



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

October 23, 2003

TO: Members
Wisconsin Legislature

FROM: Bob Lang, Director

SUBJECT: Summary of Joint Committee on Finance Modifications to Senate Bill 214 Relating to Authorizing Licensed Individuals to Carry Certain Concealed Weapons

Senate Bill 214 would modify current law prohibitions on carrying a concealed weapon by authorizing licensed individuals to carry specified types of concealed weapons. The bill was introduced on July 22, 2003, and was referred to the Senate Committee on Judiciary, Corrections and Privacy. On October 13, 2003, the Senate Committee introduced and adopted Senate Substitute Amendment 1 (SSA 1) to Senate Bill 214, as well as Senate Amendment 1 (SA 1) to SSA 1 and Senate Amendment 2 (SA 2) to SSA 1. SSA 1, as amended by SA 1 and SA 2, was recommended for passage, on a vote of 3-2. On October 16, 2003, SSA 1, as amended, was referred to the Joint Committee on Finance. On October 20, 2003, the Joint Committee on Finance adopted all of the actions of the Senate Committee on Judiciary, Corrections and Privacy as well as 23 additional simple amendments. The Joint Committee on Finance recommended the bill for passage, as amended, on a vote of 13-3.

The Finance Committee's version of the bill is incorporated in SSA 2 and SA 1 to SSA 2.

This memorandum summarizes the changes made by the Joint Committee on Finance. The organization of this summary parallels that used in this office's October 21, 2003, original summary of the provisions of SSA 1. For each subject area in which the Joint Committee on Finance adopted modifications, the following summary first describes the provision, as originally adopted by the Senate Committee on Judiciary, Corrections and Privacy ["SSA 1 Provisions"] and then describes the additional modifications made by Joint Finance ["JFC Modifications"].

General Licensing Provisions

SSA 1 Provisions. In order to qualify for a concealed weapons license, an applicant for licensure would have to be a Wisconsin resident at least 21 years of age, who had successfully completed an approved firearm training or safety course or class or its substantial equivalent. SSA 1 does not include any provisions specifying the content of such training. In addition, the applicant could not be subject to any of the statutory disqualifying factors contained in the legislation.

In general, it would be the responsibility of county sheriffs to determine if applicants satisfied the eligibility requirements to obtain a concealed weapons license. The Department of Justice (DOJ) would be required to assist the sheriffs in this process by: (1) conducting background checks to determine an applicant's criminal background (including incompetency to stand trial and not guilty by reason of mental disease or defect findings); and (2) determining any pending civil or criminal cases involving an applicant that would disqualify the applicant from licensure. All individuals (with limited exceptions described below) would be subject to a background check by the Department.

County sheriffs, however, would be solely responsible for ensuring that applicants were not disqualified from licensure as a result of many of the mental health and competency eligibility requirements. Table 1 summarizes the statutory eligibility factors for licensure, other than for age, state residency and firearms safety training. The eligibility determinations that are the responsibility of county sheriffs are indicated *in italics*. The other eligibility determinations are made by DOJ.

Table 1

Eligibility Requirements for a Concealed Weapon License (Other than Age, Residency and Firearms Safety Training)

<u>Eligibility Factor</u>	<u>Conditions Under Which Factor Would Not Apply</u>
Applicant Not Prohibited From Possessing a Firearm Under Federal or State Law	
<ul style="list-style-type: none"> • The individual is not prohibited under federal or state law from possessing a firearm. 	
Applicant Not Subject to Disqualifying Criminal Charges or Conviction	
<ul style="list-style-type: none"> • The individual has not been convicted under Wisconsin's Uniform Controlled Substances Act (Chapter 961), or a comparable federal law or law of another state. 	The conviction was more than three years ago.

