



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2009 Wisconsin Act 78
[2009 Senate Bill 299]

**Public Disclosure of Certain Child
Abuse and Neglect Information**

2009 Wisconsin Act 78 requires public disclosure of certain information relating to child abuse and neglect.

Under the Act, if a child protective services agency* (hereinafter “agency”) that receives a report of child abuse or neglect has reason to suspect that an incident of death or serious injury or an incident of egregious abuse or neglect has occurred, the agency must provide preliminary information regarding the incident to the subunit of DCF responsible for statewide oversight of child abuse and neglect programs within two working days after determining that such an incident is suspected to have occurred.

The Act defines “incident of death or serious injury” as an incident in which a child has died or been placed in serious or critical condition, as determined by a physician, as a result of any suspected abuse or neglect or in which a child who has been placed outside the home by a court order under the Children’s Code or the Juvenile Justice Code is suspected to have committed suicide.

The Act defines “incident of egregious abuse or neglect” as an incident of suspected abuse or neglect, other than an incident of death or serious injury, involving significant violence, torture, multiple victims, the use of inappropriate or cruel restraints, exposure of a child to a dangerous situation, or other similar, aggravated circumstances.

Within two working days after DCF receives a report of an incident of death or serious injury or of egregious abuse or neglect, DCF must disclose certain information to the public, including that DCF has received the information; whether DCF is conducting a review of the incident; and information about the child, including the age of the child. If the incident was an incident of egregious abuse or

* A child protective services agency is a county department of human or social services, the Department of Children and Families (DCF) in a county having a population of 500,000 or more (only Milwaukee County), or a licensed child welfare agency under contract with a county department or DCF to perform child abuse and neglect investigations.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.state.wi.us/>.

neglect, DCF must also make this disclosure to a citizen review panel and, in Milwaukee County, to the Milwaukee Child Welfare Partnership Council.

Within 90 days after DCF receives a report of an incident of death or serious injury or of egregious abuse or neglect, DCF must prepare a summary report of its review of the incident. The contents of the report depend on whether the child was in his or her home or in an out-of-home placement at the time of the incident. The summary report must also include a summary of any actions taken by the agency in response to the incident and of any changes in policies or practices that have been made to address any issues raised in the review and recommendations for any further changes in policies, practices, rules, or statutes that may be needed to address those issues.

The summary report must be transmitted to the Governor and to the appropriate standing committees of the Legislature and made available to the public. The standing committees must review all summary reports, conduct public hearings on those reports no less often than annually, and submit recommendations to DCF regarding those reports.

A summary report may not include any of the following:

- Any information that would reveal the identity of the child who is the subject of the report, any member of the child's family, any member of the child's household who is a child, or any caregiver of the child.
- Any information that would reveal the identity of the person suspected of the abuse or neglect or any employee of any agency that provided services to the child or that participated in the investigation of the incident of death or serious injury or the incident of egregious abuse or neglect.
- Any information that would reveal the identity of a reporter or of any other person who provides information relating to the incident of death or serious injury or the incident of egregious abuse or neglect.
- Any information that, if disclosed, would not be in the best interests of the child who is the subject of the summary report, any member of the child's family, any member of the child's household who is a child, or any caregiver of the child, as determined by DCF after consultation with the agency that reported the incident, the district attorney of the county in which the incident occurred, or the juvenile court of that county, and after balancing the interest of the child, family or household member, or caregiver in avoiding the stigma that might result from the disclosure against the interest of the public in obtaining that information.
- Any information which may not be disclosed under state law or rule or federal law or regulation.

In addition, DCF may not make a summary report available if disclosing the information would jeopardize any ongoing or future criminal investigation or prosecution or a defendant's right to a fair trial or any ongoing or future civil investigation or proceeding or the fairness of such a proceeding.

The Act also requires DCF to prepare and transmit to the Governor and the appropriate standing committees of the Legislature a summary report of all reports received during the previous calendar quarter of sexual abuse of a child who is placed in the home of a foster parent or relative other than a

parent or in a group home, shelter care facility, or residential care center for children and youth. In every fourth summary report, DCF must provide for all reports of sexual abuse received during the previous year information indicating whether the abuse resulted in any injury, disease, or pregnancy that is known to be directly caused by the abuse. These reports may not provide any information that may not be disclosed in a summary report, as described above. The standing committees must review all summary reports regarding sexual abuse, conduct public hearings on those reports no less often than annually, and submit recommendations to DCF regarding those reports. DCF must also make the reports relating to sexual abuse available to the public.

Effective date: Act 78 takes effect on February 1, 2010.

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December 3, 2009

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