

## Testimony on 2019 Senate Bill 363

Senator Robert Cowles

Senate Committee on Judiciary and Public Safety – January 22, 2020

Thank you, Chairman Wanggaard and committee members, for allowing me to testify on 2019 Senate Bill 363. This bill defines the act of ‘swatting’ and establishes swatting as a felony.

Swatting is defined under this bill as falsely reporting an emergency to a public safety entity, knowing that no emergency exists, with the intent to elicit a response from an emergency response team.

Current criminal statutes in Wisconsin treat this crime as a misdemeanor, punishable by a jail sentence up to 90 days and a maximum fine of \$600. This bill would increase that penalty to a Class I felony, lining up swatting penalties with the penalties for other more severe false reporting incidents such as bomb threats and terrorist threats. Additionally, this bill would also increase that penalty to a Class H felony if the violation resulted in bodily harm to any person, and a Class E felony if the violation resulted in great bodily harm. This bill was amended during the Assembly Committee process to include this provision and provide other technical changes.

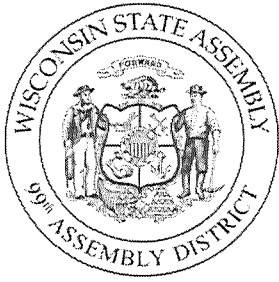
A good example of how swatting can harm a community occurred just last year in Dodge County. The Dodge County 911 Center received a call from a man who said he shot a man and taken others hostage in a house in the Highway 151 and Forest Road area between Beaver Dam and Columbus. The SWAT team arrived on the scene and began to enter the residence with the intent to free the hostages. Other police responding shut down the highway for over an hour. The SWAT team entered the residence and immediately discovered no hostage situation existed and deemed it as a swatting call. As the investigation was wrapping up, Dodge County received a call for an ice rescue on Fox Lake. Sheriff Dale Schmidt told reporters, “Had our deputies still been tied up on the swatting call, it is quite possible our deputies would not have been able to respond as quickly to that incident, and lives could have been put further in jeopardy.”

While nobody was harmed as the SWAT team entered the Beaver Dam residence, this is not always the case. In late 2017, a deadly situation was created from swatting when authorities in Kansas shot and killed Andrew Finch, an innocent victim, when they mistakenly thought he was reaching for a weapon.

Swatting is a very serious offense and has become much more frequent over the past few years. Many states such as Kansas, New Jersey, and

California have passed legislation increasing the penalties for swatting. As the popularity of this dangerous stunt continues to rise in Wisconsin, it is time we do the same.

Higher penalties for swatting can act as a deterrent for potential violators and can reduce the frequency of these dangerous stunts, as well as ensure that the punishment fits the crime for these unique and knowingly false reporting incidents.



# CINDI DUCHOW

STATE REPRESENTATIVE • 99<sup>th</sup> ASSEMBLY DISTRICT

(608) 266-3007  
Toll-Free (888) 534-0099

Rep.Duchow@legis.wi.gov  
P.O. Box 8952  
Madison, WI 53708-8952

## Senate Committee on Judiciary and Public Safety

### Public Hearing, SB 363

January 22nd, 2019

Thank you Mr. Chairman and members of the Committee for holding a public hearing on Senate Bill 363 relating to falsely reporting an emergency, otherwise known as “Swatting”, and providing a penalty. This alarming trend has impacted communities in all corners of our state, including my district where investigations are ongoing as a result of an April 2019 swatting incident in Hartland.

“Swatting” refers to the practice of knowingly reporting a non-existent emergency in order to elicit a large-scale law enforcement emergency response. What began as a prank has since proven to create incredibly dangerous and even deadly situations. Some may recall in late December 2017 when a man in California falsely reported a hostage situation at a home in Wichita, Kansas that resulted in the death of an innocent father who had no idea why police had surrounded his home.

Wisconsin is not immune to this as dozens of swatting incidents have been reported within the last few years in communities all across the state including Hartland, Waupaca, Madison, Sun Prairie, Fond du Lac, Appleton, Janesville, Greenfield, and Marinette County. Each of these instances wasted an incredible amount of resources and put innocent lives at risk as law enforcement officers, emergency personnel, and even full SWAT teams were mobilized to a location where no threat existed. Despite this increasing trend, current law fails to take into account the magnitude of swatting, treating this crime as a misdemeanor with the violator receiving only a small fine.

SB 363 seeks to increase the penalty for swatting to a Class I felony, aligning it with other severe false reporting incidents like bomb threats and terrorist threats, both Class I and Class G felonies. The penalty for swatting would increase to a Class H felony if someone is physically harmed as a result. A number of other states have already passed legislation increasing the penalties for swatting so it is my hope the Committee support SB 363 to create an appropriate penalty and hopefully deter these dangerous situations in the future.

Thank you Committee members for your time and consideration of Senate Bill 363.



---

# TYLER VORPAGEL

---

STATE REPRESENTATIVE • 27<sup>TH</sup> ASSEMBLY DISTRICT

Senate Bill 363: relating to falsely reporting and emergency and providing a penalty

Testimony of State Representative Tyler Vorpapel

Senate Committee on Judiciary and Public Safety

January 22, 2020

Thank you, Chairman Wanggaard, Ranking Member Risser and committee members, for your time in reading my testimony on a bill that is very important due to recent events.

