



Legislative Fiscal Bureau

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October 19, 2005

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Bill 221: Shaken Baby Syndrome and Impacted Babies Prevention (Revised from the LFB paper on SB 221 dated September 21, 2005)

Senate Bill 221 contains provisions that are intended to reduce cases of shaken baby syndrome and deaths and injuries of infants and young children that occur as a result of being thrown against a hard or soft surface ("impacted babies"). These provisions would require: (a) the Department of Health and Family Services (DHFS) to prepare or contract with a nonprofit organization to prepare printed and audiovisual materials relating to shaken baby syndrome and impacted babies; (b) certain health care providers to provide information regarding shaken baby syndrome and impacted babies to the parents of newborn infants; (c) licensed or certified day care providers to be trained on shaken baby syndrome and impacted babies and provide rule making authority to DHFS and the Department of Workforce Development (DWD) to include training relating to shaken baby syndrome and impacted babies for these workers; and (d) school boards to provide instruction on shaken baby syndrome and impacted babies for middle school and high school students. The bill would provide \$68,200 GPR in 2005-06 and 2006-07 and 1.0 GPR position, beginning in 2005-06, for DHFS to administer the shaken baby syndrome and impacted babies prevention activities.

The Senate Committee on Health, Children, Families, Aging, and Long Term Care adopted two amendments to SB 221. Senate Amendment 1 would delete the specification in the bill that the 1.0 GPR position created in DHFS be a nursing position. Senate Amendment 2 would change the requirement that instruction on shaken baby syndrome be provided to pupils in grade 11 to instead be provided in one of grades 10 to 12.

On June 16, 2005, the Senate Committee on Health, Children, Families, Aging, and Long Term Care recommended passage of SB 221, as amended by SA 1 and SA 2, by a vote of 5 to 0.

BACKGROUND

Shaken baby syndrome is the collection of signs and symptoms resulting from the violent shaking of an infant or small child. It is a form of child abuse. According to the National Center on Shaken Baby Syndrome, in the United States last year, approximately 1,200 to 1,400 children were shaken for whom treatment was sought, of which 25 - 30% died as a result of their injuries and the remaining children may have lifelong complications. Researchers believe that additional babies experience the effects of shaken baby syndrome, but since there is rarely any external evidence of the trauma, it can be difficult to identify. Currently, no state agency collects or maintains information on the incidence of shaken baby syndrome in Wisconsin.

Some signs or symptoms of a less serious injury from shaken baby syndrome include: (a) lethargy or decreased muscle tone; (b) extreme irritability; (c) decreased appetite, poor feeding, or vomiting for no apparent reason; (c) no smiling or vocalization; (d) poor sucking or swallowing; and (e) rigidity or posturing. Signs of a more serious brain injury may include: (a) difficulty breathing; (b) seizures; (c) the head or forehead appearing larger than usual or the apparent bulging of the soft-spot on the head; (d) inability to suck or swallow; (e) inability to lift head; and (f) inability of eyes to focus or track movement or unequal size of pupils.

Currently, DHFS is required to provide printed information on sudden infant death syndrome (SIDS) and to distribute the materials so that they are available to parents. In addition, DHFS and DWD are required to promulgate rules requiring day care center licensees who serve children who are less than one year of age and certified day care providers to receive training in SIDS. There are no similar requirements relating to shaken baby syndrome or impacted babies.

SUMMARY OF THE AMENDED BILL

The bill would provide \$68,200 GPR in 2005-06 and 2006-07 and 1.0 GPR position, beginning in 2006-07, for DHFS to administer the shaken baby syndrome and impacted babies prevention activities created in the bill. The bill would define "impacted baby" as an infant or young child who suffers death or great bodily harm as a result of being thrown against a hard or soft surface and "shaken baby syndrome" as a severe form of brain injury that occurs when an infant or young child is shaken forcibly enough to cause the brain to rebound against his or her skull.

