



DAVID STEFFEN

STATE REPRESENTATIVE • 4th ASSEMBLY DISTRICT

January 11, 2024

Testimony to the Assembly Committee on Criminal Justice and Public Safety

Chairman Spiros and Committee Members,

Thank you for the opportunity to testify in favor of Assembly Bill 37 relating to the expungement of records of certain crimes. I am honored to be here with my colleagues Senator Cabral-Guevara and Representative Goyke to speak to the merits of this bipartisan legislation.

Assembly Bill 37 is the result of extensive input from employer groups, law enforcement and legislators and as such, has garnered a wide range of support from organizations like AFP, Badger Institute, Chiefs of Police, Sheriffs and Deputy Sheriffs, NFIB, WIB, MMAC, Realtors as well as 63 co-sponsors—just to name a few.

The support for reforming Wisconsin's outdated expungement law has only continued to grow as employers grapple with growing workforce needs. As of November 2023, Wisconsin's unemployment rate is 3.3% and our labor force participation rate is 65.9%. This means that more than one-third of Wisconsin's working age, able-bodied adults are not employed in the most favorable hiring and wage environment in history.

Assembly Bill 37 makes simple, yet significant updates to our state's expungement law which will provide low-level offenders a pathway to employment and employers access to a pool of able-bodied employees.

AB 37 updates Wisconsin's 1970s expungement law to do the following:

- 1) **Eliminates the mandate on judges to grant/deny expungement at the time of sentencing.**
This will provide judges the opportunity to review an individual's growth and development in a post-sentencing hearing when making an expungement decision.
- 2) **Provide employers and employees with clarity and certainty in regards to criminal background disclosures on employment applications.**
Current law is ambiguous when it comes to disclosing an expunged record, this bill clarifies what an individual is required to disclose and ensures an expunged record doesn't prohibit someone from obtaining a professional license in WI.
- 3) **Clarifies that only low-level offenders are eligible for expungement.**
This bill does not expand the crimes eligible for expungement and maintains that only misdemeanors and low-level, nonviolent felonies (H and I) can be expunged. Additionally, based on legislative input last session, certain crimes would no longer be



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STATE REPRESENTATIVE • 4th ASSEMBLY DISTRICT

eligible for expungement such as: stalking, property damage to a business, criminal trespass and violation of a domestic abuse restraining order.

4) Defines what it means to successfully complete a sentence.

This bill clarifies that completing a sentence for purposes of expungement eligibility means completing all portions of a sentence such as community service, payment of fines/fees, restitution, and community supervision.

5) Removes the arbitrary age limit of 25.

An expungement decision should be based on merit, not age. Wisconsin is an outlier when it comes to an age requirement and removing this limit would place us in-line with other states.

Amendment 1 to AB 37 creates clarity that if an employer is required by federal law or contract to inquire about an expunged criminal record, it is not discrimination. This amendment also incorporates some technical changes to allow easier administration by the court system.

The measured updates in Assembly Bill 37 will bring Wisconsin's expungement law into the 21st century and put us in-step with the vast majority of other states throughout the US. I ask for your support on this legislation which will allow reformed offenders a chance at a productive future and employers access to an untapped resource.

I am happy to answer any questions related to this legislation.

A handwritten signature in black ink, appearing to read "David Steffen".

David Steffen
4th Assembly District



RACHAEL A. CABRAL-GUEVARA

STATE SENATOR • 19TH SENATE DISTRICT

Testimony before the Assembly Committee on Criminal Justice and Public Safety

Senator Rachael Cabral-Guevara

January 11, 2024

Hello, Chairman Spiros and members of the committee. Thank you for allowing me to testify on Assembly Bill 37, an important bill that will provide a second chance for people who have served their sentences for non-violent crimes.

Life can at times lead otherwise good people to make mistakes. In some of those circumstances, it can lead to a court case where sentences are handed down and those same people will serve them out. For non-violent offences, that blemish on their record can often hold them back from getting jobs, serving their community, or contributing to society in other ways.

