Jeremy Thiesfeldt

STATE REPRESENTATIVE • 52nd ASSEMBLY DISTRICT

Summary of AB 693

1. Requires the DPI to place on its website and school districts to annually inform teachers of their rights under the law as teachers.
2. Allows a teacher who has documented evidence of having been physically assaulted on the job, to break their contracts without penalty and teach elsewhere.
3. Requires the districts to share with the DPI additional categories of suspension and expulsion data.
4. Strengthens the relationship between law enforcement and the schools, by requiring the sharing of certain types of information for the safety of teachers and students.
5. Gives teachers an avenue of appeal if the administrator of the school denies a formal request for the suspension of a student.
6. If under current law a teacher removes a student from the classroom for disruptive behavior, the bill additionally grants the ability of a teacher to prevent the return of that student for the remainder of that class period as well as the next day's class. The teacher may also allow the student to return earlier. This is not considered to be a suspension.
7. If subjected to an assault, districts must provide assistance to teachers that require a leave of absence during which there will be no loss of benefits.
8. Provide the ability of teachers in all schools the ability to review the academic and behavioral records of all students with whom they have direct contact.
9. Emphasize that upon the transfer of a student to a new district, both the academic records and behavioral records of the students must follow.
10. Schools must retain the behavioral records of students for the length of their enrollment. The records of a student who has dropped out or failed to graduate must be retained until age 21.

Serving the communities of Fond du Lac, Oakfield, Byron, Empire, Taycheedah, and the western half of Calumet township

Capitol Office: Post Office Box 8953 • Madison, Wisconsin 53708-8953
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Jeremy Thiesfeldt

STATE REPRESENTATIVE • 52nd ASSEMBLY DISTRICT

January 11, 2018

Dear Judiciary Committee Members,

Please find attached various testimonies of individuals who wanted to testify but could not make it.

Sincerely,

Jeremy Thiesfeldt

Jeremy Thiesfeldt

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January 11, 2018

Rep. Jeremy Thiesfeldt, Education Chair
52nd Assembly District

RE: AB-693, Teacher Protection Act

Dear Rep. Thiesfeldt:

I wish to go on record in support of AB-693, the Teacher Protection Act. I submit that a better title would be the Student and Teacher Protection Act. As a professional law enforcement officer of 47 years experience, it is my belief that this legislation is long overdue. For too long teachers and students have been held hostage by the egregious and dangerous behavior of an increasing number of out of control students and pusillanimous education administrators. The lack of any meaningful consequences for disruptive and assaultive students only emboldens them to create continual classroom chaos depriving serious students of their opportunity to learn and strive for a better future.

A key provision of this bill would be the requirement that administrators notify law enforcement authorities of assaultive and/or criminal behavior by students. I fear that some school administrators see school property as somehow exempt from the laws that apply everywhere else in the state. Such an attitude creates a feeling of immunity within dangerous students which needs to be extinguished. Unfortunately, I have known of school administrators who failed to notify law enforcement of bodily assaults upon teachers and, even worse, forbade the victim teachers of notifying law enforcement. No doubt, the administrators fear a public reaction to the knowledge that the schools are not the safe havens that everyone assumes they should be. They also probably rightly fear the knowledge that school administrators don't seek meaningful consequences for bad behavior even though such consequences should also include behavioral assessment and treatment of assaultive or defiant students. It is for that reason that I recommend that the bill be amended to include non-criminal penalties for violation of any provision of AB-693. Without at least a Class B civil forfeiture penalty, I fear that some school administrators will seek to evade their responsibilities under the bill.

In order to effectuate the intent of AB-693, I further recommend that the salient provisions of the bill be made known to parents and guardians of all students. This should be a requirement imposed on school boards to provide such notice at the beginning of each school year and for all mid-year school enrollees. Parents and guardians should know that if their child abuses a school staff person and/or another student, the police will become involved. I recognize that not every student act of misbehavior merits a police response; counseling and treatment may be effective for a first or second act. However, when a crime is committed, the police need to be involved at least for the protection of the teacher and the students and also to ensure that the assaultive/defiant student receives the treatment that only a juvenile court can order.

I also applaud the bill's requirement that there be much clearer and effective communication between the educational establishment and law enforcement. The beneficiary of such communication would be the misbehaving student who would have a teacher with a better understanding of the issues confronting such a student. There are already protections in place keeping student information confidential. However, such safeguards should not pertain to the sharing of information between educational and law enforcement professionals.

In conclusion, dedicated teachers should not have to fear their students or the inaction of school administrators who seek to avoid negative publicity. By not holding students accountable to meaningful consequences for assaultive or otherwise criminal behavior, such students will learn to 'graduate' to even more egregious, anti-social behaviors and further degrade the effectiveness of the learning environment.

Sincerely,

Dean J. Collins

Dean J. Collins, M.S.

Assistant Chief of Police (ret.)
Brookfield Police Dept.

Inspector of Police (ret.)
Milwaukee Police Dept.

Life Member, International Assoc. of Chiefs of Police

16825 Burnet Court
Brookfield, WI 53005-6805

To: Representative Jim Ott (Chair)
Representative Cody Horlacher (Vice-Chair)
Representative Jeremy Thiesfeldt
Representative Andre Jacque
Representative Ron Tusler
Representative Samantha Kerkman
Representative Dana Wachs
Representative Gary Hebl
Representative Chris Taylor

From: Rev. Oliver K. Burrows III
Re: AB693 (Teacher Protection Act)
Date: 11 January 2018

My name is Rev. Oliver K. Burrows II, and I am appearing before you today via written testimony, as my radio broadcast schedule does not permit me to appear before you in person. I am appearing in support of AB693, also known as the Teacher Protection Act

I am a former public high school teacher, having taught from 2000-2003 as a high school social studies teacher in the Mosinee School District and 2007-2008 as a social studies teacher and iMentor for Insight School of Wisconsin, now iForward, an virtual high school operating under the auspiees of the Grantsburg School District. In both schools, I encountered issues of violence directed toward both students and me. Fortunately, no physical harm came to anyone, but the incidents left a lasting impression on me and I believe the students in my face-to-face and virtual classrooms.

In the first instance, a student who had incurred what I later learned was a traumatic brain injury unexpectedly grabbed a chair and threated both me and his classmates. After de-escalating the situation, I was able to get the student to go to the office, but he was back in my classroom the next day having received no disciplinary action for his behavior. In the second, I had a student have a verbal and emotional melt-down resulting in a substantial classroom disruption. It was only later that I learned that the student had flat-lined in an emergency room only two weeks before coming to my classroom and after being placed in a group home following that incident.

While these incidents are very mild compared to what many teachers have encountered, I believe that they are sadly indicative of the mildest type of behaviors that teachers are facing in 2018. These types of physical, emotional, and psychological confrontations endanger not only the physical and emotional safety of teachers students, staff, and others but also cause substantial disruptions in the learning experiences students and teachers deserve.

Increasing teacher protection, requiring more district and Department of Public Instruction accountability through increased data collection and reporting, and allowing teachers to have more complete information about the conduct of their students outside the classroom that may

affect what occurs within the classroom is not only needed for the safety of all involved in our schools but will also improve the learning environment of our classrooms at a time when we need to increase the education effectiveness of our schools It is also long overdue given the increasing mental health needs of our students and need to prepare them more thoroughly for the increasingly complex employment and post-secondary educational environments of the 21st century.

In conclusion, while I recognize that there are issues that AB693 do not address, especially the mental health needs of our students, teachers, and staff, I respectfully urge this committee to advance this bill to the Assembly for further debate and passage.

January 7, 2018

Dear Representative Thiesfeldt, Education Chair:

In regards to the hearing on Assembly Bill 693. I apologize for not being able to make a personal appearance but wish to state my support for this bill.

As a background I am a Senior Citizen living in Fond du Lac Wisconsin. I volunteer one day a week during the school year in a local elementary school. My concerns are much broader than my experience. News articles of violence in schools, expulsions, suspensions, dropouts all have been increasing for years. Society has gotten "soft" on discipline and respect which only leads children to believe what they are doing is acceptable. Dealing with these problems through psychology, social services, and coddling has not worked.

The non-disruptive students are the ones we need to focus on as they are our future. They can't learn in the environments currently called classroom education. Teachers are resigning as school boards place restriction on discipline. Giving teachers avenues of relieve is certainly a step in the right direction. I am a firm believer in local rule and don't believe the State should step into areas that are already governed by local school boards but in this case we need a wakeup call to get discipline and respect back in our schools so teachers can teach. We need to support our teachers so they can continue to inspire our children.

As I stated earlier, I volunteer in a local elementary school once a week which certainly limits my experience but I've seen it in children as young as Kindergarten who pinch, kick, and slap teachers with little support or alternatives from Administration. Please pass this legislation as a **start** to putting our schools back into the business of education. Thank you.

Lillian Nolan
78 Martin Place
Fond du Lac, WI 54935

Hutkowski, Hariah

From: rd3703 <rd3703@charter.net>
Sent: Wednesday, October 25, 2017 3:22 AM
To: Rep.Thiesfeldt
Cc: Gibbs, Hannah; Hutkowski, Hariah
Subject: re: Teacher Protection Act

Sir,

Listened to your session on the Vicki McKenna Show on WIBA.

As a retired Wisconsin teacher of 28 years, I support any bill that is similar to what I understand you have written.

The problem is not only that you are a Republican. The problem is both the breakdown of the family AND **multiculturalism.**

Historically, at least through the 1960's, most American school districts did not have to deal with the problems that your bill seeks to address. In the past, society shared a set of cultural values about appropriate student behavior and expectations. More than any other fact, this is no longer the case. Slowly, at first, but even more rapidly, the rise in the number of the children from single parent households has significantly eroded the broad social consensus about proper student behavior in public schools.

Many minorities do not share traditional values. Nor do they share a common set of cultural behavioral norms for students in public schools. The rise of "identity politics" of the Democratic Party has exaggerated the problem, at least as it affects public school teachers and administrators.

As a student in the Janesville public schools from 1954-1964, I know there was never a debate about proper student decorum, proper student behavior, or the academic expectations of each student. In effect, there was consensus about the informal culture of public education. Since this is no longer the case, there is no reason to think that teachers can be effective as they necessarily must spend increasing amounts of time each day, and each year, dealing with non-academic behavioral problems of multicultural classrooms. There now is NO consensus about what remedy or course of action a teacher might take to maintain classroom decorum as a basis for new instruction. This is true as much as it might be in Madison, Oshkosh, Kennan, or Eagle River, though it probably is far worse in Milwaukee.

That any teacher might fear for his/her safety is outrageous and totally antithetical to the mission of effective education. At a minimum, your bill, sadly, must become law. The challenge of educational progress is great enough for most teachers. Time that is devoted to discipline, necessarily detracts from time that is devoted to instruction.

Disruptive students should be "re-educated" in an alternative setting. I suggest that they be reassigned to a special school that focuses on behavioral modification. I believe that the most efficacious alternative for such students would be a military academy that shares the cultural precepts of private schools like St. Johns Military Academy of Delafield. It would behoove you and other legislators to consider this type of educational setting for students who present persistent behavioral problems that are antithetical to the mission of public education.

Sincerely,

R J Delwiche, Minocqua

Hutkowski, Hariah

From: J <jlechler@charter.net>
Sent: Wednesday, January 10, 2018 8:30 PM
To: Rep.Thiesfeldt
Cc: Rep.Vorpagel; 'Ebert, Brad'
Subject: In Support of AB693, the Teacher Protection Act

I would like to be in attendance at this hearing, but it is not possible, so I am writing these comments in support of AB693.

Taxpaying citizens of Wisconsin want to provide a high quality educational experience for all students. This experience can only be delivered in a learning environment which is not chaotic and in which the teacher is in charge and should not feel intimated, uncomfortable or unsafe. The taxpayers employ teachers to teach students and they should not feel inhibited or threatened by students behavior. It is time we take back our schools. We have experienced the effects of the touchy/feely, Dr. Spock, feel good, everyone is a winner, politically correct era and it is evident it hasn't and doesn't work.

