



2019 ASSEMBLY BILL 1008

March 20, 2020 - Introduced by Representatives GOYKE, HEBL, SARGENT, NEUBAUER, EMERSON, ANDERSON, BOWEN, CROWLEY, ZAMARRIPA, SPREITZER, SUBECK, BROSTOFF, BILLINGS, OHNSTAD and CONSIDINE, cosponsored by Senators SMITH, RISSER, LARSON and L. TAYLOR. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT** *to create* 939.76 of the statutes; **relating to:** expungement of criminal
2 court records.

Analysis by the Legislative Reference Bureau

This bill creates a procedure to expunge the records of a criminal case that did not result in a conviction.

Under current law, when a criminal record is expunged, all information in the case record is sealed or destroyed. Under current law, there is no requirement to expunge a record of a case that did not result in a conviction.

Under the bill, if a person is charged with a misdemeanor or certain traffic violations but the person is acquitted or the charges are dismissed, the court must order that the record of the case be expunged.

Under the bill, if a person is charged with a felony, but the person is acquitted or the charges are dismissed, the person may petition the court to order expungement of the case record. If the court finds that the person will benefit and society will not be harmed by the expungement, the court may order expungement of the case record. Under the bill, a person may not file an expungement petition for a felony charge of operating a vehicle while intoxicated or for a felony traffic violation involving an injury. Under the bill, the court must notify the Department of Justice that the record has been expunged and must seal or destroy the case documents. The bill allows a person to petition for expungement of cases that were closed before the effective date of the bill.

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For further information see the *state* 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:

1 **SECTION 1.** 939.76 of the statutes is created to read:

2 **939.76 Expungement of circuit court records.** (1) (a) When a defendant
3 in a case is acquitted on all charges or when all charges against a defendant in a case
4 are dismissed, the court shall order that the record of the case be expunged if the
5 court determines that all charges are eligible for expungement. The charges that are
6 eligible for expungement under this paragraph are as follows:

7 1. Any misdemeanor.

8 2. A felony violation of ch. 343 or 346 except as provided under par. (c).

9 (b) 1. Upon a petition or motion to the court at any time after a defendant in
10 a case is acquitted on all charges or after all charges against a defendant in a case
11 are dismissed, the court may order expungement of a record of a felony case that did
12 not result in a conviction if the court determines that the defendant in the case will
13 benefit from, and that society will not be harmed by, the expungement.

14 2. A petition or motion under this paragraph shall be filed in the circuit court
15 of the county of the felony case.

16 3. The court may not impose a filing fee for a petition filed under this
17 paragraph.

18 (c) The court may not order expungement under par. (a) and a person may not
19 petition the court for expungement under par. (b) for a felony violation of ch. 343 or
20 346 that involves an injury or for a felony violation of s. 346.63.

