

2009 DRAFTING REQUEST

Bill

Received: **04/01/2009**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Pocan (608) 266-8570**

By/Representing: **Josh Freker**

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

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - drugs**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Pocan@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Medical marijuana

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>
/?	chanaman 04/08/2009	jdye 04/16/2009		_____			S&L Crime
/P1	chanaman 09/16/2009	jdye 09/18/2009	phenry 04/16/2009	_____	lparisi 04/16/2009		S&L Crime
/P2	chanaman 10/01/2009	jdye 10/01/2009	phenry 09/18/2009	_____	sbasford 09/18/2009		S&L Crime
/1			rschluet	_____	cduerst	cduerst	

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			10/01/2009 _____		10/01/2009	10/08/2009	

FE Sent For:

*at
intro*

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/P2		<i>1/10 jld</i>	phenry 09/18/2009	_____	sbasford 09/18/2009		



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Sen Wassenaar

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By/Representing: **Josh Freker**

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May Contact:

Addl. Drafters:

Subject: **Criminal Law - drugs**

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/?	chanaman 04/08/2009	jdyer 04/16/2009					S&L Crime
/P1		<i>1/2 9/17 jcd</i>	phenry 04/16/2009	<i>9/18 Ph</i>	lparisi 04/16/2009		
FE Sent For:				<i>mb/jf</i>			

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/?	chanaman	PI 4/16 jld	4/16 Ph	J. med 4/16			

FE Sent For:

<END>

Hanaman, Cathlene

From: Freker, Josh
Sent: Wednesday, March 18, 2009 5:43 PM
To: Hanaman, Cathlene
Subject: redraft of medical marijuana legislation

Hello Catherine –

Please let me know if I should be sending this to another drafter.

Rep. Pocan would like to redraft his legislation from the past session regarding medical use of marijuana, 2007 AB 550 (LRB 2455/1). We do have several modifications we'd like to see, much of which is based on the language of the Michigan medical marijuana initiative that was enacted by MI state voters last fall. Our desired modifications are spelled out below. Please let me know if you need any clarification.

Thanks for your help,

Josh Freker
Office of State Rep. Mark Pocan
608-266-8570

Modifications to Medical Marijuana Legislation

Link to MI initiative:

[http://www.legislature.mi.gov/\(S\(amdu5w551fje2m550vhq3a45\)\)/mileg.aspx?page=getObject&objectName=mcl-Initiated-Law-1-of-2008](http://www.legislature.mi.gov/(S(amdu5w551fje2m550vhq3a45))/mileg.aspx?page=getObject&objectName=mcl-Initiated-Law-1-of-2008)

Elements to add to WI bill

- Allow caregivers to have no more than five qualifying patients (see how MI handles)

✓ Add to list of allowable medical conditions:
Under --under Section 12, 961.01 (5m)(a):

- Crohn's disease
- Hep. C
- agitated Alzheimer's
- Amytrophic Lateral Sclerosis (Lou Gehrig's)
- nail patella
- Ehlers-Danlos Syndrome (Jacki Rickert's illness)
- post-traumatic stress disorder

As examples under 961.01 (5m)(b):

- epilepsy
- multiple sclerosis

✓ So: "A chronic or debilitating disease or medical condition or the treatment of such a disease or medical condition that causes cachexia; severe pain; severe nausea; **seizures, including but not limited to those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis.**"

✓ Increase allowable amount of med. marijuana from 10 to 12 plants but keep current bill's amount of 3 oz. of leaves or flowers

- Add language to ensure that the up to 12 plants of marijuana must be kept in an enclosed, locked facility **locked/enclosed/secure facility** (see MI language and definition of "enclosed, locked facility": a closet, room, or other enclosed area equipped with locks or other security devices that permit access only by a registered primary caregiver or registered qualifying patient")

- Incorporate MI custody language

Can we add this language, taken from the MI initiative:

"A person shall not be denied custody or visitation of a minor for acting in accordance with this act, unless the

person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.”

And still retain the current language regarding custody/parenting and DHS rules?

(c) The department shall promulgate rules specifying how a parent, guardian, or person having legal custody of a child may apply for a registry identification card for himself or herself and for the child and the circumstances under which the department may approve or deny the application.
(currently on page 8 of 2007 WI bill)

- Add reciprocity language from MI initiative:

([http://www.legislature.mi.gov/\(S\(amdu5w551fje2m550vhq3a45\)\)/mileg.aspx?page=getObject&objectName=mcl-333-26424](http://www.legislature.mi.gov/(S(amdu5w551fje2m550vhq3a45))/mileg.aspx?page=getObject&objectName=mcl-333-26424))

(j) A registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marihuana, shall have the same force and effect as a registry identification card issued by the department.

2007 ASSEMBLY BILL 550

2009 BILL

9
October 23, 2007 - Introduced by Representatives BOYLE, POCAN, BERCEAU, BLACK, GRIGSBY, GRONEMUS, PARISI, POPE-ROBERTS, SCHNEIDER, SHERMAN, TRAVIS, WOOD and ZEPNICK. Referred to Committee on Health and Healthcare Reform.

LPS.
P.W.F.
Please

4

✓ never cut

1 AN ACT *to renumber and amend* 59.54 (25), 961.55 (8), 968.19 and 968.20 (1);
2 *to amend* 59.54 (25m), 66.0107 (1) (bm), 66.0107 (1) (bp), 173.12 (1m), 289.33
3 (3) (d), 349.02 (2) (b) 4., 961.555 (2) (a), 961.56 (1) and 968.20 (3) (a) and (b); and
4 *to create* 20.435 (6) (gm), 59.54 (25) (b) 2., 59.54 (25) (b) 3., 146.45, 961.01 (5m),
5 961.01 (11v), 961.01 (14c), 961.01 (14g), 961.01 (19m), 961.01 (20hm), 961.01
6 (20ht), 961.01 (20t), 961.01 (21f), 961.01 (21t), 961.436, 961.55 (8) (b), 961.55 (8)
7 (c), 961.55 (8) (d), 961.555 (2) (e), 961.555 (2m), 961.5755, 968.072, 968.12 (5),
8 968.19 (2), 968.20 (1d) and 968.20 (1j) of the statutes; **relating to:** medical use
9 of marijuana, requiring the exercise of rule-making authority, making an
10 appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill makes certain changes to current law with respect to marijuana (also known as tetrahydrocannabinols).

Current prohibitions and penalties

Current law prohibits the manufacture, distribution, and delivery of marijuana and the possession of marijuana with intent to manufacture, distribute, or deliver

ASSEMBLY BILL 550

it. Penalties for violating these prohibitions depend on the amount of marijuana involved. If the crime involves 200 grams or less or four or fewer marijuana plants, the person is guilty of a felony and may be fined up to \$10,000, sentenced to a term of imprisonment of up to three years and six months (which, if the sentence is for more than one year, includes a term of extended supervision), or both. If the crime involves more than 200 grams but not more than 1,000 grams, or more than four plants but not more than 20 plants, the person is guilty of a felony and may be fined up to \$10,000, sentenced to a term of imprisonment of up to six years (which, if the sentence is for more than one year, includes a term of extended supervision), or both. If the crime involves more than 1,000 grams but not more than 2,500 grams, or more than 20 plants but not more than 50 plants, the person is guilty of a felony and may be fined up to \$25,000, sentenced to a term of imprisonment of up to ten years (which, if the sentence is for more than one year, includes a term of extended supervision), or both. If the crime involves more than 2,500 grams but not more than 10,000 grams, or more than 50 plants but not more than 200 plants, the person is guilty of a felony and may be fined up to \$25,000, sentenced to a term of imprisonment of up to 12 years and 6 months (which, if the sentence is for more than one year, includes a term of extended supervision), or both. If the crime involves more than 10,000 grams or more than 200 plants, the person is guilty of a felony and may be fined up to \$50,000, sentenced to a term of imprisonment of up to 15 years (which, if the sentence is for more than one year, includes a term of extended supervision), or both.

Current law also prohibits a person from possessing or attempting to possess marijuana. A person who violates this prohibition and who has no prior drug convictions is guilty of a misdemeanor and may be fined not more than \$1,000, sentenced to the county jail for up to six months, or both. For a second or subsequent offense, a person is guilty of a Class I felony.

Current law also contains certain prohibitions regarding drug paraphernalia, which includes equipment, products, and materials used to produce, distribute, and use controlled substances, including marijuana. Under current law, a person who uses drug paraphernalia or who possesses it with the primary intent to produce, distribute, or use a controlled substance unlawfully (other than methamphetamine) is guilty of a misdemeanor and may be fined not more than \$500, imprisoned for not more than 30 days, or both. A person who delivers drug paraphernalia, possesses it with intent to deliver it, or manufactures it with intent to deliver it, knowing that it will be primarily used to produce, distribute, or use a controlled substance unlawfully (other than methamphetamine), may be fined not more than \$1,000, imprisoned for not more than 90 days, or both.

Medical necessity defense and immunity from arrest and prosecution

This bill establishes a medical necessity defense to marijuana-related prosecutions and property seizure (forfeiture) actions. A person may invoke this defense if he or she is a qualifying patient — that is, someone having or undergoing a debilitating medical condition or treatment. The bill defines a debilitating medical condition or treatment to mean any of the following: 1) cancer, glaucoma, AIDS, a positive HIV test, or the treatment of these conditions; 2) a chronic or debilitating disease or medical condition, or the treatment of such a disease or condition, that

^a
 Crohn's disease, Hepatitis C virus infection, Alzheimer's disease,
 Amyotrophic Lateral Sclerosis, nail patella syndrome,
 Ehlers-Danlos syndrome, post-traumatic stress disorder,

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causes cachexia (wasting away), severe pain, severe nausea, seizures, or severe and persistent muscle spasms; ^{or} 3) any other medical condition or treatment for a medical condition designated as a debilitating medical condition or treatment in rules promulgated by the Department of Health and Family Services (DHFS).

A qualifying patient may invoke this defense if he or she acquires, possesses, cultivates, transports, or uses marijuana to alleviate the symptoms or effects of his or her debilitating medical condition or treatment, but only if no more than the maximum authorized amount of marijuana (that is, ~~one~~ marijuana plants and three ounces — approximately 85 grams — of marijuana leaves or flowers) is involved. If a person has obtained a valid registry identification card from DHFS (see **Registry for medical users of marijuana** below) or has a statement from his or her physician documenting that the person has or is undergoing a debilitating medical condition or treatment and that the potential benefits to the person of using marijuana outweigh the health risks involved (a "written certification"), the person is presumed to have this defense if no more than the maximum authorized amount of marijuana is involved.

The bill also prohibits the arrest or prosecution of a qualifying patient who acquires, possesses, cultivates, transports, or uses marijuana to alleviate the symptoms or effects of his or her debilitating medical condition or treatment if the person possesses a valid registry identification card or a written certification. This prohibition, however, only applies if no more than the maximum authorized amount of marijuana is involved. In addition, the bill prohibits the arrest or prosecution of or the imposition of any penalty on a physician who provides a written certification to a person in good faith.

The defense provided under the bill and the prohibition on arrest and prosecution contained in the bill do not apply if the person possesses or attempts to possess marijuana and if: 1) while under the influence of marijuana, the person drives or operates a motor vehicle; 2) while under the influence of marijuana, the person operates heavy machinery or engages in any other conduct that endangers the health or well-being of another person; or 3) the person smokes marijuana on a bus, at the person's workplace, on school premises, in an adult or juvenile correctional facility or jail, at a public park, beach, or recreation center, or at a youth center. In addition, if the putative qualifying patient is under 18 years of age, the defense provided under the bill and the prohibition on arrest and prosecution contained in the bill apply only if the person's parent, guardian, or legal custodian agrees to serve as a primary caregiver for the person. The bill defines a primary caregiver as a person who is at least 18 years old and who has agreed to be responsible for managing a qualifying patient's medical use of marijuana.

The defense provided under the bill and the prohibition on arrest and prosecution contained in the bill also apply to a primary caregiver for any qualifying patient (regardless of the qualifying patient's age), if the primary caregiver acquires, possesses, cultivates, transfers, or transports marijuana to facilitate the qualifying patient's medical use of it. The defense and the prohibition apply to the primary caregiver only if it is not practicable for the qualifying patient to acquire, possess, cultivate, or transport marijuana independently or if the qualifying patient is under

a valid out-of-state registry identification card

12

or a valid out-of-state registry identification card

ASSEMBLY BILL 550

18.✓ The defense and the prohibition apply also to offenses involving drug paraphernalia if the qualifying patient uses the drug paraphernalia for the medical use of marijuana.✓

Registry for medical users of marijuana

The bill requires DHS to establish a registry for medical users of marijuana. Under the bill, a person claiming to be a qualifying patient may apply for a registry identification card by submitting to DHS a signed application, accompanied by a written certification and a registration fee of not more than \$150. DHS must then verify the information. If it is complete and correct, DHS must issue the person a registry identification card. A qualifying patient and one of his or her primary caregivers may also jointly apply for a registry identification card for the primary caregiver. DHS may not disclose that it has issued to a person a registry identification card, or information from an application for one, except to a law enforcement agency for the purpose of verifying that a person possesses a valid registry identification card. A registry identification card is valid for one year, unless revoked sooner by DHS based on a change of circumstances, and may be renewed. INS A ✓

Effect on federal law

This bill changes state law regarding marijuana. It does not affect federal law, which generally prohibits persons from manufacturing, delivering, or possessing marijuana and applies to both intrastate and interstate violations.

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.

For further information see the *state and local* 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:

(1)

SECTION 1. 20.435 (b) of the statutes is created to read:

(2)

20.435 (b) *Medical marijuana registry.* All moneys received from applicants, as defined in s. 146.45 (1) (a), as fees under s. 146.45 (2) (a) 4., for the purposes of the Medical Marijuana Registry Program under s. 146.45.

5

SECTION 2. 59.54 (25) of the statutes is renumbered 59.54 (25) (a) and amended

6

to read:

ASSEMBLY BILL 550

1 59.54 (25) (a) The board may enact and enforce an ordinance to prohibit the
2 possession of 25 grams or less of marijuana, as defined in s. 961.01 (14), subject to
3 par. (b) and the exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a
4 violation of the ordinance; ~~except that any person who is charged with possession of~~
5 ~~more than 25 grams of marijuana, or who is charged with possession of any amount~~
6 ~~of marijuana following a conviction for possession of marijuana, in this state shall~~
7 ~~not be prosecuted under this subsection.~~ Any ordinance enacted under this
8 paragraph shall provide a person who is prosecuted under it with the defenses that
9 the person has under s. 961.436 to prosecutions under s. 961.41 (1) (h), (1m) (h), or
10 (3g) (e).

11 (b) 1. Any ordinance enacted under ~~this subsection~~ par. (a) applies in every
12 municipality within the county.

13 **SECTION 3.** 59.54 (25) (b) ~~2.~~ of the statutes is created to read:

14 59.54 (25) (b) 2. A person may not be prosecuted under an ordinance enacted
15 under par. (a) if, under s. 968.072 (2), the person would not be subject to prosecution
16 under s. 961.41 (3g) (e).

17 **SECTION 4.** 59.54 (25) (b) ~~3.~~ of the statutes is created to read:

18 59.54 (25) (b) 3. No person who is charged with possession of more than ~~25~~
19 grams of marijuana, or who is charged with possession of any amount of marijuana
20 following a conviction for possession of marijuana, in this state may be prosecuted
21 under an ordinance enacted under par. (a).

22 **SECTION 5.** 59.54 (25m) of the statutes is amended to read:

23 59.54 (25m) DRUG PARAPHERNALIA. The board may enact an ordinance to
24 prohibit conduct that is the same as that prohibited by s. 961.573 (1) or (2), 961.574
25 (1) or (2), or 961.575 (1) or (2) and provide a forfeiture for violation of the ordinance.

ASSEMBLY BILL 550

SECTION 5

1 Any ordinance enacted under this ✓ subsection shall provide a person prosecuted
2 under it with the defenses that the person has under s. ✓ 961.5755 to prosecutions
3 under s. 961.573 (1). ✓ 961.574 (1). ✓ or 961.575 (1). ✓ A person may not be prosecuted
4 under an ordinance enacted under this subsection if, under s. 968.072 (3). ✓ the person
5 would not be subject to prosecution under s. 961.573 (1). ✓ 961.574 (1). ✓ or 961.575 (1).

6 The board may enforce an ordinance enacted under this subsection in any
7 municipality within the county.

8 **SECTION 6.** 66.0107 (1) (bm) ✓ of the statutes is amended to read:

9 66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of
10 25 grams or less of marijuana, as defined in s. 961.01 (14), subject to ✓ this paragraph
11 and the exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation
12 of the ordinance; except that any. ✓ Any ordinance enacted under this paragraph shall
13 provide a person prosecuted under it with the defenses that the person has under s.
14 961.436 ✓ to prosecutions under s. 961.41 (1) (h). ✓ (1m) (h). ✓ or (3g) (e). ✓ A person may not
15 be prosecuted under an ordinance enacted under this paragraph ✓ if, under s. 968.072
16 (2). ✓ the person would not be subject to prosecution under s. 961.41 ✓ (3g) (e). No person
17 who is charged with possession of more than 25 grams of marijuana, or who is
18 charged with possession of any amount of marijuana following a conviction for
19 possession of marijuana, in this state shall not ✓ may be prosecuted under this
20 paragraph.

21 **SECTION 7.** 66.0107 (1) (bp) ✓ of the statutes is amended to read:

22 66.0107 (1) (bp) Enact and enforce an ordinance to prohibit conduct that is the
23 same as that prohibited by s. 961.573 (1) or (2), 961.574 (1) or (2), or 961.575 (1) or
24 (2) and provide a forfeiture for violation of the ordinance. Any ordinance enacted
25 under this paragraph ✓ shall provide a person prosecuted under it with the defenses

ASSEMBLY BILL 550

1 that the person has under s. 961.5755 to prosecutions under s. 961.573 (1), 961.574
2 (1) or 961.575 (1). A person may not be prosecuted under an ordinance enacted
3 under this paragraph if, under s. 968.072 (3), the person would not be subject to
4 prosecution under s. 961.573 (1), 961.574 (1) or 961.575 (1).

5 SECTION 8. 146.45 of the statutes is created to read:

6 146.45 Medical Marijuana Registry Program. (1) DEFINITIONS. In this
7 section:

8 (a) "Applicant" means a person who is applying for a registry identification card
9 under sub. (2) (a).

10 (b) "Debilitating medical condition or treatment" has the meaning given in s.
11 961.01 (5m).

12 (c) "Medical use of tetrahydrocannabinols" has the meaning given in s. 961.01
13 (14g).

14 (d) "Primary caregiver" has the meaning given in s. 961.01 (19m).

15 (e) "Qualifying patient" has the meaning given in s. 961.01 (20hm).

16 (f) "Registrant" means a person to whom a registry identification card is issued
17 under sub. (4).

18 (g) "Registry identification card" means a document issued by the department
19 under this section that identifies a person as a qualifying patient or primary
20 caregiver.

21 (h) "Written certification" has the meaning given in s. 961.01 (21t).

22 (2) APPLICATION. (a) An adult who is claiming to be a qualifying patient may
23 apply for a registry identification card by submitting to the department a signed
24 application form containing or accompanied by all of the following:

- 25 1. His or her name, address, and date of birth.

INS
7-14

ASSEMBLY BILL 550

SECTION 8

1 2. A written certification.✓

2 3. The name, address, and telephone number✓ of the person's current physician,
3 as listed in the written certification.✓

4 4. A registration fee in an amount determined by the department, but not to
5 exceed \$150.✓

6 (b) A qualifying patient who is an adult and who has been issued a registry
7 identification card under sub. (4)✓ or an applicant may jointly apply with another
8 adult to the department for a registry identification card✓ for the other adult,
9 designating him or her as a primary caregiver✓ for the qualifying patient or the
10 applicant. Both persons who jointly apply for a registry identification card under this
11 paragraph✓ shall sign the application form, which shall contain the name, address,
12 and date of birth✓ of the individual applying to be registered as a primary caregiver.✓

13 (c) The department shall promulgate rules✓ specifying how a parent, guardian,
14 or person having legal custody of a child may apply for a registry identification card
15 for himself or herself and for the child and the circumstances under which the
16 department may approve or deny the application.✓

17 **(3) PROCESSING THE APPLICATION.**✓ The department shall verify the information
18 contained in or accompanying an application submitted under sub. (2)✓ and shall
19 approve or deny the application within 30✓ days after receiving it. Except as provided
20 in sub. (2) (c)✓, the department may deny an application submitted under sub. (2)✓ only
21 if the required information has not been provided or if false information has been
22 provided.✓

23 **(4) ISSUING A REGISTRY IDENTIFICATION CARD.**✓ The department shall issue a
24 registry identification card within 5✓ days after approving an application under sub.

25 (3). Unless voided under sub. (5) (b)✓ or (c)✓ or revoked under rules issued by the

ASSEMBLY BILL 550

1 department under sub. (7) (d), a registry identification card shall expire one year
2 from the date of issuance. A registry identification card shall contain all of the
3 following:

4 (a) The name, address, and date of birth of all of the following:

5 1. The registrant.

6 2. The primary caregivers, if the registrant is a qualifying patient.

7 3. The qualifying patient, if the registrant is a primary caregiver.

8 (b) The date of issuance and expiration date of the registry identification card.

9 (c) A photograph of the registrant.

10 (d) Other information that the department may require by rule.

11 (5) ADDITIONAL INFORMATION TO BE PROVIDED BY REGISTRANT. (a) 1. An adult

12 registrant shall notify the department of any change in the registrant's name and

13 address. An adult registrant who is a qualifying patient shall notify the department

14 of any change in his or her physician, of any significant improvement in his or her

15 health as it relates to his or her debilitating medical condition or treatment, and if

16 a registered primary caregiver no longer assists the registrant with the medical use

17 of tetrahydrocannabinols.

18 2. If a qualifying patient is a child, a primary caregiver for the child shall

19 provide the department with any information that the child, if he or she were an

20 adult, would have to provide under subd. 1. within 10 days after the date of the

21 change to which the information relates.

22 (b) If a registrant fails to notify the department within 10 days after any change

23 for which notification is required under par. (a) 1., his or her registry identification

24 card is void. If a registrant fails to comply with par. (a) 2., the registry identification

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SECTION 8

1 card[✓] for the qualifying patient to whom the information under par.[✓](a) 2. relates is
2 void.

3 (c) If a qualifying patient's registry identification card becomes void under par.
4 (b),[✓] the registry identification card for each of the qualifying patient's primary
5 caregivers is void. The department shall send written notice of this fact to each such
6 primary caregiver.[✓]

7 **(6) RECORDS.**[✓] (a) The department shall maintain a list of all registrants.[✓]

8 (b) Notwithstanding s. 19.35[✓] and except as provided in par.[✓](c), the department
9 may not disclose information from an application submitted or a registry
10 identification card issued under this section.[✓]

11 (c) The department may disclose to[✓] state or local law enforcement agencies
12 information from an application submitted by, or from a registry identification card
13 issued to, a specific person under this section,[✓] for the purpose of verifying that the
14 person possesses a valid registry identification card.[✓]

15 **(7) RULES.**[✓] The department shall promulgate rules to implement this[✓] section,
16 including the rules required under sub. (2) (c)[✓] and rules doing all of the following:

17 (a) Creating forms for applications to be used under sub. (2).[✓]

18 (b) Specifying how the department will verify the truthfulness of information
19 submitted on an application under sub. (2).[✓]

20 (c) Specifying how and under what circumstances registry identification cards
21 may be renewed.[✓]

22 (d) Specifying how and under what changed circumstances a registry
23 identification card may be revoked.[✓]

24 (e) Specifying under what circumstances a person whose application for a
25 registry identification card is denied may reapply.[✓]

INS
10-25
→

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1 SECTION 9. 173.12 (1m)^x of the statutes is amended to read:

2 173.12 (1m) If an animal has been seized because it is alleged that the animal
3 has been used in or constitutes evidence of any crime specified in s. 951.08, the
4 animal may not be returned to the owner by an officer under s. 968.20 (2). In any
5 hearing under s. 968.20 (1) (1f)[✓], the court shall determine if the animal is needed as
6 evidence or there is reason to believe that the animal has participated in or been
7 trained for fighting. If the court makes such a finding, the animal shall be retained
8 in custody.

9 SECTION 10. 289.33 (3) (d)^x of the statutes is amended to read:

10 289.33 (3) (d) “Local approval” includes any requirement for a permit, license,
11 authorization, approval, variance or exception or any restriction, condition of
12 approval or other restriction, regulation, requirement or prohibition imposed by a
13 charter ordinance, general ordinance, zoning ordinance, resolution or regulation by
14 a town, city, village, county or special purpose district, including without limitation
15 because of enumeration any ordinance, resolution or regulation adopted under s.
16 59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2), (5), (6), (7), (8), (9),
17 (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26) and (27),
18 59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19), (20) and (23),
19 59.535 (2), (3) and (4), 59.54 (1), (2), (3), (4), (4m), (5), (6), (7), (8), (10), (11), (12), (16),
20 (17), (18), (19), (20), (21), (22), (23), (24), (25) (a)[✓] and (26), 59.55 (3), (4), (5) and (6),
21 59.56 (1), (2), (4), (5), (6), (7), (9), (10), (11), (12), (12m), (13) and (16), 59.57 (1), 59.58
22 (1) and (5), 59.62, 59.69, 59.692, 59.693, 59.696, 59.697, 59.698, 59.70 (1), (2), (3), (5),
23 (7), (8), (9), (10), (11), (21), (22) and (23), 59.79 (1), (2), (3), (4)[✓] (5), (6), (7), (8), (10) and
24 (11), 59.792 (2) and (3), 59.80, 59.82, 60.10, 60.22, 60.23, 60.54, 60.77, 61.34, 61.35,

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SECTION 10

1 61.351, 61.354, 62.11, 62.23, 62.231, 62.234, 66.0101, 66.0415, 87.30, 91.73, 196.58,
2 200.11 (8), 236.45, 281.43 or 349.16 or subch. VIII of ch. 60.

3 SECTION 11. 349.02 (2) (b) 4. of the statutes is amended to read:

4 349.02 (2) (b) 4. Local ordinances enacted under s. 59.54 (25) (a) or (25m) or
5 66.0107 (1) (bm).

INS
12-6-07
12-6

6 SECTION 12. 961.01 (5m) of the statutes is created to read:

7 961.01 (5m) "Debilitating medical condition or treatment" means any of the
8 following:

9 (a) Cancer, glaucoma, acquired immunodeficiency syndrome, a positive test for
10 the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV,
11 or the treatment of these conditions.

INS
12-10

12 (b) A chronic or debilitating disease or medical condition or the treatment of
13 such a disease or condition that causes cachexia, severe pain, severe nausea,
14 seizures, or severe and persistent muscle spasms.

INS 12-14 A
INS 12-14 B

15 (c) Any other medical condition or any other treatment for a medical condition
16 designated as a debilitating medical condition or treatment in rules promulgated by
17 the department of health and family services under s. 961.436 (5).

18 SECTION 13. 961.01 (11v) of the statutes is created to read:

19 961.01 (11v) "HIV" means any strain of human immunodeficiency virus, which
20 causes acquired immunodeficiency syndrome.

21 SECTION 14. 961.01 (14c) of the statutes is created to read:

22 961.01 (14c) "Maximum authorized amount" means live marijuana plants
23 and 3 ounces of usable marijuana.

INS
12-21

12
g

24 SECTION 15. 961.01 (14g) of the statutes is created to read:

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1 961.01 (14g) "Medical use of tetrahydrocannabinols" means any of the
2 following:

3 (a) The use of tetrahydrocannabinols by a qualifying patient to alleviate the
4 symptoms or effects of the qualifying patient's debilitating medical condition or
5 treatment.

6 (b) The acquisition, possession, cultivation, or transportation of
7 tetrahydrocannabinols by a qualifying patient if done to facilitate his or her use of
8 the tetrahydrocannabinols under par. (a).

9 (c) The acquisition, possession, cultivation, or transportation of
10 tetrahydrocannabinols by a primary caregiver of a qualifying patient, the transfer
11 of tetrahydrocannabinols between a qualifying patient and his or her primary
12 caregivers, or the transfer of tetrahydrocannabinols between persons who are
13 primary caregivers for the same qualifying patient if all of the following apply:

14 1. The acquisition, possession, cultivation, transportation, or transfer of the
15 tetrahydrocannabinols is done to facilitate the qualifying patient's use of
16 tetrahydrocannabinols under par. (a) or (b).

17 2. It is not practicable for the qualifying patient to acquire, possess, cultivate,
18 or transport the tetrahydrocannabinols independently, or the qualifying patient is
19 under 18 years of age.

✓ IWS
13-20 →

20 **SECTION 16.** 961.01 (19m) of the statutes is created to read:

21 961.01 (19m) "Primary caregiver" means a person who is at least 18 years of
22 age and who has agreed to help a qualifying patient in his or her medical use of
23 tetrahydrocannabinols.

24 **SECTION 17.** 961.01 (20hm) of the statutes is created to read:

ASSEMBLY BILL 550**SECTION 17**

1 961.01 (20hm) “Qualifying patient”[✓] means a person who has been diagnosed
2 by a physician as having or undergoing a debilitating medical condition or treatment
3 but does not include a person under the age of 18[✓] years unless all of the following
4 apply:

5 (a) The person’s physician has explained the potential risks and benefits of the
6 medical use of tetrahydrocannabinols to the person and to a parent, guardian, or
7 person having legal custody of the person.[✓]

8 (b) The parent, guardian, or person having legal custody provides the physician
9 a written statement consenting to do all of the following:

- 10 1. Allow the person’s medical use of tetrahydrocannabinols.[✓]
- 11 2. Serve as a primary caregiver for the person.[✓]
- 12 3. Manage the person’s medical use of tetrahydrocannabinols.[✓]

13 **SECTION 18.** 961.01 (20ht)[✓] of the statutes is created to read:

14 961.01 (20ht) “Registry identification card” has the meaning given in s. 146.45

15 (1) (g).

16 **SECTION 19.** 961.01 (20t)[✓] of the statutes is created to read:

17 961.01 (20t) “Treatment team”[✓] means a qualifying patient and his or her
18 primary caregivers.[✓]

19 **SECTION 20.** 961.01 (21f)[✓] of the statutes is created to read:

20 961.01 (21f) “Usable marijuana”[✓] means dried marijuana leaves or flowers but
21 does not include marijuana seeds, stalks, or roots.

22 **SECTION 21.** 961.01 (21t)[✓] of the statutes is created to read:

23 961.01 (21t) “Written certification” means a statement made by a person’s
24 physician if all of the following apply:[✓]

ASSEMBLY BILL 550

1 (a) The statement indicates that, in the physician's professional opinion, the
2 person has or is undergoing a debilitating medical condition or treatment ✓ and the
3 potential benefits of the person's use of tetrahydrocannabinols under sub. ✓ (14g) (a)
4 would likely outweigh the health risks for the person. ✓

5 (b) The statement indicates that the opinion described in par. ✓ (a) was formed
6 after a full assessment, made in the course of a bona fide ✓ physician-patient
7 relationship, of the person's medical history and current medical condition.

8 (c) The statement is signed by the physician or is contained in the person's
9 medical records.

10 SECTION 22. 961.436 ✓ of the statutes is created to read:

11 **961.436 Medical use defense in cases involving**
12 **tetrahydrocannabinols.** ✓ (1) A member of a qualifying patient's ✓ treatment team
13 has a defense to prosecution under s. 961.41 (1) (h) ✓ or (1m) (h) ✓ for manufacturing, or
14 possessing with intent to manufacture, ✓ tetrahydrocannabinols if all of the following
15 apply: ✓

16 (a) The manufacture or possession is a ✓ medical use of tetrahydrocannabinols
17 by the treatment team. ✓

18 (b) The amount of tetrahydrocannabinols does not exceed the maximum
19 authorized amount. ✓

20 (2) A member of a qualifying patient's treatment team has a defense to
21 prosecution under s. 961.41 (1) (h) ✓ or (1m) (h) ✓ for distributing or delivering, ✓ or
22 possessing with intent to distribute or deliver, tetrahydrocannabinols to another
23 member of the treatment team if all of the following apply: ✓

24 (a) The distribution, delivery, or possession ✓ is a medical use of
25 tetrahydrocannabinols by the treatment team. ✓

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15-20 ✓

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SECTION 22

1 (b) The amount of tetrahydrocannabinols does not exceed the maximum
2 authorized amount. ✓

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16-3 ✓

3 (3) (a) Except as provided in par. (b), a member of a qualifying patient's
4 treatment team has a defense to a prosecution under s. 961.41 (3g) (e) if all of the
5 following apply: ✓

6 1. The possession or attempted possession is a medical use of
7 tetrahydrocannabinols by the treatment team. ✓

8 2. The amount of tetrahydrocannabinols does not exceed the maximum
9 authorized amount. ✓

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16-10 ✓

10 (b) A person may not assert the defense described in par. (a) if, while he or she
11 possesses or attempts to possess tetrahydrocannabinols, any of the following applies: ✓

12 1. The person drives or operates a motor vehicle while under the influence of
13 tetrahydrocannabinols in violation of s. 346.63 (1) or a local ordinance in conformity
14 with s. 346.63 (1). ✓

15 2. While under the influence of tetrahydrocannabinols, the person operates
16 heavy machinery or engages in any other conduct that endangers the health or
17 well-being of another person. ✓

18 3. The person smokes marijuana in, on, or at any of the following places: ✓

19 a. A school bus or a public transit vehicle. ✓

20 b. The person's place of employment. ✓

21 c. Public or private school premises. ✓

22 d. A juvenile correctional facility. ✓

23 e. A jail or adult correctional facility. ✓

24 f. A public park, beach, or recreation center. ✓

25 g. A youth center. ✓

✓ a valid out-of-state registry identification card ✓

1 (4) For the purposes of a defense raised under sub. (1), (2), or (3) (a), a valid
2 registry identification card or a written certification is presumptive evidence that the
3 person identified on the card as a qualifying patient or the subject of the written
4 certification is a qualifying patient and that, if the person uses
5 tetrahydrocannabinols, he or she does so to alleviate the symptoms or effects of his
6 or her debilitating medical condition or treatment. ✓

7 (5) Notwithstanding s. 227.12 (1), any person may petition the department of
8 health and family services to promulgate a rule to designate a medical condition or
9 treatment as a debilitating medical condition or treatment. ✓ The department of
10 health and family services shall promulgate rules providing for public notice of and
11 a public hearing regarding any such petition, with the public hearing providing
12 persons an opportunity to comment upon the petition. After the hearing, but no later
13 than 180 days after the submission of the petition, the department of health and
14 family services shall approve or deny the petition. The department's decision to
15 approve or deny a petition is subject to judicial review under s. 227.52. ✓

16 SECTION 23. 961.55 (8) of the statutes is renumbered 961.55 (8) (intro.) and ✓
17 amended to read:

18 961.55 (8) (intro.) The failure, upon demand by any officer or employee
19 designated in s. 961.51 (1) or (2), of the person in occupancy or in control of land or
20 premises upon which the species of plants are growing or being stored, to produce an
21 any of the following constitutes authority for the seizure and forfeiture of the plants:

22 (a) An appropriate federal registration, or proof that the person is the holder
23 thereof, ~~constitutes authority for the seizure and forfeiture of the plants.~~

24 SECTION 24. 961.55 (8) (b) of the statutes is created to read:

25 961.55 (8) (b) A valid registry identification card.

or a valid out-of-state registry identification card ✓

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SECTION 25

1 **SECTION 25.** 961.55 (8) (c) of the statutes is created to read:

2 961.55 **(8)** (c) The person's written certification, if the person is a qualifying
3 patient.✓

4 **SECTION 26.** 961.55 (8) (d) of the statutes is created to read:

5 961.55 **(8)** (d) A written certification for a qualifying patient for whom the
6 person is a primary caregiver.✓

7 **SECTION 27.** 961.555 (2) (a) of the statutes is amended to read:

8 961.555 **(2)** (a) The Except as provided in par. (e).✓ the district attorney of the
9 county within which the property was seized shall commence the forfeiture action
10 within 30 days after the seizure of the property, ~~except that the defendant may~~
11 ~~request that the forfeiture proceedings be adjourned until after adjudication of any~~
12 ~~charge concerning a crime which was the basis for the seizure of the property. The~~
13 ~~request shall be granted.~~✓ The forfeiture action shall be commenced by filing a
14 summons, complaint and affidavit of the person who seized the property with the
15 clerk of circuit court, provided service of authenticated copies of those papers is made
16 in accordance with ch. 801 within 90 days after filing upon the person from whom
17 the property was seized and upon any person known to have a bona fide perfected
18 security interest in the property.

19 **SECTION 28.** 961.555 (2) (e)✓ of the statutes is created to read:

20 961.555 **(2)** (e) The court shall adjourn forfeiture proceedings until after
21 adjudication of any charge concerning a crime that was the basis for the seizure of
22 the property if any of the following applies:✓

- 23 1. The defendant requests an adjournment.✓
- 24 2. The defendant invokes a defense to the crime under s. 961.436✓ or 961.5755.✓

25 **SECTION 29.** 961.555 (2m) of the statutes is created to read:

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1 961.555 (2m) MEDICAL NECESSITY DEFENSE. (a) In an action to forfeit property
2 seized under s. 961.55, the person who was in possession of the property when it was
3 seized has a defense to the forfeiture of the property if any of the following applies:

4 1. The person was prosecuted under s. 961.41 (1) (h), (1m) (h) or (3g) (e),
5 961.573 (1), 961.574 (1) or 961.575 (1) in connection with the seized property but had
6 a valid defense under s. 961.436 (1), (2) or (3) (a) or 961.5755 (1) (a) or (2).

7 2. The person was not prosecuted under s. 961.41 (1) (h), (1m) (h) or (3g) (e),
8 961.573 (1), 961.574 (1) or 961.575 (1) in connection with the seized property, but,
9 if the person had been, he or she would have had a valid defense under s. 961.436 (1),
10 (2) or (3) (a) or 961.5755 (1) (a) or (2).

11 (b) The owner of property seized under s. 961.55 who is raising a defense under
12 par. (a) shall do so in the answer to the complaint that he or she serves under sub.
13 (2) (b). If a property owner raises such a defense in his or her answer, the state must,
14 as part of the burden of proof specified in sub. (3), prove that the facts constituting
15 the defense do not exist.

16 SECTION 30. 961.56 (1) of the statutes is amended to read:

17 961.56 (1) It Except as provided in s. 961.555 (2m) (b) and except for any
18 presumption arising under s. 961.436 (4) or 961.5755 (3), it is not necessary for the
19 state to negate any exemption or exception in this chapter in any complaint,
20 information, indictment or other pleading or in any trial, hearing or other proceeding
21 under this chapter. ~~The, and the~~ burden of proof of any exemption or exception is
22 upon the person claiming it.

23 SECTION 31. 961.5755 of the statutes is created to read:

24 **961.5755 Medical use of marijuana defense in drug paraphernalia**
25 **cases.** (1) (a) Except as provided in par. (b), a member of a treatment team has a

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SECTION 31

1 defense to prosecution under s. 961.573 (1) if he or she uses, or possesses with the
2 primary intent to use, drug paraphernalia only for the medical use of
3 tetrahydrocannabinols by the treatment team.

4 (b) This subsection does not apply if while the person uses, or possesses with
5 the primary intent to use, drug paraphernalia s. 961.436 (3) (b) 1., 2., or 3. applies.

6 (2) A member of a treatment team has a defense to prosecution under s. 961.574
7 (1) or 961.575 (1) if he or she delivers, possesses with intent to deliver, or
8 manufactures with intent to deliver to another member of his or her treatment team
9 drug paraphernalia, knowing that it will be primarily used for the medical use of
10 tetrahydrocannabinols by the treatment team.

11 (3) For the purposes of a defense raised under sub. (1) (a) or (2), a valid registry
12 identification card issued or a written certification is presumptive evidence that the
13 person identified on the valid registry identification card as a qualifying patient or
14 the subject of the written certification is a qualifying patient and that, if the person
15 uses tetrahydrocannabinols, he or she does so to alleviate the symptoms or effects of
16 his or her debilitating medical condition or treatment.

17 SECTION 32. 968.072 of the statutes is created to read:

18 968.072 Medical use of marijuana; arrest and prosecution. (1)

19 DEFINITIONS. In this section:

20 (a) "Maximum authorized amount" has the meaning given in s. 961.01 (14c).

21 (b) "Medical use of tetrahydrocannabinols" has the meaning given in s. 961.01

22 (14g).

23 (c) "Primary caregiver" has the meaning given in s. 961.01 (19m).

24 (d) "Qualifying patient" has the meaning given in s. 961.01 (20hm).

25 (e) "Registry identification card" has the meaning given in s. 146.45 (1) (g).

(bm) "Out-of-state registry identification card" has the meaning given in s. 146.45 (1) (cm).

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MANE

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a valid out-of-state registry identification card

or valid out-of-state registry identification card

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1 (f) "Treatment team" has the meaning given in s. 961.01 (20t).

2 (g) "Written certification" has the meaning given in s. 961.01 (21t).

3 (2) LIMITATIONS ON ARRESTS AND PROSECUTION; MEDICAL USE OF MARIJUANA. Unless
4 s. 961.436 (3) (b) 1., 2., or 3. applies, a member of a qualifying patient's treatment
5 team may not be arrested or prosecuted for a violation of s. 961.41 (1) (h), (1m) (h),
6 or (3g) (e) if all of the following apply:

7 (a) The person manufactures, distributes, delivers, or possesses
8 tetrahydrocannabinols for their medical use by the treatment team.

9 (b) The person possesses a valid registry identification card or a copy of the
10 qualifying patient's written certification.

11 (c) The quantity of tetrahydrocannabinols does not exceed the maximum
12 authorized amount.

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21-13

13 (3) LIMITATIONS ON ARRESTS AND PROSECUTION; DRUG PARAPHERNALIA FOR MEDICAL
14 USE OF MARIJUANA. (a) Unless s. 961.436 (3) (b) 1., 2., or 3. applies, a member of a
15 treatment team may not be arrested or prosecuted for a violation of s. 961.573 (1) if
16 all of the following apply:

17 1. The person uses, or possesses with the primary intent to use, drug
18 paraphernalia only for the medical use of tetrahydrocannabinols by the treatment
19 team.

20 2. The person possesses a valid registry identification card or a copy of the
21 qualifying patient's written certification.

22 3. The person does not possess more than the maximum authorized amount of
23 tetrahydrocannabinols.

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a valid out-of-state
registry
identification
card

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SECTION 32

1 (b) Unless s. 961.436 (3) (b) 1., 2., or 3. applies, a member of a treatment team
2 may not be arrested or prosecuted for a violation of s. 961.574 (1) or 961.575 (1) if all
3 of the following apply:

4 1. The person delivers, possesses with intent to deliver, or manufactures with
5 intent to deliver to another member of his or her treatment team drug paraphernalia,
6 knowing that it will be primarily used for the medical use of tetrahydrocannabinols
7 by the treatment team.

Handwritten note: a valid out-of-state registry identification card,

8 2. The person possesses a valid registry identification card or a copy of the
9 qualifying patient's written certification.

10 3. The person does not possess more than the maximum authorized amount of
11 tetrahydrocannabinols.

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12 (4) LIMITATIONS ON ARRESTS, PROSECUTION, AND OTHER SANCTIONS; PHYSICIANS. A
13 physician may not be arrested and a physician, hospital, or clinic may not be subject
14 to prosecution, denied any right or privilege, or penalized in any manner for making
15 or providing a written certification in good faith.

16 (5) PENALTY FOR FALSE STATEMENTS. Whoever intentionally provides false
17 information to a law enforcement officer in an attempt to avoid arrest or prosecution
18 under this section for a violation of s. 961.41 (1) (h), (1m) (h), or (3g) (e), 961.573 (1),
19 961.574 (1), or 961.575 (1) may be fined not more than \$500.

20 SECTION 33. 968.12 (5) of the statutes is created to read:

21 968.12 (5) MEDICAL USE OF MARIJUANA. A person's possession, use, or submission
22 of or connection with an application for a registry identification card under s. 146.45
23 (2), the issuance of such a card under s. 146.45 (4), or a person's possession of such
24 a card or an original or a copy of a written certification, as defined in s. 961.01 (21t),

Handwritten note: a valid out-of-state registry identification card, as defined in s. ~~146.45~~ 146.45 (1) (cm),

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1 may not, by itself, constitute probable cause under sub. (1) or otherwise subject any
2 person or the property of any person to inspection by any governmental agency.

3 SECTION 34. 968.19 of the statutes is renumbered 968.19 (1) and amended to
4 read:

5 968.19 (1) Property Except as provided in sub. (2). property seized under a
6 search warrant or validly seized without a warrant shall be safely kept by the officer,
7 who may leave it in the custody of the sheriff and take a receipt therefor, so long as
8 necessary for the purpose of being produced as evidence on any trial.

9 SECTION 35. 968.19 (2) of the statutes is created to read:

10 968.19 (2) A law enforcement agency that has seized a live marijuana plant is
11 not responsible for the plant's care and maintenance.

12 SECTION 36. 968.20 (1) of the statutes is renumbered 968.20 (1f), and 968.20
13 (1f) (intro.), as renumbered, is amended to read:

14 968.20 (1f) (intro.) Any person claiming the right to possession of property
15 seized pursuant to a search warrant or seized without a search warrant may apply
16 for its return to the circuit court for the county in which the property was seized or
17 where the search warrant was returned. The court shall order such notice as it
18 deems adequate to be given the district attorney and all persons who have or may
19 have an interest in the property and shall hold a hearing to hear all claims to its true
20 ownership. If Except as provided in sub. (1j), if the right to possession is proved to
21 the court's satisfaction, it shall order the property, ~~other than contraband or property~~
22 ~~covered under sub. (1m) or (1r) or s. 173.12, 173.21 (4), or 968.205,~~ returned if:

23 SECTION 37. 968.20 (1d) of the statutes is created to read:

24 968.20 (1d) In this section:

25 (a) "Drug paraphernalia" has the meaning given in s. 961.571 (1) (a).

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1 (b) "Tetrahydrocannabinols" means a substance included in s. 961.14 (4) (t).

2 SECTION 38. 968.20 (1j) of the statutes is created to read:

3 968.20 (1j) (a) Except as provided in par. (b), sub. (1f) does not apply to
4 contraband or property covered under sub. (1m) or (1r) or s. 173.12, 173.21 (4), or
5 968.205.

6 (b) Under sub. (1f), the court may return drug paraphernalia or
7 tetrahydrocannabinols that have been seized to the person from whom they were
8 seized if any of the following applies:

9 1. The person was prosecuted under s. 961.41 (1) (h), (1m) (h), or (3g) (e),
10 961.573 (1), 961.574 (1), or 961.575 (1) in connection with the seized property but had
11 a valid defense under s. 961.436 (1), (2), or (3) (a) or 961.5755 (1) (a) or (2).

12 2. The person was not prosecuted under s. 961.41 (1) (h), (1m) (h), or (3g) (e),
13 961.573 (1), 961.574 (1), or 961.575 (1) in connection with the seized property, but,
14 if the person had been, he or she would have had a valid defense under s. 961.436 (1),
15 (2), or (3) (a) or 961.5755 (1) (a) or (2).

