



State of Wisconsin
1999 - 2000 LEGISLATURE

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LRB-98381

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1 AN ACT to amend 25.29 (1) (a), 165.82 (2), 941.23 and 941.235 (2); and to create
2 20.370 (5) (cx), 20.455 (2) (gp), 29.595, 59.25 (3) (u), 167.31 (4) (am), 175.50,
3 440.26 (3r), 941.295 (2) (bm) and 948.605 (2) (b) 4m. of the statutes; relating
4 to: licenses to carry a concealed weapon, granting rule-making authority,
5 making appropriations and providing a penalty. ^{ies}

Analysis by the Legislative Reference Bureau

Currently, no person other than a peace officer may carry a concealed and dangerous weapon. A person who violates this prohibition may be fined not more than \$10,000 or imprisoned for not more than nine months or both. In addition, current law prohibits, with certain exceptions, being armed with a firearm while in a public building, in or on the grounds of a school or within 1,000 feet of the grounds of a school. Current law also prohibits, with certain exceptions, going armed with a handgun on any premises (such as a tavern) that has a license or permit to sell alcohol beverages for consumption on those premises. A person who violates these prohibitions may be fined not more than \$10,000 or imprisoned for not more than nine months or both, except that a person who goes armed in a public building may be fined not more than \$1,000 or imprisoned for not more than 90 days or both.

This bill creates a procedure by which a person may apply to a county sheriff for a license to carry a concealed weapon. Such a license authorizes a person to carry a concealed weapon anywhere in this state except in particular places specified under the bill. These places include police stations, sheriffs' offices, state patrol

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stations, prisons and jails, any premises (such as a tavern) that has a license or permit to sell alcohol beverages for consumption on those premises, a school administration building, an airport, and any place in which the carrying of a weapon is prohibited by federal law. A person who is licensed to carry a concealed weapon and who carries a concealed weapon in a place where the license does not authorize him or her to do so may be fined not more than \$1,000 or imprisoned for not more than 90 days or both.

Under the bill, a county sheriff must issue a license to carry a concealed weapon to a person who meets the qualifications established in the bill for the license unless the county board of the sheriff's county decides by a two-thirds vote to authorize the sheriff not to issue concealed weapons licenses. The bill also allows two or more sheriffs to enter into cooperative agreements under which the sheriffs may jointly issue licenses to carry a concealed weapon.

The bill specifies the requirements that a person must satisfy in order to qualify for a license to carry a concealed weapon. Included among the requirements that a person must satisfy are the following: 1) he or she must be at least 21 years old; 2) he or she must not be prohibited from possessing a firearm due to a felony conviction, a juvenile delinquency adjudication, an order issued in a civil mental commitment case, or any other order prohibiting the person from possessing a firearm; 3) he or she must have successfully completed one of several specified firearms training or safety courses; 4) he or she must not have been subject to a finding of incompetency, drug dependency or chronic alcohol use or involuntarily committed for treatment of mental illness during the ^{preceding five} three year period preceding the date of his or her application for the license. In addition, the bill requires a sheriff to conduct a background check of a person who applies for a license to carry a concealed weapon to determine whether the person is prohibited from possessing a firearm due to a felony conviction, a juvenile delinquency adjudication, an order issued in a civil mental commitment case, or any other order prohibiting the person from possessing a firearm. The background check requirement does not apply to a person applying for a license if the person is a law enforcement officer, a correctional officer, a probation and parole agent, or a person holding a current certification from the law enforcement standards board.

In addition, the bill does all of the following:

1. Allows a sheriff to issue an emergency license to an individual who is in imminent danger of death.
2. Provides that a license to carry a concealed weapon is valid for five years and establishes a renewal procedure that includes a background check of the person renewing the license.
3. Requires Allows a sheriff to suspend or revoke a license to carry a concealed weapon under certain circumstances. Among the grounds for suspending or revoking a license are conviction of a felony or certain misdemeanors, a finding of incompetency, drug dependency or chronic alcohol use, or an involuntary commitment for treatment of mental illness. A person whose license is suspended or revoked by the sheriff may appeal the sheriff's action to circuit court for review by a judge.

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Among the grounds for suspending or revoking a license are conviction of a felony or certain misdemeanors, a finding of incompetency, drug dependency or chronic alcohol use, or an involuntary commitment for treatment of mental illness. A person whose license is suspended or revoked by the sheriff may appeal the sheriff's action to circuit court for review by a judge.

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5. Specifies the information that must be on a license to carry a concealed weapon and an application for such a license, and requires the department of justice (DOJ) to design the form of the license and the license application form. ^{and renewal}

6. Requires the sheriff to provide information to DOJ concerning a person licensed to carry a concealed weapon, and requires DOJ to keep a computerized list of persons licensed to carry a concealed weapon. The list kept by DOJ is available only to law enforcement agencies in certain specified circumstances. ^{and to clerks of court}

7. Requires a person who applies for a license to carry a concealed weapon to pay a shooting range improvement fee, which is to be used by the department of natural resources to provide grants for the construction and improvement of shooting ranges.

8. Requires a person who applies for a license to carry a concealed weapon to pay a law enforcement excellence fund fee, which is to be used by the sheriff to improve law enforcement services in his or her county.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 20.370 (5) (cx) ^x of the statutes is created to read:

20.370 (5) (cx) *Recreation aids — grants for shooting ranges.* All moneys received from the shooting range improvement fee under s. 175.50 (7) (bp) and (15) (b) 4. c. for the purpose of making grants and administering the grant program under s. 29.595.

SECTION 2. 20.455 (2) (gp) ^x of the statutes is created to read:

20.455 (2) (gp) *Concealed weapons licenses background check.* All moneys received as fee payments under s. 175.50 (7) (bh) and (15) (b) 4. b. to provide services under s. 175.50.

SECTION 3. 25.29 (1) (a) ^x of the statutes, as affected by 1999 Wisconsin Act 9, is amended to read:

25.29 (1) (a) Except as provided in ss. 25.293 and 25.295, all moneys accruing to the state for or in behalf of the department under chs. 26, 27, 28, 29 and 350,

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SECTION 3

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subchs. I and VI of ch. 77 and ss. 23.09 to 23.31, 23.325 to 23.42, 23.50 to 23.99, 30.50 to 30.55, 70.58, 71.10(5) and, 71.30(10) and 175.50(7)(bp) and (15)(b)4. c., including grants received from the federal government or any of its agencies except as otherwise provided by law.

SECTION 4. 29.595 of the statutes is created to read:

29.595 Grants for shooting ranges. (1) The department may award grants to persons for construction or improvement of shooting ranges. A grant awarded under this section shall be paid from the appropriation account under s. 20.370 (5) (cx).

(2) A grant awarded under this section may be for up to 50% of the cost of the construction or improvement of the shooting range. A grant awarded under this section may not be used to pay for any of the following:

(a) The construction of clubhouses and facilities that are not essential to the operation of the shooting range.

(b) The operation and maintenance of the shooting range.

(3) In order to receive a grant under this section, the person creating or improving a shooting range shall agree to provide, for a fee of not more than \$20, a firearm safety course that will qualify an individual to satisfy the requirements under s. 175.50 (3) (h) for a license to carry a concealed weapon.

