

**2015 DRAFTING REQUEST**

**Senate Amendment (SA-SB35)**

Received: 4/16/2015 Received By: chanaman  
Wanted: As time permits Same as LRB:  
For: Nikiya Harris Dodd (608) 266-2500 By/Representing: Sarah  
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Subject: Justice - civil Addl. Drafters:  
Extra Copies:

Submit via email: YES  
Requester's email: Sen.HarrisDodd@legis.wisconsin.gov  
Carbon copy (CC) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Universal background check

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 4/16/2015	kfollett 4/16/2015		_____			
/1				_____	lparisi 4/16/2015	lparisi 4/16/2015	

FE Sent For:

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State of Wisconsin  
2015 - 2016 LEGISLATURE

a 0364/1  
LRBa0204/1  
CMH:kjf:rs

~~SENATE AMENDMENT 2,~~  
TO SENATE BILL 35

today  
no changes

March 12, 2015 – Offered by COMMITTEE ON JUDICIARY AND PUBLIC SAFETY.

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

2 1. Page 1, line 3: after “purchases” insert “, sales and transfers of firearms, and  
3 providing a criminal penalty”.

4 2. Page 1, line 4: before that line insert:

5 “SECTION 1g. 20.455 (2) (gr) of the statutes is amended to read:

6 20.455 (2) (gr) *Handgun Firearm purchaser record check fee; checks for licenses*  
7 *or certifications to carry concealed weapons. All moneys received as fee payments*  
8 *under ss. 175.35 (2i) (a), 175.49 (5m), and 175.60 (7) (c) and (d), (13), and (15) (b) 4.*  
9 *a. and b. to provide services under ss. 175.35, 175.49, and 175.60.*

10 SECTION 1L. 175.33 of the statutes is created to read:

11 175.33 Transfer of firearms. (1) In this section:

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

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

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

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

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

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

9 (d) The transferor is transferring ownership of the firearm to a family member  
10 by gift, bequest, or inheritance, the transferee is not prohibited from possessing a  
11 firearm under s. 941.29, and the transferee is at least 18 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, and the purpose of the transfer is not  
15 prohibited by law.

16 (3) Any person who intentionally violates sub. (2) is guilty of a misdemeanor  
17 and shall be fined not less than \$500 nor more than \$10,000 and may be imprisoned  
18 for not more than 9 months. The person is also prohibited under s. 941.29 from  
19 possessing a firearm for a period of 2 years.”.

20 **3.** Page 1, line 5: after that line insert:

21 “SECTION 1s. 175.35 (title) of the statutes, as affected by 2015 Wisconsin Act  
22 .... (this act), is amended to read:

23 **175.35 (title) Purchase of handguns firearms.”.**

24 **4.** Page 2, line 5: after that line insert:

1           **SECTION 2c.** 175.35 (1) (at) of the statutes is amended to read:

2           175.35 (1) (at) “Firearms restrictions record search” means a search of  
3 department of justice records to determine whether a person seeking to purchase a  
4 handgun firearm is prohibited from possessing a firearm under s. 941.29. “Firearms  
5 restrictions record search” includes a criminal history record search, a search to  
6 determine whether a person is prohibited from possessing a firearm under s. 51.20  
7 (13) (cv) 1., 2007 stats., a search in the national instant criminal background check  
8 system to determine whether a person has been ordered not to possess a firearm  
9 under s. 51.20 (13) (cv) 1., 51.45 (13) (i) 1., 54.10 (3) (f) 1., or 55.12 (10) (a), a search  
10 to determine whether the person is subject to an injunction under s. 813.12 or  
11 813.122, or a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court  
12 established by any federally recognized Wisconsin Indian tribe or band, except the  
13 Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he  
14 or she is subject to the requirements and penalties under s. 941.29 and that has been  
15 filed with the circuit court under s. 806.247 (3), and a search to determine whether  
16 the person is prohibited from possessing a firearm under s. 813.123 (5m) or 813.125  
17 (4m).

18           **SECTION 2f.** 175.35 (1) (b) of the statutes is repealed.

19           **SECTION 2h.** 175.35 (2) (intro.) of the statutes is renumbered 175.35 (2) (am)  
20 and amended to read:

21           175.35 (2) (am) When a firearms dealer sells or transfers a handgun firearm,  
22 he or she may not transfer possession of that handgun firearm to any other person  
23 until all of the following have occurred: requirements under par. (cm) have been met.

24           **SECTION 2j.** 175.35 (2) (a), (b) and (c) of the statutes are renumbered 175.35 (2)  
25 (cm) 1., 2. and 3.

1           **SECTION 2L.** 175.35 (2) (bm) of the statutes is created to read:

2           175.35 (2) (bm) When a person sells a firearm or transfers ownership of a  
3 firearm through a firearms dealer, the person may not transfer possession of that  
4 firearm to any person other than the firearms dealer, and the firearms dealer may  
5 not transfer or authorize the transfer of possession of that firearm to any person,  
6 until all of the requirements of par. (cm) have been met. This paragraph does not  
7 apply if a person sells a firearm, or transfers ownership of a firearm, to a firearms  
8 dealer.

9           **SECTION 2n.** 175.35 (2) (cm) (intro.) of the statutes is created to read:

10           175.35 (2) (cm) (intro.) All of the following must occur before a sale or transfer  
11 of a firearm occurs under par. (am) or (bm):”.

12           **5.** Page 2, line 11: after that line insert:

13           “**SECTION 3b.** 175.35 (2) (d) of the statutes, as affected by 2015 Wisconsin Act  
14 .... (this act), is renumbered 175.35 (2) (cm) 4.

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

16           175.35 (2g) (a) The department of justice shall promulgate rules prescribing  
17 procedures for use under sub. (2) (cm) 1. for a transferee to provide and a firearms  
18 dealer to inspect identification containing a photograph of the transferee.

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

20           175.35 (2g) (b) The department of justice shall promulgate rules prescribing  
21 a notification form for use under sub. (2) (cm) 2. requiring the transferee to provide  
22 his or her name, date of birth, gender, race, and social security number and other  
23 identification necessary to permit an accurate firearms restrictions record search

1 under par. (c) 3. and the required notification under par. (c) 4. The department of  
2 justice shall make the forms available at locations throughout the state.”

3 **6.** Page 2, line 19: after that line insert:

4 “**SECTION 4b.** 175.35 (2i) of the statutes is renumbered 175.35 (2i) (a) and  
5 amended to read:

6 175.35 (2i) (a) The department shall charge a firearms dealer a \$10 fee for each  
7 firearms restrictions record search that the firearms dealer requests under sub. (2)  
8 (e) (cm) 3.

9 (b) 1. The firearms dealer may collect the fee under par. (a) from the transferee.

10 (c) The department may refuse to conduct firearms restrictions record searches  
11 for any firearms dealer who fails to pay any fee under ~~this subsection~~ par. (a) within  
12 30 days after billing by the department.

13 **SECTION 4c.** 175.35 (2i) (b) 2. of the statutes is created to read:

14 175.35 (2i) (b) 2. If the transfer is made under sub. (2) (bm), the firearms dealer  
15 may collect from the transferor the fee under par. (a) and any additional amount to  
16 cover any costs he or she incurs in processing the transfer.

17 **SECTION 4e.** 175.35 (2j) of the statutes is renumbered 175.35 (2j) (a).

18 **SECTION 4f.** 175.35 (2j) (b) of the statutes is created to read:

19 175.35 (2j) (b) If a person sells a firearm or transfers ownership of a firearm  
20 through a firearms dealer under sub. (2) (bm), or sells a firearm or transfers  
21 ownership of a firearm to a firearms dealer, the firearms dealer shall provide the  
22 person a written receipt documenting the dealer’s participation in the sale or  
23 transfer.

24 **SECTION 4g.** 175.35 (2k) (ar) 2. of the statutes is amended to read:

1           175.35 (2k) (ar) 2. Check each notification form received under sub. (2j) (a)  
2 against the information recorded by the department regarding the corresponding  
3 request for a firearms restrictions record search under sub. (2g). If the department  
4 previously provided a unique approval number regarding the request and nothing  
5 in the completed notification form indicates that the transferee is prohibited from  
6 possessing a firearm under s. 941.29, the department shall destroy all records  
7 regarding that firearms restrictions record search within 30 days after receiving the  
8 notification form.

9           **SECTION 4h.** 175.35 (2k) (c) 2. a. of the statutes is amended to read:

10           175.35 (2k) (c) 2. a. A statement that the Wisconsin law enforcement agency  
11 is conducting an investigation of a crime in which a ~~handgun~~ firearm was used or was  
12 attempted to be used or was unlawfully possessed.

13           **SECTION 4i.** 175.35 (2k) (c) 2. b. of the statutes is amended to read:

14           175.35 (2k) (c) 2. b. A statement by a division commander or higher authority  
15 within the Wisconsin law enforcement agency that he or she has a reasonable  
16 suspicion that the person who is the subject of the information request has obtained  
17 or is attempting to obtain a ~~handgun~~ firearm.

18           **SECTION 4k.** 175.35 (2k) (g) of the statutes is amended to read:

19           175.35 (2k) (g) If a search conducted under sub. (2g) indicates that the  
20 transferee is prohibited from possessing a firearm under s. 941.29, the attorney  
21 general or his or her designee ~~may~~ shall disclose to a law enforcement agency that  
22 the transferee has attempted to obtain a ~~handgun~~ firearm.

23           **SECTION 4L.** 175.35 (2k) (h) of the statutes is amended to read:

24           175.35 (2k) (h) If a search conducted under sub. (2g) indicates a felony charge  
25 without a recorded disposition and the attorney general or his or her designee has

1 reasonable grounds to believe the transferee may pose a danger to himself, herself  
2 or another, the attorney general or his or her designee may disclose to a law  
3 enforcement agency that the transferee has obtained or has attempted to obtain a  
4 handgun firearm.

5 **SECTION 4n.** 175.35 (2L) of the statutes is amended to read:

6 175.35 (2L) The department of justice shall promulgate rules providing for the  
7 review of nonapprovals under sub. (2g) (c) 4. a. Any person who is denied the right  
8 to purchase a handgun firearm because the firearms dealer received a nonapproval  
9 number under sub. (2g) (c) 4. a. may request a firearms restrictions record search  
10 review under those rules. If the person disagrees with the results of that review, the  
11 person may file an appeal under rules promulgated by the department.

12 **SECTION 4p.** 175.35 (2t) (a), (b) and (c) of the statutes are amended to read:

13 175.35 (2t) (a) Transfers of any handgun firearm classified as an antique by  
14 regulations of the U.S. department of the treasury.

15 (b) Transfers of any handgun firearm between firearms dealers or between  
16 wholesalers and dealers.

17 (c) Transfers of any handgun firearm to law enforcement or armed services  
18 agencies.

19 **SECTION 4r.** 175.60 (7) (d) of the statutes is amended to read:

20 175.60 (7) (d) A fee for a background check that is equal to the fee charged under  
21 s. 175.35 (2i) (a).

22 **SECTION 4s.** 175.60 (15) (b) 4. b. of the statutes is amended to read:

23 175.60 (15) (b) 4. b. A fee for a background check that is equal to the fee charged  
24 under s. 175.35 (2i) (a).

25 **SECTION 4u.** 938.208 (1) (b) of the statutes is amended to read:



1           938.208 (1) (b) Probable cause exists to believe that the juvenile possessed,  
2 used or threatened to use a handgun, as defined in s. ~~175.35 (1) (b)~~ 941.237 (1) (d),  
3 short-barreled rifle, as defined in s. 941.28 (1) (b), or short-barreled shotgun, as  
4 defined in s. 941.28 (1) (c), while committing a delinquent act that would be a felony  
5 under ch. 940 if committed by an adult.

6           **SECTION 4v.** 938.34 (4m) (b) 2. of the statutes is amended to read:

7           938.34 (**4m**) (b) 2. The juvenile has possessed, used or threatened to use a  
8 handgun, as defined in s. ~~175.35 (1) (b)~~ 941.237 (1) (d), short-barreled rifle, as  
9 defined in s. 941.28 (1) (b), or short-barreled shotgun, as defined in s. 941.28 (1) (c),  
10 while committing a delinquent act that would be a felony under ch. 940 if committed  
11 by an adult.

12           **SECTION 4w.** 938.341 of the statutes is amended to read:

13           **938.341 Delinquency adjudication; restriction on firearm possession.**

14 Whenever a court adjudicates a juvenile delinquent for an act that if committed by  
15 an adult in this state would be a felony or for a violation of s. 175.33 (3), the court shall  
16 inform the juvenile of the requirements and penalties under s. 941.29.”.

17           **7.** Page 2, line 24: after that line insert:

18           “**SECTION 5b.** 941.237 (1) (d) of the statutes is amended to read:

19           941.237 (1) (d) “Handgun” ~~has the meaning given in s. 175.35 (1) (b)~~ means any  
20 weapon designed or redesigned, or made or remade, and intended to be fired while  
21 held in one hand and to use the energy of an explosive to expel a projectile through  
22 a smooth or rifled bore.

23           **SECTION 5c.** 941.29 (1) (dm) of the statutes is created to read:

24           941.29 (1) (dm) Convicted of a misdemeanor under s. 175.33 (3).

1           **SECTION 5d.** 941.29 (1) (dn) of the statutes is created to read:

2           941.29 (1) (dn) Adjudicated delinquent for a violation under s. 175.33 (3).

3           **SECTION 5e.** 941.29 (1) (do) of the statutes is created to read:

4           941.29 (1) (do) Found not guilty of a misdemeanor under s. 175.33 (3) by reason  
5 of mental disease or defect.

6           **SECTION 5f.** 941.29 (2) (dm) of the statutes is created to read:

7           941.29 (2) (dm) The person possesses a firearm subsequent to the conviction,  
8 as specified under sub. (1) (dm), unless 2 years have passed since the conviction.

9           **SECTION 5g.** 941.29 (2) (dn) of the statutes is created to read:

10           941.29 (2) (dn) The person possesses a firearm subsequent to the adjudication,  
11 as specified under sub. (1) (dn), unless 2 years have passed since the adjudication.

12           **SECTION 5h.** 941.29 (2) (do) of the statutes is created to read:

13           941.29 (2) (do) The person possesses a firearm subsequent to the finding of not  
14 guilty or not responsible by reason of mental disease or defect as specified in sub. (1)  
15 (do), unless 2 years have passed since the finding.

16           **SECTION 5i.** 941.296 (1) (b) of the statutes is amended to read:

17           941.296 (1) (b) “Handgun” has the meaning given in s. 175.35.(1)(b) 941.237  
18 (1) (d).

19           **SECTION 5k.** 968.20 (3) (b) of the statutes is amended to read:

20           968.20 (3) (b) Except as provided in par. (a) or sub. (1m) or (4), a city, village,  
21 town or county or other custodian of a seized dangerous weapon or ammunition, if  
22 the dangerous weapon or ammunition is not required for evidence or use in further  
23 investigation and has not been disposed of pursuant to a court order at the  
24 completion of a criminal action or proceeding, shall make reasonable efforts to notify  
25 all persons who have or may have an authorized rightful interest in the dangerous

1 weapon or ammunition of the application requirements under sub. (1). If, within 30  
2 days after the notice, an application under sub. (1) is not made and the seized  
3 dangerous weapon or ammunition is not returned by the officer under sub. (2), the  
4 city, village, town or county or other custodian may retain the dangerous weapon or  
5 ammunition and authorize its use by a law enforcement agency, except that a  
6 dangerous weapon used in the commission of a homicide or a handgun, as defined  
7 in s. ~~175.35 (1) (b)~~ 941.237 (1) (d), may not be retained. If a dangerous weapon other  
8 than a firearm is not so retained, the city, village, town or county or other custodian  
9 shall safely dispose of the dangerous weapon or, if the dangerous weapon is a motor  
10 vehicle, as defined in s. 340.01 (35), sell the motor vehicle following the procedure  
11 under s. 973.075 (4). If a firearm or ammunition is not so retained, the city, village,  
12 town or county or other custodian shall ship it to the state crime laboratories and it  
13 is then the property of the laboratories. A person designated by the department of  
14 justice may destroy any material for which the laboratories have no use or arrange  
15 for the exchange of material with other public agencies. In lieu of destruction,  
16 shoulder weapons for which the laboratory has no use shall be turned over to the  
17 department of natural resources for sale and distribution of proceeds under s. 29.934  
18 or for use under s. 29.938.

