


Appendix A

LEGISLATIVE REFERENCE BUREAU
DRAFTING HISTORY RESEARCH APPENDIX


 The drafting file for 2019 LRB-1309/2 (For: Rep. Steffen)
has been copied/transferred to the drafting file for
2019 LRB-1689 (For: Rep. Steffen)



 Are These “Companion Bills” ?? ... No

RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

 Request Made By: MED & CMH

 Date: 01/28/2017

2019 DRAFTING REQUEST

Bill

For: **David Steffen (608) 266-5840** Drafter: **chanaman**
 By: **Nicole** Secondary Drafters:
 Date: **1/9/2019** May Contact:
 Same as LRB: **-1671**

Submit via email: **YES**
 Requester's email: **Rep.Steffen@legis.wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Expunged records, employment, and notice

Instructions:

ASA1 to 2017 SB53 as base; no age limit; prosecutor must respond; change "all conditions of his or her sentence";

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 1/10/2019	ccarmich 1/11/2019			
/P1	chanaman 1/17/2019	ccarmich 1/17/2019	dwalker 1/11/2019		State S&L
/P2	chanaman 1/24/2019	ccarmich 1/24/2019	lparisi 1/17/2019		State S&L
/P3			mbarman 1/24/2019		State S&L
/1	mduchek	ccarmich	dwalker	dwalker	State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	1/28/2019	1/28/2019	1/28/2019	1/28/2019	S&L
/2			dwalker 1/28/2019	dwalker 1/28/2019	State S&L

FE Sent For:

<END>



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1309/1 PI
CMH&MED:cdc

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SLA ✓

1

AN ACT ^{gc} relating to: expungement of records of certain crimes.

Analysis by the Legislative Reference Bureau

Under current law, a court may order a person's criminal record expunged of a crime for which the maximum term of imprisonment is six years or less (Class H felony and below) if the person committed that crime before the age of 25, the person had not been previously convicted of a felony, and the crime was not a violent felony. Current law specifies that the expungement order must be made only at sentencing and then the record is expunged when the person completes his or her sentence.

This bill removes the condition that the person committed the crime before the age of 25 and excepts certain traffic regulations from being eligible for expungement. This bill also provides that, if the sentencing court did not order the record expunged, the person may file a petition with the sentencing court after he or she completes his or her sentence. Upon receipt of the petition, the court must review the petition and then may order the record expunged or may deny the petition. If the court denies the petition, the person may not file another petition for two years and may not file more than two petitions per crime. The changes described in this paragraph retroactively apply to persons who were convicted of a crime before this bill takes effect.

This bill also requires the sentencing court to inform an eligible person of the process to petition for an expungement order and allows the sentencing court to order that a person's record not be eligible for expungement. This bill also provides that, if a record is expunged of a crime, that crime is not considered a conviction for employment purposes and specifies that employment discrimination because of a conviction record includes requesting a person to supply information regarding a crime if the record has been expunged of the crime.

no person

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:

1 **SECTION 1.** 111.335 (1) (am)[✓] of the statutes is created to read:

2 111.335 (1) (am) Employment discrimination because of conviction record
3 includes, but is not limited to, requesting an applicant, employee, member, licensee,
4 or any other individual, on an application form or otherwise, to supply information
5 regarding a crime the record of which has been expunged under s. 973.015[✓]. A request
6 to supply information regarding criminal convictions shall not be construed as a
7 request to supply information regarding a crime the record of which has been
8 expunged under s. 973.015[✓].

9 **SECTION 2.** 950.04 (1v) (g)[✓] of the statutes is amended to read:

10 950.04 (1v) (g) To have reasonable attempts made to notify the victim of
11 hearings or court proceedings, as provided under ss. 302.113 (9g) (g) 2., 302.114 (6),
12 938.27 (4m) and (6), 938.273 (2), 971.095 (3) and, 972.14 (3) (b), and 973.015 (1m) (c)[✓].

History 1979 c. 219; 1983 a. 102, 364; 1985 a. 311; 1987 a. 332 s. 64; 1989 a. 31; 1997 a. 181, 237, 283; 1999 a. 9, 32, 188; 2001 a. 16, 109; 2003 a. 224; 2005 a. 155, 277, 34, 447; 2007 a. 20 ss. 3863, 9121 (6) (a); 2007 a. 97; 2009 a. 28, 138; 2011 a. 38, 283; 2013 a. 338, 348, 362; 2015 a. 354.

13 **SECTION 3.** 973.015 (1m) (a) 1. of the statutes is renumbered 973.015 (1m) (a)

14 1. (intro.) and amended to read:

15 973.015 (1m) (a) 1. (intro.) Subject to subd. 2. and ~~except as provided in subd.~~
16 ~~3., when a person is under the age of 25 at the time of the commission of an offense~~
17 ~~for which the person has been found guilty in a court for violation of a law for which~~
18 ~~the maximum period of imprisonment is 6 years or less, the, a court may order at the~~
19 ~~time of sentencing that the a record of a criminal conviction be expunged upon~~

1 ~~successful completion of the sentence if the court determines the person will benefit~~
2 ~~and society will not be harmed by this disposition. by one of the following methods:~~

3 (d)[✓] This subsection does not apply to information maintained by the
4 department of transportation regarding a conviction that is required to be included
5 in a record kept under s. 343.23 (2) (a).

History: 1975 c. 39; 1975 c. 189 s. 105; 1975 c. 199; 1983 a. 519; 1991 a. 189; 2003 a. 33, 50, 320; 2009 a. 28; 2011 a. 268; 2013 a. 362; 2015 a. 80, 366.

6 SECTION 4. 973.015 (1m) (a) 1. a.[✓] and b.[✓] of the statutes are created to read:

7 973.015 (1m) (a) 1. a. Except as provided in subd. 3.,[✓] the court may, on its own
8 motion, order at the time of sentencing that the record be expunged upon successful
9 completion of the sentence if the court determines that person will benefit and society
10 will not be harmed by this disposition.

11 b. If at least one year has passed since the person successfully completed his
12 or her sentence and if there are no criminal charges pending against the person, the
13 person may file a petition in the county of conviction requesting that the record of a
14 criminal conviction be expunged. Upon receipt of the petition, the court shall
15 forward the petition to the district attorney. The district attorney shall inform the
16 court whether the district attorney requests a hearing or waives a hearing. If the
17 district attorney requests a hearing, the court shall schedule a hearing to review the
18 petition, and, if the district attorney waives the hearing, the court may review the
19 petition without a hearing. If a hearing is scheduled, then if possible, the sentencing
20 judge shall be the judge to review the petition. The court may order that the record
21 be expunged if subd. 3.[✓] or 4.[✓] does not apply and if the court determines the person
22 will benefit and society will not be harmed by this disposition. If the court does not
23 order the record be expunged under this subd. 1. b.,[✓] the person may file a 2nd[✓] petition
24 under this subd. 1. b.[✓] only if at least 2 years have passed since he or she filed the first

1 petition. No person may file more than 2 petitions per record under this subd. 1. b. ✓
2 For a 2nd petition regarding the same record, the person shall pay to the clerk of
3 circuit court a \$100 fee.

4 SECTION 5. 973.015 (1m) (a) 3. c. ✓ and d. ✓ and 4. ✓ of the statutes are created to read:

5 973.015 (1m) (a) 3. c. A crime for which the maximum period of imprisonment
6 is more than 6 years.

7 d. A violation of chs. 341 to 348, or of a traffic regulation or ordinance in
8 conformity with chs. 341 to 348.

9 4. The court may, on its own motion, order at the time of sentencing that the
10 record is ineligible for expungement.

