

**1983 Assembly Bill 661**

Date of enactment: **April 20, 1984**  
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**1983 Wisconsin Act 278**

AN ACT *to amend* 968.20 (1) (intro.), (2), (3) (a) and (b) and (5); and *to create* 968.20 (1m) of the statutes, *relating to* seized firearms and ammunition.

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

SECTION 1. 968.20 (1) (intro.), (2), (3) (a) and (b) and (5) of the statutes are amended to read:

968.20 (1) (intro.) Any person claiming the right to possession of property seized pursuant to a search warrant or seized without a search warrant may apply for its return to the circuit court for the county in which the property was seized or where the search warrant was returned. The court shall order such notice as it deems adequate to be given the district attorney and all persons who have or may have an interest in the property and shall hold a hearing to hear all claims to its true ownership. If the right to possession is proved to the court's satisfaction, it shall order the property, other than contraband or property covered under sub. (1m) or s. 948.165, returned if:

(2) Property not required for evidence or use in further investigation, unless contraband or property covered under sub. (1m) or s. 948.165, may be returned by the officer to the person from whom it was seized without the requirement of a hearing.

(3) (a) First class cities shall dispose of firearms or ammunition seized 12 months after taking possession of them if the owner, authorized under sub. (1m), has not requested their return and if the firearm or ammunition is not required for evidence or use in further investigation and has not been disposed of pursuant to a court order at the completion of a criminal action or proceeding. Disposition procedures shall be established by ordinance or resolution and may include provisions authorizing an attempt to return to the rightful owner any firearms or ammunition which appear to be stolen or are reported stolen. If enacted, any such provision shall include a presumption that if the firearms or ammunition appear to be or are reported stolen an attempt will be made to return the firearms or ammunition to the authorized rightful owner. If the return of the seized firearm or ammunition is not requested by its authorized rightful owner under sub. (1) and is not returned by the officer under sub. (2), the seized firearm or ammunition shall be shipped to and become property of the state crime laboratory. The administrator or a person designated by the administrator may destroy any material for which the laboratory has no use or arrange for the exchange of material with other public agencies. In lieu of destruction, shoulder weapons for which the laboratory has no use shall be turned over to the department of natural resources for sale and distribution of proceeds under s. 29.06.

(b) Except as provided in par. (a) or sub. (4), the custodian of a seized firearm or ammunition, if the firearm or ammunition is not required for evidence or use in further investigation and has not been disposed of pursuant to a court order at the completion of a criminal action or proceeding, shall make reasonable efforts to notify all persons who have or may have an authorized rightful interest in the firearm or ammunition of the application requirements under sub. (1). If, within 30 days after the notice, an application under sub. (1) is not made and the seized firearm or ammunition is not returned by the officer under sub. (2), the seized firearm or ammunition shall be shipped to and become the property of the state crime laboratory. The administrator or a person designated by the administrator may destroy any material for which the laboratory has no use or arrange for the exchange of material with other public agencies. In lieu of destruction, shoulder weapons for which the laboratory has no use shall be turned over to the department of natural resources for sale and distribution of proceeds under s. 29.06.

(5) A city, village, town or county may dispose of any firearm or ammunition under this section only by return to the authorized rightful owner, destruction or transfer to the state crime laboratory.

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

968.20 (1m) (a) In this subsection, "crime" includes an act committed by a juvenile or incompetent adult which would have been a crime if the act had been committed by a competent adult.

(b) If the seized property is a firearm or ammunition, the property shall not be returned to any person who committed a crime involving the use of the firearm or the ammunition. The property may be returned to the rightful owner under this section if the owner had no prior knowledge of and gave no consent to the commission of the crime. Property which may not be returned to an owner under this subsection shall be disposed of under subs. (3) to (5).

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