



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-2728/1
EVM:kjf&amn

2019 ASSEMBLY BILL 211

May 15, 2019 - Introduced by Representatives THIESFELDT, C. TAYLOR, SPREITZER, BROSTOFF, ANDERSON, VINING, SINICKI, QUINN, KULP, ROHRKASTE, RAMTHUN and CONSIDINE, cosponsored by Senators JACQUE, LARSON, MARKLEIN, L. TAYLOR, RINGHAND and JOHNSON. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT** *to create* 346.65 (2) (bg) of the statutes; **relating to:** records of certain
2 offenses related to operating a motor vehicle with a prohibited blood alcohol
3 concentration.

Analysis by the Legislative Reference Bureau

Under this bill, a court may, upon petition by a person who has been convicted of a first offense related to operating a vehicle while intoxicated (OWI offense), expunge the record of the person's conviction. A person may file a petition under this procedure only if the OWI offense did not involve an injury and the alcohol concentration of the person at the time of offense was less than 0.15. In addition, expungement under this procedure may be granted only if the person does one of the following for not less than six months: 1) equips his or her motor vehicle with an ignition interlock device, operates only motor vehicles that are equipped with an ignition interlock device, and provides access to the data generated by the ignition interlock device; or 2) wears a device that continuously monitors the person's alcohol consumption and provides access to the data generated by the device.

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:

ASSEMBLY BILL 211**SECTION 1**

1 **SECTION 1.** 346.65 (2) (bg) of the statutes is created to read:

2 346.65 (2) (bg) 1. A person who is subject to sub. (2) (am) 1. for an offense under
3 s. 346.63 (2) (a) 2. for which no injury occurred, who had an alcohol concentration of
4 less than 0.15 at the time of the offense, and who does not have a prior withholding
5 of adjudication or adjudication of guilt under this paragraph or for any criminal
6 offense may petition the court to expunge the record of his or her conviction.

7 2. Except as provided in subd. 3., the court shall order that the record of
8 conviction be expunged if a person files a petition under subd. 1.; pays a \$100 filing
9 fee; successfully completes his or her sentence; and, for not less than 6 months, does
10 any of the following:

11 a. Does not commit a criminal offense, equips each motor vehicle for which the
12 person's name appears on the vehicle's certificate of title or registration with an
13 ignition interlock device, limits his or her operation of motor vehicles to "Class D"
14 vehicles that are equipped with an ignition interlock device, provides access to the
15 data generated by the ignition interlock devices, and does not tamper with or
16 circumvent the operation of the ignition interlock devices.

17 b. Does not commit a criminal offense, wears a device that continuously
18 monitors the person's alcohol consumption, provides access to the data generated by
19 the device, and does not tamper with or circumvent the operation of the device.

20 3. The court may deny a petition under subd. 1. if, no later than the time of
21 sentencing for the offense underlying the petition, the prosecutor objects and the
22 court finds that granting the petition is not consistent with the public interest.

23 4. A conviction, the record of which is expunged under subd. 2., counts as a
24 conviction under s. 343.307 (1) and (2). Notwithstanding subd. 2., the court shall

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1 retain a nonpublic record of a conviction, the record of which is expunged under subd.
2 2., sufficient to permit counting the offense under s. 343.307 (1) and (2).

3 5. A record of a conviction expunged under this paragraph is not considered a
4 conviction for employment purposes.

5 (END)