

**2013 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB465)**

Received: 2/6/2014 Received By: tdodge  
Wanted: As time permits Same as LRB:  
For: Samantha Kerkman (608) 266-2530 By/Representing: Tami Rongstad  
May Contact: Drafter: tdodge  
Subject: Criminal Law - crimes agnst kids Addl. Drafters: phurley  
Health - abortion/maternal/child  
Extra Copies:

Submit via email: YES  
Requester's email: Rep.Kerkman@legis.wisconsin.gov  
Carbon copy (CC) to: tamara.dodge@legis.wisconsin.gov

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**Pre Topic:**

No specific pre topic given

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**Topic:**

intoxicated cosleeping; information about safe sleeping; changing timing of information provided to parents

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tdodge 2/7/2014	evinz 2/10/2014		_____			
/1			rschluet 2/10/2014	_____	lparisi 2/10/2014	lparisi 2/10/2014	

FE Sent For:

<END>

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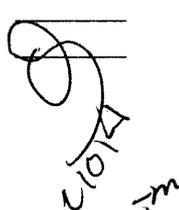
Topic:

intoxicated cosleeping; information about safe sleeping; changing timing of information provided to parents ✓

Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
1?	tdodge	1 eev 2/10/14	1 eev 2/10/14				
<END>							

FE Sent For:

## **Dodge, Tamara**

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**From:** Rongstad, Tami  
**Sent:** Monday, February 10, 2014 9:21 AM  
**To:** Dodge, Tamara  
**Subject:** RE: Sub for AB 465

**Importance:** High

Yes; thank you.

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**From:** Dodge, Tamara  
**Sent:** Friday, February 07, 2014 10:09 AM  
**To:** Rongstad, Tami  
**Subject:** RE: Sub for AB 465

Tami,

Do you want the materials for schools on page 5 (around line 19) to be the same as the information now provided to parents (safe sleep)?

Tami

### **Tamara J. Dodge**

Attorney  
Wisconsin Legislative Reference Bureau  
P.O. Box 2037  
Madison, WI 53701-2037  
(608) 267 - 7380  
[tamara.dodge@legis.wisconsin.gov](mailto:tamara.dodge@legis.wisconsin.gov)

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**From:** Rongstad, Tami  
**Sent:** Thursday, February 06, 2014 6:04 PM  
**To:** Dodge, Tamara  
**Subject:** RE: Sub for AB 465

Tami –

For the second part I believe that is the general idea; please incorporate the provided language if at all possible.

Thank you,

Tami Rongstad  
Office of Rep. Samantha Kerkman  
(608) 266-2531 ▪ [tami.rongstad@legis.wi.gov](mailto:tami.rongstad@legis.wi.gov)  
[Follow Rep. Kerkman on Facebook!](#)

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**From:** Dodge, Tamara  
**Sent:** Thursday, February 06, 2014 5:24 PM

**To:** Rongstad, Tami  
**Subject:** RE: Sub for AB 465

Tami,

For the second point, I'm planning to incorporate in the substitute the changes made in LRBa1329/P1 except tweaking the language to say 3<sup>rd</sup> trimester instead of gestational diabetes amendment. Is that the general idea?

The first change seems clear.

Thanks,  
Tami

**Tamara J. Dodge**

Attorney  
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Madison, WI 53701-2037  
(608) 267 - 7380  
[tamara.dodge@legis.wisconsin.gov](mailto:tamara.dodge@legis.wisconsin.gov)

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**From:** Rongstad, Tami  
**Sent:** Thursday, February 06, 2014 5:15 PM  
**To:** Dodge, Tamara  
**Subject:** Sub for AB 465  
**Importance:** High

Hi, Tamara –

1. The sub should specify regarding INFORMATIONAL MATERIALS:  
The Board shall purchase or prepare, or arrange with nonprofit organization to prepare, printed and audiovisual materials related to safe sleep which includes the dangers of intoxicated co-sleeping.
2. The sub should specify regarding INFORMATION TO PARENTS:  
Materials/education shall be given during the third trimester, and at the time of birth if there was no prenatal care.

Thank you,

Tami Rongstad  
Office of Rep. Samantha Kerkman  
(608) 266-2531 • [tami.rongstad@legis.wi.gov](mailto:tami.rongstad@legis.wi.gov)  
Follow Rep. Kerkman on Facebook!



In: 2/7 Due Mon 2/10

Questions to TJD

State of Wisconsin  
2013 - 2014 LEGISLATURE



S0271/1

LRB-2250/1  
RJH&TJD:eev:rs

RMNR

Assembly Substitute Amendment  
to **2013 ASSEMBLY BILL 465**

October 25, 2013 - Introduced by Representatives KERKMAN, BERNIER, BIES, KAUFERT, KLEEFISCH, KNODL, KOOYENGA, KRUG, T. LARSON, LEMAHIEU, OHNSTAD, STEINEKE, STRACHOTA, THIESFELDT and TITTL, cosponsored by Senators DARLING and VUKMIR. Referred to Committee on Children and Families.

regen

1 **AN ACT** *to create* 253.155 and 948.215 of the statutes; **relating to:** causing harm  
2 to a child by cosleeping while intoxicated, providing information about  
3 cosleeping while intoxicated *Safe Sleep* and providing a penalty.

**Analysis by the Legislative Reference Bureau**

Under this bill, no person may injure or kill a child under 12 months of age by cosleeping, while the person is intoxicated, with the child. Under the bill, if the child suffers bodily harm as a consequence, the person is guilty of a Class H felony, if the child suffers great bodily harm as a consequence, the person is guilty of a Class F felony, and if the child dies as a consequence, the person is guilty of a Class D felony.

The bill requires the Child Abuse and Neglect Prevention Board (board) to purchase, prepare, or arrange with a nonprofit organization to prepare printed and audiovisual materials relating to cosleeping while intoxicated. The materials must include information regarding the risks of cosleeping while intoxicated and a discussion of ways to reduce the risks of cosleeping while intoxicated. The board must make the materials available to certain entities and may satisfy that requirement by making the materials available, at no charge, on its Internet site. Under the bill, the board or nonprofit organization is immune from any damages resulting from any good faith act or omission in preparing or distributing the materials.

Before an infant who is born in or en route to a hospital or a maternity home is discharged, the bill requires an attending physician, attending nurse-midwife, or other trained, designated staff member to provide to the parents of the infant the

**ASSEMBLY BILL 465**

board's printed materials and inform the parents about, and make available to the parents to view, the board's audiovisual materials. For an infant born elsewhere, the attending physician, attending nurse-midwife, or other trained, designated staff member of a hospital or maternity home must provide to the parents the board's printed materials and inform the parents of the availability of the board's audiovisual materials within seven days of the infant's birth. Regardless of where the infant was born, at the same time the materials are provided to the parents the person who provided the materials must provide the parent with a form, prepared by the board, that includes a statement that the parent has been advised of the risks of cosleeping with an infant while that parent is intoxicated and a statement that the parent will share that information with all persons who provide care for the infant. Under the bill, a hospital, maternity home, physician, nurse-midwife, other staff member of the hospital or maternity home, or birth attendant is immune from liability for any damages resulting from any good faith act or omission in providing the board's materials and form.

The bill also requires certain individuals and entities to provide the board's materials to specified individuals. The bill requires each school board to provide or arrange with a nonprofit organization or health care provider to provide age-appropriate instruction relating to cosleeping while intoxicated for pupils in one of grades 10 to 12. A county department or Indian tribe that provides home visitation services and providers of prenatal, postpartum, and young child care coordination services must provide to recipients of those services a copy of the board's printed materials and give an oral explanation of those materials. Under the bill, a county department, a nonprofit organization, a school board, a health care provider, an Indian tribe, or a provider of prenatal, postpartum, and young child care coordination is immune from liability for any damages resulting from any good faith act or omission in connection with providing training on cosleeping while intoxicated or providing materials relating to cosleeping while intoxicated.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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. 253.155 of the statutes is created to read:
- 2                    **253.155 Intoxicated cosleeping.** (1) DEFINITIONS. In this section:
- 3                    (a) "Board" means the child abuse and neglect prevention board.
- 4                    (b) "Controlled substance" has the meaning given in s. 961.01 (4).

**ASSEMBLY BILL 465**

1 (c) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

2 (d) "Cosleeping" means being asleep or unconscious while being on the same  
3 bed or on another sleeping surface with an infant.

4 (e) "County department" means a county department of human services or  
5 social services under s. 46.215, 46.22, or 46.23.

6 (f) "Health care provider" means any person who is licensed, registered,  
7 permitted, or certified by the department of health services or the department of  
8 safety and professional services to provide health care services in this state.

9 (g) "Infant" means a child from birth until 12 months of age.

10 (h) "Intoxicated" means having an alcohol concentration of 0.08 or more or  
11 having substantially impaired physical or mental functioning as a result of the use  
12 of alcohol, a controlled substance, or a controlled substance analog or other drug, or  
13 any combination of those substances.

14 (i) "Nonprofit organization" means an organization described in section 501 (c)  
15 (3) of the Internal Revenue Code that is dedicated to the prevention of injury to or  
16 death of infants and the support of families affected by injury to or death of an infant.

17 (2) INFORMATIONAL MATERIALS. The board shall purchase or prepare, or arrange  
18 with a nonprofit organization to prepare, printed and audiovisual materials relating

19 to cosleeping while intoxicated. The materials shall include information regarding

20 the risks of cosleeping while intoxicated and a discussion of ways to reduce the risks  
21 of cosleeping while intoxicated. The materials shall be prepared in English, Spanish,

22 and other languages spoken by a significant number of state residents, as  
23 determined by the board. The board shall make those printed and audiovisual

24 materials available to all hospitals <sup>and</sup> ~~on~~ maternity homes <sup>to</sup> and nurse-midwives licensed  
25 under s. 441.15 that are required to provide or make available materials to parents <sup>a parent</sup>

safe sleep, including the dangers of cosleeping

**ASSEMBLY BILL 465****SECTION 1**

1 under sub. (3) (a) <sup>e</sup>1, and to all school boards and nonprofit organizations that are  
2 permitted to provide the materials to pupils in one of grades 10 to 12 under sub. (4).  
3 The board shall also make those printed materials available to all county  
4 departments and Indian tribes that are providing home visitation services under s.  
5 48.983 (4) (b) 1. and to all providers of prenatal, postpartum, and young child care  
6 coordination services under s. 49.45 (44). The board may satisfy the requirement  
7 under this subsection by making the materials available at no charge on the board's  
8 Internet site.

9 **(3) INFORMATION TO PARENTS.** (a) 1, Before an infant who is born at or en route  
10 to a hospital or maternity home is discharged from the hospital or maternity home,  
11 the attending physician, the attending nurse-midwife, or another trained,  
12 designated staff member of the hospital or maternity home shall provide to the  
13 parents of the infant, without cost to those parents, a copy of the printed materials  
14 purchased or prepared under sub. (2), shall inform those parents of the availability  
15 of the audiovisual materials purchased or prepared under sub. (2), and shall make  
16 those audiovisual materials available for those parents to view.

17 2. Within 7 days after the birth of an infant who is born elsewhere than at or  
18 en route to a hospital or maternity home, the attending physician, the attending  
19 nurse-midwife, or a trained, designated birth attendant who attended the birth of  
20 the child shall provide to the parents of the infant, without cost to those parents, a  
21 copy of the printed materials purchased or prepared under sub. (2) and shall inform  
22 those parents of the availability of the audiovisual materials purchased or prepared  
23 under sub. (2).

24 (b) At the same time that the printed materials are provided under par. (a) 1.  
25 or 2., the person who provides the printed materials shall also provide the parent

Insert a1329-A ✓

← Insert a1329-B ✓

**ASSEMBLY BILL 465**

1 with a form prepared by the board in English, Spanish, and other languages spoken  
2 by a significant number of state residents, as determined by the board, that includes  
3 all of the following:

4 1. A statement that the parent has been advised as to the risks of cosleeping  
5 while that parent is intoxicated.

6 2. A statement that the parent will share the information specified in subd. 1.  
7 with all persons who provide care for the infant.

8 (c) In preparing the form under par. (b), the board may not include in the form  
9 a signature line for the parent to sign or require that the parent sign the form.

10 (d) The person who provides the printed materials under par. (a) 1. or 2. and  
11 the form under par. (b) shall include in the <sup>medical</sup> records of the hospital, maternity home,  
12 ~~or nurse, midwife relating to the infant~~ a statement that the printed materials and  
13 form have been provided as required under pars. (a) 1. or 2. and (b) and that the  
14 audiovisual materials have been made available as required under par. (a) 1. or that  
15 <sup>a</sup> ~~the parents~~ <sup>has</sup> ~~have~~ been informed of their availability as required under par. (a) 2.,  
16 whichever is applicable.

17 (4) INSTRUCTION FOR PUPILS. Each school board shall provide or arrange with  
18 a nonprofit organization or health care provider to provide age-appropriate  
19 instruction relating to <sup>safe sleep, including the dangers of</sup> cosleeping while intoxicated, for pupils in one of grades 10 to  
20 12. The person providing the instruction may provide to each pupil receiving the  
21 instruction a copy of the printed materials purchased or prepared under sub. (2), a  
22 presentation of the audiovisual materials purchased or prepared under sub. (2), and  
23 an oral explanation of those printed and audiovisual materials.

24 (5) INFORMATION TO HOME VISITATION OR CARE COORDINATION SERVICES RECIPIENTS.  
25 A county department or Indian tribe that is providing home visitation services under

*Handwritten annotations:*  
- "medical" written above "records of the hospital, maternity home,"  
- "or nurse, midwife relating to the infant" circled in red with a line pointing to "a statement"  
- "a" written to the left of "the parents" with a line pointing to "has"  
- "has" written above "have"  
- "safe sleep, including the dangers of" written above "cosleeping while intoxicated,"  
- "mother" written vertically on the right side of the page with a line pointing to "or nurse, midwife..."

