

1999 DRAFTING REQUEST

Bill

Received: 11/17/98

Received By: malaigm

Wanted: As time permits

Identical to LRB:

For: Robert Goetsch (608) 266-2540

By/Representing: Kent Vernon

This file may be shown to any legislator: NO

Drafter: malaigm

May Contact:

Alt. Drafters:

Subject: Children - delinquency

Extra Copies:

Topic:

Expungement of a juvenile's record

Instructions:

Redraft 1997 AB 103, with adopted amendments AA1, AA2 and AA3 to AB 103

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>
/?	malaigm 11/17/98	wjackson 11/30/98		_____			
/1			ismith 12/1/98	_____	lrb_docadmin 12/1/98	lrb_docadmin 12/14/98	

FE Sent For:

Not Needed

<END>

3

1999 DRAFTING REQUEST

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Wanted: **As time permits**

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For: **Robert Goetsch (608) 266-2540**

By/Representing: **Kent Vernon**

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Subject: **Children - delinquency**

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Topic:

Expungement of a juvenile's record

Instructions:

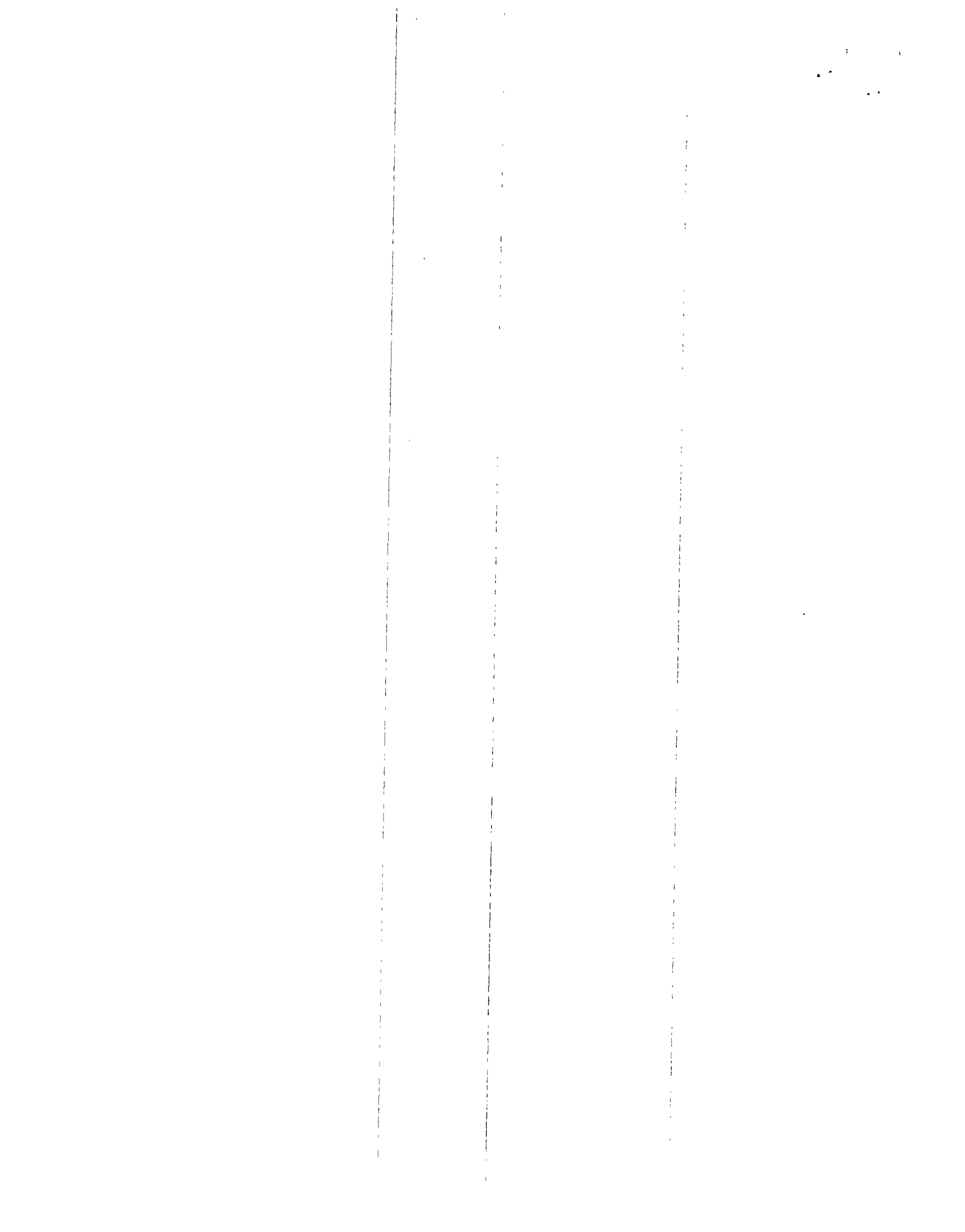
Redraft 1997 AB 103, with adopted amendments AA1, AA2 and AA3 to AB 103

