**Concerns with 2017 AB782/SB674**

Relating to: limited release of mental health information to out-of-home care providers and child welfare agencies.

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**Summary:**

Wisconsin Family Ties opposes AB782/SB674 as presented. The bill attempts to address a legitimate concern regarding gaps in important mental health information when parents are not available or refuse to sign release-of-information forms for children placed in out-of-home care. However, the broad terms of the bill would undermine the rights of the vast majority of parents who are available and willing to sign the information releases. Parents of children in need of out-of-home care must already give up significant control of what happens to their children; this further step of removing parental rights over their children’s mental health information would undermine the crucial goals of ongoing parental involvement and family re-unification.

**Background:**

AB782/SB674 is part of the legislative package that has emerged from the FOSTER FORWARD task force.

Under current law, when a child is placed in out-of-home care, mental health records cannot be released to the out-of-home care provider without either a signed informed-consent from the child’s parents, or an order from the court if the parents are unavailable. Wisconsin law thus recognizes the particularly sensitive nature of mental health information and the importance of parental decision-making on behalf on their children. Out-of-home care, which in Wisconsin runs through the child welfare system whether the placement is voluntary or involuntary on the part of the parents, comprises foster homes, group homes, residential care centers for children and youth, juvenile correctional facilities, and supervised independent living arrangements.

In the vast majority of such situations, the parents willingly sign the informed-consent release. Occasionally when parents have hesitations, the court will require that they sign. In relatively rare instances when parents are not available (e.g. in the case of unaccompanied minors or child trafficking) or when parents refuse, there is a court process via which the necessary information may be released. In these occasional situations, there is a problematic lag in between the initiation of out-of-home care and the release of necessary mental-health information.

**Concerns:**

For parents of children placed in out-of-home care, whether voluntarily or involuntarily, AB782/SB674 would remove the agency that current law affords to them regarding the release of their children’s mental health information.

When children are placed in out-of-home care, their parents must navigate a system in which they must give up significant control over many aspects of their children’s lives. This is difficult for any parent, but particularly unwelcome and surprising for families who are voluntarily seeking intensive mental health services when their child’s needs can no longer be managed in their home. Parents who file a voluntary Child In need of Protective Services (CHIPS) or Juvenile In need of Protective Services (JIPS) petition not only enter the child welfare system but become liable for child support payments of up to 17% of their gross income, in order for their child to receive needed treatment in a residential setting. Wisconsin Family Ties has long maintained that the child welfare system is not the appropriate mechanism for providing needed mental health services, and that the level of child support payment is excessive and detrimental.

In order for out-of-home placements to result in optimum outcomes, it is critical for parents to stay engaged and involved with their children. That goal is furthered when the out-of-home placement process can protect parental agency and be made less distressing for parents. Removing parental rights regarding the release of mental health information would move the system in the opposite, detrimental direction, the more so because the removal of those rights is unnecessary in the vast majority of situations.

Wisconsin Family Ties has appreciated the willingness of the bill’s proponents to come to the table and discuss possibilities for improving this proposal. It may yet be that the solution would be as simple as framing the proposal in such a way that the provisions are only applied if the parent is absent or declines to sign the form. Unfortunately, the speed of the legislative timeline is working against an optimal legislative process in this case.

WFT opposes AB782/SB674 as written.