



## 1997 ASSEMBLY BILL 910

March 16, 1998 - Introduced by Representatives SYKORA, LAZICH, JESKEWITZ, KREIBICH, SCHAFFER, HUEBSCH, HAHN, DOBYNS, PORTER, SPILLNER, OWENS and OTT, cosponsored by Senators DARLING, ELLIS, ZIEN and ROSENZWEIG, by request of Lieutenant Governor Scott McCallum, Dunn County District Attorney Jim Peterson, Chippewa County District Attorney Tim Scobie and Chippewa Falls Mayor Virginia Smith. Referred to Committee on Criminal Justice and Corrections.

1     **AN ACT to renumber and amend** 961.49 (1) and 961.49 (2) (a); and **to create**  
2           961.49 (1) (b) 8. and 961.49 (2) (a) 2. h. of the statutes; **relating to:** delivery or  
3           distribution of a controlled substance, or possession with intent to deliver or  
4           distribute a controlled substance, on or near certain places and providing a  
5           penalty.

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### *Analysis by the Legislative Reference Bureau*

Current law contains 2 special penalty provisions that apply to a person who delivers or distributes, or possesses with intent to deliver or distribute, certain controlled substances (dangerous drugs) while in or on or otherwise within 1,000 feet of a park, a jail or correctional facility, a public housing project, a public swimming pool, a youth center or community center, any private or public school premises or a school bus. The first special penalty provision increases by 5 years the maximum term of imprisonment prescribed by law for delivering or distributing, or possessing with intent to deliver or distribute, certain controlled substances. Under the 2nd special penalty provision, the person convicted of delivering or distributing, or possessing with intent to deliver or distribute, certain controlled substances must be sentenced to at least 3 years in prison, except that for certain lesser amounts of tetrahydrocannabinols (marijuana) the person must be sentenced to at least one year in prison. Among the controlled substances covered by these special penalty provisions are cocaine, heroin, lysergic acid diethylamide and other hallucinogens, methamphetamine and any form of tetrahydrocannabinols.

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This bill provides that these 2 special penalty provisions apply to a person who delivers or distributes, or possesses with intent to deliver or distribute, certain controlled substances while in or on or otherwise within 1,000 feet of the premises of a certified day care provider, a licensed child care center or a child care program that is provided by a local school board.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 961.49 (1) of the statutes is renumbered 961.49 (1) (intro.) and  
2 amended to read:

3           961.49 (1) (intro.) If any person violates s. 961.41 (1) (cm), (d), (e), (f), (g) or (h)  
4 by delivering or distributing, or violates s. 961.41 (1m) (cm), (d), (e), (f), (g) or (h) by  
5 possessing with intent to deliver or distribute, cocaine, cocaine base, heroin,  
6 phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine,  
7 methamphetamine, methcathinone or any form of tetrahydrocannabinols or a  
8 controlled substance analog of any of these substances while and the delivery,  
9 distribution or possession takes place under any of the following circumstances, the  
10 maximum term of imprisonment prescribed by law for that crime may be increased  
11 by 5 years:

12           (a) While the person is in or on the premises of a scattered-site public housing  
13 project, ~~while.~~

14           (b) While the person is in or on or otherwise within 1,000 feet of a any of the  
15 following:

16           1. A state, county, city, village or town park, ~~a.~~

17           2. A jail or correctional facility, ~~a.~~

18           3. A multiunit public housing project, ~~a.~~

19           4. A swimming pool open to members of the public, ~~a.~~

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1           ~~5. A youth center or a community center, while in or on or otherwise within~~  
2           ~~1,000 feet of any.~~

3           ~~6. Any private or public school premises or while in or on or otherwise within~~  
4           ~~1,000 feet of a.~~

5           ~~7. A school bus, as defined in s. 340.01 (56), the maximum term of imprisonment~~  
6           ~~prescribed by law for that crime may be increased by 5 years.~~

7           **SECTION 2.** 961.49 (1) (b) 8. of the statutes is created to read:

8           961.49 (1) (b) 8. The premises of a day care provider certified under s. 48.651  
9           or of a day care center licensed under s. 48.65 or established or contracted for under  
10          s. 120.13 (14).

11          **SECTION 3.** 961.49 (2) (a) of the statutes is renumbered 961.49 (2) (a) (intro.)  
12          and amended to read:

13          961.49 (2) (a) (intro.) Except as provided in par. (b), if any the court shall  
14          sentence a person as provided in par. (am) if the person violates s. 961.41 (1) by  
15          delivering or distributing, or violates s. 961.41 (1m) by possessing with intent to  
16          deliver or distribute, a controlled substance included in schedule I or II or a  
17          controlled substance analog of a controlled substance included in schedule I or II  
18          while under any of the following circumstances:

19           ~~1. While the person is in or on the premises of a scattered-site public housing~~  
20           ~~project, while.~~

21           ~~2. While the person is in or on or otherwise within 1,000 feet of a~~ any of the  
22           following:

23           ~~a. A state, county, city, village or town park, a.~~

24           ~~b. A jail or correctional facility, a.~~

25           ~~c. A multiunit public housing project, a.~~