11 SECTION 6. 973.015 (1m) (b) ✓ of the statutes is amended to read:

12 973.015 (1m) (b) ~~A~~ ✓ For purposes of par. (a), a person has successfully
13 completed the sentence if the person has completed all periods of incarceration,
14 parole, or extended supervision to which he or she was sentenced; the person has paid
15 all fines, costs, fees, surcharges, and restitution assessed; the person has not been
16 convicted of a subsequent offense; and, if on probation was imposed, the probation
17 has not been revoked and the probationer has satisfied the conditions of probation.
18 If the person was not sentenced to a period of incarceration or placed on probation,
19 the person has successfully completed the sentence if he or she has paid all fines,
20 costs, fees, surcharges, and restitution assessed. Upon successful completion of the
21 a sentence involving incarceration or probation, the detaining or probationary
22 authority shall issue and forward to the court of record a certificate of discharge
23 ~~which shall be forwarded to the court of record and which shall have the effect of~~
24 expunging the record. If the court has ordered the record expunged under par. (a) ✓
25 1. a. or 2. and the person has successfully completed the sentence, the person's record

1 shall be expunged as ordered. If the person has been ~~imprisoned incarcerated~~, the
2 detaining authority shall also forward a copy of the certificate of discharge to the
3 department.

History: 1975 c. 39; 1975 c. 189 s. 105; 1975 c. 199; 1983 a. 519; 1991 a. 189; 2003 a. 33, 50, 320; 2009 a. 28; 2011 a. 268; 2013 a. 362; 2015 a. 80, 366.

4 **SECTION 7.** 973.015 (1m) (c) of the statutes is created to read:

5 973.015 (1m) (c) Upon receipt of a petition under par. (a) 1. b., the district
6 attorney shall make a reasonable attempt to notify the victim, as defined under s.
7 950.02 (4), of the petition. In the notice, the district attorney shall inform the victim
8 that he or she may waive the hearing requirement and that, if waived, the court may
9 review the petition without a hearing. The district attorney shall inform the victim
10 of the manner in which he or she may provide written statements concerning the
11 petition and, if the victim does not waive the hearing requirement, that he or she may
12 appear at the hearing. If the victim waives the hearing requirement, the district
13 attorney may inform the court that there is no objection to waiving the hearing
14 requirement. Notwithstanding the confidentiality of victim address information
15 obtained under s. 302.113 (9g) (g) 3., a district attorney who is required to make a
16 reasonable attempt to notify a victim under this paragraph may obtain from the clerk
17 of the circuit court the victim address information that the victim provided to the
18 clerk under s. 302.113 (9g) (g) 3.

19 **SECTION 8.** 973.015 (4) of the statutes is created to read:

20 973.015 (4) A record of a crime expunged under this section is not considered
21 a conviction for employment purposes.

22 **SECTION 9.** 973.181 of the statutes is created to read:

23 **973.181 Notice of expungement process.** If the defendant is eligible to
24 petition for expungement under s. 973.015 (1m) (a) 1. b. and the court has not ordered

SECTION 9

1 the record expunged under s. 973.015 (1m) (a) 1. a., the judge shall inform the
2 defendant in writing at the time of sentencing of the process to file for expungement.

3 **SECTION 10. Initial applicability.**

4 (1) This act first applies to any conviction for which sentencing has occurred
5 but for which the record has not been ordered expunged on the effective date of this
6 subsection.

7 **SECTION 11. Effective date.**

8 (1) This act takes effect on the first day of the 7th month beginning after
9 publication.

10 (END)



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1309/P1
CMH&MED:cdc

P2

due Friday please

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

regen

1 **AN ACT** *to renumber and amend* 973.015 (1m) (a) 1.; *to amend* 950.04 (1v) (g)
2 and 973.015 (1m) (b); and *to create* 111.335 (1) (am), 973.015 (1m) (a) 1. a. and
3 b., 973.015 (1m) (a) 3. c. and d. and 4., 973.015 (1m) (c), 973.015 (4) and 973.181
4 of the statutes; **relating to:** expungement of records of certain crimes.

makes *crimes*
Analysis by the Legislative Reference Bureau *m*

Under current law, a court may order a person's criminal record expunged of a crime for which the maximum term of imprisonment is six years or less (Class H felony and below) if the person committed that crime before the age of 25, the person had not been previously convicted of a felony, and the crime was not a violent felony. Current law specifies that the expungement order must be made only at sentencing and then the record is expunged when the person completes his or her sentence.

This bill removes the condition that the person committed the crime before the age of 25 and ~~excepts~~ certain traffic regulations from being eligible for expungement. This bill also provides that, if the sentencing court did not order the record expunged, the person may file a petition with the sentencing court after he or she completes his or her sentence. Upon receipt of the petition, the court must review the petition and then may order the record expunged or may deny the petition. If the court denies the petition, the person may not file another petition for two years, and no person may file more than two petitions per crime. The changes described in this paragraph retroactively apply to persons who were convicted of a crime before this bill takes effect.

This bill also requires the sentencing court to inform an eligible person of the process to petition for an expungement order and allows the sentencing court to order

that a person's record not be eligible for expungement. This bill ⁴also provides that, if a record is expunged of a crime, that crime is not considered a conviction for employment purposes and specifies that employment discrimination because of a conviction record includes requesting a person to supply information regarding a crime if the record has been expunged of the crime.

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:

1 **SECTION 1.** 111.335 (1) (am) of the statutes is created to read:

2 111.335 (1) (am) Employment discrimination because of conviction record
3 includes, but is not limited to, requesting an applicant, employee, member, licensee,
4 or any other individual, on an application form or otherwise, to supply information
5 regarding a crime the record of which has been expunged under s. 973.015. A request
6 to supply information regarding criminal convictions shall not be construed as a
7 request to supply information regarding a crime the record of which has been
8 expunged under s. 973.015.

9 **SECTION 2.** 950.04 (1v) (g) of the statutes is amended to read:

10 950.04 (1v) (g) To have reasonable attempts made to notify the victim of
11 hearings or court proceedings, as provided under ss. 302.113 (9g) (g) 2., 302.114 (6),
12 938.27 (4m) and (6), 938.273 (2), 971.095 (3) and, 972.14 (3) (b), and 973.015 (1m) (c).

13 **SECTION 3.** 973.015 (1m) (a) 1. of the statutes is renumbered 973.015 (1m) (a)
14 1. (intro.) and amended to read:

15 973.015 (1m) (a) 1. (intro.) Subject to subd. 2. ~~and except as provided in subd.~~
16 ~~3., when a person is under the age of 25 at the time of the commission of an offense~~
17 ~~for which the person has been found guilty in a court for violation of a law for which~~
18 ~~the maximum period of imprisonment is 6 years or less, the, a court may order at the~~

1 petition. No person may file more than 2 petitions per record under this subd. 1. b.
2 For a 2nd petition regarding the same record, the person shall pay to the clerk of
3 circuit court a \$100 fee.

4 SECTION 5. 973.015 (1m) (a) 3. c. and d. and 4. of the statutes are created to read:

5 973.015 (1m) (a) 3. c. A crime for which the maximum period of imprisonment
6 is more than 6 years.

7 d. A violation of chs. 341 to 348, or of a traffic regulation or ordinance in
8 conformity with chs. 341 to 348.

9 4. The court may, on its own motion, order at the time of sentencing that the
10 record is ineligible for expungement.

11 SECTION 6. 973.015 (1m) (b) of the statutes is amended to read:

12 973.015 (1m) (b) ~~A~~ For purposes of par. (a), a person has successfully
13 completed the sentence if the person has completed all periods of incarceration,
14 parole, or extended supervision to which he or she was sentenced; the person has paid
15 all fines, costs, fees, surcharges, and restitution assessed; the person has not been
16 convicted of a subsequent ^{crime} offense; and, if ~~on~~ probation was imposed, the probation
17 has not been revoked ^{plain} and the probationer has satisfied the conditions of probation.

18 If the person was not sentenced to a period of incarceration or placed on probation,
19 the person has successfully completed the sentence if he or she has paid all fines,
20 costs, fees, surcharges, and restitution assessed; Upon successful completion of the
21 a sentence involving incarceration or probation, the detaining or probationary
22 authority shall issue and forward to the court of record a certificate of discharge
23 ~~which shall be forwarded to the court of record and which shall have the effect of~~
24 ~~expunging the record.~~ If the court has ordered the record expunged under par. (a)
25 1. a. or 2. and the person has successfully completed the sentence, the person's record

and has completed any
court-ordered community
service

1 shall be expunged as ordered. If the person has been ~~imprisoned~~ incarcerated, the
2 detaining authority shall also forward a copy of the certificate of discharge to the
3 department.

