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(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2005-06

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Children and Families (AC-CF)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (May 2012)

Present: (6) Representatives Kestell, Albers, Jeskewitz,
Grigsby, Sinicki and Seidel.
Absent: (2) Representatives Vos and Vukmir.

Moved by Representative Albers, seconded by Representative
Jeskewitz that **Senate Bill 284** be recommended for concurrence.

Ayes: (6) Representatives Kestell, Albers, Jeskewitz,
Grigsby, Sinicki and Seidel.

Noes: (0) None.

Absent: (2) Representatives Vos and Vukmir.

CONCURRENCE RECOMMENDED, Ayes 6, Noes 0

David Matzen
Committee Clerk

Vote Record Committee on Children and Families

Date: 12-8-05

Moved by: Albers

Seconded by: Jeskewitz

AB _____

SB 284

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Steve Kestell, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Robin Vos	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Representative Sheryl Albers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Suzanne Jeskewitz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Leah Vukmir	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Representative Tamara Grigsby	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Christine Sinicki	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Donna Seidel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>6</u>	<u>0</u>	<u>2</u>	_____

Motion Carried

Motion Failed

FOND DU LAC COUNTY
DEPARTMENT OF SOCIAL SERVICES
MEMORANDUM

DATE: November 15, 2005

TO: Rep. Steve Kestell, Chair, Committee on Children and Families

FROM: Edward L. Schilling, Director, Fond du Lac Co. Dept. of Social Services

SUBJECT: Comments Regarding SB 284

I would like to express my strong support of SB 284

SB 284

This bill makes several needed changes to Ch. 48, the Children's Code.

Currently, County Social Services (DSS) and Human Services (HSD) departments are required to initiate and complete a diligent Child Abuse and Neglect Investigation whenever they receive a report of child abuse or neglect from a law enforcement agency. A substantial number and percentage of these referrals are cases where the alleged perpetrator is not a primary or secondary caregiver of the child victim(s). In these cases, the Child Protective Service Investigation Standards, which Counties are mandated to follow, state: "When a child has been maltreated by an individual outside of the family, CPS should act as collaborators with and consultants to the parents. Parents are the best resource for meeting children's needs, whenever possible." The mandated investigation process is detailed, structured, time consuming and, inherently intrusive. In the vast majority of these cases, the primary caregiver is willing and able to provide support and protection to the child victim(s).

Non-caregiver CAN investigations represent a significant percentage of all CAN investigations statewide. The following figures are quoted from or calculated based on numbers published in the Annual Child Abuse and Neglect Report, published by the Department of Health and Social Services:

<u>YEAR</u>	<u>TOTAL CAN REPORTS</u>	<u>TOTAL SUBSTANTIATED*</u>	<u>PERCENT SUBSTANTIATED</u>	<u>NON-CAREGIVER SUBSTANTIATIONS*</u>
1999	40,188	11,937	29.7%	2,371
2000	38,010	10,144	26.7%	2,122
2001	40,215	9,795	24.4%	1,434
2002	42,698	9,329	21.8%	1,877
2003	40,473	7,994	19.8%	1,455

* The "Total Substantiated" figures do not include substantiations of "Likely to Occur", therefore, they may be lower than other State generated numbers.

Assuming that the rate of non-caregiver substantiations is the same as for all substantiations, one could conclude that the total number of CAN non-caregiver investigations completed are as follows:

<u>YEAR</u>	<u>INVESTIGATIONS</u>
1999	7,903**
2000	7,859**
2001	5,975**
2002	2,291***
2003	4,722***
2004	4,427***

** These numbers, based on the Annual Child Abuse and neglect Report, may be somewhat overstated because non-caregiver CANS have a high proportion of sexual abuse allegations, which have a higher substantiation rate than other forms of child abuse and neglect.

*** These numbers are from the State DHFS and are not calculated by me using the "percentage methodology" utilized for the years 1999 – 2004.

