

1999 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB86)

Received: 05/14/99

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:

Pre Topic:

No specific pre topic given

Topic:

Expungement of a juvenile's delinquency record; repeal of that provision

Instructions:

Repeal s;. 938.355 (4m), stats., which permits a juvenile court to expunge a juvenile's delinquency record.

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 05/14/99	gilfokm 05/15/99		_____			
/1			mclark 05/17/99	_____	lrb_docadmin 05/17/99	lrb_docadmin 05/17/99	

FE Sent For:

<END>

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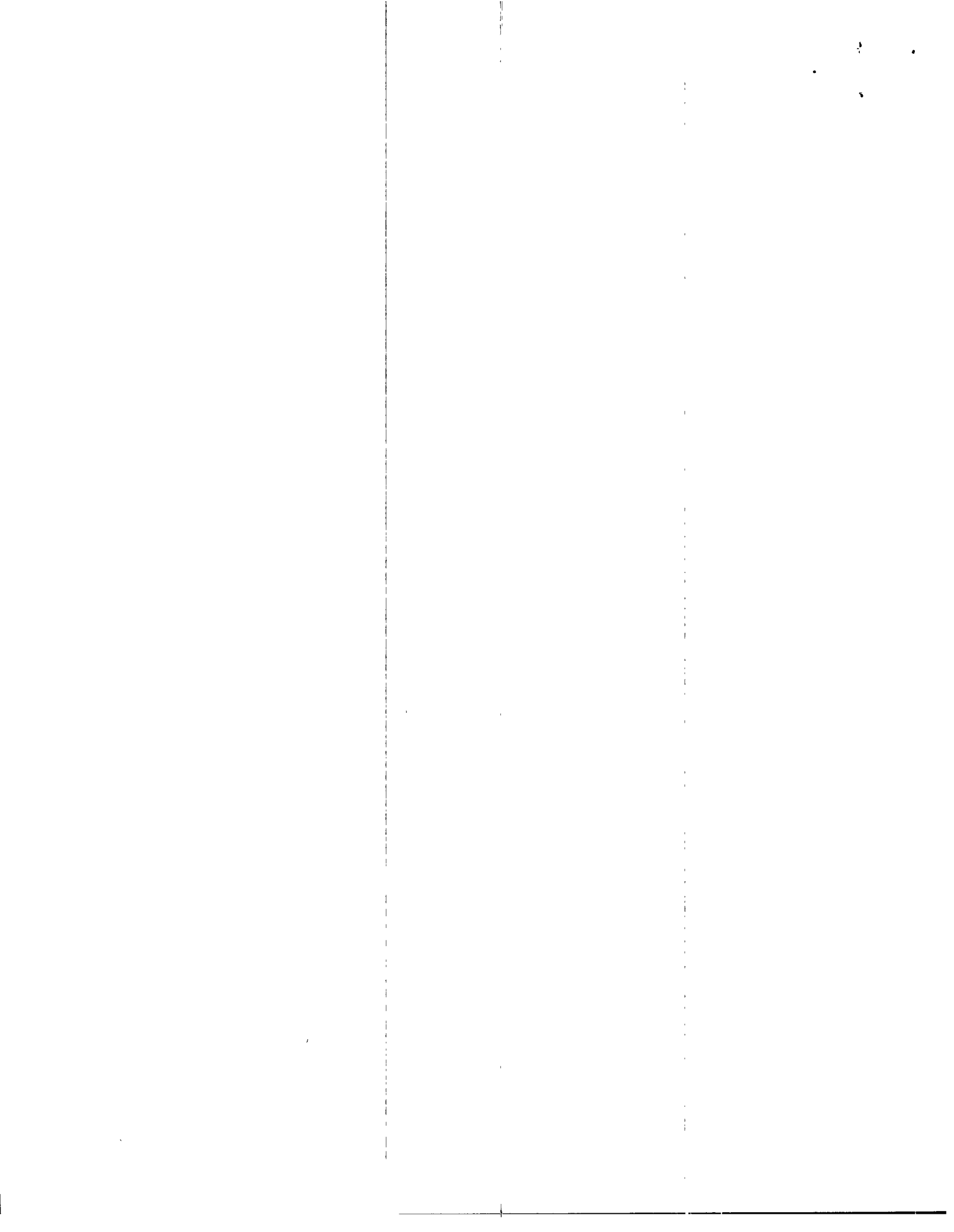
Repeal s.; 938.355 (4m), stats., which permits a juvenile court to expunge a juvenile's delinquency record.

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1?	malaigm	1-5-99 KMG	5/17 MRC	MRC/KM 5/17			

FE Sent For:

<END>



Malaise, Gordon

From: Malaise, Gordon
Sent: Friday, May 14, 1999 4:22 PM
To: Vernon, Kent
Subject: FW: Assembly Bil 86

Kent:

P.S. On closer reading, AR 54 (3) (d) only applies to amendments and not to substitute amendments, so I see your logic in having this drafted as a substitute amendment. In that case, AR 54 (1) might be the only stumbling block in that someone might try to argue that the substitute amendment "is intended to accomplish a different purpose than that of the proposal to which it relates". Specifically, the bill is intended to make it tougher to expunge a felony and the substitute amendment is intended to do away with expungement altogether. Whether that is a different purpose rests in the discretion of the speaker pro tem.

Gordon

-----Original Message-----

From: Malaise, Gordon
Sent: Friday, May 14, 1999 3:40 PM
To: Vernon, Kent
Subject: RE: Assembly Bil 86

Kent:

I will draft that substitute amendment for you, but you should be aware of Assembly Rule 54 (3) (d), which provides that an amendment that **repeals** a statute when the purpose of the original proposal is limited to **amending** that statute is nongermane. As such, if you are concerned about an adverse ruling on the germaneness of the substitute amendment, then maybe you should start over again with a new bill.

Gordon

-----Original Message-----

From: Vernon, Kent
Sent: Friday, May 14, 1999 3:23 PM
To: Malaise, Gordon
Subject: Assembly Bil 86

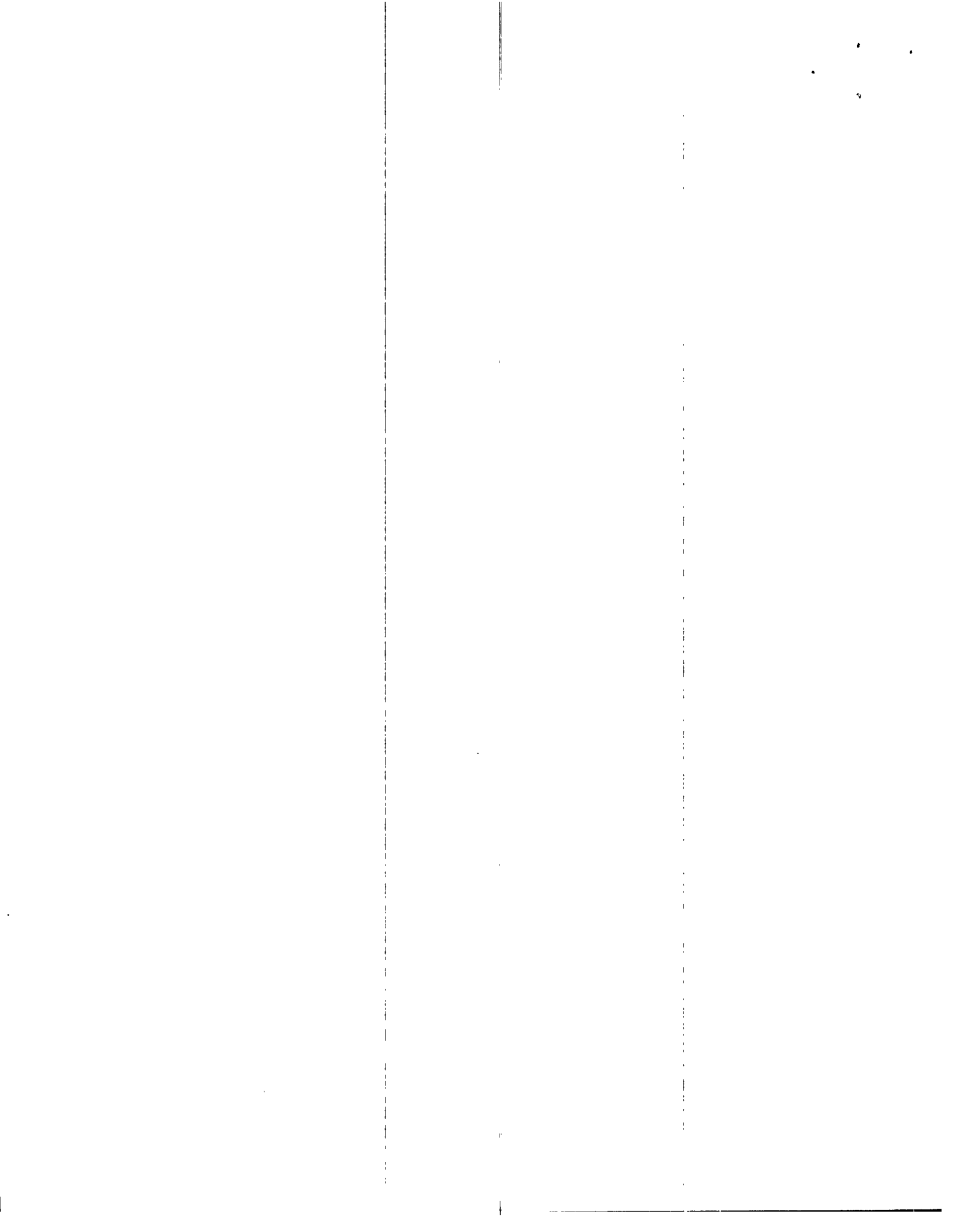
Gordon,

Here's another stab the Goetsch's office continuing problem with AB 86...

Would you draft a substitute amendment that repeals s. 938.355 (4m)?

Thanks.

Kent D. Vernon
Committee Clerk
Assembly Committee on Criminal Justice,
State Representative Robert G. Goetsch, Chair
kent.vernon@legis.state.wi.us
Phone: 608-266-2540
Toll Free: 1-888-534-0039
Fax: 608-282-3639





State of Wisconsin
1999 - 2000 LEGISLATURE

note

LRBs00767
GMM...
king

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 1999 ASSEMBLY BILL 86

see page 10

1 AN ACT ...; relating to: expungement of the juvenile court's record of a person's
2 delinquency adjudication.

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

3 SECTION 1. 938.355 (4m) of the statutes is repealed.

4 SECTION 2. Nonstatutory provisions.

5 (1) TRANSITIONAL PROVISIONS. A petition for expungement of a juvenile court
6 record filed under section 938.355 (4m), 1997 stats., before the effective date of this
7 subsection may^(be) completed under the law that was in effect when the petition was
8 filed.

9 (END)

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

LRBs0076/1dn

GMM...:.....

King

This substitute amendment, which eliminates expungement of a juvenile record altogether, might face a challenge under Assembly Rule 54 (1) that it is nongermane to the original bill, which raises to 21 the age at which a person may have his or her juvenile record for committing a felony expunged, on the grounds that the substitute amendment "is intended to accomplish a different purpose than that of the proposal to which it relates". Whether eliminating expungement altogether is a different purpose from raising the age for expungement of a felony to 21 rests in the judgment of the speaker pro tem. If you are concerned about an adverse ruling on the issue of germaneness of the substitute amendment, then maybe you should consider having this substitute amendment redrafted as a bill.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: Gordon.Malaise@legis.state.wi.us

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

LRBs0076/ldn
GMM:kmg:mrc

May 17, 1999

This substitute amendment, which eliminates expungement of a juvenile record altogether, might face a challenge under Assembly Rule 54 (1) that it is nongermane to the original bill, which raises to 21 the age at which a person may have his or her juvenile record for committing a felony expunged, on the grounds that the substitute amendment "is intended to accomplish a different purpose than that of the proposal to which it relates". Whether eliminating expungement altogether is a different purpose from raising the age for expungement of a felony to 21 rests in the judgment of the speaker pro tem. If you are concerned about an adverse ruling on the issue of germaneness of the substitute amendment, then maybe you should consider having this substitute amendment redrafted as a bill.

Gordon M. Malaise
Senior Legislative Attorney
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