

May 1986 Spec. Sess.  
Assembly Bill 11

Date of enactment: June 4, 1986  
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## 1985 Wisconsin Act 336

AN ACT to repeal 48.627 (2) (a); to renumber and amend 48.627 (1) and 48.627 (2) (am); to amend 48.627 (1m) (intro.), 48.627 (1m) (a), 48.627 (1m) (b), 48.627 (2) (b) and (j), 48.627 (2) (c) to (e) and 48.627 (2) (f); and to create 48.627 (1) (b) and (c), 48.627 (1m) (c) and 48.627 (4) of the statutes, relating to purchasing insurance and payment for injury and damages caused by foster children and granting rule-making authority.

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

SECTION 1. 48.627 (1) of the statutes, as created by 1985 Wisconsin Act 154, is renumbered 48.627 (1) (a) and amended to read:

48.627 (1) (a) 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~~ bodily injury or property damage to 3rd parties.

SECTION 2. 48.627 (1) (b) and (c) of the statutes are created to read:

48.627 (1) (b) A licensing agency may, in accordance with rules promulgated by the department, waive the requirement under par. (a) if the applicant shows that he or she is unable to obtain the required insurance, that he or she has had a homeowner's or renter's liability insurance policy canceled or that payment of the premium for the required insurance would cause undue financial hardship.

(c) The department shall conduct a study to determine the cost-effectiveness of purchasing insurance to provide standard homeowner's or renter's liability insurance coverage for applicants who are granted a waiver under par. (b). If the department determines that it would be cost-effective to purchase such insur-

ance, it may purchase the insurance from the appropriations under s. 20.435 (4) (cf) and (pd).

SECTION 3. 48.627 (1m) (intro.) of the statutes, as affected by 1985 Wisconsin Acts 24, 29 and 154, is amended to read:

48.627 (1m) (intro.) ~~The department shall, from~~ From the appropriations under s. 20.435 (4) (cf) and (pd), ~~purchase insurance to cover, subject to the limitations contained in the insurance policy all of the following~~ the department may pay claims to the extent not covered by any other insurance and subject to the limitations specified in sub. (2), for all of the following:

SECTION 4. 48.627 (1m) (a) of the statutes, as created by 1985 Wisconsin Act 154, is amended to read:

48.627 (1m) (a) Acts or omissions of the foster parent that result in ~~physical~~ bodily 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 5. 48.627 (1m) (b) of the statutes, as affected by 1985 Wisconsin Acts 24, 29 and 154, is amended to read:

48.627 (1m) (b) ~~Personal~~ Bodily injury or property 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 6. 48.627 (1m) (c) of the statutes is created to read:

48.627 (1m) (c) Bodily injury or property damage caused by an act or omission of a foster child in the foster parent's care for which the foster parent becomes legally liable.

SECTION 7. 48.627 (2) (a) of the statutes, as affected by 1985 Wisconsin Acts 24 and 154, is repealed.

SECTION 8. 48.627 (2) (am) of the statutes, as created by 1985 Wisconsin Act 154, is renumbered 48.627 (3) and amended to read:

48.627 (3) 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) or may purchase insurance to cover such claims, within the limits of the appropriations under s. 20.435 (4) (cf) and (pd).

SECTION 9. 48.627 (2) (b) and (j) of the statutes, as affected by 1985 Wisconsin Acts 24, 106 and 154, are amended to read:

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

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

SECTION 10. 48.627 (2) (c) to (e) of the statutes, as affected by 1985 Wisconsin Acts 24 and 154, 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 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 during which the claim is submitted. No claim for property damage sustained by a foster parent or a member of a foster parent's family may be approved in an amount exceeding \$5,000.

(e) The department may not approve a claim unless the foster parent submits with the claim evidence that insurance coverage is unavailable or inadequate to cover the claim. ~~If the foster parent's insurance is available but inadequate, the department may approve a claim only for the amount in excess of the amount covered by insurance.~~

SECTION 11. 48.627 (2) (f) of the statutes, as created by 1985 Wisconsin Act 24, is amended to read:

48.627 (2) (f) If the total amount of the claims approved during any calendar quarter exceeds 25% of the total funds available during the fiscal year for purposes of this subsection plus any unencumbered funds remaining from the previous quarter, the department shall prorate the available funds among the ~~applicants~~ claimants with approved claims. Payment of a prorated amount constitutes a complete payment of the claim.

SECTION 12. 48.627 (4) of the statutes is created to read:

48.627 (4) The attorney general may represent a foster parent in any civil action arising out of an act or omission of the foster parent while acting in his or her capacity as a foster parent.

SECTION 13. **Nonstatutory provisions.** Notwithstanding section 227.24 (1) (a) of the statutes, the department of health and social services may promulgate as an emergency rule the rules required under section 48.627 (1) (b) of the statutes, as created by this act. Notwithstanding section 227.24 (1) (c) of the statutes, the rules remain in effect until June 30, 1987.

SECTION 14. **Program responsibility changes.** In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

A	B	C
Statute Sections	References Deleted	References Inserted
15.251 (intro.)	none	48.627 (4)