

August 18, 2021

TO THE HONORABLE CHAIR AND MEMBERS
OF THE BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

**RESOLUTION REQUESTING THAT THE STATE OF WISCONSIN
ADDRESS THE STATE'S PUBLIC DEFENDER CRISIS IN BROWN COUNTY**

WHEREAS, over 300 indigent individuals charged with crimes in Brown County remain both in and out of custody without a Public Defender or other attorney being appointed to represent them, in some cases for over a year, which delays their cases from being resolved while witness memories fade, evidence becomes unavailable, victims wait for justice and the cases risk being dismissed; and

WHEREAS, in Wisconsin, when the State Public Defender (SPD) cannot appoint an attorney from its staff to represent a defendant in a criminal case, the SPD seeks private attorneys to appoint at the 'break-even' rate of \$70 per hour, **to be paid for by the State**; and

WHEREAS, private attorneys often will not accept such SPD cases at said rate, leaving hundreds of Brown County criminal defendants unrepresented, and requiring Brown County Circuit Court Judges to either violate the individuals' rights, or to step in and appoint counsel at the rate of \$100 per hour, **to be paid for by Brown County**; and

WHEREAS, the COVID-19 pandemic has accelerated the State's Public Defender Crisis in Brown County, as it has made it more difficult to find any private attorneys willing to be appointed on these cases for fear of contracting COVID-19, and it has greatly contributed to the backlog of these cases in Brown County; and

WHEREAS, because the State has been unable to adequately address the State's Public Defender Crisis in Brown County, the cost of paying for criminal defense counsel for the indigent has effectively shifted from the State to the County, and is effectively an unfunded mandate; and

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WHEREAS, it is desirable for the State to use American Rescue Plan Act (ARPA) funds to: **1)** address the State’s Public Defender Crisis in Brown County by paying, and/or reimbursing, the County for counsel for indigent criminal defendants that needed to be appointed by local Circuit Court Judges since the pandemic began in March of 2020; and/or **2)** by using ARPA funds to temporarily staff up the local Public Defender Office with experienced attorneys for the next 18 to 24 months or until the backload of cases is resolved; and/or **3)** by taking a combinations of these actions, and/or actions as otherwise described in the two attached letters from Wisconsin Assembly and Senate District members.

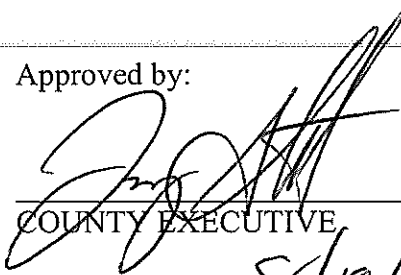
NOW, THEREFORE, BE IT RESOLVED by the Brown County Board of Supervisors that it hereby requests that the State of Wisconsin address the State of Wisconsin’s Public Defender Crisis in Brown County as outlined in this Resolution, and directs that a copy of this Resolution be sent via email to the Governor of the State of Wisconsin, and to the Brown County Legislative Delegation.

Fiscal Note: This Resolution does not require an appropriation from the General Fund. This Resolution seeks State funding to address the State of Wisconsin’s Public Defender backlog in Brown County.

Respectfully submitted,

EXECUTIVE COMMITTEE

Approved by:



COUNTY EXECUTIVE

Date Signed: 8/19/2021

21-067R

Authored By: Corporation Counsel at Request of Public Safety Committee/Supervisor Deneys
Final Draft Approved by: Corporation Counsel

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BOARD OF SUPERVISORS ROLL CALL # 15a
Voice Vote Taken

Motion made by Supervisor DENEYS
 Seconded by Supervisor De Wane

SUPERVISOR NAMES	DIST. #	AYES	NAYS	ABSTAIN
SIEBER	1	X		
DE WANE	2	X		
CHU	3	X		
DORFF	4	X		
JACOBSON	5	X		
LEFEBVRE	6	X		
FRIBERG	7	X		
BORCHARDT	8	X		
EVANS	9	X		
VANDER LEEST	10	X		
BUCKLEY	11	X		
LANDWEHR	12	X		
DANTINNE, JR	13	X		

SUPERVISOR NAMES	DIST. #	AYES	NAYS	ABSTAIN
BRUSKY	14	X		
MURPHY	15	X		
KASTER	16	X		
VAN DYCK	17	X		
HOPKINS	18			
ERICKSON	19	X		
COENEN	20	X		
SCHULTZ	21			
PETERS	22	X		
SUENNEN	23	X		
SCHADEWALD	24	X		
LUND	25	X		
DENEYS	26	X		

Excused

X

X

Total Votes Cast 24

Motion: Adopted X Defeated ___ Tabled ___

CORPORATION COUNSEL



Brown County

305 EAST WALNUT STREET
P.O. BOX 23600
GREEN BAY, WISCONSIN 54305-3600

David P. Hemery
Corporation Counsel

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FAX: (920) 448-4003
EMAIL: David.Hemery@co.brown.wi.us

RESOLUTION/ORDINANCE SUBMISSION TO COUNTY BOARD

DATE: 08-12-2021
REQUEST TO: County Board – **Committee of the Whole (Time Sensitive Matter)**
MEETING DATE: 08-18-2021
REQUEST FROM: David Hemery, at request of Public Safety Committee/Supervisor Deneys Corp Counsel
REQUEST TYPE: New resolution Revision to resolution
 New ordinance Revision to ordinance

TITLE: RESOLUTION REQUESTING THAT THE STATE OF WISCONSIN ADDRESS THE STATE'S PUBLIC DEFENDER CRISIS IN BROWN COUNTY

ISSUE/BACKGROUND INFORMATION:

To request that state take action (see Resolution)

ACTION REQUESTED:

Review and approve

FISCAL IMPACT:

NOTE: This fiscal impact portion is initially completed by requestor, but verified by the DOA and updated if necessary.

