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## WISCONSIN LEGISLATIVE COUNCIL

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### PERMANENCY FOR YOUNG CHILDREN IN THE CHILD WELFARE SYSTEM

Room 412 East  
State Capitol

June 27, 2012  
10:00 a.m. – 3:55 p.m.

[The following is a summary of the June 27, 2012 meeting of the Special Committee on Permanency for Young Children in the Child Welfare System. 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

Chair Kerkman called the committee to order. The roll was called and a quorum was present.

**COMMITTEE MEMBERS PRESENT:** Rep. Samantha Kerkman, Chair; Sen. Mary Lazich, Vice Chair; Reps. Jill Billings and Tamara Grigsby; and Public Members Colleen Ellingson, Chris Foley, Mark Gumz, Esie Leoso-Corbine, Jessica Murphy, Robin Neeson, Rändi Othrow, Michelle Snead, and Mary Sowinski.

**COMMITTEE MEMBERS EXCUSED:** Public Members Amy Herbst, Molly Jasmer, Laura Maki, and Ron Rogers.

**COUNCIL STAFF PRESENT:** Melissa Schmidt and Margit Kelley, Staff Attorneys.

**APPEARANCES:** Sen. Mary Lazich, Co-Chair, Joint Legislative Council; Terry C. Anderson, Director, Legislative Council Staff; MaryAnn Lippert, Executive Assistant, Department of Children and Families (DCF); Fredi-Ellen Bove, Division Administrator, Division of Safety and Permanence, DCF; Arlene Happach, Bureau Director, Bureau of Milwaukee Child Welfare, DCF; Vicki Tylka, Marathon County Social Services Director; President, Wisconsin County Human Services Association (WCHSA); Ray Przybelski, Portage County Human Services Director; Co-Chair, WCHSA Children, Youth and Families Policy Advisory Committee; and Mark Mertens, Outagamie County Youth and Family Services Division Manager; Co-Chair, WCHSA Children, Youth and Families Policy Advisory Committee.

## **Opening Remarks**

Senator Mary Lazich, Co-Chair, Joint Legislative Council, and Terry Anderson, Director of the Legislative Council Staff, welcomed the members of the Special Committee. Senator Lazich explained the history leading to the formation of the Special Committee, how the committee members were selected, and the role of the committee. She further emphasized the importance of the committee and the selective nature of its membership. Mr. Anderson introduced the Legislative Council Staff members assigned to assist the committee and explained the general rules and guidelines for serving on study committees. He also discussed the process for reimbursement of public member expenses related to committee business.

## **Introduction of Committee Members**

Chair Kerkman introduced herself and welcomed the committee members. Upon the Chair's request, members briefly introduced themselves.

## **Description of Materials Distributed**

Melissa Schmidt and Margit Kelley, Staff Attorneys with the Legislative Council, briefly described Memo No. 1, *Wisconsin Department of Children and Families (DCF) Annual Report for Children in Out-of-Home Care*, dated June 19, 2012, and Staff Brief 2012-01, *Permanency for Children in the Child Welfare System*, dated June 20, 2012.

## **Presentation on Overview of Out-of-Home Care by DCF**

***MaryAnn Lippert, Executive Assistant, DCF, and Fredi-Ellen Bove, Division Administrator, Division of Safety and Permanence, DCF***

MaryAnn Lippert, Executive Assistant with DCF, and Fredi-Ellen Bove, Administrator for the DCF Division of Safety and Permanence, presented data from Wisconsin's child welfare system. This included data from the most recently available annual snapshot on December 31, 2010, and a monthly review program known as KidStat.

A link to the presentation's PowerPoint slides, including all charts and data, is available on the committee's website at: <http://www.legis.wisconsin.gov/lc>.

In response to a question from Judge Foley, Ms. Lippert and Ms. Bove indicated that the data for children in the child welfare system includes juveniles in need of protection or services (JIPS), in addition to children in need of protection or services (CHIPS).

In response to questions from Representative Grigsby, Ms. Lippert and Ms. Bove stated that Black children are disproportionately represented in the child welfare system, but that when the low-income factor is controlled in studies there is no racial disproportionality for entry into the child welfare system; that the Hispanic population is not directly represented in the data on race because that would be tracked as an ethnic group rather than a racial group; and that the child welfare system tries to maintain a child's ties to the home community, for example through maintaining the child's school setting and matching racial identity with the foster family when possible.

In response to comments from Chair Kerkman and Ms. Leoso-Corbine, Ms. Lippert and Ms. Bove confirmed that there are fewer foster parents than children who need placement, and that DCF engages in a range of recruitment efforts, such as a billboard campaign to “turn a life around.”

In response to a number of questions from committee members regarding the rate at which reunified children are discharged or become available for adoption within specific lengths of time after a child has been removed from the home, Ms. Lippert and Ms. Bove offered to refine the data charts in further detail for the committee. Chair Kerkman invited Ms. Lippert and Ms. Bove to return at the committee’s next meeting to present that more detailed data.

Ms. Lippert and Ms. Bove commented that Wisconsin does fairly well in meeting most federal measures, and that Wisconsin is continually working to improve those outcomes for children and parents. They noted, however, that Wisconsin has a higher number of children that re-enter the child welfare system within 12 months of a prior discharge from the system.

In response to a question from Judge Foley, Ms. Lippert and Ms. Bove stated that the number of adoptions in Wisconsin decreased in the early 2000s, and has maintained fairly steadily at about 725 adoptions per year from 2006 to 2010, according to the most recently available data.

**Presentation on Current DCF Initiatives or Improving Permanence and  
Child Welfare Service Delivery Through the Bureau of Milwaukee  
Child Welfare by DCF**

*Fredi-Ellen Bove, Division Administrator, Division of Safety and Permanence, DCF, and  
Arlene Hapbach, Bureau Director, Bureau of Milwaukee Child Welfare*

Ms. Bove and Arlene Hapbach, Director of the DCF Bureau of Milwaukee Child Welfare (BMCW), presented information regarding current efforts for improving permanency for children in the child welfare system.

A link to the PowerPoint slides for the presentation is available at:  
<http://www.legis.wisconsin.gov/lc>.

Ms. Bove stated that over the last year or so DCF had worked with stakeholders to define key goals for providers in the child welfare system. These generally include ensuring that children are cared for in safe, permanent, and nurturing families who provide for their physical and mental health, and behavioral and educational needs; improving parents’ and caregivers’ ability to maintain a safe and stable environment for children; and safely maintaining children in their own homes, families, and communities and preserving and establishing children’s connections, cultures, and relationships.

Ms. Bove described five current permanency initiatives undertaken by DCF:

- 2011 Wisconsin Act 181, which was part of the federally required Program Improvement Plan (PIP) and reflects national best practices in improving permanency outcomes. The Act establishes a procedure for a trial reunification of a child with a parent or other relative caregiver; requires appropriate concurrent planning goals; and revises the use of other planned permanent living arrangements for teens. The Act is effective November 1, 2012.

- Revision of ongoing services standards with Wisconsin counties and BMCW, such as implementation of 2011 Wisconsin Act 181.
- Permanency roundtables, which are a structured case consultation approach designed to expedite permanency for complex out-of-home cases.
- Statewide subsidized guardianship as a permanent placement option that transfers legal authority to a relative without terminating parental rights. The program was implemented on a pilot basis in 2005 in Milwaukee, and authorized for the balance of the state in the 2011-2013 Biennial Budget.
- Redesign of BMCW's structure for contracting out case management and other services, which was effective in January of 2012. The redesign is intended to reduce fragmentation of services. Features include use of a national family finding software program to identify all known relatives; use of case management and in-home services for 12 months after reunification; a requirement that a contractor provide services without any additional reimbursement for a child who re-enters the welfare system within 12 months of a prior discharge from the system; and assignment of new cases beginning in 2013 to the contractor that has the strongest outcomes in performance measurements.

In response to a question from Ms. Neeson, Ms. Bove stated that foster parents are not currently included in the permanency roundtables. Ms. Neeson suggested that foster parents should be included, as they often know the child and the child's needs even better than the caseworker, and the foster parents are licensed professionals.

In response to questions from Representative Billings and Ms. Murphy, Ms. Bove stated that the subsidized guardianship program is generally available for older children who are staying with either a relative or a person with a prior kin-like relationship with the child.

In response to a question from Ms. Sowinski, Ms. Hapbach indicated that the post-reunification services have been accepted voluntarily by the family, and that she does not know of an instance where the services were turned down.

### **Presentations by Invited County Caseworkers and Supervisors**

*Vicki Tylka, Marathon County Social Services Director, President, Wisconsin County Human Services Association (WCHSA); Ray Przybelski, Portage County Human Services Director, Co-Chair, WCHSA Children, Youth and Families Policy Advisory Committee; and Mark Mertens, Outagamie County Youth and Family Services Division Manager, Co-Chair, WCHSA Children, Youth and Families Policy Advisory Committee*

Vicki Tylka, Marathon County Social Services Director, Ray Przybelski, Portage County Human Services Director, and Mark Mertens, Outagamie County Youth and Family Services Division Manager, participated in a panel discussion about their experiences in county-level administration of child-welfare services. Each of them is a member of the WCHSA, and their discussion included information received from other members of that organization.

The panelists provided a handout, which is available on the committee's website at: <http://www.legis.wisconsin.gov/lc>.

The panelists noted the importance of keeping a lens on the permanency issues through the eyes of a child, noting that even in very serious cases, a child has a bond and often does not want to leave the parents.

Ms. Tylka, Mr. Przybelski, and Mr. Mertens discussed certain differences and commonalities among counties in delivering child welfare services. The panelists noted that all counties operate under the same laws and standards, although there are differences in financial resources and availability of services. They noted that all counties have a significant financial investment in providing for child welfare, and an investment in the success of the children. The panelists noted, however, that reviews have shown that each county has different cultural views on the use of certain tools in the child welfare system, such as concurrent planning for permanency goals.

The panelists indicated that there are certain issues specific to rural counties, including specialized resources that are not readily available; lack of transportation assistance; staff retention problems; lack of specialized legal services; lack of court time; and difficulty in obtaining psychological evaluations.

The panelists shared that issues for families and children have become more complicated since the 1980s, such as alcohol and other drug dependence (AODA) issues, mental health issues, serious trauma histories, the need for greater involvement and complexity for services, and difficulty in resolving specialized or high-risk adoptions.

The panelists highlighted the difficulties in availability, length of time, and financial coverage for AODA and mental health evaluations and treatments for children and parents. The panelists noted that in some counties it can take three months to obtain an evaluation, that private health insurance does not always cover treatment, and that many professionals either will not accept a Medicaid patient or will only accept limited numbers of Medicaid patients, which requires a wait for services.

In response to a question from Representative Billings, the panelists commented that counties often have a hard time engaging birth parents in the need to shoulder their responsibilities, particularly in the early stages of the case management. The panelists felt this was due at least partly to the adversarial, involuntary process of removing a child from the home.

Senator Lazich asked the panelists if they would have any suggestions for legislative solutions to these issues. The panelists responded that a therapist might suggest increasing the Medicaid reimbursement rate, or reducing the burden for obtaining prior authorizations for Medicaid patients although the panelists noted that this might be restricted by federal requirements. Ms. Neeson suggested reducing the time to receive a Medicaid reimbursement, as the long delay in receiving a reimbursement can be a hardship for a small service provider. Senator Lazich suggested that perhaps the committee could give some attention to the timelines in Medicaid reimbursements, particularly for services provided to children.

The panelists discussed current and potential efforts to improve permanency outcomes, and were in favor of permanency roundtables, subsidized guardianships, the medical home provider model, and the revised focus on concurrent planning and trial reunification. The panelists indicated they would like to see more assistance and training in performing searches to locate relatives and in data management. The panelists suggested an evaluation of system issues for delays once an action for termination of parental rights (TPR) is filed and for delays after a TPR is finalized and a child is waiting for completion

of adoption, and suggested that an outside facilitator could help counties in their discussions among county staff, providers, courts, attorneys, and parents in working to improve permanency outcomes.

Ms. Tylka, Mr. Przybelski, and Mr. Mertens concluded their presentation by stating that WCHSA does not recommend shortening the statutory timeline for filing a TPR petition because it may not allow families adequate time to engage in vital services for addressing the complex issues that have led families to the child welfare system. The panelists stated that the county association members expect to see permanency outcomes improve from the recent DCF initiatives, and that there could be opportunities for system changes after a TPR petition is filed.

### **Discussion of Committee Assignment**

Committee members discussed the committee assignment and made some particular suggestions for study.

Representative Grigsby suggested that the voice of biological family members be represented on the committee. She further stated that while in some ways it might be desirable to speed up the process for TPR, the committee heard that the primary goal for children is reunification and she hoped the committee could look at helping reunifications.

Senator Lazich suggested that the committee look into the model used in Minnesota that targets timelines and case management used for children under eight years old. She commented that everyone wants reunification with the birth family, but that she does not want children to be returned to unhealthy circumstances.

Representative Billings asked the committee to study the benefits of a jury trial versus a court trial for TPR and options for streamlining the procedures used in the permanency planning review process. She commented that children often want to maintain a connection with a birth family, and the committee will have to work at respecting the balance between the best interests of the child and the parents' rights.

Judge Foley asked the committee to consider removing the right to a jury trial for TPR. He commented that a jury trial for TPR creates delays and adds costs, and commented that Wisconsin is one of only four states that allows a right to request a jury trial for TPR. Judge Foley provided a memorandum to the committee for further explanation and other comments, which is available on the committee's website at: <http://www.legis.wisconsin.gov/lc>. He also requested that the committee hear testimony from birth parents, both those who have been successfully reunified and those who have had parental rights terminated.

Ms. Sowinski stated that the committee should consider removing the right to a jury trial for TPR, and commented that if not removed, other changes would be largely ineffectual. She suggested that the committee also consider revising the grounds for ordering a TPR, in order to assist in achieving permanency when it has already been determined that a child cannot be safely returned to the home. Ms. Sowinski suggested that, in considering the grounds for TPR, the committee review the bases allowed in other states, within the framework given by the federal Adoption and Safe Families Act of 1997.

Ms. Leoso-Corbine noted that the Bad River Band of the Lake Superior Tribe of Chippewa Indians does not believe in TPR. She noted that the Band is looking at customary adoptions and suspended parental rights, as used by the White Earth Band of Ojibwe.

Ms. Murphy suggested that the committee look at enforcement and adherence to the timeline for filing a TPR action when a child has been out of the home for 15 of the last 22 months, and look at the balance between what is best for the children and the parents.

Ms. Snead asked the committee to consider removing the right to a jury trial for TPR, and to study ways to increase reunifications within one year from a child's removal from the home. She commented that jury trials are a large barrier to achieving permanency, have the highest percentage of errors on appeal, and are intrusive to the birth parents who must put their lives before a jury of their peers.

Ms. Ellingson suggested that the committee could look at improvements around the jury trial process and the appeals process for TPR. She also suggested that the committee consider allowing an option to increase openness in adoption, which could increase a parent's willingness to do TPR if the parent could still have some connection with the child.

Mr. Gumz commented that the committee should look carefully at the issues for rights to a jury trial in a TPR proceeding and analyze all the data available, in balancing the rights of parents with costs and children's needs.

Ms. Neeson suggested that the committee look at ways to improve finding relatives as soon as possible, and look at allowing the foster family to be the primary resource for the child if relatives are not identified or do not step forward within a set amount of time, such as a year. Ms. Neeson suggested that the committee consider revising the grounds for TPR for truly deadbeat parents, and asked DCF to consider including foster parents with the permanency roundtables. She commented that open adoption will not work unless it is the adoptive family's choice. She further commented that TPR is an extremely grave experience for birth parents who walk into the courthouse as a parent, are told that they are unfit, and then leave not being a parent.

Ms. Othrow suggested that the committee discuss the prior law change that removed a parent's right to an attorney during CHIPS proceedings, and stated that the committee should discuss eliminating the right to a jury trial for CHIPS adjudications. She also suggested that the committee talk about training that is provided to foster parents and parents' advocates, and discuss the issues creating the delays in obtaining professional evaluations for psychological and AODA issues.

### **Other Business**

The committee members considered possible dates for the next meeting, which will be held at the call of the Chair.

### **Adjournment**

The meeting was adjourned at 3:55 p.m.