



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2017 Assembly
Joint Resolution 93**

**Assembly Amendments 1, 2,
and 3**

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BACKGROUND

Wisconsin Constitution Article I, Section 6 provides that a person shall not be subjected to excessive bail, nor excessive fines, nor cruel and unusual punishments.

Wisconsin Constitution Article I, Section 8 (2) provides that a person accused of a crime is eligible for release, before conviction, under specified conditions and that monetary conditions of release may be imposed only upon a finding that there is a reasonable basis to believe they are necessary to assure appearance in court.

Wisconsin Constitution, Article I, Section 8 (3) states that the Legislature is authorized to provide by law that a court may deny release to a person accused of certain serious felonies, for specified time periods, in certain cases. One of the felonies to which the provision applies is a sexual assault punishable by a maximum imprisonment of 20 years.

2017 ASSEMBLY JOINT RESOLUTION 93

The joint resolution proposes a constitutional amendment to the 2017 Legislature on first consideration. Among other changes, it removes the requirement in Article I, Section 8 (2) that monetary conditions of release be imposed only upon a finding that there is a reasonable basis to believe they are necessary to assure appearance in court. It also adds a requirement to Article I, Section 6 specifying that a court fixing an amount of bail shall take into consideration the seriousness of the offense charged, the previous criminal record of the accused, the probability that the accused will appear in court, and the need to protect members of the community from serious harm or prevent the intimidation of witnesses.

ASSEMBLY AMENDMENT 1

Assembly Amendment 1 adds the words “or more” to the provision in the joint resolution referencing the maximum imprisonment for a sexual assault to which Article I, Section 8 (3) applies, so that the provision refers to a sexual assault punishable by a maximum imprisonment of 20 years **or more**.

ASSEMBLY AMENDMENT 2

Assembly Amendment 2 changes the factors added to Article I, Section 6 under the joint resolution into permissible factors, instead of mandatory. The amendment provides that a court fixing an amount of bail **may** take into consideration the seriousness of the offense charged, the previous criminal record of the accused, the probability that the accused will appear in court, and the need to protect members of the community from serious harm or prevent the intimidation of witnesses.

ASSEMBLY AMENDMENT 3

Assembly Amendment 3 modifies the factor added to Article I, Section 6 under the joint resolution that relates to protection of members of the community from “serious harm.” The amendment adds the words “as defined by the legislature by law” so that the provision refers to the need to protect members of the community from serious harm, **as defined by the legislature by law**.

BILL HISTORY

Representative Duchow offered Assembly Amendment 1 on January 23, 2018. On January 30, 2018, the Assembly Committee on Constitution and Ethics recommended adoption of the amendment on a vote of Ayes, 7; Noes, 0; and passage of the joint resolution, as amended, on a vote of Ayes, 5; Noes, 2.

Representative Duchow offered Assembly Amendments 2 and 3 on February 22, 2018. On the same date, the Assembly adopted Assembly Amendments 1, 2, and 3, by voice votes, and passed the joint resolution, as amended, on a vote of Ayes, 69; Noes, 24.

BL:ksm