<u>Eligibility Factor</u>	<u>Conditions Under Which Factor Would Not Apply</u>
<ul style="list-style-type: none"> The individual was not convicted of a misdemeanor crime of violence or was not serving a sentence, on probation, or subject to a dispositional order under Wisconsin's Juvenile Justice Code for such a crime. Misdemeanor crimes of violence are misdemeanor violations of: (a) Chapter 940 (crimes against life and bodily security); (b) Chapter 941 (crimes against public health and safety); (c) Chapter 948 (crimes against children); (d) s. 947.013 (harassment); or (e) s. 947.01 (disorderly conduct). 	The conviction was more than three years ago.
<ul style="list-style-type: none"> The individual has not been convicted of: (a) intentionally falsely swearing or making false statements on a regular or emergency concealed weapons license application; (b) intentionally failing to report a charge within 10 days of being charged under federal law or the law of another state with any crime or drunk driving offense, to the county sheriff who issued the person's concealed weapons license; or (c) intentionally failing to surrender a concealed weapons license to a sheriff when directed as a result of the revocation or suspension of the license. 	
<ul style="list-style-type: none"> The individual has not been charged with a felony or a misdemeanor crime of violence for which the prosecution was suspended under a deferred prosecution agreement. 	The date of the agreement was more than three years ago.
Applicant Not Disqualified Due to Substance Abuse	
<ul style="list-style-type: none"> <i>The individual has not been civilly committed under state law for being drug dependent.</i> 	The commitment was more than three years ago.
<ul style="list-style-type: none"> The individual does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. This condition applies if: (a) <i>the individual has been committed for involuntary treatment of alcoholism under state law;</i> (b) the individual has been convicted of operating or going armed with a firearm while under the influence of an intoxicant; or (c) in two or more cases arising out of separate incidents, a court has found the individual to have committed a drunk driving offense. 	The commitment or occurrence was more than three years ago.

<u>Eligibility Factor</u>	<u>Conditions Under Which Factor Would Not Apply</u>
Applicant Not Subject to Mental Health Disqualifier	
<ul style="list-style-type: none"> <i>The individual has not been involuntarily committed for treatment under state law due to mental illness or a developmental disability.</i> 	Individual shows, through evidence from a Wisconsin psychiatrist, that the disability due to mental illness or a developmental disability has not been present for at least five years.
<ul style="list-style-type: none"> <i>The individual has not been found incompetent under Chapter 880 of the statutes (Guardians & Wards)</i> 	Individual subsequently found to be competent and at least five years have elapsed since that finding.
<ul style="list-style-type: none"> <i>The individual was not the subject of a protective placement under state law as a minor for a developmental disability.</i> 	Five years have elapsed from the date on which the protective placement ended.
<ul style="list-style-type: none"> The individual has not been found incompetent to stand trial under state law. 	Individual subsequently found to be competent and one of the following applies: (a) at least five years have elapsed from that date; or (b) the individual shows through evidence from a Wisconsin psychiatrist that he or she has not been disabled due to mental illness or a developmental disability for at least five years.
<ul style="list-style-type: none"> The individual has not been found not guilty by reason of mental disease or defect under state law. 	Individual presents evidence from a Wisconsin psychiatrist that the disability due to mental illness or a developmental disability has not been present for at least five years.
Additional Eligibility Requirements	
<ul style="list-style-type: none"> <i>The individual does not have a physical disability that prevents him or her from safely handling a weapon.</i> 	
<ul style="list-style-type: none"> The individual is not the subject of any pending civil or criminal case, the disposition of which could disqualify him or her from having a license. 	
<ul style="list-style-type: none"> <i>The individual has not previously submitted an application for a concealed weapons license to any county and had the application denied, unless each reason for the denial is no longer applicable because of changed circumstances.</i> 	
<ul style="list-style-type: none"> <i>The individual has not had a concealed weapons license revoked, unless each reason for the revocation is no longer applicable because of changed circumstances.</i> 	
<p><i>Determination of the requirements in italics are the responsibility of the county sheriff. All other determinations are the responsibility of the Department of Justice.</i></p>	

With respect to the eligibility factors summarized in Table 1, a number of the disqualifying events would no longer apply after a certain amount of time had elapsed since the triggering event. Under federal law, there is a permanent prohibition on the possession of firearms, if an individual has been committed for substance abuse or mental illness or has been found incompetent to handle his or her own affairs. These permanent federal disqualifications may supersede the application of some of the look-back provisions of SSA 1.

JFC Modifications. *Modifications to Eligibility Factors.* Provide that the three- to five-year limited look-back provisions associated with the substance abuse commitment and mental health eligibility requirements would not apply to the extent that they are in conflict with federal law provisions that might result in a permanent disqualification. Specify that DOJ would be required to promulgate rules establishing the procedures and definitions that sheriffs would apply when determining whether an individual was ineligible for a concealed weapons license due to a physical disability that would prevent him or her from safely handling a weapon.

In addition, provide that a firearm training or firearm safety course or class would be required to include all of the following: (1) instruction on how to handle, load, unload, and store handguns; (2) instruction on the privilege of self-defense and the defense of others under state law; (3) instruction on how to avoid injuring third parties when defending oneself or others; (4) basic self-defense principles; (5) instruction on how to carry a concealed handgun safely; (6) instruction on firing a handgun; and (7) practice firing a handgun.

DOJ Rather Than Sheriffs Required to Make Certain Eligibility Determinations. Provide that it would be the responsibility of DOJ to determine whether or not an applicant met the substance abuse and mental health eligibility requirements under Table 1 that county sheriffs were required to investigate under SSA 1. Require DOJ to promulgate rules authorizing the agency to obtain these records for the purpose of determining an individual's eligibility to receive a concealed weapons license. Require the Department to promulgate such rules as emergency rules until the permanent rules are promulgated. Authorize the Department to disclose this information relating to substance abuse and mental health eligibility to county sheriffs both as a part of the required background check for licensure and to notify a sheriff of a subsequent court event that could be grounds for the suspension or revocation of an individual's license.

Right of Licensees to Carry Concealed Weapons

SSA 1 Provisions. A licensee or an out-of-state licensee would be authorized to carry a concealed weapon anywhere in the state, subject to specifically enumerated limitations described below. SSA 1 would define an out-of-state licensee as an individual issued an out-of-state authorization who would not be prohibited from possessing a firearm under Wisconsin law or from possessing a firearm that has been transported in interstate or foreign commerce under federal law. SSA 1 would further define an out-of-state authorization as a valid permit document or a valid

license document issued by another state documenting that the person is authorized under the law of that state to carry a concealed weapon. SSA 1 would specifically provide that a licensee or an out-of-state licensee may not carry a concealed weapon in violation of the current law prohibition against operating or going armed with a firearm while under the influence of an intoxicant. A violation of this provision is a Class A misdemeanor subjecting the violator to a fine not to exceed \$10,000 or imprisonment not to exceed nine months or both.

SSA 1 enumerates a variety of places where a duly licensed Wisconsin resident or out-of-state licensee would be prohibited from knowingly carrying a concealed weapon. The places subject to this prohibition are identified in Table 2. In some cases, limited exceptions are provided to the general proscription.

Table 2

Places in Which Wisconsin or Out-of-State Licensees Would Be Prohibited from Carrying a Concealed Weapon

Places Subject to Federal Prohibition

- Any place where carrying a concealed weapon is prohibited by federal law [within a federal facility; within or entering the sterile area of an airline terminal or aboard or while attempting to board an aircraft; within certain national park areas; and within a school zone (except firearms may be possessed on private property that is part of the school grounds; unloaded and within a locked container within a vehicle; by a law enforcement officer; by an individual for use in a program approved by the school; and by an individual while traversing school premises for the purpose of gaining access to a hunting area, if the entry on school grounds is authorized by school authorities)].

Airports

- Any airport. *[EXCEPTION: The weapon is encased for shipment as baggage to be transported by aircraft.]*

Judicial and Law Enforcement Related

- Sheriffs' offices, police or state patrol stations. *[EXCEPTIONS: Does not apply to law enforcement officers carrying a concealed weapon within the scope of their duties. Peace officers are further provided a blanket exemption from all the prohibitions summarized in this table.]*

- Prisons, jails, houses of correction or secured correctional facilities.

- Courthouses. *[EXCEPTION: A presiding, licensed judge may carry a concealed weapon and may authorize in writing any licensee to carry a concealed weapon in a courthouse in which the judge is presiding in court.]*

Schools and Related

- Places where a school, college or professional athletic event is taking place. *[EXCEPTION: Where an event is related to firearms and licensees are participating in the event.]*

- A school administration building.

- Within 1,000 feet of a public, private or parochial school that provides education for one or more grades (1 through 12). *[EXCEPTIONS: The licensee is not in or on the grounds of the school, and one or more of the following also applies: (1) the individual is in a motor vehicle or on a snowmobile or bicycle; (2) the individual has exited a motor vehicle and is encasing or storing the handgun in the motor vehicle; (3) the individual is traveling directly to any person's private property from work or place of business, from any person's private property, or from a place outside the school zone; (4) the individual is traveling directly to his or her work or place of business from another place of his or her work or business, from any person's private property, or from a place outside the school zone; (5) the individual is traveling directly to a place outside the school zone from another place outside the school zone, from any individual's private property or from his or her work or place of business; or (6) the individual's possession of a handgun is described by the following: (a) the handgun is on private property, not part of school grounds; (b) the person is licensed by the relevant state or federal authorities where the school zone is located and applicable law requires that law enforcement authorities must verify that the individual is qualified to receive a license; (c) the handgun is not loaded and is encased or locked into a firearms rack on a motor vehicle; (d) the handgun is used by an individual in a program approved by the subject school; (e) the handgun is used by an individual who is in a contractual arrangement between the subject school and the individual or employer of the individual; (f) the handgun is used by a law enforcement officer in his or her official capacity; or (g) the handgun is unloaded while in the possession of an individual who is traversing the school grounds to gain access to public or private hunting lands (if entry on the school grounds is authorized by school authorities).]*

Taverns

- Any tavern. *[EXCEPTIONS: The prohibition does not apply if: (1) the licensee is a peace officer or correctional officer while going armed in the line of duty; the licensee is a member of the U. S. armed forces or national guard while going armed in the line of duty; the licensee is a private security person (licensed by the Department of Regulation and Licensing, is going armed in the line of duty, and is acting with the consent of the tavern licensee, owner or manager); or the licensee is the tavern licensee, owner or manager or employee or agent of the foregoing who has been authorized to possess a handgun on the premises; (2) the handgun is unloaded and encased in a vehicle in any parking lot area; the handgun is possessed or used in connection with a public or private gun or sportsmen's range or club; the handgun is authorized for a specific event of limited duration by the owner or manager of the tavern; the handgun is used for decoration (provided it is encased, inoperable or secured in a locked condition); the possession of the handgun is in any portion of a hotel other than the portion of the hotel that is a tavern; the possession of the handgun is in any portion of a tavern/store combination that is devoted to the other business (provided the other business is owned or operated by a firearms dealer, the other business includes the sale of handguns and the handgun is possessed in a place other than a tavern; or (3) the sale of liquor or beer on the premises accounts for not more than 50% of receipts.]*

Public Nuisances

- Places declared public nuisances under ch. 823 of the statutes [unlicensed solid waste facilities or licensed facilities where a court finds a threat to public health and safety; bawdyhouses; disorderly houses; drug or criminal gang houses; unregulated gambling places; dilapidated buildings; and dilapidated wharves and piers in navigable waters]

JFC Modifications. *General Right of Out-of-State Licensee to Carry a Concealed Weapon.* Provide that a recognized out-of-state authorization for out-of-state licensees would mean a valid permit document or valid license document issued by another state whose training requirements and criminal background checks are substantially similar to (or are more restrictive than) those under this legislation. Direct DOJ to determine which states meet this requirement, and require DOJ to promulgate by rule a list of those states. Specify that an out-of-state licensee would have to be 21 years of age or older.

New Prohibition to Carry Based on Intoxication by Alcohol, Controlled Substance, or Other Drugs. Provide that a licensee or an out-of-state licensee would no longer be subject to a penalty under s. 941.20(1)(b) for going armed with a firearm while under the influence of an intoxicant. Instead, a licensee or out-of-state licensee would be prohibited from carrying a concealed weapon if any of the following applied: (1) the person's alcohol concentration exceeded 0.08%; or (2) the person was under the influence of an intoxicant to a degree which materially impaired his or her ability to handle the weapon. A person carrying a concealed weapon would be deemed to have given his or her consent for giving or testing breath, blood, or urine tests.

A licensee or out-of-state licensee violating this new provision could be subject to a fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or both. If an individual was charged with violating both (1) and (2) above, the offenses would be joined. A licensee or out-of-state licensee would also be subject to a fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or both, if he or she refused a lawful request to provide one or more samples of his or her breath, blood, or urine or to submit to one or more chemical tests for the purpose of testing intoxication. The test results would be deemed admissible in any civil or criminal action arising out of acts committed by an individual alleged to have been intoxicated by alcohol, controlled substance, or other drugs.

