

# The return of a very bad idea

By Jeffrey Kremers  
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At 5 a.m. on June 6, the Joint Finance Committee, with little notice and no debate, inserted a provision into the budget allowing the return of commercial bail bondsmen in Wisconsin. They were outlawed 33 years ago in bipartisan legislation signed by then Gov. Lee Dreyfus.

Let me illustrate what this change will mean. Assume John Doe is charged with armed burglary. The Intake Court commissioner considers various risk factors and sets his bail at \$3,500, which he must post to be released from custody. If he misses a court appearance, his \$3,500 is immediately forfeited and he is returned to jail. The county has his money; there is nothing else to be done.

Or, if he makes all his court appearances and is acquitted, he will get his money back. Last year, Milwaukee County returned more than \$3.8 million in bail funds to defendants who complied with their conditions of release, showing the incentive to return is effective. If he is convicted, his bond will go first to his victim for restitution and next to the state for costs and fees. That is our current system.

Under this proposed change, John Doe would pay a bail bondsman only \$350 to get out. The bonding company would then "promise to pay" Milwaukee County \$3,500 if John did not come back to court. If he missed a court appearance and his bond is forfeited there would be three significant differences from our current system.

First, the bounty hunter would have time to find John and return him to court. The new law sets no deadline for the bond company to return the defendant. How long should justice be delayed to suit the timetable of the company whose only interest is to avoid having to pay on its bond?

If the money is forfeited, the court often has to chase the bail bond company to collect. In 2004, bail companies in Dallas were behind by \$35 million. California is owed more than \$100 million by some accounts.

Second, if he makes all his appearances and complies, he does not get his \$350 back. The money he paid to the bail bond company is nonrefundable, so once paid there is no incentive to come to court.

Third, if convicted there would be virtually no money to reimburse any victims or to pay court-ordered costs and fees. In Wisconsin last year, more than \$1.1 million was paid to victims for restitution and \$8.4 million was collected for costs and fees from bail deposits. In four Milwaukee cases last year, victims received more than \$78,000 in restitution from bail money.

Milwaukee County has instituted a data-driven system of making release decisions. This is an individualized assessment of the risk of new criminal activity and failure to appear. It is a model for

the country. We are already safely releasing more defendants, with a higher rate of success, than bail bonds companies claim their system will achieve.

Those who are not able to get out under our system either have a hold or a high bail. We require high bail of some defendants because we have judged them too risky for a lower bail. Judges do not want insurance companies to lower their bail by 90%.

This legislation has been proposed despite nearly universal criticism from judges, district attorneys, defense attorneys, chiefs of police, the Wisconsin Sheriffs and Deputy Sheriff's Association, clerks of court, county boards, mayors, county executives and many others.

We do not need, and should care very much about, the Legislature's attempt to create another way for defendants to get out of jail that is based on profit margins for some bail bond company and not on public safety.

In 33 years, no one has proposed bringing bounty hunters back. Not cops, not prosecutors, not judges.

No one, that is, except the bail bond industry itself.

Contact your legislator and Gov. Scott Walker and tell them you are opposed to the return of bounty hunters in Wisconsin.

*Jeffrey Kremers is chief judge of Milwaukee County Circuit Court.*

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