



Luther S. Olsen

State Senator

14th District

Testimony in favor of Senate Bill 232

September 5, 2013

Senate Committee on Transportation, Public Safety, and Veterans and Military Affairs

Thank you Chairman Petrowski and committee members for taking the time to hear Senate Bill 232. Representative Bies and I introduced this legislation with bipartisan support to strengthen Wisconsin's laws prohibiting the aiding of a felon at the request of my constituent, Shirley George. Shirley's grandson Joey was tragically killed by a gunman whose family later helped him elude law enforcement.

Under current law, anyone other than a family member is prohibited from aiding a felon or destroying, altering, or hiding evidence in order to prevent a felon from getting convicted. This proposal removes the exception for relatives or a spouse who actively help criminals thwart law enforcement in order to prevent the criminal from facing prosecution. The reasoning behind removing this exception is that crime should not be a "family affair". Only twelve states provide this exemption and of those Wisconsin's is by far the most liberal.

Additionally the proposal increases the maximum penalties for aiding a felon who has committed a class A, B, C or D felony to create more serious consequences than that for aiding a less serious felony. Maximum confinement time is increased from 1 ½ to 5 years, time under supervision is increased from 2 to 5 years and increases the maximum fine from \$10,000 to \$25,000.

I feel strongly that we should make this commonsense change and provide a deterrent to anyone tempted to aid a felon or thwart law enforcement. Here with me today, is Shirley George who will testify about the inspiration for this bill – her grandson Joey – and her family's tragedy. Thank you all for your time and consideration of this proposal today.

Joey's Law

Good morning

Mr. Chairman and Distinguished Committee Members

I thank you for allowing me to speak here today.

My name is Shirley George, and I'm here for two reasons.

First what eventually brought me before you today is the senseless murder of my grandson Joey George in the prime of his life, and the lenient penalties the 5 participants of his death received.

Second, I'm here today to encourage the amending of the Penalty Phase, of ...Bill number SB232

his bill relates to providing appropriate penalties to ALL participants while aiding and abetting in a felony. We have to instigate some real thoughts on "re-Thinking" a way to maximize a safer world for our children to live in. They too, have Inalienable rights to happiness.

Along with a death occurring, many times there is "Abuse," which includes many types of manipulation, that some children are subjected to, and often many people such as family, neighbors, close friends, etc, are even aware of it, and they seem to keep their mouths shut, until something drastic happens. We simply cannot coddle & protect the perpetrator and others, who aide and abet.

A little background on Joey.....

Joey was born with Cerebral Palsy. He didn't walk until he was 3 years old. As he matured, Joey learned to run. As awkward as his running looked, it was effective. He even earned a place on the freshman basketball team in high school due to his strong perseverance and his family's help. Joey conquered many

obstacles and achieved much in his short life of 21 yrs.

I was devastated when Joey was murdered, and with the thoughts of all the inequities that occurred before, during and after the trial it ate away at me.

I knew that the newspaper and television hype would die down eventually, but for me,... I couldn't let it die down. I couldn't let it go away. It ate so hard that I started to research just how to amend a law. I talked to District Attorney's, Police Chiefs, and several legislators, and it was mutually agreed that enhancement of "Aiding a felon in a homicide case"..... It is a change that has been long overdue.

Obviously, we know there was only one shooter. However, all of the perpetrators, who were in the vehicle, were very aware that there was going to be trouble.

Because....

In the vehicle, with them, were two guns,
Two baseball bats,
Brass knuckles, &
Sawed-off pool cues,

And knowing all this, any one of them could have walked away at any time. But No..... They all chose not to.

One of them owned the get-away car.

They all aided the shooter by emptying the gun, wiping off the spent cartridges and throwing them out of the car window.

They continued to aid the shooter by hiding the gun in a shed at the home of one of them. Another aided in covering up the shooter with his jacket to disguise his identity, just before the shooting.

“The Penalty Phase” of this amendment to “Aiding a Felon Law” should and must be made well known to the public at large AND WHY? Because it would make a lot of people think twice about participating in an unlawful act.

If the penalty phase of this law had been in effect, the participating perpetrators who aided & harbored the killer of Joey, would have gotten longer sentences.

