



## PATRICK TESTIN

STATE SENATOR

DATE: January 22, 2020

RE: **Testimony on Senate Bill 610**

TO: The Senate Committee on Universities, Technical Colleges, Children and Families

FROM: Senator Patrick Testin

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I would like to thank Chairman Kooyenga and members of the committee for accepting my testimony on Senate Bill 610 (SB 610).

I drafted this bill at the request of my constituent, Dana Kaminski. I have known Dana for a number of years, and was aware that she and her husband, Ron, were foster parents. Last year, Dana invited me to meet with her and some other foster parents in Stevens Point. Listening to the hurdles and troubles that they faced in caring for these kids opened my eyes to a world that people who aren't foster parents seldom see.

When the Assembly convened their Task Force on Adoption, I kept Dana up-to-date on the legislation that they produced and asked for her feedback. During those discussions, Dana suggested the idea for SB 610. Sometimes foster parents are accused of child abuse, but are vindicated following an investigation. However, despite the fact that no abuse or fault was substantiated, the accusation remains on their report. This legislation prevents the abuse/neglect reports or records from being disclosed if there was a determination that no abuse or neglect occurred.

At this point, I would like to turn things over to Dana, and allow her to tell you her story. Following her testimony, we can answer any questions you have.

Thank you for your time; and I hope that you will join us in supporting this bill.



201 East Washington Avenue, Room G200  
P.O. Box 8916  
Madison, WI 53708-8916  
Telephone: 608-422-7000  
Fax: 608-261-6972

Governor Tony Evers  
Secretary Emilie Amundson  
  
Secretary's Office

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**TO:** Chair Kooyenga and Members of the Committee on Universities, Technical Colleges, Children and Families

**FROM:** Fredi Bove, Policy Initiatives Advisor  
Jonelle Brom, Chief, Out-of-Home Care Section

**DATE:** January 22, 2020

**SUBJECT:** 2019 Senate Bill 610

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Thank you for the opportunity to provide testimony on Senate Bill (SB) 610. The Department of Children and Families (DCF) is testifying for information. The Department of Children and Families is committed to the goal that **all** Wisconsin children and youth are safe and loved members of thriving families and communities.

SB 610 would diminish critical protections for the safety of foster and adoptive children by prohibiting the disclosure of unsubstantiated child welfare reports to agencies that license foster and adoptive parents. It is critical that a thorough review is completed regarding the background of potential foster and adoptive parents to assure a safe environment for placement of children who are being removed from their birth families for safety reasons. SB 610 conflicts with current practices, state administrative rules, and federal guidance and law that seek to ensure the safety of children in foster and adoptive homes. In addition, DCF has technical questions about the statutory provisions referenced in the bill.

#### *Child Welfare Process*

Current law requires certain professionals, such as teachers and health professionals, to report suspected abuse and neglect of children if the professional, in the course of his or her professional duties, has reasonable cause to suspect that a child has been abused or neglected, or has been threatened with abuse or neglect. Current law also allows any person who is not a mandated reporter to report if he or she has reasonable cause to suspect abuse or neglect of a child or that a child has been threatened with abuse or neglect. After receiving reports of suspected abuse or neglect the local child welfare agency determines whether there is reason to suspect child maltreatment; if so, the

report is “screened-in” for an investigation (also known as an Initial Assessment) by the child welfare agency. If not, the case is “screened-out” and not subject to further assessment or investigation by the child welfare agency. For screened-in cases, the child welfare agency collects and reviews information from the family and others familiar with the family to determine if the child(ren) are safe and if abuse or neglect has occurred. The child welfare agency makes a determination of abuse or neglect if there is a preponderance of evidence that abuse or neglect has occurred or is likely to occur. If there is not a preponderance of evidence, the suspected abuse or neglect is “unsubstantiated”.

