



Van H. Wanggaard

Wisconsin State Senator

Senator Wanggaard Testimony on Senate Bill 470

Thank you Mr. Chairman and members for this hearing today on Senate Bill 470.

When a parent is choosing a school and a school environment for their child, it is important that they have the most information possible. They want to know the academic success of the school, the graduation rate, the school's success in closing achievement gaps, how the school's students perform on standardized tests, etc.

All of this information is available on the school report card. Unfortunately, the one item that most parents feel is most important is not available on the school report card – school safety

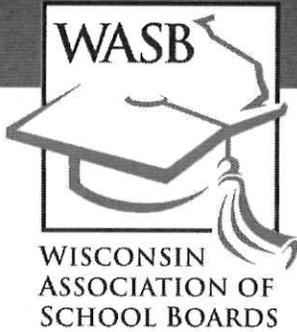
We all know that making a child feel safe in school is a key element of learning. If a child feels unsafe he or she may have a difficult time concentrating and processing information. For that reason, parents should know about safety of the environment that their child is learning in.

SB 470 addresses this issue by requiring schools to provide a report of law enforcement calls for a variety of different crimes to their school board. In addition, these law enforcement calls will be displayed on the school report cards, along with the measures of academic success. The bill applies to all public and charter schools and private schools in the choice program.

This common sense addition to the report card provides a more complete review of the learning environment in a school, and provides parents with the best available information when choosing a school for their child. This bill is something all parents and legislators should be able to get behind.

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John H. Ashley, Executive Director

TO: Members, Senate Committee on Education
FROM: Dan Rossmiller, Government Relations Director
RE: Senate Bill 470, relating to reporting crimes and other incidents that occur on school property, on school transportation, and at school sanctioned events
DATE: January 21, 2016

On behalf of the Wisconsin Association of School Boards (WASB), and the 423 school boards across the state that we represent, thank you for the opportunity to express our concerns about Senate Bill 470.

We believe that changes proposed by Senate Amendment 1 would vastly improve the bill. Nevertheless, we still have important concerns about the bill, even if the amendment is adopted. For the record, the WASB testified in opposition to the Assembly companion to this bill (AB 517) at the Assembly hearing before this amendment was proposed.

School board members, parents, students, teachers, administrators, and members of the general public all have a shared interest in ensuring student safety. We take student safety and security seriously. That is why all public school districts have internal procedures to address student behavior issues, including suspension and expulsion policies, and why we work closely with law enforcement agencies in our communities.

Public schools DO NOT object to reporting information about dangerous or disruptive student behavior to the DPI or making that information public.

In fact, public schools already report a large amount of information about student behavior that results in suspensions and expulsions. This information, which includes the numbers of suspensions and expulsions; the reasons for which pupils are suspended or expelled, the length of time for which pupils are expelled, and whether pupils return to school after their expulsion, is reported to the DPI according to categories specified by the state superintendent. This information is collected as part of the Individual Student Enrollment System (ISES). It becomes part of the annual **school and school district performance report** under section 115.38, Wis. Stats., and is made public.

School districts must annually notify parents and guardians of their right to request copies of these **school and school district performance** reports and must provide them upon request. These reports must also be made available on the school district's website and must include a comparison of the school district's performance with the performance of other school districts in the same athletic conference.

Public schools DO have concerns about being required to report incidents over which they have no control and which may have little effect on student safety, health or well-being.

We agree that parents have the right to know how safe their child's school is; however, we are concerned that under Senate Bill 470 the statistics proposed to be included on the school report cards may not be an accurate reflection of the safety and security of a particular school or district. Our main questions and concerns with this bill are:

1. The language in the bill lacks specificity about what is to be reported.

The bill, as it would be amended by Senate Amendment 1, requires all public high schools to collect and maintain statistics of *incidents* of a list of enumerated offenses that are *reported* to law enforcement and that occur on property owned or leased by the school district in which the public high school is located; that occur on transportation provided by the school or school district; *or* that occur at an event sanctioned by the school or school district.

Because the bill does not define "incident" it appears that under the bill such statistics must be reported to the DPI whether or not: a) the original report to law enforcement was accurate and/or has been verified; b) the original report to law enforcement leads to any law-enforcement action such as an arrest or a conviction; c) the alleged crime or incident was committed by a student, parent or staff member of the school or district; and d) the alleged crime or incident occurred during the school day or even at a time when students were present or likely to be present.

The bill does not specify whether an incident is to be categorized based on how the act or incident is *reported* or how it is handled *after it is reported*. This means school officials may have to enter into a guessing game and/or seek the advice of law enforcement whenever they have questions.

Why are we putting this burden on school officials when law enforcement, the courts and the Department of Justice already have accurate statistics?

Rather than requiring reporting of "incidents" we believe it would be much better if the bill offered greater clarity and, for example, focused on some indicator of the eventual disposition of the case, such as whether a citation was issued or an arrest was made, whether a prosecution/adjudication occurred and/or whether a conviction /juvenile disposition was reached.

We recommend that the committee consider amending the bill to specify that schools be required to report only those incidents which result in an arrest. Schools have historically not been engaged in the business of collecting or maintaining crime statistics. Under the bill as amended, schools would likely need to work with their local law enforcement agencies to obtain the information they are required to report. One source for such information is the Uniform Crime Reporting (UCR) system operated through the Wisconsin Department of Justice. It is our understanding that the uniform crime reporting system tracks arrests not simply incidents. Put another way, it tracks only incidents which result in arrest for a variety of specified crimes, including crimes identified in the bill. We believe making this

change would enable law enforcement agencies to pull information directly from the uniform crime reporting system and share that information with schools so those they can make the reports required by the bill.

In some, and perhaps many cases, where the incident involves a minor offense, no arrest or conviction will occur. If no distinction is made between these incidents and incidents in which a serious legal consequence attaches to the incident, the statistics required to be reported under the bill may present a distorted view of a school's safety climate.

We also believe that the inclusion of disorderly conduct under a municipal ordinance among reportable incidents is problematic. Because different municipalities may differ in their definitions of disorderly conduct, as well as in their approach to charging and prosecuting disorderly conduct, certain behaviors may be handled differently by different jurisdictions. What constitutes a disorderly conduct incident in one public high school in one municipality may not constitute a disorderly conduct incident in another high school in another municipality, even if the two schools are in the same school district.

This lack of uniformity is also likely to make comparisons among communities difficult. Further, it is not clear to us whether cases in which disorderly conduct is prosecuted under a municipal ordinance are entered into are available through the uniform crime reporting system, as these are not technically speaking "crimes." Municipal ordinance violations are not punishable by imprisonment or jail time but are enforced through forfeitures.

The lack of uniformity due to the inclusion of disorderly conduct under a municipal ordinance among reportable incidents is also likely to present a distorted view of a school's safety climate.

Disorderly conduct can involve indecent, profane, boisterous, unreasonably loud conduct under circumstances in which the conduct tends to cause or provoke a disturbance. Realistically, there could be numerous incidents of something that could be considered disorderly conduct by students who are emotionally disturbed or have other emotional disabilities in some high schools—on any given day.

For all these reasons we question why Section 1 of the bill lumps "disorderly conduct under a municipal ordinance" together with such serious crimes against life and personal security as homicide, sexual assault and aggravated assault as incidents that must be reported on school report cards

2. This bill may operate as an unfunded mandate on schools.

The bill would require schools to report on information they do not have and would have to obtain.

Frequently, the information needed will be in the hands of law enforcement agencies, the courts or the Department of Justice. There will be costs associated with gathering this information, which is not limited to incidents involving or directly affecting students but would also include adults not enrolled in the district. Because school districts often cross multiple municipal boundaries and even county

boundaries getting this information may require schools to check with multiple law enforcement agencies.

This bill provides no funding to implement the new reporting requirement and no opportunity for a pilot program to test how this will work, although we note that the reporting requirements would not apply until the 2017-18 school year, which we applaud.

Compiling these statistics could be time-consuming and complex. There will almost certainly be staff time and software costs associated with collecting, maintaining and reporting these statistics and probably glitches. Schools will likely have to add new data elements to their databases and make other modifications as existing student information system software likely does not currently generate the reports that would be required under the bill and does not allow schools to pull the information required for these reports from law enforcement databases. Someone on the school staff will have to be trained on how to collect, maintain and report these statistics and then will have to do the actual work of collecting, maintaining and reporting these statistics.

According to information on the DOJ website, more than 415 law enforcement agencies across the state file monthly reports to the Uniform Crime Reporting (UCR) program on reported crime incidents, arrests, hate or bias crimes, assaults on police officers, and more detailed information on homicides and sexual assaults. Since schools do not have log-on access to the UCR they would have to rely on person-to-person contact with local law enforcement or the DOJ to get this information.

In addition, recent reports by the *Appleton Post-Crescent* indicate there are problems with Wisconsin's Uniform Crime Reporting System, despite the Attorney General's best efforts to overhaul the system. The most recent crime data currently available is apparently from 2012. The *Post Crescent* article notes, "The standstill effectively leaves many Wisconsinites with an outdated view of crime patterns in their communities and fewer tools to track what local law enforcement agencies are doing to keep them safe. As you consider making changes to this bill we ask you to please recognize that schools cannot report on data they cannot obtain.

We thank you for the opportunity to bring these concerns to your attention.



School Administrators Alliance

Representing the Interests of Wisconsin School Children

TO: Senate Committee on Education
FROM: John Forester, Director of Government Relations
DATE: January 21, 2016
RE: SB 470 – Reporting Crimes and Other Incidents That Occur on School Property, on School Transportation, and at School Sanctioned Events

Thank you Chairman Olsen and members of the committee for the opportunity to testify before you today on Senate Bill 470 (SB 470), relating to reporting crimes and other incidents that occur on school property, on school transportation, and at school sanctioned events.

School administrators throughout Wisconsin place a high priority on student safety and we believe that public reporting is an integral component of any school safety strategy as well as the trust relationship between schools, parents and the community. However, the SAA is testifying in opposition to SB 470 today because of numerous policy questions regarding application of the bill's requirements and an uncertain administrative and fiscal impact.

In anticipation of this hearing, I sought input on SB 470 from a cross-section of SAA members, with an emphasis on school superintendents. I also discussed the bill with two of Wisconsin's finest school law attorneys that we work with on a regular basis. These discussions yielded numerous questions and concerns about the application of the bill.

Schools are already required to report certain disciplinary actions to the Department of Public Instruction (DPI). These, of course, concern pupil misconduct and involve application of standards that schools are charged with enforcing (e.g., a pupil can commit a crime on school grounds that results in their expulsion and that expulsion will, in turn, be part of a report to DPI).

However, school districts are not charged with enforcement of the criminal law and do not – at least institutionally – have expertise in determining what conduct satisfies the elements of the identified criminal statutes. In other words, that's simply not what we do.

Application of Reporting Requirements

Perhaps the most unwieldy aspect of the bill is that it mandates the reporting of certain crimes and “incidents”, but it is not clear how these determinations are made and how the reporting requirements are to be applied. This raises several questions:

- At a minimum, does there have to be a criminal charge of some sort related to the conduct to merit a report?
- Is a conviction required before the incident can be treated as a reportable crime?

Mr. Chairman, we view the introduction of Senate Amendment 1, which would limit reportable crimes and incidents to those reported to law enforcement (and not include those incidents reported to the school principal and school security), as a step in the right direction. But, we also have questions about the implications of the amendment:

- If Senate Amendment 1 is adopted, will school districts simply get that data they need for their report to DPI from local law enforcement?
- Are districts responsible for including any additional information in their report to DPI other than the information received from law enforcement?
- Given that many school districts lie across multiple law enforcement jurisdictions, is “incident” defined sufficiently so that reporting by the various local agencies will be uniform across the district? For that matter, will application of the reporting requirements be reasonably uniform across the state?

The conduct that must be reported under the bill concerns conduct that occurs in certain locations (e.g., school grounds, school transportation, or school sanctioned events) but, does not necessarily have to involve such conduct by pupils. And this raises questions:

- If a district hosts a community event and an incident occurs that does not involve students, must that incident appear on the district’s report?
- If a district hosts a WIAA playoff event that does not involve any of the district’s students and a crime or incident takes place, must that incident appear on the district’s report?
- If a crime is committed on school grounds after school hours or on a weekend by adults who may or may not live in the district, must that incident appear on the district’s report?

Local Ordinances

The SAA is concerned about the inclusion of a “violation of a municipal ordinance relating to disorderly conduct” on the list of reportable incidents on page 3, line 12 of the bill. I’m certainly no expert here but, it seems to me that many of the “offenses” that are included in this section have little to do with school safety and therefore may only serve to inflate reporting.

Accountability Reports

Under the bill, the district’s report to DPI must be reflected on the school and school district accountability report. Given that the data reported may actually include crimes and incidents that did not involve district students, we struggle to see how this would be a meaningful part of the school report card.

Pupil Confidentiality

SB 470 specifies that reports may not include the identity of a pupil. However, simply concealing pupil identity may be insufficient. In smaller school districts or in schools in which only a few incidents are reported (which is likely to be many) the report, because of the limited number of incidents, could very well contain personally identifiable pupil information. Our concern can be summed up in one question: Does the bill conform to both state and federal laws on pupil records and confidentiality?

Fiscal/Administrative Impact

It seems pretty clear that school districts will incur additional administrative and possibly legal costs to comply with the bill’s requirements. Because of the policy questions we have about the bill there is a lot of uncertainty about the fiscal impact on local districts at this time.

Thank you for your consideration of our views. If you should have any questions on our position on SB 470, please call me at 608-242-1370.