Preliminary, locally generated figures for Fond du Lac County indicate that we completed 653 CAN investigations, of which, 227 (35%) were non-caregiver investigations. Because the CAN investigation standards do not allow "shortcuts" in the investigation process, much of the time spent in non-caregiver CAN investigations is not necessary. It would be much more efficient, productive and supportive to families if DSS/HSD's would complete non-caregiver CAN investigations only when it became apparent that the caregiver was not willing or able to provide support and protection to the child victim(s). The change to Ch. 48 proposed in SB 284 accomplishes this goal and will allow County DSS/HSD's to more efficiently and productively utilize their limited resources.

The main issue to consider in Non-Caregiver Investigation is the total number, and the fact that an extremely small percentage of cases are ever opened for ongoing services. Those cases needing service can be identified without being subjected to the lengthy, resource consuming and invasive investigation process. The substantiation percentage in Non-Caregiver cases has little relevance in the decision about whether or not to provide ongoing services to the family, because the perpetrator is not in the home.

The portion of the SB 284 expanding definitions of a relative helps to standardize the definitions within the Children's Code and the Juvenile Justice Code. This standardization is long overdue.

A problem encountered while completing CAN investigations is that the time limits built into the Children's Code that ensure timely Court review of the need to keep a child in custody sometimes prompt formal CHIPS proceedings in cases that otherwise could be handled informally. On occasion, the DSS/HSD conducting the CAN investigation would not ask for a formal petition if they had time to gather more information. This proposed change of Ch. 48 allows the Court to grant the investigative agency an additional 72 hours, if necessary, to gather information prior to either releasing the child(ren) from custody or filing a formal petition. This additional time will reduce the number of "marginal" CHIPS cases, thereby saving time for the Court, the District Attorney, Corporation Counsel and DSS/HSD staff.

**Comments re: SB 284
November 15, 2005
Page 3**

The provision in SB 284 allowing transfer of guardianship and custody of children to a county department only if the county department has agreed to the transfer of guardianship and custody simply clarifies the explicit intent of the original provision of the law. There have been cases where

the interpretation of the original language could be ambiguous, resulting in a guardianship and custody transfer to Fond du Lac County when the foster parent had no interest in adoption. In addition, processing of foster parent adoptions under these circumstances is voluntary on the part of counties.



ASSEMBLY COMMITTEE ON CHILDREN AND FAMILIES
NOVEMBER 17, 2005
SENATE BILL 284

IN RESPONSE TO CONCERNS RAISED BY FOND DU LAC COUNTY SOCIAL SERVICES DIRECTOR, ED SCHILLING, I INTRODUCED SENATE BILL 284, **THE DHFS REGULATORY REFORM BILL**.

SB 284, AS AMENDED BY SENATE SUBSTITUTE AMENDMENT 1 PROPOSES A STATUTORY "CLEAN UP" IN THE AREA OF HUMAN SERVICES THAT WILL HELP TO ALLEVIATE SOME OF THE BURDEN FELT BY SOCIAL SERVICE AGENCIES.

ED IS UNFORTUNATELY UNABLE TO ATTEND THIS HEARING TODAY DUE TO A PRIOR COMMITMENT. I HAVE DISTRIBUTED A LETTER FROM HIM TO MEMBERS OF THE COMMITTEE AND HAVE INCORPORATED SOME OF HIS COMMENTS INTO MY TESTIMONY.

**SB 284, AS AMENDED MAKES THE FOLLOWING
CHANGES:**

1. THE BILL **PERMITS RATHER THAN REQUIRES** A SHERIFF OR POLICE DEPARTMENT TO REFER TO A SOCIAL SERVICES AGENCY A CASE IN WHICH THE PERSON SUSPECTED OF ABUSE IS **NOT** A CAREGIVER. THESE CASES ARE MORE APPROPRIATELY HANDLED BY LAW ENFORCEMENT.

