

JOHN SPIROS

State Representative • 86th Assembly District

Those of you who served on the committee last session may recognize that the language of the bill has changed significantly. These changes were made to clarify the bill under the new language, which

Testimony on Assembly Bill 70

Good Morning Chairman Tusler and members of the Assembly Committee on Judiciary, and thank you for allowing me to share my testimony regarding Assembly Bill 70 (AB 70). The bill defines riot in statute and provides appropriate penalties for both inciting and intentionally participating in a riot.

This is a bill that Sen. Wanggaard and I have been working on for several sessions, and one that has become especially relevant over the course of the last few years. I want to be clear from the beginning that we are very aware of the fundamental difference between a protest and a riot, and AB 70 has been crafted with this specific difference in mind. Protesting in a peaceful manner is a constitutionally protected right. A riot threatens people's safety, personal property, and the livelihood of local businesses.

Those of you who served on the committee last session may recognize that the language of the bill has changed significantly. These changes were made to clarify the bill. Under the new language, which substantially mirrors federal law, a riot is defined as a public disturbance that involves an act or threat of violence by a group of three or more persons that constitutes a clear and present danger of property damage or personal injury. The bill also defines "incite" to ensure that language protected under the first amendment would not be affected by the bill.

Using these definitions, the bill provides that intentionally inciting another to commit a riot is guilty of a Class I felony, and that intentionally committing an act of violence while participating in a riot is a Class H felony.

As previously mentioned, the AB 70 does not affect peaceful protests. It is designed to discourage destructive behavior and create a path of recourse for riots that harm our communities. Riots pose a safety risk to those trying to peacefully protest, first responders, and law enforcement, all on top of the millions of dollars in damage that fall to business owners.

We have witnessed firsthand in Wisconsin the damage that riots can cause, and that penalties and definitions need to be in place to provide clarity and a path for recourse. Assembly Bill 70 cleanly and efficiently accomplishes this goal.

Thank you for listening to my testimony on Assembly Bill 70. I urge you to support this important bill and I look forward to answering any questions you may have.



Van H. Wanggaard

Wisconsin State Senator

March 2, 2023

Testimony on Assembly Bill 70

Thank you Chairman Tusler, and committee members, for hearing Assembly Bill 70 today. This bill is a response to the recent rise in the number of high profile riots throughout the country and the damage that they perpetrate in our communities.

Simply, this bill creates a definition for a riot, and creates penalties for both intentionally participating in a riot, and intentionally inciting a riot.

Wisconsin is one of the very few states that does not define in statute what a riot is. Current law addresses the harmful actions that are often associated with rioting only when violating unlawful assembly laws and refusing to disperse when ordered by law enforcement.

Under Assembly Bill 70, a riot is defined as a public disturbance that involves either an act of violence or a threat of an act of violence by one or more individuals that are part of a group of at least 3 people, if there is clear and present danger of damage to property or injury to another person.

Additionally, under the bill, a person who intentionally commits an act of violence while participating in a riot is guilty of a class H Felony. Any person that intentionally incites another person to commit a riot is guilty of a Class I felony.

To be clear, the intention of this bill is not to punish peaceful protestors participating in lawful gatherings. The language in this bill is substantially similar to those in 41 other states and is derived from the Federal Riot Act. It is also not the intent of the bill to strip a person of their first amendment rights. The bill includes language that emphasizes that advocating ideas, or expressing one's beliefs do not constitute inciting a riot.

This bill is meant to address bad actors that seek to damage property, commit acts of violence, and incite unlawful behavior. It is important that we focus on keeping the public safe and holding criminals responsible.

Passing Assembly Bill 70 will help insure the safety of our communities. This bill has the support law enforcement and I encourage you to support the passage of this bill as well.

Serving Racine and Kenosha Counties - Senate District 21

State Capitol, P.O. Box 7882, Madison, WI 53707-7882 • (608) 266-1832 • Toll-free (866) 615-7510
E-Mail: Sen.Wanggaard@legis.wi.gov • SenatorWanggaard.com



President
Andrew F. Wagner

Vice President
Alexander C. Ayala

Secretary/Treasurer
Danilo Cardenas

Trustees
Matthew R. Bongel Lisa M. Kapitz Michael A. Lees Joel A. Moeller

March 2, 2023

Good morning my name is Alexander Ayala and I am the Vice President of the Milwaukee Police Association where we represent 1,300 members of the rank and file of the Milwaukee Police Department.

I want to thank the chair and Co-chair and the entire committee and all authors of the bills in which I will be testifying in favor of this morning.

I have been with the Milwaukee Police Department for 23 years now. I have served as a police officer in patrol for 15 years working various districts and assignments. The last 7 years of my career I have been working as a Detective in the robbery unit.

So I sit here today as someone who has worked the street of the city of Milwaukee and has worn the uniform for many years and have collected years of experience.

The Milwaukee Police Association is in favor of the bills presented today. We think that these bills change the quality of life of people around the state, and especially in the city of Milwaukee where we have seen a very severe spike in crime combined with critical staffing shortages never seen before.

Just 3 weeks ago we lost a Milwaukee police officer one of our brothers in blue to the criminals that are running the streets of Milwaukee. 2022 saw record homicides at 224 and non-fatal shooting at 877. We need all the help that can get when it comes to funding our police department, so that we can be properly staffed and be able to implement the changes in these bills.

I believe that these bills will help address some of the issues that Milwaukee is currently experiencing.

AB-52 – Carjacking

We are in support of having a concise definition and a standalone statute that can categorize and define this very common and specific crime. This will also be helpful when presenting charges to a district attorney and it will show the severity of the crime that was committed. This will also be helpful for keeping accurate documentation of crime statistics. At the Milwaukee Police Department, we had to develop a separate tracking system to account for Carjackings so that they would not get lost in the Robbery crimes stats or the taking a vehicle without the owner's consent statistics. I also hope that the enhanced classification and penalties will help discourage people from committing this crime that affects not only the victim of the carjacking but future victims. It has been my experience as a Detective in the Robbery unit that suspects will commit a carjacking to then commit robbery sprees or other crimes leaving behind several innocent victims.



AB- 57 - Dismissing or amending certain criminal charges and deferred prosecution agreements for certain crimes.

We support this bill because of the revolving door that Milwaukee has become for criminals, and this has had a detrimental impact not only for Milwaukee but the communities that surround Milwaukee. Time after time we see someone arrested for a crime or several crimes only to later discover that some if not most charges were dismissed or amended to a lower crimes by a district attorney.

Now we understand that the workload for a DA is only growing, especially for Milwaukee county DA's, due to their staffing shortages and now it becomes the perfect storm of catch and dismiss.

We believe that the list of crimes set forth here are some of the crimes that have a high impact on quality-of-life issues and they should be an approval process in place if DA's are going to dismiss or amend charges.

AB- 70 Participation in a riot and penalties

—
This bill should hold accountable those who want to make a peaceful protest a violent one. Acts of violence while in a protest can incite a riot and those people need to be charged. Riots destroy neighborhoods, hurt innocent people, business and first responders that are trying to do their jobs.

I have now been involved in two separate incidents of protest that turned into riots. One in 2016 when a gas station was burned down in District 7 along with other business and squad cars. My second one in 2020 when as a detective and had to put on my riot gear and stand in line to protect our Police Administration Building located downtown. That day the group of several hundred people remained peaceful, but you could feel the tension in the air and at any moment the protest could turn into a riot.

Hopefully people will think twice about trying to instigate a riot.

Alexander Ayala

Vice President
Milwaukee Police Association



March 2, 2023

To: Chairman Tusler and Members of the Assembly Judiciary Committee

From: Wisconsin Chiefs of Police Association

Re: Support Assembly Bill 70, Definition of a Riot

Chairman Tusler, thank you for your willingness to hold a hearing on this legislation. We would also like to thank the authors, Representative Spiros and Senator Wanggaard for introducing this bill.

We ask for your support of Assembly Bill 70.

Wisconsin currently does not have a statutory definition of a riot.

Assembly Bill 70 defines a riot as a public disturbance that involves an act or threat of violence by a group of three or more persons, that constitutes a clear and present danger of property damage or personal injury. This legislation provides for penalties for those who intentionally incite another to commit a riot and for intentionally committing an act of violence while participating in a riot.

These traumatic events can happen quickly and destabilize communities for long periods of time resulting in injury, tremendous loss of property and in some cases, the loss of life. Accountability for those who commit these action sends a strong message that violence will not be accepted.

Assembly Bill 70 clearly defines the actions that constitute a riot and that is why the Wisconsin Chiefs of Police Association supports this legislation.

We ask that the committee move forward on Assembly Bill 70.

We would be happy to take any questions.



