



DUEY STROEBEL

STATE SENATOR • 20TH DISTRICT

Testimony on SB 878

February 17, 2022

Thank you Chairman Wanggaard and members of the committee for holding a public hearing on Senate Bill 878, a bill I authored with Representative Gundrum in response to concerns that had been brought to our attention by law enforcement officials and relatives of individuals who recently died of drug overdoses.

Under Wisconsin's aider immunity statute, otherwise known as the "Good Samaritan Law," individuals who provide or seek aid for a person suffering from a suspected drug overdose are provided certain immunities from criminal prosecution.¹ Enacted in 2014, the legislative intent was to encourage co-users or individuals witness to a drug overdose to seek out emergency medical assistance with the hope of saving lives.²

As fatal overdoses stemming from the illicit drug crisis have since continued on an upward trajectory, law enforcement officials have encountered an increasing number of cases where this area of the law has had the unintended consequence of extending protections to individuals who were witness to a fatal drug overdose but allowed large amounts of time to pass where depraved indifference to the overdose was demonstrated before said individuals decided to provide or seek aid. This is due in large part to current law extending immunities from prosecution to individuals regardless of the level or timeliness of aid provided.

SB 878 seeks to address this unintended consequence by removing immunities from prosecution for individuals witness to a drug overdose who fail to provide or seek aid as soon as reasonably possible and without unnecessary delay. This would bring Wisconsin into closer alignment with other states that have a timeliness requirement for their aider immunity statutes.³ Barring the prosecution of these fact patterns appears to undermine the outcomes the Legislature sought to achieve when the aider immunity statute was signed into law – namely, decreasing the number of fatal drug overdoses.

Thank you again for your consideration of SB 878. I hope you will join Representative Gundrum and me in supporting this bill.

¹ Wis. Stat. § 961.443(2)

² 2013 Wisconsin Act 194 (enacted April 7, 2014)

³ For example, see 8 V.S.A. § 4254(b) [Vermont Statutes Annotated]



RICK GUNDRUM

STATE REPRESENTATIVE • 58TH ASSEMBLY DISTRICT

Testimony on Senate Bill 878

Senate Committee on Judiciary and Public Safety | February 17, 2022 | Room 201
Southeast

Chair Wanggaard, Vice-Chair Wimberger, and distinguished members of the Senate Committee on Judiciary and Public Safety. Senator Duey Stroebel and I introduced Senate Bill 878 to address a tragic issue related to the current overdose crisis in Wisconsin. I was made aware by the Washington County Sheriff's Department that in situations where an individual has overdosed, their friends are doing everything but contacting emergency services as soon as reasonably possible.

In the first case on October 26, 2019, 23-year-old Troy Johnson and his girlfriend were using drugs together at his house. We know in-home surveillance video at his house that Troy was conscious at 6:00 PM and unconscious at 6:15 PM. For several hours his girlfriends texted friends asking for help and expressing her concern about him, but did not call 911 until 12:56 AM. Troy Johnson was pronounced dead at the scene.

In the second case on September 22, 2020, 37-year-old Stephanie Giles was released from incarceration and was picked up by her boyfriend at 8:30 AM that morning against the wishes of her family. At 4:19 PM that same day, her boyfriend called 911 and told them he had been performing CPR for 10 to 15 minutes but she was not breathing. An investigation revealed that 60 minutes prior to calling 911, he had done an internet search "on how to perform CPR." The boyfriend told authorities that he had stopped CPR to get a cigarette from his car prior to calling 911. He had also administered five doses of Naloxone and contacted his mother seeking advice before contacting emergency services.

Under current law, both the girlfriend in the first case and the boyfriend in the second case did not violate any statutes by not getting immediate help from emergency services. These specific cases highlight how someone's lack of action



RICK GUNDRUM

STATE REPRESENTATIVE • 58TH ASSEMBLY DISTRICT

can lead to a death. Every lost life from the current overdose crisis is another lost spouse, a daughter, a son, a parent, and a friend. It needs to cease and in my opinion this bill is a step in the right direction. I urge all of to vote for Senate Bill 878.

SB 878

Immunity-to-Aider Reform Bill

On September 22, 2020, my sister, Stephanie Giles, died from a heroin overdose. Yes, she had a choice to use heroin, but Stephanie did not have a choice as to whether she lived or died. Her boyfriend took that choice away from her for his own selfish reasons.

