



**Testimony of Representative Garey Bies
Assembly Committee on Criminal Justice
Assembly Bill 274 –Aiding a Felon**

Chairman Kleefisch, committee members. Thank you for the opportunity to submit testimony on Assembly Bill 274.

Senator Olsen and I introduced this legislation to strengthen Wisconsin law as it relates to aiding a felon. Current law prohibits a person from harboring or aiding a felon to prevent the person's apprehension. Current law also prohibits a person from destroying, hiding or tampering with evidence. These prohibitions however, don't apply to family members, which is defined as a spouse, parent, grandparent, child, grandchild, brother or sister. Assembly Bill 274 removes this exemption for family members.

In a moment you will hear from Shirley George, whose grandson Joey was killed in 2000 after being mistaken for someone else. The three suspects in Joey's death were all helped by friends and family and received lenient sentences or none at all. For the past 13 years, Shirley has been fighting to get this law changed. A change, many DA's have publicly supported. You may hear from some of them today.

There are many tragic examples across the state of a family member helping to hide a relative's crime. Everything from hiding a weapon, cleaning up a murder scene, washing or burning bloody clothes, to erasing files on a son's computer to avoid charges of sexual assault of a child. The Milwaukee Journal Sentinel has done an entire series on this. I've included a couple articles with my testimony which highlights a few of these cases.

I think it's important to mention that a District Attorney still has discretion in whether or not to charge someone for harboring or aiding a felon. If the DA believes that a relative didn't knowingly help a felon, they are not forced to file charges. But I think most people can agree that if you're burning bloody clothes or hiding a body, you've taken an active step in helping to cover the crime. This legislation simply gives prosecutors the ability to charge a family member if they determine their involvement warrants some type of penalty.

Once again thank you for the opportunity to testify on Assembly Bill 274. I am happy to answer any questions you may have.

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Dangerous And Free | Watchdog Update

Testimony backs effort to toughen Wisconsin's fugitive law

By John Diedrich of the Journal Sentinel
Sept. 5, 2013

Madison — The reaction from legislators Thursday to a bill that would toughen Wisconsin's law on helping fugitives escape justice by eliminating a loophole for family members who assist loved ones on the run was disbelief that this is Wisconsin law.

"Why would we have allowed that?" asked Sen. Joe Leibham (R-Sheboygan), after he was assured no one could be charged for unknowingly helping a fugitive.

Prosecutors across the state, including two from southeastern Wisconsin who testified Thursday before the state Senate's Committee on Transportation, Public Safety, and Veterans and Military Affairs, have provided examples of parents, spouses and other family members helping murderers and other felons cover their tracks.

Among others testifying Thursday was Shirley George, who appeared once again at Wisconsin's Capitol, renewing her 13-year fight to toughen the law in question.

Recalling the murder of her grandson in Oak Creek in 2000, George, 77, implored legislators to pass the bill she has dubbed "Joey's Law." Joey George was killed in a case of mistaken identity. Those who tried to cover up the crime received light punishment — or none at all.

"It's a change that is long overdue," said George, of Waupaca, who flew in from Arizona to attend Thursday's hearing. "The message now is that aiding and abetting is not a big deal."

Current Wisconsin law prohibits prosecutors from charging people who hide family members from police or destroy evidence. A dozen states have similar exceptions for family, but Wisconsin's 1950s-era law is among the most lenient.

Bills spearheaded by George have been introduced at least five times in the past. All have failed, under both Democratic and Republican leadership. The reasons have ranged from an individual lawmaker's objection to legislators running out of time in a session.

On Thursday, Rock County Assistant District Attorney Gerard Urbik recounted how the investigation of sexual assault of a child was thwarted when the father of the suspect erased evidence on his son's computer. Urbik's only option was to charge the father with obstruction, after he lied to police. He received probation.

"That is nowhere near serious enough penalty for destroying evidence in a child sexual assault case," he

said.

Waukesha District Attorney Brad Schimel recounted to the committee cases where a woman helped her husband hide a homicide victim's car and another where a father helped his son move and then dump the body of a girl who died of an overdose.

The Journal Sentinel documented several examples in which homicide suspects were helped by family members — one finding of an investigation that uncovered how offenders escape punishment because of shortcomings in the system. In one case in Milwaukee, the girlfriend and sister of a murder suspect tried to cover up the crime by mopping up blood, but the sister could not be charged under the law.

