AN ACT to amend 48.983 (title), 48.983 (4) (a) 4m., 48.983 (4) (b), 48.983 (6) (a) (intro.), 48.983 (6) (a) 1., 48.983 (6) (a) 2., 48.983 (6) (a) 3., 48.983 (6) (a) 4., 48.983 (6) (a) 4m., 48.983 (6) (a) 6., 48.983 (6) (a) 6m., 48.983 (6) (b) 1., 48.983 (6) (c), 48.983 (6g) (a) and (b), 48.983 (6m), 48.983 (6r), 48.983 (7) (title) and (a) (intro.), 48.983 (7) (ag), 48.983 (7) (ar), 48.983 (7) (b), 48.983 (7) (c), 48.983 (8), 253.15 (2), 253.15 (6), 253.15 (7) (e), 441.15 (3) (c) and 448.02 (3) (a); and to create 48.983 (9), 69.02 (2) (c), 69.14 (1) (i), 441.15 (1) (am), 441.15 (4m), 448.35 and 448.40 (2) (am) of the statutes; relating to: evidence-based home visitation program services for persons who are at risk of poor birth outcomes or of abusing or neglecting their children; designating race and ethnicity on birth certificates; requiring informed consent for performance of certain
SENATE BILL 532

elective procedures prior to the full gestational term of a fetus; and granting
rule-making authority.

Analysis by the Legislative Reference Bureau
This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

Joint Legislative Council prefatory note: This bill was prepared for the Joint Legislative Council’s Special Committee on Infant Mortality.

Under current law, an infant’s race or ethnicity is not required to appear on the infant’s birth certificate. This bill specifies that a birth certificate must include the race and ethnicity of the infant, as reported by the infant’s mother.

The bill also requires the Department of Health Services to promulgate administrative rules to establish the designations of race and ethnicity to be used on birth certificates and procedures to be followed to ensure that the designation recorded on a birth certificate is that directly reported by an infant’s mother. The designations of race and ethnicity must be sufficiently detailed to enable data collection on births and birth outcomes among all significant racial and ethnic populations in the state and to assist in the development and evaluation of the efficacy of programs and policies designed to improve birth outcomes.

The bill specifies that home visitation services provided by a county, private agency, or Indian tribe to a person who is at risk of poor birth outcomes or of abusing or neglecting his or her child under a child abuse and neglect prevention grant from the Department of Children and Families (DCF) must be evidence-based.

The bill also requires DCF to enter into a memorandum of understanding with the Department of Health Services that provides for collaboration between these departments in carrying out home visitation program services.

Under current law, any physician who treats a patient must inform the patient about the availability of all alternate, viable medical modes of treatment and about the benefits and risks of these treatments. A physician who violates this requirement is subject to discipline by the Medical Examining Board (MEB) for unprofessional conduct. If the MEB finds that the physician has engaged in unprofessional conduct, the MEB may warn or reprimand the physician, or limit, suspend, or revoke any license, certificate, or limited permit granted to the physician. The statutes direct the MEB to promulgate rules implementing this requirement. Those rules are found at Chapter Med. 18 of the Wisconsin Administrative Code.

Under current law, there is no requirement that a mother be specifically informed about possible negative effects to her infant of inducing labor or performing a Caesarean section prior to full gestational term.

This bill prohibits a physician from performing an elective Caesarean section or an elective procedure intended to induce labor in a woman before the completion of a gestational period of 39 weeks unless the physician has first obtained the informed consent of the woman. The bill specifies that a woman’s consent is informed only if she receives timely information orally and in person from the physician regarding potential negative effects to the child of early delivery, including long-term learning and behavioral problems.
SENATE BILL 532

Under the bill, persons who violate the newly created prohibition are subject to the same penalties and discipline as persons who violate the duty to provide information on alternate modes of treatment. Specifically, the MEB may warn or reprimand the physician, or limit, suspend, or revoke any license, certificate, or limited permit granted by the MEB to the physician.

The bill directs the MEB to promulgate rules implementing the provisions of the newly created prohibition and to define “elective” for purposes of the prohibition.

The bill also prohibits a person licensed by the Board of Nursing (board) to practice nurse-midwifery from performing an elective procedure intended to induce labor in a woman before the completion of a gestational period of 39 weeks unless the nurse-midwife has first obtained the informed consent of the woman. The bill specifies that a woman's consent is informed only if she receives timely information regarding potential negative effects to the child of early delivery, including long-term learning and behavioral problems. A nurse-midwife who is found to have violated the prohibition may be subject to discipline by the board, including the suspension, revocation or limiting of the nurse-midwife's license.

SECTION 1. 48.983 (title) of the statutes is amended to read:

48.983 (title) Child abuse and neglect prevention and evidence-based home visitation program.

SECTION 2. 48.983 (4) (a) 4m. of the statutes is amended to read:

48.983 (4) (a) 4m. 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 evidence-based home visitation program services under par. (b) 1.

SECTION 3. 48.983 (4) (b) of the statutes is amended to read:

48.983 (4) (b) Home Evidence-based home visitation program services. 1. A county, private agency, or Indian tribe that is selected to participate in the program under this section shall offer all pregnant women in the county, the area in which that private agency is providing services, or the reservation of the tribe who are eligible for Medical Assistance under subch. IV of ch. 49 an opportunity to undergo an assessment through use of a risk assessment instrument to determine whether
the person assessed presents risk factors for poor birth outcomes or for perpetrating
child abuse or neglect. Persons who agree to be assessed shall be assessed during
the prenatal period. 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 poor birth outcomes or of
abusing or neglecting his or her child shall be offered evidence-based home visitation
program services that shall be commenced during the prenatal period. Home
Evidence-based 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 a family has been receiving evidence-based home visitation
program services continuously for not less than 12 months, those services may
continue to be provided to the family until the identified child reaches 3 years of age,
regardless of whether the child continues to be eligible for Medical Assistance under
subch. IV of ch. 49. 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,
evidence-based home visitation program services may be provided until the
identified child reaches 5 years of age. Home Evidence-based 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 evidence-based
home visitation program services under subd. 1.

3. A county, private agency, or Indian tribe that is providing evidence-based
home visitation program services under subd. 1. 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.** 48.983 (6) (a) (intro.) of the statutes is amended to read:

48.983 (6) (a) (intro.) The part of an application, other than a renewal
application, submitted by a county, private agency, or Indian tribe that relates to
evidence-based home visitation programs shall include all of the following:

**SECTION 5.** 48.983 (6) (a) 1. of the statutes is amended to read:

48.983 (6) (a) 1. Information on how the applicant’s home visitation program
is evidence-based, comprehensive, incorporates practice standards that have been
developed for home visitation programs by entities concerned with the prevention of
poor birth outcomes and child abuse and neglect and that are acceptable to the
department, and incorporates practice standards and critical elements that have
been developed for successful home visitation programs by a nationally recognized
home visitation program model and that are acceptable to the department.

**SECTION 6.** 48.983 (6) (a) 2. of the statutes is amended to read:

48.983 (6) (a) 2. Documentation that the application was developed through
collaboration among public and private organizations that provide services to
children and families, especially children who are at risk of child abuse or neglect and
families that are at risk of poor birth outcomes, or that are otherwise interested in
child welfare and a description of how that collaboration effort will support a
comprehensive, evidence-based home visitation program.
SECTION 7. 48.983 (6) (a) 3. of the statutes is amended to read:

48.983 (6) (a) 3. An identification of existing poor birth outcome and child abuse and neglect prevention services that are available to residents of the county, the area in which the private agency is providing services, or the reservation of the Indian tribe and a description of how those services and any additional needed services will support a comprehensive, evidence-based home visitation program.

SECTION 8. 48.983 (6) (a) 4. of the statutes is amended to read:

48.983 (6) (a) 4. An explanation of how the evidence-based home visitation program will build on existing poor birth outcome and child abuse and neglect prevention programs, including programs that provide support to families, and how the evidence-based home visitation program will coordinate with those programs.

SECTION 9. 48.983 (6) (a) 4m. of the statutes is amended to read:

48.983 (6) (a) 4m. An explanation of how the applicant will encourage private organizations to provide services under the applicant’s evidence-based home visitation program.

SECTION 10. 48.983 (6) (a) 6. of the statutes is amended to read:

48.983 (6) (a) 6. An identification of how the evidence-based home visitation program is comprehensive and incorporates the practice standards and critical elements for successful 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.

SECTION 11. 48.983 (6) (a) 6m. of the statutes is amended to read:

48.983 (6) (a) 6m. An explanation of how the services to be provided under the evidence-based home visitation program, including the risk assessment under sub. (4) (b) 1., will be provided in a culturally competent manner.
SECTION 12. 48.983 (6) (b) 1. of the statutes is amended to read:

48.983 (6) (b) 1. ‘Flexible fund for evidence-based 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 less than $250 per calendar year may be made for appropriate expenses of each family that is participating in the evidence-based 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.

SECTION 13. 48.983 (6) (c) of the statutes is amended to read:

48.983 (6) (c) Case management benefit. The applicant 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 evidence-based home visitation program services under sub. (4) (b) 1.

SECTION 14. 48.983 (6g) (a) and (b) of the statutes are amended to read:

48.983 (6g) (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 an evidence-based 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 evidence-based 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, private agency, 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 evidence-based home visitation program of the county, private agency, or Indian tribe.

SECTION 15. 48.983 (6m) of the statutes is amended to read:

48.983 (6m) Notification of parent prior to making abuse or neglect report.

If a person who is providing services under an evidence-based 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 to request assistance. The notification requirements under this subsection do not affect the reporting requirements under s. 48.981 (2).

SECTION 16. 48.983 (6r) of the statutes is amended to read:

48.983 (6r) Home evidence-based home visitation program informational materials. Any informational materials about an evidence-based 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.

**SECTION 17.** 48.983 (7) (title) and (a) (intro.) of the statutes are amended to
read:

48.983 (7) (title) **HOME EVIDENCE-BASED HOME VISITATION PROGRAM EVALUATION.**
(a) (intro.) The department shall conduct or shall select an evaluator to conduct an
evaluation of the evidence-based 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:

**SECTION 18.** 48.983 (7) (ag) of the statutes is amended to read:

48.983 (7) (ag) The department shall evaluate the availability of
evidence-based home visitation programs in the state and determine whether there
are gaps in home visitation services in the state. The department shall cooperate
with counties, private agencies, and Indian tribes providing evidence-based home
visitation programs to address any gaps in services identified.

**SECTION 19.** 48.983 (7) (ar) of the statutes is amended to read:

48.983 (7) (ar) Each county, private agency, and Indian tribe providing an
evidence-based home visitation program shall collect and report data to the
department, as required by the department. The department shall require each
county, private agency, and Indian tribe providing an evidence-based home
visitation program to collect data using forms prescribed by the department.

**SECTION 20.** 48.983 (7) (b) of the statutes is amended to read:

48.983 (7) (b) In the evaluation, the department shall determine the number
of families who remained in the evidence-based home visitation program for the time
recommended in the family’s case plan.
SECTION 21. 48.983 (7) (c) of the statutes is amended to read:

48.983 (7) (c) Each county, private agency, and Indian tribe providing an evidence-based home visitation program shall develop a plan for evaluating the effectiveness of its program for approval by the department. The plan shall demonstrate how the county, private agency, or Indian tribe will use the evaluation of its program to improve the quality and outcomes of the program and to ensure continued compliance with the criteria under sub. (6) (a). The plan shall demonstrate how the outcomes will be tracked and measured. Under the plan, the extent to which all of the following outcomes are achieved shall be tracked and measured:

1. Parents receiving evidence-based home visitation services acquiring knowledge of early learning and child development and interacting with their children in ways that enhance the children’s development and early learning.

2. Children receiving evidence-based home visitation services being healthy.

3. Children receiving evidence-based home visitation services living in a safe environment.

4. Families receiving evidence-based home visitation services accessing formal and informal support networks.

5. Children receiving evidence-based home visitation services achieving milestones in development and early learning.

6. Children receiving evidence-based home visitation services who have developmental delays receiving appropriate intervention services.

SECTION 22. 48.983 (8) of the statutes is amended to read:

48.983 (8) TECHNICAL ASSISTANCE AND TRAINING. The department shall provide technical assistance and training to counties, private agencies, and Indian tribes
that are selected to participate in the program under this section. The training may not be limited to a particular evidence-based home visitation model. The training shall include training in best practices regarding basic skills, uniform administration of screening and assessment tools, the issues and challenges that families face, and supervision and personnel skills for program managers. The training may also include training on data collection and reporting.

**SECTION 23.** 48.983 (9) of the statutes is created to read:

48.983 (9) **MEMORANDUM OF UNDERSTANDING.** The department shall enter into a memorandum of understanding with the department of health services that provides for collaboration between those departments in carrying out evidence-based home visiting programs under sub. (4) (b) 1.

