

**2003-04 SESSION
COMMITTEE HEARING
RECORDS**

Committee Name:

Senate Committee on
Health, Children,
Families, Aging and
Long Term Care
(SC-HCFALTC)

Sample:

Record of Comm. Proceedings ... RCP

- 03hrAC-EdR_RCP_pt01a
- 03hrAC-EdR_RCP_pt01b
- 03hrAC-EdR_RCP_pt02

➤ Appointments ... Appt

➤ **

➤ Clearinghouse Rules ... CRule

➤ **

➤ Committee Hearings ... CH

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Hearing Records ... HR

➤ 03hr_sb0387_pt03

➤ Miscellaneous ... Misc

➤ **

➤ Record of Comm. Proceedings ... RCP

➤ **

SB 387

Halbur, Jennifer

From: Loren and Lisa Lange [lllwtn@gdinet.com]
Sent: Monday, February 23, 2004 11:40 PM
To: sen.roessler@legis.state.wi.us
Cc: Loren Lange
Subject: Senate Bill 387 regarding rights of 14 year olds and rights of parents.

Dear Senator Roessler,

I have just viewed a local newscast regarding this bill. My compliments to you for taking up this important issue. I am sure you are well aware of the daunting task this becomes. I have seen some online reports indicating some of the organizations lobbying against this bill as it is worded. It seems that some old abuses that put the '14 and older' distinction in place years ago are still a major concern for these organizations and perhaps they should be.

There has to be some way to have our cake and eat it too. There are situations when a 14 year old needs to be able to protect himself from an errant parent but there are also times when a parent must exercise control of the situation in order to protect the 14 year old. So the answer lies not in banning either activity but rather in developing a method to sort out which situation you are dealing with at the moment. Knowing full well there can be abuses, mistakes, and bad judgement from both sides makes this a difficult task to say the very least.

I'm going to sidetrack a bit here and tell you a bit of my personal issues. I have experienced living with a loved one with the mental illness of depression complete with suicidal tendencies. I sympathize with those parents who are not being allowed to get the needed help for their children. It seems unfathomable to not be allowed to help someone in need.

I also have a 15 year old son from a previous marriage who lives out of state. I am mandated by the courts to provide insurance coverage for him and to split any copays with his mother. Simple bookkeeping principles would require that both his mother and I have access to those costs and coverage's. It took me four and half months to finally get any records at all. They would not send them to the mother because it was not her policy. They would not send them to me because I am not the custodial parent. After working through those issues I was told that neither of us could have those records without a signed release form from my son. Believe it or not, my 15 year old son held the cards on whether or not I would be in compliance with a court order. Ironic or ridiculous? You and I both know that any law in and of itself does nothing. It is the respect of the law that nets the accomplishment. Therefore the law must be one that can be respected in the first place. I honestly believe that the intent behind most laws and this one is completely honorable. I am also aware that there are often far-reaching and unforeseen interpretations that make a mockery of that intent.

Getting back to the point, I don't believe that a law can be written that will be perfect in addressing every situation. There are far to many variables when human frailties are the subject matter. However, I do believe that there are ways to satisfy a higher percentage of these needs than the current law or your draft address. My suggestion would be a separate set of criteria for minors 14 and over to temporarily relinquish control back to their parents. For instance, a parent (or two) cannot admit or acquire this type of care without the 14 or over minor's consent unless accompanied by (in person or signed statement) another person not a relative who has regular interaction with that minor, such as a teacher, clergy member, big brother/sister (the program not the relative), a supervisor from the minor's job etc. In laymen's terms, make it difficult for the parent to take this safety measure of protection away from the minor but don't make it impossible. There may be other ways to accomplish the mission in keeping with this same basic philosophy. By doing so, a parent truly concerned about the wellbeing of his or her child will take the difficult required steps and the ill-intentioned parent would be weeded out, thus preserving the intention of the law and your bill, the protection of the child.

This is a very raw idea in my head at this point and I will be giving it a great deal more thought and hope to share more of my ideas with you. I certainly welcome an open dialog with you on this matter and look forward to a reply.

Thank you for your time and service,

02/24/2004

Loren L. Lange
N2475 Hwy EM
Watertown, WI 53098

SB
387

Halbur, Jennifer

From: Asbjornson, Karen
Sent: Tuesday, February 24, 2004 6:09 PM
To: Halbur, Jennifer
Subject: FW: Mental illness laws for

CR email - Carol should see eventually...she said not to push this bill to me that it needed more study...so I reversed what I told Greg...is that your understanding too...I just want to make sure Carol and I were talking about the same bill and same approach... Thanks!

Karen Asbjornson
 Office of Senator Carol Roessler
 (608) 266-5300/1-888-736-8720
 Karen.Asbjornson@legis.state.wi.us

-----Original Message-----

From: Alison Lichtenstein [mailto:allykat2005_wi@yahoo.com]
Sent: Tuesday, February 24, 2004 5:25 PM
To: sen.roessler@legis.state.wi.us
Subject: Mental illness laws for teenagers

Senator Carol Roessler:

I was recently watching Fox 6 Milwaukee News and came across a story that caught my attention. This was the story about mental health laws and teens. As a teenager, this law affected me in a very big way, particularly last year. I have major depressive disorder, generalized anxiety disorder, and have endured emotional/verbal abuse from my parents while growing up. Needless to say, I became very clinically depressed last year, right before my 16th birthday. I wanted to seek professional help so I wouldn't spiral downward. Unfortunately, my parents are very misunderstood about psychiatric disorders and don't agree with the idea of therapy. So, I suffered months of darkness where I felt there would come no relief or help for me. In April of last year, I began a vicious cycle of self-mutilation to try and relieve my emotional pain. Even after my guidance counselor called my parents to tell them I was cutting myself, they still wouldn't agree to get me the help I needed. Carol, I had no idea where to go or who to turn to. I knew something had gone very wrong with me and I honestly wanted to see a therapist, but because I didn't have parental consent, I couldn't see one. With no help or hope of help, I went downward very fast.

Finally, the school threatened to bring charges against my parents if they didn't take me to counseling. That sure got them moving. Unfortunately, by that time, I had become suicidal, I hated myself, and was in a severe state of depression and anxiety. I am still in therapy, and am doing a little better. I have also been in a psychiatric hospital for suicidal feelings twice. I feel some of this could have been avoided had I received the care I needed sooner. Please consider my story. After doing that, consider the fact that there are many other teenagers who are in my place who need help badly. Think of all of the suicides (not to mention crimes) that could possibly be prevented if teens could seek psychiatric help, even if their parents don't "believe" in therapy. If I hadn't gotten help, I guarantee I wouldn't be e-mailing you today. This law needs to be changed badly!

Thank you for your time!

Alison Anne Lichtenstein

02/24/2004

2377 S.83rd street
West Allis, WI 53219

In loving memory of Michael C. Brophy: "Some people come into our lives and quickly go. Some people move our hearts to dance. They awaken us to new understanding with the passing whisper of their wisdom. Some people make the sky more beautiful to gaze upon. They stay in our lives for awhile, leave footprints in our hearts, and we are never ever the same." -Flavia

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SB
387**Halbur, Jennifer**

From: Sedillos, Paul
Sent: Tuesday, February 24, 2004 4:58 PM
To: Halbur, Jennifer
Subject: FW: SB 387

Importance: High

CR email-non constit.

-----Original Message-----

From: Ron Ingram [mailto:rilingram@mcw.edu]

Sent: Tuesday, February 24, 2004 11:14 AM

To: Sen.Roessler@legis.state.wi.us

Subject: SB 387

Importance: High

I support SB 387 100%. The parents SHOULD be able to have their son or daughter seek help for mental illness even if the child does not consent.

On the other hand, if the child would LIKE to receive help and the parents do not, the child should be able to receive help on their own.

Thanks for introducing a GREAT bill. Many lives will be saved!!

Ronald Ingram

IS Manager

Department of Family & Community Medicine

Medical College of Wisconsin

1000 N 92nd Street

Milwaukee, WI 53226

414-456-8830

rilingram@mcw.edu

Halbur, Jennifer

From: Sedillos, Paul
Sent: Tuesday, February 24, 2004 4:55 PM
To: Halbur, Jennifer
Subject: FW: Senate Bill 387

SB 387

CR email-non constit. Reynold's constit.

-----Original Message-----

From: Razscott@aol.com [mailto:Razscott@aol.com]
Sent: Tuesday, February 24, 2004 3:29 PM
To: Sen.Roessler@legis.state.wi.us
Subject: Re:Senate Bill 387

Dear Senator Roessler:

My name is Linda Linscott and last on Fox6News I saw a segment regarding this bill. I found the information very disturbing and felt compelled to write to you regarding this bill. I need to tell you my situation and as to why I found this story so frightening to me and my family. My husband committed suicide 2 and half years ago. He suffered from depression all of his life and refused to take his medication and finally loss his battle with depression. I am now raising our four children by myself and three of them are currently receiving treatment for depression, their ages are 16, 12 and 11. My eleven year old recently was hospitalized for attempted suicide this past January. It was very scary to learn that my 16 year old could refuse treatment, just like his father. My oldest who is 16 years old is 6' 2" and weighs about 215 pounds and has a tendency to be violate when he is not on his medication. It concerns me that I have very little control over his mental health decisions when he at times does not think rationally. He sees a therapist and psychiatrist for his depression but still has suicidal ideation's. It difficult enough to try to make sure he takes his medication and attends all of sessions. I don't know what my options would be if he refused to seek help for his depression. I believe it so important for this bill to pass and to put control back in the parents hands

Sincerely,

Linda Linscott
947 Currie Pl.
Wauwatosa, WI. 53213
414-774-3497

Halbur, Jennifer

From: Kurtz, Hunter
Sent: Thursday, February 26, 2004 9:25 AM
To: Halbur, Jennifer
Subject: FW: 14-17 year old rights

JB 387

-----Original Message-----

From: Debb Walker [mailto:debb@kdcorp.us]
Sent: Thursday, February 26, 2004 7:10 AM
To: sen.roessler@legis.state.wi.us
Subject: 14-17 year old rights

I saw on tv that you were working on revising a law that gave rights to 14-17 year olds on voluntary admission to a psychiatric hospital. I am one of those parents right now that is living through the nightmare of not being able to get any help for my 17 year old because he sees nothing wrong with using "pot". I have had his family doctor talk with him, the school psychologist, even the police and no to no avail. He wants to become a cop after high school and my biggest fear is that he will get caught up in doing this that he will ruin his future!

He refuses to seek outside help because he doesn't want the whole world to know about it and he refuses to seek help when he doesn't see it as a problem. I have exhausted all my love and attention on him to stop this that I have weakened myself into complete total depression and see a psychiatrist for meds and a therapist once a week. At this point, all I can do is throw my arms up in the air and allow him to break the law because the law doesn't care about him either.

I beg of you, please re-write the law... my son will turn 18 in December and I am sure that this law will not be passed in time to save him.. but maybe the next mother who can't sleep worrying about her son/daughter and is unable to work because the depression is so debilitating will be able to ask and receive the help for her child

Debra Walker
716 W Abbott Avenue
Milwaukee, WI 53221

Words of Inspiration:

Watch your thoughts; they become words. Watch your words; they become actions. Watch your actions, they become habits. Watch your habits, they become character. Watch your character; it becomes your destiny.

