



DUEY STROEBEL

STATE SENATOR • 20TH DISTRICT

Testimony on Assembly Bill 827

January 12, 2022

Thank you Chair Tusler for giving Assembly Bill 827 a public hearing. I am glad to be presenting this common sense solution to help combat the sudden national increase in coordinated, mass retail theft. AB 827 provides that when five or more individuals act in concert to steal property, at the same time and place, the value of all property taken in that criminal enterprise *must* be aggregated for determining the penalty. As an example, if a group of seven perpetrators work together to steal \$12,000 worth of goods while each takes less than \$2,500 individually, under AB 827 this would be as a Class G felony for each perpetrator instead of an A misdemeanor.

In both the Common law and Wisconsin statutes, we have always recognized the increased danger to society when groups of people perpetrate wrongdoing in an organized fashion. If you are the getaway driver or a lookout, you are guilty as a party to the crime of robbing the bank even though you didn't physically hold up the teller and take the cash. AB 827 applies the same logic to theft.

While it is true the party to a crime (939.05) and conspiracy (939.31) statutes already apply to theft, our current statutes are inadequate because they determine the severity of the theft based upon a dollar value of the property an individual steals. Five or more individuals acting in concert to smash, grab and steal as much property as possible is a significantly more disruptive and damaging crime for several reasons.

First, the large group of perpetrators can often overwhelm loss prevention efforts of a store and prevent effective intervention, which leads to more total property being stolen. Second, this experience can be traumatic for customers and discourage future in-person shopping in a way that a single shoplifter trying to sneak out the front door does not. Third, the significant financial losses to retail businesses precipitate an increased likelihood of store closures and other negative economic consequences. Finally, viral videos of perpetrators seemingly getting away with this unacceptable behavior only encourages more troubled individuals to try this themselves.

For all of these reasons Wisconsin should send a strong message that organized theft rings will each face the full punishment of the group's cumulative damage to the shop owner and society. Thank you again for providing the opportunity to testify. I would welcome any questions from the committee.



ROBIN J. VOS

SPEAKER OF THE WISCONSIN STATE ASSEMBLY

Testimony on AB 827 – Penalties for Smash and Grab Robberies

Thank you Chairman Tusler and members of the committee for holding a hearing on AB 827 requiring when multiple acts of theft are committed in concert, the acts shall be considered one crime and the value of the property aggregated when determining the penalty for the crime.

Across the country, we have seen a surge in mob-style retail theft. These events have come to be known as “smash and grab robberies,” where a group strategically targets and implements a plan to quickly overwhelm a retailer and steal a significant amount of product. Often, these products are then resold on a secondary marketplace for a profit.

According to a 2021 study by the National Retail Federation, organized retail crime is a growing threat. Sixty-nine percent of retailers said they have seen an increase in organized retail crime noting that “it is increasingly clear that greater support is needed from lawmakers and law enforcement.”

While these groups typically target large businesses, small businesses are not spared from these attacks. In November, 80 people overwhelmed a Nordstrom in California reportedly stealing \$200,000 in merchandise in under one minute. Also in California, \$250,000 worth of goods was stolen from a small family-owned jewelry kiosk. On Black Friday, a group of 30 people robbed a Best Buy store in Minnesota.

In 2014, California passed ballot proposition 47 which reduced penalties for shoplifting and raised the threshold for charging. Citing this change as contributing to the rise in retail theft incidents, a democratic lawmaker has recently called for stricter penalties and a reversal of Prop 47. It is no coincidence that a soft-on-crime approach has led to a higher rate of incidence.

Current penalties for theft in Wisconsin range from a Class A misdemeanor to a Class F felony depending on the value of property stolen. A thief stealing property with a value less than \$2,500 would be guilty of a misdemeanor while an individual stealing property with a value exceeding \$100,000 would be guilty of a Class F felony.

By aggregating value of goods stolen we are sending a clear message to individuals contemplating these crimes to think twice. Let’s learn from the mistakes of California and ensure that mob-style retail theft does not become commonplace in Wisconsin.

Thank you again for taking the time to hear this important legislation.



