

2013 DRAFTING REQUEST

Bill

Received: 3/5/2013 Received By: chanaman
 Wanted: As time permits Same as LRB: -2122
 For: Chris Taylor (608) 266-5342 By/Representing: Andrew Bethke
 May Contact: Drafter: chanaman
 Subject: Criminal Law - drugs Addl. Drafters:
 Extra Copies:

Submit via email: YES
 Requester's email: Rep.Taylor@legis.wisconsin.gov
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Medical marijuana

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>
/?	chanaman 3/5/2013	wjackson 3/20/2013	jfrantze 3/20/2013	_____			
/1				_____	srose 3/20/2013	lparisi 10/21/2013	State S&L Crime

FE Sent For:

A handwritten signature consisting of a circled 'a' followed by 'intro.' is written in the bottom left corner.

<END>

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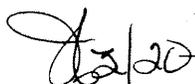
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/?	chanaman	1 Wlj 3/20					

FE Sent For:

<END>

Hanaman, Cathlene

From: Bethke, Andrew
Sent: Wednesday, February 20, 2013 10:03 AM
To: Hanaman, Cathlene
Cc: Trost, Craig
Subject: Request for Drafting Changes to 2011 AB-475 - The Jacki Rickert Medical Marijuana Act

Dear Attorney Hanaman:

Good morning. My name is Andy and I am a legislative intern for Rep. Chris Taylor. I have copied one of Chris's staff, Craig Trost, on this email. Rep. Chris Taylor is going to be taking over Rep. Poca's medical marijuana bill. Would you please redraft 2011 AB-475 with the following changes:

Jacki Rickert Medical Marijuana Act Drafting changes:

- ✓ 1) Change the definition of "Usable marijuana" to reflect the following:
 - a. The flowers of the marijuana plant and any mixture or preparation thereof. Specifically, this does not include the seeds, stalks, and roots of the plant. It does not include the weight of any non-marijuana ingredients combined with marijuana, including ingredients added to prepare a topical administration, food, or drink.
- ✓ 2) Allow registry cards to be good for up to 2 years, rather than 1 year as in the previous draft.
- 3) Add protections for concentrates, "medibles" (marijuana edibles), tinctures, salves, lotions and other marijuana products.
- ✓ 4) Require dispensaries to only sell products that have been tested for mold, fungus and pesticides.
- ✓ 5) Require the department to promulgate rules to protect caregivers and create guidelines for care as it pertains to obtaining and distributing medical marijuana to individuals under their care.
- ✓ 6) To require no prohibition on sun grown cannabis
- 7) Add legal protections for labs testing for cannabinoid content/mold/fungus/pesticides
 - (p) "Registered safety compliance facility" means an entity registered under section 16 by the department to provide one or more of the following services:
 - (1) testing marijuana produced for medical use, including for potency and contaminants; and
 - (2) training cardholders and compassion center agents. The training may include, but need not be limited to, information related to one or more of the following:
 - (A) the safe and efficient cultivation, harvesting, packaging, labeling, and distribution of marijuana;
 - (B) security and inventory accountability procedures; and
 - (C) up-to-date scientific and medical research findings related to medical marijuana

(END)



State of Wisconsin
2013 - 2014 LEGISLATURE



-1799/1

LRB-1061/1
CMH:wlj:rs

LPS: Please note
the version to
use as base doc.

Stays

2013 BILL

Reyn cut

1 **AN ACT to renumber** subchapter IV of chapter 50 [precedes 50.90]; **to renumber**
2 **and amend** 59.54 (25), 961.55 (8), 968.19 and 968.20 (1); **to amend** 20.435 (6)
3 (jm), 50.56 (3), 59.54 (25m), 66.0107 (1) (bm), 66.0107 (1) (bp), 146.40 (1) (bo),
4 146.81 (1) (L), 146.997 (1) (d) 18., 149.14 (3) (nm), 173.12 (1m), 289.33 (3) (d),
5 349.02 (2) (b) 4., 767.41 (5) (am) (intro.), 767.451 (5m) (a) (intro.), 961.555 (2)
6 (a), 961.56 (1) and 968.20 (3) (a) and (b); and **to create** 20.435 (1) (gq), 20.435
7 (1) (jm), subchapter V of chapter 50 [precedes 50.60], 59.54 (25) (b) 2., 59.54 (25)
8 (b) 3., 146.44, 767.41 (5) (d), 767.451 (5m) (d), 961.01 (5m), 961.01 (11v), 961.01
9 (12v), 961.01 (14c), 961.01 (14g), 961.01 (17k), 961.01 (19m), 961.01 (20hm),
10 961.01 (20ht), 961.01 (20t), 961.01 (21f), 961.01 (21t), 961.436, 961.55 (8) (b),
11 961.55 (8) (c), 961.55 (8) (d), 961.555 (2) (e), 961.555 (2m), 961.5755, 968.072,
12 968.12 (5), 968.19 (2), 968.20 (1d) and 968.20 (1j) of the statutes; **relating to:**
13 **medical use of marijuana, the regulation of marijuana distribution**

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the registration of testing laboratories;

- 1 organizations, requiring the exercise of rule-making authority, making
2 appropriations, and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits a person from manufacturing, distributing, or delivering marijuana; possessing marijuana with the intent to manufacture, distribute, or deliver it; possessing or attempting to possess marijuana; using drug paraphernalia; or possessing drug paraphernalia with the intent to produce, distribute, or use a controlled substance. This bill creates a medical use defense to marijuana-related prosecutions and forfeiture actions for, and prohibits the arrest or prosecution of, persons who are registered with the Department of Health Services (DHS) and have certain debilitating medical conditions or treatments and primary caregivers of such persons. The defense and prohibition apply to primary caregivers only if it is not practicable for the person to acquire, possess, cultivate, or transport marijuana independently or the person is under the age of 18. The defense and prohibition do not apply under certain circumstances, including the following: 1) if the person does not have a valid registry identification card or equivalent; 2) if the amount of marijuana involved in the offense is more than the maximum authorized amount of marijuana (12 marijuana plants and three ounces of marijuana leaves or flowers); 3) if, while under the influence of marijuana, the person drives or operates a motor vehicle or operates heavy machinery or engages in any other conduct that endangers the health or well being of another person; and 4) if the person smokes marijuana at certain places including on a school bus or on public transit, at his or her place of employment, or on school premises.

The bill requires DHS to establish a registry for persons who use marijuana for medical use. Under the bill, a person may apply for a registry identification card by submitting to DHS a signed application, a written certification, and a registration fee of not more than \$150. DHS must verify the information and issue the person a registry identification card. A registry identification card is generally valid for ~~one~~ ^{two} year and may be renewed. DHS may not disclose that it has issued to a person a registry identification card, or information from an application for one, except to a law enforcement agency for the purpose of verifying that a person possesses a valid registry identification card. This bill also requires DHS to promulgate a rule listing other jurisdictions that allow the medical use of marijuana by a visiting person or allow a person to assist with a person's medical use of marijuana. This bill treats documents issued by these entities the same as registry identification cards issued by DHS.

The bill requires DHS to license and regulate nonprofit corporations, known as compassion centers, that distribute or deliver marijuana or drug paraphernalia or possess or manufacture marijuana or drug paraphernalia with the intent to deliver or distribute to facilitate the medical use of marijuana. This bill prohibits compassion centers from being located within 500 feet of a school, prohibits a compassion center from distributing to a person more than a maximum authorized

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amount of marijuana, and prohibits an organization from possessing a quantity that exceeds, by an amount determined by DHS, the total maximum authorized amount of marijuana of all of the persons it serves. An applicant for a license must pay an initial application fee of \$250, and a compassion center must pay an annual fee of \$5,000. ^(INJURY A)

This bill changes state law regarding marijuana. It does not affect federal law, which generally prohibits persons from manufacturing, delivering, or possessing marijuana and applies to both intrastate and interstate violations.

