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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Corrections and the Courts...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Assembly

Record of Committee Proceedings

Committee on Corrections and the Courts

Assembly Bill 280

Relating to: expungement of misdemeanors.

By Representatives Gielow, Kessler, Grigsby, Fields, Toles, Benedict, Turner, Pohan, Colon, Nischke, A. Williams, Berceau and Kreibich; cosponsored by Senators Taylor, Coggs and Brown.

April 04, 2005

Referred to Committee on Corrections and the Courts.

May 18, 2005

PUBLIC HEARING HELD

Present: (9) Representatives Bies, Gundrum, Underheim, Owens, Suder, LeMahieu, Pope-Roberts, Wasserman and Parisi.

Absent: (1) Representative Seidel.

Appearances For

- Curt Gielow — Rep., 23rd Assembly District
- Jason Kessler — Rep.
- Barbara Toles — Rep., 17th Assembly District
- Antoine McNeail — CYD
- Jeannetta Robinson — CYD
- Charles Walton
- Gerald Mowris — State Bar of Wisconsin

Appearances Against

- None.

Appearances for Information Only

- Nancy Rottier — Wisconsin Court System

Registrations For

- Gregory Williams — Wisconsin Community Services
- Mary Jo Schiavoni — ACLU
- Wendy Paget — WI Council on Children and Families
- Jason Westphal — State Bar of Wisconsin
- Jason Fields — Rep., 11th Assembly District

Registrations Against

- Jeff Wiswell — WI Sheriffs & Deputy Sheriffs Association

November 2, 2005

EXECUTIVE SESSION HELD

Present: (9) Representatives Bies, Gundrum, Owens, Suder, LeMahieu, Pope-Roberts, Wasserman, Seidel and Parisi.

Absent: (1) Representative Underheim.

Moved by Representative Bies, seconded by Representative Pope-Roberts that **LRB a1313/1** be recommended for introduction.

Ayes: (9) Representatives Bies, Gundrum, Owens, Suder, LeMahieu, Pope-Roberts, Wasserman, Seidel and Parisi.

Noes: (0) None.

Absent: (1) Representative Underheim.

INTRODUCTION OF LRB A1313/1 RECOMMENDED, Ayes 9, Noes 0

Moved by Representative Gundrum, seconded by Representative Suder that **a1313/1** be recommended for adoption.

Ayes: (8) Representatives Bies, Gundrum, Owens, Suder, LeMahieu, Pope-Roberts, Wasserman and Seidel.

Noes: (1) Representative Parisi.

Absent: (1) Representative Underheim.

A1313/1 ADOPTION RECOMMENDED, Ayes 8, Noes 1

Moved by Representative Suder, seconded by Representative Gundrum that **Assembly Substitute Amendment 1** be recommended for adoption.

Ayes: (9) Representatives Bies, Gundrum, Owens, Suder, LeMahieu, Pope-Roberts, Wasserman, Seidel and Parisi.

Noes: (0) None.

Absent: (1) Representative Underheim.

ASSEMBLY SUBSTITUTE AMENDMENT 1 ADOPTION RECOMMENDED, Ayes 9, Noes 0

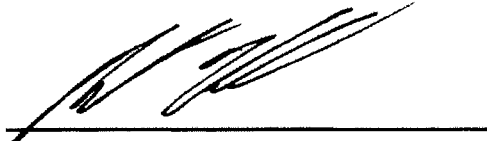
Moved by Representative Bies, seconded by Representative Wasserman that **Assembly Bill 280** be recommended for passage as amended.

Ayes: (8) Representatives Bies, Gundrum, Owens,
LeMahieu, Pope-Roberts, Wasserman, Seidel
and Parisi.

Noes: (1) Representative Suder.

Absent: (1) Representative Underheim.

PASSAGE AS AMENDED RECOMMENDED, Ayes 8, Noes 1



Andrew Nowlan
Committee Clerk

Assembly Committee on Corrections and the Courts

DATE _____
 Moved by Grued Seconded by Sud
 AB 280 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____
 A _____ SR _____ Other _____
 A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt LRD 1313 to A/S Sub Amdt 1
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

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Be recommended for:

- Passage
- Introduction
- Adoption
- Rejection
- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence

	Committee Member	Aye	No	Absent	Not voting
1.	Rep. Garey Bies, chair	1			
2.	Rep. Mark Gundrum, vice-chair	2			
3.	Rep. Greg Underheim				
4.	Rep. Carol Owens	3			
5.	Rep. Scott Suder	4			
6.	Rep. Daniel LeMahieu	5			
7.	Rep. SONDY POPE-ROBERTS	6			
8.	Rep. Sheldon Wasserman	7			
9.	Rep. Donna Seidel	8			
10.	Rep. Joe Parisi		1		
Totals		8	1		

MOTION CARRIED

MOTION FAILED

Assembly Committee on Corrections and the Courts

DATE _____

Moved by Sud Seconded by Gund

AB ~~232~~ 280 SB _____ Clearinghouse Rule _____

AJR _____ SJR _____

A _____ SR _____ Other _____

A/S Amdt 1

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- | | |
|--|--|
| <input type="checkbox"/> Passage | <input type="checkbox"/> Indefinite Postponement |
| <input type="checkbox"/> Introduction | <input type="checkbox"/> Tabling |
| <input checked="" type="checkbox"/> Adoption | <input type="checkbox"/> Concurrence |
| <input type="checkbox"/> Rejection | <input type="checkbox"/> Nonconcurrence |

	Committee Member	Aye	No	Absent	Not voting
1.	Rep. Garey Bies, chair	1			
2.	Rep. Mark Gundrum, vice-chair	2			
3.	Rep. Greg Underheim				
4.	Rep. Carol Owens	3			
5.	Rep. Scott Suder		1		
6.	Rep. Daniel LeMahieu	4			
7.	Rep. Soudy Pope-Roberts	5			
8.	Rep. Sheldon Wasserman	6			
9.	Rep. Donna Seidel	7			
10.	Rep. Joe Parisi	8			
Totals		8	1		

MOTION CARRIED

MOTION FAILED

Assembly Committee on Corrections and the Courts

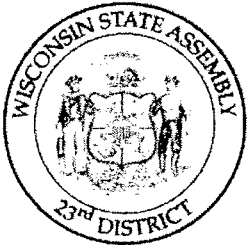
DATE _____
 Moved by Bies Seconded by Was
 AB 280 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____
 A _____ SR _____ Other _____
 A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
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 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

- Be recommended for:
- Passage
 - Introduction
 - Adoption
 - Rejection
 - Indefinite Postponement
 - Tabling
 - Concurrence
 - Nonconcurrence

	Committee Member	Aye	No	Absent	Not voting
1.	Rep. Garey Bies, chair	1			
2.	Rep. Mark Gundrum, vice-chair	2			
3.	Rep. Greg Underheim				
4.	Rep. Carol Owens	3			
5.	Rep. Scott Suder		1		
6.	Rep. Daniel LeMahieu	4			
7.	Rep. Soudy Pope-Roberts	5			
8.	Rep. Sheldon Wasserman	6			
9.	Rep. Donna Seidel	7			
10.	Rep. Joe Parisi	8			
Totals		8	1		

MOTION CARRIED MOTION FAILED





CURT GIELOW

State Representative

TO: Chairman Garey Bies, Assembly Committee on Corrections and the Courts
Committee Members, Assembly Committee on Corrections and the Courts

FROM: Representative Curt Gielow

DATE: October 4, 2005

RE: Assembly Substitute Amendment 1 to 2005 Assembly Bill 280

I have drafted and introduced Assembly Substitute Amendment 1 to 2005 Assembly Bill 280 (copy attached) in response to concerns raised by Committee Members at the May 18, 2005 public hearing.

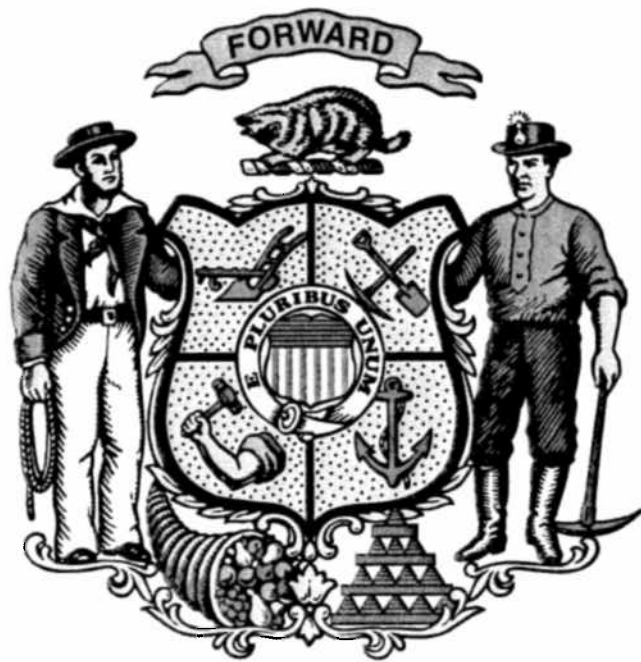
The purpose of this bill is to allow everyone – without regard to age – a one-time opportunity for redemption of a mistake.

Current law allows the court to expunge (erase) the public record of an individual who commits a misdemeanor crime before he or she reaches the age of 21. This bill allows the court to offer expungement of a misdemeanor record for individuals of any age (not just under age 21) provided the judge believes this offers a benefit to the individual and will not harm society.

ASA1 to AB 280 clarifies one point raised at the public hearing and adds two new provisions in response to testimony and comments from the hearing.

- 1) ASA1 clarifies that this is a once in a lifetime opportunity. There was concern expressed at the public hearing that an individual could get endless expungements. Because the purpose of the bill is to offer everyone the opportunity of expungement once and not create a revolving door for people who continue to commit crimes, ASA 1 clarifies this requirement.
- 2) ASA1 explicitly states that a minimum of two (2) years must pass between the date of the conviction and the date of expungement. This is consistent with current usual procedure on expungement. Under ASA1 the person requesting the expungement will need to live “crime free” for at least two years before the expungement would be allowed. As required under current law, the person must successfully complete his/her sentence. These requirements ensure that those people seeking expungement demonstrate their ability to abide by the law.
- 3) ASA1 also creates a requirement that the record shall be removed from the automated information system (CCAP) within 45 days of the expungement. Since the purpose of the bill is to allow people a bona fide second chance for purposes of employment and educational opportunities, it is vital that the record be cleared from the public record.

Thank you for your consideration of ASA1 to AB 280. I will contact you in the future to answer any questions you may have about this amendment.





May 10, 2005

Representative Curt Gielow
Room 316 North
State Capitol
P.O. Box 8952
Madison, WI 53708

Dear Curt:

This letter is in support of Assembly Bill 280 relating to expungement of misdemeanors. As an administrator at Milwaukee Area Technical College I am concerned about those individuals in our community that may use poor judgment at one time and need to be given a second chance. I support the fact that this bill would allow the court to decide if expunging the record would benefit the individual and not harm the community. I also agree with the proposal to have this as an option for all offenders regardless of age.

Please accept my support of this important legislation

Sincerely,

Nina Look, Ph.D.
Vice President
(262-238-2276)
lookn@matc.edu

Downtown Milwaukee Campus
700 West State Street
Milwaukee, WI 5323-1443
3110

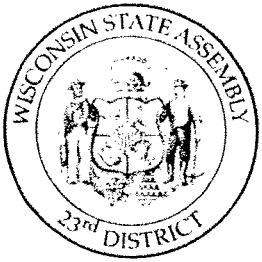
Mequon Campus
5555 West Highland Road
Mequon, WI 53092-1143

Oak Creek Campus
6665 South Howell Avenue
Oak Creek, WI 53154-1107

West Allis Campus
1200 South 71th Street
West Allis, WI 53214-

MATC.edu
414-297-MATC





CURT GIELOW

State Representative

**To: Committee Members
Assembly Committee on Corrections and the Courts**

From: Representative Curt Gielow

Re: Assembly Bill 280 – Expungement of Misdemeanors

Date: May 18, 2005

If a person commits certain criminal offenses – misdemeanors – before reaching the age of 21, current law allows the criminal record for that offense to be expunged. This bill would extend the same opportunity to everyone who makes a misdemeanor mistake – without regard to age. Please bear in mind that this bill would allow for expungement of misdemeanors only. Expungement is not available for more serious felony convictions and this bill would not change that.

This is an opportunity only. It is the responsibility of the individual to accomplish certain tasks in order to get the benefit of expungement. The tasks are set by the sentencing Judge who will take into account the gravity of the offense, the need to protect the community, and character of the individual. Upon sentencing, the Judge must also make the determination that *the person will benefit and society will not be harmed*. The sentencing Judge will decide what a person must do to complete the sentence (i.e. community service, restitution, probation, acquire a GED, etc.) in order to apply for expungement. Expungement is not automatic now and would not become so under the bill.

I have heard from several Judges around the state who support this bill. One specific comment that I wish to share with the Committee is that while relatively few motions seem to be filed under the current expungement law, “those who take the time to petition for expungement post-sentencing are precisely the ones who learned from their experience and understand the value of not having a criminal conviction on their record.”

Why should we do this? Because a single misdemeanor conviction on a person’s record may have a chilling effect on that person’s ability to become employed or to complete certain educational programs. Attached are copies of the Milwaukee Area Technical College Department of Admissions Release and Conditions of Criminal Background Check. There are many programs at MATC that require criminal background checks. While a single conviction may not bar a person from beginning a course of study, it may preclude obtaining placement in a field or clinical site. The MATC informational form clearly states “If a placement site cannot be arranged for you as a result of your criminal record, you will not be able to complete your program, earn a degree, or graduate from MATC.”

(more)

Committee Members
Assembly Committee on Corrections and the Courts
Page 2

I also want to explain that expungement is not a pardon and does not “wipe the record clean.” The criminal record will still exist – law enforcement will still have access to the original record, charge and conviction. That record will be available in case the individual ever has future contact or violations of the law – for sentencing and charging purposes. However, the bill allows those who want to clean their record and live crime-free the ability to do so without regard to age.

This bill ensures fairness and equity in the application of the misdemeanor expungement currently available only to our youth. This bill simply provides an opportunity for everyone to turn their life around – without regard to age.

Thank you for your consideration of AB 280.

MILWAUKEE AREA TECHNICAL COLLEGE
DEPARTMENT OF ADMISSIONS

Release and Conditions of Criminal Background Check

Wisconsin Caregiver Law, §§ 48.685 and 50.065, Wis. Stats (as amended).
Milwaukee Area Technical College Admissions Policies

STATUTORY RESTRICTIONS: I understand that the Wisconsin Caregiver Law bars individuals with certain types and recency of criminal convictions and other misconduct from placement in certain field or clinical sites. The MATC program(s) for which I have applied require at least one clinical / field placement assignment subject to the Wisconsin Caregiver Law.

RELEASE AND DOCUMENTATION: My signature below authorizes Milwaukee Area Technical College (MATC) to release my background check to appropriate staff at clinical and field placement sites that are affiliated with my program(s) at MATC, as well as to appropriate MATC administrative staff. I also agree to obtain any additional documentation necessary to complete my background check as required by clinical or field placement sites or the MATC Paralegal Office.

DISCLOSURE: I understand that the Wisconsin Caregiver Law requires that I inform MATC's Paralegal Office of any new charges or convictions that occur since I have signed this document and completed the State of Wisconsin "Background Information Disclosure" form (HFS-64).

ADDITIONAL RESTRICTIONS: I also understand that the clinical and field placement sites that are affiliated with my program(s) at MATC may have policies that can result in additional restrictions relating to criminal or misconduct backgrounds that exceed those required by the Wisconsin Caregiver Law. By contract, MATC complies with these additional restrictions imposed by clinical or field sites. **I understand that if I have a criminal or misconduct background, there is a possibility that one or more of MATC's clinical / field placement sites may deny me placement in their facility. If this occurs and despite due diligence MATC cannot locate another site willing to accept me, I understand that I may not be able to complete my program nor graduate from that program.**

MATC LIMITATIONS: If I have a criminal or misconduct background, and I decide to continue to pursue a degree in a program requiring a background check, and later find that I am unable to complete my MATC program due to inability to complete clinical or field placements because of my criminal or misconduct background, I understand that MATC will not reimburse me for course fees, the cost of books, supplies, or other costs related to my enrollment.

Student Signature

Date

Print Student Name

Print Student Program

MATC is an Affirmative Action/Equal Opportunity Institution
and complies with all requirements of the Americans With Disabilities Act

11/16/2004

Criminal Background Check Information

MATC is required by the Wisconsin Caregiver Law to check your criminal background if you are applying for admission to certain MATC programs (see below). The fee for this service is **\$15.00**. **Your admissions application will not be processed until you have paid this fee.** In most cases, you should only have to pay this fee one time. As required by State Law, a second \$15 criminal background check fee may be charged if your educational program at MATC extends beyond four years.

Programs requiring criminal background checks:

Anesthesia Technology, Biomedical Electronics Technology, Cardiovascular Technology, Clinical Laboratory Technician, Dietetic Technician, Early Childhood Education, Health Unit Coordinator, Human Service Associate, Medical Assistant, Nursing Assistant, Bilingual Nursing Assistant, LPN-RN Educational Progression, Occupational Therapy Assistant, Pharmacy Technician, Phlebotomy, Bilingual Phlebotomy, Physical Therapist Assistant, Practical Nursing, Radiography, Renal Dialysis Technician, Registered Nursing, Respiratory Care, and Surgical Technology.**

****Please note: Early Childhood Education applicants do not need to pay the fee when they apply for admission as the fee will be included in a course fee.**

- If you have a criminal background, the Law requires that you may be **barred** from working in field or clinical sites, depending on the date and type of your offense(s). This includes being barred from placements in field or clinical sites as part of your MATC educational program. **If a placement site cannot be arranged for you as a result of your criminal record, you will not be able to complete your program, earn a degree, or graduate from MATC.**
- All students in the programs listed below are required to complete and submit criminal background check forms. These forms may be obtained at the Admissions Office at any of the four MATC campuses. Please follow the instructions on the forms and read these documents carefully.
- The actual criminal background check will be processed two to four months before you start your first field/clinical placement. **However, if you have a recent incident or one from your past that may be discovered when the criminal background check is completed, you should discuss your situation with staff in MATC's Paralegal Office as soon as possible.** You do not want to spend your time, effort, and money on courses prior to your field/clinical placements and then learn that **you will be unable to complete your program.**

If you have questions, or you would like to discuss an incident in your background, please call **(414) 297-7498**. Thank you!!

BACKGROUND INFORMATION DISCLOSURE

Completion of this form is required under the provisions of sections 48.685 and 50.065 of the Wisconsin Statutes. Failure to comply may result in a denial or revocation of your license, certification or registration; or denial or termination of your employment or contract. Refer to the attached instructions (HFS-64 A) for additional information. Providing your social security number is voluntary, however, your social security number is one of the unique identifiers used to prevent incorrect matches.

Please print your answers.

Check the box that applies to you.

- Employee / Contractor (Including new applicant) Household member / lives on premises - but not a client
 Applicant for a license or certification or registration (including continuation or renewal) Other - specify: Student

Program _____

NOTE: If you are an owner, operator, board member, or nonclient resident of a Bureau of Quality Assurance (BQA) regulated facility (1) print only your first, middle and last name; (2) complete Sections A and B; (3) sign the form; (4) complete the Appendix, HFS-69, in its entirety and (5) submit this form and the Appendix to the address noted in the Appendix Instructions.

Name - First and Middle		Name - Last		Position Title (Complete only if you are a prospective employe or contractor, or a current employe or contractor.) XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	
Any other names by which you have been known (including maiden name)			Birthdate	Gender (M/F)	Race
Address				Social Security Number(s)	
Business Name and Address of Employer or Care Provider (Entity) XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX					

Section A - ACTS, CRIMES AND OFFENSES THAT MAY ACT AS A BAR OR RESTRICTION

	YES	NO
1. Do you have criminal charges pending against you or were you ever convicted of any crime anywhere, including in federal, state, local, military and tribal courts? > If Yes, list each crime, when it occurred or the date of the conviction, and the city and state where the court is located. You may be asked to supply additional information including a certified copy of the judgement of conviction, a copy of the criminal complaint, or any other relevant court or police documents.		
2. Were you ever found to be (adjudicated) delinquent by a court of law on or after your 10 th birthday for a crime or offense? (NOTE: A response to this question is only required for group and family day care centers for children and day camps for children.) > If Yes, list each crime, when and where it happened, and the location of the court (city and state). You may be asked to supply additional information including a certified copy of the delinquency petition, the delinquency adjudication, or any other relevant court or police documents.		
3. Has any government or regulatory agency (other than the police) ever found that you committed child abuse or neglect? A response is required if the box below is checked: <input type="checkbox"/> (Only employers and regulatory agencies entitled to obtain this information per sec. 48.981(7) are authorized to, and should, check this box.) > If Yes, explain, including when and where it happened.		
4. Has any government or regulatory agency (other than the police) ever found that you abused or neglected any person or client? > If Yes, explain, including when and where it happened.		

(Continued on next page)

Section A - Continued		YES	NO
5.	Has any government or regulatory agency (other than the police) ever found that you misappropriated (improperly took or used) the property of a person or client? > If Yes, explain, including when and where it happened.		
6.	Has any government or regulatory agency (other than the police) ever found that you <u>abused an elderly person</u> ? > If Yes, explain, including when and where it happened.		
7.	Do you have a government issued credential that is not current or is limited so as to restrict you from providing care to clients? > If Yes, explain, including credential name, limitations or restrictions, and time period.		
Section B - OTHER REQUIRED INFORMATION		YES	NO
1.	Has any government or regulatory agency ever limited, denied or revoked your license, certification or registration to provide care, treatment or educational services? > If Yes, explain, including when and where it happened.		
2.	Has any government or regulatory agency ever denied you permission or restricted your ability to live on the premises of a care providing facility? > If Yes, explain, including when and where it happened and the reason.		
3.	Have you been discharged from a branch of the US Armed Forces, including any reserve component? > If Yes, attach a copy of your discharge papers (DD214) if you were discharged within the past 3 years. > You may be asked to provide a copy of your DD214 if your discharge occurred more than 3 years ago.		
4.	Have you resided outside of Wisconsin in the last 3 years? > If Yes, list each state and the dates you lived there.		
5.	Have you had a caregiver background check done within the last 4 years? > If Yes, list the date of each check, and the name, address and phone number of the person, facility or government agency that conducted each check.		
6.	Have you ever requested a rehabilitation review with the Wisconsin Department of Health and Family Services, a county department, a private child placing agency, school board, or DHFS designated tribe? > If Yes, list the review date and the review result. You may be asked to provide a copy of the review decision.		

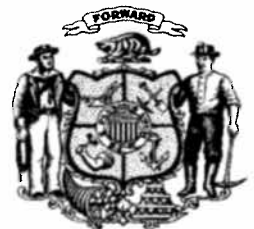
A "NO" answer to all questions does not guarantee employment, residency, a contract or regulatory approval.

I understand, under penalty of law, that the information provided above is truthful and accurate to the best of my knowledge and that knowingly providing false information or omitting information may result in a forfeiture of up to \$1,000.00 and other sanctions as provided in HFS 12.05 (4), Wis. Adm. Code.

YOUR SIGNATURE	Date Signed
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WISCONSIN STATE LEGISLATURE





Tamara GRIGSBY

State Representative
18th Assembly District

**Written Testimony Submitted to
The Assembly Committee on Corrections and the Courts
May 18, 2005
Assembly Bill 280**

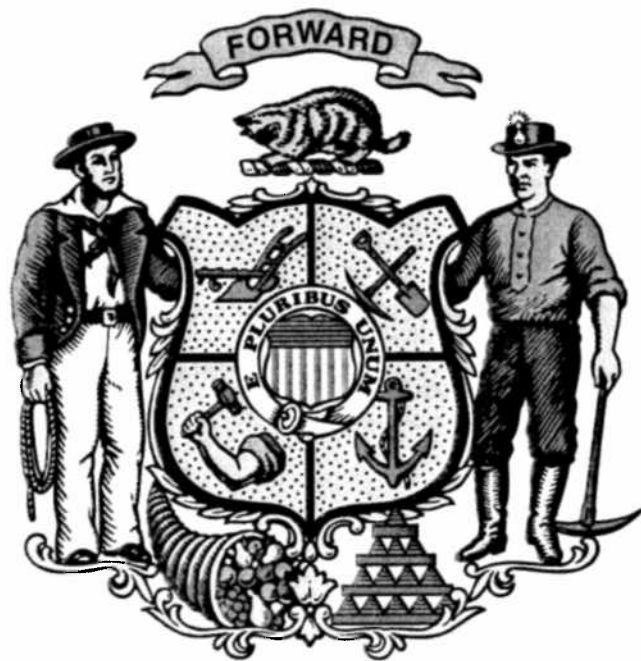
I want to thank Chairman Bies for scheduling Assembly Bill 280 for a public hearing. I regret that I am not able to be present today to testify in person. As a cosponsor of this bill I greatly appreciate the willingness of the Committee to listen to the compelling testimony I am certain you will be hearing today.

As you know, we currently allow the courts to expunge the record of an individual who has committed a misdemeanor prior to their 21st birthday, and successfully completed his or her sentence. The reasoning behind current law has been that misdemeanors are generally petty crimes committed by youthful offenders. Once that person has completed their sentence it is felt that these mistakes should not carry with them the stigma of a permanent criminal record, and that these individuals deserve a second chance to get it right.

This bill will make it possible to expunge the record for all offenders who commit misdemeanors, regardless of their age. This measure is necessary because having even a misdemeanor conviction can be a significant barrier to employment. This is especially prevalent in my district in Milwaukee where the unemployment rate for some segments of the population is as high as 60%. Poverty begets hopelessness begets violence. In order to begin to address the crime and violence in my community, we must ensure that individuals have access to jobs. This bill will be a big step toward that goal.

This bill is based on the assumption that anyone can reform and that all individuals who have committed minor offenses and paid their debt to society deserve a second chance. The court still has the final say on whether or not to expunge the record. All we're asking for in this bill is to allow adults who make mistakes to be given a second chance.

I thank the Committee for your time and consideration of this matter. I am happy to answer any questions Committee members may have.



MEMORANDUM

To: Members, Assembly Committee on Corrections and the Courts
From: Individual Rights and Responsibilities Section
Date: May 18, 2005
Re: Assembly Bill 280, relating to expungement of misdemeanors
SUPPORT

This testimony is submitted on behalf of the Individual Rights and Responsibilities Section of the State Bar of Wisconsin. The Individual Rights and Responsibilities Section brings together about 200 licensed Wisconsin attorneys with interests in civil liberties and constitutional rights. The Section **supports** Assembly Bill 280. Please note that the State Bar as a whole has not taken a position one way or another on the Bill.

Assembly Bill 280 is fairly simple. It lifts the maximum age cap on expungement of a misdemeanor offense and makes the expungement option available for all misdemeanor offenders, regardless of their age at the time of the offense. In addition, under the AB 280, a court may enter an order authorizing expungement at any time during or after the sentence. The bill is based on the premise that anyone has the potential to reform and we as a society ought to recognize this in cases where it is appropriate to do so.

The Individual Rights and Responsibilities Section supports this bill on the grounds that judges need tools that will allow them: a) to be flexible in removing the harsh effects and stigma of criminal convictions in post-conviction situations that present compelling circumstances and in which the restoration of civil rights or the goals of the criminal justice system of rehabilitation, reintegration and preventing recidivism would be served; and b) to retroactively correct the disparate racial impact of criminal law enforcement, charging, conviction and sentencing decisions in appropriate cases.

A criminal record is a barrier to an individual's ability to find and hold employment. Once a person has paid their debt to society, particularly for a minor offense, it is important to encourage rehabilitation and not impose a lifelong "scarlet letter" of sorts upon the person, thus preventing them gainful employment, and potentially costing the rest of society untold amounts if recidivism occurs.

State Bar of Wisconsin

5302 Eastpark Blvd. u P.O. Box 7158 u Madison, WI 53707-7158
(800) 728-7788 u (608) 257-3838 u Fax (608) 257-5502 u Internet: www.wisbar.org u Email: service@wisbar.org

Assembly Bill 280 recognizes that when we brand, stigmatize, ostracize or exclude people based on mistakes they've made at some point in their lives (albeit, serious mistakes), we deprive ourselves of the contribution they could make as productive citizens.