January 12, 2022

To: Chairman Tusler and Members of the Assembly Committee on Judiciary

From: Wisconsin Chiefs of Police Association

Re: Support Assembly Bill 827, "Smash and Grab" Robberies Legislation

Chairman Tusler, thank you for your willingness to hold a hearing on this legislation. We would also like to thank the Assembly author Speaker Robin Vos for introducing this important bill. We are also appreciative of our lead Senate author Senator Duey Stroebel.

We urge support of Assembly Bill 827, as well as the full legislative package that help law enforcement keep our communities safe. We are appreciative of the leadership of Speaker Vos and legislative Republicans for working with law enforcement from across the state on important policy solutions like this bill. We hope these bills can gain bipartisan support.

Mob-style theft involving organized large groups of violent offenders is a growing problem for communities and law enforcement departments across the country. By overpowering and overwhelming staff at a retail establish through a group setting, these incidents contribute to a significant total value of stolen merchandise.

These incidents are dangerous for community members shopping at these establishments, harmful to these businesses' bottom line, a drain of staff resources and morale, and increases prices on consumer goods.

The Wisconsin Chiefs of Police Association is supportive of Assembly Bill 827 to consider these incidents as one crime for determining the value of the property. This will allow these criminals to be properly charged for their coordinated attack on our community retail partners.

We are now available for any questions related to this legislation.



Wisconsin State Lodge *Fraternal Order of Police*



PO Box 206 West Bend, WI 53095

Ryan Windorff
President

Shane Wrucke
Secretary

January 12, 2022

Wisconsin Fraternal Order of Police Testimony in Support of Assembly Bills 827, 829, 838, 839, 840, 841, and 842

Assembly Committee on Judiciary

Thank you, Representative Tusler and fellow committee members for the opportunity to provide testimony in support of Assembly Bills 827, 829, 838, 839, 840, 841 and 842. My name is Ryan Windorff, and I am the President of the Wisconsin State Lodge of the Fraternal Order of Police.

We are seeing a crime wave across this nation, the likes we have not seen before, and 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. Among this increase in crime has been a notable proliferation of organized, and increasingly brazen, thefts. Theft might not seem like a crime that would require special attention from this body, however the impacts to the public, business owners, and the economy are staggering. According to the National Retail Federation, losses from theft have increased nearly 60% since 2015 and losses are calculated at nearly \$62 billion annually. Law enforcement is responding the best we can to these increases, but we are limited by current law that detail the severity of these offenses.

AB827 would close a loophole in determining the penalty for a theft and allow for the value of property to be aggregated when multiple thefts are committed by five or more people at the same time. AB829 would provide a mandatory minimum sentence of incarceration for those convicted of a third offense of retail theft within 10 years of two previous convictions. We believe that this change would allow law enforcement and prosecutors to better address the current trends we are seeing and hold offenders accountable.

I know through experience that changes in law such as this can and do have an effect on crime. When this legislature changed the threshold for felony theft from \$2,500 to \$500 in 2011, I was working as a patrol officer in a community that had a large retail and entertainment district. Prior to this change, it was not uncommon to respond to retail thefts where individuals would brazenly fill a shopping cart with expensive products (which were miraculously valued at just under \$2,500) and simply walk out the door. There were many "frequent flyers" who did this on a weekly or even daily basis. Previously we were simply able to issue them a municipal citation (as due to the number of offenses that occurred, the local district attorneys office did not have the resources to prosecute them as misdemeanors) and send them on their way until we met again. When this law changed, word quickly spread that when these large thefts occurred, offenders would not just be cited and released but would be arrested, jailed, and charged with a felony. This resulted in a marked reduction in large scale retail thefts, simply by providing law enforcement and prosecutors the tools they needed to address it.



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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. 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. 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.

AB838 and AB840 would establish minimum bail amounts for individuals who have previous convictions for a felony, violent misdemeanor, or bail jumping. If someone has proven through past behavior that they have a propensity for violence or that they cannot abide by the conditions of a bond imposed by the court, it only makes sense that they should be required to have a minimum vested interest in attending court dates and integrating into society.

AB839 would require the Department of Justice to gather data about the bonds that are being set by our courts and publish a report. Currently there is not centralized repository of this data, and we don’t know the true scope of the problem. This data would provide transparency and accountability in our criminal justice system and allow the people to see in black and white how their elected judicial officials are ensuring that justice is served and their communities are protected.

