

2017 DRAFTING REQUEST

Assembly Amendment (AA-AA1-ASA1-AB65)

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Date: 2/20/2018 May Contact:

Same as LRB:

Submit via email: YES
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Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Add sales to family members as an exception

Instructions:

No specific instructions given

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State of Wisconsin
2017 - 2018 LEGISLATURE

a 2280/1

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CMH:ahe&wlj

AA to

**ASSEMBLY AMENDMENT 1,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 65**

February 20, 2018 - Offered by Representative SPREITZER.

AUTHORS SUBJECT TO CHANGE

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

2 **1.** Page 1, line 1: delete the material beginning with that line and ending with
3 ~~“(END)”~~ and substitute: *page 10, line 17,*

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

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

9 **SECTION 2.** 175.33 of the statutes is created to read:

10 **175.33 Transfer of firearms.** (1) In this section:

11 (a) “Family member” means a spouse, parent, grandparent, sibling, child, or
12 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, (sale,) or inheritance, the transferee is not prohibited from possessing
11 a 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 **SECTION 3.** 175.35 (title) of the statutes is amended to read:

21 **175.35 (title) Purchase of handguns firearms.**

22 **SECTION 4.** 175.35 (1) (at) of the statutes is amended to read:

23 175.35 (1) (at) "Firearms restrictions record search" means a search of
24 department of justice records to determine whether a person seeking to purchase a
25 handgun firearm is prohibited from possessing a firearm under s. 941.29. "Firearms

1 restrictions record search” includes a criminal history record search, a search to
2 determine whether a person is prohibited from possessing a firearm under s. 51.20
3 (13) (cv) 1., 2007 stats., a search in the national instant criminal background check
4 system to determine whether a person has been ordered not to possess a firearm
5 under s. 51.20 (13) (cv) 1., 51.45 (13) (i) 1., 54.10 (3) (f) 1., or 55.12 (10) (a), a search
6 to determine whether the person is subject to an injunction under s. 813.12 or
7 813.122, or a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court
8 established by any federally recognized Wisconsin Indian tribe or band, except the
9 Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he
10 or she is subject to the requirements and penalties under s. 941.29 and that has been
11 filed with the circuit court under s. 813.128 (3g), and a search to determine whether
12 the person is prohibited from possessing a firearm under s. 813.123 (5m) or 813.125
13 (4m).

14 **SECTION 5.** 175.35 (1) (b) of the statutes is repealed.

15 **SECTION 6.** 175.35 (2) (intro.) of the statutes is renumbered 175.35 (2) (am) and
16 amended to read:

17 175.35 (2) (am) When a firearms dealer sells or transfers a handgun firearm,
18 he or she may not transfer possession of that handgun firearm to any other person
19 until all of the ~~following have occurred:~~ requirements under par. (cm) have been met.

20 **SECTION 7.** 175.35 (2) (a), (b), (c) and (d) of the statutes are renumbered 175.35
21 (2) (cm) 1., 2., 3. and 4.

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

23 175.35 (2) (bm) When a person sells a firearm or transfers ownership of a
24 firearm through a firearms dealer, the person may not transfer possession of that
25 firearm to any person other than the firearms dealer, and the firearms dealer may

1 not transfer or authorize the transfer of possession of that firearm to any person,
2 until all of the requirements of par. (cm) have been met. This paragraph does not
3 apply if a person sells a firearm, or transfers ownership of a firearm, to a firearms
4 dealer.

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

6 175.35 (2) (cm) (intro.) All of the following must occur before a sale or transfer
7 of a firearm occurs under par. (am) or (bm):

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

9 175.35 (2g) (a) The department of justice shall promulgate rules prescribing
10 procedures for use under sub. (2) (cm) 1. for a transferee to provide and a firearms
11 dealer to inspect identification containing a photograph of the transferee.

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

13 175.35 (2g) (b) The department of justice shall promulgate rules prescribing
14 a notification form for use under sub. (2) (cm) 2. and 3. requiring the transferee to
15 provide his or her name, date of birth, gender, race and social security number, and
16 other identification necessary to permit an accurate firearms restrictions record
17 search under par. (c) 3. and the required notification under par. (c) 4. The department
18 of justice shall make the forms available at locations throughout the state.

19 **SECTION 12.** 175.35 (2i) of the statutes is renumbered 175.35 (2i) (a) and
20 amended to read:

21 175.35 (2i) (a) The department shall charge a firearms dealer a \$10 fee for each
22 firearms restrictions record search that the firearms dealer requests under sub. (2)
23 ~~(e)~~ (cm) 3.

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

1 (c) The department may refuse to conduct firearms restrictions record searches
2 for any firearms dealer who fails to pay any fee under ~~this subsection~~ par. (a) within
3 30 days after billing by the department.

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

5 175.35 (2i) (b) 2. If the transfer is made under sub. (2) (bm), the firearms dealer
6 may collect from the transferor the fee under par. (a) and any additional amount to
7 cover any costs he or she incurs in processing the transfer.

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

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

10 175.35 (2j) (b) If a person sells a firearm or transfers ownership of a firearm
11 through a firearms dealer under sub. (2) (bm), or sells a firearm or transfers
12 ownership of a firearm to a firearms dealer, the firearms dealer shall provide the
13 person a written receipt documenting the dealer's participation in the sale or
14 transfer.

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

16 175.35 (2k) (ar) 2. Check each notification form received under sub. (2j) (a)
17 against the information recorded by the department regarding the corresponding
18 request for a firearms restrictions record search under sub. (2g). If the department
19 previously provided a unique approval number regarding the request and nothing
20 in the completed notification form indicates that the transferee is prohibited from
21 possessing a firearm under s. 941.29, the department shall destroy all records
22 regarding that firearms restrictions record search within 30 days after receiving the
23 notification form.

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

1 175.35 (2k) (c) 2. a. A statement that the Wisconsin law enforcement agency
2 is conducting an investigation of a crime in which a handgun firearm was used or was
3 attempted to be used or was unlawfully possessed.

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

5 175.35 (2k) (c) 2. b. A statement by a division commander or higher authority
6 within the Wisconsin law enforcement agency that he or she has a reasonable
7 suspicion that the person who is the subject of the information request has obtained
8 or is attempting to obtain a handgun firearm.

9 **SECTION 19.** 175.35 (2k) (g) of the statutes is amended to read:

10 175.35 (2k) (g) If a search conducted under sub. (2g) indicates that the
11 transferee is prohibited from possessing a firearm under s. 941.29, the attorney
12 general or his or her designee ~~may~~ shall disclose to a law enforcement agency that
13 the transferee has attempted to obtain a handgun firearm.

14 **SECTION 20.** 175.35 (2k) (h) of the statutes is amended to read:

15 175.35 (2k) (h) If a search conducted under sub. (2g) indicates a felony charge
16 without a recorded disposition and the attorney general or his or her designee has
17 reasonable grounds to believe the transferee may pose a danger to himself, herself
18 or another, the attorney general or his or her designee may disclose to a law
19 enforcement agency that the transferee has obtained or has attempted to obtain a
20 handgun firearm.

21 **SECTION 21.** 175.35 (2L) of the statutes is amended to read:

22 175.35 (2L) The department of justice shall promulgate rules providing for the
23 review of nonapprovals under sub. (2g) (c) 4. a. Any person who is denied the right
24 to purchase a handgun firearm because the firearms dealer received a nonapproval
25 number under sub. (2g) (c) 4. a. may request a firearms restrictions record search

1 review under those rules. If the person disagrees with the results of that review, the
2 person may file an appeal under rules promulgated by the department.

3 **SECTION 22.** 175.35 (2t) (a), (b) and (c) of the statutes are amended to read:

4 175.35 (2t) (a) Transfers of any ~~handgun~~ firearm classified as an antique by
5 regulations of the U.S. department of the treasury.

6 (b) Transfers of any ~~handgun~~ firearm between firearms dealers or between
7 wholesalers and dealers.

8 (c) Transfers of any ~~handgun~~ firearm to law enforcement or armed services
9 agencies.

10 **SECTION 23.** 175.60 (7) (d) of the statutes is amended to read:

11 175.60 (7) (d) A fee for a background check that is equal to the fee charged under
12 s. 175.35 (2i) (a).

13 **SECTION 24.** 175.60 (15) (b) 4. b. of the statutes is amended to read:

14 175.60 (15) (b) 4. b. A fee for a background check that is equal to the fee charged
15 under s. 175.35 (2i) (a).

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

17 938.208 (1) (b) Probable cause exists to believe that the juvenile possessed,
18 used or threatened to use a handgun, as defined in s. ~~175.35 (1) (b)~~ 941.237 (1) (d),
19 short-barreled rifle, as defined in s. 941.28 (1) (b), or short-barreled shotgun, as
20 defined in s. 941.28 (1) (c), while committing a delinquent act that would be a felony
21 under ch. 940 if committed by an adult.

