

2001 SENATE BILL 357

December 27, 2001 – Introduced by Senators ZIEN, HUELSMAN, WELCH, A. LASEE, S. FITZGERALD and SCHULTZ, cosponsored by Representatives GUNDERSON, HUEBSCH, STARZYK, SCHNEIDER, BIES, McCORMICK, SYKORA, NASS, HINES, STONE, LIPPERT, J. FITZGERALD, GROTHMAN, GUNDRUM, PETTIS, REYNOLDS, SUDER, F. LASEE, OWENS, HUNDERTMARK, MUSSER, PETROWSKI, ALBERS and SERATTI. Referred to Committee on Judiciary, Consumer Affairs, and Campaign Finance Reform.

1 **AN ACT** *to renumber and amend* 941.23; *to amend* 25.29 (1) (a), 165.82 (2),
2 440.26 (3m) and 941.235 (2); and *to create* 20.370 (5) (csr), 20.455 (2) (gp),
3 29.595, 59.25 (3) (u), 167.31 (4) (ar), 175.50, 941.23 (2), 941.295 (2) (bm), 946.32
4 (3) and 948.605 (2) (b) 4m. of the statutes; **relating to:** licenses to carry a
5 concealed weapon, requiring the exercise of rule-making authority, making
6 appropriations, and providing penalties.

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

SENATE BILL 357

a concealed weapon anywhere in this state except in particular places specified under the bill. These specified places include police stations, sheriffs' offices, state patrol 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.

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, taken before the fourth month after the bill becomes law, to authorize the sheriff not to issue concealed weapons licenses. The county board's vote does not prohibit the sheriff from issuing licenses; he or she may still choose to do so. 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 or exercise their other responsibilities under the bill.

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 does not have a physical disability that prevents him or her from safely handling a weapon; 3) he or she must be eligible to possess a firearm under federal law; 4) 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; 5) he or she must not have been committed for the treatment of drug dependency during the preceding three years; 6) he or she must not have been convicted of an offense relating to controlled substances during the preceding three years; 7) he or she must not chronically or habitually use alcohol or other substances to the extent that his or her normal faculties are impaired; 8) he or she must have successfully completed one of several specified firearms training or safety courses; 9) he or she must not have been subject to a finding of incompetency, found not guilty of a crime by reason of mental disease or mental defect, or involuntarily committed for treatment of mental illness during the preceding five years; 10) 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; and 11) he or she must be a Wisconsin resident. 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 help determine the person's eligibility for a license. 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 if the sheriff determines that immediate licensure is warranted to protect the individual from death or great bodily harm.

SENATE BILL 357

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 a sheriff to revoke a license to carry a concealed weapon if the licensee no longer meets all of the requirements for licensure.

4. Requires a sheriff to suspend a license to carry a concealed weapon if the licensee is charged with an offense that may ultimately require its revocation.

5. Provides that a person whose application for a license is denied or whose license is suspended or revoked by the sheriff may appeal the sheriff's action to circuit court for review by a judge.

6. 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 and renewal forms.

7. 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.

8. Requires the clerk of each court to notify the sheriff of court proceedings that would require suspension or revocation of a license.

9. Requires each licensee to notify the sheriff within ten days after being charged with a crime or a drunk driving offense under federal law or the law of another state.

10. 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.

11. 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.

12. Treats a license or permit issued by another state in the same manner as a license issued under this bill.

The bill also establishes the following penalties for offenses relating to licenses to carry a concealed weapon. First, a person who fails to carry his or her license document while carrying a concealed weapon may be required to forfeit \$25. Second, 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. Third, a person who does any of the following shall be fined not less than \$500 nor more than \$10,000 and may be imprisoned for not more than nine months: 1) intentionally makes a false statement in an application for a license; 2) intentionally fails to report being charged under federal law or the law of another state with any crime or any drunk driving offense within ten days after being charged; or 3) intentionally fails to relinquish a license document to a sheriff after the license has been revoked.

SENATE BILL 357

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

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

1 **SECTION 1.** 20.370 (5) (csr) of the statutes is created to read:

2 20.370 (5) (csr) *Recreation aids — grants for shooting ranges.* All moneys
3 received from the shooting range improvement fee under s. 175.50 (7) (bp) and (15)
4 (b) 4. c. for the purpose of making grants and administering the grant program under
5 s. 29.595.

