ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO ASSEMBLY BILL 1031

March 22, 2018 – Offered by Representative NERISON.

**AN ACT** to renumber 175.35 (2); to renumber and amend 175.35 (2i); to amend 20.455 (2) (gr) (title), 175.35 (title), 175.35 (1) (at), 175.35 (2g) (d), 175.35 (2k) (c) 2. a., 175.35 (2k) (c) 2. b., 175.35 (2k) (g), 175.35 (2k) (h), 175.35 (2L), 175.35 (2t) (a), (b) and (c) and 938.396 (2g) (n); and to create 175.35 (2bm), 175.35 (2g) (e) and 175.35 (2i) (b) of the statutes; relating to: background checks on sales of firearms that are not handguns.

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

**SECTION 1.** 20.455 (2) (gr) (title) of the statutes is amended to read:

20.455 (2) (gr) (title) **Handgun Firearm purchaser record check; checks for licenses or certifications to carry concealed weapons.**

**SECTION 2.** 175.35 (title) of the statutes is amended to read:

175.35 (title) **Purchase of handguns firearms.**
SECTION 3. 175.35 (1) (at) of the statutes is amended to read:

175.35 (1) (at) “Firearms restrictions record search” means a search of department of justice records to determine whether a person seeking to purchase a handgun firearm is prohibited from possessing a firearm under s. 941.29. “Firearms restrictions record search” includes a criminal history record search, a search to determine whether a person is prohibited from possessing a firearm under s. 51.20 (13) (cv) 1., 2007 stats., a search in the national instant criminal background check system to determine whether a person has been ordered not to possess a firearm under s. 51.20 (13) (cv) 1., 51.45 (13) (i) 1., 54.10 (3) (f) 1., or 55.12 (10) (a), a search to determine whether the person is subject to an injunction under s. 813.12 or 813.122, or a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court established by any federally recognized Wisconsin Indian tribe or band, except the Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he or she is subject to the requirements and penalties under s. 941.29 and that has been filed with the circuit court under s. 813.128 (3g), and a search to determine whether the person is prohibited from possessing a firearm under s. 813.123 (5m) or 813.125 (4m).

SECTION 4. 175.35 (2) of the statutes is renumbered 175.35 (2) (am).

SECTION 5. 175.35 (2) (bm) of the statutes is created to read:

175.35 (2) (bm) 1. When a firearms dealer sells a firearm that is not a handgun, he or she may not transfer possession of that firearm to any other person until all of the following have occurred:

a. The transferee has provided identification as required by rule under sub. (2g) (a).

b. The transferee has completed the notification form described in sub. (2g) (b).
c. The firearms dealer has conveyed the information from the completed notification form to the department of justice as required by rule under sub. (2g) (b) and requested a firearms restrictions record search.

d. The firearms dealer has received an approval number regarding the firearms restrictions record search under sub. (2g) (c) from the department of justice.

2. This paragraph does not apply if the department of justice certifies that the national instant criminal background check system contains all of the information the department conveys under sub. (2g) (d) and the national instant criminal background check system is using that information when performing a background check on persons seeking to purchase firearms that are not handguns.

SECTION 6. 175.35 (2g) (d) of the statutes is amended to read:

175.35 (2g) (d) 1. The department of justice shall promulgate rules to convey information in a timely manner to the national instant criminal background check system regarding individuals ordered not to possess prohibited from possessing a firearm under s. 51.20 (13) (cv) 1., 51.45 (13) (i) 1., 54.10 (3) (f) 1., or 55.12 (10) (a) 941.29.

2. The department of justice shall promulgate rules to convey information in a timely manner to the national instant criminal background check system regarding the cancellation under s. 51.20 (13) (cv) 1m. c., 51.45 (13) (i) 2. c., 54.10 (3) (f) 2. c., or 55.12 (10) (b) 3. of an order not to possess a firearm or if an injunction under s. 813.12 (4) or 813.122 (5); an injunction issued under s. 813.123 if the court has required the individual to surrender his or her firearms under s. 813.123 (5m); or an injunction issued under s. 813.125 if the court has required the individual to surrender his or her firearms under s. 813.125 (4m) has been vacated or has expired and not been extended.
SECTION 7. 175.35 (2g) (e) of the statutes is created to read:

175.35 (2g) (e) The department of justice shall promulgate rules for making the certification under sub. (2) (bm) 2.

SECTION 8. 175.35 (2i) of the statutes is renumbered 175.35 (2i) (a) and amended to read:

175.35 (2i) (a) The department shall charge a firearms dealer a $10 fee for each firearms restrictions record search that the firearms dealer requests under sub. (2) (e) (am) 3. The firearms dealer may collect the fee from the transferee. The department may refuse to conduct firearms restrictions record searches for any firearms dealer who fails to pay any fee under this subsection within 30 days after billing by the department.

SECTION 9. 175.35 (2i) (b) of the statutes is created to read:

175.35 (2i) (b) The department may not charge a firearms dealer a fee for a firearms restrictions record search that the firearms dealer requests under sub. (2) (bm) 1. c. The department may request the secretary of administration under s. 16.515 to supplement the appropriation under s. 20.455 (2) (gr) for purposes of conducting firearms restrictions record searches under sub. (2) (bm) 1. c.

SECTION 10. 175.35 (2k) (c) 2. a. of the statutes is amended to read:

175.35 (2k) (c) 2. a. A statement that the Wisconsin law enforcement agency is conducting an investigation of a crime in which a handgun firearm was used or was attempted to be used or was unlawfully possessed.

SECTION 11. 175.35 (2k) (c) 2. b. of the statutes is amended to read:

175.35 (2k) (c) 2. b. A statement by a division commander or higher authority within the Wisconsin law enforcement agency that he or she has a reasonable
Section 11

Suspicion that the person who is the subject of the information request has obtained or is attempting to obtain a handgun firearm.

Section 2dt. 175.35 (2k) (g) of the statutes is amended to read:

175.35 (2k) (g) If a search conducted under sub. (2g) indicates that the transferee is prohibited from possessing a firearm under s. 941.29, the attorney general or his or her designee may disclose to a law enforcement agency that the transferee has attempted to obtain a handgun firearm.

Section 2dv. 175.35 (2k) (h) of the statutes is amended to read:

175.35 (2k) (h) If a search conducted under sub. (2g) indicates a felony charge without a recorded disposition and the attorney general or his or her designee has reasonable grounds to believe the transferee may pose a danger to himself, herself or another, the attorney general or his or her designee may disclose to a law enforcement agency that the transferee has obtained or has attempted to obtain a handgun firearm.

Section 2dx. 175.35 (2L) of the statutes is amended to read:

175.35 (2L) The department of justice shall promulgate rules providing for the review of nonapprovals under sub. (2g) (c) 4. a. Any person who is denied the right to purchase a handgun firearm because the firearms dealer received a nonapproval number under sub. (2g) (c) 4. a. may request a firearms restrictions record search review under those rules. If the person disagrees with the results of that review, the person may file an appeal under rules promulgated by the department.

Section 12. 175.35 (2t) (a), (b) and (c) of the statutes are amended to read:

175.35 (2t) (a) Transfers of any handgun firearm classified as an antique by regulations of the U.S. department of the treasury.
(b) Transfers of any handgun firearm between firearms dealers or between wholesalers and dealers.

(c) Transfers of any handgun firearm to law enforcement or armed services agencies.

SECTION 13. 938.396 (2g) (n) of the statutes is amended to read:

938.396 (2g) (n) Firearms restrictions record search or background check. If a juvenile is adjudged delinquent for an act that would be a felony if committed by an adult, the court clerk shall notify the department of justice of that fact. No other information from the juvenile’s court records may be disclosed to the department of justice except by order of the court. The department of justice may disclose any information provided under this subsection only as part of a firearms restrictions record search under s. 175.35 (2g) (c), under rules the department of justice promulgates under s. 175.35 (2g) (d), or as part of a background check under s. 175.60 (9g) (a).

(END)