Frank Outlaw

Halbur, Jennifer

From: Kurtz, Hunter
Sent: Thursday, February 26, 2004 9:30 AM
To: Halbur, Jennifer
Subject: FW: Senate Bill 387

-----Original Message-----

From: Carl Henderson [mailto:chender832@acninc.net]
Sent: Wednesday, February 25, 2004 11:12 PM
To: sen.roessler@legis.state.wi.us
Subject: Senate Bill 387

Dear Senator Roessler,

Thank you for sponsoring Bill 387!

We live in the Milwaukee area, and learned of the bill when Channel 6 news approached our ToughLove Parent Support Group about interviewing parents who had issues with their children related to the proposed legislation. There was NO lack of relevant experience!

Many of us (parents of troubled teens and adult children) can relate to the issues addressed by Bill 387 - namely the (lack of) probability that a minor in need of psychiatric or psychological assistance will voluntarily ask for and willingly receive help for their disturbance! (just imagine the rationality presupposed in that context!)

Functionally, the same issues addressed on a mental health level pertain to addressing substance abuse - namely, parents too often find that they retain the responsibility for their children's actions, but have virtually no legal authority to obtain treatment in a straightforward manner. In fact, even drug-testing their own children requires the child's consent! (and one can only imagine how forthcoming THAT usually is - once the child finds out about their "rights"). Interestingly, Wisconsin may be singular in that respect: The situation is quite different in Illinois, for example.

[Interestingly, the overview of Bill 387 appeared to suggest that the 14 y.o. distinction did NOT pertain to treatment for drug abuse! In practice, the experiences of parents within the ToughLove group suggest that it does - at least counselors and drug treatment facilities require consent for treatment after 14 years of age. Ditto for drug tests!]

Many of our parents have found that the legal system is ineffectual in helping them regain control of an "out-of-control" teen. Again, unfortunately for parents, it takes only a short while for the determined teen to learn the limits of the system - a system that only becomes active when the child commits a serious offense. Unfortunately, negative behaviors have become quite ingrained by that time...And the parents are often still held responsible until 18!

(We have personal experience of just how "enabling" the legal system can appear to an addicted child!)

Thank you for your sponsorship of this major step in the right direction!

If I can be of assistance in this regard, please contact me.

With best wishes and thanks,

Carl Henderson
Brookfield, WI

A Wisconsin ToughLove Representative
(and parent of a formerly troubled teen - now in recovery and doing well in college, thanks to ToughLove!)

02/26/2004

Halbur, Jennifer

From: Seaquist, Sara
Sent: Friday, February 27, 2004 11:01 AM
To: Halbur, Jennifer; Hoxtell, Wade
Subject: RE: mental health

SB
387

actually, mental health is Jennifer...

-----Original Message-----

From: Hoxtell, Wade
Sent: Friday, February 27, 2004 10:58 AM
To: Seaquist, Sara
Subject: FW: mental health

Another cheery story...

-----Original Message-----

From: Wendy alghetta [mailto:garyandwendy918@yahoo.com]
Sent: Friday, February 27, 2004 10:28 AM
To: Sen.Roessler@legis.state.wi.us
Subject: mental health

Dear Senator Roessler

I am writing to you b/c I am one of the parents that did not have rights when it came to the welfare of my daughter. My daughter was in depression, a cutter, and very withdrawn. She agreed to go to Rogers Memorial. I drove her down on 12/18/02 and they released her on 12/23/02 b/c they wanted her home for Christmas. I felt it was too early. On 1/1/03 she overdosed, I took her to Hartford Hospital where she had her stomach pumped, after which they took her to St. Josephs. The next day they called me to tell me to pick her up.

Knowing that I had (if I remember correctly) 48 hours legally for them to keep her I asked them to do so. They said they would not b/c they were not equipped for adolescents. She was 15 years old. I asked them if there was anything I could do to keep her there/get her help - they suggested that I speak with the officer on duty to get him to approve.

Unfortunately he worked third shift - past my deadline.

For the last year, possibly longer, my daughter has been smoking pot. I took her to a counselor today to find out my rights - again I discovered I have none. I cannot make her do counseling, I cannot make her do a drug test, and I cannot make her quit. I'm just a parent trying to help the daughter she loves but keep getting closed doors.

If there is anything I can do on my end to change the way the laws are please let me know. I am willing to give my testimony in regards to the unfairness of this situation.

Sincerely

Wendy Al-Ghetta
A concerned parent
Allenton WI

Do you Yahoo!?
New Yahoo! Photos - easier uploading and sharing

Halbur, Jennifer

ASK
CR

From: Wendy Kilbey Warren [wendy@maqs.net]
Sent: Wednesday, March 03, 2004 1:25 PM
To: jennifer.halbur@legis.state.wi.us
Cc: 'Gross, Shel - GEP/MHA Madison'
Subject: Re: SB 387

SB 387

Hello Jennifer,

I am following up on SB387 - I testified at the public hearing on February 12 - I represented the position of the WI Council on Mental Health and also my personal testimony regarding the fact that I am a parent to an adolescent in multiple human service systems. As you know Senator Roessler delayed taking any action on this bill for the time being. I believe I heard her say she wanted to engage in further conversations with experts: parents, providers, advocates, others in order to draft a legislation that protects the rights and works best for all.

How would you like to go about setting up these "further talks"? I would be open on your thoughts as to how you want to proceed.

Thank You -
Wendy Kilbey Warren, Chair Leg Policy Cmtee of the WI Council on Mental Health

----- Original Message -----
From: "Shel Gross" <shelgross@tds.net>
To: <jennifer.halbur@legis.state.wi.us>
Cc: <wendy@maqs.net>
Sent: Tuesday, February 10, 2004 12:18 PM
Subject: SB 387

- > Per our telephone conversation yesterday afternoon I am sending a brief
- > note about the position of the Wisconsin Council on Mental Health on SB
- > 387. The Council will present its "official" response on Thursday, so this
- > should be taken as a "heads up" on that and may not be exactly consistent
- > with what will be presented at the hearing.
- >
- > Last week the Children's Committee of the Council met to discuss the bill
- > and later in the week the Legislative and Policy Committee met, along with
- > representatives from the Children's Committee. The result of these
- > discussions was a sense among those present that there were significant
- > questions and concerns about parts of the bill and that we would like more
- > time to review those, both within our committees and with your office.
- >
- > Among the issues raised were the following:
- >
- > While there do not appear to be the same concerns that existed at the time
- > these statutes were created about youth being inappropriately admitted to
- > psychiatric facilities, these changes seem to go too far in limiting due
- > process for youth. While people understand that parents are responsible
- > for
- > their children and most are trying to do the right thing, there are
- > situations where the youth may have a valid need to have the admission
- > reviewed. It was noted that current statutes, 51.14, allow for such a
- > review now if either the parent or the child believes the other is
- > inappropriately refusing to consent for treatment. It is unclear whether
- > this is being utilized and if not, why not. The group felt this needed to
- > be looked into more.
- >
- > There were concerns about whether youth would be prohibited under these
- > changes from seeking outpatient treatment without parental consent. In
- > cases where there has been abuse, or where parents simply may have stigma
- > around mental health treatment, they may not approve counseling even if it

> might benefit the youth.
>
> There were some concerns expressed regarding the changes related to access
> to records.
>
> Also, since you had noted that the main reason for the legislation seemed
> to be related to having consistency with the statutes for AODA, we
> discussed this as well. A number of people were not sure that this
> consistency, alone, was an adequate or even appropriate reason to change
> the statutes. They were interested in getting more information on what
> impact the changes to the statutes for AODA have had before moving ahead.
>
> As I noted, these comments are only to give you a flavor of the discussion
> and concerns. I know that members of the Council would be more than happy
> to meet with you and others on Sen. Roessler's staff to discuss these
> concerns further.
> Shel Gross
> Director of Public Policy
> Mental Health Association in Milwaukee County
> 608-250-4368
> shelgross@tds.net
> www.mhamilw.org
>

JB 387

Halbur, Jennifer

From: Alice O'Connor [AliceO@WISMED.ORG]
Sent: Friday, March 05, 2004 9:13 AM
To: jennifer.halbur@legis.state.wi.us
Subject: Mental Health Bill - SB387

her
 * I let know you
 are interested in
 getting people together
 to work on this
 issue. I also told
 her that you
 requested that a
 leg. council study
 be done on the
 issue.

Hey Jen,

I know it is nuts for you right now I feel the same way BUT I wanted to get back to you.

Here is some feedback on why the Society is not sure where we are on SB 387 and why we would like to work with you further before it progresses.

I have checked with our docs as to the 14 year old mental health bill and if I were to summarize their concerns it is this:

"why is it there is not more focus on the clinician opinion/position in the decision making process as to the need for admission/discharge and in regard to the drug issue. It seems that this bill minimize a physician's role in this procedure while boosting a parent's role even though the parent may not be the best advocate for the child."

The goal is good, I just wonder if we should have more discussion around this sensitive issue before attempts are made to ram through a bill that is far more complicated.

We have a number of psychiatrists who deal with these specific kinds of patients and the tragic issues they deal with every day, We know they would love to talk to you and the Senator about what really happens and what the best law would be.

Let's try not to solve one problem and create another.

Let me know if after session you'd like us to facilitate a meeting . We would love to help you solve this problem

One of the things we really appreciate about you and the Senator is that you are not afraid to tackle difficult, often emotional issues, and try to make laws that protect people who may not be in the best position to protect themselves. Given how complicated health care has become, and lawsuits and people having agendas that are not pure, unfortunately we do need to really think through the implications of what we should pass, especially around mental health issues laws.

The Society does look forward to working with you and the Senator on this issue and we sincerely appreciate your leadership. We had some really good docs who could help you craft a great bill.

Thanks for asking Jen.

If you want to target a meeting date we would work to get the right player present.

03/05/2004

Warm regards,
Alice

Alice O'Connor
Senior Vice President
Government Relations and Policy
Wisconsin Medical Society
330 E. Lakeside St.
Madison, WI 53715
608.442.3767 (Direct)
866.442.3800 (Ext. 3767)
608.442.3802 (Fax)
aliceo@wismed.org
www.wisconsinmedicalsociety.org

SB
387

Dear Co-chairpersons Lasee and Wieckert,

I am writing to request the Joint Legislative Council to approve, as a topic for a 2004 interim study committee, a study of the status of minors under the mental health laws.

This session, I introduced 2003 Senate Bill 387. This bill would have eliminated the distinction between a minor under 14 years of age and a minor 14 years of age or older with regard to informed consent for treatment of mental illness. I felt that proposing this change was very much in line with recent revisions relating to alcohol and other drug abuse treatment for minors.

The Senate Committee on Health, Children, Families, Aging, and Long-Term Care, which I chair, held a public hearing on this bill on February 12, 2004. At this hearing, it became apparent that there are many complex issues to consider in providing mental health treatment to minors. It was noted that parents are legally responsible for care of their children and they need to be able to make treatment decisions for them, and that some legal changes might be necessary to assist parents who are acting their child's best interests in seeking treatment for them. On the other hand, forcing adolescents into treatment can also have negative consequences. I think it is important, in pursuing changes in this area of the law, to have all of the interested parties "at the table" to work out a solution to this issue.

I would appreciate your serious consideration of this study request. Please feel free to contact me if you would like to discuss this request.

