

Dept. of Justice: Rep. Sanfelippo appears to flip-flop in email filled with falsehoods; AG Kaul demands immediate passage of bipartisan legislation to prevent another backlog of untested sexual assault kits

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MADISON, Wis. – Bipartisan legislation to prevent a future backlog of untested sexual assault kits continues to be obstructed by Rep. Joe Sanfelippo (R-West Allis), Chair of the Assembly Committee on Health, who appears to have flip-flopped on his plan to hold a hearing on the bill.

[According to reporting by the AP](#) on December 3, 2019, “Rep. Joe Sanfelippo, chairman of the Assembly Health Committee that has the bill, said he planned to hold a hearing on it and expected it would be pass before the end of session....” In an [email recently obtained](#) by the Wisconsin Department of Justice (DOJ), however, Rep. Sanfelippo expressed opposition to 2019 Assembly Bill 214/2019 Senate Bill 200. Much of the information Rep. Sanfelippo provided in the email is false.

“While it appears that Rep. Sanfelippo is putting politics above public safety in refusing to hold a hearing and take a vote on this legislation, there is no serious question that enacting this bill, which can help prevent a future backlog of untested sexual assault kits, is good for public safety,” said Attorney General Kaul.

“Because of Wisconsin’s backlog of untested sexual assault kits, justice was delayed for survivors for years. That must never happen again. It is simply outrageous that Rep. Sanfelippo is blocking legislation that can help prevent a future backlog.”

Below are excerpts from Rep. Sanfelippo’s email and corrections to false statements in that email.

“The Attorney General already has the authority to put these processes in place. In fact, former Attorney General Brad Schimel did just that.”

False. There are no administrative rules to address the process for the submission and retention of sexual assault kits and Attorney General Schimel did not create any.

A protocol was developed by the Attorney General’s Sexual Assault Response Team in relation to the submission and retention of sexual assault kits where a victim chooses not to report to law enforcement, a minority of the kits, but that protocol is not binding on the hospitals that submit those kits to the state crime labs.

“On his own, and without action by the legislature, AG Schimel put the rules in place and by the end of his term 4,100 backlogged kits had been tested....Schimel’s rules remain in practice today.”

Again, Attorney General Schimel did not create administrative rules to address the submission and retention of sexual assault kits. DOJ requested that kits be submitted to the state crime labs. If AB 214 is enacted, in cases in which survivors choose to report to law enforcement, law enforcement agencies would be required to submit kits to the state crime labs within 14 days of when the agencies receive the kits.

“When I met with AG Kaul earlier this year I expressed my reluctance to take away authority by having the legislature put this policy into statute rather than leaving it in agency rules.”

Rep. Sanfelippo met with Attorney General Kaul. Attorney General Kaul asked Rep. Sanfelippo to hold a hearing on the bill and asked Rep. Sanfelippo to contact his office if he had any questions or concerns about the bill. Rep. Sanfelippo never did so, despite follow-up from DOJ.

“By leaving the authority to set the rules that govern the testing of rape

kits with the Attorney General (whether it be Josh Kaul or anyone else) we are providing a much faster process for those rules to be updated to reflect any new technology or process.”

As explained, there are no administrative rules in place to update.

The legislation only codifies requirements for the submission and retention of kits, not the testing or technology used. The legislation was specifically drafted to allow the Wisconsin State Crime Laboratory (WSCL) to change internal policies to reflect advancing technology via rule promulgation, which is expressly authorized by the legislature under the bill. This in no way restricts the WSCL’s ability to process sexual assault kits more quickly as technology allows. Moreover, with the respect to the submission and retention of kits, AB 214 sets a baseline; it does not in any way prevent agencies from submitting kits to the crime labs more quickly or retaining kits for a longer period of time than the bill requires.

Notably, the legislation was drafted with input from a multi-disciplinary team of subject matter experts. Those subject matter experts support a uniform statutory procedure for the submission and retention of sexual assault kits.

“Frankly, if the bill AG Kaul is asking for now was in place when Brad Schimel was AG, Schimel would not have been able to develop the rules that have led to the elimination of the entire backlog as quickly as he did.”

False. This legislation would not have inhibited DOJ’s ability to address the backlog of untested sexual assault kits. If this bill had been in place before the backlog developed, Wisconsin likely would never have had a backlog.

“I am not willing to pass a bill that I believe could be harmful to public safety, and while this bill may be good politics for the Attorney General it is bad policy for the citizens of Wisconsin.”

This statement is clearly made in bad faith. As noted above, this legislation was drafted with input from a multi-disciplinary team of subject matter experts. The Wisconsin Chiefs of Police Association, Wisconsin Nurses Association, Wisconsin Coalition Against Sexual Assault, and the Wisconsin Alliance for Women’s Health have registered in support of the legislation. No organizations are registered against the legislation and no other member of the State Legislature has publicly

announced opposition to it.

There is strong support for this legislation:

- The [legislation is co-sponsored](#) by 72 senators and representatives (47 Democrats, 25 Republicans), including a majority of the members of the State Assembly (56).
- The legislation was approved 5-0 in the Senate Committee on Insurance, Financial Services, Government Oversight and Courts. Those senators are:
 - Senator David Craig (R-Big Bend)
 - Senator Duey Stroebel (R-Saukville)
 - Senator Dan Feyen (R-Fond du Lac)
 - Senator Fred Risser (D-Madison)
 - Senator Lena Taylor (D-Milwaukee)
- The legislation was passed by the State Senate on a voice vote in October 2019.
- The Wisconsin Chiefs of Police Association, Wisconsin Nurses Association, Wisconsin Coalition Against Sexual Assault, and the Wisconsin Alliance for Women's Health have registered in support of the legislation. No organizations are registered against the legislation and no other member of the State Legislature has publicly announced opposition to it.

<https://www.doj.state.wi.us/news-releases/rep-sanfelippo-appears-flip-flop-email-filled-falsehoods-ag-kaul-demands-immediate>