



**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 357**

February 20, 2014 – Offered by Senator DARLING.

1 **AN ACT to create** 253.155 and 948.215 of the statutes; **relating to:** causing harm
2 to a child by cosleeping while intoxicated, providing information about safe
3 sleep, and providing a penalty.

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

4 **SECTION 1.** 253.155 of the statutes is created to read:

5 **253.155 Intoxicated cosleeping.** (1) DEFINITIONS. In this section:

6 (a) “Board” means the child abuse and neglect prevention board.

7 (b) “Controlled substance” has the meaning given in s. 961.01 (4).

8 (c) “Controlled substance analog” has the meaning given in s. 961.01 (4m).

9 (d) “Cosleeping” means being asleep or unconscious while being on the same
10 bed or on another sleeping surface with an infant.

11 (e) “County department” means a county department of human services or
12 social services under s. 46.215, 46.22, or 46.23.

1 (f) “Health care provider” means any person who is licensed, registered,
2 permitted, or certified by the department of health services or the department of
3 safety and professional services to provide health care services in this state.

4 (g) “Infant” means a child from birth until 12 months of age.

5 (h) “Intoxicated” means having an alcohol concentration of 0.08 or more or
6 having substantially impaired physical or mental functioning as a result of the use
7 of alcohol, a controlled substance, or a controlled substance analog or other drug, or
8 any combination of those substances.

9 (i) “Nonprofit organization” means an organization described in section 501 (c)
10 (3) of the Internal Revenue Code that is dedicated to the prevention of injury to or
11 death of infants and the support of families affected by injury to or death of an infant.

12 **(2) INFORMATIONAL MATERIALS.** The board shall purchase or prepare, or arrange
13 with a nonprofit organization to prepare, printed and audiovisual materials relating
14 to safe sleep, including the dangers of cosleeping while intoxicated. The materials
15 shall be prepared in English, Spanish, and other languages spoken by a significant
16 number of state residents, as determined by the board. The board shall make those
17 printed and audiovisual materials available to all hospitals and maternity homes
18 and to nurse–midwives licensed under s. 441.15 that are required to provide or make
19 available materials to a parent under sub. (3) (a), and to all school boards and
20 nonprofit organizations that are permitted to provide the materials to pupils in one
21 of grades 10 to 12 under sub. (4). The board shall also make those printed materials
22 available to all county departments and Indian tribes that are providing home
23 visitation services under s. 48.983 (4) (b) 1. and to all providers of prenatal,
24 postpartum, and young child care coordination services under s. 49.45 (44). The

1 board may satisfy the requirement under this subsection by making the materials
2 available at no charge on the board’s Internet site.

3 (3) INFORMATION TO PARENTS. (a) 1. During a prenatal health care appointment
4 during the third trimester of pregnancy, a physician, a nurse–midwife, or another
5 trained, designated health care provider shall provide to the mother of the unborn
6 child, without cost to the mother, a copy of the printed materials purchased or
7 prepared under sub. (2), shall inform the mother of the availability of the audiovisual
8 materials purchased or prepared under sub. (2), and shall make those audiovisual
9 materials available for the mother to view.

10 2. If the medical records of the mother do not include the statement under par.
11 (d) that the materials and form have been provided to her at a prenatal appointment
12 as described under subd. 1., a physician, a nurse–midwife, birth attendant, or
13 another trained, designated health care provider shall provide to each parent of the
14 infant who is present, before the mother is discharged from the hospital or maternity
15 home after childbirth and without cost to the parent, a copy of the printed materials
16 purchased or prepared under sub. (2) and shall inform the parent of the availability
17 of the audiovisual materials purchased or prepared under sub. (2).

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

23 1. A statement that the parent has been advised as to the risks of cosleeping
24 while that parent is intoxicated.

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

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

5 (d) The person who provides the printed materials under par. (a) 1. or 2. and
6 the form under par. (b) shall include in the medical records of the mother a statement
7 that the printed materials and form have been provided as required under pars. (a)
8 1. or 2. and (b) and that the audiovisual materials have been made available as
9 required under par. (a) 1. or that a parent has been informed of their availability as
10 required under par. (a) 2., whichever is applicable.

11 **(4) INSTRUCTION FOR PUPILS.** Each school board shall provide or arrange with
12 a nonprofit organization or health care provider to provide age-appropriate
13 instruction relating to safe sleep, including the dangers of cosleeping while
14 intoxicated, for pupils in one of grades 10 to 12. The person providing the instruction
15 may provide to each pupil receiving the instruction a copy of the printed materials
16 purchased or prepared under sub. (2), a presentation of the audiovisual materials
17 purchased or prepared under sub. (2), and an oral explanation of those printed and
18 audiovisual materials.

19 **(5) INFORMATION TO HOME VISITATION OR CARE COORDINATION SERVICES RECIPIENTS.**
20 A county department or Indian tribe that is providing home visitation services under
21 s. 48.983 (4) (b) 1. and a provider of prenatal, postpartum, and young child care
22 coordination services under s. 49.45 (44) shall provide to a recipient of those services,
23 without cost, a copy of the printed materials purchased or prepared under sub. (2)
24 and an oral explanation of those materials.

1 **(6) IMMUNITY FROM LIABILITY.** (a) The board, a nonprofit organization specified
2 under sub. (2), or a person from whom the board purchases the materials specified
3 in sub. (2) is immune from liability for any damages resulting from any good faith
4 act or omission in preparing and distributing, or in failing to prepare and distribute,
5 the materials specified in sub. (2).

6 (b) A hospital, maternity home, physician, nurse–midwife, birth attendant, or
7 other health care provider is immune from liability for any damages resulting from
8 any good faith act or omission in providing or failing to provide the printed and
9 audiovisual materials specified in sub. (3) (a) or the form specified in sub. (3) (b).

10 (c) A school board, nonprofit organization, or health care provider specified
11 under sub. (4) is immune from liability for any damages resulting from any good faith
12 act or omission in providing or failing to provide the instruction and the printed and
13 audiovisual materials and oral explanation specified in sub. (4).

14 (d) A county department or Indian tribe that is providing home visitation
15 services under s. 48.983 (4) (b) 1. and a provider of prenatal, postpartum, and young
16 child care coordination services under s. 49.45 (44) is immune from liability for any
17 damages resulting from any good faith act or omission in providing or failing to
18 provide the printed materials and oral explanation specified in sub. (5).

19 **SECTION 2.** 948.215 of the statutes is created to read:

20 **948.215 Intoxicated cosleeping.** (1) **DEFINITIONS.** In this section:

21 (a) “Cosleep” means to be asleep or unconscious while being on the same bed
22 or on another sleeping surface with an infant.

23 (b) “Infant” means a child from birth until 12 months of age.

24 (c) “Intoxicated” means having an alcohol concentration of 0.08 or more or
25 having substantially impaired physical or mental functioning as a result of the use

1 of alcohol, a controlled substance, or a controlled substance analog or other drug, or
2 any combination thereof.

3 (2) PROHIBITION. No person may cause harm to an infant by cosleeping, while
4 he or she is intoxicated, with the infant.

5 (3) PENALTIES. A person who violates sub. (2) is guilty of one of the following:

6 (a) A Class H felony if bodily harm to the infant is a consequence.

7 (b) A Class F felony if great bodily harm to the infant is a consequence.

8 (c) A Class D felony if death to the infant is a consequence.

9 (END)