

**Assembly Bill 355 - Neglect of a Child Testimony**

October 31, 2017

Senator Rob Cowles

Over the past few years, a host of advocacy groups, Attorney General Brad Schimel, Representative Horlacher and I have collaborated to address challenges relating to the maltreatment of children. Today, I am very pleased for the opportunity to have 2017 Assembly Bill 355 heard on the outcome of years of work to address the issue of child neglect in Wisconsin.

I'll begin today with some concerning statistics from the 2015 Department of Children and Families Child Abuse and Neglect Report.<sup>1</sup> Child neglect is unquestionably the most reported form of child maltreatment, constituting over 60% of all substantiated maltreatment cases (*Figures 1 and 2*).<sup>2</sup> Data over the last several years and even prior to that show the total number of allegations of neglect and the substantiated number of neglect allegations have remained constant (*Figure 3*).<sup>3</sup> In 2015, 3,282 cases of child neglect were substantiated.<sup>4</sup> Over the last ten years in Wisconsin, 214 children died as a result of maltreatment (*Figure 4*).<sup>5</sup> In 2015 alone, two children from the 2<sup>nd</sup> Senate District died as a result of neglect. This is unacceptable.

Countless studies have consistently concluded that children exposed to neglect are at an increased risk for future emotional or behavioral problems. Neglect is linked to an increased risk of alcoholism, drug abuse, high-risk sexual behaviors, eating disorders, obesity, depression, suicide, and other chronic diseases. However, despite the great harm that may result from neglect, current law is insufficient to adequately deal with the complex circumstances surrounding child neglect (*Figure 5*).<sup>6</sup>

Assembly Bill 355 reforms Wisconsin's neglect statutes to add substance and clarity for law enforcement, prosecutors, social workers, community leaders, and caretakers. Under current law, prosecutors are required to prove that there was intent to neglect a child. It is inherently contradictory to be able to prove intent in the act of neglect. This legislation appropriately changes the standard to 'negligently failing to act.' The intent of this legislation is not to catch more people or create more criminals, but instead it's focused on being able to effectively protect children from the maltreaters that are impacting their development and well-being.

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<sup>1</sup> Wisconsin Department of Children and Families, comp. "2015 Wisconsin Child Abuse and Neglect Report." December 2016. <https://dcf.wisconsin.gov/files/cwportal/reports/pdf/can.pdf>.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> Wis. Stat. §948.21.

Assembly Bill 355 also addresses the issue of repeated acts of neglect of the same child. This component of the legislation is modeled after repeated acts of sexual assault of the same child.<sup>7</sup> This gives prosecutors a new tool to identify situations in which a very young or non-verbal child has been neglected but are unable to identify dates and specific instances. Additionally, the current felony schedule has proven to be inflexible and excludes too many instances that constitute neglect in our communities. As a result, long-term and repeated acts of neglect are not being adequately charged as a course of conduct, leaving child victims in negligent situations. It is important to note that this bill does not overrule or minimize the ability of Child Protective Services to intervene and improve the situation before felony neglect charges would even be considered.

Furthermore, this legislation's most significant provision addresses a substantial gap in our laws to address the rapidly growing problem of drug endangered children. These are children who are regularly exposed to the manufacture, distribution or use of controlled substances by their caretakers. Wisconsin has recently seen a steep increase in child endangerment cases that were flagged for drugs, which now constitutes nearly 1 in 5 cases.<sup>8</sup> Assembly Bill 355 adds statutory language that exposing children to drug manufacturing, sales, and drug abuse is child neglect.

Assembly Substitute Amendment 1 does make significant changes to Assembly Bill 355, but fully retains the intent of this legislation. This amendment was crafted with input and feedback from stakeholders to increase consistency with Chapter 48 of the statutes (*Figure 6*) and jury instructions (*Figure 7*) currently used in courts throughout Wisconsin.<sup>9,10</sup>

In closing, it's important to ensure that victims of child neglect receive protection and justice in Wisconsin. By creating Assembly Bill 355, Attorney General Schimel, Representative Horlacher and I are striving to give kids a safer childhood by deterring these dangerous acts of neglect in our communities. It's my hope that this bill will begin to add stability in our justice system for those too young to protect themselves.

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<sup>7</sup> Wis. Stat. §948.025.

