



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7 **SECTION 3.** 973.015 (title) of the statutes is repealed and recreated to read: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
16 of sentencing or at any other time that the record be expunged upon successful
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

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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 and the person
18 successfully completes the sentence, the court may order at any time thereafter that
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)