



Legislative Fiscal Bureau

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November 18, 2005

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Substitute Amendment 1 to Assembly Bill 763 and Senate Substitute Amendment 1 to Senate Bill 403: Authorizing Individuals to Carry Certain Concealed Weapons

Assembly Bill 763 (AB 763) and Senate Bill 403 (SB 403) are companion bills and would modify current law prohibitions on carrying a concealed weapon by authorizing certain individuals to carry specified types of concealed weapons. AB 763 was introduced on October 17, 2005, and was referred to the Assembly Committee on Criminal Justice and Homeland Security. On November 8, 2005, the Assembly Committee on Criminal Justice and Homeland Security recommended adoption of Assembly Substitute Amendment 1 (ASA 1) to AB 763 and passage of the bill, as amended, on separate votes of 7-5. On November 14, 2005, ASA 1 to AB 763 was referred to the Joint Committee on Finance.

Senate Bill 403 was introduced on October 24, 2005, and was referred to the Senate Committee on Judiciary, Corrections and Privacy. On November 10, 2005, the Senate Committee on Judiciary, Corrections and Privacy recommended adoption of Senate Substitute Amendment 1 (SSA 1) to SB 403 and passage of the bill, as amended, on separate votes of 3-2. On November 16, 2005, SSA 1 to SB 403 was referred to the Joint Committee on Finance.

The provisions of both substitute amendments are identical.

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INTRODUCTION

Wisconsin law generally provides that any person, other than a peace officer, who goes armed with a concealed and dangerous weapon is guilty of a Class A misdemeanor. Conviction of a Class A misdemeanor may result in a fine of not more than \$10,000 or imprisonment for not more than nine months, or both. A peace officer is defined as any person vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes.

Article I, Section 25 of the Wisconsin Constitution provides that “the people have the right to keep and bear arms for security, defense, hunting, recreation or any other lawful purpose.” In July, 2003, the Wisconsin Supreme Court ruled in *State v. Hamdan* that the general prohibition on carrying concealed weapons in Wisconsin was unconstitutional when applied to a grocery and liquor store owner who had carried a concealed weapon at the store that had been the target of four armed robberies and the site of two fatal shootings. The Court's ruling invited the Legislature “to consider the possibility of a licensing or permit system for persons who have a good reason to carry a concealed weapon.” However, the Court also concluded that “Article I, Section 25 does not establish an unfettered right to bear arms. Clearly, the State retains the power to impose reasonable regulations on weapons, including a general prohibition on the carrying of concealed weapons.”

On November 12, 2003, 2003 Enrolled Senate Bill 214 was presented to the Governor. That legislation would have licensed individuals to carry concealed weapons under certain circumstances. The Governor vetoed Enrolled Senate Bill 214. While the Senate subsequently voted to override the Governor's action, the Governor's veto was sustained by the Assembly.

While Wisconsin law does not generally permit individuals to carry concealed and dangerous weapons, individuals may carry dangerous weapons under certain circumstances in plain view. This right is subject to certain limitations on carrying weapons in bars, on school premises and school zones, in public buildings, in state parks, and in wildlife refuges. Further, no individual may generally place, possess, or transport a firearm, bow or crossbow in or on a vehicle or an aircraft, or in or on a motorboat with the motor running, unless the firearm is unloaded and generally encased or unless the bow or crossbow is unstrung or is enclosed in a carrying case. Current law also prohibits operating an all-terrain vehicle with any firearm in an individual's possession unless it is unloaded and enclosed in a carrying case, or any bow unless it is unstrung or enclosed in a carrying case.

Wisconsin law further prohibits the following individuals from possessing firearms: (1) individuals convicted of a felony in Wisconsin; (2) those individuals convicted of a crime elsewhere that would be a felony, if committed in Wisconsin; (3) those individuals adjudicated delinquent for an act committed on or after April 21, 1994, that if committed by an adult would be a felony; (4) individuals found not guilty of a felony in Wisconsin by reason of mental disease or

defect; (5) those individuals found not guilty of or not responsible for a crime elsewhere that would be a felony in Wisconsin by reason of insanity or mental disease, defect or illness; (6) generally those individuals subject to domestic abuse, child abuse, and harassment injunctions; and (7) those individuals ordered not to possess a firearm as a part of a civil commitment for being drug dependent.

Wisconsin law provides that it is a crime punishable as a Class A misdemeanor to: (1) endanger another's safety by the negligent operation or handling of a dangerous weapon; (2) operate or go armed with a firearm while under the influence of an intoxicant; (3) operate or go armed with a firearm while one has a detectable amount of a restricted controlled substance in the blood; (4) intentionally point a firearm at or toward another person; or (5) while on the property of another person, discharge a firearm within 100 yards of any building devoted to human occupancy.

Under Wisconsin law, an individual is privileged to threaten or intentionally use force (including the use of a dangerous weapon) against another person for the purpose of preventing or terminating what the individual believes to be an unlawful attack. The individual exercising the privilege may intentionally use only such force (or the threat of the use of such force) as the person reasonably believes is necessary to prevent or terminate the attack. The individual may not intentionally use force that is intended or is likely to cause death or great bodily harm unless the person reasonably believes that such force is necessary to prevent his or her imminent death or great bodily harm. The privilege of self-defense extends not only to the intentional infliction of harm upon a real or apparent wrongdoer but also to the unintended infliction of lesser harm upon a third person.

Federal law prohibits the carrying of a concealed weapon: (1) within a federal facility; (2) within or entering the sterile area of an airline terminal or while attempting to board or on board an aircraft; (3) within certain national park areas; and (4) generally within a school zone. Under federal law, there is also 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. Federal law also prohibits felons from possessing firearms.

On July 22, 2004, the federal Law Enforcement Officers Safety Act of 2004 became effective. This legislation prohibits state and local governments from barring "qualified law enforcement officers" and "qualified retired law enforcement officers" from carrying concealed firearms under certain circumstances.

According to the National Conference of State Legislatures (NCSL), Vermont is the only state that allows an individual to carry a concealed weapon without a permit. NCSL indicates that Wisconsin is currently one of four states (Illinois, Kansas, Nebraska, and Wisconsin) that prohibits individuals under most circumstances from carrying concealed weapons. NCSL further indicates that an additional ten states (California, Connecticut, Delaware, Hawaii, Iowa, Maryland, Massachusetts, New Jersey, New York, and Rhode Island) and the District of Columbia permit the carrying of concealed weapons under restricted circumstances. In these jurisdictions either: (1) the applicant must demonstrate a need for a concealed carry permit (for example, a documented

personal threat); or (2) the law authorizes the licensing entity to exercise discretion in the issuance of licenses. Finally, NCSL indicates that in the remaining 35 states the concealed carry permit system is “non-restrictive” or “non-discretionary,” meaning that in these states either the applicant is not required to demonstrate a need for licensure or the law does not grant the licensing agency discretion over who receives a permit, or both. While the laws of Alabama and Indiana appear restrictive, NCSL indicates that the permit process in these states is considered “non-restrictive” in actual practice.

Finally, the states have taken varying approaches to recognizing the concealed carry permit procedures of other states.

SUMMARY OF THE SUBSTITUTE AMENDMENTS

Department of Justice to Issue Licenses

Required License Issuance by the Department of Justice. The Wisconsin Department of Justice (DOJ) would be required to issue licenses to carry a concealed weapon to those individuals who complete the application process and meet all of the eligibility requirements specified in the substitute amendments. Under this type of issuance procedure, Wisconsin would become a "shall issue" state, meaning that if the applicant satisfies all of the qualification requirements established by the legislation, the state must issue the individual a concealed weapons license.

Eligibility of Private Citizens to Carry Concealed

Qualifying Through Wisconsin Licensure. In order to qualify for a concealed weapons license, the applicant would have to be a Wisconsin resident at least 21 years of age, who had completed a firearm training or safety course or class or its substantial equivalent. In addition, the applicant could not be subject to any of the statutory disqualifying factors contained in the legislation. While it would generally be the responsibility of DOJ to determine if applicants satisfied the eligibility requirements to obtain a concealed weapons license, it would fall to certified firearms instructors to initially determine if an individual had a severe physical disability sufficient to disqualify that person from licensure. While the Department would be authorized to overrule a disability finding made by a certified instructor, the Department would not be authorized to overrule an instructor's finding that an individual was not severely physically disabled.

A firearm training or firearm safety course or class would be required to include all of the following topics: (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 would be specifically prohibited from specifying the number of hours of instruction, either in the aggregate or with respect to any of the individual topics that a course or class must provide.

The substitute amendments provide that such training would have to be conducted by an instructor certified by the state in which the course or class was conducted or by a national or state organization that certifies firearms instructors. DOJ would be required to certify instructors who are qualified to teach such a course or class and maintain a list of the instructors that it certifies. Instructors certified by the Department would be required to meet the following criteria: (1) be qualified under state law to carry a concealed weapon; and (2) be able to demonstrate the ability and knowledge required for instructing students on the seven required topics of instruction identified above. Instructors would be required to complete training certificates indicating whether or not class participants satisfied the physical disability and training eligibility requirements for licensure.

Table 1 summarizes the eligibility factors for licensure established under the substitute amendments, other than for the uniform age, state residency and firearms safety training. These eligibility determinations would be made by DOJ. [See Attachment 1 for a detailed summary of the concealed weapons licensure eligibility requirements under the substitute amendments.]

TABLE 1
Eligibility Requirements for a Concealed Weapons 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. [s. 175.50(3)(c)&(d)] 	
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. [s. 175.50(3)(f)] 	The conviction was more than three years ago.
The individual was not convicted of a misdemeanor crime of violence and was not serving a sentence, on probation, or subject to a dispositional order under Wisconsin's Juvenile Justice Code for such a crime. [s. 175.50(3)(m)] 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); (e) s. 947.01 (disorderly conduct); (f) refusing to submit to alcohol concentration testing; or (g) carrying a concealed weapon with an alcohol concentration in excess of 0.08. A misdemeanor crime of violence would also include comparable crimes under federal law or the law of another state. [s. 175.50(1)(e)]	The conviction was more than three years ago, or the individual completed serving the sentence, completed probation or has not been subject to the delinquency dispositional order for more than three years.

<u>Eligibility Factor</u>	<u>Conditions Under Which Factor Would Not Apply</u>
<ul style="list-style-type: none"> The individual was not convicted, serving a sentence, on probation, or subject to a delinquency dispositional order for: (a) submitting an intentionally false notarized statement as a part of a regular or renewal concealed weapons license application; (b) intentionally making false statements in connection with the issuance of an emergency concealed weapons license; (c) intentionally failing to report to DOJ a charge within 10 days of being charged under federal law or the law of another state with any crime or drunk driving offense; or (d) intentionally failing to surrender a concealed weapons license to DOJ when directed as a result of the revocation or suspension of the license. [s. 175.50(3)(r)] 	<p>The sentence was more than three years ago, or the individual completed serving the sentence, completed probation or has not been subject to the delinquency dispositional order for more than three years.</p>
<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. [s. 175.50(3)(n)] 	<p>The date of the agreement was more than three years ago.</p>
Applicant Not Disqualified Due to Substance Abuse	
<ul style="list-style-type: none"> The individual has not been civilly committed under state law for being drug dependent. [s. 175.50(3)(e)] 	<p>The commitment was more than three years ago.</p>
<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) the individual has been committed for involuntary treatment of alcoholism under state law; (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. [s. 175.50(3)(g)] 	<p>The commitment or occurrence was more than three years ago.</p>
Applicant Not Subject to Mental Health Disqualifier	
<ul style="list-style-type: none"> The individual has not been involuntarily committed for treatment under state law due to mental illness or a developmental disability. [s. 175.50(3)(j)] 	<p>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.</p>
<ul style="list-style-type: none"> The individual has not been found incompetent under Chapter 880 of the statutes (Guardians & Wards). [s. 175.50(3)(i)] 	<p>Individual subsequently found to be competent and at least five years have elapsed since that finding.</p>
<ul style="list-style-type: none"> The individual was not the subject of a protective placement under state law as a minor for a developmental disability. [s. 175.50(3)(im)] 	<p>Five years have elapsed from the date on which the protective placement ended.</p>

<u>Eligibility Factor</u>	<u>Conditions Under Which Factor Would Not Apply</u>
<ul style="list-style-type: none"> The individual has not been found incompetent to stand trial under state law. [s. 175.50(3)(k)] 	<p>One of the following applies: (a) individual subsequently found to be competent and 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.</p>
<ul style="list-style-type: none"> The individual has not been found not guilty by reason of mental disease or defect under state law. [s. 175.50(3)(L)] 	<p>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.</p>
Additional Eligibility Requirements	
<ul style="list-style-type: none"> The individual does not have a severe physical disability that prevents him or her from safely handling a weapon and that, if the individual were handling a weapon, would cause the individual to pose a significant public safety risk. DOJ could determine that an individual is ineligible for licensure due to severe physical disability only if the firearm training instructor completed a training certificate indicating that the person was ineligible on this basis. While the Department would be authorized to overrule a disability finding made by a certified instructor, the Department would not be authorized to overrule an instructor's finding that an individual was not severely physically disabled. A firearm training instructor previously certified by DOJ could not be found ineligible for licensure due to severe physical disability. [s. 175.50(3)(b)] 	
<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. [s. 175.50(3)(o)] 	
<ul style="list-style-type: none"> The individual has not previously submitted an application for a concealed weapons license and had the application denied, unless each reason for the denial is no longer applicable because of changed circumstances. [s. 175.50(3)(p)] 	<p>If the denial was based on a restriction that applies for a specified period of time, the time period has run its course.</p>
<ul style="list-style-type: none"> The individual has not had a concealed weapons license revoked, unless each reason for the revocation is no longer applicable because of changed circumstances. [s. 175.50(3)(q)] 	<p>If the revocation was based on a restriction that applies for a specified period of time, the time period has run its course.</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. However, 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. Federal law further prohibits felons from possessing firearms.

