



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

BRAD D. SCHIMEL  
ATTORNEY GENERAL

Andrew C. Cook  
Deputy Attorney General

114 East, State Capitol  
P.O. Box 7857  
Madison, WI 53707-7857  
608/266-1221  
TTY 1-800-947-3529

**PREPARED TESTIMONY OF ATTORNEY GENERAL BRAD D. SCHIMEL**

Support for Assembly Bill 666  
Assembly Committee on Criminal Justice and Public Safety  
Wednesday, January 13, 2016

Good afternoon members of the Assembly Committee on Criminal Justice and Public Safety. Thank you for this opportunity to testify and thank you to Chairmen Kleefisch and Wanggaard for sponsoring "Alicia's Law," also known as Assembly Bill 666 and Senate Bill 546, respectively.

One of the most difficult parts of my 25 year career in the DA's Office was prosecuting sensitive crimes. It's challenging work, not just because the victims are often children being abused by a family member or someone else they trusted, but because we know that no matter the outcome of the case, it was very likely that the child victim would struggle with the consequences of the crimes committed against them for many years, perhaps even for the rest of their life.

Many child sex offenders go undetected because they cloak themselves in the anonymity of the internet. Successful online investigations are time consuming and resource intensive. Because the consequences of child sexual abuse are so serious, we must do as much as possible to prevent predators from getting their hands on kids and stop ongoing abuse as quickly as possible. "Alicia's Law" would give law enforcement and prosecutors tools to catch predators more quickly without compromising constitutional rights.

The internet has created a very profitable and hard to trace marketplace for images of children being sexually abused. The black market of the internet is loaded with video recordings and still images of young children, and even infants and toddlers, being sexually abused. Offenders post those images online, where other pedophiles can trade and collect them and perpetuate the horrible abuse committed against those children.

AB 666, "Alicia's Law," is named after a victim of sexual abuse and exploitation who was abducted by an internet predator and held captive in his basement. Thanks to the work of investigators who tracked the location of Alicia's captor over the

internet, Alicia was rescued and now travels around the country advocating for states to create a dedicated fund and surcharge that bolsters the investigative and forensic resources of investigating agencies.

Alicia's story is not unique, and predators are living in every community, not just Alicia's hometown of Pittsburgh. Last year, a New London man was sentenced to 15 years in prison for having sex with children for the purpose of recording and distributing child pornography. In addition to his own creations, this man possessed DVDs with tens of thousands of images and videos, files he downloaded from the internet. In another example from last year, a Prairie du Chien man received a prison sentence of 48 years for sexually abusing multiple children and creating child pornography. One of this man's victims was assaulted hundreds of times, creating 800 photos and 64 videos of her. After law enforcement caught on to this man's depraved acts, he attempted to destroy many of the photos and videos. However, investigators still found more than 25,000 photos and 300 videos of child pornography.

It is not at all uncommon for law enforcement to seize a computer from a child sex offender and find tens of thousands of images and video recordings of child pornography downloaded from the internet. This is a huge problem.

While the Internet gives offenders a great deal of anonymity, it also provides highly trained law enforcement officers a means to track down these creeps. However, technology is constantly changing, and the bad guys are often a step ahead of the tools being used by law enforcement to trace the sources of the offensive materials and break through encryption and other efforts offenders use to conceal their crimes and their identity.

Our Internet Crimes Against Children (ICAC) team can often trace who is buying, selling, trading, and possessing child pornography, but the work is labor intensive and the necessary tools and equipment are expensive. When an individual sets up their connection to the internet, the connection is assigned a unique Internet Protocol, or IP address. The IP address is similar to a phone number assigned to a phone. Internet companies have lists of the IP addresses and the persons to whom the accounts are assigned, in essence a phone book.

In 2015, authorities knew of more than 4,000 unique IP addresses in Wisconsin at which a person used that connection to view, download, collect, share or upload child pornography. More troubling, though, is that criminal justice experts estimate that about half of these individuals are hands-on offenders, meaning that they are actually directly abusing children in their communities.

We have the information to try to track down many of the individuals who possess these despicable materials. We have the leads. We just need the means to

determine to which local law enforcement agency we should refer the case for investigation and prosecution. We can stop children from being abused right now, but we need the immediate, effective tools AB 666 creates for us, at no cost to taxpayers.

### **Surcharge**

The National Center for Missing and Exploited Children (NCMEC) is one of the largest sources of tips to the ICAC task force. The number of referrals received by DOJ from NCMEC went from 266 in 2005 to 1,300 in 2015. This is in addition to the countless other leads investigated by DOJ and local law enforcement affiliates that are developed from other sources. As tips have dramatically increased, resources have remained the same. Given the dramatic increases in the number of referrals for investigation, our current ability to investigate, prosecute, and sentence these offenders is not sustainable.

AB 666 will create an Internet crimes against children surcharge paid by individuals sentenced by or placed on probation by the court. The surcharge fee is \$20 for each misdemeanor conviction and \$40 for each felony conviction. The money will be administered by the Wisconsin Department of Justice and will be used only to support the ICAC task force work performed by DOJ and the more than 200 local law enforcement agency affiliates that are certified as ICAC affiliates.

### **Administrative Subpoena**

When an ICAC agent conducts an undercover investigation, posing online as a pedophile interested in obtaining child pornography, or follows up on a tip received from NCMEC, the agent can establish probable cause that inappropriate behavior is occurring, but does not yet know the location of the internet connection nor the potential identity of the internet user. The ICAC agents then need to act swiftly to identify the pedophile's location so that they may request a search warrant from a judge. The administrative subpoena process created in AB 666 will simply give our sworn DCI agents access to the "phone book for sexual predators" and ensure the cases may be forwarded to the appropriate local law enforcement agency or DCI Regional Office in a timely manner. Every day that is saved may prevent abuse of a child, as Alicia describes in her testimony. The administrative subpoena is limited in scope, giving only subscriber information, and does not authorize access to any content, nor does it give the officer authority to seize any property. The officer must still obtain a search warrant to go any further than the "phone book".

Thank you for your consideration of my testimony in support of AB 666. I am confident this piece of legislation will make a serious impact on the number of Internet predators being caught and the number of potential victims being spared the dehumanization of these appalling and disgusting crimes.



# JOEL KLEEFISCH

STATE REPRESENTATIVE • 38<sup>TH</sup> ASSEMBLY DISTRICT

## **Assembly Bill 666: Alicia's Law**

### *Assembly Committee on Criminal Justice and Public Safety*

Thank you committee members, for this hearing on Assembly Bill 666, also known as "Alicia's Law." Alicia is a young woman who, at the age of 13 was lured from her home by an internet predator, and forced to do unspeakable things by a pedophile. Alicia is here today and will be speaking to you shortly about this horrific ordeal.

After four long days, Alicia was rescued by a specialized law enforcement cyber unit who were able to track her location via the photographs that were posted online. This example is one that highlights the importance, and the need, for law enforcement units who are dedicated to tracking down Internet Sex predators and helping bring them to justice.

Investigator Jason Faulkner, from the Summit Police Department, is one of these dedicated officers, who is also here today to talk about the important job he does for our state.

This legislation is a bi-partisan measure that will establish a dedicated state funding source to help fund our state's Internet Crimes against Children (ICAC) Task Forces. Currently, those ICAC task forces are 100% federally funded. This poses challenges for our law enforcement community, and poses significant risks in that if we were ever to lose that federal funding, our task forces would go unfunded and thousands of children would continue to be victimized by internet predators.

When tracking down these predators, time is of the essence. It is widely accepted by the law enforcement community that more often than not, individuals who are posting and sharing photos and videos online are hands on offenders. This means more often than not they are harboring and victimizing a child.

Unfortunately, the current procedure for gaining the necessary information required to achieve a probable cause warrant, slows the process down so much that we run the risk of that child continuing to be victimized while law enforcement tries to trace IP addresses and link those addresses to individuals who they can then serve warrants to.

Any delay in saving a child is unacceptable and we have a duty to do what we can, within the scope of the constitution, to overcome that delay and find alternative solutions. Providing administrative subpoena authority to the Attorney General so they can receive information that will help lead them to the source of the file sharing, which, in turn, will help the ICAC task forces get a probable cause search warrant faster.