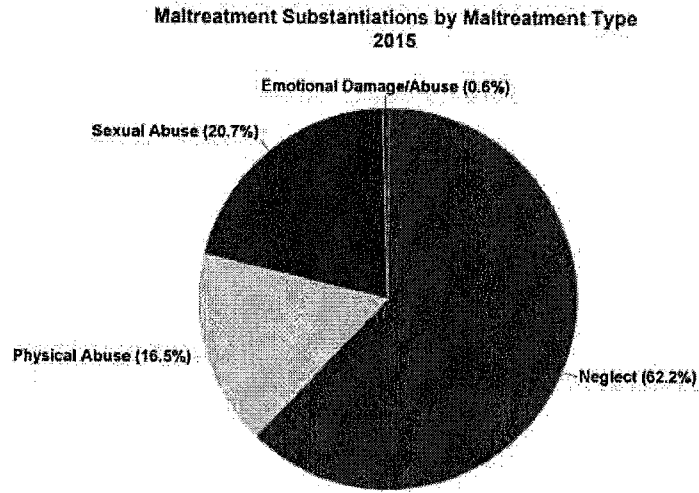
<sup>8</sup> Stephenson, Crocker, and Ashley Luthern. "In Harm's Way: Children are drug epidemic's innocent victims." Milwaukee Journal Sentinel, May 11, 2017. Accessed August 21, 2017. <http://www.jsonline.com/story/news/local/wisconsin/2017/05/11/harms-way-children-drug-epidemics-innocent-victims/100889436/>.

<sup>9</sup> Wis. Stat. §48.13.

<sup>10</sup> Wis. JI #250-Children.

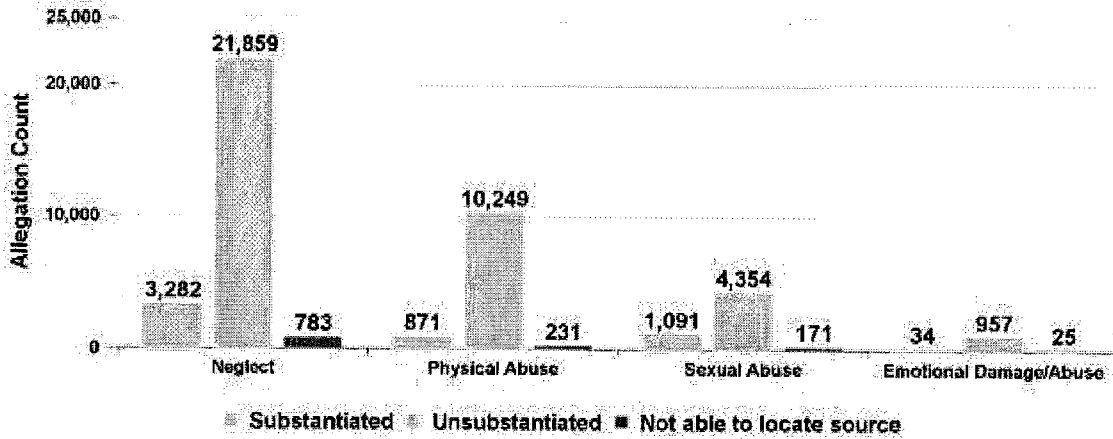
**Assembly 355 Testimony  
October 31, 2017  
Supporting Appendix**

**Figure 1**



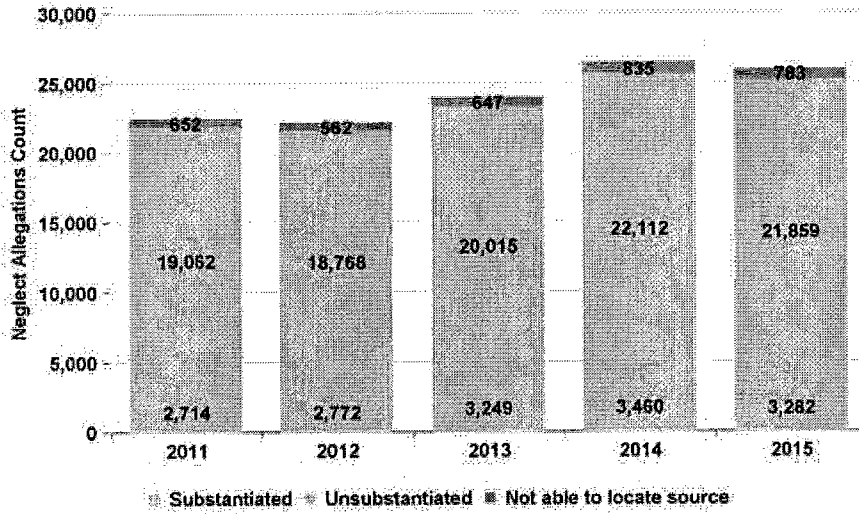
**Figure 2**

**Count of Maltreatment Allegations by Maltreatment Findings, and by Maltreatment Type  
2015**



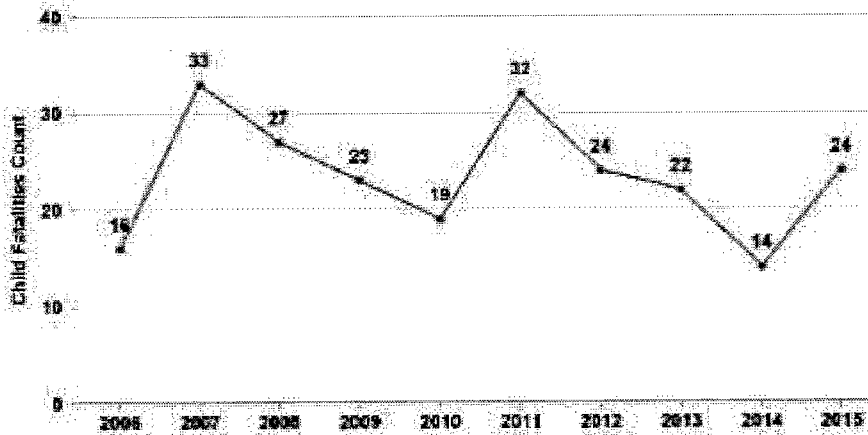
**Figure 3**

Neglect Allegation Findings \*  
2011-2015



**Figure 4**

Count of Child Fatalities Substantiated as Maltreatment \*  
2006-2015



\* Please note that as compared to the 2014 Child Abuse and Neglect Report, the child fatality figure in 2014 increased by one child due to late reporting of the fatality to the county agency.

Figure 5

**948.21 Neglecting a child. (1)** Any person who is responsible for a child's welfare who, through his or her actions or failure to take action, intentionally contributes to the neglect of the child is guilty of one of the following:

- (a) A Class A misdemeanor.
- (b) A Class H felony if bodily harm is a consequence.
- (c) A Class F felony if great bodily harm is a consequence.
- (d) A Class D felony if death is a consequence.

**(2)** Under sub. (1), a person responsible for the child's welfare contributes to the neglect of the child although the child does not actually become neglected if the natural and probable consequences of the person's actions or failure to take action would be to cause the child to become neglected.

Figure 6

**§48.13 (10) & (10m) - Jurisdiction over children alleged to be in need of protection or services.**

**(10)** Whose parent, guardian or legal custodian neglects, refuses or is unable for reasons other than poverty to provide necessary care, food, clothing, medical or dental care or shelter so as to seriously endanger the physical health of the child;

**(10m)** Whose parent, guardian or legal custodian is at substantial risk of neglecting, refusing or being unable for reasons other than poverty to provide necessary care, food, clothing, medical or dental care or shelter so as to endanger seriously the physical health of the child, based on reliable and credible information that the child's parent, guardian or legal custodian has neglected, refused or been unable for reasons other than poverty to provide necessary care, food, clothing, medical or dental care or shelter so as to endanger seriously the physical health of another child in the home;

Figure 7

**Wisconsin Jury Instructions #250-Children**

**Necessary Care, Food, Clothing, Medical or Dental Care, or Shelter.** In 2012, the Committee revised the instruction to clarify that the word "necessary" applies to each of the items listed in § 48.13(10), i.e. care, food, clothing, medical or dental care, or shelter.



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October 31<sup>st</sup>, 2017

Chairman Spiros and Criminal Justice and Public Safety Committee Members,

Thank you for holding a Public Hearing on AB 355 related to neglect of a child and providing criminal penalties.

It has been my honor to work with Senator Cowles as well as our partners at DOJ, DCF, and various other stakeholders who have an interest in helping keep Wisconsin kids safe.

This bill not only addresses issues of what constitutes neglect but it also provides prosecutors more clarity as it relates to the various criminal charges related to neglect. Importantly this bill also creates the crime of repeated acts of neglect of the same child. Tragically we have seen cases where the same child has been repeatedly neglected and this law will help to protect those children from future neglect.

Additionally, AB 355 is just one piece of the larger effort to combat the scourge of drug abuse in our communities. We need to be vigilant in our pursuit of those who do harm to children by engaging in drug related criminal activities in the presence of children. Too often we see cases where children have been harmed during drug production and distribution situations. This cannot stand in Wisconsin.

While I understand that this issue requires a multi-faceted approach, I believe that this bill will provide another layer of support to the efforts currently underway to address child neglect in our state.

I have seen first-hand the horrors of child abuse and neglect, during my time at the district attorney's office, and I know that my colleagues here in the state legislature are committed to working together to address this issue.

I have been able to work with folks across my district who are working every day on the front lines to combat these issues in their communities. It is vital that we protect some of our most vulnerable Wisconsinites, children.

I appreciate your consideration of this bill and I would be happy to answer any questions you may have.



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**PREPARED TESTIMONY OF ATTORNEY GENERAL BRAD D. SCHIMEL**  
Support for Assembly Bill 355  
Assembly Committee on Criminal Justice and Public Safety  
Tuesday, October 31, 2017

Thank you, Chairman Spiros and members of the Assembly Committee on Criminal Justice and Public Safety, for allowing me the opportunity to testify in support of Assembly Bill 355. This legislation aims to clarify our child neglect statutes, as well as provide for a stricter enforcement of penalties. It is important to note that after many conversations surrounding AB 355 and much of the feedback received during the public hearing in the Senate, the Department of Justice has worked closely with the authors of the bill to craft a substitute amendment we believe takes into account many of the concerns voiced, while still ensuring we have a meaningful bill that will protect children.

I would like to thank Senator Cowles and Representative Horlacher for their continued efforts in providing protection from, and remedies for, the appalling crimes of child neglect throughout our state. Their input and enthusiasm for this legislation, which provides prosecutors the tools to more effectively fight child neglect, demonstrates their commitment to improve the lives of children in their districts and across the state.

The State of Wisconsin prides itself on its commitment to providing a healthy and nurturing environment for our children. Yet even with this commitment, we have seen too many instances of child neglect. Child neglect is more prevalent than child sexual abuse, physical abuse, and emotional abuse combined.

Of the 24 children that died from maltreatment in Wisconsin in 2015, 9 of them were victims of neglect.

The numbers are only outdone by the astonishing abuse stories of neglect that have occurred recently.

- In 2013, a man was convicted of child neglect after he refused to feed his 15 year old daughter, who weighed just 68 pounds when she was taken into protective custody. This abuse began when she was just ten years old, and

for the majority of the next five years, she was locked in a basement and forced to eat her own feces and drink her own urine. Her step-mother was also charged with child abuse, and her step-brother was charged with sexual abuse.

- In 2015, Patrick and Alycin Keller, parents of an autistic child, were charged with child neglect after locking her in a basement every day when not attending school. The 13 year old girl was forced to live in a space that had no lavatory, or basin for running water or showering. The parents forced her to wear a “onesie” with only a zipper on the back, and often they forced her into a makeshift cage. The child’s school reported as many as seven times that she showed up to school with dried stool in her hair and in clothes covered in feces. .
- We are all too familiar with the case in Ohio where two parents had overdosed in a car with their 4 year old son in the car. It happens here, too. Time and time again I prosecuted parents who left their children, often toddlers and infants, unsupervised and uncared for while they left to get drugs or put themselves in a stupefied state as a result of their drug use.

Sadly, these are not isolated incidents of child abuse. Child neglect too often leads to child death. Even if it does not lead to death, these neglected children are left to cope with severe emotional, physical, and mental harm. Often the harm done to these children and their families is irreparable and continues from generation to generation.

I served as an assistant DA and DA for over 25 years, and the largest part of my career involved prosecution of sensitive crimes, most of which involved abuse and neglect of children. Time and time again, when I prosecuted an offender for abusing or neglecting a child, that offender had his or her own history of traumatic experiences as a child. When left unchecked, the cycle of maltreatment is generational.

Any child social services professional will tell you that children who suffer maltreatment are much more likely to go on to be in trouble in delinquency court or adult criminal court, to self-medicate emotional trauma with drug and alcohol abuse and to have an unbalanced sense of what normal family life is, which they will then pass on to the next generation.

The health and well-being of our children should be of the outmost importance to our state and the communities in which we live. If we allow abuse and neglect of our most vulnerable citizens to occur, we not only condemn them to a future of distress; we condemn our own future as well.



Current law is inadequate to insure meaningful prosecution of these most neglectful caregivers. It only provides enhanced, felonious penalties if there is actual bodily harm, but does not address the various other types of harm that occur as a result of child neglect. The substitute amendment provides several benefits to insure caregiver accountability.

- Changes the state of mind requirement (scienter) from intending to neglect care for one's child to one of "negligently acting or failing to act" in providing care such that a reasonable person would know or should know endangers the physical or emotional health of the child. It is an oxymoron to require a prosecutor to prove that a person intentionally committed a crime of neglect, and because the law sets a confusing standard, jurors are sometimes left confused.
- The current law is limited to protecting against physical harm; but as you just heard this new law protects against emotional harm as well. The substitute amendment to AB 355 expands the necessary care provisions of the current criminal law to protect against negligent supervision that leads to physical and or emotional harm including sexual assault and human trafficking.
- The substitute amendment to AB 355 makes changes to the list of some of the specific forms of neglect that would be prohibited. This new list provided by the substitute amendment much more closely mirrors the neglect provisions in the Children's Code in Chapter 48 with the neglect provisions in Chapter 948. The list now virtually identically mirrors the child protection provisions in Chapter 48.
  - The one significant exception relates to the opportunity for participation in required education. This is a recognition that caregivers who engage in child neglect will often keep their children out of school, because teachers and other school staff are often the first place where the system identifies the symptoms of neglect. We want to make it clear that a person responsible for the welfare of a child cannot avoid detection for their maltreatment of a child by keeping them out of school.
  - I want to highlight one particular provision that is very important. The enumerated list in the substitute amendment includes protection from the manufacture, or distribution of controlled substances, or drug abuse.

