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(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

1999-00

(session year)

Assembly

(Assembly, Senate or Joint)

**Committee on ... Judiciary and Personal Privacy
(AC-JPP)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (May/2012)





Assistant Majority Leader

Testimony for Assembly Bill 436- Limits on Recovery
State Representative Bonnie Ladwig, Author
October 12, 1999

Dear Chairman Huebsch and members of the Assembly Judiciary Committee:

Thank you for holding a hearing on Assembly Bill 436, with regards to limits on recovery for injuries from a motor vehicle accident. I greatly apologize for not being able to testify in person. I have an out-of-state commitment that is prohibiting me from being here today.

Uninsured drivers are a common problem throughout the United States and Wisconsin is no different. It is estimated that 15% of drivers involved in accidents in Wisconsin are uninsured.

AB 436 prevents uninsured or drunk drivers from recovering non-economic damages when they are involved in an accident. According to s. 893.55 (4) (a), "Non-economic damages means moneys intended to compensate for pain and suffering; humiliation; embarrassment; worry; mental distress; non-economic effects of disability including loss of enjoyment of the normal activities, benefits and pleasures of life and loss of mental or physical health, well-being or bodily functions; loss of consortium, society and companionship; or loss of love and affection."

The intent of this bill is to encourage people to obtain auto insurance. If they are uninsured or if they are drunk, then they are going to be prohibited from recovering from those who obtain insurance.

I believe that it is wrong to allow someone who does not feel the need to purchase auto insurance to use another person's insurance to recover non-economic damages. We should not be rewarding people who find it financially unnecessary to protect themselves. If they think auto insurance is frivolous then they should be unable to recover for pain and suffering on someone else's insurance. This does not include economic damages such as medical bills, cost of fixing or replacing the vehicle, or loss of wages.

Numerous other states have passed forms of this law. California passed Proposition 213 in 1996. A study of Proposition 213 found a 5% reduction in premiums or about \$40 per person. That is over \$440 million dollars across the state. I believe that Wisconsin could benefit in some of the same ways from passage of AB 436.

Again, I thank you for holding a hearing on AB 436, and I would encourage you to contact me with any questions.



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Madison, Wisconsin 53703-2897
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THE WISCONSIN STATE ASSEMBLY
COMMITTEE ON JUDICIARY AND PERSONAL PRIVACY
PUBLIC HEARING ON
AB 456

TESTIMONY
OF
PAUL E. SICULA
ON BEHALF OF THE
WISCONSIN ACADEMY OF TRIAL LAWYERS
October 12, 1999

AB 436
folder

Members of the committee, my name is Paul E. Sicula. I am the legislative representative of the Wisconsin Academy of Trial Lawyers. In addition, I am an attorney with a private practice in Milwaukee. Thank you for the opportunity to present this testimony strongly opposing Assembly Bill 456.

The Wisconsin Academy of Trial Lawyers (WATL) is a voluntary, statewide bar association whose 1,000 members are attorneys who represent injured consumers in personal injury litigation. We view AB 456 as a dangerous piece of legislation because it destroys the basic foundation of the civil justice system: accountability. Wisconsin's liability system is premised on wrongdoers being responsible for the damages they cause.

AB 456 punishes the wrong people. It blames innocent people for an accident they didn't cause, while allowing the person who caused the injuries to pay less than the full amount of damages caused. Why shouldn't wrongdoers be responsible for all the damages they cause?

We assume the purpose of this bill is to eliminate the number of uninsured drivers. That is a laudable goal. The problem is this bill is not likely to be a major factor in attaining that goal. There is no evidence from other states which have enacted this provision that it will change the behavior of uninsured drivers.

According to the Insurance Research Council, 11 percent of Wisconsin's drivers are uninsured. We rank 35th in the country and have a lower percentage of uninsured than Minnesota, Illinois, Michigan and Indiana. We have attached a table showing Wisconsin's ranking.

