



State of Wisconsin
2023 - 2024 LEGISLATURE

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2023 ASSEMBLY JOINT RESOLUTION 100

December 8, 2023 - Introduced by Representatives CLANCY, MADISON, J. ANDERSON, CONLEY, CONSIDINE, MOORE OMOKUNDE, SHELTON and STUBBS, cosponsored by Senator TAYLOR. Referred to Committee on Corrections.

1 **To create** section 4 (3) (c) of article VI of the constitution; **relating to:** custody of the
2 county jail and its inmates (first consideration).

Analysis by the Legislative Reference Bureau

The Wisconsin Supreme Court has held that the county sheriff has the inherent constitutional authority to exercise custody of the county jail and its inmates. See *State ex rel. Kennedy v. Brunst*, 26 Wis. 412 (1870); *Kocken v. Wisconsin Council of Churches* 40 2007 WI 72. This proposed constitutional amendment, proposed to the 2023 legislature on first consideration, amends the Wisconsin Constitution to provide that the sheriff has custody of the county jail and its inmates except to the extent the county board of supervisors delegates that authority to another public officer or entity designated by the county board.

A proposed constitutional amendment requires adoption by two successive legislatures, and ratification by the people, before it can become effective.

3 **Resolved by the assembly, the senate concurring, That:**
4 **SECTION 1.** Section 4 (3) (c) of article VI of the constitution is created to read:
5 [Article VI] Section 4 (3) (c) The sheriff shall have custody of the county jail and
6 its inmates except to the extent the county board of supervisors delegates custody of

1 the county jail and its inmates to another public officer or entity designated by the
2 board of supervisors.

3 **SECTION 2. Numbering of new provision.** If another constitutional
4 amendment ratified by the people creates the number of any provision created in this
5 joint resolution, the chief of the legislative reference bureau shall determine the
6 sequencing and the numbering of the provisions whose numbers conflict.

7 ***Be it further resolved, That*** this proposed amendment be referred to the
8 legislature to be chosen at the next general election and that it be published for 3
9 months previous to the time of holding such election.

10 (END)