

Rep. Duchow: Constitutional Amendment on Bail Passes Assembly

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

Currently, judges and court commissioners interpret the Wisconsin Constitution to mean that a defendant's past criminal convictions cannot be used to make determinations when setting bail. 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" does not include acts such as child molestation or human trafficking.

"Judges and court commissioners repeatedly tell me that they are not allowed to consider other common-sense factors when setting bail," said Rep.

Duchow. "As a result, violent criminals are given unspoken approval by the system itself to repeatedly victimize our communities. That's not what the criminal justice system should do."

The proposed constitutional amendment would allow judges to consider the totality of the circumstances when setting bail for violent crimes. Those circumstances would include the seriousness of the offense charged, 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.

"We are removing excuses and empowering judges to use their discretion

appropriately to keep our communities safe.” said Rep. Duchow. “With violent crime from repeat offenders on the rise, it’s time to make sure we’re striking the right balance between keeping our communities safe and presuming innocence.”

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.