

**2003 DRAFTING REQUEST**

**Bill**

Received: **12/30/2002**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Sheila Harsdorf (608) 266-7745**

By/Representing: **Chris**

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

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - drugs**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Harsdorf@legis.state.wi.us**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Possession of methamphetamine

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**Instructions:**

Companion to 03-0780

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**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>
/?	mdsida 01/08/2003	jdye 01/08/2003		_____			S&L Crime
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FE Sent For:

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Intro.

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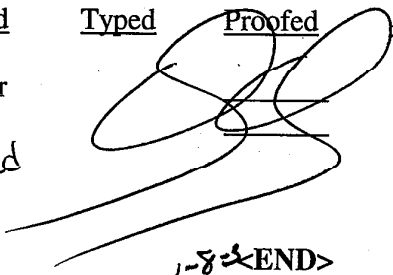
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FE Sent For:

1-8-2<END>

2003 - 2004 LEGISLATURE

-1283/1  
LRB-0780/1

MGD/jld:pg

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stays

2003 BILL

Same as - 0780

by 1/10

Regen

- 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.

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

Current law prohibits the possession or the attempted possession of the controlled substance methamphetamine. A person who violates this prohibition on or after February 1, 2003, is guilty of a misdemeanor and may be fined not more than \$5,000 or imprisoned for not more than one year in the county jail or both, unless, before committing the offense, the person had been convicted of any crime under any federal or state law relating to controlled substances. In that case, the person is guilty of a Class I felony, for which he or she may be fined not more than \$10,000 or imprisoned for not more than three and one-half years (with the term of confinement being served in a state prison, if the sentence imposed is for more than one year) or both. Under this bill, a person who possesses or attempts to possess methamphetamine on or after February 1, 2003, is guilty of a Class I felony, regardless of whether the person has any prior controlled substance offenses.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

**BILL**

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

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

1           **SECTION 1.** 961.41 (3g) (b) of the statutes, as affected by 2001 Wisconsin Act  
2 109, is amended to read:

3           961.41 (3g) (b) *Other drugs generally.* Except as provided in pars. (c), ~~(d)~~, ~~(e)~~  
4 and ~~(f)~~ to (g), if the person possesses or attempts to possess a controlled substance  
5 or controlled substance analog, other than a controlled substance included in  
6 schedule I or II that is a narcotic drug or a controlled substance analog of a controlled  
7 substance included in schedule I or II that is a narcotic drug, the person is guilty of  
8 a misdemeanor, punishable under s. 939.61.

9           **SECTION 2.** 961.41 (3g) (d) of the statutes, as affected by 2001 Wisconsin Act  
10 109, is amended to read:

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

**BILL**

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

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

4 961.41 (3g) (g) *Methamphetamine*. If a person possesses or attempts to possess  
5 methamphetamine or a controlled substance analog of methamphetamine, the  
6 person is guilty of a Class I felony.

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

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

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

21 961.48 (5) This section does not apply if the person is presently charged with  
22 a felony under s. 961.41 (3g) (c), (d), (e), or (g).

23 **SECTION 6.** 961.55 (1) (d) 3. of the statutes, as affected by 2001 Wisconsin Act  
24 109, is amended to read:





# State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

## **RESEARCH APPENDIX -** **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Added To File: 01-14-2003 (Per myd)



The drafting file for 2001 LRB \_\_\_\_\_ has been transferred to the drafting file for 2003 LRB \_\_\_\_\_

This cover sheet, the final request, and the final version of the 2001 draft were copied on yellow paper, and returned to the original 2001 drafting file.

For research purposes, because the attached 2001 draft was incorporated into a new 2003 draft, this cover sheet and the complete drafting file was transferred, as a separate appendix, to the 2003 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.



The drafting file for 2003 LRB -0780 \_\_\_\_\_ has been copied/added to the drafting file for 2003 LRB 1283

For research purposes, because the attached 2003 draft was incorporated into another 2003 draft, the attached drafting file was copied on yellow paper (darkened/auto centered/reduced to 90%), and added, as a appendix, to the new 2003 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

This cover sheet was copied on yellow paper and added to rear of the original 2003 drafting file. The drafting file was then returned, intact, to its folder and filed.

SB-4