

Jeff Mursau

STATE REPRESENTATIVE • 36TH ASSEMBLY DISTRICT

REMARKS OF REPRESENTATIVE JEFF MURSAU, CHAIR, JOINT LEGISLATIVE COUNCIL SPECIAL COMMITTEE ON STATE-TRIBAL RELATIONS, TO THE SENATE COMMITTEE ON JUDICIARY AND PUBLIC SAFETY

September 16, 2021

Good morning, members of the Committee on Judiciary and Public Safety. During this past interim session, I again served as the chairperson of the Special Committee on State-Tribal Relations. I am here today to present two bills from the special committee's work for your consideration.

The special committee is required to be created every biennium to study issues relating to American Indian tribes and bands in this state and to develop legislative proposals. Membership of the study committee consisted of three Senators, three Representatives, and 10 public members representing the interests of the state's tribes. The study committee met three times from October 2020 to January 2021.

The committee discussed numerous policy options spanning an array of substantive areas of law. In concluding its work, the committee recommended a number of bill drafts for introduction by the Joint Legislative Council, two of which are before the committee today.

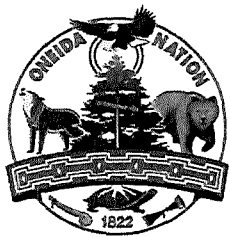
Senate Bill 419 requires the following:

- A tribal chair be notified when a county is ordered by a court to prepare a report recommending a residential option for a sexually violent person being placed on supervised release;
- The county consult with any tribal law enforcement agencies in the county when preparing its report; and
- A tribal law enforcement agency be notified when a sexually violent person is placed on supervised release.

Senate Bill 420 expands to a tribal court proceeding the enhanced criminal penalties that apply to a state court proceeding with regard to intentionally causing or threatening to cause bodily harm to an officer of the court, or a member of that officer's family, if the harm or threat is in response to an action taken by the officer in his or her official capacity. This bill is identical to a bill recommended by the special committee last session that passed the Assembly, but did not receive action from the Senate at the end of session.

The special committee recommended introduction of SB 419 and SB 420 by unanimous votes. The Assembly Committee on Criminal Justice and Public Safety also recommended the bills for passage by unanimous votes.

I am happy to answer any questions. Steve McCarthy from Legislative Council is here with me today to also help answer any questions. Thank you for considering these bills and hearing my comments today.



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To: Senator Van H. Wanggaard, Chair
Members, Senate Committee on Judiciary and Public Safety

From: Lisa Liggins, Secretary

Date: Thursday, September 16, 2021

Re: Written Testimony in Support of 2021 Senate Bill 419 & Senate Bill 420

I appreciate the opportunity to provide written testimony in support of 2021 Senate Bill 419 and Senate Bill 420. The Oneida Nation supports both pieces of legislation, but I will focus my testimony on Senate Bill 420 as it is the main issue the Oneida Nation has been working on for two (2) sessions.

Senate Bill 420 would extend existing state law policy, protections, and penalties for officers of the court – to include advocates and to include Tribal proceedings. This issue may seem familiar; last session, the Assembly Committee on Criminal Justice and Public Safety unanimously (8-0) and the State Assembly on a voice vote passed this same legislation as 2019 Assembly Bill 104. That bill also passed the Senate Committee on Insurance, Financial Services, Government Oversight and Courts unanimously (5-0). The legislation was expected to be voted on by the State Senate in 2020, but did not due to the COVID-19 pandemic and the last day of session being cancelled. This session, the issue was reintroduced by the Special Committee on State-Tribal Relations as 2021 Senate Bill 420.

The Oneida Nation has a judiciary that is established within our Nation's Constitution to serve the needs of the Oneida people and expand the exercise of the Nation's sovereign authority. The creation of the Judiciary was built on the foundation that was laid by the former Oneida Tribal Judicial System, by granting the Trial Court and Court of Appeals expanded subject matter jurisdiction and further emphasis for peacemaking and mediation to occur between parties. The Oneida Family Court is a specific branch of the Judiciary and was established to address matters affecting the Oneida people as it pertains specifically to families and children.

The Vision of the Oneida Judiciary is to administer a fair, objective, independent, timely and lawful judicial branch of the Oneida government. The Oneida Judiciary is guided

by the wisdom of our heritage and traditions as well as the requirements of modern circumstances, laws, and statutes.

2017 Wisconsin Act 352 amended Wis. Stat. §940.203 by changing the definitions of a judge, prosecutor, and law enforcement officer, for purposes of the enhanced criminal penalty for intentionally causing bodily harm or threatening to cause bodily harm to the person or family member of any judge, prosecutor, or law enforcement officer, to include a tribal judge, tribal prosecutor, and tribal law enforcement officer.¹

Senate Bill 420 proposes to further amend Wis. Stat. §940.203 to extend the enhanced criminal penalty to the person or a family member of an “advocate” (an individual who is representing the interests of a child, the tribe, or another party in a tribal court proceeding); it also extends the protections from harm or threats of bodily harm to officers of the court for actions taken in a tribal court proceeding.

The Oneida Nation fully supports Senate Bill 420 because it would provide enhanced criminal penalties that would further protect the Oneida Judiciary’s Judges, Guardians ad Litem, and lay advocates who are admitted to practice in the Judiciary² and its implementation would ensure they are provided in the same manner as in other courts.

I appreciate the opportunity to provide testimony on behalf of the Oneida Nation, and once again encourage the Committee to support both these important pieces of legislation.

Yawwakó· – Thank you

¹ The Oneida Judiciary conducts approximately 30-60 hearings per month. While there was one (1) threat made against a judge in 2016, that threat was prior to the adoption of 2017 Wisconsin Act 352 and the enhanced criminal penalties were not available. The Oneida Judiciary has over 220 cases a year and over 2,300 visitors per year.

² Assembly Bill 104 does not address adding protections for “Court officials” or “Court staff” to Wis. Stat. §940.203(2). While the definition could include positions such as court administrator, court clerk, court reporter, etc., the Special Committee on State-Tribal Relations did not feel comfortable making those suggestions as those positions are not currently covered for state proceedings under Wis. Stat. §940.203. The Oneida Judiciary would like to see this class of individuals protected at some point as these individuals are typically on the front line dealing with parties, many of which are involved in contentious family law proceedings.