It is also impossible to believe insurance rates will be affected. According to the Wisconsin Office of Commissioner of Insurance, Wisconsin continues to have among the lowest automobile insurance rates in the country. The National Association of Insurance Commissioners (NAIC) ranked Wisconsin 7th lowest in combined average premium, at \$603.84 in 1997. The average premium in Wisconsin is \$195.00, or 25%, lower than the national average. Attached is a chart, prepared from NAIC figures, showing Wisconsin has consistently had lower automobile insurance premiums.

Our low premiums have not prevented insurers from being profitable. Wisconsin insurers were very profitable in 1997, paying out only 62 cents to injured consumers for every premium dollar they received. These figures were reported by the insurance companies to Wisconsin's insurance commissioner.

Governor Tommy G. Thompson said earlier this year, "Wisconsin's competitive insurance marketplace is a big reason why auto insurance is a bargain in Wisconsin. Low cost insurance is one of the many unseen factors that add to Wisconsin's quality of life and make it a great state to live in." Our comparatively low cost of auto insurance shows how effective Wisconsin's current system is in compensating injured consumers while leaving insurance premiums affordable.

One of the most disturbing aspects of this bill is the determination that noneconomic damages are not essential to injured consumers and their families. Recently the Wisconsin Supreme Court explained the importance of noneconomic damages, "The loss of noneconomic damages in any amount ... is significant because

noneconomic damages are essential to a tort victim. ...[A] tort victim 'gains nothing' from the jury's award for economic loss, since that money merely replaces that which he has actually lost. It is only the award above the out-of-pocket loss that is available to compensate in some way for the pain, suffering, physical impairment or disfigurement that the victim must endure until death." Recovering from an accident is often a slow process, requiring months of physical therapy, often relearning a simple physical activity, like walking, riding a bike, writing or lifting your arm over your head. Allowing the wrongdoer to escape compensating the injured person for noneconomic damages denies the existence of these damages.

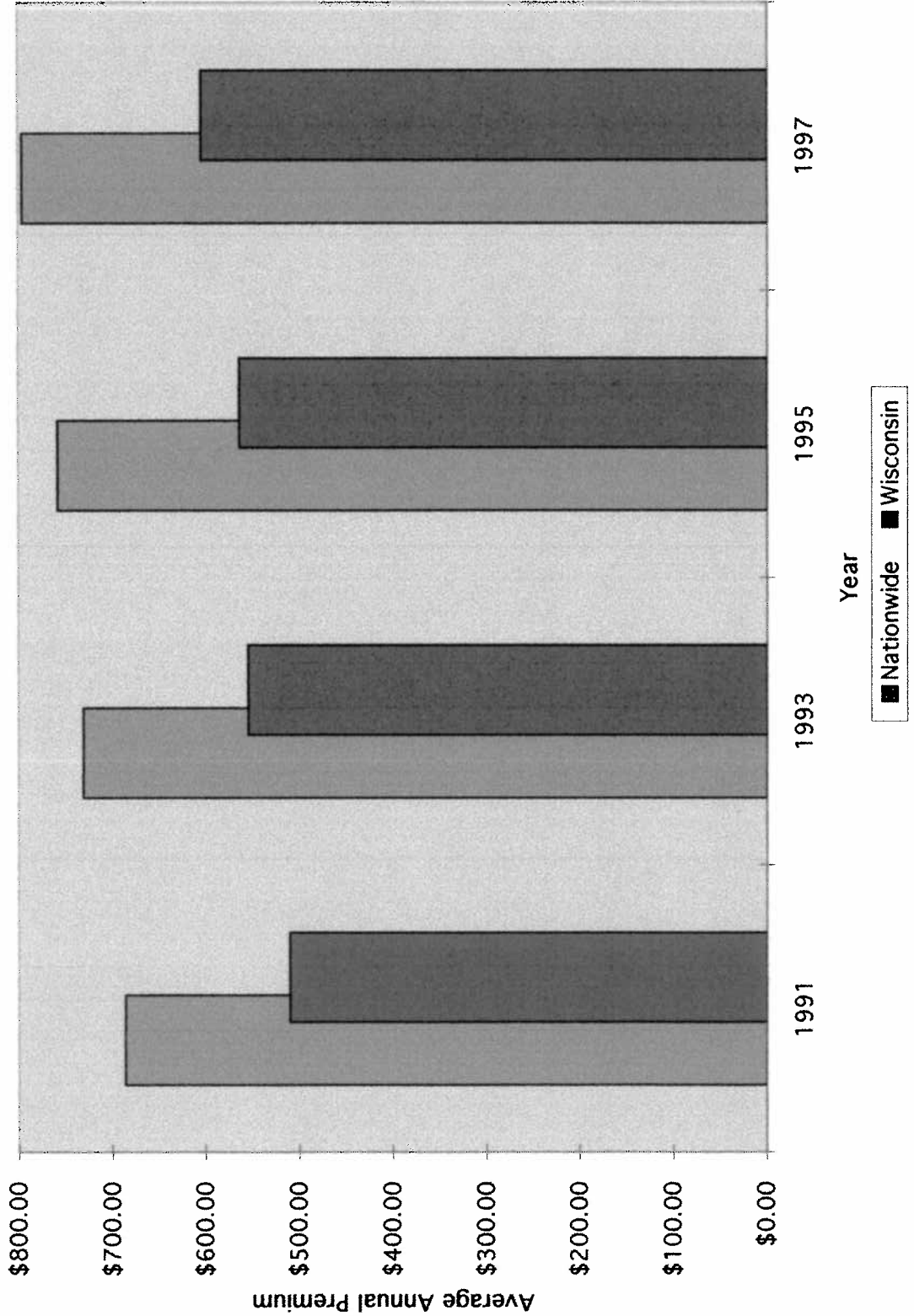
We urge the committee to oppose this wrongheaded piece of legislation.