The vast majority of students in school want to learn, yet their right to a good education is stolen from them by a small group of disruptive students who destroy the classroom atmosphere and further destroy the teacher's opportunity to teach.

The teacher needs to be in charge of the classroom. The Principal needs to support the teacher. The Superintendent needs to support the Principal. The School Board needs to support the Superintendent and the taxpayer needs to support the School Board. Obviously, there will be times when there needs to be exceptions to this premise, but in general, if we are going to return to an efficient educational process - discipline is needed!!! If they do not learn it at home, we need to step up the program. Teachers need to be safe! Students that want to learn should have that opportunity without disruption.

It is time to protect and support our schools and teachers and take back our schools. The taxpayers are to provide education and plenty money is being spent in that effort. Teachers teach and we need good teachers. If they are not supported and safe, we will end up with staff, but not good teachers.

Jack lechler 920-894-3081

Hutkowski, Hariah

From: Mike Carr <mikecarr@tds.net>
Sent: Wednesday, January 10, 2018 7:30 PM
To: Rep.Thiesfeldt
Subject: Support for Teacher Legislation

Dear Rep. Thiesfeldt,

My wife and I are writing in support of your legislation. My wife works as a para-educator in the Middleton-Cross Plains School district and we believe this would be a step forward in providing a safe learning environment for students and teachers. We live in the Town of Middleton.

Sincerely, Mike and Jill Carr

Hutkowski, Hariah

From: Uwtutor <uwtutor@aol.com>
Sent: Wednesday, January 10, 2018 7:00 PM
To: Rep.Thiesfeldt
Subject: AB693

Good evening, Rep. Thiesfeldt.

I have recently read the legislation being brought forward, AB693, The Teacher Protection Act.

I am in support of these actions and will be happy to encourage my own representatives to vote for this bill when it officially goes up for a vote.

It is imperative that we protect teachers but also take the time to teach students themselves as to responsible behavior expected of them when they becomi working and productive citizens. If the schools won't assist in this process, employers will only have a more difficult time providing safe working environments as the years move forward.

Thank you for your efforts and I appreciate your service.

Lori Kolb
Fitchburg, WI resident

Hutkowski, Hariah

From: Phil Otto <philotto6@gmail.com>
Sent: Wednesday, January 10, 2018 2:45 PM
To: Rep.Thiesfeldt
Subject: teacher protection

Hello, Jeremy,

I just listened to your conversation on WISN radio. this afternoon. I am certainly am in favor of your legislation concerning teacher protection. I personally know of a Kindergarten teacher that was kicked and bruised teaching in the FDL. school district and other teachers that have unbelievable stories that are occurring with minimal discipline. In my opinion these students that touch or push a teacher should be immediately suspended. I was also a past teacher and principal. I wish you success with this legislation.

Have a Blessed New Year!

Phil Otto

Hutkowski, Hariah

From: Liermann, Janelle <jliermann@kiel.k12.wi.us>
Sent: Thursday, January 11, 2018 6:34 AM
To: Rep.Thiesfeldt
Subject: ab693

Jeremy,

I am contacting you to let you know that I am in favor of the ab693 Teacher Protection Act.

With how society has changed, we need to protect our teachers and staff.

Also, thank you again fore attending the Kiel Area School District Board meeting last week. It was greatly appreciated.

Janelle Liermann
School Board Member

BoardmanClark

Richard Verstegen, Attorney

1 SOUTH PINCKNEY STREET, STE. 410, P.O. BOX 927, MADISON, WI 53701-0927
Telephone 608-286-7233
Facsimile 608-283-1709
rverstegen@boardmanclark.com

MEMORANDUM

TO: John Forester, School Administrators Alliance

FROM: Mike Julka and Rick Verstegen

DATE: January 10, 2018

RE: 2017 Assembly Bill 693

You asked our firm to provide you with legal analysis of 2017 Assembly Bill 693 (AB 693). AB 693 proposes to make a number of significant changes to various provisions related to pupil records, pupil discipline, teacher contracts, and teacher leaves of absence. We begin this analysis by addressing the sections of the bill that give rise to the greatest concerns.

Sections 13 through 16 – Removal and Return of Students to the Classroom

Summary: Section 13 through 16 revise the existing statutory language under Wis. Stat. s. 118.164, regarding removal of pupils from class. Although these provisions do not substantively change the provisions related to removing the student from class, they make changes related to when the student may be returned to class. Specifically, this change permits the principal to return the student to the classroom only under certain conditions. Under existing law, the principal retains discretion to return the child to the classroom if, after weighing the interests of affected parties, readmission is the best or only alternative. Under the bill, the principal may return the child to the classroom only if any of the following applies: (1) the pupil has remained out of the classroom for 1 school day; (2) the teacher has met with the pupil about the pupil's conduct and the teacher agrees to the pupil being readmitted to the class; or (3) the teacher voluntarily waives his or her rights to conditions (1) and (2) for return the classroom.

Analysis: This provision essentially allows any teacher to remove a student from the classroom for at least a full day if the student violates the code of classroom conduct. Therefore, if the code of classroom conduct restricts students from using their phone during classroom periods, tardiness, profanity, or general disruptive behavior, a student can be removed by the teacher for an entire school day without any ability by the principal to return the student to class. This provision will essentially allow teachers to control student behavior by simply removing them from class for an entire day without dealing with the problem in a more effective manner. Teachers with poor student management issues will essentially be able to remove any student (or many students) for minor violations of the code of classroom conduct. Teachers must be required

to teach students and deal with certain behaviors within the classroom without resort to removal and then administrators being burdened with numerous children every day without a classroom to attend because the teacher refuses to have the student back in class. Such removal and refusal to return to the classroom may also have an impact on any special education students under IDEA. From an interpretive perspective, the interpretation of one school day is open to question: If a student is removed from the classroom near the end of a class period (or near the end of school day), does that class period/school day count as the school day which the pupil has remained out of the classroom?

Sections 33, 34, and 35 – Suspension of a Student

Summary: These sections create new language making changes to student suspensions. Under these sections, under certain conditions, a teacher may request that the school board schedule a suspension hearing before the school board or before an independent hearing officer, if applicable. These provisions only apply to a teacher who has made a written request to the administrator that the pupil be suspended for a certain period of time and that request was denied. The administrator must have made a determination within 24 hours. The board is required to adopt this procedure as part of board policy. If the administrator denies this request, the school board president must approve or deny the teacher's request for a suspension hearing within 24 hours. If a suspension hearing is held, the school board may suspend a pupil for any of the reasons set forth under Wis. Stat. s. 120.13(1)(b)2. If the suspension occurs, it must not exceed 5 school days. These provisions also remove the ability for the school administrator to review the suspension and make a different decision, pursuant to Wis. Stat. s. 120.13(1)(b)4.

Analysis: There are some very serious concerns with these sections. These sections essentially allow a teacher to circumvent the administrator and pursue a suspension of a pupil with the school board. If the school board approves the suspension, there is no ability for the school administrator to review and reverse this decision. This change will substantially change the manner in which schools administer suspensions within schools. The principal is ultimately the individual who streamlines and makes uniform decisions regarding moving forward with suspensions of pupils in the district. If each teacher (this term is not defined – substitute, part-time, counselor, temporary, etc.) is able to move forward with any suspension, then there will be serious issues with uniform discipline within the school. This may lead to many more suspensions being recommended and requiring a great deal of administrative time, not only for the principal, but also the school board president.

Further, in many instances, suspensions may have a serious impact on the student, particularly a student who is covered under the IDEA, considering that there are limitations on suspensions on individuals before there is a change in placement. For students with disabilities suspended for more than ten days in a school year, individual education plans (IEPs) will have to be revised to reflect alternate services. This leads to increased cost, due process issues, and possible violations of free appropriate public education (FAPE) and lease restrictive environment (LRE).

The teacher is also not limited on the type of incident for which he or she can move forward with a request for suspension. Also, the manner in which the request is provided and the timing of the 24 hours is not entirely clear in this provision. Finally, it is very problematic that, if the school board president agrees to schedule the suspension hearing, the bill indicates that the board

president may either schedule the suspension hearing at the next regularly scheduled meeting or at a special meeting called for that purpose. Under this scheme, if the president does not schedule the hearing until the next regularly scheduled meeting, the delay in suspending the student may take 30 days or more to occur. Such a delay would cause significant problems, particularly because the proposed suspension would be so far removed from the alleged behavior.

Section 12 – Reports to Law Enforcement Agency of Violent Pupil Offenders
Summary: Section 12 creates a new provision requiring a report to law enforcement for certain acts by a pupil involving a physical assault or a violent crime in a school zone.

Analysis: Although it is certainly important to make sure employees are safe in schools from any assaults or violent crimes, we believe that there are a number of concerns with this provision. First, this provision seems to require a principal to contact law enforcement (within 24 hours after being informed of the incident) whenever the principal receives a request from an adult (not even an employee) or a victim of an incident (without specifying any age limit of the victim) that an incident involving a physical assault or violent crime allegedly committed by a student occurred. This provision removes any sort of discretion from the principal to discern whether the circumstances even constituted a physical assault or a violent crime. Further, all that triggers the principal to report is a request. There is no requirement that the request include all details of the incident. Therefore, in many instances, the principal may be required to contact law enforcement without knowing all of the details or, in some cases, where the principal believes that incident does not constitute physical assault or a violent crime as it is defined under the statute.

Second, although there is a reporting requirement by the principal within 24 hours of being informed of the incident, there is no requirement for the person to report this incident within a certain time frame. In some instance, the physical assault may have occurred many weeks, months, or years earlier; however, the principal is still required to report the incident within 24 hours to law enforcement. This may not only create additional administrative requirements for school district administration, but also for law enforcement.

Third, the definition of "physical assault" is very problematic. Under the definition, "physical assault" means "the knowing or intentional touching of another person, by use of any body part or object, with the intent to cause physical harm." This definition does not require any element where the act causes bodily harm or any element that the act is done without the consent of person harmed. *See* Battery at Wis. Stat. s. 940.19. Based on the current definition, there could be many unintended consequences. For example, an elementary school student playing basketball with another student could allege "physical assault" by being intentionally fouled by another student. If the student who was intentionally fouled believes that there was an intent to cause physical harm, the student can then request the principal to report the incident, the principal must then report it to law enforcement.

Fourth, if this statute is intended to be similar to mandating reports of child abuse under the law, then it certainly needs to be further amended. The child abuse reporting statute contemplates "suspected" child abuse, not, as this draft bill does, actual physical assault. Certainly, there are serious implications against any child who is claimed to have already committed a criminal act without any sort of presumption of innocence.

Fifth, this statute requires the "school board" to notify the teacher of the contents of the record before the pupil attends the teacher's next class. This provision seems to require the actual school board to make this known to the teacher, which raises concerns about informing the school board about such an incident, especially in light of student confidentiality issues and concerns about board bias if this matter were to come before the school board for an expulsion. Further, it is not clear which teachers must be informed by the board (if a high school student, must each teacher be notified? what about substitutes?). In addition, the reporting of such incidents without a legitimate educational interest in knowing this information raises confidentiality concerns, especially when the incident alleged to have happened has not been fully investigated and is based merely on a request by a person who witnessed it or is the victim.

Sixth and finally, this provision raises serious concerns about the ability of principals and law enforcement to effectively deal with situations that may involve a criminal act. Certainly, there may be many instances where students are involved in incidents where their lack of maturity may result in them acting in an inappropriate manner, including striking or throwing an object at another student. However, principals and other administrators are specifically trained in dealing with these matters, especially in situations where the appropriate response may be counseling the student involved, rather than involving law enforcement. Certainly, administrators have an incentive in reporting certain incidents to avoid liability to the district, in ensuring his or her own job security, to comply with mandatory reporting, and in maintaining morale in the District. Further, administrators need to have the discretion to call law enforcement only in matters that require such actions. To remove discretion by the administrators may lead to administrators spending a great deal of time with law enforcement when the matter could have been handled in a different manner.

