



# Alberta Darling

Wisconsin State Senator | District 8

Testimony before the Senate Committee on Judiciary and Public Safety  
Senate Bill 245  
Thursday, September 23, 2021

Thank you Chair Wanggaard and committee members for holding a public hearing on Senate Bill 245. This bill is incredibly important to protecting child victims of sex trafficking in Wisconsin.

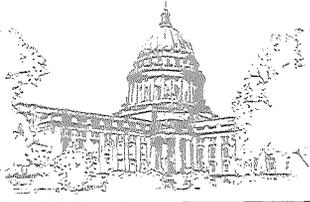
Under current law, an individual who is under the age of 18 cannot legally consent to sexual relations. In spite of this law, minors who have been forced into having sexual relations because of trafficking can still be prosecuted for prostitution. As such, Wisconsin law currently penalizes trafficked children for a crime they cannot even legally consent to committing.

Not only have trafficked children undergone serious trauma, but Wisconsin law currently allows them to be punished for a situation that was out of their control. Senate Bill 245 makes a very simple change to statute. The bill in front of you prohibits the prosecution of a minor for prostitution.

This simple change to the law is vital to ensure children who have been sex trafficked are recognized as victims, not criminals. Victims of sex trafficking often have undergone incredible trauma that will affect them for the rest of their lives. The law should not also plague these victims with a Class A misdemeanor on their records. In addition to allowing victims to lead lives without a conviction on their record, by eliminating the threat of prosecution, the bill will encourage children to come forward to law enforcement. Traffickers will no longer be able to use the threat of prosecution for prostitution as a way to keep children inside the cycle of abuse they undergo while being trafficked.

It is crucial for Wisconsin to join other states and pass this legislation to protect our minors and ensure they have access to the services they need after being trafficked, not to a prostitution conviction.

I'd like to thank Senator Johnson and Representatives Billings and Kitchens for their work on this bill. I hope to have your continued support for Senate Bill 245.



# STATE SENATOR LaTonya Johnson

WISCONSIN STATE SENATE

6<sup>TH</sup> DISTRICT

**Senate Committee on Judiciary and Public Safety  
Testimony on Senate Bill 245  
September 23, 2021**

Good morning Chairman Wanggaard and members of the committee,

Thank you for the opportunity to testify again on behalf of this very important proposal—SB 245—which prohibits children under the age of 18 from being prosecuted for acts of prostitution – a Class A misdemeanor. This bill is tremendously important considering that under Wisconsin law it is illegal for any child under the age of 18 to consent to sexual activity.

SB 245 brings Wisconsin law in line with federal law which treats children engaged in commercial sex acts as sexually exploited children and victims of child abuse, not criminals. This bill also aligns our state with Illinois, Minnesota, and Michigan by helping to end the practice and stigma of labeling these minors as criminals by charging child trafficking victims with prostitution. My hope is that it will make it easier for law enforcement and child welfare authorities to convince these children that they have done nothing wrong and are in no way responsible for the horrific acts they were forced into by their traffickers.

This bill does not legalize prostitution—this is illegal and will remain so. This bill only prevents our child victims from being charged with prostitution while providing them with the opportunity to get the services, counseling, and treatment they need to go on to lead healthy, productive lives as an adult.

This bill will also not encourage traffickers to seek minor victims—because, tragically, that is already the case. The average age of a child when they are first trafficked for sex is 13 years old, and between 70% and 90% of these children already have a history of abuse before falling into the hands of a human trafficker. Children are a trafficker's prime target, and the sooner we can earn the child's trust and get their cooperation, the sooner we can put their trafficker behind bars. Treating these children like criminals for acts that they were forced into leaves them wondering who to trust, and that mistrust makes cooperating with prosecutors less, not more, likely.

Wisconsin is known as a human trafficking hub, a place where pimps and traffickers can come and steal our children off of our streets, forcing them into sexual slavery in places like Chicago, Las Vegas, and other parts of the county and little to nothing can be done to rescue them.

Prosecuting our children for crimes they had no choice but to commit does nothing to help put an end to this trend. We care about our kids, and while we are all working hard to protect them, the children who do fall victim to this terrible criminal enterprise deserve SB 245 instead of a criminal record.

Once again, thank you to my co-authors, Senator Darling, Representative Billings, and Rep. Kitchens for their hard work on this bill, and thank you, committee members, for your consideration of this important proposal.



## JILL BILLINGS

STATE REPRESENTATIVE

### **Rep. Billings Testimony in Support of Safe Harbor for Trafficked Youth (SB 245)**

Hello Chairperson Wanggaard and committee members. Thank you for holding a public hearing on SB 245. And thank you Senator Darling for continuing to work with me on this important issue. This bill would move our state further in protecting sexually exploited children by treating them as child-victims, rather than criminals. SB 245 prohibits charging a minor with the crime of prostitution.

Sexually exploited children exist in my district and in your district. The trafficking of children is happening in urban areas, rural areas, and has been reported in all 72 Wisconsin counties. Sexually exploited children tend to be at-risk, vulnerable youths with troubled backgrounds; many are homeless or drug dependent. According to the U.S. Department of Justice's Anti-Human Trafficking Task Force an estimated 70 to 90 percent of youth victims of sex trafficking have histories of sexual abuse.

Currently, children who are forced into commercial sex practices can be prosecuted for the crime of prostitution, causing victimization and burdening a child with a criminal record. Sexually exploited children are often vulnerable to criminal charges, incarceration or detention for actions taken while under the emotional and physical control of their traffickers. SB 245 can alleviate the harm caused by criminalizing sexually exploited children by prohibiting the practice of charging minors with prostitution.

Our neighboring states, including Illinois, Indiana, Michigan and Minnesota, have found success in passing similar Safe Harbor legislation. By passing this legislation we would be joining 34 other states and the District of Columbia that have adopted some type of immunity for trafficked youth, according to the US Department of State. Other states have found that decriminalizing child prostitution along with providing services, has helped to identify and rehabilitate child sex trafficking victims, while also bringing the real criminals (traffickers/buyers) to justice. By treating children as victims, the adversarial relationship between minors and legal system intent on prosecuting them erodes. Instead it can create a reformative and therapeutic environment in which child victims speak candidly about their traffickers to law enforcement.

