



State of Wisconsin
2021 - 2022 LEGISLATURE

LRBa1159/1
CMH:cjs&amn

**ASSEMBLY AMENDMENT 1,
TO ASSEMBLY BILL 495**

January 20, 2022 - Offered by Representatives NEUBAUER, STUBBS and ANDRACA.

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

2 **1.** Page 1, line 4: after “weapon” insert “, background checks requirement
3 before transfers of firearms, training requirements for a license to carry a concealed
4 weapon, and providing a penalty”.

5 **2.** Page 1, line 5: before that line insert:

6 “**SECTION 1b.** 20.455 (2) (gr) of the statutes is amended to read:

7 20.455 (2) (gr) *Handgun Firearm purchaser record check; checks for licenses or*
8 *certifications to carry concealed weapons.* All moneys received as fee payments under
9 ss. 175.35 (2i) (a), 175.49 (5m), and 175.60 (7) (c) and (d), (13), and (15) (b) 4. a. and
10 b. to provide services under ss. 175.35, 175.49, and 175.60.

11 **SECTION 1d.** 175.33 of the statutes is created to read:

12 **175.33 Transfer of firearms.** (1) In this section:

1 (a) “Family member” means a spouse, parent, grandparent, sibling, child, or
2 grandchild. The relationship may be by blood, marriage, or adoption.

3 (b) “Firearm” includes the frame or receiver of a firearm.

4 (c) “Firearms dealer” has the meaning given in s. 175.35 (1) (ar).

5 (d) “Transfer” has the meaning given in s. 175.35 (1) (br).

6 (2) No person may transfer ownership of a firearm, or be transferred ownership
7 of a firearm, unless one of the following applies:

8 (a) The transferor is a firearms dealer.

9 (b) The transferor makes the transfer through a firearms dealer and obtains
10 a receipt under s. 175.35 (2j) (b).

11 (c) The transfer of ownership of the firearm is one of the transfers listed under
12 s. 175.35 (2t).

13 (d) The transferor is transferring ownership of the firearm to a family member
14 by gift, bequest, or inheritance, the transferee is not prohibited from possessing a
15 firearm under state or federal law, and the transferee is at least 18 years of age.

16 (3) Any person who intentionally violates sub. (2) is guilty of a misdemeanor
17 and shall be fined not less than \$500 nor more than \$10,000 and may be imprisoned
18 for not more than 9 months.

19 **SECTION 1e.** 175.35 (title) of the statutes is amended to read:

20 **175.35 (title) Purchase Transfer of handguns firearms.**

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

22 175.35 (1) (at) “Firearms restrictions record search” means a search of
23 department of justice records to determine whether a person seeking to purchase be
24 transferred a handgun firearm is prohibited from possessing a firearm under s.
25 941.29. “Firearms restrictions record search” includes a criminal history record

1 search, a search to determine whether a person is prohibited from possessing a
2 firearm under s. 51.20 (13) (cv) 1., 2007 stats., a search in the national instant
3 criminal background check system to determine whether a person has been ordered
4 not to possess a firearm under s. 51.20 (13) (cv) 1., 51.45 (13) (i) 1., 54.10 (3) (f) 1., or
5 55.12 (10) (a), a search to determine whether the person is subject to an injunction
6 under s. 813.12 or 813.122, or a tribal injunction, as defined in s. 813.12 (1) (e), issued
7 by a court established by any federally recognized Wisconsin Indian tribe or band,
8 except the Menominee Indian tribe of Wisconsin, that includes notice to the
9 respondent that he or she is subject to the requirements and penalties under s.
10 941.29 and that has been filed with the circuit court under s. 813.128 (3g), and a
11 search to determine whether the person is prohibited from possessing a firearm
12 under s. 813.123 (5m) or 813.125 (4m).

13 **SECTION 1g.** 175.35 (1) (b) of the statutes is repealed.

14 **SECTION 1h.** 175.35 (1) (br) of the statutes is created to read:

15 175.35 (1) (br) "Transfer" includes to sell, assign, pledge, lease, loan, give away,
16 or otherwise dispose of. "Transfer" does not include a transfer that is intended to be
17 temporary if neither the transferor nor the transferee is prohibited from possessing
18 a firearm under s. 941.29 and the purpose of the transfer is not prohibited by law.

19 **SECTION 1i.** 175.35 (2) (intro.) of the statutes is renumbered 175.35 (2) (am) and
20 amended to read:

21 175.35 (2) (am) When a firearms dealer sells transfers a handgun firearm,
22 including the frame or receiver of a firearm, he or she may not transfer possession
23 of that handgun firearm to any other person until all of the following have occurred:
24 requirements under par. (cm) have been met.

1 **SECTION 1j.** 175.35 (2) (a), (b), (c) and (d) of the statutes are renumbered 175.35
2 (2) (cm) 1., 2., 3. and 4.

3 **SECTION 1k.** 175.35 (2) (bm) of the statutes is created to read:

4 175.35 (2) (bm) When a person transfers a firearm, including the frame or
5 receiver of a firearm, through a firearms dealer, the transfer of possession of that
6 firearm may not be made until all of the requirements of par. (cm) have been met.

7 **SECTION 1L.** 175.35 (2) (cm) (intro.) of the statutes is created to read:

8 175.35 (2) (cm) (intro.) All of the following must occur before a transfer of a
9 firearm occurs under par. (am) or (bm):

10 **SECTION 1m.** 175.35 (2g) (a) of the statutes is amended to read:

11 175.35 (2g) (a) The department of justice shall promulgate rules prescribing
12 procedures for use under sub. (2) (cm) 1. for a transferee to provide and a firearms
13 dealer to inspect identification containing a photograph of the transferee.

14 **SECTION 1n.** 175.35 (2g) (b) 1. of the statutes is amended to read:

15 175.35 (2g) (b) 1. The department of justice shall promulgate rules prescribing
16 a notification form for use under sub. (2) (cm) 2. and 3. requiring the transferee to
17 provide his or her name, date of birth, gender, race and social security number and
18 other identification necessary to permit an accurate firearms restrictions record
19 search under par. (c) 3. and the required notification under par. (c) 4. The department
20 of justice shall make the forms available at locations throughout the state.

21 **SECTION 1o.** 175.35 (2g) (b) 2. of the statutes is amended to read:

22 175.35 (2g) (b) 2. The department of justice shall ensure that each notification
23 form under subd. 1. requires the transferee to indicate that he or she is not
24 purchasing receiving a transfer of the firearm with the purpose or intent to transfer
25 the firearm to a person who is prohibited from possessing a firearm under state or

1 federal law and that each notification form informs the transferee that making a
2 false statement with regard to this purpose or intent is a Class H felony.

3 **SECTION 1p.** 175.35 (2i) of the statutes is renumbered 175.35 (2i) (a) and
4 amended to read:

5 175.35 **(2i)** (a) The department shall charge a firearms dealer a \$10 fee for each
6 firearms restrictions record search that the firearms dealer requests under sub. (2)
7 ~~(e)~~ (cm) 3.

8 (b) 1. The firearms dealer may collect the fee under par. (a) from the transferee.

9 (c) The department may refuse to conduct firearms restrictions record searches
10 for any firearms dealer who fails to pay any fee under ~~this subsection~~ par. (a) within
11 30 days after billing by the department.

12 **SECTION 1q.** 175.35 (2i) (b) 2. of the statutes is created to read:

13 175.35 **(2i)** (b) 2. If the transfer is made under sub. (2) (bm), the firearms dealer
14 may collect from the transferor the fee under par. (a) and any additional amount to
15 cover any costs he or she incurs in processing the transfer.

16 **SECTION 1r.** 175.35 (2j) of the statutes is renumbered 175.35 (2j) (a).

17 **SECTION 1s.** 175.35 (2j) (b) of the statutes is created to read:

18 175.35 **(2j)** (b) If a person transfers a firearm through a firearms dealer under
19 sub. (2) (bm), or transfers a firearm to a firearms dealer, the firearms dealer shall
20 provide the person a written receipt documenting the dealer's participation in the
21 transfer.

22 **SECTION 1t.** 175.35 (2k) (ar) 2. of the statutes is amended to read:

23 175.35 **(2k)** (ar) 2. Check each notification form received under sub. (2j) (a)
24 against the information recorded by the department regarding the corresponding
25 request for a firearms restrictions record search under sub. (2g). If the department

1 previously provided a unique approval number regarding the request and nothing
2 in the completed notification form indicates that the transferee is prohibited from
3 possessing a firearm under s. 941.29, the department shall destroy all records
4 regarding that firearms restrictions record search within 30 days after receiving the
5 notification form.

