

1999 SENATE BILL 301

December 1, 1999 – Introduced by Senators BURKE, DARLING and ROSENZWEIG, cosponsored by Representatives STASKUNAS, BERCEAU, BOCK, LA FAVE, RICHARDS, RILEY and YOUNG, by request of Attorney General James Doyle. Referred to Committee on Judiciary and Consumer Affairs.

1 **AN ACT to amend** 20.455 (2) (gr), 175.35 (title), 175.35 (1) (b), 175.35 (2) (c),
 2 175.35 (2) (d), 175.35 (2g) (b), 175.35 (2g) (c) (intro.), 175.35 (2j), 175.35 (2k) (b)
 3 2. a., 175.35 (2k) (g), 175.35 (2k) (h), 175.35 (2L) and 175.35 (3); and **to create**
 4 165.83 (2) (bm), 175.35 (1m), 175.35 (2g) (c) 3m., 175.35 (2g) (c) 5., 175.35 (2k)
 5 (ar) 3., 175.35 (2k) (gm) and 175.36 of the statutes; **relating to:** the sale and
 6 purchase of handguns, handgun purchaser background checks, granting
 7 rule-making authority, making an appropriation and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, no federally licensed firearms dealer may transfer a handgun following a sale until various requirements are met. These requirements include a firearms restrictions record search (background check) of the prospective handgun owner by the department of justice (DOJ) and a waiting period of 48 hours that begins running when DOJ gives the dealer confirmation that it has received the dealer's request for a background check.

This bill provides various additional restrictions on the sale or transfer of ownership of handguns. The chief provisions of the bill include the following:

1. The bill prohibits a person from selling or transferring ownership of a handgun unless he or she has a handgun dealer's license or he or she makes the sale or transfer through such a dealer.

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2. The bill establishes criteria and a procedure for obtaining a handgun dealer's license. To obtain such a license under the bill, a person must be a federally licensed firearms dealer, must have fingerprints on file with DOJ and must not be prohibited by law from possessing a firearm. The person must pay DOJ a fee of \$500 for the license. The license is valid for five years and may be renewed for free for an additional five years.

3. The bill prohibits a person from buying or accepting the transfer of ownership of a handgun unless his or her fingerprints are on file with DOJ. If a federally licensed firearms dealer is selling a handgun, he or she may not transfer the handgun until DOJ has determined, as part of the background check of the buyer, that the buyer's fingerprints are on file with DOJ.

4. The bill provides that a person who intentionally violates any of the previously described provisions is subject to criminal penalties. Upon conviction, the person must be fined not less than \$500 nor more than \$10,000 and may be imprisoned for not more than nine months.

5. The bill establishes a procedure for persons to provide DOJ with fingerprints. Under the bill, a person may go to a local law enforcement agency, which must take the person's fingerprints. The agency may charge and retain a reasonable fee for this service. The person then sends the fingerprints and a \$10 fee to DOJ, which keeps the fingerprints on file.

6. Finally, the bill requires DOJ to promulgate rules regarding the provisions of the bill.

For further information see the *state and local* 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:

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

2 20.455 (2) (gr) *Handgun purchaser record check.* All moneys received as fee
3 payments under s. ss. 175.35 (1m) (b) 2. and (2i) and 175.36 (3) (a) and (4) (b) to
4 provide services and maintain records under s. ss. 175.35 and 175.36.

5 **SECTION 2.** 165.83 (2) (bm) of the statutes is created to read:

6 165.83 (2) (bm) Accept and file fingerprints that the department receives under
7 ss. 175.35 (1m) (b) 2. and 175.36 (4) (b).

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

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1 **175.35 (title) Waiting period for purchase of handguns; background**
2 **and fingerprint check of handgun purchasers.**

3 **SECTION 4.** 175.35 (1) (b) of the statutes is amended to read:

4 175.35 **(1)** (b) “Handgun” means any weapon designed or redesigned, or made
5 or remade, and intended to be fired while held in one hand and to use the energy of
6 an explosive explosion or other form of combustion to expel a projectile through a
7 smooth or rifled bore.

8 **SECTION 5.** 175.35 (1m) of the statutes is created to read:

9 175.35 **(1m)** (a) No person may buy or accept the transfer of ownership of a
10 handgun unless he or she has a fingerprint record at the department of justice.

11 (b) If a person wants to accept the transfer of ownership of a handgun but the
12 person does not have a fingerprint record at the department, the person may provide
13 a fingerprint record to the department by doing all of the following:

14 1. The person shall go to any local law enforcement agency and request that the
15 agency obtain his or her fingerprints. Upon a request made by a person under this
16 paragraph, a local law enforcement agency shall obtain the person’s fingerprints
17 according to the fingerprint system of identification established by the director of the
18 federal bureau of investigation. The agency may charge the person a reasonable fee
19 to be retained by the agency.

20 2. The person shall send the fingerprints and a \$10 fee to the department. The
21 department shall accept and file the fingerprints under s. 165.83 (2) (bm).

22 **SECTION 6.** 175.35 (2) (c) of the statutes is amended to read:

23 175.35 **(2)** (c) The firearms dealer has conveyed the information from the
24 completed notification form to the department of justice as required by rule under

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1 sub. (2g) (b) and requested a firearms restrictions record search and a check for
2 whether the transferee has complied with sub. (1m) (a).

3 **SECTION 7.** 175.35 (2) (d) of the statutes is amended to read:

4 175.35 **(2)** (d) Forty-eight hours, subject to extension under sub. (2g) (c) 4. c.,
5 have elapsed from the time that the firearms dealer has received a confirmation
6 number regarding the ~~firearms restrictions record search~~ under sub. (2g) (c) 2. from
7 the department of justice and the firearms dealer has not been notified that the
8 transfer would be in violation of sub. (1m) (a) or s. 941.29.

9 **SECTION 8.** 175.35 (2g) (b) of the statutes is amended to read:

10 175.35 **(2g)** (b) The department of justice shall promulgate rules prescribing
11 a notification form for use under sub. (2) requiring the transferee to provide his or
12 her name, date of birth, gender, and race ~~and social security number~~ and other
13 identification or information necessary to permit an accurate firearms restrictions
14 record search under par. (c) 3. ~~and~~, the required notification under par. (c) 4., the
15 fingerprint record check under par. (c) 3m. and the required notification under par.
16 (c) 5. The department of justice shall make the forms available at locations
17 throughout the state.

18 **SECTION 9.** 175.35 (2g) (c) (intro.) of the statutes is amended to read:

19 175.35 **(2g)** (c) (intro.) The department of justice shall promulgate rules for
20 firearms restrictions record searches and fingerprint record checks regarding
21 transferees under sub. (2), including procedures for all of the following:

22 **SECTION 10.** 175.35 (2g) (c) 3m. of the statutes is created to read:

23 175.35 **(2g)** (c) 3m. The department to conduct a check for a fingerprint record
24 of the transferee.

25 **SECTION 11.** 175.35 (2g) (c) 5. of the statutes is created to read:

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1 175.35 **(2g)** (c) 5. The department to notify the dealer, either during the initial
2 telephone call or as soon thereafter as practicable, of the results of the fingerprint
3 record check of the transferee. If the fingerprint record check indicates that the
4 transferee has not complied with sub. (1m) (a), the department shall provide the
5 firearms dealer with a unique nonapproval number. If the search indicates that the
6 transferee has complied with sub. (1m) (a), the department shall provide the
7 firearms dealer with a unique approval number.

8 **SECTION 12.** 175.35 (2j) of the statutes is amended to read:

9 175.35 **(2j)** A firearms dealer shall maintain the original record of all completed
10 notification forms and a record of all confirmation numbers and corresponding
11 approval or nonapproval numbers that he or she receives regarding firearms
12 restrictions record searches and fingerprint record checks under sub. (2g). The
13 firearms dealer shall mail the duplicate copy of each completed notification form to
14 the department of justice.

15 **SECTION 13.** 175.35 (2k) (ar) 3. of the statutes is created to read:

16 175.35 **(2k)** (ar) 3. Check each duplicate notification form received under sub.
17 (2j) against the information recorded by the department regarding the corresponding
18 request for a fingerprint record check under sub. (2g). If the department previously
19 provided a unique approval number regarding the request and nothing in the
20 duplicate completed notification form indicates that the transferee has not complied
21 with sub. (1m) (a), the department shall destroy all records regarding that
22 fingerprint record check within 30 days after receiving the duplicate form.

23 **SECTION 14.** 175.35 (2k) (b) 2. a. of the statutes is amended to read:

24 175.35 **(2k)** (b) 2. a. Except as provided in subd. 2. b., a log of dates of requests
25 for firearms restrictions record searches and fingerprint record checks under sub.

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1 (2g) together with confirmation numbers, unique approval and nonapproval
2 numbers and firearms dealer identification numbers corresponding to those dates.

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

4 175.35 **(2k)** (g) If a firearms restrictions record search conducted under sub.
5 (2g) indicates that the transferee is prohibited from possessing a firearm under s.
6 941.29, the attorney general or his or her designee may disclose to a law enforcement
7 agency that the transferee has attempted to obtain a handgun.

