



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3492/1
CMH:kjf:rs

2013 ASSEMBLY BILL 853

March 7, 2014 - Introduced by Representatives KNODL, BROOKS, KESTELL, KLEEFISCH, KNUDSON, MURTHA, NASS, A. OTT, PRIDEMORE, SCHRAA, THIESFELDT, TITTL and WILLIAMS, cosponsored by Senators GROTHMAN and SCHULTZ. Referred to Committee on Judiciary.

1 **AN ACT** *to amend* 968.20 (1m) (b) and 968.20 (2); and *to create* 968.20 (1m) (d)
2 of the statutes; **relating to:** the return of a seized firearm to the person who
3 owns the firearm.

Analysis by the Legislative Reference Bureau

Current law specifies a process and criteria for courts and police officers to use to determine ownership of property that has been seized by a police officer and to decide if, how, and when to return the seized property. Under this bill, if a firearm is seized, the firearm must be returned to the person who owns the firearm within 48 hours of the district attorney declining to file charges against the person in connection with the seizure, within 48 hours of the dismissal of the charges against the person in connection with the seizure, within 48 hours of the trial court reaching final disposition of all charges against the person in connection with the seizure if the person is not adjudged guilty, if no charges against the person are filed in connection with the seizure six months after the seizure, or within five business days after determining that the person did not have prior knowledge of and did not consent to the activity that resulted in the seizure.

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:

ASSEMBLY BILL 853

1 **SECTION 1.** 968.20 (1m) (b) of the statutes is amended to read:

2 968.20 **(1m)** (b) If the seized property is a dangerous weapon or ammunition,
3 the property shall not be returned to any person who committed a crime involving
4 the use of the dangerous weapon or the ammunition. The

5 (c) Except as provided in par. (d), seized property that is a dangerous weapon
6 or ammunition may be returned to the rightful owner under this section if the owner
7 had no prior knowledge of and gave no consent to the commission of the crime.

8 (e) Property which may not be returned to an owner under this subsection shall
9 be disposed of under subs. (3) and (4).

10 **SECTION 2.** 968.20 (1m) (d) of the statutes is created to read:

11 968.20 **(1m)** (d) If the seized property is a firearm and the property has not been
12 returned under this section, the property shall be returned to the person who
13 displays evidence of ownership of the firearm as follows:

14 1. If the district attorney affirmatively declines to file charges against the
15 person in connection with the seizure, within 48 hours of the affirmative decline.

16 2. If all charges against the person filed in connection with the seizure are
17 dismissed, within 48 hours of the dismissal.

18 3. If 6 months have passed since the seizure and no charges against the person
19 are filed in connection with the seizure, as soon as practically possible.

20 4. If the trial court reaches final disposition for all charges in connection with
21 the seizure and the person is not adjudged guilty of a crime in connection with the
22 seizure, within 48 hours of the final disposition.

23 5. If the person had no prior knowledge of and gave no consent to the
24 commission of the activity that led to the seizure, within 5 business days after
25 establishing the lack of knowledge and consent.