Stephanie was found slumped over in the bathroom and barely breathing. Any human, with common sense would have immediately dialed 9-1-1, and hopefully simultaneously attempted to resuscitate my sister while they waited for paramedics. I know for a fact that Stephanie had done exactly that a year prior, for her boyfriend, to save his life while overdosing.

What did he do instead? He thought it was the right time, while Stephanie laid on the floor dying, to walk down 2 flights of stairs, mosey out to his car, grab and smoke a cigarette. When he was done smoking, he made his way back up 2 flights of stairs to where my sister was still lying on the floor alone and dying. Instead of dialing 9-1-1 once he returned to my sister, he called his mom instead and Googled how to perform CPR.

Stephanie didn't have a chance once her boyfriend decided to "play God". He eventually did dial 9-1-1, though he waited until my sister was dead. Since he did eventually call, *when he felt like calling*, he was immune from any prosecution.

My sister, my best friend, my parents youngest of 4 children and mother of 2 sons, was dead for an hour by the time the ambulance arrived. Had her boyfriend called immediately or "in a timely manner", my nephews would still have a Mom, my parents would still have their baby and my siblings and I would still have our little sister.

There is no way for us to get justice for Stephanie now, which is hard for our family to swallow. However, if the verbiage is changed in this law, more lives will be saved, while still providing the other party with immunity. Four words could be the difference between life and death for someone.



Testimony by Nicole Monroe



February 17, 2022

To: Members of the Senate Committee on Judiciary and Public Safety
From: Vivent Health
Re: Senate Bill 878

Vivent Health is committed to ending the HIV epidemic in our state and ensuring all individuals living with or at-risk for HIV have the ability to live a long, healthy life. We pride ourselves on being a respectful, caring health care, social services and HIV prevention services provider delivering comprehensive, integrated programs. Today, we are the largest provider of these services in the state of Wisconsin.

Vivent Health has a long history of providing harm-reduction based services to people who use and inject drugs as they are at heightened risk for contracting HIV. Through our experience, and based on public health and addiction research and established best practices, our outreach programs meet difficult to reach people wherever they may be in their journey and provide them with services, materials and programming they need to reduce and hopefully eliminate behaviors that negatively impact their health. It is in this spirit that we cannot support Senate Bill 878.

Vivent Health has implemented our Lifepoint Program for more than 25 years, providing harm reduction services and education, linkage to services (e.g., treatment, health care, housing) and testing for HIV, hepatitis C and syphilis. We are working to prevent overdose by providing education, tools and resources to reduce the risk of overdose.

We work daily with people who use drugs and hear their stories. In 2021, we received reports of 1,870 peer saves. This means the programs we have in place are working it also means that more needs to be done.

We respect that law enforcement is doing everything they can to respond to the overdose crisis. However, we are concerned that SB878 will not only fail to reduce overdose deaths but will instead discourage more individuals from seeking help, out of confusion or fear. We recommend and stand ready to partner with the legislature and the State to invests in community policing initiatives and greater public education about responding to an overdose as alternatives to this bill. There are several examples of substance-use diversion programs popping up across the country and two have started in Wisconsin:

- Madison Area Addiction Recovery Initiative:
<https://www.cityofmadison.com/police/community/maari/>
- Cops Assisting Addition Recovery (CAARE) in Greenfield, Wisconsin:
<https://www.ci.greenfield.wi.us/550/CAARE-Program>

Initiatives such as these effectively link people who use drugs to treatment and support while also reducing the burden on law enforcement officers.

Thank you for your consideration. Please contact Vivent Health Chief Advocacy Officer Bill Keeton at 414-225-1572 or by email at bill.keeton@viventhealth if we can provide any additional information.

SB878 and AB921 Relating to Immunity To An Aider February 17, 2022

Hello. I'm Jenny Souviner Hallett from Milton, WI. Thank you for listening to me. My 26-year-old daughter, Brittany Rose Hallett, died from alcohol addiction when I came home to find her dead. ((Here is her PHOTO)) She was a straight A student and was one of the most loving and family-oriented people I've ever known. She didn't deserve to die.

It's IMPERATIVE that you understand that addiction is a brain disease. It's not a reason to punish. Unless you truly understand this, laws will keep being passed to punish people for having this disease. We need laws to create affordable long-term treatment and recovery options to stop addiction deaths.

Because you have such a powerful role in creating legislation regarding alcohol and other drug addiction, I am ASKING ALL OF YOU to watch a powerful video by Neuroscientist Dr. Stephen Dewey that you can find on the Internet. (I'm honored to have recently made contact with him personally) From his decades of research...He uses PET Scan Imaging to explain how different substances affect different parts of the brain. He can take a PET Scan of anyone and tell if they have the brain disease of addiction simply from the PET Scan. You couldn't do that if it were just a simple choice to stop drinking or using. He explains the science of how the brain can adapt for those that unmask the brain disease of addiction.

He explains what happened to my daughter....Normally, after drinking alcohol, a person's metabolic rate drops and it takes about a week to get back to normal again. But...Once someone unmasks the brain disease of addiction, their brain adapts to stay at that new lower metabolic rate indefinitely. He explains how then, THAT VERY SUBSTANCE that they've become addicted to....Now if they drink that alcohol, it will bring their metabolic rate back up to a NORMAL RATE TEMPORARILY so that they feel normal again. That is exactly what I witnessed my Brittany going through. She always used to say that she drank to FEEL NORMAL AGAIN. This video explains why? She was not a terrible person....She was a very sick person who was floundering, because she couldn't get the treatment she needed to survive.
.....

I support the Wisconsin Recovery Advocacy Project's stance on this bill. I'll speak on my own behalf too.

While I believe the intent of the bill is to get people to help earlier, I adamantly believe it will scare off far too many people from helping AT ALL. So, **I do not support Senate Bill 878 and Assembly Bill 921.**

Let me start by telling you how I helped save a young stranger's life with Naloxone that reverses an opioid overdose. My friend got a call from someone who came across a guy overdosing in a nearby park. They saw my car at my friend's house and knew I had just gotten trained in administering Naloxone. We rushed to the park and found his girlfriend giving CPR with the help of a 911 operator. I gave him some Naloxone. Within a few minutes, he went from being pasty blue and lifeless to suddenly gasping air, sitting up and talking. It was truly miraculous. I fear that if this new bill had been in place, instead of the Good Samaritan Law, that has since expired, his girlfriend may have panicked and just left the scene.

Putting a vague subjective restriction on when someone must call for help, will be a deterrent in far too many cases, because of fear of how that could be interpreted and skewed to go against them. Just having that loophole will likely make many people pause on helping. And then if they finally do decide to help, they might pause again because they didn't help sooner. If my daughter had been with someone who was using drugs, I would not want them to have paused to call for help, out of fear of this new law.

Someone, who is high, might be too out of it to be able to help. Once they do get sober enough to realize what's going on, they'll be more likely to flee for fear of being prosecuted for not helping sooner.

A high person could visit a friend and find them unresponsive. They might flee for having a valid fear of being blamed for not helping sooner.

Giving immunity should NOT be restricted to scenarios where the person in distress is overdosing from drugs. If someone is having any medical emergency and the only person around happens to be high, we need them to have immunity for helping, even if the person in distress isn't overdosing from drugs.

Now is not the time for punishment. The only thing that matters is saving lives. An **aider who did try to help, should not be punished for anything that a sober person would not have been punished for.** Punishing the aider with fines, jail time and/or a record, will only make their lives even harder to get into recovery. We want them to be able to get into recovery....not make it even harder.

I can tell you from first-hand experience, I had many times where I had to make the hard decision on whether I should call for an ambulance for my own daughter. It was very expensive to keep racking up bills for her, which only depressed her more. I always called for an ambulance whenever things were finally clear that she really needed it. But what if that same scenario happened to someone who was also using drugs? Now they could be prosecuted because they tried to help them first...until it was clear that an ambulance was needed. Making that decision is not always clearly black and white ...especially if the person is also high. We don't want them to not call AT ALL for fear of prosecution.