4 **SECTION 7.** 973.015 (1m) (c) of the statutes is created to read:

5 973.015 (1m) (c) Upon receipt of a petition under par. (a) 1. b., the district
6 attorney shall make a reasonable attempt to notify the victim, as defined under s.
7 950.02 (4), of the petition. In the notice, the district attorney shall inform the victim
8 that he or she may waive the hearing requirement and that, if waived, the court may
9 review the petition without a hearing. The district attorney shall inform the victim
10 of the manner in which he or she may provide written statements concerning the
11 petition and, if the victim does not waive the hearing requirement, that he or she may
12 appear at the hearing. If the victim waives the hearing requirement, the district
13 attorney may inform the court that there is no objection to waiving the hearing
14 requirement. Notwithstanding the confidentiality of victim address information
15 obtained under s. 302.113 (9g) (g) 3., a district attorney who is required to make a
16 reasonable attempt to notify a victim under this paragraph may obtain from the clerk
17 of the circuit court the victim address information that the victim provided to the
18 clerk under s. 302.113 (9g) (g) 3.

19 **SECTION 8.** 973.015 (4) of the statutes is created to read:

20 973.015 (4) A record of a crime expunged under this section is not considered
21 a conviction for employment purposes.

22 **SECTION 9.** 973.181 of the statutes is created to read:

23 **973.181 Notice of expungement process.** If the defendant is eligible to
24 petition for expungement under s. 973.015 (1m) (a) 1. b. and the court has not ordered

1 the record expunged under s. 973.015 (1m) (a) 1. a., the judge shall inform the
2 defendant in writing at the time of sentencing of the process to file for expungement.

3 **SECTION 10. Initial applicability.**

4 (1) This act first applies to any conviction for which sentencing has occurred
5 but for which the record has not been ordered expunged on the effective date of this
6 subsection.

7 **SECTION 11. Effective date.**

8 (1) This act takes effect on the first day of the ~~7th~~^{13th} month beginning after
9 publication.

10 (END)

**2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1309/p2ins
CMH:...

1 Insert 3-15

2 the court shall review the petition to determine if the record is ineligible for
3 expungement because subd. 3. or 4. applies, less than one year has passed since the
4 person successfully completed his or her sentence, there are criminal charges
5 pending against the person, or the person has exceeded the maximum number of
6 petitions ^{allowed} ~~permitted~~ under this subd. 1. b. If the court determines the record is not
7 ineligible for expungement,

8

9 Insert 3-18

10 within 90 days after the court forwards the petition

11

12 Insert 3-18

13 or at least 90 days have passed since the court forwarded the petition

1 ~~time of sentencing that the a record of a criminal conviction~~ be expunged upon
2 ~~successful completion of the sentence if the court determines the person will benefit~~
3 ~~and society will not be harmed by this disposition. by one of the following methods:~~

4 (d) This subsection does not apply to information maintained by the
5 department of transportation regarding a conviction that is required to be included
6 in a record kept under s. 343.23 (2) (a).

7 SECTION 4. 973.015 (1m) (a) 1. a. and b. of the statutes are created to read:

8 973.015 (1m) (a) 1. a. Except as provided in subd. 3., the court may, on its own
9 motion, order at the time of sentencing that the record be expunged upon successful
10 completion of the sentence if the court determines that person will benefit and society
11 will not be harmed by this disposition.

12 b. If at least one year has passed since the person successfully completed his
13 or her sentence and if there are no criminal charges pending against the person, the
14 person may file a petition in the county of conviction requesting that the record of a
15 criminal conviction be expunged. Upon receipt of the petition, ^{INS 3-15} the court shall
16 forward the petition to the district attorney. The district attorney shall inform the
17 court whether the district attorney requests a hearing or waives a hearing. If the
18 district attorney requests a hearing, ^{INS 3-18} the court shall schedule a hearing to review the
19 petition, ^{INS 3-19} and if the district attorney waives the hearing, the court may review the
20 petition without a hearing. If a hearing is scheduled, then if ^{practicable} possible, the sentencing
21 judge shall be the judge to review the petition. The court may order that the record
22 be expunged if subd. 3. or 4. does not apply and if the court determines the person
23 will benefit and society will not be harmed by this disposition. If the court does not
24 order the record be expunged under this subd. 1. b., the person may file a 2nd petition
25 under this subd. 1. b. only if at least 2 years have passed since he or she filed the first



Meeting with Noelle - see

State of Wisconsin
2019 - 2020 LEGISLATURE

changes she
requested
LRB-1309/P1
CMH&MED:cdc

Other changes

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

receives petition - ^{10 court} review for ineligibility -
② send to DA -- 90 ~~days~~ days - to review request

③ 10 zuma -- rule violation -- don't render ineligible
no request, may waived

1 **AN ACT to renumber and amend 973.015 (1m) (a) 1.; to amend 950.04 (1v) (g)**
2 **and 973.015 (1m) (b); and to create 111.335 (1) (am), 973.015 (1m) (a) 1. a. and**
3 **b., 973.015 (1m) (a) 3. c. and d. and 4., 973.015 (1m) (c), 973.015 (4) and 973.181**
4 **of the statutes; relating to: expungement of records of certain crimes.**

Analysis by the Legislative Reference Bureau

Under current law, a court may order a person's criminal record expunged of a crime for which the maximum term of imprisonment is six years or less (Class H felony and below) if the person committed that crime before the age of 25, the person had not been previously convicted of a felony, and the crime was not a violent felony. Current law specifies that the expungement order must be made only at sentencing and then the record is expunged when the person completes his or her sentence.

This bill removes the condition that the person committed the crime before the age of 25 and excepts certain traffic regulations from being eligible for expungement. This bill also provides that, if the sentencing court did not order the record expunged, the person may file a petition with the sentencing court after he or she completes his or her sentence. Upon receipt of the petition, the court must review the petition and then may order the record expunged or may deny the petition. If the court denies the petition, the person may not file another petition for two years, and no person may file more than two petitions per crime. The changes described in this paragraph retroactively apply to persons who were convicted of a crime before this bill takes effect.

This bill also requires the sentencing court to inform an eligible person of the process to petition for an expungement order and allows the sentencing court to order

that a person's record not be eligible for expungement. This bill also provides that, if a record is expunged of a crime, that crime is not considered a conviction for employment purposes and specifies that employment discrimination because of a conviction record includes requesting a person to supply information regarding a crime if the record has been expunged of the crime.

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:

1 **SECTION 1.** 111.335 (1) (am) of the statutes is created to read:

2 111.335 (1) (am) Employment discrimination because of conviction record
3 includes, but is not limited to, requesting an applicant, employee, member, licensee,
4 or any other individual, on an application form or otherwise, to supply information
5 regarding a crime the record of which has been expunged under s. 973.015. A request
6 to supply information regarding criminal convictions shall not be construed as a
7 request to supply information regarding a crime the record of which has been
8 expunged under s. 973.015.

9 **SECTION 2.** 950.04 (1v) (g) of the statutes is amended to read:

10 950.04 (1v) (g) To have reasonable attempts made to notify the victim of
11 hearings or court proceedings, as provided under ss. 302.113 (9g) (g) 2., 302.114 (6),
12 938.27 (4m) and (6), 938.273 (2), 971.095 (3) and, 972.14 (3) (b), and 973.015 (1m) (c).

13 **SECTION 3.** 973.015 (1m) (a) 1. of the statutes is renumbered 973.015 (1m) (a)
14 1. (intro.) and amended to read:

15 973.015 (1m) (a) 1. (intro.) Subject to subd. 2. ~~and except as provided in subd.~~
16 ~~3., when a person is under the age of 25 at the time of the commission of an offense~~
17 ~~for which the person has been found guilty in a court for violation of a law for which~~
18 ~~the maximum period of imprisonment is 6 years or less, the, a court may order at the~~

1 ~~time of sentencing that the a record of a criminal conviction be expunged upon~~
2 ~~successful completion of the sentence if the court determines the person will benefit~~
3 ~~and society will not be harmed by this disposition. by one of the following methods:~~

4 (d) This subsection does not apply to information maintained by the
5 department of transportation regarding a conviction that is required to be included
6 in a record kept under s. 343.23 (2) (a).

7 SECTION 4. 973.015 (1m) (a) 1. a. and b. of the statutes are created to read:

8 973.015 (1m) (a) 1. a. Except as provided in subd. 3., the court may, on its own
9 motion, order at the time of sentencing that the record be expunged upon successful
10 completion of the sentence if the court determines that person will benefit and society
11 will not be harmed by this disposition.

12 b. If at least one year has passed since the person successfully completed his
13 or her sentence and if there are no criminal charges pending against the person, the
14 person may file a petition in the county of conviction requesting that the record of a
15 criminal conviction be expunged. Upon receipt of the petition, the court shall
16 forward the petition to the district attorney. The district attorney shall inform the
17 court whether the district attorney requests a hearing or waives a hearing. If the
18 district attorney requests a hearing, the court shall schedule a hearing to review the
19 petition, and, if the district attorney waives the hearing, the court may review the
20 petition without a hearing. If a hearing is scheduled, then if ^{practicable} possible, the sentencing
21 judge shall be the judge to review the petition. The court may order that the record
22 be expunged if subd. 3. or 4. does not apply and if the court determines the person
23 will benefit and society will not be harmed by this disposition. If the court does not
24 order the record be expunged under this subd. 1. b., the person may file a 2nd petition
25 under this subd. 1. b. only if at least 2 years have passed since he or she filed the first

SECTION 4

1 petition. No person may file more than 2 petitions per record under this subd. 1. b.
2 For a 2nd petition regarding the same record, the person shall pay to the clerk of
3 circuit court a \$100 fee.

4 SECTION 5. 973.015 (1m) (a) 3. c. and d. and 4. of the statutes are created to read:

5 973.015 (1m) (a) 3. c. A crime for which the maximum period of imprisonment
6 is more than 6 years.

7 d. A violation of chs. 341 to 348, ~~or of a traffic regulation or ordinance in~~
8 ~~conformity with chs. 341 to 348.~~

9 4. The court may, on its own motion, order at the time of sentencing that the
10 record is ineligible for expungement.

11 SECTION 6. 973.015 (1m) (b) of the statutes is amended to read:

12 973.015 (1m) (b) ~~A~~ For purposes of par. (a), a person has successfully
13 completed the sentence if the person has completed all periods of incarceration,
14 parole, or extended supervision to which he or she was sentenced; the person has paid
15 all fines, costs, fees, surcharges, and restitution assessed; the person has not been
16 convicted of a subsequent ~~offense~~ ^{criminal conviction} and, if on probation was imposed, the probation
17 has not been revoked, ~~and the probationer has satisfied the conditions of probation.~~
18 If the person was not sentenced to a period of incarceration or placed on probation,
19 the person has successfully completed the sentence if he or she has paid all fines,
20 costs, fees, surcharges, and restitution assessed. ^{add community service} Upon successful completion of the
21 a sentence involving incarceration or probation, the detaining or probationary
22 authority shall issue and forward to the court of record a certificate of discharge
23 ~~which shall be forwarded to the court of record and which shall have the effect of~~
24 ~~expunging the record.~~ If the court has ordered the record expunged under par. (a)
25 1. a. or 2. and the person has successfully completed the sentence, the person's record

1 shall be expunged as ordered. If the person has been ~~imprisoned~~ incarcerated, the
2 detaining authority shall also forward a copy of the certificate of discharge to the
3 department.

4 **SECTION 7.** 973.015 (1m) (c) of the statutes is created to read:

5 973.015 (1m) (c) Upon receipt of a petition under par. (a) 1. b., the district
6 attorney shall make a reasonable attempt to notify the victim, as defined under s.
7 950.02 (4), of the petition. In the notice, the district attorney shall inform the victim
8 that he or she may waive the hearing requirement and that, if waived, the court may
9 review the petition without a hearing. The district attorney shall inform the victim
10 of the manner in which he or she may provide written statements concerning the
11 petition and, if the victim does not waive the hearing requirement, that he or she may
12 appear at the hearing. If the victim waives the hearing requirement, the district
13 attorney may inform the court that there is no objection to waiving the hearing
14 requirement. Notwithstanding the confidentiality of victim address information
15 obtained under s. 302.113 (9g) (g) 3., a district attorney who is required to make a
16 reasonable attempt to notify a victim under this paragraph may obtain from the clerk
17 of the circuit court the victim address information that the victim provided to the
18 clerk under s. 302.113 (9g) (g) 3.

19 **SECTION 8.** 973.015 (4) of the statutes is created to read:

20 973.015 (4) A record of a crime expunged under this section is not considered
21 a conviction for employment purposes.

22 **SECTION 9.** 973.181 of the statutes is created to read:

23 ~~973.181 Notice of expungement process. If the defendant is eligible to~~
24 ~~petition for expungement under s. 973.015 (1m) (a) 1. b. and the court has not ordered~~

SECTION 9

1 ~~the record expunged under s. 973.015 (1m) (a) 1. a., the judge shall inform the~~
2 ~~defendant in writing at the time of sentencing of the process to file for expungement.~~

3 **SECTION 10. Initial applicability.**

4 (1) This act first applies to any conviction for which sentencing has occurred
5 but for which the record has not been ordered expunged on the effective date of this
6 subsection.

7 **SECTION 11. Effective date.**

8 (1) This act takes effect on the first day of the ~~2nd~~ month beginning after
9 publication.

10

(END)

13TH
or one year
after publication

Hanaman, Cathlene

From: Kuehl, Nicole
Sent: Thursday, January 24, 2019 10:39 AM
To: Hanaman, Cathlene
Subject: LRB 1309/P2

Importance: High

For a P3 -

Technical changes for LRB 1309:

On page 2, line 1, after "the a" insert "criminal case" and delete "of a criminal conviction" ✓

On page 3, line 2, after "~~disposition.~~" insert "after a conviction".

On page 3, line 13, after "that the" insert "criminal case" and delete "of a criminal record". Alternatively, simply delete "of a criminal conviction" from that line.

Delete "on its own motion" from page 3, lines 7 and 8 and page 4, line 11.

Page 4, line 20, delete "successful"

Page 4, line 24, after "~~the record.~~" Insert "that shall indicate whether the person successfully completed his or her sentence".

Finally, Rep. Steffen wanted to know if we could use "eligible" versus "not ineligible" on page 3, lines 18-19.

Let me know if you have any questions. Thanks!

Nicole Kuehl
Research Assistant
Office of Representative David Steffen
4th Assembly District
608-266-5840





PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

(The bill retains the requirements that the crime be no greater than a class H felony, person had no previous convictions, and the crime was not a violent felony)

1 **AN ACT** *to renumber and amend* 973.015 (1m) (a) 1.; *to amend* 950.04 (1v) (g)
2 and 973.015 (1m) (b); and *to create* 111.335 (1) (am), 973.015 (1m) (a) 1. a. and
3 b., 973.015 (1m) (a) 3. c. and d. and 4., 973.015 (1m) (c) and 973.015 (4) of the
4 statutes; **relating to:** expungement of records of certain crimes.

Analysis by the Legislative Reference Bureau

Under current law, a court may order a person's criminal record expunged of a crime for which the maximum term of imprisonment is six years or less (Class H felony and below) if the person committed that crime before the age of 25, the person had not been previously convicted of a felony, and the crime was not a violent felony. Current law specifies that the expungement order must be made only at sentencing and then the record is expunged when the person completes his or her sentence.

This bill removes the condition that the person committed the crime before the age of 25 and makes certain traffic crimes ineligible for expungement. This bill also provides that, if the sentencing court did not order the record expunged, the person may file a petition with the sentencing court after he or she completes his or her sentence. Upon receipt of the petition, the court must review the petition and then may order the record expunged or may deny the petition. If the court denies the petition, the person may not file another petition for two years, and no person may file more than two petitions per crime. The changes described in this paragraph retroactively apply to persons who were convicted of a crime before this bill takes effect.

