

1999 DRAFTING REQUEST

Bill

Received: **01/20/99**

Received By: **olsenje**

Wanted: **As time permits**

Identical to LRB:

For: **Rob Kreibich (608) 266-0660**

By/Representing: **Andy**

This file may be shown to any legislator: **NO**

Drafter: **olsenje**

May Contact:

Alt. Drafters:

Subject: **Criminal Law - drugs**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Methamphetamine

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	olsenje 03/8/99	jgeller 03/9/99	hhagen 03/10/99	_____	lrb_docadmin 03/10/99		
/1	olsenje 03/15/99	jgeller 03/16/99	martykr 03/16/99	_____	lrb_docadmin 03/16/99	lrb_docadmin 03/17/99	

FE Sent For:

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Not Needed

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Handwritten notes:
 12 3/16 jlg
 dm 3/16
 LP 3/16
 dm 16

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1?	olsenje	PI 3/9 jlg 11/3/10		KM 3/10			

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Submit "1P" Drafts
JEO

JEO
2

LEGISLATIVE REFERENCE BUREAU

BILL REQUEST FORM

Legal Section, 5th Floor, 100 N. Hamilton St.
(608) 266-3561

1894

Use of this form is optional. It is often helpful to talk directly with the LRB attorney who will draft the bill.
Use this form only for BILL drafts. Attach more pages if necessary.

Date of request: 1/14/99	Legislator or agency requesting this draft: Rep. Rob Kreibich
Name/phone number of person submitting request: Andy 266-0660	
Persons to contact for questions about this draft (names and phone numbers please):	
Describe the problem, including any helpful examples. How do you want to solve the problem? This bill would change the penalties to methamphetamine under 961.41(1m), Possession with Intent to Manufacture, Distribute, or Deliver. This bill would remove methamphetamine from 961.41(1m)(e) and place under methamphetamine alone. This would increase methamphetamine's penalties under 961.41(1m)(d) to say; Three grams or less, the person shall be fined not less than \$1,000 nor more than \$100,000 →	
If you know of any statute sections that might be affected, please list them or provide a marked (not re-typed) copy.	

Please attach a copy of any correspondence or material that may help us. You may also attach a marked (not re-typed) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67):

Requests are confidential unless stated otherwise.

May we tell others that we are working on this for you? YES NO
If yes, anyone who asks? YES NO
Any legislator? YES NO ONLY the following persons:

Do you consider this urgent? YES NO If yes, please indicate why:

Is this request of higher priority than other pending request(s) you have made?
 YES NO If yes, please sign your name here:

and may be imprisoned for not ~~no~~ more than 15 years,
(This would be subdivision 1)

Subdivision 2 would be changed to say; More than
3 grams but not more than 10 grams, the person
shall be fined not less than \$1,000 nor more than
\$200,000 and shall be imprisoned for not less than
6 months nor more than 22 years and 6 months.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1894/P1

JEO:.....

D. Note

1
Jag

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gen cat

1 AN ACT ...; relating to: the controlled substance [✓]methamphetamine and
2 providing penalties.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version of the draft.

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

3 SECTION 1. 961.41 (1) (e) (intro.) [✓]of the statutes is amended to read:
4 961.41 (1) (e) (intro.) Phencyclidine, amphetamine, ~~methamphetamine~~ [✓]or
5 methcathinone, or a controlled substance analog of phencyclidine, amphetamine,
6 ~~methamphetamine~~ [✓]or methcathinone, is subject to the following penalties if the
7 amount manufactured, distributed or delivered is:

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283. [✓]

8 SECTION 2. 961.41 (1) (em) of the statutes is created to read:

1 961.41 (1) (em) Methamphetamine[✓] or a controlled substance analog of
2 methamphetamine is subject to the following penalties if the amount manufactured,
3 distributed or delivered is:

4 1. Three[✓]grams or less, the person shall be fined not less than \$1,000 nor more
5 than \$100,000 and may be imprisoned for not more than 15 years.

6 2. More than 3 grams but not more than 10 grams, the person shall be fined
7 not less than \$1,000 nor more than \$200,000[✓] and shall be imprisoned for not less than
8 6 months nor more than[✓] 22 years and 6 months.

9 3. More than 10 grams, the person shall be fined not less than \$1,000 nor more
10 than \$500,000[✓] and shall be imprisoned for not less than one year nor more than 45
11 years.

12 **SECTION 3.** 961.41 (1m) (e) (intro.)[✓] of the statutes is amended to read:

13 961.41 (1m) (e) (intro.) Phencyclidine, amphetamine[✓], ~~methamphetamine~~ or
14 methcathinone, or a controlled substance analog of phencyclidine, amphetamine,
15 ~~methamphetamine~~[✓] or methcathinone, is subject to the following penalties if the
16 amount possessed, with intent to manufacture, distribute or deliver, is:

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995
a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

17 **SECTION 4.** 961.41 (1m) (em)[✓] of the statutes is created to read:

18 961.41 (1m) (em) Methamphetamine or a controlled substance analog of
19 methamphetamine is subject to the following penalties if the amount possessed, with
20 intent to manufacture, distribute or deliver, is:

21 1. Three grams or less, the person shall be fined not less than \$1,000 nor more
22 than \$100,000 and may be imprisoned for not more than 15[✓] years.

1 2. More than 3 grams but not more than 10 grams, the person shall be fined
2 not less than \$1,000 nor more than \$200,000 and shall be imprisoned for not less than
3 6 months nor more than [✓]22 years and 6 months.

4 3. More than 10 grams, the person shall be fined not less than \$1,000 nor more
5 than \$500,000 [✓] and shall be imprisoned for not less than one year nor more than 45
6 years.

7 [✗]
SECTION 5. 961.46 (3) of the statutes is amended to read:

8 961.46 (3) If any person 17 years of age or over violates s. 961.41 (1) (cm), (d),
9 (e), [✓](em), (f), (g) or (h) by distributing or delivering cocaine, cocaine base, heroin,
10 phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine,
11 [✓]methamphetamine, methcathinone or any form of tetrahydrocannabinols or a
12 controlled substance analog of any of these substances to a person 17 years of age or
13 under who is at least 3 years his or her junior, any applicable minimum and
14 maximum fines and minimum and maximum periods of imprisonment under s.
15 961.41 (1) (cm), (d), (e), [✓](em), (f), (g) or (h) are doubled.

