

2001 DRAFTING REQUEST

Bill

Received: 09/17/2001

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Mark Pettis (608) 267-2365

By/Representing: Don Nelson

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Criminal Law - guns and weapons

Extra Copies: MGD

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Handgun purchaser check; correcting incorrect information

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> |
|--------------|---------------------|------------------------|------------------------|----------------|----------------------------|---------------------------------------|-----------------|
| /? | rryan 09/28/2001 | rschluet 10/01/2001 | | _____ | | | State |
| /1 | | | pgreensl 10/01/2001 | _____ | lrb_docadmin 10/01/2001 | lrb_docadmin 10/02/2001 | |
| | | | | _____ | | lrb_docadmin 10/02/2001 | |

FE Sent For:

<END>

10-04-01
("11")
per

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| 1? | rryan | CS 9-28-01 | 10/11 PS | 10/11 PS/JF | | | |

FE Sent For:

<END>



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3792/E 1

RLR:.....

rs

4
cmH

In 9/28/01

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Due Noon
10-2-1

Gen. Cart.

1 AN ACT¹; relating to: firearms restrictions record checks.

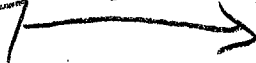
Analysis by the Legislative Reference Bureau

* Current law requires⁹¹ that a firearms dealer complete a department of justice (DOJ) firearms restrictions records⁸ check on a handgun purchaser before transferring possession of a handgun to the purchaser. A firearms restrictions record check consists of a search of criminal history records, and a search of prohibitions against a person possessing a firearm as a result of a finding that the person is mentally ill, drug dependent, or developmentally disabled, or based on conditions of a domestic abuse or child abuse restraining order. If the firearms restrictions record check reveals that a person is prohibited from possessing a gun, a firearms dealer may not transfer a gun to that person. A person denied the right to purchase a gun as a result of a firearms restrictions records⁹ check may request that DOJ review the denial, and if the outcome of the review is unfavorable, the person may appeal the denial to a DOJ administrator.

This bill requires that if DOJ finds, either in a review or ⁱⁿ an appeal, that a person was improperly denied the right to purchase a handgun on the basis of incorrect information found in a firearms restrictions records⁹ check, ~~that~~ DOJ must correct the information in DOJ records, notify the agency that provided the incorrect information, and request that the agency correct ~~the~~ it, and notify any agency or person to whom DOJ provided notice of the denial that the denial was based on incorrect information and has been reversed.

For further information see the *state* 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:

Insert 2-1 

(END)

LPS - please show frozen section #s

1 20.455 (2) (kb) *Firearms restrictions record searches*. The amounts in the
2 schedule to provide services under s. 175.35. All moneys transferred from the
3 appropriation account under s. 20.505 (6) (j) 17. shall be credited to this
4 appropriation account.”.

5 4. Page 393, line 10: after that line insert:

6 “SECTION 855r. 20.505 (6) (j) 17. of the statutes is created to read:

7 20.505 (6) (j) 17. The amount transferred to s. 20.455 (2) (kb) shall be the
8 amount in the schedule under s. 20.455 (2) (kb).”.

9 5. Page 972, line 7: after that line insert:

10 “SECTION 2882f. 175.35 (2i) of the statutes is amended to read:

11 175.35 (2i) The department shall may not charge a ~~firearms dealer~~ an \$8 fee
12 for each a firearms restrictions record search that the ~~firearms dealer~~ requests
13 requested under sub. (2) (c). ~~The firearms dealer may collect the fee from the~~
14 ~~transferee. The department may refuse to conduct firearms restrictions record~~
15 ~~searches for any firearms dealer who fails to pay any fee under this subsection within~~
16 30 days after billing by the department.

Insert
2-17

17 SECTION ~~2882f~~. 175.35 (2L) of the statutes is renumbered 175.35 (2L) (a) and
18 amended to read:

19 175.35 (2L) (a) The department of justice shall promulgate rules providing for
20 the review of nonapprovals under sub. (2g) (c) 4. a. and for the correction of inaccurate
21 information under par. (b). Any person who is denied the right to purchase a
22 handgun because the firearms dealer received a nonapproval number under sub. (2g)
23 (c) 4. a. may request a firearms restrictions record search review under those rules.

plain space



1 If the person disagrees with the results of that review, the person may file an appeal
2 under rules promulgated by the department.

3 SECTION ~~282h~~ 175.35 (2L) (b) of the statutes is created to read:

4 175.35 (2L) (b) If, upon review or appeal under par. (a), the department of
5 justice determines that a person was incorrectly denied approval under sub. (2g) (c)

6 4. a. based on incorrect information ^{obtained from a} ~~in a criminal history record or incorrect~~
7 ~~information received in a~~ firearms restrictions record search, the department of
8 justice shall immediately do all of the following:

9 1. Update any relevant department of justice records to reflect the correct
10 information.

11 2. Notify the agency that provided the incorrect information to the department
12 of justice that the information provided is incorrect and request that the agency
13 update its records to reflect the correct information.

14 3. Notify any agency or person to which the department of justice provided
15 notice of the nonapproval under sub. (2g) (c) 4. a. that the nonapproval was based on
16 incorrect information and that it has been reversed.

17 ~~6. Page 1381, line 11: delete lines 11 to 13 and substitute:~~

18 ~~“(6e) OFFICE OF JUSTICE ASSISTANCE PENALTY ASSESSMENT MONEYS.
19 Notwithstanding section 20.001 (3) (c) of the statutes, on July 1, 2001, there is lapsed
20 to the general fund \$136,400 from the appropriation account to the office of justice
21 assistance under section 20.505 (6) (j) of the statutes, as affected by the acts of 2001.”.~~

22 ~~7. Page 1388, line 12: after that line insert:~~

23 ~~“(2n) HANDGUN PURCHASER RECORD CHECK FEES. Notwithstanding section 20.455
24 (2) (gr) of the statutes, as affected by this act, there is lapsed to the general fund from~~

(end of insert)

Don Nelson, Rep. Pettis

Provisions from LRB 61314 regarding
correction of information in firearm
restrictions records checks



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

October 1, 2001

MEMORANDUM

To: Representative Pettis

From: Robin L. Ryan, Legislative Attorney

Re: LRB-3792/1 Handgun purchaser check; correcting incorrect information

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

~~_____~~ JACKET FOR ASSEMBLY _____ JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 261-6927 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.