



April 7, 2021

Public Testimony of State Representative Evan Goyke

Re: Assembly Bill 69 - 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. Assembly Bill 69 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.

AB 69 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.

AB 69 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 AB 69 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 AB 69 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 - AB 69 does not provide unlimited petitioning.
8. An individual can only receive one expungement in their lifetime

One additional important feature of AB 69 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 AB 69'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 Rep. Steffen and I 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, AB 69 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

April 7, 2021

Public testimony of Grace – Former Milton, WI Resident

Submitted to Assembly Committee on Criminal Justice & Public Safety

Dear Chairman Spiros & 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.



DAVID STEFFEN

STATE REPRESENTATIVE • 4TH ASSEMBLY DISTRICT

April 7, 2021

Testimony to the Assembly Committee on Criminal Justice and Public Safety on Assembly Bill 69

Chairman Spiros and Committee Members,

Thank you for the opportunity to testify in favor of Assembly Bill 69 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. AB 69 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, AB 69 plays a crucial role in connecting employers in need with this untapped workforce- which is why business organizations such as NFIB, MMAC, Wisconsin Independent Businesses and Wisconsin Small Businesses United are engaged and supportive of this measure.

Very similar versions of this bill passed out of this committee and the Assembly the last two sessions. I have attached a written testimony from the Waukesha County Business Alliance and Metropolitan Milwaukee Association of Commerce that emphasizes the positive effect this legislation would have on the labor market.

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



To: Assembly Committee on Criminal Justice and Public Safety

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

Date: April 6, 2021

Re: Support for Assembly Bill 69 – ‘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 Assembly Bill 69. 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 AB69 is directly connected to supporting the men and women of our community who are searching for meaningful employment, which benefits all of us.

Sincerely,

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

Suzanne Kelley
President & CEO
Waukesha County Business Alliance, Inc.



Alberta Darling

Wisconsin State Senator | District 8

Testimony Before The Assembly Committee on Criminal Justice and Public Safety
Assembly Bill 69
Wednesday, April 7, 2021

Thank you, Chairman Spiros and committee members for holding a public hearing on Assembly Bill 69. 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.

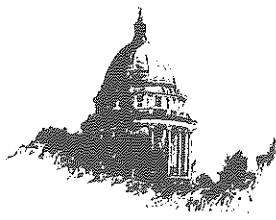
Currently, Wisconsin is the only state that requires judges to determine expungement eligibility when an individual is sentenced, and one out of seven states that limits expungement opportunity on the basis of age. This presents significant challenges for judges and rehabilitated offenders that have 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.

AB 69 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. AB 69 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 AB 69, and I hope I can count on your support again this session.



PAUL TITTL

STATE REPRESENTATIVE • 25TH ASSEMBLY DISTRICT

Assembly Committee on Criminal Justice and Public Safety

Assembly Bill 69

April 7, 2021

First of all, I would like to thank you Chairman Spiros and committee members for allowing me to testify before you concerning Assembly Bill 69 related to the expungement of records of certain crimes and discrimination based on expunged conviction.

Representative Steffen has very nicely discussed the focus of this bill and its implications. 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 as well who share the 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.

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 would provide 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 be happy to entertain any questions you might have.

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Kelli S. Thompson
State Public Defender

Jon Padgham
Deputy State
Public Defender

Assembly Committee on Criminal Justice & Public Safety
Public Hearing - Assembly Bill 69
Wednesday, April 7, 2021

Dear Chairman Spiros & Committee members,

Thank you for having this hearing on Assembly Bill (AB) 69, 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 AB 69 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 Assembly Bill 69. 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.



Greater Milwaukee
& Waukesha County

Linda E. Benfield
Board Chair
Amy Lindner
President & CEO

April 5, 2021

Representative John Spiros
Chair, Assembly Committee on Criminal Justice and Public Safety
Wisconsin State Assembly
2 E Main St,
Madison, WI 53703

Dear Representative Spiros and members of the Committee,

On behalf of United Way of Greater Milwaukee & Waukesha County, I wish to express our support for Assembly Bill 69, as presented to the Assembly Committee on Criminal Justice and Public Safety on Wednesday, April 7th.

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 \$25+ million in 230+ high-quality programs across Milwaukee, Waukesha Ozaukee and Washington Counties, including efforts to reduce employment barriers and achieve racial equity.

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

Assembly Bill 69 makes 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 Assembly Bill 69 and hope that you will share our enthusiasm for this legislation.

Sincerely,

A handwritten signature in cursive script that reads "Amy Lindner".

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

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April 7, 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 Assembly Bill 69 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



April 7, 2021

Assembly Committee on Criminal Justice and Public Safety

Public Hearing: Assembly Bill 69

Representative Spiros and Members of the Committee:

Thank you for allowing me to testify today in support of Assembly Bill 69, which would make certain changes to Wisconsin's expungement law, including allowing judges to rule on expungement eligibility after the completion of a sentence, removing the current age restriction and ensuring that expunged crimes are not considered convictions for employment purposes.

This morning, the Badger Institute released the results of a survey conducted just two weeks ago by Public Opinion Strategies. Among other findings related to our state's criminal justice system, we found that nearly three-quarters of Wisconsin voters support reforming the state's expungement law to allow a judge to grant an expungement after the completion of a sentence. The support for that change – included in AB69 – extends across party lines, with 77% of Republicans supporting the reform.

Other 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 is available on our website: www.badgerinstitute.org.

Conservatives across the state 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 at the time of sentencing when very little information is known about an offender's rehabilitation. Changing the timing of that decision to after a sentence is served allows a judge to make a more informed decision.

I recently wrote an article about a Milwaukee woman who would benefit from this law. She is unable to be here today to testify but asked me to tell a bit of her story. The only crime she has on her record is a misdemeanor (criminal damage to property). Now, 15 years later, she is employed, runs her own business, is married with kids (and has a grandchild on the way), but that one conviction still follows her. In fact, she was recently unable to rent an apartment with her husband due to that crime on her record.

I encourage you to read the full article, but this is a perfect example of who this legislation would help: Wisconsinites who have a single, non-violent offense on their record who did not ask for an expungement at their sentencing hearing or were over the age of 25 when their offense occurred but have moved on and become productive members of society. It is important to note that this legislation does not expand the crimes that would be eligible for an expungement in Wisconsin.

The Badger Institute – and nearly three-fourths of Wisconsin voters – support AB69. I am willing to answer any questions you have.

Julie Grace

Policy Analyst

Badger Institute's Center for Opportunity



WISCONSIN CATHOLIC CONFERENCE

TO: Representative John Spiros
Members, Assembly Criminal Justice and Public Safety

FROM: Barbara Sella, Associate Director, Wisconsin Catholic Conference

DATE: April 7, 2021

RE: Support for Assembly Bill 69, 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 Assembly Bill 69, 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.

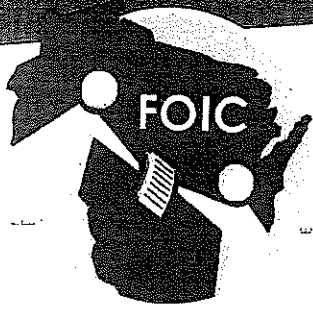
Argentina.³ This prison has for over thirty years enabled inmates to take courses through the University of Buenos Aires. In 2017, Pope Francis sent the student-inmates a video message in which he stated, “that for punishment to be fruitful there must be a horizon of hope; otherwise it remains closed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

By making expungement more attainable, Assembly Bill 69 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.



WISCONSIN FREEDOM OF INFORMATION COUNCIL

Devoted to protecting Wisconsin's tradition of open government

Rep. John Spiros
Chairman, Assembly Committee on Criminal Justice and Public Safety
212 North, Wisconsin State Capitol
P.O. Box 8953
Madison, WI 53708

April 7, 2021

Dear Chairman Spiros and members of the committee:

Thank you for the opportunity to offer testimony on AB 69, which would greatly expand the availability of expungement in Wisconsin.

The Wisconsin Freedom of Information Council, whose sponsoring organizations include the Wisconsin Newspaper Association, the Wisconsin Broadcasters Association, the Wisconsin Associated Press, and the Wisconsin chapter of the Society of Professional Journalists, takes no position on the main purpose of this bill, which is to allow more people to seek expungement of criminal records through the courts.

But the Council is concerned that expanding the availability of expungement will lead to more court records being sealed. That's what happens now to the files of expunged cases, per Wis. Supreme Court Rule 72.06:

SCR 72.06 Expunction. When required by statute or court order to expunge a court record, the clerk of the court shall do all of the following: (1) Remove any paper index and nonfinancial court record and place them in the case file. (2) Electronically remove any automated nonfinancial record, except the case number. (3) Seal the entire case file. (4) Destroy expunged court records in accordance with the provisions of this chapter.

This is problematic because the fact of a person's criminal conviction will not go away. According to a [Feb. 22 analysis](#) of the bill's Senate counterpart, SB 78, produced by David Moore of the Wisconsin Legislative Council: "Under Wisconsin law, expungement applies only to the court record of offense; it

Bill Lueders, President

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does not vacate or set aside the conviction or remove the conviction from the Department of Justice's Crime Information Bureau database."

In other words, employers or law enforcement officials would still be able to learn through routinely performed DOJ background checks that an individual was indeed convicted of a crime and that this conviction was later expunged. But if the employer or law enforcement official wants to see the court records to learn more about the behavior that led to a charge of, say, disorderly conduct, he or she may find that these records have been sealed, per this Supreme Court rule.

In contrast, the state's online court records system, Wisconsin Circuit Court Access, continues to post information about cases that have been dismissed, including those dismissed as part of deferred prosecution agreements for periods of time set by state court policy — two years for most misdemeanors and felonies. \

We hope that the committee will consider amending this proposed bill in order to direct that court records of expunged convictions ~~be preserved~~ remain unsealed.

The Council is also concerned that the expungement rules now in place lead automatically to the removal of case information from the state's online court records system, Wisconsin Circuit Court Access. We understand that the removal of this information from this system is something proponents of this bill want very much to see, because they believe that access to his information leads to discrimination.

But the extent to which this occurs has never been determined, even though it has become for many an article of faith. **The Council would urge that WCCA continue for a period of time to show that a charge was filed, a conviction obtained, and expungement granted, as now happens with cases that are dismissed, including those dismissed as part of deferred prosecutions.** We believe the citizens of Wisconsin are able to make rational judgments about such matters, and not automatically seek to discriminate on the basis of expunged convictions.

We understand that a balance must be struck between the rights of convicted criminals and the public's right to see what happens in the courts. We would hope this committee would find a way to strike this balance as much as possible in favor of openness and transparency.

Thank you for the opportunity to share these concerns.

Best,



Bill Lueders
President, Wisconsin Freedom
of Information Council



STATE BAR OF WISCONSIN

Leaders in the Law. Advocates for Justice.®

To: Members, Assembly Committee on Criminal Justice and Public Safety
From: State Bar of Wisconsin
Date: April 7, 2021
Subject: Support for AB 69 – criminal record expungement

The State Bar of Wisconsin supports passage of AB 69 expanding the ability of certain persons to expunge court records.

The State Bar commends Representatives Steffen and Goyke and Senators Darling and Roys for taking the lead on this important legislation. We also applaud the 52 Assembly co-sponsors for supporting this legislation that will be a “game changer” for so many Wisconsinites trying to start their lives over.

The criminal justice system aims to prepare ex-offenders to re-enter society and successfully move forward with their lives upon release from prison, probation, or parole. All too often, however, ex-offenders encounter substantial barriers in attempting to do so, long after paying the price for their past. One of the most significant ways to remove or reduce these barriers is to allow for the expungement of criminal records.

Over the years, studies have shown time and again even minimal contact with the criminal justice system can have a significant detrimental impact on various aspects of a person’s life. The collateral consequences of a criminal record can be a life-long barrier to success, presenting obstacles to employment, housing, education, family reunification and often resulting in significant debt.

Expungement is an issue that has been before the Legislature and the Supreme Court during the last several years, yet, despite extensive study and discussion, there have been few changes made. Now is the time to reverse that trend, as well as improve the lives of those who continue to struggle long after paying their debt to society and are ready to move forward in our communities. Without expungement, every sentence is a life sentence.

The State Bar of Wisconsin asks for your support of this important legislation.

State Bar of Wisconsin Staff Contact:

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The State Bar of Wisconsin is the mandatory professional association, created by the Wisconsin Supreme Court, for attorneys who hold a Wisconsin law license. With more than 25,000 members, the State Bar aids the courts in improving the administration of justice, provides continuing legal education for its members to help them maintain their expertise, and assists Wisconsin lawyers in carrying out community service initiatives to educate the public about the legal system and the value of lawyers. For more information, visit www.wisbar.org.



April 7, 2021

TO: Members
Assembly Committee on Criminal Justice and Public Safety

FR: Brian Dake
Legislative Director
Wisconsin Independent Businesses

RE: 2021 Assembly Bill 69 relating to: expungement of records of certain crimes and discrimination based on expunged conviction.

Chair Spiros 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 Assembly Bill (AB) 69.

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, AB 69 is part of the solution.

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.

AB 69 breaks down these barriers. This legislation sets forth a clear process by which these job-seekers 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 Assembly Bill 69.

Thank you in advance for your consideration.

Dear Members of the Criminal Justice and Public Safety Committee:

April 7, 2021

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

In 2006, my son, "Joseph," a senior at UW Madison, developed bipolar disorder. In his manic/delusional phase, 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 Mental Health Institute. 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, graduated with high honors, and began applying for jobs in his field—writing and editing. He was not 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 declared not guilty due to mental disease or defect. With that information in hand, would you hire him? Would you befriend him? You would have no way of knowing that he was fully recovered.

Before his illness, he volunteered regularly at the Madison Literacy Council teaching English. Despite his impeccable record there, he was rejected when he applied to volunteer again.

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. Wounded by rejection, he's given up on finding work and has grown dependent on SSI.

He's had no incidents of inappropriate behavior for over ten years, and is thoughtful, gentle, and kind. He understands his need for medication and has taken it for years now 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 and leaves him deeply shaken. An indelible, online record detailing his stigmatizing illness and past mistakes is another major obstacle to rebuilding a life.

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

OP—ED ON NEED TO HUMANIZE 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
