

1999 DRAFTING REQUEST

Bill

Received: **07/27/1999**

Received By: **kenneda**

Wanted: **As time permits**

Identical to LRB:

For: **Kimberly Plache (608) 266-1832**

By/Representing: **John (aide)**

This file may be shown to any legislator: **NO**

Drafter: **yacketa**

May Contact:

Alt. Drafters:

Subject: **Health - public health**

Extra Copies: **DAK**

Pre Topic:

No specific pre topic given

Topic:

Birth defect prevention surveillance

Instructions:

Same as 99b1047

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Required</u>
/?	yacketa 08/03/1999	jgeller 08/04/1999		_____		S&L
/1	yacketa 11/08/1999	jgeller 11/08/1999	martykr 08/04/1999	_____	lrb_docadmin 08/04/1999	lrb_docadminS&L 08/06/1999
/2			martykr 11/08/1999	_____	lrb_docadmin 11/08/1999	lrb_docadmin 11/08/1999

FE Sent For:

11-17-99

<END>

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/?	yacketa 08/03/1999	jgeller 08/04/1999		_____			S&L
/1		<i>1/2 11/8 jlg</i> martykr 08/04/1999		_____	lrb_docadmin 08/04/1999	lrb_docadmin 08/06/1999	
		<i>11/8</i>		<i>11/8</i>			

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FE Sent For:

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3347/1

LRB-2749/1

TAY:jlg:hmh

stays

R NOT Run

1999 BILL

Regen

- 1 **AN ACT to amend 146.82 (1); to repeal and recreate 253.12; and to create**
2 **15.197 (12) of the statutes; relating to: birth defects prevention surveillance.**

Analysis by the Legislative Reference Bureau

Under current law, the department of health and family services (DHFS) administers the birth and developmental outcome monitoring program, commonly referred to as BDOMP. Under that program, a report must be made to DHFS by a physician who is the first physician to make a diagnosis or confirm a suspected diagnosis that a child under the age of six has a condition resulting from a low birth weight, a chronic condition possibly requiring long-term care, a birth defect or a developmental disability or other severe disability. If no physician has treated the child, a nurse who has visited with the child and who knows or suspects with reasonable medical certainty that the child has such a condition must make the report. DHFS is required to develop and implement a system for the collection, updating and analysis of the information reported and to disseminate the information. DHFS must also publish an annual report and submit the report annually to the chief clerk of each house of the legislature and to counties on the results of the information collected through the reports. DHFS must coordinate data dissemination activities of the department with those of the division for learning support, equity and advocacy in the department of public instruction with respect to the information collected through the reports. Currently, information contained in a report that specifically identifies the subject of the report is confidential and, with certain exceptions, may not be released to any person.

This bill replaces BDOMP with a program that requires physicians, hospitals, certain clinics and clinical laboratories to report birth defects identified in children

BILL

under the age of two to DHFS. Under the bill, a birth defect is defined as a structural deformation, or a genetic, inherited or biochemical disease, that occurs prior to or at birth and that requires medical or surgical intervention or interferes with normal growth and development. The bill requires DHFS to establish and maintain a registry that documents the diagnosis of a birth defect in a child under the age of two. As under current law, personally identifying information that is contained in the reports made to DHFS is confidential and, with certain exceptions, may not be released to any person. Finally, the bill creates a council on birth defect prevention and surveillance to advise DHFS regarding the registry and rules related to reporting.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.197 (12) of the statutes is created to read:

2 **15.197 (12) COUNCIL ON BIRTH DEFECT PREVENTION AND SURVEILLANCE.** There is
3 created in the department of health and family services a council on birth defect
4 prevention and surveillance. The council shall consist of the following members:

5 (a) A representative of the University of Wisconsin Medical School who has
6 technical expertise in birth defects epidemiology.

7 (b) A representative from the Medical College of Wisconsin who has technical
8 expertise in birth defects epidemiology.

9 (c) A representative from the subunit of the department that is primarily
10 responsible for the administration of public health health programs.

