisciplinary team to review the death of a child shall share with other members of the team information in its possession concerning the child who is the subject of the review, any siblings of the child, any person who was responsible for the welfare of the child and any other information deemed by the organization to be pertinent to the review.

3. A multidisciplinary team to review the death of a child may, if appropriate, meet and share information with a multidisciplinary team to review the death of the victim of a crime that constitutes domestic violence organized or sponsored pursuant to NRS 217.475 or 228.495.

4. A multidisciplinary team to review the death of a child may petition the district court for the issuance of, and the district court may issue, a subpoena to compel the production of any books, records or papers relevant to the cause of any death being investigated by the team. Except as otherwise provided in NRS 239.0115, any books, records or papers received by the team pursuant to the subpoena shall be deemed confidential and privileged and not subject to disclosure.

5. Except as otherwise provided in this section, information acquired by, and the records of, a multidisciplinary team to review the death of a child are confidential, must not be disclosed, and are not subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding.

(Added to NRS by 2003, 863; A 2007, 2106; 2011, 739)

**NRS 432B.4075 Authority of Administrator to organize multidisciplinary team to oversee review conducted by child death review team; access to information and privileges.**

1. The Administrator of the Division of Child and Family Services may organize a multidisciplinary team to oversee any review of the death of a child conducted by a multidisciplinary team that is organized by an agency which provides child welfare services pursuant to NRS 432B.405.

2. A multidisciplinary team organized pursuant to subsection 1 is entitled to the same access and privileges granted to a multidisciplinary team to review the death of a child pursuant to NRS 432B.407.

(Added to NRS by 2007, 1500)

**NRS 432B.408 Administrative team to review report of child death review team.**

1. The report and recommendations of a multidisciplinary team to review the death of a child must be transmitted to an administrative team for review.

2. An administrative team must consist of administrators of agencies which provide child welfare services, and agencies responsible for vital statistics, public health, mental health and public safety.

3. The administrative team shall review the report and recommendations and respond in writing to the multidisciplinary team within 90 days after receiving the report.

(Added to NRS by 2003, 864)

**NRS 432B.409 Establishment, composition and duties of Executive Committee to Review the Death of Children; creation of and use of money in Review of Death of Children Account.**

1. The Administrator of the Division of Child and Family Services shall establish an Executive Committee to Review the Death of Children, consisting of representatives from multidisciplinary teams formed pursuant to paragraph (a) of subsection 1 of NRS 432B.405 and NRS 432B.406, vital statistics, law enforcement, public health and the Office of the Attorney General.

2. The Executive Committee shall:

(a) Adopt statewide protocols for the review of the death of a child;

(b) Adopt regulations to carry out the provisions of NRS 432B.403 to 432B.4095, inclusive;

(c) Adopt bylaws to govern the management and operation of the Executive Committee;

(d) Appoint one or more multidisciplinary teams to review the death of a child from the names submitted to the Executive Committee pursuant to paragraph (b) of subsection 1 of NRS 432B.405;

(e) Oversee training and development of multidisciplinary teams to review the death of children; and

(f) Compile and distribute a statewide annual report, including statistics and recommendations for regulatory and policy changes.

3. The Review of Death of Children Account is hereby created in the State General Fund. The Executive Committee may use money in the Account to carry out the provisions of NRS 432B.403 to 432B.4095, inclusive.

(Added to NRS by 2003, 864; A 2007, 1509)

**NRS 432B.4095 Civil penalty for disclosure of confidential information; authority to bring action; deposit of money.**

1. Each member of a multidisciplinary team organized pursuant to NRS 432B.405, a multidisciplinary team organized pursuant to NRS 432B.4075, an administrative team organized pursuant to NRS 432B.408 or the Executive Committee to Review the Death of Children established pursuant to NRS 432B.409 who discloses any confidential information concerning the death of a child is personally liable for a civil penalty of not more than \$500.

2. The Administrator of the Division of Child and Family Services:

(a) May bring an action to recover a civil penalty imposed pursuant to subsection 1 against a member of a multidisciplinary team organized pursuant to NRS 432B.4075, an administrative team or the Executive Committee; and

(b) Shall deposit any money received from the civil penalty with the State Treasurer for credit to the State General Fund.

