



Jeff Mursau

STATE REPRESENTATIVE • 36TH ASSEMBLY DISTRICT

REMARKS OF REPRESENTATIVE JEFF MURSAU, CHAIR, JOINT LEGISLATIVE COUNCIL SPECIAL COMMITTEE ON STATE-TRIBAL RELATIONS, TO THE ASSEMBLY COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

August 18, 2021

Good morning, members of the Committee on Criminal Justice and Public Safety. During this past interim session, I again served as the chairperson of the Special Committee on State-Tribal Relations. I am here today to present two bills from the special committee's work for your consideration.

The special committee is required to be created every biennium to study issues relating to American Indian tribes and bands in this state and to develop legislative proposals. Membership of the study committee consisted of three Senators, three Representatives, and 10 public members representing the interests of the state's tribes. The study committee met three times from October 2020 to January 2021.

The committee discussed numerous policy options spanning an array of substantive areas of law. In concluding its work, the committee recommended a number of bill drafts for introduction by the Joint Legislative Council, two of which are before the committee today.

Assembly Bill 426 requires the following:

- A tribal chair be notified when a county is ordered by a court to prepare a report recommending a residential option for a sexually violent person being placed on supervised release;
- The county consult with any tribal law enforcement agencies in the county when preparing its report; and
- A tribal law enforcement agency be notified when a sexually violent person is placed on supervised release.

Assembly Bill 427 expands to a tribal court proceeding the enhanced criminal penalties that apply to a state court proceeding with regard to intentionally causing or threatening to cause bodily harm to an officer of the court, or a member of that officer's family, if the harm or threat is in response to an action taken by the officer in his or her official capacity. This bill is identical to a bill recommended by the special committee last session that passed the Assembly, but did not receive action from the Senate at the end of session.

The special committee recommended introduction of AB 426 and AB 427 by unanimous votes.

I am happy to answer any questions. Steve McCarthy from Legislative Council is here with me today to also help answer any questions. Thank you for considering these bills and hearing my comments today.



MENOMINEE INDIAN TRIBE OF WISCONSIN CHAIRMAN'S OFFICE

P.O. Box 910
Keshena, WI 54135-0910

To: Representative John Spiros, Chair
Members of the Assembly Committee on Criminal Justice and Public Safety
From: Gunnar Peters, Chairman, Menominee Tribal Legislature
Date: Wednesday, August 18, 2021
Re: Supporting Testimony on Assembly Bill 426 Placement of Sexually Violent Persons near Reservations and Assembly Bill 427 Relating to Battery or Threat to An Officer of the Court in a Tribal Proceeding

Chairman John Spiros and members of the Assembly Committee on Criminal Justice and Public Safety, I am honored to be here to testify today in support for Assembly Bill 426 legislation, which relates to changes to supervised release of sexually violent persons for the inclusion of Tribe's notification regarding placement in a county in which the Tribe is located. And Assembly Bill 427 legislation, which related to battery or threat of an officer of the court in a tribal proceeding and providing a penalty.

Joint Legislative Council's Committee on State-Tribal Relations, which Menominee Tribe is represented, have worked together on these important changes to ensure all communities received proper community notification related to the placement of sexually violent persons and that our Tribal Court Officer are included in protection and penalty by an individual intentionally causing bodily harm.

Our Menominee Tribe appreciates this sense of equity that AB Bill 426 and 427 bring forth for our Tribal Nations of Wisconsin. As it reflects a truly inclusive and considerate safety for all Wisconsin residents, especially in a World that seems increasingly threatening, with its tribal inclusive community notification and respect for our Tribal Nation's Court system and officers.

Assembly Bill 426, provides for key changes for protecting all our communities by including Tribes. This include in that the court notify the tribal chair of any tribe with tribally owned lands located within any county that has been ordered to prepare a residential option report. The bill also requires that the county consult with any tribal law enforcement agency located within the county and include in its report any report prepared by the tribal law enforcement agency. The bill provides that, unless waived by a tribal law enforcement agency, the court must also notify any tribal law enforcement agency located in the county in which the person will be residing of the placement.

Assembly Bill 427, provides for the inclusion for a crime and provides for a penalty for battery or threat to Tribal Court Officer's defined as an Advocate, an individual who is representing the interests of a child, the tribe, or another party in a tribal court proceeding, from that a person who intentionally causes or threatens to cause bodily harm and afforded the protection under Wisconsin law

We humbly and respectfully request that the Wisconsin State Legislature pass AB426 and AB427, I am glad to answer any questions you may have or provide further information.



