



Rob Hutton

STATE REPRESENTATIVE • 13TH ASSEMBLY DISTRICT

October 22, 2019

To: The Senate Committee on Judiciary and Public Safety
From: Rep. Rob Hutton
Re: Senate Bill 368

Testimony of Rep. Rob Hutton in Support of Senate Bill 368

Mr. Chairman and members of the committee, thank you for giving Senate Bill 368 a public hearing. The bill that is before you today closes a loophole in Wisconsin law that has allowed hundreds of criminals to inflict hundreds of thousands of dollars of damage on vulnerable Wisconsin citizens.

Everyone knows someone who has been a victim of fraud, and yet law enforcement and prosecutors have not had the appropriate tools to stop it. While federal laws prohibit money laundering, there is no money laundering statute in Wisconsin. Practically, this means that unless a criminal engages in over \$200,000 worth of financial crimes, there is little Wisconsin law enforcement can do to prosecute these crimes.

I first became aware of this loophole when Detective John Milotzky of the Wauwatosa Police Department approached me earlier this year about the challenges he has faced prosecuting these crimes. This loophole has wide ranging consequences, from allowing human traffickers to benefit financially from their crimes to preventing victims from being made whole. Once a crime is discovered, some victims are never able to recover their money. A strong money laundering statute will allow Wisconsin law enforcement to aggressively prosecute those who victimize our most vulnerable citizens, including children and the elderly.

This legislation, developed in conjunction with significant input from law enforcement, District Attorney's and private financial institutions, has the support of the Wisconsin Department of Justice and would eliminate the loophole by creating a new money laundering statute in Wisconsin. Under this statute anyone who is convicted of laundering money could face up to a \$25,000 fine and 12 ½ years in prison. This legislation will give law enforcement and prosecutors the tools they need to protect Wisconsin citizens and put criminals behind bars.

Thank you again for the opportunity to testify on this important piece of legislation.



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October 22, 2019

Wisconsin State Legislature
Wisconsin State Capitol
2 East Main St.
Madison, Wisconsin 53702

Re: Senate Bill 368

Introduction

My name is John Milotzky and I am here to provide testimony in support of SB368. I am a 20 year law enforcement veteran and am currently a Financial Crimes Detective with the Wauwatosa Police Department and a Certified Fraud Examiner. For the past five years, I have been assigned to the U.S. Secret Service Milwaukee Financial Crimes Task Force. My investigations involve a variety of financial crimes which include various scams that frequently target businesses and elderly people. These crimes generate a substantial amount of illicit proceeds, which must be laundered to help conceal the underlying unlawful activity.

The goal of many investigations is to conclude with successful prosecution of the offender, which ideally also serves as a deterrent to others. In addition, in cases where victims have suffered a financial loss, restitution can be ordered by the court. However, I have found that the lack of a state money laundering law in Wisconsin essentially provides an arena in which offenders can operate without fear of prosecution and victims have no chance of seeing restitution. Many other states have money laundering laws which provide the ability for successful investigation and prosecution of offenders, which can also lead to restitution for victims.

Money Laundering

Money laundering is the practice of converting the illicit proceeds of criminal activity into funds that are “clean” or that cannot be demonstrated to have come from criminal activity, thus making them useable for spending or investment (National White Collar Crime Center).

According to the *2018 National Money Laundering Risk Assessment* it is estimated that domestic financial crime, excluding tax evasion, generates approximately \$300 billion in proceeds for potential laundering. Some of the crimes that generate most of the illicit proceeds include fraud, human trafficking, corruption, and drug trafficking. Fraud is the category that generates the most illicit proceeds laundered in the United States.

Money Mules

The FBI defines a money mule as “someone who transfers illegally acquired money on behalf of or at the direction of another.” Criminals will utilize money mules to receive proceeds from unlawful activity and then forward the funds to a third party. The use of money mules helps to



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further conceal the connections between the victim and a criminal actor. Money mules are often victims of fraud schemes themselves, such as romance scams or work from home scams. They can be unwitting, witting, or complicit in their activities.

