

ROLL CALL
OUTAGAMIE COUNTY BOARD OF SUPERVISORS

DATE

March 23, 2021

RESOLUTION #

Substitute 133--2020-21

APPROVE - AS AMENDED - Public Safety Committee. Oppose pending legislation that would revoke extended supervision, parole, or probation if a person already under supervision is charged with a new crime, and opposes further limits on an offender's ability to obtain expungement of a crime.

MOTION:

APPROVE - AS AMENDED - Oppose pending legislation that would revoke extended supervision, parole, or probation if a person already under supervision is charged with a new crime, and opposes further limits on an offender's ability to obtain expungement of a crime.

DST	NAME	AYE	NAY	ABSTAIN	PRES	ABSENT
1	Thompson	x				
2	Miller	x				
3	Renteria	x				
4	Patience	x				
5	Gabrielson	x				
6	Konetzke	x				
7	Hammen	x				
8	Nicholas Thyssen					x
9	Krueger	x				
10	Lamers	x				
11	Fallona	x				
12	McCabe	x				
13	Wegand					x
14	Jeremy Thyssen	x				
15	Peterson	x				
16	Schroeder	x				
17	Croatt	x				
18	Spears	x				

DST	NAME	AYE	NAY	ABSTAIN	PRES	ABSENT
19	Marcks	x				
20	Thomas	x				
21	Travis Thyssen	x				
22	Hagen	x				
23	Klemp	x				
24	Iverson	x				
25	Nooyen	x				
26	Davidson	x				
27	Culbertson					x
28	Monfils	x				
29	Buchman	x				
30	Wuebben	x				
31	Clegg	x				
32	VanderHeiden	x				
33	O'Connor-Schevers	x				
34	Rettler	x				
35	Melchert	x				
36	Suprise	x				

AYE	<u>33</u>
NAY	<u>0</u>
ABSTAIN	<u>0</u>
PRESENT	<u>0</u>
ABSENT	<u>3</u>
TOTAL	<u>36</u>

APPROVED	<u>x</u>
DEFEATED	<u> </u>

ROLL CALL
OUTAGAMIE COUNTY BOARD OF SUPERVISORS

DATE March 23, 2021 RESOLUTION # Substitute 133--2020-21

TO AMEND Substitute Res. No. 133--2020-21

MOTION:

TO AMEND - Public Safety Committee. Oppose pending legislation that would revoke extended supervision, parole, or probation if a person already under supervision is charged with a new crime, and opposes further limits on an offender's ability to obtain expungement of a crime. The amendment will remove the last sentence of the 3rd paragraph on the 1st page of the resolution.

MADE BY: Patience

SECONDED BY: Renteria

DST	NAME	AYE	NAY	ABSTAIN	PRES	ABSENT
1	Thompson	x				
2	Miller	x				
3	Renteria	x				
4	Patience	x				
5	Gabrielson	x				
6	Konetzke	x				
7	Hammen	x				
8	Nicholas Thyssen					x
9	Krueger	x				
10	Lamers	x				
11	Fallona	x				
12	McCabe	x				
13	Wegand					x
14	Jeremy Thyssen	x				
15	Peterson	x				
16	Schroeder	x				
17	Croatt	x				
18	Spears	x				

DST	NAME	AYE	NAY	ABSTAIN	PRES	ABSENT
19	Marcks	x				
20	Thomas	x				
21	Travis Thyssen	x				
22	Hagen	x				
23	Klemp	x				
24	Iverson	x				
25	Nooyen	x				
26	Davidson	x				
27	Culbertson					x
28	Monfils	x				
29	Buchman	x				
30	Wuebben	x				
31	Clegg	x				
32	VanderHeiden	x				
33	O'Connor-Schevers	x				
34	Rettler	x				
35	Melchert	x				
36	Suprise	x				

AYE 33
 NAY 0
 ABSTAIN 0
 PRESENT 0
 ABSENT 3
 TOTAL 36

APPROVED x
 DEFEATED

SUBSTITUTE RESOLUTION NO.: 133—2020-21

TO THE HONORABLE, THE OUTAGAMIE COUNTY BOARD OF SUPERVISORS

LADIES AND GENTLEMEN:

MAJORITY

1 There is pending legislation that would revoke extended supervision, parole, or probation if
2 a person already under supervision is charged with a new crime and prevent expungement
3 of expunge a criminal record of a crime under certain circumstances.
4

5 The pending legislation would address the following:

- 6 • Restricts expungement in specific ways:
 - 7 ○ Someone previously found guilty of a previous crime, even if that
8 particular crime has been ~~it is~~ expunged, would be ineligible for a
9 future expungement because he or she has ~~they have~~ already proven
10 he or she does not ~~they don't~~ deserve the trust of the community ~~their~~
11 communities.
 - 12 ○ Any technical rule violation or breaking any probation condition
13 would disqualify an offender ~~a criminal~~ from being granted an
14 expungement.
 - 15 ○ Expungement would not be allowed to be granted until one full year
16 after completing a sentence. This year-long pause gives the offender
17 ~~criminal~~ an incentive to continue acting in good behavior and show
18 that he or she is worthy of being granted an expungement.
- 19 • Requires that the Department of Corrections recommend revoking extended
20 supervision, parole, or probation for someone who has been charged with a
21 new crime while on release.
22