Since the onset of our case, there have been many more aiding and abetting instances in several counties throughout the state. One not long ago in Winnebago County, where a young man helped another person hide the body of a women he killed, in the a trunk of a car.

As we all know, the Jessica Langford trial in Florida ended, and along with the verdict, came all the hulla-balu about the 3 people who aided & abetted & got off scott-free because Florida doesn't have a decent aiding & abetting law. Perhaps, just perhaps if those friends had knowledge ,.. And a greater fear...of aiding & abetting, maybe they would have admitted to the police as to the where-a-bouts of the perpetrator,...the young girl might have been found alive.

We realize it is a different type of crime than “our Joey’s,” but... Aiding & abetting is Aiding & Abetting.

I have had a lot of support & a lot of stumbling blocks, but I now feel “Joey’s law” is finally coming to fruition.

It doesn't effect our case, but at least henceforth this inequity will never happen again to another family.

We know that this law SB232 is an enhancement of the PENALTY PHASE ONLY, And therefore it tends to go un-noticed by the

general public, so.....I would like the advantage of having this bill involve the media to alert people that this “NEW LAW” now has a greater penalty for “Aiding & Abetting” a Felon especially when a death occurs.

It has been proven that when the public hears Adams Law, or Jessica’s Law, it automatically alerts everyone as to the exact nature of the offense. If treated the same way, this “New Law” will alert everyone that there is now a greater penalty.....For Aiding And Abetting A Felon.

In Closing, I would like to say:

To have this bill sub-titled “Joey’s Law” would truly be the ultimate reward of my efforts and help secure protection of the innocent.

Thank You

I have one short footnote:... What a great opportunity we here in Wisconsin, have to show the rest of the country that there’s some teeth in our “aiding & abetting law” in a homicide case.

State of Wisconsin

Circuit Court

Rock County

STATE OF WISCONSIN

Plaintiff,

-vs-

THOMAS EUGENE DAVIS

1940 THOMAS RD.

BELOIT, WI 53511

DOB: 10/23/1947

SEX/RACE: M/W

EYE COLOR: BLUE

HAIR COLOR: BROWN

HEIGHT: 5 FT 9 IN

WEIGHT: 250 LBS

ALIAS:

AMENDED CRIMINAL
COMPLAINT

Defendant.

Don Knisely, of the Beloit Police Department, being first duly sworn, states that:

Count 1: OBSTRUCTING AN OFFICER

The above-named defendant on or about March 4, 2005, in the City of Beloit, Rock County, Wisconsin, did knowingly obstruct an officer, while such officer was doing an act in an official capacity and with lawful authority, contrary to sec. 946.41(1) Wis. Stats., a Class A Misdemeanor, and upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than nine (9) months, or both.

Count 2: OBSTRUCTING AN OFFICER

The above-named defendant on or about March 4, 2005, in the City of Beloit, Rock County, Wisconsin, did knowingly obstruct an officer by providing false information while such officer was doing an act in an official capacity and with lawful authority, contrary to sec. 946.41(1) Wis. Stats., a Class A Misdemeanor, and upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than nine (9) months, or both.

PROBABLE CAUSE:

Officer Kroning reports that on January 6, 2005, at about 11:50 P.M., he was dispatched to the Beloit emergency room where he spoke with Cheryl Blohm.

Blohm stated that at about 1:50 A.M. she had gotten into an argument with her daughter at their residence located at 821 E. Dogwood Drive in the City of Beloit, Rock County, Wisconsin. Ms. Blohm stated that the argument was about her daughter's long usage of the Internet. Blohm indicated that her daughter, LCB, d/o/b 4-15-90, spends approximately six to seven hours a day talking to various friends on the Internet and that she had instructed LCB to turn off her computer but LCB refused to do so. Blohm stated that she then went to bed at about 2:00 A.M. on January 5, 2005. Blohm stated that when she woke up at 6:30 A.M. on January 5, 2005, she observed that LCB was sleeping in her bedroom. Blohm stated that later that day her younger daughter advised her that LCB had snuck out of the residence earlier that morning. Kroning reports he then spoke with John Blohm who stated that on January 6, 2005, at about 9:30 A.M., he went into LCB's bedroom and observed that she was crying. Mr. Blohm stated that LCB told him that she had snuck out of her room and had sexual intercourse with a 20 year old man named Adam. Mr. Blohm stated that he and LCB went into his vehicle and attempted to locate the residence where the incident had occurred.

