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Constitutional Amendment on Bail Passes Assembly, Goes to Voters

Madison, WI – The State Assembly today passed a joint resolution to amend the Wisconsin State Constitution, the final legislative step in a process that would reform the legal procedure for how judges set cash bail for individuals accused of violent crimes.

Currently, the constitution states that bail can only be imposed to assure appearance in court, protect members of the community from “serious bodily harm,” or “prevent the intimidation of witnesses.” The definition for “serious bodily harm” only contemplates “death or risk of death,” but does not include harm that comes with other crimes such as child molestation or human trafficking.

“Violent criminals should not be given unspoken approval by the system to repeatedly victimize our communities,” said Rep. Cindi Duchow (R-Delafield) who authored the proposed amendment. “Judges and law enforcement officers see the revolving door of arrests, low bail, release, and re-arrest, and they are asking for change.”

The [proposed constitutional amendment](#) would allow judges to consider the totality of the circumstances when setting bail for violent crimes. Under the proposed language, if a defendant is charged with a violent crime, a court could consider previous convictions for violent crimes, the probability the accused would fail to appear in court, the need to protect members of the community from serious harm, prevent witness intimidation, and potential affirmative defenses of the accused.

“The question voters need to ask themselves is ‘What system is a better balance with safety and liberty?’” said Rep. Duchow. “Currently, the system is simply asking if a defendant will appear for their court dates. With this change, judges can use their discretion within transparent, common-sense boundaries.”

The Wisconsin Constitution requires the joint resolution to be adopted by the Senate and Assembly by consecutive legislatures, and then submitted to voters as a referendum. The measure now goes to voters on the April 4 ballot.

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Rep. Duchow represents the 99th Assembly District, which includes the villages of Lac La Belle, Chenequa, Hartland, Merton, Nashotah, Oconomowoc Lake, Wales, and portions of the village of Summit; the towns of Delafield, Merton, Oconomowoc, and portions of the town of Lisbon; and the City of Delafield.