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# JOHN J. MACCO

STATE REPRESENTATIVE • 88<sup>TH</sup> ASSEMBLY DISTRICT

DATE: January 3<sup>rd</sup>, 2024  
TO: Senate Committee on Judiciary and Public Safety  
FROM: Representative John Macco  
RE: Testimony on 2023 Senate Bill 516

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## Testimony on 2023 Senate Bill 516

Chairman Wanggaard and members of the Senate Committee on Judiciary and Public Safety:

Thank you for hearing testimony SB 516. It is my hope that by passing this bill, we will provide increased certainty and security for our elderly and their families.

Understandably, those who are reaching retirement age are worried about their personal and financial security as they exit the workforce. Since 2001, reported allegations of elder abuse increased by 160 percent in Wisconsin. The number of retirees will only increase as more "baby boomers" exit the workforce at a rate of 10,000 individuals per day, making this bill and others essential for Wisconsin retirees.

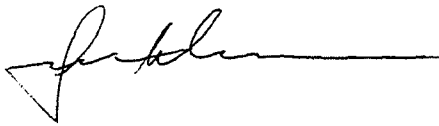
Senate Bill 516 allows courts to expedite proceedings in cases involving victims or witnesses who are elderly persons and preserve their testimony for use in those proceedings. Victims of elder abuse have a 300% higher risk of death when compared to those who have not experienced abuse, making the need for this legislation far more urgent. As degenerative brain diseases increase in elderly populations, the system must be able to respond to the unique needs of an elderly victim's ability to testify.

SB 516 was developed and recommended by former Attorney General Brad Schimel's Task Force on Elder Abuse during the 2017-2018 legislation session. The task force was made up of representatives from the Wisconsin Department of Justice (DOJ), Wisconsin Department of Health Services (DHS), Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP), Wisconsin Department of Financial Institutions (DFI), the Wisconsin State Legislature, law enforcement, Wisconsin Court System, prosecutors, Board on Aging and Long Term Care, Wisconsin Bankers Association, and various crime victim services, adult protective services,

senior living facilities, and senior citizen advocacy organizations. Last session it passed this committee and the Senate Floor, unanimously.

This legislation is an important step in our efforts to end elder abuse and our most vulnerable citizens will benefit from its passage. I want to thank you once again, Mr. Chairman, for holding this hearing and I urge you and the rest of the committee to vote for recommendation of passage.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read 'John J. Macco', with a long horizontal line extending to the right.

**John J. Macco**  
**Representative**  
**88<sup>th</sup> Assembly District**



## PATRICK TESTIN

### STATE SENATOR

DATE: January 3<sup>rd</sup>, 2024  
RE: **Testimony on SB 516**  
TO: The Senate Committee on Judiciary and Public Safety  
FROM: Senator Patrick Testin

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I would like to thank the committee for accepting my testimony on legislation I've drafted that would make it easier for elderly crime victims and witnesses to participate in our legal process.

Unfortunately, elder abuse is becoming all too common in our society, and reports of elder abuse continue to grow. According to the Bureau of Aging & Disability Resources, incidents of reported elder abuse have more than doubled over the last twenty years. These numbers are likely to grow as Wisconsin's senior population is on track to have increased by 72% between 2015 and 2040.

In 2017 and 2018, I had the opportunity to serve as a member of the Attorney General's Task Force on Elder Abuse. The task force was made up of stakeholders from state agencies, law enforcement, the court system, long-term care agencies, financial service groups, and citizen advocacy organizations. We were tasked with studying the impact of elder abuse in the state and finding ways to improve outcomes for the elderly. This legislation is one product of that task force.

This bill intends to strengthen the process and minimize the amount of stress for elder victims and witnesses who are involved in a court proceeding by allowing for expedited hearings and the ability to preserve testimony through a video-taped court hearing.

This bill enables a prosecuting attorney to file a motion with a court to preserve the testimony of an elder person involved in criminal and delinquency cases or juvenile dispositional hearings. If a motion is filed, the court must hold a hearing to record testimony within 60 days, the defendant must be present at the hearing, and the witness is subject to cross-examination. The witness can either testify in person, or, under certain circumstances, provide testimony through telephone or live audiovisual means.

The ability to recall certain details is critical to the outcome of court cases. As degenerative brain diseases increase in senior populations, the system must be able to respond to the unique needs of an elderly victim's ability to testify.

Thank you again for listening to my testimony and I hope that you will join me in support of this needed reform.



# Wisconsin State Public Defender

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**Katie R. York**  
State Public Defender

**Katie R. York**  
Deputy State Public  
Defender

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Senate Committee on Judiciary and Public Safety  
2023 Senate Bill 516  
Wednesday, January 3, 2024

Chair Wanggaard and members,

Thank you for having this hearing on 2023 Senate Bill (SB) 516. The procedures created by SB 516 cause concern for the State Public Defender about due process and witness confrontation.

SB 516 defines an elder person as someone over the age of 60. It does not distinguish between an individual who is 60 and in good mental and physical health and an individual under 60 who may be in poor mental or physical health. It is an arbitrary age designation that does not account for good cause to expedite or record proceedings.

The concept in Section 1 of SB 516 is arguably unnecessary given the constitutional changes as part of Marsy's Law victim rights provisions.

Of more concern is Section 2 which creates a process to record testimony to be possibly used as evidence at a future trial. The only two things that are required to use this process are that the alleged victim or witness is over 60 and for the prosecutor to file a motion with the court. It does not allow for judicial discretion on whether or not to allow the process to be used based on good cause. Other concerns include:

- If the motion is filed shortly after the initial appearance, it is unlikely that the defense attorney will have received all of the discovery in the case and had an opportunity to investigate the case so will be unprepared to conduct an informed cross-examination.
- Language allowing cross-examination "if not unduly repetitious" creates issues related to due process and is covered in the criminal procedure code.
- Recorded testimony, even with the ability to conduct cross-examination, is not a replacement for in-person testimony in front of the jury. It limits the ability for the jury to see and hear other context and non-verbal cues by the witness or others in the courtroom.

