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Date: Tuesday, November 14, 2023

Contact: Jeanine Schneider, (608) 237-9178

Bill to Close Loophole on Sexual Assault by a Health Care Provider Passes Assembly

MADISON – Today, the State Assembly passed [Assembly Bill 129](#) (AB 129) to close a loophole in state law relating to sexual assault by a health care provider. The legislation would ensure that all medical employers and facilities in Wisconsin would be treated equally when it comes to incidents of sexual assault by a medical provider. Representatives Lisa Subeck (D-Madison) and Barb Dittich (R-Oconomowoc) authored the bipartisan legislation.

"A victim of sexual assault should be able to seek justice whether the perpetrator is a stranger, their partner, or their doctor," said Rep. Subeck. "Our bill would close a loophole in state law that allows some health care providers to avoid significant consequences for serious violations of the implicit trust placed in doctors by their patients."

AB 129 is in response to a 2017 criminal complaint filed by a female patient of a Dane County physician for his sexual misconduct toward her at a local clinic, which included inappropriate touching and sending explicit photographs. The doctor was charged with 2nd Degree Sexual Assault by an Employee of a Child Welfare Agency or Care/Service Residential Facility ([§940.225\(2\)\(j\)](#)), a Class C Felony, and with 4th Degree Sexual Assault ([§940.225\(3m\)](#)), a Class A Misdemeanor. The felony charge was dropped after the doctor's attorneys argued, with prosecutors agreeing, that this incident did not meet the "entity" definition in [§50.065](#). The "entity" definition is referenced in Sexual Assault by Employee of Child Welfare Agency or Care/Service Residential Facility statute.

"The majority of Wisconsin's healthcare professionals, working at most hospitals, nursing homes, or other licensed entities would be charged with a felony under current law," said Rep. Subeck. "Unfortunately, a loophole in that law means some physicians cannot be charged with that same penalty simply because of the type of clinic where they work. Our legislation passed today by the State Assembly will change that, allowing all patients the same level of justice in the event of sexual assault by a trusted healthcare provider."

Rep. Subeck has represented the 78th Assembly District since 2015 and serves as Chair of the Assembly Democratic Caucus.

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78TH ASSEMBLY DISTRICT

STATE CAPITOL P.O. Box 8953, Madison, WI 53708 PHONE (608) 237-9178 TOLL FREE (888) 534-0078
EMAIL Rep.Subeck@legis.wisconsin.gov WEB legis.wisconsin.gov/assembly/78/subeck