PRELIMINARY, LOCALLY GENERATED FIGURES FOR FOND DU LAC COUNTY INDICATE THAT 653 CAN INVESTIGATIONS HAVE BEEN COMPLETED, OF WHICH, 227 (35%) WERE NON-CAREGIVER INVESTIGATIONS. IT WOULD BE MUCH MORE EFFICIENT, PRODUCTIVE AND SUPPORTIVE TO FAMILIES IF THE DEPARTMENT OF SOCIAL SERVICES WOULD COMPLETE NON-CAREGIVER CAN INVESTIGATIONS ONLY WHEN IT BECAME APPARENT THAT THE CAREGIVER WAS NOT WILLING OR ABLE TO PROVIDE SUPPORT AND PROTECTION TO THE CHILD VICTIM. IN FACT, THE

CHILD PROTECTIVE SERVICE INVESTIGATION STANDARDS, WHICH COUNTIES ARE MANDATED TO FOLLOW, STATE: “WHEN A CHILD HAS BEEN MALTREATED BY AN INDIVIDUAL OUTSIDE OF THE FAMILY, CPS SHOULD ACT AS COLLABORATORS WITH AND CONSULTANTS TO THE PARENTS. PARENTS ARE THE BEST RESOURCE FOR MEETING CHILDREN’S NEEDS, WHENEVER POSSIBLE.”

2. THE BILL MAKES THE DEFINITION OF A “RELATIVE” CONSISTENT BETWEEN KINSHIP CARE, THE CHILDREN’S CODE AND THE JUVENILE JUSTICE CODE.

3. SB 284 **ALLOWS THE COURT TO GRANT THE INVESTIGATIVE AGENCY AN ADDITIONAL 72 HOURS**, IF NECESSARY, TO GATHER INFORMATION PRIOR TO EITHER RELEASING THE CHILD FROM CUSTODY OR FILING A FORMAL PETITION.

THE TIME LIMITS BUILT INTO THE CHILDREN’S CODE THAT ENSURE TIMELY COURT REVIEW OF THE NEED TO KEEP A CHILD IN CUSTODY

**SOMETIMES PROMPT FORMAL CHIPS PROCEEDINGS
IN CASES THAT OTHERWISE COULD BE HANDLED
INFORMALLY.**

IN SOME CASES, THE CAN INVESTIGATION WOULD
NOT ASK FOR A FORMAL PETITION IF TIME WAS
AVAILABLE TO GATHER MORE INFORMATION.

THIS ADDITIONAL TIME WILL REDUCE THE
NUMBER OF "MARGINAL" CHIPS CASES, THEREBY
SAVING TIME FOR THE COURT, THE DISTRICT
ATTORNEY, CORPORATION COUNSEL AND
DEPARTMENT OF SOCIAL SERVICES STAFF.

4. **SB 284 PERMITS THE JUVENILE COURT TO
TRANSFER GUARDIANSHIP AND CUSTODY OF A
CHILD TO A COUNTY DEPARTMENT FOR
PLACEMENT OF THE CHILD FOR ADOPTION ONLY
IF THE COUNTY DEPARTMENT HAS AGREED TO
ACCEPT GUARDIANSHIP AND CUSTODY OF THE
CHILD AND THE FOSTER PARENT HAS AGREED
TO ADOPT THE CHILD.**

**THIS LANGUAGE SIMPLY CLARIFIES THE
EXPLICIT INTENT OF CURRENT LAW.**

THE INTERPRETATION OF THE ORIGINAL LANGUAGE
COULD BE AMBIGUOUS AND HAS RESULTED IN A
GUARDIANSHIP AND CUSTODY TRANSFER TO FDL
COUNTY DESPITE THE FOSTER PARENT HAVING NO
INTEREST IN ADOPTION.

**THE REMAINING CHANGES PROPOSED IN SSA1 TO SB
284 WERE ADDED AT THE SUGGESTION OF DHFS.
FOND DU LAC AND OTHER COUNTY AGENCIES
AGREE THAT THESE CHANGES ARE NEEDED.**

1. THE BILL ALLOWS THE SHARING OF INFORMATION
ABOUT A CHILD THAT WILL BE PLACED WITH
RELATIVES IN THE SAME MANNER THAT THE
AGENCY CAN, UNDER CURRENT LAW, SHARE
INFORMATION WITH LICENSED FOSTER PARENTS
ABOUT A CHILD WHO WILL BE PLACED WITH THAT
FAMILY.