Across the river from my district, in Minnesota, convictions of sex traffickers have shown a dramatic increase since passing its hallmark Safe Harbor legislation in 2011. According to the Human Trafficking in Minnesota: A Report to the Minnesota Legislature January 2017, prior to this legislation, Minnesota had 8 people convicted of sex trafficking. After passage in 2012, that number quadrupled to 32 convicted. By 2016, 45 traffickers were convicted. Legal officials in Minnesota credit the increase in convictions to the passage of Safe Harbor. Trafficked children are one of the most vulnerable groups in our state, and it is imperative that these children see law enforcement and the court system as allies and a means of liberation from their traffickers.

SB 245 will put Wisconsin's criminal laws into alignment with both federal law, neighboring states laws and Wisconsin's own laws. By adopting SB 245, Wisconsin law will no longer conflict with the Federal Trafficking Victims Protection Act, which treats coerced children as victims, even if they have engaged in criminal prostitution activity. It also aligns our own state statutes. The 2015 Wisconsin Act 367 also included "sex trafficking" as child abuse under Wisconsin Chapter 48 (the Children's Code). Therefore, currently our statutes are misaligned by defining a child as a victim under Chapter 48, while still being considered a criminal under Chapter 944. Furthermore, the Wisconsin statutes include many laws that make it a crime to have sex with a child. It therefore stands to reason that if some Wisconsin laws treat minors as victims of sexual predation, all Wisconsin laws should treat minors as victims of prostitution, not criminals.

Each year Wisconsin does more to protect sexually exploited youth. I believe this is the next step in a process of bringing awareness and changing our approach to addressing this serious issue. I ask you to join me in protecting our vulnerable youth by supporting SB 245. Thank you.



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# JOEL KITCHENS

STATE REPRESENTATIVE • 1<sup>ST</sup> ASSEMBLY DISTRICT

## **Testimony for the Senate Committee on Criminal Justice and Public Safety Senate Bill 245 Thursday, Sept. 23, 2021**

Thank you Chairman Wanggaard and committee members for holding a public hearing and allowing me to testify on Senate Bill 245. This bipartisan legislation will align our state with the federal Trafficking Victims Protection Act, which treats prostituted minors as victims of sexual exploitation instead of delinquents or criminals.

We continue to see a disturbing trend in Wisconsin and across the nation where children are being trafficked for sex.

Over a recent 15 month period, a total of 99 substantiated complaints of child sex trafficking were reported to the Department of Children and Families. Half of these cases occurred in Milwaukee, while the other half occurred throughout the rest of the state.

Although these minors are victims of sexual abuse, our state statutes remain out of date and allow for trafficked kids to be charged with prostitution.

It's sad that we have to say this, but these kids are victims, not criminals, and should be treated as such. In addition, children under the age of 18 cannot legally consent to sex in Wisconsin, so charging them with prostitution is contradictory.

Furthermore, there are no other crimes where we charge individuals for an abuse committed against them. It is well past time for that to change.

SB 245 protects the minors in our state by providing them with immunity from the crime of prostitution.

Criminalizing youth who have been sexually exploited can add to the trauma they have already suffered. Treating trauma is a complex issue and avoiding re-traumatization is essential to any victim's recovery.

Sex-trafficked children also often do not report their traffickers because they fear they'll be charged with a crime. SB 245 eliminates that barrier between survivors and law enforcement, which will likely lead to more prosecutions.

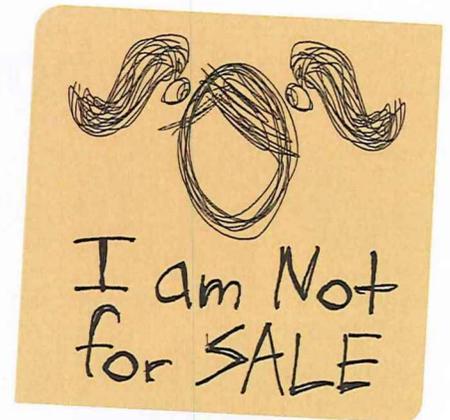
As an example, after Minnesota passed Safe Harbor legislation in 2011, convictions of traffickers quadrupled the following year.

It would be irresponsible if Wisconsin did not follow suit.

I would like to thank you for taking the time to listen to my testimony and I hope that you will consider supporting SB 245. I would also like to thank all of my co-authors for all the hard work they put into drafting this legislation. I can now answer any questions if you have them.

# Safe Harbor for Trafficked Youth

(AB 185 + SB 245)



# 13

The average age of a child sex-trafficking victim

## THE PROBLEM

Children in Wisconsin are being trafficked for sex in our state. Although these kids are victims of numerous abuses, including sexual abuse, Wisconsin statutes remain out of date and allow for children to be charged with the crime of prostitution.

**For no other crime do we charge individuals for an abuse committed against them. It's time for this to change.**

These kids are victims, not criminals, and they should be treated as such. Without protection from prostitution charges, minors are afraid to speak out against their abusers.

# 30

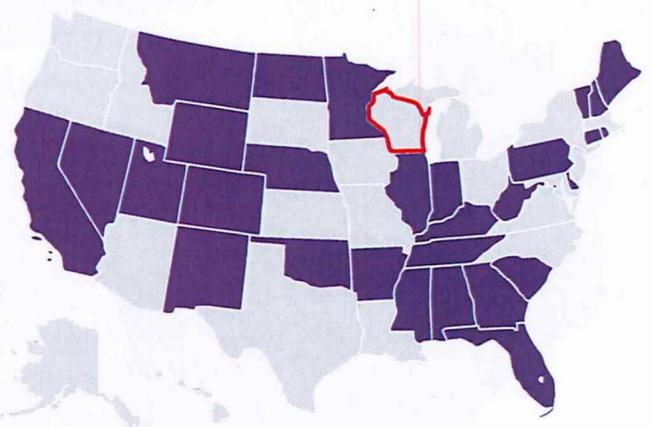
The number of states including D.C. that have already enacted similar legislation

## THE SOLUTION

AB 185 and SB 245 simply **provide immunity for children** under 18 from the crime of prostitution.

This bill would reconcile our state statutes, as **under Wisconsin law minors cannot legally consent to sex**, and to charge them with prostitution is contradictory.

Further, it **aligns with the federal Trafficking Victims Protection Act**, which treats prostituted minors as victims of sexual exploitation instead of delinquents or criminals.



■ States with Safe Harbor Laws  
■ States without Safe Harbor Laws

Source: Shared Hope International 2019

# 72

Sex trafficking has been reported in all 72 counties in Wisconsin

## A STATEWIDE ISSUE

Sex trafficking is occurring throughout the state. Over a recent 15 month period, there were 99 substantiated reports to the Department of Children and Families (DCF) of child sex trafficking. Half of these cases occurred in Milwaukee, while the other half occurred throughout the rest of the state.

# Safe Harbor for Trafficked Youth ( AB 185 + SB 245 )

# 4x

Convictions  
of traffickers  
quadrupled after  
MN passed Safe  
Harbor Legislation

## INCREASED CONVICTIONS OF TRAFFICKERS

“If we are going to be successful in building cases against traffickers, our real target, we need victims to be with us, to provide the information we need to unravel the trafficker’s network and to eventually testify in court. **If we expect victims to stand with us, they need to know they can trust us to help.**”

— Judge Brad Schimel, Former Attorney General

Often, sex-trafficked children do not report their traffickers because they fear they’ll be charged with a crime. **This bill eliminates a barrier between survivors and law enforcement**, allowing them to report their traffickers and seek support.

In Minnesota, after passing Safe Harbor legislation in 2011, convictions of traffickers quadrupled in 2012.

# 70+

70 - 90%  
of sex-trafficking  
victims have  
previously been  
sexually abused

## TRAUMA INFORMED POLICY

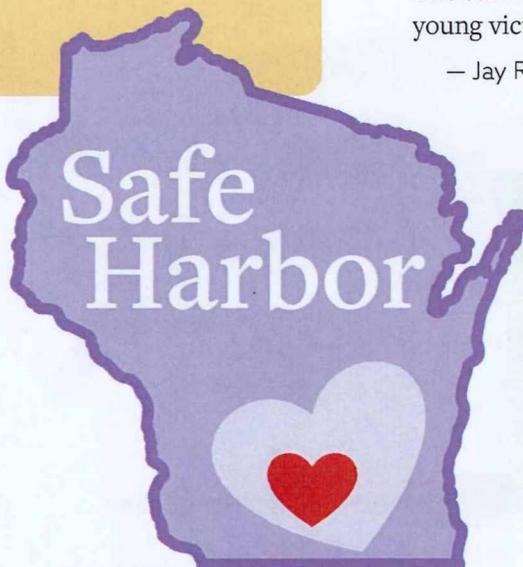
Criminalizing youth who have been sexually exploited can add to the trauma they have already suffered. Treating trauma is a complex issue and avoiding re-traumatization is essential to any victim’s recovery.

“To tell a young person in the same breath that they have had a serious crime committed against them, and then charge them with a crime for what was done to them, is a burden no young person should have to endure. And **[current law] is in conflict with our commitment as a state to ... supporting trauma-informed systems, policies, and practices.**”

— Dr. Joy Ippolito, Former Wisconsin Anti-Human Trafficking Coordinator,  
Department of Children and Families

“The survivors tell us that jail does not help. The traffickers know that arresting these young victims only reinforces their brainwashing that no one cares about them.”

— Jay Reinke, Human Trafficking Task Force of Greater Milwaukee



## JOIN US

It’s time for Wisconsin to pass Safe Harbor legislation.

Last session we had 75 legislative co-sponsors.  
We ask you to join us in co-sponsoring this  
important legislation.

**JILL BILLINGS**  
STATE REPRESENTATIVE

**JOEL KITCHENS**  
STATE REPRESENTATIVE

**LaTonya Johnson**  
WISCONSIN STATE SENATOR

**Alberta Darling**  
Wisconsin State Senator

BILL NO: Senate Bill 245  
TITLE: Prosecuting or adjudicating delinquent a person under the age of 18 for committing prostitution.  
COMMITTEE: Senate Judiciary and Public Safety  
DATE: September 23, 2021  
POSITION: SUPPORT

Dear Chairperson Wanggaard, Vice Chair Wimberger, and Committee Members:

Thank you for hearing testimony on Senate Bill 245, relating to the plight of child sex trafficking victims within the state.

Shared Hope International has been working in Wisconsin, across the country, and internationally for over 20 years to guide and support appropriate responses to protect survivors, hold offenders to account, and ultimately prevent the crime entirely. 11 years ago we launched the Protected Innocence Challenge project (i.e. State Report Cards) to assess the status of state's laws and to drive legislative progress. Since 2011, we have called on states to recognize any minor engaged in commercial sex as a victim of a sex trafficking, not a "prostitute" or "delinquent youth." We know that survivors of child sex trafficking have the best outcomes when they are met with protection, trauma-informed services, and a response that is appropriate for the horrific experiences they have endured—such a response cannot be rooted in juvenile justice practices and systems.

In 2014, four years after releasing the first State Report Cards, we graded Wisconsin a "B" state for having a set of strong, comprehensive laws that address child sex trafficking; for the last 8 years, Wisconsin has consistently scored higher than the national average in developing robust policies and practices related to child sex trafficking. However, despite holding a position of leadership, the state has lagged seriously behind a majority of the country in designing and prioritizing protective responses for survivors. **31 states and D.C.** have made clear that children engaged in commercial sex are victims of sex trafficking, no prostitution offenders. While Wisconsin state law clearly defines children who are bought and sold for sex as victims of sex trafficking, those same minors can be *and* are arrested and prosecuted for prostitution. SB 245 is not only critical for remedying this legal paradox; this legislation embraces a nationally-regarded promising practice for protecting children and preventing harm.

Amending the prostitution statute to be inapplicable to minors recognizes that children *never* engage in commercial sex by choice; rather, a child does so out of coercion, force, fraud, fear, or survival. This is not consensual sex; money does not sanitize rape and treating the child as consensual actor not only misplaces criminality, it directly re-victimizes the child. Oftentimes, children entangled in a life that includes commercial sex carry years of trauma, generational vulnerabilities, and abuse on their backs. Other times, such children have trusted the wrong adult, been fed a false promise, or have fallen for an exploiter who later sold the child to someone all too willing to pay for the chance to rape him or her. Children with unsafe or unstable home environments may find the streets safer and, resultantly, sell their bodies in exchange for something to eat or someplace to sleep. These are not choices; children living in such circumstances deserve, at a minimum, specialized services and long-term care, not the traumatizing impact of an arrest, detention and prosecution, or juvenile records that carrying devastating collateral consequences far beyond childhood years.

