

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3289/P1dn
MGD:kmg:jf

December 4, 2003

Sara:

1. A person convicted of a drug offense in a county which has not established a program under this bill may argue that the bill violates the right to equal protection. That argument will probably fail. *See State v. Smart*, 2002 WI App 240, 257 Wis. 2d 713. A person convicted in a county in which expungement is unavailable may have a slightly stronger argument. But current law already authorizes counties to dispose of cases in a nonuniform manner. *See, e.g., s. 961.577* (a municipality may, but is not required, to prosecute drug paraphernalia cases as civil offenses).
2. Under current law, DOC must approve a sheriff's plan to place a jail prisoner in a home detention program. Do you want that requirement to apply to an AOAPSA program participant?

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