

☞ **01hr_AC-CF_ab109_pt01**



(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2001-02

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Children and Families (AC-CF)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (May 2012)

Assembly

INTRO

2-8-01

Record of Committee Proceedings

Committee on Children and Families

AM 1

Assembly Bill 109

Relating to: surveys and questionnaires of pupils and providing a penalty.

S-2

By Representatives Pettis, Krawczyk, Ziegelbauer, Gronemus, Wade, Ainsworth, Owens, Urban, Hahn, Grothman, Albers, Williams, F. Lasee, McCormick and Vrakas; cosponsored by Senators Darling, Farrow and Lazich.

February 8, 2001 Referred to Committee on Children and Families.

April 12, 2001 **PUBLIC HEARING HELD**

- Present: (7) Representatives Kestell, Lippert, Bies, Grothman, Jeskewitz, Miller and Sinicki.
- Absent: (1) Representative Coggs.

✓ * Appearances for

- Marvin Munyon, Family Research Forum
- Don Nelson, office of Rep. Pettis

— Appearances against

- Jennifer Kammerud, School Administrators Alliance
- -Katie Schultz Stout, WEAC and WFT
- Doug White, DPI

Appearances for Information Only

- Ron Biendseil, Dare County Youth Commission
- Paul Moberg, University Public Health Researchers
- Russ Pederson, DHFS

✓ * Registrations for

- Eden Schafer, Madison, WI

— Registrations against

- Jack O'Meara, WI Association of School Nurses

September 13, 2001 **EXECUTIVE SESSION**

- Present: (7) Representatives Kestell, Lippert, Bies, Grothman, Jeskewitz, Miller and Sinicki.
- Absent: (0) None.

Moved by Representative Jeskewitz, seconded by Representative Miller, that **Assembly Substitute Amendment 1** be recommended for introduction.

Ayes: (7) Representatives Kestell, Lippert, Bies,
Grothman, Jeskewitz, Miller and Sinicki.
Noes: (0) None.
Absent: (0) None.

INTRODUCTION RECOMMENDED, Ayes 7, Noes 0, Absent 0

Moved by Representative Lippert, seconded by Representative Jeskewitz, that **Assembly Substitute Amendment 1** be recommended for adoption.

Ayes: (5) Representatives Kestell, Lippert, Jeskewitz,
Miller and Sinicki.
Noes: (2) Representatives Bies and Grothman.
Absent: (0) None.

ADOPTION RECOMMENDED, Ayes 5, Noes 2, Absent 0

Moved by Representative Jeskewitz, seconded by Representative Lippert, that **Assembly Bill 109** be recommended for passage as amended.

Ayes: (6) Representatives Kestell, Lippert, Grothman,
Jeskewitz, Miller and Sinicki.
Noes: (1) Representative Bies.
Absent: (0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 6, Noes 1,
Absent 0



Dave Matzen
Committee Clerk

Moved by Representative Jeskewitz, seconded by Representative Miller, that **Assembly Substitute Amendment 1** be recommended for introduction.

Ayes: (7) Representatives Kestell, Lippert, Bies, Grothman, Jeskewitz, Miller and Sinicki.

Noes: (0) None.

Absent: (0) None.

INTRODUCTION RECOMMENDED, Ayes 7, Noes 0, Absent 0

Moved by Representative Lippert, seconded by Representative Jeskewitz, that **Assembly Substitute Amendment 1** be recommended for adoption.

Ayes: (5) Representatives Kestell, Lippert, Jeskewitz, Miller and Sinicki.

Noes: (2) Representatives Bies and Grothman.

Absent: (0) None.

ADOPTION RECOMMENDED, Ayes 5, Noes 2, Absent 0

Moved by Representative Jeskewitz, seconded by Representative Lippert, that **Assembly Bill 109** be recommended for passage as amended.

Ayes: (6) Representatives Kestell, Lippert, Grothman, Jeskewitz, Miller and Sinicki.

Noes: (1) Representative Bies.

Absent: (0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 6, Noes 1, Absent 0

Dave Matzen
Committee Clerk

Vote Record

Assembly - Committee on Children and Families

Date: 1-13-01
 Moved by: _____ *J. Eskewitz* Seconded by: _____ *Lippert*
 AB: 109 SB: _____ Clearinghouse Rule: _____
 AJR: _____ SJR: _____ Appointment: _____
 AR: _____ SR: _____ Other: _____

A/S Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: 1
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

- Be recommended for:
- Passage
 - Introduction
 - Adoption
 - Rejection
 - Indefinite Postponement
 - Tabling
 - Concurrence
 - Nonconcurrence
 - Confirmation

Committee Member	Aye	No	Absent	Not Voting
Rep. Steve Kestell, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. MaryAnn Lippert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Garey Bies	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Glenn Grothman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Suzanne Jeskewitz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Miller	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Christine Sinicki	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>6</u>	<u>1</u>	_____	_____

