



State of Wisconsin
2025 - 2026 LEGISLATURE

LRB-1009/P3
CMH:klm&wlj

DOA:.....Schmidt, BB0083 - Require background checks for sales of all firearms

FOR 2025-2027 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

JUSTICE

Background checks on all transfers of firearms

Current law provides that a federally licensed firearms dealer may not transfer a handgun after a sale until the dealer has performed a background check on the prospective transferee to determine if he or she is prohibited from possessing a firearm under state or federal law. This bill generally prohibits any person from transferring any firearm, including the frame or receiver of a firearm, unless the transfer occurs through a federally licensed firearms dealer and involves a background check of the prospective transferee. Under the bill, the following are excepted from that prohibition: a transfer to a firearms dealer or to a law enforcement or armed services agency; a transfer of a firearm classified as antique; or a transfer that is by gift, bequest, or inheritance to a family member. A person who is convicted of violating the prohibition is guilty of a misdemeanor and must be fined not less than \$500 nor more than \$10,000, may be imprisoned for not more than nine months, and may not possess a firearm for a period of two years.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

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

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

SECTION 1. 20.455 (2) (gr) of the statutes, as affected by 2025 Wisconsin Act ... (this act), is amended to read:

20.455 (2) (gr) ~~Handgun~~ Firearm purchaser record check; checks for licenses or certifications to carry concealed weapons. All moneys received as fee payments

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under ss. 175.35 (2i) (a), 175.49 (5m), and 175.60 (7) (c) and (d), (13), and (15) (b) 4.

a. and b. to provide services under ss. 165.28, 175.35, 175.49, and 175.60.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

****NOTE: This is reconciled s. 20.455 (2) (gr). This SECTION has been affected by drafts with the following LRB numbers: -1009/P1 and 1792/P2.

SECTION 2. 175.33 of the statutes is created to read:

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

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

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

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

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

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

(a) The transferor is a firearms dealer.

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

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

(d) The transferor is transferring ownership of the firearm to a family member by gift, bequest, or inheritance, the transferee is not prohibited from possessing a firearm under s. 941.29 or federal law, and the transferee is at least 18 years of age.

(3) Any person who intentionally violates sub. (2) is guilty of a misdemeanor

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and shall be fined not less than \$500 nor more than \$10,000 and may be imprisoned for not more than 9 months. The person is also prohibited under s. 941.29 from possessing a firearm for a period of 2 years.

SECTION 3. 175.35 (title) of the statutes is amended to read:

175.35 (title) Purchase of ~~handguns~~ firearms.

SECTION 4. 175.35 (1) (at) of the statutes, as affected by 2025 Wisconsin Act ... (this act), is amended to read:

175.35 (1) (at) “Firearms restrictions record search” means a search of department of justice records to determine whether a person seeking to ~~purchase~~ receive the transfer of a handgun firearm is prohibited from possessing a firearm under s. 941.29 or is included in the database under s. 165.64 (3). “Firearms restrictions record search” includes a criminal history record search, a search to determine whether a person is prohibited from possessing a firearm under s. 51.20 (13) (cv) 1., 2007 stats., a search in the national instant criminal background check system to determine whether a person has been ordered not to possess a firearm under s. 51.20 (13) (cv) 1., 51.45 (13) (i) 1., 54.10 (3) (f) 1., or 55.12 (10) (a), a search to determine whether the person is subject to an injunction under s. 813.12 or 813.122, or a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court established by any federally recognized Wisconsin Indian tribe or band, except the Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he or she is subject to the requirements and penalties under s. 941.29 and that has been filed with the circuit court under s. 813.128 (3g), a search to determine whether the person is subject to a temporary restraining order or injunction under

BILL**SECTION 4**

s. 813.124, and a search to determine whether the person is prohibited from possessing a firearm under s. 813.123 (5m) or 813.125 (4m).

****NOTE: This is reconciled s.175.35 (1) (at). This SECTION has been affected by drafts with the following LRB numbers: -1010/P1, -1473/P2, and -1009/P1.

SECTION 5. 175.35 (1) (br) of the statutes is created to read:

175.35 (1) (br) “Transfer” includes to sell, assign, pledge, lease, loan, give away, or otherwise dispose of.

SECTION 6. 175.35 (2) (intro.) of the statutes is renumbered 175.35 (2) (am) and amended to read:

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

SECTION 7. 175.35 (2) (a), (b) and (c) of the statutes are renumbered 175.35 (2) (cm) 1., 2. and 3.

SECTION 8. 175.35 (2) (bm) of the statutes is created to read:

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

SECTION 9. 175.35 (2) (cm) (intro.) of the statutes is created to read:

175.35 (2) (cm) (intro.) All of the following must occur before a firearm may be transferred under par. (am) or (bm):

SECTION 10. 175.35 (2) (d) of the statutes, as affected by 2025 Wisconsin Act (this act), is renumbered 175.35 (2) (cm) 4.

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****NOTE: This is reconciled s.175.35 (2) (d). This SECTION has been affected by drafts with the following LRB numbers: -1009/P1 and -0985/P1.

SECTION 11. 175.35 (2g) (a) of the statutes is amended to read:

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

SECTION 12. 175.35 (2g) (b) 1. of the statutes is amended to read:

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

SECTION 13. 175.35 (2g) (b) 2. of the statutes is amended to read:

175.35 (2g) (b) 2. The department of justice shall ensure that each notification form under subd. 1. requires the transferee to indicate that he or she is not ~~purchasing~~ receiving a transfer of the firearm with the purpose or intent to transfer the firearm to a person who is prohibited from possessing a firearm under state or federal law and that each notification form informs the transferee that making a false statement with regard to this purpose or intent is a Class H felony.

