

To: All Legislators

From: Rep. Hutton and Sen. Kooyegna

Date: June 17, 2019

Re: Co-Sponsorship of LRB-0777, relating to: right to specific staffing arrangements for certain patients with a developmental disability.

DEADLINE: Wednesday, June 26th at 5:00PM

According to data from the [Department of Justice](#), people with intellectual disabilities are seven times more likely to be sexually assaulted than those without disabilities.

Furthermore, those who are unable to communicate or communicate nonverbally are at the highest risk for sexual abuse. This abuse is most likely to occur in extremely vulnerable situations such as toileting, changing, and during transportation.

In 2003, a Central Wisconsin Center resident became pregnant after being sexually assaulted by a [caregiver](#). Just a few months ago, a woman in a vegetative state gave birth to a baby at Hacienda Heath Care center in [Arizona](#). Her guardians had been promised that the gender preference for their child's caretaker would be honored, but this promise was not fulfilled. These heartbreaking stories are far from the only cases of individuals like this suffering abuse, and this is especially concerning for those who are unable to communicate or communicate nonverbally. They are unable to speak for themselves, and are incredibly vulnerable in care facilities.

This legislation, LRB 0777/1, comes at the request of constituents who are concerned over the wellbeing of their daughter who has a nonverbal disability. It implements commonsense practices to ensure that individuals who are unable to communicate or communicate nonverbally due to a cognitive or developmental disability are protected from abuse and harm. All individuals with disabilities and their families deserve to know that they are safe and protected at care facilities, and this legislation is vital in ensuring that.

Contact: Gracie in Rep. Hutton's office at 7-9390 or Sandy in Sen. Kooyenga's at 6-2512 to co-sponsor this bill.

Analysis by the Legislative Reference Bureau

This bill establishes a right for certain patients in an intensive treatment program at one of the centers for the developmentally disabled operated by the Department of Health Services to have, upon request, staff of a requested sex present for certain interactions.

Specifically, under the bill, a patient in an intensive treatment program has, if the patient or the patient's parent or guardian requests, a right to a staffing arrangement under which at least one person of the sex requested by the patient or the patient's parent or guardian be present for certain interactions, including 1) assistance with bathing, toileting, or any activity that requires removal of clothing other than outerwear, footwear, or accessories; 2) movement within the center or other transfer that involves transport through an isolated area such as a stairwell or elevator or in a vehicle; or 3) any interaction in a private room, bathroom, changing room, exam room, or any other isolated area. Under the bill, this right, like certain other existing statutory patient rights, may be denied for cause after review by the director of the facility, and may be denied when medically or therapeutically contraindicated as documented by the patient's physician, licensed psychologist, or licensed mental health professional in the patient's treatment record. The individual must be informed in writing of the grounds for withdrawal of the right, and there must be documentation of the grounds in the patient's treatment record. The decision is subject to a review and grievance process established by DHS for patient rights issues. The bill also limits the amount DHS may expend in accommodating these staffing arrangement requests to no more than \$3,000,000 per fiscal year. For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.