Drafting History:

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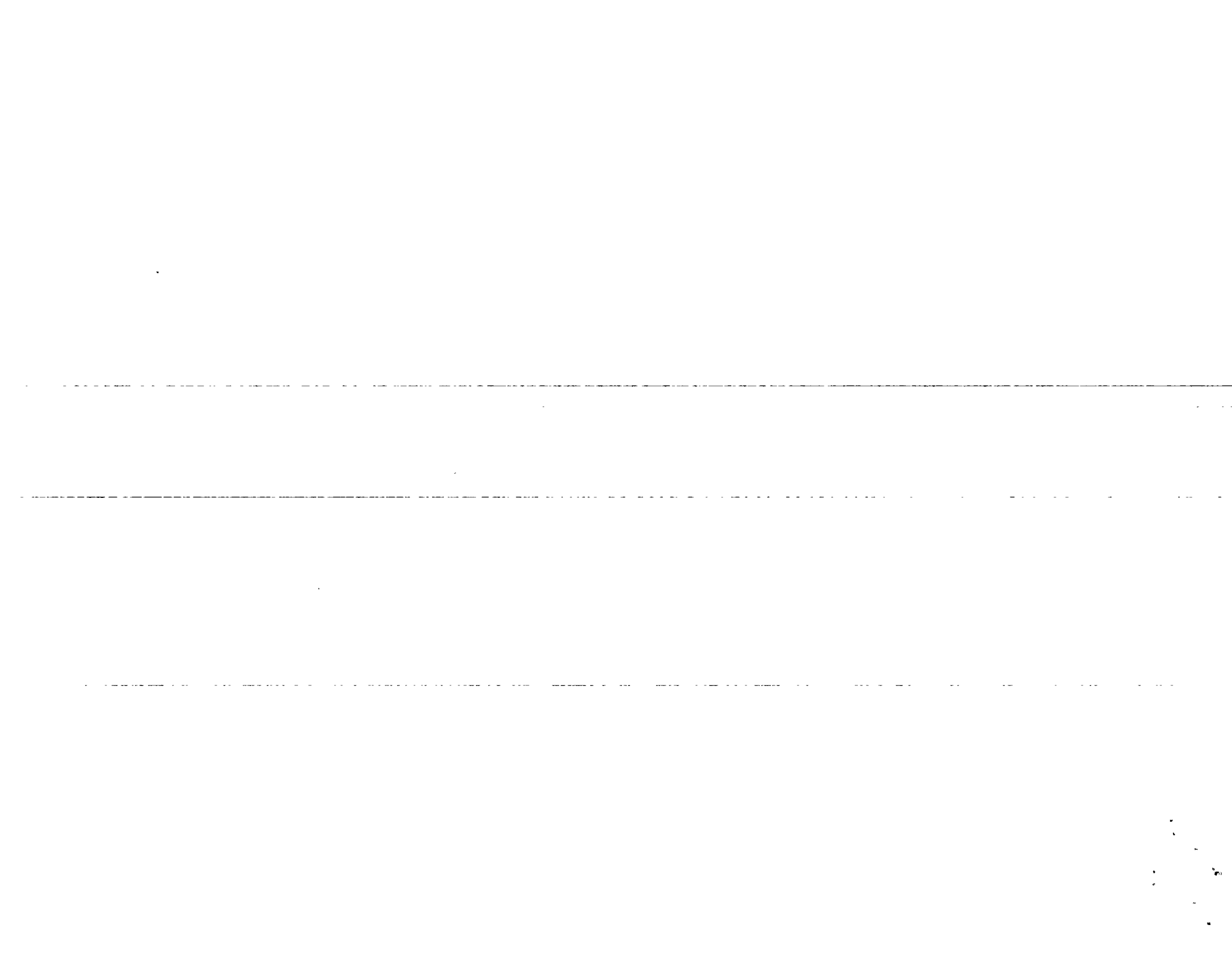
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/?	malaigm	1-11-25-98 JLG	23 12/1	IS/LP 12/1			

FE Sent For:

<END>



**ASSEMBLY AMENDMENT 2,
TO 1997 ASSEMBLY BILL 103**

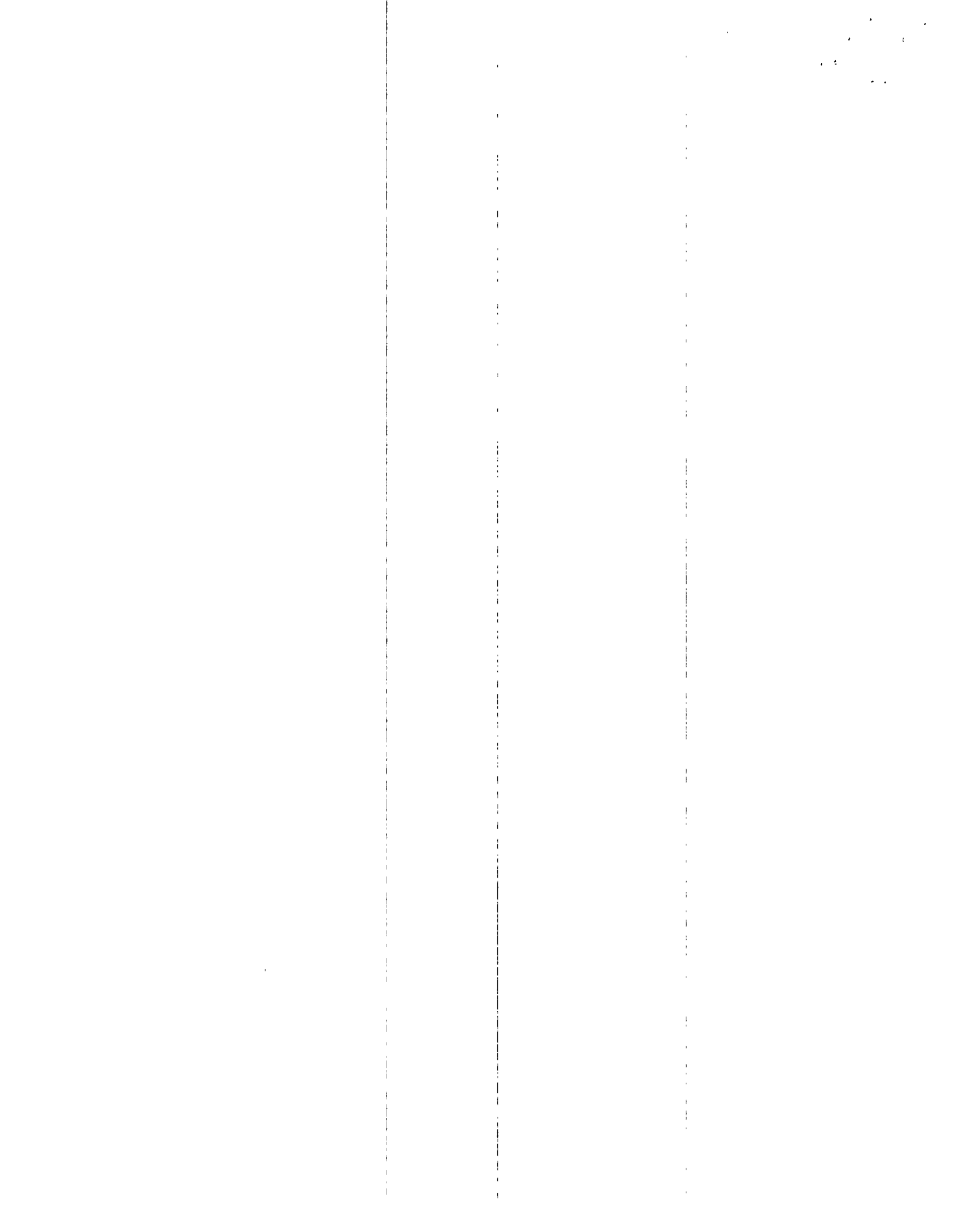
September 17, 1997 - Offered by Representatives KRUG and GOETSCH.

1 At the locations indicated, amend the bill as follows:

2 1. Page 2, line 7 after "adjudication." insert "The court may expunge the court's
3 record of the person's adjudication for committing an act that would be a
4 misdemeanor if committed by an adult if the court determines that the person has
5 satisfactorily complied with the conditions of his or her dispositional order and that
6 the person will benefit and society not be harmed by the expungement.".

7 2. Page 2, line 8: after "adjudication" insert "for committing an act that would
8 be a felony if committed by an adult".

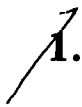
9 (END)



**ASSEMBLY AMENDMENT 3,
TO 1997 ASSEMBLY BILL 103**

September 17, 1997 - Offered by Representatives GOETSCH and R. YOUNG.

1 At the locations indicated, amend the bill as follows:

2  1. Page 2, line 6: delete "25" and substitute "21".

3 (END)

DAVIS

9

~~1997 ASSEMBLY BILL 103~~

of an adjudication for committing an act that would be a felony if committed by an adult

the juvenile court must determine

February 18, 1997 - Introduced by Representatives GOETSCH, WOOD, LADWIG, M. LEHMAN, PORTER, F. LASEE, SERATTI, OWENS, GROTHMAN, HAHN, ZIEGELBAUER, MUSSER, BRANDEMUEHL, AINSWORTH, NASS, OLSEN and OTT, cosponsored by Senators WELCH, FITZGERALD, WEEDEN and ROSENZWEIG. Referred to Committee on Criminal Justice and Corrections.

Regenerate

- 1 AN ACT to amend 938.355 (4m) of the statutes; relating to: expungement of the
- 2 juvenile court's record of a person's delinquency adjudication.

21

Analysis by the Legislative Reference Bureau

Under current law, a person who has been adjudicated delinquent may, on attaining 17 years of age, petition the court assigned to exercise jurisdiction under the juvenile justice code (juvenile court) to expunge the juvenile court's record of the person's delinquency adjudication. The juvenile court may expunge that record if the juvenile court determines that the person has satisfactorily complied with the conditions of his or her dispositional order and that the person will benefit and society will not be harmed by the expungement. This bill raises to 25 the age at which a person who has committed a delinquent act that would be a felony if committed by an adult may petition the juvenile court for expungement of his or her juvenile court record. The bill also changes the determination that the juvenile court must make before the court may expunge a person's juvenile court record from determining that the person has satisfactorily complied with the conditions of his or her dispositional order to determining that the person has not been sanctioned for violating a condition of his or her dispositional order.

requires that, juvenile

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

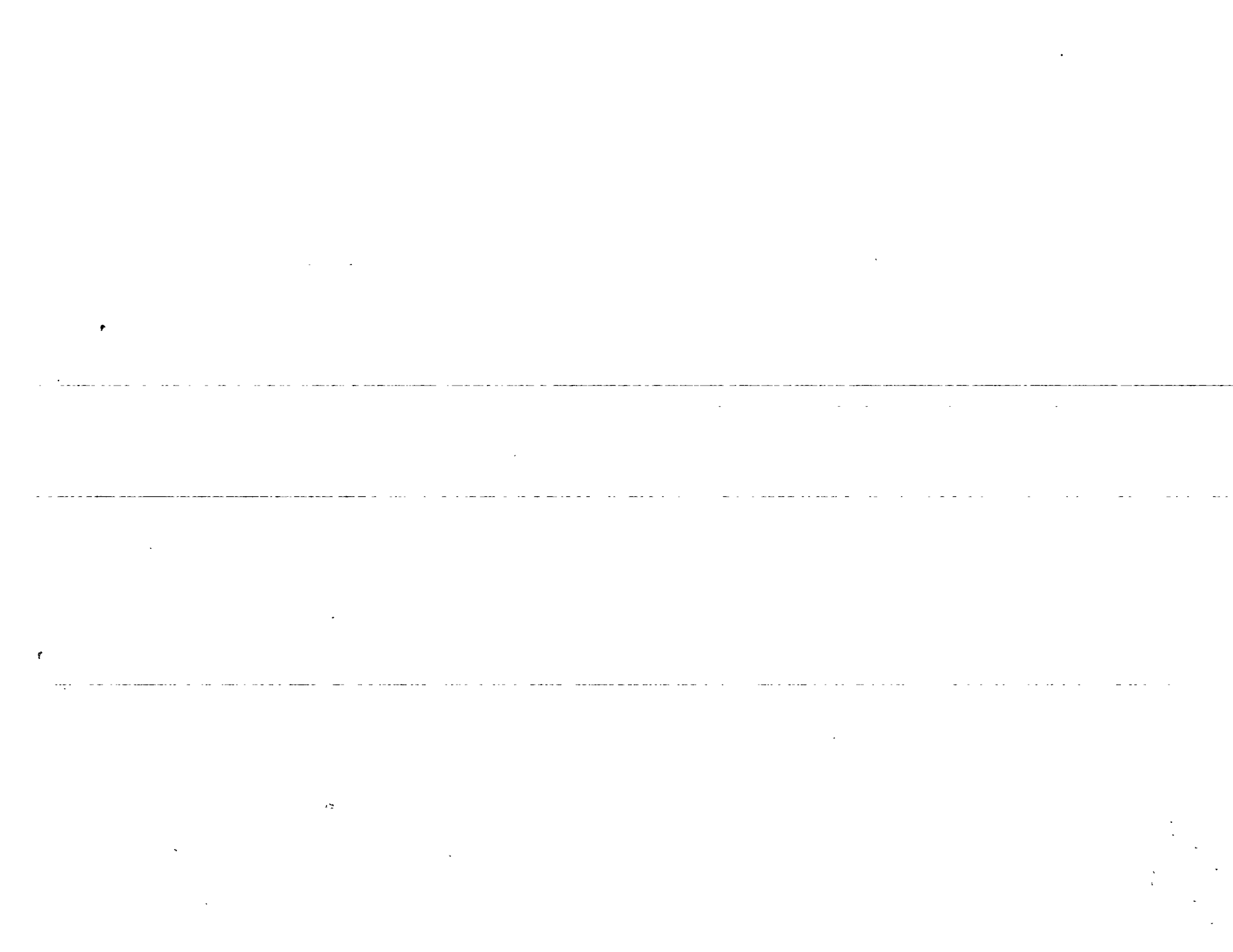
renumbered 938.355 (4m)(a) and

SECTION 1. 938.355 (4m) of the statutes is amended to read:

~~and that the person will benefit and society will not be harmed by the expungement~~

Insert A

WPO-Fix component 3



ASSEMBLY BILL 103

21 ✓

(a)

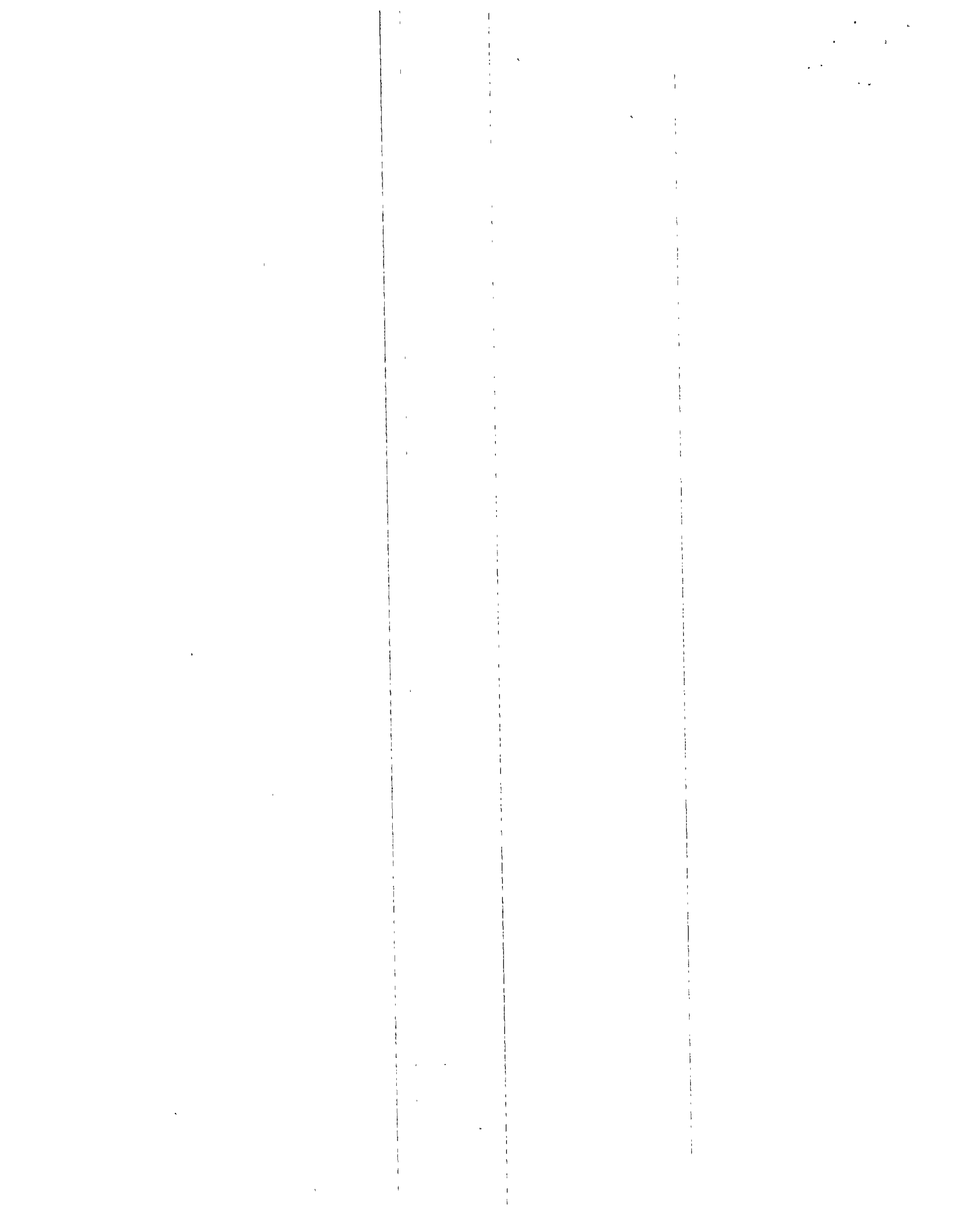
1 938.355 (4m) ^{EXPUNGEMENT OF RECORD} A juvenile person who has been
 2 adjudged delinquent for committing an act that would be a misdemeanor if
 3 committed by an adult may, on attaining 17 years of age, petition the court to
 4 expunge the court's record of the juvenile's person's adjudication. A person who has
 5 been adjudged delinquent for committing an act that would be a felony if committed
 6 by an adult may, on attaining 21 years of age, petition the court to expunge the court's
 7 record of the person's adjudication. The court may expunge the court's record of the
 8 juvenile's person's adjudication if the court determines that the juvenile person has
 9 satisfactorily complied with the conditions not been sanctioned under s. 938.355 (6)
 10 (a) for violating a condition of his or her dispositional order and that the juvenile
 11 person will benefit and society will not be harmed by the expungement.

END

, that the person has not
 been adjudicated delinquent
 for committing an act
 that would be a felony
 if committed by an
 adult and has not been
 convicted for committing
 a felony since the date
 of the dispositional
 order

NO ~~FP~~ The court may expunge the court's
 record of the person's adjudication for
 committing an act that would be a
 misdemeanor if committed by an adult if
 the court determines that the person has
 satisfactorily complied with the conditions
 of the person's dispositional order and that
 the person will benefit and society ^{will} not
 be harmed by the expungement.
 (b) (FP)

for committing an act that would be a
 felony if committed by an adult ✓



INITIAL APPLICABILITY

- In the component bar:
 For the action phrase, execute: **create** → **action:** → *NS: → **inappl**
 For the budget action phrase, execute: **create** → **action:** → *NS: → **93XX**
 For the text, execute: **create** → **text:** → *NS: → **inappl**
- Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, for the budget, fill in the **9300** department code; and fill in "____" or "()" only if a "frozen" number is needed.

SECTION # **[93** **]**. **Initial applicability;**

(#1) ()

The treatment of sections ..

of the statutes

first applies to

- In the component bar:
 For the action phrase, execute: **create** → **action:** → *NS: → **inappl**
 For the text, execute: **create** → **text:** → *NS: → **inapplA**
- Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "____" or "()" only if a "frozen" number is needed.

SECTION # . **Initial applicability;**

on the effective date of this subsection

(#1) ()

