



State of Wisconsin
2017 - 2018 LEGISLATURE

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CMH&MED:ahe/klm/amn

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 53**

February 20, 2018 - Offered by Representative STEFFEN.

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.

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

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

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

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

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

7 973.015 (1m) (a) 1. (intro.) Subject to subd. 2. ~~and except as provided in subd.~~
8 ~~3., when if a person commits a crime when he or she is under the age of 25 at the time~~
9 ~~of the commission of an offense for which the person has been found guilty in a court~~
10 ~~for violation of a law for which the maximum period of imprisonment is 6 years or~~
11 ~~less, the court may order at the time of sentencing that the record be expunged upon~~
12 ~~successful completion of the sentence if the court determines the person will benefit~~
13 ~~and society will not be harmed by this disposition.~~ A record may be ordered
14 expunged under this subdivision by one of the following methods:

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

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

19 973.015 (1m) (a) 1. a. Except as provided in subd. 3., the court may, on its own
20 motion, order at the time of sentencing that the record be expunged upon successful
21 completion of the sentence if the court determines the person will benefit and society
22 will not be harmed by this disposition.

23 b. If at least one year has passed since the person successfully completed his
24 or her sentence and if there are no criminal charges pending against the person, the
25 person may file a petition in the county of conviction requesting that the record of the

1 crime be expunged. Upon receipt of the petition, the court shall schedule a hearing
2 to review the petition except that, if the district attorney informs the court under par.
3 (c) that there is no objection to waiving the hearing requirement, the court may
4 review the petition without a hearing. If a hearing is scheduled, then if possible, the
5 sentencing judge shall be the judge to review the petition. The court may order that
6 the record be expunged if subd. 3. or 4. does not apply and if the court determines the
7 person will benefit and society will not be harmed by this disposition. If the court
8 does not order the record be expunged under this subd. 1. b., the person may file a
9 2nd petition under this subd. 1. b. only if at least 2 years have passed since he or she
10 filed the first petition. No person may file more than 2 petitions per record under this
11 subd. 1. b. For a 2nd petition regarding the same record, the person shall pay to the
12 clerk of circuit court a \$100 fee.

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

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

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

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

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

21 973.015 (1m) (b) ~~A~~ For purposes of par. (a), a person has successfully
22 completed the sentence if the person has completed any period of incarceration,
23 parole, or extended supervision to which he or she was sentenced; the person has paid
24 all fines, costs, fees, surcharges, and restitution assessed; the person has not been
25 convicted of a subsequent offense; and, if on probation was imposed, the probation

1 has not been revoked and the probationer has satisfied the conditions of probation.
2 If the person was not sentenced to any period of incarceration or placed on probation,
3 the person has successfully completed the sentence if he or she has provided
4 sufficient proof to the court that he or she has fulfilled all conditions of his or her
5 sentence. Upon successful completion of ~~the a~~ sentence involving incarceration or
6 probation, the detaining or probationary authority shall issue and forward to the
7 court of record a certificate of discharge ~~which shall be forwarded to the court of~~
8 ~~record and which shall have the effect of expunging the record.~~ If the court has
9 ordered the record expunged under par. (a) 1. a. or 2. and the person has successfully
10 completed the sentence, the person's record shall be expunged as ordered. If the court
11 has ordered the record expunged under par. (a) 1. b., the person's record shall be
12 expunged as ordered. If the person has been imprisoned incarcerated, the detaining
13 authority shall also forward a copy of the certificate of discharge to the department.

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

15 973.015 **(1m)** (c) If a person files a petition under par. (a) 1. b., the clerk of the
16 circuit court in which the petition is filed shall send to the district attorney a copy
17 of the petition and a notice of the hearing. The district attorney shall make a
18 reasonable attempt to notify the victim, as defined under s. 950.02 (4), of the petition.
19 In the notice, the district attorney shall inform the victim that he or she may waive
20 the hearing requirement and that, if waived, the court may review the petition
21 without a hearing. The district attorney shall inform the victim of the manner in
22 which he or she may provide written statements concerning the petition and, if the
23 victim does not waive the hearing requirement, that he or she may appear at the
24 hearing. If the victim waives the hearing requirement, the district attorney may
25 inform the court that there is no objection to waiving the hearing requirement.

1 Notwithstanding the confidentiality of victim address information obtained under
2 s. 302.113 (9g) (g) 3., a district attorney who is required to make a reasonable attempt
3 to notify a victim under this paragraph may obtain from the clerk of the circuit court
4 the victim address information that the victim provided to the clerk under s. 302.113
5 (9g) (g) 3.

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

7 973.015 (4) A record of a crime expunged under this section is not considered
8 a conviction for employment purposes.

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

10 **973.181 Notice of expungement process.** If the defendant is eligible to
11 petition for expungement under s. 973.015 (1m) (a) 1. b. and the court has not ordered
12 the record expunged under s. 973.015 (1m) (a) 1. a., the judge shall inform the
13 defendant in writing at the time of sentencing of the process to file for expungement.

14 **SECTION 10. Initial applicability.**

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

18 **SECTION 11. Effective date.**

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

21 (END)