Schimel said he supports the bill without any exceptions. In past versions, an exception for victims of domestic violence was added. The problem, Schimel and other prosecutors say, is that district attorneys will be put in a position of having to prove that someone is not a victim of domestic violence.

Schimel said there already is protection in the law when domestic violence victims are forced to do something harmful to themselves or their children. That issue is best left to the discretion of the prosecutor.

"No DA wants to prosecute a DV victim who was coerced," he said.

The bill's author, Sen. Luther Olsen (R-Ripon), gave no indication he would amend the measure to include an exception for domestic violence victims. Advocates of those affected by domestic violence who were at the hearing did not speak.

The bill would make it a class G felony — and with it up to 10 years in prison — to hide someone wanted for the most serious felonies. The bill would mean up to 3½ years in prison for harboring a felon in less serious crimes. The maximum penalty under current law is 3½ years, regardless of the underlying offense.

The next step would be for the committee to vote on the measure. The bill, if it passes, would go to the Senate floor. The proposal still would have to make it through the full Assembly.

Standing in the Capitol rotunda after testifying, George said she is optimistic the bill will become law this time.

Steven George, Joey's brother, said he is in awe of his grandmother's determination. He still has trouble talking about his brother's death. He is grateful his grandmother has found a way to channel her grief.

"Her strength overwhelms me," he said, tears welling in his eyes. "I couldn't have done this."

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Relatives helping felons

The issue of relatives helping felons has surfaced in several high-profile cases investigated recently by the Journal Sentinel.



Armando Barragan

■ Indicted Latin Kings leader **Armando Barragan** was hidden by his then-wife, **Cynthia Bustamante**, as federal agents looked for him. Unlike Wisconsin law, federal law has no exception for family members who hide felons. Bustamante was convicted and received two years in federal prison. Barragan remains at large.



Corey Young

■ Kevin Bohannon was robbed and killed as he walked through Mitchell Park on the south side in July 2006. The brother of shooter **Corey Young** hid the gun, prosecutors say. Because of the law, he could not be charged.



Christopher Jones

■ Also in 2006, Special Olympian **Brandon Sprewar** was robbed and murdered as he was waiting for a bus on Milwaukee's northwest side. Gunman **Christopher D. Jones** gave the murder weapon to his brother, **Carey Morris**, who hid it, according to a criminal complaint. Morris could not be charged for hiding evidence.



Markus Evans

■ **Markus Evans**, 18, was seen having dinner with his family at Red Lobster when he was wanted for shooting his cousin in the back. Evans received 14 months in juvenile prison for that shooting and went on to kill a 17-year-old girl, prosecutors say.



Roddee Daniel

■ In Kenosha, **Roddee Daniel** and **Kawanis Trotter** were convicted in the 2008 homicide of **Capri Walker**, 51, a woman who lived next door. After beating her to death with a bat, they took an Xbox, purse and money, according to a criminal complaint. **Latrina Edwards**, mother of Daniel, hid the stolen goods, a mask, gloves and other evidence, according to police reports. She could not be charged under the law.



Kawanis Trotter



LZ Jolly

■ Longtime gang leader **LZ Jolly** was hidden by **Angelina Wyatt**, the woman with whom he was living, as police sought him on a homicide warrant. Prosecutors charged Wyatt but had to drop the charges when she produced a marriage certificate.



Michael Lock

■ **Thelmer Lock**, the mother of crime kingpin **Michael Lock**, hid his gun at her house, according to police.



Corey Kleser

■ **Corey Kleser** is charged with bludgeoning 57-year-old **Ronald O. Adams** to death in 2006. Kleser, then 15, told his father, **Charles**, about the homicide, according to a criminal complaint. **Charles Kleser** washed his son's bloody clothes, the complaint said. He was not charged because of the law. **Corey Kleser**, 20, is set to go on trial later this year in the homicide.

* Courtesy: Kenosha News

Journal Sentinel

Dangerous and Free | A Journal Sentinel Watchdog Update

Felons' helpful kin get a pass

New bill aims to close loophole in state law

By John Diedrich of the Journal Sentinel
June 11, 2011

In the bloody aftermath of a recent triple shooting in Milwaukee, the shooter's sister and girlfriend tried to cover up the homicide - using bleach to clean up blood and rubber gloves to collect spent bullet casings, prosecutors say.

Both women were arrested. But only one - the girlfriend - was charged with a felony because of a long-standing law in Wisconsin that protects family members of criminal suspects from facing felony charges for destroying evidence, hiding relatives on the run, or even planting false evidence. About a dozen other states have exceptions for family, but Wisconsin law exempts more relatives and permits them to do more to thwart law enforcement without fear of prosecution.

Prosecutors say the Milwaukee shooting in April is another example of how Wisconsin's law handcuffs their ability to seek justice, protecting the people most likely to help a fugitive - their family.

"Why should they get a pass? Why shouldn't they be held accountable for what they knowingly did? I just don't understand it," said Kenosha District Attorney Robert Zapf, who has his own cases where family members could not be prosecuted after helping criminals. "You basically perform a lobotomy on the aiding-and-harboring law by having this exception. ... We should not be rewarding people who thwart the law."

Attempts to close the loophole for family members who help felons have failed repeatedly in the Legislature. A new bill that not only closes it but also stiffens penalties is back this year. Sponsor Rep. Peggy Krusick (D-Milwaukee) said recent cases uncovered by the Journal Sentinel emphasize the need to toughen the law.

The newspaper has been conducting an ongoing investigation into how dangerous criminals elude justice time and again because of miscalculations by law enforcement, poor communication among authorities and leniency from judges, prosecutors and lawmakers.

The bill received a committee hearing this month, and a vote is expected in the Assembly committee soon.

"There is just so much common sense in this legislation," said committee chairman Rep. Garey Bies (R-Sister Bay). "I can't understand why it has been sitting around for so long."

Some defense attorneys question removing the family exception, suggesting it could give prosecutors

too much power to lean on family members who might unknowingly help a felon.

Krusick's previous efforts to change the law have been blocked by other members of her party, who declined to hold hearings on the bill or advance it from committee for a vote. They have also consistently declined to explain why.

Bies said he will move to schedule a committee vote on the harboring bill soon. "I will do everything in my power to get it pushed out," he said.

Fatal shooting

The April 7 homicide started as a fight with mop handles and ended with gunfire - one dead, two critically wounded.

It's unclear what started the dispute in an apartment building near N. 13th and W. Locust streets. Tempers boiled over, and Duanne Townsend, 28, was armed with a 9mm handgun with a high-capacity magazine, according to the criminal complaint.

The complaint says Latoya Thomas, Brandon Thomas and Jermichael Wilkins confronted Townsend for beating up a friend of theirs - Ricky "Buck Wild" Woods.

Townsend shot Latoya Thomas and Wilkins, firing at least four times, wounding both, the complaint says. Then Townsend shot 10 more rounds at Wilkins from close range, the complaint says. Remarkably, Wilkins was not killed.

Then Townsend turned on Brandon Thomas, 26. He died at the scene.

Afterward, Townsend's sister and girlfriend gathered up shell casings, put them inside a rubber glove and threw them away, according to the complaint. They also used bleach to clean up the blood, the complaint says.

April Brown, the girlfriend, was charged with felony harboring - facing up to 18 months behind bars and two years' probation.

But the case against Simone Stewart, the sister, could not be reviewed by the homicide unit.

"I can tell you, legally we were unable to even review the sister for harboring or aiding because of the way the statute is written," said Assistant District Attorney Grant Huebner.

Stewart was charged with a misdemeanor of obstructing law enforcement, facing a maximum of nine months.

It was unusual that Stewart was charged at all, said Janine Geske, a former state Supreme Court justice and a Milwaukee County judge from 1981 to 1993. She did not recall ever seeing an obstruction charge used against a relative.

"I think it is a smart move by the prosecution," Geske said. "It is a clever and legitimate way to charge people with something if they have engaged in this conduct."

Kenosha's Zapf said the family exemption needs to go, even if someone like Stewart could be charged

with obstruction. He said such conduct should be a felony. In some cases, he said, it's not possible to even charge a family member with misdemeanor obstruction.

Wisconsin has no accessory-after-the-crime law. Prosecutors in states with such laws can charge someone who helps cover up a crime as a party to the original charge. If someone hides a gun used in a murder, that person could face the same prison time as the person convicted of committing the homicide. At least a dozen states have such laws, including New York.

'Archaic vestige'

Wisconsin's exception for family members was written in the 1950s. There's apparently nothing in the legislative history of the law to indicate why it gained support.

Milwaukee Police Chief Edward A. Flynn called it an "archaic vestige of law that needs to be amended in the interest of justice and public safety."

Acting Milwaukee Police Capt. Thomas Stigler, commander of the Homicide Division, said the law hinders investigators from getting to the bottom of a killing.

"We all want to see justice done, and you can't hold someone responsible for what we believe should be a crime," he said.

Defense attorney Raymond Dall'Osto strongly disagreed. "Prosecutors could well run amok in charging relatives of people who have not committed crimes, didn't condone the crime, etc., but are still related to the suspect," he said. "Last I heard, a man or woman who is a suspect is innocent until proven guilty. Should a child be required by law to turn in his parent, as in Communist Cuba?"

Milwaukee District Attorney John Chisholm said prosecutors cannot charge if intent is uncertain, and the bill has no requirement forcing family members to turn in loved ones.

"Our major concern," he said, "is the deliberate destruction or hiding of evidence."

Find this article at:

<http://www.jsonline.com/watchdog/watchdogreports/123695519.html>

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Luther S. Olsen

State Senator

14th District

**Testimony in favor of Assembly Bill 274
December 12, 2013
Assembly Committee on Criminal Justice**

Thank you Chairman Kleefisch and committee members for taking the time to hear Assembly Bill 274. Representative Bies and I introduced this legislation with bipartisan support to strengthen Wisconsin's laws prohibiting the aiding of a felon at the request of my constituent, Shirley George. Shirley's grandson Joey was tragically killed by a gunman whose family later helped him elude law enforcement.

Under current law, anyone other than a family member is prohibited from aiding a felon or destroying, altering, or hiding evidence in order to prevent a felon from getting convicted. This proposal removes the exception for relatives or a spouse who actively help criminals thwart law enforcement in order to prevent the criminal from facing prosecution. The reasoning behind removing this exception is that crime should not be a "family affair". Only twelve states provide this exemption and of those Wisconsin's is by far the most liberal.

Additionally the proposal increases the maximum penalties for aiding a felon who has committed a class A, B, C or D felony to create more serious consequences than that for aiding a less serious felony. Maximum confinement time is increased from 1 ½ to 5 years, time under supervision is increased from 2 to 5 years and increases the maximum fine from \$10,000 to \$25,000.

I feel strongly that we should make this commonsense change and provide a deterrent to anyone tempted to aid a felon or thwart law enforcement. Here with me today, is Shirley George who will testify about the inspiration for this bill – her grandson Joey – and her family's tragedy. Thank you all for your time and consideration of this proposal today.

Testimony in favor of Assembly Bill 274
Shirley George

Good morning Chairman and committee members, thank you for taking the time to hear AB 274 this morning. I have been working with various legislators for over a decade to pass this bill. Finally, I feel we have product that should become law.

While AB 274 won't bring the much needed justice to my family, it is my hope that it will bring justice to families and victims of crime in the future. AB 274 addresses a short fall in the law that exempts family members from penalties for aiding and abetting a felon. It also increases penalties for aiding a felon in a more serious crime such as murder or child abduction.

This bill is often referred to as Joey's Law by media outlets. I would like to take a moment to explain why:

Joey was my grandson; he had strong character and sense of perseverance. He was a true light in my life. Even though he was born with Cerebral Palsy and didn't walk until he was 3, he eventually learned to run – his perseverance earned him a place on the freshman basketball team. Joey conquered many obstacles in his life and achieved a great deal before his untimely, tragic death at Age 21.

My grandson was murdered; there was one shooter and three other people in the vehicle. My grandson was gunned down because he was wearing the same hat as the criminals intended target. It was a senseless crime that forever changed our family.

I believe that those who help the shooter commit this horrendous crime should receive stricter penalties than someone who aids in a less serious crime like shoplifting for example. The shooter was driven to the scene of the crime, his gun was hidden, his face was concealed – while one man shot my grandson all four were active in this horrendous crime.

I also don't feel that family members should get a free pass to destroy evidence, hide criminals intentionally or do other things to keep criminals from facing justice.