



2013 ASSEMBLY BILL 727

1 **AN ACT** *to renumber* 165.25 (12m); *to amend* 51.20 (13) (cv) 4., 51.45 (13) (i) 4.,
2 54.10 (3) (f) 4., 55.12 (10) (d), 175.35 (1) (at), 175.60 (1) (f) 2., 175.60 (9g) (a) 2.,
3 175.60 (11) (a) 2. f., 813.12 (4m) (b) 2., 813.12 (6) (am) 1., 813.12 (6) (am) 2.,
4 813.122 (5m) (b) 2., 813.122 (9) (am) 1., 813.122 (9) (am) 2., 813.125 (4m) (d) 2.,
5 813.125 (5r) (a), 813.125 (5r) (b) and 941.29 (1) (g); and *to create* 165.63,
6 813.123 (5m) and 813.123 (8m) of the statutes; **relating to:** a firearm
7 prohibition for an individual subject to an individuals-at-risk injunction and
8 disclosure of and access to information regarding individuals who are
9 prohibited from possessing a firearm.

Analysis by the Legislative Reference Bureau

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

10 **SECTION 1d.** 51.20 (13) (cv) 4. of the statutes is amended to read:

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1 51.20 (13) (cv) 4. If the court orders a subject individual not to possess a firearm
2 under subd. 1. or cancels under subd. 1m. c. an order issued under subd. 1. or under
3 s. 51.20 (13) (cv) 1., 2007 stats., the court clerk shall notify the department of justice
4 of that fact and provide any information identifying the subject individual that is
5 necessary to permit an accurate firearms restrictions record search under s. 175.35
6 (2g) (c), a background check under s. 175.60 (9g) (a), or an accurate response under
7 s. 165.63. No other information from the subject individual's court records may be
8 disclosed to the department of justice except by order of the court. The department
9 of justice may disclose information provided under this subdivision only to respond
10 to a request under s. 165.63, as part of a firearms restrictions record search under
11 s. 175.35 (2g) (c) or, under rules the department of justice promulgates under s.
12 175.35 (2g) (d), or as part of a background check under s. 175.60 (9g) (a).

13 **SECTION 1f.** 51.45 (13) (i) 4. of the statutes is amended to read:

14 51.45 (13) (i) 4. If the court orders under subd. 1. a person not to possess a
15 firearm or cancels under subd. 2. c. an order issued under subd. 1., the court clerk
16 shall notify the department of justice of the order or cancellation and provide any
17 information identifying the person that is necessary to permit an accurate firearms
18 restrictions record search under s. 175.35 (2g) (c), a background check under s.
19 175.60 (9g) (a), or an accurate response under s. 165.63. No other information from
20 the person's court records may be disclosed to the department of justice except by
21 order of the court. The department of justice may disclose information provided
22 under this subdivision only to respond to a request under s. 165.63, as part of a
23 firearms restrictions record search under s. 175.35 (2g) (c) or, under rules the
24 department of justice promulgates under s. 175.35 (2g) (d), or as part of a background
25 check under s. 175.60 (9g) (a).

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1 **SECTION 1h.** 54.10 (3) (f) 4. of the statutes is amended to read:

2 54.10 (3) (f) 4. If the court orders under subd. 1. an individual not to possess
3 a firearm or cancels under subd. 2. c. an order issued under subd. 1., the court clerk
4 shall notify the department of justice of the order or cancellation and provide any
5 information identifying the individual that is necessary to permit an accurate
6 firearms restrictions record search under s. 175.35 (2g) (c), a background check
7 under s. 175.60 (9g) (a), or an accurate response under s. 165.63. No other
8 information from the individual's court records may be disclosed to the department
9 of justice except by order of the court. The department of justice may disclose
10 information provided under this subdivision only to respond to a request under s.
11 165.63, as part of a firearms restrictions record search under s. 175.35 (2g) (c) or,
12 under rules the department of justice promulgates under s. 175.35 (2g) (d), or as part
13 of a background check under s. 175.60 (9g) (a).

14 **SECTION 1j.** 55.12 (10) (d) of the statutes is amended to read:

15 55.12 (10) (d) If the court orders under par. (a) an individual not to possess a
16 firearm or cancels under par. (b) 3. an order issued under par. (a), the court clerk shall
17 notify the department of justice of the order or cancellation and provide any
18 information identifying the individual that is necessary to permit an accurate
19 firearms restrictions record search under s. 175.35 (2g) (c), a background check
20 under s. 175.60 (9g) (a), or an accurate response under s. 165.63. No other
21 information from the individual's court records may be disclosed to the department
22 of justice except by order of the court. The department of justice may disclose
23 information provided under this paragraph only to respond to a request under s.
24 165.63, as part of a firearms restrictions record search under s. 175.35 (2g) (c) or,

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1 under rules the department of justice promulgates under s. 175.35 (2g) (d), or as part
2 of a background check under s. 175.60 (9g) (a).

3 **SECTION 1q.** 165.25 (12m) of the statutes is renumbered 165.25 (16).

4 **SECTION 2.** 165.63 of the statutes is created to read:

5 **165.63 Access to firearm prohibition orders. (1) DEFINITION.** In this
6 section, “department” means the department of justice.

7 **(2) DEPARTMENT TO PROVIDE INFORMATION UPON REQUEST.** Upon a request under
8 sub. (3) or (4), the department shall provide to the person making the request
9 information regarding any of the following:

10 (a) Individuals ordered not to possess a firearm under s. 51.20 (13) (cv) 1., 51.45
11 (13) (i) 1., 54.10 (3) (f) 1., or 55.12 (10) (a).

12 (b) The cancellation under s. 51.20 (13) (cv) 1m. c., 51.45 (13) (i) 2. c., 54.10 (3)
13 (f) 2. c., or 55.12 (10) (b) 3. of an order not to possess a firearm.

14 **(2m) PROCESS; DATA CONFIDENTIALITY.** The department, when providing
15 information under sub. (2), may use the transaction information for the management
16 of enforcement system or another method approved by the department to process
17 requests and responses in a secure manner to ensure confidentiality of the data.

18 **(3) REQUESTS FOR INJUNCTIONS.** In making a determination required under s.
19 813.12 (4m) (b), 813.122 (5m) (b), 813.123 (5m) (g), or 813.125 (4m) (d), a judge or
20 court commissioner shall request information under sub. (2) from the department or
21 from a law enforcement agency or law enforcement officer as provided in sub. (4) (d).

22 **(4) LAW ENFORCEMENT REQUESTS.** A law enforcement agency or a law
23 enforcement officer may request information under sub. (2) from the department to
24 do any of the following:

25 (a) Enforce or investigate a violation of s. 941.29.

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1 (b) Conduct a background check on an individual who is applying to become a
2 law enforcement officer or on a current law enforcement officer.

3 (c) Make a determination under s. 175.48 (2) (a) or 175.49 (2) (b) 4. or (5).

4 (d) Aid the court in making a determination required under s. 813.12 (4m) (b),
5 813.122 (5m) (b), 813.123 (5m) (g), or 813.125 (4m) (d).

6 **SECTION 3.** 175.35 (1) (at) of the statutes is amended to read:

7 175.35 (1) (at) “Firearms restrictions record search” means a search of
8 department of justice records to determine whether a person seeking to purchase a
9 handgun is prohibited from possessing a firearm under s. 941.29. “Firearms
10 restrictions record search” includes a criminal history record search, a search to
11 determine whether a person is prohibited from possessing a firearm under s. 51.20
12 (13) (cv) 1., 2007 stats., a search in the national instant criminal background check
13 system to determine whether a person has been ordered not to possess a firearm
14 under s. 51.20 (13) (cv) 1., 51.45 (13) (i) 1., 54.10 (3) (f) 1., or 55.12 (10) (a), a search
15 to determine whether the person is subject to an injunction under s. 813.12 or
16 813.122, or a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court
17 established by any federally recognized Wisconsin Indian tribe or band, except the
18 Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he
19 or she is subject to the requirements and penalties under s. 941.29 and that has been
20 filed with the circuit court under s. 806.247 (3), and a search to determine whether
21 the person is prohibited from possessing a firearm under s. 813.123 (5m) or 813.125
22 (4m).

23 **SECTION 4.** 175.60 (1) (f) 2. of the statutes is amended to read:

24 175.60 (1) (f) 2. The state is listed in the rule promulgated by the department
25 under s. 165.25 (~~12m~~) (16) and, if that state does not require a background search for

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1 the permit, license, approval, or authorization, the permit, license, approval, or
2 authorization designates that the holder chose to submit to a background search.

3 **SECTION 5.** 175.60 (9g) (a) 2. of the statutes is amended to read:

4 175.60 (9g) (a) 2. The department shall conduct a criminal history record
5 search and shall search its records and conduct a search in the national instant
6 criminal background check system to determine whether the applicant is prohibited
7 from possessing a firearm under federal law; whether the applicant is prohibited
8 from possessing a firearm under s. 941.29; whether the applicant is prohibited from
9 possessing a firearm under s. 51.20 (13) (cv) 1., 2007 stats.; whether the applicant
10 has been ordered not to possess a firearm under s. 51.20 (13) (cv) 1., 51.45 (13) (i) 1.,
11 54.10 (3) (f) 1., or 55.12 (10) (a); whether the applicant is subject to an injunction
12 under s. 813.12 or 813.122, or a tribal injunction, as defined in s. 813.12 (1) (e), issued
13 by a court established by any federally recognized Wisconsin Indian tribe or band,
14 except the Menominee Indian tribe of Wisconsin, that includes notice to the
15 respondent that he or she is subject to the requirements and penalties under s.
16 941.29 and that has been filed with the circuit court under s. 806.247 (3); and
17 whether the applicant is prohibited from possessing a firearm under s. 813.123 (5m)
18 or 813.125 (4m); and to determine if the court has prohibited the applicant from
19 possessing a dangerous weapon under s. 969.02 (3) (c) or 969.03 (1) (c) and if the
20 applicant is prohibited from possessing a dangerous weapon as a condition of release
21 under s. 969.01.

22 **SECTION 6.** 175.60 (11) (a) 2. f. of the statutes is amended to read:

23 175.60 (11) (a) 2. f. The individual becomes subject to an injunction described
24 in s. 941.29 (1) (f) or is ordered not to possess a firearm under s. 813.123 (5m) or
25 813.125 (4m).

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1 **SECTION 7.** 813.12 (4m) (b) 2. of the statutes is amended to read:

2 813.12 (**4m**) (b) 2. That the person is not prohibited from possessing a firearm
3 under any state or federal law or by the order of any federal court or state court, other
4 than an order from which the judge or circuit court commissioner is competent to
5 grant relief. The court or commissioner shall use the information provided under s.
6 165.63 to aid in making the determination under this subdivision.

7 **SECTION 8.** 813.12 (6) (am) 1. of the statutes is amended to read:

8 813.12 (**6**) (am) 1. If an injunction is issued or extended under sub. (4) or if a
9 tribal injunction is filed under s. 806.247 (3), the clerk of the circuit court shall notify
10 the department of justice of the injunction and shall provide the department of
11 justice with information concerning the period during which the injunction is in
12 effect and information necessary to identify the respondent for purposes of
13 responding to a request under s. 165.63 or for purposes of a firearms restrictions
14 record search under s. 175.35 (2g) (c) or a background check under s. 175.60 (9g) (a).

15 **SECTION 9.** 813.12 (6) (am) 2. of the statutes is amended to read:

16 813.12 (**6**) (am) 2. Except as provided in subd. 3., the department of justice may
17 disclose information that it receives under subd. 1. only to respond to a request under
18 s. 165.63 or as part of a firearms restrictions record search under s. 175.35 (2g) (c)
19 or a background check under s. 175.60 (9g) (a).

20 **SECTION 10.** 813.122 (5m) (b) 2. of the statutes is amended to read:

21 813.122 (**5m**) (b) 2. That the person is not prohibited from possessing a firearm
22 under any state or federal law or by the order of any federal court or state court, other
23 than an order from which the judge or circuit court commissioner is competent to
24 grant relief. The court or commissioner shall use the information provided under s.
25 165.63 to aid in making the determination under this subdivision.

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1 **SECTION 11.** 813.122 (9) (am) 1. of the statutes is amended to read:

2 813.122 (9) (am) 1. If an injunction is issued or extended under sub. (5), the
3 clerk of the circuit court shall notify the department of justice of the injunction and
4 shall provide the department of justice with information concerning the period
5 during which the injunction is in effect and information necessary to identify the
6 respondent for purposes of responding to a request under s. 165.63 or for purposes
7 of a firearms restrictions record search under s. 175.35 (2g) (c) or a background check
8 under s. 175.60 (9g) (a).

9 **SECTION 12.** 813.122 (9) (am) 2. of the statutes is amended to read:

10 813.122 (9) (am) 2. Except as provided in subd. 3., the department of justice
11 may disclose information that it receives under subd. 1. only to respond to a request
12 under s. 165.63 or as part of a firearms restrictions record search under s. 175.35 (2g)
13 (c) or a background check under s. 175.60 (9g) (a).

14 **SECTION 13.** 813.123 (5m) of the statutes is created to read:

15 813.123 (5m) RESTRICTION ON FIREARM POSSESSION; SURRENDER OF FIREARMS. (a)
16 If a judge or circuit court commissioner issues an injunction under sub. (5) and the
17 judge or circuit court commissioner determines, based on clear and convincing
18 evidence presented at the hearing on the issuance of the injunction, that the
19 respondent may use a firearm to cause physical harm to another or to endanger
20 public safety, the judge or circuit court commissioner may prohibit the respondent
21 from possessing a firearm.

22 (b) An order prohibiting a respondent from possessing a firearm issued under
23 par. (a) remains in effect until the expiration of the injunction issued under sub. (5).

24 (c) An order issued under par. (a) that prohibits a respondent from possessing
25 a firearm shall do all of the following:

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1 1. Inform the respondent named in the petition of the requirements and
2 penalties under s. 941.29.

3 2. Except as provided in par. (d), require the respondent to surrender any
4 firearms that he or she owns or has in his or her possession to the sheriff of the county
5 in which the action under this section was commenced, to the sheriff of the county
6 in which the respondent resides, or to another person designated by the respondent
7 and approved by the judge or circuit court commissioner. The judge or circuit court
8 commissioner shall approve the person designated by the respondent unless the
9 judge or circuit court commissioner finds that the person is inappropriate and places
10 the reasons for the finding on the record. If a firearm is surrendered to a person
11 designated by the respondent and approved by the judge or circuit court
12 commissioner, the judge or circuit court commissioner shall inform the person to
13 whom the firearm is surrendered of the requirements and penalties under s. 941.29
14 (4).

15 (d) If the respondent is a peace officer, an order issued under par. (a) may not
16 require the respondent to surrender a firearm that he or she is required, as a
17 condition of employment, to possess whether or not he or she is on duty.

18 (e) 1. When a respondent surrenders a firearm under par. (c) 2. to a sheriff, the
19 sheriff who is receiving the firearm shall prepare a receipt for each firearm
20 surrendered to him or her. The receipt shall include the manufacturer, model, and
21 serial number of the firearm surrendered to the sheriff and shall be signed by the
22 respondent and by the sheriff to whom the firearm is surrendered.

23 2. The sheriff shall keep the original of a receipt prepared under subd. 1. and
24 shall provide an exact copy of the receipt to the respondent. When the firearm
25 covered by the receipt is returned to the respondent under par. (g), the sheriff shall

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1 surrender to the respondent the original receipt and all of his or her copies of the
2 receipt.

3 3. A receipt prepared under subd. 1. is conclusive proof that the respondent
4 owns the firearm for purposes of returning the firearm covered by the receipt to the
5 respondent under par. (g).

6 4. The sheriff may not enter any information contained on a receipt prepared
7 under subd. 1. into any computerized or direct electronic data transfer system in
8 order to store the information or disseminate or provide access to the information.

9 (f) A sheriff may store a firearm surrendered to him or her under par. (c) 2. in
10 a warehouse that is operated by a public warehouse keeper licensed under ch. 99.
11 If a sheriff stores a firearm at a warehouse under this paragraph, the respondent
12 shall pay the costs charged by the warehouse for storing that firearm.

13 (g) A firearm surrendered under par. (c) 2. may not be returned to the
14 respondent until the judge or circuit court commissioner determines all of the
15 following:

16 1. That the injunction issued under sub. (5) has been vacated or has expired.

17 2. That person is not prohibited from possessing a firearm under any state or
18 federal law or by the order of any federal court or state court, other than an order from
19 which the judge or circuit court commissioner is competent to grant relief. The court
20 or commissioner shall use the information provided under s. 165.63 to aid in making
21 the determination under this subdivision.

22 (h) If a respondent surrenders a firearm under par. (c) 2. that is owned by a
23 person other than the respondent, the person who owns the firearm may apply for
24 its return to the circuit court for the county in which the person to whom the firearm
25 was surrendered is located. The court shall order such notice as it considers

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1 adequate to be given to all persons who have or may have an interest in the firearm
2 and shall hold a hearing to hear all claims to its true ownership. If the right to
3 possession is proved to the court's satisfaction, it shall order the firearm returned.
4 If the court returns a firearm under this paragraph, the court shall inform the person
5 to whom the firearm is returned of the requirements and penalties under s. 941.29
6 (4).

7 **SECTION 14.** 813.123 (8m) of the statutes is created to read:

8 813.123 **(8m)** NOTICE TO DEPARTMENT OF JUSTICE. (a) If an order prohibiting a
9 respondent from possessing a firearm is issued under sub. (5m), the clerk of the
10 circuit court shall notify the department of justice of the existence of the order
11 prohibiting a respondent from possessing a firearm and shall provide the
12 department of justice with information concerning the period during which the order
13 is in effect and information necessary to identify the respondent for purposes of
14 responding to a request under s. 165.63 or for purposes of a firearms restrictions
15 record search under s. 175.35 (2g) (c) or a background check under s. 175.60 (9g) (a).

16 (b) Except as provided in par. (c), the department of justice may disclose
17 information that it receives under par. (a) only to respond to a request under s. 165.63
18 or as part of a firearms restrictions record search under s. 175.35 (2g) (c) or a
19 background check under s. 175.60 (9g) (a).

20 (c) The department of justice shall disclose any information that it receives
21 under par. (a) to a law enforcement agency when the information is needed for law
22 enforcement purposes.

23 **SECTION 15.** 813.125 (4m) (d) 2. of the statutes is amended to read:

24 813.125 **(4m)** (d) 2. That the person is not prohibited from possessing a firearm
25 under any state or federal law or by the order of any federal court or state court, other

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1 than an order from which the judge or circuit court commissioner is competent to
2 grant relief. The court or commissioner shall use the information provided under s.
3 165.63 to aid in making the determination under this subdivision.

4 **SECTION 16.** 813.125 (5r) (a) of the statutes is amended to read:

5 813.125 (5r) (a) If an order prohibiting a respondent from possessing a firearm
6 is issued under sub. (4m), the clerk of the circuit court shall notify the department
7 of justice of the existence of the order prohibiting a respondent from possessing a
8 firearm and shall provide the department of justice with information concerning the
9 period during which the order is in effect and information necessary to identify the
10 respondent for purposes of responding to a request under s. 165.63 or for purposes
11 of a firearms restrictions record search under s. 175.35 (2g) (c) or a background check
12 under s. 175.60 (9g) (a).

13 **SECTION 17.** 813.125 (5r) (b) of the statutes is amended to read:

14 813.125 (5r) (b) Except as provided in par. (c), the department of justice may
15 disclose information that it receives under par. (a) only to respond to a request under
16 s. 165.63 or as part of a firearms restrictions record search under s. 175.35 (2g) (c)
17 or a background check under s. 175.60 (9g) (a).

18 **SECTION 20.** 941.29 (1) (g) of the statutes is amended to read:

19 941.29 (1) (g) Ordered not to possess a firearm under s. 813.123 (5m) or 813.125
20 (4m).

21 **SECTION 21. Initial applicability.**

22 (1) RETURN OF FIREARMS. The treatment of sections 813.12 (4m) (b) 2., 813.122
23 (5m) (b) 2., and 813.125 (4m) (d) 2. of the statutes first applies to determinations
24 made on the effective date of this subsection.

