

2009 DRAFTING REQUEST

Bill

Received: 09/02/2008

Received By: chanaman

Wanted: As time permits

Identical to LRB:

For: Scott Gunderson (608) 266-3363

By/Representing: Mike

This file may be shown to any legislator: NO

Drafter: chanaman

May Contact:

Addl. Drafters:

Subject: Criminal Law - guns and weapons

Extra Copies:

Submit via email: YES

Requester's email: Rep.Gunderson@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Mental health adjudication and background checks for purchases of handguns

Instructions:

See Attached--redraft AB 424 with AA1 and AA2

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 09/03/2008	kfollett 09/08/2008		_____			S&L
/1			jfrantze 09/10/2008	_____	lparisi 09/10/2008	lparisi 11/20/2008	

FE Sent For:

at
intro

<END>

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FE Sent For:

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2007 ASSEMBLY BILL 424

June 21, 2007 - Introduced by Representatives GUNDERSON, MURTHA, DAVIS, STASKUNAS, FIELDS, ALBERS, BOYLE, HAHN, HUBLER, KAUFERT, KRAMER, MOLEPSKE, MOULTON, MURSAU, NERISON, NYGREN, J. OTT, PETERSEN, PETROWSKI, SUDER, TAUCHEN, VOS and M. WILLIAMS, cosponsored by Senators DARLING, A. LASEE, LEHMAN, OLSEN, ROESSLER, HARS DORF and LASSA. Referred to Committee on Criminal Justice.

PWF OK

presen cat

1 AN ACT *to renumber and amend* 51.20 (13) (cv) 1.; *to amend* 51.20 (13) (cv) 2.,
2 51.20 (13) (cv) 3., 51.20 (13) (cv) 4., 51.20 (16) (gm), 175.35 (1) (at), 941.29 (1)
3 (e), 941.29 (2) (d), 941.29 (9) and 968.20 (1r); and *to create* 51.20 (13) (cv) 1. a.
4 and b., 51.30 (4) (b) 28., 51.45 (13) (i), 54.10 (3) (f), 55.12 (10), 175.35 (2g) (d) and
5 941.29 (1) (em) of the statutes; **relating to:** adjudications for involuntary
6 commitment, appointment of a guardian of the person, and protective
7 placement or protective services, background checks for the purchase of
8 handguns, and requiring the exercise of rule-making authority.

Analysis by the Legislative Reference Bureau

This bill makes certain changes in the law relating to background checks for handgun purchasers. Under current law, when a person seeks to purchase a handgun from a licensed handgun dealer, the dealer must ask the Department of Justice (DOJ) to conduct a background check on the person. In conducting the background check, DOJ searches DOJ records to determine whether the person is ineligible to possess a firearm under state law, but state law does not explicitly require DOJ to determine whether federal law bars the person from possessing a firearm based on criteria not covered by state law. This bill requires DOJ, when conducting a background check on a prospective handgun purchaser, to check

ASSEMBLY BILL 424

whether the person has been the subject of a court order or finding that is based on a determination that the person's mental health would render the person ineligible to possess a firearm under federal law.

This bill requires courts to ^{determine} make a determination of whether a person would be ineligible to possess a firearm under federal law during proceedings for involuntary commitment for persons found by the court to be mentally ill, drug dependent, or developmentally disabled and ^{to be} dangerous or evidencing impaired judgment. The bill also requires courts to make the determination during proceedings for appointment of a guardian of the person for an individual found by the court to be incompetent and, if not previously determined, during proceedings under which a court orders protective placement or protective services. If the court determines that federal law prohibits the person from possessing a firearm, the court must order the person not to possess a firearm, order the seizure of any firearm the person owns, and inform the person that he or she would be committing a felony if he or she possessed a firearm. The courts must then convey the disqualified status to DOJ which may use that information only during background checks conducted when the person seeks to purchase a handgun or under rules that DOJ promulgates in order to provide information to the national instant criminal background check system.