Mr. Blohm indicated that LCB pointed out a residence at 1940 Thomas Road in Beloit as the residence where she had sexual intercourse with the subject by the name of Adam. Kroning reports he subsequently spoke with LCB who stated that she was on the computer on January 5, 2005, when she received a message from a male subject name Adam. LCB stated that she continued to chat with Adam under Yahoo.com instant messaging. LCB stated that Adam asked her if she was going to be busy for the morning and she stated no. LCB stated that she told Adam that she had an argument with her mother and just wanted to get away for awhile. LCB stated that Adam agreed to come and pick her up at her residence. LCB stated that at about 3:15 A.M. on January 5, 2005, Adam came to her residence in an older model tan vehicle and picked her up. LCB stated that she and Adam went back to his residence at 1940 Thomas Road. LCB stated that once inside Adam's residence they went directly to his bedroom and had sexual intercourse during which time Adam used a condom. LCB stated that Adam was approximately 20 years old, was a white male with sandy/reddish colored hair. LCB stated that she told Adam she was only 14 years old and had stated it in her e-mail profile. LCB stated that while she was at Adam's residence she again told him she was 14 years old at which time Adam stated "You don't look 14 years old, so let's pretend you're 18." LCB stated that after she and Adam had sexual intercourse they got dressed and Adam gave her a ride back to her residence at about 5:30 A.M. as she wanted to return home prior to her mother waking up.

Officer Segerstrom reports that on February 14, 2005, she was assigned to follow up on a sexual assault involving a victim identified by the initials LCB, d/o/b 4-15-90. Segerstrom reports a suspect in the sexual assault had been identified as an Adam Davis. Segerstrom reports that Davis did live at 1940 Thomas in the city of Beloit where the sexual assault had taken place according to LCB. Segerstrom reports that a record check indicated that Davis was the registered

owner of two vehicles including a 1986 Buick LeSabre and a 1985 Oldsmobile Tornado. Segerstrom reports that Davis was subsequently arrested on a probation hold and taken to the Rock County jail. Segerstrom reports that on March 4, 2005, she and Detective Whaples went to the Rock County jail at which time Whaples provided him some information regarding the sexual assault allegation made by LCB. Segerstrom reports that Davis refused to answer any questions at that time. Segerstrom reports that she subsequently made contact with a male subject at 1940 Thomas who identified himself as Adam Davis's father, Tom Davis. Segerstrom reports that Tom Davis stated that Adam Davis did have a computer in his bedroom. Segerstrom reports that Tom Davis further stated that he had spoken with Adam Davis at about 9:30 A.M. that morning. Segerstrom reports that she was advised by Detective Harper or the Rock County Sheriff's Department on March 4, 2005, at 1:05 P.M., that Adam Davis had placed a telephone call from the Rock County Jail to 1940 Thomas at 10:08 A.M. that morning and that the phone call had been recorded. Harper advised that the phone call was placed to Davis's residence at 1940 Thomas and during the conversation Davis tells the male subject who he called at the residence that the crime unit would be coming to the house to possibly take a hard drive from his computer. Harper further advised that the male subject at the residence asked Davis if he wanted him to format the hard drive. Harper stated that Davis then told the other subject to "go ahead." Segerstrom reports that on March 4, 2005, at 5:13 P.M. she and Detective Zandler did go to 1940 Thomas and did locate a tan four door older Buick model with Wisconsin registration WFM954 parked to the right of the driveway directly in the front of the residence. Segerstrom reports that she subsequently made contact with Tom and Geraldine Davis at the residence and advised them that they had a search warrant to search the residence. Segerstrom reports that they did subsequently enter Adam Davis's bedroom and did observe a computer on a computer desk as well as a blue box on the computer desk containing three condom wrappers, one of which was found to be open and missing the condom. Segerstrom reports that Officer Benavides who was also assisting in the search located a Trojan magnum latex condom box in the closet.

Detective Zandler reports that on March 4, 2005, at about 1:38 P.M., he assisted Detective Segerstrom in executing a search warrant at 1940 Thomas Road in the City of Beloit, Rock County, Wisconsin. Zandler reports that upon their arrival at that location they made contact with Tom Davis who resided at the residence. Zandler reports he advised Mr. Davis that they had intercepted a phone call between Adam Davis and a male subject at his residence and asked if the computer had been reformatted. Zandler reports that Tom Davis stated that the computer had not been and was still in Adam Davis's room.

Officer Benavides reports that on March 4, 2005, at about 2:30 P.M., he went to 1940 Thomas in the city of Beloit to assist in taking control of a crime scene for Detective Segerstrom. Benavides reports that upon entry into the residence he went into a bedroom and during a search of the bedroom subsequently located

an empty box of Trojan brand magnum condoms on the top shelf of a closet. Benavides reports that he also located a pile of THC seeds and stocks on a computer desk. Benavides reports that Detective Segerstrom also turned over to him several drug related items that were located in the bedroom including two plastic sandwich bags with burnt roaches, a home made foil THC pipe with burn marks and THC residue, pieces of foil with burn marks, a sandwich bag with tobacco and blunt material, five packages of smoking papers, and a bag containing 5.2 grams of THC which did subsequently test positive for the presence of THC through the use of the duquenois levine field test.

Assistant District Attorney Gerald Urbik reports that on March 15, 2005, he received a voice mail message from Officer Amber Segerstrom indicating that LCB had picked out the photograph of Adam Davis out of a photo lineup and positively identified him as the subject who had sexual intercourse with her on January 5, 2005.

Detective Davies (Segerstrom) reports that on March 29, 2006, at about 11:05 A.M., she received a telephone message from Chris Byars, a computer analyst at the Wisconsin Department of Criminal Investigation. Byars stated that she had discovered that files had been deleted on the computer retrieved from Adam Davis's bedroom on March 4, 2005 and that the files had been deleted at a date and time Adam Davis was in custody.

Based on the foregoing, the complainant believes this complaint to be true and correct.

Complainant

Subscribed and sworn to before me
this _____ day of March, 2007.

Asst. D.A./Judge/Court Commissioner

Approved for filing _____ Assistant District Attorney
Gerald A. Urbik

I find probable cause (exists) (does not exist) that the crime was committed by the defendant and order that he/she be (held to answer hereto)(released forthwith).

Dated this _____ day of March, 2007.

Judge/Court Commissioner
GAU/am



A Journal Sentinel Watchdog Update

Families' aid to fugitives damaging

Make it a state crime, say prosecutors, victim advocates

By John Diedrich of the Journal Sentinel
April 3, 2010

Criminals on the run in Wisconsin turn to family members to hide murder guns, bloody clothes, stolen loot and other evidence. But the family helpers can't be charged under a long-standing state law.

Prosecutors across Wisconsin say the situation is common and hurts investigators' ability to solve serious crimes.

About a dozen states have similar laws. But Wisconsin's version is among the most liberal, exempting more family members and allowing them to even plant false evidence without fear of prosecution.

"That's incredible," said Scott Burns, executive director of the National District Attorneys Association, of Wisconsin's law. "The people who typically engage in harboring are the very people exempted - parents, spouses, children. . . . It begs the question: Why even have the statute?"

A bill that would remove the protection for family members and add more prison time for anyone breaking the law has stalled repeatedly in Madison over the past five years.

A more limited version of the bill was introduced this session, but it hasn't gotten a committee hearing. And it is unlikely to pass before the session ends this month.

The current law helps fugitives escape the law, hampers prosecutions and creates unnecessary danger for police officers hunting for suspects, according to prosecutors, legislators and crime victims.

But defense attorneys and some legislators say without the current law, family members who think they are simply helping a loved one but don't have all the facts could wind up being prosecuted.

Wisconsin's family exemption law surfaced recently in the case of LZ Jolly, a Milwaukee man wanted for almost three years on a charge of killing James Reese as he lay in a bathtub begging for his life.

When police finally found Jolly, he was living with Angelina Wyatt, who knew he was wanted, according to court documents. She was charged but brought to court a Nevada marriage certificate showing they were married.

In most states, that marriage certificate would not have mattered.

But in Wisconsin, it amounted to a get-out-of-jail-free card.

Prosecutors dropped charges against Wyatt.

