

1999 SENATE BILL 425

March 1, 2000 - Introduced by Senators BURKE, RISSER and ROSENZWEIG, cosponsored by Representatives HUBER, BOCK, BOYLE, LA FAVE, MILLER, RICHARDS, RILEY and SYKORA, by request of Attorney General James Doyle. Referred to Committee on Judiciary and Consumer Affairs.

1 **AN ACT to create** 175.35 (4) and 941.29 (11) of the statutes; **relating to:**
2 authorizing the department of justice to prosecute violations of certain laws
3 regulating firearms.

Analysis by the Legislative Reference Bureau

The Wisconsin constitution provides that powers and duties of the attorney general shall be prescribed by law. This provision of the constitution has been interpreted to mean that the attorney general has only those powers and duties that are specifically granted by the legislature. *Estate of Sharp*, 63 Wis. 2d 254, 261 (1971). The same limitation applies to the department of justice (DOJ), which is under the direction and supervision of the attorney general.

The legislature has not granted the attorney general or DOJ a general power to prosecute criminal cases. Rather, under current law the duty to prosecute criminal cases generally lies with district attorneys. However, current law does explicitly provide that DOJ may prosecute certain criminal cases, such as those relating to the medical assistance program and those involving violations of the state building and safety codes, state antitrust laws and the sex offender registration requirements. Current law also provides that, with certain exceptions, the attorney general has the duty to represent the state in criminal cases being reviewed by the court of appeals or the supreme court.

This bill provides that DOJ may prosecute criminal cases that involving violations of the following laws: 1) the law requiring that a prospective purchaser of a handgun provide identifying information to a firearms dealer and undergo a