Typically, a fraud victim will be convinced to use their bank account or open another. This becomes a “funnel account.” The fraudsters will direct other criminal proceeds into the funnel account. The money mule will then wire the money to an overseas account. Although they may be a victim initially, some money mules become willing participants in the money laundering process.

Business Email Compromise (BEC) Scams

Business Email Compromise (BEC) scams are one of the fastest growing scams targeting American businesses. In a BEC, fraudsters compromise legitimate business email accounts using computer intrusion or other methods. The victim business performs a wire transfer, which typically goes overseas or to a U.S. based account controlled by a money mule.

According to a July 2018 FBI public service announcement, between October 2013 and May 2018 there were 78,617 domestic and international incidents reported resulting in over \$12 billion dollars in loss.

Other Fraud Schemes/Scams

Some of the most common scams investigators are seeing in Wisconsin are

- 1) Imposter scams – when a caller purports to be from the IRS, SSA, or law enforcement.
- 2) Romance scams – victims believe that they are in a legitimate relationship and send money. They often become money mules for the fraudsters.
- 3) Lottery scams – victims believe they need to pay taxes or fees to obtain winnings.
- 4) Computer tech scams – victims provide remote access to their computer, or believe they’re paying for licenses, internet security, etc.
- 5) Grandparent/Person In Need scams – victims send money believing it’s necessary to help a family member in trouble.

Use of Payment/Gift Cards in the Money Laundering Process

The use of financial transaction cards, also known as prepaid cards or gift cards, has become increasingly popular with criminals. Financial transaction cards can easily add an additional layer of separation between the criminal actor and the profits generated.

The FBI’s Internet Crime Complaint Center (IC3) provides the public with a reporting mechanism for suspected internet facilitated criminal activity. According to an October 24, 2018



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FBI Public Service Announcement, the number of complaints reporting fraudulent gift card requests increased over 1,240% between January 1, 2017 and August 31, 2018.

I've provided information and data that supports the need for a money laundering law in Wisconsin. I'd like to also present you with two cases in which offenders were charged under current laws. In each of these cases, prosecution was extremely difficult using current Wisconsin law. However, this new legislation would make prosecution of these types of cases easier and more effective. I have also attached an addendum containing just a sampling of cases I've seen in which this law could have been applied.

Romance Scam Victim to Witting Money Mule Case Study

An Iowa based boom lift company received apparently legitimate emails from a business requesting price quotes for boom lifts. The boom lifts were to be shipped to Belgium. A purchase agreement was reached for a total of approximately \$100,000.00 to include shipping. The shipping company information would be provided to the victim for payment. Payment to the boom lift company was made on three credit cards – alleged to be those of the three owners of the business. The credit cards were processed and initially the payments went through.

The boom lift company was directed to wire \$33,000.00 to the shippers account to cover the shipping as initially agreed. \$33,000.00 was wired to the account of Bernard Mueller in Wauwatosa. The credit card payments were all recalled by the credit card companies as the three cards used for payment had been stolen from other victims. The boom lift company lost \$33,000.00.

Bernard Mueller withdrew the funds in structured withdrawals and sent the funds to West Africa. Mueller was arrested and was found to be the victim of a romance scam. He had been told by the fraudster that the funds came from a wealthy uncle, and he was directed to send them to Ghana.

Mueller was released and warned to cease his activities. However he continued to communicate with the fraudsters and months later another business was victimized in a similar manner. Mueller again acted as the money mule and sent the money overseas. Mueller was charged in Milwaukee and Waukesha County with receiving stolen property and theft. The cases were consolidated in Waukesha. Both of those laws were difficult to apply. Mueller likely didn't know the exact underlying unlawful activity, which also made it difficult to prove knowledge that the funds were stolen.

Ultimately Mueller was convicted of one count of misdemeanor theft and received no jail time. The victim business incurred the \$33,000.00 loss.



