



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-4766/1  
CMH:amn

## 2015 SENATE BILL 758

February 17, 2016 - Introduced by Senators HARRIS DODD, C. LARSON and CARPENTER, cosponsored by Representatives BARNES, KREMER, BOWEN, SARGENT, JOHNSON, OHNSTAD, BROSTOFF, CONSIDINE, KESSLER, SINICKI, ZEPNICK, SPREITZER and SUBECK. Referred to Committee on Judiciary and Public Safety.

1     **AN ACT to renumber and amend** 175.35 (2k) (g) and 175.35 (2k) (h); **to amend**  
2             175.35 (1) (at), 175.35 (2e), 175.35 (2g) (c) 4. a. and b. and 175.35 (2k) (ar) 2.; and  
3             **to create** 175.35 (2m) (a), (b) 1. and 2., (c), (d) and (e) of the statutes; **relating**  
4             **to:** disclosure to law enforcement of attempted purchases of handguns by  
5             persons prohibited from possessing a firearm.

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### *Analysis by the Legislative Reference Bureau*

This bill requires the attorney general to notify law enforcement if, during a background check that the Department of Justice must conduct on persons purchasing a handgun from a licensed firearms dealer, DOJ determines that the person who is attempting to purchase a handgun is prohibited from possessing a firearm. Current law allows, but does not require, the attorney general to so notify law enforcement. This bill specifies that the required notice must go to Wisconsin law enforcement agencies, district attorneys, and federal attorneys and must identify the prospective purchaser, the dealer, and the reason the prospective purchaser is prohibited from possessing a firearm. Finally, this bill creates a requirement that each Wisconsin law enforcement agency and district attorney that receives such a notice must submit an annual report to DOJ detailing actions taken or not taken and other pertinent information and that DOJ must compile into an annual report the information DOJ receives from the agencies and district attorneys.

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

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

1           **SECTION 1.** 175.35 (1) (at) of the statutes is amended to read:

2           175.35 (1) (at) “Firearms restrictions record search” means a search of  
3 department of justice records to determine whether a person seeking to purchase a  
4 handgun is prohibited from possessing a firearm under s. 941.29 or under federal  
5 law. “Firearms restrictions record search” includes a criminal history record search,  
6 a search to determine whether a person is prohibited from possessing a firearm  
7 under s. 51.20 (13) (cv) 1., 2007 stats., a search in the national instant criminal  
8 background check system to determine whether a person has been ordered not to  
9 possess a firearm under s. 51.20 (13) (cv) 1., 51.45 (13) (i) 1., 54.10 (3) (f) 1., or 55.12  
10 (10) (a), a search to determine whether the person is subject to an injunction under  
11 s. 813.12 or 813.122, or a tribal injunction, as defined in s. 813.12 (1) (e), issued by  
12 a court established by any federally recognized Wisconsin Indian tribe or band,  
13 except the Menominee Indian tribe of Wisconsin, that includes notice to the  
14 respondent that he or she is subject to the requirements and penalties under s.  
15 941.29 and that has been filed with the circuit court under s. 806.247 (3), and a search  
16 to determine whether the person is prohibited from possessing a firearm under s.  
17 813.123 (5m) or 813.125 (4m).

18           **SECTION 2.** 175.35 (2e) of the statutes is amended to read:

19           175.35 (2e) When a transferee completes the notification form described in sub.  
20 (2g) (b) or any other form required under federal law, the transferee shall provide  
21 truthful information.

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1           **SECTION 3.** 175.35 (2g) (c) 4. a. and b. of the statutes are amended to read:

2           175.35 **(2g)** (c) 4. a. If the search indicates that the transferee is prohibited from  
3 possessing a firearm ~~under s. 941.29~~, the department shall provide the firearms  
4 dealer with a unique nonapproval number. The department may not disclose to the  
5 firearms dealer the reason the transferee is prohibited from possessing a firearm  
6 ~~under s. 941.29~~.

7           b. If the search indicates that the transferee is not prohibited from possessing  
8 a firearm ~~under s. 941.29~~, the department shall provide the firearms dealer with a  
9 unique approval number.

10           **SECTION 4.** 175.35 (2k) (ar) 2. of the statutes is amended to read:

11           175.35 **(2k)** (ar) 2. Check each notification form received under sub. (2j) against  
12 the information recorded by the department regarding the corresponding request for  
13 a firearms restrictions record search under sub. (2g). If the department previously  
14 provided a unique approval number regarding the request and nothing in the  
15 completed notification form indicates that the transferee is prohibited from  
16 possessing a firearm ~~under s. 941.29~~, the department shall destroy all records  
17 regarding that firearms restrictions record search within 30 days after receiving the  
18 notification form.

19           **SECTION 5.** 175.35 (2k) (g) of the statutes is renumbered 175.35 (2m) (b) (intro.)  
20 and amended to read:

21           175.35 **(2m)** (b) (intro.) If a search conducted under sub. (2g) indicates that the  
22 transferee is prohibited from possessing a firearm ~~under s. 941.29~~, the attorney  
23 general or his or her designee ~~may disclose to a law enforcement agency~~ shall notify  
24 all of the following that the transferee has attempted to obtain a handgun-:

**SENATE BILL 758****SECTION 6**

1           **SECTION 6.** 175.35 (2k) (h) of the statutes is renumbered 175.35 (2m) (f) and  
2 amended to read:

3           175.35 **(2m)** (f) If a search conducted under sub. (2g) indicates a felony charge  
4 without a recorded disposition and the attorney general or his or her designee has  
5 reasonable grounds to believe the transferee may pose a danger to himself, herself  
6 or another, the attorney general or his or her designee may disclose to a Wisconsin  
7 law enforcement agency that the transferee has obtained or has attempted to obtain  
8 a handgun.

9           **SECTION 7.** 175.35 (2m) (a), (b) 1. and 2., (c), (d) and (e) of the statutes are  
10 created to read:

11           175.35 **(2m)** (a) In this subsection, “Wisconsin law enforcement agency” has the  
12 meaning given in sub. (2k) (ag) 2.

13           (b) 1. All Wisconsin law enforcement agencies, district attorneys, and federal  
14 attorneys with jurisdiction over the area where the attempted transfer occurred.

15           2. All Wisconsin law enforcement agencies, district attorneys, and federal  
16 attorneys with jurisdiction over the area where the transferee resides.

17           (c) The notice under par. (b) shall be within 24 hours after the department has  
18 provided the firearms dealer with the nonapproval number except that, if the  
19 attorney general determines that the notice would compromise an ongoing  
20 investigation, the notice may be delayed until it would no longer compromise the  
21 investigation. The notice shall include all of the following:

22           1. The identity of the transferee.

23           2. The identity of the firearms dealer who requested the firearms restrictions  
24 record search and the location at which the attempt to obtain a handgun was made.

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1           3. The date and time that the department provided the firearms dealer with  
2 the nonapproval number.

3           4. The reason the transferee is prohibited from possessing a firearm.

4           (d) 1. A Wisconsin law enforcement agency that receives a notice under par. (b)  
5 shall annually provide a written report to the department of justice that includes the  
6 following information regarding each notice of a nonapproved attempt to obtain a  
7 handgun received in that year:

8           a. Whether the attempt is the subject of an open or completed investigation.

9           b. The status of any open investigation and the disposition of any completed  
10 investigation arising from the attempt, including whether the transferee was  
11 arrested, referred for prosecution, or convicted of a crime in connection with the  
12 attempt.

13           c. If the attempt did not result in an investigation, an explanation for the lack  
14 of an investigation.

15           d. Any other information that the Wisconsin law enforcement agency  
16 determines is relevant to the attempt.

17           2. A district attorney that receives a notice under par. (b) shall annually provide  
18 a written report to the department of justice that includes the following information  
19 regarding each notice of a nonapproved attempt to obtain a handgun received in that  
20 year:

21           a. Whether the attempt is the subject of an open or completed investigation.

22           b. Whether the transferee has been arrested or charged following the attempt  
23 and the nature of the charge.

24           c. If the transferee was charged, the disposition of each charge filed against the  
25 transferee in connection with the attempt.

**SENATE BILL 758****SECTION 7**

1           d. If the transferee was not charged, an explanation for why a charge was not  
2 filed.

3           e. Any other information that the district attorney determines is relevant to the  
4 attempt.

5           (e) The department of justice shall annually publish a written report that  
6 includes all of the following:

7           1. The number of nonapproval numbers issued that year.

8           2. The number of notifications made under par. (b), including a breakdown as  
9 to which entity under par. (b) received each notice.

10          3. If the department did not issue a notice following the provision of a  
11 nonapproval number under sub. (2g) (c) 4. a., an explanation for the lack of notice.

12          4. The number of investigations opened, the number of investigations  
13 concluded, and the number of referrals for prosecution, including a breakdown for  
14 each investigation and referral as to why the nonapproval number was issued.

15          5. The number of charges issued and their disposition, including a breakdown  
16 for each charge as to why the nonapproval number was issued and the crime charged.

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**(END)**