



State of Wisconsin
2017 - 2018 LEGISLATURE

LRBa2276/1
CMH:wlj

**ASSEMBLY AMENDMENT 1,
TO ASSEMBLY AMENDMENT 1,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 65**

February 20, 2018 - Offered by Representative SANFELIPPO.

1 At the locations indicated, amend the amendment as follows:

2 **1.** Page 1, line 1: delete the material beginning with that line and ending with
3 page 10, line 17, and substitute:

4 **"SECTION 1.** 48.57 (3p) (g) 2. of the statutes is amended to read:

5 48.57 **(3p)** (g) 2. The person has had imposed on him or her a penalty specified
6 in s. 939.64, 1999 stats., or s. 939.641, 1999 stats., or s. 939.6195, 939.62, 939.621,
7 939.63 or 939.645 or has been convicted of a violation of the law of any other state
8 or federal law under circumstances under which the person would be subject to a
9 penalty specified in any of those sections if convicted in this state.

10 **SECTION 2.** 165.63 (4) (a) of the statutes is amended to read:

11 165.63 **(4)** (a) Enforce or investigate a violation of s. 941.29 or 941.2905.

1 **SECTION 3.** 165.988 of the statutes is created to read:

2 **165.988 Grants for armed school safety officers. (1)** In this section:

3 (a) “Former officer” means a person who was formerly employed as a law
4 enforcement officer to whom s. 941.23 (2) (c) 1. to 7. applies.

5 (b) “Law enforcement officer” means a person who is employed in this state by
6 a public agency as a law enforcement officer and to whom s. 941.23 (1) (g) 2. to 5. and
7 (2) (b) 1. to 3. applies.

8 **(2)** The department of justice may provide grants from the appropriation under
9 s. 20.455 (3) (g) to school districts to employ law enforcement officers or former law
10 enforcement officers as armed school safety officers.

11 **(3)** A school district applying to the department of justice for a grant under sub.
12 (2) shall include a proposed plan of expenditure of the grant moneys. The plan shall
13 also include that any armed school safety officer shall report to the principal of the
14 school at which he or she is assigned.

15 **(4)** A school district that receives grant moneys under sub. (2) may expend the
16 moneys only on costs associated with employing armed school safety officers and only
17 in schools that have students in grades 5 to 12.

18 **(5)** A school district may receive a grant under sub. (2) for 3 consecutive years
19 without submitting a new application each year. In the first year, the grant shall
20 cover 75 percent of the costs associated with employing armed school safety officers;
21 in the 2nd year, the grant shall cover 50 percent of the costs associated with
22 employing armed school safety officers; and in the 3rd year, the grant shall cover 25
23 percent of the costs associated with employing armed school safety officers.

1 **(6)** The department of justice shall indemnify a school district receiving grant
2 moneys and an armed school safety officer employed using the grant moneys for any
3 actions taken in good faith.

4 **SECTION 4.** 175.35 (2g) (b) of the statutes is renumbered 175.35 (2g) (b) 1.

5 **SECTION 5.** 175.35 (2g) (b) 2. of the statutes is created to read:

6 175.35 **(2g)** (b) 2. The department of justice shall ensure that each notification
7 form under subd. 1. requires the transferee to indicate that he or she is not
8 purchasing the firearm with the purpose or intent to transfer the firearm to a person
9 who is prohibited from possessing a firearm under state or federal law and that each
10 notification form informs the transferee that making a false statement with regard
11 to this purpose or intent is a Class H felony.

12 **SECTION 6.** 175.35 (3) of the statutes is renumbered 175.35 (3) (a) and amended
13 to read:

14 175.35 **(3)** (a) Any person who intentionally violates sub. (2), ~~(2e)~~, (2f), or (2j)
15 shall be fined not less than \$500 nor more than \$10,000 and may be imprisoned for
16 not more than 9 months.

17 **SECTION 7.** 175.35 (3) (b) of the statutes is created to read:

18 175.35 **(3)** (b) 1. Except as provided in subd. 2., a person who intentionally
19 violates sub. (2e) shall be fined not less than \$500 nor more than \$10,000 and may
20 be imprisoned for not more than 9 months.

21 2. A person who violates sub. (2e) by intentionally providing false information
22 regarding whether he or she is purchasing the firearm with the purpose or intent to
23 transfer the firearm to another who the person knows or reasonably should know is
24 prohibited from possessing a firearm under state or federal law is guilty of a Class
25 H felony. The penalty shall include a fine that is not less than \$500.