3. Each director or other authorized representative of an agency which provides child welfare services that organized a multidisciplinary team pursuant to NRS 432B.405:

(a) May bring an action to recover a civil penalty pursuant to subsection 1 against a member of the multidisciplinary team; and

(b) Shall deposit any money received from the civil penalty in the appropriate county treasury.

(Added to NRS by 2007, 1500)

## **CIVIL PROCEEDINGS**

### **General Provisions**

**NRS 432B.410 Exclusive original jurisdiction; action does not preclude prosecution.**

1. Except if the child involved is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act, the court has exclusive original jurisdiction in proceedings concerning any child living or found within the county who is a child in need of protection or may be a child in need of protection.

2. Action taken by the court because of the abuse or neglect of a child does not preclude the prosecution and conviction of any person for violation of NRS 200.508 based on the same facts.

(Added to NRS by 1985, 1379; A 1991, 2186; 1995, 787)

**NRS 432B.420 Right of parent or other responsible person to representation by attorney; authority of court to appoint attorney to represent child; authority and rights of child's attorney; compensation of attorney; appointment of attorney as guardian ad litem.**

1. A parent or other person responsible for the welfare of a child who is alleged to have abused or neglected the child may be represented by an attorney at all stages of any proceedings under NRS 432B.410 to 432B.590, inclusive. Except as otherwise provided in subsection 2, if the person is indigent, the court may appoint an attorney to represent the person. The court may, if it finds it appropriate, appoint an attorney to represent the child. The child may be represented by an attorney at all stages of any proceedings held pursuant to NRS 432B.410 to 432B.590, inclusive. If the child is represented by an attorney, the attorney has the same authority and rights as an attorney representing a party to the proceedings.

2. If the court determines that the parent of an Indian child for whom protective custody is sought is indigent, the court:

(a) Shall appoint an attorney to represent the parent;

(b) May appoint an attorney to represent the Indian child; and

(c) May apply to the Secretary of the Interior for the payment of the fees and expenses of such an attorney,

→ as provided in the Indian Child Welfare Act.

3. Each attorney, other than a public defender, if appointed under the provisions of subsection 1, is entitled to the same compensation and payment for expenses from the county as provided in NRS 7.125 and 7.135 for an attorney appointed to represent a person charged with a crime. Except as otherwise provided in NRS 432B.500, an attorney appointed to represent a child may also be appointed as guardian ad litem for the child. An attorney may not receive any compensation for services as a guardian ad litem.

(Added to NRS by 1985, 1379; A 1987, 1308; 1995, 787; 1999, 2037; 2001, 1703; 2003, 590)



**NRS 432B.425 Notification of tribe if proceedings involve Indian child; transfer of proceedings to Indian child's tribe; exercise of jurisdiction by court.** If proceedings pursuant to this chapter involve the protection of an Indian child, the court shall:

1. Cause the Indian child's tribe to be notified in writing at the beginning of the proceedings in the manner provided in the Indian Child Welfare Act. If the Indian child is eligible for membership in more than one tribe, each tribe must be notified.
2. Transfer the proceedings to the Indian child's tribe in accordance with the Indian Child Welfare Act.
3. If a tribe declines or is unable to exercise jurisdiction, exercise its jurisdiction as provided in the Indian Child Welfare Act.

(Added to NRS by 1995, 786; A 2003, 1149)

**NRS 432B.430 Restriction on admission of persons to proceedings.**

1. Except as otherwise provided in subsections 3 and 4 and NRS 432B.457, in each judicial district that includes a county whose population is 700,000 or more:

(a) Any proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, other than a hearing held pursuant to subsections 1 to 4, inclusive, of NRS 432B.530 or a hearing held pursuant to subsection 5 of NRS 432B.530 when the court proceeds immediately, must be open to the general public unless the judge or master, upon his or her own motion or upon the motion of another person, determines that all or part of the proceeding must be closed to the general public because such closure is in the best interests of the child who is the subject of the proceeding. In determining whether closing all or part of the proceeding is in the best interests of the child who is the subject of the proceeding, the judge or master must consider and give due weight to the desires of that child.