Many members of the Individual Rights and Responsibilities Section do not believe it is a stretch to say that somewhere in our state a person who may have the intellectual capacity to find a cure for a disease, invent a new product, or possibly be a great leader is working a lesser job (or no job at all) because he or she did something foolish sometime during his or her youth. The American dream of economic mobility is about utilizing untapped potential. Assembly Bill 280 could help a deserving person to reach that potential.

The Individual Rights and Responsibilities Section urges members to support AB 280.

If you have any questions, please feel free to contact Dan Rossmiller, Public Affairs Director for the State Bar of Wisconsin, at (608) 250-6140.



**Career Youth Development
Youth & Family Services Inc.
35 Years of Service**



**2601 N. Martin Luther King Jr. Drive
Milwaukee, Wisconsin 53212
(414) 264-6888
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**Commissioner Jeannetta Robinson, Founder/C.E.O.
Career Youth Development Inc.
May 18, 2005**

First giving Honor to God and his darling son Jesus who is the head of my life.

To the Great Servants of this State and God, The State Representatives and Senators men and women of valor honor and commitment. Thanks for allowing me to address you.

Special Thanks to Mr. Curt Gielow who invited me here and for his insight in caring about this special population of people in our state who God, knows need another change and to the Honorable State Senator Taylor and State Senator Cogg and authored the bill, I rise to support Assembly Bill 280.

My name is Jeannetta Simpson-Robinson, Founder/C.E.O. of a Career Youth Development (C.Y.D.) a 35-year old social service organization committed and recognized nationwide for working with our community's most in need poor youth, adults and families with multi-faceted problems. Providing multi-services such as: *Licensed Alcohol & Other Drug Abuse/Mental Health Clinic, Alcohol Tobacco and other Drug Abuse Prevention/Intervention & Treatment, Youth Employment, Emergency Food/Clothing Pantry, Adult Education/G.E.D., Computer Training, Tiny Tot Youth Program including hot meals, Effective W-2 (Welfare Reform) Program, Mentoring & Tutoring, Conflict Resolution, Youth/Family Counseling, a Certified Group Home, C.Y.D. School of Excellence, 2 Television Shows, Telecommunications Producer Training, First Time Home Buyers Program, Survivor of Homicide Support Group, Gang & Violence Reduction, Prevention and Intervention, Youth Recreation & Field Trips* all done through a system of "Love In Action".

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We have been recognized by Congress, as a National model for youth and families whose nightmares come in the day time, whose precious blood is being shed on the streets of Milwaukee. The families who live in poverty because they have been told they can't receive a job, they cannot be given another chance to be whole and their children to be whole because they have a misdemeanor on their record. It is for those families that I speak today. We all know that one of the major causes of violence is poverty, lack of jobs but I submit to you while C.Y.D. works with these beautiful people of God that we call the economically poor the disposed, we have developed their character, we educate them, we train them for jobs, teach them the right way so that they don't get any more misdemeanors on their record. We give them hope, faith in their future. We give them love, then they go with confidence to get a job and because they have a misdemeanor on their record they are shot down to hopelessness, poverty, and finally death on our streets in Milwaukee.

The poverty is increasing because of this, the violence is increasing because of this, and so ladies and gentleman it is for those families I stand here today saying give them and their children HOPE by voting yes on assembly Bill 280. We cannot wait! This is a big one! Please vote yes to Assembly Bill 280.

On day before yesterday all of C.Y.D. rejoice because another one of our mothers who we now label as W-2 mothers has gotten a job at a nursing home, she and her children were so happy as was Career Youth Development. On yesterday I watched her and her children shed tears for she said the job called here and told her not to report to work because they had found a misdemeanor on her record.

Page 3, Jeannetta Robinson

Many years before C.Y. D. educated her, helped her to develop a skill, and new character, this young mother cried out in pain on yesterday, her eyes filled with tears and a crumbled up piece of paper in her hands, as she was being counseled and encouraged by my son, Charles L. Walton (who is also here today), Never to give up, he told her that we were going to Madison on tomorrow to bring hope to her situation.

So my son and I stand here today in the gap for her today and the thousands of people around our great state who deserve another chance to be employed, to pay taxes, to give hope to a new generation. You must vote YES on Assembly Bill 280 for these families.

I stand In the gap today for little Nikeemah 7 years old, one of our students shot to death while she played in her front yard. You see she lived in poverty, deep in the poverty stricken neighborhoods of Milwaukee. She lived directly right behind our center (C.Y.D.). One has to wonder if her mom and dad had a job maybe they would have not been in a poverty stricken drug infested area where violence is on the rampage because we have failed to give the citizens another chance at life's hope and a brighter future for our children.

Page 4, Jeannetta Robinson

Ladies and gentlemen of honor it is midnight in our community so we ask you today to give a little light, a little glimmer of hope to the most in need poor of this state.

I was told by Martin Luther King Jr. that when it's midnight that only when it's dark enough that we can see the stars.

And though it's midnight in the African Americans poor neighborhoods in Milwaukee poverty is increasing, violence is increasing, I came here with New Hope Watching the Stars come out for my people as I read this assembly Bill 280.

So in my closing I petition you in the name of God, Give My People Hope, Give them victory by voting yes on Assembly Bill 280. Let the stars come out, God placed you here for such a time such as this. Let the stars come out. God Bless You.

Jeannetta Simpson-Robinson





Barbara L.
TOLES

STATE REPRESENTATIVE
17TH ASSEMBLY DISTRICT

DATE: Wednesday, May 18, 2005
TO: Members, Assembly Committee on Corrections and the Courts
FROM: State Representative Barbara L. Toles
RE: Support of Assembly Bill 280

I would like to thank Chairman Bies for scheduling a hearing on Assembly Bill 280 this morning.

This legislation allows courts to expunge the misdemeanor records of individuals of any age. The bill would not require such action – it merely gives judges the discretion to proceed if they believe it would be beneficial to the offenders and would not be detrimental to the rest of the community.

AB 280 does not represent an automatic “Get out of Jail Free” card for miscreants. Anyone who would apply for expungement of his or her record would still have to complete the sentence the court initially imposed. A judge would be able to review all the facts in the case to determine if an applicant is truly trying to make a fresh start in life.

In many ways, AB 280 is a jobs bill. A misdemeanor conviction can be a significant obstacle to obtaining employment, even if the crime occurred in the distant past. For example, it is impossible for people with misdemeanor records to acquire certain occupational licenses. A number of those jobs are in the health care industry (nursing assistants, registered nurses, therapists), which is already experiencing difficulty attracting and retaining qualified employees. Passage of AB 280 will remove a roadblock for people who are turning their lives around and will increase the pool of available workers in a number of job categories.

Our justice system needs to be about justice, not merely retribution. AB 280 offers hope and the possibility of redemption to people who may have made foolish mistakes, but have successfully completed their sentences, and are now trying to lead better lives. They deserve this second chance. I strongly urge you to approve AB 280.





Supreme Court of Wisconsin

DIRECTOR OF STATE COURTS

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MADISON, WISCONSIN 53701-1688

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Chief Justice

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A. John Voelker
Director of State Courts

May 18, 2005

The Honorable Garey Bies
Chair, Assembly Committee on Corrections and the Courts
Room 125 West, State Capitol
Madison, WI 53702

RE: Assembly Bill 280, Relating to Expunging Criminal Records for Misdemeanors

Dear Representative Bies:

I regret that I will be unable to personally testify before your committee today, but I ask that you accept this written testimony. At this time, the Legislative Committee of the Judicial Conference has not taken a position in favor of or in opposition to Assembly Bill 280, but I would like to offer the following observations for informational purposes. Thank you for the opportunity.

Under the current law, expunction of criminal records of adults is limited to persons under the age of 21 charged with crimes for which the punishment is less than a year in jail (misdemeanors and criminal traffic). To qualify, a person must successfully complete his or her sentence, including any period of probation. A judge can only enter an order for expunction at the time of sentencing and only if he or she "determines the person will benefit and society will not be harmed." Juvenile records can also be expunged under s. 938.355(4m), Wis. Stats., although that provision is not impacted by AB 280.

Assembly Bill 280 would greatly expand the authority of the circuit courts to expunge the criminal record of persons convicted of misdemeanors. The bill removes the age limitation and the time at which an order for expunging a record may be ordered. This latter provision appears to make the process of expunging records available to many thousands of people whose sentences have been served and cases already closed because Section 6 of the bill allows a court to enter an order "at any time thereafter" provided the person meets the other requirements of the bill.

There are three aspects of this proposal's effects that I would like to call to the Committee's attention:

First, there is a huge potential workload issue involved for the circuit courts. There is no way to predict how many defendants would bring a request for expunction before the courts, but the number of cases involved is very large.

In 2004, there were 122,422 misdemeanor and criminal traffic cases disposed of by the circuit courts in Wisconsin. Of that number, 28,837 cases were dismissed before trial, 851 cases were resolved by jury or court trial, and the vast majority, 92,532 cases, involved a stipulation or plea before trial.

Even if only a small percentage of persons meet the requirements under this bill and ask the court to expunge the record, that would still mean there would be several thousand more motions and possible hearings for the courts to hear.

Any additional hearings or court proceedings require additional judge, court reporter, clerk of circuit court, district attorney and public defender time and resources.

Second, it appears any court proceedings held under the provisions of the bill would be subject to s. 950.04, Wis. Stats. that requires crime victims to be notified of court proceedings and affords them the right to attend. If the issue of expunction arises at a time distinct from the original sentencing, then there will be additional notice requirements imposed on the prosecuting attorney's office.

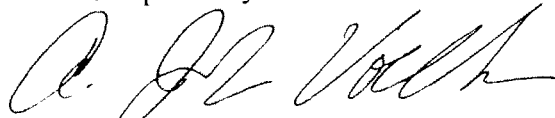
Third, it must be kept in mind that expunction of a court record does not eliminate a person's conviction, nor would it remove all records of a person's arrest and conviction. The person has still been convicted of a crime. If a person whose record has been expunged faces the question, "Have you ever been convicted of a crime?" the proper answer is "yes."

In addition, expunction of a record does not eliminate records held by the Crime Information Bureau (CIB) of the Department of Justice. Information, including fingerprint records, may only be removed from CIB records if the charges are dismissed or result in no conviction. The passage of the bill could create a situation in which an employer doing a background check will not find a record on the Wisconsin Circuit Court Access (WCCA) system but will find a record on the CIB system.

The Wisconsin Supreme Court faced this question under the current s. 973.015, Wis. Stats. and held law enforcement agencies or prosecutors do not have to destroy their records relating to an expunged conviction. The Court's decision is *State v. Leitner*, 2002 WI 77, 253 Wis. 2d 449, 646 N.W.2d 341.

I hope these comments will assist your committee in its deliberations. If you have questions, please do not hesitate to contact me or our Legislative Liaison, Nancy Rottier. Thank you.

Respectfully submitted,



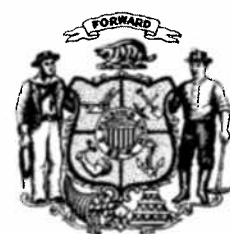
A. John Voelker
Director of State Courts

AJV:NMR

cc: Members, Assembly Committee on Corrections and the Courts



WISCONSIN STATE LEGISLATURE



AB 280 - Gielow

Expungement of misdemeanors from public record

from public record

Extend option for expungement of misdemeanors to all individuals, not just juveniles as under current law. Have this option not based on age.

Having a misdemeanor on permanent record poses a significant barrier to an individual becoming a positive member of society.

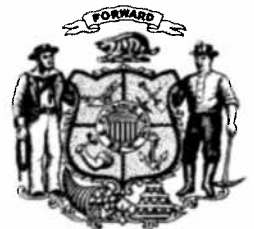
MATC has specific barriers to earning a degree if misdemeanor prevents student from fulfilling class requirements.

DAs will be notified of a petition for expungement, if a DA objects, the judge is almost certainly going to defer to the DA.

> Amendment: or is charged with a crime that is subsequently dismissed. Germane?



WISCONSIN STATE LEGISLATURE



2005 ASSEMBLY BILL 280

April 4, 2005 – Introduced by Representatives GIELOW, KESSLER, GRIGSBY, FIELDS, TOLES, BENEDICT, TURNER, POCAN, COLON, NISCHKE, A. WILLIAMS and BERCEAU, cosponsored by Senators TAYLOR and COGGS. Referred to Committee on Corrections and the Courts.

1 AN ACT *to renumber and amend* 973.015 (1) and 973.015 (2); *to amend* 301.45
2 (7) (e) 2. and 301.45 (7) (e) 3.; *to repeal and recreate* 973.015 (title); and *to*
3 *create* 973.015 (3) of the statutes; **relating to:** expungement of misdemeanors.

Analysis by the Legislative Reference Bureau

Under current law, if a person commits a misdemeanor (which, in general, is a crime for which a person may be imprisoned for no more than one year) before he or she reaches the age of 21, a court may order that the court's record regarding the offense be expunged upon the offender's successful completion of his or her sentence. (A person successfully completes a sentence if he or she is not convicted of a subsequent offense and, if the person is placed on probation, he or she complies with any conditions of probation.) The court may enter such an order only at the time of sentencing and only if it finds that expunging the record will benefit the person and will not harm society.

This bill makes this expungement option available for all offenders, regardless of their age at the time of the offense. In addition, under the bill, a court may enter an order authorizing expungement at any time during or after the 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:

ASSEMBLY BILL 280**SECTION 1**

1 **SECTION 1.** 301.45 (7) (e) 2. of the statutes is amended to read:

2 301.45 **(7)** (e) 2. The department issues a certificate of discharge under s.
3 973.015 ~~(2)~~ (2m) (c).

4 **SECTION 2.** 301.45 (7) (e) 3. of the statutes is amended to read:

5 301.45 **(7)** (e) 3. The department receives a certificate of discharge ~~issued or~~
6 expungement order under s. 973.015 ~~(2)~~ by the detaining authority **(4)**.

7 **SECTION 3.** 973.015 (title) of the statutes is repealed and recreated to read:

8 **973.015 (title) Expungement of misdemeanors.**

9 **SECTION 4.** 973.015 (1) of the statutes, as affected by 2003 Wisconsin Act 33,
10 is renumbered 973.015 (2m), and 973.015 (2m) (a), as renumbered, is amended to
11 read:

12 973.015 **(2m)** (a) Subject to par. (b), ~~when if~~ a person is ~~under the age of 21 at~~
13 ~~the time of the commission~~ convicted of an offense for which the person has been
14 ~~found guilty in a court for violation of a law~~ for which the maximum penalty is
15 imprisonment for one year or less in the county jail, ~~the court may order at the time~~ ^{or is charged w/a crime that is} ~~subsequently~~
16 of sentencing or at any other time that the record be expunged upon successful ^{dismissed}
17 completion of the sentence if the court determines the person will benefit and society
18 will not be harmed by this disposition.

19 **(5)** This ~~subsection~~ section does not apply to information maintained by the
20 department of transportation regarding a conviction that is required to be included
21 in a record kept under s. 343.23 (2) (a).

22 **SECTION 5.** 973.015 (2) of the statutes is renumbered 973.015 (1m) and
23 amended to read:

24 973.015 **(1m)** ~~A person has successfully completed the sentence if the~~ In this
25 section, "successfully completes the sentence" means that a person has not been

ASSEMBLY BILL 280

1 convicted of a subsequent offense and, if on probation, ~~the probation has not been~~
2 ~~revoked and the probationer~~ has satisfied the conditions of probation. Upon
3 successful completion of the

4 (2m) (c) If a person who is the subject of an order under par. (a) or (b)
5 successfully completes the sentence, the detaining or probationary authority shall
6 issue a certificate of discharge which shall be forwarded to the court of record and
7 which shall have the effect of expunging the record. ~~If the person has been~~
8 ~~imprisoned, the detaining authority~~

9 (4) Upon receiving a certificate of discharge for a person who is subject to an
10 order under sub. (2m) or upon the entry of an expungement order under sub. (3), the
11 clerk of circuit court shall notify the department of justice of the expungement. The
12 clerk of circuit court shall also forward a copy of the any certificate of discharge not
13 issued by the department of corrections and any expungement order to the
14 department of corrections.

15 **SECTION 6.** 973.015 (3) of the statutes is created to read:

16 973.015 (3) If a person is convicted of an offense for which the maximum
17 penalty is imprisonment for one year or less in the county jail, ^{or is charged w/a crime} and the person ^{that is}
18 successfully completes the sentence, the court may order at any time thereafter that ^{subsequently} ~~dismissed~~
19 the record be expunged if it determines the person will benefit and society will not
20 be harmed by this disposition. The detaining or probationary authority shall notify
21 the court, upon request, whether a person successfully completed his or her sentence.

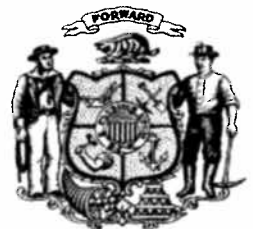
22 **SECTION 7. Effective date.**

23 (1) This act takes effect on September 30, 2005, or the day after publication,
24 whichever is later.

25 (END)



WISCONSIN STATE LEGISLATURE



Subsequent crimes committed after
record exp.