



2023 ASSEMBLY BILL 859

December 22, 2023 - Introduced by Representatives SUBECK, PALMERI, C. ANDERSON, J. ANDERSON, ANDRACA, CLANCY, CONLEY, EMERSON, JACOBSON, JOERS, MADISON, OHNSTAD, RATCLIFF, SINICKI and STUBBS, cosponsored by Senators ROYS, AGARD, CARPENTER, HESSELBEIN, JACQUE, L. JOHNSON, LARSON, PFAFF, SMITH, SPREITZER, TAYLOR and WIRCH. Referred to Committee on Criminal Justice and Public Safety.

AUTHORS SUBJECT TO CHANGE

- 1 **AN ACT** *to renumber and amend* 947.01 (1); *to amend* 968.075 (1) (a) (intro.);
2 and *to create* 947.01 (1) (a) and 968.075 (1) (f) of the statutes; **relating to:**
3 firearm transfers and possession that are prohibited under federal law.

Analysis by the Legislative Reference Bureau

Under federal law, a person is prohibited from possessing a firearm if he or she has been convicted of a misdemeanor crime of domestic violence. Under state law, a person who is prohibited from possessing a firearm under federal or state law also may not purchase a firearm or be issued a license to carry a concealed weapon. State law requires the Department of Justice, before approving a handgun purchase or issuing a license, to conduct a background check to determine if the person is prohibited from possessing a firearm. To determine if the person is prohibited under federal law, DOJ must review court records of all of the person's criminal convictions to identify if any conviction is for a misdemeanor crime of domestic violence. DOJ must determine if the relationship between the offender and the victim qualifies as a domestic relationship and if the offender engaged in violent conduct when committing the crime. The bill reorganizes two statutes—the crime of disorderly conduct and the definition of domestic abuse—so that DOJ is able to more easily determine if a conviction qualifies as a misdemeanor crime of domestic violence.

First, under current law, a person is guilty of disorderly conduct if the person engages in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct and if the conduct tends to cause or provoke a disturbance. A person who has been convicted of disorderly conduct is prohibited

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from possessing a firearm if the disorderly conduct was a misdemeanor crime of domestic violence—that is, if the person engaged in violent conduct and if the relationship between the person and the victim was domestic. The bill reorganizes the disorderly conduct statute to separate “violent” conduct from the other types of disorderly conduct so that the court record clearly indicates that the crime was a violent crime.

Second, under current state law, “domestic abuse” is defined as certain actions taken against a victim if the victim is related to the actor, has a child in common with the actor, or currently resides or has resided with the actor. Unlike state law, federal law does not define a crime as domestic violence if the only relationship is that the victim currently resides or has resided with the actor. The bill reorganizes the statute defining domestic abuse so that a court record would indicate the exact nature of the relationship. Therefore, under the bill, the court record would indicate when a person who is guilty under state law of a crime of domestic abuse is not guilty under federal law of a misdemeanor crime of domestic violence.

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.** 947.01 (1) of the statutes is renumbered 947.01 (1) (intro.) and
2 amended to read:

3 947.01 (1) (intro.) Whoever, in a public or private place, engages in violent,
4 ~~abusive,~~ any of the following is guilty of a Class B misdemeanor:

5 (b) Abusive, indecent, profane, boisterous, unreasonably loud or otherwise
6 disorderly conduct under circumstances in which the conduct tends to cause or
7 provoke a disturbance is ~~guilty of a Class B misdemeanor.~~

8 **SECTION 2.** 947.01 (1) (a) of the statutes is created to read:

9 947.01 (1) (a) Violent behavior that involves the use or attempted use of
10 physical force or the use or threat to use a dangerous weapon.

11 **SECTION 3.** 968.075 (1) (a) (intro.) of the statutes is amended to read:

12 968.075 (1) (a) (intro.) “Domestic abuse” means any of the following engaged
13 in by an adult person against ~~his or her spouse or former spouse, against an adult~~

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1 ~~with whom the person resides or formerly resided or against an adult with whom the~~
2 ~~person has a child in common~~ a relative of the adult person:

3 **SECTION 4.** 968.075 (1) (f) of the statutes is created to read:

4 968.075 (1) (f) "Relative" means any of the following:

- 5 1. A spouse or former spouse.
- 6 2. A parent or stepparent.
- 7 3. A legal guardian.
- 8 4. A person with whom the adult person has a child in common.
- 9 5. A person with whom the adult person is cohabiting or has cohabited as a
10 spouse, a parent, or a legal guardian.
- 11 6. A person who is similarly situated to the adult person as a spouse, a parent,
12 or a legal guardian.
- 13 7. An adult who is residing or has resided with the adult person if subd. 1., 2.,
14 3., 4., 5., or 6. does not apply.

15 (END)