

TO: All Legislators
FROM: Rep. Jeremy Thiesfeldt and Rep. Jesse Kremer
DATE: October 24, 2017
RE: Cosponsorship of LRB 0917/1: Teacher Protection Act

Last summer an [investigative report](#) by Dan O'Donnell on News Talk 1130 WISN shared an all-too-predictable scenario. Wisconsin teachers in some school districts are regularly being both verbally and physically assaulted by students and lack administrative support to confront the growing problem. According to the report, teachers fear for their students' and their own safety, and risk losing their jobs when they take a stand.

The most current data that broken down by state shows that Wisconsin is worst in the nation with 11.3% of all teachers reporting that they have been physically attacked. Additionally, 13.7% have been threatened with injury—3rd worst in the nation. These two combined statistics show that 1 in 4 Wisconsin teachers experience these severe scenarios. Nationwide, it is 1 in 6 teachers.

Evidence is mounting that satisfying a nationwide social justice agenda has become more important than appropriate discipline in our schools. As a result, the education of all our students is diminished and teachers have become pawns in a political game.

Much study has been done on the subject of bullying in our schools and the toxic stress this places on students' ability to learn. Lost in this important topic has been the growing problem of violence and threats against teachers. Our teachers are spending an increasing amount of their instructional time focusing on students who are disruptive in the classroom to the detriment of those who truly would like to learn.

Just as it is unacceptable for a student to feel unsafe at school, it is equally unacceptable for a teacher to feel the same. The proposed bill is a starting point to identifying some institutional policies that would help empower and protect our teachers.

This bill will do the following:

1. Notification of Teacher Rights and Protections. Require DPI to post on its website a summary of teachers' rights and protections under state and federal law. DPI must annually notify all school boards of this posting and each school board must provide this summary to its teachers.
 - a. *Current Law* – no requirement to update teachers on their right to self-defense or other measures

This summary must include at minimum:

- A teacher's ability to remove a student from the teacher's classroom for up to 2 days.
- How a teacher can receive information from the school district about a student committing a felony, a violent crime misdemeanor, or other relevant information deemed appropriate by law enforcement when taken into law enforcement custody.
- A teacher's ability to use reasonable and necessary force under s. 118.31 (3).
- A teacher's ability to request a suspension hearing directly to the school board.
- Right of a school district employee or teacher to receive assistance and leave benefits if injured as a result of a physical assault or violent crime.

- A teacher's ability to terminate his or her contract without penalty if injured as a result of a physical assault or violent crime.
 - Civil immunity provided to teachers by the Coverdell Teacher Protection Act, 20 USC § 7941 *et seq.*, and by local governmental immunity under s. 893.80 (4), Stats.
 - The right of a teacher to review, upon request, the behavioral records of a pupil enrolled in the teacher's class.
 - Anything else the DPI deems relevant.
2. Categories for Suspensions/Expulsions. Require the categories created by DPI for reporting the reasons for which students are suspended or expelled to include: (a) physical assaults on teachers; (b) physical assaults on other school district employees; (c) physical assaults on students; and (d) physical assaults on adults not employed by the school district.
- a. *Current Law* – Requires the DPI-generated school and school district performance reports to include numbers of suspensions and expulsions, as well as reasons for which students are suspended or expelled, to be reported according to categories specified by the State Superintendent. [s. 115.38 (1) (b) 2., Stats.]
3. Maintenance of Behavioral Records. Require a school to retain student behavioral records for the tenure of their enrollment. If a pupil has not graduated or dropped out, the school must retain records until they turn 21. Private schools must retain records concurrently the length of time their policy is for progress records.
- a. *Current Law* – **Prohibits** a school from maintaining behavioral records for more than one year after a pupil ceases to be enrolled, unless written permission is given to retain them for a longer period. Current law does not require schools to maintain *behavioral records* for a minimum period of time, though it does require a school to maintain a student's *progress records* for at least 5 years. [s. 118.125 (3), Stats.]
 - b. *Current Law* – All student records, including behavioral records, need to be transferred between schools if a student moves.
4. Teacher Right to Review Behavior Records of Current Pupils. Provides that ALL public, charter, and private school teachers may review pupil behavior records.
- a. *Current Law* – Pupil records, including behavioral records, must be made available to teachers in public school districts." [s. 118.125 (1) (d) and (2) (d), Stats.]
5. Require Law Enforcement to Notify a School when a Pupil Commits a Felony or Violent Misdemeanor. Require a Law Enforcement Agency to report to the school district or private school a student attends if that student commits a felony or violent misdemeanor or has been **taken into custody** on the basis of a violation that would be a felony or violent misdemeanor. The law enforcement agency must notify the school within 24 hours of attempting to identify the correct school the pupil attends immediately following the incident. They are exempt from this provision if it affects an ongoing investigation that does not jeopardize a school or teacher.
- a. *Current Law* – States that a Law Enforcement Agency **may** provide a school administrator information about a juvenile that relates to: (a) use, possession or

distribution of alcohol or drugs by a juvenile at that school; (b) illegal possession of a dangerous weapon by a juvenile; (c) an act for which a juvenile at that school was taken into custody; or (d) an act for which a juvenile at that school was adjudged delinquent (prosecuted). In addition, a Law Enforcement Agency and a school board or private school may enter into an interagency agreement providing for the routine disclosure of information. [s. 938.396 (1) (c) 3. and 4., Stats.]

6. Require Schools to Report Physical Assaults or Violent Crimes against Teachers within 24 hours of Being Notified to Law Enforcement Based on a Request of an Adult. Require that a principal or other school administrator *must* report a physical assault or violent crime against a person by a student on school premises or at a school-sponsored event to a law enforcement agency if requested by the adult victim or adult witness of the physical assault. "Physical assault" means the knowing or intentional touching of another person, by the use of any body part or object, with the intent to cause physical harm. "Physical assault" does not include the reasonable and necessary use of force for the purpose of self-defense or the defense of others under s. 939.48. This does not include verbal assaults.
 - a. *Current Law* – There is no requirement for administration to report a physical assault or violent crime committed against a teacher within 24 hours.

7. Require Schools to Notify Teachers about Information Received from Law Enforcement Prior to having the Student in Class as Soon as Practicable Once they Received Notice. Require a public or private school that receives information that a student committed a felony or violent misdemeanor to notify teachers who work directly with the student of the felony or violent misdemeanor information prior to having the student in class or as soon as practicable when they receive notice from law enforcement.
 - a. *Current Law* – There is no requirement for administration to notify teachers of a student's outside actions prior to the next day of class.

8. Teacher Ability to Remove Student from Class for 2 Days. Allow a teacher to remove a student from his or her classroom for up to one day beyond an initial removal. A teacher may readmit a student back to class at his or her discretion, or have a meeting with a principal and the student and then decide to allow the student back into class. Having a meeting does not automatically mean the student can be readmitted to the class the next day, but probably improves the student's chances. The goal is to have communication with a principal on the classroom issue. This provision does not apply to private school teachers, as state law does not limit how or why private school students may be removed from class.
 - a. *Current Law* - Allows a teacher to remove a student who is dangerous, unruly or disruptive or exhibits behavior that interferes with the ability of a teacher to teach effectively, or violates the code of classroom conduct adopted by the school board (subject to additional procedures for students with disabilities). After the teacher removes the student, the principal can place the student back in the classroom at any time after determining that readmission is the best or only alternative. [s. 118.164 (2) and (3) (a) 4., Stats.]

9. Teacher Ability to Terminate Contract if Victim of Violent Offense or Physical Assault. Require a school board to include in all teacher contracts going forward a provision allowing a teacher to terminate his or her contract without penalty if the teacher is the victim of a violent crime or physical assault while engaged in official duties on behalf of the school district. The termination of a contract by a teacher must be done within 2 months of a recorded incident.

a. *Current Law* – There is no requirement in state statute to allow a teacher to terminate his or her contract without penalties (unless each school district incorporates it voluntarily through the district’s contracts).

10. A School must Provide Assistance for Leave and Loss of Benefits for Public School Employee Victims of Physical Assault or a Violent Crime. An employee of a school district or independent charter school who is injured as a result of a violent crime or physical assault while the teacher is engaged in official duties shall receive the following:

1. A leave of absence from employment without a loss of leave benefits.
2. Assistance with insurance, leave, and benefits questions regarding the leave of absence from a designated district or school employee.

The school district will have the right of subrogation to recoup leave benefit costs.

a. *Current Law* – There is no requirement that a school district provide special assistance related to leave resulting from assault or violent crime injuries.

11. Creates a Procedure for a Teacher to Request a Suspension Hearing if Administration does not Act. Allow a teacher to request a suspension hearing before the school board or independent hearing officer or panel responsible for conducting hearings, if the school administration chooses not to pursue suspension.

PROCEDURE: The teacher must first make a formal request to the administration (that has to decide within 24 hours) before it is then appealed to the school board president (who also has to decide within 24 hours) who could grant the hearing request. If the president of the school board grants a suspension hearing, and the board/hearing officer/panel decides to suspend the student, they can impose a suspension of up to 5 school days. Allows “in-school” suspension to satisfy the appeal process.

a. *Current Law* – Permits a school board to expel a student for particular reasons, but only allows an administrator, principal, or designated teacher to suspend a student. A student may be suspended for noncompliance with a school district rule or for engaging in specified, prohibited conduct, and the suspension is reasonably justified. Suspension of a student does not involve a hearing before the school board under current law. [s. 120.13 (1) (b) and (c), Stats.]