

SENATE BILL 299 (LRB -2744)

An Act to renumber 48.981 (9); to amend 48.981 (9) (title) and 48.981 (9) (b); to repeal and recreate 48.981 (7) (cr); and to create 48.981 (9) (a) (title) and 48.981 (9) (b) of the statutes; relating to: public disclosure of certain information when child abuse or neglect results in death or serious injury or involves aggravated circumstances or when a child in an out-of-home placement commits suicide or is sexually abused by a caregiver. (FE)

2009

09-21. S. Introduced by committee on **CHILDREN AND FAMILIES AND WORKFORCE DEVELOPMENT.**

09-21. S. Read first time and referred to committee on Children and Families and Workforce Development 313

10-01. S. Fiscal estimate received.

10-01. S. Fiscal estimate received.

10-07. S. Senate amendment 1 offered by Senator Jauch (**LRB a0786**) 349

10-07. S. Senate amendment 2 offered by Senator Jauch (**LRB a0807**) 349

10-07. S. Senate amendment 3 offered by Senator Jauch (**LRB a0818**) 349

10-07. S. Public hearing held.

10-07. S. Executive action taken.

10-08. S. Report adoption of Senate Amendment 1 recommended by committee on Children and Families and Workforce Development, Ayes 5, Noes 0 355

10-08. S. Report adoption of Senate Amendment 2 recommended by committee on Children and Families and Workforce Development, Ayes 5, Noes 0 355

10-08. S. Report adoption of Senate Amendment 3 recommended by committee on Children and Families and Workforce Development, Ayes 5, Noes 0 355

10-08. S. Report passage as amended recommended by committee on Children and Families and Workforce Development, Ayes 5, Noes 0 355

10-08. S. Available for scheduling.

10-13. S. Placed on calendar 10-20-2009 by committee on Senate Organization 358

10-20. S. Senate amendment 4 offered by Senator Jauch (**LRB a0850**).

10-20. S. Read a second time.

10-20. S. Senate amendment 1 **adopted**.

10-20. S. Senate amendment 2 **adopted**.

10-20. S. Senate amendment 3 **adopted**.

10-20. S. Senate amendment 4 **adopted**.

10-20. S. Ordered to a third reading.

10-20. S. Rules suspended.

10-20. S. Read a third time and **passed**.

10-20. S. Ordered immediately ~~messaged~~.

10-20. A. Received from Senate 440

10-20. A. Read.

10-20. A. Rules suspended and taken up 440

10-20. A. Read a second time 440

10-20. A. Ordered to a third reading 440

10-20. A. Rules suspended 440

10-20. A. Read a third time and **concurred in** 440

10-20. A. Ordered immediately ~~messaged~~ 440

10-20. S. Received from Assembly concurred in.

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09en S B-299 ✓

ADOPTED DOCUMENTS:

Orig Engr SubAmdt

09-2744/2 ✓

Amendments to above (if none, write "NONE"): _____

SA1 - a 0786/1 ✓ SA2 - a 0807/2 ✓

SA3 - a 0818/2 ✓ SA4 - a 0850/1 ✓

Corrections - show date (if none, write "NONE"): _____ ✓

CCC in enrolling 10/23/09

Topic Rel

Oct 21, 09

Date

J. Miller

Enrolling Drafter



State of Wisconsin
2009-2010 LEGISLATURE

CORRECTIONS IN:

2009 SENATE BILL 299

Prepared by the Legislative Reference Bureau
(October 23, 2009)

In enrolling, the following correction was made:

Items 9 and 10 of senate amendment 1 were not given effect because they were superseded by item 1 of senate amendment 3.

(END)



2009 SENATE BILL 299

September 21, 2009 – Introduced by COMMITTEE ON CHILDREN AND FAMILIES AND WORKFORCE DEVELOPMENT. Referred to Committee on Children and Families and Workforce Development.

1 AN ACT *to renumber* 48.981 (9); *to amend* 48.981 (9) (title) and 48.981 (9) (b);
2 *to repeal and recreate* 48.981 (7) (cr); and *to create* 48.981 (9) (a) (title) and
3 48.981 (9) (b) of the statutes; **relating to:** public disclosure of certain
4 information when child abuse or neglect results in death or serious injury or
5 involves aggravated circumstances or when a child in an out-of-home
6 placement commits suicide or is sexually abused by a caregiver.

Analysis by the Legislative Reference Bureau

Introduction

Under current federal law, to be eligible for a grant under the Child Abuse Prevention and Treatment Act (commonly referred to as “CAPTA”), a state must have in effect a state plan that includes, among other things, provisions that allow for public disclosure of findings and information about a case of child abuse or neglect that has resulted in a child fatality or near fatality. This bill eliminates the current state law that under certain circumstances *permits* disclosure to the general public of certain information relating to a child who has died or been placed in serious or critical condition as a result of suspected abuse or neglect (child fatality or near fatality) and instead *requires* certain information to be made available to the public:

1. When an incident occurs in which a child has died or been placed in serious or critical condition as a result of suspected abuse or neglect or in which a child who

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has been placed outside the home under an order of the court assigned to exercise jurisdiction under the Children's Code or the Juvenile Justice Code (juvenile court) has committed suicide (incident of death or serious injury).

2. When an incident of suspected abuse or neglect occurs, other than an incident of death or serious injury, that involves significant violence, multiple victims, the use of inappropriate or cruel restraints, exposure of a child to a dangerous situation, or other aggravated circumstances (incident of egregious abuse or neglect).

3. When a child who is placed outside the home is sexually abused by his or her foster or treatment foster parent or the relative in whose home the child is placed, by any other person who resides in the foster or treatment foster home or in the home of the relative, by any relative of the foster or treatment foster parent or relative, or by any employee, contractor, or volunteer of the group home, shelter care facility, or residential care center for children and youth in which the child is placed (sexual abuse by a caregiver).

Current law — disclosure permitted

When disclosure is permitted. Under current law, a county department of human services or social services or, in Milwaukee County, the Department of Children and Families (DCF) or a child welfare agency that is responsible for investigating reports of suspected or threatened child abuse or neglect (agency) is permitted to disclose to the general public a written summary of certain information relating to a child fatality or near fatality if any of the following circumstances apply:

1. A person has been charged with a crime for causing the child fatality or near fatality.

2. A judge, district attorney, law enforcement officer or agency, or any other officer or agency whose duties include the investigation or prosecution of crime has previously disclosed to the public that the suspected abuse or neglect that caused the child fatality or near fatality has been investigated or that child welfare services have been provided to the child or the child's family.

3. A parent, guardian, or legal custodian of the child or the child, if 14 years of age or over, has previously disclosed or authorized the disclosure of the information.

What disclosure is permitted. The information that may be disclosed in cases of a child fatality or near fatality is as follows:

1. A description of any investigation made by the agency in response to the report of the suspected abuse or neglect; a statement of the determination made by the agency as to whether abuse or neglect occurred and the basis for that determination; a statement of whether any services were offered or provided to the child, the child's family, or the person suspected of the abuse or neglect; and a statement of whether any other action was taken by the agency to protect the child who is the subject of the report or any other child residing in the same dwelling as that child.

2. Whether any previous report of suspected or threatened abuse or neglect of the child has been made to the agency and the date of the report; a statement of the determination made by the agency as to whether abuse or neglect occurred and the basis for that determination; a statement of whether any services were offered or

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provided to the child, the child's family, or the person suspected of the abuse or neglect; and a statement of whether any other action was taken by the agency to protect the child who is the subject of the report or any other child residing in the same dwelling as that child.

3. Whether the child or the child's family has received any child welfare services prior to the report of the suspected abuse or neglect that caused the child fatality or near fatality or prior to any previous report of suspected or threatened abuse or neglect.

When disclosure is not permitted. An agency may not disclose such information if any of the following circumstances apply:

1. The agency determines that disclosure of the information would be contrary to the best interests of the child, the child's siblings, or any other child residing in the same dwelling as the child or that disclosure of the information is likely to cause mental, emotional, or physical harm or danger to and of those person or any other person.

2. The district attorney determines that disclosure of the information would jeopardize any ongoing or future criminal investigation or prosecution or would jeopardize a defendant's right to a fair trial.

3. The agency determines that disclosure of the information would jeopardize any ongoing or future civil investigation or proceeding or would jeopardize the fairness of the proceeding.

4. Disclosure of the information is not authorized by state law or rule or federal law or regulation.

5. The investigation of the abuse or neglect report has not been completed.

6. Disclosure of the information would reveal the identity of the child, the child's siblings, the child's parents, guardian, or legal custodian, or any other person residing in the same dwelling as the child.

7. Disclosure of the information would reveal the identity of the person who reported the suspected abuse or neglect that caused the child fatality or near fatality or any other person who provides information relating to that suspected abuse or neglect.

The bill — disclosure required

Incidents of death or serious injury or egregious abuse or neglect. This bill eliminates current law relating to disclosure to the general public of information about a child fatality or near fatality. Instead, the bill requires an agency that has reason to suspect that an incident of death or serious injury or an incident of egregious abuse or neglect has occurred to provide to the subunit of DCF responsible for statewide oversight of child abuse and neglect programs, within two working days after determining that such an incident is suspected to have occurred, the age of the child; the date of the incident; the suspected cause of the death, serious injury, or egregious abuse or neglect; a brief history of the child welfare services offered or provided to the child, members of the child's family, and the person suspected of the abuse or neglect; a statement of whether the child was residing in his or her home or was placed outside the home when the incident occurred; and the identity of any law enforcement agency that referred the report of the incident to the agency and of

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any law enforcement agency, district attorney, or other officer or agency to which the agency referred the report of the incident.

The subunit of DCF then is required to disclose to the public, within two working days after receiving that information, the fact that the subunit has received the information; whether DCF is conducting a review of the incident and, if so, the scope of the review and the identities of any other agencies with which DCF is cooperating at that point in conducting the review; whether the child was residing in the home or was placed in an out-of-home placement at the time of the incident; and information about the child, including the age of the child. If the information received is about an incident of egregious abuse or neglect, the subunit of DCF must also make the same disclosure to a citizen review panel and, in Milwaukee County, to the Milwaukee child welfare partnership council.

Within 90 days after receiving the information, the subunit of DCF must prepare and make available to the public a summary report about the incident. That subunit may also include in the summary report a summary of any changes in policies or practices that have been made to address any issues raised in the review and recommendations for any further changes in policies, practices, rules, or statutes that may be needed to address those issues. If the subunit does not include those changes and recommended changes in the summary report, the subunit must prepare and make available to the public a report of those changes and recommended changes within six months after receiving the information.

Those public disclosure and summary report requirements do not preclude the subunit of DCF from releasing to the public any of the information required to be provided in a summary report (required information) before the summary report is made available to the public, adding to or amending a summary report if new required information is received after the summary report is made available to the public, or releasing to the public any information at any time to correct any inaccurate information reported in the news media.

If the child was residing in his or her home when the incident of death or serious injury or the incident of egregious abuse or neglect occurred, the summary report must contain all of the following:

1. Information about the child, including the age, gender, and race or ethnicity of the child, a description of the child's family, and, if relevant to the incident, a description of any special needs of the child.

2. A statement of whether any child welfare services were being provided to the child, any member of the child's family, or the person suspected of the abuse or neglect, or whether any of those persons was the subject of a referral to the agency for services, at the time of the incident and, if so, the date of the last contact between the agency providing those services and the person receiving those services.

3. A summary of all involvement of the child's parents and of the person suspected of the abuse or neglect in receiving child welfare services in the five years preceding the date of the incident.

4. A summary of any actions taken by the agency with respect to the child, any member of the child's family, and the person suspected of the abuse or neglect, including any referrals by the agency of any of those persons for services.

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5. The date of the incident and the suspected cause of the death, serious injury, or egregious abuse or neglect as reported by the agency.

6. The findings on which the agency bases its reasonable suspicion that an incident of death or serious injury or an incident of egregious abuse or neglect has occurred, including any material circumstances leading to the death, serious injury, or egregious abuse or neglect of the child.

7. A summary of any services that have been provided to the child and the child's family since the date of the incident.

If the child was placed in an out-of-home placement at the time of the incident of death or serious injury or incident of egregious abuse or neglect, the summary report must contain all of the following:

1. Information about the child, including the age, gender, and race or ethnicity of the child and, if relevant to the incident, a description of any special needs of the child.

2. A description of the out-of-home placement, including the basis for the decision to place the child in that placement.

3. A description of all other persons residing in the out-of-home placement.

4. The licensing history of the out-of-home placement, including the type of license held by the operator of the placement, the period for which the placement has been licensed, and a summary of all violations by the licensee of any provisions of licensure or rules promulgated by DCF and of any other actions by the licensee or an employee of the licensee that constitute a substantial failure to protect and promote the health, safety, and welfare of a child.

5. The date of the incident and the suspected cause of the death, serious injury, or egregious abuse or neglect, as reported by the agency.

6. The findings on which the agency bases its reasonable suspicion that an incident of death or serious injury or an incident of egregious abuse or neglect has occurred, including any material circumstances leading to the death, serious injury, or egregious abuse or neglect of the child.

Incidents of sexual abuse by a caregiver. Current law requires DCF to submit an annual report to the governor and the legislature on the status of the child abuse and neglect programs administered by DCF. The report must include a full statistical analysis of the child abuse and neglect reports made through the last calendar year, an evaluation of the child abuse and neglect services offered by DCF and their effectiveness, and recommendations for additional legislation and other actions to fulfill the purposes of the child abuse and neglect reporting law.

This bill requires DCF, within 30 days after the end of each calendar quarter, to prepare and transmit to the governor, and to the appropriate standing committee of the legislature, a summary report of all reports received by DCF during the previous calendar quarter of incidents of sexual abuse by a caregiver. DCF must provide for each report included in the summary report the number of incidents of abuse reported; the dates of those incidents; the county in which those incidents occurred; the age or age group of the child who is the subject of the report; the type of placement in which the child was placed at the time of the incident; whether it was determined under the child abuse reporting law that abuse occurred; and whether

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the abuse resulted in injury, disease, or pregnancy. Those standing committees must review all summary reports transmitted to those committees, conduct public hearings on those summary reports no less often than annually, and submit recommendations to DCF regarding those summary reports. DCF must also make those summary reports available to the public.

What disclosure is prohibited. A summary report of an incident of death or serious injury or an incident of egregious abuse or neglect, any other release of information concerning such an incident, and a quarterly report of incidents of sexual abuse by a caregiver may not include any of the following:

1. Any information that would reveal the identity of the child who is the subject of the summary report or incident reported in the quarterly report; any member of the child's family; any member of the child's household who is a child; or any caregiver of the child.

2. Any information that would reveal the identity of the person suspected of the abuse or neglect or any employee of any agency that provided child welfare services to the child or that participated in the investigation of the incident.

3. Any information that would reveal the identity of the reporter of the incident or of any other person who provides information relating to the incident.

4. Any information the disclosure of which would not be in the best interests of the child who is the subject of the summary report or quarterly report, any member of the child's family, any member of the child's household who is a child, or any caregiver of the child, as determined by the subunit of DCF that received the information, after consultation with the agency that reported the incident of death or serious injury or the incident of egregious abuse or neglect, the district attorney of the county in which the incident occurred, or the juvenile court of that county, and after balancing the interest of the child, family or household member, or caregiver in avoiding the stigma that might result from disclosure against the interest of the public in obtaining that information.

5. Any information the disclosure of which is not authorized by state law or rule or federal law or regulation.

When disclosure is prohibited. Finally, under the bill, the subunit of DCF that prepares a summary report of an incident of death or serious injury or an incident of egregious abuse or neglect, that otherwise releases or discloses information concerning such an incident, or that prepares a quarterly report of incidents of sexual abuse by a caregiver may not make the summary report available or release or disclose the information to the public or include any information about an incident of sexual abuse by a caregiver in the quarterly report if the subunit determines that making the summary report available, releasing or disclosing the information, or including the information in the quarterly report would jeopardize: 1) any ongoing or future criminal investigation or prosecution or a defendant's right to a fair trial; or 2) any ongoing or future civil investigation or proceeding or the fairness of such a proceeding.

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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.** 48.981 (7) (cr) of the statutes is repealed and recreated to read:

2 48.981 (7) (cr) 1. In this paragraph:

3 a. “Incident of death or serious injury” means an incident in which a child has
4 died or been placed in serious or critical condition, as determined by a physician, as
5 a result of any suspected abuse or neglect that has been reported under this section
6 or in which a child who has been placed outside the home by a court order under this
7 chapter or ch. 938 is suspected to have committed suicide.

8 b. “Incident of egregious abuse or neglect” means an incident of suspected
9 abuse or neglect that has been reported under this section, other than an incident
10 of death or serious injury, involving significant violence, torture, multiple victims,
11 the use of inappropriate or cruel restraints, exposure of a child to a dangerous
12 situation, or other similar, aggravated circumstances.

13 2. Notwithstanding par. (a), if an agency that receives a report under sub. (3)
14 has reason to suspect that an incident of death or serious injury or an incident of
15 egregious abuse or neglect has occurred, within 2 working days after determining
16 that such an incident is suspected to have occurred the agency shall provide all of the
17 following information to the subunit of the department responsible for statewide
18 oversight of child abuse and neglect programs:

19 a. The name of the agency and the name of a contact person at the agency.

20 b. Information about the child, including the age of the child.

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SECTION 1

1 c. The date of the incident and the suspected cause of the death, serious injury,
2 or egregious abuse or neglect of the child.

3 d. A brief history of the services under this chapter offered or provided to the
4 child, members of the child's family, and the person suspected of the abuse or neglect.

INS.
SA4-1 ✓

5 e. A statement of whether the child was residing in his or her home or was
6 placed outside the home when the incident occurred.

7 f. The identity of any law enforcement agency that referred the report of the
8 incident and of any law enforcement agency, district attorney, or other officer or
9 agency to which the report of the incident was referred.

10 3. a. Within 2 working days after receiving the information provided under
11 subd. 2., the subunit of the department that received the information shall disclose
12 to the public the fact that the subunit has received the information; whether the
13 department is conducting a review of the incident and, if so, the scope of the review
14 and the identities of any other agencies with which the department is cooperating
15 at that point in conducting the review; whether the child was residing in the home
16 or was placed in an out-of-home placement at the time of the incident; and
17 information about the child, including the age of the child. If the information
18 received is about an incident of egregious abuse or neglect, the subunit of the
19 department shall make the same disclosure to a citizen review panel, as described
20 in par. (a) 15g., and, in a county having a population of 500,000 or more, to the
21 Milwaukee child welfare partnership council.

22 b. Within 90 days after receiving the information provided under subd. 2., the
23 subunit of the department that received the information shall ~~prepare~~ and make
24 available to the public a summary report that contains the information specified in
25 subd. 4. or 5., whichever is applicable. That subunit may also include in the summary

INS. SA1-1 ✓

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INSERT SA2-1 ✓

1 report a summary of any changes in policies or practices that have been made to
 2 address any issues raised in the review and recommendations for any further
 3 changes in policies, practices, rules, or statutes that may be needed to address those
 4 issues. If the subunit does not include those changes and recommended changes in
 5 the summary report, the subunit shall prepare and make available to the public a
 6 report of those changes and recommended changes within 6 months after receiving
 7 the information provided under subd. 2.

INS. SA2-2 ✓

INS. SA1-2 ✓

INS SA2-3 ✓

INS. SA1-3 ✓

c. Subdivision 3. a. and b. does not preclude the subunit of the department that

9 prepares the summary report from releasing to the public any of the information
 10 specified in subd. 4. or 5. before the summary report is made available to the public,
 11 adding to or amending a summary report if new information specified in subd. 4. or
 12 5. is received after the summary report is made available to the public, or releasing
 13 to the public any information at any time to correct any inaccurate information
 14 reported in the news media.

INS. SA1-4 ✓

4. If the child was residing in his or her home when the incident of death or serious injury or the incident of egregious abuse or neglect occurred, the summary report under subd. 3. shall contain all of the following:

a. Information about the child, including the age, gender, and race or ethnicity of the child, a description of the child's family, and, if relevant to the incident, a description of any special needs of the child.

INS. SA2-4 ✓

21 b. A statement of whether any services under this chapter were being provided
 22 to the child, any member of the child's family, or the person suspected of the abuse
 23 or neglect, or whether any of those persons was the subject of a referral to the agency
 24 for services, at the time of the incident and, if so, the date of the last contact between
 25 the agency providing those services and the person receiving those services.

INS. SA4-2 ✓

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SECTION 1

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c. A summary of all involvement of the child's parents and of the person suspected of the abuse or neglect in receiving services under this chapter in the 5 years preceding the date of the incident.

INS. SA4-3 ✓

INSERT SA2-5 ✓

d. A summary of any actions taken by the agency with respect to the child, any member of the child's family, and the person suspected of the abuse or neglect, including any referrals by the agency of any of those persons for services.

INS. SA4-4 ✓

e. The date of the incident and the suspected cause of the death, serious injury, or egregious abuse or neglect of the child, as reported by the agency under subd. 2.

f. The findings on which the agency bases its reasonable suspicion that an incident of death or serious injury or an incident of egregious abuse or neglect has occurred, including any material circumstances leading to the death, serious injury, or egregious abuse or neglect of the child.

INSERT SA4-5 ✓

g. A summary of any services that have been provided to the child and the child's family since the date of the incident.

INSERT SA2-6 ✓

5. If the child was placed in an out-of-home placement at the time of the incident of death or serious injury or incident of egregious abuse or neglect, the summary report under subd. 3. shall contain all of the following:

a. Information about the child, including the age, gender, and race or ethnicity of the child and, if relevant to the incident, a description of any special needs of the child.

b. A description of the out-of-home placement, including the basis for the decision to place the child in that placement.

c. A description of all other persons residing in the out-of-home placement.

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1 d. The licensing history of the out-of-home placement, including the type of
2 license held by the operator of the placement, the period for which the placement has
3 been licensed, and a summary of all violations by the licensee of any provisions of
4 licensure under s. 48.70 (1) or rules promulgated by the department under s. 48.67
5 and of any other actions by the licensee or an employee of the licensee that constitute
6 a substantial failure to protect and promote the health, safety, and welfare of a child.

7 e. The date of the incident and the suspected cause of the death, serious injury,
8 or egregious abuse or neglect of the child, as reported by the agency under subd. 2.

9 c.

10 f. The findings on which the agency bases its reasonable suspicion that an
11 incident of death or serious injury or an incident of egregious abuse or neglect has
12 occurred, including any material circumstances leading to the death, serious injury,
13 or egregious abuse or neglect of the child.

14 6. A summary report or other release or disclosure of information under subd.
15 3. may not include any of the following:

16 a. Any information that would reveal the identity of the child who is the subject
17 of the summary report, any member of the child's family, any member of the child's
18 household who is a child, or any caregiver of the child.

19 b. Any information that would reveal the identity of the person suspected of the
20 abuse or neglect or any employee of any agency that provided services under this
21 chapter to the child or that participated in the investigation of the incident of death
22 or serious injury or the incident of egregious abuse or neglect.

23 c. Any information that would reveal the identity of a reporter or of any other
24 person who provides information relating to the incident of death or serious injury
25 or the incident of egregious abuse or neglect.

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1 d. Any information the disclosure of which would not be in the best interests
 2 of the child who is the subject of the summary report, any member of the child's
 3 family, any member of the child's household who is a child, or any caregiver of the
 4 child, as determined by the subunit of the department that received the information,
 5 after consultation with the agency that reported the incident of death or serious
 6 injury or the incident of egregious abuse or neglect, the district attorney of the county
 7 in which the incident occurred, or the court of that county, and after balancing the
 8 interest of the child, family or household member, or caregiver in avoiding the stigma
 9 that might result from disclosure against the interest of the public in obtaining that
 10 information.

11 e. Any information the disclosure of which is not authorized by state law or rule
 12 or federal law or regulation.

13 7. The subunit of the department that prepares a summary report or otherwise

14 ~~releases or discloses information under subd. 3. may not make the summary report~~
 15 ~~available or release or disclose the information to the public if the subunit~~
 16 ~~determines that making the summary report available or releasing or disclosing the~~
 17 ~~information to the public would jeopardize any of the following:~~

INS. SAI-5 ✓

18 a. Any ongoing or future criminal investigation or prosecution or a defendant's
 19 right to a fair trial.

20 b. Any ongoing or future civil investigation or proceeding or the fairness of such
 21 a proceeding.

INSERT SAI-6 ✓

22 8. If the department fails to disclose to the public any information that the
 23 department is required to disclose under this paragraph, any person may request the
 24 department to disclose that information. If the person's request is denied, the person
 25 may petition the court to order the disclosure of that information. On receiving a

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1 petition under this subdivision, the court shall notify the department, the agency, the
2 district attorney, the child, and the child's parent, guardian, or legal custodian of the
3 petition. If any person notified objects to the disclosure, the court may hold a hearing
4 to take evidence and hear argument relating to the disclosure of the information.
5 The court shall make an in camera inspection of the information sought to be
6 disclosed and shall order disclosure of the information, unless the court finds that
7 any of the circumstances specified in subd. 6. or 7. apply.

8 9. Any person acting in good faith in providing information under subd. 2., in
9 preparing, transmitting, or making available a summary report under subd. 3., or
10 in otherwise ~~releasing~~ ^{INS. SA 1-7 ✓} or disclosing information under subd. 3. is immune from any
11 liability, civil or criminal, that may result by reason of those actions. For purposes
12 of any proceeding, civil or criminal, the good faith of a person in providing
13 information under subd. 2., in preparing, transmitting, or making available a
14 summary report under subd. 3., or in otherwise ~~releasing~~ ^{INS. SA 1-8 ✓} or disclosing information
15 under subd. 3. shall be presumed.

16 SECTION 2. 48.981 (9) (title) of the statutes is amended to read:

17 48.981 (9) (title) ANNUAL AND QUARTERLY REPORTS.

18 SECTION 3. 48.981 (9) of the statutes is renumbered 48.981 (9) (a).

19 SECTION 4. 48.981 (9) (a) (title) of the statutes is created to read:

20 48.981 (9) (a) (title) *Annual reports.*

21 SECTION 5. 48.981 (9) (b) of the statutes is created to read:

22 48.981 (9) (b) *Quarterly reports.* Within 30 days after the end of each calendar
23 quarter, the department shall prepare and transmit to the governor, and to the
24 appropriate standing committees of the legislature under s. 13.172 (3), a summary
25 report of all reports received by the department under sub. (3) (c) 8. during the

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SECTION 5

1 previous calendar quarter of abuse, as defined in s. 48.02 (1) (b) to (f), of a child who
 2 is placed in the home of a foster parent, treatment foster parent, or relative other
 3 than a parent or in a group home, shelter care facility, or residential care center for
 4 children and youth by that foster parent, treatment foster parent, or relative, by any
 5 other person who resides in the home of the foster parent, treatment foster parent,
 6 ~~or relative~~ by any relative of the foster parent, treatment foster parent, or relative,
 7 or by any employee, contractor, or volunteer of the group home, shelter care facility,
 8 or residential care center for children and youth. The department shall provide for
 9 each report included in the summary report the number of incidents of abuse
 10 reported; the dates of those incidents; the county in which those incidents occurred;
 11 the age or age group of the child who is the subject of the report; the type of placement
 12 in which the child was placed at the time of the incident; whether it was determined
 13 under sub. (3) (c) 4. that abuse occurred, and whether the abuse resulted in injury,
 14 disease, or pregnancy, but may not provide any of the information specified in sub.
 15 (7) (cr) 6. or any information that would jeopardize an investigation, prosecution, or
 16 proceeding described in sub. (7) (cr) 7. a. or b. Those committees shall review all
 17 summary reports transmitted under this paragraph, conduct public hearings on
 18 those summary reports no less often than annually, and submit recommendations to
 19 the department regarding those summary reports. The department shall also make
 20 those summary reports available to the public.

21 SECTION 6. 48.981 (9) (b) of the statutes, as created by 2009 Wisconsin Act
 22 (this act), is amended to read:

23 48.981 (9) (b) *Quarterly reports.* Within 30 days after the end of each calendar
 24 quarter, the department shall prepare and transmit to the governor, and to the
 25 appropriate standing committees of the legislature under s. 13.172 (3), a summary

★ SAI-9 NOT GIVEN EFFECT ✓

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1 report of all reports received by the department under sub. (3) (c) 8. during the
 2 previous calendar quarter of abuse, as defined in s. 48.02 (1) (b) to (f), of a child who
 3 is placed in the home of a foster parent, ~~treatment foster parent~~, or relative other
 4 than a parent or in a group home, shelter care facility, or residential care center for
 5 children and youth by that foster parent, ~~treatment foster parent~~, or relative, by any
 6 other person who resides in the home of the foster parent, ~~treatment foster parent~~,
 7 or ~~by~~ any relative of the foster parent, ~~treatment foster parent~~, or relative,
 8 or by any employee, contractor, or volunteer of the group home, shelter care facility,
 9 or residential care center for children and youth. The department shall provide for
 10 each report included in the summary report the number of incidents of abuse
 11 reported; the dates of those incidents; the county in which those incidents occurred;
 12 the age or age group of the child who is the subject of the report; the type of placement
 13 in which the child was placed at the time of the incident; whether it was determined
 14 under sub. (3) (c) 4. that abuse occurred; and whether the abuse resulted in injury,
 15 disease, or pregnancy, but may not provide any of the information specified in sub.
 16 (7) (cr) 6. or any information that would jeopardize an investigation, prosecution, or
 17 proceeding described in sub. (7) (cr) 7. a. or b. Those committees shall review all
 18 summary reports transmitted under this paragraph, conduct public hearings on
 19 those summary reports no less often than annually, and submit recommendations to
 20 the department regarding those summary reports. The department shall also make
 21 those summary reports available to the public.

★ INS SAI-10 ✓
 (7) ~~by~~

INS SA 3-1 ✓

22 **SECTION 7. Initial applicability.**

23 (1) INCIDENT REPORTING. This act first applies to an incident of death or serious
 24 injury, as defined in section 48.981 (7) (cr) 1. a. of the statutes, or an incident of

★ SAI-10 NOT GIVEN EFFECT ✓

SENATE BILL 299

1 egregious abuse or neglect, as defined in section 48.981 (7) (cr) 1. b. of the statutes,
2 that occurs on the effective date of this subsection.