This proposed legislation will allow, in limited non-violent cases, records of some offences to be expunged after the individual serves their sentence. These people who have served their time would then be able to fully contribute to their communities, without the discrimination of having an, albeit minor, case open to public record.

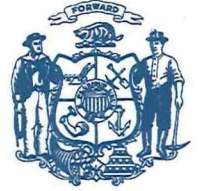
I have heard stories from people directly that have served their sentences and done everything they can to make right their wrongs. In some instances, they have become role models, sharing their struggles with young people to prevent them from making the same mistakes.

For those who say this bill is “soft on crime,” I challenge that. This bill is about providing a second chance to those who have already paid their debt to society. These are people who now actively contribute to their communities. This is not a hand-out, it is a hand-up. In fact, this bill and coming amendment actually reduces the types of crimes eligible for expungement.

Thank you again for your time. I am hopeful you are able to support this piece of legislation which will provide a second chance to those who have earned it.



STATE REPRESENTATIVE
18th ASSEMBLY DISTRICT



January 11, 2024

Public Testimony of State Representative Evan Goyke

Re: Assembly Bill 37 - Expungement Reform: Providing Pathways to Employment

Thank you members of the committee and Chairman Spiros for holding a public hearing on this important legislation and for passing this bill out of committee last session.

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 37 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.

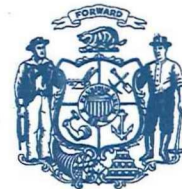
AB 37 further defines what it means to successfully complete a sentence. To ensure that only individuals that have successfully completed their sentences (and have not reoffended) will be eligible for expungement, this bill clearly defines what it means to successfully complete a sentence, which includes completing community services, paying all fines, fees, restitution, and completing any community supervision without revocation.

AB 37 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 37 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 37 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, individuals must wait 2 years before petitioning again. An individual can only petition a court twice - AB 37 does not provide unlimited petitioning.
8. An individual can only receive one expungement in their lifetime



One additional important feature of AB 37 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 37'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

Last session, Republican Alabama Governor Kay Ivey signed into law Senate Bill 117, The Alabama Redeemer Act, which makes further reforms to their state's expungement law. The bill was passed by their Republican controlled state legislature and the Alabama State Senate without a dissenting vote. Alabama's new expungement law has no age restriction.

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

For example -last fall I received a personal letter from a former Wisconsin resident who learned of our efforts here in Wisconsin. Mr. Ryan Berry, who now lives in Kansas, is a small business owner in the fireplace and chimney industry. He continues to face the barriers this bill seeks to solve. I have attached his letter for your review.

Individuals like Mr. Berry 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 37 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 handwritten signature in black ink, appearing to read "Evan Goyke".



Ryan B Berry
1947 NW Topeka BLVD, Suite F
Topeka, KS 66608
785.670.6600

To:

October 21, 2022

Representative Evan Goyke
PO Box 8952
Madison, WI, 53708

Representative Evan Goyke,

My name is Ryan Blake Berry. I am writing this letter in hope of changing expungement laws to help myself and others. I am the owner and operator of Certified Fireplace and Chimney in Topeka Kansas. My company serves local residents in Topeka, Manhattan, Lawrence and other surrounding areas. We have employed over 20 individuals since we opened our doors in 2019. The majority of those employees have been with us a year or longer. I would like to consider myself a successful American citizen who has worked hard to overcome the challenges that I created.

In the past, I have made several poor decisions that have led me into a life I am not proud of. However, through the consequences I endured from those decisions – I have created a life that I am extremely proud of. I am able to support my family, while leading by example for my two daughters. I have been clean and sober for nearly 10 years and continue to cope with the pain of overcoming addiction. It is a difficult road, but I want to make sure I am the husband my wife deserves and the father my daughters need. My experiences through hitting rock bottom and rebuilding an honorable, successful life has helped not only me, but others. Many have made poor choices in their youth and my story has given hope to those who didn't think it was possible to create a better life for themselves. We now hire several individuals who believe they need a second chance. With my mentoring and guidance, they can begin a new chapter. Many of the people I hired that needed a second chance are now homeowners, have good credit, repaid their dues to society, and have begun helping others know what's possible through their change.

When I look at my criminal record – I don't recognize the person that is described in those reports. That is not who I am anymore. When I was initially released, life was extremely difficult as a convicted felon. I felt there was no way to earn back the life I wanted when there were so many roadblocks in the way. With my felony background, I was extremely limited on finding employment. No one was willing to give me a chance to show them the redefined version of myself that I was proud of. Fortunately, God had a better way of life planned for me. I believe He made these roadblocks happen to push me into taking the leap into starting my business. If I wanted to have a successful life, I needed to create it on my own. I decided to take a chance on myself. I mentally felt I had the strength to do this – and I wanted to show that I was not as black and white as my criminal record made me out to be.

I was 25 when I was arrested and 26 when I was convicted. Under the Wisconsin Law Statute 973.015, I was just outside the window of being able to have my record expunged. In addition to that, the law also states that the convict must ask for the possibility of expungement the day of sentencing. I was not aware of this law, nor would it had been on my mind as it was an emotional day preparing for my sentencing. While I am asking you help fix my record to reflect the person I am now by expungement, I am also asking for your assistance in changing the laws regarding expungement for others in similar situations. During my time in jail/prison, I encountered several repeat offenders. These individuals whom I believe could have had a chance at a new life had their record not reflected crimes from years past. I can personally attest to the pressures of wanting to do better but being restricted from an above average job due to poor decisions I made years ago. I am a realist, and I know the vast majority of inmates will likely not want to better themselves, even if they were given the chance. But, there are some of us that are willing to do whatever it takes. I am asking that the 1% not get grouped into the same pool as the other 99%. I want to see so many amazing, selfless, new found successful people out there have a chance at a new life in a society that is too quick to judge someone with a blemish in their past.

I am not asking for a pass or any type of handout. I am asking for you to give me, and those like me a chance to earn the respect that we once lost. Please consider helping me expunge my record, but also help me in helping those that have the want are willing to create the change in themselves to have a better, unlabeled future.

Regards,

Ryan Berry



STATE BAR OF WISCONSIN

Leaders in the Law. Advocates for Justice.®

To: Members, Assembly Criminal Justice Committee
From: State Bar of Wisconsin
Date: January 11, 2024
Subject: Support for AB 37 – criminal record expungement

The State Bar of Wisconsin supports passage of AB 37 expanding the ability of certain persons to expunge court records.

The State Bar commends Representatives Steffen, Tittl and Goyke as well as Senators Cabral-Guevara, Wimberger and Roys for taking the lead on this important legislation. We also applaud the 59 additional legislators supporting this legislation as co-sponsors, which 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:

Cale Battles • (608) 695-5686 • cbattles@wisbar.org

Lynne Davis • (608) 852-3603 • ldavis@wisbar.org

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.



**THE LEADING VOICE
FOR WISCONSIN SMALL
AND INDEPENDENT BUSINESSES**

January 11, 2024

**TO: Members
Assembly Committee on Criminal Justice and Public Safety**

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

**RE: 2023 Assembly Bill (AB) 37 relating to: expungement of records of certain crimes
and discrimination based on expunged conviction.**

Chairman Spiros and committee members my name is Brian Dake, President of Wisconsin Independent Businesses. Thank you for the opportunity to testify in support of 2023 Assembly Bill (AB) 37.

By way of background, Wisconsin Independent Businesses (WIB) was formed in 1977 to provide small, independent business owners with an effective voice in the legislative and regulatory activities of state government. Today, we proudly represent more than 2,000 small business owners throughout Wisconsin. Most of our members (approximately 85%) own and operate businesses which have fewer than 25 employees and/or annual gross revenues of less than \$5 million.

