

January 1991 Spec. Sess.
Senate Bill 2

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1991 WISCONSIN ACT 17

AN ACT to repeal 948.61 (3) (f) and 948.61 (3) (g); to amend 29.05 (1), 29.05 (8) (a), 48.78 (3), 948.61 (title), 948.61 (1) (a), 948.61 (3) (d) and 968.255 (1) (a) 2; and to create 939.32 (1) (e) and 948.605 of the statutes, relating to: gun-free school zones and providing penalties.

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

SECTION 1. 29.05 (1) of the statutes is amended to read:

29.05 (1) WARRANTS, ARRESTS. The department and its wardens may execute and serve warrants and processes issued under any law enumerated in ss. 23.50 (1), 167.31, 346.19, 940.24, 941.20, 948.60, 948.605 and 948.61 in the same manner as any constable may serve and execute ~~such~~ the process; and may arrest, with or without a warrant, any person detected in the actual violation, or whom ~~such~~ the officer has probable cause to believe is guilty of a violation of any of the laws cited in this subsection, whether ~~such~~ the violation is punishable by criminal penalties or civil forfeiture, and may take ~~such~~ the person before any court in the county where the offense was committed and make a proper complaint. For the purpose of enforcing any of the laws cited in this subsection, any such officer may stop and board any boat and stop any automobile, snowmobile or other vehicle, if the officer reasonably suspects there is a violation of ~~such~~ those sections.

SECTION 2. 29.05 (8) (a) of the statutes is amended to read:

29.05 (8) (a) The department and its wardens shall seize and hold subject to the order of the court for the county in which the alleged offense was committed, any apparatus, appliance, vehicle or device, declared by this chapter to be a public nuisance, which they have probable cause to believe is being used in violation of this chapter,

an administrative rule promulgated under this chapter or s. 159.81, 167.31, 940.24, 941.20, 948.60, 948.605 or 948.61. If it is proven that within 6 months previous to the seizure the apparatus, appliance, vehicle or device was used in violation of this chapter or an administrative rule promulgated under this chapter or s. 159.81, 167.31, 940.24, 941.20, 948.60, 948.605 or 948.61, it shall be confiscated if the court directs in its order for judgment.

SECTION 3. 48.78 (3) of the statutes is amended to read:

48.78 (3) If a child adjudged delinquent on the basis of a violation of s. 941.10, 941.11, 941.20, 941.21, 941.23, 941.235, 941.24, 941.26, 941.28, 941.295, 941.30, 941.31, 941.32, 941.325, 943.02, 943.03, 943.04, 943.10 (2) (a), 943.32 (2), 948.02, 948.03, 948.05, 948.60, 948.605 or 948.61 or any crime specified in ch. 940 has escaped or has been allowed to leave a secured juvenile correctional facility for a specified time period and in the case of an authorized leave the child is absent from the facility for more than 12 hours after the expiration of the specified period, the department may release the child's name and any information about the child the department determines to be necessary for the protection of the public or to secure the child's return to the facility. The department shall promulgate rules establishing guidelines for the release of the child's name or information about the child to the public.

SECTION 4. 939.32 (1) (e) of the statutes is created to read:

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939.32 (1) (e) Whoever attempts to commit a crime under s. 948.605 (3) (a) is subject to the penalty provided in that paragraph for the completed act.

SECTION 5. 948.605 of the statutes is created to read:

948.605 Gun-free school zones. (1) DEFINITIONS.

In this section:

(a) "Encased" has the meaning given in s. 167.31 (1) (b).

(am) "Motor vehicle" has the meaning given in s. 340.01 (35).

(b) "School" has the meaning given in s. 948.61 (1) (b).

(c) "School zone" means any of the following:

1. In or on the grounds of a school.
2. Within 1,000 feet from the grounds of a school.

(2) **POSSESSION OF FIREARM IN SCHOOL ZONE.** (a) Any individual who knowingly possesses a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone is guilty of a Class A misdemeanor.

(b) Paragraph (a) does not apply to the possession of a firearm:

1. On private property not part of school grounds;
2. If the individual possessing the firearm is licensed to do so by a political subdivision of the state or bureau of alcohol, tobacco and firearms in which political subdivision the school zone is located, and the law of the political subdivision requires that, before an individual may obtain such a license, the law enforcement authorities of the political subdivision must verify that the individual is qualified under law to receive the license;
3. That is not loaded and is:
 - a. Encased; or
 - b. In a locked firearms rack that is on a motor vehicle;
4. By an individual for use in a program approved by a school in the school zone;
5. By an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;
6. By a law enforcement officer acting in his or her official capacity; or
7. That is unloaded and is possessed by an individual while traversing school grounds for the purpose of gaining access to public or private lands open to hunting, if the entry on school grounds is authorized by school authorities.

(3) **DISCHARGE OF FIREARM IN A SCHOOL ZONE.** (a) Any individual who knowingly, or with reckless disregard for the safety of another, discharges or attempts to discharge a firearm at a place the individual knows is a school zone is guilty of a Class D felony.

(b) Paragraph (a) does not apply to the discharge of, or the attempt to discharge, a firearm:

1. On private property not part of school grounds;
2. As part of a program approved by a school in the school zone, by an individual who is participating in the program;
3. By an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or
4. By a law enforcement officer acting in his or her official capacity.

(4) **CONSECUTIVE SENTENCE.** Notwithstanding s. 973.15 (2) to (4), if a court imposes a term of imprisonment under this section, the court shall impose the sentence consecutive to any other sentence.

SECTION 6. 948.61 (title) of the statutes is amended to read:

948.61 (title) Dangerous weapons other than firearms on school premises.

SECTION 7. 948.61 (1) (a) of the statutes is amended to read:

948.61 (1) (a) "Dangerous weapon" has the meaning specified in s. 939.22 (10), except "dangerous weapon" does not include any firearm.

SECTION 8. 948.61 (3) (d) of the statutes is amended to read:

948.61 (3) (d) Participates in a convocation ~~or firearms safety course~~ authorized by school authorities in which ~~firearms or other~~ weapons of collectors or instructors are handled or displayed.

SECTION 9. 948.61 (3) (f) of the statutes is repealed.

SECTION 10. 948.61 (3) (g) of the statutes is repealed.

SECTION 11. 968.255 (1) (a) 2. of the statutes is amended to read:

968.255 (1) (a) 2. Arrested for any misdemeanor under s. 167.30, 940.19, 941.20 (1), 941.23, 941.24, 948.60, 948.605 (2) (a) or 948.61.

SECTION 12. Initial applicability. This act first applies to offenses occurring on the effective date of this SECTION.

SECTION 13. Effective date. This act takes effect on the first day of the 3rd month beginning after publication.