

2009 BILL

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1 **AN ACT to repeal** 175.35 (2k) (b) 2. b., 941.29 (2) and 941.29 (9); **to renumber**
2 175.35 (2) (a) to (d) and 175.35 (2j); **to renumber and amend** 175.35 (2)
3 (intro.), 175.35 (2i), 175.35 (2k) (b) 2. a., 175.35 (3) and 941.29 (1); **to amend**
4 20.455 (2) (gr), 29.921 (1), 175.35 (title) and (1) (ag), 175.35 (2g) (b), 175.35 (2g)
5 (c) (intro.), 175.35 (2g) (c) 4. c., 175.35 (2k) (ar) (intro.), 175.35 (2k) (ar) 2., 175.35
6 (2k) (b) (intro.), 175.35 (2k) (c) 2. a., 175.35 (2k) (c) 2. b., 175.35 (2k) (g), 175.35
7 (2k) (h), 175.35 (2k) (i), 175.35 (2t) (a), 175.35 (2t) (b), 175.35 (2t) (c), 938.208
8 (1) (c), 938.34 (4m) (b) 3., 938.341, 938.396 (2g) (d), 938.396 (2g) (n), 938.78 (3),
9 941.29 (3), 941.29 (4), 941.29 (5) (intro.), 941.29 (5) (a), 941.29 (8), 941.29 (10)
10 (intro.), 948.60 (title), 948.60 (1), 968.02 (4), 968.07 (3), 968.255 (1) (a) 2., 971.17
11 (1g) and 973.176 (1); and **to create** 175.33, 175.35 (1) (bm), 175.35 (2b), 175.35
12 (2c) (a) (intro.) and (b), 175.35 (2j) (b), 175.35 (2k) (k), 175.35 (3) (a), 941.29 (1g),
13 941.29 (1m) (ag), 941.29 (1m) (bg), 941.29 (1m) (br), 941.29 (1m) (cg), 941.29
14 (1m) (dg), 941.29 (11) and 948.59 of the statutes; **relating to:** sales and

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1 transfers of firearms, records from sales of firearms, possession of firearms by
② persons convicted of violent offenses that are not felonies, possession of
③ handguns by or transfers of handguns to persons under the age of 21, and
4 providing penalties.

Analysis by the Legislative Reference Bureau

Current law provides that various conditions, including a background check of a prospective purchaser, must be met before a federally licensed firearms dealer may transfer a handgun after a sale. This bill prohibits the sale or transfer of any firearm unless one of the following applies: the sale or transfer is by a federally licensed firearms dealer; the sale or transfer is to or through a firearms dealer; the sale or transfer is one for which the waiting period for the purchase of a handgun under current law does not apply; the transfer is by gift, bequest, or inheritance to a family member; or the transfer is intended to be temporary and the purpose of the transfer is not prohibited. In addition, this bill requires that, before any firearm that is not a handgun is transferred, the person receiving the firearm must provide identification and complete a notification form listing his or her name, date of birth, gender, and race, and the firearms dealer must convey the information on the form to the Department of Justice.

Current law prohibits a person from possessing a firearm if he or she has been convicted of a felony. This bill prohibits a person from possessing a firearm also if he or she has been convicted of a "violent nonfelony offense" unless five years have passed since the conviction. A violent nonfelony offense includes misdemeanor battery, misdemeanor harassment, and exposing genitals to a child; violations of a domestic abuse, child abuse, or harassment temporary restraining order or injunction; and misdemeanors for which the maximum term of imprisonment has been increased for use of a dangerous weapon when committing the misdemeanor.

→ Current law prohibits a person who is under the age of 18 from possessing a dangerous weapon, including a firearm, an electric weapon, and metallic knuckles. This bill prohibits, with exceptions for supervised target practice, law enforcement, or military service, a person who is under the age of 21 from possessing a handgun and a person from transferring a handgun to a person who is under the age of 21.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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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. [√] 20.455 (2) (gr) of the statutes is amended to read:
2 20.455 (2) (gr) *Handgun purchaser record check fee*. All moneys received as fee
3 payments under s. 175.35 (2i) (a) to provide services under s. 175.35.

✓ 4 SECTION 2. 29.921 (1) of the statutes is amended to read:
5 29.921 (1) GENERALLY. The department and its wardens may execute and serve
6 warrants and processes issued under any law enumerated in ss. 23.50 (1), 167.31,
7 346.19, 940.24, 941.20, 948.59, 948.60, 948.605, and 948.61 in the same manner as
8 any constable may serve and execute the process; and may arrest, with or without
9 a warrant, any person detected in the actual violation, or whom the officer has
10 probable cause to believe is guilty of a violation of any of the laws cited in this
11 subsection, whether the violation is punishable by criminal penalties or by forfeiture,
12 and may take the person before any court in the county where the offense was
13 committed and make a proper complaint. For the purpose of enforcing any of the
14 laws cited in this subsection, any officer may stop and board any boat and stop any
15 vehicle, if the officer reasonably suspects there is a violation of those sections.

16 SECTION 3. [√] 175.33 of the statutes is created to read:
17 **175.33 Transfer of firearms; license required.** (1) In this section:
18 (a) "Family member" means a spouse, parent, grandparent, child, or
19 grandchild. The relationship may be by blood, marriage, or adoption.
20 (b) "Firearms dealer" has the meaning given in s. 175.35 (1) (ar).

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1 (2) No person may sell or transfer ownership of a firearm, or purchase or obtain
2 ownership of a firearm, unless one of the following applies:

3 (a) The seller or transferor is a firearms dealer.

4 (b) The seller or transferor makes the sale or transfer to or through a firearms
5 dealer and obtains a receipt under s. 175.35 (2j) (b).

6 (c) The sale or transfer of ownership of the firearm is one of the transfers listed
7 under s. 175.35 (2t).

8 (d) The transferor is transferring ownership of the firearm to a family member
9 by gift, bequest, or inheritance, the transferee is not prohibited from possessing a
10 firearm under s. 941.29, and, if the firearm is a handgun, as defined in s. 175.35 (1)

11 (b), the transferee is at least ¹⁸~~21~~ years of age. ✓

12 (e) The transferor is transferring ownership of the firearm with the intent that
13 the transfer be temporary, neither the transferor nor the transferee is prohibited
14 from possessing a firearm under s. 941.29 ^{or 948.59}, and the purpose of the transfer
15 is not prohibited by law.

16 (3) Any person who intentionally violates sub. (2) is guilty of a Class G felony.

17 SECTION 4. ✓ 175.35 (title) and (1) (ag) of the statutes are amended to read:

18 175.35 (title) **Waiting period for purchase of handguns and records for**
19 **purchases of firearms.**

20 (1) (ag) "Criminal history record" includes information reported to the
21 department under s. 938.396 (2g) (n) that indicates a person was adjudicated
22 delinquent for an act that if committed by an adult in this state would be a felony or,
23 if the adjudication occurred within the preceding 5 years, a violent nonfelony offense.

24 SECTION 5. ✓ 175.35 (1) (bm) of the statutes is created to read:

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1 175.35 (1) (bm) "Violent nonfelony offense" has the meaning given in s. 941.29
2 (1g).

3 **SECTION 6.** [√]175.35 (2) (intro.) of the statutes is renumbered 175.35 (2) and
4 amended to read:

5 175.35 (2) When a firearms dealer sells a handgun firearm, he or she may not
6 transfer possession of that handgun firearm to any other person until all of the
7 ~~following have occurred:~~ requirements of sub. (2c) have been met.

8 **SECTION 7.** [√]175.35 (2) (a) to (d) of the statutes are renumbered 175.35 (2c) (a)
9 1. to 4.

10 **SECTION 8.** [√]175.35 (2b) of the statutes is created to read:

11 175.35 (2b) When a person sells a firearm or transfers ownership of a firearm
12 through a firearms dealer, the person may not transfer possession of that firearm to
13 any person other than the firearms dealer, and the firearms dealer may not transfer
14 or authorize the transfer of possession of that firearm to any person, until all of the
15 requirements of sub. (2c) have been met. This subsection does not apply if a person
16 sells a firearm or transfers ownership of a firearm to a firearms dealer.

17 **SECTION 9.** [√]175.35 (2c) (a) (intro.) and (b) of the statutes are created to read:

18 175.35 (2c) (a) (intro.) All of the following must occur before a sale or transfer
19 of a firearm that is a handgun occurs under sub. (2) or (2b):

20 (b) All of the following must occur before a sale or transfer of a firearm that is
21 not a handgun occurs under sub. (2) or (2b):

22 1. The transferee has provided identification as required by rule under sub. (2g)

23 (a).

24 2. The transferee has completed the notification form described in sub. (2g) (b).

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1 3. The firearms dealer has conveyed the information from the completed
2 notification form to the department of justice as required by rule under sub. (2g) (b).

3 **SECTION 10.** [√] 175.35 (2g) (b) of the statutes is amended to read:

4 175.35 (2g) (b) The department of justice shall promulgate rules prescribing
5 a notification form for use under sub. ~~(2)~~ (2c) (a) 2. and (b) 2. requiring the transferee
6 to provide his or her name, date of birth, gender, and race and social security number
7 and, if the sale or transfer involves a handgun, other identification or information
8 necessary to permit an accurate firearms restrictions record search under par. (c) 3.
9 and the required notification under par. (c) 4. The department of justice shall make
10 the forms available at locations throughout the state.

11 **SECTION 11.** [√] 175.35 (2g) (c) (intro.) of the statutes is amended to read:

12 175.35 (2g) (c) (intro.) The department of justice shall promulgate rules for
13 firearms restrictions record searches regarding transferees under ~~sub.~~ subs. (2) and
14 (2b), including procedures for all of the following:

15 **SECTION 12.** [√] 175.35 (2g) (c) 4. c. of the statutes is amended to read:

16 175.35 (2g) (c) 4. c. If the search indicates a felony charge or a violent nonfelony
17 offense charge without a recorded disposition, the deadline under sub. ~~(2)-(d)~~ (2c) (a)
18 4. is extended to the end of the 3rd complete working day commencing after the day
19 on which the finding is made. The department shall notify the firearms dealer of the
20 extension as soon as practicable. During the extended period, the department shall
21 make every reasonable effort to determine the disposition of the charge and notify
22 the firearms dealer of the results as soon as practicable.

23 **SECTION 13.** [√] 175.35 (2i) of the statutes, as affected by 2009 Wisconsin Act 28,
24 is renumbered 175.35 (2i) (a) and amended to read:

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1 175.35 (2i) (a) The department shall charge a firearms dealer a \$13 fee for each
2 firearms restrictions record search that the firearms dealer requests under sub. (2)
3 (e) (2c) (a) 3.

4 (b) The firearms dealer may collect the fee under par. (a) from the transferee
5 or, if the transfer is made under sub. (2b), from the transferor.

6 (c) The department may refuse to conduct firearms restrictions record searches
7 for any firearms dealer who fails to pay any fee under ~~this subsection~~ par. (a) within
8 30 days after billing by the department.

9 SECTION 14. [✓]175.35 (2j) of the statutes is renumbered 175.35 (2j) (a).

10 SECTION 15. [✓]175.35 (2j) (b) of the statutes is created to read:

11 175.35 (2j) (b) If a person sells a firearm or transfers ownership of a firearm
12 through a firearms dealer under sub. (2b), or sells a firearm or transfers ownership
13 of a firearm to a firearms dealer, the firearms dealer shall provide the person a
14 written receipt documenting the dealer's participation in the sale or transfer.

15 SECTION 16. [✓]175.35 (2k) (ar) (intro.) of the statutes is amended to read:

16 175.35 (2k) (ar) (intro.) Except as provided in pars. (b) to (j) (k) and as necessary
17 to administer this section, the department of justice shall do all of the following:

18 SECTION 17. [✓]175.35 (2k) (ar) 2. of the statutes is amended to read:

19 175.35 (2k) (ar) 2. Check each duplicate notification form received under sub.
20 (2j) (a) against the information recorded by the department regarding the
21 corresponding request for a firearms restrictions record search under sub. (2g). ~~If the~~
22 ~~department previously provided a unique approval number regarding the request~~
23 ~~and nothing in the duplicate completed notification form indicates that the~~
24 ~~transferee is prohibited from possessing a firearm under s. 941.29, the department~~

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1 shall destroy all records regarding that firearms restrictions record search within 30
2 days after receiving the duplicate form.

3 **SECTION 18.** [✓] 175.35 (2k) (b) (intro.) of the statutes is amended to read:

4 175.35 (2k) (b) (intro.) ~~Notwithstanding par. (ar), the~~ The department of justice
5 may maintain all of the following:

6 **SECTION 19.** [✓] 175.35 (2k) (b) 2. a. of the statutes is renumbered 175.35 (2k) (b)

7 2. and amended to read:

8 175.35 (2k) (b) 2. ~~Except as provided in subd. 2. b., a~~ A log of dates of requests
9 for firearms restrictions record searches under sub. (2g) together with confirmation
10 numbers, unique approval and nonapproval numbers and firearms dealer
11 identification numbers corresponding to those dates.

12 **SECTION 20.** [✓] 175.35 (2k) (b) 2. b. of the statutes is repealed.

13 **SECTION 21.** [✓] 175.35 (2k) (c) 2. a. of the statutes is amended to read:

14 175.35 (2k) (c) 2. a. A statement that the Wisconsin law enforcement agency
15 is conducting an investigation of a crime in which a handgun firearm was used or was
16 attempted to be used or was unlawfully possessed.

17 **SECTION 22.** [✓] 175.35 (2k) (c) 2. b. of the statutes is amended to read:

18 175.35 (2k) (c) 2. b. A statement by a division commander or higher authority
19 within the Wisconsin law enforcement agency that he or she has a reasonable
20 suspicion that the person who is the subject of the information request has obtained
21 or is attempting to obtain a handgun firearm.

22 **SECTION 23.** [✓] 175.35 (2k) (g) of the statutes is amended to read:

23 175.35 (2k) (g) If a search conducted under sub. (2g) indicates that the
24 transferee is prohibited from possessing a firearm under s. 941.29, the attorney

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1 general or his or her designee may disclose to a law enforcement agency that the
2 transferee has attempted to obtain a handgun firearm.

3 **SECTION 24.** [✓] 175.35 (2k) (h) of the statutes is amended to read:

4 175.35 (2k) (h) If a search conducted under sub. (2g) indicates a felony charge
5 or violent nonfelony offense charge without a recorded disposition and the attorney
6 general or his or her designee has reasonable grounds to believe the transferee may
7 pose a danger to himself, herself or another, the attorney general or his or her
8 designee may disclose to a law enforcement agency that the transferee has obtained
9 or has attempted to obtain a handgun firearm.

10 **SECTION 25.** [✓] 175.35 (2k) (i) of the statutes is amended to read:

11 175.35 (2k) (i) The department of justice may not charge a fee for any services
12 that the department provides under pars. (c) to ~~(j)~~ (k).

13 **SECTION 26.** [✓] 175.35 (2k) (k) of the statutes is created to read:

14 175.35 (2k) (k) The department may provide access to records kept under this
15 section to a person engaged in research if the department has approved the research
16 and the researcher agrees that the information will be used only for the purposes for
17 which it was provided, the information will not be released to anyone not connected
18 with the research, and the research will not involve revealing information that may
19 serve to identify the individuals involved. The department shall also impose
20 whatever additional safeguards are needed to prevent unwarranted disclosure of
21 information from the records.

22 **SECTION 27.** [✓] 175.35 (2t) (a) of the statutes is amended to read:

23 175.35 (2t) (a) Transfers of any handgun firearm classified as an antique by
24 regulations of the U.S. department of the treasury.

25 **SECTION 28.** [✓] 175.35 (2t) (b) of the statutes is amended to read:

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1 175.35 (2t) (b) Transfers of any ~~handgun~~ firearm between firearms dealers or
2 between wholesalers and dealers.

3 **SECTION 29.** [✓] 175.35 (2t) (c) of the statutes is amended to read:

4 175.35 (2t) (c) Transfers of any ~~handgun~~ firearm to law enforcement or armed
5 services agencies.

6 **SECTION 30.** [✓] 175.35 (3) of the statutes is renumbered 175.35 (3) (b) and
7 amended to read:

8 175.35 (3) (b) Any person who intentionally violates sub. (2), (2e), (2f) or (2j)
9 shall be fined not less than \$500 nor more than \$10,000 and may be imprisoned for
10 not more than 9 months.

11 **SECTION 31.** [✓] 175.35 (3) (a) of the statutes is created to read:

12 175.35 (3) (a) Any person who intentionally violates sub. (2) or (2b) is guilty of
13 a Class G felony.

[✓] 14 **SECTION 32.** 938.208 (1) (c) of the statutes is amended to read:

15 938.208 (1) (c) Probable cause exists to believe that the juvenile has possessed
16 or gone armed with a short-barreled rifle or a short-barreled shotgun in violation
17 of s. 941.28, or has possessed or gone armed with a handgun in violation of s. 948.60
18 948.59.

[✓] 19 **SECTION 33.** 938.34 (4m) (b) 3. of the statutes is amended to read:

20 938.34 (4m) (b) 3. The juvenile has possessed or gone armed with a
21 short-barreled rifle or a short-barreled shotgun in violation of s. 941.28 or has
22 possessed or gone armed with a handgun in violation of s. ~~948.60~~ 948.59.

23 **SECTION 34.** [✓] 938.341 of the statutes is amended to read:

24 **938.341 Delinquency adjudication; restriction on firearm possession.**

25 Whenever a court adjudicates a juvenile delinquent for an act that if committed by

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1 an adult in this state would be a felony or a violent nonfelony offense, as defined in
2 s. 941.29 (1g), the court shall inform the juvenile of the requirements and penalties
3 under s. 941.29.

4 **SECTION 35.** [✓] 938.396 (2g) (d) of the statutes is amended to read:

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

15 **SECTION 36.** [✓] 938.396 (2g) (n) of the statutes is amended to read:

16 938.396 (2g) (n) *Firearms restriction record search.* If a juvenile is adjudged
17 delinquent for an act that would be a felony or a violent nonfelony offense, as defined
18 in s. 941.29 (1g), if committed by an adult, the court clerk shall notify the department
19 of justice of that fact. No other information from the juvenile's court records may be
20 disclosed to the department of justice except by order of the court. The department
21 of justice may disclose any information provided under this subsection only as part
22 of a firearms restrictions record search under s. 175.35 (2g) (c).

✓ 23 **SECTION 37.** 938.78 (3) of the statutes is amended to read:

24 938.78 (3) ~~RELEASE OF INFORMATION WHEN ESCAPE OR ABSENCE; RULES.~~ If a juvenile
25 adjudged delinquent under s. 48.12, 1993 stats., or s. 938.12 or found to be in need

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1 of protection or services under s. 48.13 (12), 1993 stats., or s. 48.13 (14), 1993 stats.,
 2 or s. 938.13 (12) or (14) on the basis of a violation of s. 943.23 (1m) or (1r), 1999 stats.,
 3 or s. 941.10, 941.11, 941.20, 941.21, 941.23, 941.235, 941.237, 941.24, 941.26, 941.28,
 4 941.295, 941.298, 941.30, 941.31, 941.32, 941.325, 943.02, 943.03, 943.04, 943.10 (2)
 5 (a), 943.23 (1g), 943.32 (2), 948.02, 948.025, 948.03, 948.05, 948.055, 948.085 (2),
 6 948.59, 948.60, 948.605, or 948.61 or any crime specified in ch. 940 has escaped from
 7 a juvenile correctional facility, residential care center for children and youth,
 8 inpatient facility, as defined in s. 51.01 (10), juvenile detention facility, or juvenile
 9 portion of a county jail, or from the custody of a peace officer or a guard of such a
 10 facility, center, or jail, or has been allowed to leave a juvenile correctional facility,
 11 residential care center for children and youth, inpatient facility, juvenile detention
 12 facility, or juvenile portion of a county jail for a specified time period and is absent
 13 from the facility, center, home, or jail for more than 12 hours after the expiration of
 14 the specified period, the department or county department having supervision over
 15 the juvenile may release the juvenile's name and any information about the juvenile
 16 that is necessary for the protection of the public or to secure the juvenile's return to
 17 the facility, center, home, or jail. The department shall promulgate rules
 18 establishing guidelines for the release of the juvenile's name or information about
 19 the juvenile to the public.

20 **SECTION 38.** 941.29 (1) of the statutes is renumbered 941.29 (1m) and amended

21 to read:

22 941.29 (1m) A person is subject to the requirements and penalties of this
 23 section if he or she has been who possesses a firearm is guilty of a Class G felony if
 24 any of the following apply:

25 (a) ~~Convicted~~ The person has been convicted of a felony in this state.

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1 (b) ~~Convicted~~ The person has been convicted of a crime elsewhere that would
2 be a felony if committed in this state.

3 (bm) ~~Adjudicated~~ The person has been adjudicated delinquent for an act
4 committed on or after April 21, 1994, that if committed by an adult in this state would
5 be a felony.

6 (c) ~~Found~~ The person has been found not guilty of a felony in this state by reason
7 of mental disease or defect.

8 (d) ~~Found~~ The person has been found not guilty of or not responsible for a crime
9 elsewhere that would be a felony in this state by reason of insanity or mental disease,
10 defect or illness.

11 (e) ~~Committed~~ The person has been committed for treatment under s. 51.20 (13)
12 (a) and ~~ordered~~ is subject to an order not to possess a firearm under s. 51.20 (13) (cv).

13 (f) ~~Enjoined under~~ The person is subject to an injunction issued under s. 813.12
14 or 813.122 or ~~under~~ a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court
15 established by any federally recognized Wisconsin Indian tribe or band, except the
16 Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he
17 or she is subject to the requirements and penalties under s. 941.29 and that has been
18 filed under s. 806.247 (3).

19 (g) ~~Ordered~~ The person is subject to an order not to possess a firearm under s.
20 813.125 (4m).

21 **SECTION 39.** [✓] 941.29 (1g) of the statutes is created to read:

22 941.29 (1g) "Violent nonfelony offense" means any of the following:

23 (a) A misdemeanor violation of s. 940.19, 940.195, 940.225, 940.42, 940.44,
24 941.237, 941.38, 941.39, 947.013, 948.10, 948.55, 948.59, or 948.60.

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1 (b) A violation of a temporary restraining order or injunction issued under s.
2 813.12 (3) or (4), 813.122 (4) or (5), or 813.125 (3) or (4).

3 (c) Any misdemeanor crime for which the maximum term of imprisonment has
4 been increased under s. 939.63.

5 **SECTION 40.** [✓]941.29 (1m) (ag) of the statutes is created to read:

6 941.29 (1m) (ag) The person has been convicted on or after the effective date
7 of this paragraph [LRB inserts date], of a violent nonfelony offense.

8 **SECTION 41.** [✓]941.29 (1m) (bg) of the statutes is created to read:

9 941.29 (1m) (bg) The person has been convicted elsewhere on or after the
10 effective date of this paragraph [LRB inserts date], of a crime that would be a
11 violent nonfelony offense if committed in this state.

12 **SECTION 42.** [✓]941.29 (1m) (br) of the statutes is created to read:

13 941.29 (1m) (br) The person has been adjudicated delinquent on or after the
14 effective date of this paragraph [LRB inserts date], for an act that if committed
15 by an adult in this state would be a violent nonfelony offense.

16 **SECTION 43.** [✓]941.29 (1m) (cg) of the statutes is created to read:

17 941.29 (1m) (cg) On or after the effective date of this paragraph [LRB inserts
18 date], the person has been found not guilty by reason of mental disease or defect of
19 a violent nonfelony offense in this state.

20 **SECTION 44.** [✓]941.29 (1m) (dg) of the statutes is created to read:

21 941.29 (1m) (dg) On or after the effective date of this paragraph [LRB
22 inserts date], the person has been found not guilty of, or not responsible for, by reason
23 of insanity or mental disease, defect, or illness, a crime elsewhere that would be a
24 violent nonfelony offense in this state.

25 **SECTION 45.** [✓]941.29 (2) of the statutes is repealed.

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1 **SECTION 46.** [✓]941.29 (3) of the statutes is amended to read:

2 941.29 (3) Any firearm involved in an offense under sub. ~~(2)~~ this section is
3 subject to s. 968.20 (3).

4 **SECTION 47.** [✓]941.29 (4) of the statutes is amended to read:

5 941.29 (4) A person is concerned with the commission of a crime, as specified
6 in s. 939.05 (2) (b), in violation of this section if he or she knowingly furnishes a person
7 with a firearm in violation of sub. ~~(2)~~ this section.

8 **SECTION 48.** [✓]941.29 (5) (intro.) of the statutes is amended to read:

9 941.29 (5) (intro.) This section does not apply to any person specified in sub.
10 ~~(1)~~ (1m) who:

11 **SECTION 49.** [✓]941.29 (5) (a) of the statutes is amended to read:

12 941.29 (5) (a) Has received a pardon with respect to the crime or felony specified
13 in sub. ~~(1)~~ (1m) and has been expressly authorized to possess a firearm under 18 USC
14 app. 1203; or

15 **SECTION 50.** [✓]941.29 (8) of the statutes is amended to read:

16 941.29 (8) This section does not apply to any person specified in sub. ~~(1)~~ (1m)
17 (bm) if a court subsequently determines that the person is not likely to act in a
18 manner dangerous to public safety. In any action or proceeding regarding this
19 determination, the person has the burden of proving by a preponderance of the
20 evidence that he or she is not likely to act in a manner dangerous to public safety.

21 **SECTION 51.** [✓]941.29 (9) of the statutes is repealed.

22 **SECTION 52.** [✓]941.29 (10) (intro.) of the statutes is amended to read:

23 941.29 (10) (intro.) The prohibition against firearm possession under this
24 section does not apply to a person specified in sub. ~~(1)~~ (1m) (f) if the person satisfies
25 any of the following:

BILL

1 **SECTION 53.** [✓] 941.29 (11) of the statutes is created to read:

2 941.29 (11) Subsection (1m) (ag), (bg), (br), (cg), and (dg) does not apply if the
3 conviction, adjudication, or finding occurred more than 5 years before the date on
4 which the person possesses the firearm.

5 **SECTION 54.** 948.59 of the statutes is created to read:

6 **948.59 Possession of a handgun by a person under 21. (1)** In this section:

7 (a) "Handgun" has the meaning given in s. 175.35 (1) (b).

8 (b) "Law enforcement officer" means a Wisconsin law enforcement officer, as
9 defined in s. 175.46 (1) (g), or a federal law enforcement officer, as defined in s. 175.40
10 (7) (a) 1.

11 (2) (a) Any person under 21 years of age who possesses or goes armed with a
12 handgun is guilty of a Class A misdemeanor.

13 (b) 1. Except as provided in subd. 2., any person who intentionally sells, loans,
14 or gives a handgun to a person under 21 years of age is guilty of a Class I felony.

15 2. Whoever violates subd. 1. is guilty of a Class H felony if the person under 21
16 years of age under subd. 1. discharges the handgun and the discharge causes death
17 to himself, herself, or another.

18 (c) A person under 17 years of age who has violated this subsection is subject
19 to the provisions of ch. 938 unless jurisdiction is waived under s. 938.18 or the person
20 is subject to the jurisdiction of a court of criminal jurisdiction under s. 938.183.

21 (3) (a) 1. Subsection (2) (a) does not apply to a person under 21 years of age who
22 possesses or goes armed with a handgun when the handgun is being used in target
23 practice under the supervision of an adult or in a course of instruction in the
24 traditional and proper use of the handgun under the supervision of an adult.

BILL

1 2. Subsection (2) (b) does not apply to an adult who transfers a handgun to a
2 person under 21 years of age for use only in target practice under the adult's
3 supervision or in a course of instruction in the traditional and proper use of the
4 handgun under the adult's supervision.

5 (b) 1. Subsection (2) (a) does not apply to a person under 21 years of age who
6 is a member of the armed forces or national guard and who possesses or goes armed
7 with a handgun in the line of duty.

8 2. Subsection (2) (b) does not apply to a person who is a member of the armed
9 forces or national guard and who transfers a handgun to a person under 21 years of
10 age in the line of duty.

11 (c) 1. Subsection (2) (a) does not apply to a person under 21 years of age who
12 is a law enforcement officer and who possesses or goes armed with a handgun.

13 2. Subsection (2) (b) does not apply to a person who transfers a handgun to a
14 person who is under 21 years of age if the latter is a law enforcement officer.

15 (d) 1. Subsection (2) (a) does not apply to a person under 21 years of age who
16 possesses or goes armed with a handgun having a barrel 12 inches in length or longer
17 and who is in compliance with ss. 29.304 and 29.563.

18 2. Subsection (2) (b) does not apply to an adult who transfers a handgun having
19 a barrel 12 inches in length or longer to a person under 21 years of age who is in
20 compliance with ss. 29.304 and 29.563.

21 (e) Subsection (2) (a) does not apply if, on the effective date of this paragraph
22 ..., [LRB inserts date], the person was at least 18 years of age and owned the
23 handgun.

24 **SECTION 55.** 948.60 (title) of the statutes is amended to read:

BILL

1 **948.60** (title) **Possession of ~~a~~ other dangerous weapon weapons by a**
2 **person under 18.**

3 **SECTION 56.** 948.60 (1) of the statutes is amended to read:

4 948.60 (1) In this section, "dangerous weapon" means any loaded or unloaded
5 firearm loaded or unloaded, other than a handgun, as defined in s. 175.35 (1) (b); any
6 electric weapon, as defined in s. 941.295 (4); metallic knuckles or knuckles of any
7 substance which could be put to the same use with the same or similar effect as
8 metallic knuckles; a nunchaku or any similar weapon consisting of 2 sticks of wood,
9 plastic or metal connected at one end by a length of rope, chain, wire or leather; a
10 cestus or similar material weighted with metal or other substance and worn on the
11 hand; a shuriken or any similar pointed star-like object intended to injure a person
12 when thrown; or a manrikigusari or similar length of chain having weighted ends.

13 **SECTION 57.** 968.02 (4) of the statutes is amended to read:

14 968.02 (4) If the alleged violator under s. 948.55 (2), 948.59 (2) (b), or 948.60
15 (2) (c) is or was the parent or guardian of a child who is injured or dies as a result of
16 an accidental shooting, the district attorney may consider, among other factors, the
17 impact of the injury or death on the alleged violator when deciding whether to issue
18 a complaint regarding the alleged violation. This subsection does not restrict the
19 factors that a district attorney may consider in deciding whether to issue a complaint
20 regarding any alleged violation.

21 **SECTION 58.** 968.07 (3) of the statutes is amended to read:

22 ✓ 968.07 (3) If the alleged violator under s. 948.55 (2), 948.59 (2) (b), or 948.60
23 (2) (c) is or was the parent or guardian of a child who is injured or dies as a result of
24 an accidental shooting, no law enforcement officer may arrest the alleged violator
25 until at least 7 days after the date of the shooting.

BILL

✓ 1 **SECTION 59.** ~~968.255 (1) (a) 2. of the statutes is amended to read:~~

2 ~~968.255 (1) (a) 2. Arrested for any misdemeanor under s. 167.30, 940.19, 941.20~~
3 ~~(1), 941.23, 941.237, 941.24, 948.59, 948.60, or 948.61.~~

4 **SECTION 60.** 971.17 (1g) of the statutes is amended to read:

5 971.17 (1g) If the defendant under sub. (1) is found not guilty of a felony or a
6 violent nonfelony offense, as defined in s. 941.29 (1g), by reason of mental disease or
7 defect, the court shall inform the defendant of the requirements and penalties under
8 s. 941.29.

9 **SECTION 61.** 973.176 (1) of the statutes is amended to read:

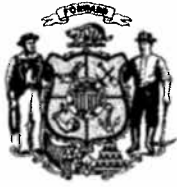
10 973.176 (1) FIREARM POSSESSION. Whenever a court imposes a sentence or
11 places a defendant on probation regarding a felony conviction for a felony or for a
12 violent nonfelony offense, as defined in s. 941.29 (1g), the court shall inform the
13 defendant of the requirements and penalties under s. 941.29.

14 **SECTION 62. Initial applicability.**

15 (1) The treatment of sections 175.33 and 175.35 (2) (intro.) and (a) to (d), (2b),
16 (2c) (a) (intro.) and (b), (2g) (b) and (c) (intro.) and 4. c., (2i), and (2k) (ar) 2. and (h)
17 of the statutes, the renumbering of section 175.35 (2j) of the statutes, the
18 renumbering and amendment of section 175.35 (3) of the statutes, and the creation
19 of section 175.35 (2j) (b) and (3) (a) of the statutes first apply to sales or transfers of
20 ownership of firearms that occur on the effective date of this subsection.

21 (2) The treatment of sections 938.341, 938.396 (2g) (n), 971.17 (1g), and 973.176
22 (1) of the statutes first applies to delinquency adjudications, findings of not guilty by
23 reason of mental disease or defect, and convictions occurring on the effective date of
24 this subsection.

