



1997 ASSEMBLY BILL 589

November 4, 1997 - Introduced by Representatives F. LASEE, LADWIG, PORTER, MUSSER, HUEBSCH, DOBYNS, SERATTI, RYBA, KELSO, SCHAFER, UNDERHEIM, GOETSCH, OTTE and OTT, cosponsored by Senators ROESSLER, SHIBILSKI and A. LASEE. Referred to Committee on Criminal Justice and Corrections.

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

Analysis by the Legislative Reference Bureau

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

This bill provides that these 2 special penalty provisions apply to a person who delivers or distributes, or possesses with intent to deliver or distribute, certain

controlled substances while in or on or otherwise within 1,000 feet of an alcohol or other drug abuse treatment facility approved by the department of health and family services.

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

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

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

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

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

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

17 2. A jail or correctional facility, a.

18 3. A multiunit public housing project, a.

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

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

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

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

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

8 961.49 (1) (b) 8. An approved treatment facility, as defined in s. 51.01 (2), that
9 provides alcohol and other drug abuse treatment.

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

12 961.49 (2) (a) (intro.) Except as provided in par. (b), if any the court shall
13 sentence a person as provided in par. (am) if the person violates s. 961.41 (1) by
14 delivering or distributing, or violates s. 961.41 (1m) by possessing with intent to
15 deliver or distribute, a controlled substance included in schedule I or II or a
16 controlled substance analog of a controlled substance included in schedule I or II
17 while under any of the following circumstances:

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

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

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

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

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

25 d. A swimming pool open to members of the public,~~a.~~

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

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

5 g. A school bus, as defined in s. 340.01 (56), ~~the.~~

6 (am) The court shall sentence the a person to whom par. (a) applies to at least
7 3 years in prison, but otherwise the penalties for the crime apply. Except as provided
8 in s. 961.438, the court shall not place the person on probation. The person is not
9 eligible for parole until he or she has served at least 3 years, with no modification by
10 the calculation under s. 302.11 (1).

11 **SECTION 4.** 961.49 (2) (a) 2. h. of the statutes is created to read:

12 961.49 (2) (a) 2. h. An approved treatment facility, as defined in s. 51.01 (2), that
13 provides alcohol and other drug abuse treatment.

14 **SECTION 5. Initial applicability.**

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

17 **(END)**