



STATE OF WISCONSIN
Department of Justice

**ORDER ADOPTING EMERGENCY RULES
DOJ-2011-01**

INTRODUCTORY CLAUSE

1 The State of Wisconsin Department of Justice (“DOJ”) proposes an order to create
2 chapter Jus 17 and chapter Jus 18 relating to licenses authorizing persons to carry concealed
3 weapons; concealed carry certification cards for qualified former federal law enforcement
4 officers; and the certification of firearms safety and training instructors.

ANALYSIS BY THE DEPARTMENT OF JUSTICE

DOJ proposes to promulgate emergency administrative rules relating to the implementation of DOJ’s statutory responsibilities under 2011 Wis. Act 35 regarding licenses authorizing persons to carry concealed weapons, concealed carry certification cards for qualified former federal law enforcement officers, and the certification of firearms safety and training instructors.

The emergency rules proposed here will be placed in two new chapters. The first new chapter will be designated ch. Jus 17 and will be titled “Licenses to Carry a Concealed Weapon.” The second new chapter will be designated ch. Jus 18 and will be titled “Certification of Former Federal Law Enforcement Officers.”

The scope of these proposed rules was described in a scope statement approved by the Governor on August 31, 2011. That scope statement anticipated that all of the proposed rules would be placed in a single chapter, designated ch. Jus 17. The present Order now proposes that the particular rules related to the certification of former federal law enforcement officers instead be placed in a separate chapter, designated ch. Jus 18. This separation is proposed for the purpose of improving the clarity of the rules. The overall scope of all of the proposed rules, however—including those now slated for placement in ch. Jus 18—was described in the previously approved scope statement and remains unchanged.

In addition to the rules proposed in this Order, the new chapter ch. Jus 17 will also contain another rule—being separately promulgated by DOJ—that designates those states that issue a permit, license, approval, or other authorization to carry a concealed weapon that is entitled to recognition in Wisconsin under s. 175.60(1)(f), Stats.

Statutes interpreted: ss. 175.49(3)-(4) and 175.60, Stats.

Statutory authority: ss. 175.60(7), 175.60(14g), 175.60(15)(b), 227.11(2)(a), Stats.

Explanation of statutory authority:

A. Section 175.60(7), Stats.

Those portions of the proposed rules that will establish the amount of the fee to be charged for a concealed carry license are expressly and specifically authorized and required by s. 175.60(7), Stats., which provides:

SUBMISSION OF APPLICATION. An individual may apply for a license under this section with the department by submitting, by mail or other means made available by the department, to the department all of the following:

...

(c) A license fee in an amount, as determined by the department by rule, that is equal to the cost of issuing the license but does not exceed \$37. The department shall determine the costs of issuing a license by using a 5-year planning period.

B. Section 175.60(14g), Stats.

Those portions of the proposed rules that will establish procedures for the administrative review by DOJ of any denial, suspension, or revocation of a license are expressly and specifically authorized by s. 175.60(14g), Stats., which provides:

DEPARTMENTAL REVIEW. The department shall promulgate rules providing for the review of any action by the department denying an application for, or suspending or revoking, a license under this section.

C. Section 175.60(15)(b), Stats.

Those portions of the proposed rules that will establish the amount of the fee to be charged for the renewal of a concealed carry license are expressly and specifically authorized by s. 175.60(15)(b), Stats., which provides:

The department shall renew the license if, no later than 90 days after the expiration date of the license, the licensee does all of the following:

...

4. Pays all of the following:

a. A renewal fee in an amount, as determined by the department by rule, that is equal to the cost of renewing the license but does not exceed \$12. The department shall determine the costs of renewing a license by using a 5-year planning period.

D. Section 227.11(2)(a), Stats.

Those portions of the proposed rules that are not specifically authorized by ss. 175.60(7), (14g), and (15)(b), Stats., as described above, are authorized by s. 227.11(2)(a), Stats., which provides:

(2) Rule-making authority is expressly conferred as follows:

(a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:

1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.

2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.

3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

This statute expressly confers on DOJ the general power to determine whether administrative rules interpreting those statutory provisions in 2011 Wis. Act 35 that are to be enforced or administered by DOJ are necessary to effectuate the purpose of those statutory provisions and, if such necessity is found, to promulgate such administrative rules, as long as those rules do not exceed the bounds of correct interpretation of the governing statutes.

DOJ finds that the rules here proposed are necessary to effectuate those portions of ss. 175.49 and 175.60 that require DOJ to establish and operate procedures governing:

- the issuance of concealed carry licenses to qualified applicants, including verification that each applicant has satisfied the applicable statutory training requirements, has

passed the mandatory background check, and has met all of the other statutory eligibility requirements for a license;

- the issuance of concealed carry certification cards to qualified former federal law enforcement officers residing in Wisconsin, including verification that each applicant has satisfied the applicable firearms certification requirements, has passed the mandatory background check, and has met all of the other statutory eligibility requirements for certification;
- the administration of concealed carry licenses and certifications that have been issued by DOJ, including the maintenance and treatment of records; the receipt and processing of information from courts about individuals subject to a court-imposed disqualification from possessing a dangerous weapon; the renewal of licenses and certifications and the replacement of those that are lost, stolen, or destroyed; the processing of address changes or name changes for licenses and certifications; procedures and standards for revoking or suspending a license or certification; procedures for the administrative review by DOJ of any denial, suspension, or revocation of a license or certification; and procedures governing DOJ's cooperation with courts and law enforcement agencies in relation to emergency licenses issued by a court; and
- the qualification and certification of firearms instructors by DOJ and the identification of those firearms instructors who are certified by a national or state organization.

DOJ further finds that the rules here proposed:

- do not exceed the bounds of correct interpretation of ss. 175.49 or 175.60;
- are authorized by the statutes described above and are not based on authority derived from any other statutory or nonstatutory statements or declarations of legislative intent, purpose, findings, or policy;
- are authorized as necessary interpretations of the specific requirements of ss. 175.49 and 175.60 and are not based on authority derived from any other general powers or duties of DOJ; and
- do not impose any standards or requirements that are more restrictive than the standards and requirements contained in ss. 175.49 and 175.60.

For these reasons, those portions of the proposed rules that are not specifically authorized by ss. 175.60(7), (14g), and (15)(b), Stats., are authorized by s. 227.11(2)(a), Stats.

Related statutes or rules: Prior to the enactment of 2011 Wis. Act 35, Wisconsin statutes and administrative rules contained no provisions for licenses authorizing members of the general public to carry concealed weapons, no provisions for state certification of instructors to teach firearms safety and training to the general public, and no provisions for state issuance of

firearm certification cards for qualified former federal law enforcement officers. The rules proposed in the present Order are the first to address these subjects and there are thus no other related statutes or rules at the present time.

Plain language analysis: In 2011 Wisconsin Act 35, the state of Wisconsin established a new system under which DOJ is required to issue licenses authorizing eligible Wisconsin residents to carry concealed weapons in Wisconsin and to certify firearms safety and training instructors. The legislation also authorizes DOJ to issue concealed carry certification cards to qualified former federal law enforcement officers who reside in Wisconsin. The proposed rules carry into effect the legislative directives set forth in Act 35. In a few areas, the proposed rules give substance to undefined statutory terms and supply standards needed to ensure that licenses and certification cards are issued only to eligible individuals and that all applicants and licensees are properly identified at all times. Such rules are specifically intended to carry out the legislative intent of Act 35.

The proposed emergency rules cover four subject areas:

First, the proposed rules govern the issuance of concealed carry licenses to qualified applicants by DOJ pursuant to s. 175.60, Stats. These rules govern all aspects of the licensing process and describe the procedures and standards under which DOJ will process applications, collect fees, and verify that each license applicant meets all of the license eligibility requirements under s. 175.60(3), Stats., including procedures and standards for certifying that an applicant has satisfied the applicable statutory training requirements and procedures for conducting the statutorily required background check of each applicant to determine whether the applicant is prohibited from possessing a firearm under state or federal law.

Some of the standards supplied by these rules give substantive content to such undefined statutory terms as “firearms safety or training course” and “national or state organization that certifies firearms instructors.” Such standards are necessary to carry out the legislative purposes of ensuring that all licensees have been trained in firearms and firearms safety and of ensuring that all certified firearms instructors have demonstrated the ability and knowledge required for providing training in firearms and firearms safety.

