

2007 DRAFTING REQUEST

Bill

Received: **11/30/2006**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Joseph Leibham (608) 266-2056**

By/Representing: **Greg Gasper**

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

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

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

Extra Copies: **MDK**

Submit via email: **YES**

Requester's email: **Sen.Leibham@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Ineligibility for financial aid for college students convicted of a drug offense

Instructions:

Redraft 2005 SB 187

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>
/?	gmalaise 11/30/2006	kfollett 12/15/2006		_____			State
/1			pgreensl 12/18/2006	_____	sbasford 12/18/2006	mbarman 01/11/2007	

FE Sent For: ^{"11"}
@ intro,
2-26-2007

<END>

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/?	gmalaise	11/15 12/15	1/18 P8	12/18 1/18 P8 NN			

FE Sent For:

<END>

2005 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB1035)

Received: 03/07/2006

Received By: gmalaise

Wanted: Soon

Identical to LRB:

For: Rob Kreibich (608) 266-0660

By/Representing: Mary Mathias

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject: Higher Education - miscellaneous
Higher Education - UW System

Extra Copies: 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 financial assistance of postsecondary student with drug conviction for conduct occurring while receiving financial assistance

Instructions:

See Attached--draft sub. to conform bill to recent federal amendment that clarifies that conviction must occur while the student is receiving financial assistance.

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>
/?	gmalaise 03/07/2006	jdyer 03/08/2006					
/1			rschluet 03/08/2006		sbasford 03/08/2006	sbasford 03/08/2006	

FE Sent For:

Malaise, Gordon

From: Matthias, Mary
Sent: Tuesday, March 07, 2006 3:32 PM
To: Malaise, Gordon
Subject: AB 1035

Hi Gordon-

Rep. Kreibich would like a sub drafted to AB 1035 that mirrors the language in the federal law, which was recently amended. The basic change is that ineligibility for financial aid kicks in **ONLY** if the student is convicted of a drug crime while receiving financial aid.

Here is link to the section of the US Senate bill that changed the federal law on this issue :S. 1932
<http://thomas.loc.gov/cgi-bin/query/F?c109:5:./temp/~c109uyqzb0:e549846>: The pertinent language is in s. 8021(c) of the bill- right at the beginning of the document. The bill was passed last month; it became Public Law 109-171, which doesn't appear to be available online yet.

Here is a link to the law before the Senate Bill was passed: (Scroll down to par. (r)) I can't find any version that incorporates the new language.

http://www.law.cornell.edu/uscode/html/uscode20/usc_sec_20_00001091----000-.html

Here is a link to a description of the provisions of the Act that affect financial aid:
<http://nacacnet.org/NR/rdonlyres/D8D63600-1EC2-404C-A1D1-3B740887DFEF/0/06heasummary.pdf>

I am not sure oif the time frame on this. I will e-mail Kreibich's office and ask.

thanks--

Mary

Mary Matthias
Senior Staff Attorney
Wisconsin Legislative Council Staff
Ph.(608)266-0932;Fax (608)266-3830

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P.L. 109-171

S.1932

Deficit Reduction Act of 2005 (Enrolled as Agreed to or Passed by Both House and Senate)

SEC. 8021. STUDENT ELIGIBILITY.

(a) Fraud: Repayment Required- Section 484(a) (20 U.S.C. 1091(a)) is amended--

(1) by striking the period at the end of paragraph (5) and inserting ` ; and'; and

(2) by adding at the end the following new paragraph:

`(6) if the student has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining funds under this title, have completed the repayment of such funds to the Secretary, or to the holder in the case of a loan under this title obtained by fraud.'

(b) Verification of Income Date- Paragraph (1) of section 484(q) (20 U.S.C. 1091 (q)) is amended to read as follows:

`(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 information specified in section 6103(l)(13) of the Internal Revenue Code of 1986 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.'

(c) Suspension of Eligibility for Drug Offenses- Section 484(r)(1) (20 U.S.C. 1091 (r)(1)) is amended by striking everything preceding the table and inserting the following:

`(1) IN GENERAL- A student who is convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance for conduct that occurred during a period of enrollment for which the student

was receiving any grant, loan, or work assistance under this title shall not be eligible to receive any grant, loan, or work assistance under this title from the date of that conviction for the period of time specified in the following table:'

SEC. 8022. INSTITUTIONAL REFUNDS.

Section 484B (20 U.S.C. 1091b) is amended--

(1) in the matter preceding clause (i) of subsection (a)(2)(A), by striking 'a leave of' and inserting '1 or more leaves of';

(2) in subsection (a)(3)(B)(ii), by inserting '(as determined in accordance with subsection (d))' after 'student has completed';

(3) in subsection (a)(3)(C)(i), by striking 'grant or loan assistance under this title' and inserting 'grant assistance under subparts 1 and 3 of part A, or loan assistance under parts B, D, and E,';

(4) in subsection (a)(4), by amending subparagraph (A) to read as follows:

'(A) IN GENERAL- After determining the eligibility of the student for a late disbursement or post-withdrawal disbursement (as required in regulations prescribed by the Secretary), the institution of higher education shall contact the borrower and obtain confirmation that the loan funds are still required by the borrower. In making such contact, the institution shall explain to the borrower the borrower's obligation to repay the funds following any such disbursement. The institution shall document in the borrower's file the result of such contact and the final determination made concerning such disbursement.';

(5) in subsection (b)(1), by inserting 'not later than 45 days from the determination of withdrawal' after 'return';

(6) in subsection (b)(2), by amending subparagraph (C) to read as follows:

'(C) GRANT OVERPAYMENT REQUIREMENTS-

'(i) IN GENERAL- Notwithstanding subparagraphs (A) and (B), a student shall only be required to return grant assistance in the amount (if any) by which--

'(I) the amount to be returned by the student (as determined under subparagraphs (A) and (B)), exceeds

'(II) 50 percent of the total grant assistance received by the student under this title for the payment period or period of enrollment.

'(ii) MINIMUM- A student shall not be required to return amounts of \$50 or less.';

(2) If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

(3) If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, and a correct social security number cannot be provided by such student, and a loan has been guaranteed for such student under part B of this subchapter, the institution shall notify and instruct the lender and guaranty agency making and guaranteeing the loan, respectively, to cease further disbursements of the loan, but such guaranty shall not be voided or otherwise nullified with respect to such disbursements made before the date that the lender and the guaranty agency receives such notice.

(4) Nothing in this subsection shall permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

(A) any institution of higher education with respect to any error in a social security number, unless such error was a result of fraud on the part of the institution; or

(B) any student with respect to any error in a social security number, unless such error was a result of fraud on the part of the student.

(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 subchapter and part C of subchapter I of chapter 34 of title 42 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 (l)(13) of title 26.

(r) Suspension of eligibility for drug-related offenses

(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 subchapter and part C of subchapter I of chapter 34 of title 42 during the period beginning on the date of such conviction and ending after the interval specified in the following table:

1

If convicted of an offense involving:

0

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 802 (6) of title 21.

[1] So in original.

[2] So in original. Probably should be followed by "and".

[3] So in original. Probably should be followed by "or".

[4] See References in Text note below.

[5] See References in Text note below.

[6] See References in Text note below.

Prev | Next

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Drug Offenses: Clarification

- Clarifies current law by prohibiting students convicted of a drug-related offense *that occurred during a period of enrollment for which the student was receiving any grant, loan, or work assistance under the Higher Education Act*. Existing law rendered a student ineligible if he/she had been convicted of a drug offense at any time preceding or during receipt of federal student aid.

College Access Initiative: Guaranty Agencies

- Each guaranty agency shall provide to the Secretary of Education the information necessary for the development of Internet web links and access for students and families to a comprehensive listing of the postsecondary education opportunities, programs, publications, Internet web sites, and other services available in the States for which such agency serves as the designated guarantor.
- Each guaranty agency shall undertake such activities as are necessary to promote access to postsecondary education for students through providing information on college planning, career preparation, and paying for college. The guaranty agency shall publicize such information and coordinate such activities with other entities that either provide or distribute such information in the States for which such guaranty agency serves as the designated guarantor.
- The Secretary of Education shall ensure that the availability of the information provided by the guaranty agencies to students and families through Internet web links or other methods prescribed by the Secretary.

For a list of state guaranty agencies, visit:

http://wdcrobcolp01.ed.gov/Programs/EROD/org_list.cfm?category_ID=SGA

Date (time) needed Soon

LRB - 0966 / 1

BILL

DNDXE

GMM : lgf :

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ;* and *to create . . .* of the statutes; **relating to:**

.....
.....

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: **create** → **anal:** → **title:** → **head**

For the subheading, execute: **create** → **anal:** → **title:** → **sub**

For the sub-subheading, execute: **create** → **anal:** → **title:** → **sub-sub**

For the analysis text, in the component bar:

For the text paragraph, execute: **create** → **anal:** → **text**

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

SECTION #.

ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2005 ASSEMBLY BILL 1035

March 9, 2006 - Offered by Representatives KREIBICH and HAHN.

Regen

1 AN ACT *to renumber* 36.11 (27); and *to create* 36.11 (27) (b) and 39.28 (7) of the
2 statutes; **relating to:** making a postsecondary student who has been convicted
3 of possessing, with intent to manufacture, distribute, or deliver, or of
4 manufacturing, distributing, or delivering, a controlled substance or controlled
5 substance analog based on conduct that occurred during a period of enrollment
6 for which the postsecondary student was receiving any state financial
7 assistance ineligible for state financial assistance and granting rule-making
8 authority.

Analysis by the Legislative Reference Bureau

Under current federal law, a postsecondary student who is convicted of a state or federal crime involving the sale of a controlled substance for conduct that occurred during a period of enrollment for which the postsecondary student was receiving any federal grant, loan, or work assistance is ineligible to receive any federal grant, loan, or work assistance for a period of two years from the date of the conviction, and a postsecondary student who is convicted of such a crime following a previous conviction for such a crime is ineligible to receive any federal grant, loan, or work

based on that conduct

based on that conduct

assistance, indefinitely, unless the student satisfactorily completes a drug rehabilitation program or the conviction is reversed, set aside, or otherwise rendered nugatory.

This substitute amendment makes a postsecondary 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 based on conduct that occurred during a period of enrollment for which the postsecondary student was receiving any state financial assistance provided by the Higher Education Aids Board or the Board of Regents of the University of Wisconsin System (state financial assistance) ineligible to receive any state financial assistance for a period of two years following the conviction, and a postsecondary student who is convicted of such a crime following a previous conviction for such a crime, ineligible for state financial assistance for an indefinite period, unless the student satisfactorily completes a drug rehabilitation program or the conviction is reversed, set aside, or vacated.

manufacturing, distributing, or delivering, or of

bill

based on that conduct (see twice)

FE-5

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

or under a substantially similar federal law or law of another state or

- 1 SECTION 1. 36.11 (27) of the statutes is renumbered 36.11 (27) (a).
- 2 SECTION 2. 36.11 (27) (b) of the statutes is created to read:
- 3 36.11 (27) (b) 1. Subject to subd. 3., the board may not provide any financial
- 4 assistance under this chapter to a person for a period of 2 years following the date
- 5 on which the person is convicted of manufacturing, distributing, or delivering a
- 6 controlled substance or controlled substance analog under s. 961.41 (1) of
- 7 possessing, with intent to manufacture, distribute, or deliver, a controlled substance
- 8 or controlled substance analog under s. 961.41 (1m); ~~or of possessing, with intent to~~
- 9 ~~manufacture, distribute, or deliver, or of manufacturing, distributing, or delivering,~~
- 10 a controlled substance or controlled substance analog under a substantially similar
- 11 federal law or a substantially similar law of another state based on conduct that
- 12 occurred during a period of enrollment for which the person was receiving any
- 13 financial assistance from the board or from the higher educational aids board.

or

based on that conduct.

1 2. Subject to subd. 3., the board may not provide any financial assistance under
2 this chapter to a person for an indefinite period following the date on which the
3 person is convicted of a violation specified in subd. 1. that is based on conduct that
4 occurred during a period of enrollment for which the person was receiving any
5 financial assistance from the board or from the higher educational aids board, if the
6 person has a previous conviction for a violation specified in subd. 1.

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

or under a substantially similar federal law or law of another state or

14 SECTION 3. 39.28 (7) of the statutes is created to read:

15 39.28 (7) (a) Subject to par. (c), the board may not provide any financial
16 assistance under this subchapter to a person for a period of 2 years following the date
17 on which the person is convicted of manufacturing, distributing, or delivering a
18 controlled substance or controlled substance analog under s. 961.41 (1) of
19 possessing, with intent to manufacture, distribute, or deliver, a controlled substance
20 or controlled substance analog under s. 961.41 (1m); ~~or of possessing, with intent to~~
21 ~~manufacture, distribute, or deliver, or of manufacturing, distributing, or delivering,~~
22 ~~a controlled substance or controlled substance analog~~ under a substantially similar
23 federal law or a substantially similar law of another state based on conduct that
24 occurred during a period of enrollment for which the person was receiving any

or

1 financial assistance from the board or from the Board of Regents of the University
2 of Wisconsin System.

3 (b) Subject to par. (c), the board may not provide any financial assistance under
4 this subchapter to a person for an indefinite period following the date on which the
5 person is convicted of a violation specified in par. (a) that is based on conduct that
6 occurred during a period of enrollment for which the person was receiving any
7 financial assistance from the board or from the Board of Regents of the University
8 of Wisconsin System, if the person has a previous conviction for a violation specified
9 in par. (a) based on that conduct

10 (c) A person who is ineligible for financial assistance under par. (a) or (b) may
11 resume eligibility for that assistance before the end of the ineligibility period if the
12 conviction is reversed, set aside, or vacated or if the person satisfactorily completes
13 a drug rehabilitation program that complies with such criteria as the board may
14 prescribe in rules promulgated by the board for purposes of this paragraph and that
15 includes 2 unannounced tests for the presence of controlled substances or controlled
16 substance analogs in the person's system.

17 **SECTION 4. Initial applicability.**

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

20 (END)

D-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0966/1dn
GMM...*GF*

Date

Senator Leibham:

X Recently, Congress enacted the Deficit Reduction Act of 2005 (P.L. 109-171), which in part amended 20 USC 1091 (r) to limit suspension of federal student aid eligibility for students who are convicted of drug offenses to students who are convicted "*for conduct that occurred during a period of enrollment for which the student was receiving assistance.*" Previous federal law rendered a student ineligible if he or she had been convicted of a drug offense at any time preceding or during receipt of federal student aid. Because 2005 SB-187 was intended to create a parallel provision for state student aid and because ASA 1 to 2005 AB 1035, the companion bill to 2005 SB-187, which passed the assembly last session, included that limiting language, this draft includes that limiting federal language.

X 2005 SB-187 applies only to financial assistance provided by the Higher Education Aids Board and the Board of Regents of the University of Wisconsin System. On closer inspection, however, the Technical College System Board awards financial assistance to its students, the Department of Military Affairs provides tuition grants to national guard members, the Department of Veterans Affairs provide tuition reimbursement for veterans and personal loans for the education of deceased veterans' children, and the Department of Commerce provides educational loan repayments for doctors, dentists, and other health care providers practicing in shortage areas. Do you wish to cover those forms of financial assistance as well? S

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-0966/1dn
GMM:kjf:pg

December 18, 2006

Senator Leibham:

Recently, Congress enacted the Deficit Reduction Act of 2005 (P.L. 109-171), which in part amended 20 USC 1091 (r) to limit suspension of federal student aid eligibility for students who are convicted of drug offenses to students who are convicted "*for conduct that occurred during a period of enrollment for which the student was receiving... assistance.*" Previous federal law rendered a student ineligible if he or she had been convicted of a drug offense at any time preceding or during receipt of federal student aid. Because 2005 SB-187 was intended to create a parallel provision for state student aid and because ASA 1 to 2005 AB 1035, the companion bill to 2005 SB-187, which passed the assembly last session, included that limiting language, this draft includes that limiting federal language.

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

Barman, Mike

From: Gasper, Greg
Sent: Thursday, January 11, 2007 11:29 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-0966/1 Topic: Ineligibility for financial aid for college students convicted of a drug offense

Please Jacket LRB 07-0966/1 for the SENATE.