

2005 Senate Bill 221

Date of enactment: **March 21, 2006**

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## 2005 WISCONSIN ACT 165

AN ACT *to amend* 48.67, 49.155 (1d) (a) and 49.45 (44) (intro.); and *to create* 46.515 (4) (b) 3., 48.982 (2m) (d), 121.02 (1) (L) 6. and 253.15 of the statutes; **relating to:** the provision of information regarding shaken baby syndrome and impacted babies to the parents of newborn infants, training regarding shaken baby syndrome and impacted babies for day care providers, and instruction regarding shaken baby syndrome and impacted babies for middle school and high school pupils; the identification of, and documentation of certain information concerning, shaken and impacted babies; granting rule-making authority; and making an appropriation.

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

**SECTION 3.** 46.515 (4) (b) 3. of the statutes is created to read:

46.515 (4) (b) 3. A county or Indian tribe that is providing home visitation program services under subd. 1. or 2. shall provide to a person receiving those services the information relating to shaken baby syndrome and impacted babies required under s. 253.15 (6).

**SECTION 4.** 48.67 of the statutes is amended to read:

**48.67 Rules governing child welfare agencies, day care centers, foster homes, treatment foster homes, group homes, shelter care facilities, and county departments.** The department shall promulgate rules establishing minimum requirements for the issuance of licenses to, and establishing standards for the operation of, child welfare agencies, day care centers, foster homes, treatment foster homes, group homes, shelter care facilities, and county departments. ~~These~~ Those rules shall be designed to protect and promote the health, safety, and welfare of the children in the care of all licensees. The department shall consult with the department of com-

~~merce and~~ the department of public instruction, ~~and the child abuse and neglect prevention board~~ before promulgating ~~these~~ those rules. In establishing the minimum requirements for the issuance of licenses to day care centers ~~that provide care and supervision for children under one year of age~~, the department shall include a requirement that all licensees who are individuals and all employees and volunteers of a licensee who provide care and supervision for children receive, before the date on which the license is issued or the employment or volunteer work commences, whichever is applicable, training in the most current medically accepted methods of preventing sudden infant death syndrome, ~~if the licensee, employee, or volunteer provides care and supervision for children under one year of age, and the training relating to shaken baby syndrome and impacted babies required under s. 253.15 (4), if the licensee, employee, or volunteer provides care and supervision for children under 5 years of age.~~

**SECTION 4g.** 48.982 (2m) (d) of the statutes is created to read:

48.982 (2m) (d) Fund shaken baby syndrome and impacted babies prevention activities under s. 253.15.

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\* Section 991.11, WISCONSIN STATUTES 2003-04 : 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].

**SECTION 5.** 49.155 (1d) (a) of the statutes is amended to read:

49.155 (1d) (a) The department shall promulgate rules establishing standards for the certification of child care providers under s. 48.651. The department shall consult with the child abuse and neglect prevention board before promulgating those rules. In establishing the requirements for certification under this paragraph of a child care provider ~~who provides care and supervision for children under one year of age,~~ the department shall include a requirement that all providers and all employees and volunteers of a provider who provide care and supervision for children receive, before the date on which the provider is certified or the employment or volunteer work commences, whichever is applicable, training in the most current medically accepted methods of preventing sudden infant death syndrome, if the provider, employee, or volunteer provides care and supervision for children under one year of age, and the training relating to shaken baby syndrome and impacted babies required under s. 253.15 (4), if the provider, employee, or volunteer provides care and supervision for children under 5 years of age. In establishing the requirements for certification as a Level II certified family day care provider, the department may not include any other requirement for training for providers.

**SECTION 6.** 49.45 (44) (intro.) of the statutes is amended to read:

49.45 (44) **PRENATAL, POSTPARTUM AND YOUNG CHILD CARE COORDINATION.** (intro.) Providers in Milwaukee County that are certified to provide care coordination services under s. 49.46 (2) (b) 12. may be certified to provide to medical assistance recipients prenatal and postpartum care coordination services and care coordination services for children who have not attained the age of 7. A provider of those care coordination services shall provide to a person receiving those services the information relating to shaken baby syndrome and impacted babies required under s. 253.15 (6). The department shall provide reimbursement for ~~these~~ those care coordination services only if at least one of the following conditions is met:

**SECTION 7.** 121.02 (1) (L) 6. of the statutes is created to read:

121.02 (1) (L) 6. In one of grades 5 to 8 and in one of grades 10 to 12, provide pupils with the instruction on shaken baby syndrome and impacted babies described in s. 253.15 (5).

**SECTION 8.** 253.15 of the statutes is created to read:

**253.15 Shaken baby syndrome and impacted babies. (1) DEFINITIONS.** In this section:

(a) "Board" means the child abuse and neglect prevention board.

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

(c) "Health care provider" means any person who is licensed, registered, permitted, or certified by the department of health and family services or the department of regulation and licensing to provide health care services in this state.

(d) "Impacted baby" means an infant or young child who suffers death or great bodily harm as a result of being thrown against a surface, hard or soft.

(e) "Nonprofit organization" means an organization described in section 501 (c) (3) of the Internal Revenue Code that is dedicated to the prevention of shaken baby syndrome and impacted babies and the support of families affected by shaken baby syndrome or an impacted baby.

(f) "Shaken baby syndrome" means a severe form of brain injury that occurs when an infant or young child is shaken forcibly enough to cause the brain to rebound against his or her skull.

**(2) INFORMATIONAL MATERIALS.** The board shall purchase or prepare or arrange with a nonprofit organization to prepare printed and audiovisual materials relating to shaken baby syndrome and impacted babies. The materials shall include information regarding the identification and prevention of shaken baby syndrome and impacted babies, the grave effects of shaking or throwing on an infant or young child, appropriate ways to manage crying, fussing, or other causes that can lead a person to shake or throw an infant or young child, and a discussion of ways to reduce the risks that can lead a person to shake or throw an infant or young child. The materials shall be prepared in English, Spanish, and other languages spoken by a significant number of state residents, as determined by the board. The board shall make those written and audiovisual materials available to all hospitals, maternity homes, and nurse-midwives licensed under s. 441.15 that are required to provide or make available materials to parents under sub. (3) (a) 1., to the department and to all county departments and nonprofit organizations that are required to provide the materials to day care providers under sub. (4), and to all school boards and nonprofit organizations that are permitted to provide the materials to pupils in one of grades 5 to 8 and in one of grades 10 to 12 under sub. (5). The board shall also make those written materials available to all county departments and Indian tribes that are providing home visitation services under s. 46.515 (4) (b) 1. or 2. and to all providers of prenatal, postpartum, and young child care coordination services under s. 49.45 (44). The board may make available the materials required under this subsection to be made available by making those materials available at no charge on the board's Internet site.

**(3) INFORMATION TO PARENTS.** (a) 1. Before an infant who is born at or on route to a hospital or maternity home is discharged from the hospital or maternity home, the attending physician, the attending nurse midwife, or

another trained, designated staff member of the hospital or maternity home shall provide to the parents of the infant, without cost to those parents, a copy of the written materials purchased or prepared under sub. (2), shall inform those parents of the availability of the audiovisual materials purchased or prepared under sub. (2), and shall make those audiovisual materials available for those parents to view.

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

(b) At the same time that the written materials and explanation are provided under par. (a) 1., or 2., the person who provides the written materials and explanation shall also provide the parent with a form prepared by the board in English, Spanish, and other languages spoken by a significant number of state residents, as determined by the board, that includes all of the following:

1. A statement that the parent has been advised as to the grave effects of shaking or throwing on an infant or young child and of appropriate ways to manage crying, fussing, or other causes that can lead a person to shake or throw an infant or young child.

2. A telephone number that the parent may call to obtain assistance on how to care for an infant or young child, which may be the telephone number of the infant's physician, the hospital or maternity home at or on route to which the infant was born, the nurse-midwife that attended the birth of the infant, if born elsewhere than at or on route to a hospital or maternity home, or a help line established by the hospital, maternity home, or nurse-midwife.

3. A statement that the parent will share the information specified in subs. 1. and 2. with all persons who provide care for the infant.

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

(d) The person who provides the written materials and explanation under par. (a) 1. or 2. and the form under par. (b) shall include in the records of the hospital, maternity home, or nurse-midwife relating to the infant a statement that the written materials, explanation, and form have been provided as required under pars. (a) 1. or 2. and (b) and that the audiovisual materials have been made available as required under par. (a) 1. or that the parents have been informed of their availability as required under par. (a) 2., whichever is applicable.

