



1995 ASSEMBLY BILL 88

January 31, 1995 – Introduced by Representatives DOBYNS, AINSWORTH, BALDUS, BRANDEMUEHL, DUFF, GARD, HARSDORF, LADWIG, LA FAVE, KREIBICH, NASS, NOTESTEIN, OTT, OTTE, OWENS, SCHNEIDERS and VANDER LOOP, cosponsored by Senators PETAK, BUETTNER, DRZEWIECKI, FARROW, ROSENZWEIG and SCHULTZ. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT** *to renumber and amend* 968.20 (1m) (a); *to amend* 66.28 (3), 66.28 (4),
2 968.20 (1m) (b) and 968.20 (3); and *to create* 968.20 (1m) (a) 2. of the statutes;
3 **relating to:** seized dangerous weapons.

Analysis by the Legislative Reference Bureau

Under current law, there is a general procedure that describes the process and criteria for courts and police officers to use to determine the ownership of property that has been seized by a police officer and to decide if, how and when to return the seized property. Current law also includes a specific provision stating that a seized firearm may not be returned to a person who committed a crime with the firearm. This bill broadens the restriction to prohibit the return of any dangerous weapon that a person used in connection with a crime. Further, all of the current provisions for the retention or destruction of seized firearms are made applicable to seized dangerous weapons. Thus, with certain exceptions, a seized dangerous weapon that is not returned to its owner may be used by a law enforcement agency or sent to the state crime laboratories. The laboratories may destroy weapons that they cannot use.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

4 **SECTION 1.** 66.28 (3) of the statutes is amended to read:
5 66.28 (3) Except as provided in s. 968.20 (3), 1st class cities shall dispose of
6 abandoned or unclaimed ~~firearms~~ dangerous weapons or ammunition without a

1 public auction 12 months after taking possession of them if the owner has not
2 requested their return. Disposition procedures shall be established by ordinance or
3 resolution and may include provisions authorizing an attempt to return to the
4 rightful owner any firearms dangerous weapons or ammunition which appear to be
5 stolen or are reported stolen. If enacted, any such provision shall include a
6 presumption that if the firearms dangerous weapons or ammunition appear to be or
7 are reported stolen an attempt will be made to return the firearms dangerous
8 weapons or ammunition to the rightful owner. The firearms dangerous weapons or
9 ammunition shall be subject to sub. (4).

10 **SECTION 2.** 66.28 (4) of the statutes is amended to read:

11 66.28 (4) A city, village, town or county may retain or dispose of any abandoned,
12 unclaimed or seized firearm dangerous weapon or ammunition only under s. 968.20.

13 **SECTION 3.** 968.20 (1m) (a) of the statutes is renumbered 968.20 (1m) (a) (intro.)
14 and amended to read:

15 968.20 (1m) (a) (intro.) In this subsection, “crime”:

16 1. “Crime” includes an act committed by a juvenile or incompetent adult which
17 would have been a crime if the act had been committed by a competent adult.

18 **SECTION 4.** 968.20 (1m) (a) 2. of the statutes is created to read:

19 968.20 (1m) (a) 2. “Dangerous weapon” has the meaning given in s. 939.22 (10).

20 **SECTION 5.** 968.20 (1m) (b) of the statutes is amended to read:

21 968.20 (1m) (b) If the seized property is a firearm dangerous weapon or
22 ammunition, the property shall not be returned to any person who committed a crime
23 involving the use of the firearm dangerous weapon or the ammunition. The property
24 may be returned to the rightful owner under this section if the owner had no prior
25 knowledge of and gave no consent to the commission of the crime. Property which

1 may not be returned to an owner under this subsection shall be disposed of under
2 subs. (3) and (4).

3 **SECTION 6.** 968.20 (3) of the statutes is amended to read:

4 968.20 (3) (a) First class cities shall dispose of firearms dangerous weapons or
5 ammunition seized 12 months after taking possession of them if the owner,
6 authorized under sub. (1m), has not requested their return and if the firearm
7 dangerous weapon or ammunition is not required for evidence or use in further
8 investigation and has not been disposed of pursuant to a court order at the
9 completion of a criminal action or proceeding. Disposition procedures shall be
10 established by ordinance or resolution and may include provisions authorizing an
11 attempt to return to the rightful owner any firearms dangerous weapons or
12 ammunition which appear to be stolen or are reported stolen. If enacted, any such
13 provision shall include a presumption that if the firearms dangerous weapons or
14 ammunition appear to be or are reported stolen an attempt will be made to return
15 the firearms dangerous weapons or ammunition to the authorized rightful owner.
16 If the return of the seized firearm dangerous weapon or ammunition is not requested
17 by its authorized rightful owner under sub. (1) and is not returned by the officer
18 under sub. (2), the seized firearm dangerous weapon or ammunition shall be shipped
19 to and become property of the state crime laboratories. A person designated by the
20 department of justice may destroy any material for which the laboratory has no use
21 or arrange for the exchange of material with other public agencies. In lieu of
22 destruction, shoulder weapons for which the laboratories have no use shall be turned
23 over to the department of natural resources for sale and distribution of proceeds
24 under s. 29.06.

1 (b) Except as provided in par. (a) or sub. (1m) or (4), a city, village, town or
2 county or other custodian of a seized ~~firearm~~ dangerous weapon or ammunition, if
3 the ~~firearm~~ dangerous weapon or ammunition is not required for evidence or use in
4 further investigation and has not been disposed of pursuant to a court order at the
5 completion of a criminal action or proceeding, shall make reasonable efforts to notify
6 all persons who have or may have an authorized rightful interest in the ~~firearm~~
7 dangerous weapon or ammunition of the application requirements under sub. (1).
8 If, within 30 days after the notice, an application under sub. (1) is not made and the
9 seized ~~firearm~~ dangerous weapon or ammunition is not returned by the officer under
10 sub. (2), the city, village, town or county or other custodian may retain the ~~firearm~~
11 dangerous weapon or ammunition and authorize its use by a law enforcement
12 agency, except that a ~~firearm~~ dangerous weapon used in the commission of a
13 homicide or a handgun, as defined in s. 175.35 (1) (b), may not be retained. If the
14 ~~firearm~~ dangerous weapon or ammunition is not so retained, the city, village, town
15 or county or other custodian shall ship it to the state crime laboratories and it is then
16 the property of the laboratories. A person designated by the department of justice
17 may destroy any material for which the laboratories have no use or arrange for the
18 exchange of material with other public agencies. In lieu of destruction, shoulder
19 weapons for which the laboratory has no use shall be turned over to the department
20 of natural resources for sale and distribution of proceeds under s. 29.06.

21 **SECTION 7. Initial applicability.**

22 (1) This act first applies to dangerous weapons seized on the effective date of
23 this subsection.

24 (END)