

2007 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB185)

Received: 05/14/2007

Received By: dkennedy

Wanted: As time permits

Identical to LRB:

For: John Townsend (608) 266-3156

By/Representing: Minette Lawrence (aide)

This file may be shown to any legislator: NO

Drafter: dkennedy

May Contact:

Addl. Drafters:

Subject: Health - public health

Extra Copies:

Submit via email: YES

Requester's email: Rep.Townsend@legis.wisconsin.gov

Carbon copy (CC:) to: robin.ryan@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

No specific topic given

Instructions:

See Attached

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>
/?	dkennedy 05/14/2007	jdye 05/15/2007		_____			
/1			nmatzke 05/15/2007	_____	lparisi 05/15/2007	lparisi 05/15/2007	

FE Sent For:

<END>

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Topic:

Birth defect prevention and surveillance system

Instructions:

See Attached

Drafting History:

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/?	dkennedy	1 S/15 jld	nwn 5/15	nwn/rs 5/15			

FE Sent For:

<END>

Kennedy, Debora

To: Lawrence, Minette
Subject: RE: Sub 2 language

Shall do.

From: Lawrence, Minette
Sent: Monday, May 14, 2007 10:24 AM
To: Kennedy, Debora
Cc: 'Michael Welsh'
Subject: FW: Sub 2 language

Debora - Could you take care of these? Thanks

Minette

From: Michael Welsh [mailto:mike.hovenconsulting@tds.net]
Sent: Thursday, May 10, 2007 9:30 AM
To: Lawrence, Minette
Subject: Sub 2 language

Could you send to drafter? I'll call you....

Michael Welsh
Government Affairs Specialist
Hoven Consulting, Inc.
44 E. Mifflin St, Suite 600
Madison, WI 53703

Office: (608) 310-8833
Fax: (608) 310-8834
mike.hovenconsulting@tds.net

Changes to ASA 1 to AB 185 (as discussed with DHFS)

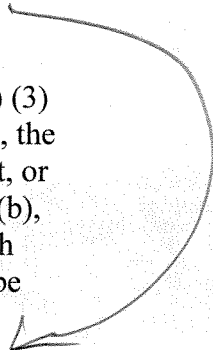
Please incorporate the following changes/additions in ASA 2 to AB 185:

D-NOTE ✓

- **Page 9, Line 11** - Under 253.12 (5) (c), add birthing hospitals to the list of entities DHFS must distribute copies of a form for the purposes under 253.12 (2) (d) and 253.12 (5m)

- ✓ • **Page 7, Line 12** – Beginning with “The department” delete lines 12 -19.

- ✓ • **Page 6, Line 4** – After “(d).” insert, “If a report is made under this subd. (a) (3) and the report is not confirmed by a report made by another reporting entity, the registry shall remove all information that would identify the stillbirth, infant, or child before releasing the information to another party under ss. 253.12 (5) (b), except that the address of an infant or child or place of delivery of a stillbirth encoded by the department to refer to the same geographical location shall be released.”



D-NOTE ✓

- ✓ • **Under 253.12 (5) (b), add the following language to the bill:**
The person agrees in writing that that the information provided will not be used by an insurer, as defined in s. 600.03 (27), to limit or deny health care coverage to an individual or a policy of life insurance.

✓ In addition, the Department also has concerns about the reference to 69.20 (2) (a) on Page 5, Line 2. They believe it is not necessary as the registry already has access to the confidential information on state records under s. 69.20 (3) (b)1.

We would like the drafter’s thoughts on this issue.

By WEDNESDAY a.m. 5/16

50088/1
LRBs0060/2
DAK/jld/jf
Keep

D-NOTE

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2007 ASSEMBLY BILL 185**

April 19, 2007 - Offered by Representative TOWNSEND

Regen

1 **AN ACT to renumber and amend** 253.12 (1) (b); **to amend** 69.03 (12), 69.20 (2)
2 (a) (intro.), 69.20 (3) (b) 3., 69.20 (3) (c), 69.20 (3) (d), 253.12 (1) (a) (intro.),
3 253.12 (1) (a) 1., 253.12 (2) (a) (intro.), 253.12 (2) (am), 253.12 (2) (b), 253.12 (2)
4 (e), 253.12 (3) (a) 1. (intro.), 253.12 (3) (a) 1. c., 253.12 (3) (c), 253.12 (4) (a),
5 253.12 (5) (a) 1., 253.12 (5) (a) 2. and 253.12 (5) (a) 4.; **to repeal and recreate**
6 253.12 (2) (d); and **to create** 69.20 (2) (a) 3., 253.12 (1) (e), 253.12 (2) (a) 3.,
7 253.12 (2) (a) 4., 253.12 (5) (c) and 253.12 (5m) of the statutes; **relating to:** the
8 birth defect prevention and surveillance system.

Analysis by the Legislative Reference Bureau

Under the birth defect prevention and surveillance system (system) in current law, pediatric specialty clinics and physicians are required to report to the Department of Health and Family Services (DHFS) any birth defects of infants or children who are diagnosed or treated in the clinics or by the physicians. A "birth defect" is defined as a structural deformation, disruption, or dysplasia or a genetic, inherited, or biochemical disease that occurs prior to or at birth and that requires medical or surgical intervention or interferes with normal growth and development.

hospitals in which deliveries are performed,

currently

An "infant or child" is defined as a human being from birth to the age of two years. DHFS may not require a pediatric specialty clinic or physician to report the name of a reported infant or child if the parent or guardian of the infant or child refuses in writing to consent to the release of the name or address of the infant or child.

Also under current law, information that is contained in a vital record and is designated as being collected for statistical and medical use or statistical use only or that involves the birth of a child to an unmarried mother may be disclosed only in certain instances. One instance is disclosure of this information, under an interstate cooperation agreement, from the vital record of the resident of another state or a resident of this state born in another state, for use by the state registrar in compiling statistics. Another instance is disclosure of statistical or medical information for use in the conduct of official duties of a federal agency, a Wisconsin governmental agency, or the agency of a county, city, town, or village. In addition, hospitals and funeral directors must provide and the state registrar must accept reports of certain fetal deaths. Before destroying these reports, the state registrar may record the reports' information for use in medical research and use the information to compile statistics.

INSERT A-1

Lastly, under current law, DHFS must establish and maintain an up-to-date registry that documents the diagnosis in this state of any infant or child who has a birth defect. Among the information that DHFS is required to include in the registry is information that will facilitate the development of primary preventive strategies to decrease the occurrence of birth defects without increasing abortions.

This substitute amendment changes the process by which the parent or guardian of a stillbirth, infant, or child may decide not to consent to the release of the stillbirth's, infant's, or child's identifying information, to require that a physician or physician's designee first inform the parent or guardian of the intent of the system and to require signature of the parent or guardian on a DHFS form. Further, the substitute amendment specifies a process by which, using the DHFS form, the parent or guardian of a stillbirth, infant, or child may effect withdrawal of consent to the release of identifying information about the stillbirth, infant, or child, and requires that, if consent to the release is withdrawn, DHFS remove the information from the system. DHFS must prescribe and distribute to pediatric specialty clinics and local health departments the form for these purposes by July 1, 2009.

Periodically

The substitute amendment requires the division of DHFS that deals with vital statistics to report to the system information that is contained in a vital record and is designated as being collected for statistical and medical use or statistical use only, including this type of information that is available under an interstate cooperation agreement, if this disclosure is agreed to by the other state. In addition, the substitute amendment requires the entity that contracts with the Department of Administration for collecting, analyzing, and disseminating health care information of hospitals and ambulatory surgery centers to report to the system concerning birth defects as recorded in public use data files of hospitals and ambulatory surgery centers.

INSERT A-2

The substitute amendment authorizes DHFS to contract with an entity to perform the development of primary preventive strategies to decrease the occurrence

beginning

for use in the registry,

of birth defects as information to be included in the birth defect registry and limits use by the entity of material released by DHFS.

The substitute amendment also permits the state registrar to record information from reports of certain fetal deaths for use in research conducted under the system.

Lastly, the substitute amendment includes stillbirths, as defined in the substitute amendment, under the requirements of the system, expands the definition of "birth defect" to include structural malformations, and makes other minor changes.

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

1 **SECTION 1.** 69.03 (12) of the statutes is amended to read:

2 69.03 (12) Accept fetal death reports under s. 69.18 (1) (e). The state registrar
3 may record the information on the reports for use in medical research, including
4 research conducted under s. 253.12 (5) (b), and may use the information to compile
5 statistics. After recording the information on a fetal death report, the state registrar
6 shall destroy the report.

7 **SECTION 2.** 69.20 (2) (a) (intro.) of the statutes is amended to read:

8 69.20 (2) (a) (intro.) ~~Except as provided under sub. (3), information~~ Information
9 in the part of a certificate of birth or divorce or annulment or a marriage document
10 that is designated on the form as being collected for statistical or medical and
11 statistical use only and information in the part of a death certificate that is
12 designated on the form as being collected as statistical-use-only information under
13 s. 69.18 (1m) (c) may not be disclosed to any person except the following:

14 **SECTION 3.** 69.20 (2) (a) 3. of the statutes is created to read:

15 69.20 (2) (a) 3. As provided under sub. (3).

16 **SECTION 4.** 69.20 (3) (b) 3. of the statutes is amended to read:

1 69.20 (3) (b) 3. The information is from the vital record of a registrant who is
2 a resident of another state or who was born in another state and is transmitted to
3 the office responsible for keeping the vital statistics in such state under an interstate
4 cooperation agreement which requires that the information be used for statistical
5 and administrative purposes only and which provides for the retention and
6 disposition of such copies. If under such an agreement the state registrar receives
7 information from an office responsible for keeping the vital statistics in another
8 state, the state registrar may not use the information for any purpose except for the
9 compilation of statistics and, if agreed to by the other state, in meeting requirements
10 for reporting under s. 253.12 (2) (a) 3.

11 **SECTION 5.** 69.20 (3) (c) [✓] of the statutes is amended to read:

12 69.20 (3) (c) ~~Notwithstanding sub. (2), a~~ A local registrar may disclose
13 information on a birth certificate or issue a copy of the certificate to a local health
14 department, as defined in s. 250.01 (4), for health or demographic research or a public
15 health program if the local health department pays the copying costs and if the birth
16 of the registrant occurred within the boundaries of the political subdivision served
17 by the local health department or the registrant is a resident of the political
18 subdivision. The local health department may not disclose any information from any
19 copy which it receives under this paragraph to any person and shall destroy the copy
20 no later than one year after receipt.

21 **SECTION 6.** 69.20 (3) (d) [✓] of the statutes is amended to read:

22 69.20 (3) (d) Subject to par. (f), the state or a local registrar may disclose
23 information from the vital record of a specified registrant, [✓] ~~except information under~~
24 ~~sub. (2) (a),~~ to a federal agency, to any agency of the government of this state, or to
25 any agency of a county, city, town, or village if the agency requests the information

1 for use in the conduct of its official duties, except that the state registrar may disclose
2 information under sub. (2) (a) only in order to meet requirements for reporting under
3 s. 253.12 (2) (a) 3.

4 **SECTION 7.** 253.12 (1) (a) (intro.) of the statutes is amended to read:

5 253.12 (1) (a) (intro.) “Birth defect” means any of the following conditions
6 affecting a stillbirth or an infant or child that occurs prior to or at birth and that
7 requires medical or surgical intervention or interferes with normal growth and
8 development:

9 **SECTION 8.** 253.12 (1) (a) 1. of the statutes is amended to read:

10 253.12 (1) (a) 1. A structural malformation, deformation, disruption, or
11 dysplasia.

12 **SECTION 9.** 253.12 (1) (b) of the statutes is renumbered 253.12 (1) (cm) and
13 amended to read:

14 253.12 (1) (cm) “Pediatric specialty clinic” means a clinic that is located in a
15 hospital or is a freestanding clinic, the primary purpose of which is to provide
16 pediatric specialty diagnostic, counseling and medical management services to
17 persons with birth defects by a physician subspecialist.

18 **SECTION 10.** 253.12 (1) (e) of the statutes is created to read:

19 253.12 (1) (e) “Research” means a systematic study through scientific inquiry
20 for the purpose of expanding a field of knowledge, including environmental or
21 epidemiological research or special studies.

22 **SECTION 11.** 253.12 (2) (a) (intro.) of the statutes is amended to read:

23 253.12 (2) (a) (intro.) Except as provided in par. (b), all of the following shall
24 report in the manner prescribed by the department under sub. (3) (a) 3. a birth defect
25 in a stillbirth or an infant or child:

1 **SECTION 12.** 253.12 (2) (a) 3. of the statutes is created to read:

2 253.12 (2) (a) 3. The division of the department that deals with vital statistics,
3 with respect to the information received under s. 69.20 (3) (b) 3. or available under
4 s. 69.20 (3) (d). INSERT 6-4 ✓

5 **SECTION 13.** 253.12 (2) (a) 4. of the statutes is created to read:

6 253.12 (2) (a) 4. The entity under contract under s. 153.05 (2m) (a), with respect
7 to public use data files under s. 153.46 (1) (b).

8 **SECTION 14.** 253.12 (2) (am) of the statutes is amended to read:

9 253.12 (2) (am) Any hospital in which a birth defect is diagnosed in a stillbirth
10 or an infant or child or treatment is provided to the infant or child may report the
11 birth defect in the manner prescribed by the department under sub. (3) (a) 3.

12 **SECTION 15.** 253.12 (2) (b) of the statutes is amended to read:

13 253.12 (2) (b) No person specified under par. (a) need report under par. (a) if
14 that person knows that another person specified under par. (a) or (am) has already
15 reported to the department the required information with respect to the same birth
16 defect of the same stillbirth or infant or child.

17 **SECTION 16.** 253.12 (2) (d) of the statutes is repealed and recreated to read:

18 253.12 (2) (d) If the parent or guardian of a stillbirth or an infant or child for
19 whom a report is made under par. (a) decides, after having been informed by a
20 physician or a physician's designee of the intent of the system under this section, not
21 to consent to the release of identifying information concerning the stillbirth or infant
22 or child and signs the form specified in sub. (5) (c), the department may not require
23 a person specified under par. (a) 1., 2., or 3. to report information identifying the
24 stillbirth or infant or child.

25 **SECTION 17.** 253.12 (2) (e) of the statutes is amended to read:

1 253.12 (2) (e) If the address of an infant or child or the place of delivery of a
2 stillbirth for whom a report is made under par. (a) is included in the report, the
3 department shall encode the address to refer to the same geographical location.

4 **SECTION 18.** 253.12 (3) (a) 1. (intro.) of the statutes is amended to read:

5 253.12 (3) (a) 1. (intro.) Establish and maintain an up-to-date registry that
6 documents the diagnosis in this state of any stillbirth or infant or child who has a
7 birth defect, regardless of the residence of the infant or child or place of delivery of
8 the stillbirth. The department shall include in the registry information that will
9 facilitate all of the following:

10 **SECTION 19.** 253.12 (3) (a) 1. c. of the statutes is amended to read:

11 253.12 (3) (a) 1. c. Development of primary preventive strategies to decrease
12 the occurrence of birth defects without increasing abortions. The department may
13 contract with an entity that the department determines is qualified to perform the
14 development required under this subd. 1. c. Any material released by the
15 department to the entity under the contract may be used only for the performance
16 of this development and may not be used by an insurer, as defined in s. 600.03 (27),
17 to limit or deny health care coverage to an individual. The entity under contract may
18 not under this subd. 1. c. reveal information that may identify the subject of a report
19 made under sub. (2).