This bill also allows the sentencing court to order that a person's record not be eligible for expungement. This bill provides that, if a record is expunged of a crime,

that crime is not considered a conviction for employment purposes and specifies that employment discrimination because of a conviction record includes requesting a person to supply information regarding a crime if the record has been expunged of the crime.

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:

1 **SECTION 1.** 111.335 (1) (am) of the statutes is created to read:

2 111.335 (1) (am) Employment discrimination because of conviction record
3 includes, but is not limited to, requesting an applicant, employee, member, licensee,
4 or any other individual, on an application form or otherwise, to supply information
5 regarding a crime the record of which has been expunged under s. 973.015. A request
6 to supply information regarding criminal convictions shall not be construed as a
7 request to supply information regarding a crime the record of which has been
8 expunged under s. 973.015.

9 **SECTION 2.** 950.04 (1v) (g) of the statutes is amended to read:

10 950.04 (1v) (g) To have reasonable attempts made to notify the victim of
11 hearings or court proceedings, as provided under ss. 302.113 (9g) (g) 2., 302.114 (6),
12 938.27 (4m) and (6), 938.273 (2), 971.095 (3) and, 972.14 (3) (b), and 973.015 (1m) (c).

13 **SECTION 3.** 973.015 (1m) (a) 1. of the statutes is renumbered 973.015 (1m) (a)
14 1. (intro.) and amended to read:

15 973.015 (1m) (a) 1. (intro.) Subject to subd. 2. ~~and except as provided in subd.~~
16 ~~3., when a person is under the age of 25 at the time of the commission of an offense~~
17 ~~for which the person has been found guilty in a court for violation of a law for which~~
18 ~~the maximum period of imprisonment is 6 years or less, the, a court may order at the~~
19 ~~time of sentencing) that the a record of a criminal conviction be expunged upon~~

after a conviction

Strike

case

1 successful completion of the sentence if the court determines the person will benefit
2 and society will not be harmed by this disposition. by one of the following methods:

3 (d) This subsection does not apply to information maintained by the
4 department of transportation regarding a conviction that is required to be included
5 in a record kept under s. 343.23 (2) (a).

6 SECTION 4. 973.015 (1m) (a) 1. a. and b. of the statutes are created to read:

7 973.015 (1m) (a) 1. a. Except as provided in subd. 3., the court may on its own
8 motion, order at the time of sentencing that the record be expunged upon successful
9 completion of the sentence if the court determines that person will benefit and society
10 will not be harmed by this disposition.

11 b. If at least one year has passed since the person successfully completed his
12 or her sentence, the person may file a petition in the county of conviction requesting
13 that the record of a criminal conviction be expunged. Upon receipt of the petition,
14 the court shall review the petition to determine if the ^{person} record is ineligible ^{to petition} for
15 expungement because subd. 3. or 4. applies, less than one year has passed since the
16 person successfully completed his or her sentence, there are criminal charges
17 pending against the person, or the person has exceeded the maximum number of
18 petitions allowed under this subd. 1. b. If the court determines the ^{person} record is not
19 ineligible ^{eligible to petition} for expungement, the court shall forward the petition to the district
20 attorney. If the district attorney requests a hearing within 90 days after the court
21 forwards the petition, the court shall schedule a hearing to review the petition. If the
22 district attorney waives the hearing or at least 90 days have passed since the court
23 forwarded the petition, the court may review the petition with or without a hearing.
24 If a hearing is scheduled, then if practicable, the sentencing judge shall be the judge
25 to review the petition. The court may order that the record be expunged if the court

SECTION 4

1 determines the person will benefit and society will not be harmed by this disposition.
2 If the court does not order the record be expunged under this subd. 1. b., the person
3 may file a 2nd petition under this subd. 1. b. only if at least 2 years have passed since
4 he or she filed the first petition. No person may file more than 2 petitions per record
5 under this subd. 1. b. For a 2nd petition regarding the same record, the person shall
6 pay to the clerk of circuit court a \$100 fee.

7 SECTION 5. 973.015 (1m) (a) 3. c. and d. and 4. of the statutes are created to read:

8 973.015 (1m) (a) 3. c. A crime for which the maximum period of imprisonment
9 is more than 6 years.

10 d. A violation of chs. 341 to 348.

11 4. The court may, on its own motion, order at the time of sentencing that the
12 record is ineligible for expungement.

13 SECTION 6. 973.015 (1m) (b) of the statutes is amended to read:

14 973.015 (1m) (b) ~~A~~ For purposes of par. (a), a person has successfully
15 completed the sentence if the person has completed all periods of incarceration,
16 parole, or extended supervision to which he or she was sentenced; the person has paid
17 all fines, costs, fees, surcharges, and restitution assessed and has completed any
18 court-ordered community service; the person has not been convicted of a subsequent
19 offense crime; and, if on probation was imposed, the probation has not been revoked
20 and the probationer has satisfied the conditions of probation. Upon [↓] successful
21 completion of the a sentence involving incarceration or probation, the detaining or
22 probationary authority shall issue and forward to the court of record a certificate of
23 discharge which shall be forwarded to the court of record and which shall have the
24 effect of expunging the record. If the court has ordered the record expunged under
25 par. (a) 1. a. or 2. and the person has successfully completed the sentence, the person's

that indicates whether the person successfully
completed his or her sentence

1 record shall be expunged as ordered. If the person has been imprisoned incarcerated,
2 the detaining authority shall also forward a copy of the certificate of discharge to the
3 department.

4 **SECTION 7.** 973.015 (1m) (c) of the statutes is created to read:

5 973.015 (1m) (c) Upon receipt of a petition under par. (a) 1. b., the district
6 attorney shall make a reasonable attempt to notify the victim, as defined under s.
7 950.02 (4), of the petition. In the notice, the district attorney shall inform the victim
8 that he or she may waive the hearing requirement and that, if waived, the court may
9 review the petition without a hearing. The district attorney shall inform the victim
10 of the manner in which he or she may provide written statements concerning the
11 petition and, if the victim does not waive the hearing requirement, that he or she may
12 appear at the hearing. If the victim waives the hearing requirement, the district
13 attorney may inform the court that there is no objection to waiving the hearing
14 requirement. Notwithstanding the confidentiality of victim address information
15 obtained under s. 302.113 (9g) (g) 3., a district attorney who is required to make a
16 reasonable attempt to notify a victim under this paragraph may obtain from the clerk
17 of the circuit court the victim address information that the victim provided to the
18 clerk under s. 302.113 (9g) (g) 3.

19 **SECTION 8.** 973.015 (4) of the statutes is created to read:

20 973.015 (4) A record of a crime expunged under this section is not considered
21 a conviction for employment purposes.

22 **SECTION 9. Initial applicability.**

23 (1) This act first applies to any conviction for which sentencing has occurred
24 but for which the record has not been ordered expunged on the effective date of this
25 subsection.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1309/13
CMH&MED:cdc

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

NO
CHANGES

1 AN ACT *to renumber and amend* 973.015 (1m) (a) 1.; *to amend* 950.04 (1v) (g)
2 and 973.015 (1m) (b); and *to create* 111.335 (1) (am), 973.015 (1m) (a) 1. a. and
3 b., 973.015 (1m) (a) 3. c. and d. and 4., 973.015 (1m) (c) and 973.015 (4) of the
4 statutes; **relating to:** expungement of records of certain crimes.

Analysis by the Legislative Reference Bureau

Under current law, a court may order a person's criminal record expunged of a crime for which the maximum term of imprisonment is six years or less (Class H felony and below) if the person committed that crime before the age of 25, the person had not been previously convicted of a felony, and the crime was not a violent felony. Current law specifies that the expungement order must be made only at sentencing and then the record is expunged when the person completes his or her sentence.

This bill removes the condition that the person committed the crime before the age of 25 (the bill retains the requirements that the crime be no greater than a Class H felony, the person had no previous felony convictions, and the crime was not a violent felony) and makes certain traffic crimes ineligible for expungement. This bill also provides that, if the sentencing court did not order the record expunged, the person may file a petition with the sentencing court after he or she completes his or her sentence. Upon receipt of the petition, the court must review the petition and then may order the record expunged or may deny the petition. If the court denies the petition, the person may not file another petition for two years, and no person may file more than two petitions per crime. The changes described in this paragraph retroactively apply to persons who were convicted of a crime before this bill takes effect.

Duchek, Michael

From: Lambert, RJ
Sent: Monday, January 28, 2019 12:47 PM
To: Duchek, Michael
Subject: Re: LRB 1309/P3

Yeah, I can.

On Jan 28, 2019, at 12:45 PM, Duchek, Michael <Michael.Duchek@legis.wisconsin.gov> wrote:

Can you send jacket back? I will fix it quick.

From: Lambert, RJ <RJ.Lambert@legis.wisconsin.gov>
Sent: Monday, January 28, 2019 12:45 PM
To: Duchek, Michael <Michael.Duchek@legis.wisconsin.gov>
Subject: Re: LRB 1309/P3

I have not put this out yet.

On Jan 28, 2019, at 12:44 PM, Duchek, Michael <Michael.Duchek@legis.wisconsin.gov> wrote:

Hey RJ, I just noticed that this draft was not updated to account for 2017 Act 278, which, incidentally, was authored by Sen. Darling. Let me know if you have already put this out or not.

From: Lambert, RJ <RJ.Lambert@legis.wisconsin.gov>
Sent: Monday, January 28, 2019 10:08 AM
To: Hanaman, Cathlene <Cathlene.Hanaman@legis.wisconsin.gov>; Duchek, Michael <Michael.Duchek@legis.wisconsin.gov>
Subject: LRB 1309/P3

Cathlene and Mike,

Can one of you please convert LRB 1309/P3 to a /1? We would like to introduce it today or tomorrow.

Thank you,

RJ Lambert
Office of State Senator Alberta Darling
8th Senate District
317 East, State Capitol
608.266.5830



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1309/1
CMH&MED:cde

2019 BILL

1 AN ACT ^{regen} *to renumber and amend* 973.015 (1m) (a) 1.; *to amend* 950.04 (1v) (g)
2 and 973.015 (1m) (b); and *to create* 111.335 (1) (am), 973.015 (1m) (a) 1. a. and
3 b., 973.015 (1m) (a) 3. c. and d. and 4., 973.015 (1m) (c) and 973.015 (4) of the
4 statutes; **relating to:** expungement of records of certain crimes.

Analysis by the Legislative Reference Bureau

Under current law, a court may order a person's criminal record expunged of a crime for which the maximum term of imprisonment is six years or less (Class H felony and below) if the person committed that crime before the age of 25, the person had not been previously convicted of a felony, and the crime was not a violent felony. Current law specifies that the expungement order must be made only at sentencing and then the record is expunged when the person completes his or her sentence.

This bill removes the condition that the person committed the crime before the age of 25 (the bill retains the requirements that the crime be no greater than a Class H felony, the person had no previous felony convictions, and the crime was not a violent felony) and makes certain traffic crimes ineligible for expungement. This bill also provides that, if the sentencing court did not order the record expunged, the person may file a petition with the sentencing court after he or she completes his or her sentence. Upon receipt of the petition, the court must review the petition and then may order the record expunged or may deny the petition. If the court denies the petition, the person may not file another petition for two years, and no person may file more than two petitions per crime. The changes described in this paragraph

BILL

retroactively apply to persons who were convicted of a crime before this bill takes effect.

This bill also allows the sentencing court to order that a person's record not be eligible for expungement. This bill provides that, if a record is expunged of a crime, that crime is not considered a conviction for employment purposes and specifies that employment discrimination because of a conviction record includes requesting a person to supply information regarding a crime if the record has been expunged of the crime.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

Ins 2-0

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

1 SECTION 1. 111.335 (1) ^{e(3)}(am) of the statutes is created to read:

2 111.335 (1) ^{e(3)}(am) ^{e(4)} Employment discrimination because of conviction record
3 includes, but is not limited to, requesting an applicant, employee, member, licensee,
4 or any other individual, on an application form or otherwise, to supply information
5 regarding a crime the record of which has been expunged under s. 973.015. A request
6 to supply information regarding criminal convictions shall not be construed as a
7 request to supply information regarding a crime the record of which has been
8 expunged under s. 973.015.

Ins 2-4

9 SECTION 2. 950.04 (1v) (g) of the statutes is amended to read:

10 950.04 (1v) (g) To have reasonable attempts made to notify the victim of
11 hearings or court proceedings, as provided under ss. 302.113 (9g) (g) 2., 302.114 (6),
12 938.27 (4m) and (6), 938.273 (2), 971.095 (3) ~~and~~, 972.14 (3) (b), and 973.015 (1m) (c).

13 SECTION 3. 973.015 (1m) (a) 1. of the statutes is renumbered 973.015 (1m) (a)
14 1. (intro.) and amended to read:

15 973.015 (1m) (a) 1. (intro.) Subject to subd. 2. ~~and except as provided in subd.~~
16 ~~3., when a person is under the age of 25 at the time of the commission of an offense~~
17 ~~for which the person has been found guilty in a court for violation of a law for which~~

BILL

1 ~~the maximum period of imprisonment is 6 years or less, the, a court may order at the~~
2 ~~time of sentencing~~ after a conviction that the record a criminal case be expunged
3 ~~upon successful completion of the sentence if the court determines the person will~~
4 ~~benefit and society will not be harmed by this disposition.~~ by one of the following
5 methods:

6 (d) This subsection does not apply to information maintained by the
7 department of transportation regarding a conviction that is required to be included
8 in a record kept under s. 343.23 (2) (a).

9 **SECTION 4.** 973.015 (1m) (a) 1. a. and b. of the statutes are created to read:

10 973.015 (1m) (a) 1. a. Except as provided in subd. 3., the court may order at the
11 time of sentencing that the record be expunged upon successful completion of the
12 sentence if the court determines that person will benefit and society will not be
13 harmed by this disposition.

14 b. If at least one year has passed since the person successfully completed his
15 or her sentence, the person may file a petition in the county of conviction requesting
16 that the record be expunged. Upon receipt of the petition, the court shall review the
17 petition to determine if the person is ineligible to petition for expungement because
18 subd. 3. or 4. applies, less than one year has passed since the person successfully
19 completed his or her sentence, there are criminal charges pending against the
20 person, or the person has exceeded the maximum number of petitions allowed under
21 this subd. 1. b. If the court determines the person is eligible to petition for
22 expungement, the court shall forward the petition to the district attorney. If the
23 district attorney requests a hearing within 90 days after the court forwards the
24 petition, the court shall schedule a hearing to review the petition. If the district
25 attorney waives the hearing or at least 90 days have passed since the court forwarded

BILL

1 the petition, the court may review the petition with or without a hearing. If a hearing
2 is scheduled, then if practicable, the sentencing judge shall be the judge to review the
3 petition. The court may order that the record be expunged if the court determines
4 the person will benefit and society will not be harmed by this disposition. If the court
5 does not order the record be expunged under this subd. 1. b., the person may file a
6 2nd petition under this subd. 1. b. only if at least 2 years have passed since he or she
7 filed the first petition. No person may file more than 2 petitions per record under this
8 subd. 1. b. For a 2nd petition regarding the same record, the person shall pay to the
9 clerk of circuit court a \$100 fee.

10 SECTION 5. 973.015 (1m) (a) 3. c. and d. and 4. of the statutes are created to read:

11 973.015 (1m) (a) 3. c. A crime for which the maximum period of imprisonment
12 is more than 6 years.

13 d. A violation of chs. 341 to 348.

14 4. The court may order at the time of sentencing that the record is ineligible
15 for expungement.