Section 6 – Teacher Access to Behavioral Records

Summary: Section 6 creates a new section in the state pupil records law (Wis. Stat. s. 118.125(2)(dm)). In short, this provision requires the school district clerk or his/her designee to make available to a person (who is employed by the district that the pupil attends and who is required by the department under s. 115.28(7) to hold a license) the behavioral records of a pupil who is enrolled in the person's class. Similar provisions are included related to charter school governing boards and private schools. This section also now generally provides immunity if the school board, governing board, or private school refuses to disclose the records.

Analysis: There are a number of concerns with this provision. At the outset, it is important to note that the existing statutory section immediately before this new section requires that pupil records be made available to a person employed by the district that the pupil attends and required by the department under s. 115.28(7) to hold a license, but only if that person also has been determined by the school board to have legitimate educational interests to the record. *See* Wis. Stat. s. 118.125(2)(d). This requirement is similar to restrictions under FERPA. In contrast, section 6 above does not require any legitimate educational interest to access the record before the person can have access to the record. Thus, section 6 provides unfettered access to records to persons who have a pupil in his or her class, without any showing of a legitimate educational interest to that record. This provision contradicts the provisions in FERPA and raises serious student privacy concerns.

Also, although Section 6 is limited to "behavioral records," it is important to note that "behavioral records" is a very broad category. It not only includes the records identified in the definition itself, but also includes any other record that is not otherwise a progress record. Thus, all records (that are not under the limited definition of progress records) are behavioral records. Therefore, section 6 provides a person who has a pupil enrolled in the person's class to a very broad range of pupil records, not only related to physical assault issues, but other issues that may be contained in a pupil record that the person may not have a legitimate educational interest (custody issues, concerns with different teachers, testing data, student discipline issues within other classes, etc.).

Further, it is not clear under Section 6 what it means for the person to have the pupil "enrolled in [his/her] class." If it is a high school student, does a study hall teacher have access to all of the student's records? What about a long-term substitute? What about a music teacher at an elementary school? It seems that this provision needs to be more clearly defined.

Summary Of The Above Analysis

We strongly believe that the bill will cause a significant cultural change in the State's schools. As mentioned above, the current culture within schools is to address many student issues, even some that may potentially be less serious criminal matters, within the school itself without contacting police. Of course, law enforcement should be contacted in many manners involving more serious matters, and law enforcement certainly has a presence within schools as many schools have sought to have police resource officers within their schools. However, to involve law enforcement on many matters, particularly giving teachers and others the authority to require administrators to report matters to law enforcement, is a significant culture change from handling many of these matters locally and internally as counseling matters within the school, or as discipline matters within the school. School administrators and law enforcement are the individuals with significant training regarding student discipline and criminal prosecution matters, and this bill would remove that experience and training and require additional time and resources for schools on such matters.

Following is our analysis regarding the remaining sections of the bill.

Sections 1 and 32 – Notice of Teacher Rights and Protections

Summary: This provision requires the Department of Public Instruction (DPI) to include on its Internet site a summary of the laws governing the rights and protections afforded to a public school teacher under state and federal law. It then states that the state superintendent shall annually provide electronic notice to each school board of this summary and shall "include" in the summary "all of the following." "All of the following" includes the new protections afforded under the bill (under subsections (a) through (h)), but also includes "[a]ny other information the department considers relevant" under subsection (i). Section 32 requires the school board to provide this notice to teachers as part of its board duties (under newly created Wis. Stat. s. 120.12(29)).

Analysis: This provision is a new requirement for DPI to include the "rights and protections" afforded to a public school teacher. However, this provision is very vague in terms of what laws need to be summarized in this notice. Of course, it must include summaries of the new protections under the bill. However, what other rights and protections should or must be included? Is this completely left to DPI's discretion in terms of what it believes is relevant? Notice of the right to be free of discrimination under Wis. Stat. s. 118.20? Protection for good faith attempts to prevent suicide by a pupil under Wis. Stat. s. 118.295? Notice of the right to be free of discrimination on the basis of sex under Title IX? The overall scope of this provision is very unclear and could result in a very cumbersome requirement for DPI to put together such a notice. Further, Section 32 does not clearly indicate how often this notice must be provided to teachers and how it should be provided to teachers from the board.

Also, this provision, like many others in the bill, does not provide a clear definition of "teacher" under the law. Does this include school counselors, school psychologists, or interpreters? It may lead to confusion in administration if this term is not clearly defined. For example, under Wis. Stat. s. 118.22, "teacher" is specifically defined to mean "any person who holds a teacher's certificate or license issued by the state superintendent or a classification status under the technical college system board and whose legal employment requires such certificate, license, or classification status, but does not include part-time teachers or teachers employed by any board of school directors in a city of the 1st class."

Section 2 – School Performance Report

Summary: This provision requires school districts to include additional information about student suspensions and expulsions within its school performance report required under Wis. Stat. s. 115.38. The law already requires districts to report the reasons for which pupils are suspended or expelled, according to categories specified by the state superintendent. However, the bill also requires that districts specifically report incidents involving physical assaults on teachers, physical assaults on other employees, physical assaults on students, and physical assaults on other adults not employed by the school district.

Analysis: From our understanding, the "categories specified by the state superintendent" for reasons for which pupils are suspended or expelled already includes a category for assault. Therefore, if the DPI already includes "assault" as a category, it is not clear why this provision is necessary. It seems to create additional recordkeeping for schools when filling out their report to (1) identify whether the assault is a "physical assault," as that term is defined under the draft and (2) identify whether the "physical assault" was committed against a teacher (which is not defined), a school employee, a student, or an adult not employed by the school district. So, there appears to be additional recordkeeping and additional statutory interpretation needed in this instance for school districts, which may create additional administrative time.

Also, this provision does not identify whether the physical assault on a "student" must be a student within the district, or whether this includes students who are outside of the district. Further, there may be instances where there may be a physical assault on an individual who does not fall within the categories of student, teacher, employee, or non-employee adult; for example,

as stated, if the assault is on a minor who is not a student in the District, the statute may not apply to such assaults.

Sections 4 and 5 – Charter Schools and Pupil Records Law

Summary: Sections 4 and 5 relate to applicability of the pupil records law (Wis. Stat. s. 118.125) to charter schools. Section 4 defines a "governing board" under the pupil records law, as "the governing board of a charter school established under s. 118.40(2r) or (2x)." Section 5 indicates that the pupil records law is applicable to governing boards.

Analysis: There appears to be a number of concerns with these (and other related) sections. First, although it is not clear whether the state pupil records law applies to charter schools, we believe that we have often interpreted the law to apply to charter schools. Certainly, the Family and Educational Right to Privacy Act (FERPA) applies if the charter school is receiving federal financial assistance. This provision makes clear the state pupil records' law's applicability to charter schools. *See* Wis. Stat. s. 118.40(7)(b) ('Except as otherwise explicitly provided, chs. 115 to 121 do not apply to charter schools."). However, the definition of "governing board" is limited to charter schools established under Wis. Stat. s. 118.40(2r) or (2x), and, from our reading of the statute, charter schools can be established in other ways than under (2r) and (2x).

Second, under Section 5, the heading reads: "Public Records Laws Applicable to Independent Charter Schools." We believe the heading meant to state "pupil records" rather than "public records." We also believe that the word "independent" is not necessary in the heading, unless it is intended to refer to some specific type of charter school. Also, although this provision indicates that all of the pupil records' duties and responsibilities of a school board and school district clerk apply to a governing board, the overall application of such duties and responsibilities are likely not easily transferable. It would be better to go through the pupil records law in detail to determine which provisions should apply to governing boards and then add the words "governing board" to those specific provisions. Certainly, the application of the pupil records law to "governing boards" is further complicated by the fact that, in several newly created provisions and amendments under the bill, the bill actually includes the words "governing boards" in those provisions, but does not make those changes to other parts of the pupil records law. From our perspective, this failure to go through the pupil records law in some detail adds additional confusion to an already confusing law.

Sections 7-10, 20-24, 26-30 – Maintenance of Behavioral Records

Summary: These sections (particularly sections 7-10) relate to maintenance of behavioral records by a school board or charter school under the state pupil records law and by a private school. In particular, these sections (particularly sections 8-10) make certain changes related to the retention requirements related to behavioral records, specifically extending the duration for which behavior records must be maintained under Wis. Stat. s. 118.125(3).

Analysis: Again, there are a number of concerns with these sections. First, as noted with a previous section above, the title under Section 7 includes the term "independent" charter school, but the adjective "independent" may need to be removed because we do not believe that this term has any legal significance and may be confusing.

Second, under existing law (Wis. Stat. s. 118.125(3)), school districts are permitted to only maintain behavioral records of a pupil for one year after the pupil ceases to be enrolled at the school, unless the pupil specifies in writing that his or her behavioral records may be maintained for a longer period. Under the bill, school boards and governing boards of charter schools must maintain such records for as long as the pupil remains enrolled in a school in the school district or the charter school and until the pupil has graduated from high school in the school district or charter school. Further, Section 9 has created a new provision that requires a school board or governing board to maintain behavioral records until the pupil has attained age of 21 under certain conditions (specifically if (1) the pupil was enrolled in but is not currently enrolled in a school in the school district or charter school; (2) the pupil has not graduated from a school in the school district or from the charter school; and (3) neither the pupil nor the pupil's parent or guardian nor another school or school district nor a court has submitted to the school board or governing board the written notice required in [Wis. Stat. s. 118.125(4), which requires transfer of records upon written notice]). Section 10 creates Wis. Stat. s. 118.1255, which sets forth certain similar retention requirements for private schools under the parent choice law.

The bill does seem to clarify that a district does not need to destroy behavioral records one year after a pupil moves from the elementary school to the middle school within the same district. This change seems to indicate that districts must maintain these records until the student graduates or until they are 21 under certain conditions. If the student transfers to another school, the records may then remain at the school district until the student turns 21, unless the conditions above are met. However, despite this clarification, this change presents a number of concerns. Under prior law, the district would have been required to destroy these records within one year of the student being enrolled in this district. This change requires districts to maintain records for an additional period of time, which may add additional retention requirements for districts. The change also adds specific criteria that districts will need to apply in every instance with each particular pupil. This change makes it more similar to the retention requirement for progress records (5 years after ceasing to be enrolled at the school). However, it is still not consistent with the progress record retention requirements, and therefore, there are still administrative issues because of the differing retention requirements for different pupil records. This change is significant and will require the Public Records Board to change the records retention schedule applicable to school districts. Like the existing law, there is also some conflict with the IDEA, and there will still need to be some balancing with the retention requirements under this law and those under the IDEA. The IDEA gives parents the right to request destruction of personally identifiable information concerning their child when such information is no longer needed to provide the child with services. However, the district, not the parents, generally has discretion in making a determination about when records are no longer needed. It would be beneficial if the bill made efforts to be consistent with the IDEA. FERPA does not contain any retention requirements.

Third, the new provision under Section 10 (which creates Wis. Stat. s. 118.1255) appears a little unclear at first, but it seems to incorporate the retention requirements under newly created provisions under Sections 20 and 21 and Sections 26 and 27, which appear to set the same retention requirements as noted above. Sections 22, 23, and 24 appear to create new provisions

or amend existing provisions under Wis. Stat. s. 118.60 related to records, to make it more consistent with the pupil records law. Sections 28, 29, and 30 appear to create new provisions or amend existing provisions under Wis. Stat. ch. 119 related to records, to make it more consistent with the pupil records law.