1 **SECTION 8.** 175.35 (4) of the statutes is created to read:

2 175.35 (4) The department of justice or the district attorney may institute,
3 manage, control, and direct, in the proper county, a prosecution for a violation of sub.
4 (2e) that is punishable under sub. (3) (b) 2. When prosecuting such a violation, the
5 department of justice shall have and exercise all powers conferred upon district
6 attorneys.

7 **SECTION 9.** 813.1285 (3) (a) 1. d. of the statutes is amended to read:

8 813.1285 (3) (a) 1. d. The court informs the person to whom the firearm is
9 surrendered of the requirements and penalties under s. ~~941.29 (4)~~ 941.2905.

10 **SECTION 10.** 813.1285 (4) (b) 1. (intro.) of the statutes is amended to read:

11 813.1285 (4) (b) 1. (intro.) If the respondent wants to surrender his or her
12 firearms to a person who is not the sheriff and who appears at the hearing to
13 surrender firearms, and if the court, after considering all relevant factors and input
14 from the petitioner, approves the surrender and informs the person to whom the
15 firearms are surrendered of the requirements and penalties under s. ~~941.29 (4)~~
16 941.2905, order the respondent to surrender his or her firearms in one of the
17 following ways:

18 **SECTION 11.** 813.1285 (7) (b) of the statutes is amended to read:

19 813.1285 (7) (b) If a respondent surrenders a firearm under this section that
20 is owned by a person other than the respondent, the person who owns the firearm
21 may apply for its return to the circuit court for the county in which the person to
22 whom the firearm was surrendered is located. The court shall order such notice as
23 it considers adequate to be given to all persons who have or may have an interest in
24 the firearm and shall hold a hearing to hear all claims to its true ownership. If the
25 right to possession is proved to the court's satisfaction, it shall order the firearm

1 returned. If the court returns a firearm under this paragraph, the court shall inform
2 the person to whom the firearm is returned of the requirements and penalties under
3 s. ~~941.29~~ (4) 941.2905.

4 **SECTION 12.** 939.46 (3) of the statutes is created to read:

5 939.46 (3) A petitioner under s. 813.12 or 813.122, or an individual whose
6 parent, stepparent, or legal guardian filed a petition under s. 813.122 on behalf of the
7 individual as a child victim, as defined in s. 813.122 (1) (c), has an affirmative defense
8 for an offense under s. 175.35 (2e) that is punishable under s. 175.35 (3) (b) 2., or for
9 an offense under s. 941.2905, if the person prohibited from possessing a firearm was
10 the respondent in the action under s. 813.12 or 813.122.

11 **SECTION 13.** 939.6195 of the statutes is created to read:

12 **939.6195 Mandatory minimum sentence for repeat firearm crimes. (1)**

13 In this section:

14 (a) "Firearm violation" means any of the following:

15 1. A violation of s. 941.29 or 941.2905.

16 2. A commission of any crime specified under chs. 939 to 951 and 961 if the
17 person uses a firearm in the commission of the crime.

18 (b) "Repeater" has the meaning given in s. 939.62 (2).

19 (2) If a person who is a repeater is convicted of a firearm violation, the court
20 shall impose a bifurcated sentence under s. 973.01. Notwithstanding s. 973.01 (2)
21 (b), the term of confinement in prison portion of the bifurcated sentence shall be at
22 least 4 years, but otherwise the penalties for the crime apply, subject to any
23 applicable penalty enhancement. The court may not place the person on probation.

24 (3) This section does not apply to sentences imposed after July 1, 2022.

1 (4) The department of justice shall, after consulting with persons the
2 department determines to be appropriate, including the city of Milwaukee and the
3 Milwaukee police department, prepare a report on the efficacy of the mandatory
4 minimum sentence under this section. No later than August 1, 2022, the department
5 of justice shall submit the report to the chief clerk of each house of the legislature,
6 for distribution to the legislature under s. 13.172 (2).