Concerns have previously been raised that, without the ability to arrest child sex trafficking victims, law enforcement are limited in their ability to keep vulnerable youth safe. We wholeheartedly share the desire to ensure survivor safety; however, arrest is not the only and certainly not the appropriate mechanism for doing so. Alternatively, many states that have enacted and successfully implemented Safe Harbor responses have abandoned the use of arrest and adopted more child-friendly and appropriate tools for taking children into custody, including the use of temporary protective custody provisions. Fortunately, Wisconsin has already developed this mechanism under Wisconsin Statute 48.19, subsection d, 5.

SB 245 not only aligns with promising and child-centered responses to sex trafficking but amplifies survivors' calls for justice. Our decades of research and collaborative work with trafficking survivors has illuminated the harms of punitive responses to victims; survivors continue to reiterate the additional trauma and harm that is caused during arrest, detention, and prosecution, even if such responses are well-intended and designed break the cycle of exploitation, including Wisconsin's current diversion response to child sex trafficking victims. Conversely, responses *outside* of punitive systems are proven to be more effective, cost-efficient, and impactful in addressing survivors comprehensive needs and goals, and preventing the predictable cycle of vulnerabilities, exploitation, criminalization, and increased vulnerabilities to re-exploitation.

We commend the Sponsor's leadership on this issue and are grateful for the Committee's interest in supporting an alternative, more survivor-centered and justice-oriented response.

Sincerely,

Camryn Peterson  
Advocacy Manager

*For questions or additional information:*  
Sarah Bendtsen, J.D.  
Director of State Legislative Advocacy  
sarah@sharedhope.org



**TO:** Chair Wanggaard, Vice-Chair Wimberger, and Honorable Members of the Senate  
Committee on Judiciary and Public Safety

**FROM:** Amanda Merkwae, Legislative Advisor

**DATE:** September 23, 2021

**SUBJECT:** 2021 Senate Bill 245

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Thank you for the opportunity to provide testimony on Senate Bill 245. The Department of Children and Families (DCF) applauds the commitment to anti-trafficking efforts demonstrated by the persistence of community partners and legislators to introduce Safe Harbor legislation.

**Protects and serves vulnerable youth.** DCF supports SB-245 as a crucial piece of legislation that would change current state law so that a child will no longer be prosecuted for committing an act of prostitution. This bill strengthens the obligation of the state to protect and serve vulnerable youth who are survivors of sex trafficking.

In the 2019 Law Enforcement Assessment of Sex Trafficking in Wisconsin by the Wisconsin Department of Justice, there were 24 different agencies from 16 different counties across Wisconsin that reported at least one juvenile arrest for prostitution between 2014-2018 in their Uniform Crime Reporting Data. However, these agencies reported zero sex trafficking cases in the DOJ released survey for that same time period. In the same survey, 58% of police chief and sheriff respondents reported that their agencies enforce prostitution laws against juveniles and nearly 25% reported it would depend on the circumstances whether they would do so.

Sex trafficking occurs in rural, urban, and tribal communities throughout the state, involving both boys and girls across all ages. Youth who experience sex trafficking are victims of crime. This legislation acknowledges that youth survivors have experienced significant trauma and should be provided with appropriate services and support, instead of the risk of prosecution.

**Protects Indigenous young people.** Sex trafficking in tribal communities has been directly linked to Missing and Murdered Indigenous People (MMIP). Although this has been a long-standing issue in Indian Country, public awareness has grown in recent years, leading to the creation of Wisconsin's Missing and Murdered Indigenous Women (MMIW) Task Force in 2020.

**Changes the law to be in line with nationwide best practices.** The National Clearinghouse on Human Trafficking considers it best practice to adopt "Safe Harbor" legislation as an essential part of a state's legal system to help combat human trafficking.

The National Council for State Legislators notes that other states are at the forefront of "intergovernmental efforts to identify and implement effective procedures to combat child traffickers and pursue justice for survivors." Currently 20 states and the District of Columbia have legislated prosecutorial immunity for trafficked youth (MT, ND, MN, IL, VT, NH, WY, HI, CA, UT, NE, KY, DC, CY, TN, NC, SC, OK, MS AL and FL). While these laws vary from state to state, the common thread is that they prevent children from being charged with certain crimes, such as immunity for prostitution and crimes committed that are related to being trafficked.

**Continues statewide collaborative efforts against human trafficking.** DCF along with other state agencies, the Wisconsin legislature, and partners throughout the state have supported anti-trafficking efforts to protect and provide services to vulnerable youth.

Previous collaborations include the Wisconsin Anti-Human Trafficking Task Force, co-chaired by DCF and the Department of Justice and composed of a broad range of stakeholders, and the DCF Anti-Human Trafficking Advisory Council. These efforts strengthened cross-system collaboration; developed training for child welfare workers, professionals serving youth, and staff in the hotel industry; and supported the development of public awareness campaigns and prevention videos. They also informed initial development of the anti-human trafficking service delivery system to support counties, Tribes, and agencies serving youth who have experienced trafficking. DCF continues to collaborate with partner agencies in promoting awareness, prevention, and effective services to youth survivors of trafficking.

DCF supports SB-245 as an important step in the process of providing youth survivors of trafficking with access to effective, trauma-informed care by eliminating a youth's exposure to prosecution and the criminal legal system. DCF extends our appreciation to legislators for continue to support anti-trafficking efforts and ensuring that protections exist for our youth.

I would be glad to answer any questions from the committee. Thank you.

September 23, 2021

To the Committee on Judiciary and Public Safety regarding Senate Bill 245, Safe Harbor:

My name is Melania Brostowitz, Executive Director of Fight to End Exploitation, a Racine based anti-trafficking nonprofit that serves Southeast Wisconsin through rapid response advocacy services for all victims of human trafficking. We're a statewide leader in community awareness and multidisciplinary training and law enforcement collaboration.

I'm here today in favor of the Safe Harbor for Trafficked Youth bill and I encourage you to support it as well.

The unfortunate truth is that children are being trafficked and exploited throughout our state for money, drugs, food, and shelter. Often, a trafficking victim, especially a child, presents as a "willing participant" and the abuses being inflicted upon them are written off, ignored, or labelled as something else altogether like, delinquency or runaway.