6 **SECTION 2.** 20.455 (2) (gp) of the statutes is created to read:

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

10 **SECTION 3.** 25.29 (1) (a) of the statutes is amended to read:

11 25.29 (1) (a) Except as provided in ss. 25.293 and 25.295, all moneys accruing
12 to the state for or in behalf of the department under chs. 26, 27, 28, 29 and 350,
13 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
14 to 30.55, 70.58, 71.10 (5) and, 71.30 (10), and 175.50 (7) (bp) and (15) (b) 4. c.,
15 including grants received from the federal government or any of its agencies except
16 as otherwise provided by law.

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

18 **29.595 Grants for shooting ranges. (1)** The department may award grants
19 to persons for construction or improvement of shooting ranges. A grant awarded
20 under this section shall be paid from the appropriation account under s. 20.370 (5)
21 (csr).

SENATE BILL 357

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

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

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

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

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

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

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

18 59.25 **(3)** (u) 1. Subject to the terms of an agreement under s. 175.50 (2) (c),
19 deposit all moneys received under s. 175.50 (7) (bd), (13), and (15) (b) 4. a. and (d) 1.
20 in the general fund of the county.

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

SENATE BILL 357**SECTION 5**

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

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

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

9 165.82 (2) Except as provided in s. ss. 175.35 and 175.50, the department of
10 justice shall not impose fees for criminal history searches for purposes related to
11 criminal justice.

12 **SECTION 7.** 167.31 (4) (ar) of the statutes is created to read:

13 167.31 (4) (ar) Subsections (2) (a), (b), and (c) and (3) (a) and (b) do not apply
14 to the placement, possession, transportation, or loading of a firearm by a person who
15 holds a valid license to carry a concealed weapon issued under s. 175.50 or an
16 out-of-state licensee, as defined in s. 175.50 (1) (g).

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

18 **175.50 License to carry concealed weapon. (1) DEFINITIONS.** In this
19 section:

20 (a) “Department” means the department of justice.

21 (am) “Drunk driving offense” means any of the following:

22 1. A violation of s. 346.63 or a local ordinance in conformity with that section.

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

SENATE BILL 357

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

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

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

10 (d) "Licensee" means an individual holding a valid license to carry a concealed
11 weapon issued under this section.

12 (e) "Misdemeanor crime of violence" means any of the following:

13 1. A misdemeanor violation of chs. 940, 941, or 948 or of s. 947.013 or a violation
14 of s. 947.01.

15 2. A crime under federal law or the law of another state that is comparable to
16 a crime described in subd. 1.

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

20 (g) "Out-of-state licensee" means an individual who has been issued an
21 out-of-state authorization and who is not prohibited from possessing a firearm
22 under s. 941.29 or from possessing a firearm that has been transported in interstate
23 or foreign commerce under federal law.

24 (h) "Weapon" means a handgun, as defined in s. 175.35 (1) (b), an electric
25 weapon, as defined in s. 941.295 (4), a tear gas gun, a knife other than a switchblade

SENATE BILL 357

1 knife under s. 941.24, or a billy club. “Weapon” does not include a machine gun, as
2 defined in s. 941.27 (1), a short-barreled rifle, as defined in s. 941.28 (1) (b), or a
3 short-barreled shotgun, as defined in s. 941.28 (1) (c).

4 **(2) ISSUANCE OF LICENSE.** (a) Except as provided in pars. (b) 1. and (c), each
5 county, through its sheriff, shall issue licenses to carry a concealed weapon to an
6 individual who meets the qualifications specified in sub. (3) and who completes the
7 application process specified in sub. (7). A license to carry a concealed weapon issued
8 under this section shall meet the requirements specified in sub. (2m).

9 (b) 1. A sheriff may, but is not required to, issue licenses to carry a concealed
10 weapon under this section if, before the first day of the 4th month beginning after the
11 effective date of this subdivision [revisor inserts date], all of the following occur:

12 a. The sheriff requests the county board of the sheriff’s county to authorize him
13 or her to decline to issue licenses to carry a concealed weapon under this section.

14 b. After receiving a request from the sheriff under subd. 1. a., the county board
15 of the sheriff’s county grants the sheriff’s request by a two-thirds vote of all the
16 members of the board.

17 2. At any time the county board may rescind the authorization it grants under
18 subd. 1. by a two-thirds vote of all members of the board.

19 (c) Any 2 or more sheriffs may by agreement jointly exercise powers granted
20 to them and discharge duties imposed on them under this section. An agreement for
21 joint issuance of licenses to carry a concealed weapon under this section may be
22 entered into at any time and shall satisfy all of the following criteria:

23 1. The agreement shall be in writing.

24 2. The agreement shall be approved by the county board of the county of each
25 sheriff who is a party to the agreement.

SENATE BILL 357

1 2m. The agreement shall specify how the powers and duties that are the subject
2 of the agreement are to be allocated among the sheriffs that are parties to the
3 agreement.

4 3. The agreement shall specify how costs incurred and moneys received under
5 this section shall be apportioned among the sheriffs who are a party to the agreement
6 and their respective counties.

7 4. The agreement shall designate one county to be identified as the county of
8 issuance.

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

13 **(2g)** CARRYING A CONCEALED WEAPON; CARRYING AND DISPLAY OF LICENSE OR
14 AUTHORIZATION. (a) A licensee or an out-of-state licensee may carry a concealed
15 weapon anywhere in this state except as provided under sub. (16).

16 (b) A licensee shall carry his or her license and an out-of-state licensee shall
17 carry his or her out-of-state authorization at all times during which he or she is
18 carrying a concealed weapon.

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

23 **(2m)** LICENSE DOCUMENT; CONTENT OF LICENSE. (a) Subject to pars. (b), (c), and
24 (d), the department shall design the license document for licenses issued and
25 renewed under this section. The department shall complete the design of the license

SENATE BILL 357**SECTION 8**

1 document no later than the first day of the 4th month beginning after the effective
2 date of this paragraph [revisor inserts date], and shall distribute the design for
3 the license document to any sheriff who issues licenses under sub. (2) (a) or (c) for the
4 sheriff to use for licenses that he or she issues under this section.

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

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

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

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

11 2. A color photograph of the licensee.

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

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

15 5. The date on which the license expires.

16 6. The name of this state.

17 7. The name of the county that issues the license.

18 8. A unique identification number for each licensee that begins with the code
19 number, established by the department under par. (am), for the county listed in subd.
20 7.

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

SENATE BILL 357

1 **(3) QUALIFICATIONS A PERSON MUST HAVE TO GET A LICENSE.** An individual is
2 eligible for a license under this section if all of the following apply:

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

4 (b) The individual does not have a physical disability that prevents him or her
5 from safely handling a weapon.

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

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

9 (e) During the preceding 3 years, the individual has not been civilly committed
10 under s. 51.20 for being drug dependent.

11 (f) During the preceding 3 years, the individual has not been convicted for any
12 violation, or for the solicitation, conspiracy, or attempt to commit any violation, of ch.
13 961 or of a federal law or a law of another state that is comparable to any provision
14 of ch. 961.

15 (g) The individual does not chronically and habitually use alcohol beverages or
16 other substances to the extent that his or her normal faculties are impaired. A person
17 is presumed chronically and habitually to use alcohol beverages or other substances
18 to the extent that his or her normal faculties are impaired if, within the preceding
19 3 years, any of the following applies:

20 1. The individual has been committed for involuntary treatment under s. 51.45
21 (13).

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

23 3. In 2 or more cases arising out of separate incidents, a court has found the
24 individual to have committed a drunk driving offense.

25 (h) The individual has done one of the following:

SENATE BILL 357**SECTION 8**

1 2. Successfully completed a National Rifle Association firearm training or
2 firearm safety course.

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

6 4. Successfully completed a firearm safety or firearm training course or class
7 that is available to the general public and that is offered by a law enforcement agency,
8 a private or public school, institution, or organization, or a firearm training school,
9 if the course or class uses instructors certified by the National Rifle Association or
10 the department or if the curriculum meets the minimum requirements of the law
11 enforcement standards board.

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

15 6. Participated in organized shooting competitions or military training that
16 gave the applicant experience with firearms that the sheriff determines is
17 substantially equivalent to any course or class specified in subds. 2. to 5.

18 (i) The individual has not been found incompetent under ch. 880 or, if the
19 individual has been found incompetent under ch. 880, he or she was subsequently
20 found to be competent and at least 5 years have elapsed from the date that he or she
21 was found to be competent.

22 (j) The individual has not been involuntarily committed for treatment under
23 s. 51.20 due to mental illness or a developmental disability or, if the individual has
24 been involuntarily committed for treatment under s. 51.20 due to mental illness or
25 a developmental disability, he or she shows, through evidence from a psychiatrist

SENATE BILL 357

1 licensed in this state, that he or she has not been disabled due to mental illness or
2 a developmental disability for at least 5 years.

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

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

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

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

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

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

22 (o) The individual is not the subject of any pending civil or criminal case, the
23 disposition of which could disqualify him or her from having a license under this
24 subsection.

SENATE BILL 357**SECTION 8**

1 (p) The individual has not previously submitted an application for a license
2 under this section to any county and had the application denied, unless each reason
3 for the denial is no longer applicable because of changed circumstances.

4 (q) The individual has not had a license that was issued under this section
5 revoked, unless each reason for the revocation is no longer applicable because of
6 changed circumstances.

7 (r) The individual has not been convicted of a violation of sub. (17) (c), (d), or
8 (e).

9 (s) The individual is a Wisconsin resident.

10 **(5) APPLICATION AND RENEWAL FORMS.** The department shall design an
11 application form for use by individuals who apply for a license under this section and
12 a renewal form for use by individuals applying for renewal of a license under sub.
13 (15). The department shall complete the design of the application form no later than
14 the first day of the 4th month beginning after the effective date of this subsection
15 [revisor inserts date], and shall distribute the designs for both forms to any sheriff
16 who issues licenses under sub. (2) (a) or (c) for use in making the application forms
17 and the license renewal forms described in this section. The forms designed by the
18 department under this subsection shall require the applicant to provide his or her
19 name, address, date of birth, race, gender, height, weight, and hair and eye color and
20 shall include all of the following:

21 (e) A statement that the applicant is eligible for a license if the requirements
22 specified in sub. (3) are met.

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

SENATE BILL 357

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

3 (h) A statement that the application is being made under oath and that an
4 applicant may be prosecuted if he or she gives a false answer to any question on the
5 application or submits a falsified document with the application.

6 (i) A statement of the penalties for giving a false answer to any question on the
7 application or submitting a falsified document with the application.

8 **(6) OATH.** An applicant shall swear under oath that the information that he or
9 she provides in an application submitted under sub. (7) and any document submitted
10 with the application is true and complete to the best of his or her knowledge.

11 **(7) SUBMISSION OF APPLICATION.** An individual may apply for a license under this
12 section with any sheriff. An applicant shall submit all of the following to the sheriff
13 to whom he or she is applying for a license:

14 (a) An application in the form prescribed under sub. (5) that has been sworn
15 to as required under sub. (6).

16 (bd) A license fee set by the sheriff issuing the license that does not exceed
17 either the cost to the sheriff of issuing a license to an individual under this section,
18 including the cost of equipment purchase or rental, or \$75, whichever is less.

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

20 (bp) A shooting range improvement fee of \$15.

21 (bt) A law enforcement excellence fund fee of \$15.

22 (d) A photocopy of a certificate or other evidence showing the applicant's
23 qualifications under sub. (3) (h).

24 (e) A full-face photograph of the applicant taken within the 30-day period
25 immediately preceding the date of the applicant's application.

SENATE BILL 357**SECTION 8**

1 **(9)** PROCESSING OF APPLICATION. (a) Upon receiving an application submitted
2 under sub. (7), a sheriff shall request the department to conduct a firearms
3 restrictions record search, as provided under sub. (9g).

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

6 1. Issue the license.

7 2. Deny the application if the applicant fails to qualify under the criteria
8 specified in sub. (3). If the sheriff denies the application, he or she shall inform the
9 applicant in writing, stating the ground for denial.

10 (c) Except as provided in sub. (9r), a sheriff may not issue a license until 7 days,
11 subject to extension under sub. (9g) (b) 3. c., have elapsed from the time that the
12 sheriff has received a confirmation number regarding the firearms restrictions
13 record search under sub. (9g) (b) 1. from the department, unless the department has
14 notified the sheriff that the background check does not indicate that the applicant
15 is disqualified for a license under sub. (3) (c), (d), (f), (g) 2. or 3., (k), (L), (m), (n), (o),
16 and (r).

17 **(9g)** FIREARMS RESTRICTIONS RECORD SEARCHES. (a) A sheriff shall request the
18 department to conduct a firearms restrictions record search by calling the
19 department, using a toll-free telephone number provided by the department, and
20 providing the department with the name, date of birth, gender, and race of the
21 applicant.

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

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

SENATE BILL 357

1 2. The department shall conduct the firearms restrictions record search
2 regarding an applicant for a license under this section. In conducting a search under
3 this subdivision, the department shall use the transaction information for
4 management of enforcement system and the national crime information center
5 system.

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

9 a. If the search indicates that the applicant does not qualify for a license under
10 sub. (3) (c), (d), (f), (g) 2. or 3., (k), (L), (m), (n), (o), or (r), the department shall provide
11 the sheriff with a unique nonapproval number. The department shall disclose to the
12 sheriff the reason the applicant does not qualify for a license under sub. (3) (c), (d),
13 (f), (g) 2. or 3., (k), (L), (m), (n), (o), or (r).

14 b. If the search does not indicate that the applicant is disqualified for a license
15 under sub. (3) (c), (d), (f), (g) 2. or 3., (k), (L), (m), (n), (o), or (r), the department shall
16 provide the sheriff with a unique approval number.

17 c. If the search indicates a criminal charge without a recorded disposition, the
18 deadline under sub. (9) (c) is extended to the end of the 3rd complete working day
19 commencing after the day on which the department learns of that charge. The
20 department shall notify the sheriff of the extension as soon as practicable. During
21 the extended period, the department shall make every reasonable effort to determine
22 the disposition of the charge and notify the sheriff of the results as soon as
23 practicable.

SENATE BILL 357**SECTION 8**

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

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

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

14 (e) 1. The department shall check each duplicate application form received
15 under par. (d) against the information recorded by the department regarding the
16 corresponding request for a firearms restrictions record search under this
17 subsection. If the department previously provided a unique approval number
18 regarding the request and nothing in the duplicate completed application form
19 indicates that the applicant is not qualified for a license under sub. (3) (c), (d), (f), (g)
20 2. or 3., (k), (L), (m), (n), (o), or (r), the department shall, except as provided in subd.
21 2., destroy all records regarding that firearms restrictions record search within 30
22 days after receiving the duplicate form. If the department previously provided a
23 unique approval number regarding the request and the duplicate completed
24 application form indicates that the applicant is not qualified for a license under sub.

SENATE BILL 357

1 (3) (c), (d), (f), (g) 2. or 3., (k), (L), (m), (n), (o), or (r), the department shall immediately
2 notify the sheriff who issued the license, and the sheriff shall revoke the license.

3 2. The department may maintain records necessary to administer this
4 subsection and, for a period of not more than 3 years after the department issues a
5 unique approval number, a log of dates of requests for firearms restrictions record
6 searches under this subsection together with confirmation numbers and unique
7 approval and nonapproval numbers corresponding to those dates.

8 **(9r)** EMERGENCY LICENSE. (a) A sheriff may issue a license under this section
9 to an individual who does not satisfy the requirements under sub. (3) (h) if the sheriff
10 determines that immediate licensure is warranted to protect the individual from
11 death or great bodily harm, as defined in s. 939.22 (14).

12 (b) If a sheriff issues a license under par. (a), he or she shall notify the
13 department and request an immediate firearms restrictions record search under
14 sub. (9g).

15 (c) 1. Except as provided in subds. 2. and 3., a license issued under par. (a) is
16 valid for 120 days from the date on which it is issued and may not be renewed.

17 2. If the department does not notify the sheriff that the individual does not
18 qualify for a license under sub. (3) (c), (d), (f), (g) 2. or 3., (k), (L), (m), (n), (o), or (r)
19 and if the individual satisfies the requirement under sub. (3) (h) no later than 120
20 days from the date on which the license is issued, a license issued under par. (a) is
21 valid for the period specified under sub. (15) (a) and may be renewed under sub. (15)
22 (b).

23 3. If the department notifies the sheriff that an individual to whom the sheriff
24 has issued a license under par. (a) does not qualify for a license under sub. (3) (c), (d),
25 (f), (g) 2. or 3., (k), (L), (m), (n), (o), or (r), the sheriff shall revoke the license.

SENATE BILL 357**SECTION 8**

1 (d) A sheriff may waive the fees that would otherwise be required under subs.
2 (7) (bd), (bh), (bp), and (bt) and (9g) (c) for an individual who is applying for a license
3 under par. (a) if requiring the individual to pay the fees would create a hardship for
4 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 check required under sub. (9) (a):

8 (a) A law enforcement officer.

9 (b) A correctional officer.

10 (c) A probation, parole, and extended supervision 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) LICENSEE INFORMATION.** (a) A sheriff who issues licenses to carry a
14 concealed weapon under this section shall, within 5 days after issuing a license,
15 notify the department that he or she has issued a license under this section and
16 provide the department with the information specified in sub. (2m) (c) concerning the
17 individual 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). After entering the information that it receives under par. (a),
22 the department may not store, maintain, format, sort, or access the information in
23 any way other than by the name of the licensee or the identification number assigned
24 to the licensee under sub. (2m) (c) 8.

SENATE BILL 357

1 (c) The department and any sheriff issuing licenses under this section shall
2 provide information concerning a specific licensee to a law enforcement agency if the
3 law enforcement agency is requesting the information for any of the following
4 purposes:

5 1. To confirm that a license produced by an individual at the request of a law
6 enforcement officer is valid.

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

10 3. To investigate whether an individual intentionally falsely swore under sub.
11 (6) or (15) (b) 2., intentionally violated sub. (12) (a), or intentionally made a false
12 statement to a sheriff in connection with the individual's request for an emergency
13 license under sub. (9r).

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

18 2. The clerk shall immediately notify the department of the name of any
19 individual with respect to whom any of the following occurs and the specific reason
20 for the notification:

21 a. The individual is charged with a felony, a misdemeanor crime of violence, a
22 violation of ch. 961, the solicitation, conspiracy, or attempt to commit any violation
23 of ch. 961, a violation of s. 941.20 (1) (b), a violation of sub. (17) (c), (d), or (e), or any
24 other crime that, upon conviction, would disqualify the individual from having a
25 license under this section.

SENATE BILL 357

1 b. The individual is charged with a drunk driving offense.

2 c. The individual is found by a court to have committed any offense described
3 in subd. 2. a. or b.

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

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

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

9 g. The individual is involuntarily committed for treatment under s. 51.20 or
10 51.45.

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

12 i. The individual becomes subject to an injunction described in s. 941.29 (1) (f)
13 or is ordered not to possess a firearm under s. 813.125 (4m).

14 j. A court has prohibited the individual from possessing a dangerous weapon
15 under s. 969.02 (3) (c).

16 3. Upon receiving a notice under subd. 2., the department shall immediately
17 determine if the individual who is the subject of the notice is a licensee, using the list
18 maintained under par. (am). If the department determines that the individual is a
19 licensee, the department shall immediately inform the sheriff of the county that
20 issued the license of the individual's name and the basis for the notice under subd.
21 2.

22 **(12)** UPDATED INFORMATION. (a) Within 10 days after being charged under
23 federal law or the law of another state with any crime or any drunk driving offense,
24 a licensee shall notify the sheriff of the county that issued his or her license of the
25 charge.

SENATE BILL 357

1 (b) No later than 30 days after changing his or her address, a licensee shall
2 inform the sheriff of the county that issued the license of his or her new address. The
3 sheriff shall provide the individual's new address to the department for inclusion in
4 the list under sub. (11) (am).

5 **(13) LOST OR DESTROYED LICENSE.** No later than 30 days after losing his or her
6 license or after his or her license is destroyed, a licensee shall submit to the sheriff
7 of the county that issued the license a notarized statement that his or her license has
8 been lost or destroyed. The sheriff shall issue a replacement license upon receiving
9 the notarized statement and a replacement license fee of \$15.

10 **(14) LICENSE REVOCATION AND SUSPENSION.** (a) A sheriff shall revoke a license
11 that his or her county issued under this section if the licensee no longer meets all of
12 the criteria specified in sub. (3).

13 (am) 1. If any of the following occurs with respect to a licensee, the sheriff of
14 the county that issued the license shall suspend the licensee's license:

15 a. The licensee is charged with a crime that, upon conviction, would disqualify
16 him or her from having a license under this section.

17 b. A court has prohibited the licensee from possessing a dangerous weapon
18 under s. 969.02 (3) (c).

19 c. The licensee is charged with a drunk driving offense and, during the
20 preceding 3 years, the licensee was found by a court to have committed another
21 drunk driving offense.

22 2. If the sheriff suspends a license under subd. 1., he or she shall restore the
23 license if, upon disposition of the case, the person to whom the license was issued
24 meets all of the criteria specified in sub. (3).

SENATE BILL 357**SECTION 8**

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

3 2. If an individual whose license is suspended or revoked resides in the county
4 that issued the license, the sheriff of the county upon revoking or suspending an
5 individual's license, shall immediately attempt to inform the individual in person.
6 If the individual resides in a county that is a party to an agreement under sub. (2)
7 (c), the sheriff of any county that is a party to the agreement shall immediately
8 attempt to inform the individual in person. If an individual is notified of the
9 revocation or suspension in person, the individual shall immediately relinquish the
10 license document to the sheriff. If the sheriff is unable to inform the individual in
11 person, or if the individual resides in a county other than the sheriff's county or a
12 county that is a party to an agreement under sub. (2) (c) with the sheriff's county, the
13 sheriff shall send the individual notice of the revocation or suspension by certified
14 mail within one day after the revocation or suspension. Within 7 days after receiving
15 the notice, the individual whose license has been revoked or suspended shall deliver
16 the license document personally or by certified mail to the sheriff.

17 **(14m)** APPEALS. (a) A person aggrieved by any action by a sheriff denying,
18 revoking, or suspending a license under this section may appeal directly to the circuit
19 court of the sheriff's county or, if applicable, to the circuit court of the county of
20 issuance designated under sub. (2) (c).

21 (b) To begin an appeal under this subsection, the aggrieved person shall file a
22 petition for review with the clerk of the applicable circuit court within 30 days after
23 the date of the sheriff's action or, if applicable, within 30 days after the date of the
24 notice provided to the person under sub. (9) (b) 2. The petition shall state the
25 substance of the sheriff's action that the person is appealing from and the grounds

SENATE BILL 357

1 upon which the person believes the sheriff's action to be improper. The petition may
2 include a copy of any records or documents that are relevant to the grounds upon
3 which the person believes the sheriff's action to be improper.

4 (c) A copy of the petition shall be served upon the sheriff either personally or
5 by registered or certified mail within 5 days after the person files his or her petition
6 under par. (b).

7 (d) The sheriff shall file an answer within 15 days after being served with the
8 petition under par. (c). The answer shall include a brief statement of the actions
9 taken by the sheriff, and a copy of any documents or records on which the sheriff
10 based his or her action shall be included with the answer when filed.

11 (e) The court shall review the petition, the answer, and any records or
12 documents submitted with the petition or the answer. The review under this
13 paragraph shall be conducted by the court without a jury and shall be confined to the
14 petition, the answer, and any records or documents submitted with the petition or
15 the answer, except that in cases of alleged irregularities in procedure by the sheriff
16 the court may take testimony that the court determines is appropriate.

17 (f) The court shall affirm the sheriff's action unless the court finds any of the
18 following:

- 19 1. That the sheriff failed to follow procedure prescribed under this section.
- 20 2. That the sheriff erroneously interpreted a provision of law and a correct
21 interpretation compels a different action.
- 22 3. That the sheriff's action depends on a finding of fact that is not supported
23 by substantial evidence in the record.

24 (g) The court's decision shall provide whatever relief is appropriate regardless
25 of the original form of the petition.

SENATE BILL 357**SECTION 8**

1 **(15) LICENSE EXPIRATION AND RENEWAL.** (a) Except as provided in sub. (9r) (c)
2 1., a license issued under this section is valid for a period of 5 years after the date on
3 which the license is issued unless the license is suspended or revoked under sub. (9g)
4 (e) 1., (9r) (c) 3., or (14).

5 (b) The department shall design a form notice of expiration and shall distribute
6 the form to any sheriff who issues licenses under sub. (2) (a) or (c) for use under this
7 paragraph. At least 90 days before the expiration date of a license issued under this
8 section, the sheriff who issued the license shall mail to the licensee a notice of
9 expiration and a form for renewing the license. The sheriff shall renew the license
10 if, before the date the license expires, the licensee does all of the following:

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

12 2. Submits a notarized affidavit swearing under oath that the information
13 provided under subd. 1. is true and complete to the best of his or her knowledge and
14 that he or she is qualified under sub. (3).

15 4. Pays all of the following:

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

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

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

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

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

SENATE BILL 357

1 (d) 1. Except as provided in subd. 2., if an individual submits an application
2 under par. (b) to renew an expired license he or she shall be assessed a late fee of \$15.

3 2. If an individual whose license has expired does not submit a renewal
4 application under par. (b) before 6 months after the expiration date, the license shall
5 permanently expire. An individual whose license has permanently expired may be
6 issued a new license if he or she applies for a license as provided under sub. (7).

7 **(16) PROHIBITED ACTIVITY.** Neither a licensee nor an out-of-state licensee may
8 carry a concealed weapon in any of the following places:

9 (a) A place that has been declared a nuisance under ch. 823.

10 (b) A police station, sheriff's office, or state patrol station. This paragraph does
11 not prohibit a peace officer who is acting within the scope of his or her employment
12 from carrying a concealed weapon in a police station, sheriff's office, or state patrol
13 station.

14 (c) A prison, jail, house of correction, or secured correctional facility.

15 (d) A courthouse, except that a judge who is a licensee may carry a concealed
16 weapon in a courthouse in which he or she is presiding in court or may permit in
17 writing any other licensee or out-of-state licensee to carry a concealed weapon in a
18 courthouse in which he or she is presiding in court.

19 (e) A place at which a school, college, or professional athletic event is taking
20 place, unless the event is related to firearms and the licensee or out-of-state licensee
21 is a participant in the event.