- The drug epidemic in our state and nation is the largest public safety and public health crisis I have seen in over a quarter century in law enforcement. All too often, innocent children fall victim to the consequences of drug abuse by their caregivers. We have seen many, many cases in which children have become endangered, physically harmed, and even have died from coming in contact with dangerous controlled substances abused by their caregivers or the paraphernalia from that abuse.
  - The vast majority of counties and tribes in Wisconsin now have active Drug Endangered Child Programs. These multidisciplinary teams work together to prevent risks to children from drug trafficking and abusing environments, and to restore children to safe environments when they have been exposed to use of dangerous controlled substances. Wisconsin can now seek to protect children that may be in danger of neglect or abuse due to the use, distribution, or manufacturing of controlled substances.
- The substitute amendment, like AB 355 also specifically recognizes that preschool aged children are most at risk, and provides extra protection for our most vulnerable children who are 5 years of age and younger.
- Finally, this substitute amendment like the original bill creates additional protections for children who suffer Repeated Acts of Neglect that result in Physical or Emotional Harm.
  - From my perspective as a prosecutor, this is the most important provision in the bill, because it eases the burden on the child in an investigation and prosecution.
  - In many child maltreatment cases, the child themselves will provide us with much of the information we need to prosecute, and will be a critical witness if a trial occurs. When the maltreatment is ongoing or repetitive, as it often is, it is often very difficult to child victims to put specific time frames on acts of maltreatment.
  - For as long as I can recall, Wisconsin law has provided that repeated acts of sexual abuse of a child be charged as a single, continuing offense. Just last session, Wisconsin expanded this

important tool to include cases involving physical abuse of a child. We need to close this gap for child neglect cases, as well. AB 355 does that.

This proposed legislation would allow prosecutors to rigorously prosecute crimes of severe neglect and allows for softer punishments on less severe neglect. An increase in the flexibility and severity of punishment will help curb the number of children neglected or abused in the future as well as provide justice for victims.

AB 355 would make it clear that it is a felony if the neglect if the child becomes a victim a child sex offense, which would help protect those children who become at risk of sexual assault or human trafficking.

Our children do not have the voice to speak for themselves. We have a duty to provide a nurturing community that allows for development and growth. Through this legislation, we have an opportunity to dramatically increase the number of children that we can protect.

Thank you for the opportunity to testify in support of Assembly Bill 355.

Child Neglect Legislation Testimony  
Assembly Committee on Criminal Justice and Public Safety  
October 31, 2017

My name is Julie Ahnen. I am the Manager of Child Protective Services for Dane County Human Services, and have served in this role since March of 2010. I've been working as a Social Worker for over 30 years, and have worked for the Dane County Department of Human Services for 22 of those years. I oversee a staff of close to 80 professionals who are devoted to ensuring the safety of the children in Dane County. In 2016, we assessed over 1800 families for abuse and neglect concerns. Nationally, the vast majority of concerns reported to CPS, assessed by CPS, and substantiated by CPS are related to Neglect. Decisions to place children in out of home care are most often related to Neglect.

I'm here to express my opposition to Assembly Bill 355, as this issue is at the heart of our work in CPS. My opposition is supported by the leadership within DCDHS, and the Dane County Government.

Before I get into the concerns I have with the language in this bill, I would like to express my concern that the voices of the people who will be most affected by these significant changes to the criminal statutes are not being heard. In Dane County, we learned about this Public Hearing late last Friday and have been scrambling to make sure that our own voices could be heard. The vast majority of families who are referred to CPS for concerns about neglect are low income families of color. Their voices are missing from this discussion.

We can all agree that children deserve every opportunity to reach their full potential. We are also aware of the expanding body of knowledge and research demonstrating that chronic neglect is harmful to child development. At the same time, it is also extremely harmful to children, families and communities when children are removed from their parents, and placed with temporary caregivers. At the State and County levels, our efforts are better spent on developing and passing legislation that strengthens families and communities. We cannot legislate or police our way out of complex societal issues such as poverty, substance abuse, and mental illness which are the most common underlying issues related to neglect concerns. This bill changes the criminal definition of neglect, and will be applied in the field by law enforcement personnel throughout the state on a daily basis. Each individual jurisdiction, and each individual officer will be applying their interpretation to these words and will make decisions that will have significant impacts on the lives of WI children and families.

AB 355, as written contains a provision that parents cannot be charged unless their neglectful actions occur "for reasons other than poverty". This provision is difficult to untangle, even in the child welfare system. The vicious cycle of poverty is tightly intertwined with other issues such as poor housing, unsafe neighborhoods, poor

physical and mental health care, poor nutrition, limited transportation, educational deficits, and limited employment opportunities. All of these issues play a significant role in how adults function on a daily basis, and how they parent their children. Maladaptive coping mechanisms such as substance abuse emerge as a way to numb feelings of hopelessness and despair. From the outside looking in, these adults can be labeled as neglectful parents. But, more often than not, people are finding ways to establish the best life possible for themselves and their children. When my staff are out in the community meeting with people in their homes, they are amazed at how resilient people are in the face of such chronic adversity. On a daily basis we are humbled by the stories of trauma that parents share. We quickly discover that most parents have a deep love for, and understanding of their children, and find creative ways to meet their needs. One of my Social Workers recently told me that the most stressful part of her job is hearing the judgments that others make about the families that she has come to know and respect.