Sincerely yours,

Carol Roessler
18th Senate District

Thanks
Laurie

h

Carol -
Laurie Rose put
this together. Please
approve or make
changes. The deadline to
get those in is 3/15.

Thanks -
Laurie

WISCONSIN STATE SENATE



Carol Roessler
STATE SENATOR

Senator Alan J Lasee
Room 29 South
State Capital
P.O. Box 7882
Madison WI, 53707

Representative Steve Wieckert
Room 16 West
State Capital
P.O. Box 8953
Madison WI, 53708

Dear Co-chairpersons Lasee and Wieckert,

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Sincerely,

A handwritten signature in cursive script that reads "Carol".

CAROL ROESSLER
State Senator
18th Senate District

Halbur, Jennifer

From: Alice O'Connor [AliceO@WISMED.ORG]
Sent: Sunday, March 07, 2004 8:08 PM
To: Jennifer.Halbur@legis.state.wi.us
Cc: Alice O'Connor
Subject: RE: Mental Health Bill - SB387

SB387

Hi Jen,

The comment was in my email. So brilliant, you read right past it! Basically, the psychiatrists felt that the bill did not keep their role important in evaluating the merits of any inpatient treatment needed (or not.) I think they raise a good point. I would be happy to recommend two to 4 really excellent psychiatrists who really care about this issue. They deal with this age group and could help the Senator translate the goal to what is the practical reality of how the system works right now and what law might improve it without creating another problem..

I know if this Leg Council committee is approved, I have some wonderful physicians who would love to contribute to your efforts.

I am delighted the Senator wants to work on this. It is a complex area of the law and does need more attention than this last minute flurry of legislation permits. Thanks for seeking my input.

I'll wait to hear from you about next steps. If you wanted the Society to write a letter urging study of this area of the law, I'd be happy to do that.

Keep me posted.
Alice

>>> "Halbur, Jennifer" <Jennifer.Halbur@legis.state.wi.us> 3/5/04
4:49:00 PM >>>
Hi Alice,

I couldn't open your attachment for some reason. Also, thanks for taking an interest in this issue. I know Carol would like to get interested parties together to work on this, I am just not sure when at this point. Also, she has put in a request that a Jt. Legislative Council Study Committee look at this issue as well. I have attached the letter she sent to Senator Lasee and Representative Wieckert regarding this request.

Thanks again and have a great weekend!
Jennifer

-----Original Message-----
From: Alice O'Connor [mailto:AliceO@WISMED.ORG]
Sent: Friday, March 05, 2004 9:13 AM
To: jennifer.halbur@legis.state.wi.us
Subject: Mental Health Bill - SB387

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The goal is good, I just wonder if we should have more discussion around this sensitive issue before attempts are made to ram through a bill that is far more complicated.

We have a number of psychiatrists who deal with these specific kinds of patients and the tragic issues they deal with every day, We know they would love to talk to you and the Senator about what really happens and what the best law would be.

Let's try not to solve one problem and create another. Let me know if after session you'd like us to facilitate a meeting . We would love to help you solve this problem One of the things we really appreciate about you and the Senator is that you are not afraid to tackle difficult, often emotional issues, and try to make laws that protect people who may not be in the best position to protect themselves. Given how complicated health care has become, and lawsuits and people having agendas that are not pure, unfortunately we do need to really think through the implications of what we should pass, especially around mental health issues laws.

The Society does look forward to working with you and the Senator on this issue and we sincerely appreciate your leadership. We had some really good docs who could help you craft a great bill.

Thanks for asking Jen.
If you want to target a meeting date we would work to get the right player present.

Warm regards,
Alice

Alice O'Connor
Senior Vice President
Government Relations and Policy
Wisconsin Medical Society
330 E. Lakeside St.
Madison, WI 53715
608.442.3767 (Direct)
866.442.3800 (Ext. 3767)
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aliceo@wismed.org <mailto:aliceo@wismed.org>
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www.wisconsinmedicalsociety.org

SB 387

Halbur, Jennifer

From: Roessler, Carol
Sent: Monday, March 08, 2004 1:06 PM
To: Halbur, Jennifer
Subject: FW: Bill for teen treatment

-----Original Message-----

From: RARDA@peoplepc.com [mailto:RARDA@peoplepc.com]
Sent: Wednesday, March 03, 2004 10:12 PM
To: Roessler, Carol
Subject: Re: Bill for teen treatment

Thank you for your reply. My mailing address is:
Audrey Ridolfi
PO Box 1502
Kenosha, WI 53141-1502

----- Original Message -----

From: Roessler, Carol
To: 'RARDA@peoplepc.com'
Sent: Wednesday, March 03, 2004 5:23 PM
Subject: RE: Bill for teen treatment

Thank you for your email. Due to the volume of emails I am currently receiving, I ask that all emails contain a home mailing address. This ensures constituents receive the highest priority.

Thank you for your assistance. I look forward to hearing from you.

Sincerely,

Carol Roessler

-----Original Message-----

From: RARDA@peoplepc.com [mailto:RARDA@peoplepc.com]
Sent: Tuesday, March 02, 2004 9:42 PM
To: Senator roessler
Subject: Bill for teen treatment

Dear Senator,
I would like to support a bill you are sponsoring regarding treatment for youths without their consent. I believe it is vital for parents to have options to help their children without having to have their consent. Let's face it, is a troubled teen likely to give his/her consent...
Currently, there are no options or means for a parent to help a troubled teen/youth until he/she commits a crime and/or tries to harm themselves. Parents need some type of resource. I recently tried to help a friend who was having trouble with their children and was told that there are no resources available...I was flabbergasted! I asked what she suggested and her answer was counseling. They are currently trying this avenue but with the resistance of the children, this may not be enough.
Thanks for listening and I hope this bill will be the beginning of HOPE for troubled teens and their families.

SB
387

Seaquist, Sara

From: Asbjornson, Karen
Sent: Tuesday, April 06, 2004 6:33 AM
To: Halbur, Jennifer, Seaquist, Sara
Subject: FW: Conflicting Laws

CR email - not constit

Let's
talk re:
still

Karen Asbjornson
Office of Senator Carol Roessler
(608) 266-5300/1-888-736-8720
Karen.Asbjornson@legis.state.wi.us

-----Original Message-----

From: robert geason [mailto:bob46jackie40@yahoo.com]
Sent: Friday, April 02, 2004 11:12 AM
To: Ron Brown; Stepp Cathy; Robert Cowles; Alberta Darling; Mike Ellis; Scott Fitzgerald; Sheila Harsdorf; Ted Kanavas; Neal Kedzie; Alan Lasee; Mary Lazich; Joseph Leibham; Mary Panzer; Tom Reynolds; Carol Roessler; Dale Schulze; Bob Welch; Dave Zien
Subject: Conflicting Laws

Senators:

I am looking for your help in correcting what seems to me to be a real problem in a couple of laws in this state. It is law that parents are responsible for their children until age 18. There is also a law that a child of only 14 can check themselves out of a treatment center. So the law says your the responsible party and the law also says when you try and live up that responsibility you can NOT because of CHILD can over ride your parental decision to do what is best for the child. If I am reading this wrong please inform me other wise I ask that you fix it so the parents can actually do whats best for their children.

Even our veto anything thats good for the people Governor should be on board for this. After all the parents can vote the 14 year old can not.

Bob Geason
440 Edward St.
Burlington, Wisconsin 53105
262-763-8503

Do you Yahoo!?
Yahoo! Small Business \$15K Web Design Giveaway - Enter today

9:32 am

(O) 414 257 1744
(H) 262-521-9046
John Fallman

- saw news item on
SB 387
parental
involv.
mental health
have interest
in

- supports

JH called +
updated on bill /
leg Council
study.

Compelling arguments
on both sides

Parents attempt to
use chapter.

adolescent girls.

Not feeling self —
not unusual. —

Tip pay bills

Parents

no they can't make

Overwhelming

Want to

especially as X
not able to make

themselves for themselves
Offended Don't think

Parents have kids best
interests

14/9/16

Opposition

DHFS -

Dual Consent

14-18

< 18 = strictly
Parental consent.

IF DISAGREEMENT

consistent w/ recovery
model.

11 - Records access →
Perpetrator ←

minor = treat whole
system = family.

Once reach age 18 →
forced in - would quit

Entire family
Protects against abuse of

2)

Parents

- offers ck 5: balance;
individual rights.

Age 14 waived into
adult.

Count in as check
If youth - sign out

Minor pet for time
age 14-18 —

my child

I pay

Bills —

I consent to all
to all other.

12 years - can access
AODA services

Mt. Corvid

Parents

other Mt.

Somewhere in between
Protects kids



GRASSROOTS
EMPOWERMENT
PROJECT Inc.

P.O. Box 26516
Wauwatosa, WI
53226-0516

Wendy Kilbey Warren
Technical Support
Coordinator

Cell) 608-697-1480

~~608-296-4397 (v)~~

608-296-4276 (fax)

800-770-0588 (voice mail)

wendy@maqs.net

Wendy is very
interested in
participating in
work group.

SB 387

Testimony of a Racine County parent

I am glad that Wisconsin Family Ties is taking a strong stand regarding changes proposed in SB 387. I have worked with many parents whose hands have been tied by the current law. As first hand observers of the changes that occur when mental illness strikes, parents must watch their children's lives and educations threatened by their inability to get the treatment and medication the children need. It is like watching a train wreck in slow motion, and knowing the person who may die is your child. I wonder why a child with leukemia or juvenile diabetes is considered more important than our children. If a parent failed to take action on their behalf, wouldn't they be in trouble legally for not obtaining medical care?

The statistics and study of mental illness in children is so new, and great strides are being made. I believe the current law was written before this information became available. Before the insurance companies stopped paying for extended hospital stays, I am sure parents were putting children away for punitive reasons. For-profit hospitals and clinics were out soliciting children so that they could keep their beds full. I am not sure the monitoring systems were in place at that time, and I believe restraints were used inappropriately. The choice of medications was slim, and their effects on children unknown. I do know of a child who is currently in a treatment facility in Texas. The parents are able to pay the \$90,000 price tag that goes along with it. She has juvenile diabetes, and the drugs and alcohol she used to self-medicate because of her denial of her emerging mental illness gave her parents little choice. She was going to die. How many parents would have this much money available to save their child? Cases like this still exist, but the child could not keep away from the new friends that were encouraging a lifestyle that was killing her. Not an easy choice for the parents. Anyone that would think parents have easy choices has not raised one [a child with a mental illness].

A child in middle school starts having manic episodes and severe depressions. She is not the same straight-A student that she was. Her friends have turned away from her, and the school will not give her a reduced work-load or allow her to leave class for a quiet place if she becomes upset. She is able to keep it together at school, but at home she is talking of wanting to die. Her actions are becoming reckless, she isolates herself and has outbursts of anger that frighten her parents and younger brother. Her mother calls human services, but there is nobody that calls her back. She is taking lithium, but drinks a whole bottle of gin one night. The emergency room sends her home because there is not a bed available. They do not do a lithium level on her. A friend from school gives her some pills which she takes, and collapses across from school. The school decides to kick her out. The parent feels that part of this is because she's been confrontational with the school for not following the 504 plan. The family is in crisis. The mother will lose her job, and the younger sibling is living in a home that has become a "war zone". The mother cannot get her child to take her medication, into a hospital or to continue to see her psychiatrist. She waits and looks into giving up her rights as a mother so that the county will help save her child's life. The girl has met another boy who is suffering from the same illness. They steal the mother's car and are arrested. The judge orders the child to go to a treatment center for three months. This place is far from her home. She is there long enough to benefit from continued medication, and a safe environment. The cost to the County is very high, and the child returns to her community with the life-long stigma of being arrested and stigma that goes with being sent away. She does well, but the friends that were so important to her turn their backs on her. I remember talking to the mother through all of this. We could not figure out why [the current law] ever was written, and if people knew what parents were going through. Around this time, a senior in high school drove his car into a container of roofing shingles and died. He had been too afraid of the stigma of receiving mental health treatment, despite his family's knowing he needed it.