In 2016, under Act 367, Wisconsin classified child sex trafficking as child abuse and further provided protective services to child victims of trafficking and exploitation however, as the authors of the Wisconsin Safe Harbor bill stated in their educational information flyer, "although these kids are victims of numerous abuses, including sexual abuse, Wisconsin statutes remain out of date and allow for children to be charged with the crime of prostitution."

Our state currently is compliant with diversion statutes so when a child is criminally charged with prostitution, prosecution can be deferred upon completion of alternative treatment programs. However, deferral is optional and based on criminal and behavioral history so a child could still be charged with prostitution at the courts discretion.

To be clear, the Safe Harbor bill is *not* addressing the legalization of prostitution. What Safe Harbor would be doing is updating state law to reflect what was passed as federal law in the Trafficking Victims Protection Act of 2000 and Reauthorization Acts in the following years. Under federal law, a child under eighteen who is induced into providing commercial sex is a victim of trafficking and must be treated as such.

Essentially, there is no such thing as a child prostitute.

The Safe Harbor bill would also provide an opportunity for re-education of multidisciplinary professionals and stronger prosecution for those who are buying sex and sexually exploiting children.

Under Wisconsin state law, a trafficker is someone who knowingly recruits, entices, provides, obtains, harbors, transports, patronizes, or solicits or knowingly attempts those acts of any child for the purpose of commercial sex. This means that sex buyers should be charged and prosecuted as child sex traffickers under state law however, due to lack of education and poor prosecution, a child is more likely to be criminally charged as a prostitute and a buyer will be fined with a solicitation charge. I'm going to

paraphrase a section of an article that I found while preparing for today's hearing that I think is extremely important for everyone to understand:

*Buyers of commercial sex acts typically receive inconsequential or no penalties. Buyers of sex with minors also face minimal risk of criminal repercussions. Sexually exploited children report they typically are given a quota by their trafficker of 10 to 15 buyers per night, though some report having been sold as many as 45 times in a night at peak demand times, such as during a sporting event or at a convention. Utilizing a conservative estimate, a child sex trafficking victim who is sold to five different men per night, five nights per week, for an average of five years, would have been raped by over 6,000 buyers during the course of their victimization through forced prostitution. Most of these buyers would receive little or no punishment, while many of the child victims are arrested and charged with the crime committed against them. However, prosecution of the buyers of commercial sex is a strong deterrent and should be utilized more often. Faced with legal ramifications, many men will choose not to buy commercial sex, and the communities will understand that this crime will not be tolerated.*

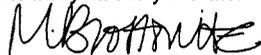
(Source: [The Problem of Demand in Combating Sex Trafficking: Linda Smith, Samantha Healy Vardaman](#))

After Minnesota passed their Safe Harbor law in 2011, which went into effect in 2014, convictions of traffickers quadrupled. This was due to Minnesota's system response protocol that was part of their Safe Harbor for All strategic plan which included charging and prosecuting crimes committed against victims and survivors and persons with lived experiences.

The Safe Harbor bill eliminates the threat of prosecution of a child who's being victimized, offering them a way out of the cycle of abuse, and targets those exploiting children, both the traffickers and the buyers.

To conclude, although current state statutes classifies child sex trafficking as child abuse, children are still exposed and being criminally charged for prostitution even though it's a crime being committed against them. Adopting the Safe Harbor bill would make our state compliant with federal law which states that there is no such thing as a child prostitute. Additionally, Safe Harbor would provide an opportunity for re-education of multidisciplinary professionals and stronger prosecution for those who are buying sex and sexually exploiting children. Ultimately, it's the responsibility of this committee to enact legislation to ensure that child sex trafficking victims are treated as victims by adopting the Safe Harbor law.

Thank you for your time and consideration.

**SOURCES**

- WI State Statue 948.051 - Trafficking of a child
- WI State Statue 948.02 - Sexual assault of a child
- WI State Statue 948.081 - Patronizing of a child
- [Safe Harbor - Federal Law \(Polaris Project\)](#)
- [Office of Justice Programs - Safe Harbor Laws: Changing the Legal Response to Minors Involved in Commercial Sex. Phase 3. The Qualitative Analysis](#)
- [Minnesota Department of Health - Safe Harbor for All: Statewide Sex Trafficking Victim/Survivors Strategic Plan](#)
- [The Problem of Demand in Combating Sex Trafficking: Linda Smith, Samantha Healy Vardaman](#)



# Wisconsin State Public Defender

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**Kelli S. Thompson**  
State Public Defender

**Jon Padgham**  
Deputy State  
Public Defender

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Senate Committee on Judiciary and Public Safety  
September 23, 2021  
Public Hearing on Senate Bill 245

Chairman Wanggaard and members,

Thank you for having this hearing on Senate Bill (SB) 245. The State Public Defender (SPD) supports SB 245 which would make important changes to ensure that juveniles who are coerced into prostitution are not further victimized by the criminal justice system.

A practical definition of child sex trafficking is a complex pattern of behaviors related to the exploitation of youth for sexual activity for money. At times, there is a disconnect between the language we use and how we treat victims in the legal system.

A person under 18 years of age in the State of Wisconsin is presumed to be unable to give consent to engage in a sex act. In most circumstances a person under the age of 18 may not legally enter into a contract. Both are required under the legal definition of prostitution. More importantly, children engaging in sex acts for money are forced or coerced by the traffickers to engage in these acts. Treating children as delinquents/criminals only furthers the process of victimization.

SB 245 prevents a child under 18 years of age from being charged with the crime/delinquent act of prostitution. This bill, along with 2015 Wisconsin Act 367, helps a small but important number of children receive help and services when they are victims of sex trafficking without being convicted of the crime/delinquent act of prostitution.

Thank you again for this opportunity to testify in support of Senate Bill 245.



September 21, 2021

Regarding: Support for SB 245

Senator Wanggaard, Senator Wimberger and other esteemed members of the Committee on Judiciary and Public Safety, thank you for the opportunity to speak about this important and often hidden problem of sex trafficking of youth in Wisconsin.

The Evangelical Lutheran Church in America advocates to protect all of God's children. The severe abuse that sex-trafficked children and youth experience is beyond what most of us can imagine. Allowing for the arrest and prosecution of youth under 18 caught in prostitution re-victimizes those young people by the systems that should be protecting them. This is the only circumstance in which we charge child sexual assault victims with a crime, either directly with prostitution charges or, and is often the case, with lighter charges such as lewd and lascivious behavior.