(4) In determining whether to make a grant under this section, the department shall consider the potential of the project to meet the needs of firearm safety courses in the area served by the shooting range relative to the proposed cost of the construction or improvement.

(5) The department shall promulgate rules establishing a procedure for applying for grants under this section.

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1 SECTION 5. 59.25 (3) (u) of the statutes is created to read:

2 59.25 (3) (u) 1. Subject to the terms of an agreement under s. 175.50 (2) (c),
3 deposit all moneys received under s. 175.50 (7) (bd), (13) and (15) (b) 4. a. and (d) 1.
4 in the general fund of the county.

5 2. Forward all moneys received under s. 175.50 (7) (bh) and (15) (b) 4. b. to the
6 state treasurer for payment of firearms restrictions record searches conducted under
7 s. 175.50 (9g) at the request of the county's sheriff.

8 3. Forward all moneys received under s. 175.50 (7) (bp) and (15) (b) 4. c. to the
9 state treasurer for deposit in the conservation fund to be credited to the
10 appropriation account under s. 20.370 (5) (cx).

11 4. Subject to the terms of an agreement under s. 175.50 (2) (c), deposit all
12 moneys received under s. 175.50 (7) (bt) and (15) (b) 4. d. in the law enforcement
13 excellence fund established under s. 175.50 (20) and make payments from the fund
14 for the purposes of s. 175.50 (20) (b).

15 SECTION 6. 165.82 (2) of the statutes is amended to read:

16 165.82 (2) Except as provided in s. ss. 175.35 and 175.50, the department of
17 justice shall not impose fees for criminal history searches for purposes related to
18 criminal justice.

19 SECTION 7. 167.31 (4) (am) of the statutes is created to read:

20 167.31 (4) (am) Subsections (2) and (3) do not apply to a person who holds a
21 valid license to carry a concealed weapon issued under s. 175.50.

22 SECTION 8. 175.50 of the statutes is created to read:

23 175.50 License to carry concealed weapon. (1) DEFINITIONS. In this
24 section:

25 (a) "Department" means the department of justice.

or an out-of-state
license, as defined
in s. 175.50 (1)(g)

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1 (b) "Firearms restrictions record search" has the meaning given in s. 175.35 (1)

2 (at).

3 (c) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c).

4 (d) "Licensee" means an individual who has been granted a license to carry a
5 concealed weapon under this section.

6 (e) "Misdemeanor crime of violence" means a misdemeanor violation of chs.
7 940, 941 or 948 or of s. 947.013 or a violation of s. 947.01.

8 (1) "Weapon" means a handgun, as defined in s. 175.35 (1) (b), an electric
9 weapon, as defined in s. 941.295 (4), a tear gas gun, a knife other than a switchblade
10 knife under s. 941.24, or a billy club. "Weapon" does not include a machine gun, as
11 defined in s. 941.27 (1), a short-barreled rifle, as defined in s. 941.28 (1) (b), or a
12 short-barreled shotgun, as defined in s. 941.28 (1) (c).

13 (2) ISSUANCE OF LICENSE. (a) Except as provided in pars. (b) and (c), a sheriff
14 shall issue licenses to carry a concealed weapon to an individual who meets the
15 qualifications specified in subs. (3) and (4) and who completes the application process
16 specified in sub. (7). A license to carry a concealed weapon issued by a sheriff under
17 this section shall meet the requirements specified in sub. (2m).

18 (b) A sheriff is not required to issue licenses to carry a concealed weapon under
19 this section if, before the first day of the 4th month beginning after the effective of
20 this paragraph [revisor inserts date], all of the following occur:

21 1. The sheriff requests the county board of the sheriff's county to authorize him
22 or her to decline to issue licenses to carry a concealed weapon under this section.

23 2. After receiving a request from the sheriff under subd. 1., the county board
24 of the sheriff's county grants the sheriff's request by a two-thirds vote of all the
25 members of the board.

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1 (c) Any 2 or more sheriffs may by agreement jointly ~~issue licenses to carry a~~
2 ~~concealed weapon~~ under this section. An agreement for joint issuance of licenses to
3 carry a concealed weapon under this section may be entered into at any time and
4 shall satisfy all of the following criteria:

- 5 1. The agreement shall be in writing.
- 6 2. The agreement shall be approved by the county board of the county of each
- 7 sheriff who is a party to the agreement.
- 8 3. The agreement shall specify how costs incurred and moneys received under
- 9 this section shall be apportioned among the sheriffs who are a party to the agreement
- 10 and their respective counties.

11 4. The agreement shall designate one county to be identified as the county of
12 issuance for purposes of the license document information required under sub. (2m)
13 (c) 7. and 8. ~~and for purposes of appeal under sub. (14)~~ *and for purposes of notification under sub. (1)(d) 2.,*

14 5. If a sheriff who is party to an agreement has issued licenses under this
15 section before entering into the agreement, the agreement shall provide for the
16 renewal of any licenses that were issued by that sheriff before he or she entered into
17 the agreement.

CS **OR AUTHORIZATION**

18 **(2g) CARRYING A CONCEALED WEAPON; CARRYING AND DISPLAY OF LICENSE.** (a) A
19 licensee may carry a concealed weapon anywhere in this state except as provided
20 under sub. (16). *and an out-of-state licensee shall carry his or her out-of-state authorization*

21 (b) A licensee shall carry his or her license at all times during which he or she
22 is carrying a concealed weapon.

23 (c) If he or she is carrying a concealed weapon, a licensee shall display his or
24 her license to a law enforcement officer upon the request of the law enforcement
25 officer. *and an out-of-state licensee shall display his or her out-of-state authorization*

or an out-of-state licensee

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1 (2m) LICENSE DOCUMENT; CONTENT OF LICENSE. (a) Subject to pars. (b), (c) and
2 (d), the department shall design the license document for licenses issued ^{and renewed} under this
3 section. The department shall complete the design of the license document no later
4 than the first day of the 4th month beginning after the effective date of this
5 paragraph [revisor inserts date], and shall distribute the design for the license
6 document to any sheriff who issues licenses under sub. (2) (a) or (c) for the sheriff to
7 use for licenses that he or she issues under this section.

8 (am) The department shall establish a unique code number for each county of
9 this state for use as a prefix to the identification number required under par. (c) 8.

10 (b) A license issued under this section shall be a single document, with the
11 information specified in par. (c) appearing on one side.

12 (c) One side of the license document shall include all of the following:

13 1. The full name, date of birth, and residence address of the licensee.

14 2. A color photograph of the licensee.

15 3. A physical description of the licensee, including gender, height, weight and
16 hair and eye color.

17 4. The date on which the license was issued.

18 5. The date on which the license expires.

19 6. The name of this state.

20 7. The name of the county of the sheriff who issues the license or, if the license
21 is issued by 2 or more sheriffs acting jointly under sub. (2) (c), the name of the county
22 designated under the agreement.

23 8. A unique identification number for each licensee that begins with the code
24 number for the county established by the department under par. (am).

