



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-5623/1
CMH:cjs

2021 SENATE BILL 852

January 13, 2022 - Introduced by Senators JACQUE and STROEBEL, cosponsored by Representatives WICHGERS, SANFELIPPO, ARMSTRONG, BEHNKE, DUCHOW, GUNDRUM, KUGLITSCH, KRUG, MURPHY and DITTRICH. Referred to Committee on Judiciary and Public Safety.

- 1 **AN ACT** *to create* 941.29 (4n) of the statutes; **relating to:** prosecuting a violent
2 felon for the crime of illegal possession of a firearm.

Analysis by the Legislative Reference Bureau

Current law prohibits the following persons from possessing a firearm: persons who have been convicted of a felony; persons found not guilty of a felony by reason of mental disease or defect; persons who are subject to certain injunctions such as a domestic abuse or child abuse injunction or, in certain cases, a harassment or an individuals-at-risk injunction; and persons who have been subject to involuntary commitment for mental health treatment and ordered not to possess a firearm. Under this bill, if a prosecutor has charged a person with illegal possession of a firearm and the person has been convicted of, adjudicated delinquent for, or found not guilty by reason of mental disease or defect of, committing, soliciting, conspiring, or attempting to commit a violent felony, the prosecutor may not place the person in a deferred prosecution program and the prosecutor may not dismiss or amend the charge without the approval of the court. The court may approve the dismissal or amendment only if the court finds the action is consistent with the public's interest in deterring the possession of firearms by violent felons and with the legislature's intention to vigorously prosecute violent felons who illegally possess a firearm. If the court approves a dismissal or amendment, the court must submit an annual report that year to the legislature detailing each such approval.

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

SENATE BILL 852**SECTION 1**

1 **SECTION 1.** 941.29 (4n) of the statutes is created to read:

2 941.29 (4n) (a) The legislature intends to encourage the vigorous prosecution
3 of violent felons who illegally possess a firearm.

4 (b) Notwithstanding s. 971.29, if an individual is charged with a violation under
5 sub. (1m) and the individual has been convicted of, adjudicated delinquent for, or
6 found not guilty by reason of mental disease or defect of, committing, soliciting,
7 conspiring, or attempting to commit a violent felony, the prosecutor may not dismiss
8 or amend the charge without the approval of the court. In the application to the
9 court, the prosecutor shall state the reasons for the proposed amendment or
10 dismissal. The court may approve the application only if the court finds that the
11 proposed amendment or dismissal is consistent with the public's interest in deterring
12 the possession of firearms by violent felons and consistent with the legislature's
13 intention expressed in par. (a). If a court approves at least one application in a year,
14 the court shall submit to the appropriate standing committees of the legislature
15 under s. 13.172 (3) an annual report detailing each application the court approved
16 that year and how each approval is consistent with the public's interest and the
17 legislature's intention.

18 (c) A prosecutor may not place an individual in a deferred prosecution program
19 if the individual is accused of or charged with a violation under sub. (1m) and the
20 individual has been convicted of, adjudicated delinquent for, or found not guilty by
21 reason of mental disease or defect of, committing, soliciting, conspiring, or
22 attempting to commit a violent felony.

23 **SECTION 2. Initial applicability.**