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IRS Scam / Gift Card Laundering Case Study

In 2017, victims receive calls from IRS imposters and are told they owe back taxes. The victims are threatened with jail or deportation. The victims were told that through an agreement with Target, they can pay the fine with Target gift cards. Victims purchased Target gift cards and provided the card account numbers and PINs to the callers who were actually in India.

The fraudsters in India then sent the Target card account numbers to a subject in Milwaukee named Fan Xia. Upon receipt of the account numbers Xia would immediately go to Target stores and use them to purchase other gift cards such as iTunes or Google, thus laundering the criminal proceeds. Xia would send the new gift cards to a co-actor in China. That individual then pays Xia, who keeps some profit and then he pays the individuals in India.

Numerous out of state victims were identified. Xia was arrested and evidence was obtained that he had laundered over \$300,000.00 worth of gift cards within the past year.

Without a money laundering law, the prosecutor charged Xia with theft and receiving stolen property. This presented a number of challenges. For the theft charges, it would be difficult to prove where the crime occurred and that Xia knew the Target account numbers were "stolen." Additionally, the stolen "property" was Target gift card account numbers, and it would be difficult to prove that Xia knew the exact nature of the underlying unlawful activity.


After a 4 day trial, a jury found Xia guilty. He received a sentence of 5 days with time served. Some of the victims lost all of their savings, and one of them lost his residence as a result of this crime.

Conclusion

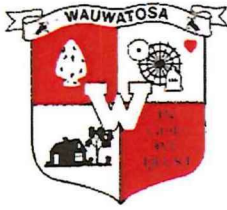
In each of these two cases, a law prohibiting money laundering such as the one that is before you now would have been beneficial. Under this law, both defendants could have been charged with a Class G felony. But furthermore, the criminal charges would more accurately reflect the crimes committed.

I strongly believe that the adoption of this money laundering statute will be an extremely effective and necessary tool to combat money laundering activities as well as the underlying unlawful activities that generate illicit proceeds.

Sincerely,



Det. John Milotzky



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Addendum

Sampling of Incidents in Which a Money Laundering Law Could Apply

March 2014 - Victim owns a small title and closing business in Wauwatosa. As a result of an email escrow scam, victim suffered a \$97,000.00 loss when funds were wired to a suspect's bank account in Florida. Although the individual that received the funds was identified, she was not criminally charged so no restitution was ordered.

December 2015 – As a result of a business email compromise scam, a Wauwatosa business wired \$24,769.00 to a bank account in Texas. The suspect withdrew the funds in structured withdrawals. Although the individual that received the funds was identified, she was not criminally charged so no restitution was ordered.

September 2016 – As a result of a business email compromise scam, a Wauwatosa business wired \$10,000.00 to a bank account in Texas and \$9,800.00 to a bank account in Nebraska. The suspects that held the receiving bank accounts were identified, but were not criminally charged so no restitution was ordered.

November 2016 - An 86 year old Wauwatosa resident lost \$75,500.00 in a lottery scam. The victim sent checks to three individuals in California, Illinois, and Florida. All three individuals were identified but were not criminally charged and no restitution was ordered.

December 2016 – A 51 year old Wauwatosa resident lost \$20,000.00 in an online romance fraud. The victim wired funds to women in Illinois and California. Both of the women were identified, and one of them was also the victim of a romance scam. The suspects that received the funds were not criminally charged so no restitution was ordered.

October 2017 – A 79 year old Wauwatosa resident lost \$2,100.00 in a grandparent scam. The victim received a call by a subject posing as her grandson. The caller claimed that he was in a car crash, arrested, and needed bail of \$2,100.00. The funds were sent through MoneyGram at Walmart to an Atlanta location. The suspect that picked up the funds was not criminally charged so no restitution was ordered.

