



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-0331/1  
CMH:ahe

## 2021 SENATE BILL 317

April 21, 2021 - Introduced by Senators KOOYENGA, COWLES, BALLWEG, JACQUE, JOHNSON, RINGHAND, ROYS and SMITH, cosponsored by Representatives MURSAU, SUBECK, ANDERSON, ANDRACA, BOWEN, CABRAL-GUEVARA, EMERSON, HEBL, HESSELBEIN, S. RODRIGUEZ, SHANKLAND and SPREITZER. Referred to Committee on Judiciary and Public Safety.

1     **AN ACT to renumber** 941.29 (1g) (a) and 971.17 (1g); **to amend** 973.176 (1); and  
2           **to create** 941.29 (1g) (ah), 941.29 (1m) (ag), 941.29 (1m) (cm), 971.17 (1g) (b)  
3           and 973.136 of the statutes; **relating to:** the possession of a firearm by a person  
4           who has committed a misdemeanor crime of domestic violence and providing  
5           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 or found not guilty of a felony by reason of mental disease or defect. In addition, federal law prohibits a person from possessing a firearm if he or she has been convicted of a misdemeanor crime of domestic violence; under current law there is no comparable state prohibition. Under this bill, state law would also prohibit a person from possessing a firearm if he or she has been convicted of, or found not guilty by reason of mental disease or defect for, a misdemeanor crime of domestic violence. A person who violates the prohibition is guilty of a felony and is subject to a fine of up to \$25,000 or a term of imprisonment of up to 10 years, or both, which is the same penalty that is imposed when a felon violates the prohibition against possessing a firearm.

For purposes of this bill, a “misdemeanor crime of domestic violence” is one of the following:

1. Misdemeanor battery, fourth-degree sexual assault, or endangering safety by use of a dangerous weapon if the perpetrator is an adult and commits one of those

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crimes against a member of his or her family, against his or her former spouse or a person with whom he or she has had a dating relationship, or against a person with whom he or she has a child in common.

2. Disorderly conduct if the perpetrator is an adult who engaged in violent or abusive conduct to harm, intimidate, or threaten a member of his or her family, his or her former spouse or a person with whom he or she has had a dating relationship, or a person with whom he or she has a child in common.

3. Any other misdemeanor if the perpetrator is an adult and commits the misdemeanor against a member of his or her family, against his or her former spouse or a person with whom he or she has had a dating relationship, or against a person with whom he or she has a child in common if the court increased the penalty for the misdemeanor because the perpetrator committed it while possessing, using, or threatening to use a dangerous weapon.

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

2           **SECTION 2.** 941.29 (1g) (ah) of the statutes is created to read:

3           941.29 **(1g)** (ah) “Misdemeanor crime of domestic violence” has the meaning  
4 given in s. 973.136 (1) (c).

5           **SECTION 3.** 941.29 (1m) (ag) of the statutes is created to read:

6           941.29 **(1m)** (ag) The person has been convicted on or after the effective date  
7 of this paragraph .... [LRB inserts date], of a misdemeanor crime of domestic violence.

8           **SECTION 4.** 941.29 (1m) (cm) of the statutes is created to read:

9           941.29 **(1m)** (cm) The person has been found not guilty by reason of mental  
10 disease or defect on or after the effective date of this paragraph .... [LRB inserts date],  
11 of a misdemeanor crime of domestic violence.

12           **SECTION 5.** 971.17 (1g) of the statutes is renumbered 971.17 (1g) (a).

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1           **SECTION 6.** 971.17 (1g) (b) of the statutes is created to read:

2           971.17 (1g) (b) If the defendant under sub. (1) is found not guilty by reason of  
3           mental disease or defect of a misdemeanor crime of domestic violence, as defined in  
4           s. 973.136 (1) (c), the court shall enter a finding to that effect in the record for  
5           purposes of determining whether the person is prohibited from possessing a firearm  
6           under s. 941.29 and shall inform the defendant of the requirements and penalties  
7           under s. 941.29.

8           **SECTION 7.** 973.136 of the statutes is created to read:

9           **973.136 Prohibition for certain misdemeanor crimes. (1)** In this section:

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

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

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

18           1. A violation or attempted violation of s. 940.19 (1), 940.195 (1), 940.225 (3m),  
19           or 941.20 (1) when committed by an adult family member against another family  
20           member, by an adult against his or her former spouse, by an adult against an  
21           individual with whom the adult has or had a dating relationship, or by an adult  
22           against an individual with whom the adult has a child in common.

23           2. A violation of s. 947.01 in which the adult actor engaged in violent or abusive  
24           conduct to harm, intimidate, or threaten an individual who is the adult actor’s family  
25           member, the adult actor’s former spouse, an individual with whom the adult actor

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

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

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

12 **SECTION 8.** 973.176 (1) of the statutes is amended to read:

13 973.176 (1) FIREARM POSSESSION. Whenever a court imposes a sentence or  
14 places a defendant on probation regarding a ~~felony~~ conviction for a felony or for a  
15 misdemeanor crime of domestic violence, as defined in s. 973.136 (1) (c), the court  
16 shall inform the defendant of the requirements and penalties applicable to him or her  
17 under s. 941.29 (1m) or (4m).

18 **SECTION 9. Initial applicability.**

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

21 (2) The treatment of s. 973.136 first applies to a conviction that occurs on the  
22 effective date of this subsection.

23 (END)