Similarly, the proposed rules specify the types of information that must be included in a training certificate or affidavit in order for DOJ to find that certificate or affidavit to be sufficient to satisfy the training documentation requirements in s. 175.60(4)(a), Stats. Such specification is necessary to give substantive content to the statutory documentation requirements so as to carry out the legislative purpose of ensuring that every successful applicant for a concealed carry license has adequately demonstrated completion of at least one of the forms of statutorily required training.

Second, the proposed rules govern the administration of concealed carry licenses that have been issued by DOJ. These rules cover: the maintenance and treatment of licensing records by DOJ; the receipt and processing by DOJ of information from courts regarding individuals subject to a court-imposed disqualification from possessing a dangerous weapon; procedures for renewing a license and replacing a license that is lost, stolen, or destroyed;

procedures for processing address changes and for issuing a new concealed carry license or certification card to an individual who changes his or her name; procedures and standards for revoking or suspending a license; procedures for the administrative review by DOJ of any denial, suspension, or revocation of a license; and procedures governing DOJ's cooperation with courts and law enforcement agencies in relation to emergency concealed carry licenses issued by a court pursuant to s. 175.60(9r). The rules for administrative review of a denial, suspension, or revocation of a license include procedures for conducting fingerprint checks to verify the identity of any applicant who has been found to be ineligible based on a background check.

Third, the rules govern the procedures and standards under which DOJ will issue concealed carry certification cards to qualified former federal law enforcement officers pursuant to s. 175.49(3), Stats. These rules govern all aspects of the certification process for former federal officers who reside in Wisconsin and describe the procedures and standards under which DOJ will process applications, collect fees, and verify that each applicant meets all of the certification eligibility requirements under s. 175.49(3)(b), Stats., including procedures and standards for certifying that an applicant has satisfied the firearm qualification requirement under s. 175.49(3)(b)5., Stats., and procedures for conducting the statutorily required background check of each applicant to determine whether the applicant is prohibited from possessing a firearm under federal law.

These rules also cover: the maintenance and treatment of certification records by DOJ; procedures for renewing a certification card and replacing a card that is lost, stolen, or destroyed; procedures for processing address changes or name changes by a certified former federal officer; procedures and standards for revoking or suspending a certification; and procedures for the administrative review by DOJ of any denial, suspension, or revocation of a certification. The administrative review procedure includes procedures for checking fingerprints to verify the identity of any certification applicant who has been found to be ineligible based on a background check.

Fourth, the proposed rules govern the procedures and standards for the qualification and certification of firearms instructors by DOJ under s. 175.60(4)(b), Stats., and provide a definition identifying those firearms instructors who are certified by a national or state organization, as provided in s. 175.60(4)(a), Stats.

Summary of, and comparison with, existing or proposed federal regulation: For persons other than current and former law enforcement officers, the regulation of the carrying of concealed weapons is primarily governed at the state level. Numerous federal statutes and regulations restrict the possession of weapons that have been shipped in interstate commerce, but there are no federal regulations that relate to the licensing of concealed carry by such persons, nor are there federal regulations governing the certification of firearms instructors for concealed carry purposes.

For qualified current and former law enforcement officers, state and local laws restricting the carrying of concealed firearms are federally preempted by 18 U.S.C. §§ 926B-926C (commonly referred to as “H.R. 218”). The provisions in 2011 Wis. Act 35 related to qualified current and former law enforcement officers are state-law codifications of the corresponding provisions in H.R. 218. Similarly, the rules proposed here governing procedures and standards for the issuance and administration of concealed carry certification cards for qualified former federal law enforcement officers also codify corresponding provisions in the federal law.

Comparison with rules in adjacent states:

A. Iowa

Iowa provides by statute that any person who meets specified eligibility and training requirements and who files a proper application shall be issued a nonprofessional permit to carry weapons. Iowa Code § 724.7(1). The information to be included on the application form is prescribed by statute. Iowa Code § 724.10(1).

Iowa statutes specify a variety of methods by which a license applicant may demonstrate the requisite knowledge of firearms safety. Iowa Code § 724.9(1). Satisfaction of any of these methods may be documented by submitting: (1) a copy of a certificate of completion or similar document for a course or class that meets the statutory requirements; (2) an affidavit from the instructor or organization conducting such a course or class that attests that the applicant has completed the course or class; or (3) a copy of any document indicating participation in a firearms shooting competition. Iowa’s administrative rules give these requirements additional substantive content through definitions of “firearm training and documentation” and “firearm training program.” Iowa Admin. Code § 661.91.1(724).

Upon receipt of a completed application, the commissioner of public safety is required to conduct a criminal background check to determine whether the applicant is statutorily eligible for a permit. Iowa Code § 724.10(2); Iowa Admin. Code § 661-91.5(724)(1). The commissioner must approve or deny a permit application within 30 days. Iowa Admin. Code § 661-91.5(724)(2). Denial decisions must be issued in writing, with reasons. Iowa Admin. Code § 661-91.5(724)(4). If a permit holder is arrested for a disqualifying offense, the commissioner may immediately suspend the permit and immediately notify the holder in writing. Iowa Admin. Code § 661-91.6(724)(1). If the arrest results in a disqualifying conviction, the permit is revoked. Iowa Adm. Code § 661-91.6(724)(4). If there is no conviction, the permit is reinstated. Iowa Adm. Code § 661-91.6(724)(3). Iowa’s administrative rules provide an administrative hearing procedure for appealing the denial, suspension, or revocation of a *professional* weapons permit, but do not expressly provide an appeal procedure for a non-professional permit.

B. Minnesota

Minnesota provides by statute that any person who meets specified eligibility and training requirements and who files a proper application shall be issued a permit to carry a pistol. Minn.

Stat. § 624.714(2). Applications are made to the sheriff of the county in which the applicant resides. Minn. Stat. § 624.714(2). The information to be included on the application form is prescribed by statute. Minn. Stat. § 624.714(3). A permit applicant must have received training in the safe use of a pistol within one year prior to the application. Minn. Stat. § 624.714(2a)(a). To establish such training, an applicant must submit a copy of a certificate signed by the training instructor and attesting that the applicant attended and completed the training. Minn. Stat. § 624.714(3)(c)(2).

Upon receiving a permit application, the sheriff is required to conduct a criminal background check to determine whether the applicant is statutorily eligible for a permit. Minn. Stat. § 624.714(4). The sheriff must approve or deny a permit application within 30 days. Minn. Stat. § 624.714(6). A denied applicant is given the right to submit additional information and the sheriff then has 15 days to reconsider the denial. Minn. Stat. § 624.714(6)(b). All denial decisions must be issued in writing, with reasons, including the factual basis for the denial. Minn. Stat. § 624.714(6)(b). A permit is void any time the holder becomes legally prohibited from possessing a firearm. Minn. Stat. § 624.714(8)(a). If the sheriff has knowledge that a permit is void, the sheriff must give written notice to the holder, who must return the permit. Minn. Stat. § 624.714(8)(a). If a permit holder is convicted of a disqualifying offense, the convicting court must take possession of the permit and send it to the issuing sheriff. Minn. Stat. § 624.714(8)(b). A decision denying or revoking a permit may be appealed to the district court of the jurisdiction in which the permit application was submitted. The appeal is heard by the court de novo without a jury. Minn. Stat. § 624.714(12).

C. Michigan

Michigan provides by statute that any person who meets specified eligibility and training requirements and who files a proper application shall be issued a license to carry a concealed pistol. Mich. Comp. Laws § 28.425b(7). Applications are made to the concealed weapon licensing board of the county in which the applicant resides. Mich. Comp. Laws § 28.425b(1). The information to be included on the application form is prescribed by statute. Mich. Comp. Laws § 28.425b(1).

A license applicant must demonstrate knowledge and training in the safe use and handling of a pistol by successfully completing a pistol safety training program that meets statutorily prescribed requirements. Mich. Comp. Laws § 28.425b(7)(c). The training program must consist of at least eight hours of instruction, must cover specified subject areas, must include at least three hours on a firing range, must require firing at least 30 rounds of ammunition, and must be taught by an instructor certified by the state or by a national organization. Mich. Comp. Laws § 28.425j(1). The training program must provide an instructor-signed certificate indicating that the program meets the statutory requirements and was successfully completed by the license applicant and the applicant must include a copy of that certificate with the license application. Mich. Comp. Laws §§ 28.425b(1)(j) and 28.425j(1)(c).

After submitting an application, an applicant is statutorily required to submit a fingerprint card to the state police. Mich. Comp. Laws § 28.425b(9)-(10). The fingerprints are sent to the FBI and checked against state police records. Mich. Comp. Laws § 28.425b(10). Within 10

days after receiving fingerprint comparison results from the FBI, the state police must provide a fingerprint report to the appropriate county concealed weapon licensing board. Mich. Comp. Laws § 28.425b(10). The licensing board must grant or deny a license within 45 days after receiving the fingerprint report, except that if the state police do not send a fingerprint report to the licensing board within 60 days after results are received from the FBI, then the licensing board shall issue the applicant a temporary license which is valid for 180 days. Mich. Comp. Laws § 28.425b(13)-(14).

License denial decisions must be issued in writing with reasons and supporting facts. Mich. Comp. Laws § 28.425b(13). Denial decisions may be appealed to the circuit court of the jurisdiction in which the applicant resides. Mich. Comp. Laws § 28.425d(1). Court review is based on the written record of the application proceeding, except in cases in which a determination has been made that the applicant is a safety risk, in which case there is a hearing de novo before the court. Mich. Comp. Laws § 28.425d(1).

If a license holder is charged with a disqualifying criminal offense, the prosecuting attorney must promptly notify the county licensing board. Mich. Comp. Laws § 28.425m. The prosecutor must also notify the board of the subsequent disposition of the charge. Mich. Comp. Laws § 28.425m. Upon receiving notice that a licensee has been charged with a disqualifying offense, a licensing board must immediately suspend the person's license until there is a final disposition of the charge. Mich. Comp. Laws § 28.428(3). The licensee must be given written notice of the suspension and may request a prompt administrative hearing on the suspension. Mich. Comp. Laws § 28.428(3). If the licensing board determines that a licensee is no longer eligible for a license, the license shall be revoked. Mich. Comp. Laws § 28.428(4).

D. Illinois

Illinois does not issue licenses for the carrying of concealed weapons.

Summary of factual data and analytical methodologies: The proposed rules are predicated on legal analysis by DOJ staff of the language and requirements of Act 35. Based on that analysis, DOJ has determined that the proposed rules are necessary for DOJ to carry out its responsibilities under Act 35.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report: The proposed rules do not impose any financial or compliance burdens that will have a significant effect on small businesses or a significant economic impact. Accordingly, DOJ has determined that the gathering and analysis of additional data regarding any such effects or impact is unnecessary.

Effect on small business: The proposed rules do not have a significant effect on small business.

Agency contact person: Assistant Attorney General Clayton P. Kawski, Wisconsin Department of Justice, 17 West Main Street, P.O. Box 7857, Madison, Wisconsin 53707-7857; phone: (608) 266-7477; email: kawskcp@doj.state.wi.us.

Place where comments are to be submitted and deadline for submission: Comments may be submitted to the contact person shown above no later than one week after the public hearing on these emergency rules is conducted. Information as to the date, location, and time of the public hearing will be published in the Wisconsin Administrative Register.

FINDING OF EMERGENCY

5 Under section 101 of 2011 Wis. Act 35, most of the provisions of that Act—including the
6 provisions governing the licensing and certification processes covered by the rules proposed here
7 and the provisions authorizing the carrying of a concealed weapon by the holder of a license, an
8 out-of-state license, or a certification card—will have an effective date of November 1, 2011. In
9 particular, s. 175.60(9), Stats., will require DOJ to begin receiving and processing license
10 applications and issuing or denying licenses as soon as that provision takes effect on
11 November 1, 2011. The Legislature has thus determined that the public welfare requires the
12 licensing system to take effect on November 1, 2011.

13 DOJ cannot comply with the requirements of s. 175.60(9), Stats., and related statutory
14 requirements until it has in effect administrative rules establishing the procedures and standards
15 that will govern DOJ's enforcement and administration of those requirements. It follows that, in
16 order for DOJ to meet its statutory duties that take effect on November 1, 2011, it must complete
17 the promulgation of such administrative rules prior to that date.

18 Under the non-emergency rulemaking procedures of ch. 227, Stats., before the proposed
19 rules could be promulgated, numerous notice, hearing, and publication requirements would have
20 to be fulfilled—including, but not limited to a public hearing on the proposed rules, preparation
21 of a detailed report including a summary of public comments and DOJ's responses to those
22 comments, and legislative review of the proposed rules. DOJ has determined that it is
23 impossible for all of the required steps in that non-emergency rulemaking process to be

24 completed by November 1, 2011. Only if DOJ utilizes the emergency rulemaking procedures of
25 s. 227.24, Stats., can the requisite rules be promulgated and in effect in time for DOJ to meet its
26 statutory duties that take effect on November 1, 2011. The public welfare thus necessitates that
27 the proposed rules be promulgated as emergency rules under s. 227.24, Stats. Once the proposed
28 emergency rules have been promulgated, DOJ will promptly follow up with the promulgation of
29 a permanent version of the rules under the full rulemaking procedures.

TEXT OF THE PROPOSED RULES

30 SECTION 1. Chapter Jus 17 is created and titled:

31 CHAPTER JUS 17: LICENSES TO CARRY CONCEALED WEAPONS

32 SECTION 2. Jus 17.01 is created to read:

33 **Jus 17.01 Purpose.** The purpose of this chapter is to establish standards and
34 procedures, as required under s. 175.60, Stats., for the issuance and administration of licenses
35 authorizing persons to carry concealed weapons, the review of licensing decisions by the
36 department, and the certification of firearms safety and training instructors.

37 SECTION 3. Jus 17.02 is created to read:

38 **Jus 17.02 Applicability.**

39 **(1)** Except as provided in sub. (2), this chapter applies to the issuance and administration
40 of all licenses to carry concealed weapons issued by the department pursuant to s. 175.60, Stats.

41 **(2)** This chapter does not apply to any of the following:

42 **(a)** Certification of former law enforcement officers to carry concealed weapons
43 pursuant to s. 175.49(2), Stats.

44 **(b)** Certification of former federal law enforcement officers to carry concealed
45 weapons pursuant to s. 175.49(3), Stats.

46 **(c)** The carrying of concealed weapons by active law enforcement officers.

47 SECTION 4. Jus 17.03 is created to read:

48 **Jus 17.03 Definitions.** In this chapter:

49 **(1)** “Applicant” means an individual applying for a license to carry a concealed
50 weapon pursuant to s. 175.60, Stats., and to whom no license has yet been issued.

51 **(2)** “Approval number” means the unique number the department assigns to an
52 applicant pursuant to s. 175.60(9g)(a)3.b., Stats., when a completed background check on the
53 applicant indicates that s. 175.60(3)(b), (c), (d), and (e), Stats., do not apply to the applicant.

54 **(3)** “Background check” means the review of an applicant’s record conducted by the
55 department pursuant to s. 175.60(9g), Stats., for the purpose of determining whether
56 s. 175.60(3)(b), (c), (d), or (e), Stats., applies to the applicant.

57 **(4)** “Confirmation number” means the unique number the department issues pursuant
58 to s. 175.60(9g)(a)1., Stats., to identify every accepted application for a license to carry a
59 concealed weapon.

60 **(5)** “Current and valid” means that a driver’s license or state identification card is not
61 expired, cancelled, denied, surrendered, or voided and the holder is currently a resident of
62 Wisconsin. A driver’s license is current and valid even if the holder’s motor vehicle operating
63 privilege is revoked, suspended, or disqualified, as long as the card is not expired, cancelled,
64 denied, surrendered, or voided, and the holder is a resident of Wisconsin.

65 **(6)** “Department” means the Wisconsin department of justice.

66 **(7)** “FBI” means the federal bureau of investigation.

67 **(8)** “Firearms safety or training course” means a course that is reasonably calculated
68 to instruct, practice, and test the student’s comprehension and application of firearm safety rules
69 and safe firearm handling, that includes at least four hours of instructor-led training, and that
70 provides a certificate or affidavit of successful completion that satisfies the content requirements
71 of s. Jus 17.05(2).

72 **(9)** “Instructor-led” means training that is conducted face-to-face in which instructors
73 actively guide students through each lesson, answer questions, facilitate discussion, and provide
74 feedback on activities and/or assignments. Learner-led or self-directed learning—the delivery of
75 learning experiences to independent learners who lead and manage their own experience,
76 delivered via web pages, multimedia presentations, computer applications, online presentations,
77 or similar methods—is not instructor-led.

78 **(10)** “Law enforcement agency” has the meaning given in s. 165.83(1), Stats.

79 **(11)** “License number” means the unique identification number the department assigns
80 to a licensee pursuant to s. 175.60(2m)(b)6., Stats., when it issues a license.

81 **(12)** “Licensee” means a person who has been issued a license to carry a concealed
82 weapon under s. 175.60, Stats.

83 **(13)** “National or state organization that certifies firearms instructors” means any
84 association, partnership, corporation, or limited liability company that is registered, certified, or
85 has an appointed agent on file with the department of financial institutions or has equivalent
86 legal recognition in another state; that requires firearms instructors to successfully complete
87 instructor training of at least eight hours in length; and that requires instructors to demonstrate
88 the ability and knowledge required for providing firearms safety and training.

89 (14) “NICS” means the National Instant Criminal Background Check System of the
90 FBI.

91 (15) “Non-approval number” means the unique number the department assigns to an
92 applicant pursuant to s. 175.60(9g)(a)3.a., Stats., when a completed background check on the
93 applicant indicates that s. 175.60(b), (c), (d), or (e), Stats., applies to the applicant.

94 (16) “Record” means the records associated with a licensee or applicant that are
95 available for the department to search when conducting a background check pursuant to
96 s. 175.60(9g), Stats., including court records, state criminal history records, and national criminal
97 history records maintained by the FBI, including but not limited to NICS records.

98 (17) “Search” means a systematic inspection by the department of the record of an
99 applicant or licensee.

100 (18) “Weapon” has the meaning given in s. 175.60(1)(j), Stats.

101 SECTION 5. Jus 17.04 is created to read:

102 **Jus 17.04 Application procedures for concealed weapon licenses.**

103 (1) When the department receives an application for a license to carry concealed
104 weapons under s. 175.60(7), Stats., the department shall do the following in the sequence listed:

105 (a) Review the application for completeness. An application is complete when the
106 department has received all of the items, including fees, listed in s. 175.60(7)(a)-(e), Stats. If an
107 application is complete, the department shall proceed under par. (b). If an application is
108 incomplete, the department shall reject it and shall send written notice of the rejection to the
109 applicant at the residence address provided by the applicant in the application form. The notice
110 of rejection shall explain why the application was found to be incomplete and what must be
111 submitted to complete the application.

112 **(b)** Confirm that the state identification card number submitted by the applicant
113 corresponds to a driver’s license or state identification card that is current and valid, as defined in
114 s. Jus 17.03(5). If the applicant’s driver’s license or state identification card is current and valid,
115 the department shall proceed under par. (c). If the applicant’s driver’s license or state
116 identification card is not current and valid, the department shall deny the application and proceed
117 under sub. (2).

118 **(c)** Review the application for eligibility under s. 175.60(3)(a) and (f), Stats. If the
119 applicant is at least 21 years of age and is a Wisconsin resident, the department shall proceed
120 under par. (d). If the applicant is less than 21 years of age or is not a Wisconsin resident, the
121 department shall deny the application and proceed under sub. (2).

122 **(d)** Review the proof of training submitted by the applicant for compliance with the
123 requirements of s. 175.60(4)(a), Stats., and s. Jus 17.05. If the proof of training meets all of
124 those requirements, the department shall proceed under par. (e). If the proof of training fails to
125 meet any of those requirements, the department shall deny the application and proceed under
126 sub. (2).

127 **(e)** Enter the application data into the department’s license record keeping system,
128 assign the applicant a confirmation number, and proceed under par. (f).

129 **(f)** Conduct a background check of the applicant pursuant to s. 175.60(9g), Stats., for
130 the purpose of determining whether issuance of a license to the applicant is prohibited under
131 s. 175.60(3)(b), (c), (d), or (e), Stats. If issuance of a license is not prohibited under
132 s. 175.60(3)(b), (c), (d), or (e), Stats., the department shall issue the license, assign a license
133 number to the licensee, and promptly send the license document to the licensee by 1st class mail.

134 If issuance of a license is prohibited under s. 175.60(3)(b), (c), (d), or (e), Stats., the department
135 shall deny the application and proceed under sub. (2).

136 **(2)** If an application is denied under sub. (1)(b), (c), (d), or (f), the department shall
137 inform the applicant in writing of the denial. The notice of denial shall state the reasons and
138 factual basis for the denial decision and shall be accompanied by a copy of any background
139 check records supporting the denial. The notice of denial shall also advise the applicant of the
140 right to seek administrative review of the denial decision under s. Jus 17.09 or judicial review
141 under s. 175.60(14m), Stats. The notice of denial shall be sent to the applicant by a method of
142 shipment that provides confirmation of delivery, including the date of delivery.

143 SECTION 6. Jus 17.05 is created to read:

144 **Jus 17.05 Training and documentation requirements.**

145 **(1)** The following forms of documentation shall be accepted by the department as
146 adequate proof of training sufficient to satisfy the training requirements of s. 175.60(4)(a), Stats.,
147 and of this section:

148 **(a)** A certificate or affidavit documenting that the applicant has successfully
149 completed the department of natural resources' hunter education program or a substantially
150 similar program that is established by another state, country, or province and is recognized by the
151 department of natural resources.

152 **(b)** A certificate or affidavit documenting that the applicant has successfully
153 completed a firearms safety or training course conducted by a national or state organization that
154 certifies firearms instructors. The certificate or affidavit must satisfy the content requirements of
155 sub. (2) and must affirm that the organization that conducted the course is an organization that
156 certifies firearms instructors.

157 **(c)** A certificate or affidavit documenting that the applicant has successfully
158 completed a firearms safety or training course that is available to the public and offered by a law
159 enforcement agency. The certificate or affidavit must satisfy the content requirements of sub. (2)
160 and must affirm that the course is one that is available to the public.

161 **(d)** A certificate or affidavit documenting that the applicant has successfully
162 completed a firearms safety or training course that is available to the public and offered by a
163 technical college, college, university, private or public institution or organization, or firearms
164 training school. The certificate or affidavit must satisfy the content requirements of sub. (2),
165 must affirm that the course was taught by an instructor who is certified either by the department
166 or by a national or state organization that certifies firearms instructors, and must identify the
167 certifying organization by name.

168 **(e)** A certificate or affidavit documenting that the applicant has successfully
169 completed a firearms training course that is offered to law enforcement officers and is certified
170 by the law enforcement standards board or a certificate from an agency of another state
171 documenting that the applicant has successfully completed substantially equivalent training.
172 The certificate or affidavit must satisfy the content requirements of sub. (2) except that,
173 notwithstanding the requirements of sub. (2), a copy of an educational transcript of the applicant
174 showing successful completion of the requisite training shall suffice to satisfy this requirement.

175 **(f)** A certificate or affidavit documenting that the applicant has successfully
176 completed a firearms training course that is offered to owners and employees of private detective
177 and security agencies licensed by the department of safety and professional services under
178 s. 440.26, Stats., or a certificate from an agency of another state documenting that the applicant

179 has successfully completed substantially equivalent training. The certificate or affidavit must
180 satisfy the content requirements of sub. (2).

181 **(g)** A certificate or affidavit documenting that the applicant has successfully
182 completed a firearms safety or training course that is conducted by an instructor who is certified
183 either by the department or by a national or state organization that certifies firearms instructors.
184 The certificate or affidavit must satisfy the content requirements of sub. (2), must affirm that the
185 instructor is certified either by the department or by a national or state organization that certifies
186 firearms instructors, and must identify the certifying organization by name.

187 **(h)** A copy of a current or expired license held by the applicant indicating that the
188 applicant is or has been licensed to carry a firearm in this state, in another state, or in a county or
189 municipality of this state or of another state, provided that the current or expired license has not
190 been revoked for cause. The copy of the current or expired license must be accompanied by the
191 applicant's signed affirmation that the current or expired license has not been revoked for cause.
192 This affirmation shall be submitted on an affirmation form that shall be prepared by the
193 department and made available to the public on the department's Internet site.

194 **(i)** A copy of a DD Form 214, "Certificate of Release or Discharge from Active
195 Duty," issued by the United States Department of Defense, showing that the applicant has
196 received an honorable discharge or a general discharge under honorable conditions from the
197 United States armed forces, reserves, or national guard after completion of basic training or a
198 certificate of completion of basic training with a service record of successful completion of small
199 arms training and certification.

200 **(2)** Except as otherwise provided in sub. (1), for purposes of satisfying the
201 requirements of sub. (1)(b), (c), (d), (e), (f), or (g), a certificate or affidavit documenting that the

202 applicant has successfully completed a firearms safety or training course must include all of the
203 following information:

204 **(a)** The applicant's name.

205 **(b)** The name of the firearms safety or training course.

206 **(c)** The length in hours of the firearms safety or training course.

207 **(d)** The date on which the applicant completed the firearms safety or training course.

208 **(e)** The city and state in which the applicant completed the firearms safety or training
209 course.

210 **(f)** The name, address, and telephone number of the person or entity responsible for
211 the firearms safety or training course. This may be an individual instructor, a national or state
212 organization, a law enforcement agency, an educational institution, a firearms training school, or
213 another public or private institution or organization.

214 **(g)** The name of the instructor who taught the firearms safety or training course to the
215 applicant and the name of the agency or organization that certified the instructor.

216 **(h)** A signed statement by the instructor who taught the firearms safety or training
217 course to the applicant affirming that the course satisfied the definition of a firearms safety or
218 training course in s. Jus 17.03(8) and that the applicant successfully completed the course. An
219 affirmation that the applicant merely attended the course is not sufficient to satisfy this
220 requirement.

221 **(3)** The department shall prepare and make available to the public on its Internet site
222 a model training certificate that provides for the information required under sub. (2).

223 **(4)** The department shall prepare a training curriculum for a firearms safety or
224 training course, as that term is defined in s. Jus 17.03(8), and shall make that curriculum

225 available for the use of firearms instructors who are certified by the department pursuant to
226 s. Jus 17.06. Instructors who are not certified by the department may use that curriculum in
227 preparing and conducting their own courses, but they shall not represent themselves or their
228 courses as certified or approved by the department.

229 SECTION 7. Jus 17.06 is created to read:

230 **Jus 17.06 Firearms instructors certified by the department.**

231 (1) An individual shall be certified by the department as a firearms instructor for
232 purposes of s. 175.60(4)(b)1., Stats., if the individual is certified as a law enforcement firearms
233 instructor by the law enforcement standards board and the individual is eligible to carry a
234 concealed weapon under s. 175.60(3), Stats. The individual's certification by the department
235 under s. 175.60(4)(b)1., Stats., shall be in effect only when the individual's certification by the
236 law enforcement standards board is in effect. Renewal of an individual's instructor certification
237 by the law enforcement standards board shall automatically renew the individual's certification
238 under this section.

239 (2) If a firearms instructor certified by the department under sub. (1) at any time
240 becomes ineligible to carry a concealed weapon under s. 175.60(3), Stats., the instructor shall,
241 within 48 hours, notify the department's training and standards bureau of the circumstances
242 giving rise to the ineligibility. The training and standards bureau shall immediately suspend the
243 instructor's certification under sub. (1) and shall provide notice of that suspension to the
244 department's crime information bureau. The suspension shall remain in effect for as long as the
245 individual remains ineligible to carry a concealed weapon under s. 175.60(3), Stats.

246 (3) A firearms instructor certified by the department under sub. (1), when teaching a
247 firearms safety or training course under the authority of that certification, shall use the training

248 curriculum provided by the department pursuant to s. Jus 17.05(4) and a training certificate in a
249 form approved and supplied by the department.

250 SECTION 8. Jus 17.07 is created to read:

251 **Jus 17.07 License revocation or suspension.**

252 (1) Upon receiving a notice about an individual pursuant to s. 175.60(11)(a), Stats.,
253 the department shall immediately check its computerized license records to determine if the
254 individual who is the subject of the notice is a licensee. If the individual is found to be a
255 licensee, the department shall determine whether revocation or suspension of the individual's
256 license is required under s. 175.60(14)(a) or (am), Stats., and shall revoke or suspend the license
257 as required.

258 (2)(a) If the department at any time revokes or suspends a license under s. 175.60(14)(a)
259 or (am), Stats., the department, within one day, shall send to the individual written notice of the
260 revocation or suspension. The notice shall include a statement of the reasons and factual basis
261 for the revocation or suspension and shall be accompanied by a copy of any pertinent records
262 supporting the revocation or suspension. The notice shall also advise the individual of the right
263 to seek administrative review of the revocation or suspension under s. Jus 17.09 or judicial
264 review under s. 175.60(14m), Stats. The notice shall be sent to the individual by a method of
265 shipment that provides confirmation of delivery, including the date of delivery.

266 (b) Any notice of a suspension of a license pursuant to s. 175.60(14)(am), Stats., shall
267 also include a statement that if the licensee, at any time, ceases to be subject to the prohibition
268 underlying the suspension, the licensee may submit to the department authenticated
269 documentation establishing that fact.

270 **(3)** Any notice of revocation or suspension issued by the department under sub. (2)
271 shall instruct the individual whose license has been revoked or suspended to do one of the
272 following within 7 days:

273 **(a)** Deliver the revoked or suspended license document to the department either
274 personally or by certified mail.

275 **(b)** Mail to the department a signed statement indicating that the individual no longer
276 has possession of the revoked or suspended license document and explaining the reasons why he
277 or she no longer has possession.

278 **(4)** Any suspension or revocation of a license under s. 175.60(14)(a) or (am), Stats.,
279 shall take effect on the date when the individual whose license has been revoked or suspended
280 receives the notice of revocation or suspension under sub. (2).

281 **(5)** If the department receives information, pursuant to sub. (2)(b) or by other means,
282 establishing that an individual whose license has been suspended under s. 175.60(14)(am) is no
283 longer subject to the prohibition underlying that suspension, the department shall, within 5
284 business days of receiving that information, do the following in the sequence listed:

285 **(a)** Determine whether the suspended license has expired under s. 175.60(15)(a),
286 Stats. If the suspended license has not expired, the department shall proceed under par. (b). If
287 the suspended license has expired, the department shall notify the individual that the suspended
288 license cannot be reinstated unless the individual first complies with the license renewal
289 requirements of s. 175.60(15), Stats.

290 **(b)** Conduct a background check of the individual for the purpose of determining
291 whether reinstatement of the suspended license is prohibited under s. 175.60(3)(b), (c), (d), or
292 (e), Stats. If reinstatement of the suspended license is not prohibited, the department shall

293 proceed under par. (c). If reinstatement of the suspended license is prohibited, the department
294 shall notify the individual in writing of the reason why the suspended license cannot be
295 reinstated and shall include a copy of any background check records supporting the denial of
296 reinstatement. Notice of a denial of reinstatement shall also advise the applicant of the right to
297 seek administrative review under s. Jus 17.09 or judicial review under s. 175.60(14m), Stats., and
298 shall be sent to the applicant by a method of shipment that provides confirmation of delivery,
299 including the date of delivery.

300 (c) Reinstatement of the suspended license and mail to the individual written notification of
301 that reinstatement. If the individual has previously delivered the suspended license document to
302 the department pursuant to sub. (3)(a), the department shall also promptly return the reinstated
303 license document to the individual by 1st class mail.

304 (6) If an individual whose concealed carry license has been properly revoked by the
305 department pursuant to s. 175.60(14)(a), Stats., wishes to again carry a concealed weapon
306 pursuant to s. 175.60, Stats., the individual must apply for a new license pursuant to s. Jus 17.04
307 and must satisfy all requirements of that section, including the payment of all applicable fees.

308 SECTION 9. Jus 17.08 is created to read:

309 **Jus 17.08 Changes or updates to licenses.**

310 (1) CHANGE OF ADDRESS. Upon receiving notice of a change of address from a
311 licensee pursuant to s. 175.60(11)(b)1., Stats., the department shall update its license records
312 with the new information. At the request of a licensee whose address has changed, the
313 department shall issue the licensee a new license document containing the new address.

314 (2) NAME CHANGE. No later than 30 days after legally changing his or her name, a
315 licensee shall provide the department with written notification of the name change and shall

316 apply for a new license under the new name. The new license application must satisfy the
317 requirements of s. Jus 17.04 and shall be processed by the department as a new application under
318 that section. In the course of processing the new application, if the department determines that
319 s. 175.60(3)(b), (c), (d), (e), (f), or (g) applies to the licensee, the department shall revoke the
320 licensee's previous license under s. 175.60(14)(a). If the licensee receives a new license from
321 the department under this section, the licensee shall immediately deliver his or her previous
322 license to the department either personally or by certified mail.

323 **(3)** FEES.

324 **(a)** For any license document issued under this section, the department shall charge
325 the replacement fee provided in s. Jus 17.12(3).

326 **(b)** For any background check conducted under this section, the department shall
327 charge the background check fee provided in s. Jus 17.12(2).

328 SECTION 10. Jus 17.09 is created to read:

329 **Jus 17.09 Administrative review after denial, suspension, or revocation.**

330 **(1)(a)** After receiving written notice of denial of a license application under
331 s. Jus 17.04(2), written notice of a license revocation or suspension under s. Jus 17.07(2), or
332 written notice of denial of reinstatement of a license under s. Jus 17.07(5)(b), an applicant or
333 licensee may submit to the department a written petition for administrative review of the denial,
334 revocation, or suspension decision. Such a petition for administrative review must be received
335 by the department within 30 days after the date on which the denial, revocation, or suspension
336 decision was mailed to the applicant or licensee. There is no fee for administrative review of the
337 denial, revocation, or suspension of a license.

338 **(b)** 1. A petition for administrative review under par. (a) shall specifically identify
339 any alleged errors in the decision to be reviewed and shall be accompanied by a copy of the
340 decision to be reviewed and by authenticated copies of all supporting documentation that the
341 applicant or licensee wishes the department to consider when conducting the review.

342 2. If a petition for administrative review alleges that the department has incorrectly
343 determined that s. 175.60(3)(b), (c), (d), or (e), Stats., applies to the applicant or licensee, the
344 supporting materials submitted with the petition shall include proof of the identity of the
345 applicant or licensee. Satisfactory proof of identity shall include a set of rolled-ink fingerprints
346 of the applicant or licensee prepared by a law enforcement agency on a state or FBI fingerprint
347 card. Fingerprints are not required if the petition for administrative review does not allege that
348 the department has incorrectly determined that s. 175.60(3)(b), (c), (d), or (e), Stats., applies to
349 the applicant or licensee.

350 3. If any alleged error identified in a petition for administrative review is based on
351 the existence or disposition of an apparent criminal arrest or conviction, the petition shall
352 specifically identify any error in any pertinent background check records and shall be
353 accompanied by authenticated copies of any court documents establishing the alleged error.

354 4. If a petition for administrative review claims that the department has erroneously
355 suspended a license pursuant to s. 175.60(14)(am), Stats., the supporting materials submitted
356 with the petition shall include authenticated copies of any pertinent court records or other
357 pertinent records.

358 5. If any alleged error identified under subd. 1. is based on a claim that the applicant
359 or licensee has received a pardon or has obtained relief under s. 941.29, s. 51.20(13)(cv)1m.,

360 s. 51.45(13)(i)2., s. 54.10(3)(f)2., or s. 55.12(10)(b), Stats., the petition shall be accompanied by
361 authenticated copies of the pardon or court documents establishing any such relief.

362 **(c)** 1. If the department receives a timely petition for administrative review, a review
363 proceeding shall be conducted by the attorney general or the attorney general's designee. The
364 review shall be based on consideration of all records in the department's possession related to the
365 decision under review, including: the written notice of denial, revocation, or suspension under
366 review; the petition for administrative review and any supporting documentation submitted by
367 the applicant or licensee; and any other records in the department's possession related to the
368 decision under review.

369 2. If in the course of a review proceeding under subd. 1., the department determines
370 that additional supporting documentation is needed from the applicant or licensee, the
371 department shall send the applicant or licensee a written request for the additional
372 documentation. While any such request is pending, the time for the department to complete the
373 review proceeding under par. (d) shall be tolled and shall not begin to run again until the
374 applicant or licensee has provided the requested documentation.

375 **(d)** 1. No later than 30 days after receiving a petition for administrative review and
376 supporting documentation, the attorney general or the attorney general's designee shall complete
377 the review under par. (c) and shall issue a written decision on behalf of the department either
378 affirming or reversing the denial, revocation, or suspension under review. The written decision
379 shall include the reasons and factual basis for the department's decision and shall advise the
380 applicant or licensee of the right to seek judicial review under s. 175.60(14m), Stats. The written
381 decision shall be sent to the applicant or licensee by a method of shipment that provides
382 confirmation of delivery, including the date of delivery.

383 2. If the written decision issued under subd. 1. affirms the denial of a license
384 application, the written decision shall include notification to the applicant that any non-approval
385 number previously issued remains in effect.

386 3. If the written decision issued under subd. 1. affirms the revocation or suspension
387 of a license, the written decision shall include notification to the licensee that the previously
388 imposed revocation or suspension remains in effect.

389 4. If the written decision issued under subd. 1. reverses the denial of a license
390 application, the department shall withdraw any previously issued non-approval number and shall
391 issue the license, assign a license number to the licensee, and promptly send the license
392 document to the licensee by 1st class mail. If the department has previously received a set of
393 fingerprints from the applicant, the department shall return those fingerprints to the applicant.

394 5. If the written decision issued under subd. 1. reverses the revocation or suspension
395 of a license, the department shall reinstate the revoked or suspended license and the written
396 decision shall include notification to the licensee of such reinstatement. If the licensee has
397 previously delivered the revoked or suspended license document to the department pursuant to
398 s. Jus 17.07(3)(a), the department shall promptly return the reinstated license document to the
399 licensee by 1st class mail. If the department has previously received a set of fingerprints from
400 the licensee, the department shall return those fingerprints to the licensee.

401 6. If the written decision issued under subd. 1. includes a finding that any pertinent
402 background check record is erroneous or incomplete, the department shall take appropriate steps
403 to correct that record.

404 (e) If the written decision under par. (d)1. affirms the denial, revocation, or
405 suspension of a license and the applicant or licensee does not file a timely petition for judicial

406 review under s. 175.60(14m), Stats., the department shall return to the applicant or licensee any
407 set of fingerprints previously submitted to the department by the applicant or licensee.

408 SECTION 11. Jus 17.10 is created to read:

409 **Jus 17.10 Emergency Licenses.**

410 (1) A court that is considering a petition for an emergency concealed carry license
411 pursuant to s. 175.60(9r), Stats., or a court that has issued such an emergency license may ask
412 the department to conduct a background check for the purpose of determining whether
413 s. 175.60(3)(b), (c), (d), or (e), Stats., applies to the person requesting or holding the emergency
414 license. Upon receiving such a request, the department shall conduct the background check as
415 soon as reasonably practicable and shall report the results to the requesting court.

416 (2) Any information that the department receives from a court regarding the issuance
417 or revocation of an emergency concealed carry license under s. 175.60(9r), Stats., shall be
418 entered by the department into its computerized license records and shall be available to law
419 enforcement as provided in s. 175.60(12) and (12g), Stats.

420 SECTION 12. Jus 17.11 is created to read:

421 **Jus 17.11 Records.**

422 (1) The department shall create and keep the following records related to the issuance
423 and administration of concealed carry licenses under s. 175.60, Stats., the review of licensing
424 decisions by the department, and the certification of firearms safety and training instructors:

425 (a) All of the information submitted to the department by applicants pursuant to
426 s. 175.60(7), Stats., and notes related to that information.

427 (b) A record of each rejected application and the reasons for rejection and a count of
428 the number of rejected applications.

- 429 (c) The confirmation number for each applicant.
- 430 (d) The approval or non-approval number for each applicant on whom the department
431 has conducted a background check.
- 432 (e) The license number for each licensee to whom the department has issued a
433 concealed carry license.
- 434 (f) A log of each record search of the department’s computerized license records,
435 including the date or dates of the search and any confirmation number, license, number, or
436 approval or non-approval number associated with the search.
- 437 (g) Records of the cost to the department of issuing concealed carry licenses under
438 s. 175.60, Stats., and this chapter.
- 439 (h) All records that the department is required to keep by applicable state or federal
440 laws.
- 441 (2) The department may create and keep any other records reasonably necessary for
442 the department to perform its responsibilities under s. 175.60, Stats., and this chapter.

443 SECTION 13. Jus 17.12 is created to read:

444 **Jus 17.12 Fees.**

- 445 (1) LICENSE FEE. The license fee charged by the department pursuant to s.
446 175.60(7)(c), Stats., shall be \$37.
- 447 (2) BACKGROUND CHECK FEE. The fee for any background check conducted by the
448 department pursuant to s. Jus 17.04(1)(f) or s. Jus 17.07(5)(b) shall be \$13.
- 449 (3) REPLACEMENT FEE. The fee charged by the department for replacing a lost or
450 destroyed license pursuant to s. 175.60(13), Stats., shall be \$12.

451 SECTION 14. Chapter Jus 18 is created and titled:

452 CHAPTER JUS 18: CERTIFICATION OF FORMER FEDERAL LAW
453 ENFORCEMENT OFFICERS.

454 SECTION 15. Jus 18.01 is created to read:

455 **Jus 18.01 Purpose.** The purpose of this chapter is to establish standards and
456 procedures for the issuance and administration of concealed carry certification cards to qualified
457 former federal law enforcement officers pursuant to s. 175.49(3), Stats., and the review of
458 certification decisions by the department.

459 SECTION 16. Jus 18.02 is created to read:

460 **Jus 18.02 Applicability.**

461 (1) Except as provided in sub. (2), this chapter applies to the issuance and
462 administration of all concealed carry certification cards issued by the department to former
463 federal law enforcement officers pursuant to s. 175.49(3), Stats.

464 (2) This chapter does not apply to any of the following:

465 (a) Issuance or administration of a license to carry concealed weapons pursuant to
466 s. 175.60, Stats.

467 (b) Certification of former state or local law enforcement officers to carry concealed
468 weapons pursuant to s. 175.49(2), Stats.

469 (c) The carrying of concealed weapons by active law enforcement officers.

470 SECTION 17. Jus 18.03 is created to read:

471 **Jus 18.03 Definitions.** In this chapter:

472 (1) “Applicant” means an individual applying for a concealed carry certification card
473 pursuant to s. 175.49(3), Stats., and to whom no card has yet been issued.

474 (2) “Approval number” means the unique number the department assigns to an
475 applicant when a completed background check on the applicant indicates that the applicant is not
476 prohibited under federal law from possessing a firearm.

477 (3) “Background check” means the review of an applicant’s record conducted by the
478 department pursuant to s. 175.49(3)(b)4., Stats., for the purpose of determining whether the
479 applicant is prohibited under federal law from possessing a firearm.

480 (4) “Certification card number” means the unique identification number the
481 department assigns to a certification card issued under s. 175.49(3), Stats.

482 (5) “Confirmation number” means the unique number the department issues to
483 identify every accepted application for a concealed carry certification card pursuant to
484 s. 175.49(3), Stats.

485 (6) “Current and valid” means that a driver’s license or state identification card is not
486 expired, cancelled, denied, surrendered, or voided and the holder is currently a resident of
487 Wisconsin. A driver’s license is current and valid even if the holder’s motor vehicle operating
488 privilege is revoked, suspended, or disqualified, as long as the card is not expired, cancelled,
489 denied, surrendered, or voided, and the holder is a resident of Wisconsin.

490 (7) “Department” means the Wisconsin department of justice.

491 (8) “FBI” means the federal bureau of investigation.

492 (9) “Non-approval number” means the unique number the department assigns to an
493 applicant when a completed background check on the applicant indicates that the applicant is
494 prohibited under federal law from possessing a firearm.

495 (10) “Record” means the records associated with an applicant or holder of a
496 certification card that are available for the department to search when conducting a background

497 check pursuant to s. 175.49(3)(b)4., Stats., including court records, state criminal history records,
498 and national criminal history records maintained by the FBI.

499 (11) “Search” means a systematic inspection by the department of the record of an
500 applicant or holder of a certification card.

501 (12) “Weapon” has the meaning given in s. 175.60(1)(j), Stats.

502 SECTION 18. Jus 18.04 is created to read:

503 **Jus 18.04 Application procedures for concealed carry certification cards.**

504 (1) When the department receives an application for a concealed carry certification
505 card for a former federal law enforcement officer pursuant to s. 175.49(3), Stats., the department
506 shall do the following in the sequence listed:

507 (a) 1. Review the application for completeness. An application is complete when the
508 department has received the following:

509 a. A signed and fully completed application form, DJ-LE-286.

510 b. Acceptable proof of firearms qualification, as provided in s. Jus 18.05.

511 c. The application fee required under s. Jus 18.10.

512 d. A current photograph meeting the content and format requirements set forth in the
513 instructions of the application form, DJ-LE-286.

514 e. A written statement from the federal law enforcement agency from which the
515 applicant separated from service affirming that the applicant meets the requirements of
516 s. 175.49(3)(b)1., 2., and 3., Stats. The department shall prepare and make available on its
517 Internet site a statement form that may be used for this purpose.

518 2. If an application is complete, the department shall proceed under par. (b). If an
519 application is incomplete, the department shall reject it and shall send written notice of the

520 rejection to the applicant at the residence address provided by the applicant in the application
521 form. The notice of rejection shall explain why the application was found to be incomplete and
522 what must be submitted to complete the application.

523 **(b)** Confirm that the state identification card number submitted by the applicant
524 corresponds to a driver's license or state identification card that is current and valid, as defined in
525 s. Jus 18.03(6). If the applicant's driver's license or state identification card is current and valid,
526 the department shall proceed under par. (c). If the applicant's driver's license or state
527 identification card is not current and valid, the department shall deny the application and proceed
528 under sub. (2).

529 **(c)** Review the written affirmation from the federal law enforcement agency from
530 which the applicant separated from service to determine whether the applicant meets the
531 requirements of s. 175.49(3)(b)1., 2., and 3., Stats. If the applicant meets the requirements of
532 s. 175.49(3)(b)1., 2., and 3., Stats., the department shall proceed under par. (d). If the applicant
533 does not meet the requirements of s. 175.49(3)(b)1., 2., and 3., Stats., the department shall deny
534 the application and proceed under sub. (2).

535 **(d)** Review the proof of firearms qualification submitted by the applicant for
536 compliance with the requirements of s. 175.49(3)(b)5., Stats., and s. Jus 18.05. If the proof of
537 firearms qualification meets those requirements, the department shall proceed under par. (e). If
538 the proof of firearms qualification does not meet those requirements, the department shall deny
539 the application and proceed under sub. (2).

540 **(e)** Enter the application data into the department's record keeping system and assign
541 the applicant a confirmation number.

542 **(f)** Conduct a background check of the applicant pursuant to s. 175.49(3)(b)4., Stats.,
543 for the purpose of determining whether the applicant is prohibited under federal law from
544 possessing a firearm. If the applicant is not prohibited by federal law from possessing a firearm,
545 the department shall issue a certification card to the applicant, assign a certification card number,
546 and promptly send the certification card to the applicant by 1st class mail. If the applicant is
547 prohibited by federal law from possessing a firearm, the department shall deny the application
548 and proceed under sub. (2).

549 **(2)** If an application is denied under sub. (1), the department shall inform the
550 applicant in writing of the denial, stating the reasons and factual basis for the denial decision.
551 The written notice of denial shall be accompanied by a copy of any background check records
552 that are pertinent to the denial decision. The written notice of denial shall also advise the
553 applicant of the right to seek administrative review of the denial decision under s. Jus 18.08.

554 SECTION 19. Jus 18.05 is created to read:

555 **Jus 18.05 Proof of firearms qualification.**

556 Acceptable proof that an applicant has satisfied the firearms qualification requirement of
557 s. 175.49(3)(b)5., Stats., shall consist of a certificate that is signed by a law enforcement firearms
558 instructor who is certified by the law enforcement standards board. The certificate shall be in a
559 form approved and supplied by the department and shall contain all of the following:

560 **(1)** The applicant's name.

561 **(2)** The full name, address, and telephone number of the certified law enforcement
562 firearms instructor.

563 **(3)** An affirmation by the certified law enforcement firearms instructor that he or she
564 has found the applicant to meet the qualification standards established by the state of Wisconsin

565 or by a law enforcement agency in Wisconsin for an active law enforcement officer to carry a
566 firearm of the type specified in the application form submitted by the applicant under
567 s. Jus 18.04.

568 (4) The date on which the finding under sub. (3) was made.

569 SECTION 20. Jus 18.06 is created to read:

570 **Jus 18.06 Revocation of a concealed carry certification card.**

571 (1) If the department at any time obtains information establishing that an individual
572 who holds a concealed carry certification card under this chapter is prohibited by federal law
573 from possessing a firearm, the department shall revoke the certification card and shall send the
574 individual written notice of revocation. The notice shall include a statement of the reasons and
575 factual basis for the revocation and shall be accompanied by a copy of any pertinent records
576 supporting the revocation. The notice shall also advise the individual of the right to seek
577 administrative review of the revocation pursuant to s. Jus 18.08.

578 (2) Any notice of revocation issued by the department under sub. (1) shall instruct the
579 individual whose certification card has been revoked to do one of the following within 7 days:

580 (a) Deliver the revoked certification card to the department either personally or by
581 certified mail.

582 (b) Mail to the department a signed statement indicating that the individual no longer
583 has possession of the revoked certification card and explaining the reasons why he or she no
584 longer has possession.

585 (3) Any revocation of a certification card under this section shall take effect on the
586 date on which the notice of revocation is issued by the department.

587 (4) If an individual whose concealed carry certification card has been properly
588 revoked by the department pursuant to this section wishes to again obtain a concealed carry
589 certification card pursuant to s. 175.49(3), Stats., the individual must apply for a new
590 certification card pursuant to s. Jus 18.04 and must satisfy all requirements of that section,
591 including the payment of all applicable fees.

592 SECTION 21. Jus 18.07 is created to read:

593 **Jus 18.07 Changes or updates to certification cards.**

594 (1) CHANGE OF ADDRESS. Any individual who holds a concealed carry certification
595 card under this chapter shall provide the department with written notification of any change in
596 his or her address within 30 days of the address change. Upon receiving such notice, the
597 department shall update its records with the new information. At the request of the individual
598 whose address has changed, the department shall issue the individual a new certification card
599 containing the new address.

600 (2) NAME CHANGE. No later than 30 days after legally changing his or her name, an
601 individual who holds a concealed carry certification card under this chapter shall provide the
602 department with written notification of the name change and shall apply for a new certification
603 card under the new name. The new application must satisfy the requirements of s. Jus 18.04 and
604 shall be processed by the department as a new application under that section. In the course of
605 processing the new application, if the department determines that the individual is prohibited
606 under federal law from possessing a firearm, the department shall revoke the individual's
607 previous certification card under s. Jus 18.06(1). If an individual receives a new certification
608 card from the department under this section, the individual shall immediately deliver his or her
609 previous certification card to the department either personally or by certified mail.

610 (3) FEES.

611 (a) For any license document issued under this section, the department shall charge
612 the replacement fee provided in s. Jus 18.10.

613 (b) For any background check conducted under this section, the department shall
614 charge the background check fee provided in s. Jus 18.10.

615 SECTION 22. Jus 18.08 is created to read:

616 **Jus 18.08 Administrative review after denial or revocation of a concealed carry**
617 **certification card.**

618 (1)(a) After receiving written notice of denial of an application for a concealed carry
619 certification card under s. Jus 18.04 or written notice of a revocation of a certification card under
620 s. Jus 18.06, an individual may submit to the department a written petition for administrative
621 review of the denial or revocation. Such a petition for administrative review must be received by
622 the department within 30 days after the date on which the written notice of denial or revocation
623 was mailed to the individual by the department.

624 (b) 1. A petition for administrative review under par. (a) shall specifically identify
625 any alleged errors in the decision to be reviewed and shall be accompanied by a copy of the
626 decision to be reviewed and by properly authenticated copies of all supporting documentation
627 that the petitioner wishes the department to consider when conducting the review.

628 2. If a petition for review challenges a finding by the department that the petitioner
629 is prohibited by federal law from possessing a firearm, the supporting documentation submitted
630 by the petitioner shall include proof of the petitioner's identity. Satisfactory proof of identity
631 shall include a set of rolled-ink fingerprints of the petitioner prepared by a law enforcement
632 agency on a state or FBI fingerprint card.

633 (c) If the department receives a timely petition for administrative review, a review
634 proceeding shall be conducted by the attorney general or the attorney general’s designee. The
635 review shall be based on consideration of all records in the department’s possession related to the
636 decision under review, including: the written notice of denial or revocation under review; the
637 petition for administrative review; any supporting documentation submitted by the petitioner;
638 and any other records in the department’s possession related to the decision under review.

639 (d) 1. Upon completing the review under par. (c), the attorney general or the attorney
640 general’s designee shall issue a written decision on behalf of the department either affirming or
641 reversing the denial or revocation under review. The written decision shall include the reasons
642 and factual basis for the department’s decision and shall advise the petitioner of the right to seek
643 judicial review under ch. 227, Stats. The written decision shall be sent to the applicant or
644 licensee by a method of shipment that provides confirmation of delivery, including the date of
645 delivery.

646 2. If the written decision issued under subd. 1. affirms the denial or revocation of a
647 certification card, the written decision shall include notification to the petitioner that the
648 previously imposed denial or revocation, including any non-approval number, remains in effect.

649 3. If the written decision issued under subd. 1. reverses the denial of an application
650 for a certification card, the department shall withdraw any previously issued non-approval
651 number and shall issue a certification card to the petitioner, assign a certification card number,
652 and promptly send the certification card to the petitioner by 1st class mail. If the department has
653 previously received a set of fingerprints from the petitioner, the department shall return those
654 fingerprints to the petitioner.

655 4. If the written decision issued under subd. 1. reverses the revocation of a
656 certification card, the department shall reinstate the revoked certification and the written decision
657 shall include notification to the petitioner of such reinstatement. If the petitioner has previously
658 delivered the revoked certification card to the department pursuant to s. Jus 18.06(2)(a), the
659 department shall promptly return the reinstated certification card to the petitioner by 1st class
660 mail. If the department has previously received a set of fingerprints from the petitioner, the
661 department shall return those fingerprints to the petitioner.

662 (e) If the written decision under par. (d)1. affirms the denial or revocation of a
663 certification card and the petitioner does not file a timely petition for judicial review under
664 s. 227.53, Stats., the department shall return to the petitioner any set of fingerprints previously
665 submitted to the department by the petitioner.

666 SECTION 23. Jus 18.09 is created to read:

667 **Jus 18.09 Records.**

668 (1) The department shall create and keep the following records related to the issuance
669 and administration of concealed carry certification cards pursuant to s. 175.49(3) and (4), Stats.,
670 and the review of certification decisions by the department:

671 (a) All of the information submitted to the department by applicants pursuant to
672 s. Jus 18.04 and notes related to that information.

673 (b) A record of each rejected application and the reasons for rejection and a count of
674 the number of rejected applications.

675 (c) The confirmation number for each applicant.

676 (d) The approval or non-approval number for each applicant on whom the department
677 has conducted a background check.

678 (e) The certification card number for each certification card issued by the department.

679 (f) A log of each record search of the department's computerized records related to
680 concealed carry certifications, including the date or dates of the search and any confirmation
681 number, certification card number, or approval or non-approval number associated with the
682 search.

683 (g) Records of the cost to the department of issuing certification cards under
684 s. 175.49, Stats., and this chapter.

685 (h) All records that the department is required to keep by applicable state or federal
686 laws.

687 (2) The department may create and keep any other records reasonably necessary for
688 the department to perform its responsibilities under s. 175.49, Stats., and this chapter.

689 SECTION 24. Jus 18.10 is created to read:

690 **Jus 18.10 Fees.**

691 (1) APPLICATION FEE.

692 (a) The certification card application fee charged by the department pursuant to
693 s. Jus 18.04(1)(a)1.c. shall be \$12.

694 (b) The department shall annually review the cost of issuing certification cards under
695 s. 175.49, Stats., and this chapter. If the cost of issuing a certification card is less than the
696 current application fee, the department shall reduce the application fee to equal the cost of
697 issuing a certification card.

698 (2) BACKGROUND CHECK FEE. The fee for any background check conducted by the
699 department pursuant to this chapter shall be \$13.

700 (3) RENEWAL OR REPLACEMENT FEE. The fee charged by the department for renewing
701 a certification card or for replacing a lost or destroyed certification card shall be \$12.

702 SECTION 25. EFFECTIVE DATE. These rules shall take effect on November 1, 2011.

Dated this ____ day of _____, 2011.

WISCONSIN DEPARTMENT OF JUSTICE

By: _____
J.B. Van Hollen, Attorney General