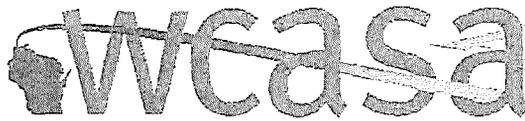
Wisconsin now must provide protective services for victims of sex trafficking. So let's focus on offering our young people those services, and not re-victimizing them by treating them as criminals.

A couple of years ago, we asked that you vote to have Wisconsin join the 25 other states, now it's the 34 other states, that have passed the Safe Harbor bill into law. Both legislatures that were predominantly Republican and predominantly Democrat have passed laws similar to SB 245.

But we have made this request several times before. Last time, we had more hope than ever that it might pass. I still don't have a clear grasp of why the Senate did not pass a similar bill didn't as originally written the last time. There are rumors. Some say it had to do with a talk show host in Milwaukee. Some said it had to do with a person in law enforcement. What about police who support this bill? Maybe the Senate's decision to add an amendment that washed away the intent of the bill had nothing to do with either. So I am also here today to ask for more communication. If there are objections to this bill, would those who object be very clear about their reasoning sooner than later, and offer opportunities for the public to have more dialogue with you about those objections. Because a lot of us care about your decision.

Please support SB 245. And God's blessings on your work.

Pastor Cindy Crane  
Director of the Lutheran Office for Public Policy in Wisconsin



WISCONSIN COALITION AGAINST SEXUAL ASSAULT

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## Testimony

To: Members of the State Senate Committee on Judiciary and Public Safety  
From: Ian Henderson, Policy and Systems Director (WCASA)  
Date: September 23, 2021  
Re: Senate Bill 245, Child Sex Trafficking Legislation  
Position: Support

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The Wisconsin Coalition Against Sexual Assault (WCASA) appreciates the opportunity to offer this written testimony for your consideration. WCASA is a hybrid organization: functioning both to support member Sexual Assault Service Providers (SASPs), while advancing the anti-sexual assault movement in the state and nationally.

WCASA thanks Chairman Wanggaard for bringing this important piece of legislation forward for a hearing today. We also thank the leading sponsors of the bill, Senators Darling and Johnson and Representatives Billings and Kitchens for their leadership on this legislation in both houses. Additionally, WCASA appreciates the long, bipartisan list of over 40 other cosponsors of Senate Bill 245.

The National Center for Missing and Exploited Children (NCMEC) estimates that of the more than 23,000 endangered runaways reported to NCMEC in 2018, one in seven were likely victims of child sex trafficking.<sup>i</sup> Additionally, the average age of entry into prostitution is between 12 and 14.<sup>ii</sup> This data requires a significant shift in our thinking as well as our policy.

WCASA believes we should treat sex-trafficked children as victims of sexual exploitation – not as criminals. This legislation seeks to do just that. Most victims have a prior history of abuse long before pimps and johns abuse them.<sup>iii</sup> As a result, we should focus our efforts on addressing the complex trauma histories of child sex trafficking victims by providing specialized services, rather than criminalizing them.

Treating sex-trafficked children as delinquents or criminals is self-defeating and harmful. The current approach increases distrust of law enforcement and child protective services, which hinders efforts to prosecute those responsible for child sex trafficking. Most importantly, the isolation of detention and the stigma of being treated as a delinquent serve only to exacerbate individuals' feelings of guilt and shame, ultimately re-traumatizing child victims.<sup>iv</sup>

This legislation is also a key component to dismantling racial disparities in the juvenile justice system. Arresting and prosecuting a child for prostitution is one of the main entry points to the juvenile justice system, also known as the sexual abuse to prison pipeline.<sup>v</sup> Girls of color experience a higher burden of sexual violence and are more likely to be incarcerated for their responses to trauma.<sup>vi</sup> Furthermore, the juvenile justice system is poorly equipped to handle the impacts of trauma on child victims, which not only compounds the harms inflicted by the underlying abuse, but also increases the risk for further sexual victimization.<sup>vii</sup>



To: Members, Senate Committee on Judiciary and Public Safety  
From: Badger State Sheriffs' Association (BSSA)  
Wisconsin Sheriffs and Deputy Sheriffs Association (WS&DSA)  
Date: September 23, 2021  
**RE: Testimony in Support of Senate Bill 245**

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Chairman Wanggaard, and members of the committee, thank you for the opportunity to testify today. My name is Jim Johnson, and I am the Ozaukee County Sheriff. I am here today on behalf of both myself and the two organizations representing Sheriffs, deputies, and jailers. Badger State Sheriffs' Association (BSSA) is a statewide organization representing all of Wisconsin's 72 Sheriffs and Wisconsin Sheriffs and Deputy Sheriffs Association (WS&DSA) is a statewide organization representing over 1,000 members, including Sheriffs, Deputies, and jail officers. BSSA and WS&DSA have a joint legislative committee and work closely on public safety issues of concern to our members.

I am here today to speak in support of Senate Bill 245, often called the "Safe Harbor bill." While it is hard to face this fact - child trafficking occurs in Wisconsin. According to the National Human Trafficking Hotline statistics, in 2019, there were 146 victims identified, 45 traffickers and 18 trafficking businesses. This legislation is an important step to protect children who are trafficked and provide more security for them to not be fearful of prosecution.

In circumstances where a child (individual under 18) is engaged in sex trafficking, the trafficker will manipulate and utilize the risk of their prosecution to deter the child from seeking help. SB 245 will ensure the children in these unthinkable circumstances are treated as victims – not criminals – and allow law enforcement and community service providers to work together to help the victims and prosecute the traffickers.

As law enforcement, it is our focus to ensure the public safety of all Wisconsin residents – we need to protect the youth and provide the assurance that they will not be prosecuted. I urge the committee to support this legislation and ensure Wisconsin can join the 30 other states with Safe Harbor laws.



