



RACHAEL A. CABRAL-GUEVARA

STATE REPRESENTATIVE • 55TH ASSEMBLY DISTRICT

Testimony before the Assembly Committee on Criminal Justice and Public Safety

Representative Rachael Cabral-Guevara

February 24, 2021

Chairman Spiros and Committee Members,

Assembly Bill 42 is a straightforward, black and white bill. Under current law, the intent to steal or commit a felony while entering a place without consent would be considered a class F felony. This bill adds another layer of protection for victims, many of whom are impacted by domestic abuse or gang-related violence, by including the intent to commit misdemeanor battery on that list. It's that simple.

By adding the intent to commit battery under this definition, it would carry with it the penalties of a class F felony, including fines up to \$25,000 and up to a twelve and a half year prison sentence. Not only would this help protect those who are victims, it would also provide an additional deterrent against possible future offenders.

The safety of our communities is one of the most critical responsibilities we carry as legislators. I am proud to stand with our prosecutors, chiefs of police, and district attorneys across the state who brought this issue to light.

Thank you for your consideration of Assembly Bill 42.



ANDRÉ JACQUE

STATE SENATOR • 1ST SENATE DISTRICT

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*Testimony before the Assembly Committee on Criminal Justice and Public Safety
Senator André Jacque
February 24, 2021*

Chairman Spiros and Committee Members,

Thank you for the opportunity to testify in support of Assembly Bill 42, which was requested by prosecutors to properly charge cases, particularly those involving domestic abuse and gang-related violence. Identical legislation passed committees in both chambers this past session and the full State Senate on a voice vote, but was not taken up in the State Assembly before the end of session despite passing the Assembly on a voice vote the previous 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 items from someone's garage but only a misdemeanor to break in to their house or apartment to try to beat them up. 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.

Assembly Bill 42 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 Assembly Bill 42.



Wisconsin Chiefs of Police Association Assembly Bill 42

Chairman Spiros and members of the Assembly Committee on Criminal Justice and Public Safety.

On Behalf of the Wisconsin Chiefs of Police Association (WCPA) we want to thank you for having a hearing on Assembly Bill 42. We also want to thank the authors of the bill, Senator Jacque and Representative Cabral-Guevara.

My name is Ken Pileggi. I am the Immediate Past-President of the WCPA who serves as the current President of the WI Police Leadership Foundation (WPLF). With me is Aaron Chapin, the Vice Chair of the WCPA Government Affairs Committee. We are both members of the Wisconsin Chiefs of Police Association leadership team.

Assembly Bill 42 makes it a Class F felony for those who enter a home with intent to commit a misdemeanor battery rather than a felony battery.

So, for example, currently if two individuals have a dispute and one leaves the location and goes back to their home and locks the door. If the other individual in the dispute follows them home, knocks down their door and attacks them, the assailant who knocks down the door would be charged with two misdemeanors, criminal trespass, and battery. This legislation increases the penalty to a Class F felony.

Sadly, situations like these are all too common in communities we serve. These calls happen in a variety of situations, including disputes between neighbors and in domestic situations.

The Wisconsin Chiefs of Police Association support this legislation as it helps to provide more protections for victims.

We thank you for allowing us to testify today and look forward to hopefully having this legislation become law. We are happy to take any questions.

Prosecutors: Law valuing "property over people" needs to change

(WJRT)

By Sarah Thomsen

Published: Dec. 12, 2017 at 4:58 PM CST

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.

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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.

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"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.

SHERIFF'S OFFICE

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TODD J. DELAIN
SHERIFF

February 23, 2021

RE: Letter of Support for Assembly Bill 42
Entering with Intent to Commit Battery

Dear Committee on Criminal Justice and Public Safety:

I am writing to express my support for Assembly Bill 42, which would slightly modify Wisconsin's Burglary statute to include entering certain places with intent to commit a battery. Unfortunately, I am not able to attend the public hearing on February 24, 2021, but I would ask that you accept this letter in lieu of any testimony.

In my view the present bill represents a logical and straightforward modification to the Burglary statute that eliminates disproportionate treatment of property crimes over crimes against bodily security. Under the current law, a person who enters a garage, without consent, and with intent to steal any item, no matter how small, could be charged with Burglary, a Class F felony. However a former domestic partner, stalker, or even a rival gang member, who enters a home without consent, and with intent to physically harm his/her victim could only be charged with far less significant offenses, and in most cases solely with misdemeanor offenses. Both Brown County District Attorney David Lasee and I believe that the latter example is far more serious than the former and is deserving of a potential penalty that is on par with the present Burglary statute.

The above-referenced scenarios are not uncommon and unfortunately occur multiple times a year in Brown County. Prosecutors will frequently use their discretion to charge lesser offenses for the property crimes described above, but also are frustrated with their inability to charge a more serious crime for the extremely traumatic home invasion with intent to commit battery. The proposed modification to the Burglary statute would more justly address violent conduct and better support crime victims.

Thank you for your consideration in this matter. Should you have any questions or concerns, please feel free to contact me at your convenience.

Sincerely,

A handwritten signature in black ink that reads "Todd J. Delain".

Todd J. Delain
Sheriff