



**WISCONSIN LEGISLATIVE COUNCIL
ACT MEMO**

2015 Wisconsin Act 109 [2015 Assembly Bill 220]	Mandatory Minimum Sentence For Firearm Offenses
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2015 Wisconsin Act 109 imposes a mandatory minimum sentence for certain offenders who were previously convicted of a violent felony, and subsequently possess a firearm.

BACKGROUND

Wisconsin law prohibits certain individuals from possessing a firearm, including an individual with a prior felony conviction, an individual adjudicated delinquent for an act that would be a felony if committed by an adult, and an individual found not guilty of a felony by reason of mental disease or defect. Possession of a firearm by such an individual is a Class G felony, punishable by imprisonment of 10 years or less, a fine of \$25,000 or less, or both. [ss. 939.50 (3) (g) and 941.29 (1m), Stats.]

2015 WISCONSIN ACT 109

Act 109 requires mandatory minimum periods of confinement (“mandatory minimums”) for offenders previously convicted of a “violent felony¹” who are subsequently convicted of certain crimes involving possession or use of a firearm. The Act imposes a sunset date, providing that the mandatory minimums do not apply to sentences imposed after July 1, 2020.

¹ “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. [s. 941.29 (1g) (a), and s. 973.123 (1), Stats.]

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

Felon-in-Possession

Act 109 imposes a mandatory minimum of three years on offenders who are convicted of possessing a firearm in violation of s. 941.29, Stats. (“felon-in-possession”), if both of the following are true:

- (1) Previous Violent Felony. The person was previously 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) Felon-in-Possession Committed Within Certain Timeframe. The person committed the current offense within five 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.²

New Conviction for Violent Felony Involving a Firearm

Act 109 imposes a mandatory minimum on offenders who were previously convicted of a violent felony, and subsequently commit a new violent felony using a firearm. Specifically, a court must impose a mandatory minimum for commission of a violent felony if it finds that all of the following are true:

- (1) Previous Violent Felony. At the time the person committed the violent felony, he or she was subject to s. 941.29, Stats. (felon-in-possession), because he or she was convicted of, adjudicated delinquent for, or found not guilty by reason of mental disease or defect, committing, soliciting, conspiring, or attempting to commit a prior violent felony.
- (2) Use of a Firearm in New Violent Felony. The person used a firearm in the commission of the violent felony for which the court is imposing the sentence.

The mandatory minimum that applies to such an offender depends upon the seriousness of the new violent felony for which the court is imposing sentence. The Act requires a court to impose the following mandatory minimum periods of confinement:

- Not less than five years if the violent felony is a Class A through Class G felony.
- Not less than three years if the violent felony is a Class H felony.
- Not less than one year and six months if the violent felony is a Class I felony.

Consecutive Sentences

Act 109 provides that if a court sentences a person to a mandatory minimum for committing a new violent felony using a firearm (under s. 973.123, Stats.), as well as a mandatory

² “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, Stats., or a violation to which a penalty specified in s. 939.63 (1), Stats., is applied. [s. 941.29 (1g) (b), Stats.]

minimum for a felon-in-possession conviction (under s. 941.29 (4m), Stats.), arising from the same occurrence, then the court must order the person to serve the sentences consecutively.

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