

2001 ASSEMBLY BILL 157

1 **AN ACT** *to amend* 938.396 (2) (d); and *to create* 938.3415, 941.291, 971.17 (1h)
2 and 973.0335 of the statutes; **relating to:** possession of body armor by persons
3 convicted of or adjudicated delinquent for certain felony offenses and providing
4 a penalty.

Analysis by the Legislative Reference Bureau

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

5 **SECTION 1.** 938.3415 of the statutes is created to read:
6 **938.3415 Delinquency adjudication; restriction on body armor**
7 **possession.** Whenever a court adjudicates a juvenile delinquent for an act that if
8 committed by an adult in this state would be a violent felony, as defined in s. 941.291
9 (1) (b), the court shall inform the juvenile of the requirements and penalties under
10 s. 941.291.

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SECTION 2

1 **SECTION 2.** 938.396 (2) (d) of the statutes is amended to read:

2 938.396 (2) (d) Upon request of a court of criminal jurisdiction or a district
3 attorney to review court records for the purpose of setting bail under ch. 969,
4 impeaching a witness under s. 906.09, or investigating and determining whether a
5 person has possessed a firearm in violation of s. 941.29 (2) or body armor in violation
6 of s. 941.291 (2) or upon request of a court of civil jurisdiction or the attorney for a
7 party to a proceeding in that court to review court records for the purpose of
8 impeaching a witness under s. 906.09, the court assigned to exercise jurisdiction
9 under this chapter and ch. 48 shall open for inspection by authorized representatives
10 of the requester the records of the court relating to any juvenile who has been the
11 subject of a proceeding under this chapter.

12 **SECTION 3.** 941.291 of the statutes is created to read:

13 **941.291 Possession of body armor. (1) DEFINITIONS.** In this section:

14 (a) "Body armor" means any garment that is designed, redesigned, or adapted
15 to prevent bullets from penetrating through the garment.

16 (b) "Violent felony" means any felony, or the solicitation, conspiracy, or attempt
17 to commit any felony, under s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09,
18 940.10, 940.19, 940.195, 940.20, 940.201, 940.203, 940.21, 940.225, 940.23, 940.285
19 (2), 940.29, 940.295 (3), 940.30, 940.305, 940.31, 940.43 (1) to (3), 940.45 (1) to (3),
20 941.20, 941.26, 941.28, 941.29, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013,
21 943.02, 943.04, 943.06, 943.10 (2), 943.23 (1g), (1m), or (1r), 943.32, 946.43, 947.015,
22 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.06, 948.07, 948.08, or 948.30.

23 **(2) PROHIBITION.** Except as provided in subs. (4), (5), (5m), and (6), no person
24 may possess body armor if any of the following applies to the person:

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1 (a) The person has been convicted of a violent felony in this state and has not
2 been pardoned for it.

3 (b) The person has been convicted of a crime elsewhere that would be a violent
4 felony if committed in this state and has not been pardoned for it.

5 (c) The person has been adjudicated delinquent for an act that if committed by
6 an adult in this state would be a violent felony.

7 (d) The person has been found not guilty of a violent felony in this state by
8 reason of mental disease or defect.

9 (e) The person has been found not guilty of or not responsible for a crime
10 elsewhere by reason of insanity or mental disease, defect, or illness if the crime would
11 be a violent felony in this state.

12 **(3) PENALTY.** (a) Whoever violates sub. (2) is guilty of a Class E felony.

13 (b) Whoever violates sub. (2) after being convicted of violating sub. (2) is guilty
14 of a Class D felony.

15 **(4) REQUEST BY CERTAIN PERSONS FOR COMPLETE OR PARTIAL EXEMPTION FROM**
16 **PROHIBITION.** (a) A person who is otherwise prohibited from possessing body armor
17 under sub. (2) may request a complete or partial exemption from the prohibition if
18 all of the following apply:

19 1. The person has a reasonable need to possess body armor to ensure his or her
20 personal safety, to earn a livelihood, or as a condition of employment.

21 2. The person is likely to use the body armor in a safe and lawful manner.

22 (b) A person seeking a complete or partial exemption under this subsection
23 from the prohibition under sub. (2) shall request the exemption by filing a written
24 motion in the circuit court for the county in which the person will possess the body
25 armor. A person who files a motion under this paragraph shall send a copy of the

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1 request for an exemption, grant a complete exemption from the prohibition, or grant
2 a partial exemption by allowing possession of body armor only under certain
3 specified circumstances or in certain locations or both. If the law enforcement agency
4 grants a request for an exemption under this subsection, it shall keep a written
5 record of the exemption. If the exemption is a partial exemption, the record shall
6 specify the circumstances under which the person may possess body armor, the
7 locations in which the person may possess body armor, or, if applicable, both. A
8 written record relating to an exemption granted by a law enforcement agency under
9 this subsection is not subject to inspection or copying under s. 19.35 (1), except that
10 a written record shall, upon request, be disclosed to another law enforcement agency
11 or a district attorney, if the other law enforcement agency or the district attorney is
12 investigating or prosecuting an alleged violation of sub. (2) or to the person to whom
13 the exemption was granted.

14 **(6) EXEMPTION FROM PROHIBITION FOR CERTAIN PRISONERS.** A person who is
15 prohibited from possessing body armor under sub. (2) may wear body armor if he or
16 she is in the actual custody of a law enforcement officer, as defined in s. 165.85 (2)
17 (c), or a correctional officer, as defined in s. 102.475 (8) (a), and is wearing the body
18 armor at the request or direction of the law enforcement officer or correctional officer.

19 **SECTION 4.** 971.17 (1h) of the statutes is created to read:

20 971.17 **(1h)** NOTICE OF RESTRICTIONS ON POSSESSION OF BODY ARMOR. If the
21 defendant under sub. (1) is found not guilty of a violent felony, as defined in s. 941.291
22 (1) (b), by reason of mental disease or defect, the court shall inform the defendant of
23 the requirements and penalties under s. 941.291.

24 **SECTION 5.** 973.0335 of the statutes is created to read:

