

2001 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB529)

Received: 10/31/2001

Received By: kunkemd

Wanted: Today

Identical to LRB:

For: Mark Pettis (608) 267-2365

By/Representing:

This file may be shown to any legislator: NO

Drafter: kunkemd

May Contact:

Addl. Drafters:

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

Extra Copies:

NO
10/31

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Concealed weapons

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>
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FE Sent For:

12-12-2001
"/1"

Per Joint Rule 41 (3)(a)

<END>

FE Requestor
Un-Known

LFB will prepare FE
(per Terry Rhodes at LFB)

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/?	kunkemd 10/31/2001	lrb_editor					
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kmq

King

King/anh

<END>

FE Sent For:

Please e-mail
the sub
to
Wood, Pettis,
Mossier

at request of Don
7-2365



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBs 6229/2
MGD&TNF:jld&hmb:rs

now

D-NOTE

S 0233/1

Rm NOT
RUN

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2001 ASSEMBLY BILL 529

1 AN ACT to renumber and amend 941.23; to amend 51.20 (13) (cv) 4., 51.20 (16)
2 (gm), 165.82 (1) (intro.), 343.19 (1), 343.50 (4), 813.12 (6) (am) 1., 813.12 (6) (am)
3 2., 813.122 (9) (am) 1., 813.122 (9) (am) 2., 813.125 (5r) (a), 813.125 (5r) (b) and
4 938.396 (8); and to create 165.87, 175.33, 343.14 (2) (j), 343.17 (3) (a) 14.,
5 941.23 (1), 941.23 (3), 941.237 (1) (dr), 941.237 (3) (am) and 941.237 (3m) of the
6 statutes; relating to: retired peace officers carrying a concealed weapon and
7 the content of operators' licenses and identification cards issued by the
8 department of transportation and requiring the exercise of rule-making
9 authority.

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

10 SECTION 1. 51.20 (13) (cv) 4. of the statutes is amended to read:
11 51.20 (13) (cv) 4. If the court prohibits a subject individual from possessing a
12 firearm under subd. 1. or cancels a prohibition under subd. 2., the court clerk shall

1 notify the department of justice of that fact and provide any information identifying
2 the subject individual that is necessary to permit an accurate involuntary
3 commitment history record search under s. 175.33 or 175.35 (2g) (c). No other
4 information from the subject individual's court records may be disclosed to the
5 department of justice except by order of the court. The department of justice may
6 disclose information provided under this subdivision only as part of an involuntary
7 commitment history record search under s. 175.33 or 175.35 (2g) (c).

8 **SECTION 2.** 51.20 (16) (gm) of the statutes is amended to read:

9 51.20 (16) (gm) Upon a request under par. (a), a court may cancel the
10 prohibition under sub. (13) (cv) 1. if the court determines, based on evidence
11 presented on the issue of the subject individual's dangerousness, that there no longer
12 is a substantial probability that the individual may use a firearm to cause physical
13 harm to himself or herself or endanger public safety. If a court cancels a prohibition
14 under sub. (13) (cv) 1. under this paragraph, the court clerk shall notify the
15 department of justice of that fact and provide any information identifying the subject
16 individual that is necessary to permit an accurate involuntary commitment record
17 search under s. 175.33 or 175.35 (2g) (c). No other information from the subject
18 individual's court records may be disclosed to the department of justice except by
19 order of the court.

20 **SECTION 3.** 165.82 (1) (intro.) of the statutes is amended to read:

21 165.82 (1) (intro.) Notwithstanding s. 19.35 (3), the department of justice shall
22 impose the following fees for criminal history searches for purposes unrelated to
23 criminal justice or to s. 175.33 or 175.35:

24 **SECTION 4.** 165.87 of the statutes is created to read:

1 **165.87 Authorization of retired peace officers to carry concealed**
2 **weapons. (1) DEFINITIONS. In this section:**

3 (a) "Board" means the law enforcement standards board.

4 (b) "Peace officer" has the meaning given in s. 939.22 (22).

5 (c) "Preretirement employer" means a person who employed a peace officer
6 immediately before the peace officer's retirement.

7 (d) "Retired peace officer" means a person who was formerly employed as a
8 peace officer and who, immediately upon the termination of his or her employment
9 as a peace officer, qualified for an annuity under the Wisconsin retirement system,
10 the retirement system of any 1st class city in Wisconsin, or any retirement system
11 established under chapter 201, laws of 1937.

12 (e) "Weapon" means dangerous weapon, as defined in s. 939.22 (10).

13 **(2) AUTHORIZATION BY BOARD.** If a person meets the requirements of sub. (3), the
14 board shall authorize the department of transportation in writing to include on the
15 person's state identification card, as defined in s. 941.23 (1) (b), a designation that
16 the person is a qualified retired peace officer.

17 **(3) ELIGIBILITY.** A person is eligible to obtain the authorization described in sub.
18 (2) if all of the following apply:

19 (a) The person is a retired peace officer.

20 (b) At the time of his or her retirement as a peace officer, the person was not
21 the subject of any disciplinary investigation or proceeding being conducted by his or
22 her preretirement employer.

23 (c) The person does not have a physical or mental disability that precludes him
24 or her from safely handling a firearm.

25 (d) The person is not prohibited under s. 941.29 from possessing a firearm



1 (e) The person is not prohibited under federal law from possessing a firearm
2 ~~that has been transported in interstate or foreign commerce.~~

3 (f) Within the preceding 2-year period, the person successfully completed a
4 course of 8 hours or less that was offered by a technical college and that covered the
5 safe use and storage of a handgun or an equivalent course offered by any other
6 institution or program. This paragraph does not apply during the 2-year period
7 immediately following a person's retirement from active service as a peace officer.

8 (g) The person has authorized all of the following in writing:

9 1. His or her preretirement employer to permit the board to obtain records from
10 the person's personnel file.

11 2. The technical college or other institution or program that provided the
12 person the training described in par. (f) to permit the board to obtain records relating
13 to the person's participation in the training.

14 (4) VERIFYING ELIGIBILITY. In investigating a person's eligibility under sub. (3),
15 the board may, among other things, do any of the following:

16 (a) Review personnel records relating to the person that are maintained by the
17 person's preretirement employer.

18 (b) Review records that are maintained by the technical college or other
19 institution or program that provided the person the training described in sub. (3) (f)
20 to verify that the person successfully completed the training.

21 (c) Request that the department perform a firearms restrictions record search
22 under s. 175.33.

23 (5) VERIFYING CONTINUED ELIGIBILITY. No later than 2 years after the date on
24 which the board sends the department of transportation a written authorization
25 under sub. (2), the person to whom the authorization applies shall submit to the

1 board written evidence of the person's continued eligibility under sub. (3). The board
2 may take any steps, including those described in sub. (4), to verify the person's
3 continued eligibility.

4 (6) REVOCATION. (a) If the board determines at any time that a person whose
5 application for an authorization under sub. (2) has been granted does not meet the
6 requirements of sub. (3) or that a person has failed to comply with sub. (5), the board
7 shall revoke its authorization. The board shall immediately thereafter notify the
8 person by certified mail and notify the department of transportation of the
9 revocation.

10 (b) If the board revokes its authorization with respect to a person under par.
11 (a), the person may reapply for authorization if the person's circumstances change
12 so that he or she is no longer ineligible.

13 (7) RULES. The board shall promulgate rules regarding all of the following:

14 (a) The method by which a person may apply under this section for
15 authorization to carry a concealed weapon, the application forms to be used by such
16 persons, and the forms to be used by persons documenting their continued eligibility
17 under sub. (5).

18 (b) Verification by the board of a person's eligibility under sub. (3).

19 (c) Revocation by the board of any authorization under sub. (2).

20 (d) Receiving and investigating complaints that a person is ineligible for an
21 authorization described in sub. (2).

22 (e) Verification by the department of transportation that a person requesting
23 inclusion of the designation under s. 343.14 (2) (j) has had his or her application for
24 authorization granted under this section. The board shall consult with the
25 department of transportation in developing the rules required under this paragraph.

1 (f) Any other rules necessary for the administration of this section.

2 SECTION 5. 175.33 of the statutes is created to read:

3 **175.33 Background checks for retired peace officers.** At the request of
4 the law enforcement standards board under s. 165.87 (4) (c), the department of
5 justice shall conduct a firearms restriction record search, as defined in s. 175.35 (1)
6 (at). The department may not charge a fee for a firearms restriction record search
7 conducted under this section. The department shall promulgate rules prescribing
8 the manner by which firearms restriction record searches are to be conducted under
9 this section.

10 SECTION 6. 343.14 (2) (j) of the statutes is created to read:

11 343.14 (2) (j) A question as to whether the applicant is a retired peace officer
12 who has successfully applied for authorization to carry a concealed weapon under s.
13 165.87 and who wishes to have the department include on the license document the
14 designation described under s. 343.17 (3) (a) 14.

15 SECTION 7. 343.17 (3) (a) 14. of the statutes is created to read:

16 343.17 (3) (a) 14. If the person has answered “yes” to the question under s.
17 343.14 (2) (j) and the department has verified that the person has successfully
18 applied for authorization to carry a concealed weapon under s. 165.87 under rules
19 promulgated by the law enforcement standards board under s. 165.87 (7) (e), a
20 designation that the person has successfully applied for that authorization.

21 SECTION 8. 343.19 (1) of the statutes is amended to read:

22 343.19 (1) If a license issued under this chapter or an identification card issued
23 under s. 343.50 is lost or destroyed ~~or~~, the name or address named in the license or
24 identification card is changed ~~or~~, the condition specified in s. 343.17 (3) (a) 12. or 13.
25 no longer applies, or the condition specified in s. 343.17 (3) (a) 14. applies, the person

1 to whom the license or identification card was issued may obtain a duplicate thereof
2 or substitute therefor upon furnishing proof satisfactory to the department of name
3 and date of birth and that the license or identification card has been lost or destroyed
4 or that application for a duplicate license or identification card is being made for a
5 change of address or name ~~or~~, because the condition specified in s. 343.17 (3) (a) 12.
6 or 13. no longer applies, or because the condition specified in s. 343.17 (3) (a) 14.
7 applies. If the original license or identification card is found it shall immediately be
8 transmitted to the department. Duplicates of nonphoto licenses shall be issued as
9 nonphoto licenses.

10 SECTION 9. 343.50 (4) of the statutes is amended to read:

11 343.50 (4) APPLICATION. The application for an identification card shall include
12 any information required under ss. 85.103 (2) and 343.14 (2) (a), (b), (bm), and (br),
13 such further information as the department may reasonably require to enable it to
14 determine whether the applicant is entitled by law to an identification card and, for
15 applicants who are aged 65 years or older, material, as provided by the department,
16 explaining the voluntary program that is specified in s. 71.55 (10) (b). The
17 department shall include on the application form the question described in s. 343.14
18 (2)(j) and shall, as part of the application process, take a photograph of the applicant
19 to comply with sub. (3). No application may be processed without the photograph
20 being taken. Misrepresentations in violation of s. 343.14 (5) are punishable as
21 provided in s. 343.14 (9).

22 SECTION 10. 813.12 (6) (am) 1. of the statutes is amended to read:

23 813.12 (6) (am) 1. If an injunction is issued or extended under sub. (4) or if a
24 tribal injunction is filed under s. 806.247 (3), the clerk of the circuit court shall notify
25 the department of justice of the injunction and shall provide the department of

1 justice with information concerning the period during which the injunction is in
2 effect and information necessary to identify the respondent for purposes of a firearms
3 restrictions record search under s. 175.33 or 175.35 (2g) (c).

4 **SECTION 11.** 813.12 (6) (am) 2. of the statutes is amended to read:

5 813.12 (6) (am) 2. Except as provided in subd. 3., the department of justice may
6 disclose information that it receives under subd. 1. only as part of a firearms
7 restrictions record search under s. 175.33 or 175.35 (2g) (c).

8 **SECTION 12.** 813.122 (9) (am) 1. of the statutes is amended to read:

9 813.122 (9) (am) 1. If an injunction is issued or extended under sub. (5), the
10 clerk of the circuit court shall notify the department of justice of the injunction and
11 shall provide the department of justice with information concerning the period
12 during which the injunction is in effect and information necessary to identify the
13 respondent for purposes of a firearms restrictions record search under s. 175.33 or
14 175.35 (2g) (c).

15 **SECTION 13.** 813.122 (9) (am) 2. of the statutes is amended to read:

16 813.122 (9) (am) 2. Except as provided in subd. 3., the department of justice
17 may disclose information that it receives under subd. 1. only as part of a firearms
18 restrictions record search under s. 175.33 or 175.35 (2g) (c).

19 **SECTION 14.** 813.125 (5r) (a) of the statutes is amended to read:

20 813.125 (5r) (a) If an order prohibiting a respondent from possessing a firearm
21 is issued under sub. (4m), the clerk of the circuit court shall notify the department
22 of justice of the existence of the order prohibiting a respondent from possessing a
23 firearm and shall provide the department of justice with information concerning the
24 period during which the order is in effect and information necessary to identify the

1 respondent for purposes of a firearms restrictions record search under s. 175.33 or
2 175.35 (2g) (c).

3 **SECTION 15.** 813.125 (5r) (b) of the statutes is amended to read:

4 813.125 (5r) (b) Except as provided in par. (c), the department of justice may
5 disclose information that it receives under par. (a) only as part of a firearms
6 restrictions record search under s. 175.33 or 175.35 (2g) (c).

7 **SECTION 16.** 938.396 (8) of the statutes is amended to read:

8 938.396 (8) Notwithstanding sub. (2), if a juvenile is adjudged delinquent for
9 an act that would be a felony if committed by an adult, the court clerk shall notify
10 the department of justice of that fact. No other information from the juvenile's court
11 records may be disclosed to the department of justice except by order of the court.
12 The department of justice may disclose any information provided under this
13 subsection only as part of a firearms restrictions record search under s. 175.33 or
14 175.35 (2g) (c).

15 **SECTION 17.** 941.23 of the statutes is renumbered 941.23 (2) and amended to
16 read:

17 941.23 (2) Any person except a peace officer or a qualified retired peace officer
18 who goes armed with a concealed and dangerous weapon is guilty of a Class A
19 misdemeanor.

20 **SECTION 18.** 941.23 (1) of the statutes is created to read:

21 941.23 (1) In this section:

22 (a) "Qualified retired peace officer" means a person whose request for
23 authorization to carry a concealed weapon under s. 165.87 has been granted, who
24 continues to meet the requirements for such an authorization, and who holds a valid
25 state identification card containing a designation under s. 343.17 (3) (a) 14.

1 (b) “State identification card” means an operator’s license issued under ch. 343
2 that contains a photograph of the license holder or an identification card issued
3 under s. 343.50.

4 **SECTION 19.** 941.23 (3) of the statutes is created to read:

5 941.23 (3) If he or she is carrying a concealed weapon, a qualified retired peace
6 officer shall carry his or her state identification card and shall, upon the request of
7 any law enforcement officer, display it to the law enforcement officer.

8 **SECTION 20.** 941.237 (1) (dr) of the statutes is created to read:

9 941.237 (1) (dr) “Proprietor” means a person to whom a Class “B” or “Class B”
10 license or permit has been issued under ch. 125.

11 **SECTION 21.** 941.237 (3) (am) of the statutes is created to read:

12 941.237 (3) (am) A qualified retired peace officer, as defined in s. 941.23 (1) (a).
13 This paragraph does not apply to any premises for which a Class “B” or “Class B”
14 license or permit has been issued under ch. 125 if the sale of intoxicating liquors or
15 fermented malt beverages or both on those premises accounts for more than 50% of
16 the proprietor’s receipts from those premises.

17 **SECTION 22.** 941.237 (3m) of the statutes is created to read:

18 941.237 (3m) If he or she is carrying a firearm on any premises for which a
19 Class “B” or “Class B” license or permit has been issued under ch. 125, a qualified
20 retired peace officer, as defined in s. 941.23 (1) (a), shall carry his or her state
21 identification card, as defined in s. 941.23 (1) (b), and shall, upon the request of any
22 law enforcement officer, display it to the law enforcement officer.

23 **SECTION 23. Nonstatutory provisions.**

24 (1) (a) In this subsection, “board” means the law enforcement standards board.

1 (b) Using the procedure under section 227.24 of the statutes, the board shall
2 promulgate the rules required under section 165.87 (7) of the statutes, as created by
3 this act, for the period beginning on the effective date of this paragraph and ending
4 on the effective date of the permanent rules promulgated under section 165.87 (7) of
5 the statutes, as created by this act, but the rules may not remain effective for longer
6 than the period authorized under section 227.24 (1) (c) and (2) of the statutes. The
7 board shall promulgate the rules required under this paragraph no later than the
8 first day of the 3rd month beginning after the effective date of this paragraph.
9 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the board is not
10 required to provide evidence that promulgating a rule under this paragraph as an
11 emergency rule is necessary for the preservation of the public peace, health, safety,
12 or welfare and is not required to provide a finding of emergency for a rule
13 promulgated under this paragraph.

14 **SECTION 24. Effective dates.** This act takes effect on the first day of the 4th
15 month beginning after publication, except as follows.

16 (1) SECTION 23 of this act takes effect on the day after publication.

17 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0233/1dn
MDK:.....

Representative Pettis:

This substitute amendment is identical to LRBs0229/2, except for the change to proposed s. 165.87 (3) (e).

Mark D. Kunkel
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0233/1dn
MDK:kmg:kg

October 31, 2001

Representative Pettis:

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