



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-4548/1  
CMH:ah&wlj

## 2019 ASSEMBLY BILL 577

October 25, 2019 - Introduced by Representatives MURSAU, SUBECK, HEBL, DITTRICH, ALLEN, KULP, PETERSEN and WITKE, cosponsored by Senators KOOYENGA, FEYEN, WANGGAARD, CARPENTER, JACQUE, COWLES and SCHACHTNER. Referred to Committee on Criminal Justice and Public Safety.

1     **AN ACT** *to renumber* 941.29 (1g) (a) and 971.17 (1g); *to amend* 165.845 (2) and  
2             973.176 (1); and *to create* 165.63 (2) (c), 165.845 (1m), 175.35 (2g) (d) 3., 941.29  
3             (1g) (ad), 941.29 (1g) (ah), 941.29 (1m) (ag), 941.29 (1m) (cm), 941.29 (1m) (h),  
4             971.17 (1g) (b) and 973.136 of the statutes; **relating to:** the possession of a  
5             firearm by a person who has committed a misdemeanor crime of domestic  
6             violence or by a fugitive from justice and providing a penalty.

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### ***Analysis by the Legislative Reference Bureau***

Current law prohibits a person from possessing a firearm if he or she has been convicted of a felony, found not guilty of a felony by reason of mental disease or defect, or adjudicated delinquent for an act that if committed by an adult in this state would be a felony. Federal law prohibits a person who is convicted of a misdemeanor crime of domestic violence from possessing a firearm. Under this bill, following a conviction, or a finding of not guilty by reason of mental disease or defect, for a misdemeanor crime of domestic violence, state law also prohibits the person from possessing a firearm. This bill also adds that a person who is a fugitive from justice is prohibited from possessing a firearm. This bill defines "fugitive from justice" as someone who, after having committed a criminal offense, leaves the jurisdiction of the court where such crime has taken place or hides within such jurisdiction to escape prosecution. A person who violates either prohibition is guilty of a Class G felony and is subject to a fine of up to \$25,000 or a term of imprisonment of up to ten years, or both.

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This bill also requires that the Department of Justice collect information identifying persons who are fugitives from justice. DOJ must then convey that information to the national instant criminal background check system for the purpose of handgun and concealed carry licenses background checks and respond to inquiries from law enforcement and courts regarding whether a person is prohibited from possessing a firearm.

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 and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 165.63 (2) (c) of the statutes is created to read:

2           165.63 **(2)** (c) Individuals who may not possess a firearm under s. 941.29 (1m)  
3 (h).

4           **SECTION 2.** 165.845 (1m) of the statutes is created to read:

5           165.845 **(1m)** The department of justice shall:

6           (a) Collect information identifying individuals who are fugitives from justice,  
7 as defined in s. 941.29 (1g) (ad), to permit an accurate firearms restrictions record  
8 search under s. 175.35 (2g) (c), a background check under s. 175.60 (9g) (a), or an  
9 accurate response under s. 165.63.

10           (b) Furnish all persons who can provide information under par. (a) with forms  
11 or instructions that specify the nature of the information required under par. (a), the  
12 time it is to be provided, and any other matters that facilitate collection and  
13 identification.

14           **SECTION 3.** 165.845 (2) of the statutes is amended to read:

15           165.845 **(2)** All persons in charge of law enforcement agencies and other  
16 criminal and juvenile justice system agencies shall supply the department of justice

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1 with the information described in ~~sub.~~ subs. (1) (a) and (1m) (a) on the basis of the  
2 forms or instructions or both to be supplied by the department ~~under sub. (1) (a)~~. The  
3 department may conduct an audit to determine the accuracy of the data and other  
4 information it receives from law enforcement agencies and other criminal and  
5 juvenile justice system agencies.

6 **SECTION 4.** 175.35 (2g) (d) 3. of the statutes is created to read:

7 175.35 **(2g)** (d) 3. The department of justice shall promulgate rules to convey  
8 information in a timely manner to the national instant criminal background check  
9 system regarding individuals who may not possess a firearm under s. 941.29 (1m)  
10 (h).

11 **SECTION 5.** 941.29 (1g) (a) of the statutes is renumbered 941.29 (1g) (at).

12 **SECTION 6.** 941.29 (1g) (ad) of the statutes is created to read:

13 941.29 **(1g)** (ad) "Fugitive from justice" means an individual who, after having  
14 committed a criminal offense, leaves the jurisdiction of the court where such crime  
15 has taken place or hides within such jurisdiction to escape prosecution.

16 **SECTION 7.** 941.29 (1g) (ah) of the statutes is created to read:

17 941.29 **(1g)** (ah) "Misdemeanor crime of domestic violence" has the meaning  
18 given in s. 973.136 (1) (c).

19 **SECTION 8.** 941.29 (1m) (ag) of the statutes is created to read:

20 941.29 **(1m)** (ag) The person has been convicted on or after the effective date  
21 of this paragraph .... [LRB inserts date], of a misdemeanor crime of domestic violence.

22 **SECTION 9.** 941.29 (1m) (cm) of the statutes is created to read:

23 941.29 **(1m)** (cm) The person has been found not guilty by reason of mental  
24 disease or defect on or after the effective date of this paragraph .... [LRB inserts date],  
25 of a misdemeanor crime of domestic violence.

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1           **SECTION 10.** 941.29 (1m) (h) of the statutes is created to read:

2           941.29 **(1m)** (h) The person is a fugitive from justice.

3           **SECTION 11.** 971.17 (1g) of the statutes is renumbered 971.17 (1g) (a).

4           **SECTION 12.** 971.17 (1g) (b) of the statutes is created to read:

5           971.17 **(1g)** (b) 1. In this paragraph, “misdemeanor crime of domestic violence”  
6 has the meaning given in s. 973.136 (1) (c).

7           2. If the defendant under sub. (1) is found not guilty by reason of mental disease  
8 or defect of a misdemeanor crime of domestic violence, the court shall enter a finding  
9 to that effect in the record for purposes of determining whether the person is  
10 prohibited from possessing a firearm under s. 941.29 and shall inform the defendant  
11 of the requirements and penalties under s. 941.29.

12           **SECTION 13.** 973.136 of the statutes is created to read:

13           **973.136 Prohibition for certain misdemeanor crimes. (1)** In this section:

14           (a) “Dating relationship” means a romantic or intimate social relationship  
15 between 2 individuals but “dating relationship” does not include a casual  
16 relationship or an ordinary fraternization between 2 individuals in a business or  
17 social context. A court shall determine if a dating relationship existed by considering  
18 the length of the relationship, the type of the relationship, and the frequency of the  
19 interaction between the individuals involved in the relationship.

20           (b) “Family member” has the meaning given in s. 813.12 (1) (b).

21           (c) “Misdemeanor crime of domestic violence” means any of the following:

22           1. A violation or attempted violation of s. 940.19 (1), 940.195 (1), 940.225 (3m),  
23 or 941.20 (1) when committed by an adult family member against another family  
24 member, by an adult against his or her former spouse, by an adult against an

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1 individual with whom the adult has or had a dating relationship, or by an adult  
2 against an individual with whom the adult has a child in common.

3 2. A violation of s. 947.01 in which the adult actor engaged in violent or abusive  
4 conduct to harm, intimidate, or threaten an individual who is the adult actor's family  
5 member, the adult actor's former spouse, an individual with whom the adult actor  
6 has or had a dating relationship, or an individual with whom the adult actor has a  
7 child in common.

8 3. A misdemeanor, except a misdemeanor listed in subd. 1. or 2., if committed  
9 by an adult family member against another family member, by an adult against his  
10 or her former spouse, by an adult against an individual with whom the adult has or  
11 had a dating relationship, or by an adult against an individual with whom the adult  
12 has a child in common and if the court has increased the maximum term of  
13 imprisonment under s. 939.63 (1) (a).

14 (2) If an individual is convicted of a misdemeanor crime of domestic violence,  
15 the court shall enter a finding to that effect in the record for purposes of determining  
16 whether the individual is prohibited from possessing a firearm under s. 941.29.

17 **SECTION 14.** 973.176 (1) of the statutes is amended to read:

18 973.176 (1) FIREARM POSSESSION. Whenever a court imposes a sentence or  
19 places a defendant on probation regarding a ~~felony conviction~~ for a felony or for a  
20 misdemeanor crime of domestic violence, as defined in s. 973.136 (1) (c), the court  
21 shall inform the defendant of the requirements and penalties applicable to him or her  
22 under s. 941.29 (1m) or (4m).

23 **SECTION 15. Initial applicability.**

24 (1) The treatment of s. 971.17 (1g) (b) first applies to a finding of not guilty by  
25 reason of mental disease or defect that occurs on the effective date of this subsection.