***State Uninsured Motorist Estimates
1989-1995***

State	Percent	Rank
Colorado	34%	1
Mississippi	29%	2
Alabama	28%	3
New Mexico	27%	4
California	26%	5
Indiana	15%	20
Michigan	14%	24
Minnesota	14%	25
Wisconsin	11%	35
Iowa	10%	36
Massachusetts	7%	47
Nebraska	7%	48
South Dakota	6%	49
North Carolina	5%	50
Maine	5%	51
<i>Source: Insurance Research Council, Uninsured Motorists, 1999</i>		

Wisconsin Auto Premiums Are Less Than National Average







WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536
Telephone: (608) 266-1304
Fax: (608) 266-3830
Email: leg.council@legis.state.wi.us

DATE: January 14, 2000
TO: REPRESENTATIVE MICHAEL HUEBSCH, CHAIRPERSON, ASSEMBLY
COMMITTEE ON JUDICIARY
FROM: Don Dyke, Senior Staff Attorney
SUBJECT: 1999 Assembly Bill 436, Relating to Limits on Recovery for Injuries From a
Motor Vehicle Accident

This memorandum, prepared at your request, describes the provisions of the above-captioned bill. A public hearing on the proposal was held on October 12, 1999.

1999 Assembly Bill 436 prohibits recovery of noneconomic damages in two situations: (1) when an individual is injured while operating a motor vehicle that he or she knows or should have known is not covered by a motor vehicle insurance policy with specified minimum liability limits; and (2) when an individual is injured while operating a motor vehicle and, as a result of the same incident, is convicted of specified offenses relating to operating a vehicle while intoxicated.

Under the proposal, "motor vehicle" is broadly defined [see s. 340.01 (35), Stats.] but does not include all-terrain vehicles or snowmobiles. "Noneconomic damages" is given the meaning under current s. 893.55 (4) (a), Stats.:

[M]oneys intended to compensate for pain and suffering; humiliation; embarrassment; worry; mental distress; noneconomic effects of disability including loss of enjoyment of the normal activities, benefits and pleasures of life and loss of mental or physical health, well-being or bodily functions; loss of consortium, society and companionship; or loss of love and affection.