Witnessing someone who may be dying is such an extremely traumatic experience. It is very hard to say what anyone would do in any given scenario. When I found my own sweet daughter dead in her bed, I immediately called 911, but God forgive me, I was in such shock that I didn't even think to try doing CPR. The operator thankfully did ask me and I attempted it. I was in such severe shock that I mentally was just **WILLING IT NOT to be true.** I think back now and wonder how I could possibly have not thought to try CPR on my own sweet daughter, but in my shock, I wanted her to be ok, so I wasn't accepting that it was as dyer as it actually was. Trauma can cause people to make poor decisions....sober or not!

It is easy to pass judgment for decisions made under such duress...especially when there is such a stigma attached to someone with a substance use disorder, but the shock of the trauma of being in such a life-threatening situation can make a person react in incredibly unexpected ways. It's not right to punish them for not reacting immediately in the most productive way when they are in such an extreme state of shock....regardless of whether they were using drugs or alcohol or not. Don't ruin their lives in addition to the tragedy that already took place.

If you want to reduce incidents of people using, then fight for more affordable long-term treatment and recovery options. Only 1 in 10 people with addiction can get treatment and many of those don't receive nearly enough. I can attest to this first-hand. Don't punish people because they are still struggling with an addiction when they have such a hard time finding affordable proper long-term treatment to get into recovery in the first place.

I would like to thank every member here for listening to me and for considering what I have said. This is my daughter's legacy! I love you forever sweet pea Brittany Rose!

My Contact Information:

Jenny Souviner Hallett

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My website with a link to a special Facebook page: www.BrittanysACAP.com

My YouTube channel: Brittany's Alcoholism Counseling and Prevention with videos of me speaking.

Please let me know if I can ever help you in any way!

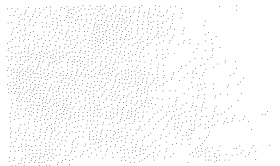
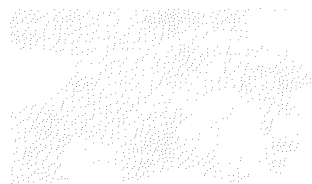


Brittany Rose Hallett

Jenny Hallett Background:

- Board Member of Janesville Mobilizing 4 Change
- CADCA training
- Shatterproof Ambassador
- Recently certified as a Certified Parent Peer Specialist
- Member of Governor Evers' SCAODA Prevention Committee
- Member of Governor Evers' SCAODA Prevention Committee's "Alcohol Adhoc Workgroup"
- New member of
- New member of ITC Intervention and Treatment Committee

****My testimony is done on my own personal behalf!!!



February 17, 2022

My name is Bev Kelley-Miller, I am an advocate from the Recovery Advocacy Project aka RAP. I'm asking you to vote no for SB 878, which is nonspecific by stating "as soon as reasonably possible and without unnecessary delay", leaving the time factor open to interpretation by Police Officers, DOC Agents, DAs and Judges.

Look at my t-shirt front and back which contains 56 people who overdosed from this state, a tiny fraction of sons and daughters—all of them ordinary people loved by their families and friends.

I lost my youngest daughter, Megan Kelley, Forever 22, to an overdose almost 7 years ago on April 14, 2015. We greatly miss Megan every single day. Megan was on probation and her supplier on extended supervision. Megan was sentenced to wait 9 months for inpatient treatment with a 3-year stayed and imposed prison sentence. Megan had a SUD, which is a chronic medical condition. Yet Megan would have been sent to prison if she lived through the overdose, although that wasn't possible since Megan's supplier **deliberately** failed to call 911 to save her life. I know who he is because he came through Megan's funeral line and told me he was the last person to see her alive. He knew if he called 911 to report that Megan was overdosing, he'd be sent back to prison for violating the terms of his supervision and that Megan would be sent to prison. In 2014, the original Good Sam law passed failed to provide immunity to people on probation or extended supervision. *aka being on paper.*

Signatures for a

After Megan's death, I helped gather petitions to amend the 911 Good Sam law to provide immunity to people on paper. I talked to Representatives in Madison about the need to amend the law based on Megan's story. In July 2017, I was at the signing of the amended 911 Good Sam law where I discovered the immunity for people on paper was sunset to August 1, 2020. I told Rep. John Nygren the Opioid Epidemic was not going to be over in 3 years. Then quietly during the pandemic, when Rep. Nygren was no longer a part of the legislature, the immunity was rescinded. During the pandemic in 2020 the State of WI, ¹⁵¹⁴ loved ones, ^{lost} their lives to overdoses, leaving grieving families and communities to deal with the aftermath of shock, anger, and sorrow.

