

2003 SENATE BILL 4

1 **AN ACT** *to amend* 961.41 (3g) (b), 961.41 (3g) (d), 961.472 (2), 961.55 (1) (d) 3.,
2 971.365 (1) (c) and 971.365 (2); and *to create* 961.41 (3g) (g) and 961.48 (5) of
3 the statutes; **relating to:** possession of methamphetamine and providing a
4 penalty.

Analysis by the Legislative Reference Bureau

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

5 **SECTION 1.** 961.41 (3g) (b) of the statutes, as affected by 2001 Wisconsin Act
6 109, is amended to read:
7 961.41 **(3g)** (b) *Other drugs generally.* Except as provided in pars. (c), ~~(d)~~, ~~(e)~~
8 and ~~(f)~~ to (g), if the person possesses or attempts to possess a controlled substance
9 or controlled substance analog, other than a controlled substance included in
10 schedule I or II that is a narcotic drug or a controlled substance analog of a controlled

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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 2.** 961.41 (3g) (d) of the statutes, as affected by 2001 Wisconsin Act
4 109, is amended to read:

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

18 **SECTION 3.** 961.41 (3g) (g) of the statutes is created to read:

19 961.41 **(3g)** (g) *Methamphetamine.* If a person possesses or attempts to possess
20 methamphetamine or a controlled substance analog of methamphetamine, the
21 person is guilty of a Class I felony.

22 **SECTION 4.** 961.472 (2) of the statutes, as affected by 2001 Wisconsin Act 109,
23 is amended to read:

24 961.472 **(2)** Except as provided in sub. (5), if a person pleads guilty or is found
25 guilty of possession or attempted possession of a controlled substance or controlled

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

10 **SECTION 5.** 961.48 (5) of the statutes is created to read:

11 961.48 (5) This section does not apply if the person is presently charged with
12 a felony under s. 961.41 (3g) (c), (d), (e), or (g).

13 **SECTION 6.** 961.55 (1) (d) 3. of the statutes, as affected by 2001 Wisconsin Act
14 109, is amended to read:

15 961.55 (1) (d) 3. A vehicle is not subject to forfeiture for a violation of s. 961.41
16 (3g) (b), ~~(c), (d), (e) or (f)~~ to (g); and

17 **SECTION 7.** 971.365 (1) (c) of the statutes, as affected by 2001 Wisconsin Act 109,
18 is amended to read:

19 971.365 (1) (c) In any case under s. 961.41 (3g) (a) 2., 1999 stats., or s. 961.41
20 (3g) (dm), 1999 stats., or s. 961.41 (3g) (am), (c), (d), ~~or (e)~~, or (g) involving more than
21 one violation, all violations may be prosecuted as a single crime if the violations were
22 pursuant to a single intent and design.

23 **SECTION 8.** 971.365 (2) of the statutes, as affected by 2001 Wisconsin Act 109,
24 is amended to read:

