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# SHAE SORTWELL

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STATE REPRESENTATIVE • 2<sup>nd</sup> ASSEMBLY DISTRICT

**Hearing Testimony**  
**Assembly Committee on Education**  
**March 18, 2021**  
**Assembly Bill 122**

Chairman Thiesfeldt and members of the Assembly Education Committee – thank you for giving me the opportunity to speak on AB 122, relating to microschools.

Parents have full responsibility and right to choose the education for their children. However, this is difficult to undertake when limited by government barriers. That is why parental-choice is essential to an actual “free” education.

There are certainly options for parents to educate their children, such as public, private, or home schools. However, the options are still limited.

In 2020, this lack of choices became more problematic and more obvious to people. Many school children were forced into virtual schooling, which we know has been a disaster for many kids. And so many people looked into other options but were faced with few choices. If they couldn't afford a private school or find a school open, their only other choice was to homeschool. But homeschooling is not workable for all people in all situations. Maybe both parents needed to work or you had a single parent. No two people's lives are the same, and many parents had no practicable, legal options to pursue and their children suffered for it.

AB 122 would eliminate a restriction on parents by creating another school-choice option: microschools. **Explicitly and intentionally kept separate from the homeschooling statute in s. 115.001 (3g)**, microschools would operate in a similar manner, except it would have between two and five family units and up to twenty children.

This bill was purposely left open-ended to be as flexible for parents as possible, so a microschool could take several different forms.

A microschool could be created by multiple parents working together every day.  
Or it could be several parents taking turns on different days to oversee the children's education.  
Or it could involve several parents hiring a teacher to teach their kids together.  
Or maybe it could just be a friend or family member offering to teach both his own children as well as yours full-time. This last option could have been amazing for a lot of parents in 2020.



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Additionally, a microscool could be an opportunity for a future private school to start out at an introductory phase.

The opportunity and freedom of choice from this new option for parents and children is imperative. While 2020 brought this lack of options to light, they always existed and we should be looking to give more options to parents, even if we don't think our own families would use that choice currently, because you never know how life circumstances may change for you.

I want to thank the committee for your time and consideration. I am happy to answer any questions members of the committee may have.



**Stephen L. Nass**  
Wisconsin State Senator

**Assembly Bill 122/Senate Bill 201 – Creation of Microschools  
Testimony for the Assembly Education Committee**

**March 18, 2021**

Thank you Chairman Thiesfeldt and members of the Assembly Education Committee for the opportunity to share testimony regarding AB 122/SB 201 creating a new educational option for families in Wisconsin. The legislation before you today would provide statutory authorization for an additional type of educational program to be known as “microschools.”

Currently, parents in our state have the following options for providing their children an education that complies with Wisconsin’s compulsory school attendance law for children age 6 to 18 years old:

- 1.) A public school.
- 2.) A private school.
- 3.) A tribal school.
- 4.) A home-based private educational program (home schooling)

Each of these options is separately defined in state law. State law also places varying levels of requirements on each of these educational options.

Under AB 122/SB 201, a microschool would be an instructional program provided to a child by the child’s parent, or a person designated by the parent that must include children from other family units with the following requirements:

- Must have a minimum two family units participating, but not more than five family units.
- A microschool may not serve more than 20 children.
- The microschool must have the children participating in the instructional program at a physical location.

By comparison, Wisconsin’s law on home schooling applies to a single family unit only. The bill before you today makes no changes to the existing law covering home schooling. This bill also makes no changes to the statutory requirements covering or defining a public school, a private school or a tribal school.

*“In God We Trust”*

11th Senate District

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The educational concept defined as “microschools” in this bill is not really new, since some families have been doing this in various ways for years and with different names (i.e., podding, family co-oping...). Interest in this type of educational model certainly increased in 2020 and continues into 2021, both in Wisconsin and nationally, as a result Covid-19 and many more families needing to take on educational duties at home due to the closure of public schools to in person classes along with the negative impacts on children of poorly performing remote learning instructional models.

The goal of AB 122/ SB 201 is simply to make legal a reasonable educational program that some parents have already chosen for their children and other families may seek to adopt once this bill becomes law. Over the last year, we have all been reminded that in the end only a parent can insure that a child will receive a proper educational program. Covid-19 and the overreaction of government officials to close schools to in person classes and the ongoing struggle to reopen many public schools yet a year later, should inspire all of us to empower parents to meet their fundamental duty of making educational choices for their children.

Education as a policy is far too often, particularly in the public sector, focused on children as a source to qualify for funding. The most basic definition of the process of education is: *“both the act of teaching knowledge to others and the act of receiving knowledge from someone else.”*

I believe that AB 122/SB 201 is another step in removing the governmental barriers to the process of parents teaching knowledge and children receiving knowledge in a way that will produce positive outcomes, most importantly, for the future success of those children.

## **Testimony in Opposition to 2021 AB 122, The Creation of “Microschools” in Wisconsin**

March 18, 2021, 11:02 AM, Room 412 East

Good morning Chairperson Thiesfeldt, and Committee members.

My name is Rebecca Ahl, and I am here to testify in opposition of AB 122, which would create “microschools” in Wisconsin. I am a member of the Wisconsin Homeschool Parents Association, and I currently sit on their Board of Directors. WHPA has registered in opposition to this bill. I am here to offer my personal testimony in opposition.

I am a homeschooling parent of two children, both now teenagers. With the exception of one experimental year, my kids have always been homeschooled, under Wisconsin law. Our homeschool experience has been profoundly rewarding, and my husband and I are both proud of and encouraged by the compassionate, thoughtful, and well-rounded young people our children are becoming. The fact that our long-standing, reasonable homeschooling law works so well is what compels me to oppose the creation of “microschools” in Wisconsin, as proposed.

AB 122 creates a new class of unregulated private schools in Wisconsin. These schools would, under law, be entirely separate from homeschools. However, the author and cosponsors are promoting “microschools” as “a happy medium between a homeschool and a private school.” This language, as well as the use of language nearly identical to that defining a homeschool, is creating confusion for Wisconsin families.

What the bill’s cosponsors are doing is once again blurring the lines between private schools and homeschools. Before our law was passed in 1984, well-intentioned parents who wanted to exercise their right to direct their own children’s education had to employ ad-hoc, best guesses as to how to exercise that right and also meet the state’s well-established compulsory attendance law. Many of these parents were harassed and some were prosecuted. Those arbitrary prosecutions led to the eventual creation of our current homeschooling law. The law was originally explicitly intended to define and codify the difference between a homeschool and a private school. The right of parents to homeschool their own children had already been recognized by the Supreme Court of the United States, so Wisconsin had to ensure a reasonable way for parents to exercise this right. Likewise, the Supreme Court had recognized the right of parents to send their children to a private school, and the right of private schools to exist as legitimate businesses. Through thoughtful communication between homeschooling parents and legislators, our long-standing, reasonable homeschool law was written, ensuring that the difference between homeschools and private school remain clear and legally sound. I would like to add that this distinction between private schools and homeschools is so fundamental to our homeschooling law, that some of the original contributors to that 1984 law reached out to WHPA, to express their deep concern over this proposal.

This bill unnecessarily undoes that long-standing legal structure, and again muddies the waters between the parental right to homeschool and the business of running a private school. We can be

certain this confusion will happen in the future because it is happening now. In the Department of Administration's Fiscal Estimate for this bill, under "Local Estimate" the DOA wrote:

*This bill could lead to increased numbers of students enrolled in home-based private educational programs and potentially reduce the count of pupils enrolled in public schools[.]*

This is a clear misunderstanding of the law. If children are enrolled in a "microschool," they cannot simultaneously be enrolled in a Home Based Private Educational Program. Again, this misunderstanding of the law is a logical outcome of the language the bill's cosponsors are using to promote it.