(b) If the judge or master determines pursuant to paragraph (a) that all or part of a proceeding must be closed to the general public:

(1) The judge or master must make specific findings of fact to support such a determination; and

(2) The general public must be excluded and only those persons having a direct interest in the case, as determined by the judge or master, may be admitted to the proceeding.

(c) Any proceeding held pursuant to subsections 1 to 4, inclusive, of NRS 432B.530 and any proceeding held pursuant to subsection 5 of NRS 432B.530 when the court proceeds immediately must be closed to the general public unless the judge or master, upon his or her own motion or upon the motion of another person, determines that all or part of the proceeding must be open to the general public because opening the proceeding in such a manner is in the best interests of the child who is the subject of the proceeding. In determining whether opening all or part of the proceeding is in the best interests of the child who is the subject of the proceeding, the judge or master must consider and give due weight to the desires of that child. If the judge or master determines pursuant to this paragraph that all or part of a proceeding must be open to the general public, the judge or master must make specific findings of fact to support such a determination. Unless the judge or master determines pursuant to this paragraph that all or part of a proceeding described in this paragraph must be open to the general public, the general public must be excluded and only those persons having a direct interest in the case, as determined by the judge or master, may be admitted to the proceeding.

2. Except as otherwise provided in subsections 3 and 4 and NRS 432B.457, in each judicial district that includes a county whose population is less than 700,000:

(a) Any proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, must be closed to the general public unless the judge or master, upon his or her own motion or upon the motion of another person, determines that all or part of the proceeding must be open to the general public because opening the proceeding in such a manner is in the best interests of the child who is the subject of the proceeding. In determining whether opening all or part of the proceeding is in the best interests of the child who is the subject of the proceeding, the judge or master shall consider and give due weight to the desires of that child.

(b) If the judge or master determines pursuant to paragraph (a) that all or part of a proceeding must be open to the general public, the judge or master must make specific findings of fact to support such a determination.

(c) Unless the judge or master determines pursuant to paragraph (a) that all or part of a proceeding must be open to the general public, the general public must be excluded and only those persons having a direct interest in the case, as determined by the judge or master, may be admitted to the proceeding.

3. Except as otherwise provided in subsection 4 and NRS 432B.457, in a proceeding held pursuant to NRS 432B.470, the general public must be excluded and only those persons having a direct interest in the case, as determined by the judge or master, may be admitted to the proceeding.

4. In conducting a proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, a judge or master shall keep information confidential to the extent necessary to obtain federal funds in the maximum amount available to this state.

(Added to NRS by 1985, 1379; A 1997, 1345; 2003, 591, 3517; 2011, 1254, 2675)

**NRS 432B.440 Assistance by agency which provides child welfare services.** The agency which provides child welfare services shall assist the court during all stages of any proceeding in accordance with NRS 432B.410 to 432B.590, inclusive.

(Added to NRS by 1985, 1385; A 2001, 1845; 2001 Special Session, 47; 2003, 236, 591; 2005, 2096)

**NRS 432B.450 Expert testimony raising presumption of need for protection of child.** In any civil proceeding had pursuant to NRS 432B.410 to 432B.590, inclusive, if there is expert testimony that a physical or mental injury of a child would ordinarily not be sustained or a condition not exist without either negligence or a deliberate but unreasonable act or failure to act by the person responsible for the welfare of the child, the court shall find that the child is in need of protection unless that testimony is rebutted.

(Added to NRS by 1985, 1379; A 2003, 591)

**NRS 432B.451 Qualified expert witness required in proceeding to place Indian child in foster care.**

1. Any proceeding to place an Indian child in foster care pursuant to this chapter must include the testimony of at least one qualified expert witness as provided in the Indian Child Welfare Act.

2. For the purposes of this section, "qualified expert witness" includes, without limitation:

(a) An Indian person who has personal knowledge about the Indian child's tribe and its customs related to raising a child and the organization of the family; and

(b) A person who has:

(1) Substantial experience and training regarding the customs of Indian tribes related to raising a child; and

(2) Extensive knowledge of the social values and cultural influences of Indian tribes.