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.

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.** 20.435 (1) (gq) of the statutes is created to read:

2 20.435 (1) (gq) *Medical marijuana registry*. All moneys received as fees under
3 s. 146.44 (2) (a) 4., for the purposes of the Medical Marijuana Registry Program under
4 s. 146.44.

5 **SECTION 2.** 20.435 (1) (jm) of the statutes is created to read:

6 20.435 (1) (jm) *Licensing and support services for compassion centers*. All
7 moneys received under s. 50.64 to regulate and license compassion centers under
8 subch. V of ch. 50.

9 **SECTION 3.** 20.435 (6) (jm) of the statutes is amended to read:

10 20.435 (6) (jm) *Licensing and support services*. The amounts in the schedule
11 for the purposes specified in ss. 48.685 (2) (am) and (b) 1., (3) (a), (am), (b), and (bm),
12 and (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.065 (2) (am) and (b) 1., (3) (a) and (b), and
13 (5), 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.981, and
14 146.40 (4r) (b) and (er), and subch. ~~IV~~ VI of ch. 50 and to conduct health facilities plan

^ and to register
laboratories ^

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1 and rule development activities, for accrediting nursing homes, convalescent homes,
 2 and homes for the aged, to conduct capital construction and remodeling plan reviews
 3 under ss. 50.02 (2) (b) and 50.36 (2), and for the costs of inspecting, licensing or
 4 certifying, and approving facilities, issuing permits, and providing technical
 5 assistance, that are not specified under any other paragraph in this subsection. All
 6 moneys received under ss. 48.685 (8), 49.45 (42) (c), 49.45 (47) (c), 50.02 (2), 50.025,
 7 50.065 (8), 50.13, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.93 (1) (c), and
 8 50.981, all moneys received from fees for the costs of inspecting, licensing or
 9 certifying, and approving facilities, issuing permits, and providing technical
 10 assistance, that are not specified under any other paragraph in this subsection, and
 11 all moneys received under s. 50.135 (2) shall be credited to this appropriation
 12 account.

13 **SECTION 4.** 50.56 (3) of the statutes is amended to read:

14 50.56 (3) Notwithstanding sub. (2), insofar as a conflict exists between this
 15 subchapter, or the rules promulgated under this subchapter, and subch. I, II or ~~IV~~
 16 VI, or the rules promulgated under subch. I, II or ~~IV~~ VI, the provisions of this
 17 subchapter and the rules promulgated under this subchapter control.

18 **SECTION 5.** Subchapter IV of chapter 50 [precedes 50.90] of the statutes is
 19 renumbered subchapter VI of chapter 50.

20 **SECTION 6.** Subchapter V of chapter 50 [precedes 50.60] of the statutes is
 21 created to read:

CHAPTER 50

SUBCHAPTER V

DISTRIBUTION ^{AND TESTING} CENTERS

22
 23
 24
 25 **50.60 Definitions.** In this subchapter:

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1 (1) "Compassion center" means a licensed organization that grows and
2 distributes marijuana for the medical use of tetrahydrocannabinols.

3 (2) "Maximum authorized amount" has the meaning given in s. 961.01 (14c).

4 (3) "Medical use of tetrahydrocannabinols" has the meaning given in s. 961.01
5 (14g).

6 (4) "Qualifying patient" has the meaning given in s. 961.01 (20hm).

7 (5) "Registry identification card" has the meaning given in s. 146.44 (1) (g).

8 (6) "Treatment team" has the meaning given in s. 961.01 (20t).

9 (7) "Usable marijuana" has the meaning given in s. 961.01 (21f).

10 (8) "Written certification" has the meaning given in s. 961.01 (21t).

11 **50.61 Departmental powers and duties.** The department shall provide
12 licensing, regulation, record keeping, and security for compassion centers.

13 **50.62 Licensing.** The department shall issue licenses to operate as a
14 compassion center and shall decide which and how many applicants for a license
15 receive a license based on all of the following:

16 (1) Convenience to treatment teams and the preferences of treatment teams.

17 (2) The ability of an applicant to provide to treatment teams a sufficient
18 amount of medical marijuana for the medical use of tetrahydrocannabinols.

19 (3) The experience the applicant has running a nonprofit organization or a
20 business.

21 (4) The preferences of the governing bodies with jurisdiction over the area in
22 which the applicants are located.

23 (5) The ability of the applicant to keep records confidential and maintain a safe
24 and secure facility.

25 (6) The ability of the applicant to abide by the prohibitions under s. 50.63.

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1 **50.63 Prohibitions.** The department may not issue a license to, and must
2 revoke a license of, any organization to which any of the following applies:

3 (1) The organization does not qualify as a nonprofit organization, as defined
4 in s. 108.02 (19).

5 (2) The organization is located within 500 feet of a public or private elementary
6 or secondary school, including a charter school.

7 (3) The compassion center distributes to a treatment team a number of plants
8 or an amount of ounces of usable marijuana that, in the period of distribution, results
9 in the treatment team possessing more than the maximum authorized amount.

10 (4) The compassion center possesses a number of plants or an amount of ounces
11 of usable marijuana that exceeds the combined maximum authorized amount for all
12 of the treatment teams that use the organization by a number or an amount
13 determined by the department by rule to be unacceptable.

14 **50.64 Licensing procedure.** (1) The application for a license shall:

15 (a) Be in writing on a form provided by the department.

16 (b) Include the licensing application fee under sub. (2) (a).

17 (2) (a) A licensing application fee is \$250.

18 (b) The annual fee for a compassion center is \$5,000.

19 (3) A compassion center license is valid until revoked. Each license shall be
20 issued only for the applicant named in the application and may not be transferred
21 or assigned.

22 **50.65 Distribution of medical marijuana.** (1) A compassion center may
23 deliver or distribute tetrahydrocannabinols or drug paraphernalia to a member of a
24 treatment team if the compassion center receives a copy of the qualifying patient's
25 written certification or registry identification card.

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1 (2) A compassion center may possess or manufacture tetrahydrocannabinols
2 or drug paraphernalia with the intent to deliver or distribute under sub. (1).

3 (3) A compassion center may have 2 locations, one for cultivation and one for
4 distribution.

5 **SECTION 7.** 59.54 (25) of the statutes is renumbered 59.54 (25) (a) and amended
6 to read:

7 59.54 (25) (a) The board may enact and enforce an ordinance to prohibit the
8 possession of 25 grams or less of marijuana, as defined in s. 961.01 (14), subject to
9 par. (b) and the exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a
10 violation of the ordinance; except that any person who is charged with possession of
11 more than 25 grams of marijuana, or who is charged with possession of any amount
12 of marijuana following a conviction for possession of marijuana, in this state shall
13 not be prosecuted under this subsection. Any ordinance enacted under this
14 paragraph shall provide a person who is prosecuted under it with the defenses that
15 the person has under s. 961.436 to prosecutions under s. 961.41 (1) (h), (1m) (h), or
16 (3g) (e).

17 (b) 1. Any ordinance enacted under ~~this subsection~~ par. (a) applies in every
18 municipality within the county.

19 **SECTION 8.** 59.54 (25) (b) 2. of the statutes is created to read:

20 59.54 (25) (b) 2. A person may not be prosecuted under an ordinance enacted
21 under par. (a) if, under s. 968.072 (2) or (4) (b), the person would not be subject to
22 prosecution under s. 961.41 (3g) (e).