Printed and Audiovisual Materials. The bill would require DHFS to prepare or contract with a nonprofit organization to prepare printed and audiovisual materials relating to shaken baby syndrome and impacted babies and include in the materials information regarding: (a) the identification and prevention of shaken baby syndrome and impacted babies; (b) the grave effects of shaking or throwing on an infant or young child; (c) appropriate ways to manage crying, fussing, or other causes that can lead a person to shake or throw an infant or young child; and (d) a discussion of ways to reduce the risks that can lead a person to shake or throw an infant or young child. The materials would be prepared in English, Spanish, and other languages spoken by a significant

number of state residents, as determined by DHFS. These materials would be available by the first day of the 12th month beginning after the effective date of the bill.

DHFS would be required to make the written and audiovisual materials available to all hospitals, maternity homes, licensed nurse-midwives, county departments, Indian tribes, nonprofit organizations, and school boards that are either permitted or required to provide these materials to parents, students, or day care providers.

Providing Information to Parents. Under the bill, before an infant who is born at, or on route to, a hospital or maternity home is discharged, the attending physician, nurse-midwife, or other trained, designated staff member in a hospital would be required to provide to the parent of an infant a copy of written materials prepared on shaken baby syndrome and impacted babies, without cost to the parents, and would be required to request those parents to view a presentation of the audiovisual materials on the subject.

For infants that were born somewhere other than at, or on route to, a hospital or maternity home, the attending physician, nurse-midwife, or a trained, designated birth attendant who attended the birth of the child would be required to give a copy of the written materials to the child's parents, without cost to those parents, and request that the parents view a presentation of the audiovisual materials prepared by DHFS on shaken baby syndrome. This would occur within seven days after the birth of the infant.

When parents receive these materials, they would also receive a form prepared by DHFS in English, Spanish, and other languages spoken by a significant number of state residents, which would include: (a) a statement that the parent has been advised as to the grave effects of shaking or throwing on an infant or young child and of appropriate ways to manage crying, fussing, or other causes that can lead a person to shake or throw an infant or young child; (b) a telephone number that the parents may call to obtain assistance on how to care for an infant or young child, which may be the telephone number of the infant's physician, the hospital or maternity home, the nurse-midwife, or a help line established by the hospital, maternity home, or nurse-midwife; and (c) a statement that the parent will share the information in (a) and (b) with all individuals who provide care for the infant.

The bill would require the person who provides the materials, explanations, and form to include in the records of the hospital, maternity home, or nurse-midwife relating to the infant a statement that the materials, explanation, and form have been provided to the parents of the infant.

This section would first apply to infants born on the first day of the 12th month beginning after the bill's effective date.

Training for Day Care Providers. Under the bill, beginning on the first day of the 12th month beginning after the bill's effective date, before an individual could obtain a license to operate a day care center, enter into a contract to provide a day care program, be certified as a day care

provider, or begin working or volunteering at a day care, the individual would be required to receive training on shaken baby syndrome and impacted babies provided by DHFS, the certifying county department, or a nonprofit organization contracted by DHFS or the county department. At the training, the individual would receive, without cost, a copy of the written materials and a presentation of the audiovisual materials on shaken baby syndrome and impacted babies prepared by DHFS and an oral explanation of these materials.

For all individuals and employees and volunteers of individuals who, on the day before the first day of the 12th month beginning after the effective date of the bill, hold or have applied for a license to operate a day care center, are providing a day care program, or are certified day care providers, this training must be provided by no later than the continuation date of the license, the renewal date of the contract or certification, or by two years after the effective date of the bill, whichever is sooner.

Instruction in Schools. SB 221, as amended, would require each school board to provide, or contract with a nonprofit organization to provide, instruction relating to shaken baby syndrome and impacted babies for pupils in one of the grades five through eight and one of the grades ten through twelve. The person providing the instruction could provide the written materials on shaken baby syndrome, a presentation of the audiovisual materials, and an oral explanation of these materials. This requirement would first apply to instructional programs provided in the 2007-08 school year.

Information to Home Visitation or Care Coordination Services Recipients. Starting on the first day of the 12th month beginning after the bill's effective date, a county department or Indian tribe that is providing home visitation services under the prevention of child abuse and neglect (POCAN) program and providers of prenatal, postpartum, and young child care coordination services under the medical assistance (MA) program would be required to provide a copy of the written materials on shaken baby syndrome and impacted babies prepared by DHFS and an oral explanation of these materials to their service recipients, without cost to the parents.

Immunity from Liability. DHFS, a county department, a nonprofit organization under contract with DHFS or a county department, a POCAN provider, a MA care coordination services provider, a school board, would be immune from liability for any damage resulting from any good faith act or omission in preparing, distributing, providing, or in failing to prepare, distribute, or provide, the training, oral explanation, instruction, or written and audiovisual materials relating to shaken baby syndrome and impacted babies.

Data Collection on Shaken Baby Syndrome. Beginning on the first day of the 12th month beginning after the bill's effective date, DHFS would be required to identify all infants and young children who have shaken baby syndrome or who are impacted babies and all infants and young children who have died as a result of being shaken or thrown by using the Wisconsin statewide automated child welfare information system (WISACWIS) and the child fatality information compiled by the Department of Justice. For each identified infant or young child, DHFS would document the age, sex, and other characteristics of the infant or young child that are relevant to the

prevention of shaken baby syndrome and impacted babies and, if known, the age, sex, employment status, and residence of the person who shook or threw the infant or young child, the relationship of that person to the infant or young child, and any other characteristics of that person that are relevant to the prevention of shaken baby syndrome and impacted babies.

Rule Making Authority. Under current law, DHFS is required to promulgate rules relating to licensing child welfare agencies, day care centers, foster homes, treatment foster homes, shelter care facilities, and county departments, and DWD is required to promulgate rules relating to certifying child care centers. The bill would require DHFS and DWD to consult with the Child Abuse and Neglect Prevention (CANP) Board before promulgating these rules. The bill would also require that, before issuing a license or certifying a day care center, all licensees or providers and all employees and volunteers of a licensee or day care provider receive training relating to shaken baby syndrome and impacted babies. The bill would require DHFS and DWD to submit proposed rules to the Legislature relating to this additional requirement no later than the first day of the 12th month beginning after the effective date of the bill. Before the rules are finally promulgated, DHFS and DWD would be required under this bill to administer the requirements under the bill, according to the policies and procedures established by DHFS or DWD, but not yet promulgated as rules.

FISCAL EFFECT

The bill would provide \$68,200 GPR annually, and 1.0 GPR position, beginning in 2005-06, for DHFS to administer the shaken baby syndrome and impacted babies prevention activities created in the bill. The bill would create an appropriation for the DHFS Division of Children and Family Services to support costs exclusively related to the program.

In its fiscal note to the bill, DHFS estimates one-time costs would equal \$65,700 GPR and ongoing costs would equal \$77,000 GPR to implement the bill. DWD also estimated that there would be one-time county costs of \$47,000 associated with training certified providers.

The DHFS fiscal estimate includes: (a) the initial cost of printing and mailing information about shaken baby syndrome and impacted babies to approximately 5,700 current day care providers (\$20,100 GPR); (b) providing this information to approximately 770 new providers annually (\$2,700 GPR annually); (c) one-time costs associated with developing, producing, and distributing written and audiovisual materials for parents to the individuals and organizations identified in the bill (\$43,100 GPR); and (d) ongoing costs of reproducing and distributing the information to individuals and organizations to give to new parents (\$11,200 GPR annually). In addition, if DHFS filled the position provided in the bill with a public health educator, the estimated cost would be \$60,100 annually, with \$2,500 GPR in one-time costs.

Assuming that the position would start on January 1, 2006, the estimated total costs for 2005-06 would be \$97,300, which includes six months of position costs and the one-time, initial costs of providing information to parents and day care providers. The bill provides \$68,200 GPR annually.

