



WISCONSIN LEGISLATURE

P.O. BOX 8952 • MADISON, WI 53708

January 29, 2020

Chairman Snyder and Members of the Committee:

Thank you for holding a hearing on Assembly Bill 749, which expands the list of professionals who are provided immunity from liability resulting from good faith actions under the child abuse and neglect reporting law. This legislation is necessary for Wisconsin to be in compliance with a 2018 federal change to the Child Abuse Prevention and Treatment Act (CAPTA).

Currently, certain individuals and professionals have immunity from civil or criminal litigation, when acting in good faith reporting or taking certain actions in making a report of child abuse, such as conducting an investigation, taking photographs, or performing a medical examination. A 2018 amendment to the federal CAPTA broadened this list to include persons who provide information or assistance with a report pursuant to a good faith report. Under this change, Wisconsin law does not provide immunity protections to all those individuals who could fall under the scope of immunity under federal law. Therefore, this change is necessary to have our state law come into compliance.

It is important that the legislature review and pass this change swiftly, as Wisconsin needs to come into compliance with the federal language by June 30th, 2020. Wisconsin receives federal funding through CAPTA that supports our prevention, assessment, investigation, prosecution and treatment work. These funds could be jeopardized if we do not make these statutory changes to become federally compliant.

This legislation has the support of the Wisconsin Department of Children and Families.

Thank you again for your time and consideration.

Sincerely,

Joan Ballweg
State Representative
41st Assembly District

Jill Billings
State Representative
95th Assembly District

Alberta Darling
Wisconsin State Senator
Co-Chair, Joint Committee on Finance

Assembly Committee on Children and Families

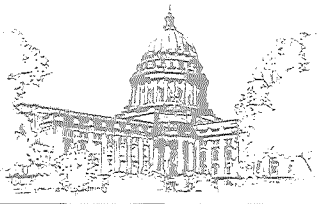
Assembly Bill 749

Thank you Chair Snyder and committee members for taking the time to hear Assembly bill 749. In order to comply with a 2018 amendment to the federal Child Abuse Prevention and Treatment Act (CAPTA), Assembly Bill 749 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 749 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 June 30, 2020 in order to continue receiving funding through the federal CAPTA program. The minor change in Assembly Bill 749 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 749.



STATE SENATOR
LaTonya Johnson

WISCONSIN STATE SENATE

6TH DISTRICT

Assembly Committee on Children and Families
Testimony on Assembly Bill 749
January 29, 2020

Good morning members of the committee,

Thank you for holding this hearing on Assembly Bill 749 (AB 749), 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 749 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 June 30, 2020 to make this change, so we appreciate the committee hearing this proposal, and hope that this bill can be passed prior to the end of session.

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



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Governor Tony Evers
Secretary Emilie Amundson

Secretary's Office

TO: Chair Snyder and Members of the Assembly Committee on Children and Families

FROM: Rachel Nili, Attorney, Office of Legal Counsel
Jane Penner-Hoppe, Policy Advisor, Division of Safety and Permanence

DATE: January 29, 2020

SUBJECT: 2019 Assembly Bill 749

Thank you for the opportunity to provide testimony on Assembly Bill 749. The Department of Children and Families (DCF) is testifying in support of this bill. 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 and other states that 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 welfare workers, child abuse and neglect substantiation appeal hearings, sponsorships and conferences, DCF staff, citizen review panels, a peer mentor program for birth parents, and a review process for critical incidents throughout the state. In FFY 2019, 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 are required to be in compliance with the amended federal provision by June 30, 2020.

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 AB 749 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, and
- a pediatrician who consults with CPS staff on a CPS case but does not examine the child.

In addition to meeting federal requirements, the expansion of good faith immunity in the CPS context through AB 749 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 749 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 749. We are pleased to respond to any questions.