



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2762/1
CMH:kjf:rs

2011 ASSEMBLY BILL 299

October 3, 2011 - Introduced by Representatives KLEEFISCH and STROEBEL, sponsored by Senators KEDZIE and HOLPERIN. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT to renumber and amend** 813.12 (4m) (a) 1. and 813.122 (5m) (a) 1.; **to**
2 **amend** 941.29 (10) (a), 948.605 (2) (b) 1m. and 948.605 (3) (b) 4.; and **to create**
3 813.12 (4m) (a) 1. b., 813.122 (5m) (a) 1. b., 948.605 (2) (b) 2d., 948.605 (2) (b)
4 2f. and 2h. and 948.605 (3) (b) 4f. and 4h. of the statutes; **relating to:** law
5 enforcement officers and firearms in school zones and certain injunctions
6 against law enforcement agencies.

Analysis by the Legislative Reference Bureau

Current law generally prohibits a person from possessing or discharging a firearm in, or on the grounds of, a school or within 1,000 feet from the grounds of a school. Current law contains several exemptions to this prohibition, including law enforcement officers who are acting in their official capacity and, if the person is not in or on the grounds of a school, a person who holds a license to carry a concealed weapon. This bill eliminates the requirement that the officer be acting in his or her official capacity if the officer is authorized to carry a firearm; the officer is not the subject of any disciplinary action by the law enforcement agency that could result in the suspension or loss of his or her law enforcement authority; the officer is qualified under standards established by the law enforcement agency to use a firearm; the law enforcement officer is not prohibited under federal law from possessing a firearm; the firearm is not a machine gun or a destructive device, such as a bomb; the officer is not carrying a firearm silencer; and the officer is not under the influence of an

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intoxicant. This bill also excepts from the prohibition former law enforcement officers who are carrying certain identification that identifies the type of firearm he or she is qualified to carry and who are not under the influence of an intoxicant.

Also, current law prohibits any person who is subject to a domestic abuse injunction or a child abuse injunction from possessing a firearm. The prohibition, however, does not apply to a peace officer while he or she is on duty or, if required as a condition of employment, while he or she is off duty. A peace officer who violates the prohibition without being subject to the exemption is guilty of a Class G felony. Under this bill, a peace officer who violates the prohibition without being subject to the exemption is guilty of violating the injunction and, as such, is subject to a fine of up to \$1,000 or a term of imprisonment for up to nine months, or both.

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.** 813.12 (4m) (a) 1. of the statutes is renumbered 813.12 (4m) (a) 1.
2 a. and amended to read:

3 813.12 (**4m**) (a) 1. a. ~~Inform~~ Except as provided in subd. 1. b., inform the
4 respondent named in the petition of the requirements and penalties under s. 941.29.

5 **SECTION 2.** 813.12 (4m) (a) 1. b. of the statutes is created to read:

6 813.12 (**4m**) (a) 1. b. If the respondent is a peace officer, prohibit the respondent
7 from possessing a firearm unless the respondent is on duty, except if the respondent
8 is required as a condition of employment to possess a firearm while off duty.

9 **SECTION 3.** 813.122 (5m) (a) 1. of the statutes is renumbered 813.122 (5m) (a)
10 1. a. and amended to read:

11 813.122 (**5m**) (a) 1. a. ~~Inform~~ Except as provided in subd. 1. b., inform the
12 respondent named in the petition of the requirements and penalties under s. 941.29.

13 **SECTION 4.** 813.122 (5m) (a) 1. b. of the statutes is created to read:

14 813.122 (**5m**) (a) 1. b. If the respondent is a peace officer, prohibit the
15 respondent from possessing a firearm unless the respondent is on duty, except if the

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1 respondent is required as a condition of employment to possess a firearm while off
2 duty.

3 **SECTION 5.** 941.29 (10) (a) of the statutes is amended to read:

4 941.29 (10) (a) The person is a peace officer and the person possesses a firearm
5 while in the line of duty or, if required to do so as a condition of employment, while
6 off duty. Notwithstanding s. 939.22 (22), for purposes of this paragraph, peace officer
7 does not include a commission warden who is not a state-certified commission
8 warden.

9 **SECTION 6.** 948.605 (2) (b) 1m. of the statutes, as created by 2011 Wisconsin Act
10 35, is amended to read:

11 948.605 (2) (b) 1m. A person who possesses the firearm in accordance with 18
12 USC 922 (q) (2) (B) (i), (iv), (v), ~~(vi)~~, or (vii).

13 **SECTION 7.** 948.605 (2) (b) 2d. of the statutes is created to read:

14 948.605 (2) (b) 2d. A person who is employed in this state by a public agency
15 as a law enforcement officer and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3.
16 applies.

17 **SECTION 8.** 948.605 (2) (b) 2f. and 2h. of the statutes are created to read:

18 948.605 (2) (b) 2f. A qualified out-of-state law enforcement officer, as defined
19 in s. 941.23 (1) (g), to whom s. 941.23 (2) (b) 1. to 3. applies.

20 2h. A former officer, as defined in s. 941.23 (1) (c), to whom s. 941.23 (2) (c) 1.
21 to 7. applies.

22 **SECTION 9.** 948.605 (3) (b) 4. of the statutes is amended to read:

23 948.605 (3) (b) 4. By a person who is employed in this state by a public agency
24 as a law enforcement officer or and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to
25 3. applies.

