
AMY BINSFELD

STATE REPRESENTATIVE • 27TH ASSEMBLY DISTRICT

Testimony before the Assembly Committee on Children and Families

Representative Amy Binsfeld

January 10, 2023

Good Morning Chair Snyder and members of the Committee on Children and Families. Thank you for hearing my testimony on AB794 relating to a child runaway and providing a legal means for law enforcement to assist the runaway youth.

AB794 covers an area that right now is being overlooked in our communities. Currently, when a minor child runs away from their home for any reason there is nothing under the law that assists our local law enforcement officers to quickly and safely remove them from a home that isn't in their best interest of safety.

When a child runs and finds a local "safe house" it is often the beginning of a life of control and possible trafficking. The child may have shown others in the community that they are unhappy, not necessarily unsafe or abused in their current home, thus providing an opportunity for a child predator to take notice and encourage or be ready to assist the child, should that child be looking to leave their home. A so called "safe house" will take the child in and make them feel welcome and provide not only daily necessities along with the idea that they are cared about but also assist them to a path of drug use which often leads to sexual activities.

Local police are under local municipal ordinances in which to try to remove these minor children from the control and oversight of these predators. Once the predator has both physical and mental control/influence of the youth, it is near impossible for local law enforcement to take that youth out of the situation. This sets this youth up for a world of misery that at the time they don't see or understand based on their young outlook.

In an email my office received WI State Statute 948.31(1)(b) was cited to covers these situations. However, this statute has **not** been successful in the case of a youth that willingly flees the home and it is said by those with charging authority (local District Attorney) that the quoted statute pertains to child placement situations which is not what we are addressing in this bill.

I understand chapters 46 to 58 in the Wisconsin State Statutes address our social services, but it is not found where in those chapters we cover at risk youth who are not in current abusive homes and that choose to run from home due to the difficulties that our youth face growing up. In these chapters there are mandated reporter requirements. I know that some feel that this bill could cause confusion on reporting. I don't see that to be a problem. After all, this bill wants anyone who is housing a child to let a parent, law enforcement, or a child welfare agency know that they are caring for the child. If we trust law enforcement and welfare agency's to know when a child is in trouble in their legal home, shouldn't we trust that they will be able to see the difference between a child running to a family member or a

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trusted family friend's home is not the same as the youth entering a completely unknown person's home? Shouldn't we trust the trained law enforcement and our agencies will see the best interest of the child? Shouldn't we trust these same professionals will also see and know when adults are working in the best interest of the child? When a child is found in a home even if the adult in the home didn't report the child within the 12 hours wouldn't we apply a reasonable person standard to see if that adult was intentionally keeping the child and placing them in harm's way or safely housing them until an agency can decide what is best for the youth?

As of today, 30 other states have laws that provide law enforcement this tool to assist our runaway youth. AB794 would provide legal standing for officers to remove these runaways from harmful situations by setting legal grounds in which to charge an individual with a Class A misdemeanor for a first offense and progressively increase the penalty for repeat offenses. AB794 states that if a minor child flees their home to another residence the adult of the home is required to notify the police or local child welfare agency to provide knowledge of the child's whereabouts within 12 hours of the child's arrival. This then allows those with the best interest of the child to be involved to make sure that a child is not running from one situation into something that would be even worse for their wellbeing. Recently, this committee passed AB557 which allows children to be placed with adults who are like kin. I think we all understand there are situations in which youth need to flee their home, but it is also acknowledged that placing these youth in a safe home is best for them. AB794 shows this care to a youth who opts to runaway for any reason, by protecting them from predators taking them in. Providing our law enforcement officers a tool to remove these youth from these gateway homes means the youth in all communities can be better protected.

Thank you for your consideration on AB794 and I'm happy to answer any questions.



CORY TOMCZYK

STATE SENATOR • 29TH SENATE DISTRICT

Testimony - AB 794

Assembly Committee on Children and Families

Wednesday, January 10, 2024

Chair Snyder and Members of the Assembly Committee on Children and Families,

Thank you for taking the time to hear AB 794.

In the past few years, we have seen a surge of children being exploited and falling victim to human trafficking. When children run away, they will search for anything that provides them with safety and peace of mind. However, these “safe houses” are often nothing more than a gateway that will lead to the exploitation of that child.

This legislation looks to stop human trafficking in its early stages. The earlier that law enforcement can intervene, the better the outcome will be for victims. Right now, law enforcement has few tools to extract a runaway child from a dangerous situation, even when they know that a child is present in a strangers’ home.

This bill will make it a crime to have a runaway child in a home or vehicle for 24 hours without reporting it the police. Mandated reporting will maintain accountability, ensure transparency, and verify the home is a safe location. Children are the most vulnerable members of society, adding another check to the system will give law enforcement the tools they need to protect children.



WISCONSIN STATE REPRESENTATIVE

Shelia Stubbs

77TH ASSEMBLY DISTRICT

Wednesday January 10, 2024

Assembly Bill 794—Relating to: harboring or transporting a child runaway without the consent of the child's parent or guardian and providing a penalty.

Assembly Committee on Children and Families

Good morning Chairman Patrick Snyder, Vice Chairwoman Joy Goeben, and Members Assembly Committee on Children and Families,

Thank you for the opportunity to testify in support of AB 794—relating to: harboring or transporting a child runaway without the consent of the child's parent or guardian and providing a penalty.

Today, I would like to express my support for AB 794 because I believe that passing this legislation will keep children in our communities safer and hold accountable individuals who conceal or transport child runaways without involving the proper authorities. AB 794 will strengthen protections for vulnerable runaway youth, who are at an increased risk of exploitation and harm in our state.

Under current state law, a licensed foster home, group home, or shelter may provide housing or services to a child runaway if both the child and his or her parent or guardian consent to the provision of housing or services. Under current law, if the parent or guardian does not consent to housing or services, the foster home, group home, or shelter must notify the agency responsible for providing child welfare services of the child's presence in the home or shelter within 12 hours of the child's arrival at the home or shelter.

Current state law does not provide for a person who is not licensed as a foster parent or as a group home or shelter service provider to house a child runaway. This bill would introduce a criminal penalty for anyone who harbors a child runaway without immediately notifying the police or a child welfare agency after receiving the child in their residence or after learning of the child's runaway status, whichever comes first. This bill would also introduce a penalty for transporting a child runaway with the intent to avoid apprehension.

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WISCONSIN STATE REPRESENTATIVE

Shelia Stubbs

77TH ASSEMBLY DISTRICT

It is in the interest of ensuring child welfare to hold unlicensed individuals who encounter runaway youth to a much stricter reporting time frame than recognized facilities trained and licensed in the care of children who have run away from home. By requiring under state law that individuals report runaways immediately to the authorities, rather than within the 12-hour period allotted to foster homes, group homes, and shelters, this bill incentivizes individuals to immediately engage appropriate services for runaway children and discourages individuals from concealing runaways.

We have a responsibility to ensure that attempts to harbor a child runaway without contacting the appropriate authorities are adequately penalized under the law. This bill would make harboring or transporting a child runaway a Class A misdemeanor for a first offense, a Class I felony for a second offense, or a Class H felony for a third or subsequent offense. Under the bill, this penalty would not apply to a licensed foster home, group home, or shelter that provides housing or services to a child runaway.

I appreciate your time and thank you for your consideration of this testimony to the importance of AB 794 for the protection of runaway youth and for guaranteeing that children who leave their homes without parental consent or intention to return are referred to suitable agencies and services as soon as possible. It is my hope that you are now better informed about how passing this bill will increase the safety of vulnerable youth across Wisconsin. I ask you to vote yes for AB 794.

Thank you to the members of the Assembly Committee on Children and Families, and to my colleagues Representative Amy Binsfeld, Senator Cory Tomczyk, and Senator Jesse James for their work on this bill.

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TO: Chair Snyder, Vice-Chair Goeben, and Honorable Members of the Assembly
Committee on Children and Families

FROM: Ragen Shapiro, Legislative Advisor
John Elliott, Administrator, Division of Safety and Permanence

DATE: January 10, 2024

SUBJECT: Assembly Bill 794

The Department of Children and Families (DCF) appreciates the work of the Assembly Committee on Children and Families to improve the lives of children and families across Wisconsin and the deep desire of this bill to keep children of Wisconsin safe from human trafficking. DCF is testifying for information only on AB-794. DCF is concerned that despite the intention, this bill will ultimately result in Wisconsin's children being at greater risk of human trafficking. DCF outlines below four areas of concern with the legislation.

