



Expungement reform would put people back to work

Wisconsin's law, which requires a judge to decide on expungement at the time of sentencing, is unlike any in the nation

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By Julie Grace

By most measures, Marlena Rucker has a solid résumé: a bachelor's degree in criminal justice, a certificate in web page design and completion of the Associates in Commercial Real Estate (ACRE) program through Marquette University.

She has consistently held a job since earning her degree from the University of Wisconsin-Parkside nearly 20 years ago. And for the past five years, she has worked at a church in Milwaukee, where she recently was promoted to the supervisory position of facilities coordination manager.

But it's not what Rucker had in mind for herself. While she enjoys her work at the church, she struggles to make ends meet and relies on government programs such as W-2 (Wisconsin's Temporary Assistance for Needy Families program) and Section 8 vouchers to provide for herself and her 18-year-old daughter.

The reason, she says, is a 1996 forgery she committed when she was just 22 years old. While she completed her sentence and hasn't committed a crime since,

this single conviction has haunted her — and now her daughter — for the past 23 years.

"I didn't realize how one felony would keep me in a box for the rest of my life," she told the Badger Institute.

New legislation introduced

But thanks to bipartisan legislation that would reform Wisconsin's expungement law, Rucker and thousands of others in the state with nonviolent convictions could be given the freedom to fully move on with their lives. They could be given a second chance through expungement — or essentially, the sealing of a record to the public. (It's important to note that judges and law enforcement would retain access to the record.)

Expungements are granted for Class H felonies and below and are based on a judge's discretion. While the eligible crimes under Wisconsin's expungement law would not change under the legislation, [the bill](#) — coined "Pathways to Employment" — would make two major changes to the policy, and it would be retroactive.

The legislation would remove the age limit of 25 from eligibility for expungement, and it would allow judges to make expungement decisions after a person has served his or her time, rather than "at the time of sentencing," as the law is currently written.

Wisconsin's policy that requires these decisions to be made at the time of sentencing is the only law like it in the nation, and it's illogical because it prohibits a judge from deciding on expungement after completion of a sentence when an offender's rehabilitation is more apparent. [Badger Institute research](#) has found that there are geographic, racial and age disparities in the use of expungement in Wisconsin. Additionally, only a handful of other states have age restrictions on expungement eligibility.

Collateral consequences

The effects of a criminal record — even for a one-time, nonviolent offense — can be substantial. The record affects employment, housing, financial aid eligibility and other areas that restrict a person's freedom and opportunities.

Rucker has been offered numerous good-paying jobs only to have the offers rescinded after employers perform background checks in the final stages of the hiring process.

She recalls one such instance in 2003 with Southwest Airlines in Milwaukee. While she was waiting to confirm travel arrangements for job training, Rucker was informed by an airline representative that Southwest could no longer hire her due to her criminal record.

"On my drive home, I remember I thought about turning my car into a wall, I felt so defeated. No one would have ever known," she recalls. "I can't even get a job working at a ticket counter with a college degree."

'Pathway to Employment'

Shanyell McCloud, founder of [Clean Slate Milwaukee](#), has dedicated her entire paralegal career to helping people get an expungement or overcome the obstacles that come with a criminal record.

"Prison is certainly a necessary evil, but we're not advocating to expunge records of mass murderers. Real criminals don't care about their record, and they aren't the ones looking for jobs, either," says McCloud.

With such low unemployment in the state, expungement is a workforce issue.

"Wisconsin can't afford to keep hindering our talent," she adds.

Steve Baas of the [Metropolitan Milwaukee Association of Commerce](#) echoes that sentiment.

"Reforming our expungement system is one tool to help get unemployed and underemployed talent off the sidelines and into the workforce," says Baas, MMAC's senior vice president of public policy and government affairs.

"We simply cannot adequately fuel Wisconsin's booming economy for the long term if we allow this deep pool of human dignity and potential to go untapped," he adds.

'Perfect storm' for reform

One of the authors of the legislation, [Sen. Alberta Darling](#) (R-River Hills), says the bill essentially does two things: It addresses the state's labor shortage, and it gives individuals a second chance.

"If an individual has served their time and paid the price and is leading a crime-free life, it's important to allow them to go forward," Darling says.

"Having a job is the biggest indicator that one won't recidivate — which is a huge cost to an individual and the taxpayers," she adds.

Another co-author, [Sen. Lena Taylor](#) (D-Milwaukee), says it's "a perfect storm" to pass the legislation now, citing the broad bipartisan support from both inside the Capitol and among outside groups.

According to a recent [Marquette Law School poll](#), 65% support allowing offenders to petition judges to expunge their record after their sentences are completed in cases of nonviolent, lower-level offenses.

"These people want to be contributing, productive citizens," Taylor says. "The only thing stopping them from fully using their value is their conviction."

The legislation has passed both the Assembly and Senate committees and is awaiting a scheduled vote by the Legislature.

If the measure becomes law, Wisconsinites like Rucker would be able to reapply for expungement. When asked what she would do if granted one, she says she would go to law school, either in Milwaukee or Madison. "I know my skill set is

suitable," she adds.

Julie Grace is a policy analyst with the Badger Institute.

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