AB841 would prohibit prosecutors from placing an individual charged with illegal possession of a firearm in a deferred prosecution program or dismissing or amending the charge without approval from the court if they have a previous conviction for a violent felony. With the staggering increases in violent crime, often including firearms and often involving those who are prohibited from possessing firearms, we need to ensure that the laws enacted to protect our communities by this legislature are being enforced. The solution to the gun problem is not new gun laws, it is the vigorous enforcement of the ones we already have.



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Finally, AB842 would prohibit the early discharge from probation or early release from prison of individuals serving sentences for certain violent crimes. Early release from probation or incarceration was designed for offenders who committed less serious offenses who have demonstrated their willingness and ability to successfully integrate into the community. Prohibiting violent offenders from taking advantage of these privileges will make our communities safer and send a strong message that Wisconsin has zero tolerance for those who victimize others.

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

Schmidt, Melissa

From: Rep.Tusler
Sent: Thursday, January 13, 2022 9:58 AM
To: Schmidt, Melissa
Subject: FW: WACDL positions on Assembly Committee on Judiciary bills being considered today

Here is another items for Judiciary.

From: Anthony Jurek <ajurek@stroudlaw.com>
Sent: Wednesday, January 12, 2022 10:46 AM
To: Heitman, Kathryn <Kathryn.Heitman@legis.wisconsin.gov>
Cc: Rep.Tusler <Rep.Tusler@legis.wisconsin.gov>; Rep.Kerkman <Rep.Kerkman@legis.wisconsin.gov>; Rep.Ramthun <Rep.Ramthun@legis.wisconsin.gov>; Rep.Thiesfeldt <Rep.Thiesfeldt@legis.wisconsin.gov>; Rep.Horlacher <Rep.Horlacher@legis.wisconsin.gov>; Rep.Sortwell <Rep.Sortwell@legis.wisconsin.gov>; Rep.Cabrera <Rep.Cabrera@legis.wisconsin.gov>; Rep.Hebl <Rep.Hebl@legis.wisconsin.gov>; Rep.Ortiz-Velez <Rep.Ortiz-Velez@legis.wisconsin.gov>; Sarah Schmeiser <sschmeiser@stroudlaw.com>
Subject: WACDL positions on Assembly Committee on Judiciary bills being considered today

Dear Ms. Heitman,

I am a member of the Wisconsin Association of Criminal Defense Lawyers' Legislative Affairs Committee, and write to you in your capacity as the Committee Clerk for the Assembly Committee on Judiciary to express WACDL's position on the following bills:

AB 827: Oppose, as it increases the penalty for potentially petty crimes in ways which can already be accomplished through conspiracy and party to a crime statutes.

AB 829: Oppose, as it increases the penalty for potentially petty crimes and disproportionately targets the poorest of Wisconsin's citizens, while removing discretion from judges and occasioning the need for more jails.

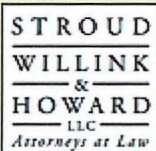
AB 838: Oppose, as it's unconstitutional and fiscally irresponsible. See particularly the Wisconsin Constitution, Art. 1, Sec. 8 (2), that "Monetary conditions of release may be imposed at or after the initial appearance only upon a finding that there is a reasonable basis to believe that the conditions are necessary to assure appearance in court." Additionally, there are not currently enough jails to house the sort of populations this bill would occasion.

AB 839: Oppose as written, but would encourage further study of bail practices and efficacy. As written, this bill merely encourages shaming judges for following the Constitution (see comment on AB 838 above). However, a robust study of bail practices and efficacy in Wisconsin, perhaps in conjunction with UW and Marquette Law Schools, would be beneficial.

AB 841: Oppose, as it removes discretion from prosecutors and judges.

AB 842: Oppose, as it removes discretion of judges and the DOC and is fiscally irresponsible by keeping inmates incarcerated and supervised for longer than the Department of Corrections believes is necessary.

If you have any questions or concerns, I welcome you to reach out to me or our Committee Chair, Sarah Schmeiser, at the same number below.



Anthony J. Jurek

Attorney | Stroud, Willink & Howard, LLC

33 East Main Street Suite 610 | Madison, WI 53703 | www.stroudlaw.com

e: ajurek@stroudlaw.com p: 608.257.2281 f: 608.257.7643

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