

2015 DRAFTING REQUEST

Bill

Received: 11/25/2014 Received By: tdodge
Wanted: As time permits Same as LRB:
For: Alberta Darling (608) 266-5830 By/Representing: Holly Patterson
May Contact: Drafter: tdodge
Subject: Criminal Law - crimes agnst kids Addl. Drafters: phurley
Health - abortion/maternal/child

Extra Copies:

Submit via email: YES
Requester's email: Sen.Darling@legis.wisconsin.gov
Carbon copy (CC) to: tamara.dodge@legis.wisconsin.gov
sarah.walkenhorstbarber@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Intoxicated cosleeping and providing information about safe sleep

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>
/?	tdodge 11/26/2014	kfollett 12/11/2014		_____			
/1			rschluet 12/11/2014	_____	sbasford 12/11/2014	sbasford 2/16/2015	State S&L Crime

FE Sent For:

at
intro

<END>

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1?	tdodge	11/5/11 12/1/11	11/5/11 12/1/11				

FE Sent For:

<END>

Hurley, Peggy

From: Patterson, Holly
Sent: Tuesday, November 25, 2014 2:25 PM
To: Hurley, Peggy
Subject: RE: cosleeping redraft

Peggy,

Yes please!

Thank you,

Holly Patterson
Office of State Senator Alberta Darling
Phone: 608-266-5830

From: Hurley, Peggy
Sent: Tuesday, November 25, 2014 2:24 PM
To: Patterson, Holly
Subject: RE: cosleeping redraft

Hi Holly,

I'll be happy to help with that. Do you mean that you want me to draft, as a new bill for this session, Senate Substitute Amendment 1 to SB 357?

Peggy

From: Patterson, Holly
Sent: Tuesday, November 25, 2014 2:00 PM
To: Hurley, Peggy
Subject: cosleeping redraft

Peggy,

Can our office have the cosleeping bill from last session redrafted for this session with the language in the amendment included? The amendment about the information distributed to parents being about safe sleep and an emphasis on intoxicated cosleeping, and the test changed to a broader provision that the information would be distributed during prenatal care. It was SB 357.

Thanks,

Holly Patterson
Office of State Senator Alberta Darling
Phone: 608-266-5830



State of Wisconsin
2013 - 2014 LEGISLATURE



-07/14/11

LRB0336/1
PJH&TJD:eev:jf

In: 11/26/14 due FRIDAY

12-12

gf

LPS: Request sheet updated

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

February 20, 2014 - Offered by Senator DARLING.

Insert analysis

Regen

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.

Safe sleep (B)

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 ^{e 3rd} 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, ^a 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^{ins}" 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)

INSERT ANALYSIS

Analysis by the Legislative Reference Bureau

Under this bill, no person may injure or kill a child under 12 months of age by cosleeping, while the person is intoxicated, with the child. Under the bill, if the child suffers bodily harm as a consequence, the person is guilty of a Class H felony, if the child suffers great bodily harm as a consequence, the person is guilty of a Class F felony, and if the child dies as a consequence, the person is guilty of a Class D felony.

The bill requires the Child Abuse and Neglect Prevention Board (board) to purchase, prepare, or arrange with a nonprofit organization to prepare printed and audiovisual materials relating to cosleeping while intoxicated. The materials must include information regarding safe sleep and the dangers of cosleeping while intoxicated. The board must make the materials available to certain entities and may satisfy that requirement by making the materials available, at no charge, on its Internet site. Under the bill, the board or nonprofit organization is immune from any damages resulting from any good faith act or omission in preparing or distributing the materials.

The bill requires a physician, a nurse-midwife, or another trained, designated health care provider to provide to a pregnant woman, free of charge and during a prenatal health care appointment in her third trimester of pregnancy, a copy of the board's printed materials, and to inform the woman of, and make available to her to view, the board's audiovisual materials. Under the bill, if after a child is born, the mother's medical records do not indicate she received the materials at a prenatal appointment, a physician, a nurse-midwife, a birth attendant, or another trained, designated health care provider must provide to each parent of the infant who is present, before the mother is discharged from the hospital or maternity home, a copy of the printed materials and inform them of the board's audiovisual materials. At the same time the materials are provided to the mother or parents, the person who provided the materials must provide the parent with a form, prepared by the board, that includes a statement that the parent has been advised of the risks of cosleeping with an infant while that parent is intoxicated and a statement that the parent will share that information with all persons who provide care for the infant. Under the bill, a hospital, maternity home, physician, nurse-midwife, other staff member of the hospital or maternity home, or birth attendant is immune from liability for any damages resulting from any good faith act or omission in providing the board's materials and form.

The bill also requires certain individuals and entities to provide the board's materials to specified individuals. The bill requires each school board to provide or arrange with a nonprofit organization or health care provider to provide age-appropriate instruction relating to safe sleep, including dangers of cosleeping while intoxicated, for pupils in one of grades 10 to 12. A county department or Indian tribe that provides home visitation services and providers of prenatal, postpartum,

and young child care coordination services must provide to recipients of those services a copy of the board's printed materials and give an oral explanation of those materials. Under the bill, a county department, a nonprofit organization, a school board, a health care provider, an Indian tribe, or a provider of prenatal, postpartum, and young child care coordination is immune from liability for any damages resulting from any good faith act or omission in connection with providing the training or materials.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

(END INSERT ANALYSIS)

Basford, Sarah

From: Patterson, Holly
Sent: Monday, February 16, 2015 8:06 AM
To: LRB.Legal
Subject: Draft Review: LRB -0714/1 Topic: Intoxicated cosleeping and providing information about safe sleep

Please Jacket LRB -0714/1 for the SENATE.