16 SECTION 6. 973.015 (1m) (b) of the statutes is amended to read:

17 973.015 (1m) (b) ~~A~~ For purposes of par. (a), a person has successfully
18 completed the sentence if the person has completed all periods of incarceration,
19 parole, or extended supervision to which he or she was sentenced; the person has paid
20 all fines, costs, fees, surcharges, and restitution assessed and has completed any
21 court-ordered community service; the person has not been convicted of a subsequent
22 offense crime; and, if on probation was imposed, the probation has not been revoked
23 and the probationer has satisfied the conditions of probation. Upon successful
24 completion of the a sentence involving incarceration or probation, the detaining or
25 probationary authority shall issue and forward to the court of record a certificate of

BILL

1 discharge ~~which shall be forwarded to the court of record and which shall have the~~
2 ~~effect of expunging the record that indicates whether the person successfully~~
3 ~~completed his or her sentence. If the court has ordered the record expunged under~~
4 ~~par. (a) 1. a. or 2. and the person has successfully completed the sentence, the person's~~
5 ~~record shall be expunged as ordered. If the person has been imprisoned incarcerated,~~
6 the detaining authority shall also forward a copy of the certificate of discharge to the
7 department.

8 **SECTION 7.** 973.015 (1m) (c) of the statutes is created to read:

9 973.015 (1m) (c) Upon receipt of a petition under par. (a) 1. b., the district
10 attorney shall make a reasonable attempt to notify the victim, as defined under s.
11 950.02 (4), of the petition. In the notice, the district attorney shall inform the victim
12 that he or she may waive the hearing requirement and that, if waived, the court may
13 review the petition without a hearing. The district attorney shall inform the victim
14 of the manner in which he or she may provide written statements concerning the
15 petition and, if the victim does not waive the hearing requirement, that he or she may
16 appear at the hearing. If the victim waives the hearing requirement, the district
17 attorney may inform the court that there is no objection to waiving the hearing
18 requirement. Notwithstanding the confidentiality of victim address information
19 obtained under s. 302.113 (9g) (g) 3., a district attorney who is required to make a
20 reasonable attempt to notify a victim under this paragraph may obtain from the clerk
21 of the circuit court the victim address information that the victim provided to the
22 clerk under s. 302.113 (9g) (g) 3.

23 **SECTION 8.** 973.015 (4) of the statutes is created to read:

24 973.015 (4) A record of a crime expunged under this section is not considered
25 a conviction for employment purposes.

**2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1309/2ins
MED:...

INSERT 2-0

1 **SECTION 1.** 111.335 (3) (a) of the statutes is renumbered 111.335 (3) (ar).

INSERT 2-8

2 **SECTION 2.** 111.335 (4) (b) of the statutes is amended to read:

3 111.335 (4) (b) It is employment discrimination because of conviction record for
4 a licensing agency to refuse to license any individual under sub. (3) (~~a~~) (ar) 1. or to
5 bar or terminate an individual from licensing under sub. (3) (~~a~~) (ar) 1. because the
6 individual was adjudicated delinquent under ch. 938 for an offense other than an
7 exempt offense.

History: 1981 c. 334; 1991 a. 216; 1993 a. 98; 1995 a. 448, 461; 1997 a. 112; 2001 a. 16; 2003 a. 33; 2005 a. 14; 2009 a. 300; 2011 a. 32, 83; 2013 a. 20 ss. 2365m, 9448; 2017 a. 59, 135, 278; s. 35.17 corrections in (4) (f) 5. b., c.

8 **SECTION 3.** 111.335 (4) (c) 1. (intro.) of the statutes is amended to read:

9 111.335 (4) (c) 1. (intro.) If a licensing agency refuses to license an individual
10 under sub. (3) (~~a~~) (ar) 1. or bars or terminates an individual from licensing under sub.
11 (3) (~~a~~) (ar) 1., the licensing agency shall, subject to subd. 2., do all of the following:

History: 1981 c. 334; 1991 a. 216; 1993 a. 98; 1995 a. 448, 461; 1997 a. 112; 2001 a. 16; 2003 a. 33; 2005 a. 14; 2009 a. 300; 2011 a. 32, 83; 2013 a. 20 ss. 2365m, 9448; 2017 a. 59, 135, 278; s. 35.17 corrections in (4) (f) 5. b., c.

12 **SECTION 4.** 111.335 (4) (e) of the statutes is amended to read:

13 111.335 (4) (e) A state licensing agency that may refuse to license individuals
14 under sub. (3) (~~a~~) (ar) 1. or that may bar or terminate an individual from licensure
15 under sub. (3) (~~a~~) (ar) 1. shall publish on the agency's Internet site a document
16 indicating the offenses or kinds of offenses that may result in such a refusal, bar, or
17 termination.

History: 1981 c. 334; 1991 a. 216; 1993 a. 98; 1995 a. 448, 461; 1997 a. 112; 2001 a. 16; 2003 a. 33; 2005 a. 14; 2009 a. 300; 2011 a. 32, 83; 2013 a. 20 ss. 2365m, 9448; 2017 a. 59, 135, 278; s. 35.17 corrections in (4) (f) 5. b., c.

18 **SECTION 5.** 111.335 (4) (f) 1. of the statutes is amended to read:

19 111.335 (4) (f) 1. A state licensing agency that may refuse to license individuals
20 under sub. (3) (~~a~~) (ar) 1. or that may bar or terminate individuals from licensing

1 under sub. (3) ~~(a)~~ (ar) 1. shall allow an individual who does not possess a license to,
2 without submitting a full application and without paying the fees applicable to
3 applicants, apply to the agency for a determination of whether the individual would
4 be disqualified from obtaining the license due to his or her conviction record.

~~History:~~ 1981 c. 334; 1991 a. 216; 1993 a. 98; 1995 a. 448, 461; 1997 a. 112; 2001 a. 16; 2003 a. 33; 2005 a. 14; 2009 a. 300; 2011 a. 32, 83; 2013 a. 20 ss. 2365m, 9448; 2017 a. 59, 135, 278; s. 35.17 corrections in (4) (f) 5. b., c.

Barman, Mike

From: Duchek, Michael
Sent: Monday, January 28, 2019 1:27 PM
To: LRB.Legal
Subject: Jacket

Just to confirm, when you get them back, please re-jacket LRB-1309/2 and -1671/2. Thanks,

-Mike



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1309/2
CMH&MED:cdc

2019 BILL

1 **AN ACT** *to renumber* 111.335 (3) (a); *to renumber and amend* 973.015 (1m) (a)
2 1.; *to amend* 111.335 (4) (b), 111.335 (4) (c) 1. (intro.), 111.335 (4) (e), 111.335
3 (4) (f) 1., 950.04 (1v) (g) and 973.015 (1m) (b); and *to create* 111.335 (3) (ag),
4 973.015 (1m) (a) 1. a. and b., 973.015 (1m) (a) 3. c. and d. and 4., 973.015 (1m)
5 (c) and 973.015 (4) of the statutes; **relating to:** expungement of records of
6 certain crimes.

Analysis by the Legislative Reference Bureau

Under current law, a court may order a person's criminal record expunged of a crime for which the maximum term of imprisonment is six years or less (Class H felony and below) if the person committed that crime before the age of 25, the person had not been previously convicted of a felony, and the crime was not a violent felony. Current law specifies that the expungement order must be made only at sentencing and then the record is expunged when the person completes his or her sentence.

This bill removes the condition that the person committed the crime before the age of 25 (the bill retains the requirements that the crime be no greater than a Class H felony, the person had no previous felony convictions, and the crime was not a violent felony) and makes certain traffic crimes ineligible for expungement. This bill also provides that, if the sentencing court did not order the record expunged, the person may file a petition with the sentencing court after he or she completes his or her sentence. Upon receipt of the petition, the court must review the petition and

BILL

then may order the record expunged or may deny the petition. If the court denies the petition, the person may not file another petition for two years, and no person may file more than two petitions per crime. The changes described in this paragraph retroactively apply to persons who were convicted of a crime before this bill takes effect.

This bill also allows the sentencing court to order that a person's record not be eligible for expungement. This bill provides that, if a record is expunged of a crime, that crime is not considered a conviction for employment purposes and specifies that employment discrimination because of a conviction record includes requesting a person to supply information regarding a crime if the record has been expunged of the crime.

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:

1 **SECTION 1.** 111.335 (3) (a) of the statutes is renumbered 111.335 (3) (ar).

2 **SECTION 2.** 111.335 (3) (ag) of the statutes is created to read:

3 111.335 (3) (ag) Employment discrimination because of conviction record
4 includes, but is not limited to, requesting an applicant, employee, member, licensee,
5 or any other individual, on an application form or otherwise, to supply information
6 regarding a crime the record of which has been expunged under s. 973.015. A request
7 to supply information regarding criminal convictions shall not be construed as a
8 request to supply information regarding a crime the record of which has been
9 expunged under s. 973.015.

10 **SECTION 3.** 111.335 (4) (b) of the statutes is amended to read:

11 111.335 (4) (b) It is employment discrimination because of conviction record for
12 a licensing agency to refuse to license any individual under sub. (3) (~~a~~) (ar) 1. or to
13 bar or terminate an individual from licensing under sub. (3) (~~a~~) (ar) 1. because the
14 individual was adjudicated delinquent under ch. 938 for an offense other than an
15 exempt offense.

BILL

1 **SECTION 4.** 111.335 (4) (c) 1. (intro.) of the statutes is amended to read:

2 111.335 (4) (c) 1. (intro.) If a licensing agency refuses to license an individual
3 under sub. (3) (a) (ar) 1. or bars or terminates an individual from licensing under sub.
4 (3) (a) (ar) 1., the licensing agency shall, subject to subd. 2., do all of the following:

5 **SECTION 5.** 111.335 (4) (e) of the statutes is amended to read:

6 111.335 (4) (e) A state licensing agency that may refuse to license individuals
7 under sub. (3) (a) (ar) 1. or that may bar or terminate an individual from licensure
8 under sub. (3) (a) (ar) 1. shall publish on the agency's Internet site a document
9 indicating the offenses or kinds of offenses that may result in such a refusal, bar, or
10 termination.

11 **SECTION 6.** 111.335 (4) (f) 1. of the statutes is amended to read:

12 111.335 (4) (f) 1. A state licensing agency that may refuse to license individuals
13 under sub. (3) (a) (ar) 1. or that may bar or terminate individuals from licensing
14 under sub. (3) (a) (ar) 1. shall allow an individual who does not possess a license to,
15 without submitting a full application and without paying the fees applicable to
16 applicants, apply to the agency for a determination of whether the individual would
17 be disqualified from obtaining the license due to his or her conviction record.

18 **SECTION 7.** 950.04 (1v) (g) of the statutes is amended to read:

19 950.04 (1v) (g) To have reasonable attempts made to notify the victim of
20 hearings or court proceedings, as provided under ss. 302.113 (9g) (g) 2., 302.114 (6),
21 938.27 (4m) and (6), 938.273 (2), 971.095 (3) and, 972.14 (3) (b), and 973.015 (1m) (c).

22 **SECTION 8.** 973.015 (1m) (a) 1. of the statutes is renumbered 973.015 (1m) (a)
23 1. (intro.) and amended to read:

24 973.015 (1m) (a) 1. (intro.) Subject to subd. 2. ~~and except as provided in subd.~~
25 ~~3., when a person is under the age of 25 at the time of the commission of an offense~~

BILL**SECTION 8**

1 for which the person has been found guilty in a court for violation of a law for which
2 the maximum period of imprisonment is 6 years or less, the, a court may order at the
3 time of sentencing after a conviction that the record a criminal case be expunged
4 upon successful completion of the sentence if the court determines the person will
5 benefit and society will not be harmed by this disposition. by one of the following
6 methods:

7 (d) This subsection does not apply to information maintained by the
8 department of transportation regarding a conviction that is required to be included
9 in a record kept under s. 343.23 (2) (a).

10 **SECTION 9.** 973.015 (1m) (a) 1. a. and b. of the statutes are created to read:

11 973.015 (1m) (a) 1. a. Except as provided in subd. 3., the court may order at the
12 time of sentencing that the record be expunged upon successful completion of the
13 sentence if the court determines that person will benefit and society will not be
14 harmed by this disposition.

15 b. If at least one year has passed since the person successfully completed his
16 or her sentence, the person may file a petition in the county of conviction requesting
17 that the record be expunged. Upon receipt of the petition, the court shall review the
18 petition to determine if the person is ineligible to petition for expungement because
19 subd. 3. or 4. applies, less than one year has passed since the person successfully
20 completed his or her sentence, there are criminal charges pending against the
21 person, or the person has exceeded the maximum number of petitions allowed under
22 this subd. 1. b. If the court determines the person is eligible to petition for
23 expungement, the court shall forward the petition to the district attorney. If the
24 district attorney requests a hearing within 90 days after the court forwards the
25 petition, the court shall schedule a hearing to review the petition. If the district

BILL

1 attorney waives the hearing or at least 90 days have passed since the court forwarded
2 the petition, the court may review the petition with or without a hearing. If a hearing
3 is scheduled, then if practicable, the sentencing judge shall be the judge to review the
4 petition. The court may order that the record be expunged if the court determines
5 the person will benefit and society will not be harmed by this disposition. If the court
6 does not order the record be expunged under this subd. 1. b., the person may file a
7 2nd petition under this subd. 1. b. only if at least 2 years have passed since he or she
8 filed the first petition. No person may file more than 2 petitions per record under this
9 subd. 1. b. For a 2nd petition regarding the same record, the person shall pay to the
10 clerk of circuit court a \$100 fee.

11 **SECTION 10.** 973.015 (1m) (a) 3. c. and d. and 4. of the statutes are created to
12 read:

13 973.015 (1m) (a) 3. c. A crime for which the maximum period of imprisonment
14 is more than 6 years.

15 d. A violation of chs. 341 to 348.

16 4. The court may order at the time of sentencing that the record is ineligible
17 for expungement.

18 **SECTION 11.** 973.015 (1m) (b) of the statutes is amended to read:

19 973.015 (1m) (b) ~~A~~ For purposes of par. (a), a person has successfully
20 completed the sentence if the person has completed all periods of incarceration,
21 parole, or extended supervision to which he or she was sentenced; the person has paid
22 all fines, costs, fees, surcharges, and restitution assessed and has completed any
23 court-ordered community service; the person has not been convicted of a subsequent
24 offense crime; and, if ~~on~~ probation was imposed, the probation has not been revoked
25 and ~~the probationer has satisfied the conditions of probation.~~ Upon successful

BILL**SECTION 11**

1 completion of the ~~a sentence involving incarceration or probation~~, the detaining or
2 probationary authority shall issue ~~and forward to the court of record~~ a certificate of
3 discharge which shall be forwarded to the court of record and which shall have the
4 effect of ~~expunging the record that indicates whether the person successfully~~
5 ~~completed his or her sentence. If the court has ordered the record expunged under~~
6 ~~par. (a) 1. a. or 2. and the person has successfully completed the sentence, the person's~~
7 ~~record shall be expunged as ordered.~~ If the person has been ~~imprisoned~~ incarcerated,
8 the detaining authority shall also forward a copy of the certificate of discharge to the
9 department.

10 **SECTION 12.** 973.015 (1m) (c) of the statutes is created to read:

11 973.015 (1m) (c) Upon receipt of a petition under par. (a) 1. b., the district
12 attorney shall make a reasonable attempt to notify the victim, as defined under s.
13 950.02 (4), of the petition. In the notice, the district attorney shall inform the victim
14 that he or she may waive the hearing requirement and that, if waived, the court may
15 review the petition without a hearing. The district attorney shall inform the victim
16 of the manner in which he or she may provide written statements concerning the
17 petition and, if the victim does not waive the hearing requirement, that he or she may
18 appear at the hearing. If the victim waives the hearing requirement, the district
19 attorney may inform the court that there is no objection to waiving the hearing
20 requirement. Notwithstanding the confidentiality of victim address information
21 obtained under s. 302.113 (9g) (g) 3., a district attorney who is required to make a
22 reasonable attempt to notify a victim under this paragraph may obtain from the clerk
23 of the circuit court the victim address information that the victim provided to the
24 clerk under s. 302.113 (9g) (g) 3.

25 **SECTION 13.** 973.015 (4) of the statutes is created to read:

