

## CASH BAIL: AMENDMENTS COULD STRESS SYSTEM

BRIAN DIMMER



### Bail Amendments to Wisconsin Constitution

In an interview posted with “Constitutional Bail Amendments Could Stress Systems” (*InsideTrack*, April 19, 2023), State Bar legal writer Jeff M. Brown spoke with Racine criminal defense lawyer Brian Dimmer about two recently enacted changes to the state constitutional provision on cash bail. Dimmer said the changes will likely add to the pressures on the underfunded criminal justice system.

A reader posted a comment:

**Reader:** It is really just a more honest description of what was already being done. The support for the amendments was a reflection of the wording. The only thing that is different is the courts now have a legal justification for the methods they have used for years. Nevertheless, any additional pressure on the system is too much. Already a significant number of people, presumed innocent, are waiting months for attorneys. Seems like a better idea would have been to tie bail violations to acts and omissions committed while on bail than the underlying case that resulted in bail, perhaps double the minimum and maximum sentence of any crime committed while on bail?

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### Wisconsin's Underfunded Criminal Justice System

In “Criminal Justice Crisis: ‘The Bill is Coming Due’” (*Wisconsin Lawyer*, April

2023), legal writer Jeff M. Brown spoke with Outagamie County District Attorney Melinda Tempelis; Adam Plotkin, the State Public Defender’s legislative liaison; and Michael Covey, an attorney who has built a private practice around indigent-defense appointments. Each person spoke about chronic underfunding of the criminal justice system and the effects they are seeing in their offices and practices and on Wisconsin residents statewide.

A reader posted a comment:



**Reader:** If judges would start dismissing cases with prejudice, for the lack of counsel, the legislature would act faster than a Bob Gibson fastball. By not dealing with this until there is a crisis, the legislature has boxed itself into a corner. If it does nothing, then I predict judges will start dismissing cases.

**Nick Zales**

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### Clarifying Legal Requirements to Obtain Cell Phone Data



In “Discovery from Cell Phones in Civil Cases” (*Wisconsin Lawyer*, January 2023), Matthew Lein provided an overview of the current law surrounding discovery from cell phones in Wisconsin and

discussed how different laws apply to civil cases and the types of information that can be obtained through discovery.

Lein now clarifies that lawyers may obtain a court order before issuing discovery requests but may also issue subpoenas when seeking files from cell phone providers. Moreover, the requestor may need to provide at least some justification, if challenged, as to relevance by another party. That distinction should have been more clear in the original article.

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### Regulating Knives in Wisconsin

In “Knives Out: Regulating Blades in Wisconsin” (*Wisconsin Lawyer*, July/Aug. 2021), Peter Heyne wrote that Wisconsin’s regulation of knives has changed in recent years, especially regarding concealed carry, persons with prior felony convictions, and possessing knives in government buildings such as courthouses.

The article provided a three-part overview of Wisconsin knife laws, criminal and civil: a brief history of Wisconsin knife laws before passage of 2015 Wis. Act 149; a description of the major changes under Act 149, including the creation of Wis. Stat. section 941.231 (Carrying a concealed knife); and a summary of a municipal ordinance post-Act 149 banning knives from a county courthouse.

Heyne has notified the editors that the link to the Brown County Ordinance on knives has changed. Here is the updated link: <https://www.browncountywi.gov/i/f/files/County-Clerk/Ordinances/CHAP003-UPDATED%2007-21-22.pdf>. (The specific ordinance is on pages 35-36 of the PDF.) WL

