

Committee Name:
Senate Committee –
Judiciary, Corrections and Privacy
(SC–JCP)

Appointments

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Committee Hearings

03hr_SC–JCP_CH_pt00

Committee Reports

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Clearinghouse Rules

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Executive Sessions

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Hearing Records

03hr_ab0375

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Misc.

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Record of Committee Proceedings

03hr_SC–JCP_RCP_pt00

October 26, 2003

Wisconsin State Senate

Madison, WI -----

AB 375

Dear Chairman and Committee Members:

My name is Susan Gengler-Liermann and I live in Watertown. It was there on September 5, 2002 that my 17-year-old son, Jimmy Gengler, was struck and killed by hit-and-run driver - Moose Balian - now a convicted felon. Had two witnesses not seen Jimmy just seconds before and heard the crash, we might not have found his lifeless body until morning. Moose Balian did not slow down. He just drove off into the night ending Jimmy's life and changing our family's forever.

The chaplain, coroner and officers who came to my door with the horrible news offered me their assurances that in all likelihood the driver was drunk and feared a greater charge of "drunk driving" added to whatever charges would stem from Jimmy's death as the reason he/she fled. In the next two to three days after they were "good and sober" they said, the driver would surely turn him or herself in and then we would know the how and the why. But Moose Balian never did. The Dodge County Sheriff's Department and Wisconsin State Troopers using accident reconstruction and an FBI program, along with Chrysler Corporation and many other local businesses, mounted a Herculean effort to find the driver of the Dodge Ram pickup that killed my son.

I and my oldest son, Andy, passed out flyers all over Watertown listing the description of the truck and any details that might help someone who knew the driver of that truck, to come forward. We also held a press conference on September 23, 2002 to get the picture of the truck out to the public. Neighbors and friends posted a \$5,000 reward for information leading to his arrest. But neither Moose nor anyone who knew him was going to come forward, including the mechanic, John Schulte of Kewaskum, who decided it "wasn't his responsibility."

Local truckers were kind enough to post our flyers out of state on their routes as far as the East Coast. Everyone wanted to help. No storeowner or business refused to display them. Three different editions of the flyers were all seen in shop windows as a sense of community enveloped us all. Everyone I talked to seemed to feel that this tragedy could just as easily have happened to them or their loved ones. The opinions on everyone's lips were as varied they were unrelenting. The speculation was that the driver was either drunk, or driving with a revoked license.

Could it have been someone from out of town? Someone from out of state who wouldn't hear our locally televised pleas? Would we ever find him? Imagine our reaction when it turned out that a local man, a volunteer firefighter/ EMT from Lebanon, a small town not 5 miles from our house was the driver? That it was Moose Balian who killed Jimmy.

Three and 1/2 months passed from the time the paint chips from my child's body, and glass from his back and head, were matched to the suspect's truck and he was arrested. After all we had been through at this point, and all we have yet to endure thanks to his continuing cowardice, we know that while we are sentenced to a lifetime of grief and suffering, Moose could only face a maximum of seven and 1/2 years. Who came up with that number? Who equated that time period with the permanent loss of a son's rib- bruising hug for his mom? To lose forever his laugh, his jokes, his smile or seeing his high-school diploma placed into his hands instead of mine last June 12.

When the hit-and-run driver drives away, their victim could be lying in a ditch in need of a simple hand up, or a hand to hold as he or she breathes their last. The hit-and-run driver doesn't care. Moose made a life-or-death decision for Jimmy when he drove away. He told John Schulte that "They'll call it intoxicated use of a vehicle because I had a beer or two." Their attitude is, "Better him than me." He leaves his victim to succumb to whatever fate might befall him - be it bleeding to death from a simple scalp laceration an EMT could have bandaged in two minutes - or a lifetime in a wheelchair. The driver makes the decision that his own future is more important than his victim's. Jimmy's life had worth and his loss is forever.

How does seven and 1/2 years, now three years in and three years probation, atone for that? I urge you to join your fellow lawmakers in the Assembly and pass this bill to increase the hit-and-run penalty to be commensurate with that of drunk driving so that there is no incentive to flee. Or, as Milwaukee Journal Sentinel feature writer Mike Nichols put it so well in his October 25, 2003 column, "At least keep... roadside litter collectors in the budget." That way with two more hit and runs this month alone in our part of the state we can at least keep an accurate body count, and return the victims to their mothers, as Jimmy was returned to me.

Sincerely,

Susan Gengler-Liermann
N9504 Buchert Lane
Watertown, WI 53094

Vote Record

Committee on Judiciary, Corrections and Privacy

Date: 10-28-3

Moved by: Stepp

Seconded by: Carpenter

AB 375

SB

Clearinghouse Rule

AJR

SJR

Appointment

AR

SR

Other

A/S Amdt

A/S Amdt to A/S Amdt

A/S Sub Amdt

A/S Amdt to A/S Sub Amdt

A/S Amdt to A/S Amdt to A/S Sub Amdt

Be recommended for:

- Passage, Adoption, Confirmation, Concurrence, Indefinite Postponement, Introduction, Rejection, Tabling, Nonconcurrency

Table with 5 columns: Committee Member, Aye, No, Absent, Not Voting. Rows include Senator David Zien, Senator Scott Fitzgerald, Senator Cathy Stepp, Senator Gary George, and Senator Tim Carpenter.

Totals:

liability relinquish custody of her newborn child to a law enforcement officer, an emergency medical technician, or a hospital staff member when the newborn child is 72 hours old or younger.

By Senators Kedzie, Reynolds, Schultz, A. Lasee, Lazich, Stepp, Roessler, Cowles, S. Fitzgerald and Kanavas; cosponsored by Representatives M. Williams, Ladwig, Rhoades, Jensen, Albers, Weber, Stone, Krawczyk, Petrowski, Hines, Bies, Suder, Hahn, Olsen, Seratti, Ainsworth, Townsend, Ott, Hundertmark, Nischke, M. Lehman, Gielow, Owens, McCormick, Gunderson, Kerkman, Loeffelholz, J. Fitzgerald, Van Roy, Vrakas, Freese, Jeskewitz, D. Meyer and Lothian.

Please consider the following motion:

- Moved by Senator Stepp, seconded by Senator Zien that SENATE BILL 28 be recommended for PASSAGE:

Aye ~~_____~~ No _____

Senate Bill 181

Relating to: leaving the scene of an accident and providing a penalty.

By Senators S. Fitzgerald, Darling, Erpenbach, Roessler and Kanavas; cosponsored by Representatives Hines, Friske, Zepnick, McCormick, Kreibich, Ainsworth, Ott, Wasserman, Seratti, Gronemus, Hundertmark, Townsend, Hahn, Nass, Bies, J. Fitzgerald, Turner, Van Roy, Pettis, Suder, Owens and Vrakas.

- Moved by Senator Carpenter, seconded by Senator Stepp that SENATE BILL 181 be recommended for PASSAGE:

Aye ~~_____~~ No _____

Senate Bill 273

Relating to: limiting the amount of bond set by a court in a civil action.

By Senators Kanavas, Erpenbach, Welch, Plale, S. Fitzgerald, Lassa, Schultz, M. Meyer, Darling, Wirch, Stepp, Decker, Zien, Reynolds, Leibham, Hansen and Breske; cosponsored by Representatives Suder, Kreuser, Pettis, Huebsch, J. Wood, Friske, Shilling, Musser, Ladwig, Jeskewitz, Kaufert, Montgomery, Travis, Balow, McCormick, Hubler, Petrowski, Hines, Plouff, J. Fitzgerald, Gunderson, Grothman, Richards, Schneider, F. Lasee, Sherman, Colon, Sinicki and Hundertmark.

- Moved by Senator Stepp, seconded by Senator Zien that Senate Amendment LRBA1534 be recommended for INTRODUCTION and ADOPTION:

Aye ~~_____~~ No _____

- Moved by Senator Stepp, seconded by Senator Zien that SENATE BILL 273 be recommended for PASSAGE AS AMENDED:

Aye X No _____

Assembly Bill 265

Relating to: causing substantial bodily harm to another person and providing a penalty.

By Representatives Suder, Shilling, Albers, Balow, Berceau, Boyle, Coggs, Cullen, Gottlieb, Hahn, Hines, Hundertmark, Kaufert, Krawczyk, Kreibich, Kreuser, Ladwig, Lassa, J. Lehman, Loeffelholz, McCormick, Montgomery, Morris, Musser, Nischke, Owens, Pettis, Plouff, Pocan, Richards, Schooff, Stone, Turner, Van Roy, Wasserman, Weber, Zepnick, Taylor, Gielow, Molepske and Hebl; cosponsored by Senators Stepp, Brown, Darling, Lazich, Robson, Roessler and Wirch.

- Moved by Senator Carpenter, seconded by Senator Stepp that ASSEMBLY BILL 265 be recommended for CONCURRENCE:

Aye X No _____

Assembly Bill 375

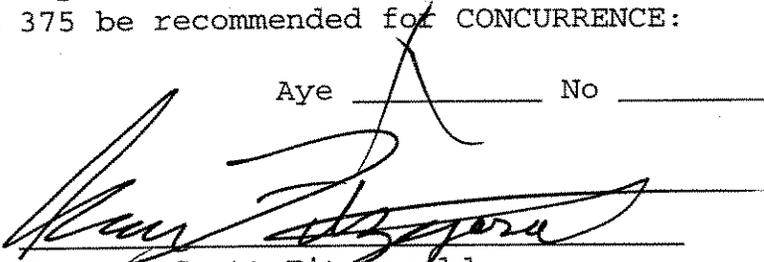
Relating to: leaving the scene of an accident and providing a penalty.

By Representatives Hines, Friske, Zepnick, McCormick, Owens, Kreibich, Ainsworth, Ott, Wasserman, Seratti, Gronemus, Hundertmark, Townsend, Hahn, Nass, Bies, J. Fitzgerald, Turner, Van Roy, Pettis, Suder, Vrakas and Vukmir; cosponsored by Senators S. Fitzgerald, Darling, Erpenbach, Roessler and Kanavas.

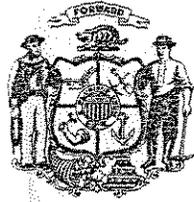
- Moved by Senator Stepp, seconded by Senator Carpenter that ASSEMBLY BILL 375 be recommended for CONCURRENCE:

Aye X No _____

Signature



Senator Scott Fitzgerald



SCOTT FITZGERALD

WISCONSIN STATE SENATOR

Senate Committee On Judiciary, Corrections and Privacy

October 28, 2003
SB181 and AB 375

I want to thank Chairman Zien and the members of this committee for holding a hearing on this important legislation. Assembly Bill 375 and Senate Bill 181 will close a loophole in our criminal penalty structure that has been recently highlighted by a tragic death in my district.

Currently, if you kill someone while driving under the influence or in a car accident you will be charged with a Class D felony and serve a maximum sentence of 25 years in prison and up to \$100,000 in fines. However, if you kill someone and flee the scene and are caught, you can only be charged with a Class H felony punishable by a maximum of only 6 years and up to \$10,000 in fines. This is just wrong. We are encouraging individuals to run from an accident by giving them a lighter sentence. In many cases the tragic outcome of the accident may have been prevented if those involved stayed there to assist the injured.

Assembly Bill 375 and Senate Bill 181 would increase the penalty for a hit and run accident that results in death to a class D felony and a hit and run that results in great bodily harm to a Class E felony. This would make both crimes equal to other vehicular crimes that have the same results. By making the penalties harsher, we will send a clear message that fleeing the scene of an accident will not be tolerated.

I urge you to support the families that you will be hearing from today by voting for these life saving bills.

Again, thank you for allowing me to testify in front of you today.

My name is Kathleen Watson, and I'm here today to speak in favor of ^{Senate Bill} ~~375~~ that proposes increasing the penalty for a driver who leaves the scene of an accident that causes serious injury or death.

My daughter-in-law, Aimee Kubler, was struck and killed by an SUV a year and a half ago as she jogged on a country road less than a quarter of a mile from her home. The driver did not stop, but rather fled to a car wash to clean Aimee's blood off of his vehicle.

He stayed home from work the next day so he could shop for parts to replace those that had been damaged by the impact. Thanks to the Dane County Sheriff's Department, he was arrested within 24 hours of Aimee's death and eventually — six months later — entered a plea of no contest to the charge of homicide by negligent operation of a vehicle and failure to render aid at an accident scene ... in other words, hit and run.

Aimee was just 28 when she was killed.

I don't think my son Toby will ever get over finding his Aimee, the love of his young life, dead in a ditch. The judge sentenced the driver to the maximum he could under the current law: 7½ years in prison.

Aimee is gone forever. In 7½ years, the driver will be free to start to rebuilding his life.

