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March 23, 2021

Assembly Committee on Children and Families

RE: Representative Rozar Testimony on AB 142 – Relating to immunity from liability resulting from good faith actions under the child abuse and neglect reporting law.

Good morning, Chairman Snyder and members of the Assembly Committee on Children and Families. I appreciate the opportunity to testify in favor of AB 142.

Last session, this bill passed both the Assembly Committee on Children and Families, the Senate Committee on Universities, Technical Colleges, Children and Families, passed the full Assembly, and had been scheduled for the final Senate floor session before everything shut down.

A 2018 amendment was added to the federal Child Abuse Prevention and Treatment Act (CAPTA) broadening the child protective services immunity that states receiving CAPTA funds are required to provide. In FFY 2019, Wisconsin received approximately \$1.5 million in CAPTA funding, and is required to come into compliance with this provision by September 30, 2021 to continue receiving funding. This legislation would build on existing statutory language and expand immunity from civil or criminal liability for individuals providing information or assistance, including medical evaluations or consultations, in connection with a report, investigation, or legal intervention pursuant to a good faith report of child abuse or neglect.

This legislation is important to not only continue receiving federal funding, but to ensure those who try to help victims of child abuse and neglect are given the proper immunity.

DCF will provide specifics about federal law changes during their testimony.

Thank you.



Alberta Darling

Wisconsin State Senator · District 8

Assembly Committee on Children and Families

Assembly Bill 142

Wednesday, March 23, 2021

Thank you Chair Snyder and committee members for taking the time to hear Assembly Bill 142. In order to comply with a 2018 amendment to the federal Child Abuse Prevention and Treatment Act (CAPTA), Assembly Bill 142 expands immunity to individuals who provide information in connection with a report of child abuse or neglect.

CAPTA provides federal funding for prevention, assessment, investigation, prosecution, and treatment activities. Under current law, certain individuals are mandatory reporters of child abuse and neglect. These individuals, like school teachers and health care professionals, are granted civil or criminal liability from their report of child abuse, so long as the person is acting in good faith while making the report. Assembly Bill 142 extends this immunity to individuals who assist in medical examinations of a child as well as to individuals who provide information, assistance, or consultation in connection with a report, investigation or legal intervention.

Wisconsin is required to come into compliance with this provision by September 30, 2021 in order to continue receiving funding through the federal CAPTA program. In fiscal year 2019, Wisconsin received \$1.5 million through CAPTA. Assembly Bill 142 will ensure Wisconsin is in compliance with federal law and maintains our eligibility for federal funds.

I hope to count on your support for Assembly Bill 142.



STATE SENATOR
LaTonya Johnson

WISCONSIN STATE SENATE

6TH DISTRICT

Assembly Committee on Children and Families

Testimony on Assembly Bill 142

March 24, 2021

Good morning members of the committee,

Thank you for holding this hearing on Assembly Bill 142 (AB 142), which extends immunity to certain persons who provide information under the child abuse and neglect reporting law.

Under current law, certain professionals such as teachers and health care professionals are mandatory reporters of child abuse and neglect. Additionally, any person or institution participating in good faith in the making of such a report, conducting an investigation, ordering or taking of photographs, or ordering or performing medical examinations of a child or of an expectant mother has immunity from any liability, civil or criminal, that results by reason of the action.

A 2018 amendment to the federal Child Abuse Prevention and Treatment Act (CAPTA) requires states to extend this immunity from civil and criminal liability to those who provide information or assistance, including medical evaluations or consultations, in connection with a report, investigation, or legal intervention pursuant to a good faith report of child abuse or neglect.

AB 142 accomplishes this minor expansion of immunity for those involved in child abuse and neglect investigations and brings Wisconsin into compliance with federal CAPTA law. Wisconsin only has until September 30, 2021 to make this change, so we appreciate the committee hearing this proposal, and hope that this bill can be passed without delay.

I would like to thank my co-authors, Senator Darling, Representative Rozar, and Representative Snyder for their work on this bill and thank you, committee members, for your consideration of this proposal.



