



## 2015 ASSEMBLY BILL 220

May 18, 2015 – Introduced by Representatives KLEEFISCH, JOHNSON, BERCEAU, BERNIER, BRANDTJEN, EDMING, GANNON, HORLACHER, HUTTON, KAHL, KITCHENS, KREMER, MURPHY, SANFELIPPO, SINICKI, STEFFEN, SUBECK and ZEPNICK, cosponsored by Senators MOULTON, NASS and CARPENTER. Referred to Committee on Corrections.

1     **AN ACT** *to repeal* 941.29 (2); *to renumber and amend* 941.29 (1); *to amend*  
2           175.60 (11) (a) 2. f., 813.12 (2) (c) 1., 813.122 (2) (b) 1., 813.123 (5) (a) 2. a.,  
3           813.125 (4) (a) 2. a., 941.29 (3), 941.29 (4), 941.29 (5) (intro.), 941.29 (5) (a),  
4           941.29 (8), 941.29 (9), 941.29 (10) (intro.) and 973.176 (1); and *to create* 941.29  
5           (1g), 941.29 (4m) and 973.123 of the statutes; **relating to:** establishing a  
6           mandatory minimum period of confinement in prison for a person who  
7           possesses a firearm or who uses a firearm to commit certain crimes after being  
8           convicted of committing certain violent felonies, and providing a criminal  
9           penalty.

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### ***Analysis by the Legislative Reference Bureau***

Current law generally prohibits a person from possessing a firearm if he or she has been convicted of a felony, found not guilty of a felony by reason of mental disease or defect, or adjudicated delinquent for an act that if committed by an adult in this state would be a felony. A person who violates the prohibition is guilty of a felony and is subject to a fine of up to \$25,000 or a term of imprisonment of up to ten years, or both.

Under this bill, if the person was convicted of certain violent felonies and violates the prohibition on possessing a firearm, he or she must be sentenced to at

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least three years of confinement in prison. If the person is convicted of using a firearm to commit certain violent Class A to Class G felonies, he or she must be sentenced to at least five years of confinement in prison. If a person is convicted of using a firearm to commit certain violent Class H or Class I felonies, he or she must be sentenced to at least three years or at least one year and six months, respectively, of confinement in prison. The bill contains a sunset provision that eliminates the mandatory minimum period of confinement for sentences imposed on or after July 1, 2020.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 175.60 (11) (a) 2. f. of the statutes is amended to read:

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

5           **SECTION 2.** 813.12 (2) (c) 1. of the statutes is amended to read:

6           813.12 (2) (c) 1. Notice of the requirements and penalties under s. 941.29 ~~(1)~~  
7 ~~(f) and (2) (e)~~ and notice of any similar applicable federal laws and penalties.

8           **SECTION 3.** 813.122 (2) (b) 1. of the statutes is amended to read:

9           813.122 (2) (b) 1. Notice of the requirements and penalties under s. 941.29 ~~(1)~~  
10 ~~(f) and (2) (e)~~ and notice of any similar applicable federal laws and penalties.

11           **SECTION 4.** 813.123 (5) (a) 2. a. of the statutes is amended to read:

12           813.123 (5) (a) 2. a. Notice of the requirements and penalties under s. 941.29  
13 ~~(1) (g) and (2) (d)~~ and notice of any similar applicable federal laws and penalties.

14           **SECTION 5.** 813.125 (4) (a) 2. a. of the statutes is amended to read:

15           813.125 (4) (a) 2. a. Notice of the requirements and penalties under s. 941.29  
16 ~~(1) (g) and (2) (d)~~ and notice of any similar applicable federal laws and penalties.

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1           **SECTION 6.** 941.29 (1) of the statutes is renumbered 941.29 (1m) and amended  
2 to read:

3           941.29 (1m) A person is ~~subject to the requirements and penalties of this~~  
4 ~~section if he or she has been~~ who possesses a firearm is guilty of a Class G felony if  
5 any of the following applies:

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

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

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

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

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

17           (e) ~~Committed~~ The person has been committed for treatment under s. 51.20 (13)  
18 (a) and ~~ordered~~ is subject to an order not to possess a firearm under s. 51.20 (13) (cv)  
19 1., 2007 stats.

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

22           (f) ~~Enjoined under~~ The person is subject to an injunction issued under s. 813.12  
23 or 813.122 or under a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court  
24 established by any federally recognized Wisconsin Indian tribe or band, except the  
25 Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he

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1 or she is subject to the requirements and penalties under this section and that has  
2 been filed under s. 806.247 (3).

3 (g) ~~Ordered~~ The person is subject to an order not to possess a firearm under s.  
4 813.123 (5m) or 813.125 (4m).

5 **SECTION 7.** 941.29 (1g) of the statutes is created to read:

6 941.29 (1g) In this section, “violent felony” means any felony under s. 943.23  
7 (1m) or (1r), 1999 stats., this section, or s. 940.01, 940.02, 940.03, 940.05, 940.06,  
8 940.08, 940.09, 940.10, 940.19, 940.195, 940.20, 940.201, 940.203, 940.21, 940.225,  
9 940.23, 940.235, 940.285 (2), 940.29, 940.295 (3), 940.30, 940.302, 940.305, 940.31,  
10 940.43 (1) to (3), 940.45 (1) to (3), 941.20, 941.26, 941.28, 941.292, 941.30, 941.327  
11 (2) (b) 3. or 4., 943.02, 943.04, 943.06, 943.10 (2), 943.23 (1g), 943.32, 943.87, 946.43,  
12 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.06, 948.07, 948.08,  
13 948.085, or 948.30.

14 **SECTION 8.** 941.29 (2) of the statutes is repealed.

15 **SECTION 9.** 941.29 (3) of the statutes is amended to read:

16 941.29 (3) Any firearm involved in an offense under ~~sub. (2)~~ this section is  
17 subject to s. 968.20 (3).

18 **SECTION 10.** 941.29 (4) of the statutes is amended to read:

19 941.29 (4) A person is concerned with the commission of a crime, as specified  
20 in s. 939.05 (2) (b), in violation of this section if he or she knowingly furnishes a person  
21 with a firearm in violation of ~~sub. (2)~~ this section.

22 **SECTION 11.** 941.29 (4m) of the statutes is created to read:

23 941.29 (4m) If the person is subject to this section because he or she was  
24 convicted of, adjudicated delinquent for, or found not guilty of by reason of mental  
25 disease or defect, committing, soliciting, conspiring, or attempting to commit a

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1 violent felony, the court shall impose a bifurcated sentence under s. 973.01 and the  
2 confinement portion of the bifurcated sentence imposed on the person shall be not  
3 less than 3 years. This subsection does not apply to sentences imposed after July 1,  
4 2020.

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

6 941.29 (5) (intro.) This section does not apply to any person specified in sub.  
7 ~~(1)~~ (1m) who:

8 **SECTION 13.** 941.29 (5) (a) of the statutes is amended to read:

9 941.29 (5) (a) Has received a pardon with respect to the crime or felony specified  
10 in sub. ~~(1)~~ (1m or 4m) and has been expressly authorized to possess a firearm under  
11 18 USC app. 1203; or

12 **SECTION 14.** 941.29 (8) of the statutes is amended to read:

13 941.29 (8) This section does not apply to any person specified in sub. ~~(1)~~ (1m)  
14 (bm) if a court subsequently determines that the person is not likely to act in a  
15 manner dangerous to public safety. In any action or proceeding regarding this  
16 determination, the person has the burden of proving by a preponderance of the  
17 evidence that he or she is not likely to act in a manner dangerous to public safety.

18 **SECTION 15.** 941.29 (9) of the statutes is amended to read:

19 941.29 (9) (a) This section does not apply to a person specified in sub. ~~(1)~~ (1m)  
20 (e) if the prohibition under s. 51.20 (13) (cv) 1., 2007 stats., has been canceled under  
21 s. 51.20 (13) (cv) 2. or (16) (gm), 2007 stats., or under s. 51.20 (13) (cv) 1m. c.

22 (b) This section does not apply to a person specified in sub. ~~(1)~~ (1m) (em) if the  
23 order under s. 51.20 (13) (cv) 1. is canceled under s. 51.20 (13) (cv) 1m. c., if the order  
24 under s. 51.45 (13) (i) 1. is canceled under s. 51.45 (13) (i) 2. c., if the order under s.

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1 54.10 (3) (f) 1. is canceled under s. 54.10 (3) (f) 2. c., or if the order under s. 55.12 (10)  
2 (a) is canceled under s. 55.12 (10) (b) 3.

3 **SECTION 16.** 941.29 (10) (intro.) of the statutes is amended to read:

4 941.29 (10) (intro.) The prohibition against firearm possession under this  
5 section does not apply to a person specified in sub. (1) (1m) (f) if the person satisfies  
6 any of the following:

7 **SECTION 17.** 973.123 of the statutes is created to read:

8 **973.123 Sentence for certain violent offenses; use of a firearm.** (1) In  
9 this section, “violent felony” means any felony under s. 943.23 (1m) or (1r), 1999  
10 stats., this section, or s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09,  
11 940.10, 940.19, 940.195, 940.20, 940.201, 940.203, 940.21, 940.225, 940.23, 940.235,  
12 940.285 (2), 940.29, 940.295 (3), 940.30, 940.302, 940.305, 940.31, 940.43 (1) to (3),  
13 940.45 (1) to (3), 941.20, 941.26, 941.28, 941.292, 941.30, 941.327 (2) (b) 3. or 4.,  
14 943.02, 943.04, 943.06, 943.10 (2), 943.23 (1g), 943.32, 943.87, 946.43, 948.02 (1) or  
15 (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.06, 948.07, 948.08, 948.085, or  
16 948.30.

17 (2) A court shall impose a bifurcated sentence under s. 973.01 if the court  
18 sentences a person for committing a violent felony and the court finds that all of the  
19 following are true:

20 (a) At the time the person committed the violent felony, he or she was subject  
21 to s. 941.29 because he or she was convicted of, adjudicated delinquent for, or found  
22 not guilty of by reason of mental disease or defect, committing, soliciting, conspiring,  
23 or attempting to commit a prior violent felony.

24 (b) The person used a firearm in the commission of the violent felony for which  
25 the court is imposing the sentence.

