

1993 Senate Bill 647

Date of enactment: **April 6, 1994**
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1993 WISCONSIN ACT 195

AN ACT *to renumber* 175.35 (1) (a); *to renumber and amend* 48.396 (2); *to amend* 48.396 (7) (a) and 941.29 (2); and *to create* 48.341, 48.396 (2) (d), 48.396 (8), 175.35 (1) (ag), 941.29 (1) (bm) and 941.29 (8) of the statutes, **relating to:** restricting firearm possession for a person who has been adjudicated delinquent for certain acts.

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

SECTION 1. 48.341 of the statutes is created to read:

48.341 Delinquency adjudication; restriction on firearm possession. Whenever a court adjudicates a child delinquent for an act that if committed by an adult in this state would be a felony, the court shall inform the child of the requirements and penalties under s. 941.29.

SECTION 2. 48.396 (2) of the statutes, as affected by 1993 Wisconsin Act 98, is renumbered 48.396 (2) (a) and amended to read:

48.396 (2) (a) Records of the court assigned to exercise jurisdiction under this chapter and of courts exercising jurisdiction under s. 48.16 or 48.17 (2) shall be entered in books or deposited in files kept for that purpose only. They shall not be open to inspection or their contents disclosed except by order of the court assigned to exercise jurisdiction under this chapter or as permitted under this section or s. 48.375 (7) (e).

(b) Upon request of the department or a federal agency to review court records for the purpose of monitoring and conducting periodic evaluations of activities as required by and implemented under 45 CFR 1355, 1356 and 1357, the court shall open those records for inspection by authorized representatives of the department or federal agency. ~~Upon request of the federal government to review court records for the purpose of monitoring and conducting periodic evaluations of activities as required by and implemented under 45 CFR 1355, 1356 and 1357, the court shall open those records for~~

~~inspection by authorized representatives of the federal agency.~~

(c) Upon request of a law enforcement agency to review court records for the purpose of investigating a crime that might constitute criminal gang activity, as defined in s. 941.38 (1) (b), the court shall open for inspection by authorized representatives of the law enforcement agency the records of the court relating to any child who has been found to have committed a delinquent act at the request of or for the benefit of a criminal gang, as defined in s. 939.22 (9), that would have been a felony under ch. 161 or under chs. 939 to 948 if committed by an adult.

SECTION 3. 48.396 (2) (d) of the statutes is created to read:

48.396 (2) (d) Upon request of a court of criminal jurisdiction, a district attorney or a defense counsel to review court records for the purpose of investigating and determining whether a person has possessed a firearm in violation of s. 941.29 (2), the court assigned to exercise jurisdiction under this chapter shall open for inspection by authorized representatives of the requester the records of the court relating to any child who has been adjudicated delinquent for an act that would be a felony if committed by an adult.

SECTION 4. 48.396 (7) (a) of the statutes, as affected by 1993 Wisconsin Act 98, is amended to read:

48.396 (7) (a) Notwithstanding sub. (2) (a), and subject to par. (b), if a child is adjudged delinquent, the court clerk shall notify the school board of the school district

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in which the child is enrolled of the fact that the child has been adjudicated delinquent.

SECTION 5. 48.396 (8) of the statutes is created to read:

48.396 (8) Notwithstanding sub. (2), if a child is adjudged delinquent for an act that would be a felony if committed by an adult, the court clerk shall notify the department of justice of that fact. No other information from the child's court records may be disclosed to the department of justice except by order of the court. The department of justice may disclose any information provided under this subsection only as part of a criminal history record search under s. 175.35 (2g) (c).

SECTION 6. 175.35 (1) (a) of the statutes is renumbered 175.35 (1) (ar).

SECTION 7. 175.35 (1) (ag) of the statutes is created to read:

175.35 (1) (ag) "Criminal history record" includes information reported to the department under s. 48.396 (8) that indicates a person was adjudicated delinquent for an act that if committed by an adult in this state would be a felony.

SECTION 8. 941.29 (1) (bm) of the statutes is created to read:

941.29 (1) (bm) Adjudicated delinquent for an act committed on or after the effective date of this paragraph ... [revisor inserts date], that if committed by an adult in this state would be a felony.

SECTION 9. 941.29 (2) of the statutes is amended to read:

941.29 (2) Any person specified in sub. (1) who, subsequent to the conviction for the felony or other crime, as specified in sub. (1), subsequent to the adjudication, as specified in sub. (1) (bm), or subsequent to the finding of not guilty or not responsible by reason of insanity or mental disease, defect or illness, possesses a firearm is guilty of a Class E felony.

SECTION 10. 941.29 (8) of the statutes is created to read:

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