DOJ staff has indicated that the agency would be unable to issue a concealed weapons license to an individual who is prohibited from possessing firearms under federal law, despite the rehabilitation provisions contained in the substitute amendments. The agency's action denying licensure would be based on the following provisions of the substitute amendments: (1) the Department is prohibited from issuing a license to any individual precluded from possessing a firearm under federal law; and (2) an individual who is prohibited from possessing firearms under federal law would be unable to complete the requisite firearms training that is a precondition to licensure.

General Application Procedure for Wisconsin Licensure. An individual would be authorized to apply for a concealed weapons license from the Department of Justice. An applicant would generally be required to submit all of the following to DOJ: (1) the required application form; (2) a notarized statement indicating that the information provided in the application and any supporting documents is true and complete to the best of the applicant's knowledge; (3) a training certificate completed by a firearms training instructor indicating that the individual is eligible for licensure under both the physical disability and the firearms training criteria requirements; and (4) the required fees. [The substitute amendments would prohibit a firearm training instructor previously certified by DOJ from being subsequently determined by the Department to be ineligible for licensure due to severe physical disability. As a result, a DOJ-certified instructor would not be required to submit a training certificate as a part of his or her application.]

Payment of the following fees would be required: (1) a license fee of \$52; (2) an \$8 background check fee; and (3) a \$15 shooting range improvement fee. The \$15 shooting range improvement fee would have to be written as a separate check, payable to the applicant's county of residence. The Department would be required to forward the shooting range improvement fee checks to each county on at least a quarterly basis.

The applicant would be required to submit a notarized statement reporting that the information provided in the application and the related documents submitted with the application was true and complete to the best of the individual's knowledge. An intentional violation of this provision would subject the applicant to a fine of not less than \$500 nor more than \$10,000, and imprisonment for not more than nine months.

Prior to notarizing the statement, the notary would be required to verify the person's identity (using either a Department of Transportation (DOT) issued driver's license or identification card) and verify that the name and state identification card number listed on the appropriate DOT document were the same as the name and state identification card number listed on the application.

Duration of License. Barring suspension or revocation, a concealed weapons license would generally be valid for a period of five years from the date of issue. However, the license of a member of the U.S. armed forces, a reserve unit of the armed forces, or the National Guard who is deployed overseas while on active duty could not expire until at least 90 days after the end of the licensee's overseas deployment, unless the license was otherwise suspended or revoked under the provisions of the substitute amendments. At least 90 days before the license expiration date, DOJ would be required to mail an expiration notice to the licensee along with a renewal form. The Department would be required to renew the license, following a background check, if the licensee submitted all of the following before the expiration date: (1) a renewal application on the form provided by the Department; (2) a notarized statement that the renewal information was true and complete to the best of the applicant's knowledge and that all the eligibility requirements for licensure continued to apply; (3) a renewal fee of \$27; (4) a background check fee of \$8; and (5) a shooting range improvement fee of \$15 to be paid to the applicant's county of residence. The same penalties that apply for providing false information on an original license application would also apply to false information provided for a renewal license application.

If an individual failed to submit a renewal application within six months of the license expiration date, the license would be considered to have permanently expired. Such an individual, however, would not be precluded from applying for a new concealed carry license, but if the individual did so, he or she would be subject to the initial issuance fee rather than the renewal issuance fee.

Eligibility Based on Out-of-State Licensure. In order to be eligible to carry a concealed weapon in Wisconsin based on out-of-state licensure, an individual ("out-of-state licensee") would have to be: (1) a non-resident; (2) 21 years of age or over; (3) eligible to possess a firearm under Wisconsin and federal law; and (4) issued an "out-of-state authorization" requiring a criminal background check. An out-of-state authorization would be defined as a valid permit document or valid license document issued by another state that is also listed in a rule promulgated by DOJ identifying the states that issue such permits or licenses to persons who pass criminal background checks in those states.

Eligibility of Law Enforcement Officers to Carry Concealed Weapons

Federal Law. Under the federal Law Enforcement Officers Safety Act of 2004 (P. L. 108-277), a qualified law enforcement officer carrying the required identification is now generally permitted to carry a concealed firearm. This provision applies notwithstanding any state or local law to the contrary. The concealed firearm may not include any machine gun, any firearm silencer, or any destructive device, as defined under federal law. A "qualified law enforcement officer" is an employee of a governmental agency who: (1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest; (2) is authorized by the government agency to carry a firearm; (3) is not the subject of any disciplinary action by the agency; (4) meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a

firearm; (5) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and (6) is not prohibited by federal law from receiving a firearm.

This federal law further provides that notwithstanding state or local law to the contrary, a qualified retired law enforcement officer carrying the required identification must also generally be permitted to carry a concealed firearm. A “qualified retired law enforcement officer” is an individual who: (1) retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability; (2) before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest; (3) before such retirement, was either regularly employed as a law enforcement officer for an aggregate of 15 years or more, or retired from service with the agency (following the completion of any applicable probationary period) because of a service-connected disability, as determined by the agency; (4) has pension rights that are not subject to forfeiture under the agency's pension plan; (5) during the most recent 12-month period has met (at his or her own expense) the state’s standards for training and qualification for active law enforcement officers to carry firearms; (6) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and (7) is not prohibited by federal law from receiving a firearm.

The substitute amendments contain the following provisions designed to recognize the application of the Law Enforcement Officers Safety Act of 2004 to certain Wisconsin law enforcement officers, out-of-state law enforcement officers, and retired law enforcement officers who wish to carry a concealed weapon in the state.

Peace Officers. The substitute amendments recodify but do not change the substance of current Wisconsin law which authorizes a peace officer to go armed with a concealed and dangerous weapon. A peace officer is any person vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes.

Law Enforcement Officer Defined. For purposes of granting a right to qualified out-of-state law enforcement officers and to retired law enforcement officers to carry a concealed firearm, the substitute amendments would define a law enforcement officer as a person employed by a public agency in the United States for the purpose of engaging in, or supervising others engaging in, the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law and who has statutory powers of arrest.

Wisconsin Law Enforcement Officers. The substitute amendments would explicitly extend the provisions of the federal Law Enforcement Officers Safety Act of 2004 to individuals employed in Wisconsin by public agencies as law enforcement officers. A Wisconsin law enforcement officer would be eligible to carry a concealed and dangerous weapon provided: (1) the agency had authorized the officer to carry a firearm; (2) the officer was not the subject of any disciplinary action by the agency; (3) the officer met all standards established by the agency to qualify the person on a regular basis to use a firearm; (4) the officer was not prohibited under federal law from

possessing a firearm; (5) the weapon was a firearm but not a machine gun or a destructive device; (6) a firearm silencer was not attached to the weapon; and (7) the officer was not under the influence of an intoxicant.

Wisconsin law enforcement officers would be eligible to carry concealed and dangerous weapons while: (1) operating an all-terrain vehicle; (2) in state parks and state fish hatcheries; (3) in a wildlife refuge; (4) operating vehicles, aircraft, or motorboats; and (5) working as a licensed private detective.

Under the substitute amendments, the authority of a Wisconsin law enforcement officer to carry a concealed weapon, as described above, would replace current law restrictions which provide that an individual, including a law enforcement officer, may generally not possess a firearm if he or she was: (1) convicted of a felony in Wisconsin; (2) convicted of a crime elsewhere that would be a felony if committed in Wisconsin; (3) adjudicated delinquent for an act committed on or after April 21, 1994, that if committed by an adult would be a felony; (4) found not guilty of a felony in Wisconsin by reason of mental disease or defect; (5) found not guilty of or not responsible for a crime elsewhere that would be a felony in Wisconsin by reason of insanity or mental disease, defect or illness; (6) subject to a domestic abuse, child abuse or harassment injunction; and (7) ordered not to possess a firearm as a part of a civil commitment for being drug dependent. [Under federal law there would still be a permanent prohibition on the possession of firearms if the individual had been committed for substance abuse or mental illness or had been found incompetent to handle his or her own affairs. Federal law would also continue to prohibit felons from possessing firearms.]

Qualified Out-of-State Law Enforcement Officers. The substitute amendments would also explicitly extend the provisions of the federal Law Enforcement Officers Safety Act of 2004 to qualified out-of-state law enforcement officers by exempting such individuals from the general current law prohibition against going armed with a concealed and dangerous weapon. A qualified out-of-state law enforcement officer would be eligible to carry a concealed and dangerous weapon provided: (1) the officer was employed by a state or local government agency in another state; (2) the agency had authorized the officer to carry a firearm; (3) the officer was not the subject of any disciplinary action by the agency; (4) the officer met all standards established by the agency to qualify the person on a regular basis to use a firearm; (5) the officer was not prohibited under federal law from possessing a firearm; (6) the weapon was a firearm but not a machine gun or a destructive device; (7) a firearm silencer was not attached to the weapon; and (8) the officer was not under the influence of an intoxicant.

Notwithstanding current state law, however, a qualified out-of-state law enforcement officer would be eligible to carry a concealed and dangerous weapon while: (1) operating an all-terrain vehicle; (2) in state parks and state fish hatcheries; (3) in a wildlife refuge; (4) operating vehicles, aircraft, or motorboats; (5) working as a licensed private detective; (6) in any building owned or leased by state or local government; or (7) in a bar.

Under the substitute amendments, the authority of a qualified out-of-state law enforcement officer to carry a concealed weapon, as described above, would replace current law restrictions

which provide that an individual, including such a law enforcement officer, may generally not possess a firearm if he or she was: (1) convicted of a felony in Wisconsin; (2) convicted of a crime elsewhere that would be a felony if committed in Wisconsin; (3) adjudicated delinquent for an act committed on or after April 21, 1994, that if committed by an adult would be a felony; (4) found not guilty of a felony in Wisconsin by reason of mental disease or defect; (5) found not guilty of or not responsible for a crime elsewhere that would be a felony in Wisconsin by reason of insanity or mental disease, defect or illness; (6) subject to a domestic abuse, child abuse or harassment injunction; and (7) ordered not to possess a firearm as a part of a civil commitment for being drug dependent. [Under federal law there would still be a permanent prohibition on the possession of firearms if an individual had been committed for substance abuse or mental illness or had been found incompetent to handle his or her own affairs. Federal law would also continue to prohibit felons from possessing firearms.]

Retired Law Enforcement Officers. Finally, the substitute amendments would explicitly extend the provisions of the federal Law Enforcement Officers Safety Act of 2004 to retired law enforcement officers. A retired law enforcement officer would be eligible to carry a concealed and dangerous weapon provided: (1) before retiring, that the officer was employed as a law enforcement officer with a public agency; (2) the weapon is a firearm that is described in either a required identification card or a required certification that the retired officer must carry; (3) within the preceding 12 months, the retired officer met the standards of the state in which he or she resides for training and qualification for active duty law enforcement officers to carry firearms; (4) the weapon was a firearm but not a machine gun or a destructive device; (5) a firearm silencer was not attached to the weapon; (6) the retired officer was not under the influence of an intoxicant; and (7) the retired officer was not prohibited under federal law from possessing a firearm.

Notwithstanding current state law, a retired law enforcement officer would be eligible to carry a concealed and dangerous weapon while: (1) operating an all-terrain vehicle; (2) in state parks and state fish hatcheries; (3) in a wildlife refuge; (4) operating vehicles, aircraft, or motorboats; (5) working as a licensed private detective; (6) in any building owned or leased by state or local government; or (7) in a bar.

Under the substitute amendments, the authority of a retired law enforcement officer to carry a concealed weapon, as described above, would replace current law restrictions which provide that an individual, including such a retired law enforcement officer, may generally not possess a firearm if he or she was: (1) convicted of a felony in Wisconsin; (2) convicted of a crime elsewhere that would be a felony if committed in Wisconsin; (3) adjudicated delinquent for an act committed on or after April 21, 1994, that if committed by an adult would be a felony; (4) found not guilty of a felony in Wisconsin by reason of mental disease or defect; (5) found not guilty of or not responsible for a crime elsewhere that would be a felony in Wisconsin by reason of insanity or mental disease, defect or illness; (6) subject to a domestic abuse, child abuse or harassment injunction; and (7) ordered not to possess a firearm as a part of a civil commitment for being drug dependent. [Under federal law there would still be 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. Federal law would also continue to prohibit felons from

possessing firearms.]

As described in more detail under the section on the duty of law enforcement officers to carry license documentation or identification, if a Wisconsin retired law enforcement officer's former agency did not provide the identification required under the substitute amendments, the Wisconsin retired law enforcement officer would have to receive an identification card issued by DOJ in order to carry a concealed weapon. Under these circumstances, DOJ would have to determine that its records did not indicate that the retired officer: (1) was prohibited from possessing a firearm under federal law; (2) was a convicted felon; (3) was convicted of a crime elsewhere that would be a felony if committed in Wisconsin; (4) was adjudicated delinquent for an act committed on or after April 21, 1994, that if committed by an adult in this state would be a felony; (5) was found not guilty of a felony in this state by reason of mental disease or defect; (6) was found not guilty of or not responsible for a crime elsewhere that would be a felony in this state by reason of insanity or mental disease, defect or illness; or (7) was ordered not to possess a firearm as a part of a harassment injunction. DOJ would be authorized to require a person to sign appropriate consents for the release of information that would enable the Department to confirm that an individual met all of the prerequisites for a DOJ-issued identification to retired law enforcement officers.

No Right to Carry Destructive Devices. For purposes of precluding law enforcement officers from carrying destructive devices, the substitute amendments would adopt the current definition of "destructive device" under federal law. A destructive device under federal law is any of the following: (1) a bomb, a grenade, a rocket having a propellant charge of more than four ounces, a missile having an explosive or incendiary charge of more than 0.25 ounce, a mine, or any similar device; (2) any type of weapon, other than a shotgun or a shotgun shell that the U.S. Department of Justice finds is generally recognized as particularly suitable for sporting purposes, that expels, or that may be readily converted to expel, a projectile by the action of an explosive or other propellant and that has a barrel with a bore of more than 0.5 inch in diameter; (3) any combination of parts that is designed for converting, or intended for use in converting, any device into a device described in (1) or (2) above and from which a device described in (1) or (2) above may be readily assembled.

The current federal law reference to destructive device incorporated into the substitute amendments specifically exempts the following types of devices from the definition of destructive device: (1) a device that is neither designed nor redesigned for use as a weapon; (2) a device that, although originally designed for use as a weapon, is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; (3) surplus ordnance sold, loaned, or given by the U.S. Secretary of the Army; and (4) any other device that the U.S. Department of Justice finds is not likely to be used as a weapon, is an antique, or is a rifle that the owner intends to use solely for sporting, recreational, or cultural purposes.

Right of Private Citizens to Carry Concealed Weapons

General Right of Private Citizens to Carry a Concealed Weapon. A licensee or an out-of-

state licensee would be authorized to carry a concealed weapon anywhere in the state, subject to certain limitations described below.

Prohibiting Licensees or Out-of-State Licensees from Carrying a Concealed Weapon on Private Property. Under current law, it is a civil offense subject to a Class B forfeiture (a forfeiture not to exceed \$1,000) to enter or remain on the property of another person after having been notified by the owner or occupant not to enter or remain on the premises. A person is considered to have been notified if: (1) the individual is notified personally either orally or in writing; (2) a sign at least 11 inches square is placed in at least two conspicuous places for every 40 acres to be protected; or (3) markings, at least one foot long, including in a contrasting color the phrase “Private Land” and the name of the owner, are made in at least two conspicuous places for every 40 acres to be protected.

Under the substitute amendments, a licensee or an out-of-state licensee would not be subject to a Class B forfeiture for trespass under the notification circumstances described above if the intent of the owner or occupant of the property was to prevent the licensee or an out-of-state licensee from going armed with a concealed and dangerous weapon on the owner’s or occupant’s land.

Instead, an individual who was armed with a concealed weapon would be subject to a Class B forfeiture under the following circumstances: the individual entered or remained at a residence or a nonresidential building that the individual did not own or occupy after the owner of the residence or building, if he or she had not leased it to another person, or the occupant of the residence or building had notified the individual not to enter or remain at the residence or building while going armed with a concealed weapon or with that type of concealed weapon. An owner or occupant of a part of a nonresidential building would be considered to have provided notice to an individual not to enter or remain there with a concealed weapon, if the owner or occupant had done all of the following: (1) posted a sign at least 11 inches square with such a notice located in a prominent place near the primary entrance to that part of the nonresidential building to which that restriction applies; and (2) personally and orally notified the individual of the restriction.

If a residence is a single-family residence, the area subject to these provisions would be the entire premises. If a residence is other than a single-family residence, the area subject to these provisions would not include any common area of the building in which the residence was located. For purposes of exercising property rights in nonresidential buildings, an owner or occupant could only deny access to the portion of the nonresidential building to which the owner or occupant had property rights. Further, this provision would not apply to a part of a nonresidential building occupied by the state or one of its subdivisions or to any part of a nonresidential building used for parking.

Prohibiting Licensees or Out-of-State Licensees from Carrying Concealed Weapons at Places of Employment. The substitute amendments also specify that a private employer could prohibit an employee who is a Wisconsin or out-of-state licensee from carrying a concealed weapon in the course of employment. However, a private employer could not prohibit such a licensee, as a

condition of employment, from carrying a concealed weapon in the licensee's own motor vehicle, regardless of whether the motor vehicle would be used in the course of employment.

The substitute amendments would enumerate a variety of places where a duly licensed Wisconsin resident or out-of-state licensee would be specifically 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 not part of the school grounds; unloaded and within a locked container or a locked firearms rack within a vehicle; by a law enforcement officer; by an individual for use in a program approved by the school; by an individual in accordance with a contract entered into between the school and the individual or an employer of the individual; 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 and the firearm is unloaded)]. [s. 175.50(16)(a)9]

Airports

- In or beyond a security checkpoint in an airport. [EXCEPTION: The weapon is encased for shipment as baggage to be transported by aircraft.] [s. 175.50(16)(a)8]

Judicial and Law Enforcement-Related

- Sheriffs' offices, police or state patrol stations. [EXCEPTION: Does not apply to peace officers carrying a concealed weapon within the scope of their employment.] [s. 175.50(16)(a)2]

- Prisons, jails, houses of correction or secured correctional facilities. [s. 175.50(16)(a)3]

- 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.] [s. 175.50(16)(a)4]

Schools and Related

- Places where a school, college or professional athletic event is taking place. *[EXCEPTION: Where an event is related to firearms and the licensees are participating in the event.]* [s. 175.50(16)(a)5]
- A school administration building. [s. 175.50(16)(a)6]
- Kindergarten facility or classroom. [s. 175.50(16)(a)10]
- Handguns within 1,000 feet of the grounds 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 a part of 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).]* [s. 175.50(16)(b)]
- School premises (weapons other than handguns). *[EXCEPTIONS: The individual: (1) uses the weapon solely for school-sanctioned purposes; (2) engages in military activities, sponsored by the federal or state government, when acting in the discharge of his or her official duties; (3) is a law enforcement officer acting in the discharge of his or her official duties; (4) participates in a convocation authorized by school authorities in which weapons of collectors or instructors are handled or displayed; or (5) drives a motor vehicle in which a dangerous weapon is located onto school premises for school sanctioned purposes or for the purpose of delivering or picking up passengers or property. The weapon may not be removed from the vehicle or used in any manner.]* [s. 175.50(16)(c)]

Public Buildings

- Any 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. *[EXCEPTIONS: Does not apply to: (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 or county sheriff 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.]* [s. 175.50(16)(at)]

Taverns

- Any tavern. *[EXCEPTIONS: 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 intoxicating liquors or fermented malt beverages or both on those premises accounts for not more than 50 percent of the proprietor's annual gross receipts from those premises.]* [s. 175.50(16)(a)(7)]

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]. [s. 175.50(16)(a)1]

In addition to the above prohibitions, any person would be prohibited from carrying a concealed weapon if the person's alcohol concentration exceeded 0.08. A person carrying a concealed weapon would be deemed to have given his or her consent for giving or testing breath, blood, or urine samples. A licensee or out-of-state licensee violating this new provision could be subject to a fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both. A licensee or out-of-state licensee would also be subject to a fine not to exceed \$10,000 or imprisonment not to exceed nine months, 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 on the issue of whether the person had alcohol concentrations at or above specified levels or was under the influence of an intoxicant.

Right of Non-Licensees to Carry a Concealed Weapon. The substitute amendments would authorize a non-licensee to go armed with a concealed weapon (authorized to a licensee) in his or her dwelling or place of business or on land that he or she owns, leases, or legally occupies, unless prohibited under state or federal law from possessing that weapon.

Right of Law Enforcement Officers to Carry Concealed Weapons

Federal Law. Notwithstanding state or local law to the contrary, both qualified law enforcement officers and qualified retired law enforcement officers carrying the required identification must generally be permitted to carry a concealed firearm.

The federal Law Enforcement Officers Safety Act of 2004 stipulates that its provisions may not be construed to supersede or limit the laws of any state that: (1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or (2) prohibit or restrict the possession of firearms on any state or local government property, installation, building, base, or park.

Peace Officers. Only the prohibition on carrying a concealed weapon with an alcohol concentration in excess of 0.08 would apply to a peace officer. A peace officer is defined as any person vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes.

Duty of Private Citizens to Carry License Document or Identification

Wisconsin licensees would be required to carry the appropriate Wisconsin license document and photo identification card at all times during which the individual was going armed in the state with a concealed weapon. Similarly, an out-of-state licensee would be required to carry the appropriate out-of-state authorization at all times during which the individual was going armed in the state with a concealed weapon. An out-of-state authorization would be deemed a valid permit or a valid license issued by another state documenting that the person was authorized under the law of that state to carry a concealed weapon in that state.

Upon the request of a law enforcement officer, Wisconsin or out-of-state licensees carrying a concealed weapon would be required to present the relevant license document and photo identification card or out-of-state authorization to the law enforcement officer. A person violating these provisions could be required to forfeit not more than \$25.

Duty of Law Enforcement Officers to Carry License Document or Identification

Federal Law. The required identification for a qualified law enforcement officer is a photographic identification issued by the governmental agency for which the individual is employed as a law enforcement officer.

The required identification for a qualified retired law enforcement officer is either: (1) a photographic identification issued by the agency from which the individual retired from service as a law enforcement officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm; or (2) both a

photographic identification issued by the agency from which the individual retired from service as a law enforcement officer, and a certification issued by the state in which the individual resides that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the state to meet the standards established by the state for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm.

Qualified Out-of-State Law Enforcement Officers. Under the substitute amendments, while carrying a concealed firearm, a qualified out-of-state law enforcement officer would be required to carry an identification card that contained his or her photograph and that was issued by the law enforcement agency by which he or she was employed. A qualified out-of-state law enforcement officer who violated these provisions would be subject to a forfeiture of not more than \$25.

Retired Law Enforcement Officers. Under the substitute amendments, while carrying a concealed firearm, a retired law enforcement officer would be required to carry one of the following documents: (1) a photographic identification document issued by the retired officer's former employer indicating that, within the 12 months preceding the date on which the retired officer was carrying the concealed firearm, the officer was tested or otherwise found by the former employer to meet the standards that it had established for training and qualification for active duty law enforcement officers to carry a firearm of the same type as the firearm that the retired officer is carrying; or (2) a photographic identification document issued by the retired officer's former employer along with either an identification card issued by DOJ (if the retired officer is a Wisconsin resident) or, if the retired officer is a nonresident, a certification issued by the retired officer's state of residence indicating that, within the 12 months preceding the date on which the retired officer is carrying the concealed firearm, the officer was tested or otherwise found by that state to meet its standards for training and qualification for active duty law enforcement officers to carry a firearm of the same type as the firearm that the retired officer is carrying.

If a Wisconsin law enforcement agency issues photographic identification cards to its officers, it could no longer require an officer to relinquish the card upon retirement unless: (1) the officer could not lawfully possess a firearm under federal law; (2) the officer did not retire in good standing from service as a law enforcement officer with the agency or retired as a result of mental instability; (3) the officer was regularly employed as a law enforcement officer for an aggregate of less than 15 years; or (4) the officer did not have a nonforfeitable right to benefits under the agency's retirement plan. However, if an officer retired from service with the agency following the completion of any probationary period but before the 15-year period had run because of a service-connected disability (as determined by the agency), the agency could not require the officer to relinquish his or her identification card. Although both the federal law and the language of the substitute amendments reference a service-connected disability "as determined by the agency," under current Wisconsin law, law enforcement agencies do not determine service-connected disabilities. This determination is made by the Wisconsin Retirement Board (for the Wisconsin Retirement System) or by the independent Milwaukee City or County pension systems for employees of those jurisdictions.

Permissible Concealed Weapons

The substitute amendments would authorize licensees to carry a handgun, an electric weapon, a knife (other than a switchblade), or a billy club as a concealed weapon. A "handgun" would be defined as any weapon designed or redesigned, or made or remade, and intended to be fired while held in one hand which used the energy of an explosive to expel a projectile through a smooth or rifled bore. A handgun would not include a machine gun, a short-barreled rifle, or a short-barreled shotgun.

Notification Responsibilities of Clerks of Court

As described in the in the next section of this memorandum, the Department of Justice would be vested with the responsibility to issue licenses to carry a concealed weapon. As part of the license-issuing process, DOJ would be required to conduct background checks to determine the eligibility of the applicant for licensure. In addition, certain types of subsequent civil, criminal, or delinquency court actions may have the effect of causing a current licensee to lose eligibility for carrying a concealed weapon. These requirements of the substitute amendments will impose additional reporting responsibilities on various components of the state's court system.

Expanded Notification Requirement. The Consolidated Court Automation Programs (CCAP) is used by the circuit court system to track civil, criminal and delinquency court actions. CCAP is a state-funded program under the Supreme Court's Director of State Courts Office. Under the substitute amendments, CCAP would be required to promptly notify DOJ of the name of any individual to whom any of the legal or judicial actions enumerated below occurred. To the extent that this information is not contained in or cannot be transmitted by CCAP, any clerk of a city, town, village, tribal or circuit court or any register in probate would be required to promptly notify DOJ of the same information. 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 the Uniform Controlled Substances Act; (c) providing false information for the issuance of a regular or emergency concealed weapons license, intentionally failing to provide updated information to DOJ 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 the Department when required under the provisions of the substitute amendments; (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) involuntary commitment for treatment under state law; or (d) a finding of incompetence under Chapter 880 (Guardians and 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); (2) violation of the prohibition of carrying a concealed weapon if the person's alcohol concentration exceeded 0.08; (3) refusal to follow a lawful request to provide one or more samples of breath, blood, or urine to test for an impermissible alcohol concentration; or (4) a crime under federal law or the law of another state that would be comparable to one of these crimes.