There are many stories as all of us know. Now is the time to change things. Our children have great talents, and can go on to lead good lives. Change the current law now to give them a fighting chance.

SB 387

Testimony of Doris Kontos, Verona, WI, in favor of SB 387

I have a personal story related to SB 387 and the current law. My son Nicholas was taken to Mendota about 4 years ago and from there was transferred to Winnebago, where he stayed for approximately 4 months. He was initially taken to the hospital about a week before his 14th birthday. Knowing that he could be allowed to sign himself out once he turned 14, I requested that he be court-ordered to be there. The judge was extremely hesitant, but did so at my request.

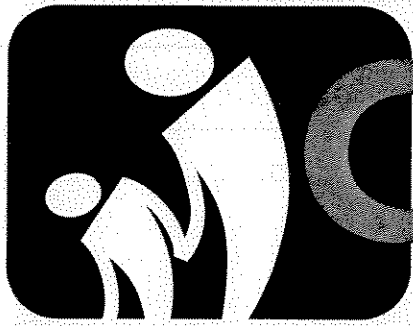
After a couple months at Winnebago he developed serious side effects from a medication that they put him on. Due to the staff's negligence, in my opinion, the side effects got extremely serious before the staff noticed them (they're not trained to look for side effects; they're only trained to pay attention to compliance). At this point I wanted to bring him back home but couldn't because he was court-ordered to be there. Furthermore, Winnebago told the court that Nicholas was dangerous and couldn't be released. The fact was, however, that Nicholas obsessed on killing the staff and escaping, but once out of Winnebago, the obsession was gone because he was out of that environment. To this day, Nicholas has a movement disorder from his treatment at Winnebago. If he had not been court-ordered to be there, the movements wouldn't have gotten so bad. If he wouldn't have had the right at the time to sign himself out at age 14, I wouldn't have had him court-ordered to be there in the first place.

Asst. Drafter

267-6866: Hugh Davis

WI Family Ties

Quest: what happens in the cases where the 14 yr olds
parents are missing or unwilling to sign?



CAPITOL Comments

a publication of The Wisconsin Council on Children and Families, Inc.

Handcuffing Politicians Who Control the Public Purse?

State legislators who pushed unsuccessfully for a property tax freeze last year are pursuing a new and more permanent method of limiting state and local spending and taxes. They have introduced a constitutional amendment that would fundamentally change how fiscal decisions are made at both the state and local levels in Wisconsin.

The proposed amendment would restrict the authority of state lawmakers and local officials to increase spending and/or raise taxes, without first getting public approval in a referendum. The issue is heating up and could be voted on soon in one or both houses of the Legislature.

The proposed amendment

Assembly Joint Resolution (AJR) 55 was introduced in November 2003 by Representative Lasee (R-Bellevue) and Senator Reynolds (R-West Allis), and it received a public hearing in December. It would amend the Wisconsin Constitution to restrain state and local spending and tax increases. Senator Welch (R-Redgranite), who is running against Senator Feingold for the United States Senate, has introduced a comparable measure, SJR 56, in the state Senate.

Like any constitutional amendment, the resolution must be approved in two consecutive sessions of the Legislature and then in a public referendum. The Governor has no role in the process. Senator Welch said in January that he would like to see the Legislature approve the amendment this session and again early in the next biennial session, which might bring it to a public vote for ratification as soon as April 2005.

The resolution is modeled after constitutional provisions in Colorado known as the Taxpayers Bill of Rights, or "TABOR." Specifically, AJR 55 would do the following:

- Limit "spending" growth for the state and public schools to the inflation rate plus the change in population (or the school district's enrollment).
- Hold spending growth for counties and municipalities to the inflation rate plus the increase in new construction.
- Require approval in a public referendum for any increase in state or local taxes (except for a state emergency tax), extension of an expiring tax, or any new state or local bonding.
- Allow the Legislature to approve, by two-thirds vote in each house, short-term "emergency" tax increases that do not first have to be approved by the public.
- Establish specific requirements in the Constitution for funding levels that must be set aside in an emergency fund and a budget stabilization fund.
- Require tax rates to be cut in order to return any "excess" funds to the taxpayers, unless the public votes for a spending change that allows more to be spent or saved.



The Wisconsin Manufacturers and Commerce Association (WMC) has given AJR 55 a strong endorsement and energetic support, as have several other business groups. Another organization that is actively supporting constitutional spending restraints in Wisconsin and in other states calls itself Citizens for a Sound Economy. CSE, which professes to have more than 6,000 members in Wisconsin, says that it "has been building a citizen army across the country" and "has beaten back tax hikes, most recently in Alabama and Oregon." CSE pledges an "unprecedented effort" to win support for AJR 55.

WCCF is among the groups that have registered

(continued inside on page 2)

Handcuffing Politicians Who Control the Public Purse *(continued from page 1)*

against AJR 55. Others include many local governmental bodies and associations, Wisconsin Citizen Action, Wisconsin Education Association Council (WEAC), and other labor groups.

Spending Caps

The proposed constitutional amendment is less rigid in the short run than the proposed property tax freeze because it allows for inflationary increases, and it factors in growth in state population (or, in the case of schools, changes in pupil enrollment). Nevertheless, there are a variety of potential problems with the proposed spending limits.

First, it is important to note that the resolution defines "spending" to include any increases in the reserve funds. In other words, the constitutionally required amounts that must be put into both an emergency fund and a budget stabilization fund would count against the spending cap. That could require a significant cut in real spending for education or human services during a period when

The Wisconsin Council on Children and Families, Inc.

The Wisconsin Council on Children and Families, Inc. is a non-profit organization that has been on the cutting edge of social change in Wisconsin since its inception in 1881. It has worked through the years to improve the delivery of health and human services in the state.

WCCF has a statewide, volunteer board of directors which guides its work. Staff serves Council members by monitoring legislation, providing information on issues through newsletters, forums and conferences, and providing technical assistance and research on issues affecting children and families.

The Council is funded by memberships, contributions, and grants, in addition to an allocation from Community Shares of Wisconsin.

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the state (or local government) is starting to come out of a recession after drawing down its reserves.

Another criticism that has been leveled at the amendment is that basing a spending limit on the consumer price index (CPI) is too restrictive. Current trends in school spending demonstrate the problem. School expenditures are largely for personnel costs, which are being driven by health insurance costs that are increasing at many times the rate of the CPI. And the spending growth calculations do not account for variables such as rising numbers of special needs students or rising levels of incarceration.

A related concern is illustrated by the recent recession. Inflation has been very low, but the recession led to very large increases in Medicaid and BadgerCare caseloads. The proposed amendment would make it very difficult for a state or local government to cope with caseload increases.

Reserve Funds

The resolution sets out rather detailed requirements for building up state and local budget stabilization and rainy day funds. In view of the state's long-standing failure to establish a rainy day fund, the commitment to build up a reserve fund has some appeal. However, a basic question raised by the resolution is whether standards for building up, tapping into, and replenishing budget reserve funds should be spelled out in a document as inflexible as the state constitution.

The details of the resolution are somewhat complex and in a couple of instances are ambiguous. At the risk of oversimplifying, AJR 55 would put in place the following constitutional standards for a budget stabilization fund:

1. After the amendment is ratified, each government unit must build a budget stabilization fund at the rate of one percent of estimated spending each year – until that reserve grows to at least four percent, but not more than 15 percent of estimated spending.
2. Any subsequent reduction of the fund below four percent would trigger a requirement to increase the stabilization fund over the next four years, again at a minimum rate of one percent of spending per year. Since these increases are on top of the amounts already in the fund, it appears that the reserve might have

to grow as high as seven percent of estimated spending.

3. Money in the stabilization fund can only be spent with the approval of two thirds of the members of each house of the legislature or two thirds of the local governing body.

In addition to the budget stabilization fund, each government unit must build up an "emergency fund," at the rate of one percent of spending per year, but capped at three percent after three years. These funds could be expended by a majority vote of the governing body.

The combined effect of these reserve requirements is that state and local governments must build reserves at the rate of two percent of spending per year for each of the first three years after ratification of the amendment, and then one more percent in the fourth year. Similar requirements would be triggered after either of the funds is tapped in a time of fiscal hardship.

As previously noted, the resolution's definition of "spending" includes any amounts being set aside in the reserve funds. Thus, the combination of spending caps and requirements to set aside two types of reserve funds could severely restrict the ability of elected state or local officials to appropriate sufficient funds for programs they administer.

It is unclear whether a governing body could vote to tap either the stabilization fund or the emergency fund during a year when it was constitutionally required to put funds into the reserves. That is one of a number of questions that might need to be litigated if the constitutional amendment is approved.

The ratchet effect

The overall effect of this sort of constitutional amendment is to downsize government. During times of economic recession, downsizing is likely to be the logical result of this amendment. State and local governments probably will have to cut spending if a recession reduces revenue or if there is a cut in aid from another level of government; raising taxes in a time of economic downturn is less likely to be approved by the voters. On the other hand, if the economy bounces back a year or two later, any increased tax revenue that exceeds the spending cap (which is driven off the

(continued on page 10)

Two Champions of Children and Families Leaving State Posts

An article by *Brenda Ingersoll*, published in the *Wisconsin State Journal*, 12/18/03

Anne Arnesen and Nan Brien, two passionate advocates, are leaving the Wisconsin Council on Children and Families a stronger and broader charitable organization dedicated to helping society's vulnerable.

"Anne Arnesen is an extraordinary leader who has created the premier organization in the country for children and families," state Health and Human Services Secretary Helene Nelson said. "Nan Brien also is fabulous and particularly has made a mark in bringing broad-based public awareness to the importance of early childhood brain development. They both are extraordinary leaders across a wide range of children's issues."

Arnesen, 71, retires Dec. 31 after 22 years with the council as co-director and director. "I haven't had time to think about it," she said of her future. "I'm too busy here."

Associate director Brien, 62, retires Dec. 31 after 11 years with the council, but plans to keep her oar in by making trips around the state on council business.

Arnesen will be replaced at the council by former Dane County Human Services Director Charity Eleson, 47, who now is the council's associate director for program and advocacy. "Charity will be a very fine leader, and the kids and families of Wisconsin will be very well served by her," Nelson said.

As Dane County Human Services director, Eleson oversaw 585 employees and a \$196 million budget. As director of the council, she will oversee 21 employees and a budget of more than \$1 million, but will support the causes of children and families on a statewide and even national level. Still, Arnesen and Brien's shoes will be hard to fill, Dane County Executive Kathleen Falk said.

"And Charity is the person to do it," Falk said. "She knows how to work with the Legislature, she has substantial executive experience and substantial policy experience. She already is an outstanding leader. Since the day I met her, children and families have been her passion and she spent her career working on those values."

Arnesen, whose husband, psychiatrist Richard Arnesen, died one year ago, has two children and

four grandchildren. She's looking forward to having some free time, but said, "I'll miss the challenges of trying to make a difference for people. It's very compelling work. And I'll miss the staff, and miss the opportunity to work with people around the state."

The council was founded in 1881 as the Wisconsin Conference on Charities and Corrections. Each year, in addition to working with legislators and human service agencies on behalf of children and families, it collects data on the status of children in the state.

The result is the annual *WisKids Count* report, which recently warned that child poverty in Wisconsin, after falling to a 10-year low in 2000, had crept up to 13.5 percent of children in 2002. In 2002, the *WisKids Count* report zeroed in on children's mental health and the importance of parental nurturing for crucial early brain development. In 2001, the report examined the impact of poverty on student achievement and how to reduce its effects.

Asked about her most important accomplishment, Arnesen said it was "being able to develop a presence in the state and raise the level of the council's work."

"We were able to expand the staff to include people with a high degree of expertise, so we had an ability to expand our scope so we could affect a difference for families and children. Part of that means we made children a part of the political agenda of Wisconsin."

Brien is married to Bob Brien. They have three children.

"I have three passions in my life - my family, early childhood brain development and the value of the public schools," Brien said.

Both she and Arnesen have served on the Madison School Board. Brien has advocated for children since her oldest son, Patrick, now a C-130 pilot serving in Iraq with the 440th Airlift Wing out of Milwaukee, was in kindergarten and she became active in the parent-teacher organization. She joined the council in 1992. "Anne and I were on the School Board together and so we were birds of a feather," she said.

State Schools Supt. Elizabeth Burmaster said she knows all three women well. Arnesen and Brien

"have truly been champions of Wisconsin's children and families," Burmaster said. "They've been exceptional leaders. I've enjoyed working with them in lots of difference capacities over the decade."

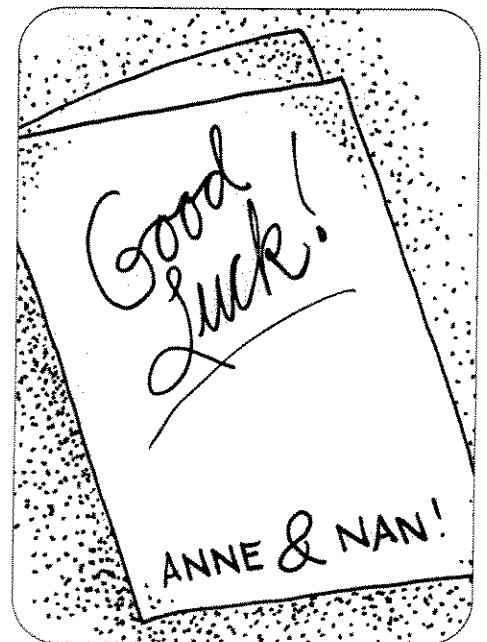
As for Eleson, Burmaster looks forward to working with her. "I've been working closely with the council on our main priority, closing the gap in achievement in Wisconsin for minority children. (The council has) been a tremendous partner with the Department of Public Instruction."

Eleson is married to Madison attorney Pat Donnelly, and they have a 15-year-old daughter.

"We live in a state where we have a lot to be proud of for kids," Eleson said, "but I think there's some good work that lies ahead of us."

She plans to work on policies that will help poor families weather an uncertain economy and to apply knowledge about early brain development to develop policies and programs that can help young children thrive.

"We know more about the importance of the early years and brain development in children than ever before, and now we need to determine what its practical application is in the area of public policy as it applies to early education, child care and other areas that affect the lives and well-being of young children," she said.



Children's Rights from an International Perspective

by *Anna Broman*, Swedish Exchange Trainee through the American-Scandinavian Foundation

Background on the international legal document on children's rights

The idea that children are a group of human beings worth protecting legally is not new at all. It has roots as far back as the French Revolution in the 18th century. Even before that there was a notion that children were special individuals in need of special protection. When Jean-Jacques Rousseau published his famous book, *Emile*, in 1761, there was already an existing movement for children's rights. Rousseau argued that children are individuals in their own right and that their specific features - such as their playfulness - and the state of childhood should be embraced and looked upon as something positive instead of as cause for despising children as less worthy human beings. Through this book, the whole movement for children's rights gained more international recognition. Although ever since then, some individuals and smaller groups have claimed that children have rights of their own, it was not until 1924 that these views were officially written down. The documentation took place within the League of Nations, the predecessor of today's international organization, the United Nations (hereafter UN) and was created in the form of a declaration - The Declaration of the Rights of the Child. The declaration was apparently the achievement of the former international body, so after the newer organization, the UN, was created in 1946, there were adjustments made to the old declaration that resulted in a new declaration in 1959.

A declaration, as opposed to a convention, is not a legally binding document that state parties have to ratify, i.e., sign that they will respect the articles laid down in the convention. Children are first and foremost humans, secondly children, and thus have the same rights as all other human beings under general human rights conventions. For example, both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights from 1966 protect the rights of children like all other individuals. However, the international community sometimes wants to make a statement with regard to specific groups worthy of extra protection in conventions. It will then create a convention specific to that particular group. One good example of that is the Convention on the

Elimination of All Forms of Discrimination against Women. Other examples are the many different conventions to protect the rights of indigenous people and ethnic minorities. Children also were considered an important group to protect. In order to give them the protection they deserve, a process of creating a convention with features specific to children was initiated. The result was the Convention on the Rights of the Child (hereafter called the CRC) that came into force in 1990.

The amazing thing with the CRC is that the convention has received massive support throughout the world. Normally when conventions are created the cultural, religious and societal diversities of the different countries worldwide will become very obvious in the sense that, before a convention even can come into writing there will be tough negotiations and lots of compromising on all parts. Once the text has been adopted, many countries may feel that specific parts of the text do not comply with their view and will make reservations to the questioned articles. Countries that find the text being too far from what they had wanted will not ratify the convention at all. A document with few state parties that have ratified it and/or where a lot of reservations have been indicated, will not be considered a particularly "strong" document, since there is no real unity in looking at the principles and rights set forth in such a convention. Unfortunately, international human rights law is highly driven by political ambitions on the part of all countries, and these types of compromises are very common. In the case of the CRC, states seem to have been united by the general idea that children are valuable, have rights and need extra protection. This unity resulted in the highest number of state parties to ever have ratified a convention. My home country, Sweden, was highly involved throughout the process of creating the convention and was one of the first countries to also ratify the convention - a fact that makes me happy. It was not at all controversial for the Swedish government to do such a thing, since children's rights has traditionally been an issue of priority in Sweden. There were in fact only two countries in the world that did not ratify the convention - Somalia and USA! The two countries both have signed the convention. In the case of Somalia, civil war had created a country without any recognized regime to actually ratify it, so that was the reason they did not ratify the CRC. In the case of the USA, however,

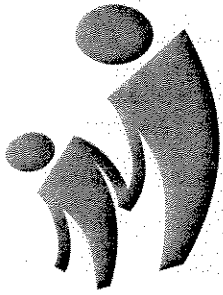
at least to my knowledge, there was no such circumstance.

Does it really matter if a country ratifies a convention, much less the CRC?

In my mind, being an advocate for international collaboration and cooperation, it is very important for every country to be an active part of the creation of new legal instruments in the international arena. Ratifying conventions that set the basic standards for the respect of human rights throughout the world is one way of showing the country's interest and good will in cooperating with other countries to make this world a better place. Of course, it may be difficult for countries to ratify a document that seems to be very contradictory to the ruling principles of that country. However, that is not the case for the U.S. I have now been here for more than three months and through the work I have done, it is clear to me that the general notion among people working in this field of children's rights as well as people not specializing in the field, is that children are a group with specific rights that needs extra protection. The idea that all persons are equal in value and dignity is one of the basic features of the American constitution. So, if the majority of the people feel that way and if the ideas of the CRC are in line with the major features of the constitution, why not ratify it?

Ratification would be a positive statement from the American government to all children within its jurisdiction that they count, that they will be a priority, and that the country is prepared to face its responsibility towards them and the international community. Additionally, if the U.S. does not live up to the ambitions of the convention it will face the shame in the international arena. And more, if the U.S. were to ratify the CRC, it would give all American children and advocates for children in the U.S. a tool to put pressure on the government to make sure that children can enjoy the rights they are entitled to through the convention. Although the CRC does not contain a formal system of sanctions, there is a strong incentive - constituted by the Committee on the Rights of the Child - for states to follow the principles and ideas behind the convention. The Committee will review the practices of each country that is party to the CRC

(continued on page 11)



The WisKids Journal

SB 37

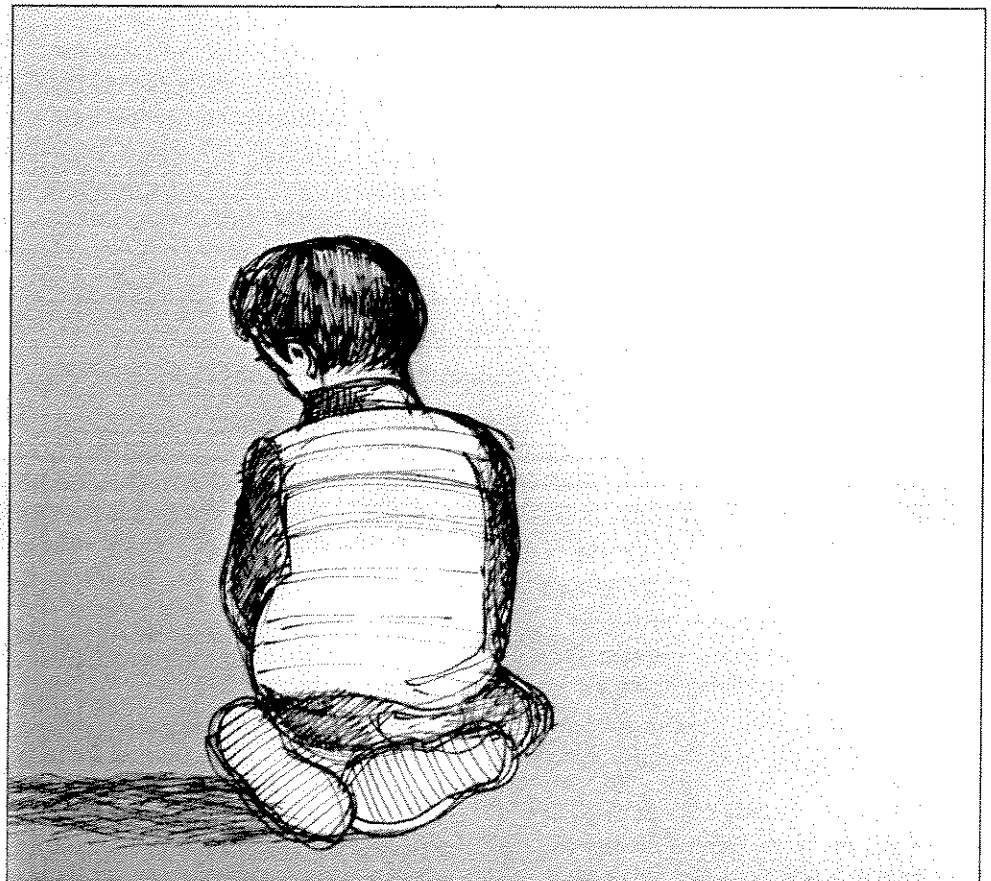
A PUBLIC POLICY ANALYSIS OF CHILDREN'S ISSUES IN WISCONSIN

Mental Health Services Access for Youth: Part One

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A Comparative Examination of Systems and Structures of Child Welfare and Juvenile Justice in Wisconsin and Neighboring States

The following discussion about Wisconsin's child welfare and juvenile justice service delivery systems and structures was informed by research and interviews with heads of statewide child advocacy organizations from Wisconsin and seven neighboring Midwest states. The purpose of the research and interviews was to examine and compare impacts of states' various statutory schemes and administrative structures, funding streams, standards of quality for services, and data collection on the quality of service delivery for the child welfare, juvenile justice and mental health systems. The larger issue of equity of access to services is also examined, particularly access to mental health services for low-income youth in Wisconsin. Other states' practices as well as trends reported in current research suggest different options for Wisconsin as it builds on system strengths to provide better, more comprehensive and effective services for all youth in need.