23 **SECTION 9.** 59.54 (25) (b) 3. of the statutes is created to read:

24 59.54 (25) (b) 3. No person who is charged with possession of more than 25
25 grams of marijuana, or who is charged with possession of any amount of marijuana

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1 following a conviction for possession of marijuana, in this state may be prosecuted
2 under an ordinance enacted under par. (a).

3 **SECTION 10.** 59.54 (25m) of the statutes is amended to read:

4 59.54 (25m) DRUG PARAPHERNALIA. The board may enact an ordinance to
5 prohibit conduct that is the same as that prohibited by s. 961.573 (1) or (2), 961.574
6 (1) or (2), or 961.575 (1) or (2) and provide a forfeiture for violation of the ordinance.
7 Any ordinance enacted under this subsection shall provide a person prosecuted
8 under it with the defenses that the person has under s. 961.5755 to prosecutions
9 under s. 961.573 (1), 961.574 (1), or 961.575 (1). A person may not be prosecuted
10 under an ordinance enacted under this subsection if, under s. 968.072 (3) or (4) (b),
11 the person would not be subject to prosecution under s. 961.573 (1), 961.574 (1), or
12 961.575 (1). The board may enforce an ordinance enacted under this subsection in
13 any municipality within the county.

14 **SECTION 11.** 66.0107 (1) (bm) of the statutes is amended to read:

15 66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of
16 25 grams or less of marijuana, as defined in s. 961.01 (14), subject to this paragraph
17 and the exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation
18 of the ordinance; ~~except that any.~~ Any ordinance enacted under this paragraph shall
19 provide a person prosecuted under it with the defenses that the person has under s.
20 961.436 to prosecutions under s. 961.41 (1) (h), (1m) (h), or (3g) (e). A person may not
21 be prosecuted under an ordinance enacted under this paragraph if, under s. 968.072
22 (2) or (4) (b), the person would not be subject to prosecution under s. 961.41 (3g) (e).
23 No person who is charged with possession of more than 25 grams of marijuana, or
24 who is charged with possession of any amount of marijuana following a conviction

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1 for possession of marijuana, in this state ~~shall not~~ may be prosecuted under this
2 paragraph.

3 **SECTION 12.** 66.0107 (1) (bp) of the statutes is amended to read:

4 66.0107 (1) (bp) Enact and enforce an ordinance to prohibit conduct that is the
5 same as that prohibited by s. 961.573 (1) or (2), 961.574 (1) or (2), or 961.575 (1) or
6 (2) and provide a forfeiture for violation of the ordinance. Any ordinance enacted
7 under this paragraph shall provide a person prosecuted under it with the defenses
8 that the person has under s. 961.5755 to prosecutions under s. 961.573 (1), 961.574
9 (1), or 961.575 (1). A person may not be prosecuted under an ordinance enacted
10 under this paragraph if, under s. 968.072 (3) or (4) (b), the person would not be subject
11 to prosecution under s. 961.573 (1), 961.574 (1), or 961.575 (1).

12 **SECTION 13.** 146.40 (1) (bo) of the statutes is amended to read:

13 146.40 (1) (bo) "Hospice" means a hospice that is licensed under subch. IV VI
14 of ch. 50.

15 **SECTION 14.** 146.44 of the statutes is created to read:

16 **146.44 Medical Marijuana Registry Program.** (1) DEFINITIONS. In this
17 section:

18 (a) "Applicant" means a person who is applying for a registry identification card
19 under sub. (2) (a).

20 (b) "Debilitating medical condition or treatment" has the meaning given in s.
21 961.01 (5m).

22 (c) "Medical use of tetrahydrocannabinols" has the meaning given in s. 961.01
23 (14g).

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1 (cm) "Out-of-state registry identification card" means a document issued by
2 an entity listed in the rule promulgated under sub. (7) (f) that identifies the person
3 as a qualifying patient or primary caregiver, or an equivalent designation.

4 (d) "Primary caregiver" has the meaning given in s. 961.01 (19m).

5 (e) "Qualifying patient" has the meaning given in s. 961.01 (20hm).

6 (f) "Registrant" means a person to whom a registry identification card is issued
7 under sub. (4).

8 (g) "Registry identification card" means a document issued by the department
9 under this section that identifies a person as a qualifying patient or primary
10 caregiver.

11 (h) "Written certification" has the meaning given in s. 961.01 (21t).

12 (2) APPLICATION. (a) An adult who is claiming to be a qualifying patient may
13 apply for a registry identification card by submitting to the department a signed
14 application form containing or accompanied by all of the following:

15 1. His or her name, address, and date of birth.

16 2. A written certification.

17 3. The name, address, and telephone number of the person's current physician,
18 as listed in the written certification.

19 4. A registration fee in an amount determined by the department, but not to
20 exceed \$150.

21 (b) An adult registrant who is a qualifying patient or an applicant may jointly
22 apply with another adult to the department for a registry identification card for the
23 other adult, designating the other adult as a primary caregiver for the registrant or
24 applicant. Both persons who jointly apply for a registry identification card under this

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1 paragraph shall sign the application form, which shall contain the name, address,
2 and date of birth of the individual applying to be registered as a primary caregiver.

3 (c) The department shall promulgate rules specifying how a parent, guardian,
4 or person having legal custody of a child may apply for a registry identification card
5 for himself or herself and for the child and the circumstances under which the
6 department may approve or deny the application.

7 (3) PROCESSING THE APPLICATION. The department shall verify the information
8 contained in or accompanying an application submitted under sub. (2) and shall
9 approve or deny the application within 30 days after receiving it. Except as provided
10 in sub. (2) (c), the department may deny an application submitted under sub. (2) only
11 if the required information has not been provided or if false information has been
12 provided.

13 (4) ISSUING A REGISTRY IDENTIFICATION CARD. The department shall issue to the
14 applicant a registry identification card within 5 days after approving an application
15 under sub. (3). Unless voided under sub. (5) (b) or (c) or revoked under rules issued
16 by the department under sub. (7) (d), a registry identification card shall expire ² ~~one~~
17 ^{two years} ~~year~~ from the date of issuance. A registry identification card shall contain all of the
18 following:

19 (a) The name, address, and date of birth of all of the following:

- 20 1. The registrant.
21 2. Each primary caregiver, if the registrant is a qualifying patient.
22 3. The qualifying patient, if the registrant is a primary caregiver.

23 (b) The date of issuance and expiration date of the registry identification card.

24 (c) A photograph of the registrant.

25 (d) Other information the department may require by rule.

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1 **(5) ADDITIONAL INFORMATION TO BE PROVIDED BY REGISTRANT.** (a) 1. An adult
2 registrant shall notify the department of any change in the registrant's name and
3 address. An adult registrant who is a qualifying patient shall notify the department
4 of any change in his or her physician, of any significant improvement in his or her
5 health as it relates to his or her debilitating medical condition or treatment, and if
6 a registered primary caregiver no longer assists the registrant with the medical use
7 of tetrahydrocannabinols.

8 2. If a qualifying patient is a child, a primary caregiver for the child shall
9 provide the department with any information that the child, if he or she were an
10 adult, would have to provide under subd. 1. within 10 days after the date of the
11 change to which the information relates.

12 (b) If a registrant fails to notify the department within 10 days after any change
13 for which notification is required under par. (a) 1., his or her registry identification
14 card is void. If a registrant fails to comply with par. (a) 2., the registry identification
15 card for the qualifying patient to whom the information under par. (a) 2. relates is
16 void.

17 (c) If a qualifying patient's registry identification card becomes void under par.
18 (b), the registry identification card for each of the qualifying patient's primary
19 caregivers is void. The department shall send written notice of this fact to each such
20 primary caregiver.

21 **(6) RECORDS.** (a) The department shall maintain a list of all registrants.

22 (b) Notwithstanding s. 19.35 and except as provided in par. (c), the department
23 may not disclose information from an application submitted or a registry
24 identification card issued under this section.

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1 (c) The department may disclose to state or local law enforcement agencies
2 information from an application submitted by, or from a registry identification card
3 issued to, a specific person under this section, for the purpose of verifying that the
4 person possesses a valid registry identification card.

5 (7) RULES. The department shall promulgate rules to implement this section,
6 including the rules required under sub. (2) (c) and rules doing all of the following:

7 (a) Creating forms for applications to be used under sub. (2).

8 (b) Specifying how the department will verify the truthfulness of information
9 submitted on an application under sub. (2).

10 (c) Specifying how and under what circumstances registry identification cards
11 may be renewed.

12 (d) Specifying how and under what changed circumstances a registry
13 identification card may be revoked.

14 (e) Specifying under what circumstances an applicant whose application is
15 denied may reapply.

16 (f) Listing each state, district, commonwealth, territory, or insular possession
17 thereof that, by issuing an out-of-state registry identification card, allows the
18 medical use of marijuana by a visiting qualifying patient or allows a person to assist
19 with a visiting qualifying patient's medical use of marijuana.

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20 **SECTION 15.** 146.81 (1) (L) of the statutes is amended to read:

21 146.81 (1) (L) A hospice licensed under subch. IV VI of ch. 50.

22 **SECTION 16.** 146.997 (1) (d) 18. of the statutes is amended to read:

23 146.997 (1) (d) 18. A hospice licensed under subch. IV VI of ch. 50.

24 **SECTION 17.** 149.14 (3) (nm) of the statutes is amended to read:

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1 149.14 (3) (nm) Hospice care provided by a hospice licensed under subch. IV
2 VI of ch. 50.

3 **SECTION 18.** 173.12 (1m) of the statutes is amended to read:

4 173.12 (1m) If an animal has been seized because it is alleged that the animal
5 has been used in or constitutes evidence of any crime specified in s. 951.08, the
6 animal may not be returned to the owner by an officer under s. 968.20 (2). In any
7 hearing under s. 968.20 (1) (1f), the court shall determine if the animal is needed as
8 evidence or there is reason to believe that the animal has participated in or been
9 trained for fighting. If the court makes such a finding, the animal shall be retained
10 in custody.

11 **SECTION 19.** 289.33 (3) (d) of the statutes is amended to read:

12 289.33 (3) (d) "Local approval" includes any requirement for a permit, license,
13 authorization, approval, variance or exception or any restriction, condition of
14 approval or other restriction, regulation, requirement or prohibition imposed by a
15 charter ordinance, general ordinance, zoning ordinance, resolution or regulation by
16 a town, city, village, county or special purpose district, including without limitation
17 because of enumeration any ordinance, resolution or regulation adopted under s.
18 91.73, 2007 stats., s. 59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2),
19 (5), (6), (7), (8), (9), (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24),
20 (25), (26) and (27), 59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19),
21 (20) and (23), 59.535 (2), (3) and (4), 59.54 (1), (2), (3), (4), (4m), (5), (6), (7), (8), (10),
22 (11), (12), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25) (a), and (26), 59.55 (3),
23 (4), (5) and (6), 59.56 (1), (2), (4), (5), (6), (7), (9), (10), (11), (12), (12m), (13) and (16),
24 59.57 (1), 59.58 (1) and (5), 59.62, 59.69, 59.692, 59.693, 59.696, 59.697, 59.698, 59.70
25 (1), (2), (3), (5), (7), (8), (9), (10), (11), (21), (22) and (23), 59.79 (1), (2), (3), (5), (6), (7),

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1 (8), (10) and (11), 59.792 (2) and (3), 59.80, 59.82, 60.10, 60.22, 60.23, 60.54, 60.77,
2 61.34, 61.35, 61.351, 61.354, 62.11, 62.23, 62.231, 62.234, 66.0101, 66.0415, 87.30,
3 196.58, 200.11 (8), 236.45, 281.43 or 349.16, subch. VIII of ch. 60, or subch. III of ch.
4 91.

5 **SECTION 20.** 349.02 (2) (b) 4. of the statutes is amended to read:

6 349.02 (2) (b) 4. Local ordinances enacted under s. 59.54 (25) (a) or (25m) or
7 66.0107 (1) (bm).

8 **SECTION 21.** 767.41 (5) (am) (intro.) of the statutes is amended to read:

9 767.41 (5) (am) (intro.) Subject to pars. (bm) ~~and~~, (c), and (d), in determining
10 legal custody and periods of physical placement, the court shall consider all facts
11 relevant to the best interest of the child. The court may not prefer one parent or
12 potential custodian over the other on the basis of the sex or race of the parent or
13 potential custodian. Subject to pars. (bm) ~~and~~, (c), and (d), the court shall consider
14 the following factors in making its determination:

15 **SECTION 22.** 767.41 (5) (d) of the statutes is created to read:

16 767.41 (5) (d) The court may not consider as a factor in determining the legal
17 custody of a child whether a parent or potential custodian holds, or has applied for,
18 a registry identification card, as defined in s. 146.44 (1) (g), is or has been the subject
19 of a written certification, as defined in s. 961.01 (21t), or is or has been a qualified
20 patient, as defined in s. 961.01 (20hm), or a primary caregiver, as defined in s. 961.01
21 (19m), unless the parent or potential custodian's behavior creates an unreasonable
22 danger to the child that can be clearly articulated and substantiated.

23 **SECTION 23.** 767.451 (5m) (a) (intro.) of the statutes is amended to read:

24 767.451 (5m) (a) (intro.) Subject to pars. (b) ~~and~~, (c), and (d), in all actions to
25 modify legal custody or physical placement orders, the court shall consider the

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1 factors under s. 767.41 (5) (am), subject to s. 767.41 (5) (bm), and shall make its
2 determination in a manner consistent with s. 767.41.

3 **SECTION 24.** 767.451 (5m) (d) of the statutes is created to read:

4 767.451 (5m) (d) In an action to modify a legal custody order, the court may not
5 consider as a factor in making a determination whether a parent or potential
6 custodian holds, or has applied for, a registry identification card, as defined in s.
7 146.44 (1) (g), is or has been the subject of a written certification, as defined in s.
8 961.01 (21t), or is or has been a qualified patient, as defined in s. 961.01 (20hm), or
9 a primary caregiver, as defined in s. 961.01 (19m), unless the parent or potential
10 custodian's behavior creates an unreasonable danger to the child that can be clearly
11 articulated and substantiated.

12 **SECTION 25.** 961.01 (5m) of the statutes is created to read:

13 961.01 (5m) "Debilitating medical condition or treatment" means any of the
14 following:

15 (a) Cancer, glaucoma, acquired immunodeficiency syndrome, a positive test for
16 the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV,
17 Crohn's disease, a hepatitis C virus infection, Alzheimer's disease, amyotrophic
18 lateral sclerosis, nail patella syndrome, Ehlers-Danlos Syndrome, post-traumatic
19 stress disorder, or the treatment of these conditions.

20 (b) A chronic or debilitating disease or medical condition or the treatment of
21 such a disease or condition that causes cachexia, severe pain, severe nausea,
22 seizures, including those characteristic of epilepsy, or severe and persistent muscle
23 spasms, including those characteristic of multiple sclerosis.

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1 (c) Any other medical condition or any other treatment for a medical condition
2 designated as a debilitating medical condition or treatment in rules promulgated by
3 the department of health services under s. 961.436 (5).

4 **SECTION 26.** 961.01 (11v) of the statutes is created to read:

5 961.01 (11v) "HIV" means any strain of human immunodeficiency virus, which
6 causes acquired immunodeficiency syndrome.

7 **SECTION 27.** 961.01 (12v) of the statutes is created to read:

8 961.01 (12v) "Lockable, enclosed facility" means an enclosed ^{indoor or outdoor} area that is
9 lockable, or may use a security device, to permit access only by a member of a
10 qualifying patient's treatment team.

11 **SECTION 28.** 961.01 (14c) of the statutes is created to read:

12 961.01 (14c) "Maximum authorized amount" means 12 live marijuana plants
13 and 3 ounces of usable marijuana.

14 **SECTION 29.** 961.01 (14g) of the statutes is created to read:

15 961.01 (14g) "Medical use of tetrahydrocannabinols" means any of the
16 following:

17 (a) The use of tetrahydrocannabinols ^{in any form} by a qualifying patient to alleviate the
18 symptoms or effects of the qualifying patient's debilitating medical condition or
19 treatment.

20 (b) The acquisition, possession, cultivation, or transportation of
21 tetrahydrocannabinols ^{in any form} by a qualifying patient if done to facilitate his or her use of
22 the tetrahydrocannabinols under par. (a).

23 (c) The acquisition, possession, cultivation, or transportation of
24 tetrahydrocannabinols ^{in any form} by a primary caregiver of a qualifying patient, the transfer
25 of tetrahydrocannabinols ^{in any form} between a qualifying patient and his or her primary

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1 caregivers, or the transfer of tetrahydrocannabinols ^{many} between persons who are
2 primary caregivers for the same qualifying patient if all of the following apply:

3 1. The acquisition, possession, cultivation, transportation, or transfer of the
4 tetrahydrocannabinols is done to facilitate the qualifying patient's use of
5 tetrahydrocannabinols under par. (a) or (b).

6 2. It is not practicable for the qualifying patient to acquire, possess, cultivate,
7 or transport the tetrahydrocannabinols independently, or the qualifying patient is
8 under 18 years of age.

9 **SECTION 30.** 961.01 (17k) of the statutes is created to read:

10 961.01 (17k) "Out-of-state registry identification card" has the meaning given
11 in s. 146.44 (1) (cm).

12 **SECTION 31.** 961.01 (19m) of the statutes is created to read:

13 961.01 (19m) "Primary caregiver" means a person who is at least 18 years of
14 age and who has agreed to help a qualifying patient in his or her medical use of
15 tetrahydrocannabinols.

16 **SECTION 32.** 961.01 (20hm) of the statutes is created to read:

17 961.01 (20hm) "Qualifying patient" means a person who has been diagnosed
18 by a physician as having or undergoing a debilitating medical condition or treatment
19 but does not include a person under the age of 18 years unless all of the following
20 apply:

21 (a) The person's physician has explained the potential risks and benefits of the
22 medical use of tetrahydrocannabinols to the person and to a parent, guardian, or
23 person having legal custody of the person.

24 (b) The parent, guardian, or person having legal custody provides the physician
25 a written statement consenting to do all of the following:

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- 1 1. Allow the person’s medical use of tetrahydrocannabinols.
- 2 2. Serve as a primary caregiver for the person.
- 3 3. Manage the person’s medical use of tetrahydrocannabinols.

4 **SECTION 33.** 961.01 (20ht) of the statutes is created to read:

5 961.01 (20ht) “Registry identification card” has the meaning given in s. 146.44

6 (1) (g).

7 **SECTION 34.** 961.01 (20t) of the statutes is created to read:

8 961.01 (20t) “Treatment team” means a qualifying patient and his or her
9 primary caregivers.

10 **SECTION 35.** 961.01 (21f) of the statutes is created to read:

11 961.01 (21f) “Usable marijuana” means dried marijuana leaves or flowers but
12 does not include marijuana seeds, stalks, or roots.

13 **SECTION 36.** 961.01 (21t) of the statutes is created to read:

14 961.01 (21t) “Written certification” means a statement made by a person’s
15 physician if all of the following apply:

16 (a) The statement indicates that, in the physician’s professional opinion, the
17 person has or is undergoing a debilitating medical condition or treatment and the
18 potential benefits of the person’s use of tetrahydrocannabinols under sub. (14g) (a)
19 would likely outweigh the health risks for the person.

20 (b) The statement indicates that the opinion described in par. (a) was formed
21 after a full assessment, made in the course of a bona fide physician–patient
22 relationship, of the person’s medical history and current medical condition.

23 (c) The statement is signed by the physician or is contained in the person’s
24 medical records.

25 **SECTION 37.** 961.436 of the statutes is created to read:

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1 **961.436 Medical use defense in cases involving**

2 **tetrahydrocannabinols.** (1) A member of a qualifying patient's treatment team
3 has a defense to prosecution under s. 961.41 (1) (h) or (1m) (h) for manufacturing, or
4 possessing with intent to manufacture, tetrahydrocannabinols if all of the following
5 apply:

6 (a) The manufacture or possession is a medical use of tetrahydrocannabinols
7 by the treatment team.

8 (b) The amount of tetrahydrocannabinols does not exceed the maximum
9 authorized amount.

10 (c) Any live marijuana plants are in a lockable, enclosed facility unless a
11 member of a qualifying patient's treatment team is accessing the plants or has the
12 plants in his or her possession.

13 (d) If the member is a primary caregiver, he or she is not a primary caregiver
14 to more than 5 qualifying patients.

15 (2) A member of a qualifying patient's treatment team has a defense to
16 prosecution under s. 961.41 (1) (h) or (1m) (h) for distributing or delivering, or
17 possessing with intent to distribute or deliver, tetrahydrocannabinols to another
18 member of the treatment team if all of the following apply:

19 (a) The distribution, delivery, or possession is a medical use of
20 tetrahydrocannabinols by the treatment team.

21 (b) The amount of tetrahydrocannabinols does not exceed the maximum
22 authorized amount.

23 (c) Any live marijuana plants are in a lockable, enclosed facility unless a
24 member of a qualifying patient's treatment team is accessing the plants or has the
25 plants in his or her possession.

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1 (d) If the member is a primary caregiver, he or she is not a primary caregiver
2 to more than 5 qualifying patients.

3 (3) (a) Except as provided in par. (b), a member of a qualifying patient's
4 treatment team has a defense to a prosecution under s. 961.41 (3g) (e) if all of the
5 following apply:

6 1. The possession or attempted possession is a medical use of
7 tetrahydrocannabinols by the treatment team.

8 2. The amount of tetrahydrocannabinols does not exceed the maximum
9 authorized amount.

10 3. Any live marijuana plants are in a lockable, enclosed facility unless a
11 member of a qualifying patient's treatment team is accessing the plants or has the
12 plants in his or her possession.

13 4. If the member is a primary caregiver, he or she is not a primary caregiver
14 to more than 5 qualifying patients.

15 (b) A person may not assert the defense described in par. (a) if, while he or she
16 possesses or attempts to possess tetrahydrocannabinols, any of the following applies:

17 1. The person drives or operates a motor vehicle while under the influence of
18 tetrahydrocannabinols in violation of s. 346.63 (1) or a local ordinance in conformity
19 with s. 346.63 (1).

20 2. While under the influence of tetrahydrocannabinols, the person operates
21 heavy machinery or engages in any other conduct that endangers the health or
22 well-being of another person.

23 3. The person smokes marijuana in, on, or at any of the following places:

24 a. A school bus or a public transit vehicle.

25 b. The person's place of employment.

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- 1 c. Public or private school premises.
- 2 d. A juvenile correctional facility.
- 3 e. A jail or adult correctional facility.
- 4 f. A public park, beach, or recreation center.
- 5 g. A youth center.

6 (4) For the purposes of a defense raised under sub. (1), (2), or (3) (a), a valid
7 registry identification card, a valid out-of-state registry identification card, or a
8 written certification is presumptive evidence that the person identified on the card
9 as a qualifying patient or the subject of the written certification is a qualifying
10 patient and that, if the person uses tetrahydrocannabinols, he or she does so to
11 alleviate the symptoms or effects of his or her debilitating medical condition or
12 treatment.

13 (5) Notwithstanding s. 227.12 (1), any person may petition the department of
14 health services to promulgate a rule to designate a medical condition or treatment
15 as a debilitating medical condition or treatment. The department of health services
16 shall promulgate rules providing for public notice of and a public hearing regarding
17 any such petition, with the public hearing providing persons an opportunity to
18 comment upon the petition. After the hearing, but no later than 180 days after the
19 submission of the petition, the department of health services shall approve or deny
20 the petition. The department's decision to approve or deny a petition is subject to
21 judicial review under s. 227.52.

22 **SECTION 38.** 961.55 (8) of the statutes is renumbered 961.55 (8) (intro.) and
23 amended to read:

24 961.55 (8) (intro.) The failure, upon demand by any officer or employee
25 designated in s. 961.51 (1) or (2), of the person in occupancy or in control of land or

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1 premises upon which the species of plants are growing or being stored, to produce an
2 any of the following constitutes authority for the seizure and forfeiture of the plants:

3 (a) An appropriate federal registration, or proof that the person is the holder
4 thereof, ~~constitutes authority for the seizure and forfeiture of the plants.~~

5 **SECTION 39.** 961.55 (8) (b) of the statutes is created to read:

6 961.55 (8) (b) A valid registry identification card or a valid out-of-state
7 registry identification card.

8 **SECTION 40.** 961.55 (8) (c) of the statutes is created to read:

9 961.55 (8) (c) The person's written certification, if the person is a qualifying
10 patient.

11 **SECTION 41.** 961.55 (8) (d) of the statutes is created to read:

12 961.55 (8) (d) A written certification for a qualifying patient for whom the
13 person is a primary caregiver.

14 **SECTION 42.** 961.555 (2) (a) of the statutes is amended to read:

15 961.555 (2) (a) ~~The Except as provided in par. (e), the district attorney of the~~
16 ~~county within which the property was seized shall commence the forfeiture action~~
17 ~~within 30 days after the seizure of the property, except that the defendant may~~
18 ~~request that the forfeiture proceedings be adjourned until after adjudication of any~~
19 ~~charge concerning a crime which was the basis for the seizure of the property. The~~
20 ~~request shall be granted.~~ The forfeiture action shall be commenced by filing a
21 summons, complaint and affidavit of the person who seized the property with the
22 clerk of circuit court, provided service of authenticated copies of those papers is made
23 in accordance with ch. 801 within 90 days after filing upon the person from whom
24 the property was seized and upon any person known to have a bona fide perfected
25 security interest in the property.

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1 **SECTION 43.** 961.555 (2) (e) of the statutes is created to read:

2 961.555 (2) (e) The court shall adjourn forfeiture proceedings until after
3 adjudication of any charge concerning a crime that was the basis for the seizure of
4 the property if any of the following applies:

5 1. The defendant requests an adjournment.

6 2. The defendant invokes a defense to the crime under s. 961.436 or 961.5755.

7 **SECTION 44.** 961.555 (2m) of the statutes is created to read:

8 961.555 (2m) MEDICAL USE DEFENSE. (a) In an action to forfeit property seized
9 under s. 961.55, the person who was in possession of the property when it was seized
10 has a defense to the forfeiture of the property if any of the following applies:

11 1. The person was prosecuted under s. 961.41 (1) (h), (1m) (h), or (3g) (e),
12 961.573 (1), 961.574 (1), or 961.575 (1) in connection with the seized property but had
13 a valid defense under s. 961.436 (1), (2), or (3) (a) or 961.5755 (1) (a) or (2).

14 2. The person was not prosecuted under s. 961.41 (1) (h), (1m) (h), or (3g) (e),
15 961.573 (1), 961.574 (1), or 961.575 (1) in connection with the seized property, but,
16 if the person had been, he or she would have had a valid defense under s. 961.436 (1),
17 (2), or (3) (a) or 961.5755 (1) (a) or (2).

18 (b) The owner of property seized under s. 961.55 who is raising a defense under
19 par. (a) shall do so in the answer to the complaint that he or she serves under sub.
20 (2) (b). If a property owner raises such a defense in his or her answer, the state must,
21 as part of the burden of proof specified in sub. (3), prove that the facts constituting
22 the defense do not exist.

23 **SECTION 45.** 961.56 (1) of the statutes is amended to read:

24 961.56 (1) It Except as provided in s. 961.555 (2m) (b) and except for any
25 presumption arising under s. 961.436 (4) or 961.5755 (3), it is not necessary for the

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1 state to negate any exemption or exception in this chapter in any complaint,
2 information, indictment or other pleading or in any trial, hearing or other proceeding
3 under this chapter. ~~The, and the~~ burden of proof of any exemption or exception is
4 upon the person claiming it.

5 **SECTION 46.** 961.5755 of the statutes is created to read:

6 **961.5755 Medical use of marijuana defense in drug paraphernalia**
7 **cases.** (1) (a) Except as provided in par. (b), a member of a treatment team has a
8 defense to prosecution under s. 961.573 (1) if he or she uses, or possesses with the
9 primary intent to use, drug paraphernalia only for the medical use of
10 tetrahydrocannabinols by the treatment team.

11 (b) This subsection does not apply if while the person uses, or possesses with
12 the primary intent to use, drug paraphernalia s. 961.436 (3) (b) 1., 2., or 3. applies.

13 (2) A member of a treatment team has a defense to prosecution under s. 961.574
14 (1) or 961.575 (1) if he or she delivers, possesses with intent to deliver, or
15 manufactures with intent to deliver to another member of his or her treatment team
16 drug paraphernalia, knowing that it will be primarily used for the medical use of
17 tetrahydrocannabinols by the treatment team.

18 (3) For the purposes of a defense raised under sub. (1) (a) or (2), a valid registry
19 identification card, a valid out-of-state registry identification card, or a written
20 certification is presumptive evidence that the person identified on the valid registry
21 identification card or valid out-of-state registry identification card as a qualifying
22 patient or the subject of the written certification is a qualifying patient and that, if
23 the person uses tetrahydrocannabinols, he or she does so to alleviate the symptoms
24 or effects of his or her debilitating medical condition or treatment.

25 **SECTION 47.** 968.072 of the statutes is created to read:

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968.072 Medical use of marijuana; arrest and prosecution. (1)

DEFINITIONS. In this section:

(a) “Lockable, enclosed facility” has the meaning given in s. 961.01 (12v).

(am) “Maximum authorized amount” has the meaning given in s. 961.01 (14c).

(b) “Medical use of tetrahydrocannabinols” has the meaning given in s. 961.01 (14g).

(bm) “Out-of-state registry identification card” has the meaning given in s. 146.44 (1) (cm).

(c) “Primary caregiver” has the meaning given in s. 961.01 (19m).

(d) “Qualifying patient” has the meaning given in s. 961.01 (20hm).

(e) “Registry identification card” has the meaning given in s. 146.44 (1) (g).

(f) “Treatment team” has the meaning given in s. 961.01 (20t).

(g) “Written certification” has the meaning given in s. 961.01 (21t).

(2) LIMITATIONS ON ARRESTS AND PROSECUTION; MEDICAL USE OF MARIJUANA. Unless s. 961.436 (3) (b) 1., 2., or 3. applies, a member of a qualifying patient’s treatment team may not be arrested or prosecuted for a violation of s. 961.41 (1) (h), (1m) (h), or (3g) (e) if all of the following apply:

(a) The member manufactures, distributes, delivers, or possesses tetrahydrocannabinols for the medical use of tetrahydrocannabinols by the treatment team.

(b) The member possesses a valid registry identification card, a valid out-of-state registry identification card, or a copy of the qualifying patient’s written certification.

(c) The quantity of tetrahydrocannabinols does not exceed the maximum authorized amount.

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1 (d) Any live marijuana plants are in a lockable, enclosed facility unless the
2 member is accessing the plants or has the plants in his or her possession.

3 (e) If the member is a primary caregiver, he or she is not a primary caregiver
4 to more than 5 qualifying patients.

5 **(3) LIMITATIONS ON ARRESTS AND PROSECUTION; DRUG PARAPHERNALIA FOR MEDICAL**
6 **USE OF MARIJUANA.** (a) Unless s. 961.436 (3) (b) 1., 2., or 3. applies, a member of a
7 treatment team may not be arrested or prosecuted for a violation of s. 961.573 (1) if
8 all of the following apply:

9 1. The member uses, or possesses with the primary intent to use, drug
10 paraphernalia only for the medical use of tetrahydrocannabinols by the treatment
11 team.

12 2. The member possesses a valid registry identification card, a valid
13 out-of-state registry identification card, or a copy of the qualifying patient's written
14 certification.

15 3. The member does not possess more than the maximum authorized amount
16 of tetrahydrocannabinols.

17 4. Any live marijuana plants are in a lockable, enclosed facility unless the
18 member is accessing the plants or has the plants in his or her possession.

19 5. If the member is a primary caregiver, he or she is not a primary caregiver
20 to more than 5 qualifying patients.

21 (b) Unless s. 961.436 (3) (b) 1., 2., or 3. applies, a member of a treatment team
22 may not be arrested or prosecuted for a violation of s. 961.574 (1) or 961.575 (1) if all
23 of the following apply:

24 1. The member delivers, possesses with intent to deliver, or manufactures with
25 intent to deliver to another member of his or her treatment team drug paraphernalia,

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1 knowing that it will be primarily used for the medical use of tetrahydrocannabinols
2 by the treatment team.

3 2. The member possesses a valid registry identification card, a valid
4 out-of-state registry identification card, or a copy of the qualifying patient's written
5 certification.

6 3. The member does not possess more than the maximum authorized amount
7 of tetrahydrocannabinols.

8 4. Any live marijuana plants are in a lockable, enclosed facility unless the
9 member is accessing the plants or has the plants in his or her possession.

10 5. If the member is a primary caregiver, he or she is not a primary caregiver
11 to more than 5 qualifying patients.

12 (4) LIMITATIONS ON ARRESTS, PROSECUTION, AND OTHER SANCTIONS. (a) A physician
13 may not be arrested and a physician, hospital, or clinic may not be subject to
14 prosecution, denied any right or privilege, or penalized in any manner for making or
15 providing a written certification in good faith.

16 (b) An employee of a compassion center licensed under subch. V of ch. 50 may
17 not be arrested and such employee or compassion center licensed under subch. V of
18 ch. 50 may not be subject to prosecution, denied any right or privilege, or penalized
19 in any manner for any good faith action under subch. V of ch. 50.

20 (5) PENALTY FOR FALSE STATEMENTS. Whoever intentionally provides false
21 information to a law enforcement officer in an attempt to avoid arrest or prosecution
22 under this section for a violation of s. 961.41 (1) (h), (1m) (h), or (3g) (e), 961.573 (1),
23 961.574 (1), or 961.575 (1) may be fined not more than \$500.

24 **SECTION 48.** 968.12 (5) of the statutes is created to read:

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1 968.12 (5) MEDICAL USE OF MARIJUANA. A person's possession, use, or submission
2 of or connection with an application for a registry identification card under s. 146.44
3 (2), the issuance of such a card under s. 146.44 (4), or a person's possession of such
4 a card, a valid out-of-state registry identification card, as defined in s. 146.44 (1)
5 (cm), or an original or a copy of a written certification, as defined in s. 961.01 (21t),
6 may not, by itself, constitute probable cause under sub. (1) or otherwise subject any
7 person or the property of any person to inspection by any governmental agency.

8 **SECTION 49.** 968.19 of the statutes is renumbered 968.19 (1) and amended to
9 read:

10 968.19 (1) Property Except as provided in sub. (2), property seized under a
11 search warrant or validly seized without a warrant shall be safely kept by the officer,
12 who may leave it in the custody of the sheriff and take a receipt therefor, so long as
13 necessary for the purpose of being produced as evidence on any trial.

14 **SECTION 50.** 968.19 (2) of the statutes is created to read:

15 968.19 (2) A law enforcement agency that has seized a live marijuana plant is
16 not responsible for the plant's care and maintenance.

17 **SECTION 51.** 968.20 (1) of the statutes is renumbered 968.20 (1f), and 968.20
18 (1f) (intro.), as renumbered, is amended to read:

19 968.20 (1f) (intro.) Any person claiming the right to possession of property
20 seized pursuant to a search warrant or seized without a search warrant may apply
21 for its return to the circuit court for the county in which the property was seized or
22 where the search warrant was returned. The court shall order such notice as it
23 deems adequate to be given the district attorney and all persons who have or may
24 have an interest in the property and shall hold a hearing to hear all claims to its true
25 ownership. If Except as provided in sub. (1j), if the right to possession is proved to

BILL**SECTION 51**

1 the court's satisfaction, it shall order the property, ~~other than contraband or property~~
2 ~~covered under sub. (1m) or (1r) or s. 173.12, 173.21 (4), or 968.205~~, returned if:

3 **SECTION 52.** 968.20 (1d) of the statutes is created to read:

4 968.20 (1d) In this section:

5 (a) "Drug paraphernalia" has the meaning given in s. 961.571 (1) (a).

6 (b) "Tetrahydrocannabinols" means a substance included in s. 961.14 (4) (t).

7 **SECTION 53.** 968.20 (1j) of the statutes is created to read:

8 968.20 (1j) (a) Except as provided in par. (b), sub. (1f) does not apply to
9 contraband or property covered under sub. (1m) or (1r) or s. 173.12, 173.21 (4), or
10 968.205.

11 (b) Under sub. (1f), the court may return drug paraphernalia or
12 tetrahydrocannabinols that have been seized to the person from whom they were
13 seized if any of the following applies:

14 1. The person was prosecuted under s. 961.41 (1) (h), (1m) (h), or (3g) (e),
15 961.573 (1), 961.574 (1), or 961.575 (1) in connection with the seized property but had
16 a valid defense under s. 961.436 (1), (2), or (3) (a) or 961.5755 (1) (a) or (2).

17 2. The person was not prosecuted under s. 961.41 (1) (h), (1m) (h), or (3g) (e),
18 961.573 (1), 961.574 (1), or 961.575 (1) in connection with the seized property, but,
19 if the person had been, he or she would have had a valid defense under s. 961.436 (1),
20 (2), or (3) (a) or 961.5755 (1) (a) or (2).

21 **SECTION 54.** 968.20 (3) (a) and (b) of the statutes are amended to read:

22 968.20 (3) (a) First class cities shall dispose of dangerous weapons or
23 ammunition seized 12 months after taking possession of them if the owner,
24 authorized under sub. (1m), has not requested their return and if the dangerous
25 weapon or ammunition is not required for evidence or use in further investigation

BILL

1 and has not been disposed of pursuant to a court order at the completion of a criminal
2 action or proceeding. Disposition procedures shall be established by ordinance or
3 resolution and may include provisions authorizing an attempt to return to the
4 rightful owner any dangerous weapons or ammunition which appear to be stolen or
5 are reported stolen. If enacted, any such provision shall include a presumption that
6 if the dangerous weapons or ammunition appear to be or are reported stolen an
7 attempt will be made to return the dangerous weapons or ammunition to the
8 authorized rightful owner. If the return of a seized dangerous weapon other than a
9 firearm is not requested by its rightful owner under sub. ~~(1)~~ (1f) and is not returned
10 by the officer under sub. (2), the city shall safely dispose of the dangerous weapon or,
11 if the dangerous weapon is a motor vehicle, as defined in s. 340.01 (35), sell the motor
12 vehicle following the procedure under s. 973.075 (4) or authorize a law enforcement
13 agency to retain and use the motor vehicle. If the return of a seized firearm or
14 ammunition is not requested by its authorized rightful owner under sub. ~~(1)~~ (1f) and
15 is not returned by the officer under sub. (2), the seized firearm or ammunition shall
16 be shipped to and become property of the state crime laboratories. A person
17 designated by the department of justice may destroy any material for which the
18 laboratory has no use or arrange for the exchange of material with other public
19 agencies. In lieu of destruction, shoulder weapons for which the laboratories have
20 no use shall be turned over to the department of natural resources for sale and
21 distribution of proceeds under s. 29.934 or for use under s. 29.938.

22 (b) Except as provided in par. (a) or sub. (1m) or (4), a city, village, town or
23 county or other custodian of a seized dangerous weapon or ammunition, if the
24 dangerous weapon or ammunition is not required for evidence or use in further
25 investigation and has not been disposed of pursuant to a court order at the

BILL

1 completion of a criminal action or proceeding, shall make reasonable efforts to notify
2 all persons who have or may have an authorized rightful interest in the dangerous
3 weapon or ammunition of the application requirements under sub. ~~(1)~~ (1f). If, within
4 30 days after the notice, an application under sub. ~~(1)~~ (1f) is not made and the seized
5 dangerous weapon or ammunition is not returned by the officer under sub. (2), the
6 city, village, town or county or other custodian may retain the dangerous weapon or
7 ammunition and authorize its use by a law enforcement agency, except that a
8 dangerous weapon used in the commission of a homicide or a handgun, as defined
9 in s. 175.35 (1) (b), may not be retained. If a dangerous weapon other than a firearm
10 is not so retained, the city, village, town or county or other custodian shall safely
11 dispose of the dangerous weapon or, if the dangerous weapon is a motor vehicle, as
12 defined in s. 340.01 (35), sell the motor vehicle following the procedure under s.
13 973.075 (4). If a firearm or ammunition is not so retained, the city, village, town or
14 county or other custodian shall ship it to the state crime laboratories and it is then
15 the property of the laboratories. A person designated by the department of justice
16 may destroy any material for which the laboratories have no use or arrange for the
17 exchange of material with other public agencies. In lieu of destruction, shoulder
18 weapons for which the laboratory has no use shall be turned over to the department
19 of natural resources for sale and distribution of proceeds under s. 29.934 or for use
20 under s. 29.938.

21 **SECTION 55. Effective dates.** This act takes effect on the day after publication,
22 except as follows:

23 (1) The treatment of section 146.44 and subchapter V of chapter 50 of the
24 statutes takes effect on the first day of the 6th month beginning after publication.

25 (END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1794/plins
CMH:.....

1 Insert A (no paragraph)

This bill also requires DHS to register entities as tetrahydrocannabinols-testing laboratories. The laboratories must test marijuana for contaminants; research findings on the use of medical marijuana; and provide training on safe and efficient cultivation, harvesting, packaging, labeling, and distribution of marijuana; security and inventory accountability; and research on medical marijuana.

This bill also prohibits a town, village, city, or county from prohibiting a person who is allowed to cultivate marijuana under this bill from cultivating the marijuana outdoors.

2

3 Insert 7-5

4 (4) A compassion center shall have all tetrahydrocannabinols tested for mold,
5 fungus, pesticides, and other contaminants and may not distribute
6 tetrahydrocannabinols that test positive for mold, fungus, pesticides, or other
7 contaminants if the contaminants, or level of contaminants, are ^{identified} ~~determined~~ by the
8 testing laboratories under s. 50.66 (2) to be potentially unsafe to a qualifying
9 patient's health.

10 (5) A compassion center may cultivate marijuana outdoors.

11 **50.66 Testing laboratories.** The department shall register entities as
12 tetrahydrocannabinols-testing laboratories. The laboratories may possess or
13 manufacture ^{tetrahydrocannabinols} ~~tetrohydrocannabals~~ or drug paraphernalia and shall perform the
14 following services:

15 (1) Test marijuana produced for the medical use of tetrahydrocannabinols for
16 potency and for mold, fungus, ~~and~~ pesticides, and other contaminants.

17 (2) Research findings related to the medical use of tetrahydrocannabinols,
18 including research ^{that determines} on potentially unsafe levels of contaminants.

that identifies

1 (3) Provide training to persons who hold registry identification cards,
2 treatment teams, and persons employed by compassion centers on the following:

3 (a) The safe and efficient cultivation, harvesting, packaging, labeling, and
4 distribution of marijuana for the medical use of tetrahydrocannabinols. ✓

5 (b) Security and inventory accountability procedures. ✓

6 (c) The most recent research on the medical use of tetrahydrocannabinols. ✓

7
8 Insert 9-12

9 SECTION ~~14~~ 66.0408 of the statutes is created to read:

10 **66.0408 Cultivation of tetrahydrocannabinols.** No (city, village, town, or
11 county may enact or enforce an ordinance or a resolution that prohibits cultivating
12 tetrahydrocannabinols outdoors if the cultivation is by one of the following:

13 (1) A compassion center, as defined in s. 50.60 (1) ✓

14 (2) A person who is cultivating tetrahydrocannabinols for (a) use described ✓

15 under s. 961.01 (14g) if the amount does not exceed the maximum authorized
16 amount, as defined in s. 961.01 (14c). ✓

17
18 Insert 13-20

19 (g) Creating guidelines for issuing registry identification cards, and for
20 obtaining and distributing marijuana for the medical use of tetrahydrocannabinols,
21 to persons under the care of the department who have a debilitating medical
22 condition or treatment.

23
24 Insert 19-13

25 SECTION ~~14~~ 961.01 (21f) of the statutes is created to read:

of tetrahydrocannabinols
US OFFICE 111

1 961.01 (21f) "Usable marijuana" means marijuana leaves or flowers but does
2 not include seeds, stalks, or roots or any ingredients combined with the leaves or
3 flowers.

Parisi, Lori

From: Rep.Taylor
Sent: Monday, October 21, 2013 11:16 AM
To: LRB.Legal
Subject: Draft Review: LRB -1794/1 Topic: Medical marijuana

Please Jacket LRB -1794/1 for the ASSEMBLY.