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*Testimony before the Senate Committee on Judiciary and Public Safety
Senator André Jacque
February 11, 2021*

Chairman Wanggaard and Committee Members,

Thank you for the opportunity to testify in support of Senate Bill 53, which was requested by prosecutors to properly charge cases, particularly those involving domestic abuse and gang-related violence. Identical legislation passed committees in both chambers this past session and the full State Senate on a voice vote, but was not taken up in the State Assembly before the end of session despite passing the Assembly on a voice vote the previous session.

Under current law, a person entering into any building or dwelling or certain other places with the intent to steal is guilty of a Class F felony, while entering those same locations with the intent to cause bodily harm is generally only chargeable as a misdemeanor. In other words, it is a felony to attempt to steal items from someone's garage but only a misdemeanor to break in to their house or apartment to try to beat them up. For general reference, the Brown County District Attorney estimates that his office is limited to charging a lesser penalty for attempted batterers under this scenario approximately 5 to 10 times every year.

Senate Bill 53 provides a common sense fix to remove the disproportionate treatment of property crimes over crimes against bodily security by raising the penalty for entering with intent to commit battery to also be a Class F Felony.

Thank you for your consideration of Senate Bill 53.



RACHAEL A. CABRAL-GUEVARA

STATE REPRESENTATIVE • 55TH ASSEMBLY DISTRICT

Testimony before the Senate Committee on Judiciary and Public Safety

Representative Rachael Cabral-Guevara

February 11, 2021

Chairman Wanggaard and Committee Members,

Senate Bill 53 is a straightforward, black and white bill. Under current law, the intent to steal or commit a felony while entering a place without consent would be considered a class F felony. This bill adds another layer of protection for victims, many of whom are involved in domestic abuse or gang-related violence, by including the intent to commit misdemeanor battery on that list. It's that simple.

By adding the intent to commit battery under this definition, it would carry with it the penalties of a class F felony, including fines up to \$25,000 and up to a twelve and a half year prison sentence. Not only would this help protect those who are victims, it would also provide an additional deterrent against possible future offenders.

The safety of our communities is one of the most critical responsibilities we carry as legislators. I am proud to stand with our prosecutors across the state who brought this issue to light.

Thank you for your consideration of Senate Bill 53.

Prosecutors: Law valuing "property over people" needs to change

(WJRT)

By Sarah Thomsen

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Brown County's district attorney is asking lawmakers to change what he calls an inconsistency in state law.

It mostly affects stalking or domestic violence cases and whether they're charged as a felony or misdemeanor. That can make a big difference in someone going to prison or serving much less time in jail.

Under current law, if someone breaks into a home or building with the intent to steal something, prosecutors can charge it as a felony, which has substantial consequences.

But if someone breaks into a home or building with the intent to beat up or seriously harm another person, they can only charge it as a misdemeanor with much lesser penalties.

Brown County D.A. Dave Lasee sees this happen five to ten times a year and thinks it's time the law changed.

"The current law does seem to value property over people, and I don't know that it's intentionally drafted that way but we've had that unintended outcome on a few different cases," says Lasee.

He says it most often affects domestic violence cases but has recently found the current law creating an issue in cases involving gangs and fights.

"We've had young guys go over to the house to get in a fight with other people, break into the home, and there's a fight that ensues inside," explains Lasee. "It's difficult to show that they intended to batter them severely, but we know they intended to go over there and get in a fight, and to me that's more serious than breaking into someone's garage to steal a six-pack of beer."

He asked state Rep. Andre Jacque to consider changing the law.

"It's a ridiculous situation that we really only provide that protection for property," says Jacque, a Republican from De Pere.

Jacque just drafted a proposal to upgrade the charge to a felony, giving prosecutors the option to choose the penalty that best fits each case and crime.

Lasee says there could be times where it's hard to prove a person's intent, but he feels prosecutors need that option.

Why the law is written as it is, neither man can answer, but both believe addressing it is long overdue.

"It's bothered me for awhile just because there is that inconsistency there," says Lasee.

"When people hear about it, they, again, just scratch their heads and wonder how in the world could we have this sort of inequity?" says Jacque.

The state representative is putting his proposal out for sponsorship Tuesday and hopes to get in to a committee just after the new year.