

1999 DRAFTING REQUEST

Bill

Received: **04/5/99**

Received By: **olsenje**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Welch (608) 266-0751**

By/Representing: **Les**

This file may be shown to any legislator: **NO**

Drafter: **olsenje**

May Contact:

Alt. Drafters:

Subject: **Criminal Law - guns and weapons**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Committing a crime with a firearm

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	olsenje 04/5/99			_____			S&L
/1			martykr 04/6/99	_____	lrb_docadmin 04/6/99	lrb_docadmin 04/12/99	

FE Sent For:

5/25/99

<END>

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/?	olsenje	1 4/5 jlg	4/5 m/s	4/5 [signature]			

FE Sent For:

<END>

D-Nafe

By Weds 4/7

LRB-1271/1
JEO:kmg:hmh
↑
stays

1999 BILL

2686/1

Regen

- 1 AN ACT to renumber and amend 939.63 (2); and to create 939.63 (2) (a) 2. and
- 2 939.63 (2) (b) of the statutes; relating to: committing certain crimes while
- 3 possessing, using or threatening to use a firearm and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, a person who commits a felony while possessing, using or threatening to use a dangerous weapon is subject, upon conviction, to a three-year minimum sentence for the first violation and a five-year minimum sentence for any subsequent violation. The terms are presumptive minimum terms because the court may give a lesser sentence or probation if it states its reasons for doing so on the record.

This bill narrows the coverage of the law, shortens the minimum terms and makes the terms mandatory. Under the bill, if a person commits a specified violent or drug-related felony while possessing, using or threatening to use a firearm, the person is subject, upon conviction, to a one-year mandatory minimum sentence for the first violation and a three-year mandatory minimum sentence for any subsequent violation. The court must sentence the person to at least the applicable minimum sentence and may not place the person on probation.

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:

BILL

1 **SECTION 1.** 939.63 (2) of the statutes is renumbered 939.63 (2) (a) 1. and
2 amended to read:

3 939.63 (2) (a) 1. ~~Whoever~~ If a person is convicted of committing a felony covered
4 under subd. 2. while possessing, using or threatening to use a dangerous weapon
5 shall be sentenced to a minimum term of years in prison, unless the sentencing court
6 otherwise provides. The minimum term for the first application of this subsection
7 is 3 years. The minimum term for any subsequent application of this subsection is
8 5 years. If the court places the person on probation or imposes a sentence less than
9 the presumptive minimum sentence, it shall place its reasons for so doing on the
10 record firearm, the court shall sentence the person to not less than one year of
11 imprisonment for the first application of this subdivision and to not less than 3 years
12 of imprisonment for any subsequent application of this subdivision. The court may
13 not place the person on probation.

14 **SECTION 2.** 939.63 (2) (a) 2. of the statutes is created to read:

15 939.63 (2) (a) 2. Subdivision 1. applies to any felony violation of any of the
16 following:

17 a. Section 940.02, 940.03, 940.05, 940.06, 940.19 (2), (3), (4), (5) or (6), 940.20,
18 940.201, 940.203, 940.205, 940.207, 940.21, 940.225 (1), (2) or (3), 940.23, 940.30,
19 940.305 (2), 940.31 (1) or (2) (b), 940.43, 940.45, 940.46, 941.12 (1), 941.21, 941.30,
20 941.32, 941.37 (3) or (4), 943.011, 943.012, 943.013, 943.015, 943.02, 943.03, 943.04,
21 943.06, 943.10, 943.12, 943.32, 944.32, 944.33 (2), 944.34, 946.02, 946.03, 946.42 (3),
22 946.43, 946.44, 946.47, 948.02 (1) or (2), 948.025, 948.03 (2) or (3), 948.04 (1), 948.05,
23 948.055, 948.30, 948.35, 961.41 (1), (1m), (1n), (1x), (2), (3g) (a) or (f) or (4) or 961.455.

24 b. Section 940.09 (1g) if the violation involved the operation or handling of a
25 firearm.

BILL

1 c. Section 940.29 or 940.295 if the violation involved abuse.

2 **SECTION 3.** 939.63 (2) (b) of the statutes is created to read:

3 939.63 (2) (b) If the felony under par. (a) has a maximum period of
4 imprisonment, including all applicable penalty enhancement statutes, of less than
5 the applicable mandatory minimum period specified in par. (a), the maximum period
6 of imprisonment is increased to equal the applicable minimum period.

7 **SECTION 4. Initial applicability.**

8 (1) This act first applies to offenses committed on the effective date of this
9 subsection, but does not preclude the counting of offenses committed prior to the
10 effective date of this subsection as prior offenses for sentencing a person.

11 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1271/1dn

JEO:kmg:hmh

↑
stays

~~Wednesday, January 6, 1999~~ 3 new
3 date

2686/1 dn

48

This is a redraft of 1997 Assembly Bill 26. I added to the list of felonies a few of the new crimes created last session (specifically, ss. 940.201, 943.011 and 961.41 (3g) (f), stats.) as well as s. 948.30, stats., as inclusion of these crimes seemed consistent with the intent behind the list. Okay?

Jefren E. Olsen
Legislative Attorney
266-8906

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2686/1dn
JEO:kmg:km

April 5, 1999

This is a redraft of 1997 Assembly Bill 48. I added to the list of felonies a few of the new crimes created last session (specifically, ss. 940.201, 943.011 and 961.41 (3g) (f), stats.) as well as s. 948.30, stats., as inclusion of these crimes seemed consistent with the intent behind the list. Okay?

Jefren E. Olsen
Legislative Attorney
Phone: (608) 266-8906
E-mail: Jefren.Olsen@legis.state.wi.us

**SUBMITTAL
FORM**

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 4/6/99

To: Senator Welch

Relating to LRB drafting number: LRB-2686

Topic

Committing a crime with a firearm

Subject(s)

Criminal Law - guns and weapons

1. **JACKET** the draft for introduction _____

in the **Senate** or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Jefren E. Olsen, Legislative Attorney
Telephone: (608) 266-8906