Wisconsin State Lodge *Fraternal Order of Police*



PO Box 206 West Bend, WI 53095

Ryan Windorff
President

Mark Sette
Vice President

Shane Wrucke
Secretary

Aaron Peterson
Treasurer

Randy Winkler
Second Vice President

Sean Marschke
Sergeant at Arms

Don Kapla
Immediate Past President

Jerry Johnson
National Trustee

March 2, 2023

Wisconsin Fraternal Order of Police Testimony in Support of Assembly Bills 52, 54, 57, & 70

Assembly Committee on Judiciary

Thank you, Representative Tusler and fellow committee members for the opportunity to provide testimony in support of Assembly Bills 52, 54, 57, and 70. My name is Mark Sette, and I am the Vice President of the Wisconsin State Lodge of the Fraternal Order of Police. The Fraternal Order of Police is the world's largest organization of sworn law enforcement officers, with more than 364,000 members in more than 2,200 lodges. The Wisconsin State Lodge proudly represents more than 2,900 members in 26 lodges throughout the state. We are the voice off those who dedicate their lives to protecting and serving our communities. We are committed to improving the working conditions of law enforcement officers and the safety of those we serve through education, legislation, information, community involvement and employee representation.

Vehicle thefts in Wisconsin, most notably the City of Milwaukee, are reaching epidemic levels. Last fall the National Insurance Crime Bureau named Milwaukee a "hot spot" for vehicle thefts listing it 8th in the country for vehicle thefts in 2021, up from 66th just the year prior. In Wisconsin, vehicle thefts are charged under the statute titled "Operating Vehicle Without Owner's Consent". We can all agree that a suspect stealing an unoccupied vehicle parked on the side of the road, while wrong, is far less concerning than a suspect pointing a gun at someone commuting to their job and forcing them out of their vehicle to steal it. There are different charges under the Operating Vehicle Without Owner's Consent statute that provide increased penalties if a person possesses a weapon and uses or threatens to use force or a weapon, but they are not easily distinguished from someone stealing an unoccupied vehicle.

Assembly Bill 52 would create a new section in the statutes for "carjacking" that would better differentiate the two very different crimes and increase penalties if the suspect possesses a weapon and uses or threatens to use force or the weapon. We believe that defining "carjacking" as a separate offense will assist the public and the criminal justice system in identifying the true scope of the problem, properly classify these offenses as the violent crimes that they are, and the increased penalties would better address the severity of the act.

We are seeing a crime wave across Wisconsin, the likes we have not seen before. According to crime data from the Federal Bureau of Investigation, Wisconsin has seen a 29% increase in violent crime, and 171% increase in homicides from 2011 to 2021. We believe one of the most significant problems is the lack of accountability for those committing these crimes. When there are no consequences for breaking the law, more people will break the law and crime will continue to increase.



Wisconsin State Lodge *Fraternal Order of Police*



PO Box 206 West Bend, WI 53095

Ryan Windorff
President

Mark Sette
Vice President

Shane Wrucke
Secretary

Aaron Peterson
Treasurer

Randy Winkler
Second Vice President.

Sean Marschke
Sergeant at Arms

Don Kapla
Immediate Past President

Jerry Johnson
National Trustee

The concept of monetary conditions of release, or “cash bail”, can be traced back to the infancy of our modern criminal justice system. The need to ensure the appearance of criminal defendants for proceedings and to protect the public from additional harm is an integral part of a civilized society. In recent years, we have seen this important safety mechanism eroded by a faction of rogue prosecutors in a failed social experiment they call “bail reform” and “criminal justice reform”. A nationwide crime surge and recent tragic events, including right here in Wisconsin, have highlighted the fallacy of these policies, and brought it to the public’s attention. Our communities are seeing the real-life consequences of what happens when elected officials embrace pro-criminal, revolving door policies and make decisions that put the interests of violent offenders ahead of public safety. This does not occur in every county, but criminals know no jurisdictional boundaries and citizens across the state suffer the consequences of these decisions no matter where they occur. These inconsistencies and failures of some officials require intervention from the legislature, and that is why we are here. As law enforcement officers, we know all too well the pain and suffering that the victims of a revolving door criminal justice system endure. We are on the front lines each and every day, not just risking our safety and our lives to apprehend these repeat offenders, but to console and help pick up the pieces of the victims who are lucky enough to survive.

Many officers, myself included, can tell you that they have personally arrested individuals for violent crimes who were released from custody, literally before the reports were even completed. We have listened to the pleas of victims asking us why we cannot protect them from their attackers who are back on the street. I have personally arrested defendants for crimes who were already out on bond who, when bail is set for their new case that included the new charges in addition to a bail jumping charge, were given an even lower bond than their initial one. Under current law, cash bail can only be imposed upon a finding that there is a “reasonable basis to believe that bail is necessary to assure the appearance of the accused in court”. This language precludes court commissioners and judges from another essentially important consideration for pre-trial release, the protection of the public.

