

2013 DRAFTING REQUEST

Bill

Received: **10/22/2013** Received By: **chanaman**
Wanted: **As time permits** Same as LRB:
For: **Daniel Knodl (608) 266-3796** By/Representing: **Mark Austinson**
May Contact: Drafter: **chanaman**
Subject: **Criminal Law - procedure** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Rep.Knodl@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Return firearms to licensees within 48 hours after clearance by district attorney

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	chanaman 1/15/2014	kfollett 1/15/2014	rschluet 10/30/2013	_____	lparisi 10/30/2013		State S&L
/P2	chanaman 1/28/2014	kfollett 1/29/2014	jfrantze 1/15/2014	_____	lparisi 1/15/2014		State S&L
/P3	chanaman 2/10/2014	kfollett 2/10/2014	rschluet 2/10/2014	_____	srose 1/29/2014		State S&L
/1				_____	lparisi	lparisi	State

Vers. Drafted

Reviewed

Typed

Proofed

Submitted

Jacketed

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2/10/2014

2/10/2014

S&L

FE Sent For:

<END>

At
Intro.

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/P3		1/15f 2/10	jmurphy 1/29/2014	_____	srose 1/29/2014		State S&L

FE Sent For:

Handwritten signature and date: 2/10/14

Handwritten note: Jacket please

<END>

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/P2		1P3Kf 1/29	jfrantze 1/15/2014 1P3Kf 1/29	_____	lparisi 1/15/2014		State S&L

FE Sent For: *Jan 1/29*

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FE Sent For:		1/15 	1/15 	<END> 1/15			

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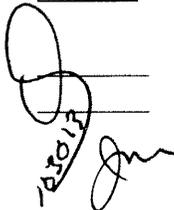
Topic:

✓ Return firearms to licensees within 48 hours after clearance

Instructions:

See attached

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/P1	chanaman 10/22/2013	1P1/gf 10/30	1P1/gf 10/30				State S&L

FE Sent For:

<END>



SOON
m 10/22

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Thurs
(cmh)

- 1 *segment* **AN ACT ...; relating to:** the return of seized firearms to a person having a license
- 2 to carry a concealed weapon.

Analysis by the Legislative Reference Bureau

Current law specifies a process and criteria for courts and police officers to use to determine ownership of property that has been seized by a police officer and to decide if, how, and when to return the seized property. Under this bill, if a firearm owned by a person who has a license to carry a concealed weapon is seized, the firearm must be returned to the licensee within 48 hours of the district attorney declining to file charges against the licensee in connection with the seizure, within 48 hours of the dismissal of the charges against the licensee in connection with the seizure, within 48 hours of the trial court reaching final disposition of all charges against the licensee in connection with the seizure if the licensee is not adjudged guilty, if no charges against the licensee are filed in connection with the seizure six months after the seizure, or within 48 hours of determining that the licensee did not have prior knowledge of and did not consent to the activity that resulted in the seizure.

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

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

1 SECTION 1. 968.20 (1m) (a) 3. of the statutes is created to read:

2 968.20 (1m) (a) 3. "Licensee" has the meaning given in s. 175.60 (1) (d).

3 SECTION 2. 968.20 (1m) (b) of the statutes is amended to read:

4 968.20 (1m) (b) If the seized property is a dangerous weapon or ammunition,
5 the property shall not be returned to any person who committed a crime involving
6 the use of the dangerous weapon or the ammunition. The

7 (c) Except as provided in par. (d), seized property that is a dangerous weapon
8 or ammunition may be returned to the rightful owner under this section if the owner
9 had no prior knowledge of and gave no consent to the commission of the crime.

10 (e) Property which may not be returned to an owner under this subsection shall
11 be disposed of under subs. (3) and (4).

History: 1977 c. 260; 1977 c. 449 s. 497; 1979 c. 221; 1981 c. 160; 1983 a. 189 s. 329 (3); 1983 a. 278; 1985 a. 29 ss. 2447 to 2449, 3200 (35); 1987 a. 203; 1987 a. 332 s. 64; 1993 a. 90, 196; 1996 a. 157; 1997 a. 192, 248; 1999 a. 185; 2001 a. 16; 2005 a. 387, 394; 2009 a. 258; 2011 a. 257 s. 56.

