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# Wisconsin Legislative Council

## AMENDMENT MEMO

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**Memo published:** January 21, 2022

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**2021 Assembly Bill 174**

**Assembly  
Amendment 1**

### 2021 ASSEMBLY BILL 174

#### Violation of a Condition of Probation or of Release to Extended Supervision or Parole

Under **current law**, a person who is sentenced for a crime and who is released from incarceration to extended supervision or parole, or who is placed on probation, remains under the supervision of the Department of Corrections (DOC) and must abide by conditions set by DOC or by a court. A person who violates a condition of release or of probation may be subject to sanctions, including revocation of his or her release or revocation of probation.

Under current law, a DOC supervising agent considers the range of sanctions and determines whether to recommend revocation of the person's release. If DOC recommends revocation, it gives notice to the person and, unless waived, an administrative law judge determines whether, and which, sanction should be imposed.

**2021 Assembly Bill 174** requires DOC to recommend revocation whenever a person who is released to extended supervision or parole or who is on probation is charged with committing a crime.

#### Expungement

Under **current law**, a court may order, at the time it sentences a person for a crime, that the criminal record for the crime be expunged if the court determines that the person will benefit and society will not be harmed and if all of the following apply:

- The person committed the crime before the age of 25.
- The crime is a misdemeanor, a Class H felony or a Class I felony.
- If the crime is a felony, the person had not been previously convicted of a felony.
- If the crime is a felony, it is not a violent felony.

The order for expungement takes effect when the person has successfully completed his or her sentence. For purpose of expungement, a person has successfully completed the sentence if he or she has not been convicted of a subsequent offense and, if on probation, the probation has not been revoked and the person has satisfied the conditions of probation.

**2021 Assembly Bill 174** prohibits a court from ordering expungement of a criminal record if the person had, in his or her lifetime, been convicted of any crime, including one for which the record had been expunged. Additionally, under the bill, a person who has criminal charges pending has not, for the purpose of expungement, completed his or her sentence. Under the bill, a person who was placed on probation successfully completes his or her sentence when one year has elapsed since the person was

placed on probation, no criminal charges are pending against the person, and the person has not violated any rule or condition of probation.

## **ASSEMBLY AMENDMENT 1**

Assembly Amendment 1 removes all provisions relating to expungement from the bill.

## **BILL HISTORY**

On January 14, 2022, Representatives Sanfelippo and Steffen offered Assembly Amendment 1. On January 18, 2022, the Assembly Committee on Criminal Justice and Public Safety recommended adoption of Assembly Amendment 1 by a vote of Ayes 13, Noes, 0 and reported without recommendation of Assembly Bill 174, as amended, by votes of Ayes, 7; Noes, 7.

PJH:jal