Sections 3, 11, 36, 37, 38, 39, 40, 41, 42, and 43 – Law Enforcement Agency Records

Summary: These provisions make adjustments to various sections related to sharing of law enforcement agency records. Many revisions to these sections are minor changes to the statutes to ensure its application to charter schools. The primary revision occurs in Section 42, which requires a law enforcement agency to disclose certain records to schools after a student is taken into custody following a belief that the pupil was committing or had committed a felony or misdemeanor under Wis. Stat. s. 939.632(1)(e)3. (violent crime in a school zone). The law enforcement agency must provide any information to the district following the act and within 24 hours after ascertaining the public school, charter school, or private school the pupil attends.

Analysis: This provision seems to provide an additional avenue for school districts to obtain information from law enforcement related to limited incidents involving students on campus. We believe that this provision would be good to provide schools with additional information.

Sections 17, 18, and 25 – Terminating Contracts without Penalty for Physical Assaults

Summary: Section 17 contains minor revisions to the teacher contract statute. Section 18 includes a new provision related to teacher contracts, allowing teachers to terminate their contract without penalty if the teacher is the victim of physical assault or a violent crime, as defined above. The teacher, however, must provide the school board with a law enforcement report documenting the incident within 2 months of the incident. Section 25 includes similar provisions as it applies to school districts under Wis. Stat. ch. 119.

Analysis: Again, this provision is problematic because of the definition of physical assault noted above. Incidents that result in a teacher terminating his or her contract should be very serious in nature. Certainly, teachers who are the victim of a serious incident to their health or safety should be given special consideration concerning whether they should be subject to penalties for leaving the District before the end of the contract. However, the termination should be a last resort, and perhaps the language could include a provision requiring the teacher to meet with administration prior to termination to identify any means to address the situation short of termination. If termination is necessary, the board could then give significant weight to the alleged physical assault in not enforcing any penalties under the contract. However, it should be clear that the teacher may be liable for other amounts that he or she may owe under the contract (e.g., tuition reimbursement that the district paid and the teacher owes). This provision also seems to suggest that the teacher must have been the victim of the physical assault or violent crime; however, it is not clear whether the student or other individual alleged to have engaged in the conduct must have been convicted of the crime in order for the termination without penalty to be effective.

It is also important to note that valid liquidated damages clauses are not "penalties." Under common law, all liquidated damages provisions fall into two categories: liquidated damages or penalties. If the stated amount is a fair attempt to estimate actual damages likely to result from a breach of the contract, then the clause will be held enforceable and result in liquidated damages.

If the stated amount is inserted in the contract to punish the defaulting party, and the amount bears no relationship to actual damages, the clause will be construed as a penalty and will not be enforceable. Therefore, it is incorrect for the bill to identify valid liquidated damages clauses in contracts as "penalties," because they are not intended as penalties, but as enforceable estimates of actual damages that result from the breach.

Finally, it is worth noting that the bill does not establish any sort of deadline for the teacher to resign under this provision after any such physical assault or violent crime. Under the draft, the teacher could seek to resign several weeks, months, or even years after any allege assault or violent crime, and the draft bill would permit the resignation without penalty.

Sections 19 and 31 – Leave of Absence for School Employees

Summary: Section 19 and 31 provides a leave of absence for any public school and charter school employee or teacher who is the victim of a physical assault or violent crime. Special provisions apply depending on whether inpatient care was required. These provisions also state that the school board is entitled to the right of subrogation for reimbursement to the extent that the employee may recover the "reimbursed items in an action or claim in tort against any 3rd party." The provisions also state that "[a] repayment made under this subsection shall be limited to the total sum credited to the injured employee or teacher as damages for pay and fringe benefits actually received in the settlement of any claim caused by the negligence of the third party."

Analysis: Section 19 seems to be unnecessary. If a teacher suffers a serious medical condition, the teacher should in most instances be entitled to medical leave under the state or federal Family and Medical Leave Act (FMLA). It is recognized, however, that there are circumstances where a teacher may not be eligible for under the FMLA based on the number of employees at his or her worksite.

Again, in these circumstances, this provision is not clear whether there must be actual conviction of someone that a physical assault or violent crime occurred, such that the individual is the victim and entitled to leave. Further, in such circumstances, arguably workers compensation may be implicated. It is not clear what sort of third party action that this section contemplates, but, if it is an action against the student or parent, then it may be unlikely that such actions will be the first response of any teacher. Instead, the first response may be to take action against the District.

Conclusion

Please contact us if you have any questions regarding the above analysis.

It is our experience that schools and their administrators vigorously attempt to strike the appropriate balance between securing the best interests of students, while at the same time being ever-mindful of the necessity to provide a safe teaching environment for their professional staff. Each school is different, even in many instances in the same school district. That is why an attempt to legislate solutions to very individualized issues in schools causes us to raise the legal and policy issues set forth above. For all of the above reasons, we recommend that School Administrators Alliance register in opposition to the bill.

disabilityrights | WISCONSIN
Protection and advocacy for people with disabilities.

To: Representative Ott, Chair, and Members of the Assembly Committee on Judiciary
From: Disability Rights Wisconsin, Sally Flaschberger, Lead Advocacy Specialist
Re: Testimony Against AB693
Date: January 11, 2018

Recommendation: Against

My name is Sally Flaschberger and I am a special education advocate with Disability Rights Wisconsin. Thank you for the opportunity to testify today regarding our agencies concerns with AB693. Disability Rights Wisconsin is Wisconsin's Protection and Advocacy system for people with disabilities. A major focus of our work both individually and systemically across the state focuses on special education and the rights of students with disabilities. DRW does not support this bill.

DRW is charged with protecting the rights of over 116,000 students with disabilities in Wisconsin's public schools. Students with disabilities **WOULD** be subject to the provisions in this bill. DRW feels strongly that this bill does nothing to protect the safety of students and staff in schools but only to increase the divide between schools and families when supporting students with disabilities.

One of our major priorities focuses on exclusionary practices through suspension for students with disabilities. We represent families every year whose children with disabilities are involved in physical incidents related to their disabilities at school and face suspension, expulsion, police contact and referral to the juvenile justice system at high rates. In the 2015-2016 school year, almost 10% of students with disabilities were suspended during the school year. Students with disabilities in Wisconsin schools are already three times more likely to be suspended for their disability related behaviors than their peers.

In 2015, DRW represented a family in the Kenosha school district. The student has a diagnosis of autism and bi-polar. He has struggled throughout his years in school with his emotional regulation and often reacted to situations with physical aggression. The school district often called the police to intervene with this student and the student faced multiple legal proceeding due to these events. At one point, the school recommended the student be removed from his parent's home even though the family had many level of supports from the county at home and in the community. The judge agreed removing him from home would not be appropriate and wondered why the school couldn't do more to help this young boy. At the same time, the parents continually asked the school to provide more services and eventually asked for a placement at an alternative school. The school district initially refused. The school felt they could meet the student's need but continued to use police intervention as their go to strategy. **NO** police involvement changed the student's behavior. His greatest success came from positive behavior interventions and meeting his needs to be regulated on a daily basis. The District eventually did place the student at a special school where he had success and returned to the school district in the last year to a regular high school.

During this same time period, DRW requested data on the police contacts to Kenosha Unified Middle and High Schools through an open records request. During the 2014-2015 school year, the five middle schools and five high schools called for police intervention 1,950 times. The high school also had 399 arrests made by the internal school resource officers over this same time. This data is for all students and specific data on students with disabilities was not available. But, it clearly shows an example of one school district that was able to use police intervention as needed to keep staff and students safe. There are

no current laws that prohibit schools from contacting police and this example shows schools are already doing this. But, if this bill passes, we can expect to see increases in these already high numbers.

This bill is designed to protect teachers against violence by students but it will have the unintended consequence of disproportionally subjecting students with disabilities to additional contact with law enforcement for behaviors that are often a direct result of a student's disability. Our state's juvenile justice system is already overrepresented with children with disabilities and Wisconsin continues to be a leader in the school to prison pipeline. Wisconsin ranks third in the country for police involvement for students with disabilities. The "teacher protection act" would erode more of these protections for students with disabilities and create a new pipeline for students in Wisconsin to enter the juvenile justice system.

The following are issues that may arise due to the requirements of the legislation:

- Students with disabilities who may respond to stress or their inability to communicate in negative ways (e.g. hitting, kicking, pushing) could be reported to law enforcement.
- The definition of assault in the bill includes minimal physical contact by a student to a teacher.
- The bill requires law enforcement to report certain actions of students in the community before a student has been found guilty of any crime. This could include contact with law enforcement when families need assistance due to behavior issues at home.
- Students with disabilities have due process rights related to suspension that may be compromised by this new law.
- School boards are generally not involved in discipline relating to behaviors for students with disabilities and may not have the background knowledge to make appropriate decisions.
- This bill **WILL** affect students with disabilities. While there are protections under IDEA, there is nothing currently in state or federal law that prohibits school staff from reporting students to the police.
- The bill significantly expands access to juvenile arrest records and risks infringing on the privacy rights of students with disabilities.
- Students with disabilities have protections to protect information regarding their disability and this could compromise these disclosures.

It would also be important to consider the status of special education funding that may impact schools' abilities to serve students with disabilities. Over the last ten years, special education funding has remained flat in Wisconsin. No increases in special education funding leave school districts to make tough choices about how to provide appropriate levels of support to students with disabilities. It is often the unmet needs of students with disabilities in our schools that creates unsafe situations for both students and staff. The flat funding directly impacts schools' ability to meet these needs.

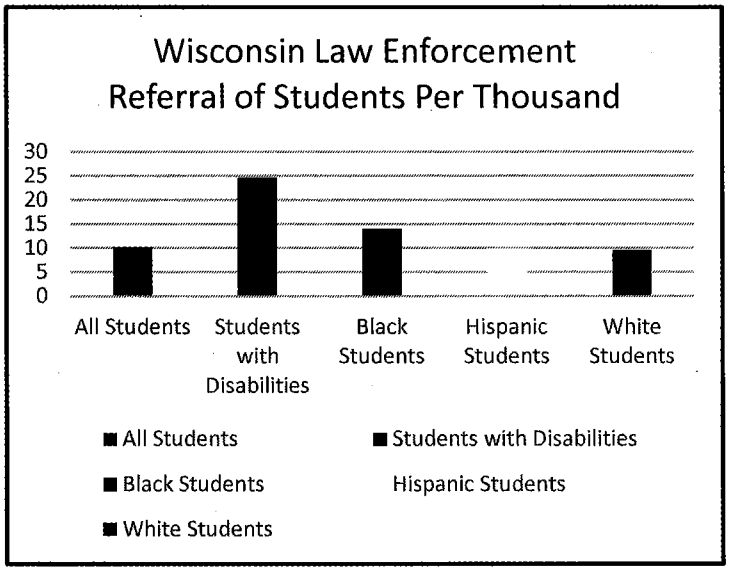
Families often struggle to get the needed services for their children with disabilities. This law will create a greater imbalance for families trying to protect the rights of their children with disabilities in the school system and takes the focus away from students' needs.

Please feel free to contact me if you have additional questions about our concerns of this bill at 414-292-2737.

Thank you for your consideration.

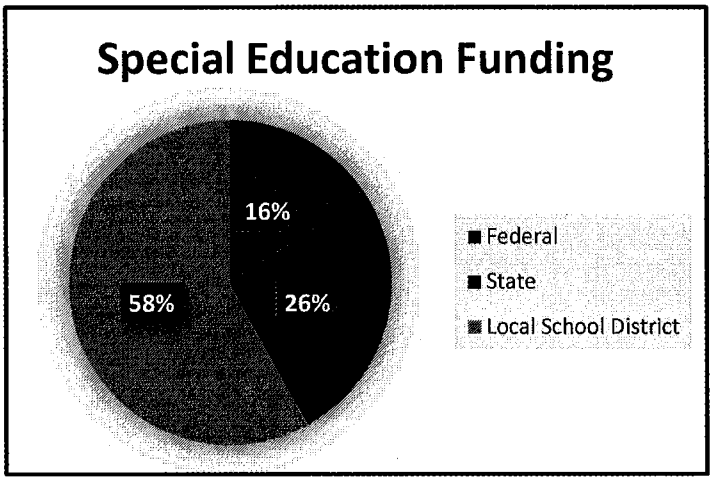
Disability Rights Wisconsin is the federally mandated Protection and Advocacy agency for the State of Wisconsin.

Teacher Protection Act
Threat to Children with Disabilities



Wisconsin has over 116,000 students with disabilities in our public schools. In the 2015-2016, 11524 students or 9.73% of students with disabilities were suspended from school. This rate is three times higher than regular education students who were suspended at a rate of 2.97%. The Center for Public Integrity ranked states by their rate of referral to law enforcement. Wisconsin was ranked 7th overall but ranked 3rd in referrals for students with disabilities to law enforcement.

Special education categorical aid has remained flat in Wisconsin for almost a decade. The reimbursement rate to school districts from the State is 26% and there were no increases in the last biennial budget. Local school districts are forced to make tough choices on how to meet the needs of students with disabilities. It is these unmet needs that can lead to behavioral challenges at school.



Impacts for Students with Disabilities

- Infringing on student privacy rights
- Encouraging ineffective, punitive responses to disability-related behavior
- Creating detrimental linkages between out-of-school incidents and school records
- Expanding the "school to prison pipeline"
- Undermining the administrative chain of command, potentially placing teachers, administrators, and school boards at odds over established policy
- Compromising due process rights regarding suspension for students with disabilities
- Disproportionately affecting students with disabilities and mental health challenges
- Disproportionately affecting students of color
- Imposing unnecessary reporting categories for suspension and expulsion

Alternatives to Teacher Protection Act

- *Positive Behavior Intervention Supports*
- *Safe and Supportive Schools*
- *Professional Development for Staff*
- *Restorative Justice Practices*
- *Trauma-Informed Care Models*
- *Community-School Partnerships*

Agencies Opposing the "Teacher Protection Act"

- Autism Society of South Central Wisconsin
- Autism Society of Southeastern Wisconsin
- Disability Rights Wisconsin
- Dodger Community Network
- Fox Cities Advocates for Public Education
- Mental Health America of WI
- Milwaukee Teachers' Education Association
- NAMI Wisconsin
- Public School Advocates of Lincoln County
- Parents for Public Schools MKE
- Schools and Communities United
- SOS-SW Wisconsin
- Sun Prairie Action Resource Coalition (SPARC)
- Support Sun Prairie Schools
- Survival Coalition of Wisconsin Disability Organizations
- The Arc Wisconsin
- Wisconsin Alliance for Excellent Schools
- Wisconsin Board for People with Developmental Disabilities
- Wisconsin Education Association Council
- Wisconsin Family Ties
- Women Committed to an Informed Community

Contact: Sally Flaschberger, Disability Rights Wisconsin, 414-292-2737 sallyf@drwi.org

Sources: https://www.publicintegrity.org/2015/04/10/17074/state-state-look-students-referred-law-enforcement
http://wisedash.dpi.wi.gov/Dashboard/portalHome.jsp

MONONA GROVE HIGH SCHOOL
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Paul A. Brost, Ph.D. Principal
Kristen Langer Associate Principal
Jeff Schreiner Activities Director
Jason Kling Dean of Students

January 8, 2018

Re: Testimony Opposing Assembly Bill 693—"The Teacher Protection Act"

Monona Grove High School is located in suburban Madison and has approximately 1000 students and 70 teachers. The administrators, teachers, student services staff, and resource officer work together to provide a safe and welcoming environment for students. Like most schools we have implemented Positive Behavior Intervention and Supports (PBIS) in an effort to be proactive in communicating expectations. When challenging or disruptive student behaviors occur, we have procedures in place for minimizing disruptions to the learning environment and addressing the behavior. The individual or team responsible for addressing student behaviors depends on the kind of behavior; it may be handled by the classroom teacher or involve students services staff, administration, or the resource officer. We know that students respond best to high expectations that are clearly communicated and consistently reinforced. Although each behavior incident requires individual consideration, we work together to be as consistent as possible. We strive to continually improve our learning environment for all students and staff. Our school climate surveys indicate that a high percentage of students and staff feel safe in our environment.

We have the following concerns regarding the proposed bill:

- Delegating the right and duty to suspend students to individual teachers will result in inconsistent expectations and consequences for students.
- Teachers will be placed in adversarial positions with students and parents.
- We already have procedures in place for applying discipline and readmitting students when they are removed from the classroom or school.
- The role of the Resource Officer is clearly defined and he works as a key member of our leadership team in determining and delivering appropriate interventions and consequences.
- Teachers and School Board Members are not trained to administrate this level of discipline, communicate it to parents, or collaborate with community resources around these issues.
- We have procedures in place to communicate student information that will enable the teacher to most safely and effectively interact with a student.
- The normal operations of a School Board are not conducive to regular or timely communication regarding individual student behavior.
- For our students with IEP's, behavior plans are developed and communicated with teachers and administrators in an effort to best meet the needs of the student.
- We believe that the practical application of the processes that would result from this Bill would be chaotic for our school and create significant inconsistencies for the very students who need consistency.

Paul Brost
Paul Brost, Ph.D.
Principal

Tyler Kuehl
Science Instructor

Southeastern Wisconsin
Schools Alliance

To: Representative Ott and Members of the Assembly Judiciary Committee
From: Terri Phillips, Executive Director for the Southeastern Wisconsin Schools Alliance (SWSA)
Date: January 11, 2018
Re: AB 693, Teacher Protection Act

My name is Terri Phillips and I am the Executive Director for the Southeastern Wisconsin Schools Alliance, also known as the SWSA. I represent 31 public school districts in Southeastern Wisconsin who educate roughly 25% of the public school students in the state.

Thank you for taking the time to hear and read public comments regarding AB 693, also known as the Teacher Protection Act.

SWSA is extremely concerned about this bill and opposes the proposed legislation. Although we understand that protecting the safety of our educators is critical (and quite frankly all who reside within our schools), we are troubled by this proposal for many reasons.

At a high level, this legislation is most concerning as it infringes upon the rights of students and parents and increases mandates for reporting requirements for school districts. Again, although we understand the intent of this legislation, this bill leaves out key elements that would make this concept workable for all parties involved. Most importantly, this bill will impose consequences that may have a serious negative impact on students with mental health and other disabilities.

Many of our member districts will be providing testimony and sharing specific examples of how this bill may impact the children they serve. Students with mental health issues and other disabilities represent our most vulnerable population. Many of these children arrive at school exhibiting many levels of Adverse Childhood Experiences (ACES), and we recognize that these children may not be "ready to learn" as soon as the bell rings.

SWSA members ask that the legislature continue supporting bills that provide additional support services for these students. We thank you for the new school mental health funding in the state budget and are looking forward to working with more community providers to help meet our students' needs. However, this funding is limited and will only give us the ability to assist with the students exhibiting the most severe needs. There are many other children who need additional mental health support services that are not receiving them. *Here is where we (and these children) can use your support!*

Once again, thank you for taking the time to listen to our concerns and suggestions for moving forward. The SWSA membership is always looking for opportunities to work with legislators to develop sound and effective education policy. We encourage you to solicit our feedback as new bills are considered.

Respectfully submitted,

Theresa A. Phillips

Terri Phillips, SWSA Executive Director
swsaexecdirector@gmail.com
Oconomowoc, WI

School Administrators Alliance
Representing the Interests of Wisconsin School Children

TO: Assembly Committee on Judiciary
FROM: John Forester, Executive Director
DATE: January 11, 2018
RE: AB 693 – Rights of and Protections for Teachers

Good morning Mr. Chairman and members of the Committee. Thank you for the opportunity to testify on this important issue today. In addition to representing virtually all of the public school superintendents, business officials, principals and assistant principals, special education directors and personnel directors in Wisconsin, today I am also proud to speak on behalf of the more than 10,000 members of the Wisconsin Retired Educators' Association (WREA). The SAA strongly opposes Assembly Bill 693, relating to the rights of and protection of teachers.

First of all, I would like to thank the author of this bill, Representative Theisfeldt, for meeting with us and seeking SAA feedback on early drafts of the bill. It was only after it became clear that the bill was moving in a direction we couldn't support that we discontinued those meetings. I also believe that the author is well-intentioned and sincere in attempting to address a very real issue in our schools today – student behavior and staff and student safety. SAA members throughout Wisconsin have commented to me that student behavior concerns are growing more numerous and more severe in their schools. And yet, we believe AB 693 is simply not the right approach to address this issue.

The SAA feels so strongly about this legislation that we have taken two extraordinary steps. First, we retained Attorney Mike Julka of the Boardman & Clark Law Firm to prepare a thorough legal analysis of AB 693. Second, Attorney Julka is with me today to share with you the major concerns we have with AB 693 as identified in that legal analysis.

Mike Julka has practiced school law almost exclusively in his 41-year legal career. He serves as lead counsel for the Wisconsin Association of School Boards (WASB), and for many school districts throughout Wisconsin. Because of his experience and the respect of colleagues and clients, Mike is commonly introduced at functions as the "dean" of Wisconsin school attorneys. As you undoubtedly expect, Mike has encountered and advised many school district clients and administrators regarding the very issues that give rise to AB 693 and the statutes, procedures, and policies that are designed to address those concerns.

Lest you think that you will be hearing from nothing more than a highly-qualified legal technician, I think it is fair to say that Mike's background, and that of his family, also gives him a unique "feel" for the issues that are the subject of this legislation. Before beginning his legal career, Mike taught mathematics in a public high school in Wisconsin. Mike's wife retired from Madison Public Schools as an elementary teacher. And, Mike's daughter is a special education teacher in Madison, specializing in students with severe emotional and behavior disorders. Finally, Mike has been a

volunteer girls basketball coach at Madison Memorial High School for the past 14 years. He currently serves as assistant coach for the girls varsity team.

Thank you for your consideration of our views. If you should have any questions regarding our views on AB 693, please call me at 608-242-1370.

To: Members of the Assembly Committee on the Judiciary
From: Susan Fox, on behalf of the Monona Grove School Board, Monona/CottageGrove, WI
Re: AB 693 – the "Teacher Protection Act"

January 11, 2018

Thank you for providing the opportunity to speak about this proposed legislation today.

On behalf of the Monona Grove School Board, I urge you to defeat AB 693. While we agree that teacher safety in the classroom is important, we also need to acknowledge the mental health needs of students, including those with special needs, as well as appropriate "chain of command" decision-making within schools and school districts. This is a very significant issue of local control.

School districts and boards work to develop and implement thoughtful, effective policies to address the needs of all students, as well as the well being of staff members. At Monona Grove, professional development within the past several years has focused on developing new strategies and skills, thus increasing capacity among teachers and other staff to strengthen the effectiveness of inclusion of all students in regular classrooms, in order to reduce instances of pulling some students out. Procedures are in place to contact parents and follow up with administrators and guidance counselors in instances when a student is asked to leave a class, with final disciplinary decision-making assigned to administrators, who are able to apply objective judgment.

Our work has included implementation of Positive Behavior Supports and Interventions, to encourage positive behavior; a curriculum service delivery model better designed to address learning needs of most students within "regular" classrooms; culturally responsive practices to meet needs of students in traditionally underserved communities; establishment of mental health teams in all schools; and efforts to create a healthy, positive learning and working environment to help us attract and retain highly qualified teachers. We have overhauled our entire policy manual, and in doing so, have more clearly defined expectations and rights of students and staff, along with chain-of-command in terms of communication and disciplinary measures.

This proposed legislation, again, while well-intentioned, is disruptive of all of this important work. In its overreach, it inappropriately interferes with the basic operation of school districts by disrupting administrative chain-of-command. It grants individual teachers unilateral authority to bypass carefully thought-out school board policies and procedures, behavioral intervention plans, as well as a student's individual educational plan, and thus undermines efforts to serve all students, who have varying mental health and academic needs. Additionally, some of the student record provisions in this legislation may violate student record privacy laws.

We thank you for your consideration and hope that after listening to all the concerns raised by various groups and individuals who have appeared before you, and noting the lack of endorsements by those organizations that serve both students and teachers, you will defeat this ill-advised, even if well-intentioned, legislation.

State of Wisconsin

Wisconsin Council on Mental Health
1 West Wilson Street, P.O. Box 7851
Madison, Wisconsin 53707-7851
mhc.wisconsin.gov

Testimony in Opposition to AB693
Assembly Judiciary Committee
January 11, 2018

The Wisconsin Council on Mental Health appreciates this opportunity to testify in vigorous opposition to AB693. Mental health is increasingly recognized as a pressing issue in Wisconsin schools, for students and for staff as well. School safety is clearly an important priority from a mental health perspective. However, AB693 would have the unfortunate effect of decreasing safety and increasing trauma for students with mental health challenges, for several reasons.

The bill includes the following elements of concern for students with mental health challenges:

1. *School referral to law enforcement:* Any adult witness or target of an incident of "physical assault" in school could force an administrator to report the incident to law enforcement. Administrators would lose discretion to take situational or factors related to mental health or disability into account.

   Wisconsin is already using school referral to law enforcement at a remarkably high rate, particularly for students with disabilities. The Center for Public Integrity reported in 2015 that Wisconsin ranks third in the nation in referrals from school to law enforcement for students with disabilities. Reports of students with emotional-behavioral disabilities being led out of the school building in handcuffs is unfortunately common; the Council is concerned about overuse of referral to law enforcement for Wisconsin students with behavior issues related to mental health.

   Our state has been a leader in recent years in promoting trauma-informed care, with a dedicated champion in First Lady Tonette Walker. According to trauma-informed principles, schools should be especially careful to avoid inflicting additional trauma when student behavior is sourced in anxiety, or fight-or-flight response, or a lack of social-emotional or problem-solving skills. Encounters with law enforcement can be traumatic, and the removal of administrator discretion in AB693 in this regard is significantly counter-productive.

2. *Law enforcement reporting to school:* Law enforcement would be required to report to the school if students are taken into custody away from school for alleged felonies or misdemeanors involving violence. The juvenile records (which currently take a specific request from a school administrator to disclose) would be sent to the administrator at the student's school, be distributed to all of the student's teachers, and become part of the student's behavioral records at the school.

3. *Suspensions:* If an administrator denies a teacher's request to suspend a student in cases of a newly-defined incident of "physical assault," the teacher could request that the school board hold a

suspension hearing, potentially overriding the administrator's decision. No provisions are made for due-process regarding suspensions totaling over ten days for students with disabilities, as required by the IDEA.

According to 2016 data from the Department of Public Instruction, Wisconsin suspends students with emotional-behavioral disabilities at eleven times the rate of students without disabilities. Suspensions are generally ineffective at preventing further challenging behavior, and are entirely ineffective at teaching social-emotional or problem-solving skills that students do not possess. Instead, suspensions are associated with high drop-out rates and failure to graduate on time, which in turn has serious impact on success later in life. The emphasis on suspension in AB693, despite its lack of efficacy and its potential to harm, is misguided at best.

4. *Data reporting:* Four new additional categories of "physical assault"-related data reporting for suspension and expulsion would be mandated. This element of the bill also elevates suspension as a disciplinary mechanism, again despite its lack of efficacy and potential to harm.

For all these reasons, the Council requests that this committee oppose AB693.

The Council concurs in the general agreement that schools must be safe places for teaching and learning. Among Council recommendations that would support school safety for everyone are these:

- Increasing special-education categorical aid, which has seen no increases in the past decade and therefore has eroded significantly as a percentage of meeting the actual need.
- Providing mental-health related resources in schools, including funding for support staff. The Council applauds the funding provided in the 2017-19 state budget, but also recognizes that the funding represents a small start in addressing an extensive set of issues.

For further information, please contact Mishelle O'Shasky, Chair of the Wisconsin Council on Mental Health at mishelle@thereentryassociates.com.

Wisconsin Family Ties

Written Testimony in Opposition to AB693, January 11, 2018

Contact: Joanne Juhnke, Wisconsin Family Ties Policy Director
608-320-6165 / joanne@wifamilyties.org

In Wisconsin schools, students with mental health and emotional/behavioral needs are disproportionately affected by exclusionary discipline (suspension and expulsion) and law enforcement involvement in disciplinary issues. Wisconsin Family Ties regularly works with families of students who are physically and emotionally harmed by adult actions at school in the name of discipline and safety; this bill would put students at considerably greater risk.

AB693, known as the "Teacher Protection Act," would add to the harmful overuse of suspension and unnecessary contacts with law enforcement for school discipline issues. Neither approach is successful in changing behavior for the better, while both disproportionately affect students with mental health and emotional/behavioral needs. Students with underdeveloped skills in communication and problem-solving are among those who would be put at increased risk. Disciplinary measures cannot teach students skills that they do not possess, any more than taking a wheelchair away from a student with a physical disability would help them learn to walk.

Despite the ongoing reliance on suspensions in school districts across the state and nation, suspensions are remarkably unsuccessful at improving student behavior. According to the American Psychological Association Zero Tolerance Task Force, "Rather than reducing the likelihood of disruption, school suspension in general appears to predict higher future rates of misbehavior and suspension among those students who are suspended." [American Psychologist (2008), Vol. 63, No. 9, 852–862, www.apa.org/pubs/info/reports/zero-tolerance.pdf] Instead, research indicates that exclusionary discipline is associated with high drop-out rates and failure to graduate on time, which in turn has serious impact on success later in life. Not only are suspensions harmful for the students who receive them, high rates of suspensions can also harm academic achievement for the students who are *not* suspended. [Perry & Morris, Suspending Progress: Collateral Consequences of Exclusionary Punishment in Public Schools. American Sociological Review (2014) vol. 79 no. 6 1067-1087, http://asr.sagepub.com/content/79/6/1067]

Current suspension statistics indicate an alarming disparity between students without disabilities and students with emotional/behavioral disabilities (EBD). In Wisconsin in the 2015-16 school year, there was one suspension per 34 students without disabilities. Among students with emotional/behavioral disabilities, there was one suspension for every 3 students, making the suspension rate 11 times higher for students with EBD than for students without disabilities. The increase in suspensions that this bill would produce would surely fall disproportionately on students with issues such as anxiety and trauma.

In addition, Wisconsin already has an extraordinarily high rate of school referrals to law enforcement, particularly for students with disabilities. According to a 2015 report from the Center for Public Integrity (https://www.publicintegrity.org/2015/04/10/17074/state-state-look-students-referred-law-enforcement), Wisconsin ranks third in the nation in referrals from school to law enforcement for students with disabilities. Arrest has a substantial negative effect on students' academic trajectory and prospects. In one Chicago study, researchers found the high-school graduation rate for children with arrest records was 26%, compared with 64% for those without. Research has also found that those arrested as juveniles and not convicted were likely to earn less money by the time they were 25 than their counterparts. To saddle

more students with arrest records, as this bill would do, is to blight their futures – and again, the impact will fall most heavily on students with emotional/behavioral disabilities and mental health-related needs.

Specific concerns with proposed elements of the bill:

- Section 12 creates a new offense ("physical assault") that does not currently exist in statute. Physical assault would be defined as "the knowing or intentional touching of another person, by the use of any body part or object, with the intent to cause physical harm." Under this definition, a student of any age could be labeled a "violent pupil offender" even if their actions caused no actual physical harm and occurred in a disability-related context.

  The bill then:
  - Forces administrators to report incidents of the newly-created offense to law enforcement, solely on the word of an adult witness or an alleged victim, leaving the administrator no discretion for taking situational or disability-related factors into account and further increasing the "school to prison pipeline." [Section 12, 118.129 (2)]
  - Encourages the use of the newly-created offense as a reason for suspension or expulsion, by mandating four new additional categories of "physical assault"-related data reporting. [Section 2]

- Section 33 further undermines administrator discretion and increases the use of suspension by allowing a teacher to force a suspension hearing by the district's school board if the administrator disagrees with the teacher's request to suspend a student. Again, suspensions are not an effective means of changing behavior; high suspension rates cause negative consequences for both the students who are suspended and those who are not, and suspension falls disproportionately on students with disabilities.

- Section 42 creates a new and highly prejudicial linkage between law enforcement and school, by requiring law enforcement to report to the school if students are taken into custody away from school for alleged felonies or misdemeanors outside school grounds and unrelated to school activities. On the basis of the law officer's belief that a student had engaged in such acts, and without due process, the juvenile records so created (which currently take a specific request from a school administrator to disclose) would be required to be sent to the administrator at the student's school, be distributed to all of the student's teachers [Section 12] and become part of the student's behavioral records at the school [Section 11]. This would create immediate stigma at school for the student, a long-term addition to school records for alleged incidents unrelated to school, and an incredibly broad and unnecessary distribution of records that are currently, rightfully sealed.

None of these measures work toward a real increase in safety for teachers, and all of them serve to create further challenges for students already struggling with mental health and related issues. Unfortunately, AB693 is devoid of research-based approaches to working with and teaching students who exhibit challenging behavior. This research points to changes in adult understanding, actions, and reactions as key to reducing challenging behavior and increasing safety for all. Trauma-informed care is one powerful expression of this, as championed in Wisconsin by First Lady Tonette Walker. However, in order to create the conditions in which trauma-informed and relationship-based approaches can best be pursued, schools must be properly funded to enable adequate staffing and appropriate class sizes.

As renowned educator and psychologist Dr. Haim Ginott stated, "In all situations, it is my response that decides whether a crisis will be escalated or de-escalated, and a child humanized or dehumanized."

Wisconsin Family Ties opposes AB693, and calls upon this committee and the legislature to do likewise.

WASB
WISCONSIN ASSOCIATION OF SCHOOL BOARDS

"Leadership in Public School Governance"

JOHN H. ASHLEY, EXECUTIVE DIRECTOR

122 W. WASHINGTON AVENUE, MADISON, WI 53703
PHONE: 608-257-2622 FAX: 608-257-8386

TO: Members, Assembly Committee on Judiciary
FROM: Dan Rossmiller, WASB Government Relations Director
DATE: January 11, 2018
RE: OPPOSITION to Assembly Bill 693, relating to rights and protections for teachers

Assembly Bill 693 makes significant changes to a variety of statutes related to pupil discipline, the involvement of law enforcement agencies in schools, teacher contracts and teacher leaves of absence, teacher access to pupil records, among other things, and imposes additional reporting requirements on school districts.

School boards have a strong interest in ensuring teacher safety and classroom order. And while we believe that the bill is well intentioned, it is also badly flawed. For reasons that will be explained further in this testimony, the Wisconsin Association of School Boards (WASB) **opposes** Assembly Bill 693 in its current form.

We wish to thank the author, Rep. Thiesfeldt, for reaching out to the WASB as this bill was being developed to solicit our input and suggestions. Many changes we suggested were incorporated into the bill, improving the draft before you today. A number of provisions could still be improved. However, a number of changes the WASB suggested were not accepted by the author, which is why we cannot support the bill as drafted.

Perhaps the biggest flaws in the bill have to do with two sets of provisions. While I could address many provisions in the bill, I will focus mainly on these two sets because they are very important yet were not described in the LRB analysis of the bill. One set of provisions revises current law provisions regarding the removal of pupils from class and their return to class. The other set creates new provisions allowing teachers, under certain conditions, to pursue the suspension of pupils directly with the school board. These changes, which would allow teachers to circumvent administrators, will undermine both the chain of command in schools and the ability of schools to ensure uniformity and consistency of discipline within a school.

These provisions essentially vest teachers with significant authority to control suspensions of students within a district. This would not only be a significant cultural change in schools but would likely cause significant time and resources to be devoted to suspensions, rather than addressing these matters through counseling or alternative forms of discipline. In addition, giving teachers this authority will erode uniformity in the application of school discipline and cause more uncertainty among students as to what behaviors or events may lead to suspensions.

As a general matter the WASB counsels its members that student conduct policies should serve a legitimate educational purpose, be clearly articulated and be fairly and consistently enforced. Further, disciplinary actions and consequences should also take into account the severity or frequency of the student's misconduct.

Removal and Return of Students to the Classroom: Under current law, teachers may remove students from class in accordance with section 118.164 of the state statutes if the student: (1) violates the code of classroom conduct adopted by the school board, (2) is dangerous, unruly or disruptive, or (3) exhibits behavior that interferes with the ability of the teacher to teach effectively.

Building principals or other administrators are required to place a pupil removed from a class in another class in the school or another appropriate place in the school, another instructional setting, or back in the classroom from which the pupil was removed. All such decisions must be made in accordance with the adopted code of classroom conduct and related legal requirements, including those related to change of placements for pupils with disabilities, about which I am certain you will hear testimony from others. Pupils who violate the code of classroom conduct may also be disciplined for their actions.

Although Assembly Bill 693 does not substantively change the conditions under which a teacher may remove a pupil from class, the bill significantly changes when and under what conditions a pupil may be returned to the classroom. These changes (in sections 13 through 16 of the bill) dramatically reduce a building principal's authority to return a pupil to class and dramatically increase a teacher's ability to prevent a pupil from returning to class, in effect, overruling the principal.

Under current law, the principal may return the child to the classroom if, after weighing the interests of the removed pupil, the other pupils in class and the teacher, readmission is the best or only alternative. Under the bill, however, the principal may only return the child to the classroom if any of the following applies: (1) the pupil has remained out of the classroom for 1 school day following the day on which the pupil was removed; (2) the teacher has met with the pupil about the pupil's conduct and the teacher agrees to the pupil being readmitted to the class; or (3) the teacher voluntarily waives his or her rights to conditions (1) and (2) for return the classroom.

These changes would effectively give teachers an absolute veto power over the return of the pupil to class for at least a full day following the day on which they were removed. They would also undermine the authority of the building principal or other administrator whose role it is to ensure that school discipline is administered in a fair and even handed manner that balances the interests of all affected parties. As members of this committee, you no doubt recognize that a guiding principal in family law is that we attempt to discern and do what is in the best interest of the child. The bill moves away from that principle and even the principle that the child's best interest should be balanced with that of the teacher. Instead, it favors what the teacher believes is in the teacher's best interest.

Principals and other administrators play an important role in determining the culture of a school building. In larger schools and school districts managing student discipline is often the full-time duty of a particular administrator. These principals or administrators gain an expertise in evaluating what is in the best interests of all affected parties.

There is great variability in the use of removal by teachers. It is not uncommon within a school setting for principals to report that while a typical teacher may decide to remove a pupil on three or four occasions per semester or per year, a few teachers will send pupils to the principal's office 30 or 40 times--ten times more often than the typical teacher. One possibility is that such teachers take a non-nonsense approach to enforcing the code of classroom conduct. Another possibility is that such teachers may have serious classroom management deficiencies.

In the case of a teacher who removes a student for a relatively minor infraction, simply removing the pupil from the classroom may do nothing to address the underlying issues that caused the student to misbehave in the first place or improve the teacher's relationship with that pupil. These provisions that allow teachers to unilaterally determine when a student can return to class could reduce incentives for teachers to work through their differences with pupils or to improve their classroom management skills. These teachers will have little incentive to deal with certain behaviors within the classroom without resorting to removal.

Our state and local taxpayers have made a substantial investment in a systemic attempt to evaluate teacher effectiveness. It makes little sense to allow a teacher who has been identified as having a problem with classroom management--and may even have been placed on a performance improvement plan--to thumb his or her nose at the principal responsible for evaluating him or her by removing pupils for minor infractions rather than dealing with their poor student management issues.

These provisions will likely have negative impacts on student learning. Pupils may or may not be learning while removed from class. Those pupils who truly want to be in the class may fall behind their classmates, become more frustrated and thus more likely to misbehave. Those who do not want to be in class will quickly learn what will trip their teacher's trigger and earn them an escape from that classroom.

Teacher Request for Suspension Hearing: Sections 33 through 35 of the bill create new language making significant changes to student suspensions. Under these sections, a school board must adopt a procedure under which a teacher may submit a request, in writing, to the president of the school board to request that the school board schedule a suspension hearing before the school board or before an independent hearing officer, if applicable. This procedure applies only if a teacher has made a written request to the principal or other administrator that a pupil be suspended for a certain period of time and that request has been denied. The bill provides that the administrator must make his or her determination within 24 hours. Similarly, the school board president must approve or deny the teacher's request to schedule a hearing within 24 hours. The procedure required under these sections must provide that, if the school board president agrees to schedule a suspension hearing as requested, the school board may either schedule the suspension hearing at the next regularly scheduled meeting or at a special meeting called for that purpose.

This is a massive change in student disciplinary processes that would allow a teacher to circumvent the administrator and pursue a suspension of a pupil with the school board, thus injecting the school board into the principal-teacher relationship and forcing it to choose sides. The bill **does not** limit teacher appeals (of a denied suspension request) to the board only to incidents in which the teacher was injured or in which an attempt to injure the teacher was made or only serious misconduct. With no specified limitations, a teacher could use this procedure for any violation of the code of classroom conduct regardless of how minor the violation.

Given the lack of any limitations, the whole concept of teacher appeals seems to turn the function of school administration and the concept of a "chain of command" on its head and invites situations that will pit teachers and administrators against each other in front of the school board.

Further, a pupil suspended under this procedure is not entitled to certain rights that normally apply to suspensions, which further pits teachers against administrators. The rights denied include the rights to a conference with the school district administrator or his or her designee to review whether the pupil was suspended unfairly or unjustly or whether the suspension was inappropriate, given the nature of the alleged offense, or whether the pupil suffered undue consequences or penalties as a result of the suspension, or whether reference to the suspension on the pupil's school record shall be expunged. Not only do these provisions further circumvent administrators they could create serious issues with uniform discipline within the school.

We also have concerns with the practicality of these provisions. If the school board president agrees to schedule the suspension hearing, the bill provides that he or she may either schedule the suspension hearing at the next regularly scheduled meeting or at a special meeting called for that purpose. Holding the suspension hearing at the next regularly scheduled board meeting likely means any suspension could occur 30 days or more after the date of the alleged misconduct. Because the effectiveness of discipline is directly related to both the certainty of consequences and the immediacy of consequences, it is unclear how effective this scheme would be.

Additional Concerns: We have concerns about other provisions in the bill that are too numerous to detail in this brief testimony; however, we can highlight a few of them.

Reports to Law Enforcement Agencies and Teachers of Violent Pupil Offenders: Section 12 of the bill creates a new provision that requires a school principal or administrator, if requested by an adult who witnessed or was the victim of an incident, to report to a law enforcement agency certain acts by a pupil involving a physical assault or a violent crime in a school zone. The principal or administrator is also required to include a brief summary of the incident in the pupil's records.

In addition, Section 12 of the bill also requires the "school board" to notify teachers of the contents of the record before the pupil attends the teacher's next class. This provision seems to require the actual school board to make this known to the teacher, which raises concerns about the propriety of informing the school board about such an incident. This is especially concerning in light of student confidentiality issues and concerns about board bias if the matter were to come before the school board for an expulsion decision regarding the student.

Further, the language of the bill is not clear as to which teachers must be informed by the board. It requires notification of "a teacher who is working directly, in the current school year, with a pupil who is the subject of a record received in the current school year." Examples: If the pupil is a high school student, must each teacher in the school be notified? What about substitute teachers? What about a teacher monitoring a study hall?

Additional Reporting Requirements: Section 2 of the bill requires school districts to include additional information about student suspensions and expulsions within its school performance report required under. s. 115.38. Wis. Stats. We are concerned about the costs to school districts of complying with this new mandate.

Current law already requires districts to report the reasons for which pupils are suspended or expelled, according to categories specified by the state superintendent. It is our understanding, that the "categories specified by the state superintendent" for reasons for which pupils are suspended or expelled already includes a category for assault. Assembly Bill 693, however, would add a requirement that districts specifically report incidents involving physical assaults on teachers, physical assaults on other employees, physical assaults on students, and physical assaults on other adults not employed by the school district.

Because the DPI already includes "assault" as a category, it is not clear why this provision is necessary. It would likely create additional recordkeeping for schools when filling out their report to (1) identify whether the assault is a "physical assault," as that term is defined in the bill and (2) identify whether the "physical assault" was committed against a teacher (which is not defined), a school employee, a student, or an adult not employed by the school district.

Additionally, we are concerned that this provision does not identify whether a physical assault on a "student" must be against a student enrolled in the district, or whether this includes students who attend schools outside of the district. Further, there may be instances where there may be a physical assault on an individual who does not fall within the categories of student, teacher, employee, or non-employee adult; for example, as stated, if the assault is on a minor who is not a student enrolled in the district, the bill's language may not apply to such an assault.

Provisions Affecting Pupil Behavioral Records: We have concerns about additional costs to districts that will be associated with the longer records retention period for pupil behavioral records mandated by Section 7 of the bill. We also note that Section 6 of the bill requires a school to provide access to any person required to hold a teaching license to the behavioral records of a pupil enrolled in that person's class. Because this provision does not require that the person requesting access have a "legitimate educational interest" in reviewing the pupil's behavioral records, it appears this provision is in conflict with the requirement in the federal *Family Educational Records and Privacy Act* (FERPA) that those accessing such records must have a "legitimate educational interest."

For all the reasons outline above and many more that were not detailed here, the WASB OPPOSES Assembly Bill 693 and asks that you not advance the bill. Although well intended, there are simply too many unanswered questions and unresolved issues with this bill in its present form.

Kim Kaukl
Executive Director
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Cell Phone: (608) 553-0689
kimkaukl@wirsa.org

Wisconsin Rural Schools Alliance

January 11, 2018

Chairman Ott and members of the Assembly Judiciary Committee:

Thank you for providing this hearing on AB 693. My name is Kim Kaukl, I am the Executive Director of the Wisconsin Rural Schools Alliance (WiRSA). Our organization represents and supports over 200 members with 145 rural school districts, several CESAs, technical colleges, universities, businesses and individual members.

Our organization has registered in opposition to AB 693 because we feel this bill has flaws and the wrong approach to this issue. Are main areas of concerns being with the reporting mandates/timelines (especially in rural areas), loss of local control and appropriate chain of actions, the interchangeable use of suspension and expulsion, along with uncertainty of the legality of some of the items regarding the protection of individual rights especially students with disabilities.

1) Our concerns with the reporting mandates and timeline piece in rural areas may be difficult. Many rural districts are dealing with multiple municipalities/villages and counties. For example, in my former district I dealt with four counties and four villages and quick communication was sometimes difficult.
2) On the matter of a teacher's ability to bypass the decisions made on discipline through the normal chain between staff, administration and sometimes parents, could have detrimental and unforeseen problems. One example being if there is a teacher discipline issues that may already be in process.
3) Concerning the use of the terms suspension and expulsion in the bill as somewhat interchangeable is incorrect. Suspensions are short term and can't be for longer than five days. Expulsions are permeant or for extended periods with possible re-entry. Having hearings for suspensions may be time consuming and cause unneeded complications.
4) Finally, we have concerns on how this bill may impact the rights of students and especially students with disabilities. In my thirty plus years as a high school administrator roughly 80% of the students that I dealt with, on chronic discipline issues, had mental health concerns. If we really want to get at the heart of this issue, punishment isn't always the answer. The answer is providing funding and strong mental health services for students. This will go along way in positively impacting this situation and in the long run helping these students become healthy functioning young adults.

