

W D A A

Wisconsin District Attorneys' Association

President

Louis J. Molepske, Jr. (2018-20)

President-Elect

Kurt Klomberg (2018-20)

Past Presidents

Jacalyn LaBre (2018-2020)

Secretary/Treasurer

Eric Toney (2018-20)

Board Members

Susan Happ (2017-19)

David Lasee (2017-19)

Joan Korb (2018-20)

Melinda Tempelis (2018-20)

Tania Bonnett (2017-19)

Adam Gerol (2018-2020)

Theresa Wetzsteon (2019-2021)

Gary King (2019-2021)

DOJ Representative

Randy Schneider

Advisory Members

Laura Radke, DAIT

Kasey Deiss, SPO

Executive Director

Joan Korb

Communications Committee

Susan Happ, Chair

Tania Bonnett

Tim Baxter

IT Committee

Bob Barrington, Chair

Lovell Johnson

Doug Jones

Bruce Landgraf

David Lasee

Amanda Nehmer

Laura Radke

Brenda Ray

Jessica Skemp

Eric Toney

Valerian Powell

Zakaria Buruin

Julie Delain

Legislative Committee

Eric Toney, Chair

Louis Molepske

David Lasee

Melinda Tempelis

Kurt Klomberg

Adam Gerol

Aaron Marcoux

Gerise LaSpisa

Sandra Giernoth

Randy Schneider (DOJ)

Michael Thurston (ASP)

November 6, 2019

To: Assembly Committee on Government Accountability and Oversight

Re: Assembly Bill 513 Creation of State Prosecutor Board and Office of State Prosecutor

Dear Chairman Steffen and members of the Assembly Committee on Government Accountability and Oversight:

The Wisconsin District Attorneys' Association, a statewide organization made up of elected and non-elected state prosecutors, would like to express its full support of AB 513. This bill creates an independent prosecutor board that oversees and sets policies and procedures for a state prosecutors' office, also created in this bill.

Under this bill, the executive director of the state prosecutors' office manages the office; prepares personnel policies, fiscal estimates, and an annual report to the legislature; and represents the board before the governor, the legislature, state bar association, and courts. The executive director may also identify methods and practices for district attorneys that promote professional competence and ethical practices.

The state prosecutors' office, under AB 513, would assume duties relating to district attorneys that current law assigns to the Department of Administration, such as preparing a budget for all of the prosecutorial units, approving appointments of special prosecutors when needed, and making requests for assistant district attorneys in certain prosecutorial units.

The WDAA thanks Representative Ron Tusler and Senator Wanggaard who authored this bi-partisan proposal that they previously introduced and that passed the full legislature with broad bi-partisan support. Previously, Rep. Mark Born provided specific drafting assistance to comply with Joint Finance policy and procedure and helped steer the proposal through Joint Finance to make it part of the 2017-19 budget bill. Attorney General Brad Schimel and his office provided initial LRB drafting authority for the bill, and AG Josh Kaul has since continued the Department of Justice's support of a prosecutors' board and

State Prosecutors' Office tasked with managing over 350 criminal prosecutors state-wide.

AB 513 is a bill that is 29 years in the making. This bill continues the transition of criminal prosecutors from county employees that original took place on January 1, 1990. This bill is essentially "trailer" legislation. The bill before you provides the government accountability and oversight that is currently lacking in the District Attorney Program which affects 71 independent elected district attorneys overseeing 72 counties and 350 criminal prosecutors across Wisconsin. The District Attorney Program is a critical part of Wisconsin's government but it has yet to be fully implemented into state government and 29 years is long enough to wait when prosecutors directly affect the state's budget, provide safety to Wisconsin's residents and affect the constitutional liberties of citizens in the pursuit of justice.

AB 513 was drafted to address the current District Attorney Program that lacks an agency structure like the Office of the Public Defender and lacks needed contact between 71 elected District Attorneys, the legislature and governor. This bill does not propose a new idea but instead adopts the management style of state prosecutor offices nationwide, where most state prosecutors have a state board that works hand in hand with legislators, governors, attorney generals, law enforcement and local and state bars. AB 513 proposes an elected board made up of prosecutors from all the appellate districts that set policy and procedure for the entire program that the executive director implements. This board will be open and accountable to our citizens and to the legislature and governor.

The bill before you, like the Office of the State Public Defender, would create a board to develop policy and procedure to help manage the state prosecutors' office and would adopt board management for a mid-sized state agency that currently is lacking cohesiveness and proper representation before the legislature and governor. Prosecutors state-wide are in agreement that the District Attorney Program needs a proper management structure managed by people who understand what prosecutors do while keeping Wisconsin safe in the pursuit of justice.

The board can help the legislature, governor and all prosecutors address the needs of the DA Program including ADA staffing ratios, pay progression, prison reform and overcrowding, corrections costs and evidenced-based practices like those implemented by the Legislature to divert low-risk, low need offenders and to address the opiate epidemic in our citizens.

The bill requires the board to set, adopt and manage the fiscal effects on proposed criminal bills. Currently, the process legislative criminal bills use to obtain fiscal effects is nothing more than an email going out statewide to District Attorneys asking how a bill may affect their prosecutorial unit. Most prosecutors do not have the time to respond and those that do try to provide data but unfortunately most of it is anecdotal and too general to truly show the legislature the true fiscal effect of new criminal laws on the current District Attorney program and ultimately the State's taxpayers.

The bill was drafted to require the board and executive director to assist in preparing the budgets of all 71 prosecutorial units – a task that is needed to be streamlined and representative. The bill also requires the executive director or a legislative liaison of the State Prosecutors' Office to appear before Joint Finance and Committees like this to discuss the State budget and legislative proposals. Currently, the Office of the State Public Defender is a regular in your offices as it employs two legislative liaisons. No one advocates for criminal prosecutors unless prosecutors take a day off of work and drive to Madison to discuss a proposal. Most District Attorneys and especially Assistant District Attorneys do

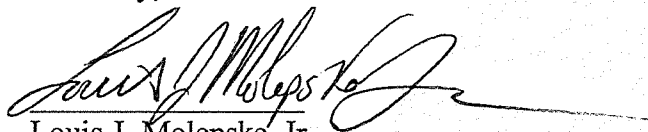
not have time to come to Madison due to workloads that exceed the number of prosecutors in each office where currently most prosecutors are handling the caseloads of two prosecutors. This bill provides agency structure and the needed professionals that will come to your offices to work on legislation or explain prosecutors' action or concerns.

The Bill also encourages a vibrant professional culture across all Wisconsin DA offices to respond to evidenced based practices that address the commonly called "revolving door" of criminality by defendants. The bill's intention is to provide a clearinghouse where best practices can be adopted and developed so all defendants and citizens experience similar outcomes no matter where the crime occurs or where the citizen resides.

This bill has more functions but I will simply say, thank you for your help in make the DA program more responsive to the legislature, governor, prosecutors and the people of Wisconsin. The women and men who have devoted their professional lives to the pursuit of justice ask you to support this bill by an executive session and to move it through the legislative process to the governor.

I am happy to answer any questions you might have Mr. Chairman and members.

Sincerely,



Louis J. Molepske, Jr.

President

Wisconsin District Attorneys' Association

District Attorney for Portage County



STATE BAR OF WISCONSIN

Leaders in the Law. Advocates for Justice.®

To: Members, Assembly Government Accountability and Oversight Committee
From: State Bar of Wisconsin
Date: November 6, 2019
Re: AB 513 – prosecutor board creation

The State Bar of Wisconsin encourages your support of AB 513, which creates a statewide prosecutor board, as well as a prosecutor's office. The State Bar applauds the efforts of Reps. Tusler and McGuire and Sen. Wanggaard to create this independent board that will oversee and set policies for the state prosecutor's office, thus, protecting the interests and funding for elected district attorneys and assistant district attorneys in Wisconsin.

Currently, district attorneys, assistant district attorneys, and deputy district attorneys do not have a centralized organization to represent their interests at the Statehouse or set policies that would enhance the operations of district attorneys statewide. Nor do DA's, ADA's, and DDA's have a legislative liaison to advocate on their behalf at the State Capitol. With the passage of AB 513 and the implementation of a state prosecutor's office, they would have an independent advocate at the Capitol and professional staff who could focus solely on the needs of state prosecutors and their offices, without conflict.

The State Bar of Wisconsin looks forward to a partnership with this board as we have with the State Public Defender Board. This legislation is an opportunity to even the playing field between the state's defense attorneys and state prosecutors, while creating an independent board to create uniform policies and set standards throughout the state for district attorneys and their offices. For these reasons, the **State Bar of Wisconsin respectfully requests the Government Accountability and Oversight committee members' support AB 513.**

For more information, please do not hesitate to contact our Government Relations Coordinators, Lynne Davis, ldavis@wisbar.org, 608.852.3603 or Cale Battles, cbattles@wisbar.org, 608.695.5686.



MARK BORN

STATE REPRESENTATIVE • 39TH ASSEMBLY DISTRICT

Testimony on Assembly Bill 513

Assembly Committee on Government Accountability and Oversight

November 6, 2019

Chairman Steffen and members of the Assembly Committee on Government Accountability and Oversight,

Thank you for allowing me to speak in favor of Assembly Bill 513, relating to the creation of a prosecutor board and State Prosecutors Office.

AB 513 is a continuation of efforts the legislature has made this year to improve our criminal justice system. We must improve our criminal justice system from start to finish by making sure each part of our system, including our State Courts, Public Defenders, and District Attorneys are fully functioning. Our continued goal has been to support investments that will ensure all citizens impacted by the criminal justice system are given quicker access to a fair trial, while also keeping our communities safe.

This bill gives the same opportunities to District Attorneys that are already provided to the Public Defenders and State Courts. The State Defender Board exists to support and advocate for issues relating to Public Defenders. The Director of State Courts supports and advocates for our court system. With this in mind, AB 513 creates parity, and allows for District Attorneys to have a centralized office to support and advocate for issues that are important to them.

In doing so, the prosecutor board and State Prosecutors Office will provide our 71 elected district attorneys a place to discuss policy and work together to find ways to improve our criminal justice system. This unified decision making process, similar to that of the Public Defenders, is vital when the legislature seeks input from those with prosecutorial experience on issues related to public safety.

This proposal creates an 11-member prosecutor board consisting of district attorneys, prosecutors and the Attorney General or designee. In addition, AB 513 creates an executive director and a legislative liaison within the State Prosecutors Office. Oversight of the State Prosecutors Office would become the responsibility of the prosecutor board, similar to the structure of the Public Defender Board.

Thank you for your consideration. I will now take any questions.



TIP MCGUIRE

WISCONSIN STATE REPRESENTATIVE

November 6, 2019

Assembly Committee on Government Accountability and Oversight

Assembly Bill 513

Representative Tip McGuire

Chair Steffen, Vice Chair Brandtjen, and members of the Assembly Committee on Government Accountability and Oversight: thank you for holding this public hearing on 2019 Assembly Bill 513, which would serve to organize and strengthen the voice of criminal prosecutors in matters of public policy through the creation of an independent state prosecutor's board and state prosecutor's office.

This bill assists every district attorney's office in two important ways: first, it provides a clearinghouse for additional staffing support as well as best practices from around the state; and second, it provides an avenue for prosecutors to inform state government of the need for additional resources or to provide legislators with additional legal insights when deliberating on issues that face prosecutors and our criminal justice system.

As a former prosecutor in both Kenosha County and Milwaukee County, I have observed firsthand the useful and unique ways that different district attorney's offices are structured and how these offices manage their staff and caseload. Certainly, maintaining the independent nature of every district attorney's office is absolutely essential. In addition, however, we must ensure that every district attorney's office has access to expertise from around the state and an excellent support system to help manage caseloads.

Prosecutors have often informally provided each other with bits of expertise and knowledge. But this is far from uniform, and unfortunately often determined by proximity of the prosecutors and their offices. A state prosecutor's board will not just provide a stronger voice for prosecutors in state government, but it will also provide prosecutors with more tools to successfully combat the challenges facing our community.