Shirley George's grandson, Joey, was murdered in Oak Creek a decade ago. The three suspects were helped by friends and family, according to authorities. One of the killers' friends was convicted of felony harboring in the case but received just four months in jail.

George has been pushing to change the law ever since.

"The message is just run home to your family and they will support you," George said. "We can't coddle those who aid and protect fugitives."

Law goes beyond spouse

State and federal courts have long put communication between spouses, such as confessing to a murder, off limits to prosecutors in criminal cases.

But the laws, such as Wisconsin's, exempting family members from being prosecuted for harboring a felon are different. They apply to more than just the spouse. And they stop prosecutors from charging people who have taken action to hide a fugitive.

Wisconsin's law against helping wanted felons dates to the mid-1950s. It says people who try to prevent apprehension of the felon by harboring the person or destroying evidence or placing false evidence themselves can be prosecuted for a felony. It currently carries penalties of up to 18 months in prison and two years' probation.

From the start, Wisconsin's law exempted the felon's spouse, parent, grandparent, child, brother or sister, later adding the phrase, "by blood, marriage or adoption."

The federal harboring law does not have such an exemption and neither do the laws in 36 states, according to a legal journal article from 2007.

Wisconsin's law has remained largely unchanged over five decades. The most recent change was in 2001, when the punishment was reduced from the maximum two years in prison to 18 months - tucked inside a 299-page budget adjustment bill. No author is listed in online legislative records.

Jolly himself was convicted of harboring a homicide suspect in 1996. He was charged because he wasn't related to the fugitive.

Jolly got the two-year maximum, but he ended up serving just seven months under old state law that allowed prisoners to be let off for good behavior after serving just a portion of their sentence.

Over 16 years, Jolly was arrested at least 18 times - on suspicion of murder, shootings, carrying guns, dealing drugs and more. He faced life in prison on the charge of killing Reese.

But he was offered a plea bargain with a much lower charge after scared witnesses changed their stories. Prosecutors said their case was hurt because of the time Jolly eluded justice, with the help of his wife and likely others.

Earlier this year, a judge gave Jolly 16 months behind bars - time he already served in jail awaiting a trial - plus five years' probation

Wyatt was charged with harboring Jolly but later produced the marriage certificate. Wyatt did not tell detectives she was married to Jolly when she was interrogated, according to a prosecutor. She admitted to detectives she knew Jolly was wanted for homicide in 2006 when she started letting him stay with her.

Wyatt's attorney, Syovata Edari, said the system worked the way it should - family should not be charged for helping a loved one.

"I think it makes sense," she said. "It is not fair to ask a family member to compromise loyalty and give up family to be prosecuted."

Milwaukee Assistant District Attorney Mark Williams said Wisconsin's law causes problems, especially in homicides.

"It is a terrible law," said Williams, head of Milwaukee's homicide unit for nearly 20 years. "Here, people can hide guns, hide bloody clothes and burn clothes, and I can't charge anybody for doing that. That is absurd."

Recent uses of the law

Williams and other prosecutors point to several recent homicide cases where family members helped suspects run or get rid of evidence. They include:

- Kevin Bohannon was robbed and killed as he walked through Mitchell Park on the south side in July 2006. The suspect's brother hid the gun, Williams said, but because of the law the brother could not be charged.
- Two months later, Special Olympian Brandon Sprewer was robbed and murdered as he was waiting for a bus on Milwaukee's northwest side. Again, the gunman gave the murder weapon to his brother, who hid it, Williams said. Again, no charges.
- In Kenosha, two teenagers are charged in adult court with killing a woman who lived next door in 2008. After beating her to death with a bat, they took an X-box, purse and money, according to a criminal complaint. The mother of one suspect stashed the stolen goods, a mask, gloves and other evidence at her sister's house, according to police reports. She hasn't been charged.

If prosecutors can show family members knew about a crime beforehand, they can be charged as a party to the crime. But if they help afterward, there is little prosecutors can do except perhaps charge obstruction of justice - a misdemeanor.

Langlade County District Attorney Ralph Uttke said he regularly sees family members hiding wanted people. Recently, a half-dozen officers went on a warrant to pick up a habitual burglar who was being hidden by a parent, Uttke said.

"We have law enforcement going out to look for these guys. They go in armed and ready. It creates a dangerous situation," he said.