January 2018 – A 63 year old Hales Corners man had deposited a counterfeit check on a Texas business account, at a Wauwatosa bank for \$7,850.00. The Hales Corners man was previously the victim of a romance scam, and had also become a money mule, having received nearly \$35,000.00 from a business in Minnesota that was the victim of a business email compromise scam. The victim turned money mule was not criminally charged.

January 2018 – A 75 year old Wauwatosa resident lost \$12,100.00 in a grandparent scam. The victim received a call by a subject posing as her grandson. The caller claimed that he was in a car crash, was arrested, and needed bail of \$2,500.00. The victim sent the \$2,500.00 via



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MoneyGram to Pennsylvania. The victim was contacted a second time and told that woman in the crash lost a baby as a result and she needed to pay \$9,600.00 for a public defender. The victim mailed \$9,600.00 in currency via FedEx to an address in New York. No criminal charges were issued so no restitution was ordered.

April 2018 – A 79 year old Wauwatosa resident lost \$60,000.00 in a computer scam. The victim allowed remote access to his computer to a subject claiming to be from his internet security provider. Using remote access, the suspect accessed the victim's bank account and sent wires of \$40,000.00 and \$20,000.00 to two out of state bank accounts. The victim's bank was able to recall the wires. No criminal charges were issued.

June 2018 – A 70 year old Wauwatosa resident lost \$4,000.00 in a computer scam. The victim was contacted by a subject who stated that he worked for an anti-virus company and that the victim was owed a refund. The subject directed the victim to a computer screen showing that she was overpaid, and that she now needed to pay money back. The victim was convinced to buy \$4,000.00 in Target gift cards and provide the numbers to the caller. No criminal charges were issued so no restitution was ordered.

December 2018 – A 90 year old Wauwatosa resident lost \$47,500.00 in a lottery scam. The victim was contacted and told that she won \$6,800,000.00 and needed to send funds to pay the taxes on her winnings. The victim wanted to be able to leave money for her family when she died so sent \$47,500.00 to the bank account of a suspect in Georgia as instructed. The suspect that received the funds was identified but was not criminally charged so no restitution was ordered.

February 2019 – A 77 year old Wauwatosa resident lost \$17,980.00 in a computer tech scam. The victim was contacted by a suspect who informed her that she needed to renew program certificates. The suspect told the victim that payment could only be made with gift cards. Through a series of phone calls over several days, the victim went to various retail stores and purchased Google and PayPal gift cards and provided the numbers to the caller. No criminal charges were issued so no restitution was ordered.

March 2019 – A 25 year old Wauwatosa resident with autism lost approximately \$30,000.00 in a romance scam. The victim began communications with a subject on an online dating website. The suspect convinced the victim that if he assisted her with court costs, she would share a \$6,500,000.00 inheritance with him. The victim sent funds via PayPal to three different individuals totaling nearly \$30,000.00. No criminal charges were issued.



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
CYBER CRIME DIVISION • COMMUNITY CYBER INVESTIGATION RESPONSE TEAM

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SCOTT K. GOODWIN • Director

September 3, 2019

Wisconsin State Legislature
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2 East Main St.
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Re: Assembly Bill 350/Senate Bill 368

Dear Esteemed Representatives and Senators:

I am writing in support of the above captioned Bill.

I have been a Deputy District Attorney at the Los Angeles County District Attorney's Office for more than 20 years, and I currently head the Community Cyber Investigation Response Team. During the past few years, I have discovered that today's sophisticated cyber-criminals rely more and more upon intricate networks within the United States to launder the proceeds of fraudulently obtained funds. For example, I have seen a remarkable increase in the volume of a particular cyber-crime known as Business Email Compromise (BEC). Criminal organizations commit BEC by hacking into a company's email system to gather intelligence about the company's personnel structure and business practices. Once sufficient intelligence has been obtained, the criminal organization sends a carefully crafted fraudulent email to the victim company requesting a wire payment on an existing payment obligation. However, the fraudulent email instructs that the wire payment be sent to a different bank account than usual. This bank account actually belongs to a member of the criminal organization. After the victim company makes the wire payment to the bank account, the money is disbursed throughout the criminal organization. Between October 2013 and May 2018, reported BEC losses have exceeded \$12.5 billion. (Nationwide FBI Public Service Announcement Alert Number I-071218-PSA). Furthermore, recent FBI statistics confirm that BEC is responsible for more victim losses—by far—than any other cyber-crime (more than the next six largest cyber-crime losses *combined*). (https://pdf.ic3.gov/2018_IC3Report.pdf).

