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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.