
Wisconsin Legislative Council

ACT MEMO



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2021 Wisconsin Act 41 [2021 Assembly Bill 142]

Immunity From Liability for Good Faith Actions Related to Child Abuse Reporting

BACKGROUND

Under the federal Child Abuse Protection and Treatment Act (CAPTA), each state is required to submit a state plan that meets the directives of CAPTA in order to receive federal grant funds in support of the prevention, assessment, investigation, prosecution, and treatment of child abuse and neglect. Each state's plan must contain various assurances, in the form of a certification by the state's governor, that the state has adopted and is enforcing certain state law provisions. Specifically, CAPTA requires that states include an assurance that the state has enacted and is enforcing a state law allowing for immunity to individuals involved in a report of child abuse and neglect. In 2019, CAPTA's immunity requirements were broadened to require that states protect from both civil and criminal liability and apply such immunity to individuals beyond persons reporting incidents in good faith.

2021 WISCONSIN ACT 41

2021 Wisconsin Act 41 generally aligns Wisconsin law with the recent change to CAPTA by broadening the scope of immunity afforded to persons or institutions involved in reports of child abuse and neglect. Prior state law granted immunity from civil or criminal liability to any person or institution participating in good faith in the making of a report, conducting an investigation, ordering or taking of photographs, or ordering or performing medical examinations of a child or of an expectant mother.

The act maintains the types of acts for which a person or institution could receive immunity under prior law, and also extends immunity to persons or institutions that, in good faith, assist with medical examinations or otherwise provide information, assistance, or consultation in connection with a report, investigation, or legal intervention. Thus, under the act, any person or institution doing any of the following in good faith in connection with a report of child abuse or neglect has immunity from any liability, civil or criminal, that results by reason of the action:

- Participating in the making of a report.
- Conducting an investigation.
- Ordering or taking photographs.
- Ordering, performing, or assisting with medical examinations of a child or of an expectant mother.
- Otherwise providing information, assistance, or consultation in connection with a report, investigation, or legal intervention.

Effective date: May 23, 2021

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