

**To:** Members of the Wisconsin Assembly Committee on Criminal Justice and Public Safety

**From:** Wisconsin County Human Service Association

**Date:** November 5, 2015

**Re:** AB 429

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The 71 counties which form the membership of the Wisconsin County Human Services Association (WCHSA) are dedicated to keeping kids safe, and actively providing services that support the federal requirements for child safety, well-being, and permanence. One of the duties of counties is providing child protective services under Statute 48; as such, counties are licensed child welfare agencies by statute.

WCHSA has concerns regarding the requirement within AB 429 that the licensed child welfare agency shall refer a report of *any* suspected or threatened child abuse or neglect to law enforcement within 12 hours. This requirement would seem to apply to cases which would be screened out, in which the child welfare agency has no jurisdiction. By requiring the child welfare agency to refer the reports within 12 hours, there is no distinction made between an actual urgent report and a screened out one. Screened out referrals could contain a report of a situation that is no threat, such as a child being fed a cheese sandwich every day for lunch. Currently, counties provide after-hours/on-call responses to child abuse or neglect reports and coordinate their assessments with law enforcement on sexual abuse and other serious cases. The inclusion of *any* reports in this short time frame places a resource burden on both the child welfare agency and law enforcement and interferes with the prioritization of cases that need immediate intervention.

Counties work collaboratively with law enforcement to ensure the protection and services for children and families. The child welfare agency or Child Protective Services (CPS) routinely co-investigate/assess child safety with law enforcement. While both entities are charged with keeping kids safe, law enforcement's role diverges in that they have sole responsibility for the pursuit of criminal actions in maltreatment cases. The child welfare agency has the exclusive role of providing services to the family that will ensure safety, well-being and permanence for children.

Maltreatment reports which are referred to the child welfare agency are evaluated to determine if the child welfare agency has the responsibility or jurisdiction to investigate by completing a child safety assessment. If the information provided is serious in nature and would indicate child abuse or neglect as defined in the statute, the child welfare agency has jurisdiction to intervene. These cases are screened in for assessment. When the information provided in an alleged maltreatment report does not meet the statutory definition of abuse or neglect the case is screened out and the child welfare agency has no jurisdiction. Although no formal child safety assessment can be made there may be other voluntary services offered.

From 01/01/15-09/30/15 there have been 57,634 CPS reports statewide\*:

- 36,724 or 64% were screened out
- 20,910 or 36% were screened in

**Lisa Hassenstab, Executive Director**

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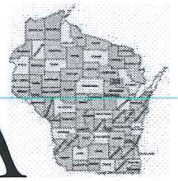
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# WCHSA

Wisconsin County Human Service Association



Referrals which are screened out are done so because they do not rise to the level of child abuse or neglect. There could be various interpretations for the wording that requires law enforcement and the licensed child welfare agency to “coordinate the planning and execution of the investigation of a report”. The child welfare agency does not have jurisdiction to investigate/assess screened out referrals. Whether or not the intent of the language is to provide reports to law enforcement for their review without child welfare involvement is not clear.

WCHSA is committed to child safety and to collaboration with our valued law enforcement partners. In order to ensure statewide best practice regarding the handling of maltreatment reports in accordance with the statutes and corresponding CPS standards, WCHSA recommends enacting a minor change, noted below in red, to Statute 48.981(3)(a)3 to strengthen provisions on collaboration between child welfare departments and law enforcement:

“3. Except as provided in sub. (3m), a county department, the department, or a licensed child welfare agency under contract with the department shall within 12 hours, exclusive of Saturdays, Sundays, or legal holidays, refer to the sheriff or police department all cases of suspected or threatened abuse, as defined in s. 48.02 (1) (b) to (f), reported to it. For cases of suspected or threatened abuse, as defined in s. 48.02 (1) (a), (am), (g), or (gm), or neglect, each county department, the department, and a licensed child welfare agency under contract with the department shall collaborate with appropriate county and municipal law enforcement authorities and adopt a written policy specifying the kinds of reports it will routinely report to local law enforcement authorities.”

WCHSA welcomes any questions regarding the referral or investigation/assessment process, or of the suggested language we have put forth. Please reach out to Jeremy Kral ([kral.jeremy@co.calumet.wi.us](mailto:kral.jeremy@co.calumet.wi.us)), WCHSA Board President, or Vicki Tylka ([vicki.tylka@co.marathon.wi.us](mailto:vicki.tylka@co.marathon.wi.us)) or Ray Przybelski ([przybelr@co.portage.wi.us](mailto:przybelr@co.portage.wi.us)), co-chairs of WCHSA’s Children, Youth, and Families Policy Advisory Committee, at any time.