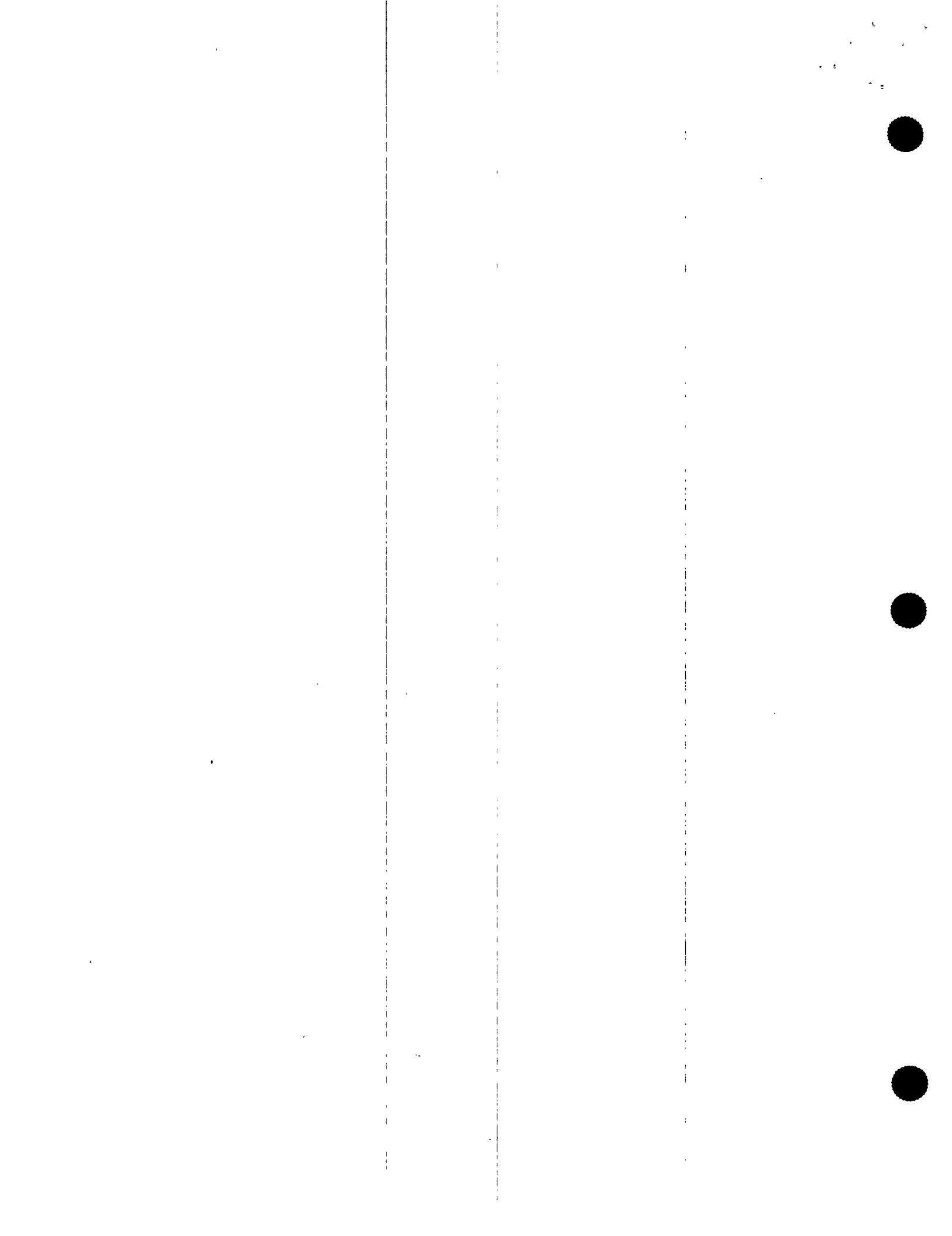
This act first ap-

plies to petitions for expungement filed under section 938.355 (4m) of the statutes, as affected by this act, and does not preclude the expungement of a record of a delinquency adjudication made before the effective date of this subsection.

[rev: 6/2/98 1999inappl(fm)]

(End) ✓

D-note



GMM:WLJ:
JG

D-Note

In State v. Jason J.C., 216 Wis.2d 12 (Ct.App.

1997), the Court of Appeals held that the expungement statute applies only to delinquent acts committed on or

after July 1, 1996. The Court of Appeals so held because

that is what the catch-all initial applicability provision of

1995 Wisconsin Act 77 provided for, and that Act did not

provide for a specific initial applicability provision for the

expungement statute. In so holding, however, the Court

of Appeals noted that "drawing an artificial line

between ~~and~~ juveniles adjudged under ch. 48 from

juveniles adjudged under ch. 938 as regards the right to

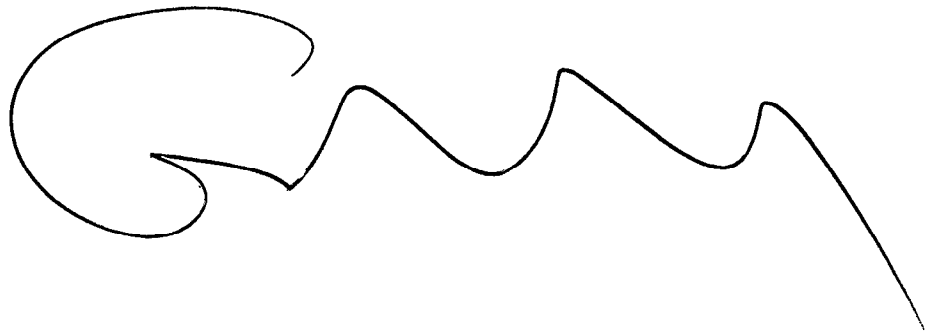
seek expungement makes no sense from a public policy

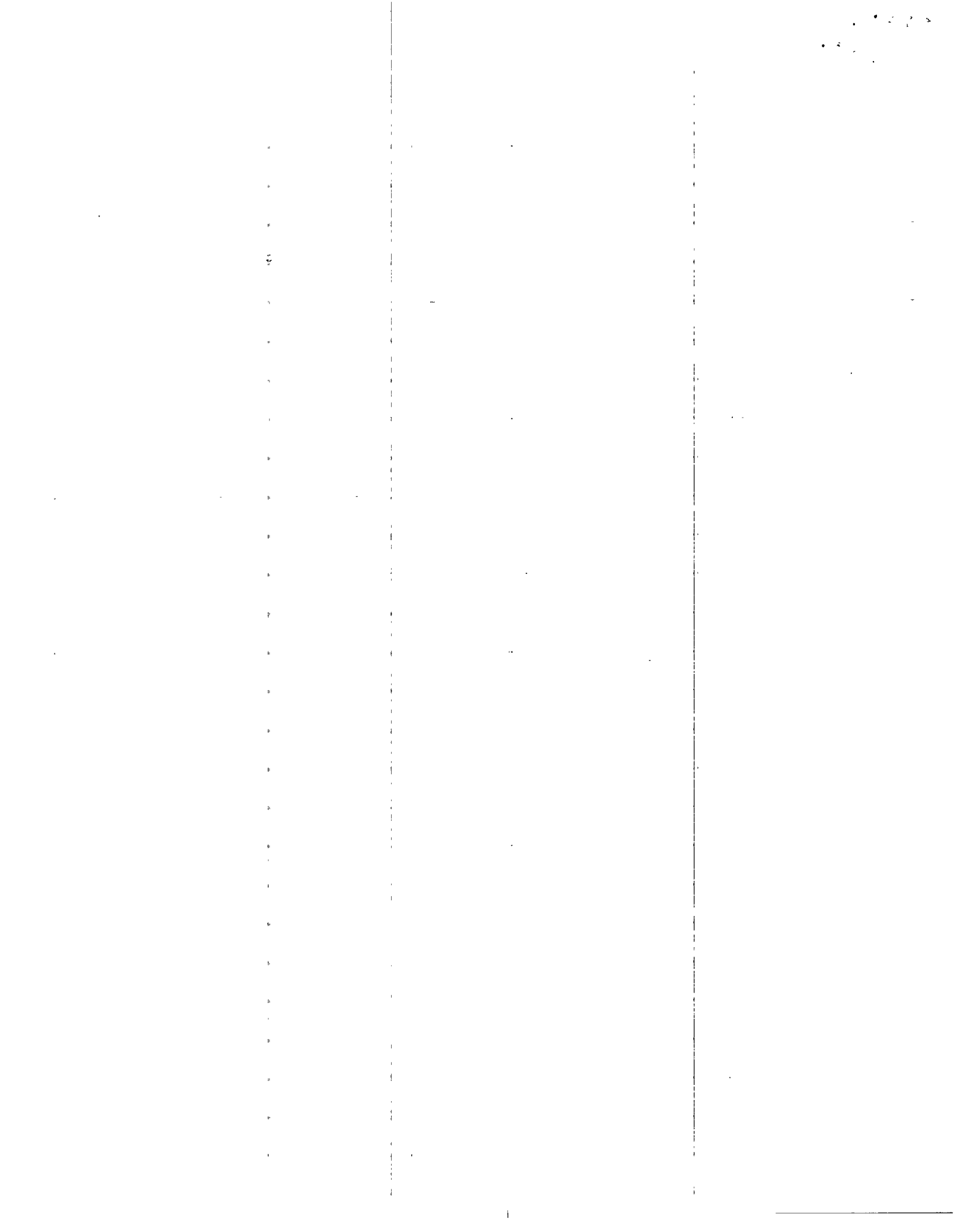
standpoint. Id. at p. 22. Accordingly, ~~to correct~~



To correct this result,

This draft includes an initial applicability provision that specifies that the draft does ⁽¹⁾ not preclude a court from ~~expunging~~ ^{delinquency} expunging a record of a ~~an~~ adjudication made ⁽²⁾ before the effective date of the draft.





ROBERT A)

, that the person has not been adjudicated delinquent
for committing an act that would be a felony if committed
by an adult ^{that the person} and has ~~not~~ not been convicted for
committing a felony since the date of the dispositional
order and that the person will benefit and society
will not be harmed by the expungement. AM

Seal of MA)

1000

100

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0898/1dn
GMM:wlj&jlg.:ijs

December 1, 1998

In *State v. Jason J.C.*, 216 Wis. 2d 12 (Ct. App. 1997), the Court of Appeals held that the expungement statute applies only to delinquent acts committed on or after July 1, 1996. The Court of Appeals so held because that is what the catch-all initial applicability provision of 1995 Wisconsin Act 77 provided for, and that Act did not provide for a specific initial applicability provision for the expungement statute. In so holding, however, the Court of Appeals noted that “drawing an artificial line between juveniles adjudged under ch. 48 from juveniles adjudged under ch. 938 as regards the right to seek expungement makes no sense from a public policy standpoint.” *Id.* at p. 22. Accordingly, to correct this result, this draft includes an initial applicability provision that specifies that the draft does *not* preclude a court from expunging a record of a delinquency adjudication made *before* the effective date of the draft.

Gordon M. Malaise
Senior Legislative Attorney
266-9738

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 12/1/98

To: Representative Goetsch

Relating to LRB drafting number: LRB-0898


Topic

Expungement of a juvenile's record

Subject(s)

Children - delinquency

1. **JACKET** the draft for introduction



in the **Senate** ____ or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Gordon M. Malaise, Senior Legislative Attorney
Telephone: (608) 266-9738

1

2

3

4