



# INSTITUTE FOR REFORMING GOVERNMENT

## HOW THE WISCONSIN SUPREME COURT CAN IMPACT 2ND AMENDMENT AND SPORTSMEN RIGHTS

### OVERVIEW

The Second Amendment right to gun ownership is a core value for many Wisconsinites, including the 458,000 Wisconsinites who rely on concealed carry for their personal safety. Wisconsin is a state defined by our collective love for the outdoors. Hunting, fishing, target shooting, camping, boating—these are favorite pastimes for many families. **And the protection of these important rights depends in large part on a Wisconsin Supreme Court's view of the right to bear arms and the legal limits on how much say bureaucrats can have in interfering with those rights.**

### WHAT YOU SHOULD KNOW

- » As some policy leaders discuss anti-gun initiatives like “universal background checks” and “red flag laws,” control of the Wisconsin Supreme Court for the next decade could determine whether these laws are upheld or are struck as unconstitutional.
- » Conservative majorities have protected the right to bear arms while liberal majorities have chipped away at those rulings, pulling the race for Wisconsin Supreme Court into focus for both concerned gun rights activists and anti-gun organizations.
- » When bureaucrats take action contrary to law or outside of their authority, the courts have the ability to step in and keep bureaucracy in check.

### WHAT COULD HAPPEN

Governor Tony Evers called for several new gun control measures in his January 2025 State of the State [address](#), including regulating private transfers of firearms, a red flag law, and reinstatement of a 48-hour waiting period to buy a gun. If these ideas were ever enacted, the Wisconsin Supreme Court would be the final arbitrator of what is allowed under the state constitution.

### WHAT'S NEXT

There is an election in April for a Supreme Court seat that will decide if the majority of the Court is liberal or conservative leaning. Future lawsuits surrounding potential red flag laws and the right to hunt and fish could end up before the court.

## LEGAL BACKGROUND

The Wisconsin Constitution includes both a right to own firearms (Article I, Section 25: “The people have the right to keep and bear arms for security, defense, hunting, recreation or any other lawful purpose.”) and the right to hunt and fish (“The people have the right to fish, hunt, trap, and take game subject only to reasonable restrictions as prescribed by law.”). The Wisconsin right to bear arms has been the subject of several court decisions. The abilities for Wisconsin Sportsmen to hunt and fish becomes more and more challenging under the supervision of unelected bureaucrats at the Wisconsin Department of Natural Resources.

Conservative majorities have protected the right to bear arms while liberal majorities have chipped away at those rulings. When the Wisconsin Supreme Court first addressed the right to self-defense and to carry a firearm, a conservative majority vindicated that right for a small business owner in a dangerous neighborhood. *State v. Hamdan*, 2003 WI 113. Three years later, a new liberal majority significantly undercut that ruling, finding no protected right to carry a firearm for personal protection in an individual’s personal vehicle (*State v. Fisher*, 2006 WI 44). More recently, a conservative majority protected the right of firearm owners to concealed carry on Madison municipal buses. *Wisconsin Carry Inc. v. City of Madison*, 2017 WI 19.

## ZOOM IN

Separate from the Second Amendment itself, sportsmen are concerned about what the court may do on issues like the wolf hunt, the power of DNR wardens (*State v. Seitz*, 2017 WI 58), and the makeup of the Natural Resources Board (*State ex rel Kaul v. Prehn*, 2022 WI 50). A progressive Federal Judge in California overturned a federal rule delisting the gray wolf, preventing a wolf hunt from occurring in Wisconsin. Wolf attacks in Wisconsin have [increased](#) for the past three years. Many hunters and property owners in northern Wisconsin are concerned about the broad powers of DNR wardens, who enter onto private land without a warrant in a way historically unique from other law enforcement. In *Seitz*, conservative justices on the Wisconsin Supreme Court questioned the DNR’s lack of respect for private property, but the liberal majority refused to rein in the DNR wardens. In *Prehn*, the four conservative justices turned back an attack from Attorney General Josh Kaul and environmental activists on the Walker majority on the Natural Resources Board, over a dissent from the three liberals. Governor Evers and General Kaul tried to illegally remove the board chair, a Walker appointee, in a way that would undermine the State Senate in its right to confirm (or not confirm) an Evers nominee as his replacement.

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