

**1999 DRAFTING REQUEST**

**Bill**

Received: **11/6/98**

Received By: **olsenje**

Wanted: **As time permits**

Identical to LRB:

For: **Steven Foti (608) 266-2401**

By/Representing: **Mike**

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

Drafter: **olsenje**

May Contact:

Alt. Drafters:

Subject: **Criminal Law - drugs**

Extra Copies:

**Topic:**

Ordinances relating to drug paraphernalia

**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>
/1	olsenje 12/7/98	jgeller 12/10/98	hhagen 12/11/98	_____	lrb_docadmin 12/11/98	lrb_docadmin 02/4/99	

FE Sent For:

*Not Needed*

<END>

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1?	olsenje	1/12/10 JLG	12/11	1/2/11			

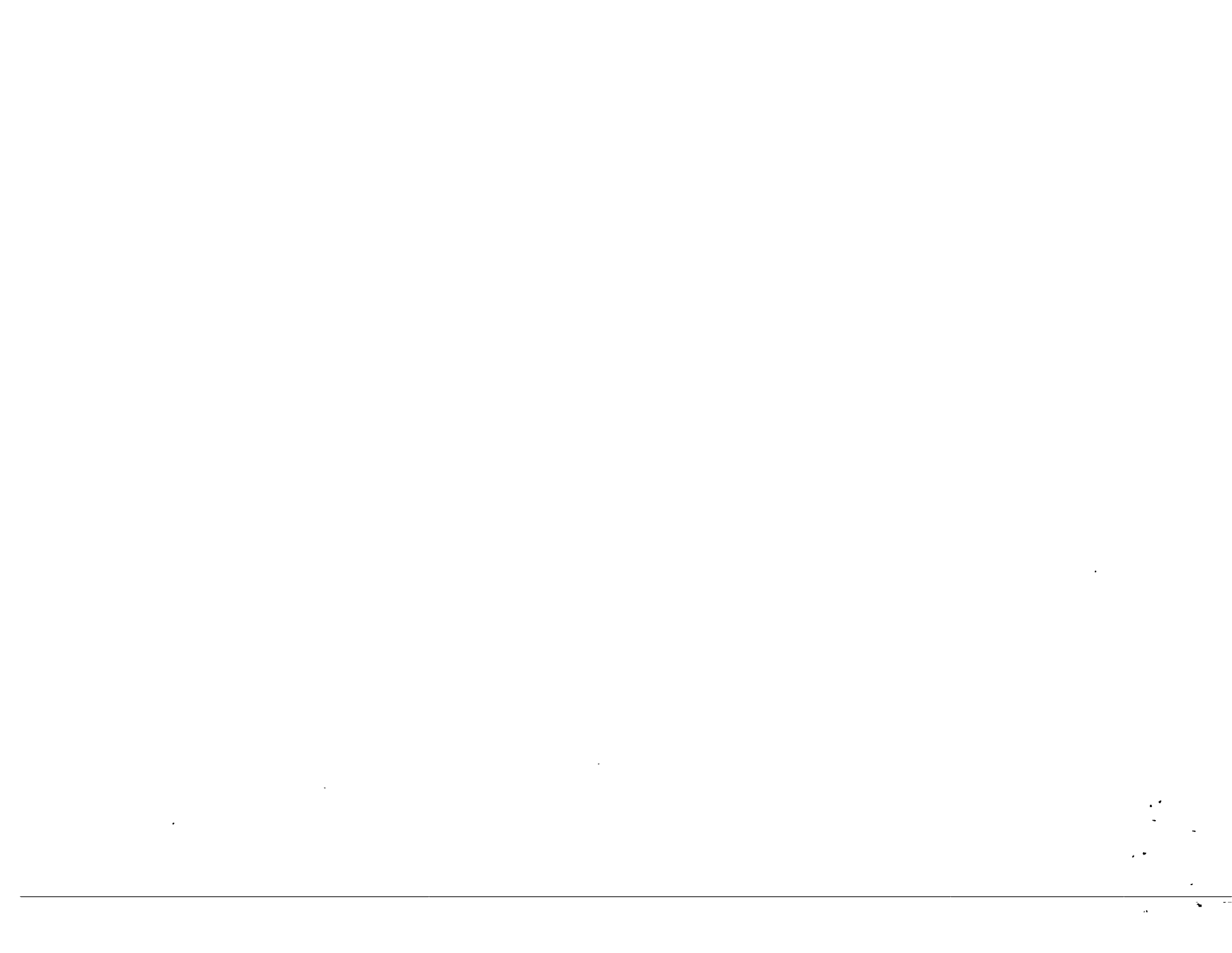
FE Sent For:

&lt;END&gt;

Rep. ~~Anti~~ by Mike Heifetz

0754

Amend 961.577 to allow municipalities  
to enact ord. dealing w/ adult  
paraphernalia cases





Jlg

# 1999 BILL

gen cat

1 AN ACT ...; relating to: local ordinances governing drug paraphernalia. ✓

### *Analysis by the Legislative Reference Bureau*

Current law prohibits the possession, manufacture and delivery of drug paraphernalia. If a person 17 years of age or older violates the prohibitions relating to drug paraphernalia, he or she is subject to criminal penalties (a fine or imprisonment or both). If a person under the age of 17 violates the prohibitions relating to drug paraphernalia, he or she is subject to the following penalties: 1) suspension or revocation of his or her privilege to operate a motor vehicle for not less than <sup>six</sup> ~~9~~ months nor more than <sup>five</sup> ~~5~~ years; 2) a forfeiture (civil monetary penalty) of up to \$500, depending on whether the person has previous drug paraphernalia offenses; and 3) a requirement that he or she participate in community service work.

Current law also allows a city, village or town to enact and enforce ordinances prohibiting the possession, manufacture or delivery of drug paraphernalia. The ordinances must prohibit the same conduct that is prohibited under the state statutes relating to the possession, manufacture and delivery of drug paraphernalia. In addition, the ordinances can apply only to the possession, manufacture and delivery of drug paraphernalia by a person under the age of 17. ✓

This bill allows a city, village or town to enact and enforce ordinances prohibiting the possession, manufacture or delivery of drug paraphernalia by persons 17 years of age and older. The ordinances must prohibit the same conduct that is prohibited under the state statutes relating to the possession, manufacture and delivery of drug paraphernalia. Under the bill, a prosecutor could charge a person aged 17 years or older for violating either an ordinance enacted under this bill or the state statutes. A person prosecuted for violating an ordinance enacted under

**BILL**

this bill would be subject to a forfeiture in an amount established by the ordinance instead of being subject to the criminal penalties provided under the state statutes.

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

1           **SECTION 1.** 60.23 (21) (title) <sup>X</sup> of the statutes is repealed.

2           **SECTION 2.** 60.23 (21) <sup>X</sup> of the statutes is renumbered 66.051 (1) (bp) <sup>✓</sup> and  
3 amended to read:

4           66.051 (1) (bp) <sup>✓</sup> ~~Adopt~~ Enact and enforce <sup>✓</sup> an ordinance to prohibit conduct that  
5 is the same as that prohibited by s. 961.573 (2) <sup>✓</sup>, 961.574 (2) <sup>✓</sup> or 961.575 (2) <sup>✓</sup> and provide  
6 a forfeiture for violation of the ordinance.

History: 1983 a. 532; 1985 a. 316 s. 25; 1987 a. 205; 1989 a. 121, 197, 276, 359; 1991 a. 28, 296; 1993 a. 105, 246, 456, 1995 a. 27 ss. 3300m, 9116 (5), 1995 a. 77, 201, 289, 448; 1997 a. 27, 111, 155, 237.

