

2013 DRAFTING REQUEST

Bill

Received: 8/28/2013 Received By: chanaman
Wanted: As time permits Same as LRB:
For: Nikiya Harris (608) 266-2500 By/Representing: Dave
May Contact: Drafter: chanaman
Subject: Courts - miscellaneous/other Addl. Drafters:
Criminal Law - miscellaneous Extra Copies:

Submit via email: YES
Requester's email: Sen.Harris@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Remove pardons from consolidated court automation program (CCAP)

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 8/29/2013	scalvin 8/29/2013	rschluet 8/29/2013	_____			
/1	chanaman 9/9/2013	scalvin 9/9/2013	phenry 9/9/2013	_____	lparisi 8/29/2013		
/2	chanaman 9/11/2013	scalvin 9/11/2013	phenry 9/11/2013	_____	mbarman 9/9/2013		
/3	chanaman	scalvin	phenry	_____	sbasford		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	9/19/2013	9/20/2013	9/20/2013	_____	9/11/2013		
/4				_____	sbasford 9/20/2013	mbarman 2/18/2014	

FE Sent For:

↳ Not Needed

<END>

2013 DRAFTING REQUEST

Bill

Received: **8/28/2013** Received By: **chanaman**
Wanted: **As time permits** Same as LRB:
For: **Nikiya Harris (608) 266-2500** By/Representing: **Dave**
May Contact: Drafter: **chanaman**
Subject: **Courts - miscellaneous/other** Addl. Drafters:
Criminal Law - miscellaneous Extra Copies:

Submit via email: **YES**
Requester's email: **Sen.Harris@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Remove pardons from consolidated court automation program (CCAP)

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 8/29/2013	scalvin 8/29/2013	rschluet 8/29/2013	_____			
/1	chanaman 9/9/2013	scalvin 9/9/2013	phenry 9/9/2013	_____	lparisi 8/29/2013		
/2	chanaman 9/11/2013	scalvin 9/11/2013	phenry 9/11/2013	_____	mbarman 9/9/2013		
/3	chanaman	scalvin	phenry	_____	sbasford		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	9/19/2013	9/20/2013	9/20/2013	_____	9/11/2013		
/4				_____	sbasford		
				_____	9/20/2013		

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: 8/28/2013 Received By: chanaman
Wanted: As time permits Same as LRB:
For: Nikiya Harris (608) 266-2500 By/Representing: Dave
May Contact: Drafter: chanaman
Subject: Courts - miscellaneous/other Addl. Drafters:
Criminal Law - miscellaneous Extra Copies:

Submit via email: YES
Requester's email: Sen.Harris@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Remove pardons from consolidated court automation program (CCAP)

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 8/29/2013	scalvin 8/29/2013	rschluet 8/29/2013	_____			
/1	chanaman 9/9/2013	scalvin 9/9/2013	phenry 9/9/2013	_____	lparisi 8/29/2013		
/2	chanaman 9/11/2013	scalvin 9/11/2013	phenry 9/11/2013	_____	mbarman 9/9/2013		
/3		1/3 sac 09/20/2013	9/20 ph/13		sbasford		

Vers. Drafted

Reviewed

Typed

Proofed

Submitted

Jacketed

Required

9/11/2013

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill
Received: 8/28/2013 Received By: chanaman
Wanted: As time permits Same as LRB:
For: Nikiya Harris (608) 266-2500 By/Representing: Dave
May Contact: Drafter: chanaman
Subject: Courts - miscellaneous/other Addl. Drafters:
Criminal Law - miscellaneous Extra Copies:

Submit via email: YES
Requester's email: Sen.Harris@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Remove pardons from consolidated court automation program (CCAP)

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 8/29/2013	scalvin 8/29/2013	rschluet 8/29/2013	_____			
/1	chanaman 9/9/2013	scalvin 9/9/2013	phenry 9/9/2013	<u>fr</u>	lparisi 8/29/2013		
/2		1/3 sac 09/11/2013	9/11 ph	<u>ph</u>	mbarman 9/9/2013		

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: 8/28/2013 Received By: chanaman
Wanted: As time permits Same as LRB:
For: Nikiya Harris (608) 266-2500 By/Representing: Dave
May Contact: Drafter: chanaman
Subject: Courts - miscellaneous/other Addl. Drafters:
Criminal Law - miscellaneous Extra Copies:

Submit via email: YES
Requester's email: Sen.Harris@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Remove pardons from consolidated court automation program (CCAP)

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 8/29/2013	scalvin 8/29/2013	rschluet 8/29/2013	_____			
/1		1/2 sac 09/09/2013	<i>rschluet</i>	<i>ph</i>	lparisi 8/29/2013		

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: 8/28/2013 Received By: chanaman
Wanted: As time permits Same as LRB:
For: Nikiya Harris (608) 266-2500 By/Representing: Dave
May Contact: Drafter: chanaman
Subject: Courts - miscellaneous/other Addl. Drafters:
Criminal Law - miscellaneous Extra Copies:

Submit via email: YES
Requester's email: Sen.Harris@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Remove pardons from consolidated court automation program (CCAP) ✓

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman	1 sac 08/29/2013		_____	_____		

FE Sent For:

<END>

Hanaman, Cathlene

From: Kuczenski, Tracy
Sent: Wednesday, August 28, 2013 11:12 AM
To: Hanaman, Cathlene
Cc: Hurley, Peggy
Subject: Drafting request from Sen. Harris

Cathlene –

Dave in Senator Harris' office just called (x62500).

Sen. Harris would like a draft that would treat a pardon as an expungement such that it would not appear on CCAP. I suspect I am totally garbling this, but I told Dave you would give him a call.

Thanks!

Tracy

Tracy K. Kuczenski
Legislative Attorney
Wisconsin Legislative Reference Bureau
tracy.kuczenski@legis.wisconsin.gov
(608) 266-9867



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Friday
if possible

1 **AN ACT** ...; ^{General} relating to: removing from the Consolidated Court Automation
 2 Programs ^{Internet} Web site a criminal conviction if the person who was convicted has
 3 been pardoned.

Analysis by the Legislative Reference Bureau

Under current law, the director of state courts maintains the Consolidated Court Automation Programs (CCAP), which is a system containing information about cases filed in the circuit courts in this state that is available for free on an Internet Web site. CCAP allows a user to enter a person's name into a search function on the Web site to retrieve information about every criminal and civil case involving the person.

Internet

Under this bill, if a person is convicted of a criminal offense but is pardoned, the director of state courts must remove all references on CCAP to the person's charge and conviction.

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

4 **SECTION 1.** 758.20 of the statutes is created to read:

5 **758.20 Consolidated court automation programs.** (1) In this section,
 6 "Wisconsin Circuit Court Access Internet Web site" means the ^{Internet} Web site of the

SECTION 1

1 consolidated court automation programs, which is the statewide electronic circuit
2 court case management system established under s. 758.19 (4) and maintained by
3 the director of state courts, that provides information regarding the cases heard in
4 the circuit courts.

5 (2) The director of state courts shall remove from the Wisconsin Circuit Court
6 Access Internet ^eWeb site, within 90 days of a pardon, all findings, orders, and charges
7 related to a criminal conviction if the convicted person has been pardoned for that
8 conviction.

9 (END)



2013 BILL

today
if possible

refer to

1 AN ACT to create 758.20 of the statutes; relating to: removing from the
2 Consolidated Court Automation Programs Internet site a criminal conviction
3 if the person who was convicted has been pardoned.

Analysis by the Legislative Reference Bureau

Under current law, the director of state courts maintains the Consolidated Court Automation Programs (CCAP), which is a system containing information about cases filed in the circuit courts in this state that is available for free on an Internet site. CCAP allows a user to enter a person's name into a search function on the Internet site to retrieve information about every criminal and civil case involving the person.

Under this bill, if a person is convicted of a criminal offense but is pardoned, the director of state courts must remove all references on CCAP to the person's charge and conviction.

*
*

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

in the record
~~nothing~~
that relate to

4 SECTION 1. 758.20 of the statutes is created to read:
5 758.20 Consolidated court automation programs. (1) In this section,
6 "Wisconsin Circuit Court Access Internet site" means the Internet site of the

BILL

1 consolidated court automation programs, which is the statewide electronic circuit
2 court case management system established under s. 758.19 (4) and maintained by
3 the director of state courts, that provides information regarding the cases heard in
4 the circuit courts.

5 (2) The director of state courts shall remove from the Wisconsin Circuit Court
6 Access Internet site, within 90 days of a pardon, all findings, orders, and charges
7 related to a criminal conviction if the convicted person has been pardoned for that
8 conviction.

9 (END)

9
reference
in the
record
~~relating~~
that relate



3

2013 BILL

at-risk today if possible

refer cat

records and from

charges



findings, orders, and charges that relate to the person's conviction

1 AN ACT to create 758.20 of the statutes; relating to: removing from the
2 Consolidated Court Automation Programs Internet site a criminal conviction
3 if the person who was convicted has been pardoned.

Analysis by the Legislative Reference Bureau

Under current law, the director of state courts maintains the Consolidated Court Automation Programs (CCAP), which is a system containing information about cases filed in the circuit courts in this state that is available for free on an Internet site. CCAP allows a user to enter a person's name into a search function on the Internet site to retrieve information about every criminal and civil case involving the person.

Under this bill, if a person is convicted of a criminal offense but is pardoned, the director of state courts must remove all references on CCAP in the record that relate to the person's conviction.

from the person's record and from

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

4 SECTION 1. 758.20 of the statutes is created to read:
5 758.20 Consolidated court automation programs. (1) In this section,
6 "Wisconsin Circuit Court Access Internet site" means the Internet site of the

304.112

304.112 for info; expungement of record

BILL

SECTION 1

1 consolidated court automation programs, which is the statewide electronic circuit
2 court case management system established under s. 758.19 (4) and maintained by
3 the director of state courts, that provides information regarding the cases heard in
4 the circuit courts.

5 (2) ^{(a) If a person is granted a pardon for a conviction,} The director of state courts shall remove from the Wisconsin Circuit Court
6 Access Internet site, within 90 days of a pardon, all references in the record that
7 relate to a criminal conviction ^{the} if the convicted person has been pardoned for that
8 conviction ^{the}.

9 ^{for which the pardon has been granted} (END) ^{findings, orders, and charges}

(a) If a person is granted a pardon, the court shall expunge from the person's record all findings, orders, and charges related to the conviction for which the pardon is granted.

for a conviction

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3031/2³dn

CMH:j:...

Sac

- date -

Dave:

This bill removes all references in ^athe person's record to a conviction if the person is pardoned for the conviction. Several statutes, however, assume that pardons still appear in the record. For instance, some pardons are contingent upon conditions (see s. 304.11). Also, a pardoned offense, unless the pardon is granted on the grounds of innocence, is counted as an offense when calculating offenses for an increased penalty for habitual criminality (see s. 939.62). Also, a person who has been pardoned for a felony is still prohibited from possessing a firearm unless he or she has been expressly authorized to possess a firearm under federal law under a provision that Congress has invalidated (see s. 941.29 (5) (a); ~~an~~ attorney general opinion states that pardons granted will give recipients the right to possess a firearm unless the pardon expressly provides otherwise). This is not an exhaustive list of statutes that use pardoned offenses in some manner. Should s. 304.112, as created in this bill, contain a requirement that the court maintain a notation of a pardon in the person's record, along with any relevant information ^{*}- conditional, on the grounds of innocence, expressly provides that the firearm prohibition continues?

Cathlene Hanaman
Deputy Chief
Phone: (608) 267-9810
E-mail: cathlene.hanaman@legis.wisconsin.gov

Following the invalidation, a subsequent

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

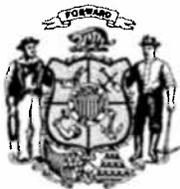
LRB-3031/3dn
CMH:sac:ph

September 11, 2013

Dave:

This bill removes all references in a person's record to a conviction if the person is pardoned for the conviction. Several statutes, however, assume that pardons still appear in the record. For instance, some pardons are contingent upon conditions (see s. 304.11). Also, a pardoned offense, unless the pardon is granted on the grounds of innocence, is counted as an offense when calculating offenses for an increased penalty for habitual criminality (see s. 939.62). Also, a person who has been pardoned for a felony is still prohibited from possessing a firearm unless he or she has been expressly authorized to possess a firearm under federal law, under a provision that Congress has invalidated (see s. 941.29 (5) (a); following the invalidation a subsequent attorney general opinion states that pardons granted will give recipients the right to possess a firearm unless the pardon expressly provides otherwise). This is not an exhaustive list of statutes that use pardoned offenses in some manner. Should s. 304.112, as created in this bill, contain a requirement that the court maintain a notation of a pardon in the person's record, along with any relevant information — conditional, on the grounds of innocence, expressly provides that the firearm prohibition continues?

