1995 SENATE BILL 94

March 8, 1995 – Introduced by Senators DARLING, ROSENZWEIG, A. LASEE, RUDE, WEEDEN and SCHULTZ, cosponsored by Representatives SILBAUGH, GOETSCH, MUSSER, SCHNEIDERS, KREIBICH, DUFF, ZIEGELBAUER, UNDERHEIM, JENSEN, SERATTI, RILEY and KLUSMAN. Referred to Committee on Health, Human Services and Aging.

1 AN ACT *to amend* 146.0255 (2) of the statutes; **relating to:** permitting testing

2 of an infant for controlled substances, in certain circumstances, without

3 consent of the parent or guardian.

Analysis by the Legislative Reference Bureau

Under current law, if a hospital employe, social worker or foster care or treatment foster care intake worker suspects that an infant has controlled substances in his or her bodily fluids because the infant's mother ingested the substances while she was pregnant, the employe or worker may refer the infant to a physician for testing. The physician may test the infant's bodily fluids if the infant's parent or guardian consents and if the physician determines that there is a serious risk that the infant's bodily fluids contain a controlled substance. The physician must report positive results of such a test to a county department of social services or human services. Before July 1, 1995, a county department that receives such a report must offer or make arrangements for the provision of appropriate treatment and services for the infant and for the infant's mother.

This bill eliminates the requirement that a physician who determines that there is a serious risk that an infant's bodily fluids contain controlled substances obtain the parent's or guardian's consent before testing the infant for the controlled substance.

For further information see the *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:

4 SECTION 1. 146.0255 (2) of the statutes is amended to read:

1   146.0255 **(2)** TESTING. Any hospital employe who provides health care, social

2   worker or foster care or treatment foster care intake worker may refer an infant to

3   a physician for testing of the infant's bodily fluids for controlled substances if the

4   hospital employe who provides health care, social worker or foster care or treatment

5   foster care intake worker suspects that the infant has controlled substances in the

6   infant's bodily fluids because of the mother's ingestion of controlled substances while

7   she was pregnant with the infant. The physician may test the infant to ascertain

8   whether or not the infant has controlled substances in the infant's bodily fluids, ~~if the~~

9   ~~parent or guardian consents to the testing and~~ if the physician determines that there

10   is a serious risk that there are controlled substances in the infant's bodily fluids

11   because of the mother's ingestion of controlled substances while she was pregnant

12   with the infant. If the results of the test indicate that the infant does have controlled

13   substances in the infant's bodily fluids, the physician shall make a report under s.

14   46.238.

15   **(END)**