



Alberta Darling

Wisconsin State Senator | District 8

Testimony Before The Senate Committee on Judiciary and Public Safety
Senate Bill 78
Thursday, May 6th, 2021

Thank you, Chairman Wanggaard and committee members for holding a public hearing on Senate Bill 78. The legislation before you today takes important steps to reform Wisconsin's outdated expungement laws.

Expungement is the process in which a person can petition the court to have his or her record expunged or cleared. This bill does not change the types of crimes eligible for expungement. An individual is only eligible for expungement if they meet specific criteria.

Currently, Wisconsin is the only state that requires judges to determine expungement eligibility when an individual is sentenced, and one out of seven states that limits expungement opportunity on the basis of age. This presents significant challenges for judges and rehabilitated offenders that have paid their debt to society, yet still encounter restrictions to employment, housing, and higher education. These hurdles add complexity and make it more difficult to get back to living a productive meaningful life.

SB 78 helps bring Wisconsin closer in line with many other states. This legislation removes the requirement that a judge must make the expungement determination at the time of sentencing and removes the arbitrary age restriction of 25. This bill adds that an ex-offender must wait 12 months after they have successfully completed their sentence before petitioning the courts for potential expungement. This gives ample time for an individual to show if they deserve a second chance.

Other states have made far more substantial changes to their expungement laws. Michigan this past year has passed a series of bills relating to expungement that in effect automatically expunge misdemeanors after seven years and nonviolent felonies after 10 years. This excludes certain crimes and has limits on the number of crimes that can be expunged based on the level of offense. These changes are far more drastic than what we are currently looking to accomplish here in Wisconsin.

Wisconsin has a well-documented labor shortage. SB 78 will help bridge the gap between employers looking for workers and potential employees that are rehabilitated. We need capable workers in our workforce, and we should not continue to punish those able bodied low-level offenders who want to work. By helping these individuals get sustainable jobs we are significantly lowering the chances of recidivism, subsequently helping to curb our increasing Department of Corrections costs.

I would like to thank Representatives Steffen and Goyke for their leadership on this issue. Thank you committee members for holding a hearing on SB 78, and I hope I can count on your support again this session.



DAVID STEFFEN

STATE REPRESENTATIVE • 4TH ASSEMBLY DISTRICT

May 6, 2021

Testimony to the Senate Committee on Judiciary and Public Safety on Senate Bill 78

Chairman Wanggaard and Committee Members,

Thank you for the opportunity to testify in favor of Senate Bill 78 relating to the expungement of records of certain crimes. I am thrilled to be here with Senator Darling and Representative Goyke and present this bipartisan solution for the workforce shortage issue facing this state. SB 78 makes common-sense revisions to Wisconsin's outdated expungement law and is an important step in connecting employers in need with potential employees who are looking to overcome their past and find success in the workforce.

Expungement refers to the current process where a person petitions to have his or her record expunged (or removed from Wisconsin's public court records) of a non-violent, lower-level offense. An individual is only eligible for expungement if they meet certain criteria. Currently, a judge can only order that an individual is eligible for expungement at the time of sentencing and it is only available to individuals under the age of 25.

This bill would allow a judge to order that a record be expunged after a person completes his or her sentence, and removes the arbitrary age limit of 25. Currently, Wisconsin is an outlier in both of these areas. The vast majority of states do not have an age limit and also allow expungement upon completion of the sentence rather than at the time of sentencing. The bill does not change what offenses are eligible for expungement, which are misdemeanors and low-level felonies (Class H & I).

Under Wisconsin's current expungement law, many able-bodied residents are forced to sit on the workforce sidelines. During a time when nearly every industry in Wisconsin is facing a workforce shortage, SB 78 plays a crucial role in connecting employers in need with this untapped workforce- which is why business organizations such as WMC, NFIB, MMAC, Wisconsin Independent Businesses and Wisconsin Small Businesses United are engaged and supportive of this measure.

Thank you for the opportunity to speak in favor of this bill I encourage you to join me in supporting this legislation.



May 6, 2021

Public Testimony of State Representative Evan Goyke

Re: Senate Bill 78 - Expungement Reform: Providing Pathways to Employment

Wisconsin's current expungement law is unique in America. The courtroom procedures and processes have not been updated in decades. Conservative and liberal groups have come together and made recommendations to the legislature that our current statutes need to be changed.

We are the only state that requires a judge to determine eligibility for expungement "at the time of sentencing." This requires judges to look into the future and guess whether an individual will earn expungement rather than base the decision on what the individual has done to earn expungement. Senate Bill 78 removes the "at the time of sentencing" language and replaces it with a procedure fair to all criminal justice system participants. This bill allows judges to approve (or deny) an expungement petition at the completion of the sentence.

The bill makes *no changes to current law* regarding what crimes are eligible for expungement.

SB 78 further defines what it means to successfully complete a sentence. To ensure that only individuals that have successfully completed their sentences (and have not reoffended) will be eligible for expungement, this bill clearly defines what it means to successfully complete a sentence, which includes completing community services, paying all fines, fees, restitution, and completing any community supervision without revocation.

SB 78 also removes the arbitrary age limit of 25. This policy was highlighted in research done by The Wisconsin Policy Forum and The Badger Institute. Wisconsin is one of only four states to have an age limit. The decision of whether or not to expunge a record should be based on merit and how an individual rehabilitated themselves, rather than an age.

The new procedure under SB 78 was created with the help of criminal justice system stakeholders. The process balances pressures on caseloads with the individual rights of victims and defendants. The result is a process that ensures victim input through the district attorney's office, while judges retain discretion to be the ultimate decision makers.

The expungement process under SB 78 would work like this:

1. An individual is sentenced on an eligible offense
2. The individual successfully completes his or her sentence
3. After at least one year following successful completion, the individual petitions for expungement in the same county of their conviction.
4. The court reviews whether or not the individual is currently eligible.
5. If eligible, the court forwards the petition to the District Attorney who must make an attempt to contact a victim if there is one and decide whether to contest expungement
6. Judge schedules hearing if needed, both sides argue and Judge decides
7. If denied, individual must wait 2 years before petitioning again. An individual can only petition a court twice - SB 78 does not provide unlimited petitioning.
8. An individual can only receive one expungement in their lifetime

One additional important feature of SB 78 is that it is retroactive. Retroactivity is critical to give an opportunity for eligible individuals that never had a chance for expungement. Under our current procedure, individuals that never asked for expungement at sentencing, or those that didn't know they could ask, don't have a remedy. Applying SB 78's procedure retroactively gives these individuals the opportunity at a second chance.