A. LIMIT ON RECOVERY OF NONECONOMIC DAMAGES WHEN OPERATING UNINSURED OR UNDERINSURED MOTOR VEHICLE

Assembly Bill 436 prohibits, subject to the exception described below, an individual who operates a motor vehicle that he or she knows or should have known is not covered by a motor vehicle insurance policy with specified minimum liability limits from recovering noneconomic damages for his or her accidental bodily injury or death caused by the negligence of another person and arising out of the operation of the motor vehicle. The specified minimum liability limits for the motor vehicle insurance policy, exclusive of interest and costs, are: \$25,000 because of bodily injury to or death of one person in any one accident; and, subject to that limit for one person, \$50,000 because of bodily injury to or death of two or more persons in any one accident; and \$10,000 because of injury to or destruction of property of others in any one accident. These are the same minimum liability limits that currently apply to motor vehicle insurance policies for purposes of the state's safety responsibility law; i.e., a motor vehicle insurance policy that meets the stated minimum limits is sufficient for purposes of proof of insurance under the financial responsibility law. [ss. 344.15 and 344.33, Stats.]

The bill does allow an individual who is otherwise prohibited from recovering noneconomic damages under the proposal because he or she was operating an uninsured or underinsured motor vehicle owned by another person to recover noneconomic damages from the owner of the vehicle if: (1) the owner of the motor vehicle did not provide a motor vehicle insurance policy with the required minimum liability limits covering the motor vehicle that the individual was operating at the time of his or her injury or death; and (2) the individual would have recovered noneconomic damages for his or her accidental bodily injury or death caused by the negligence of another person if the individual had not otherwise been prohibited from recovering such damages.

B. LIMIT ON RECOVERY OF NONECONOMIC DAMAGES BY OPERATOR OF MOTOR VEHICLE CONVICTED OF OPERATING WHILE INTOXICATED (OWI)-RELATED OFFENSE

Assembly Bill 436 prohibits an individual whose operating privilege is revoked for refusing to submit to a test to determine the amount of alcohol in his or her blood or breath or who is convicted of a specified OWI-related offense from recovering noneconomic damages for his or her accidental bodily injury or death caused by the negligence of another person and arising out of the operation of the motor vehicle if the injury and the conviction or revocation arose out of the same incident. The OWI-related offenses to which the limitation applies are: ordinary OWI [s. 346.63 (1), Stats.], including a local ordinance in conformity with the state statute or a law of a federally recognized American Indian tribe or band in the state in conformity with the state statute; OWI causing injury [s. 346.63 (2), Stats.]; specified violations of homicide by intoxicated use of a vehicle [s. 940.09 (1) (a), (b), (c) and (d), Stats.] and specified violations of injury by intoxicated use of a vehicle [s. 940.25 (1) (a), (b), (c) and (d), Stats.].

C. EFFECTIVE DATE; INITIAL APPLICABILITY

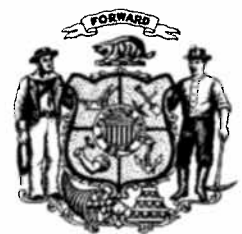
If enacted, Assembly Bill 436 would take effect on the first day of the sixth month beginning after its official publication. It would first apply to injuries or deaths occurring on the effective date of the act.

If you have any questions or need additional information, please contact me directly at the Legislative Council Staff offices.

DD:rv:ksm;jal



WISCONSIN STATE LEGISLATURE



JUNEAU COUNTY BOARD OF SUPERVISORS

220 East State Street
Mauston, Wisconsin 53948
Phone: 608-847-9300

AB 436
folder

James C. Barrett, Chairman
Edward R. Brown, 1st Vice Chair
Alan K. Peterson, 2nd Vice Chair

January 14, 2000

The Honorable Mike Huebsch
Assembly Judiciary Committee Chairman

The Juneau County Court System has been operating with one Judge to facilitate the judicial requirements in Juneau county. The weighted caseload has shown the judicial need in Juneau County at one and a half judges for more than five years.

Juneau county has had to employ a Court Commissioner to assist in handling traffic, small claims, and civil juvenile cases twice a month on intake days, at county expense. The County has also had to bear the costs of a Court Reporter for the Court Commissioner when hearing these cases. The Court Commissioner has assisted in the default divorces to help alleviate time and scheduling for the Judge to attend to other judicial matters. The default divorces are usually heard two days a month.

