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# NIK RETTINGER

STATE REPRESENTATIVE • 83<sup>rd</sup> ASSEMBLY DISTRICT

**Testimony on Assembly Bill 57**  
Assembly Committee on the Judiciary  
Thursday March 2, 2023

Thank you, Chairman Tusler, and fellow committee members for the opportunity to testify on Assembly Bill 57. I would also like to thank Senator Rob Hutton for authoring this crucial legislation with me.

This proposal was brought to my attention not long after being sworn in when I joined a working group of fellow legislators who shared in my support of public safety and the need to identify solutions to the growing crime wave impacting Milwaukee and surrounding counties. To that point, this legislation is based on a bill brought forward several sessions ago with additions to meet the changing landscape and challenges being faced in keeping communities safe.

Presently, a prosecutor can dismiss or amend a criminal charge without approval from the court. Our bill would require a prosecutor to get the courts approval to dismiss or amend a charge if the charge is one of several crimes listed, including sexual assaults and crimes against children.

You'll notice additional specific requirements for illegal possession of a firearm. This is done with purpose, as we all too often see cases where the individual committing the crime does so while in possession of a firearm that current laws forbid them from obtaining. I think we can all agree that we must get more serious when it comes to crimes being committed while illegally possessing a firearm and enforcing the gun laws we already have on the books.

A previous investigation by Fox 6 found that approximately  $\frac{3}{4}$  of felons arrested for illegal possession of a firearm in Milwaukee County saw no prison time for that offense and 37% never had charges filed. This is woefully unacceptable. If a court does approve any dismissal or amendment in a year, that court must submit an annual report to the legislature detailing each approval.

Finally, this bill prohibits a prosecutor from entering a deferred prosecution agreement with an individual who is charged or may be charged with crimes 1 through 7. Generally speaking, under a deferred prosecution agreement, a prosecutor agrees to dismiss or not file a charge if the defendant complies with specified conditions.

We ask our law enforcement officers to put on the badge and protect our homes and communities. This is already a stressful job, not to mention the increased hostility law enforcement officers have come under in recent years. It is incredibly frustrating to be arresting the same individuals, even just hours after a previous arrest, in what has become a revolving door of criminality. We must get more serious about these types of crimes before they escalate to a tragedy.

Assembly Bill 57 provides an opportunity to do just that and not dismiss or defer prosecution of these serious crimes. Thank you, again, to my fellow colleagues on the Judiciary Committee for hearing this bill today. I am happy to take your questions.



# ROB HUTTON

STATE SENATOR | 5<sup>th</sup> DISTRICT

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March 2, 2023

TO: The Assembly Committee on Judiciary

FR: Sen. Rob Hutton

RE: Assembly Bill 57

Thank you for holding a hearing on Assembly Bill 57. This bill relates to dismissing or amending certain criminal charges and deferred prosecution agreements for certain crimes.

Under current law, felons who illegally possess firearms can face up to 10 years in prison, yet the severity of this crime often escapes the consequences of the law. Our legal system regularly encounters instances of repeat felons illegally possessing firearms, because prosecutors are able to dismiss charges without the approval of the court. This cycle of the law being ignored creates no incentive for criminals to stop committing these crimes. Our priority should be to ensure criminals face the ramifications of their actions, especially when the prosecutor's dismissal allows law abiding citizens to continue to be victimized.

Between 2011 and 2015, 3,637 gun possession cases were brought before the Milwaukee County District Attorney's Office. Yet, an investigation by Fox 6 found that more than one third of these cases were never filed.

To address this lack of action, our bill would require that prosecutors seeking to dismiss charges, amend charges, or place an individual in a deferred prosecution program for a violent felon in 1) a crime of domestic abuse or a violation of a domestic violence temporary restraining order or injunction; 2) theft of an automobile; 3) a crime of abuse of an individual at risk or a violation of an individual-at-risk TRO or injunction; 4) first-degree, second-degree, or third-degree sexual assault; 5) a crime against a child; 6) illegal possession of a firearm if the person has been convicted of, adjudicated delinquent for, or found not guilty by reason of mental disease or defect of, committing, soliciting, conspiring, or attempting to commit a violent felony, as defined under current law; or 7) reckless driving that results in great bodily harm would need the approval of the court before being able to do so.

Again, thank you for your time and consideration of this bill. I respectfully ask for your support.



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March 2, 2023

Good morning my name is Alexander Ayala and I am the Vice President of the Milwaukee Police Association where we represent 1,300 members of the rank and file of the Milwaukee Police Department.

I want to thank the chair and Co-chair and the entire committee and all authors of the bills in which I will be testifying in favor of this morning.

I have been with the Milwaukee Police Department for 23 years now. I have served as a police officer in patrol for 15 years working various districts and assignments. The last 7 years of my career I have been working as a Detective in the robbery unit.

So I sit here today as someone who has worked the street of the city of Milwaukee and has worn the uniform for many years and have collected years of experience.

The Milwaukee Police Association is in favor of the bills presented today. We think that these bills change the quality of life of people around the state, and especially in the city of Milwaukee where we have seen a very severe spike in crime combined with critical staffing shortages never seen before.

Just 3 weeks ago we lost a Milwaukee police officer one of our brothers in blue to the criminals that are running the streets of Milwaukee. 2022 saw record homicides at 224 and non-fatal shooting at 877. We need all the help that can get when it comes to funding our police department, so that we can be properly staffed and be able to implement the changes in these bills.

I believe that these bills will help address some of the issues that Milwaukee is currently experiencing.

#### **AB-52 – Carjacking**

We are in support of having a concise definition and a standalone statute that can categorize and define this very common and specific crime. This will also be helpful when presenting charges to a district attorney and it will show the severity of the crime that was committed. This will also be helpful for keeping accurate documentation of crime statistics. At the Milwaukee Police Department, we had to develop a separate tracking system to account for Carjackings so that they would not get lost in the Robbery crimes stats or the taking a vehicle without the owner's consent statistics. I also hope that the enhanced classification and penalties will help discourage people from committing this crime that affects not only the victim of the carjacking but future victims. It has been my experience as a Detective in the Robbery unit that suspects will commit a carjacking to then commit robbery sprees or other crimes leaving behind several innocent victims.



**AB- 57 - Dismissing or amending certain criminal charges and deferred prosecution agreements for certain crimes.**

We support this bill because of the revolving door that Milwaukee has become for criminals, and this has had a detrimental impact not only for Milwaukee but the communities that surround Milwaukee. Time after time we see someone arrested for a crime or several crimes only to later discover that some if not most charges were dismissed or amended to a lower crimes by a district attorney.

Now we understand that the workload for a DA is only growing, especially for Milwaukee county DA's, due to their staffing shortages and now it becomes the perfect storm of catch and dismiss.

We believe that the list of crimes set forth here are some of the crimes that have a high impact on quality-of-life issues and they should be an approval process in place if DA's are going to dismiss or amend charges.

**AB- 70 Participation in a riot and penalties**

This bill should hold accountable those who want to make a peaceful protest a violent one. Acts of violence while in a protest can incite a riot and those people need to be charged. Riots destroy neighborhoods, hurt innocent people, business and first responders that are trying to do their jobs.

I have now been involved in two separate incidents of protest that turned into riots. One in 2016 when a gas station was burned down in District 7 along with other business and squad cars. My second one in 2020 when as a detective and had to put on my riot gear and stand in line to protect our Police Administration Building located downtown. That day the group of several hundred people remained peaceful, but you could feel the tension in the air and at any moment the protest could turn into a riot.

Hopefully people will think twice about trying to instigate a riot.

Alexander Ayala

A handwritten signature in black ink, appearing to read 'Alex Ayala', written in a cursive style.

Vice President  
Milwaukee Police Association



March 2, 2023

To: Chairman Tusler and Members of the Assembly Judiciary Committee

From: Wisconsin Chiefs of Police Association

Re: Support Assembly Bill 57, Deferred Prosecution

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Chairman Tusler, thank you for your willingness to hold a hearing on this legislation. We would also like to thank the authors, Representative Rettinger and Senator Hutton for introducing this bill.

We ask for your support of Assembly Bill 57.

Current law allows a prosecutor to enter into a deferred prosecution agreement with a defendant who is charged or may be charged with a crime.

Assembly Bill 57 prohibits a prosecutor from entering into a deferred prosecution agreement with a defendant who is or may be charged with serious crimes such as domestic abuse, sexual assault, theft of automobile, crimes against a child, illegal possession of a firearm, violation of an injunction and reckless driving that results in great bodily harm.

Each time deferred prosecution allows a dangerous person back into our communities it puts our communities and our officers at risk. Too often we have seen deferred prosecution agreements that result in serious injury or death. This bill creates accountability in our judicial system by prohibiting deferred prosecution for serious crimes.

The WCPA supports this legislation and asks that the committee move forward on Assembly Bill 57.

We would be happy to take any questions.