SECTION 14. 175.35 (2g) (c) 4. c. of the statutes, as affected by 2025 Wisconsin Act (this act), is amended to read:

175.35 (2g) (c) 4. c. If the search indicates that it is unclear whether the

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person is prohibited under state or federal law from possessing a firearm and the department needs more time than provided under sub. (2) ~~(d)~~ (cm) 4. to make the determination, the department shall make every reasonable effort to determine whether the person is prohibited under state or federal law from possessing a firearm and notify the firearms dealer of the results as soon as practicable but no later than 5 working days after the search was requested.

****NOTE: This is reconciled s.175.35 (2g) (c) 4. c. This SECTION has been affected by drafts with the following LRB numbers: -1009/P1 and -0985/P1.

SECTION 15. 175.35 (2i) of the statutes is renumbered 175.35 (2i) (a) and amended to read:

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

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

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

SECTION 16. 175.35 (2i) (b) 2. of the statutes is created to read:

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

SECTION 17. 175.35 (2j) of the statutes is renumbered 175.35 (2j) (a).

SECTION 18. 175.35 (2j) (b) of the statutes is created to read:

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

SECTION 19. 175.35 (2k) (ar) 2. of the statutes is amended to read:

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

SECTION 20. 175.35 (2k) (c) 2. a. of the statutes is amended to read:

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

SECTION 21. 175.35 (2k) (c) 2. b. of the statutes is amended to read:

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

SECTION 22. 175.35 (2k) (g) of the statutes is amended to read:

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

SECTION 23. 175.35 (2k) (h) of the statutes is amended to read:

175.35 (2k) (h) If a search conducted under sub. (2g) indicates a felony charge without a recorded disposition and the attorney general or his or her designee has reasonable grounds to believe the transferee may pose a danger to himself, herself or another, the attorney general or his or her designee may disclose to a law enforcement agency that the transferee has obtained or has attempted to obtain a ~~handgun~~ firearm.

SECTION 24. 175.35 (2L) of the statutes is amended to read:

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

SECTION 25. 175.35 (2t) (a), (b) and (c) of the statutes are amended to read:

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

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

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

SECTION 26. 175.35 (3) (b) 2. of the statutes is amended to read:

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

SECTION 27. 175.355 of the statutes, as created by 2025 Wisconsin Act ... (this act), is repealed.

****NOTE: This is reconciled s.175.355. LRB-14P2 created s. 175.355 because s. 175.35 involved only handgun purchases and the intent was that -1473 would include other firearms. This bill expands 175.35 to include all firearms, which renders this section redundant.

SECTION 28. 175.60 (7) (d) of the statutes is amended to read:

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

SECTION 29. 175.60 (15) (b) 4. b. of the statutes is amended to read:

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

SECTION 30. 938.341 of the statutes is amended to read:

938.341 Delinquency adjudication; restriction on firearm possession.

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Whenever a court adjudicates a juvenile delinquent for an act that if committed by an adult in this state would be a felony or for a violation under s. 175.33 (2), the court shall inform the juvenile of the requirements and penalties under s. 941.29.

SECTION 31. 941.29 (1m) (dm), (dn) and (do) of the statutes are created to read:

941.29 **(1m)** (dm) The person has been convicted of a misdemeanor under s. 175.33 (2), unless at least 2 years have passed since the conviction.

(dn) The person has been adjudicated delinquent for a violation under s. 175.33 (2), unless at least 2 years have passed since the adjudication.

(do) The person has been found not guilty of a misdemeanor under s. 175.33 (2) by reason of mental disease or defect, unless at least 2 years have passed since the finding.

SECTION 32. 971.17 (1g) of the statutes is amended to read:

971.17 **(1g)** NOTICE OF RESTRICTION ON FIREARM POSSESSION. If the defendant under sub. (1) is found not guilty of a felony, or of a violation under s. 175.33 (2), by reason of mental disease or defect, the court shall inform the defendant of the requirements and penalties under s. 941.29.

SECTION 33. 973.176 (1) of the statutes is amended to read:

973.176 **(1)** FIREARM POSSESSION. Whenever a court imposes a sentence or places a defendant on probation regarding a felony conviction or regarding a conviction for a misdemeanor under s. 175.33 (2), the court shall inform the defendant of the requirements and penalties applicable to him or her under s. 941.29 (1m) or (4m).

BILL**SECTION 9327****SECTION 9327. Initial applicability; Justice.**

(1) TRANSFERS OF FIREARMS. The treatment of ss. 175.33 and 175.35 (1) (at) (by SECTION 4) and (br) and (2) (intro.), (a), (b), (bm), (c), (cm) (intro.), and (d), the renumbering of s. 175.35 (2j), and the creation of s. 175.35 (2j) (b) first apply to transfers that occur on the effective date of this subsection.

SECTION 9427. Effective dates; Justice.

(1) TRANSFERS OF FIREARMS. The treatment of ss. 175.33, 175.35 (title), (1) (at) (by SECTION 4) and (br), (2) (intro.), (a), (bm), (c), and (cm) (intro.), (2g) (a), (b) 1. and 2., and (c) 4. c. (by SECTION 14), (2k) (ar) 2., (c) 2. a. and b., (g), and (h), (2L), (2t) (a), (b), and (c), and (3) (b) 2., 176.60 (7) (d) and (15) (b) 4. b., 938.341, 941.29 (1m) (dm), (dn), and (do), 971.17 (1g), and 973.176 (1), the repeal of s. 175.355, the renumbering of s. 175.35 (2) (d) and (2j), the renumbering and amendment of s. 175.35 (2i), the amendment of s. 20.455 (2) (gr), and the creation of s. 175.35 (2i) (b) 2. and (2j) (b) and SECTION 9327 (1) of this act take effect on the first day of the 7th month beginning after publication.

(END)