22 (f) A school administration building.

23 (g) Any premises for which a Class "B" or "Class B" license or permit has been
24 issued under ch. 125, except as provided under s. 941.237.

SENATE BILL 357**SECTION 8**

1 (h) An airport, unless the weapon is encased for shipment as baggage to be
2 transported by aircraft.

3 (i) A place in which the carrying of a weapon is prohibited under s. 948.61.

4 (j) A place in which the carrying of a weapon is prohibited by federal law.

5 **(17) PENALTIES.** (a) A licensee or an out-of-state licensee who violates sub. (2g)
6 (b) or (c) may be required to forfeit not more than \$25.

7 (b) A licensee or an out-of-state licensee who violates sub. (16) may be fined
8 not more than \$1,000 or imprisoned for not more than 90 days or both.

9 (c) Any person who intentionally falsely swears under sub. (6) or (15) (b) 2. or
10 who intentionally makes a false statement to a sheriff in requesting or in connection
11 with the issuance of an emergency license under sub. (9r) shall be fined not less than
12 \$500 nor more than \$10,000 and may be imprisoned for not more than 9 months.

13 (d) Any person who intentionally violates sub. (12) (a) shall be fined not less
14 than \$500 nor more than \$10,000 and may be imprisoned for not more than 9 months.

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

19 **(18) ACCESS TO RECORDS.** Records created or kept under this section by the
20 department or a sheriff, other than reports created under sub. (19) or records created
21 under sub. (20), are not subject to access under s. 19.35.

22 **(19) STATISTICAL REPORT.** (a) By February 1 of each year, a sheriff who is issuing
23 or renewing licenses under this section shall submit a statistical report to the
24 department indicating the number of licenses applied for, issued, denied, suspended,
25 and revoked under this section during the previous calendar year. For the licenses

SENATE BILL 357

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

5 (b) By March 1 of each year, the department shall submit a statistical report
6 to the legislature under s. 13.172 (2) and to the governor that is compiled from the
7 reports submitted under par. (a) and that indicates the number of licenses applied
8 for, issued, denied, suspended, and revoked under this section during the previous
9 calendar year. For the licenses denied, the report shall indicate the reasons for the
10 denials and the part of the application process in which the reasons for denial were
11 discovered. For the licenses suspended or revoked, the report shall indicate the
12 reasons for the suspensions and revocations.

13 **(20) LAW ENFORCEMENT EXCELLENCE FUND.** (a) If a county's sheriff issues licenses
14 under sub. (2) (a) or is party to an agreement under sub. (2) (c), the county board shall
15 establish a law enforcement excellence fund. All money received by a sheriff from
16 payments made under subs. (7) (bt) and (15) (b) 4. d. shall be deposited in accordance
17 with s. 59.25 (3) (u) 4. in the law enforcement excellence fund established under this
18 subsection.

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

22 **SECTION 9.** 440.26 (3m) of the statutes is amended to read:

23 **440.26 (3m) RULES CONCERNING DANGEROUS WEAPONS.** The department shall
24 promulgate rules relating to the carrying of dangerous weapons by a person who
25 holds a license or permit issued under this section or who is employed by a person

SENATE BILL 357**SECTION 9**

1 licensed under this section. The rules shall allow the person to carry a concealed
2 weapon as permitted under s. 175.50 if the person is licensed under that section and
3 shall meet the minimum requirements specified in 15 USC 5902 (b).

4 **SECTION 10.** 941.23 of the statutes is renumbered 941.23 (1) and amended to
5 read:

6 941.23 (1) Any person except a peace officer, an individual holding a valid
7 license under s. 175.50, or an individual authorized under the law of another state
8 to carry a concealed weapon in that state who goes armed with a concealed and
9 dangerous weapon is guilty of a Class A misdemeanor.

10 **SECTION 11.** 941.23 (2) of the statutes is created to read:

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

16 **SECTION 12.** 941.235 (2) of the statutes is amended to read:

17 941.235 (2) This section does not apply to peace officers or armed forces or
18 military personnel who go armed in the line of duty, to any individual holding a valid
19 license under s. 175.50 or authorized under the law of another state to carry a
20 concealed weapon who is carrying a concealed weapon as permitted under s. 175.50,
21 or to any person duly authorized by the chief of police of any city, village or town, the
22 chief of the capitol police or the sheriff of any county to possess a firearm in any
23 building under sub. (1).

24 **SECTION 13.** 941.295 (2) (bm) of the statutes is created to read:

