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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2003-04

(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

Record of Committee Proceedings

Committee on Children and Families

Assembly Bill 646

Relating to: giving false information to mandatory reporters of suspected child abuse or neglect and providing a penalty.

By Representatives Musser, F. Lasee, Townsend, Gronemus, Pettis, Gundrum, Hahn, Krawczyk, Olsen, Gunderson, Albers and Grothman; cosponsored by Senators Reynolds and Schultz.

November 10, 2003 Referred to Committee on Children and Families.

January 15, 2004 **PUBLIC HEARING HELD**

Present: (8) Representatives Kestell, Ladwig, Albers, Jeskewitz, Vukmir, Sinicki, Miller and Krug.

Absent: (0) None.

Appearances For

- Rep. Musser, 92nd Assembly District

Appearances Against

- MaryAnne Snyder, Children's Trust Fund, Madison
- Mark Mitchell, DHFS, Madison
- Lisa Macauky, WI Coalition Against Sexual Assault, Madison
- Patti Seger, WI Coalition Against Domestic Violence, Madison

Appearances for Information Only

- None.

Registrations For

None.

Registrations Against

Carol Medaris, Wisconsin Council on Children and Families, Madison
Sharyl Kato, Rainbow Project, Madison

February 19, 2004 **EXECUTIVE SESSION HELD**

Present: (7) Representatives Kestell, Ladwig, Albers, Vukmir, Sinicki, Miller and Toles.

Absent: (1) Representative Jeskewitz.

Moved by Representative Albers, seconded by Representative Vukmir that **Assembly Bill 646** be recommended for passage.

Ayes: (4) Representatives Kestell, Ladwig, Albers and Vukmir.

Noes: (3) Representatives Sinicki, Miller and Toles.

Absent: (1) Representative Jeskewitz.

PASSAGE RECOMMENDED, Ayes 4, Noes 3

David Matzen
Committee Clerk

Vote Record Committee on Children and Families

Date: 2-19-04

Moved by: Albers ~~Albers~~

Seconded by: Vukmir

AB 646 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 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:
 Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Steve Kestell, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Bonnie Ladwig	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Sheryl Albers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Suzanne Jeskewitz _____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Representative Leah Vukmir	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Christine Sinicki _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mark Miller	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Barbara Toles _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>4</u>	<u>3</u>	<u>1</u>	_____

Motion Carried Motion Failed



AB 646

Matzen, David

From: Kestell, Steve
Sent: Tuesday, January 13, 2004 6:09 PM
To: Matzen, David
Subject: FW: False Reporting Bill

-----Original Message-----

From: Michelle Hendrickson [mailto:michelle@womenscommunity.org]
Sent: Tuesday, January 13, 2004 1:32 PM
To: rep.kestell@legis.state.wi.us
Subject: False Reporting Bill

Dear Representative Kestell:

I am writing this as a private citizen in opposition to the False Reporting legislation. I do not understand why there is legislation being introduced to add a penalty for sexual assault victims who falsely report. I am also not sure why this cannot be handled with existing legislation. For example, why is it that these false allegations cannot just be handled by charging the individual with obstruction of justice?

First of all, if a penalty is added for sexual assault victims reporting falsely then it needs to cover all of the other crimes on the crime index as false allegations of sexual assault are the same percentage as any other crime on the crime index(2-4%). There is a difference between a false allegation and an unsubstantiated report. Many times these unfounded reports get lumped into the category of false allegations as people do not understand the difference between the two and therefore it may look as if there are more false allegations than there actually is.

Sexual assaults victims already have so many barriers to reporting and if this legislation is passed it will just give victims more incentive not to report and follow through. Why report if you are not going to be believed and be charged with a crime?

Thank you for your time.
Sincerely,
Michelle Hendrickson
2302 Pied Piper Lane
Wausau, WI 54403
715-842-7284





Jim Doyle
Governor

Helene Nelson
Secretary

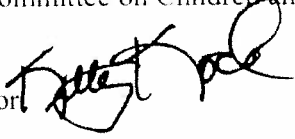
State of Wisconsin
Department of Health and Family Services

1 WEST WILSON STREET
P O BOX 8916
MADISON WI 53708-8916

Telephone: 608-267-3905
FAX: 608-266-6836
dhfs.wisconsin.gov

Date: January 15, 2004

To: Assembly Committee on Children and Families

From: Kitty Kocol
Administrator 

Re: 2003 Assembly Bill 646, False Statements Regarding Child Abuse or Neglect

2003 Assembly Bill 646 creates a new misdemeanor offense related to knowingly providing a false statement to a mandated reporter alleging that a child has been abused or neglected. The Division of Children and Family Services understands the intent of this legislation but cannot support the bill as currently written. I would like to provide some comments and concerns related to the concept and the implementation of the law.

In most cases where "false" allegations are made, one party in a custody dispute accuses the other party of some type of abuse or neglect of their child in order to influence an agency's or the court's decision in terms of placement of the child following a separation or divorce. The enactment of this law may have the effect of reducing such claims but we have not been made aware that there are a significant number of these claims at this time. More importantly, we are concerned that this bill may act to reduce the number of legitimate allegations of suspected abuse or neglect.

There are several implementation issues about which we have concerns:

- The legislation could dissuade a person from making a legitimate report for fear of the report being considered "false" rather than simply "erroneous." We do not want to discourage reports that might be wrong, a decision that can often be made only after a full assessment, but which are made in good faith by the reporter.
- The bill applies to giving false information only to a person who is mandated to report the allegation. However, under our statutes, a person is required to make a report only when that person has "... reasonable cause to suspect that a child *seen* by the person in the course of professional duties ..." [Ref. s. 48.981(2)(a), Stats.] If a mandated reporter to whom the false claim has been made has not seen the child in the course of his or her professional duties (e.g., a doctor or nurse during a medical exam, a teacher of the child), this proposed statute would not apply even if the person is identified in the list of mandated reports.
- At the present time, child protective services agencies are required to substantiate abuse or neglect when a preponderance of the evidence indicates that abuse or neglect occurred. There are many times when we cannot substantiate such abuse or neglect based on the evidence available. This does not mean that abuse or neglect did not occur. As such, it would be difficult to determine whether an allegation was "false" or merely erroneous. It is virtually impossible in these situations to ascribe a motivation to the reporter.

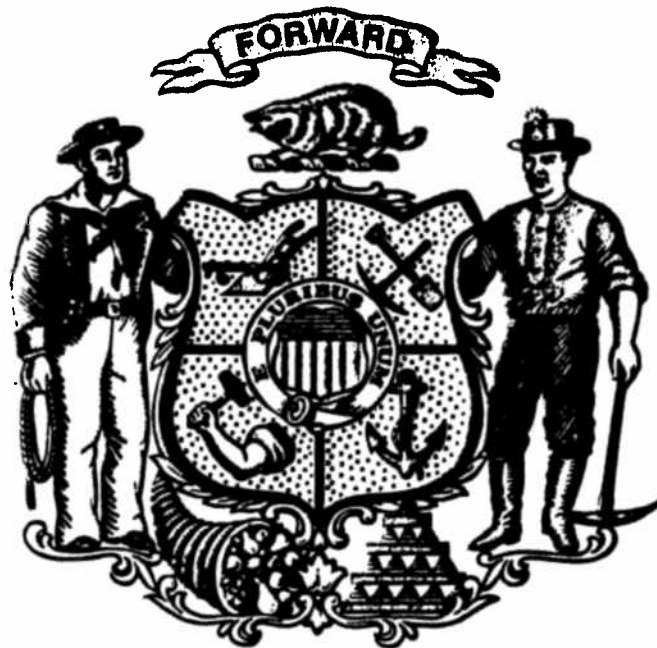
- This bill could require county child protective services staff to testify in criminal proceedings for individuals charged under this new offense, where they would most likely be unable to testify as to the motivation of the reporter anyway.

Under current family law, there are provisions, in custody cases, prohibiting certain actions by one party against another in the proceeding. Among these are harassment and intimidation. [Ref. s.767.087(1)(a), Stats.] Since most of the "false" allegations that are the subject of this bill would apply in these types of situations, it may be appropriate to enhance penalties under this section. The effect of this would be to penalize the false reports that are made in these cases without generally unintentionally discouraging people from reporting concerns of child maltreatment. The court could be given the ability to consider any such harassment in making child placement determinations.

As noted, we understand of the intent of this proposal. Should this become a more frequent problem, we would certainly be willing to assist the Committee in making any changes to the bill that are deemed necessary. Please feel free to contact Mark Mitchell by phone at (608) 261-8316 or by e-mail at mitchms@dhfs.state.wi.us for any additional information.

Thank you very much for your consideration of our comments.

c: Mark Campbell, BPP
Mary Dibble, BPP
Therese Durkin, OLC
Linda Huffer, DHFS
Connie Klick, BPP
Mark Mitchell, BPP
Amy Smith, BPP
Diane Welsh, DHFS



Children's Trust Fund

Wisconsin's Resource For Preventing Child Abuse

Child Abuse and Neglect Prevention Board
A Wisconsin State Agency
110 East Main Street, Suite 614, Madison, WI 53703
(608) 266-6871 FAX (608) 266-3792
website: <http://wctf.state.wi.us>

BOARD MEMBERS

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27th Assembly District

Kitty Kocol
Administrator, Division of Children
and Family Services, and designee
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Services

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Victims Services, Department of
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General Peg Lautenschlager**

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Professor of Social Sciences,
University of Wisconsin–Stout

Sen. Carol Roessler
18th Senate District

Alyssa Whitney
Appointment Director, Office of the
Governor, and designee for **Governor
Jim Doyle**

Sen. Robert Wirch
22nd Senate District

DATE: January 15, 2004

TO: Assembly Committee on Children and Families

FROM: Mary Anne Snyder, Executive Director
Children's Trust Fund 

RE: **Testimony in Opposition of AB 646**

The Legislative Committee of the Child Abuse and Neglect Prevention Board (also known as the Children's Trust Fund) reviewed AB 646 on January 7th. While the committee appreciates the sponsors' goal, we have serious concerns about the unintended consequences of passing this bill. The proposed legislation:

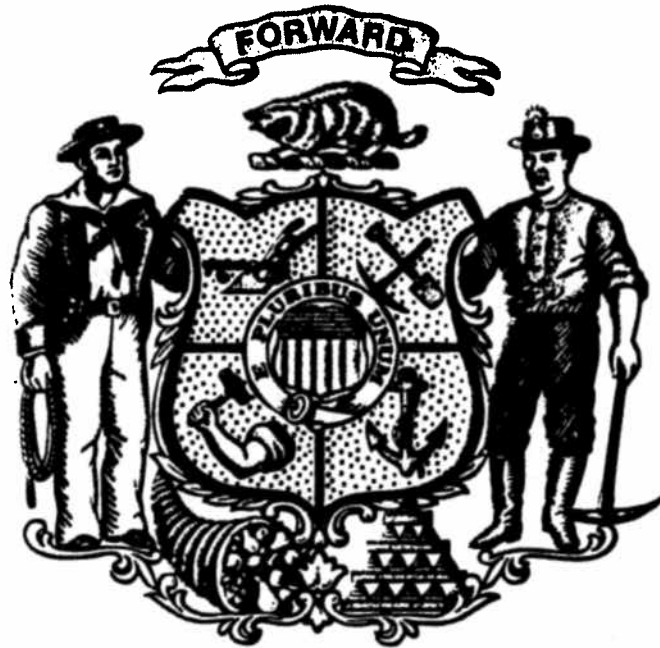
- Requires proof of intent, and intent is difficult to prove, hard to prosecute, and results in significant costs to the defendant.
- Could potentially be used as a tool for intimidation and harassment of a partner involved in divorce proceedings especially when one partner is at a significant financial advantage.
- Could hamper the work of those qualified to make investigations. (Private citizens who share suspicions of child maltreatment with mandatory reporters are not qualified to investigate cases or validate allegations. Neither are mandatory reporters. We are concerned that unqualified individuals will try to "substantiate abuse" before risking reporting suspicions.)
- May create the false perception that the private citizen made a "false" allegation. (If a report is found to be unsubstantiated, it does not mean that abuse did not occur.)

Finally, and most importantly, this legislation will have a chilling affect on reporting suspected child abuse, creating a strong disincentive to make reports. In 2001, there were 40,215 children reported abused and neglected in Wisconsin. That is about the same as the population of Brookfield, Wausau, or Fond du Lac, and would fill more than half of the seats in Camp Randall Stadium. And, most experts agree that child abuse and neglect are seriously under reported.

Because the unintended consequences of this bill are so serious we urge this committee to vote not to support AB 646.

Thank you.

Celebrating 20 years of keeping Wisconsin's children safe and families strong



OCONTO COUNTY



A Place For You

Department of Health and Human Services

..... promoting healthy and responsible families.

501 Park Avenue
Oconto, WI 54153-1612

920-834-7000
920-834-7045 (no voice response TDD)
920-834-6889 FAX

February 3, 2004

Steve Kestell, Chairperson
Attn: Committee on Children and Families
State Capitol
Room 17 West
P.O. Box 8952
Madison, WI 53708

Dear Chairperson Kestell:

RE: 2003 Assembly Bill 646

I am writing this letter of support on behalf of the Oconto County Health and Human Services Board of Directors.

We strongly support the passage of this bill.

Hopefully, couples involved in divorce/custody disputes will think twice before knowingly making a false statement alleging that a child has been abused or neglected.

Thank you.

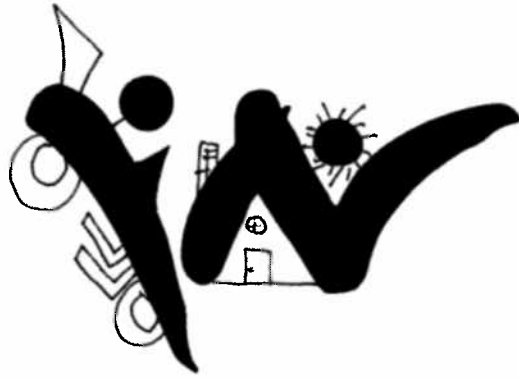
Sincerely,



Greg Benesh, Deputy Director
Oconto County Dept. of Health & Human Services

GB/jmz





Wisconsin Coalition Against Sexual Assault, Inc.

600 Williamson Street, Ste N-2

Madison, WI 53703

Good afternoon, my name is Lisa Macaulay and I am the Policy Specialist for the Wisconsin Coalition Against Sexual Assault, Inc. (WCASA) I am here to speak in opposition of Assembly Bill 646. We are concerned with the unintended results that AB646 will cause.

I want to start out saying that we don't support anyone making a false allegation of sexual assault. The damage caused by false reports undermines the work we do and makes it more difficult for those who are victims of sexual assault.

There is a misperception that sexual assault has an unprecedented high level of false reports. However, according to the Office for Victims of Crime in the US Department of Justice only 2% of all sexual assaults reported to law enforcement turn out to be false. This is the very same rate as other types of violent crime. So while we acknowledge there are cases of false reports, we are concerned at the level of inspection that sexual assault receives in this matter.

Children will disclose sexual abuse when they feel they are safe from further abuse. That can occur during a divorce proceeding. The disclosure can also trigger a non-offender parent to start divorce

proceedings. In many cases, the abuse leaves no physical signs and this may cause the allegation to be determined to be unsubstantiated. This does not mean that the allegation was false. When investigators question children, it is not uncommon for them to deny that the abuse occurred. The American Academy of Child & Adolescent Psychiatry's fact sheet on Child Sexual Abuse recognizes that a child may fear the anger, jealousy or shame of other family members, or may be afraid the family will break up if the secret is told. If the abuse is disclosed and the child sees the family breaking up, they may deny the abuse happened in order to try to keep the family together. If an allegation is determined to be unsubstantiated because the child denies the abuse has happened and the non-offending parent is punished, we are leaving that child vulnerable to more abuse.

We also believe that there are already steps in place to deal with those few individuals who do make false allegations. Child Protective Services (CPS) has a process in place that must be followed. When a referral comes into their office, a supervisor reads the complaint and decides whether or not to "screen in" the complaint. If it is "screened in", a social worker makes a visit to the home. The family members and the child/ren are questioned. If the child denies the abuse, the case is then determined to be unsubstantiated or unable to substantiate. CPS will maintain a file on this, and the outcome of the investigation will be clearly marked in the file. If CPS feels that the referral came to their office as the result of a blatantly false allegation, they will forward that information to the local District Attorney. The DA will then make the decision whether or not to file charges. Those who work in this field have told us that the cases of intentionally filing a false allegation are very small. The comment made by one CPS supervisor was in the two decades she has worked in the field she could count the cases of false allegations on one hand.

WCASA opposes creating duplicate language to address this issue. We believe that there are already policies and procedures in place to deal with this. The crimes of child sexual assault and incest are already under-reported and we do not want to create laws that may have the unintentional effect of lowering that number even more. WCASA asks that you oppose this legislation.