Jimmy Gengler was riding his bike home from his part-time job when he was struck by a truck and killed. The driver did not stop, but rather, as in Aimee's case, went to great lengths to try to cover up his criminal behavior. He will be sentenced Dec. 1.

Jimmy was only 17 when he was killed.

How will Jimmy's family ever get over his tragic, senseless death? The maximum sentence the driver can get under the current law is 7¹/₂ years.

Jimmy is gone forever, but the driver will be able to resume his life in 7¹/₂ years — or maybe less.

Just 10 days ago, Jim Beyer was out enjoying a run on a beautiful fall afternoon. On a straight stretch of road in broad daylight, he was mowed down — killed by a driver who apparently claimed that was under the influence of illegal substances. The driver did not stop, but was apprehended in minutes by witnesses.

Jim Beyer was just 40 when he was killed. How will his wife, his young son and daughter, his extended family ever recover from this shocking, heartbreaking loss?

Jim Beyer is gone forever. And although it will be months before we know the outcome for the driver, because he is 17, he likely will have an opportunity to build a new life at some point.

What kind of person can strike another human being with a vehicle and not stop?

By what moral code do such people live?

Hitting someone with your vehicle and driving off — even though it's accidental — is unconscionable, unthinkable for most of us.

If we could count on everyone, on every driver, to do what is morally right, to do what is legally right, we would not need laws such as the one proposed here today.

But this law is for those who lack a moral compass

... for those who lack a conscience

... for those who flout the law and seem unable to grasp that it is inhumane — that it is criminal, a serious crime — to strike a person with a vehicle and not stop to summon help and render every possible form of aid.

Will passing this law prevent other incidents of this kind?

Unfortunately, probably not. But we can hope that it will make our streets and our neighborhoods a little safer by keeping at least some of the dangerous, negligent drivers off the roads.

And it will send a message that we are a civilized society that does not tolerate the inhumanity of hurting or killing someone with a vehicle, then simply driving away.

Please pass this bill. It's too late for my daughter-in-law Aimee Kubler, too late for Jimmy Gengler, too late for Jim Beyer. But it's not too late for other victims and their families.

Sen. Fitzgerald &
Rep. Nintze sponsoring

Thank you

Senate Committee on Judiciary, Corrections and Privacy

My name is Bonnie Stam

At 6:30 p.m. on April 18th, 2002, my daughter, Aimee Kubler was lying in a ditch a few hundred yards from her home, dying. No one was there to help her, no one called an ambulance, no one held her to keep her warm. No one knew if she was suffering or in pain. At 7:30 p.m. no one knew, at 8:30 no one knew, at 9:30 no one knew except one man, the man who struck and killed her.

At 10:30 p.m. her husband, Toby, came home from work to find her missing. Her dinner was on the table, the TV on. He called her brother and together they searched for her, only to find her lying in a ditch, cold, and dead. Barry closed her eyes for the last time and Toby held and rocked her, crying, and telling her he loved her so much. Barry and Toby then came to tell us the worse thing any parent could hear.

This man struck Aimee with his car on a clear sunny evening on a straight stretch of road. When his vehicle struck her, she came up onto his hood, hit his windshield and was thrown 150 feet in front of his SUV. She came to rest in a deep ditch on the side of the road. This man had no way of knowing if she were alive or dead, because he did not stop. He had been drinking all day with friends but because he left the scene, there was no way to prove he was drinking and driving. He plead no contest, refusing again accept responsibility. His friends lied for him at court, his family helped him fix his car. He denied drinking and driving that day. Later at the sentencing he used the fact that he was drunk as a reason for the court to have mercy on him and not give him the sentence due him, 7 ½ years, a far cry from what it would have been had he stayed and called an ambulance.

Calling that ambulance would have taken away the wonder if anything could have been done to save her life. Barry and Toby would not have had to find her and then have to tell her parents their daughter had died.

The day that this man ended our daughter's life, it left all of us in agony and despair. A young husband lost his soulmate, we lost our daughter and future grandchildren, a brother lost his best friend.

Our family will never be able to accept or understand why Aimee was left to die with no thought of her life or even respect for her as a human being.

This man only thought of himself and his consequences, not the consequences for Aimee and our family.

Please pass this bill onto the Senate so that this does not continue to happen to other victims and families. Do this for Aimee and others that have died alone along the roadside. Thank you.

Bonnie Stamm
Mother of Aimee Stamm Kubler
October 28, 2003