Ultimately, this bill provides our state's prosecutors with a voice similar to that of the State Public Defender's Office (SPD), an agency that has proven valuable in the deliberation of key criminal justice issues. Our understanding of the criminal justice system would not be the same without the expertise the SPD provides; it is my belief that a state prosecutor's office will add an additional layer of expertise to our deliberations that will ensure wise and just decisions from our legislature.

Given the benefits of this legislation on the criminal justice community, I am hopeful that you will support this bill. Further, I am happy to answer any questions that you may have.



RON TUSLER

STATE REPRESENTATIVE • 3rd ASSEMBLY DISTRICT

**Testimony Before the
Assembly Committee on Government Accountability & Oversight
on
Assembly Bill 513
November 6, 2019**

Chairman Steffen and members of the committee, thank you for holding a hearing on Assembly Bill 513 today. This bill will aid prosecutors across the state, the legislature, the governor, and the judiciary.

In 1990 district attorneys (DAs) and all other prosecutors were transferred to state employment from county employment.¹ At that time the State Prosecutors Office (SPO) was created within the Department of Administration (DOA) as a result of the prosecutors' employment status shift.² While the SPO administers the employment side of prosecutorial matters, there is no official forum for prosecutors to confer with one another, debate policies that affect prosecutors, recommend best practices or serve as a resource for the legislature, governor, or judicial branch to consult for their expertise.

AB 513 creates an 11-member prosecutor board consisting of district attorneys and prosecutors from across the state and the Attorney General (or his designee). The bill also creates an executive director and a legislative liaison within the SPO. One of these positions is effectively a transferred position from the current staff in the existing DOA SPO. Oversight of the SPO would become the responsibility of the prosecutor board. This structure is modeled after the Public Defender Board and State Public Defender's Office.

The prosecutor board and SPO would be responsible for the current budgetary and fiscal matters that DOA performs and would also serve as a haven of expertise to review legislation that affects prosecutors. Additionally, the prosecutor board and SPO will represent the prosecutors before the governor, legislature, courts and bar associations and identify methods and practices for district attorneys that promote professional competence, ethical practices and evidence-based practices. Every department and public defenders, the most comparable group to prosecutors, have structures and legislative liaisons in place to handle the duties assigned to the prosecutor board and SPO in this bill. Why should prosecutors, critical members of the criminal justice system, be left unrepresented and disorganized in Madison?

¹ See 1989 Act 31.

² *Id.*

Representative Tusler
Testimony 2019 AB 513
November 6, 2019

There are currently 71 DAs and 71 different opinions that are provided when the legislature, governor and courts look for prosecutorial expertise. The prosecutor board and SPO will provide a forum to discuss policy amongst themselves and give prosecutors a unified voice on important issues of criminal justice. This bill offers a place in the Capitol to some of our most important and least appreciated state employees.

The SPO or prosecutor board is prohibited from interfering with prosecutorial decisions in any case or the autonomy of a DA to manage his or her office.

Thank you for your time and attention. I am open to any questions you may have.

Fiscal Estimate Narratives

DA 11/6/2019

LRB Number	19-3875/2	Introduction Number	AB-0513	Estimate Type	Original
Description creation of a prosecutor board and a state prosecutors office and making an appropriation					

Assumptions Used in Arriving at Fiscal Estimate

This bill creates an independent prosecutor board that oversees and sets policies for a state prosecutors office, also created in this bill. Under this bill, the executive director of the state prosecutors office manages the office; prepares personnel policies, fiscal estimates, and an annual report; and represents the board before the governor, the legislature, bar associations, and courts. The executive director may also identify methods and practices for district attorneys that promote professional competence and ethical practices. Under this bill, the state prosecutors office assumes duties relating to district attorneys that current law assigns to the Department of Administration, such as preparing a budget for all of the prosecutorial units, approving appointments of special prosecutors when needed, and making requests for assistant district attorneys in certain prosecutorial units.

--

Responsive District Attorneys did not anticipate a fiscal effect on their offices resulting from this proposed legislation.

Long-Range Fiscal Implications

Responsive District Attorneys do not anticipate long-range fiscal impacts to their offices resulting from this proposed legislation.