As you can see, the success or failure of these types of crimes rely heavily upon the part of the criminal network that disburses the fraudulently obtained proceeds. When addressing this issue, I have found that California's Money Laundering Statute (Penal Code Section 186.10) is an indispensable tool. Specialized prosecutors at the Los Angeles County District Attorney's Office routinely utilize this statute to prosecute persons who are receiving and distributing fraudulently obtained funds, and I have personally utilized the statute to successfully prosecute several members of criminal organizations who were distributing BEC proceeds for their criminal networks.

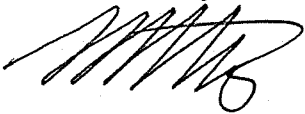
I routinely train prosecutors, law enforcement officers, and members of the public on how to effectively use the Money Laundering Statute in investigating and prosecuting such cases. In

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August 2018, I conducted such a training at the Annual Conference of the International Association of Financial Crimes Investigators. At the end of my presentation, I was approached by Detective John Milotzky from the Wauwatosa Police Department. I was surprised when Detective Milotzky informed me that Wisconsin did not have a Money Laundering Statute. After a detailed discussion, Detective Milotzky informed me that he was committed to bringing forth a Money Laundering Statute for Wisconsin so that the state's law enforcement officers and prosecutors could similarly combat these types of illicit money distribution networks. I applaud Detective Milotzky for his efforts to bring forth the bill that is now under consideration by all of you. I can tell you from personal experience that a comprehensive Money Laundering Statute is vital to investigating and prosecuting these types of criminal networks.

In closing, I enthusiastically support the adoption of the above captioned Money Laundering Bill. I believe that it will prove to be indispensable for bringing the aforementioned types of cyber-criminals to justice. Please feel to contact me if you have any questions.

Sincerely,

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

Warren Kato
Deputy District Attorney

District Attorney
Susan L. Opper

Deputy District Attorneys
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Ted S. Szczupakiewicz

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October 22, 2019

Wisconsin State Legislature
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Re: Senate Bill 368



Hello everyone. My name is April DeValkenaere. I am a White Collar Crime Paralegal with the Waukesha County District Attorney's Office and I am the Wisconsin chapter President of the International Association of Financial Crimes Investigators (IAFCI). The IAFCI is a global non-profit organization comprised of nearly 6000 members. We provide services and an environment where information regarding financial fraud, financial investigations and fraud prevention methods can be collected, exchanged, and taught for the common good of the financial payment industry and our global society.

Our membership brings together law enforcement, financial institutions, and the retail industry in an effort to safeguard the world's economy through collaborative teamwork. Our organization has been fighting financial transaction crimes for more than 50 years. I recently taught a session on money laundering and prepaid cards at our international conference, describing how criminals are using prepaid cards to launder the proceeds of their criminal activities.

We need Assembly Bill 350 and Senate Bill 368 here in Wisconsin. As they provide a number of benefits in the fight against criminals who engage in scams making victims of our Wisconsin residents. This includes; making it a crime to engage in transactions with illegally obtained property, for the purpose of trying to "clean" the proceeds of their criminal activities and avoid federal regulations regarding the financial transaction reporting requirements.

In my role with the Waukesha County District Attorney's Office I work on many cases involving elder financial exploitation. This Bill would also be an important law in helping to protect some of Wisconsin's most vulnerable citizens, our seniors.

I am here to wholeheartedly support this Bill as a representative of the International Association of Financial Crimes Investigators along with the Waukesha County District Attorney's Office.