Juneau county has a Reserve Judge three times a month to help expedite some of the caseload. It is not know how much longer Reserve Judges will be available to Juneau County.

By the statistics enclosed you can see justice is delayed because of the court time available with only one Judge. It is very difficult for one Judge with this caseload to be able to attend the required Judicial Education Courses and take vacation.

In the next two years the City of Mauston will have a Sexual Predator facility housing approximately three hundred inmates and the City of New Lisbon will have a medium security prison housing approximately five hundred inmates. These two new facilities within Juneau County will have a significant impact on the Juneau County court system and the judicial need will increase even more.

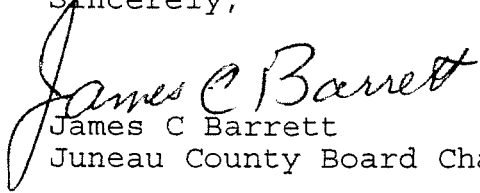
On March 16 , 1999 the Juneau County Board of Supervisors met and passed Resolution 99-18, approving and supporting the need for a second Judge in Juneau County.

The Juneau County Board of Supervisors passed Resolution 99-84 on November 16, 1999, approving the construction of a new Justice

Center, which provides the court system with two jury courtrooms and one non-jury courtroom, two jury deliberation rooms, three judges chambers (one for visiting judges), and a Family Court Commissioner office. This includes areas for the three Scheduling Clerks, three Court Reporters, District Attorney's office, Probate office and the Clerk of Circuit Court's office. Our intention is to fully support a second Judge in Juneau County.

Your consideration in approving a second judge for Juneau County would be greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "James C Barrett". The signature is written in dark ink and is positioned above the typed name and title.

James C Barrett
Juneau County Board Chairman

JUNEAU COUNTY COURT SYSTEM

COURT CASELOAD STATISTICS 1995 TO 1999

CIVIL CASES :	1995 -----	1996 -----	1997 -----	1998 -----	1999 -----
CIVIL	200	217	248	184	220
SMALL CLAIMS	920	792	719	675	726
FAMILY	147	142	162	156	178
PATERNITY	74	81	90	77	58
TRAFFIC CASES:	5496	5369	6304	6124	7040
FORFEITURES :	416	731	1057	1237	1282
JUVENILE JO :	493	480	446	428	408
CRIMINAL CASES:					
TRAFFIC :	197	210	244	207	262
MISDEMEANOR:	429	401	403	384	356
FELONY :	175	164	165	173	176
PROBATE OFFICE					
PROBATE :	45	38	27	23	33
GUARDIANSHIPS:	36	77	52	44	49
MENTALS :	68	71	109	100	115
ADOPTIONS :	7	9	9	8	12
JUVENILE JV:	58	100	80	77	70
TPR :		8	8	8	10
TOTAL CASE LOAD :	8,761	8,890	10,123	9,905	10,995

HONORABLE JOHN W BRADY , PRESIDING
CLERK OF CIRCUIT COURT, LOUISE SCHULZ

Juneau County Board of Supervisors

Courthouse, 220 East State Street
Mauston, Wisconsin 53948



March 16, 1999
Resolution 99 - 18

RESOLUTION SUPPORTING CREATION OF ADDITIONAL CIRCUIT COURT JUDGESHIP FOR JUNEAU COUNTY

Sponsor: Executive Committee

Intent: Place Juneau County on record in support of a second judgeship for the County.

Fiscal

Impact: Undetermined.