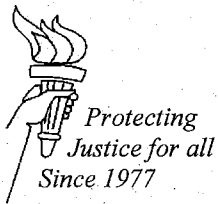
Given what we know about the types of neglect cases that come to the attention of CPS, under this proposed legislation, most families will fall into the lower tier of punishment initially. We also know that many adults struggle to find the motivation to change, and continue to experience parenting challenges. These parents will become repeat offenders. If we end up sending these parents to prison, their children will have to reside with relatives or be placed into foster care for reasons other than child safety.

Child protective services is a highly specialized profession that requires intensive training for workers. The CW system receives significant oversight from the State and Federal Government, as well as oversight from local and national organizations. This intensive training and oversight is in place to ensure consistency in policy, practice, and outcome measures. If this legislation is enacted, how will law enforcement and criminal court decisions be monitored and studied over time to determine if they are effective? What entity will establish best practice standards for LE and the criminal justice system, and expectations for the outcomes of these significantly increased interventions?

The profound and long-lasting impacts on families who experience frequent police contacts and arrests cannot be understated. These contacts show up when landlords, employers, and others conduct background checks. Individual County DA's will have discretion regarding how to handle charges that are referred, but the damage will have been done just by the police knocking on the door and possibly making an arrest, even if those actions do not end up in a conviction.

Ultimately, we all want children to be safe and to be thriving. We want to change parental behavior that is not keeping kids safe or meeting their needs. Change through deterrence and punishment is not proving to be effective. We can point to the national discussion going on right now about the failure of the War On Drugs to change behavior. What that War did was to create a system of mass incarceration of people of color. This "tough on crime" legislation has the potential to take us down that path. On the other

hand, there is a great deal of research-past and ongoing-supporting social change efforts that utilize supportive and motivational methods to encourage change, as opposed to punitive efforts that rely on punishment as an incentive to change. Extensive research has shown that people engage in change and healing within the context of trusting relationships. That trust is built through addressing barrier needs, often linked to poverty. True diversion involves the investment in strategies that keep families out of the CPS, Juvenile Justice, and criminal justice system all together.



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Comments on 2017 Assembly Bill 355  
Assembly Committee on Criminal Justice and Public Safety  
Tuesday, October 31, 2017

The State Public Defender's (SPD) office provides representation for individuals accused of crimes that carry the penalty of potential incarceration. The SPD also represents children who are the subjects of Children in Need of Protection and Services (CHIPS) proceedings.

In relation to AB 355, the concept of criminalizing an unintentional act raises general concerns about the deterrent effect of punishment and the impact to families. Parents and other caregivers who are at risk of neglecting their children may be struggling with depression or other mental health issues, substance abuse, lack of community support, or partner violence. According to the National Conference of State Legislatures, many experts recommend a public health approach to preventing neglect rather than one involving the criminal justice system.

SPD would like to thank Representative Horlacher for the updated language regarding use of narcotics as a criminal act of child neglect. The new language in the substitute amendment makes it more clear that the appropriate use of scheduled prescription and over-the-counter medication cannot be the basis for criminal neglect charges.

There is one section of language in the substitute amendment on page 3, lines 15-17 that we wanted to highlight for the committee's consideration. This language introduces a new definition to the term "negligently." The definition of "negligently" includes an action or failure to act that a reasonable person "would know or should know" endangers the health of a child. "Should know" is a subjective term that would be difficult to both prove and disprove in court (and in hindsight). A reasonable person standard is usually understood to compare the actions of the accused with what a reasonable person in a similar situation would do. The reasonable person standard presumes that there are some people who are held to a higher standard in certain situations. It is an unfair and inaccurate assumption to try to determine what a reasonable person "should know" when there are vast disparities in age, maturity, education and socio-economic status among parents. Changing "would know or should know" to "knows" would mitigate this ambiguity.

SPD also supports the recommendation of End Abuse Wisconsin to create an affirmative defense for victims of domestic abuse.

We understand and appreciate the desire to protect children and families. Very often our adult clients exhibit the effects of childhood trauma - which also manifests as today's victim being tomorrow's defendant. Therefore, the focus on trauma-informed care is so critical to the appropriate understanding and treatment of issues that may feed criminogenic behavior.

SPD appreciates Representative Horlacher's efforts to address issues in the substitute amendment that had been previously identified with AB 355. We are happy to provide any additional information or work with the author to look at alternative language to address these concerns.

**MEMORANDUM**

**TO:** Honorable Members of the Assembly Committee on Criminal Justice and Public Safety

**FROM:** Sarah Diedrick-Kasdorf, Deputy Director of Government Affairs, Wisconsin Counties Association  
Chuck Price, President, Wisconsin County Human Service Association

**DATE:** October 31, 2017

**SUBJECT:** Assembly Bill 355

The Wisconsin Counties Association (WCA) and Wisconsin County Human Service Association (WCHSA) oppose Assembly Bill 355, which creates the crime of neglect and provides criminal penalties.