(4) TRAINING FOR DAY CARE PROVIDERS. Before an individual may obtain a license to operate a day care center under s. 48.65 for the care and supervision of children under 5 years of age or enter into a contract to provide a day care program under s. 120.13 (14) for the care and supervision of children under 5 years of age, the individual shall receive training relating to shaken baby syndrome and impacted babies that is approved or provided by the department or that is provided by a nonprofit organization arranged by the department to provide that training. Before an individual may be certified under s. 48.651 as a day care provider of children under 5 years of age, the individual shall receive training relating to shaken baby syndrome and impacted babies that is approved or provided by the certifying county department or that is provided by a nonprofit organization arranged by that county department to provide that training. Before an employee or volunteer of a day care center licensed under s. 48.65, a day care provider certified under s. 48.651, or a day care program established under s. 120.13 (14) may provide care and supervision for children under 5 years of age, the employee or volunteer shall receive training relating to shaken baby syndrome and impacted babies that is approved or provided by the department or the certifying county department or that is provided by a nonprofit organization arranged by the department or county department to provide that training. The person conducting the training shall provide to the individual receiving the training, without cost to the individual, a copy of the written materials purchased or prepared under sub. (2), a presentation of the audiovisual materials purchased or prepared under sub. (2), and an oral explanation of those written and audiovisual materials.

(5) INSTRUCTION FOR PUPILS. Each school board shall provide or arrange with a nonprofit organization or health care provider to provide age-appropriate instruction relating to shaken baby syndrome and impacted babies for pupils in one of grades 5 to 8 and in one of grades 10 to 12. The person providing the instruction may provide to each pupil receiving the instruction a copy of the written materials purchased or prepared under sub. (2), a presentation of the audiovisual materials purchased or prepared under sub. (2), and an oral explanation of those written and audiovisual materials.

(6) INFORMATION TO HOME VISITATION OR CARE COORDINATION SERVICES RECIPIENTS. A county department or Indian tribe that is providing home visitation services under s. 46.515 (4) (b) 1. or 2. and a provider of prenatal, postpartum, and young child care coordination services under s. 49.45 (44) shall provide to a recipient of those services, without cost, a copy of the written materials purchased or prepared under sub. (2) and an oral explanation of those materials.

(7) IMMUNITY FROM LIABILITY. (a) The board, a nonprofit organization specified under sub. (2), or a person

from whom the board purchases the materials specified in sub. (2) is immune from liability for any damages resulting from any good faith act or omission in preparing and distributing, or in failing to prepare and distribute, the materials specified in sub. (2).

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

(c) The department, a county department, a nonprofit organization specified under sub. (4), or any other person that provides the training, the written and audiovisual materials, and the oral explanation specified in sub. (4) is immune from liability for any damages resulting from any good faith act or omission in approving, providing, or failing to approve or provide that training, those materials, and that explanation. A school board is immune from liability for any damages resulting from any good faith act or omission in connection with the provision of or the failure to provide, the training, written and audiovisual materials, and oral explanation specified in sub. (4).

(d) A school board, nonprofit organization, or health care provider specified under sub. (5) is immune from liability for any damages resulting from any good faith act or omission in providing or failing to provide the instruction and the written and audiovisual materials and oral explanation specified in sub. (5).

(e) A county department or Indian tribe that is providing home visitation services under s. 46.515 (4) (b) 1. or 2. and a provider of prenatal, postpartum, and young child care coordination services under s. 49.45 (44) is immune from liability for any damages resulting from any good faith act or omission in providing or failing to provide the written materials and oral explanation specified in sub. (6).

**(8) IDENTIFICATION OF SHAKEN OR IMPACTED BABIES.** The department of health and family services shall identify all infants and young children who have shaken baby syndrome or who are impacted babies and all infants and young children who have died as a result of being shaken or thrown by using the statewide automated child welfare information system established under s. 46.03 (7) (g) and child fatality information compiled by the department of justice. For each infant or young child so identified, the department of health and family services shall document the age, sex, and other characteristics of the infant or young child that are relevant to the prevention of shaken baby syndrome and impacted babies and, if known, the age, sex, employment status, and residence of the person who shook or threw the infant or young child, the relationship of that person to the infant or young child, and any other characteristics of that person that are relevant

to the prevention of shaken baby syndrome and impacted babies.

**SECTION 9. Nonstatutory provisions.**

(1) SHAKEN BABY SYNDROME AND IMPACTED BABIES; INFORMATIONAL MATERIALS; TRAINING; RULES; POSITIONS.

(a) *Availability of informational materials.* By the first day of the 12th month beginning after the effective date of this subsection, the child abuse and neglect prevention board shall make the informational materials specified in section 253.15 (2) of the statutes, as created by this act, available as required under section 253.15 (2) of the statutes, as created by this act.