RATIONALE: WHEN A SOCIAL WORKER IS SEEKING A PLACEMENT FOR A CHILD, IT IS IMPORTANT THAT THE WORKER BE ABLE TO COMMUNICATE INFORMATION TO THE PLACEMENT FAMILY TO ENSURE THAT THE CHILD AND THE FAMILY ARE PROTECTED.

2. THE BILL CLARIFIES THAT RELATIVES OF A CHILD ARE STILL RELATIVES AFTER A TERMINATION OF PARENTAL RIGHTS UNTIL AN ADOPTION IS FINALIZED.

RATIONALE: THIS DOES REFLECT THE STATE'S CURRENT OPERATING STANDARD. THE DHFS BELIEVES THIS LANGUAGE HELPS TO MEET STATE AND FEDERAL REQUIREMENTS WHICH DICTATE THAT RELATIVES BE CONSIDERED AS OUT-OF-HOME CARE AND ADOPTIVE PLACEMENTS.

BILL HISTORY:

SENATE BILL 284 PASSED THE SENATE HEALTH COMMITTEE AS AMENDED BY SENATE SUBSTITUTE AMENDMENT 1 ON A VOTE OF 5-0.

THE DEPARTMENT OF HEALTH AND FAMILY SERVICES,
FOND DU LAC COUNTY SOCIAL SERVICES, THE WI.
COUNTIES HUMAN SERVICES ASSOCIATION, THE
WISCONSIN COUNTIES ASSOCIATION AND THE
CHILDREN'S TRUST FUND ALL EXPRESSED THEIR
SUPPORT FOR THE BILL.

NO ONE TESTIFIED OR REGISTERED AGAINST THE BILL.

THE SENATE PASSED SB 284 ON A VOICE VOTE.

THANK YOU FOR YOUR CONSIDERATION OF THE
CHANGES PROPOSED IN SB 284. I HOPE THAT YOU WILL
SUPPORT THIS LEGISLATION.



2005 Senate Bill 284
Testimony by the Department of Health and Family Services
before the
Assembly Committee on Children and Families
November 17, 2005

Good morning, Chairman Kestell and committee members. My name is Ron Hermes and I'm the Legislative Liaison for the Department of Health and Family Services. Thank you for the opportunity to testify in support of Senate Bill 284.

Senate Bill 284 makes changes in the following areas in the Children's Code and Juvenile Justice Code:

- Abuse investigations of non-caregivers;
- Definition of neglect as it pertains to caregivers;
- The definition of relative;
- When a court may hold a child in custody without a petition alleging a child is in need of protection or services being filed;
- When a court may place a child in the guardianship of a county other than Milwaukee;
- When child protection services staff may share information about a child that will or may be placed with unlicensed relatives; and
- When relatives of a child are still relatives after a termination of parental rights.

Under current law when a report of suspected or threatened abuse or neglect of a child is received by the sheriff or police department it must be referred to the local child welfare agency. The agency must then initiate an investigation of referrals to determine if the child is in need of protection.

SB 284 makes the following changes to investigations and responses to child abuse allegations:

- Permits, instead of requires, a sheriff or police department to refer to a child welfare agency a case in which the person suspected of abuse is not a caregiver.
- Permits, instead of requires, the child welfare agency to initiate an investigation into a report of non-caregiver abuse.
- Requires the sheriff or police department to refer and the child welfare agency to investigate all referrals in cases where:
 - The caregiver is suspected of the abuse or neglect;
 - The caregiver is suspected of failing to protect the child from abuse or neglect;
 - It cannot be determined who abused or neglected the child; and/or
 - There is reason to suspect that an unborn child has been abused or there is reason to believe that an unborn child is at substantial risk of abuse.
- Clarifies that the definition of neglect applies only to caregivers.

Under current law, caregiver is defined as a relative, guardian, or legal custodian of a child; a person who resides or has resided regularly or intermittently in the same dwelling as the child; an employee of a residential facility or a residential care center for children and youth in which the child was or is placed; a person who provides or has provided care for the child in or outside of the child's home; or any other person who exercises or has exercised temporary or permanent control or supervision over the child.