22 **SECTION 26.** 938.34 (4m) (b) 2. of the statutes is amended to read:

23 938.34 (4m) (b) 2. The juvenile has possessed, used or threatened to use a
24 handgun, as defined in s. ~~175.35 (1) (b)~~ 941.237 (1) (d), short-barreled rifle, as
25 defined in s. 941.28 (1) (b), or short-barreled shotgun, as defined in s. 941.28 (1) (c),

1 while committing a delinquent act that would be a felony under ch. 940 if committed
2 by an adult.

3 **SECTION 27.** 938.341 of the statutes is amended to read:

4 **938.341 Delinquency adjudication; restriction on firearm possession.**

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

8 **SECTION 28.** 941.237 (1) (d) of the statutes is amended to read:

9 941.237 (1) (d) "Handgun" ~~has the meaning given in s. 175.35 (1) (b)~~ means any
10 weapon designed or redesigned, or made or remade, and intended to be fired while
11 held in one hand and to use the energy of an explosive to expel a projectile through
12 a smooth or rifled bore.

13 **SECTION 29.** 941.29 (1m) (dm), (dn) and (do) of the statutes are created to read:

14 941.29 (1m) (dm) The person has been convicted of a misdemeanor under s.
15 175.33 (3), unless at least 2 years have passed since the conviction.

16 (dn) The person has been adjudicated delinquent for a violation under s. 175.33
17 (3), unless at least 2 years have passed since the adjudication.

18 (do) The person has been found not guilty of a misdemeanor under s. 175.33 (3)
19 by reason of mental disease or defect, unless at least 2 years have passed since the
20 finding.

21 **SECTION 30.** 941.296 (1) (b) of the statutes is amended to read:

22 941.296 (1) (b) "Handgun" has the meaning given in s. ~~175.35 (1) (b)~~ 941.237
23 (1) (d).

24 **SECTION 31.** 968.20 (3) (b) of the statutes is amended to read:

1 968.20 (3) (b) Except as provided in par. (a) or sub. (1m) or (4), a city, village,
2 town or county or other custodian of a seized dangerous weapon or ammunition, if
3 the dangerous weapon or ammunition is not required for evidence or use in further
4 investigation and has not been disposed of pursuant to a court order at the
5 completion of a criminal action or proceeding, shall make reasonable efforts to notify
6 all persons who have or may have an authorized rightful interest in the dangerous
7 weapon or ammunition of the application requirements under sub. (1). If, within 30
8 days after the notice, an application under sub. (1) is not made and the seized
9 dangerous weapon or ammunition is not returned by the officer under sub. (2), the
10 city, village, town or county or other custodian may retain the dangerous weapon or
11 ammunition and authorize its use by a law enforcement agency, except that a
12 dangerous weapon used in the commission of a homicide or a handgun, as defined
13 in s. ~~175.35 (1) (b)~~ 941.237 (1) (d), may not be retained. If a dangerous weapon other
14 than a firearm is not so retained, the city, village, town or county or other custodian
15 shall safely dispose of the dangerous weapon or, if the dangerous weapon is a motor
16 vehicle, as defined in s. 340.01 (35), sell the motor vehicle following the procedure
17 under s. 973.075 (4). If a firearm or ammunition is not so retained, the city, village,
18 town or county or other custodian shall ship it to the state crime laboratories and it
19 is then the property of the laboratories. A person designated by the department of
20 justice may destroy any material for which the laboratories have no use or arrange
21 for the exchange of material with other public agencies. In lieu of destruction,
22 shoulder weapons for which the laboratory has no use shall be turned over to the
23 department of natural resources for sale and distribution of proceeds under s. 29.934
24 or for use under s. 29.938.

25 **SECTION 32.** 971.17 (1g) of the statutes is amended to read:

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

5 **SECTION 33.** 973.176 (1) of the statutes is amended to read:

6 973.176 (1) FIREARM POSSESSION. Whenever a court imposes a sentence or
7 places a defendant on probation regarding a felony conviction or regarding a
8 conviction for a misdemeanor under s. 175.33 (3), the court shall inform the
9 defendant of the requirements and penalties applicable to him or her under s. 941.29
10 (1m) or (4m).

11 **SECTION 34. Initial applicability.**

12 (1) This act first applies to sales or transfers of ownership of firearms that occur
13 on the effective date of this subsection.

14 **SECTION 35. Effective date.**

15 (1) This act takes effect on the first day of the 7th month beginning after
16 publication. "○"

17 (END)".

(END)