



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Senate Bill 82

**Senate Substitute Amendment
1, as Amended by Senate
Amendments 1 and 2**

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2003 Senate Bill 82 was introduced by the Joint Legislative Council. The bill relates to kinship care, notice of guardianship proceedings, creating a health services consent form, and requesting the Joint Legislative Council to study guardianship and legal custody.

Senate Substitute Amendment 1 makes the following key changes to the bill:

- Under the substitute amendment, in order to be eligible for kinship care payments, the child must be a child or juvenile in need of protection or services (CHIPS or JIPS) or at risk of being CHIPS or JIPS, as required under current law, or must have been living with the kinship care relative for two years or longer. In addition to these criteria, the child must also be found to need the placement. Under the bill, a child must be found to need the placement with the relative if he or she is CHIPS or JIPS, at risk of CHIPS or JIPS, or has been living with the relative for at least two years, but could be found to need the placement with the relative based upon other factors.
- Under the substitute amendment, in determining eligibility for kinship care payments, the county department or the Department of Health and Family Services (DHFS) may consider an arrest of the relative or an employee or adult resident of the relative's home for a felony drug crime, a crime against life or bodily security, a crime against sexual morality, or a crime against children. Current law allows any arrest to be considered. The bill allows only the consideration of arrests for which a charge is pending.
- If a relative is determined ineligible for kinship care payments due to a conviction record, the substitute amendment allows the relative to request a review of that determination by the director of the county department or, in Milwaukee County, a person designated by the Secretary of DHFS, as under current law, but also allows applicants to appeal these reviews through a fair hearing. Under the bill, all denials may be appealed through a fair hearing.

- The substitute amendment requires a county department or DHFS to immediately terminate kinship care payments if it is determined that the relative is no longer providing care and maintenance for the child unless the child is outside the relative's home for 90 days or less with the intent of returning to the home and the county department or DHFS has approved that temporary absence. All other payment discontinuations require 10 days prior notice, as required under the bill.
- The substitute amendment provides that individuals who are eligible to receive kinship care payments are not responsible for a copayment under the Wisconsin Shares Program for child care services received on behalf of the child for whom they are providing care and maintenance. Under the bill, individuals who are receiving kinship care payments are not required to make a copayment.
- The substitute amendment allows a parent to complete a health care services form to give an adult who resides with a child or provides temporary or permanent care and supervision of a child the authority to make health care decisions for the child on behalf of the parent. The bill allows such authority to be transferred under the newly created form only to an adult with whom the child resides.
- The substitute amendment allows a caregiver to consent to the release of a child's patient health care records under a health care services consent form.

Senate Amendment 1 removes the provision in the substitute amendment modifying the eligibility for kinship care payments under which a child must, among other requirements, be CHIPS or JIPS or at risk of CHIPS or JIPS, *or* must have been living with the kinship care relative for two years or longer. The amendment restores current law, under which the child must be CHIPS or JIPS or at risk of CHIPS or JIPS in order for a kinship care relative to be eligible for payments.

Senate Amendment 2 makes the following changes to the substitute amendment:

- Deletes the language requiring the Division of Hearings and Appeals (DHA) to render a decision on a denial or discontinuation of kinship care payments within 30 days. Instead, as under current law, DHA will be required to render its decision as soon as possible.
- A denial or discontinuation of payments on the basis of a person's conviction records may be reviewed by the county department or, in Milwaukee County, by a designee of the DHFS at the request of the kinship care applicant or recipient under current law and under the bill. The amendment requires this review to be completed within 30 days.
- The bill requires DHFS to study methods of managing kinship care funding in order to minimize waiting lists and report to the Legislature by June 30, 2004. The amendment requires DHFS to report by June 30, 2005.

Legislative History

On March 4, 2004, the Senate Committee on Health, Children, Families, Aging and Long Term Care introduced and recommended adoption of Senate Amendment 1 to Senate Substitute Amendment 1

by a vote of Ayes, 6; Noes, 3; introduced and recommended adoption of Senate Amendment 2 to Senate Substitute Amendment 1 by a vote of Ayes, 9; Noes, 0; recommended adoption of Senate Substitute Amendment 1, as amended, by a vote of Ayes, 8; Noes, 1; and recommended passage of the bill, as amended, by a vote of Ayes, 7; Noes, 2.

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