



2005 SENATE BILL 221

May 27, 2005 - Introduced by Senators LASSA, OLSEN, ROESSLER, PLALE, BRESKE, ERPENBACH, KANAVAS, BROWN, ROBSON, COGGS, HANSEN, DARLING, WIRCH and MILLER, cosponsored by Representatives KERKMAN, BERCEAU, SHERIDAN, JENSEN, SINICKI, HINES, LEHMAN, TURNER, PETROWSKI, HAHN, BIES, SEIDEL, SHILLING, ALBERS, GRIGSBY, KRUSICK, OTT, FIELDS, CULLEN, MCCORMICK, M. WILLIAMS and DAVIS. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

1 **AN ACT to amend** 48.67, 49.155 (1d) (a) and 49.45 (44) (intro.); and **to create**
2 20.435 (3) (e), 46.515 (4) (b) 3., 121.02 (1) (L) 6. and 253.15 of the statutes;
3 **relating to:** the provision of information regarding shaken baby syndrome and
4 impacted babies to the parents of newborn infants, training regarding shaken
5 baby syndrome and impacted babies for day care providers, and instruction
6 regarding shaken baby syndrome and impacted babies for middle school and
7 high school pupils; and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health and Family Services (DHFS) is required to prepare printed informational materials relating to sudden infant death syndrome and to distribute those materials so as to maximize their availability to parents. DHFS is also required to promulgate rules requiring day care center licensees who are licensed to provide care and supervision for children under one year of age and the employees and volunteers of those licensees to receive training in sudden infant death syndrome before the license is issued or the employment or volunteer work commences. The Department of Workforce Development (DWD) is required to promulgate similar rules for day care providers who are certified to receive reimbursement under the Wisconsin Works (W-2) program and for the employees and volunteers of those providers.

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This bill creates similar requirements relating to shaken baby syndrome, which is defined in the bill 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 and requirements relating to impacted babies, which is defined as babies that suffer death or great bodily harm as a result of being thrown against a surface, hard or soft. Specifically, the bill requires DHFS to prepare or to contract with a nonprofit organization that is dedicated to the prevention of shaken baby syndrome and impacted babies and the support of families affected by shaken baby syndrome or an impacted baby (nonprofit organization) to prepare printed and audiovisual materials relating to shaken baby syndrome and impacted babies that include: information regarding the identification and prevention of shaken baby syndrome and impacted babies; the grave effects of shaking or throwing an infant or young child; appropriate ways to manage crying, fussing, or other causes that can lead a person to shake or throw an infant or young child; and a discussion of ways to reduce the risks that can lead a person to shake or throw an infant or young child.

The bill requires the parents of a newborn infant to be provided with a copy of those written materials and to be requested to view a presentation of those audiovisual materials as follows:

1. In the case of an infant born at or on route to a hospital or maternity home, by the attending physician, attending nurse–midwife, or a trained, designated staff member of the hospital or maternity home before the infant is discharged from the hospital or maternity home.

2. In the case of an infant born elsewhere than at or on route to a hospital or maternity home, by the attending physician, attending nurse–midwife, or a trained, designated birth attendant within seven days after the birth of the infant.

The bill also requires the person who provides those written materials to provide those parents with a form that includes all of the following:

1. 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.

2. A telephone number that the parent may call to obtain assistance on how to care for an infant or young child.

3. A statement that the parent will share that information with all persons who provide care for the infant.

In addition, the bill requires that training relating to shaken baby syndrome and impacted babies be provided:

1. Before an individual may obtain a license to operate a day care center or enter into a contract with a school board to provide a day care program, by DHFS or a nonprofit organization contracted by DHFS to provide that training.

2. Before an individual may be certified as a day care provider under the W–2 program, by a county department of human services or social services (county department) or a nonprofit organization contracted by that county department to provide the training.

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3. Before an employee or volunteer of a day care center, of a day care provider, or of a day care program may provide care and supervision for children, by DHFS, the certifying county department, or a nonprofit organization contracted by DHFS or county department to provide that training.

The training must be provided by no later than the continuation date of the license or the renewal date of the certification or contract, whichever is applicable, or by two years after the effective date of the bill, whichever is sooner, for an individual who on the day before the initial applicability date of the bill: 1) already holds or has applied for a license to operate a day care center; 2) is already certified as a day care provider or has applied for that certification; 3) is already providing a day care program under a contract with a school board; or 4) is already an employee or volunteer of such a licensee, provider, or program.

In addition, the bill requires 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 grade 11 and one of grades 5 to 8. The bill permits the person providing the instruction to provide to each pupil receiving the instruction a copy of the written materials prepared by DHFS or the nonprofit organization, a presentation of the audiovisual materials prepared by DHFS or the nonprofit organization, and an oral explanation of those written and audiovisual materials.

Moreover, the bill requires a county department or an Indian tribe that is providing home visitation services under DHFS's Child Abuse and Neglect Prevention Program or that is a provider of prenatal, postpartum, and young child care coordination services in Milwaukee County under the Medical Assistance program to provide to a recipient of those services, without cost, a copy of the written materials relating to shaken baby syndrome and impacted babies prepared by DHFS or the nonprofit organization and an oral explanation of those materials.

Finally, the bill requires DHFS 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 statewide automated child welfare information system (commonly referred to as "WISACWIS") and child fatality information compiled by the Department of Justice. For each infant or young child so identified, DHFS must document the age, sex, and other characteristics of the 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 child, and any other characteristics of that person that are relevant to the prevention of shaken baby syndrome and impacted babies.

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

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

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1 rules shall be designed to protect and promote the health, safety, and welfare of the
2 children in the care of all licensees. The department shall consult with the
3 department of commerce ~~and~~, the department of public instruction, and the child
4 abuse and neglect prevention board before promulgating these rules. In establishing
5 the minimum requirements for the issuance of licenses to day care centers ~~that~~
6 ~~provide care and supervision for children under one year of age~~, the department shall
7 include a requirement that all licensees who are individuals and all employees and
8 volunteers of a licensee who provide care and supervision for children receive, before
9 the date on which the license is issued or the employment or volunteer work
10 commences, whichever is applicable, the training relating to shaken baby syndrome
11 and impacted babies required under s. 253.15 (4) and, if the licensee, employee, or
12 volunteer provides care and supervision for children under one year of age, training
13 in the most current medically accepted methods of preventing sudden infant death
14 syndrome.

15 **SECTION 5.** 49.155 (1d) (a) of the statutes is amended to read:

16 49.155 (1d) (a) The department shall promulgate rules establishing standards
17 for the certification of child care providers under s. 48.651. The department shall
18 consult with the child abuse and neglect prevention board before promulgating these
19 rules. In establishing the requirements for certification under this paragraph of a
20 child care provider ~~who provides care and supervision for children under one year~~
21 ~~of age~~, the department shall include a requirement that all providers and all
22 employees and volunteers of a provider who provide care and supervision for children
23 receive, before the date on which the provider is certified or the employment or
24 volunteer work commences, whichever is applicable, the training relating to shaken
25 baby syndrome and impacted babies required under s. 253.15 (4) and, if the provider,

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1 employee, or volunteer provides care and supervision for children under one year of
2 age, training in the most current medically accepted methods of preventing sudden
3 infant death syndrome. In establishing the requirements for certification as a Level
4 II certified family day care provider, the department may not include any other
5 requirement for training for providers.

