

For: 3420/P1

Please compile the following:

99-0590/P5

99-2889/P3

99-3265/P1

99-3266/P1

99-3361/P2

99-3370/P2

**1999 DRAFTING REQUEST**

**Bill**

Received: **07/09/1999**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Reference Bureau**

By/Representing:

This file may be shown to any legislator: NO

Drafter: **mdsida**

May Contact:

Alt. Drafters: **olsenje**

Subject: **Criminal Law - drugs**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Drug felony classification.

**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	mdsida 07/16/1999 olsenje 07/27/1999	wjackson 07/29/1999	jfrantze 07/30/1999	_____	lrb_docadmin 07/30/1999		
				_____			
				_____			

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: 07/9/99

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Legislative Reference Bureau

By/Representing:

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Alt. Drafters: olsenje

Subject: Criminal Law - drugs

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Drug felony classification.

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>Reauired</u>
/P1	mdsida	/p1 WLj 7/29	6/7/30	Jo / mc 7/3			

FE Sent For:

<END>

STATE OF WISCONSIN  
CRIMINAL PENALTIES STUDY COMMITTEE  
CODE RECLASSIFICATION SUBCOMMITTEE

**CLASSIFICATION OF DRUG FELONIES IN  
A NEW A-I SYSTEM OF FELONY CLASSIFICATION**

**INTRODUCTION**

Among the charges given to the Criminal Penalties Study Committee by the Wisconsin legislature are the following:

1. Creating a uniform classification system for all felonies, including felonies outside of the criminal code.<sup>1</sup>
2. Classifying each felony and Class A misdemeanor in a manner that places crimes of similar severity into the same classification.\*
3. Consolidating all felonies into a single criminal code.<sup>3</sup>

Most of Wisconsin's drug offenses are codified in Chapter 961 of the Statutes. This chapter is not part of the Wisconsin Criminal Code,<sup>4</sup> though many of the Code's general provisions apply in drug prosecution<sup>5</sup> and, unless there is a specific provision to the contrary, so do the provisions of the Wisconsin Code of Criminal Procedure.<sup>6</sup>

Chapter 961 is a relatively self-contained drug code for the state. Beyond the complex set of crimes codified therein, it has its own declaration of legislative intent, its own set of definitions, and its own system of sanctions. At present its felonies and misdemeanors are not classified in either the A-E felony classification system or the A-C misdemeanor classification system provided for in Wis. Stat. secs. 939.50 to 939.5 1.

---

<sup>1</sup> See 1997 Wis. Act 283 sec. 454(1)(e)1.

<sup>2</sup> See 1997 Wis. Act 283 sec. 454(1)(e)2.

<sup>3</sup> See 1997 Wis. Act 283 sec. 454(1)(e)3.

<sup>4</sup> Chapters 939 to 951 comprise the Wisconsin Criminal Code. See Wis. Stat. sec. 939.01.

<sup>5</sup> Wis. Stat. sec. 939.20 provides: "Sections 939.22 to 939.25 [definitions of criminal intent, criminal recklessness, criminal negligence, and other miscellaneous words and phrases] apply only to crimes defined in chs. 939 to 951. Other sections in ch. 939 [the general provisions of Wisconsin's substantive criminal law] apply to crimes defined in other chapters of the statutes as well as to those defined in chs. 939 to 95 1."

<sup>6</sup> Wis. Stat. sec. 967.01 provides in pertinent part that "Chapters 967 to 979 [the Wisconsin Criminal Procedure Code] shall govern all criminal proceedings..."



## METHODOLOGY FOR CLASSIFYING DRUG OFFENSES IN THE PROPOSED A-I CLASSIFICATION SYSTEM

With the exception of certain special factors articulated below, the subcommittee utilized the same approach to the classification of controlled substances offenses that it used for classifying Criminal Code felonies and non-drug felonies codified elsewhere throughout the Wisconsin Statutes.

**M.R. Conversion.** Drug crimes are initially placed in the new A-I classification system by determining the mandatory release (M.R.) date under current law when the court imposes the maximum sentence. As a general rule M.R. is fixed by statute at two-thirds of the sentence actually imposed. For the offender who receives the maximum sentence, M.R. is two-thirds of that maximum. Service of the sentence to M.R. reflects the longest the defendant can be held in prison before being mandatorily paroled. That parole is subject to revocation and the defendant may be returned to prison if conditions of parole are violated.

The Code Reclassification Subcommittee concluded that the maximum sentence of incarceration for each crime in the new truth in sentencing system ought roughly parallel the maximum the person could serve in prison under the current indeterminate sentencing model before reaching M.R. To allow for the worst case scenario of a prisoner who under current law is held to M.R., the subcommittee applied the M.R. converter to the maximum possible sentence under current law before classifying each crime in the new A-I classification system.

**Felony Class Adjustments.** After application of the M.R. converter to initially place a crime in one of the new A-I classes, the subcommittee then considered whether an adjustment up or down was necessary so that crimes of similar severity are classified together. This was done in response to a specific charge from the legislature.<sup>7</sup> In making its final determination about the classification of offenses, the subcommittee also endeavored to:

- Allow enough incarceration exposure for the worst case-worst offender scenario (while recognizing that sentencing guidelines and judicial discretion will inform the sentencing of less serious variations and that penalty enhancers and repeat offender statutes allow for cases where the maximum penalty for the underlying crime is insufficient).
- Show proper deference to judgments already made by the legislature about maximum possible penalties.

---

<sup>7</sup> See 1997 Wis. Act 283 sec. 454(1)(e)2.

- Classify crimes that involve death or serious injury (or the potential for such harm) in higher categories than those involving offenses against property or other non-violent behavior.
- Consider data about sentencing patterns and time actually served for offenses when such data was available and when the subcommittee had some measure of confidence in its reliability.
- Account for the political reality that its recommendations must survive the scrutiny of both the legislature and the governor in order to become law.

With regard to drug offenses, the subcommittee also took into account the statement of legislative intent codified in Wis. Stat. sec. 961.001 as well as the interplay between the federal and state governments in the enforcement of overlapping drug laws.

### **IMPACT OF CLASSIFICATION ON THE NATURE OF DRUG PENALTIES**

Under current law drug offenses are not classified; each has a specific penalty articulated in Chapter 961. For drugs that are stratified by amounts delivered or possessed with the intent to deliver, different penalty systems are used. In some instances the maximum amount of imprisonment escalates with the amount of the drug. In others presumptive minimum penalties are used to distinguish among amounts. In yet others a combination of these approaches is used.

Bringing drugs within a uniform system for classifying crimes (a charge given to the Committee by the legislature) means that the penalty structure for these offenses will be expressed in terms of a maximum fine and a maximum term of imprisonment. Once a drug offense is placed in a given felony classification, the penalty range for that classification will apply.

There is at least a two-fold impact of such classification. First, for all felony classes into which drugs have been placed, there is no minimum term of imprisonment and no minimum fine (presumptive or mandatory). In appropriate cases the judge would have the discretion to place the offender on probation. The subcommittee unanimously agrees that this is a desirable outcome of classifying drug offenses. It believes that judges should have the same full range of penalties available to them when sentencing drug offenders as they have when sentencing persons convicted of such dangerous offenses as homicide (other than first-degree intentional homicide), armed robbery, sexual assault, or aggravated burglary. It also believes that the exercise of sound judicial discretion in sentencing drug offenders should not be restricted by minimum penalties when the

legislature has not seen fit to so restrict discretion when sentencing offenders convicted of other serious felonies like those noted above.’

Another impact of classification is the reduction in maximum fines. Under current law fines top out at \$100,000 for THC (marijuana), \$500,000 for cocaine, \$500,000 for LSD, \$500,000 for methamphetamine, amphetamine, phencyclidine (PCP) and methcathinone, and \$1,000,000 for heroin. These amounts double for repeat offenders. As a practical matter these enormous amounts are not imposed on state law offenders and, if the drug defendant has sizable assets linked to his or her illicit activities, the forfeiture laws will be utilized to seize them. The latter is most attractive to the authorities because it results in some or all of the forfeited assets being retained by law enforcement agencies for official use.’ The subcommittee unanimously recommends that its proposed fine structure for other classified felonies be applied to drug felonies as well with the exception of Class C drug felonies for which it proposes a special maximum \$100,000 fine. For the other classes the maximum fines would be as follows: \$50,000 for drug offenses in Classes D and E, \$25,000 for offenses in Classes F and G, and \$10,000 for offenses in Classes H and I. These limits are more than sufficient to encompass the kinds of fines judges impose in state drug prosecutions today.

These changes are in no way intended to depreciate the seriousness of drug offenses or to minimize the impact drugs have had on modern society. Rather, they bring drugs into the kind of uniform classification system which the subcommittee believes was intended by the legislature when it commanded that the committee create “a uniform classification system for all felonies, including felonies outside of the criminal code.”

## ACKNOWLEDGEMENTS

Several experts from the bench and bar provided invaluable insight to the subcommittee as it undertook the task of classifying drug offenses. Those who generously shared their knowledge and experience, either in person or in writing or both, include the following:

Terese M. Dick, Deputy First Assistant State Public Defender”

Kim Heller-Marotta, Assistant State Public Defender’\*

Patrick Kenney, Assistant District Attorney for Milwaukee County<sup>13</sup>

---

<sup>8</sup>The Committee recognizes that some presumptive minimum penalties are used in the penalty enhancer statutes. It will be recommending that these be repealed as well for the same reasons as those articulated in the text accompanying this note.

<sup>9</sup>See Wis. Stat. sec. 961.55 et seq.

<sup>10</sup>See 1997 Wis. Act 283 sec. 454(1)(e) 1.

<sup>11</sup>Ms. Dick is a supervisor of the Drug Practice Group in the Milwaukee SPD office.

<sup>12</sup>Ms. Heller-Marotta is a supervisor of the Drug Practice Group in the Milwaukee SPD office.

<sup>13</sup>Mr. Kenney is the Legal Director of the Milwaukee Metropolitan Drug Enforcement Group.



Honorable Jeffrey A. Kremers, Circuit Judge of Milwaukee County<sup>14</sup>

Donald V. Latorraca, Assistant Attorney General, Wisconsin Department of Justice”

Karen Loebel, Assistant District Attorney for Milwaukee County<sup>16</sup>

John Stoiber, Assistant District Attorney for Milwaukee County<sup>17</sup>

Honorable Lee Edward Wells, Circuit Judge of Milwaukee County”

---

<sup>14</sup> Judge Kremers has served as a judge in one of the Milwaukee County courts which handles drug cases exclusively.

<sup>15</sup> Mr. Latorraca is assigned to the Criminal Litigation, Antitrust and Consumer Protection Unit of the Department of Justice and has extensive experience in the investigation and prosecution of drug cases.

<sup>16</sup> Ms. Loebel is a supervisor in the Drug Unit of the Milwaukee County District Attorney’s Office.

<sup>17</sup> Mr. Stoiber is a supervisor in the Drug Unit of the Milwaukee County District Attorney’s Office.

<sup>18</sup> Judge Wells has served as a judge in one of the Milwaukee County courts which handles drug cases exclusively.

## COLOR CODES

ENTRIES IN GREEN REFLECT  
UPWARD CLASS ADJUSTMENT  
AFTER APPLICATION OF M.R. CONVERTER.

ENTRIES IN BLUE REFLECT  
NEW CRIMES RECOMMENDED  
FOR ENACTMENT BY THE  
LEGISLATURE OR EXISTING  
CRIMES FOR WHICH  
SIGNIFICANT AMENDMENTS  
ARE PROPOSED.

ENTRIES IN RED REFLECT  
DOWNWARD CLASS ADJUSTMENT  
AFTER APPLICATION OF M.R.  
CONVERTER.

ENTRIES IN BLACK REFLECT  
THE NATURAL PLACEMENT  
OF CRIMES IN A-I SYSTEM  
AFTER APPLICATION OF THE  
M.R. CONVERTER.

### KEY TO ABBREVIATIONS

DELIVERY: Manufacture, distribution or delivery

COCAINE: Cocaine or cocaine base

METH: Phencyclidine, amphetamine, methamphetamine or methcathinone

LSD: lysergic acid diethylamide

PSILOCIN: psilocin or psilocybin

THC: tetrahydrocannabinols (marijuana). **NOTE:** All weight values for THC should also be expressed in terms of the number of plants with the converter of 1 plant = 50 grams applied.

### CLASS A (LIFE)

NO ENTRIES

### CLASS B (40 MAX PRISON: 20 E.S.)

NO ENTRIES

**CLASS C (25 MAX PRISON: 15 E.S.) (\$100,000 MAX FINE)<sup>19</sup>**

Delivery of COCAINE > 40 g <sup>20</sup>	961.41(1)(cm)4	+
Possession of COCAINE w/intent to deliver > 40 g <sup>21</sup>	961.41(1m)(cm)4	+
Delivery of HEROIN, > 50 g <sup>22</sup>	961.41(1)(d)4	+
Possession of HEROIN w/intent to deliver > 50 g <sup>23</sup>	961.41(1m)(d)4	+
Delivery of METH > 50 g (from E) <sup>24</sup>	961.41(1)(e)4	+
Possession of METH w/intent to deliver > 50 g (from E) <sup>25</sup>	961.41(1m)(e)4	+

**CLASS D (15 MAX PRISON: 10 E.S.) ~\$50,000 MAX FINE)**

Delivery of COCAINE > 15 g but ≤ 40 g	961.41(1)(cm)3	+
Possession of COCAINE w/ int. to deliver > 15 but ≤ 40 g.	961.41(1m)(cm)3	+
Delivery of HEROIN, > 10 g but ≤ 50 g	961.41(1)(d)3	+
Possession of HEROIN w/intent to deliver > 10 g but ≤ 50 g	961.41(1m)(d)3	+
Delivery of METH > 10 g but ≤ 50 (from E)	961.41(1)(e)3	+
Possession of METH w/intent to deliver > 10 g but ≤ 50 g (from E)	961.41(1m)(e)3	+

<sup>19</sup> Under the Committee's proposed restructuring of fines, a Class C felony has a maximum fine in the amount of \$50,000. However, as to drug felonies in the Class C category, it is recommended that a special ceiling of \$100,000 be established.

<sup>20</sup> The Committee recommends that all cocaine delivery offenses involving more than 40 grams be classified as a C felony. It further recommends that the categories of 40-100 grams and more than 100 grams for this offense be eliminated. Using the Class C felony classification for all offenses over 40 grams provides the courts with 25 years of real prison time within which to sentence the most serious of offenders who are prosecuted under state law. The Committee has taken into consideration the fact that the most serious violators of cocaine delivery laws are prosecuted in the federal system. In the view of the Committee 25 years of exposure for state crimes is sufficient and the additional categories of 40-100 and more than 100 grams are therefore unnecessary.

<sup>21</sup> See preceding note.

<sup>22</sup> The Committee recommends that all heroin delivery offenses involving more than 50 grams be classified as a C felony. It further recommends that the categories of 50-200 grams, 200-400 grams, and more than 400 grams for this offense be eliminated. Using the Class C felony classification for all offenses over 50 grams provides the courts with 25 years of real prison time within which to sentence the most serious of offenders who are prosecuted under state law. The Committee has taken into consideration the fact that the most serious violators of heroin delivery laws are prosecuted in the federal system. In the view of the Committee 25 years of exposure for state crimes is sufficient and the additional categories of 50-200, 200-400, and more than 400 grams are therefore unnecessary.

<sup>23</sup> See preceding note.

<sup>24</sup> The Committee recommends that all delivery methamphetamine, amphetamine, phencyclidine (PCP) and methcathinone offenses involving more than 50 grams be classified as a C felony. It further recommends that the categories of 50-200 grams, 200-400 grams, and more than 400 grams for these offenses be eliminated. Using the Class C felony classification for all offenses over 50 grams provides the courts with 25 years of real prison time within which to sentence the most serious of offenders who are prosecuted under state law. The Committee has taken into consideration the fact that the most serious violators of these delivery laws are subject to prosecution in the federal system. In the view of the Committee 25 years of exposure for state crimes is sufficient and the additional categories of 50-200, 200-400, and more than 400 grams are therefore unnecessary. The Committee has considered the threat to public safety posed by recent increases in methamphetamine activity (most notably in the rural parts of western Wisconsin) and has noted the pending legislation to treat this substance on a par with heroin, which the recommendation of the Committee does. See 1999 A.B. 318.

<sup>25</sup> See preceding note.

**CLASS E (10 MAX PRISON: 5 E.S.) (\$50,000 MAX FINE)**

Delivery of COCAINE > 5 g but ≤ 15 g	961.41(1)(cm)2
Possession of COCAINE w/ int. to deliver > 5 but ≤ 15 g	961.41(1m)(cm)2
Delivery of HEROIN, > 3 g but ≤ 10 g	961.41(1)(d)2
Possession of HEROIN w/intent to deliver > 3 g but ≤ 10 g	961.41(1m)(d)2
Delivery of METH > 3 g but ≤ 10 (from H)	961.41(1)(e)2
Possession of METH w/intent to deliver > 3 g but ≤ 10 g (from H)	96 1.41 (1m)(e)2
Delivery of LSD > 5 g	961.41(1)(f)3
Possession of LSD w/intent to deliver > 5 g	961.41(1m)(f)3
Delivery of THC > 10,000 g <sup>26</sup>	NEW STATUTE
Possession of THC w/ intent to deliver > 10,000 g <sup>27</sup>	NEW STATUTE
Delivery of a narcotic drug included in Schedule I or II	961.41(1)(a)
Possession w/intent to deliver a narcotic drug included in Schedule I or II	961.41(1m)(a)
Delivery of PSILOCIN > 500 grams	961.41(1)(g)3
Possession w/intent to deliver PSILOCIN > 500 grams	961.41(1m)(g)3
Delivery or possession w/intent to deliver a counterfeit substance included in Schedule I or II which is a narcotic drug	961.41(2)(a)

**CLASS F (7.5 MAX PRISON: 5 E.S.) (\$25,000 MAX FINE)**

Delivery of COCAINE > 1 g but ≤ 5 g	961.41(1)(cm)1
Possession of COCAINE w/ int. to deliver > 1 but ≤ 5 g	961.41(1m)(cm)1
Delivery of HEROIN ≤ 3g	961.41(1)(d)1
Possession of HEROIN w/intent to deliver ≤ 3 g	961.41(1m)(d)1
Delivery of METH ≤ 3 (from H)	961.41(1)(e)1
Possession of METH ≤ 3 g (from H)	961.41(1m)(e)1
Delivery of LSD > 1 g but ≤ 5 g (from H)	941(1)(f)2
Possession of LSD w/intent to deliver > 1 g but ≤ 5 g (from H)	961.41(1m)(f)2
Delivery of THC > 2500 g but ≤ 10,000 g	NEW STATUTE
Possession of THC w/intent to deliver > 2500 g but ≤ 10,000 g	NEW STATUTE
Delivery of PSILOCIN >100 but ≤ 500 grams	961.41(1)(g)2
Possession of PSILOCIN w/intent to deliver >100 but ≤ 500 g	961.41(1m)(g)2
False or fraudulent drug tax stamp	139.95(3)
Possession of any amount of piperidine	961.41(1n)(c)
Use of a person who is 17 years of age or under for the purpose of the delivery of a controlled substance <sup>28</sup>	961.455(1)

<sup>26</sup> Under current law the maximum penalties for delivery of THC apply to deliveries of 2500 g or more. Considering the great range between this amount and the amount at which federal authorities are likely to become interested in the case (100-400 kilograms) and given that state cases can involve amounts well in excess of 2500 g, the Committee recommends that the amount categories on the higher end be as follows: > 10,000, 2500 to 10,000, and 1000-2500 grams.

<sup>27</sup> See preceding note.

**CLASS G (5 MAX PRISON: 5 E.S.) (\$25,000 MAX FINE)**

Delivery of COCAINE $\leq 1$ g <sup>29</sup>	NEW STATUTE	X
Possession of COCAINE w/ int. to deliver $\leq 1$ g <sup>30</sup>	NEW STATUTE	X
Delivery of LSD $\leq 1$ g (from H)	961.41(1)(f)1	X
Possession of LSD w/intent to deliver $\leq 1$ g (from H)	961.41(1m)(f)1	X
Delivery of THC $> 1000$ but $\leq 2500$ g <sup>31</sup>	961.41(1)(h)3	X
Possession of THC w/intent to deliver $> 1000$ but $\leq 2500$ <sup>32</sup>	961.41(1m)(h)3	X
Delivery of PSILOCIN $< 100$ grams	961.41(1)(g)1	X
Possession of PSILOCIN w/intent to deliver $< 100$ grams	961.41(1m)(g)1	X

**CLASS H (3 MAX PRISON: 3 E.S.) (\$10,000 MAX FINE)**

Delivery of THC $> 200$ but $\leq 1000$ g	961.41(1)(h)2	X
Possession of THC w/intent to deliver $> 200$ but $\leq 1000$ g	961.41(1m)(h)2	X
Delivery of any other controlled substance included in Schedule I, II or III, or a controlled substance analog of any other controlled substance included in Schedule I or II	961.41(1)(b)	X
Delivery or possession with intent to deliver any other counterfeit substance included in Schedule I, II or III	961.41(2)(b)	X
Possession with intent to deliver any other controlled substance included in Schedule I, II or III, or a controlled substance analog of a controlled substance included in Schedule I or II	961.41(1m)b	X
Possession of a Schedule I or II controlled substance not bearing drug tax stamp	139.95(2)	- JEO
Delivery of a substance included in Schedule IV	961.41(1)(i)	X
Possession with intent to deliver a substance included in Schedule I v	961.41(1m)(i)	X

<sup>28</sup> Statute should be amended to prohibit use of a person "under the age of 17 years" for the purpose of delivering a controlled substance. This would be consistent with recent amendments to Wisconsin's Juvenile Code.

<sup>29</sup> The Committee recommends creation of a new category for delivery of cocaine to cover amounts of 1 gram or less. This encompasses the vast majority of state delivery cases and the 5 year penalty of Class G is sufficient for offenses in this category. As a matter of fact sentencing data available from the Department of Corrections (as substantiated by the experience of experts who assisted the Committee) reveal that the vast majority sentences statewide for deliveries of 5 grams or less (the lowest category under current law), when adjusted for truth in sentencing and time actually served, result in actual incarceration well within the 5-year range.

<sup>30</sup> See previous footnote.

<sup>31</sup> Under current law the lower end THC weight categories are 500 g or less and more than 500 but less than 2500 grams. The Committee recommends that the amounts be more stratified to more accurately reflect the diversity of violations and to structure penalties accordingly. Thus it recommends that the lower end amount ranges be as follows:  $> 1000$  but  $\leq 2500$  g,  $> 200$  but  $\leq 1000$  g, and  $\leq 200$  g.

<sup>32</sup> See preceding note.

**CLASS H (3 MAX PRISON: 3 E.S.) (\$10,000 MAX FINE) (continued)**

Delivery or possession with intent to deliver a counterfeit substance included in Schedule IV	961.41(2)(c)	X
Acquire or obtain a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge	961.43(2)	X
Possession or attempted possession of gammahydroxybutric acid, gammahydroxybutyrolactone, ketamine or flunirazepam <sup>33</sup> (from I)	961.41(3g)(f)	X

**CLASS I (18 MO. MAX PRISON: 2 YRS E.S.) (\$10,000 MAX FINE)**

Delivery of THC $\leq$ 200 g	961.41(1)(h)1	X
Possession of THC w/intent to deliver $\leq$ 200 g	961.41(1m)(h)1	X
Fraudulent drug advertising	100.26(7)	X
Delivery of a substance included in Schedule V	961.41(1)(j)	X
Possession with intent to deliver a substance included in Schedule V	961.41(1m)(j)	X
Delivery or possession with intent to deliver a counterfeit substance included in Schedule V	961.41(2)(d)	X
Possession of a narcotic included in Schedule I or II <sup>34</sup> 961.41(3g)(a)1		
Possession or attempted possession of Heroin	961.41(3g)(a)	X
Distribution or delivery of imitation controlled substance	961.41(4)(am)3	X
Keeping of a drug house	961.42(2)	X

JEO ??

<sup>33</sup> The substances included in the text accompanying this footnote include what have come to be known as "date rape" drugs.

<sup>34</sup> A first offense under this statute is now punishable by 1 year and subsequent offenses are punishable by 2 years. The Committee recommends deleting this distinction, classifying all offenses a Class I felonies, and treating the fact of prior conviction as a sentencing factor or, when appropriate, as a basis for invoking repeat offender laws.



## ADDITIONAL RECOMMENDATIONS REGARDING CONTROLLED SUBSTANCE STATUTES

In addition to the classification of drug offenses described above, the subcommittee also makes the following recommendations regarding the provisions of Chapter 961 of the Statutes:

1. The penalty doubler for second and subsequent offenses<sup>37</sup> should be recast to resemble the general habitual criminality statute<sup>38</sup> but should remain codified in sec. 961.46 with the procedures now specified therein. In particular the subcommittee recommends that if a defendant is a second or subsequent drug offender,<sup>39</sup> the maximum incarceration penalty<sup>40</sup> may be increased as follows:

Four years if the present offense is a Class E, F, G, H or I felony.

Six years if the present offense is a Class C or D felony.<sup>41</sup>

2. Simple possession or attempted possession of (a) cocaine or cocaine base,<sup>42</sup> (b) isyeric acid diethylamide, phencyclidine, amphetamine, methamphetamine, methcathinone, psilocin or psilocybin,<sup>43</sup> and (c) tetrahydrocannabinols (THC),<sup>44</sup> all of which are misdemeanors, should retain their present misdemeanor penalties unless the offender qualifies as a second or subsequent offender,<sup>45</sup> in which case the possession or attempted possession offense should be classified as a Class I felony. The subcommittee makes no recommendation for changing the penalties of other misdemeanor offenses codified in Chapter 961. Nor does it classify those misdemeanors because doing so would be beyond the charge given to the Committee by the legislature.<sup>46</sup>

Q.  
(3g)(a)  
structure

<sup>37</sup> See Wis. Stat. sec. 961.48.

<sup>38</sup> See generally Wis. Stat. sec. 939.62.

<sup>39</sup> Persons qualifying as second or subsequent offenders are described in Wis. Stat. sec. 961.48(3).

<sup>40</sup> The proposal speaks of increasing the maximum period of incarceration for repeat drug offenders. It does not increase fines. Further, any reference to doubling minimum penalties should be deleted because of the general recommendation against the use of minimum penalties for drug and non-drug offenses alike.

<sup>41</sup> No drugs felonies are proposed for classification in Class A or B.

<sup>42</sup> See Wis. Stat. sec. 961.41(3g)(c).

<sup>43</sup> See Wis. Stat. sec. 961.41(3g)(d).

<sup>44</sup> See Wis. Stat. sec. 961.41(3g)(e).

<sup>45</sup> Persons qualifying as second or subsequent offenders are described in Wis. Stat. sec. 961.48(3).

<sup>46</sup> 1997 Wis. Act 283 sec. 454(1)(e)2 directs the Criminal Penalties Study Committee to classify "each felony and Class A misdemeanor." There is no direction to classify what are currently unclassified misdemeanors (like those in Chapter 961) though doing so may be desirable at some point in the future.



3. The penalty enhancer for distribution of or possession with intent to deliver a controlled substance on or near certain places (e.g., within 1,000 ft. of a park, jail or correctional facility, school, youth center, etc.)<sup>47</sup> should be set at 5 years. The provisions for minimum penalties associated with this enhancer should be repealed for the reasons articulated above. The judge should have the full range of penalties available when exercising sentencing discretion in these kinds of cases.
4. The penalty doubler for distribution to prisoners<sup>48</sup> should be recast as a statutory sentencing aggravator which may result in a lengthier disposition but which does not otherwise increase the maximum term of imprisonment. In this regard the subcommittee notes that one who distributes to a prisoner within the precincts of a prison, jail or other correctional facility will be subject to the penalty enhancer described in the preceding paragraph.
5. The penalty doubler for distribution to persons under age 18<sup>49</sup> should be recast as a sentencing enhancer which increases the maximum term of imprisonment by 5 years. The provision for doubling fines and presumptive minimum penalties should be repealed.
6. The penalty enhancer for distribution or possession with intent to deliver certain controlled substances on public transit vehicles<sup>50</sup> should be recast as a statutory sentencing aggravator which may result in a lengthier disposition but which does not otherwise increase the maximum term of imprisonment. The subcommittee believes that existing penalty ranges proposed for delivery and possession with intent to deliver are adequate to deal with the aggravating circumstance of delivery or possession with intent to deliver a controlled substance while on a public transit vehicle.

**LEGISLATIVE CHARGE TO CONSOLIDATE  
ALL FELONIES (INCLUDING DRUG CRIMES)  
INTO A SINGLE CRIMINAL CODE**

Finally, the subcommittee addresses the last of the legislative charges quoted on the first page of this document regarding the consolidation of all felonies into a single criminal code. The subcommittee strongly opposes this change in the Statutes for

---

<sup>47</sup> See Wis. Stat. sec. 961.49.

<sup>48</sup> See Wis. Stat. sec. 961.465.

<sup>49</sup> See Wis. Stat. sec. 961.46.

<sup>50</sup> See Wis. Stat. sec. 961.492.

numerous reasons and respectfully urges the legislature to reconsider it. Among the reasons for its opposition are the following:

1. Over 200 felonies are placed in various chapters of the Wisconsin Statutes ~~Other than in the Criminal Code.~~ g i c a l l y codified with the subject matter of the various statutory chapters and for ease of access should remain where they are. To remove the crimes from their related substantive law provisions would promote needless confusion among the lawyers, judge, legislators and others who must use these laws and would require looking in multiple places for related provisions. DNR crimes should remain with other DNR statutes; traffic crimes should remain with other Vehicle Code statutes; securities crimes should remain with other securities laws, etc.
2. 1997 Act 283 speaks only in terms of relocating all felonies to the Criminal Code. Thus, misdemeanors would remain scattered throughout the statutes while felonies would be in the Criminal Code, even if those felonies and misdemeanors dealt with related subject matter.
3. The Criminal Code has not been **recodified** since the 1950's. Since that time it has become inordinately complex with the addition of literally countless provisions. To overburden the Code with addition of over 200 more felonies would produce a document that would defy usage by even the most talented of lawyers, judges, legislators and other users.
4. Finally, with respect to drug offenses, it has been observed above that Chapter 961 is a relatively self-contained drug code for the State of Wisconsin. Beyond the complex set of crimes codified therein, it has its own declaration of legislative intent, its own set of definitions, and its own system of sanctions. To engraft the drug code upon the Criminal Code without a general recodification effort involving the integration of both (assuming that would be desirable) would do little, if anything, to promote statutory clarity and ease of use. Rather, it would pose a substantial risk of unnecessarily confounding what are already complex and difficult chapters of the Wisconsin Statutes.

Respectfully submitted,

CODE RECLASSIFICATION  
SUBCOMMITTEE

BY: PROF. THOMAS J. HAMMER  
CHAIR

To - Joe

**Dsida, Michael**

---

**Subject:** drug felonies

I was just about to finish the draft on Friday when the Add Statute program in Folio failed. Rather than play around with the Interleaf version, I decided to call it quits. All that is left to add is the Class I felonies.

Some comments and questions:

1. I forwarded the draft (lrb3265/p1) to your inbox. I did not sort it by section number. (The felonies are roughly in section number order within each class. The draft begins with the Class C felonies, which are followed by Class D....) I thought it would be easier for you to review what I've done -- if you decide you want to -- if I kept the electronic copy this way.

Unfortunately, that means you have to manually cross out the current versions of provisions that I am amending (i.e, the text as unaffected by 1997 WA 283) after you print it.

2. I repealed s. 961.438 in the draft (somewhere around section 42). My concern is about the cross-references in s. 961.49 (sections 43 and 44 of the draft). I made the changes in that section that I think are warranted, but I'm not sure about them. In view of its elimination of minimums elsewhere in ch. 961 (and everywhere else, for that matter), it is unclear what should happen to these sections. Did if the committee intend to keep these minimums at all?

3. At the risk of being branded a heretic, I think we should change the structure of most of s. 961.41 to correct some grammar errors. That would entail eliminating "following" clauses in several "intro." units. To illustrate, s. 961.41 (1) (cm) 2., if everything is strung together, now reads in part:

"...Any person who violates this subsection with respect to cocaine....is subject to the following penalties if the amount manufactured...is five grams or less, the person shall be fined..."

My revisions (replacing "shall be fined..." with "is guilty of a Class E felony") don't solve the problem.

I propose that we strike "the person" in all of the subdivisions of subs. (1) and (1 m) and "is subject to the following penalties" in all of the paragraphs.

There is some precedent for eliminating the "following" clauses, including 961.41 (1) (intro.). Several property crimes are use intro. units without "following" language.

I pulled the paragraphs into a P1 insert. (I was tempted to make the subdivision changes in the P1 itself, but I thought it would be harder to undo the changes if you disagree with me on this.) If you agree with me, just have the WPOs incorporate the insert (which would then entail another section sort).

4. I didn't get a chance to search for other penalties in ch. 961 to make sure the committee hit everything, nor did I have time to check cross-references or sections affected.

5. Should I have repealed the 961.41 (1) (h) 1., 2., and 3. and (1m) (h) 1., 2., and 3. and created new subs. (rather than amend the existing ones), given the new structure for THC?

6. Did you treat s. 100.26 (7) in your non-code crimes draft? (I assume you did, so I didn't touch it in this one.) Also, I know I already asked this, but just to be safe -- did you treat s. 139.95 (2) and (3)?

Feel free to call me in Chicago or parts east if you have questions regarding this or anything else.

Thanks again for helping me get time off.

Mike

The computers ~~stuck~~ were acting funky,  
so I just printed this out,  
Mike

**SECTION 1.** 961.41 (1) (cm) (intro.) of the statutes is amended to read:

961.41 (1) (cm) (intro.) <sup>By the person who sells, transfers, or distributes</sup> Cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine base, <sup>and</sup> is subject to the following penalties if the amount manufactured, distributed or delivered is:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

**SECTION 2.** 961.41 (1) (d) (intro.) of the statutes is amended to read:

961.41 (1) (d) (intro.) Heroin or a controlled substance analog of heroin is subject to the following penalties if the amount manufactured, distributed or delivered is:

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

**SECTION 3.** 961.41 (1) (e) (intro.) of the statutes is amended to read:

961.41 (1) (e) (intro.) Phencyclidine, amphetamine, methamphetamine or methcathinone, or a controlled substance analog of phencyclidine, amphetamine, methamphetamine or methcathinone, is subject to the following penalties if the amount manufactured, distributed or delivered is:

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

**SECTION 4.** 961.41 (1) (f) (intro.) of the statutes is amended to read:

961.41 (1) (f) (intro.) Lysergic acid diethylamide or a controlled substance analog of lysergic acid diethylamide is subject to the following penalties if the amount manufactured, distributed or delivered is:

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

**SECTION 5.** 961.41 (1) (g) (intro.) of the statutes is amended to read:

961.41 (1) (g) (intro.) Psilocin or psilocybin, or a controlled substance analog of psilocin or psilocybin, ~~is subject to the following penalties~~ if the amount manufactured, distributed or delivered is:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995

**SECTION 6.** 961.41 (1) (h) (intro.) of the statutes is amended to read:

a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

961.41 (1) (h) (intro.) Tetrahydrocannabinols, included under s. 961.14 (4) (t), or a controlled substance analog of tetrahydrocannabinols, ~~is subject to the following penalties~~ if the amount manufactured, distributed or delivered is:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

**SECTION 7.** 961.41 (1m) (cm) (intro.) of the statutes is amended to read:

961.41 (1m) (cm) (intro.) Cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine base, ~~is subject to the following penalties~~ if the amount possessed, with intent to manufacture, distribute or deliver, is:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

**SECTION 8.** 961.41 (1m) (d) (intro.) of the statutes is amended to read:

961.41 (1m) (d) (intro.) Heroin or a controlled substance analog of heroin ~~is subject to the following penalties~~ if the amount possessed, with intent to manufacture, distribute or deliver, is:

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

**SECTION 9.** 961.41 (1m) (e) (intro.) of the statutes is amended to read:

961.41 (1m) (e) (intro.) Phencyclidine, amphetamine, methamphetamine or methcathinone, or a controlled substance analog of phencyclidine, amphetamine, methamphetamine or methcathinone, ~~is subject to the following penalties~~ if the amount possessed, with intent to manufacture, distribute or deliver, is:

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

**SECTION 10.** 961.41 (1m) (f) (intro.) of the statutes is amended to read:

961.41 (1m) (f) (intro.) Lysergic acid diethylamide or a controlled substance analog of lysergic acid diethylamide ~~is subject to the following penalties~~ if the amount possessed, with intent to manufacture, distribute or deliver, is:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

**SECTION 11.** 961.41 (1m) (g) (intro.) of the statutes is amended to read:

961.41 (1m) (g) (intro.) Psilocin or psilocybin, ~~or a controlled substance analog of psilocin or psilocybin, is subject to the following penalties~~ if the amount possessed, with intent to manufacture, distribute or deliver, is:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

**SECTION 12.** 961.41 (1m) (h) (intro.) of the statutes is amended to read:

961.41 (1m) (h) (intro.) Tetrahydrocannabinols, included under s. 961.14 (4) (t), or a controlled substance analog of tetrahydrocannabinols, ~~is subject to the following penalties~~ if the amount possessed, with intent to manufacture, distribute or deliver, is:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.



Tuesday, July 27, 1999 12:52 pm

Current Wisconsin Statutes updated through 1999 Act 4

SECTION (Sub)(Par)	TREATMENT	AFFECTED BY
100.26(7) 1997	am. effec. 12-31-1999 . . . .	WisAct 283 of
939.50(3)(c) 1997	am. effec. 12-31-1999 . . . .	WisAct 283 of
961.41(1)(a) 1997	am. effec. 12-31-1999 . . . .	WisAct 283 of
961.41(1)(b) 1997	am. effec. 12-31-1999 . . . .	WisAct 283 of
961.41(1)(cm)1. 1997	am. effec. 12-31-1999 . . . .	WisAct 283 of
961.41(1)(cm)2. 1997	am. effec. 12-31-1999 . . . .	WisAct 283 of
961.41(1)(cm)3. 1997	am. effec. 12-31-1999 . . . .	WisAct 283 of
961.41(1)(cm)4. 1997	am. effec. 12-31-1999 . . . .	WisAct 283 of
961.41(1)(cm)5. 1997	am. effec. 12-31-1999 . . . .	WisAct 283 of
961.41(1)(d)1. 1997	am. effec. 12-31-1999 . . . .	WisAct 283 of
961.41(1)(d)2. 1997	am. effec. 12-31-1999 . . . .	WisAct 283 of
961.41(1)(d)3. 1997	am. effec. 12-31-1999 . . . .	WisAct 283 of
961.41(1)(d)4. 1997	am. effec. 12-31-1999 . . . .	WisAct 283 of
961.41(1)(d)5. 1997	am. effec. 12-31-1999 . . . .	WisAct 283 of
961.41(1)(d)6. 1997	am. effec. 12-31-1999 . . . .	WisAct 283 of
961.41(1)(e)1. 1997	am. effec. 12-31-1999 . . . .	WisAct 283 of
961.41(1)(e)2. 1997	am. effec. 12-31-1999 . . . .	WisAct 283 of
961.41(1)(e)3. 1997	am. effec. 12-31-1999 . . . .	WisAct 283 of
961.41(1)(e)4.	am. effec. 12-31-1999 . . . .	WisAct 283 of

1997  
961.41(1)(e)5. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1)(e)6. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1)(f)1. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1)(f)2. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1)(f)3. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1)(g)1. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1)(g)2. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1)(g)3. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1)(h)1. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1)(h)2. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1)(h)3. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1)(i) am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1)(j) am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(a) am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(b) am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(cm)1. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(cm)2. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(cm)3. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(cm)4. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(cm)5. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(d)1. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(d)2. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(d)3. am. effec. 12-31-1999 . . . . WisAct 283 of



1997  
961.41(1m)(d)4. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(d)5. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(d)6. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(e)1. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(e)2. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(e)3. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(e)4. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(e)5. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(e)6. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(f)1. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(f)2. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(f)3. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(g)1. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(g)2. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(g)3. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(h)1. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(h)2. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(h)3. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(i) am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1m)(j) am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(1n)(c) am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(2)(a) am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(2)(b) am. effec. 12-31-1999 . . . . WisAct 283 of

1997  
961.41(2)(c) am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(2)(d) am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(3g)(a)1. am. effec. 12-31-1999 .... WisAct 283 of  
1997  
961.41(3g)(a)2. am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.41(4)(am)3. am. effec. 12-31-1999 .... WisAct 283 of  
1997  
961.42(2) am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.43(2) am. effec. 12-31-1999 . . . . WisAct 283 of  
1997  
961.455(1) am. effec. 12-31-1999 . . . . WisAct 283 of  
1997

X-REFS

RP

RN

- ✓ 961.41 (1)(cm) 5.
- ✓ (d) 5.
- ✓ 6.
- ✓ (e) 5.
- ✓ 6.
- ✓ (1m) (cm) 5.
- ✓ (d) 5.
- ✓ 6.
- ✓ (e) 5.
- ✓ 6.
- ✓ (2) (c)
- ✓ (3g) (a) 2.
- 3.

- ✓ 939.50 (3)(c)
- ✓ 961.41 (1) (cm) 1.
- ✓ (1m) (cm) 1.
- ✓ (3g) (a) 1.
- ✓ 961.46 (1)
- ✓ 961.48 (1)
- ✓ 961.49 (1)

✓ 961.438

✓ 961.46(2)  
✓ (3)

✓ 961.465

✓ 961.48(2)  
✓ (4)

✓ 961.49 (2)

✓ (3)

✓ 961.492



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-3265/P1  
MGD&JEO:|:....

*Thurs. 7/29  
or Fri 7/30 if possible*

*WJ*

PRELIMINARY **DRAFT - NOT READY FOR INTRODUCTION**

*Get it*

1 AN ACT *Get it*; relating to: penalties for felony controlled substances offenses.

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided in a later version of the draft.

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

2 SECTION 1. 100.26 (7) of the statutes, as affected by 1997 Wisconsin Act 283,  
3 is amended to read:

4 100.26 (7) Any person violating s. 100.182 shall be fined not less than \$500 nor  
5 more than \$5,000 or imprisoned not more than one year or both for each offense.  
6 Each unlawful advertisement published, printed or mailed on separate days or in  
7 separate publications, hand bills or direct mailings is a separate violation of this  
8 section.

NOTE: Note: Sub. (7) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:NOTE:

9 (7) Any person violating s. 100.182 shall be fined not less than \$500 nor more  
10 than \$5,000 or imprisoned for not more than 2 years or both for each offense is guilty

1 of a Class I felony. Each unlawful advertisement published, printed or mailed on  
 2 separate days or in separate publications, hand bills or direct mailings is a separate  
 3 violation of this section.

\*\*\*\*NOTE: This <sup>is</sup> class of felony referred to in this provision is created in LRB-0590,  
 with which this draft will ultimately be compiled.

History: 1975 c. 39; 1979 c. 327; 1981 c. 90; 1981 c. 124 s. 9; 1983 a. 500; 1985 a. 288; 1989 a. 31; 1993 a. 414; 1995 a. 27; 1997 a. 55, 111, 201, 253, 283; s. 13.93 (2) (c).

4 **SECTION 2. 302.11 (lp)** of the statutes is amended to read:

5 302.11 (lp) An inmate serving a term subject to s. 961.49 (2), ~~1997 stats.~~ for  
 6 a crime committed before December 31, 1999, is entitled to mandatory release,  
 7 except the inmate may not be released before he or she has complied with s. 961.49  
 8 (2), ~~1997 stats.~~

History: 1977 c. 266,353; 1979 c. 221; 1981 c. 266; 1983 a. 66,528; 1985 a. 27; 1985 a. 332s. 251 (1); 1987 a. 27,412; 1989 a. 31 ss. 1629,1630; Stats. s. 302.11.1989  
 a. 107; 1991 a. 39; 1993 a. 79, 97, 194, 289, 483; 1995 a. 77,448; 1997 a. 133, 275, 283, 284, 295, 326.

9 **SECTION 3. 304.06 (1) (b)** of the statutes is amended to read:

10 304.06 (1) (b) Except as provided in s. ~~961.49 (2), 1997 stats.~~ sub. (1m) or s.  
 11 302.045 (3), ~~961.49 (2), 973.01 (6)~~ or 973.0135, the parole commission may parole an  
 12 inmate of the Wisconsin state prisons or any felon or any person serving at least one  
 13 year or more in a county house of correction or a county reforestation camp organized  
 14 under s. 303.07, when he or she has served 25% of the sentence imposed for the  
 15 offense, or 6 months, whichever is greater. Except as provided in s. 939.62 (2m) (c)  
 16 or 973.014 (1) (b) or (c), (lg) or (2), the parole commission may parole an inmate  
 17 serving a life term when he or she has served 20 years, as modified by the formula  
 18 under s. 302.11 (1) and subject to extension under s. 302.11 (lq) and (2), if applicable.  
 19 The person serving the life term shall be given credit for time served prior to  
 20 sentencing under s. 973.155, including good time under s. 973.155 (4). The secretary  
 21 may grant special action parole releases under s. 304.02. The department or the  
 22 parole commission shall not provide any convicted offender or other person

1 sentenced to the department's custody any parole eligibility or evaluation until the  
2 person has been confined at least 60 days following sentencing.

~~NOTE: NOTE: Par. (b) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c). NOTE:~~

~~History: 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 265; 1983 c. 27, 64, 107, 528, 538, 1085, 262, 8; 1985 a. 244 ss. 1 to 3, I; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; s. 13.93 (2) (c).~~

3 SECTION 4. 304.071 (2) of the statutes is amended to read:

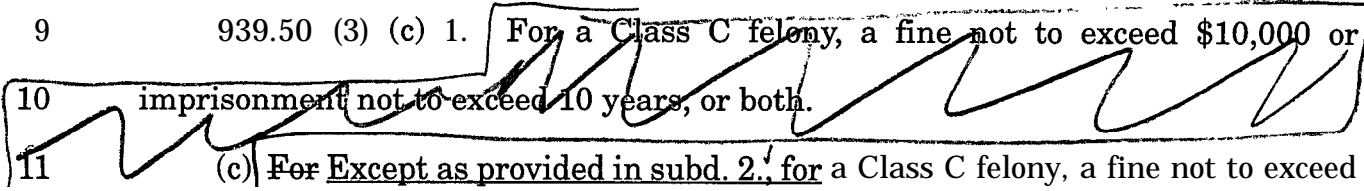
4 304.071 (2) If a prisoner is not eligible for parole under s. 961.49 (2), 1997 stats.,  
5 or s. 939.62 (2m) (c), 961.49 (2), 973.01 (6), 973.014 (1) (c) or (lg) or 973.032 (5), he  
6 or she is not eligible for parole under this section.

NOTE: NOTE: Sub. (2) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:

History: 1989 a. 31 ss. 1702, 1703; Stats. 1989 s. 304.071; 1991 a. 39; 1993 a. 289; 1995 a. 48, 448; 1997 a. 283, 326; s. 13.93 (2) (c).

7 SECTION 5. 939.50 (3) (c) of the statutes, as affected by 1997 Wisconsin Act 283,  
8 is renumbered 939.50 (3) (c) 1. and amended to read:

9 939.50 (3) (c) 1. For a Class C felony, a fine not to exceed \$10,000 or  
10 imprisonment not to exceed 10 years, or both.



11 (c) ~~For~~ Except as provided in subd. 2., for a Class C felony, a fine not to exceed  
12 \$10,000 ~~\$50,000~~ or imprisonment not to exceed ~~15~~ 25 years, or both.

\*\*\*\*NOTE: In the first compile, check for cross-references to s. 939.50 (3) (c) that  
make exceptions to not withstand the fine amount so that they can be changed to refer specifically to  
subdivision 1.

History: 1977 c. 173; 1981 c. 280; 1987 a. 332 s. 64; 1993 a. 194; 1995 s. 69; 1997 a. 283.

13 SECTION 6. 939.50 (3) (c) 2. of the statutes is created to read:

14 939.50 (3) (c) 2. For a Class C felony under ch. 961, a fine not to exceed \$100,000  
15 or imprisonment not to exceed 25 years, or both.

16 SECTION 7. 961.41 (1) (intro.) of the statutes is amended to read:

17 961.41 (1) MANUFACTURE, DISTRIBUTION OR DELIVERY. (intro.) Except as  
18 authorized by this chapter, it is unlawful for any person to manufacture, distribute  
19 or deliver a controlled substance or controlled substance analog. Any person who  
20 violates this subsection ~~with respect to~~ is subject to the following penalties:

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

1 SECTION 8. 961.41 (1) (a) of the statutes, as affected by 1997 Wisconsin Act 283,  
2 is amended to read:

3 961.41 (1) (a) ~~Except as provided in par. (d), a controlled substance included~~  
4 ~~in schedule I or II which is a narcotic drug, or a controlled substance analog of a~~  
5 ~~controlled substance included in schedule I or II which is a narcotic drug, may be~~  
6 ~~fined not more than \$25,000 or imprisoned for not more than 15 years or both.~~

NOTE: NOTE: Par. (a) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

7 (a) Schedule I and II narcotic drugs generally. Except as provided in par. (d),  
8 if a person violates this subsection with respect to a controlled substance included  
9 in schedule I or II which is a narcotic drug, or a controlled substance analog of a  
10 controlled substance included in schedule I or II which is a narcotic drug, ~~may be~~  
11 ~~fined not more than \$25,000 or imprisoned for not more than 22 years and 6 months~~  
12 ~~or both~~ the person is guilty of a Class E felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 : 220, 283.

13 SECTION 9. 961.41 (1) (b) of the statutes, as affected by 1997 Wisconsin Act 283,  
14 is amended to read:

15 961.41 (1) (b) ~~Except as provided in pars. (cm) and (e) to (h), any other~~  
16 ~~controlled substance included in schedule I, II or III, or a controlled substance analog~~  
17 ~~of any other controlled substance included in schedule I or II, may be fined not more~~  
18 ~~than \$15,000 or imprisoned for not more than 5 years or both.~~

NOTE: NOTE: Par. (b) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:

19 (b) Schedule I, II and III nonnarcotic drugs generally. Except as provided in  
20 pars. (cm) and (e) to (h), if a person violates this subsection with respect to any other  
21 controlled substance included in schedule I, II or III, or a controlled substance analog  
22 of any other controlled substance included in schedule I or II, ~~may be fined not more~~

1 ~~than \$15,000 or imprisoned for not more than 7 years and 6 months or both the~~  
2 person is guilty of a Class H felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

\*\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

3 SECTION 10. 961.41 (1) (cm) (intro.)<sup>↓</sup> of the statutes is amended to read:

4 961.41 (1) (cm) **Cocaine and cocaine base.** (intro.) ~~Cocaine~~ If the person violates  
5 this subsection with respect to cocaine or cocaine base, or a controlled substance  
6 analog of cocaine or cocaine base, ~~is subject to the following penalties if and~~ the  
7 amount manufactured, distributed or delivered is:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

8 SECTION 11. 961.41 (1) (cm) 1.<sup>↓</sup> of the statutes, as affected by 1997 Wisconsin Act  
9 283, is renumbered 961.41 (1) (cm) 1r.<sup>↓</sup> and amended to read:

10 961.41 (1) (cm) 1r. ~~Five grams or less, the person shall be fined not more than~~  
11 ~~\$500,000 and may be imprisoned for not more than 10 years.~~

NOTE: NOTE: Subd. 1. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:NOTE:

12 1r. ~~Five grams or less~~ More than one gram but not more than five grams, the  
13 ~~person shall be fined not more than \$500,000 and may be imprisoned for not more~~  
14 than 15 years is guilty of a Class F felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

\*\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

15 SECTION 12. 961.41 (1) (cm) 1g.<sup>↓</sup> of the statutes is created to read:

16 961.41 (1) (cm) 1g. One gram or less, the person is guilty of a Class G felony

\*\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

17 SECTION 13. 961.41 (1) (cm) 2.<sup>↓</sup> of the statutes, as affected by 1997 Wisconsin  
18 Act 283, is amended to read:



1            961.41 (1) (cm) 2. ~~More than 5 grams but not more than 15 grams, the person~~  
2            shall be fined not more than \$500,000 and shall be imprisoned for not less than one  
3            year nor more than 15 years.

NOTE: NOTE: Subd. 2. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

4            2. More than 5 grams but not more than 15 grams, the person shall be fined  
5            not more than \$500,000 and shall be imprisoned for not less than one year nor more  
6            than ~~22 years and 6 months~~ is guilty of a Class E felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

7            SECTION 14. 961.41 (1) (cm) 3. of the statutes, as affected by 1997 Wisconsin  
8            Act 283, is amended to read:

9            961.41 (1) (cm) 3. ~~More than 15 grams but not more than 40 grams, the person~~  
10           shall be fined not more than \$500,000 and shall be imprisoned for not less than 3  
11           years nor more than 20 years.

12           961.41 (1) (cm) 3. More than 15 grams but not more than 40 grams, the person  
13           shall be fined not more than \$500,000 and shall be imprisoned for not less than 3  
14           years nor more than 30 years is guilty of a Class D felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

15           SECTION 15. 961.41 (1) (cm) 4. of the statutes, as affected by 1997 Wisconsin  
16           Act 283, is amended to read:

17           961.41 (1) (cm) 4. ~~More than 40 grams but not more than 100 grams, the person~~  
18           shall be fined not more than \$500,000 and shall be imprisoned for not less than 5  
19           years nor more than 30 years.

20           961.41 (1) (cm) 4. More than 40 grams but not more than 100 grams, the person  
21           shall be fined not more than \$500,000 and shall be imprisoned for not less than 5  
22           years nor more than 45 years is guilty of a Class C felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

1           **SECTION 16.** 961.41 (1) (cm) 5. <sup>J</sup> of the statutes, as affected by 1997 Wisconsin  
2 Act 283, is repealed.

3           **SECTION 17.** 961.41 (1) (d) (intro.)<sup>J</sup> of the statutes is amended to read:

4           **961.41 (1) (d) Heroin.** (intro.) ~~Heroin~~ If the person violates this subsection with  
5 respect to heroin or a controlled substance analog of heroin ~~is subject to the following~~  
6 ~~penalties if and~~ the amount manufactured, distributed or delivered is:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

7           **SECTION 18.** 961.41 (1) (d) 1. of the statutes, as affected by 1997 Wisconsin Act  
8 283, is amended to read:

9           961.41 (1) (d) 1. ~~Three grams or less, the person shall be fined not less than~~  
10 ~~\$1,000 nor more than \$200,000 and may be imprisoned for not more than 15 years.~~  
NOTE: NOTE: Subd. 1. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:  
11 1. ~~Three grams or less, the person shall be fined not less than \$1,000 nor more~~

12 ~~than \$200,000 and may be imprisoned for not more than 22 years and 6 months is~~  
13 ~~guilty of a Class F felony.~~

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

\*\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

14           **SECTION 19.** 961.41 (1) (d) 2. <sup>J</sup> of the statutes, as affected by 1997 Wisconsin Act  
15 283, is amended to read:

16           961.41 (1) (d) 2. ~~More than 3 grams but not more than 10 grams, the person~~  
17 ~~shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned~~  
18 ~~for not less than 6 months nor more than 15 years.~~

NOTE: NOTE: Subd. 2. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:  
19 2. ~~More than 3 grams but not more than 10 grams, the person shall be fined~~  
20 ~~not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than~~  
21 ~~6 months nor more than 22 years and 6 months is guilty of a Class E felony.~~

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

1           **SECTION 20. 961.41 (1) (d) 3.**<sup>J</sup> of the statutes, as affected by 1997 Wisconsin Act  
2       283, is amended to read:

3           961.41 (1) (d) 3. ~~More than 10 grams but not more than 50 grams, the person~~  
4       ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~  
5       ~~for not less than one year nor more than 15 years.~~

6           961.41 (1) (d) 3. More than 10 grams but not more than 50 grams, the person  
7       shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned  
8       for not less than one year nor more than 22 years and 6 months is guilty of a Class  
9       D felony

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

10           **SECTION 21. 961.41 (1) (d) 4.**<sup>J</sup> of the statutes, as affected by 1997 Wisconsin Act  
11       283, is amended to read:

12           961.41 (1) (d) 4. ~~More than 50 grams but not more than 200 grams, the person~~  
13       ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~  
14       ~~for not less than 3 years nor more than 15 years.~~

15           961.41 (1) (d) 4. More than 50 grams but not more than 200 grams, the person  
16       shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned  
17       for not less than 3 years nor more than 22 years and 6 months is guilty of a Class C  
18       felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

19           **SECTION 22. 961.41 (1) (d) 5.**<sup>J</sup> of the statutes, as affected by 1997 Wisconsin Act  
20       283, is repealed.

21           **SECTION 23. 961.41 (1) (d) 6.**<sup>J</sup> of the statutes, as affected by 1997 Wisconsin Act  
22       283, is repealed.

23           **SECTION 24. 961.41 (1) (e) (intro.)**<sup>J</sup> of the statutes is amended to read:

1            961.41 (1) (e) Phencyclidine, amphetamine, methamphetamine and  
2            methcathinone. (intro.)<sup>✓</sup> Phencyclidine If the person violates this subsection with  
3            respect to phencyclidine, amphetamine, methamphetamine or methcathinone, or a  
4            controlled substance analog of phencyclidine, amphetamine, methamphetamine or  
5            methcathinone, is subject to the following penalties if and the amount  
6            manufactured, distributed or delivered is:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339, 403, 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 n. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

7            **SECTION 25. 961.41 (1) (e) 1.** of the statutes, as affected by 1997 Wisconsin Act  
8            283, is amended to read:

9            961.41 (1) (e) 1. ~~Three grams or less, the person shall be fined not less than~~  
10            ~~\$1,000 nor more than \$200,000 and may be imprisoned for not more than 5 years.~~

NOTE: NOTE: Subd. 1. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:NOTE:

11            1. Three grams or less, the person shall be fined not less than \$1,000 nor more  
12            than \$200,000 and may be imprisoned for not more than 7 years and 6 months is  
13            guilty of a Class F felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

14            **SECTION 26. 961.41 (1) (e) 2.** of the statutes, as affected by 1997 Wisconsin Act  
15            283, is amended to read:

16            961.41 (1) (e) 2. ~~More than 3 grams but not more than 10 grams, the person~~  
17            ~~shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned~~  
18            ~~for not less than 6 months nor more than 5 years.~~

NOTE: NOTE: Subd. 2. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:NOTE:

19            2. More than 3 grams but not more than 10 grams, the person shall be fined  
20            not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than  
21            6 months nor more than 7 years and 6 months is guilty of a Class E felony.

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1991 a. 220, 283.

1           **SECTION 27. 961.41 (1) (e) 3.** <sup>✓</sup> of the statutes, as affected by 1997 Wisconsin Act  
2           283, is amended to read:

3           961.41 (1) (e) 3. ~~More than 10 grams but not more than 50 grams, the person~~  
4           ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~  
5           ~~for not less than one year nor more than 15 years.~~

6           961.41 (1) (e) 3. More than 10 grams but not more than 50 grams, the person  
7           shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned  
8           for not less than one year nor more than <sup>22</sup> years and 6 months is guilty of a Class  
9           D felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

10           **SECTION 28. 961.41 (1) (e) 4.** <sup>✓</sup> of the statutes, as affected by 1997 Wisconsin Act  
11           283, is amended to read:

12           961.41 (1) (e) 4. ~~More than 50 grams but not more than 200 grams, the person~~  
13           ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~  
14           ~~for not less than 3 years nor more than 15 years.~~

15           961.41 (1) (e) 4. More than 50 grams but not more than 200 grams, the person  
16           shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned  
17           for not less than 3 years nor more than <sup>22</sup> years and 6 months is guilty of a Class C  
18           felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

19           **SECTION 29. 961.41 (1) (e) 5.** <sup>✓</sup> of the statutes, as affected by 1997 Wisconsin Act  
20           283, is repealed.

21           **SECTION 30. 961.41 (1) (e) 6.** <sup>✓</sup> of the statutes, as affected by 1997 Wisconsin Act  
22           283, is repealed.

23           **SECTION 31. 961.41 (1) (f) (intro.)** <sup>✓</sup> of the statutes is amended to read:

1           **961.41 (1) (f) Lysergic acid diethylamide.** (intro.) ~~Lysergie~~ If the person violates  
2           this subsection with respect to lysergic acid diethylamide or a controlled substance  
3           analog of lysergic acid diethylamide is subject to the following penalties if and the  
4           amount manufactured, distributed or delivered is:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 198 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

5           **SECTION 32. 961.41 (1) (f) 1.** of the statutes, as affected by 1997 Wisconsin Act  
6           283, is amended to read:

7           **961.41 (1) (f) 1.** ~~One gram or less, the person shall be fined not less than \$1,000~~  
8           ~~nor more than \$200,000 and may be imprisoned for not more than 5 years.~~

NOTE: NOTE: Subd. 1. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:NOTE:

9           **1.** ~~One gram or less, the person shall be fined not less than \$1,000 nor more~~  
10           ~~than \$200,000 and may be imprisoned for not more than 7 years and 6 months is~~  
11           guilty of a Class G felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31,56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201, 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

\*\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

12           **SECTION 33. 961.41 (1) (f) 2.** of the statutes, as affected by 1997 Wisconsin Act  
13           283, is amended to read:

14           **961.41 (1) (f) 2.** ~~More than one gram but not more than 5 grams, the person shall~~  
15           ~~be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not~~  
16           ~~less than 6 months nor more than 5 years.~~

NOTE: NOTE: Subd. 2. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:NOTE:

17           **2.** ~~More than one gram but not more than 5 grams, the person shall be fined~~  
18           ~~not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than~~  
19           ~~6 months nor more than 7 years and 6 months is guilty of a Class F felony.~~

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

\*\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

1 SECTION 34. 961.41 (1) (f) 3. of the statutes, as affected by 1997 Wisconsin Act  
2 283, is amended to read:

3 961.41 (1) (f) 3. ~~More than 5 grams, the person shall be fined not less than  
4 \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year  
5 nor more than 15 years.~~

NOTE: NOTE: Subd. 3. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

6 3. ~~More than 5 grams, the person shall be fined not less than \$1,000 nor more  
7 than \$500,000 and shall be imprisoned for not less than one year nor more than 22  
8 years and 6 months is guilty of a Class E felony.~~

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

9 SECTION 35. 961.41 (1) (g) (intro.) of the statutes is amended to read:

10 961.41 (1) (g) Psilocin and psilocybin. (intro.) ~~Psilocin~~ If the person violates this  
11 subsection with respect to psilocin or psilocybin, or a controlled substance analog of  
12 psilocin or psilocybin, ~~is subject to the following penalties if~~ and the amount  
13 manufactured, distributed or delivered is:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

14 SECTION 36. 961.41 (1) (g) 1. of the statutes, as affected by 1997 Wisconsin Act  
15 283, is amended to read:

16 961.41 (1) (g) 1. ~~One hundred grams or less, the person shall be fined not less  
17 than \$1,000 nor more than \$200,000 and may be imprisoned for not more than 5  
18 years.~~

NOTE: NOTE: Subd. 1. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

19 1. ~~One hundred grams or less, the person shall be fined not less than \$1,000  
20 nor more than \$200,000 and may be imprisoned for not more than 7 ars and 6  
21 months is guilty of a Class G felony.~~

History: 1971 c. 219,307; 1973 c. 961.41; 1997 a. 314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31,56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

\*\*\*\*NOTE: of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

1 SECTION 37. 961.41 (1) (g) 2. of the statutes, as affected by 1997 Wisconsin Act  
2 283, is amended to read:

3 961.41 (1) (g) 2. ~~More than 100 grams but not more than 500 grams, the person~~  
4 ~~shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned~~  
5 ~~for not less than 6 months nor more than 5 years.~~

NOTE: NOTE: Subd. 2. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:NOTE:

6 2. More than 100 grams but not more than 500 grams, the person shall be fined  
7 not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than  
8 6 months nor more than 5 years and 6 months is guilty of a Class F felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

9 SECTION 38. 961.41 (1) (g) 3. of the statutes, as affected by 1997 Wisconsin Act  
10 283, is amended to read:

11 961.41 (1) (g) 3. ~~More than 500 grams, the person shall be fined not less than~~  
12 ~~\$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year~~  
13 ~~nor more than 15 years.~~

NOTE: NOTE: Subd. 3. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:NOTE:

14 3. More than 500 grams, the person shall be fined not less than \$1,000 nor more  
15 than \$500,000 and shall be imprisoned for not less than one year nor more than 22  
16 years and 6 months is guilty of a Class E felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

17 SECTION 39. 961.41 (1) (h) (intro.) of the statutes is amended to read:

18 961.41 (1) (h) Tetrahydrocannabinols. (intro.) ~~Tetrahydrocannabinols~~ If the  
19 person violates this subsection with respect to tetrahydrocannabinols, included  
20 under s. 961.14 (4) (t), or a controlled substance analog of tetrahydrocannabinols, is



1 subject to the following penalties if and the amount manufactured, distributed or  
2 delivered is:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,481 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283. ✓

3 SECTION 40. 961.41 (1) (h) 1. of the statutes, as affected by 1997 Wisconsin Act  
4 283, is amended to read:

5 961.41 (1) (h) 1. ~~Five hundred grams or less, or 10 or fewer plants containing,~~  
6 tetrahydrocannabinols, the person shall be fined not less than \$500 nor more than  
7 \$25,000 and may be imprisoned for not more than 3 years.

NOTE: NOTE: Subd. 1. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

8 1. ~~Five~~ Two hundred grams or less, or ~~10~~ 4 or fewer plants containing  
9 tetrahydrocannabinols, the person ~~shall be fined not less than \$500 nor more than~~  
10 ~~\$25,000 and may be imprisoned for not more than 4 years and 6 months~~ is equivalent of  
11 a Class I felony.

\*\*\*NOTE: This <sup>2</sup> class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

12 SECTION 41. 961.41 (1) (h) 2. of the statutes, as affected by 1997 Wisconsin Act  
13 283, is amended to read:

14 961.41 (1) (h) 2. ~~More than 500 grams but not more than 2,500 grams, or more~~  
15 ~~than 10 plants containing tetrahydrocannabinols but not more than 50 plants~~  
16 ~~containing tetrahydrocannabinols, the person shall be fined not less than \$1,000 nor~~  
17 ~~more than \$50,000 and shall be imprisoned for not less than 3 months nor more than~~  
18 ~~5 years.~~

NOTE: NOTE: Subd. 2. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

19 2. ~~More than 500~~ 200 grams but not more than ~~2,500~~ 1,000 grams, or more than  
20 ~~10~~ 4 plants containing tetrahydrocannabinols but not more than ~~50~~ 20 plants  
21 containing tetrahydrocannabinols, the person ~~shall be fined not less than \$1,000 nor~~

1 ~~more than \$50,000 and shall be imprisoned for not less than 3 months nor more than~~  
2 ~~7 years and 6 months is guilty of a Class H felony.~~

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,481 to 490; Stats. 199.5 s. 961.41; 1997 a. 220,283.

\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

3 SECTION 42. 961.41 (1) (h) 3.<sup>↓</sup> of the statutes, as affected by 1997 Wisconsin Act  
4 283, is amended to read:

5 961.41 (1) (h) 3. ~~More than 2,500 grams, or more than 50 plants containing~~  
6 ~~tetrahydrocannabinols, the person shall be fined not less than \$1,000 nor more than~~  
7 ~~\$100,000 and shall be imprisoned for not less than one year nor more than 10 years.~~

NOTE: NOTE: Subd. 3. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:NOTE:

8 3. More than 2,500 1,000 grams but not more than 2,500 grams, or more than  
9 50 20 plants containing tetrahydrocannabinols but not more than 50 plants  
10 containing tetrahydrocannabinols. the person ~~shall be fined not less than \$1,000 nor~~  
11 ~~more than \$100,000 and shall be imprisoned for not less than one year nor more than~~  
12 15 years is guilty of a Class G felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 199.5 s. 961.41; 1997 a. 220,283.

\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

13 SECTION 43. 961.41 (1) (h) 4.<sup>↓</sup> of the statutes is created to read:

14 961.41 (1) (h) 4. More than 2,500 grams but not more than 10,000 grams, or  
15 more than 50 plants containing tetrahydrocannabinols but not more than 200 plants  
16 containing tetrahydrocannabinols, the person is guilty of a Class F felony

\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

17 SECTION 44. 961.41 (1) (h) 5.<sup>↓</sup> of the statutes is created to read:

18 961.41 (1) (h) 5. More than 10,000 grams, or more than 200 plants containing  
19 tetrahydrocannabinols, the person is guilty of a Class E felony

1 SECTION 45.961.41 (1) (i) of the statutes, as affected by 1997 Wisconsin Act 283,  
2 is amended to read:

3 961.41 (1) (i) ~~A substance included in schedule IV, may be fined not more than~~  
4 ~~\$10,000 or imprisoned for not more than 3 years or both.~~

NOTE: NOTE: Par. (i) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

5 (i) Schedule IV drugs. ~~A~~ If a person violates this subsection with respect to  
6 a substance included in schedule IV, may be fined not more than \$10,000 or  
7 imprisoned for not more than 4 years and 6 months or both the person is guilty of a  
8 Class H felony

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 199.5 s. 961.41; 1997 a. 220, 283.

\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

9 SECTION 46. 961.41 (1) (j) of the statutes, as affected by 1997 Wisconsin Act 283,  
10 is amended to read:

11 961.41 (1) (j) ~~A substance included in schedule V, may be fined not more than~~  
12 ~~\$5,000 or imprisoned for not more than one year or both.~~

NOTE: NOTE: Par. (j) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

13 (j) Schedule V drugs. ~~A~~ If a person violates this subsection with respect to a  
14 substance included in schedule V, may be fined not more than \$5,000 or imprisoned  
15 for not more than 2 years or both the person is guilty of a Class I felony.

\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

16 SECTION 47. 961.41 (lm) (intro.) of the statutes is amended to read:

17 961.41 (lm) **POSSESSION** WITH INTENT TO MANUFACTURE, DISTRIBUTE OR DELIVER.  
18 (intro.) Except as authorized by this chapter, it is unlawful for any person to possess,  
19 with intent to manufacture, distribute or deliver, a controlled substance or a  
20 controlled substance analog. Intent under this subsection may be demonstrated by,

1 without limitation because of enumeration, evidence of the quantity and monetary  
2 value of the substances possessed, the possession of manufacturing implements or  
3 paraphernalia, and the activities or statements of the person in possession of the  
4 controlled substance or a controlled substance analog prior to and after the alleged  
5 violation. Any person who violates this subsection ~~with respect to~~ is subject to the  
6 following penalties:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

7 **SECTION 48. 961.41 (1m) (a)** of the statutes, as affected by 1997 Wisconsin Act  
8 283, is amended to read:

9 **961.41 (1m) (a)** ~~Except as provided in par. (d), a controlled substance included~~  
10 ~~in schedule I or II which is a narcotic drug or a controlled substance analog of a~~  
11 ~~controlled substance included in schedule I or II which is a narcotic drug, may be~~  
12 ~~fined not more than \$25,000 or imprisoned for not more than 15 years or both.~~

NOTE: NOTE: Par. (a) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

13 **(a)** Schedule I and II narcotic drugs generally. Except as provided in par. (d),  
14 if a person violates this subsection with respect to a controlled substance included  
15 in schedule I or II which is a narcotic drug or a controlled substance analog of a  
16 controlled substance included in schedule I or II which is a narcotic drug, may be  
17 ~~fined not more than \$25,000 or imprisoned for not more than 22 years and 6 months~~  
18 ~~or both~~ the person is guilty of a Class E felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

19 **SECTION 49. 961.41 (1m) (b)** of the statutes, as affected by 1997 Wisconsin Act  
20 283, is amended to read:

21 **961.41 (1m) (b)** ~~Except as provided in pars. (cm) and (e) to (h), any other~~  
22 ~~controlled substance included in schedule I, II or III, or a controlled substance analog~~

1 ~~of any other controlled substance included in schedule I or II, may be fined not more~~  
2 ~~than \$15,000 or imprisoned for not more than 5 years or both.~~

no 91

NOTE: NOTE: Par. (b) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

3 (b) Schedule I, II and III nonnarcotic drugs generally. Except as provided in  
4 pars. (cm) and (e) to (h), if a person violates this subsection with respect to any other  
5 controlled substance included in schedule I, II or III, or a controlled substance analog  
6 of any other controlled substance included in schedule I or II, may be fined not more  
7 than \$15,000 or imprisoned for not more than 7 years and 6 months or both the  
8 person is guilty of a Class H felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

9 SECTION 50. 961.41 (lm) (cm) (intro.)<sup>✓</sup> of the statutes, is amended to read:

10 961.41 (lm) (cm) **Cocaine and cocaine base.** (intro.) ~~Cocaine~~ If a person violates  
11 this subsection with respect to cocaine or cocaine base, or a controlled substance  
12 analog of cocaine or cocaine base, is subject to the ~~penalties~~ penalties if and  
13 amount possessed, with intent to manufacture, distribute or deliver, is:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

14 SECTION 51. 961.41 (lm) (cm) 1.<sup>✓</sup> of the statutes, as affected by 1997 Wisconsin  
15 Act 283, is renumbered 961.41 (lm) (cm) lr. and amended to read:

16 961.41 (lm) (cm) lr. Five grams or less, the person shall be fined not more than  
17 \$500,000 and may be imprisoned for not more than 10 years.

NOTE: NOTE: Subd. 1 is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

18 1r. Five grams or less ~~More than one gram but not more than five grams,~~<sup>S</sup>  
19 ~~person shall be fined not more than \$500,000 and may be imprisoned for not more~~  
20 ~~than 15 years~~ is guilty of a Class F felony

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 9. 961.41; 1997 a. 220,283.

NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

1 SECTION 52. 961.41 (1m) (cm) lg. <sup>✓</sup> of the statutes is created to read:

2 961.41 (1m) (cm) lg. One gram or less, the person is guilty of a Class G felony.

\*\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

3 SECTION 53. 961.41 (1m) (cm) 2.<sup>✓</sup> of the statutes, as affected by 1997 Wisconsin  
4 Act 283, is amended to read:

5 961.41 (1m) (cm) 2. ~~More than 5 grams but not more than 15 grams, the person~~  
6 ~~shall be fined not more than \$500,000 and shall be imprisoned for not less than one~~  
7 ~~year nor more than 15 years.~~

NOTE: NOTE: Subd. 2. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE.

8 2. ~~More than 5 grams but not more than 15 grams, the person shall be fined~~  
9 ~~not more than \$500,000 and shall be imprisoned for not less than one year nor more~~  
10 ~~than 22 years and 6 months~~ is guilty of a Class E felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

11 SECTION 54. 961.41 (1m) (cm) 3.<sup>✓</sup> of the statutes, as affected by 1997 Wisconsin  
12 Act 283, is amended to read:

13 961.41 (1m) (cm) ~~More than 15 grams but not more than 40 grams, the~~  
14 ~~person shall be fined not more than \$500,000 and shall be imprisoned for not less~~  
15 ~~than 3 years nor more than 20 years.~~

16 961.41 (1m) (cm) ~~More than 15 grams but not more than 40 grams, the~~  
17 ~~person shall be fined not more than \$500,000 and shall be imprisoned for not less~~  
18 ~~than 3 years nor more than 20 years~~ is guilty of a Class D felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

19 SECTION 55. 961.41 (1m) (cm) 4.<sup>✓</sup> of the statutes, as affected by 1997 Wisconsin  
20 Act 283, is amended to read:

1           961.41 (1m) (cm) 4. ~~More than 40 grams but not more than 100 grams, the~~  
 2           person shall be fined not more than \$500,000 and shall be imprisoned for not less  
 3           than 5 years nor more than 30 years.

4           ~~961.41 (1m) (cm) 4. More than 40 grams but not more than 100 grams, the~~  
 5           person shall be ~~fined not more than \$500,000 and shall be imprisoned for not less~~  
 6           than 5 years nor more than 45 years is guilty of a Class C felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31,56, 121,1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

7           SECTION 56. 961.41 (1m) (cm) 5. of the statutes, as affected by 1997 Wisconsin  
 8           Act 283, is repealed.

9           SECTION 57. 961.41 (1m) (d) (intro.) of the statutes is amended to read:

10          961.41 (1m) (d) Heroin. (intro.) Heroin If a person violates this subsection with  
 11          respect to heroin or a controlled substance analog of heroin is subject to the following  
 12          penalties if and the amount possessed, with intent to manufacture, distribute or  
 13          deliver, is:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 8.328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

14          SECTION 58. 961.41 (1m) (d) 1. of the statutes, as affected by 1997 Wisconsin  
 15          Act 283, is amended to read:

16          961.41 (1m) (d) 1. ~~Three grams or less, the person shall be fined not less than~~  
 17          \$1,000 nor more than \$100,000 and may be imprisoned for not more than 15 years.

NOTE: NOTE:--Subd. 1. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:NOTE:

18          1. ~~Three grams or less, the person shall be fined not less than \$1,000 nor more~~  
 19          than \$100,000 and may be imprisoned for not more than 22 years and 6 months is  
 20          guilty of a Class F felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 8.39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

\*\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590,  
 with which this draft will ultimately be compiled.

1           **SECTION 59.** 961.41 (1m) (d) 2. of the statutes, as affected by 1997 Wisconsin  
2 Act 283, is amended to read:

3           961.41 (1m) (d) 2. ~~More than 3 grams but not more than 10 grams, the person~~  
4 ~~shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned~~  
5 ~~for not less than 6 months nor more than 15 years.~~

NOTE: NOTE: Subd. 2. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:NOTE:

6           2. More than 3 grams but not more than 10 grams, the person shall be fined  
7 not less than \$1,000 nor more than \$200,000 and shall be imprisoned for not less than  
8 6 months nor more than 22 years and 6 months is guilty of a Class E felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

9           **SECTION 60.** 961.41 (1m) (d) 3. of the statutes, as affected by 1997 Wisconsin  
10 Act 283, is amended to read:

11           961.41 (1m) (d) 3. ~~More than 10 grams but not more than 50 grams, the person~~  
12 ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~  
13 ~~for not less than one year nor more than 15 years.~~

14           961.41 (1m) (d) 3. More than 10 grams but not more than 50 grams, the person  
15 shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned  
16 for not less than one year nor more than 22 years and 6 months is euilty of a Class  
17 D felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats 1995 s. 961.41; 1997 a. 220,283.

18           **SECTION 61.** 961.41 (1m) (d) 4. of the statutes, as affected by 1997 Wisconsin  
19 Act 1997 Wisconsin Act 283, is amended to read:

20           961.41 (1m) (d) 4. ~~More than 50 grams but not more than 200 grams, the person~~  
21 ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~  
22 ~~for not less than 3 years nor more than 15 years.~~



**SECTION 61**

1           961.41 (1m) (d) 4. More than 50 grams ~~but not more than 200 grams~~, the person  
2 ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~  
3 ~~for not less than 2 years nor more than 22 years and 6 months~~ is guilty of a Class C  
4 felony.

History: 1971 c. 219,307; 1973 c.12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a 220,283.

5           **SECTION 62.** 961.41 (1m) (d) 5. of the statutes, as affected by **1997 Wisconsin**  
6 Act 283, is repealed.

7           **SECTION 63.** 961.41 (1m) (d) 6. of the statutes, as affected by 1997 Wisconsin  
8 Act 283, is repealed.

9           **SECTION 64.** 961.41 (1m) (e) (intro.) of the statutes is amended to read:

10           961.41 (1m) (e) Phencyclidine. amphetamine. methamphetamine and  
11 methcathinone. (intro.) Phencyclidine If a person violates this subsection with  
12 respect to phencyclidine, amphetamine, methamphetamine or methcathinone, or a  
13 controlled substance analog of phencyclidine, amphetamine, methamphetamine or  
14 methcathinone, is subject to the following penalties if and the amount possessed,  
15 with intent to manufacture, distribute or deliver, is:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

16           **SECTION 65.** 961.41 (1m) (e) 1. of the statutes, as affected by 1997 Wisconsin  
17 Act 283, is amended to read:

18           961.41 (1m) (e) 1. ~~Three grams or less, the person shall be fined not less than~~  
19 ~~\$1,000 nor more than \$100,000 and may be imprisoned for not more than 5 years.~~

NOTE: NOTE: Subd. 1. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:NOTE:

20           1. ~~Three grams or less, the person shall be fined not less than \$1,000 nor more~~  
21 ~~than \$100,000 and may be imprisoned for not more than 7 years and 6 months~~ is  
22 guilty of a Class F felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

1 SECTION 66. 961.41 (1m) (e) 2. of the statutes, as affected by 1997 Wisconsin  
2 Act 283, is amended to read:

3 961.41 (1m) (e) 2. More than 3 grams but not more than 10 grams, the person  
4 shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned  
5 for not less than 6 months nor more than 5 years.

NOTE: NOTE: Subd. 2. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

6 2. More than 3 grams but not more than 10 grams, the person shall be fined  
7 not less than \$1,000 nor more than \$200,000 and shall be imprisoned for not less than  
8 6 months nor more than 7 years and 6 months is guilty of a Class E felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

9 SECTION 67. 961.41 (1m) (e) 3. of the statutes, as affected by 1997 Wisconsin  
10 Act 283, is amended to read:

11 961.41 (1m) (e) 3. More than 10 grams but not more than 50 grams, the person  
12 shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned  
13 for not less than one year nor more than 15 years.

14 961.41 (1m) (e) 3. More than 10 grams but not more than 50 grams, the person  
15 shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned  
16 for not less than one year nor more than 22 years and 6 months is guilty of a Class  
17 D felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

18 SECTION 68. 961.41 (1m) (e) 4. of the statutes, as affected by 1997 Wisconsin  
19 Act 283, is amended to read:

20 961.41 (1m) (e) 4. More than 50 grams but not more than 200 grams, the person  
21 shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned  
22 for not less than 3 years nor more than 15 years.

SECTION 68

1           961.41 (1m) (e) 4. More than 50 grams ~~but not more than 200 grams~~, the person  
2 ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~  
3 ~~for not less than 3 years nor more than 22 years and 6 months is guilty of a Class C~~  
4 ~~felony.~~

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39,138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

5           SECTION 69. 961.41 (1m) (e) 5. of the statutes, as affected by 1997 Wisconsin  
6 Act 283, is repealed.

7           SECTION 70. 961.41 (1m) (e) 6. of the statutes, as affected by 1997 Wisconsin  
8 Act 283, is repealed.

9           SECTION 71. 961.41 (1m) (f) (intro.) of the statutes is amended to read:

10           961.41 (1m) (f) Lysergic acid diethylamide. (intro.) ~~Lysergie~~ If a person violates  
11 this subsection with respect to lysergic acid diethylamide or a controlled substance  
12 analog of lysergic acid diethylamide ~~is subject to the following penalties if and the~~  
13 amount possessed, with intent to manufacture, distribute or deliver, is:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,481 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

14           SECTION 72. 961.41 (1m) (f) 1. of the statutes, as affected by 1997 Wisconsin Act  
15 283, is amended to read:

16           961.41 (1m) (f) 1. ~~One gram or less, the person shall be fined not less than~~  
17 ~~\$1,000 nor more than \$100,000 and may be imprisoned for not more than 5 years.~~

NOTE: NOTE: Subd. 1. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:NOTE:

18           1. One gram or less, the person shall be fined not less than \$1,000 nor more  
19 than \$100,000 and may be imprisoned for not more than 7 years and 6 months is  
20 puiltv of a Class G felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

\*\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

1 SECTION 73. 961.41 (lm) (f) 2. of the statutes, as affected by 1997 Wisconsin Act  
2 283, is amended to read:

3 961.41 (1m) (f) 2. ~~More than one gram but not more than 5 grams, the person~~  
4 ~~shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned~~  
5 ~~for not less than 6 months nor more than 5 years.~~

NOTE: NOTE: Subd. 2. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

6 2. More than one gram but not more than 5 grams, the person shall be fined  
7 not less than \$1,000 nor more than \$200,000 and shall be imprisoned for not less than  
8 6 months nor more than 7 years and 6 months is sultry of a Class F felons

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.  
\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

9 SECTION 74. 961.41 (lm) (f) 3. of the statutes, as affected by 1997 Wisconsin Act  
10 283, is amended to read:

11 961.41 (1m) (f) 3. ~~More than 5 grams, the person shall be fined not less than~~  
12 ~~\$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year~~  
13 ~~nor more than 15 years.~~

NOTE: NOTE: Subd. 3. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

14 3. More than 5 grams, the person shall be fined not less than \$1,000 nor more  
15 than \$500,000 and shall be imprisoned for not less than one year nor more than 22  
16 years and 6 months is guilty of a Class E felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

17 SECTION 75. 961.41 (1m) (g) (intro.) of the statutes is amended to read:

18 961.41 (1m) (g) Psilocin and psilocybin. (intro.) Psilocin If a person violates this  
19 subsection with respect to psilocin or psilocybin, or a controlled substance analog of  
20 psilocin or psilocybin, is subject to the following penalties if and the amount  
21 possessed, with intent to manufacture, distribute or deliver, is:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

1           **SECTION 76.** 961.41 (1m) (g) 1. of the statutes, as affected by 1997 Wisconsin  
2 Act 283, is amended to read:

3           961.41 **(1m)** (g) 1. ~~One hundred grams or less, the person shall be fined not less~~  
4 ~~than \$1,000 nor more than \$100,000 and may be imprisoned for not more than 5~~  
5 ~~years.~~

NOTE: NOTE: Subd. 1. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

6           1. ~~One hundred grams or less, the person shall be fined not less than \$1,000~~  
7 ~~nor more than \$100,000 and may be imprisoned for not more than 7 years and 6~~  
8 ~~months~~ is guilty of a Class G felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39,138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

9           **SECTION 77.** 961.41 (1m) (g) 2. of the statutes, as affected by 1997 Wisconsin  
10 Act 283, is amended to read:

11           961.41 **(1m)** (g) 2. ~~More than 100 grams but not more than 500 grams, the~~  
12 ~~person shall be fined not less than \$1,000 nor more than \$200,000 and shall be~~  
13 ~~imprisoned for not less than 6 months nor more than 5 years.~~

NOTE: NOTE: Subd. 2. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

14           2. ~~More than 100 grams but not more than 500 grams, the person shall be fined~~  
15 ~~not less than \$1,000 nor more than \$200,000 and shall be imprisoned for not less than~~  
16 ~~6 months nor more than 7 years and 6 months~~ is guilty of a Class F felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39, 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

17           **SECTION 78.** 961.41 (1m) (g) 3. of the statutes, as affected by 1997 Wisconsin  
18 Act 283, is amended to read:

1            961.41 (1m)(g) 3. ~~More than 500 grams, the person shall be fined not less than~~  
2            ~~\$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year~~  
3            ~~nor more than 15 years.~~

NOTE: NOTE: Subd. 3. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

4            3. ~~More than 500 grams, the person shall be fined not less than \$1,000 nor more~~  
5            ~~than \$500,000 and shall be imprisoned for not less than one year nor more than 22~~  
6            ~~years and 6 months is guilty of a Class E felony.~~

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

7            SECTION 79. 961.41 (1m) (h) (intro.) of the statutes is amended to read:

8            961.41 (1m) (h) Tetrahydrocannabinols. (intro.) ~~Tetrahydrocannabinols~~ If  
9            person violates this subsection with respect to tetrahydrocannabinols, included  
10            under s. 961.14 (4) (t), or a controlled substance analog of tetrahydrocannabinols, i-s  
11            subject to the following penalties if and the amount possessed, with intent to  
12            manufacture, distribute or deliver, is:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

13            SECTION 80. 961.41 (1m) (h) 1. of the statutes, as affected by 1997 Wisconsin  
14            Act 283, is amended to read:

15            961.41 (1m) (h) 1. ~~Five hundred grams or less, or 10 or fewer plants containing~~  
16            ~~tetrahydrocannabinols, the person shall be fined not less than \$500 nor more than~~  
17            ~~\$25,000 and may be imprisoned for not more than 3 years.~~

NOTE: NOTE: Subd. 1. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

18            1. ~~Five~~ Two hundred grams or less, or ~~10~~ 4 or fewer plants containing  
19            tetrahydrocannabinols, the person ~~shall be fined not less than \$500 nor more than~~  
20            ~~\$25,000 and may be imprisoned for not more than 4 years and 6 months is euilty of~~  
21            a Class I felony.

\*\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

1 SECTION 81. 961.41 (1m) (h) 2. of the statutes, as affected by 1997 Wisconsin  
2 Act 283, is amended to read:

3 961.41 (1m) (h) 2. ~~More than 500 grams but not more than 2,500 grams, or more  
4 than 10 plants containing tetrahydrocannabinols but not more than 50 plants  
5 containing tetrahydrocannabinols, the person shall be fined not less than \$1,000 nor  
6 more than \$50,000 and shall be imprisoned for not less than 3 months nor more than  
7 5 years.~~

NOTE: NOTE: Subd. 2. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

8 2. ~~More than 500~~ 200 grams but not more than ~~2,500~~ 1,000 grams, or more than  
9 ~~10~~ 4 plants containing tetrahydrocannabinols but not more than ~~50~~ 20 plants  
10 containing tetrahydrocannabinols, the person shall be fined ~~not less than \$1,000 nor~~  
11 ~~more than \$50,000 and shall be imprisoned for not less than 3 months nor more than~~  
12 ~~7 years and 6 months~~ is guilty of a Class H felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90, <sup>41</sup>; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41<sup>41</sup>; 1997 a. 220, 283.

\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

13 SECTION 82. 961.41 (1m) (h) 3. of the statutes, as affected by 1997 Wisconsin  
14 Act 283, is amended to read:

15 961.41 (1m) ~~More than 2,500 grams, more than 50 plants containing~~  
16 ~~tetrahydrocannabinols, the person shall be fined not less than \$1,000 nor more than~~  
17 ~~\$100,000 and shall be imprisoned for not less than one year nor more than 10 years.~~

NOTE: NOTE: Subd. 3. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

18 3. ~~More than 2,500~~ 1,000 grams but not more than 2,500 grams, or more than  
19 ~~50~~ 20 plants containing tetrahydrocannabinols but not more than 50 plants  
20 containing tetrahydrocannabinols, the person shall be fined ~~not less than \$1,000 nor~~

1 ~~more than \$100,000 and shall be imprisoned for not less than one year nor more than~~  
2 ~~15 years is guilty of a Class G felony.~~

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

3 SECTION 83. 961.41 (1m) (h) 4. of the statutes is created to read:

4 961.41 (1m) (h) 4. More than 2,500 grams but not more than 10,000 grams, or  
5 more than 50 plants containing tetrahydrocannabinols but not more than 200 plants  
6 containing tetrahydrocannabinols, the person is guilty of a Class F felony.

\*\*\*\*NOTE: T&class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

7 SECTION 84. 961.41 (1m) (h) 5. of the statutes is created to read:

8 961.41 (1m) (h) 5. More than 10,000 grams, or more than 200 plants containing  
9 tetrahydrocannabinols, the person is guilty of a Class E felony.

10 SECTION 85. 961.41 (1m) (i) of the statutes, as affected by 1997 Wisconsin Act  
11 283, is amended to read:

12 961.41 (1m) (i) ~~A substance included in schedule IV, may be fined not more than~~  
13 ~~\$10,000 or imprisoned for not more than 3 years or both.~~

NOTE: NOTE: Par. (i) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

14 (i) Schedule IV drugs. ~~A~~ If a person violates this subsection with respect to a  
15 substance included in schedule IV, may be fined not more than \$10,000 or imprisoned  
16 for not more than 4 years and 6 months or both the person is guilty of a Class H felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

17 SECTION 86. 961.41 (1m) (j) of the statutes, as affected by 1997 Wisconsin Act  
18 283, is amended to read:

19 961.41 (1m) (j) ~~A substance included in schedule V, may be fined not more than~~  
20 ~~\$5,000 or imprisoned for not more than one year or both.~~



1 ~~NOTE: NOTE: NOTE: Par. (f) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE.~~

2 ~~10 7~~ ~~10 Schedule V drugs. A~~ If a person violates this subsection with respect to a  
 3 substance included in schedule V, may be fined not more than \$5,000 or imprisoned  
 4 for not more than 2 years or both the person is euiltv of a Class I felony.

\*\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590,  
 with which this draft will ultimately be compiled.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995  
 a. 448 ss 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

5 **SECTION 87. 961.41 (1n) (c)** of the statutes, as affected by 1997 Wisconsin Act  
 6 283, is amended to read:

7 **961.41 (1n) (c)** ~~A person who violates par. (a) or (b) may be fined not more than~~  
 8 ~~\$250,000 or imprisoned for not more than 10 years or both.~~

~~NOTE: NOTE: Par. (c) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE.~~

9 **(c)** ~~A person who violates par. (a) or (b) may be fined not more than \$250,000~~  
 10 ~~or imprisoned for not more than 15 years or both~~ is guilty of a Class F felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995  
 ii. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

\*\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590,  
 with which this draft will ultimately be compiled.

11 **SECTION 88. 961.41 (1q)** of the statutes is amended to read:

12 **961.41 (1q) PENALTY RELATING TO TETRAHYDROCANNABINOLS IN CERTAIN CASES.**  
 13 Under s. 961.49 (2), 1997 stats., and subs. (1) (h) and (1m) (h) and s. 961.49 (2), if  
 14 different penalty provisions apply to a person depending on whether the weight of  
 15 tetrahydrocannabinols or the number of plants containing tetrahydrocannabinols is  
 16 considered, the greater penalty provision applies.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995  
 ii. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

17 **SECTION 89. 961.41 (1r)** of the statutes is amended to read:

18 **961.41 (1r) DETERMINING WEIGHT OF SUBSTANCE.** In determining amounts under  
 19 s. 961.49 (2) (b), 1997 stats., and subs. (1) and (1m) and s. 961.49 (2) (b), an amount  
 20 includes the weight of cocaine, cocaine base, heroin, phencyclidine, lysergic acid  
 21 diethylamide, psilocin, psilocybin, amphetamine, methamphetamine,

1 methcathinone or tetrahydrocannabinols or any controlled substance analog of any  
2 of these substances together with any compound, mixture, diluent, plant material  
3 or other substance mixed or combined with the controlled substance or controlled  
4 substance analog. In addition, in determining amounts under subs. (1) (h) and (lm)  
5 (h), the amount of tetrahydrocannabinols means anything included under s. 961.14  
6 (4) (t) and includes the weight of any marijuana.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

7 **SECTION 90. 961.41 (2) (intro.)** of the statutes is amended to read:

8 961.41 (2) **COUNTERFEIT SUBSTANCES.** (intro.) Except as authorized by this  
9 chapter, it is unlawful for any person to create, manufacture, distribute, deliver or  
10 possess with intent to distribute or deliver, a counterfeit substance. Any person who  
11 violates this subsection ~~with respect to~~ is subject to the following penalties:

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283.

12 **SECTION 91. 961.41 (2) (a)** of the statutes, as affected by 1997 Wisconsin Act  
13 283, is amended to read:

14 961.41 (2) (a) ~~A counterfeit substance included in schedule I or II which is a~~  
15 ~~narcotic drug, may be fined not more than \$25,000 or imprisoned for not more than~~  
16 ~~15 years or both.~~

NOTE: NOTE: Par. (a) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

17 (a) Counterfeit schedule I and II narcotic drugs. -A- If a person violates this  
18 subsection with respect to a counterfeit substance included in schedule I or II which  
19 is a narcotic drug, ~~may be fined not more than \$25,000 or imprisoned for not more~~  
20 than 22 years and 6 months or both the person is guilty of a Class E felony.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a.

21 **SECTION 92. 961.41 (2) 220,283.- (b)** of the statutes, as affected by 1997 Wisconsin Act  
22 283, is amended to read:

1            961.41 (2) (b) ~~Any other counterfeit substance included in schedule I, II or III,~~  
2            ~~may be fined not more than \$15,000 or imprisoned for not more than 5 years or both.~~

NOTE: NOTE: Par. (b) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

3            (b) Counterfeit schedule I, II, III and IV drugs. Any If a person violates this  
4            subsection with respect to any other counterfeit substance included in schedule I, II  
5            or, III or IV, may be fined not more than \$15,000 or imprisoned for not more than 7  
6            years and 6 months or both the person is guilty of a Class H felony.

History: 1971 c. 219.307; 1973 c. 12; 1981 c. 90.314; 1985 a. 328; 1987 a. 339.403; 1989 a. 31.56.121; 1991 a. 39: 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss 243 to 266.487 to 490; Stats. 1995 s. 961.41; 1997 a. 220.283.

\*\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

7            SECTION%. 961.41 (2) (c) <sup>J</sup> of the statutes, as affected by 1997 Wisconsin Act 283,  
8            is repealed.

9            SECTION 94. 961.41 (2) (d) <sup>✓</sup> of the statutes, as affected by 1997 Wisconsin Act  
10            283, is amended to read:

11            961.41 (2) (d) ~~A counterfeit substance included in schedule V, may be fined not~~  
12            ~~more than \$5,000 or imprisoned for not more than one year or both.~~

NOTE: NOTE: Par. (d) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

13            (d) Counterfeit schedule V drugs. A If a person violates this subsection with  
14            respect to a counterfeit substance included in schedule V, may be fined not more than  
15            \$5,000 or imprisoned for not more than 2 years or both the person is guilty of a Class  
16            I felony.

\*\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

History: 1971 c. 219.307; 1973 c. 12; 1981 c. 90.314; 1985 a. 328; 1987 a. 339.403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266.487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283. ✓

17            SECTION 95. 961.41 (3g) (a) 1. of the statutes, as affected by 1999 Wisconsin Act  
18            283, is renumbered 961.41 (3g) (am) <sup>J</sup> and amended to read:

19            961.41 (3g) (am) ~~Except as provided in subd. 2., if the person possesses a~~  
20            ~~controlled substance included in schedule I or II which is a narcotic drug, or~~

1 ~~possesses a controlled substance analog of a controlled substance included in~~  
 2 ~~schedule I or II which is a narcotic drug, the person may, upon a first conviction, be~~  
 3 ~~fined not more than \$5,000 or imprisoned for not more than one year or both, and for~~  
 4 ~~a 2nd or subsequent offense, the person may be fined not more than \$10,000 or~~  
 5 ~~imprisoned for not more than 2 years or both.~~

NOTE: NOTE: Subd. 1. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

6 1. Schedule I and II narcotic drugs. ~~Except as provided in subd. 2., if the~~ If a  
 7 person possesses a controlled substance included in schedule I or II which is a  
 8 narcotic drug, or possesses a controlled substance analog of a controlled substance  
 9 included in schedule I or II which is a narcotic drug, the person ~~may, upon a first~~  
 10 ~~conviction, be fined not more than \$5,000 or imprisoned for not more than 2 or both,~~  
 11 ~~and for a 2nd or subsequent offense, the person may be fined not more than \$10,000~~  
 12 ~~or imprisoned for not more than 3 years or both~~ is guilty of a Class I felony

\*\*\*\*NOTE: T&class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

13 **SECTION 96.** 961.41 (3g) (a) 2. <sup>✓</sup> of the statutes, as affected by 1997 Wisconsin Act  
14 283, is repealed.

15 **SECTION 97.** 961.41 (3g) (a) 3. <sup>✓</sup> of the statutes is repealed.

16 **SECTION 98.** 961.41 (3g) (b) (title) <sup>✓</sup> of the statutes is created to read:

17 961.41 (3g) (b) (title) *Other drugs generally.*

1 8 **SECTION 99.** 961.41 (3g) (c) <sup>✓</sup> of the statutes is amended to read:

19 961.41 (3g) (c) Cocaine and cocaine base. If a person possess or attempts to  
20 possess cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine  
21 base, the person shall be fined not more than \$5,000 and may be imprisoned for not  
22 more than one year in the county jail unon a first conviction and is guilty of a Class

no  
A

1 I felony for a 2nd or subseautent offense. For purposes of this paragraph, an offense  
 2 is considered a 2nd or subseautent offense if. nrrior to the offender's conviction of the  
 3 offense, the offender has at any time been convicted of any felony or misdemeanor  
 4 under this chanter or under any statute of the United States or of any state relating  
 5 to controlled substances, controlled substance analogs, narcotic drugs, mariiuana or  
 6 denressant, stimulant or hallucinogenic drugs.

\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,481 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.  
 SECTION 100. 961.41 (3g) (d) of the statutes is amended to read:

8 961.41 (3g) (d) ***Certain hallucinogenic and stimulant drugs.*** If a person  
 9 possesses or attempts to possess lysergic acid diethylamide, phencyclidine,  
 10 amphetamine, methamphetamine, methcathinone, psilocin or psilocybin, or a  
 11 controlled substance analog of lysergic acid diethylamide, phencyclidine,  
 12 amphetamine, methamphetamine, methcathinone, psilocin or psilocybin, the person  
 13 may be fined not more than \$5,000 or imprisoned for not more than one year in the  
 14 county jail or both upon a first conviction and is guilty of a Class I felony for a 2nd  
 15 or subseautent offense. For nurnoses of this paragraph, an offense is considered a 2nd  
 16 or subseautent offense if, prior to the offender's conviction of the offense, the offender  
 17 has at any time been convicted of any felony or misdemeanor under this chanter or  
 18 under any statute of the United States or of any state relating to controlled  
 19 substances, controlled substance analogs, narcotic drugs, mariiuana or depressant,  
 20 stimulant or hallucinogenic drugs.

\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31,56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1991 a. 220, 283.  
 SECTION 101. 961.41 (3g) (e) of the statutes is amended to read:

21

1            961.41 (3g) (e) Tetrahydrocannabinols. If a person possesses or attempts to  
 2 Possess tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled  
 3 substance analog of tetrahydrocannabinols, the person may be fined not more than  
 4 \$1,000 or imprisoned for not more than 6 months or both unon a first conviction and  
 5 is guilty of a Class I felonv for a 2nd or subseauent offense. For nurnoses of this  
 6 paragraph, an offense is considered a 2nd or subseauent offense if. prior to the  
 7 offender's conviction of the offense. the offender has at anv time been convicted of anv  
 8 felonv or misdemeanor under this chanter or under anv statute of the United States  
 9 or of anv state relating to controlled substances. controlled substance analogs,  
 10 narcotic drugs. mariiuana or denressant. stimulant or hallucinogenic drugs.

\*\*\*\*NOTE: This<sup>e</sup> class of felony referred to in this provision is created in LRB-0590,  
 with which this draft will ultimately be compiled.

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995  
 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

11            SECTION 102. 961.41 (3g) (f) of the statutes is amended to read:

12            961.41 (3g) (f) Gamma-hydroxybutyric acid, gamma-hydroxybutvrolactone,  
 13 ketamine and flunitrazepam. If a person possesses or attempts to possess  
 14 gamma-hydroxybutyric acid, gamma-hydroxybutyrolactone, ketamine or  
 15 flunitrazepam, the person ~~may be fined not more than \$5,000 or imprisoned for not~~  
 16 ~~more than 2 years or both~~ is guilty of a Class H felony

History: 1971 c. 219,307; 1973 c. 12; 1981 c. 90,314; 1985 a. 328; 1987 a. 339,403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995  
 a. 448 ss. 243 to 266,487 to 490; Stats. 1995 s. 961.41; 1997 a. 220,283.

\*\*\*\*NOTE: This<sup>e</sup> class of felony referred to in this provision is created in LRB-0590,  
 with which this draft will ultimately be compiled.

17            SECTION 103. 961.41 (4) (am) 3. ✓ of the statutes, as affected by 1997 Wisconsin  
 18 Act 283, is amended to read:

19            961.41 (4) (am) 3. / ~~A person convicted of violating this paragraph may be fined~~  
 20 ~~not more than \$5,000 or imprisoned for not more than one year or both.~~

NOTE: NOTE: Subd. 3. is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:NOTE:

1 10  
9

~~A person convicted of violating who violates this paragraph may be fined not more than \$5,000 or imprisoned for not more than 2 years or both is guilty of a Class I felony.~~

\*\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 . 220, 283.

SECTION 104. 961.42 (2) of the statutes, as affected by 1997 Wisconsin Act 283,

is amended to read:

~~961.42 (2) Any person who violates this section may be fined not more than \$25,000 or imprisoned not more than one year or both.~~

NOTE: NOTE: Sub. (2) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

~~(2) Any person who violates this section may be fined not more than \$25,000 or imprisoned not more than 2 years or both is guilty of a Class I felony.~~

\*\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

History: 1971 c. 219; 1995 a. 448 s. 267; Stats. 1995 s. 96.42; 1997 a. 283.

