

**As Reported by the Senate Medicaid, Health and Human Services  
Committee**

**130th General Assembly  
Regular Session  
2013-2014**

**Sub. S. B. No. 276**

**Senators Jones, Tavares**

**Cosponsor: Senator Brown**

**—**

**A B I L L**

To amend sections 3701.63 and 3701.64 and to enact 1  
sections 3701.66 and 3701.67 of the Revised Code 2  
to require the Department of Health to establish 3  
the Safe Sleep Education Program, hospitals and 4  
freestanding birthing centers to implement an 5  
infant safe sleep screening procedure, and certain 6  
persons and entities to adopt an internal infant 7  
safe sleep policy. 8

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3701.63 and 3701.64 be amended and 9  
sections 3701.66 and 3701.67 of the Revised Code be enacted to 10  
read as follows: 11

**Sec. 3701.63.** (A) As used in this section and ~~section~~ 12  
sections 3701.64, 3701.66, and 3701.67 of the Revised Code: 13

(1) "Child day-care center," "type A family day-care home," 14  
and "licensed type B family day-care home" have the same meanings 15  
as in section 5104.01 of the Revised Code. 16

(2) "Child care facility" means a child day-care center, a 17  
type A family day-care home, or a licensed type B family day-care 18

home. 19

(3) "Foster caregiver" has the same meaning as in section 5103.02 of the Revised Code. 20  
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(4) "Freestanding birthing center" has the same meaning as in section 3702.141 of the Revised Code. 22  
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~~(4)(5)~~ "Hospital" means a hospital classified pursuant to 24  
rules adopted under section 3701.07 of the Revised Code as a 25  
general hospital or children's hospital. 26

~~(5)(6)~~ "Maternity unit" means any unit or place in the distinct portion of a hospital where women are regularly received and provided care during all or part of the maternity cycle, except that "maternity unit" does not include an emergency department or similar place dedicated to providing emergency health care licensed as a maternity unit under Chapter 3711. of the Revised Code. 27  
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~~(6)(7)~~ "Parent" means either parent, unless the parents are 34  
separated or divorced or their marriage has been dissolved or 35  
annulled, in which case "parent" means the parent who is the 36  
residential parent and legal custodian of the child. "Parent" also 37  
means a prospective adoptive parent with whom a child is placed. 38

~~(7)(8)~~ "Shaken baby syndrome" means signs and symptoms, 39  
including, but not limited to, retinal hemorrhages in one or both 40  
eyes, subdural hematoma, or brain swelling, resulting from the 41  
violent shaking or the shaking and impacting of the head of an 42  
infant or small child. 43

(B) The director of health shall establish the shaken baby 44  
syndrome education program by doing all of the following: 45

(1) ~~By not later than one year after February 29, 2008,~~ 46  
~~developing~~ Developing educational materials that present readily 47  
comprehensible information on shaken baby syndrome; 48

(2) Making available on the department of health web site in 49  
an easily accessible format the educational materials developed 50  
under division (B)(1) of this section; 51

(3) ~~Beginning in 2009, annually~~ Annually assessing the 52  
effectiveness of the shaken baby syndrome education program by 53  
evaluating the reports received pursuant to section 5101.135 of 54  
the Revised Code. 55

(C) In meeting the requirements under division (B) of this 56  
section, the director shall ~~not~~ develop educational materials that 57  
~~will impose an, to the extent possible, minimize~~ administrative or 58  
financial ~~burden~~ burdens on any of the entities or persons listed 59  
in section 3701.64 of the Revised Code. 60

**Sec. 3701.64.** (A) As used in this section and sections 61  
3701.66 and 3701.67 of the Revised Code, "infant" means a child 62  
who is less than one year of age. 63

(B) A copy of the shaken baby syndrome educational materials 64  
developed under section 3701.63 of the Revised Code shall be 65  
distributed in the following manner: 66

(1) By child birth educators and the staff of ~~pediatric~~ 67  
~~physicians' offices and obstetricians~~ obstetricians' offices, to 68  
an expectant parent who uses their services; 69

(2) By the staff of pediatric physicians' offices, to an 70  
infant's parent, guardian, or other person responsible for the 71  
infant, including a foster caregiver, who uses their services; 72

(3) By the staff of the hospital or freestanding birthing 73  
center in which ~~a child~~ an infant is born, to the ~~child's~~ infant's 74  
parent, guardian, or other person responsible for the infant, 75  
including a foster caregiver, before the child is discharged from 76  
the facility; 77

~~(3)~~(4) By the staff of the "help me grow" program established 78

pursuant to section 3701.61 of the Revised Code, to ~~the child's~~ an  
infant's parent, guardian, or other person responsible for the  
infant, including a foster caregiver, during home-visiting  
services conducted in accordance with that section;

~~(4)~~(5) By each child care facility operating in this state,  
to each of its employees;

(6) By a public children services agency, when the agency has  
initial contact with an infant's parent, guardian, or other person  
responsible for the infant, including a foster caregiver.

