

**2013 DRAFTING REQUEST**

**Bill**

Received: **2/13/2013** Received By: **phurley**

Wanted: **As time permits** Same as LRB:

For: **Evan Goyke (608) 266-0645** By/Representing: **Ryan Knocke**

May Contact: Drafter: **phurley**

Subject: **Criminal Law - drugs** Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Goyke@legis.wisconsin.gov**

Carbon copy (CC) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Penalties for possession of 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>       |
|--------------|----------------------|----------------------|-----------------------|----------------|--------------------|----------------------|-----------------------|
| /P1          | phurley<br>3/13/2013 | scalvin<br>3/13/2013 | rschluet<br>3/13/2013 | _____          | srose<br>3/13/2013 |                      | State<br>S&L<br>Crime |
| /1           | gmalaise<br>3/5/2014 | scalvin<br>3/14/2013 | jfrantze<br>3/14/2013 | _____          | srose<br>3/14/2013 |                      | State<br>S&L<br>Crime |
| /2           |                      | scalvin<br>3/5/2014  | jfrantze<br>3/5/2014  | _____          | srose<br>3/5/2014  | sbasford<br>3/6/2014 | State<br>S&L          |

Vers. Drafted

Reviewed

Typed

Proofed

Submitted

Jacketed

Required  
Crime

FE Sent For:

1/28/2014 12:00:00 AM,1/28/2014 12:00:00 AM,1/28/2014 12:00:00 AM

<END>

(1/1")

(1/2")

A+  
Introduction

## 2013 DRAFTING REQUEST

### Bill

Received: 2/13/2013 Received By: phurley  
Wanted: As time permits Same as LRB:  
For: Evan Goyke (608) 266-0645 By/Representing: Ryan Knocke  
May Contact: Drafter: phurley  
Subject: Criminal Law - drugs Addl. Drafters:  
Extra Copies:

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

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Penalties for possession of 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>       |
|--------------|----------------------|----------------------|-----------------------|----------------|--------------------|-----------------|-----------------------|
| /P1          | phurley<br>3/13/2013 | scalvin<br>3/13/2013 | rschluet<br>3/13/2013 | _____          | srose<br>3/13/2013 |                 | State<br>S&L<br>Crime |
| /1           | gmalaise<br>3/5/2014 | scalvin<br>3/14/2013 | jfrantze<br>3/14/2013 | _____          | srose<br>3/14/2013 |                 | State<br>S&L<br>Crime |
| /2           |                      | scalvin<br>3/5/2014  | jfrantze<br>3/5/2014  | _____          | srose<br>3/5/2014  |                 | State<br>S&L          |

Vers. Drafted      Reviewed   Typed      Proofed      Submitted      Jacketed      Required  
Crime

FE Sent For:

1/28/2014 12:00:00 AM,1/28/2014 12:00:00 AM,1/28/2014 12:00:00 AM

<END>

**2013 DRAFTING REQUEST**

**Bill**

Received: **2/13/2013** Received By: **phurley**  
 Wanted: **As time permits** Same as LRB:  
 For: **Evan Goyke (608) 266-0645** By/Representing: **Ryan Knocke**  
 May Contact: Drafter: **phurley**  
 Subject: **Criminal Law - drugs** Addl. Drafters:  
 Extra Copies:

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

**Pre Topic:**

No specific pre topic given

**Topic:**

Penalties for possession of 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>       |
|--------------|----------------------|----------------------|-----------------------|----------------|--------------------|-----------------|-----------------------|
| /P1          | phurley<br>3/13/2013 | scalvin<br>3/13/2013 | rschluet<br>3/13/2013 | _____          | srose<br>3/13/2013 |                 | State<br>S&L<br>Crime |
| /1           |                      | scalvin<br>3/14/2013 | jfrantze<br>3/14/2013 | _____          | srose<br>3/14/2013 |                 | State<br>S&L<br>Crime |

1/2 sac 03/05/2014 1/2 sac 03/05/2014  
 J 3/5  
 Jan

FE Sent For:

→ "1" 1-28-14 <END>  
 per Ryan Knocke's request

**2013 DRAFTING REQUEST**

**Bill**

Received: 2/13/2013 Received By: phurley  
Wanted: As time permits Same as LRB:  
For: Evan Goyke (608) 266-0645 By/Representing: Ryan Knocke  
May Contact: Drafter: phurley  
Subject: Criminal Law - drugs Addl. Drafters:  
Extra Copies:

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

**Pre Topic:**

No specific pre topic given

**Topic:**

Penalties for possession of 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>       |
|--------------|----------------------|----------------------|-----------------------|----------------|--------------------|-----------------|-----------------------|
| /P1          | phurley<br>2/26/2013 | scalvin<br>3/13/2013 | rschluet<br>3/13/2013 | _____          | srose<br>3/13/2013 |                 | State<br>S&L<br>Crime |
|              |                      | 11 sac               | Jb 3/14               |                |                    |                 |                       |
| FE Sent For: |                      | 03/14/2013           |                       |                |                    |                 |                       |

<END>

**2013 DRAFTING REQUEST**

**Bill**

Received: 2/13/2013 Received By: phurley  
Wanted: As time permits Same as LRB:  
For: Evan Goyke (608) 266-0645 By/Representing: Ryan Knocke  
May Contact: Drafter: phurley  
Subject: Criminal Law - drugs Addl. Drafters:  
Extra Copies:

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

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Penalties for possession of 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> |
|--------------|----------------|-----------------------|---|----------------|------------------|-----------------|-----------------|
| /P1          | phurley        | /P1 sac<br>02/08/2013 |  | _____          | _____            |                 |                 |

FE Sent For:

<END>

## Hurley, Peggy

---

**From:** Knocke, Ryan  
**Sent:** Wednesday, February 13, 2013 9:10 AM  
**To:** Hurley, Peggy  
**Subject:** RE: Bill Draft Inquiry - Rep. Evan Goyke

Thank you very much, if you run into anything I know Rep. Goyke would love to speak with you about it. All the best.

- Ryan

---

**From:** Hurley, Peggy  
**Sent:** Wednesday, February 13, 2013 9:01 AM  
**To:** Knocke, Ryan  
**Subject:** RE: Bill Draft Inquiry - Rep. Evan Goyke

Hi Ryan,

Yes, I can draft this for you. I'll enter the request today and take a look at the document you sent. If I have any questions, I'll let you know. The only question that strikes me right away is whether parity with OWI laws would run afoul of any federal requirements for controlled substance violations, but I will take a look at that, too.

Peggy Hurley

---

**From:** Knocke, Ryan  
**Sent:** Wednesday, February 13, 2013 8:26 AM  
**To:** Hurley, Peggy  
**Subject:** Bill Draft Inquiry - Rep. Evan Goyke

Ms. Hurley-

I hope this message finds you well and that you are having a good morning. As a new legislative office I look forward to working with you. Rep. Goyke would like to have a bill drafted regarding marijuana possession penalties. I have attached to this e-mail the word document he put together outlining his thoughts and bill intent. I hope it is clear and makes sense. IT is my understanding that you would be the appropriate bill drafting attorney on this. Correct us if we are wrong! Could this be forwarded to your staff for an initial preliminary draft? Thank you and all the best.

- Ryan

Ryan Knocke  
Legislative Aide  
Office of State Representative Evan Goyke  
Telephone: (608) 266-0645

**Marijuana – OWI penalty structure parody**

Purpose: Under current Wisconsin law, a person convicted of Possession of a Controlled Substance (marijuana) under chapter 961 is eligible for felony prosecution after one prior conviction (second or subsequent conviction). Alternatively, unless certain aggravating circumstances are present, a person convicted of Operating While Intoxicated under chapter 346 is not eligible for felony conviction until a fourth conviction. This bill seeks to remove the “second or subsequent” felony provision for Possession of a Controlled Substance (marijuana) and replace it with a graduated sentencing structure that mirrors the Operating While Intoxicated structure.

961.41(3g)(e)  
(em) = synth  
cannabinoid

The bill would only seek to change the sentencing structure of simple “possession” of marijuana and not eliminate the felony charge of “possession with intent to deliver” or the “manufacture, deliver” felony charge.

Under the proposal:

961.48(3) =  
2<sup>o</sup> or subsequent

Possession of Marijuana 1<sup>st</sup> offense = municipal citation, non-criminal offense

Possession of Marijuana 2<sup>nd</sup> offense = Class C Misdemeanor, 30 days jail or \$1,000 fine, or both

500 = class C

Possession of Marijuana 3<sup>rd</sup> offense = Class A Misdemeanor, 9 months jail or \$10,000 fine or both

Possession of Marijuana 4<sup>th</sup> offense = Class I Felony, 18 months prison, \$10,000 fine or both

346 m

The proposal also would not include the chapter 346 penalties: no proposed mandatory minimums, no mandatory fines, or driver’s license restrictions.

no minimums, so  
used the classification just

4<sup>th</sup> or subsequent or  
prior offense under

961.48

quantities too  
under 938.

maybe have  
GMN have  
do this  
separately



**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

2-26-13  
note

gen act

1 AN ACT *gen act*; relating to: possession of tetrahydrocannabinols, and providing a  
2 penalty.

***Analysis by the Legislative Reference Bureau***

Under current law, a person may not possess marijuana or another substance containing tetrahydrocannabinol (THC). In general, a person who violates this prohibition is guilty of a misdemeanor and may be fined not more than \$1,000, imprisoned for not more than six months, or both. A person who commits a second or subsequent violation is guilty of a Class I felony and may be fined up to \$10,000, imprisoned for up to three years and six months, or both. Current law also authorizes counties and municipalities to enact ordinances prohibiting the possession of 25 grams or less of marijuana. A violation of such an ordinance is a civil offense punishable by a forfeiture (a civil fine). The ordinance, however, cannot be used to prosecute a person who has previously been convicted of possessing marijuana.

Under this bill, a person who commits a first offense of possession of THC commits a civil offense, punishable by a forfeiture of not less than \$150 nor more than \$300. Under the bill, a person who commits a second offense of possession of THC is guilty of a Class C misdemeanor and may be fined up to \$500, imprisoned for up to 30 days, or both. A person who commits a third offense is guilty of a Class A misdemeanor, and may be fined up to \$10,000, imprisoned for up to nine months, or both. Under the bill, a person who commits a fourth or subsequent possession of THC offense, or who has been convicted of a prior crime related to any controlled substance except possession of THC, is guilty of a Class I felony and may be fined up to \$10,000, imprisoned for up to three years and six months, or both.

The bill allows a county or marijuana to enact ordinances that make the first possession of any amount of marijuana a civil offense, punishable by a forfeiture. The ordinance, however, cannot be used to prosecute a person who has committed a prior offense of possessing THC.

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:***

x

1 SECTION 1. 59.54 (25) of the statutes is amended to read:

2 59.54 (25) POSSESSION OF MARIJUANA. The board may enact and enforce an  
3 ordinance to prohibit the possession of ~~25 grams or less of~~ marijuana, as defined in  
4 s. 961.01 (14), subject to the exceptions in s. 961.41 (3g) (intro.), and provide a  
5 forfeiture for a violation of the ordinance; except that any person who is charged with  
6 ~~possession of more than 25 grams of marijuana, or who is charged with possession~~  
7 ~~of any amount of marijuana following a conviction for possession of marijuana, an~~  
8 offense punishable under s. 961.41 (3g) (e) in this state shall not be prosecuted under  
9 this subsection. Any ordinance enacted under this subsection applies in every  
10 municipality within the county.

History: 1995 a. 201 ss. 146 to 149, 154 to 156, 159, 160, 162, 175 to 177, 179, 180, 183, 191, 193, 210 to 213, 222, 226 to 228, 274, 283, 366, 403, 404; 1995 a. 448 s. 59; 1997 a. 27, 35; 2001 a. 16; 2003 a. 193; 2005 a. 90; 2009 a. 42; 2011 a. 31, 35.

11 SECTION 2. 66.0107 (1) (bm) of the statutes is amended to read:

12 66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of  
13 ~~25 grams or less of~~ marijuana, as defined in s. 961.01 (14), subject to the exceptions  
14 in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance;  
15 except that any person who is charged with ~~possession of more than 25 grams of~~  
16 ~~marijuana, or who is charged with possession of any amount of~~ marijuana following

1 ~~a conviction for possession of marijuana, an offense punishable under s. 961.41 (3g)~~  
2 (e) for possession of marijuana, in this state shall not be prosecuted under this  
3 paragraph.

History: 1973 c. 198; 1979 c. 131 s. 4; 1987 a. 332 s. 64; 1987 a. 416; 1989 a. 121, 276; 1993 a. 246; 1995 a. 353, 448; 1999 a. 150 ss. 151, 153; Stats. 1999 s. 66.0107; 2005 a. 116, ss. 2 to 4; 2011 a. 31.

4 **SECTION 3. 961.41 (3g) (e) of the statutes is repealed and recreated to read:**

5 **961.41 (3g) (e) *Tetrahydrocannabinols.*** Any person who possesses or attempts  
6 to possess tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled  
7 substance analog of tetrahydrocannabinols:

8 1. Shall forfeit not less than \$150 nor more than \$300, except as provided in  
9 subds. 2 to 4.

10 2. Is guilty of a Class C misdemeanor if the number of convictions under this  
11 section in the person's lifetime equals 2 and subd. 4.b. does not apply.

12 3. Is guilty of a Class A misdemeanor if the number of convictions under this  
13 section in the person's lifetime equals 3 and subd. 4.b. does not apply.

14 4. Is guilty of a Class I felony if either of the following apply:

15 a. The number of convictions under this section in the person's lifetime equals  
16 4 or more.

17 b. The person has been convicted of any felony or misdemeanor under this  
18 chapter, except a misdemeanor punishable under subd. 2. or 3., or under any statute  
19 of the United States or of any state relating to controlled substances, controlled  
20 substance analogs, narcotic drugs, or depressant, stimulant, or hallucinogenic  
21 drugs.

22 **SECTION 4. 961.48 (5) of the statutes is amended to read:**

1           961.48 (5) This section does not apply if the person is presently charged with  
2           an offense punishable under s. 961.41 (3g) (e) or with a felony under s. 961.41 (3g)  
3           (c), (d), ~~(e)~~, or (g).

History: 1971 c. 219; 1985 a. 328; 1987 a. 339; 1989 a. 121; 1993 a. 98, 118, 482, 490; 1995 a. 402; 1995 a. 448 s. 288; Stats. 1995 s. 961.48; 1997 a. 35 ss. 340, 584; 1997 a. 220; 1999 a. 48; 2001 a. 109; 2003 a. 49.

4           **SECTION 5.** 961.495 of the statutes is amended to read:

5           **961.495 Possession or attempted possession of a controlled substance**  
6           **on or near certain places.** If any person violates s. 961.41 (3g) by possessing or  
7           attempting to possess a controlled substance included in schedule I or II, a controlled  
8           substance analog of a controlled substance included in schedule I or II or ketamine  
9           or flunitrazepam while in or on the premises of a scattered-site public housing  
10          project, while in or on or otherwise within 1,000 feet of a state, county, city, village,  
11          or town park, a jail or correctional facility, a multiunit public housing project, a  
12          swimming pool open to members of the public, a youth center or a community center,  
13          while in or on or otherwise within 1,000 feet of any private or public school premises  
14          or of any premises of a tribal school, as defined in s. 115.001 (15m), or while in or on  
15          or otherwise within 1,000 feet of a school bus, as defined in s. 340.01 (56), the court  
16          shall, in addition to any other penalties that may apply to the crime, impose 100  
17          hours of community service work for a public agency or a nonprofit charitable  
18          organization. The court shall ensure that the defendant is provided a written  
19          statement of the terms of the community service order and that the community  
20          service order is monitored. Any organization or agency acting in good faith to which  
21          a defendant is assigned pursuant to an order under this section has immunity from  
22          any civil liability in excess of \$25,000 for acts or omissions by or impacting on the

1 defendant. This section does not apply to an offense punishable under s. 961.41 (3g)

2 (e) 1.

3 History: 1989 a. 31, 121; 1991 a. 39; 1993 a. 87, 118, 281, 490; 1995 a. 448 s. 290; Stats. 1995 s. 961.495; 1999 a. 57; 2009 a. 302.

3 **SECTION 6. Initial applicability.**

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

6 (END)

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

LRB-1603/P1dn

PJH:j:...

- date -

Sec

Representative Goyke,

Please review this draft to ensure that it is consistent with your intent. Please note that this draft does not contains provisions applicable to juveniles; when the draft meets your approval, I will forward a request to the one of the drafters for juvenile justice to draft similar provisions for juveniles.

If you have any questions about the draft or would like any changes, please let me know. If the draft is satisfactory, please let me know that, too, and I will redraft it into introducible form. I look forward to hearing from you.

Peggy Hurley  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: [peggy.hurley@legis.wisconsin.gov](mailto:peggy.hurley@legis.wisconsin.gov)

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

LRB-1603/P1dn  
PJH:sac:rs

March 13, 2013

Representative Goyke,

Please review this draft to ensure that it is consistent with your intent. Please note that this draft does not contain provisions applicable to juveniles; when the draft meets your approval, I will forward a request to the one of the drafters for juvenile justice to draft similar provisions for juveniles.

If you have any questions about the draft or would like any changes, please let me know. If the draft is satisfactory, please let me know that, too, and I will redraft it into introducible form. I look forward to hearing from you.

Peggy Hurley  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: [peggy.hurley@legis.wisconsin.gov](mailto:peggy.hurley@legis.wisconsin.gov)



1  
/mr

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

in 313-13

1 **AN ACT to amend** 59.54 (25), 66.0107 (1) (bm), 961.48 (5) and 961.495; and **to**  
2 **repeal and recreate** 961.41 (3g) (e) of the statutes; **relating to:** possession of  
3 tetrahydrocannabinols, and providing a penalty.

---

***Analysis by the Legislative Reference Bureau***

Under current law, a person may not possess marijuana or another substance containing tetrahydrocannabinol (THC). In general, a person who violates this prohibition is guilty of a misdemeanor and may be fined not more than \$1,000, imprisoned for not more than six months, or both. A person who commits a second or subsequent violation is guilty of a Class I felony and may be fined up to \$10,000, imprisoned for up to three years and six months, or both. Current law also authorizes counties and municipalities to enact ordinances prohibiting the possession of 25 grams or less of marijuana. A violation of such an ordinance is a civil offense punishable by a forfeiture (a civil fine). The ordinance, however, cannot be used to prosecute a person who has previously been convicted of possessing marijuana.

Under this bill, a person who commits a first offense of possession of THC commits a civil offense, punishable by a forfeiture of not less than \$150 nor more than \$300. Under the bill, a person who commits a second offense of possession of THC is guilty of a Class C misdemeanor and may be fined up to \$500, imprisoned for up to 30 days, or both. A person who commits a third offense is guilty of a Class A misdemeanor, and may be fined up to \$10,000, imprisoned for up to nine months, or both. Under the bill, a person who commits a fourth or subsequent possession of THC offense, or who has been convicted of a prior crime related to any controlled substance except possession of THC, is guilty of a Class I felony and may be fined up to \$10,000, imprisoned for up to three years and six months, or both.

municipality

The bill allows a county or ~~marijuana~~ to enact ordinances that make the first possession of any amount of marijuana a civil offense, punishable by a forfeiture. The ordinance, however, cannot be used to prosecute a person who has committed a prior offense of possessing THC.

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.** 59.54 (25) of the statutes is amended to read:

2           59.54 (25) POSSESSION OF MARIJUANA. The board may enact and enforce an  
3 ordinance to prohibit the possession of ~~25 grams or less of~~ marijuana, as defined in  
4 s. 961.01 (14), subject to the exceptions in s. 961.41 (3g) (intro.), and provide a  
5 forfeiture for a violation of the ordinance; except that any person who is charged with  
6 ~~possession of more than 25 grams of marijuana, or who is charged with possession~~  
7 ~~of any amount of marijuana following a conviction for possession of marijuana, an~~  
8 offense punishable under s. 961.41 (3g) (e) in this state shall not be prosecuted under  
9 this subsection. Any ordinance enacted under this subsection applies in every  
10 municipality within the county.

11           **SECTION 2.** 66.0107 (1) (bm) of the statutes is amended to read:

12           66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of  
13 ~~25 grams or less of~~ marijuana, as defined in s. 961.01 (14), subject to the exceptions  
14 in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance;  
15 except that any person who is charged with ~~possession of more than 25 grams of~~  
16 ~~marijuana, or who is charged with possession of any amount of~~ marijuana following

1 ~~a conviction~~ an offense punishable under s. 961.41 (3g) (e) for possession of  
2 marijuana, in this state shall not be prosecuted under this paragraph.

3 **SECTION 3.** 961.41 (3g) (e) of the statutes is repealed and recreated to read:

4 961.41 (3g) (e) *Tetrahydrocannabinols*. Any person who possesses or attempts  
5 to possess tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled  
6 substance analog of tetrahydrocannabinols:

7 1. Shall forfeit not less than \$150 nor more than \$300, except as provided in  
8 subds. 2 to 4.

9 2. Is guilty of a Class C misdemeanor if the number of convictions under this  
10 section in the person's lifetime equals 2 and subd. 4.b. does not apply.

11 3. Is guilty of a Class A misdemeanor if the number of convictions under this  
12 section in the person's lifetime equals 3 and subd. 4.b. does not apply.

13 4. Is guilty of a Class I felony if either of the following apply:

14 a. The number of convictions under this section in the person's lifetime equals  
15 4 or more.

16 b. The person has been convicted of any felony or misdemeanor under this  
17 chapter, except a misdemeanor punishable under subd. 2. or 3., or under any statute  
18 of the United States or of any state relating to controlled substances, controlled  
19 substance analogs, narcotic drugs, or depressant, stimulant, or hallucinogenic  
20 drugs.

21 **SECTION 4.** 961.48 (5) of the statutes is amended to read:

22 961.48 (5) This section does not apply if the person is presently charged with  
23 an offense punishable under s. 961.41 (3g) (e) or with a felony under s. 961.41 (3g)  
24 (c), (d), ~~(e)~~, or (g).

25 **SECTION 5.** 961.495 of the statutes is amended to read:



# Memo

To: Representative **Goyke**

(The Draft's Requester)

**Per your request ... the attached fiscal estimate was prepared for your un-introduced 2013 session draft.**

**LRB Number: LRB-1603**

**Version: “/1” (original)**

**Fiscal Estimate Prepared By: (agency abbr.) SPD**

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

**\* \* \* \* \***

**Entered In Computer And Copy Sent To Requester Via E-Mail: 02 / 13 / 2013**

**To: LRB – Legal Section PA's**

**Subject:** *Fiscal Estimate Received For An Un-introduced Draft*

- > **If re-drafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file “guts” ... after the draft's old version (the version that this fiscal estimate was based on), and just before re-draft of the updated version.
- > **If introduced** ... please make sure the attached fiscal estimate is for the **current version** ... write the draft's new introduction number below and give this packet to Mike (or Lori) to re-process the fiscal estimate (w/intro. number included).

**THIS DRAFT WAS INTRODUCED AS: 2013 \_\_\_\_\_**

## Barman, Mike

---

**From:** Barman, Mike  
**Sent:** Wednesday, February 05, 2014 11:31 AM  
**To:** Rep.Goyke  
**Cc:** Knocke, Ryan  
**Subject:** LRB-1603/1 (un-introduced) (FE by DOC & SPD - attached - for your review)



FE-1603\_DOC.pdf



FE-1603\_SPD.pdf

Drafter: PJH  
Subject: Criminal Law – drugs

**Mike Barman (Lead Program Assistant)**

State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office  
1 East Main Street, Suite 200, Madison, WI 53703  
(608) 266-3561 / [mike.barman@legis.wisconsin.gov](mailto:mike.barman@legis.wisconsin.gov)



## Fiscal Estimate Narratives

SPD 2/4/2014

|  |           |                     |               |          |
|--|-----------|---------------------|---------------|----------|
| LRB Number   | 13-1603/1 | Introduction Number | Estimate Type | Original |
| <b>Description</b><br>Possession of tetrahydrocannabinols, and providing a penalty |           |                     |               |          |

### Assumptions Used in Arriving at Fiscal Estimate

The State Public Defender (SPD) is statutorily authorized and required to appoint attorneys to represent indigent defendants in criminal and certain commitment proceedings. The SPD plays a critical role in ensuring that the Wisconsin justice system complies with the right to counsel provided by both the state and federal constitutions. Any legislation has the potential to increase SPD costs if it creates a new criminal offense, expands the definition of an existing criminal offense, or increases the penalties for an existing offense.

Under this bill, a person who commits a first offense of possession of tetrahydrocannabinol (THC) commits a civil offense, punishable by a forfeiture of not less than \$150 nor more than \$300. Under this bill, a person who commits a second offense of possession of THC is guilty of a Class C misdemeanor and may be fined up to \$500, imprisoned for up to 30 days, or both. A person who commits a third offense is guilty of a Class A misdemeanor, and may be fined up to \$10,000, imprisoned for up to nine months, or both. Under the bill, a person who commits a fourth or subsequent possession of THC offense, or who has been convicted of a prior crime related to any controlled substance except possession of THC, is guilty of a Class I felony and may be fined up to \$10,000, imprisoned for up to three years and six months, or both. This bill also allows a county or municipality to enact ordinances that make the first possession of any amount of marijuana a civil offense, punishable by a forfeiture. The ordinance, however, cannot be used to prosecute a person who has committed a prior offense of possessing THC.

The SPD would expect a decrease in the number of cases in which it provides representation due to the provisions in this bill for first offenses since the SPD does not provide representation for civil cases. The SPD would expect a slight decrease in costs associated with second and third offenses since the average cost to provide representation with a private bar attorney in a felony case was \$556.21 and would decrease to \$247.54 for a misdemeanor based on average costs in fiscal year 2013. The SPD would see no change in the number of cases or costs for fourth or subsequent offenses related to this bill. Since many charges for drug related cases involve multiple charges, we are unable to quantify the overall impact to the number of cases and costs due to the provisions in the bill.

Because probation or prison could be ordered upon conviction for the proposed crime, this change could indirectly lead to additional cases in which the Department of Corrections (DOC) would seek to revoke probation or extended supervision. The SPD provides representation in proceedings commenced by the Department of Corrections (DOC) to revoke supervision. Thus, the bill could indirectly increase the number of cases in which the SPD appoints attorneys in revocation proceedings. The average cost during fiscal year 2013 for SPD representation by a private bar attorney in a revocation proceeding was \$303.86.

This bill could also have a fiscal impact on counties. There are some defendants who, despite exceeding the SPD's statutory financial guidelines, are constitutionally eligible for appointment of counsel because it would be a substantial hardship for them to retain an attorney. The court is required to appoint counsel at county expense for these defendants.

### Long-Range Fiscal Implications

# Memo

To: Representative

Goyke

(The Draft's Requester)

**Per your request ... the attached fiscal estimate was prepared for your un-introduced 2013 session draft.**

**LRB Number: LRB-1603**

**Version: “/1” (original)**

**Fiscal Estimate Prepared By: (agency abbr.) DA**

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

★ ★

Entered In Computer And Copy Sent To Requester Via E-Mail: 02 / 06 / 2013

**To: LRB – Legal Section PA's**

**Subject:** *Fiscal Estimate Received For An Un-introduced Draft*

- > **If re-drafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file “guts” ... after the draft's old version (the version that this fiscal estimate was based on), and just before re-draft of the updated version.
- > **If introduced** ... please make sure the attached fiscal estimate is for the **current version** ... write the draft's new introduction number below and give this packet to Mike (or Lori) to re-process the fiscal estimate (w/intro. number included).

**THIS DRAFT WAS INTRODUCED AS: 2013 \_\_\_\_\_**

**Barman, Mike**

---

**From:** Barman, Mike  
**Sent:** Thursday, February 06, 2014 4:19 PM  
**To:** Rep.Goyke  
**Cc:** Knocke, Ryan  
**Subject:** LRB-1603/1 (un-introduced) (FE by Da - attached - for your review)



FE-1603\_DA.pdf

Drafter: PJH  
Subject: Criminal Law – drugs

**Mike Barman (Lead Program Assistant)**  
State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office  
1 East Main Street, Suite 200, Madison, WI 53703  
(608) 266-3561 / [mike.barman@legis.wisconsin.gov](mailto:mike.barman@legis.wisconsin.gov)



**Fiscal Estimate Narratives**

**DA 2/6/2014**

|  |                  |                     |               |                 |
|--|------------------|---------------------|---------------|-----------------|
| LRB Number   | <b>13-1603/1</b> | Introduction Number | Estimate Type | <b>Original</b> |
| <b>Description</b><br>Possession of tetrahydrocannabinols, and providing a penalty |                  |                     |               |                 |

**Assumptions Used in Arriving at Fiscal Estimate**

This bill reduces the fines and imprisonment for possession of tetrahydrocannabinols (THC). It also allows a county or municipality to enact ordinances that make the first possession of any amount of marijuana a civil offense punishable by a forfeiture.

Prosecutors do not expect a fiscal impact on their offices should this bill be enacted.

