



State of Wisconsin
2017 - 2018 LEGISLATURE

March 2018 Special Session

LRB-5601/1
EHS&TJD:ahc

ASSEMBLY BILL 3

March 16, 2018 - Introduced by COMMITTEE ON ASSEMBLY ORGANIZATION and Representative RODRIGUEZ, by request of Governor Scott Walker. Referred to Committee on Education.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to amend** 51.17 (2), 118.07 (5), 118.126 (1) (c), 118.126 (2), 904.085 (4)
2 (d), 905.045 (4) and 905.06 (4); and **to create** 146.816 (2) (b) 5., 175.32 and
3 905.04 (4) (em) of the statutes; **relating to:** mandatory reporting of suspected
4 intent to carry out violence involving a dangerous weapon or explosive in or
5 targeting a school and providing a criminal penalty.

Analysis by the Legislative Reference Bureau

This bill requires professionals who must report suspected child abuse and neglect under current law to also report to a law enforcement agency a reasonable suspicion that a person intends to commit an act of violence involving a dangerous weapon or explosive in or targeting a school.

Current law requires certain professionals to report suspected abuse and neglect of children if he or she has reasonable cause to suspect that a child seen in the course of his or her professional duties has been abused or neglected or has reason to believe that a child seen in the course of his or her professional duties has been threatened with abuse or neglect and that abuse or neglect will occur. The report must be made immediately, by telephone or personally, to the county department of human services or social services or, in Milwaukee County, the Department of Children and Families or a licensed child welfare agency under contract with DCF or the sheriff or city, village, or town police department. Under current law, mandated reporters are subject to criminal penalties if they fail to report, but are immune from any civil or criminal liability that results by reason of a good faith report.

This bill requires the same professionals who are mandated reporters under current law to immediately inform, by telephone or personally, a law enforcement agency if the mandated reporter has reasonable cause to suspect that a person seen in the course of professional duties intends to commit an act of violence involving a dangerous weapon or explosive in or targeting a public, private, or tribal elementary or secondary school. The bill imposes the same penalties and provides the same immunity from liability as the current mandatory reporting law. The bill also creates exemptions from confidentiality requirements and professional privileges for the reporting required under the bill as are under the current mandatory reporting law.

In addition, current law requires each school board to require every employee of the school district governed by the school board to receive training provided by the Department of Public Instruction in identifying children who have been abused or neglected and in the laws and procedures under the mandatory reporting law. This bill adds the same training requirement regarding the mandatory reporting of suspected intent to commit an act of violence involving a dangerous weapon or explosive in or targeting a school.

The bill also explicitly exempts from the state's requirements for confidentiality of patient health information and allows the disclosure by a health care provider of any suspicion of a patient intending to commit an act of violence involving a dangerous weapon or explosive in or targeting a school. Generally, under current law, patient health information and mental health treatment records are confidential and may be released only upon informed written consent of the subject of the treatment record and in other limited circumstances explicitly described in the law.

Under current law, a health care provider fulfills any duty to warn others by taking any of the following actions: contacting law enforcement or the relevant county department and disclosing knowledge of potential evidence of the individual's substantial probability of harm, approving the emergency detention of the individual if the health care provider is in the position to do so, and taking any other action that a reasonable health care provider would consider as fulfilling the duty to warn a third party of substantial probability of harm. Any person who discloses information evidencing substantial probability of serious bodily harm or a health care provider who takes one of the actions that fulfill a duty to warn is not civilly or criminally liable under current law for actions taken in good faith. Similarly, a health care provider making a disclosure under the bill is also exempt from civil or criminal liability for actions taken in good faith.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 51.17 (2) of the statutes, as created by 2017 Wisconsin Act 140, is
2 amended to read:

1 51.17 (2) AUTHORIZATION. Any health care provider, as permitted by s. 146.816
2 (2) (b) 4., and any law enforcement officer may make a disclosure of information
3 evidencing that an individual poses a substantial probability of serious bodily harm
4 to any other person in a good faith effort to prevent or lessen a serious and imminent
5 threat to the health or safety of a person or the public. Any health care provider, as
6 permitted by s. 146.816 (2) (b) 5., may make a disclosure under s. 175.32.

7 **SECTION 2.** 118.07 (5) of the statutes is amended to read:

8 118.07 (5) Each school board shall require every employee of the school district
9 governed by the school board to receive training provided by the department in
10 identifying children who have been abused or neglected and, in the laws and
11 procedures under s. 48.981 governing the reporting of suspected or threatened child
12 abuse and neglect, and in the laws under s. 175.32 governing the reporting of
13 suspected intent to commit an act of violence involving a dangerous weapon or
14 explosive in or targeting a school. A school district employee shall receive that
15 training within the first 6 months after commencing employment with the school
16 district and at least once every 5 years after that initial training.

17 **SECTION 3.** 118.126 (1) (c) of the statutes is amended to read:

18 118.126 (1) (c) The information is required to be reported under s. 48.981 or
19 175.32.

20 **SECTION 4.** 118.126 (2) of the statutes is amended to read:

21 118.126 (2) A school psychologist, counselor, social worker, or nurse, or any
22 teacher or administrator designated by the school board who engages in alcohol or
23 drug abuse program activities, who in good faith discloses or fails to disclose
24 information under sub. (1) is immune from civil liability for such acts or omissions.

1 This subsection does not apply to information required to be reported under s. 48.981
2 or 175.32.

3 **SECTION 5.** 146.816 (2) (b) 5. of the statutes is created to read:

4 146.816 (2) (b) 5. For purposes of disclosing under s. 175.32 any suspicion of
5 a patient intending to commit an act of violence involving a dangerous weapon or
6 explosive in or targeting a school.

7 **SECTION 6.** 175.32 of the statutes is created to read:

8 **175.32 School violence. (1)** In this section:

9 (a) “Dangerous weapon” has the meaning given in s. 939.22 (10).

10 (b) “Law enforcement agency” has the meaning given in s. 165.77 (1) (b) and
11 includes a tribal law enforcement agency as defined in s. 165.83 (1) (e).

12 (c) “Member of the clergy” has the meaning given in s. 48.981 (1) (cx).

13 (d) “School” means a public, private, or tribal elementary or secondary school.

14 (2) (a) Any person listed under s. 48.981 (2) (a) or member of the clergy who has
15 reasonable cause to suspect that a person seen in the course of professional duties
16 intends to commit an act of violence involving a dangerous weapon or explosive in
17 or targeting a school shall report as provided in sub. (3).

18 (b) A court-appointed special advocate who has reasonable cause to suspect
19 that a child seen in the course of activities under s. 48.236 (3) intends to commit an
20 act of violence involving a dangerous weapon or explosive in or targeting a school
21 shall report as provided in sub. (3).

22 (3) A person required to report under sub. (2) shall immediately inform, by
23 telephone or personally, a law enforcement agency of the facts and circumstances
24 contributing to a suspicion of intended violence involving a dangerous weapon or
25 explosive in or targeting a school.

1 (4) Any person or institution participating in good faith in the making of a
2 report under this section shall have immunity from any liability, civil or criminal,
3 that results by reason of the action. For the purpose of any proceeding, civil or
4 criminal, the good faith of any person reporting under this section shall be presumed.

5 (5) Whoever intentionally violates this section by failure to report as required
6 may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

7 **SECTION 7.** 904.085 (4) (d) of the statutes is amended to read:

8 904.085 (4) (d) A mediator reporting child or unborn child abuse under s.
9 48.981, reporting suspected intent to commit an act of violence involving a dangerous
10 weapon or explosive in or targeting a school under s. 175.32, or reporting
11 nonidentifying information for statistical, research, or educational purposes does not
12 violate this section.

13 **SECTION 8.** 905.04 (4) (em) of the statutes is created to read:

14 905.04 (4) (em) *School violence.* There is no privilege for information contained
15 in a report of suspected intent to commit an act of violence involving a dangerous
16 weapon or explosive in or targeting a school that is provided under s. 175.32 (3).

17 **SECTION 9.** 905.045 (4) of the statutes is amended to read:

18 905.045 (4) EXCEPTIONS. Subsection (2) does not apply to any report concerning
19 child abuse that a victim advocate is required to make under s. 48.981 or concerning
20 suspected intent to commit an act of violence involving a dangerous weapon or
21 explosive in or targeting a school that a victim advocate is required to make under
22 s. 175.32.

23 **SECTION 10.** 905.06 (4) of the statutes is amended to read:

24 905.06 (4) EXCEPTIONS. There is no privilege under this section concerning
25 observations or information that a member of the clergy, as defined in s. 48.981 (1)

1 (cx), is required to report as suspected or threatened child abuse under s. 48.981 (2)
2 (bm) or as suspected intent to commit an act of violence involving a dangerous
3 weapon or explosive in or targeting a school under s. 175.32.

4 (END)