AS needed

Motion Carried Motion Failed

Vote Record

Assembly - Committee on Children and Families

Date: 9-13-01
 Moved by: Jeskewitz Seconded by: Miller
 AB: 109 SB: _____ Clearinghouse Rule: _____
 AJR: _____ SJR: _____ Appointment: _____
 AR: _____ SR: _____ Other: _____

A/S Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: 1
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

- Be recommended for:
- | | |
|--|--|
| <input type="checkbox"/> Passage | <input type="checkbox"/> Indefinite Postponement |
| <input checked="" type="checkbox"/> Introduction | <input type="checkbox"/> Tabling |
| <input type="checkbox"/> Adoption | <input type="checkbox"/> Concurrence |
| <input type="checkbox"/> Rejection | <input type="checkbox"/> Nonconcurrency |
| | <input type="checkbox"/> Confirmation |

Committee Member	Aye	No	Absent	Not Voting
Rep. Steve Kestell, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. MaryAnn Lippert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Garey Bies	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Glenn Grothman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Suzanne Jeskewitz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Miller	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Christine Sinicki	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>7</u>	<u>0</u>	<u>0</u>	<u>0</u>

SW

Vote Record

Assembly - Committee on Children and Families

Date: 9-13-01
 Moved by: Lippert Seconded by: Jeskewitz
 Clearinghouse Rule: _____
 AB: 109 SB: _____ Appointment: _____
 AJR: _____ SJR: _____ Other: _____
 AR: _____ SR: _____

A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: 1 to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

- Be recommended for:
- | | |
|--|--|
| <input type="checkbox"/> Passage | <input type="checkbox"/> Indefinite Postponement |
| <input type="checkbox"/> Introduction | <input type="checkbox"/> Tabling |
| <input checked="" type="checkbox"/> Adoption | <input type="checkbox"/> Concurrence |
| <input type="checkbox"/> Rejection | <input type="checkbox"/> Nonconcurrence |
| | <input type="checkbox"/> Confirmation |

Committee Member	Aye	No	Absent	Not Voting
Rep. Steve Kestell, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. MaryAnn Lippert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Garey Bies	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Glenn Grothman	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Suzanne Jeskewitz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Miller	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Christine Sinicki	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>5</u>	<u>2</u>	_____	_____

Motion Carried Motion Failed

History of Assembly Bill 109

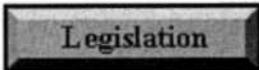
ASSEMBLY BILL 109

An Act to create 118.135 of the statutes; relating to: surveys and questionnaires of pupils and providing a penalty. (FE)

2001

02-08.	A.	Introduced by Representatives Pettis, Krawczyk, Ziegelbauer, Gronemus, Wade, Ainsworth, Owens, Urban, Hahn, Grothman, Albers, Williams, F. Lasee, McCormick and Vrakas; cosponsored by Senators Darling, Farrow and Lazich.	
02-08.	A.	Read first time and referred to committee on Children and Families	69
02-23.	A.	<u>Fiscal estimate received.</u>	
04-11.	A.	<u>Fiscal estimate received.</u>	
04-12.	A.	Public hearing held.	
05-24.	A.	Assembly amendment <u>1</u> offered by Representative Miller	259
05-24.	A.	Assembly amendment <u>2</u> offered by Representative Miller	259
05-24.	A.	Assembly amendment <u>3</u> offered by Representative Miller	259
09-13.	A.	Executive action taken.	
09-13.	A.	Assembly substitute amendment <u>1</u> offered by committee on Children and Families	388
09-17.	A.	Report Assembly substitute amendment <u>1</u> adoption recommended by committee on Children and Families, Ayes 5, Noes 2	389
09-17.	A.	Report passage as amended recommended by committee on Children and Families, Ayes 6, Noes 1	389
09-17.	A.	Referred to committee on Rules	389

Search for another history



[Back to Legislation Page](#)



[Back to Legislature Home Page](#)



State of Wisconsin
Department of Health and Family Services

Scott McCallum, Governor
Phyllis J. Dubé, Secretary

**DHFS WRITTEN TESTIMONY
(FOR INFORMATION)
TO
ASSEMBLY COMMITTEE ON CHILDREN AND FAMILIES
APRIL 12, 2001**

AB 109 – IMPACT ON DHFS & WISCONSIN

The Youth Risk Behavior Survey (YRBS) and the Youth Tobacco Survey (YTS), both confidential & anonymous, are at the heart of Wisconsin's ability to ascertain the health of Wisconsin's school age children and the effectiveness of a variety of state-sponsored programs aimed at improving children's health and lowering risk behaviors

The Youth Risk Behavior Survey is the only statewide source for measuring a variety of youth risk behaviors as well as developmental assets. In fact, neither survey is capable of tracking responses back to the survey taker, and never has a student been identified by his or her responses to the survey

AB 109 would make it difficult to collect statistically significant statewide data for either survey. The cost of mailings and the purchase of copyrighted materials will be prohibitive to conducting surveys. The prohibitive cost will make communities and schools less likely to gather data – and participate in our data collection efforts.