Information obtained from the statewide eWiSACWIS reporting and case management system indicates that in calendar years 2002, 2003, and 2004, over 90% of non-caregiver cases were closed at the conclusion of the initial assessment, or investigation phase based on a determination by the Child Protective Services (CPS) staff that the family could and would protect the child and meet whatever needs the child had as a result of the harm, without CPS taking additional action.

The Department believes this provision will allow more effective and efficient use of resources available to child protective services. Child welfare agencies do not have the authority to intervene with the maltreater in non-caregiver cases. Therefore, resources are being used to investigate cases that the agency does not have authority to intervene in.

This provision also allows flexibility at the local level for enforcement and child welfare agencies. Law enforcement will have the discretion to refer cases that need child welfare services and child welfare agencies will have the discretion to be involved in cases where a child or family would benefit from child welfare involvement.

Second, SB 284 expands the definition of relative in both Chapters 48 and 938 and substantially conforms the various definitions of relative with a few exceptions.

Under current law, the general definition of relative under Chapter 48.02 (15) includes: parent, grandparent, great-grand, stepparent, brother, sister, first cousin, nephew, niece, uncle or aunt, whether the relationship is by blood, marriage, or adoption.

SB 284 expands this definition to include, a stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, second cousin, step-uncle, step-aunt, any person of a preceding generation as denoted by the prefix grand, great, or great-great, and the spouse of any relative, even if the marriage is terminated by death or divorce.

This provision will provide more uniformity in child welfare programs. For example, currently a child can be placed with a stepbrother if the child is under the Kinship Care program, but if the payments end, it would be an illegal placement because a stepbrother is not a relative as defined in s. 48.02 (15), Stats.

This change may result in more available out of home placements for children with their extended families.

Third, SB 284 adds a ground for extending custody of a child for 72 hours prior to the filing of a CHIPS petition. Under current law a child taken into custody and not released must have a hearing within 48 hours of the time the decision was made to take the child into custody, exclusive of Saturdays, Sundays and legal holidays, and a CHIPS petition must be filed at the time of the hearing. If a hearing is held and the court finds certain conditions exist then the court may hold the child in custody for an additional 72 hours exclusive of Saturdays, Sundays and legal holidays.

SB 284 adds as one of the grounds for extending custody, that there is probable cause to believe that additional time is required to determine whether the filing of a CHIPS petition is necessary. Only one 72 hour extension to file the petition is allowed under any ground.

Allowing caseworkers to keep a child in custody an additional 72 hours to investigate a case before filing a petition should result in more accurate and complete petitions or in an earlier return of the child to his or her home because the caseworker is able to determine that a petition is unnecessary.

SB 284 also allows child protection staff to share information about a child that will or may be placed with relatives in the same manner that the agency can, under current law, share information with licensed foster parents about a child who will or may be placed with that family.

When a social worker is seeking a placement for a child, it is important that the worker be able to communicate information to the potential placement to ensure that the child and the family are protected.

Finally, SB 284 clarifies that relatives of a child are still relatives after a termination of parental rights until an adoption is finalized. After the adoption is completed birth relatives would no longer be considered relatives of the adopted child.

This is the state's current operating standard and we believe it makes the state better able to meet state and federal requirements that relatives be considered as out-of-home care and adoptive placements. Decisions on placement can occur after termination of parental rights, and this change would ensure that relatives continue to be given consideration as temporary or permanent placements for a child.

Again, thank you for the opportunity to testify in support of SB 284. I would be happy to answer any questions.