Specifically, courts must determine if the person has been "adjudicated as a mental defective" or "committed to a mental institution," as defined in federal law. Under federal law, "adjudicated as a mental defective" means a determination by a court, board, commission, or other lawful authority that a person, as a result of a marked subnormal intelligence, or a mental illness, incompetency, condition, or disease either is a danger to himself or herself or to others or lacks the mental capacity to contract or manage his or her own affairs. This determination includes a finding of insanity by a court in a criminal case and persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to the Uniform Code of Military Justice. Federal law defines "committed to a mental institution" as a formal commitment of a person to a mental institution by a court, board, commission, or other lawful authority. The term includes a commitment to a mental institution involuntarily, commitment for mental defectiveness or mental illness, and commitments for other reasons such as for drug use. The term does not include a person in an institution for observation or a voluntary admission to a mental institution.

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. 51.20 (13) (cv) 1. of the statutes is renumbered 51.20 (13) (cv) 1.
- 2 (intro.) and amended to read:

to determine
ineligibility
under federal
law at
a mental
health
procedure

NSA

(mental
health
proceeding)

ASSEMBLY BILL 424

1 51.20 (13) (cv) 1. ^(intro.) If the court makes the disposition under par. (a) 3., 4., 4m.,
 2 or 5. and the court determines, based on evidence presented on the issue of the
 3 subject individual's dangerousness, that there is a substantial probability that the
 4 individual may use a firearm to cause physical harm to himself or herself or endanger
 5 public safety, the court shall prohibit the individual from possessing order the person^{individual}
 6 not to possess a firearm, order the seizure of any firearm owned by the individual,
 7 and inform the individual of the requirements and penalties under s. 941.29. if the
 8 court determines any of the following:

9 SECTION 2. 51.20 (13) (cv) 1. a. and b. of the statutes are created to read:

10 51.20 (13) (cv) 1. a. Based on evidence presented on the issue of the individual's
 11 dangerousness, there is a substantial probability that the individual may use a
 12 firearm to cause physical harm to himself or herself or endanger public safety. If this
 13 subd. 1. a. and subd. 1. b. apply to the individual, the court shall make a
 14 determination under subd. 1. b.

15 b. Under 18 USC 922 (g) (4), the individual is prohibited from possessing a
16 firearm.

17 SECTION 3. 51.20 (13) (cv) 2. of the statutes is amended to read:

18 51.20 (13) (cv) 2. ~~A prohibition on~~ An order prohibiting the possession of a
 19 firearm under subd. 1. based on a determination under subd. 1. a. shall remain in
 20 effect until the commitment order and any subsequent consecutive commitment
 21 orders expire and the court determines, based on evidence presented on the issue of
 22 the subject individual's dangerousness, that there is no longer a substantial
 23 probability that the individual may use a firearm to cause physical harm to himself
 24 or herself or endanger public safety. If the court makes this determination, it shall

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SECTION 3

1 cancel the ~~prohibition order~~ and order the return of any firearm ordered seized under
2 subd. 1. on the basis of a determination under subd. 1. a.

3 SECTION 4. 51.20 (13) (cv) 3. of the statutes is amended to read:

4 51.20 (13) (cv) 3. In lieu of ordering the seizure under subd. 1. on the basis of
5 a determination under subd. 1. a., the court may designate a person to store the
6 firearm until the ~~prohibition order under subd. 1. based on the determination under~~
7 subd. 1. a. has been canceled under ^{subd. 2. or} sub. (16) (gm). INS 4-7

8 SECTION 5. 51.20 (13) (cv) 4. of the statutes is amended to read:

9 51.20 (13) (cv) 4. If the court ~~prohibits~~ orders a subject individual from
10 possessing not to possess a firearm under subd. 1. based on a determination under
11 subd. 1. a. or b. or ~~or~~ cancels ~~a prohibition under subd. 2. or sub. (16) (gm) an order~~
12 issued under subd. 2. 1. based on a determination under subd. 1. a. the court clerk
13 shall notify the department of justice of that fact and provide any information
14 identifying the subject individual that is necessary to permit an accurate
15 involuntary commitment history record search, or an accurate firearms restrictions
16 record search. under s. 175.35 (2g) (c). No other information from the subject
17 individual's court records may be disclosed to the department of justice except by
18 order of the court. The department of justice may disclose information provided
19 under this subdivision only as part of an involuntary commitment history record
20 search, or a firearms restrictions record search. under s. 175.35 (2g) (c) or under rules
21 the department of justice promulgates under s. 175.35 (2g) (d). INS 4-12

22 SECTION 6. 51.20 (16) (gm) of the statutes is amended to read:

23 51.20 (16) (gm) Upon a request under par. (a), a court may cancel the
24 prohibition order not to possess a firearm issued under sub. (13) (cv) 1. based on a
25 determination under sub. (13) (cv) 1. a. if the court determines, based on evidence

ASSEMBLY BILL 424

1 presented on the issue of the subject individual's dangerousness, that there no longer
 2 is a substantial probability that the individual may use a firearm to cause physical
 3 harm to himself or herself or endanger public safety. If a court cancels ~~a prohibition~~
 4 an order issued under sub. (13) (cv) 1. based on a determination under sub. (13) (cv)
 5 1. a. under this paragraph, the court clerk shall notify the department of justice of
 6 that fact and provide any information identifying the subject individual that is
 7 necessary to permit an accurate ^{plain → involuntary commitment record search, or a} firearms restrictions record search under s. 175.35
 8 (2g) (c). No other information from the subject individual's court records may be
 9 disclosed to the department of justice except by order of the court.

10 SECTION 7. 51.30 (4) (b) 28. of the statutes is created to read:

11 51.30 (4) (b) 28. To the department of justice, under the requirements of ss.
 12 51.20 (3) (cv) 4. and 51.45 (13) (i) ³ ~~4~~

13 SECTION 8. 51.45 (13) (i) of the statutes is created to read:

14 51.45 (13) (i) If a court orders commitment of a person under this subsection,
 15 the court shall determine if, under 18 USC 922 (g) (4), the person is prohibited from
 16 possessing a firearm. If the person is prohibited, the court shall order the person not
 17 to possess a firearm, order the seizure of any firearm owned by the person, and
 18 inform the person of the requirements and penalties under s. 941.29. The court clerk
 19 shall notify the department of justice of the prohibition and provide any information
 20 identifying the person that is necessary to permit an accurate firearms restrictions
 21 record search under s. 175.35 (2g) (c). No other information from the person's court
 22 records may be disclosed to the department of justice except by order of the court.
 23 The department of justice may disclose information provided under this paragraph
 24 only as part of a firearms restrictions record search under s. 175.35 (2g) (c) or under
 25 rules the department of justice promulgates under s. 175.35 (2g) (d).

ASSEMBLY BILL 424**SECTION 9**

1 **SECTION 9.** 54.10 (3) (f) of the statutes is created to read:

2 54.10 (3) (f) If the court appoints a guardian of the person under this
3 subsection, the court shall determine if, under 18 USC 922 (g) (4), the person is
4 prohibited from possessing a firearm. If the person is prohibited, the court shall
5 order the person not to possess a firearm, order the seizure of any firearm owned by
6 the person, and inform the person of the requirements and penalties under s. 941.29.
7 The court clerk shall notify the department of justice of the prohibition and provide
8 any information identifying the person that is necessary to permit an accurate
9 firearms restriction record search under s. 175.35 (2g) (c). No other information from
10 the person's court records may be disclosed to the department of justice except by
11 order of the court. The department of justice may disclose information provided
12 under this paragraph only as part of a firearms restriction record search under s.
13 175.35 (2g) (c) or under rules the department of justice promulgates under s. 175.35
14 (2g) (d).

15 **SECTION 10.** 55.12 (10) of the statutes is created to read:

16 55.12 (10) If a court orders protective services or protective placement of a
17 individual under this section and if an order has not been made under s. 54.10 (3) (f)
18 for the individual, the court shall determine if, under 18 USC 922 (g) (4), the
19 individual is prohibited from possessing a firearm. If the individual is prohibited,
20 the court shall order the individual not to possess a firearm, order the seizure of any
21 firearm owned by the individual, and inform the individual of the requirements and
22 penalties under s. 941.29. The court clerk shall notify the department of justice of
23 the prohibition and provide any information identifying the individual that is
24 necessary to permit an accurate firearms restriction record search under s. 175.35
25 (2g) (c). No other information from the individual's court records may be disclosed

ASSEMBLY BILL 424

1 to the department of justice except by order of the court. The department of justice
2 may disclose information provided under this subsection only as part of a firearms
3 restriction record search under s. 175.35 (2g) (c) or under rules the department of
4 justice promulgates under s. 175.35 (2g) (d).

5 SECTION 11. 175.35 (1) (at) of the statutes is amended to read:

6 175.35 (1) (at) "Firearms restrictions record search" means a search of
7 department of justice records to determine whether a person seeking to purchase a
8 handgun is prohibited from possessing a firearm under s. 941.29. "Firearms
9 restriction record search" includes a criminal history record search, a search to
10 determine whether a person is ~~is prohibited from possessing~~ has been ordered not to
11 possess a firearm under s. 51.20 (13) (cv) 1. based on a determination under s. 51.20
12 (13) (cv) 1. a, a search to determine whether the person is subject to an injunction
13 under s. 813.12 or 813.122, or a tribal injunction, as defined in s. 813.12 (1) (e), issued
14 by a court established by any federally recognized Wisconsin Indian tribe or band,
15 except the Menominee Indian tribe of Wisconsin, that includes notice to the
16 respondent that he or she is subject to the requirements and penalties under s.
17 941.29 and that has been filed with the circuit court under s. 806.247 (3), and a search
18 to determine whether the person is prohibited from possessing a firearm under s.
19 813.125 (4m).

20 SECTION 12. 175.35 (2g) (d) of the statutes is created to read:

21 175.35 (2g) (d) ^{1.} The department of justice shall promulgate rules to convey
22 information in a timely manner to the national instant criminal background check
23 system regarding ~~persons~~ ^{persons} ~~ordered not to possess~~ ^{individuals} a firearm under s. 51.20 (13) (cv) 1.,
24 based on a determination under s. 51.20 (13) (cv) 1. b., or ordered not to possess a
25 firearm under s. 51.45 (13) (i), 54.10 (3) (f), or 55.12 (10).

51.20 (13) (cv) 1. b.

system to determine whether a person has been ordered not to possess a firearm under s. 51.20 (13) (cv) 1. based on a determination under s. 51.20 (13) (cv) 1. b., 51.45 (13) (i), 54.10 (3) (f) 1.

INS
7-5

1.

1.

(a)

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7-25

ASSEMBLY BILL 424

SECTION 13. 941.29 (1) (e) of the statutes is amended to read:

941.29 (1) (e) Committed for treatment under s. 51.20 (13) (a) and ordered not to possess a firearm under s. 51.20 (13) (cv) 1. based on a determination under s. 51.20 (13) (cv) 1. a.

SECTION 14. 941.29 (1) (em) of the statutes is created to read:

941.29 (1) (em) Ordered not to possess a firearm under s. 51.20 (13) (cv) 1. based on a determination under s. 51.20 (13) (cv) 1. b. or ordered not to possess a firearm under s. 51.45 (13) (i), 54.10 (3) (f) or 55.12 (10). (a)

SECTION 15. 941.29 (2) (d) of the statutes is amended to read:

941.29 (2) (d) The person possesses a firearm while subject to the court order, as specified in sub. (1) (e), (em), or (g).

