



JANEL BRANDTJEN

STATE REPRESENTATIVE • 22ND ASSEMBLY DISTRICT

Thank you Chairman Larson and the members of the Family Law Committee for allowing me to testify today on behalf of Assembly Bill 489.

Ever since Dr. C. Henry Kempe published his paper on the “Battered Child Syndrome” in 1962, the American people have taken steps to protect the nation’s children from harm. Child abuse and neglect has become one of the main challenges of health and human services departments across the country. Here in Wisconsin the Department of Children and Families (DCF) has cabinet level status.

Child abuse can come in many forms including physical, emotional and sexual abuse. Neglect is defined as failing to provide basic necessities to a child including food, clothing and shelter. The State of Wisconsin recognizes that parents who live poverty are not willingly denying their children the basic necessities and therefore are not guilty of neglect however the state will intervene on behalf of the child to provide services.

One of the most horrific abuses a child can suffer is being sexually exploited by trusted adults or caregivers. The nature of our society in the 21st century has allowed the vile practice of human trafficking to grow into a billion dollar industry. The internet provides a vehicle for traffickers and customers to find each other. Strip clubs provide cover to traffic older victims and pornographic websites frequently use “models” that have been threatened or intimidated into complying with the wishes of a controlling individual, usually male.

Awareness of human trafficking has increased in the past few years. The National Human Trafficking Resource Center’s hotline received just over 5,000 phone calls in 2008, by 2013 the number of calls were over 31,000. Although human trafficking is traditionally associated with large urban centers, a human trafficking sting last year led to six arrests in Northwest Wisconsin.

Victims of human trafficking for purposes of sexual exploitation generally live in seclusion with extremely limited exposure to the outside world. It is not uncommon for victims to have zero contact with outside human beings other than their “pimps” and customers. Much of the human trafficking in the United States is controlled by organized gangs and their methods of doing business has become much more sophisticated in the past decade. Organized gangs have turned both drug and human trafficking into effective money making ventures. Both based on coercing vulnerable victims into a life of slavery and intimidation.

We have an obligation to make sure that all of Wisconsin’s children grow up in a safe environment free from abuse and neglect. It is the responsibility of every adult to be aware of the warning signs and

report suspected abuse to the authorities. The Human Trafficking legislation that I have proposed is a significant step in that direction.

The bill adds health care providers to the list of mandated reporters for children. Human traffickers (“pimps”) rely on the fact that many healthcare providers are reluctant to report abuse and the exemptions are confusing at best. Since we know that many children living under this horrific lifestyle have very little contact with the “outside world” and encounters with healthcare providers at clinics are frequently the ONLY opportunity we have to rescue these victims.

In addition to Health care providers, the bill also expands mandated reporter to include parole agents, probation officers and certain school personnel.

Finally, the bill excludes “for reasons other than poverty” in the definition for mandated reporters, all other definitions of abuse or neglect retain the phrase. In Wisconsin we do not consider certain violations “neglect or abuse” if the situation is occurring because the parent or guardian does not have the financial resources to correct the situation. The reason we remove this exemption from mandated reporters is so that the authorities are notified that a situation exists and can provide the needed services to correct the situation.

Thank you,

State Representative Janel Brandtjen

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Pimp who left prison with business plan is going back for 18 years

By [Bruce Vielmetti](#) of the Journal Sentinel
Nov. 25, 2015

Standing before a federal judge Wednesday, Drayon Wren said that when he was released from an eight-year term in state prison, he was confident he was the "one in a million" who could achieve his dreams.

Wren, 38, had written a play and a novel while in prison. He had taken classes in business management, and had a formal business plan for a streaming media urban entertainment outlet for Milwaukee talent.

He said he only started sex trafficking his girlfriend and three 17-year-olds to raise the capital he need to launch his legitimate venture.

"My thought process went wrong," Wren said.

U.S. District Judge J.P. Stadtmueller agreed and sentenced Wren to 18 years in prison, concurrent to the rest of a state sentence he's serving for violating probation on a reckless injury conviction.

Stadtmueller remarked on the "depravity" of Wren's crime, that targeted "our most precious resource, our young people."

Wren's attorney, Thomas Erickson, suggested his client deserved something in the range of 11 years, because he didn't have a large stable of prostitutes, didn't use a gun or personally sexually abuse his victims. He called it a "low rent" operation, in which Wren and his girlfriend Robin Wright, who recruited the 17-year-olds and also performed prostitution, were "barely getting by."

According to court records, Wren and Wright took two 17-year-olds to an Elk Grove, Ill., hotel in June 2014. Wren had the girls stay in a bathroom and watch Wright and a customer to learn how to do "dates."

They did a couple before falling asleep with Wright, which angered Wren, who was upset that they weren't all working. One of the girls tried to call her sister in Milwaukee to come get them, and the Elk Grove police responded to the hotel.

Wren and Wright were charged in August 2014. Wren pleaded guilty in July to four sex-trafficking-related charges in a federal indictment. A third minor victim was prostituted during earlier sessions, according to court records.

Wright, 22, pleaded guilty in June to interstate travel in promotion of prostitution and was sentenced in September to time served and two years of supervised release.

Find this article at:

<http://www.jsonline.com/news/crime/pimp-who-left-prison-with-business-plan-is-going-back-for-18-years-b99623643z1-354042411.html>

Check the box to include the list of links referenced in the article.



Court records detail group's sex trafficking, 'pimp roundtables'

By [Ashley Luthern](#) of the Journal Sentinel
Oct. 28, 2015

A Milwaukee man, described by prosecutors as a pimp who taught his teenage son how to sexually exploit women, regularly participated in "pimp roundtables" during which men engaged in the illegal trade would discuss business practices, according to federal court documents.

David Moore pleaded guilty on Tuesday to two charges related to sex trafficking. Moore, 47, also known as "King David," and Paul Carter, 45, known as "Pimpin' Paul," were indicted once before a federal grand jury issued another indictment last year with more charges, including conspiracy, sex trafficking of adults and minors, and related offenses spanning from 2007 to 2013.

Federal court documents outline how Moore and Carter met, as well as how Moore's son became involved in sex trafficking.

According to those records:

Moore and Carter met in 2004, when Carter tried to persuade a woman being prostituted by Moore to work for him instead. Moore confronted Carter and threatened to fight him, but Carter backed down.

When Moore was released from prison in 2006, the two established a friendly relationship.

Prosecutors say the two would drive the streets of Milwaukee on an almost daily basis to try to recruit young women to work for them through force, fraud or coercion. They would compete to recruit new victims and would critique each other's approach to luring potential victims into the sex trade.

Moore told authorities he frequently visited the Milwaukee "tracks" — areas well-known for prostitution — with Carter to "troll for victims" and to monitor the women working for Carter, according to Moore's plea agreement.

He also would accompany Carter to the Greyhound Bus station in Milwaukee and saw Carter pick up young women who were under Carter's control. The women were returning from out-of-town engagements for dancing and prostitution and would turn over cash to Carter, saying "Here, Daddy."

Carter was known as a "gorilla pimp," meaning he frequently used violence, force and other means of coercion to keep his victims working as erotic dancers and prostitutes.

'Pimp roundtables'

Federal records also detailed how Carter's violent actions were sometimes the subject of the "pimp roundtables," which he and Moore attended. Other pimps who engaged in sex and labor trafficking also attended the meetings and discussed methods to pressure pimps who were not following accepted norms to correct their behavior, citing such things as fighting among pimps or using excessive violence against trafficking victims.

According to court documents:

Moore told investigators about witnessing Carter's violence numerous times, including once when Carter punched a woman repeatedly for perceived disrespect and then continued to beat her with a dresser drawer. Moore told officials he did not intervene to stop the beating.

Another time, Moore was with Carter at a bar and saw Carter force a trafficking victim to get on her hands and knees and bark like a dog as "punishment" for having accepted a drink from another man, according to court documents.

Moore told Carter he should use less violence and instead use other strategies to persuade his victims to stay with him.

Moore pleaded guilty to conspiracy to commit sex trafficking with Carter and pleaded guilty to a second charge of trafficking his son's teenage girlfriend.

Moore's son and his girlfriend were living with Moore in 2008. The girl, then 16, was coerced into strip club dancing and prostitution, and later told investigators she saw Moore instructing his son on how to be a pimp.

The girl told authorities that after her fake ID was discovered and she was banned from strip clubs for being underage, she was taken to taverns and expected to generate three "dates" per night and earn at least \$450 or be beaten.

Moore's son, [Najee Moore, 24](#), is awaiting sentencing in federal court [after pleading guilty last year to six charges related to sex trafficking](#).

Najee Moore was described in court documents and by a former victim — [known as "J" who spoke to the Milwaukee Journal Sentinel earlier this year](#) — as a "Romeo" or "romance" pimp who coerced women by acting like a boyfriend. Experts say once a Romeo pimp is no longer able to control a woman through flirtation and loyalty, he escalates to physical force.

Carter, who faces eight federal charges related to sex trafficking, has waived his right to a speedy trial. His next court hearing is scheduled for January.

Find this article at:

<http://www.jsonline.com/news/crime/court-records-detail-groups-sex-trafficking-pimp-roundtables-b99605215z1-338052891.html>

Check the box to include the list of links referenced in the article.



Throwing the book at pimping

April 4, 2012

After the umpteenth joke about the pimp with 12 children by 10 women, it's time to remind some folks that Milwaukee has never been a stranger to this type of thing.

Pimping, I mean.

U.S. District Judge Rudolph T. Randa sentenced convicted pimp Sean Patrick to 30 years in prison this week for his role in sex trafficking of girls in Wisconsin and other states.

Patrick also had been sentenced to 20 years in state court for killing a rival pimp.

Randa injected some humor into the proceedings by noting Patrick's large number of children by different women and questioned how the defendant could satisfy them all.

"I can't even satisfy my wife," said the judge.

It was a joke, but the punch line is really on all the young women and girls who fall for pimps like Patrick and end up being exploited physically, psychologically and financially.

In recent years, there's been a parade of court cases involving Milwaukee pimps - usually African-American males - accused of forcing young females to get involved in a dangerous and degrading career.

Most of the cases against pimps in federal court are eerily similar in the way the pimps recruit and exert control over their young charges, usually by violent means. Patrick was convicted of shipping child prostitutes to Chicago and elsewhere to sell sex and using violence to keep them in line.

Father and son team Todd "King Tut" Carter and Nicholas Harrison were convicted of prostituting a half-dozen teenage girls throughout the Midwest. Accused pimp Derrick Avery, known as "Pimp Snooky," is scheduled to be sentenced in federal court soon for running sex operations with young women and girls he controlled through violence.

Their methods of recruiting young females into prostitution were so similar, it's almost like they were reading from the same game plan.

They were: Iceberg Slim's.

Iceberg Slim - his real name was Robert Beck - was a legendary pimp and author of numerous autobiographical novels including "Pimp: The Story of My Life," published in 1969.

Beck made his career in Chicago but reportedly spent most of his childhood in Milwaukee.

"Pimp" became popular among some young black men for divulging secret details about the way a pimp could convince young women to become prostitutes through a form of mind control that involved both seduction and the threat of violence.

I read the Iceberg Slim books as a teenager in Philadelphia while living in a tough neighborhood where pimps and prostitutes were not unknown commodities. After moving to Milwaukee in the 1980s, I was amazed to see how much of the "pimp culture" was ingrained in some African-American men in this city.

That's why it's not really a surprise to see a string of Milwaukee pimps now facing federal charges for their lifestyles.

I struggled with the idea about writing about "Pimp" because it's not really the kind of book I'd recommend to an impressionable young black man due to the way it depicts most women.

But given the recent cases in federal court, I think black parents in Milwaukee should know more about the reality of pimping in order to warn their daughters about the kind of men who have adopted this book as a sort of Bible.

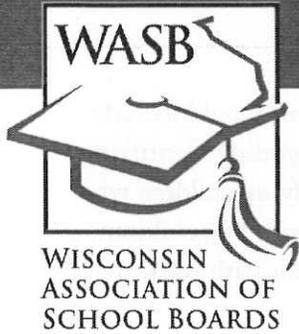
In this case, it's a book with only evil intentions.

Contact Eugene Kane at (414) 223-5521 or ekane@journalsentinel.com. Follow him on Twitter [@eugene_kane](https://twitter.com/eugene_kane)

Find this article at:

<http://www.jsonline.com/news/milwaukee/throwing-the-book-at-pimping-gi4sgka-146208125.html>

Check the box to include the list of links referenced in the article.



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John H. Ashley, Executive Director

TO: Members, Assembly Committee on Family Law
FROM: Dan Rossmiller, Government Relations Director
RE: Opposition to Assembly Bill 489, Relating to Mandated Reporting of Child Abuse and Neglect
DATE: December 8, 2015

Chairman Larson and committee members, thank you for the opportunity to express our concerns about Assembly Bill 489. My name is Dan Rossmiller and I am the government relations director for the Wisconsin Association of School Boards (WASB), representing 423 school boards across the state of Wisconsin. I am here to speak about the portions of the bill that would affect school boards and school districts.

Current law requires all school employees to report suspected child abuse or neglect. School employees are required to make a report if they have reasonable cause to suspect that a child seen in the course of professional duties has been abused or neglected, or if they have reason to believe that a child seen in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur. The intentional failure to report as required may result in a fine, imprisonment or both.

This bill would apply a similar requirement to school volunteers and contractors who work directly with children for at least 40 hours in a school year.

The WASB has strong concerns that Assembly Bill 489 could impose costly requirements on school districts without directly contributing to ensuring the safety of children and that it could have a serious "chilling" effect on the willingness of parents and others to volunteer in schools. Further, because the bill provides no funding, these new requirements would become unfunded mandates on schools.

The addition of volunteers and contracted personnel who perform services for school districts (such as food service and bus transportation, for example) to those required in report suspected child abuse or neglect would have several impacts on schools. It would, for example, require schools to keep track of how many hours volunteers and contractors spend in direct contact with children each school year or risk liability in order to make sure those who have worked directly with children for 40 hours or more know about and fulfill their responsibilities under the bill.

Schools would also have to track these hours to know who must receive required training as the bill would also require schools to train all volunteers and contracted personnel who work directly with children at least 40 hours in a school year. Someone in each school or school district, presumably a paid school employee, would have to take on this additional responsibility of tracking volunteer contact with children and setting up a system for reporting and recording this information. Presumably, either schools or the vendors they contract with for contracted personnel would have to do the same.

The training required under this bill for qualifying school volunteers and contracted personnel would include not only the DPI-provided instruction schools must already provide to school employees regarding identifying children who have been abused or neglected, but it would also include instruction on identifying children who are victims of human trafficking. Currently, a school employee must receive training on identifying children who have been abused or neglected within the first six months after commencing employment with the district and at least once every five years after that initial training.

The bill would add a requirement that all school employees also receive training on identifying children who are victims of human trafficking. It is not clear from the bill when this requirement must be fulfilled. That is, the bill does not specify whether school employees who have already been trained on identifying children who may have been abused or neglected must receive new, additional training immediately or when they are due for refresher training.

More importantly, because mandated reporters are subject to criminal penalties, including fines and imprisonment or both, if they fail to report suspected child abuse or neglect or if they violate confidentiality provisions related to such reports, the WASB is strongly concerned this bill, by potentially making school volunteers subject to those criminal sanctions, could deter parents and other community members from volunteering in schools. It is not clear whether school volunteers might also be subject to potential civil liability as well under this bill, but that is yet another reason for potential volunteers to carefully consider whether and/or how often they wish to volunteer in schools.

Under current law, all persons required to report suspected child abuse or neglect, including all school employees, must immediately inform, by telephone or personally, the county department of social/human services or the sheriff or city, village or town police department of the facts and circumstances contributing to the suspicion of child abuse or neglect or to a belief that abuse or neglect will occur. A county department may require that a subsequent report be made in writing.

If a reporter suspects that a child's health or safety may be in immediate danger, he/she may request an immediate investigation by the sheriff or police department. Persons making child abuse/neglect reports should be prepared to give demographic data and the circumstances of their belief about abuse or neglect. Specifically, the information should include:

- the reporter's name, phone number, relationship to the child and school phone number;
- the child's name, address and age;
- the child's parents' names, address(es), work place(s), names and ages of siblings; and
- a description of the suspected abuse or neglect, statements of the child, statements allegedly made by the child to others, and any circumstances or conditions in the home or elsewhere of which the reporter is aware.

A volunteer may not have ready access to this type of information. In addition, the original person who suspected the abuse or neglect is expected to make himself or herself available to child protective services staff when they conduct an investigation about the report. It may not always be possible for a volunteer to make himself or herself available. In addition, volunteers are, by definition, not paid for their services and making themselves available would essentially require volunteers to provide additional unpaid service.

Yet another concern is that if this bill becomes law, school volunteers would have to be trained so they fully understand that under current law simply reporting suspicions to an administrator or other school staff member or asking someone else to make the report does not absolve a required reporter from their legal responsibility for making a report. If the other person fails to make the report, the person who originally suspected the abuse or neglect (the person with firsthand knowledge) remains legally responsible for the consequences of not reporting. This could be a trap for the unwary volunteers, who are often parents or senior citizens who simply want to help out their local school and give back to their community. It could subject them to serious legal consequences they never anticipated.

The bill would also require schools to rewrite existing contracts with food service and bus transportation providers to require that training for contracted workers be a condition of receiving the contract. If contractors agree to take on the responsibility for tracking their workers contact with children and for ensuring those workers receive the required training, one would expect they would pass their costs on to schools and districts by raising the cost of providing their services. The bill would also likely require all existing and new school employees to receive additional training in identifying children who are victims of human trafficking and there may be additional costs associated with this mandate as well.

School boards already may, as a matter of local control, adopt local policies to require other individuals who are not school employees but who perform services for the schools or work with students in the schools who suspect child abuse or neglect to make either an internal or external report. School districts that choose to use policy to expand the group of individuals who are expected to recognize and report possible abuse or neglect in the school setting must, of course, take care to provide notice of these expectations and related training to those individuals. In these cases, however, they undertake this decision knowingly and voluntarily with a full understanding of the potential costs involved rather than because they are required by law to do so. School districts that do this voluntarily may have greater flexibility about how to structure the responsibility of volunteers and contracted personnel. Under current law, individuals who are required reporters are permitted (but not statutorily required) to report suspected abuse or neglect using the same procedures that a statutorily mandatory reporter would use.

Because school boards already have the option to require, by school district policy, school volunteers and contracted personnel to report suspected child abuse and neglect reporters, we question the necessity of statutorily requiring school volunteers and contractors to be mandatory reporters.

For all of the cited reasons, the WASB *opposes* Assembly Bill 489.

Testimony on AB 489
Kenneth G. Schellhase MD MPH
Waukesha, WI

Dear Chairman Larson and members of the committee,

I am a family physician practicing in Waukesha for nearly 15 years now, where I've cared for many children and adolescents, and delivered many babies—many of them with teenage mothers. I'm also the father of 4 boys, all in adolescence right now. And I attend Catholic church where I've taught confirmation to adolescents and serve regularly as a Eucharistic Minister.

I'm here to implore you to remove section 29 from the provisions of AB 489. While I think I understand the motivations behind this provision, I am here to tell you that removing the reporting exemption will **harm the children of Wisconsin**. Maybe my children, maybe your children or your neighbors', but our children—Wisconsin's children--will be harmed.

Our children will be given a clear and powerful disincentive to seek care if they become sexually active, and thereby lose the opportunity to learn more about the consequences of their sexual activity, or to access effective methods to prevent pregnancy.

Our children may then be left with two bad options—raising a child they are ill prepared to raise, or having an abortion that didn't need to happen in the first place if they had only gotten appropriate medical advice and care.

Our children will be left to try to decide how long they can hide their pregnancy, which will lead to delayed prenatal care, or no prenatal care at all—to the great risk of teen mother and child. We already have high rates of infant mortality and premature births in Wisconsin—make no mistake, this bill WILL make those problems worse.

Our children will be left to decide whether to come forward for treatment of their sexually transmitted infection, or in typical teenager fashion, to drag their feet and hope that it just "goes away." Yet with each additional passing day their health will be at higher risk of increasingly serious complications of untreated, uncontrolled, infections.

I'm sure these consequences of removing the reporting exemption are not the intent here, but they are real, and they will happen.

Please remove section 29 from AB 489. My children, your children, our children, need this change to AB 489.

Thank you for your attention.

Ken Schellhase, MD
262-501-7545

To: Assembly Committee on Family Law

From: Dee Pettack, Legislative Liaison

Date: December 8, 2015

Re: Statement in Opposition to Assembly Bill 489

Under current law, each school board must require every employee of the school district governed by the school board to receive training, provided by the Department of Public Instruction (the department), in identifying children who have been abused or neglected and the laws and procedures related to mandated reporters.

This bill expands this training requirement to apply to **all** school employees, contractors, or volunteers, other than children or students who have not yet graduated from high school, who work directly with children at least 40 hours in a school year, and who are affiliated with the school district governed by the school board. The bill also requires that this training include training in identifying children who are victims of human trafficking.

The department provides training for employees in identifying children who have been abused or neglected and welcomes the opportunity to have a conversation about incorporating instruction on identifying children who are victims of human trafficking into existing training and information provided to school districts. However, the department has concerns with the additional provisions in AB 489 including:

- Applying the training and reporting requirements to volunteers based on a 40-hour threshold will create new record keeping burdens on schools and could discourage volunteerism in schools or make it difficult for schools to find trained volunteers. Volunteers may have limited interaction with many different students during their service to the school and may lack the ability/willingness to assume the duties and legal liabilities associated with being a mandatory reporter.
- Removing the words “severe or frequent” from the phrase “severe and frequent bruising” within the definition of “physical injury,” could potentially result in over-reporting. (i.e., reporting suspected cases in which the bruising is just a result of normal child activity)
- This bill makes changes to the definition of “Physical Injury” and “Neglect.” While the bill expands what must be reported regarding physical injury and neglect, it fails to similarly expand what Child Protective Services (CPS) may investigate. This may result, in more referrals being made in which CPS is unable to investigate.
- This bill also removes poverty as an exemption when reporting neglect. As a result, children who may not have sufficient food, shelter, clothing, health care, etc. **solely** because they are living in poverty would have to be reported. Furthermore, CPS would not be able to investigate on that basis; again, resulting in more referrals being made in which CPS is unable to investigate.

TO: Assembly Committee on Family Law
FROM: Angela Janis, MD -- Board of Directors Member for the Wisconsin Alliance for Women's Health
RE: Testimony In Opposition to 2015 AB 489--Changes to Child Abuse and Neglect Reporting Laws
Date: December 8, 2015

Chairperson Larson and members of the Assembly Committee on Family Law, thank you for the opportunity to share my written testimony in opposition to AB 489, which would eliminate the current exception to the child abuse and neglect mandatory reporting requirements that allows children to receive certain "confidential health services." While AB 489 makes many other changes to Wisconsin's child abuse and neglect mandatory reporting laws and other laws regarding human trafficking, my testimony will focus solely on Section 29 of the bill, which would eliminate s. 48.981 (2m) of the Wisconsin Statutes.

As quick background, current law generally requires certain professionals to report suspected cases of child abuse or neglect to law enforcement, a child welfare agency, or child protective services that the reporting professional observes in the course of her or his professional duties. Most health care professionals are mandatory reporters under Wisconsin law.

Wisconsin law carves out an exception to the mandatory reporting requirements to allow children to receive confidential reproductive health care services in situations that do not involve abusive, exploitive, or non-consensual relationships under s. 48.981 (2m). This exception applies to physicians, registered nurses, and physicians assistants who provide reproductive health care services such as pregnancy testing, obstetrical health care or screening, and diagnosis or treatment for a sexually transmitted infection. Without this exception, any health care professional that provides these services to children would be required to report any sexual activity in which the child has engaged to law enforcement, child protective services, or child welfare agencies.

There are important public health policy justifications for the exceptions contained in s. 48.981 (2m). Privacy concerns act as significant barrier to adolescents' willingness to access needed health care, especially in regard to more sensitive health care topics such as reproductive or mental health¹. Just as importantly, research indicates that the vast majority of adolescents will not stop engaging in sexual activity if they were to lose access to confidential reproductive health care services. Rather, they would simply quit accessing needed care.²

Concerns about confidentiality also affect the quality of adolescent health care. Adolescents who are worried that their privacy will not be honored are less likely to disclose crucial medical information to their health care professional, which undermines effective communication and the physician-patient relationship.³ As a practicing psychiatrist, I can certainly speak to the importance of protecting confidentiality in the context of the physician-patient relationship. The fact that my adult patients know that, with very limited exceptions, their communications with me will remain confidential greatly enhances the quality of care that I able to provide them. This of course is not surprising; as most of us would be quite hesitant to have completely open and honest exchanges of information with our physicians if we were worried that the contents of those conversations would be shared with others outside the scope of our care.

(OVER)

¹ https://www.adolescenthealth.org/SAHM_Main/media/Advocacy/Positions/Aug-04-Confidential_Health_Care_for_Adolescents.pdf

² *Id.*

³ *Id.*

Finally, it is important to remember that the current mandatory reporting exception is carefully limited to ensure that abusive, exploitive, or non-consensual sexual relationships involving children are still reported to the appropriate authorities. A report is still required if the health care professional suspects that:

- That the sexual intercourse or sexual contact occurred or is likely to occur with a caregiver
- That the child suffered or suffers from a mental illness or mental deficiency that rendered or renders the child temporarily or permanently incapable of understanding or evaluating the consequences of his or her actions
- That the child, because of age or immaturity, was or is incapable of understanding the nature or consequences of sexual intercourse or sexual contact
- That another participant in the sexual contact or sexual intercourse was or is exploiting the child
- That there is any reasonable doubt as to the voluntariness of the child's participation in the sexual contact or sexual intercourse

The current structure of this exception to the mandatory reporting law, and the exceptions to that exception, constitute a reasoned and delicate balance between the very legitimate interests in ensuring that abusive conduct towards children is reported to the appropriate authorities and that children can access crucial health care services that are best delivered in a confidential manner when possible.

This balanced approach is supported by organizations and individuals in the medical community that are dedicated to promoting the wellbeing and health of Wisconsin's children. Just as importantly, current law is also supported by organizations that advocate on behalf of child victims of abuse, such as the Wisconsin Coalition Against Sexual Assault and End Domestic Abuse Wisconsin. Quite simply, there is no compelling evidence that this current framework needs to be dismantled or amended. As a result, the Wisconsin Alliance for Women's Health respectfully requests that you oppose AB 489 so long as it contains the repeal of or any changes to s. 48.981(2m).

(OVER)

Testimony in Support of AB 489 – 12/8/2015

My name is Dr. Christine Zainer. I am a retired Assistant Professor of Anesthesiology from the Medical College of Wisconsin testifying as an individual physician. Women's health has been an area of interest. I have co-authored a peer-reviewed article with ~100 references on the epidemiology of breast cancer including the effects of hormonal contraceptive and hormone replacement steroids and induced abortion.¹ I am a member of several professional physician anesthesiologist societies and the Catholic Medical Association.

Childhood sexual abuse is pervasive problem nationwide² which leads to later sexual exploitation and high risk sexual behaviors.³ I was surprised to learn that Midwest states especially Wisconsin are heavily involved with sex trafficking with 13 being the average beginning age.⁴ According to the May 2012 Wisconsin Human Trafficking Protocol & Resource Manual "more than 200 potential cases of trafficking have been identified in Wisconsin, but there have been only two state prosecutions and 4 federal convictions."⁵

It is hard to imagine that a serious effort by our State to attack this problem is to keep the status quo in the law that allows some healthcare providers, precisely the persons who can identify and document the child sexual abuse, to avoid reporting it. What is the evidence basis provided by those claiming that by keeping these crimes confidential and the predators from scrutiny or law enforcement that that will somehow result in any improved protection for the child including the immediate and well-documented dangers associated with childhood sexual contact?

When I told both liberal (teacher) and conservative friends alike (parents of

¹ Schneider AP, Zainer CM, Kubat CK, Mullen NK, Windisch AK. The breast cancer epidemic: 10 facts. *The Linacre Quarterly*. 2014;81(3):244-277. doi:10.1179/2050854914Y.0000000027.

<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4135458/>

²http://www.nsvrc.org/sites/default/files/NSVRC_Publications_TalkingPoints_Understanding-Child-Sexual-Abuse-definitions-rates.pdf (Accessed December 7, 2015)

³Lalor, K. & McElvaney, R. (2010). Child sexual abuse, links to later sexual exploitation/high risk sexual behavior and prevention/ treatment programmes. *Trauma, Violence and Abuse*, (11), 159-177. <http://www.ncbi.nlm.nih.gov/pubmed/20679329>

⁴<http://unluckythirteen.org> (Accessed December 8, 2015)

⁵ Wisconsin Human Trafficking and Resource Manual, May 2012. Wisconsin Office of Justice Assistance Human Trafficking Committee, https://www.wcasa.org/file_open.php?id=336

school-age children) that physicians don't always have to report childhood sexual abuse, they were simply astounded as was I. I was always under the impression that it would have been my duty as a physician to report any type of abuse against a child as a crime. As a divorced mother I would have welcomed mandatory reporting by professionals of sexual abuse should that have been necessary in relation to my own children.

Mandatory reporters include teachers and others in contact with the child. Yet, none of these mandatory reporters have the unique position and indispensable knowledge as does and should the physician, to identify the physical and other signs of child sexual abuse.

What is sexual abuse? While definitions may include various degrees of unwanted or nonconsensual sexual contact, with or without penetration and while the terms of "suspected abuse" or "consensual" are debated by some, other states, are clear on a few obvious basics. For example, the Colorado Department of Health and Human Services mandatory reporter training specifically states that a child getting pregnant or with sexually transmitted infections, particularly under the age of 14, is considered sexual abuse.⁶

This is an important finding in determining and detecting abuse since even the prochoice Guttmacher Institute reports that less than or equal to 2% of adolescents have had sex before age 12 and only 16% by age 15.⁷

In a review article by the American Journal of Public Health on school age child-bearing, the authors noted that of the school-age girls who became pregnant "two thirds (65.5%) had a post school age adult partner who on average was >4 year older. The authors stated, "the gap is especially significant because teenage mothers with much older partners are disproportionately the childhood victims of sexual assault by adult men."⁸

Safety of the victim is sometimes used to justify avoidance of mandatory reporting. The 2013 American Academy of Pediatrics (AAP) clinical report,

⁶ Mandatory Reporter Training, Colorado Office of Children, Youth & Families, Division of Child Welfare, Child Welfare Training System, <http://www.coloradocwts.com/mandatedreporter/healthcareproviders/> (Accessed December 6, 2015).

⁷ Fact Sheet: American Teens' Sexual and Reproductive Health, Guttmacher Institute (May 2014), <http://www.guttmacher.org/pubs/FB-ATSRH.html>. (Accessed December 7, 2015)

⁸ Mike Males & Kenneth S.Y. Chew, *The Ages of Fathers in California Adolescent Births, 1993*, 86 Am. J. of Pub. Health 565, 565-68 (1996), <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1380562/pdf/amjph00515-0103.pdf>

“The Evaluation of Children in the Primary Care Setting When Sexual Abuse is Suspected” states that 1st of 5 issues to be addressed is safety of the victim.

The questions that should be asked are whether:

- the child is in imminent risk of harm if sent back to the environment where a possible perpetrator has access to them,
- the child is likely to be harmed or punished for disclosing the abuse,
- there is concern that the child would be coerced or intimidated to recant the disclosure.

According to the AAP, “If the answer is yes or maybe” to any of them then this is a child protection emergency and the appropriate authorities (child protection services) or law enforcement should be contacted.”⁹

The 2nd of the 5 issues is reporting to authorities. The AAP authors discuss the reluctance to report, “Pediatricians worry about the intrusion of agencies into family life, the risk of the child being separated from the parents, or the possibility that the family will leave the practice if reported to a child protection agency. Some pediatricians have experienced negative interactions with child protection agencies, which could make them distrustful of an agency’s response and its effect on the family.³⁴ Some physicians might overestimate their ability to manage the situation within their practice.” The AAP report states, “Physicians should not let these concerns act as barriers to protecting a child.” Others may be concerned about litigation, but, “In the United States, physicians are protected against liability for reporting a reasonable suspicion of child abuse and neglect if the report is made in good faith,” and that “the safety of the child should take precedence over the physician’s fear of lawsuits.”¹⁰

The 3rd of 5 issues is: The child’s mental health. Identifying the need for emergency mental health and care should be sought. Depression and post traumatic stress disorder may have already developed. The threatened loss of the financial provider may provoke anger toward the child.¹¹

The 4th is: The need for a physical examination either emergently to rule out injury and/or for referral to a specialty center.¹²

⁹ Carole Jenny, MD, MBA, James E. Crawford-Jakubiak, MD, Clinical Report, *The Evaluation of Children in the Primary Care Setting When Sexual Abuse Is Suspected*, Committee on Child Abuse and Neglect, American Academy of Pediatrics, 2013, Pediatrics 132:e558–e567, www.pediatrics.org/cgi/doi/10.1542/peds.2013-1741 doi:10.1542/peds.2013-1741 (Accessed December 6, 2015)

¹⁰ Id.

¹¹ Id.

¹² Id.

The 5th is: The need for forensic evidence collection and post exposure prophylaxis for HIV and sexually transmitted diseases. According to the report, “Children who have had recent sexual contact involving the exchange of bodily fluids should be immediately referred to a specialized clinic or emergency department capable of collecting evidence using a forensic evidence kit.³⁵” Many states recommend that forensic evidence be collected if less than 72 hours from the assault and some require evidence kits to be performed as late as 96 hours.¹³

Besides the obvious risks of pregnancy, acquiring an incurable, lifelong sexually transmitted infection, increased risks of cervical cancer¹⁴ and infertility with multiple pelvic infections,¹⁵ the adverse long-term health effects of early sexual behavior and child sexual abuse are varied across many disciplines and include: psychological and medical diagnoses including depression, anxiety disorders, eating disorders, posttraumatic stress disorder, chronic pain syndromes, fibromyalgia, chronic fatigue syndrome irritable bowel, high-risk health behaviors, smoking, alcohol and drug use, unsafe sex, overall lower health status and more use of health services.¹⁶ “Childhood sexual abuse survivors are also at an increased risk for revictimization.⁶²”¹⁷.

The sexual activity/abuse is already a violation of safety and health for the victim, both short and long term. Enabling these behaviors by failing to report them is putting the patient at higher risk for continuing and escalating dangers. Reporting offers the chance to protect the child, putting them out of the reach of the perpetrator, and putting the perpetrator on notice that protection of the victim, not privacy for the crime and criminal, is the priority as well as successful prosecution to prevent further victimization.

What are other arguments against mandatory reporting to law enforcement?

- Patient confidentiality,...or is it effectively perpetrator confidentiality?

¹³ Id.

¹⁴ <http://www.cancer.org/cancer/cervicalcancer/moreinformation/cervicalcancerpreventionandearlydetection/cervical-cancer-prevention-and-early-detection-cervical-cancer-risk-factors>

¹⁵ <http://www.cdc.gov/std/pid/stdfact-pid-detailed.htm> (Accessed December 8, 2015)

¹⁶ Kristen W. Springer, MPH, MA, Jennifer Sheridan, PhD, Daphne Kuo, PhD, Molly Carnes, MD, MS. The Long-term Health Outcomes of Childhood Abuse An Overview and a Call to Action, 2003. J Gen Intern Med 18:864-870. http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1494926/pdf/jgi_20918.pdf

¹⁷ Id.

Confidentiality means discretion in keeping secret information; state or attribute of being secret; privacy. The child's privacy and intimate sexual sphere have already been violated. Neither these crimes nor the criminals have a right to being kept secret from lawful authorities. This is not about gossiping or satisfying another's idle curiosity. It is about referring a crime to lawful authorities. Not reporting sexual abuse of a child, i.e., a crime, simply doesn't qualify within the realm of professional confidentiality.

The four main prima facie principles in modern bioethics are: beneficence, non-maleficence, justice, and autonomy. No single one is considered to necessarily override the others, including patient autonomy.¹⁸

While this bill is about the mandatory reporting of child sexual abuse, it may be useful to note that in several studies of adult women, the largest of 5 studies found that the majority of acutely abused women, 76%, are in favor of mandatory reporting, with an even larger number, 92% of non-abused women, in favor of mandatory reporting. The majority of both want to be asked about it. Although 39% would deny the abuse if there were mandatory reporting, that still leaves many who would acknowledge it and 36% who would provide the information only if asked.¹⁹

Another argument is interference with the patient – doctor relationship,... or is it effectively enabling the perpetrator –victim relationship?

The patient doctor relationship is based on physician integrity and a centuries long professional Hippocratic ethic to do no harm.²⁰ Patient integrity is also important. Even if the child doesn't want the sexual activity reported or lies about it, the physician does harm by omission when he/she doesn't report it. Obviously if either or both the patient and physician lie, the basis of the

¹⁸Thomas R. McCormick, D.Min., Senior Lecturer Emeritus, Dept. Bioethics and Humanities, School of Medicine, University of Washington, "Principles of Bioethics" <https://depts.washington.edu/bioethx/tools/princpl.html>

¹⁹ Alteveter MD MPH, J., "*Intimate Partner Violence Challenges in Identification and Management*," *Emergency Medicine Practice*, September 2004, Vol. 6, No. 9. (Accessed December 7, 2015)

https://www.ebmedicine.net/topics.php?paction=showTopic&topic_id=100

²⁰ "Whatever, in connection with my professional practice or not, in connection with it, I see or hear, in the life of men, which ought not to be spoken of abroad, I will not divulge, as reckoning that all such should be kept secret." "Into whatever houses I enter, I will go into them for the benefit of the sick, and will abstain from every voluntary act of mischief and corruption; and, further from the seduction of females or males, of freemen and slaves." <http://www.britannica.com/topic/Hippocratic-oath> (Accessed December 7, 2015)

relationship that should be based on truth is already compromised as well as the opportunity for both short and long term healing and prevention.

None of the potential advantages of the reasons against mandatory reporting of child sexual abuse stand up under scrutiny when the victim, whether seemingly engaging in “consensual” sex or not, is a minor child.

Furthermore, failing to report sexual abuse in order to facilitate procedures for which the provider is getting paid, as a result of the abuse, is not only covering up the crime but allowing another to financially benefit from it.

The Colorado Training Manual states repeatedly, “Be the One to Make the Call! The shared effort by adults keeps children safe.”²¹

Thank you for the opportunity to testify.

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²¹ Mandatory Reporter Training, Colorado Office of Children, Youth & Families, Division of Child Welfare, Child Welfare Training System,
<http://www.coloradocwts.com/mandatedreporter/healthcareproviders/>
(Accessed December 6, 2015).



WISCONSIN CATHOLIC MEDICAL GUILDS

Upholding the Principles of the Catholic Faith in the Science and Practice of Medicine

As most of you are well aware, the problem of childhood sexual abuse and human trafficking is nationwide. However, the Midwest and Wisconsin has become a thoroughfare in sex trafficking because of a loophole in our mandatory reporting statutes.

Mandatory reporters include teachers, social workers, child care providers, and others in contact with a child. Yet none of these have the unique position and knowledge as a physician does to identify the physical, emotional, and other signs of child sexual abuse.

Wisconsin's current statutes provides an exemption to health care workers, making it allowable to not report suspected sexual abuse under the auspices of "confidential health care services" or family planning services. This exemption ignores the risk that young children face from sexual abuse.

The Guttmacher Institute reports that less than or equal to 2% of adolescents have had sex before the age of 12 and this increases to only 16% by age 15. (Fact sheet: American Teen's Sexual and Reproductive Health, Guttmacher Institute May 2014). As a result, medical professionals are often taught that pregnancy in a child under this age is recognized as a sign of sexual abuse. For example, Colorado Department of Human Services Mandatory Reporter training for medical professionals advises any child pregnant under the age of 14 is a sign of abuse.

Our current WI statutes would allow these pregnant children to be brought to a healthcare facility, potentially by their very abuser or human trafficker, and the healthcare provider would not be obligated to report the suspected abuse. There are numerous documented cases across the United States of young children being taken to family planning clinics for abortions who were later found to be sexually abused. (Alliance Defending Freedom – "How Planned Parenthood "Cares" for Child Victims of Sexual Abuse" September, 2015)

What are the arguments against healthcare provider mandatory reporting?

1. **Patient confidentiality:** Unfortunately, the child's privacy and sexuality has already been violated. It is the duty of the physician to protect the health of the patient, including their physical/sexual and emotional health, especially in vulnerable children.
2. **Patient-doctor relationship:** Even if the child reports that they do not want it reported, the physician has an obligation to put the child's health first, especially when there is probability of abuse and coercion. As physicians, we take an oath to "first do no harm."
3. **Patient safety:** There may be concern about the child being harmed from disclosing the abuse. However, the sexual activity/abuse is already a violation of safety. Not reporting suspected abuse puts the child back in that abusive environment. Even in consensual statutory rape, a minor that may not understand the ramifications of sexual contact is being exposed to increased risk of sexually transmitted illness, depression or other mental illness, and dropout from school.

Immediate mandatory reporting is essential for identification and treatment of child sexual abuse victims. This facilitates stopping the abuse, getting the immediate medical and psychological attention they need, and collection of forensic evidence.

As a physician, I urge you to pass AB489 for safety of children and to work towards ending the child sexual abuse and human trafficking in our state.

AB 489

My name is Cynthia Jones-Nosacek, MD. I am a family physician in private practice in Milwaukee and am speaking as president of the Milwaukee Guild of the Catholic Medical Association in favor of the proposed bill.

As a society, we tend to have this romantic view of teenage sexuality. Two high school sweethearts come together, then at their 30th high school reunion reminisce back on their summer of love before fate tore them apart. Just like in the movies.

Unfortunately, reality is not romantic, it is ugly. Teenagers who are sexually active are more likely to get STDs, become pregnant than those who wait. They are more likely to be single parents and live in poverty, even if you control for their level of education, environment, genetics, religiosity, BMI, and attractiveness. And of course, they are more likely to drop out. They are more likely to have forced sex or sex while drunk or high and less likely to use condoms. They have a higher turnover in partners. They are less likely to be married or have a stable marriage. They are more likely to experiment with alcohol and cigarettes. They are more likely to engage in delinquent behavior such as bringing a weapon to school or get into a fight. They are less happy, more depressed, and more likely to attempt suicide.

The younger they are at the onset of sexual activity, the worse the results. And more so if the difference between the partners is more than a year. For example, a 14 year old with a 16 year old. A 16 year old with an 18 year old. This has been confirmed not only by conservative organizations like the Heritage Foundation, but the Guttmacher Institute as well.

We know that teenagers ability to consider and use judgment is still maturing. Or as one pediatric brain researcher dryly states, their "ability to consider these matters (consequences) is somewhat limited compared to adults." Peer pressure adds to this impulsiveness.

Even teenagers who are being exploited cannot recognize this. Planned Parenthood studies show that girls 14-17 whose sexual partners were men 21-29 denied being exploited or victimized. These girls stressed the emotional benefits, the admiration of their peers, the financial advantage. It was only when they were older, that they realized the consequences. They "had very little good to say." "Many were angry, really angry."

Teenage prostitutes often don't identify themselves as victims. They may have been promised by their "boyfriend" (pimp) that this is only for the short term. They have often been abused or are still being abused, sometimes even by their own parents who may be taking a cut from the pimp. They may feel worthless, that this is all they deserve.

And according to a study from the American Journal of Public Health, we as healthcare professionals have trouble identifying abuse, in part because we have never been trained and don't know the law.

As of now, healthcare providers "to provide confidential healthcare services" are "not required to report as suspected or threatened abuse" if a child is sexually active, except under certain prescribed areas. But if we have trouble identifying abuse to begin with, and as one study showed, spend on 36 seconds discussing it, how can we determine the circumstances.

Besides, no one else has to try to decide whether or not to report. They must. Be it a school teacher/administrator/employee, a dietician, a first responder/police or law enforcement officer, a public assistance worker. They have to report the abuse.

But a physician or other health care worker only has to convince themselves within a 15 minute visit that also must include the exam and treatment that the child was able to "understand the nature or consequences of sexual intercourse or sexual contact". After all, the child said "yes." Or perhaps it is due to lack of training or understanding that the "yes" of a child does not mean that he/she understood enough to consent. Either way, they treat the STD or take care of the pregnancy and allow what is legally abuse to continue. Turn a blind eye. Don't ask, don't tell. Or just put the child on contraception, making her even more available for what this state legally defines as abuse.

And the abusers and pimps know how to make use of the law to hide their crimes. It is no accident that Milwaukee is the "Harvard" for training pimps. The child gets treated, no questions asked. After all, he/she said, "Yes."

In all other areas, we know that, while the child can agree to do something, he or she cannot consent. If they are under 16, we don't even let them have the keys to the car. And after, they can only drive under certain restrictions. Unless it involves sex, they cannot even receive non-emergency treatment without parental consent.

The natural concern is that the sexually active child will be even more reticent to seek treatment, that it is vitally important that we treat their infections before they cause too much damage or prevent/treat pregnancy. And it is a valid concern. But we do it at the cost of allowing the child to continue in their self destructive behavior if we do not get them the help they need. It is more than just making sure that they don't get pregnant or infected.

In other areas, we do not act on the concern regarding delay in treatment. By law, medical personnel must still report physical and emotional abuse of children. STDs and various contagious diseases must be reported no matter what the patient may want. Gunshot wounds must always be reported. So a girl's boyfriend must always be reported if he shoots her or hits her, but not if he has sex with her as long as she "agrees" to it even though she cannot consent to it.

And once we become reporters, I would suggest that medical personnel be educated on when and where they must report. And let us know, even if it is on a general level, what happens when we do report so that we can know that we did make a difference.

This is not a liberal or conservative cause. Even my brother, who is a retired teacher and former union official who protested against Act 10, was surprised to find that medical personnel are not mandatory reporters in this area. What it is about is protecting the vulnerable. As physicians, we have vowed to do no harm. Getting our patients the care that they need so that they are protected from abuse is the least we can do.

testimony



To: Assembly Committee on Family Law
Date: December 8, 2015
From: Tony Gibart, Public Policy Director
Re: Opposition to AB 489

Wisconsin Coalition Against Domestic Violence
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Chairman Larson and Members of the Committee, thank you for the opportunity to provide testimony before you today. My name is Tony Gibart, and I am the Public Policy Director for End Domestic Abuse Wisconsin (End Abuse). 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. While we support legislative efforts to address child abuse and human trafficking, we are opposed to Assembly Bill 489 because it would take the focus off of these issues and make it less likely that adolescents will have the open and honest conversations with their health care providers that allow providers to identify trafficking and abuse.

Specifically, we are opposed to section 29 of the bill, which would eliminate the current provision that allows adolescents who have engaged in voluntary sexual activity to have conversations with doctors and nurses about this activity without triggering the mandatory reporting law. The purpose of this provision is to make it more likely that teens who are engaged in sexual activity and/or contact will have honest discussions with their health care providers. Importantly, current law does require mandatory reporting by all health care providers when a child is being sexually exploited, trafficked or subjected to other forms of abuse.

If the bill passes in its current form, we anticipate two very significant, negative unintended consequences will follow. First, law enforcement and child protective services agencies will have more difficulty responding to cases of child abuse and child trafficking because these agencies will be inundated with many mandatory reports from health care providers that are of nothing more than two teenagers having sex or sexual contact. As a statewide coalition that works on the issues of child abuse and trafficking, we know that resources to address these horrendous crimes are already stretched too thin. Flooding agencies with mandatory reports that are of very little value will only exacerbate this resource problem.

Second, requiring blanket reporting of all sexual activity and contact for this age group will make it much less likely that actual child abuse and trafficking will be identified. When teens learn that any mention of sex to a doctor will trigger a mandatory report to law enforcement or child protective services, teens will stop talking to their doctors about these topics. When these conversations don't take place, health care providers are denied an opportunity to begin conversations that may lead to information that a child is being exploited, abused or trafficked. Again, when this type of information comes to light, current law requires health care to report to authorities.

Therefore, we ask that the committee remove the elimination of mandatory reporting exception in section 29 of the bill. Such an amendment would still allow the other provisions of the bill, which are intended to better identify abuse and trafficking, to move forward.

Thank you again for the opportunity to provide testimony today. I am happy to answer any questions.



WISCONSIN COALITION AGAINST SEXUAL ASSAULT

Testimony

To: Members of the State Assembly Committee on Family Law
From: Wisconsin Coalition Against Sexual Assault (WCASA)
Date: December 8, 2015
Re: Assembly Bill 489
Position: Oppose

Good morning, my name is Dominic Holt, public policy and communications coordinator with the Wisconsin Coalition Against Sexual Assault (WCASA). I respectfully submit this written testimony and regret that I am unavailable to deliver this testimony in person today.

WCASA is a statewide membership agency comprised of organizations and individuals working to end sexual violence in Wisconsin. Among these are the 51 sexual assault service provider agencies throughout the state that offer support, advocacy and information to survivors of sexual assault and their families.

Assembly Bill 489 includes laudable provisions to address human trafficking in Wisconsin. However, WCASA, as with many other organizations weighing-in today, opposes AB 489 because of one line in the bill: Section 29 (page 13, line 24), which would needlessly repeal Section 48.981 (2m) from state law. WCASA respectfully asks the committee to remove Section 29 from AB 489 and to preserve the healthcare provider reporting exception, Section 48.981 (2m), in current law.

This important part of state law illustrates the Legislature's recognition that minors need to be able to access some confidential healthcare services in certain situations. This is a public health imperative in general, but especially for adolescent survivors of sexual assault.

Wisconsin law requires individuals who work in certain professions to report child abuse and neglect to law enforcement or the child welfare system. With 48.981 (2m), Wisconsin thoughtfully carved out an exception to these reporting requirements to allow minors to obtain a specific set of healthcare services, described below, from physicians, physician assistants, and registered or licensed nurses without those professionals reporting the minors' sexual activity or contact. Healthcare services here means diagnosis or treatment for a sexually transmitted infection, family planning services as defined by law, pregnancy testing, and obstetrical healthcare or screening.

Regardless of the exception and the healthcare setting, 48.981 (2m) still requires these healthcare providers to report whenever they suspect any of the following:

- That the sexual intercourse or sexual contact occurred or is likely to occur with a caregiver
- That the child suffered or suffers from a mental illness or mental deficiency that rendered or renders the child temporarily or permanently incapable of understanding or evaluating the consequences of his or her actions
- That the child, because of age/immaturity, was or is incapable of understanding the nature or consequences of sexual intercourse or sexual contact

- That another participant in the sexual contact or sexual intercourse was or is exploiting the child
- That the child was unconscious at the time of the act or for any other reason was physically unable to communicate unwillingness to engage in sexual intercourse or sexual contact.
- That there is any reasonable doubt as to the voluntariness of the child's participation in the sexual contact or sexual intercourse

Section 48.981 (2m) is crucial to ensure that survivors of sexual assault have some autonomy regarding the involvement of the criminal justice or child welfare systems. Sexual assault is about domination and control over another person's body and decision-making. Consequently, it is incredibly important for survivors of sexual assault to have opportunities to regain that control, by empowering them to make their own decisions and ensuring they have many options, especially for healthcare. Section 29 of AB 489 would take away these vital options for survivors.

Repealing the healthcare provider reporting exception would create yet another barrier for adolescent survivors attempting to access essential healthcare services. In turn, Section 29 of AB 489 would push survivors away from healthcare providers at a time when survivors need healthcare the most.

Therefore, WCASA respectfully asks the committee to remove Section 29 of Assembly Bill 489 and preserve the healthcare provider reporting exception, 48.981 (2m). Thank you for your consideration. If you have any questions, you can reach me at dominich @ wcasa.org or at the phone number above.

MEMORANDUM

TO: Honorable Members of the Assembly Committee on Family Law

FROM: Sarah Diedrick-Kasdorf, Deputy Director of Government Affairs,
Wisconsin Counties Association
Ray Przybelski, Co-Chair, Children, Youth, and Families Policy Advisory
Committee, Wisconsin County Human Services Association

DATE: December 8, 2015

SUBJECT: Opposition to Assembly Bill 489

The Wisconsin Counties Association (WCA) and the Wisconsin County Human Services Association (WCHSA) oppose Assembly Bill 489, which makes a number of changes to state statute related to the Children's Code. Specifically, WCA opposes the provisions in the bill modifying the definitions of "physical injury" and "neglect."

Under current law, mandated reporters are required to report to law enforcement or child welfare agencies incidences of child abuse or neglect based on statutory definitions. "Physical injury" is defined to mean lacerations, fractured bones, burns, internal injuries, severe or frequent bruising, or great bodily harm, as defined in the Criminal Code. Assembly Bill 489 amends the definition of "physical injury" to remove the phrase "severe and frequent" prior to "bruising" for purposes of reporting child abuse, but not for purposes of investigating a report of child abuse.

Similarly, the bill modifies the definition of "neglect" for the purpose of reporting child abuse, but does not modify the definition for the purposes of the investigation. Current law defines "neglect" to mean the failure, refusal, or inability on the part of a caregiver, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care, as to seriously endanger the physical health of the child. The bill removes the phrase "for reasons other than poverty" from the definition of neglect.

Coupled with the increased number of reporters included in the bill, these definitional changes will significantly increase the number of child abuse and neglect reports received by county child welfare agencies. Counties simply do not have the resources to deal with the increased reporting requirements included in the bill. In 2013, child welfare agencies received 68,943 child welfare referrals. That represents a 23 percent increase in cases

since 2007 with no increase in the Children and Family Aids appropriation to cover increased costs. The effect of these changes will be to refocus the efforts of child welfare workers on cases where no real threat of abuse or neglect exists, and removing caseworkers from cases where the likelihood of abuse and neglect is significantly greater.

Additionally, the inconsistency in the reporting standard and the investigation standard poses a significant problem for child welfare agencies. Based on the inconsistent language, counties will receive an increased number of referrals for review based on the new definition; however, none of the newly required reports would meet the statutory thresholds for investigation or maltreatment, unless the information in the report already meets the mandated reporting requirements in current law.

The committee should also keep in mind that under current law, all reports are accepted. Any reporter (mandated or general population) can call and make a report about any circumstances that they are concerned about. There is no threshold on what *may* be reported, only what *must* be reported by licensed professionals listed in Wis. Stat. §48.981.

Counties opposed these definitional changes when they were first proposed in 2013 and continue to oppose the definitional changes today.

It is also important to note how these changes will interrelate with other legislation currently under consideration by the Legislature. Senate Bill 326 / Assembly Bill 429 requires counties to refer all reports of child abuse and neglect to law enforcement agencies. Counties and law enforcement agencies are then required to work together to plan the execution and coordination of the investigation. Counties question whether or not it is wise to involve law enforcement in cases where typical childhood bruising exists, or in cases where “neglect” is reported due to economic circumstances.

For these reasons, WCA and WCHSA oppose Assembly Bill 489.

Thank you for considering our comments.

Testimony
Assembly Committee on Family Law
AB 489

Hello, my name is Eve Dorman and I am an Assistant Corporation Counsel here in Dane County. My role in this position is to prosecute child abuse and neglect cases in the civil Child Protection case under Chapter 48 of the Wisconsin statutes.

I am here today to speak to two aspects of AB 489 that I find extremely troubling and which I believe represent bad policy for Wisconsin children.

First, I believe the elimination of the health care provider reporting exception in Sec. 48.981(2m) is profoundly misguided. As stated in the section currently, this exception was enacted for the purpose of ensuring that minors could obtain confidential reproductive health care. It currently contains a provision which requires health care providers to report as usual if they have any reason to believe that the minor engaging in sexual activity is being exploited or has some inability to meaningfully consent. So the only situations this amendment to current law will affect is cases in which reasonably competent minors are believed to be engaging in consensual sexual contact.

I believe requiring healthcare providers to report this kind of sexual behavior to Human Services will have a deeply chilling effect on the willingness of minors, especially young women, to seek out reproductive health care including birth control and treatment of disease. I believe that by eliminating this exception, ultimately we will see increases in the teen pregnancy rate which has steadily declined for the past 15 years. Additionally, I am concerned that teens will not seek out care for serious medical conditions potentially leading to more public health exposure to communicable disease.

I assume the intended outcome of this amendment is to ensure more reporting of cases in which minors are being sexually exploited, however reporting is already required in any case in which the healthcare provider suspects this kind of circumstance.

Second, I want to speak to the changes in the definitions of abuse and neglect. This bill proposes broadly expanding the definitions for purposes of reporting alleged child maltreatment, but does not require investigation under the expanded definitions.

First of all, this does not seem to make sense just from a structural perspective. Why require reporting of incidents that are specifically prohibited from being investigated? All that does is swamp Human Services with extraneous reports and detracts attention from cases in which prompt thorough investigation is needed.

Second, in my opinion, the definitions as proposed are overly broad. Eliminating poverty as a defense to neglect would likely be unconstitutional and is unlikely to ever be approved as a reason for government intervention in families. It unfairly burdens poor families, in making poverty a reason they can be brought to the attention of government authorities – which I will come back to in a moment.

The definition of physical abuse is currently set forth in Sec. 48.02(14g) Wis. Stat. It includes fractures, burns, lacerations, internal injuries and "severe or frequent bruising." This bill proposes to remove the modifier "severe or frequent," thus requiring a report to human services of any injury no matter how slight. Again, it does not require human services to investigate any such bruises but nonetheless again involves the potential for government intervention in a family where nothing more has happened than a minor bruise or red mark.

Now let me be clear, I personally do not agree with using any corporal punishment with children. But many, many people do. And in Wisconsin, the law permits parents to use corporal punishment with the "reasonable parental discipline defense." If you want to ensure that no child is struck in the name of discipline, eliminate that defense. If you want to ensure that no child is ever struck in the name of discipline, pass a law specifically outlawing all corporal punishment. But requiring mandated reporters to call Human Services to report activity that is currently legal in Wisconsin makes no sense to me at all. And using this mechanism as a back door way of eliminating corporal punishment strikes me as evasive. If you want to ban corporal punishment, just do that. I would support such a law. But using governmental authority to require reporting on people who engage in it while it is still legal is a mis-use of government power not to mention government resources.