(Added to NRS by 1995, 786)

**NRS 432B.455 Determination of appropriate person to take custody of child: Appointment and duties of special master.**

1. If the court determines that a child must be kept in protective custody pursuant to NRS 432B.480 or must be placed in temporary or permanent custody pursuant to NRS 432B.550, the court may, before placing the child in the temporary or permanent custody of a person, order the appointment of a special master from among the members of the State Bar of Nevada to conduct a hearing to identify the person most qualified and suitable to take custody of the child in consideration of the needs of the child for temporary or permanent placement.

2. Not later than 5 calendar days after the hearing, the special master shall prepare and submit to the court a recommendation regarding which person is most qualified and suitable to take custody of the child.

(Added to NRS by 1997, 1344)

**NRS 432B.457 Determination of appropriate person to take custody of child: Involvement in and notification of person with special interest in child; testimony by person with special interest in child.**

1. If the court or a special master appointed pursuant to NRS 432B.455 finds that a person has a special interest in a child, the court or the special master shall:

(a) Except for good cause, ensure that the person is involved in and notified of any plan for the temporary or permanent placement of the child and is allowed to offer recommendations regarding the plan; and

(b) Allow the person to testify at any hearing held pursuant to this chapter to determine any temporary or permanent placement of the child.

2. For the purposes of this section, a person "has a special interest in a child" if:

(a) The person is:

(1) A parent or other relative of the child;

(2) A foster parent or other provider of substitute care for the child;

(3) A provider of care for the medical or mental health of the child; or

(4) A teacher or other school official who works directly with the child; and

(b) The person:

(1) Has a personal interest in the well-being of the child; or

(2) Possesses information that is relevant to the determination of the placement of the child.

(Added to NRS by 1997, 1344; A 1999, 2038)

**NRS 432B.459 Provision of copy of sound recording or transcript of proceeding to parent or guardian; fees.**

1. If a proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, is recorded using sound recording equipment or is transcribed, the clerk of the court shall, upon request, provide to a parent or guardian of the child who is the subject of the proceeding and the attorney of the parent or guardian a copy of the sound recording or transcript of the proceeding if:

(a) Such a copy is available or could be made available; and

(b) The parent or guardian or the county in which the proceeding is held, as appropriate, pays the fee for the copy in accordance with subsection 2.

2. Each board of county commissioners shall adopt a sliding scale for determining the amount to be paid for a copy of a sound recording or transcript of a proceeding pursuant to subsection 1 for a proceeding that was held in a court in its county. The sliding scale must be based on the ability of the parent or guardian to pay. The court shall review each case and make a finding as to the reasonableness of the charge in relation to the ability of the parent or guardian to pay. To the extent that the court determines that a parent or guardian is unable to pay for a copy of the recording or transcript pursuant to subsection 1, the cost of providing the copy of the sound recording or transcript is a charge against the county in which the proceeding was held.

(Added to NRS by 2001, 1700; A 2003, 591)

**NRS 432B.460 Courts not deprived of right to determine custody or guardianship.** This chapter does not deprive other courts of the right to determine the custody of children upon writs of habeas corpus, or to determine the custody or guardianship of children in cases involving divorce or problems of domestic relations.

(Added to NRS by 1985, 1385)

**NRS 432B.465 Full faith and credit to judicial proceedings of Indian tribe.** Each court in this state which exercises jurisdiction pursuant to this chapter in a case involving an Indian child shall give full faith and credit to the judicial proceedings of an Indian tribe to the same extent that the Indian tribe gives full faith and credit to the judicial proceedings of the courts of this state.

(Added to NRS by 1995, 786)

**NRS 432B.4655 Joinder of governmental entity or other person to certain proceedings to enforce legal obligation of such entity or person.** A court may issue an order to join any governmental entity or other person as a party in any proceeding concerning the protection of the child to enforce a legal obligation of the entity or person to the child if, before issuing the order, the court provides notice and an opportunity to be heard to the governmental entity or person.

(Added to NRS by 2005, 2093; A 2007, 100)