While our counties appreciate the changes that have been made in Assembly Substitute Amendment 1, we do not believe the changes go far enough in addressing our concerns with the bill, specifically as they relate to a trauma-informed approach to working with families involved in the child welfare system.

The Child Abuse and Neglect Prevention Board (CANPB) has recommended a number of changes to the legislation which our member counties support. While some of those changes have been incorporated into the substitute amendment, the proposed change that will have the largest impact on the families counties work with on a daily basis has yet to be incorporated into the bill draft.

The CANPB recommends utilizing deferred prosecution agreements as a means to work with families, while at the same time recognizing the seriousness of a neglect allegation. If this provision is included in the legislation, counties will remove their opposition to the bill.

It is important to note that causation of chronic neglect differs from physical and sexual abuse to children. Most frequently chronic neglect is related to caretakers' mental health and substance abuse issues, as well as past and current trauma to the family, and can span several generations. A deferred prosecution approach provides counties the opportunity to engage families in treatment supporting more successful outcomes, which will be in the best interests of the child.

Thank you for considering our comments.



Dear Sirs and Madams,

Thank you for taking the time to listen and read testimony regarding strengthening our child neglect laws. I'm on the front lines in the fight for some of our most vulnerable people. My wife and I, along with our children and extended families, are foster parents. Everyday I see first hand the effects that neglect has on children. I've had a six year old ask me if the police would be taking them to school, because in kindergarten that child was habitually truant. Imagine that reality.

I've listened to a child tell me about the time they were take to the hospital via Med flight, because no one would help them manage their diabetes. It wasn't an issue of not being able to financially afford medications. No one wanted to invest the time needed to properly care for their needs. Imagine that reality.

I've heard my son, whom I adopted out of foster care, recount the abuse and the neglect that he went through. Not just to me. He went on national television to encourage others to stand up and ask for help. The question he was asked was "What was the worst abuse you went through?" His answer might shock you. He could have said the time he had a pocket knife pushed into his palm. Or the times he was forced to do manual labor. Or the time he had to eat comet. He stated the worst part was the being left alone. When he was left to wonder what was wrong with him. Why couldn't anyone love him. Why was he so horrible. Imagine that reality.

That's what neglect does to a person. It makes them question everything they see. Emotionally, its very painful. Over time it really hinders a person's ability to form healthy bonds with people. Quite often these children end up with mental illness as a direct result from the neglect the suffered through. Some children can never form attachments to their caregivers or even lasting relationships later in life. Other children overly attach to anyone who gives them anything resembling attention.

I view the issue of neglect as part of a health crisis. Sure, neglect is a criminal act. Sure it costs money to prosecute, convict, and punish those who repeatedly neglect their children. But if you look at the three examples I've outlined above, what were their true costs? It doesn't just stop with the police officer taking the child to school, or the hospital treating the child who was sick or the hospital stay my son needed to help him heal. How many hours of counseling do you think these children needed? How often do you think these children end up having unplanned pregnancies later in life putting a strain on the health system? How often do you think these children fail to graduate from high school? How often do you think these children turn to drugs or alcohol to numb their pain? I could go on and on about all of the cost associated with neglect.

I'm asking that you hear and read all of the testimony and at the end you realize we can't afford not to strengthen our neglect laws. I realize it does carry a price tag to incarcerate a person. I'm sure its not cheap either. But if we want to make a lasting change in the crisis we are facing, then we must spend the money to affect that change. Part of the punishment portion is meant to deter other from committing the same offense. If even one child is helped by receiving the justice they deserve or better yet, a child is saved from the emotional toll of neglect because their parent thought twice about it, then this is a success. At the end of the day every child deserves to have a hero. I'm asking that you decide to be a hero for children across the State of Wisconsin.

Respectfully,

Ryan J Oezer  
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Date: October 31, 2017

To: Assembly Committee on Criminal Justice and Public Safety

From: Ken Taylor, Executive Director, Kids Forward

(Formerly Wisconsin Council on Children and Families)

**Subj: AB 355**

My name is Ken Taylor, and I am the Executive Director of Kids Forward, which was formerly known as the Wisconsin Council on Children and Families. Founded in 1881, we are a research and advocacy organization dedicated to a vision of a Wisconsin where every child thrives. Regarding the issues being discussed here today, I have worked in and around child welfare systems in Wisconsin and across the country since 1994 and I am currently the co-chair of Secretary Anderson's Child Welfare Advisory Committee. I respect the intent of the sponsors and co-sponsors of Assembly Bill 355, we all want to help keep Wisconsin's children safe. **But I have serious concerns about some aspects of AB 355,** which I believe creates unintended, negative consequences for Wisconsin's children and families.

