

Second Chance Expungement Clinic

Presented by: Law Office of Odalo J. Ohiku



Expungement Checklist:

FILING FEE:

- \$0

FORMS AND COPIES NEEDED:

- Petition to Expunge Criminal Court Record of Conviction-Non-Probation/Non-Incarceration (*original + 2 copies*)
- Personal Letter Requesting Expungement (*original + 2 copies*)
- Certificate of Discharge (*original + 2 copies*)

DISTRIBUTION OF COPIES:

- Keep a copy of each document for yourself. The original and the other copy you will file with the Clerk of Circuit Court.

HOW TO FILE THE EXPUNGEMENT PAPERWORK:

- Take all the completed forms (original and copy) to the Clerk of Circuit Court Room 117, or send it by mail to Clerk of Circuit Court, Criminal Division Post Conviction Unit, 821 W. State Street, Room 117, Milwaukee, WI 53233.

AFTER FILING:

- You must wait for the court to process the expungement paperwork. A final decision of approval or denial will be sent directly to you by mail.
- There is no exact timeline of when a decision will be made. However, if you have not heard anything after six months, follow-up with the Clerk of Circuit Court.

Second Chance Expungement Clinic

Hosted by: Law Office of Odalo J. Ohiku



Frequently Asked Questions

1. *What is Second Chance Expungement Clinic?*

- An annual expungement clinic hosted by Law Office of Odalo J. Ohiku with the primary goal of helping Milwaukee residents remove a criminal conviction from their court record.

2. *What is expungement?*

- “Expunging” a criminal record means removing all references to a person’s name and identity associated with a criminal conviction from the court record.
- It is as if the criminal conviction disappears.

3. *What is the difference between sealing a record and expunging a record?*

- Sealing a criminal record does NOT remove a criminal conviction from the court record. Sealing a criminal record "hides" information contained in the court record from view of the general public. Expunging a criminal record removes a criminal conviction from the court record as well as all references to a person’s name and identity.

4. *What is the difference between a pardon and expungement?*

- A pardon essentially “forgives” a person convicted of a crime. Once a pardon is granted, all punishments and/or remaining penalties are removed and any new prosecution of the person for that crime is prevented. In Wisconsin, the governor has the power to grant a pardon, but currently the pardon process has been suspended indefinitely.
- A pardon does NOT remove the conviction from the court record, meaning, the record is still accessible both at the clerk of courts office and the WCCA “CCAP” website. Expungement removes the conviction from the court record as well as all references to a person’s name and identity associated with that particular conviction from the WCCA “CCAP” website.

5. *Who qualifies for expungement?*

- *Each state legislature has its own criteria for expungement eligibility. In Wisconsin, to be eligible for expungement you must meet ALL of the following criteria:*

- **UNDER** the age of **25** when you committed the offense
- You committed an offense for which the maximum period of imprisonment for the offense is 6 years or less
- Found eligible for expungement at the time of sentencing
- Convicted of **non-violent CLASS H or I felony or Misdemeanor**
- You have only **ONE** felony conviction
 - If you have one felony conviction and one misdemeanor, you are still eligible as long as you meet the rest of the criteria.
- Your felony case concluded **ON or AFTER 7/1/2009**
 - This date does NOT apply to misdemeanors.
 - If your felony case concluded **BEFORE 7/1/2009** you are not eligible for expungement. **BEFORE 7/1/2009**, only misdemeanors were eligible for expungement and you had to be **UNDER** the age of **21** when you committed the offense
- You have successfully completed your sentence
- If you were placed on probation, you satisfied ALL the conditions of your probation
- You received a Discharge Certificate

6. What is the difference between a felony and misdemeanor?

- A **felony** is a serious criminal offense. A **misdemeanor** is a criminal offense that is considered “less serious” than a felony.

7. What are Class H and Class I felonies?

- There are a number of Class H and Class I felonies. For a complete list consult the Wisconsin statutes <http://legis.wisconsin.gov/> . It is important to note only **non-violent** Class H and Class I felonies and misdemeanors are eligible for expungement. A few common non-violent Class H and I felonies are:

- Class H

- 1. Failure to Comply with Sex Offender Registry
- 2. Operating While Intoxicated, 4th Offense
- 3. Delivery of Controlled Substance
- 4. Theft (\$5,000-\$10,000)
- 5. Operating Motor Vehicle without Owner's Consent
- 6. Retail Theft (\$5,000-\$10,000)
- 7. Escape from Custody
- 8. Felony Bail Jumping
- 9. Possession with Intent to Deliver

- Class I

- 1. Possession of Controlled Substance, 2nd Offense
- 2. Fleeing an Officer
- 3. Theft (\$2,000-\$5,000)
- 4. Issuing Worthless Check
- 5. Receiving Stolen Property (value \$2,500-\$5,000)
- 6. Retail Theft (\$500-\$5,000)
- 7. Failure to Support a Child (for a 120 days or more)
- 8. Keeping a Drug House

8. How do I know what type of felony I have?

- You can review information about your case on Wisconsin Circuit Court Access (WCCA) "CCAP." <https://wcca.wicourts.gov/index.xsl>

9. If the charges against me were dismissed, can I still get my record expunged?

- No. Expungement is only for criminal convictions or if you were adjudicated as a juvenile delinquent. A dismissed case means you were NOT convicted. Likewise, if you were charged with a crime and found NOT GUILTY, you were NOT convicted.

10. If I was arrested but never charged, can the court expunge that information?

- No. Expungement applies to criminal convictions, BUT you may be able to have the information removed from the Wisconsin Criminal History Repository. Removing the arrest record from the repository does not remove the information from other agencies.

11. What is an arrest record?

- "Includes, but is not limited to, information indicating that an individual has been questioned, apprehended, taken into custody or detention, held for investigation, arrested, charged with, indicted or tried for any felony, misdemeanor or other offense." (Wisconsin Statute 111.32)

12. Can I erase my arrest record?

- You may qualify for removal of your arrest record if you were arrested and:
 - Found NOT GUILTY,
 - The charges were dismissed by the court or prosecutor, OR
 - No charges were filed by the prosecutor

13. After I complete all the paperwork, can I still be denied expungement?

- Yes, unfortunately. Some of the common factors for denial are:
 - Pending arrest(s)
 - Previous expungement granted
 - You do not meet all the criteria mentioned previously
 - It is not deemed to be in the best interests of society

14. If my record is expunged, do I ever have to admit that I have a criminal record?

- Expungement restores you to the status you had before the conviction, so NO.

15. How long is the expungement process?

- There isn't a strict timeline between the time you submit the expungement paperwork and when an approval or denial is issued. The time depends on how long it takes the court to process all paperwork. You will receive notice of approval or denial directly from the court.

16. What if I have a conviction in another state, but now live in Wisconsin? Can I get my out-of-state conviction expunged in Wisconsin?


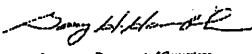
- No. You must apply for expungement in the court in which you were convicted. For example, if you were convicted in Chicago, but now live in Milwaukee, you must apply for expungement in the Chicago court where you were convicted.

17. What should I bring the day of the clinic?

- Your Discharge Certificate from your probation officer
- Your ID

18. What is a Discharge Certificate?

- A document that confirms you have successfully completed your sentence.
- An example of a Discharge Certificate is below:

<small>Steve Walker Director Gregory H. Hamblett Secretary</small>	 State of Wisconsin Department of Corrections	<small>Shipping Address 3090 E. Washington Ave. P.O. Office Box 7212 Madison, WI 53707-7212 Telephone (608) 243-9000 Fax (608) 243-3300</small>
DISCHARGE CERTIFICATE		
WISCONSIN DEPARTMENT OF CORRECTIONS		
<p>You were placed on probation on July 15, 2010 by the Circuit Court of MILWAUKEE County, Court Case # 039 05, 043.1001M(A)</p> <p>The Department having determined that you have satisfied said judgment, it is ordered that effective July 15, 2012, you are discharged from said judgment only.</p> <p>Persons committing crimes after April 9, 1990 may have a civil judgment issued for any unpaid restitution.</p>		
<small>07/26/2012 Date Signed</small>		<small>Secretary - Department of Corrections</small>

19. What can I do if I'm not eligible for expungement?

- Call your state legislators about: 1) expanding expungement eligibility to include other classes of felonies and 2) making the law retroactive to include more people eligible for expungement.

20. Who can I contact if I have any questions about the clinic?

- You can call our clinic at 414-395-8061 or visit getmyssecondchance.com.

Scott Walker
Governor

Gary H. Hamblin
Secretary

IONS-



Mailing Address

3099 E. Washington Ave.
Post Office Box 7925
Madison, WI 53707-7925
Telephone (608) 240-5000
Fax (608) 240-3300

State of Wisconsin
Department of Corrections

DISCHARGE CERTIFICATE

WISCONSIN Name #f (case) WISCONSIN

You were placed on probation on July 15, 2010 by the Circuit Court of MILWAUKEE County, Court Case # after being found guilty of violating the Wisconsin Statutes sections(s):

939.05, 943.10(1M)(A)

The department having determined that you have satisfied said judgment, it is ordered that effective July 15, 2012, you are discharged from said judgment only.

