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## WISCONSIN LEGISLATIVE COUNCIL

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### STRENGTHENING WISCONSIN FAMILIES

Room 411 South, State Capitol  
Madison, Wisconsin

August 20, 2007  
10:00 a.m. – 3:30 p.m.

[The following is a summary of the August 20, 2007 meeting of the Special Committee on Strengthening Wisconsin Families. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc>.]

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#### Call to Order and Roll Call

Chairperson Kestell called the meeting to order. The roll was called and a quorum was present.

COMMITTEE MEMBERS PRESENT: Rep. Steve Kestell, Chairperson; Reps. Don Pridemore and Donna Seidel; Sens. Dale Schultz and Lena Taylor; and Public Members Jon Angeli, John Burgess, Charity Eleson, Kenneth Munson, Jodi Roberts, Paula Roberts, Jack Westman, and Carol Wright.

COMMITTEE MEMBERS EXCUSED: Public Members Lisa Boyd-Gonzalez, Carol Kelso, and Paul Minkus.

COUNCIL STAFF PRESENT: Laura Rose, Deputy Director; Anne Sappenfield, Senior Staff Attorney; and Scott Grosz, Staff Attorney.

APPEARANCE: Peter Kerr, Communications Director, Milwaukee Fatherhood Collaborative.

#### Approval of the Minutes of the July 30, 2007 Meeting

*Ms. Eleson moved, seconded by Mr. Angeli, to approve the minutes of the July 30, 2007 meeting of the Special Committee. The motion was approved by a voice vote.*

## **Presentation by Invited Speaker**

- ***Peter Kerr, Communications Director, Milwaukee Fatherhood Collaborative***

Peter Kerr described the activities of the Milwaukee Fatherhood Collaborative (MFC). He noted that he is also the legislative liaison with the Milwaukee Fatherhood Initiative (MFI). He noted that both the MFI and the MFC unanimously agreed to support WLC: 0135/1, relating to equalizing physical placement to the highest degree. Mr. Kerr stated that this legislation is needed because there is a bias against the father-child relationship in family court and fathers get less time with children than mothers do in physical placement awards. He stated that several states are currently considering equal parenting laws.

Mr. Kerr cited several Wisconsin court decisions that stated that a placement schedule where one parent has the child every second weekend and one night during the week fulfills the statutory requirement of maximizing the time a child spends with each parent. He stated that this “cookie cutter” placement schedule illustrates the bias that exists in family court against fathers.

In light of Mr. Kerr’s comments, the committee discussed policies that would increase attachment of both parents to their children, and ways that the current adversarial family court system may exacerbate the conflict between the parents. Mr. Kerr said that he believed that the bill draft would reduce the number of divorce actions in Wisconsin, if parents knew that bringing an action would not necessarily result in increased time with their children.

## **Discussion of Committee Assignment**

- ***WLC: 0135/1 relating to equalizing physical placement to the highest degree***

Ms. Sappenfield described WLC: 0135/1. Ms. Sappenfield noted that the draft provides that when the court allocates periods of physical placement, the court must presume that a placement schedule that equalizes to the highest degree the amount of time a child may spend with each parent is in the child’s best interest. The presumption may be rebutted by clear and convincing evidence, after considering the custody and placement factors, that equalizing physical placement would not be in the child’s best interest. The draft also makes the geographic separation of the parties an additional custody and placement factor for the court to consider in every case when determining custody and periods of physical placement. The draft also requires the court to state, both orally and in writing, reasons for any order that does not equalize placement between the parties to the highest degree.

Ms. Sappenfield described the provisions of the draft that modified the law relating to the modification of legal custody or physical placement orders. The draft changes the current rebuttable presumption that applies to modifications of custody or physical placement orders two years after an initial order. The draft creates a new rebuttable presumption that the modification is in the best interest of the child, and that there has been a substantial change in circumstances since the last order, if either of the following has occurred: (1) a parent has modified his or her lifestyle or the location of their residence to an extent that it affects the amount of time the parent is able to care for the child; or (2) a parent has successfully completed parenting classes, a drug or alcohol abuse treatment program, or an anger management program to address a problem that hindered his or her ability to care for the child.

The draft also deletes the provision in current law that makes a change in the economic circumstances or marital status of a party insufficient to meet the standard for modification.

The committee discussed the draft, with some members supporting it and others opposing it. Ms. Jodi Roberts distributed two reports relating to shared child placement, and suggested that the committee examine both reports prior to voting on the draft. Chairperson Kestell directed the Legislative Council staff to distribute the reports to the committee members. The committee also briefly discussed the impact of this proposal on child support orders, and Ms. Sappenfield discussed how child support orders are changed if parents have equalized placement of the child. Representative Pridemore acknowledged that the draft is a big step and that no other state currently has this type of law. He stressed that he would like to have all members comfortable with the draft before voting on it, so a vote on the draft was not taken.