If the law changes, prosecutors said, that doesn't mean they will automatically charge family members in every case. But as is, the law takes away prosecutors' discretion.

"You have to trust prosecutors," Williams said.

Legislation stalls

After her grandson was killed in 2000, Shirley George started pushing what she called "Joey's Law." Mistaken for another man, Joseph "Joey" George was killed outside an Oak Creek bar. Those charged included the son of then-Milwaukee police union President Bradley DeBraska.

Robert Jambois, a special prosecutor on the George case, said it shows the need to toughen the penalty, especially for those helping to hide the most serious criminals.

"It is one thing to assist someone who commits a retail theft. It is another thing to assist someone who abducts a child or kills someone. Yet Wisconsin statute didn't distinguish between them," Jambois said.

A 2005 bill would have eliminated the family exception and increased the penalty to six years. It passed the Republican-controlled Senate but stalled in the Assembly, also then controlled by the GOP.

A new version of the bill came in 2007, increasing the penalty to 10 years but left the family exception intact. It passed an Assembly committee, but didn't come up for vote before the full GOP-controlled Assembly.

New bill

Another version of the bill was introduced last year by Rep. Peggy Krusick (D-Milwaukee). It says family members can't be charged with hiding a felon, but they can be for destroying evidence. Again, it calls for a 10-year punishment.

The bill has stalled in the Assembly, where state Rep. Robert Turner (D-Racine) has not scheduled a hearing before his Criminal Justice Committee.

In a letter to Shirley George, Turner wrote that he had not held a hearing because the bill failed in past sessions, would cost money and didn't have bipartisan support.

However, one Democrat and seven Republicans have signed on to the bill. There will be a cost, but state agencies said they couldn't give an estimate.

Contacted by a reporter last week, Turner took a different stance. He vowed to schedule a hearing.

He said he was mistaken when he said the bill wasn't bipartisan. He said he is still concerned about the fiscal impact, but he also is troubled by the current law.

"If you are harboring a criminal, you are just as guilty as the criminal," said Turner, who voted for the earlier version. "That is a bill that needs to move."

Even if the bill moves through the Assembly, it won't get a hearing before the Senate committee that handles crime issues, chaired by state Sen. Lena Taylor (D-Milwaukee).

Taylor's chief of staff, Eric Peterson, said Taylor will not hold a hearing because of the penalties and ambiguity in the bill. Taylor, who once worked as a public defender, declined to be interviewed.

Peterson said, "A parent could be acting without any evidence of a crime and could in some way destroy evidence without even knowing it and commit a crime without even knowing, and that is a concern."

Krusick said even if the bill doesn't move this session, she plans to bring it back.

"A crime should not be a family affair, and aiding a serious felon should be a serious offense," she said.

PROPOSED CHANGES TO 'HARBORING' LAW

If you want to contact key lawmakers about a bill that would change Wisconsin's law on harboring a felon (Assembly Bill 613), here is the contact information:

Key Assembly members

Rep. Robert Turner (D-Racine) chairman of Assembly Committee on Criminal Justice, (608) 266-0731

Rep. Michael Sheridan (D-Janesville), speaker, (608) 266-7503

Rep. Peggy Krusick (D-Milwaukee), bill's author, (608) 266-1733

Key Senate members

Sen. Lena Taylor (D-Milwaukee) chair of Senate Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing, (608) 266-5810

Sen. Russell Decker (D-Wausau), Senate majority leader, (608) 266-2502

Sen. Alberta Darling (R-River Hills), co-sponsor, (608) 266-5830

Other officials

Gov. Jim Doyle, (608) 266-1212

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Other cases affected by the law



Kevin Bohannon was robbed and killed as he walked through Mitchell Park on the south side in July 2006. The suspect's brother hid the gun, Assistant District Attorney Mark Williams said. The brother could not be charged.



Brandon Sprewer, a special Olympian, was robbed and murdered two months later as he was waiting for a bus on Milwaukee's northwest side. The gunman gave the murder weapon to his brother, who hid it, Williams said. Again, no charges.



Joey George was killed outside an Oak Creek bar a decade ago. The three suspects were helped by friends and family, authorities said. Only one unrelated friend was convicted of harboring.

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<http://www.jsonline.com/news/milwaukee/89853102.html>

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