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4 **AN AMENDED RESOLUTION**

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6 Mourning the tragedy of the Waukesha Christmas Parade Massacre and calling upon  
7 the State of Wisconsin to adopt criminal justice bail reform legislation premised on the  
8 bipartisan model developed in the State of New Jersey which denies pre-trial release to  
9 people who pose a significant danger to the community while releasing defendants  
10 charged with less serious and non-violent offenses  
11

12 WHEREAS, “Wisconsin is one of a handful of states with cash bail, meaning  
13 people have to post the full amount in cash to be released from custody, and it already  
14 has a law on the books to hold people without bail for certain serious crimes,” according  
15 to a February 15, 2022 *Milwaukee Journal Sentinel* article titled, “Assembly Passes Bail  
16 Measure Requiring Court Officials to Factor in a Crime’s Severity, While Senate Passes  
17 COVID, Gun Bills”; and  
18

19 WHEREAS, bail reform has been a hotly-debated topic since 2021 when  
20 according to a November 24, 2021 *Wall Street Journal* article titled, “The Waukesha  
21 Parade Suspect Was Out on Bail. Now the DA is Probing How Bail Is Set,” the alleged  
22 perpetrator of the Waukesha Christmas Parade Massacre was found to have a long and  
23 violent criminal record including allegedly a domestic dispute which rose to the level of  
24 disorderly conduct and recklessly endangering safety when he allegedly punched the  
25 mother of his child and drove over her with his vehicle; with those charges he was out  
26 on a \$1,000 cash bail; and  
27

28 WHEREAS, the Milwaukee County District Attorney testified in File No. 21-1108  
29 that the low bail and subsequent release of the alleged suspect in the Waukesha  
30 Christmas Parade Massacre had been the mistake of a younger assistant district  
31 attorney in an overburdened office; and  
32

33 **WHEREAS, The Supreme Court affirmed in United States V. Salerno that**  
34 **“liberty is the norm, and detention prior to trial or without trial is the carefully**  
35 **limited exception”**; and  
36

37 **WHEREAS, under Wis. Stat. § 969.035 a Circuit Court can deny the release**  
38 **of a person from custody if they are accused of committing or attempting to**  
39 **commit a violent crime and the person has a previous conviction for committing**  
40 **or attempting to commit a violent crime; and**  
41

42           **WHEREAS, a pretrial detention hearing is required where the District**  
43 **Attorney must show by clear and convincing evidence that the defendant**  
44 **committed the crime and the defendant has the right of confrontation, access to**  
45 **police reports, rules of evidence apply meaning no hearsay, and their cases are**  
46 **expedited; and**

47  
48           WHEREAS, the State Bar Association of Wisconsin favors bail reform that uses a  
49 validated risk-assessment tool as the basis for pre-trial detentions, thereby denying bail  
50 to all who pose a significant threat to the community while also releasing defendants  
51 who are charged with non-violent offenses; and

52  
53           WHEREAS, the State Bar Association of Wisconsin believes those individuals  
54 who pose a significant threat to the community should be held pre-trial, regardless of  
55 their wealth and affluence; likewise, the Association believes that setting cash bail for  
56 those who have committed less serious, non-violent offenses needlessly and unfairly  
57 incarcerates less affluent people while enabling wealthier individuals who can pay for  
58 bail to be released and prepare for trial; and

59  
60           **WHEREAS, the National District Attorneys Association Standards on**  
61 **Pretrial Release 45.2.1 explicitly states that “Whenever possible, release before**  
62 **trial should be on the recognizance of the accused”.**

63  
64 **; and**

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66           WHEREAS, the State Bar Association of Wisconsin favors a policy similar to that  
67 in New Jersey, where in 2014 the New Jersey Legislature passed, and Republican  
68 Governor Chris Christie signed, Public Law 2014, Chapter 31, more commonly known  
69 as the New Jersey Criminal Justice Reform Act of 2014, which took effect on January 1,  
70 2017; and

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72           WHEREAS, prior to the Act’s adoption in 2014, a New Jersey March 10, 2014  
73 “Report of the Joint Committee on Criminal Justice,” hereto attached to this file,  
74 recommended more supervised pretrial release of suspects, preventive detention when  
75 necessary for those who pose a reasonable risk to community safety or fleeing criminal  
76 charges, and ensuring speedy trials pursuant to the United States Constitution, and  
77 found:

78  
79           “In short, the current system presents problems at both ends of the spectrum:  
80 defendants charged with less serious offenses, who pose little risk of flight or  
81 danger to the community, too often remain in jail before trial because they cannot  
82 post relatively modest amounts of bail, while other defendants who face more

83 serious charges and have access to funds are released even if they pose a  
84 danger to the community or a substantial risk of flight.”

85  
86 ; and

87  
88 **WHEREAS, pretrial detention is unnecessary as very few people released**  
89 **pretrial commit new crimes, and even less commit violent crimes; in Milwaukee**  
90 **County in 2017 98 percent of people released to pretrial supervision whose cases**  
91 **were resolved did not commit new crimes; and**

92  
93 **WHEREAS, pretrial detention exacerbates poverty, defendants risk losing**  
94 **employment, or custody and placement of their children even if they are innocent**  
95 **and additional research concludes that defendants detained for pretrial even**  
96 **briefly are less likely to show up for court than defendants not detained; and**

97  
98 **WHEREAS, the State of Illinois passed the Pretrial Fairness Act that**  
99 **eliminated money bonds in Illinois ensuring that access to wealth plays no role in**  
100 **a person being released and a person is only detained when it is determined that**  
101 **the person poses a specific, real and present threat to a person, or has a high**  
102 **likelihood of willful flight; and**

103  
104 WHEREAS, in the 2020 Annual Report to the Governor and the Legislature,  
105 hereto attached to this file, New Jersey Chief Justice wrote:

106  
107 “Today, four years into the existence of CJR [Criminal Justice Reform],  
108 monetary bail is hardly used, replaced by a system that focuses on a  
109 defendant’s risk of committing new criminal activity or failing to show up for  
110 court, and monitors individuals who are released pretrial.

111  
112 . . .

113  
114 “Defendants released pretrial are still showing up in court at rates comparable to  
115 the bail system. In 2020, court appearance rates exceeded 90 percent for the  
116 first time under CJR.

117  
118 “While no responsible system of pretrial release can eliminate the risk that a  
119 defendant will commit a new crime before returning to court, the percentage of  
120 defendants on pretrial release who are charged with indictable criminal activity  
remains consistently low. . .”

121  
122 ; and

123

124 WHEREAS, a May 9, 2019 *Governing* magazine article titled, “Criminal Justice  
125 Reform Done Right” reported:

126

127 “In 2014, then-Gov. Chris Christie signed a criminal justice reform legislation that  
128 eliminated mandatory cash bail and established a pre-trial monitoring program.  
129 Two and a half years of planning and then two years of careful implementation  
130 have dramatically reduced pre-trial jail detention with no adverse effects on  
131 public safety or subsequent appearances in court, according to the study, which  
132 was conducted by a research collaborative that included researchers from the  
133 University of Chicago and Luminosity Inc.

134

135 “Now, on any given day an estimated 6,000 individuals who have been accused  
136 of a crime are not in jail but are permitted to continue the conduct of their lives as  
137 they prepare for trial: working, being with their families, and receiving physical  
138 and behavioral health treatment.”

139

140 ; and

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142 WHEREAS, sound criminal justice policy should always seek to strategically  
143 promote fairness while helping to ensure public safety; and

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145 WHEREAS, the Committee on Intergovernmental Relations, at its meeting of  
146 March 10, 2022, recommended adoption of File No. 22-390 as amended (vote 4-0);  
147 now, therefore,

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149 BE IT RESOLVED, Milwaukee County hereby mourns the tragic loss of life and  
150 injury to persons experienced by neighbors in Waukesha County from the November 5,  
151 2021 Waukesha Christmas Parade Massacre and sends its express condolences to all  
152 involved; and

153

154 BE IT FURTHER RESOLVED, Milwaukee County hereby calls upon the State of  
155 Wisconsin to pass into law legislation appropriate to Wisconsin aligning to the bipartisan  
156 criminal justice bail reform model developed by former Republican Governor Chris  
157 Christie and the New Jersey Legislature in 2014, which denies pre-trial release to  
158 people who have been found by a validated risk-assessment tool to pose a significant  
159 danger to the community **or has a high likelihood of willful flight**, while releasing  
160 defendants charged with less serious and non-violent offenses; and

161

162 BE IT FURTHER RESOLVED, Office of Government Affairs staff is authorized  
163 and requested to communicate the contents of this resolution to the Wisconsin

164 Governor and State policymakers, and support legislation that achieves the criteria  
165 outlined in this resolution.

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168 03/10/22

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