



# Rob Hutton

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STATE REPRESENTATIVE • 13<sup>TH</sup> ASSEMBLY DISTRICT

February 6, 2020

To: The Assembly Committee on Criminal Justice and Public Safety  
From: Rep. Rob Hutton  
Re: Assembly Bill 853

Thank you Chairman Spiros and members of the committee for hearing AB 853 today.

The bill before you today will help address the rise in car thefts and reckless driving across our state. The stories of individuals injured and killed by reckless drivers and those fleeing from police has become an almost nightly occurrence on the news.

This bill creates a 30 day mandatory minimum for criminals who steal a car. It also increases the penalty for vehicle theft, reckless driving, and fleeing from a police office.

In addition this bill will allow a court to order an individual convicted of these crimes to attend a victim impact panel as part of their sentence. It is important that those who are committing these crimes realize the human cost of the crimes they are committing.

Several of these provisions were introduced as part of the recommendations put forward by the Milwaukee Carjacking and Reckless Driving Task Force. They are common sense provisions that will help to keep our neighborhoods safer.

Thank you again for the opportunity to testify. I look forward to answering any questions you may have.



# CHRIS KAPENGA

WISCONSIN STATE SENATOR

## Testimony on Assembly Bill 853

Assembly Committee on Criminal Justice and Public Safety

Thursday February 6, 2020

Thank you Chairman Spiros and committee members for hearing testimony on Assembly Bill 853 today. I also want to thank Representative Hutton for authoring this important bill with me.

In recent years an epidemic of vehicle thefts, reckless driving, and instances of fleeing an officer have been highlighted as a major public safety concern across the state. Oftentimes, these acts of crime are intertwined. For example, in November, a Milwaukee woman ran a red light nearly hitting another car. Police witnessed her driving recklessly and attempted to conduct a routine traffic stop. The driver and her passenger chose to flee. The pursuit resulted in the vehicle going airborne and crashing into a house setting multiple homes on fire. Sadly, news stories highlighting property damage, injury, and even loss of life are now seen regularly as individuals ignore the tragic consequences of their actions.

This bill first addresses vehicle theft by increasing penalties by one felony classification. It also imposes a 30-day mandatory minimum term of incarceration for vehicle theft, knowingly being a passenger in a stolen vehicle, or for removing a part of a vehicle without consent of the owner. This change would also apply to juvenile cases. All too often, we see prosecutors letting repeat juvenile offenders off with no consequences only exacerbating the vehicle theft problem. In fact, data from the Milwaukee Police and Fire Commission shows that the median age of a driver pursued by MPD has dropped from 40 years old in 2003 to 18 years old in 2016.

According to DOJ Uniform Crime Reporting statistics, 8 of the 10 most populous counties in Wisconsin have seen an increase in vehicle thefts between 2014 and 2018. This includes increases of 130% in Dane County, 125% in Winnebago County and 105% in Outagamie County. Some may highlight that vehicle thefts have dropped statewide and in Milwaukee County. However, to understand the scope of the problem it's important to know that there were still 5,120 vehicle thefts in Milwaukee County in 2018, accounting for nearly 61% of the statewide cases.

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This bill also works to address the epidemic of reckless driving and instances of fleeing an officer. In 2019, the City of Milwaukee created a task force of community members, elected officials, law enforcement, and court officials to examine the problem of carjacking and reckless driving. One of the task force's recommendations includes increasing the penalties for reckless driving and fleeing an officer. This bill would adopt those recommendations by increasing penalties for reckless driving in both criminal and noncriminal instances as well as increase penalties by one felony classification for fleeing an officer.

In showing our commitment to ensuring public safety, the bill would also require a prosecutor looking to amend or drop criminal charges of reckless driving, fleeing an officer or vehicle theft to petition the court before doing so. The court may approve this application only if they find it is in the interest of deterring these crimes. This closely mirrors language in place related to drunk driving and ensures greater accountability. Lastly, this bill would also allow the court to require a defendant to attend a victim impact panel as part of their sentence. These panels have been utilized in OWI cases and evidence shows it can help to reduce recidivism.

In closing, this bill would build on 2017 Act 311, which increased penalties for carjacking, by giving law enforcement the tools they need to hold individuals accountable for their actions. By reducing instances of reckless driving and car theft we can help keep our streets safe and ultimately save lives.

Thank you Chair and committee members for your time and consideration of this bill. I would be happy to take any questions.



STATE REPRESENTATIVE  
18th ASSEMBLY DISTRICT

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**February 6, 2020**  
**Written Testimony of State Representative Evan Goyke**  
**Re: Assembly Bill 853**

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Chairman Spiros and Members,

Thank you for the opportunity to testify against Assembly Bill 853.

My testimony today, like that against the entire “tougher on crime” package that mirrors AB 853, is based on the reduction of judicial discretion, the lack of data offered in support of the legislation, and the existence of more effective and efficient alternatives to reduce crime.

I start my testimony with the reality that mandatory minimums don’t work. This is reflective in the national trend to eliminate mandatory minimums or create “safety valves” to allow courts to depart from statutory minimums. In both the 2019 and 2020 State of the Union speeches, as well as in a re-election commercial during the Super Bowl, President Trump praised the 2018 bipartisan legislation called The First Step Act. This federal legislation created a “safety valve” to reduce the use of mandatory minimums within the federal justice system.

Mandatory minimums are not new to this legislature and this committee. Wisconsin Republicans continue to be at odds with their Congressional peers and at odds with Republicans in dozens of states around the country.

AB 853, however, is unique in its application of mandatory minimums. No other provision in Wisconsin’s Juvenile Justice code contains a mandatory minimum period of incarceration. We do not apply mandatory incarceration to juveniles. This idea of 30 days of mandatory jail for kids is at odds with the very core of the juvenile justice system.

Chapter 938, the juvenile justice code, is purposefully different and set apart from the adult criminal code. Chapter 938 was created by Republicans Representative Bonnie Ladwig (and a total of 68 members of the Assembly) and Senator Mary Panzer (and 15 total Senators). Former Governor Tommy Thompson signed the legislation into law in 1995.

The juvenile justice code is written to give courts great flexibility to respond to the needs of the juvenile. The system is not punitive, it is rehabilitative. Our unanimous work passing 2017 Act 185 recognized that we need to be smarter about how we incarcerate kids, where we incarcerate them, and why. AB 853 goes in the opposite direction by requiring incarceration regardless of the juvenile’s needs, culpability, cooperation, etc.

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The best available research on crime deterrence suggests that the certainty of getting caught rather than the severity of the punishment if caught best deters crime. One of the leading researchers is Dr. Daniel Nagin, professor at Carnegie Mellon University in Pittsburgh. Dr. Nagin writes:

However, the evidence in support of certainty's effect pertains almost exclusively to apprehension probability. Consequently, the more precise statement is that certainty of apprehension, not the severity of the ensuing legal consequence, is the more effective deterrent. This conclusion has important policy implications among which are that lengthy prison sentences and mandatory minimum sentencing cannot be justified on deterrence. Daniel S. Nagin, "Deterrence in the Twenty-First Century," *Crime and Justice* 42 (2013): 199-263.

AB 853 does not address apprehension. The bill makes no change to how reckless driving or car theft will be detected or individuals apprehended. To the contrary, Assembly Bill 365, authored by Representative Crowley and already passed by the Committee on Local Government will make it more likely to get caught driving recklessly by allowing the City of Milwaukee to use traffic cameras at the most dangerous intersections and high-speed areas.

Pass AB 365 and reckless driving will go down faster, people will be safer, and there is less cost to taxpayers. Similarly, Senator Darling and Representative Ott have introduced legislation to fund local law enforcement to set up car theft specific enforcement efforts through state level grants. A changed enforcement strategy can deter crime, including car theft, as shown in the recent years in Milwaukee. Responding to an increase in car theft, the Milwaukee Police Department has adopted new policing strategies to increase the likelihood of apprehending car thieves – and the results are clear – car theft in Milwaukee is down 36% from 2017 to 2019.

There are more effective and efficient solutions to the problems of car theft and reckless driving, some of them bi-partisan and pending now in the legislature. We do not need new mandatory minimums and less judicial discretion to achieve the crime reduction we want – the evidence shows that in fact we need the opposite.

Thank you for your time and attention, I'm happy to answer any questions you may have.