



JOHN J. MACCO

STATE REPRESENTATIVE • 88TH ASSEMBLY DISTRICT

DATE: January 11th, 2024
TO: Assembly Committee on Judiciary
FROM: Representative John Macco
RE: Testimony on 2023 Assembly Bill 556

Testimony on 2023 Assembly Bill 556

Chairman Tusler and members of the Assembly Committee on Judiciary:

Thank you for hearing testimony AB 556. 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.


Assembly Bill 556 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.

AB 556 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 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', followed by a long horizontal line extending to the right.

John J. Macco
Representative
88th Assembly District



Wisconsin State Public Defender

17 S. Fairchild Street, 5th Floor
Madison, WI 53703
Phone: 608.266.0087/Fax: 608.267.0584
www.wispd.org

Katie R. York
State Public Defender

Katie R. York
Deputy State Public
Defender

Assembly Committee on Judiciary
2023 Senate Bill 556
Thursday, January 11, 2024

Chair Tusler and members,

Thank you for having this hearing on 2023 Assembly Bill (AB) 556. The procedures created by AB 556 cause concern for the State Public Defender about due process and witness confrontation.

AB 556 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 AB 556 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 Assembly Bill 56.



222 W Washington Ave. | Madison, WI 53703
O: 866-448-3611 | F: 608-251-7612
aarp.org/wi | wistate@aarp.org | twitter: @aarpwi
facebook.com/aarpwi

TO: Representative Tussler, Chair, Assembly Committee on Judiciary

FROM: Martha Cranley, State Director, AARP Wisconsin

Subject: Testimony in Favor of Assembly Bill 556- expediting criminal proceedings when a victim or witness is an elder person

January 11th, 2024

Thank you for the opportunity to submit testimony in support of Assembly Bill 556 (Senate Bill 516) 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 Representative Macco and Senator Testin. 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 AB 556.

Martha Cranley
State Director
AARP Wisconsin

