

# In It for the Long Haul – Criminal Justice Reform Doesn't Happen Overnight

**It is possible for policy makers to be tough on crime while at the same time bringing needed reforms that are fair and keep our communities safe, but legislative change takes time and takes effort.**

BY CALE BATTLES, LYNNE DAVIS & DEVIN MARTIN

Each legislative session of the Wisconsin Legislature, a handful of issues are at the forefront. These issues get the most attention and are often the most contentious. Public education funding, taxes, medical assistance, and welfare reform regularly receive a considerable amount of debate. Criminal justice reform issues can also rise to this level depending on the topic or session. Rhetoric such as “soft on crime,” “tough on crime,” and “smart on crime” is often used during discussions.

Developing a legislative strategy can often feel like a one step forward and two steps back, or sometimes even a frustrating three or four steps back, experience. A prime example is expungement-eligibility reform. From a policy and implementation perspective, expungement reform isn't overly complicated. Wisconsin was once a leader – the state first adopted an expungement law in the 1970s – but with almost no reform since then, it now lags other states in how it addresses the issue. Wisconsin is the only state that requires a judge to determine a person's eligibility at the time of sentencing and is one of only four states that have an age-limit determination.

The legislative reform efforts on this issue aren't that complicated, either: eliminate the mandate on a judge to make an expungement determination at the “time of sentencing,” clarify which criminal offenses qualify and which don't, eliminate the age qualification, and ensure that the individual requesting expungement has fully completed their sentence, including fines and fees, restitution, and any community service.

For the past decade, there have been multiple

legislative efforts to reform this process. Many of these efforts have received widespread bipartisan support, including this session's effort, which has an overwhelming 63 of the 132 legislators signing on as cosponsors. Lobbying groups that usually are at opposite ends of the political spectrum are supportive and not a single lobbying entity has registered to oppose. Numerous compromises and concessions have also been made each session to garner additional support. But despite all that support, the



effort has once again languished. With only a few weeks of floor-vote sessions left in the 2023-24 session, advocacy efforts will have to be duplicated again next session unless a final resolution can be found in the waning days of the current session.

Often, we are asked, “with so much bipartisan support both internally and externally, why can’t this bill pass?” The answer is complicated and nuanced because it mostly involves “inside baseball,” as the effort is being held up by only a few individuals in the state senate who have either never disclosed their objection to passage or disagree with the notion that a person who made a mistake and paid their debt to society should get a one-time, second chance to clear their criminal record. These objections come despite hundreds of individuals successfully demonstrating the positive effect expungement can have on an ex-offender’s life through

building businesses, starting families, and contributing to their community.

Expungement is just one example of criminal justice reform efforts in which Wisconsin continues to be an outlier to other states. Other examples include:

- Returning some 17-year-old offenders to juvenile court. Wisconsin is one of only three remaining states that sets the age of criminal responsibility at 17 years old, irrespective of the offense. The adult criminal justice system is neither equipped nor designed to handle offenders at this age. The specialized juvenile system is tailored to deal with young offenders, and studies have repeatedly shown that youth placed in an adult facility recidivate at a much higher rate.

- The cap on exoneree compensation rates. Wisconsin has the lowest statutory cap in the nation at \$5,000 per year of imprisonment with a maximum cap of \$25,000. The statute setting this rate was enacted in 1979 and monetary amounts have gone unchanged since. While the Wisconsin Claims Board can review requests for higher compensation, that process is not as clear due to a recent court decision.

Other issues on which the State Bar of Wisconsin continues to educate lawmakers include bail reform, driver’s license suspension practices, and law enforcement reform. Fact sheets on all these important issues and other State Bar legislative priorities can be found by going to [Wisbar.org/GovRelations](http://Wisbar.org/GovRelations) and clicking on the “State Bar Policy Positions” page.

Coordinated grassroots engagement is also key to helping change the status quo. On the issue of criminal justice system funding, there was a notable increase in 2023 in State Bar members reaching out to their lawmakers. This engagement helped ensure that lawmakers not only understood the problem but heard directly from attorneys in their districts, encouraging them to address it. A great place to start is by visiting the State Bar’s [wisbar.org](http://wisbar.org)

page to send a message or by reaching out to Advocacy staff and indicating that you would like to get more involved in advocacy efforts that interest you.


Attorney members are an essential component of the justice system and work hard each day to seek fairness and adhere to constitutional duties. It is possible for policy makers to be tough on crime while at the same time bringing needed reforms that are fair and keep our communities safe, but legislative change takes time and takes effort. The State Bar is committed to these issues and to the administration of justice through continual outreach and education of the legislature, the public, and State Bar members on these issues. **WL**

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**STAY** engaged to help move legislation forward. Learn about the State Bar’s Government Relations program, access the Advocacy Network Grassroots Toolkit, and read the monthly e-newsletter, Rotunda Report.

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