12 SECTION 3. 968.20 (1m) (d) of the statutes is created to read:

13 968.20 (1m) (d) If the seized property is a firearm belonging to a licensee and
14 the property has not been returned under this section, the property shall be returned
15 to the licensee as follows:

****NOTE: The following subdivisions attempt to get at all ways in which a person could be "cleared of all wrongdoing." I do not know how likely subd. 1. is to occur; I don't know if the six-month period in subd. 3. is reasonable or not; and I am not sure how lack of knowledge and consent would be determined except by a court.

16 1. If the district attorney affirmatively declines to file charges against the
17 licensee in connection with the seizure, within 48 hours of the affirmative decline.

18 2. If all charges against the licensee filed in connection with the seizure are
19 dismissed, within 48 hours of the dismissal.

20 3. If 6 months have passed since the seizure and no charges against the licensee
21 are filed in connection with the seizure, as soon as practically possible.



P2

today please

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

person who owns the firearm

1 AN ACT to amend 968.20 (1m) (b) and 968.20 (2); and to create 968.20 (1m) (a)

2 3. and 968.20 (1m) (d) of the statutes; relating to: the return of seized firearms

3 to a person having a license to carry a concealed weapon. who owns the firearm

Analysis by the Legislative Reference Bureau

Current law specifies a process and criteria for courts and police officers to use to determine ownership of property that has been seized by a police officer and to decide if, how, and when to return the seized property. Under this bill, if a firearm owned by a person who has a license to carry a concealed weapon is seized, the firearm must be returned to the licensee within 48 hours of the district attorney declining to file charges against the licensee in connection with the seizure, within 48 hours of the dismissal of the charges against the licensee in connection with the seizure, within 48 hours of the trial court reaching final disposition of all charges against the licensee in connection with the seizure if the licensee is not adjudged guilty, if no charges against the licensee are filed in connection with the seizure six months after the seizure, or within 48 hours of determining that the licensee did not have prior knowledge of and did not consent to the activity that resulted in the seizure.

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

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

person

1 SECTION 1. 968.20 (1m) (a) 3. of the statutes is created to read:

2 968.20 (1m) (a) 3. "Licensee" has the meaning given in s. 175.60 (1) (d).

3 SECTION 2. 968.20 (1m) (b) of the statutes is amended to read:

4 968.20 (1m) (b) If the seized property is a dangerous weapon or ammunition,
5 the property shall not be returned to any person who committed a crime involving
6 the use of the dangerous weapon or the ammunition. The

7 (c) Except as provided in par. (d), seized property that is a dangerous weapon
8 or ammunition may be returned to the rightful owner under this section if the owner
9 had no prior knowledge of and gave no consent to the commission of the crime.

10 (e) Property which may not be returned to an owner under this subsection shall
11 be disposed of under subs. (3) and (4).

12 SECTION 3. 968.20 (1m) (d) of the statutes is created to read:

13 968.20 (1m) (d) If the seized property is a firearm belonging to a licensee and
14 the property has not been returned under this section, the property shall be returned
15 to the ~~licensee~~ person who displays evidence of ownership of the firearm as follows:

****NOTE: The following subdivisions attempt to get at all ways in which a person could be "cleared of all wrongdoing." I do not know how likely subd. 1. is to occur; I don't know if the six-month period in subd. 3. is reasonable or not; and I am not sure how lack of knowledge and consent would be determined except by a court.

16 1. If the district attorney affirmatively declines to file charges against the
17 ~~licensee~~ person in connection with the seizure, within 48 hours of the affirmative decline.

18 2. If all charges against the ~~licensee~~ person filed in connection with the seizure are
19 dismissed, within 48 hours of the dismissal.

20 3. If 6 months have passed since the seizure and no charges against the ~~licensee~~ person
21 are filed in connection with the seizure, as soon as practically possible.

Hanaman, Cathlene

From: Laatsch, Christian
Sent: Tuesday, January 28, 2014 4:32 PM
To: Hanaman, Cathlene
Subject: LRB-3492/P2

Cathlene,

I spoke with my boss today regarding this proposed legislation and I wanted to get back to you with one change. In the part that reads:

5. If the person had no prior knowledge of and gave no consent to the commission of the activity that led to the seizure, within 48 hours of establishing the lack of knowledge and consent (from the top of page 3)

We have concern that the 48 hour window may be too short and that a period such as 5 business days would be more appropriate.

Thank you for making this change and I look forward to reading the third preliminary draft.

Stay warm.

Christian L. Laatsch
Office of Representative Dan Knodl
24th Assembly District
(608) 266-3796



P3

Wed. am please

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Referent

1 AN ACT *to amend* 968.20 (1m) (b) and 968.20 (2); and *to create* 968.20 (1m) (d)
2 of the statutes; **relating to:** the return of a seized firearm to the person who
3 owns the firearm.

Analysis by the Legislative Reference Bureau

Current law specifies a process and criteria for courts and police officers to use to determine ownership of property that has been seized by a police officer and to decide if, how, and when to return the seized property. Under this bill, if a firearm is seized, the firearm must be returned to the person who owns the firearm within 48 hours of the district attorney declining to file charges against the person in connection with the seizure, within 48 hours of the dismissal of the charges against the person in connection with the seizure, within 48 hours of the trial court reaching final disposition of all charges against the person in connection with the seizure if the person is not adjudged guilty, if no charges against the person are filed in connection with the seizure six months after the seizure, or within 48 hours of determining that the person did not have prior knowledge of and did not consent to the activity that resulted in the seizure.

X

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

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

five
5 business days after

1 **SECTION 1.** 968.20 (1m) (b) of the statutes is amended to read:

2 968.20 (1m) (b) If the seized property is a dangerous weapon or ammunition,
3 the property shall not be returned to any person who committed a crime involving
4 the use of the dangerous weapon or the ammunition. The

5 (c) Except as provided in par. (d), seized property that is a dangerous weapon
6 or ammunition may be returned to the rightful owner under this section if the owner
7 had no prior knowledge of and gave no consent to the commission of the crime.

8 (e) Property which may not be returned to an owner under this subsection shall
9 be disposed of under subs. (3) and (4).

10 **SECTION 2.** 968.20 (1m) (d) of the statutes is created to read:

11 968.20 (1m) (d) If the seized property is a firearm and the property has not been
12 returned under this section, the property shall be returned to the person who
13 displays evidence of ownership of the firearm as follows:

****NOTE: The following subdivisions attempt to get at all ways in which a person could be "cleared of all wrongdoing." I do not know how likely subd. 1. is to occur; I don't know if the six-month period in subd. 3. is reasonable or not; and I am not sure how lack of knowledge and consent would be determined except by a court.

14 1. If the district attorney affirmatively declines to file charges against the
15 person in connection with the seizure, within 48 hours of the affirmative decline.

16 2. If all charges against the person filed in connection with the seizure are
17 dismissed, within 48 hours of the dismissal.

18 3. If 6 months have passed since the seizure and no charges against the person
19 are filed in connection with the seizure, as soon as practically possible.

20 4. If the trial court reaches final disposition for all charges in connection with
21 the seizure and the person is not adjudged guilty of a crime in connection with the
22 seizure, within 48 hours of the final disposition.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3492/P3

CMH:kjf:jm

today
p.m.

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

new car

1 AN ACT *to amend* 968.20 (1m) (b) and 968.20 (2); and *to create* 968.20 (1m) (d)
2 of the statutes; **relating to:** the return of a seized firearm to the person who
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20 4. If the trial court reaches final disposition for all charges in connection with
21 the seizure and the person is not adjudged guilty of a crime in connection with the
22 seizure, within 48 hours of the final disposition.