Additional Places Where Licensees Would Be Prohibited from Carrying a Concealed Weapon (with Opt-in Provision). Prohibit a Wisconsin or an out-of-state licensee from knowingly carrying a concealed weapon in a: (1) hospital; (2) building that is used for a domestic victims services program or by a battered women's shelter or other organization that provides a safe haven for victims of domestic violence; (3) building that is used to provide child-care services; or (4) church, synagogue or any other building used for religious worship or another religious purpose. Authorize any organization in any of these classifications to individually elect to authorize Wisconsin or out-of-state licensees to carry concealed weapons on the organization's premises.

Additional Places Where Licensees Would Be Prohibited from Carrying a Concealed Weapon (without an Opt-in Provision). Prohibit a Wisconsin or an out-of-state licensee from knowingly carrying a concealed weapon in a: (1) building located on the campus of a public or private university, college, or technical college; or (2) portion of a building used for instructional purposes by a public or private university, college, or technical college.

Explicit Authority for Health Care Facilities to Prohibit Entry by Licensees Following Certain Noticing Requirements. Expressly identify health care facilities as entities that may prohibit a licensee or out-of-state licensee from entering or remaining in a building used by a health care facility, other than hospitals, if the individual is provided notice which includes: (1) a required posted sign located in a prominent place near the primary entrance precluding carrying concealed; and (2) personal and oral notification to the individual of the restriction.

Public Buildings May Bar Licensees under Certain Circumstances. Provide that a Wisconsin or an out-of-state licensee could be prohibited from carrying a concealed weapon in a building owned or leased by the state or any of its political subdivisions if the building provides: (1) electronic screening for weapons at all public entrances; and (2) locked storage of weapons on the premises while the licensee is in the building. However, authorize the following individuals to carry a concealed weapon in a public building: (1) peace officers or armed forces or military personnel who go armed in the line of duty; (2) persons authorized to carry a weapon in the building by the chief of police of the unit of government in which the building is located; or (3) persons authorized to carry a weapon in the building by the chief of the State Capitol police, if the building is owned or leased by the state.

Licensing and Related Responsibilities of County Sheriffs

SSA 1 Provisions. Upon receiving an application, a sheriff in a participating county would generally be required to submit a request to DOJ to conduct a background check to determine if the applicant would be ineligible for a license. This request would be submitted to DOJ by means of a toll-free telephone number maintained by the agency. The sheriff would be required to provide DOJ with the name, date of birth, gender, and race of the applicant. Upon receipt of this information by telephone for the background check, DOJ would provide the sheriff with a unique confirmation number. Where the applicant was: (1) a law enforcement officer; (2) a correctional officer; (3) a probation, parole, and extended supervision agent; or (4) a person with a current certification from the Law Enforcement Standards Board under s. 165.85(3)(c) [law enforcement, tribal law enforcement, jail or secured detention officers], a sheriff would be required to issue a concealed weapons license without requesting a background check.

Except for the issuance of emergency licenses, a sheriff would be prohibited from issuing a license to any applicant until at least seven days had elapsed from the time that the sheriff received a confirmation number from DOJ regarding its receipt of the background check request. The seven-day time period is intended to provide DOJ with sufficient time to conduct and conclude most background checks. The full seven-day waiting period would not apply if DOJ notified the sheriff during the period that the background check did not indicate that the applicant was disqualified for a license. The seven-day waiting period would still apply to the law enforcement related applicants cited above, even though no background check would be required. No later than 21 days after receiving an application, a sheriff would be required either to issue a concealed

weapons license or to deny the application where the applicant failed to qualify under any of the statutory eligibility criteria.

Except where a sheriff knew that an applicant did not qualify for a license as a result of any of the statutory eligibility criteria (other than for meeting the firearm training or safety requirement), a sheriff would be authorized to immediately issue an emergency license to an individual, provided the sheriff also determined that immediate licensure was warranted to protect the individual from death or great bodily harm. A sheriff issuing an emergency license would also be authorized to waive all county and state fees, if requiring the individual to pay the fee would create a hardship for the applicant. SSA 1 does not establish a definition of what circumstances would create a hardship.

Licenses would be valid for five years from the date of issue and could be renewed by the licensee, upon the submission of a renewal application, the conclusion of a background check and the payment of the required fees. Where an individual's license had been expired for not more than six months, the applicant would also have to submit a \$15 late fee with the renewal application. Licenses not renewed within six months of the expiration date would be deemed permanently expired, and an individual wishing to be relicensed would then have to repeat the application process for an original license. No \$15 late fee would be required for such an application, however. The fees for a renewal application are otherwise identical to the fees for an original license.