7           **SECTION 3.** 66.051 (1) (a) <sup>X</sup> of the statutes is amended to read:

8           66.051 (1) (a) Prohibit all forms of gambling and fraudulent devices and  
9 practices; <sup>✓</sup>

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

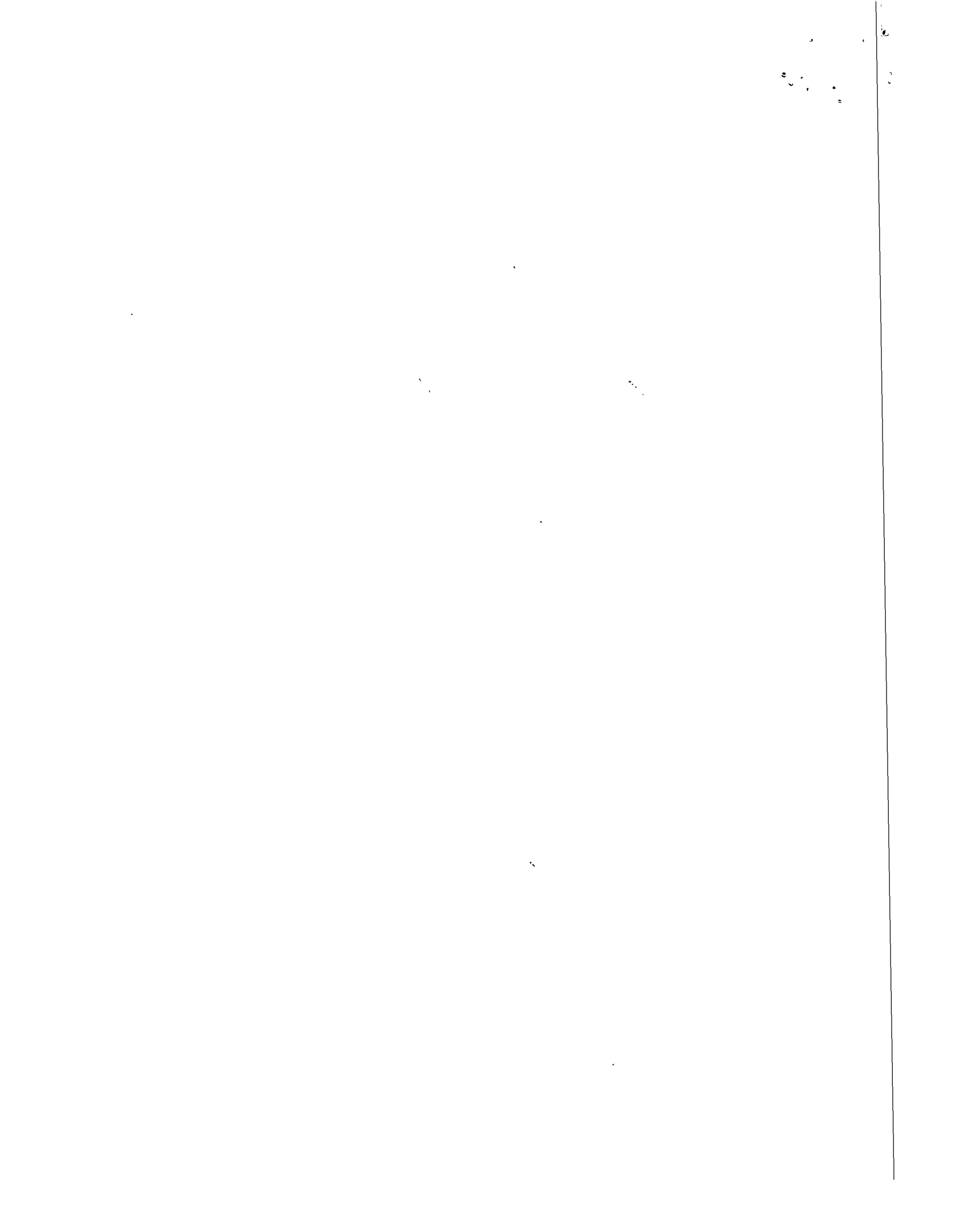
10           **SECTION 4.** 66.051 (1) (b) <sup>X</sup> of the statutes is amended to read:

11           66.051 (1) (b) Cause the seizure of anything devised solely for gambling or  
12 found in actual use for gambling and cause the destruction of any such thing after  
13 a judicial determination that it was used solely for gambling or found in actual use  
14 for gambling; <sup>✓</sup>

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.

15           **SECTION 5.** 66.051 (1) (bm) <sup>X</sup> of the statutes is amended to read:

16           66.051 (1) (bm) Enact and enforce an ordinance to prohibit the possession of  
17 25 grams or less of marijuana, as defined in s. 961.01 (14), subject to the exceptions  
18 in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance;  
19 except that any person who is charged with possession of more than 25 grams of  
20 marijuana, or who is charged with possession of any amount of marijuana following





**BILL**

1 a conviction for possession of marijuana, in this state shall not be prosecuted under  
2 this paragraph; and.

3 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.

**SECTION 6.** 349.02 (2) (b) 2. of the statutes is amended to read:

4 349.02 (2) (b) 2. Chapter 961 and local ordinances that strictly conform to s.  
5 961.573 (2), 961.574 (2) or 961.575 (2).

6 History: 1971 c. 277; 1987 a. 34, 399; 1991 a. 39, 269; 1993 a. 246; 1995 a. 113, 201, 448.

**SECTION 7.** 349.02 (2) (b) 4. of the statutes is amended to read:

7 349.02 (2) (b) 4. Local ordinances enacted under s. 59.54 (25), ~~60.23 (21)~~ or  
8 66.051 (1) (bm).

9 History: 1971 c. 277; 1987 a. 34, 399; 1991 a. 39, 269; 1993 a. 246; 1995 a. 113, 201, 448.

**SECTION 8.** 778.25 (1) (a) 1. of the statutes is amended to read:

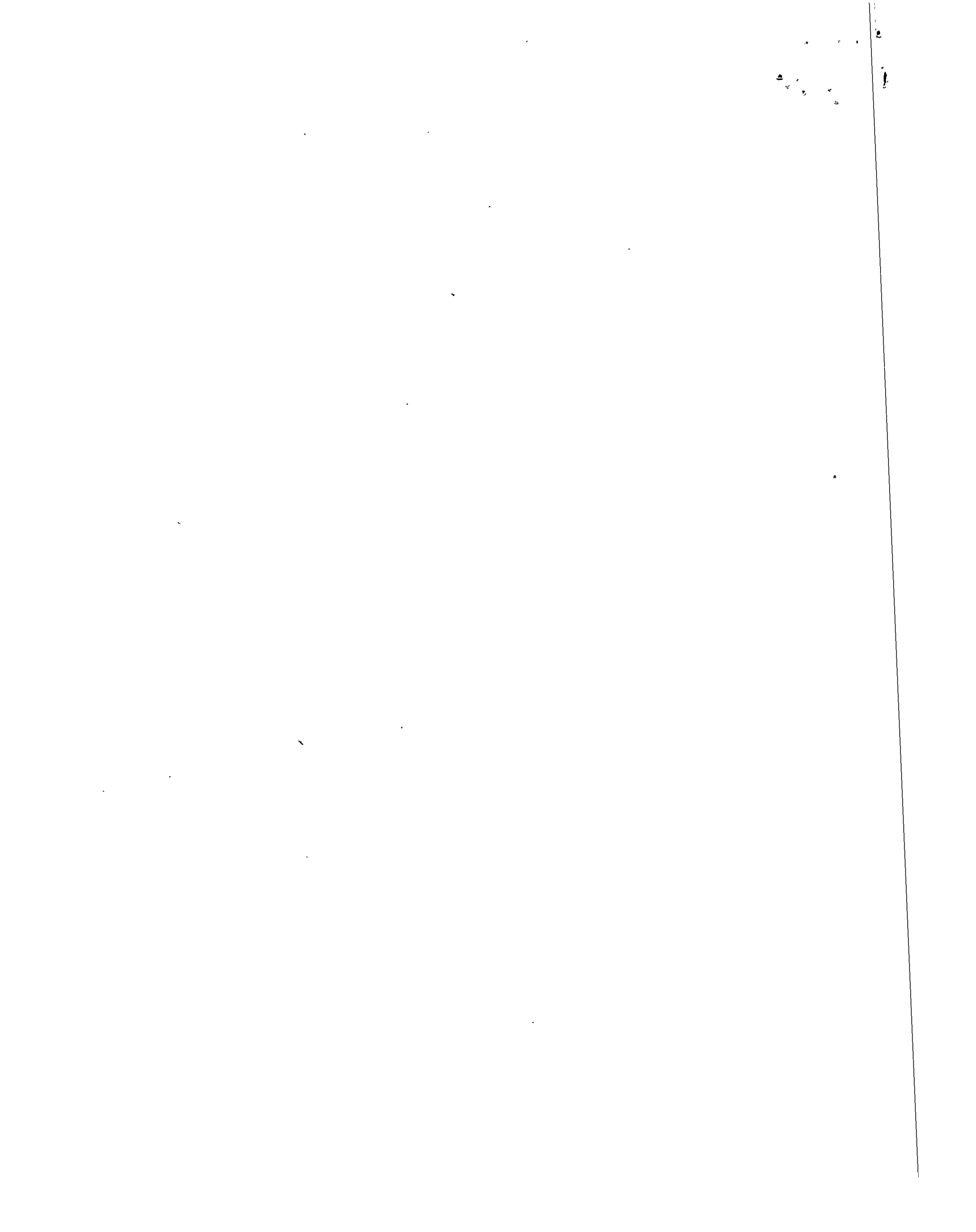
10 778.25 (1) (a) 1. Under s. 125.07 (4) (a) or (b), 125.085 (3) (b), or 125.09 (2),  
11 ~~961.573 (2), 961.574 (2) or 961.575 (2)~~ or under a local ordinance strictly conforming  
12 to one of those statutes brought against an adult in circuit court or against a minor  
13 in the court assigned to exercise jurisdiction under chs. 48 and 938.

14 History: 1979 c. 331, 359; 1981 c. 79 s. 18, 1981 c. 317; 1983 a. 74 ss. 30, 32; 1983 a. 336, 1985 a. 254; 1987 a. 27, 336, 399; 1989 a. 31, 121, 179; 1991 a. 134, 194; 1995 a. 77, 174, 352, 448; 1997 a. 27, 288, 290.

**SECTION 9.** 778.25 (1) (a) 1m. of the statutes is created to read:

15 778.25 (1) (a) 1m. Under s. 961.573 (2), 961.574 (2) or 961.575 (2) brought  
16 against a minor in the court assigned to exercise jurisdiction under chs. 48 and 938  
17 or under a local ordinance strictly conforming to s. 961.573, 961.574 or 961.575  
18 brought against an adult in circuit court or against a minor in the court assigned to  
19 exercise jurisdiction under ch. 48 and 938.

20 **SECTION 10.** 818.02 (7) of the statutes is amended to read:





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**SUBMITTAL  
FORM**

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

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

Date: 12/11/98

To: Representative Foti

Relating to LRB drafting number: LRB-0754

**Topic**

Ordinances relating to drug paraphernalia

**Subject(s)**

Criminal Law - drugs

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

2. **REDRAFT**. See the changes indicated or attached \_\_\_\_\_.  
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases expenditures or state or general local government fiscal liability or revenues, a fiscal estimate prior to introduction. If you choose to

\_\_\_\_\_ the fiscal estimate will be requested automatically upon

\_\_\_\_\_ fiscal estimate. Requesting the fiscal estimate prior to

\_\_\_\_\_ of the proposal.

\_\_\_\_\_ please call 266-3561. If you have any questions

in  
If you  
relating to

*Please jacket  
for in introduction.  
Thank you  
Mike Heifetz  
Rep. Foti's office  
6-2401*

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

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