The bill's author, Representative Sortwell, has publicly stated that under the proposed "microschools" structure, homeschooling parents could legally participate in so-called co-ops, and other extra-legal school programs. On a public social media page, one parent asked "Will this be an 'official' and 'legal' homeschooling co-op?" Representative Sortwell replied, "That is one way it can be used, yes." Another parent asked "So if this bill passes, will I be able to count the co-op hours as homeschooling hours?" Another chimed in "Yes, that's clearly the intent."

**Simply put, there can be no such thing as a hybrid between a homeschool and a private school.** Homeschooling parents exercise their parental rights by taking full responsibility for their children's education. Under Wisconsin law, parents may choose to cede their right to educate their own children, by enrolling their children in any legal school, including in-person public school, virtual public school, public charter school, in-person private school, virtual private school, private voucher school, or tribal school. When a child is enrolled in a legal school, the school administrator is responsible for that child's education. With the exception of specific contracted programs between high schools and institutions of higher learning, **there is no such thing as dual-enrollment in Wisconsin schools.**

Despite these clear and long standing legal facts, the cosponsors of AB 122 / SB 201 are saying and implying to Wisconsin families that "microschools" will somehow allow children to be simultaneously enrolled in a "microschool" and a homeschool. There is no legal basis for this claim.

Further, this confusion is magnified by the lack of any explanation of how "microschools" are to be administered. The bill contains an unfunded mandate that DPI create and administer a new school report for "microschools" but the bill contains no indication of how "microschools" could be made to conform to similar school reports as the current PI-1206 Homeschool Report or the PI-1207 Private School Report. For example, who is the administrator of a "microschool?" Can a child attend more than one "microschool?" If so, what is the legal basis for allowing such dual enrollment? How is a child attached to a "microschool" and can a child leave and re-enroll throughout the year? These questions lead to questions about how the administrator of a "microschool" is responsible for tracking attendance and instructional hours, as well as retaining and transmitting these records. When asked directly about these important legal issues by WHPA, Rep. Sortwell responded "DPI will work that out." This is not a sound basis for legislating, and adds to my confusion and concern about AB 122.

The creation of “microschools” is not necessary. Neither homeschoolers nor private schools need “microschools.” Under Wisconsin law, homeschooling parents **already** have the right to designate any other person to provide instruction to their homeschooled children. If those lessons are given to one family, those hours of instruction can be counted toward homeschooling hours. If those lessons are given to members of more than one family, they are enrichment activities that add to a child’s education. What is not allowed is for a person to run a private school - that is, to provide instruction to multiple families at one time - and either call it a homeschool, or operate as a private school without meeting state regulations. It’s one or the other. This important distinction is at the heart of Wisconsin’s legal definitions of a Home Based Private Education Program, or homeschool, and a private school.

Likewise, anyone who wants to establish a private school in Wisconsin can **already** do so. Private schools can and do vary in style and curriculum, and there is no state certification process for private schools. Private schools do have to meet some basic standards that include protections for employees, services for student health, safety of facilities, record keeping, and provisions for special education and transportation. The creation of an entirely new class of private schools that does not have to meet these minimum requirements is not necessary.

Finally, “microschools” are likely to lead to both new restrictions on homeschools and new demands for public money to flow into private hands. As a homeschooling parent, this is a serious concern to me. By confusing private schools and homeschools, this bill may lead to unwanted and unnecessary new regulation of our homeschool. Our long-standing homeschool law works for Wisconsin families. As a minority group, we must be protective of our legal status. The creation of a new class of private schools is likely to lead to the eventual request that those private schools start submitting to government regulation. By confusing the roles of homeschools and private schools, these bills may also lead to new, unnecessary homeschool regulations. Further, the creation of a new class of private schools is likely to lead to the eventual seeking of public dollars. Seeking public dollars, through vouchers or tax benefits, is also likely to lead to new, unnecessary homeschool regulations attached to those benefits.