To: Members of the Senate Committee on  
Judiciary and Public Safety  
Date: September 23, 2021  
From: Jenna Gormal, Director of Public Policy and Systems Change  
Re: Support of SB 245

End Domestic Abuse WI  
1400 E Washington Ave., Suite 227  
Madison, Wisconsin 53703  
(608) 237-3985  
jennag@endabusewi.org

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Thank you for the opportunity to provide testimony regarding Senate Bill 245. End Domestic Abuse WI (End Abuse) is the statewide voice for survivors of domestic violence and the membership organization representing local domestic violence victim service providers throughout the state. We are supportive of SB 245 and respectfully urge the Committee members to approve its passage.

At End Abuse, we recognize that gendered and interpersonal violence do not occur in a vacuum, and that while the details of a victim's experience can vary a great deal from case to case, the dynamics of power and control are always present. For this reason, the strict divisions between different types of gendered and sexual violence are often blurred in the lived experience of survivors, meaning many of our member programs throughout the state often serve human trafficking survivors. Advocates report that these individuals face complex challenges on the road to independence and recovery.

One of the main barriers faced by trafficking victims is related to their experience of the criminal legal system. Many child victims of human trafficking are unjustly charged with prostitution because of the coercion and violence they experienced and must continue through life with a conviction on their record, making it even more difficult for their trauma to heal. For survivors with prostitution convictions, this criminal record makes it difficult to obtain safe housing and gainful employment, leaving children vulnerable to revictimization and re-trafficking. SB245 will eliminate the prostitution penalty for a person under the age of eighteen, ensuring that law enforcement treat children appropriately – as victims of child abuse, not as criminals.

We know that domestic violence is the result of an imbalance of power and control in a relationship. Victims of human trafficking experience many of those same dynamics with their traffickers. Traffickers take advantage of individuals in vulnerable situations, preying on them by promising to provide for their most basic needs, such as food and shelter as well as their emotional needs like the desire to feel loved and be part of a family. By employing these strategies, traffickers are able to lure victims, manipulating and abusing them, often under the guise of a meaningful relationship. For child victims at one of the most impressionable stages of their development, their teenage years, this victimization is particularly destructive to their

identity and sense of self-worth. Prostitution convictions accrued due to victimization serve as further reminders of the trauma that compound damage to a child's sense of self-worth and create a sense of shame.

At End Abuse, we know that victims of crime have a better chance to heal when they have positive support from not only service providers, but their community as well. We work with community partners and law enforcement regularly to improve system responses to domestic violence and human trafficking.

SB 245 is a positive step towards the development of the framework needed to adequately serve child trafficking victims in a trauma-informed manner. Thank you again for the opportunity to offer testimony today. We appreciate the Committee's thoughtful consideration of our concerns, and respectfully urge you to support this proposal.

Feel free to contact me at [jennag@endabusewi.org](mailto:jennag@endabusewi.org) or 608.237.3985 with any further questions or concerns.

My name is Jay Reinke and I am the Chair of the Policy and Legislative Committee for the Human Trafficking Task Force of Greater Milwaukee. I am here to speak in favor of SB245.

The Human Trafficking Task Force of Greater Milwaukee is the community response to eradicating Human Trafficking through coordinated services, education and awareness, and informed policy change. Our members come from direct service agencies, religious organizations, labor groups, and the community at large.

The last time I was here to speak with you all about this important piece of legislation I told you about a young girl I had the privilege of hearing speak about her time as a trafficked teenager. She spoke of how bad things were for her at home, how she ran away and was picked out by a trafficker who groomed her to be part of his stable. She said that when she thought of leaving her trafficker, she didn't know where she could go, so she stayed. She told us how she was picked up by police and turned over to the "Feds," as she called them. She eventually agreed to testify against her trafficker. She was placed in foster care and was told she would be safe. Her trafficker, while in prison, found out where she was and sent people to beat her into silence. They found her outside her "safe place" and beat her badly enough to send her to the hospital. The agents she was working with came to visit her,

wanting to make sure she was still willing to testify. She left the hospital and went into a treatment facility for girls. She said she fought being there, that she was pretty mean to the people at the center, and said some not so nice things to them. But, secretly, she was glad to be there. She said that first night when she laid her head down on her pillow, it was the first time in a very long time she felt safe, and slept through the night. She told us that the people at the center were the first people in her life who cared about just her, and not what she could do for them. She said that although law enforcement and the justice system may have appeared to want to help, they, too, wanted something from her. They wanted her to testify. Her counselors at the treatment center didn't want something from her, they wanted things for her. This young woman eventually found the courage to testify against her trafficker, even after the beating, with her counselor at her side. This brave young woman told her story to a room full of strangers in the hope of educating us as to how to best help victims of human trafficking.

I have heard that some people believe that there are some teens who want to be in prostitution. And in trying to protect their trafficker, or pimp, which in turn protects themselves, some young people may have even said something to that effect. That wouldn't surprise me, or anyone who has any experience working with, or listening to, survivors and thrivers,

those people who have made it out of the life. They may say anything to law enforcement, because it has been reinforced to them, over and over again, that law enforcement personnel are not to be trusted. They are made to believe that it is only the trafficker who has their best interest at heart. That can be really hard for those of us who have never had to live in the life to believe, that someone would think their trafficker was the best option they had. Yet we know that people stay in unhealthy relationships all the time because they don't think they have any other way to live. Healthy options are just one more thing that has been ripped away from these young people.

I have had the privilege of working with young people for over 40 years in different capacities, from being a Sunday School teacher, to youth director, a Big Brother, and a theater director. I get to see what young people can do when they have the support of a family, a community. I see dreams fulfilled. That is why I got involved in this issue over 10 years ago. We have children who don't have that family, that community, to help them achieve their dreams.

Personally, I know that if any of the young people I have worked with came to me and told me they wanted to rent their body to strangers for money, my first call would not be to the police to have them arrested. I would call someone for help. I

would reach out to whoever was willing to help. I would be shouting from the highest mountain top to get them the help they needed to find their true selves. I would be begging and pleading with anyone that I thought could help them. That's why I'm here. That's why I came here before. And that's why I'm hoping I won't have to come back here again. I'm begging with you, I'm pleading with you, please help our children. Please don't take the easy way out and just lock them up. Don't revictimize them again by placing them in a jail cell. Please get them the help they need to live a life we would want for our children, for ourselves. This bill would go a long way in bringing real hope back to our children. It is time for us to believe the victims, the survivors, and the thrivers. A life in sex trafficking, in prostitution is not what they wanted. That's what the pimps and traffickers wanted for them. Join me, join us, in wanting more for our children.