11 (d) A representative from the subunit of the department that is primarily
12 responsible for the administration of the medical assistance program.

13 (e) A representative from the subunit of the department that is primarily
14 responsible for health care information.

15 (f) A representative of the State Medical Society of Wisconsin.

BILL

1 (g) A representative of the American Academy of Pediatrics — Wisconsin
2 Chapter.

3 (h) A representative of a nonprofit organization that has as its primary purpose
4 the prevention of birth defects.

5 (j) A parent or guardian of a child with a birth defect.

6 **SECTION 2.** 146.82 (1) of the statutes is amended to read:

7 146.82 (1) **CONFIDENTIALITY.** All patient health care records shall remain
8 confidential. Patient health care records may be released only to the persons
9 designated in this section or to other persons with the informed consent of the patient
10 or of a person authorized by the patient. This subsection does not prohibit reports
11 made in compliance with s. 146.995, 253.12 (2) or 979.01 or testimony authorized
12 under s. 905.04 (4) (h).

13 **SECTION 3.** 253.12 of the statutes is repealed and recreated to read:

14 **253.12 Birth defect prevention and surveillance system. (1)**

15 **DEFINITIONS.** In this section:

16 (a) “Birth defect” means any of the following conditions affecting an infant or
17 child that occurs prior to or at birth and that requires medical or surgical
18 intervention or interferes with normal growth and development:

19 1. A structural deformation, disruption or dysplasia.

20 2. A genetic, inherited or biochemical disease.

21 (b) “Pediatric specialty clinic” means a clinic the primary purpose of which is
22 to provide pediatric specialty diagnostic, counseling and medical management
23 services to persons with birth defects by physician subspecialist.

24 (c) “Infant or child” means a human being from birth to the age of 2 years.

25 (d) “Physician” has the meaning given in s. 448.01 (5).

BILL

1 (2) REPORTING. (a) Except as provided in par. (b), all of the following shall report
2 in the manner prescribed by the department under sub. (3) (a) 3. a birth defect in an
3 infant or child:

4 1. A hospital or pediatric specialty clinic in which the birth defect is diagnosed
5 in an infant or child or treatment for the birth defect is provided to the infant or child.

6 2. A physician who diagnoses the birth defect or provides treatment to the
7 infant or child for the birth defect.

8 3. A clinical laboratory that identifies a birth defect in the infant or child as the
9 result of laboratory analysis.

10 (b) No person specified under par. (a) 1. to 3. need report under par. (a) if that
11 person knows that another person specified under par. (a) 1. to 3. has already
12 reported to the department the required information with respect to the same birth
13 defect of the same infant or child.

14 (c) Upon request of the department, a physician, hospital or pediatric specialty
15 clinic shall provide to the department information contained in the medical records
16 of patients who have a confirmed or suspected birth defect diagnosis. The physician,
17 hospital or pediatric specialty clinic shall provide that information within 10
18 working days after the department requests it.

19 (3) DEPARTMENT DUTIES AND POWERS. (a) The department shall do all of the
20 following:

21 1. Establish and maintain an up-to-date registry that documents the
22 diagnosis in this state of any infant or child who has a birth defect, regardless of the
23 residence of the infant or child. The department shall include in the registry
24 information that will facilitate all of the following:

25 a. Identification of risk factors for birth defects.

BILL

1 b. Investigation of the incidence, prevalence and trends of birth defects using
2 epidemiological surveys.

3 c. Development of preventive strategies to decrease the occurrence of birth
4 defects.

5 2. Specify by rule the birth defects the existence of which requires a report
6 under sub. (2) to be submitted to the department.

7 3. Specify by rule the content, format and procedures for submitting a report
8 under sub. (2).

9 (b) The department may monitor the data contained in the reports submitted
10 under sub. (2) to ensure the quality of that data and to make improvements in
11 reporting methods.