3 **SECTION 8. Effective dates.** This act takes effect on the first day of the 3rd
4 month beginning after publication, except as follows:

5 (1) TREATMENT FOSTER HOMES. The amendment of section 48.981 (9) (b) of the
6 statutes takes effect on the date stated in the notice provided by the secretary of
7 children and families and published in the Wisconsin Administrative Register under
8 section 48.62 (9) of the statutes, or on the first day of the 3rd month beginning after
9 publication, whichever is later.

INS. SA3-2 ✓

10 (END)



**SENATE AMENDMENT 1,
TO 2009 SENATE BILL 299**

October 7, 2009 – Offered by Senator JAUCH.

1 At the locations indicated, amend the bill as follows:

2 ✓ **1.** Page 8, line 23: delete “prepare” and substitute “prepare, transmit to the
3 governor and to the appropriate standing committees of the legislature under s.
4 13.172 (3)”. SAI-1 ✓

5 ✓ **2.** Page 9, line 5: delete “prepare” and substitute “prepare, transmit to the
6 governor and to the appropriate standing committees of the legislature under s.
7 13.172 (3)”. SAI-2 ✓

8 ✓ **3.** Page 9, line 7: after “2.” insert “Those committees shall review all summary
9 reports and reports of changes and recommended changes transmitted under this
10 subd. 3. b., conduct public hearings on those reports no less often than annually, and
11 submit recommendations to the department regarding those reports.” SAI-3 ✓

12 ✓ **4.** Page 9, line 9: delete lines 9 to 14 and substitute “prepares the summary
13 report from releasing to the governor, to the appropriate standing committees of the

1 legislature under s. 13.172 (3), or to the public any of the information specified in
 2 subd. 4. or 5. before the summary report is transmitted to the governor and to those
 3 committees and made available to the public; adding to or amending a summary
 4 report if new information specified in subd. 4. or 5. is received after the summary
 5 report is transmitted to the governor and to those committees and made available
 6 to the public; or releasing to the governor, to those committees, and to the public any
 7 information at any time to correct any inaccurate information reported in the news
 8 media.”.

SAI-5

9 ✓ **5.** Page 12, line 14: delete lines 14 to 17 and substitute “transmits, releases,
 10 or discloses information under subd. 3. may not transmit the summary report to the
 11 governor and to the appropriate standing committees of the legislature under s.
 12 13.172 (3), make the summary report available to the public, or transmit, release, or
 13 disclose the information to the governor, to those standing committees, or to the
 14 public if the subunit determines that transmitting or making the summary report
 15 available or transmitting, releasing, or disclosing the information would jeopardize
 16 any of the following.”.

SAI-6

17 ✓ **6.** Page 12, line 22: after “disclose” insert “to the governor, to the appropriate
 18 standing committees of the legislature under s. 13.172 (3), or”.

SAI-7

19 ✓ **7.** Page 13, line 10: delete “releasing” and substitute “transmitting,
 20 releasing”.

SAI-8

21 ✓ **8.** Page 13, line 14: delete “releasing” and substitute “transmitting,
 22 releasing”.

SAI-9

23 ☆ ✓ **9.** Page 14, line 6: delete “relative by” and substitute “relative, by any
 24 employee or contractor of the agency supervising the child’s placement, by”.

SAI-10

1
2
3

✓
★ **10.** Page 15, line 7: delete "relative, by" and substitute "relative, by any employee or contractor of the agency supervising the child's placement, by".

(END)

SAI-9 }
SAI-10 } NOLLIFIED
BY SA 3-1 ✓



**SENATE AMENDMENT 2,
TO 2009 SENATE BILL 299**

October 7, 2009 – Offered by Senator JAUCH.

1 At the locations indicated, amend the bill as follows:

✓
SA2-1

2 ✓ 1. Page 9, line 1: after “summary” insert “of any actions taken by the agency
3 in response to the incident and”.

4 ✓ 2. Page 9, line 4: after “those” insert “actions or”.

SA2-2 ✓

5 ✓ 3. Page 9, line 6: after “those” insert “actions or”.

SA2-3 ✓

6 ✓ 4. Page 9, line 21: after “chapter” insert “or ch. 938”.

SA2-4 ✓

7 ✓ 5. Page 10, line 2: after “chapter” insert “or ch. 938”.

SA2-5 ✓

SA2-6 ✓

8 ✓ 6. Page 10, line 16: after “placement” insert “under this chapter or ch. 938”.

9

(END)



**SENATE AMENDMENT 3,
TO 2009 SENATE BILL 299**

October 7, 2009 - Offered by Senator JAUCH.

1 At the locations indicated, amend the bill as follows:

2 ✓ **1.** Page 13, line 21: delete the material beginning with that line and ending ✓
3 with page 15, line 21, and substitute:

SA3-1

4 **SECTION 5d.** 48.981 (9) (b) of the statutes is created to read:

5 48.981 (9) (b) *Quarterly reports.* 1. Within 30 days after the end of each
6 calendar quarter, the department shall prepare and transmit to the governor, and to
7 the appropriate standing committees of the legislature under s. 13.172 (3), a
8 summary report of all reports received by the department under sub. (3) (c) 8. during
9 the previous calendar quarter of abuse, as defined in s. 48.02 (1) (b) to (f), of a child
10 who is placed in the home of a foster parent, treatment foster parent, or relative other
11 than a parent or in a group home, shelter care facility, or residential care center for
12 children and youth. For each report included in the summary report the department
13 shall provide the number of incidents of abuse reported; the dates of those incidents;

1 the county in which those incidents occurred; the age or age group of the child who
2 is the subject of the report; the type of placement in which the child was placed at the
3 time of the incident; whether it was determined under sub. (3) (c) 4. that abuse
4 occurred; and, if so, the nature of the relationship between the child and the person
5 who abused the child, but may not provide any of the information specified in sub.
6 (7) (cr) 6. or any information that would jeopardize an investigation, prosecution, or
7 proceeding described in sub. (7) (cr) 7. a. or b.

8 2. In every 4th summary report prepared and transmitted under subd. 1., the
9 department shall provide for all reports of abuse, as defined in s. 48.02 (1) (b) to (f),
10 of a child who is placed as described in subd. 1. received by the department under sub.
11 (3) (c) 8. during the previous year information indicating whether the abuse resulted
12 in any injury, disease, or pregnancy that is known to be directly caused by the abuse,
13 but may not provide any of the information specified in sub. (7) (cr) 6. or any
14 information that would jeopardize an investigation, prosecution, or proceeding
15 described in sub. (7) (cr) 7. a. or b. A county department reporting under sub. (3) (c)
16 8. shall make an active effort to obtain that information and report the information
17 to the department under sub. (3) (c) 8.

18 3. The appropriate standing committees of the legislature shall review all
19 summary reports transmitted under subd. 1., conduct public hearings on those
20 summary reports no less often than annually, and submit recommendations to the
21 department regarding those summary reports. The department shall also make
22 those summary reports available to the public.

23 **SECTION 6d.** 48.981 (9) (b) 1. of the statutes, as created by 2009 Wisconsin Act
24 (this act), is amended to read:

1 48.981 (9) (b) 1. Within 30 days after the end of each calendar quarter, the
 2 department shall prepare and transmit to the governor, and to the appropriate
 3 standing committees of the legislature under s. 13.172 (3), a summary report of all
 4 reports received by the department under sub. (3) (c) 8. during the previous calendar
 5 quarter of abuse, as defined in s. 48.02 (1) (b) to (f), of a child who is placed in the home
 6 of a foster parent, ~~treatment foster parent~~, or relative other than a parent or in a
 7 group home, shelter care facility, or residential care center for children and youth.
 8 For each report included in the summary report the department shall provide the
 9 number of incidents of abuse reported; the dates of those incidents; the county in
 10 which those incidents occurred; the age or age group of the child who is the subject
 11 of the report; the type of placement in which the child was placed at the time of the
 12 incident; whether it was determined under sub. (3) (c) 4. that abuse occurred; and,
 13 if so, the nature of the relationship between the child and the person who abused the
 14 child, but may not provide any of the information specified in sub. (7) (cr) 6. or any
 15 information that would jeopardize an investigation, prosecution, or proceeding
 16 described in sub. (7) (cr) 7. a. or b.).

17 ✓ **2.** Page 16, line 5: after "(b)" insert "1.".

18 (END)

SA 3-2 ✓



**SENATE AMENDMENT 4,
TO 2009 SENATE BILL 299**

October 20, 2009 - Offered by Senator JAUCH.

SA4-1 ✓

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page 8, line 3: delete the material beginning with "the services" and ending
3 with "neglect." on line 4 and substitute "any reports under sub. (3) received in which
4 the child, a member of the child's family, or the person suspected of the abuse or
5 neglect was the subject and of any services under this chapter offered or provided to
6 any of those persons".

SA4-2 ✓

7 ✓ 2. Page 9, line 23: after "subject" insert "of a report being investigated under
8 sub. (3) or".

SA4-3 ✓

9 ✓ 3. Page 10, line 2: after "neglect" insert "in any incident reported under sub.
10 (3) or".

11 ✓ 4. Page 10, line 6: after "including" insert "any investigation by the agency
12 under sub. (3) of a report in which any of those persons was the subject and".

SA4-4 ✓

SA4-5 ✓

1 ✓ **5.** Page 10, line 14: after “summary” insert “of any investigation that has been
2 conducted under sub. (3) of a report in which the child, any member of the child’s
3 family, or the person suspected of the abuse or neglect was the subject and”.

4 (END)

LRB-2744/2
GMMCCC
to
SB 299

④ In enrolling, the following correction
was made:

④ Items 9 and 10 of ~~Senate Amendment 1~~
were not given effect because they were
superseded by item 1 of ~~Senate~~
~~amendment 3.~~

(END)

cjs



State of Wisconsin
2009-2010 LEGISLATURE

CORRECTIONS IN:

2009 SENATE BILL 299

Prepared by the Legislative Reference Bureau
(October 23, 2009)

In enrolling, the following correction was made:

Items 9 and 10 of senate amendment 1 were not given effect because they were superseded by item 1 of senate amendment 3.

(END)