

# State of Wisconsin



2015 Assembly Bill 220

Date of enactment: **November 11, 2015**

Date of publication\*: **November 12, 2015**

## 2015 WISCONSIN ACT 109

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) ~~Found~~ The person has been found not guilty of or not responsible for a crime elsewhere that would be a

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

felony in this state by reason of insanity or mental disease, defect or illness.

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

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

(f) ~~Enjoined under~~ The person is subject to an injunction issued under s. 813.12 or 813.122 or under a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court established by any federally recognized Wisconsin Indian tribe or band, except the Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he or she is subject to the requirements and penalties under this section and that has been filed under s. 806.247 (3).

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

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

941.29 (1g) In this section:

(a) "Violent felony" means any felony under s. 943.23 (1m), 1999 stats., or s. 943.23 (1r), 1999 stats., this section, or s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19, 940.195, 940.20, 940.201, 940.203, 940.21, 940.225, 940.23, 940.235, 940.285 (2), 940.29, 940.295 (3), 940.30, 940.302, 940.305, 940.31, 940.43 (1) to (3), 940.45 (1) to (3), 941.20, 941.26, 941.28, 941.292, 941.30, 941.327 (2) (b) 3. or 4., 943.02, 943.04, 943.06, 943.10 (2), 943.23 (1g), 943.32, 943.37, 946.43, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.06, 948.07, 948.08, 948.085, or 948.30.

(b) "Violent misdemeanor" means a violation of s. 813.12, 813.122, 813.125, 940.19 (1), 940.195, 940.42, 940.44, 941.20 (1), 941.26, 941.38 (3), 941.39, 947.013, 948.55, 951.02, 951.08, 951.09, or 951.095 or a violation to which a penalty specified in s. 939.63 (1) is applied.

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

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

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

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

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

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

941.29 (4m) (a) The court shall impose a bifurcated sentence under s. 973.01 and the confinement portion of

the bifurcated sentence imposed on the person shall be not less than 3 years if all of the following are true:

1. The person is subject to this section because he or she was convicted of, adjudicated delinquent for, or found not guilty of by reason of mental disease or defect, committing, soliciting, conspiring, or attempting to commit a violent felony.

2. The person committed the current offense within 5 years after completing his or her sentence, including any probation, parole, or extended supervision, or being discharged by the department of corrections, for a prior felony or violent misdemeanor.

(b) This subsection does not apply to sentences imposed after July 1, 2020.

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

941.29 (5) (intro.) This section does not apply to any person specified in sub. ~~(4)~~ (1m) who:

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

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

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

941.29 (8) This section does not apply to any person specified in sub. ~~(4)~~ (1m) (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.

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

941.29 (9) (a) This section does not apply to a person specified in sub. ~~(4)~~ (1m) (e) if the prohibition under s. 51.20 (13) (cv) 1., 2007 stats., has been canceled under s. 51.20 (13) (cv) 2. or (16) (gm), 2007 stats., or under s. 51.20 (13) (cv) 1m. c.

(b) This section does not apply to a person specified in sub. ~~(4)~~ (1m) (em) if the order under s. 51.20 (13) (cv) 1. is canceled under s. 51.20 (13) (cv) 1m. c., if the order under s. 51.45 (13) (i) 1. is canceled under s. 51.45 (13) (i) 2. c., if the order under s. 54.10 (3) (f) 1. is canceled under s. 54.10 (3) (f) 2. c., or if the order under s. 55.12 (10) (a) is canceled under s. 55.12 (10) (b) 3.

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

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

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

**973.123 Sentence for certain violent offenses; use of a firearm.** (1) In this section, "violent felony" means any felony under s. 943.23 (1m), 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19, 940.195, 940.20, 940.201, 940.203, 940.21, 940.225, 940.23, 940.235, 940.285 (2), 940.29, 940.295 (3), 940.30, 940.302, 940.305, 940.31, 940.43 (1) to (3), 940.45 (1) to (3), 941.20, 941.26, 941.28, 941.29, 941.292, 941.30, 941.327 (2) (b) 3. or 4., 943.02, 943.04, 943.06, 943.10 (2), 943.23 (1g), 943.32, 943.87, 946.43, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.06, 948.07, 948.08, 948.085, or 948.30.

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

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

(b) The person used a firearm in the commission of

the violent felony for which the court is imposing the sentence.

(3) The confinement portion of a bifurcated sentence imposed pursuant to sub. (2) shall be:

(a) Not less than 5 years if the violent felony is a Class A, Class B, Class C, Class D, Class E, Class F, or Class G felony.

(b) Not less than 3 years if the violent felony is a Class H felony.

(c) Not less than one year and 6 months if the violent felony is a Class I felony.

(4) If a court sentences a person under this section and also imposes a sentence pursuant to s. 941.29 (4m) arising from the same occurrence, the court shall order the person to serve the sentences consecutively.

(5) This section does not apply to sentences imposed after July 1, 2020.

**SECTION 18.** 973.176 (1) of the statutes is amended to read:

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