



WISCONSIN LEGISLATIVE COUNCIL

ADOPTION DISRUPTION AND DISSOLUTION

Large Conference Room
One East Main Street, Suite 401
Madison, WI

October 23, 2014
10:00 a.m. – 12:15 p.m.

[The following is a summary of the October 23, 2014 meeting of the Study Committee on Adoption Disruption and Dissolution. 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

Chair Kleefisch called the committee to order. The roll was called and a quorum was determined to be present.

COMMITTEE MEMBERS
PRESENT:

Rep. Joel Kleefisch, Chair; Reps. André Jacque, LaTonya Johnson, and Paul Tittl; and Public Members Oriana Carey, Jill List, Mary Osgood, Ray Przybelski, Theresa Roetter, Mark Sanders, Jaclyn Skalnik, and Heather Yaeger.

COMMITTEE MEMBERS
EXCUSED:

Sen. Nikiya Harris Dodd; and Public Member Sam Benedict.

COUNCIL STAFF PRESENT:

Margit Kelley, Staff Attorney.

APPEARANCES:

Susan Livingston Smith, Program and Project Director, The Donaldson Adoption Institute.

Approval of the Minutes of the September 23, 2014 Meeting

The committee members unanimously approved the minutes of the September 23, 2014 meeting.

Nomination of Vice-Chair

Chair Kleefisch announced that Vice-Chair Kessler had resigned from the committee. Chair Kleefisch asked that Representative Johnson be recommended to the Joint Legislative Council for appointment as vice-chair, and the recommendation was unanimously approved by the committee members.

Presentation by Susan Livingston Smith, Program and Project Director, The Donaldson Adoption Institute

Ms. Smith presented information to the committee on certain adoption statistics, including the trends in U.S. adoptions, risk factors for children and parents in adoption, mental health service rates for adoptive families, and the rates of behavior problems for adopted children. She also presented on the special skills and support needed by adoptive parents, and the common impacts of adoption on family dynamics.

Ms. Smith reported that the best estimate from available data shows that 9.5% of adopted children reenter foster care, another 10% or more of adopted children leave the adoptive home in other ways, such as running away or being sent to other families, 30% or more receive mental health services, and another 50% receive support, education, and information and referral services. She noted that stability for adopted children begins to decline after age 12, and that, by age 16, 28% have lived away from their families at some point after adoption.

Ms. Smith reported that 17 states have substantial postadoption services, which include information and referrals, education, support, therapeutic interventions, advocacy, respite, residential treatment, and adoption-competent counseling services.

In response to a question from Representative Tittl, Ms. Smith stated that the rates of behavior problems for adopted children compared to other children are much higher, with problem behaviors reported in up to 88% of adopted children and in around 10% of children generally.

A link to Ms. Smith's PowerPoint slides is available on the committee's website at: <http://docs.legis.wisconsin.gov/misc/lc/study/2014/1189>.

Discussion of Bill Drafts

WLC: 0014/1, relating to investigation of suitability of a home for adoption of a child

Ms. Kelley described draft WLC: 0014/1, regarding the Structured Analysis Family Evaluation (SAFE) home study. Ms. Kelley also relayed three comments from the Department of Children and Families (DCF) on the draft: (1) that it could be overly prescriptive to name just one particular evaluation system and that it may be preferable to more fully describe the purpose of a standardized assessment system; (2) that the standardized assessment could be

used at the time of approving a family for foster placements; and (3) that requiring a clinical assessment in all cases could cost an estimated \$4 million, and could add a delay because many competent providers have waiting lists for their services.

Ms. Roetter commented that although a clinical assessment could help in revealing and addressing concerns in some families, it could be a deterrent to relatives and other prospective adoptive families, and has a disproportionately larger cost than the number of families that would be identified with placement concerns. Ms. Carey suggested that simply having an option to obtain a clinical assessment to validate any special concerns would be beneficial in the evaluation process.

Mr. Przybelski stated that it would be preferable not to name any particular evaluation tool in the statutes and that a fuller description of the purpose of the evaluation could be more useful. Chair Kleefisch commented that it could be beneficial to use a standardized assessment at the time of approving a family for foster placement, and Ms. Osgood commented that the statute could allow that if the standardized assessment was not done initially, then it should be done in the adoption process.

Based on committee discussion and general consensus, Chair Kleefisch directed Ms. Kelley to revise the draft as follows: remove the reference to the SAFE home study; add a description for a standardized evaluation; require use of a standardized assessment at the time of approving a family for foster placement with an option to use the standardized assessment in the adoption process if not done initially; and allow a clinical assessment if there is special concern as to the suitability of the placement.

WLC: 0022/1, relating to reinstatement of a biological parent's rights, and consideration of biological family members as a resource for placement or support, when a child is not allowed to return to an adoptive home

Ms. Kelley described draft WLC: 0022/1, regarding reinstatement for biological family rights, and noted that the State Public Defender's office had provided a letter estimating that the number of cases could be minimal and that any cost of representation could likely be absorbed with current staffing levels.

Ms. Roetter stated she had significant policy concerns with the effect of the draft, stating that it could be difficult to define a standard for the biological parent's substantial change in circumstances, and that it could have the effect of stopping open adoptions. Mr. Przybelski stated that a reinstatement of parental rights could be appropriate in narrow circumstances, but it should not be broadly available, which could lead to a child bouncing between the biological parent and other permanent placement settings. Ms. Osgood noted that in most Wisconsin counties, a termination of parental rights is already an extensive process.

Based on committee members' policy concerns with the effect of the draft, Chair Kleefisch tabled this version of the draft, and asked members to contact Ms. Kelley or his office with any specific revisions.

WLC: 0023/1, relating to agreement by adoptive family for postadoption contact with the child's birth parent

Ms. Kelley briefly described draft WLC: 0023/1, regarding open adoptions. Chair Kleefisch stated that he supports the draft, in the effort to encourage healthy adoption processes. He stated that he understands that there could be some apprehension about the process of entering into a postadoption contact agreement, but that the draft allows, and does not require, the parties to enter into the agreement.

Ms. Osgood stated that she likes the idea of the draft, but that a child should not be involved in the decision of whether to enter into a postadoption contact agreement. Ms. List asked if there were any general concerns about coercion being used in the process, to which other members responded no, due to the process under the draft, which requires a judge to gauge the parties' understanding of the agreement; whether the agreement was entered into voluntarily; whether promises or threats were made; and whether any representations were relied upon other than those contained in the agreement.

Based on committee discussion and general consensus, Chair Kleefisch directed Ms. Kelley to revise the draft as follows: remove the requirement to obtain the child's consent to enter into a postadoption contact agreement; require a consideration of the child's wishes in determining whether to approve an agreement; allow other family members who have a substantial relationship with the child to enter into a postadoption contact agreement if allowed by the adoptive parents; and allow an adoptive parent whose rights are being terminated to enter into such an agreement with a subsequent adoptive family.

WLC: 0029/1, relating to preadoption preparation requirements, referrals to postadoption resource centers, and granting rule-making authority

Ms. Kelley described draft WLC: 0029/1, regarding adoption preparation training. In response to a question from Chair Kleefisch, Ms. Kelley stated that there could be a cost to families and DCF for the increased hours and required in-person meetings, under the draft. In response to a question from Ms. Yaeger, Ms. Kelley noted that federal law allows sharing of information about a finalized adoption for delivery of postadoption services.

Representative Tittl asked why adoptive parents should be allowed to opt out of having their contact information shared with their regional postadoption resource center, when a goal of the committee is to find ways to reach out to adoptive families. Ms. Carey noted that if an adoptive family is contacted by a resource center, the family is not obligated to accept or participate in any services.

Based on committee discussion and general consensus, Chair Kleefisch directed Ms. Kelley to revise the draft as follows: allow the in-person meeting during the preadoptive training with a representative of a postadoption resource center to count towards the minimum training hours that are required under the draft to be delivered in person; require agencies to report finalized adoptions to the resource centers within 90 days of each adoption being finalized; remove the option for the adoptive family to opt out of the referral of their

names and contact information to their regional postadoption resource center; and allow preadoptive training from another state to be accepted for an adoption that is finalized in Wisconsin if the training was comparable to Wisconsin's requirements.

WLC: 0030/1, relating to readoption of a child adopted by a resident of this state under an order of a court of a foreign jurisdiction

Ms. Kelley described draft WLC: 0030/1, regarding readoption after an adoption abroad. Ms. Kelley noted that the draft requires a court in approving a readoption to consider the best interests of the child, although the readoption is occurring after the child has already been legally adopted in the child's home country.

In response to a question from Ms. Skalnik, Ms. Kelley stated that the readoption process would not be required under the draft for families who have applied for approval of a home study by DCF before the draft becomes law, and that therefore some families who have already adopted a child abroad would not be required to follow the procedure given in the draft. In response to questions from committee members, Ms. Kelley stated that a child who was adopted in the child's home country, who was brought into the United States under the laws of another state in which the family resided at the time, would not be required to be readopted in Wisconsin if the family later moved to Wisconsin, as adoptions granted in other states are recognized in Wisconsin.

Based on committee discussion and general consensus, Chair Kleefisch directed Ms. Kelley to revise the draft to require a court in approving a readoption to consider only whether all requirements have been met and whether the order of the foreign court was valid, rather than allowing a court to consider the best interests of the child, as the standard for approving readoption of a child legally adopted in the child's home country.

WLC: 0031/1, relating to including a statement as to whether a child has been adopted in a petition or written agreement for a proceeding under the Children's Code or Juvenile Justice Code

Ms. Kelley briefly described draft WLC: 0031/1, regarding tracking when an adopted child enters the child welfare system, and stated that DCF plans to add a data field in the Statewide Automated Child Welfare Information System (eWiSACWIS) to record a child's adoption status in accordance with the draft. In response to a question from Mr. Sanders, Ms. Kelley stated that recording a child's adoption status in proceedings under the Children's Code or Juvenile Justice Code would allow data reporting on adoption status and its relation to other recorded factors.

In response to a question from Ms. Osgood, Ms. Kelley stated that the draft does not allow access to closed adoption or child welfare files. Ms. Kelley stated that the draft requires various petitions and agreements related to when a child is receiving services under the Children's Code or Juvenile Justice Code to specify whether the child is an adopted child in all circumstances in which that status is known or ascertainable.

In response to questions from committee members, Ms. Kelley noted that the draft does not have a procedure for recording breakdowns of adoptive families that occur outside of the child welfare or juvenile justice systems, and that, in those systems, recorded data could be imperfect if the child's adoptive status is not known or ascertainable in all cases.

Based on committee discussion and general consensus approving the draft, Chair Kleefisch directed that the draft be continued for committee consideration at the next meeting.

Plans for Future Meetings

The committee will meet next on December 11, 2014, in the Large Conference Room of the Wisconsin Legislative Council staff offices, for further discussion and voting on whether to recommend each bill draft for introduction to the Legislature by the Joint Legislative Council.

Adjournment

The meeting was adjourned at 12:15 p.m.

MSK:jal