

Report From Agency

REPORT TO THE LEGISLATURE

Wisconsin Department of Justice

Ch. Jus 10

***Amending Jus 10.11 (1) and Creating Jus 10.01 (4m)*
and 10.095, Relating to Firearms Restriction Records Searches
Clearing House Rule No. 11-036**

Basis and Purpose of the Proposed Rule

The primary objective of the proposed rule is to update Jus 10 to conform to existing requirements in s. 175.35 (2g) (d) and 175.35 (2i), Stats. The proposed rule will also conform the fee provisions in Jus 10.11 (1) to the fee provisions in s. 175.35 (2i), Stats.

Summary of the Proposed Rule

Jus 10 contains the current rule provisions promulgated by the Wisconsin Department of Justice for statutorily-required records searches that are performed by the department before the completion of proposed firearms sales. Section 175.35 (2i), Stats. prescribes the fee for such searches. Section 175.35 (2g)(c), Stats. directs the department to promulgate rules for firearms restriction record searches. Section 175.35 (2g)(d), Stats. directs the department to promulgate rules to convey relevant firearms restriction information that is received from circuit court orders entered in involuntary civil commitment proceedings under ch. 51, Stats., in guardianship proceedings under ch. 54, Stats., and in protective placement proceedings under ch. 55, Stats. in a timely manner to the national instant criminal background check system, 28 CFR Part 25. The system contains a national database of information concerning persons who have been prohibited from possessing firearms. The proposed rule brings Jus 10 into conformity with s. 175.35 (2g) (d) and 175.35 (2i), Stats.

Summary of Public Comments

No public comments were received in response to the initial proposed rulemaking order.

Persons Appearing or Registering for or Against the Proposed Rule at a Hearing

No public hearing was required. No persons appeared or registered for or against the proposed rule.

Changes to the Rule Summary or to the Fiscal Estimate

No substantive changes were made to the rule summary or to the fiscal estimate. Clarifying language was added and formatting changes were made. Most of these changes were made in response to or as a result of comments contained in the Legislative Council Rules Clearinghouse Report.

Response to Legislative Council Rules Clearinghouse Report

With one exception, all clearinghouse comments were accepted and the proposed rule was revised accordingly. The suggested change in Comment 5.b. was not made because it is possible that some cancellation orders that are received from circuit courts may not require changes to the departmental database.