~~(B) Each~~ (C) An entity ~~and or~~ person required to distribute  
educational materials pursuant to division ~~(A)~~(B) of this section  
is ~~immune from any~~ not liable for damages in a civil and criminal  
liability action for injury, death, or loss to person or property  
resulting that allegedly arises from an act or omission associated  
with the dissemination of, or failure to disseminate, those  
educational materials unless the act or omission constitutes  
willful or wanton misconduct.

An entity or person required to distribute educational  
materials in accordance with division (B) of this section is not  
subject to criminal prosecution or, to the extent that a person is  
regulated under Title XLVII of the Revised Code, professional  
disciplinary action under that title, for an act or omission  
associated with the dissemination of those educational materials.

This division does not eliminate, limit, or reduce any other  
immunity or defense that an entity or person may be entitled to  
under Chapter 2744. of the Revised Code, or any other provision of  
the Revised Code, or the common law of this state.

**Sec. 3701.66.** (A) As used in this section, "sudden unexpected  
infant death" means the death of an infant that occurs suddenly  
and unexpectedly, the cause of which is not immediately obvious

prior to investigation. 109

(B) The department of health shall establish the safe sleep education program by doing all of the following: 110  
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(1) By not later than sixty days after the effective date of this section, developing educational materials that present readily comprehensible information on safe sleeping practices for infants and possible causes of sudden unexpected infant death; 112  
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(2) Making available on the department's internet web site in an easily accessible format the educational materials developed under division (B)(1) of this section; 116  
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(3) Beginning in 2015, annually assessing the effectiveness of the safe sleep education program by evaluating the reports submitted by child fatality review boards to the department pursuant to section 307.626 of the Revised Code. 119  
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(C) In meeting the requirements under division (B) of this section, the department shall develop educational materials that, to the extent possible, minimize administrative or financial burdens on any of the entities or persons required by division (D) of this section to distribute the materials. 123  
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(D) A copy of the safe sleep educational materials developed under this section shall be distributed by entities and persons with and in the same manner as the shaken baby syndrome educational materials are distributed pursuant to section 3701.64 of the Revised Code. 128  
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An entity or person required to distribute the educational materials is not liable for damages in a civil action for injury, death, or loss to person or property that allegedly arises from an act or omission associated with the dissemination of those educational materials unless the act or omission constitutes willful or wanton misconduct. 133  
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An entity or person required to distribute the educational materials is not subject to criminal prosecution or, to the extent that a person is regulated under Title XLVII of the Revised Code, professional disciplinary action under that title, for an act or omission associated with the dissemination of those educational materials. 139  
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This division does not eliminate, limit, or reduce any other immunity or defense that an entity or person may be entitled to under Chapter 2744. of the Revised Code, or any other provision of the Revised Code, or the common law of this state. 145  
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(E) Each entity or person that is required to distribute the educational materials and has infants regularly sleeping at a facility or location under the entity's or person's control shall adopt an internal infant safe sleep policy. The policy shall specify when and to whom educational materials on infant safe sleep practices are to be delivered to individuals working or volunteering at the facility or location and be consistent with the model internal safe sleep policy adopted under division (F) of this section. 149  
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(F) The director of health shall adopt a model internal infant safe sleep policy for use by entities and persons that must comply with division (E) of this section. The policy shall specify safe infant sleep practices, include images depicting safe infant sleep practices, and specify sample content for an infant safe sleep education program that entities and persons may use when conducting new staff orientation programs. 158  
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**Sec. 3701.67.** (A) As used in this section: 165

(1) "Contractor" means a person who provides personal services pursuant to a contract. 166  
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(2) "Critical access hospital" means a facility designated as 168

a critical access hospital by the director of health under section 169  
3701.073 of the Revised Code. 170

(3) "Other person responsible for the infant" includes a 171  
foster caregiver. 172

(B) Each hospital and freestanding birthing center shall 173  
implement an infant safe sleep screening procedure. The purpose of 174  
the procedure is to determine whether there will be a safe crib, 175  
portable play yard, or other suitable sleeping place for each 176  
infant born at the hospital or freestanding birthing center to 177  
sleep in once the infant is discharged from the facility to the 178  
infant's residence following birth. The procedure shall consist of 179  
questions that facility staff or volunteers must ask the infant's 180  
parent, guardian, or other person responsible for the infant 181  
regarding the infant's intended sleeping place and environment. 182

The director of health shall develop questions that 183  
facilities may use when implementing the infant safe sleep 184  
screening procedure required by this division. The director may 185  
consult with persons and government entities that have expertise 186  
in infant safe sleep practices when developing the questions. 187

(C)(1) If, prior to an infant's discharge from a facility to 188  
the infant's residence following birth, a facility other than a 189  
critical access hospital or a facility identified under division 190  
(D) of this section determines through the procedure implemented 191  
under division (B) of this section that the infant is unlikely to 192  
have a safe crib, portable play yard, or other suitable sleeping 193  
place at the infant's residence, the facility shall not, except as 194  
provided in division (C)(2) of this section, discharge the infant 195  
until it arranges for the parent, guardian, or other person 196  
responsible for the infant to obtain one of those items at no 197  
charge to that individual. In meeting this requirement, the 198  
facility may do either of the following: 199

(a) Collaborate with or obtain assistance from persons or government entities that are able to procure safe cribs, portable play yards, or other suitable sleeping places or provide money to purchase those items; 200  
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(b) Refer the parent, guardian, or other person responsible for the infant to a site, designated by the department of health's bureau of healthy Ohio for purposes of the cribs for kids component of the violence and injury prevention program the bureau administers, at which a safe crib, portable play yard, or other suitable sleeping place may be obtained at no charge. 204  
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(2) A facility is not prohibited from discharging an infant to the infant's residence if funds for the cribs for kids component of the violence and injury prevention program have been exhausted. In that circumstance, the facility shall make a good faith effort to obtain a safe crib, portable play yard, or other suitable place for the infant's parent, guardian, or the other person responsible for the infant by using the facility's own resources or by collaborating with or obtaining assistance from a person or government entity described in division (C)(1)(a) of this section. 210  
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(D) The director of health shall identify the facilities in this state that are not critical access hospitals and that are not served by a site described in division (C)(1)(b) of this section. The director shall identify not less than annually the facilities that meet both criteria and notify those that do so. 220  
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(E) When a hospital registers with the department of health under section 3701.07 of the Revised Code or a freestanding birthing center renews its license in accordance with rules adopted under section 3702.30 of the Revised Code, the facility shall report the following information to the department in a manner it prescribes: 225  
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(1) The number of safe cribs, portable play yards, or other 231  
suitable places to sleep that the facility obtained and 232  
distributed by using its own resources, and for purposes of 233  
complying with this section, since the last time the facility 234  
reported this information to the department; 235

(2) The number of safe cribs, portable play yards, or other 236  
suitable places to sleep that the facility obtained and 237  
distributed by collaborating with or obtaining assistance from 238  
another person or government entity, and for purposes of complying 239  
with this section, since the last time the facility reported this 240  
information to the department; 241

(3) The number of referrals to a site, designated by the 242  
department's bureau of healthy Ohio as described in division 243  
(C)(1)(b) of this section, that the facility made since the last 244  
time the facility reported this information to the department; 245

(4) Demographic information specified by the director of 246  
health regarding the individuals to whom safe cribs, portable play 247  
yards, or other suitable sleeping places were distributed as 248  
described in division (E)(1) or (2) of this section or for whom a 249  
referral described in division (E)(3) of this section was made; 250

(5) In the case of a critical access hospital or a facility 251  
identified under division (D) of this section, demographic 252  
information specified by the director of health regarding each 253  
parent, guardian, or other person responsible for the infant 254  
determined to be unlikely to have a safe crib, portable play yard, 255  
or other suitable sleeping place at the infant's residence 256  
pursuant to the procedure implemented under division (B) of this 257  
section; 258

(6) Any other information collected by the facility regarding 259  
infant sleep environments and intended infant sleep environments 260  
that the director determines to be appropriate. 261

(F) Not later than July 1 of each year beginning in 2015, the 262  
director shall prepare a written report that summarizes the 263  
information collected under division (E) of this section for the 264  
preceding twelve months and provides any other information the 265  
director considers appropriate for inclusion in the report. On 266  
completion, the report shall be submitted to the governor and, in 267  
accordance with section 101.68 of the Revised Code, the general 268  
assembly. 269

(G) A facility, and any employee, contractor, or volunteer of 270  
a facility, that implements an infant safe sleep procedure in 271  
accordance with division (B) of this section is not liable for 272  
damages in a civil action for injury, death, or loss to person or 273  
property that allegedly arises from an act or omission associated 274  
with implementation of the procedure, unless the act or omission 275  
constitutes willful or wanton misconduct. 276

A facility, and any employee, contractor, or volunteer of a 277  
facility, that implements an infant safe sleep screening procedure 278  
in accordance with division (B) of this section is not subject to 279  
criminal prosecution or, to the extent that a person is regulated 280  
under Title XLVII of the Revised Code, professional disciplinary 281  
action under that title, for an act or omission associated with 282  
implementation of the procedure. 283

This division does not eliminate, limit, or reduce any other 284  
immunity or defense that a facility, or an employee, contractor, 285  
or volunteer of a facility, may be entitled to under Chapter 2744. 286  
of the Revised Code, or any other provision of the Revised Code, 287  
or the common law of this state. 288

**Section 2.** That existing sections 3701.63 and 3701.64 of the 289  
Revised Code are hereby repealed. 290

**Section 3.** Section 3701.63 of the Revised Code is presented 291  
in this act as a composite of the section as amended by both Am. 292

Sub. H.B. 487 and Am. Sub. S.B. 316 of the 129th General Assembly. 293  
The General Assembly, applying the principle stated in division 294  
(B) of section 1.52 of the Revised Code that amendments are to be 295  
harmonized if reasonably capable of simultaneous operation, finds 296  
that the composite is the resulting version of the section in 297  
effect prior to the effective date of the section as presented in 298  
this act. 299