16 History: 1971 c. 219; 1985 a. 328; 1987 a. 339; 1989 a. 121; 1994 a. 98, 118, 490; 1995 a. 27; 1995 a. 448 ss. 276 to 279; Stats. 1995 s. 961.46.

16 [✗]
SECTION 6. 961.465 (2) of the statutes is amended to read:

17 961.465 (2) If a person violates s. 961.41 (1) (cm), (d), (e), [✓](em), (f), (g) or (h) or
18 (1m) (cm), (d), (e), [✓](em), (f), (g) or (h) by delivering, distributing or possessing with
19 intent to deliver or distribute cocaine, cocaine base, heroin, phencyclidine, lysergic
20 acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine,
21 methcathinone or any form of tetrahydrocannabinols, or a controlled substance
22 analog of any of these substances, to a prisoner within the precincts of any prison,
23 jail or house of correction, any applicable minimum and maximum fines and

1 minimum and maximum periods of imprisonment under s. 961.41 (1) (cm), (d), (e),
2 (em), (f), (g) or (h) or (1m) (cm), (d), (e), (em), (f), (g) or (h) are doubled.

3 History: 1979 c. 116; 1985 a. 328; 1987 a. 339; 1989 a. 121; 1993 a. 87, 98, 118, 490; 1995 a. 448 ss. 280 to 284; Stats. 1995 s. 961.465.

3 SECTION 7. 961.48 (2) of the statutes is amended to read:

4 961.48 (2) If any person is charged under sub. (2m) with a 2nd or subsequent
5 offense under this chapter that is specified in s. 961.41 (1) (cm), (d), (e), (em), (f), (g)
6 or (h), (1m) (cm), (d), (e), (em), (f), (g) or (h) or (3g) (a) 2., (c), (d) or (e), and he or she
7 is convicted of that 2nd or subsequent offense, any applicable minimum and
8 maximum fines and minimum and maximum periods of imprisonment under s.
9 961.41 (1) (cm), (d), (e), (em), (f), (g) or (h), (1m) (cm), (d), (e), (em), (f), (g) or (h) or (3g)
10 (a) 2., (c), (d) or (e) are doubled. A person convicted of a 2nd or subsequent offense
11 under s. 961.41 (3g) (c), (d) or (e) is guilty of a felony and the person may be
12 imprisoned in state prison.

13 History: 1971 c. 219; 1985 a. 328; 1987 a. 339; 1989 a. 121; 1993 a. 98, 118, 492, 490; 1995 a. 402; 1995 a. 448 s. 288; Stats. 1995 s. 961.48; 1997 a. 35 ss. 340, 584; 1997
a. 220.

13 SECTION 8. 961.49 (1) (intro.) of the statutes is amended to read:

14 961.49 (1) (intro.) If any person violates s. 961.41 (1) (cm), (d), (e), (em), (f), (g)
15 or (h) by delivering or distributing, or violates s. 961.41 (1m) (cm), (d), (e), (em), (f),
16 (g) or (h) by possessing with intent to deliver or distribute, cocaine, cocaine base,
17 heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin,
18 amphetamine, methamphetamine, methcathinone or any form of
19 tetrahydrocannabinols or a controlled substance analog of any of these substances
20 and the delivery, distribution or possession takes place under any of the following
21 circumstances, the maximum term of imprisonment prescribed by law for that crime
22 may be increased by 5 years:

23 History: 1985 a. 328; 1987 a. 332, 339, 403; 1989 a. 31, 107, 121; 1991 a. 39; 1993 a. 87, 98, 118, 281, 490, 491; 1995 a. 448 s. 289, 491; Stats. 1995 s. 961.49; 1997 a. 283,
327; s. 13.93 (2) (c).

23 SECTION 9. 971.365 (1) (a) of the statutes is amended to read:

1 971.365 (1) (a) In any case under s. 961.41 (1) (cm), (d), (e), (em), (f), (g) or (h)
2 involving more than one violation, all violations may be prosecuted as a single crime
3 if the violations were pursuant to a single intent and design.

4 History: 1985 a. 328; 1987 a. 339; 1989 a. 121; 1993 a. 98, 118, 490; 1995 a. 448.

4 **SECTION 10.** 971.365 (1) (b) of the statutes is amended to read:

5 971.365 (1) (b) In any case under s. 961.41 (1m) (cm), (d), (e), (em), (f), (g) or (h)
6 involving more than one violation, all violations may be prosecuted as a single crime
7 if the violations were pursuant to a single intent and design.

8 History: 1985 a. 328; 1987 a. 339; 1989 a. 121; 1993 a. 98, 118, 490; 1995 a. 448.

8 **SECTION 11.** 971.365 (2) of the statutes is amended to read:

9 971.365 (2) An acquittal or conviction under sub. (1) does not bar a subsequent
10 prosecution for any acts in violation of s. 961.41 (1) (cm), (d), (e), (em), (f), (g) or (h),
11 (1m) (cm), (d), (e), (em), (f), (g) or (h) or (3g) (a) 2., (c), (d) or (e) on which no evidence
12 was received at the trial on the original charge.

13 History: 1985 a. 328; 1987 a. 339; 1989 a. 121; 1993 a. 98, 118, 490; 1995 a. 448.

13 **SECTION 12. Initial applicability.**

14 (1) This act first applies to offenses committed on the effective date of this
15 subsection.

16

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1894/P1dn

JEO:.....

↑
Jg

Andy:

I did this as a preliminary draft because I have a few questions:

1. The drafting instructions referred only to the penalties under s. 961.41 [✓](1m) (e), stats. (possession with intent to manufacture or deliver). However, it seemed to make sense for the draft to cover s. 961.41 (1) (e), stats., as well, which provides virtually identical penalties for manufacture or delivery of methamphetamine. Is that your intent?

2. In accordance with the drafting instructions, this draft only affects methamphetamine, not amphetamine. Should it also cover amphetamine?

3. The drafting instructions specified penalties for two categories: 1) offenses involving three or fewer grams of methamphetamine; and 2) offenses involving more than three grams but not more than ten grams of methamphetamine. The instructions did not say what the penalty should be for offenses involving more than ten grams of methamphetamine, but I provided a penalty for such offenses in this draft by adapting the penalty under s. 961.41 (1) (e) 6. and (1m) (e) 6., stats., that will take effect on December 31, 1999. Does this penalty effect your intent?

Please let me know if you have any questions or changes.

Jefren E. Olsen
Legislative Attorney
Phone: (608) 266-8906
E-mail: Jefren.Olsen@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1894/P1dn
JEO:jlg:hmh

March 10, 1999

Andy:

I did this as a preliminary draft because I have a few questions:

1. The drafting instructions referred only to the penalties under s. 961.41 (1m) (e), stats. (possession with intent to manufacture or deliver). However, it seemed to make sense for the draft to cover s. 961.41 (1) (e), stats., as well, which provides virtually identical penalties for manufacture or delivery of methamphetamine. Is that your intent?

2. In accordance with the drafting instructions, this draft only affects methamphetamine, not amphetamine. Should it also cover amphetamine?

3. The drafting instructions specified penalties for two categories: 1) offenses involving three or fewer grams of methamphetamine; and 2) offenses involving more than three grams but not more than ten grams of methamphetamine. The instructions did not say what the penalty should be for offenses involving more than ten grams of methamphetamine, but I provided a penalty for such offenses in this draft by adapting the penalty under s. 961.41 (1) (e) 6. and (1m) (e) 6., stats., that will take effect on December 31, 1999. Does this penalty effect your intent?

Please let me know if you have any questions or changes.

Jefren E. Olsen
Legislative Attorney
Phone: (608) 266-8906
E-mail: Jefren.Olsen@legis.state.wi.us

Also possession same as for heroin (3g)

Section #. 961.41 (1) (d) of the statutes is amended to read:

(a) 2

961.41 (1) (d) Heroin or a controlled substance analog of heroin is subject to the following penalties if the amount manufactured, distributed or delivered is:

1. Three grams or less, the person shall be fined not less than \$1,000 nor more than \$200,000 and may be imprisoned for not more than 15 years.

NOTE: Subd. 1. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:

1. Three grams or less, the person shall be fined not less than \$1,000 nor more than \$200,000 and may be imprisoned for not more than 22 years and 6 months.

2. More than 3 grams but not more than 10 grams, the person shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than 6 months nor more than 15 years.

NOTE: Subd. 2. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:

2. More than 3 grams but not more than 10 grams, the person shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than 6 months nor more than 22 years and 6 months.

3. More than 10 grams but not more than 50 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

NOTE: Subd. 3. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:

3. More than 10 grams but not more than 50 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 22 years and 6 months.

4. More than 50 grams but not more than 200 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 15 years.

NOTE: Subd. 4. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:

4. More than 50 grams but not more than 200 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 22 years and 6 months.

5. More than 200 grams but not more than 400 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 5 years nor more than 15 years.

NOTE: Subd. 5. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:

5. More than 200 grams but not more than 400 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 5 years nor more than 22 years and 6 months.

6. More than 400 grams, the person shall be fined not less than \$1,000 nor more than \$1,000,000 and shall be imprisoned for not less than 10 years nor more than 30 years.

NOTE: Subd. 6. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:

6. More than 400 grams, the person shall be fined not less than \$1,000 nor more than \$1,000,000 and shall be imprisoned for not less than 10 years nor more than 45 years.

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

1 SECTION 2. 961.41 (1) (em) of the statutes is created to read:

2 961.41 (1) (em) Methamphetamine or a controlled substance analog of
3 methamphetamine is subject to the following penalties if the amount manufactured,
4 distributed or delivered is:

5 1. Three grams or less, the person shall be fined not less than \$1,000 nor more ✓
6 than ~~\$100,000~~ ^{\$200,000} ✓ and may be imprisoned for not more than ~~1~~ ²² years. ^{and 6 months} ✓

7 2. More than 3 grams but not more than 10 grams, the person shall be fined
8 not less than \$1,000 nor more than ~~\$200,000~~ ^{\$250,000} ✓ and shall be imprisoned for not less than
9 6 months nor more than ~~22~~ ²² years and 6 months. ✓

10 3. More than 10 grams, ^{but not more than 50 grams} ✓ the person shall be fined not less than \$1,000 nor more ✓
11 than \$500,000 and shall be imprisoned for not less than one year nor more than ~~1~~ ²² ✓
12 years ^{and 6 months} ✓

✓
INCS
2-12

13 SECTION 3. 961.41 (1m) (e) (intro.) of the statutes is amended to read:

14 961.41 (1m) (e) (intro.) Phencyclidine, amphetamine, ~~methamphetamine~~ or
15 methcathinone, or a controlled substance analog of phencyclidine, amphetamine,
16 ~~methamphetamine~~ or methcathinone, is subject to the following penalties if the
17 amount possessed, with intent to manufacture, distribute or deliver, is:

18 SECTION 4. 961.41 (1m) (em) of the statutes is created to read:

19 961.41 (1m) (em) Methamphetamine or a controlled substance analog of
20 methamphetamine is subject to the following penalties if the amount possessed, with
21 intent to manufacture, distribute or deliver, is:

22 1. Three grams or less, the person shall be fined not less than \$1,000 nor more ✓
23 than ~~\$100,000~~ ^{\$200,000} ✓ and may be imprisoned for not more than ~~1~~ ²² years. ^{and 6 months} ✓

1 2. More than 3 grams but not more than 10 grams, the person shall be fined
2 not less than \$1,000 nor more than ~~\$200,000~~ ^{\$250,000} and shall be imprisoned for not less than
3 6 months nor more than 22 years and 6 months.

4 3. More than 10 grams, ^{but not more than 50 grams} the person shall be fined not less than \$1,000 nor more
5 than \$500,000 and shall be imprisoned for not less than one year nor more than ~~4~~ ⁹/₂₂
6 years ^{and 6 months}

INS
3-6

7 **SECTION 5.** 961.46 (3) of the statutes is amended to read:

8 961.46 (3) If any person 17 years of age or over violates s. 961.41 (1) (cm), (d),
9 (e), (em), (f), (g) or (h) by distributing or delivering cocaine, cocaine base, heroin,
10 phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine,
11 methamphetamine, methcathinone or any form of tetrahydrocannabinols or a
12 controlled substance analog of any of these substances to a person 17 years of age or
13 under who is at least 3 years his or her junior, any applicable minimum and
14 maximum fines and minimum and maximum periods of imprisonment under s.
15 961.41 (1) (cm), (d), (e), (em), (f), (g) or (h) are doubled.

16 **SECTION 6.** 961.465 (2) of the statutes is amended to read:

17 961.465 (2) If a person violates s. 961.41 (1) (cm), (d), (e), (em), (f), (g) or (h) or
18 (1m) (cm), (d), (e), (em), (f), (g) or (h) by delivering, distributing or possessing with
19 intent to deliver or distribute cocaine, cocaine base, heroin, phencyclidine, lysergic
20 acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine,
21 methcathinone or any form of tetrahydrocannabinols, or a controlled substance
22 analog of any of these substances, to a prisoner within the precincts of any prison,
23 jail or house of correction, any applicable minimum and maximum fines and
24 minimum and maximum periods of imprisonment under s. 961.41 (1) (cm), (d), (e),
25 (em), (f), (g) or (h) or (1m) (cm), (d), (e), (em), (f), (g) or (h) are doubled.

INS
3-25

1 SECTION 7. 961.48 (2) of the statutes is amended to read:

2 961.48 (2) If any person is charged under sub. (2m) with a 2nd or subsequent
 3 offense under this chapter that is specified in s. 961.41 (1) (cm), (d), (e), (em), (f), (g)
 4 or (h), (1m) (cm), (d), (e), (em), (f), (g) or (h) or (3g) (a) 2., (c), ^(dm) (d) or (e), and he or she
 5 is convicted of that 2nd or subsequent offense, any applicable minimum and
 6 maximum fines and minimum and maximum periods of imprisonment under s.
 7 961.41 (1) (cm), (d), (e), (em), (f), (g) or (h), (1m) (cm), (d), (e), (em), (f), (g) or (h) or (3g)
 8 (a) 2., (c), ^(dm) (d) or (e) are doubled. A person convicted of a 2nd or subsequent offense
 9 under s. 961.41 (3g) (c), (d) or (e) is guilty of a felony and the person may be
 10 imprisoned in state prison.

11 SECTION 8. 961.49 (1) (intro.) of the statutes is amended to read:

12 961.49 (1) (intro.) If any person violates s. 961.41 (1) (cm), (d), (e), (em), (f), (g)
 13 or (h) by delivering or distributing, or violates s. 961.41 (1m) (cm), (d), (e), (em), (f),
 14 (g) or (h) by possessing with intent to deliver or distribute, cocaine, cocaine base,
 15 heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin,
 16 amphetamine, methamphetamine, methcathinone or any form of
 17 tetrahydrocannabinols or a controlled substance analog of any of these substances
 18 and the delivery, distribution or possession takes place under any of the following
 19 circumstances, the maximum term of imprisonment prescribed by law for that crime
 20 may be increased by 5 years:

✓
 JNS
 4-29

21 SECTION 9. 971.365 (1) (a) of the statutes is amended to read:

22 971.365 (1) (a) In any case under s. 961.41 (1) (cm), (d), (e), (em), (f), (g) or (h)
 23 involving more than one violation, all violations may be prosecuted as a single crime
 24 if the violations were pursuant to a single intent and design.

25 SECTION 10. 971.365 (1) (b) of the statutes is amended to read:

1 971.365 (1) (b) In any case under s. 961.41 (1m) (cm), (d), (e), (em), (f), (g) or (h)
2 involving more than one violation, all violations may be prosecuted as a single crime
3 if the violations were pursuant to a single intent and design.

4 **SECTION 11.** 971.365 (2) of the statutes is amended to read:

5 971.365 (2) An acquittal or conviction under sub. (1) does not bar a subsequent
6 prosecution for any acts in violation of s. 961.41 (1) (cm), (d), (e), (em), (f), (g) or (h),
7 (1m) (cm), (d), (e), (em), (f), (g) or (h) or (3g) (a) 2., (c), ^(dm) (d) or (e) on which no evidence
8 was received at the trial on the original charge.

9 **SECTION 12. Initial applicability.**

10 (1) This act first applies to offenses committed on the effective date of this
11 subsection.

12

(END)

INS
5-3

1

ANALYSIS INSERT:

Current law provides penalties for the possession, manufacture, delivery and distribution of methamphetamine, a dangerous drug. This bill changes those penalties as follows:

Possession of methamphetamine

Currently, a person who is convicted of possession of methamphetamine may be fined not more than \$5,000 or imprisoned for not more than one year in a county jail or both. Under the bill, a person who is convicted of possession of methamphetamine may be fined not more than \$5,000 or imprisoned for not more than two years in state prison or both.

Manufacture, delivery or distribution of methamphetamine, and possession of methamphetamine with intent to manufacture, deliver or distribute

Under current law, the penalties for manufacture, delivery or distribution of methamphetamine and for possession of methamphetamine with intent to manufacture, deliver or distribute depend on the amount of the drug involved in the offense and the date of the offense. In addition to prescribing a maximum penalty for these offenses, current law provides in some cases for a minimum fine or a minimum period of imprisonment or both. These are presumptive minimum sentences. A judge may decide to impose no fine or imprisonment or a fine or period of imprisonment that is less than the specified minimum if he or she finds that the best interests of the community will be served and the public will not be harmed by doing so.

The current penalties and the changes made by the bill are as follows:

1. If the offense involves three grams or less of methamphetamine and the offense occurs before December 31, 1999, the person must currently be fined not less than \$1,000 nor more than \$200,000 and may be imprisoned for not more than five years. If the offense occurs on or after December 31, 1999, the maximum imprisonment provided under current law is seven years and six months. The bill increases the maximum imprisonment for this offense to 22 years and six months, regardless of the date on which the offense occurs. The bill does not change the minimum and maximum fines for the offense. ~~three~~ ^{three}

2. If the offense involves more than ~~3~~ ^{three} grams but not more than ~~10~~ ^{ten} grams of methamphetamine and the offense occurs before December 31, 1999, the person must currently be fined not less than \$1,000 nor more than \$250,000 and must be imprisoned for not less than six months nor more than five years. If the offense occurs on or after December 31, 1999, the maximum imprisonment provided under current law is seven years and six months. The bill increases the maximum imprisonment for this offense to 22 years and six months, regardless of the date on which the offense occurs. The bill does not change the minimum period of imprisonment or the minimum and maximum fines for the offense.

