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Rep. Duchow Testifies on Wisconsin Constitutional Bail Amendment

Madison, WI – A public hearing was held today regarding AJR 93, which would amend Wisconsin’s constitution in determining conditions of release on bail.

Under the Wisconsin Constitution, judges are prohibited from considering the dangerousness of an individual when deciding the initial question on whether to impose case bail. Specifically, under Article I Section 8 (2), the state Constitution reads: *“Monetary conditions of release may be imposed at or after the initial appearance only upon a finding that there is a reasonable basis to believe that the conditions are necessary to assure appearance in court”*.

“Commissioners and judges say over and over they are not allowed to consider the dangerousness or violence of a defendant when deciding how much cash bail to set,” said Rep. Duchow. “We believe an update is needed to provide additional flexibility when determining bail amounts by including the consideration of the safety of the community, seriousness of offense, and previous record to reflect the needs of the present.”

Our state Constitution also specifies that: *“All persons, before conviction, shall be eligible for release under reasonable conditions designed to assure their appearance in court, protect members of the community from serious bodily harm, or prevent the intimidation of witnesses.”* The term “serious bodily harm” refers to bodily injury which causes or contributes to death or disfigurement. As applied, this has resulted in excluding crimes such as molestation of a child or repeat offenders for drunk driving.

“This amendment would allow judges to consider multiple factors, instead of just ensuring appearance in court, when determining the amount of bail,” Rep. Duchow explained. “We need to ensure the members of the community are protected, and this amendment does exactly that.”

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Representative Duchow represents the 99th Assembly District which includes the communities of Chenequa, Delafield, Dousman, Hartland, Merton, Nashotah, Oconomowoc Lake, Ottawa, and Wales; and portions of Genesee, North Prairie, Oconomowoc, and Summit.