6 **SECTION 6.** 49.45 (44) (intro.) of the statutes is amended to read:

7 49.45 (44) PRENATAL, POSTPARTUM AND YOUNG CHILD CARE COORDINATION. (intro.)
8 Providers in Milwaukee County that are certified to provide care coordination
9 services under s. 49.46 (2) (b) 12. may be certified to provide to medical assistance
10 recipients prenatal and postpartum care coordination services and care coordination
11 services for children who have not attained the age of 7. A provider of those care
12 coordination services shall provide to a person receiving those services the
13 information relating to shaken baby syndrome and impacted babies required under
14 s. 253.15 (6). The department shall provide reimbursement for ~~these~~ those care
15 coordination services only if at least one of the following conditions is met:

16 **SECTION 7.** 121.02 (1) (L) 6. of the statutes is created to read:

17 121.02 (1) (L) 6. In grade 11 and one of the grades 5 to 8, provide pupils with
18 the instruction on shaken baby syndrome and impacted babies described in s. 253.15
19 (5).

20 **SECTION 8.** 253.15 of the statutes is created to read:

21 **253.15 Shaken baby syndrome and impacted babies. (1) DEFINITIONS.**
22 In this section:

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

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1 (b) "Impacted baby" means an infant or young child who suffers death or great
2 bodily harm as a result of being thrown against a surface, hard or soft.

3 (c) "Nonprofit organization" means an organization described in section 501 (c)
4 (3) of the Internal Revenue Code that is dedicated to the prevention of shaken baby
5 syndrome and impacted babies and the support of families affected by shaken baby
6 syndrome or an impacted baby.

7 (d) "Shaken baby syndrome" means a severe form of brain injury that occurs
8 when an infant or young child is shaken forcibly enough to cause the brain to rebound
9 against his or her skull.

10 **(2) INFORMATIONAL MATERIALS.** The department shall prepare or contract with
11 a nonprofit organization to prepare printed and audiovisual materials relating to
12 shaken baby syndrome and impacted babies. The materials shall include
13 information regarding the identification and prevention of shaken baby syndrome
14 and impacted babies, the grave effects of shaking or throwing on an infant or young
15 child, appropriate ways to manage crying, fussing, or other causes that can lead a
16 person to shake or throw an infant or young child, and a discussion of ways to reduce
17 the risks that can lead a person to shake or throw an infant or young child. The
18 materials shall be prepared in English, Spanish, and other languages spoken by a
19 significant number of state residents, as determined by the department. The
20 department shall make those written and audiovisual materials available to all
21 hospitals, maternity homes, and nurse-midwives licensed under s. 441.15 that are
22 required to provide the materials to parents under sub. (3) (a), to all county
23 departments and nonprofit organizations that are required to provide the materials
24 to day care providers under sub. (4), and to all school boards and nonprofit
25 organizations that are permitted to provide the materials to pupils in grade 11 and

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1 one of the grades 5 to 8 under sub. (5). The department shall also make those written
2 materials available to all county departments and Indian tribes that are providing
3 home visitation services under s. 46.515 (4) (b) 1. or 2. and to all providers of prenatal,
4 postpartum, and young child care coordination services under s. 49.45 (44).

5 (3) INFORMATION TO PARENTS. (a) Before an infant who is born at or on route to
6 a hospital or maternity home is discharged from the hospital or maternity home, the
7 attending physician, the attending nurse midwife, or another trained, designated
8 staff member of the hospital or maternity home shall provide to the parents of the
9 infant, without cost to those parents, a copy of the written materials prepared under
10 sub. (2) and shall request those parents to view a presentation of the audiovisual
11 materials prepared under sub. (2). Within 7 days after the birth of an infant who is
12 born elsewhere than at or on route to a hospital or maternity home, the attending
13 physician, the attending nurse-midwife, or a trained, designated birth attendant
14 who attended the birth of the child shall provide to the parents of the infant, without
15 cost to those parents, a copy of the written materials prepared under sub. (2) and
16 shall request those parents to view a presentation of the audiovisual materials
17 prepared under sub. (2).

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

23 1. A statement that the parent has been advised as to the grave effects of
24 shaking or throwing on an infant or young child and of appropriate ways to manage

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1 crying, fussing, or other causes that can lead a person to shake or throw an infant
2 or young child.