Cathlene Hanaman
Deputy Chief
Phone: (608) 267-9810
E-mail: cathlene.hanaman@legis.wisconsin.gov



2013 BILL

Monday
if possible

repeal

1 AN ACT to create 304.112 of the statutes; relating to: removing from records and
2 from the Consolidated Court Automation Programs Internet site a criminal
3 conviction if the person who was convicted has been pardoned.

Analysis by the Legislative Reference Bureau

Under current law, the director of state courts maintains the Consolidated Court Automation Programs (CCAP), which is a system containing information about cases filed in the circuit courts in this state that is available for free on an Internet site. CCAP allows a user to enter a person's name into a search function on the Internet site to retrieve information about every criminal and civil case involving the person.

Under this bill, if a person is convicted of a criminal offense but is pardoned, the director of state courts must remove all findings, orders, and charges that relate to the person's conviction from the person's record and from CCAP.

no 91

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

11/5
1-4 →

4 SECTION 1. 304.112 of the statutes is created to read:
5 **304.112 Pardons; expungement of record.** (1) In this section, "Wisconsin
6 Circuit Court Access Internet site" means the Internet site of the consolidated court

BILL**SECTION 1**

1 automation programs, which is the statewide electronic circuit court case
2 management system established under s. 758.19 (4) and maintained by the director
3 of state courts, that provides information regarding the cases heard in the circuit
4 courts.

5 (2) (a) If a person is granted a pardon for a conviction, the court shall expunge
6 from the person's record all findings, orders, and charges related to the criminal
7 conviction for which the person was pardoned.

8 (b) If a person is granted a pardon for a conviction, the director of state courts
9 shall, within 90 days of the pardon, remove from the Wisconsin Circuit Court Access
10 Internet site all findings, orders, and charges that relate to the criminal conviction
11 for which the pardon has been granted.

12

(END)

11
2-11

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3031/3ins
CMH&PJH:sac:ph

Insert A

This requirement does not apply, however, if the pardon is conditional and the person violates any of the conditions.

Also under current law, a pardoned offense, if the pardon was granted on grounds other than innocence, is counted toward a determination of a habitual criminal, a status that permits a sentencing court to increase the maximum term of imprisonment for any subsequent crime that the person commits. Under this bill, a pardoned crime no longer counts when calculating whether the person is a habitual criminal. Also, this bill explicitly states that, if a person who is prohibited from possessing a firearm due only to the commission of a crime receives a pardon for that crime, he or she may possess a firearm.

Insert 1-4

SECTION 1. 304.11 (3) of the statutes is amended to read:

304.11 (3) If upon inquiry it further appears to the governor that the convicted person has violated or failed to comply with any of those conditions, the governor may issue his or her warrant remanding the person to the institution from which discharged, and the person shall be confined and treated as though no pardon had been granted, except that the person loses any applicable good time which he or she had earned, and, notwithstanding s. 304.112 (2), any findings, orders, or charges related to the criminal conviction for which the person was pardoned shall continue to appear on the person's record and on the Wisconsin Circuit Court Access Internet site. If the person is returned to prison, the person is subject to the same limitations as a revoked parolee under s. 302.11 (7). The department shall determine the period of incarceration under s. 302.11 (7) (am). If the governor determines the person has not violated or failed to comply with the conditions, the person shall be discharged subject to the conditional pardon.

History: 1983 a. 528; 1989 a. 31 s. 1710; Stats. 1989 s. 304.11; 1991 a. 316; 2001 a. 109.

expunged
purged from the person's record under s.
304.112(2)(a) w. to the pardon

S.