1. What is the amount of the fiscal impact? \$0
2. Is it currently budgeted? Yes No N/A (if \$0 fiscal impact)
 - a. If yes, in which account? _____
 - b. If no, how will the impact be funded? _____
 - c. If funding is from an external source, is it one-time or continuous?
3. Please provide supporting documentation of fiscal impact determination.

COPY OF RESOLUTION OR ORDINANCE IS ATTACHED

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WISCONSIN LEGISLATURE

P.O. BOX 8952 • MADISON, WI 53708

DATE: August 04, 2021
TO: Governor Tony Evers
FROM: Wisconsin State Legislature
RE: ARPA Funds for the Brown County Public Defenders Issue

Dear Governor Evers,

We write this letter to draw your attention to the request by the state public defender's office (SPD) for ARPA funds to address the ongoing backlog of cases before public defenders in Brown County due to the effects of COVID-19 on the Wisconsin Court System.

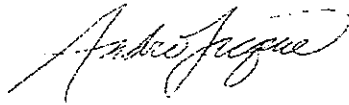
In general, comparing the first 52 weeks of the COVID-19 crisis with the 52 weeks prior, Brown County, in addition to several other counties, has seen a cumulative effect of cases continuing to mount. Meanwhile, not enough cases have been resolved to be able to alleviate the current backlog. Brown County has served as an epicenter to this court crisis. By utilizing ARPA funds to address the impact of COVID-19 on cases pending in the court system, the SPD could provide the necessary relief through the use of limited term employees over the next 18-24 months to alleviate this current, yet temporary backlog.

Other states, such as Vermont, are looking at utilizing ARPA funding to address ongoing backlogs in their respective court systems. We write to you in support of Wisconsin doing the same to address this issue. Without the use of additional resources it seems unlikely that this backlog is alleviated and will undoubtedly result in ongoing delays at the expense of our court system, taxpayers, and the rights of Wisconsinites.

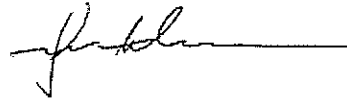
Sincerely,

Representative Shae Sortwell
2nd Assembly District

Representative Joel Kitchens
1st Assembly District



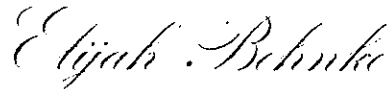
Senator André Jacque
1st Senate District



Representative John Macco
88th Assembly District



Representative Jim Steineke
5th Assembly District



Representative Elijah Behnke
89th Assembly District



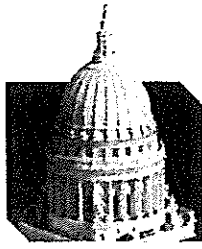
Senator Robert Cowles
2nd Senate District



Senator Eric Wimberger
30th Senate District



Representative David Steffen
4th Assembly District



STATE REPRESENTATIVE
KRISTINA SHELTON

TO: Governor Tony Evers
FROM: Representative Kristina Shelton
CC: State Public Defender Board Chairman James M. Brennan
State Public Defender Kelli Thompson

Dear Governor Evers,

Thank you for your steadfast leadership over the last 12 months guiding Wisconsin through the COVID-19 pandemic. Without your decisive action, Wisconsin communities would undoubtedly be in a worse off position. In that spirit, I am requesting your office take action to alleviate the crisis level shortage of public defenders in Brown County. This is an issue that will require short-term and long-term solutions.

In conversations with Brown County officials, my office has learned that there are presently 350 individuals, who are eligible for State Public Defender representation, whose cases have been stalled as they await appointment of counsel. Many of these individuals are in prolonged custody awaiting trial, yet experience significant delays, solely because they lack representation. Moreover, 17 individuals have been held in custody for over 100 days but still lack representation. Many of these cases involve individuals accused of serious crimes classified as Class A, B, and C felonies. After a certain time, the delay may become so significant that a case must be dismissed. This situation presents a risk of violating these individuals right to a speedy trial, thus creating a legal liability for the county and state, and a potential risk to public safety should these cases be dismissed.

Over the years, Brown County, along with other northern counties in Wisconsin, have consistently struggled to recruit and retain public defenders in our area. While other counties are experiencing similar challenges, the situation in Brown County is acute; and COVID has only exacerbated this issue. As a short-term solution, I am requesting that you utilize a portion of federal COVID funds to establish a regional public defender office to help counties like Brown who have significant backlogs. This office will allow Brown County to utilize public defenders in the region, along with other counties, as caseloads ebb and flow. Long term, we need to continue to strive for pay parity between public defenders and private attorneys and seriously consider student loan forgiveness for attorneys that work in hard to staff areas. Of course, we'd also welcome other solutions or ideas your office might have to address this current crisis.

Thank you for your time and consideration. Please don't hesitate to reach out to our office should further information be needed to consider best practices in addressing significant backlogs and shortages in Brown County.

Sincerely,

Representative Kristina Shelton