



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4772/1
CMH:amn

2017 SENATE BILL 563

November 20, 2017 - Introduced by Senators JOHNSON, SHILLING, CARPENTER and LARSON, cosponsored by Representatives HEBL, C. TAYLOR, ANDERSON, BERCEAU, BILLINGS, FIELDS, GENRICH, HESSELBEIN, KOLSTE, OHNSTAD, POPE, SARGENT, SINICKI, SPREITZER, SUBECK and ZAMARRIPA. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT to renumber** 941.29 (1g) (a) and 971.17 (1g); **to amend** 973.176 (1); and
2 **to create** 941.29 (1g) (ah), 941.29 (1m) (ag), 941.29 (1m) (cm), 971.17 (1g) (b)
3 and 973.136 of the statutes; **relating to:** the possession of a firearm by a person
4 who has committed a misdemeanor crime of domestic violence and providing
5 a criminal penalty.

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. Federal law prohibits a person who is convicted of a misdemeanor crime of domestic violence from possessing a firearm. Under this bill, following a conviction, or a finding of not guilty by reason of mental disease or defect, for a misdemeanor crime of domestic violence, state law also prohibits the person from possessing a firearm. 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.

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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.** 941.29 (1g) (a) of the statutes is renumbered 941.29 (1g) (at).

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

3 941.29 **(1g)** (ah) “Misdemeanor crime of domestic violence” has the meaning
4 given in s. 973.136 (1) (c).

5 **SECTION 3.** 941.29 (1m) (ag) of the statutes is created to read:

6 941.29 **(1m)** (ag) The person has been convicted on or after the effective date
7 of this paragraph [LRB inserts date], of a misdemeanor crime of domestic violence.

8 **SECTION 4.** 941.29 (1m) (cm) of the statutes is created to read:

9 941.29 **(1m)** (cm) The person has been found not guilty by reason of mental
10 disease or defect on or after the effective date of this paragraph [LRB inserts date],
11 of a misdemeanor crime of domestic violence.

12 **SECTION 5.** 971.17 (1g) of the statutes is renumbered 971.17 (1g) (a).

13 **SECTION 6.** 971.17 (1g) (b) of the statutes is created to read:

14 971.17 **(1g)** (b) 1. In this paragraph, “misdemeanor crime of domestic violence”
15 has the meaning given in s. 973.136 (1) (c).

16 2. If the defendant under sub. (1) is found not guilty by reason of mental disease
17 or defect of a misdemeanor crime of domestic violence, the court shall enter a finding
18 to that effect in the record for purposes of determining whether the person is
19 prohibited from possessing a firearm under s. 941.29 and shall inform the defendant
20 of the requirements and penalties under s. 941.29.

21 **SECTION 7.** 973.136 of the statutes is created to read:

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1 **973.136 Prohibition for certain misdemeanor crimes. (1)** In this section:

2 (a) “Dating relationship” means a romantic or intimate social relationship
3 between 2 individuals but “dating relationship” does not include a casual
4 relationship or an ordinary fraternization between 2 individuals in a business or
5 social context. A court shall determine if a dating relationship existed by considering
6 the length of the relationship, the type of the relationship, and the frequency of the
7 interaction between the individuals involved in the relationship.

8 (b) “Family member” has the meaning given in s. 813.12 (1) (b).

9 (c) “Misdemeanor crime of domestic violence” means any of the following:

10 1. A violation or attempted violation of s. 940.19 (1), 940.195 (1), 940.225 (3m),
11 or 941.20 (1) when committed by an adult family member against another family
12 member, by an adult against his or her former spouse, by an adult against a person
13 with whom the adult has or had a dating relationship, or by an adult against a person
14 with whom the adult has a child in common.

15 2. A violation of s. 947.01 in which the adult actor engaged in violent or abusive
16 conduct to harm, intimidate, or threaten a person who is the adult actor’s family
17 member, the adult actor’s former spouse, a person with whom the adult actor has or
18 had a dating relationship, or a person with whom the adult actor has a child in
19 common.

20 3. A misdemeanor, except a misdemeanor listed in subd. 1. or 2., committed by
21 an adult family member against another family member, by an adult against his or
22 her former spouse, by an adult against a person with whom the adult has or had a
23 dating relationship, or by an adult against a person with whom the adult has a child
24 in common, if the court has increased the maximum term of imprisonment under s.
25 939.63 (1) (a).