23 Currently, the Outagamie County Criminal Justice Treatment Services Department (CJTS)
24 manages county probation and alternative treatments; as well as pre-trial and pre-charge
25 supervision with an overall focus on criminal justice reform. Additionally, CJTS leads the
26 Evidence Based Decision Making (EBDM) efforts for Outagamie County. If adopted, the
27 pending legislation would go against the last five years of work by ~~the~~ Outagamie County's
28 Evidence Based Decision Making Team undertaken with the support of the Outagamie
29 County Board. The pending legislation has nuances that could easily lead to individuals
30 being sent back to prisons for relatively minor offenses, which in turn, could overflow the
31 prison system even more than the current situation does, causing additional cost to
32 taxpayers. The additional ~~There is concern on the~~ administrative burden that would be put
33 on the Department of Corrections (DOC) if this legislation were to pass is also of great
34 concern.
35
36
37

This resolution recommends opposing pending legislation that would revoke extended supervision, parole, or probation if a person already under supervision is charged with a new crime and prevent expungement of expunging a criminal record of a crime under certain circumstances.

NOW THEREFORE, the following resolution is presented by the Public Safety Committee to the County Board.

BE IT RESOLVED, that the Outagamie County Board of Supervisors opposes pending legislation that would revoke extended supervision, parole, or probation if a person already under supervision is charged with a new crime, and

BE IT FURTHER RESOLVED, that the Outagamie County Board of Supervisor opposes further limits on an offender's ability to obtain ~~for~~ expungement of a crime, and

BE IT FINALLY RESOLVED, that the Outagamie County Clerk be directed to forward a copy of this resolution to the to the Wisconsin Counties Association and the Outagamie County Lobbyist for distribution to the State Senators and State Representatives representing Outagamie County and the Governor.

Dated this ____ day of March 2021

Duly and officially adopted by the County Board on: _____

Signed: _____

Board Chairperson

County Clerk

Approved: _____

Vetoed: _____

Signed: _____

County Executive



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-1665/1
CMH:ekg&cjs

2021 BILL

1 **AN ACT to renumber and amend 973.015 (1m) (b); to amend 302.113 (8m) (a),**
2 **302.114 (8m) (a), 304.06 (3), 973.015 (1m) (a) 3. and 973.10 (2) (intro.); and to**
3 **create 973.015 (1m) (b) 1. b. of the statutes; relating to:** recommendation to
4 revoke extended supervision, parole, or probation if a person is charged with a
5 crime and expunging a criminal record of a crime.

Analysis by the Legislative Reference Bureau

Under current law, a person who is released on extended supervision, parole, or probation is subject to conditions or rules of the release. If the person violates a condition or rule, the person is subject to sanctions for the violation, which may include revocation of release. This bill requires the Department of Corrections to recommend revoking a person's extended supervision, parole, or probation if the person is charged with a crime while on release.

Under current law, a sentencing court may order a person's criminal record expunged of a crime if the court determines that the person will benefit and society will not be harmed and if all of the following apply: 1) the maximum term of imprisonment for the crime is six years or less (Class H felony and below); 2) the person committed the crime before the age of 25; 3) if the crime is a felony, the person had not been previously convicted of a felony; and 4) the crime was not a violent felony. The bill adds that the court may not order the record expunged of a crime if the person had previously been convicted of a crime, including a crime for which the record had been expunged.

2021 - 2022 Legislature

- 2 -

LRB-1665/1
CMH:ekg&cjs**BILL**

Current law specifies that the expungement order must be made only at sentencing and then the record is not expunged until the person completes his or her sentence. Under current law, a person is not considered to have completed his or her sentence if the person has been convicted of a subsequent offense or, if on probation, the probation was revoked and the person has not satisfied all conditions of probation. The bill adds that a person has not completed his or her sentence if criminal charges are pending against the person or, if the person was on probation, the person violated any rule or condition of the probation or at least one year has not elapsed since being placed on probation.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 302.113 (8m) (a) of the statutes is amended to read:

2 302.113 (8m) (a) Every person released to extended supervision under this
3 section remains in the legal custody of the department. If the department alleges
4 that any condition or rule of extended supervision has been violated by the person,
5 the department may take physical custody of the person for the investigation of the
6 alleged violation. If the person is charged with a crime, the department shall
7 recommend that the person's extended supervision be revoked.

8 **SECTION 2.** 302.114 (8m) (a) of the statutes is amended to read:

9 302.114 (8m) (a) Every person released to extended supervision under this
10 section remains in the legal custody of the department. If the department alleges
11 that any condition or rule of extended supervision has been violated by the person,
12 the department may take physical custody of the person for the investigation of the
13 alleged violation. If the person is charged with a crime, the department shall
14 recommend that the person's extended supervision be revoked.

15 **SECTION 3.** 304.06 (3) of the statutes is amended to read:

2021 - 2022 Legislature

- 3 -

LRB-1665/1
CMH:ekg&cjs
SECTION 3**BILL**

1 304.06 (3) Every paroled prisoner remains in the legal custody of the
2 department unless otherwise provided by the department. If the department alleges
3 that any condition or rule of parole has been violated by the prisoner, the department
4 may take physical custody of the prisoner for the investigation of the alleged
5 violation. If the department is satisfied that any condition or rule of parole has been
6 violated, it shall afford the prisoner such administrative hearings as are required by
7 law. If the prisoner is charged with a crime, the department shall recommend that
8 the person's parole be revoked. Unless waived by the parolee, the final
9 administrative hearing shall be held before a hearing examiner from the division of
10 hearings and appeals in the department of administration who is licensed to practice
11 law in this state. The hearing examiner shall enter an order revoking or not revoking
12 parole. Upon request by either party, the administrator of the division of hearings
13 and appeals shall review the order. The hearing examiner may order that a
14 deposition be taken by audiovisual means and allow the use of a recorded deposition
15 under s. 967.04 (7) to (10). If the parolee waives the final administrative hearing, the
16 secretary of corrections shall enter an order revoking or not revoking parole. If the
17 examiner, the administrator upon review, or the secretary in the case of a waiver
18 finds that the prisoner has violated the rules or conditions of parole, the examiner,
19 the administrator upon review, or the secretary in the case of a waiver, may order the
20 prisoner returned to prison to continue serving his or her sentence, or to continue on
21 parole. If the prisoner claims or appears to be indigent, the department shall refer
22 the prisoner to the authority for indigency determinations specified under s. 977.07
23 (1).

24 **SECTION 4.** 973.015 (1m) (a) 3. of the statutes is amended to read:

2021 - 2022 Legislature

- 4 -

LRB-1665/1
CMH:ekg&cjs
SECTION 4**BILL**

1 973.015 (1m) (a) 3. No court may order a record of conviction expunged under
2 this subsection if the person has, in his or her lifetime, been convicted of a separate
3 felony or a separate misdemeanor, including a conviction for which the record has
4 been expunged under this subsection. No court may order that a record of a
5 conviction for any of the following be expunged:

6 a. A Class H felony, if the person has, in his or her lifetime, been convicted of
7 a prior felony offense, or if the felony that is a violent offense, as defined in s. 301.048
8 (2) (bm), or is a violation of s. 940.32, 948.03 (2), (3), or (5) (a) 1., 2., 3., or 4., or 948.095.

9 b. A Class I felony, if the person has, in his or her lifetime, been convicted of a
10 prior felony offense, or if the felony that is a violent offense, as defined in s. 301.048
11 (2) (bm), or is a violation of s. 948.23 (1) (a).

12 **SECTION 5.** 973.015 (1m) (b) of the statutes is renumbered 973.015 (1m) (b) 1.
13 (intro.) and amended to read:

14 973.015 (1m) (b) 1. (intro.) A person has successfully completed the sentence
15 if all of the following apply:

16 a. The person has not been subsequently convicted of a subsequent offense and,
17 if misdemeanor or felony.

18 c. If the person was placed on probation, the probation has not been was not
19 revoked, the probationer did not violate any rule or condition of the probation, at
20 least one year has elapsed since the probationer was placed on probation, and the
21 probationer has satisfied the conditions of probation.

22 2. Upon successful completion of the sentence the detaining or probationary
23 authority shall issue a certificate of discharge which shall be forwarded to the court
24 of record and which shall have the effect of expunging the record. If the person has

2021 - 2022 Legislature

- 5 -

LRB-1665/1
CMH:ekg&cjs
SECTION 5**BILL**

1 been imprisoned, the detaining authority shall also forward a copy of the certificate
2 of discharge to the department.

3 **SECTION 6.** 973.015 (1m) (b) 1. b. of the statutes is created to read:

4 973.015 (1m) (b) 1. b. The person has no criminal charges pending.

5 **SECTION 7.** 973.10 (2) (intro.) of the statutes is amended to read:

6 973.10 (2) (intro.) If a probationer violates the conditions of probation, the
7 department of corrections may initiate a proceeding before the division of hearings
8 and appeals in the department of administration. If the probationer is charged with
9 a crime, the department shall recommend that the person's probation be revoked.

10 Unless waived by the probationer, a hearing examiner for the division shall conduct
11 an administrative hearing and enter an order either revoking or not revoking
12 probation. Upon request of either party, the administrator of the division shall
13 review the order. If the probationer waives the final administrative hearing, the
14 secretary of corrections shall enter an order either revoking or not revoking
15 probation. If probation is revoked, the department shall:

16 **SECTION 8. Initial applicability.**

17 (1) The treatment of ss. 302.113 (8m) (a), 302.114 (8m) (a), 304.06 (3), and
18 973.10 (2) (intro.) first applies to charges that are filed on the effective date of this
19 subsection.

20 (2) The treatment of s. 973.015 (1m) (a) 3. first applies to orders made at
21 sentencing on the effective date of this subsection.

22 (3) The renumbering and amendment of s. 973.015 (1m) (b) and the creation
23 of s. 973.015 (1m) (b) 1. b. first apply to determinations as to whether a person has

2021 - 2022 Legislature

- 6 -

LRB-1665/1

CMH:ekg&cjs

SECTION 8

BILL

1 successfully completed a sentence that are made on the effective date of this
2 subsection.

3 (END)

SUBSTITUTE RESOLUTION NO.: 133—2020-21

TO THE HONORABLE, THE OUTAGAMIE COUNTY BOARD OF SUPERVISORS

LADIES AND GENTLEMEN:

MAJORITY

1 There is pending legislation that would revoke extended supervision, parole, or probation if
2 a person already under supervision is charged with a new crime and prevent expungement
3 of a criminal record of a crime under certain circumstances.
4

5 The pending legislation would address the following:

- 6 • Restricts expungement in specific ways:
 - 7 ○ Someone previously found guilty of a crime, even if that particular
 - 8 crime has been expunged, would be ineligible for a future
 - 9 expungement because he or she has already proven he or she does not
 - 10 deserve the trust of the community.
 - 11 ○ Any technical rule violation or breaking any probation condition
 - 12 would disqualify an offender from being granted an expungement.
 - 13 ○ Expungement would not be allowed to be granted until one full year
 - 14 after completing a sentence. This year-long pause gives the offender
 - 15 an incentive to continue acting in good behavior and show that he or
 - 16 she is worthy of being granted an expungement.
- 17 • Requires that the Department of Corrections recommend revoking extended
- 18 supervision, parole, or probation for someone who has been charged with a
- 19 new crime while on release.
20

21 Currently, the Outagamie County Criminal Justice Treatment Services Department (CJTS)
22 manages county probation and alternative treatments as well as pre-trial and pre-charge
23 supervision with an overall focus on criminal justice reform. Additionally, CJTS leads the
24 Evidence Based Decision Making (EBDM) efforts for Outagamie County. If adopted, the
25 pending legislation would go against the last five years of work by Outagamie County's
26 Evidence Based Decision Making Team undertaken with the support of the Outagamie
27 County Board. The pending legislation has nuances that could easily lead to individuals
28 being sent back to prisons for relatively minor offenses, which in turn, could overflow the
29 prison system even more than the current situation does, causing additional cost to
30 taxpayers. The additional administrative burden that would be put on the Department of
31 Corrections (DOC) if this legislation were to pass is also of great concern.
32

33 This resolution recommends opposing pending legislation that would revoke extended
34 supervision, parole, or probation if a person already under supervision is charged with a new
35 crime and prevent expungement of a criminal record of a crime under certain circumstances.
36

NOW THEREFORE, the following resolution is presented by the Public Safety Committee to the County Board.

BE IT RESOLVED, that the Outagamie County Board of Supervisors opposes pending legislation that would revoke extended supervision, parole, or probation if a person already under supervision is charged with a new crime, and

BE IT FURTHER RESOLVED, that the Outagamie County Board of Supervisor opposes further limits on an offender's ability to obtain expungement of a crime, and

BE IT FINALLY RESOLVED, that the Outagamie County Clerk be directed to forward a copy of this resolution to the to the Wisconsin Counties Association and the Outagamie County Lobbyist for distribution to the State Senators and State Representatives representing Outagamie County and the Governor.

Dated this 23rd day of March 2021

Duly and officially adopted by the County Board on: March 23, 2021

Signed:


Board Chairperson


County Clerk

Approved:

3.24.21

Vetoed:

Signed:


County Executive



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-1665/1
CMH:ekg&cjs

2021 BILL

1 **AN ACT to renumber and amend** 973.015 (1m) (b); **to amend** 302.113 (8m) (a),
2 302.114 (8m) (a), 304.06 (3), 973.015 (1m) (a) 3. and 973.10 (2) (intro.); and **to**
3 **create** 973.015 (1m) (b) 1. b. of the statutes; **relating to:** recommendation to
4 revoke extended supervision, parole, or probation if a person is charged with a
5 crime and expunging a criminal record of a crime.

Analysis by the Legislative Reference Bureau

Under current law, a person who is released on extended supervision, parole, or probation is subject to conditions or rules of the release. If the person violates a condition or rule, the person is subject to sanctions for the violation, which may include revocation of release. This bill requires the Department of Corrections to recommend revoking a person's extended supervision, parole, or probation if the person is charged with a crime while on release.

Under current law, a sentencing court may order a person's criminal record expunged of a crime if the court determines that the person will benefit and society will not be harmed and if all of the following apply: 1) the maximum term of imprisonment for the crime is six years or less (Class H felony and below); 2) the person committed the crime before the age of 25; 3) if the crime is a felony, the person had not been previously convicted of a felony; and 4) the crime was not a violent felony. The bill adds that the court may not order the record expunged of a crime if the person had previously been convicted of a crime, including a crime for which the record had been expunged.

2021 - 2022 Legislature

- 2 -

LRB-1665/1
CMH:ekg&cjs**BILL**

Current law specifies that the expungement order must be made only at sentencing and then the record is not expunged until the person completes his or her sentence. Under current law, a person is not considered to have completed his or her sentence if the person has been convicted of a subsequent offense or, if on probation, the probation was revoked and the person has not satisfied all conditions of probation. The bill adds that a person has not completed his or her sentence if criminal charges are pending against the person or, if the person was on probation, the person violated any rule or condition of the probation or at least one year has not elapsed since being placed on probation.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 302.113 (8m) (a) of the statutes is amended to read:

2 302.113 (8m) (a) Every person released to extended supervision under this
3 section remains in the legal custody of the department. If the department alleges
4 that any condition or rule of extended supervision has been violated by the person,
5 the department may take physical custody of the person for the investigation of the
6 alleged violation. If the person is charged with a crime, the department shall
7 recommend that the person's extended supervision be revoked.

8 **SECTION 2.** 302.114 (8m) (a) of the statutes is amended to read:

9 302.114 (8m) (a) Every person released to extended supervision under this
10 section remains in the legal custody of the department. If the department alleges
11 that any condition or rule of extended supervision has been violated by the person,
12 the department may take physical custody of the person for the investigation of the
13 alleged violation. If the person is charged with a crime, the department shall
14 recommend that the person's extended supervision be revoked.

15 **SECTION 3.** 304.06 (3) of the statutes is amended to read:

2021 - 2022 Legislature

- 3 -

LRB-1665/1
CMH:ekg&cjs
SECTION 3**BILL**

1 304.06 (3) Every paroled prisoner remains in the legal custody of the
2 department unless otherwise provided by the department. If the department alleges
3 that any condition or rule of parole has been violated by the prisoner, the department
4 may take physical custody of the prisoner for the investigation of the alleged
5 violation. If the department is satisfied that any condition or rule of parole has been
6 violated, it shall afford the prisoner such administrative hearings as are required by
7 law. If the prisoner is charged with a crime, the department shall recommend that
8 the person's parole be revoked. Unless waived by the parolee, the final
9 administrative hearing shall be held before a hearing examiner from the division of
10 hearings and appeals in the department of administration who is licensed to practice
11 law in this state. The hearing examiner shall enter an order revoking or not revoking
12 parole. Upon request by either party, the administrator of the division of hearings
13 and appeals shall review the order. The hearing examiner may order that a
14 deposition be taken by audiovisual means and allow the use of a recorded deposition
15 under s. 967.04 (7) to (10). If the parolee waives the final administrative hearing, the
16 secretary of corrections shall enter an order revoking or not revoking parole. If the
17 examiner, the administrator upon review, or the secretary in the case of a waiver
18 finds that the prisoner has violated the rules or conditions of parole, the examiner,
19 the administrator upon review, or the secretary in the case of a waiver, may order the
20 prisoner returned to prison to continue serving his or her sentence, or to continue on
21 parole. If the prisoner claims or appears to be indigent, the department shall refer
22 the prisoner to the authority for indigency determinations specified under s. 977.07
23 (1).

24 **SECTION 4.** 973.015 (1m) (a) 3. of the statutes is amended to read:

2021 - 2022 Legislature

- 4 -

LRB-1665/1
CMH:ekg&cjs**BILL****SECTION 4**

1 973.015 (1m) (a) 3. No court may order a record of conviction expunged under
2 this subsection if the person has, in his or her lifetime, been convicted of a separate
3 felony or a separate misdemeanor, including a conviction for which the record has
4 been expunged under this subsection. No court may order that a record of a
5 conviction for any of the following be expunged:

6 a. A Class H felony, ~~if the person has, in his or her lifetime, been convicted of~~
7 ~~a prior felony offense, or if the felony that~~ is a violent offense, as defined in s. 301.048
8 (2) (bm), or is a violation of s. 940.32, 948.03 (2), (3), or (5) (a) 1., 2., 3., or 4., or 948.095.

9 b. A Class I felony, ~~if the person has, in his or her lifetime, been convicted of a~~
10 ~~prior felony offense, or if the felony that~~ is a violent offense, as defined in s. 301.048
11 (2) (bm), or is a violation of s. 948.23 (1) (a).

12 **SECTION 5.** 973.015 (1m) (b) of the statutes is renumbered 973.015 (1m) (b) 1.
13 (intro.) and amended to read:

14 973.015 (1m) (b) 1. (intro.) A person has successfully completed the sentence
15 if all of the following apply:

16 a. The person has not been subsequently convicted of a subsequent offense and,
17 if misdemeanor or felony.

18 c. If the person was placed on probation, the probation has not been was not
19 revoked, the probationer did not violate any rule or condition of the probation, at
20 least one year has elapsed since the probationer was placed on probation, and the
21 probationer has satisfied the conditions of probation.

22 2. Upon successful completion of the sentence the detaining or probationary
23 authority shall issue a certificate of discharge which shall be forwarded to the court
24 of record and which shall have the effect of expunging the record. If the person has

2021 - 2022 Legislature

- 5 -

LRB-1665/1
CMH:ekg&cjs
SECTION 5**BILL**

1 been imprisoned, the detaining authority shall also forward a copy of the certificate
2 of discharge to the department.

3 **SECTION 6.** 973.015 (1m) (b) 1. b. of the statutes is created to read:

4 973.015 (1m) (b) 1. b. The person has no criminal charges pending.

5 **SECTION 7.** 973.10 (2) (intro.) of the statutes is amended to read:

6 973.10 (2) (intro.) If a probationer violates the conditions of probation, the
7 department of corrections may initiate a proceeding before the division of hearings
8 and appeals in the department of administration. If the probationer is charged with
9 a crime, the department shall recommend that the person's probation be revoked.

