



## 2013 ASSEMBLY BILL 885

March 25, 2014 - Introduced by Representatives GOYKE, JOHNSON, BARNES, SARGENT, PASCH, POPE, BERCEAU, ZAMARRIPA, YOUNG and SINICKI, cosponsored by Senator LEHMAN. Referred to Committee on Criminal Justice.

1     **AN ACT to repeal** 941.29 (2); **to amend** 941.29 (1), 941.29 (3), 941.29 (4) and  
2           973.176 (1); and **to create** 941.29 (1) (bt) of the statutes; **relating to:**  
3           possession of firearms by individuals who are habitual criminals.

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### *Analysis by the Legislative Reference Bureau*

Current law prohibits a person from possessing a firearm if he or she has been convicted of a felony, found not guilty of a felony by reason of mental disease or defect, or adjudicated delinquent for an act that if committed by an adult in this state would be a felony. Under this bill, if a person has been convicted of a misdemeanor on three separate occasions within a five-year period, the person is prohibited from possessing a firearm until at least five years have passed since the first misdemeanor conviction. A person who violates the prohibition is guilty of a felony and is subject to a fine of up to \$25,000 or a term of imprisonment of up to ten years, or both.

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

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

4           **SECTION 1.** 941.29 (1) of the statutes is amended to read:

**ASSEMBLY BILL 885****SECTION 1**

1           941.29 (1) A person is subject to the requirements and penalties of this section  
2 if he or she has been who possesses a firearm is guilty of a Class G felony if any of  
3 the following applies:

4           (a) ~~Convicted~~ The person has been convicted of a felony in this state.

5           (b) ~~Convicted~~ The person has been convicted of a crime elsewhere that would  
6 be a felony if committed in this state.

7           (bm) ~~Adjudicated~~ The person has been adjudicated delinquent for an act  
8 committed on or after April 21, 1994, that if committed by an adult in this state would  
9 be a felony.

10          (c) ~~Found~~ The person has been found not guilty of a felony in this state by reason  
11 of mental disease or defect.

12          (d) ~~Found~~ The person has been found not guilty of or not responsible for a crime  
13 elsewhere that would be a felony in this state by reason of insanity or mental disease,  
14 defect or illness.

15          (e) ~~Committed~~ The person has been committed for treatment under s. 51.20 (13)  
16 (a) and ~~ordered~~ is subject to an order not to possess a firearm under s. 51.20 (13) (cv)  
17 1., 2007 stats.

18          (em) ~~Ordered~~ The person is subject to an order not to possess a firearm under  
19 s. 51.20 (13) (cv) 1., 51.45 (13) (i) 1., 54.10 (3) (f) 1., or 55.12 (10) (a).

20          (f) ~~Enjoined under~~ The person is subject to an injunction issued under s. 813.12  
21 or 813.122 or under a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court  
22 established by any federally recognized Wisconsin Indian tribe or band, except the  
23 Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he  
24 or she is subject to the requirements and penalties under this section and that has  
25 been filed under s. 806.247 (3).

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1 (g) ~~Ordered~~ The person is subject to an order not to possess a firearm under s.  
2 813.125 (4m).

3 **SECTION 2.** 941.29 (1) (bt) of the statutes is created to read:

4 941.29 (1) (bt) The person has been convicted of a misdemeanor on 3 separate  
5 occasions within the immediately preceding 5 years, not including any time that the  
6 person spent in actual confinement serving a criminal sentence. It is immaterial that  
7 sentence for any of the 3 misdemeanors was stayed, withheld, or suspended, or,  
8 notwithstanding sub. (5) (a), that the actor was pardoned for any of the 3  
9 misdemeanors, unless the pardon was granted on the ground of innocence.

10 **SECTION 3.** 941.29 (2) of the statutes is repealed.

11 **SECTION 4.** 941.29 (3) of the statutes is amended to read:

12 941.29 (3) Any firearm involved in an offense under ~~sub. (2)~~ this section is  
13 subject to s. 968.20 (3).

14 **SECTION 5.** 941.29 (4) of the statutes is amended to read:

15 941.29 (4) A person is concerned with the commission of a crime, as specified  
16 in s. 939.05 (2) (b), in violation of this section if he or she knowingly furnishes a person  
17 with a firearm in violation of ~~sub. (2)~~ this section.

18 **SECTION 6.** 973.176 (1) of the statutes is amended to read:

19 973.176 (1) FIREARM POSSESSION. Whenever a court imposes a sentence or  
20 places a defendant on probation regarding a felony conviction, or regarding a  
21 misdemeanor conviction if the conviction would subject the defendant to the  
22 prohibition under s. 941.29 (1) (bt), the court shall inform the defendant of the  
23 requirements and penalties under s. 941.29.

24 **SECTION 7. Initial applicability.**

