

January 10, 2023

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

The American Civil Liberties Union of Wisconsin appreciates the opportunity to provide written testimony in opposition to Assembly Bill 794.

While certainly well-intentioned, the overbroad language in the bill criminalizing countless scenarios wholly unrelated to child trafficking would place young people in Wisconsin at a *greater* safety risk.

Under the bill, an individual could be charged with a Class A misdemeanor for “receiv[ing] a child runaway into his or her living quarters...[i]f the person knows[,] reasonably should know[,] discovers[,] or reasonably should have discovered that the child is a runaway” after the child arrives and the person fails to immediately notify law enforcement or child protective services. “Child runaway” is defined as “a child who is absent from the home of his or her parent or guardian without the consent of the parent or guardian and who does not intend to return home.”

According to the Wisconsin Association for Homeless and Runaway Services, over 26,000 Wisconsin families experience a minor running away from home each year.¹ While a young person may run away for a multitude of reasons, many flee because the home is the least safe space for them. Project 16:49, a nonprofit organization serving Rock County's unaccompanied homeless teens, reported that 60% of the young people they serve experienced either physical or sexual abuse and 15% were kicked out for identifying as a member of the LGBTQ+ community.² This mirrors data nationwide, with research from the Trevor Project noting 16% of LGBTQ+ youth reported they had slept away from parents or caregivers because they were kicked out or abandoned.³

¹ Wisconsin Association for Homeless and Runaway Services, <http://www.wahrs.org/>.

² Natalie Eilbert, “Minors in Wisconsin need approval for physical, mental care. What if their parents refuse?,” Milwaukee Journal Sentinel (December, 2022) <https://www.jsonline.com/story/news/investigations/public-investigator/2022/12/01/20000-wisconsin-youths-are-homeless-how-do-they-get-medical-care/10476638002/>

³ “Homelessness and Housing Instability Among LGBTQ Youth,” The Trevor Project (Feb. 3, 2022), <https://www.thetrevorproject.org/research-briefs/homelessness-and-housing-instability-among-lgbtq-youth-feb-2022/>.

There are countless scenarios in which a young person may be present in the home of another that carry a risk of criminalization under the bill as currently drafted. Additionally, the mandatory law enforcement or CPS involvement under the bill could place a young person at greater risk of harm. For example:

- A young person could get in an argument with a parent or sibling, leave home, and head to a grandparent, aunt, uncle, or adult sibling's home to cool off and get some necessary space following the argument.
 - If a young person makes an off-hand statement such as "I don't want to go back" while emotions are running high post-argument once they arrive at a relative's house, would that constitute "intent not to return home"?
 - Mandatory law enforcement or CPS involvement would inherently escalate many situations that could normally be resolved within the family, where instead extended family members are in a better position to serve as helpful and safe mediators in dealing with conflict.
- A young person could go to the home of a trusted adult family friend because their parents are rejecting their LGBTQ+ identity, and the young person does not feel physically or emotionally safe at home.
 - Despite the profound harm caused by this non-acceptance, a young person may not want to subject their parents to law enforcement intervention or an intrusive CPS investigation.
- A young person could leave home and seek shelter elsewhere because of emotional, physical, or sexual abuse that they do not feel comfortable disclosing.
 - A mandatory call to police or CPS could result in a greater risk of harm to the young person once they return home.
- A young person could be spending time at a friend's house. Does any adult in the home need to immediately inquire about the young person's intent to eventually leave and return to their home or the young person's permission to be there to avoid a mandate of calling the police or CPS?

If safe, supportive family members or like-kin do not want to risk criminal prosecution for providing temporary refuge to a young people, that young person may feel they have no other choice but to seek shelter through means that put them at the greatest risk of exploitation. Wisconsin Runaway and Homeless Youth (RHY) programs offer a variety of essential services, including temporary shelter, to runaway and homeless youth and young adults in several regions of the state.⁴ However, these critical programs do not have the capacity to provide direct housing support to every youth who needs it. Creating a legal barrier to critical informal safety nets leaves few other options young people to stay safe, especially in rural areas of the state.

⁴ "Resources for Runaway and Homeless Youth," Wisconsin Department of Children and Families, <https://dcf.wisconsin.gov/ys/rhy/map>; "Wisconsin Runaway Programs," Wisconsin Association for Homeless and Runaway Services, <http://www.wahrs.org/programs.html>.

Ultimately, determinations regarding the nebulous concepts of a young person’s “intent to not return home” and an adult’s “knowledge” or potential to discover a young person’s intent would fall to the discretion of individual police officers and prosecutors.

The dynamics of law enforcement interaction with exploited youth in Wisconsin is not consistent across all 72 counties in light of state law that continues to criminalize minors for prostitution. As highlighted in testimony on Safe Harbor legislation, in the 2019 Law Enforcement Assessment of Sex Trafficking in Wisconsin by the Wisconsin Department of Justice, there were 24 different law enforcement agencies from 16 different counties across Wisconsin that recorded arresting juveniles for prostitution between 2014-2018 in their Uniform Crime Reporting Data.⁵ Yet, these same agencies reported zero sex trafficking cases in the DOJ survey for that same time period.⁶ In the survey, 58% of police chief and sheriff respondents reported that their agencies enforce prostitution laws against juveniles and nearly 25% reported it would depend on the circumstances whether they would do so.⁷

Current law also contains a number of criminal offenses⁸ that more narrowly targets conduct presenting a safety risk to young people without sweeping in countless others who serve as safe informal support systems.

Instead of foreclosing potential safe spaces for young people through the threat of criminalization, we encourage legislators to instead take steps towards state-wide standardization of law enforcement responses to the exploitation of minors, including passage of Safe Harbor legislation. Additionally, legislators should appropriate significantly more funding toward the live-saving resources provided by runaway services programs to expand current capacity and the geographic reach of these resources.

⁵ “2019 Law Enforcement Assessment of Sex Trafficking in Wisconsin,” Wisconsin Department of Justice (Jan. 9 2020), https://www.doj.state.wi.us/sites/default/files/news-media/1.9.20_HT_Data_Report.pdf, p.24.

⁶ *Id.*

⁷ *Id.* at p.4.

⁸ For example, Wis. Stat. § 948.07 (child enticement), 948.08 (soliciting a child), 948.081 (patronizing a child), 948.30 (abduction of another’s child), 948.40 (contributing to the delinquency of a child), 948.45 (contributing to truancy).