Wisconsin's programs for troubled youth in need of services operate in the face of an added challenge - a disturbing, statewide lack of access to mental health services, particularly for low-income children who are not involved in either formal system - child welfare or juvenile justice. As I began to examine research studies and literature reviews on these subjects, I found significant overlap between the juvenile justice and child welfare systems, with respect to the youth served, as well as the types of issues these youth face and the types of services needed to address them. Unfortunately,

one noticeable deficit was an overall lack of integrated mental health care services.

Wisconsin's statutory schemes, administrative structures, funding streams and service delivery systems can be examined by comparing its systems to those of its neighboring states. I began to make some comparisons using research conducted for the Wisconsin Association of Family and Children's Agencies (WAFCA). WAFCA is the Wisconsin member of the National Organization of State Associations for Children (NOSAC). I conducted interviews with the directors of the NOSAC agencies

in seven Midwest states to get a better picture of how their juvenile justice, child welfare and mental health systems and structures operated, and how equity in access to services in these states compared to Wisconsin. These states included Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri and Ohio. This article will focus on the three most compelling findings: a program from Ohio, a Minnesota statute, and an Illinois state service division. But first, let us review the present state of Wisconsin's system.

(continued on page 6)

Wisconsin's System Today

Since the 1996 statutory change, which transferred juvenile justice authority out of the Department of Human and Family Services (DHFS) and away from child welfare to the Department of Corrections (DOC), Wisconsin's system is often described as bifurcated. Although Wisconsin's juvenile justice and child welfare systems are primarily county-driven, WAFCA Director John Grace says Wisconsin is more accurately categorized as a "hybrid" state - a county-run system with a shared state/county administration. Although juvenile justice remains fully county-managed through DOC, the child welfare system of Milwaukee County, Wisconsin's largest and most diverse county, was taken over, administratively, by the state. These recent major systems' reorganizations have had significant impacts on the delivery of children and youth services in Wisconsin.

The "tough on crime" mindset of the 1990's triggered the 1996 Legislative Act that changed the Chapter 48 Children's code, which had encompassed both child welfare and juvenile justice, with a strong focus on the best interest of the child.

Although media "hype" about juvenile violent crime hit an all time high during this time, national research reveals juvenile crime has actually been decreasing every year since 1994, and violent juvenile crime has decreased steadily since 1995 (Schwartz, Weiner & Enosh, 1999). Although juvenile crime continues to decline in Wisconsin as well, juvenile arrests have exploded by an astonishing 500 percent over the last ten years, Grace reported. He attributes this to the major lack of rehabilitative focus in the juvenile justice system that emanated from its move to DOC. Grace does not see any evidence of a change in current political will or the emergence of movements advocating on behalf of returning juvenile justice to DHFS, so that all children and youth services could be housed together, in order to improve service delivery options and restore a more treatment-based, rehabilitative mentality for all youth services. However, he pointed out there is a current movement in Wisconsin to increase and improve wraparound-type services for youth, illustrating a broad recognition of the importance of a comprehensive, holistic approach to child welfare and juvenile justice.

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The principles of wraparound require services that address the child in the broader context of his or her family and environment, with an appreciation for the complex, multifaceted nature of the issues beneath the presenting problem.

Another salient aspect of Wisconsin's service delivery system is the fact that its system has been substantially privatized for a long time. Whereas in other states, mass privatization has been a more recent and gradual trend, it has been evolving in Wisconsin for quite some time. Not only are Wisconsin's two major child caring systems bifurcated, its funding streams are as well. The major funding sources for child welfare and juvenile justice are the state block grants, Community Aids and Youth Aids, respectively. Grace explained, "Youth Aids sits on top of Community Aids, so when Youth Aids funding is used up for the year, Community Aids funds are used; so in essence, it is one big block grant." Grace said the overall funding breakdown for child welfare is now roughly 1/3 federal, 1/3 state, and 1/3 county levy. He says this current, more balanced funding structure tends to protect the status quo in this era of a strained fis-

cal resources. However, this is only possible if counties and the State work together as partners.

Grace also mentioned that unlike other states, there is a notable absence of Medicaid funding for mental health services in Wisconsin.

This may contribute to a situation unique to Wisconsin - youth in the juvenile justice system actually have the most access to mental health services, which is not true in other states. Often it is just the opposite. Grace stated that because Youth Aids are underfunded, most alternatives to incarceration are placements in residential treatment facilities, which, by their very definition, provide mental health services. Child welfare youth have somewhat less access to mental health and treatment services than do youth in the juvenile justice system, although the services that are available to them tend to more

often be outpatient, community-focused services. The wraparound movement has had an impact within the child welfare sphere, but has not yet expanded much beyond it. As a result, youth who are not in either the child welfare or juvenile justice systems have very limited access to mental health services because it is very difficult to receive such services these days without a court order. This is why residential treatment beds are roughly 85-90 percent occupied by adjudicated delinquents, Grace estimated, and only 10-15 percent by CHIPS (Children in Need of Protective Services) kids. This leaves little room for children in need of such services who are not in either system.

Grace stated Wisconsin's standards for quality of services and licensing procedures are above average nationally, and the administrations are thoughtful in facilitating sophisticated regulations to ensure quality. He reported child welfare and juvenile justice systems have equivalent licensing standards, but did note a lack of regulation for secure care, including detention facilities and JCI's (Juvenile Correctional Institutions). In contrast, Grace says residential treatment facilities have ample oversight, although community-based services and outpatient mental health programs, which do not involve medications, have minimal quality standards to follow. In addition to quality standards and licensing that hold service providers accountable, data collection and tracking is another way to measure outcomes and assess the efficacy of the system.

DOC gets the best grade for the most comprehensive data kept among systems. Grace stated that DOC includes DHFS data in its tracking system, which is helpful in keeping track of overlap between systems. WISACWIS is the new statewide data system designed to track demographic and case management data across counties. It is supposed to be up and running in all counties by 2004, but that date appears to be overly optimistic. WAFCA staff report that it is not working that well yet in the areas where it is in place and many counties do not have it up and running at all at this point.

WISACWIS is an attempt to unify data collection, but Grace says the state will have to invest much more money in the system for it to eventually reach this

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goal. However, the frustrations and hold-ups thus far, combined with the current budget crisis, make that less likely. Without WiSACWIS, Wisconsin is left with the current situation of a non-integrated, fragmented data system that fails to illustrate the whole picture of the child welfare and juvenile justice landscape for policymakers - to consistently show where need exists and what change would be beneficial.

In spite of its challenges, the Badger state's strengths include significant investments in child welfare and juvenile justice. Grace thinks that Wisconsin largely succeeds in providing incentives for county juvenile courts to opt for community-based treatment alternatives over incarceration. But, at the same time, tension exists between these options and the larger issue of rehabilitation vs. public safety. The debate is certain to continue. Another strength is Wisconsin's county-driven system. Grace summed up his perspective by saying the county-based system produced "more variance across counties, which made them both more resilient, yet more uneven." However, the "unevenness" among systems and across counties stems from weaknesses in the current structure, such as the lack of a youth mental health system. Grace commented, "We don't talk about this as a state, or recognize the connection between lacking a mental health system, and poorer outcomes and higher incarceration and system involvement for our youth." Without a system to oversee mental health service delivery for our children, we are experiencing a major lack of access for mental health services for kids outside of the system.

Our discussion will continue by looking beyond Wisconsin to the strengths, weaknesses, and lessons learned from our neighboring states' various systems of child welfare, juvenile justice, and mental health.

On page 9 is a chart which features the highlights of each state's child welfare, juvenile justice and mental health systems and structures, based on my interviews.

Chart Abbreviation Key:

- BG = Block Grant
- Cnty-based = Community-based
- Cnty = County
- CW = Child Welfare
- JJ = Juvenile Justice
- MH = Mental Health
- Res tx = Residential Treatment

Strengths of Neighboring States' Systems

Below is a review of the three most compelling aspects of systems from the neighboring Midwest states of Ohio, Minnesota and Illinois. The program, statute, and services division reviewed below are examples of successful reform efforts that have helped the respective states work toward achieving their goal of providing more effective and equitable service delivery in order to achieve better outcomes for children. These efforts are not without flaws, but each offers a potential model to build from in Wisconsin.

OHIO

The "RECLAIM" Ohio program (Reasoned and Equitable Community and Local Alternatives to the Incarceration of Minors) is a "nationally recognized funding program for juvenile offenders that encourages courts to purchase a range of community-based sentencing options" (Miller & Liotta, 2001). The program was Ohio's answer to continuing steady increases in youth crime and incarceration. Ohio and Wisconsin had comparable juvenile system funding mechanisms before Ohio adopted the RECLAIM program and Wisconsin established the Youth Aids funding structure. Like Wisconsin, Ohio was dealing with the situation of local courts having financial incentives to order restrictive placements, which were covered by state

funds, even when those corrections placements were not in the best interest of the youth or the community.

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RECLAIM funneled resources, which were formerly allocated for state programs only, i.e., out-of-home correctional services, into community-based and prevention programming (Miller & Liotta, 2001). Funds are divided among counties based on their current delinquency data. RECLAIM funds can be used for a wide array of diversion programs, ranging from traditional supervision and monitoring services to AODA programming, to prevention services and community-based treatment (Miller & Liotta, 2001). The RECLAIM program has enjoyed broad support and success in its ten years of existence. Evaluations show achievements as diverse as enhancing the infrastructure of the juvenile justice system as a whole by structuring creative community-based innovations such as Family Preservation and Unification and

local sentencing options. RECLAIM also has succeeded in providing more flexibility in treatment and service options to best fit the needs of youth and the community, saved money, improved service and program efficacy, and even decreased the racial disparity in Ohio's juvenile correctional system. It has strengthened the collaborative efforts and relationships between DYS, local juvenile courts, county commissioners, and public and private service providers (Miller and Liotta, 2001). Miller and Liotta conclude their report with the remark, "RECLAIM supports local decision-making functions and addresses the true costs of corrections and treatment of juvenile offenders" (2001, p. 86). At the same time, recidivism rates have decreased and more positive outcomes for youth and families have been achieved. These seem like universally desirable outcomes for most concerned parties in Wisconsin as well. Although proponents of the Youth Aids funding structure, such as WAFCA's John Grace, maintain it is still succeeding in effectively promoting community-based alternatives to incarceration, our later discussion will consider whether it is time to redesign a funding structure for juvenile justice, which is closely aligned to today's reality of need and cost and which does a better job of

(continues on page 8)

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MINNESOTA

Beyond the juvenile justice system, Wisconsin faces the challenge of providing sufficient mental health services for children who are not in the system, as well as providing for more equitable access to services, whether or not a child is in the system, or which system they are in. Coordinating and overseeing different aspects of this broad challenge would likely be much more feasible if Wisconsin actually had a mental health system. We will discuss what an ideal mental health system might look like later, but one of the first issues would be that of funding. In 1989, Minnesota passed a statute which now governs mental health services throughout

the state, known as the Minnesota Comprehensive Children's Mental Health Act; 245.487-245.4887. The Act directs counties to provide a full range of services to children and youth in need, including screening and assessment, residential treatment, day treatment, and family and community-based treatment. The underlying principle is that services should be provided based on the best interest of the child and the community, rather than the funding source, and the ideal is that all children should have equitable access to mental health services based on individual need, instead of whether or not they have a court order, or through which "door" they entered the system. Mary Regan, director of Minnesota Council of Child Caring Agencies (MCCCA), says Minnesota has not completely lived up to these ideals because acquiring and maintaining enough funding in the unified funding pot is still a challenge. The state's more serious juvenile offenders do not yet have equitable access to such services. However, she says the Act has certainly succeeded in achieving better mental health coverage for most children, overall.

