



# Wisconsin State Assembly

P.O. BOX 8952 MADISON, WI 53708

TO: SPEAKER ROBIN VOS

FROM: Members of the Assembly Speaker's Task Force on Foster Care

RE: Final Report of the Speaker's Task Force on Foster Care

DATE: June 20, 2018

This report summarizes the work of the Speaker's Task Force on Foster Care, including a description of the public hearings held by the Task Force, legislation introduced by the Task Force, and recommendations for future legislative action.

## INTRODUCTION

The Task Force was created by Assembly Speaker Robin Vos on June 28, 2017, to develop ideas to improve the child welfare system, which provides out-of-home care for thousands of Wisconsin children. The Speaker presented the Task Force with a number of goals, including identifying ways to end the multi-generational cycle of government dependence by strengthening community partnerships, reducing barriers within the child welfare system, and updating programs to meet the changing needs of parents, children, and communities.

Under the leadership of Co-Chairpersons Representative Patrick Snyder and Representative Steve Doyle, the Task Force focused on the following key areas:

- Efforts to support families, to reduce contact with the child welfare system, and to prevent the removal of children from their homes.
- Improvements to the child welfare system, broadly, including support for child welfare agencies, caseworkers, and foster parents.
- Provision of services and resources to children who are placed in out-of-home care, both during placement and, for those children who age out of the system, after placement.

Based on information and recommendations received at the Task Force's public hearings, members of the Task Force and other legislators introduced a package of 13 bills, collectively referred to as "Foster Forward." Following is a brief description of the hearings held by the Task Force throughout the state, an explanation of the introduced legislation, enacted and not enacted, and a list of additional recommendations from the Chairpersons for future legislative action. A list of Task Force members is attached as an Appendix to the report.

## **TASK FORCE HEARINGS**

The Task Force held six public hearings throughout the state for the purpose of receiving testimony regarding and generating ideas to improve the child welfare system. The hearings were held on the following dates and in the following locations:

- **July 27, 2017, Madison.** The Task Force held a public hearing at the State Capitol at which it received testimony about the child welfare system, overall, only from invited speakers.
- **August 23, 2017, Wausau.** The Task Force held a public hearing at the Marathon County Public Library, at which it received testimony from the public and from invited speakers.
- **September 20, 2017, Dodgeville.** The Task Force held a public hearing at the Iowa County Health and Human Services Community room, at which it received testimony from the public and from invited speakers.
- **September 28, 2017, La Crosse.** The Task Force held a tour of the La Crosse Family and Children's Center. The Task Force held a public hearing at the La Crosse County Administrative Center, at which it received testimony from the public and from invited speakers.
- **October 11, 2017, Milwaukee.** The Task Force held a hearing at Centennial Hall of the Milwaukee Public Library, at which it received testimony from the public and from invited speakers.
- **October 25, 2017, Green Bay.** The Task Force held a hearing at the Brown County Central Library, at which it received testimony from the public and from invited speakers.

## **ENACTED TASK FORCE LEGISLATION**

Of the 13 bills comprising the Foster Forward package, 11 of the bills, described below, were enacted into law. The act descriptions below are loosely organized according to the major policy goal that each act is intended to address, although some of the acts may be appropriately placed in more than one policy category.

### **Prevention Efforts**

The following acts are designed to support families, to reduce their contact with the child welfare system, and to prevent the removal of children from their homes.

## **2017 Wisconsin Act 253: Appointment of Counsel in CHIPS Proceedings**

### ***Background***

Under state law, a parent does not generally have a statutory right to be represented by counsel during a child in need of protection or services (CHIPS) proceeding. Prior law explicitly prohibited the court from appointing counsel for anyone other than the child, an Indian parent, or an Indian custodian in a CHIPS proceeding. Therefore, the court was prevented from referring such a parent to the State Public Defender (SPD) for possible representation.

However, the statutory prohibition was ruled unconstitutional by the Wisconsin Supreme Court in *Joni B. v. State*, 202 Wis. 2d 1 (1996), on the grounds that the prohibition constitutes a violation of the separation of powers doctrine of the Wisconsin Constitution. Therefore, although state law does not authorize referral of a parent to the SPD, the juvenile court may appoint counsel at its discretion, in which case the parent's legal representation is provided at the county's expense.

### ***The Act***

Act 253 (2017 Assembly Bill 784) removes the statutory prohibition against the appointment of counsel for parties other than the child, an Indian parent, or an Indian custodian in a CHIPS proceeding, aligning the statutes with current case law.

The Act also requires that SPD establish a three-year, five-county pilot program regarding the appointment of counsel in a CHIPS proceeding. Under the program, if a court appoints counsel for a nonpetitioning parent in a CHIPS proceeding, then SPD must provide counsel at state expense. The pilot program will begin operation in Brown, Outagamie, Racine, Kenosha, and Winnebago Counties no later than 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 Joint Committee on Finance and to each house of the Legislature regarding costs and data from implementing the program. The Act appropriates \$739,600 to the Public Defender Board for implementation of the program.

### ***Legislative History***

2017 Assembly Bill 784 was introduced on December 27, 2017, by Representatives Ballweg and Subeck.

On January 31, 2018, the Assembly Committee on Judiciary recommended passage of the bill, as amended, on a vote of Ayes, 8; Noes, 1. On February 8, 2018, the Joint Committee on Finance recommended passage of the bill, as amended, on a vote of Ayes, 16; Noes, 0. On February 13, 2018, the Assembly passed the bill on a vote of Ayes, 90; Noes, 2.

On February 20, 2018, the Senate concurred in the bill on a vote of Ayes, 32; Noes, 0.

On April 4, 2018, the bill was signed by the Governor and enacted as 2017 Wisconsin Act 253.

## **2017 Wisconsin Act 255: Funding for Court-Appointed Special Advocates**

### ***Background***

State law permits judicial districts to establish Court-Appointed Special Advocate (CASA) programs, under which trained and supervised volunteers, who meet certain qualifications, may be appointed to provide child welfare related services to the court. In any CHIPS proceeding, a court may appoint a CASA if the court determines that it would be in the best interests of a child. In general, a CASA maintains regular contact with a child and his or her family and periodically reports back to the court regarding several things, including the appropriateness and safety of the child's environment, the extent to which the child and the child's family are complying with any consent decrees, orders, or plans, and the extent to which an agency is providing the services required under any consent decree, order, or plan. Overall, a CASA is to promote the best interests of a child.

The Task Force heard testimony regarding the positive and cost-effective impact that CASA programs have on children involved in the child welfare system. The testimony suggested that expanding the CASA programs throughout the state could improve outcomes for children and families, including by reducing the amount of time families spend engaged with the system.

### ***The Act***

State law requires that the Department of Justice provide \$80,000 per fiscal year in grants to the CASA Association. Under prior law, the grant program was set to sunset on July 1, 2019. Act 255 (2017 Assembly Bill 786) increases the funding 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, to the Joint Committee on Finance, and to the appropriate standing committees of the Legislature describing the use of the funds.

### ***Legislative History***

2017 Assembly Bill 786 was introduced on December 27, 2017, by Representatives Katsma and Meyers.

On February 1, 2018, the Assembly Committee on Family Law recommended passage of the bill on a vote of Ayes, 7; Noes, 0. On February 8, 2018, the Joint Committee on Finance recommended passage of the bill on a vote of Ayes, 16; Noes, 0. On February 13, 2018, the Assembly passed the bill on a vote of Ayes, 93; Noes, 0.

On February 20, 2018, the Senate concurred in the bill on a vote of Ayes, 32; Noes, 0.

On April 4, 2018, the bill was signed by the Governor and enacted as 2017 Wisconsin Act 255.

## **2017 Wisconsin Act 250: Statewide Network for Referrals to Community-Based Services**

### ***Background***

2-1-1 Wisconsin is a statewide community services information and referral resource, overseen by the nonprofit organization 2-1-1 Wisconsin, Inc. By dialing 2-1-1 or visiting the organization's website, individuals can be quickly connected to local resources, including health services, crisis intervention services, and a variety of social services. 2-1-1 is available 24 hours a day. 2-1-1 Wisconsin has been receiving funding for several years from a federal Center for Disease Control (CDC) grant administered by the Wisconsin Public Health Emergency Preparedness Program at the Department of Health Services (DHS). However, the CDC grant has been declining, and, as a result, the amount of funding provided to 2-1-1 has been reduced over the past few years, so that, beginning in fiscal year 2017-18, the funding is no longer available.

The testimony suggested that providing families with the resources and services they need may reduce the number and severity of family contacts with child protective services and may reduce the number of children placed in out-of-home care.

### ***The Act***

Act 250 (2017 Assembly Bill 779) appropriates \$210,000 per fiscal year, on a continuing basis, to be distributed by DHS as a grant to a nonprofit organization for the purpose of operating a website and telephone-based system that, among other services, provides information on and referrals to community-based services. As a condition of receiving a grant, the nonprofit organization must allocate some of the funds to promoting and marketing the system to the public.