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1 (d) A license document issued under this section shall be, to the maximum
2 extent possible, tamper proof and shall be produced using the same or similar
3 equipment used by the department of transportation to produce an operator's license
4 under s. 343.17.

5 (3) QUALIFICATIONS A PERSON MUST HAVE TO GET A LICENSE. An individual is
6 eligible for a license under this section if he or she satisfies all of the following: *apply*

7 (a) The individual is at least 21 years of age.

8 (b) ~~The individual is a resident of the United States~~

9 ~~(c) The individual does not suffer from a physical disability that prevents him~~
10 or her from safely handling a weapon.

11 (d) The individual is not prohibited from possessing a firearm under s. 941.29.

12 (e) During the ~~3~~ ^{3 years} year period immediately preceding the date on which he or
13 she submits an application under sub. (7), the individual has not been civilly
14 committed under s. 51.20 for being drug dependent.

15 (f) During the ~~3~~ ^{3 years} year period immediately preceding the date on which he or she
16 submits an application under sub. (7), the individual has not been convicted for any
17 violation, or for the solicitation, conspiracy or attempt to commit any violation, of ch.
18 961 or of a law of another state that is comparable to any provision of ch. 961.

19 (g) The individual does not chronically and habitually use alcohol beverages or
20 other substances to the extent that his or her normal faculties are impaired. A person
21 is presumed chronically and habitually to use alcohol beverages or other substances
22 to the extent that his or her normal faculties are impaired if, within the ~~2~~ ^{3 years} year period
23 immediately preceding the date on which he or she submits an application under sub.

24 (7), any of the following applies:

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1 1. The individual has been committed for involuntary treatment under s. 51.45
2 (13). ✓

3 2. The individual has been convicted of a violation of s. 941.20 (1) (b). ✓

4 3. The individual ^{to have committed} ~~has been convicted~~ 2 or more ~~times~~ ^{times} violation of s. 346.63,
5 of a local ordinance in conformity with s. 346.63, of a law of another state that is
6 comparable to s. 346.63 or of a law of a federally recognized American Indian tribe
7 or band in conformity with or comparable to s. 346.63.

8 (4) The individual has done one of the following:

9 2. Successfully completed a National Rifle Association firearm training or
10 firearm safety course. ✓

11 3. Successfully completed a firearm training or firearm safety course or class
12 conducted by an instructor certified either by the state in which the course was
13 conducted or by the National Rifle Association.

14 4. Successfully completed a firearm safety or firearm training course or class
15 that is available to the general public and that is offered by a law enforcement agency,
16 a private or public school, institution or organization or a firearm training school, if
17 the course or class uses instructors certified by the National Rifle Association or the
18 department or if the curriculum meets the minimum requirements of the law
19 enforcement standards board.

20 5. Successfully completed a firearm safety or firearm training course or class
21 offered for law enforcement officers, correctional officers, special deputies, private
22 detectives licensed under s. 440.26, or other security or law enforcement personnel. ✓

23 6. Participated in organized shooting competitions or military training that
24 gave the applicant experience with firearms that the sheriff determines is
25 substantially equivalent to any course or class specified in subs. 2. to 5. ✓

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1 (9) PROCESSING OF APPLICATION. (a) On receiving an application submitted
2 under sub. (7), a sheriff shall do all of the following:

3 1. Submit the fingerprint card of the applicant to the department for submittal
4 to the federal bureau of investigation or the automated fingerprint identification
5 system for the purposes of verifying the identity of the person fingerprinted and
6 obtaining records of his or her criminal arrest and conviction. If the applicant's
7 fingerprint card is not sufficiently legible for the federal bureau of investigation to
8 use in verifying the applicant's identity and obtaining his or her arrest or conviction
9 record, the sheriff shall require the applicant to submit an additional fingerprint
10 card.

11 2. Request the department to conduct a firearms restrictions record search, as
12 provided under sub. (9g).

13 (b) Subject to par. (c), within 21 days after receiving an application under sub.
14 (7) a sheriff shall do one of the following:

15 1. Issue the license.

16 2. Deny the application if the applicant fails to qualify under the criteria
17 specified in subs. (3) and (4). If the sheriff denies the application, he or she shall
18 inform the applicant in writing, stating the ground for denial.

19 (c) Except as provided in sub. (9r), a sheriff may not issue a license until 7 days,
20 subject to extension under sub. (9g) (b) 3. c., have elapsed from the time that the
21 sheriff has received a confirmation number regarding the firearms restrictions
22 record search under sub. (9g) (b) from the department *unless the department has notified* and the sheriff has not been
23 notified that the applicant is not qualified for a license under sub. (3) (d), (f), (g) 2.
24 or 3. (1) or (5).

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- 1 (i) A statement of the penalties for violating s. 246.37.
- 2 (6) OATH. An applicant shall swear under oath that the information that he or
- 3 she provides in an application submitted under sub. (7) and any document submitted
- 4 with the application is true and complete to the best of his or her knowledge.
- 5 (7) SUBMISSION OF APPLICATION. An applicant for a license under this section
- 6 shall submit all of the following to the sheriff to whom he or she is applying for a
- 7 license:
- 8 (a) An application in the form prescribed under sub. (5) that has been sworn
- 9 to as required under sub. (6).
- 10 (bd) A license fee set by the sheriff issuing the license that does not exceed
- 11 either the cost to the sheriff of issuing a license to an individual under this section,
- 12 including the cost of equipment purchase or rental, or \$75, whichever is less.
- 13 (bh) The fee for a firearms restrictions record search specified in sub. (9g) (c).
- 14 (bp) A shooting range improvement fee of \$15.
- 15 (bt) A law enforcement excellence fund fee of \$15.
- 16 (c) A fingerprint card bearing an index finger fingerprint of the applicant taken
- 17 by the sheriff to whom the application is submitted.
- 18 (d) A photocopy of a certificate or other evidence showing the applicant's
- 19 qualifications under sub. (3) (f).
- 20 (e) A full-face photograph of the applicant taken within the 30-day period
- 21 immediately preceding the date of the applicant's application.
- 22 (8) FINGERPRINTING BY SHERIFF. A sheriff shall provide fingerprinting service
- 23 at no additional charge to an applicant for a license or for renewal of a license under
- 24 this section.

or to a person to whom the sheriff issues a license under sub. (9).

BILL

1 probation in connection with the crimes 3 or more years before the date on which the

2 individual submits an application under sub. (1) ^{and renewal forms} ^{CS} ^{form} use by

3 (5) ~~Form~~ APPLICATION. The department shall design an application form for
4 use by individuals who apply for a license under this section. The department shall

5 complete the design of the application form no later than the first day of the 4th
6 month beginning after the effective date of this subsection.... [revisor inserts date],

7 and shall distribute the design for ^s ^{both} the application ^s form to any sheriff who issues
8 licenses under sub. (2) (a) or (c) for use in making ^{the} application forms ^{and the} for licenses ^{renewal forms} under

9 ^{described in} this section. The ^s application form ^s designed by the department shall include all of the
10 following:

11 (a) The name and address of the applicant.

12 (b) The date of birth of the applicant.

13 (c) The applicant's race, gender, height, weight, and hair and eye color.

14 (d) The applicant's social security number.

15 (e) A statement that the applicant is eligible for a license under the
16 requirements specified in sub. (3) ^{and} ~~and~~.

17 (f) A statement explaining the privilege of self-defense ^{and} defense of others
18 under s. 939.48, with a place for the applicant to sign his or her name to indicate that
19 he or she has read and understands the statement.

20 (g) A statement that the applicant has received a copy of this section and
21 understands the requirements of this section.

22 (h) A statement that the application is being made under oath and that an
23 applicant may be prosecuted ^{for violating s. 946.30} if he or she gives a false answer
24 to any question on the application or submits a falsified document with the
25 application.

BILL

1 7. Participated in military firearms training that gave the applicant experience
 2 with firearms that the sheriff determines is substantially equivalent to any course
 3 or class specified in subds. 2. to 5., if the applicant is serving in the U.S. armed forces
 4 or has received a discharge from the armed forces under conditions other than
 5 dishonorable.

6 (i) (j) The individual has not been found incompetent under ch. 880 or, if the
 7 individual has been found incompetent under ch. 880, he or she was subsequently
 8 found to be competent and, on the date that he or she submits an application under
 9 sub. (j) at least 5 years have elapsed from the date that he or she was found to be
 10 competent.

11 (k) The individual has not been involuntarily committed for treatment under
 12 s. 51.20 due to mental illness or a developmental disability or, if the individual has
 13 been involuntarily committed for treatment under s. 51.20 due to mental illness or
 14 a developmental disability, he or she ^{shows, through} ~~presents~~ evidence from a psychiatrist licensed
 15 in this state that he or she has not been disabled due to mental illness or a
 16 developmental disability for at least 5 years.

17 (l) The individual has not been charged with a felony or a misdemeanor crime
 18 of violence for which the prosecution was suspended under a deferred prosecution
 19 agreement unless 3 years have elapsed since the charge was dismissed.

20 (m) The individual has not ^{previously} submitted an application for a license under this
 21 section to ^{any} ~~any~~ county and had the application denied. ^{insert 11/21} (n) ^{change unless}

22 (4) MISDEMEANOR CONVICTIONS; DENIAL OF LICENSE. A sheriff may deny a license
 23 to an individual who has been found guilty of one or more misdemeanor crimes of
 24 violence unless the individual has been discharged from all sentences or periods of

(o) The individual has not had a license that was issued under this section revoked.

46
11/10
105
11/10
Insert 11/16

Insert 11/19

Insert 11/24

BILL

1 (9g) FIREARMS RESTRICTIONS RECORD SEARCHES. (a) A sheriff shall request the
 2 department to conduct a firearms restrictions record search by calling the
 3 department, using a toll-free telephone number provided by the department, and
 4 providing the department with the name, date of birth, gender, race and social
 5 security number of the applicant.

6 (b) On receiving a request under par. (a), the department shall conduct a
 7 firearms restrictions record search using the following procedure:

8 1. The department shall provide the sheriff with a confirmation number
 9 confirming the receipt of the information under par. (a).

10 2. The department shall conduct the firearms restrictions record search
 11 regarding an applicant for a license under this section. In conducting a search under
 12 this subdivision, the department shall use the transaction information for
 13 management of enforcement system and the national crime information center
 14 system.

15 3. The department shall notify the sheriff, either during the initial telephone
 16 call or as soon thereafter as practicable, of the results of the firearms restrictions
 17 record search as follows:

18 a. If the search indicates that the applicant does not qualify for a license under
 19 sub. (3) (d), (f), (g) 2. or 3. or (L) or (4), the department shall provide the sheriff with
 20 a unique nonapproval number. The department shall disclose to the sheriff the
 21 reason the applicant does not qualify for a license under sub. (3) (d), (f), (g) 2. or 3.

22 or (L) or (4).

23 b. If the search indicates that the applicant is qualified for a license under sub.
 24 (3) (d), (f), (g) 2. or 3. or (L) or (4), the department shall provide the sheriff with a
 25 unique approval number.

and

BILL

1 c. If the search indicates a criminal charge without a recorded disposition, the
 2 deadline under sub. (9) (c) is extended to the end of the 3rd complete working day
 3 commencing after the day on which the ~~department~~ ^{department learns of that charge} ~~finding is made~~. The department shall notify
 4 the sheriff of the extension as soon as practicable. During the extended period, the
 5 department shall make every reasonable effort to determine the disposition of the
 6 charge and notify the sheriff of the results as soon as practicable.

7 (bm) The department shall conduct the search under par. (b) immediately if,
 8 when requesting the search under par. (a), the sheriff informs the department that
 9 the search is for an applicant for an emergency license under sub. (9r).

10 (c) The department shall charge a sheriff a fee of \$8 for each firearms
 11 restrictions record search that the sheriff requests under par. (a), except that the
 12 department shall waive the fee if, when requesting the search, the sheriff informs
 13 the department that the fee is being waived under sub. (9r) (d). The sheriff shall
 14 collect the fee from the applicant unless the fee is waived under sub. (9r) (d).

15 (d) A sheriff shall maintain the original record of all completed application
 16 forms and a record of all confirmation numbers and corresponding approval or
 17 nonapproval numbers that he or she receives regarding firearms restrictions record
 18 searches under this subsection. The sheriff shall mail a duplicate copy of each
 19 completed application form to the department.

20 (e) 1. ~~Except as provided in subd. 2 and as necessary to administer this section,~~ NO
FF

21 the department shall do all of the following:
 22 ~~a) Deny access to any record kept under this section.~~ except as provided
in sub. (1)(c)

23 ~~(A)~~ Check each duplicate application form received under par. (d) against the
 24 information recorded by the department regarding the corresponding request for a
 25 firearms restrictions record search under this subsection. If the department

BILL

1 previously provided a unique approval number regarding the request and nothing
 2 in the duplicate completed application form indicates that the applicant is not
 3 qualified for a license under sub. (3) (d), (f), (g) 2. or 3. ^m ⁿ ~~(b)~~ or ~~(c)~~, the department
 4 ^{except as provided in subd. 2.} shall destroy all records regarding that firearms restrictions record search within 30
 5 days after receiving the duplicate form. INS 17/5 ✓

6 2. ~~Notwithstanding subd. 2.~~ the department may maintain records necessary
 7 to administer this subsection and, for a period of not more than 3^v years after the
 8 department issues a unique approval number, a log of dates of requests for firearms
 9 restrictions record searches under this subsection together with confirmation
 10 numbers and unique approval and nonapproval numbers corresponding to those
 11 dates.

12 (9r) EMERGENCY LICENSE. (a) A sheriff may issue a license under this section
 13 to an individual who does not satisfy the requirements under sub. (3) ^h ~~(b)~~ if the sheriff
 14 determines that the individual is in imminent danger of death. INS 17/14 ✓

15 (b) If a sheriff ~~decides to~~ ^s issue a license under par. (a), he or she shall notify the
 16 department and request an immediate firearms restrictions record search under
 17 sub. (9g). ~~and 2.~~ ^{and 3.} ✓

18 (c) 1. Except as provided in subd. 2, a license issued under par. (a) is valid for
 19 120 days from the date on which it is issued and may not be renewed.

20 ^{INS 17/20} 2. A license issued under par. (a) is valid for the period specified under sub. (15)

21 (a) and may be renewed under sub. (15) (b) if ~~all of the following apply~~ ^{NO} ~~4~~

22 ~~1.~~ The individual satisfies the requirement under sub. (3) (b) no later than 120
 23 days from the date on which the license is issued. 1 ← ^{2.}

24 ~~2.~~ A background check under sub. (9g) does not indicate that the person fails
 25 to meet any of the qualifications under sub. (3) (d), (f), (g) 2. or 3. ^m ⁿ ~~or (b) or (c)~~

INS 17/23

BILL

1 (d) Notwithstanding sub. (7) (bd), (bh), (bp) and (bt), a sheriff may waive the
2 fees required under sub. (7) (bd), (bh), (bp) and (bt) for an individual who is applying
3 for a license under par. (a) if requiring the individual to pay the fees creates a
4 hardship for the individual.

5 (10) EXEMPTION FROM BACKGROUND CHECK. Notwithstanding sub. (9) (a), a
6 sheriff shall issue a license under this section to any of the following individuals
7 without requesting the background checks required under sub. (9) (a):

8 (a) A law enforcement officer.

9 (b) A correctional officer.

10 (c) A probation and parole agent.

11 (d) A person who holds a current certification from the law enforcement
12 standards board under s. 165.85 (3) (c).

13 (11) ~~LICENSING~~ ^{(3) information} LICENSEES (a) A sheriff who issues licenses to carry a concealed
14 weapon under this section shall, within 5 days after issuing a license, notify the
15 department that he or she has issued a license under this section and provide the
16 department with the information specified in sub. (2m) (c) concerning the individual
17 to whom the license was issued.

18 (am) The department shall maintain a computerized record listing the names
19 of all individuals who have been issued a license under this section along with the
20 information concerning each individual that is provided to the department by a
21 sheriff under par. (a).

22 (b) Notwithstanding s. 19.35 and except as provided in par. (c) the department
23 may not make the computerized record under par. (am) or any information from that
24 computerized record available to any person.

BILL

and any sheriff issuing licenses under this section

licenses

1 (c) The department shall provide information concerning a specific individual
2 listed on the computerized list under part (a) to a law enforcement agency if the law
3 enforcement agency is requesting the information for any of the following purposes:

4 1. To confirm that a license produced by ^{an} ~~the~~ individual at the request of a law
5 enforcement officer is valid.

6 2. To confirm that the individual holds a valid license under this section, if the
7 individual is carrying a concealed weapon but is not carrying a license issued under
8 this section and claims to hold a valid license issued under this section.

NS
9/8

9 (12) UPDATED INFORMATION. No later than 30 days after changing his or her
10 address, an individual licensed under this section shall inform the sheriff who issued
11 the license of his or her new address. The sheriff shall provide the individual's new
12 address to the department for inclusion in the list under sub. (11) (am).

13 (13) LOST OR DESTROYED LICENSE. No later than 30 days after losing his or her
14 license or after his or her license is destroyed, an individual licensed under this
15 section shall submit to the sheriff who issued the license a notarized statement that
16 his or her license has been lost or destroyed. The sheriff shall issue a replacement
17 license upon receiving the notarized statement and a replacement license fee of \$15.

18 (14) LICENSE DENIAL DISCIPLINE. (a) A sheriff shall deny an application for a
19 license under this section or suspend or revoke a license that he or she issued under
20 this section if the applicant or licensee does any of the following:

NO
4

21 3. No longer meets all of the criteria specified in subs. (3) and

22 4. Is convicted of a felony or a misdemeanor crime of violence.

23 5. Is convicted of any violation, or any solicitation, conspiracy or attempt to
24 commit a violation, of ch. 961 or of a law of another state that is comparable to any
25 provision of ch. 961.

4. The licensee is found incompetent under 5.92-19.

[Handwritten signature]

[Handwritten signature]

BILL

1 ~~6. Is involuntarily committed for treatment under s. 51.20.~~

2 ~~7. Is involuntarily committed for treatment as a chronic alcoholic under s.~~
3 ~~51.45.~~

4 ~~8. Is convicted of a 2nd violation of s. 346.63, of a law of another state that is~~
5 ~~comparable to a violation of s. 346.63 or of a law of a federally recognized American~~
6 ~~Indian tribe or band that is comparable to s. 346.63, within 3 years of a previous~~
7 ~~conviction. For purposes of this subdivision, the first violation of s. 346.63, of a law~~
8 ~~of another state that is comparable to a violation of s. 346.63 or of a law of a federally~~
9 ~~recognized American Indian tribe or band that is comparable to s. 346.63, may have~~
10 ~~occurred before the date on which the individual submitted his or her application for~~
11 ~~a license under this section.~~

drunken driving offense

12 ~~9. Is found incompetent under ch. 880.~~

13 (am) ~~1.~~ If a licensee is arrested or charged with a crime that would disqualify
14 him or her from having a license under this section, the sheriff shall suspend the
15 licensee's license until judgment is entered in the case. If the charge is dismissed or
16 the licensee is acquitted, the sheriff shall restore the licensee's license. ~~If the person~~
17 ~~is convicted, the sheriff shall revoke the licensee's license.~~ *unless the person no longer meets all of the criteria specified in sub. (3)*

18 2. If an applicant for a license under this section is arrested or charged with a
19 crime that would disqualify him or her from having a license under this section, the
20 sheriff shall deny the application. Notwithstanding sub. (3) (m), if the charge is
21 dismissed or the applicant is acquitted, the applicant may reapply for a license.

22 (c) ~~2.~~ A person aggrieved by any action by a sheriff under this section may
23 appeal directly to the circuit court of the sheriff's county or, if applicable, to the circuit
24 court of the county of issuance designated under sub. (2) (c).

MS 20/21

dealing with or suspending a license

BILL

subsection

1 (b) ~~It~~ To begin an appeal under this ~~paragraph~~, the aggrieved person shall file a
 2 petition for review with the clerk of the applicable circuit court within 30 days after
 3 the date of the sheriff's action or, if applicable, within 30 days after the date of the
 4 notice provided to the person under sub. (9) (b) 2. The petition shall state the
 5 substance of the sheriff's action that the person is appealing from and the grounds
 6 upon which the person believes the sheriff's action to be improper. The petition may
 7 include a copy of any records or documents that are relevant to the grounds upon
 8 which the person believes the sheriff's action to be improper.

9 (c) ~~It~~ A copy of the petition shall be served upon the sheriff either personally or
 10 by registered or certified mail within 5 days after the person files his or her petition
 11 under ^{para (b)} ~~sub. 2~~.

12 (d) ~~It~~ The sheriff shall file an answer within 15 days after being served with the
 13 petition under ^{para (c)} ~~sub. 2~~. The answer shall include a brief statement of the actions
 14 taken by the sheriff, and a copy of any documents or records on which the sheriff
 15 based his or her action shall be included with the answer when filed.

16 (e) ~~It~~ The court shall review the petition, answer and any records or documents
 17 submitted with the petition or answer. The review under this ^{paragraph} ~~subdivision~~ shall be
 18 conducted by the court without a jury and shall be confined to the petition, answer
 19 and any records or documents submitted with the petition or answer, except that in
 20 cases of alleged irregularities in procedure by the sheriff the court may take
 21 testimony that the court determines is appropriate. NO
4

22 ~~It~~ The court shall affirm the sheriff's action unless the court finds any of the
 23 following:

24 ~~It~~ That the sheriff failed to follow procedure prescribed under this section.

①

BILL

1 ~~2~~ That the sheriff erroneously interpreted a provision of law and a correct
2 interpretation compels a different action.

3 ~~3~~ That the sheriff's action depends on a finding of fact that is not supported
4 by substantial evidence in the record.

5 (g) ~~4~~ The court's decision shall provide whatever relief is appropriate regardless
6 of the original form of the petition.

7 (15) LICENSE EXPIRATION AND RENEWAL. (a) Except as provided in sub. (9r) (c)
8 1., a license issued under this section is valid for a period of 5 years after the date on
9 which the license is issued unless the license is suspended or revoked under sub. (14).

10 (b) At least 90 days before the expiration date of a license issued under this
11 section, the sheriff who issued the license shall mail to the licensee a ~~written~~ notice
12 of expiration and a form for renewing the license. The sheriff shall renew the license
13 if, before the date the license expires, the licensee does all of the following:

14 1. Submits a renewal application on the form provided by the sheriff.

15 2. Submits a notarized affidavit ^{swearing under oath} stating that he or she remains qualified under
16 sub. (3) and (4).

the information provided under subd. 1. is true and complete to the best of his or her knowledge and that

17 4. Pays all of the following:

18 a. A fee set by the sheriff that does not exceed the cost to a sheriff of renewing
19 a license issued under this section, including the cost of equipment purchase or
20 rental.

21 b. The fee for a firearms restrictions record search specified in sub. (9g) (c).

22 c. A shooting range improvement fee of \$15.

23 d. A law enforcement excellence fund fee of \$15.

(NO 4) The Department shall design a form, notice of expiration and shall distribute the form to any sheriff who issues ~~licenses~~ licenses under sub. (2) (a) or (c) for use under this paragraph.

BILL

1 (c) The sheriff shall request the department to conduct a firearms restrictions
2 record search of a licensee as provided under sub. (9g) before renewing the licensee's
3 license under par. (b).

4 (d) 1. Except as provided in subd. 2, if a licensee submits a renewal application
5 under par. (b) after the expiration date of the license he or she shall be assessed a late
6 fee of \$15.

7 2. If a licensee does not submit a renewal application under par. (b) before 6
8 months after the date ^{on which} the license expires, the license shall permanently expire. A
9 licensee whose license has permanently expired may be issued a new license if he or
10 she applies for a license as provided under sub. (7).

11 (16) PROHIBITED ACTIVITY. (a) ^{Neither a} ~~By~~ licensee may carry a concealed weapon in any
12 of the following places: ^{nor an out-of-state licensee}

13 1. A place that has been declared a nuisance under ch. 823.

14 2. A police station, sheriff's office or state patrol station. This subdivision does
15 not prohibit a peace officer who is acting within the scope of his or her employment
16 from carrying a concealed weapon in a police station, sheriff's office or state patrol
17 station.

18 3. A prison, jail, house of correction or secured correctional facility.

19 4. A courthouse, except that a judge who is a licensee may carry a concealed
20 weapon in a courthouse in which he or she is presiding in court or may permit in
21 writing any other licensee to carry a concealed weapon in a courthouse in which he
22 or she is presiding in court.

23 5. A place at which a school, college or professional athletic event is taking
24 place, unless the event is related to firearms and the licensee is a participant in the
25 event.

or out-of-state licensee

BILL

1 ~~6~~ 6. A school administration building.

2 ~~7~~ 7. Any premises for which a Class "B" or "Class B" license or permit has been
3 issued under ch. 125, except as provided under s. 941.237.

4 ~~8~~ 8. An airport, unless the weapon is encased for shipment as baggage to be
5 transported by aircraft.

6 ~~9~~ 9. A place in which the carrying of a weapon is prohibited under s. 948.61.

7 ~~10~~ 10. A place in which the carrying of a weapon is prohibited by federal law.

8 (c) A licensee may not carry a concealed weapon if he or she is prohibited from
9 possessing a dangerous weapon under s. 969.02 (3) (c) or 969.03 (1) (c).

10 (17) PENALTIES. (a) A licensee who violates sub. (2g) (b) may be required to
11 forfeit not more than \$25.

12 (b) A licensee who violates sub. (16) may be fined not more than \$1,000 or
13 imprisoned for not more than 90 days or both.

14 (19) STATISTICAL REPORT. (a) By February 1 of each year, a sheriff who is issuing
15 or renewing licenses under this section shall submit a statistical report to the
16 department indicating the number of licenses applied for, issued, denied, suspended
17 and revoked under this section during the previous calendar year. For the licenses
18 denied, the report shall indicate the reasons for the denials and the part of the
19 application process during which the reasons for denial were discovered. For the
20 licenses suspended or revoked, the report shall indicate the reasons for the
21 suspensions and revocations.

22 (b) By March 1 of each year, the department shall submit a statistical report
23 to the legislature under s. 13.172 (2) and to the governor that is compiled from the
24 reports submitted under par. (a) and that indicates the number of licenses applied
25 for, issued, denied, suspended and revoked under this section during the previous

BILL

1 calendar year. For the licenses denied, the report shall indicate the reasons for the
2 denials and the part of the application process in which the reasons for denial were
3 discovered. For the licenses suspended or revoked, the report shall indicate the
4 reasons for the suspensions and revocations.

5 (20) LAW ENFORCEMENT EXCELLENCE FUND. (a) If a county's sheriff issues licenses
6 on his or her own under sub. (2) (a) or through an agreement under sub. (2) (c), the
7 county board shall establish a law enforcement excellence fund. All money collected
8 by a sheriff under subs. (7) (bt) and (15) (b) 4. d. shall be deposited in accordance with
9 s. 59.25 (3) (u) 4. in the law enforcement excellence fund established under this
10 subsection.

11 (b) A law enforcement excellence fund established under this subsection shall
12 be used to improve law enforcement services in the county and may not be used to
13 supplant or replace other funds otherwise available to the sheriff.

14 SECTION 9. 440.26 (3r) of the statutes is created to read:

15 440.26 (3r) CARRYING OF CONCEALED WEAPONS BY PRIVATE DETECTIVE. An
16 individual who is licensed as a private detective under this section and who is
17 licensed under s. 175.50 to carry a concealed weapon may carry a concealed weapon
18 as permitted under s. 175.50, including while he or she acting as a private detective.

19 SECTION 10. 941.23 of the statutes is amended to read:

20 941.23 Carrying concealed weapon. Any person except a peace officer, a
21 person licensed under s. 175.50 or a person licensed to carry a concealed weapon in
22 another state who goes armed with a concealed and dangerous weapon is guilty of
23 a Class A misdemeanor.

24 SECTION 11. 941.235 (2) of the statutes is amended to read:

Fix component

renumbered 941.23(1) and

plain

(1)

authorized under the law of another state

that

PDF

*10/25/00
Defence?*

INS 25/23

BILL

*or authorized under the law
of another state*

PWF

1 941.235 (2) This section does not apply to peace officers or armed forces or
2 military personnel who go armed in the line of duty, to any individual licensed under
3 s. 175.50 to carry a concealed weapon who is carrying a concealed weapon as
4 permitted under s. 175.50, or to any person duly authorized by the chief of police of
5 any city, village or town, the chief of the capitol police or the sheriff of any county to
6 possess a firearm in any building under sub. (1).

7 SECTION 12. 941.295 (2) (bm) ^X of the statutes is created to read:

8 941.295 (2) (bm) Any person licensed to carry a concealed weapon under s.
9 175.50 *or authorized under the law of another state to carry a concealed
weapon in that state*

10 SECTION 13. 948.605 (2) (b) 4m. ^X of the statutes is created to read:

11 948.605 (2) (b) 4m. By an individual licensed under s. ¹⁰⁷ 175.50 [✓] to carry a
12 concealed weapon who is carrying a concealed weapon as permitted under s. 175.50; [✓]

13 (END)

INS 26/9 ✓

*or authorized under the
law of another state*

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1086/P1
MGD:.....

1 analysis INSERT kessinger

2 ~~§~~ he or she must be eligible to possess a firearm under federal law; 3) ~~NO~~
analysis INSERT beckert

3 ~~§~~ 4) he or she must not have been convicted of an offense relating to controlled
substances during the preceding three[✓] years; 5) he or she must not have been
convicted of one of a set of specified misdemeanors involving violence or serving a
sentence for committing such a misdemeanor within the preceding three years; 6) ~~NO~~
analysis INSERT williams

4 ~~§~~ found not guilty of a crime by reason of mental disease or mental defect,
analysis INSERT santo

5 ~~§~~ ; 8) he or she must not have been committed for the treatment of drug
dependency during the preceding three years; and 9) he or she must not chronically
or habitually use alcohol or other substances to the extent that his or her normal
faculties are impaired.
analysis INSERT banks

6 ~~§~~ , a misdemeanor crime of violence, or a controlled substance offense, has been
adjudicated delinquent, or is subject to ~~NO~~
analysis INSERT spangler

7 ~~§~~ if the licensee no longer meets all of the requirements for licensure.
~~§~~ 4. Provides that a person whose application for a license is denied or ~~NO~~
analysis INSERT hundley

8 ~~§~~ 7. Requires the clerk of each court to notify the sheriff of court proceedings that
would require revocation of a license.
analysis INSERT qualls

9 ~~§~~ 10. Treats a license or permit issued by another state in the same manner as
a license issued under this bill.[✓]
INSERT 5/20

10 ~~NO~~ (2)[✓](a), (b), and (c) and (3) (a) and (b) do not apply to the placement, possession,
11 transportation, or loading of a firearm by ~~NO~~

12 INSERT 5/25

13 (am) "Drunken driving offense"[✓] means any of the following:

14 1. A violation of s. 346.63[✓] or a local ordinance in conformity with that[✓] section.

1 2. A violation of a law of a federally recognized American Indian tribe or band
2 in this state in conformity with s. 346.63.

3 3. A violation of the law of another jurisdiction, as defined in s. 340.01 (41m),
4 that prohibits use of a motor vehicle while intoxicated, while under the influence of
5 a controlled substance, a controlled substance analog, or a combination thereof, with
6 an excess or specified range of alcohol concentration, or ^{while} under the influence of any
7 drug to a degree that renders the person incapable of safely driving, as those or
8 substantially similar terms are used in that jurisdiction's laws.

9 INSERT 6/7

10 (f) "Out-of-state authorization" means a permit or a license issued by another
11 state documenting that a person is authorized under the law of that state to carry
12 a concealed weapon in that state.

13 (g) "Out-of-state licensee" means a person ^{who has been issued an out-of-}
14 state ~~to carry a concealed weapon in that state.~~ ^{authorized under the law of another}
~~state.~~ ^{authorization}

15 INSERT 7/1

16 ~~¶~~ ^{NO} exercise powers granted to them and discharge duties imposed on them

17 INSERT 7/7

18 ~~¶~~ 2m. The agreement shall specify how the powers and duties that are the subject
19 of the agreement are to be allocated among the sheriffs that are parties to the
20 agreement.

21 INSERT 9/10

22 ~~¶~~ (c) The individual is not prohibited under federal law from possessing a firearm
23 that has been transported in interstate or foreign commerce.

24 INSERT 11/16

1 (k) The individual has not been found incompetent under s. 971.14 or, if the
2 individual has been found incompetent under s. 971.14, one of the following applies:

3 1. He or she was subsequently found to be competent and at least 5 years have
4 elapsed from the date that he or she was found to be competent.

5 2. He or she was not subsequently found to be competent and he or she shows,
6 through evidence from a psychiatrist licensed in this state, that he or she has not
7 been disabled due to mental illness or a developmental disability for at least 5 years.

8 (L) The individual has not been found not guilty by reason of mental
9 disease or defect under s. 971.17 or, if the individual has been found not guilty by
10 reason of mental disease or defect under s. 971.17, he or she presents evidence from
11 a psychiatrist licensed in this state that he or she has not been disabled due to mental
12 illness or a developmental disability for at least 5 years.

13 (m) Within the preceding 3 years, the individual was ^{not} convicted of a
14 misdemeanor crime of violence or was ^{not} serving a sentence, on probation, or subject
15 to a dispositional order under ch. 938 for committing a misdemeanor crime of
16 violence.

17 INSERT 11/19

18 (o) There is no criminal case pending in which the person is charged with a
19 crime that, upon conviction, would disqualify him or her from having a license under
20 this section.

21 INSERT 11/21

22 ~~§~~ ^{no}, unless each reason for the denial is no longer applicable because of changed
23 circumstances

24 INSERT 11/24

1 ~~23~~ unless each reason for the revocation is no longer applicable because of changed
2 circumstances.

3 INSERT 12/2

4 ¶ (r) The individual has not been convicted of a violation of sub. (17) (c). ✓

5 INSERT 13/1

6 ~~23~~ for giving a false answer to any question on the application or submitting a
7 falsified document with the application ✓

8 INSERT 17/5

9 ~~NO~~ ¶ If the department previously provided a unique approval number regarding the
10 request and the duplicate completed application form indicates that the applicant is
11 not qualified for a license under sub. (3) (d), (f), (g) 2. or 3., (m), or (n), ✓ the department
12 shall immediately notify the sheriff who issued the license, and the sheriff shall
13 revoke the license.

14 INSERT 17/14

15 ~~23~~ and if the individual submits a fingerprint card that is taken by the sheriff and
16 that bears the individual's index finger fingerprint ✓

17 INSERT 17/20

18 ~~23~~ ¶ If the department does not notify the sheriff that the individual does not qualify
19 for a license under sub. (3) (d), (f), (g) 2. or 3., (m), or (n), ✓

20 INSERT 17/23

21 ¶ 3. If the department notifies the sheriff that an individual to whom the sheriff
22 has issued a license under par. (a) ✓ does not qualify for a license under sub. (3) (d), (f),
23 (g) 2. or 3., (m), or (n), ✓ the sheriff shall revoke the license.

24 INSERT 19/8



INS 19/8

1 3. To investigate whether a licensee intentionally falsely swore under sub. (6)
2 or (15) (b) 2.

3 (d) 1. In this paragraph, "clerk" means the clerk of the circuit court or, if it has
4 enacted a law or an ordinance in conformity with s. 346.63, the clerk of the court for
5 a federally recognized American Indian tribe or band in this state, a city, a village,
6 or a town.

7 2. The department shall make the names of all licensees and the name of the
8 county in which each licensee was licensed available to each clerk. If any of the
9 following occur^s with respect to a licensee, the clerk shall immediately notify the
10 sheriff of the county in which the license was issued of the occurrence:

11 a. The individual is charged with a felony, a misdemeanor crime of violence, a
12 violation of ch. 961, the solicitation, conspiracy, or attempt to commit any violation
13 of ch. 961, a violation of s. 941.20 (1) (b), or any other crime that, upon conviction,
14 would disqualify the individual from having a license under this section.

15 b. The individual is charged with a drunken driving offense, if a court has found
16 the individual to have committed one or more drunken driving offense within the
17 preceding 3 years.

18 c. The individual is convicted of any crime or found by a court to have committed
19 any offense described in subd. 2. a. or b.

20 d. Prosecution of a felony or a misdemeanor crime of violence for which the
21 individual is charged is suspended under a deferred prosecution agreement.

22 e. The individual is found incompetent under s. 971.14.

23 f. The individual is found not guilty of any crime by reason of mental disease
24 or mental defect under s. 971.17.



INS 19/8 cont

1 g. The individual is involuntarily committed for treatment under s. 51.20 or
2 51.45.

3 h. The individual is found incompetent under ch. 880.

4 **INSERT 20/21**

5 (b) 1. If a sheriff revokes or suspends a license under this section, the revocation
6 or suspension shall take effect immediately.

7 2. Upon revoking or suspending an individual's license, the sheriff shall
8 immediately attempt to inform the individual in person. If an individual is notified
9 of the revocation or suspension in person, the individual shall immediately
10 relinquish the license document to the sheriff. If the sheriff is unable to inform the
11 individual in person, the sheriff shall send the individual notice of the revocation or
12 suspension by certified mail within one day after the revocation or suspension.
13 Within 7 days after receiving the notice, the individual whose license has been
14 revoked or suspended shall deliver the license document personally or by certified
15 mail to the sheriff.

16 (14m) APPEALS.



17 **INSERT 24/13**

18 (c) Any person who intentionally falsely swears under sub. (6) or (15) (b) 2. shall
19 be fined not less than \$500 nor more than \$10,000 and may be imprisoned for not
20 more than 9 months.

21 (d) Any person required under sub. (14) (b) 2. to relinquish or deliver a license
22 document to a sheriff who intentionally violates the requirements of that subdivision
23 shall be fined not less than \$500 nor more than \$10,000 and may be imprisoned for
24 not more than 9 months.

1 (18) ACCESS TO RECORDS. Records created or kept under this section by the
2 department, a sheriff, or a clerk, as defined in sub. (11)(d) 1., other than reports
3 created under sub. (19) or records created under sub. (20), are not subject to access
4 under s. 19.35.

5 **INSERT 25/23**

6 SECTION 1. 941.23 (2) of the statutes is created to read:

7 941.23 (2) A person formerly licensed under s. 175.50 whose license has been
8 revoked or suspended under s. 175.50 (14) may not assert his or her refusal to accept
9 or failure to receive a notice of revocation or suspension mailed under s. 175.50 (14)
10 (b) 2. as a defense to prosecution under sub. (1), regardless of whether the person has
11 complied with s. 175.50 (12).

12 **INSERT 26/9**

13 SECTION 2. 946.32 (3) of the statutes is created to read:

14 946.32 (3) This section does not apply to offenses that may be prosecuted under
15 s. 175.50 (17) (c).

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB
101-1086/P1dn
MCD:K....
JLW

Mike:

1. Based on our discussion in our first meeting, I included reciprocity provisions under which a person licensed to carry a concealed weapon in another state may carry a concealed weapon here. The person is also required to carry his or her permit or license. In Vermont, however, there is no licensing or permit system. All persons in Vermont authorized to carry a weapon are authorized to carry it concealed. But from what I have seen, no other state permits Vermont residents to carry concealed weapons within its borders unless the person obtains a concealed carry permit or license under that state's law. I have followed that approach in this bill. If you would like to treat Vermont residents differently, please let me know.

2. Under *U.S. v. Buffalo*, 449 F. 2d 779 (4th Cir., 1971), if a court finds a person not guilty by reason of mental disease or defect (NGI) and commits the person to a mental health facility, the person is ineligible to possess a firearm under federal law. 18 U.S.C. § 925 (c). But under s. 971.17 (3), the court is not required to place a person found NGI in a mental health facility. It may permit the person to receive treatment for his or her mental disease or defect in the community. Therefore, even though most individuals found NGI will be covered by the federal law prohibition, I have added a separate prohibition to the bill, in keeping with our discussion of this issue, for the people who aren't covered by federal law. See s. 175.50(3) (L). As you can see, I have structured it so that it follows the same approach used for commitments for mental illness under s. 51.20. Please let me know if that is okay. I also made the NGI provision apply to NGI findings in all cases, not just felonies and misdemeanor crimes of violence. Is that okay?

3. Under s. 175.50 (11) (c) 2., the clerk of each circuit court and the clerk of a tribal or municipal court, if the tribe or municipality has the requisite drunk driving law or ordinance, is required to notify the sheriff if a licensee has committed a second drunk driving offense. The circuit court clerks should have information about a person's drunk driving record in other circuit courts, but they will not have information about cases in tribal or municipal courts, and vice versa. In addition, none of the courts will have information about out-of-state violations. In view of that, you may want to have the clerks notify the sheriff any time a court has found a person to have committed a drunk driving violation and leave it to the sheriff to determine whether the person has any prior violations. That approach, however, does not account for violations that may

have occurred before the person gets his or her license. That problem can be addressed — at least in part — by requiring an applicant to report any violations that occurred in the three years that precede the person's application.

* 4. As Don Dyke noted, 1999 AB[↓]605 contained two separate provisions restricting access to records — s. 175.50 (9g) (e) 1. a. and (11) (b). ✓ I have combined those provisions and placed them, along with new provisions relating to access to records created by sheriffs and court clerks, in a new sub. (19). Please review those changes to ensure that they are consistent with your intent. (8)

5. Please note that s. 16.47 (2) provides that, before the passage of the budget bill, neither house may pass a bill that increases the cost of state government by more than \$10,000 annually unless the governor, the joint committee on finance or, in some cases, the committee on organization of either house recommends passing the bill as an emergency appropriation. Of course, s. 16.47 (2), is a rule of legislative procedure; thus, the legislature determines the extent to which it is enforced.

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1086/P1dn
MGD:jld:pg

March 15, 2001

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