ILLINOIS

Another serious consideration is when do mental health services become available to children in need and where in the process do we choose to focus

our energy and resources. Wisconsin's current status of only providing services with a court order precludes utilizing such services in a systematic way as a prevention or early intervention tool, before the child lands in the system. Illinois' Department of Human Service's Division of Youth Services (DYS) has had success in doing just this. Child Care Association of Illinois' (CCAI) director Marge Berglind states that DYS was created about 15 years ago and is structured with a community focus. There are several youth service planning areas throughout the state, determined by known community boundaries, each with its own planning board. Every four years, the

Community Youth Service Planning Boards complete assessments to determine the efficacy of services and what additional services are needed for youth in DYS.

The population served by DYS is a broad group of non-delinquent youth, such as status offenders, minors with behavioral issues, whose parents seek assistance and intervention ["Minors in Need of Authoritative Intervention" (MINAI's)], homeless youth, known as "drifters" as well as youth abandoned by their parents in state mental health hospitals. DYS provides these youth with an array of services such as outreach and 24-hour emergency crisis intervention, where services commence no longer than one hour after the consumer calls or walks in the door. Short-term case management services also are offered, in which intervention services are available to deal with the immediate issues of the youth and his or her family, with the main goal being to prevent abuse and neglect or delinquency. When necessary, short-term case managers can refer the youth and/or the family to further resources or services, such as mental health services. This short-term case management service is funded through Individual Care Grants, for which the family must apply, that will cover services for 60 days from the time the case is opened. There is also some

opportunity for emergency, short-term, out-of-home placements if necessary, during a "cooling off period." Such youth are eligible for 21 days in a licensed foster care home or other types of subcontracted temporary placements. Berglind said there is only a very limited, small budget for this service, but the purpose is to intervene in a family or youth emergency, to prevent further harm and long-term system involvement. One problem Berglind identified with the Individual Care Grants for the short-term case management services is that although they are not very difficult to apply for, not everyone knows they are available

and pursues them. Disproportionately, it is low-income families, perhaps most in need of such services, who are not as aware of available resources. However, Marge Berglind reported that the public school systems are taking a larger role as an outreach and referral source for all families.

With its faults, DYS remains a good example of using services and resources as a means of preventing more advanced problems and system involvement. Clearly, balancing a system by this type of approach is cost efficient and effective, when early intervention can prevent further system involvement, thus saving limited resources. This, along with the goals of increasing community-based options in juvenile justice, and streamlining funding for mental health services to improve access for all children, as discussed in the Ohio and Minnesota examples, encompass the core philosophies of the contemporary approach to systemic care.

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In the next issue of WisKids Journal, we'll look at "Bringing it all Together: What lessons can Wisconsin learn from best practices of our neighboring states as well as from national research?"

CAPITOL COMMENTS

	Statutory Scheme	Administrative Structures	Funding Streams	Equity of Access to Services	Quality Standards/Licensing	Data Collection	Overall Strengths	Overall Weaknesses	Current Legislation/Reform Movements
Minnesota MN Council of Child Caring Agencies <i>Mary Regan</i>	County-based system	Bifurcated administration; Child Welfare & Mental Health thru DHS; Juvenile Justice thru DOC	MH-unified funding for all kids; most county property tax, some IV-E & Medicaid	Children's MH Act improved equality of MH; JJ kids lack access; efforts to +	Res. MH Tx licensed 2 ways; through DHS/DOC for different types of programs; new umbrella licensing rule in MH - req. screening/assessment & core standards	Both unified & bifurcated data system; main data system is Soc. Svc. info system; DOC intrgr.	Income does not play a role; low-income kids are well-covered in MH	County-driven system means much variation & discrepancy among counties; rural counties have less resources	MN Comprehensive Children's MH Act of 1989 - improved MH coverage of kids by unifying funding streams and making child's need the priority over funding source
Missouri MO Coalition of Children's Agencies <i>Carmen Schulze</i>	State-run system	Separate administration for CW & JJ, and MH	Bifurcated funding; CW: TANF IV-E, MH: Medicaid, JJ: mostly state	CW - better access to MH than JJ; JJ has own MH svc.	Minimal licensing standards; religious-affiliated orgs. - no lic. requirements; mmt. for more CW licensing standards; very "closed" system; lack of studies	Unified data collection at state level thru Cntys; some short-term outcm. data; JJ: "no one cares"	Use of private agencies in CW; community-based approach to JJ	Lack of effective leadership in CW; now have good leadership in JJ; but major retirements approaching	Current movement to improve quality standards & licensing in CW; current mmt. to separate CW from public assistance administration
Ohio OH Association of Child Caring Agencies <i>Penny Wyman</i>	County-based system	Separate administration; lots of crossover	Overall: 50% county, 10% state, 40% federal	Kids in CW - most access to MH; JJ very cnty-based (RECLAIM)	CW - does most licensing, esp. for MH services. MH - trying to get deemed status JJ - most licensing regs. focus on public safety rather than inmate safety	Totally bifurcated, separate data systems	JJ - lots of cnty-based, thru RECLAIM; although still need more - meet need	Current movement to eliminate Medicaid coverage for day treatment - would be bad!	RECLAIM Ohio - 1994 program to reform funding structure for JJ to provide incentive for juvenile court to use cnty-based incentives to incarceration - success!
Wisconsin WI Assn of Family and Child Agencies <i>John Grace & Linda Hall</i>	Hybrid system; county system except Milw. Cnty CW is state run	Bifurcated since 1996 split; transferring JJ out of DHFS to DOC, away from CW	CW: 1/3 Fed'l/state/county from Community Aids BG JJ: Youth Aids BG - lacks funding; lack of Medicaid for MH	JJ kids - have most access to MH, CW have some lack of MH access w/o court order	Equal licensing standards for Child Welfare & Juvenile Justice, except in secure care; above national average for licensing standards; lots of oversight for residential treatment	WisACWIS new statewide data system not working - yet; JJ data good; lack of outcm. data	Balanced funding system protects from cuts - cnty-based system works well	Lack of youth mental health system! Lack of collaboration; racial youth sentencing disparities	Current, collaborative effort to improve Wraparound services across counties; advocacy community getting better organized; better collaborative efforts w/ CW & JJ
Illinois IL Child Care Association of Illinois <i>Marge Berglund</i>	State-run system	Bifurcated administration; DCFS houses CW, DYS & AODA; JJ 2-pronged; local court/DOC separate MH system	DCFS - combo of federal and state \$\$; MH: some Medicaid	Access to - MH depends on ability to navigate system; lack of MH in JJ	CW: State does all licensing for substitute care; overlaps with inpatient MH treatment MH: licensing not required if no meds involved (cnty-based/outpatient MH)	Uncoordinated; each Dept/Div. collects own data; ICCA collects outcome data	DYS - successful early int. to keep kids out of court; good outcome in-res. tx	Lack of inter-system coordination; resources not equitably accessed by-low-income	Children's Mental Health Act: to improve collaboration/MH access across systems; Current movement to expand Medicaid coverage to JJ kids
Indiana IN Assn of Residential Child <i>Catby Grabam</i>	Mixed state/county system; moved from county to state system in 1987; still 92 cnty office	3-pronged administrative structure: CW & JJ separate divisions within same department; MH separate department	CW: 70% county/20% federal/10% state; JJ: all state in DOC; MH: most state, some federal	Mostly kids in child welfare and on probation receive services	IARC in charge of outcome data collection; 60-70 agencies voluntarily participate Comprehensive data; incl. tracking, i.e. outcomes, school achievement, recidivism, etc.	Statewide data collection - ICWIS; primarily data on CW & county-level JJ; doesn't include DOC	Comprehensive outcome data; improved wraparound svc.; Medicaid Rehab option increased MH funding	Lack of coordination across counties; esp. around MH service lapses in delivering timely services, at level needed	Juvenile Law Committee to examine gaps in service in juvenile justice; proposed committee to look at gaps in service for child welfare
Iowa Coalition for Family & Child Services in Iowa <i>Ann Harrmann Magellan Behavioral Care Joan Discher</i>	State-run system	Unified administration for CW and JJ; separate MH system	CW: Title IV-E, 19 & Medicaid JJ: mostly county/some state; MH: Medicaid - state if not eligible	2/3 kids - served by MH - not in CW/JJ system (JD) CW - most access (AH)	DHS - main licensing body; comparable for CW and JJ; Magellan in charge of licensing for MH; current efforts to get deemed status for Psychiatric Medical Institutions for Children (PMMIC's)	Unified data system for CW & JJ; DHS focuses on federal data regs. CFCSI collects outcome data Magellan - great data - MH	State system works well for IA as small state; joint MH tx planning for individual youth was good collab. before budget crisis	CW staff need more time to swork with families rather than paperwork; MH - need better assessment tools and collaboration	April 25, 2003 - Legislation passed to "reinvent CW" (Senate File 453) - aims to shift CW from performance based to focus on child outcomes; A.H. - hopes for less paperwork, more time with kids
Michigan MI Federation of Private Child and Family Agencies <i>Bill Long</i>	State-run system	Unified state-level administration for CW and JJ; separate MH system	MI needs to find ways to attract/leverage more federal \$ and Medicaid; MH funding is deficient	Res. tx contracts out equally 1/3 for CW, JJ, MH; system treats kids very sep.	Driven by contracts/performance measures; Local MH boards admin. Consumer satisfaction surveys; CW - outcome meas. Out of contracts with FIA; JJ - Cnty. Level is licensing body	Bifurcated, fragmented data; JJ - pretty comprehensive; MH - minimal; CW - federally driven data collection	Recognition by both CW and JJ that inter-system collaboration is important; increased effort to do so	Greatest need for systemic reform at state level; need to restructure state funding to attract federal funding	Commissions to examine how to better collaborate between systems and approach children more holistically, rather than separate them by system

Handcuffing Politicians (continued from page 2)

recently reduced base) has to be returned to taxpayers by making reductions in tax rates.