12 (4) COUNCIL ON BIRTH DEFECT PREVENTION AND SURVEILLANCE. The council on
13 birth defect prevention and surveillance, created under s. 15.197 (12), shall make
14 recommendations to the department regarding the establishment of a registry that
15 documents the diagnosis and treatment in the state of an infant or child who has a
16 birth defect, as required under sub. (3) (a) 1. and regarding the rules that the
17 department is required to promulgate under sub. (3) (a) 2. and 3.

18 (5) CONFIDENTIALITY. (a) Any information contained in a report made to the
19 department under sub. (2) that may specifically identify the subject of the report is
20 confidential. The department may not release that confidential information except
21 to the following, under the following conditions:

22 1. The parent or guardian of an infant or child for whom a report is made under
23 sub. (2).

24 2. A local health officer, upon receipt of a written request and informed written
25 consent from the parent or guardian of the infant or child. The local health officer

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1 may disclose information received under this subdivision only to the extent
2 necessary to render and coordinate follow-up care for the infant or child or to conduct
3 a health, demographic or epidemiological investigation. The local health officer shall
4 destroy all information received under this subdivision within one year after
5 receiving it.

6 3. A physician, hospital or pediatric specialty clinic reporting under sub. (2),
7 for the purpose of verification of information reported by the physician, hospital or
8 pediatric specialty clinic.

9 4. A representative of a federal or state agency upon written request and to the
10 extent that the information is necessary to perform a legally authorized function of
11 that agency, including investigation of causes, mortality, methods of prevention,
12 treatment or care of birth defects, associated diseases or disabilities. The
13 information may not include the name or address of an infant or child with a
14 condition reported under sub. (2). The department shall notify the parent or
15 guardian of an infant or child about whom information is released under this
16 subdivision, of the release. The representative of the federal or state agency may
17 disclose information received under this paragraph only as necessary to perform the
18 legally authorized function of that agency for which the information was requested.

19 (b) The department may also release confidential information to a person
20 proposing to conduct research if all of the following conditions are met:

21 1. The person proposing to conduct the research applies in writing to the
22 department for approval to perform the research and the department approves the
23 application. The application for approval shall include a written protocol for the
24 proposed research, the person's professional qualifications to perform the proposed
25 research and any other information requested by the department.

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1 2. The research is for the purpose of studying birth defects surveillance and
2 prevention.

3 3. If the research will involve direct contact with a subject of a report made
4 under sub. (2) or with any member of the subject's family, the department determines
5 that the contact is necessary for meeting the research objectives and that the
6 research is in response to a public health need or is for the purpose of or in connection
7 with birth defects surveillance or investigations sponsored and conducted by public
8 health officials. The department must also determine that the research has been
9 approved by a certified institutional review board or a committee for the protection
10 of human subjects in accordance with the regulations for research involving human
11 subjects required by the federal department of health and human services for
12 projects supported by that agency. Contact may only be made in a manner and
13 method approved by the department.

14 4. The person agrees in writing that the information provided will be used only
15 for the research approved by the department.

16 5. The person agrees in writing that the information provided will not be
17 released to any person except other persons involved in the research.

18 6. The person agrees in writing that the final product of the research will not
19 reveal information that may specifically identify the subject of a report made under
20 sub. (2).

21 7. The person agrees in writing to any other conditions imposed by the
22 department.

23

(END)

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 08/04/1999

To: Senator Plache

Relating to LRB drafting number: LRB-3347

Topic

Birth defect prevention surveillance

Subject(s)

Health - public health

1. **JACKET** the draft for introduction Kimberly M. Plache
in the **Senate** ____ or the **Assembly** ____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached _____.
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Tina A. Yacker, Legislative Attorney
Telephone: (608) 261-6927

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3347/2

1999 - 2000 LEGISLATURE

LRB-3384/2
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1999 BILL

Regen

1 AN ACT *to amend* 146.82 (1) and 253.13 (2); *to repeal and recreate* 253.12; and
 2 *to create* 15.197 (12) of the statutes; **relating to:** birth defects prevention
 3 surveillance.

