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# Wisconsin Legislative Council

## AMENDMENT MEMO

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### 2023 Assembly Bill 37

### Assembly Substitute Amendment 1

## 2023 ASSEMBLY BILL 37

Under current law, a court may order at the time of sentencing that the criminal court record of a conviction be expunged if the offender was under the age of 25 when he or she committed the crime, the crime is punishable by no more than six years imprisonment, the offender successfully completes the sentence, and the court determines the person will benefit and society will not be harmed by the expungement. Current law specifies that certain crimes are ineligible for expungement, including violent offenses and crimes committed by a person who has a prior felony conviction.

2023 Assembly Bill 37 removes the age limit and allows a person, one year after he or she successfully completes a sentence, to petition the court for expungement of the court record related to his or her conviction. Under the bill, a court may enter an order for expungement at sentencing or may order that the record is ineligible for expungement.

Under the bill, in addition to the crimes that are ineligible for expungement under current law, most offenses related to traffic are ineligible, certain specified crimes including stalking offenses, property damage to a business, criminal trespass to a dwelling, and violation of a domestic abuse injunction or restraining order are ineligible, and a person may only have one record expunged in his or her lifetime.

The bill defines what it means to complete a sentence, creates a post-completion process for expungement, including notification of the victim and the prosecuting district attorney, review by a court, and limiting a person to two applications for expungement. The bill also provides that, if a record is expunged of a crime, that crime is not considered a conviction for employment purposes.

Under the bill, employment discrimination because of a conviction record includes requesting a person to supply information regarding a crime if the record has been expunged of the crime. However, the bill provides that it is not employment discrimination because of conviction record for the Law Enforcement Standards Board to consider a conviction that has been expunged with respect to applying any standard or requirement for the certification, decertification, or required training of law enforcement officers, tribal law enforcement officers, jail officers, and juvenile detention officers.

## ASSEMBLY SUBSTITUTE AMENDMENT 1

Assembly Substitute Amendment 1 contains the same provisions as the bill, with the following exceptions:

- Restores the requirement that a person must have been under the age of 25 when he or she committed the crime the person seeks to have expunged.
- Establishes additional limits on eligibility for expungement. Under the substitute amendment:
  - A crime may not be expunged if there is no record available for review by a court.

- Several additional misdemeanors, Class I, and Class H felonies are ineligible for expungement. These include certain crimes relating to the following:
  - Failure to comply with sex offender registry requirements or restrictions.
  - Fleeing or disarming a law enforcement officer.
  - False imprisonment and stalking.
  - Battery.
  - Theft of an automobile.
  - Failure to report to jail, absconding, or escape from confinement.
  - Abuse of an animal or instigating a fight between animals.
  - Exposing a child to sexual activity.
  - Election fraud or bribery.
  - Legislative or other official misconduct, including certain ethical violations.
  - Making terroristic threats.
  - Possession of a weapon on school grounds or of explosives.
- Establishes a \$20 filing fee for a first petition to expunge; the \$100 fee for a second petition to expunge the same record remains the same.
- Establishes a deadline for expungement by the circuit court after an order for expungement has been entered.
- Allows employment-related inquiries into an expunged criminal record that are mandated by federal law.

## **BILL HISTORY**

Assembly Substitute Amendment 1 was introduced by Representative Steffen on February 14, 2024. On February 15, 2024, the Assembly voted to adopt the amendment and to pass the bill, as amended, by a voice vote.

For a full history of the bill, visit the Legislature's [bill history page](#).

PJH:jal