Finally, separate from this bill, there has been discussion about the Justice for Children package of bills currently pending in committees. I note that SB 326/AB 429 (currently in Sen Judiciary and Public Protection and Assembly Criminal Justice and Public Safety respectively) if signed into law would require that all reports made to Human Services, even those that are screened out because they do not meet the state definitions of child maltreatment, must be referred to law enforcement. Thus, in conjunction with this bill, all situations in which families are reported for not having basic necessities for their children due to poverty would be referred to the police. All cases in which a parent used legal corporal punishment which leaves a red mark or faint bruise would be referred to the police. Really? Calling the police because people are poor? Calling the police because someone grabbed a child's arm and left a small bruise – which is legal and not banned by any current law or proposal? As if our families who are poor don't have enough to worry about without calling the police on them? As if our families of color who are already FAR more likely to be referred to Human Services don't have enough to worry about. And make no mistake – this is about a referral straight to the police. Remember Human Services won't be investigating these cases because the definition remains unchanged for investigation purposes. So a call to Human Services to report these new definitions of alleged child maltreatment, isn't call to Human Services (where a family can at least expect an offer of supportive services) at all, but instead is essentially a direct referral to police, if SB 326 passes as expected.

SB 326 is not the subject of our discussion here, but I would note that its critics are already concerned that it is an unfunded mandate requiring extensive extra work for law enforcement in cases that currently meet the definitions of possible maltreatment. If

you expand the definitions as contemplated by this bill, it is likely that both Human Services and law enforcement will be substantially burdened by the requirements to review all of these new cases in a situation where no new money is allocated to support the time and training required. And again I fear that cases which genuinely need investigation will be lost in the shuffle.

Thank you for your time and attention.

TO: Assembly Committee on Family Law

FROM: American Congress of Obstetricians and Gynecologists - WI Section
Children's Hospital of Wisconsin
End Domestic Abuse Wisconsin
UW Health / American Family Children's Hospital / UW School of Medicine and Public Health
University Health Services
Wisconsin Academy of Family Physicians
Wisconsin Chapter of the American Academy of Pediatrics
Wisconsin Coalition Against Sexual Assault
Wisconsin Medical Society

DATE: December 7, 2015

RE: Opposition to Assembly Bill 489

The American Congress of Obstetricians and Gynecologists - WI Section, Children's Hospital of Wisconsin, End Domestic Abuse Wisconsin, UW Health / American Family Children's Hospital / UW School of Medicine and Public Health, University Health Services, Wisconsin Academy of Family Physicians, Wisconsin Chapter of the American Academy of Pediatrics, Wisconsin Coalition Against Sexual Assault, and the Wisconsin Medical Society ask that Section 29 of Assembly Bill 489 be removed because it repeals the health care provider exception reporting requirement for "health care services". If Section 29 is removed, and the health care provider reporting exception included under s.48.981 (2m) in current law is preserved, our groups will drop our opposition to the bill and remain neutral.

The health care provider exception to reporting was created to allow children, if needed, to obtain confidential "health care services". Those services include pregnancy testing, obstetrical health care or screening, family planning services, and diagnosis and treatment for a sexually transmitted disease. The health care provider exception ensures that health care providers who provide "health care services" to a minor are not required to report that the minor has experienced sexual contact or sexual intercourse. The removal of the health care provider exception to reporting would mean that health care providers would be required by law to report to Child Protective Services and/or law enforcement all sexual contact and activity they learn that their adolescent patients are engaged in. Health care providers would be required to report that knowledge even if that knowledge was discerned while treating their patient. This would apply to all health care providers in all health care settings. This change could make patients less likely to be fully truthful with their health care provider or could all together cause patients to avoid seeking needed care because the confidentiality and trust of the patient-physician/health care provider relationship would be undermined.

It is important to note the exception to reporting does not apply if the health care provider has reason to suspect any of the circumstances under s. 48.981 (2m). The exception to reporting is removed and the physician must report the activity whenever they suspect any of the following:

- That the sexual intercourse or sexual contact occurred or is likely to occur with a caregiver
- That the child suffered or suffers from a mental illness or mental deficiency that rendered or renders the child temporarily or permanently incapable of understanding or evaluating the consequences of his or her actions

- That the child, because of age/immaturity, was or is incapable of understanding the nature or consequences of sexual intercourse or sexual contact
- That another participant in the sexual contact or sexual intercourse was or is exploiting the child
- That the child was unconscious at the time of the act or for any other reason was physically unable to communicate unwillingness to engage in sexual intercourse or sexual contact.
- That there is any reasonable doubt as to the voluntariness of the child's participation in the sexual contact or sexual intercourse

Our coalition believes that current statute strikes the right balance between protection of children and their need to receive confidential "health care services". We respectfully ask that you delete Section 29 and preserve the health care provider reporting exception s. 48.981 (2m) in current law.

Milwaukee Child Abuse Prevention Services Coalition

*“Strengthening the capacities of families to provide safe
and healthy environments for their children”*

Public Policy Committee

TESTIMONY IN OPPOSITION TO PORTIONS OF AB 489

ASSEMBLY COMMITTEE ON FAMILY LAW

12/8/15

Submitted by: Mary Thomas, MSW
Co-Chair, Public Policy Committee of the
Milwaukee Child Abuse Prevention Services Coalition

Members of the Assembly Family Law Committee, thank you for considering my comments in opposition to portions of AB 489. My name is Mary Thomas and I am the Co-Chair of the Public Policy Committee of the Milwaukee Child Abuse Prevention Services Coalition. Members of the committee represent health and social service providers who work with families to provide family support, parent education, and youth development services.

I have been a social worker for over 35 years. I have worked in the public sector as a social worker for Milwaukee County in the areas of Child Welfare, Juvenile Court, Substance Abuse, and Mental Health. I have also worked in the non-profit sector, in community-based organizations located in low-income neighborhoods. Committee members and I are knowledgeable about the nature of problems faced by low-income children and families, particularly children and families of color. We are also knowledgeable about what is effective to prevent child abuse and neglect and child welfare policies.

Committee members are especially concerned about the provision that changes the definition of neglect, particularly the removal of the phrase “for reasons other than poverty” for the reporting of cases of neglect. This clause has been included in state laws around the country for many years. The phrase, “for reasons other than poverty,” recognizes the fact that poverty is often caused by circumstances that are beyond the control of parents. Its origins are in the 1909 White House Conference on Children that examined the consequences of placing children in foster care when parents were financially destitute and unable to provide for them. It acknowledges that poor parents are capable of providing safe and nurturing environments for their children and that when neglect occurs it is due to overt actions by caregivers, not inaction by service providers or mandated reporters.

In my experience, mandated reporters err on the side of caution when reporting abuse and neglect and tend to refer cases when there is any concern about a child’s condition. While this legislation may lead to an increase in the number of reports for child neglect, it is questionable whether this legislation will improve the safety and condition of poor children.

While this bill retains the phrase “for reasons other than poverty” for *investigating* reports of neglect, removing the phrase for *reporting* neglect creates an inconsistency in applying this criteria to case situations. This distinction in considerations to be made by mandated reporters

versus Child Protective Services workers makes little practical sense and may be a solution in search of a problem.

We would also like to note that non-profit and other agencies that provide services to families already work with families to develop supports and access public benefits to improve a family's situation. In many cases, parents see the value of such services and voluntarily enroll in programs that will strengthen their family's and children's well-being. While state and county child welfare agencies also provide or refer families to support services, these services are provided with the pressure of government authority. Using Child Protective Services in the manner set forth in AB 489 may be a misuse of the governmental authority.

In constructing Child Protective Services law, the state has created a governmental intervention into private family life. While there are cases where such government intervention is in the interest of society for protecting and nurturing children, government intervention in private family life should not be taken lightly and should be limited to the most serious cases.

Significantly, families of color are overrepresented among those in poverty, putting them at greater risk of contact with government authorities such as child welfare. Because poor children and parents are already over-represented in the child welfare system, this government intrusion disproportionately affects poor families and families of color. It is unlikely that middle class white families would tolerate this kind of intrusion into private family life.

We are also concerned about AB 489's provision to remove the exception for reporting sexual intercourse or contact by health care providers. Current law requires health care providers to report sexual intercourse or contact in circumstances when a child is particularly vulnerable, incapable of understanding or consenting to intercourse, or is exploited. If health care providers are required to report all cases of sexual contact in children, it may reduce the likelihood that minors who have voluntarily engaged in sexual contact with another minor will seek reproductive health services or treatment for sexually transmitted diseases. Patient confidentiality is crucial to providing comprehensive and appropriate care. Health care providers must be able to insure such confidentiality.

Thank you for your consideration of our comments.

Respectfully submitted,

Mary Thomas

Mary Thomas, MSW
Co-Chair