Analysis by the Legislative Reference Bureau

Under current law, the department of health and family services (DHFS) administers the birth and developmental outcome monitoring program, commonly referred to as BDOMP. Under that program, a report must be made to DHFS by a physician who is the first physician to make a diagnosis or confirm a suspected diagnosis that a child under the age of six has a condition resulting from a low birth weight, a chronic condition possibly requiring long-term care, a birth defect or a developmental disability or other severe disability. If no physician has treated the child, a nurse who has visited with the child and who knows or suspects with reasonable medical certainty that the child has such a condition must make the report. DHFS is required to develop and implement a system for the collection, updating and analysis of the information reported and to disseminate the information. DHFS must also publish an annual report and submit the report annually to the chief clerk of each house of the legislature and to counties on the results of the information collected through the reports. DHFS must coordinate data dissemination activities of the department with those of the division for learning support, equity and advocacy in the department of public instruction with respect to the information collected through the reports. Currently, information contained in a report that specifically identifies the subject of the report is confidential and, with certain exceptions, may not be released to any person.

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This bill replaces BDOMP with a program that requires physicians, hospitals, certain clinics and clinical laboratories to report birth defects identified in children under the age of two to DHFS. Under the bill, a birth defect is defined as a structural deformation, or a genetic, inherited or biochemical disease, that occurs prior to or at birth and that requires medical or surgical intervention or interferes with normal growth and development. The bill requires DHFS to establish and maintain a registry that documents the diagnosis of a birth defect in a child under the age of two. As under current law, personally identifying information that is contained in the reports made to DHFS is confidential and, with certain exceptions, may not be released to any person. Finally, the bill creates a council on birth defect prevention and surveillance to advise DHFS regarding the registry and rules related to reporting.

Also under current law, DHFS must contract with the state laboratory of hygiene to perform tests on newborns to identify congenital and metabolic disorders. DHFS must provide necessary diagnostic, special dietary treatment that is prescribed by a physician for a patient with a congenital disorder and follow-up counseling for the patient and his or her family. The state laboratory of hygiene is required to impose a fee on behalf of DHFS that is sufficient to cover the cost of the services provided.

This bill requires DHFS to provide medical services and counseling for individuals and families at risk for preventable congenital disorders.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.197 (12) of the statutes is created to read:

2 **15.197 (12) COUNCIL ON BIRTH DEFECT PREVENTION AND SURVEILLANCE.** There is
3 created in the department of health and family services a council on birth defect
4 prevention and surveillance. The council shall consist of the following members
5 appointed for a 4-year term by the secretary of health and family services:

6 (a) A representative of the University of Wisconsin Medical School who has
7 technical expertise in birth defects epidemiology.

8 (b) A representative from the Medical College of Wisconsin who has technical
9 expertise in birth defects epidemiology.

BILL

1 (c) A representative from the subunit of the department that is primarily
2 responsible for the children with special health needs program.

3 (d) A representative from the subunit of the department that is primarily
4 responsible for early intervention services.

5 (e) A representative from the subunit of the department that is primarily
6 responsible for health statistics research and analysis.

7 (f) A representative of the State Medical Society of Wisconsin.

8 (g) A representative of the Wisconsin Health and Hospital Association.

9 (h) A representative of the American Academy of Pediatrics — Wisconsin
10 Chapter.

11 (i) A representative of the council on developmental disabilities.

12 (j) A representative of a nonprofit organization that has as its primary purpose
13 the prevention of birth defects and does not promote abortion as a method of
14 prevention.

15 (k) A parent or guardian of a child with a birth defect.

16 (L) A representative of a local health department, as defined in s. 250.01 (4),
17 who is not an employe of the department of health and family services.

18 **SECTION 2.** 146.82 (1) of the statutes is amended to read:

19 146.82 (1) **CONFIDENTIALITY.** All patient health care records shall remain
20 confidential. Patient health care records may be released only to the persons
21 designated in this section or to other persons with the informed consent of the patient
22 or of a person authorized by the patient. This subsection does not prohibit reports
23 made in compliance with s. 146.995, 253.12 (2) or 979.01 or testimony authorized
24 under s. 905.04 (4) (h).