WHEREAS, statistics kept by the Director of State Courts show that growth in the caseload of the Circuit Court for Juneau County has now reached the point where there is a need for a second Circuit Judge position in Juneau County;

WHEREAS, the current volume of cases has led to delays in processing cases and exceeds the reasonable capacity of the County's single judge to handle, and future growth of the County and construction of state institutions makes it likely the caseload will increase further in the near future;

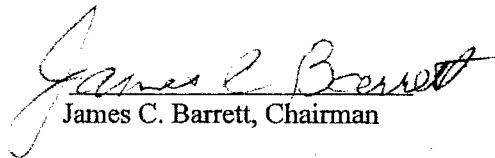
WHEREAS, creation of a second judgeship will reduce the need to bring judges from other counties to Juneau County when substitution requests are filed, which will reduce costs and speed the administration of justice;

WHEREAS, the creation of a second judgeship depends on legislative action to create the position and provide for its funding, and the process commences with an indication of support from the County Board;

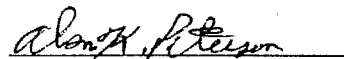
WHEREAS, the Juneau County Board of Supervisors believes that the public interest dictates the creation of a second judgeship, and the County is willing to provide the space and additional resources which will be required by a second judgeship;

NOW, THEREFORE, BE IT RESOLVED, by the Juneau County Board of Supervisors, that Juneau County does hereby support the creation of a second judgeship for Juneau County, and requests the State of Wisconsin to provide that judgeship as soon as reasonably possible.

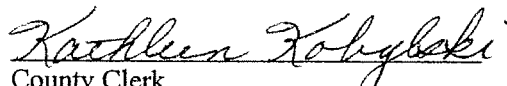
AND BE IT FURTHER RESOLVED, that the Juneau County Board is aware that the additional Judgeship will require the County to expend a substantial amount of funds for additional furniture, supplies and equipment, and for the salaries and benefits of additional clerical support for the additional Judge.


James C. Barrett, Chairman


Edward R. Brown


Alan K. Peterson

Adopted by the County Board of Supervisors of Juneau County
this 16th day of March, 1999.


County Clerk

Juneau County Board of Supervisors

Courthouse, 220 East State Street
Mauston, Wisconsin 53948



RESOLUTION # 99 - 84

DATE: November 16 , 1999

INTRODUCED JOINTLY BY: Executive Committee and Jail Study Committee

INTENT: To authorize the preparation of the design, construction and bidding documents for the proposed Juneau County Jail and Justice Center

SYNOPSIS: This resolution authorizes Ayers Associates to continue with the designing of the jail and justice center described as concept one in the Concept and Budget Report dated October 28, 1999, that accompanies this resolution.

FISCAL: As detailed in the Concept and Budget Report dated October 28, 1999.

WHEREAS on November 10, 1998, the Juneau County Board of Supervisors established a Jail Study Committee ("Study Committee") to examine and evaluate the future space needs of the Juneau County Jail, the Juneau County Circuit Court and related offices, said committee consisting of the following members:

James Barrett, Chair County Board
Alan Peterson, County Board, Jail Study Committee Chair
Herbert Carlson, County Board
Sharon Halverson, County Board
John Brady, Judge
Brent Oleson, Sheriff
Florence Searles, Corporation Counsel
Dennis Schuh, District Attorney
Kathleen Kobylski, County Clerk
Lori Chipman, Auditor/Accountant
Ronald Brunner, Citizen Member
Paul Curran, Citizen Member
Robert Lee, State Jail Inspector
David Pelton, Mayor, City of Mauston

WHEREAS, on December 7, 1998, the Study Committee attended an educational seminar, "Exploring Your Options in County Jail Construction" presented by the Wisconsin Counties Association, as a foundation for evaluating Juneau County's jail and court needs;

WHEREAS, on December 18, 1998, the Study Committee met with representatives of the Department of Corrections to discuss the feasibility of creating a jail facility at the present site of the Pleasant Acres Nursing Home, New Lisbon, Wisconsin, and subsequently determined that said site was not appropriate for structural and geographical reasons; and

WHEREAS, the Study Committee toured and examined the present Juneau County Jail and Circuit Court facilities; and

WHEREAS, the Study Committee met with representatives of the State Historical Society on March 19, 1999, to discuss the ramifications of adding on/remodeling the present Juneau County Courthouse relative to its status as a National Registered Historic site; and

WHEREAS, the Study Committee toured, studied and evaluated jail and court facilities in seven (7) counties; and concluded that the "pod" system of jail construction is the most efficient in terms of employees required, prisoner control, and employee safety; and