Current statute does contemplate an alleged victim or witness having their testimony taken in a deposition, but necessarily places significant limits on when that can be used because of the concerns outlined above.

In previous sessions when this bill has been offered, SPD has worked with the bill author to identify these concerns and look for potential changes including removing Section 1 and adding a cross-reference to the age definition to include existing statutory language related to elder at risk or adult at risk as well as adding a good cause requirement and judicial discretion.

Thank you again for the opportunity to provide feedback on Senate Bill 516.



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**TO: Senator Wanggard, Chair, Senate Committee on Judiciary and Public Safety**

**FROM: Martha Cranley, State Director, AARP Wisconsin**

**Subject: Testimony in Favor of Senate Bill 516- expediting criminal proceedings when a victim or witness is an elder person**

**January 3<sup>rd</sup>, 2024**

Thank you for the opportunity to submit testimony in support of Senate Bill 516 (Assembly Bill 556) which requires Wisconsin courts to expedite criminal and delinquency cases, and juvenile dispositional hearings involving a victim or witness who is 60 years of age or older and provides an alternative option to preserve testimony through a videotaped court hearing.

AARP WI stands with our advocating partners for Wisconsin's aging population including the Greater Wisconsin Agency on Aging Resources, Inc. (GWAAR) in support of this bill authored by Senator Testin and Representative Macco. We appreciate their leadership and focus on our target population that deserves extra options to make testimony easier and more accessible in various situations. Recording testimony promptly preserves an older victim's/witness's testimony in case of injury, any threat to incompetency or even death. If there is good cause found by a court after an attorney's motion, an older witness may even provide testimony into the record of the hearing digitally through telephone or live audiovisual means, which could minimize any further negative impacts on the older adult's health, independence, and dignity.

Thank you for the opportunity to provide input on this common-sense legislation and we at AARP look forward to working with more legislators to promote options that support our aging population.

We urge all members of this committee and the full Legislature to vote yes on SB 516.

Martha Cranley  
State Director  
AARP Wisconsin





Date: January 3, 2024

To: Chairman Wanggaard and members of the Senate Committee on Judiciary and Public Safety

From: Janet L. Zander, Advocacy & Public Policy Coordinator

Re: **Support for SB 516** – expediting criminal proceedings when a victim or witness is an elder person and preserving the testimony of a crime victim or witness who is an elder person.

Thank you for this opportunity to share testimony on SB 516. My name is Janet Zander and I serve as the Advocacy and Public Policy Coordinator for the Greater Wisconsin Agency on Aging Resources, Inc. (GWAAR). GWAAR is a nonprofit agency committed to supporting the successful delivery of aging programs and services in our service area consisting of 70 counties (all but Dane and Milwaukee) and 11 tribes in Wisconsin. We are one of three area agencies on aging (AAAs) in Wisconsin. We provide lead aging agencies in our service area with training, technical assistance, and advocacy to ensure the availability and quality of programs and services to meet the changing needs of older people in Wisconsin. Our mission is to deliver innovative support to lead aging agencies as we work together to promote, protect, and enhance the well-being of older people in Wisconsin. There are over one million adults aged 60 and older residing in our service area.

**GWAAR provides several other services in addition to its role as an AAA, including operation of the state’s Elder Abuse Hotline Program. As of October 2023, the Elder Abuse Hotline is projecting a call volume for the year of over 1600, which represents nearly a 65% increase in calls over 2022.**

The number of reported elder abuse cases in the state continues to rise, increasing by nearly 81% percent from 2009<sup>1</sup> to 2022 when there were 9,621 reported cases.<sup>2</sup> The actual number of elder abuse cases is likely much higher, as fear and embarrassment lead to underreporting of abuse. According to the U.S. Department of Justice more than 1 in 10 Americans aged 65 and older experience some form of elder abuse in a given year.<sup>3</sup>

The consequences of elder abuse can be devastating, placing abused elders at increased risk of hospitalization, nursing home admission, and even death. Given the significant negative impacts of elder abuse and the amount of stress placed on elder victims and witnesses, **GWAAR supports SB 516** which requires courts to expedite criminal proceedings in cases involving a victim or witness

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<sup>1</sup> Wisconsin Coalition Against Domestic Violence, Volume 29, Issue 2; <https://www.endabusewi.org/wp-content/uploads/2018/11/Chronicles-29-2.pdf>

<sup>2</sup> Wisconsin’s Annual Elder Abuse and Neglect Report: 2022, Wisconsin Department of Health Services. Retrieved on January 2, 2024 from <https://www.dhs.wisconsin.gov/publications/p00124.pdf>.

<sup>3</sup> About Elder Abuse, U.S. Department of Justice. Retrieved on January 2, 2024 from <https://www.justice.gov/elderjustice/about-elder-abuse>.

who is 60 years of age or older and provides an opportunity to preserve testimony through a video-taped court hearing. Recording the testimony in a timely manner preserves the older victim's/witness's testimony in case of illness, later incompetency or even death. Under the bill an older witness, if there is good cause, may even provide testimony into the record of the hearing by telephone or live audiovisual means, thereby minimizing any further negative impacts on the older adult's health, independence, and dignity.

We appreciate the interest in and efforts of policy makers to protect older adults against elder abuse, neglect, and exploitation and to address this growing problem. We look forward to continuing to work with you on policies that improve the quality of life of older people in Wisconsin.

Thank you for your consideration of these comments supporting SB 516.

Contact:  
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