# Wisconsin State Lodge *Fraternal Order of Police*



PO Box 206 West Bend, WI 53095

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**Mark Sette**  
Vice President

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Immediate Past President

**Jerry Johnson**  
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March 2, 2023

## Wisconsin Fraternal Order of Police Testimony in Support of Assembly Bills 52, 54, 57, & 70

### Assembly Committee on Judiciary

Thank you, Representative Tusler and fellow committee members for the opportunity to provide testimony in support of Assembly Bills 52, 54, 57, and 70. My name is Mark Sette, and I am the Vice President of the Wisconsin State Lodge of the Fraternal Order of Police. The Fraternal Order of Police is the world's largest organization of sworn law enforcement officers, with more than 364,000 members in more than 2,200 lodges. The Wisconsin State Lodge proudly represents more than 2,900 members in 26 lodges throughout the state. We are the voice off those who dedicate their lives to protecting and serving our communities. We are committed to improving the working conditions of law enforcement officers and the safety of those we serve through education, legislation, information, community involvement and employee representation.

Vehicle thefts in Wisconsin, most notably the City of Milwaukee, are reaching epidemic levels. Last fall the National Insurance Crime Bureau named Milwaukee a "hot spot" for vehicle thefts listing it 8<sup>th</sup> in the country for vehicle thefts in 2021, up from 66<sup>th</sup> just the year prior. In Wisconsin, vehicle thefts are charged under the statute titled "Operating Vehicle Without Owner's Consent". We can all agree that a suspect stealing an unoccupied vehicle parked on the side of the road, while wrong, is far less concerning than a suspect pointing a gun at someone commuting to their job and forcing them out of their vehicle to steal it. There are different charges under the Operating Vehicle Without Owner's Consent statute that provide increased penalties if a person possesses a weapon and uses or threatens to use force or a weapon, but they are not easily distinguished from someone stealing an unoccupied vehicle.

Assembly Bill 52 would create a new section in the statutes for "carjacking" that would better differentiate the two very different crimes and increase penalties if the suspect possesses a weapon and uses or threatens to use force or the weapon. We believe that defining "carjacking" as a separate offense will assist the public and the criminal justice system in identifying the true scope of the problem, properly classify these offenses as the violent crimes that they are, and the increased penalties would better address the severity of the act.

We are seeing a crime wave across Wisconsin, the likes we have not seen before. According to crime data from the Federal Bureau of Investigation, Wisconsin has seen a 29% increase in violent crime, and 171% increase in homicides from 2011 to 2021. We believe one of the most significant problems is the lack of accountability for those committing these crimes. When there are no consequences for breaking the law, more people will break the law and crime will continue to increase.



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The concept of monetary conditions of release, or “cash bail”, can be traced back to the infancy of our modern criminal justice system. The need to ensure the appearance of criminal defendants for proceedings and to protect the public from additional harm is an integral part of a civilized society. In recent years, we have seen this important safety mechanism eroded by a faction of rogue prosecutors in a failed social experiment they call “bail reform” and “criminal justice reform”. A nationwide crime surge and recent tragic events, including right here in Wisconsin, have highlighted the fallacy of these policies, and brought it to the public’s attention. Our communities are seeing the real-life consequences of what happens when elected officials embrace pro-criminal, revolving door policies and make decisions that put the interests of violent offenders ahead of public safety. This does not occur in every county, but criminals know no jurisdictional boundaries and citizens across the state suffer the consequences of these decisions no matter where they occur. These inconsistencies and failures of some officials require intervention from the legislature, and that is why we are here. As law enforcement officers, we know all too well the pain and suffering that the victims of a revolving door criminal justice system endure. We are on the front lines each and every day, not just risking our safety and our lives to apprehend these repeat offenders, but to console and help pick up the pieces of the victims who are lucky enough to survive.

Many officers, myself included, can tell you that they have personally arrested individuals for violent crimes who were released from custody, literally before the reports were even completed. We have listened to the pleas of victims asking us why we cannot protect them from their attackers who are back on the street. I have personally arrested defendants for crimes who were already out on bond who, when bail is set for their new case that included the new charges in addition to a bail jumping charge, were given an even lower bond than their initial one. Under current law, cash bail can only be imposed upon a finding that there is a “reasonable basis to believe that bail is necessary to assure the appearance of the accused in court”. This language precludes court commissioners and judges from another essentially important consideration for pre-trial release, the protection of the public.

In April, the people of Wisconsin will be given the opportunity to vote to amend our state’s constitution to allow court commissioners and judges to consider the “totality of the circumstances” when considering pre-trial release conditions for a defendant charged with a violent crime. These considerations include the seriousness of the offense charged; whether the accused has a previous conviction for a violent crime, the probability that the accused will fail to appear in court; the need to protect members of the community from serious harm; the need to prevent the intimidation of witnesses; and the potential affirmative defenses of the accused. We believe that these changes would offer the courts more latitude in imposing the necessary pre-trial conditions of release, including cash bail if necessary, to assist law enforcement officers in keeping our communities safe. Assembly Bill 54 would implement the language of the proposed constitutional amendment, if passed, into the statutes.

Another way that offenders evade the consequences for their crimes is through plea agreements or deferred prosecution agreements with our extremely overburdened prosecutors in Wisconsin. Charges being dismissed or amended down negate the seriousness of the offense that was committed and sends a message that we, as a society,



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do not take crime seriously. Assembly Bill 57 would require that a prosecutor get approval from the court before dismissing or amending charges for crimes of domestic violence, theft of an automobile, crimes against individuals at risk, sexual assault, crimes against children, felon in possession of a firearm, and reckless driving that causes great bodily harm. The courts would be required to consider the public's interest in deterring the commission of these crimes and the legislature's intent to vigorously prosecute individuals who commit these crimes when considering whether to approve the dismissal or amendment. This bill would also prohibit deferred prosecution agreements for any of the aforementioned offenses. This will send a message that the people of our state take these crimes seriously and at least slow down what has become a revolving door criminal justice system in many of our communities.

In the summer of 2020, we saw extremely violent riots across the country and right here in Wisconsin that resulted in vandalism, looting of businesses, and arson fires causing an estimated \$2 billion in damaged and led to assaults, shootings, and even the loss of life of citizens and law enforcement officers. We saw agitators from across the country invade our communities for the sole purpose of creating disorder to promote their social and political agendas. Law enforcement stood by in what seemed like a helpless endeavor to attempt to maintain peace and protect the communities they serve from death and destruction. Many of those most responsible for inciting the destruction we saw have gone unpunished due to their lack of direct involvement in the acts themselves. Currently Wisconsin statutes do not clearly define what a riot is and does not differentiate violent acts that occur as part of these violent demonstrations. Assembly Bill 70 would provide a definition of a riot and make it a Class I felony to urge, promote, organize, encourage, or instigate others to commit a riot and a Class H felony to intentionally commit an act of violence while participating in a riot. These laws would give law enforcement, prosecutors, and the courts the needed tools to hold those who turn what otherwise may have been a lawful and peaceful protest into a violent mob responsible for their actions.

Thank you again for the opportunity to testify in support of these bills, and I am happy to answer any questions you may have.



February 28, 2023

Chair Ron Tusler and Members of the Committee  
Committee on Judiciary  
Wisconsin State Assembly

RE: AB 57 - SUPPORT

Dear Chair Tusler and Members of the Committee:

The National Insurance Crime Bureau (NICB) is a national, century-old, not-for-profit organization supported by approximately 1,200 property and casualty insurance companies, including many who write business in Wisconsin. Working hand-in-hand with our member companies and Wisconsin law enforcement, we help to detect, prevent, and deter insurance crimes, including vehicle theft. While NICB provides value to our member companies, we also serve a significant public benefit by helping to stem the estimated billions of dollars in economic harm that insurance crime causes to individual policyholders across the country every year.

Nationally, auto thefts have increased dramatically. In 2021, over 930,000 automobiles were stolen across the United States. This represents a six percent increase over 2020 and a 17 percent increase since 2019. The rise in vehicle thefts in Wisconsin is even higher. In 2021, Wisconsin experienced a 75 percent increase in stolen vehicles compared to 2019. This uptick moved Wisconsin from being ranked 42nd in the nation for auto thefts in 2019 to 25th in the country in 2021. Additionally, the Milwaukee-Waukesha metropolitan statistical area ranked eighth in the nation out of 390 metro regions for vehicle thefts in 2021.

Beyond the loss to an owner and the resulting financial impacts – including in the form of higher insurance premiums for Wisconsin consumers – vehicle thefts often have serious second-order effects on society. For example, vehicles are frequently stolen under violent conditions resulting in physical harm to car owners and other victims. Additionally, organized criminal rings are increasingly stealing cars as an alternative revenue stream as well as to commit other violent crimes.

Assembly Bill 57 requires prosecutors to obtain court approval to dismiss or amend automobile theft and reckless driving charges. The legislation also prohibits prosecutors from entering into deferred prosecution agreements with defendants charged with such crimes.

**Accordingly, we ask for your support in favor of Assembly Bill 57.**

We thank you for this scheduling a hearing and for considering our views as you deliberate the merits of the bill. If you have any questions or need additional information, please contact me at [hhandler@nicb.org](mailto:hhandler@nicb.org) or 847-544-7083.

Sincerely,



Howard Handler, MPPA

Senior Director

Strategy, Policy and Government Affairs