Wisconsin's worker shortage continues to have a profoundly adverse impact on many small employers. Filling open positions with qualified workers, retaining skilled staff, and replacing valued employees remains exceedingly difficult, time-consuming, and costly.

From our perspective, there is not a single solution to this multifaceted long-term problem. Reducing the workforce shortage requires a comprehensive approach and we view AB 37 as part of the solution.

WIB...Helping you where you need it.

PO Box 2135 | Madison, Wisconsin 53701 | 800-362-9644 | www.wibiz.org

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

AB 37 breaks down these barriers. This legislation sets forth a clear process by which these individuals can seek expungement of a past conviction from a court of law. If the expungement is granted by a judge, they are better positioned to take advantage of job opportunities available to them. A larger pool of skilled workers will also ease Wisconsin's worker shortage for small employers.

We respectfully request your support of 2023 Assembly Bill 37.

Thank you in advance for your consideration.

WISCONSIN
Clerks OF
Circuit Court
Your Access to the Courts

President

STACY KLEIST
Richland County
181 W Seminary Street
PO Box 655
Richland Center, WI 53581
608-647-3956

June 22, 2023

Vice President

REBECCA MATOSKA-MENTINK
Kenosha County
912 56th Street
Kenosha, WI 53140
262-653-2810

Dear Honorable Legislators of the Senate and Assembly Committees on
Judiciary and Public Safety:

Secretary

BRENDA BEHRLE
Oneida County
1 S Oneida Avenue
PO Box 400
Rhinelander, WI 54501-0400
715-369-6120

The Wisconsin Clerks of Circuit Court Association (WCCCA) writes to you in support of Assembly Bill 37 and Senate Bill 38 regarding the criminal case expungement process. We are especially looking forward to the clarification establishing the term "record" to mean "an entire criminal file."

Treasurer

KATIE SCHALLEY
Dunn County
615 Stokke Parkway, Suite 1500
Menomonie, WI 54751
715-232-2611

Assembly Bill 37 and Senate Bill 38, if passed, will provide a State Statute that is in harmony with Supreme Court Rule 72.06. SCR 72.06 has long held that any expungement of a court "record" requires the Clerk of Circuit Court to seal the *entire* case file. In many counties, though, judges and prosecutors have labored under the impression that the present expungement law does not require sealing of the entire file; in these situations, prosecutors have asked for and judges have ordered expungement of stand-alone counts within a court record. This piecemeal approach to expungement resulted in a recordkeeping nightmare for Clerks of Court and perpetual confusion by the public and others whenever the topic revolved around expungement.

Executive Committee

Rebecca Matoska-Mentink, Chair
Anna Hodges, Dist. 1,
Kristi Secord, Dist. 2
Monica Paz, Dist. 3
Amy Thoma, Dist. 4
Carrie Wastlick, Dist. 5
Nancy Dowling, Dist. 7
Barb Bocik, Dist. 8
Penny Carter, Dist. 9
Kristi Severson, Dist. 10

The WCCCA has supported this legislative proposal each time it was introduced over the past few sessions. We look forward to its passage.

Sincerely,



John Vander Leest
Brown County Clerk of Circuit Court
Chair, Legislative Committee, Wisconsin Clerks of Circuit Court Association

Legislative Committee

John Vander Leest, Chair, Dist. 8
Anna Hodges, Dist. 1,
Becky Matoska-Mentink, Dist. 2
Cindy Hamre Incha, Dist. 3
Shari Rudolph, Dist. 4
Carlo Esqueda, Dist. 5
Tina McDonald, Dist. 7
Penny Carter, Dist. 9
Susan Schaffer, Dist. 10



To: Members of the Assembly Committee on Criminal Justice and Public Safety

From: Jamiroquan Kittler, Supervisor of Grassroots Operations, Americans for Prosperity -Wisconsin

Date: January 11, 2024

Subject: Support for Assembly Bill 37

Chairman Spiros, and members of the Assembly Committee on Criminal Justice and Public Safety, thank you for the opportunity to provide testimony today in favor of Assembly Bill 37 and in favor of second chances for rehabilitated citizens in Wisconsin.