10 Unless waived by the probationer, a hearing examiner for the division shall conduct
11 an administrative hearing and enter an order either revoking or not revoking
12 probation. Upon request of either party, the administrator of the division shall
13 review the order. If the probationer waives the final administrative hearing, the
14 secretary of corrections shall enter an order either revoking or not revoking
15 probation. If probation is revoked, the department shall:

16 **SECTION 8. Initial applicability.**

17 (1) The treatment of ss. 302.113 (8m) (a), 302.114 (8m) (a), 304.06 (3), and
18 973.10 (2) (intro.) first applies to charges that are filed on the effective date of this
19 subsection.

20 (2) The treatment of s. 973.015 (1m) (a) 3. first applies to orders made at
21 sentencing on the effective date of this subsection.

22 (3) The renumbering and amendment of s. 973.015 (1m) (b) and the creation
23 of s. 973.015 (1m) (b) 1. b. first apply to determinations as to whether a person has

2021 - 2022 Legislature

- 6 -

LRB-1665/1
CMH:ekg&cjs
SECTION 8

BILL

1 successfully completed a sentence that are made on the effective date of this
2 subsection.

3 (END)

RESOLUTION NO.: 133—2020-21

TO THE HONORABLE, THE OUTAGAMIE COUNTY BOARD OF SUPERVISORS

LADIES AND GENTLEMEN:

MAJORITY

1 There is pending legislation that would revoke extended supervision, parole, or probation if
2 a person is charged with a crime and expunge a criminal record of a crime.
3

4 The pending legislation would address the following:

- 5 • Restricts expungement in specific ways:
 - 6 ○ Someone found guilty of a previous crime, even if it is expunged,
 - 7 would be ineligible for expungement because they have already
 - 8 proven they don't deserve the trust of their communities.
 - 9 ○ Any technical rule violation or breaking any probation condition
 - 10 would disqualify a criminal from being granted an expungement.
 - 11 ○ Expungement would not be allowed to be granted until one full year
 - 12 after completing a sentence. This gives the criminal an incentive to
 - 13 continue acting in good behavior and show that he or she is worthy of
 - 14 expungement.
- 15 • Requires that the Department of Corrections recommend revoking extended
- 16 supervision, parole, or probation for someone who has been charged with a
- 17 new crime while on release.
- 18

19 Currently, the Outagamie County Criminal Justice Treatment Services Department (CJTS)
20 manages county probation and alternative treatments, pre-trial and pre-charge supervision
21 with an overall focus on criminal justice reform. Additionally, CJTS leads the Evidence
22 Based Decision Making (EBDM) efforts for Outagamie County. If adopted, the pending
23 legislation would go against the last five years of work by the Outagamie County Evidence
24 Based Decision Making Team. The pending legislation has nuances that could easily lead
25 to individuals being sent back to prisons for relatively minor offenses, which in turn, could
26 overflow the prison system even more than the current situation, causing additional cost to
27 taxpayers. There is concern on the administrative burden that would be put on the
28 Department of Corrections (DOC) if this legislation were to pass. The structure of the
29 pending legislation applies to individuals that are charged and not necessarily convicted
30 which would lead to disturbing individuals First Amendment Rights.
31

32 This resolution recommends opposing pending legislation that would revoke extended
33 supervision, parole, or probation if a person is charged with a crime and expunging a
34 criminal record of a crime.
35

36 NOW THEREFORE, the following resolution is presented by the Public Safety Committee to the

37 County Board.

BE IT RESOLVED, that the Outagamie County Board of Supervisors opposes pending legislation that would revoke extended supervision, parole, or probation if a person is charged with a crime, and

BE IT FURTHER RESOLVED, that the Outagamie County Board of Supervisor opposes further limits on ability for expungement of a crime, and

BE IT FINALLY RESOLVED, that the Outagamie County Clerk be directed to forward a copy of this resolution to the to the Wisconsin Counties Association and the Outagamie County Lobbyist for distribution to the State Senators and State Representatives representing Outagamie County and the Governor.

Dated this ____ day of March 2021

Duly and officially adopted by the County Board on: _____

Signed: _____
Board Chairperson County Clerk

Approved: _____ Vetoed: _____

Signed: _____
County Executive



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-1665/1
CMH:ekg&cjs

2021 BILL

1 **AN ACT** *to renumber and amend* 973.015 (1m) (b); *to amend* 302.113 (8m) (a),
2 302.114 (8m) (a), 304.06 (3), 973.015 (1m) (a) 3. and 973.10 (2) (intro.); and *to*
3 **create** 973.015 (1m) (b) 1. b. of the statutes; **relating to:** recommendation to
4 revoke extended supervision, parole, or probation if a person is charged with a
5 crime and expunging a criminal record of a crime.

Analysis by the Legislative Reference Bureau

Under current law, a person who is released on extended supervision, parole, or probation is subject to conditions or rules of the release. If the person violates a condition or rule, the person is subject to sanctions for the violation, which may include revocation of release. This bill requires the Department of Corrections to recommend revoking a person's extended supervision, parole, or probation if the person is charged with a crime while on release.

Under current law, a sentencing court may order a person's criminal record expunged of a crime if the court determines that the person will benefit and society will not be harmed and if all of the following apply: 1) the maximum term of imprisonment for the crime is six years or less (Class H felony and below); 2) the person committed the crime before the age of 25; 3) if the crime is a felony, the person had not been previously convicted of a felony; and 4) the crime was not a violent felony. The bill adds that the court may not order the record expunged of a crime if the person had previously been convicted of a crime, including a crime for which the record had been expunged.

2021 - 2022 Legislature

- 2 -

LRB-1665/1
CMH:ekg&cjs**BILL**

Current law specifies that the expungement order must be made only at sentencing and then the record is not expunged until the person completes his or her sentence. Under current law, a person is not considered to have completed his or her sentence if the person has been convicted of a subsequent offense or, if on probation, the probation was revoked and the person has not satisfied all conditions of probation. The bill adds that a person has not completed his or her sentence if criminal charges are pending against the person or, if the person was on probation, the person violated any rule or condition of the probation or at least one year has not elapsed since being placed on probation.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 302.113 (8m) (a) of the statutes is amended to read:

2 302.113 **(8m)** (a) Every person released to extended supervision under this
3 section remains in the legal custody of the department. If the department alleges
4 that any condition or rule of extended supervision has been violated by the person,
5 the department may take physical custody of the person for the investigation of the
6 alleged violation. If the person is charged with a crime, the department shall
7 recommend that the person's extended supervision be revoked.

8 **SECTION 2.** 302.114 (8m) (a) of the statutes is amended to read:

9 302.114 **(8m)** (a) Every person released to extended supervision under this
10 section remains in the legal custody of the department. If the department alleges
11 that any condition or rule of extended supervision has been violated by the person,
12 the department may take physical custody of the person for the investigation of the
13 alleged violation. If the person is charged with a crime, the department shall
14 recommend that the person's extended supervision be revoked.

15 **SECTION 3.** 304.06 (3) of the statutes is amended to read:

2021 - 2022 Legislature

- 3 -

LRB-1665/1
CMH:ekg&cjs
SECTION 3**BILL**

1 304.06 (3) Every paroled prisoner remains in the legal custody of the
2 department unless otherwise provided by the department. If the department alleges
3 that any condition or rule of parole has been violated by the prisoner, the department
4 may take physical custody of the prisoner for the investigation of the alleged
5 violation. If the department is satisfied that any condition or rule of parole has been
6 violated, it shall afford the prisoner such administrative hearings as are required by
7 law. If the prisoner is charged with a crime, the department shall recommend that
8 the person's parole be revoked. Unless waived by the parolee, the final
9 administrative hearing shall be held before a hearing examiner from the division of
10 hearings and appeals in the department of administration who is licensed to practice
11 law in this state. The hearing examiner shall enter an order revoking or not revoking
12 parole. Upon request by either party, the administrator of the division of hearings
13 and appeals shall review the order. The hearing examiner may order that a
14 deposition be taken by audiovisual means and allow the use of a recorded deposition
15 under s. 967.04 (7) to (10). If the parolee waives the final administrative hearing, the
16 secretary of corrections shall enter an order revoking or not revoking parole. If the
17 examiner, the administrator upon review, or the secretary in the case of a waiver
18 finds that the prisoner has violated the rules or conditions of parole, the examiner,
19 the administrator upon review, or the secretary in the case of a waiver, may order the
20 prisoner returned to prison to continue serving his or her sentence, or to continue on
21 parole. If the prisoner claims or appears to be indigent, the department shall refer
22 the prisoner to the authority for indigency determinations specified under s. 977.07
23 (1).

24 **SECTION 4.** 973.015 (1m) (a) 3. of the statutes is amended to read:

2021 - 2022 Legislature

- 4 -

LRB-1665/1

CMH:ekg&cjs

BILL**SECTION 4**

1 973.015 (1m) (a) 3. No court may order a record of conviction expunged under
2 this subsection if the person has, in his or her lifetime, been convicted of a separate
3 felony or a separate misdemeanor, including a conviction for which the record has
4 been expunged under this subsection. No court may order that a record of a
5 conviction for any of the following be expunged:

6 a. A Class H felony, ~~if the person has, in his or her lifetime, been convicted of~~
7 ~~a prior felony offense, or if the felony that~~ is a violent offense, as defined in s. 301.048
8 (2) (bm), or is a violation of s. 940.32, 948.03 (2), (3), or (5) (a) 1., 2., 3., or 4., or 948.095.

9 b. A Class I felony, ~~if the person has, in his or her lifetime, been convicted of a~~
10 ~~prior felony offense, or if the felony that~~ is a violent offense, as defined in s. 301.048
11 (2) (bm), or is a violation of s. 948.23 (1) (a).

12 **SECTION 5.** 973.015 (1m) (b) of the statutes is renumbered 973.015 (1m) (b) 1.
13 (intro.) and amended to read:

14 973.015 (1m) (b) 1. (intro.) A person has successfully completed the sentence
15 if all of the following apply:

16 a. The person has not been subsequently convicted of a subsequent offense and,
17 if misdemeanor or felony.

18 c. If the person was placed on probation, the probation has not been was not
19 revoked, the probationer did not violate any rule or condition of the probation, at
20 least one year has elapsed since the probationer was placed on probation, and the
21 probationer has satisfied the conditions of probation.

22 2. Upon successful completion of the sentence the detaining or probationary
23 authority shall issue a certificate of discharge which shall be forwarded to the court
24 of record and which shall have the effect of expunging the record. If the person has

2021 - 2022 Legislature

- 5 -

LRB-1665/1
CMH:ekg&cjs
SECTION 5**BILL**

1 been imprisoned, the detaining authority shall also forward a copy of the certificate
2 of discharge to the department.

3 **SECTION 6.** 973.015 (1m) (b) 1. b. of the statutes is created to read:

4 973.015 (1m) (b) 1. b. The person has no criminal charges pending.

5 **SECTION 7.** 973.10 (2) (intro.) of the statutes is amended to read:

6 973.10 (2) (intro.) If a probationer violates the conditions of probation, the
7 department of corrections may initiate a proceeding before the division of hearings
8 and appeals in the department of administration. If the probationer is charged with
9 a crime, the department shall recommend that the person's probation be revoked.

10 Unless waived by the probationer, a hearing examiner for the division shall conduct
11 an administrative hearing and enter an order either revoking or not revoking
12 probation. Upon request of either party, the administrator of the division shall
13 review the order. If the probationer waives the final administrative hearing, the
14 secretary of corrections shall enter an order either revoking or not revoking
15 probation. If probation is revoked, the department shall:

16 **SECTION 8. Initial applicability.**

17 (1) The treatment of ss. 302.113 (8m) (a), 302.114 (8m) (a), 304.06 (3), and
18 973.10 (2) (intro.) first applies to charges that are filed on the effective date of this
19 subsection.

20 (2) The treatment of s. 973.015 (1m) (a) 3. first applies to orders made at
21 sentencing on the effective date of this subsection.

22 (3) The renumbering and amendment of s. 973.015 (1m) (b) and the creation
23 of s. 973.015 (1m) (b) 1. b. first apply to determinations as to whether a person has

2021 - 2022 Legislature

- 6 -

LRB-1665/1
CMH:ekg&cjs
SECTION 8

BILL

1 successfully completed a sentence that are made on the effective date of this
2 subsection.

3 (END)

SUBSTITUTE

RESOLUTION NO.: 133—2020-21

TO THE HONORABLE, THE OUTAGAMIE COUNTY BOARD OF SUPERVISORS

LADIES AND GENTLEMEN:

MAJORITY

There is pending legislation that would revoke extended supervision, parole, or probation if a person already under supervision is charged with a new crime and prevent expungement of expunge a criminal record of a crime under certain circumstances.

The pending legislation would address the following:

- Restricts expungement in specific ways:
 - Someone previously found guilty of a previous crime, even if that particular crime has been ~~it is~~ expunged, would be ineligible for a future expungement because he or she has ~~they have~~ already proven he or she does not ~~they don't~~ deserve the trust of the community ~~their communities~~.
 - Any technical rule violation or breaking any probation condition would disqualify an offender ~~a criminal~~ from being granted an expungement.
 - Expungement would not be allowed to be granted until one full year after completing a sentence. This year-long pause gives the offender ~~criminal~~ an incentive to continue acting in good behavior and show that he or she is worthy of being granted an expungement.
- Requires that the Department of Corrections recommend revoking extended supervision, parole, or probation for someone who has been charged with a new crime while on release.

Currently, the Outagamie County Criminal Justice Treatment Services Department (CJTS) manages county probation and alternative treatments, as well as pre-trial and pre-charge supervision with an overall focus on criminal justice reform. Additionally, CJTS leads the Evidence Based Decision Making (EBDM) efforts for Outagamie County. If adopted, the pending legislation would go against the last five years of work by ~~the~~ Outagamie County's Evidence Based Decision Making Team undertaken with the support of the Outagamie County Board. The pending legislation has nuances that could easily lead to individuals being sent back to prisons for relatively minor offenses, which in turn, could overflow the prison system even more than the current situation does, causing additional cost to taxpayers. The additional ~~There is concern on the~~ administrative burden that would be put on the Department of Corrections (DOC) if this legislation were to pass is also of great concern. ~~The structure of the pending legislation applies to individuals that are charged and not necessarily convicted which would lead to disturbing individuals First Amendment Rights.~~

This resolution recommends opposing pending legislation that would revoke extended supervision, parole, or probation if a person already under supervision is charged with a new crime and prevent expungement of expunging a criminal record of a crime under certain circumstances.

NOW THEREFORE, the following resolution is presented by the Public Safety Committee to the County Board.

BE IT RESOLVED, that the Outagamie County Board of Supervisors opposes pending legislation that would revoke extended supervision, parole, or probation if a person already under supervision is charged with a new crime, and

BE IT FURTHER RESOLVED, that the Outagamie County Board of Supervisor opposes further limits on an offender's ability to obtain for expungement of a crime, and

BE IT FINALLY RESOLVED, that the Outagamie County Clerk be directed to forward a copy of this resolution to the to the Wisconsin Counties Association and the Outagamie County Lobbyist for distribution to the State Senators and State Representatives representing Outagamie County and the Governor.

Dated this ____ day of March 2021

Duly and officially adopted by the County Board on: _____

Signed: _____
Board Chairperson County Clerk

Approved: _____ Vetoed: _____

Signed: _____
County Executive