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# ROBERT WITTKE

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## Senate Committee on Education

January 17, 2024

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Chair Jagler and Committee Members,

Thank you for holding a public hearing on Senate Bill 489 (SB 489) relating rights reserved to a parent or guardian of a child.

In recent years, many parents have become more actively involved in the education of their children. Unfortunately, public school districts have not always respected parental rights.

“This bill prohibits the state from infringing on the fundamental right of parents to direct the upbringing, education, health care, and mental health of their children without demonstrating that the infringement is required by a compelling governmental interest of the highest order as applied to the child, is narrowly tailored, and is not otherwise served by a less restrictive means.” [LRB Analysis]

Senate Bill 489 is really about transparency, for example:

- ✓ Parents have a right to receive notice of and a chance to opt out of certain educational topics.
- ✓ Parents have a right to be notified about surveys to students.
- ✓ Parents have a right to receive information regarding the academic proficiency and classroom behavior of their children.
- ✓ Parents have a right to review all medical records related to their children and to be notified of health care services offered at the school.
- ✓ Parents have a right to review educational materials and access learning materials.
- ✓ Parents have a right to visit their child at school.
- ✓ Parents have a right to be notified about student safety and incidents of violence.
- ✓ Parents have a right to know about disciplinary action taken against their children.

Parents should be equal partners in the education of their children, and this bill would encourage such a partnership.

Thank you once again for holding a public hearing on Senate Bill 489. I am happy to answer your questions.



**Wisconsin Family Action**

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**TESTIMONY IN SUPPORT OF SENATE BILL 489  
SENATE COMMITTEE ON EDUCATION  
WEDNESDAY, JANUARY 17, 2024  
JACK HOOGENDYK, LEGISLATIVE & POLICY DIRECTOR**

Thank you, Chairman Jagler and committee members, for the opportunity to testify on Senate Bill 489. I am Jack Hoogendyk, Legislative and Policy Director for Wisconsin Family Action and we support SB 489.

Mr. Chairman, the fundamental importance of family goes back thousands of years. It is the foundation of a civil society. Former U.S. Secretary of Education, William Bennett wrote ten years ago, “The family is the nucleus of civilization and the basic social unit of society. Research clearly shows that the institution of the family is the first form of community and government and, as Michael Novak said, ‘the first, best and original Department of Health, Education and Welfare.’”<sup>1</sup>

The American Psychological Association says, “Parents and caregivers are the most important people in a child’s life. They offer love, acceptance, appreciation, encouragement, and guidance, and provide the most intimate context for the nurturing and protection of children as they develop their personalities and identities and also as they mature physically, cognitively, emotionally, and socially.”<sup>2</sup>

For almost 100 years, the U.S. Supreme Court has recognized the traditional role of parents in directing the care, custody, and control of their minor children. In *Wisconsin v. Yoder*, the Court declared that parental rights have been “established beyond debate as an enduring American tradition.” 406 US 205, 232 (1972)

We assert that parents absolutely have every right enumerated in this bill—and even more importantly, as this bill appropriately states: “A parent of a child in this state has inalienable rights that are more comprehensive than those listed in this section, unless such rights have been legally waived or terminated” (p. 7, lines 5-8).

“Inalienable rights” are defined legally as rights that “are not transferable or capable of being taken away or nullified.” Our Declaration of Independence speaks of “inalienable rights” where it says “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable Rights....”

Some might ask why this legislation is needed. Well, today, sadly, maybe even tragically, we need to specifically codify certain rights parents have. Senate Bill 489 does that with the 16 delineations it contains. Why these 16? Because we have seen multiple times and places where the state and/or its agents have abused their power and encroached on these rights of parents when it comes to their children. You can go down the list on pages 4, 5 and 6, and most of us can immediately recall recent incidents where egregious wrongs were done to parents and their children in each cited right—whether regarding a child’s education, medical care, or mental health.

There are plenty of horror stories of how schools, for instance, have withheld critically important information from parents about what is happening with their child at school or some instances, have lied to parents. Some

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<sup>1</sup> [Stronger Families, Stronger Societies - NYTimes.com](https://www.nytimes.com/2013/01/13/us/politics/stronger-families-stronger-societies.html)

<sup>2</sup> [Parents and caregivers are essential to children’s healthy development \(apa.org\)](https://www.apa.org/parenting-children/parents-caregivers-essential-childrens-healthy-development)

schools even have policies informing school personnel that it is fine (even expected) to lie to parents in some instances. Fortunately, our friends at Wisconsin Institute for Law and Liberty are suing a couple of these schools on behalf of aggrieved parents. We hope these lawsuits prevail and cause other schools in this state to closely examine their policies and practices.

Children are not wards of the state or any of its agents. But too often, the state and its agents are acting as if they have territorial, legal rights that trump those of parents. This bill is designed to make sure these entities and agents, as well as the courts, are very clear about where the right to decide for and know about children rests—and it is with parents.

I am sure lawyers can cite numerous court decisions and pertinent case law that show specific rights of parents being recognized and protected. Some of these rights are included elsewhere in state and federal law. In light of this, some might argue this bill is unnecessary. We disagree. Putting these rights together in this specific place and way and spelling out these certain rights to make it abundantly clear about the limitations of the state and any of its agents is necessary for all the reasons mentioned above.

Furthermore, clarifying the legal standard by which to assess whether parents' rights have been abrogated and creating a cause of action for parents is imperative. This is prudential law. No parent should be left defenseless when government tries to strip them of their right to decide what is best for their child. This parental rights bill creates a balancing test that directs judges to take seriously in court every parent's right to determine what is best for their child.

We urge this committee to support SB 489 and move it to the full Senate expediently.





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Throughout her life, Sage's parents — who had adopted her through kinship adoption after the death of their son, her biological father — had sought her best interests and had carefully navigated therapy and medical treatment for a combination of health issues and early childhood trauma from the loss of her biological parents. Sage's school had previously notified her parents when concerns arose, enabling them to direct her treatment. When she entered high school, staff began concealing information from her parents.<sup>3</sup> If not for the actions of a school that took upon itself a parental role, functionally denying her the right to be raised by her parents, Sage would have been spared trauma and harm. Tragically, hers is not the only case where schools have appropriated parental authority relating to education and medical care to the great detriment of the child.

Yaeli Martines was taken from her mother's home when she was sixteen. Her mother, Abigail, has recounted how Yaeli, struggling with depression, was encouraged by school staff to pursue cross-sex hormones and adopt a male name and pronouns. She was not informed by the school that her daughter was seeking transition.<sup>4</sup> When Abigail found out and expressed concerns, Yaeli's school counselor recommended Yaeli be removed from her parents' home. Her mother was allowed to see her once a week for an hour and never regained custody. Yaeli's depression worsened and she committed suicide three years later.<sup>5</sup>

Both Yaeli and Sage suffered deeply as a result of schools wedging themselves between parents and children. This bill protects against such abuse by recognizing that the state does not have the right to withhold or conceal information about a child's mental health or sexual identity from parents.

A child's interests are best served when the people with the greatest interest in her wellbeing — her own parents — are the ones entrusted with raising her. This bill acknowledges the fundamental right of parents to raise their children — and by extension, children's rights to be raised by their parents. Children are best protected when the state acknowledges and respects these rights.

We urge you to support SB 489 for the sake of Wisconsin's children

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<sup>3</sup> <https://thefederalist.com/2023/01/19/virginia-teen-sex-trafficked-twice-after-school-hides-gender-identity-from-her-parents/>

<sup>4</sup> <https://www.dailymail.co.uk/news/article-10612285/California-mom-claims-LA-school-encouraged-daughter-transition-blame-suicide.html>

<sup>5</sup> <https://www.dailymail.co.uk/news/article-12221449/California-mom-claims-19-year-old-daughter-murdered-gender-ideology.html>



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Dear Chair Jagler and Members of the Committee,

Them Before Us is a nonprofit committed to defending children's rights to their mothers and fathers. We are writing in support of SB 489 because it protects the interests of the next generation by acknowledging parental rights — and by extension, the right of all children to be raised by their own parents. These are inalienable rights that are essential for children to flourish.

A child's mother and father fill an irreplaceable role. She does not merely have a right to parents in general, but specifically to her parents. She does not need simply any adults; she is advantaged by the two adults responsible for her creation. Children's rights and parents' rights are symbiotic — just as a child has the right to her own mother and father, parents have the right to their children. This is a natural right — it does not depend on law, customs, or nature. Ignoring or violating these rights brings harm to the children involved. Children belong to their parents. Not the school. Not the state.

A child's mother and father are statistically the adults most connected to, protective of, and invested in them.<sup>1</sup> When those two adults are unable or unwilling, children have a right to adoptive parents who prove via extensive vetting that they will be similarly invested in and protective of them. Children are most likely to thrive when raised by their parents. The "raising" of children includes educational decisions. Parents have the right to make educational choices on behalf of their children because no one else has the kind of vested interest in the wellbeing of a child that a parent has. Ignoring this right is a violation of a child's right to his or her parents. Regardless of how parents choose to school their children, parents are the primary educators. When a child's education is no longer directed by their parents, an essential component of that child's rights is violated. They are, in effect, being parented by the state.

In a recent, tragic case, one school district usurped this primary parental role in the life of a young girl named Sage. The school encouraged and hid Sage's new opposite-sex identity and concealed from her parents that she was being bullied at school. Through a heartbreaking series of events, Sage cut herself off from her parents, ran away from home, and fell victim to sex trafficking. When she was found, her parents were denied custody and she was placed in male housing in a state-run home where she suffered further abuse. All the while her parents pleaded for their right to bring her to a place of safety. Her parents eventually regained custody after a year-long battle, and Sage no longer identifies as male.<sup>2</sup>

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<sup>1</sup> <https://thembeforeus.com/wp-content/uploads/2022/07/1.-Children-Have-Rights-Handout-1.pdf> and <https://thembeforeus.com/wp-content/uploads/2022/07/2.-Biology-Matters-Handout-1.pdf>

<sup>2</sup> <https://thefederalist.com/2023/01/19/virginia-teen-sex-trafficked-twice-after-school-hides-gender-identity-from-her-parents/>