



2013 SENATE BILL 402

November 11, 2013 - Introduced by Senators HARRIS, RISSER, VINEHOUT and ERPENBACH, cosponsored by Representatives YOUNG, JOHNSON, KESSLER, BARNES, WACHS, POPE, RICHARDS, OHNSTAD, C. TAYLOR and BERNIER. Referred to Committee on Judiciary and Labor.

1 **AN ACT** *to amend* 938.355 (4m) (a) and 973.015 (1) (a); and *to create* 938.355
2 (4m) (bg) and 973.015 (1) (bg) of the statutes; **relating to:** expunging a record
3 of a conviction or adjudication of delinquency if the offender was a victim of
4 human trafficking.

Analysis by the Legislative Reference Bureau

Under current law, if a person is convicted of a criminal offense for which the maximum period of imprisonment is not more than six years and the person committed the offense before he or she was 25 years old, the court may order, at the time the person is sentenced, that the record of the offense be expunged when the person successfully completes his or her sentence imposed for the offense. If the person was adjudicated delinquent for committing an offense, current law allows the person to petition the court to expunge the record of the adjudication when he or she reaches the age of 17. Under current law, the court may expunge the record of the adjudication if the person complied with the conditions of his or her dispositional order. Current law excludes certain offenses from expungement and generally requires the court to determine that the person will benefit and society will not be harmed by expungement.

Current law requires the court to expunge a record of conviction, upon an offender's successful completion of his or her sentence, for certain offenses related to invasion of privacy if the offender was under the age of 18 when he or she committed the offense. If the person was adjudicated delinquent for committing the offenses related to invasion of privacy, current law requires the court to expunge the

SENATE BILL 402

record of the adjudication, upon petition of the person when she he or attains the age of 17, if the person had no prior adjudications of delinquency and he or she complied with the conditions of his or her dispositional order.

Under this bill, if a person successfully completes his or her sentence, or if a juvenile who was adjudicated delinquent complies with the conditions of his or her dispositional order and petitions for expungement upon attaining the age of 17, the court must order that the record be expunged if the court finds that all of the following are true:

1. The person was under the age of 18 when he or she committed the offense.
 2. The person was a victim of human trafficking.
 3. The person would not have committed the offense if not for the person's status as a victim of human trafficking.
 4. The offense is otherwise eligible for expungement.
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The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 938.355 (4m) (a) of the statutes is amended to read:

2 938.355 (**4m**) (a) A juvenile who has been adjudged delinquent under s. 48.12,
3 1993 stats., or s. 938.12 may, on attaining 17 years of age, petition the court to
4 expunge the court's record of the juvenile's adjudication. Subject to par. (b) and (**bg**),
5 the court may expunge the record if the court determines that the juvenile has
6 satisfactorily complied with the conditions of his or her dispositional order and that
7 the juvenile will benefit from, and society will not be harmed by, the expungement.

8 **SECTION 2.** 938.355 (4m) (**bg**) of the statutes is created to read:

9 938.355 (**4m**) (**bg**) The court shall expunge the court's record of a juvenile's
10 adjudication if the courts finds that all of the following are true:

- 11 1. The juvenile was a victim of a violation of s. 940.302 or 948.051, or a victim
12 of a severe form of trafficking under 22 USC 7102 (14). The court may make this
13 finding without regard to whether anyone was prosecuted for or convicted of the
14 violation.

SENATE BILL 402

1 2. The juvenile would not have committed the offense for which he or she was
2 adjudicated delinquent if not for the juvenile's status as a victim under subd. 1.

3 3. The juvenile has satisfactorily complied with the conditions of his or her
4 dispositional order.

5 **SECTION 3.** 973.015 (1) (a) of the statutes is amended to read:

6 973.015 (1) (a) Subject to par. (b) and (bg) and except as provided in par. (c),
7 when a person is under the age of 25 at the time of the commission of an offense for
8 which the person has been found guilty in a court for violation of a law for which the
9 maximum period of imprisonment is 6 years or less, the court may order at the time
10 of sentencing that the record be expunged upon successful completion of the sentence
11 if the court determines the person will benefit and society will not be harmed by this
12 disposition. This subsection does not apply to information maintained by the
13 department of transportation regarding a conviction that is required to be included
14 in a record kept under s. 343.23 (2) (a).

15 **SECTION 4.** 973.015 (1) (bg) of the statutes is created to read:

16 973.015 (1) (bg) The court shall order at the time of sentencing that the record
17 be expunged upon successful completion of the sentence if the courts finds that all
18 of the following are true:

19 1. The person who committed the offense was a victim of a violation of s. 940.302
20 or 948.051, or a victim of a severe form of trafficking under 22 USC 7102 (14). The
21 court may make this finding without regard to whether anyone was prosecuted for
22 or convicted of the violation.

23 2. The person was under the age of 18 when he or she committed the offense.