25 **SECTION 63. Effective date.**



State of Wisconsin
2009 - 2010 LEGISLATURE

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2009 BILL

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1 AN ACT *to repeal* 175.35 (2k) (b) 2. b., 941.29 (2) and 941.29 (9); *to renumber*
2 175.35 (2) (a) to (d) and 175.35 (2j); *to renumber and amend* 175.35 (2)
3 (intro.), 175.35 (2i), 175.35 (2k) (b) 2. a., 175.35 (3) and 941.29 (1); *to amend*
4 20.455 (2) (gr), 29.921 (1), 175.35 (title) and (1) (ag), 175.35 (2g) (b), 175.35 (2g)
5 (c) (intro.), 175.35 (2g) (c) 4. c., 175.35 (2k) (ar) (intro.), 175.35 (2k) (ar) 2., 175.35
6 (2k) (b) (intro.), 175.35 (2k) (c) 2. a., 175.35 (2k) (c) 2. b., 175.35 (2k) (g), 175.35
7 (2k) (h), 175.35 (2k) (i), 175.35 (2t) (a), 175.35 (2t) (b), 175.35 (2t) (c), 938.208
8 (1) (c), 938.34 (4m) (b) 3., 938.341, 938.396 (2g) (d), 938.396 (2g) (n), 938.78 (3),
9 941.29 (3), 941.29 (4), 941.29 (5) (intro.), 941.29 (5) (a), 941.29 (8), 941.29 (10)
10 (intro.), 948.60 (title), 948.60 (1), 968.02 (4), 968.07 (3), 968.255 (1) (a) 2., 971.17
11 (1g) and 973.176 (1); and *to create* 175.33, 175.35 (1) (bm), 175.35 (2b), 175.35
12 (2c) (a) (intro.) and (b), 175.35 (2j) (b), 175.35 (2k) (k), 175.35 (3) (a), 941.29 (1g),
13 941.29 (1m) (ag), 941.29 (1m) (bg), 941.29 (1m) (br), 941.29 (1m) (cg), 941.29
14 (1m) (dg), 941.29 (11) and 948.59 of the statutes; **relating to:** sales and

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1 transfers of firearms, records from sales of firearms, possession of firearms by
2 persons convicted of violent offenses that are not felonies, possession of
3 handguns by or transfers of handguns to persons under the age of 21, and
4 providing penalties.

Analysis by the Legislative Reference Bureau

Current law provides that various conditions, including a background check of a prospective purchaser, must be met before a federally licensed firearms dealer may transfer a handgun after a sale. This bill prohibits the sale or transfer of any firearm unless one of the following applies: the sale or transfer is by a federally licensed firearms dealer; the sale or transfer is to or through a firearms dealer; the sale or transfer is one for which the waiting period for the purchase of a handgun under current law does not apply; the transfer is by gift, bequest, or inheritance to a family member; or the transfer is intended to be temporary and the purpose of the transfer is not prohibited. In addition, this bill requires that, before any firearm that is not a handgun is transferred, the person receiving the firearm must provide identification and complete a notification form listing his or her name, date of birth, gender, and race, and the firearms dealer must convey the information on the form to the Department of Justice.

Current law prohibits a person from possessing a firearm if he or she has been convicted of a felony. This bill prohibits a person from possessing a firearm also if he or she has been convicted of a “violent nonfelony offense” unless five years have passed since the conviction. A violent nonfelony offense includes misdemeanor battery, misdemeanor harassment, and exposing genitals to a child; violations of a domestic abuse, child abuse, or harassment temporary restraining order or injunction; and misdemeanors for which the maximum term of imprisonment has been increased for use of a dangerous weapon when committing the misdemeanor.

Current law prohibits a person who is under the age of 18 from possessing a dangerous weapon, including a firearm, an electric weapon, and metallic knuckles. This bill prohibits, with exceptions for supervised target practice, law enforcement, or military service, a person who is under the age of 21 from possessing a handgun and a person from transferring a handgun to a person who is under the age of 21.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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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.** 20.455 (2) (gr) of the statutes is amended to read:

2 20.455 (2) (gr) *Handgun purchaser record check fee.* All moneys received as fee
3 payments under s. 175.35 (2i) (a) to provide services under s. 175.35.

4 **SECTION 2.** 29.921 (1) of the statutes is amended to read:

5 29.921 (1) **GENERALLY.** The department and its wardens may execute and serve
6 warrants and processes issued under any law enumerated in ss. 23.50 (1), 167.31,
7 346.19, 940.24, 941.20, 948.59, 948.60, 948.605, and 948.61 in the same manner as
8 any constable may serve and execute the process; and may arrest, with or without
9 a warrant, any person detected in the actual violation, or whom the officer has
10 probable cause to believe is guilty of a violation of any of the laws cited in this
11 subsection, whether the violation is punishable by criminal penalties or by forfeiture,
12 and may take the person before any court in the county where the offense was
13 committed and make a proper complaint. For the purpose of enforcing any of the
14 laws cited in this subsection, any officer may stop and board any boat and stop any
15 vehicle, if the officer reasonably suspects there is a violation of those sections.

16 **SECTION 3.** 175.33 of the statutes is created to read:

17 **175.33 Transfer of firearms; license required. (1)** In this section:

18 (a) “Family member” means a spouse, parent, grandparent, child, or
19 grandchild. The relationship may be by blood, marriage, or adoption.

20 (b) “Firearms dealer” has the meaning given in s. 175.35 (1) (ar).

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BILL**SECTION 3**

1 (2) No person may sell or transfer ownership of a firearm, or purchase or obtain
2 ownership of a firearm, unless one of the following applies:

3 (a) The seller or transferor is a firearms dealer.

4 (b) The seller or transferor makes the sale or transfer to or through a firearms
5 dealer and obtains a receipt under s. 175.35 (2j) (b).

6 (c) The sale or transfer of ownership of the firearm is one of the transfers listed
7 under s. 175.35 (2t).

8 (d) The transferor is transferring ownership of the firearm to a family member
9 by gift, bequest, or inheritance, the transferee is not prohibited from possessing a
10 firearm under s. 941.29, and, if the firearm is a handgun, as defined in s. 175.35 (1)
11 (b), the transferee is at least 21 years of age.

12 (e) The transferor is transferring ownership of the firearm with the intent that
13 the transfer be temporary, neither the transferor nor the transferee is prohibited
14 from possessing a firearm under s. 941.29 or 948.59, and the purpose of the transfer
15 is not prohibited by law.

16 (3) Any person who intentionally violates sub. (2) is guilty of a Class G felony.

17 **SECTION 4.** 175.35 (title) and (1) (ag) of the statutes are amended to read:

18 **175.35 (title) Waiting period for purchase of handguns and records for**
19 **purchases of firearms.**

20 (1) (ag) “Criminal history record” includes information reported to the
21 department under s. 938.396 (2g) (n) that indicates a person was adjudicated
22 delinquent for an act that if committed by an adult in this state would be a felony or,
23 if the adjudication occurred within the preceding 5 years, a violent nonfelony offense.

24 **SECTION 5.** 175.35 (1) (bm) of the statutes is created to read:

BILL

1 175.35 (1) (bm) “Violent nonfelony offense” has the meaning given in s. 941.29
2 (1g).

3 **SECTION 6.** 175.35 (2) (intro.) of the statutes is renumbered 175.35 (2) and
4 amended to read:

5 175.35 (2) When a firearms dealer sells a handgun firearm, he or she may not
6 transfer possession of that handgun firearm to any other person until all of the
7 following have occurred: requirements of sub. (2c) have been met.

8 **SECTION 7.** 175.35 (2) (a) to (d) of the statutes are renumbered 175.35 (2c) (a)
9 1. to 4.

10 **SECTION 8.** 175.35 (2b) of the statutes is created to read:

11 175.35 (2b) When a person sells a firearm or transfers ownership of a firearm
12 through a firearms dealer, the person may not transfer possession of that firearm to
13 any person other than the firearms dealer, and the firearms dealer may not transfer
14 or authorize the transfer of possession of that firearm to any person, until all of the
15 requirements of sub. (2c) have been met. This subsection does not apply if a person
16 sells a firearm or transfers ownership of a firearm to a firearms dealer.

17 **SECTION 9.** 175.35 (2c) (a) (intro.) and (b) of the statutes are created to read:

18 175.35 (2c) (a) (intro.) All of the following must occur before a sale or transfer
19 of a firearm that is a handgun occurs under sub. (2) or (2b):

20 (b) All of the following must occur before a sale or transfer of a firearm that is
21 not a handgun occurs under sub. (2) or (2b):

22 1. The transferee has provided identification as required by rule under sub. (2g)

23 (a).

24 2. The transferee has completed the notification form described in sub. (2g) (b).

BILL**SECTION 9**

1 3. The firearms dealer has conveyed the information from the completed
2 notification form to the department of justice as required by rule under sub. (2g) (b).

3 **SECTION 10.** 175.35 (2g) (b) of the statutes is amended to read:

4 175.35 **(2g)** (b) The department of justice shall promulgate rules prescribing
5 a notification form for use under sub. ~~(2)~~ (2c) (a) 2. and (b) 2. requiring the transferee
6 to provide his or her name, date of birth, gender, and race ~~and social security number~~
7 and, if the sale or transfer involves a handgun, other identification or information
8 necessary to permit an accurate firearms restrictions record search under par. (c) 3.
9 and the required notification under par. (c) 4. The department of justice shall make
10 the forms available at locations throughout the state.

11 **SECTION 11.** 175.35 (2g) (c) (intro.) of the statutes is amended to read:

12 175.35 **(2g)** (c) (intro.) The department of justice shall promulgate rules for
13 firearms restrictions record searches regarding transferees under ~~sub.~~ subs. (2) and
14 (2b), including procedures for all of the following:

15 **SECTION 12.** 175.35 (2g) (c) 4. c. of the statutes is amended to read:

16 175.35 **(2g)** (c) 4. c. If the search indicates a felony charge or a violent nonfelony
17 offense charge without a recorded disposition, the deadline under sub. ~~(2)-(d)~~ (2c) (a)
18 4. is extended to the end of the 3rd complete working day commencing after the day
19 on which the finding is made. The department shall notify the firearms dealer of the
20 extension as soon as practicable. During the extended period, the department shall
21 make every reasonable effort to determine the disposition of the charge and notify
22 the firearms dealer of the results as soon as practicable.

23 **SECTION 13.** 175.35 (2i) of the statutes, as affected by 2009 Wisconsin Act 28,
24 is renumbered 175.35 (2i) (a) and amended to read:

BILL

1 175.35 **(2i)** (a) The department shall charge a firearms dealer a \$13 fee for each
2 firearms restrictions record search that the firearms dealer requests under sub. ~~(2)~~
3 ~~(e) (2c) (a) 3.~~

4 **(b)** The firearms dealer may collect the fee under par. (a) from the transferee
5 or, if the transfer is made under sub. (2b), from the transferor.

6 **(c)** The department may refuse to conduct firearms restrictions record searches
7 for any firearms dealer who fails to pay any fee under ~~this subsection~~ par. (a) within
8 30 days after billing by the department.

9 **SECTION 14.** 175.35 (2j) of the statutes is renumbered 175.35 (2j) (a).

10 **SECTION 15.** 175.35 (2j) (b) of the statutes is created to read:

11 175.35 **(2j)** (b) If a person sells a firearm or transfers ownership of a firearm
12 through a firearms dealer under sub. (2b), or sells a firearm or transfers ownership
13 of a firearm to a firearms dealer, the firearms dealer shall provide the person a
14 written receipt documenting the dealer's participation in the sale or transfer.

15 **SECTION 16.** 175.35 (2k) (ar) (intro.) of the statutes is amended to read:

16 175.35 **(2k)** (ar) (intro.) Except as provided in pars. (b) to ~~(j)~~ **(k)** and as necessary
17 to administer this section, the department of justice shall do all of the following:

18 **SECTION 17.** 175.35 (2k) (ar) 2. of the statutes is amended to read:

19 175.35 **(2k)** (ar) 2. Check each duplicate notification form received under sub.
20 ~~(2j) (a)~~ against the information recorded by the department regarding the
21 corresponding request for a firearms restrictions record search under sub. (2g). ~~If the~~
22 ~~department previously provided a unique approval number regarding the request~~
23 ~~and nothing in the duplicate completed notification form indicates that the~~
24 ~~transferee is prohibited from possessing a firearm under s. 941.29, the department~~

BILL**SECTION 17**

1 ~~shall destroy all records regarding that firearms restrictions record search within 30~~
2 ~~days after receiving the duplicate form.~~

3 **SECTION 18.** 175.35 (2k) (b) (intro.) of the statutes is amended to read:

4 175.35 (2k) (b) (intro.) ~~Notwithstanding par. (a), the~~ The department of justice
5 may maintain all of the following:

6 **SECTION 19.** 175.35 (2k) (b) 2. a. of the statutes is renumbered 175.35 (2k) (b)
7 2. and amended to read:

8 175.35 (2k) (b) 2. ~~Except as provided in subd. 2. b., a~~ A log of dates of requests
9 for firearms restrictions record searches under sub. (2g) together with confirmation
10 numbers, unique approval and nonapproval numbers and firearms dealer
11 identification numbers corresponding to those dates.

12 **SECTION 20.** 175.35 (2k) (b) 2. b. of the statutes is repealed.

13 **SECTION 21.** 175.35 (2k) (c) 2. a. of the statutes is amended to read:

14 175.35 (2k) (c) 2. a. A statement that the Wisconsin law enforcement agency
15 is conducting an investigation of a crime in which a handgun firearm was used or was
16 attempted to be used or was unlawfully possessed.

17 **SECTION 22.** 175.35 (2k) (c) 2. b. of the statutes is amended to read:

18 175.35 (2k) (c) 2. b. A statement by a division commander or higher authority
19 within the Wisconsin law enforcement agency that he or she has a reasonable
20 suspicion that the person who is the subject of the information request has obtained
21 or is attempting to obtain a handgun firearm.

22 **SECTION 23.** 175.35 (2k) (g) of the statutes is amended to read:

23 175.35 (2k) (g) If a search conducted under sub. (2g) indicates that the
24 transferee is prohibited from possessing a firearm under s. 941.29, the attorney

BILL

1 general or his or her designee may disclose to a law enforcement agency that the
2 transferee has attempted to obtain a handgun firearm.

3 **SECTION 24.** 175.35 (2k) (h) of the statutes is amended to read:

4 175.35 (2k) (h) If a search conducted under sub. (2g) indicates a felony charge
5 or violent nonfelony offense charge without a recorded disposition and the attorney
6 general or his or her designee has reasonable grounds to believe the transferee may
7 pose a danger to himself, herself or another, the attorney general or his or her
8 designee may disclose to a law enforcement agency that the transferee has obtained
9 or has attempted to obtain a handgun firearm.

10 **SECTION 25.** 175.35 (2k) (i) of the statutes is amended to read:

11 175.35 (2k) (i) The department of justice may not charge a fee for any services
12 that the department provides under pars. (c) to ~~(j)~~ (k).

13 **SECTION 26.** 175.35 (2k) (k) of the statutes is created to read:

14 175.35 (2k) (k) The department may provide access to records kept under this
15 section to a person engaged in research if the department has approved the research
16 and the researcher agrees that the information will be used only for the purposes for
17 which it was provided, the information will not be released to anyone not connected
18 with the research, and the research will not involve revealing information that may
19 serve to identify the individuals involved. The department shall also impose
20 whatever additional safeguards are needed to prevent unwarranted disclosure of
21 information from the records.

22 **SECTION 27.** 175.35 (2t) (a) of the statutes is amended to read:

23 175.35 (2t) (a) Transfers of any handgun firearm classified as an antique by
24 regulations of the U.S. department of the treasury.

25 **SECTION 28.** 175.35 (2t) (b) of the statutes is amended to read:

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1 175.35 (2t) (b) Transfers of any ~~handgun~~ firearm between firearms dealers or
2 between wholesalers and dealers.

3 **SECTION 29.** 175.35 (2t) (c) of the statutes is amended to read:

4 175.35 (2t) (c) Transfers of any ~~handgun~~ firearm to law enforcement or armed
5 services agencies.

6 **SECTION 30.** 175.35 (3) of the statutes is renumbered 175.35 (3) (b) and
7 amended to read:

8 175.35 (3) (b) Any person who intentionally violates sub. ~~(2)~~, (2e), (2f) or (2j)
9 shall be fined not less than \$500 nor more than \$10,000 and may be imprisoned for
10 not more than 9 months.

11 **SECTION 31.** 175.35 (3) (a) of the statutes is created to read:

12 175.35 (3) (a) Any person who intentionally violates sub. (2) or (2b) is guilty of
13 a Class G felony.

14 **SECTION 32.** 938.208 (1) (c) of the statutes is amended to read:

15 938.208 (1) (c) Probable cause exists to believe that the juvenile has possessed
16 or gone armed with a short-barreled rifle or a short-barreled shotgun in violation
17 of s. 941.28, or has possessed or gone armed with a handgun in violation of s. ~~948.60~~
18 948.59.

19 **SECTION 33.** 938.34 (4m) (b) 3. of the statutes is amended to read:

20 938.34 (4m) (b) 3. The juvenile has possessed or gone armed with a
21 short-barreled rifle or a short-barreled shotgun in violation of s. 941.28 or has
22 possessed or gone armed with a handgun in violation of s. ~~948.60~~ 948.59.

23 **SECTION 34.** 938.341 of the statutes is amended to read:

24 **938.341 Delinquency adjudication; restriction on firearm possession.**

25 Whenever a court adjudicates a juvenile delinquent for an act that if committed by

BILL

1 an adult in this state would be a felony or a violent nonfelony offense, as defined in
2 s. 941.29 (1g), the court shall inform the juvenile of the requirements and penalties
3 under s. 941.29.

4 **SECTION 35.** 938.396 (2g) (d) of the statutes is amended to read:

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

15 **SECTION 36.** 938.396 (2g) (n) of the statutes is amended to read:

16 938.396 **(2g)** (n) *Firearms restriction record search.* If a juvenile is adjudged
17 delinquent for an act that would be a felony or a violent nonfelony offense, as defined
18 in s. 941.29 (1g), if committed by an adult, the court clerk shall notify the department
19 of justice of that fact. No other information from the juvenile's court records may be
20 disclosed to the department of justice except by order of the court. The department
21 of justice may disclose any information provided under this subsection only as part
22 of a firearms restrictions record search under s. 175.35 (2g) (c).

23 **SECTION 37.** 938.78 (3) of the statutes is amended to read:

24 938.78 **(3)** **RELEASE OF INFORMATION WHEN ESCAPE OR ABSENCE; RULES.** If a juvenile
25 adjudged delinquent under s. 48.12, 1993 stats., or s. 938.12 or found to be in need

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1 of protection or services under s. 48.13 (12), 1993 stats., or s. 48.13 (14), 1993 stats.,
2 or s. 938.13 (12) or (14) on the basis of a violation of s. 943.23 (1m) or (1r), 1999 stats.,
3 or s. 941.10, 941.11, 941.20, 941.21, 941.23, 941.235, 941.237, 941.24, 941.26, 941.28,
4 941.295, 941.298, 941.30, 941.31, 941.32, 941.325, 943.02, 943.03, 943.04, 943.10 (2)
5 (a), 943.23 (1g), 943.32 (2), 948.02, 948.025, 948.03, 948.05, 948.055, 948.085 (2),
6 948.59, 948.60, 948.605, or 948.61 or any crime specified in ch. 940 has escaped from
7 a juvenile correctional facility, residential care center for children and youth,
8 inpatient facility, as defined in s. 51.01 (10), juvenile detention facility, or juvenile
9 portion of a county jail, or from the custody of a peace officer or a guard of such a
10 facility, center, or jail, or has been allowed to leave a juvenile correctional facility,
11 residential care center for children and youth, inpatient facility, juvenile detention
12 facility, or juvenile portion of a county jail for a specified time period and is absent
13 from the facility, center, home, or jail for more than 12 hours after the expiration of
14 the specified period, the department or county department having supervision over
15 the juvenile may release the juvenile's name and any information about the juvenile
16 that is necessary for the protection of the public or to secure the juvenile's return to
17 the facility, center, home, or jail. The department shall promulgate rules
18 establishing guidelines for the release of the juvenile's name or information about
19 the juvenile to the public.

20 **SECTION 38.** 941.29 (1) of the statutes is renumbered 941.29 (1m) and amended
21 to read:

22 941.29 (1m) A person ~~is subject to the requirements and penalties of this~~
23 ~~section if he or she has been~~ who possesses a firearm is guilty of a Class G felony if
24 any of the following apply:

25 (a) ~~Convicted~~ The person has been convicted of a felony in this state.

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1 (b) ~~Convicted~~ The person has been convicted of a crime elsewhere that would
2 be a felony if committed in this state.

3 (bm) ~~Adjudicated~~ The person has been adjudicated delinquent for an act
4 committed on or after April 21, 1994, that if committed by an adult in this state would
5 be a felony.

6 (c) ~~Found~~ The person has been found not guilty of a felony in this state by reason
7 of mental disease or defect.

8 (d) ~~Found~~ The person has been found not guilty of or not responsible for a crime
9 elsewhere that would be a felony in this state by reason of insanity or mental disease,
10 defect or illness.

11 (e) ~~Committed~~ The person has been committed for treatment under s. 51.20 (13)
12 (a) and ~~ordered~~ is subject to an order not to possess a firearm under s. 51.20 (13) (cv).

13 (f) ~~Enjoined under~~ The person is subject to an injunction issued under s. 813.12
14 or 813.122 or ~~under~~ a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court
15 established by any federally recognized Wisconsin Indian tribe or band, except the
16 Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he
17 or she is subject to the requirements and penalties under s. 941.29 and that has been
18 filed under s. 806.247 (3).

19 (g) ~~Ordered~~ The person is subject to an order not to possess a firearm under s.
20 813.125 (4m).

21 **SECTION 39.** 941.29 (1g) of the statutes is created to read:

22 941.29 (1g) “Violent nonfelony offense” means any of the following:

23 (a) A misdemeanor violation of s. 940.19, 940.195, 940.225, 940.42, 940.44,
24 941.237, 941.38, 941.39, 947.013, 948.10, 948.55, 948.59, or 948.60.

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1 (b) A violation of a temporary restraining order or injunction issued under s.
2 813.12 (3) or (4), 813.122 (4) or (5), or 813.125 (3) or (4).

3 (c) Any misdemeanor crime for which the maximum term of imprisonment has
4 been increased under s. 939.63.

5 **SECTION 40.** 941.29 (1m) (ag) of the statutes is created to read:

6 941.29 **(1m)** (ag) The person has been convicted on or after the effective date
7 of this paragraph [LRB inserts date], of a violent nonfelony offense.

8 **SECTION 41.** 941.29 (1m) (bg) of the statutes is created to read:

9 941.29 **(1m)** (bg) The person has been convicted elsewhere on or after the
10 effective date of this paragraph [LRB inserts date], of a crime that would be a
11 violent nonfelony offense if committed in this state.

12 **SECTION 42.** 941.29 (1m) (br) of the statutes is created to read:

13 941.29 **(1m)** (br) The person has been adjudicated delinquent on or after the
14 effective date of this paragraph [LRB inserts date], for an act that if committed
15 by an adult in this state would be a violent nonfelony offense.

16 **SECTION 43.** 941.29 (1m) (cg) of the statutes is created to read:

17 941.29 **(1m)** (cg) On or after the effective date of this paragraph [LRB inserts
18 date], the person has been found not guilty by reason of mental disease or defect of
19 a violent nonfelony offense in this state.

20 **SECTION 44.** 941.29 (1m) (dg) of the statutes is created to read:

21 941.29 **(1m)** (dg) On or after the effective date of this paragraph [LRB
22 inserts date], the person has been found not guilty of, or not responsible for, by reason
23 of insanity or mental disease, defect, or illness, a crime elsewhere that would be a
24 violent nonfelony offense in this state.

25 **SECTION 45.** 941.29 (2) of the statutes is repealed.

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1 **SECTION 46.** 941.29 (3) of the statutes is amended to read:

2 941.29 (3) Any firearm involved in an offense under ~~sub. (2)~~ this section is
3 subject to s. 968.20 (3).

4 **SECTION 47.** 941.29 (4) of the statutes is amended to read:

5 941.29 (4) A person is concerned with the commission of a crime, as specified
6 in s. 939.05 (2) (b), in violation of this section if he or she knowingly furnishes a person
7 with a firearm in violation of ~~sub. (2)~~ this section.

8 **SECTION 48.** 941.29 (5) (intro.) of the statutes is amended to read:

9 941.29 (5) (intro.) This section does not apply to any person specified in sub.
10 ~~(1)~~ (1m) who:

11 **SECTION 49.** 941.29 (5) (a) of the statutes is amended to read:

12 941.29 (5) (a) Has received a pardon with respect to the crime or felony specified
13 in sub. ~~(1)~~ (1m) and has been expressly authorized to possess a firearm under 18 USC
14 app. 1203; or

15 **SECTION 50.** 941.29 (8) of the statutes is amended to read:

16 941.29 (8) This section does not apply to any person specified in sub. ~~(1)~~ (1m)
17 (bm) if a court subsequently determines that the person is not likely to act in a
18 manner dangerous to public safety. In any action or proceeding regarding this
19 determination, the person has the burden of proving by a preponderance of the
20 evidence that he or she is not likely to act in a manner dangerous to public safety.

21 **SECTION 51.** 941.29 (9) of the statutes is repealed.

22 **SECTION 52.** 941.29 (10) (intro.) of the statutes is amended to read:

23 941.29 (10) (intro.) The prohibition against firearm possession under this
24 section does not apply to a person specified in sub. ~~(1)~~ (1m) (f) if the person satisfies
25 any of the following:

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1 **SECTION 53.** 941.29 (11) of the statutes is created to read:

2 941.29 **(11)** Subsection (1m) (ag), (bg), (br), (cg), and (dg) does not apply if the
3 conviction, adjudication, or finding occurred more than 5 years before the date on
4 which the person possesses the firearm.

5 **SECTION 54.** 948.59 of the statutes is created to read:

6 **948.59 Possession of a handgun by a person under 21. (1)** In this section:

7 (a) “Handgun” has the meaning given in s. 175.35 (1) (b).

8 (b) “Law enforcement officer” means a Wisconsin law enforcement officer, as
9 defined in s. 175.46 (1) (g), or a federal law enforcement officer, as defined in s. 175.40
10 (7) (a) 1.

11 **(2)** (a) Any person under 21 years of age who possesses or goes armed with a
12 handgun is guilty of a Class A misdemeanor.

13 (b) 1. Except as provided in subd. 2., any person who intentionally sells, loans,
14 or gives a handgun to a person under 21 years of age is guilty of a Class I felony.

15 2. Whoever violates subd. 1. is guilty of a Class H felony if the person under 21
16 years of age under subd. 1. discharges the handgun and the discharge causes death
17 to himself, herself, or another.

18 (c) A person under 17 years of age who has violated this subsection is subject
19 to the provisions of ch. 938 unless jurisdiction is waived under s. 938.18 or the person
20 is subject to the jurisdiction of a court of criminal jurisdiction under s. 938.183.

21 **(3)** (a) 1. Subsection (2) (a) does not apply to a person under 21 years of age who
22 possesses or goes armed with a handgun when the handgun is being used in target
23 practice under the supervision of an adult or in a course of instruction in the
24 traditional and proper use of the handgun under the supervision of an adult.

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1 2. Subsection (2) (b) does not apply to an adult who transfers a handgun to a
2 person under 21 years of age for use only in target practice under the adult's
3 supervision or in a course of instruction in the traditional and proper use of the
4 handgun under the adult's supervision.

5 (b) 1. Subsection (2) (a) does not apply to a person under 21 years of age who
6 is a member of the armed forces or national guard and who possesses or goes armed
7 with a handgun in the line of duty.

8 2. Subsection (2) (b) does not apply to a person who is a member of the armed
9 forces or national guard and who transfers a handgun to a person under 21 years of
10 age in the line of duty.

11 (c) 1. Subsection (2) (a) does not apply to a person under 21 years of age who
12 is a law enforcement officer and who possesses or goes armed with a handgun.

13 2. Subsection (2) (b) does not apply to a person who transfers a handgun to a
14 person who is under 21 years of age if the latter is a law enforcement officer.

15 (d) 1. Subsection (2) (a) does not apply to a person under 21 years of age who
16 possesses or goes armed with a handgun having a barrel 12 inches in length or longer
17 and who is in compliance with ss. 29.304 and 29.563.

18 2. Subsection (2) (b) does not apply to an adult who transfers a handgun having
19 a barrel 12 inches in length or longer to a person under 21 years of age who is in
20 compliance with ss. 29.304 and 29.563.

21 (e) Subsection (2) (a) does not apply if, on the effective date of this paragraph
22 [LRB inserts date], the person was at least 18 years of age and owned the
23 handgun.

24 **SECTION 55.** 948.60 (title) of the statutes is amended to read:

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1 **948.60** (title) **Possession of ~~a~~ other dangerous weapon weapons by a**
2 **person under 18.**

3 **SECTION 56.** 948.60 (1) of the statutes is amended to read:

4 948.60 (1) In this section, “dangerous weapon” means any loaded or unloaded
5 firearm loaded or unloaded, other than a handgun, as defined in s. 175.35 (1) (b); any
6 electric weapon, as defined in s. 941.295 (4); metallic knuckles or knuckles of any
7 substance which could be put to the same use with the same or similar effect as
8 metallic knuckles; a nunchaku or any similar weapon consisting of 2 sticks of wood,
9 plastic or metal connected at one end by a length of rope, chain, wire or leather; a
10 cestus or similar material weighted with metal or other substance and worn on the
11 hand; a shuriken or any similar pointed star-like object intended to injure a person
12 when thrown; or a manrikigusari or similar length of chain having weighted ends.

13 **SECTION 57.** 968.02 (4) of the statutes is amended to read:

14 968.02 (4) If the alleged violator under s. 948.55 (2), 948.59 (2) (b), or 948.60
15 (2) (c) is or was the parent or guardian of a child who is injured or dies as a result of
16 an accidental shooting, the district attorney may consider, among other factors, the
17 impact of the injury or death on the alleged violator when deciding whether to issue
18 a complaint regarding the alleged violation. This subsection does not restrict the
19 factors that a district attorney may consider in deciding whether to issue a complaint
20 regarding any alleged violation.

21 **SECTION 58.** 968.07 (3) of the statutes is amended to read:

22 968.07 (3) If the alleged violator under s. 948.55 (2), 948.59 (2) (b), or 948.60
23 (2) (c) is or was the parent or guardian of a child who is injured or dies as a result of
24 an accidental shooting, no law enforcement officer may arrest the alleged violator
25 until at least 7 days after the date of the shooting.

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1 **SECTION 59.** 968.255 (1) (a) 2. of the statutes is amended to read:

2 968.255 (1) (a) 2. Arrested for any misdemeanor under s. 167.30, 940.19, 941.20
3 (1), 941.23, 941.237, 941.24, 948.59, 948.60, or 948.61.

4 **SECTION 60.** 971.17 (1g) of the statutes is amended to read:

5 971.17 (1g) If the defendant under sub. (1) is found not guilty of a felony or a
6 violent nonfelony offense, as defined in s. 941.29 (1g), by reason of mental disease or
7 defect, the court shall inform the defendant of the requirements and penalties under
8 s. 941.29.

9 **SECTION 61.** 973.176 (1) of the statutes is amended to read:

10 973.176 (1) FIREARM POSSESSION. Whenever a court imposes a sentence or
11 places a defendant on probation regarding a felony conviction for a felony or for a
12 violent nonfelony offense, as defined in s. 941.29 (1g), the court shall inform the
13 defendant of the requirements and penalties under s. 941.29.

14 **SECTION 62. Initial applicability.**

15 (1) The treatment of sections 175.33 and 175.35 (2) (intro.) and (a) to (d), (2b),
16 (2c) (a) (intro.) and (b), (2g) (b) and (c) (intro.) and 4. c., (2i), and (2k) (ar) 2. and (h)
17 of the statutes, the renumbering of section 175.35 (2j) of the statutes, the
18 renumbering and amendment of section 175.35 (3) of the statutes, and the creation
19 of section 175.35 (2j) (b) and (3) (a) of the statutes first apply to sales or transfers of
20 ownership of firearms that occur on the effective date of this subsection.

21 (2) The treatment of sections 938.341, 938.396 (2g) (n), 971.17 (1g), and 973.176
22 (1) of the statutes first applies to delinquency adjudications, findings of not guilty by
23 reason of mental disease or defect, and convictions occurring on the effective date of
24 this subsection.

25 **SECTION 63. Effective date.**