Persons committing crimes after April 9, 1990 may have a civil judgment issued for any unpaid restitution.

07/23/2012

Date Signed

Handwritten signature of Gary H. Hamblin in black ink.

Secretary - Department of Corrections

Sentencing Reforms Can Help Save Our Communities

Attorney Odalo J. Ohiku, Law Office of Odalo J. Ohiku

As an African-American who is a practicing criminal defense attorney, with a beautiful wife who is in law enforcement and a brother who is incarcerated, I know first-hand the devastation that follows from high incarceration rates. Wisconsin has the highest incarceration rates of African-American men in the nation, with more than half of Milwaukee County's African-American men in their thirties having served time in prison. It is a moral imperative that all stakeholders collaborate to eliminate racial disparities throughout our criminal court system from start to finish.

What Can Be Done?

1) Prevention

A critical component of sentencing reform starts with preventing individuals from traveling the road that leads to court appearances for sentencing in the first place. From my mother, a dedicated teacher with more than 30 years of service, I learned the value and long-term effects of a good, solid education. A good education brings opportunities and greater exposure to resources that individuals will be loath to squander. Moreover, education gives individuals a sense of self-worth and accomplishment.

For example, a program that helped me as a young teen was the Evans Scholars program. The Evans Scholars Foundation provides full academic scholarships to selected colleges and universities (including Marquette and UW-Madison) for individuals whom have at least a B average in high school through their junior year, outstanding character, and financial need, and who have worked as a golf caddy for at least two years. When I started, I did not have a clue about being a golf caddy, but I learned. I earned the Evans Scholarship to Marquette and saved a good deal of my golf caddy earnings along the way. A high quality education empowers individuals to seek out positive experiences.

2) Diversion

Once an individual has been brought under the jurisdiction of the criminal court system, we should continue to focus on prevention through diversion. Where appropriate, prosecutors and defense attorneys should work in tandem throughout the pre-charging phase to determine whether a person (excluding those charged with violent offenses) should be formally charged with a crime. For many, the sheer process of being arrested and spending several days in jail is a sufficient jolt to their systems to correct their behavior. Tenets of this approach are prevalent in the concept of dosage probation—namely, giving an individual the “dose” of probation needed to correct behavior.

When formally charging an individual with a crime cannot be avoided, prosecutors and defense attorneys should work together to determine whether diversionary programs, such as deferred prosecution agreements and first-time offender programs, are appropriate. Under these options, an individual enters into a contract with the prosecutor requiring him or her to fulfill certain conditions. Upon successfully completing the conditions, the case is either dismissed entirely or the charge is amended from a felony to a misdemeanor.

Furthermore, individuals with drug treatment or mental health needs should be screened and diverted to specialty courts such as drug treatment and mental health courts. Both of these specialty courts divert non-violent individuals from jail to treatment. Upon successful completion of the specialty court program, the case is either dismissed entirely or the charge amended from a felony to a misdemeanor.

3) Restoration

If an individual is ineligible for prevention or diversion, our focus should shift to restoration. We must institute mechanisms for restoring the individual's ability to overcome collateral consequences of a criminal conviction, such as expunging the court record. For certain offenses committed by individuals 25 or younger, a court may order at the time of sentencing that the individual's record be expunged upon successful completion of the sentence. Our legislature should look into widening the net of those eligible for expungement. Additionally, our legislature should give deep thought to determining whether our current expungement statute should apply retroactively to include individuals sentenced before July 1, 2009. Prior to that date, a court could only expunge the court record if it was for a misdemeanor offense and the individual was under 21.

These are but a few of my thoughts. Sometimes I ponder whether stakeholders should be required to spend a night in prison to get a “real feel” for what it is to serve a sentence—not to punish stakeholders but rather to provide keen insight into decisions in which they play an essential role.

In an election year with political pundits pushing propaganda plus promises, let us avoid the hype and hone in on what has proven to work. I am in our criminal courts system day in and day out. Prevention, diversion, and restoration work—each producing tangible, direct results. Last September, I hosted the Second Chance Expungement Clinic at the Milwaukee Bar Association. I am happy to report that we helped a number of people with either expunging court records or removing arrest records. Today, some of them are gainfully employed and serve as living proof that this process works.

Parole eligibility is not a statutorily or constitutionally necessary component of a...
Wis. 2d 702, 594 N.W.2d 388 (Cl. App. 1999), 97-3217.
State v. Byrge, 225

793.015 Special disposition. (1m) (a) 1. Subject to subd. 2. and except as provided in subd. 3., when a person is under the age of 25 at the time of the commission of an offense for which the person has been found guilty in a court for violation of a law for which the maximum period of imprisonment is 6 years or less, the court may order at the time of sentencing that the record be expunged upon successful completion of the sentence if the court determines the person will benefit and society will not be harmed by this disposition. This subsection does not apply to information maintained by the department of transportation regarding a conviction that is required to be included in a record kept under s. 343.23 (2) (a).

2. The court shall order at the time of sentencing that the record be expunged upon successful completion of the sentence if the offense was a violation of s. 942.08 (2) (b), (c), or (d), and the person was under the age of 18 when he or she committed it. 3. No court may order that a record of a conviction for any of the following be expunged:

- a. A Class H felony, if the person has, in his or her lifetime, been convicted of a prior felony offense, or if the felony is a violent offense, as defined in s. 301.048 (2) (bm), or is a violation of s. 940.32, 948.03 (2) or (3), or 948.095.
- b. A Class I felony, if the person has, in his or her lifetime, been convicted of a prior felony offense, or if the felony is a violent offense, as defined in s. 301.048 (2) (bm), or is a violation of s. 948.23 (1) (a).

(b) A person has successfully completed the sentence if the person has not been convicted of a subsequent offense and, if on probation, the probation has not been revoked and the probationer has satisfied the conditions of probation. Upon successful completion of the sentence the detaining or probationary authority shall issue a certificate of discharge which shall be forwarded to the court of record and which shall have the effect of expunging the record. If the person has been imprisoned, the detaining authority shall also forward a copy of the certificate of discharge to the department.

(2m) At any time after a person has been convicted, adjudicated delinquent, or found not guilty by reason of mental disease or defect for a violation of s. 944.30, a court may, upon the motion of the person, vacate the conviction, adjudication, or finding, or may order that the record of the violation of s. 944.30 be expunged, if all of the following apply:

- (a) The person was a victim of trafficking for the purposes of commercial sex act, as defined in s. 940.302 (1) (a), under s. 940.302 or 948.051 or under 22 USC 7101 to 7112.
- (b) The person committed the violation of s. 944.30 as a result of being a victim of trafficking for the purposes of a commercial sex act.
- (c) The person submitted a motion that complies with s. 971.50, that contains a statement of facts and, if applicable, the reason the person did not previously raise an affirmative defense under s. 939.46 or allege that the violation was committed as a commercial sex act, and that may include any of the following:

1. Certified records of federal or state court proceedings.
2. Certified records of approval notices, law enforcement certifications, or similar documents generated from federal immigration proceedings.
3. Official documentation from a federal, state, or local government agency.
4. Other relevant and probative evidence of sufficient credibility in support of the motion.

(d) The person made the motion with due diligence subject to reasonable concern for the safety of himself or herself, family or, at the direction of, or in association with any criminal gang, as

301.048 (2) (bm) Statutorily Defined Violent Offenses, Not Eligible for Expungement

Class H and I Felony List, Not Eligible for Expungement

- 940.19(3) Battery—Substantial Bodily Harm
- 940.195(3) Battery—Substantial Bodily Harm to Unborn Child
- 943.23(1r) Possessing Dangerous Weapon, Takes Vehicle, Causes Death of Another
- 940.01 First Degree Intentional Homicide
- 940.02 First Degree Reckless Homicide
- 940.03 Felony Murder
- 940.05 Second Degree Intentional Homicide
- 940.06 Second Degree Reckless Homicide
- 940.08 Homicide by Negligent Handling of Dangerous Weapon, Explosives, Fire
- 940.09 Homicide, Intoxicated Use of Vehicle or Firearm
- 940.10 Homicide, Negligent Operation of Vehicle
- 940.19(4) Battery—Great Bodily Harm w/Intent to Cause Bodily Harm
- 940.19(5) Battery—Great Bodily Harm w/Intent to Cause Great Bodily Harm
- 940.195(4) Battery—Great Bodily Harm Unborn Child w/Intent to Cause Bodily Harm
- 940.195(5) Battery—Great Bodily Harm Unborn Child w/Intent to Cause Great Bodily Harm
- 940.20 Battery by Prisoner
- 940.201 Battery or Threat to Witnesses
- 940.203 Battery or Threat to Judge
- 940.21 Mayhem
- 940.225(1) First Degree Sexual Assault
- 940.225 (2) Second Degree Sexual Assault
- 940.225(3) Third Degree Sexual Assault
- 940.23 Reckless Injury
- 940.235 Strangulation/Suffocation
- 940.285(2)(a)1 Abuse of Individual at Risk—Intentionally Subject to Abuse
- 940.285(2)(a)2 Abuse of Individual at Risk—Recklessly Subject to Abuse
- 940.29 Abuse of Residents of Penal Facilities
- 940.295(3)(b)1g Abuse, Neglect of Patients/Residents—Cause Death
- 940.295(3)(b)1m Abuse, Neglect of Patients/Residents—Cause Great Bodily Harm
- 940.295(3)(b)1r Abuse, Neglect of Patients/Residents—Likely to Cause Great Bodily Harm
- 940.295(3)(b)2 Abuse, Neglect of Patients/Residents—Bodily Harm Likely to Cause Bodily Harm
- 940.295(3)(b)3 Abuse, Neglect Patients/Residents—Great Bodily Harm Likely to Cause Great Bodily Harm
- 940.31 Kidnapping
- 940.43(1)-(3) Intimidation of Witness
- 940.45(1)-(3) Intimidation of Victim
- 941.20(2)-(3) Endangering Safety Use of Dangerous Weapon
- 941.20(2) Endangering Safety, Discharge Firearm into Vehicle or Building
- 941.20(3) Endangering Safety, Discharge Firearm from Vehicle while on Highway

941.26	Use of Machine Gun, Possess, Sell, Transport
941.30	First Degree Recklessly Endangering Safety
941.327	Tampering w/Household Products
943.01(2)(c)	Damage to Property of Grand or Petit Jury Member
943.011	Damage or Threat to Property of Witness
943.013	Criminal Damage or Threat to Property of Judge
943.02	Arson—Fire or Explosives
943.04	Arson—Intent to Defraud
943.06	Molotov Cocktails—Firebomb
943.10(2)	Burglary—Armed w/Dangerous Weapon, Arms Self while in Enclosure
943.23(1g)	Operating Vehicle w/o Owner's Consent—Possessing Dangerous Weapon
943.30	Threats to Injure of Accuse of Crime
943.32	Robbery
946.43	Assault by Prisoner
947.015	Bomb Scares
948.02(1)	First Degree Sexual Assault of Child
948.02(2)	Second Degree Sexual Assault of Child
948.025	Repeated Acts of Sexual Assault of Same Child
948.03	Physical Abuse of Child
948.04	Mental Harm to Child
948.05	Sexual Exploitation of Child
948.051	Trafficking of Child
948.06	Incest w/Child
948.07	Child Enticement
948.08	Soliciting Child for Prostitution
948.085	Sexual Assault of Child in Foster Care
948.30	Abduction of Another's Child
940.32	Stalking (non-eligible Class H Felony)
948.03(2)-(3)	Physical Abuse of Child (non-eligible Class H Felony)
948.095	Sexual Assault of Child by School Staff (non-eligible Class H Felony)
948.23(1)(a)	Concealing or Not Reporting Death of Child (non-eligible Class I Felony)



journalmediagroup



Supreme Court grants expungement to young pot offender, reversing Court of Appeals

By Bruce Vielmetti of the Journal Sentinel
Dec. 18, 2014

A young Brookfield man who successfully completed his probation was automatically entitled to have his marijuana conviction expunged, as a judge originally granted, despite his later arrest that led the judge to change her mind.

The Wisconsin Supreme Court on Thursday reversed lower courts that had decided Kearney Hemp had missed his chance. The court had heard oral arguments in the case last month in Waukesha, as part of its annual Justice on Wheels program to bring court operations around the state.

In its ruling, the high court found that now-retired Milwaukee County Circuit Judge Jean DiMotto improperly exercised her discretion when she reversed the decision she made at sentencing to find Hemp, 24, eligible for expungement.

Wisconsin allows people under 25 to expunge convictions for offenses that carry no more than a six-year prison term as a maximum sentence.

Hemp pleaded guilty in 2010 to a single felony count of possession with intent to distribute marijuana. He was sentenced to 30 days in jail and other conditions of an 18-month term of probation. DiMotto ordered expungement upon successful completion of the probation. By December 2011, Hemp finished the probation successfully.

But it wasn't until late 2012 that Hemp's lawyer filed a form seeking expungement. By that time, Hemp was facing new charges in Walworth County of drunken driving and possessing marijuana.

The new charges prompted DiMotto to ask Hemp to explain why he should get the prior conviction expunged. Unsatisfied with the answer, she denied the expungement, and Hemp appealed.

Hemp's attorney argued that the law doesn't require the extra petition for expungement, that it was granted at sentencing and became effective without extra steps by the defendant, when he successfully completes the probation.

Find this article at:

<http://www.jsonline.com/blogs/news/286221761.html>

In this situation, you may be able to have certain information removed from the Wisconsin Criminal History Repository. Contact CIB to get a special form for this request. Even if CIB removes information from the repository, that does not remove information from other agency records.

I Was Arrested But Never Charged. Can The Court Expunge That Information?

No. If you were never charged with a crime, the circuit court does not have a criminal case record to expunge. If you were arrested but never formally charged, you may be able to have certain information about your arrest removed from the Wisconsin Criminal History Repository by submitting a special form to the CIB. Again, removing information from the repository does not remove information from other agency records.

Is A Governor's Pardon The Same Thing As Getting My Case Expunged?

No. A governor's pardon does not expunge your court record. If you receive a governor's pardon, the court will add a notation to your court record indicating that a pardon was granted for your case. However, your record will not be sealed and the file will still be accessible both at the clerk of courts office and on the WCCA website. A pardon will not remove your record from the Wisconsin Criminal History Repository.

How Do I Find More Information About The Wisconsin Criminal History Repository?

Visit the Wisconsin Department of Justice website at www.doj.state.wi.us/ and search for "background check". There you will find information about how to remove your arrest information at CIB, forms, and answers to frequently asked questions about criminal records.

<http://www.doj.state.wi.us/dles/cib/background-check-criminal-history-information>.

Additional information can be found at:

Wisconsin Circuit Court Access Website:
<http://wcca.wicourts.gov/>

Wisconsin Court System
www.wicourts.gov

Wisconsin Department of Justice: www.doj.state.wi.us/

Wisconsin State Bar: www.wisbar.org

Department of Workforce Development Fact Sheet
"Arrest and Conviction Records under the Law":
http://dwd.wisconsin.gov/dwd/forms_publications_search.htm

Wisconsin Statutes:
<http://legis.wisconsin.gov/rsb/stats.html>

*This brochure was created by:
Director of State Courts Office
Office of Court Operations
110 East Main, Suite 410
Madison, WI 53703*

Expunging Court Records: Helpful Information and Frequently Asked Questions

April 2015

Expunging Court Records

What Does It Mean When the Court Expunges a Record?

When a court record is expunged, the court will seal the entire criminal case file and will not allow anyone to access the file without a court order. If someone asks the court about the case, the person will be told that no other information is available. On the Wisconsin Circuit Court Access (WCCA) website, a search for the defendant's name or case number will not return the case.

Is My Record Eligible For Expungement?

The circuit court can expunge criminal records in three circumstances:

1) For certain crimes committed by youthful offenders where the sentence is successfully completed (See Wisconsin Statute § 973.015). Eligibility for expungement must be approved by the court at the time of sentencing. The court must find that you will benefit and society will not be harmed by expunging the record.

For sentences imposed on or after July 1, 2009, the record of your conviction may be expunged if you were under age 25 at the time of the offense and if the maximum punishment for the crime was 6 years or less. Some offenses are excluded, and felony offenders are not eligible if they have a prior felony conviction. See Wis. Stat. § 973.015(1m)(a) for details. If you were sentenced before July 1, 2009, the record of your conviction may be expunged if you were under age 21 at the time of the offense and if the crime was a misdemeanor.

2) For juvenile cases where the offender has reached age 17 and has satisfactorily complied with the conditions of the dispositional order. See Wis. Stat. §

938.355(4m). In deciding whether to expunge the record of your juvenile adjudication, the court will determine whether you satisfactorily complied with the conditions of your dispositional order. The court must also find that you will benefit and society will not be harmed by the expungement.

3) If you committed a commercial sex act as a victim of human trafficking. See Wis. Stat. § 973.015(2m).

Other than these three situations, a judge has no authority to expunge other types of cases. For example, the statute does not allow the judge to expunge the record of traffic citations, civil or small claims cases.

What Do I Have To Do To Get My Criminal Record Expunged?

What steps you need to take depends on your situation:

1) If you were placed on probation or sentenced to serve time in jail or prison, and you have successfully completed your sentence, the clerk will expunge the record of your conviction. Successful completion of a sentence means that you have not been convicted of a subsequent offense, your probation was not revoked, and the conditions of your probation have been satisfied. Your probation agent or correctional institution will send a certificate of discharge to the clerk of circuit court. If no certificate was filed with the court, you should contact your probation agent or the correctional institution to request the certificate.

2) If you did not serve any time in jail or prison and were not placed on probation (for example, if you were only sentenced to pay a fine or restitution), you may request the court to expunge the record when your sentence is successfully completed. Circuit court form CR-266 can be used to request expungement of the court record in this situation.

3) In order to have your juvenile record expunged, you must petition the court. Form JD-1780 is available for this purpose.

Circuit court forms are posted on the court's website at <http://wicourts.gov/forms/circuit/index.htm>.

My Record Was Expunged. Does That Mean That No One Will Find Out About My Case?

No. Although your case was expunged and your court record sealed, the judge's order does not reverse or set aside your conviction. An expungement order only affects whether the conviction is accessible through court records. It does not affect the records kept by other criminal justice agencies.

The Crime Information Bureau (CIB), which is part of the Wisconsin Department of Justice, operates the Wisconsin Criminal History Repository. The repository maintains a record of all convictions regardless of whether the court expunged your record. Anyone can make a request for this information, and employers, schools and licensing agencies often run background checks of applicants this way. For this reason, you may want to consider explaining the circumstances of your case and why the court record of the conviction was expunged.

Additionally, the case may still exist in the records of the district attorney, law enforcement, the Department of Transportation, and other agencies. The judge has no authority to require removal of those agency records. Even if your court record has been expunged, anyone who asks for information about your conviction from another agency may be able to obtain it.

The Charges Against Me Were Dismissed. Can I Still Get My Record Expunged?

No. A court can only expunge the record if you were convicted of a criminal offense or adjudicated as a juvenile delinquent. If your case was dismissed, or if you were charged with a crime and found not guilty, you were not convicted.

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY

For Official Use

IN THE INTEREST OF

**Petition to Expunge Court
Record of Adjudication/
Recommendation of
District Attorney**

Name

Case No. _____

Date of Birth

Under oath to tell the truth I state:

1. I am the person adjudicated delinquent in this case. I am asking that the court's record of my adjudication be expunged. I understand that if the record is expunged:
 - only the court record of the adjudication will be expunged;
 - other court records, records of the police, the Crime Information Bureau, and other law enforcement agencies, district attorney, or social services will not be affected;
 - expungement does not mean that the delinquency adjudication is vacated or set aside, only that no record of the adjudication will exist in this court's records.
2. I am now 17 years of age or older.
3. I have satisfactorily completed all provisions of the court's dispositional order in this case, including any revisions or modifications of same.
4. Society will not be harmed by granting my request to expunge the record of the adjudication
5. It will benefit me to have the record of the adjudication expunged.

State of _____

County of _____

Subscribed and sworn to before me on _____

Notary Public/Court Official

Name Printed or Typed

My commission/term expires: _____

Signature of Petitioner

Name Printed or Typed

Address (Street, City, State, Zip)

Phone Number

Instruction to petitioner: Before filing with the court, please have the district attorney involved in your case complete the recommendation below. Depending on the district attorney's recommendation, the court may or may not schedule a hearing in this matter before making a decision.

Recommendation of District Attorney

- 1. I support the petition.
- 2. I object to the petition and request that this matter be set for a hearing on the petition.

DISTRIBUTION:

1. Original - Court
2. Petitioner
3. District Attorney

District Attorney

Date



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

DJ-LE-250B (Rev. 1/09)

DIVISION OF LAW ENFORCEMENT SERVICES
Crime Information Bureau

17 West Main Street.
PO Box 2718
Madison WI 53701-2718
608/266-7314

FINGERPRINT RECORD REMOVAL REQUEST

This form is used to request the removal of a fingerprint record pursuant to Wisconsin Statute 165.84(1). The use of this form is intended to safeguard the rights of the signatory and to ensure proper record removal. A legible inked fingerprint impression is mandatory and is used to verify identity of the signatory with the record, should one exist. Any law enforcement agency can assist in providing the inked, rolled fingerprint impression. If the right index finger is injured, etc., provide the impression of another finger, but clearly designate which finger was used for the rolled impression. This form may not be submitted by fax.

If you are requesting removal of a record consistent with completion of a first offender school (deferred prosecution), evidence of successful completion and/or documentation that there was no prosecution or dismissal must accompany this request.

I hereby request the Crime Information Bureau, Division of Law Enforcement Services of the Wisconsin Department of Justice, to remove the following described fingerprint record, if it exists, pursuant to Wisconsin Statute 165.84(1). This information must agree with the information furnished by the arresting agency at the time of the arrest.

Name: _____ / _____ / _____
(Last) (First) (Middle)

Sex/Race: _____ Date of Birth: _____

Arresting Agency: _____ Date of Arrest: _____

Arrest Charge: _____ Disposition: _____

Arrest Charge: _____ Disposition: _____

Arrest Charge: _____ Disposition: _____

Arrest Charge: _____ Disposition: _____

Arrest Charge: _____ Disposition: _____

Arrest Charge: _____ Disposition: _____

Arrest Charge: _____ Disposition: _____

REQUESTER INFORMATION

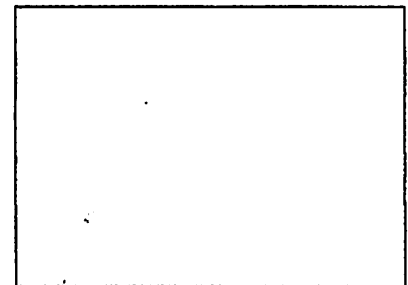
Name: _____

Address: _____

City: _____

State: _____ Zip Code: _____

Signature: _____
(Complete Name)



Right Index Fingerprint
Impression

General Instructions

Wisconsin Statute 165.84(1) states in part "Any person arrested or taken into custody and subsequently released without charge, or cleared of the offense through court proceedings, shall have any fingerprint record taken in connection therewith returned upon request". Completion and submission of this form will result in the removal of arrest information for those arrests that meet the requirements of the statute.

In order to qualify, all offenses reported on the arrest fingerprint card must have resulted in you being released without charge (or not prosecuted) or you being cleared of the offenses through court proceedings. This would include dismissal of the case by the prosecutor or judge, or acquittal by a judge or jury. Dismissal of only some of the offenses but convictions on others precludes the removal of the record. Convictions on lesser offenses also precludes removal of the record. Completion of a first offender program which results in no prosecution or dismissal qualifies for removal, providing documentation is provided showing successful completion along with proof of dismissal or no prosecution.

If this is a request for removal of juvenile arrest information (under 18 prior to 01/01/1996 and under 17 after 01/01/1996 for state charges and 07/01/1996 for ordinance changes), documentation of the dismissal or no prosecution MUST accompany the request. The Crime Information Bureau does not collect disposition information on juvenile arrests therefore this information must be provided at the time of the removal request.

A court ordered expungement does not qualify if the case resulted in any type of conviction. Court ordered expungement or sentencing under a youthful offender provision still results in a conviction. Any conviction precludes the removal of the record from the criminal history files. Court ordered expungement seals the court files but has no effect on files maintained by the Wisconsin Department of Justice. Removal of arrest information from the Department of Justice files has no effect on the availability of the same information from court files or police records. If the arrest information being removed from the Department of Justice files was reported to the Federal Bureau of Investigation, the Department of Justice will notify the Federal Bureau of Investigation to remove that information from the FBI's file.

Not all offenses are reported to the Department of Justice. If you request removal of a record that the Department of Justice does not possess, it was not submitted by the arresting agency. All criminal history files maintained by the Department of Justice require submission of an arrest fingerprint card by the arresting agency. If you were not fingerprinted for the requested offense, the Department of Justice will not have a record of that offense and it does not appear on your criminal history.

Time to process a request varies. If your request qualifies and the disposition has been reported to the Department of Justice your request will be processed promptly. If the disposition has not been submitted by the court, prosecutor or arresting agency, staff will need to obtain the disposition, make sure the disposition qualifies the removal of the record, update the criminal history and then process the request. If you have documentation regarding the dismissal of the offense(s) involved in your request, you should include copies with the request to speed processing.

Complete the form:

Name, Sex/Race, Date of Birth: As submitted by the law enforcement agency on the arrest fingerprint card.

Arresting Agency: The name of the arresting law enforcement agency.

Arrest Charge: The offense(s) you were arrested for. Use one form for each arrest event for which you are requesting removal.

Date of Arrest: The date on which you were arrested. Use one form for each arrest event for which you are requesting removal.

Disposition: Indicate the disposition for each arrest charge listed. Include documentation if available. Convictions on lesser offenses, dispositions under first offender/youthful offender or court expungements do not necessarily qualify for removal unless the charge(s) were dismissed by the court.

Requester Information: Name and address you wish correspondence and/or the arrest fingerprint card returned to.

Right Index Fingerprint Impression: A legible, rolled fingerprint impression is required. The form will not be processed without a legible fingerprint impression.

Signature: Sign the form and mail to:

Crime Information Bureau
Attn: Criminal Records Unit
P.O. Box 2718
Madison, WI 53701-2718

Successful requests will result in either the return of the arrest fingerprint card or deletion of the electronically stored document. If the offense was reported to the FBI they will be notified to remove the offense from their record. The FBI will then destroy

Print in Blue or Black Ink

For Office Use Only

Required Field



CITIZEN COMPLAINT FORM
CITY OF MILWAUKEE FIRE AND POLICE COMMISSION
City Hall, Room 706, 200 East Wells Street, Milwaukee, WI 53202
(414) 286-5000
E-mail: fpc@milwaukee.gov
Website: www.city.milwaukee.gov/fpc

INFORMATION ABOUT YOU

Last Name: _____ First Name: _____ Middle Initial: _____
Birth Date: _____ *Sex: -- _____ *Race: -- _____ Email: _____
Address: _____ City: _____ State: Wisconsin Zip: _____
Main Contact Phone Number: _____ Type: -- _____ Other: _____ Type: -- _____

**To be used for Milwaukee Fire and Police Commission statistics.*

INFORMATION ABOUT THE INCIDENT

Location of Incident: _____
Date of Incident: _____ Time of Incident: _____ a.m. p.m.

INFORMATION ABOUT THE EMPLOYEE

Department employee(s) involved: Name(s) and/or physical description:

STATEMENT/DESCRIPTION OF INCIDENT

Describe the incident in detail:

CITIZEN COMPLAINT FORM (continued)

(You may use additional sheets or submit a separate written statement)

WITNESSES/OTHERS INVOLVED

Last Name: _____ First Name: _____ Middle Initial: _____
Birth Date: _____ *Sex: -- _____ *Race: -- _____
Address: _____ City: _____ State: Wisconsin Zip: _____
Main Contact Phone Number: _____ Type: -- _____ Other: _____ Type: -- _____
Involvement: _____

Last Name: _____ First Name: _____ Middle Initial: _____
Birth Date: _____ *Sex: -- _____ *Race: -- _____
Address: _____ City: _____ State: Wisconsin Zip: _____
Main Contact Phone Number: _____ Type: -- _____ Other: _____ Type: -- _____
Involvement: _____

*To be used for Milwaukee Fire and Police Commission statistics.

(You may use additional sheets if necessary to list other involved persons)

DESIRED OUTCOME

What would you like to have happen as a result of filing this complaint?

SIGNATURE

State law requires you to sign below in the presence of a Notary Public. Contact the Fire and Police Commission if you have any questions or need help with this form.

STATE OF WISCONSIN)
CITY OF MILWAUKEE)

I certify that the foregoing information is true to the best of my knowledge.

Subscribed and sworn to before me
this _____ day of _____, 20____. _____ Complainant

Notary Public, Milwaukee County, Wisconsin
My commission expires _____

to arraignment. At the arraignment, the district attorney will serve you with formal charges for a particular felony. At this time, you must enter a plea.

In both misdemeanor and felony cases, you have the right to a jury trial. The jury must consist of 12 people and the verdict must be unanimous. If you are convicted of a felony, you lose certain rights, including the right to possess firearms forever. You also lose the right to vote until your civil rights are restored at the completion of your sentence.

How does plea negotiation work?

In most cases, your attorney and the prosecutor will meet to discuss your case before it goes to trial. The prosecutor may offer to negotiate with your attorney.

There are many possible types of "plea agreements."

The prosecutor may offer a reduced charge. Or, if you're charged with several offenses, the offer may be to dismiss one or more charges or "read in" a charge (this means that you won't plead guilty to that charge, it will be dismissed, but the charge may be considered for sentencing). In return, you'll be expected to plead guilty or no contest to at least one offense. Sometimes the plea agreement will be a recommendation for a particular sentence. Or it may be an agreement that the prosecutor will make no sentence recommendation.

In any event, the judge does not have to honor the plea agreement. Your attorney and the judge must explain this to you. They must also explain all the possible results of a plea of guilty or no contest.

The judge will frequently pronounce sentence immediately in a misdemeanor case. In a felony case, the judge may order a presentence investigation and set a separate sentencing date. Sentencing may be delayed in either case because Wisconsin law requires that victims be notified of the sentencing date and given an opportunity to be heard.

This is one in a series of consumer information pamphlets published by the State Bar of Wisconsin. Bulk copies and display racks also are available, for a charge, by contacting the State Bar of Wisconsin.

- Arrest
- Bankruptcy
- Buying/Selling Residential Real Estate
- Choosing a Process for Divorce
- Custody and Placement
- Divorce
- Durable Powers of Attorney for Finances and other Property
- Guardians Ad Litem in Family Court
- Health Care
- Hiring and Working with a Lawyer
- Landlord/Tenant Law
- Marital Property
- Personal Injury
- Probate
- Revocable Living Trusts
- Small Claims Court
- Starting a Business
- Traffic Accidents
- Wills/Estate Planning

This pamphlet provided courtesy of:

Law Office of Odalo J. Ohiku
230 West Wells Street, Suite 600
Milwaukee, WI 53203
(414) 287-0088
www.ohiku.com

This pamphlet, which is based on Wisconsin law, is issued to inform and not to advise. No person should ever apply or interpret any law without the aid of a trained expert who knows the facts, because the facts may change the application of the law.

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(800) 728-7788 Nationwide
(608) 257-3838 from Madison

P.O. Box 7158, Madison, WI 53707-7158
Email service@wisbar.org
On the Web at www.wisbar.org

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ANSWERING YOUR LEGAL QUESTIONS ABOUT

arrest



Are all arrests the same?
What happens if you are arrested?
What are the steps in a criminal case?



WISCONSIN LAWYERS
Expert Advisers. Serving You.®

Are all arrests the same?

No. In some arrests, you're charged with a crime, while in others you're not.

You're charged with a crime only if the possible penalty includes time in jail or prison. There's one exception, though: You may face jail time for failing to pay a fine or forfeiture, but this failure isn't considered a crime.

In most cases, traffic offenses and city, town, or county ordinance violations are not criminal offenses. Certain offenses can be charged as either ordinance or criminal offenses – for example, retail theft (shoplifting) or disorderly conduct. And some offenses are noncriminal for first time offenders but criminal for second time violators. The most common example of this is operating a motor vehicle while under the influence of intoxicants.

A monetary penalty for a crime is called a fine. For a noncriminal offense, it's called a civil forfeiture.

There are some other important differences between criminal and noncriminal cases. First, a criminal conviction may have a negative effect on your employment opportunities, school applications, professional licensing, and so forth. Second, in a criminal case, the prosecution must prove you guilty beyond a reasonable doubt – a stricter requirement than for a noncriminal case. Finally, you have more legal rights in a criminal case, such as the right to remain silent and the right to the assistance of an attorney. In a noncriminal case the prosecution can call you to the stand and force you to testify against yourself.

What happens if you're charged with a noncriminal offense?

If you're charged with an ordinance or traffic offense that is not a crime (such as speeding), you'll be given a citation. In most cases you won't be taken into custody. Police may not search you or your property without permission if you are not taken into custody for a noncriminal offense. The citation will usually give you a choice of paying a forfeiture or going to court. It will state a date for you to appear in court if you choose not to pay the forfeiture.

Your first court appearance is known as the arraignment, during which you enter a plea of “guilty,” “not guilty,” or “no contest.”

The “no contest” plea means that you are not contesting the offense charged. The no contest plea will result in a conviction, but the conviction cannot be used against you in a lawsuit. For instance, let's say you have an auto accident. As a result of the accident, you're given a traffic citation for a violation. If you decide to resolve the citation without a trial you may want to plead no contest, in case the other driver decides to sue you.

In most ordinance or traffic cases, when you plead “not guilty” you're given a pretrial date and a trial date. In noncriminal cases, you do not have an automatic right to a jury trial. Unless you specifically demand a jury trial and pay the required fee within 10 days after your initial appearance, your trial will be held before the judge. At the pretrial you'll meet with the prosecutor and try to settle the case. For example, you may try to change a speeding charge to a lesser point violation.

If you can't resolve the charge at pretrial, you must appear at the trial. You may or may not want to have an attorney, depending upon the seriousness of the offense, the status of your driver's license, and so on.

If the judge finds you guilty and you don't pay the forfeiture by the deadline for payment, your driver's license may be suspended if the violation is for a traffic offense. Otherwise, you could be jailed or ordered to perform community service.

What happens if you're charged with a crime?

Usually you'll be taken into custody when you're arrested. The police may read you your rights, photograph you, and take your fingerprints. If you are arrested without a warrant, a judicial magistrate must determine whether there is enough probable cause to charge you, and this usually must be done within 48 hours after your arrest. The 48-hour rule does not apply to an arrest with a warrant, because a judicial determination of probable cause has already been made to support issuing the warrant.

Remember that you have two important rights: the right to remain silent and the right to a lawyer. If you are indigent, an attorney from the State Public Defender's office will be appointed. Police may not ask you any more questions if you claim either or both of these basic rights. If you are unable to communicate with the court or your attorney because of a disability or a language barrier, an interpreter will be provided for you.

To be released from custody after your arrest, you may be required to post bail. In some cases, you can do this by a signature bond (a written promise to appear in court). In other cases, you may be required to provide either a secured surety bond (you put up property, such as a car or house), or cash (which may be posted by you or someone else). In addition, the judge may impose other, non-monetary conditions on you that he or she deems reasonable to protect members of the community.

If you're convicted of a misdemeanor, you may be imprisoned for up to one year though the maximum penalty varies depending on the offense. Any “time” you serve will be in the county jail or house of correction. A felony charge is much more serious, because it can mean a year or more in prison. In either case, it's very wise to consult an attorney as soon as possible. If you can't afford one, you should contact the State Public Defender's office. You can also ask the judge to refer you to that office.

What are the steps in a criminal case?

In either a misdemeanor or a felony case, you'll have an initial appearance. At this appearance, you'll be served with a criminal complaint that outlines the charge, the probable cause supporting the charge, and the penalty. In a misdemeanor case, you'll also enter a plea at the initial appearance. If you plead “not guilty” to a misdemeanor, you'll be given a pre-trial or a trial date.

For a felony, the next step is the preliminary hearing. At this hearing the prosecution must present enough evidence to convince the presiding magistrate that you should stand trial for a felony offense. If the state meets its burden of showing there is probable cause to believe you committed a felony within the jurisdiction, then the case proceeds

**The Court ordered my record
expunged.**

**Why is this arrest still on my
criminal history?**

Wisconsin law permits courts to expunge records in which adjudication of guilt is made. Those circumstances are limited to misdemeanors and certain felonies committed by a person under the age of 25 upon successful completion of the sentence or a juvenile upon reaching the age of 17 and making a request.

The Wisconsin criminal history repository maintained by the Wisconsin Department of Justice operates under rules set by the Wisconsin Legislature in section 165.84 of the Wisconsin Statutes. These rules state *"Any person arrested or taken into custody and subsequently released without charge, or cleared of the offense through court proceedings, shall have any fingerprint record taken in conjunction therewith returned upon request."*

Any record of a conviction ordered to be expunged by a court cannot be removed from the Wisconsin criminal history repository because the conviction disqualifies that arrest for removal.

**How can I challenge the accuracy of
the information in my criminal
history record?**

Wisconsin has established a process for individuals to challenge the information contained in their criminal history record. Information on this process may be found at :

www.doj.state.wi.us/dles/cib/crime-information-bureau

Other Websites:

Wisconsin Circuit Courts:

wcca.wicourts.gov

Pardons & Executive Clemency:

www.wi-doc.com/index_management.htm

Background Checks:

wi-recordcheck.org

Copy of your FBI Record:

www.fbi.gov/hq/cjisd/fprequest.htm

Wisconsin Department of Justice

**Crime Information Bureau
17 West Main Street
Mailing Address: P.O. Box 2718
Madison, WI 53701-2718**

**Phone: 608-266-7314
Fax: 608-267-1338
<http://www.doj.state.wi.us>**



Removal of Arrest Information

**How can arrest information
be removed from my
criminal record?**



**Brad D. Schimel
Attorney General
Wisconsin Department of Justice**

Answering your legal questions about hiring and working with a lawyer

Do I need a lawyer? Who is the "right" lawyer for me?
How do lawyers set fees?

Almost everything we do, such as making a purchase, starting a business, driving a car, getting married, or writing a will, is affected by laws. In our democratic society, the courts are available to everyone. Accessibility to the legal system, however, can raise many questions: When do you need a lawyer? Where should you look to find one?

For many people, the idea of contacting a lawyer may be intimidating – they might not know if they need a lawyer or how to choose one, what they can expect to pay for legal services, or understand the lawyer's role as advocate *and* counselor – so they might avoid contacting a lawyer even when it is in their best interests to do so. The State Bar of Wisconsin Consumer Information and Protection Committee has developed this pamphlet to help consumers of legal services to make informed choices. While it cannot address specific situations, it provides guidelines for choosing and working with a lawyer, and explains what a lawyer can and cannot do for you.

Consulting A Lawyer

When should I consult a lawyer?

When faced with a legal problem, you may wish to consult with a lawyer about your legal rights and responsibilities. Often, early consultation with a lawyer will save you time, trouble, and money in the long run. Here are examples of situations where you may want to consult with a lawyer:

- you are questioned by a law enforcement officer, arrested, or charged with a crime;
- you are being sued or threatened with a lawsuit;
- you are overwhelmed by financial or tax problems;
- you want to sell, purchase, or lease real estate property;
- you are going to form, operate, or dissolve a business or partnership;
- you have concerns involving your family, such as divorce, paternity, child support, custody, or adoption;
- you have been involved in an accident where a person is hurt and/or property is damaged;
- you want to prepare a will and plan for your estate's distribution after you die;
- you are going to sign a contract;
- you are involved in an employment dispute;

This pamphlet, which is based on Wisconsin law, is issued to inform and not to advise. No person should ever apply or interpret any law without the aid of a trained expert who knows the facts, because the facts may change the application of the law. Last revised: 1/2011

- you have been contacted by a debt collector; or
- you don't agree with how your insurance claim is being handled.

May I represent myself?

You have the right to represent yourself. However, before deciding to represent yourself, you should weigh the risks and benefits. The law is complex and changes frequently. Those untrained in the law may not recognize a legal problem or know how to solve the problem. While self-help kits and preprinted materials are available for those wishing to represent themselves, these products do not always take into account your individual circumstances, changes in the law, or the law in Wisconsin.

Acting without the advice of a lawyer may sometimes bring unanticipated legal consequences that can be difficult and expensive to undo. A lawyer is trained to identify whether you have a problem that requires legal action.

If you believe that you have a legal problem, make an appointment with a lawyer immediately. Waiting too long could result in missed deadlines and harm your case. However, the lawyer you seek may not be able to see you on short notice.



Choosing A Lawyer

Who is the "right" lawyer for me?

People often believe that any lawyer can handle any case. This misplaced confidence frequently works to the client's disadvantage. No lawyer is skilled in every area of the law. Some questions you should ask a lawyer are:

1. What experience do you have in this area of the law?
2. How many cases like mine have you handled?
3. If you do not practice in this area of the law, could you recommend a lawyer who does?
4. Could you provide me with references?

A lawyer-client relationship should be based on trust and open and honest communication. It requires a mutual commitment from the client and the lawyer. Before you hire a lawyer, you must be comfortable with that lawyer's style. Consider these factors before you hire a lawyer.

Where do I find a lawyer?

The State Bar of Wisconsin has a referral service based on the type of law a lawyer practices and where the lawyer is located. The Lawyer Referral & Information Service can be reached toll-free at (800) 362-9082 or (608) 257-4666, or online at www.wisbar.org/lris. Also, look to friends and relatives who have used and were satisfied with the services of a particular lawyer. Word of mouth from a satisfied customer generally is reliable. Look in the phone book; most lawyers' ads will tell you the kind of law they practice.

Remember, just because lawyers advertise in the phone book or newspaper or are listed as a referral source by the State Bar does not guarantee their expertise. You need to meet with lawyers personally and make your own decision.

Should I expect to pay for my first meeting with the lawyer?

Always ask whether there is a fee for the first meeting when you call for an appointment. Some lawyers do not charge for the first meeting, while others charge for all or part of the client's first visit.

If you decide not to take further action after the first visit, you are under no obligation to hire the lawyer. You will be expected to pay for the first visit unless you are told otherwise.

What will happen during my first visit with my lawyer?

First, explain to the lawyer why you are there. After discussing the facts of your case, the lawyer will point out any laws or legal procedures that will be involved in handling your case. You should ask about possible problems

and estimated costs. The lawyer should then discuss the fee arrangement, which should be included in a written retainer agreement.

What is a retainer agreement?

A retainer agreement (sometimes called an engagement letter) is a contract between you and your lawyer. It usually will say:

- how much the lawyer is going to charge;
- whether it is an hourly rate, a contingency fee, a flat fee, or a statutory fee;
- who will pay for costs such as court filing fees, sheriff's service fees, deposition fees, long distance calls, and photocopy expenses;
- what is expected of you; and
- what you can expect from the lawyer.

A retainer agreement or engagement letter covers all these things and more. A written agreement benefits you and your lawyer because it preserves the details that people may forget over time.

Will I have to pay money up front?

Usually a lawyer will require a deposit up front before he or she takes your case. The deposit is sometimes put into the lawyer's trust account. Any fees earned and costs will be deducted from the deposit. When the money has been spent, the lawyer may require you to deposit additional money to cover anticipated fees and costs. Even in contingency fee cases, some lawyers require a deposit to cover expected costs of the lawsuit. A "contingency" fee is a fee the lawyer is paid only if successful.

Can I do anything to reduce legal expenses?

By following a few suggestions, you can help reduce your legal costs:

1. Gather necessary information before meeting with your lawyer. Write down the names, addresses, and telephone numbers of all the persons involved in the matter.
2. Be organized. Bring letters, documents, and other important papers to the first meeting with your lawyer. Write down questions that you want your lawyer to answer.
3. Keep your lawyer informed.
4. Ask how you can help reduce costs by obtaining documents, contacting witnesses, or providing other assistance.
5. Consider the financial aspects of your case and discuss them with your lawyer. Be sure you understand the advantages and disadvantages of a proposed action. For example, will pursuing the matter cost more than you hope to recover?

What should I expect when I hire a lawyer?

You are hiring a lawyer to work for you as your advocate and counselor. You should expect your lawyer to:

- keep information confidential;
- listen to your problem;
- represent your interests – in and out of court;
- advise you of your rights and responsibilities;
- research and analyze all available facts and information relating to your problem;
- be candid with you about your problems, your prospects for success, and the advisability of accepting and making settlement offers;
- act with diligence and promptness;
- prepare legal documents;
- keep you informed about the status of your case; and
- check for conflicts of interest.

What will my lawyer expect from me?

Your lawyer will expect you to:

- be on time for appointments;
- be open and honest about the facts of your case;
- respond promptly to requests for information;
- notify the lawyer of any change in your case, and any change of address or telephone number;
- ask questions;
- follow your lawyer's advice;
- be patient and understand that legal problems require time and research; and
- pay agreed upon lawyer fees for the work performed.

Can I change lawyers in the middle of a case if I'm dissatisfied with a lawyer's representation?

Yes. You are responsible for the consequences of your case, not the lawyer, so it is important that you have faith and confidence in your lawyer. If you are not happy with your lawyer's work, tell the lawyer exactly what is bothering you and give the lawyer a chance to fix the problem; or, you may fire your lawyer. However, discharging a lawyer and hiring a new one does have certain consequences.

First, the lawyer that you fired usually is entitled to be paid for work already done. If you have been paying your lawyer all along, and you are current, this may not be a problem. However, if your lawyer had been working on a contingency fee basis, you may be required to pay the lawyer's hourly rate for time spent on your case, plus any costs and expenses.

Second, there are extra costs associated with hiring a new lawyer. If you hire a new lawyer in the middle of a case, that lawyer will spend time becoming familiar with it. Some of the work you already paid for may have to be done again at additional cost to you.

In some instances, it may not be possible to switch lawyers because the case has advanced too far in the court system. The judge handling the case may not permit your lawyer to withdraw from your case because of previously scheduled court dates. Therefore, if you want to change lawyers, do it as quickly as possible. Firing your lawyer may not be easy and it may be expensive, but it may be the right thing for you.

Lawyer Fees

How does a lawyer set fees?

Lawyers generally use one of four forms of fee arrangements:

1. **Hourly fee:** calculated by multiplying the amount of time spent on a matter by an hourly rate. Example:

$$\begin{array}{r} \text{Hourly rate} \\ \$125 \end{array} \quad \times \quad \begin{array}{r} \text{Time spent} \\ 2.0 \text{ hours} \end{array} = \begin{array}{r} \text{Fee} \\ \$250 \end{array}$$

2. **Contingency fee:** agreed upon percentage of the total amount recovered by trial or settlement. There is no lawyer fee if you lose; but, you still may have to pay some costs (for example, filing fees and medical records). Example:

$$\begin{array}{r} \text{Total amount} \\ \text{of recovery} \\ \$10,000 \end{array} \quad \times \quad \begin{array}{r} \text{Agreed upon} \\ \text{percentage} \\ 33.3\% \end{array} = \begin{array}{r} \text{Fee} \\ \$3,330 \end{array}$$

3. **Flat fee:** a set fee for a specific legal service, such as drafting a will.

4. **Statutory fee:** a fee set by law, for example, attorney fees in worker's compensation cases.

What happens if you disagree with your lawyer's bill?

One of the benefits of a written retainer agreement or engagement letter is that you can see on the lawyer's bill what you were charged for and if you were charged according to the terms of the agreement.

If you have a question about your bill, talk to your lawyer. Many times, errors and misunderstandings can be easily corrected. Even if a genuine dispute remains, some lawyers may be willing to make an adjustment agreeable to both parties. The worst thing you can do is ignore the bill, because then your bill could end up in collection, costing you time and money.

Many agreements require that fee disputes be resolved through arbitration. Arbitration is less formal and less expensive than filing a lawsuit. For example, the State Bar of Wisconsin's fee arbitration program can help settle disputes between lawyers and clients. For more information

on the fee arbitration program and a free brochure, call the State Bar of Wisconsin at (800) 728-7788 or access the State Bar's website, www.wisbar.org.

What if I have questions about my lawyer's ethical conduct?

If you are uncertain about your lawyer's ethical conduct, you can contact the Wisconsin Supreme Court Office of Lawyer Regulation (OLR). The OLR investigates and takes disciplinary action when warranted on complaints of professional misconduct against lawyers licensed to practice law in Wisconsin. Lawyers are held to high ethical standards. If they fail to meet those standards, you may have reason to file a complaint with the OLR office at 110 E. Main St., Suite 315, Madison, WI 53703-3383; phone (608) 267-7274, (877) 315-6941; fax (608) 267-1959.

Additional Consumer Resources

Other consumer law publications from the State Bar of Wisconsin include:

- A Handbook for Personal Representatives
- What You Should Know About Wisconsin Law: Your Legal Rights and Responsibilities
- The Bill of Rights: An Introduction
- Understanding Guardianships: A Handbook for Guardians
- For more consumer information about these and other resources for the public, please visit the State Bar's website at www.marketplace.wisbar.org/ConsumerEducatorResources or call the State Bar at (800) 728-7788.

This is one in a series of consumer information pamphlets published by the State Bar of Wisconsin. Bulk print copies and display racks also are available, for a charge, by contacting the State Bar of Wisconsin.

- Arrest
- Bankruptcy
- Buying/Selling Residential Real Estate
- Choosing a Process for Divorce
- Custody and Placement
- Durable Powers of Attorney
- Divorce
- Guardians Ad Litem in Family Court
- Health Care
- Hiring/Working with a Lawyer
- Landlord/Tenant Law
- Marital Property
- Personal Injury
- Probate
- Revocable Living Trusts
- Small Claims Court
- Starting a Business
- Traffic Accidents
- Wills/Estate Planning



**STATE BAR
OF WISCONSIN**

(800) 728-7788 Nationwide
(608) 257-3838 from Madison

P.O. Box 7158, Madison, WI 53707-7158
Email service@wisbar.org
On the Web at www.wisbar.org

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Law Office of Odalo J. Ohiku
230 West Wells Street, Suite 600
Milwaukee, WI 53203
(414) 287-0088
www.ohiku.com

ABOUT WISCONSIN'S COURTS

Following is a brief overview of the Wisconsin Court System. For more information, please go to: <http://wicourts.gov/>

Municipal courts:

- 237 municipal courts and 240 municipal judges
- Milwaukee has the largest municipal court and three full-time municipal judges. Madison has the only other full-time municipal court.

Circuit courts:

- Single level trial court since 1978
- 249 circuit judges in 72 counties. Judges elected countywide to six-year terms in non-partisan elections
- Milwaukee County is the largest jurisdiction with 47 judges
- 30 counties have one judge each; smaller counties share a judge

Court of Appeals:

- Created in 1978 and originally designed to handle 1,200 cases per year
- Mostly mandatory jurisdiction, meaning that litigants have the right to appeal their cases from the circuit court to the Court of Appeals
- 16 judges in four districts. Judges elected district wide to six-year terms

Supreme Court:

- Seven justices elected statewide to 10-year terms
- Court of last resort
- Court reviews approximately 1,000 petitions per year and accepts between 100 and 120

Administrative/management structure:

The administrative structure of the court system is detailed in Article VII, section 4(3) of the Wisconsin Constitution, Statute (758.19) and Supreme Court Rule (SCR) Chapter 70 . The chief justice is the administrative head of the judicial system, exercising authority according to procedures adopted by the Supreme Court. The structure is analogous to a corporation, with the chief justice as the chair of the board, the other justices as the board of directors, and the director of state courts as the chief operating officer.

For administrative purposes, the circuit courts are divided into ten judicial administrative districts. The districts range in size from one county to 13 counties. The judicial business in each district is supervised by a chief judge selected by the Supreme Court to serve a two-year term. A chief judge can serve up to three two-year terms if the court continues to appoint him or her. Each district also has a district court administrator who is a permanent employee of the Director of State Courts Office who in turn is assisted by a court management assistant. The district court administrators' offices are generally located in the largest city in the respective district.

THE MISSION AND VISION OF THE WISCONSIN COURTS

The mission of Wisconsin's court system is to protect individuals' rights, privileges and liberties, to maintain the rule of law, and to provide a forum for the resolution of disputes, that is fair, accessible, independent and effective.

Supreme Court Planning and Policy Advisory Committee, July 1994

Updated October 2014

COURT OVERVIEW

First Judicial District, Milwaukee County

The State of Wisconsin has 72 counties with 10 Judicial Districts. The First Judicial District (Milwaukee County) is comprised of 47 circuit court judges and handles over 20 percent of the State's judicial workload. Judges may be appointed by the Governor or elected. If a judge leaves office before the term has expired, the Governor appoints an attorney to fill the vacancy until the Spring election in the year following the appointment. Judges are elected to six-year terms by the voters of Milwaukee County.

Divisions of the Circuit Court

Every judge is assigned to serve in one of the court's five separate divisions. Each division has the responsibility of handling specific types of cases. A judge may serve in a particular division up to four years. After that time, the judge is "rotated" to a new assignment. This way, every judge is able to maintain knowledge and understanding in many different aspects of the law.

Administration

Chief Judge – Jeffrey A. Kremers, Branch 36
609 Courthouse
414/278-5116

Deputy Chief Judge – David A. Hansher, Branch 42
414/278-5340

Deputy Chief Judge Maxine Aldridge White, Branch 1
414/278-4482

District Court Administrator – Holly Szablewski
609 Courthouse
414/278-5115

Deputy District Court Administrator – Beth Bishop Ferrigo
609 Courthouse
414/278-5025

Clerk of Circuit Court – John Barrett
104 Courthouse
414/278-5362

Civil Division

The Civil Division of Circuit Court primarily hears lawsuits by a person, business or government seeking money compensation from another person, business or government for a past injury. The injury may be a physical injury, as may occur in an auto accident, or it may be a money-only injury, such as the violation of a contract.

Judges assigned to the Civil Division also hear requests for injunctions. An injunction is a court order prohibiting a person, business or government from doing a particular thing or engaging in a specific activity. Certain types of injunction requests are directed to the Family Division instead of the Civil Division.

Nine judges are assigned to the Civil Division to hear large claim civil cases.

Small claims cases are heard initially by fulltime court commissioners. Eviction cases and appeals from the decisions entered by the court commissioners are heard by one fulltime small claims judge.

Two Civil Division judges hear all contested probate cases in addition to a large claim calendar.

Family Division

Divorce cases are assigned to the Family Division. This Division also considers controversies over child custody and support. Full-time court commissioners assist the judges in the division by making temporary orders when a divorce action is first filed. Family court commissioners also hear requests for injunctions arising out of domestic violence, paternity cases and civil matters.

Juvenile Division

Children under the age of seventeen accused of violating the law face charges of delinquency. Delinquency cases are filed by the District Attorney at the Vel Phillips Juvenile Justice Center, 10201 West Watertown Plank Road in Wauwatosa. If a crime is serious enough, a Juvenile Division judge may order that the child be tried as an adult in the Felony or Misdemeanor Divisions.

Additionally, the eight judges in the Juvenile Division hear cases involving children in need of protection or services (CHIPS) due to abuse or neglect by a parent or the inability of the parent to care for the child. Juvenile Division judges also handle cases in which the District Attorney or a party is seeking a complete and final termination of a mother or father's parental rights. Court commissioners assist in intake and permanency planning.

Felony Division

Criminal charges are filed by the District Attorney against a person accused of violating the law. Conviction of a felony can result in a sentence of imprisonment, a fine, probation, an order to pay restitution or any combination of these.

Every crime which is punishable by confinement in a State prison is a felony. Usually, if the maximum penalty for a crime is a year or more of incarceration, the crime is a felony. Felonies are the most serious crimes, including homicide, robbery, burglary, substantial battery, sexual assault, possession of certain drugs and deliver of any controlled substances.

Within the Felony Division of the Milwaukee County Circuit Court, judges take on one-year assignments to "specialty courts." The drug court judges hear cases involving allegations of violations of the drug laws. Homicide court judges hear cases in which a defendant is accused of committing a homicide or a serious sexual assault. The remaining Felony Division judges handle all other felony cases.

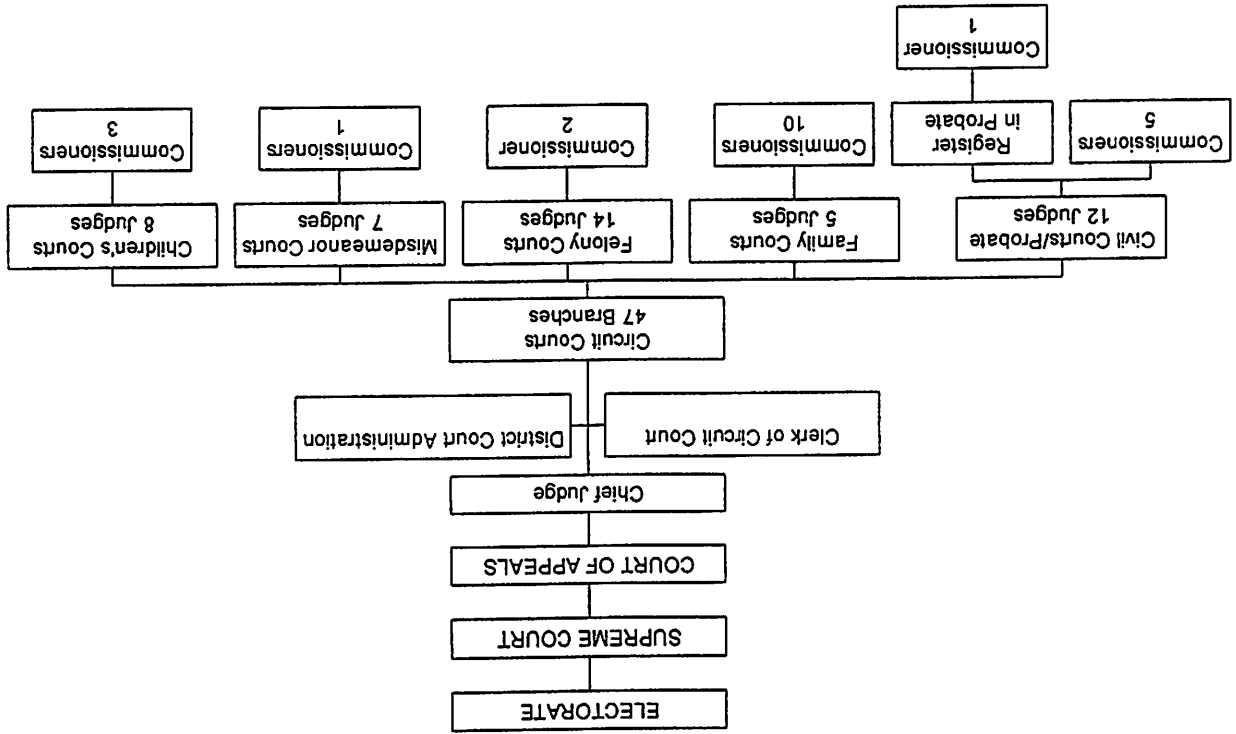
Fourteen judges are assigned to felony courts. One full-time court commissioner hears all preliminary hearings.

Misdemeanor Division

Criminal charges involving crimes punishable by less than one year in jail are brought into the Misdemeanor Division. Cases such as accusations of shoplifting, disorderly conduct, simple battery, driving under the influence of intoxicants, violations of certain restraining orders, municipal appeals, county ordinance violations and traffic crimes are heard by the Misdemeanor Division judges.

Three of the seven misdemeanor judges take one-year assignments to hear only cases involving domestic violence. These calendars include both felony and misdemeanor cases. Several Milwaukee County judges are recognized nationally as experts in issues related to domestic violence and sexual assault and train other judges throughout the United States on the topics.

First Judicial District



Chief Judge's Branch does not have a calendar.

Milwaukee County Courts – District 1

Largest of 10 Wisconsin Districts

47 Judges (249 Statewide)

22 Court Commissioners

**5 Divisions (Felony, Misdemeanor, Civil, Family
and Juvenile)**

300 Employees

Combined State/County Funding

High Annual Case Volume

15,478 Civil Large Claims

43,271 Small Claims

41,001 Misdemeanor/Traffic/Criminal Traffic/Forfeitures

5,712 Felonies

10,983 Divorce/Family and Paternity Actions

4,038 Juvenile Cases Plus Delinquency and CHIPS Cases

2,061 Children in Foster Care

7,611 Estates, Protective Actions, Adoptions, Other Probate



THE MILWAUKEE JUSTICE CENTER

Milwaukee County Courthouse | 901 North 9th St, Milwaukee, WI 53233

www.MilwaukeeJusticeCenter.org

Family Law Forms Clinic (Room G-9)

Volunteer assistance with family law forms for:

- Divorce
- Child Support
- Legal Custody
- Visitation
- Physical Placement
- Name Changes

Volunteers do NOT provide legal advice.

Hours (Clinics close PROMPTLY at listed time)

Monday	8:30am-12pm 1pm-4pm
Tuesday	8:30am-12pm 1pm-4pm
Wednesday	8:30am-12pm 1pm-4pm
Thursday	8:30am-12pm
Friday	8:30am-12pm

Clinic stops taking walk-ins once the sign-in list is full.
For an informational message, call (414) 278-2910.

Family Law Appointments (Rm. G-9) for Part 2 Divorce ONLY

In Wisconsin, the divorce process happens in two parts. If you have completed the first step, the MJC can help you with paperwork for the second step of divorce by appointment ONLY.

To schedule an appointment:
(414) 278-2912

You will not get a final court date until you have turned your Part 2 paperwork into the court.

Legal Advice & Referral Clinic (Room G-9)

Marquette Volunteer Legal Clinic, staffed by volunteer attorneys and law students. Provides free, confidential, and brief legal advice and referrals for Milwaukee County Circuit Court civil legal matters. This includes:

- Family Law Matters
- Landlord-Tenant
- Probate
- Small Claims
- Large Claims

Hours

Thursday	Sign in at 1:30pm
Friday	Sign in at 1:30pm

This clinic fills up quickly.

For a message on other locations and hours, call:
(414) 288-6912

Clinic stops taking walk-ins when the sign-in list is full. Services are on a walk-in basis, and meant to be a brief, one-time consultation. Attorneys cannot take cases or provide ongoing legal services. We also cannot see you more than once for the same legal issue.

MJC Services are only for those without an attorney.

Due to high demand for services and limited volunteer capacity, we cannot guarantee all clients will be seen