As a Wisconsin taxpayer, I also question why the state should allow anyone to operate an unregulated business that serves children, a vulnerable group? If I care for 4 or more children under age 7 in my home, I need a license from DCFS. Under this proposal I can apparently care for 20. The sponsors of AB 122 / SB 201 circulated a statement that this bill would “cut through the red tape” of state regulation. As a former private school and daycare teacher, I can attest that what they call “red tape” are actually sensible regulations about things like background checks, vehicle safety, food safety, and the proper storage of controlled substances. The bill’s sponsors are asking me to trust that my neighbor’s children will be protected by the invisible hand of the free market. Have spent some three decades caring for hundreds of children, I have no such trust.

Finally, this deregulation creates a new statewide school system which steals from our commons by privatizing profits and socializing costs. Under this bill, a person may create and profit from an unregulated private school. When something goes wrong - when a child is accidentally injured, or a parent customer is dissatisfied, or an employee is wronged - who is left to sort out the mess and pay the bills? Through our publicly funded emergency services and legal system, as

well as group funded insurance claims, we will all end up paying the price. However, any person who chooses to open a "microschool" for profit, will get to pocket those gains.

In closing, the creation of so-called "microschools" in Wisconsin, as written, is unworkable and unnecessary. Wisconsin's long-standing, reasonable homeschool law has worked well for over 37 years. Homeschooling families who want to gather and share instruction or resources are already able to do so, and, in fact, do so quite often. The state simply requires that homeschooling parents accumulate 875 hours - or about two and a half hours a day - of direct instruction from one person to one homeschooling family, over the course of the year. Enrichment activities like group classes, clubs, and camps, are excellent resources for homeschooling families that already exist and are commonly used under our current law. Likewise, our current law already allows anyone who wants to to open a private school, and to offer instruction to multiple families at one time. The important distinction between homeschools and private schools is grounded in the well-recognized inherent right of parents to direct their own children's education, and the limited rights of private business to serve children. This bill confuses these two distinct types of schools and these two distinct sources of legal rights. By muddying these waters, the bill creates a legal morass which is yet to be explained. I ask that the Committee take seriously these important legal issues, and table AB 122.

Thank you again for your kind attention.



Amberlee Ohlsen  
Fitchburg, Wisconsin

Dear Assembly Committee Member:

Today, I write to you with my support of Representative Shae Sortwell's Bill, AB 122, Co-sponsored by Senator Nass, with relation to microschoools.

As a resident of Dane County, the last year has posed an abundance of change for our family, including that of two small, school-aged children, one with special needs and an IEP. Due to MMSD's gross negligence in policy during COVID-19, and how our Charter School was choosing to operate under DHS' Draconian leadership, we made the decision to pull our children from the district and enroll as homeschoolers. The decision has by far, been the best for our family.

While we have greatly enjoyed the freedom of being able to customize our children's education with amazing curricula, we've also greatly missed the daily peer to peer experiences that our children loved about attending a more conventional school. Our children wish to be with their friends and learning in a more organic, engaging environment; a huge part of education, is learning about relationships and experiencing other people, other cultures, other beliefs; current homeschooling laws stifle this by allowing for only a parent to be the educator.

In our home, both my husband and I have very demanding careers, that we both love and enjoy. I stayed home with our children for the first 4 years of their lives during the week and worked in the ER on the weekends; this worked for us; for a time. Homeschooling has been a welcome challenge for our family, but, we (my husband and I) also agree completely that we'd like our options extended a little bit. With our close circle of friends all utilizing a more Montessori-based educational model, we would love the ability to educate our mixed-aged children on a rotating basis, while we all also maintain our beloved careers, the best of both worlds!

