


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: 2017 WI Acts 253, 256, and 258

PURPOSE

The purpose of this memo is to provide notice of modifications to Chs. 48, 808 and 809 Wis. Stats., primarily related to changes to the Children in Need of Protective Services (CHIPS) and Termination of Parental Rights (TPR) proceedings set forth in 2017 WI Acts 253, 256, & 258 as enacted as part of the Speaker's Task Force on Foster Care legislative package.

BACKGROUND

In June 2017, Speaker Robin Vos (R-Rochester) formed the Speaker's Task Force on Foster Care. The bipartisan group of legislators was tasked with developing ideas to improve the child welfare system in Wisconsin.

In November 2017, the Speaker's Task Force on Foster Care introduced its legislative package which was titled "Foster Forward." Eleven of the bills in the Foster Forward legislative package were passed and signed into law in April 2018. A brief summary of these and other state child welfare-related legislation passed in the 2017-18 legislative session is provided in DSP Informational Memo 2018-13i issued in April.

This memo provides more detailed information on three of the Foster Forward bills, 2017 WI Acts 253, 256, and 258 which include new provisions related to CHIPS and TPR proceedings as follows:

- Appointment of counsel in CHIPS proceedings
- Appropriation of funds to implement a pilot program for appointment of counsel
- Amend requirements for involuntary TPR
- Removal of requirements to show substantial likelihood to fail within 9 months post-disposition
- Require parent signature to pursue post-disposition relief

POLICY AND PROCEDURE REQUIREMENTS

Agencies should discuss requirements and procedures with their legal counsel.

2017 WI Act 253 amends Ch. 48.23 (3) Wis. Stats to allow the appointment of counsel in a CHIPS proceeding for birth parents and other parties not currently specified in statute.

This Act also creates Ch. 48.233 Wis. Stats to establish 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. Ch. 48.233 Wis. Stats includes an appropriation of \$739,600 to the Office of the State Public Defender (SPD) to implement the pilot program, which will begin operation in Brown, Outagamie, Racine, Kenosha, and Winnebago counties by July 1, 2018. The pilot is to conclude on June 30, 2021. SPD and the Department of Children and Families (DCF) are each required to submit a report to the Legislature regarding costs and data from implementation of the program by January 1, 2021.

2017 WI Act 256 amends requirements for involuntary TPR under Ch. 48.415 (2) (a) 3. Wis. Stats. Under current law, in order to TPR, a court or jury must find that one or more statutory grounds exist. This act 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 month of the last 22 months of placement outside of the home.

2017 WI Act 258 amends Chs. 808 and 809 Wis. Stats relating to appellate procedure in proceedings related to TPR. The amendments to Chs. 808 and 809 Wis. Stats require that a notice of intent to pursue post-disposition relief include the signature of a parent. A parent's counsel may not file the notice without the parent's signature. The Act 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.

eWiSACWIS DOCUMENTATION

There are no changes to eWiSACWIS functionality or documentation requirements due to 2017 WI Acts 253, 256, or 258.

ACTION SUMMARY

The updates included in 2017 WI Acts 253, 256, and 258 became effective April 6, 2018.

REGIONAL OFFICE CONTACT: DCF Area Administrator

CENTRAL OFFICE CONTACT: Program and Policy Analyst
Out-of-Home Care Section
(608) 422-6751

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