- ***WLC: 0146/1, relating to parenting plans in actions affecting the family***

The committee discussed WLC: 0146/1, relating to parenting plans in actions affecting the family. Ms. Sappenfield described WLC: 0146/1, which requires the clerk of courts to provide parties that have a minor child with a copy of the statute relating to parenting plans when they file a petition or receive a summons for an action affecting the family. The draft also provides that a mediator must review the nonfinancial provisions of the parenting plan at the initial session of mediation; and requires parties to file a parenting plan with the court within 60 days after the court waives the requirement that the parties attend mediation, or within 60 days after the mediator notifies the court that the parties have not reached an agreement, unless the court orders otherwise.

Senator Taylor told the committee that this draft would address problems created by the current lack of clarity about when a parenting plan must be prepared. Senator Taylor also suggested that guardian ad litem training should include information on parenting plans. Ms. Sappenfield stated that the Legislature cannot legislate in the area of court procedure, but could pursue a petition to the Supreme Court requesting that this requirement be implemented. The committee then discussed various timing issues regarding preparation and submittal of parenting plans to the court. There was agreement among committee members that the parenting plan should be submitted as early in the process as possible.

After a lunch break, the committee continued discussing WLC: 0146/1. Ms. Sappenfield clarified that parenting plans also apply in paternity actions where custody and physical placement is an issue. Representative Seidel commented that many counties are currently doing a good job with parenting plans and suggested the committee look at best practices in various counties. She noted that in Marathon County, there is a requirement that separating parents take a four-hour course on parenting during which the parenting plan is reviewed with the parents.

*Chairperson Kestell moved, seconded by Senator Taylor, to approve WLC: 0146/1, relating to parenting plans in actions affecting the family. The motion carried by a vote of Ayes, 13 (Reps. Kestell, Pridemore, and Seidel; Sens. Schultz and Taylor; and Public Members Angeli, Burgess, Eleson, Munson, J. Roberts, P. Roberts, Westman, and Wright); Noes, 0; and Absent, 3 (Public Members Boyd-Gonzalez, Kelso, and Minkus).*

## Continued Discussion of Committee Assignment

The committee briefly discussed kinship and foster care. Senator Taylor discussed a kinship and foster care session at the recent National Conference of State Legislatures annual meeting.

Ms. Wright distributed a memorandum from John Touhy of the Department of Health and Family Services, which provided out-of-home placement statistics by county. Ms. Wright requested that this memorandum be provided to all committee members. She also noted that WLC: 0075/4, relating to coordinated services teams (CSTs), could help in reducing out-of-home placements.

Chairperson Kestell directed the committee to continue the discussion of family systems theory that began at the prior meeting. Mr. Angeli said he would like to see the topic on the agenda for the next meeting. He suggested that family systems theory could be incorporated into W-2 program training. After further discussion, the staff was directed to develop a draft requiring W-2 workers and child welfare workers to have training in family systems theory. Mr. Angeli stated that the University of Iowa model should be used for this type of training.

Chairperson Kestell stated that he would be willing to have the committee revisit WLC: 0075/4. However, he stated that the funding in the draft concerned him. He stated that counties should be required to use savings generated from the CST's to further fund their CST programs in subsequent years.

Mr. Burgess commented that the Wisconsin system is unique in that it requires county, state, and federal governments to fund human services. Senator Schultz commented that the incentives in the system do not line up because when an agency saves money, the savings are diverted for other purposes. Mr. Burgess suggested that the CST bill draft be used as a vehicle to pilot a new funding paradigm for Wisconsin.

The committee then turned its discussion to Memo No. 6, Section VI, relating to home visitation. Ms. Rose described the proposals on home visitation.

Chairperson Kestell stated that there were many reasons that the Legislature rejected the Governor's budget proposal on home visitation expansion. He stated that there was some confusion over what home visitation is, what the program should look like, whether it should be universal or targeted, and whether the staff should be paraprofessionals or health care professionals. He noted that the latest research shows that home visitation is effective in preventing child abuse and neglect; that it should be targeted to the highest need families; and that it should be staffed with health care professionals. He stated that Wisconsin does not have a statewide policy on home visitation, and suggested that a speaker on home visitation be invited to the next meeting. Several names of speakers were suggested by different committee members.

Ms. Rose then described Memo No. 6, Section IX, relating to fatherhood issues. Chairperson Kestell suggested that if anyone feels strongly about any of the options in the memorandum on fatherhood issues or had other suggestions, that they should let the staff know so that bill drafts could be prepared.

### **Other Business**

There was no other business before the Special Committee at this time.

### **Plans for Future Meetings**

The committee discussed plans for future meetings, and whether to attempt to conclude the committee within two or three meetings, or to continue meeting to pursue more broad based changes. Chairperson Kestell reminded the committee of the original charge to the committee, which was to examine ways to strengthen coordination of W-2 and child welfare programs. Dr. Westman suggested that the committee could play a role in designing the new Department of Child and Family Services. Chairperson Kestell stated that the new department may or may not be created and said that he and Senator Taylor would send a letter to the Budget Conference Committee members reminding the Conference Committee members of his and Senator Taylor's motion relating to the new department that was adopted by the Joint Committee on Finance.

The next meeting of the Special Committee will be held on *Monday, October 1, 2007, at 10:00 a.m., in Room 411 South, State Capitol, Madison.*

### **Adjournment**

The meeting was adjourned at 3:30 p.m.

LR:ty:jb:wu