Therefore, unless additional funding is provided, DHFS would be required to absorb the estimated \$29,100 difference between the costs identified in the DHFS fiscal note and the funding provided in the bill or delay the position's start date to generate savings to support the one-time costs identified in the DHFS fiscal note. In 2006-07, the estimated costs for the program would be \$77,000, or \$8,800 more than what would be provided in the bill.

POSSIBLE MODIFICATIONS TO THE BILL

The mission of the CANP Board is to advocate, support, and sustain a statewide culture that encourages family and community life in which children will develop and flourish in a safe environment, free from all forms of abuse and neglect. As part of its activities, the Board distributes information on shaken baby syndrome to family resource centers, parenting groups, public health officials, and all but four birthing hospitals in Wisconsin. The Board distributes over 30,000 brochures on preventing shaken baby syndrome each year, and has had additional, unmet requests in some years. The current brochures cost the Board \$0.35 each. The Board is currently developing updated materials in both English and Spanish that will emphasize positive parenting responses to a child's persistent crying and also will tailor information for other child care providers that may be involved in the care of an infant.

The Wisconsin Early Intervention Shaken Baby Prevention Program began four years ago in the City of Milwaukee and provides information on shaken baby syndrome to mothers in the hospital after they give birth. The program is now statewide, and all but four birthing hospitals participate in the program. The program has four components: (1) a coordinator goes to each hospital and trains hospital staff on the program; (2) mothers of newborns receive the brochures from the CANP Board on shaken baby syndrome; (3) hospitals make available videos on shaken baby syndrome for the mother's viewing; and (4) the mother receives a certificate, which she may sign, that indicates that she understands the information presented to her on shaken baby syndrome, that she won't shake a baby, and that she will share this information with other caregivers. This program has been supported with an annual \$30,000 private grant and will expire on December 31, 2005.

Because the CANP Board already distributes materials on shaken baby syndrome, and since it is part of the Board's mission to prevent child abuse, the bill could be amended to require the Board to prepare or contract with a nonprofit organization to prepare materials on shaken baby syndrome, instead of DHFS, as is currently required under the bill. In addition, the funding and position provided in the bill could instead be provided to the Board to support these activities. Alternatively, the bill could be amended to provide funding for the Board and delete the position authority that would be provided in the bill. This change would provide the Board the option of contracting for a coordinator for these activities. Further, the bill could be amended to indicate that these written materials could be available on the web for interested parties to download. Finally, the bill could be amended to allow the Board to either prepare audiovisual materials or purchase prepared audiovisual materials.

Under the bill, child care providers would be required to receive training on shaken baby syndrome and impacted babies by DHFS, the certifying county department, or a nonprofit organization contracted by DHFS or the county department. Currently, licensed child care providers are required to complete 40 hours or three credits of early childhood training approved by DHFS within six months of initial licensure. In addition, 15 hours of continuing education is required each year. DHFS does not financially support this training and does not directly provide training. Certified child care providers are required to complete 15 hours of child care training approved by the county or tribal agency responsible for certification before the provider will be certified. In addition, a county or tribal agency may require up to 5 hours of annual continuing education. The county may not directly provide the training. Therefore, the bill could be clarified to include training curriculums or programs approved by DHFS or a county department. In addition, to remain consistent, immunity from liability could also be extended to these approved programs.

Minor Policy and Technical Amendments. DHFS currently supports GPR-funded state operations costs for most programs administered by the Division of Children and Family Services from an existing general program operations appropriation. Rather than create a new appropriation to support costs that are related exclusively to this program, the bill could be amended to provide the additional funding and position authority associated with this program in the existing appropriation. This change would reduce the complexity of the DHFS appropriation structure and increase funding flexibility related to this program.

In addition, if the Committee adopts Senate Amendment 2, it should also change a reference that appears on page 7, line 25 of the bill relating to pupils in grade 11 to instead reference children in grades 10 through 12.

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