6 **SECTION 1u.** 175.35 (2k) (c) 2. a. of the statutes is amended to read:

7 175.35 (2k) (c) 2. a. A statement that the Wisconsin law enforcement agency
8 is conducting an investigation of a crime in which a ~~handgun~~ firearm was used or was
9 attempted to be used or was unlawfully possessed.

10 **SECTION 1v.** 175.35 (2k) (c) 2. b. of the statutes is amended to read:

11 175.35 (2k) (c) 2. b. A statement by a division commander or higher authority
12 within the Wisconsin law enforcement agency that he or she has a reasonable
13 suspicion that the person who is the subject of the information request has obtained
14 or is attempting to obtain a ~~handgun~~ firearm.

15 **SECTION 1w.** 175.35 (2k) (g) of the statutes is amended to read:

16 175.35 (2k) (g) If a search conducted under sub. (2g) indicates that the
17 transferee is prohibited from possessing a firearm under s. 941.29, the attorney
18 general or his or her designee may disclose to a law enforcement agency that the
19 transferee has attempted to obtain a ~~handgun~~ firearm.

20 **SECTION 1x.** 175.35 (2k) (h) of the statutes is amended to read:

21 175.35 (2k) (h) If a search conducted under sub. (2g) indicates a felony charge
22 without a recorded disposition and the attorney general or his or her designee has
23 reasonable grounds to believe the transferee may pose a danger to himself, herself
24 or another, the attorney general or his or her designee may disclose to a law

1 enforcement agency that the transferee has obtained or has attempted to obtain a
2 handgun firearm.

3 **SECTION 1y.** 175.35 (2L) of the statutes is amended to read:

4 175.35 (2L) The department of justice shall promulgate rules providing for the
5 review of nonapprovals under sub. (2g) (c) 4. a. Any person who is denied the right
6 to purchase receive a transfer of a handgun firearm because the firearms dealer
7 received a nonapproval number under sub. (2g) (c) 4. a. may request a firearms
8 restrictions record search review under those rules. If the person disagrees with the
9 results of that review, the person may file an appeal under rules promulgated by the
10 department.

11 **SECTION 1yc.** 175.35 (2t) (a), (b) and (c) of the statutes are amended to read:

12 175.35 (2t) (a) Transfers of any handgun firearm classified as an antique by
13 regulations of the U.S. department of the treasury.

14 (b) Transfers of any handgun firearm between firearms dealers or between
15 wholesalers and dealers.

16 (c) Transfers of any handgun firearm to law enforcement or armed services
17 agencies.

18 **SECTION 1yd.** 175.35 (3) (b) 2. of the statutes is amended to read:

19 175.35 (3) (b) 2. A person who violates sub. (2e) by intentionally providing false
20 information regarding whether he or she is purchasing receiving a transfer of the
21 firearm with the purpose or intent to transfer the firearm to another who the person
22 knows or reasonably should know is prohibited from possessing a firearm under
23 state or federal law is guilty of a Class H felony. The penalty shall include a fine that
24 is not less than \$500.”.

1 **3.** Page 1, line 8: after that line insert:

2 “**SECTION 1yL.** 175.60 (4) (am) of the statutes is created to read:

3 175.60 (4) (am) The proof of continuing training requirements may be met by
4 a copy of a document, or an affidavit from an instructor or organization that
5 conducted the course or program, that indicates the individual completed any course
6 or program under par. (a) 1., 2., or 4. after the issuance of the license that is being
7 renewed.

8 **SECTION 1yq.** 175.60 (4) (b) 2. of the statutes is amended to read:

9 175.60 (4) (b) 2. ~~The department may not~~ A course or program shall require
10 firing live ammunition to meet the training requirements under par. (a) and (am).”.

11 **4.** Page 2, line 6: after that line insert:

12 “**SECTION 2i.** 175.60 (7) (d) of the statutes is amended to read:

13 175.60 (7) (d) A fee for a background check that is equal to the fee charged under
14 s. 175.35 (2i) (a).