#### *Current Practice*

Currently, licensing agencies access information from investigations regarding unsubstantiated and screened-out reports as part of the comprehensive information collected and reviewed for foster and adoptive parent applicants. Investigations of unsubstantiated and screened-out reports can include important and relevant information that could impact the safety of a child in an out-of-home care placement or adoptive home. An unsubstantiated investigation (Initial Assessment) or screened-out report may occur in a number of circumstances where significant concerns exist about the alleged maltreater’s ability to care safely for children. For example, even if a report of abuse or neglect is unsubstantiated, a report or an investigation may provide information about a parent’s alcohol abuse, domestic violence, mental health issues or inability to meet the physical, mental health or behavioral needs of a special needs child that could affect the individual’s ability to care for a foster or adoptive child in the home.

#### *State Law and Administrative Code*

State licensing statutes for foster and adoptive parents were revised recently, in 2015, through legislation developed by the 2014 Legislative Council Study Committee on Adoption Disruption and Dissolution to assure foster care licensing and adoption agencies would obtain information needed to assess applicants’ ability to care for children needing foster care adoptive placements. That legislation, 2015 Act 378, requires that foster care and adoption licensing agencies conduct a robust, valid and reliable home study. To implement this legislation, the Department, in consultation with legislators, identified the Structured Analysis Family Evaluation, referred to as the SAFE Home Study, as the robust valid and reliable tool to be used statewide by all licensing agencies to determine if prospective foster and adoptive homes are fit and qualified foster and adoptive parents. These license qualifications are specified in Ch. DCF

56.05 Admin. Code and include consideration of information that SB 610 would prohibit the licensing and adoption agencies from obtaining. Through the home study process, the person performing the SAFE assessment is evaluating a broad range of information compiled from interviews, recommendations, background checks, and home visits to make a determination to approve or deny the person's application. Individual applicants who are denied a foster care license and disagree with the decision may appeal the decision to the division of hearings and appeals. In addition to the approval decision, the licensing agency uses the information gathered, including information from screened-out or unsubstantiated reports, to inform training and support plans for approved individuals. Gathering this information helps protect foster children from abuse or neglect before it happens rather than protecting them only after it happens.

#### *Federal Guidance*

SB 610 is also inconsistent with federal guidance promulgated in relation to a federal statute. The federal foster care and adoption assistance funding statute requires all states to "check any child abuse and neglect registry maintained by the State for information on any prospective foster or adoptive parent and on any other adult living in the home of such a prospective foster parent . . . ." [42 U.S.C. 671(a)(20)(B)(i)]. In addition, the federal Native American Children's Safety Act requires tribal social services agencies to check "any child abuse and neglect registry maintained by the State" prior to approving a foster care placement or license. [25 U.S.C. 3207(d)(2)(B)(III)]. Specifically federal guidance states that although a state "has the discretion to determine what information to release to a requesting State on the prospective foster or adoptive parent or any adult living in the home of such prospective parent," the federal government "encourage[s] States to be as forthcoming as possible to permit States to make appropriate decisions about approval or licensure of prospective foster or adoptive parents." [Federal Children's Bureau Child Welfare Policy Manual, 8.4F, question 29]. Prohibiting agencies from accessing certain child abuse and neglect records related to prospective or current foster and adoptive parents, as proposed in SB 610, is not consistent with this guidance.

SB 610 also conflicts with federal child abuse and neglect funding law. To receive federal child abuse and neglect funding, states are required to provide otherwise confidential child abuse and neglect information to any federal, state, or local government entity, or any agent of such entity "that has a need for such information in order to carry out its responsibilities under law to

protect children from abuse and neglect.” [42 USC 5106a(b)(2)(B)(ix)]. The Department, county child welfare agencies, and licensed child welfare agencies as their agents need information from child abuse and neglect reports and assessments to approve foster and adoptive homes in order to meet their responsibility to protect the children they place in those homes from abuse and neglect.

*Technical Question about Drafting*

DCF wants to bring to the attention of the Committee that the terminology and statutory citations in the bill do not seem to reflect the intent of the bill as presented in the Analysis by the Legislative Reference Bureau (LRB). The provision cited in the bill, s. 48.981(3m)(c)3, is part of a section relating to the alternative response pilot program, which is a program that is not statewide and operative in only 24 counties. Alternative response child welfare cases follow a somewhat different pathway and the initial assessment does not include a substantiation determination of abuse or neglect. According to the LRB analysis, the bill would prohibit disclosure of a report or record “if, pursuant to an investigation of a report, there was a determination that there is no reason to suspect that abuse or neglect has occurred” which implies that the bill is intended to apply statewide to all types of child welfare cases and not just to alternative response cases.

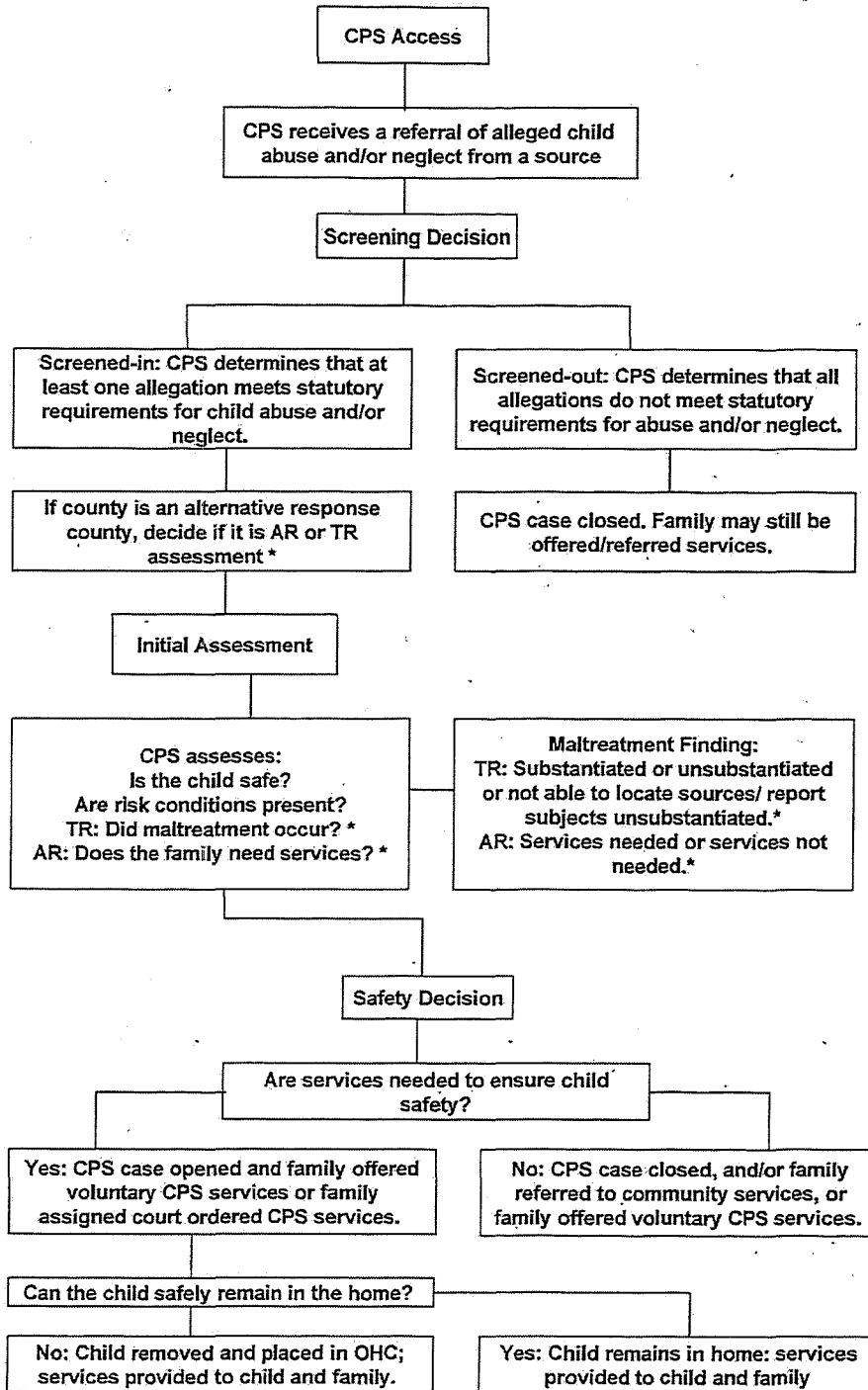
*Conclusion*

Thank you for the opportunity to present information on SB 610. Our understanding is that this bill was motivated by the experience of a specific legislative constituent who also plans to testify on the bill. We recognize the unique experiences of individuals who are involved with the child welfare system and are interested in hearing this testimony to learn more about the concerns underlying this bill. We welcome the opportunity to engage in discussions with the bill sponsors, legislative constituent(s), and others to discuss further the concerns underlying the bill and effective ways of addressing them. We are pleased to respond to any questions.

Wisconsin Child Abuse and Neglect Report for CY2017

Appendix C

An Overview of the CPS Process



\*Assessment Types:  
TR stands for Traditional Response  
AR stands for Alternative Response



TO: The Honorable Members of the Senate Committee on Universities, Technical Colleges,  
Children and Families

FROM: Emily Coddington, Associate Director

DATE: January 22, 2020

RE: **SB 610 – Prohibiting the disclosure of certain child abuse and neglect reports**

Thank you for the opportunity to provide testimony on Senate Bill 610, which seeks to prohibit the disclosure of specific child abuse and neglect records to individuals and agencies responsible for making licensing determinations and/or employment decisions. While disclosing such information may be viewed as a barrier to licensure or employment, in many circumstances this information is necessary to ensure the safety of children or other vulnerable individuals, which is of paramount concern.

WAFCA is a statewide association that represents over forty child and family serving agencies, and advocates for the more than 225,000 individuals and families they serve each year. Our members' services include foster care and adoption programs; shelter care facilities, group homes, and residential care centers; crisis intervention; outpatient mental health therapy; and individual, family and group counseling, among others. In all program areas, our members are responsible for the safety of the individuals they serve. When licensing foster and adoptive parents, or employing caregivers in licensed facilities, the level of responsibility is even greater, as the substantial majority of the children being cared for by these individuals have already experienced abuse or neglect severe enough to result in removal from their home. Preventing further trauma to children is the ultimate goal of any agency responsible for the care and placement of a child, and is necessary in order for children to heal.