In April, the people of Wisconsin will be given the opportunity to vote to amend our state’s constitution to allow court commissioners and judges to consider the “totality of the circumstances” when considering pre-trial release conditions for a defendant charged with a violent crime. These considerations include the seriousness of the offense charged; whether the accused has a previous conviction for a violent crime, the probability that the accused will fail to appear in court; the need to protect members of the community from serious harm; the need to prevent the intimidation of witnesses; and the potential affirmative defenses of the accused. We believe that these changes would offer the courts more latitude in imposing the necessary pre-trial conditions of release, including cash bail if necessary, to assist law enforcement officers in keeping our communities safe. Assembly Bill 54 would implement the language of the proposed constitutional amendment, if passed, into the statutes.

Another way that offenders evade the consequences for their crimes is through plea agreements or deferred prosecution agreements with our extremely overburdened prosecutors in Wisconsin. Charges being dismissed or amended down negate the seriousness of the offense that was committed and sends a message that we, as a society,



Wisconsin State Lodge *Fraternal Order of Police*



PO Box 206 West Bend, WI 53095

Ryan Windorff
President

Mark Sette
Vice President

Shane Wrucke
Secretary

Aaron Peterson
Treasurer

Randy Winkler
Second Vice President.

Sean Marschke
Sergeant at Arms

Don Kapla
Immediate Past President

Jerry Johnson
National Trustee

do not take crime seriously. Assembly Bill 57 would require that a prosecutor get approval from the court before dismissing or amending charges for crimes of domestic violence, theft of an automobile, crimes against individuals at risk, sexual assault, crimes against children, felon in possession of a firearm, and reckless driving that causes great bodily harm. The courts would be required to consider the public's interest in deterring the commission of these crimes and the legislature's intent to vigorously prosecute individuals who commit these crimes when considering whether to approve the dismissal or amendment. This bill would also prohibit deferred prosecution agreements for any of the aforementioned offenses. This will send a message that the people of our state take these crimes seriously and at least slow down what has become a revolving door criminal justice system in many of our communities.

In the summer of 2020, we saw extremely violent riots across the country and right here in Wisconsin that resulted in vandalism, looting of businesses, and arson fires causing an estimated \$2 billion in damaged and led to assaults, shootings, and even the loss of life of citizens and law enforcement officers. We saw agitators from across the country invade our communities for the sole purpose of creating disorder to promote their social and political agendas. Law enforcement stood by in what seemed like a helpless endeavor to attempt to maintain peace and protect the communities they serve from death and destruction. Many of those most responsible for inciting the destruction we saw have gone unpunished due to their lack of direct involvement in the acts themselves. Currently Wisconsin statutes do not clearly define what a riot is and does not differentiate violent acts that occur as part of these violent demonstrations. Assembly Bill 70 would provide a definition of a riot and make it a Class I felony to urge, promote, organize, encourage, or instigate others to commit a riot and a Class H felony to intentionally commit an act of violence while participating in a riot. These laws would give law enforcement, prosecutors, and the courts the needed tools to hold those who turn what otherwise may have been a lawful and peaceful protest into a violent mob responsible for their actions.

Thank you again for the opportunity to testify in support of these bills, and I am happy to answer any questions you may have.



To: Members, Assembly Committee on Judiciary
From: Badger State Sheriffs' Association (BSSA)
Wisconsin Sheriffs and Deputy Sheriffs Association (WS&DSA)
Date: March 2, 2023
RE: Testimony in Support of Assembly Bill 70

Chairman Tusler and Members of the Committee:

The Badger State Sheriffs' Association and Wisconsin Sheriffs and Deputy Sheriffs Association respectfully submit our organizations' support for Assembly Bill 70. This legislation would add the definition of a "riot" to state law and provide appropriate penalties for inciting or violently participating in a riot.

Although activities such as assault and theft that are common to riots are already illegal, Wisconsin does not have a specific prohibition on organizing, promoting, or otherwise instigating a riot, or on intentionally doing violence while involved in a riot. AB 70 will provide a means for law enforcement to deal with individuals who intentionally organize and participate in violent group actions that cause or threaten physical injury and property damage.

The Badger State Sheriffs' Association represents all of Wisconsin's 72 elected county sheriffs. The Wisconsin Sheriffs and Deputy Sheriffs Association is a professional organization representing over 1,000 members, including sheriffs, deputies, and jail officers. Our organizations have a joint legislative committee and work closely on public safety issues of concern to our members.