

To: Area Administrators/ Human Services Area Coordinators
Bureau Directors
Child Placing Agency Directors
Child Welfare Agency Directors
County Departments of Community Programs Directors
County Departments of Developmental Disabilities Services Directors
County Departments of Human Services Directors
County Departments of Social Services Directors
Indian Child Welfare Directors
Section Chiefs/Licensing Chiefs
Tribal Chairpersons/Human Services Facilitators

From: Cyrus A. Behroozi 
Administrator

2009 Wisconsin Act 78 (Act) was signed into law November 13, 2009 and goes into effect on February 1, 2010. The Act requires the Department of Children and Families, Division of Safety and Permanence (DSP) to notify the public in cases of child death, serious injury and egregious incidents due to maltreatment or suspected maltreatment and cases in which a child in a Ch. 48 or Ch. 938 court-ordered out-of-home care placement is suspected to have committed suicide. The Act requires county agencies and the Bureau of Milwaukee Child Welfare (BMCW) to report these incidents to the DSP within 2 working days of the agency learning about the incident. The DSP must then notify the public within the following 2 working days that an incident has occurred and is under review by the Department. Within 90 days, the DSP must complete and transmit a summary report to the Governor and appropriate legislative committees, and make this report available to the public. Data collection will begin January 1, 2010 to ensure that 12 months rather than a partial year of data is collected for these reports. DSP Numbered Memo 2010-01 provides detail about the information DSP will be collecting from county agencies to fulfill these requirements.

The intent of this memo is to summarize Act requirements, identify changes from the previous process and provide answers to questions about the Act. As a result of the Act, the following changes to the reporting process and law have been identified to date:

- County agency notification to the DSP that an incident has occurred has increased from 24 hours to two working days.
- Reportable child deaths now include children in a Ch. 48 or Ch. 938 court-ordered out-of-home care placement whose suspected cause of death is suicide.
- The information required from the county agency has increased to include more detail about the incident, the agency's actions as a result of the incident, and, where applicable, child welfare history within the past five years and identification of the law enforcement agency reporting the incident. The form is available in eWiSACWIS.
- Public disclosure.
 - The Department of Children and Families (DCF) is required to notify the public in cases of child death, serious injury and egregious incidents of abuse or neglect.
 - Act 78 allows only the DCF to make public statements about certain CPS cases. The Act

Document Summary

This memo provides detail about the new requirements under Act 78 to notify the public in cases of child death, serious injury and egregious incidents.

repealed s. 48.981(7)(cr) which authorized county child protective services agencies who investigated CPS reports involving the death or serious or critical injury of a child to give a summary of certain information relating to the situation to the public. Without that authority, a county agency is limited by the confidentiality provisions of s. 48.981, which do not authorize public statements.

- The Act allows the DSP to correct any inaccurate information reported in the news media.
- The county agency and the DMCPS must address and incorporate into the eWiSACWIS case record all of the information required in the 90-day summary report (detailed description follows).

To comply with the requirement to notify the public, the DSP will within 2 days of receiving notification of the incident, notify Wisconsin citizen review panels, including the Milwaukee child welfare partnership council via an e-mail alert that a qualifying incident has occurred. The notification will also be posted on the DCF web site. There will also be information on the web site for any individual or group who wishes to receive an automatic notification. The public notification will include the following information: date of incident, incident description, age and gender of the child, whether the child resided in-home or was in out-of-home care placement at the time of the incident, scope of the DSP review of the incident and agencies cooperating with the DSP at the time of the review. The notification will not identify by name the child, family, or alleged maltreater.

Within 90 days of being notified about a qualifying incident, the DSP must transmit to the Governor and appropriate legislative committee a summary report of the DSP review of the case, and make the report available to the public (it will be posted on the website). The summary report for all cases will include:

- Information about the child, including the age, gender, and race or ethnicity of the child, a description of the child's family, and, if relevant, a description of any special needs of the child.
- The date of the incident and the suspected cause of the death, serious injury, or egregious abuse or neglect.
- The findings on which the agency bases its reasonable suspicion that an incident of death or serious injury or an incident of egregious abuse or neglect has occurred, including any material circumstances leading to the death, serious injury, or egregious abuse or neglect of the child.
- If available, a summary of actions taken by the agency in response to the incident, and policy or practice changes to address identified issues, as well as recommendations for further changes in policies, practices, rules or statutes that may be needed to address those issues. If this information is not available for the 90-day summary report, a full report that includes that information must be completed, transmitted to the governor and legislature, and made available to the public within 6 months. The DSP will make the summary report available to the public by posting it on the DCF web site.

For children residing at home at the time of the incident, the report must also include:

- A statement of whether any services (under Ch. 48 or Ch. 938) were being provided to the family or alleged maltreater, or whether any member of the family or the alleged maltreater was the subject of a CPS report or of a referral to the agency for services and, if so, the date of the last contact between the agency providing those services and the person receiving those services.
- A summary of all involvement of the child's parents and the alleged maltreater in any CPS report or investigations reported. Also any involvement in receiving services (under Ch. 48 or Ch. 938) in the 5 years preceding the date of the incident.
- A summary of any actions taken by the agency with respect to the child, family, and alleged maltreater, including any investigation by the agency of a report in which any of those persons was the subject and any referrals by the agency of any of those persons for services.
- A summary of any investigation that has been conducted of a report in which the child, family, or alleged maltreater was the subject and of any services that have been provided to the child and the child's family since the date of the incident.

For children in out-of-home care (OHC) placement at the time of the incident, the summary report must also include:

- A description of the OHC placement, and the basis for the decision to place the child there.
- A description of all other persons residing in the OHC placement home.
- Licensing history, including a summary of all violations of any provisions of licensure.

As specified in the law, certain information may not be released if it would disclose the identity of certain persons, not be in the best interest of the child or others in the child's family or household, or the child's caregiver, or if it would jeopardize ongoing or future criminal or civil proceedings. [Ref. ss. 48.981(7)(cr)6. and 7., Stats.]

The Act also requires that the DSP prepare and transmit to the governor and appropriate legislative committees, and make available to the public a quarterly summary report of all reports of children in OHC placement that are sexually abused while in OHC placement. The DSP must include in the annual report whether the sexual abuse resulted in any child injury, disease or pregnancy. The DSP is developing necessary system enhancements and an eWiSACWIS report to capture this information.

***Notification Form:** The current form can be accessed in eWiSACWIS.

We respectfully request your patience and assistance as we continue to develop needed systems to ensure efficiency and accuracy in collecting and providing this information now required by statute. Thank you for your cooperation.

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MEMO WEB SITE: <https://dcf.wisconsin.gov/cwportal/policy>