In conclusion, the intent of AB 693 may have had good intentions, but it is the wrong approach to getting to the heart of this issue, which is mainly the mental health of our students. This along with the points above is why WiRSA is opposing AB 693 and is asking for the committees to do the same.

Thank you for your time and taking this testimony into consideration,

Kim Kaukl

Kim Kaukl
Executive Director
Wisconsin Rural Schools Alliance
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KIDS FORWARD

Every Kid. Every Family. Every Community.

Date: January 11, 2018

To: Assembly Judiciary Committee

From: Ken Taylor, Executive Director, Kids Forward

Subject: AB 693

Thank you for the opportunity to testify today. I'm Ken Taylor, Executive Director of Kids Forward. Kids Forward (formerly known as the Wisconsin Council on Children and Families) aspires to make Wisconsin a place where every child thrives by advocating for effective, long-lasting solutions that break down barriers to success for children and families. Using research and a community-informed approach, Kids Forward works to help every child, every family, and every community thrive. Kids Forward projects working to achieve this vision include Kids Count, the Wisconsin Budget Project and the Race to Equity Project.

Teachers absolutely deserve safe working environments. But the punitive actions promoted by this bill will do little to protect teachers, while at the same time will make it harder for students to achieve their full academic potential.

I am particularly concerned about the disproportionate impacts this bill will have on students of color. According to a study released by the Civil Rights Project at UCLA few years ago, Wisconsin's high schools suspended black students at a greater rate than any other state *in the country*. And when they compared the suspension rates of different races and ethnicities they found that again Wisconsin was the worst in the nation. Their analysis showed that at the high school level, Wisconsin had the largest black-white suspension gap in the country. Current data from the Wisconsin Department of Public Instruction shows that compared to white students, American Indian students are three times as likely to be suspended, Latino children are over twice as likely to be suspended, and African-American students are nearly nine times as likely to be suspended. While reasons for those disparities are complex, one powerful driver is the subjectivity of adults. Studies show that students of color are punished more severely than their white peers for similar infractions. So I am concerned that this bill would make Wisconsin's racial suspension gap, which is already the worst in the nation, even worse.

This bill would increase the number of suspensions and keep more kids out of the classroom, making it harder for students to succeed academically. It would also increase the amount of contact students have with law enforcement, which would have disproportionate impact on youth of color, who are already much more likely to face negative consequences in the juvenile justice system.

This bill offers no additional resources or new approaches to improving classroom safety by addressing student behaviors, teaching conflict resolution strategies, or providing more support for students who are struggling or their teachers. Schools need more resources, more support, and more ways to address the issues that often underlie challenging student behaviors.

And it turns out that when there are high levels of suspensions, the kids who *aren't* suspended are also harmed. New research shows that high rates of suspensions harm math and reading scores for *non-suspended* students, as they respond negatively to the higher levels of anxiety and disconnection created by frequent suspensions.

So not only does this bill fail to accomplish its goal of keeping teachers safe, it adds barriers to academic success and does nothing to support what we know to be effective in helping all students thrive. For these reasons, I ask you to oppose AB 693.

Thank you.

DAVE CONSIDINE
STATE REPRESENTATIVE
81st ASSEMBLY DISTRICT

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January 11, 2018

Chairman Ott and members of the Assembly Judiciary Committee:

I am writing today to ask that you **not support AB 693**, the so-called "Teacher Protection Act". As a former educator who spent nearly three decades working specifically with children labeled Emotionally and Behaviorally Disordered, I can tell you with confidence that this bill is not the right way to ensure teacher and student safety.

Having worked with Rep. Thiesfeldt on the Assembly Education Committee, **I understand and agree with his intentions**. We absolutely do need to do more to protect our teachers. With all that we ask teachers to do on a daily basis, they should not have to worry about their personal safety on top of everything else. **However, I am extremely concerned that this bill will have many negative effects** on teachers, students, parents, and school staff.

It gives an educator a predetermined negative impression of a student they may not have even met, which could then negatively impact the way that educator interacts with that student in the classroom. Kids with disabilities or unique needs have a hard enough time being accepted and getting equitable treatment in school. They don't need us to make it any more difficult for them.

This bill would also disrupt the chain of communication between teachers, principals, and school districts. Many districts already have a relationship with their schools that is working and allows their educators a space to communicate safety concerns. If they do not, then that should be concerning to the district and community, but it is not our place as a state to intervene with broad legislation that affects all 422 districts in the state.

I want to thank you for taking an interest as a committee in teacher safety. This is a crucial issue, and I wholeheartedly agree that our educators deserve more respect. However, this bill will not provide that, and will only make things worse. It is not supported by disability rights experts, educators, school districts, school boards, or any other education advocates. **Please do not bring AB 693 to a vote. If you feel it must be brought to a vote, please vote against it.**

If you truly want to support teachers and keep them out of harm's way, I encourage you to explore more supportive, positive options. It is not "coddling" or taking the issue lightly – it is following demonstrated evidence that punishment and negative reinforcement do not change behavior.

Thank you for the opportunity to submit my thoughts and concerns on this bill. Please feel free to contact me anytime if you have any questions or would like to discuss this issue further.

Sincerely,

Dave Considine

Rep. Dave Considine

Survival Coalition
of Wisconsin Disability Organizations

P.O. Box 7222, Madison, Wisconsin 53707

Date: January 11, 2018

TO: Assembly Committee on Judiciary
FR: The Survival Coalition of Wisconsin Disability Organizations

RE: Against AB693

Chairperson Ott and Assembly Committee on Judiciary Members:

The Survival Coalition of Wisconsin Disability Organizations is comprised of over 30 statewide groups representing people with all disabilities and all ages, their family members, advocates and providers of disability services. Organizations in our coalition represent and work with students with disabilities and their families across the state and are concerned about the ramifications for students with disabilities if this legislation is enacted. We feel strongly passing this bill would be a step backwards in educating and protecting the rights of students with disabilities.

All teachers and students deserve a safe environment in which to teach and learn. Unfortunately, the measure does not address improving safety through providing needed supports, services, staffing levels, and professional development. Special education funding has remained flat for almost a decade creating more unmet needs for students with disabilities. Instead, the proposal would occasion the following harmful effects:

- Infringing on student privacy rights
- Encouraging ineffective, punitive responses to disability-related behavior
- Creating detrimental linkages between out-of-school incidents and school records
- Expanding the "school to prison pipeline"
- Undermining the administrative chain of command, potentially placing teachers, administrators, and school boards at odds over established policy
- Compromising due process rights regarding suspension for students with disabilities
- Disproportionately affecting students with disabilities and mental health challenges
- Disproportionately affecting students of color
- Imposing unnecessary reporting categories for suspension and expulsion

We appreciate the opportunity to provide testimony and ask that you do not support AB693.

Thank you.
Sincerely, Survival Co-Chairs:
Maureen Ryan, moryan@charter.net; (608) 444-3842;
Beth Swedeen, beth.swedeen@wisconsin.gov; (608) 266-1166;
Kristin M. Kerschensteiner, kitk@drwi.org; (608) 267-0214
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MADISON METROPOLITAN SCHOOL DISTRICT

545 West Dayton St. ■ Madison, Wisconsin 53703-1967 ▼ www.mmsd.org

Jennifer Cheatham, Ed.D., *Superintendent of Schools*

Dear Legislators,

I am writing to voice my strong opposition to AB 693.

In short, this is a bill that would harm children, disproportionately our students with disabilities and students of color, while doing nothing to truly help teachers.

Rather than learning and moving in the positive direction that school districts across the country are moving in, this bill takes us backwards and would put more of our children into the criminal justice system.

In addition to reporting requirements between schools and police, this bill would also result in removing more students from school. It is incredibly clear across the country and in our own districts that exclusionary practices don't work. They don't offer our children an opportunity to learn from mistakes or our school community a chance to grow stronger together. And, they disenfranchise and harm children, disproportionately our students with disabilities and students of color.

We are working hard in our district to disrupt our over-reliance on exclusionary practices, especially for children who are disproportionately affected by these practices. Instead, we are working on restorative approaches, positive behavior support and individual student support.

These solutions are not simple, but this is the complex work that is needed. The "Teacher Protection Act" would simply remove students, exclude them from instruction, create police records and not address the real supports needed by students and teachers to make our schools places where all students can excel.

Remember, despite some of the language in the bill, we are talking about our state's children, who need our support, not to be vilified and removed from our schools. I urge you to rethink this harmful legislation and oppose AB 693.

Thank you for your time and consideration.

Sincerely,

Jennifer Cheatham

Jennifer Cheatham
Superintendent

Attachment 2. Action on a Request for Adoption of a Resolution, under Section 119.25 of the Wisconsin Statutes of the Wisconsin Statutes, to Delegate the Board's Expulsion Authority to Independent Hearing Officers.

EXPULSION SUMMARY

SCHOOL YEAR	EXPELLED	EXPULSION PANEL
1990-91	35	Central Office Directors, Managers, Coordinators
1991-92	91	Central Office Directors, Managers, Coordinators
1992-93	98	Central Office Directors, Managers, Coordinators
1993-94	86	Central Office Directors, Managers, Coordinators
1994-95	104	Central Office Directors, Managers, Coordinators
1995-96	113	Central Office Directors, Managers, Coordinators
1996-97	133	Central Office Directors, Managers, Coordinators
1997-98	267	Central Office Directors, Managers, Coordinators
1998-99	204	Central Office Directors, Managers, Coordinators
1999-00	180	Central Office Directors, Managers, Coordinators
2000-01	243	Central Office Directors, Managers, Coordinators
2001-02	215	Central Office Directors, Managers, Coordinators
2002-03	203	Central Office Directors, Managers, Coordinators
2003-04	302	Central Office Directors, Managers, Coordinators
2004-05	309	Central Office Directors, Managers, Coordinators
2005-06	395	Central Office Directors, Managers, Coordinators
2006-07	367	Central Office Directors, Managers, Coordinators
2007-08	390	Central Office Directors, Managers, Coordinators
2008-09	269	Central Office Directors, Managers, Coordinators
2009-10	400	Independent Hearing Officers
2010-11	415	Independent Hearing Officers
2011-12	380	Independent Hearing Officers
2012-13	326	Independent Hearing Officers
2013-14	311	Independent Hearing Officers
2014-15	162	Independent Hearing Officers
2015-16	191	Independent Hearing Officers
2016-17	116	Independent Hearing Officers

	NB	B	TOTAL	BM	NBM	BF	NBF	TOTAL	FIREARMS	GUNS	DRUGS	OTHER	TOTAL
2005-06	84	311	**395**	216	66	95	18	**395**	11	31	166	187	**395**
2006-07	71	296	**367**	218	58	78	13	**367**	9	24	175	159	**367**
2007-08	72	318	**390**	239	52	79	20	**390**	14	37	151	188	**390**
2008-09	42	227	**269**	155	31	72	11	**269**	4	29	66	170	**269**
2009-10	58	342	**400**	227	43	115	15	**400**	13	13	45	329	**400**
2010-11	48	367	**415**	273	35	94	13	**415**	4	21	68	322	**415**
2011-12	53	327	**380**	241	40	86	13	**380**	4	27	55	294	**380**
2012-13	32	294	**326**	218	27	76	5	**326**	2	19	54	251	**326**
2013-14	31	280	**311**	212	22	68	9	**311**	10	27	56	218	**311**
2014-15	13	149	**162**	118	10	31	3	**162**	4	21	31	106	**162**
2015-16	19	172	**191**	126	15	46	4	**191**	4	27	29	131	**191**
2016-17	10	106	**116**	58	6	48	4	**116**	5	12	14	85	**116**

NB = Non-Blacks **NBM** = Non-Black Males
B = Blacks **BF** = Black Females
BM = Black Males **NBF** = Non-Black Female

* **Thru June 30, 2017**