



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-0751/1
CMH:cjs:cs

2015 ASSEMBLY BILL 13

January 27, 2015 - Introduced by Representatives KNODL, ALLEN, AUGUST, BRANDTJEN, CRAIG, CZAJA, GANNON, JARCHOW, KAPENGA, KLEEFISCH, KNUDSON, MURSAU, NEYLON, PETERSEN, QUINN, RIPP, SANFELIPPO, SKOWRONSKI, STEFFEN, THIESFELDT, TITTL, WEATHERSTON and MURTHA, cosponsored by Senators NASS, GUDEX, LASEE, WANGGAARD and TIFFANY. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT** *to amend* 968.20 (1m) (b) and 968.20 (2); and *to create* 968.20 (1m) (d)
2 of the statutes; **relating to:** the return of a seized firearm to the person who
3 owns the firearm.

Analysis by the Legislative Reference Bureau

Current law specifies a process and criteria for courts and police officers to use to determine ownership of property that has been seized by a police officer and to decide if, how, and when to return the seized property. Under this bill, if a person claims the right to possess a firearm that has been seized, he or she may apply to the court for its return. If a person makes such a claim, the court must order the firearm returned if one of the following occurs: all charges connected with the seizure are dismissed; six months have elapsed since the seizure and no charges in connection with it have been filed against the person; the final disposition for all charges is reached and the person is not adjudged guilty of a crime in connection with the seizure; the person establishes that he or she had no prior knowledge of and gave no consent to the commission of the activity that led to the seizure; or the district attorney affirmatively declines to file charges connected with the seizure against the person. If the person applies to the court within eight business days after the applicable event occurs, the court must order that the firearm be returned within ten business days of the event. If the person applies to the court later than eight business days after the applicable event occurs, the court must order that the firearm be returned as soon as practically possible but no later than five business days after the order.

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For further information see the *state and local* 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:

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

2 968.20 **(1m)** (b) If the seized property is a dangerous weapon or ammunition,
3 the property shall not be returned to any person who committed a crime involving
4 the use of the dangerous weapon or the ammunition. ~~The~~

5 (c) Except as provided in par. (d), seized property that is a dangerous weapon
6 or ammunition may be returned to the rightful owner under this section if the owner
7 had no prior knowledge of and gave no consent to the commission of the crime.

8 (e) Property which may not be returned to an owner under this subsection shall
9 be disposed of under subs. (3) and (4).

10 **SECTION 2.** 968.20 (1m) (d) of the statutes is created to read:

11 968.20 **(1m)** (d) 1. If the seized property is a firearm and the property has not
12 been returned under this section, any person claiming the right to possession of the
13 firearm may apply for its return to the circuit court for the county in which the
14 property was seized or where the search warrant was returned. The court shall order
15 the property returned to the person who displays evidence of ownership of the
16 firearm if one of the following occurs:

17 a. The district attorney affirmatively declines to file charges in connection with
18 the seizure against the person.

19 b. All charges filed in connection with the seizure against the person are
20 dismissed.

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1 c. Six months have passed since the seizure and no charges in connection with
2 the seizure are filed against the person.

3 d. The trial court reaches final disposition for all charges in connection with the
4 seizure and the person is not adjudged guilty of a crime in connection with the
5 seizure.

6 e. The person establishes that he had no prior knowledge of and gave no consent
7 to the commission of the activity that led to the seizure.

8 2. If the person claims the right of possession within 8 business days after the
9 applicable event under subd. 1. a., b., c., d., or e., the court shall order the property
10 to be returned to the person within 10 business days after the event. If the person
11 claims the right of possession later than 8 business days after the applicable event
12 under subd. 1. a., b., c., d., or e., the court shall order the property to be returned to
13 the person as soon as practically possible but no later than 5 business days after the
14 order.

15 **SECTION 3.** 968.20 (2) of the statutes is amended to read:

16 968.20 (2) Property not required for evidence or use in further investigation,
17 unless contraband or property covered under sub. (1m) (c) or (1r) or s. 173.12 or
18 968.205, may be returned by the officer to the person from whom it was seized
19 without the requirement of a hearing.

20 **SECTION 4. Initial applicability.**

21 (1) This act first applies to firearms seized on the effective date of this
22 subsection.

23

(END)