

ENGROSSED ASSEMBLY BILL 3**SECTION 606**

1 **948.08 Soliciting a child for prostitution.** Whoever intentionally solicits
2 or causes any child to practice prostitution or establishes any child in a place of
3 prostitution is guilty of a Class ~~BC~~ D felony.

4 **SECTION 607.** 948.095 (2) (intro.) of the statutes is amended to read:

5 948.095 (2) (intro.) Whoever has sexual contact or sexual intercourse with a
6 child who has attained the age of 16 years and who is not the defendant's spouse is
7 guilty of a Class ~~D~~ H felony if all of the following apply:

8 **SECTION 608.** 948.11 (2) (a) of the statutes is amended to read:

9 948.11 (2) (a) Whoever, with knowledge of the nature of the material, sells,
10 rents, exhibits, transfers or loans to a child any harmful material, with or without
11 monetary consideration, is guilty of a Class ~~E~~ I felony.

12 **SECTION 609.** 948.11 (2) (am) of the statutes is amended to read:

13 948.11 (2) (am) Any person who has attained the age of 17 and who, with
14 knowledge of the nature of the description or narrative account, verbally
15 communicates, by any means, a harmful description or narrative account to a child,
16 with or without monetary consideration, is guilty of a Class ~~E~~ I felony.

17 **SECTION 610.** 948.12 (intro.) of the statutes is amended to read:

18 **948.12 Possession of child pornography.** (intro.) Whoever possesses any
19 undeveloped film, photographic negative, photograph, motion picture, videotape or
20 other pictorial reproduction or audio recording of a child engaged in sexually explicit
21 conduct under all of the following circumstances is guilty of a Class ~~E~~ I felony:

22 **SECTION 611.** 948.13 (2) of the statutes is amended to read:

23 948.13 (2) Whoever has been convicted of a serious child sex offense and
24 subsequently engages in an occupation or participates in a volunteer position that
25 requires him or her to work or interact primarily and directly with children under

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1 16 years of age is guilty of a Class C F felony. This subsection does not apply to a
2 person who is exempt under a court order issued under sub. (2m).

3 **SECTION 612.** 948.20 of the statutes is amended to read:

4 **948.20 Abandonment of a child.** Whoever, with intent to abandon the child,
5 leaves any child in a place where the child may suffer because of neglect is guilty of
6 a Class D G felony.

7 **SECTION 613.** 948.21 (1) of the statutes is amended to read:

8 948.21 (1) Any person who is responsible for a child's welfare who, through his
9 or her actions or failure to take action, intentionally contributes to the neglect of the
10 child is guilty of a Class A misdemeanor or, if death is a consequence, a Class C D
11 felony.

12 **SECTION 614.** 948.22 (2) of the statutes is amended to read:

13 948.22 (2) Any person who intentionally fails for 120 or more consecutive days
14 to provide spousal, grandchild or child support which the person knows or reasonably
15 should know the person is legally obligated to provide is guilty of a Class E I felony.
16 A prosecutor may charge a person with multiple counts for a violation under this
17 subsection if each count covers a period of at least 120 consecutive days and there is
18 no overlap between periods.

19 **SECTION 615.** 948.23 of the statutes is amended to read:

20 **948.23 Concealing death of child.** Any person who conceals the corpse of
21 any issue of a woman's body with intent to prevent a determination of whether it was
22 born dead or alive is guilty of a Class E I felony.

23 **SECTION 616.** 948.24 (1) (intro.) of the statutes is amended to read:

24 948.24 (1) (intro.) Whoever does any of the following is guilty of a Class D H
25 felony:

ENGROSSED ASSEMBLY BILL 3**SECTION 617**

1 **SECTION 617.** 948.30 (1) (intro.) of the statutes is amended to read:

2 948.30 (1) (intro.) Any person who, for any unlawful purpose, does any of the
3 following is guilty of a Class ~~C~~ E felony:

4 **SECTION 618.** 948.30 (2) (intro.) of the statutes is amended to read:

5 948.30 (2) (intro.) Any person who, for any unlawful purpose, does any of the
6 following is guilty of a Class ~~B~~ C felony:

7 **SECTION 619.** 948.31 (1) (b) of the statutes is amended to read:

8 948.31 (1) (b) Except as provided under chs. 48 and 938, whoever intentionally
9 causes a child to leave, takes a child away or withholds a child for more than 12 hours
10 beyond the court-approved period of physical placement or visitation period from a
11 legal custodian with intent to deprive the custodian of his or her custody rights
12 without the consent of the custodian is guilty of a Class ~~C~~ F felony. This paragraph
13 is not applicable if the court has entered an order authorizing the person to so take
14 or withhold the child. The fact that joint legal custody has been awarded to both
15 parents by a court does not preclude a court from finding that one parent has
16 committed a violation of this paragraph.

17 **SECTION 620.** 948.31 (2) of the statutes is amended to read:

18 948.31 (2) Whoever causes a child to leave, takes a child away or withholds a
19 child for more than 12 hours from the child's parents or, in the case of a nonmarital
20 child whose parents do not subsequently intermarry under s. 767.60, from the child's
21 mother or, if he has been granted legal custody, the child's father, without the consent
22 of the parents, the mother or the father with legal custody, is guilty of a Class ~~E~~ I
23 felony. This subsection is not applicable if legal custody has been granted by court
24 order to the person taking or withholding the child.

25 **SECTION 621.** 948.31 (3) (intro.) of the statutes is amended to read:

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1 948.31 (3) (intro.) Any parent, or any person acting pursuant to directions from
2 the parent, who does any of the following is guilty of a Class C F felony:

3 **SECTION 622.** 948.35 of the statutes is repealed.

4 **SECTION 623.** 948.36 of the statutes is repealed.

5 **SECTION 624.** 948.40 (4) (a) of the statutes is amended to read:

6 948.40 (4) (a) If death is a consequence, the person is guilty of a Class C D
7 felony; or

8 **SECTION 625.** 948.40 (4) (b) of the statutes is amended to read:

9 948.40 (4) (b) If the child's act which is encouraged or contributed to is a
10 violation of a state or federal criminal law which is punishable as a felony, the person
11 is guilty of a Class D H felony.

12 **SECTION 626.** 948.51 (3) (b) of the statutes is amended to read:

13 948.51 (3) (b) A Class E H felony if the act results in great bodily harm ~~or death~~
14 to another.

15 **SECTION 627.** 948.51 (3) (c) of the statutes is created to read:

16 948.51 (3) (c) A Class G felony if the act results in the death of another.

17 **SECTION 628.** 948.60 (2) (b) of the statutes is amended to read:

18 948.60 (2) (b) Except as provided in par. (c), any person who intentionally sells,
19 loans or gives a dangerous weapon to a person under 18 years of age is guilty of a
20 Class E I felony.

21 **SECTION 629.** 948.60 (2) (c) of the statutes is amended to read:

22 948.60 (2) (c) Whoever violates par. (b) is guilty of a Class D H felony if the
23 person under 18 years of age under par. (b) discharges the firearm and the discharge
24 causes death to himself, herself or another.

25 **SECTION 630.** 948.605 (2) (a) of the statutes is amended to read:

ENGROSSED ASSEMBLY BILL 3**SECTION 630**

1 948.605 (2) (a) Any individual who knowingly possesses a firearm at a place
2 that the individual knows, or has reasonable cause to believe, is a school zone is
3 guilty of a Class A ~~misdemeanor~~ I felony.

4 **SECTION 631.** 948.605 (3) (a) of the statutes is amended to read:

5 948.605 (3) (a) Any individual who knowingly, or with reckless disregard for
6 the safety of another, discharges or attempts to discharge a firearm at a place the
7 individual knows is a school zone is guilty of a Class D G felony.

8 **SECTION 632.** 948.605 (4) of the statutes is repealed.

9 **SECTION 633.** 948.61 (2) (b) of the statutes is amended to read:

10 948.61 (2) (b) A Class ~~E~~ I felony, if the violation is the person's 2nd or
11 subsequent violation of this section within a 5-year period, as measured from the
12 dates the violations occurred.

13 **SECTION 634.** 948.62 (1) (a) of the statutes is amended to read:

14 948.62 (1) (a) A Class ~~E~~ felony A misdemeanor, if the value of the property does
15 not exceed \$500.

16 **SECTION 635.** 948.62 (1) (b) of the statutes is amended to read:

17 948.62 (1) (b) A Class ~~D~~ I felony, if the value of the property exceeds \$500 but
18 does not exceed \$2,500.

19 **SECTION 636.** 948.62 (1) (bm) of the statutes is created to read:

20 948.62 (1) (bm) A Class H felony, if the value of the property exceeds \$2,500 but
21 does not exceed \$5,000.

22 **SECTION 637.** 948.62 (1) (c) of the statutes is amended to read:

23 948.62 (1) (c) A Class ~~C~~ G felony, if the value of the property exceeds ~~\$2,500~~
24 \$5,000.

25 **SECTION 638.** 949.03 (1) (b) of the statutes is amended to read:

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1 949.03 (1) (b) The commission or the attempt to commit any crime specified in
2 s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,
3 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24,
4 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 940.32, 941.327, 943.02, 943.03,
5 943.04, 943.10, 943.20, 943.23 (1g), ~~(1m) or (1r)~~, 943.32, 948.02, 948.025, 948.03,
6 948.04, 948.07, 948.095, 948.20, 948.30 or 948.51.

7 **SECTION 639.** 950.04 (1v) (g) of the statutes is amended to read:

8 950.04 (1v) (g) To have reasonable attempts made to notify the victim of
9 hearings or court proceedings, as provided under ss. 302.113 (9g) (g) 2., 302.114 (6),
10 938.27 (4m) and (6), 938.273 (2), 971.095 (3) and 972.14 (3) (b).

11 **SECTION 640.** 950.04 (1v) (nt) of the statutes is created to read:

12 950.04 (1v) (nt) To attend a hearing on a petition for modification of a
13 bifurcated sentence and provide a statement concerning modification of the
14 bifurcated sentence, as provided under s. 302.113 (9g) (d).

15 **SECTION 641.** 951.18 (1) of the statutes is amended to read:

16 951.18 (1) Any person violating s. 951.02, 951.025, 951.03, 951.04, 951.05,
17 951.06, 951.07, 951.09, 951.10, 951.11, 951.13, 951.14 or 951.15 is subject to a
18 Class C forfeiture. Any person who violates any of these provisions within 3 years
19 after a humane officer issues an abatement order under s. 173.11 prohibiting the
20 violation of that provision is subject to a Class A forfeiture. Any person who
21 intentionally or negligently violates any of those sections is guilty of a Class A
22 misdemeanor. Any person who intentionally violates s. 951.02, resulting in the
23 mutilation, disfigurement or death of an animal, is guilty of a Class ~~E~~ I felony. Any
24 person who intentionally violates s. 951.02 or 951.06, knowing that the animal that

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1 is the victim is used by a law enforcement agency to perform agency functions or
2 duties and causing injury to the animal, is guilty of a Class ~~E~~ I felony.

3 **SECTION 642.** 951.18 (2) of the statutes is amended to read:

4 951.18 (2) Any person who violates s. 951.08 (2m) or (3) is guilty of a Class A
5 misdemeanor. Any person who violates s. 951.08 (1) or (2) is guilty of a Class ~~E~~ I
6 felony for the first violation and is guilty of a Class ~~D~~ H felony for the 2nd or
7 subsequent violation.

8 **SECTION 643.** 951.18 (2m) of the statutes is amended to read:

9 951.18 (2m) Any person who violates s. 951.095 is subject to a Class B
10 forfeiture. Any person who intentionally or negligently violates s. 951.095, knowing
11 that the animal that is the victim is used by a law enforcement agency or fire
12 department to perform agency or department functions or duties, is guilty of a Class
13 A misdemeanor. Any person who intentionally violates s. 951.095, knowing that the
14 animal that is the victim is used by a law enforcement agency or fire department to
15 perform agency or department functions or duties and causing injury to the animal,
16 is guilty of a Class ~~E~~ I felony. Any person who intentionally violates s. 951.095,
17 knowing that the animal that is the victim is used by a law enforcement agency or
18 fire department to perform agency or department functions or duties and causing
19 death to the animal, is guilty of a Class ~~D~~ H felony.

20 **SECTION 644.** 961.41 (1) (intro.) of the statutes is amended to read:

21 961.41 (1) MANUFACTURE, DISTRIBUTION OR DELIVERY. (intro.) Except as
22 authorized by this chapter, it is unlawful for any person to manufacture, distribute
23 or deliver a controlled substance or controlled substance analog. Any person who
24 violates this subsection ~~with respect to~~ is subject to the following penalties:

25 **SECTION 645.** 961.41 (1) (a) of the statutes is amended to read:

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1 961.41 (1) (a) Schedule I and II narcotic drugs generally. Except as provided
2 in par. (d), if a person violates this subsection with respect to a controlled substance
3 included in schedule I or II which is a narcotic drug, or a controlled substance analog
4 of a controlled substance included in schedule I or II which is a narcotic drug, may
5 be fined not more than \$25,000 or imprisoned for not more than 22 years and 6
6 months or both the person is guilty of a Class E felony.

7 **SECTION 646.** 961.41 (1) (b) of the statutes is amended to read:

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

14 **SECTION 647.** 961.41 (1) (cm) (intro.) of the statutes is amended to read:

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

19 **SECTION 648.** 961.41 (1) (cm) 1. of the statutes is renumbered 961.41 (1) (cm)
20 1r. and amended to read:

21 961.41 (1) (cm) 1r. ~~Five grams or less~~ More than one gram but not more than
22 5 grams, the person shall be fined not more than \$500,000 and may be imprisoned
23 for not more than 15 years is guilty of a Class F felony.

24 **SECTION 649.** 961.41 (1) (cm) 1g. of the statutes is created to read:

25 961.41 (1) (cm) 1g. One gram or less, the person is guilty of a Class G felony.

ENGROSSED ASSEMBLY BILL 3**SECTION 650**

1 **SECTION 650.** 961.41 (1) (cm) 2. of the statutes is amended to read:

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

5 **SECTION 651.** 961.41 (1) (cm) 3. of the statutes is amended to read:

6 961.41 (1) (cm) 3. More than 15 grams but not more than 40 grams, the person
7 shall be fined not more than \$500,000 and shall be imprisoned for not less than 3
8 years nor more than 30 years is guilty of a Class D felony.

9 **SECTION 652.** 961.41 (1) (cm) 4. of the statutes is amended to read:

10 961.41 (1) (cm) 4. More than 40 grams but not more than 100 grams, the person
11 shall be fined not more than \$500,000 and shall be imprisoned for not less than 5
12 years nor more than 45 years is guilty of a Class C felony.

13 **SECTION 653.** 961.41 (1) (cm) 5. of the statutes is repealed.

14 **SECTION 654.** 961.41 (1) (d) (intro.) of the statutes is amended to read:

15 961.41 (1) (d) Heroin. (intro.) ~~Heroin~~ If the person violates this subsection with
16 respect to heroin or a controlled substance analog of heroin is subject to the following
17 penalties if and the amount manufactured, distributed or delivered is:

18 **SECTION 655.** 961.41 (1) (d) 1. of the statutes is amended to read:

19 961.41 (1) (d) 1. Three grams or less, the person shall be fined not less than
20 \$1,000 nor more than \$200,000 and may be imprisoned for not more than 22 years
21 and 6 months is guilty of a Class F felony.

22 **SECTION 656.** 961.41 (1) (d) 2. of the statutes is amended to read:

23 961.41 (1) (d) 2. More than 3 grams but not more than 10 grams, the person
24 shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned

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

3 **SECTION 657.** 961.41 (1) (d) 3. of the statutes is amended to read:

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

8 **SECTION 658.** 961.41 (1) (d) 4. of the statutes is amended to read:

9 961.41 (1) (d) 4. More than 50 grams ~~but not more than 200 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 3 years nor more than 22 years and 6 months is guilty of a Class C~~
12 ~~felony.~~

13 **SECTION 659.** 961.41 (1) (d) 5. of the statutes is repealed.

14 **SECTION 660.** 961.41 (1) (d) 6. of the statutes is repealed.

15 **SECTION 661.** 961.41 (1) (e) (intro.) of the statutes is amended to read:

16 961.41 (1) (e) Phencyclidine, amphetamine, methamphetamine, and
17 methcathinone. (intro.) Phencyclidine If the person violates this subsection with
18 respect to phencyclidine, amphetamine, methamphetamine, or methcathinone, or a
19 controlled substance analog of phencyclidine, amphetamine, methamphetamine, or
20 methcathinone, is subject to the following penalties if and the amount
21 manufactured, distributed, or delivered is:

22 **SECTION 662.** 961.41 (1) (e) 1. of the statutes is amended to read:

23 961.41 (1) (e) 1. Three grams or less, the person ~~shall be fined not less than~~
24 ~~\$1,000 nor more than \$200,000 and may be imprisoned for not more than 7 years and~~
25 ~~6 months is guilty of a Class F felony.~~

ENGROSSED ASSEMBLY BILL 3**SECTION 663**

1 **SECTION 663.** 961.41 (1) (e) 2. of the statutes is amended to read:

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

6 **SECTION 664.** 961.41 (1) (e) 3. of the statutes is amended to read:

7 961.41 (1) (e) 3. More than 10 grams but not more than 50 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 one year nor more than 22 years and 6 months is guilty of a Class
10 D felony.

11 **SECTION 665.** 961.41 (1) (e) 4. of the statutes 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 22 years and 6 months is guilty of a Class C
15 felony.

16 **SECTION 666.** 961.41 (1) (e) 5. of the statutes is repealed.

17 **SECTION 667.** 961.41 (1) (e) 6. of the statutes is repealed.

18 **SECTION 668.** 961.41 (1) (em) of the statutes is repealed.

19 **SECTION 669.** 961.41 (1) (f) (intro.) of the statutes is amended to read:

20 961.41 (1) (f) Lysergic acid diethylamide. (intro.) Lysergic If the person violates
21 this subsection with respect to lysergic acid diethylamide or a controlled substance
22 analog of lysergic acid diethylamide is subject to the following penalties if and the
23 amount manufactured, distributed, or delivered is:

24 **SECTION 670.** 961.41 (1) (f) 1. of the statutes is amended to read:

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

4 **SECTION 671.** 961.41 (1) (f) 2. of the statutes is amended to read:

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

8 **SECTION 672.** 961.41 (1) (f) 3. of the statutes is amended to read:

9 961.41 (1) (f) 3. More than 5 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 673.** 961.41 (1) (g) (intro.) of the statutes is amended to read:

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

17 **SECTION 674.** 961.41 (1) (g) 1. of the statutes 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.

21 **SECTION 675.** 961.41 (1) (g) 2. of the statutes is amended to read:

22 961.41 (1) (g) 2. More than 100 grams but not more than 500 grams, the person
23 ~~shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned~~
24 ~~for not less than 6 months nor more than 7 years and 6 months~~ is guilty of a Class
25 F felony.

ENGROSSED ASSEMBLY BILL 3**SECTION 676**

1 **SECTION 676.** 961.41 (1) (g) 3. of the statutes is amended to read:

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

5 **SECTION 677.** 961.41 (1) (h) (intro.) of the statutes is amended to read:

6 961.41 (1) (h) Tetrahydrocannabinols. (intro.) Tetrahydrocannabinols If the
7 person violates this subsection with respect to tetrahydrocannabinols, included
8 under s. 961.14 (4) (t), or a controlled substance analog of tetrahydrocannabinols, is
9 subject to the following penalties if and the amount manufactured, distributed or
10 delivered is:

11 **SECTION 678.** 961.41 (1) (h) 1. of the statutes is amended to read:

12 961.41 (1) (h) 1. ~~Five~~ Two hundred grams or less, or ~~10~~ 4 or fewer plants
13 containing tetrahydrocannabinols, the person ~~shall be fined not less than \$500 nor~~
14 ~~more than \$25,000 and may be imprisoned for not more than 4 years and 6 months~~
15 ~~is guilty of a Class I felony.~~ is guilty of a Class I felony.

16 **SECTION 679.** 961.41 (1) (h) 2. of the statutes is amended to read:

17 961.41 (1) (h) 2. More than ~~500~~ 200 grams but not more than ~~2,500~~ 1,000 grams,
18 or more than ~~10~~ 4 plants containing tetrahydrocannabinols but not more than ~~50~~ 20
19 plants containing tetrahydrocannabinols, the person ~~shall be fined not less than~~
20 ~~\$1,000 nor more than \$50,000 and shall be imprisoned for not less than 3 months nor~~
21 ~~more than 7 years and 6 months~~ is guilty of a Class H felony.

22 **SECTION 680.** 961.41 (1) (h) 3. of the statutes is amended to read:

23 961.41 (1) (h) 3. More than ~~2,500~~ 1,000 grams but not more than 2,500 grams,
24 or more than 50 20 plants containing tetrahydrocannabinols but not more than 50
25 plants containing tetrahydrocannabinols, the person shall be fined not less than

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

3 **SECTION 681.** 961.41 (1) (h) 4. of the statutes is created to read:

4 961.41 (1) (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.

7 **SECTION 682.** 961.41 (1) (h) 5. of the statutes is created to read:

8 961.41 (1) (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 683.** 961.41 (1) (i) of the statutes is amended to read:

11 961.41 (1) (i) Schedule IV drugs. Except as provided in par. (im), if a person
12 violates this subsection with respect to a substance included in schedule IV, may be
13 fined not more than \$10,000 or imprisoned for not more than 4 years and 6 months
14 or both the person is guilty of a Class H felony.

15 **SECTION 684.** 961.41 (1) (im) of the statutes is repealed and recreated to read:

16 961.41 (1) (im) *Flunitrazepam.* If a person violates this subsection with respect
17 to flunitrazepam, the person is guilty of a Class G felony.

18 **SECTION 685.** 961.41 (1) (j) of the statutes is amended to read:

19 961.41 (1) (j) Schedule V drugs. ~~-A- If a person violates this subsection with~~
20 ~~respect 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.

22 **SECTION 686.** 961.41 (1m) (intro.) of the statutes is amended to read:

23 961.41 (1m) **POSSESSION WITH INTENT TO MANUFACTURE, DISTRIBUTE OR DELIVER.**
24 (intro.) Except as authorized by this chapter, it is unlawful for any person to possess,
25 with intent to manufacture, distribute or deliver, a controlled substance or a

ENGROSSED ASSEMBLY BILL 3**SECTION 686**

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

8 **SECTION 687.** 961.41 (1m) (a) of the statutes is amended to read:

9 961.41 (1m) (a) Schedule I and II narcotic drugs generally. Except as provided
10 in par. (d), if a person violates this subsection with respect to a controlled substance
11 included in schedule I or II which is a narcotic drug or a controlled substance analog
12 of a controlled substance included in schedule I or II which is a narcotic drug, may
13 be fined not more than \$25,000 or imprisoned for not more than 22 years and 6
14 months or both the person is guilty of a Class E felony.

15 **SECTION 688.** 961.41 (1m) (b) of the statutes is amended to read:

16 961.41 (1m) (b) Schedule I, II, and III nonnarcotic drugs generally. Except as
17 provided in pars. (cm) and (e) to (h), if a person violates this subsection with respect
18 to any other controlled substance included in schedule I, II, or III, or a controlled
19 substance analog of any other controlled substance included in schedule I or II, may
20 be fined not more than \$15,000 or imprisoned for not more than 7 years and 6 months
21 or both the person is guilty of a Class H felony.

22 **SECTION 689.** 961.41 (1m) (cm) (intro.) of the statutes is amended to read:

23 961.41 (1m) (cm) Cocaine and cocaine base. (intro.) Cocaine If a person violates
24 this subsection with respect to cocaine or cocaine base, or a controlled substance

ENGROSSED ASSEMBLY BILL 3

1 analog of cocaine or cocaine base, ~~is subject to the following penalties if and~~ the
2 amount possessed, with intent to manufacture, distribute or deliver, is:

3 **SECTION 690.** 961.41 (1m) (cm) 1. of the statutes is renumbered 961.41 (1m)
4 (cm) 1r. and amended to read:

5 961.41 (1m) (cm) 1r. ~~Five grams or less~~ More than one gram but not more than
6 5 grams, the person shall be fined not more than \$500,000 and may be imprisoned
7 ~~for not more than 15 years~~ is guilty of a Class F felony.

8 **SECTION 691.** 961.41 (1m) (cm) 1g. of the statutes is created to read:

9 961.41 (1m) (cm) 1g. One gram or less, the person is guilty of a Class G felony.

10 **SECTION 692.** 961.41 (1m) (cm) 2. of the statutes is amended to read:

11 961.41 (1m) (cm) 2. More than 5 grams but not more than 15 grams, the person
12 shall be fined not more than \$500,000 and shall be imprisoned for not less than one
13 year ~~nor more than 22 years and 6 months~~ is guilty of a Class E felony.

14 **SECTION 693.** 961.41 (1m) (cm) 3. of the statutes is amended to read:

15 961.41 (1m) (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 3 years ~~nor more than 30 years~~ is guilty of a Class D felony.

18 **SECTION 694.** 961.41 (1m) (cm) 4. of the statutes is amended to read:

19 961.41 (1m) (cm) 4. More than 40 grams but not more than 100 grams, the
20 person shall be fined not more than \$500,000 and shall be imprisoned for not less
21 than 5 years ~~nor more than 45 years~~ is guilty of a Class C felony.

22 **SECTION 695.** 961.41 (1m) (cm) 5. of the statutes is repealed.

23 **SECTION 696.** 961.41 (1m) (d) (intro.) of the statutes is amended to read:

24 961.41 (1m) (d) Heroin. (intro.) ~~Heroin~~ If a person violates this subsection with
25 respect to heroin or a controlled substance analog of heroin ~~is subject to the following~~

ENGROSSED ASSEMBLY BILL 3

SECTION 696

1 penalties if and the amount possessed, with intent to manufacture, distribute or
2 deliver, is:

3 **SECTION 697.** 961.41 (1m) (d) 1. of the statutes is amended to read:

4 961.41 (1m) (d) 1. Three grams or less, the person shall be fined not less than
5 \$1,000 nor more than \$100,000 and may be imprisoned for not more than 22 years
6 and 6 months is guilty of a Class F felony.

7 **SECTION 698.** 961.41 (1m) (d) 2. of the statutes is amended to read:

8 961.41 (1m) (d) 2. More than 3 grams but not more than 10 grams, the person
9 shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned
10 for not less than 6 months nor more than 22 years and 6 months is guilty of a Class
11 E felony.

12 **SECTION 699.** 961.41 (1m) (d) 3. of the statutes is amended to read:

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

17 **SECTION 700.** 961.41 (1m) (d) 4. of the statutes is amended to read:

18 961.41 (1m) (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 701.** 961.41 (1m) (d) 5. of the statutes is repealed.

23 **SECTION 702.** 961.41 (1m) (d) 6. of the statutes is repealed.

24 **SECTION 703.** 961.41 (1m) (e) (intro.) of the statutes is amended to read:

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1 961.41 (1m) (e) Phencyclidine, amphetamine, methamphetamine, and
2 methcathinone. (intro.) Phencyclidine If a 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 possessed,
6 with intent to manufacture, distribute, or deliver, is:

7 **SECTION 704.** 961.41 (1m) (e) 1. of the statutes is amended to read:

8 961.41 (1m) (e) 1. Three grams or less, the person shall be fined not less than
9 \$1,000 nor more than \$100,000 and may be imprisoned for not more than 7 years and
10 6 months is guilty of a Class F felony.

11 **SECTION 705.** 961.41 (1m) (e) 2. of the statutes is amended to read:

12 961.41 (1m) (e) 2. More than 3 grams but not more than 10 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 nor more than 7 years and 6 months is guilty of a Class
15 E felony.

16 **SECTION 706.** 961.41 (1m) (e) 3. of the statutes is amended to read:

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

21 **SECTION 707.** 961.41 (1m) (e) 4. of the statutes is amended to read:

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

ENGROSSED ASSEMBLY BILL 3**SECTION 708**

1 **SECTION 708.** 961.41 (1m) (e) 5. of the statutes is repealed.

2 **SECTION 709.** 961.41 (1m) (e) 6. of the statutes is repealed.

3 **SECTION 710.** 961.41 (1m) (em) of the statutes is repealed.

4 **SECTION 711.** 961.41 (1m) (f) (intro.) of the statutes is amended to read:

5 961.41 (1m) (f) Lysergic acid diethylamide. (intro.) Lysergie If a person violates
6 this subsection with respect to lysergic acid diethylamide or a controlled substance
7 analog of lysergic acid diethylamide is subject to the following penalties if and the
8 amount possessed, with intent to manufacture, distribute or deliver, is:

9 **SECTION 712.** 961.41 (1m) (f) 1. of the statutes is amended to read:

10 961.41 (1m) (f) 1. One gram 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 7 years and~~
12 ~~6 months~~ is guilty of a Class G felony.

13 **SECTION 713.** 961.41 (1m) (f) 2. of the statutes is amended to read:

14 961.41 (1m) (f) 2. More than one gram but not more than 5 grams, the person
15 ~~shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned~~
16 ~~for not less than 6 months nor more than 7 years and 6 months~~ is guilty of a Class
17 F felony.

18 **SECTION 714.** 961.41 (1m) (f) 3. of the statutes is amended to read:

19 961.41 (1m) (f) 3. More than 5 grams, the person shall be fined not less than
20 ~~\$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year~~
21 ~~nor more than 22 years and 6 months~~ is guilty of a Class E felony.

22 **SECTION 715.** 961.41 (1m) (g) (intro.) of the statutes is amended to read:

23 961.41 (1m) (g) Psilocin and psilocybin. (intro.) Psilocin If a person violates
24 this subsection with respect to psilocin or psilocybin, or a controlled substance analog

ENGROSSED ASSEMBLY BILL 3

1 of psilocin or psilocybin, ~~is subject to the following penalties if and~~ the amount
2 possessed, with intent to manufacture, distribute or deliver, is:

3 **SECTION 716.** 961.41 (1m) (g) 1. of the statutes is amended to read:

4 961.41 (1m) (g) 1. One hundred grams or less, the person shall be fined not less
5 than ~~\$1,000 nor more than \$100,000 and may be imprisoned for not more than 7~~
6 years and 6 months is guilty of a Class G felony.

