



WISCONSIN LEGISLATIVE COUNCIL

REPORTING OF CHILD ABUSE AND CHILD NEGLECT

Room 411 South
State Capitol

September 6, 2012
10:00 a.m. – 3:30 p.m.

[The following is a summary of the September 6, 2012 meeting of the Special Committee on Reporting of Child Abuse and Child Neglect. 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>.]

Call to Order and Roll Call

Vice-Chair Shilling called the committee to order. The roll was called and a quorum was present.

COMMITTEE MEMBERS PRESENT: Sen. Jennifer Shilling, Vice-Chair; Reps. Terese Berceau and Jeremy Thiesfeldt; and Public Members Susan Dreyfus, Kristen Iniguez, Katharine Kucharski, Bill Orth, Henry Plum, Michael Schmidtkecht, Lynn Sheets, and Mary Triggiano.

COMMITTEE MEMBERS EXCUSED: Sen. Alberta Darling, Chair.

COUNCIL STAFF PRESENT: Anna Henning and David Moore, Staff Attorneys.

APPEARANCES: Fredi-Ellen Bove, Administrator of the Division of Safety and Permanence, and Lee Johnson, Section Chief, Prevention, Access, and Initial Assessment, Bureau of Milwaukee Child Welfare, Department of Children and Families (DCF); Nic Dibble, LSSW, CISW, Education Consultant, School Social Work Services, Department of Public Instruction (DPI); Wendy Volz Daniels, MSW, LCSW, Clinical Associate Professor, Department of Social Work Field Program, University of Wisconsin-Milwaukee; Nancy Pohlman, M.S.S.W., Manager, Family and Children's Services, La Crosse County Human Services; Hazel Coppennoll, Child Protective Services Supervisor, Sauk County Human Services; Lee Salzmann, Human Services Supervisor Access/Initial Assessment, Waukesha County, Department of Health and Human Services; and Sarah Vargas, Lead Social Worker, Waukesha County Department of Health and Human Services.

Approval of the Minutes of the July 12, 2012 Meeting

Mr. Orth moved, seconded by Representative Thiesfeldt, to approve the minutes of the July 12, 2012 meeting. The motion carried by unanimous consent.

Description of Materials Distributed

Ms. Henning described the materials that were prepared by the Legislative Council staff in preparation for the meeting, including Memo No. 2, *Options for Committee Discussion*, and Memo No. 3, *State Laws Mandating That Every Person Report Child Abuse or Child Neglect*. She noted that the materials would serve as a basis for discussion later during the meeting.

Informational Follow-Up From the July 12, 2012 Meeting by the Department of Children and Families

Fredi-Ellen Bove, Administrator of the Division of Safety and Permanence

Ms. Bove presented data in response to requests for information made by committee members during the July 12, 2012 meeting. She provided tables summarizing the numbers and percentages of referrals and screening decisions by county; the average days for initial contact for child welfare initial assessments; screening decisions by county for mandated and non-mandated reporters; and screening decisions by county by type of mandated reporter. She noted that DCF is in the process of preparing revised standards on reporting. Following the presentation, Ms. Bove responded to questions from committee members.

Presentation by the Department of Children and Families on the Bureau of Milwaukee Child Welfare

Fredi-Ellen Bove, Administrator of the Division of Safety and Permanence; and Lee Johnson, Section Chief, Prevention, Access, and Initial Assessment, Bureau of Milwaukee Child Welfare

Ms. Bove provided an overview of the reporting of child abuse and neglect in DCF/Bureau of Milwaukee Child Welfare (BMCW). She said that BMCW receives 23% of all child abuse and neglect referrals made in the state. It receives an average of 1,350 child abuse and neglect referrals per month. Of these, 52% are screened in. She noted that the statewide database, eWiSACWIS, is an important tool for BMCW as it handles referrals. She said that the state's quality assurance program exceeds federal standards. She also described BMCW's outreach efforts, including training provided to various external groups. She stated that the current statutory framework for the reporting of child abuse and neglect works well. BMCW has processes in place to handle incoming referrals effectively and will continue to improve the quality of its services and engage in outreach. Ms. Bove and Mr. Johnson responded to questions from committee members following the presentation.

Presentation by the Department of Public Instruction

Nic Dibble, LSSW, CISW, Education Consultant, School Social Work Services

Mr. Dibble described changes made by 2011 Wisconsin Act 81, which took effect in December 2011. The act made all school employees mandated reporters of child abuse and child neglect and requires every school employee to receive training from DPI within six months of initial employment and at least once every five years thereafter. He explained that DPI has interpreted the phrase “every employee” to include every person who receives an annual wage statement from a school district within the state. He said that DPI has developed two webcasts that school employees may use to fulfill the training requirements.

Next, Mr. Dibble summarized feedback that DPI has received from school officials regarding the implementation of 2011 Wisconsin Act 81. The officials suggested that the act’s application may be overly broad, because it includes temporary employees and employees who are minors. On the other hand, officials recommended that the act’s application should be expanded to include contract employees, such as bus drivers. Finally, officials reported that some law enforcement officials who receive reports for suspected child abuse or neglect have disclosed the name of the person who submitted the initial report of child abuse and neglect. Such disclosure is prohibited under s. 48.981 (7), Stats.

Following his presentation, Mr. Dibble responded to questions from committee members.

Presentation on 2011 Wisconsin Act 81, Mandatory Reporters, and Training Requirements

Wendy Volz Daniels, MSW, LCSW, Clinical Associate Professor, Department of Social Work Field Program, University of Wisconsin-Milwaukee

Ms. Volz Daniels addressed the Special Committee on behalf of the Wisconsin School Social Work Association. She discussed 2011 Wisconsin Act 81, which extended mandated reporter responsibilities to all school employees, and made suggestions regarding the act. She stated that school employees who are minors may not yet be mature enough to recognize safety factors that may place a child at risk and requested that the Special Committee consider an amendment to exempt minors from mandatory reporting obligations. She also suggested that the Special Committee consider an amendment to include contracted employees as mandated reporters.

Next, Ms. Volz Daniels discussed feedback from members of the National Association of Social Workers, who suggested that foster parents be added to the list of mandated reporters. She mentioned that DCF administrative rules currently require foster parents to notify the supervising agency and licensing agency if they have reasonable cause to believe that a foster child has been abused or neglected or threatened with abuse or neglect. However, foster parents are not mandated reporters of child abuse and child neglect under s. 48.981, Stats.

Finally, Ms. Volz Daniels commented that the finite resources in this area should be focused to ensure that mandated reporters make appropriate referrals to the child welfare system. She mentioned that one effective model for training is the guidebook developed by the Children’s Research Center at the National Council on Crime and Delinquency.

Following her presentation, Ms. Volz Daniels responded to questions from Special Committee members.

Panel of County Staff

Nancy Pohlman, M.S.S.W., Manager, Family and Children's Services, La Crosse County Human Services; Hazel Coppernoll, Child Protective Services Supervisor, Sauk County Human Services; Lee Salzmann, Human Services Supervisor Access/Initial Assessment, Waukesha County, Department of Health and Human Services; and Sarah Vargas, Lead Social Worker, Waukesha County Department of Health and Human Services

Ms. Pohlman, Ms. Coppernoll, Mr. Salzmann, and Ms. Vargas participated in a panel discussion regarding county agencies' experiences with the reporting of child abuse and child neglect. They gave examples of typical reporting situations and made suggestions for improvements to Wisconsin's child abuse reporting law.

Ms. Pohlman suggested that the requirement to report suspected abuse or neglect "immediately" be clarified to provide a more definite timeframe. She also mentioned that in some schools, policies direct social workers and teachers to report to school administrators, rather than county agencies.

Ms. Coppernoll mentioned that law enforcement officials sometimes miss searching for potential child abuse when they respond to domestic violence calls. She also suggested that school employees are hypersensitive to their reporting obligations under 2011 Wisconsin Act 81, resulting in county agencies receiving multiple calls, and she suggested that a booklet might be developed for mandated reporters. Finally, she mentioned that guidance counselors sometimes claim privilege and decline to share information with county agencies.

Following their remarks, the panelists responded to questions from Special Committee members. In response to questions regarding training, Mr. Salzmann and Ms. Pohlman explained that their county agencies conduct training for mandated reporters. Mr. Salzmann said that with limited staff, counties are not able to conduct as much training as would be ideal.

In response to questions regarding expanding mandatory reporting to include all adults, Mr. Salzmann suggested that it might be better to provide training to the specified categories of persons who are already mandated reporters. Ms. Pohlman said that counties lack the resources to handle the increased calls that might result from expanding mandatory reporting obligations to everyone.

Discussion of Memo No. 2, Options for Committee Discussion, and the Committee Assignment

The Special Committee reviewed Memo No. 2, *Options for Committee Discussion*, dated August 29, 2012. It also discussed other options for consideration as part of its assignment.

Revise the Categories of Mandatory Reporters

First, the committee discussed the option to revise the list of professionals who are required to report suspected child abuse or neglect under Wisconsin law. As background, Mr. Moore described Memo No. 3, *State Laws Mandating That Every Person Report Child Abuse or Child Neglect*, dated

August 29, 2012, which provides an overview of laws in other states that require every person to report suspected child abuse or neglect.

Mr. Plum recommended that the Special Committee should be careful about expanding the list of mandated reporters, because criminal and civil penalties apply in the event that a mandated reporter fails to make a report.

Mr. Schmidtkeck said that, regardless of whether the list is expanded, education and training of mandated reporters is a key component for the Special Committee to consider.

Ms. Dreyfus said she has a hard time supporting adding everyone as a mandated reporter. She added that the overall public education component should not be lost. She also suggested that training requirements might be handled as a component of licensure. Mr. Plum agreed that it might make sense to address training as part of professional licensing.

Vice-Chair Shilling stated that she believes it would make sense to add employees of higher education institutions to the list of mandated reporters.

Representative Berceau suggested that there might be some situations in which it makes sense for some people to be mandated reporters and other people might be required to report to mandated reporters. Vice-Chair Shilling said that it is important to be realistic about defining the umbrella of mandated reporters, so that, for example, a person who volunteers twice a year to take tickets at a football game would not become a mandated reporter.

Regarding the need for training, Representative Berceau mentioned that it is important to ensure that the Legislature has the authority to mandate training. Past legislative proposals encountered issues, for example, with regard to mandating training for judges and attorneys.

Ms. Henning noted that foster parents and probation agents are two categories of professionals that members or presenters suggested be added to the list of mandated reporters. Ms. Kucharski said that she supports the addition of probation agents. She said that they are often part of a dispositional team, but they do not necessarily fit the statutory definition for a mandated reporter.

Ms. Iniguez said that she does not support expanding the list of mandated reporters to include all people, but suggested that it might be beneficial to expand the list to include persons who are part of the caregiver network, as defined in the children's code. Ms. Kucharski inquired about the legislative intent behind specifically excluding persons who are given power of attorney by parents under 2011 Wisconsin Act 87.

Ms. Dreyfus expressed interest in amending the coverage of school employees to include contract employees, and possibly volunteers with regular, ongoing contact with children, but to exclude minors. Representative Thiesfeldt suggested that a person who has extended, regular interaction with children might be included. Representative Berceau suggested that volunteer tutors should be included.

Revise the Definition of "Abuse" for Purposes of the Child Abuse Reporting Law

Ms. Henning described the current definition for the term "abuse" for purposes of Wisconsin's child abuse reporting law. Among other things, she noted that the term includes certain, non-accidental "physical injuries," defined to include lacerations, fractured bones, burns, internal injuries, severe or frequent bruising or "great bodily harm," as defined in the criminal code. In contrast, she explained that

criminal liability for child abuse may apply if a person inflicts lesser injuries, including those included in the definition of “bodily harm.” She described an option to revise the definition to provide a lesser threshold for the types of physical injuries that would trigger the mandatory reporting requirement and county investigation.

Mr. Plum stated that this change would be helpful because under current law, a person could be criminally charged with child abuse even though a county agency might lack jurisdiction. Ms. Kucharski agreed that the definition should be modified because the more stringent definition dissuades referrals.

Mr. Orth noted that the change may pose consequences for already stretched county resources.

Ms. Dreyfus said that the threshold must remain high for removing a child from his or her home, but suggested that the definition could be changed in order to facilitate county jurisdiction for alternative responses.

Ms. Iniguez noted that the relatively stringent definition in current law chills reporting by medical professionals.

Changes Relating to Higher Education

Mr. Moore summarized options relating to employees of higher education institutions, including options to codify Executive Order 54 or create other requirements. Ms. Dreyfus stated that she supports a change to make higher education employees mandated reporters, but she would like to avoid the confusion created by 2011 Wisconsin Act 81.

Revise Penalties for Failing to Report

Ms. Henning described the penalties under current law for failing to report suspected child abuse or child neglect and noted that it was suggested during the July 12 meeting that the penalties might need to be revised. Mr. Orth said that he does not think revising the penalty would make much difference. Vice-Chair Shilling stated that she does not want to create different categories of penalties.

Ms. Kucharski noted that the word “intentionally” in the penalty provision has been problematic. She will follow up with the Special Committee regarding specific cases on that point.

Other Suggestions Within the Scope of the Special Committee’s Assignment

Finally, Special Committee members suggested other changes within the scope of the Special Committee’s assignment. Mr. Plum suggested that the timing requirements for disclosures following egregious incidents be amended to allow for a delay of disclosure while a case is being developed, for example, until a Child in Need of Protection or Services (CHIPS) petition is filed. He suggested that such a delay would not compromise the oversight of responses in such cases.

In addition, Mr. Plum recommended that in the case of multiple false referrals, particularly multiple false referrals from the same reporter, county agencies should be authorized to follow expedited procedures for processing referrals.

Ms. Sheets suggested that the Special Committee address the applicability of immunity provisions to reporting across state lines. In addition, she suggested that the definition of “neglect” be clarified to reduce confusion among medical professionals.

Mr. Orth recommended creating a statutory definition for the term “emotional abuse.”

Other Business

Ms. Henning reminded the Special Committee that the next meeting is scheduled for *Thursday, October 11, 2012*.

Adjournment

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

AH:jal