



WISCONSIN CATHOLIC CONFERENCE

TO: Members, Assembly Committee on Education
FROM: John Zuehscher
DATE: June 2, 2011
RE: Assembly Bill 122, Employment of Unpardoned Felons in Schools

The Wisconsin Catholic Conference appreciates the opportunity to provide informational testimony on Assembly Bill 122, which would permit public and private schools to refuse to employ or to terminate from employment an unpardoned felon.

Our interest in this legislation is twofold and it reflects the challenge of weighing different goods that sometimes conflict when making laws and policies.

First, we strongly believe that all children deserve a safe environment in which to learn. We applaud efforts to maintain a safe place within all schools. And we support the provisions of current law that permit employers to deny a job to a person who has been convicted of a crime that is related to the job he or she is seeking.

We also believe in public policies that foster restoring both victims of crimes and offenders to full participation in the community. In 1999, Wisconsin's Roman Catholic bishops issued *Public Safety, the Common Good, and the Church: A Statement on Crime and Punishment in Wisconsin*. In their statement, the bishops stress the importance of mercy and forgiveness, and call for society to exercise mercy as a means of furthering the rehabilitation process. The bishops also emphasize that public policies and responses must be fashioned in ways that heal victims betrayed by crime and restore dignity to offenders.

As you know, the Catholic Church operates schools to educate children and it is committed to making sure they are safe environments. The Church also supports faith-based ministries, like Project Return, that help felons find sustainable employment. These missions are not contradictory. Indeed, Project Return has helped felons find employment in both public and nonpublic schools.

As we weight these goods, we ask you to consider modifying Assembly Bill 122 to better accommodate these twin goals.

As drafted, the bill limits the ability of offenders to secure gainful employment even when their crimes are unrelated to the position they are seeking or to the life and security of our children.

As an alternative, we invite you to consider an approach suggested in 2001 and again in 2007. This alternative is based on the provisions of Wis. Stat. s. 118.19, governing teacher licensure which provides that the state superintendent may not license a person as a teacher if the applicant has been convicted of a felony (Class A, B, C, or D) under Chapter 940 (which addresses crimes against life and bodily security) or Chapter 948 (which addresses crimes against children) until six years have passed since the conviction and the person establishes by clear and convincing evidence that he/she is entitled to a license.

Inasmuch as teachers have the most unsupervised face-to-face contact with our children it seems unreasonable to place a greater barrier to employment before other employees who have less access to children. At the same time, limiting this bill to crimes mentioned in s. 118.19 also provides more clarity as to which offenses warrant denying employment.

We are also concerned about the impact of AB 122 on people of color. Though less than ten percent of our state's population, minorities account for nearly half of our prison population. Unemployment among African-American men is still more than double that of white men. It is important to assess how this bill will affect that statistic.

Finally, schools systems and other employers can refuse to employ, or terminate from employment, any person whose conviction is substantially related to the circumstances of an individual's job (Wis. Stat. s. 111.335(1)(c)). Refusal to employ a person simply because they have a criminal conviction unrelated to their potential job duties is discrimination under the law. In order to avoid a charge of discrimination, school districts and other employers must seriously review whether or not to hire a person due to their criminal record.

If this prohibition against discrimination in hiring practices is completely eliminated for schools, it is likely most schools will not seriously consider hiring any person with a felony on their record, regardless of the type of offense. While the doctrine of sovereign immunity may protect a public school district from any liability that could be potentially incurred from the hire of an ex-offender, what district would hazard that liability when no charge of discrimination is at stake? There is even less incentive for such hires among private schools that do not enjoy sovereign immunity protection.

We believe current law in this area has served us well. Wisconsin continues to have lower crime rates than the rest of the nation. Clearly, the fact that a felon can't be denied a job unless his crime is related to the position he seeks has not made Wisconsin a dangerous place to work or live. Rather, one can argue that our crime rate is lower because our laws make it easier for ex-offenders to support themselves upon completion of their sentence.

We appreciate the opportunity to offer this informational testimony on AB 122. We respectfully request the committee to carefully consider the ramifications of a bill that could increase recidivism rates in Wisconsin.