The option of Microschoools allows for small Pods of families (which has previously been endorsed by WIDHS & PHMDC) to collaborate and create a small educational circle where the children can gain an amazing education with their peers/friends, in a more organic environment, outside the "typical classroom". This is an amazing opportunity.

The only caveat I have in this bill, is ensuring that no State or Governmental funds, under any circumstances be introduced into the Microschooling environment. Funding greatly threatens the freedoms of families to educate how they so choose, and also means that DPI and WIDHS will begin to try and implement policies that are the very reasons many of us chose to pull from the school systems. Absolutely no funding towards any families participating in microschoools.

Thank you, Assemblyman Sortwell for bringing this Bill forward; on behalf of my home, we support this Bill.

Sincerely,

Amberlee Ohlsen

Testimony in Support of AB122/SB201  
March 18, 2021

My name is Kristina Hollenbeck. I am a veteran homeschooler who – along with my husband – educated my children under Wisconsin’s statutes governing private home-based educational programs and graduated them from our homeschool in June 2020. I have been involved in the homeschool community – locally, statewide, and nationally – since 2005, and along the way have become a trusted homeschool proponent, advocate, and consultant. I own The Homeschool Resource Roadmap, a website dedicated to informing home-educating parents about curricular options available to them, and have written a book for homeschooling parents that will be released by Moody Press in August 2021. I am also a former Wisconsin public school teacher, accruing nine years’ experience in the Green Bay Area Public Schools before my children were born.

Throughout the course of my homeschooling years, I studied the history and current status of education policy in the United States, including the laws governing private home-based education (i.e., homeschooling) in Wisconsin. I am very well-versed in Wisconsin homeschool law and endeavor to guide Wisconsin parents toward an accurate, originalist interpretation of relevant statutes. I am also extremely protective of the state’s homeschool law, which has been in place since 1984, and would oppose any measures I believe would jeopardize those who are providing a private home-based educational program to their children.

With that background in mind, I hereby offer *support* for AB122/SB201, a bill relating to the establishment of microschools as a means of satisfying the state’s compulsory school attendance laws. I support this bill as currently written for at least two reasons:

1. *Adding a microschool category to the list of legal educational options in Wisconsin is a matter of fairness and equity.*

Parents in Wisconsin currently have a number of ways in which to comply with the state’s compulsory school attendance laws. Those wanting a taxpayer-funded education can utilize brick-and-mortar public schools, public charter schools, tribal schools, virtual public school programs, or even voucher-funded private schools. Those seeking privately-funded education can avail themselves of brick-and-mortar private schools (non-sectarian or parochial) that do not use the voucher program or private home-based education (i.e., homeschooling). Almost all of the above involve having children learn in large-group settings, while virtual public schooling and homeschooling – as legally defined since 1984 – are educational programs delivered to the children in just *one* family unit. What is missing from among the options is an opportunity for small groups of unrelated children – led by the children’s own parents (and/or persons personally known to and designated directly by those parents) – to learn together on a full-time basis.

Wisconsin state law currently recognizes the right of parents to choose either large-group or family-based instruction for their children. But it discriminates against those who want to utilize a private-based, small-group approach. That is not equitable. AB 122/SB201 rectifies that situation by creating a new small-group option without affecting any already-established option.

2. *Establishing a category for microschools protects private home-based educational programs (i.e., homeschooling).*

The COVID-19 situation undeniably caused a great deal of stress for Wisconsin parents in the spring of 2020. And, as it became apparent last summer that few conventional public schools would return to any sense of normalcy for the 2020/2021 school year, parents began to research their options. Some chose conventional private schools, but the cost of tuition for such schools was beyond the reach of many. Others opted to

move to homeschooling as defined in the Wisconsin statutes (i.e., education for the children in one family unit), and have been finding great success in their endeavors. Some, however, determined that homeschooling would not suit their families' needs and then began to investigate a heretofore little-known option called microschooled (which was often referred to in the media during the summer of 2020 as "learning pods"). Microschools/learning pods are already legal in a number of other states, and many Wisconsin parents with whom I interacted last summer voiced strong support for the idea. They were dismayed to learn that microschooled is not legal in Wisconsin and didn't understand how it could be legal and successful in some states but "not allowed" here. In frustration, many vowed to create microschooled anyway, declaring that they'd file homeschool notification paperwork as if they were establishing actual homeschools but then organize microschooled instead.