25 **SECTION 3.** 253.12 of the statutes is repealed and recreated to read:

BILL**1 253.12 Birth defect prevention and surveillance system. (1)**

2 DEFINITIONS. In this section:

3 (a) "Birth defect" means any of the following conditions affecting an infant or
4 child that occurs prior to or at birth and that requires medical or surgical
5 intervention or interferes with normal growth and development:

6 1. A structural deformation, disruption or dysplasia.

7 2. A genetic, inherited or biochemical disease.

8 (b) "Pediatric specialty clinic" means a clinic the primary purpose of which is
9 to provide pediatric specialty diagnostic, counseling and medical management
10 services to persons with birth defects by physician subspecialist.

11 (c) "Infant or child" means a human being from birth to the age of 2 years.

12 (d) "Physician" has the meaning given in s. 448.01 (5).

13 **(2) REPORTING.** (a) Except as provided in par. (b), all of the following shall report
14 in the manner prescribed by the department under sub. (3) (a) 3. a birth defect in an
15 infant or child:

16 1. A hospital or pediatric specialty clinic in which the birth defect is diagnosed
17 in an infant or child or treatment for the birth defect is provided to the infant or child.

18 2. A physician who diagnoses the birth defect or provides treatment to the
19 infant or child for the birth defect.

20 3. A clinical laboratory that identifies a birth defect in the infant or child as the
21 result of laboratory analysis.

22 (b) No person specified under par. (a) 1. to 3. need report under par. (a) if that
23 person knows that another person specified under par. (a) 1. to 3. has already
24 reported to the department the required information with respect to the same birth
25 defect of the same infant or child.

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1 (c) If the department determines that there is a discrepancy in any data
2 reported under this subsection, the department may request a physician, hospital or
3 pediatric specialty clinic to provide to the department information contained in the
4 medical records of patients who have a confirmed or suspected birth defect diagnosis.
5 The physician, hospital or pediatric specialty clinic shall provide that information
6 within 10 working days after the department requests it.

7 **(3) DEPARTMENT DUTIES AND POWERS.** (a) The department shall do all of the
8 following:

9 1. Establish and maintain an up-to-date registry that documents the
10 diagnosis in this state of any infant or child who has a birth defect, regardless of the
11 residence of the infant or child. The department shall include in the registry
12 information that will facilitate all of the following:

13 a. Identification of risk factors for birth defects.

14 b. Investigation of the incidence, prevalence and trends of birth defects using
15 epidemiological surveys.

16 c. Development of primary preventive strategies to decrease the occurrence of
17 birth defects without increasing abortions.

18 d. Referrals for early intervention or other appropriate services.

19 2. Specify by rule the birth defects the existence of which requires a report
20 under sub. (2) to be submitted to the department.

21 3. Specify by rule the content, format and procedures for submitting a report
22 under sub. (2).

23 4. Notify the persons specified under sub. (2) (a) of their obligation to report.

BILL

1 (b) The department may monitor the data contained in the reports submitted
2 under sub. (2) to ensure the quality of that data and to make improvements in
3 reporting methods.

4 (4) COUNCIL ON BIRTH DEFECT PREVENTION AND SURVEILLANCE. The council on
5 birth defect prevention and surveillance shall meet at least 4 times per year and shall
6 do all of the following:

7 (a) Make recommendations to the department regarding the establishment of
8 a registry that documents the diagnosis and treatment in the state of an infant or
9 child who has a birth defect, as required under sub. (3) (a) 1. and regarding the rules
10 that the department is required to promulgate under sub. (3) (a) 2. and 3.

11 (b) Coordinate with the early intervention interagency coordinating council to
12 facilitate the delivery of early intervention services to children from birth to 3 years
13 with developmental needs.

14 (c) Advise the secretary and make recommendations regarding the registry
15 established under sub. (3) (a) 1.

16 (d) Beginning April 1, 2002, and biennially thereafter, submit to the governor,
17 and to the legislature under s. 13.172 (2) a report that details the effectiveness of the
18 registry established under sub. (3) (a) 1.

19 (5) CONFIDENTIALITY. (a) Any information contained in a report made to the
20 department under sub. (2) that may specifically identify the subject of the report is
21 confidential. The department may not release that confidential information except
22 to the following, under the following conditions:

23 1. The parent or guardian of an infant or child for whom a report is made under
24 sub. (2).

BILL

1 2. A local health officer, a local birth-to-3 coordinator or an agency under
2 contract with the department to administer the children with special health care
3 needs program, upon receipt of a written request and informed written consent from
4 the parent or guardian of the infant or child. The local health officer may disclose
5 information received under this subdivision only to the extent necessary to render
6 and coordinate follow-up care for the infant or child or to conduct a health,
7 demographic or epidemiological investigation. The local health officer shall destroy
8 all information received under this subdivision within one year after receiving it.

9 3. A physician, hospital or pediatric specialty clinic reporting under sub. (2),
10 for the purpose of verification of information reported by the physician, hospital or
11 pediatric specialty clinic.

12 4. A representative of a federal or state agency upon written request and to the
13 extent that the information is necessary to perform a legally authorized function of
14 that agency, including investigation of causes, mortality, methods of prevention and
15 early intervention, treatment or care of birth defects, associated diseases or
16 disabilities. The information may not include the name or address of an infant or
17 child with a condition reported under sub. (2). The department shall notify the
18 parent or guardian of an infant or child about whom information is released under
19 this subdivision, of the release. The representative of the federal or state agency may
20 disclose information received under this paragraph only as necessary to perform the
21 legally authorized function of that agency for which the information was requested.

22 (b) The department may also release confidential information to a person
23 proposing to conduct research if all of the following conditions are met:

24 1. The person proposing to conduct the research applies in writing to the
25 department for approval to perform the research and the department approves the

BILL

1 application. The application for approval shall include a written protocol for the
2 proposed research, the person's professional qualifications to perform the proposed
3 research and any other information requested by the department.

4 2. The research is for the purpose of studying birth defects surveillance and
5 prevention.

6 3. If the research will involve direct contact with a subject of a report made
7 under sub. (2) or with any member of the subject's family, the department determines
8 that the contact is necessary for meeting the research objectives and that the
9 research is in response to a public health need or is for the purpose of or in connection
10 with birth defects surveillance or investigations sponsored and conducted by public
11 health officials. The department must also determine that the research has been
12 approved by a certified institutional review board or a committee for the protection
13 of human subjects in accordance with the regulations for research involving human
14 subjects required by the federal department of health and human services for
15 projects supported by that agency. Contact may only be made in a manner and
16 method approved by the department.

17 4. The person agrees in writing that the information provided will be used only
18 for the research approved by the department.

19 5. The person agrees in writing that the information provided will not be
20 released to any person except other persons involved in the research.

21 6. The person agrees in writing that the final product of the research will not
22 reveal information that may specifically identify the subject of a report made under
23 sub. (2).

24 7. The person agrees in writing to any other conditions imposed by the
25 department.

BILL

1 **(6) INFORMATION NOT ADMISSIBLE.** Information collected under this section is not
2 admissible as evidence during the course of a civil or criminal action or proceeding
3 or an administrative proceeding, except for the purpose of enforcing this section.