For further information please contact:
Ron Hermes, Legislative Liaison
Department of Health and Family Services
P.O. Box 8916
Madison, WI 53708-8916
608-266-3262
HermeR@dhfs.state.wi.us





22 EAST MIFFLIN STREET, SUITE 900
MADISON, WI 53703
TOLL FREE: 1.866.404.2700
PHONE: 608.663.7188
FAX: 608.663.7189

MEMORANDUM

TO: Honorable Members of the Assembly Committee on Children and Families

FROM: Sarah Diedrick-Kasdorf, Senior Legislative Associate *SK*

DATE: November 17, 2005

SUBJECT: Support for Senate Bill 284

The Wisconsin Counties Association (WCA) supports Senate Bill 284 relating to the investigation of child abuse or neglect reports in which a person who is not a caregiver of the child is suspected of the abuse or neglect of the child; defining the persons who are considered to be relatives of a child or juvenile for purposes of the Children's Code and the Juvenile Justice Code; extending the time for which a child may be held in custody when additional time is required to determine whether the filing of a petition initiating proceedings under the Children's Code is necessary; and the transfer of guardianship and custody of a child to a county department of human services or social services in a county other than Milwaukee County for the placement of a child for adoption in the home of the child's foster or treatment foster parents.

Child Abuse Investigations of Noncaregivers

Specifically, in reference to child abuse investigations of noncaregivers, the bill permits, rather than requires, the sheriff or police department to refer to an agency a case in which a person who is not a caregiver of a child is suspected of the abuse or neglect, or of the threatened abuse or neglect, of the child and permits, rather than requires, the agency to initiate a diligent investigation to determine if the child is in need of protection or services. This provision reduces a mandate on county child welfare staff, yet for those jurisdictions that wish to remain involved in noncaregiver cases, the option still exists. Many other states already make noncaregiver abuse a responsibility of law enforcement.

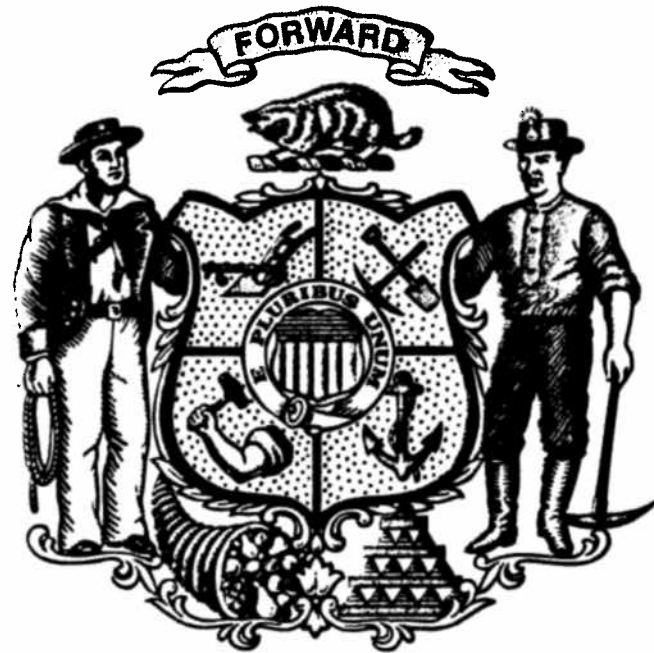
As a result of the federal review, county child welfare staff will be expected to provide more thorough family assessments, provide or purchase more services for all family members and to provide more documentation than ever before, all without increased funding. As a state, we are unlikely to achieve the expected federal outcomes if we

simply increase our expectations of child welfare staff without reducing some of their current workload. This proposed change gives counties the ability to redirect limited staff time to the outcomes required by the administrative agencies that provide our funding.

Placement of a Child for Adoption

Senate Bill 284 permits the juvenile court, following a TPR, to transfer guardianship and custody of a child to a county department of a county other than Milwaukee County for placement of the child for adoption by the child's foster parent or treatment foster parent, only if the county department has agreed to accept guardianship and custody of the child and the foster parent or treatment foster parent has agreed to adopt the child. This appears to be a reasonable change. If the county agrees to accept guardianship, case managers who have already had a great deal of experience with the child and foster parents will be able to assist them in the process of finalizing the adoption. In some cases, there have been a number of delays before adoptions are finalized when guardianship has been transferred to the state. As long as accepting guardianship is an option for a county, not a mandate, WCA can support the change.

Thank you for considering our comments.