Oneida Nation
Oneida Business Committee
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To: Representative John Spiros, Chair
Members, Assembly Committee on Criminal Justice & Public Safety

From: Tehassi tasi Hill, Oneida Nation Chairman

Date: Wednesday, August 18, 2021

**Re: Testimony in Support of 2021 Assembly Bill 427
Battery or Threat to an Officer of the Court in a Tribal Proceeding**

Good morning Chairperson Spiros and members of the Committee. I appreciate the opportunity to speak to all of you today in support of 2021 Assembly Bill 427.

On behalf of the Oneida Nation, my name is Tehassi Hill and I am the Chairman for the Nation. I am here today because the Oneida Nation supports AB 427, which extends existing state law policy, protections and penalties for officers of the court – to officers of the court in a Tribal proceeding.

Previously, this committee unanimously (8-0) passed this legislation in November [2019 as Assembly Bill 104](#), which then passed the State Assembly on a voice vote. The bill also passed the Senate Committee unanimously (5-0) in January 2020. The legislation was expected to be voted on by the State Senate in 2020, but due to the COVID-19 pandemic and the last day of session being cancelled – the issue was reintroduced by the Special Committee on State and Tribal Relations as 2021 AB-427. Thus, the Nation is requesting this Committee to once again support this legislation.

The Oneida Nation has a judiciary that is established within our Nation's Constitution to serve the needs of the Oneida people and expand the exercise of the Nation's sovereign authority. The creation of the Judiciary was built on the foundation that was laid by the former Oneida Tribal Judicial System, by granting the Trial Court and Court of Appeals expanded subject matter jurisdiction and further emphasis for peacemaking and mediation to occur between parties. The Oneida Family Court is a specific branch of the Court created to address matters affecting the Oneida people as it pertains specifically to families and children.

The vision of the Oneida Judiciary is to administer a fair, objective, independent, timely and lawful judicial branch of the Oneida government. The Oneida Judiciary is guided by the wisdom of our heritage and traditions as well as the requirements of modern circumstance, laws and statutes.

2017 Wisconsin Act 352 amended Wis. Stat. §940.203 by changing the definitions of a judge, prosecutor, and law enforcement officer, for purposes of the enhanced criminal penalty for intentionally causing bodily harm or threatening to cause bodily harm to the person or family member of any judge, prosecutor, or law enforcement officer, to include a tribal judge, tribal prosecutor, and tribal law enforcement officer.¹

Assembly Bill 427 proposes to further amend Wis. Stat. §940.203 so that a person who intentionally causes or threatens to cause bodily harm to the person or a family member of an “advocate” (an individual who is representing the interests of a child, the tribe, or another party in a tribal court proceeding) is guilty of a Class H felony if:

- The person causing or threatening to cause the harm knows or should have known the person is an advocate or a member of the advocate’s family; and
- The act or threat is in response to an action taken by the advocate in his or her official capacity in a tribal court proceeding similar to the following types of cases: child welfare, mental health, guardianships, protective placements, family law, injunctions, and juvenile justice.

Assembly Bill 427 would provide enhanced criminal penalties that would seek to further protect the Oneida Judiciary’s Guardians ad Litem and lay advocates that are admitted to practice in the Judiciary.²

The Oneida Judiciary has over 220 cases a year and over 2300 total visitors per year to our facility. Implementation of the bill would ensure that our officers of the court are protected.

I appreciate the opportunity to provide testimony on behalf of the Oneida Nation, and once again encourage the Committee to support this important legislation.

¹ The Oneida Judiciary conducts approximately 30-60 hearings per month. While there was one threat made against a judge in 2016, that threat was prior to the adoption of 2017 Wisconsin Act 352 and the enhanced criminal penalties were not available.

² Assembly Bill 104 does not address adding protections for “Court officials” or “Court staff” to Wis. Stat. §940.203(2). While the definition could include positions such as court administrator, court clerk, court reporter, etc., the Special Committee on State-Tribal Relations did not feel comfortable making those suggestions as those positions are not currently covered for state proceedings under Wis. Stat. §940.203. The Oneida Judiciary would like to see this class of individuals protected at some point as these individuals are typically on the front line dealing with parties, many of which are involved in contentious family law proceedings.