Insert 2-11

SECTION 2. 939.62 (2) of the statutes is amended to read:

939.62 (2) The actor is a repeater if the actor was convicted of a felony during the 5-year period immediately preceding the commission of the crime for which the actor presently is being sentenced, or if the actor was convicted of a misdemeanor on 3 separate occasions during that same period, which convictions remain of record and unreversed. It is immaterial that sentence was stayed, withheld, or suspended, ~~or that the actor was pardoned, unless such pardon was granted on the ground of innocence.~~ In computing the preceding 5-year period, time which the actor spent in actual confinement serving a criminal sentence shall be excluded.

History: 1977 c. 449; 1989 a. 85; 1993 a. 289, 483, 486; 1995 a. 77, 448; 1997 a. 219, 283, 295, 326; 1999 a. 32, 85, 188; 2001 a. 109; 2005 a. 14, 277; 2007 a. 116; S. 35.17 correction in (2m) (a) 2m. d.

SECTION 3. 939.62 (2m) (bm) of the statutes is amended to read:

939.62 (2m) (bm) For purposes of counting a conviction under par. (b), it is immaterial that the sentence for the previous conviction was stayed, withheld, or suspended, ~~or that the actor was pardoned, unless the pardon was granted on the ground of innocence.~~

History: 1977 c. 449; 1989 a. 85; 1993 a. 289, 483, 486; 1995 a. 77, 448; 1997 a. 219, 283, 295, 326; 1999 a. 32, 85, 188; 2001 a. 109; 2005 a. 14, 277; 2007 a. 116; S. 35.17 correction in (2m) (a) 2m. d.

SECTION 4. 939.621 (1) (b) of the statutes is amended to read:

939.621 (1) (b) A person who was convicted, on 2 separate occasions, of a felony or a misdemeanor for which a court imposed a domestic abuse surcharge under s. 973.055 (1) or waived a domestic abuse surcharge pursuant to s. 973.055 (4), during the 10-year period immediately prior to the commission of the crime for which the person presently is being sentenced, if the convictions remain of record and unreversed. For the purpose of the definition under this paragraph, it is immaterial that sentence was stayed, withheld, or suspended, ~~or that the person was pardoned,~~

~~unless such pardon was granted on the ground of innocence.~~ In computing the preceding 10-year period, time that the person spent in actual confinement serving a criminal sentence shall be excluded.

History: 1987 a. 346; 1995 a. 304; 2011 a. 277.

~~X~~
SECTION 5. 941.29 (5) (a) of the statutes is amended to read:

941.29 (5) (a) Has received a pardon with respect to the crime or felony specified in sub. (1) ~~and has been expressly authorized to possess a firearm under 18 USC app. 1203;~~ or

History: 1981 c. 141, 317; 1983 a. 269; 1985 a. 259; 1993 a. 195, 196, 491; 1995 a. 71, 77, 306, 417; 2001 a. 109; 2007 a. 27; 2009 a. 258; 2011 a. 257, 258.

~~X~~
SECTION 6. 973.12 (1) of the statutes is amended to read:

973.12 (1) Whenever a person charged with a crime will be a repeater or a persistent repeater under s. 939.62 if convicted, any applicable prior convictions may be alleged in the complaint, indictment or information or amendments so alleging at any time before or at arraignment, and before acceptance of any plea. The court may, upon motion of the district attorney, grant a reasonable time to investigate possible prior convictions before accepting a plea. If the prior convictions are admitted by the defendant or proved by the state, he or she shall be subject to sentence under s. 939.62 unless he or she establishes that he or she was pardoned ~~on grounds of innocence~~ for any crime necessary to constitute him or her a repeater or a persistent repeater. An official report of the F.B.I. or any other governmental agency of the United States or of this or any other state shall be prima facie evidence of any conviction or sentence therein reported. Any sentence so reported shall be deemed prima facie to have been fully served in actual confinement or to have been served for such period of time as is shown or is consistent with the report. The court shall

take judicial notice of the statutes of the United States and foreign states in determining whether the prior conviction was for a felony or a misdemeanor.

History: 1993 a. 289.

Parisi, Lori

From: Mcginnis, Cindy
Sent: Tuesday, February 18, 2014 9:54 AM
To: LRB.Legal
Subject: Draft Review: LRB -3031/4 Topic: Remove pardons from consolidated court automation program (CCAP)

Please Jacket LRB -3031/4 for the SENATE.