

Sen. Wanggaard: Bail reform clears Wisconsin State Senate

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MADISON - Today, the Wisconsin Senate passed a proposed constitutional amendment giving judges more flexibility while setting cash bail amounts. Senator Van Wanggaard (R-Racine) and Representative Cindi Duchow (R-Delafield) authored Assembly Joint Resolution 107 (AJR 107) allowing judges to consider the seriousness of an alleged crime, the past violent criminal history of a defendant, the danger to a community, in addition to the likelihood that the defendant would return to court when setting cash bail.

“Most people don’t realize that under the Wisconsin constitution a judge can only set cash bail in an amount to ensure a person returns to trial. That’s it,” said Wanggaard. “This proposal gives judges the flexibility to protect the community when setting cash bail. It’s common sense.”

Since 1981, Article I, Section 8, Clause 2 of the Wisconsin constitution has stated that “Monetary conditions of release [cash bail] may be imposed...only upon a finding that there is a reasonable basis to believe that the conditions are necessary to assure appearance in court.” Under the proposed constitutional amendment, a judge may consider other factors, such a previous convictions of a violent crime, the need to protect the community and prevent intimidation of witnesses, and potential affirmative defenses.

“Our bail system has been broken since we changed bail in our constitution 40 years ago,” said Wanggaard. “We’ve seen where those changes have gotten us. Considering a single factor when setting bail has put criminals back into our neighborhoods to commit more crime. It’s time we put balance back into our bail system and allow judges to consider a variety of factors when setting bail.”

To amend the constitution, the same resolution must pass the Legislature in two consecutive sessions before being placed before voters in a statewide election. AJR 107 is the first consideration of the proposed amendment. The authors are hopeful the legislature will pass the resolution early next year, and voters will vote on the proposal in April 2023.