

1985 Assembly Bill 941

Date of enactment: April 1, 1986
Date of publication: April 1, 1986

1985 Wisconsin Act 154

AN ACT to repeal 48.627 (1) (a); to renumber and amend 48.627 (1) (intro.) and (b); to amend 48.627 (2) (a), 48.627 (2) (b), 48.627 (2) (c) to (e) and (h) and 48.627 (2) (j); and to create 20.435 (4) (cf), 48.627 (1) and (1m) (a) and 48.627 (2) (am) of the statutes, relating to foster parent liability insurance and making appropriations.

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

SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

	<u>1985-86</u>	<u>1986-87</u>
20.435 Health and social services, department of		
(4) COMMUNITY SERVICES		
(cf) Foster parent liability	GPR A -0-	87,900

SECTION 2. 20.435 (4) (cf) of the statutes is created to read:

20.435 (4) (cf) *Foster parent liability.* The amounts in the schedule to purchase insurance or pay claims as provided under s. 48.627. The department may not expend any funds from this appropriation for claims submitted under s. 48.627 (2) after June 30, 1987, or the date of publication of the 1987-89 biennial budget bill, whichever is later.

SECTION 3. 48.627 (1) (intro.) and (b) of the statutes, as affected by 1985 Wisconsin Acts 24 and 29, are renumbered 48.627 (1m) (intro.) and (b) and amended to read:

48.627 (1m) (intro.) The department shall, from the appropriations under s. 20.435 (4) (a) (cf) and (pd), purchase insurance for licensed foster parents to cover both of the following, to the extent not covered by any other insurance and, subject to the limitations contained in the insurance policy all of the following to the extent not covered by any other insurance:

(b) Injuries Personal injury or property damages damage sustained by a licensed foster parent or a member of the foster parent's family as a result of the act of a foster child in the foster parent's care.

SECTION 4. 48.627 (1) (a) of the statutes, as affected by 1985 Wisconsin Acts 24 and 29, is repealed.

SECTION 5. 48.627 (1) and (1m) (a) of the statutes are created to read:

48.627 (1) Before the department, a county department under s. 46.22, 46.23 or 49.51 or a licensed child welfare agency may issue or renew a foster home license, the licensing agency shall require the applicant to furnish proof satisfactory to the licensing agency that he or she has homeowner's or renter's liability insurance that provides coverage for negligent acts or

omissions by foster children that result in personal injury or property damage to 3rd parties.

(1m) (a) Acts or omissions of the foster parent that result in physical injury to the foster child or that form the basis for a civil action for damages by the foster child's parent against the foster parent.

SECTION 6. 48.627 (2) (a) of the statutes, as created by 1985 Wisconsin Act 24, is amended to read:

48.627 (2) (a) Notwithstanding sub. ~~(4)~~ (1m), if the department is not able to purchase the insurance required under that subsection ~~at a reasonable cost~~, it may expend the funds appropriated for that purpose under s. 20.435 (4) ~~(a), (db) (cf)~~ and (pd) for the purpose of paying claims for which the most recent insurer, if any, would be have been liable under that subsection, and for purposes of administering this subsection.

SECTION 7. 48.627 (2) (am) of the statutes is created to read:

48.627 (2) (am) The department is not liable for any act or omission by or affecting a foster child, but may, as provided in this section, pay claims described under sub. (1m), within the limits of the appropriations under s. 20.435 (4) (cf) and (pd).

SECTION 8. 48.627 (2) (b) of the statutes, as affected by 1985 Wisconsin Acts 24 and 106, is amended to read:

48.627 (2) (b) A foster parent or member of the foster parent's family shall submit a claim for physical personal injury or property damage shall be submitted under sub. (1m) (b) to the department within 90 days after the personal injury or property damage occurs, but no later than ~~March 31, 1986~~ June 30, 1987, or the date of publication of the 1987-89 biennial budget act, whichever is later. All ~~other~~ claims under sub. (1m) (a) shall be submitted within 90 days after a foster parent learns that a legal action has been commenced

against him or her ~~that arises out of an action or omission of the foster child or the foster parent~~, but no later than ~~March 31, 1986~~ June 30, 1987, or the date of publication of the 1987-89 biennial budget act, whichever is later. No claim may be paid under this subsection unless it is submitted within the time limits specified in this paragraph.

SECTION 9. 48.627 (2) (c) to (e) and (h) of the statutes, as created by 1985 Wisconsin Act 24, are amended to read:

48.627 (2) (c) The department shall review and approve in whole or in part or disapprove all claims received under this subsection during each 3-month period beginning with the period from July 1, 1985, to September 30, 1985. The department shall determine whether to approve a claim based on the specifications of the most recent insurance policy purchased under sub. (1) ~~that was in effect during the 1984-85 fiscal year~~ this section.

(d) If a claim is approved, the department shall determine the amount to which the claimant is entitled. No claim may be approved in an amount exceeding the total amount available for paying claims under this subsection in the fiscal year 1985-86 during which the claim is submitted. No claim for property damage may be approved in an amount exceeding \$5,000.

(e) The department may not approve a claim unless the claimant foster parent submits with the claim evidence that no insurance is available to cover the cost of the injury or damages or that the available insurance coverage is unavailable or inadequate to cover the entire cost of the injury or damages claim. If the available foster parent's insurance is inadequate to cover the entire cost of the injury or damages, the

department may approve a claim only for the amount in excess of the available amount covered by insurance.

(h) If a claim ~~is filed~~ by a foster parent or a member of the foster parent's family is approved, the department shall deduct \$200 from the amount ~~that would otherwise be paid~~ approved \$200 less any amount deducted by an insurance company from a payment for the same claim.

SECTION 10. 48.627 (2) (j) of the statutes, as affected by 1985 Wisconsin Acts 24 and 106, is amended to read:

48.627 (2) (j) Paragraphs (a) to (i) do not apply after ~~March 31, 1986~~ June 30, 1987, or the date of publication of the 1987-89 biennial budget bill, whichever is later.

SECTION 11. **Appropriation changes; health and social services.** (1) There is transferred, on the effective date of this subsection, from the balance of the appropriation under section 20.435 (4) (a) of the statutes for fiscal year 1985-86, the unencumbered amount, not to exceed \$87,900, for purchasing insurance and paying claims under section 48.627 of the statutes for fiscal year 1985-86 to the appropriation under section 20.435 (4) (cf) of the statutes, as created by this act, for fiscal year 1985-86.

(2) The appropriation to the department of health and social services under section 20.435 (4) (a) of the statutes, as affected by the acts of 1985, is decreased by \$87,900 for fiscal year 1986-87 to eliminate the amounts appropriated under that paragraph for purchasing foster parent insurance and paying claims under section 48.627 of the statutes.