



2009 SENATE BILL 551

February 22, 2010 - Introduced by Senator HANSEN, cosponsored by Representatives HRAYCHUCK, TURNER, BERCEAU and TOWNSEND. Referred to Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

1 **AN ACT to renumber** 961.455 (1); **to renumber and amend** 961.455 (2), 961.455
2 (3) and 961.455 (4); **to amend** 939.30 (1), 961.455 (title) and 973.01 (2) (c) 2. a.;
3 and **to create** 948.015 (7r) and 961.455 (2m) of the statutes; **relating to:**
4 distribution or delivery of a controlled substance or controlled substance analog
5 in the presence of a child and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person who distributes or delivers a controlled substance or controlled substance analog is guilty of a felony, the penalties for which vary depending on the controlled substance or controlled substance analog. Under this bill, the maximum term of imprisonment for distributing or delivering a controlled substance or controlled substance analog is increased by five years if the offense is done in the presence of a child who is no more than ten years old.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 939.30 (1) of the statutes is amended to read:

2 939.30 (1) Except as provided in sub. (2) and s. 961.455 (1m), whoever, with
3 intent that a felony be committed, advises another to commit that crime under
4 circumstances that indicate unequivocally that he or she has the intent is guilty of
5 a Class H felony.

6 **SECTION 2.** 948.015 (7r) of the statutes is created to read:

7 948.015 (7r) Section 961.455 (2m) relating to the distribution or delivery of a
8 controlled substance or controlled substance analog in the presence of a child who
9 has not attained the age of 10 years.

10 **SECTION 3.** 961.455 (title) of the statutes is amended to read:

11 **961.455 (title) ~~Using a child for~~ Children and illegal drug distribution,**
12 **delivery, or manufacturing purposes.**

13 **SECTION 4.** 961.455 (1) of the statutes is renumbered 961.455 (1m) (a).

14 **SECTION 5.** 961.455 (2) of the statutes is renumbered 961.455 (1m) (b) and
15 amended to read:

16 961.455 (1m) (b) The knowledge requirement under sub. (1) par. (a) does not
17 require proof of knowledge of the age of the child. It is not a defense to a prosecution
18 under this section that the actor mistakenly believed that the person solicited, hired,
19 directed, employed, or used under sub. (1) par. (a) had attained the age of 18 years,
20 even if the mistaken belief was reasonable.

21 **SECTION 6.** 961.455 (2m) of the statutes is created to read:

