



January 29, 2014

To: Senator Leah Vukmir, Chair
Members, Senate Committee on Health and Human Services

From: Colleen M. Ellingson, CEO, Coalition for Children, Youth & Families

Re: Senate Bill 461

The Coalition for Children, Youth & Families, formerly Adoption Resources of Wisconsin, supports Senate Bill 461 and its companion, Assembly Bill 581. As an organization that has been working on foster care and adoption issues since 1984, we have had long-term concerns about several of the factors that you are addressing with this legislation:

Advertising for Adoption: Wisconsin Act 104, passed in 1997, was enacted to monitor and prohibit adoption agencies that were not licensed in the state of Wisconsin from advertising in media, such as the Yellow Pages. Although there was a penalty in 48.825(5): "Any person who violates sub. (2) or (3m) may be fined not more than \$10,000 or imprisoned not more than 9 months or both", the statute never directed what department would be responsible for both monitoring, fining or prosecuting any non-licensed agencies. Over the years, I discussed this with Yellow Pages representatives and gave them the list of Wisconsin-licensed agencies, and yet they allowed non-licensed agencies from other states to be represented.

I believe it is critical to identify what department will be responsible for this monitoring function and how it would be processed through the legal system as part of the statute. With the growing mediums of text messages, social media and other new technologies, I think we will continue to have challenges around these issues.

Delegation of Parental Powers: On placement for longer than a year, I believe this provision of SB 461 would be greatly strengthened by the addition of a background check requirement to ensure child safety. My over-all recommendation would be the requirement that families must have a licensing evaluation which they would be required to pay for. My reason for this – when families are moving children, it is most often occurring due to behavioral issues. I believe that we need to be carefully looking at the capacity of these alternate parents to handle challenges.

Study of adoption disruption and dissolution: I am completely supportive of this requirement. In our work with counties and the justice system, we are continually told that there is a significant number of children who require extra services, which leads to adoptive placements being temporarily disrupted and results in the child temporarily returning to the child welfare system. For some of the children, their past trauma has had a significant effect on their mental health and behaviors. They might require intensive mental health services by a provider that is very experienced in trauma, foster care and adoption. At the same time, the child may also need a treatment foster family that is experienced in working with significantly traumatized children. Some children might require a stay in a residential

Coalition for Children, Youth & Families
Formerly Adoption Resources of Wisconsin

treatment center to have very intense therapy – and at the same time working with the adoptive family on skills they will need to utilize when the child is reunified in their home.

The national statistics show that very few legal dissolutions of adoptions occur. The great majority of disruptions are temporary, short-term and end with the child returning to their adoptive parents. It is critical that Wisconsin get a better understanding of how to address these post-adoption issues.

Need for increased Post Adoption Support: In 1999, the Wisconsin Department of Children & Families created Post Adoption Resource Centers to be located across the state. Four entities: Catholic Charities, Madison; Catholic Charities, La Crosse (2 regions); Family Services of Northeastern Wisconsin; and the Coalition for Children, Youth & Families (2 regions) have held contracts since that time. The funding across the state is \$420,000 and has not been increased since 1999.

When we look at the number of adopted children under the age of 18 in our state, we see the following approximate numbers:

- Over 8,500 children receiving adoption assistance coming out of child welfare adoptions.
- Around 2,000 children adopted internationally
- Around 1,000-2,000 children adopted independently or through domestic adoption programs by private agencies.

The Post Adoption Resource Centers have, as their charge: providing information, resources and support to adoptive families and children. As a Post Adoption Resource Center, we provide both in-person and web-based trainings for families. We routinely coach families when they are in a crisis and help them connect with mental health services. Families become adoptive parents due to their love of helping children – but the daily job of supporting kids who are scared, angry, sad and questioning their own value is not so easy. Although families get initial training before they become licensed, the need for ongoing education is crucial and there is currently no county-based ongoing training for adoptive families. Learning new skills and techniques helps families stabilize children. Here is an example of how we helped a family:

The Troy family (name changed for privacy) attended our parenting classes when they were challenged in parenting their child who has severe emotional and behavioral problems. Their comments: “We would not have waited until we felt overwhelmed by guilt for not knowing what to do for our child before I attended a class. When I turned to you for assistance, your educational classes made all the difference in my ability to be a better parent.”

If we look at the numbers of children related to the \$420,000 of funding for Post Adoption Resource Centers, we see an average (based on 11,500 children) of \$36.52/child. Wisconsin’s children need and deserve to get access to a better support system. The cost of children entering the child welfare system after adoption is substantial and we could do better as a state if we put those dollars into front-end services which reduce the need for disruptions. If children go into residential treatment, the cost is significant to counties.

We thank you for proposing this legislation and would be glad to be of any assistance if you have any questions.



JOEL KLEEFISCH

STATE REPRESENTATIVE • 38TH ASSEMBLY DISTRICT

Senate Bill 461: Relating to: Adoption Advertising/Delegation of Parental Powers January 29, 2014: Senate Committee on Health

Late last year the Milwaukee Journal Sentinel ran a story exposing the practice of “re-homing” unwanted adopted children, via advertisements on the internet. In 2006 a couple from Kiel, Wisconsin adopted a 14 year old from Liberia. Within two years the family decided to put the child up for re-adoption and decided to do so by way of posting an advertisement on the internet. Within days they found a couple from Illinois who were eager to adopt. The families met in Westville Illinois where they “exchanged” the girl. This practice is known as “re-homing.”

Because the exchange took place without any oversight from the state or federal government, there was no opportunity for the child’s new parents to be appropriately vetted, as adoptive parents typically are. Had the state had the proper opportunity to vet the new family, they would have found multiple glaring infractions indicating they were unfit parents.

It has become clear that there are a number of instances where adoptions don’t work out and children are being moved from family to family with little regard for their well-being. Parents find new families for their unwanted children and take little to no time to fully screen the new family. No background check is performed, no official home visit is done, no state agency is alerted to the change in residence of the child, and that’s all because there is nothing legally required of either party.

Senate Bill 461 creates safe guards to ensure parents are not putting their interests ahead of the children they are responsible for. The legislation does three things. First, it makes a crucial change to our states advertising laws, to include internet communications. Current law states that an individual generally cannot advertise that they are seeking to find a child or seeking to place a child for adoption, however that restriction does not apply to internet communications, like social media sites. Our legislation closes that loophole.

Second, SB 461 requires parents seeking to delegate their parental powers for more than one year, to file a petition with juvenile court so that the court can convene a hearing to determine that the delegation is in the best interest of the child and that the new parents will be able to care for the child appropriately.

Finally, the bill recommends that the Joint Legislative Council convene a study group to study this topic more closely in an effort to draft legislation which would combat this practice.

This legislation is the result of a bi-partisan working group which was convened last fall. I believe the result is a great piece of legislation that will help increase positive adoption outcomes in Wisconsin.



**Testimony of Stephanie M. Lozano, CSW
Ho-Chunk Nation Department of Social Services**

**Testimony before the Committee on Health and Human Services
Regarding SB-461**

January 29, 2014

- Good afternoon. Thank you, Chairwoman Vukmir and Committee Members for allowing me to provide testimony regarding SB-461 today.
- My name is Stephanie M. Lozano, and I am the Indian Child Welfare Coordinator with the Ho-Chunk Nation, as well as a Ho-Chunk Nation tribal member.
- I would like to provide you with some information on the voluntary procedures found within the federal and Wisconsin Indian Child Welfare Acts.
- 35 years ago the United States Congress was presented with the fact that 25-35% of all Indian children in the country had been removed from their families at a rate five (5) times greater than non-Indian children. Here in Wisconsin, the risk of Indian children being separated from their parents was 1,600% greater.
- Equally disconcerting was the fact that an alarmingly high percentage of such children were then placed in non-Indian foster and adoptive homes.
- Despite the passage of federal law creating requirements to place Indian children in homes that reflect the unique values of Indian culture, Wisconsin has continued to struggle with following these requirements. As such, in 2009 this Legislature unanimously voted to codify this federal law within its State statutes to ensure compliance with these important federal standards.
- Unfortunately, the number of Indian children being placed away from their tribal communities and families is still higher today for Indians than non-Indians. Additionally, there continues to be non-compliance with WICWA, but many tribes and the state are making efforts to address these issues.
- You may be asking yourself why all the talk about removal when this legislation, as it pertains to the delegation of parental power, is “theoretically” voluntary. Well, first and foremost, placement preferences to ensure tribal cultural connectivity remains a mandate for voluntary proceedings, and second, we have genuine concerns about how voluntary this legislation is when words like “contest,” “allegations,” and “facilitating organization are used.”

- Having worked for the Nation for eight (8) years, we have seen our fair share of instances that could be described as almost a back-door approach to avoid the application of provisions and requirements that are outlined in the Indian Child Welfare Act. Most often we have seen agencies “gently” pressuring families to sign Voluntary Placement Agreements (VPAs) to be prevented from having to take extra steps in providing active efforts or from allowing tribes the statutory ability to intervene, when social work best-practice would suggest that a full child in need of protection and services petition and court action would be in the best interests of the Indian child and family.
- Because these approaches of ICWA avoidance are already witnessed under the current legal landscape, we worry about how the extension of the delegation of parental power could make avoidance techniques even more available.
- Similar to how a county child welfare agency could gently pressure a family to utilize a VPA to avoid ICWA; adoption agencies, family members, and other organizations could utilize an extended delegation of parental powers to avoid ICWA- particularly the statutory requirement that that placement preferences of a Tribe, or in the alternative, the placement preferences within the ICWA/WICWA be followed in voluntary placements/adoptions.
- Unfortunately, we have all heard of the sad cases where a child has been placed with a family and only later the Tribe becomes aware of the case and intervenes, including transferring custody. In some such cases, the child is removed from the home of the potential adoptive parents and placed with Tribal members.
- These are indeed sad cases and we all hope that they don’t occur. The reality is, however, that these often occur as a result of someone ignoring the federal law, or not appropriately identifying a child as an Indian child, or not providing required notice to a Tribe.
- It is this avoidance of the federal and state law that leads to disruption. Not just disruption and dissolution of adoptions, but disruption of lives across the board. The avoidance of filing a CHIPs action can lead to Indian families not receiving adequate and culturally appropriate services that they need, which could lead to further disruption if issues are not addressed.
- Additionally, the proposed legislation fails to address the rights of a non-custodial parent and in the event that the delegation is for less than a year, important parties like tribes, non-custodial parents, and relatives, are not mandated to be provided with any type of notice that actions regarding a member of their family are taking place.
- Thank you for allowing me to provide testimony regarding SB-461 today.

Memorandum

STATE OF WISCONSIN
DIRECTOR OF STATE COURTS



Hand Delivered

DATE: January 28, 2014

TO: Senator Joseph Leibham
Members, Senate Committee on Health and Human Services

FROM: Nancy Rottier, Legislative Liaison

SUBJECT: Comments Relating to 2013 Senate Bill 461

Thank you for this opportunity to provide comments on the Rehoming Bill (2013 Senate Bill 461; its companion bill is Assembly Bill 581). We support your efforts to address the practice of rehoming adoptive children and to promote safety and stability for these vulnerable children. We respectfully submit the following suggestions related to the Delegation of Parental Powers provisions of the bill for your consideration. These suggestions are designed to advance the objectives of the legislation while minimizing any unintended adverse impact on children and families.

The remarks contained in this memorandum are based on input from the Wisconsin Judicial Committee on Child Welfare ("Judicial Committee"), a committee of judges and court staff from around the state dedicated to improving outcomes for children and families in the court system.

We previously supplied similar comments to the Assembly authors and chair of the Assembly Committee on Family Law. We are pleased that the first suggestion was addressed in Assembly Amendment 3 to AB 581 and adopted today by the Assembly Committee on Family Law. Suggestions 2 through 5 remain items that we believe deserve further consideration, but we recognize they could be considered as part of the suggested Legislative Council study committee.

1. Modify the section of the bill that makes failure to obtain judicial approval of a Delegation of Parental Powers that is longer than one year a criminal act.

The Judicial Committee was concerned that, as originally drafted, this provision would apply to parents who unintentionally violate this provision by delegating their parental powers to someone who is otherwise appropriate. The Judicial Committee proposed either of the following: (1) require a referral to the county child welfare agency instead of creating a new criminal act when a parent delegates his/her powers longer than a year without obtaining judicial approval or (2) tailor this section of the bill so that it only applies to the target population: adoptive parents who delegate parental powers to a person (who is not a relative) longer than a year without obtaining judicial approval.

Consistent with the Judicial Committee's proposal, Assembly Amendment 3 would limit the scope of the bill so that the proposed requirements and penalties would not apply to situations where a parent is delegating parental powers to a relative of the child.

2. Add language that explicitly prohibits a Delegation of Parental Powers without court approval if the combined length of multiple delegations is longer than one year.

There is nothing contained in current law or in the bill that would prevent a person from circumventing this new requirement of court approval by entering into multiple Delegations of Parental Powers for a child that are less than a year in length. For example, a parent could sign a new Delegation of Parental Powers every 6 months until the child turns 18 years old without obtaining judicial approval. Depending on the legislative intent, the cumulative time of one year could be calculated using any time during the child's lifetime or the cumulative one year could be calculated within a specified time period (e.g., 3 years, 5 years, etc.).

3. Specify who is considered a "party" for purposes of contesting a Delegation of Parental Powers petition that is longer than one year in length.

The bill allows any "party" to contest the petition for Delegation of Parental Powers, present evidence, make arguments, and nominate a different person as an agent. However, it is not clear who has these rights as a "party" for purposes of a Delegation of Parental Powers petition. The parties could include the same individuals who are entitled to receive notice of the hearing or a sub-set of this group.

4. Require that a Delegation of Parental Powers petition contain information about any financial assistance that the child is receiving or eligible to receive.

At the time that a Delegation of Parental Powers petition is filed, it would be helpful for the court and the person nominated as the child's agent to have information regarding any financial assistance that the child, or someone on behalf of the child, is receiving or eligible to receive. This would include child support, adoption assistance payments, and government assistance (e.g., SSI, FoodShare, and Caretaker Supplement benefits).

5. Appointment of counsel for a child subject to a Delegation of Parental Powers petition.

The bill is silent regarding appointment of counsel for a child involved in a court proceeding for a Delegation of Parental Powers petition. Under current law, we believe that appointment of a guardian ad litem or adversary counsel for the child in these proceedings would be discretionary. See Wis. Stat. §§ 48.23(3) and 48.235(1)(a). There may be a need to address appointment of counsel for the child depending on whether your intent is to require representation for the child under certain circumstances or to leave it to the court's discretion on a case-by-case basis. Please note that we do not have a recommendation at this time as the Judicial Committee has not had an opportunity to fully discuss this matter.