20 **SECTION 20.** 253.12 (3) (c) of the statutes is amended to read:

21 253.12 (3) (c) The department shall, not more than 10 years from the date of
22 receipt of a report under sub. (2), delete from any file of the department the name of
23 a stillbirth or an infant or child that is contained in the report.

24 **SECTION 21.** 253.12 (4) (a) of the statutes is amended to read:

1 253.12 (4) (a) Make recommendations to the department regarding the
2 establishment of a registry that documents the diagnosis in the state of a stillbirth
3 or an infant or child who has a birth defect, as required under sub. (3) (a) 1. and
4 regarding the rules that the department is required to promulgate under sub. (3) (a)
5 2. and 3. on the birth defects to be reported under sub. (2) and on the general content
6 and format of the report under sub. (2) and procedures for submitting the report. The
7 council shall also make recommendations regarding the content of a report that,
8 because of the application of sub. (2) (d), does not contain the name of the subject of
9 the report.

10 **SECTION 22.** 253.12 (5) (a) 1. of the statutes is amended to read:

11 253.12 (5) (a) 1. The parent or guardian of a stillbirth or an infant or child for
12 whom a report is made under sub. (2).

13 **SECTION 23.** 253.12 (5) (a) 2. of the statutes is amended to read:

14 253.12 (5) (a) 2. A local health officer, a local birth-to-3 coordinator or an
15 agency under contract with the department to administer the children with special
16 health care needs program, ~~upon receipt of a written request and informed written~~
17 ~~consent from the parent or guardian of the infant or child~~ under the requirements
18 of subs. (2) (d) and (5m). The local health officer may disclose information received
19 under this subdivision only to the extent necessary to render and coordinate services
20 and follow-up care for the infant or child or to conduct a health, demographic or
21 epidemiological investigation. The local health officer shall destroy all information
22 received under this subdivision within one year after receiving it.

23 **SECTION 24.** 253.12 (5) (a) 4. of the statutes is amended to read:

24 253.12 (5) (a) 4. A representative of a federal or state agency upon written
25 request and to the extent that the information is necessary to perform a legally

1 authorized function of that agency, including investigation of causes, mortality,
2 methods of prevention and early intervention, treatment or care of birth defects,
3 associated diseases or disabilities. The information may not include the name or
4 address of an infant or child or the place of delivery of a stillbirth with a condition
5 reported under sub. (2). The department shall notify the parent or guardian of a
6 stillbirth or an infant or child about whom information is released under this
7 subdivision, of the release. The representative of the federal or state agency may
8 disclose information received under this paragraph only as necessary to perform the
9 legally authorized function of that agency for which the information was requested.

10 **SECTION 25.** 253.12 (5) (c) of the statutes is created to read:

11 253.12 (5) (c) By July 1, 2009, the department shall prescribe and distribute,
12 and periodically distribute thereafter, to pediatric speciality clinics and local health
13 departments copies of a form to be used by the parent or guardian of a stillbirth or
14 an infant or child for whom a report is made under sub. (2) (a) in indicating any of
15 the following:

16 1. Refusal under sub. (2) (d) by the parent or guardian to consent to the release
17 of identifying information concerning the stillbirth or infant or child.

18 2. The decision under sub. (5m) by the parent or guardian to remove from the
19 system any identifying information entered for the stillbirth or infant or child.

20 **SECTION 26.** 253.12 (5m) of the statutes is created to read:

21 253.12 (5m) REMOVAL OF IDENTIFYING INFORMATION. If the parent or guardian
22 of a stillbirth or an infant or child for whom a report is made under sub. (2) (a) decides
23 to withdraw consent to the release of identifying information concerning the
24 stillbirth or infant or child, the parent or guardian may request from the local health
25 department or the stillbirth's or infant's or child's physician the form specified in sub.

✓
INSERT
9-9

✓, hospitals in which deliveries are performed, and

1 (5) (c). If the parent or guardian decides, after having been informed by the
2 stillbirth's or infant's or child's physician or physician's designee of the information
3 contained in the system under this section, and signs the form, the local health
4 department, physician, or physician's designee shall forward the form to the division
5 of the department that deals with public health. On receipt of the signed form, the
6 department shall remove from the system under this section any information
7 identifying the stillbirth or infant or child.

8 (END)

D-NOTE

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0088/?ins
DAK:.....

INSERT A-1

Q Also under current law, DHFS may release confidential information that identifies the subject of a birth defect to a person proposing to conduct research if DHFS approves the person's application to conduct the research, the research is to study birth defects surveillance and prevention, DHFS determines that any direct contact with a family meets certain requirements, and the person agrees in writing to certain requirements. *

INSERT A-2

wo# However, if this information is not confirmed by another reporting entity, DHFS must, before releasing the information to anyone who is proposing to conduct research, remove from the registry all information that would identify the stillbirth, infant, or child other than the address of the infant or child or place of delivery of the stillbirth that DHFS has encoded to refer to the same geographical location.

INSERT A-3

Q The substitute amendment requires that a person who is proposing to conduct research, to whom DHFS releases certain confidential birth defect information, agree in writing that the information will not be used by an insurer to limit or deny health care coverage or a policy of life insurance to an individual.

INSERT 6-4

wo# If a report is made under this subdivision and the report is not confirmed by a report made by another reporting entity, the department shall remove from the registry under sub. (3) all information that would identify the stillbirth, infant, or child before releasing the information to another party under sub. (5) (b), other than the address of the infant or child or place of delivery of the stillbirth that the department has encoded to refer to the same geographical location.

INSERT 9-9

SECTION 1. 253.12 (5) (b) 5m. of the statutes is created to read:

253.12 (5) (b) 5m. The person agrees in writing that the information provided will not be used by an insurer, as defined in s. 600.03 (27), to limit or deny health care coverage or a policy of life insurance to an individual.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

date

LRBs00887/dn

DAK:an

JLD

To Representative Townsend:

In amending s. 253.12 (5) (c), I did not use the term "birthing hospitals" as proposed, since that term is not used elsewhere in the statutes; instead, I referred to "hospitals in which deliveries are performed." Okay?

Note that the language created under this substitute amendment in s. 253.12 (5) (b) 5m. changes somewhat the meaning of similar language that, in Assembly Substitute Amendment 1, amended s. 253.12 (3) (a) 1. c., stats. The previous language prohibited insurers from using material obtained from DHFS to limit or deny health care coverage or (under Assembly Amendment 1 to Assembly Substitute Amendment 1) a policy of life insurance. The new language requires that the researcher agree that this will not happen, but places no actual prohibition on insurers.

Please let me know if I may provide you with any further assistance with respect to this substitute amendment.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0088/1dn
DAK:jld:nwn

May 15, 2007

To Representative Townsend:

In amending s. 253.12 (5) (c), I did not use the term "birthing hospitals" as proposed, since that term is not used elsewhere in the statutes; instead, I referred to "hospitals in which deliveries are performed." Okay?

Note that the language created under this substitute amendment in s. 253.12 (5) (b) 5m. changes somewhat the meaning of similar language that, in Assembly Substitute Amendment 1, amended s. 253.12 (3) (a) 1. c., stats. The previous language prohibited insurers from using material obtained from DHFS to limit or deny health care coverage or (under Assembly Amendment 1 to Assembly Substitute Amendment 1) a policy of life insurance. The new language requires that the researcher agree that this will not happen, but places no actual prohibition on insurers.

Please let me know if I may provide you with any further assistance with respect to this substitute amendment.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.wisconsin.gov