\*Wisconsin Department of Children and Families Access Dashboard; does not include service reports

*Promoting best practice, creating professional alliances, and developing partnerships in service delivery*





~~OPPOSITION TO SENATE BILL 326/ASSEMBLY BILL 429 AFFECTING CHILD WELFARE  
PRACTICE~~

WHEREAS, Senate Bill 326/Assembly Bill 429 have been introduced by Senator Robert Cowles and Representative John Macco; and

WHEREAS, the bills relate to the referral of cases of suspected or threatened child abuse or neglect to the sheriff or police department, coordination of the investigation of those cases, and referral of those cases to the district attorney for criminal prosecution; and

WHEREAS, the bills, on their face, might seem favorable, the bills actually compromise child welfare best practice; and

WHEREAS, even though the legislation impacts child welfare practice, the state Department of Children and Families, Office of Children's Mental Health, county child welfare agencies, and child advocacy organizations were not consulted on the legislation; and

WHEREAS, issues with the legislation include the following:

- Law enforcement involvement in all child welfare cases negatively impacts alternative response, community response, and other voluntary services provided to families;
- The legislation is in sharp contrast to evidence-based practice, including trauma- informed care;
- The legislation requires child welfare agencies to "coordinate in the planning and execution of the investigation" in all cases, including screened out cases in which the child welfare agency lacks statutory authority to act;
- The bills require all reports to be referred to law enforcement within 12 hours, allowing for no prioritization of cases;
- The implementation of the legislation has not been thought through, especially when it comes to confidentiality, jurisdictional issues, and the philosophical differences between law enforcement and child welfare agencies; and

WHEREAS, counties and law enforcement in most jurisdictions have a positive working relationship and have entered into Memorandums of Understanding with regard to how local agencies will respond to reports of child abuse and neglect; and

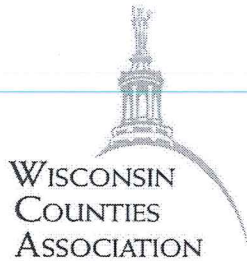
WHEREAS, counties have requested that the proponents of the legislation bring all parties impacted by the legislation together so all gain an understanding of the others' needs; and

WHEREAS, counties believe a compromise on the legislation can be negotiated; however, such a meeting has yet to take place.

NOW, THEREFORE, BE IT RESOLVED that the XXXXXX County Board of Supervisors does hereby oppose Senate Bill 326/Assembly Bill 429; and

BE IT FURTHER RESOLVED that XXXXXX County renews the request for a meeting of all interested parties to discuss the legislation in greater detail.





## MEMORANDUM

**TO:** Honorable Members of the Assembly Committee on Criminal Justice and Public Safety

**FROM:** Sarah Diedrick-Kasdorf, Deputy Director of Government Affairs

**DATE:** November 5, 2015

**SUBJECT:** Opposition to Assembly Bill 429

The Wisconsin Counties Association (WCA) opposes Assembly Bill 429, relating to referral of cases of suspected or threatened child abuse or neglect to the sheriff or police department, coordination of the investigation of those cases, and referral of those cases to the district attorney for criminal prosecution.

Counties have three major concerns with the legislation:

- Referral of “all” cases to law enforcement;
- Requirement that child welfare agencies and law enforcement “shall coordinate the planning and execution of the investigation” of all cases;
- Requirement that all reports be referred to law enforcement within 12 hours, with no exclusion for Saturdays, Sundays, and legal holidays.

### Referral of “all” cases to law enforcement

Current law requires child welfare agencies to refer all reports of suspected or threatened sexual abuse of a child to law enforcement agencies within 12 hours, exclusive of Saturdays, Sundays, or legal holidays. Assembly Bill 429 requires all abuse and neglect referrals to be reported to law enforcement “as soon as practicable, but no later than 12 hours, after receiving a report...” Most county child welfare agencies have an excellent relationship with their local law enforcement agencies. Many counties, in fact, have an MOU in place with their local law enforcement agencies governing the types of cases child welfare refers to law enforcement. If the concern is that the current mechanisms in place governing how law enforcement and child welfare agencies coordinate efforts are not robust enough, then that is an issue counties are willing to discuss. The proposed solution in this bill will have unintended consequences for child welfare and law enforcement agencies by increasing workloads and not allowing for prioritization of the most egregious reports.



For example, law enforcement involvement in “all” cases will hinder current child welfare practice as it relates to alternative response, parent agreement to receive voluntary services, and may also have a negative impact on trauma-informed care. The mere presence of law enforcement, or the possibility of law enforcement involvement, makes it more difficult for families to voluntarily agree to services and accept the help they need to ensure safety for children within the home setting.