7 **SECTION 14.** 941.29 (1g) (a) of the statutes is amended to read:

8 941.29 (1g) (a) “Violent felony” means any felony under s. 943.23 (1m), 1999
9 stats., or s. 943.23 (1r), 1999 stats., this section, or s. 940.01, 940.02, 940.03, 940.05,
10 940.06, 940.08, 940.09, 940.10, 940.19, 940.195, 940.20, 940.201, 940.203, 940.21,
11 940.225, 940.23, 940.235, 940.285 (2), 940.29, 940.295 (3), 940.30, 940.302, 940.305,
12 940.31, 940.43 (1) to (3), 940.45 (1) to (3), 941.20, 941.26, 941.28, 941.2905, 941.292,
13 941.30, 941.327 (2) (b) 3. or 4., 943.02, 943.04, 943.06, 943.10 (2), 943.23 (1g), 943.32,
14 943.87, 946.43, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.06,
15 948.07, 948.08, 948.085, or 948.30.

16 **SECTION 15.** 941.29 (4) of the statutes is repealed.

17 **SECTION 16.** 941.2905 of the statutes is created to read:

18 **941.2905 Straw purchasing of firearms.** (1) Whoever intentionally
19 furnishes, purchases, or possesses a firearm for a person, knowing that the person
20 is prohibited from possessing a firearm under s. 941.29 (1m), is guilty of a Class G
21 felony.

22 (2) The prohibition in sub. (1) against possessing a firearm for a person who
23 is prohibited from possessing a firearm does not apply to the possession of a firearm
24 by any of the following:

25 (a) A person to whom the firearm is surrendered under s. 813.1285.

1 (b) A person who has been designated under s. 51.20 (13) (cv) 3. to store the
2 firearm during the duration of the order under s. 51.20 (13) (cv) 1. not to possess a
3 firearm.

4 (c) A person who has been designated under s. 51.45 (13) (i) 3. to store the
5 firearm during the duration of the order under s. 51.45 (13) (i) 1. not to possess a
6 firearm.

7 (d) A person who has been designated under s. 54.10 (3) (f) 3. to store the
8 firearm during the duration of the order under s. 54.10 (3) (f) 1.

9 (e) A person who has been designated under s. 55.12 (10) (c) to store the firearm
10 during the duration of the order under s. 55.12 (10) (a).

11 (f) A person not covered under pars. (a) to (e) who has been designated to store
12 the firearm during the duration of any temporary prohibition on the possession of a
13 firearm.

14 **SECTION 17.** 973.12 of the statutes is amended to read:

15 **973.12 Sentence of a repeater or persistent repeater.** (1) Whenever a
16 person charged with a crime will be a repeater or a persistent repeater under s.
17 939.62 or subject to a penalty under s. 939.6195 if convicted, any applicable prior
18 convictions may be alleged in the complaint, indictment or information or
19 amendments so alleging at any time before or at arraignment, and before acceptance
20 of any plea. The court may, upon motion of the district attorney, grant a reasonable
21 time to investigate possible prior convictions before accepting a plea. If the prior
22 convictions are admitted by the defendant or proved by the state, he or she shall be
23 subject to sentence under s. 939.6195 or 939.62 unless he or she establishes that he
24 or she was pardoned on grounds of innocence for any crime necessary to constitute
25 him or her a repeater or a persistent repeater. An official report of the F.B.I. or any

1 other governmental agency of the United States or of this or any other state shall be
2 prima facie evidence of any conviction or sentence therein reported. Any sentence
3 so reported shall be deemed prima facie to have been fully served in actual
4 confinement or to have been served for such period of time as is shown or is consistent
5 with the report. The court shall take judicial notice of the statutes of the United
6 States and foreign states in determining whether the prior conviction was for a felony
7 or a misdemeanor.

8 (2) In every case of sentence under s. 939.6195 or 939.62, the sentence shall be
9 imposed for the present conviction, but if the court indicates in passing sentence how
10 much thereof is imposed because the defendant is a repeater, it shall not constitute
11 reversible error, but the combined terms shall be construed as a single sentence for
12 the present conviction.

13 **SECTION 18.** 976.05 (12) of the statutes is amended to read:

14 976.05 (12) Nothing in this section or in the agreement on detainers shall be
15 construed to require the application of s. 939.6195 or 939.62 to any person on account
16 of any conviction had in a proceeding brought to final disposition by reason of the use
17 of said agreement.

18 **SECTION 19. Initial applicability.**

19 (1) FALSE INFORMATION ON NOTIFICATION FORMS. The treatment of section 175.35
20 (4) of the statutes, the renumbering of section 175.35 (2g) (b) of the statutes, the
21 renumbering and amendment of section 175.35 (3) of the statutes, and the creation
22 of section 175.35 (2g) (b) 2. and (3) (b) of the statutes first apply to offenses committed
23 on the effective date of this subsection.