TO: Chair Snyder, Vice-Chair Ramthun, and Honorable Members of the Assembly
Committee on Children and Families

FROM: Wendy Henderson, Administrator, Division of Safety and Permanence

DATE: March 24, 2021

SUBJECT: 2021 Assembly Bill 142

The Department of Children and Families (DCF) appreciates the opportunity to testify in support of Assembly Bill 142. The purpose of our testimony today is to explain why this bill is necessary in order to maintain an important federal funding source for the child welfare system and why the bill will be beneficial for child protective services in Wisconsin. Thank you to the authors of this legislation which will allow DCF to comply with the Child Abuse Prevention and Treatment Act (CAPTA).

Under the federal Child Abuse Prevention and Treatment Act (CAPTA), federal funding is provided to Wisconsin as well as 49 other states, the District of Columbia, Puerto Rico and four territories, all of whom are required to comply with the provisions of the CAPTA statute. In Wisconsin, CAPTA funds are used for a number of different purposes, including for training of local child protective services workers, hearings for individuals who are substantiated for child abuse or neglect, citizen review panels (which review and make recommendations for improving the CPS system at the local and state level), and a review process for critical incidents that uses safety science to review cases in which children are seriously injured or killed as a result of child abuse or neglect. In FFY 2020, Wisconsin received approximately \$1.5 million dollars in CAPTA funding.

In order to receive CAPTA funding, Wisconsin is required to comply with the provisions of the federal CAPTA statute—that statute was reauthorized by the Victims of Child Abuse Reauthorization Act of 2018, which included an amendment to CAPTA. The amendment expanded the scope of a provision related to legal immunity for good faith reports of child abuse and neglect. All states that were not already in compliance with the CAPTA amendment were required to be in compliance with the amended federal provision by June 30, 2020; the federal

Administration for Children and Families recently granted DCF an extension until September 30, 2021. The letter noted that "failure to come into compliance by September 30, 2021 may result in our withholding of state's fiscal year 2022 CAPTA State Grant Funding until such time as the state comes into compliance."

The Wisconsin Children's Code, chapter 48, already includes a good faith immunity provision relating to CPS reports, s. 48.981(4). Under that provision, if a person or institution makes a report to CPS in good faith, that person will have immunity from any liability, civil or criminal, that results by reason of the action. Our current statute also extends immunity to anyone, who in good faith conducts a CPS investigation, orders or takes photographs or orders or performs a medical examination of a child or expectant mother.

Although s. 48.981(4) already provides good faith immunity that covers much of the scope of the amended immunity provision of CAPTA, there are two areas that need be added to Wisconsin's good faith immunity statute in order to bring us into compliance with federal CAPTA, which is what SB 162 does. Specifically, the bill:

- (1) adds that immunity extends to persons who, in good faith, **assist in medical examinations of a child or expectant mother, and**
- (2) adds that immunity extends to persons who, in good faith, **otherwise provide information, assistance, or consultation in connection with a report, investigation, or legal intervention.**

Examples of situations that would fall within the amended provisions of the statute could include:

- a nurse who, in good faith, assists in a medical examination of a child in relation to a CPS case,
- a teacher who, in good faith, provides information to a CPS worker in connection with a CPS case,
- a police officer who, in good faith, provides information and assistance to a CPS worker who is conducting an investigation of suspected child maltreatment, and
- a school principal who, in good faith, consults with a teacher who is trying to determine whether to report suspected abuse or neglect but is not the individual who makes the report.

In addition to meeting federal requirements, the expansion of good faith immunity in the CPS context through AB 142 will allow individuals to provide information and assistance in CPS cases without the threat of legal liability. Obtaining information and assistance with CPS investigations and other parts of CPS cases is vital in order to ensure that CPS workers can do their job and effectively protect children from abuse and neglect.

In conclusion, AB 142 will allow Wisconsin to come into compliance with federal CAPTA, maintain its CAPTA funding, and expand protections for people who help CPS to keep children safe. Thank you for your support of AB 142. We are pleased to respond to any questions.