### ***Legislative History***

2017 Assembly Bill 779 was introduced on December 27, 2017, by Representatives Rodriguez and Crowley.

On January 31, 2018, the Assembly Committee on Children and Families recommended passage of the bill on a vote of Ayes, 10; Noes, 0. On February 8, 2018, the Joint Committee on Finance recommended passage of the bill on a vote of Ayes, 16; Noes, 0. On February 13, 2018, the Assembly passed the bill on a vote of Ayes, 93; Noes, 0.

On February 20, 2018, the Senate concurred in the bill on a vote of Ayes, 32; Noes, 0.

On April 4, 2018, the bill was signed by the Governor and enacted as 2017 Wisconsin Act 250.

## **2017 Wisconsin Act 254: Child Abuse and Neglect Prevention Grants**

### ***Background***

The Task Force heard testimony suggesting that counties, nonprofit organizations, and tribes could expand and improve the resources and services available to families if additional financial resources were made available to them. Specific requests were made for funding that could be used to encourage innovation in the provision of child abuse and neglect prevention services.

### ***The Act***

Act 254 (2017 Assembly Bill 785) directs DCF to administer a child abuse and neglect prevention services grant program. Specifically, DCF must award grants to counties, nonprofit organizations, and tribes for the purpose of encouraging 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 awarded. DCF must evaluate the effectiveness of the grant program in achieving its stated goals and must, by June 30, 2021, and each odd-numbered year thereafter, submit a report on that evaluation to the appropriate standing committees of the Legislature. The Act appropriates \$500,000 in federal funding, under the Temporary Assistance for Needy Families (TANF) program, for the grant program each fiscal year.

### ***Legislative History***

2017 Assembly Bill 785 was introduced on December 27, 2017, by Representatives Snyder and Doyle.

On January 31, 2018, the Assembly Committee on Children and Families recommended passage of the bill, as amended, on a vote of Ayes, 10; Noes, 0. On February 8, 2018, the Joint Committee on Finance recommended passage of the bill, as amended, on a vote of Ayes, 16; Noes, 0. On February 13, 2018, the Assembly passed the bill on a voice vote.

On February 20, 2018, the Senate concurred in the bill on a vote of Ayes, 32; Noes, 0.

On April 4, 2018, the bill was signed by the Governor and enacted as 2017 Wisconsin Act 254.

## **Improving the Child Welfare System**

The following acts are designed to generally improve the child welfare system.

### **2017 Wisconsin Act 257: Foster Home Licensing**

#### ***Background***

Under state law, counties and child welfare agencies that are, themselves, licensed by DCF, are authorized to license and supervise foster homes. DCF may also enter into contracts

with child welfare agencies for the provision of services, including the provision of foster home licensing services. However, prior law offered no provision for the transfer of a foster home's license to the supervision of any other agency in the event that the license of the child welfare agency, itself, was revoked or surrendered or if the contract under which the agency provides foster home licensing services was terminated. As a result, when a licensed child welfare agency's license was revoked or surrendered or its service contract was terminated, foster homes that had been licensed by the agency had to repeat the licensing process with DCF, a county, or with another licensed child welfare agency.

Current law also provides that a county may generally license foster homes located only within the geographic boundaries of the county, except in limited circumstances. Under prior law, when a county was permitted to license a foster home located in another county, the license was child-specific and terminated when the children identified in the license were removed from the foster home. In order for a county to place additional children in that foster home, it was required to re-license the home. According to the testimony, the re-licensing requirement was unnecessarily burdensome, and modifying the law to allow the license to remain in effect for additional placements could improve foster home retention.

### ***The Act***

Under Act 257 (2017 Assembly Bill 776), if DCF revokes or suspends, or if a child welfare agency surrenders, its license or if DCF terminates a contract under which a child welfare agency provides 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.

If DCF notifies a child welfare agency of its intent to revoke or suspend a license or terminate a contract, or if the child welfare agency notifies DCF of its intent to surrender a license or terminate a contract, then, under the Act, DCF may obtain and transfer certain records and may prohibit the child welfare agency from accepting new placements or issuing new foster care licenses. The Act also changes the standard for when a foster home license may be revoked, allowing revocation if a licensee has violated any provision of the Children's Code or DCF rules rather than only if the licensee substantially and intentionally violated the Children's Code or DCF rules.

The Act also provides that when a county licenses a foster home in another county, that license is not child-specific unless the foster home is that of a relative or guardian of the child to be placed in the home or the county issuing the license has a population of at least 750,000 and the placement is for adoption. Because the license is not child-specific, it does not terminate when the child is removed from the home; rather, the license would terminate at the end of the licensing period or up to six months after the child returns home or is placed elsewhere, whichever occurs first. However, such a license is only valid if there is a written agreement between the two counties.

### ***Legislative History***

2017 Assembly Bill 776 was introduced on December 27, 2017, by Representatives Pronschinske and Doyle.

On January 31, 2018, the Assembly Committee on Children and Families recommended passage of the bill on a vote of Ayes, 10; Noes, 0. On February 13, 2018, the Assembly passed the bill on a voice vote.

On February 20, 2018, the Senate concurred in the bill on a voice vote.

On April 4, 2018, the bill was signed by the Governor and enacted as 2017 Wisconsin Act 257.

### **2017 Wisconsin Act 256: Involuntary Termination of Parental Rights Based on Continuing Need of Protection or Services**

#### ***Background***

In order to terminate a person's parental rights (TPR), a court or jury must find that one or more statutory grounds exist. One of the grounds under which an involuntary TPR may be filed is if a child is in continuing need of protection or services. This ground may be established by proving several elements. Under prior law, one element was that there was a substantial likelihood that the parent would not 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.

The Task Force heard testimony that proving this element is extremely difficult due to constantly changing life-circumstances, which creates significant delays in providing children with permanency. This results in children remaining in out-of-home care for extended periods of time, which is inconsistent with the timely permanence goals of federal law.

#### ***The Act***

Act 256 (2017 Assembly Bill 775) deletes the requirement of showing that the parent is substantially likely to fail for the next nine months to meet the conditions for the safe return of the child to the home. 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.

### ***Legislative History***

2017 Assembly Bill 775 was introduced on December 27, 2017, by Representatives Kitchens and Doyle.

On February 1, 2018, the Assembly Committee on Family Law recommended passage of the bill on a vote of Ayes, 5; Noes, 2. On February 13, 2018, the Assembly passed the bill on a voice vote.

On February 20, 2018, the Senate concurred in the bill on a voice vote.

On April 4, 2018, the bill was signed by the Governor and enacted as 2017 Wisconsin Act 256.

## **2017 Wisconsin Act 258: Appellate Procedure for TPR**

### ***Background***

The Task Force heard testimony suggesting that, when deemed the necessary next step in the child's best interest, the TPR process is overly burdensome and unnecessarily protracted, which creates uncertainty for the child and delays permanency. One suggestion for reducing the time it takes to make a TPR final was to modify certain appellate procedures relating specifically to TPRs.

In order to initiate an appeal of a TPR, a person must file a notice of intent to pursue postdisposition relief. In practice, under prior law, counsel of a parent would often file such a notice of intent on behalf of the parent, whether or not the parent actually requested that the notice be filed, to preserve his or her client's appellate rights. However, in situations where the parent could not be found or never intended to seek appellate relief, filing the notice unnecessarily delayed finalization of the termination.

State law also provides an opportunity for postjudgment fact-finding as part of an appeal of a TPR order. The person appealing the termination must file a motion with the court of appeals raising the issue and requesting that the court of appeals retain jurisdiction over the appeal and remand the case to the circuit court to hear and decide the issue of additional fact-finding. The testimony suggested that courts of appeals, in practice, tend to remand cases without first determining whether additional fact-finding is necessary, creating more work for the circuit courts and, in cases where additional fact-finding is not necessary, unnecessarily delaying finalization of the termination.

### ***The Act***

Act 258 (2017 Assembly Bill 778) requires that a notice of intent to pursue postdisposition relief include the signature of the person on whose behalf the notice is filed (the appellant). In addition, in an appeal relating to a TPR proceeding, the Act requires the appellant to sign: (1) the notice of appeal for an appeal to the court of appeals; and (2) the petition for review for an appeal to the Wisconsin Supreme Court. The appellant's counsel may not file the documents without the appellant's signature; therefore, appeals that were not likely to proceed due to client absence or lack of interest may not ever be initiated.

The Act also requires that, when a motion for remand to the circuit court for postjudgment fact-finding is filed, it must include an affidavit in support of the motion that specifically states why additional fact-finding is necessary. The person signing the affidavit must affirm that, to the best of his or her knowledge, information, and belief, remand is warranted and is not being sought to cause unnecessary delay. This may reduce the number of

cases that are automatically remanded to circuit court even though additional fact-finding is not necessary.

### ***Legislative History***

2017 Assembly Bill 778 was introduced on December 27, 2017, by Representatives Doyle and Katsma.

On January 31, 2018, the Assembly Committee on Judiciary recommended passage of the bill, as amended, on a vote of Ayes, 9; Noes, 0. On February 13, 2018, the Assembly passed the bill, as amended, on a voice vote.

On February 20, 2018, the Senate concurred in the bill on a voice vote.

On April 4, 2018, the bill was signed by the Governor and enacted as 2017 Wisconsin Act 258.

### **2017 Wisconsin Act 251: Notice to Schools and School Districts and Transfer of Pupil Records**

#### ***Background***

The Task Force heard testimony regarding the important role that schools play in a child's life, including as a resource for normalcy. Both at the federal and state levels over the past few years, the law has increasingly required collaboration between child welfare services and schools. The testimony suggested that additional modifications could be made to state law so as to improve communication between child welfare services so as to promote normalcy and consistency for children placed in out-of-home care.

#### ***The Act***

Act 251 (2017 Assembly Bill 780) makes three changes to the law regarding schools and foster youth. First, under current law, when a child is removed from the home, a permanency plan is created for the child. A court periodically reviews and holds hearings on the plan. When a plan is up for review or hearing, certain entities and individuals are notified and offered the opportunity to submit written comments. The Act adds a child's school to the list of entities that must be notified of a permanency plan review or hearing and given an opportunity to submit written comments regarding the plan. The notice must include the name and contact information for the caseworker or social worker assigned to the case.

Second, prior law required that the clerk of a school district be notified when a foster home or group home is licensed within the district and when a child is placed in out-of-home care within the school district. Based on testimony that not every school district actually has a clerk, the Act requires that notice of foster home or group home licensing be submitted to the school district without specifying to whom within the district the notice must be directed. The Act also 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. The notice regarding placement of a child in out-of-home care must also include the name and contact information for the caseworker or social worker assigned to the case.

Third, current law generally requires that a school district or private school in which a child was previously enrolled transfer all pupil records to another school upon receiving written notice that the child intends to enroll or has enrolled in that school. Under prior law, that transfer had to occur within five working days. The Act requires that the records be transferred no later than the next working day after receiving such notice.

### ***Legislative History***

2017 Assembly Bill 780 was introduced on December 27, 2017, by Representatives Rodriguez and Crowley.

On February 1, 2018, the Assembly Committee on Education recommended passage of the bill, as amended, on a vote of Ayes, 15; Noes, 0. On February 13, 2018, the Assembly passed the bill, as amended, on a voice vote.

On February 20, 2018, the Senate concurred in the bill on a voice vote.

On April 4, 2018, the bill was signed by the Governor and enacted as 2017 Wisconsin Act 251.

### **Support for Foster Care Providers**

The following acts are designed to provide additional resources to foster care providers and to reduce the barriers they face in providing care to the youth placed under their supervision.

#### **2017 Wisconsin Act 260: Grants for Foster Parent Education and Support**

##### ***Background***

The Task Force heard testimony highlighting a significant statewide need for more licensed foster homes. Invited speakers and members of the public expressed concern about the shortage of licensed foster homes and explained the difficulties faced by agencies charged with recruiting and retaining licensed foster homes. The Task Force heard several recommendations for creating statewide awareness about the need for additional foster homes and for incentivizing families to become and to remain licensed foster families.

##### ***The Act***

Act 260 (2017 Assembly Bill 787) directs DCF to administer a grant program that generally supports foster parents and children. Specifically, DCF must award grants to counties, nonprofit 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 must, by June 30, 2021, submit a report on that evaluation to the appropriate standing committees of the Legislature. The Act appropriates \$400,000 for the grant program in fiscal year 2018-19.

### ***Legislative History***

2017 Assembly Bill 787 was introduced on December 27, 2017, by Representatives Subeck and Snyder.

On January 31, 2018, the Assembly Committee on Children and Families recommended passage of the bill on a vote of Ayes, 10; Noes, 0. On February 8, 2018, the Joint Committee on Finance recommended passage of the bill on a vote of Ayes, 16; Noes, 0. On February 13, 2018, the Assembly passed the bill on a vote of Ayes, 93; Noes, 0.

On February 20, 2018, the Senate concurred in the bill on a vote of Ayes, 32; Noes, 0.

On April 4, 2018, the bill was signed by the Governor and enacted as 2017 Wisconsin Act 260.

### **2017 Wisconsin Act 252: Limited Release of Mental Health Information to Out-of-Home Care Providers and Child Welfare Agencies**

#### ***Background***

Under state law, mental health treatment records are confidential and, except in limited circumstances explicitly described in the law, may be released only with the informed written consent of the subject of the record or the subject's parent or guardian. The Task Force heard testimony that this confidentiality requirement prevents mental health treatment providers from communicating with a foster parent about a foster child who is receiving treatment, which may create problems to the extent that certain aspects of a child's treatment may be impacted by interactions in or care given in the home.

#### ***The Act***

Act 252 (2017 Assembly Bill 782) creates a limited exception to the requirement that informed written consent be obtained before a health care provider may communicate with a foster parent about a foster child who is receiving mental health treatment. Specifically, the Act 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 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.

### ***Legislative History***

2017 Assembly Bill 782 was introduced on December 27, 2017, by Representatives Snyder and Meyers.

On January 17, 2018, the Assembly Committee on Mental Health recommended passage of the bill on a vote of Ayes, 11; Noes, 0. On February 13, 2018, the Assembly passed the bill on a voice vote.

On February 20, 2018, the Senate concurred in the bill on a voice vote.

On April 4, 2018, the bill was signed by the Governor and enacted as 2017 Wisconsin Act 252.

## **2017 Wisconsin Act 259: Defining Routine Dental Care**

### ***Background***

Under current law, unaffected by the Act, when a child is removed from the home, legal custody of the child is transferred to a “legal custodian” who is a person or agency, other than a parent or guardian. Subject to the rights, duties, and responsibilities of a guardian, to any residual parental rights and responsibilities, and to any court order, a legal custodian has the right and duty to provide certain things to the child, including ordinary medical and dental care. In practice, this means that the legal custodian can consent to certain medical and dental care without obtaining parental consent. However, the Task Force heard testimony that, because “dental care” was not defined under prior law, the types of dental services provided in each county without parental consent varied significantly, resulting in some children receiving certain care only after the need sent them to the emergency room.

### ***The Act***

Act 259 (2017 Assembly Bill 781) defines “dental care” for the purpose of providing ordinary medical and dental care so as to standardize the basic level of dental care which may be provided without parental consent to children placed in out-of-home care. Under the Act, “dental care” means routine dental care, including diagnostic and preventive services, and treatment including restoring teeth, tooth extractions, and use of nitrous oxide.

### ***Legislative History***

2017 Assembly Bill 781 was introduced on December 27, 2017, by Representatives Billings and Snyder.

On February 1, 2018, the Assembly Committee on Health recommended passage of the bill on a vote of Ayes, 11; Noes, 0. On February 13, 2018, the Assembly passed the bill on a voice vote.

On February 20, 2018, the Senate concurred in the bill on a voice vote.

On April 4, 2018, the bill was signed by the Governor and enacted as 2017 Wisconsin Act 259.

## **TASK FORCE LEGISLATION NOT ENACTED**

Two of the Foster Forward package bills, described below, were passed by the Assembly, but were not acted upon by the Senate.

### **Support for Foster Care Youth**

#### **2017 Assembly Bill 777: University of Wisconsin (UW) System and Wisconsin Technical College System (WTCS) Tuition Remission**

##### ***Background***

Under current law, there are financial resources available to former foster youth, in the form of scholarships and grants, to help defray the cost of higher education. However, the Task Force heard testimony suggesting that such financial resources, and other available services, are not well known to former foster youth, nor are they sufficient to make seeking higher education a realistic financial possibility for many former foster youth. The Task Force was also informed that certain institutions, including UW-Stout, made use of past grants from DCF to establish on-campus programs in support of former foster youth.

##### ***The Bill***

2017 Assembly Bill 777, as amended, directs the UW System and the WTCS to grant tuition remission to eligible former foster youth who satisfy certain conditions. A former foster youth is initially eligible for tuition remission if the youth resided in out-of-home care in one of the following circumstances:

- On his or her 18<sup>th</sup> birthday.
- On his or her 13<sup>th</sup> birthday, after which the youth was adopted or appointed a non-agency guardian.
- For at least one year on or after his or her 13<sup>th</sup> birthday, after which the youth returned home to live with his or her parent.

A former foster youth who satisfies one of the conditions above may be granted full tuition remission for each semester or session that the youth completes the Free Application for Federal Student Aid (FAFSA) and is enrolled in an associate's degree, bachelor's degree, or technical diploma program, up to a maximum of 12 semesters or sessions. The remission amount will be reduced by the amount of any federal assistance awarded to the youth. Remission may not be granted after the youth is awarded a bachelor's degree by the UW System, a diploma or degree from WTCS, or after the youth turns 25 years old, whichever occurs first. The UW System and WTCS may apply to the Higher Educational Aids Board for reimbursement of the remissions paid, up to a combined maximum of \$410,000 per fiscal year.

The bill also directs DCF to administer a grant program to support former foster youth in higher education. Specifically, DCF must award at least four grants to the UW System

institutions or the WTCS technical colleges for the purpose of providing resources, programs, and activities for former foster youth enrolled in those institutions. The bill appropriates \$120,000 for such grants each biennium. No individual grant may exceed \$30,000.

### ***Bill History***

2017 Assembly Bill 777 was introduced on December 27, 2017, by Representatives Novak, Kitchens, and Billings.

On February 1, 2018, the Assembly Committee on Colleges and Universities recommended passage of the bill, as amended, on a vote of Ayes, 12; Noes, 1. On February 8, 2018, the Joint Committee on Finance recommended passage of the bill, as amended, on a vote of Ayes, 16; Noes, 0. On February 13, 2018, the Assembly passed the bill, as amended, on a vote of Ayes, 93; Noes, 0.

On February 14, 2018, the bill was referred to the Senate Committee on Organization, but was not scheduled for a floor vote.

### **Improving the Child Welfare System**

#### **2017 Assembly Bill 783: Committee to Study Child Welfare Worker Caseloads**

#### ***Background***

The Task Force heard testimony from numerous individuals and organizations, including counties and licensed child welfare agencies, that the number of children placed in out-of-home care over the past few years has increased exponentially, primarily from increased parental drug use. Caseworkers are struggling to manage the demands of their increased caseloads, which leads to high rates of turnover and negative impacts on children and families. Counties and licensed child welfare agencies are, in turn, struggling to retain their current workforce and cannot afford to hire the additional staff needed to manage the increased caseload.

The testimony suggested that establishing a maximum caseload standard for caseworkers could improve the situation by relieving some of the burden from individual caseworkers so that they may provide higher quality service to children and families. However, it was also recognized that implementing any standard would require hiring additional staff, which, in turn, requires additional financial support from the state.

#### ***The Bill***

2017 Assembly Bill 783 proposes to address this concern by establishing a committee, called the Wisconsin Task Force to Create Effective Child Welfare Caseloads, that would be responsible for studying the issue and making recommendations regarding: (1) the maximum number of cases that a caseworker may be reasonably expected to effectively manage; (2) the maximum ratio of supervisors to caseworkers at which a supervisor may be reasonably expected

to provide effective guidance and direction; and (3) the amount of funding that would be necessary to implement those standards.

The committee must be comprised of a total of 16 representatives, including from the Wisconsin County Human Service Association, DCF, and the tribes. It must begin meeting no later than three months after the effective date of the bill and must submit a written report to the Governor, to the Joint Committee on Finance, and to the appropriate standing committees of the Legislature by April 1, 2019.

### ***Bill History***

2017 Assembly Bill 783 was introduced on December 27, 2017, by Representatives Meyers and Neylon.

On January 31, 2018, the Assembly Committee on Children and Families recommended passage of the bill on a vote of Ayes, 10; Noes, 0. On February 13, 2018, the Assembly passed the bill on a voice vote.

On February 14, 2018, the bill was referred to the Senate Committee on Government Operations, Technology, and Consumer Protection, but did not receive a public hearing.

## **TASK FORCE CHAIRPERSONS' RECOMMENDATIONS**

In addition to reintroducing the two bills from the Foster Forward package that were not enacted, regarding UW System and WTCS tuition and child welfare worker caseloads, Chairpersons Snyder and Doyle recommend that the Legislature consider the following topics and pass legislation to address the issues where necessary. As the act descriptions are organized above, the recommendations below are loosely organized according to the major policy goals that each recommendation is intended to address.

### **Prevention Efforts**

#### **Increased Use of Drugs and Out-of-Home Care Placements**

Chairpersons Snyder and Doyle recommend that the Legislature study the link between the increasing use of drugs among the general population and the increased placement of children in out-of-home care. In relation to this study, the Chairpersons also recommend that the Legislature review the availability of and improve access to drug treatment programs and drug treatment courts.

The Task Force heard testimony from several counties across the state regarding an increase in the number of children being removed from their homes and placed in out-of-home care due to unsafe conditions created by parental drug use. The testimony also suggested that it is more difficult to return children to their homes when the underlying reason for removal is drug use because recovery from drug addiction is a difficult process, relapses occur frequently, and access to treatment programs is sometimes limited.

### **Evaluate Appointment of Counsel in CHIPS Proceedings Pilot Program**

Chairpersons Snyder and Doyle recommend that the Legislature evaluate the effectiveness of the appointment of counsel in CHIPS proceedings pilot program established by SPD under 2017 Wisconsin Act 253 and, based on that evaluation, consider expanding the program.

### **Improving the Child Welfare System**

#### **Mental Health Evaluation and Treatment for Foster Care Youth**

Chairpersons Snyder and Doyle recommend that the Legislature investigate whether there are any options for expediting access to mental health evaluation and treatment for foster care youth whose parents do not provide consent.

The Task Force heard testimony indicating that foster care youth often have significant mental health needs, but that obtaining parental consent can be a barrier to evaluating and treating those needs. Under current law, a court may order that such evaluation and treatment occur if parental consent cannot be obtained, but the procedure for obtaining a court order can take a significant amount of time, which delays the provision of necessary evaluation and treatment.

#### **Inter-Agency Communication**

Chairpersons Snyder and Doyle recommend that the Legislature continue to identify ways to improve communication between DCF and DPI regarding foster care youth and, by extension, between local child welfare agencies and schools so as to ensure that foster care youth receive the appropriate supports and resources while at school.

The Task Force heard testimony regarding the lack of information sharing between local child welfare agencies and schools, which makes it difficult for schools to provide the academic and social supports and resources that a foster care child may need to be successful in school.

#### **Reducing Time to Permanency**

Chairpersons Snyder and Doyle recommend that the Legislature explore additional options for streamlining the TPR process so as to reduce the amount of time it takes to place a foster care child in a permanent living situation once it is determined that reunification is not a viable option.

In general, state law requires that reunification, meaning return to his or her home, be the primary goal of a foster care child's permanency plan. However, state law also requires that a child quickly attain a placement or home that provides long-term stability. When reunification is not a viable option, alternative permanency options include adoption, which first requires the termination of the biological parents' rights. The Task Force heard testimony indicating that the complicated legal procedure associated with initiating and finalizing a TPR can create significant delays in getting a child to permanency.

### **Support for Foster Care Providers**

Chairpersons Snyder and Doyle recommend that the Legislature broadly explore options for increasing a variety of supports for foster care providers. Recommended avenues for exploration include the following: (1) increasing the foster care and kinship care payment rates; (2) increasing access to respite care services; (3) providing more opportunities for education and training; (4) ensuring that all necessary information is shared with foster care providers in a timely and efficient manner.

The Task Force heard testimony that the current rates do not adequately offset the expenses incurred for providing foster or kinship care, resulting in providers often covering additional costs at their own expense. The testimony suggested that, although receipt of a monthly foster or kinship care payment is generally not the reason that providers choose to provide foster or kinship care, the low rates may contribute to the lack of providers available in the state.

The Task Force also heard testimony that foster care providers often feel a lack of support from the child welfare system, due to several factors, including limited communication with caseworkers, lack of information regarding their foster children, and limited opportunities for training and respite.

#### **Foster Parent Bill of Rights**

Chairpersons Snyder and Doyle recommend that the Legislature consider adopting a Foster Parent Bill of Rights, which would inform foster parents of their rights under current law. Several states have adopted various forms of such bills, which could be used as models.

#### **Incentives for Providing Care up to Age 21**

Chairpersons Snyder and Doyle recommend that the Legislature consider providing grants or other incentives to foster care providers who continue providing care, to the extent permitted under state law, to foster care youth between ages 18 and 21.

### **Support for Foster Care Youth**

#### **Access to Driver's Licenses and Automobile Insurance**

Chairpersons Snyder and Doyle recommend that the Legislature explore options for making it easier for foster care youth to transport themselves by driving. The Task Force heard testimony regarding the difficulties foster care youth face in obtaining a driver's license and in obtaining automobile insurance. The testimony suggested that the ability to drive gives foster care youth options for pursuing employment, education, and participation in various activities.

### **Extended Foster Care**

Chairpersons Snyder and Doyle recommend that the Legislature consider expanding foster care to give all foster care youth the option to continue participating in foster care up to age 21.

Under current law, a foster care youth is eligible to remain in the foster care system until turning 18, except that he or she may remain in the system until age 19 if enrolled full time in high school or until age 21 if enrolled full time in high school with special education needs. The Task Force heard testimony suggesting that many foster care youth need assistance well beyond age 18 as they transition into adulthood and should be offered an option for continued placement with foster parents. Foster youth could benefit from continued support from foster parents in much the same way as many young adults who are not part of the foster care system benefit from the support of their parents or guardians.

### **Foster Child Bill of Rights**

Chairpersons Snyder and Doyle recommend that the Legislature consider adopting a Foster Child Bill of Rights, which would inform foster youth of their rights under current law and the resources to which they may be entitled.

The Task Force heard testimony indicating that many foster care youth are unaware of their rights under current law and the resources available to them, such as certain higher education funding. The testimony suggested that adopting a Foster Child Bill of Rights could be a useful tool for informing and empowering foster youth to take full advantage of the resources available to them and, thereby, improve life outcomes. Several states have adopted various forms of such bills, which could be used as models.

PS:SD;jr

MEMBERS OF THE SPEAKER'S TASK FORCE ON FOSTER CARE

Representative Doyle (Co-Chair)

Representative Snyder (Co-Chair)

Representative Ballweg

Representative Rodriguez

Representative Neylon

Representative Novak

Representative Kitchens

Representative Katsma

Representative Pronschinske

Representative Subeck

Representative Billings

Representative Meyers

Representative Crowley