15 **SECTION 2j.** 175.60 (15) (b) 3. of the statutes is created to read:

16 175.60 (15) (b) 3. Submits proof that the licensee completed continuing
17 training requirements as provided under sub. (4) (am).

18 **SECTION 2k.** 175.60 (15) (b) 4. b. of the statutes is amended to read:

19 175.60 (15) (b) 4. b. A fee for a background check that is equal to the fee charged
20 under s. 175.35 (2i) (a).

21 **SECTION 2L.** 175.60 (15) (d) of the statutes is amended to read:

22 175.60 (15) (d) The department shall issue a renewal license by 1st class mail
23 within 21 days of receiving ~~a renewal application, statement, and fees~~ all items
24 under par. (b).

1 **SECTION 2m.** 938.208 (1) (b) of the statutes is amended to read:

2 938.208 (1) (b) Probable cause exists to believe that the juvenile possessed,
3 used or threatened to use a handgun, as defined in s. ~~175.35 (1) (b)~~ 941.237 (1) (d),
4 short-barreled rifle, as defined in s. 941.28 (1) (b), or short-barreled shotgun, as
5 defined in s. 941.28 (1) (c), while committing a delinquent act that would be a felony
6 under ch. 940 if committed by an adult.

7 **SECTION 2n.** 938.34 (4m) (b) 2. of the statutes is amended to read:

8 938.34 (4m) (b) 2. The juvenile has possessed, used or threatened to use a
9 handgun, as defined in s. ~~175.35 (1) (b)~~ 941.237 (1) (d), short-barreled rifle, as
10 defined in s. 941.28 (1) (b), or short-barreled shotgun, as defined in s. 941.28 (1) (c),
11 while committing a delinquent act that would be a felony under ch. 940 if committed
12 by an adult.

13 **SECTION 2o.** 941.237 (1) (d) of the statutes is amended to read:

14 941.237 (1) (d) “Handgun” ~~has the meaning given in s. 175.35 (1) (b)~~ means any
15 weapon designed or redesigned, or made or remade, and intended to be fired while
16 held in one hand and to use the energy of an explosive to expel a projectile through
17 a smooth or rifled bore.

18 **SECTION 2p.** 941.296 (1) (b) of the statutes is amended to read:

19 941.296 (1) (b) “Handgun” has the meaning given in s. ~~175.35 (1) (b)~~ 941.237
20 (1) (d).”.

21 **5.** Page 3, line 2: after that line insert:

22 “**SECTION 5g.** 968.20 (3) (b) of the statutes is amended to read:

23 968.20 (3) (b) Except as provided in par. (a) or sub. (1m) or (4), a city, village,
24 town or county or other custodian of a seized dangerous weapon or ammunition, if

1 the dangerous weapon or ammunition is not required for evidence or use in further
2 investigation and has not been disposed of pursuant to a court order at the
3 completion of a criminal action or proceeding, shall make reasonable efforts to notify
4 all persons who have or may have an authorized rightful interest in the dangerous
5 weapon or ammunition of the application requirements under sub. (1). If, within 30
6 days after the notice, an application under sub. (1) is not made and the seized
7 dangerous weapon or ammunition is not returned by the officer under sub. (2), the
8 city, village, town or county or other custodian may retain the dangerous weapon or
9 ammunition and authorize its use by a law enforcement agency, except that a
10 dangerous weapon used in the commission of a homicide or a handgun, as defined
11 in s. ~~175.35 (1) (b)~~ 941.237 (1) (d), may not be retained. If a dangerous weapon other
12 than a firearm is not so retained, the city, village, town or county or other custodian
13 shall safely dispose of the dangerous weapon or, if the dangerous weapon is a motor
14 vehicle, as defined in s. 340.01 (35), sell the motor vehicle following the procedure
15 under s. 973.075 (4). If a firearm or ammunition is not so retained, the city, village,
16 town or county or other custodian shall ship it to the state crime laboratories and it
17 is then the property of the laboratories. A person designated by the department of
18 justice may destroy any material for which the laboratories have no use or arrange
19 for the exchange of material with other public agencies. In lieu of destruction,
20 shoulder weapons for which the laboratory has no use shall be turned over to the
21 department of natural resources for sale and distribution of proceeds under s. 29.934
22 or for use under s. 29.938.

23 **SECTION 6g. Initial applicability.**

