

State of Wisconsin



1997 Senate Bill 378

Date of enactment: **June 16, 1998**
Date of publication*: **June 30, 1998**

1997 WISCONSIN ACT 293

AN ACT to amend 48.981 (8) (a), 48.981 (8) (d) 1., 48.982 (4) (a), 48.982 (6) (a), 48.982 (6) (d) and 49.45 (25) (c); to repeal and recreate 25.67 (2) (a) 1. and (b); and to create 20.435 (3) (de), 20.435 (3) (df) and 46.515 of the statutes; relating to: creating a child abuse and neglect prevention program, medical assistance for certain case management services, child abuse and neglect prevention and early childhood family education center grants awarded by the child abuse and neglect prevention board, training programs and training requirements for staff of county departments or licensed child welfare agencies under contract with county departments whose responsibilities include investigation or treatment of child abuse and neglect and making appropriations.

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

SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

			1997-98	1998-99
20.435 Health and family services, department of				
(3) CHILDREN AND FAMILY SERVICES				
(de) Child abuse and neglect prevention grants	GPR	A	-0-	995,700
(df) Child abuse and neglect prevention technical assistance	GPR	A	-0-	160,000

SECTION 3. 20.435 (3) (de) of the statutes is created to read:

20.435 (3) (de) *Child abuse and neglect prevention grants.* The amounts in the schedule for child abuse and neglect prevention grants under s. 46.515.

SECTION 4. 20.435 (3) (df) of the statutes is created to read:

20.435 (3) (df) *Child abuse and neglect prevention technical assistance.* The amounts in the schedule for child abuse and neglect prevention technical assistance and training under s. 46.515 (8).

SECTION 6. 25.67 (2) (a) 1. and (b) of the statutes, as affected by [1997 Wisconsin Acts 27](#) and [78](#), are repealed and recreated to read:

* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

25.67 (2) (a) 1. Moneys received for the fund under s. 48.982 (2) (d) or (2e) (a).

(b) All moneys in the fund that are not appropriated under s. 20.433 (1) (r) or expended under s. 20.433 (1) (q) shall continue to accumulate indefinitely.

SECTION 7. 46.515 of the statutes is created to read:

46.515 Child abuse and neglect prevention program. (1) **DEFINITIONS.** In this section:

(a) “Abuse” has the meaning given in s. 48.02 (1).

(b) “Case”, other than when used in the term “case management services”, means a family or person who meets all of the following criteria:

1. The family or person is any of the following:

a. A family or person who has been the subject of a report under s. 48.981 and with respect to whom the individual making the investigation or the intake worker assigned to the family or person has determined that all of the conditions in subd. 2. exist.

b. An Indian child who has been the subject of a report under s. 48.981 about which an Indian tribe that has received a grant under this section has received notice, including but not limited to notice provided to a tribal agent under s. 48.981 (3) (bm), and with respect to whom an individual designated by the Indian tribe has determined that all of the conditions in subd. 2. exist.

c. A family that includes a person who has contacted a county department, as defined in s. 48.02 (2g), or an Indian tribe that has been awarded a grant under this section or, in a county having a population of 500,000 or more that has been awarded a grant under this section, the department or a licensed child welfare agency under contract with the department requesting assistance to prevent abuse or neglect of a child in the person’s family and with respect to which an individual responding to the request has determined that all of the conditions in subd. 2. exist.

2. The family or person has been determined to meet all of the following conditions:

a. There is a substantial risk of future abuse or neglect of a child in the family if assistance is not provided.

b. The child and the child’s parent or the person primarily responsible for the child’s care are willing to cooperate with an informal plan of support and services.

c. It does not appear that a petition will be filed under s. 48.25 alleging that a child in the family is in need of protection or services under s. 48.13 and, if an Indian child is involved, it also does not appear that there will be a similar proceeding in tribal court relating to abuse or neglect of the Indian child.

(c) “Court”, other than when used in referring to a tribal court, has the meaning given in s. 48.02 (2m).

(cm) “Culturally competent” means the ability to understand and act respectfully toward, in a cultural context, the beliefs, interpersonal styles, attitudes and behaviors of persons and families of various cultures.

(d) “Indian child” has the meaning given in s. 48.981 (1) (cs).

(e) “Indian tribe” means a federally recognized American Indian tribe or band in this state.

(f) “Intake worker” means any person designated to provide intake services under s. 48.067.

(g) “Neglect” has the meaning given in s. 48.981 (1) (d).

(h) “Reservation” means land in this state within the boundaries of a federally recognized reservation of an Indian tribe or within the bureau of Indian affairs service area for the Ho–Chunk Nation.

(i) “Rural county” means a county that is not an urban county.

(j) “Urban county” means a county located in a federal metropolitan statistical area or a primary metropolitan statistical area, as designated by the federal office of management and budget.

(2) **FUNDS PROVIDED.** If a county or Indian tribe applies and is selected by the department under sub. (5) to participate in the program under this section, the department shall award, from the appropriation under s. 20.435 (3) (de), a grant annually to be used only for the purposes specified in sub. (4) (a) and (am). The minimum amount of a grant is \$10,000. The department shall determine the amount of a grant awarded to a county, other than a county with a population of 500,000 or more, or Indian tribe in excess of the minimum amount based on the number of births that are funded by medical assistance under subch. IV of ch. 49 in that county or the reservation of that Indian tribe in proportion to the number of births that are funded by medical assistance under subch. IV of ch. 49 in all of the counties and the reservations of all of the Indian tribes to which grants are awarded under this section. The department shall determine the amount of a grant awarded to a county with a population of 500,000 or more in excess of the minimum amount based on 60% of the number of births that are funded by medical assistance under subch. IV of ch. 49 in that county in proportion to the number of births that are funded by medical assistance under subch. IV of ch. 49 in all of the counties and the reservations of all of the Indian tribes to which grants are awarded under this section.

(3) **NUMBER OF COUNTIES AND INDIAN TRIBES SELECTED.** (a) *Number selected.* In the 1997–99 state fiscal biennium, no more than 6 rural counties, 3 urban counties and 2 Indian tribes may be selected by the department to participate in the program under this section.

(b) *Joint application permitted.* Two or more counties and Indian tribes may submit a joint application to the department. Each county or Indian tribe in a joint application shall be counted as a separate county or Indian tribe for the purpose of limiting the number of counties and Indian tribes selected in each state fiscal biennium.

(4) **PURPOSE.** (a) *Grants; flexible funds, training and case management.* The grants awarded under this section shall be used for all of the following purposes:

1. To establish or maintain the fund under sub. (6) (b) 1.
2. To establish or maintain the fund under sub. (6) (b) 2.
4. To pay expenses incurred in connection with attending training activities related to the program under this section. No more than \$1,500 of the grant amount may be used for this purpose in the 12 months following receipt of a grant.

4m. Other than in a county with a population of 500,000 or more, to reimburse a case management provider under s. 49.45 (25) (b) for the amount of the allowable charges under the medical assistance program that is not provided by the federal government for case management services provided to a medical assistance beneficiary described in s. 49.45 (25) (am) 9. who is a child and who is a member of a family that receives home visitation program services under par. (b) 1.

(am) *Grants; start-up costs and capacity building.* In the first year in which a grant under this section is awarded to a county or Indian tribe, the county or Indian tribe may use a portion of the grant to pay for start-up costs and capacity building related to the program under this section. The department shall determine the maximum amount of a grant that a county or Indian tribe may use to pay for those start-up costs and that capacity building.

(b) *Home visitation program services.* 1. A county, other than a county with a population of 500,000 or more, or an Indian tribe that is selected to participate in the program under this section shall select persons who are first-time parents and who are eligible for medical assistance under subch. IV of ch. 49 and shall offer each of those persons an opportunity to undergo an assessment through use of a risk assessment instrument to determine whether the parent presents risk factors for perpetrating child abuse or neglect. Persons who are selected and who agree to be assessed shall be assessed during the prenatal period, if possible, or as close to the time of the child's birth as possible. The risk assessment instrument shall be developed by the department and shall be based on risk assessment instruments developed by the department for similar programs that are in operation. The department need not promulgate as rules under ch. 227 the risk assessment instrument developed under this subdivision. A person who is assessed to be at risk of abusing or neglecting his or her child shall be offered home visitation program services. Home visitation program services may be provided to a family with a child identified as being at risk of child abuse or neglect until the identified child reaches 3 years of age. If risk factors for child abuse or neglect with respect to the identified child continue to be present when the child reaches 3 years of age, home visitation program services may be provided until the identified child reaches 5 years of age. Home visitation program services may not be provided to a person unless

the person gives his or her written informed consent to receiving those services or, if the person is a child, unless the child's parent, guardian or legal custodian gives his or her written informed consent for the child to receive those services.

1m. No person who is required or permitted to report suspected or threatened abuse or neglect under s. 48.981 (2) may make or threaten to make such a report based on a refusal of a person to receive or to continue receiving home visitation program services under subd. 1.

2. The counties and Indian tribes that are selected to participate in the program under this section may permit a person who is not a first-time parent or who is not eligible for medical assistance under subch. IV of ch. 49 to undergo the risk assessment and to participate in the home visitation program if that person presents risk factors for perpetrating child abuse or neglect. No payments from the fund under sub. (6) (b) 1. may be made to a person described in this subdivision. No reimbursement to a case management provider under s. 49.45 (25) (b) for services provided to a person described in this subdivision may be made from grant moneys received under this section.

(5) **SELECTION OF COUNTIES AND INDIAN TRIBES.** The department shall provide competitive application procedures for selecting counties and Indian tribes for participation in the program under this section. The department shall establish a method for ranking applicants for selection based on the quality of their applications. In ranking the applications submitted by counties, the department shall give favorable consideration to a county that has indicated under sub. (6) (d) 2. that it is willing to use a portion of any moneys distributed to the county under s. 46.45 (2) (a) to provide case management services to a medical assistance beneficiary under s. 49.45 (25) (am) 9. who is a case or who is a member of a family that is a case and that has explained under sub. (6) (d) 2. how the county plans to use that portion of those moneys to promote the provision of those services for the case by using a wraparound process so as to provide those services in a flexible, comprehensive and individualized manner in order to reduce the necessity for court-ordered services. The department shall also provide application requirements and procedures for the renewal of a grant awarded under this section. The application procedures and the renewal application requirements and procedures shall be clear and understandable to the applicants. The department need not promulgate as rules under ch. 227 the application procedures, the renewal application requirements or procedures or the method for ranking applicants established under this subsection.

(6) **CRITERIA FOR AWARDING GRANTS.** In addition to any other criteria developed by the department, a county or Indian tribe shall meet all of the following criteria in order to be selected for participation in the program under this section:

(a) *Home visitation program criteria.* The part of an application, other than a renewal application, submitted by a county, other than a county with a population of 500,000 or more, or an Indian tribe that relates to home visitation programs shall include all of the following:

1. Information on how the applicant's home visitation program is comprehensive and incorporates practice standards that have been developed for home visitation programs by entities concerned with the prevention of child abuse and neglect and that are acceptable to the department.

2. Documentation that the application was developed through collaboration among public and private organizations that provide services to children, especially children who are at risk of child abuse or neglect, or that are otherwise interested in child welfare and a description of how that collaboration effort will support a comprehensive home visitation program.

3. An identification of existing child abuse and neglect prevention services that are available to residents of the county or reservation of the Indian tribe and a description of how those services and any additional needed services will support a comprehensive home visitation program.

4. An explanation of how the home visitation program will build on existing child abuse and neglect prevention programs, including programs that provide support to families, and how the home visitation program will coordinate with those programs.

4m. An explanation of how the applicant will encourage private organizations to provide services under the applicant's home visitation program.

6. An identification of how the home visitation program is comprehensive and incorporates the practice standards for home visitation programs referred to in subd. 1., including how services will vary in intensity levels depending on the needs and strengths of the participating family.

6m. An explanation of how the services to be provided under the home visitation program, including the risk assessment under sub. (4) (b) 1., will be provided in a culturally competent manner.

7m. A statement of whether the applicant intends to use a portion of the grant in the first year in which the grant is awarded to pay for start-up costs or capacity building related to the program under this section and an explanation of how the applicant would use any amounts authorized by the department under sub. (4) (am) for those purposes.

(b) *Flexible funds.* 1. 'Flexible fund for home visitation programs.' The applicant demonstrates in the application that the applicant has established, or has plans to establish, if selected, a fund from which payments totaling not more than \$1,000 per calendar year may be made for appropriate expenses of each family that is participating in the home visitation program under sub. (4)

(b) 1. or that is receiving home visitation services under s. 49.45 (44). The payments shall be authorized by an individual designated by the applicant. If an applicant makes a payment to or on behalf of a family under this subdivision, one-half of the payment shall be from grant moneys received under this section and one-half of the payment shall be from moneys provided by the applicant from sources other than grant moneys received under this section.

2. 'Flexible fund for cases.' The applicant demonstrates in the grant application that the applicant has established, or has plans to establish, if selected, a fund from which payments totaling not more than \$500 for each case may be made for appropriate expenses related to the case. The payments shall be authorized by an individual designated by the applicant. If an applicant makes a payment to or on behalf of a person under this subdivision, one-half of the payment shall be from grant moneys received under this section and one-half of the payment shall be from moneys provided by the applicant from sources other than grant moneys received under this section. The applicant shall demonstrate in the grant application that it has established, or has plans to establish, if selected, procedures to encourage, when appropriate, a person to whom or on whose behalf payments are made under this subdivision to make a contribution to the fund described in this subdivision up to the amount of payments made to or on behalf of the person when the person's financial situation permits such a contribution.

4. 'Nonentitlement.' No individual is entitled to any payment from a fund established under subd. 1. or 2. Nothing in this section shall be construed as requiring a county or Indian tribe to make a determination described in sub. (1) (b) 2. A determination described in sub. (1) (b) 2. may not be construed to be a determination described in s. 48.981 (3) (c) 4.

(c) *Case management benefit.* The applicant, other than a county with a population of 500,000 or more, states in the grant application that it has elected, or, if selected, that it will elect, under s. 49.45 (25) (b), to make the case management benefit under s. 49.45 (25) available to the category of beneficiaries under s. 49.45 (25) (am) 9. who are children and who are members of families receiving home visitation program services under sub. (4) (b) 1.

(d) *Wraparound process.* 1. The applicant demonstrates in the grant application that the payments that will be made from the fund established under par. (b) 2. will promote the provision of services for the case by using a wraparound process so as to provide those services in a flexible, comprehensive and individualized manner in order to reduce the necessity for court-ordered services.

2. The applicant indicates in the grant application whether the applicant is willing to use a portion of any moneys distributed to the applicant under s. 46.45 (2) (a) to provide case management services to a medical assistance beneficiary under s. 49.45 (25) (am) 9. who is a case

or who is a member of a family that is a case. If the applicant is so willing, the applicant shall explain how the applicant plans to use that portion of those moneys to promote the provision of those services for the case by using a wraparound process so as to provide those services in a flexible, comprehensive and individualized manner in order to reduce the necessity for court-ordered services.

(e) *Anticipated allocation.* The applicant explains in the grant application how the applicant anticipates allocating moneys awarded under the grant among the purposes described in sub. (4) (a) 1., 2. and 4m. and, in an application other than a renewal application, the purposes described in sub. (4) (a) 1., 2. and 4m. and (am).

(6g) CONFIDENTIALITY. (a) Except as permitted or required under s. 48.981 (2), no person may use or disclose any information concerning any individual who is selected for an assessment under sub. (4) (b), including an individual who declines to undergo the assessment, or concerning any individual who is offered services under a home visitation program funded under this section, including an individual who declines to receive those services, unless the use or disclosure is connected with the administration of the home visitation program or the administration of the medical assistance program under ss. 49.43 to 49.497 or unless the individual has given his or her written informed consent to the use or disclosure.

(b) A county or Indian tribe that is selected to participate in the program under this section shall provide or shall designate an individual or entity to provide an explanation of the confidentiality requirements under par. (a) to each individual who is offered an assessment under sub. (4) (b) or who is offered services under the home visitation program of the county or Indian tribe.

(6m) NOTIFICATION OF PARENT PRIOR TO MAKING ABUSE OR NEGLECT REPORT. If a person who is providing services under a home visitation program under sub. (4) (b) 1. determines that he or she is required or permitted to make a report under s. 48.981 (2) about a child in a family to which the person is providing those services, the person shall, prior to making the report under s. 48.981 (2), make a reasonable effort to notify the child's parent that a report under s. 48.981 (2) will be made and to encourage the parent to contact a county department under s. 46.22 or 46.23 to request assistance. The notification requirements under this subsection do not affect the reporting requirements under s. 48.981 (2).

(6r) HOME VISITATION PROGRAM INFORMATIONAL MATERIALS. Any informational materials about a home visitation program under sub. (4) (b) 1. that are distributed to a person who is offered or who is receiving home visitation program services under that program shall state the sources of funding for the program.

(7) HOME VISITATION PROGRAM EVALUATION. (a) The department shall conduct or shall select an evaluator to conduct an evaluation of the home visitation program. The evaluation shall measure all of the following criteria

in families that have participated in the home visitation program and that are selected for evaluation:

1. The number of substantiated reports of child abuse and neglect.
2. The number of emergency room visits for injuries to children.
3. The number of out-of-home placements of children.
4. Immunization rates of children.
5. The number of services provided under s. 49.46 (2) (a) 2. to children.
6. Any other items that the department determines to be appropriate for evaluation.

(b) In the evaluation, the department shall determine the number of families who remained in the home visitation program for the time recommended in the family's case plan.

(c) The department shall determine the most appropriate way to evaluate the following criteria and shall evaluate those criteria as part of the evaluation:

1. Strengthened family functioning.
2. Enhanced child development.
3. Positive parenting practices.

(8) TECHNICAL ASSISTANCE AND TRAINING. The department shall provide technical assistance and training to counties and Indian tribes that are selected to participate in the program under this section.

SECTION 8. 48.981 (8) (a) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

48.981 (8) (a) The department, the county departments and a licensed child welfare agency under contract with the department in a county having a population of 500,000 or more to the extent feasible shall conduct continuing education and training programs for staff of the department, the county departments, a licensed child welfare agency under contract with the department or a county department, and the tribal social services departments, persons and officials required to report, the general public and others as appropriate. The programs shall be designed to encourage reporting of child abuse and neglect, to encourage self-reporting and voluntary acceptance of services and to improve communication, cooperation and coordination in the identification, prevention and treatment of child abuse and neglect. Programs provided for staff of the department, county departments and licensed child welfare agencies under contract with county departments or, in a county having a population of 500,000 or more, the department whose responsibilities include the investigation or treatment of child abuse or neglect shall also be designed to provide information on means of recognizing and appropriately responding to domestic abuse, as defined in s. 46.95 (1) (a). The department, the county departments and a licensed child welfare agency under contract with the department in a county having a population of 500,000 or more shall

develop public information programs about child abuse and neglect.

SECTION 9. 48.981 (8) (d) 1. of the statutes, as affected by [1997 Wisconsin Act 27](#), is amended to read:

48.981 (8) (d) 1. Each agency staff member and supervisor whose responsibilities include investigation or treatment of child abuse and neglect shall successfully complete training in child abuse and neglect protective services approved by the department. The training shall include information on means of recognizing and appropriately responding to domestic abuse, as defined in s. 46.95 (1) (a). The department shall monitor compliance with this subdivision according to rules promulgated by the department.

SECTION 11. 48.982 (4) (a) of the statutes is amended to read:

48.982 (4) (a) From the appropriations under s. 20.433 (1) (h), (i), (k), (m) and (q), the board shall award grants to organizations in accordance with the plan developed under sub. (2) (a). In each of the first 2 fiscal years in which grants are awarded, no organization may receive a grant or grants totaling more than ~~\$15,000~~ \$30,000.

SECTION 12. 48.982 (6) (a) of the statutes is amended to read:

48.982 (6) (a) From the appropriations under s. 20.433 (1) (b), (h), (i), (k), (ma) and (q), the board shall award grants to organizations in accordance with the request-for-proposal procedures developed under sub. (2) (a). No organization may receive a grant or grants under this subsection totaling more than ~~\$75,000~~ \$150,000 in any year.

SECTION 13. 48.982 (6) (d) of the statutes is amended to read:

48.982 (6) (d) The board shall award grants to organizations for programs that provide parenting education services but not crisis intervention. Grants shall be used for direct parent education and referrals to other social services programs and outreach programs, including programs that provide education to parents in their homes. For organizations applying for grants for the first time on or after the effective date of this paragraph [revisor inserts date], the board shall give favorable consideration in awarding grants to organizations for programs in communities where home visitation programs that provide in-home visitation services to parents with newborn infants are in existence or are in development and, if grants are awarded, shall require programs supported by grants to maximize coordination with these home visitation programs. Programs supported by the grants shall track individual clients to ensure that they receive necessary services and shall emphasize direct services to families with children who are 3 years of age or less.

SECTION 14. 49.45 (25) (c) of the statutes is amended to read:

49.45 (25) (c) Except as provided in pars. (b), (be) and (bg), the department shall reimburse a provider of case management services under this subsection only for the amount of the allowable charges for those services under the medical assistance program that is provided by the federal government.

SECTION 16. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The repeal and recreation of section 25.67 (2) (a) 1. and (b) of the statutes takes effect on January 1, 1999.