SECTION 16. 941.29 (9) of the statutes is amended to read:

941.29 (9) This section does not apply to a person specified in sub. (1) (e) if the prohibition order under s. 51.20 (13) (cv) 1. based on a determination under s. 51.20 (13) (cv) 1. a. has been canceled under s. 51.20 (13) (cv) 2. or (16) (gm).

SECTION 17. 968.20 (1r) of the statutes is amended to read:

968.20 (1r) If the seized property is a firearm ordered seized under ~~due to~~ a determination under s. 51.20 (13) (cv) 1. a., the court that issued that order shall order the firearm returned if the prohibition order under s. 51.20 (13) (cv) 1. a. has been canceled under s. 51.20 (13) (cv) 2. or (16) (gm).

SECTION 18. Nonstatutory provisions.

(1) Using the procedure under section 227.24 of the statutes, the department of justice shall promulgate rules required under section 175.35 (2g) (d) of the statutes, as created by this act, for the period before the effective date of the permanent rules promulgated under that section, but not to exceed the period

Fix components

MS 8-16

MS 8-20

renumbered 941.29 (9)(a) and

renumbered 968.20 (1r)(a) and

has been based on a determination under s. 51.20 (13) (cv) 1.

5. 51.20 (13) (cv) 1. based on

ASSEMBLY BILL 424

1 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding
2 section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department of justice is not
3 required to provide evidence that promulgating a rule under this subsection as an
4 emergency rule is necessary for the preservation of public peace, health, safety, or
5 welfare and is not required to provide a finding of an emergency for a rule
6 promulgated under this subsection.

SECTION 19. Initial applicability.

8 (1) The renumbering and amendment of section 51.20 (13) (cv) 1. of the statutes
9 and the creation of section 51.20 (13) (cv) 1. a. and b. first apply to dispositions made
10 on the effective date of this subsection.

11 (2) The treatment of section 51.45 (13) (i) of the statutes first applies to
12 commitments ordered on the effective date of this subsection.

13 (3) The treatment of section 54.10 (3) (f) of the statutes first applies to
14 appointments made on the effective date of this subsection.

15 (4) The treatment of section 55.12 (10) of the statutes first applies to court
16 orders made on the effective date of this subsection.

SECTION 20. Effective dates. This act takes effect on the first day of the 2nd
17 month beginning after publication, except as follows:

18 (1) The treatment of section 175.35 (2g) (d) of the statutes and SECTION 18 (1)
19 of this act take effect on the day after publication.

21 (END)

*LPS:
check
auto
refs*

*LRB-0049/1/dn
CMH:kyf*

*Make: Date
This bill contains the substance of 2007 AB-424,
as amended by AA-1 and AA-2. I reorganized it for
clarity -- especially since you were under time constraints
when producing AA-2.
CMH*

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0049/?ins
CMH:.....

1 Insert A

the
If, at a mental health proceeding, a court finds a person ineligible under federal law to possess a firearm, the person may petition a court to cancel the order. A court must grant the petition if the court determines that the person is not likely to act in a manner dangerous to public safety and that the granting of the petition would not be contrary to public interest. The court must then convey the change in status to DOJ so that DOJ may update the information provided during background checks for handgun purchases and the information provided to the national instant criminal background check system.

2

3 Ins 7-25

4 2. The department of justice shall promulgate rules to convey information in
5 a timely manner to the national instant criminal background check system
6 regarding the cancellation of an order not to possess a firearm under s. 51.20 (13) (cv)
7 1m. c., 51.45 (13) (i) 2. c., 54.10 (3) (f) 2. c., or 55.12 (10) (b) 2.

8

9 Insert 8-20

10 SECTION 1. 968.20 (1r) (b) of the statutes is created to read:

11 968.20 (1r) (b) If the seized property is a firearm ordered seized under s. 51.20
12 (13) (cv) 1. based on a determination under s. 51.20 (13) (cv) 1. b., the court that issued
13 that order shall order the firearm returned if the order under s. 51.20 (13) (cv) 1.
14 based on a determination under s. 51.20 (13) (cv) 1. b. is canceled under s. 51.20 (13)
15 (cv) 1m. c.

16 SECTION 2. 968.20 (1r) (c) of the statutes is created to read:

17 968.20 (1r) (c) If the seized property is a firearm ordered seized under s. 51.45
18 (13) (i) 1., the court that issued that order shall order the firearm returned if the order
19 under s. 51.45 (13) (i) 1. is canceled under s. 51.45 (13) (i) 2. c.

1 **SECTION 3.** 968.20 (1r) (d) of the statutes is created to read:
2 968.20 (1r) (d) If the seized property is a firearm ordered seized under s. 54.10
3 (3) (f) 1., the court that issued that order shall order the firearm returned if the order
4 under s. 54.10 (3) (f) 1. is canceled under s. 54.10 (3) (f) 2. c.

5 **SECTION 4.** 968.20 (1r) (e) of the statutes is created to read:
6 968.20 (1r) (e) If the seized property is a firearm ordered seized under s. 55.22
7 (10) (a), the court that issued that order shall order the firearm returned if the order
8 under s. 55.12 (10) (a) is canceled under s. 55.12 (10) (b) 3.

1

**ASSEMBLY AMENDMENT 2,
TO 2007 ASSEMBLY BILL 424**

March 5, 2008 – Offered by Representative GUNDERSON.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 16: after that line insert:

3 ~~SECTION 2m.~~ 51.20 (13) (cv) 1m. of the statutes is created to read:

4 51.20 (13) (cv) 1m. a. If a court orders a ^{an individual} person under subd. 1. not to possess
5 a firearm based on a determination under subd. 1. b., the ^{individual} person may petition that
6 court or the court in the county where the ^{individual} person resides to cancel the order.

7 b. The court considering the petition under subd. 1m. a. shall grant the petition
8 if the court determines that the circumstances regarding the disposition under par.

9 (a) 3., 4., 4m., or 5. and the ^{individual} person's record and reputation indicate that the ^{individual} person
10 is not likely to act in a manner dangerous to public safety and that the granting of
11 the petition would not be contrary to public interest.

INW
3-17

on the basis of a determination under subd. 1. b.

END OF INS 3-17

c. If the court grants the petition under subd. 1m. b., the court shall cancel the order under subd. 1. and order the return of any firearm ordered seized under subd. 1.

2. Page 4, line 4: delete the material beginning with "on the basis" and ending with "1. a." on line 5.

INS 4-7

3. Page 4, line 7: after "(gm)" insert "or until the order under subd. 1. based on the determination under subd. 1. b. has been canceled under subd. 1m. c."

4. Page 4, line 10: after "subd. 1." insert "or".

5. Page 4, line 11: delete "b. or" and substitute "b."

INS 4-12

6. Page 4, line 12: after "subd. 1. a." insert ", or cancels under subd. 1m. c. an order issued under subd. 1. based on a determination under subd. 1. b."

7. Page 5, line 12: after "(i)" insert "4".

8. Page 5, line 13: delete the material beginning with that line and ending with page 7, line 4, and substitute:

~~8m.~~ SECTION 51.45 (13) (i) of the statutes is created to read:

51.45 (13) (i) 1. If a court orders commitment of a person under this subsection, the court shall determine if, under 18 USC 922 (g) (4), the person is prohibited from possessing a firearm. If the person is prohibited, the court shall order the person not to possess a firearm, order the seizure of any firearm owned by the person, and inform the person of the requirements and penalties under s. 941.29.

2. a. If a court orders a person under subd. 1. not to possess a firearm, the person may petition that court or the court in the county where the person resides to cancel the order.

INS 7-8

1 b. The court considering the petition under subd. 2. a. shall grant the petition
2 if the court determines that the circumstances regarding the commitment under this
3 subsection and the person's record and reputation indicate that the person is not
4 likely to act in a manner dangerous to public safety and that the granting of the
5 petition would not be contrary to public interest.

6 c. If the court grants the petition under subd. 2. b., the court shall cancel the
7 order under subd. 1. and order the return of any firearm ordered seized under subd.
8 1.

9 3. In lieu of ordering the seizure under subd. 1., the court may designate a
10 person to store the firearm until the order under subd. 1. is canceled. *under subd. 2. c.*

11 4. If the court orders under subd. 1. a person not to possess a firearm or cancels
12 under subd. 2. c. an order issued under subd. 1., the court clerk shall notify the
13 department of justice of the order or cancellation and provide any information
14 identifying the person that is necessary to permit an accurate firearms restrictions
15 record search under s. 175.35 (2g) (c). No other information from the person's court
16 records may be disclosed to the department of justice except by order of the court.
17 The department of justice may disclose information provided under this subdivision
18 only as part of a firearms restrictions record search under s. 175.35 (2g) (c) or under
19 rules the department of justice promulgates under s. 175.35 (2g) (d).

20 **SECTION 9m.** 54.10 (3) (f) of the statutes is created to read:

21 54.10 (3) (f) 1. If the court appoints a guardian of the person under this
22 subsection, the court shall determine if, under 18 USC 922 (g) (4), the *individual* ~~person~~ is
23 prohibited from possessing a firearm. If the *individual* ~~person~~ is prohibited, the court shall
24 order the *individual* ~~person~~ not to possess a firearm, order the seizure of any firearm owned by
25 the person, and inform the *individual* ~~person~~ of the requirements and penalties under s. 941.29.

1 2. a. If a court orders ^{an individual} a person under subd. 1. not to possess a firearm, the ^{individual} person
 2 may petition that court or the court in the county where the person resides to cancel
 3 the order.

4 b. The court considering the petition under subd. 2. a. shall grant the petition
 5 if the court determines that the circumstances regarding the appointment of a
 6 guardian under this subsection and the ^{individuals} person's record and reputation indicate that
 7 the ^{individual} person is not likely to act in a manner dangerous to public safety and that the
 8 granting of the petition would not be contrary to public interest.

9 c. If the court grants the petition under subd. 2. b., the court shall cancel the
 10 order under subd. 1. and order the return of any firearm ordered seized under subd.
 11 1.

12 3. In lieu of ordering the seizure under subd. 1., the court may designate a
 13 person to store the firearm until the order under subd. 1. is canceled ^{under subd. 2. e.}

14 4. If the court orders under subd. 1. ^{an individual} a person not to possess a firearm or cancels
 15 under subd. 2. c. an order issued under subd. 1., the court clerk shall notify the
 16 department of justice of the order or cancellation and provide any information
 17 identifying the ^{individual} person that is necessary to permit an accurate firearms restrictions
 18 record search under s. 175.35 (2g) (c). No other information from the ^{individual's} person's court
 19 records may be disclosed to the department of justice except by order of the court.
 20 The department of justice may disclose information provided under this subdivision
 21 only as part of a firearms restrictions record search under s. 175.35 (2g) (c) or under
 22 rules the department of justice promulgates under s. 175.35 (2g) (d).

23 **SECTION 10m.** 55.12 (10) of the statutes is created to read:

24 55.12 (10) (a) If a court orders protective services or protective placement of ^{an individual} a
 25 person under this section and if an order has not been made under s. 54.10 (3) (f)

1 for the person, the court shall determine if, under 18 USC 922 (g) (4), the person is
 2 prohibited from possessing a firearm. If the person is prohibited, the court shall
 3 order the person not to possess a firearm, order the seizure of any firearm owned by
 4 the person, and inform the person of the requirements and penalties under s. 941.29.

5 (b) 1. If a court orders a person under par. (a) not to possess a firearm, the person
 6 may petition that court or the court in the county where the person resides to cancel
 7 the order.

8 2. The court considering the petition under subd. 1. shall grant the petition if
 9 the court determines that the circumstances regarding the protective services or
 10 protective placement order under this subsection and the person's record and
 11 reputation indicate that the person is not likely to act in a manner dangerous to
 12 public safety and that the granting of the petition would not be contrary to public
 13 interest.

14 3. If the court grants the petition under subd. 2., the court shall cancel the order
 15 under par. (a) and order the return of any firearm ordered seized under par. (a).

16 (c) In lieu of ordering the seizure under par. (a), the court may designate a
 17 person to store the firearm until the order under par. (a) is canceled.

18 (d) If the court orders under par. (a) a person not to possess a firearm or cancels
 19 under par. (b) 3. an order issued under par. (a), the court clerk shall notify the
 20 department of justice of the order or cancellation and provide any information
 21 identifying the person that is necessary to permit an accurate firearms restriction
 22 record search under s. 175.35 (2g) (c). No other information from the person's court
 23 records may be disclosed to the department of justice except by order of the court.

24 The department of justice may disclose information provided under this paragraph

end of ins. 7-25

1 only as part of a firearms restriction record search under s. 175.35 (2g) (c) or under
2 rules the department of justice promulgates under s. 175.35 (2g) (d)."

3 **9.** Page 7, line 25: after "(i)" insert "1."

4 **10.** Page 7, line 25: after "(f)" insert "1."

5 **11.** Page 7, line 25: after "(10)" insert "(a)".

6 **12.** Page 8, line 8: after "(i)" insert "1."

7 **13.** Page 8, line 8: after "(f)" insert "1."

8 **14.** Page 8, line 8: after "(10)" insert "(a)".

9 **15.** Page 8, line 15: after "(gm)" insert "if the order under s. 51.30 (13) (cv)

10 1. based on a determination under s. 51.20 (13) (cv) 1. b. has been canceled under s.
11 51.20 (13) (cv) 1m. c., if the order under s. 51.45 (13) (i) 1. is canceled under s. 51.45
12 (13) (i) 2. c., if the order under s. 54.10 (3) (f) 1. is canceled under s. 54.10 (3) (f) 2. c.,
13 or if the order under s. 55.12 (10) (a) is canceled under s. 55.12 (10) (b) 3rd.

INS 8-16
SECTION # 941.29 (9)(b); CR
941.29 (9)(b) This section does not apply to a person specified in sub. (1) (em)

← plain text no scoring

14 **16.** Page 8, line 20: after "(gm)" insert "if the order under s. 51.30 (13) (cv)

15 1. based on a determination under s. 51.20 (13) (cv) 1. b. has been canceled under s.
16 51.20 (13) (cv) 1m. c., if the order under s. 51.45 (13) (i) 1. is canceled under s. 51.45
17 (13) (i) 2. c., if the order under s. 54.10 (3) (f) 1. is canceled under s. 54.10 (3) (f) 2. c.,
18 or if the order under s. 55.12 (10) (a) is canceled under s. 55.12 (10) (b) 3rd.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0049/1dn
CMH:kjf:ph

September 10, 2008

Mike:

This bill contains the substance of 2007 AB-424, as amended by AA-1 and AA-2. I reorganized it for clarity -- especially since you were under time constraints when providing AA-2.

Cathlene Hanaman
Legislative Attorney
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Parisi, Lori

From: Bruhn, Mike
Sent: Thursday, November 20, 2008 12:37 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-0049/1 Topic: Mental health adjudication and background checks for purchases of handguns

Please Jacket LRB 09-0049/1 for the ASSEMBLY.