



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2011 Senate Bill 207	Senate Amendment 1
<i>Memo published:</i> November 1, 2011	<i>Contact:</i> Margit Kelley, Staff Attorney (266-9280)

CURRENT LAW

Under current law, it is an act of employment discrimination to refuse to hire, or to bar or terminate from employment, any individual on the basis of arrest record or conviction record. The law gives a few exceptions that would not be an act of employment discrimination, including if the circumstances of the offense substantially relate to the particular job, the individual is not bondable as required for the job, or the job is as a private detective, or installer of burglar alarms, among others.

2011 SENATE BILL 207

Senate Bill 207 provides that it is not employment discrimination to refuse to hire, or to bar or terminate from employment, any individual who has been convicted of a felony who has not been pardoned.

The bill also provides that it is not employment discrimination to refuse to hire, or to bar or terminate from employment: any individual who has been convicted but pardoned for a felony if the circumstances of the offense substantially relate to the particular job; any individual who has been convicted of a misdemeanor if the circumstances of the offense substantially relate to the particular job; or an individual who is not bondable as required for the job.

SENATE AMENDMENT 1

Senate Amendment 1 specifies that an individual with a conviction record who has been refused, barred, or terminated from employment is not precluded from claiming that an employer engaged in an act of employment discrimination because of a disparate treatment or impact on the individual as a member of a protected class. The disparate treatment and disparate impact theories have previously been recognized by Wisconsin courts, and the amendment clarifies that such an action would not be

barred with enactment of the bill. [See e.g., *Racine Unified School Dist. v. LIRC*, 164 Wis. 2d 567 (Wis. Ct. App. 1991).]

LEGISLATIVE HISTORY

2011 Senate Bill 207 was introduced by Senator Darling and others on September 28, 2011. On November 1, 2011, Senate Amendment 1 was unanimously introduced by the Senate Committee on Labor, Public Safety, and Urban Affairs, and adopted on a vote of Ayes, 3; Noes, 2. That same day the committee recommended passage of the bill, as amended, on a vote of Ayes, 4; Noes, 1.

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