7 **SECTION 717.** 961.41 (1m) (g) 2. of the statutes is amended to read:

8 961.41 (1m) (g) 2. More than 100 grams but not more than 500 grams, the
9 person ~~shall be fined not less than \$1,000 nor more than \$200,000 and shall be~~
10 ~~imprisoned for not less than 6 months nor more than 7 years and 6 months~~ is guilty
11 of a Class F felony.

12 **SECTION 718.** 961.41 (1m) (g) 3. of the statutes is amended to read:

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

16 **SECTION 719.** 961.41 (1m) (h) (intro.) of the statutes is amended to read:

17 961.41 (1m) (h) Tetrahydrocannabinols. (intro.) Tetrahydrocannabinols If a
18 person violates this subsection with respect to tetrahydrocannabinols, included
19 under s. 961.14 (4) (t), or a controlled substance analog of tetrahydrocannabinols, is
20 ~~subject to the following penalties if and~~ the amount possessed, with intent to
21 manufacture, distribute, or deliver, is:

22 **SECTION 720.** 961.41 (1m) (h) 1. of the statutes is amended to read:

23 961.41 (1m) (h) 1. ~~Five~~ Two hundred grams or less, or ~~10~~ 4 or fewer plants
24 containing tetrahydrocannabinols, the person ~~shall be fined not less than \$500 nor~~

ENGROSSED ASSEMBLY BILL 3**SECTION 720**

1 more than \$25,000 and may be imprisoned for not more than 4 years and 6 months
2 is guilty of a Class I felony.

3 **SECTION 721.** 961.41 (1m) (h) 2. of the statutes is amended to read:

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

9 **SECTION 722.** 961.41 (1m) (h) 3. of the statutes is amended to read:

10 961.41 (1m) (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.

15 **SECTION 723.** 961.41 (1m) (h) 4. of the statutes is created to read:

16 961.41 (1m) (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.

19 **SECTION 724.** 961.41 (1m) (h) 5. of the statutes is created to read:

20 961.41 (1m) (h) 5. More than 10,000 grams, or more than 200 plants containing
21 tetrahydrocannabinols, the person is guilty of a Class E felony.

22 **SECTION 725.** 961.41 (1m) (i) of the statutes is amended to read:

23 961.41 (1m) (i) Schedule IV drugs. Except as provided in par. (im), if a person
24 violates this subsection with respect to a substance included in schedule IV, may be

ENGROSSED ASSEMBLY BILL 3

1 ~~fined not more than \$10,000 or imprisoned for not more than 4 years and 6 months~~
2 ~~or both the person is guilty of a Class H felony.~~

3 **SECTION 726.** 961.41 (1m) (im) of the statutes is repealed and recreated to read:

4 961.41 (1m) (im) *Flunitrazepam*. If a person violates this subsection with
5 respect to flunitrazepam, the person is guilty of a Class G felony.

6 **SECTION 727.** 961.41 (1m) (j) of the statutes is amended to read:

7 961.41 (1m) (j) *Schedule V drugs*. ~~A~~ If a person violates this subsection with
8 respect to a substance included in schedule V, may be fined not more than \$5,000 or
9 imprisoned for not more than 2 years or both the person is guilty of a Class I felony.

10 **SECTION 728.** 961.41 (1n) (c) of the statutes is amended to read:

11 961.41 (1n) (c) A person who violates par. (a) or (b) ~~may be fined not more than~~
12 ~~\$250,000 or imprisoned for not more than 15 years or both~~ is guilty of a Class F felony.

13 **SECTION 729.** 961.41 (1q) of the statutes is amended to read:

14 961.41 (1q) PENALTY RELATING TO TETRAHYDROCANNABINOLS IN CERTAIN CASES.
15 Under s. 961.49 (2), 1999 stats., and subs. (1) (h) and (1m) (h) and s. 961.49 (2), if
16 different penalty provisions apply to a person depending on whether the weight of
17 tetrahydrocannabinols or the number of plants containing tetrahydrocannabinols is
18 considered, the greater penalty provision applies.

19 **SECTION 730.** 961.41 (1r) of the statutes is amended to read:

20 961.41 (1r) DETERMINING WEIGHT OF SUBSTANCE. In determining amounts under
21 s. 961.49 (2) (b), 1999 stats., and subs. (1) and (1m) and s. 961.49 (2) (b), an amount
22 includes the weight of cocaine, cocaine base, heroin, phencyclidine, lysergic acid
23 diethylamide, psilocin, psilocybin, amphetamine, methamphetamine,
24 methcathinone or tetrahydrocannabinols or any controlled substance analog of any
25 of these substances together with any compound, mixture, diluent, plant material

ENGROSSED ASSEMBLY BILL 3**SECTION 730**

1 or other substance mixed or combined with the controlled substance or controlled
2 substance analog. In addition, in determining amounts under subs. (1) (h) and (1m)
3 (h), the amount of tetrahydrocannabinols means anything included under s. 961.14
4 (4) (t) and includes the weight of any marijuana.

5 **SECTION 731.** 961.41 (2) (intro.) of the statutes is amended to read:

6 961.41 (2) COUNTERFEIT SUBSTANCES. (intro.) Except as authorized by this
7 chapter, it is unlawful for any person to create, manufacture, distribute, deliver or
8 possess with intent to distribute or deliver, a counterfeit substance. Any person who
9 violates this subsection ~~with respect to~~ is subject to the following penalties:

10 **SECTION 732.** 961.41 (2) (a) of the statutes is amended to read:

11 961.41 (2) (a) Counterfeit schedule I and II narcotic drugs. ~~A~~ If a person
12 violates this subsection with respect to a counterfeit substance included in schedule
13 I or II which is a narcotic drug, may be fined not more than \$25,000 or imprisoned
14 for not more than 22 years and 6 months or both the person is guilty of a Class E
15 felony.

16 **SECTION 733.** 961.41 (2) (b) of the statutes is amended to read:

17 961.41 (2) (b) Counterfeit schedule I, II, III, and IV drugs. ~~Any~~ Except as
18 provided in par. (cm), if a person violates this subsection with respect to any other
19 counterfeit substance included in schedule I, II or, III, or IV, may be fined not more
20 than \$15,000 or imprisoned for not more than 7 years and 6 months or both the
21 person is guilty of a Class H felony.

22 **SECTION 734.** 961.41 (2) (c) of the statutes is repealed.

23 **SECTION 735.** 961.41 (2) (cm) of the statutes is amended to read:

24 961.41 (2) (cm) Counterfeit flunitrazepam. ~~A~~ If a person violates this
25 subsection with respect to a counterfeit substance which is flunitrazepam, may be

ENGROSSED ASSEMBLY BILL 3

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

3 **SECTION 736.** 961.41 (2) (d) of the statutes is amended to read:

4 961.41 (2) (d) Counterfeit schedule V drugs. ~~A~~ If a person violates this
5 subsection with respect to a counterfeit substance included in schedule V, may be
6 fined not more than \$5,000 or imprisoned for not more than 2 years or both the person
7 is guilty of a Class I felony.

8 **SECTION 737.** 961.41 (3g) (a) 1. of the statutes is renumbered 961.41 (3g) (am)
9 and amended to read:

10 961.41 (3g) (am) Schedule I and II narcotic drugs. ~~Except as provided in subd.~~
11 ~~2., if the~~ If a person possesses a controlled substance included in schedule I or II
12 which is a narcotic drug, or possesses a controlled substance analog of a controlled
13 substance included in schedule I or II which is a narcotic drug, the person may, upon
14 a first conviction, be fined not more than \$5,000 or imprisoned for not more than 2
15 years or both, and, for a 2nd or subsequent offense, the person may be fined not more
16 than \$10,000 or imprisoned for not more than 3 years or both is guilty of a Class I
17 felony.

18 **SECTION 738.** 961.41 (3g) (a) 2. of the statutes is repealed.

19 **SECTION 739.** 961.41 (3g) (a) 3. of the statutes is repealed.

20 **SECTION 740.** 961.41 (3g) (b) of the statutes is amended to read:

21 961.41 (3g) (b) Other drugs generally. ~~Except as provided in pars. (c), (d), (dm),~~
22 (e) and (f), if the person possesses or attempts to possess a controlled substance or
23 controlled substance analog, other than a controlled substance included in schedule
24 I or II that is a narcotic drug or a controlled substance analog of a controlled

ENGROSSED ASSEMBLY BILL 3**SECTION 740**

1 substance included in schedule I or II that is a narcotic drug, the person is guilty of
2 a misdemeanor, punishable under s. 939.61.

3 **SECTION 741.** 961.41 (3g) (c) of the statutes is amended to read:

4 961.41 (3g) (c) Cocaine and cocaine base. If a person possess or attempts to
5 possess cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine
6 base, the person shall be fined not more than \$5,000 and may be imprisoned for not
7 more than one year in the county jail upon a first conviction and is guilty of a Class
8 I felony for a 2nd or subsequent offense. For purposes of this paragraph, an offense
9 is considered a 2nd or subsequent offense if, prior to the offender's conviction of the
10 offense, the offender has at any time been convicted of any felony or misdemeanor
11 under this chapter or under any statute of the United States or of any state relating
12 to controlled substances, controlled substance analogs, narcotic drugs, marijuana,
13 or depressant, stimulant, or hallucinogenic drugs.

14 **SECTION 742.** 961.41 (3g) (d) of the statutes is amended to read:

15 961.41 (3g) (d) Certain hallucinogenic and stimulant drugs. If a person
16 possesses or attempts to possess lysergic acid diethylamide, phencyclidine,
17 amphetamine, methamphetamine, methcathinone, psilocin or psilocybin, or a
18 controlled substance analog of lysergic acid diethylamide, phencyclidine,
19 amphetamine, methamphetamine, methcathinone, psilocin or psilocybin, the person
20 may be fined not more than \$5,000 or imprisoned for not more than one year in the
21 county jail or both upon a first conviction and is guilty of a Class I felony for a 2nd
22 or subsequent offense. For purposes of this paragraph, an offense is considered a 2nd
23 or subsequent offense if, prior to the offender's conviction of the offense, the offender
24 has at any time been convicted of any felony or misdemeanor under this chapter or
25 under any statute of the United States or of any state relating to controlled

ENGROSSED ASSEMBLY BILL 3

1 substances, controlled substance analogs, narcotic drugs, marijuana, or depressant,
2 stimulant, or hallucinogenic drugs.

3 **SECTION 743.** 961.41 (3g) (dm) of the statutes is repealed.

4 **SECTION 744.** 961.41 (3g) (e) of the statutes is amended to read:

5 961.41 (3g) (e) Tetrahydrocannabinols. If a person possesses or attempts to
6 possess tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled
7 substance analog of tetrahydrocannabinols, the person may be fined not more than
8 \$1,000 or imprisoned for not more than 6 months or both upon a first conviction and
9 is guilty of a Class I felony for a 2nd or subsequent offense. For purposes of this
10 paragraph, an offense is considered a 2nd or subsequent offense if, prior to the
11 offender's conviction of the offense, the offender has at any time been convicted of any
12 felony or misdemeanor under this chapter or under any statute of the United States
13 or of any state relating to controlled substances, controlled substance analogs,
14 narcotic drugs, marijuana, or depressant, stimulant, or hallucinogenic drugs.

15 **SECTION 745.** 961.41 (3g) (f) of the statutes is amended to read:

16 961.41 (3g) (f) Gamma-hydroxybutyric acid, gamma-butyrolactone, ketamine,
17 or flunitrazepam. If a person possesses or attempts to possess
18 gamma-hydroxybutyric acid, gamma-butyrolactone, ketamine or flunitrazepam,
19 the person may be fined not more than \$5,000 or imprisoned for not more than 2 years
20 or both is guilty of a Class H felony.

21 **SECTION 746.** 961.41 (4) (am) 3. of the statutes is amended to read:

22 961.41 (4) (am) 3. A person ~~convicted of violating~~ who violates this paragraph
23 ~~may be fined not more than \$5,000 or imprisoned for not more than 2 years or both~~
24 is guilty of a Class I felony.

25 **SECTION 747.** 961.42 (2) of the statutes is amended to read:

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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 guilty of a Class I felony

3 **SECTION 748.** 961.43 (2) of the statutes is amended to read:

4 961.43 (2) Any person who violates this section ~~may be fined not more than~~
5 ~~\$30,000 or imprisoned not more than 6 years or both~~ is guilty of a Class H felony

6 **SECTION 749.** 961.437 (4) (a) of the statutes is amended to read:

7 961.437 (4) (a) For a first offense, the person ~~shall be fined not less than \$1,000~~
8 ~~nor more than \$100,000 or imprisoned for not more than 7 years and 6 months or both~~
9 is guilty of a Class H felony.

10 **SECTION 750.** 961.437 (4) (b) of the statutes is amended to read:

11 961.437 (4) (b) For a 2nd or subsequent offense, the person ~~shall be fined not~~
12 ~~less than \$5,000 nor more than \$150,000 or imprisoned for not more than 15 years~~
13 ~~or both~~ is guilty of a Class F felony.

14 **SECTION 751.** 961.438 of the statutes is repealed.

15 **SECTION 752.** 961.455 (1) of the statutes is amended to read:

16 961.455 (1) Any person who has attained the age of 17 years who knowingly
17 solicits, hires, directs, employs or uses a person who is under the age of 17 years of
18 ~~age or under~~ for the purpose of violating s. 961.41 (1) ~~may be fined not more than~~
19 ~~\$50,000 or imprisoned for not more than 15 years or both~~ is guilty of a Class F felony.

20 **SECTION 753.** 961.455 (3) of the statutes is amended to read:

21 961.455 (3) Solicitation under sub. (1) occurs in the manner described under
22 s. 939.30, but the penalties under sub. (1) apply instead of the penalties under s.
23 939.30 ~~or 948.35~~.

24 **SECTION 754.** 961.46 (1) of the statutes is renumbered 961.46 and amended to
25 read:

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1 **961.46 Distribution to persons under age 18.** ~~Except as provided in sub.~~
2 ~~(3), any~~ If a person 17 years of age or over who violates s. 961.41 (1) by distributing
3 or delivering a controlled substance ~~included in schedule I or II which is a narcotic~~
4 ~~drug or a controlled substance analog of a controlled substance included in schedule~~
5 ~~I or II which is a narcotic drug~~ to a person 17 years of age or under who is at least
6 3 years his or her junior is ~~punishable by the fine authorized by s. 961.41 (1) (a) or~~
7 ~~a term of imprisonment of up to twice that authorized by s. 961.41 (1) (a), or both, the~~
8 applicable maximum term of imprisonment prescribed under s. 961.41 (1) for the
9 offense may be increased by not more than 5 years.

10 **SECTION 755.** 961.46 (2) of the statutes is repealed.

11 **SECTION 756.** 961.46 (3) of the statutes is repealed.

12 **SECTION 757.** 961.465 of the statutes is repealed.

13 **SECTION 758.** 961.472 (2) of the statutes is amended to read:

14 961.472 (2) Except as provided in sub. (5), if a person pleads guilty or is found
15 guilty of possession or attempted possession of a controlled substance or controlled
16 substance analog under s. 961.41 (3g) ~~(a) 2.~~ (am), (c), or (d) ~~or (dm)~~, the court shall
17 order the person to comply with an assessment of the person's use of controlled
18 substances. The court's order shall designate a facility that is operated by or
19 pursuant to a contract with the county department established under s. 51.42 and
20 that is certified by the department of health and family services to provide
21 assessment services to perform the assessment and, if appropriate, to develop a
22 proposed treatment plan. The court shall notify the person that noncompliance with
23 the order limits the court's ability to determine whether the treatment option under
24 s. 961.475 is appropriate. The court shall also notify the person of the fee provisions
25 under s. 46.03 (18) (fm).

ENGROSSED ASSEMBLY BILL 3**SECTION 759**

1 **SECTION 759.** 961.48 (1) of the statutes is renumbered 961.48 (1) (intro.) and
2 amended to read:

3 961.48 (1) (intro.) ~~Except as provided in subs. (2) and (4), any~~ If a person who
4 is charged under sub. (2m) with a felony offense under this chapter that is a 2nd or
5 subsequent offense as provided under this chapter sub. (3) and the person is
6 convicted of that 2nd or subsequent offense may be fined an amount up to twice that
7 otherwise authorized or imprisoned for a term up to twice the term otherwise
8 authorized or both, the maximum term of imprisonment for the offense may be
9 increased as follows:

10 **SECTION 760.** 961.48 (1) (a) and (b) of the statutes are created to read:

11 961.48 (1) (a) By not more than 6 years, if the offense is a Class C or D felony.

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

13 **SECTION 761.** 961.48 (2) of the statutes is repealed.

14 **SECTION 762.** 961.48 (2m) (a) of the statutes is amended to read:

15 961.48 (2m) (a) Whenever a person charged with ~~an~~ a felony offense under this
16 chapter may be subject to a conviction for a 2nd or subsequent offense, he or she is
17 not subject to an enhanced penalty under sub. (1) ~~or (2)~~ unless any applicable prior
18 convictions are alleged in the complaint, indictment or information or in an amended
19 complaint, indictment or information that is filed under par. (b) 1. A person is not
20 subject to an enhanced penalty under sub. (1) ~~or (2)~~ for an offense if an allegation of
21 applicable prior convictions is withdrawn by an amended complaint filed under par.
22 (b) 2.

23 **SECTION 763.** 961.48 (3) of the statutes is amended to read:

24 961.48 (3) For purposes of this section, ~~an~~ a felony offense under this chapter
25 is considered a 2nd or subsequent offense if, prior to the offender's conviction of the

ENGROSSED ASSEMBLY BILL 3

1 offense, the offender has at any time been convicted of any felony or misdemeanor
2 offense under this chapter or under any statute of the United States or of any state
3 relating to controlled substances or controlled substance analogs, narcotic drugs,
4 marijuana or depressant, stimulant or hallucinogenic drugs.

5 **SECTION 764.** 961.48 (4) of the statutes is repealed.

6 **SECTION 765.** 961.49 (1) of the statutes is renumbered 961.49, and 961.49
7 (intro.) of the statutes, as renumbered, is amended to read:

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

18 **SECTION 766.** 961.49 (2) of the statutes is repealed.

19 **SECTION 767.** 961.49 (3) of the statutes is repealed.

20 **SECTION 768.** 961.492 of the statutes is repealed.

21 **SECTION 769.** 961.55 (1) (d) 3. of the statutes is amended to read:

22 961.55 (1) (d) 3. A vehicle is not subject to forfeiture for a violation of s. 961.41
23 (3g) (b), (c), (d), ~~(dm)~~, (e) or (f); and

24 **SECTION 770.** 961.573 (3) of the statutes is amended to read:

ENGROSSED ASSEMBLY BILL 3**SECTION 770**

1 961.573 (3) No person may use, or possess with the primary intent to use, drug
2 paraphernalia to manufacture, compound, convert, produce, process, prepare, test,
3 analyze, pack, repack or store methamphetamine or a controlled substance analog
4 of methamphetamine in violation of this chapter. Any person who violates this
5 subsection ~~may be fined not more than \$10,000 or imprisoned for not more than 5~~
6 ~~years or both~~ is guilty of a Class H felony.

7 **SECTION 771.** 961.574 (3) of the statutes is amended to read:

8 961.574 (3) No person may deliver, possess with intent to deliver, or
9 manufacture with intent to deliver, drug paraphernalia, knowing that it will be
10 primarily used to manufacture, compound, convert, produce, process, prepare, test,
11 analyze, pack, repack or store methamphetamine or a controlled substance analog
12 of methamphetamine in violation of this chapter. Any person who violates this
13 subsection ~~may be fined not more than \$10,000 or imprisoned for not more than 5~~
14 ~~years or both~~ is guilty of a Class H felony.

15 **SECTION 772.** 961.575 (3) of the statutes is amended to read:

16 961.575 (3) Any person 17 years of age or over who violates s. 961.574 (3) by
17 delivering drug paraphernalia to a person 17 years of age or under ~~may be fined not~~
18 ~~more than \$50,000 or imprisoned for not more than 10 years or both~~ is guilty of a
19 Class G felony.

20 **SECTION 773.** 967.04 (9) of the statutes is amended to read:

21 967.04 (9) In any criminal prosecution or juvenile fact-finding hearing under
22 s. 48.31 or 938.31, the court may admit into evidence a videotaped deposition taken
23 under subs. (7) and (8) without an additional hearing under s. 908.08. In any
24 proceeding under s. 302.113 (9) (am), 302.114 (9) (am), 304.06 (3), or 973.10 (2), the
25 hearing examiner may order and preside at the taking of a videotaped deposition

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1 using the procedure provided in subs. (7) and (8) and may admit the videotaped
2 deposition into evidence without an additional hearing under s. 908.08.

3 **SECTION 774.** 968.255 (1) (a) 2. of the statutes is amended to read:

4 968.255 (1) (a) 2. Arrested for any misdemeanor under s. 167.30, 940.19, 941.20
5 (1), 941.23, 941.237, 941.24, 948.60, ~~948.605 (2) (a)~~ or 948.61.

6 **SECTION 775.** 968.31 (1) (intro.) of the statutes is amended to read:

7 968.31 (1) (intro.) Except as otherwise specifically provided in ss. 196.63 or
8 968.28 to 968.30, whoever commits any of the acts enumerated in this section ~~may~~
9 ~~be fined not more than \$10,000 or imprisoned for not more than 7 years and 6 months~~
10 ~~or both~~ is guilty of a Class H felony:

11 **SECTION 776.** 968.34 (3) of the statutes is amended to read:

12 968.34 (3) Whoever knowingly violates sub. (1) ~~shall~~ may be fined not more
13 than \$10,000 or imprisoned for not more than ~~2 years~~ 9 months or both.

14 **SECTION 777.** 968.43 (3) of the statutes is amended to read:

15 968.43 (3) Any person who violates an oath or affirmation required by sub. (2)
16 ~~may be imprisoned for not more than 7 years and 6 months~~ is guilty of a Class H
17 felony.

18 **SECTION 778.** 969.08 (10) (a) of the statutes is amended to read:

19 969.08 (10) (a) "Commission of a serious crime" includes a solicitation,
20 conspiracy or attempt, under s. 948.35, 1999 stats., or s. 939.30, 939.31, or 939.32 ~~or~~
21 ~~948.35~~, to commit a serious crime.

22 **SECTION 779.** 969.08 (10) (b) of the statutes is amended to read:

23 969.08 (10) (b) "Serious crime" means any crime specified in s. 943.23 (1m),
24 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 346.62 (4), 940.01, 940.02, 940.03,
25 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195 (5), 940.20, 940.201,

ENGROSSED ASSEMBLY BILL 3**SECTION 779**

1 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.29, 940.295 (3) (b) 1g.,
2 1m., 1r., 2. or 3., 940.31, 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c),
3 943.011, 943.013, 943.02, 943.03, 943.04, 943.06, 943.10, 943.23 (1g), ~~(1m) or (1r),~~
4 943.30, 943.32, 946.01, 946.02, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03,
5 948.04, 948.05, 948.06, 948.07 or 948.30.

6 **SECTION 780.** 971.17 (1) of the statutes is renumbered 971.17 (1) (a) and
7 amended to read:

8 971.17 (1) (a) Felonies committed before the effective date of this paragraph
9 [revisor inserts date]. ~~When~~ Except as provided in par. (c), when a defendant is found
10 not guilty by reason of mental disease or mental defect of a felony committed before
11 the effective date of this paragraph [revisor inserts date], the court shall commit
12 the person to the department of health and family services for a specified period not
13 exceeding two-thirds of the maximum term of imprisonment that could be imposed
14 under s. 973.15 (2) (a) against an offender convicted of the same ~~crime or crimes~~
15 felony, including imprisonment authorized by ~~ss. 346.65 (2) (f), (2j) (d) or (3m),~~
16 ~~939.62, 939.621, 939.63, 939.635, 939.64, 939.641, 939.645, 940.09 (1b), 940.25 (1b)~~
17 ~~and 961.48 and other~~ any applicable penalty enhancement statutes, as applicable,
18 subject to the credit provisions of s. 973.155.

19 (c) Felonies punishable by life imprisonment. ~~If the maximum term of~~
20 ~~imprisonment is~~ a defendant is found not guilty by reason of mental disease or
21 mental defect of a felony that is punishable by life imprisonment, the commitment
22 period specified by the court may be life, subject to termination under sub. (5).

23 **SECTION 781.** 971.17 (1) (b) of the statutes is created to read:

24 971.17 (1) (b) Felonies committed on or after the effective date of this paragraph
25 [revisor inserts date]. Except as provided in par. (c), when a defendant is found

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1 not guilty by reason of mental disease or mental defect of a felony committed on or
2 after the effective date of this paragraph [revisor inserts date], the court shall
3 commit the person to the department of health and family services for a specified
4 period not exceeding the maximum term of confinement in prison that could be
5 imposed on an offender convicted of the same felony, plus imprisonment authorized
6 by any applicable penalty enhancement statutes, subject to the credit provisions of
7 s. 973.155.

8 **SECTION 782.** 971.17 (1) (d) of the statutes is created to read:

9 971.17 (1) (d) *Misdemeanors.* When a defendant is found not guilty by reason
10 of mental disease or mental defect of a misdemeanor, the court shall commit the
11 person to the department of health and family services for a specified period not
12 exceeding two-thirds of the maximum term of imprisonment that could be imposed
13 against an offender convicted of the same misdemeanor, including imprisonment
14 authorized by any applicable penalty enhancement statutes, subject to the credit
15 provisions of s. 973.155.

16 **SECTION 783.** 971.365 (1) (a) of the statutes is amended to read:

17 971.365 (1) (a) In any case under s. 961.41 (1) (em), 1999 stats., or s. 961.41 (1)
18 (cm), (d), (e), (~~em~~), (f), (g) or (h) involving more than one violation, all violations may
19 be prosecuted as a single crime if the violations were pursuant to a single intent and
20 design.

21 **SECTION 784.** 971.365 (1) (b) of the statutes is amended to read:

22 971.365 (1) (b) In any case under s. 961.41 (1m) (em), 1999 stats., or s. 961.41
23 (1m) (cm), (d), (e), (~~em~~), (f), (g) or (h) involving more than one violation, all violations
24 may be prosecuted as a single crime if the violations were pursuant to a single intent
25 and design.

ENGROSSED ASSEMBLY BILL 3**SECTION 785**

1 **SECTION 785.** 971.365 (1) (c) of the statutes is amended to read:

2 971.365 (1) (c) In any case under s. 961.41 (3g) (a) 2., 1999 stats., or s. 961.41
3 (3g) (dm), 1999 stats., or s. 961.41 (3g) (a) 2. (am), (c), (d), ~~(dm)~~ or (e) involving more
4 than one violation, all violations may be prosecuted as a single crime if the violations
5 were pursuant to a single intent and design.

6 **SECTION 786.** 971.365 (2) of the statutes is amended to read:

7 971.365 (2) An acquittal or conviction under sub. (1) does not bar a subsequent
8 prosecution for any acts in violation of s. 961.41 (1) (em), 1999 stats., s. 961.41 (1m)
9 (em), 1999 stats., s. 961.41 (3g) (a) 2., 1999 stats., or s. 961.41 (3g) (dm), 1999 stats.,
10 or s. 961.41 (1) (cm), (d), (e), ~~(em)~~, (f), (g), or (h), (1m) (cm), (d), (e), ~~(em)~~, (f), (g), or (h)
11 or (3g) (a) 2. (am), (c), (d), ~~(dm)~~ or (e) on which no evidence was received at the trial
12 on the original charge.

13 **SECTION 787.** 972.15 (2c) of the statutes is amended to read:

14 972.15 (2c) If the defendant is subject to being sentenced under s. 973.01 and
15 he or she satisfies the criteria under s. 302.045 (2) (b) and (c), the person preparing
16 the presentence investigation report shall include in the report a recommendation
17 as to whether the defendant should be eligible for the challenge incarceration
18 program under s. 302.045.

19 **SECTION 788.** 973.01 (1) of the statutes is amended to read:

20 973.01 (1) BIFURCATED SENTENCE REQUIRED. Except as provided in sub. (3),
21 whenever a court sentences a person to imprisonment in the Wisconsin state prisons
22 for a felony committed on or after December 31, 1999, or a misdemeanor committed
23 on or after the effective date of this subsection ... [revisor inserts date], the court
24 shall impose a bifurcated sentence ~~that consists of a term of confinement in prison~~
25 ~~followed by a term of extended supervision~~ under s. 302.113 this section.

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1 **SECTION 789.** 973.01 (2) (intro.) of the statutes is amended to read:

2 973.01 (2) **STRUCTURE OF BIFURCATED SENTENCES.** (intro.) ~~The court shall ensure~~
3 ~~that a~~ A bifurcated sentence is a sentence that consists of a term of confinement in
4 prison followed by a term of extended supervision under s. 302.113. The total length
5 of a bifurcated sentence equals the length of the term of confinement in prison plus
6 the length of the term of extended supervision. An order imposing a bifurcated
7 sentence imposed under sub. (1) complies this section shall comply with all of the
8 following:

9 **SECTION 790.** 973.01 (2) (a) of the statutes is amended to read:

10 973.01 (2) (a) *Total length of bifurcated sentence.* Except as provided in par. (c),
11 the total length of the bifurcated sentence may not exceed the maximum period of
12 imprisonment ~~for the specified in s. 939.50 (3), if the crime is a classified felony, or~~
13 the maximum term of imprisonment provided by statute for the crime, if the crime
14 is not a classified felony, plus additional imprisonment authorized by any applicable
15 penalty enhancement statutes.

16 **SECTION 791.** 973.01 (2) (b) (intro.) of the statutes is amended to read:

17 973.01 (2) (b) *Imprisonment Confinement portion of bifurcated sentence.*
18 (intro.) The portion of the bifurcated sentence that imposes a term of confinement
19 in prison may not be less than one year, ~~subject to any minimum sentence prescribed~~
20 ~~for the felony,~~ and, except as provided in par. (c), ~~may not exceed~~ is subject to
21 whichever of the following limits is applicable:

22 **SECTION 792.** 973.01 (2) (b) 2. of the statutes is repealed.

23 **SECTION 793.** 973.01 (2) (b) 3. of the statutes is amended to read:

24 973.01 (2) (b) 3. For a Class C felony, the term of confinement in prison may
25 not exceed ~~10~~ 25 years.