

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.