Americans for Prosperity - Wisconsin strongly supports measures in Assembly Bill 37 to improve the expungement process so that non-violent, first-time offenders can truly be free after serving time and fully paying their debts to society, as determined by our judicial system.

The expungement laws as currently written are outdated and increase the likelihood of recidivism and family separation by unnecessarily complicating the opportunity of expungement for nonviolent offenders. The thousands of Wisconsinites who made these nonviolent, one-time mistakes will live with the choices they've made for the rest of their lives. After serving their time and paying their dues, they should not be forced serve another sentence while free.

Assembly Bill 37 leaves the judge who sentenced an individual responsible for ensuring a person has fully served their sentence and remained crime-free, giving the judge the best possible examination of the rehabilitated before granting a second chance.

I want to thank Representative Steffen and Senator Cabral-Guevara for authoring this needed reform. Assembly Bill 37 will change lives for generations by granting well-deserved second chances. We can empower our workforce, lower incarceration numbers, restore two parent homes, and restore independence to communities that need it most. Americans for Prosperity -Wisconsin is proud to support this bi-partisan legislation.



January 11th, 2024

To: Assembly Committee on Criminal Justice and Public Safety
From: Carrie Springer, Dane County Director of Government Affairs
Re: Testimony on AB 37

Chair Spiros and members of the Assembly Committee on Criminal Justice and Public Safety:

Thank you for holding this hearing today and the opportunity to provide testimony on AB 37. Dane County supports this bill and encourages committee members to vote in favor of sending this bill to floor before the end of the session.

AB 37 has a strong bipartisan sponsor list and a long list of groups supporting this important criminal justice reform. It is backed by a wide-ranging coalition of business groups, healthcare organizations, religious groups, and numerous law enforcement associations because our state is one of only a handful that have an arbitrary age limit on record expungement.

The opportunity for expungement is a key part of successful re-entry into the community for those who have served their sentence. Keeping this outdated expungement system in place with built-in employment barriers denies too many people the good-paying job that is necessary for them to support themselves so they can get their lives back on track. Wisconsin's laws on expungement are blocking employment opportunities for far too many who want to work and this bill is a good first step to taking down one of the barriers in their way.

The Dane County Legislative Agenda supports removing employment barriers by creating an opportunity for expungement for all ages and we encourage committee members to support AB 37. Thank you for your consideration of this bill and our testimony.

Sincerely,

Carrie Springer
Dane County Government Affairs Director
Springer.carrie@countyofdane.com



WISCONSIN CATHOLIC CONFERENCE

TO: Representative John Spiros, Chair
Members, Assembly Committee on Justice and Public Safety

FROM: David Earleywine, Associate Director

DATE: January 11, 2024

RE: Support for AB-37, Expungement of Certain Crimes from Records

The Wisconsin Catholic Conference (WCC), the public policy voice of Wisconsin's Catholic bishops, appreciates the opportunity to testify in support of Assembly Bill 37, which would give more individuals the opportunity to have their criminal records expunged.

Others today will speak about how this bill will reduce recidivism and expand our workforce. The Wisconsin Catholic Conference would like to emphasize how this bill helps create a more balanced approach to criminal justice. In their 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.

¹ United States Conference of Catholic Bishops, *Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice* (2000).

² Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church*, no. 403. See also *Catechism of the Catholic Church*, 2nd ed. (2000), no. 2266: "The efforts of the state to curb the spread of behavior harmful to people's rights and to the basic rules of civil society correspond to the requirement of safeguarding the common good. Legitimate public authority has the right and duty to inflict punishment proportionate to the gravity of the offense. Punishment has the primary aim of redressing the disorder introduced by the offense. When it is willingly accepted by the guilty party, it assumes the value of expiation. Punishment then, in addition to defending public order and protecting people's safety, has a medicinal purpose: as far as possible, it must contribute to the correction of the guilty party."

As Pope Francis noted in 2022, "It is right that those who have done wrong should pay for their mistake, but it is equally right that those who have done wrong should be able to redeem themselves for their mistake. ... Any sentence must always have a window of hope."³

By making expungement more attainable, Assembly Bill 37 gives those with criminal records a horizon of hope. It is this hope that will help them reintegrate into society and 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, *General Audience* (January 19, 2022).



Wisconsin State Public Defender

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Katie R. York
State Public Defender

Katie York
Deputy State
Public Defender

Assembly Committee on Criminal Justice & Public Safety
Public Hearing - Assembly Bill 37
Thursday, January 11, 2024

Dear Chairman Spiros & Committee members,

Thank you for having this hearing on Assembly Bill (AB) 37, 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 37 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 37. 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.



AMERICAN CIVIL LIBERTIES UNION

Wisconsin

207 East Buffalo Street, Ste 325
Milwaukee, WI 53202
(414) 272-4032
aclu-wi.org

January 11, 2024

Chair Spiros, Vice-Chair Schutt, and Honorable Members of the Assembly Committee on Criminal Justice and Public Safety:

The American Civil Liberties Union of Wisconsin appreciates the opportunity to provide written testimony in support of Assembly Bill 37, which would allow a court to order expungement after a sentence has been completed, provide necessary clarity in the law for both employers and employees, and remove the arbitrary age limit of 25.

In Wisconsin, approximately 1.4 million people have a criminal record,¹ which can result in many collateral consequences² that can make successful re-entry a daunting task. People often struggle mightily to land a stable job, secure housing, access public benefits, get an education, and more. Criminal records live on well after a person has done their time, functioning as a penalty that follows people forever as they navigate a world in which meaningful opportunities for growth and self-improvement are closed off to them.

An analysis by the Prison Policy Initiative found that while 93% of formerly incarcerated people between the ages of 25 and 44 actively seek work, they are five times more likely to be unemployed than the average American.³ Taking into account the scope and scale of our criminal legal system, mass joblessness among the 1.4 million Wisconsinites with a criminal record has profound implications for our economy.

A study by the Brennan Center for Justice indicates that individuals who have criminal records -- which accounts for one of every five Americans -- have lost somewhere in the neighborhood of 370 billion dollars in combined wealth,⁴ with Black and Brown people impacted the most severely. That means we are actively preventing billions in potential earnings from being spent back into local economies, a massive missed opportunity, especially for communities disproportionately impacted by mass incarceration.

¹ "A Fresh Start: Wisconsin's Atypical Expungement Law and Options for Reform," Wisconsin Policy Forum (June 2018), <https://wispolicyforum.org/research/a-fresh-start-wisconsins-atypical-expungement-law-and-options-for-reform/>.

² Sam McCann, "How 'Collateral Consequences' Keep People Trapped in the Legal System," Vera Institute for Justice (Nov. 29, 2023), <https://www.vera.org/news/how-collateral-consequences-keep-people-trapped-in-the-legal-system>.

³ Lucius Couloute and Daniel Kopf, "Out of Prison & Out of Work: Unemployment Among Formerly Incarcerated People," Prison Policy Initiative (July 2018), <https://www.prisonpolicy.org/reports/outofwork.html>.

⁴ Terry-Ann Craigie, Ames Grawert, and Cameron Kimble, "Conviction, Imprisonment, and Lost Earnings: How Involvement with the Criminal Justice System Deepens Inequality," Brennan Center for Justice (Sept. 15, 2020) <https://www.brennancenter.org/our-work/research-reports/conviction-imprisonment-and-lost-earnings-how-involvement-criminal>.

The inability to get out from under a past conviction doesn't just weaken our economy, it makes us all less safe. Research has found that joblessness is the single most important predictor of recidivism. If we truly aspire to build a safer society, we cannot allow a criminal record to trap people in poverty, unemployment and housing insecurity, or leave them to languish under other desperate circumstances.

The ACLU of Wisconsin strongly urges committee members to support this bi-partisan legislation.