



# Jeremy Thiesfeldt

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STATE REPRESENTATIVE • 52nd ASSEMBLY DISTRICT

## **Testimony on Assembly Bill 386** **Time limit for prosecution of lesser offenses** *Assembly Committee on Judiciary*

Hello, Chairman Tusler and Honored Members of the Committee. Thank you for holding a hearing today on Assembly Bill 386, a bill that will help victims in Wisconsin.

In a jury trial, the law allows for lesser included offenses to be submitted to a jury. For example, if a defendant is charged with first degree intentional homicide, a jury could be instructed that they can also consider convicting the defendant of lesser homicides, such as first or second degree reckless homicide. Another example would be a first degree sexual assault trial, in which a jury could also be instructed on lesser included offenses such as second or third degree sexual assault, which could be outside the statute of limitations.

Generally, this does not create a problem, but it does in cold case homicides and some sexual assaults. This is because the statute of limitations for lesser included offenses are not always the same as the initial charge.

This means that if the jury convicted a defendant of a lesser included offense that is outside the statute of limitations, there could be no sentence imposed for that conviction. In addition, jury members are not informed of penalties or statute of limitations, so they would have no idea that they could be making the decision to convict, only to find out later that there will be no sentence.

Thus the law punishes a victim or a family that has been waiting years, if not decades, for justice. The defendant is essentially rewarded for their criminal behavior because it took years or decades to uncover. This bill closes that loophole.

To sum up, if the defendant is being prosecuted for first-degree intentional homicide, first-degree reckless homicide, first degree sexual assault, or first degree sexual assault of a child, this bill will allow a jury to convict for a lesser included offense, even if the statute of limitations has passed.

We would love your support on this important bill. Thank you.

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*Serving the communities of Fond du Lac, Oakfield, Byron, Empire, Taycheedah, and the western half of Calumet township*



**DAN FEYEN**

**STATE SENATOR**

18th Senate District  
(608) 266-5300  
Sen.Feyen@legis.wi.gov

PO Box 7882, Madison, WI 53707-7882  
<http://legis.wisconsin.gov/senate/18/feyen>

To: The Assembly Committee on Judiciary  
From: Sen. Dan Feyen  
Re: Assembly Bill 386

Hello members of the committee, thank you for taking the time to hear testimony on AB 386.

In a jury trial, the law allows for lesser included offenses to be submitted to a jury for consideration. For example, if a defendant is charged with first degree intentional homicide a jury could be instructed that they can also consider convicting the defendant of lesser homicides, such as first or second degree reckless homicide. Additionally, in a first degree sexual assault trial a jury could also be instructed on lesser included offenses such as second or third degree sexual assault. These lesser included offenses could be outside the statute of limitations.

Generally, this does not create a problem, but it does in cold case homicides and some sexual assaults.

Juries are not informed of the penalties or the statute of limitations on charges and the statute of limitations for lesser included offenses are not always the same as the initial charge. This means the jury could convict a defendant of a lesser included offense that is outside the statute of limitations. Which would create the situation where they are found guilty by a jury of their peers, but no sentence would be imposed. The law as written, punishes a victim or family that has been waiting years, if not decades, for justice. This bill closes that loophole.

You will hear from additional people today on the impact that this can have on victims and how the law is currently allowing criminals to get away with crimes, simply because it took too long for them to get caught.

AB 386 allows a jury to convict for a lesser included offense, even if the statute of limitations has passed, if the prosecution has commenced for first-degree intentional homicide, first-degree reckless homicide, first degree sexual assault, or first degree sexual assault of a child.

Thank you very much for holding a public hearing on this bill.