4 **SECTION 4.** 253.13 (2) of the statutes is amended to read:

5 253.13 **(2) TESTS; DIAGNOSTIC, ~~DIETARY THERAPY~~ AND ~~FOLLOW-UP~~ COUNSELING**
6 **PROGRAM; FEES.** The department shall contract with the state laboratory of hygiene
7 to perform the tests specified under this section and to furnish materials for use in
8 the tests. The department shall provide necessary diagnostic and medical services,
9 special dietary treatment as prescribed by a physician for a patient with a congenital
10 disorder as identified by tests under sub. (1) or (1m) and ~~follow-up~~ counseling for the
11 patient and his or her family and for individuals and families at risk for preventable
12 congenital disorders. The state laboratory of hygiene board, on behalf of the
13 department, shall impose a fee for tests performed under this section sufficient to pay
14 for services provided under the contract and shall include as part of this fee and pay
15 to the department an amount the department determines is sufficient to fund the
16 provision of diagnostic and counseling services, special dietary treatment and
17 periodic evaluation of infant screening programs under this section.

18 **SECTION 5. Nonstatutory provisions.**

19 **(1) COUNCIL ON BIRTH DEFECT PREVENTION AND SURVEILLANCE.** Notwithstanding
20 section 15.197 (12) of the statutes, as created by this act, the initial terms of 4 of the
21 members appointed under section 15.197 (12) of the statutes, as created by this act,
22 expire on July 1, 2002; the initial terms of 4 of the members appointed under section
23 15.197 (12) of the statutes, as created by this act, expire on July 1, 2004; and the

BILL

1 initial terms of 4 of the members appointed under section 15.197 (12) of the statutes,
2 as created by this act, expire on July 1, 2006.

3 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

3347/2
LRB-18442dn
TAY&JEC:jlgjff

November 2, 1999 3 new date

After consulting with Kevin Lewis of the Department of Health and Family Services, I made the following modifications to the department's requested changes:

1. I did not include in proposed s. 253.12 (3) (a) 1. d. (directing the department to include in its registry any information that would facilitate referrals) any reference to sub. (5) (which relates to confidentiality of patient-identifying information). All of the information included in the registry is subject to the confidentiality provisions. So to the extent that the confidentiality provisions are relevant, the reference is superfluous and would call into question whether other information would also be subject to the confidentiality requirements.

2. In proposed s. 253.12 (5) I refer to an "agency with which the department contracts to administer the children with special health care needs program."

3. I did not include the civil and criminal immunity provision because it was difficult for either Kevin or me to conceive of how liability would attach for the mere reporting of information required to be reported.

In addition, upon a closer reading of the department's request, the intent of proposed s. 253.12 (4) (c) and (d) was unclear. Those paragraphs refer to "findings" under the provision requiring the establishment of a registry, but a registry is not generally established to yield "findings." This particular registry, in fact, is to be established to provide what appears to be general information that could facilitate research. Please review s. 253.12 (4) (c) and (d) to determine if I have captured the department's intent.

Finally, since the terms of the board members are now specified, it is customary to stagger the terms, which is what I have done in this draft. That is done to prevent a periodic complete turnover of a council (or other body), which would hamper a council's ability to accomplish its goals. On the other hand, if the department intends this council to exist only for 4 years, staggered terms are inappropriate and an in-text sunset of the council may be desirable.

Tina A. Yacker
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Proposed s. 253.12 (6), like s. 253.12 (8), stats., refers to "information" collected under s. 253.12. One reading of this language is that once the information is reported,

it can never be used in court, even if a litigant has a source for the information that is independent of (or even entirely unrelated to) the report required under s. 253.12. Is that your intent? Or do you mean to make the fact that a report was made and the report itself inadmissible for purposes of proving the information contained in them?

Jefren E. Olsen
Senior Legislative Attorney
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3347/2dn
TAY&JEO;jlg:km

November 8, 1999

After consulting with Kevin Lewis of the Department of Health and Family Services, I made the following modifications to the department's requested changes:

1. I did not include in proposed s. 253.12 (3) (a) 1. d. (directing the department to include in its registry any information that would facilitate referrals) any reference to sub. (5) (which relates to confidentiality of patient-identifying information). All of the information included in the registry is subject to the confidentiality provisions. So to the extent that the confidentiality provisions are relevant, the reference is superfluous and would call into question whether other information would also be subject to the confidentiality requirements.

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