First, under this proposed legislation, there are significant criminal penalties for individuals coming into contact with (harboring or transporting) a child runaway, or a child who is absent from their parent/guardian's home without their consent. It is important to note that when children run away, they often seek out support from other adults in their lives. While the intent of the bill is to target the actions of harmful actors, this bill would also criminalize the actions of many family members, friends, and other supportive adults. The supportive adults often keep young people safe by providing temporary shelter while conflicts can be addressed. For example, under this proposed legislation, a family friend or godparent who allowed a youth to come spend the night at their home after a disagreement with their parents could be prosecuted if they do not immediately call law enforcement or the county child welfare agency.

When children are not able to remain in their homes, relative and like-kin informal supports often offer help to keep those children safe. Removing access to informal supports could result in children being preyed upon further by traffickers and placed in other high-risk situations.

Second, the proposed legislation would have the effect of creating additional reporting requirements outside of the existing Wisconsin mandated reporting law (outlined in 48.981(2)). Under existing mandated reporting laws, certain professions often in contact with children, are

mandated to contact child protective services or law enforcement if they have reason to suspect child maltreatment. Mandated reporters include professionals such as doctors, nurses, mental health clinicians, social workers, teachers and others. Mandated reporters often receive training and information regarding their professional responsibility to report. Under the proposed legislation, individuals who are not mandated reporters under current law would be required to make a report of a youth that is a runaway, whether or not they have reasonable cause to suspect that a child has been abused or neglected, and they would be criminally liable if they do not make such a report. It is unclear how non-mandated reporters would be made aware of this responsibility, and unlike other groups of mandated reporters, they would receive no training as to their responsibility.

The proposed legislation also creates substantial penalties for failure to report. The proposed legislation would make a 2nd offense a Class I felony, and a 3rd offense a Class H felony. A Class I felony is punishable by imprisonment for up to three years and six months or a fine of up to \$10,000, or both. And a Class H felony is punishable by imprisonment for up to six years or a fine of up to \$10,000, or both. By contrast, under the current mandated reporting statute, persons required to report who intentionally fail to report suspected child abuse or neglect may be fined not more than \$1,000 or imprisoned not more than 6 months or both. (s. 48.981(6)). This has the potential to create confusion about what needs to be reported and when; and extends more severe penalties to informal supports who may be offering a child temporary shelter compared to other mandated reporters.

While the proposed legislation requires that individuals report child runaways to child protective services, a child who is considered a runaway would not automatically meet the criteria for child maltreatment as outlined under this statute. In many cases, these calls would be screened-out by the child welfare agency as not meeting the statutory definition of abuse and neglect.

Finally, it is important to note that the impact of the proposed legislation on tribal communities is unclear and potentially detrimental. This proposed legislation could lead to confusion and unintended consequences in tribal settings for children who run away or seek support from relatives or friends after a conflict. This could create an additional layer to complex multi-jurisdictional concerns.

In addition to the concerns outlined above, ambiguity in the language of the bill could also create confusion. However, it is important note that the concerns above would remain even if these ambiguities were resolved. Examples of these ambiguities include:

- Page 2, Line 3: What makes a county department “appropriate?” The bill doesn’t provide guidance about which county department an individual should/must contact. DCF presumes it refers to the county child protective services agency, but that is not explicit in the bill.
- Page 2, Line 6: Use of term “Child runaway.” S. 48.227 already contains a definition of “runaway child”. It may be helpful to be consistent with this language, especially since the bill references s. 48.227.
- Page 3, Line 3: How is “immediately” defined? Wis. Stat. s. 48.227(2) requires a runaway home to notify the intake worker of the child’s presence in the home within 12 hours. “Immediately” is unlikely to be feasible for most situations.
- Page 3, Line 11: What does “avoid apprehension” mean?

The Department of Children and Families sincerely appreciates the Assembly Committee on Children and Families’ interest and attention to keeping all children of Wisconsin safe from human trafficking, as well as the opportunity to provide feedback around this proposed legislation.