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

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 and Wards) findings of incompetency. The substitute amendments would specify that the privileged status of these records and files would not apply with respect to clerks of court providing notification to DOJ.

Disclosure to DOJ of Firearms Restrictions Made a Part of Involuntary Commitment Orders. Clerks of court would be required to provide notice to DOJ of any firearms restrictions made a part of an involuntarily commitment order for mental illness, developmental disability, or drug dependency, so that this information would be available for the agency's concealed weapons license background check responsibilities. No other information from the individual's court records could be disclosed to DOJ, except by order of the court. In relation to processing these

court notifications, DOJ would be given rulemaking authority.

Under current law, if a court prohibits an individual who was subject to involuntary commitment from possessing a firearm or subsequently cancels this prohibition after the expiration of the commitment order, the clerk of court must notify DOJ of these facts and provide such identifying personal information that DOJ may conduct an accurate firearms restrictions record search. [Currently, DOJ conducts such a search before the completion of handgun sales by handgun dealers in the state to determine whether the purchaser may possess a handgun under Wisconsin law.] No other information from the individual's commitment records may be disclosed to DOJ, except by order of the court, and DOJ may only disclose the released information as a part of a firearms restrictions record search. The changes under the substitute amendments would establish parallel records disclosure provisions for involuntary commitment information needed for concealed weapons license background checks.

Domestic Abuse, Child Abuse and Harassment Injunctions. Clerks of court would generally be required to provide notice to DOJ of the existence of any such injunctions so that this information would be available for the agency's concealed weapons license background check responsibilities.

Under current law, an individual (other than a peace officer) subject to a domestic abuse or child abuse injunction is not permitted to possess a firearm. Similarly, if a judge or circuit court commissioner issues a harassment injunction and determines, based on clear and convincing evidence presented at a hearing on the issuance of an injunction, that the subject of the harassment injunction may use a firearm to cause physical harm to another or to endanger public safety, the judge or court commissioner may prohibit the individual from possessing a firearm. In either case, if injunctions are issued or extended, the clerk of circuit court must notify DOJ and provide such identifying personal information that DOJ may conduct an accurate firearms restrictions record search. DOJ may only disclose the released information as a part of a firearms restrictions record search. These changes under the bill would establish parallel records disclosure provisions for domestic abuse, child abuse, and harassment injunction information needed for concealed weapons license background checks.

Delinquency Adjudications. Clerks of court would be required to provide notice to DOJ of instances where a juvenile is adjudged delinquent for acts that would be a felony if committed by an adult so that this information would be available for the agency's concealed weapons license background check responsibilities. No other information from the juvenile's court record could be disclosed to DOJ, except by court order, and DOJ could only disclose the released information as a part of a concealed weapons license background check.

Similarly, clerks of court would be required to provide notice to DOJ of instances where a juvenile is adjudged delinquent for an act that would be a misdemeanor crime of violence if committed by an adult. If an individual who had been adjudicated delinquent as a juvenile for a misdemeanor crime of violence subsequently applied for a concealed weapons license, DOJ would be authorized to review the relevant court records relating to the case to determine whether the

matter would be sufficient to disqualify the individual for purposes of a concealed weapons license. DOJ could only disclose this released information as a part of a concealed weapons license background check.

Under current law, juvenile delinquency records are generally not open to inspection or their contents disclosed except by order of the court assigned to exercise jurisdiction. However, if a juvenile is adjudged delinquent for an act that would be a felony if committed by an adult, the court clerk currently must notify DOJ of that fact. No other information from the juvenile's court records may be disclosed to DOJ, except by order of the court. DOJ may only disclose the released information as a part of a firearms restrictions record search.

Licensing and Related Responsibilities of the Department of Justice

Processing of Applications. Upon receiving an application for a concealed weapons license, the Department of Justice would be required to conduct a background check to determine if the applicant would be ineligible for licensure. 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], the Department would be required to issue a concealed weapons license without requesting a background check.

Issuance of Initial Licenses. No later than 21 days after receiving an application, DOJ would generally 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. Where DOJ issues a license, it would be mailed to the licensee by first class mail. Where DOJ denies an application, the applicant would have to be advised in writing of the reason and factual basis for the denial, to the extent permitted under federal law.

Issuance of Emergency Licenses. Except where DOJ 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), the Department would be required to immediately issue an emergency license to an individual, provided the Department also determined that immediate licensure was warranted to protect the individual from death or great bodily harm. The Department would be required to presume that immediate licensure was warranted to protect the individual from death or great bodily harm if the individual had obtained a: (1) domestic abuse or harassment temporary restraining order or injunction under Wisconsin law; or (2) protection order from another jurisdiction that has the same effect as a domestic abuse or harassment temporary restraining order or injunction under Wisconsin law. If DOJ issued an emergency license, it would be required to conduct an immediate background check. In issuing an emergency license, DOJ would be authorized to waive the required issuance fees, if requiring the individual to pay the fees would create a hardship for the applicant.

An emergency license would be valid for 120 days and could not be renewed. An individual issued an emergency license could also seek and obtain a regular license, in which case

payment of all relevant fees would be required and could not be waived because of hardship. An emergency license would be void if the individual was subsequently issued a regular license.

If DOJ subsequently learned that an individual issued an emergency license did not qualify for it, DOJ would generally be required to revoke the emergency license. The Department would not be required to subsequently revoke the emergency license, however, if the individual did not qualify for it on grounds of: (1) age; (2) severe physical disability; (3) firearms training; (4) prior application denial; (5) prior license revocation; or (6) residency.

Where an applicant intentionally made a false statement to DOJ in requesting an emergency license or in the issuance of such a license, the applicant would be subject to a fine of not less than \$500 nor more than \$10,000, and imprisonment for not more than nine months.

Background Checks. DOJ would be required to conduct background checks of applicants for a concealed weapons license by: (1) creating a confirmation number associated with the applicant; and (2) utilizing the state's Transaction Information for the Management of Enforcement (TIME) System and the federal National Crime Information Center (NCIC) System to conduct applicant background checks.

The state TIME System provides Wisconsin law enforcement agencies electronic access to the following databases: (1) state and national wanted, missing and unidentified persons; (2) stolen motor vehicles; (3) identifiable stolen property; (4) driver and vehicle registration files; (5) state and national criminal history information; (6) the sex offender registry maintained by the Department of Corrections; (7) persons subject to protection orders; and (8) other databases of interest to law enforcement for officer safety. The federal NCIC System is the federal criminal history database.

As soon as practicable, the Department would be required to: (1) make all reasonable efforts to obtain missing information related to a relevant criminal charge of an applicant for which there was no recorded disposition, or information related to a misdemeanor delinquency adjudication of an applicant for which it was not known how long the resulting dispositional order was in effect; (2) create a unique nonapproval number for an applicant, if the background check indicated that the applicant did not meet certain statutory eligibility requirements for licensure; and (3) create a unique approval number if the applicant passed the required background check. The Department would be required to conduct the background check immediately if the background check was for an emergency license.

The Department would not have to confirm that each applicant met the following eligibility requirements for licensure as a part of the agency's background check of the individual: (1) that the individual successfully satisfied the firearm training requirement; (2) that the applicant does not have a severe physical disability that prevents him or her from safely handling a weapon and that, if the individual were handling a weapon, would cause the individual to pose a significant public safety risk; (3) that the individual has not previously submitted an application for a concealed weapons license and had the application denied, unless each reason for the denial is no longer applicable because of changed circumstances; (4) that the applicant has not had a concealed

weapons license revoked, unless each reason for the revocation is no longer applicable because of changed circumstances; (5) that the individual is at least 21 years of age; and (6) that the individual is a Wisconsin resident. The substitute amendments, however, would still require that DOJ ensure that all applicants satisfied these eligibility requirements as well.

DOJ would be required to maintain the record of all completed application forms and the record of all confirmation numbers and corresponding approval or nonapproval numbers regarding background checks.

The Department would be required to check each application form against the information recorded by the Department regarding the corresponding request for a background check. If DOJ previously provided a unique approval number regarding the request and nothing in the completed application form indicated that the applicant was not qualified for a license based on the required elements of the background check, DOJ would generally be required to destroy all records regarding that background check within 30 days after receiving the form. If DOJ had previously provided a unique approval number and the completed application form indicated that the applicant was not qualified for a license based on the required background check, the Department would be required to immediately revoke the license. [This process appears to be based on a procedure whereby applications would initially be received by county sheriffs rather than by DOJ. This procedure may reflect the application process that was included in 2003 Enrolled Senate Bill 214 but has not been superseded by the application procedures established under the substitute amendments. This statutory process, as currently drafted, could likely be simplified to reflect that original concealed carry applications must be submitted to DOJ.]

DOJ would be authorized to maintain records necessary to administer background checks. For a period of not more than 15 months after the Department issues a unique approval number as a part of a concealed carry background check, DOJ could maintain a log of dates of requests for background checks together with confirmation numbers and unique approval and nonapproval numbers corresponding to those dates. [This process also appears to assume that applications would initially be received by county sheriffs who would request background checks, and not by DOJ, as provided under the substitute amendments.]

Duty to Process Certain Clerk of Court Notifications. DOJ would be required to process all notifications received from CCAP and clerks of court relating to legal and judicial actions that would serve to disqualify a concealed weapon licensee from continued licensure (described in the previous section). DOJ would be required to immediately determine whether the individual who was the subject of the notification was a licensee.

Updated Licensee Information. Within 10 days of being charged under federal law or the law of another state with any crime or a drunken driving offense, a Wisconsin licensee would be required to notify DOJ of the charge. Any licensee who intentionally violated this requirement would be subject to a fine of not less than \$500 nor more than \$10,000, and imprisonment for not more than nine months. No later than 30 days after an address change, a licensee would be required

to inform the Department of the new address. DOJ would be required to update the concealed weapon licensee database to reflect the address change.

License Revocation and Suspension. The Department would be required to revoke a license if an individual no longer met the statutory eligibility criteria for licensure (other than for age or the completion of the firearm training or safety course and pendency of a civil or criminal case, the disposition of which would render the individual ineligible for licensure). The Department's duty to suspend (rather than revoke) a license would also apply under any of the following circumstances: (1) the licensee was the subject of a pending civil or criminal case, the disposition of which would render the individual ineligible for a license; or (2) a court had prohibited the licensee from possessing a dangerous weapon as a condition of release while charged with a misdemeanor. Where a license had been suspended, DOJ would be required to restore the license if, upon disposition of the case, the person to whom the license had been issued continued to meet all statutory eligibility criteria for licensure. The agency would be required to restore the license within 14 days of receiving the disposition.

The Department's license revocation or suspension action would take effect immediately. Following either action, DOJ would have one day to send the affected individual a notice by certified mail. Within seven days of receiving the notice, the affected licensee would be required to deliver the license personally or by certified mail to the Department. Any licensee who intentionally violated this requirement would be subject to a fine of not less than \$500 nor more than \$10,000, and imprisonment for not more than nine months.

License Expiration and Renewal. At least 90 days before the expiration date of a concealed weapons license, DOJ would be required to mail an expiration notice and a license renewal form to the licensee. Before renewing the license, the Department would generally be required to conduct a background check.

Lost or Destroyed Licenses. Within 30 days after the loss or destruction of a concealed weapons license, the affected licensee would be required to submit a notarized statement to DOJ that the license had been lost or destroyed. Within 14 days of the receipt of the notarized statement and a replacement license fee payment of \$15, the Department would be required to issue a replacement license.

Licensee Information Provided to Other Law Enforcement Agencies. DOJ would be required 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 submitted an intentionally false notarized statement in his or her concealed weapons license application, intentionally violated the requirement to provide updated information to DOJ within 10 days after being charged under federal law or the law of another state with any crime or any drunken driving offense, or

intentionally made a false statement to the Department in connection with the individual's request for an emergency concealed weapons license.

Required Licensee Database. DOJ would be required to maintain a computerized record listing the names of all individuals issued a concealed weapons license along with the following information on all licensees: (1) the full name, date of birth, and residence address of the licensee; (2) a physical description of the licensee, including sex, height, weight, and hair and eye color; (3) the date on which the license was issued; (4) the date on which the license expires; and (5) a unique identification number for each licensee. The Department would be prohibited from storing, maintaining, formatting, sorting, or accessing this information in any other way other than by the name, date of birth, or gender of the licensee or the identification number assigned to the licensee.

Possible Law Enforcement Access to Licensee Database in Connection with Vehicle Stops. If DOJ authorizes law enforcement agencies access to the licensee database through the state TIME System, such law enforcement agencies could use this database in connection with a vehicle stop only if: (1) the stop was authorized by current law authority to engage in such action; and (2) the database was accessed for the three specific purposes cited in the preceding paragraph.

Processing Requests of Retired Law Enforcement Officers to Carry Concealed Weapons. DOJ would generally be required to issue and provide a retired law enforcement officer an identification card at the request of the officer and at the officer's own expense. The identification card would certify: (1) that DOJ has found that the retired officer has met the standards established by Wisconsin for training and qualification for active duty law enforcement officers to carry firearms; (2) the date of the agency's finding; and (3) that the retired officer is qualified, as a result of this finding, to carry any concealed firearm other than a machine gun or a firearm bearing a silencer. [It should be noted that under current Wisconsin law there is no state standard for training and qualification for active duty law enforcement officers to carry firearms.]

The Department would not be required to issue an identification card to a retired officer unless all of the following applied: (1) the person retired in good standing from service as a law enforcement officer for reasons other than mental instability; (2) either before retiring, the person was regularly employed as a law enforcement officer for an aggregate of 15 years or more, or the person completed any applicable probationary period of service with the former employer and retired from service due to a service-connected disability, as determined by the officer's former employer; (3) the person has a nonforfeitable right to benefits under the former employer's retirement plan; (4) the person is a Wisconsin resident; and (5) DOJ determines that its records do not indicate that the person: (a) is prohibited from possessing a firearm under federal law; (b) is a convicted felon; (c) was convicted of a crime elsewhere that would be a felony if committed in Wisconsin; (d) was adjudicated delinquent for an act committed on or after April 21, 1994, that if committed by an adult in this state would be a felony; (e) was found not guilty of a felony in this state by reason of mental disease or defect; (f) was found not guilty of or not responsible for a crime elsewhere that would be a felony in this state by reason of insanity or mental disease, defect or illness; or (g) was ordered not to possess a firearm as a part of a harassment injunction.

DOJ would be authorized to require a person to sign appropriate consents for release of information to enable it to confirm that an individual met all of the prerequisites for a Department-issued identification card. DOJ would also be authorized to require individuals seeking such an identification card to pay a fee, not to exceed DOJ's costs, for verifying employment history, retirement plan status, and making its determinations under (5) above.

Reports. Annually, by February 1, DOJ would be required to create a statistical report summarizing its concealed weapons licensing activities. The contents of the report would include the number of concealed weapons licenses applied for, issued, denied, suspended and revoked during the previous calendar year. For license denials, the report would have to indicate the reasons for the denials and the part of the application process where the reasons for denial were discovered. For license suspensions or revocations, the report would have to indicate the reasons for these actions. The substitute amendments do not prescribe the entities to which the statistical report data would be submitted.

Annually, by March 1, DOJ would be required to submit a statistical report to the Legislature and to the Governor compiled from the submitted reports described in the previous paragraph. This DOJ report would have to indicate the number of concealed weapons licenses applied for, issued, denied, suspended and revoked during the previous calendar year. For licenses denied, the report would have to indicate the reasons for the denials and the part of the application process in which the reasons for denial were discovered. For licenses suspended or revoked, the report would have to indicate the reasons for the suspensions and revocations.

[The report preparation process described above retains elements from 2003 Enrolled Senate Bill 214 under which county sheriffs would first submit annual statistical reports to DOJ. These county reports, in turn, would then be compiled and reported in aggregate form by DOJ to the Legislature and Governor. This statutory reporting procedure, as currently drafted, could likely be simplified by eliminating the first step in the annual report process.]

Promulgation of Administrative Rules Relating to Concealed Weapons Licenses. DOJ would be required to promulgate administrative rules governing the following aspects of issuing concealed weapons licenses:

1. Specifying a procedure authorizing the agency to obtain substance abuse and mental health records for the purpose of determining an individual's eligibility to obtain a concealed weapons license. The Department would be required to promulgate such rules as emergency rules until the permanent rules were promulgated. The Department would not be required to provide evidence that emergency rules were necessary for the preservation of public peace, health, safety, or welfare and would not be required to provide a finding of an emergency for these emergency rules.

2. Listing those states which DOJ determines issue concealed weapon permits or licenses to persons who pass criminal background checks in those states.

3. Establishing procedures and definitions that would apply when determining whether an individual is eligible for a waiver of the fees for an emergency license.

4. Providing for the review of any action by the Department denying an application for a concealed weapons license, suspending or revoking a concealed weapons license, or denying an individual certification to teach firearms training under the concealed weapons program.

Initial Design of the Concealed Weapon License Document and Related Forms. DOJ would be required to design a single license document, an application form, a notice of expiration form, and a renewal form for concealed weapons licenses. The substitute amendments would require that the agency complete the design of the license document no later than first day of the second month beginning after the effective date of the legislation. The design of the application form would have to be designed and distributed within the same timeframe, while the renewal form would have to be designed and distributed no later than first day of the 36th month beginning after the effective date of the legislation.

The license document would be required to contain all of the following information on one side: (1) the full name, date of birth, and residence address of the licensee; (2) a physical description of the licensee, including gender, height, weight, and hair and eye color; (3) issuance date; (4) expiration date; (5) the name of this state; and (6) a unique identification number for each licensee. The license document could not include the licensee's Social Security number. The substitute amendments direct that the contents of the license document be included in substantially the same way as the contents of an operator's license issued by the Department of Transportation. A concealed weapons license would have to be tamper proof, to the maximum extent possible.

The Department would be required to make application and renewal forms available on the Internet or by mail upon request. The application and renewal forms would require the applicant to provide only the following personal information: his or her name, address, date of birth, state identification card number, race, gender, height, weight, and hair and eye color. The substitute amendments would define the "state identification card number" as the number assigned to the individual on his or her driver's license or state identification card. The application form would also include all of the following: (1) a statement that the applicant is eligible for licensure if the requirements for licensure are met; (2) a statement explaining the privilege of self-defense and defense of others under state law, with a place for the applicant's signature to indicate that the statement has been read and understood; (3) a statement that the applicant has received a copy of the state statute relating to concealed weapons licensure, with a place for the applicant's signature to indicate that the applicant has read and understands the requirements of the law; (4) a statement that the application must include a notarized statement and that the applicant may be prosecuted if the individual gives a false answer to any question on the application or submits a falsified document with the application; and (5) a statement of the penalties to which the applicant would be liable for such violations.

Initial Design of the Retired Law Enforcement Identification Cards. DOJ would be required to design a single document for the retired law enforcement identification card. The

Department would be required to complete the design of this identification card no later than first day of the second month beginning after the effective date of the legislation. These retired law enforcement officer identification cards would be required to contain all of the following information on one side: (1) the full name, date of birth, and residence address of the retired officer; (2) a physical description of the retired officer, including sex, height, weight, and hair and eye color; and (3) the name of this state. The identification card could not contain the retired officer's Social Security number. The identification card, to the maximum extent possible, would have to be tamper proof. The contents of this identification card would have to be included on the card in substantially the same way that the contents of a driver's license are included on that license.

Initial Design of the Training Certificate. Under the substitute amendments, DOJ would be required to design a training certificate to be completed by a firearms training instructor to verify an individual's eligibility for licensure under the physical disability and firearms training eligibility requirements. The certificate would be required to provide a space for the instructor to check a box indicating that the individual does not have a severe physical disability that prevents him or her from safely handling a weapon and that, if the individual were handling a weapon, would cause the individual to pose a significant public safety risk.

Firearms Restrictions Record Searches. The Department would be required to check for "disqualifying mental health adjudications" as a part of a firearms restrictions record search. [Under current law, DOJ conducts a firearms restrictions record search before the completion of handgun sales by firearms dealers in the state to determine whether the purchaser may possess a handgun under Wisconsin law.] A disqualifying mental health adjudication would mean one of the following events: (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. A disqualifying mental health adjudication would have to involve an involuntary commitment based on the person having markedly subnormal intelligence or based on the person's mental illness, incompetency, condition, or disease.

The Department would be required to promulgate administrative rules establishing procedures for checking for disqualifying mental health adjudications as a part of a firearms restrictions record search as emergency rules until the permanent rules were promulgated. The Department would not be required to provide evidence that the emergency rules were necessary for the preservation of public peace, health, safety, or welfare and would not be required to provide a finding of an emergency for these emergency rules.

Appeals of License Denials, Revocations, or Suspensions, or Instructor Certifications

An individual would be authorized to appeal any denial of an application for licensure to carry a concealed weapon, any denial of a certification to serve as a firearms training instructor, or the suspension or revocation of a license directly to the circuit court of his or her county. The opportunity to appeal to circuit court would only be available, however, if the individual had first completed the Department's review process. This process would be established by administrative

rule and would permit individuals to appeal any such Department action at the agency level. The appeal would be initiated by the affected individual with the filing of a petition for review with the clerk of the applicable circuit court within 30 days after the completion of the DOJ appeals process.

The petition to circuit court would have to state both the substance of the Department's action being appealed and the grounds upon which the individual believed the Department's action to be improper. The petition could include a copy of any records or documents that are relevant to the grounds upon which the individual believed DOJ's actions to be improper.

A copy of the petition would have to be served on the Department either personally or by registered or certified mail no later than five days after the person filed the petition with the court. The Department would be required to file an answer within 15 days and would have to include a brief statement of the actions taken by the agency, and a copy of any documents or records on which DOJ based its action.

A court would be required to review the petition, the answer, and any records or documents submitted with the petition or the Department's answer to the petition. A court would be required to conduct this review without a jury. The court's review would have to be confined to the petition, the Department's answer, and any records or documents submitted, except that in cases of alleged irregularities in procedure by DOJ, the court could take such testimony as the court deems appropriate.

The court would be required to affirm the Department's action, unless the court found that DOJ had: (1) failed to follow the required procedures established under the legislation; (2) erroneously interpreted a provision of law and a correct interpretation compelled a different action; or (3) depended on a finding of fact that was not supported by substantial evidence in the record. The court would be required to provide in its decision whatever relief was appropriate, regardless of the original form of the petition. If the court overturned a decision of DOJ, the court would be required to order the Department to pay all of the aggrieved individual's court costs and reasonable attorney fees.

Modifications to Criminal Penalties Relating to Concealed Weapons

The substitute amendments would modify existing criminal penalties or create new criminal penalties with respect to carrying concealed weapons in the state. These penalty changes are summarized in Attachment 2.

Public Access to Concealed Weapons Licensure Program Records

The public would have access to the annual statistical reports created by DOJ. All other records kept by DOJ relating to any other aspect of the concealed weapon licensure program would not be available for public inspection under the state's open records law.

Immunity from Liability

The substitute amendments would establish that DOJ and its 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. Likewise, the Consolidated Court Automation Programs, court clerks and their employees would be immune from liability arising from any act or omission under the concealed weapons licensure statute, if done in good faith. A person providing firearm safety or training instruction in good faith would also be immune from liability arising from any act or omission related to any course or class described in the legislation.

The substitute amendments would specify that a person who authorized an individual to carry a concealed weapon on property owned or occupied by the person would be immune from any liability arising from the person's decision to do so, if done in good faith. The substitute amendments would further provide that a private employer that authorized any of its employees to carry a concealed weapon in the course of employment would be immune from any liability arising from the employer's decision to do so, if done in good faith.

Grants for Shooting Ranges

Each applicant for any initial or renewal concealed weapon license would be required to remit to DOJ a \$15 shooting range improvement fee (unless the fee is waived because of hardship for applicants for an emergency license). A county treasurer would be required to establish a county segregated fund to which these fees would be deposited; the county treasurer would also be further required to make payments from this fund, as directed by the county. Utilizing these fees, a county would be required to award grants to persons for the construction or improvement of shooting ranges.

Grant funds could be utilized to support up to 50% of the cost of construction or improvement of a shooting range but could not be used either for the construction of clubhouses and facilities not essential to the operation of the shooting range or for the costs of operation and maintenance of a shooting range. Shooting range grantees would be required to provide access to their facilities for firearm safety instruction to potential concealed weapon licensees that would be sufficient to qualify them for licensure.

In determining whether to make a shooting range grant, a county would be required to consider the potential of the project to meet the firearm safety instructional needs of the area served relative to the proposed cost of the shooting range construction or improvement.

Electric Weapons

Under current law, whoever sells, transports, manufactures, possesses or goes armed with any electric weapon is guilty of a Class H felony. (Conviction of a Class H felony may result in a fine of not more than \$10,000 or imprisonment for not more than six years, or both.) Current law further provides that this criminal sanction does not apply to any manufacturer or seller whose

electric weapons are used in this state solely by: (1) peace officers; (2) any armed forces or National Guard personnel while on official duty; and (3) any corrections personnel in the Department of Corrections while on official duty.

The substitute amendments would provide that the current law prohibition on possessing or going armed with an electric weapon would not apply to either: (1) a Wisconsin licensee or an out-of-state licensee; or (2) an individual who goes armed with an electric weapon in his or her own dwelling or place of business or on land that he or she owns, leases, or legally occupies, unless he or she is prohibited under federal or state law from possessing that weapon. The substitute amendments would further provide that the current law prohibition on transporting an electric weapon would not apply to either: (1) a Wisconsin licensee or an out-of-state licensee; or (2) an individual who transports an electric weapon from any of the following places to any of the following places: (a) his or her dwelling; (b) his or her own place of business; or (c) land that he or she owns, leases, or legally occupies.

Under current law the intent of the manufacturer or seller of electric weapons is not relevant to the issue of criminal liability. If the manufacturer's or seller's electric weapons are used by unauthorized individuals, criminal liability potentially exists. Under the substitute amendments, a manufacturer or seller of electric weapons would only be criminally liable if they transported, manufactured, possessed, or went armed with electric weapons with the intent to provide electric weapons to unauthorized persons.

Manufacturers or sellers of electric weapons would also not be criminally liable for selling electric weapons to a person for use in his or her dwelling or place of business or on land that he or she owns, leases, or legally occupies, even if the individual is prohibited under federal or state law from possessing that weapon. As a result the criminal liability for wrongful possession of an electric weapon under those circumstances would be limited to the private individual. [It should be noted, however, that the language of the amendments may also be read to make it a crime for a manufacturer or seller of electric weapons to provide such weapons to a person for use in his or her dwelling or place of business or on land that he or she owns, leases, or legally occupies.]

General Effective Date

The general effective date of the legislation would be the first day of the fourth month beginning after publication, other than for provisions: (1) directing DOJ to begin the development of identification cards, licenses and application and renewal forms; (2) requiring DOJ to certify firearms instructors and to maintain a list of certified instructors; and (3) requiring DOJ to promulgate rules regarding the performance of firearms restrictions record searches and receipt of relevant substance abuse and mental health records as emergency rules for the period before the effective date of the permanent rules. These latter provisions would take effect on the day after publication of the bill.

FISCAL EFFECT

The substitute amendments do not appropriate any funds or authorize any positions to support the implementation of the concealed weapon licensure program at the state level. Nonetheless, the provisions of the substitute amendments are projected to have expenditure and revenue implications for both the state and local units of government, as described below.

State Court System Costs

The Consolidated Court Automation Programs (CCAP) is used by the circuit court system to track civil, criminal and delinquency court actions. CCAP is a state-funded program under the Supreme Court's Director of State Courts Office. Under the substitute amendments, CCAP would be required to promptly notify the Department of Justice of the name of any individual who has been the subject of specified legal or judicial actions. To the extent that this information is not contained in or cannot be transmitted by CCAP, any clerk of a city, town, village, tribal, or circuit court or any register in probate would be required to promptly notify DOJ of the same information. 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 licensure to carry a concealed weapon or would require the suspension or revocation of a current license. Based on the volume of calendar year 2002 CCAP activity, more than 260,000 CCAP-reportable court events annually could be subject to the notification requirements of the substitute amendments.

The Director of State Courts Office indicates that in order for the CCAP System to meet the new notification requirements imposed under the substitute amendments, system redesign, development and testing costs would be incurred to develop the appropriate interface between CCAP and DOJ. The Director of State Courts Office estimates that it would incur \$253,000 in one-time costs to effect the required modifications to the system. Under the substitute amendments, all of these costs would be program revenue-supported. Operations for CCAP are currently supported through PR funding received from a variety of court-related fees.

This cost estimate assumes: (1) 520 hours for a project manager to coordinate CCAP programming changes; (2) six months of contractual services costs for a contract programmer to develop the CCAP software changes; (3) nine months of contractual services costs for a contract programmer to develop the DOJ interface; and (4) Director of State Courts Office staff time to determine required case management changes and procedures to capture and enter the required information into a revised CCAP System. This estimate does not include any ongoing costs that might be required to maintain the DOJ interface. The state court system's estimate also assumes that DOJ staff would be available to work with court staff on developing the required interface.

Under the substitute amendments, the CCAP System would be required to provide the new notifications to DOJ beginning the first day of the fourth month following publication of the legislation. Court officials advise, however, that their preliminary analysis suggests that possibly

six months would actually be required to make the necessary programming changes to the CCAP System and to develop the necessary interface with DOJ.

Under the substitute amendments, following a DOJ review process of any denial by that agency of an application for licensure to carry a concealed weapon, any denial of a certification to serve as a firearms training instructor, or the suspension or revocation of a current license, individuals would be authorized to file a circuit court action appealing DOJ's action. The Director of State Courts Office indicates that this new circuit court appeals process would result in additional workload for the state court system and could impose additional costs on the state and counties. However, these potential additional costs, to the extent that they are incurred, are indeterminate.

Department of Justice Costs

Costs Associated with Application Processing and Background Checks. Under the substitute amendments, the Department of Justice would be responsible for processing original and renewal applications from private citizens for concealed weapons licensure, including the completion of background checks, unless the individual 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]. The Department anticipates that it will likely process 30,000 applications in the first year of operation of the concealed weapons licensure program. Based on the experience of other states, the Department anticipates that it could issue 100,000 licenses during the first five years of the licensure program before the first license renewal cycle begins.

However, based upon a review of licensure activities under Kentucky's concealed weapons program (a state with a comparable population with a law authorizing persons who are 21 or older to carry concealed weapons), DOJ could actually receive 37,800 applications in the first year of the program and 14,500 applications, annually, in succeeding years. If these projections prove accurate, the agency could receive more first year applications than it is currently projecting.

In order to address the agency's additional license-issuance workload, DOJ anticipates that it would require 4.0 full-time equivalent (FTE) criminal history record specialists on a permanent basis, and the equivalent of 2.0 FTE criminal history record specialists on a project or limited-term employment basis during the first year following enactment of the new program. The agency's first year cost projections for 6.0 FTE criminal history record specialists assumes that such employees would be retained at the rate of \$12.50 per hour (the current salary range for such specialists goes from \$10.694 per hour to \$16.635 per hour) and that first year one-time and ongoing supplies and services costs for each position would amount to \$10,850. Based on these cost estimates, the projected first year costs of 6.0 FTE criminal history record specialists is set at \$281,800. As noted above, the substitute amendments do not appropriate funding or authorize positions to DOJ associated with its new licensure responsibilities.

With respect to DOJ's staffing cost projections developed for its fiscal estimate, when new

positions are authorized, they are typically budgeted initially at the salary range minimum for the position (\$10.694 per hour for a criminal history record specialist). Using this approach, the estimated first year cost of the 6.0 FTE criminal history record specialists would be projected at \$251,100, rather than \$281,800. It is further estimated that the ongoing cost of the 4.0 permanent criminal history record specialists would be \$128,800 annually (\$31,000 annually in salary and fringe costs and \$1,200 annually in supplies and services costs for each position).

It is likely that additional responsibilities would fall to this DOJ staff under the substitute amendments. This additional workload would include: (1) daily reviews of judicial and legal notifications from CCAP, clerks of court, registers in probate, and licensees to determine if any of these notifications would require the Department to suspend or revoke a concealed carry license (much of this process would likely be automated); (2) regular updates to the database on applicant and licensee information; (3) annual reports to the Legislature and the Governor on the administration of the concealed carry licensure program; and (4) administration of a program to issue identification cards to Wisconsin individuals eligible to carry concealed as a retired law enforcement officer.

The Department has further estimated that it would cost \$38,000 during the first year of program operations to acquire the necessary equipment and supplies to issue the tamper proof license documents that are required under the substitute amendments. The agency estimates that the following expenses would be incurred: (1) \$16,000 for two tamper-proof identification card printers; (2) \$12,000 for the identification document issuance software for six workstations; and (3) \$10,000 associated with the costs of blank documents and printer cartridges.

Costs Associated with Information Technology. The substitute amendments would also require DOJ to incur information technology-related costs to: (1) automate (to the extent possible) the expanded background checks; (2) develop an interface with the CCAP System to receive prompt notification of specified legal or judicial actions that might disqualify an individual seeking licensure to carry a concealed weapon or require the suspension or revocation of a current license; (3) develop a database to maintain required applicant and licensee information; (4) create and produce concealed carry licenses, retired law enforcement identification cards, application forms, training certificates, notice of expiration forms, and renewal forms; (5) create a link to the concealed carry licensee database available under certain conditions to law enforcement officers through the TIME System; and (6) create an annual statistical report to the Legislature and to the Governor on the administration of the concealed carry licensure program.

The Department currently estimates that it would incur one-time programming and equipment costs of \$456,000 to complete these projects. DOJ further estimates that it would require \$21,000 annually for ongoing maintenance and replacement costs.

Local Costs

Court Notifications to the Department of Justice. Court notification costs under the substitute amendments would generally fall to the state CCAP System. However, some local court

notification costs would likely be incurred because of the following factors. First, municipal courts do not report drunken driving citations and convictions to CCAP. Second, American Indian tribes or bands in Wisconsin do not report drunken driving citations and convictions to CCAP. [It should be noted that municipal and tribal courts currently report drunken driving convictions to the Department of Transportation (DOT) and under current law DOJ has access to DOT's drunken driving database through the TIME System. As a result, DOJ may be able to receive notification of these convictions through automated access to the DOT database.] Third, Portage County only uses CCAP for probate cases. Finally, the CCAP System cannot currently provide information on the following judicial actions that would be required to be reported to DOJ: (1) the names of those individuals who are subject to either domestic and child abuse injunctions or harassment injunctions where an individual is also ordered not to possess a firearm; and (2) the names of those individuals who are prohibited from possessing a dangerous weapon as a condition of release on a misdemeanor charge.

Supreme Court officials advise that local court officials are currently the legal custodians of involuntary commitment records under Chapter 51 (State Alcohol, Drug Abuse, Developmental Disabilities and Mental Health Act) and of incompetency findings under Chapter 880 (Guardians and Wards). Consequently, local court officials, rather than the CCAP System, would have to provide the required notifications to DOJ regarding these matters.

For required notifications relating to juveniles found delinquent for an act that would be a misdemeanor crime of violence if committed by an adult, it is anticipated that DOJ's current procedures relating to the collection of such information for firearms restrictions record searches could be expanded so that local court officials could comply with the notification requirements under the substitute amendments.

There is insufficient information available to determine the potential cost of the reporting requirements cited above that would newly be imposed on local court officials.

County Shooting Range Grants. The substitute amendments would create a \$15 shooting range improvement fee payable with each initial application and renewal application for licensure to carry a concealed weapon. Each county would receive these fees paid to DOJ by its county residents. Counties governments would be responsible for awarding grants funded with the fee to persons for the construction or improvement of shooting ranges. The County Treasurer would be authorized to make payments to grantees from the county's shooting range improvement fund. The substitute amendments do not include a specific grant of authority to county governments to utilize any of the fee revenue to cover county administrative costs associated with the operation of the new grant program. However, it is unclear what level of annual resources would actually be required by counties to administer this grant program.

Revenues from Licenses to Carry a Concealed Weapon

The following fees would be required with each application for licensure to carry a concealed weapon: (1) a \$52 initial license fee; (2) an \$8 background check fee; and (3) a \$15

shooting range improvement fee. Based on an assumption of 37,800 applications in the first year of operation of the program, the license fee would generate \$1,965,600, the background check fee would generate \$302,400, and the shooting range improvement fee would generate \$567,000. Based on an assumption that in future years DOJ would process 14,500 concealed carry applications annually, the license fee would generate \$754,000 annually, the background check fee would generate \$116,000 annually, and the shooting range improvement fee would generate \$217,500 annually. Beginning in the sixth year of the program, the state would also begin to generate renewal fees [\$27 per license renewal application rather than the \$52 initial license fee].

Under the substitute amendments, the shooting range improvement fees would be allocated to county governments. Likewise the background check fees would flow to the Department of Justice under current law procedures for its costs in conducting background checks.

The substitute amendments do not appropriate the revenue generated from the initial and renewal license fees. Consequently, as the substitute amendments are currently drafted, these fee revenues would be credited to the state's general fund. As noted above, it is estimated that \$1,965,600 would be credited to the general fund during the first year of operation of the new concealed carry licensure program and an estimated \$754,000 would be credited to the general fund in each year thereafter through the fifth year of operation of the program.

The Director of State Courts Office and the Department of Justice have both advised that these agencies cannot absorb the costs that would be imposed under the substitute amendments within existing budgeted resources. If the Legislature concurs with this assessment, it could appropriate license fee revenue to the Supreme Court or the Department of Justice either by amending the current proposals or by enacting trailer legislation.

Prepared by: Paul Onsager
Attachments

ATTACHMENT 1

Detailed Eligibility Requirements to Obtain a Concealed Weapon

An individual is eligible for a concealed weapons license under the substitute amendment if all of the following apply:

Applicant Not Prohibited from Possessing a Firearm under State or Federal Law

1. The individual is not prohibited under federal law from possessing a firearm that has been transported in interstate or foreign commerce. [s. 175.50(3)(c)]
2. The individual is not prohibited from possessing a firearm under state law. [s. 175.50(3)(d)]

Applicant Not Subject to a Disqualifying Criminal Charge or Conviction

3. During the preceding three years, the individual has not been convicted for any violation, or for the solicitation, conspiracy, or attempt to commit any violation of Wisconsin's Uniform Controlled Substances Act (Chapter 961), or of a federal law or a law of another state that is comparable to any provision of Chapter 961. [s. 175.50(3)(f)]

4. Within the preceding three years, the individual was not convicted of a misdemeanor crime of violence and was not serving a sentence, on probation, or subject to a dispositional order under Wisconsin's Juvenile Justice Code for committing a misdemeanor crime of violence. [s. 175.50(3)(m)] A misdemeanor crime of violence means a misdemeanor violation 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); (e) s. 947.01 (disorderly conduct); (f) refusing a lawful request by law enforcement to provide one or more samples of breath, blood, or urine or to submit to one or more chemical tests for purposes of testing alcohol concentration; or (g) carrying a concealed weapon with an alcohol concentration in excess of 0.08. A misdemeanor crime of violence also includes a crime under federal law or the law of another state that is comparable to the misdemeanor crimes listed under (a) through (g) above. [s. 175.50(1)(e)]

5. The individual has not been convicted of: (a) submitting an intentionally false notarized statement in regards to a concealed weapons license application or intentionally making a false statement in regards to the issuance of an emergency concealed weapons license; (b) intentionally violating the requirement that within 10 days after being charged under federal law or the law of another state with any crime or any drunk driving offense, a concealed weapons licensee must notify DOJ of the charge; or (c) intentionally failing to relinquish or deliver a concealed

weapons license personally or by certified mail to DOJ as a result of the revocation or suspension of the license. [s. 175.50(3)(r)]

6. 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 unless three years have elapsed since the date of the agreement. [s. 175.50(3)(n)]

Applicant Not Disqualified Due to Substance Abuse

7. During the preceding three years, the individual has not been civilly committed under state law for being drug dependent. [s. 175.50(3)(e)]

8. The individual does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. A person is presumed chronically and habitually to use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired if, within the preceding three years, any of the following applies: (a) the individual has been committed for involuntary treatment of alcoholism under state law; (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. [s. 175.50(3)(g)] A drunken driving offense means: (1) a violation of s. 346.63 (operating under influence of intoxicant or other drug) or a local ordinance in conformity with that section; (2) a violation of a law of a federally recognized American Indian tribe or band in Wisconsin in conformity with s. 346.63; or (3) a violation of the law of another jurisdiction that prohibits the use of a motor vehicle while intoxicated, while under the influence of a controlled substance, a controlled substance analog, or a combination thereof, with an excess or specified range of alcohol concentration, or while under the influence of any drug to a degree that renders the person incapable of safely driving, as those or substantially similar terms are used in that jurisdiction's laws. [s. 175.50(1)(am)]

Applicant Not Subject to Mental Health Disqualifier

9. The individual has not been involuntarily committed for treatment under state law due to mental illness or a developmental disability, or if the individual has been involuntarily committed for treatment under state law due to mental illness or a developmental disability, he or she shows, through evidence from a psychiatrist licensed in this state, that he or she has not been disabled due to mental illness or a developmental disability for at least five years. [s. 175.50(3)(j)]

10. The individual has not been found incompetent under Chapter 880 of the statutes (Guardians and Wards), or if the individual has been found incompetent under Chapter 880, he or she was subsequently found to be competent and at least five years have elapsed from the date that he or she was found to be competent. [s. 175.50(3)(i)]

11. The individual was not the subject of a protective placement under state law as a minor for a developmental disability unless at least five years have elapsed from the date on which his or her protective placement ended. [s. 175.50(3)(im)]

12. The individual has not been found incompetent to stand trial under state law or, if the individual has been found incompetent to stand trial under state law one of the following applies: (a) he or she was subsequently found to be competent and at least five years have elapsed from the date that he or she was found to be competent; or (b) he or she was not subsequently found to be competent and he or she shows through evidence from a psychiatrist licensed in Wisconsin that he or she has not been disabled due to mental illness or a developmental disability for at least five years. [s. 175.50(3)(k)]

13. The individual has not been found not guilty by reason of mental disease or defect under state law or, if the individual has been found not guilty by reason of mental disease or defect under state law, he or she presents evidence from a psychiatrist licensed in this state that he or she has not been disabled due to mental illness or a developmental disability for at least five years. [s. 175.50(3)(L)]

Firearm Training Requirement Satisfied

14. The individual has done one of the following: (a) successfully completed a firearm training or firearm safety course or class that meets the requirements for such training under the substitute amendments and that is conducted by an instructor certified by the state in which the course or class was conducted or by a national or state organization that certifies firearms instructors; (b) been certified by DOJ as a state instructor of a firearm training or firearm safety course or class; or (c) participated in organized shooting competitions or military, law enforcement, or security training that gave the applicant experience with firearms that the Department determines is substantially equivalent to any course or class that meets the substitute amendments requirements for firearm training. [s. 175.50(3)(h)] A qualifying firearm training or firearm safety course or class would have to include: (a) instruction on how to handle, load, unload, and store handguns; (b) instruction on the privilege of self-defense and the defense of others under state law; (c) instruction on how to avoid injuring third parties when defending oneself or others; (d) basic self-defense principles; (e) instruction on how to carry a concealed handgun safely; (f) instruction on firing a handgun; and (g) practice firing a handgun. The Department would not be authorized to specify the number of hours of instruction, either in the aggregate or with respect to any of the individual topics that a course or class must provide. [s. 175.50(3m)(a)]

Additional Eligibility Requirements

15. The individual does not have a severe physical disability that prevents him or her from safely handling a weapon and that, if the individual were handling a weapon, would cause the individual to pose a significant public safety risk. The Department of Justice could determine that an individual is ineligible for licensure due to severe physical disability only if the firearm training instructor completed a training certificate indicating that the person was ineligible on this basis.

While the Department would be authorized to overrule a disability finding made by a certified instructor, the Department would not be authorized to overrule an instructor's finding that an individual was not severely physically disabled. A firearm training instructor previously certified by DOJ could not be found ineligible for licensure due to severe physical disability. [s. 175.50(3)(b)]

16. 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. [s. 175.50(3)(o)]

17. The individual has not previously submitted an application for a concealed weapons license and had the application denied, unless each reason for the denial is no longer applicable because of changed circumstances or, if the denial was based on a restriction that applies for a specified period of time, because that time period has run. [s. 175.50(3)(p)]

18. The individual has not had a concealed weapons license revoked, unless each reason for the revocation is no longer applicable because of changed circumstances or, if the revocation was based on a restriction that applies for a specified period of time, because that time period has run. [s. 175.50(3)(q)]

19. The individual is at least 21 years of age. [s. 175.50(3)(a)]

20. The individual is a Wisconsin resident. [s. 175.50(3)(s)]

ATTACHMENT 2

Modifications to Criminal Penalties Relating to Concealed Weapons

Law Changes Permitting Individuals to Carry Concealed Weapons				
Statutory Section	Current Law Prohibition	Current Law Penalty	Change Under the Bill	Penalty Under the Bill
941.23	No person except a peace officer may go armed with a concealed and dangerous weapon.	Class A Misdemeanor--A fine not to exceed \$10,000 or imprisonment not to exceed nine months or both	Provide that licensees and out-of-state licensees may go armed with a concealed handgun, an electric weapon, a knife other than a switchblade knife, or a billy club. Further provide that licensees and out-of-state licensees may carry a concealed weapon anywhere in Wisconsin except as provided in exceptions 1 through 16 below. Peace officers would only be subject to exception #16. Provide that non-licensees may go armed with such concealed weapons in his or her dwelling or place of business or on land that he or she owns, leases, or legally occupies, unless he or she is prohibited under federal or state law from possessing that weapon. [ss. 175.50(16)(d) and 941.23(2)(d)&(e)]	No penalty
	None	None	Exception #1: Neither a licensee nor an out-of-state licensee may carry a concealed weapon in a place that has been declared a nuisance under Chapter 823 (Nuisances). [s. 175.50(16)(a)(1)]	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [s. 175.50(17)(b)]
	None	None	Exception #2: Neither a licensee nor an out-of-state licensee may carry a concealed weapon in a police station, sheriff's office, or state patrol station unless he or she would be a peace officer acting within the scope of his or her employment. [s.175.50(16)(a)(2)]	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [s. 175.50(17)(b)]
	None	None	Exception #3: Neither a licensee nor an out-of-state licensee may carry a concealed weapon in a prison, jail, house of correction, or secured correctional facility. [s. 175.50(16)(a)(3)]	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [s. 175.50(17)(b)]
	None	None	Exception #4: Neither a licensee nor an out-of-state licensee may carry a concealed weapon in a courthouse, except that a judge in which he or she is presiding and may permit in writing any other licensee or out-of-state licensee to carry a concealed weapon in a courthouse in which he or she is presiding. [s. 175.50(16)(a)(4)]	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [s. 175.50(17)(b)]

Statutory Section	Current Law Prohibition	Current Law Penalty	Change Under the Bill	Penalty Under the Bill
	None	None	<p>Change Under the Bill</p> <p>Exception #5: Neither a licensee nor an out-of-state licensee may carry a concealed weapon in any 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 individual is in the building. This prohibition would not apply to: (a) peace officers or armed forces or military personnel who go armed in the line of duty; (b) persons authorized to carry a weapon in the building by the chief of police or county sheriff of the unit of government in which the building is located; or (c) 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. [s. 175.50(16)(at)]</p>	<p>Penalty Under the Bill</p> <p>Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [s. 175.50(17)(b)]</p>
	None	None	<p>Exception #6: Neither a licensee nor an out-of-state licensee may carry a concealed weapon to a place at which a school, college, or professional athletic event is taking place, unless the event is related to firearms and the licensee or out-of-state licensee is a participant in the event. [s. 175.50(16)(a)(5)]</p>	<p>Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [s. 175.50(17)(b)]</p>
	None	None	<p>Exception #7: Neither a licensee nor an out-of-state licensee may carry a concealed weapon in a school administration building. [s. 175.50(16)(a)(6)]</p>	<p>Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [s. 175.50(17)(b)]</p>
	None	None	<p>Exception #8: Neither a licensee nor an out-of-state licensee may carry a concealed weapon in any premises for which a Class "B" or "Class B" license or permit has been issued under Chapter 125 (Alcohol Beverages), unless one of the following applies: (1) an exception from this prohibition already exists for the individual under current law; (2) the individual is carrying a handgun and his or her possession of the handgun is already excepted from this prohibition under current law; or (3) the sale of intoxicating liquors or fermented malt beverages or both on the premises accounts for not more than 50% of the proprietor's annual gross receipts from the premises. [s. 175.50(16)(a)(7)]</p>	<p>Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [s. 175.50(17)(b)]</p>

Statutory Section	Current Law Prohibition	Current Law Penalty	Change Under the Bill	Penalty Under the Bill
	None	None	<p>Exception #9: Neither a licensee nor an out-of-state licensee may carry a concealed weapon in or beyond a security checkpoint in an airport unless the weapon is encased for shipment as baggage to be transported by aircraft. [s. 175.50(16)(a)(8)]</p>	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [s. 175.50(17)(b)]
	None	None	<p>Exception #10: Neither a licensee nor an out-of-state licensee may carry a concealed weapon in the following places in which carrying the weapon is prohibited by federal law: (1) within a federal facility; (2) within a school zone except that firearms may be possessed: (a) on private property that is not a part of the school grounds; (b) unloaded and within a locked container or a locked firearms rack within a vehicle; (c) by an individual for use in a program approved by the school; (d) by a law enforcement officer; (e) 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; and (f) by an individual in accordance with a contract entered into between the school and the individual or an employer of the individual; (3) within or while entering the sterile area of an airline terminal or aboard or while attempting to board an aircraft; and (4) within certain national park areas. [s. 175.50(16)(a)(9)]</p>	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [s. 175.50(17)(b)]
	None	None	<p>Exception #11: Neither a licensee nor an out-of-state licensee may knowingly carry a handgun in a school zone as defined by state statute, unless the individual is not in or on the grounds of a school as defined by state statute, and the individual: (1) is in a motor vehicle or on a snowmobile or bicycle; (2) has exited a motor vehicle and is encasing the handgun or storing it in the motor vehicle; (3) is traveling directly to any person's private property from his or her place of employment or business, from any person's private property, or from a place outside of the school zone; (4) is traveling directly to his or her place of employment or business, from another place of his or her employment or business, from any person's private property, or from a place outside of the school zone; (5) is traveling directly to a place outside of the school zone from another place outside of the school zone, from any individual's private property, or from his or her place of employment or business; or (6) is subject to a current law exception for possession of a firearm in a school zone. [s. 175.50(16)(b)]</p>	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [s. 175.50(17)(b)]

Statutory Section	Current Law Prohibition	Current Law Penalty	Change Under the Bill	Penalty Under the Bill
	None	None	Exception #12: Neither a licensee nor an out-of-state licensee may carry a concealed weapon other than a handgun on school premises as defined by state statute, unless the individual would be permitted to possess or go armed with a dangerous weapon on school premises under current law. [s. 175.50(16)(c)]	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [s. 175.50(17)(b)]
	None	None	Exception #13: Neither a licensee nor an out-of-state licensee may carry a concealed weapon in a kindergarten facility or classroom. [s. 175.50(16)(a)(10)]	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [s. 175.50(17)(b)]
	None	None	Exception #14: A licensee and an out-of-state licensee will be subject to a forfeiture if, while going armed with a concealed weapon, he or she enters or remains at a residence or a nonresidential building that the individual does not own or occupy after the owner of the residence or building, if he or she has not leased it to another person, or the occupant of the residence or building has notified the individual not to enter or remain at the residence or building while going armed with a concealed weapon or with that type of concealed weapon. This provision would not apply to a part of a nonresidential building occupied by the state or one of its subdivisions or to any part of a nonresidential building used for parking. An owner or occupant of a part of a nonresidential building would be considered to have provided notice to an individual not to enter or remain there with a concealed weapon, if the owner or occupant had done all of the following: (1) posted a sign at least 11 inches square with such a notice located in a prominent place near the primary entrance to that part of the nonresidential building to which that restriction applies; and (2) personally and orally notified the individual of the restriction. [ss. 943.13(1e)(bm)&(g), 943.13(1m)(b)&(c); 943.13(2)(am)&(bm), and 943.13(3)]	Civil forfeiture not to exceed \$1,000 [ss. 943.13(1m)(b)&(c)]
	None	None	Exception #15: A private employer may prohibit a licensee or out-of-state licensee from carrying a concealed weapon in the course of employment. A private employer may not prohibit a licensee or out-of-state licensee, as a condition of employment, from carrying a concealed weapon in the individual's own motor vehicle, regardless of whether the motor vehicle will be used in the course of employment. [s. 175.50(15m)]	None

Statutory Section	Current Law Prohibition	Current Law Penalty	Change Under the Bill	Penalty Under the Bill
941.20(1)(b)	No person may operate or go armed with a firearm while under the influence of an intoxicant.	Class A Misdemeanor--A fine not to exceed \$10,000 or imprisonment not to exceed nine months or both	Exception #16: A current law prohibition and penalty on operating a firearm while under the influence of an intoxicant would continue to apply to licensees and out-of-state licensees. A licensee or out-of-state licensee would also be prohibited from carrying a concealed weapon if the person's alcohol concentration exceeded 0.08. A person carrying a concealed weapon would be deemed to have given his or her consent for giving or testing breath, blood, or urine samples. [s. 175.50(2k)(e) & (16)(cm)]	Class A Misdemeanor (carrying a concealed weapon with a prohibited level of intoxication) -- A fine not to exceed \$10,000 or imprisonment not to exceed nine months or both. A licensee or out-of-state licensee would be guilty of a Class A Misdemeanor 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. [s. 175.50(17)(bm)]
941.235(1)	Generally, no person may go armed with a firearm in any building owned or leased by the state or any political subdivision of the state.	Class A Misdemeanor--A fine not to exceed \$10,000 or imprisonment not to exceed nine months or both	This prohibition does not apply if the firearm is a handgun possessed by a licensee or out-of-state licensee. Provide further that this prohibition does not apply to qualified out-of-state law enforcement officers and to retired law enforcement officers who meet the requirements to carry a concealed weapon. [s. 941.2355(2)(c),(d)&(e)]	Exempted behavior would no longer be subject to a penalty under this statutory section, but see exceptions #2, #3, #4, #5, #7, #9, #12, and #13 above.
167.31(3)(a)	No person may place, possess or transport a firearm, bow or crossbow in or on an aircraft, unless the firearm is unloaded and encased or unless the bow or crossbow is unstrung or is enclosed in a carrying case.	Fine of not more than \$1,000 or imprisoned not more than 90 days or both	This prohibition does not apply to the placement, possession, transportation, or loading of a firearm by a licensee or out-of-state licensee. Provide further that this prohibition does not apply to law enforcement officers, qualified out-of-state law enforcement officers, and to retired law enforcement officers who meet the requirements to carry a concealed weapon. [s. 167.31(4)(ar)]	Exempted behavior would no longer be subject to a penalty under this statutory section, but see exceptions #9 and #10 above.
941.237(2)	Generally, no person may intentionally go armed with a handgun on any premises for which a Class "B" or "Class B" license has been issued under Chapter 125 (Alcohol Beverages).	Class A Misdemeanor --A fine not to exceed \$10,000 or imprisonment not to exceed nine months or both	This prohibition does not apply to a licensee or out-of-state licensee. Provide further that this prohibition does not apply to qualified out-of-state law enforcement officers and to retired law enforcement officers who meet the requirements to carry a concealed weapon. [s. 941.237(3)(cr),(ct)&(cx)]	Exempted behavior would no longer be subject to a penalty under this statutory section, but see exception #8 above.
167.31(3)(b)	No person may load or	Fined not more than	This prohibition does not apply to the placement, possession,	Exempted behavior would no longer be

Statutory Section	Current Law Prohibition	Current Law Penalty	Change Under the Bill	Penalty Under the Bill
	discharge a firearm or shoot a bolt or an arrow from a bow or crossbow in or from an aircraft.	\$1,000 or imprisoned not more than 90 days or both	transportation, or loading of a firearm by a licensee or out-of-state licensee. Further provide that this prohibition does not apply to law enforcement officers, qualified out-of-state law enforcement officers, and to retired law enforcement officers who meet the requirements to carry a concealed weapon. [s. 167.31(4)(ar)]	subject to a penalty under this statutory section, but see exceptions #9 and #10 above.
948.605(2)(a)	Generally, no person may knowingly possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone.	Class I Felony--A fine not to exceed \$10,000 or imprisonment not to exceed three years and six months or both	This prohibition does not apply to the possession of a handgun by a licensee or out-of-state licensee. Further provide that this prohibition does not apply to law enforcement officers, qualified out-of-state law enforcement officers, and to retired law enforcement officers who meet the requirements to carry a concealed weapon. [s. 948.605(2)(c)]	Exempted behavior would no longer be subject to a penalty under this statutory section, but see exceptions #6, #10, #11, and #13 above.
948.61	Generally, no person may knowingly possess or go armed with a dangerous weapon on school premises.	Class A Misdemeanor --A fine not to exceed \$10,000 or imprisonment not to exceed nine months or both, or a Class I Felony (if the violation is the person's 2nd or subsequent violation within a five year period, as measured from the dates the violations occurred)--a fine not to exceed \$10,000 or imprisonment not to exceed three years and six months or both	This prohibition does not apply to the possession of an electric weapon, a knife other than a switchblade or a billy club by a licensee or out-of-state licensee. [s. 948.61(3m)]	Exempted behavior would no longer be subject to a penalty under this statutory section, but see exceptions #6, #7, #12, and #13 above.
941.295(1)	Generally, no person may sell, transport, manufacture, possess or go armed with any electric weapon.	Class H Felony--A fine not to exceed \$10,000 or imprisonment not to exceed six years or both	The prohibition on possessing or going armed with an electric weapon does not apply to licensees, out-of-state licensees or individuals going armed with an electric weapon in his or her own dwelling or place of business or on land that he or she owns, leases, or legally occupies, unless he or she is prohibited under federal or state law from possessing that weapon. Further provide that the prohibition on transporting an electric weapon does not	Exempted behavior would no longer be subject to a penalty.

Statutory Section	Current Law Prohibition	Current Law Penalty	Change Under the Bill	Penalty Under the Bill
29.089(2)	No person may generally have in his or her possession or control a firearm located in state parks or state fish hatcheries unless the firearm is unloaded and enclosed within a carrying case.	Forfeiture of not more than \$100 [see s. 29.971(4)]	This prohibition does not apply if the firearm is a handgun possessed by a licensee or out-of-state licensee. Further provide that this prohibition does not apply to law enforcement officers, qualified out-of-state law enforcement officers, and to retired law enforcement officers who meet the requirements to carry a concealed weapon. [ss. 29.089(2) and (2)(a),(b),(c)&(d)]	Exempted behavior would no longer be subject to a penalty.
29.091; 29.621(4)	No person may have possession or control of any gun, firearm, bow or crossbow within any wildlife refuge unless the gun or firearm is unloaded, the bow or crossbow is unstrung and the gun, firearm, bow or crossbow is enclosed within a carrying case.	Forfeiture of not more than \$100 [see s. 29.971(4)]	This prohibition does not apply to the possession of a handgun by a licensee or out-of-state licensee. Further provide that this prohibition does not apply to law enforcement officers, qualified out-of-state law enforcement officers, and to retired law enforcement officers who meet the requirements to carry a concealed weapon. [ss. 29.091(1),(2),(2)(d), (4)(a) thru ((d), and (6)]	Exempted behavior would no longer be subject to a penalty.
167.31(2)(a)	No person may place, possess or transport a firearm, bow or crossbow in or on a motorboat with the motor running, unless the firearm is unloaded or unless the bow or crossbow is unstrung or en-	Forfeiture of not more than \$100 [see s. 167.31(2)(e)]	This prohibition does not apply to the placement, possession, transportation, or loading of a handgun by a licensee or out-of-state licensee. Further provide that this prohibition does not apply to the placement, possession, transportation, or loading of a firearm by law enforcement officers, qualified out-of-state law enforcement officers, and to retired law enforcement officers who meet the requirements to carry a concealed weapon. [s. 167.31(4)(ar)]	Exempted behavior would no longer be subject to a penalty.

Statutory Section	Current Law Prohibition	Current Law Penalty	Change Under the Bill	Penalty Under the Bill
167.31(2)(b)	No person may place, possess or transport a firearm, bow or crossbow in or on a vehicle, unless the firearm is unloaded and encased or unless the bow or crossbow is unstrung or is enclosed in a carrying case.	Forfeiture of not more than \$100 [see s. 167.31(2)(e)]	This prohibition does not apply to the placement, possession, transportation, or loading of a handgun by a licensee or out-of-state licensee. Further provide that this prohibition does not apply to the placement, possession, transportation, or loading of a firearm by law enforcement officers, qualified out-of-state law enforcement officers, and to retired law enforcement officers who meet the requirements to carry a concealed weapon. [s. 167.31(4)(ar)]	Exempted behavior would no longer be subject to a penalty.
167.31(2)(c)	No person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow in or from a vehicle.	Forfeiture of not more than \$100 [see s. 167.31(2)(e)]	This prohibition does not apply to the placement, possession, transportation, or loading of a handgun by a licensee or out-of-state licensee. Further provide that this prohibition does not apply to the placement, possession, transportation, or loading of a firearm by law enforcement officers, qualified out-of-state law enforcement officers, and to retired law enforcement officers who meet the requirements to carry a concealed weapon. [s. 167.31(4)(ar)]	Exempted behavior would no longer be subject to a penalty.
23.33(3)(e)	No person may operate an all-terrain vehicle with any firearm in his or her possession unless it is unloaded and enclosed in a carrying case, or any bow unless it is unstrung or enclosed in a carrying case.	Forfeiture of not more than \$250 [see s. 23.33(13)(a)]	This prohibition does not apply to the possession of a handgun by a licensee or out-of-state licensee. Further provide that this prohibition does not apply to law enforcement officers, qualified out-of-state law enforcement officers, and to retired law enforcement officers who meet the requirements to carry a concealed weapon. [ss. 23.33(3)(e)1. thru 6.]	Exempted behavior would no longer be subject to a penalty.

Administration of a Concealed Weapons License Program

Statutory Section	Current Law Prohibition	Current Law Penalty	Change Under the Bill	Penalty Under the Bill
	None	None	False statement penalty #1: An applicant must submit a notarized statement reporting that the information provided in the concealed weapons application and any document submitted with the application is true and complete to the best of his or her knowledge. [s. 175.50(7)(b)]	If an applicant submitted an intentionally false notarized statement, he or she would be fined not less than \$500 nor more than \$10,000 and could be imprisoned for not more than nine months. [s. 175.50(17)(c)]
	None	None	False statement penalty #2: A licensee must submit a notarized statement reporting that the information provided in the renewal application is true and complete to the best of his or her knowledge and that he or she meets the eligibility criteria of Attachment 1. [s. 175.50(15)(b)(2)]	If a licensee submitted an intentionally false notarized statement, he or she would be fined not less than \$500 nor more than \$10,000 and could be imprisoned for not more than nine months. [s. 175.50(17)(c)]
	None	None	False statement penalty #3: An applicant may not intentionally make a false statement to DOJ in requesting or in connection with the issuance of an emergency license. [s. 175.50(17)(c)]	An applicant violating this prohibition would be fined not less than \$500 nor more than \$10,000 and could be imprisoned for not more than nine months. [s. 175.50(17)(c)]
	None	None	Within 10 days after being charged under federal law or the law of another state with any crime or any drunken driving offense, a licensee must notify DOJ of the charge. [s. 175.50(12)(a)]	Any licensee intentionally violating this requirement would be fined not less than \$500 nor more than \$10,000 and could be imprisoned for not more than nine months. [s. 175.50(17)(d)]
	None	None	Within seven days after receiving a notice of license suspension or revocation from DOJ, the licensee would be required to deliver the license document personally or by certified mail to the Department. [s. 175.50(14)(b)(2)]	Any licensee intentionally violating this requirement would be fined not less than \$500 nor more than \$10,000 and could be imprisoned for not more than nine months. [s. 175.50(17)(e)]
	None	None	Provide that a licensee must carry his or her license and photo identification, and that an out-of-state licensee must carry his or her out-of-state authorization at all times during which he or she is going armed with a concealed weapon. [s. 175.50(2g)(b)]	Forfeiture of not more than \$25 [s. 175.50(17)(a)]

Statutory Section	Current Law Prohibition	Current Law Penalty	Change Under the Bill	Penalty Under the Bill
	None	None	<p>Provide that if he or she is carrying a concealed weapon, a licensee must display his or her license and photo identification, and an out-of-state licensee must display his or her out-of-state authorization to a law enforcement officer upon the request of the law enforcement officer. [s. 175.50(2g)(c)]</p>	<p>Forfeiture of not more than \$25 [s. 175.50(17)(a)]</p>
	None	None	<p>While carrying a concealed firearm, a qualified out-of-state law enforcement officer would be required to carry an identification card containing his or her photograph issued by his or her employing law enforcement agency. [s. 943.23(3)(a)]</p>	<p>Forfeiture of not more than \$25 [s. 943.23(3)(a)]</p>
	None	None	<p>While carrying a concealed firearm, a retired law enforcement officer would be required to carry either: (1) a photographic identification document issued by the retired officer's former employer indicating that within the 12 months preceding the date on which the retired officer was carrying a concealed firearm, he or she was tested or otherwise found by his or her former employer to meet the standards that it established for training and qualification for active duty law enforcement officers to carry a firearm of the same type as the firearm that the retired officer is carrying; or (2) a photographic identification document issued by the retired officer's former employer and either an identification card issued by DOJ if the retired officer resides in Wisconsin or a certification issued by the state in which the retired officer resides, if the retired officer resides in another state, that indicates that, within the 12 months preceding the date on which the retired officer was carrying the concealed firearm, he or she was tested or otherwise found by that state to meet the state's standards for training and qualification for active duty law enforcement officers to carry a firearm of the same type as the firearm that the retired officer was carrying. [s. 943.23(3)(a)]</p>	<p>Forfeiture of not more than \$25 [s. 943.23(3)(a)]</p>

Statutory Section	Current Law Prohibition	Current Law Penalty	Change Under the Bill	Penalty Under the Bill
946.32(1)(a)	No individual under oath or affirmation may make or subscribe a false statement which he or she does not believe is true, when such oath or affirmation is authorized or required by law or is required by any public officer or governmental agency as a prerequisite to such officer or agency taking some official action.	Class H Felony--A fine not to exceed \$10,000 or imprisonment not to exceed six years or both	This prohibition does not apply to false statements made by applicants or licensees under the concealed weapons program. [s. 947.32(3)]	False statements by applicants and licensees under the concealed weapons program would no longer be penalized under this statutory section, but see false statement penalties #1 through #3 above for substitute provisions.