8 **SECTION 16.** 175.35 (2k) (gm) of the statutes is created to read:

9 175.35 **(2k)** (gm) If a fingerprint record check conducted under sub. (2g)
10 indicates that the transferee has not complied with sub. (1m) (a), the attorney
11 general or his or her designee may disclose to a law enforcement agency that the
12 transferee has attempted to obtain a handgun in violation of sub. (1m) (a).

13 **SECTION 17.** 175.35 (2k) (h) of the statutes is amended to read:

14 175.35 **(2k)** (h) If a firearms restrictions record search conducted under sub.
15 (2g) indicates a felony charge without a recorded disposition and the attorney
16 general or his or her designee has reasonable grounds to believe the transferee may
17 pose a danger to himself, herself or another, the attorney general or his or her
18 designee may disclose to a law enforcement agency that the transferee has obtained
19 or has attempted to obtain a handgun.

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

21 175.35 **(2L)** The department of justice shall promulgate rules providing for the
22 review of nonapprovals under sub. (2g) (c) 4. a. and 5. Any person who is denied the
23 right to purchase a handgun because the firearms dealer received a nonapproval
24 number under sub. (2g) (c) 4. a. and 5. may request a firearms restrictions record
25 search review or a fingerprint record check review under those rules. If the person

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1 disagrees with the results of that review, the person may file an appeal under rules
2 promulgated by the department.

3 **SECTION 19.** 175.35 (3) of the statutes is amended to read:

4 175.35 **(3)** Any person who intentionally violates sub. (1m) (a), (2), (2e), (2f) or
5 (2j) shall be fined not less than \$500 nor more than \$10,000 and may be imprisoned
6 for not more than 9 months.

7 **SECTION 20.** 175.36 of the statutes is created to read:

8 **175.36 Sale or transfer of handguns; license required. (1)** In this section:

9 (a) “Department” means the department of justice.

10 (b) “Handgun” has the meaning given in s. 175.35 (1) (b).

11 (c) “Local law enforcement agency” means a governmental unit of one or more
12 persons employed full time by a political subdivision of the state for the purpose of
13 preventing and detecting crime and enforcing state laws or local ordinances,
14 employes of which unit are authorized to make arrests for crimes while acting within
15 the scope of their authority.

16 **(2)** (a) Except as provided in par. (b), no person may sell or transfer ownership
17 of a handgun unless he or she has a handgun dealer’s license or he or she makes the
18 sale or transfer through a person who has a handgun dealer’s license.

19 (b) The seller and the buyer or the transferor and the transferee do not have
20 to comply with par. (a) if the sale or transfer of ownership of a handgun meets any
21 of the criteria under s. 175.35 (2t).

22 **(3)** (a) Any person who has a license described under s. 175.35 (1) (ar), who has
23 a fingerprint record at the department and who is not prohibited from possessing a
24 firearm under s. 941.29 may obtain a handgun dealer’s license. The department
25 shall require the person to provide information to show that the person meets the

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1 requirements of this paragraph. If the department determines that the person is
2 eligible and the person pays the department a \$500 license fee, the department shall
3 issue the person a handgun dealer's license. A handgun dealer's license issued under
4 this paragraph is valid for 5 years.

5 (b) At the end of the 5-year period under par. (a), a person may renew a
6 handgun dealer's license for an additional 5-year period by applying for renewal in
7 the manner prescribed by the department by rule. The department may not require
8 a person to pay a fee for renewing a license under this paragraph. If a person seeks
9 to be licensed after the additional 5-year period provided under this paragraph, he
10 or she must comply with par. (a).

11 (c) A handgun dealer's license is void for any period of time when the licensee
12 does not hold a license described under s. 175.35 (1) (ar).

13 **(4)** If a person wants to obtain a handgun dealer's license under sub. (3) (a) but
14 the person does not have a fingerprint record at the department, the person may
15 provide a fingerprint record by doing all of the following:

16 (a) The person shall go to any local law enforcement agency and request that
17 the agency obtain his or her fingerprints. Upon a request made by a person under
18 this paragraph, a local law enforcement agency shall obtain the person's fingerprints
19 according to the fingerprint system of identification established by the director of the
20 federal bureau of investigation. The agency may charge the person a reasonable fee
21 to be retained by the agency.

22 (b) The person shall send the fingerprints and a \$10 fee to the department. The
23 department shall accept and file the fingerprints under s. 165.83 (2) (bm).

