



CODY HORLACHER

STATE REPRESENTATIVE • 33RD ASSEMBLY DISTRICT

(608) 266-5715
Toll-Free: (888) 529-0033
Rep.Horlacher@legis.wi.gov

P.O. Box 8952
Madison, WI 53708-8952

April 27th, 2017

Chairman Ott and Judiciary Committee Members,

Thank you for holding a Public Hearing on AB 117 related to allowing district attorneys, deputy district attorneys, and assistant district attorneys to engage in the private practice of law for certain civil purposes.

AB 117 is one of three bills that were put forward by the Legislative Council Study Committee on Access to Civil Legal Services. This bill passed unanimously through both the Access to Civil Legal Services Study Committee as well as the Joint Legislative Council Committee.

This bill simply allows district attorneys, deputy district attorneys, and assistant district attorneys to provide legal services to a person of limited means or to a charitable, religious, civic, community, governmental, or educational organization if the attorney provides the services without a fee and the services are not in conflict with the interests of the district attorney's county.

AB 117 supports the effort to offer legal services to vulnerable populations in Wisconsin. Currently district attorneys, deputy district attorneys, and assistant district attorneys are prohibited from providing pro-bono legal services. This bill does not mandate that these attorneys engage in this type of work, it simply allows them to do so.

During our discussion as a study committee we identified various ways to address the need for civil legal services and we need to utilize every available resource to do so. It is clear that there is a need for civil legal services for indigent populations and we need a multi-faceted approach to tackle this issue statewide. We should allow those who are closest to the people work to address the needs of their communities.

I appreciate your consideration of this bill and I would be happy to answer any questions you may have.

MEMO

Date: April 27, 2017

To: Assembly Committee on Judiciary

From: Representative Frederick P. Kessler

Re: 2017 AB 36/AB 117—Allowing DAs, DDAs, and ADAs to do pro bono legal work

Chairman Ott and Committee Members:

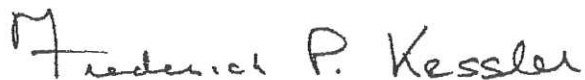
Thank you for the opportunity to provide testimony to the committee about this very important issue.

This legislation will allow District Attorneys, Deputy District Attorneys, and Assistant District Attorneys to engage in the private practice of law for certain civil purposes. Currently under state law, it is impermissible for such attorneys to formally engage in private legal matters. For example, a DA cannot assist a low-income elderly person in drafting a simple will, provide legal advice to a disabled person on ADA accommodations, help a parent with the legal work to adopt a child, volunteer at the Veterans Law Center, or with other legal matters involving their church or child's school. In short, under current law, District Attorneys CANNOT perform pro bono legal work.

With the passage of this legislation, a District Attorney, Deputy District Attorney, or Assistant District Attorney will be allowed to provide legal services to members of their communities as long as those services are provided without a fee or expectation of a fee and the provided services do not create conflict of interest issues. Furthermore, Wisconsin's attorneys can now obtain Continuing Legal Education (CLE) credits for qualified pro bono work, it makes perfect sense to lift the prohibition so that District Attorneys can begin to help their communities in new ways.

Let me be clear, this proposal **DOES NOT** create a mandatory requirement that a District Attorney, Deputy District Attorney, or Assistant District Attorney do pro bono legal work. It simply permits those attorneys to provide additional services if they are willing and/or able to do so.

Sincerely,

A handwritten signature in black ink that reads "Frederick P. Kessler". The signature is written in a cursive style with a large, stylized initial "F".

FREDERICK P. KESSLER
State Representative
12th Assembly District



LEAGUE OF WOMEN VOTERS®
WISCONSIN

612 W. Main Street, #200
Madison, WI 53703-4714

(608) 256-0827
lwvwi.org

April 27, 2017

To: Assembly Committee on Judiciary

Re: Comments on AB 36/AB 117, AB 93, AB 137

The League of Women Voters of Wisconsin believes there are three important measures in establishing criminal sanctions. Society is protected from criminal acts by deterrence, incapacitation and reform. We have a justice system whose purpose is to review criminal acts by citizens and to take appropriate action to protect society and help prevent further criminal acts. The final disposition of these actions is in the hands of judges. It is important that citizens have confidence in the functioning of all aspects of our justice system.

The League of Women Voters of Wisconsin opposes AB 36/AB 117 for the following reasons:

- We believe there is a public perception concern about potentially having an elected official representing a specific religious organization.
- District Attorneys and others in elected positions in law, as part of Professional Standards, are already allowed *pro bono* work when it is in support of efforts to improve the justice system i.e. serving on a Bar Association committee or other organization devoted to improving the justice system such as alternatives to incarceration.
- Being a District, Deputy or Assistant District Attorney is a full-time job. Any civil litigation involving courts would have to be done during the week when these public servants are needed for their public responsibility.
- It could be time consuming and difficult to ensure that parties involved in a prosecution case were not also being given *pro bono* services by someone in the same department regarding a civil matter, i.e., a landlord throwing out someone's belonging when that renter may be getting help on the eviction. All of that has to be coordinated and watched over.
- There are many public service lawyers, including city attorneys, university attorneys and others. Why are only the District Attorneys being singled out?
- This bill only applies to full-time District Attorneys (Deputy and Assistants) and the law already allows elected officials who are in these occupations on a part-time basis to do *pro bono* work.
- This measure could make it difficult for more clients to submit a grievance against a District Attorney.

This legislation has many negative aspects and would enable only a small number of lawyers to add to the *pro bono* work in this state. We urge you to reject it.

The League of Women Voters of Wisconsin supports AB 93. This bill removes the request for an expungement order at the time of sentencing and allows a petition to the court one year after sentence served and with payment of a fee. We support SB53 because it would more easily allow citizens to expunge records of juvenile actions. Such actions, which take place before full development of the brain, should not be allowed to be a long-term stigma which can impede a young person's career development.

(continued)

The League of Women Voters of Wisconsin supports AB 137, which requires notice of certain campaign finance contributions made to a judge or justice. Any citizen who has to appear in court should have absolute confidence that the judge will be fair and impartial. We are not suggesting that campaign gifts automatically undermine a judge's neutrality. Unfortunately, though, campaign contributions and support can erode public trust, even when a judge may be acting fairly. In the absence of recusal rules addressing this problem, notice of financial contributions to a judge or justice by a party in a pending case is essential.

This bill provides that whenever an interested contributor makes a contribution to the candidate committee of a court of appeals, circuit, or municipal judge or supreme court justice in a pending civil or criminal action or proceeding over which the judge or justice is presiding, the contributor must within five days notify in writing the judge or justice and the parties in the case of the date and amount of the contribution.

Public trust is enhanced by public information. Requiring notice of contributions made by parties in a case will boost public confidence in the courts.

Thank you.

Kiefer Law Office, LLC

Post Office Box 1546
10 East Doty Street, 8th Floor
Madison, Wisconsin 53701-1546

timkiefer@kieferlawoffice.com
www.kieferlawoffice.com
(608) 204-5822 or (608) 358-7213

Testimony of Tim Kiefer in support of AB 36 and AB 117 Assembly Committee on Judiciary, Public Hearing on April 27, 2017

I am a former Dane County assistant district attorney (2007-2011) now in private practice (2011-present). I also serve on the Dane County Board of Supervisors. I grew up in Kenosha County, in what is now Representative Kerkman's district.

The idea for this legislation first came to me while I was working at the Dane County DA's Office. I shared the idea with an attorney who was then working in Representative Kessler's office, which led to a bill being introduced.

This legislation will correct what I believe is an unintended consequence of the current law. Under current law, full-time state prosecutors cannot engage in any outside legal practice, even if it is pro bono work done without pay on unrelated civil matters.

There many ways for attorneys to serve the community by doing pro bono legal work, but under current law state prosecutors are legally barred from doing so.

By passing this bill, state prosecutors will be able to take on part-time pro bono projects in civil matters that do not conflict with their work as prosecutors, such as, for example:

- Helping low-income veterans write wills
- Providing legal advice while serving on a board of trustees for a church
- Advising a local historical society on language for a charitable bequest

The unmet need for legal services by low-income individuals is a huge problem that I see every day in my law practice. While this legislation is just one small step toward fixing the problem, it is a step in the right direction.

Thank you for allowing me to testify before you today.