One of my main concerns about the bill was the lack of clarity about many of the terms in the definition of neglect, which constitutes a significant majority (62%) of all child maltreatment substantiations. For example, it was unclear what the "opportunity for education" meant, or who got to decide whether that has been provided or not. In addition, the term "adequate" was used repeatedly and lacked clarity about what that means and who gets to define it. The recent amendment that I found out about yesterday afternoon addressed those concerns, so I appreciate Representative Horlacher's work on that. I had similar concerns about what "the protection from exposure to the distribution, manufacture, or use of controlled substances," actually meant in practice. The fact that "use of controlled substances" was removed to address concerns about legal use of prescription drugs is a step in the right direction. However, it is still unclear to me what "the protection from exposure to the distribution or manufacture of controlled substances, . . . or to drug abuse" actually means, and who gets to determine that. For example, if, on his way to school, a child has to walk past a house or a corner where controlled substances are being distributed, does that constitute neglect due to a lack of "protection from exposure to the distribution of controlled substances?" Because substance misuse is such a big challenge across our state, there will be communities, rural, suburban, and urban, where many children would need to be considered neglected. In fact, I would posit that every college campus in the state would need to become a no-go zone for kids because of the possibility of "exposure to the distribution of controlled substances," and thus criminal neglect by their parents.



DATE: October 31, 2017  
TO: Assembly Committee on Criminal Justice and Public Safety  
FROM: Wisconsin Child Abuse and Neglect Prevention Board  
RE: AB 355 - Assembly Substitute Amendment 1

Thank you for the opportunity to submit testimony on AB 355 – Assembly Substitute Amendment 1.

The mission of the Wisconsin Child Abuse and Neglect Prevention Board (Prevention Board) is to mobilize research and practices to prevent child maltreatment in Wisconsin. Child neglect is a complex issue. Research has identified several risk factors that contribute to child neglect, such as household income level or socio-economic status, parental depression, and parental substance abuse. Wisconsin law addresses child neglect through both the Criminal Code and the Children's Code, and the Prevention Board views the two codes as operating in tandem.

The Prevention Board previously provided testimony in opposition to the Senate companion bill, SB 280. Since the Senate hearing, the Prevention Board provided feedback to the authors. The Prevention Board appreciates the authors addressing some of the concerns expressed by the Prevention Board in Substitute Amendment 1 in the following manner:

1. Changing the modifier for food, clothing, medical care, and shelter from "adequate" to "necessary".
2. Changing the protection from exposure to the distribution, manufacture, or use of controlled substances to "the distribution or manufacture" of controlled substances and changing "use" to "drug abuse" as defined in Wis. Stats. §46.973(1)(b).
3. Changing "opportunity for education" to "Education in compliance with s. 118.15".

Given the responsiveness of the authors as evidenced in the amendment, the Prevention Board does not oppose the bill as amended and takes a neutral position on Substitute Amendment 1.

As a productive partner, the Prevention Board seeks to engage in a continued, productive dialogue about how to comprehensively prevent child neglect. The Prevention Board made the following recommendations that were not included in the amendment:

1. Adding language to the bill that would provide an affirmative defense for victims of domestic violence.
2. Changing the definition of "negligently" to the criminal negligence definition.
3. Defining what is meant by an act of neglect.
4. Adding a provision requiring that except in cases resulting in death or great bodily harm a person charged with neglect must be offered a deferred prosecution agreement that includes the completion of a treatment program unless the State establishes by compelling reasons why it is not in the best interests of the neglected child to enter into a deferred



prosecution agreement. The reason for this recommendation, which is modeled on the HOPE legislation, Wis. Stats. §961.443(2)(b)2, is that is a trauma-informed approach to addressing neglect, which the Board thinks could help prevent future acts of neglect by providing families with services needed to help them keep their children safe.

While Assembly Substitute Amendment 1 improves the bill, the Prevention Board still has concerns about further criminalizing neglect without providing supports to children and families that would help prevent neglect from occurring in the first place.

The Prevention Board is unaware of any research showing that the criminalization of child neglect is a deterrent. A strictly punitive approach is also inconsistent with the trauma-informed care philosophy being implemented throughout Wisconsin and the recent opioid legislation that treats drug use as a public health issue by focusing on treatment instead of punishment.

The Prevention Board believes that more work needs to be done to understand and prevent occurrences of child neglect, which is why the Prevention Board has convened a Child Neglect Workgroup comprised of experts in a variety of child and family-serving fields, including law enforcement officers, social workers, healthcare professionals, behavioral health experts, judicial officials, a prosecutor, a defense attorney, and a professor specializing in child neglect research. That scope of the Workgroup includes an analysis of potential changes to the Children's Code and the role of the Child Protective Services system in providing services to children and families.

Thank you for the opportunity to comment on this legislation and we look forward to continuing to be engaged in future conversations to prevent and address child neglect.