When we are talking about the safety of our state's children, no cost is too large. We need to fund these task forces now, and we need to fund them adequately. Today I ask for your support on this important legislation.



# Van H. Wanggaard

## Wisconsin State Senator

### TESTIMONY ON SENATE BILL 546 – Alicia’s Law

Thank you committee members, for this hearing on Senate Bill 546, also known as “Alicia’s Law.” This bill is a bi-partisan measure that establishes a dedicated fund and dedicated surcharge to help rescue children from unthinkable crime. This important legislation is being brought forward by request from the Attorney General.

I think it is hard for many of us to believe that child pornography is a problem in our state, or that children are being victimized in our local communities. However, this is a serious problem that leads to repeated torture of Wisconsin children, and it is a problem we cannot ignore.

In 2008, USA Today reported that the US Department of Justice’s Internet Crimes Against Children Task Forces saw 7,000 unique computers, *in Wisconsin alone*, trading crime scene recordings of very young children, including infants and toddlers, being sexually tortured, displayed and raped. Let me repeat that- 7,000 unique computers in WI trading child pornography, and that was eight years ago. This number is shocking, and with technological advances, we can only imagine what this number is today. Tragically this means that thousands of Wisconsin children are tortured and victimized each year, and many await a rescue that will never come.

Alicia’s Law helps give hope to victims by establishing a dedicated fund and dedicated surcharge that will go directly toward combating Internet crimes against children and rescuing Wisconsin victims from harm. Under the bill, if a court imposes a sentence on a person or places a person on probation for committing a crime, the court imposes a surcharge of \$20 for each misdemeanor conviction and \$40 for each felony conviction. These funds help victims by supporting criminal investigative operations and law enforcement relating to Internet crimes against children, prosecution of Internet crimes against children, and activities of state and local Internet Crimes Against Children Task Forces.

The rape and torture of one child is too many. The children of our state cannot protect themselves, and as legislators we need to stand up for our most vulnerable and put these heinous predators behind bars. Thank you again for this hearing on Senate Bill 546; I urge you to join me in support of this important bill.

Serving Racine County - Senate District 21



# Wisconsin State Public Defender

17 S. Fairchild St. - 5<sup>th</sup> Floor  
PO Box 7923 Madison, WI 53707-7923  
Office Number: 608-266-0087 / Fax Number: 608-267-0584  
[www.wisspd.org](http://www.wisspd.org)

**Kelli S. Thompson**  
State Public Defender

**Michael Tobin**  
Deputy State  
Public Defender

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Assembly Bill 666  
Wednesday, January 13, 2016

Mr. Chairman & Members,

Thank you for allowing me to testify on Assembly Bill 666 (AB 666.) We have had an opportunity to talk to the bill authors' offices and the Department of Justice to discuss concerns the State Public Defender has with AB 666. The amendment offered by the authors addresses specific concerns with the section of the bill related to the ability to issue an administrative subpoena. We appreciate the opportunity to have worked on this amendment.

AB 666 creates a new surcharge as well as the administrative subpoena power. There are many facets to consider when looking at adding additional surcharges intended to fund specific programs within the criminal justice system. The Legislative Audit Bureau issued a report in 2012 entitled Crime Victim and Witness Assistance Surcharge Revenue. The report examined a trend beginning a couple of years earlier of decreasing revenues from the surcharges included to fund the crime victim and witness assistance programs. The report noted that as more surcharges have been added, in addition to increasing amounts of other court costs and fines, the ability to collect has decreased. More recent examination of this example of the law of diminishing returns has confirmed that as the monetary penalties levied as part of a sentence increase, the amount collected decreases. Surcharge revenue is proven to be an unstable funding source for important programs such as crime victim services or court operations at the county level.

There also remains a philosophical difference of opinion with the administrative subpoena section of the bill. Allowing a subpoena to be issued without judicial oversight and with a standard of reasonable cause, no matter the worthiness of the goal, expands the government's ability to obtain information on people who, at that moment, are still presumed innocent by law. As stated earlier, the effect of the amendment is to mitigate this issue by limiting the scope of when the subpoena can be used and clarifying what information can be obtained through the subpoena process. Again, we thank the authors for working to address this issue.

Thank you again for the opportunity to provide information on Assembly Bill 666.