January 10, 2024

Dear Members of the Assembly Committee on Children and Families:

I am writing to express the concern and opposition of our organization and its members to the proposed AB 794, Harboring a Runaway legislation.



While this legislation is well-intended, its wording and approach are not helpful. My understanding of the intent of this legislation based on discussion with members of the Anti-Human Trafficking Taskforce in Sheboygan county is very reasonable, which is that young people who are runaways or homeless are often victims of exploitation and trafficking. It is not unusual for them to end up in very unsafe homes after they have exhausted reasonable options among friends and families. The rationale expressed locally is that this legislation would give law enforcement a tool to remove youth from these houses and to prosecute or threaten those who are already endangering these minors. Our concerns are that this legislation does not require that there be any other unsafe allegations in order to be used and that it puts a burden on the general public as a mandated reporter if they would have a reason to suspect that a youth has run. While it is being promoted as protective, it is punitive in nature and further stigmatizes unhoused minors. It also removes an important informal safety net by creating a legal barrier to providing temporary shelter through informal family, friend, and kin options if parental consent is not obtained. This is especially concerning when 16 and 17 year olds are often unlikely to be screened into protective services in a timely manner.

Additionally, upon further research into existing statutes, it appears that several existing statutes have the level of increased repercussion beyond local ordinances needed to address these circumstances. Copies of relevant statutes that may be used in these situations or considered for amendment by this committee accompany this document and are better suited to address the needs described by the local law enforcement and community members supporting this proposed legislation.

These statutes also have the additional benefit of not necessarily requiring that the endangered youth be reported as a runaway and it removes the impact of stigmatizing this young person, which may improve the likelihood of their cooperating with law enforcement and social services both as a witness and in receiving needed supports.

I am urging you to vote against this proposed legislation in order to promote the use of existing statutes to support our unhoused youth in non-stigmatizing ways that will connect them to better supports and options. Thank you for your continued work and partnership!

Sincerely,

Joli Guenther
(she/her/hers)
Executive Director
Wisconsin Association for Homeless and Runaway Services
(608) 239-5430
United to Prevent and End Youth Homelessness in Wisconsin

Attachments: WI 948.30; 948.31(1)(b) 948.45;

948.30 Abduction of another's child; constructive custody.

- (1) Any person who, for any unlawful purpose, does any of the following is guilty of a Class E felony:
- (a) Takes a child who is not his or her own by birth or adoption from the child's home or the custody of his or her parent, guardian or legal custodian.
 - (b) Detains a child who is not his or her own by birth or adoption when the child is away from home or the custody of his or her parent, guardian or legal custodian.
- (2) Any person who, for any unlawful purpose, does any of the following is guilty of a Class C felony:
- (a) By force or threat of imminent force, takes a child who is not his or her own by birth or adoption

Sub. (1) proscribes contributing to the delinquency of any child under the age of 18. The definition of "child" in s. 948.01 (1) excludes those over seventeen only for the "purposes of prosecuting" a person charged with violating this section and not that person's victim. *State v. Patterson*, 2010 WI 130, 329 Wis. 2d 599, 790 N.W.2d 909, 08-1968.

948.31(1)(b)

Except as provided under chs. 48 and 938, whoever intentionally causes a child to leave, takes a child away or withholds a child for more than 12 hours beyond the court-approved period of physical placement or visitation period from a legal custodian with intent to deprive the custodian of his or her custody rights without the consent of the custodian is guilty of a Class F felony. This paragraph is not applicable if the court has entered an order authorizing the person to so take or withhold the child. The fact that joint legal custody has been awarded to both parents by a court does not preclude a court from finding that one parent has committed a violation of this paragraph.

948.45 Contributing to truancy.

- (1) Except as provided in sub. (2), any person 17 years of age or older who, by any act or omission, knowingly encourages or contributes to the truancy, as defined under s. 118.16 (1)(c), of a person 17 years of age or under is guilty of a Class C misdemeanor.
- (2) Subsection (1) does not apply to a person who has under his or her control a child who has been sanctioned under s. 49.26 (1)(h).
- (3) An act or omission contributes to the truancy of a child, whether or not the child is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the child to be truant.

History: 1987 a. 285; 1989 a. 31 s. 2835m; Stats. 1989 s. 948.45; 1995 a. 27.