SECTION 105. 961.43 (2) of the statutes, as affected by 1997 Wisconsin Act 283,

is amended to read:

~~961.43 (2) Any person who violates this section may be fined not more than \$30,000 or imprisoned not more than 4 years or both.~~

NOTE: NOTE: Sub. (2) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read: NOTE:

~~(2) Any person who violates this section may be fined not more than \$30,000 or imprisoned not more than 6 years or both is guilty of a Class H felony.~~

History: 1971 c. 219; 1981 c. 90; 1995 a. 448 s. 268; Stats. 1995 s. 961.43; 1997 a. 283.

\*\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

SECTION 106. 961.438 of the statutes is repealed.

SECTION 107. 961.455 (1) of the statutes, as affected by 1997 Wisconsin Act 283,

is amended to read:

1           961.455 (1) Any person who has attained the age of 17 years who knowingly  
 2           solicits, hires, directs, employs or uses a person who is 17 years of age or under for  
 3           the purpose of violating s. 961.41 (1) may be fined not more than \$50,000 or  
 4           imprisoned for not more than 10 years or both.

NOTE: NOTE: Sub. (1) is amended eff. 12-31-99 by 1997 Wis. Act 283 to read:NOTE:

5           (1) Any person who has attained the age of 17 years who knowingly solicits,  
 6           hires, directs, employs or uses a person who is under the age of 17 years of age or  
 7           under for the purpose of violating s. 961.41 (1) ~~may be fined not more than \$50,000~~  
 8           ~~or imprisoned for not more than 15 years or both~~ is guilty of a Class F felony.

History: 1989 a. 121; 1991 a 153; 1995 a 27; 1995 a. 448 ss. 213 to 275; Stats. 1995 s. 961.455; 1997 a. 283.

\*\*\*NOTE: This class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled. In the first compile, compare the penalty here to the penalties under ss. 939.30 and 948.35.

9           **SECTION 108.** 961.46 (1) of the statutes is renumbered 961.46 and amended to  
 10          read:

11          **961.46 Distribution to persons under age 18.** ~~Except as provided in sub.~~  
 12          ~~(3), any~~ If a person 17 years of age or over who violates s. 961.41 (1) by distributing  
 13          or delivering a controlled substance included in schedule I or II which is a narcotic  
 14          drug or a controlled substance analog of a controlled substance included in schedule  
 15          I or II which is a narcotic drug to a person 17 years of age or under who is at least  
 16          3 years his or her junior is punishable by the fine authorized by s. 961.41 (1) (a) or  
 17          a term of imprisonment of up to twice that authorized by s. 961.41 (1) (a), or both, the  
 18          applicable maximum term of imprisonment prescribed under s. 961.41 (1) for the  
 19          offense may be increased by not more than 5 years.

History: 1971 c. 219; 1985 a. 328; 1987 a. 339; 1989 a. 121: 199<sup>3</sup> a. 98, 118, 490; 1995 a. 27; 1995 a. 448 ss. 276 to 279; Stats. 1995 s. 961.46.

20          **SECTION 109.** 961.46 (2) of the statutes is repealed.

21          **SECTION 110.** 961.46 (3) of the statutes is repealed.

22          **SECTION 111.** 961.465 of the statutes is repealed.



\*\*\*\*NOTE: This is a penalty enhancer for distribution of controlled substances to prisoners. These provisions should be included in the sentencing factor statute that will be created in LRB-0590.

1           **SECTION 112.** 961.472 (2) of the statutes is amended to read:

2           961.472 (2) Except as provided in sub. (5), if a person pleads guilty or is found  
3 guilty of possession or attempted possession of a controlled substance or controlled  
4 substance analog under s. 961.41 (3g) (a) 2- (am), (c) or (d), the court shall order the  
5 person to comply with an assessment of the person's use of controlled substances.  
6 The court's order shall designate a facility that is operated by or pursuant to a  
7 contract with the county department established under s. 51.42 and that is certified  
8 by the department of health and family services to provide assessment services to  
9 perform the assessment and, if appropriate, to develop a proposed treatment plan.  
10 The court shall notify the person that noncompliance with the order limits the court's  
11 ability to determine whether the treatment option under s. 961.475 is appropriate.  
12 The court shall also notify the person of the fee provisions under s. 46.03 (18) (fm).

History: 1985 a. 328; 1987 a. 339; 1989 a. 121; 1993 a. 118; 199 1995 a. 29126 (19); 1995 a. 448 s. 286; Stats. 1995 s. 961.472.

13           **SECTION 113.** 961.48 (1) of the statutes is renumbered 961.48 (1) (intro.) and  
14 amended to read:

15           961.48 ( 1 ) (intro.) ~~Except as provided in subs. (2) and (4), any~~ If a person who  
16 is charged under sub. (2m) with a felony offense under this chanter that is a 2nd or  
17 subsequent offense as nrovided under this chapter sub. (3) and the person is  
18 convicted of that 2nd or subsequent offense may be fined an am up to twice that  
19 otherwise authorized or imprisoned for a term up to twice the term otherwise  
20 authorized or both, the maximum term of innrisonment for the offense may be  
21 increased as follows:

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.

22           **SECTION 114.** 961.48 (1) (a) and (b) of the statutes are created to read:

1 961.48 (1) (a) By not more than 6 years, if the offense is a Class C or D felony.

2 (b) By not more than 4 years, if the offense is a Class E, F, G, H or I felony.

\*\*\*\*N• <sup>Class</sup> E, F, G, H and I felonies are created in LRB-0590, with which this draft will ultimately be compiled.

3 SECTION 115. 961.48 (2) of the statutes is repealed.

4 SECTION 116. 961.48 (2m) (a) of the statutes is amended to read:

5 961.48 (2m) (a) Whenever a person charged with ~~an a felony~~ offense under this  
6 chapter may be subject to a conviction for a 2nd or subsequent offense, he or she is  
7 not subject to an enhanced penalty under sub. (1) ~~or (2)~~ unless any applicable prior  
8 convictions are alleged in the complaint, indictment or information or in an amended  
9 complaint, indictment or information that is filed under par. (b) 1. A person is not  
10 subject to an enhanced penalty under sub. (1) ~~or (2)~~ for an offense if an allegation of  
11 applicable prior convictions is withdrawn by an amended complaint filed under par.  
12 (b) 2.

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. 3.5 ss. 340,584; 1997 a. 220.

13 SECTION 117. 961.48 (3) of the statutes is amended to read:

14 961.48 (3) For purposes of this section, ~~an a felony~~ offense under this chapter  
15 is considered a 2nd or subsequent offense if, prior to the offender's conviction of the  
16 offense, the offender has at any time been convicted of any felony or misdemeanor  
17 offense under this chapter or under any statute of the United States or of any state  
18 relating to controlled substances or controlled substance analogs, narcotic drugs,  
19 marijuana or depressant, stimulant or hallucinogenic drugs.

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.

20 SECTION 118. 961.48 (4) of the statutes is repealed.

21 SECTION 119. 961.49 (1) of the statutes is renumbered 961.49.

22 SECTION 120. 961.49 (2) of the statutes is repealed.





State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-3265/P1  
MGD&JEO:wlj:jf

PRELIMINARY DRAFT - **NOT** READY **FOR** INTRODUCTION

1     **AN ACT** to *repeal* 961.41 (1) (cm) 5., 961.41 (1) (d) 5., 961.41 (1) (d) 6., 961.41 (1)  
2     (e) 5., 961.41 (1) (e) 6., 961.41 (1m) (cm) 5., 961.41 (1m) (d) 5., 961.41 (1m) (d)  
3     6., 961.41 (1m) (e) 5., 961.41 (1m) (e) 6., 961.41 (2) (c), 961.41 (3g) (a) 2., 961.41  
4     (3g) (a) 3., 961.438, 961.46 (2), 961.46 (3), 961.465, 961.48 (2), 961.48 (4), 961.49  
5     (2), 961.49 (3) and 961.492; *to renumber* 961.49 (1); *to renumber and amend*  
6     **939.50 (3)** (c), 961.41 (1) (cm) l., 961.41 (1m) (cm) l., 961.41 (3g) (a) l., 961.46  
7     (1) and 961.48 (1); *to amend* 100.26 (7), 302.11 (lp), 304.06 (1) (b), 304.071 (2),  
8     961.41 (1) (intro.), 961.41 (1) (a), 961.41 (1) (b), 961.41 (1) (cm) (intro.), 961.41  
9     (1) (cm) 2., 961.41 (1) (cm) 3., 961.41 (1) (cm) 4., 961.41 (1) (d) (intro.), 961.41  
10     (1) (d) l., 961.41 (1) (d) 2., 961.41 (1) (d) 3., 961.41 (1) (d) 4., 961.41 (1) (e) (intro.),  
11     961.41 (1) (e) l., 961.41 (1) (e) 2., 961.41 (1) (e) 3., 961.41 (1) (e) 4., 961.41 (1) (f)  
12     (intro.), 961.41 (1) (f) l., 961.41 (1) (f) 2., 961.41 (1) (f) 3., 961.41 (1) (g) (intro.),  
13     961.41 (1) (g) l., 961.41 (1) (g) 2., 961.41 (1) (g) 3., 961.41 (1) (h) (intro.), 961.41  
14     (1) (h) l., 961.41 (1) (h) 2., 961.41 (1) (h) 3., 961.41 (1) (i), 961.41 (1) (j), 961.41  
15     (1m) (intro.), 961.41 (1m) (a), 961.41 (1m) (b), 961.41 (1m) (cm) (intro.), 961.41

1 (lm) (cm) 2., 961.41 (lm) (cm) 3., 961.41 (lm) (cm) 4., 961.41 (lm) (d) (intro.),  
 2 961.41 (lm) (d) 1., 961.41 (lm) (d) 2., 961.41 (lm) (d) 3., 961.41 (lm) (d) 4.,  
 3 961.41 (lm) (e) (intro.), 961.41 (lm) (e) 1., 961.41 (lm) (e) 2., 961.41 (lm) (e) 3.,  
 4 961.41 (lm) (e) 4., 961.41 (lm) (f) (intro.), 961.41 (lm) (f) 1., 961.41 (lm) (f) 2.,  
 5 961.41 (lm) (f) 3., 961.41 (lm) (g) (intro.), 961.41 (lm) (g) 1., 961.41 (lm) (g) 2.,  
 6 961.41 (lm) (g) 3., 961.41 (lm) (h) (intro.), 961.41 (lm) (h) 1., 961.41 (lm) (h) 2.,  
 7 961.41 (lm) (h) 3., 961.41 (lm) (i), 961.41 (lm) (j), 961.41 (1n) (c), 961.41 (lq),  
 8 961.41 (lr), 961.41 (2) (intro.), 961.41 (2) (a), 961.41 (2) (b), 961.41 (2) (d), 961.41  
 9 (3g) (c), 961.41 (3g) (d), 961.41 (3g) (e), 961.41 (3g) (f), 961.41 (4) (am) 3., 961.42  
 10 (2), 961.43 (2), 961.455 (l), 961.472 (2), 961.48 (2m) (a), 961.48 (3), 971.365 (1)  
 11 (c) and 971.365 (2); and to **create 939.50 (3) (c) 2.**, 961.41 (1) (cm) lg., 961.41  
 12 (1) (h) 4., 961.41 (1) (h) 5., 961.41 (lm) (cm) lg., 961.41 (lm) (h) 4., 961.41 (lm)  
 13 (h) 5., 961.41 (3g) (b) (title) and 961.48 (1) (a) and (b) of the statutes; **relating**  
 14 **to:** penalties for felony controlled substances offenses.

---

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

This is a preliminary draft. An analysis will be provided in a later version of the draft.

---

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

15 **SECTION 1.** 100.26 (7) of the statutes, as affected by 1997 Wisconsin Act 283,  
 16 is amended to read:

17 100.26 (7) Any person violating s. 100.182 ~~shall be fined not less than \$500 nor~~  
 18 ~~more than \$5,000 or imprisoned for not more than 2 years or both for each offense~~  
 19 is guilty of a Class I felony. Each unlawful advertisement published, printed or

1 mailed on separate days or in separate publications, hand bills or direct mailings is  
2 a separate violation of this section.

\*\*\*\*NOTE: The class of felony referred to in **this** provision is created in LRB-0590,  
with **which this** draft will ultimately be compiled.

3 **SECTION 2.** 302.11 (lp) of the statutes is amended to read:

4 302.11 (lp) An inmate serving a term subject to s. 961.49 (2), ~~1997 stats.~~, for  
5 a crime committed before December 31, 1999, is entitled to mandatory release,  
6 except the inmate may not be released before he or she has complied with s. 961.49  
7 (2), ~~1997 stats.~~

8 **SECTION 3.** 304.06 (1) (b) of the statutes is amended to read:

9 304.06 (1) (b) Except as provided in s. 961.49 (2), 1997 stats., sub. (lm) or s.  
10 302.045 (3), ~~961.49 (2)~~, 973.01 (6) or 973.0135, the parole commission may parole an  
11 inmate of the Wisconsin state prisons or any felon or any person serving at least one  
12 year or more in a county house of correction or a county reforestation camp organized  
13 under s. 303.07, when he or she has served 25% of the sentence imposed for the  
14 offense, or 6 months, whichever is greater. Except as provided in s. 939.62 (2m)(c)  
15 or 973.014 (1) (b) or (c), (lg) or (2), the parole commission may parole an inmate  
16 serving a life term when he or she has served 20 years, as modified by the formula  
17 under s. 302.11 (1) and subject to extension under s. 302.11 (lq) and (2), if applicable.  
18 The person serving the life term shall be given credit for time served prior to  
19 sentencing under s. 973.155, including good time under s. 973.155 (4). The secretary  
20 may grant special action parole releases under s. 304.02. The department or the  
21 parole commission shall not provide any convicted offender or other person  
22 sentenced to the department's custody any parole eligibility or evaluation until the  
23 person has been confined at least 60 days following sentencing.

1           **SECTION 4.** 304.071 (2) of the statutes is amended to read:

2           304.071 (2) If a prisoner is not eligible for parole under s. 961.49 (2), 1997 stats.,  
3 or s. 939.62 (2m) (c), ~~961.49 (2)~~, 973.01 (6), 973.014 (1) (c) or (lg) or 973.032 (5), he  
4 or she is not eligible for parole under this section.

5           **SECTION 5.** 939.50 (3) (c) of the statutes, as affected by 1997 Wisconsin Act 283,  
6 is renumbered 939.50 (3) (c) 1. and amended to read:

7           939.50 (3) (c) 1. ~~For~~ Except as provided in subd. 2., for a Class C felony, a fine  
8 not to exceed ~~\$10,000~~ \$50,000 or imprisonment not to exceed ~~15~~ 25 years, or both.

**\*\*\*NOTE:** In the first compile, check for cross-references to s. 939.50 (3) (c) that  
make exceptions to the **fine** amount so that they can be changed to refer specifically to  
subd. 1.

9           **SECTION 6.** 939.50 (3) (c) 2. of the statutes is created to read:

10          939.50 (3) (c) 2. For a Class C felony under ch. 961, a fine not to exceed \$100,000  
11 or imprisonment not to exceed 25 years, or both.

12          **SECTION 7.** 961.41 (1) (intro.) of the statutes is amended to read:

13          961.41 (1) **MANUFACTURE, DISTRIBUTION OR DELIVERY.** (intro.) Except as  
14 authorized by this chapter, it is unlawful for any person to manufacture, distribute  
15 or deliver a controlled substance or controlled substance analog. Any person who  
16 violates this subsection ~~with respect to~~ is subject to the following penalties:

17          **SECTION 8.** 961.41 (1) (a) of the statutes, as affected by 1997 Wisconsin Act 283,  
18 is amended to read:

19          961.41 (1) (a) Schedule I and II narcotic drugs generally. Except as provided  
20 in par. (d), if a nerson violates this subsection with respect to a controlled substance  
21 included in schedule I or II which is a narcotic drug, or a controlled substance analog  
22 of a controlled substance included in schedule I or II which is a narcotic drug, ~~may~~

1 ~~be fined not more than \$25,000 or imprisoned for not more than 22 years and 6~~  
2 ~~months or both the person is guilty of a Class E felony.~~

3 SECTION 9. 961.41 (1) (b) of the statutes, as affected by 1997 Wisconsin Act 283,  
4 is amended to read:

5 961.41 (1) (b) Schedule I, II and III nonnarcotic drug generally. Except as  
6 provided in pars. (cm) and (e) to (h), if a person violates this subsection with respect  
7 to any other controlled substance included in schedule I, II or III, or a controlled  
8 substance analog of any other controlled substance included in schedule I or II, may  
9 be fined not more than \$15,000 or imprisoned for not more than 7 years and 6 months  
10 or both the person is guilty of a Class H felony.

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

11 SECTION 10. 961.41 (1) (cm) (intro.) of the statutes is amended to read:

12 961.41 (1) (cm) Cocaine and cocaine base. (intro.) Cocaine If the person violates  
13 this subsection with respect to cocaine or cocaine base, or a controlled substance  
14 analog of cocaine or cocaine base, is subject to the following penalties if and the  
15 amount manufactured, distributed or delivered is:

16 SECTION 11. 961.41 (1) (cm) 1. of the statutes, as affected by 1997 Wisconsin Act  
17 283, is renumbered 961.41 (1) (cm) lr. and amended to read:

18 961.41 (1) (cm) lr. ~~Five grams or less~~ More than one gram but not more than  
19 5 grams, the person shall be fined not more than \$500,000 and may be imprisoned  
20 for not more than 15 years is guilty of a Class F felony

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

21 SECTION 12. 961.41 (1) (cm) lg. of the statutes is created to read:

22 961.41 (1) (cm) lg. One gram or less, the person is guilty of a Class G felony.



\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

1           SECTION 13. 961.41 (1) (cm) 2. of the statutes, as affected by 1997 Wisconsin  
2 Act 283, is amended to read:

3           961.41 (1) (cm) 2. More than 5 grams but not more than 15 grams, the person  
4 ~~shall be fined not more than \$500,000 and shall be imprisoned for not less than one~~  
5 ~~year nor more than 22 years and 6 months~~ is guilty of a Class E felony.

6           SECTION 14. 961.41 (1) (cm) 3. of the statutes, as affected by 1997 Wisconsin  
7 Act 283, is amended to read:

8           961.41 (1) (cm) 3. More than 15 grams but not more than 40 grams, the person  
9 ~~shall be fined not more than \$500,000 and shall be imprisoned for not less than 3~~  
10 ~~years nor more than 30 years~~ is guilty of a Class D felony

11           SECTION 15. 961.41 (1) (cm) 4. of the statutes, as affected by 1997 Wisconsin  
12 Act 283, is amended to read:

13           961.41 (1) (cm) 4. More than 40 grams ~~but not more than 100 grams~~, the person  
14 ~~shall be fined not more than \$500,000 and shall be imprisoned for not less than 5~~  
15 ~~years nor more than 45 years~~ is guilty of a Class C felony.

16           SECTION 16. 961.41 (1) (cm) 5. of the statutes, as affected by 1997 Wisconsin  
17 Act 283, is repealed.

18           SECTION 17. 961.41 (1) (d) (intro.) of the statutes is amended to read:

19           961.41 (1) (d) **Heroin.** (intro.) ~~Heroin~~ If the person violates this subsection with  
20 respect to heroin or a controlled substance analog of heroin ~~is subject to the following~~  
21 ~~penalties if~~ and the amount manufactured, distributed or delivered is:

22           SECTION 18. 961.41 (1) (d) 1. of the statutes, as affected by 1997 Wisconsin Act  
23 283, is amended to read:

1           961.41 (1) (d) 1. Three grams or less, the person ~~shall be fined not less than~~  
2 ~~\$1,000 nor more than \$200,000 and may be imprisoned for not more than 22 years~~  
3 ~~and 6 months~~ is guilty of a Class F felony

      \*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

4           SECTION 19. 961.41 (1) (d) 2. of the statutes, as affected by 1997 Wisconsin Act  
5 283, is amended to read:

6           961.41 (1) (d) 2. More than 3 grams but not more than 10 grams, the person  
7 ~~shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned~~  
8 ~~for not less than 6 months nor more than 22 years and 6 months~~ is guilty of a Class  
9 E felony.

10          SECTION 20. 961.41 (1) (d) 3. of the statutes, as affected by 1997 Wisconsin Act  
11 283, is amended to read:

12          961.41 (1) (d) 3. More than 10 grams but not more than 50 grams, the person  
13 ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~  
14 ~~for not less than one year nor more than 22 years and 6 months~~ is guilty of a Class  
15 D felony.

16          SECTION 21. 961.41 (1) (d) 4. of the statutes, as affected by 1997 Wisconsin Act  
17 283, is amended to read:

18          961.41 (1) (d) 4. More than 50 grams ~~but not more than 200 grams~~, the person  
19 ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~  
20 ~~for not less than 3 years nor more than 22 years and 6 months~~ is guilty of a Class C  
21 felony

22          SECTION 22. 961.41 (1) (d) 5. of the statutes, as affected by 1997 Wisconsin Act  
23 283, is repealed.

1           **SECTION 23.** 961.41 (1) (d) 6. of the statutes, as affected by 1997 Wisconsin Act  
2 283, is repealed.

3           **SECTION 24.** 961.41 (1) (e) (intro.) of the statutes is amended to read:

4           961.41 (1) (e)   Phencyclidine, amphetamine, methamphetamine and  
5 methcathinone. (intro.) ~~Phencyclidine~~ If the person violates this subsection with  
6 respect to phencyclidine, amphetamine, methamphetamine or methcathinone, or a  
7 controlled substance analog of phencyclidine, amphetamine, methamphetamine or  
8 methcathinone, ~~is subject to the following penalties if~~ and the amount  
9 manufactured, distributed or delivered is:

10          **SECTION 25.** 961.41 (1)(e) 1. of the statutes, as affected by 1997 Wisconsin Act  
11 283, is amended to read:

12          961.41 (1) (e) 1. Three grams or less, the person 3  
13 ~~\$1,000 nor more than \$200,000 and may be imprisoned for not more than 7 years and~~  
14 ~~6 months~~ is guilty of a Class F felony.

        \*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

15          **SECTION 26.** 961.41 (1)(e) 2. of the statutes, as affected by 1997 Wisconsin Act  
16 283, is amended to read:

17          961.41 (1) (e) 2. More than 3 grams but not more than 10 grams, the person  
18 ~~shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned~~  
19 ~~for not less than 6 months nor more than 7 ars and 6 months~~ is guilty of a Class  
20 E felony.

21          **SECTION 27.** 961.41 (1)(e) 3. of the statutes, as affected by 1997 Wisconsin Act  
22 283, is amended to read:

1           961.41 (1) (e) 3. More than 10 grams but not more than 50 grams, the person  
2 ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~  
3 ~~for not less than one year nor more than 22 years and 6 months~~ is ailty of a Class  
4 D felony

5           SECTION 28. 961.41 (1) (e) 4. of the statutes, as affected by 1997 Wisconsin Act  
6 283, is amended to read:

7           961.41 (1) (e) 4. More than 50 grams ~~but not more than 200 grams~~, the person  
8 ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~  
9 ~~for not less than 3 years nor more than 22 years and 6 months~~ is ailty of a Class C  
10 felony.

11           SECTION 29. 961.41 (1) (e) 5. of the statutes, as affected by 1997 Wisconsin Act  
12 283, is repealed.

13           SECTION 30. 961.41 (1) (e) 6. of the statutes, as affected by 1997 Wisconsin Act  
14 283, is repealed.

15           SECTION 31. 961.41 (1) (f) (intro.) of the statutes is amended to read:

16           961.41 (1) (f) Lysergic acid diethylamide. (intro.) Lysergie If the person violates  
17 this subsection with respect to lysergic acid diethylamide or a controlled substance  
18 analog of lysergic acid diethylamide is ~~subject to the following penalties if and~~ the  
19 amount manufactured, distributed or delivered is:

20           SECTION 32. 961.41 (1) (f) 1. of the statutes, as affected by 1997 Wisconsin Act  
21 283, is amended to read:

22           961.41 (1) (f) 1 . One gram or less , the person )  
23 ~~nor more than \$200,000 and may be imprisoned for not more than 7 years and 6~~  
24 ~~months~~ is guilty of a Class G felony.

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

1           **SECTION 33.** 961.41 (1) (f) 2. of the statutes, as affected by 1997 Wisconsin Act  
2 283, is amended to read:

3           961.41 (1) (f) 2. More than one gram but not more than 5 grams, the person & a-H  
4 ~~be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not~~  
5 ~~less than 6 months nor more than 7 years and 6 months~~ is guilty of a Class F felony.

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRE0590, with which this draft will ultimately be compiled.

6           **SECTION 34.** 961.41 (1) (f) 3. of the statutes, as affected by 1997 Wisconsin Act  
7 283, is amended to read:

8           961.41 (1) (f) 3. More than 5 grams, the person shall ~~be fined not less than~~  
9 ~~\$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year~~  
10 ~~nor more than 22 years and 6 months~~ guilty of a Class E felony.

11           **SECTION 35.** 961.41 (1) (g) (intro.) of the statutes is amended to read:

12           **961.41 (1) (g) *Psilocin and psilocybin.*** (intro.) ~~Psilocin~~ If the person violates  
13 this subsection with respect to nsilocin or psilocybin, or a controlled substance analog  
14 of psilocin or psilocybin, ~~is subject to the following penalties if and~~ the amount  
15 manufactured, distributed or delivered is:

16           **SECTION 36.** 961.41 (1) (g) 1. of the statutes, as affected by 1997 Wisconsin Act  
17 283, is amended to read:

18           961.41 (1) (g) 1. One hundred grams or less, the person ~~shall be fined not less~~  
19 ~~than \$1,000 nor more than \$200,000 and may be imprisoned for not more than 7~~  
20 ~~years and 6 months~~ is guilty of a Class G felony

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRE0590, with which this draft will ultimately be compiled.

1           **SECTION 37.** 961.41 (1) (g) 2. of the statutes, as affected by 1997 Wisconsin Act  
2 283, is amended to read:

3           961.41 (1) (g) 2. More than 100 grams but not more than 500 grams, the person  
4 ~~shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned~~  
5 ~~for not less than 6 months nor more than 7 years and 6 months is guilty of a Class~~  
6 F felony.

      \*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

7           **SECTION 38.** 961.41 (1) (g) 3. of the statutes, as affected by 1997 Wisconsin Act  
8 283, is amended to read:

9           961.41 (1) (g) 3. More than 500 grams, the person ~~shall be fined not less than~~  
10 ~~\$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year~~  
11 ~~nor more than 22 years and 6 months is guilty of a Class E felony.~~

12           **SECTION 39.** 961.41 (1) (h) (intro.) of the statutes is amended to read:

13           961.41 (1) (h) Tetrahydrocannabinols, (intro.) ~~Tetrahydrocannabinols~~ If the  
14 person violates this subsection with respect to tetrahydrocannabinols, included  
15 under s. 961.14 (4) (t), or a controlled substance analog of tetrahydrocannabinols, is  
16 ~~subject to the following penalties if~~ and the amount manufactured, distributed or  
17 delivered is:

18           **SECTION 40.** 961.41 (1) (h) 1. of the statutes, as affected by 1997 Wisconsin Act  
19 283, is amended to read:

20           961.41 (1) (h) 1. ~~Five~~ Two hundred grams or less, or ~~10~~ 4 or fewer plants  
21 containing tetrahydrocannabinols, the person ~~shall be fined not less than \$500 nor~~  
22 ~~more than \$25,000 and may be imprisoned for not more than 4 years and 6 months~~  
23 is guilty of a Class I felony.

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

1           **SECTION 41. 961.41 (1) (h) 2.** of the statutes, as affected by 1997 Wisconsin Act  
2 283, is amended to read:

3           961.41 (1) (h) 2. More than ~~500~~ 200 grams but not more than ~~2,500~~ 1,000 grams,  
4 or more than ~~10~~ 4 plants containing tetrahydrocannabinols but not more than ~~50~~ 20  
5 plants containing tetrahydrocannabinols, the person ~~shall be fined not less than~~  
6 ~~\$1,000 nor more than \$50,000 and shall be imprisoned for not less than 3 months nor~~  
7 ~~more than 7 years and 6 months~~ is guilty of a Class H felony.

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRE0590, with which this draft will ultimately be compiled.

8           **SECTION 42. 961.41 (1) (h) 3.** of the statutes, as affected by 1997 Wisconsin Act  
9 283, is amended to read:

10           961.41 (1) (h) 3. More than ~~2,500~~ 1,000 grams but not more than 2,500 grams,  
11 or more than ~~50~~ 20 plants containing tetrahydrocannabinols but not more than 50  
12 plants containing tetrahydrocannabinols, the person ~~shall be fined not less than~~  
13 ~~\$1,000 nor more than \$100,000 and shall be imprisoned for not less than one year~~  
14 ~~nor more than 15 years~~ is guilty of a Class G felony.

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled,

15           **SECTION 43. 961.41 (1) (h) 4.** of the statutes is created to read:

16           961.41 (1) (h) 4. More than 2,500 grams but not more than 10,000 grams, or  
17 more than 50 plants containing tetrahydrocannabinols but not more than 200 plants  
18 containing tetrahydrocannabinols, the person is guilty of a Class F felony.

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRE0590, with which this draft will ultimately be compiled.

19           **SECTION 44. 961.41 (1) (h) 5.** of the statutes is created to read:

1           961.41 (1) (h) 5. More than 10,000 grams, or more than 200 plants containing  
2 tetrahydrocannabinols, the person is guilty of a Class E felony.

3           **SECTION 45.** 961.41 (1) (i) of the statutes, as affected by 1997 Wisconsin Act 283,  
4 is amended to read:

5           961.41 (1) (i) Schedule IV drugs. ~~A- If a person violates this subsection with~~  
6 respect to a substance included in schedule IV, may be fined not more than \$10,000  
7 or imprisoned for not more than 4 years and 6 months. ~~both the person is guilty~~  
8 of a Class H felony.

          \*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

9           **SECTION 46.** 961.41 (1) (j) of the statutes, as affected by 1997 Wisconsin Act 283,  
10 is amended to read:

11           961.41 (1) (j) Schedule V drugs. ~~A- If a person violates this subsection with~~  
12 respect to a substance included in schedule V, may be fined not more than \$5,000 or  
13 imprisoned for not more than 2 years. ~~both the person is guilty of a Class I felony.~~

          \*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

14           **SECTION 47.** 961.41 (1m) (intro.) of the statutes is amended to read:

15           961.41 (1m) **POSSESSION WITH INTENT TO MANUFACTURE, DISTRIBUTE OR DELIVER.**  
16 (intro.) Except as authorized by this chapter, it is unlawful for any person to possess,  
17 with intent to manufacture, distribute or deliver, a controlled substance or a  
18 controlled substance analog. Intent under this subsection may be demonstrated by,  
19 without limitation because of enumeration, evidence of the quantity and monetary  
20 value of the substances possessed, the possession of manufacturing implements or  
21 paraphernalia, and the activities or statements of the person in possession of the  
22 controlled substance or a controlled substance analog prior to and after the alleged



1 violation. Any person who violates this subsection ~~with respect to~~ is subject to the  
2 following penalties:

3       **SECTION 48.** 961.41 (lm) (a) of the statutes, as affected by 1997 Wisconsin Act  
4 283, is amended to read:

5       961.41 **(lm)** (a) ~~*Schedule I and II narcotic drugs generally*~~. Except as provided  
6 in par. (d), if a person violates this subsection with respect to a controlled substance  
7 included in schedule I or II which is a narcotic drug or a controlled substance analog  
8 of a controlled substance included in schedule I or II which is a narcotic drug, ~~may~~  
9 ~~be fined not more than \$25,000 or imprisoned for not more than 22 years and 6~~  
10 ~~months or both~~ the person is guilty of a Class E felony.

11       **SECTION 49.** 961.41 (1m) (b) of the statutes, as affected by 1997 Wisconsin Act  
12 283, is amended to read:

13       961.41 **(lm)** (b) ~~*Schedule I, II and III nonnarcotic drugs generally*~~. Except as  
14 ~~provided in pars. (c m) and (e) to (h),~~ if  
15 to any other controlled substance included in schedule I, II or III, or a controlled  
16 substance analog of any other controlled substance included in schedule I or II, ~~may~~  
17 ~~be fined not more than \$15,000 or imprisoned for not more than 7 years and 6 months~~  
18 ~~or both~~ the person is guilty of a Class H felony.

      \*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

19       **SECTION 50.** 961.41 (lm) (cm) (intro.) of the statutes is amended to read:

20       961.41 **(lm)** (cm) ~~*Cocaine and cocaine base*~~. (intro.) ~~Cocaine~~ If a person violates  
21 this subsection with respect to cocaine or cocaine base, or a controlled substance  
22 analog of cocaine or cocaine base, ~~is subject to the following penalties if~~ and the  
23 amount possessed, with intent to manufacture, distribute or deliver, is:

1           **SECTION 51.** 961.41 (lm) (cm) 1. of the statutes, as affected by 1997 Wisconsin  
2 Act 283, is renumbered 961.41 (lm) (cm) lr. and amended to read:

3           961.41 **(lm)** (cm) lr. ~~Five grams or less~~ More than one gram but not more than  
4 5 grams, the person shall be fined ~~not more than \$500,000 and may be imprisoned~~  
5 ~~for not more than 15 years~~ is guilty of a Class F felon.

      \*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

6           **SECTION 52.** 961.41 (lm) (cm) lg. of the statutes is created to read:

7           961.41 **(lm)** (cm) lg. One gram or less, the person is guilty of a Class G felony.

      \*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

8           **SECTION 53.** 961.41 (lm) (cm) 2. of the statutes, as affected by 1997 Wisconsin  
9 Act 283, is amended to read:

10           961.41 **(lm)** (cm) 2. More than 5 grams but not more than 15 grams, the person  
11 ~~shall be fined not more than \$500,000 and shall be imprisoned for not less than one~~  
12 ~~year nor more than 90 days and 6 months~~ is guilty of a Class E felonv.

13           **SECTION 54.** 961.41 (1m) (cm) 3. of the statutes, as affected by 1997 Wisconsin  
14 Act 283, is amended to read:

15           961.41 **(lm)** (cm) 3. More than 15 grams but not more than. 40 grams, the  
16 person shall be fined not more than \$500,000 and shall, be imprisoned for not less  
17 ~~than 2 years nor more than 30 years~~ is euiltv of a Class D felonv.

18           **SECTION 55.** 961.41 (lm) (cm) 4. of the statutes, as affected by 1997 Wisconsin  
19 Act 283, is amended to read:

20           961.41 **(1m)** (cm) 4. More than 40 grams but ~~at more than 100 grams~~, the  
21 person shall be fined ~~not more than \$500,000 and shall be imprisoed for not less,~~  
22 ~~than 5 years nor more than 40 years~~ is guilty of a Class C felonv.

1           **SECTION 56.** 961.41 (1m) (cm) 5. of the statutes, as affected by 1997 Wisconsin  
2 Act 283, is repealed.

3           **SECTION 57.** 961.41 (1m) (d) (intro.) of the statutes is amended to read:

4           961.41 (1m) (d) **Heroin.** (intro.) ~~Heroin~~ If a person violates this subsection with  
5 respect to heroin or a controlled substance analog of heroin is ~~subject to the following~~  
6 ~~penalties if~~ and the amount possessed, with intent to manufacture, distribute or  
7 deliver, is:

8           **SECTION 58.** 961.41 (1m) (d) 1. of the statutes, as affected by 1997 Wisconsin  
9 Act 283, is amended to read:

10           961.41 (1m) (d) 1. Three grams or less, the person ~~shall be fined not less than~~  
11 ~~\$1,000 nor more than \$100,000 and may be imprisoned for not more than 22 years~~  
12 ~~and 6 months~~ is guilty of a Class F felony.

          \*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

13           **SECTION 59.** 961.41 (1m) (d) 2. of the statutes, as affected by 1997 Wisconsin  
14 Act 283, is amended to read:

15           961.41 (1m) (d) 2. More than 3 grams but not more than 10 grams, the person  
16 ~~shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned~~  
17 ~~for not less than 6 months nor more than 22 years and 6 months~~ is guilty of a Class  
18 E felony.

19           **SECTION 60.** 961.41 (1m) (d) 3. of the statutes, as affected by 1997 Wisconsin  
20 Act 283, is amended to read:

21           961.41 (1m) (d) 3. More than 10 grams but not more than 50 grams, the person  
22 ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~

1 ~~for not less than one year nor more than 22 years and 6 months is guilty of a Class~~  
2 ~~D felony.~~

3 SECTION 61. 961.41 (1m) (d) 4. of the statutes, as affected by 1997 Wisconsin  
4 Act 283, is amended to read:

5 961.41 (1m) (d) 4. More than 50 grams ~~but not more than 200 grams~~, the person  
6 ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~  
7 ~~for not less than 3 years nor more than 22 years and 6 months is guilty of a Class C~~  
8 ~~felony.~~

9 SECTION 62. 961.41 (1m) (d) 5. of the statutes, as affected by 1997 Wisconsin  
10 Act 283, is repealed.

11 SECTION 63. 961.41 (1m) (d) 6. of the statutes, as affected by 1997 Wisconsin  
12 Act 283, is repealed.

13 SECTION 64. 961.41 (1m) (e) (intro.) of the statutes is amended to read:

14 961.41 (1m) (e) Phencyclidine, amphetamine, methamphetamine and  
15 methcathinone. (intro.) ~~Phencyclidine~~ If a person violates this subsection with  
16 respect to phencyclidine, amphetamine, methamphetamine or methcathinone, or a  
17 controlled substance analog of phencyclidine, amphetamine, methamphetamine or  
18 methcathinone, is subject to the following penalties if and the amount possessed,  
19 with intent to manufacture, distribute or deliver, is:

20 SECTION 65. 961.41 (1m) (e) 1. of the statutes, as affected by 1997 Wisconsin  
21 Act 283, is amended to read:

22 961.41 (1m) (e) 1. Three grams or less, the person ~~shall be fined not less than~~  
23 ~~\$1,000 nor more than \$100,000 and may be imprisoned for not more than 7 years and~~  
24 ~~6 months is guilty of a Class F felony.~~

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

1           **SECTION 66.** 961.41 (lm) (e) 2. of the statutes, as affected by 1997 Wisconsin  
2 Act 283, is amended to read:

3           961.41 **(lm)** (e) 2. More than 3 grams but not more than 10 grams, the person  
4 ~~shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned~~  
5 ~~for not less than 6 months nor more than 7 years and 6 months~~ is guilty of a Class  
6 E felony.

7           **SECTION 67.** 961.41 (lm) (e) 3. of the statutes, as affected by 1997 Wisconsin  
8 Act 283, is amended to read:

9           961.41 **(lm)** (e) 3. More than 10 grams but not more than 50 grams, the person  
10 ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~  
11 ~~for not less than one year nor more than 22 years and 6 months~~ is e-uiltv of a Class  
12 D felony.

13           **SECTION 68.** 961.41 (lm) (e) 4. of the statutes, as affected by 1997 Wisconsin  
14 Act 283, is amended to read:

15           961.41 **(lm)** (e) 4. More than 50 grams ~~but not more than 200 grams~~, the person  
16 ~~shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned~~  
17 ~~for not less than 3 years nor more than 22 years and 6 months~~ is guilty of a Class C  
18 felony.

19           **SECTION 69.** 961.41 (lm) (e) 5. of the statutes,. as affected by 1997 Wisconsin  
20 Act 283, is repealed.

21           **SECTION 70.** 961.41 (1m) (e) 6. of the statutes, as affected by 1997 Wisconsin  
22 Act 283, is repealed.

23           **SECTION 71.** 961.41 (lm) (f) (intro.) of the statutes is amended to read:

1           **961.41 (1m) (f) Lysergic acid diethylamide.** (intro.) ~~Lysergie~~ If a person violates  
2 this subsection with respect to lysergic acid diethylamide or a controlled substance  
3 analog of lysergic acid diethylamide is subject to the following penalties if and the  
4 amount possessed, with intent to manufacture, distribute or deliver, is:

5           **SECTION 72.** 961.41 (1m) (f) 1. of the statutes, as affected by 1997 Wisconsin Act  
6 283, is amended to read:

7           **961.41 (1m) (f) 1.** One gram or less, the person ~~shall be fined not less than~~  
8 ~~\$1,000 nor more than \$100,000 and may be imprisoned for not more than 7 years and~~  
9 ~~6 months guilty of a Class G felony.~~

      \*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

10           **SECTION 73.** 961.41 (1m) (f) 2. of the statutes, as affected by 1997 Wisconsin Act  
11 283, is amended to read:

12           **961.41 (1m) (f) 2.** More than one gram but not more than 5 grams, the person  
13 ~~shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned~~  
14 ~~for not less than 6 months, ~~1~~ 5 years and 6 months is guilty of a Class~~  
15 ~~**F felony.**~~

      \*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

16           **SECTION 74.** 961.41 (1m) (f) 3. of the statutes, as affected by 1997 Wisconsin Act  
17 283, is amended to read:

18           **961.41 (1m) (f) 3.** More than 5 grams, the person ~~shall be fined not less than~~  
19 ~~\$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year~~  
20 ~~nor more than 22 years and 6 months is guilty of a Class E felony.~~

21           **SECTION 75.** 961.41 (1m) (g) (intro.) of the statutes is amended to read:

1           **961.41 (1m) (g) *Psilocin and psilocybin.*** (intro.) ~~Psilocin~~ If a person violates  
2 this subsection with respect to psilocin or psilocybin, or a controlled substance analog  
3 of psilocin or psilocybin, is subject to the following penalties if and the amount  
4 possessed, with intent to manufacture, distribute or deliver, is:

5           **SECTION 76. 961.41 (1m) (g) 1.** of the statutes, as affected by 1997 Wisconsin  
6 Act 283, is amended to read:

7           **961.41 (1m) (g) 1.** One hundred grams or less, the person ~~shall be fined not less~~  
8 ~~than \$1,000 nor more than \$100,000 and may be imprisoned for not more than 7~~  
9 ~~years and 6 months~~ is guilty of a Class G felony

      \*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

10          **SECTION 77. 961.41 (1m) (g) 2.** of the statutes, as affected by 1997 Wisconsin  
11 Act 283, is amended to read:

12          **961.41 (1m) (g) 2.** More than **100** grams but not more than 500 grams, the  
13 person ~~shall be fined not less than \$1,000 nor more than \$200,000 and shall be~~  
14 ~~imprisoned for not less than 6 months nor more than 7~~ years and 6 months is guilty  
15 of a Class F felony.

      \*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

16          **SECTION 78. 961.41 (1m) (g) 3.** of the statutes, as affected by 1997 Wisconsin  
17 Act 283, is amended to read:

18          **961.41 (1m) (g) 3.** More than 500 grams, the person ~~shall be fined not less than~~  
19 ~~\$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year~~  
20 ~~nor more than 22 years and 6 months~~ is guilty of a Class E felony.

21          **SECTION 79. 961.41 (1m) (h) (intro.)** of the statutes is amended to read:

1           **961.41 (1m) (h) Tetrahydrocannabinols**, (intro.) ~~Tetrahydrocannabinols~~ If  
2           person violates this subsection with respect to tetrahydrocannabinols, included  
3           under s. 961.14 (4) (t), or a controlled substance analog of tetrahydrocannabinols, ~~is~~  
4           ~~subject to the following penalties if~~ and the amount possessed, with intent to  
5           manufacture, distribute or deliver, is:

6           **SECTION 80.** 961.41 (1m) (h) 1. of the statutes, as affected by 1997 Wisconsin  
7           Act 283, is amended to read:

8           961.41 (1m) (h) 1. ~~Five~~ Two hundred grams or less, or ~~10~~ 4 or fewer plants  
9           containing tetrahydrocannabinols, the person ~~shall be fined not less than \$500 nor~~  
10          ~~more than \$25,000 and may be imprisoned for not more than 4 years and 6 months~~  
11          is guilty of a Class I felony.

          \*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
          with which this draft will ultimately be compiled.

12          **SECTION 81.** 961.41 (1m) (h) 2. of the statutes, as affected by 1997 Wisconsin  
13          Act 283, is amended to read:

14          961.41 (1m) (h) 2. More than ~~500~~ 200 grams but not more than ~~2,500~~ 1,000  
15          grams, or more than ~~10~~ 4 plants containing tetrahydrocannabinols but not more than  
16          ~~50~~ 20 plants containing tetrahydrocannabinols, the person ~~shall be fined not less~~  
17          ~~than \$1,000 nor more than \$50,000 and shall be imprisoned for not less than 3~~  
18          ~~months nor more than 4 years and 6 months~~ is guilty of a Class H felony.

          \*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
          with which this draft will ultimately be compiled.

19          **SECTION 82.** 961.41 (1m) (h) 3. of the statutes, as affected by 1997 Wisconsin  
20          Act 283, is amended to read:

21          961.41 (1m) (h) 3. More than ~~2,500~~ 1,000 grams but not more than 2,500 grams,  
22          or more than ~~50~~ 20 plants containing tetrahydrocannabinols but not more than 50



1 ~~plants containing tetrahydrocannabinols, the person shall be fined not less than~~  
2 ~~\$1,000 nor more than \$100,000 and shall be imprisoned for not less than one year~~  
3 ~~nor more than 15 years~~ is guilty of a Class G felony.

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

4 **SECTION 83.** 961.41 (1m) (h) 4. of the statutes is created to read:

5 961.41 **(1m)** (h) 4. More than 2,500 grams but not more than 10,000 grams, or  
6 more than 50 plants containing tetrahydrocannabinols but not more than 200 plants  
7 containing tetrahydrocannabinols, the person is guilty of a Class F felony.

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

8 **SECTION 84.** 961.41 (1m) (h) 5. of the statutes is created to read:

9 961.41 **(1m)** (h) 5. More than 10,000 grams, or more than 200 plants containing  
10 tetrahydrocannabinols, the person is guilty of a Class E felony.

11 **SECTION 85,** 961.41 (1m) (i) of the statutes, as affected by 1997 Wisconsin Act  
12 283, is amended to read:

13 961.41 **(1m)** (i) Schedule IV drugs. 4 If a person violates this subsection with  
14 resnect to a substance included in schedule IV, may be fined not more than \$10,000  
15 or imprisoned for not more than 4 years and 6 months or both the person is aulity  
16 of a Class H felony.

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRE0590,  
with which this draft will ultimately be compiled.

17 **SECTION 86.** 961.41 (1m) (j) of the statutes, as affected by 1997 Wisconsin Act  
18 283, is amended to read:

19 961.41 **(1m)** (j) Schedule V drugs. 4 If a person violates this subsection with  
20 resnect to a substance included in schedule V, may be fined not more than \$5,000 or  
21 imprisoned for not more than 2 years or both the person is guilty of a Class I felony.

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

1           **SECTION 87.** 961.41 (1n) (c) of the statutes, as affected by 1997 Wisconsin Act  
2 283, is amended to read:

3           961.41 (1n) (c) A person who violates par. (a) or (b) ~~may be fined \$ more than~~  
4 ~~\$250,000 or imprisoned for not more than 15 years or both~~ is guilty of a Class F felony.

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590, with which this draft will ultimately be compiled.

5           **SECTION 88.** 961.41 (1q) of the statutes is amended to read:

6           961.41 (1q) **PENALTY RELATING TO TETRAHYDROCANNABINOLS IN CERTAIN CASES.**  
7 Under s. 961.49 (2), 1997 stats., and subs. (1) (h) and (1m) (h) ~~and s. 961.49 (2),~~ if  
8 different penalty provisions apply to a person depending on whether the weight of  
9 tetrahydrocannabinols or the number of plants containing tetrahydrocannabinols is  
10 considered, the greater penalty provision applies.

11           **SECTION 89.** 961.41 (1r) of the statutes is amended to read:

12           961.41 (1r) **DETERMINING WEIGHT OF SUBSTANCE.** In determining amounts under  
13 s. 961.49 (2) (b), 1997 stats., and subs. (1) and (1m) ~~and s. 961.49 (2) (b),~~ an amount  
14 includes the weight of cocaine, cocaine base, heroin, phencyclidine, lysergic acid  
15 diethylamide, psilocin, psilocybin, amphetamine, methamphetamine,  
16 methcathinone or tetrahydrocannabinols or any controlled substance analog of any  
17 of these substances together with any compound, mixture, diluent, plant material  
18 or other substance mixed or combined with the controlled substance or controlled  
19 substance analog. In addition, in determining amounts under subs. (1) (h) and (1m)  
20 (h), the amount of tetrahydrocannabinols means anything included under s. 961.14  
21 (4) (t) and includes the weight of any marijuana.

22           **SECTION 90.** 961.41 (2) (intro.) of the statutes is amended to read:

1           961.41 (2) COUNTERFEIT SUBSTANCES. (intro.) Except as authorized by this  
2 chapter, it is unlawful for any person to create, manufacture, distribute, deliver or  
3 possess with intent to distribute or deliver, a counterfeit substance. Any person who  
4 violates this subsection ~~with respect to~~ is subject to the following penalties:

5           **SECTION 91.** 961.41 (2) (a) of the statutes, as affected by 1997 Wisconsin Act  
6 283, is amended to read: ,

7           961.41 (2) (a) **Counterfeit schedule I and II narcotic drugs.** ~~A~~ If a person  
8 violates this subsection with respect to a counterfeit substance included in schedule  
9 I or II which is a narcotic drug, ~~may be fined not more than \$25,000 or imprisoned~~  
10 ~~for not more than 22 years and 6 months or both~~ the person is guilty of a Class E  
11 felony.

12           **SECTION 92.** 961.41 (2) (b) of the statutes, as affected by 1997 Wisconsin Act  
13 283, is amended to read:

14           961.41 (2) (b) **Counterfeit schedule I, II, III and IV drugs.** ~~Any~~ If a person  
15 violates this subsection with respect to any other counterfeit substance included in  
16 schedule I, II ~~or, III or IV~~, ~~may be fined not more than \$15,000 or imprisoned for not~~  
17 ~~more than 7 years and 6 months or both~~ the person is guilty of a Class H felony

          \*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

18           **SECTION 93.** 961.41 (2) (c) of the statutes, as affected by 1997 Wisconsin Act 283,  
19 is repealed.

20           **SECTION 94.** 961.41 (2) (d) of the statutes, as affected by 1997 Wisconsin Act  
21 283, is amended to read:

22           **961.41 (2) (d) Counterfeit schedule V drugs.** ~~A~~ If a person violates this  
23 subsection with respect to a counterfeit substance included in schedule V, may-be

1 ~~fined not more than \$5,000 or imprisoned for not more than 2 years or both~~ the person  
2 is euiltv of a Class I felony.

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

3 **SECTION 95.** 961.41 (3g) (a) 1. of the statutes, as affected by 1999 Wisconsin Act  
4 283, is renumbered 961.41 (3g) (am) and amended to read:

5 **96 1.4 1 (3g) (am) Schedule I and II narcotic drugs.** ~~Except as provided in subd.~~  
6 ~~2., If the~~ If a person possesses a controlled substance included in schedule I or II  
7 which is a narcotic drug, or possesses a controlled substance analog of a controlled  
8 substance included in schedule I or II which is a narcotic drug, the person may, upon  
9 ~~a first conviction, be fined not more than \$5,000 or imprisoned for not more than 2~~  
10 ~~or both, and for a 2nd or subsequent offense, the person may be fined not more than~~  
11 ~~\$10,000 or imprisoned for not more than 2 years or both~~ is guilty of a Class I felony

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

12 **SECTION 96.** 961.41 (3g) (a) 2. of the statutes, as affected by 1997 Wisconsin Act  
13 283, is repealed.

14 **SECTION 97.** 961.41 (3g) (a) 3. of the statutes is repealed.

15 **SECTION 98.** 961.41 (3g) (b) (title) of the statutes is created to read:

16 961.41 (3g) (b) (title) ***Other drugs generally.***

17 **SECTION 99.** 961.41 (3g) (c) of the statutes is amended to read:

18 961.41 **(3g) (c) Cocaine and cocaine base.** If a person possess or attempts to  
19 possess cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine  
20 base, the person shall be fined not more than \$5,000 and may be imprisoned for not  
21 more than one year in the county jail unon a first conviction and is guilty of a Class  
22 I felony for a 2nd or subsequent offense. For nurnoses of this naraaranh. an offense

1 is considered a 2nd or subseauent offense if. nrrior to the offender's conviction of the  
2 offense. the offender has at any time been convicted of any felony or misdemeanor  
3 under this chapter or under any statute of the United States or of any state relating  
4 to controlled substances. controlled substance analogs, narcotic drugs, mariiuana or  
5 depressant. stimulant or hallucinogenic drugs.

\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

6 SECTION 100. 961.41 (3g) (d) of the statutes is amended to read:

7 **961.41 (3g) (d)** Certain hallucinogenic and stimulant drugs. If a person  
8 possesses or attempts to possess lysergic acid diethylamide, phencyclidine,  
9 amphetamine, methamphetamine, methcathinone, psilocin or psilocybin, or a  
10 controlled substance analog of lysergic acid diethylamide, phencyclidine,  
11 amphetamine, methamphetamine, methcathinone, psilocin or psilocybin, the person  
12 may be fined not more than \$5,000 or imprisoned for not more than one year in the  
13 county jail or both upon a first conviction and is guilty of a Class I felony for a 2nd  
14 or subseauent offense. For purposes of this paragraph. an offense is considered a 2nd  
15 or subsequent offense if. nrrior to the offender's conviction of the offense. the offender  
16 has at any time been convicted of anp felony or misdemeanor under this chapter or  
17 under any statute of the United States or of any state relating to controlled  
18 substances. controlled substance analogs, narcotic drugs. mariiuana or denressant,  
19 stimulant or hallucinogenic drugs.

\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

20 SECTION 101. 961.41 (3g) (e) of the statutes is amended to read:

21 **961.41 (3g) (e)** Tetrahydrocannabinols. If a person possesses or attempts to  
22 possess tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled

1 substance analog of tetrahydrocannabinols, the person may be fined not more than  
2 \$1,000 or imprisoned for not more than 6 months or both upon a first conviction and  
3 is guilty of a Class I felony for a 2nd or subseautent offense. For purposes of this  
4 paragraph, an offense is considered a 2nd or subseautent offense if, prior to the  
5 offender's conviction of the offense, the offender has at any time been convicted of any  
6 felony or misdemeanor under this chapter or under any statute of the United States  
7 or of any state relating to controlled substances, controlled substance analogs,  
8 narcotic drugs, mariiuaana or denressant, stimulant or hallucinogenic drugs.

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

9 SECTION 102. 961.41 (3g) (f) of the statutes is amended to read:

10 961.41 (3g) (f) Gamma-hydroxybutyric acid, gamma-hydroxybutyrolactone,  
11 ketamine and flunitrazepam. If a person possesses or attempts to possess  
12 gamma-hydroxybutyric acid, gamma-hydroxybutyrolactone, ketamine or  
13 flunitrazepam, the person ~~may be fined not more than \$5,000 or imprisoned for not~~  
14 ~~more than 2 years or both~~ is guilty of a Class H felony.

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

15 SECTION 103. 961.41 (4) (am) 3. of the statutes, as affected by 1997 Wisconsin  
16 Act 283, is amended to read:

17 961.41 (4) (am) 3. A person ~~convicted of violating~~ who violates this paragraph  
18 ~~may be fined not more than \$5,000 or imprisoned for not more than 2 years or both~~  
19 is guilty of a Class I felony.

\*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

20 SECTION 104. 961.42 (2) of the statutes, as affected by 1997 Wisconsin Act 283,  
21 is amended to read:

1           961.42 (2) Any person who violates this section ~~may be fined not more than~~  
2 ~~\$25,000 or imprisoned not more than 2 years or both~~ is aulvtv of a Class I felony.

      \*\*\*\*NOTE: The class of felony referred to in this provision is created in LRE0590,  
with which this draft will ultimately be compiled.

3           **SECTION 105.** 961.43 (2) of the statutes, as affected by 1997 Wisconsin Act 283,  
4 is amended to read:

5           961.43 (2) Any person who violates this section ~~may be fined not more than~~  
6 ~~\$30,000 or imprisoned not more than 6 years or both~~ is guilty of a Class H felony.

      \*\*\*\*NOTE: The class of felony referred to in this provision is created in LRB-0590,  
with which this draft will ultimately be compiled.

7           **SECTION 106.** 961.438 of the statutes is repealed.

8           **SECTION 107.** 961.455 (1) of the statutes, as affected by 1997 Wisconsin Act 283,  
9 is amended to read:

10           961.455 (1) Any person who has attained the age of 17 years who knowingly  
11 solicits, hires, directs, employs or uses a person who is under the age of 17 years of  
12 ~~age or under~~ for the purpose of violating s. 961.41 (1) ~~may be fined not more than~~  
13 ~~\$50,000 or imprisoned for not more than 15 years or both~~ is aulvtv of a Class F felony.

      \*\*\*\*NOTE: The class of felony referred to in this provision is created in LRE0590,  
with which this draft will ultimately be compiled. In the first compile, compare the  
penalty here to the penalties under ss. 939.30 and 948.35.

14           **SECTION 108.** 961.46 (1) of the statutes is renumbered 961.46 and amended to  
15 read:

16           **961.46 Distribution to persons under age 18.** ~~Except as provided in sub.~~  
17 ~~(3), any~~ If a person 17 years of age or over who violates s. 961.41 (1) by distributing  
18 or delivering a controlled substance ~~included in schedule I or II which is a narcotic~~  
19 ~~drug or a controlled substance analog of a controlled substance included in schedule~~  
20 ~~I or II which is a narcotic drug~~ to a person 17 years of age or under who is at least  
21 3 years his or her junior ~~is punishable by the fine authorized by s. 961.41(1)(a) or~~

1 ~~a term of imprisonment of up to twice that authorized by s. 961.41 (1) (a), or both, the~~  
2 ~~applicable maximum term of imprisonment prescribed under s. 961.41 (1) for the~~  
3 ~~offense may be increased by not more than 5 years.~~

4 SECTION 109. 961.46 (2) of the statutes is repealed.

5 SECTION 110. 961.46 (3) of the statutes is repealed.

6 SECTION 111. 961.465 of the statutes is repealed.

\*\*\*\*NOTE: This is a penalty enhancer for distribution of controlled substances to prisoners. These provisions should be included in the sentencing factor statute that will be created in LRB-0590.

7 SECTION 112. 961.472 (2) of the statutes is amended to read:

8 961.472 (2) Except as provided in sub. (5), if a person pleads guilty or is found  
9 guilty of possession or attempted possession of a controlled substance or controlled  
10 substance analog under s. 961.41 (3g) ~~(a) 2.~~ (am), (c) or (d), the court shall order the  
11 person to comply with an assessment of the person's use of controlled substances.  
12 The court's order shall designate a facility that is operated by or pursuant to a  
13 contract with the county department established under s. 51.42 and that is certified  
14 by the department of health and family services to provide assessment services to  
15 perform the assessment and, if appropriate, to develop a proposed treatment plan.  
16 The court shall notify the person that noncompliance with the order limits the court's  
17 ability to determine whether the treatment option under s. 961.475 is appropriate.  
18 The court shall also notify the person of the fee provisions under s. 46.03 (18) (fm).

19 SECTION 113. 961.48 (1) of the statutes is renumbered 961.48 (1) (intro.) and  
20 amended to read:

21 961.48 (1) (intro.) ~~Except as provided in subs. (2) and (4), any~~ If a person who  
22 is charged under sub. (2m) with a felony offense under this chapter that is a 2nd or  
23 subsequent offense as provided under this chapter sub. (3) and the person is



1 convicted of that 2nd or subsequent offense ~~may be fined an amount up to twice that~~  
2 ~~otherwise authorized or imprisoned for a term up to twice the term otherwise~~  
3 ~~authorized or both.~~ the maximum term of imprisonment for the offense may be  
4 increased as follows:

5 **SECTION 114.** 961.48 (1) (a) and (b) of the statutes are created to read:

6 961.48 (1) (a) By not more than 6 years, if the offense is a Class C or D felony.

7 (b) By not more than 4 years, if the offense is a Class E, F, G, H or I felony.

\*\*\*\*NOTE: Class F, G, H and I felonies are created in LRB-0590, with which this  
draft will ultimately be compiled.

8 **SECTION 115.** 961.48 (2) of the statutes is repealed.

9 **SECTION 116.** 961.48 (2m) (a) of the statutes is amended to read:

10 961.48 (2m) (a) Whenever a person charged with an a felony offense under this  
11 chapter may be subject to a conviction for a 2nd or subsequent offense, he or she is  
12 not subject to an enhanced penalty under sub. (1) ~~or (2)~~ unless any applicable prior  
13 convictions are alleged in the complaint, indictment or information or in an amended  
14 complaint, indictment or information that is filed under par. (b) 1. A person is not  
15 subject to an enhanced penalty under sub. (1) ~~or (2)~~ for an offense if an allegation of  
16 applicable prior convictions is withdrawn by an amended complaint filed under par.  
17 (b) 2.

18 **SECTION 117.** 961.48 (3) of the statutes is amended to read:

19 961.48 (3) For purposes of this section, ~~an~~ a felony offense under this chapter  
20 is considered a 2nd or subsequent offense if, prior to the offender's conviction of the  
21 offense, the offender has at any time been convicted of any felony or misdemeanor  
22 offense under this chapter or under any statute of the United States or of any state

1 relating to controlled substances or controlled substance analogs, narcotic drugs,  
2 marijuana or depressant, stimulant or hallucinogenic drugs.

3 **SECTION 118. 961.48 (4)** of the statutes is repealed.

4 **SECTION 119. 961.49 (1)** of the statutes is renumbered 961.49.

5 **SECTION 120. 961.49 (2)** of the statutes is repealed.

6 **SECTION 121. 961.49 (3)** of the statutes is repealed.

7 **SECTION 122. 961.492** of the statutes is repealed.

\*\*\*\*NOTE: This is a penalty enhancer for distribution of controlled substances on public transit vehicles. These provisions should be included in the sentencing factor statute that will be created in LRB-0590.

8 **SECTION 123. 971.365 (1) (c)** of the statutes is amended to read:

9 971.365 (1) (c) In any case under s. 961.41 (3g) ~~(a) 2. (am)~~, (c), (d) or (e) involving  
10 more than one violation, all violations may be prosecuted as a single crime if the  
11 violations were pursuant to a single intent and design.

12 **SECTION 124. 971.365 (2)** of the statutes is amended to read:

13 **971.365 (2)** An acquittal or conviction under sub. (1) does not bar a subsequent  
14 prosecution for any acts in violation of s. 961.41 (1) (cm), (d), (e), (f), (g) or (h), (lm)  
15 (cm), (d), (e), (f), (g) or (h) or (3g) ~~(a) 2. (am)~~, (c), (d) or (e) on which no evidence was  
16 received at the trial on the original charge.

17 **SECTION 125. Effective date.**

18 (1) This act takes effect on December 31, 1999, or on the day after publication,  
19 whichever is later.

20

(END)