



## 2009 SENATE BILL 551

February 22, 2010 – Introduced by Senator HANSEN, cosponsored by Representatives HRAYCHUCK, TURNER, BERCEAU and TOWNSEND. Referred to Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

1     **AN ACT** *to renumber* 961.455 (1); *to renumber and amend* 961.455 (2), 961.455  
2           (3) and 961.455 (4); *to amend* 939.30 (1), 961.455 (title) and 973.01 (2) (c) 2. a.;  
3           and *to create* 948.015 (7r) and 961.455 (2m) of the statutes; **relating to:**  
4           distribution or delivery of a controlled substance or controlled substance analog  
5           in the presence of a child and providing a penalty.

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

Under current law, a person who distributes or delivers a controlled substance or controlled substance analog is guilty of a felony, the penalties for which vary depending on the controlled substance or controlled substance analog. Under this bill, the maximum term of imprisonment for distributing or delivering a controlled substance or controlled substance analog is increased by five years if the offense is done in the presence of a child who is no more than ten years old.

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.

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

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

1           **SECTION 1.** 939.30 (1) of the statutes is amended to read:

2           939.30 (1) Except as provided in sub. (2) and s. 961.455 (1m), whoever, with  
3 intent that a felony be committed, advises another to commit that crime under  
4 circumstances that indicate unequivocally that he or she has the intent is guilty of  
5 a Class H felony.

6           **SECTION 2.** 948.015 (7r) of the statutes is created to read:

7           948.015 (7r) Section 961.455 (2m) relating to the distribution or delivery of a  
8 controlled substance or controlled substance analog in the presence of a child who  
9 has not attained the age of 10 years.

10          **SECTION 3.** 961.455 (title) of the statutes is amended to read:

11          **961.455 (title) ~~Using a child for~~ Children and illegal drug distribution,**  
12 **delivery, or manufacturing purposes.**

13          **SECTION 4.** 961.455 (1) of the statutes is renumbered 961.455 (1m) (a).

14          **SECTION 5.** 961.455 (2) of the statutes is renumbered 961.455 (1m) (b) and  
15 amended to read:

16          961.455 (1m) (b) The knowledge requirement under ~~sub. (1) par. (a)~~ does not  
17 require proof of knowledge of the age of the child. It is not a defense to a prosecution  
18 under this section that the actor mistakenly believed that the person solicited, hired,  
19 directed, employed, or used under ~~sub. (1) par. (a)~~ had attained the age of 18 years,  
20 even if the mistaken belief was reasonable.

21          **SECTION 6.** 961.455 (2m) of the statutes is created to read:

