

To: DCF/DMCPS Administrator
DCF Area Administrators
Child Placing Agency Directors
Child Welfare Agency Directors
County Departments of Community Programs Directors
County Departments of Human Services Directors
County Departments of Social Services Directors
Group Home Providers
Tribal Social Service/Indian Child Welfare Directors
Private Child Placing Agencies
Residential Care Center Providers
Shelter Care Providers
Tribal Chairpersons

From: Fredi-Ellen Bove 
Administrator

Re: **Child Welfare-Related State Legislation**

PURPOSE

The purpose of this memo is to provide a summary of the child welfare-related legislation that passed in the 2017-18 legislative session and been signed into law.

BACKGROUND

In its 2017-18 legislative session, the legislature passed a significant number of child welfare-related bills. Many of these bills were developed by the Assembly Speaker's Task Force on Foster Care. Some of the other bills were an outgrowth of the work of the State Opioid Task Force. This memo provides a summary of child welfare-related legislation passed in the 2017-18 legislative session. As noted below, the Department of Children and Families (DCF) will be issuing more specific information, via numbered memos or other mechanisms, regarding the implementation of those provisions for which DCF has responsibility.

INFORMATION SUMMARY

Act 254 - Child Abuse and Neglect Prevention Grants: Act 254 provides \$500,000 per year in federal Temporary Assistance for Needy Families (TANF) funding to DCF to administer child abuse and neglect prevention grants to counties, nonprofit organizations, and tribes. The purpose of the grants is to encourage innovative practices aimed at reducing the contact that families have with the child welfare system and preventing the removal of children from their homes. Grant recipients must provide matching funds equal to 9.89% of the grant amount. DCF must evaluate the effectiveness of the grant program and by June 30, 2021, and each odd-numbered year thereafter submit an evaluation report to the Legislature. In a future communication, DCF will provide information about the process and timeline that will be used to award the grants.

Act 260 - Grants for Foster Parent Education and Support: Act 260 provides \$400,000 per year to DCF to administer grants to counties, non-profit organizations, and tribes for the purpose of supporting foster parents and providing normalcy for children placed in out-of-home care. The grants may be used for a broad range of activities and expenses that serve those purposes, including for incentives to retain foster parents, enhancing foster parent education, and reimbursing foster parents for foster care-related expenses. DCF must evaluate the effectiveness of the grant program and by June 30, 2021 submit a report on that evaluation to the Legislature. In a future communication, DCF will provide information about

the process and timeline that will be used to award the grants.

Act 202 - Family Drug Treatment Courts: Act 202 authorizes the Department of Children and Families to administer grants to counties and tribes for Family Drug Treatment Courts and Juvenile Drug Treatment Courts, subject to funding availability. Family Drug Treatment Courts are an evidence-based practice used with parents who have substance use disorder and who are involved in the child welfare system. Family Drug Treatment Courts increase the likelihood of reunification of children in out-of-home care with their parent(s) and decreases the probability that children re-enter out-of-home care after reunification. Funding for Family Drug Treatment Courts is provided in a separate bill described below.

Act 261 - Expansion of Opioid Prevention and Service Capacity: Act 261 provides \$500,000 in federal TANF funding per year for evidence-based substance abuse prevention grants through the DCF Brighter Futures program. Counties and tribes are eligible to apply for these grants. In addition, the bill provides \$250,000 in GPR funding per year to DCF for grants to counties and tribes to implement and support family drug treatment courts authorized through Act 202 (described above). In a future communication, DCF will provide information about the process and timeline that will be used to award these DCF grants.

The Act also provides \$1.5 million of GPR funding for DHS to award grants to counties and tribes to provide voluntary non-narcotic, non-addictive injectable medically assisted drug treatment to inmates who will be released into the community within 5 days. The Act provides \$1 million in GPR funding to the Department of Justice (DOJ) for grants to Wisconsin law enforcement agencies to establish new programs related to drug trafficking response. The Act creates two full-time attorney positions within DOJ to assist with criminal investigation in the field offices of Wausau and Appleton in the prosecution of drug-related offenses. The Act allows the court to order a person found guilty of violation of Uniform Controlled Substances Act to attend a victim impact panel.

Act 262 - Training for substance use disorder: Act 262 provides \$50,000 in GPR funding to DCF to develop and maintain online training materials for social services workers on the appropriate response to cases involving substance abuse. The Act also removes regulatory barriers for entry into the field of substance abuse counseling and provides funding to University of Wisconsin School of Nursing to expand training for psychiatric mental health nurses. In addition, the Act requires a physician, physician assistant, advanced practice nurse prescriber, podiatrist, dentist or optometrist who is authorized to prescribe controlled substances to complete continuing education requirements related to prescribing controlled substances. The Act increases access to Buprenorphine, one of the three medications approved by the federal Food and Drug Administration to treat people with opioid use disorder. The Act also requires school boards to incorporate drug abuse awareness and prevention in health instruction programs, and specifies references to controlled substances in these requirements include prescription drugs. In future communication(s), DCF will provide information about the training opportunities developed with this funding.