3. If the offense involves more than ~~10~~ ^{ten} grams but not more than 50 grams of methamphetamine and the offense occurs before December 31, 1999, the person

must currently be fined not less than \$1,000 nor more than \$500,000 and must be imprisoned for not less than one year nor more than 15 years. If the offense occurs on or after December 31, 1999, the maximum imprisonment provided under current law is 22 years and six months. The bill provides that the maximum imprisonment for this offense is 22 years and six months, regardless of the date on which the offense occurs. The bill does not change the minimum period of imprisonment or the minimum and maximum fines for the offense.

4. If the offense involves more than 50 grams but not more than 200 grams of methamphetamine and the offense occurs before December 31, 1999, the person must currently be fined not less than \$1,000 nor more than \$500,000 and must be imprisoned for not less than three years nor more than 15 years. If the offense occurs on or after December 31, 1999, the maximum imprisonment provided under current law is 22 years and six months. The bill provides that the maximum imprisonment for this offense is 22 years and six months, regardless of the date on which the offense occurs. The bill does not change the minimum period of imprisonment or the minimum and maximum fines for the offense.

5. If the offense involves more than 200 grams but not more than 400 grams of methamphetamine and the offense occurs before December 31, 1999, the person must currently be fined not less than \$1,000 nor more than \$500,000 and must be imprisoned for not less than five years nor more than 15 years. If the offense occurs on or after December 31, 1999, the maximum imprisonment provided under current law is 22 years and six months. The bill provides that the maximum imprisonment for this offense is 22 years and six months, regardless of the date on which the offense occurs. The bill does not change the minimum period of imprisonment or the minimum and maximum fines for the offense.

6. If the offense involves more than 400 grams of methamphetamine and the offense occurs before December 31, 1999, the person must currently be fined not less than \$1,000 nor more than \$1,000,000 and must be imprisoned for not less than ten years nor more than 30 years. If the offense occurs on or after December 31, 1999, the maximum imprisonment provided under current law is 45 years. The bill provides that the maximum imprisonment for this offense is 45 years, regardless of the date on which the offense occurs. The bill does not change the minimum period of imprisonment or the minimum and maximum fines for the offense.

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INSERT 2-12:

4. More than 50 grams but not more than 200 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 22 years and 6 months.

5. More than 200 grams but not more than 400 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 5 years nor more than 22 years and 6 months.

1 6. More than 400[✓] grams, the person shall be fined not less than \$1,000 nor more
2 than ~~than~~ \$1,000,000[✓] and shall be imprisoned for not less than[✓] 10 years nor more
3 than 45 years.

4 **INSERT 3-6:**

5 4. More than 50 grams but not more than 200 grams, the person shall be fined
6 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
7 3 years nor more than 22 years and 6 months.[✓]

8 5. More than 200 grams but not more than 400 grams, the person shall be fined
9 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
10 5 years nor more than 22 years and 6 months.[✓]

11 6. More than 400 grams, the person shall be fined not less than \$1,000 nor more
12 than ~~than~~ \$1,000,000 and shall be imprisoned for not less than 10 years nor more
13 than 45 years.

14 **SECTION 1.** 961.41 (3g) (b)[✓] of the statutes is amended to read:

15 961.41 (3g) (b) Except as provided in pars. (c), (d), (dm)[✓], (e) and (f), if the person
16 possesses or attempts to possess a controlled substance or controlled substance
17 analog, other than a controlled substance included in schedule I or II that is a
18 narcotic drug or a controlled substance analog of a controlled substance included in
19 schedule I or II that is a narcotic drug, the person is guilty of a misdemeanor,
20 punishable under s. 939.61.

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.[✓]

21 **SECTION 2.** 961.41 (3g) (d) of the statutes is amended to read:

22 961.41 (3g) (d) If a person possesses or attempts to possess lysergic acid
23 diethylamide, phencyclidine, amphetamine,[✓] ~~methamphetamine~~, methcathinone,
24 psilocin or psilocybin, or a controlled substance analog of lysergic acid diethylamide,

1 phencyclidine, amphetamine, ~~methamphetamine~~[✓], methcathinone, psilocin or
2 psilocybin, the person may be fined not more than \$5,000 or imprisoned for not more
3 than one year in the county jail or both.

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995
a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

4 **SECTION 3.** 961.41 (3g) (dm) of the statutes is created to read:

5 961.41 (3g) (dm) If a person possesses or attempts to possess
6 methamphetamine or a controlled substance analog of methamphetamine, the
7 person may be fined not more than \$5,000[✓] or imprisoned for not more than 2[✓] years
8 or both.

9 **INSERT 3-25:**

10 **SECTION 4.** 961.472 (2)^X of the statutes is amended to read:

11 961.472 (2) Except as provided in sub. (5), if a person pleads guilty or is found
12 guilty of possession or attempted possession of a controlled substance or controlled
13 substance analog under s. 961.41 (3g) (a) 2., (c) ~~or~~, (d) or (dm)[✓], the court shall order
14 the person to comply with an assessment of the person's use of controlled substances.
15 The court's order shall designate a facility that is operated by or pursuant to a
16 contract with the county department established under s. 51.42 and that is certified
17 by the department of health and family services to provide assessment services to
18 perform the assessment and, if appropriate, to develop a proposed treatment plan.
19 The court shall notify the person that noncompliance with the order limits the court's
20 ability to determine whether the treatment option under s. 961.475 is appropriate.
21 The court shall also notify the person of the fee provisions under s. 46.03 (18) (fm).

History: 1985 a. 328; 1987 a. 339; 1989 a. 121; 1993 a. 118; 1995 a. 27 s. 9126 (19); 1995 a. 448 s. 286; Stats. 1995 s. 961.472.

22 **INSERT 4-20:**

23 **SECTION 5.** 961.55 (1) (d) 3.^X of the statutes is amended to read:

1 961.55 (1) (d) 3. A vehicle is not subject to forfeiture for a violation of s. 961.41
2 (3g) (b), (c), (d), (dm)✓(e) or (f); and

3 History: 1971 c. 219, 307; 1981 c. 267; 1985 a. 245, 328; 1987 a. 339; 1989 a. 121; 1993 a. 118, 482; 1995 a. 448 ss. 297 to 305; Stats. 1995 s. 961.55; 1997 a. 220.

INSERT 5-3:

4 **SECTION 6.** 971.365 (1) (c) of the statutes is amended to read:

5 971.365 (1) (c) In any case under s. 961.41 (3g) (a) 2., (c), (d), (dm)✓ or (e)
6 involving more than one violation, all violations may be prosecuted as a single crime
7 if the violations were pursuant to a single intent and design.

History: 1985 a. 328; 1987 a. 339; 1989 a. 121; 1993 a. 98, 118, 490; 1995 a. 448.

URB-1894/1 da
JED: jlg:

D-Note

¶ This redraft provides that the penalties for methamphetamine will be identical for the penalties for heroin that take effect on December 31, 1999. ✓

JED

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1894/1dn
JEO;jlg:km

March 16, 1999

This redraft provides that the penalties for methamphetamine will be identical for the penalties for heroin that take effect on December 31, 1999.

Jefren E. Olsen
Legislative Attorney
Phone: (608) 266-8906
E-mail: Jefren.Olsen@legis.state.wi.us



1999 BILL

1 **AN ACT to amend** 961.41 (1) (e) (intro.), 961.41 (1m) (e) (intro.), 961.41 (3g) (b),
2 961.41 (3g) (d), 961.46 (3), 961.465 (2), 961.472 (2), 961.48 (2), 961.49 (1) (intro.),
3 961.55 (1) (d) 3., 971.365 (1) (a), 971.365 (1) (b), 971.365 (1) (c) and 971.365 (2);
4 and **to create** 961.41 (1) (em), 961.41 (1m) (em) and 961.41 (3g) (dm) of the
5 statutes; **relating to:** the controlled substance methamphetamine and
6 providing penalties.

Analysis by the Legislative Reference Bureau

Current law provides penalties for the possession, manufacture, delivery and distribution of methamphetamine, a dangerous drug. This bill changes those penalties as follows:

Possession of methamphetamine

Currently, a person who is convicted of possession of methamphetamine may be fined not more than \$5,000 or imprisoned for not more than one year in a county jail or both. Under the bill, a person who is convicted of possession of methamphetamine may be fined not more than \$5,000 or imprisoned for not more than two years in state prison or both.

Manufacture, delivery or distribution of methamphetamine, and possession of methamphetamine with intent to manufacture, deliver or distribute

Under current law, the penalties for manufacture, delivery or distribution of methamphetamine and for possession of methamphetamine with intent to

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manufacture, deliver or distribute depend on the amount of the drug involved in the offense and the date of the offense. In addition to prescribing a maximum penalty for these offenses, current law provides in some cases for a minimum fine or a minimum period of imprisonment or both. These are presumptive minimum sentences. A judge may decide to impose no fine or imprisonment or a fine or period of imprisonment that is less than the specified minimum if he or she finds that the best interests of the community will be served and the public will not be harmed by doing so.

The current penalties and the changes made by the bill are as follows:

1. If the offense involves three grams or less of methamphetamine and the offense occurs before December 31, 1999, the person must currently be fined not less than \$1,000 nor more than \$200,000 and may be imprisoned for not more than five years. If the offense occurs on or after December 31, 1999, the maximum imprisonment provided under current law is seven years and six months. The bill increases the maximum imprisonment for this offense to 22 years and six months, regardless of the date on which the offense occurs. The bill does not change the minimum and maximum fines for the offense.

2. If the offense involves more than three grams but not more than ten grams of methamphetamine and the offense occurs before December 31, 1999, the person must currently be fined not less than \$1,000 nor more than \$250,000 and must be imprisoned for not less than six months nor more than five years. If the offense occurs on or after December 31, 1999, the maximum imprisonment provided under current law is seven years and six months. The bill increases the maximum imprisonment for this offense to 22 years and six months, regardless of the date on which the offense occurs. The bill does not change the minimum period of imprisonment or the minimum and maximum fines for the offense.

3. If the offense involves more than ten grams but not more than 50 grams of methamphetamine and the offense occurs before December 31, 1999, the person must currently be fined not less than \$1,000 nor more than \$500,000 and must be imprisoned for not less than one year nor more than 15 years. If the offense occurs on or after December 31, 1999, the maximum imprisonment provided under current law is 22 years and six months. The bill provides that the maximum imprisonment for this offense is 22 years and six months, regardless of the date on which the offense occurs. The bill does not change the minimum period of imprisonment or the minimum and maximum fines for the offense.

4. If the offense involves more than 50 grams but not more than 200 grams of methamphetamine and the offense occurs before December 31, 1999, the person must currently be fined not less than \$1,000 nor more than \$500,000 and must be imprisoned for not less than three years nor more than 15 years. If the offense occurs on or after December 31, 1999, the maximum imprisonment provided under current law is 22 years and six months. The bill provides that the maximum imprisonment for this offense is 22 years and six months, regardless of the date on which the offense occurs. The bill does not change the minimum period of imprisonment or the minimum and maximum fines for the offense.

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5. If the offense involves more than 200 grams but not more than 400 grams of methamphetamine and the offense occurs before December 31, 1999, the person must currently be fined not less than \$1,000 nor more than \$500,000 and must be imprisoned for not less than five years nor more than 15 years. If the offense occurs on or after December 31, 1999, the maximum imprisonment provided under current law is 22 years and six months. The bill provides that the maximum imprisonment for this offense is 22 years and six months, regardless of the date on which the offense occurs. The bill does not change the minimum period of imprisonment or the minimum and maximum fines for the offense.

6. If the offense involves more than 400 grams of methamphetamine and the offense occurs before December 31, 1999, the person must currently be fined not less than \$1,000 nor more than \$1,000,000 and must be imprisoned for not less than ten years nor more than 30 years. If the offense occurs on or after December 31, 1999, the maximum imprisonment provided under current law is 45 years. The bill provides that the maximum imprisonment for this offense is 45 years, regardless of the date on which the offense occurs. The bill does not change the minimum period of imprisonment or the minimum and maximum fines for the offense.

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

1 **SECTION 1.** 961.41 (1) (e) (intro.) of the statutes is amended to read:

2 961.41 (1) (e) (intro.) Phencyclidine, amphetamine, ~~methamphetamine~~ or
3 methcathinone, or a controlled substance analog of phencyclidine, amphetamine,
4 ~~methamphetamine~~ or methcathinone, is subject to the following penalties if the
5 amount manufactured, distributed or delivered is:

6 **SECTION 2.** 961.41 (1) (em) of the statutes is created to read:

7 961.41 (1) (em) Methamphetamine or a controlled substance analog of
8 methamphetamine is subject to the following penalties if the amount manufactured,
9 distributed or delivered is:

10 1. Three grams or less, the person shall be fined not less than \$1,000 nor more
11 than 200,000 and may be imprisoned for not more than 22 years and 6 months.

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1 2. More than 3 grams but not more than 10 grams, the person shall be fined
2 not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than
3 6 months nor more than 22 years and 6 months.

4 3. More than 10 grams but not more than 50 grams, the person shall be fined
5 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
6 one year nor more than 22 years and 6 months.

7 4. More than 50 grams but not more than 200 grams, the person shall be fined
8 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
9 3 years nor more than 22 years and 6 months.

10 5. More than 200 grams but not more than 400 grams, the person shall be fined
11 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
12 5 years nor more than 22 years and 6 months.

13 6. More than 400 grams, the person shall be fined not less than \$1,000 nor more
14 than \$1,000,000 and shall be imprisoned for not less than 10 years nor more than 45
15 years.

16 **SECTION 3.** 961.41 (1m) (e) (intro.) of the statutes is amended to read:

17 961.41 (1m) (e) (intro.) Phencyclidine, amphetamine, ~~methamphetamine~~ or
18 methcathinone, or a controlled substance analog of phencyclidine, amphetamine,
19 ~~methamphetamine~~ or methcathinone, is subject to the following penalties if the
20 amount possessed, with intent to manufacture, distribute or deliver, is:

21 **SECTION 4.** 961.41 (1m) (em) of the statutes is created to read:

22 961.41 (1m) (em) Methamphetamine or a controlled substance analog of
23 methamphetamine is subject to the following penalties if the amount possessed, with
24 intent to manufacture, distribute or deliver, is:

BILL

1 1. Three grams or less, the person shall be fined not less than \$1,000 nor more
2 than \$200,000 and may be imprisoned for not more than 22 years and 6 months.

3 2. More than 3 grams but not more than 10 grams, the person shall be fined
4 not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than
5 6 months nor more than 22 years and 6 months.

6 3. More than 10 grams but not more than 50 grams, the person shall be fined
7 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
8 one year nor more than 22 years and 6 months.

9 4. More than 50 grams but not more than 200 grams, the person shall be fined
10 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
11 3 years nor more than 22 years and 6 months.

12 5. More than 200 grams but not more than 400 grams, the person shall be fined
13 not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than
14 5 years nor more than 22 years and 6 months.

15 6. More than 400 grams, the person shall be fined not less than \$1,000 nor more
16 than \$1,000,000 and shall be imprisoned for not less than 10 years nor more than 45
17 years.

18 **SECTION 5.** 961.41 (3g) (b) of the statutes is amended to read:

19 961.41 (3g) (b) Except as provided in pars. (c), (d), (dm), (e) and (f), if the person
20 possesses or attempts to possess a controlled substance or controlled substance
21 analog, other than a controlled substance included in schedule I or II that is a
22 narcotic drug or a controlled substance analog of a controlled substance included in
23 schedule I or II that is a narcotic drug, the person is guilty of a misdemeanor,
24 punishable under s. 939.61.

25 **SECTION 6.** 961.41 (3g) (d) of the statutes is amended to read:

BILL

1 961.41 (3g) (d) If a person possesses or attempts to possess lysergic acid
2 diethylamide, phencyclidine, amphetamine, ~~methamphetamine~~, methcathinone,
3 psilocin or psilocybin, or a controlled substance analog of lysergic acid diethylamide,
4 phencyclidine, amphetamine, ~~methamphetamine~~, methcathinone, psilocin or
5 psilocybin, the person may be fined not more than \$5,000 or imprisoned for not more
6 than one year in the county jail or both.

7 **SECTION 7.** 961.41 (3g) (dm) of the statutes is created to read:

8 961.41 (3g) (dm) If a person possesses or attempts to possess
9 methamphetamine or a controlled substance analog of methamphetamine, the
10 person may be fined not more than \$5,000 or imprisoned for not more than 2 years
11 or both.

12 **SECTION 8.** 961.46 (3) of the statutes is amended to read:

13 961.46 (3) If any person 17 years of age or over violates s. 961.41 (1) (cm), (d),
14 (e), ~~(em)~~, (f), (g) or (h) by distributing or delivering cocaine, cocaine base, heroin,
15 phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine,
16 methamphetamine, methcathinone or any form of tetrahydrocannabinols or a
17 controlled substance analog of any of these substances to a person 17 years of age or
18 under who is at least 3 years his or her junior, any applicable minimum and
19 maximum fines and minimum and maximum periods of imprisonment under s.
20 961.41 (1) (cm), (d), (e), ~~(em)~~, (f), (g) or (h) are doubled.

21 **SECTION 9.** 961.465 (2) of the statutes is amended to read:

22 961.465 (2) If a person violates s. 961.41 (1) (cm), (d), (e), ~~(em)~~, (f), (g) or (h) or
23 (1m) (cm), (d), (e), ~~(em)~~, (f), (g) or (h) by delivering, distributing or possessing with
24 intent to deliver or distribute cocaine, cocaine base, heroin, phencyclidine, lysergic
25 acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine,

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1 methcathinone or any form of tetrahydrocannabinols, or a controlled substance
2 analog of any of these substances, to a prisoner within the precincts of any prison,
3 jail or house of correction, any applicable minimum and maximum fines and
4 minimum and maximum periods of imprisonment under s. 961.41 (1) (cm), (d), (e),
5 (em), (f), (g) or (h) or (1m) (cm), (d), (e), (em), (f), (g) or (h) are doubled.

6 **SECTION 10.** 961.472 (2) of the statutes is amended to read:

7 961.472 (2) Except as provided in sub. (5), if a person pleads guilty or is found
8 guilty of possession or attempted possession of a controlled substance or controlled
9 substance analog under s. 961.41 (3g) (a) 2., (c) ~~or~~, (d) or (dm), the court shall order
10 the person to comply with an assessment of the person's use of controlled substances.
11 The court's order shall designate a facility that is operated by or pursuant to a
12 contract with the county department established under s. 51.42 and that is certified
13 by the department of health and family services to provide assessment services to
14 perform the assessment and, if appropriate, to develop a proposed treatment plan.
15 The court shall notify the person that noncompliance with the order limits the court's
16 ability to determine whether the treatment option under s. 961.475 is appropriate.
17 The court shall also notify the person of the fee provisions under s. 46.03 (18) (fm).

18 **SECTION 11.** 961.48 (2) of the statutes is amended to read:

19 961.48 (2) If any person is charged under sub. (2m) with a 2nd or subsequent
20 offense under this chapter that is specified in s. 961.41 (1) (cm), (d), (e), (em), (f), (g)
21 or (h), (1m) (cm), (d), (e), (em), (f), (g) or (h) or (3g) (a) 2., (c), (d), (dm) or (e), and he
22 or she is convicted of that 2nd or subsequent offense, any applicable minimum and
23 maximum fines and minimum and maximum periods of imprisonment under s.
24 961.41 (1) (cm), (d), (e), (em), (f), (g) or (h), (1m) (cm), (d), (e), (em), (f), (g) or (h) or (3g)
25 (a) 2., (c), (d), (dm) or (e) are doubled. A person convicted of a 2nd or subsequent

BILL

1 offense under s. 961.41 (3g) (c), (d) or (e) is guilty of a felony and the person may be
2 imprisoned in state prison.

3 **SECTION 12.** 961.49 (1) (intro.) of the statutes is amended to read:

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

13 **SECTION 13.** 961.55 (1) (d) 3. of the statutes is amended to read:

14 961.55 (1) (d) 3. A vehicle is not subject to forfeiture for a violation of s. 961.41
15 (3g) (b), (c), (d), (dm), (e) or (f); and

16 **SECTION 14.** 971.365 (1) (a) of the statutes is amended to read:

17 971.365 (1) (a) In any case under s. 961.41 (1) (cm), (d), (e), (em), (f), (g) or (h)
18 involving more than one violation, all violations may be prosecuted as a single crime
19 if the violations were pursuant to a single intent and design.

20 **SECTION 15.** 971.365 (1) (b) of the statutes is amended to read:

21 971.365 (1) (b) In any case under s. 961.41 (1m) (cm), (d), (e), (em), (f), (g) or (h)
22 involving more than one violation, all violations may be prosecuted as a single crime
23 if the violations were pursuant to a single intent and design.

24 **SECTION 16.** 971.365 (1) (c) of the statutes is amended to read:

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 3/16/99

To: Representative Kreibich

Relating to LRB drafting number: LRB-1894

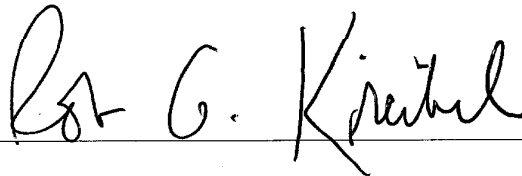
Topic

Methamphetamine

Subject(s)

Criminal Law - drugs

1. **JACKET** the draft for introduction



in the **Senate** ___ or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Jefren E. Olsen, Legislative Attorney
Telephone: (608) 266-8906



State of Wisconsin
1999-2000 LEGISLATURE



10/20

CORRECTIONS IN: CCC ()

99-1894

TO 1999 ASSEMBLY BILL 318

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Prepared by the Legislative Reference Bureau
(Date)

1. Page 3, line 11: delete "200,000" and substitute "\$200,000".

KMG:

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Minor clerical corrections in legislation are authorized under s. 35.17, stats.; Senate Rule 31, Assembly Rule 37 and Joint Rule 56.

ASSEMBLY BILL 318

5. If the offense involves more than 200 grams but not more than 400 grams of methamphetamine and the offense occurs before December 31, 1999, the person must currently be fined not less than \$1,000 nor more than \$500,000 and must be imprisoned for not less than five years nor more than 15 years. If the offense occurs on or after December 31, 1999, the maximum imprisonment provided under current law is 22 years and six months. The bill provides that the maximum imprisonment for this offense is 22 years and six months, regardless of the date on which the offense occurs. The bill does not change the minimum period of imprisonment or the minimum and maximum fines for the offense.

6. If the offense involves more than 400 grams of methamphetamine and the offense occurs before December 31, 1999, the person must currently be fined not less than \$1,000 nor more than \$1,000,000 and must be imprisoned for not less than ten years nor more than 30 years. If the offense occurs on or after December 31, 1999, the maximum imprisonment provided under current law is 45 years. The bill provides that the maximum imprisonment for this offense is 45 years, regardless of the date on which the offense occurs. The bill does not change the minimum period of imprisonment or the minimum and maximum fines for the offense.

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

1 **SECTION 1.** 961.41 (1) (e) (intro.) of the statutes is amended to read:

2 961.41 (1) (e) (intro.) Phencyclidine, amphetamine, ~~methamphetamine~~ or
3 methcathinone, or a controlled substance analog of phencyclidine, amphetamine,
4 ~~methamphetamine~~ or methcathinone, is subject to the following penalties if the
5 amount manufactured, distributed or delivered is:

6 **SECTION 2.** 961.41 (1) (em) of the statutes is created to read:

7 961.41 (1) (em) Methamphetamine or a controlled substance analog of
8 methamphetamine is subject to the following penalties if the amount manufactured,
9 distributed or delivered is:

10 1. Three grams or less, the person shall be fined not less than \$1,000 nor more
11 than 200,000 and may be imprisoned for not more than 22 years and 6 months.



State of Wisconsin
1999-2000 LEGISLATURE

CORRECTIONS IN:

1999 ASSEMBLY BILL 318

Prepared by the Legislative Reference Bureau
(October 20, 1999)

1. Page 3, line 11: delete "200,000" and substitute "\$200,000".

LRB-1894/1ccc-1

KMG:ch

Minor clerical corrections in legislation are authorized under s. 35.17, stats.; Senate Rule 31, Assembly Rule 37 and Joint Rule 56.