WHEREAS, in April 1999, the Study Committee solicited and received from the Juneau County Sheriff, Circuit Judge, Clerk of Courts, District Attorney and Register of Probate their respective estimates of projected space needs; and

WHEREAS, the Study Committee has reviewed costs of boarding and transferring prisoners in facilities of other counties; and

WHEREAS, the Study Committee has reviewed jail population projections to determine the requirements for the Juneau County Jail for the next twenty (20) years, and

WHEREAS, the Juneau County Board of Supervisors affirmed its commitment to providing facilities for a second branch of the circuit court and related offices, as detailed in Resolution No. 99-18; and

WHEREAS, the Study Committee examined the possibility of building a jail and judicial center in a site outside the present courthouse square, but rejected said "green site" after considering the availability of such a site and the necessary interrelationship between the court system and all county departments; and

WHEREAS, the Study Committee invited five (5) architectural firms to make presentations regarding their respective abilities to conduct a space and needs analysis of Juneau County's jail and court needs; and

WHEREAS, the Study Committee retained Ayres Associates to provide a Concept and Budget Study; and

WHEREAS, the Study Committee directed Ayres Associates to prepare concept plans and cost estimates for two options: (One) a new two story justice center placed in the area south of and connected to the Annex Building and (Two) a four story addition to the east side of the Courthouse; and

WHEREAS, the Study Committee has reviewed and compared the capital cost, staffing requirements, and other issues in regard to the two options; and

WHEREAS, the staffing requirements are less for option one; and

WHEREAS, the security for staff and public is greater in option one; and

WHEREAS, greater potential for future expansion exists with option one;

THEREFORE, BE IT RESOLVED that Juneau County is hereby authorized to engage Ayres Associates to prepare the design, construction documents, and bidding documents for the new jail and justice center described as concept one in the Concept and Budget Report dated October 28, 1999, such work to be directed and reviewed by the Jail Study Committee, and that the Jail Study Committee shall bring to the County Board, no later than October, 2000, the results of public bidding for construction of the justice center and recommendations for award of the construction contract to the Board for their review and action.

INTRODUCED AND RECOMMENDED FOR ADOPTION ON NOVEMBER 16, 1999.

EXECUTIVE COMMITTEE:

James C. Barrett
James C. Barrett

Edward R. Brown
Edward R. Brown

Alan K. Peterson
Alan K. Peterson

JAIL STUDY COMMITTEE:

James C. Barrett
James C. Barrett

Herbert Carlson
Herbert Carlson

Alan K. Peterson
Alan K. Peterson

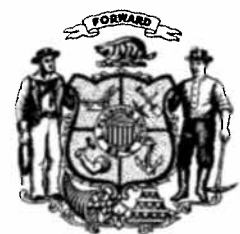
Sharon Halverson
Sharon Halverson

Adopted by the County Board of Supervisors
of Juneau County on November 16, 1999.

Kathleen C. Kobylski
Kathleen C. Kobylski, County Clerk



WISCONSIN STATE LEGISLATURE





**STATE BAR
of WISCONSIN**

5302 Eastpark Blvd.
P.O. Box 7158
Madison, WI 53707-7158

MEMORANDUM

To: Assembly Judiciary Committee Members
From: Jim Fergal, Litigation Section Chair
Date: January 18, 2000
Re: AB436--Limited immunity for uninsured drivers

The Litigation Section has taken no formal position on AB436, however, we plan on reviewing the matter at our board meeting next week. The Section has historically opposed any bill that would limit immunity.

The Section feels that it would be inappropriate to create a public policy that would deny someone to collect damages from a negligent individual because that person lacks insurance.

The Section would like to remind the committee that these injuries often leave people crippled for life with enormous medical bills. Removing the ability of injured parties to pursue action will leave them not only physically harmed but financially dependent on government assistance as well.

I hope the members of the committee take this into consideration when voting on AB436.

If you would like any additional information on the Litigation Section's position on immunity issues, do not hesitate to call me, Jim Fergal at 414/271-090; or Cory Mason, Government Relations Coordinator for the State Bar of Wisconsin at 1/800-444-9404 x6128, email at 'cmason@wisbar.org'