In the last few years a number of communities have become victims of what has been defined as “Swatting” meaning knowingly falsely reporting to any public safety entity that an emergency exists with the intent to elicit a response from an emergency response team. Swatting is a waste of police resources as it sends multiple cars and emergency personnel to a location where no threat exist, wasting not only time but also pulling them from the job they are currently working. In addition, they create a deadly situation, like in 2017 authorities in Kansas shot and killed an innocent victim when they mistakenly thought he was reaching for a weapon.

This bill would increase the current criminal statutes that treat this crime as a misdemeanor to a Class I felony to help align the penalties with other more severe false reporting incidents (such as bomb threats and terrorist threats). Other states including Kansas, New Jersey and California have passed legislation increasing penalties for swatting.

I hope you all can see the importance of this legislation, and I apologize for not being able to attend the hearing in person but am available through my office should you have any questions.

Wisconsin Coalition Against Domestic Violence  
1400 E. Washington Avenue, Suite 227  
Madison, Wisconsin 53703  
Phone: (608) 255-0539  
[abbys@endabusewi.org](mailto:abbys@endabusewi.org)



To: Members of the Senate Committee on Judiciary and Public Safety  
Date: January 22, 2020  
From: Abby Swetz, Policy and Systems Analyst, End Domestic Abuse Wisconsin  
Re: SB 363 re: swatting

Thank you for the opportunity to provide testimony regarding Senate Bill 363, the bill regarding swatting. My name is Abby Swetz, and I am here as a representative of End Domestic Abuse Wisconsin, the Wisconsin Coalition Against Domestic Violence. End Domestic Abuse Wisconsin is the statewide membership organization that is the voice for survivors of domestic violence and local domestic violence victim service providers. As a representative of survivors and domestic violence service providers, and as a survivor of domestic violence myself, I am here to express End Abuse's opposition to Senate Bill 363.

This bill is designed to protect public safety, and we agree that this is a laudable goal. However, SB 363 stands to do the exact opposite for victims of domestic violence. While we try to use the term survivor for someone who has experienced domestic violence, this testimony will use the term victim due to the context of the bill being situations involving law enforcement. Our opposition hinges on the phrase "knowingly falsely reporting" because, depending on how this is determined, it is highly possible that a recanting victim of domestic violence could be charged with the felony described in this bill.

Deciding to make the 911 call to emergency services is a fraught and difficult decision for victims of domestic violence. I should know; I never made it. Depending on the response by public safety professionals – who is dispatched, how long it takes for them to arrive, what questions are asked, whether there are charges or an arrest made – the involvement of law enforcement can actually increase the danger to a victim. Which is why many victims of domestic violence recant, often on the scene.

This does not mean that law enforcement is not an integral partner in ending domestic violence. It does mean that legislation like this would not help that partnership. End Abuse supports more proactive protection measures; in fact, we have been working with jurisdictions across the state to integrate the Lethality Assessment Program. The LAP includes a protocol for police officers to follow when responding to intimate partner violence calls with the goal of identifying high danger cases and immediately connecting those victims with services and safety planning.

Concerning the victims who recant, I cannot give you numbers or percentages or statistics analyzing how often this happens and the outcomes that are most likely to follow. Domestic violence is by definition a private crime and such information is hard to come by. I also cannot make the determination as to whether or not recanting is the "right" decision made by victims. I can say that this bill as written has the potential to further endanger these victims.

In her 2019 book *No Visible Bruises: What We Don't Know About Domestic Violence Can Kill Us*, journalist Rachel Louise Snyder recounts the story of one victim who recanted after her husband was released on bond mere hours after his arrest. She writes:

Michelle Monson Mosure recanted. This is one of the most profoundly misunderstood moments in any domestic violence situation. Michelle did not recant because she was a coward, or because she believed she had overreacted, or because she believed Rocky to be any less dangerous. She did not recant because she was crazy, or because she was a drama queen, or because any of this was anything less than a matter of life and death. She did not recant because she had lied. She recanted to stay alive. She recanted to keep her children alive. Victims... stay because they have developed tools, over the years, that have sometimes worked to calm down an angry partner: pleading, begging, cajoling, promising, and public displays of solidarity, including against the very people – police, advocates, judges, lawyers, family – who might be the only ones capable of saving their lives... Why victims stay isn't the question we need to be asking. Rather, I think a better question is: how do we protect this person.<sup>1</sup>

This bill is not how we protect them. Michelle Monson Mosure and her children were murdered within a week of Rocky getting out of prison. This isn't because she recanted; it's because the system failed to protect her. Making her a felon wouldn't have made that system's response better; it would have made it worse.

By criminalizing their choice to recant, a choice that is made often out of fear of violent repercussions from their perpetrator, this bill runs the danger both of imprisonment of a specific victim and of discouraging victims in general when it comes to calling emergency services. There is no doubt that calling 911 can and does save lives. Any law that could potentially have a chilling effect on making that call is a dangerous law. And a law that criminalizes a decision made by a victim who feels an intense enough fear of their perpetrator to recant after that call, that is also a dangerous law. This bill, aimed at protecting our communities, could endanger victims. For these reasons, we at End Domestic Abuse Wisconsin ask you to vote "no" on Senate Bill 363.

---

<sup>1</sup> *No Visible Bruises* by Rachel Louise Snyder, page 53.