3 2. A telephone number that the parent may call to obtain assistance on how to
4 care for an infant or young child, which may be the telephone number of the infant's
5 physician, the hospital or maternity home at or on route to which the infant was born,
6 the nurse-midwife that attended the birth of the infant, if born elsewhere than at
7 or on route to a hospital or maternity home, or a help line established by the hospital,
8 maternity home, or nurse-midwife.

9 3. A statement that the parent will share the information specified in subds.
10 1. and 2. with all persons who provide care for the infant.

11 (c) The person who provides the materials and explanation under par. (a) and
12 the form under par. (b) shall include in the records of the hospital, maternity home,
13 or nurse-midwife relating to the infant a statement that the materials, explanation,
14 and form have been provided as required under pars. (a) and (b).

15 **(4) TRAINING FOR DAY CARE PROVIDERS.** Before an individual may obtain a license
16 to operate a day care center under s. 48.65 or enter into a contract to provide a day
17 care program under s. 120.13 (14), the individual shall receive training relating to
18 shaken baby syndrome and impacted babies provided by the department or a
19 nonprofit organization contracted by the department to provide that training. Before
20 an individual may be certified as a day care provider under s. 48.651, the individual
21 shall receive training relating to shaken baby syndrome and impacted babies
22 provided by the certifying county department or a nonprofit organization contracted
23 by that county department to provide that training. Before an employee or volunteer
24 of a day care center licensed under s. 48.65, a day care provider certified under s.
25 48.651, or a day care program established under s. 120.13 (14) may provide care and

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1 supervision for children, the employee or volunteer shall receive training relating to
2 shaken baby syndrome and impacted babies provided by the department, the
3 certifying county department, or a nonprofit organization contracted by the
4 department or county department to provide that training. The person conducting
5 the training shall provide to the individual receiving the training, without cost to the
6 individual, a copy of the written materials prepared under sub. (2), a presentation
7 of the audiovisual materials prepared under sub. (2), and an oral explanation of those
8 written and audiovisual materials.

9 **(5) INSTRUCTION FOR PUPILS.** Each school board shall provide or contract with
10 a nonprofit organization to provide instruction relating to shaken baby syndrome
11 and impacted babies for pupils in grade 11 and one of the grades 5 to 8. The person
12 providing the instruction may provide to each pupil receiving the instruction a copy
13 of the written materials prepared under sub. (2), a presentation of the audiovisual
14 materials prepared under sub. (2), and an oral explanation of those written and
15 audiovisual materials.

16 **(6) INFORMATION TO HOME VISITATION OR CARE COORDINATION SERVICES RECIPIENTS.**
17 A county department or Indian tribe that is providing home visitation services under
18 s. 46.515 (4) (b) 1. or 2. and a provider of prenatal, postpartum, and young child care
19 coordination services under s. 49.45 (44) shall provide to a recipient of those services,
20 without cost, a copy of the written materials prepared under sub. (2) and an oral
21 explanation of those materials.

22 **(7) IMMUNITY FROM LIABILITY.** (a) The department or a nonprofit organization
23 contracted with under sub. (2) is immune from liability for any damages resulting
24 from any good faith act or omission in preparing and distributing, or in failing to
25 prepare and distribute, the materials specified in sub. (2).

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1 (b) A hospital, maternity home, physician, nurse-midwife, other staff member
2 of a hospital or maternity home, or other birth attendant attending the birth of an
3 infant is immune from liability for any damages resulting from any good faith act or
4 omission in providing or failing to provide the written and audiovisual materials
5 specified in sub. (3) (a) or the form specified in sub. (3) (b).

6 (c) The department, a county department, or a nonprofit agency contracted
7 with under sub. (4) is immune from liability for any damages resulting from any good
8 faith act or omission in providing or failing to provide the training, written and
9 audiovisual materials, and the oral explanation specified in sub. (4). A school board
10 is immune from liability for any damages resulting from any good faith act or
11 omission in connection with the provision of or the failure to provide, the training,
12 written and audiovisual materials, and oral explanation specified in sub. (4).

13 (d) A school board is immune from liability for any damages resulting from any
14 good faith act or omission in providing or failing to provide the instruction and the
15 written and audiovisual materials and oral explanation specified in sub. (5).

16 (e) A county department or Indian tribe that is providing home visitation
17 services under s. 46.515 (4) (b) 1. or 2. and a provider of prenatal, postpartum, and
18 young child care coordination services under s. 49.45 (44) is immune from liability
19 for any damages resulting from any good faith act or omission in providing or failing
20 to provide the written materials and oral explanation specified in sub. (6).

21 **(8) IDENTIFICATION OF SHAKEN OR IMPACTED BABIES.** The department of health and
22 family services shall identify all infants and young children who have shaken baby
23 syndrome or who are impacted babies and all infants and young children who have
24 died as a result of being shaken or thrown by using the statewide automated child
25 welfare information system established under s. 46.03 (7) (g) and child fatality

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1 information compiled by the department of justice. For each infant or young child
2 so identified, the department of health and family services shall document the age,
3 sex, and other characteristics of the infant or young child that are relevant to the
4 prevention of shaken baby syndrome and impacted babies and, if known, the age,
5 sex, employment status, and residence of the person who shook or threw the infant
6 or young child, the relationship of that person to the infant or young child, and any
7 other characteristics of that person that are relevant to the prevention of shaken
8 baby syndrome and impacted babies.

SECTION 9. Nonstatutory provisions.

9
10 (1) SHAKEN BABY SYNDROME AND IMPACTED BABIES; INFORMATIONAL MATERIALS;
11 TRAINING; RULES; POSITIONS.

12 (a) *Preparation and distribution of informational materials.* By the first day
13 of the 12th month beginning after the effective date of this subsection, the
14 department of health and family services or a nonprofit organization, as defined in
15 section 253.15 (1) (b) of the statutes, as created by this act, contracted by that
16 department shall prepare the informational materials specified in section 253.15 (2)
17 of the statutes, as created by this act, and that department shall make those
18 materials available as required under section 253.15 (2) of the statutes, as created
19 by this act.

20 (b) *Training for day care providers.*

21 1. Notwithstanding section 253.15 (4) of the statutes, as created by this act, the
22 department of health and family services or a nonprofit organization, as defined in
23 section 253.15 (1) (b) of the statutes, as created by this act, contracted by that
24 department shall provide the training required under section 253.15 (4) of the
25 statutes, as created by this act, to all individuals who on the day before the first day

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1 of the 12th month beginning after the effective date of this subdivision, hold or have
2 applied for a license under section 48.65 of the statutes to operate a day care center
3 or are providing a day care program under a contract under section 120.13 (14) of the
4 statutes, and to all employees and volunteers of that day care center or day care
5 program who on that day are providing care and supervision for children, by no later
6 than the continuation date of the license or the renewal date of the contract,
7 whichever is applicable, or by two years after the effective date of this subdivision,
8 whichever is sooner.

9 2. Notwithstanding section 253.15 (4) of the statutes, as created by this act, a
10 county department, as defined in section 253.15 (1) (a) of the statutes, as created by
11 this act, or a nonprofit organization, as defined in section 253.15 (1) (b) of the
12 statutes, as created by this act, contracted by that county department shall provide
13 the training required under section 253.15 (4) of the statutes, as created by this act,
14 to all individuals who on the day before the first day of the 12th month beginning
15 after the effective date of this subdivision, are certified by that county department
16 as day care providers under section 48.651 of the statutes or have applied for that
17 certification, and to all employees and volunteers of that day care provider who on
18 that day are providing care and supervision for children, by no later than the renewal
19 date of the certification or by two years after the effective date of this subdivision,
20 whichever is sooner.

