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Testimony on Senate Bill 585

Thank you Chairman Wangaard and other members of the committee for hearing our testimony today. SB 585 is an important bill to give parents more information about the high schools they are sending their kids. As the Legislature continues to address criminal justice reform in the state, more data is key to finding solutions to these problems.

The bill simply asks high schools to collect and report already available data from local law enforcement on certain crimes that happen on school property and transportation during the school week. For an incident to be reported, the bill requires that it must:

- Take place during a weekday between 6am and 10pm
- Be reported to law enforcement
- Result in a charge or citation

The resulting data must be reported to DPI and included on the school district accountability report card. This will give parents easily accessible information when making decisions for their children.

This bill was originally considered in the 2015 session as Assembly Bill 517 and passed the Assembly on a voice vote. This bill is identical to that bill as it was amended and passed. Ultimately, a compromise was reached with the Senate that session to have DPI conduct a pilot program with three schools to determine the ease of collecting and reporting this data. Unfortunately, after checking with DPI earlier this year, the pilot program was not conducted and no data was collected. It is time to finally address this problem and pass this bill into law.

Thank you for taking the time to take our testimony today. We are happy to take any questions you may have.



STATE REPRESENTATIVE

JESSE JAMES

Thank you Chairman Wanggaard and other committee members for hearing our testimony today on SB 585. This bill is one I believe will be important for parents, like myself, who are trying to decide where to enroll their children in for high school. Parents and their children should have all the necessary information needed to make the decision of what high school to go to, and this includes if there has been a history of reported crimes on school grounds. Personally, as a cop and a father, this information would impact my decision as to what school my child would go to.

We know that schools in our state vary in environment and safety levels. Is there crime in our schools? Sadly, yes. Are there drugs/pills being sold in our schools? Absolutely. Do bad things happen on our school buses, like inappropriate touching, sexual assaults, use of vaping devices? 100% yes.

Is this information you would want to know about as a parent? I know I would. This is an investment I take seriously as this will pave the path forward for my child entering high school. I know every school is not perfect, but having this information available would definitely assist me and my family in making a decision.

I was taken back to see this bill was introduced in 2015 as a pilot program, but the Department of Public Instruction (DPI) neither implemented it or collected any data. For schools who have school resource officers, this data could easily be compiled into a report and shared with school administration. In fact, I would be shocked to hear from any school district board or superintendent that did not have this as part of their memorandum of understanding (MOU) in partnership with local law enforcement. To gather this information, all of the calls for service or incidents would be logged under the high school's address. Law enforcement can easily pull up the high school address and compile a report of all calls for service, and what actions were taken, including citations or arrests made. The technology is there, and we should be using it to our advantage.

This is valuable information. It should be part of each high school's report card, and DPI should be sharing this information with our parents in Wisconsin and beyond. Thank you for allowing me to present my testimony today.



Senate Committee on Judiciary and Public Safety

October 14, 2021

Department of Public Instruction

Statement of Information on Senate Bill 585

Student safety has always been a top priority for our schools. A wide array of student safety issues exist which our schools must tackle. From bullying to sexual assault and from gang violence to social media threats, the department, school leaders, educators, parents, and advocates have been on the front line of addressing school safety, and we appreciate efforts to improve school safety and outcomes for students.

While public reporting is an important part of an overall school safety strategy, the proposed bill as drafted presents several implementation issues and policy questions that should be addressed before the policy makers consider taking action. The proposed data elements need further analysis, particularly around collection feasibility and reporting accuracy. To implement the bill, school districts will need the legal authority to collect law enforcement and court records, as well as a standardized reporting mechanism and business rules for data collection. The proposed requirement for schools to report data does not necessarily confer the authority to collect that data, nor does it resolve issues around the confidentiality of juvenile records. Data collection tools would need to be developed for both public and private schools to ensure secure collection and reporting of the increased data collections across systems.

Senate Bill 585 Analysis

Beginning in the 2023–24 school year, a public high school and a participating private high school shall collect and maintain statistics of incidents of all of the following that are reported to the principal, school security, or local law enforcement and that occur on property owned or leased by the school district in which the public high school is located, by the operator of the charter school, or by the governing body of the participating private high school; that occur on transportation provided by the school or school district; or that occur at an event sanctioned by the school or school district:

- (a) Homicide, murder, or manslaughter.
- (b) Sexual assault.
- (c) Burglary, robbery, or theft.
- (d) Aggravated assault.
- (e) Arson.

(f) Use or possession of alcohol, a controlled substance, as defined in s. 961.01 (4), or a controlled substance analog, as defined in s. 961.01 (4m).

(g) Possession of a firearm in violation of s. 948.605 (2).

(h) A violation of a municipal ordinance relating to disorderly conduct.

The bill also requires the department to derive from the statistics reported:

1. The total number of incidents per 100 pupils reported by the school or school district.
2. The average total number of incidents per 100 pupils reported statewide.
3. The total number of incidents listed under s. 118.124 (2) (a), (b), (d), and (h) per 100 pupils reported by the school or school district.
4. The average total number of incidents listed under s. 118.124 (2) (a), (b), (d), and (h) per 100 pupils reported statewide.

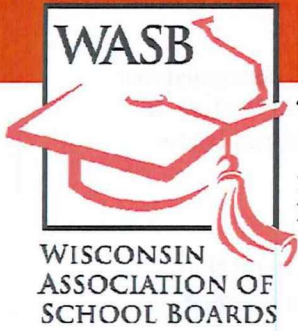
Reporting requirements

Annually, each public high school in a school district other than a charter school established under s. 118.40 (2r) or (2x) shall report the statistics collected to the school board. Annually, by July 31, each school board shall submit to the department a report that includes the statistics reported by each public high school in the school district and aggregate statistics collected for all the public high schools in the school district other than charter schools established under s. 118.40 (2r) or (2x).

Annually, by July 31, each operator of a charter school established under s. 118.40 (2r) or (2x) that operates high school grades, and the governing body of each participating private high school shall submit to the department the statistics the operator or governing body collected under sub. (2).

This would require the Department of Public Instruction (DPI) to create additional data collections in WISEdata to ingest this school level aggregate data. Additional Student Information System vendor effort would be required to implement these provisions. This effort varies significantly between vendors. The vendors who serve schools that participate in a parental choice program will experience the most significant impact as the discipline collection would be entirely new. Public schools are already required to track discipline incidents resulting in suspension or expulsion but the bill would require extensive collection efforts between local law enforcement and districts.

Under this bill, DOJ is directed to cooperate with DPI to develop a reporting system that incorporates DOJ's uniform crime reporting system. Again, DPI appreciate efforts to improve school safety and outcomes for students and welcomes the opportunity to help facilitate conversations between school districts, law enforcement and DOJ to determine how pieces of this policy interact with existing laws related to juvenile justice.



"Leadership in Public School Governance"

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****CORRECTED COPY****

TO: Members, Senate Committee on Judiciary & Public Safety
FROM: Dan Rossmiller, WASB Government Relations Director
DATE: October 14, 2021
RE: OPPOSITION to SENATE BILL 585, relating to reporting certain crimes and other incidents that occur on school property or school transportation or at school-sponsored events.

The Wisconsin Association of School Boards (WASB) is a voluntary membership association representing all 421 of Wisconsin's locally elected public school boards.

Background: Senate Bill 585 would require public high schools and private high schools participating in a parental choice program to collect statistics on violations of municipal disorderly conduct ordinances and certain crimes, including homicide, sexual assault, burglary, battery, and arson, that occur on school property, on transportation provided by the school, or at school-sanctioned events. Statistics must be collected about the crime or disorderly conduct if:

- a) it occurred on a weekday between the hours of 6 a.m. and 10 p.m.;
- b) it is reported to law enforcement; and
- c) a charge is filed, or citation is issued.

The collected statistics must be reported to the Department of Public Instruction. The DPI must include the collected statistics on the annual school and school district accountability report; however, the DPI may not consider those statistics for purposes of determining a school or school district's performance on the annual school and school district accountability report.

Testimony: School board members, parents, students, teachers, administrators, and members of the general public all have a shared interest in ensuring student and school safety. The WASB's member school boards take student safety and security seriously. That is why all public school districts have internal procedures to address student behavior issues, including suspension and expulsion policies, and why school boards work closely with law enforcement agencies in our communities to protect students.

Public schools and WASB members DO NOT object to reporting information about dangerous or disruptive student behavior to the DPI or making that information public.

In fact, for at least 30 years—from 1991 to the present—public schools have already been reporting large amounts of information to the DPI regarding student behavior that results in suspensions and expulsions. This information, which includes the numbers of suspensions and expulsions; the reasons for which pupils are suspended or expelled, the length of time for which pupils are expelled, and whether pupils return to school after their expulsion, has been reported to the DPI according to categories specified by the state superintendent. This information can be accessed via the DPI's WISE Dash information system.¹

However, public schools DO have concerns about being required to report incidents over which they have little or no control, and which may have little effect on student safety or health.

