



2007 SENATE JOINT RESOLUTION 29

March 21, 2007 - Introduced by Senators A. LASEE, COWLES, SCHULTZ, LEIBHAM and GROTHMAN, cosponsored by Representatives KAUFERT, F. LASEE, GUNDERSON, BALLWEG, KERKMAN, MUSSER, HAHN, ROTH, LOTHIAN, VAN ROY, VOS, J. OTT and KLEEFISCH. Referred to Committee on Judiciary and Corrections.

1 **To amend** section 8 (2) of article I of the constitution; **relating to:** eligibility for
2 release before conviction (first consideration).

Analysis by the Legislative Reference Bureau

Currently, the Wisconsin Constitution provides that a person who is charged with a crime is generally eligible for release before trial, although the court may impose conditions of release. The Wisconsin Constitution further provides that the legislature may authorize, but not require, courts to deny pre-trial release to a person who is accused of committing first-degree homicide or certain sexual assaults, or to a person who is accused of committing or attempting to commit a violent crime if the person has a previous conviction for committing or attempting to commit a violent crime. The statutes currently provide courts such authority to deny pre-trial release.

This proposed constitutional amendment, proposed to the 2007 legislature on first consideration, provides that a person who is present in the United States illegally and who is charged with a violent felony is not eligible for release before trial if the state presents clear and convincing evidence that the person committed the violent felony.

A proposed constitutional amendment requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective.

3 **Resolved by the senate, the assembly concurring, That:**

4 **SECTION 1.** Section 8 (2) of article I of the constitution is amended to read:

1 [Article I] Section 8 (2) All persons, before conviction, shall be eligible for
2 release under reasonable conditions designed to assure their appearance in court,
3 protect members of the community from serious bodily harm or prevent the
4 intimidation of witnesses, except that a person who is present in the United States
5 illegally and is charged with a violent felony is not eligible for release before trial
6 under any circumstances if the state presents clear and convincing evidence that the
7 person committed the violent felony . Monetary conditions of release may be imposed
8 at or after the initial appearance only upon a finding that there is a reasonable basis
9 to believe that the conditions are necessary to assure appearance in court. The
10 legislature may authorize, by law, courts to revoke a person's release for a violation
11 of a condition of release.

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

15 (END)