JFC Modifications. *Issuance of Licenses to Certain Law Enforcement Applicants.* Provide that issuing sheriffs need not wait seven days before issuing licenses for applicants in the law enforcement related professions cited above, where no background check is required.

Extension of Timeline for Issuance or Denial of License. Specify that sheriffs would have 30 days, rather than 21 days, after receipt of an application to approve or deny it.

Basis for the Determination of Hardship for the Purpose of Waiving Emergency License Issuance Fees. Require DOJ to promulgate rules establishing how county sheriffs are to apply the financial hardship standard for waiving fees for emergency concealed weapons licenses.

Late Fee for Renewal Applications. Eliminate the \$15 late fee.

Notification Responsibilities of Clerks of Court

SSA 1 Provisions. Any clerk of a city, town, village, tribal or circuit court would be required to immediately notify DOJ of the name of any individual to whom any of the following legal or judicial actions occurred. The specific reason for the notification would also have to be provided. In general, these notifications would be of events that would tend to disqualify an individual who might seek licensing to carry a concealed weapon or would require the revocation of an issued license.

The notification requirement would be triggered if an individual was:

- (1) Charged with: (a) a felony or a misdemeanor crime of violence; (b) a violation related to of the Uniform Controlled Substances Act; (c) providing falsely sworn information for the issuance of a regular or emergency concealed weapons license, intentionally failing to provide updated information to an issuing sheriff concerning charges under federal law or the law of another state regarding any crime or any drunk driving offense, or intentionally failing to surrender a concealed weapons license to a sheriff when required under the provisions of SSA 1; (d) any other crime that, upon conviction, would disqualify the individual from having a concealed weapons license; (e) operating or going armed with a firearm while under the influence of an intoxicant; or (f) a drunk driving offense;
- (2) Found by any court to have committed any offense described in (1)(a) through (f) above;
- (3) Party to a deferred prosecution agreement whereby prosecution for a felony or a misdemeanor crime of violence was suspended;
- (4) Subject to any of the following actions related to mental competency or disease: (a) a finding of incompetence in a criminal proceeding under state law; (b) a finding of not guilty of any crime by reason of mental disease or mental defect under state law; (c) involuntarily commitment for treatment under state law; or (d) a finding of incompetence under Chapter 880 (Guardians & Wards);
- (5) Subject to a domestic abuse or child abuse injunction or ordered not to possess a firearm as a part of a harassment injunction; or
- (6) Prohibited from possessing a dangerous weapon by a court as a condition of release on a misdemeanor charge.

For purposes of these notification requirements, a misdemeanor crime of violence would be deemed a: (1) misdemeanor violation of Chapter 940 (crimes against life and bodily security), Chapter 941 (crimes against public health and safety), Chapter 948 (crimes against children), s. 947.013 (harassment) or a violation of s. 947.01 (disorderly conduct); or (2) a crime under federal law or the law of another state that would be comparable to one of these crimes.

Under current law, the files and records of involuntary commitment court proceedings for treatment due to mental illness, developmental disability, or substance abuse are generally closed records as are all court records relating to Chapter 880 (Guardians & Wards) findings of incompetency. SSA 1 would specify that the privileged status of these records and files would not apply with respect to clerks of court providing notification to DOJ to advise an issuing sheriff if a concealed weapons licensee was the subject of such a notice.

Under current law, registers of probate, rather than clerks of court, track data on commitment and competency proceedings. Consequently, the clerks of court would generally not have such information to provide to DOJ.

JFC Modifications. *Notification to DOJ.* Provide that any clerk of a city, town, village, tribal or circuit court promptly, not immediately, notify DOJ of the name of any individual to whom any of the above legal or judicial actions occurred. Further provide that this notification requirement would not only apply to clerks of court, but to registers in probate as well.

Notifications by Means of the Consolidated Court Automation Program (CCAP). Provide that the notifications required to be made by circuit court clerks of court and registers in probate, be made by CCAP instead. CCAP is used by the state circuit court system to track civil and criminal court actions. Specify that CCAP promptly notify DOJ of the name of any individual to whom any of the above legal or judicial actions occurred.

Municipal courts and tribal courts do not participate in CCAP. In addition, Portage County does not fully participate in CCAP. As a result, clerks of court and registers in probate not participating in CCAP would still be required to provide separate notification to DOJ of the occurrence of the above legal or judicial actions.

Responsibilities of the Department of Justice

SSA 1 Provisions. Within five days of issuing a concealed weapons license, a sheriff would be required to notify DOJ of the license issuance and provide the Department with the information required on the license document: (1) the full name, date of birth, and residence address of the licensee; (2) a color photograph of the licensee; (3) a physical description of the licensee, including gender, height, weight, and hair and eye color; (4) the date on which the license was issued; (5) the date on which the license expires; (6) the name of this state; (7) the name of the county that issues the license; and (8) the unique identification number for each licensee.

DOJ would be required to maintain a computerized record listing the names of all individuals issued a concealed weapons license along with the above information. The Department would be prohibited from storing, maintaining, formatting, sorting, or accessing this information in any other way other than by the name of the licensee or the identification number assigned to the licensee. DOJ would be authorized to provide information concerning a specific licensee to a law enforcement agency, but only if the agency was requesting the information for any of the following purposes: (1) to confirm the validity of a license produced by an individual at the request of a law enforcement officer; (2) to confirm that an individual holds a valid concealed weapons license in a situation where the individual was armed with a concealed weapon, was not carrying the required license, but claimed to hold one; or (3) to investigate whether an individual falsely swore in his or her concealed weapons license application, intentionally violated the requirement to provide

updated information to the sheriff issuing the license within 10 days after being charged under federal law or the law of another state with any crime or any drunk driving offense, or intentionally made a false statement to a sheriff in connection with the individual's request for an emergency concealed weapons license.

JFC Modifications. *Availability of Certain Licensee Information to Law Enforcement Agencies.* Provide that if DOJ authorizes law enforcement agencies access to the licensee database through the transaction information for the management of enforcement (TIME) system, that law enforcement may use this database in the context of a vehicle stop only if the stop is governed by current law authority to engage in such action and is for the three specific purposes cited above. [The TIME system gives law enforcement agencies access to information regarding: state and national wanted, missing and unidentified persons; stolen motor vehicles; identifiable stolen property; driver and vehicle registration data; and state and national criminal history record information.]

DOJ Rather Than Sheriffs Required to Make Certain Eligibility Determinations. Certain licensee eligibility determinations primarily related to substance abuse and mental health eligibility requirements would be made the responsibility of DOJ rather than county sheriffs. These changes are described above under "General Licensing Provisions."

New Authority for DOJ to Check for Disqualifying Mental Health Events Relating to Firearms Restriction Record Searches for Handgun Purchasers

SSA 1 Provisions. No provision.

JFC Modifications. Under current law, DOJ conducts a firearms restrictions record search before the completion of handgun sales in the state to determine whether the purchaser may possess a handgun under Wisconsin law.

Under the Joint Finance modifications, DOJ would be required to check for "disqualifying mental health adjudications" as a part of a firearms restrictions record search. A disqualifying mental health adjudication would mean one of the following events, if it occurred in a proceeding that was not commenced by the person who is the subject of the proceeding (that is, it was not a voluntary proceeding) and if it was based on the person having markedly subnormal intelligence or the person's mental illness, incompetency, condition, or disease: (1) an order entered by a Wisconsin court that commits a person for treatment in an inpatient mental health facility; or (2) a determination by a Wisconsin court that a person is a danger to himself or herself or others, or lacks the mental capacity to contract or manage his or her affairs.

Immunity from Liability

SSA 1 Provisions. SSA 1 would establish that DOJ and its employees and participating sheriffs and their employees would be immune from liability arising from any act or omission in the administration of the concealed weapons licensure program, if done in good faith. A person providing firearm safety or training instruction in good faith to a licensee would also be immune from liability arising from any act or omission related to the course or class.

JFC Modifications. Provide CCAP, clerks, counties and their employees with immunity from liability arising from any act or omission under the proposed concealed weapons licensure statute, if done in good faith.

Effective Date

SSA 1 Provisions. The bill would take effect on the day after publication.

JFC Modifications. Provide that the general effective date of the legislation would be the first day of the fifth month beginning after publication, other than for provisions directing DOJ to begin the development of application and renewal forms and granting counties an initial three-month period during which a sheriff could request his or her county board to authorize the sheriff not to issue concealed weapons licenses in the county.

Prepared by: Paul Onsager