



1995 ASSEMBLY BILL 70

January 30, 1995 - Introduced by Representatives DOBYNS, FREESE, LADWIG, GOETSCH, MUSSER, BRANDEMUEHL, SILBAUGH, OWENS, SERATTI, ALBERS and GROTHMAN, cosponsored by Senators BUETTNER and A. LASEE. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT to amend** 973.015; and **to create** 973.015 (3) of the statutes; **relating**
2 **to:** expungement of records of certain misdemeanor offenders.

Analysis by the Legislative Reference Bureau

Under current law, a court may provide that a misdemeanor offender who is younger than 21 years old at the time of the offense receive a special disposition. If the defendant successfully completes his or her sentence by not being subsequently convicted of an offense and, if on probation, by not having his or her probation revoked. Upon successful completion of the sentence, the probationary authority (the department of corrections) or the detaining authority forwards a discharge certificate to the court of record, which has the effect of expunging the record. Expunging the record involves striking or obliterating the defendant's name and identity from the record.

Under this bill, the defendant must move the court to have the record expunged. The defendant must assert that he or she meets the requirements and must notify the district attorney of the motion. Before any hearing on the motion, the court must give the district attorney a reasonable amount of time to make a criminal history record check regarding the defendant. After the hearing, the court must expunge the record if the defendant meets the requirements for successful completion of sentence.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 973.015 of the statutes is amended to read:
4 **973.015 Misdemeanors, special disposition.** (1) When a person is under
5 the age of 21 at the time of the commission of an offense for which the person has been

1 found guilty in a court for violation of a law for which the maximum penalty is
2 imprisonment for one year or less in the county jail, the court may order at the time
3 of sentencing that the record be ~~expunged~~ eligible for expungement under sub. (3)
4 upon successful completion of the sentence if the court determines the person will
5 benefit and society will not be harmed by this disposition.

6 (2) A person has successfully completed the sentence if the person has not been
7 convicted of a subsequent offense and, if on probation, the probation has not been
8 revoked and the probationer has satisfied the conditions of probation. Upon
9 successful completion of the sentence the detaining or probationary authority shall
10 issue a certificate of discharge which shall be forwarded to the court of record ~~and~~
11 ~~which shall have the effect of expunging the record.~~

12 **SECTION 2.** 973.015 (3) of the statutes is created to read:

13 973.015 (3) (a) A person who has successfully completed his or her sentence
14 under sub. (2) may move the court of record to expunge the record described under
15 sub. (1). If the person makes the motion, he or she shall do all of the following:

16 1. Provide an affidavit swearing that all the requirements under subs. (1) and
17 (2) have been met.

18 2. Notify the district attorney who shall appear at any hearing under par. (b).

19 (b) The court shall hold a hearing as soon as practicable but shall allow the
20 district attorney to conduct a criminal history record search. If the defendant proves
21 by a preponderance of the evidence that he or she has met the requirements under
22 subs. (1) and (2), the court shall expunge the record described under sub. (1).

23 **SECTION 3. Initial applicability.**