16 SECTION 39. 968.20 (3) (a) and (b) of the statutes are amended to read:

17 968.20 (3) (a) First class cities shall dispose of dangerous weapons or
18 ammunition seized 12 months after taking possession of them if the owner,
19 authorized under sub. (1m), has not requested their return and if the dangerous
20 weapon or ammunition is not required for evidence or use in further investigation
21 and has not been disposed of pursuant to a court order at the completion of a criminal
22 action or proceeding. Disposition procedures shall be established by ordinance or
23 resolution and may include provisions authorizing an attempt to return to the
24 rightful owner any dangerous weapons or ammunition which appear to be stolen or
25 are reported stolen. If enacted, any such provision shall include a presumption that

ASSEMBLY BILL 550

1 if the dangerous weapons or ammunition appear to be or are reported stolen an
2 attempt will be made to return the dangerous weapons or ammunition to the
3 authorized rightful owner. If the return of a seized dangerous weapon other than a
4 firearm is not requested by its rightful owner under sub. ~~(1)~~ [✓] (1f) and is not returned
5 by the officer under sub. (2), the city shall safely dispose of the dangerous weapon or,
6 if the dangerous weapon is a motor vehicle, as defined in s. 340.01 (35), sell the motor
7 vehicle following the procedure under s. 973.075 (4) or authorize a law enforcement
8 agency to retain and use the motor vehicle. If the return of a seized firearm or
9 ammunition is not requested by its authorized rightful owner under sub. ~~(1)~~ [✓] (1f) and
10 is not returned by the officer under sub. (2), the seized firearm or ammunition shall
11 be shipped to and become property of the state crime laboratories. A person
12 designated by the department of justice may destroy any material for which the
13 laboratory has no use or arrange for the exchange of material with other public
14 agencies. In lieu of destruction, shoulder weapons for which the laboratories have
15 no use shall be turned over to the department of natural resources for sale and
16 distribution of proceeds under s. 29.934 or for use under s. 29.938.

17 (b) Except as provided in par. (a) or sub. (1m) or (4), a city, village, town or
18 county or other custodian of a seized dangerous weapon or ammunition, if the
19 dangerous weapon or ammunition is not required for evidence or use in further
20 investigation and has not been disposed of pursuant to a court order at the
21 completion of a criminal action or proceeding, shall make reasonable efforts to notify
22 all persons who have or may have an authorized rightful interest in the dangerous
23 weapon or ammunition of the application requirements under sub. ~~(1)~~ [✓] (1f). If, within
24 30 days after the notice, an application under sub. ~~(1)~~ [✓] (1f) is not made and the seized
25 dangerous weapon or ammunition is not returned by the officer under sub. (2), the

ASSEMBLY BILL 550**SECTION 39**

1 city, village, town or county or other custodian may retain the dangerous weapon or
2 ammunition and authorize its use by a law enforcement agency, except that a
3 dangerous weapon used in the commission of a homicide or a handgun, as defined
4 in s. 175.35 (1) (b), may not be retained. If a dangerous weapon other than a firearm
5 is not so retained, the city, village, town or county or other custodian shall safely
6 dispose of the dangerous weapon or, if the dangerous weapon is a motor vehicle, as
7 defined in s. 340.01 (35), sell the motor vehicle following the procedure under s.
8 973.075 (4). If a firearm or ammunition is not so retained, the city, village, town or
9 county or other custodian shall ship it to the state crime laboratories and it is then
10 the property of the laboratories. A person designated by the department of justice
11 may destroy any material for which the laboratories have no use or arrange for the
12 exchange of material with other public agencies. In lieu of destruction, shoulder
13 weapons for which the laboratory has no use shall be turned over to the department
14 of natural resources for sale and distribution of proceeds under s. 29.934 or for use
15 under s. 29.938.

SECTION 40. Effective date.

17 (1) This act takes effect on the first day of the 6th month beginning after
18 publication. ✓

19 (END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2517/p1ins
CMH:.....

1 Insert A (no paragraph)

2 ~~80~~ This bill also requires DHS[✓] to promulgate a rule listing any[✓] state, district,
3 commonwealth, territory, or insular possession thereof that allows the medical use
4 of marijuana by a visiting qualifying patient or allows a person to assist with a
5 visiting qualifying patient's medical use of marijuana. Under this bill, documents
6 issued by these entities identifying a person as a qualifying patient, primary
7 caregiver, or equivalent are treated the same as registry identification cards issued
8 by DHS.[✓] *

2

3 Insert 7-14

4 (cm)[✓] "Out-of-state registry identification card"[✓] means a document issued by
5 an entity listed in the rule promulgated under sub. (7) (f)[✓] that identifies the person
6 as a[✓] qualifying patient or primary caregiver,[✓] or an equivalent designation.

7

8 Insert 10-25

9 (f) Listing each[✓] state, district, commonwealth, territory, or insular possession
10 thereof that allows the medical use of marijuana by a visiting qualifying patient[✓] or
11 allows a person to assist with a visiting qualifying patient's medical use of
12 marijuana.[✓]

13

14 Insert 12-6

15 SECTION 1.[✓] 767.41 (5) (am) (intro.) of the statutes is amended to read:

16 767.41 (5) (am) (intro.) Subject to pars. (bm) ~~and~~, (c), and (d),[✓] in determining
17 legal custody and periods of physical placement, the court shall consider all facts
18 relevant to the best interest of the child. The court may not prefer one parent or
19 potential custodian over the other on the basis of the sex or race of the parent or



1 potential custodian. Subject to pars. (bm) and, (c), and (d), the court shall consider
2 the following factors in making its determination:

History: 1971 c. 149, 157, 211; 1975 c. 39, 122, 200, 283; 1977 c. 105, 418; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; Stats. 1979 s. 767.24; 1981 c. 391; 1985 a. 70, 176; 1987 a. 332 s. 64; 1987 a. 355, 364, 383, 403; 1989 a. 56 s. 259; 1989 a. 359; 1991 a. 32; 1993 a. 213, 446, 481; 1995 a. 77, 100, 275, 289, 343, 375; 1997 a. 35, 191; 1999 a. 9; 2001 a. 109; 2003 a. 130; 2005 a. 101, 174, 264; 2005 a. 443 ss. 29, 94 to 98; Stats. 2005 s. 767.41; 2005 a. 471 ss. 1 to 5; 2007 a. 20; 2007 a. 96 ss. 141, 142; 2007 a. 97, 187.

3 SECTION 2. 767.41 (5) (d) of the statutes is created to read:

4 767.41 (5) (d) The court may not consider as a factor in determining the legal
5 custody of a child whether a parent or potential custodian holds, or has applied for,
6 a registry identification card, as defined in s. 146.45 (1) (g), is or has been the subject
7 of a written certification, as defined in s. 961.01 (21t), or is or has been a qualified
8 patient, as defined in s. 961.01 (20hm), or a primary caregiver, as defined in s. 961.01
9 (19m), unless the parent or potential custodian's behavior creates an unreasonable
10 danger to the child that can be clearly articulated and substantiated.

11 SECTION 3. 767.451 (5m) (d) of the statutes is created to read:

12 767.451 (5m) (d) In an action to modify a legal custody order, the court may not
13 consider as a factor in making a determination whether whether a parent or
14 potential custodian holds, or has applied for, a registry identification card, as defined
15 in s. 146.45 (1) (g), is or has been the subject of a written certification, as defined in
16 s. 961.01 (21t), or is or has been a qualified patient, as defined in s. 961.01 (20hm),
17 or a primary caregiver, as defined in s. 961.01 (19m), unless the parent or potential
18 custodian's behavior creates an unreasonable danger to the child that can be clearly
19 articulated and substantiated.

20
21 Insert 12-10

22 NO Crohn's disease, Hepatitis C virus infections, Alzheimer's disease, Amyotrophic
23 Lateral Sclerosis, nail patella syndrome, Ehlers-Danlos Syndrome, post-traumatic
24 stress disorder, NO

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Insert 12-14A

~~NO~~ including those characteristic of epilepsy, ~~NO~~

Insert 12-14B

~~NO~~, including those characteristic of [✓]multiple sclerosis ~~NO~~

Insert 12-21

SECTION 4. 961.01 (12v) [✓]of the statutes is created to read:

961.01 (12v) "Locked, enclosed facility" [✓]means an enclosed area that is locked or uses other security devices to permit access only by a member of a [✓]qualifying patient's treatment team.

****NOTE: This definition differs slightly from the [✓]Michigan law. The Michigan provision seems to require that the area be "lockable" not "locked." Is that what you want or do you want to require the area to be locked? [✓]

Insert 13-20

SECTION 5. 961.01 (17k) [✓]of the statutes is created to read:

961.01 (17k) "Out-of-state registry identification card" [✓]has the meaning given in s. 146.45 [✓](1) (cm).

Insert 15-20

(c) Any live marijuana plants are in a locked, enclosed facility [✓]unless a member of a qualifying patient's treatment team [✓]is accessing the plants or has the plants in his or her possession. [✓]

1 Insert 16-3

2 (c) Any live marijuana plants are in a locked, enclosed facility unless a member
3 of a qualifying patient's treatment team is accessing the plants or has the plants in
4 his or her possession.

6 Insert 16-10

7 3. Any live marijuana plants are in a locked, enclosed facility unless a member
8 of a qualifying patient's treatment team is accessing the plants or has the plants in
9 his or her possession.

11 Insert 20-20

12 (a) "Locked, enclosed facility" has the meaning given in s. 961.01 (12v).

14 Insert 21-13

15 ~~4~~ ^{e (d)} 3. Any live marijuana plants are in a locked, enclosed facility unless the person
16 is accessing the plants or has the plants in his or her possession.

18 Insert 21-23

19 4. Any live marijuana plants are in a locked, enclosed facility unless the person
20 is accessing the plants or has the plants in his or her possession.

22 Insert 22-12

23 4. Any live marijuana plants are in a locked, enclosed facility unless the person
24 is accessing the plants or has the plants in his or her possession.



Rhode Island Patient Advocacy Coalition

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new Distribution Center

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[Handwritten signature]

How does the 2009 amendment (text here) change the Medical Marijuana Act?

Non-profit Compassion Centers

The Department of Health will license 3 non-profit Compassion Centers to grow and distribute medical marijuana for an unlimited number of patients. One Compassion Center will be licensed in 2010, and two more in 2011. The Department will regulate the Compassion Centers' record-keeping and security. There will be an application fee of \$250, and, if the application is accepted, an annual license fee of \$5,000.

A Compassion Center:

- Must be a non-profit organization;
- Must be located at least 500 feet from a school;
- Must have good oversight and record-keeping procedures;
- Must have alarm and security measures to deter theft;
- Must have only Rhode Islanders on their Board of Directors;
- Must train employees on confidentiality, ethics, security, and professional conduct;
- Can have two locations, one for cultivation and one for distribution;
- Cannot dispense over 2.5 oz. or 12 plants to any patient within 15 days;
- Cannot possess more than the total oz./plants possession limits of its patients.

Licenses will be issued to three Compassion Centers, based on a public hearing and these criteria:

- Applicant's convenience to patients throughout Rhode Island;
- Applicant's ability to provide a steady supply of medical marijuana to patients;
- Applicant's experience running a non-profit or other business;
- Wishes of qualifying patients;
- Wishes of the city or town where the Compassion Center would be located;
- Sufficiency of applicant's plans for confidential record-keeping;
- Sufficiency of applicant's plans for safety and security.

Timeline:

- The 2009 Medical Marijuana Act passed on 6/16/09.
- The Department of Health shall issue regulations and an application form by 9/16/09.
- The Department of Health shall hold a public hearing on the applicants by 11/16/09.
- The Department of Health shall issue the first Compassion Center license by 1/16/10.
- The Department of Health shall begin accepting applications for the second and third Compassion Center licenses by 6/16/11.

Compassion Center Oversight Committee

A legislative oversight committee will be convened to examine the compassion center's operation. The nine members will include a state representative, a state senator, a doctor, a nurse, two patients, a caregiver, a representative of RIPAC, and a representative of the law enforcement community. This committee will issue biannual reports.

Plant Limits

0/1

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Previously, licensed patients were allowed 12 plants, regardless of stage of growth. Now, patients are allowed 12 mature plants ("plant which has flowers or buds that are readily observable by an unaided visual examination") and 12 immature plants ("plant with no observable flowers or buds"). Caregivers are also allowed 12 immature plants, regardless of how many mature plants they are allowed. Cardholders may also now possess a "reasonable" amount of seeds, stalks, and roots, which do not count toward the 12-plant limit or the 2.5-ounce limit.

Out-of-state Recommendations

Previously, only Rhode Island practitioners (anyone licensed to prescribe drugs in Rhode Island: a physician, nurse practitioner, or physician assistant) could certify Rhode Island patients for the Medical Marijuana Program. Now, Massachusetts and Connecticut *physicians* can also recommend marijuana for Rhode Island patients.

Sharing Medicine

Any licensed patient or caregiver may give away medical marijuana to any other licensed patient or caregiver, as long as they don't exceed their possession limits (2.5 ounces + 12 mature plants + 12 immature plants).

Organ Transplants

Patients cannot be denied an organ transplant based upon their use of medical marijuana.

Caregiver Qualifications

Previously, a felony drug conviction automatically disqualified a person from serving as a primary caregiver. Now, the Department of Health is allowed to make exceptions, and allow persons with drug felony convictions to serve as caregiver, at the Department's discretion. Additionally, the Department will issue a license if the drug felony was from before 2006.

Medical Studies

The new patient application form will now include a question asking whether the patient would like to be informed by Department of Health of clinical studies involving medical marijuana.

Child Welfare

Patients cannot use marijuana in places where exposure to marijuana smoke significantly adversely affects the health, safety, or welfare of children.

Hanaman, Cathlene

From: Wavrunek, Glenn
Sent: Thursday, July 30, 2009 4:13 PM
To: Hanaman, Cathlene
Subject: 2009 LRB-2517/P1 (Medical Marijuana)

Cathlene -

Thanks for working on the medical marijuana bill for us. I know you've been working with Josh from our office on this, but last month Josh left for greener pastures and I'm now overseeing the bill. It looks like there's a few points that you're currently working on in the /P1 version and there's one more item we would like to add.

Under the version that we did in 2001 we had language on distribution organizations (2001 AB715) ... here's the language from the LFB analysis:

Registered marijuana distribution organizations

The bill authorizes certain nonprofit corporations to deliver or distribute tetrahydrocannabinols or drug paraphernalia or possess or manufacture them with the intent to deliver or distribute them to facilitate the medical use of marijuana. Such an organization may only deliver or distribute marijuana or drug paraphernalia to a qualifying patient or a qualifying patient's primary caregiver to facilitate the qualifying patient's medical use of marijuana, and only after verifying the validity of the qualifying patient's written certification. A nonprofit corporation is eligible to engage in these activities if it is organized for the purpose of manufacturing, delivering, distributing, or possessing marijuana, drug paraphernalia, and educational materials to facilitate the medical use of marijuana. It may not employ or utilize the services of any person who has been convicted of a drug offense or obtain marijuana from outside the state in violation of federal law. The organization must register annually with DHFS.

Since this was written in 2001, Rhode Island has put together language that has become the nationwide standard to use when it comes to nonprofit distributions organizations. Here is a link to that language:

<http://ripatients.org/cc09/>

Mark would like to add the RI language to 2009 LRB-2517/1.

Please let me know if you have any questions. Thanks!

Glenn Wavrunek
Office of Rep. Mark Pocan

Hanaman, Cathlene

From: Freker, Josh
Sent: Tuesday, June 23, 2009 11:35 AM
To: Hanaman, Cathlene
Subject: medical marijuana draft modifications

Hi Cathlene –

I finally had time to review the draft medical marijuana legislation, LRB 2517/P1. It looks like it's almost there—just a few remaining modifications/questions.

- 1) Section 17, Page 14 – We would prefer to go with a definition of locked, enclosed facility that is closer to the MI definition. There was a note in the draft that asked about this—the MI definition suggests that it must be “lockable.”
- 2) We were thinking we should limit the number of qualifying patients that one caregiver can treat to no more than five. I don't believe I saw that in the draft.
- 3) Do you think there's any tension or conflict between the terms “primary caregiver” and “treatment team” in the draft? I didn't necessarily detect a major problem..just struck me that they are both used in the draft...want to make sure those mesh okay from a more lawyerly perspective.
- 4) Effective date – We'd like to change this a bit. The MI law had an overall effective date set as one month after passage of the bill. This applied to the criminal exemption so long as the patients had the valid physician's letter. However, DHS was given four months (120 days) to set up the registry and promulgate rules. Is it possible to replicate this staggered effective date in our draft?

Thanks for your help.

Josh

Joshua Freker
Office of State Rep. Mark Pocan
608-266-8570
<http://www.markpocan.net>