**ASSEMBLY BILL 465****SECTION 1**

1 s. 48.983 (4) (b) 1. and a provider of prenatal, postpartum, and young child care  
2 coordination services under s. 49.45 (44) shall provide to a recipient of those services,  
3 without cost, a copy of the printed materials purchased or prepared under sub. (2)  
4 and an oral explanation of those materials.

5 (6) IMMUNITY FROM LIABILITY. (a) The board, a nonprofit organization specified  
6 under sub. (2), or a person from whom the board purchases the materials specified  
7 in sub. (2) is immune from liability for any damages resulting from any good faith  
8 act or omission in preparing and distributing, or in failing to prepare and distribute,  
9 the materials specified in sub. (2).

10 (b) A hospital, maternity home, physician, nurse-midwife, ~~other staff member~~  
11 ~~of a hospital or maternity home, or other birth attendant attending the birth of an~~  
12 ~~(infant)~~ ~~is immune from liability for any damages resulting from any good faith act or~~  
13 ~~omission in providing or failing to provide the printed and audiovisual materials~~  
14 ~~specified in sub. (3) (a) or the form specified in sub. (3) (b).~~  
*birth attendant, or other health care provider*

15 (c) A school board, nonprofit organization, or health care provider specified  
16 under sub. (4) is immune from liability for any damages resulting from any good faith  
17 act or omission in providing or failing to provide the instruction and the printed and  
18 audiovisual materials and oral explanation specified in sub. (4).

19 (d) A county department or Indian tribe that is providing home visitation  
20 services under s. 48.983 (4) (b) 1. and a provider of prenatal, postpartum, and young  
21 child care coordination services under s. 49.45 (44) is immune from liability for any  
22 damages resulting from any good faith act or omission in providing or failing to  
23 provide the printed materials and oral explanation specified in sub. (5).

24 **SECTION 2.** 948.215 of the statutes is created to read:

25 **948.215 Intoxicated cosleeping.** (1) DEFINITIONS. In this section:





**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION  
ASSEMBLY AMENDMENT,  
TO ASSEMBLY BILL 465**

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

2 1. Page 3, line 24: delete ", maternity homes, and" and substitute "and  
3 maternity homes and to".

4 2. Page 3, line 25: delete "that" and substitute "who".

5 3. Page 4, line 9: delete the material beginning with "Before" and ending with  
6 "view." on line 16 and substitute "During a prenatal health care appointment (at

7 which the pregnant woman is tested for gestational diabetes or, if no gestational  
8 diabetes testing is done, at the prenatal health care appointment closest to 14 weeks  
9 gestation, a physician, a nurse-midwife, or another trained, designated health care  
10 provider shall provide to the mother of the unborn child, without cost to the mother,  
11 a copy of the printed materials purchased or prepared under sub. (2), shall inform  
12 the mother of the availability of the audiovisual materials purchased or prepared

Insert  
a1329-A  
during the  
third trimester  
of pregnancy

1 under sub. (2), and shall make those audiovisual materials available for the mother  
2 to view. (End insert a1329-A)

3 ~~4. Page 4, line 17: delete lines 17 to 23 and substitute: Insert a1329-B~~

4 2. If the medical records of the mother do not include the statement under par.  
5 (d) that the materials and form have been provided to her at a prenatal appointment  
6 as described under subd 1., a physician, a nurse-midwife, birth attendant, or  
7 another trained, designated health care provider shall provide to each parent of the  
8 infant who is present, before the mother is discharged from the hospital or maternity  
9 home after childbirth and without cost to the parent, a copy of the printed materials  
10 purchased or prepared under sub. (2) and shall inform the parent of the availability  
11 of the audiovisual materials purchased or prepared under sub. (2). (End Insert a1329-B)

\*\*\*\*NOTE: I was thinking that an alternative to either of these times to provide the information is the first pediatric visit of the infant. I was wondering if this would resolve some of the concerns in providing the information while still trying to provide the information to the most people.

12 5. Page 5, line 11: before "records" insert "medical"

13 6. Page 5, line 11: delete the material beginning with "hospital," and ending  
14 with "infant" on line 12 and substitute "mother".

15 7. Page 5, line 15: delete "the parents have" and substitute "a parent has".

\*\*\*\*NOTE: Please note that I changed who receives the materials from parents to mother. Since there is no guarantee that the father would be present, it is clearer, legally, to just require the materials be given to the mother.

16 8. Page 6, line 10: delete the material beginning with "other staff member" and  
17 ending with "infant" on line 12 and substitute "birth attendant, or other health care  
18 provider".

19 (END)