



## 2013 SENATE BILL 620

February 20, 2014 – Introduced by Senators HARRIS and L. TAYLOR, cosponsored by Representatives GOYKE, JOHNSON, PASCH, YOUNG, MILROY, HESSELBEIN, WACHS, WRIGHT, BARNES, SINICKI and ZAMARRIPA. Referred to Committee on Judiciary and Labor.

1     **AN ACT to amend** 304.11 (3), 939.62 (2), 939.62 (2m) (bm), 939.621 (1) (b), 941.29  
2           (5) (a) and 973.12 (1); and **to create** 304.112 of the statutes; **relating to:**  
3           removing from records and from the Consolidated Court Automation Programs  
4           Internet site a criminal conviction if the person who was convicted has been  
5           pardoned.

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### *Analysis by the Legislative Reference Bureau*

Under current law, the director of state courts maintains the Consolidated Court Automation Programs (CCAP), which is a system containing information about cases filed in the circuit courts that is available for free on an Internet site. CCAP allows a user to enter a person's name into a search function on the Internet site to retrieve information about every criminal and civil case involving the person.

Under this bill, if a person is convicted of a criminal offense but is pardoned, the director of state courts must remove all findings, orders, and charges that relate to the person's conviction from the person's record and from CCAP. This requirement does not apply, however, if the pardon is conditional and the person violates any of the conditions.

Also under current law, a pardoned offense, if the pardon was granted on grounds other than innocence, is counted toward a determination of a habitual criminal, a status that permits a sentencing court to increase the maximum term of imprisonment for any subsequent crime that the person commits. Under this bill, a pardoned crime no longer counts when calculating whether the person is a habitual

**SENATE BILL 620**

criminal. Also, this bill explicitly states that, if a person who is prohibited from possessing a firearm due only to the commission of a crime receives a pardon for that crime, he or she may possess a firearm.

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

1           **SECTION 1.** 304.11 (3) of the statutes is amended to read:

2           304.11 (3) If upon inquiry it further appears to the governor that the convicted  
3 person has violated or failed to comply with any of those conditions, the governor may  
4 issue his or her warrant remanding the person to the institution from which  
5 discharged, and the person shall be confined and treated as though no pardon had  
6 been granted, except that the person loses any applicable good time which he or she  
7 had earned and, notwithstanding s. 304.112 (2), any findings, orders, or charges  
8 expunged from the person's record under s. 304.112 (2) (a) due to the pardon shall  
9 appear on the person's record and on the Wisconsin Circuit Court Access Internet  
10 site. If the person is returned to prison, the person is subject to the same limitations  
11 as a revoked parolee under s. 302.11 (7). The department shall determine the period  
12 of incarceration under s. 302.11 (7) (am). If the governor determines the person has  
13 not violated or failed to comply with the conditions, the person shall be discharged  
14 subject to the conditional pardon.

15           **SECTION 2.** 304.112 of the statutes is created to read:

16           **304.112 Pardons; expungement of record.** (1) In this section, "Wisconsin  
17 Circuit Court Access Internet site" means the Internet site of the consolidated court  
18 automation programs, which is the statewide electronic circuit court case  
19 management system established under s. 758.19 (4) and maintained by the director

**SENATE BILL 620**

1 of state courts, that provides information regarding the cases heard in the circuit  
2 courts.

3 (2) (a) If a person is granted a pardon for a conviction, the court shall expunge  
4 from the person's record all findings, orders, and charges related to the criminal  
5 conviction for which the person was pardoned.

6 (b) If a person is granted a pardon for a conviction, the director of state courts  
7 shall, within 90 days of the pardon, remove from the Wisconsin Circuit Court Access  
8 Internet site all findings, orders, and charges that relate to the criminal conviction  
9 for which the pardon has been granted.

10 **SECTION 3.** 939.62 (2) of the statutes is amended to read:

11 939.62 (2) The actor is a repeater if the actor was convicted of a felony during  
12 the 5-year period immediately preceding the commission of the crime for which the  
13 actor presently is being sentenced, or if the actor was convicted of a misdemeanor on  
14 3 separate occasions during that same period, which convictions remain of record  
15 and unreversed. It is immaterial that sentence was stayed, withheld, or suspended,  
16 ~~or that the actor was pardoned, unless such pardon was granted on the ground of~~  
17 ~~innocence.~~ In computing the preceding 5-year period, time which the actor spent in  
18 actual confinement serving a criminal sentence shall be excluded.

19 **SECTION 4.** 939.62 (2m) (bm) of the statutes is amended to read:

20 939.62 (2m) (bm) For purposes of counting a conviction under par. (b), it is  
21 immaterial that the sentence for the previous conviction was stayed, withheld, or  
22 suspended, ~~or that the actor was pardoned, unless the pardon was granted on the~~  
23 ~~ground of innocence.~~

24 **SECTION 5.** 939.621 (1) (b) of the statutes is amended to read:

**SENATE BILL 620**

1           939.621 (1) (b) A person who was convicted, on 2 separate occasions, of a felony  
2 or a misdemeanor for which a court imposed a domestic abuse surcharge under s.  
3 973.055 (1) or waived a domestic abuse surcharge pursuant to s. 973.055 (4), during  
4 the 10–year period immediately prior to the commission of the crime for which the  
5 person presently is being sentenced, if the convictions remain of record and  
6 unreversed. For the purpose of the definition under this paragraph, it is immaterial  
7 that sentence was stayed, withheld, or suspended, ~~or that the person was pardoned,~~  
8 ~~unless such pardon was granted on the ground of innocence.~~ In computing the  
9 preceding 10–year period, time that the person spent in actual confinement serving  
10 a criminal sentence shall be excluded.

11           **SECTION 6.** 941.29 (5) (a) of the statutes is amended to read:

12           941.29 (5) (a) Has received a pardon with respect to the crime or felony specified  
13 in sub. (1) ~~and has been expressly authorized to possess a firearm under 18 USC app.~~  
14 ~~1203; or~~

15           **SECTION 7.** 973.12 (1) of the statutes is amended to read:

16           973.12 (1) Whenever a person charged with a crime will be a repeater or a  
17 persistent repeater under s. 939.62 if convicted, any applicable prior convictions may  
18 be alleged in the complaint, indictment or information or amendments so alleging at  
19 any time before or at arraignment, and before acceptance of any plea. The court may,  
20 upon motion of the district attorney, grant a reasonable time to investigate possible  
21 prior convictions before accepting a plea. If the prior convictions are admitted by the  
22 defendant or proved by the state, he or she shall be subject to sentence under s.  
23 939.62 unless he or she establishes that he or she was pardoned ~~on grounds of~~  
24 ~~innocence~~ for any crime necessary to constitute him or her a repeater or a persistent  
25 repeater. An official report of the F.B.I. or any other governmental agency of the

**SENATE BILL 620**

1 United States or of this or any other state shall be prima facie evidence of any  
2 conviction or sentence therein reported. Any sentence so reported shall be deemed  
3 prima facie to have been fully served in actual confinement or to have been served  
4 for such period of time as is shown or is consistent with the report. The court shall  
5 take judicial notice of the statutes of the United States and foreign states in  
6 determining whether the prior conviction was for a felony or a misdemeanor.

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**(END)**