Please join with us at the Human Trafficking Task Force of Greater Milwaukee in supporting of SB245.

Thank You.



STATE REPRESENTATIVE  
**ROBYN VINING**

14TH ASSEMBLY DISTRICT

MILWAUKEE • WAUWATOSA • BROOKFIELD

September 22nd, 2021

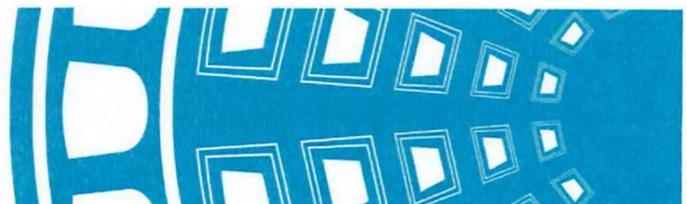
To: Members of the Senate Committee on Judiciary and Public Safety  
Re: Support for Safe Harbor Bill (Senate Bill 245)

Child victims should not be charged with the crimes of their abusers.

Forward together,

Robyn Vining  
Wisconsin State Representative  
14th Assembly District

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**PREPARED TESTIMONY OF ATTORNEY GENERAL KAUL**  
2021 Senate Bill 245/2021 Assembly Bill 185  
Senate Committee on Judiciary and Public Safety

Thursday, September 23, 2021

Senator Wanggaard, Chair, and Senator Wimberger, Vice-Chair:

Thank you for the opportunity to submit testimony regarding 2021 Senate Bill 245. I thank Senator Darling, Representative Billings, and the other legislators who have worked on this legislation.

Human trafficking is a horrific crime, and combatting it is a priority of the Wisconsin Department of Justice.

As understanding of the dynamics of this crime has grown, there has been increasing recognition that many people involved in prostitution are human trafficking victims. When those people are minors, their involvement in prostitution establishes that they are crime victims. Involving a minor in sexual acts for money or anything of value is a crime, regardless of whether force, fraud, or coercion is involved. *See Wis. Stat. § 948.051(1)*.

Senate Bill 245 resolves the contradiction of allowing a minor to be charged with a crime for the exact circumstances under which that person is a victim. I encourage the members of this committee to support this bill.

Beyond passage of this legislation, there is much additional work to be done to support minors who are prostituted and other victims of human trafficking. It is important to recognize that the criminal justice response to human trafficking must be paired with a comprehensive social services response in order to help victims regain control of their lives. I ask members of this committee to work with the Wisconsin Department of Justice to develop legislation that would help those who are victimized and help hold traffickers accountable.

Information about human trafficking can be found at [www.BeFreeWisconsin.com](http://www.BeFreeWisconsin.com) and [www.WisconsinTalks.org](http://www.WisconsinTalks.org). People can provide tips to the National Human Trafficking Resource Center by calling 1-888-373-7888.

If you have any questions, please contact the Department of Justice's Government Affairs Director, Chris McKinny, directly at [McKinnyCJ@doj.state.wi.us](mailto:McKinnyCJ@doj.state.wi.us) or (608) 224-9207.

## CHILDREN & THE LAW SECTION

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To: Members, Senate Judiciary and Public Safety Committee  
From: State Bar of Wisconsin, Children & the Law Section  
Date: September 23, 2021  
Re: Support for SB 245 – Safe Harbor

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The State Bar of Wisconsin's Children & the Law Section supports SB 245, Sen. Darling's Safe Harbor legislation, which removes the ability to charge a child with prostitution. **A child under the age of 18 cannot consent to sexual behavior and should not be considered a criminal, but rather a victim and survivor of sexual exploitation.**

Children are victims of a crime when they are being sex trafficked. They are being forced to have sex and possibly engage in other illegal activities. The Children & the Law Section supports SB 245 as it prevents victims of a heinous crime from being prosecuted. This is especially important in trafficking cases, as these situations are hard to identify as such because they are complicated and involve coercion, manipulation, and often the use of physical force.

Over the last several years, WI attorneys have seen large numbers of children that are victims of sex trafficking. Reporting data backs up that observation, although experts in the field believe the data is still grossly underestimated, even after 2015 WI Act 367, which formalized the requirements for the child welfare response to child sex trafficking and require suspected cases of sex trafficking of a child be reported to local child welfare agencies or local law enforcement.

In April 2013, the Milwaukee Homicide Review Commission Report reported at least 77 youth were trafficked in the Milwaukee area from August 2010-August 2012. In 2014, that number jumped to 143, according to Proactive Outreach for the Health of Sexually Exploited Youth. From June 2017-August 2018, data from the Wisconsin child welfare information system found 178 allegations of child sex trafficking were reported in Milwaukee.

This is not an issue exclusive to Milwaukee – child sex trafficking occurs in both rural and metropolitan areas. From 2007-2019, 2,433 reports were made to the National Human Trafficking Hotline from Wisconsin, with nearly 600 cases confirmed. Between June 2017-August 2018, 244 cases of child sex trafficking were reported outside of Milwaukee.

Victims come from every race, gender, age, socioeconomic class, and ethnicity. Child victims of trafficking are exploited for commercial sex, survival sex, and labor purposes. Traffickers often use force, fraud, manipulation, and coercion to exploit their victims.

In addition to the trauma induced from sex trafficking, arrest and prosecution for prostitution can further traumatize victims, as well as leave him or her with a profound distrust of law enforcement, often preventing victims from seeking assistance. Furthermore, the criminal record that results from being arrested can act as a barrier to future employment and other opportunities.

**SB 245 is a tremendous step forward in protecting the innocent lives of Wisconsin youth who are victims of sex trafficking, and for the reasons outlined, the Children & the Law Section supports this legislation.**

For more information, please do not hesitate to contact our Government Relations Coordinator, Lynne Davis, [ldavis@wisbar.org](mailto:ldavis@wisbar.org) or 608.852.3603.

*The State Bar of Wisconsin establishes and maintains sections for carrying on the work of the association, each within its proper field of study defined in its bylaws. Each section consists of members who voluntarily enroll in the section because of a special interest in the particular field of law to which the section is dedicated. Section positions are taken on behalf of the section only. The views expressed on this issue have not been approved by the Board of Governors of the State Bar of Wisconsin and are not the views of the State Bar as a whole. These views are those of the Section alone.*



STATE BAR OF WISCONSIN