(b) *Training for day care providers.*

1. Notwithstanding section 253.15 (4) of the statutes, as created by this act, the department of health and family services shall ensure that the training required under section 253.15 (4) of the statutes, as created by this act, is provided to all individuals who on the day before the first day of the 12th month beginning after the effective date of this subdivision, hold or have applied for a license under section 48.65 of the statutes to operate a day care center or are providing a day care program under a contract under section 120.13 (14) of the statutes, and to all employees and volunteers of that day care center or day care program who on that day are providing care and supervision for children, by no later than the continuation date of the license or the renewal date of the contract, whichever is applicable, or by 2 years after the effective date of this subdivision, whichever is sooner.

2. Notwithstanding section 253.15 (4) of the statutes, as created by this act, a county department, as defined in section 253.15 (1) (b) of the statutes, as created by this act, shall ensure that the training required under section 253.15 (4) of the statutes, as created by this act, is provided to all individuals who on the day before the first day of the 12th month beginning after the effective date of this subdivision, are certified by that county department as day care providers under section 48.651 of the statutes or have applied for that certification, and to all employees and volunteers of that day care provider who on that day are providing care and supervision for children, by no later than 18 months after the effective date of this subdivision.

(c) *Rules.*

1. The department of health and family services shall submit in proposed form the rules required under section 48.67 of the statutes, as affected by this act, to the legislature under section 227.19 of the statutes no later than the first day of the 12th month beginning after the effective date of this subdivision. Before the date on which the rules are finally promulgated, the department of health and family services shall administer section 253.15 (4) of the statutes, as created by this act, according to policies and procedures established by that department, but not

promulgated as rules, notwithstanding the absence of rules to administer that provision.

2. The department of workforce development shall submit in proposed form the rules required under section 49.155 (1d) (a) of the statutes, as affected by this act, to the legislature under section 227.19 of the statutes no later than the first day of the 12th month beginning after the effective date of this subdivision. Notwithstanding section 227.137 (2) of the statutes, the secretary of administration may not require the department of workforce development to prepare an economic impact report for the rules required under section 49.155 (1d) (a) of the statutes, as affected by this act. Before the date on which the rules are finally promulgated, the department of workforce development shall administer section 253.15 (4) of the statutes, as created by this act, according to policies and procedures established by that department, but not promulgated as rules, notwithstanding the absence of rules to administer that provision.

(d) *Positions.* The authorized FTE positions for the child abuse and neglect prevention board are increased by 1.0 SEG position, to be funded from the appropriation under section 20.433 (1) (q) of the statutes, for the purpose of administering the shaken baby syndrome and impacted babies prevention activities specified in section 253.15 (2) and (3) of the statutes, as created by this act. Of the amounts appropriated to the child abuse and neglect prevention board under that appropriation, the child abuse and neglect prevention board may allocate not more than \$68,200 in each of fiscal years 2005-06 and 2006-07 for that purpose.

**SECTION 10. Initial applicability.**

(1) SHAKEN BABY SYNDROME AND IMPACTED BABIES; INFORMATIONAL MATERIALS; TRAINING; INSTRUCTION.

(a) *Information to parents.* The treatment of section 253.15 (3) of the statutes first applies to infants born on the first day of the 12th month beginning after the effective date of this paragraph.

(b) *Training for day care providers.* The treatment of section 253.15 (4) of the statutes first applies to an individual who applies for a license to operate a day care center under section 48.65 of the statutes, who applies for certification as a day care provider under section 48.651 of the statutes, who enters into a contract to provide a day care program under section 120.13 (14) of the statutes, or who commences employment or volunteer work at a day care center, day care provider, or day care program on the first day of the 12th month beginning after the effective date of this paragraph.

(c) *Instruction for pupils.* The treatment of section 253.15 (5) of the statutes first applies to instructional programs provided in the 2007-08 school year.

(d) *Information to home visitation or care coordination services recipients.* The treatment of section 253.15 (6) of the statutes first applies to home visitation services under section 46.515 (4) (b) 1. or 2. of the statutes or prenatal, postpartum, and young child care coordination services under section 49.45 (44) of the statutes provided on the first day of the 12th month beginning after the effective date of this paragraph.

(e) *Identification of shaken or impacted babies.* The treatment of section 253.15 (8) of the statutes first applies to an infant or young child for whom information indicating that the infant or young child has shaken baby syndrome, as defined in section 253.15 (1) (f) of the statutes, as created by this act, or is an impacted baby, as defined in section 253.15 (1) (d) of the statutes, as created by this act, is entered into the statewide automated child welfare information system established under section 46.03 (7) (g) of the statutes, and to an infant or young child for whom child fatality information is compiled by the department of justice indicating that the infant or young child died as a result of being shaken or thrown, on the first day of the 12th month beginning after the effective date of this paragraph.