^{an amendment}
A ^{revision} to the 911 Good Sam law **MUST** provide immunity to people on ~~probation and extended supervision~~ *aka being on paper*, as approximately 95% of aiders who are with the OD victim tend to be on paper and fear that they will be revoked for violating their terms of supervision, resulting in their arrest and incarceration for being around drugs and drug paraphernalia. The intent of the Good Samaritan law is to SAVE lives during an overdose.. Around 3,000 people on paper a year are revoked for violating rules of supervision. Currently our prisons are overcrowded with over 22,000 people; and 80% are incarcerated related to their addiction. Locking people up with a SUD does **nothing** to treat their medical condition.

By expanding the 911 law to provide immunity to people on paper and advertising that they will receive immunity for calling 911 to save a life, fewer families will deal with the forever loss journey so many of us already do.

The Missouri law provides needed immunities that encourage people to call to SAVE a life. As impacted family members, we implore you to stop SB 878. Instead, we request that you work on crafting a Bill that strengthens the Good Sam law so that NO ONE fears calling 911 and more people's lives are saved. Forty-seven states have 911 Good Sam laws; WI's law needs to help save lives...remember 95% of aiders who **would** call 911 are on probation or extended supervision.

Thank you

Missouri 911 Good Samaritan Law:

Bev Kelley-Miller

phone

Kimberly WI 54136

The person who seeks medical help and the person experiencing the medical emergency in an overdose will be protected from drug and alcohol violations. They are immune from prosecution of:

- Possession of a controlled substance
- Possession of drug paraphernalia
- Possession of an imitation controlled substance

- **Keeping or maintaining a public nuisance**
- **Sale of alcohol to a minor**
- **Possession of an altered ID**
- **Purchase or possession of alcohol by a minor**
- **Violation of a restraining order**
- **Violation of probation/parole or extended supervision**

First responders to a possible overdose emergency shall provide appropriate treatment-related resources to the person who experienced the overdose, including information about naloxone and medication for treatment.

Not too long ago, I would have thought SB 878 was a good bill. Why allow someone who hesitates to call 911 to be immune from arrest? Why not arrest and punish them?

My perspective on this changed after the death of my stepdaughter, who died from an overdose. She also had a chronic medical condition: substance use disorder.

Since her death, I have talked with her friends who knew more about her substance use. I also now facilitate an overdose peer support group. **What I have learned is that people are not calling 911 because they fear arrest.** Let me repeat that: people die because their companions fear arrest.

The Good Samaritan law does NOT need a vague time limit for callers. It needs to provide immunity for ANYONE who calls 911.

Currently people who are on probation fear calling because they'll be arrested and sent to jail. The same thing can happen for the person who is overdosing -- if they survive.

Wisconsin must expand immunity for all callers. We had better immunity for 911 callers until August 2020 when the sunset clause expired (the same year we had a record number of overdose deaths). Other states have better immunity provisions. For example, Missouri law includes:

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Good Samaritan laws are recognized by the CDC as a proven strategy in preventing overdose deaths.

<https://www.cdc.gov/drugoverdose/featured-topics/evidence-based-strategies.html>

The intent of these laws is to **save lives, not punish**. Those of us who have lost loved ones to overdose understand that saving lives needs to be the priority – not arresting the companions who are at the scene of an overdose.

It is a journey for families to understand the companions may have poor judgment, be unaware of what is happening, may be intoxicated, may be panicked and simply not know what to do. Finding an unresponsive person is traumatic. As police will tell you, none of these cases are pretty.

I personally know of a case where a 911 call was delayed because a **companion was on probation**. The companion called a third party, then left the scene. The third party arrived, called 911 and fortunately a life was saved in time. But other cases do not have good outcomes.

My stepdaughter died alone-- or so we think. We don't really know if anyone was with her when she turned blue and started foaming blood at her nose and mouth from pulmonary edema, hemorrhage and died. Not knowing is part of the anguish families live with.

I ask you: Please help save lives. Vote against this bill. Sponsor a new bill to expand immunity for 911 callers.

Thank you for listening.

Annette Czarnecki

[REDACTED]

Madison, Wisconsin 53715

Wisconsin Recovery Advocacy Project