While I understood these parents' desire to make a way for their children, their decision to essentially flout the homeschool law in the process worries me. They not only risked sanction on their own families and on any facilitators whom they might retain, they also unintentionally jeopardized the laws governing private, home-based education (i.e., homeschooling) and the ability of those who want to homeschool as currently defined to do so without interference.

Microschooled is not going away; if anything, parents' interest in the practice will increase as they see the success enjoyed by their friends' kids and come to understand that it continues to be a legal option in other states. But it should not be lumped in with private home-based education (i.e., homeschooling) as currently defined, and the current homeschool law shouldn't be changed to incorporate microschooled. Instead, we can protect the integrity of one-family home-based education by simply adding the new category of microschooled to the statutes, maintaining a distinct definition for each. AB122/SB201 accomplishes this goal.

In conclusion, I want to reiterate that – as a veteran Wisconsin homeschooler and experienced homeschool consultant and advocate – I support AB122/SB201 as currently written. I believe it will provide equity for families seeking to provide small group-based education for their children without hurting other educational options in the state. Indeed, I believe that establishing a distinct, clearly defined category for microschooled – separate from homeschooling as already defined in the statutes – will contribute to the protection of homeschool freedom and autonomy. I respectfully urge you to support AB122/SB201 as currently written.

Kristina Hollenbeck  
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3/18/2021

Mr. Chairperson, committee members,

My name is Ella Kaseman-Wold. I am a member of Wisconsin Homeschooling Parents Association (WHPA). I am 14 years old and have been homeschooled since I was 6 years old. My mom was also homeschooled and my parents decided to homeschool me before I was born. This has allowed me to pursue my interests, such as raising dairy goats, training guide dogs for the blind, and politics.

I am speaking in opposition of Wisconsin assembly bill AB 122 / (and) SB 201 for the following reasons:

The current pandemic has blurred the lines between home-based private educational programs (homeschooling) and learning at home. The key differences are who is providing the 875 hours of instruction required by law and documenting it, how many family units this instruction is being provided to, and who is ultimately responsible for the education of these children.

Wisconsin homeschooling law differentiates between home-based private educational programs and private schools:

WI statute 115.001(3g)

"Home-based private educational program' means a program of educational instruction provided to a child by the child's parent or guardian or by a person designated by the parent or guardian. An instructional program provided to more than one family unit does not constitute a home-based private educational program." (WI stat 115.001(3g))

<https://www.homeschooling-wpa.org/wisconsin-homeschool-law/>

This means the proposed "microschools" do not qualify as a home-based private educational program, yet the proposed regulations of "microschools" are identical to those of home-based private educational programs.

It is important to understand that creating "microschools" would not expand the freedom of Wisconsin homeschooling families to participate in community or extracurricular activities outside of the home and in groups. This is already permitted by current law.

In conclusion I oppose Wisconsin assembly bill AB 122 / (and) SB 201 because it threatens Wisconsin homeschooling law (which has worked since it was passed in 1984) by confusing home-based private educational programs and private schools. In addition, the general public does not necessarily understand the differences between home-based private educational programs and the proposed "microschools" which could cause homeschool law to be brought under unnecessary and irrelevant scrutiny if issues with these "microschools" as described in this bill arise. Some of the reasons for these concerns are outlined in the booklet Kitchen Tables and Marble Halls: WPA and Homeschooling in Wisconsin, which I have provided for the record.

Thank you very much for your time and attention.

Ella Kaseman-Wold

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