The bill will also likely result in a decline in the response rate and thereby diminish the validity of the survey data. For example, students may not believe the survey is confidential after knowing parents/guardians received copies of the survey or questionnaire and as a result, may not answer questions honestly. Finally, the new survey procedure required by AB 109 will not allow data collected under these new criteria to be incorporated into historical trend data. As a result, we would then have no methodologically sound statewide trend data on alcohol and drug use, tobacco use, physical activity and health, nutrition, sexual activity, and injury.

The State of Wisconsin and the Department of Health and Family Services rely on survey data for a number of federal grants, and to measure the success across a number of programs. AB 109 jeopardizes future evaluations of tobacco prevention, teen pregnancy prevention, and alcohol and other drug abuse. As we ask local partners or funded programs to report on outcomes, we should not limit the effectiveness of the very tools we have at our disposal to demonstrate the impact our programs are having in Wisconsin.

Thank you for your consideration of our concerns.

Examples of How Wisconsin Uses the YRBS

The Wisconsin Department of Health and Family Services uses the YRBS:

- To measure Wisconsin's progress in achieving the goals of Brighter Futures, the statewide adolescent pregnancy prevention plan.
- To measure the success of the Wisconsin Abstinence Education Project, and present this data in its annual report to the federal Maternal and Child Health Bureau.
- For the Maternal and Child Health Services Block Grant application.
- To monitor youth smoking and tobacco use.
- To measure goals such as the reduction of the use of harmful substances by 12-17 year olds.
- As the only source for statewide data on youth behaviors of interest to our department such as: alcohol, tobacco, and other drug use; sexual risk behaviors; weapons and violence; suicide; diet and exercise; unintentional injuries; and, access to health care.

Other State and Local Surveys

- The Teen Assessment Project (TAP) survey is administered at the local level under the direction of a local advisory group. Similar written notification and opportunities for instrument review and opt-out are provided to parents.
- The Search Institute's Profiles of Student Life Attitudes & Behaviors instrument has been widely used at the community level throughout the state. Requiring consent and a copy of the survey would impact the effectiveness of this survey.
- The Youth Tobacco Survey (YTS) is a statewide random sample survey, administered every other year. This survey is used to monitor youth tobacco use activity including smokeless tobacco and cigar use. The YTS helps determine program priorities and is the most comprehensive survey available to policy makers and communities. The bill will limit the effectiveness of this survey.
- The Thomas T. Melvin Youth Tobacco Prevention and Education Program has an evaluation component to determine the impact of media and program activities under the state-funded program. Again, the bill would diminish the effectiveness of this survey.



WISCONSIN STATE LEGISLATURE





State of Wisconsin Department of Public Instruction

Mailing Address: P.O. Box 7841, Madison, WI 53707-7841
125 South Webster Street, Madison, WI 53702
(608) 266-3390 TDD (608) 267-2427 FAX (608) 267-1052
Internet Address: www.dpi.state.wi.us

John T. Benson
State Superintendent

Steven B. Dold
Deputy State Superintendent

Assembly Bill 109

April 12, 2001

Testimony by Doug White, Director, Student Services/Prevention and Wellness

Chairperson Kestell of the Assembly Committee on Children and Families

On behalf of the Department of Public Instruction and State Superintendent John Benson, we appreciate the opportunity to testify on Assembly Bill 109. This bill requires school boards to make available to their pupils' parents all instructional materials used in connection with any survey or questionnaire of pupils. It also prohibits any official, employee, or agent of a school board from conducting any survey or questionnaire of pupils that may reveal information about the pupil or pupil's family about political affiliations, mental or psychological problems, sexual behaviors or attitudes, illegal or antisocial behavior, critical appraisals of individuals with whom the family has close family relationships, privileged relationships, income, or religious beliefs or practices, without the pupil's consent if the she or he is an adult or emancipated youth, or without the consent of the pupil's parent or guardian if the pupil is an emancipated minor.

AB 109 requires consent for each survey or questionnaire that is conducted. It requires that this consent be obtained by mailing a copy of the request for consent along with a full copy of the survey or questionnaire to each parent, household or adult or emancipated youth pupil at least ten days before conducting the survey or questionnaire. Failure to respond would be considered consent.

The bill directs school boards to notify annually the pupils enrolled in the district and their parents or guardians of the above provisions. The bill provides a civil penalty for school board officers, employees, or agents who require pupils to participate in such surveys without the required permission.

We appreciate the intent of this bill to provide parents with information and decision making about their child's education. However we oppose this bill because it would have a significant negative impact on the ability of local and state organizations to identify and understand some of the most serious issues facing youth today. Current accurate information on issues such as teen smoking, school safety, and alcohol and drug use is essential for developing programs and for being accountable for prevention efforts. Local community groups voluntarily conduct such surveys to target their efforts and see the impact of local prevention programs and policies. State organizations conduct surveys for similar purposes, the results of which are used by the legislature and many state agencies to assess progress and target limited prevention and intervention resources. For example the Wisconsin Tobacco Control Board uses the results of the

April 12, 2001

Testimony by Doug White, Director, Student Services/Prevention and Wellness
Chairperson Kestell of the Assembly Committee on Children and Families

Page 2

two statewide youth surveys to set goals, track progress and be accountable to the legislature. Several state agencies, including the Department of Public Instruction, use the results of the Wisconsin Youth Risk Behavior Survey for goal setting and accountability for many programs and funding sources.

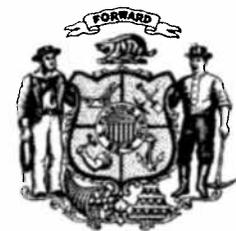
This bill would interfere with many local and state accountability and assessment efforts in the following ways. The requirement to mail a complete copy of the survey to all households would have several negative effects. First, it would add significant copying, mailing and handling costs to each survey. We estimate that for a single local survey of 2,000 students an added cost of at least \$3,000 would be incurred to mail a complete copy of the survey to all households. This would add significantly to the cost of conducting a survey, drawing needed resources from services. Multiple this by the many communities choosing to do such surveys to see the full local impact. Second, the method of providing a full copy of the survey to each household is untested and scientifically unsound. The impact of this and the subsequent family conversations is not known. The results and comparisons to other local and state surveys become questionable. No other state uses this survey method. Wisconsin would get results that may not be comparable to other states and the nation.

Under current survey practices parents' rights are not infringed. Uniformly, such surveys are confidential. Parent concerns that family or individual attitudes or practices will be disclosed are unwarranted. Standard current practice is to notify parents well in advance, and to make a copy of the survey available at the school office. Very few parents ever ask to see a survey. Standard practice is also to include parent consent information and inform parents' of their right to withdraw their pupil from the survey. We have worked with schools on these types of surveys for 10 years and have heard very, very few concerns from parents about survey notification, consent procedures, or viewing related instructional materials. We support and encourage advance parental notification and consent procedures for all such surveys and questionnaires and require it in the survey we conduct. Similarly making instructional materials available to parents at school is common practice. If there are concerns about parent access to information about education including surveys and questionnaires, these are best addressed locally. Nothing in state law prevents a school board from choosing the mailing method mandated by the bill.

We thank you for this opportunity to testify and would be happy to answer any questions you have regarding AB 109.



WISCONSIN STATE LEGISLATURE





UNIVERSITY OF
WISCONSIN-MADISON
MEDICAL SCHOOL

Department of Preventive Medicine
Center for Health Policy and Program Evaluation

April 12, 2001

Assembly Committee on Children and Families
State Capitol
Madison, WI 53708

Re.: IMPACT OF AB 109 ON THE RESEARCH COMMUNITY

I am pleased to have the opportunity to testify on behalf of several University research groups regarding the impact of AB109 on the research, youth and student services, community planning and program evaluation community. In principal I support the aims of the bill, and believe it can successfully codify a means of protecting parental and student rights. I agree with the need to notify parents of surveys and questionnaires which their children will be invited to complete, the need to make available to parents copies of such surveys and questionnaires upon request, and the need for a mechanism by which parents can withhold their consent and exclude children from participating in surveys to which they object.

I am pleased to see that the version of the bill offered this year improves upon past versions by including the presumption of consent upon parental notification if a parent fails to respond. I am also pleased to see an exclusion of "academic research."

However, I continue to have several reservations which I would like to address. As an "academic" my own youth survey work may be excluded, but I'm not sure. Most recently, I have been working with data from the Dane County Youth Survey, a survey of a wide range of youth issues which is conducted every five years. This survey is conducted under the joint auspices of the school districts, the Dane County Youth Commission, and the UW-School of Human Ecology. Does this meet the definition of "academic"? How about the bi-annual Youth Tobacco Survey (YTS) conducted by University staff under the auspices and funding of the Dept. of Health and Family Services? How about the Youth Risk Behavior Survey (YRBS), conducted by the Dept. of Public Instruction (DPI), funded by the federal Centers for Disease Control and Prevention (CDC)? All of these data sources are used extensively by the academic community in research and evaluation efforts regarding public health of Wisconsin youth and the effectiveness of health and human service programs. It is not clear what is covered, and what is excluded, by the exclusionary language.

My areas of disagreement—which leads to a proposal for amended language which I believe we could all support—follow.

1. If enacted as currently written, the bill would significantly and prohibitively increase the costs of needs assessments, program evaluations and research critical to planning educational, health and human service prevention and intervention services. The Dane County Youth Survey, for example, would cost \$80,000 instead of \$30,000 to conduct—a difference sufficient to hire at least one additional teacher for the entire school year. (This estimate includes the cost of copying 35 pages @ \$.04/page,

postage at \$.78/student, and labor in obtaining mailing labels, stuffing envelopes, etc. for about 20,000 students.)

2. Very few parents (2-4% in my experience) express significant concerns about surveys which have been approved by school administrators and staff for administration in school settings. Those who do have concerns are also vigilant, and do pay attention to notices from the school, to permission slips brought home, and to announcements in school newsletters and periodic mailings to student's homes. Thus by using the schools' existing mechanisms for notifying parents, concerned parents would be successfully notified.

I have been involved for over 25 years in projects which rely on student survey data as a primary data source. This work has included a number of evaluations of school-based alcohol and other drug abuse prevention and intervention projects, as well as involvement in ongoing youth needs assessments such as the Dane County Youth Survey and the Teen Assessment Project (conducted in conjunction with University Extension offices and local parent groups). These surveys are used for a number of planning, evaluation and trend analysis purposes, often assisting in bringing federal and foundation grants to Wisconsin and in local community and parent group action planning. In my work, I have never had a problem regarding parental consent—we have routinely used adequate systems which assure that parents are informed, are able to review surveys and have the opportunity to withhold consent for their children's involvement. When we conduct identifiable surveys where we link data to individual students, active parental consent is required; for anonymous one time surveys, passive consent is used.

3. Regardless of parental consent, student participation is always voluntary, and they are always given the opportunity to turn in surveys with blank questions or to not complete the survey at all.

Why is this an important issue? Basically because we need accurate needs assessment and evaluation data to plan needed prevention and intervention programs, as well as to determine which programs are effective and which are ineffective (or even harmful). To do so, we need valid samples of youth participating in the surveys. **The proposed bill (AB109) is a significant improvement over proposals introduced in past sessions, and I strongly support its intent. The remaining concern for me is the unnecessary fiscal cost of implementing the legislation as written.** The amended language I propose (see attached) overcomes this remaining concern and can be supported by all interested parties.

Most of the surveys we are concerned with are conducted with taxpayer dollars--**to enact AB109 as written would significantly and unnecessarily increase the tax burden** for needs assessment and evaluation research in the area of prevention of youthful problem behavior. AB109 as written would defacto be imposing another unnecessary **unfunded mandate** on school districts and government agencies. Thus I urge you to amend the bill as attached.

Sincerely,



D. Paul Moberg, Ph.D.
Director and Senior Scientist

Attached: Suggested Amendment of AB109

Suggested Amendment

2001 – 2002 LEGISLATURE

2001 ASSEMBLY BILL 109 February 8, 2001 –

Introduced by Representatives PETTIS, KRAWCZYK, ZIEGELBAUER, GRONEMUS, WADE, AINSWORTH, OWENS, URBAN, HAHN, GROTHMAN, ALBERS, WILLIAMS, F. LASEE, MCCORMICK and VRAKAS, cosponsored by Senators DARLING, FARROW and LAZICH.

Referred to Committee on Children and Families.

AN ACT *to create* 118.135 of the statutes; **relating to:** surveys and questionnaires of pupils and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill requires school boards to make available to their pupils' parents or guardians all instructional material that will be used in connection with any written or recorded survey or questionnaire of pupils. The bill also prohibits any official, employee, or agent of a school board from conducting any written or recorded survey or questionnaire of pupils that may reveal information with respect to a pupil or the pupil's family about political affiliations, mental or psychological problems, sexual behavior or attitudes, illegal or antisocial behavior, critical appraisals of individuals with whom the family has close family relationships, privileged relationships, income, or religious beliefs or practices, without the pupil's consent if he or she is an adult or emancipated minor, or without the consent of the pupil's parent or guardian if the pupil is an unemancipated minor. The bill requires consent for each survey or questionnaire that is conducted. A request for consent, along with information on how to access a copy of the survey or questionnaire, must be mailed provided to parents at least ten days before conducting the survey or questionnaire. Consent is considered to have been given if the pupil or the pupil's parent or guardian fails to respond to the request before the date of the survey or questionnaire. The bill directs each school board to notify annually the pupils enrolled in the school district and their parents or guardians of the above provisions. The bill provides a forfeiture (civil penalty) for those school board officers, employees, or agents who require pupils to participate in a survey or questionnaire that may reveal the information specified above without the required consent, and also provides an enforcement mechanism.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill. *The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:* SECTION 1. 118.135 of the statutes is created to read:

118.135 Surveys and questionnaires of pupils

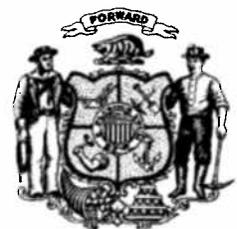
- (1) INSTRUCTIONAL MATERIALS AVAILABLE; CONSENT REQUIRED. (a) Each school board shall make available for inspection by the parents and guardians of pupils enrolled in the school district all instructional material, including teacher's manuals, films, tapes, and other supplementary material, that will be used in connection with any written or recorded survey or questionnaire of pupils. (b) No official, employee, or agent of a school board may conduct any written or recorded survey or questionnaire of pupils that may reveal information about

any of the following with respect to a pupil or the pupil's family without the consent of the pupil, if the pupil is an adult or an emancipated minor, or without the consent of the pupil's parent or guardian, if the pupil is an unemancipated minor, unless the primary purpose of the survey or questionnaire is academic: 1. Political affiliations. 2. Mental or psychological problems that may embarrass the pupil or the pupil's family. 3. Sexual behavior or attitudes. 4. Illegal, antisocial, self-incriminating, or demeaning behavior. 5. Critical appraisals of individuals with whom the pupil has close family relationships. 6. Legally recognized privileged or analogous relationships, including relationships with lawyers, physicians, or members of the clergy. 7. Income, unless the information is required by law to determine eligibility for participation in a program or for receiving financial assistance. 8. Religious beliefs or practices. (c) An official, employee, or agent of a school board shall obtain consent under par. (b) for each survey or questionnaire conducted. The official, employee, or agent shall ~~mail~~ notify parents of the impending administration of the survey and provide information on how a copy of the survey can be received along with a copy of the survey or questionnaire along with a request for consent at least 10 days before conducting the survey or questionnaire. Consent shall be considered to have been given under par. (b) if the pupil or the pupil's parent or guardian fails to respond to the request before the date of the survey or questionnaire. (d) No official, employee, or agent of a school board may require a pupil to participate in a survey or questionnaire that may reveal information about any of the subjects specified in par. (b) if the pupil requests to discuss the content of the survey or questionnaire with his or her parent or guardian before completing the survey or questionnaire. The prohibition under this paragraph applies only the first time that the pupil is requested to participate in the survey or questionnaire

- (2) NOTICE. Annually each school board shall notify the pupils enrolled in the school district and their parents or guardians of the provisions of sub. (1).
- (3) PENALTY. Any person who knowingly violates sub. (1) (b) shall forfeit not less than \$25 nor more than \$300 for each violation. Each survey or questionnaire of each pupil constitutes a separate violation.
- (4) ENFORCEMENT. (a) Forfeitures under this section shall be enforced by action on behalf of the state by the attorney general or, upon the verified complaint of any person, by the district attorney of any county where a violation occurs. In actions brought by the attorney general, the court shall award any forfeiture recovered together with reasonable costs to the state; and in actions brought by the district attorney, the court shall award any forfeiture recovered together with reasonable costs to the county. (b) In addition and supplementary to the penalty provided in sub. (3), the attorney general or the district attorney may commence an action, separately or in conjunction with an action brought under sub. (3), to obtain such other legal or equitable relief, including mandamus, injunction, or declaratory judgment, as may be appropriate under the circumstances. (c) If the district attorney refuses or otherwise fails to commence an action to enforce this section within 20 days after receiving a verified complaint, the person making the complaint may bring an action under pars. (a) and (b) on his or her relation in the name, and on behalf, of the state. In such an action, the court may award actual and necessary costs of prosecution, including reasonable attorney fees, to the relator if he or she prevails, but any forfeiture recovered shall be paid to the state. (END) 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18



WISCONSIN STATE LEGISLATURE





DANE COUNTY YOUTH COMMISSION



KATHLEEN FALK
Dane County Executive

JONATHAN HAJNY
Chair, Dane County Youth Commission

CHARITY ELESON, Director
Department of Human Services

RON BIENDSEIL
Youth Services Coordinator

April 12, 2001

To: Assembly Children and Families Committee
From: Ron Biendseil, Youth Services Coordinator
Dane County Youth Commission
Re: AB 109

I am not here to support or oppose AB 109. Dane County has taken no formal position on this bill. However, I am here to provide you with information about the impact of AB 109 on a very important project that schools, governments and community organizations in Dane County have been working on for more than 20 years

Beginning in 1980, at five-year intervals, the Dane County Youth Commission has worked with area school districts to conduct a comprehensive assessment of the needs, interests, attitudes and behaviors of students in grades 7-12. Each survey costs about \$30,000, not including the in-kind staff contributions of school staff and county employees.

The results of the survey have been instrumental in helping schools and community organizations obtain grants totaling more than \$1 million. Schools, community funding sources and local governments have also used the results to develop policies and programs that are responsive to the needs of children in our community.

School districts have always informed parents of the survey and invited them to review the document if they are interested. **Student participation has always been on a totally anonymous and voluntary basis.**

(Over, please)

I am happy to report that in the 20 years we have been conducting the survey, during which time almost 100,000 students have participated, there have been only a handful of concerns expressed by parents. And almost all of these concerns were resolved after parents had the opportunity to see the survey instrument and speak to school staff. Likewise, although we always tell students that their participation is voluntary, there have been only a very few who opted out of participating in the survey.

I hope that schools, policy makers and community agencies throughout Dane County will continue to benefit from our youth assessment for another 20 years (or more).

However, if AB109 is enacted as currently proposed, I fear that we will surely lose this valuable resource. It would cost approximately \$3 per student to print and mail the survey to every household. This would double or triple the cost of the survey. I don't have to tell you how financially strapped our schools are. I am extremely doubtful that they would be able to afford this additional cost.

Attached to this testimony are possible edits of AB 109 that would address the Youth Commission's concerns about this bill. These revisions would require schools to inform parents of these surveys and make copies available for their review. However, it would not mandate that schools mail these materials to every household. These edits would enable Dane County's project to continue while providing the overwhelming majority of parents with the information intended by the authors of AB109.

I am confident that the process I am suggesting would get the information to more than 90% of parents. But we should recognize that **no** method will be 100% effective. Some students may intercept mail sent home; some families are without a reliable mailing address. I don't think that anyone would seriously suggest that we would mandate that schools send certified letters or make visits to all parents to address these concerns. I hope his committee takes action that recognizes the rights of parents, the obligations of schools and the fact that we must create legislation that assures that rights and obligations are addressed in a cost effective manner. I am confident that if a bit of common sense is applied to this issue, a mutually agreeable solution can at long last be found.

Thank you for your serious consideration of this most important issue.

Suggested edits to 2001 ASSEMBLY BILL 109

(proposed deletions are in ~~strkethought~~; proposed additions are underlined.)

Summary

This bill requires school boards to make available to their pupils' parents or guardians all instructional material that will be used in connection with any written or recorded survey or questionnaire of pupils. The bill also prohibits any official, employee, or agent of a school board from conducting any written or recorded survey or questionnaire of pupils that may reveal information with respect to a pupil or the pupil's family about political affiliations, mental or psychological problems, sexual behavior or attitudes, illegal or antisocial behavior, critical appraisals of individuals with whom the family has close family relationships, privileged relationships, income, or religious beliefs or practices, without the pupil's consent if he or she is an adult or emancipated minor, or without the consent of the pupil's parent or guardian if the pupil is an unemancipated minor. The bill requires consent for each survey or questionnaire that is conducted. A request for consent, along with information on how to access a copy of the survey or questionnaire, must be mailed provided to parents at least ten days before conducting the survey or questionnaire. Consent is considered to have been given if the pupil or the pupil's parent or guardian fails to respond to the request before the date of the survey or questionnaire. The bill directs each school board to notify annually the pupils enrolled in the school district and their parents or guardians of the above provisions. The bill provides a forfeiture (civil penalty) for those school board officers, employees, or agents who require pupils to participate in a survey or questionnaire that may reveal the information specified above without the required consent, and also provides an enforcement mechanism.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill. *The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:* SECTION 1. 118.135 of the statutes is created to read:

118.135 Surveys and questionnaires of pupils

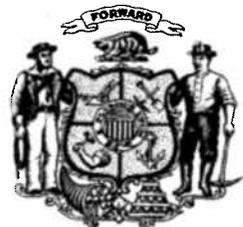
- (1) INSTRUCTIONAL MATERIALS AVAILABLE; CONSENT REQUIRED. (a) Each school board shall make available for inspection by the parents and guardians of pupils enrolled in the school district all instructional material, including teacher's manuals, films, tapes, and other supplementary material, that will be used in connection with any written or recorded survey or questionnaire of pupils. (b) No official, employee, or agent of a school board may conduct any written or recorded survey or questionnaire of pupils that may reveal information about any of the following with respect to a pupil or the pupil's family without the consent of the pupil, if the pupil is an adult or an emancipated minor, or without the consent of the pupil's parent or guardian, if the pupil is an unemancipated minor, unless the primary purpose of the survey or questionnaire is academic: 1. Political affiliations. 2. Mental or psychological problems that may embarrass the pupil or the pupil's family. 3. Sexual behavior or attitudes. 4. Illegal, antisocial, self-incriminating, or demeaning behavior. 5. Critical appraisals of individuals with whom the pupil has close family relationships. 6. Legally recognized privileged or analogous relationships, including relationships with lawyers, physicians, or

members of the clergy. 7. Income, unless the information is required by law to determine eligibility for participation in a program or for receiving financial assistance. 8. Religious beliefs or practices. (c) An official, employee, or agent of a school board shall obtain consent under par. (b) for each survey or questionnaire conducted. The official, employee, or agent shall ~~mail~~ notify parents of the impending administration of the survey and provide information on how a copy of the survey can be reviewed ~~a copy of the survey or questionnaire~~ along with a request for consent at least 10 days before conducting the survey or questionnaire. Consent shall be considered to have been given under par. (b) if the pupil or the pupil's parent or guardian fails to respond to the request before the date of the survey or questionnaire. (d) No official, employee, or agent of a school board may require a pupil to participate in a survey or questionnaire that may reveal information about any of the subjects specified in par. (b) if the pupil requests to discuss the content of the survey or questionnaire with his or her parent or guardian before completing the survey or questionnaire. The prohibition under this paragraph applies only the first time that the pupil is requested to participate in the survey or questionnaire

- (2) NOTICE. Annually each school board shall notify the pupils enrolled in the school district and their parents or guardians of the provisions of sub. (1).
- (3) PENALTY. Any person who knowingly violates sub. (1) (b) shall forfeit not less than \$25 nor more than \$300 for each violation. Each survey or questionnaire of each pupil constitutes a separate violation.
- (4) ENFORCEMENT. (a) Forfeitures under this section shall be enforced by action on behalf of the state by the attorney general or, upon the verified complaint of any person, by the district attorney of any county where a violation occurs. In actions brought by the attorney general, the court shall award any forfeiture recovered together with reasonable costs to the state; and in actions brought by the district attorney, the court shall award any forfeiture recovered together with reasonable costs to the county. (b) In addition and supplementary to the penalty provided in sub. (3), the attorney general or the district attorney may commence an action, separately or in conjunction with an action brought under sub. (3), to obtain such other legal or equitable relief, including mandamus, injunction, or declaratory judgment, as may be appropriate under the circumstances. (c) If the district attorney refuses or otherwise fails to commence an action to enforce this section within 20 days after receiving a verified complaint, the person making the complaint may bring an action under pars. (a) and (b) on his or her relation in the name, and on behalf, of the state. In such an action, the court may award actual and necessary costs of prosecution, including reasonable attorney fees, to the relator if he or she prevails, but any forfeiture recovered shall be paid to the state. (END) 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18



WISCONSIN STATE LEGISLATURE





SCHOOL ADMINISTRATORS ALLIANCE

4797 Hayes Road • 2nd Floor
Madison, Wisconsin 53704
(608) 242-1370 • FAX (608) 242-1290
E-Mail: kammerud@wasda.org

Jennifer A. Kammerud
Director of
Government Relations

TO: Assembly Committee on Children and Families
FROM: Jennifer Kammerud, Director of Government Relations
DATE: 04/12/01
RE: **Assembly Bill 109**

An Alliance of:

**Association of
Wisconsin School
Administrators**

**Wisconsin Association
of School District
Administrators**

**Wisconsin Association
of School Business
Officials**

**Wisconsin Council for
Administrators of
Special Services**

The School Administrators Alliance (SAA) opposes Assembly Bill 109 due to its large possible scope, implications for students and the school, and monetary implications for both the school district and its employees.

While the scope of AB 109 would appear to be limited to nonacademic surveys or questionnaires, surveys and questionnaires go undefined under this bill bringing into question the actual scope of the bill. A simple glance at Webster's dictionary shows the problems this could create. According to Webster's a survey can mean 1) to look over or examine in detail; 2) to study or view comprehensively; or 3) a detailed examination or inspection. Some implications of this broad definition for a school employee include:

- You are a school psychologist or guidance counselor who is trying to help a student deal with certain behaviors, attitudes or problems relating to the student or stemming from a student's family. It could easily be argued that you are conducting a survey of the student and would have to follow the provisions of the bill requiring prior written parental consent.
- You are a principal who has heard there is a gun in a seventh grade student's locker and you conduct a locker search, which concerns illegal behavior. A locker search would fall under a broad definition of a survey and would require prior written parental consent.

In many instances this bill would create barriers for education professionals as they try to help the students in their care and provide a safe environment for them. It would do this by creating uncertainty around what exactly qualified as a survey and adding time and additional hurdles between the point at which a problem is acknowledged and it is addressed.

The monetary penalties provided in this bill are also excessive and will add to a professional's uncertainty regarding whether or not something qualifies as a survey. If the maximum forfeiture of \$300 is applied, and every student is considered a violation, a significant sum of money is involved for that teacher, school psychologist, guidance counselor, principal, or school district.

Furthermore, this bill will require school districts to absorb what could add up to significant additional costs in obtaining consent from parents under budgets that are already stretched very tight.

Finally, we would like to point out something that we find troubling about this bill. It seems to infer that students need to be protected from school professionals or school districts acting improperly in the types of nonacademic surveys or questionnaires that may be conducted. We feel that schools are very careful about the types of things they ask their students. Participation in surveys and questionnaires is voluntary. The information gleaned from them is needed or they would not be done.

Thank you. If you have any questions, I would be more than happy to answer them.