Senate Bill 284 relating to: the investigation of child abuse or neglect reports in which a person who is not a caregiver of the child is suspected of the abuse or neglect of the child; defining the persons who are considered to be relatives of a child or juvenile for purposes of the Children's Code and the Juvenile Justice Code; extending the time for which a child may be held in custody when additional time is required to determine whether the filing of a petition initiating proceedings under the Children's Code is necessary; and the transfer of guardianship and custody of a child to a county department of human services or social services in a county other than Milwaukee County for the placement of a child for adoption in the home of the child's foster or treatment foster parents.

<p>BILL SPONSORS</p>	<p>Introduced by Senators Roessler, Olsen and A. Lasee. Cosponsored by Representatives Kestell, Townsend, Ott, Jeskewitz and Musser.</p>
<p>BILL HISTORY</p>	<p>Senate Bill 284 was introduced on August 10, 2005 and referred to the Senate Committee on Health, Children, Families, Aging and Long Term Care. A public hearing was held on August 31, 2005 and executive action was taken on September 15, 2005. The committee recommended adoption of Senate Substitute Amendment 1 to Senate Bill 284 on a vote of 5-0. The committee recommended SB 284 for passage as amended on a vote of 5-0.</p>
<p>LRB ANALYSIS</p>	<p><u>Current Law:</u> Child abuse investigations of noncaregivers</p> <p>Under current law, certain persons having reasonable cause to suspect that a child seen in the course of professional duties has been abused or neglected or having reason to believe that a child seen in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur must report that suspected or threatened abuse or neglect to the county department of human services or social services or, in Milwaukee County, to the Department of Health and Family Services (DHFS) or a child welfare agency under contract with DHFS (collectively "agency") or to the sheriff or police department. Current law also permits any other person having reason to suspect that a child has been abused or neglected or reason to believe that a child has been threatened with abuse or neglect and that abuse or neglect of the child will occur to make such a report.</p> <p>Current law requires the sheriff or police department to refer to an agency all cases of child abuse or neglect reported to it and the agency, within 24 hours after receiving a report, to initiate a diligent investigation to determine if the child is in need of protection or services. Current law also specifies certain procedures that an agency must follow in investigating cases in which there is reason to suspect that the child was abused or neglected, or was threatened with abuse or neglect, by a caregiver, which is defined under current law as a relative, guardian, or legal custodian of the child; a person who resides or has resided regularly or intermittently in the same dwelling as the child; an employee of a residential facility or a residential</p>

care center for children and youth in which the child was or is placed; a person who provides or has provided care for the child in or outside of the child's home; or any other person who exercises or has exercised temporary or permanent control or supervision over the child.

Definition of "relative" in Children's Code and Juvenile Justice Code

Currently, for purposes of the Children's Code and the Juvenile Justice Code, a "relative" of a child or juvenile is defined as a parent, grandparent, greatgrandparent, stepparent, brother, sister, first cousin, nephew, niece, uncle, or aunt, whether the relationship is by blood, marriage, or adoption. For the purpose of determining eligibility to receive kinship care or long-term kinship care payments for providing care and maintenance for a child, for the purpose of determining eligibility to be appointed as the guardian of a child in need of protection or services, and for the purpose of exempting a relative who is providing care and maintenance for a child from having to obtain a foster home license, the definition is expanded to include a stepbrother or stepsister, any person of a preceding generation as denoted by the prefix grand, great, or great-great, and the spouse of any relative, even if the marriage is terminated by death or divorce. The definition is also expanded for purposes of investigating any suspected or threatened abuse or neglect of a child by a caregiver of the child to include a second cousin, stepgrandparent, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, stepuncle, or steppaunt.

Holding a child in custody

Under current law, if a child who has been taken into custody under the Children's Code is not released, a judge of the court assigned to exercise jurisdiction under the Children's Code (juvenile court) or a circuit court commissioner must conduct a hearing within 48 hours of the time the decision to hold the child in custody was made, exclusive of Saturdays, Sundays, and legal holidays, and a petition initiating proceedings under the Children's Code must be filed by the time of the hearing. If a hearing is not held within the time required or if a petition is not filed by the time of the hearing, the child must be released, except that if a hearing is held, but no petition is filed, the child may be held in custody for an additional 72 hours, exclusive of Saturdays, Sundays, and legal holidays, if the juvenile court judge or circuit court commissioner determines that probable cause exists to believe that the child is an imminent danger to himself or herself or others or that the child's parent, guardian, or legal custodian or another responsible adult is neglecting, refusing, unable, or unavailable to provide adequate supervision and care for the child.