**SECTION 24.** 69.02 (2) (c) of the statutes is created to read:

69.02 (2) (c) The department shall promulgate rules establishing designations of race and ethnicity to be used in reporting the race and ethnicity of a registrant under s. 69.14 (1) (i). The designations shall be sufficiently detailed to enable compilation and analysis of data related to births and birth outcomes among all significant racial and ethnic populations in the state and to assist in the design and evaluation of programs and policies designed to improve birth outcomes. The rules shall also establish procedures designed to ensure that the racial and ethnic designations included on each certificate of birth accurately reflect the race and ethnicity of the registrant as directly reported by the registrant’s mother.

**SECTION 25.** 69.14 (1) (i) of the statutes is created to read:

69.14 (1) (i) **Registrant’s race.** A certificate of birth shall include the race and ethnicity of the registrant, as reported by the mother of the registrant.

**SECTION 26.** 253.15 (2) of the statutes is amended to read:
253.15 (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
to all county departments and nonprofit organizations that are required to provide the
materials to child care providers under sub. (4) (d), 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 evidence–based home visitation services under s. 48.983 (4) (b) 1. 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.

SECTION 27. 253.15 (6) of the statutes is amended to read:
253.15 (6) Information to Home Visitation or Care Coordination Services Recipients. A county department or Indian tribe that is providing evidence-based home visitation services under s. 48.983 (4) (b) 1. 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.

Section 28. 253.15 (7) (e) of the statutes is amended to read:

253.15 (7) (e) A county department or Indian tribe that is providing evidence-based home visitation services under s. 48.983 (4) (b) 1. 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).

Section 29. 441.15 (1) (am) of the statutes is created to read:

441.15 (1) (am) “Nurse-midwife” means a person licensed under this section to engage in the practice of nurse-midwifery.

Section 30. 441.15 (3) (c) of the statutes is amended to read:

441.15 (3) (c) The board shall promulgate rules necessary to administer this section, including the establishment of appropriate limitations on the scope of the practice of nurse-midwifery, the facilities in which such practice may occur, the definition of “elective” for purposes of the prohibition in sub. (4m), and the granting of temporary permits to practice nurse-midwifery pending qualification for certification.

Section 31. 441.15 (4m) of the statutes is created to read:
441.15 (4m) No nurse-midwife may perform an elective procedure intended to induce labor in a pregnant woman before the completion of a gestational period of 39 weeks unless the nurse-midwife has first obtained the informed consent of the woman. A woman’s consent is informed for purposes of this subsection only if she receives timely information orally and in person from the nurse-midwife regarding potential negative effects to the fetus of early delivery, including long-term learning and behavioral problems.

**SECTION 32.** 448.02 (3) (a) of the statutes is amended to read:

448.02 (3) (a) The board shall investigate allegations of unprofessional conduct and negligence in treatment by persons holding a license, certificate, or limited permit granted by the board. An allegation that a physician has violated s. 253.10 (3), 448.30, 448.35, or 450.13 (2); or has failed to mail or present a medical certification required under s. 69.18 (2) within 21 days after the pronouncement of death of the person who is the subject of the required certificate; or that a physician has failed at least 6 times within a 6-month period to mail or present a medical certificate required under s. 69.18 (2) within 6 days after the pronouncement of death of the person who is the subject of the required certificate is an allegation of unprofessional conduct. Information contained in reports filed with the board under s. 49.45 (2) (a) 12r., 50.36 (3) (b), 609.17, or 632.715, or under 42 CFR 1001.2005, shall be investigated by the board. Information contained in a report filed with the board under s. 655.045 (1), as created by 1985 Wisconsin Act 29, which is not a finding of negligence or in a report filed with the board under s. 50.36 (3) (c) may, within the discretion of the board, be used as the basis of an investigation of a person named in the report. The board may require a person holding a license, certificate, or limited permit to undergo and may consider the results of one or more physical, mental, or...
professional competency examinations if the board believes that the results of any such examinations may be useful to the board in conducting its investigation.

SECTION 33. 448.35 of the statutes is created to read:

**448.35 Informed consent for certain elective procedures.** No physician may perform an elective Caesarean section or an elective procedure intended to induce labor in a pregnant woman before the completion of a gestational period of 39 weeks unless the physician has first obtained the informed consent of the woman. A woman's consent is informed for purposes of this section only if she receives timely information orally and in person from the physician regarding potential negative effects to the fetus of early delivery, including long-term learning and behavioral problems.

SECTION 34. 448.40 (2) (am) of the statutes is created to read:

448.40 (2) (am) Defining “elective” for purposes of s. 448.35 and implementing that section.

(END)