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Contracting Provisions for Non-Milwaukee Counties for Child Welfare Functions Under Wis. Stat. § 48.981

In the wake of the 2020 COVID-19 Public Health Emergency, counties have requested information about their authority to contract with other entities to perform certain CPS functions in the event of staff shortage due to illness. The purpose of this memo is to provide a summary of county authority under statute to contract with other entities to perform certain child protective services (CPS) functions. Please note that this document should not be construed as legal guidance. Counties with questions about compliance with these provisions should seek legal advice from their local legal representative.

In Wisconsin, pursuant to Chapter 48 child welfare functions are performed by county departments or, in Milwaukee County, the Department of Children and Families (DCF) Division of Milwaukee Child Protective Services (DMCPS). Under Wis. Stat. § 48.981, non-Milwaukee counties have the statutory authority to contract with certain entities for certain child welfare functions as follows:

- Contracts with Licensed Child Welfare Agencies (s.48.981(3)(cm)):
 - Wis. Stat. § 48.981(3)(cm) provides:
Contract with licensed child welfare agencies. A county department may contract with a licensed child welfare agency to fulfill the county department's duties specified under par. (c) 1., 2. b., 2m. b., 5., 5r., 6., 6m., and 8. The department may contract with a licensed child welfare agency to fulfill the department's duties specified under par. (c) 1., 2. a., 2m. b., 3., 4., 5., 5m., 5r., 6., 6m., 7., 8., and 9. in a county having a population of 750,000 or more. The confidentiality provisions specified in sub. (7) shall apply to any licensed child welfare agency with which a county department or the department contracts.
 - In summary, this provisions permits non-Milwaukee county departments to contract with a licensed child welfare agency for the duties of Access and Screening under s. 48.981(3)(c)1, Completing the portion of the Initial Assessment (IA) described in s. 48.981(3)(c)1, Taking Temporary Physical Custody of a child or expectant mother (together with an employee of the county department) under s. 48.981(3)(c)2.b and 2m.b, Maintaining and updating records of actions under s. 48.981(3)(c)5, Providing Maltreatment Determinations to DCF under s. 48.981(3)(c)5r, Notifying a mandated reporter and relative reporter regarding action taken on a suspected maltreatment report under s. 48.981(3)(c)6 and 6m, and Providing information to DCF on each report and IA under s.

48.981(3)(c)8. A list of licensed Child Placing Agencies is published at the following DCF website link:
<https://dcf.wisconsin.gov/files/cwlicensing/pdf/cpa.pdf>. Please note that currently no licensed Child Placing Agencies are licensed to perform any of the functions under s.48.981(3)(cm).

- Contracts with other Counties or DCF/DMCPS (s. 48.981(3)(cr)):
 - Wis. Stat. § 48.981(3)(**cr**) provides:
Contracts to perform child protective services. With the approval of the department, a county department may contract with one or more county departments or the department in a county having a population of 750,000 or more under s. [66.0301](#) to fulfill the county department's duties under this subsection and sub. [\(3m\)](#).
 - In summary, this provision permits county departments to contract with one or more other county departments or DCF/DMCPS, but not licensed child welfare agencies, for all of the duties under s. 48.981(3) & (3m), subject to the approval of the Department of Children and Families and consistent with s.66.0301. Duties under s. 48.981(3) & (3m) include: Access and Screening under s. 48.981(3)(c)1, Completing the portion of the Initial Assessment (IA) described in s. 48.981(3)(c)1, Taking Temporary Physical Custody of a child or expectant mother under s. 48.981(3)(c)2, Offering services/filing a CHIPS petition under s. 48.981(3)(c)3, Issuing a maltreatment determination under s. 48.981(3)(c)4, Maintaining and updating records of actions under s. 48.981(3)(c)5, Issuing a maltreater determination to individual and information regarding appeal process under s. 48.981(3)(c)5m, Providing maltreater determination information to DCF under s. 48.981(3)(c)5r, Notifying a mandated reporter and relative reporter regarding action taken on a suspected maltreatment report under s. 48.981(3)(c)6 and 6m, Developing services to address child abuse and unborn child abuse under s. 48.981(3)(c)7, Providing information to DCF on each report and IA under s. 48.981(3)(c)8, Filing a petition for a child abuse restraining order and injunction under s. 48.981(3)(c)9, and Providing Alternative Response under s. 48.981(3m).

Please note that in contracting with other entities for child welfare functions, as provided above, training requirements in statute and administrative rule must still be met. *See e.g.*, Wis. Stat. § 48.981(8) and DCF 43.

Visual Summary of Contracting Authority for Non-Milwaukee Counties for Child Welfare

Functions*

Function	Statutory Reference	Can Contract with a Licensed Child Welfare Agency (s.48.981(3)(cm))	With approval of DCF Can Contract with One or More Counties or DCF/DMCPS (s. 48.981(3)(cr))
Receive calls and make Screen-In decision	48.981 (3) (c) 1	✓	✓
Complete Portion of Initial Assessment (IA) described in 48.981(3)(c)1	48.981 (3) (c) 1	✓	✓
Take Temporary Physical Custody (TPC) of a child	48.981 (3) (c) 2.a or 2.b	✓ <u>(together with an employee of the county department)</u>	✓
Take TPC of expectant mother if unborn child is at risk	48.981 (3) (c) 2m.a or 2m.b	✓ <u>(together with an employee of the county department)</u>	✓
Offer services/File a CHIPS petition	48.981 (3) (c) 3		✓
Issue a maltreatment determination after IA	48.981 (3) (c) 4		✓
Maintain and update records of actions	48.981 (3) (c) 5	✓	✓
Issue maltreater determination to individual and information regarding appeal process	48.981 (3) (c) 5m		✓
Provide maltreater determination information to DCF	48.981 (3) (c) 5r	✓	✓
Notify mandated reporter as to action taken	48.981 (3) (c) 6	✓	✓
Notify relatives who report and request follow-up	48.981 (3) (c) 6m	✓	✓
Coordinate services to prevent child abuse and unborn child abuse	48.981 (3) (c) 7		✓
Provide Information to DCF on each report and IA	48.981 (3) (c) 8	✓	✓
Petition for a child abuse restraining order and injunction	48.981 (3) (c) 9		✓
Carry out Alternative Response	48.981 (3m)		✓

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