The net result is a ratcheting down of taxes when the economy is growing and a ratcheting down of spending when it is not. And because the Wisconsin amendment adds requirements for building and replenishing reserve funds, spending might also need to be cut in the early stages of an economic recovery.

The Bell Policy Center in Colorado described the implications of the ratcheting down phenomena there: "The state will never recover the costs associated with increases in inflation and population during the economic downturn. Reductions in mental health services, Medicaid for legal immigrants, libraries etc. are virtually impossible to restore."

Local complications

Local governments could experience a number of other difficulties, in addition to those faced by the state. These are just a few:

State reductions in aid or property taxes – In times when money is tight, state lawmakers often cut aid to local governments (a practice sometimes referred to as "shifting the shaft"). Obviously, there have been many examples of that in recent years. Adoption of the constitutional amendment would greatly complicate matters for local officials, who would have to get approval via a public referendum just to offset those cuts with increased local revenue.

In recent years the state has also crimped local property tax collections in at least a couple of ways. For example, the state cut local taxes on agricultural property, which significantly affected many rural areas. AJR 55 would require any local government experiencing a cut in property tax rates to hold a public referendum before it could replace the lost tax revenue by increasing tax rates.

Declining enrollment – Schools that are experiencing declining enrollment could face reduced spending limits because of the enrollment component in the spending cap formula. Since some of the schools' costs are fixed, reduced enrollment does not translate into a proportional cut in real costs. Schools already face that problem to some extent in the current cost control formula, but the proposed resolution would make the statutory problem more permanent and potentially less flexible by putting it into the Constitution.

Mandated services – Many of the services delivered by local governments are mandated by the state. Counties, in particular, often have to pay for expensive services directed by a court for children in the juvenile justice or child welfare systems. The ability of local governments to comply with state mandates and court orders could be complicated greatly by constitutional limits on their spending authority.

Emulating Colorado

Proponents of the Wisconsin amendment often point to Colorado as the model for imposing constitutional restrictions on the ability of elected officials to raise taxes or spending. That state adopted its constitutional amendment, "TABOR," in 1992. The principal Assembly author of AJR 55, Representative Lasee, notes, "between 1995 and 2000, Colorado's personal income grew 51 percent, second in the nation." He adds that "Colorado shrunk the size of government by \$114 per person per year."

Opponents of this type of amendment point to many other facts about Colorado, including its declining bond ratings. They reference a report on the state's economy that said, "since year-end 2000 Colorado has had a net job loss of almost 80,000 or 3.5 percent compared to 1.1 percent for the US." That report also noted that the state unemployment rate had doubled.

The Bell Policy Center contends that there is no evidence that TABOR contributed to Colorado's strong economic growth in the late 1990s. It notes that there was comparable growth throughout the Rocky Mountain region and that "other states with less stringent caps or more permissive tax policies grew as fast or faster."

There is agreement that TABOR has significantly reduced spending in Colorado, though different people do not necessarily view the cuts in the same light. A November 2003 column by Wade Buchanan, director of the Bell Policy Center, painted the following picture of his home state:

"By 2000, we (Colorado) had fallen to 50th in K-12 spending per \$1,000 of personal income. Even during the carefree '90s, the state fell behind in per capita spending for higher education and public health. By 2000, Colorado spent less than most other states on public health care services (as a percent of GSP), was

at the bottom in on-time immunization rates, was at the bottom in prenatal care, had the highest rate of uninsured low-income children in the nation, was almost last among states in high school graduation rates, ranked almost last in higher education and the arts, and had a growing list of unfunded highway projects."

Colorado also did not fare well in a rating of state tax systems contained in the February 2003 issue of *Governing* magazine. That rating system, which is part of the Government Performance Project, evaluated each state's tax system on the basis of adequacy of revenue, fairness to taxpayers, and management of the system – with each of those components getting a maximum score of four stars. Out of a possible 12 stars, Wisconsin received eight and Colorado received just five (including just one star for tax adequacy). The *Governing* report card said:

"TABOR has complicated Colorado's fiscal life so much that some of its original supporters have soured on it. 'In hindsight,' says Republican Senator Ron Teck, 'I wouldn't vote for it again.'"

Voter approval

The most fundamental question raised by AJR 55 is whether we can trust elected officials to make fiscal decisions involving spending levels and taxes. Proponents of the amendment clearly believe that the answer is "no." They want to constitutionally tie the hands of the state and local politicians who have controlled the purse strings in Wisconsin.

Of course, the provisions in the bill giving voters the responsibility for tax and spending choices have considerable populist appeal. The amendment would propel Wisconsin in the direction of Colorado and other western states, where tax and spending choices are primarily determined by direct vote at the ballot box. While the constitutional amendment would give citizens much more direct control of tax and spending choices, it would take from the officials we elect the ability to make fundamental choices about fiscal policy and severely restrict their ability to respond to emergency or changing situations.

The February 2003 issue of *Governing*, referenced above, contains a brief article about direct citizen control of fiscal decisions, including the following:

"When citizens put their hands directly on the tax levers, it often gets much harder for states

Handcuffing Politicians (continued from page 10)

to pay the bills. California, whose Proposition 13 became the poster boy for hobbling ballot box measures, is just one name on a list of states that are choking on tax policies put in place by voters. Washington, Oregon and Colorado are just a few of the others confronted with adequacy problems thanks to these measures."

Conclusion

The primary objective of the proposed constitutional amendment, AJR 55, is to limit spending in Wisconsin. The amendment would no doubt achieve that result. In addition, it would spell out in considerable detail the percentage of funds that must be set aside in two different reserve funds, regardless of what else is happening with respect to revenue growth or spending needs. And it would require tax cuts any time stronger economic growth pushes revenue above the spending limits.

Proponents of the resolution note that its goal is to emulate the spending restraints in Colorado – a state that enjoyed substantial economic growth in the 1990s, while it significantly reduced taxes as a percentage of income. Opponents also point to Colorado, but focus on the state's declining bond rating, sharp increase in unemployment in recent years, and the fact that it ranks at or near

the bottom in many areas of education spending and health care.

Regardless of whether one believes that spending in Wisconsin needs to be reined in, the even more fundamental question is whether a constitutional amendment is the appropriate way to achieve that objective. Approval of AJR 55 would represent a dramatic change in the constitutional framework for making fiscal decisions for our state, its schools, and other local governments.

In essence, the resolution says that we should tie the hands of elected officials because they can no longer be trusted to make decisions about spending and taxes. It is based on the premise that the ability to remove elected officials from office is no longer a sufficient check on their power to raise taxes and spend public funds. Instead, the resolution's proponents believe the public should be given direct control over those fiscal choices. Arguments for the resolution have an obvious populist appeal, but putting into the constitution such things as requirements for spending caps, reserves and automatic tax cuts would severely limit the ability of state and local governments to respond to rapidly changing fiscal conditions.

Jon Peacock

Wisconsin Budget Project Director

Children's Rights (continued from page 4)

and evaluate how that specific country has worked to improve the situation for children within its jurisdiction. The Committee consists of experts on children's issues that are elected globally. They have access to UN staff persons who are experts on children's rights law. Each country must submit an assessment to the Committee on how efforts are progressing to improve the rights of children. Of course, states tend to see things from the positive side and will generally submit a story of success. However, Non Governmental Organizations (NGOs), non-profit organizations and other entities working and advocating for children's rights also will be able to submit their assessments of the situation for children in the home country. The Committee will consider all information, meet with representatives from the country and discuss the report that this particular country has submitted. The whole procedure will end with the Committee presenting concluding observations that contain recommendations to the state party. In this document, the Committee also can express concern in areas where it thinks that the state is pursuing practices in breach of articles in the CRC. Since these observations are public, all other states will know how each country has done; that puts the pressure on the states to try their best or they will be viewed negatively by other states. This may not seem like anything serious, but as mentioned earlier international law has a great deal to do with international politics - the importance of this forum for a country should not be underestimated. A country that is seen negatively by other states because of its performance with respect to human rights/children's rights, may have difficulty receiving support from countries on other issues in the international community. So, yes, it certainly would make a difference if the U.S. decided to ratify the CRC. It would be a huge step in the right direction, a step towards greater respect for the children of this country.

CHANGE...

Sometimes less is more. Sometimes less is less. Sometimes you don't notice the change. We're hoping for the latter with regard to our decision to conserve resources by publishing *Capitol Comments* six times a year rather than eight. While some of you may notice that you are receiving *Capitol Comments* a bit less frequently, we guarantee that one thing will not change: The six issues you receive over the course of the year will contain the timely, accurate information and analysis of children's issues that you are accustomed to receiving from WCCF.

And as always, we welcome your reactions to what you read in our newsletter. Brickbats or plaudits, if you have any suggestions or comments, please contact me, your new *Capitol Comments* editor.

Bob Jacobson

Wisconsin Council on Children and Families

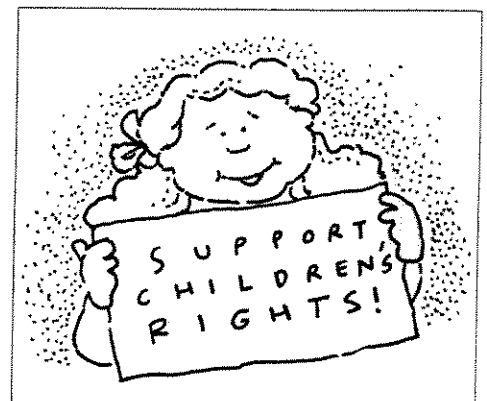
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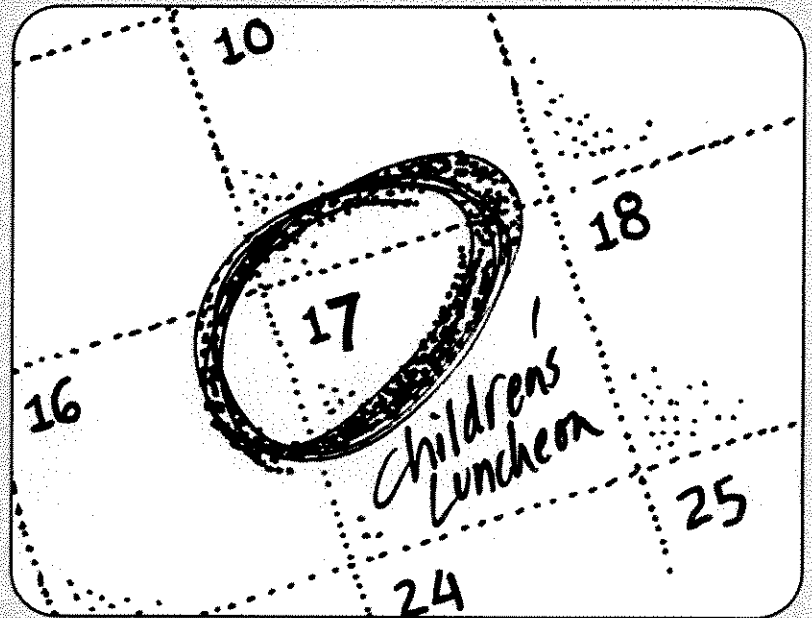
Save The Date!

**11th Annual
State of Milwaukee
Children's Luncheon**

**MONDAY, MAY 17
11:30 am - 1:30 pm**

**Italian Community Center
Milwaukee**

**For more information,
contact Joyce Mallory
at (414) 298-9126**



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