

2015 DRAFTING REQUEST

Bill

Received: 1/29/2016 Received By: phurley
For: Evan Goyke (608) 266-0645 Same as LRB:
May Contact: By/Representing:
Subject: Criminal Law - sentencing Drafter: phurley
Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Rep.Goyke@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Reclassification of some misdemeanors to forfeitures

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	phurley 2/2/2016	eweiss 2/11/2016	_____			State S&L
/1	phurley 2/24/2016		_____	lparisi 2/11/2016	lparisi 2/11/2016	State S&L
/2		eweiss 2/24/2016	_____	sbasford 2/24/2016	sbasford 2/24/2016	State S&L

FE Sent For: at intro

<END>



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4648/P1

PJH...

emw

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Thurs
2-11

J.A. ✓
xref ✓

1

AN ACT ^{Gen.}; **relating to:** reclassifying or changing penalties for certain crimes, and

2

providing a criminal penalty.

STET ✓

Analysis by the Legislative Reference Bureau

This bill changes the penalty for, or reclassifies from a misdemeanor to a forfeiture, certain crimes. Under current law, a person is guilty of a Class B misdemeanor if he or she engages publicly in conduct that tends to cause or provoke a disturbance. Under the bill, the person is guilty of a Class B misdemeanor if he or her conduct does cause or provoke a disturbance, and guilty of a Class A forfeiture if his or her conduct does not cause or provoke a disturbance.

* her

subject

Under current law, a person is generally guilty of a Class A misdemeanor if he or she steals merchandise that is worth less than \$500. Under the bill, the person is guilty of a Class A forfeiture if he or she steals merchandise that is less than \$500 and the merchandise is recovered by the merchant, but guilty of the Class A misdemeanor if the merchandise is not recovered by the merchant.

mis

The bill changes how the crime of bail jumping is classified. Under current law, a person is guilty of a Class A misdemeanor if he or she intentionally violates the conditions of his or her release pending trial if the trial relates to a misdemeanor charge, but is guilty of a Class H felony if the trial relates to a felony charge. Under the bill, a person who intentionally violates the conditions of his or her release is guilty of a Class A misdemeanor unless he or she is charged with committing a new crime while he or she is released pending trial, in which case he or she is guilty of a Class H felony.

her

The bill changes the penalties for marijuana possession. Under current law, a person who possesses marijuana may, for a first offense, be fined up to \$1,000,

STET

imprisoned for up to six months, or both. A second or subsequent offense is a Class I felony. Under the bill, person who possesses marijuana may, for a first offense, be fined up to \$1,000, imprisoned for up three months, or both; A person who commits a second offense may be fined up to \$1,000, imprisoned up to six months, or both; and a person who commits a third or subsequent offense is guilty of a Class I felony.

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:

SECTION 1. 48.685 (2) (bb) of the statutes is amended to read:

48.685 (2) (bb) If information obtained under par. (am) or (b) 1. indicates a charge of a serious crime, but does not completely and clearly indicate the final disposition of the charge, the department, county department, agency contracted with under s. 48.651 (2), child welfare agency, school board, or entity shall make every reasonable effort to contact the clerk of courts to determine the final disposition of the charge. If a background information form under sub. (6) (a) or (am) indicates a charge or a conviction of a serious crime, but information obtained under par. (am) or (b) 1. does not indicate such a charge or conviction, the department, county department, agency contracted with under s. 48.651 (2), child welfare agency, school board, or entity shall make every reasonable effort to contact the clerk of courts to obtain a copy of the criminal complaint and the final disposition of the complaint.

If information obtained under par. (am) or (b) 1., a background information form under sub. (6) (a) or (am), or any other information indicates a conviction of a violation of s. 940.19 (1), 940.195, 940.20, 941.30, 942.08, 947.01 (1), 2013 stats.,

947.01 (1)(b), or 947.013 obtained not more than 5 years before the date on which that information was obtained, the department, county department, agency contracted with under s. 48.651 (2), child welfare agency, school board, or entity shall

s. 947.01 (1), 2013 stats., or

1 make every reasonable effort to contact the clerk of courts to obtain a copy of the
2 criminal complaint and judgment of conviction relating to that violation.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153; 2009 a. 28, 76, 94, 185; 2011 a. 32, 35, 87, 258; 2013 a. 20, 165, 170, 334; 2015 a. 55.

3 **SECTION 2.** 50.065 (2) (bb) of the statutes is amended to read:

4 50.065 (2) (bb) If information obtained under par. (am) or (b) indicates a charge
5 of a serious crime, but does not completely and clearly indicate the final disposition
6 of the charge, the department or entity shall make every reasonable effort to contact
7 the clerk of courts to determine the final disposition of the charge. If a background
8 information form under sub. (6) (a) or (am), or any disclosure made pursuant to a
9 disclosure policy described under sub. (6) (am), indicates a charge or a conviction of
10 a serious crime, but information obtained under par. (am) or (b) does not indicate
11 such a charge or conviction, the department or entity shall make every reasonable
12 effort to contact the clerk of courts to obtain a copy of the criminal complaint and the
13 final disposition of the complaint. If information obtained under par. (am) or (b), a
14 background information form under sub. (6) (a) or (am), any disclosure made
15 pursuant to a disclosure policy described under sub. (6) (am), or any other
16 information indicates a conviction of a violation of s. 940.19 (1), 940.195, 940.20,
17 941.30, 942.08, 947.01 (1), 2013 stats., 947.01 (1) (b), or 947.013 obtained not more
18 than 5 years before the date on which that information was obtained, the department
19 or entity shall make every reasonable effort to contact the clerk of courts to obtain
20 a copy of the criminal complaint and judgment of conviction relating to that violation.

History: 1997 a. 27, 105, 237; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2005 a. 25, 184, 277, 351; 2007 a. 20 s. 9121 (6) (a); 2007 a. 97, 116, 130, 153, 172; 2009 a. 276; 2011 a. 32, 35; 2013 a. 20; 2013 a. 173 s. 33.

21 **SECTION 3.** 943.50 (4) (a) of the statutes is amended to read:

s. 947.01 (1), 2013 stats., or

1 943.50 (4) (a) Except as provided in sub. (4m), a Class A misdemeanor, if the
2 value of the merchandise does not exceed \$500 and the merchandise is not recovered
3 by the merchant.

a civil offense and subject to

4 History: 1977 c. 173; 1981 c. 270; 1983 a. 189 s. 329 (24); 1985 a. 179; 1987 a. 398; 1991 a. 39, 40; 1993 a. 71; 1997 a. 262; 2001 a. 16, 109; 2011 a. 110, 174.

SECTION 4. 943.50 (4) (am) of the statutes is created to read:

5 943.50 (4) (am) Except as provided in sub. (4m), a Class A forfeiture, if the value
6 of the merchandise does not exceed \$500 and the merchandise is recovered by the
7 merchant.

8 SECTION 5. 946.49 (1) (a) of the statutes is amended to read:

9 946.49 (1) (a) ~~If the offense with which the person is charged is a misdemeanor,~~
10 guilty of a Class A misdemeanor, except as provided in par. (b).

11 History: 1977 c. 173; 2001 a. 109.

SECTION 6. 946.49 (1) (b) of the statutes is amended to read:

12 946.49 (1) (b) ~~If the offense with which~~ Guilty of a Class H felony if the person
13 is charged is a felony, guilty of a Class H felony, failed to comply with a term of bond
14 by committing a criminal offense after he or she was released from custody under ch.
15 969.

16 History: 1977 c. 173; 2001 a. 109.

SECTION 7. 946.49 (2) of the statutes is amended to read:

17 946.49 (2) A witness for whom bail has been required under s. 969.01 (3) is
18 guilty of a Class-I felony A misdemeanor for failure to appear as provided.

19 History: 1977 c. 173; 2001 a. 109.

SECTION 8. 947.01 (1) of the statutes is renumbered 947.01 (1) (intro) and
20 amended to read:

21 947.01 (1) ^(intro.) Whoever, in a public or private place, engages in violent, abusive,
22 indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct

1 under circumstances in which the conduct tends to cause or provoke a disturbance
2 is guilty of a Class B misdemeanor, the following:

a civil offense and subject to

History: 1977 c. 173; 1979 c. 131; 2011 a. 35.

3 SECTION 9. 947.01 (1) (a) and (b) of the statutes are created to read:

4 947.01 (1) (a) Except as provided in par. (b), a class A forfeiture.

5 (b) A Class B misdemeanor if the conduct caused or provoked a disturbance.

6 SECTION 10. 961.41 (3g) (e) of the statutes is amended to read:

7 961.41 (3g) (e) *Tetrahydrocannabinols*. If a person possesses or attempts to
8 possess tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled
9 substance analog of tetrahydrocannabinols, the person may be fined not more than
10 \$1,000 or imprisoned for not more than ~~6~~³ months or both upon a first conviction,
11 may be fined not more than \$1,000 or imprisoned for not more than 6 months or both
12 for a 2nd conviction, and is guilty of a Class I felony for a ~~2nd~~ 3rd or subsequent
13 offense. For purposes of this paragraph, an offense is considered a 2nd or subsequent
14 offense if, prior to the offender's conviction of the offense, the offender has at any time
15 been convicted of any felony or misdemeanor under this chapter or under any statute
16 of the United States or of any state relating to controlled substances, controlled
17 substance analogs, narcotic drugs, marijuana, or depressant, stimulant, or
18 hallucinogenic drugs.

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283; 1999 a. 21, 32, 48, 57; 2001 a. 16, 109; 2003 a. 33, 49, 139, 320, 325, 327; 2005 a. 14, 25, 52, 262; 2007 a. 20; 2009 a. 28, 180; 2011 a. 31; 2013 a. 20, 166, 196, 351; s. 35.17 corrections in (1m) (e) (title) and (1r).

(END)



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4648/1

PJH:emw

2
mr

2015 BILL

today

S.A. ✓
Xref ✓

regen

1 AN ACT *to renumber and amend* 947.01 (1); *to amend* 48.685 (2) (bb), 50.065
2 (2) (bb), 943.50 (4) (a), 946.49 (1) (a), 946.49 (1) (b), 946.49 (2) and 961.41 (3g)
3 (e); and *to create* 943.50 (4) (am) and 947.01 (1) (a) and (b) of the statutes;
4 **relating to:** reclassifying or changing penalties for certain crimes and
5 providing a criminal penalty.

Analysis by the Legislative Reference Bureau

This bill changes the penalty for, or reclassifies from a misdemeanor to a forfeiture, certain crimes. Under current law, a person is guilty of a Class B misdemeanor if he or she engages publicly in conduct that tends to cause or provoke a disturbance. Under the bill, the person is guilty of a Class B misdemeanor if his or her conduct does cause or provoke a disturbance, and subject to a Class A forfeiture if his or her conduct does not cause or provoke a disturbance.

Under current law, a person is generally guilty of a Class A misdemeanor if he or she steals merchandise that is worth less than \$500. Under the bill, the person is subject to a Class A forfeiture if he or she steals merchandise that is less than \$500 and the merchandise is recovered by the merchant, but guilty of the Class A misdemeanor if the merchandise is not recovered by the merchant.

The bill changes how the crime of bail jumping is classified. Under current law, a person is guilty of a Class A misdemeanor if he or she intentionally violates the conditions of his or her release pending trial if the trial relates to a misdemeanor charge, but is guilty of a Class H felony if the trial relates to a felony charge. Under

BILL

the bill, a person who intentionally violates the conditions of his or her release is guilty of a Class A misdemeanor unless he or she is charged with committing a new crime while he or she is released pending trial, in which case he or she is guilty of a Class H felony.

The bill changes the penalties for marijuana possession. Under current law, a person who possesses marijuana may, for a first offense, be fined up to \$1,000, imprisoned for up to six months, or both. A second or subsequent offense is a Class I felony. Under the bill, a person who possesses marijuana may, for a first offense, be fined up to \$1,000, imprisoned for up three months, or both; a person who commits a second offense may be fined up to \$1,000, imprisoned for up to six months, or both; and a person who commits a third or subsequent offense is guilty of a Class I felony.

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.** 48.685 (2) (bb) of the statutes is amended to read:

2 48.685 (2) (bb) If information obtained under par. (am) or (b) 1. indicates a
3 charge of a serious crime, but does not completely and clearly indicate the final
4 disposition of the charge, the department, county department, agency contracted
5 with under s. 48.651 (2), child welfare agency, school board, or entity shall make
6 every reasonable effort to contact the clerk of courts to determine the final disposition
7 of the charge. If a background information form under sub. (6) (a) or (am) indicates
8 a charge or a conviction of a serious crime, but information obtained under par. (am)
9 or (b) 1. does not indicate such a charge or conviction, the department, county
10 department, agency contracted with under s. 48.651 (2), child welfare agency, school
11 board, or entity shall make every reasonable effort to contact the clerk of courts to
12 obtain a copy of the criminal complaint and the final disposition of the complaint.
13 If information obtained under par. (am) or (b) 1., a background information form
14 under sub. (6) (a) or (am), or any other information indicates a conviction of a
15 violation of s. 947.01 (1), 2013 stats., or s. 940.19 (1), 940.195, 940.20, 941.30, 942.08,

BILL

1 947.01 (1) (b), or 947.013 obtained not more than 5 years before the date on which
2 that information was obtained, the department, county department, agency
3 contracted with under s. 48.651 (2), child welfare agency, school board, or entity shall
4 make every reasonable effort to contact the clerk of courts to obtain a copy of the
5 criminal complaint and judgment of conviction relating to that violation.

6 **SECTION 2.** 50.065 (2) (bb) of the statutes is amended to read:

7 50.065 (2) (bb) If information obtained under par. (am) or (b) indicates a charge
8 of a serious crime, but does not completely and clearly indicate the final disposition
9 of the charge, the department or entity shall make every reasonable effort to contact
10 the clerk of courts to determine the final disposition of the charge. If a background
11 information form under sub. (6) (a) or (am), or any disclosure made pursuant to a
12 disclosure policy described under sub. (6) (am), indicates a charge or a conviction of
13 a serious crime, but information obtained under par. (am) or (b) does not indicate
14 such a charge or conviction, the department or entity shall make every reasonable
15 effort to contact the clerk of courts to obtain a copy of the criminal complaint and the
16 final disposition of the complaint. If information obtained under par. (am) or (b), a
17 background information form under sub. (6) (a) or (am), any disclosure made
18 pursuant to a disclosure policy described under sub. (6) (am), or any other
19 information indicates a conviction of a violation of s. 947.01 (1), 2013 stats., or s.
20 940.19 (1), 940.195, 940.20, 941.30, 942.08, 947.01 (1) (b), or 947.013 obtained not
21 more than 5 years before the date on which that information was obtained, the
22 department or entity shall make every reasonable effort to contact the clerk of courts
23 to obtain a copy of the criminal complaint and judgment of conviction relating to that
24 violation.

25 **SECTION 3.** 943.50 (4) (a) of the statutes is amended to read:

BILL**SECTION 3**

1 943.50 (4) (a) Except as provided in sub. (4m), a Class A misdemeanor, if the
2 value of the merchandise does not exceed \$500 and the merchandise is not recovered
3 by the merchant.

4 **SECTION 4.** 943.50 (4) (am) of the statutes is created to read:

5 943.50 (4) (am) Except as provided in sub. (4m), a civil offense and subject to
6 a Class A forfeiture, if the value of the merchandise does not exceed \$500 and the
7 merchandise is recovered by the merchant.

8 **SECTION 5.** 946.49 (1) (a) of the statutes is amended to read:

9 946.49 (1) (a) ~~If the offense with which the person is charged is a misdemeanor,~~
10 guilty Guilty of a Class A misdemeanor, except as provided in par. (b).

11 **SECTION 6.** 946.49 (1) (b) of the statutes is amended to read:

12 946.49 (1) (b) ~~If the offense with which~~ Guilty of a Class H felony if the person
13 ~~is charged is a felony, guilty of a Class H felony~~ failed to comply with a term of bond
14 by committing a criminal offense after he or she was released from custody under ch.
15 969.

16 **SECTION 7.** 946.49 (2) of the statutes is amended to read:

17 946.49 (2) A witness for whom bail has been required under s. 969.01 (3) is
18 guilty of a Class ~~I felony~~ A misdemeanor for failure to appear as provided.

19 **SECTION 8.** 947.01 (1) of the statutes is renumbered 947.01 (1) (intro.) and
20 amended to read:

21 947.01 (1) (intro.) Whoever, in a public or private place, engages in violent,
22 abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly
23 conduct under circumstances in which the conduct tends to cause or provoke a
24 disturbance is guilty of ~~a Class B misdemeanor.~~ the following:

25 **SECTION 9.** 947.01 (1) (a) and (b) of the statutes are created to read:

BILL

1 947.01 (1) (a) Except as provided in par. (b), a civil offense and subject to a Class
2 A forfeiture.

3 (b) A Class B misdemeanor if the conduct caused or provoked a disturbance.

4 **SECTION 10.** 961.41 (3g) (e) of the statutes is amended to read:

5 961.41 (3g) (e) *Tetrahydrocannabinols*. If a person possesses or attempts to
6 possess tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled
7 substance analog of tetrahydrocannabinols, the person may be fined not more than
8 \$1,000 or imprisoned for not more than ~~6~~ 3 months or both upon a first conviction,
9 may be fined not more than \$1,000 or imprisoned for not more than 6 months or both
10 for a 2nd conviction, and is guilty of a Class I felony for a ~~2nd~~ 3rd or subsequent
11 offense. For purposes of this paragraph, an offense is considered a 2nd or subsequent
12 offense if, prior to the offender's conviction of the offense, the offender has at any time
13 been convicted of any felony or misdemeanor under this chapter or under any statute
14 of the United States or of any state relating to controlled substances, controlled
15 substance analogs, narcotic drugs, marijuana, or depressant, stimulant, or
16 hallucinogenic drugs.

17 (END)