We agree that parents have the right to know how safe their child's school is; however, we are concerned that under Senate Bill 585 the statistics included on the school report cards may not be an accurate reflection of the safety and security of a particular school or district. We oppose this bill for the reasons outlined below.

Our main questions and concerns with this bill include the following:

- 1) School districts are not normally in the business of collecting and reporting crime data. That is the business of law enforcement agencies. Senate Bill 585 would require schools to report on information they do not have and must obtain from other sources.

Information about these incidents is already in the hands of law enforcement agencies. Why are we putting this burden on school officials when law enforcement, the courts and the Department of Justice already have accurate statistics?

Schools do not have log-on access to the state's Uniform Crime Reporting System. Most likely, they would have to rely on local law enforcement agencies or the DOJ to get this information. In our view, it would be easier and simpler to have law enforcement agencies provide this information directly to the DPI rather than to place schools in the position of being the "middleman" between law enforcement and the DPI.

- 2) The bill provides no additional funding or spending authority. Compiling these statistics could be time-consuming and complex. There will almost certainly be staff time and software costs associated with collecting, maintaining, categorizing and reporting these statistics and probably glitches. Local law enforcement agencies typically can pull incidents for each high school address, but it will take someone going through each report to determine if it fits within the requirements of the bill. That is just the law enforcement side. On the school side, it is unlikely that the student information systems currently used by school districts will be able to pull statistics and generate reports consistent with how the bill is drafted.

As a result, schools will likely have to add new data elements to their databases and make other modifications to their existing student information system software in order to generate the reports that would be required under the bill. It is unclear whether the existing systems will allow schools to pull the information required for these reports from law enforcement databases or whether that information will have to be entered by hand in order to be passed on to the DPI.

Beyond that, schools typically don't have people on their staff who can reliably categorize behaviors under the criminal code. Someone on the school staff will have to be trained on how to do the actual work of collecting, maintaining, categorizing and reporting these statistics. Law enforcement charging decisions do not necessarily always reflect the underlying offenses. Sometimes prosecutors overcharge, sometimes they undercharge. Expecting school districts to turn administrative assistants into experts on criminal law or local ordinance violations is neither realistic nor is it likely the best use of scarce school resources.

- 3) The bill is flawed because it requires schools to report statistics on disorderly conduct as defined by municipal ordinances rather than state law. Realistically, there could be a wide range of incidents involving behavior that could be considered disorderly conduct across many high schools—perhaps on many days—that could be reported or not reported based on a judgment call.

Consider the case of a student, for example, who repeatedly wears clothing with an obscene message to school, causing a disruption, and refuses to cease and desist from that behavior. Suppose the student is suspended for that refusal, and then refuses to leave the building when asked to do so. That student could be cited for disorderly conduct or trespassing.

If the school resource officer or another law enforcement officer responding to this situation issues a citation for disorderly conduct, the incident **would** be reported under this bill. If the officer decides trespassing is the more appropriate offense to cite, the same incident **would not** be reported under this bill. Same behavior, but a different result under this bill, depending on one person's decision.

When a similar bill was introduced in the 2015-16 legislative session, the WASB conducted research which disclosed that local ordinances vary widely in terms of how they define "disorderly conduct." The WASB found that, for example, in the Village of Brown Deer, causing or making of any unnecessary loud noise or shouting or yelling is defined as "disorderly conduct"; and that in the City of Verona, making an annoying phone call is "disorderly conduct," while in both the City of Fort Atkinson and the City of Ripon "tire squealing" is chargeable as "disorderly conduct." Using the state law definition would provide uniformity and permit more meaningful and accurate comparisons between schools and school districts.

This is important when one considers that school districts often span multiple municipal boundaries. Consider, for example, that the DC Everest School District spans nine different municipalities. The Lodi School District spans two counties. Numerous school districts have territory in three counties, including a district named, coincidentally, the Tri-County School District.

When incidents that occur on transportation provided by the school district and incidents that occur in connection with school-sponsored events or activities must be reported, even minor differences in the definition of "disorderly conduct" could dramatically affect the numbers of incidents reported under the provisions of this bill. What constitutes disorderly conduct in one public high school in one municipality may not constitute disorderly conduct in another high school in another municipality, even if the two schools are in the same school district. Further complicating matters, certain behaviors may be handled differently by those responsible for charging decision in different jurisdictions.

Because the bill would require schools to report on information they do not have and would have to obtain and because school districts often cross multiple municipal boundaries and even county boundaries getting this information may require schools to check with multiple law enforcement agencies, increasing the cost of complying with the bill for those schools and school districts.

- 4) The bill compounds the problem of a lack of uniformity in the local ordinance definitions of "disorderly conduct" by requiring statistics on incidents of "disorderly conduct which may not necessarily involve violent behavior, to be lumped together with statistics on "violent offenses" (e.g., homicide; sexual assault; battery, substantial battery or aggravated battery, as those crimes are defined under state statutes). Often "disorderly conduct" citations are issued for behavior that creates a disturbance--such as loud, indecent or profane speech or making obscene gestures--behavior that is not "violent" per se.

This bill lumps extremely different degrees of conduct--disorderly conduct under a municipal ordinance--with serious crimes against life and personal security--homicide, sexual assault and aggravated assault--as incidents that must be reported on school report cards. Q: Do we really want to equate a student outburst of yelling or profanity with homicide or aggravated assault?

Lumping together violent and non-violent acts could make comparisons between schools in different municipalities difficult at best and invalid at worst. We fear that schools in communities where "disorderly conduct" is broadly defined by municipal ordinance will look comparatively worse than schools in communities where it is narrowly defined, when in actual fact the schools may not differ at all in terms of student safety or security. This flaw means the public is likely to be misled when trying to compare schools in different communities.

- 5) The bill would require that incidents be reported if they occur on Mondays through Fridays between the hours of 6:00 am and 10:00 p.m. This means schools will still have to sort through records to determine whether an incident (e.g., a scuffle following an athletic event) occurred at 9:55 p.m. (in which case it must be reported) or at 10:05 p.m. (in which case it need not be reported). The bill also does not distinguish between days (e.g., teacher in-service days) or weeks in which school is in session or weeks in which the school is completely closed, and students are on vacation (e.g., winter or spring break or summer vacation). Obviously, student safety and security are likely at far lower risk when these incidents occur during periods when school is not in session.

To provide a more accurate picture, reports should include only those incidents that occur on a school day (rather than simply on a weekday). An incident that occurs on a weekday when no classes are held (e.g., an in-service day or on a summer weekday when school is not in session) likely has little bearing on the safety of students on a typical school day and school personnel may not even be notified of it.

- 6) Under the bill, these statistics must be reported to the DPI regardless of whether: a) the original report to law enforcement was accurate or a charge or citation is later dropped; b) the incident involved only persons who are not students at the school; c) the original report leads to any school-related discipline or criminal conviction; d) the alleged crime or incident was committed by a student or staff member of the school or district; and e) the alleged crime or incident occurred at a time when students were present or likely to be present. This lessens the ability of these reports to predict the safety risk to students and makes them less valuable.
- 7) The bill does not define what constitutes “statistics” of crimes or incidents. Is this just the number of incidents *reported* within each category or is more detailed information contemplated? Obviously, the more detail required, the more staff time that will be associated with gathering and inputting this information.

While this concern may be addressed by the rules the DPI would be required to promulgate under the bill, at this point school board members do not have a clear idea about how much detail may be required. Further, the legislative rule review process might alter whatever requirements the DPI proposes.

- 8) The costs of complying with bill’s unfunded mandate are likely to vary widely but, in many cases, could be substantial for both schools and law enforcement depending on crime rates in different communities.

Large, urban schools in densely populated areas will likely face higher costs than in smaller and more rural schools in smaller communities. It is also likely that schools with school resource officers will receive more reports to law enforcement than schools without them. This will occur simply because of greater access to and ease of making reports to these officers. If this difference in reported incidents is significant, it could have the effect of making schools with school resource officers on duty look worse than they actually are in comparison to schools without such officers.

According to information on the DOJ website, up to 449 law enforcement agencies across the state file monthly reports to the Uniform Crime Reporting (UCR) program on reported crime incidents, arrests, homicides and sexual assaults. Many are transitioning to the Wisconsin Incident-Based Reporting System (WIBRS). Since schools do not have log-on access to the UCR or the WIBRS they would likely have to rely on person-to-person contact with local law enforcement or the DOJ to get this information.

For the above reasons, the WASB opposes Senate Bill 585.

ⁱ Wisconsin already collects and reports discipline data for all students regardless of grade. Data about disciplinary removals and incidents are disaggregated by student demographic group and reported at the state, district, and school levels. The total count of student-incidents which result in out-of-school suspension or expulsion are reported as a percentage of enrolled students.

While discipline data may or may not be associated with a criminal charge or citation, all student-incidents resulting in an out-of-school suspension or expulsion are reported by behavior (e.g., assault, alcohol, etc.). Handgun, shotgun or rifle, other firearm, and “dangerous weapon - not a firearm” are grouped together under weapon-related incidents. If an incident resulting in removal of a student is associated with multiple behaviors, then reporting is based on the primary behavior. The most serious infraction or offense committed is identified as the primary behavior.



School Administrators Alliance

Representing the Interests of Wisconsin School Children

TO: Senate Committee on Judiciary and Public Safety
FROM: John Forester, Executive Director
DATE: October 14, 2021
RE: Opposition to Senate Bill 585

Chairman Wanggaard and members of the Senate Committee on Judiciary and Public Safety, thank you very much for the opportunity to submit testimony on this important legislation. My name is John Forester. I'm the Executive Director of the Wisconsin School Administrators Alliance (SAA). In that capacity, I represent the combined memberships of five professional associations of public school administrators: the Association of Wisconsin School Administrators (AWSA), the Wisconsin Association of School Business Officials (WASBO), the Wisconsin Association of School District Administrators (WASDA), the Wisconsin Association of School Personnel Administrators (WASPA), and the Wisconsin Council for Administrators of Special Services (WCASS). The SAA also represents the 10,000 members of the Wisconsin Retired Educators Association (WREA).

School administrators throughout Wisconsin place a high priority on student safety and we believe that public reporting is an integral component of any school safety strategy as well as the trust relationship between schools, parents and the community. However, the SAA is testifying in opposition to SB 585 today because of numerous policy questions regarding application of the bill's requirements and an uncertain administrative and fiscal impact.

In anticipation of this hearing, I sought input on SB 585 from a cross-section of SAA members, with an emphasis on school superintendents. I also discussed the bill with two of Wisconsin's finest school law attorneys that we work with on a regular basis. These discussions yielded numerous questions and concerns about the application of the bill.

Schools are already required to report certain disciplinary actions to the Department of Public Instruction (DPI). These, of course, concern pupil misconduct and involve application of standards that schools are charged with enforcing (e.g., a pupil can commit a crime on school grounds that results in their expulsion and that expulsion will, in turn, be part of a report to DPI).

However, school districts are not charged with enforcement of the criminal law and do not – at least institutionally – have expertise in determining what conduct satisfies the elements of the identified criminal statutes. In other words, that's simply not what we do.

Application of Reporting Requirements

Perhaps the most unwieldy aspect of the bill is that it mandates the reporting of certain crimes and "incidents", but it is not clear how these determinations are made and how the reporting requirements are to be applied. This raises several questions:

- Will school districts simply get the data they need for their report to DPI from local law enforcement?

- Are districts responsible for including any additional information in their report to DPI other than the information received from law enforcement?
- Given that many school districts lie across multiple law enforcement jurisdictions, is “incident” defined sufficiently so that reporting by the various local agencies will be uniform across the district? For that matter, will application of the reporting requirements be reasonably uniform across the state?

The conduct that must be reported under the bill concerns conduct that occurs in certain locations (e.g., school grounds, school transportation, or school sanctioned events) but, does not necessarily have to involve such conduct by pupils. And this raises questions:

- If a district hosts a community event and an incident occurs that does not involve students, must that incident appear on the district’s report?
- If a district hosts a WIAA playoff event that does not involve any of the district’s students and a crime or incident takes place, must that incident appear on the district’s report?
- If a crime is committed on school grounds on a weekday between the hours of 6:00am and 10:00pm on a day that school is not in session by pupils or adults who may or may not live in the district, must that incident appear on the district’s report?

Local Ordinances

The SAA is concerned about the inclusion of a “violation of a municipal ordinance relating to disorderly conduct” on the list of reportable incidents on page 3, line 7 of the bill. I’m certainly no expert here but, it seems to me that many of the “offenses” that are included in this section have little to do with school safety and therefore may only serve to inflate reporting and contribute to a lack of uniformity in reporting.

Accountability Reports

Under the bill, the district’s report to DPI must be reflected on the school and school district accountability report. Given that the data reported may actually include crimes and incidents that did not involve district students, we struggle to see how this would be a meaningful part of the school report card.

Pupil Confidentiality

SB 585 specifies that reports may not include the identity of a pupil. However, simply concealing pupil identity may be insufficient. In smaller school districts or in schools in which only a few incidents are reported (which is likely to be many) the report, because of the limited number of incidents, could very well contain personally identifiable pupil information. Our concern can be summed up in one question: Does the bill conform to both state and federal laws on pupil records and confidentiality?

Fiscal/Administrative Impact

It seems pretty clear that school districts will incur additional administrative and possibly legal costs to comply with the bill’s requirements. Because of the policy questions we have about the bill there is a lot of uncertainty about the fiscal impact on local districts at this time.

Thank you for your consideration of our views. If you should have any questions on our position on SB 585, please call me at 608-242-1370.