**Long-Range Fiscal Implications**

Should this bill be enacted, prosecutor do not anticipate a long-term fiscal effect on their offices.

# Memo

To: Representative **Goyke**

*(The Draft's Requester)*

**Per your request ... the attached fiscal estimate was prepared for your un-introduced 2013 session draft.**

**LRB Number: LRB-1603**

**Version: “/1 ” (original)**

**Fiscal Estimate Prepared By: (agency abbr.) DOC**

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

**\* \* \* \* \***

**Entered In Computer And Copy Sent To Requester Via E-Mail: 02 / 13 / 2013**

**To: LRB – Legal Section PA's**

**Subject:** *Fiscal Estimate Received For An Un-introduced Draft*

> **If re-drafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file “guts” ... after the draft's old version (the version that this fiscal estimate was based on), and just before re-draft of the updated version.

> **If introduced** ... please make sure the attached fiscal estimate is for the **current version** ... write the draft's new introduction number below and give this packet to Mike (or Lori) to re-process the fiscal estimate (w/intro. number included).

**THIS DRAFT WAS INTRODUCED AS: 2013 \_\_\_\_\_**

## Barman, Mike

---

**From:** Barman, Mike  
**Sent:** Wednesday, February 05, 2014 11:31 AM  
**To:** Rep.Goyke  
**Cc:** Knocke, Ryan  
**Subject:** LRB-1603/1 (un-introduced) (FE by DOC & SPD - attached - for your review)



FE-1603\_DOC.pdf



FE-1603\_SPD.pdf

Drafter: PJH  
Subject: Criminal Law – drugs

**Mike Barman (Lead Program Assistant)**

State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office  
1 East Main Street, Suite 200, Madison, WI 53703  
(608) 266-3561 / [mike.barman@legis.wisconsin.gov](mailto:mike.barman@legis.wisconsin.gov)



## Fiscal Estimate Narratives

DOC 2/5/2014

|  |           |                     |               |          |
|--|-----------|---------------------|---------------|----------|
| LRB Number   | 13-1603/1 | Introduction Number | Estimate Type | Original |
| <b>Description</b><br>Possession of tetrahydrocannabinols, and providing a penalty |           |                     |               |          |

### Assumptions Used in Arriving at Fiscal Estimate

According to Wisconsin State law, a person may not possess marijuana or any other substance containing tetrahydrocannabinol (THC).

Under current law, a person who is found in possession of the substances listed above, is guilty of a misdemeanor and may be fined not more than \$1,000, imprisoned for not more than six months, or both. A person who commits a second or subsequent violation is guilty of a Class I felony and may be fined up to \$10,000, imprisoned for up to three years and six months, or both.

Counties and municipalities can enact ordinances prohibiting the possession of 25 grams or less of marijuana. Violations can result in a civil offense punishable by forfeiture.

Under this bill, the penalties for possession violations are significantly reduced. The first offense of possession of THC commits a civil offense, punishable by forfeiture of not less than \$150 nor more than \$300. A second offense of possession of THC is guilty of a Class C misdemeanor and may be fined up to \$500, imprisoned for up to 30 days, or both. A person who commits a third offense is guilty of a Class A misdemeanor, and may be fined up to \$10,000, imprisoned for up to nine months, or both. A person who commits a fourth or subsequent possession of THC offense, or who has been convicted of a prior crime related to any controlled substance except possession of THC, is guilty of a Class I felony and may be fined up to \$10,000, imprisoned for up to three years and six months, or both.

Under this bill, counties and municipalities can enact ordinances prohibiting the possession of any amount of marijuana. Violations can result in a civil offense punishable by forfeiture.

As of 12/30/13 the Department of Corrections (DOC) had 1,100 inmates with a THC related offense in its correctional institutions. However, the DOC cannot identify all inmates who were incarcerated specifically for possession or propagation of marijuana. There are many offenders whose convictions are for violating statutes that only specify the possession or propagation of "controlled substances," and therefore the Department cannot know which of these involved marijuana or THC and which involved other drugs. Also, the DOC has some offenders that are convicted of violating statutes that specify marijuana as the drug involved; however, looking at only these offenders would not be a complete picture of the number of inmates who were convicted of offenses involving marijuana.

Since this bill would effectively decrease the sentence length for any future offenders convicted of possession, the DOC would likely see a decrease in the population convicted of these crimes. However, since the DOC is currently not able to estimate the number of people who would be convicted of these crimes, it is not possible to determine the actual cost reduction for the institutions.

The average FY13 annual cost for an inmate in a DOC institution is approximately \$32,100. However, when there is excess capacity in DOC facilities, the incremental costs (i.e. food, health care and clothing) of housing a small number of inmates is approximately \$5,400 based on FY13 costs. Should the Department use contract beds, the rate would be approximately \$18,800 annually per person.

By reducing the penalties, it is possible the Department may see an increase or decrease in the number of individuals placed on probation. There is no way to know what sentencing practices judges would follow as a result of this law change. State costs could change if an increased or decreased number of offenders are convicted of this crime and placed on probation. The average FY13 annual cost to supervise one offender is approximately \$2,700.

Counties and municipalities could see a variety of effects from this bill. Counties and municipalities that enact ordinances on possession of any amount of marijuana could see increased revenues from civil forfeitures related to that crime. However, since many of the jail sentences for possession would be under a

year, county jails could possibly see an increase in their jail populations. County jails could experience increased or decreased costs, as offenders may be sentenced to jail as a condition of probation. The average FY13 annual cost to jail inmates is \$18,800.

### **Long-Range Fiscal Implications**



State of Wisconsin  
2013 - 2014 LEGISLATURE

+ GMM



LRB-1603/1  
PJH:sac:ff

IN 3/5  
DNOTE  
Today 3/5

2013 BILL

PF

Repeal

1 AN ACT to amend 59.54 (25), 66.0107 (1) (bm), 961.48 (5) and 961.495; and to  
2 repeal and recreate 961.41 (3g) (e) of the statutes; relating to: possession of  
3 tetrahydrocannabinols, and providing a penalty.