When licensing a foster or adoptive parent, or employing an individual to work as a caregiver in a licensed facility, an agency has a responsibility to make a determination that the individual seeking licensure or employment is "fit and qualified", in addition to assessing for risks to child safety. Extensive background checks, including reports made to Child Protective Services, aid in making these determinations, and the individuals conducting assessments are trained in how to mitigate any concerns related to past allegations determined to be unsubstantiated or unlikely to occur. In the event an individual is denied licensure, appeal avenues exist and should be utilized. There are even opportunities for rehabilitation for individuals with substantiations on their records.

It is not uncommon for individuals serving traumatized children to have allegations made against them. In fact, when licensing foster and adoptive parents, most agencies prepare them for just that. When a report is made, it is very important that the licensor/employer understand the circumstances surrounding a report of maltreatment for a variety of reasons including: determining which children may or may not be a good

match with a particular family; identifying individuals other than caregivers in the home who may be struggling with the caregiver's decision to become licensed; identifying additional support needed by the caregiver from the licensing agency or employer, especially in the event another allegation is made; working with a family or individual to develop ways to better protect themselves from future allegations; and discovering potential triggers or additional treatment needs of children in care. Information contained in reports can also reveal areas for additional coaching or training, inform scheduling decisions, and help agencies make determinations regarding the placement of additional children in the home or facility.

Finally, it is crucial to note that just because an allegation was unsubstantiated or determined to be unlikely to occur, does not mean it did not happen. Settlement agreements can be entered into, decisions can be overturned upon appeal, etc. A pattern of reports, especially if those reports have been made about the same caregiver on behalf of different children, increases the level of risk to not only the licensing agency or employer, but most importantly to a child receiving care. The totality of the circumstances should be considered when the health, safety and well-being of a child is at stake, not just the final outcome. Reports indicate an area of struggle, at minimum. Trained professionals need to know about all areas of struggle in order to be effective in supporting children and caregivers alike.

We hope this information is helpful to the committee and again express appreciation for the opportunity to testify and share our perspective. If additional information is desired, WAFCA and its member agencies would welcome the opportunity to work with bill authors on this legislation moving forward.





TO: The Honorable Members of the Senate Committee on Universities, Technical Colleges,  
Children and Families

FROM: Kathy Markeland, Executive Director

DATE: January 22, 2020

RE: **Support for SB 609 – Certification of Qualified Residential Treatment Programs**

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Thank you for the opportunity to provide testimony in support of Senate Bill 609, which will permit the Department of Children and Families (DCF) to create a certification for a Qualified Residential Treatment Program (QRTP) in current congregate care settings such as a shelter care facility, group home, or residential care center for children and youth.

WAFCA is a statewide association that represents over forty child and family serving agencies, and advocates for the more than 225,000 individuals and families they serve each year. Our members' services include foster care programs; shelters, group homes, and residential care centers; crisis intervention; outpatient mental health therapy; and individual, family and group counseling, among others. As partners in the state's continuum of care, WAFCA members are committed to providing quality, effective treatment services, helping all individuals achieve their full potential.

We appreciate the Committee's interest in the Family First Prevention Services Act (Family First) and what it will mean for some of the most vulnerable children and families in Wisconsin. For too long our state has struggled to provide a comprehensive service array that prevents children and families from progressing further into the system than necessary. Our continuum of care to serve children and families through the child welfare system (child protection services and youth justice), including those placed in out-of-home care, has been insufficient to address the complex needs of these families. The issue has become more apparent in recent years as the number of children placed out of state for clinical residential care and treatment has trended upwards, exceeding 50 children in 2017.<sup>1</sup>

Family First provides resources to ensure better prevention services are available within our state and also presents us with an opportunity to strengthen our continuum of care by creating a clinical setting that will allow us to better serve our young people in need of the most intensive treatment. We believe that enabling DCF to certify a QRTP within congregate care settings provides us with an opportunity to build a more robust treatment option for Wisconsin youth, including those currently placed out of state. In addition, the creation of QRTPs within the state will provide a way for Wisconsin to recoup some of the costs associated with out-of-home care placement.

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<sup>1</sup> Retrieved from: <https://dcf.wisconsin.gov/files/cwportal/reports/pdf/ohc.pdf>

As we support SB 609, we would also like to take this opportunity to share some additional considerations with the Committee regarding Family First and the anticipated changes to our system. First, we would like to emphasize the importance of growing our service array, which includes having various out-of-home care placement resources for the children who are determined to need them. In the continuum Wisconsin needs to ensure each child receives the right support at the right time; a QRTP becomes part of the solution. Other types of non-QRTP placement resources will continue to be needed, especially during the transition, to ensure more children do not end up being placed out of state.

Secondly, the development of QRTP resources will require additional state investments. This system transition can be opportunity for us to improve the quality of care for across all types of care settings. With this in mind, the establishment of this new level of care within our continuum presents us with an opportunity to revisit our financing mechanisms. Our current congregate care system is funded through daily rate payments, a funding system that becomes even more challenging as demand for placement resources shift and expectations increase for higher levels of clinical services and shortened lengths of stay for youth placed in these settings.

Finally, we believe it is important to be planful and inclusive when establishing this type of service. The creation of QRTPs has implications for children, families, counties, tribes, providers and the community at-large. We would like to acknowledge DCF's efforts to solicit stakeholder feedback regarding Wisconsin's out-of-home care continuum thus far and are hopeful that there will be additional opportunities to assist in the creation of this new level of care.

Family First is an opportunity to continue Wisconsin on a path toward better supports for families and other caregivers. We are optimistic about the future of Wisconsin's child welfare system and thank you for your support and consideration.