Act 257 - Foster Home Licensing: Act 257 simplifies certain aspects of foster home licensing and helps preserve continuity of care for children in out-of-home care. Specifically, the bill provides that if DCF revokes or suspends, or if a child welfare agency surrenders its license, or if DCF terminates a contract for foster home licensing services, DCF may transfer each foster home license issued by that child welfare agency to a county, to DCF, or to another licensed child welfare agency that consents to the transfer. The transferred license will remain valid until it expires or 180 days after the date of transfer, whichever is later. Act 257 also allows a county to license a foster home in another county as a non-child specific home, provided there is a written agreement between the two counties and that the license terminates at the end of the licensing period or up to six months after the initial child returns home or is placed elsewhere, whichever occurs first. In a future numbered memo DCF will provide information about how these provisions will be implemented.

Act 253 - A Parent's Right to Counsel in a Children in Need of Protection and Services (CHIPS) Proceeding: **Act 253 allows the appointment of counsel in a CHIPS proceeding for birth parents and other parties not currently specified in statute. The bill also establishes a three-year, five-county pilot program under which all non-petitioning parents involved in CHIPS court**

proceedings have a right to counsel, unless voluntarily waived. If the parents are indigent, counsel will be provided by the State Public Defender (SPD) at state expense. The pilot program will begin operation in Brown, Outagamie, Racine, Kenosha, and Winnebago counties by July 1, 2018, and will sunset on June 30, 2021. By January 1, 2021, SPD and the Department of Children and Families (DCF) must each submit a report to the Legislature regarding costs and data from implementing the program. The bill appropriates \$739,600 to the SPD for implementation of the program. In a future information memo, DCF will provide more information on this and the other court-related pieces of legislation (i.e., Acts 253, 256, 258, and 251).

Act 256 - Involuntary Termination of Parental Rights: Under current law, in order to terminate a person's parental rights (TPR), a court or jury must find that one or more statutory grounds exist. Act 256 deletes the requirement of showing that the parent is substantially likely to fail to meet the conditions established for the safe return of the child to the home within the next nine months after the TPR fact-finding hearing. However, if the child has been placed in out-of-home care for less than 15 of the last 22 months, the petitioner must show that there is a substantial likelihood that the parent will not meet the conditions at the time the child reaches the 15th of the last 22 months of placement outside the home. In a future information memo, DCF will provide more information on this and the other court-related pieces of legislation (i.e., Acts 253, 256, 258, and 251).

Act 258 - Appellate Procedure for TPR: Act 258 seeks to expedite the TPR process by requiring that a notice of intent to pursue post disposition relief include the signature of the parent. A parent's counsel may not file the notice without the parent's signature; therefore, appeals that were not likely to proceed due to client absence or lack of interest will not be initiated. The bill also requires that, when a motion for remand to the circuit court for post judgment fact-finding is filed, it must include an affidavit that states why additional fact-finding is necessary. This may reduce the number of cases that are unnecessarily automatically remanded to circuit court. In a future information memo, DCF will provide more information on this and the other court-related pieces of legislation (i.e., Acts 253, 256, 258, and 251).

Act 251 - Notice to Schools and School Districts and Transfer of Pupil Records: Act 251 makes three changes to the law regarding schools and foster youth designed to promote collaboration between child welfare and school systems. First, the bill adds a child's school to the list of entities that must be notified of a Permanency Review or Hearing and given an opportunity to submit written comments regarding the plan. Second, the bill requires that notice of placement of a child in out-of-home care within a school district be given to the school district and the school in which the child is enrolled. If the child will remain enrolled in his or her school and school district of origin, then notice that the child has been placed in out-of-home care must be given to the school and school district of origin. Third, the bill requires that a foster child's school records be transferred no later than the next working day after a school receives notice of a change in schools for a child in out-of-home care. In a future information memo, DCF will provide more information on this and the other court-related pieces of legislation (i.e., Acts 253, 256, 258, and 251).

Act 252 - Limited Release of Mental Health Information: To help out-of-home care providers provide appropriate care for children placed with them, Act 252 permits a health care provider to disclose a portion, but not a copy, of a child's mental health treatment records to an out-of-home care provider or to a child welfare agency without informed written consent of the birth parent if the health care provider reasonably believes it is necessary for the proper care of the child, including for the diagnosis, treatment plan, or medication management plan. In a future information memo, DCF will provide more information on this and the other health-related piece of legislation (i.e., Acts 252 and 259).

Act 259 - Defining Routine Dental Care: AB 781 defines "dental care" for the purpose of providing ordinary medical and dental care so as to clarify the basic level of dental care which may be provided without parental consent to children placed in out-of-home care. Under the bill, "dental care" means routine dental care, including diagnostic and preventive services, and treatment including restoring teeth, tooth extractions, and use of nitrous oxide. In a future information memo, DCF will provide more information on this and the other health-related piece of legislation (i.e., Acts 252 and 259).

Act 255 - Funding for Court Appointed Special Advocates: Court-Appointed Special Advocate

(CASA) programs train and supervise volunteers who are appointed by the court to provide certain child welfare related services. Under current law, the Department of Justice (DOJ) must provide \$80,000 per fiscal year in grants to the CASA Association. This grant program sunsets on July 1, 2019. Act 255 increases the funding to DOJ for CASA grants to \$250,000 per fiscal year and eliminates the sunset date. The Act also requires that the CASA Association annually submit a report to the Governor and the Legislature describing the use of the funds.

Act 283 - Child Neglect Criminal Penalties: Act 283 establishes criminal penalties for all types of child neglect. Under the Act, the penalties for the crime of child neglect, or for contributing to child neglect, vary from a Class D felony to a Class A misdemeanor depending on the severity of the outcome or risk of outcome. The Act also creates a crime of repeated acts of neglect of the same child.

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