



State of Wisconsin
2023 - 2024 LEGISLATURE

LRBs0107/1
CMH:all

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 37**

February 14, 2024 - Offered by Representative STEFFEN.

1 **AN ACT** *to renumber* 111.335 (3) (a); *to renumber and amend* 973.015 (1m) (a)
2 1.; *to amend* 111.335 (4) (b), 111.335 (4) (c) 1. (intro.), 111.335 (4) (e), 111.335
3 (4) (f) 1., 950.04 (1v) (g), 973.015 (1m) (a) 3. a., 973.015 (1m) (a) 3. b., 973.015
4 (1m) (b) and 973.25 (1) (a); and *to create* 111.335 (3) (ag), 111.335 (3) (g), 111.335
5 (3) (h), 111.335 (3) (i), 973.015 (1b), 973.015 (1m) (a) 1. a. and b., 973.015 (1m)
6 (a) 3. c., d., e., f. and g. and 4., 973.015 (1m) (c) and 973.015 (4) of the statutes;
7 **relating to:** expungement of records of certain crimes and discrimination
8 based on expunged conviction.

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

9 **SECTION 1.** 111.335 (3) (a) of the statutes is renumbered 111.335 (3) (ar).
10 **SECTION 2.** 111.335 (3) (ag) of the statutes is created to read:
11 111.335 (3) (ag) 1. Employment discrimination because of conviction record
12 includes, but is not limited to, requesting an applicant, employee, member, licensee,

1 or any other individual, on an application form or otherwise, to supply information
2 regarding a crime the record of which has been expunged under s. 973.015. A request
3 to supply information regarding criminal convictions shall not be construed as a
4 request to supply information regarding a crime the record of which has been
5 expunged under s. 973.015.

6 2. Notwithstanding par. (ar) 1., and except as provided in par. (g), it is
7 employment discrimination because of conviction record for an employer or licensing
8 agency to engage in any act of employment discrimination specified in s. 111.322 on
9 the basis of a conviction the record of which has been expunged under s. 973.015.
10 This subdivision does not apply to the extent that its application conflicts with
11 federal law.

12 **SECTION 3.** 111.335 (3) (g) of the statutes is created to read:

13 111.335 (3) (g) Notwithstanding s. 111.322, it is not employment discrimination
14 because of conviction record for the law enforcement standards board to refuse to
15 certify, recertify, or allow to participate in a preparatory training program or to
16 decertify under s. 165.85 an individual who has a conviction the record of which has
17 been expunged under s. 973.015.

18 **SECTION 4.** 111.335 (3) (h) of the statutes is created to read:

19 111.335 (3) (h) Notwithstanding s. 111.322, if an employer is required by
20 federal law or by a contract with the federal government to inquire into the criminal
21 history of an individual for purposes of employment, and is prohibited by such law
22 or contract from employing individuals with certain criminal convictions, including
23 employers engaged in the business of insurance under 18 USC 1033 and 1034, it is
24 not employment discrimination because of a conviction record for such an employer
25 to do any of the following:

1 1. Request an applicant, employee, or contractor to supply in writing
2 information regarding a crime, the record of which has been expunged under s.
3 973.015.

4 2. Refuse to employ, or terminate the employment or contract of, an individual
5 whose conviction record has been expunged under s. 973.015, or who refuses to
6 supply information about such an expunged conviction record, if the employer is
7 prohibited from employing such an individual.

8 **SECTION 5.** 111.335 (3) (i) of the statutes is created to read:

9 111.335 (3) (i) If requested by an employer that is prohibited by federal law or
10 by a contract with the federal government from employing individuals who have
11 been convicted of certain crimes, an individual who is granted an expungement
12 under s. 973.015 shall disclose the expunged criminal conviction for either of the
13 following purposes:

14 1. Employment with an employer engaged in the business of insurance, for the
15 purpose of complying with 18 USC 1033 and 1034, or other federal law that requires
16 exclusion of certain individuals from employment.

17 2. Employment with an employer that is required to exclude individuals with
18 certain criminal convictions from employment pursuant to a contract with the
19 federal government.

20 **SECTION 6.** 111.335 (4) (b) of the statutes is amended to read:

21 111.335 (4) (b) It is employment discrimination because of conviction record for
22 a licensing agency to refuse to license any individual under sub. (3) ~~(a)~~ (ar) 1. or to
23 bar or terminate an individual from licensing under sub. (3) ~~(a)~~ (ar) 1. because the
24 individual was adjudicated delinquent under ch. 938 for an offense other than an
25 exempt offense.

1 **SECTION 7.** 111.335 (4) (c) 1. (intro.) of the statutes is amended to read:

2 111.335 (4) (c) 1. (intro.) If a licensing agency refuses to license an individual
3 under sub. (3) ~~(a)~~ (ar) 1. or bars or terminates an individual from licensing under sub.
4 (3) ~~(a)~~ (ar) 1., the licensing agency shall, subject to subd. 2., do all of the following:

5 **SECTION 8.** 111.335 (4) (e) of the statutes is amended to read:

6 111.335 (4) (e) A state licensing agency that may refuse to license individuals
7 under sub. (3) ~~(a)~~ (ar) 1. or that may bar or terminate an individual from licensure
8 under sub. (3) ~~(a)~~ (ar) 1. shall publish on the agency's Internet site a document
9 indicating the offenses or kinds of offenses that may result in such a refusal, bar, or
10 termination.

11 **SECTION 9.** 111.335 (4) (f) 1. of the statutes is amended to read:

12 111.335 (4) (f) 1. A state licensing agency that may refuse to license individuals
13 under sub. (3) ~~(a)~~ (ar) 1. or that may bar or terminate individuals from licensing
14 under sub. (3) ~~(a)~~ (ar) 1. shall allow an individual who does not possess a license to,
15 without submitting a full application and without paying the fees applicable to
16 applicants, apply to the agency for a determination of whether the individual would
17 be disqualified from obtaining the license due to his or her conviction record.

18 **SECTION 10.** 950.04 (1v) (g) of the statutes is amended to read:

19 950.04 (1v) (g) To have reasonable attempts made to notify the victim of
20 hearings or court proceedings, as provided under ss. 302.113 (9g) (g) 2., 302.114 (6),
21 938.27 (4m) and (6), 938.273 (2), 971.095 (3) ~~and~~, 972.14 (3) (b), and 973.015 (1m) (c).

22 **SECTION 11.** 973.015 (1b) of the statutes is created to read:

23 973.015 (1b) In this section, "record" means a criminal case file.

24 **SECTION 12.** 973.015 (1m) (a) 1. of the statutes is renumbered 973.015 (1m) (a)
25 1. (intro.) and amended to read:

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

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

12 **SECTION 13.** 973.015 (1m) (a) 1. a. and b. of the statutes are created to read:

13 973.015 (1m) (a) 1. a. Except as provided in subd. 3., the court may order at the
14 time of sentencing that the record be expunged upon successful completion of the
15 sentence if the court determines that the person has not previously had a record
16 expunged under this section and that the person will benefit and society will not be
17 harmed by this disposition.

18 b. If at least one year has passed since the person successfully completed his
19 or her sentence, the person may file a petition in the county of conviction requesting
20 that the record be expunged. For an initial petition, unless the person submits an
21 affidavit swearing that he or she is unable to pay the fee and the court waives it, the
22 person shall pay to the clerk of circuit court a \$20 fee to be retained for the use of the
23 county. For a 2nd petition regarding the same record, the person shall pay to the
24 clerk of circuit court a \$100 fee to be retained for the use of the county. Upon receipt
25 of the petition, the court shall review the petition to determine if the person is

1 ineligible to petition for expungement. A person is ineligible to petition for
2 expungement if the record is not available for the court to review, subd. 3. or 4.
3 applies, less than one year has passed since the person successfully completed his or
4 her sentence, there are criminal charges pending against the person, the person has
5 previously had a record expunged under this section, or the person has exceeded the
6 maximum number of petitions allowed under this subd. 1. b. If the court determines
7 the person is eligible to petition for expungement, the court shall forward the petition
8 to the district attorney. If the district attorney requests a hearing within 90 days
9 after the court forwards the petition, the court shall schedule a hearing to review the
10 petition. If the district attorney waives the hearing or at least 90 days have passed
11 since the court forwarded the petition, the court may review the petition with or
12 without a hearing. If a hearing is scheduled, then if practicable, the sentencing judge
13 shall be the judge to review the petition. The court may order that the record be
14 expunged if the court determines the person will benefit and society will not be
15 harmed by this disposition. If the court orders a record be expunged under this subd.
16 1. b., the record shall be expunged within 120 days of the order. If the court does not
17 order the record be expunged under this subd. 1. b., the person may file a 2nd petition
18 under this subd. 1. b. only if at least 2 years have passed since he or she filed the first
19 petition. No person may file more than 2 petitions per record under this subd. 1. b.

20 **SECTION 14.** 973.015 (1m) (a) 3. a. of the statutes is amended to read:

21 973.015 (1m) (a) 3. a. A Class H felony, if the person has, in his or her lifetime,
22 been convicted of a prior felony offense, or if the felony is a violent offense, as defined
23 in s. 301.048 (2) (bm), ~~or~~ is a violation of s. ~~940.32, 948.03 (2), (3), or (5) (a) 1., 2., 3.,~~
24 ~~or 4.~~ 301.45 (6) (a) 1. or (ag) 1., 301.47 (3) (a), 301.475 (2) (b), 346.17 (3) (b), 940.30,
25 940.32 (2m), 941.20 (1m) (b), 941.21, 941.31 (2) (b), 943.23 (2) (a) or (3g), 944.18 (3)

1 (a), 946.42 (2m), 946.425 (1), (1m) (b), or (1r) (b), 946.50 (5p), 948.055 (2) (b), or
2 948.095, is a 2nd or subsequent violation of s. 951.08 (1) or (2), or is an attempt to
3 commit a violation of 941.21 or 948.055 (2) (b).

4 **SECTION 15.** 973.015 (1m) (a) 3. b. of the statutes is amended to read:

5 973.015 **(1m)** (a) 3. b. A Class I felony, if the person has, in his or her lifetime,
6 been convicted of a prior felony offense, or if the felony is a violent offense, as defined
7 in s. 301.048 (2) (bm), or is a violation of s. 12.09, 12.11, 12.13 (1), (2) (b) 1. to 7. or
8 (3) (a), (e), (f), (j), (k), (L), (m), (y), or (z), 13.05, 13.06, 19.45 (13), 19.59 (1) (br), 940.19
9 (2), 940.195 (2), 940.208, 940.32 (2) or (2e), 941.38 (2), 943.23 (3) (a), 947.019 (1),
10 948.10 (1) (a), 948.14 (2), 948.23 (1) (a), or 948.61 (2) (b), is a violation penalized under
11 s. 11.1401 (1) (a) or (b), or is a violation of s. 951.02 or 951.06 if the violation is a Class
12 I felony under s. 951.18 (1).

13 **SECTION 16.** 973.015 (1m) (a) 3. c., d., e., f. and g. and 4. of the statutes are
14 created to read:

15 973.015 **(1m)** (a) 3. c. A crime that was committed by a person who had attained
16 the age of 25.

17 d. A crime for which the maximum period of imprisonment is more than 6 years.

18 e. A violation of s. 943.14 or, if the court noted in the record that the property
19 damaged was a business, a violation of s. 943.01.

20 f. A violation of a temporary restraining order or injunction issued under s.
21 813.12 (3) or (4).

22 g. A violation of chs. 341 to 348.

23 4. The court may order at the time of sentencing that the record is ineligible
24 for expungement.

25 **SECTION 17.** 973.015 (1m) (b) of the statutes is amended to read:

1 973.015 (1m) (b) ~~—A—~~ For purposes of par. (a), a person has successfully
2 completed the sentence if the person has completed all periods of incarceration,
3 parole, or extended supervision to which he or she was sentenced; the person has paid
4 all fines, costs, fees, surcharges, and restitution assessed and has completed any
5 court-ordered community service; the person has not been convicted of a subsequent
6 offense crime; and, if on probation was imposed, the probation has not been revoked
7 and the probationer has satisfied the conditions of probation. Upon successful
8 completion of the a sentence involving incarceration or probation, the detaining or
9 probationary authority shall issue and forward to the court of record a certificate of
10 discharge which shall be forwarded to the court of record and which shall have the
11 effect of expunging the record that indicates whether the person successfully
12 completed his or her sentence. If the court has ordered the record expunged under
13 par. (a) 1. a. or 2. and the person has successfully completed the sentence, the person's
14 record shall be expunged as ordered. If the person has been imprisoned incarcerated,
15 the detaining authority shall also forward a copy of the certificate of discharge to the
16 department.

17 **SECTION 18.** 973.015 (1m) (c) of the statutes is created to read:

18 973.015 (1m) (c) Upon receipt of a petition under par. (a) 1. b., the district
19 attorney shall make a reasonable attempt to notify the victim, as defined in s. 950.02
20 (4), of the petition. In the notice, the district attorney shall inform the victim that
21 he or she may waive the hearing requirement and that, if waived, the court may
22 review the petition without a hearing. The district attorney shall inform the victim
23 of the manner in which he or she may provide written statements concerning the
24 petition and, if the victim does not waive the hearing requirement, that he or she may
25 appear at the hearing. If the victim waives the hearing requirement, the district

1 attorney may inform the court that there is no objection to waiving the hearing
2 requirement. Notwithstanding the confidentiality of victim address information
3 obtained under s. 302.113 (9g) (g) 3., a district attorney who is required to make a
4 reasonable attempt to notify a victim under this paragraph may obtain from the clerk
5 of the circuit court the victim address information that the victim provided to the
6 clerk under s. 302.113 (9g) (g) 3.

7 **SECTION 19.** 973.015 (4) of the statutes is created to read:

8 973.015 (4) A record of a crime expunged under this section is not considered
9 a conviction for employment purposes or for purposes of the issuance of a license, as
10 defined in s. 111.32 (10), by a licensing agency, as defined in s. 111.32 (11). This
11 subsection does not apply to the extent that its application conflicts with federal law.

12 **SECTION 20.** 973.25 (1) (a) of the statutes is amended to read:

13 973.25 (1) (a) “Certificate of qualification for employment” means a certificate
14 issued by the council on offender employment that provides an offender with relief
15 from a collateral sanction, except that it does not provide relief from s. 48.685 (5m),
16 50.065 (4m), or 111.335 (3) (a) ~~(ar)~~, (b), (c), or (e) or (4) (h) or (i).

17 **SECTION 21. Initial applicability.**

18 (1) The treatment of s. 973.015 (1m) (a) 3. a., b., c., d., e., f., and g. and 4., (b),
19 and (c), the renumbering and amendment of s. 973.015 (1m) (a) 1., and the creation
20 of s. 973.015 (1m) (a) 1. a. and b. first apply to any conviction for which sentencing
21 has occurred but for which the record has not been ordered expunged on the effective
22 date of this subsection.

23 **SECTION 22. Effective date.**

