

# JustDane: Position on proposed constitutional amendment related to WI bail system

Posted on Friday, Mar 31, 2023

**>> WisPolitics is now on the State Affairs network. Get custom keyword notifications, bill tracking and all WisPolitics content. [Get the app or access via desktop.](#)**

On Tuesday, April 4th, Wisconsin voters will be asked to vote on two proposed Constitutional Amendments that will appear on the ballot as Question 1 & Question 2. The outcome of the vote will decide whether or not Wisconsin adopts a stricter, more inequitable bail system into its constitution. JustDane opposes both Amendments. This referendum has been pushed through the legislature for public ratification, and if passed, will not be considered for veto from Governor Evers. Rather, it will be immediately implemented into Wisconsin's constitution. It is the responsibility of community organizations and advocates to engage the public in a critical conversation about the bail system before the introduction of restrictions that would exacerbate pre existing disparities. Our current bail system is broken. Increasing cash bail for "violent criminals" will only harm the communities that we intend to keep safe. Here at Just Dane, we reject the bail reform referendum as an illogical, discriminatory, and ineffective solution to the question of public safety.

The purported purpose of the cash bail system is to ensure that those charged with offenses attend their court date, but an individual's ability to pay bail is not indicative of their flight risk. Instead of holding individuals accountable, the bail system keeps those who cannot afford bail in custody, directly criminalizing low-income populations. Furthermore, if the bail system is intended to benefit public safety, increasing the bail amount does not make someone less likely to reoffend before their court date. It only favors those who can afford their pre-trial freedom, leaving those at a lower socioeconomic status to remain in custody simply because they do not have the capital to get out. The system is a direct assessment of wealth and impedes on the rights of low-income populations.

Our court system holds the precedent that a person charged with a crime is presumed innocent until proven guilty. This legal standard is ignored by the current cash bail system. Over 70 percent of those currently in local jails are being held pretrial. Those who cannot afford the set bail remain in custody for months at a time, insinuating a predetermination of a guilty verdict based solely on their financial status. Take the example of GF, a recipient of JustDane's bail fund. GF was being held in jail due to their inability to pay the \$500 bail. They had been in jail for two weeks but their employer was still willing to take them back to his work. JustDane was able to pay their bail, and it took another 9 months for the final disposition of the case in which all charges were dismissed. Without JustDane's bail fund, GF would have remained in jail for 9 months, losing their housing and employment, despite the charges ultimately being dismissed. The system that is based on the "innocent until proven guilty" framework forces those individuals with fewer financial resources to forfeit this innate right. Unjust pretrial detentions similar to GF's situation often lead to immense ripples in the individual's life. According to the Prison Policy initiative, "being detained pretrial for just 3 days can impact employment, finances, housing, and the well-being of dependent children. In fact, studies have found that just 3 days of detention can make the lowest-risk dependents less likely to appear in court and more likely to commit new crimes." These instances can further impact the individual's financial status, which is even more egregious when we remember that many individuals who cannot afford bail will have their charges dismissed or will be found not guilty. Ultimately, the damage done by our bail system remains as a long-term impact on their life.

It is clear that the bail system disproportionately impacts those at lower socioeconomic levels. Not only does it target these populations, but it exacerbates present disparities. On average, prior to incarceration, individuals in jail were making less than half of the national median income. The barriers present for low-income populations also make these individuals more vulnerable to the impact of the bail system. For example, if an individual experiencing homelessness is charged with a crime, it is very likely they will not be able to afford bail. If they are able to get out on bail, their homeless status would make it incredibly difficult to abide by the court's regulations. For instance, without a consistent address, individuals experiencing homelessness might not receive court reminders, resulting in them missing their court date. This might lead to additional charges such as bail jumping, and the cycle will continue, further criminalizing the individual for their income and homeless status.

While the cash bail system lacks logic and targets those who are already most vulnerable to other forms of systemic oppression, it is also an ineffective use of time and money. The taxpayer money spent every month on pretrial detention could be reinvested towards a more sustainable and holistic model. New systems are already being explored in states like Illinois, where people accused of non-violence offenses will be released on signature bond while they await a court date. With protections still in place to hold individuals in custody who may be a flight risk or a risk to public safety, the new bail system in Illinois recognizes that guilt is not predetermined. The system emphasizes that the consequences to individual livelihood that result from an unjust bail system are not worth the money and time spent by the state to uphold “public safety”. Illinois is implementing training for prosecutors and town halls to explain the new system to the public. These strategic planning measures help determine what supports need to be put into place as the new policy is rolled out, considering all possible outcomes and risks. Other, more cost effective and human-centered solutions could embody a more just system. Reinvesting in community mental health programs, substance use rehabilitation centers, housing assistance, or job training programs is proven to reduce recidivism and lead to longer term stability. Leaning on preexisting systems of the criminal justice system, such as supervised release, restorative justice, and other diversion tactics can help bridge the gap as we strive towards the abolition of the bail system and a reduction of incarceration rates. Treatment and diversion budgets are already in place across the country. They just need to be further financially bolstered. A system can be created that quells public concern for crime in the community while also valuing equity. We just need to be creative enough to imagine and implement such solutions.

Considering the lack of logic and harmful impact of the Wisconsin cash bail system, JustDane opposes both of the proposed Constitutional Amendments and urges our supporters to vote “no” on both. It is our hope that after this election our State Legislature will take a serious, evidence based and equitable approach to the issue of bail reform. The current system not only targets low-income populations, but exacerbates the disparities already present in our criminal justice system. We must find a way to change or abolish this system that creates a rotating door of people, focused on illogical punitive ends rather than public safety, rehabilitation, and equity.