

MS:ty

11/11/2020

1 **AN ACT** *to repeal* 48.981 (7) (cr) 3. a.; and *to amend* 48.981 (7) (cr) 3. b. and c. of the
2 statutes; **relating to:** limiting the public disclosure of incidents of death, serious
3 injury, or egregious abuse or neglect of a child to incidents of substantiated child
4 abuse or neglect.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the Joint Legislative Council’s Study Committee on Public Disclosure and Oversight of Child Abuse and Neglect Incidents.

BACKGROUND

Under current law, all reports of child abuse and neglect, and related records, are generally confidential. However, certain exceptions allow for disclosure of information, including an exception for certain disclosures and reports related to reports of incidents of death, serious injury, or egregious abuse or neglect of a child.

If a child protective service (CPS) agency receives a report of child abuse or neglect and has reason to suspect that an incident of death, serious injury, or egregious abuse or neglect has occurred, then the CPS agency must provide information specified under current law regarding the incident to the Department of Children and Families (DCF), Division of Safety and Permanence within 2 working days after determining that such an incident has occurred.

Next, within 2 working days after DCF receives the CPS agency’s report of an incident of death, serious injury, or egregious abuse or neglect, DCF must publicly disclose the following information:

1. The fact that DCF has received the information.
2. Whether DCF is conducting a review of the incident.
3. If DCF is conducting a review, the scope of the review and the identities of any other agencies with which DCF is cooperating at that point in conducting the review.
4. Whether the child was residing in the home or was placed in an out-of-home placement at the time of the incident.

5. Information about the child, including the age of the child.

DCF must also prepare summary reports of its review of incidents of death, serious injury, or egregious child abuse or neglect, generally within 90 days after receiving a report of such incidents (90-day summary reports). In some cases, DCF must prepare 6-month summary reports of its review. DCF must transmit the 90-day summary reports and 6-month summary reports to the governor and the appropriate standing committees of the legislature, as well as make the reports publicly available.

DCF's 2-day notification and summary reports are disclosed as an exception to the general requirement that all reports of child abuse or neglect, and related records, be confidential. DCF is required to publicly disclose the 2-day notifications, 90-day summary reports, and 6-month summary reports, and transmit the both types of summary reports to the governor and the appropriate standing committees of the legislature, regardless of whether the CPS agency has investigated the report and determined that child abuse or neglect occurred. This determination is commonly referred to as "substantiation".

BILL DRAFT

This bill draft requires DCF to prepare summary reports only for incidents in which the CPS agency determined that child abuse or neglect occurred. The bill draft also requires DCF to transmit these summary reports to the governor and appropriate legislative standing committees, and make them available to the public. In doing so, this bill draft also repeals the requirement that DCF publicly disclose certain information within 2 working days after it receives a CPS report of an incident of death, serious injury, or egregious abuse or neglect.

1 **SECTION 1.** 48.981 (7) (cr) 3. a. of the statutes is repealed.

NOTE: This SECTION repeals the requirement that DCF publicly disclose, within 2 working days after it receives a CPS report of an incident of death, serious injury, or egregious abuse or neglect of a child, specific information before CPS has had an opportunity to investigate the incident and determines that child abuse or neglect has occurred.

COMMENT: Does the committee want to repeal this 2-day notification requirement or maintain the requirement? If current law is maintained, all reported cases would be subject to the 2-day notification requirement but only those cases involving substantiated child abuse or neglect will receive a summary report pursuant to SEC. 4.

2 **SECTION 2.** 48.981 (7) (cr) 3. b. and c. of the statutes are amended to read:

1 48.981 (7) (cr) 3. b. ~~Within 90 days~~ Notwithstanding par. (a), after receiving the
2 information provided under subd. 2., for any incident in which it was determined under sub.
3 (3) (c) 4. that abuse or neglect occurred, the subunit of the department that received the
4 information shall prepare, transmit to the governor and to the appropriate standing committees
5 of the legislature under s. 13.172 (3), and make available to the public a summary report that
6 contains the information specified in subd. 4. or 5., whichever is applicable., within 90 days
7 after receiving the information provided under subd. 2. or within [10 days] after it was
8 determined under sub. (3) (c) 4. that abuse or neglect occurred, whichever is later. That subunit
9 may also include in the summary report a summary of any actions taken by the agency in
10 response to the incident and of any changes in policies or practices that have been made to
11 address any issues raised in the review and recommendations for any further changes in
12 policies, practices, rules, or statutes that may be needed to address those issues. If the subunit
13 does not include those actions or changes and recommended changes in the summary report,
14 the subunit shall prepare, transmit to the governor and to the appropriate standing committees
15 of the legislature under s. 13.172 (3), and make available to the public a report of those actions
16 or changes and recommended changes within 6 months after receiving the information
17 provided under subd. 2. Those committees shall review all summary reports and reports of
18 changes and recommended changes transmitted under this subd. 3. b., conduct public hearings
19 on those reports no less often than annually, and submit recommendations to the department
20 regarding those reports.

NOTE: This SECTION prohibits DCF from preparing 90-day summary reports and 6-month summary reports, and transmitting, releasing, or disclosing information of any death, serious injury, or egregious child abuse or neglect that CPS reported to DCF, unless CPS has made a determination that child abuse or neglect has occurred in the incident.

COMMENT: In some instances, 90 days may not be enough time for CPS agencies to determine that child abuse or neglect occurred. In those instances where more time is needed, is 10 days after the CPS determination enough time for DCF to complete the summary report that is currently referred to as the 90-day summary report? Is 6 months a sufficient amount of time for DCF to complete what is currently referred to as the 6-month summary report in cases where the CPS determination takes longer than 90 days to complete?

1 3. c. ~~Subdivision~~ For incidents in which it was determined under sub. (3) (c) 4. that
2 abuse or neglect occurred, subd. 3. a. and b. does not preclude the subunit of the department
3 that prepares the summary report from releasing to the governor, to the appropriate standing
4 committees of the legislature under s. 13.172 (3), or to the public any of the information
5 specified in subd. 4. or 5. before the summary report is transmitted to the governor and to those
6 committees and made available to the public; adding to or amending a summary report if new
7 information specified in subd. 4. or 5. is received after the summary report is transmitted to
8 the governor and to those committees and made available to the public; or releasing to the
9 governor, to those committees, and to the public any information at any time to correct any
10 inaccurate information reported in the news media.

NOTE: This SECTION deletes the cross-reference to the reports of an incident of death, serious injury, or egregious abuse or neglect that DCF must publicly disclose within 2 working days after it receives reports from CPS that such incidents have occurred.

11 **SECTION 3. Initial applicability.**

12 (1) This act first applies to reports received by an agency under s. 49.981 (3) on the
13 effective date of this subsection.

NOTE: This SECTION provides that the bill draft first applies to incidents of suspected child abuse or neglect that are first reported on the effective date of the draft.

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(END)