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**Assembly Bill 685 – Removal of certain records from CCAP**
**Assembly Committee on Corrections**
**February 6th, 2014**

Thank you, Chairman Bies and members of the Corrections Committee for holding a public hearing on Assembly Bill 685 today. This legislation strikes the delicate balance between protecting personal privacy and the public's interest in court records; and at its core, boils down to upholding the principle of "innocent until proven guilty."

We had this bill drafted in response to numerous contacts from constituents in my own Assembly district, as well as folks from all areas of Wisconsin. Each person had unique circumstances and a different story to tell about their case experience with our courts system, but one element was the same – **they have all been impacted by dismissed or not-guilty court records that remain** on our Consolidated Court Automation Program (CCAP).

Under AB 685, the director of state courts is required to remove a case or charge involving a civil forfeiture or misdemeanor within 90 days after being **notified of one of three instances:**

- The case or charge has been dismissed.
- The defendant has been found not guilty of the charge.
- The case or charge has been overturned on appeal.

The same would apply to felony cases or charges, under a 120 day timeline.
CCAP and access to court records are by no means a new issue to the state Legislature. In fact, this bill is similar to 2007 AB 754 which was introduced late in that session with wide bipartisan support.

( over )

There is one key difference under our current bill; charges that have been read-in at sentencing, which often happens in plea bargains, would remain on CCAP.

As we worked to draft AB 685, I spoke with several Clerks of Circuit Court, both in my home area of Lincoln County along with other counties. A concern they expressed to me is that removal of certain records from CCAP would create "two separate court systems", because clerks would retain the original case records. As authors of the bill, we needed to weigh two factors: The harm potentially caused to people that have dismissed or not guilty charges listed on their online CCAP record vs. the minimal extra effort for interested parties to obtain that information from their county courthouse or pay a $5 mailing fee. Ultimately, the **potential discrimination and stereotyping that affects these individuals' ability to function in society** caused us to draft AB 685.

I also understand some have advocated for expunction of these types of charges or cases. We are willing to have those conversations, but I will say personally I still believe the fundamental principle of our judicial system applies – innocent until proven guilty, whereas the expunction process would place the burden of proof on the individual/defendant.

In closing, I will ask you to consider for a moment the powers of an online society. The ascent of technology has been so rapid in the last decade, that we as a Legislature are **working through issues with personal privacy that couldn't possibly have been foreseen.** CCAP is an excellent system, and I know our dedicated court personnel put a great deal of time and effort into the creation and maintenance of the records system. In today's computer world, information is just a click away and society has the mentality to "judge now, ask questions later". AB 685 will help to ensure the powers of the Internet are not unfairly wielded against an individual.

Glenn
Grothman
STATE SENATOR
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February 6, 2014

To: Members of the Assembly Committee on Corrections
From: Senator Glenn Grothman
Re: Assembly Bill 685

I have been contacted by many constituents and other individuals about the negative impact that the Consolidate Court Automation Program (CCAP) and the Wisconsin Circuit Court Access (WCCA) site has had on their lives or lives of their loved ones when they have not been found guilty for the accused charges.

Under current law, when a case did not result in a conviction the site includes a statement that says that the charges were not proven and have no legal effect, and that the defendant in that case is presumed innocent. The charges though still are publicly available for all to see.

This legislation would require a case or charge involving a civil forfeiture or misdemeanor from WCCA within ninety days after being notified the case or charge has been dismissed, overturned on appeal and dismissed or the defendant has been found not guilty of the charge. It would also remove a case or charge involving a felony from WCCA within 120 days after being notified of any of the preceding situations.

There is a concern by many citizens that in these situations their personal privacy is being invaded for charges that have been dismissed or not substantiated. This bill strikes the right balance between disclosure and personal privacy.

Please join me in supporting this legislation that will help individuals and their families move past any charges that were incorrectly brought against these indivuals.

**Legal Action of Wisconsin**
Testimony on 2013 Assembly Bill 685
February 6, 2013

My name is Sheila Sullivan and I am an attorney with Legal Action of Wisconsin, Inc. (LAW). I am the managing attorney for LAW's Road to Opportunity Program. I want to thank the Committee for the opportunity to testify today in support of Assembly Bill 685.

LAW is a nonprofit organization funded by the federal Legal Services Corporation, Inc., to provide civil legal services for low income people in 39 counties in Wisconsin. As an attorney with LAWS's Road to Opportunity Program, one of my jobs is to help remove or lower legal barriers to employment for individuals who have a criminal background or who are at high risk of entering the criminal justice system. Steady consistent employment is critical to reducing recidivism and discouraging future criminal behavior. In combination with education, regular employment can both decrease crime and increase the economic health of even the poorest communities in Wisconsin.

One barrier Wisconsin residents face in obtaining employment and accessing education and job training is the misuse of information contained on CCAP. This bill would go a long way to preventing the most common forms of information misuse thereby decreasing the likelihood of unlawful discrimination. This bill will also, and this makes sense both as a matter of public policy and simple fairness, will bring CCAP practices in line with the practices of the CIB. *See* Wis. Stat. 165.84(1) ("Any person arrested or taken into custody and subsequently released without charge, or cleared of the offense through court proceedings, shall have any fingerprint record taken in connection therewith returned upon request."). Right now anyone who has an arrest that does not lead to a conviction can, as long as there is no conviction in that arrest cycle, "expunge" the record of that arrest from his or her CIB by simply sending in a simple form verifying identity and disposition of the case.

This bill would achieve a parallel result with a similarly simple and inexpensive method. In both cases the underlying public records, the police arrest records and the court records, remain the same: true and untouched and available through ordinary statutory procedures for requesting open or court records.

In human terms, the impact of passing this bill would be profound.

It would affect a young man whose teenaged conviction for rape was eventually overturned by Wisconsin Innocence Project. That young man has tried to turn 10 years of pain and loss into something positive, completing college and getting a scholarship to law school. But he lives everyday with the knowledge that anyone who CCAPS him will see the dismissed charges against him and speculate about how he "got out" of his conviction. His CCAP entry, lengthy, complex, and difficult to unravel, keeps his story of loss and pain, shame, and fear alive.

Passage of this bill would affect another young man who was charged in his teens with involvement in a murder. He was offered a variety of plea bargain options, but always insisted on

fighting the charges against him. With full knowledge of the risks he was taking, he insisted on going to trial and, after a two year struggle to clear his name, was acquitted by a jury. What he found after that struggle was his name was not cleared. He recently contacted LAW to see if we could represent him because he is desperate to find work and believed he is being denied employment because of the seriousness of the charge and because the case actually went to trial.

Those two examples are dramatic versions of stories LAW attorneys and circuit court judges hear over and over again. We regularly receive calls from individuals denied employment because a potential employer has "read" into a dismissed retail theft or theft case a narrative about "getting a break." I have spoken repeatedly to people who have been denied access another to housing or training programs based on the CCAP records of several dismissed forfeitures: those dismissed cases, they were told, indicated "a pattern."

These are the kinds of individuals who come to LAW for help because CCAP's continued publication of dismissed cases has created a legal barrier to economic stability. Sometimes we are been able to craft legal solutions by convincing judges to exercise their discretion in certain ways. But that is a long and sometimes resource intensive process. It makes judges uncomfortable. Many see the injustice, but want to be clear about their authority. Others see this as a problem created by CCAP that should be fixed at the CCAP level.

This bill would help solve the kinds of problems I have described in my examples. It would also eliminate demands, and ever increasing demands, on scarce judicial resources. It would align the policies of the two state-sponsored providers of criminal and court record information in the state—CAP and the CIB—and it would leave the publics' statutory rights to access public and court records intact. In short, it is a good bill.

There are those who will say that people who want information about dismissed cases can always find that information—and that is true. But individuals who really want to know about arrest history can still obtain that information through a data vendor or a public records search if this bill passes. The only thing that will change is that those who want the information will have to ask for it explicitly, creating a trail or record of that request. If they choose to make unlawful use of that information, discrimination will be easier to prove. If they seek information about arrest records for lawful purposes, a clear record will also make that easier to prove.

# Supreme Court of Wisconsin

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A. John Voelker
Director of State Courts


Testimony
Of
John Voelker
Director of State Courts

In Opposition to

2013 Assembly Bill 685

Assembly Committee on Corrections
Rep. Garey Bies, Chair
February 6, 2014

Thank you, Chairperson Bies and members of the Committee. I am John Voelker, the Director of State Courts. On behalf of the Legislative Committee of the Judicial Conference and my office, I want to express our opposition to Assembly Bill 685.

I want to first emphasize that our opposition is not to the goal of the legislation but rather to the means the bill uses to achieve its goal. I am encouraged that bills such as AB 685 are being considered to address the issue of dismissed and not guilty cases. This is an issue my office has actively been working on since June 2005 when I convened the WCCA Oversight Committee to advise me on whether and how to modify the policy that addresses electronic access to circuit court records. I have also testified before the Legislative Council's Special Committee on Review of Access to Circuit Court Records, suggesting the expungement statute be amended to included dismissed and not guilty cases. Unfortunately, the legislation developed by that committee was not passed.

There are four areas of concern we have identified where the approach used in AB 685 could be better addressed by amending the expungement statute.

First, AB 685 would have the courts create, in effect, two sets of books for these cases. One would be the paper record maintained by the Clerks of Circuit Court, who are the official record custodians for the court records. That record would continue to be available to anyone who wishes to view it. But the electronic information available on the court's website would no longer be an electronic "mirror image" of the records maintained by the clerks. Under our proposed amendment to the expungement statute, we continue to have one set of books that remain the same whether viewed in paper form or electronic form.

Second, AB 685 only provides partial relief to the people it seeks to help because it only deals with the information displayed on the Internet. There is no action taken that impacts the entire court record. We believe people might be misled by the bill into thinking their entire case is being eliminated when that is not true. On the other hand, if you use the expungement statute and a case is expunged, there will be *no* court record available to the public, either at the clerk's office or on the Internet.

Third, AB 685 would be more expensive to implement than amending the expungement statute. It would require CCAP programmers and analysts to rework the CCAP database in order to "mask" the electronic record of these cases. This is concerning to us because AB 685 provides no resources for the programmers and support staff necessary to implement it. We are just completing a similar project within CCAP to implement Act 270 which required $90,000 to initially develop. On the other hand, because the expungement process already exists for certain convictions and is available in our case management system, it would be very simple and inexpensive to allow other types of cases to use that process. We would also amend existing standard petition and order forms to give individuals easy access to the expungement process.

And fourth, AB 685 raises concerns that it may be contrary to the constitutional separation of the branches of government. If adopted, AB 685 would start the Legislature down the path of mandating how the judicial branch, a co-equal branch of government, fulfills its constitutional responsibilities. Specifically, it would mandate how the judicial branch should maintain, display and provide access to the court record. Amending the expungement statute clearly falls under the powers of the Legislature and would not raise this issue.

Recordkeeping is a critical – and we believe core – function of the judicial branch. It is a function we take seriously. We understand the importance of tracking the records of the nearly one million cases that are filed in the circuit courts every year. In our effort to manage the records, we have developed and continue to update key elements, such as Supreme Court Rule Chapter 72 on retention of court records, a Model Recordkeeping Procedures Manual, and our statewide electronic case management system, CCAP.

As an independent and co-equal branch of government, the court system must determine its own course of conduct by which it fulfills its constitutional and statutory responsibilities. AB 685 infringes on the operation of the court system.

The Consolidated Court Automation Programs, or CCAP, is the court system's case management system. The Wisconsin Circuit Court Access (WCCA) website is only one aspect of the CCAP system. The WCCA website was initiated in 1999 partly to reduce the workload demand on clerks of circuit court who were often contacted by litigants, lawyers, representatives of the media, and the public on the status of circuit court cases. We think AB 685 would return some of that work to the staff of the clerk's office.

I have talked extensively on how amending the expungement statute to address dismissed and not guilty cases is a better approach to this issue. To that end, during the last year, the Legislative Committee of the Judicial Conference and my office have been working on a draft of changes to the expungement statute. The draft addresses cases that result in dismissal or in not guilty verdicts. It also gives defendants and judges greater flexibility by eliminating the current

requirement that expungement be decided "at the time of sentencing." This provision has led to appellate litigation, including one case decided by the Court of Appeals earlier this week and a case to be heard by the Supreme Court next week. In addition, the draft seeks to clarify and simplify the procedures to be followed in expungement requests. We have been working with Sen. Jerry Petrowski and others to simplify and further refine this legislative draft.

I have attached this draft, LRB 0003/4 to my testimony. I think you will find this draft addresses the four areas of concern I mentioned earlier and provides a better means to reach the important goals the authors of AB 685 seek to achieve.

For these policy and administrative reasons, I urge you to reject AB 685. If you have questions, please do not hesitate to contact me or our Legislative Liaison, Nancy Rottier. Thank you.

AJV:NMR
Attachment

# State of Wisconsin
**2013 - 2014 LEGISLATURE**

LRB-0003/4
PJH:jld:jf

# 2013 BILL

AN ACT ***to amend*** 301.45 (1p) (a), 301.45 (7) (e) 2. and 301.45 (7) (e) 3.; and ***to repeal and recreate*** 973.015 of the statutes; **relating to:** expungement of certain court records relating to criminal proceedings.

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***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 person's record of the offense be expunged when the person completes his or her sentence or any period of probation imposed for the offense. 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.

Under this bill, a person who has been convicted of a criminal offense for which the maximum period of imprisonment is not more than six years or who has been ordered to pay a forfeiture related to a criminal charge, except an offense related to a violation of a traffic law, may petition the court for an order expunging the record of his or her offense or forfeiture. The bill retains the requirement that, in order to be eligible for an order of expungement, the person who is convicted of a crime or found to have committed a civil offense be under the age of 25 when he or she committed the offense. Under the bill, the record of a criminal conviction may be expunged when the person completes his or her sentence.

Under the bill, a person who was sentenced to imprisonment or placed on probation has completed his or her sentence if he or she has not been convicted of a

subsequent offense; he or she has completed his or her term of imprisonment or probation; the detaining or probationary authority has issued a certificate of discharge; and the person has been discharged from the custody, control, and supervision of the Department of Corrections. A person who is not sentenced to a term of imprisonment or placed on probation has completed his or her sentence if the person provides sufficient proof to the court that all conditions of his or her sentence have been fulfilled.

Under the bill, if a person was charged with a crime or a violation not related to a traffic law but the person was acquitted of the charge, the charge was dismissed, or the conviction or imposition of a forfeiture was reversed, set aside, or vacated, the person may petition the court at any time to expunge the circuit court record related to the offense. Under the bill, there is no age limit for when the alleged offense was committed for a person who petitions for expungement on these grounds.

Under the bill, a court may order that the record of the case be expunged if the court determines that all charges, orders, or judgments against the person are eligible for expungement, that the person will benefit, and that society will not be harmed by the expungement. The bill requires the clerk of courts to take certain actions upon receiving an order of expungement, including informing the Department of Justice that an order of expungement has been entered, removing electronic records of the case, and sealing the file.

The bill excludes certain violations from expungement, including traffic violations and certain felonies, if the felony is violent, the person has a history of violent offenses, or the felony is for stalking or certain crimes against children.

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

**SECTION 1.** 301.45 (1p) (a) of the statutes is amended to read:

301.45 **(1p)** (a) If a person is covered under sub. (1g) based solely on an order that was entered under s. 938.34 (15m) (am) or 973.048 (1m) in connection with a delinquency adjudication or a conviction for a violation of s. 942.08 (2) (b), (c), or (d), the person is not required to comply with the reporting requirements under this section if the delinquency adjudication is expunged under s. 938.355 (4m) (b) or if the conviction is expunged under s. 973.015 ~~(2)~~.

**SECTION 2.** 301.45 (7) (e) 2. of the statutes is amended to read:

301.45 **(7)** (e) 2. The department issues a certificate of discharge and a court grants expungement under s. 973.015 ~~(2)~~.

**SECTION 3.** 301.45 (7) (e) 3. of the statutes is amended to read:

301.45 **(7)** (e) 3. The department receives a certificate of discharge issued ~~under s. 973.015 (2)~~ pursuant to s. 973.015 (3) (b) 2. by the detaining authority.

**SECTION 4.** 973.015 of the statutes is repealed and recreated to read:

**973.015 Expungement of circuit court records. (1)** ELIGIBILITY; ACQUITTAL, DISMISSAL, OR REVERSAL. A person may petition to have the circuit court record of a case expunged under this subsection if any of the following applies:

(a) The person has been charged with, but acquitted of, a crime.

(b) The person has been charged with a crime but the charge was dismissed.

(c) The person has been convicted of a crime but the conviction was reversed, set aside, or vacated.

**(2)** ELIGIBILITY; CONVICTION. A person may petition to have the circuit court record of a case expunged under this subsection if, except as provided in sub. (4) (a), (b), or (c), the person has been convicted of a crime for which the maximum period of imprisonment is 6 years or less and the person was under the age of 25 when he or she committed the crime.

**(3)** PROCEDURE AND EFFECT OF EXPUNGEMENT. (a) A person who is eligible to petition for expungement of a record under sub. (1) may petition the court for expungement after the time for any party to appeal has expired.

(b) 1. A person who is eligible to petition for expungement of a record under sub. (2) may petition the court for an order that the record be expunged upon successful completion of the sentence.

2. a. A person who is sentenced to a term of imprisonment or who is placed on probation has successfully completed his or her sentence if he or she has not been convicted of a subsequent offense, he or she has completed his or her term of

imprisonment or probation, the detaining or probationary authority has issued a certificate of discharge, and the person has paid, in full, the fine, costs, fees, and surcharges and any restitution assessed.

b. A person who is not sentenced to a term of imprisonment or placed on probation has successfully completed his or her sentence if the person provides sufficient proof to the court that all conditions of his or her sentence have been fulfilled. The clerk of circuit court may provide a certification that the person has paid, in full, the fine, costs, fees, and surcharges and any restitution assessed.

(c) Except as provided in sub. (5), a court may order that the record of the case be expunged if the court determines that all charges or convictions are eligible for expungement and the person will benefit and society will not be harmed by the expungement. This paragraph does not apply to information maintained by the department of transportation regarding a conviction that is required to be included in a record kept under s. 343.23 (2) (a).

(d) Upon receiving an order from the court to expunge a court record, the clerk of the court shall do all of the following:

1. Inform the department of justice that the record is being expunged by order of the court.

2. Treat the record in the manner required by SCR 72.06.

(e) Notwithstanding par. (d) 2., the clerk of court shall allow access to the file and the order for expungement to the person who petitioned for expungement or to another person with the petitioner's written permission.

**(4)** CERTAIN PERSONS MAY NOT APPLY. No person may apply for expungement of the following:

(a) A record of a conviction of a Class H felony, if the person has, in his or her lifetime, been convicted of a prior felony offense, or if the felony is a violent offense, as defined in s. 301.048 (2) (bm), or is a violation of s. 940.32, 948.03 (2) or (3), or 948.095.

(b) A record of a conviction of a Class I felony, if the person has, in his or her lifetime, been convicted of a prior felony offense, or if the felony is a violent offense, as defined in s. 301.048 (2) (bm), or is a violation of s. 948.23 (1) (a).

(c) A record of conviction of a violation of chs. 341 to 348, or a local traffic regulation or ordinance in conformity with any statute within chs. 341 to 348.

**(5)** CERTAIN ORDERS OF EXPUNGEMENT PROHIBITED, ALLOWED, OR REQUIRED. (a) A court may order that a record containing a read–in crime be expunged only if the record of the offense for which the read–in crime was considered is expunged under this section.

(b) A court may order that a record containing multiple charges be expunged only if the records for all of the charges are expunged under this section.

(c) A court shall order, upon application, that a record be expunged upon successful completion of the sentence if the offense was a violation of s. 942.08 (2) (b), (c), or (d), and the person was under the age of 18 when he or she committed it.

(d) A court may order that a record of a violation for which a forfeiture may be assessed be expunged under this section if the record is related to, or arises from, a record of a charge or conviction that is eligible for expungement under this section.

**(6)** EFFECT OF EXPUNGEMENT. An expunged record may not be considered by any person in any matter relating to an application for employment or for the rental, purchase, or financing of housing.

**SECTION 5. Effective date.**

(1) This act takes effect on first day of the 6th month beginning after publication.

(END)

**Wisconsin Department of Transportation**

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Scott Walker
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**DATE:** February 6, 2014

**TO:** Members, Assembly Committee on Corrections
The Honorable Garey Bies, Chair

**FROM:** Tom Rhatican, Assistant Deputy Secretary, Wisconsin Department of Transportation

**SUBJECT:** Assembly Bill 685 (information available on the CCAP system)

The Wisconsin Department of Transportation (WisDOT) would like to provide some important background information on Assembly Bill 685 (AB 685). AB 685 relates to the information contained in the Consolidated Court Automation Programs (CCAP) system. This information represents an important resource to the Wisconsin Division of Motor Vehicles (DMV) in performing its administrative functions with the courts.

Removing certain information from the CCAP system, as prescribed in AB 685, will increase service time for the DMV as they seek to update the driving records of people recently suspended/revoked by the courts, or likewise (at times) delay the timely reinstatement of driving privileges.

The courts communicate the status or disposition of cases with the DMV via conviction status reports (CSR). CSRs may be transmitted from the courts to the DMV electronically or in paper form and are used to both suspend/revoke driving privileges, as well as reinstate the same privileges.

The DMV estimates that as many as 10 percent of all CSRs received by the DMV require DMV employees to seek data currently available on the CCAP system in order clarify the direction from the courts. At times, and even with CCAP access, DMV employees must still coordinate with the respective clerk of courts to remedy any miscommunication or confusion. If access to CCAP is removed, it will exacerbate the problem and cause greater delays in both suspending or reinstating driving privileges and may require us to develop (with the courts) a new method of obtaining necessary access to CCAP data.

If you have any questions or concerns, please contact me or Nate Yahn, our Legislative Advisor, at 608.266.1114.

# Wisconsin State Justice Committee hearing, Feb. 6, 2014
# 2013 Wisconsin State Assembly Bill 685

Outline:

1. Introduction
2. Who Am I?
3. The Accusation
4. The Outcome
5. Impact of CCAP (Wisconsin court access)
6. Continued Reform

## 1. Introduction

I, James Gryczewski, am speaking today not only on behalf of my wife and children but also for the dozens … no, hundreds … rather, thousands of people who find themselves in my position.

Ladies, as you listen to me today, think of me as your brother … your uncle … or another loved one.

Gentlemen, as you listen, think of me as YOU!

## 2. Who Am I?

I am a highly educated, responsible, self-employed man who has been happily married to the lady of my dreams for close to 25 years.

I am the treasurer of our church, have been a volunteer teacher of reading classes to grammar school students, and have transported men from the Milwaukee Rescue Mission to our Sunday church service.

In my 55 years on this Earth, my one encounter with the law produced a speeding ticket.

## 3. The Accusation

On Wednesday, Feb. 8, 2012, at approximately 5 p.m. (two years ago this Saturday), my life changed forever!

I was arrested at my office, handcuffed, and escorted into a waiting squad car. All this took place in full view of my employees and clients.

I was charged with sexual assault of a minor—a family member—and was facing 126 years in prison … essentially, the rest of my life.

The minor had recently received some devastating news, we were to later learn, and it became quite apparent she was screaming out for help. She looked at me as a convenient sacrifice.

On the night of my arrest, as I was driven from my office to the county jail, some of the emotions racing through my body were humiliation, embarrassment, confusion, and fear.

After the booking, as I sat in jail, the presence of God, love for my wife and family, and knowledge of my total innocence were the only things providing me comfort and keeping me whole.

At my preliminary hearing, the assistant district attorney requested $150,000 in bail due to the extreme charges and her distorted view of my potential flight risk. The judge reviewed my background and promptly reduced the bail to $10,000.

On Friday, Feb. 10, I was released. Part one of our nightmare was over.

**4. The Outcome**

After my arrest, our system of jurisprudence swung into action.

We hired an attorney and a private investigator to interview individuals and investigate all claims. This is what they compiled [hold up book].

In less than five months, our team presented evidence, claims, and character witnesses to the district attorney's office.

After reviewing this book, along with statements from the two trained interrogators expressing disbelief in the minor's story, the district attorney's office dismissed all charges on July 31, 2012, less than six months after my arrest.

To put this result in perspective, most of the time when someone is facing the charges I was facing—85 percent of the time, to be exact—the charges would result, at a minimum, in a trial.

So, for my charges to be dismissed so quickly demonstrates how overwhelmingly false the accusations were.

Part two of our nightmare was over.

**5. Impact of CCAP (Wisconsin court access)**

The public disclosure of my "dismissed" charges has affected me in the following ways:

a) Loss of a potential business acquisition due to a client reading about the allegations.

b) Having a record on file with the FBI.

c) Loss of a business opportunity with a tutoring company.

d) Sufficient client loss that ultimately resulted in the sale of our business.

e) Inability to find a securities firm willing to allow me to join the firm.

**6. Continued Reform**

The need to reform is now!

My wife, family, and I will continue the fight to level the playing field for the falsely accused. Moreover, today, together, we can take a major step to help the many individuals in my position to start healing and reclaiming our lives. This bill would help the falsely accused whose charges are dismissed or who are otherwise exonerated to regain their confidentiality and remove the stain on their reputation.

Until this bill is passed, our nightmare will continue.

I implore you …

I beg you …

I pray …

… that you will give serious consideration to passing Bill 685.

Thank you!

WISCONSIN HOUSING ALLIANCE
THE VOICE OF FACTORY-BUILT HOUSING

February 5, 2014

TO: Members of Assembly Committee on Corrections

FROM: Ross Kinzler, Executive Director

RE: AB 685/SB 526

The Wisconsin Housing Alliance represents a wide range of companies in the manufactured and modular housing industries. Regarding CCAP, the Alliance has a simple philosophy – Protect the Truth. CCAP is a publicly available version of circuit court records. It is not a "lite" version, but AB 685 will have that effect because the State Director is ordered to add simple notations to CCAP version of records. No links subsequent court actions are required that would clarify why a charge was overturned or dismissed. Thus the context of the records is lost.

CCAP has notices for employers on the use of CCAP records in employment decisions. However, there is no requirement in Wisconsin law that landlords (Section 106.50), creditors (Section 138.20) or ordinary citizens must ignore criminal activity when making decisions whether to engage with individuals with arrest or conviction records.

Changes to CCAP in the past to limit information on CCAP have made the situation worse for those with criminal records. Limiting the use of birth dates has created confusion over which John Smith or Jane Jones is listed. A simple google search often finds arrest records without consulting CCAP. An attempt to narrow the question over which person was arrested is now more difficult using CCAP. Rather than clearing names, confusion is expanded.

Finally, at some point CCAP users will turn to paid background services to do a review of actual court records which will remain unchanged by AB 685. We urge the committee to support the truth – if an arrest occurred list it. If a conviction occurred - list it. If an appeal is successful - list it.

In Wisconsin's small towns everyone knows about arrests but as time goes on, the end result being a conviction or dismissal is not always so clear. CCAP has long served as the arbiter of those debates often to the advantage of the person arrested.

Wisconsin Housing Alliance is the voice of factory-built housing and is located at 301 N. Broom Street, Suite 101, Madison WI 53707 Voice 608.255.3131 Fax 608.255.5595 Visit us on the Web at www.housingalliance.us or email at info@housingalliance.us

# Wisconsin Freedom of Information Council

DEVOTED TO PROTECTING WISCONSIN'S TRADITION OF OPEN GOVERNMENT

Rep. Garey Bies, chairman
Assembly Committee on Corrections

February 6, 2014

Dear Chairman Bies, members of the Committee:

Thank you for this opportunity to testify on AB 685. I represent the Wisconsin Freedom of Information Council, a statewide group that seeks to protect public access to meetings and records. Our sponsoring organizations include the Wisconsin Newspaper Association, the Wisconsin Broadcasters Association and the Wisconsin Associated Press.

I have been involved in addressing calls to limit access to online court records since shortly after the system was created in 1999. I have served on several committees established by the state courts system to set policy for WCCA, or CCAP as it's called, as well as on both Legislative Council committees that have studied this issue, the one chaired by Rep. Robin Vos in 2006, and the one chaired by state Rep. Kelda Roys and later Rep. Ed Brooks in 2010.

All of these committees ultimately chose not to curtail public access to these records, as AB 685 would do. Likewise, similar bills — most recently AB 253, which came up in September — have not survived legislative scrutiny. I think that's a good thing.

Without a doubt, some employers and others use the information on this system to unfairly deny opportunities to applicants. But I do not believe this practice is as widespread as the site's critics claim. I have heard credible testimony from representatives of business groups and landlord associations attesting to their commitment to follow the law and use this information in appropriate ways.

Moreover, the Freedom of Information Council fundamentally opposes the idea at the heart of this bill, that the way to deal with a perceived problem regarding the use of public information is to make it harder to obtain that information. More harm than good will come from this approach.

AB 685 would greatly restrict what records are available on WCCA and thus dramatically undercut the site's usefulness. Records showing that charges against an individual were dismissed or led to a finding of not guilty would no longer appear.

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Passage of this bill would be a boon for private providers of court records data, those companies that offer to run background checks on people for, say, $10 a pop or $30 for full access each year. And those private operators do not have the same checks on accuracy as does the state's system.

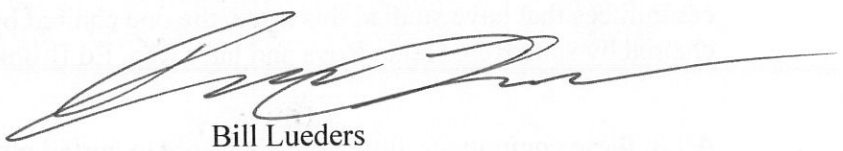
In fact, under this bill, WCCA would go from being a tool for tracking what happens in our state court system into being a registry of known offenders. Only the names of those found guilty would appear.

If this bill were to pass, WCCA would henceforth give a distorted view of what happens in our courts. For instance, every prosecutor would have a 100 percent conviction rate on every charge, because charges that were dismissed would not appear.

It would mean that most of the charges brought against former members of the Legislature, like Brian Burke and Chuck Chvala, would disappear from view.

The idea driving this bill is that ordinary citizens lack the intelligence or decency to make rational judgments about cases in which charges are dismissed or a defendant has been found not guilty. I think the people of Wisconsin deserve more credit than that.

Best,



Bill Lueders
President