If passed, Wisconsin's expungement law would look similar to our neighbors around the Great Lakes. Here is a breakdown of our neighbors' expungement laws (now including Iowa, which created their expungement law for adult convictions in 2019).

Michigan: automatic; varying waiting periods; up to 2 felonies and 4 misdemeanors; no age restriction

Illinois: petition; varying waiting periods; similar eligible crimes; no age restriction

Minnesota: petition; varying waiting periods; similar eligible crimes; no age restriction

Indiana: petition; varying waiting periods; more expansive/serious eligible crimes; no age restriction

Iowa: mixed automatic/petition; longer waiting period; misdemeanors only; no age restriction

Since the introduction of SB78, Republican Alabama Governor Kay Ivey signed into law on April 23rd Senate Bill 117, The Alabama Redeemer Act, that makes further reforms to their state's expungement law. The bill was passed by their Republican controlled state legislature and the Alabama State Senate without a dissenting vote. Alabama's new expungement law has no age restriction.

Since our bipartisan coalition began working on this bill I have heard from citizens across Wisconsin, as well as former residents who live in different parts of the country. We all may know someone who would be positively affected by this bill, and we all have constituents who would benefit as well.

For example - earlier this year I received a call from a former Wisconsin resident who now lives in Florida working to become a first responder and is facing the barriers this bill seeks to solve. I have attached her testimony for your review. I have also attached a recent article published by The Badger Institute with another personal example.

These individuals have done everything they can to rehabilitate themselves – they've long finished the court ordered sentence, but because eligibility for expungement wasn't granted "at the time of sentencing," or over the age of 25 - they will be without a remedy.

By moving the "time of sentencing" and removing the arbitrary age limit of 25, SB 78 modernizes Wisconsin's expungement law in two important ways. Together, these changes will benefit a large number of Wisconsinites forced to the sidelines of employment because of an old criminal conviction.

Thank you for your consideration and I am happy to take any questions.



'A breath of fresh air'



Expungement reform would open new opportunities for grandmother, teacher

By JULIE GRACE | March 23, 2021

Ryann Counce Barnes is a mother of two, a soon-to-be grandmother, an owner of a family childcare center and a teacher at Milwaukee Public Schools, where she has worked in various roles since 2006.

But when Barnes and her husband recently tried to rent an apartment in Texas where he got a new job, their applications were denied due to a 2005 conviction on her record.

"I completely forgot about the crime," says Barnes. "Every application said they couldn't rent to me. I appealed, wrote a letter, but every place we looked at wouldn't let me be on the lease."

The crime standing in their way was a Class A misdemeanor (criminal damage to property) that Barnes committed when she was 27 years old. She is open about the offense and told the Badger Institute that she "vandalized" her then-boyfriend's and another woman's cars after catching them together, confirming her speculation that he was cheating on her. They had been dating for three years.

"It was all me, all my fault," says Barnes. "If I could turn back time, I wouldn't have done it. But at that moment, I was just mad."

She was sentenced to one year of probation and required to make restitution – which she paid in full – and hasn't committed a crime since. She says she and her former boyfriend have both "moved on" and still run in the same social circle. Yet the offense remains on her record and continues to impact her more than 15 years later. Since she's not on her husband's lease in Texas, for instance, she says she can only legally stay at the apartment for 14 days at a time.

That could change if state lawmakers pass legislation that would make it easier for people like Barnes to receive an expungement – essentially the sealing of a record for low-level offenses. The bill would remove the age restriction (currently set at 25 or younger), allow judges to rule on expungements after the completion of a sentence (when a more informed decision can be made), and make it illegal to consider expunged crimes for employment purposes. The bill would not expand what crimes are eligible for expungement (currently H and I felonies and misdemeanors).

A similar version of the bill passed the State Assembly last session but was never taken up in the Senate. It has overwhelming bipartisan support and, if passed, would be retroactive.

For Barnes and many others with a single, low-level, non-violent offense on their record, receiving an expungement would give them the chance to fully move past their mistake, opening employment and housing opportunities.

"I use my offense as a teachable moment for my students to always think before you do something," says Barnes.

When asked what an expungement would mean to her, she said, "It would give me a breath of fresh air. I committed the crime, but that's not the person that I am."

Julie Grace is a policy analyst in the Badger Institute's Center for Opportunity.

Read more on the Badger Institute's work on expungement:

- Black Robes & Blue Collars: How to Let Wisconsin's Judges Help Job-Seekers and Employers
Expungement reform would put people back to work
- Criminal Justice Reform Recommendations for Wisconsin Policymakers: 2021 Edition

May 6, 2021

Public testimony of Grace – Former Milton, WI Resident

Submitted to Senate Committee on Judiciary & Public Safety

Dear Chairman Wanggaard & Committee Members:

Hello, my name is Grace. I am excited to be able to share my story with you all. To be clear not because of the past that I am excited, but because of the freedom my story will hopefully provide for families like my own in the near future.

I was born and raised in the great state of Wisconsin, and at the age of 18 years old I decided to expand my endeavors with a move. Today, as I have grown by age and experience, I have learned to appreciate where I am from and I now long for the days that I get to visit my hometown of Milton. I bring my family back to my grassroots 2-3 times a year so they can experience what a Midwest life is like.

Furthermore, the bliss that we enjoy is momentary, but the pain from my past here is the only thing that haunts me permanently. A terrible decision, put me in a bad position years ago. A mistake that I now understand to be a felony with a lifelong sentence. Not sentence of jail, or fines, but rather a sentence that follows me every step forward.

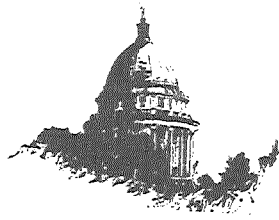
Please don't confuse this for pity, I understand the gravity of my error and that it continues to hinder my path - but when is enough enough? Are we not a country built on second chances?

I am now 34 years old and live in Florida with my husband and five beautiful kids. I am that typical soccer, cheer, PTA mom that you see at Sunday church. I'm that slow driver that abides by the speed limit that you pass, I'm the lady in line that says god bless you after you sneeze. Yet, no one would look at me and think that lady has a felony.

You see 13-14 years ago when I took a plea deal on a charge on theft I wasn't thinking about my future, neither did I have counsel interested in saving my future. I didn't have someone on my side telling me how much a felony would affect my future. Flash forward to the present. I am not that 18 year old young adult - I've lived an honorable law abiding life since. I understand we have consequences to our decisions, and I owned that by completing my probation which was my sentencing. I'm grateful for the lessons I've learned and God's been pretty good. I've been fortunate be living a good life on a small farm with my family.

After spending years devoting myself as a mother to my kids I have decided to go back to school and try for my dream job to become a firefighter and a servant of the community. The haunting of my past continues to appear, and drag me into the stereotypical felon's barrier. I am not the felony charge, but it is defining the future I admire to become. Can you imagine the feeling of being known at every intersection of progress by the worst failure of your life? Probably not... I am being disabled by something many years ago should be put into proper context today. I can only imagine the thousands of stories of good people reestablishing their lives, but still walking around with invisible shackles of a poor decision.

I am hopeful that you will find the support needed for victory to pass this bill. Not only will it help me, but thousands of families, kids, and generations to come. God bless.



PAUL TITTL

STATE REPRESENTATIVE • 25TH ASSEMBLY DISTRICT

Senate Committee on Judiciary and Public Safety

Senate Bill 78

May 6, 2021

Thank you Chairman Wanggaard and committee members for allowing me to submit testimony concerning Senate Bill 78 related to the expungement of records of certain crimes and discrimination based on expunged conviction.

Senator Darling, Representative Steffen, and Representative Goyke have discussed the focus and details of this bill. However, I would like to address a situation a constituent brought to my attention. I'm sure there are others in my district and in yours who share a similar experience but have kept it to themselves.

As a teenager this constituent sold a small amount of marijuana to an undercover officer. The district attorney's office offered to reduce the charge to a misdemeanor if he would reveal the name of the person who sold it to him. He refused to disclose the name and now has a felony on his record for selling \$40 of marijuana in 2001.

He has since earned two technical college degrees, one in Wisconsin and one in Michigan.

Today, he is an excellent example of how a husband should love his wife and care for his children and extended family members. His grandfather was very sick and recently passed away. Throughout that ordeal he was a great source of help and encouragement for his grandparents. He regularly chauffeured them to various appointments and often dropped whatever he was doing and took two or three of his boys to assist them with a household matter of one kind or another. When they needed help, he was always there.

He has been a good example for his boys. He is always the first one to step forward when it's time for work at the family cabin. He also enjoys doing things together as a family such as camping or skiing or just enjoying the outdoors. Whether it's a family bike ride, fishing or a day canoeing, he's always there for them. They in turn have been learning how a good dad, husband, and citizen can make a difference.

His boys' Cub Scout pack is always looking for leaders, but the felony label prevents him from serving in that way. As you may know, most schools also prevent the involvement of anyone who has committed a felony, so he cannot serve in school-related activities either.

Current law prohibits expungement for this case, because the court did not order expungement at the time of sentencing. The bill before you today provides an avenue for people in similar circumstances throughout the state who have paid their debt to society to move beyond the felony label and into the freedom they rightfully deserve.

Thanks again for hearing this bill. I would appreciate your support for it.

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Wisconsin State Public Defender

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Kelli S. Thompson
State Public Defender

Jon Padgham
Deputy State
Public Defender

Senate Committee on Judiciary & Public Safety
Public Hearing - Senate Bill 78
Thursday, May 6, 2021

Dear Chairman Wanggaard & Committee members,

Thank you for having this hearing on Senate Bill (SB) 78, which makes several changes to expunction statutes. Thank you to Representatives Steffen and Goyke and their staff for all of the work and outreach that went into drafting this legislation.

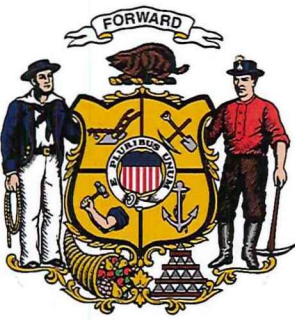
There are three key components of SB 78 that make the bill worthy of this committee's support. Most importantly, it allows a court to order expungement after the sentence has been completed. Under current law, the judge can only order expungement at the time of sentencing. This restriction on the timing artificially limits how often expungement is granted because it unfairly asks Judges to predict future good conduct when sentencing someone for bad conduct.

Second, the bill removes the arbitrary age limit of 25 in current statute. The ability to expunge a low-level felony or misdemeanor is critical to allowing people who have completed their sentence to remove barriers to employment, housing, and education that come from conviction. Access to expungement should be available to individuals of any age.

Finally, it clarifies statutorily that when people are asked whether they've been convicted of a felony, they may check no on an employment application if they have a previous conviction that has been expunged. This seemingly simple change will clarify decades of unclear statute and caselaw on this subject. It will also lessen a significant collateral consequence of conviction in finding employment.

In addition, Wisconsin is participating in an Evidence Based Decision Making project with the National Institute of Corrections. Principles learned in that project as applied to a treatment court setting include the concept of swift sanctions as well as both short and long term rewards to incentivize good behavior. Having expungement available at the successful conclusion of a sentence would be a powerful incentive towards good behavior.

Thank you for considering Senate Bill 78. SPD looks forward to the committee's support of this proposal. Please feel free to contact Legislative Liaison Adam Plotkin at 608-264-8572 if you have additional questions.



Wisconsin Department of Corrections

Governor Tony Evers | Secretary Kevin A. Carr

May 6, 2021

Senator Van Wanggaard, Chair
Senator Eric Wimberger, Vice-Chair
Senate Committee on Judiciary and Public Safety
Hearing, Thursday, May 6, 2021

RE: Support for AB 69/SB 78 Expungement of Records

Dear Chairpersons:

Thank you for the opportunity to provide written testimony on AB 69/SB 78, Expungement of Records. Please accept this correspondence on behalf of the Department of Corrections (DOC) in support of the proposed bill being heard in your committee on May 6, 2021.

Just as the Governor's budget expands expunction, AB 69/SB 78 provides an avenue for Wisconsinites that have demonstrated their ability to comply with the law after a conviction to seek an expungement of their criminal past; increasing employability, educational and housing opportunities.

AB 69/SB 78 makes much needed updates to Wisconsin's process of expunction, removing arbitrary barriers that severely limited those that qualify despite their demonstrated change in behavior after a conviction. The proposed bill removes the age limit of 25, removes the requirement that a judge determine eligibility at the time of sentencing, and clarifies that a rule violation is not a disqualifier to expungement. As part of the DOC's strategic priorities to push for bipartisan criminal justice reform in the state of Wisconsin, the DOC supports efforts to align and update our state's expungement process and statutes with the rest of the country. This is especially important given the fact that Wisconsin's current expungement laws are some of the most onerous in the country.

AB 69/SB 78 provides an opportunity to support and incentivize positive change, reducing recidivism and helping people find work and move forward from an old criminal conviction.

Please do not hesitate to contact me via email at paulina.dehaan@wi.gov if you have questions or need additional information. Thank you for your time.

Sincerely,

Paulina de Haan
Legislative Advisor
Wisconsin Department of Corrections

Cc: Senate Committee on Judiciary and Public Safety, Committee Members



To: Senate Committee on Judiciary and Public Safety

From: Metropolitan Milwaukee Association of Commerce (MMAC) & Waukesha County Business Alliance (WCBA)

Date: May 6, 2021

Re: Support for Senate Bill 78 – ‘Pathways to Employment’ through expungement of records of certain crimes

Even as we recover from COVID, workforce development continues to be the number one issue facing many of our employers. Just as before the pandemic, our employers need employees. Reforming our expungement system is one tool to help get unemployed and underemployed talent off the sidelines and into the workforce. We simply cannot adequately fuel Wisconsin’s booming economy for the long term if we do not address the state’s labor shortage.

Employers and workforce leaders recognize that criminal justice reform can improve both the labor market and life outcomes for people with criminal records. Supporting programs that assist targeted populations, such as those with a criminal background, to enter or re-enter the workforce can widen the pool of available candidates.

Expungement provides *non-violent* offenders with a fresh start. Expungement means sealing a criminal record if the judge finds that the offender will benefit and society will not be harmed. When an eligible criminal record is expunged, it becomes sealed from public access records, such as Wisconsin Circuit Court Access, used by many employers to screen potential employees. This enables people with non-violent criminal backgrounds a fresh start after they’ve paid their debt to society. Currently, expungement in Wisconsin is only eligible to those who have committed a non-violent crime no greater than a Class H felony and have no previous felonies. We believe those parameters make sense and should stay in place.

However, other aspects of Wisconsin’s current expungement law need reform. For example, Wisconsin is the only state in the nation that requires judges to determine expungement eligibility when somebody is sentenced, instead of when they are released. This is the only time that expungement is possible in Wisconsin. In other words, judges are asked to decide whether expungement is appropriate very soon after the crime has been committed, rather than a year or more later, when the defendant’s rehabilitation (or lack thereof) is more readily apparent. Wisconsin is also one of a few states that limits expungement eligibility to offenses that occur before age 25.

In Wisconsin, nearly 1.4 million adults have a criminal record, including 42 percent of Milwaukee’s job seekers. Ex-offenders often experience “collateral consequences” that haunt them well after they have paid their debt to society. Many vocational licenses cannot be obtained by individuals with criminal records, yet those vocations are often the jobs for which ex-offenders are most qualified. Additionally, it’s harder for ex-offenders to get home loans, go to college or join the military. Without access to these



building blocks of financial independence and stability, they become stuck in a cycle of recidivism and dependence on public assistance.

According to the Federal Bureau of Prisons, ex-offenders who are employed are three to five times less likely to reoffend. Prison academic and vocational programs have been found to reduce recidivism by up to 13 percent, and trade or job training programs increase the likelihood of post-release employment by up to 21 percent. And the pathway to employment after release can start with expungement.

We urge you to support Senate Bill 78. This legislation makes common-sense revisions to the court process for Wisconsin's outdated expungement law and brings it in line with most of the country.

Between the Alliance and MMAC, our organizations represent more than 3,000 businesses throughout southeast Wisconsin. As our employers continue to struggle with workforce challenges, we believe that expungement reform is an important piece of the workforce development puzzle that helps move us in the right direction. Support for SB78 is directly connected to supporting the men and women of our community who are searching for meaningful employment, which benefits all of us.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Baas".

Steve Baas
Sr. Vice President, Governmental Affairs
Metropolitan Milwaukee Association of Commerce

A handwritten signature in blue ink, appearing to read "Amanda Payne".

Amanda Payne
Senior Vice President, Public Policy
Waukesha County Business Alliance, Inc.



May 6, 2021
Senate Committee on Judiciary and Public Safety
Public Hearing: Senate Bill 78

Senator Wanggaard and Members of the Committee:

Thank you for allowing me to testify today in support of Senate Bill 78, which would make long-overdue reforms to Wisconsin's expungement law, including allowing judges to rule on expungement eligibility after the completion of a sentence, removing the arbitrary age restriction and ensuring that expunged crimes are not considered convictions for employment purposes.

The Badger Institute surveyed Wisconsin voters on this topic a few weeks ago and found that nearly three-quarters of Wisconsin voters support reforming the state's expungement law to allow a judge to grant an expungement after completion of a sentence. Support for that change extends across party lines, with 77% of Republicans, 69% of Independents and 70% of Democrats supporting the reform.

Majorities of conservative voters in Wisconsin also support this change, including 75% of voters who self-identify as "very conservative," 72% of 2020 Trump voters and 79% of strong Republicans. More information on the results of this survey, conducted by Public Opinion Strategies, is available on our website, BadgerInstitute.org.

Wisconsinites support this change because it simply makes sense. Wisconsin is the only state in the nation that requires a judge to rule on an expungement application at the time of sentencing when very little information is known about an offender's likelihood of rehabilitation. Changing the timing of that decision will allow judges to make better-informed decisions and will incentivize good behavior on the part of offenders.

We also recently conducted research to determine who would benefit from removal of the arbitrary age restriction. The answer, overwhelmingly, is those who never committed more than a misdemeanor. We found that of the people 25 or older with no prior felonies who would be eligible for an expungement, 87% of them were convicted of no higher than a misdemeanor. More than 6,600 were given only a forfeiture, meaning they were *never* convicted of a criminal offense.

Those who would benefit from this legislation are not violent offenders, who would remain ineligible for an expungement. Instead, they're people like Ryann Barnes, who I recently wrote about and who is testifying here today. They are Wisconsinites who never committed a violent offense, have no prior felonies and either did not seek an expungement at their sentencing hearing or were 25 or older when the offense occurred. They're people who have moved on and become productive members of society but often find their efforts to secure employment, housing and education hampered by a low-level conviction.

The Badger Institute – and nearly three-fourths of Wisconsin voters – support SB 78. I am willing to answer any questions you have.

Julie Grace
Policy Analyst, Badger Institute's Center for Opportunity



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May 6, 2021

The Milwaukee Police Association is a strong advocate for fair and equitable criminal justice processes. Our members see the devastating impact of crime on victims every day. We know that this impact does not just stop with the victim but also plays a role on a suspect's own family and future when they chose to engage in a criminal act.

We also see many outstanding members of the community who may have, for whatever reason, engaged in a single criminal act years prior, taking full responsibility for their act and have worked to better themselves, but struggle to move forward. Unfortunately for these members of our community it is extremely hard to put their past behind them and gain meaningful employment with a criminal record. These members have paid their debt to society and have demonstrated through their current behavior that they are no longer a risk to society. They deserve to be able to apply for jobs and obtain state licensing without always having the stigma of being a convicted criminal.

We believe the expansion of the current law to include people who committed a crime after the age of 25 and giving more discretion to the courts for expungement will allow these members of the community to be able to obtain a career and family supporting job, that will then, in turn better the community, as a whole.

The Milwaukee Police Association is proud to support Senate Bill 78 and hope that this Bill will allow people not to be defined by their worst day but rather the entirety of their collective actions throughout their life.

Fraternally,

MILWAUKEE POLICE ASSOCIATION

Dale Bormann Jr.
President
Local #21, IUPA



Greater Milwaukee & Waukesha County

Linda E. Benfield
Board Chair
Amy Lindner
President & CEO

May 6, 2021

Senator Van H. Wanggaard
Chair, Committee on Judiciary and Public Safety
Wisconsin State Senate
2 E Main St,
Madison, WI 53703

Dear Senator Van Wanggaard and members of the Committee,

On behalf of United Way of Greater Milwaukee & Waukesha County, I wish to express our support for Senate Bill 78, as presented to the Senate Committee on Judiciary and Public Safety on Thursday, May 6th.

United Way of Greater Milwaukee & Waukesha County's (United Way) mission is to change lives and improve our community by mobilizing people and resources to drive strategic impact in health, education and financial stability. We connect stakeholders to identify local needs and priorities, research solutions, and align resources to maximize impact. Each year, United Way's 70,000 donors contribute \$55+ million in 230+ high-quality programs across Milwaukee, Waukesha Ozaukee and Washington Counties.

United Way's Diversity Leadership Society leads the Reducing Barriers to Employment and Advancement Initiative, which includes efforts to reduce employment barriers and achieve racial equity. A 2015 report from the Wisconsin Policy Forum found that Wisconsin, nearly 1.4 million adults have a criminal record, including 42% of Milwaukee's job seekers. Black Wisconsinites account for 6% of the state's overall population but 38% of all the people in jails and prisons, according to Prison Policy Initiative, a nonprofit, nonpartisan organization that examines mass incarceration.

Ex-offenders often experience "collateral consequences" that haunt them well after they have paid their debt to society. It's much harder for ex-offenders to get jobs, home loans, or to join college or the military. Without access to these building blocks of financial independence and stability, they can become stuck in a cycle of recidivism and poverty. When combined with other structural and systemic inequities faced by Wisconsin's communities of color, any sentence can become a "life sentence" that permanently limits a person's opportunities.

Meanwhile, a number of employers in our community struggle to source the human capital they need to sustain and scale their businesses. Wisconsin will need the full capacity of our available labor market to fuel our economic recovery from COVID19. Reforms to Wisconsin's expungement system can remove a key barrier to labor market participation, thereby providing local businesses with the resources they need to flourish.

225 West Vine Street
Milwaukee, WI 53212
414.263.8100
UnitedWayGMWC.org

GIVE. ADVOCATE. VOLUNTEER.

Last legislative session, United Way was proud to host Senator Darling, Representative Goyke, and hundreds of stakeholders for a community forum to champion expungement reform in Wisconsin. The legislation introduced this session by Senators Darling and Roys will provide pathways to employment for thousands of Wisconsinites through criminal justice reform.

Senate Bill 78 provides common-sense revisions to the court process for Wisconsin's outdated expungement law and brings it in line with most of the country. Expungement offers thousands of members in our community with a fresh start and purpose through employment, and is a key strategy to improve racial equity in Wisconsin.

We endorse Senate Bill 78 and hope that you will share our enthusiasm for this legislation.

Sincerely,



Amy Lindner,
President & CEO
United Way of Greater Milwaukee & Waukesha County



AMY LINDNER
President & CEO,
United Way of Greater Milwaukee
& Waukesha County



ROBYN LUDTKE
Vice President, Talent Development
Waukesha County Business Alliance



STEVE BAAS
Sr. Vice President, Governmental Affairs,
Metropolitan Milwaukee Association
of Commerce



MODERNIZING EXPUNGEMENT LAW IN WISCONSIN

How do you measure the power of a job? For many, it's measured in dollars and cents—money needed to pay for everyday expenses like housing, food, education and insurance.

For others, a job goes much farther than money. It's about value and worth. It's about confidence, empowerment and living with a purpose.

Society functions best when people who can work, work. When we all have a sense of purpose and contribute to moving our society forward, we make the most progress.

But despite thousands of open jobs in southeastern Wisconsin alone, there are barriers to employment existing

today and prohibit individuals from obtaining jobs.

In Wisconsin, nearly 1.4 million adults have a criminal record, including 42 percent of Milwaukee's job seekers. Ex-offenders often experience "collateral consequences" that haunt them well after they have paid their debt to society. Many vocational licenses cannot be obtained by individuals with criminal records, yet those vocations are often the jobs for which ex-offenders are most qualified.

Additionally, it is much harder for ex-offenders to get car and home loans, go to college or join the military. Without access to these building blocks of financial independence and stability, they become stuck in a cycle

of recidivism and dependence on public assistance.

According to the Federal Bureau of Prisons, ex-offenders who are employed are three to five times less likely to reoffend. And the pathway to employment after release can start with expungement.

Expungement means sealing a criminal record if the judge finds that the offender will benefit and society will not be harmed. When an eligible criminal record is expunged, it becomes sealed from public access records, such as Wisconsin Circuit Court Access, used by many employers to screen potential employees. This enables people with non-violent criminal backgrounds an opportunity after they've paid their debt to society.

Currently, expungement in Wisconsin is only eligible to those who have committed a non-violent crime no greater than a Class H felony and have no previous felonies. Collectively, we believe those parameters make sense and should stay in place.

However, other aspects of Wisconsin's current expungement law need reform. For example, Wisconsin is the only state in the nation that requires judges to determine expungement eligibility when somebody is sentenced, instead of when they are released. This is the only time that expungement is possible in Wisconsin. In other words, judges are asked to decide whether expungement is appropriate very soon after the crime has been committed, rather than a year or more later, when the defendant's rehabilitation is more readily apparent. Wisconsin is also one of a few states that limits expungement eligibility to offenses that occur before age 25.

Senators Alberta Darling and Kelda Roys and Representatives David Steffen and Evan Goyke have introduced bipartisan legislation that provides pathways to employment for thousands of Wisconsinites through criminal justice reform. This legislation makes common-sense revisions to the court process for Wisconsin's

outdated expungement law and brings it in line with most of the country.

Support of this bipartisan bill is directly connected to supporting the men and women of our community who are searching for meaningful employment, which benefits all of us. Expungement offers individuals the opportunity to find purpose through employment, so we can all work together to create a prosperous community for ourselves, our families, our friends and our neighbors. •



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May 6, 2021

**TO: Members
Senate Committee on Judiciary and Public Safety**

**FR: Brian Dake
Legislative Director
Wisconsin Independent Businesses**

**RE: 2021 Senate Bill 78 relating to: expungement of records of certain crimes and
discrimination based on expunged conviction.**

Chair Wanggaard and committee members my name is Brian Dake, Legislative Director for Wisconsin Independent Businesses. Thank you for the opportunity to testify in support of 2021 Senate Bill (SB) 78.

Wisconsin Independent Businesses (WIB) is a state-based small business advocacy organization. We proudly represent thousands of small employers throughout Wisconsin. Our members are Main Street retailers, hometown manufacturers, and local service sector providers. Most of our members (approximately 85%) own and operate businesses that fit within the legal definition of a small business – fewer than 25 employees and/or annual gross revenues of less than \$5 million.

For Wisconsin small employers, finding qualified workers to fill open positions is extraordinarily difficult. This multifaceted problem began well before the COVID-19 pandemic and is likely to continue into the foreseeable future. From our perspective, SB 78 is part of the solution to this problem.

There are many qualified Wisconsin workers who want a good-paying job and gainful employment now. They have the skills, talents, and abilities to be excellent, productive employees. Standing in their way is a prior conviction of a lower level, non-violent offense and an outdated state law that does not offer them the opportunity to petition the judicial system for recourse.

SB 78 breaks down these barriers. This legislation sets forth a clear process by which these individuals can seek expungement of a past conviction from a court of law. If the expungement is granted by a judge, they are better positioned to take advantage of the job opportunities available to them. Wisconsin employers benefit as well by having access to more highly skilled, and talented workers.

We respectfully request your support of 2021 Senate Bill 78.

Thank you in advance for your consideration.



May 6, 2021

Chairman Wanggaard and members of the Senate Committee on Judiciary and Public Safety, thank you for the opportunity to testify in support of Assembly Bill 69, which makes smart and needed reforms to Wisconsin's expungement laws. Assembly Bill 69 will help provide low-risk former offenders with second chances that they have earned, reduce recidivism in our communities and increase public safety. This bill helps break down barriers to opportunity that individuals with previous criminal convictions are facing and Americans for Prosperity (AFP) strongly supports this legislation.

Criminal records create barriers for individuals in hiring, housing, and certain professional licensing. Wisconsin's current expungement laws put our citizens at a disadvantage when trying to successfully reenter society after completing their sentences. By extension, all of society suffers as these individuals are unable to fully reintegrate and meet their potential.

Under the current process, a court may only expunge a person's criminal record if the person committed the crime before the age of 25 and the expungement is ordered at the time of sentencing. With these current restrictions, too many Wisconsinites are being left behind in the criminal justice system with very limited shots of a well-deserved second chance. And we know that when more people are left stuck in the revolving door of the criminal justice system, crime rates in our communities increase.

Specifically, AB 69 would remove the current requirement only allowing expungement eligibility at sentencing; allow people sentenced over the age of 25 to seek expungement and importantly allow for retroactive expungement applications. Only individuals who remain crime free for a year following the full completion of their sentence will be eligible for expungement. Assembly Bill 69 does not change which crimes are eligible for expungement, and also continues to ensure that proper victim notification takes place during the petition process.

While these changes are modest, the opportunity and second chance that comes with a record expungement is not. We know that providing more second chances to the individuals who have earned them breaks down the barrier of a criminal record – creating more opportunity for jobs, education, housing and professional licenses, meaning more Wisconsinites using their skills and talents to fully contribute to society. With second chances and opportunity also comes a reduction in recidivism and an increase in community safety.

On behalf of Americans for Prosperity I strongly urge members of the Senate Committee on Judiciary and Public Safety to support this important and meaningful legislation. AFP thanks Representatives Steffen and Goyke and Senators Darling and Roys for authoring Senate Bill 78 and working across the aisle to improve the lives of countless Wisconsin residents. Thank you for the opportunity to testify in support of this legislation that makes significant progress toward breaking down the barriers nonviolent former offenders face in our communities.



WISCONSIN CATHOLIC CONFERENCE

TO: Senator Van Wanggaard
Members, Senate Committee on Judiciary and Public Safety

FROM: Barbara Sella, Associate Director, Wisconsin Catholic Conference

DATE: May 6, 2021

RE: Support for Senate Bill 78, Expungement of Certain Crimes from Records

The Wisconsin Catholic Conference (WCC) appreciates the opportunity to offer testimony on behalf of the Roman Catholic bishops of Wisconsin in support of Senate Bill 78, which would give more individuals the opportunity to have their criminal records expunged.

Others today will speak eloquently about how this bill will reduce recidivism and expand our workforce. What the WCC would like to emphasize is how this bill helps create a more balanced approach to criminal justice. In their 2000 statement on crime and criminal justice, the U.S. bishops described what they termed the “paradoxical Catholic teaching on crime and punishment”:

We will not tolerate the crime and violence that threatens the lives and dignity of our sisters and brothers, and we will not give up on those who have lost their way. We seek both justice and mercy. Working together, we believe our faith calls us to protect public safety, promote the common good, and restore community. We believe a Catholic ethic of responsibility, rehabilitation, and restoration can become the foundation for the necessary reform of our broken criminal justice system.¹

Our Catholic teaching holds that punishment should not be viewed as retribution, but rather as a means of protecting public safety while also serving as “an instrument for the correction of the offender.”² But for punishment to be an instrument of correction, the offender must be given hope.

Pope Francis has spoken often about the importance of hope and acted in ways to convey hope. Twice a month, on Sunday afternoons, he speaks for an hour on the phone with the student-inmates at the Centre for University Students of the Federal Penitentiary Complex of Ezeiza in

¹ *Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice*, United States Conference of Catholic Bishops (2000), <https://www.usccb.org/resources/responsibility-rehabilitation-and-restoration-catholic-perspective-crime-and-criminal>.

² COMPENDIUM OF THE SOCIAL DOCTRINE OF THE CHURCH, no. 403, http://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html.

Argentina.³ This prison has for over thirty years enabled inmates to take courses through the University of Buenos Aires. In 2017, Pope Francis sent the student-inmates a video message in which he stated, “that for punishment to be fruitful there must be a horizon of hope; otherwise it remains closed in on itself and is simply an instrument of torture; it is not fruitful.”⁴

By making expungement more attainable, Senate Bill 78 gives those with criminal records a horizon of hope. It is this hope that will help them reintegrate into society and enable them to embrace opportunities for advancement.

The WCC strongly urges you to support this bipartisan bill. It is an important step in making our criminal justice system more just and merciful. Thank you.

³ “Pope Francis sends message of encouragement to imprisoned youth” (August 25, 2017) Catholic News Agency, <https://www.catholicnewsagency.com/news/pope-francis-sends-message-of-encouragement-to-imprisoned-youth-59694>.

⁴ Pope Francis, Video Message to the Centre for Student Inmates at the Prison Complex of Ezeiza (Argentina), (August 24, 2017), https://www.vatican.va/content/francesco/en/messages/pont-messages/2017/documents/papa-francesco_20170824_videomessaggio-penitenziario-ezeiza.html.

May 6, 2021

Ryann Counce Barnes

Expungement Testimony, Senate Bill 78

Senate Judiciary and Public Safety Committee

Senator Wanggaard and Members of the Committee:

Fifteen years ago I was convicted of a misdemeanor, criminal damage to property, for damaging the vehicle of an acquaintance of someone I was involved in a romantic relationship with. At the time I committed the crime, I was a 27-year-old single mother working to complete my teacher certification program, so that I could begin my career as an educator in the State of Wisconsin.

Someone I cared for had betrayed me, and I was hurt. I reacted to the situation out of impulse and found myself charged with a crime. My attorney recommended that I receive a deferred prosecution, because this was my first offense and due to the circumstances that surrounded me committing the crime. The judge, however, denied the request and sentenced me to one year probation, restitution to be paid to the victim, and anger management, all of which I completed.

What sticks out to me the most about my sentencing is when the judge told me that he hated to sentence me because I was a victim of a crime of passion, but that he had to do so in order to show the others that come behind me. At the time of sentencing I was over the age of 25, so I was not eligible for an expungement. If Senate Bill 78 gets passed, people like me that have made a mistake, completed their time, and are productive citizens would be given a second chance to live normal productive lives without being stereotyped.

I did not allow my conviction to hold me back. I finished my certification program, earned my Masters Degree in Educational Leadership, started my own business and continue to serve my community. I currently teach At-Risk students who over age and under credit for Milwaukee Public Schools, I own and operate a family child care center in an urban Milwaukee community and I am a member of a few community organizations.

Despite all of that, doors have been closed on me because of this mistake in regards to jobs and housing in the state of WI and in other states. This past January, my husband was offered a job in Texas, so we had to find an apartment to reside in during the times that we would be there. After a few weeks of searching we finally found an apartment that would comfortably fit our needs. We filled out the application, paid the expensive application fee and began to prepare for the move. We never thought that we would receive a denial phone call for an apartment, because we were already homeowners, a business owner and both were successful in our careers. But that all did not matter. We were denied the apartment due to my criminal conviction from over 15 years ago.

My conviction does not define me as a person, but has helped me to grow into the woman that I am today. I always dreamed the day would come when I would be able to sit in front of the judge

and tell him how successful I have become and how I advocate for others in my community. I want to one day help others in my situation, so that can live normal productive lives. Thank you for your time!

Dear Members of the Judiciary and Public Safety Committee:

I'm writing to plead for the rights of people with mental illness in expungement reform.

In 2006, my son, "Joseph," a senior honors student at UW Madison, developed bipolar disorder. He mistakenly thought one of his professors was a Nazi and sent emails to English Department staff to this effect. Expecting everyone to line up behind him, he demanded the professor's dismissal. Unfortunately, he visited the Department repeatedly to express his views, despite being asked to desist. During these visits, he was never violent, just annoyingly persistent.

Joseph's behavior landed him in jail and then at Mendota. He was charged with stalking but was found by the court to be not guilty by reason of mental disease or defect. This seemed like a blessing at the time but turned into a nightmare.

Joseph's illness was diagnosed and with appropriate medication he became himself again. Returning to school, he completed the final class he needed to graduate and began applying for jobs in his field—writing and editing. He wasn't granted a single interview. Lowering his sights, he applied for jobs as library page, grocery store clerk, and busboy. No one would hire him.

And it's no wonder. His online record, accessible to anyone at the click of a mouse, announces that he was accused of felony stalking, but was declared not guilty due to mental disease or defect. Would you hire him? Would you befriend him?

Before his illness, he volunteered regularly at the Madison Literacy Council teaching English. Despite his impeccable record there, he was not invited to return.

Writing this letter hurts, as it forces me to relive my son's years of diminishment. Think of me as the mother trying to lift a bus off her crushed child. Only I've been lifting for over a decade without success. Joseph is so shamed by his online record that he barely leaves his apartment anymore. He's given up on finding work and has grown dependent on SSI.

With no incidents of inappropriate behavior for over ten years, he's thoughtful, gentle, and polite. And he's brilliant. (Okay, I'm his mother—but honestly! You won't find a better high-end editor anywhere.) He understands his need for medication and takes it without question.

Mental illness isn't a character flaw: it's a biological brain disease that tends to strike young people just as they reach the cusp of adult life. No one would choose to become mentally ill; it's a terrifying experience that takes away the victim's confidence leaving him deeply shaken.

I'm so grateful for this bipartisan effort to reform WCCA. I pray that my son's record will be cleared and that he'll be able to rejoin society as a contributing member. His life depends on it.

Sincerely,

Lisa Glueck

A handwritten signature in black ink that reads "Lisa Glueck". The signature is written in a cursive, flowing style.

HISTORY AND ETHICAL CONCERNS ABOUT WCCA

An insidious force has overtaken Wisconsin while we weren't looking. Under the seemingly progressive guise of "open records", the WCCA (Wisconsin Circuit Court Access Program) has ushered in the dystopian world predicted in George Orwell's "1984": Big Brother (and everyone else) can examine the details of our formerly private lives.

The Open Records Law, enacted in 1983 to create badly needed transparency into formerly clandestine meetings in government and industry, is now used as justification for WCCA's boundless reach. This law was not intended to provide universal access into our personal history. The appropriate place for records of past legal entanglements is with judges, lawyers, and police.

Under WCCA's rule, if you've ever been accused of a misdemeanor or felony, (either rightly or wrongly), divorced, had a legal dispute, a car accident, been issued a restraining order, or been evicted, your past troubles can be read by anyone at the click of a mouse.

People accused of felonies find that, once they've been exonerated or served their time, they remain barred from full participation in society. This is double jeopardy. Despite the naïve and unenforceable stipulations on the WCCA website, employers, landlords and acquaintances regularly discriminate against people with records. I've listened to much heartbreaking public testimony by people trying unsuccessfully to re-enter the workforce, find decent housing and regain their dignity.

An especially vulnerable subset of those damaged by WCCA are those whose misdeeds were precipitated by mental illness. Mental illnesses typically manifest when a person is on the cusp of adulthood. Those who are found by the courts to be "not guilty because of mental disease or defect" discover that this personal, highly-stigmatizing information is available for the next 50 to 75 years for anyone to view online. This is diametrically opposed to the spirit of HIPAA protection. Is it right that, once a person gets into legal trouble, often through cognitive confusion, he's no longer eligible for basic medical privacy? I know someone, long recovered on appropriate medication, who's contemplating suicide over this indelible stain. I'm sure my friend is not alone.

Sadly, looking up peoples' records has become a popular Internet pastime: according to Jean Bousquet, Chief Information Officer of WCCA, the current average runs between 725,000 - 1,600,000 views per day.

Did we vote to initiate this unprecedented level of personal exposure? No. It slipped quietly under the radar in 1999, ostensibly as way to reduce the record-keeping workload of the circuit courts.

Did a group of wise leaders convene to consider the program's long-term, practical and ethical implications? No. WCCA, formerly known as CCAP, was launched simply because Internet technology made it possible.

While WCCA Oversight Committees have periodically formed, met briefly, and dissolved, they dealt primarily with details about how personal information should be organized on the page and how long the information should be publicly displayed. (Their conclusions: 20 years for misdemeanors, 50 to 75 years for felonies, whether violent or nonviolent, whether the person was found innocent or guilty. For example; if you were once falsely accused of rape, and been found not guilty, the accusation would remain on the website for fifty years.)

Sadly, the Oversight Committees did not address the most basic and crucial question: is it humane to operate this monumental system with no process in place to periodically review cases, look for signs of rehabilitation, and consider expunction?

I commend the Assembly's bipartisan Committee for Criminal Justice and Public Safety, led by Representatives Evan Goyke, David Steffen, Kelda Roys, and Roberta Darling, for its continuing efforts on this issue. Your collaboration demonstrates that compassion crosses party lines. SB 78 proposes significant steps in creating more equitable avenues for expunction. May it pass in both the Assembly and Senate empowering countless people to resume productive lives.

Sincerely,

Lisa Glueck

A handwritten signature in cursive script that reads "Lisa Glueck". The signature is written in dark ink and is positioned below the printed name.

**League of Women Voters of Wisconsin
Supports SB 78
May 6, 2021**

The League of Women Voters of Wisconsin strongly supports SB 78, and asks the Senate Judiciary Committee to recommend Senate passage of this extremely important, bipartisan measure. The bill will reform and update some of Wisconsin's expungement procedures that serve as barriers to reintegration of people into constructive lives.

Wisconsin's policies are antiquated and interfere with the ability of people to rebuild their lives, seek self-and family supporting jobs, secure occupational licenses, rent apartments, and receive credit.

Currently, Wisconsin is the only state that requires a judge to foresee the completion of a sentence and determine at that initial sentencing whether or not the individual should be eligible for expungement consideration. In addition, Wisconsin is one of only 4 states that impose an age limit on the process.

After a person has completed his or her sentence, the punishment for crimes committed should not negatively impact their lives forever.

Over the last several decades, Wisconsin has increased penalties for crimes, incarcerating more of our residents. As incarceration numbers have soared, we have effectively permanently removed large numbers of adults from the pool of prospective employees by saddling them with lifelong records. We frequently hear from employers in Wisconsin that they cannot find employees, potentially limiting the retention and expansion of businesses here. This bill will change that.

But, SB 78 is not a "soft on crime" bill. In no way does it diminish or reduce the initial penalties meted out by judges. It still requires that the sentencing court review the petitioner's request, determine if he/she has successfully completed the sentence, and evaluate the individual's fitness for expungement. Only then will the judge make the expungement decision.

The support for SB 78 is very diverse, ranging from business groups, economic development organizations, municipalities, and civil liberties and conservative advocacy organizations. They all recognize that our current expungement policies are limiting Wisconsin economic growth and weakening families.

The League of Women Voters of Wisconsin asks that you join with a very bipartisan group of advocates and legislators in supporting SB 78.