



**SENATE AMENDMENT 1,  
TO SENATE SUBSTITUTE AMENDMENT 1,  
TO 2011 SENATE BILL 93**

May 25, 2011 – Offered by Senators RISSER and ERPENBACH.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 7, line 2: after that line insert:

3 **“SECTION 19p.** 165.25 (13) of the statutes is created to read:

4 165.25 (13) CERTIFY ACCURACY OF BACKGROUND CHECKS FOR OPTIONAL LICENSES TO  
5 CARRY CONCEALED WEAPONS. Certify that a background check, as defined in s. 175.60  
6 (1) (ac), is accessing and including at least 95 percent of the information necessary  
7 to determine if an individual who is applying for a license under s. 175.60 is ineligible  
8 under s. 175.60 (3) (b) or (c).”.

9 **2.** Page 13, line 13: after that line insert:

10 “(cm) The individual has been convicted of a misdemeanor violation of ch. 961.”.

11 **3.** Page 14, line 1: after “(c),” insert “(cm),”.

1           **4.** Page 14, line 16: delete “(1m) (c)” and substitute “(1n)”.

2           **5.** Page 14, line 22: delete the material beginning with “, by mail” and ending  
3 with “by the department,” on line 23 and substitute “in person”.

4           **6.** Page 15, line 8: after that line insert:

5           “(e) A certificate that indicates that he or she completed a firearms safety  
6 course that was taught by a firearms safety instructor who has been certified by the  
7 department, that was of a duration of at least 10 hours, and that included training  
8 in all of the following:

9           1. Understanding of firearms.

10          2. How to carry a firearm safely.

11          3. How to care for, handle, load, unload, clean, and store firearms and firearms  
12 equipment.

13          4. How to handle firearms emergencies.

14          5. The fundamentals of marksmanship.”.

15          **7.** Page 15, line 15: after “(c),” insert “(cm),”.

16          **8.** Page 16, line 1: delete “(b) or (c)” and substitute “(b), (c), or (cm)”.

17          **9.** Page 16, line 3: delete “(b) or (c)” and substitute “(b), (c), or (cm)”.

18          **10.** Page 18, line 1: delete “Subject to par. (b) 2.” and substitute “Except as  
19 provided in pars. (b) and (c)”.

20          **11.** Page 18, line 4: after that line insert:

21          “(b) The department shall provide a law enforcement agency access to the  
22 records the department maintains under par. (a).

1 (c) All records or portions of records that the department maintains under par.  
2 (a) are subject to inspection and copying under s. 19.35 (1).”.

3 **12.** Page 18, line 5: delete the material beginning with that line and ending  
4 with page 19, line 21.

5 **13.** Page 20, line 8: after “(c),” insert “(cm),”.

6 **14.** Page 20, line 13: after “(b), (c),” insert “(cm),”.

7 **15.** Page 23, line 19: after that line insert:

8 “5. Submits a certificate that indicates that he or she completed a firearms  
9 safety course that was taught by a firearms safety instructor who has been certified  
10 by the department, that was of a duration of at least 8 hours, and that provided  
11 continuing firearms education.”.

12 **16.** Page 24, line 3: delete “(e), (12), or (12g)” and substitute “(e) or (12) (a)”.

13 **17.** Page 24, line 6: delete lines 6 to 10.

14 **18.** Page 27, line 5: after that line insert:

15 “**SECTION 51p.** 938.396 (2g) (d) of the statutes is amended to read:

16 938.396 **(2g)** (d) *Bail; impeachment; firearm possession.* Upon request of a  
17 court of criminal jurisdiction or a district attorney to review court records for the  
18 purpose of setting bail under ch. 969, impeaching a witness under s. 906.09, or  
19 investigating and determining whether a person has possessed a firearm in violation  
20 of s. 941.29 (2) or body armor in violation of s. 941.291 (2) or upon request of a court  
21 of civil jurisdiction or the attorney for a party to a proceeding in that court to review  
22 court records for the purpose of impeaching a witness under s. 906.09, the court  
23 assigned to exercise jurisdiction under this chapter and ch. 48 shall open for

1 inspection by authorized representatives of the requester the records of the court  
2 relating to any juvenile who has been the subject of a proceeding under this chapter.”.

3 **19.** Page 28, line 22: after that line insert:

4 “**SECTION 55p.** 939.632 (1) (e) 1. of the statutes is amended to read:

5 939.632 **(1)** (e) 1. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09  
6 (1c), 940.19 (2), (4) or (5), 940.20 (1h), 940.21, 940.225 (1), (2) or (3), 940.235, 940.305,  
7 940.31, 941.20, 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1)  
8 or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.051, 948.055, 948.07, 948.08, 948.085,  
9 or 948.30 (2) or under s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.”.

10 **20.** Page 28, line 25: after that line insert:

11 “**SECTION 56g.** 941.20 (1) (b) and (bm) of the statutes are amended to read:

12 941.20 **(1)** (b) ~~Operates~~ Except as provided in sub. (1h), operates or goes armed  
13 with a firearm while he or she is under the influence of an intoxicant; ~~or,~~

14 (bm) ~~Operates~~ Except as provided in sub. (1h), operates or goes armed with a  
15 firearm while he or she has a detectable amount of a restricted controlled substance  
16 in his or her blood. A defendant has a defense to any action under this paragraph  
17 that is based on the defendant allegedly having a detectable amount of  
18 methamphetamine, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol  
19 in his or her blood, if he or she proves by a preponderance of the evidence that at the  
20 time of the incident or occurrence he or she had a valid prescription for  
21 methamphetamine or one of its metabolic precursors, gamma-hydroxybutyric acid,  
22 or delta-9-tetrahydrocannabinol.

23 **SECTION 56r.** 941.20 (1h) of the statutes is created to read:

1           941.20 **(1h)** Whoever violates sub. (1) (b) or (bm) as a 2nd or subsequent offense  
2 is guilty of a Class I felony.”.

3           **21.** Page 29, line 14: after that line insert:

4           “5. Any building or part of a building that is used by a county department of  
5 human services.”.

6           **22.** Page 30, line 2: after “employment” insert “, including any period that the  
7 employee uses a car that is owned or leased by the business”.

8           **23.** Page 30, line 7: delete “or whether” and substitute “, except that an  
9 employer may prohibit an employee from carrying or storing any weapon or  
10 ammunition in the employee’s own vehicle if”.

11           **24.** Page 30, line 13: after that line insert:

12           “**SECTION 60d.** 941.29 (1) of the statutes is renumbered 941.29 (1m) and  
13 amended to read:

14           941.29 **(1m)** A person ~~is subject to the requirements and penalties of this~~  
15 ~~section if he or she has been~~ who possesses a firearm is guilty of a Class G felony if  
16 any of the following applies:

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

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

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

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

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

4           (e) ~~Committed~~ The person has been committed for treatment under s. 51.20 (13)  
5 (a) and ordered not to possess a firearm under s. 51.20 (13) (cv) 1., 2007 stats.

6           (em) ~~Ordered~~ The person is subject to an order not to possess a firearm under  
7 s. 51.20 (13) (cv) 1., 51.45 (13) (i) 1., 54.10 (3) (f) 1., or 55.12 (10) (a).

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

14           (g) ~~Ordered~~ The person is subject to an order not to possess a firearm under s.  
15 813.125 (4m).

16           **SECTION 60f.** 941.29 (1c) of the statutes is created to read:

17           941.29 (1c) In this section, “misdemeanor crime of domestic violence” means  
18 a misdemeanor for which the court has made a finding under s. 971.17 (1g) (b) or  
19 973.136 (2) that it was a misdemeanor crime of domestic violence.

20           **SECTION 60h.** 941.29 (1m) (ag) of the statutes is created to read:

21           941.29 (1m) (ag) The person has been convicted on or after the effective date  
22 of this paragraph .... [LRB inserts date], of a misdemeanor crime of domestic violence.

23           **SECTION 60j.** 941.29 (1m) (cm) of the statutes is created to read:

1           941.29 (1m) (cm) The person has been found not guilty by reason of mental  
2           disease or defect on or after the effective date of this paragraph .... [LRB inserts date],  
3           of a misdemeanor crime of domestic violence.

4           **SECTION 60L.** 941.29 (2) of the statutes is repealed.

5           **SECTION 60n.** 941.29 (3) of the statutes is amended to read:

6           941.29 (3) Any firearm involved in an offense under ~~sub. (2)~~ this section is  
7           subject to s. 968.20 (3).

8           **SECTION 60q.** 941.29 (4) of the statutes is amended to read:

9           941.29 (4) A person is concerned with the commission of a crime, as specified  
10          in s. 939.05 (2) (b), in violation of this section if he or she knowingly furnishes a person  
11          with a firearm in violation of ~~sub. (2)~~ this section.

12          **SECTION 60rg.** 941.29 (5) (intro.) of the statutes is amended to read:

13          941.29 (5) (intro.) This section does not apply to any person specified in sub.  
14          ~~(1)~~ (1m) who:

15          **SECTION 60rr.** 941.29 (5) (a) of the statutes is amended to read:

16          941.29 (5) (a) Has received a pardon with respect to the crime or felony specified  
17          in sub. ~~(1)~~ (1m) and has been expressly authorized to possess a firearm under 18 USC  
18          app. 1203; or

19          **SECTION 60sg.** 941.29 (8) of the statutes is amended to read:

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

25          **SECTION 60sr.** 941.29 (9) (a) of the statutes is amended to read:

1           941.29 (9) (a) This section does not apply to a person specified in sub. ~~(1)~~ (1m)  
2 (e) if the prohibition under s. 51.20 (13) (cv) 1., 2007 stats., has been canceled under  
3 s. 51.20 (13) (cv) 2. or (16) (gm), 2007 stats., or under s. 51.20 (13) (cv) 1m. c.

4           **SECTION 60sv.** 941.29 (9) (b) of the statutes is amended to read:

5           941.29 (9) (b) This section does not apply to a person specified in sub. ~~(1)~~ (1m)  
6 (em) if the order under s. ~~51.30~~ 51.20 (13) (cv) 1. is canceled under s. 51.20 (13) (cv)  
7 1m. c., if the order under s. 51.45 (13) (i) 1. is canceled under s. 51.45 (13) (i) 2. c., if  
8 the order under s. 54.10 (3) (f) 1. is canceled under s. 54.10 (3) (f) 2. c., or if the order  
9 under s. 55.12 (10) (a) is canceled under s. 55.12 (10) (b) 3.

10          **SECTION 60tg.** 941.29 (10) (intro.) of the statutes is amended to read:

11          941.29 (10) (intro.) The prohibition against firearm possession under this  
12 section does not apply to a person specified in sub. ~~(1)~~ (1m) (f) if the person satisfies  
13 any of the following:”.

14          **25.** Page 31, line 5: delete “(1m) (c)” and substitute “(1n)”.

15          **26.** Page 31, line 6: delete that line and substitute:

16          “943.13 (1n) Whoever does any of the following is guilty of a Class A  
17 misdemeanor:

18          (a) While carrying a firearm, enters or remains at a residence”.

19          **27.** Page 31, line 9: after “firearm” insert “, or, while carrying a firearm, enters  
20 or remains in a residence that is not a single-family residence and that the actor does  
21 not occupy if the owner of the residence has notified the actor not to enter or remain  
22 at the residence while carrying a firearm”.

23          **28.** Page 31, line 10: delete “subdivision” and substitute “paragraph”.

24          **29.** Page 31, line 13: delete “does not include” and substitute “includes”.



1           **30.** Page 31, line 14: delete “located or” and substitute “located and”.

2           **31.** Page 31, line 16: delete “2.” and substitute “(b)”.

3           **32.** Page 31, line 20: delete “subdivision” and substitute “paragraph”.

4           **33.** Page 31, line 24: delete “3.” and substitute “(c)”.

5           **34.** Page 32, line 3: delete “subdivision” and substitute “paragraph”.

6           **35.** Page 33, line 1: before that line insert:

7           “1m. For the purposes of sub. (1m) (c) 1., an owner of a residence has notified  
8           an individual not to enter or remain in a residence while carrying a firearm if the  
9           owner has posted a sign that is located in a prominent place near all of the entrances  
10          to the residence to which the restriction applies and any individual entering the  
11          residence can be reasonably expected to see the sign.”

12          **36.** Page 33, line 1: delete “(1m) (c) 2.” and substitute “(1n) (b)”.

13          **37.** Page 33, line 7: delete “(1m) (c) 3.” and substitute “(1n) (c)”.

14          **38.** Page 36, line 15: after that line insert:

15          “**SECTION 86g.** 971.17 (1g) of the statutes is renumbered 971.17 (1g) (a).

16          **SECTION 86i.** 971.17 (1g) (b) of the statutes is created to read:

17          971.17 **(1g)** (b) 1. In this paragraph, “misdemeanor crime of domestic violence”  
18          has the meaning given in s. 973.136 (1).

19          2. If the defendant under sub. (1) is found not guilty of a misdemeanor by reason  
20          of mental disease or defect, the court shall determine immediately after the finding,  
21          based on a preponderance of the evidence presented at trial and without a jury, if the  
22          offense is a misdemeanor crime of domestic violence. If the court determines that the  
23          offense is a misdemeanor crime of domestic violence, the court shall enter a finding

1 to that effect in the record for purposes of determining whether the person is  
2 prohibited from possessing a firearm under s. 941.29 and shall inform the defendant  
3 of the requirements and penalties under s. 941.29.”.

4 **39.** Page 37, line 6: after that line insert:

5 “**SECTION 88m.** 973.136 of the statutes is created to read:

6 **973.136 Prohibition for misdemeanor crime of domestic violence. (1)**

7 In this section, “misdemeanor crime of domestic violence” means a misdemeanor  
8 crime of domestic violence as defined in 18 USC 921 (a) (33).

9 **(2)** If a person is convicted of a misdemeanor offense, the court shall determine  
10 immediately after the trial, based on a preponderance of the evidence presented at  
11 trial and without a jury, if the offense is a misdemeanor crime of domestic violence.  
12 If the court determines that the offense is a misdemeanor crime of domestic violence,  
13 the court shall enter a finding to that effect in the record for purposes of determining  
14 whether the person is prohibited from possessing a firearm under s. 941.29.”.

15 **40.** Page 37, line 7: after that line insert:

16 “**SECTION 89h.** 973.176 (1) of the statutes is amended to read:

17 973.176 **(1)** FIREARM POSSESSION. Whenever a court imposes a sentence or  
18 places a defendant on probation regarding a ~~felony~~ conviction for a felony or for a  
19 misdemeanor for which the court has made a finding under s. 973.136 (2) that it is  
20 a crime of domestic violence, the court shall inform the defendant of the  
21 requirements and penalties under s. 941.29.”.

22 **41.** Page 37, line 17: after that line insert:

23 “**SECTION 90h. Initial applicability.**

1           (1) The treatment of section 971.17 (1g) (b) of the statutes first applies to  
2 findings of not guilty by reason of mental disease or defect that occur on the effective  
3 date of this subsection.

4           (2) The treatment of section 973.136 of the statutes first applies to convictions  
5 that occur on the effective date of this subsection.”.

6

(END)