



**WISCONSIN LEGISLATIVE COUNCIL
STAFF MEMORANDUM**

Memo No. 1

TO: MEMBERS OF THE STUDY COMMITTEE ON ADOPTION DISRUPTION AND DISSOLUTION

FROM: Anne Sappenfield, Principal Attorney; and Margit Kelley, Staff Attorney

RE: Options for Legislation

DATE: September 16, 2014

This Memo summarizes options for legislation that have been presented to the committee through testimony, committee discussion, and other correspondence with committee staff. This Memo is intended to be used as a basis for discussion of possible legislative proposals the committee may wish to have drafted for its review and to determine any issues for which the committee would like to have further information prepared or presented. The listed options are not necessarily exhaustive, but rather, provide a starting point for consideration.

ASSESSMENT OF PROSPECTIVE ADOPTIVE FAMILIES

Current Law

In order to adopt a child in Wisconsin, the parent must have completed a home study to determine the suitability of the home for the child. For a private adoption, this study is typically done by the adoption agency, but may be done by the Department of Children and Families (DCF) or a county department of human or social services. If the proposed adoptive parent or parents reside outside of Wisconsin, the adoptive home must meet the criteria for placement in the state where the parent or parents reside in order for the court to place the child in the home. For a public adoption, the county department or, in Milwaukee, the Bureau of Milwaukee Child Welfare (BMCW), would typically conduct the study. [ss. 48.837 (1m) and (4) (c) and 48.88 (2), Stats.]

In general, a proposed adoptive parent must meet foster care licensing requirements. For example, the person must be fit and qualified to parent, be a responsible and mature individual,

and have the capacity to successfully nurture the child. The investigation requires detailed information on the parent's characteristics and background. [s. DCF 56.05, Wis. Adm. Code.]

According to DCF, BMCW and several counties currently use the Structured Analysis Family Evaluation (SAFE) instrument to assess families. In addition, according to testimony before the committee, three licensed adoption agencies in Wisconsin use the SAFE instrument.

Options

The following options have been presented to the committee:

- Require counties, BMCW, and all private adoption agencies in Wisconsin to use the SAFE or equivalent instrument to assess prospective adoptive families.
- In evaluating prospective adoptive families, require consideration of the parenting capacity of the prospective parents (e.g., through assessment tools that measure parental commitment and insightfulness).
- For prospective parents who are over a specified age (e.g., the age of 60), require a specific assessment of the parent's health and ability to care for the child and require the prospective parents to create a back-up plan that would be implemented if they are unable to parent the child in the future.

For these options, the committee may also wish to consider the following questions:

- Should requirements apply in both public and private adoptions?
- If SAFE or an equivalent method is required, should an outside evaluation component be required in some or all cases?

PRE-ADOPTIVE TRAINING

Current Law

Under current law, generally all proposed adoptive parents who have not previously adopted a child must receive pre-adoption preparation training before the adoption is finalized. [s. 48.84 (1), Stats., and s. DCF 51.10 (1), Wis. Adm. Code.]

The administrative rules on pre-adoptive training require 18 hours of training: (a) a minimum of two hours of orientation for the adoptive parent or parents to the purpose and function of the agency through which the child is being adopted and a description of the support and services available to the adoptive family by that agency and other post-adoption services available to the adoptive family through other agencies; and (b) a minimum of 16 hours of training on core competencies listed in the rule.

The rules provide that the pre-adoptive preparation training may be provided using a variety of formats, including face-to-face individual or group training, audio-visual means, and printed material. For all of the methods, there must be an opportunity for the adoptive parent to discuss the material presented, in person, with a representative of the agency arranging the adoption and an opportunity to present and receive answers to any questions. The agency through which the adoptive parent or parents are adopting the child must also determine

through in-person contact with the adoptive parent or parents whether the adoptive parent or parents have learned the required competencies. [s. 48.84 (2), Stats., and s. DCF 51.10 (3), Wis. Adm. Code.]

If the pre-adoptive parent or parents held a foster care license and received foster parent training within the 12 months prior to the application to adopt a child, the adoption agency may determine that the pre-adoptive parent or parents received some or all of the 16 hours of training on core competencies through the previous foster parent training. [s. DCF 51.10 (4), Wis. Adm. Code.]

For international adoptions involving a country that is a party to the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption, there is a requirement for 10 hours of training and specific topics, some of which are specific to international adoption, which must be covered in the training. Also, training related to the needs of the particular child must be provided to prospective adoptive parents. [22 C.F.R. s. 96.48.]

At least 21 states and the District of Columbia require 27 to 30 hours of pre-adoptive training, many using either the Model Approach to Partnerships in Parenting (MAPP) curriculum developed by the California Evidence-Based Clearinghouse for Child Welfare, or the Parent Resources for Information, Development, and Education (PRIDE) program developed by the Child Welfare League of America.

Options

The following options have been presented to the committee:

- Require a specified percentage or number of hours of the training to be provided face-to-face.
- Increase the number of hours required for training.
- Require the training to include information on Post-Adoption Resource Centers (PARCs) and a face-to-face meeting with one or more of those providers.
- Require the use of a model curriculum, such as PRIDE or MAPP.
- Require the training to include information on trauma in any case where that is part of the child's history.
- If the child is placed in the adoptive home before the adoption is finalized, provide a portion of the training after the child has been placed in the home.

For any of these options, the committee may wish to consider whether the requirements should apply in both public and private adoptions.

POST-ADOPTION SERVICES

Current Law

The U.S. Department of Health and Human Services, Administration on Children, Youth and Families (ACYF) encourages states to provide post-adoption services for adoptive families, both domestic and international, and encourages the use of federal child welfare funding to provide such services. [See ACYF-CB-IM-14-02, issued May 30, 2014.] DCF oversees post-adoption services throughout Wisconsin, for all families who have adopted a child, regardless of whether the adoption was public or private. The Post-Adoption Resource Centers, or PARCs, serve six regions in the state. The PARCs offer a range of services for children and families after adoption.

The PARCs are funded by grants under the federal Promoting Safe and Stable Families program (Title IV-B, Subpart 2, of the Social Security Act). The grant allocated by DCF from these funds ranges from \$75,000 to \$83,000, annually, for each of the six regional areas, with a total budget in the 2014 fiscal year of \$472,800. Additional funds from the federal program are used for family preservation and reunification services in the child welfare system.

Options

The following options have been presented to the committee:

- Require adoption agencies and counties to provide a periodic report of all finalized adoptions to the PARC that serves the adoptive family's area.
- Increase funding for PARCs.
- Increase the number of health care and mental health providers who accept Medical Assistance.
- Identify providers who specialize in the needs of adoptive families.
- Create a team approach to providing post-adoption services and support, such as identifying a coordinated service team of professional resources before or shortly after an adoption is finalized.
- Provide case management to certain adoptive families.
- Provide mentoring to adoptive families under a peer support program.
- Provide regular therapeutic intervention.

For any of these options, the committee may wish to consider whether the requirements should apply in both public and private adoptions.

SPECIAL NEEDS ADOPTION PROGRAM (SNAP)

Current Law

In order for an adoptive parent or parents to receive adoption assistance, the child must be available for adoption; be under 18 years of age at the time of adoption; and have at least one special need at the time of the adoptive placement. [s. DCF 50.03 (1), Wis. Adm. Code.]

Adoption assistance may consist of: (a) monthly payments; (b) medical assistance; and (c) non-recurring adoption expenses. The amount of adoption assistance must take into consideration the circumstances of the adoptive family and the needs of the child being adopted.

Adoptive parents who have an agreement for adoption assistance for a child with special needs may request an amendment to the monthly maintenance payment amount under the agreement because they believe there has been a substantial change in circumstances. Generally, such a request must be made at least 12 months after the adoption or at least 12 months since the last request for such an amendment.

DCF is required to discontinue adoption assistance based on any of the following: (a) when the adoptee reaches majority (generally 18 years of age); (b) upon the marriage of the adoptee; (c) when the adoptee is no longer receiving support from the parents; (d) upon the death of the adoptee; (e) when there is a change in the adoptee's guardian; or (f) when the parents are no longer legally responsible for the support of the adoptee.

In addition, DCF must temporarily suspend or adjust the adoption assistance if: (a) the adoptee is no longer receiving support from the adoptive parents; or (b) an adjustment is offered by DCF in a written revision or amendment to the agreement, the adoptive parents concur with the adjustment, and the adjustment reflects changed circumstances consistent with the requirements for amending an adoption assistance agreement. [s. 48.975, Stats., and subch. II, ch. DCF 50, Wis. Adm. Code. Also see s. DCF 56.23, Wis. Adm. Code.]

Options

The following options have been presented to the committee:

- Periodically follow up with families receiving assistance to determine if they are still eligible and if they need any services or support.
- Periodically notify families receiving assistance that they may apply for a payment increase if there has been a substantial change in circumstances in the child's needs or the family's resources.

INTERNATIONAL ADOPTION

Current Law

International adoptions must comply with state law and the laws of the country from which the child is adopted. In addition, federal law governs aspects of these adoptions as the child must receive a visa to come to the United States. Depending upon the country from which

a child is adopted, the child may be adopted in his or her country of origin or may be adopted only in Wisconsin.

If a child has been adopted in his or her country of origin before arriving in this state, the adoption is recognized under and governed by Wisconsin law only if DCF previously approved the placement of the child with the adoptive parents. Such a child may be readopted under Wisconsin procedures. Wisconsin is among approximately 25 states that allow, but do not require, readoption, although Wisconsin requires the child to be readopted in order to obtain a new birth certificate. Approximately five states require validation or registration of a foreign adoption. [ss. 48.88 (2), 48.94 (1), and 48.97, Stats.; and Child Welfare Information Gateway, *State Recognition of Intercountry Adoptions Finalized Abroad* (May 2011).]

Options

The following option has been presented to the committee:

- Require a child who has been adopted in his or her home country to be re-adopted in Wisconsin.

TRACKING DISRUPTED OR DISSOLVED ADOPTIONS

Current Law

Currently, there is minimal tracking of disrupted and dissolved adoptions. Adoption and child welfare records are generally confidential, except under certain exceptions. [ss. 48.396, 48.78, and 48.93, Stats.]

Information regarding a child who enters the child welfare system is entered into the Wisconsin Statewide Automated Child Welfare Information System (eWiSACWIS). The system maintains information on all of the aspects of a child welfare case, including intake, assessment, case management, and court proceedings. [s. 48.47 (7g), Stats.; 42 U.S.C. s. 679 (c); 45 C.F.R. ss. 1355.40 to 1355.53.] In eWiSACWIS, each child's case is given a record number and certain data elements are required. A Social Security number is not included in the required data elements. [45 C.F.R. Part 1355, Appendix B.]

DCF is not required under state or federal law to collect previous adoption status information on children from domestic adoptions who become the subject of a placement in out-of-home care or a termination of parental rights.

Under federal law, DCF is required to collect information on children from international adoptions who enter the child welfare system, either through placement in out-of-home care, or through a dissolution of the adoption. [42 U.S.C. s. 622 (b) (12).]

Options

The following options have been presented to the committee:

- Require DCF to track when a child who has been adopted through the child welfare system re-enters the system.
- Require adoption agencies to report to DCF when an adoption is dissolved.

BIOLOGICAL FAMILY

Current Law

Under current law, adoption severs the adopted person's legal relationship with his or her birth parents and all relatives of the birth parents. Specifically, after a court orders an adoption, the relation of parent and child and all rights, duties, and other legal consequences of the natural relation of child and parent thereafter exist between the adopted person and the adoptive parents. The relationship of parent and child between the adopted person and the adopted person's birth parents and the relationship between the adopted person and all persons whose relationship to the adopted person is derived through those birth parents are completely altered and all the rights, duties, and other legal consequences of those relationships cease to exist. There is an exception if a birth parent is married to the adoptive parent. [s. 48.92, Stats.]

Options

The following options have been presented to the committee:

- Consider an adopted child's biological family as a resource for placement or support when an adopted child is no longer in the adoptive home and cannot return to the adoptive home.
- Permit adopted children to maintain contact with members of their biological family.
- Create a process and standard for reinstating a biological parent's rights when an adoption is disrupted or dissolved.

CHILD WELFARE AGENCIES

Current Law

In Wisconsin, child welfare services are administered by county departments of social or human services, except in Milwaukee County. In Milwaukee, DCF is responsible for administration of such services through BMCW.

Options

The following options have been presented to the committee:

- Provide additional training to child welfare employees in the following areas:
 - Interviewing children to identify potential abuse or neglect.
 - Issues related to adoption and permanency.
 - Issues relating to trauma.
- Request employees to serve as mentors or post-adoption resources to adoptive families.