



1995 ASSEMBLY BILL 331

April 28, 1995 - Introduced by Representatives GOETSCH, ZIEGELBAUER, JENSEN, KRUSICK, OWENS, KAUFERT, LEHMAN, BRANDEMUEHL, GARD, LADWIG, PORTER, FREESE, SILBAUGH, SCHNEIDERS, URBAN, ROBSON, AINSWORTH, HAHN, F. LASEE, DUFF, MUSSER, BOYLE, SERATTI, ALBERS and BALDUS, cosponsored by Senators SCHULTZ, BUETTNER, ROSENZWEIG and DARLING. Referred to Committee on Criminal Justice and Corrections.

- 1 **AN ACT** *to renumber and amend* 175.35 (2k) (a); *to amend* 175.35 (2k) (b)
2 (intro.); and *to create* 175.35 (2k) (ag) and 175.35 (2k) (c) to (j) of the statutes;
3 **relating to:** handgun transfer records.

Analysis by the Legislative Reference Bureau

Under current law, no federally licensed firearms dealer may transfer a handgun following a sale until various conditions are met relating to a waiting period and to a criminal history record search and an involuntary commitment record search (background checks) of the prospective handgun owner by the department of justice (DOJ). The current law includes a provision authorizing DOJ to maintain records to administer this law, requiring DOJ to check and purge certain information relating to background checks and requiring DOJ to deny access to its records except under specified circumstances.

This bill adds another exception specifically requiring DOJ to provide access to these records by a law enforcement agency conducting a criminal investigation and involving a reasonable suspicion by a division commander or higher authority within the agency that a person has obtained or is attempting to obtain a handgun. The agency must notify a person who is the subject of one of these law enforcement information requests upon the earliest of the following: the date when the person is no longer pertinent to the investigation, the date when the investigation is completed or one year after the request is made. The bill requires the agency to destroy information it receives from DOJ according to the same date requirements. Finally, the bill authorizes the attorney general or his or her designee to inform law enforcement agencies when a background check indicates that a person tried to unlawfully obtain a firearm.

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.** 175.35 (2k) (a) of the statutes is renumbered 175.35 (2k) (ar), and
2 175.35 (2k) (ar) (intro.), as renumbered, is amended to read:

3 175.35 **(2k)** (ar) (intro.) Except as provided in ~~par.~~ pars. (b) to (j) and as
4 necessary to administer this section, the department of justice shall do all of the
5 following:

6 **SECTION 2.** 175.35 (2k) (ag) of the statutes is created to read:

7 175.35 **(2k)** (ag) In this subsection:

8 1. “Law enforcement agency of another state” means a governmental unit of one
9 or more persons employed by a state other than Wisconsin or a political subdivision
10 of a state other than Wisconsin for the purpose of preventing and detecting crime and
11 enforcing that state’s laws or local ordinances, employes of which unit are authorized
12 to make arrests for crimes while acting within the scope of their authority.

13 2. “Wisconsin law enforcement agency” means a governmental unit of one or
14 more persons employed by this state or a political subdivision of this state for the
15 purpose of preventing and detecting crime and enforcing state laws or local
16 ordinances, employes of which unit are authorized to make arrests for crimes while
17 acting within the scope of their authority.

18 **SECTION 3.** 175.35 (2k) (b) (intro.) of the statutes is amended to read:

19 175.35 **(2k)** (b) (intro.) Notwithstanding ~~par. (a)~~ (ar), the department of justice
20 may maintain all of the following:

21 **SECTION 4.** 175.35 (2k) (c) to (j) of the statutes are created to read:

1 175.35 **(2k)** (c) Notwithstanding par. (ar), the department of justice shall
2 provide access to any record under this section under all of the following
3 circumstances:

4 1. The department of justice receives a record request that is submitted in
5 writing by a Wisconsin law enforcement agency.

6 2. The request submitted under subd. 1. appears on the Wisconsin law
7 enforcement agency's letterhead and contains all of the following:

8 a. A statement that the Wisconsin law enforcement agency is conducting an
9 investigation of a crime in which a handgun was used or was attempted to be used.

10 b. A statement by a division commander or higher authority within the
11 Wisconsin law enforcement agency that he or she has a reasonable suspicion that the
12 person who is the subject of the information request has obtained or is attempting
13 to obtain a handgun.

14 c. The signature of a division commander or higher authority within the
15 Wisconsin law enforcement agency.

16 (d) Whenever a Wisconsin law enforcement agency makes a request for
17 information under par. (c), the agency shall report to the subject of the information
18 request the fact that a request has been made and the name of the Wisconsin law
19 enforcement agency that made the request. The agency shall make the report
20 whenever the earliest of the following occurs:

21 1. The person who is the subject of the information request under par. (c) 2. b.
22 is no longer material to the investigation conducted under par. (c) 2. a.

23 2. The Wisconsin law enforcement agency has completed its investigation
24 under par. (c) 2. a.

1 3. One year after the date that the Wisconsin law enforcement agency made the
2 request under par. (c).

3 (e) A Wisconsin law enforcement agency may disclose information that is
4 provided by the department of justice under par. (c) to another law enforcement
5 agency. If there is a request for information from a requester other than a law
6 enforcement agency, the Wisconsin law enforcement agency shall not disclose
7 information to the requester that is provided by the department of justice under par.
8 (c). If there is a request by a requester other than a law enforcement agency to copy
9 or inspect any record of the Wisconsin law enforcement agency that contains that
10 information, the agency, acting under s. 19.36 (6), shall delete any portion of the
11 record that relates to that information before release.

12 (f) A Wisconsin law enforcement agency that is provided access to a record
13 under par. (c) shall destroy all corresponding information contained in the record
14 when the earliest of the following occurs:

15 1. The person who is the subject of the information request under par. (c) 2. b.
16 is no longer material to the investigation conducted under par. (c) 2. a.

17 2. The Wisconsin law enforcement agency has completed its investigation
18 under par. (c) 2. a.

19 3. One year after the date the Wisconsin law enforcement agency made the
20 request under par. (c).

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

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

6 (i) The department of justice may not charge a fee for any services that the
7 department provides under pars. (c) to (j).

8 (j) If a law enforcement agency of another state makes a request under par. (c),
9 the department shall comply with the request under all of the following
10 circumstances:

11 1. The law enforcement agency of the other state agrees to comply with all the
12 requirements under this subsection.

13 2. The other state allows Wisconsin law enforcement agencies similar or
14 greater access to similar information from that other state.

15 (END)