21 (c) *Rules.*

22 1. The department of health and family services shall submit in proposed form
23 the rules required under section 48.67 of the statutes, as affected by this act, to the
24 legislature under section 227.19 of the statutes no later than the first day of the 12th
25 month beginning after the effective date of this subdivision. Before the date on which

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1 the rules are finally promulgated, the department of health and family services shall
2 administer section 253.15 (4) of the statutes, as created by this act, according to
3 policies and procedures established by that department, but not promulgated as
4 rules, notwithstanding the absence of rules to administer that provision.

5 2. The department of workforce development shall submit in proposed form the
6 rules required under section 49.155 (1d) (a) of the statutes, as affected by this act,
7 to the legislature under section 227.19 of the statutes no later than the first day of
8 the 12th month beginning after the effective date of this subdivision.
9 Notwithstanding section 227.137 (2) of the statutes, the secretary of administration
10 may not require the department of workforce development to prepare an economic
11 impact report for the rules required under section 49.155 (1d) (a) of the statutes, as
12 affected by this act. Before the date on which the rules are finally promulgated, the
13 department of workforce development shall administer section 253.15 (4) of the
14 statutes, as created by this act, according to policies and procedures established by
15 that department, but not promulgated as rules, notwithstanding the absence of rules
16 to administer that provision.

17 (d) *Positions.* The authorized FTE positions for the department of health and
18 family services are increased by 1.0 GPR nursing position, to be funded from the
19 appropriation under section 20.435 (3) (e), as created by this act, for the purpose of
20 administering the shaken baby syndrome and impacted babies prevention activities
21 specified in section 253.15 of the statutes, as created by this act.

SECTION 10. Initial applicability.

22 (1) SHAKEN BABY SYNDROME AND IMPACTED BABIES; INFORMATIONAL MATERIALS;
23 TRAINING; INSTRUCTION.
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1 (a) *Information to parents.* The treatment of section 253.15 (3) of the statutes
2 first applies to infants born on the first day of the 12th month beginning after the
3 effective date of this paragraph.

4 (b) *Training for day care providers.* The treatment of section 253.15 (4) of the
5 statutes first applies to an individual who applies for a license to operate a day care
6 center under section 48.65 of the statutes, who applies for certification as a day care
7 provider under section 48.651 of the statutes, who enters into a contract to provide
8 a day care program under section 120.13 (14) of the statutes, or who commences
9 employment or volunteer work at a day care center, day care provider, or day care
10 program on the first day of the 12th month beginning after the effective date of this
11 paragraph.

12 (c) *Instruction for pupils.* The treatment of section 253.15 (5) of the statutes
13 first applies to instructional programs provided in the 2007-08 school year.

14 (d) *Information to home visitation or care coordination services recipients.* The
15 treatment of section 253.15 (6) of the statutes first applies to home visitation services
16 under section 46.515 (4) (b) 1. or 2. of the statutes or prenatal, postpartum, and young
17 child care coordination services under section 49.45 (44) of the statutes provided on
18 the first day of the 12th month beginning after the effective date of this paragraph.

19 (e) *Identification of shaken or impacted babies.* The treatment of section 253.15
20 (8) of the statutes first applies to an infant or young child for whom information
21 indicating that the infant or young child has shaken baby syndrome, as defined in
22 section 253.15 (1) (d) of the statutes, as created by this act, or is an impacted baby,
23 as defined in section 253.15 (1) (b) of the statutes, as created by this act, is entered
24 into the statewide automated child welfare information system established under
25 section 46.03 (7) (g) of the statutes, and to an infant or young child for whom child

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1 fatality information is compiled by the department of justice indicating that the
2 infant or young child died as a result of being shaken or thrown, on the first day of
3 the 12th month beginning after the effective date of this paragraph.

4 **SECTION 11. Effective date.**

5 (1) SHAKEN BABY SYNDROME AND IMPACTED BABIES PREVENTION ACTIVITIES. This act
6 takes effect on the day after publication or on the 2nd day after publication of the
7 2005-07 biennial budget, whichever is later.

8 (END)