Placement of a child for adoption

Under current law, if the parental rights of both parents or of the only living parent of a child are terminated, the juvenile court must do one of the following:

1. Transfer guardianship and custody of the child pending adoptive placement to a county department that is authorized to accept guardianship of a child, for purposes of placing a child for adoption, to a child welfare agency that is licensed to accept guardianship of a child and to place the child for adoption, to DHFS, to a relative with whom the child resides, or to an individual who has been appointed guardian of the child by a court of a foreign jurisdiction.
2. Transfer guardianship of the child to a county department, child welfare agency, or DHFS and custody of the child to a relative or to an individual in whose home the child has resided for at least 12 consecutive months immediately prior to

the termination of parental rights (TPR).

Proposed Changes

Child abuse investigations of noncaregivers

This bill permits, rather than requires, the sheriff or police department to refer to an agency a case in which a person who is not a caregiver of a child is suspected of the abuse or neglect, or of the threatened abuse or neglect, of the child and permits, rather than requires, the agency to initiate a diligent investigation to determine if the child is in need of protection or services. In cases in which a caregiver is suspected of the abuse or neglect, or of the threatened abuse or neglect, of a child, in which a caregiver is suspected of facilitating or failing to take action to prevent the suspected or threatened abuse or neglect of a child, or in which it cannot be determined who abused or neglected a child, the sheriff or police department must refer the case to an agency and the agency must investigate the case as under current law.

Definition of "relative" in Children's Code and Juvenile Justice Code

This bill expands the definitions of a "relative" of a child or juvenile for purposes of the Children's Code and the Juvenile Justice Code to include, in addition to the relatives currently listed in those definitions, a stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, second cousin, stepuncle, stepaunt, any person of a preceding generation as denoted by the prefix grand, great, or great-great, and the spouse of any relative, even if the marriage is terminated by death or divorce. The bill also conforms the various other definitions of "relative" found in the Children's Code to the expanded definition, except that under the bill the definitions of "kinship care relative," "long-term kinship care relative," and "relative," for purposes of eligibility to be appointed as the guardian of a child in need of protection or services, do not include a parent of the child.

Holding a child in custody

This bill permits a child to be held in custody for an additional 72 hours, when no petition is filed by the time of the custody hearing, if the juvenile court judge or circuit court commissioner determines that probable cause exists to believe that additional time is required to determine whether the filing of a petition initiating proceedings under the Children's Code is necessary.

Placement of a child for adoption

This bill permits the juvenile court, following a TPR, to transfer guardianship and custody of a child to a county department of a county other than Milwaukee County for placement of the child for adoption by the child's foster parent or treatment foster parent, only if the county department has agreed to accept guardianship and custody of the child and the foster parent or treatment foster parent has agreed to adopt the child.

Senate Substitute Amendment 1:



FISCAL EFFECT	Department of Health and Family Services: <ul style="list-style-type: none"> ○ No state fiscal effect.
SUPPORT	<p>The following people appeared in favor of this bill: (1) Carol Roessler — Senator, 18th Senate District; (2) Steve Kestell — Representative; (3) Ron Hermes — Department of Health and Family Services; (4) Edward Schilling — Fond du Lac County Social Services; (5) Jerry Huber — WI. Counties Human Services Association.</p> <p>The following people registered in favor of this bill: (1) Sara Diedrick-Kasdorf, Madison — WI. Counties Association; (2) MaryAnne Snyder — Children's Trust Fund</p>
OPPOSITION	<p>No one appeared in opposition to this bill. No one registered in opposition to this bill.</p>
NEUTRAL	No one appeared for information only.
CONTACT	Jennifer Stegall, 266-5300
DATE	September 19, 2005