Requirement that child welfare agencies and law enforcement “shall coordinate the planning and execution of the investigation” of all cases

Assembly Bill 429 requires law enforcement and child welfare agencies “shall coordinate the planning and execution of the investigation of a report...” Counties are uncertain as to what this language requires of child welfare agencies, as the language is unclear. Additionally, once a county child welfare agency screens out a case, the agency no longer has jurisdiction to act on the case. Therefore, it becomes difficult for child welfare agencies to participate in the planning and investigation of a case in which the agency lacks authority to act.

Requirement that all reports be referred to law enforcement within 12 hours, with no exclusion for Saturdays, Sundays, and legal holidays

The legislation requires child welfare agencies to forward all child welfare referrals to law enforcement within 12 hours, including weekends and legal holidays. For frivolous reports, the referral requirement, especially within a strict 12-hour timeframe, is unnecessary. All counties already have staff on call 24-hours a day, seven days a week to respond to crisis situations. Referrals are also made immediately if children are in imminent danger.

Proposed Compromise

Counties understand that law enforcement agencies want to ensure that children are safe. Child welfare agencies have the same goal. However, it appears that the philosophies behind the goals are somewhat different. While it is important that individuals are held accountable for their actions, especially when the safety of children is at stake, child welfare agencies must abide by federal standards that stress family reunification, trauma-informed care, long-term stability for families, etc.

To ensure the bill’s goal is achievable, counties are open to continued discussion with the authors of the bill, the Office of the Attorney General, the Department of Children and Families, law enforcement, as well as additional stakeholders. In the interim, counties ask the committee to consider the following compromise: allowing counties and local law

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enforcement agencies to enter into agreements at the local level governing the types of cases to be referred to law enforcement, as well as the role each agency will play in any ongoing investigation. This language mirrors current law regarding agreements between local law enforcement and district attorneys regarding the types of cases to be referred for prosecution.

Thank you for considering our comments.



## **PROPOSED AMENDMENTS TO SENATE BILL 326/ASSEMBLY BILL 429**

### **REFERRALS/TIMELINES –SECTIONS 1 AND 2 OF THE LEGISLATION**

*SECTION 1 OF THE BILL TO BE MODIFIED. SECTION 2 OF THE BILL TO BE DELETED AND REPLACED WITH MOU LANGUAGE.*

Maintain current law 12-hour referral on reports defined in Wis. Stats. §48.02 (1)(b) to (f).

On reports that are screened in by child welfare agencies, referral to law enforcement agencies within 24 hours (consistent with the timeframe child welfare agencies are under by DCF standards to complete assessment).

On reports that are screened in but meet the DCF standards for Alternative Response (cases are lower risk and typically do not involve law enforcement), require an MOU between law enforcement and child welfare agencies governing the timeframe for referral and outlining what, if any, collaborative efforts will be taken with regard to joint investigations.

NOTE: Law enforcement involvement in AR cases diminishes the philosophy behind alternative response and negatively impacts family involvement in voluntary services.

On cases that are screened out, the timeframes for referral to be determined by MOU, but no later than one month following receipt of the report. MOU to discuss how law enforcement and child welfare agencies will coordinate their determination of need for further investigation, including cases in which families have agreed to voluntary services.

NOTE: One-size does not fit all so MOUs should be developed locally on how responses should be coordinated. It is important to note that there is concern that child welfare agencies lack jurisdiction under Ch. 48 on screened-out cases; that will need to be addressed as part of the MOU.

### **ADDITIONAL CONSIDERATIONS**

These issues should also be addressed in the bill to mitigate further harm to children and families:

How will law enforcement protect the confidentiality of reporters?

What training and/or technological advancements will law enforcement implement to protect the identity of children and families who have been referred, especially when there is no allegation of a crime?

Proposed Amendments  
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Cases that cross county lines generate jurisdictional issues in the current system. How will counties, as well as municipal police departments, handle situations where the law enforcement jurisdiction is unclear?

Common examples: When a child primarily lives in one jurisdiction, but spent the weekend with a parent in another jurisdiction and a referral has been called in. Which law enforcement jurisdiction would get the referral?

What if the reporter or county doesn't know where the child lives or where the reported incident may have occurred? Currently CPS where the child resides is who responds, how would that change?

Something that needs to be figured out prior to implementation is the conflict between the CPS system set up to respond to where the child/family reside and law enforcement system set up to respond to where incidents happen. In order to collaborate the planning and execution of an investigation/assessment, we need to know who the partners are and what the process is. These cross-jurisdictional referrals will be commonplace.