

To: Senator Wanggaard, Chair, and Members of the Senate Committee on Judiciary and Public Safety
From: Disability Rights Wisconsin, Phyllis Greenberger, Lead Advocacy Specialist
Re: Testimony Against SB-311
Date: August 14, 2019

Recommendation: Against

My name is Phyllis Greenberger and I am a lead advocate with Disability Rights Wisconsin. Thank you for the opportunity to testify today regarding our agencies concerns with SB-311. Disability Rights Wisconsin is Wisconsin's Protection and Advocacy system for people with disabilities. A major focus of our work both individually and systemically across the state focuses on special education and the rights of students with disabilities. DRW does not support this bill.

DRW is charged with protecting the rights of over 116,000 students with disabilities in Wisconsin's public schools. Students with disabilities **WOULD** be subject to the provisions in this bill. DRW feels strongly that this bill would have unintended consequences for students with disabilities in school and increase the likelihood these students would be unfairly pushed into the school to prison pipeline.

We represent families every year whose children with disabilities make threats to others at school and face suspension, expulsion, police contact and referral to the juvenile justice system at high rates. Students with disabilities in Wisconsin schools are already three times more likely to be suspended for their disability related behaviors than their peers. The Center for Public Integrity ranked Wisconsin 3rd in referral for students with disabilities to law enforcement.

In the past, we have represented students with intellectual disabilities, autism, and emotional behavioral disabilities who lack the ability to communicate frustration, fear, and dysregulation in an appropriate manner, and at times use threatening language without always understanding the consequences. These students have been arrested at school, handcuffed, and taken to the police department causing extreme distress and sometimes even more unsafe behaviors. Then, the family is thrown into the justice system and their child would now be facing Class 1 Felony charges for expressing frustration they didn't have a better way to express at the time. We have already seen students and families traumatized by justice system involvement and how the relationship between school and the family has been broken.

While it is very important to protect staff and students in schools, the way this bill is written will have the unintended consequence of disproportionality subjecting students with disabilities to additional contact with law enforcement for behaviors that are often a direct result of the student's disability. If justice system involvement is the appropriate response, this is already available under current law. We don't believe this elevated charge will protect schools, but SB 311 would create an additional pathway for students with disabilities to enter the juvenile justice system. Children with disabilities are already overrepresented in our state's juvenile justice system and Wisconsin continues to be a leader in the school to prison pipeline.

Students with disabilities can be three times more likely to experience bullying and harassment at school. Often the bullying and harassment goes unchecked even after parent and student reports leading to situations where the student acts out to fight off the harassment by other students. Our current bullying laws do not go far enough to protect students leading to unmet needs of students with disabilities.

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Finally, families often struggle to get the needed services for their children with disabilities in the community. There is a lack of mental health providers and county service providers to help struggling families get the services they need. This law will not provide more funding for counties but will increase the number of students interacting with county services.

The following are issues that may arise due to the requirements of the legislation:

- Students with disabilities who may respond to stress or their inability to appropriately communicate frustration with threatening language or statements could now be charged with a Class 1 Felony.
- Students with disabilities are subject to high rates of bullying and harassment at school which may lead to verbal threats.
- The definition of dangerous weapon is quite broad and subject to interpretation.
- This bill **WILL** affect students with disabilities. While there are protections under IDEA, there is nothing currently in state or federal law that prohibits school staff from reporting students to the police who make threats.

This law will create greater barriers for families trying to protect the rights of their children with disabilities in the school system and takes the focus away from student needs.

Please feel free to contact me if you have additional questions about our concerns of this bill at 608-267-0214.

Thank you for your consideration.