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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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<b>2015 Assembly Bill 220</b>	<b>Assembly Amendment 3</b>
<i>Memo published: June 15, 2015</i>	<i>Contact: Katie Bender-Olson, Staff Attorney (266-2988)</i>

### CURRENT LAW

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 a prohibited person is a Class G felony, punishable by 10 years of imprisonment or less, a fine of \$25,000 or less, or both. [s. 941.29 (1) and (2), s. 939.50 (3) (g), Stats.]

### 2015 ASSEMBLY BILL 220

Assembly Bill 220 requires mandatory minimum periods of confinement for offenders who were previously convicted of a “violent felony,” and are subsequently convicted of certain crimes involving possession or use of a firearm. The bill imposes a sunset date of July 1, 2020 for these mandatory minimums.

### Felon-in-Possession Conviction

The bill creates a mandatory minimum for individuals who are convicted of possessing a firearm in violation of s. 941.29, Stats. (referred to as a “felon-in-possession conviction”) and were previously convicted of a violent felony.<sup>1</sup> The bill requires a court to impose at least three years of confinement on these individuals.

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<sup>1</sup> For purposes of brevity, the memorandum refers to individuals previously “convicted” of violent felonies. However, the mandatory minimum also applies to any individual who was previously 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.

### **New Conviction for Violent Felony Involving a Firearm**

The bill also creates a mandatory minimum for individuals who were previously convicted of a violent felony, and subsequently commit a new violent felony using a firearm. The bill requires a court to impose the following on these individuals:

- At least five years of confinement if the new violent felony is a Class A through Class G felony.
- At least three years of confinement if the new violent felony is a Class H felony.
- At least one year and six months of confinement if the new violent felony is a Class I felony.

### **Consecutive Sentences**

The bill provides that if an individual is subject to **both** a mandatory minimum sentence for a felon-in-possession conviction, as well as a mandatory minimum sentence for committing a new violent felony using a firearm, arising from the same occurrence, then the court must order the individual to serve the sentences consecutively.

### **ASSEMBLY AMENDMENT 3**

Assembly Amendment 3 limits application of the mandatory minimum sentence for felon-in-possession convictions to individuals who commit the offense within five years after imprisonment for a felony or a “violent misdemeanor.” Specifically, the amendment requires a court to impose at least three years of confinement if the individual was previously convicted of a violent felony and commits the current offense within five years after completing his or her sentence for a prior felony or violent misdemeanor<sup>2</sup> (including any probation, parole, or extended supervision, or being discharged by the Department of Corrections).

Unlike the original bill, the amendment does not apply the three-year mandatory minimum to every individual who is convicted of being a felon-in-possession and who has a prior violent felony conviction. Instead, the amendment applies the mandatory minimum only

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The bill defines “violent felony” to mean the following felonies: ss. 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, 943.87, 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, Stats.

<sup>2</sup> The amendment defines “violent misdemeanor” to mean a violation of: ss. 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.

to an individual with a prior violent felony who is convicted of being a felon-in-possession within five years after completing a prior sentence for certain crimes.

**BILL HISTORY**

Assembly Amendment 3 was offered by Representatives Bowen and Jarchow on June 9, 2015, and adopted by the Assembly. The Assembly then voted to pass the bill, as amended.

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