

JOHN SPIROS

State Representative 86th Assembly District

Testimony on Assembly Bill 35 Assembly Committee on Judiciary Thursday, January 30, 2020

Hello, and thank you Chairman Ott and members of the Assembly Committee on Judiciary for allowing me to have the opportunity to share my testimony with you today regarding Assembly Bill 35, which would create the crime of entering certain places with the intent to commit battery.

Under current law, anyone who intentionally enters a building or dwelling without the consent of the person in lawful possession and with intent to steal or commit another felony is guilty of a Class F felony. Yet if that same person entered the dwelling with the intent to commit battery, they would only be committed as a misdemeanor.

I think we can all agree that someone who intends to harm another person is more of a public safety risk than someone who intends to steal, and they should be prosecuted as such. This bill would give law enforcement the ability to apply the greater penalty in those situations where it's appropriate.

Thank you again for allowing me the opportunity to share testimony in support of this bill, and I welcome any questions you might have.



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*Testimony in Support of AB 35 before the Assembly Committee on Judiciary
State Senator André Jacque*

Chairman Ott and members of the Assembly Committee on Judiciary,

Thank you for the opportunity to testify before you today in support of Assembly Bill 35, legislation Rep. Spiros and I have re-introduced to close a loophole in Wisconsin trespassing law. AB 35 has been requested by prosecutors looking to properly charge cases involving domestic abuse and gang-related violence.

Last year, this legislation enjoyed very strong bi-partisan support and passed the State Assembly on a voice vote. It also passed the Senate committee unanimously but unfortunately was not brought to the floor as time ran out at the end of session.

Under current law, a person entering into any building or dwelling or certain other places with the intent to steal is guilty of a Class F felony, while entering those same locations with the intent to cause bodily harm is generally only chargeable as a misdemeanor. In other words, it is a felony to attempt to steal tools from someone's garage but only a misdemeanor to come in to their house or apartment to try to beat them up. When compared to other trespassing laws, there is little parity, letting otherwise violent criminals go free with a slap on the wrist. For general reference, the Brown County District Attorney estimates that his office is limited to charging a lesser penalty for attempted batterers under this scenario approximately 5 to 10 times every year.

AB 35 provides a common sense fix to remove the disproportionate treatment of property crimes over crimes against bodily security by raising the penalty for entering with intent to commit battery to also be a Class F Felony.

Thank you for your consideration of AB 35.

BROWN COUNTY, Wis. (WBAY) - Brown County's district attorney is asking lawmakers to change what he calls an inconsistency in state law.

It mostly affects stalking or domestic violence cases and whether they're charged as a felony or misdemeanor. That can make a big difference in someone going to prison or serving much less time in jail.

Under current law, if someone breaks into a home or building with the intent to steal something, prosecutors can charge it as a felony, which has substantial consequences.

But if someone breaks into a home or building with the intent to beat up or seriously harm another person, they can only charge it as a misdemeanor with much lesser penalties.

Brown County D.A. Dave Lasee sees this happen five to ten times a year and thinks it's time the law changed.

"The current law does seem to value property over people, and I don't know that it's intentionally drafted that way but we've had that unintended outcome on a few different cases," says Lasee.

He says it most often affects domestic violence cases but has recently found the current law creating an issue in cases involving gangs and fights.

"We've had young guys go over to the house to get in a fight with other people, break into the home, and there's a fight that ensues inside," explains Lasee. "It's difficult to show that they intended to batter them severely, but we know they intended to go over there and get in a fight, and to me that's more serious than breaking into someone's garage to steal a six-pack of beer."

He asked state Rep. Andre Jacque to consider changing the law.

"It's a ridiculous situation that we really only provide that protection for property," says Jacque, a Republican from De Pere.

Jacque just drafted a proposal to upgrade the charge to a felony, giving prosecutors the option to choose the penalty that best fits each case and crime.

Lasee says there could be times where it's hard to prove a person's intent, but he feels prosecutors need that option.

Why the law is written as it is, neither man can answer, but both believe addressing it is long overdue.

"It's bothered me for awhile just because there is that inconsistency there," says Lasee.

"When people hear about it, they, again, just scratch their heads and wonder how in the world could we have this sort of inequity?" says Jacque.

The state representative is putting his proposal out for sponsorship Tuesday and hopes to get in to a committee just after the new year.