*Analysis by the Legislative Reference Bureau*

Under current law, a person may not possess marijuana or another substance containing tetrahydrocannabinol (THC). In general, a person who violates this prohibition is guilty of a misdemeanor and may be fined not more than \$1,000, imprisoned for not more than six months, or both. A person who commits a second or subsequent violation is guilty of a Class I felony and may be fined up to \$10,000, imprisoned for up to three years and six months, or both. Current law also authorizes counties and municipalities to enact ordinances prohibiting the possession of 25 grams or less of marijuana. A violation of such an ordinance is a civil offense punishable by a forfeiture (a civil fine). The ordinance, however, cannot be used to prosecute a person who has previously been convicted of possessing marijuana.

Under this bill, a person who commits a first offense of possession of THC commits a civil offense, punishable by a forfeiture of not less than \$150 nor more than \$300. Under the bill, a person who commits a second offense of possession of THC is guilty of a Class C misdemeanor and may be fined up to \$500, imprisoned for up to 30 days, or both. A person who commits a third offense is guilty of a Class A misdemeanor, and may be fined up to \$10,000, imprisoned for up to nine months, or both. Under the bill, a person who commits a fourth or subsequent possession of THC offense, or who has been convicted of a prior crime related to any controlled substance

**BILL**

except possession of THC, is guilty of a Class I felony and may be fined up to \$10,000, imprisoned for up to three years and six months, or both.

The bill allows a county or municipality to enact ordinances that make the first possession of any amount of marijuana a civil offense, punishable by a forfeiture. The ordinance, however, cannot be used to prosecute a person who has committed a prior offense of possessing THC.

Insert  
A

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.** 59.54 (25) of the statutes is amended to read:

2           59.54 (25) POSSESSION OF MARIJUANA. The board may enact and enforce an  
3 ordinance to prohibit the possession of ~~25 grams or less of~~ marijuana, as defined in  
4 s. 961.01 (14), subject to the exceptions in s. 961.41 (3g) (intro.), and provide a  
5 forfeiture for a violation of the ordinance; except that any person who is charged with  
6 ~~possession of more than 25 grams of marijuana, or who is charged with possession~~  
7 ~~of any amount of marijuana following a conviction for possession of marijuana, an~~  
8 offense punishable under s. 961.41 (3g) (e) in this state shall not be prosecuted under  
9 this subsection. Any ordinance enacted under this subsection applies in every  
10 municipality within the county.

11           **SECTION 2.** 66.0107 (1) (bm) of the statutes is amended to read:

12           66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of  
13 ~~25 grams or less of~~ marijuana, as defined in s. 961.01 (14), subject to the exceptions  
14 in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance;  
15 except that any person who is charged with ~~possession of more than 25 grams of~~

**BILL**

In 2  
3-3  
3

1 ~~marijuana, or who is charged~~ with possession of ~~any amount of~~ marijuana following  
2 a ~~conviction~~ an offense punishable under s. 961.41 (3g) (e) for possession of  
3 marijuana, in this state shall not be prosecuted under this paragraph.

4 **SECTION 3.** 961.41 (3g) (e) of the statutes is repealed and recreated to read:

5 961.41 (3g) (e) *Tetrahydrocannabinols*. Any person who possesses or attempts  
6 to possess tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled  
7 substance analog of tetrahydrocannabinols:

8 1. Shall forfeit not less than \$150 nor more than \$300, except as provided in  
9 subds. 2 to 4.

10 2. Is guilty of a Class C misdemeanor if the number of convictions under this  
11 section in the person's lifetime equals 2 and subd. 4.b. does not apply.

12 3. Is guilty of a Class A misdemeanor if the number of convictions under this  
13 section in the person's lifetime equals 3 and subd. 4.b. does not apply.

14 4. Is guilty of a Class I felony if either of the following apply:

15 a. The number of convictions under this section in the person's lifetime equals  
16 4 or more.

17 b. The person has been convicted of any felony or misdemeanor under this  
18 chapter, except a misdemeanor punishable under subd. 2. or 3., or under any statute  
19 of the United States or of any state relating to controlled substances, controlled  
20 substance analogs, narcotic drugs, or depressant, stimulant, or hallucinogenic  
21 drugs.

22 **SECTION 4.** 961.48 (5) of the statutes is amended to read:

23 961.48 (5) This section does not apply if the person is presently charged with  
24 an offense punishable under s. 961.41 (3g) (e) or with a felony under s. 961.41 (3g)  
25 (c), (d), ~~(e)~~, or (g).



**2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1603/2insgm  
GMM.....

(INSERT 3-3)

1           **SECTION 1.** 938.34 (14s) (a) (intro.) of the statutes is amended to read:

2           **938.34 (14s)** (a) (intro.) In addition to any other dispositions imposed under  
3 this section, if the juvenile is found to have ~~violated~~ committed a violation of s. 961.41  
4 (3g) that would be a felony or misdemeanor if committed by an adult, the court shall  
5 order one of the following penalties:

History: 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 36, 84, 130, 164, 183, 205; 1999 a. 9, 32, 57, 89, 185; 2001 a. 16, 59, 69, 109; 2003 a. 33, 50, 200, 321; 2005 a. 14, 253, 277, 344; 2007 a. 97, 116; 2009 a. 8, 28, 103, 137, 185, 302, 334; 2011 a. 32, 258; 2013 a. 20; s. 35.17 correction in (3) (f) 4.

6           **SECTION 2.** 938.34 (14t) of the statutes is amended to read:

7           **938.34 (14t)** POSSESSION OF A CONTROLLED SUBSTANCE OR CONTROLLED SUBSTANCE  
8 ANALOG ON OR NEAR CERTAIN PREMISES. If the juvenile is adjudicated delinquent under  
9 a violation of s. 961.41 (3g) by possessing or attempting to possess a controlled  
10 substance included in schedule I or II under ch. 961, a controlled substance analog  
11 of a controlled substance included in schedule I or II under ch. 961 or ketamine or  
12 flunitrazepam while in or on the premises of a scattered-site public housing project,  
13 as defined in s. 961.01 (20i), while in or on or otherwise within 1,000 feet of a state,  
14 county, city, village, or town park, a jail or correctional facility, as defined in s. 961.01  
15 (12m), a multiunit public housing project, as defined in s. 961.01 (14m), a swimming  
16 pool open to members of the public, a youth center, as defined in s. 961.01 (22), or a  
17 community center, while in or on or otherwise within 1,000 feet of any private, tribal,  
18 or public school premises, or while in or on or otherwise within 1,000 feet of a school  
19 bus, as defined in s. 340.01 (56), the court shall require that the juvenile participate  
20 for 100 hours in a supervised work program or other community service work under  
21 sub. (5g). This subsection does not apply to a violation that would be punishable  
22 under s. 961.41 (3g) (e) 1. if committed by an adult.

History: 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 36, 84, 130, 164, 183, 205; 1999 a. 9, 32, 57, 89, 185; 2001 a. 16, 59, 69, 109; 2003 a. 33, 50, 200, 321; 2005 a. 14, 253, 277, 344; 2007 a. 97, 116; 2009 a. 8, 28, 103, 137, 185, 302, 334; 2011 a. 32, 258; 2013 a. 20; s. 35.17 correction in (3) (f) 4.

1           **SECTION 3.** 938.343 (2) of the statutes is amended to read:

2           **938.343 (2) FORFEITURE.** Impose a forfeiture not to exceed the maximum  
3 forfeiture that may be imposed on an adult for committing that violation or, if the  
4 violation is only applicable to a person under 18 years of age or is a violation that  
5 would be punishable under s. 961.41 (3g) (e) 1. if committed by an adult, \$50. The  
6 order shall include a finding that the juvenile alone is financially able to pay and  
7 shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture,  
8 the court may suspend any license issued under ch. 29 or suspend the juvenile's  
9 operating privilege, as defined in s. 340.01 (40), for not more than 2 years. The court  
10 shall immediately take possession of the suspended license if issued under ch. 29 or,  
11 if the license is issued under ch. 343, the court may take possession of, and if  
12 possession is taken, shall destroy, the license. The court shall forward to the  
13 department which issued the license the notice of suspension stating that the  
14 suspension is for failure to pay a forfeiture imposed by the court, together with any  
15 license issued under ch. 29 of which the court takes possession. If the forfeiture is  
16 paid during the period of suspension, the court shall immediately notify the  
17 department, which shall, if the license is issued under ch. 29, return the license to  
18 the person. Any recovery under this subsection shall be reduced by the amount  
19 recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

**History:** 1995 a. 77, 352, 448; 1997 a. 84, 183, 197, 198, 205, 248; 1999 a. 9, 32, 185; 2001 a. 16; 2005 a. 344; 2009 a. 103, 367; 2011 a. 32, 208.

**(END OF INSERT)**

**(INSERT A)**

Similarly, the bill provides that a person under 17 years of age (juvenile) who is found to have committed a first violation of possession of THC is subject to the dispositions specified in the Juvenile Justice Code for a juvenile who violates a civil law rather than to the delinquency dispositions specified in the Juvenile Justice Code for a juvenile who violates a criminal law. Under the bill, a juvenile who is found

to have committed a first violation of possession of THC may be ordered to pay a forfeiture not to exceed \$50 or to participate in a teen court program, in community service work, or in an alcohol or other drug abuse treatment or education program.

(END OF INSERT)

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1603/2dn

GMM.../.....

SAC

- date -

1  
\$500

Representative Goyke:

This draft does not change the dispositions for a juvenile who is adjudicated delinquent for possession of a controlled substance because the forfeitures for controlled substance possession under the Juvenile Justice Code are already less than the fines or forfeitures provided for an adult under the bill. Specifically, s. 938.34 (14s) already provides for a \$50 forfeiture for a first violation, a \$100 forfeiture for a <sup>second</sup> ~~2nd~~ violation, and a forfeiture ~~\$300~~ for a <sup>third</sup> ~~3rd~~ or subsequent violation. If you want to change any of those forfeiture amounts for possession of THC by a juvenile, please advise.

The draft does, however, conform the Juvenile Justice Code to the Uniform Controlled Substances Act, as affected by this draft, by providing that the civil law dispositions provided in the Juvenile Justice Code, and not the delinquency dispositions provided in the Juvenile Justice Code, apply to a first offense of possession of THC.

Gordon M. Malaise  
Senior Legislative Attorney  
Phone: (608) 266-9738  
E-mail: gordon.malaise@legis.wisconsin.gov

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

LRB-1603/2dn  
GMM:sac:jf

March 5, 2014

Representative Goyke:

This draft does not change the dispositions for a juvenile who is adjudicated delinquent for possession of a controlled substance because the forfeitures for controlled substance possession under the Juvenile Justice Code are already less than the fines or forfeitures provided for an adult under the bill. Specifically, s. 938.34 (14s) already provides for a \$50 forfeiture for a first violation, a \$100 forfeiture for a second violation, and a \$500 forfeiture for a third or subsequent violation. If you want to change any of those forfeiture amounts for possession of THC by a juvenile, please advise.

The draft does, however, conform the Juvenile Justice Code to the Uniform Controlled Substances Act, as affected by this draft, by providing that the civil law dispositions provided in the Juvenile Justice Code, and not the delinquency dispositions provided in the Juvenile Justice Code, apply to a first offense of possession of THC.

Gordon M. Malaise  
Senior Legislative Attorney  
Phone: (608) 266-9738  
E-mail: [gordon.malaise@legis.wisconsin.gov](mailto:gordon.malaise@legis.wisconsin.gov)

**Basford, Sarah**

---

**From:** Knocke, Ryan  
**Sent:** Thursday, March 06, 2014 8:24 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -1603/2 Topic: Penalties for possession of marijuana

Please Jacket LRB -1603/2 for the ASSEMBLY.