19 **SECTION 5m.** 971.17 (1g) of the statutes is amended to read:

20 971.17 (1g) NOTICE OF RESTRICTION ON FIREARM POSSESSION. If the defendant  
21 under sub. (1) is found not guilty of a felony, or of a violation under s. 175.33 (3), by  
22 reason of mental disease or defect, the court shall inform the defendant of the  
23 requirements and penalties under s. 941.29.

24 **SECTION 5p.** 973.176 (1) of the statutes is amended to read:

1           973.176 (1) FIREARM POSSESSION. Whenever a court imposes a sentence or  
2 places a defendant on probation regarding a felony conviction or regarding a  
3 conviction for a misdemeanor under s. 175.33 (3), the court shall inform the  
4 defendant of the requirements and penalties under s. 941.29.”.

5           **8.** Page 3, line 1: delete “This act first applies” and substitute “The treatment  
6 of sections 175.35 (title) (by SECTION 1), (1) (ar), and (2g) (c) 4. c. and 941.237 (1) (cm)  
7 of the statutes and the amendment of section 175.35 (2) (d) of the statutes first  
8 apply”.

9           **9.** Page 3, line 2: after that line insert:

10           “(1g) The treatment of sections 20.455 (2) (gr), 175.33, 175.35 (title) (by SECTION  
11 1s), (1) (at), and (b), (2) (intro.), (a), (b), (bm), (c), and (cm) (intro.), (2g) (a) and (b), (2k)  
12 (ar) 2., (c) 2. a. and b., (g), and (h), (2L), (2t) (a), (b), and (c), (7) (d), and (15) (b) 4.,  
13 938.208 (1) (b), 938.34 (4m) (b) 2., 938.341, 941.237 (1) (d), 941.29 (1) (dm), (dn), and  
14 (do) and (2) (dm), (dn), and (do), 941.296 (1) (b), 968.20 (3) (b), 971.17 (1g), and  
15 973.176 (1) of the statutes, the renumbering of section 175.35 (2) (d) and (2j) of the  
16 statutes, the renumbering and amendment of section 175.35 (2i) of the statutes, and  
17 the creation of section 175.35 (2i) (b) 2. and (2j) (b) of the statutes first apply to sales  
18 or transfers of ownership of firearms that occur on the effective date of this  
19 subsection.

20           **SECTION 6m. Effective dates.** This act takes effect on the day after  
21 publication, except as follows:

22           “(1g) The treatment of sections 20.455 (2) (gr), 175.33, 175.35 (title) (by SECTION  
23 1s), (1) (at), and (b), (2) (intro.), (a), (b), (bm), (c), and (cm) (intro.), (2g) (a) and (b), (2k)  
24 (ar) 2., (c) 2. a. and b., (g), and (h), (2L), (2t) (a), (b), and (c), (7) (d), and (15) (b) 4.,

1 938.208 (1) (b), 938.34 (4m) (b) 2., 938.341, 941.237 (1) (d), 941.29 (1) (dm), (dn), and  
2 (do) and (2) (dm), (dn), and (do), 941.296 (1) (b), 968.20 (3) (b), 971.17 (1g), and  
3 973.176 (1) of the statutes, the renumbering of section 175.35 (2) (d) and (2j) of the  
4 statutes, the renumbering and amendment of section 175.35 (2i) of the statutes, and  
5 the creation of section 175.35 (2i) (b) 2. and (2j) (b) of the statutes and SECTION 6 (1g)  
6 of this act take effect on the first day of the 7th month beginning after publication.”.

7

(END)