

State of Wisconsin



2015 Assembly Bill 13

Date of enactment: **February 4, 2016**

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2015 WISCONSIN ACT 141

AN ACT *to amend* 165.63 (2) (intro.), 165.63 (3), 165.63 (4) (d), 968.20 (1) (b) and 968.20 (1m) (b); and *to create* 165.63 (5) and 968.20 (1m) (d) of the statutes; **relating to**: the return of a seized firearm to the person who owns the firearm.

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

SECTION 1. 165.63 (2) (intro.) of the statutes is amended to read:

165.63 (2) DEPARTMENT TO PROVIDE INFORMATION UPON REQUEST. (intro.) Upon a request under sub. (3) ~~or~~ (4), or (5), the department shall provide to the person making the request information regarding any of the following:

SECTION 2. 165.63 (3) of the statutes is amended to read:

165.63 (3) ~~REQUESTS FOR INJUNCTIONS FROM COURTS.~~ In making a determination required under s. 813.1285 (7) (a) or 968.20 (1m) (d) 1., a judge or court commissioner shall request information under sub. (2) from the department or from a law enforcement agency or law enforcement officer as provided in sub. (4) (d).

SECTION 3. 165.63 (4) (d) of the statutes is amended to read:

165.63 (4) (d) Aid the court in making a determination required under s. 813.1285 (7) (a) or 968.20 (1m) (d) 1. or aid an entity in making a determination required under s. 968.20 (1m) (d) 2.

SECTION 4. 165.63 (5) of the statutes is created to read:

165.63 (5) In making a determination required under s. 968.20 (1m) (d) 2., an entity holding a seized firearm shall request information under sub. (2) from the department or from a law enforcement agency or law enforcement officer as provided in sub. (4) (d).

SECTION 5. 968.20 (1) (b) of the statutes is amended to read:

968.20 (1) (b) All proceedings and investigations in which it might be required have been completed.

SECTION 6. 968.20 (1m) (b) of the statutes is amended to read:

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

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

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

SECTION 7. 968.20 (1m) (d) of the statutes is created to read:

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

968.20 (1m) (d) 1. If the seized property is a firearm, the property has not been returned under this section, and a person claiming the right to possession of the firearm has applied for its return under sub. (1), the court shall order a hearing under sub. (1) to occur within 20 business days after the person applies for the return. If, at the hearing, all conditions under sub. (1) have been met and the person is not prohibited from possessing a firearm under state or federal law as determined by using information provided under s. 165.63, the court shall, within 5 days of the completion of the hearing and using a return of firearms form developed by the director of state courts, order the property returned if one of the following has occurred:

- a. The district attorney has affirmatively declined to file charges in connection with the seizure against the person.
- b. All charges filed in connection with the seizure against the person have been dismissed.
- c. Ten months have passed since the seizure and no

charges in connection with the seizure have been filed against the person.

d. The trial court has reached final disposition for all charges in connection with the seizure and the person has not been adjudged guilty, or not guilty by reason of mental disease or defect, of a crime in connection with the seizure.

e. The person has established that he or she had no prior knowledge of and gave no consent to the commission of the activity that led to the seizure.

2. If an entity holding a seized firearm receives a return of firearms form, the entity shall return the firearm within 10 business days of receiving the form unless the entity determines that the person who would receive the firearm is prohibited from possessing a firearm under state or federal law. The entity shall use the information provided under s. 165.63 to aid in making the determination under this subdivision.

SECTION 8. Initial applicability.

(1) This act first applies to firearms seized on the effective date of this subsection.
