

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1235/p3dn
CMH:bjk:rs

February 9, 2009

Greg:

Please note the embedded notes in the draft. This draft is still in preliminary form because our last meeting resulted in many instructions. I think I included them all in this version, but the changes may result in need for other changes or I may have misinterpreted some of the instructions. Please let me know so that I may redraft.

Also, as we discussed, the model law specifies actions that would not constitute a violation of s. 941.285 (2), such as replacing a firing pin that has been damaged or replacing a firing pin that needs to be replaced for the safe use of the handgun. Instead of specifying what would not constitute a violation, the LRB drafting style is to construct the prohibition so that such actions would not be covered. Therefore, I specified that the person has to modify the handgun with the intention of preventing law enforcement from accessing the microstamping code that identifies the handgun. Since that is an element of a criminal offense, if the offense were prosecuted, the state would have to prove beyond a reasonable doubt that the person modified with the intent to prevent law enforcement access to the code. Since replacing a pin is a common action with no such intent, the law, as written, excludes such behavior from the prohibition.

Again, thank you for your patience on this redraft while we produced the budget bill.

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