



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2017 Assembly Bill 1031

**Assembly Substitute
Amendment 1, as Amended**

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2017 ASSEMBLY BILL 1031

Under current law, the Department of Public Instruction (DPI) must develop a model school policy on bullying by pupils that contains statutorily specified components, including a procedure for investigating reports of bullying that requires that the parent or guardian of each pupil involved in a bullying incident be notified. [s. 118.46, Stats.] The bill requires that DPI revise its model policy by August 1, 2018, to include a procedure for investigating reports of bullying that requires parental or guardian notification of each pupil involved in a bullying incident within 48 hours of the incident being reported to a school district employee.

ASSEMBLY SUBSTITUTE AMENDMENT 1, AS AMENDED

Assembly Substitute Amendment 1, as amended by Assembly Amendment 1, as amended, and by Assembly Amendment 2 (the substitute amendment), retains all of the provisions of the bill relating to DPI's model school policy on bullying, but also modifies current law relating to firearms restrictions record searches and escrow accounts for funds received as a result of the commission of a serious crime. The substitute amendment also requires the establishment and operation of a statewide school safety hotline.

Model School Policy on Bullying

The substitute amendment retains the provisions of the bill, as introduced, requiring DPI to revise its model school policy on bullying by pupils to require parental or guardian notification within 48 hours of the incident being reported to a school district employee.

Firearms Restrictions Record Searches

Under current law, a federally licensed firearms dealer is prohibited from transferring a firearm to another person who is not also a federally licensed firearms dealer without first initiating a background check to determine whether the person is prohibited from possessing a firearm. In Wisconsin, a firearms dealer must contact the National Instant Criminal Background Check System (NICS) when the firearm purchased is a long gun. When the firearm purchased is a handgun, the firearms dealer must contact the Wisconsin Department of Justice (DOJ). [s. 175.35, Stats; 18 U.S.C. s. 922 (t).]

The substitute amendment requires that a firearms dealer contact DOJ, rather than NICS, to initiate a firearms restrictions record search before transferring a firearm that is not a handgun, with one exception. This provision does not apply if DOJ certifies that NICS contains all of the information DOJ is required by the substitute amendment to convey to NICS, and NICS is using that information when performing a background check on persons seeking to purchase firearms that are not handguns.

Current law requires DOJ to promulgate rules to convey to NICS information regarding individuals ordered not to possess a firearm based on certain mental health or substance abuse proceedings. [s. 175.35 (2g) (d) 1., Stats.] Under the substitute amendment, DOJ must also promulgate rules to convey the following to NICS:

- Information regarding individuals prohibited from possessing a firearm under state law.
- Information than an order, issued in conjunction with a domestic abuse, child abuse, individual-at-risk, or harassment injunction, prohibiting a person from possessing firearms has expired, has been vacated, or has not been extended.

Current law prohibits the disclosure of information that a juvenile has been adjudged delinquent for an act that would be a felony if committed by an adult, and is therefore prohibited under Wisconsin law from possessing a firearm, except as part of a firearms restriction search for a handgun purchase or for a permit to carry a concealed weapon. [s. 938.396 (2g) (n), Stats.] The substitute amendment requires that this information be disclosed to NICS and permits the disclosure of such information as part of a firearms restrictions record search on persons seeking to purchase both handguns and firearms that are not handguns.

Escrow Accounts for Funds Received as a Result of the Commission of a Serious Crime

Under current law, funds owed to a person accused or convicted of a serious crime pursuant to a contract for a movie, book, magazine article, or other work or form of expression relating to the serious crime must be turned over to DOJ for deposit into an escrow account. The funds must be made available for use in the following order of priority: (1) for the legal representation of the accused or convicted person; (2) for payments to satisfy money judgments obtained by victims of the serious crime; and (3) for reimbursement to a governmental entity for the cost of the accused or convicted person's legal representation or for unpaid restitution. DOJ

must pay all remaining funds from the account to the accused or convicted person in the following circumstances:

- The charges against the person are dismissed with prejudice or the person is found not guilty of the serious crime.
- Three years have elapsed since the account was established and no civil actions seeking money judgments, unsatisfied money judgments, or claims are pending against the accused or convicted person.

[s. 949.165, Stats.]

The substitute amendment limits the circumstances under which a person accused or convicted of a serious crime may use or receive funds deposited into an escrow account, as discussed above. Specifically, the amendment eliminates the provision requiring that escrow funds be used first for the accused or convicted person's legal representation, thus requiring that funds first be used to satisfy money judgments obtained by victims of the serious crime and second for reimbursement to a governmental entity for the cost of the accused or convicted person's legal representation or for unpaid restitution.

The substitute amendment also provides that any funds remaining in the escrow account after the first two priorities have been satisfied must be paid to the accused or convicted person **only** if the charges against the person are dismissed with prejudice or the person is found not guilty of the serious crime. If three years have elapsed since the escrow account was established and no civil actions, money judgments, or claims are pending against the accused or convicted person, DOJ must transfer any remaining funds to an appropriation for crime victim compensation.

School Safety Hotline

The substitute amendment requires DOJ to do the following in conjunction with DPI and the Department of Health Services:

- Enter into a contract with a public or private entity to operate a 24-hour per day hotline for receiving reports from the public regarding potential self-harm and potential harm or criminal acts directed at students in grades kindergarten through 12, school employees, or schools.
- Exercise operational and administrative oversight of the hotline.
- Ensure that hotline personnel are appropriately trained in crisis management, the resources available for providing mental health treatment and other human services, and any other topic deemed relevant by the departments for the operation of the hotline.
- Develop, notify schools and law enforcement about, and recommend the use of a source of information on the available community mental health resources and contacts.

All three departments must provide information about the hotline on their websites. DOJ must annually submit a report on the hotline to the appropriate standing committees of the Legislature.

The substitute amendment requires that the hotline allow for the submission of reports and information via a variety of online or wireless communication platforms. Reports and information may be submitted anonymously and must be kept confidential except in limited circumstances. Any of the three departments may review the reports and information and may direct reports and information to law enforcement, school officials, and services providers, as needed. Any information or report suggesting that a psychiatric emergency is occurring must be immediately referred to the appropriate county department. The entity that operates the hotline must maintain any report or information received for at least one year.

BILL HISTORY

2017 Assembly Bill 1031 was introduced by Representative Krug on March 20, 2018, and taken up by the Assembly on March 22, 2018. Representative Nerison offered Assembly Substitute Amendment 1, which replaced the contents of the bill with provisions relating to firearms restrictions records searches.

Representative Ballweg offered Assembly Amendment 1 to the substitute amendment, which added provisions requiring the establishment and operation of a statewide school safety hotline. Speaker Vos then offered Assembly Amendment 1 to Assembly Amendment 1 to the substitute amendment, which added provisions modifying current law relating to escrow accounts for funds received as a result of the commission of a serious crime. The Assembly adopted Assembly Amendment 1 to Assembly Amendment 1 to the substitute amendment and Assembly Amendment 1 to the substitute amendment on voice votes.

Representative Krug then offered Assembly Amendment 2 to the substitute amendment, as amended, which retained the provisions of the substitute amendment, as amended, but also restored the provisions of the bill, as introduced, relating to DPI's model school policy on bullying. The Assembly adopted Assembly Amendment 2 to the substitute amendment on a voice vote. The Assembly then adopted Assembly Substitute Amendment 1, as amended, and passed the bill, as amended, on voice votes.

RES:ksm