

2003 DRAFTING REQUEST

Bill

Received: **03/03/2003**

Received By: **mlief**

Wanted: **As time permits**

Identical to LRB:

For: **Rob Kreibich (608) 266-0660**

By/Representing: **brad**

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

Drafter: **mlief**

May Contact:

Adl. Drafters: **gmalaise**

Subject: **Higher Education - miscellaneous
Higher Education - UW System**

Extra Copics: **PG**

Submit via email: **YES**

Requester's email: **Rep.Kreibich@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Ineligibility for student financial aid for drug convictions

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>
/?							State
/1	mlief 03/03/2003	jdye 03/04/2003	chaskett 03/05/2003		amentkow 03/05/2003		State
	gmalaise 03/03/2003	jdye 03/05/2003					

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/2	mlief 03/06/2003	jdye 03/06/2003	jfrantze 03/06/2003	_____	mbarman 03/06/2003		State
		jdye 04/23/2003		_____			
/3			rschluet 04/23/2003	_____	sbasford 04/23/2003	mbarman 05/12/2003	

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<END>

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	gmalaise 03/03/2003	jdyer 03/05/2003					

for Assembly
Per Brad
(Rush)

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		13 4/23/03			4253 PG		

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	gmalaise 03/03/2003	jdyer 03/05/2003					

Handwritten signatures and dates: *12/3/03 jld*, *3/6*, *J. P. P.*, *3/6*

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1?	mlief	1 3/4 jld	1 3/5 cph	4 pg /cph 3/5			

FE Sent For:

<END>

3/3/03 TC w/ Brad / Kreibich

Fed Law Fed govt - if convicted of using, selling -
drugs no longer eligible for fed aid

Drafted comparable state law

~~^(B) REQUIREMENT- An institution of higher education referred to in subparagraph (A) is an institution of higher education--~~

~~^(i) that is not an institute or school described in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act; and~~

~~^(ii) for which at least 50 percent of the programs of study offered by the institution lead to the award of a recognized associate, baccalaureate, or graduate degree.'~~

~~(e) VERIFICATION OF INCOME DATA- Section 484 is amended by adding at the end the following:~~

~~^(q) VERIFICATION OF INCOME DATA-~~

~~^(1) CONFIRMATION WITH IRS- The Secretary of Education, in cooperation with the Secretary of the Treasury, is authorized to confirm with the Internal Revenue Service the adjusted gross income, Federal income taxes paid, filing status, and exemptions reported by applicants (including parents) under this title on their Federal income tax returns for the purpose of verifying the information reported by applicants on student financial aid applications.~~

~~^(2) NOTIFICATION- The Secretary shall establish procedures under which an applicant is notified that the Internal Revenue Service will disclose to the Secretary tax return information as authorized under section 6103(1)(13) of the Internal Revenue Code of 1986.'~~

~~(f) SUSPENSION OF ELIGIBILITY FOR DRUG-RELATED OFFENSES-~~

~~(1) AMENDMENT- Section 484 is amended by adding at the end thereof the following:~~

~~^(r) SUSPENSION OF ELIGIBILITY FOR DRUG-RELATED OFFENSES- 20 USC 1091 (r)~~

~~^(1) IN GENERAL- A student who has been convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance shall not be eligible to receive any grant, loan, or work assistance under this title during the period beginning on the date of such conviction and ending after the interval specified in the following table:~~

~~^If convicted of an offense involving:~~

~~**The possession of a controlled substance:**~~

~~**Ineligibility period is:**~~

~~First offense
1 year~~

~~Second offense
2 years~~

~~Third offense
Indefinite.~~

~~**The sale of a controlled substance:**~~

Ineligibility period is:

First offense
2 years

Second offense
Indefinite.

`(2) REHABILITATION- A student whose eligibility has been suspended under paragraph (1) may resume eligibility before the end of the ineligibility period determined under such paragraph if--

`(A) the student satisfactorily completes a drug rehabilitation program that--

`(i) complies with such criteria as the Secretary shall prescribe in regulations for purposes of this paragraph; and

`(ii) includes two unannounced drug tests; or

`(B) the conviction is reversed, set aside, or otherwise rendered nugatory.

`(3) DEFINITIONS- In this subsection, the term `controlled substance' has the meaning given the term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).'

(2) EFFECTIVE DATE- The amendment made by paragraph (1), regarding suspension of eligibility for drug-related offenses, shall apply with respect to financial assistance to cover the costs of attendance for periods of enrollment beginning after the date of enactment of this Act.

-###-

[Sec. 482. Forms and Regulations.]



[Sec. 484. State Court Judgments.]



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2203/1
MJL & GMM:.....

JLD

2003 BILL

1 AN ACT ...; relating to: making students with drug convictions ineligible for state
2 financial aid.

Gen

who is

Analysis by the Legislative Reference Bureau

Federal law currently makes a student ~~who~~ convicted of a state or federal law involving the possession or sale of a controlled substance ineligible for a federal grant, loan, or work assistance for a period of at least one year from the date of conviction, depending on the offense. This bill makes a student who is ineligible under this federal law ineligible for a state grant, loan, or work assistance.

* FE-state

crime

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

3 SECTION 1. 36.11 (6) (bm) of the statutes is created to read:

4 36.11 (6) (bm) The board may not provide any financial assistance under this
5 chapter to a student who is ineligible for a federal assistance under 20 USC 1091 (r).

6 SECTION 2. 39.28 (7) of the statutes is created to read:

BILL

1 39.28 (7) The board may not provide any financial assistance under this
2 subchapter to a student who is ineligible for a federal assistance under 20 USC 1091

3 (r).

4 (END)

7
4
Insert ✓
2-3

INITIAL APPLICABILITY [Crew 2-3]

- In the component bar:
 For the action phrase, execute: **create** → **action:** → *NS: → **inappl**
 For the budget action phrase, execute: **create** → **action:** → *NS: → **93XX**
 For the text, execute: **create** → **text:** → *NS: → **inappl**
- Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9300 department code.

SECTION # 93 **Initial applicability;**

(#1) () ,

The treatment of sections ..

of the statutes

first applies to

- In the component bar:
 For the action phrase, execute: **create** → **action:** → *NS: → **inappl**
 For the text, execute: **create** → **text:** → *NS: → **inapplA**
- Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed.

SECTION # . **Initial applicability;**

(#1) () . This act first applies to financial assistance provided for a period of enrollment that begins after the effective date of this



Inset 2-31

subsection, but does not preclude denying financial assistance for that period of enrollment to a student who ~~became~~ became ineligible for federal assistance under ~~20 USC 1091(r)~~ 20 USC 1091(r) before the effective date of this subsection.

(end of insert)



2003 BILL

D-N Due Today 3/6/03

college ✓ Regen

1 AN ACT to create 36.11 (6) (bm) and 39.28 (7) of the statutes; relating to: making
2 students with drug convictions ineligible for state financial aid.

college ✓
Analysis by the Legislative Reference Bureau

Federal law currently makes a student who is convicted of a state or federal crime involving the possession or sale of a controlled substance ineligible for a federal grant, loan, or work assistance for a period of at least one year from the date of conviction, depending on the offense. This bill makes a student who is ineligible under this federal law ineligible for a state grant, loan, or work assistance.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

- 3 SECTION 1. 36.11 (6) (bm) of the statutes is created to read:
- 4 36.11 (6) (bm) The board may not provide any financial assistance under this
- 5 chapter to a student who is ineligible for federal assistance under 20 USC 1091 (r).
- 6 SECTION 2. 39.28 (7) of the statutes is created to read:

BILL

1 39.28 (7) The board may not provide any financial assistance under this
2 subchapter to a student who is ineligible for federal assistance under 20 USC 1091
3 (r).

SECTION 3. Initial applicability.

4 (1) This act first applies to financial assistance provided for a period of
5 enrollment that begins after the effective date of this subsection, but does not
6 preclude denying financial assistance for that period of enrollment to a student who
7 became ineligible for federal assistance under 20 USC 1091 (r) before the effective
8 date of this subsection.
9

10

(END)

D-N

~~This draft~~

The analysis of this redraft
^{was} was changed to make clear that the bill
concerns college students.

MJL

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2203/2dn
MJL:jld:jf

March 6, 2003

The analysis of this redraft was changed to make clear that the bill concerns college students.

Madelon J. Lief
Senior Legislative Attorney
Phone: (608) 267-7380

4/14

Tc from Brad

Redraft 2203

only those who sell drugs.

- 1st offense - 2 years
- 2nd off - ~~is~~ forever



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2203/3
MJL&GMM:jld:jf

Soon

DNOTE

or of manufacturing, distributing,
or delivering,

2003 BILL

a student who has been convicted of possessing, with
intent to manufacture, distribute, or deliver,
a controlled substance or controlled substance analog

Regen

and granting rule-making authority

1 AN ACT to create 36.11 (6) (bm) and 39.28 (7) of the statutes; relating to: making
2 ~~students with drug convictions~~ ineligible for state financial aid

Analysis by the Legislative Reference Bureau

~~Federal law currently makes a college student who is convicted of a state or
federal crime involving the possession or sale of a controlled substance ineligible for
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of conviction, depending on the offense. This bill makes a college student who is
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3 SECTION 1. ~~36.11 (6) (bm) of the statutes is created to read:~~
4 36.11 (6) (bm) The board may not provide any financial assistance under this
5 chapter to a student who is ineligible for federal assistance under 20 USC 1091 (r).
6 SECTION 2. 39.28 (7) of the statutes is created to read:

Enact
A

BILL

SECTION 2

1 ~~89.28 (7) The board may not provide any financial assistance under this~~
subchapter to a student who is ineligible for federal assistance under 20 USC 1091

2
2-3 3

(r)

4 **SECTION 3. Initial applicability.**

5 (1) This act first applies to financial assistance provided for a period of
6 enrollment that begins after the effective date of this subsection, but does not
7 ~~preclude denying financial assistance for that period of enrollment to a student who~~
8 ~~became ineligible for federal assistance under 20 USC 1091 (r) before the effective~~
9 ~~date of this subsection.~~ KEEP

10 (END)

D-note
↓

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2203/3ins
GMM.....

(INSERT A)

Under current federal law, a college student who is convicted of a state or federal crime involving the sale of a controlled substance is ineligible for a federal grant, loan, or work assistance for a period of two[✓] years from the date of the conviction, ^{plain} and a college student who is convicted of such a crime following a previous conviction for such a crime is ineligible for a federal grant, loan, or work assistance indefinitely, unless the student satisfactorily completes a drug rehabilitation program or the conviction is reversed, set aside, or otherwise rendered nugatory.✓

^{plain} This bill makes a college student who is convicted of possessing, with intent to manufacture, distribute, or deliver, or of manufacturing, distributing, or delivering, a controlled substance or controlled substance analog under the law of this state or a substantially similar federal law or law of another state ineligible for a state grant, loan, or work assistance for a period of two years following the conviction, and a college student who is convicted of such a crime following a previous conviction for such a crime ineligible for a state grant, loan, or work assistance for an indefinite period, unless the student satisfactorily completes a drug rehabilitation program or the conviction is reversed, set aside, or vacated.

(END OF INSERT)

(INSERT 2-3)

SECTION 1. 36.11 (6) (bm)[✓] of the statutes is created to read:

36.11 (6) (bm) 1. Subject to subd. 3.,[✓] the board[✓] may not provide any financial assistance under this chapter to a person who has been convicted of manufacturing, distributing, or delivering a controlled substance or controlled substance analog under s. 961[✓]41 (1), of possessing, with intent to manufacture, distribute, or deliver, a controlled substance or controlled substance analog under s. 961[✓]41 (1m),[✓] or of possessing, with intent to manufacture, distribute, or deliver, or of manufacturing, distributing, or delivering, a controlled substance or controlled substance analog under a substantially similar federal law or a substantially similar law of another state, for a period of 2[✓] years following the date of the conviction.

2. Subject to subd. 3.,[✓] the board may not provide any financial assistance under this chapter to a person who has been convicted of a violation specified in[✓] subd. 1.



INS 2-3
cont

* following a previous conviction of a violation specified in subd. 1. for an indefinite period following the date of the conviction.

3. A person who is ineligible for financial assistance under subd. 1. or 2. may resume eligibility for that assistance before the end of the ineligibility period if the conviction is reversed, set aside, or vacated or if the person satisfactorily completes a drug rehabilitation program that complies with such criteria as the board may prescribe in policies established by the board for purposes of this subdivision and that includes 2 unannounced tests for the presence of controlled substances or controlled substance analogs in the person's system.

SECTION 2. 39.28 (7) of the statutes is created to read:

* 39.28 (7) (a) Subject to par. (c), the board may not provide any financial assistance under this subchapter to a person who has been convicted of manufacturing, distributing, or delivering a controlled substance or controlled substance analog under s. 961(41) (1), of possessing, with intent to manufacture, distribute, or deliver, a controlled substance or controlled substance analog under s. 961(41) (1m), or of possessing, with intent to manufacture, distribute, or deliver, or of manufacturing, distributing, or delivering, a controlled substance or controlled substance analog under a substantially similar federal law or a substantially similar law of another state, for a period of 2 years following the date of the conviction.

* (b) Subject to par. (c), the board may not provide any financial assistance under this subchapter to a person who has been convicted of a violation specified in par. (a) following a previous conviction of a violation specified in par. (a) for an indefinite period following the date of the conviction.

(c) A person who is ineligible for financial assistance under par. (a) or (b) may resume eligibility for that assistance before the end of the ineligibility period if the



conviction is reversed, set aside, or vacated or if the person satisfactorily completes a drug rehabilitation program that complies with such criteria as the board may prescribe in rules promulgated by the board for purposes of this paragraph and that includes 2 unannounced tests for the presence of controlled substances or controlled substance analogs in the person's system.

(END OF INSERT)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2203/3dn

GMM.....:....

^
jld

Representative Kreibich:

In reviewing this draft, please note all of the following:

1. Wisconsin law does not prohibit the sale of controlled substances. Rather, Wisconsin law prohibits the possession, with intent to manufacture, distribute, or deliver, and the manufacture, distribution, or delivery, of controlled substances and controlled substance analogs. See s. 961.41 (1) and (1m). Accordingly, this redraft applies to a person who has been convicted under s. 961.41 (1) or (1m) or under a substantially similar federal law or law of another state. Note that the draft does not include simple possession under s. 961.41 (3g). For other examples of language providing for a similar restriction, see ss. 111.335 (1) (cs) and 125.12 (2) (ag) 5. relating to revocation of a person's liquor license for a drug dealing conviction.

2. The federal law on which this redraft is based, 20 USC 1091r, permits a student who is ineligible for federal financial assistance due to a drug conviction to regain eligibility if the student satisfactorily completes a drug rehabilitation program or if the conviction is reversed, set aside, or otherwise rendered nugatory. Accordingly, this redraft provides for a similar opportunity for a student to regain eligibility for state financial assistance.

If you have any questions about this redraft, please do not hesitate to contact me directly.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2203/3dn
GMM:jld:rs

April 23, 2003

Representative Kreibich:

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