



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2009 Wisconsin Act 258 [2009 Senate Bill 44]	Firearms
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2009 Wisconsin Act 258 makes the following changes to the laws regulating the possession of firearms:

1. Wisconsin law generally provides that when a firearms dealer sells a handgun, the dealer may not transfer possession of the handgun until, among other things, the dealer has requested a firearms restriction records search. The search, conducted by the Department of Justice (DOJ), includes a search to determine whether a person is prohibited from possessing a firearm under a court order in an involuntary commitment proceeding. Act 258 expands the DOA search to include court orders prohibiting the possession of a firearm in proceedings relating to an involuntary commitment to treat alcoholism, an appointment of a guardian, and a protective placement. DOJ also is directed to promulgate rules to convey information about all such court orders in a timely manner to the National Instant Criminal Background Check System.

2. Prior to Act 258, a court order in an involuntary treatment proceeding prohibiting the possession of a firearm was based on evidence presented that there was a substantial probability that the individual involved might use a firearm to cause physical harm to himself or herself or to endanger public safety. Act 258 provides that in an involuntary commitment proceeding (including treatment for alcoholism), an appointment of a guardian, and a protective placement, a court must determine if, under federal law, a person is prohibited from possessing a firearm because the individual has been “adjudicated as a mental defective or has been committed to any mental institution.” [See 18 U.S.C. s. 922 (g) (4).] In any of these procedures, an individual may petition a court to cancel the order and the court must grant the petition if the court determines that the factual circumstances of the individual’s case and the individual’s record and reputation indicate that the individual is not likely to act in a manner dangerous to public safety and that the granting of the petition would not be contrary to the public interest.

Effective date: The Act generally takes effect on July 1, 2010.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.state.wi.us/>.