March 10, 2016 – Introduced by Senators ERPENBACH and L. TAYLOR, cosponsored by Representatives C. TAYLOR, BARNES, SHANKLAND, JOHNSON, GENRICH, SARGENT, HEBL, KAHL, WACHS, SUBECK, OHNSTAD, BERCEAU and CONSIDINE. Referred to Committee on Health and Human Services.

AN ACT to renumber subchapter IV of chapter 50 [precedes 50.90]; to renumber and amend 961.55 (8), 968.19 and 968.20 (1); to amend 20.435 (6) (jm), 50.56 (3), 59.54 (25) (a) (intro.), 59.54 (25m), 66.0107 (1) (bm), 66.0107 (1) (bp), 66.1201 (2m), 66.1213 (3), 66.1301 (2m), 66.1331 (2m), 66.1333 (3) (e) 2., 106.50 (1m) (h), 146.40 (1) (bo), 146.81 (1) (L), 146.997 (1) (d) 18., 173.12 (1m), 234.29, 289.33 (3) (d), 349.02 (2) (b) 4., 767.41 (5) (am) (intro.), 767.451 (5m) (a) (intro.), 961.555 (2) (a), 961.56 (1) and 968.20 (3) (a) and (b); and to create 20.435 (1) (gq), 20.435 (1) (jm), subchapter V of chapter 50 [precedes 50.60], 59.54 (25) (c), 66.0408, 146.44, 767.41 (5) (d), 767.451 (5m) (d), 961.01 (3), 961.01 (5m), 961.01 (11v), 961.01 (12v), 961.01 (14c), 961.01 (14g), 961.01 (17k), 961.01 (19m), 961.01 (20hm), 961.01 (20ht), 961.01 (20t), 961.01 (21f), 961.01 (21t), 961.436, 961.55 (8) (b), 961.55 (8) (c), 961.55 (8) (d), 961.555 (2) (e), 961.555 (2m), 961.5755, 968.072, 968.12 (5), 968.19 (2), 968.20 (1d) and 968.20 (1j) of the statutes; relating to: medical use of marijuana, the regulation of marijuana
distribution entities, requiring the exercise of rule-making authority, making appropriations, and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits a person from manufacturing, distributing, or delivering marijuana; possessing marijuana with the intent to manufacture, distribute, or deliver it; possessing or attempting to possess marijuana; using drug paraphernalia; or possessing drug paraphernalia with the intent to produce, distribute, or use a controlled substance. This bill creates a medical use defense to marijuana-related prosecutions and forfeiture actions for, and prohibits the arrest or prosecution of, persons who are registered with the Department of Health Services (DHS) and have certain debilitating medical conditions or treatments. The defense and prohibition apply also to primary caregivers of such persons only if it is not practicable for the person to acquire, possess, cultivate, or transport marijuana independently or the person is under the age of 18. The defense and prohibition do not apply under certain circumstances, including the following: 1) if the person does not have a valid registry identification card or equivalent; 2) if the amount of marijuana involved in the offense is more than the maximum authorized amount of marijuana (12 marijuana plants and three ounces of marijuana leaves or flowers); 3) if, while under the influence of marijuana, the person drives or operates a motor vehicle or operates heavy machinery or engages in any other conduct that endangers the health or well being of another person; and 4) if the person smokes marijuana at certain places, including on a school bus or on public transit, at his or her place of employment, or on school premises.

The bill requires DHS to establish a registry for persons who use marijuana for medical use. Under the bill, a person may apply for a registry identification card by submitting to DHS a signed application, a written certification, and a registration fee of not more than $150. DHS must verify the information and, unless in the previous ten years the person was serving a sentence or on probation for certain felony convictions, issue the person a registry identification card. A registry identification card is generally valid for two years and may be renewed. DHS may not disclose that it has issued to a person a registry identification card, or information from an application for one, except to the Department of Justice to determine if the applicant's criminal history makes him or her ineligible for a card or to a law enforcement agency for the purpose of verifying that a person possesses a valid registry identification card. This bill also requires DHS to promulgate a rule ensuring that certain out-of-state registry identification cards are valid in Wisconsin.

The bill requires DHS to license and regulate dispensaries to distribute or deliver marijuana or drug paraphernalia or to possess or manufacture marijuana or drug paraphernalia with the intent to deliver or distribute to facilitate the medical use of marijuana. This bill prohibits dispensaries from being located within 500 feet of a school, prohibits a dispensary from distributing to a person more than a
maximum authorized amount of marijuana, and prohibits a dispensary from possessing a quantity that exceeds, by an amount determined by DHS, the total maximum authorized amount of marijuana of all of the persons it serves. An applicant for a license must pay an initial application fee of $250, and a dispensary must pay an annual fee of $5,000.

This bill requires DHS to promulgate rules to allow entities to grow marijuana and distribute marijuana to dispensaries. This bill also requires DHS to register entities as tetrahydrocannabinols-testing laboratories. The laboratories must test marijuana for contaminants; research findings on the use of medical marijuana; and provide training on safe and efficient cultivation, harvesting, packaging, labeling, and distribution of marijuana, security and inventory accountability, and recent research on medical marijuana.

This bill also prohibits a village, town, city, or county from prohibiting a person who is allowed to cultivate marijuana under this bill from cultivating the marijuana outdoors.

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:

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

20.435 (1) (gq) Medical marijuana registry. All moneys received as fees under s. 146.44 (2) (a) 4., for the purposes of the Medical Marijuana Registry Program under s. 146.44.

SECTION 2. 20.435 (1) (jm) of the statutes is created to read:

20.435 (1) (jm) Licensing and support services for dispensaries. All moneys received under s. 50.64 to license and regulate dispensaries, and to register laboratories, under subch. V of ch. 50.

SECTION 3. 20.435 (6) (jm) of the statutes is amended to read:
20.435 (6) (jm) Licensing and support services. The amounts in the schedule for the purposes specified in ss. 48.685 (2) (am) and (b) 1., (3) (a), (am), (b), and (bm), and (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.065 (2) (am) and (b) 1., (3) (a) and (b), and (5), 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.981, and 146.40 (4r) (b) and (er), and subch. IV VI of ch. 50 and to conduct health facilities plan and rule development activities, for accrediting nursing homes, convalescent homes, and homes for the aged, to conduct capital construction and remodeling plan reviews under ss. 50.02 (2) (b) and 50.36 (2), and for the costs of inspecting, licensing or certifying, and approving facilities, issuing permits, and providing technical assistance, that are not specified under any other paragraph in this subsection. All moneys received under ss. 48.685 (8), 49.45 (42) (c), 49.45 (47) (c), 50.02 (2), 50.025, 50.065 (8), 50.13, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.93 (1) (c), and 50.981, all moneys received from fees for the costs of inspecting, licensing or certifying, and approving facilities, issuing permits, and providing technical assistance, that are not specified under any other paragraph in this subsection, and all moneys received under s. 50.135 (2) shall be credited to this appropriation account.

SECTION 4. 50.56 (3) of the statutes is amended to read:

50.56 (3) Notwithstanding sub. (2), insofar as a conflict exists between this subchapter, or the rules promulgated under this subchapter, and subch. I, II or IV VI, or the rules promulgated under subch. I, II or IV VI, the provisions of this subchapter and the rules promulgated under this subchapter control.

SECTION 5. Subchapter V of chapter 50 [precedes 50.60] of the statutes is created to read:

CHAPTER 50
SUBCHAPTER V
DISTRIBUTION AND TESTING CENTERS

50.60 Definitions. In this subchapter:

(1) “Dispensary” means an entity licensed under s. 50.62 that cultivates, acquires, manufactures, possesses, delivers, transfers, transports, sells, or dispenses marijuana, paraphernalia, or related supplies and educational materials to treatment teams and other dispensaries.

(2) “Maximum authorized amount” has the meaning given in s. 961.01 (14c).

(3) “Medical use of tetrahydrocannabinols” has the meaning given in s. 961.01 (14g).

(4) “Qualifying patient” has the meaning given in s. 961.01 (20hm).

(5) “Registry identification card” has the meaning given in s. 146.44 (1) (g).

(6) “Treatment team” has the meaning given in s. 961.01 (20t).

(7) “Usable marijuana” has the meaning given in s. 961.01 (21f).

(8) “Written certification” has the meaning given in s. 961.01 (21t).

50.61 Departmental powers and duties. (1) The department shall provide licensing, regulation, record keeping, and security for dispensaries.

(2) The department shall promulgate rules allowing entities to grow marijuana and distribute marijuana to dispensaries, developing security guidelines for the entities, and regulating such entities. The rules may not include limits on the amount of marijuana the entities grow for, and sell to, dispensaries.

50.62 Licensing. The department shall issue licenses to operate as a dispensary and shall decide which and how many applicants for a license receive a license based on all of the following:

(1) Convenience to treatment teams and the preferences of treatment teams.
(2) The ability of an applicant to provide to treatment teams a sufficient amount of medical marijuana for the medical use of tetrahydrocannabinols.

(3) The experience the applicant has running a nonprofit organization or a business.

(4) The preferences of the governing bodies with jurisdiction over the area in which the applicants are located.

(5) The ability of the applicant to keep records confidential and maintain a safe and secure facility.

(6) The ability of the applicant to abide by the prohibitions under s. 50.63.

50.63 Prohibitions. The department may not issue a license to, and must revoke a license of, any entity to which any of the following applies:

(1) The entity is located within 500 feet of a public or private elementary or secondary school, including a charter school.

(2) The dispensary distributes to a treatment team a number of plants or an amount of ounces of usable marijuana that, in the period of distribution, results in the treatment team possessing more than the maximum authorized amount.

(3) The dispensary possesses a number of plants or an amount of ounces of usable marijuana that exceeds the combined maximum authorized amount for all of the treatment teams that use the dispensary by a number or an amount determined by the department by rule to be unacceptable.

50.64 Licensing procedure. (1) An application for a license shall be in writing on a form provided by the department and include the licensing application fee under sub. (2) (a).

(2) (a) A licensing application fee is $250.

(b) The annual fee for a dispensary is $5,000.
(3) A dispensary license is valid unless revoked. Each license shall be issued only for the applicant named in the application and may not be transferred or assigned.

50.65 Distribution of medical marijuana. (1) A dispensary may deliver or distribute tetrahydrocannabinols or drug paraphernalia to a member of a treatment team if the dispensary receives a copy of the qualifying patient’s written certification or registry identification card.

(2) A dispensary may possess or manufacture tetrahydrocannabinols or drug paraphernalia with the intent to deliver or distribute under sub. (1).

(2m) An entity operating under rules promulgated under s. 50.61 (2) may possess tetrahydrocannabinols, possess or manufacture tetrahydrocannabinols with the intent to deliver or distribute to a dispensary, or deliver or distribute marijuana to a dispensary.

(3) A dispensary may have 2 locations, one for cultivation and one for distribution.

(4) A dispensary shall have all tetrahydrocannabinols tested for mold, fungus, pesticides, and other contaminants and may not distribute tetrahydrocannabinols that test positive for mold, fungus, pesticides, or other contaminants if the contaminants, or level of contaminants, are identified by the testing laboratories under s. 50.66 (2) to be potentially unsafe to a qualifying patient’s health.

(5) A dispensary or an entity operating under rules promulgated under s. 50.61 (2) may cultivate marijuana, including cultivating marijuana outdoors.

50.66 Testing laboratories. The department shall register entities as tetrahydrocannabinols-testing laboratories. The laboratories may possess or
manufacture tetrahydrocannabinols or drug paraphernalia and shall perform the following services:

(1) Test marijuana produced for the medical use of tetrahydrocannabinols for potency and for mold, fungus, pesticides, and other contaminants.

(2) Research findings related to the medical use of tetrahydrocannabinols, including research that identifies potentially unsafe levels of contaminants.

(3) Provide training to persons who hold registry identification cards, treatment teams, persons employed by dispensaries, and entities that grow and distribute marijuana, as provided by rules promulgated under s. 50.61 (2), on the following:

   (a) The safe and efficient cultivation, harvesting, packaging, labeling, and distribution of marijuana for the medical use of tetrahydrocannabinols.

   (b) Security and inventory accountability procedures.

   (c) The most recent research on the medical use of tetrahydrocannabinols.

SECTION 6. Subchapter IV of chapter 50 [precedes 50.90] of the statutes is renumbered subchapter VI of chapter 50.

SECTION 7. 59.54 (25) (a) (intro.) of the statutes is amended to read:

59.54 (25) (a) (intro.) The board may enact and enforce an ordinance to prohibit the possession of marijuana, as defined in s. 961.01 (14), subject to par. (c) and the exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance, except that if Any ordinance enacted under this paragraph shall provide a person who is prosecuted under it with the defenses that the person has under s. 961.436 to prosecutions under s. 961.41 (1) (h), (1m) (h), or (3g) (e). If a complaint is issued regarding an allegation of possession of more than 25 grams of marijuana, or possession of any amount of marijuana following a conviction in this state for
possession of marijuana, the subject of the complaint may not be prosecuted under this subsection for the same action that is the subject of the complaint unless all of the following occur:

**SECTION 8.** 59.54 (25) (c) of the statutes is created to read:

59.54 (25) (c) A person may not be prosecuted under an ordinance enacted under par. (a) if, under s. 968.072 (2) or (4) (b), the person would not be subject to prosecution under s. 961.41 (3g) (e).

**SECTION 9.** 59.54 (25m) of the statutes is amended to read:

59.54 (25m) **Drug paraphernalia.** The board may enact an ordinance to prohibit conduct that is the same as that prohibited by s. 961.573 (1) or (2), 961.574 (1) or (2), or 961.575 (1) or (2) and provide a forfeiture for violation of the ordinance. Any ordinance enacted under this subsection shall provide a person prosecuted under it with the defenses that the person has under s. 961.5755 to prosecutions under s. 961.573 (1), 961.574 (1), or 961.575 (1). A person may not be prosecuted under an ordinance enacted under this subsection if, under s. 968.072 (3) or (4) (b), the person would not be subject to prosecution under s. 961.573 (1), 961.574 (1), or 961.575 (1). The board may enforce an ordinance enacted under this subsection in any municipality within the county.

**SECTION 10.** 66.0107 (1) (bm) of the statutes is amended to read:

66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of marijuana, as defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance; except that if any ordinance enacted under this paragraph shall provide a person who is prosecuted under it with the defenses that the person has under s. 961.436 to prosecutions under s. 961.41 (1) (h), (1m) (h), or (3g) (e). If a complaint is issued regarding an allegation
of possession of more than 25 grams of marijuana, or possession of any amount of
marijuana following a conviction in this state for possession of marijuana, the subject
of the complaint may not be prosecuted under this paragraph for the same action that
is the subject of the complaint unless the charges are dismissed or the district
attorney declines to prosecute the case.

SECTION 11. 66.0107 (1) (bp) of the statutes is amended to read:

66.0107 (1) (bp) Enact and enforce an ordinance to prohibit conduct that is the
same as that prohibited by s. 961.573 (1) or (2), 961.574 (1) or (2), or 961.575 (1) or
(2) and provide a forfeiture for violation of the ordinance. Any ordinance enacted
under this paragraph shall provide a person prosecuted under it with the defenses
that the person has under s. 961.5755 to prosecutions under s. 961.573 (1), 961.574
(1), or 961.575 (1). A person may not be prosecuted under an ordinance enacted
under this paragraph if, under s. 968.072 (3) or (4) (b), the person would not be subject
to prosecution under s. 961.573 (1), 961.574 (1), or 961.575 (1).

SECTION 12. 66.0408 of the statutes is created to read:

66.0408 Cultivation of tetrahydrocannabinols. No village, town, city, or
county may enact or enforce an ordinance or a resolution that prohibits cultivating
tetrahydrocannabinols outdoors if the cultivation is by one of the following:

(1) A dispensary, as defined in s. 50.60 (1).

(2) A person who is cultivating tetrahydrocannabinols for the medical use of
tetrahydrocannabinols, as defined in s. 961.01 (14g), if the amount does not exceed
the maximum authorized amount, as defined in s. 961.01 (14c).

(3) An entity that is growing marijuana for distribution as permitted under
rules promulgated under s. 50.61 (2).

SECTION 13. 66.1201 (2m) of the statutes is amended to read:
66.1201 (2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit, facility, or privilege under ss. 66.1201 to 66.1211 may not be denied the right, benefit, facility, or privilege in any manner for any purpose nor be discriminated against because of sex, race, color, creed, or sexual orientation; status as a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the person holds, or has applied for, a registry identification card, as defined in s. 146.44 (1) (g), has been the subject of a written certification, as defined in s. 961.01 (21t), or is or has been a member of a treatment team, as defined in s. 961.01 (20t); or national origin.

SECTION 14. 66.1213 (3) of the statutes is amended to read:

66.1213 (3) DISCRIMINATION. Persons otherwise entitled to any right, benefit, facility, or privilege under this section may not be denied the right, benefit, facility, or privilege in any manner for any purpose nor be discriminated against because of sex, race, color, creed, or sexual orientation; status as a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the person holds, or has applied for, a registry identification card, as defined in s. 146.44 (1) (g), has been the subject of a written certification, as defined in s. 961.01 (21t), or is or has been a member of a treatment team, as defined in s. 961.01 (20t); or national origin.

SECTION 15. 66.1301 (2m) of the statutes is amended to read:

66.1301 (2m) DISCRIMINATION. Persons entitled to any right, benefit, facility, or privilege under ss. 66.1301 to 66.1329 may not be denied the right, benefit, facility, or privilege in any manner for any purpose nor be discriminated against because of sex, race, color, creed, or sexual orientation; status as a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the person
holds, or has applied for, a registry identification card, as defined in s. 146.44 (1) (g),
has been the subject of a written certification, as defined in s. 961.01 (21t), or is or
has been a member of a treatment team, as defined in s. 961.01 (20t); or national
origin.

**SECTION 16.** 66.1331 (2m) of the statutes is amended to read:

66.1331 (2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit,
facility, or privilege under this section may not be denied the right, benefit, facility,
or privilege in any manner for any purpose nor be discriminated against because of
sex, race, color, creed, or sexual orientation; status as a victim of domestic abuse,
sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the person
holds, or has applied for, a registry identification card, as defined in s. 146.44 (1) (g),
has been the subject of a written certification, as defined in s. 961.01 (21t), or is or
has been a member of a treatment team, as defined in s. 961.01 (20t); or national
origin.

**SECTION 17.** 66.1333 (3) (e) 2. of the statutes is amended to read:

66.1333 (3) (e) 2. Persons otherwise entitled to any right, benefit, facility, or
privilege under this section may not be denied the right, benefit, facility, or privilege
in any manner for any purpose nor be discriminated against because of sex, race,
color, creed, or sexual orientation; status as a victim of domestic abuse, sexual
assault, or stalking, as defined in s. 106.50 (1m) (u); whether the person holds, or
has applied for, a registry identification card, as defined in s. 146.44 (1) (g), has been
the subject of a written certification, as defined in s. 961.01 (21t), or is or has been
a member of a treatment team, as defined in s. 961.01 (20t); or national origin.

**SECTION 18.** 106.50 (1m) (h) of the statutes is amended to read:
106.50 (1m) (h) “Discriminate” means to segregate, separate, exclude, or treat a person or class of persons unequally in a manner described in sub. (2), (2m), or (2r) because of sex, race, color, sexual orientation, disability, religion, national origin, marital status, or family status; status as a victim of domestic abuse, sexual assault, or stalking; whether the person holds, or has applied for, a registry identification card, as defined in s. 146.44 (1) (g), has been the subject of a written certification, as defined in s. 961.01 (21t), or is or has been a member of a treatment team, as defined in s. 961.01 (20t); lawful source of income; age; or ancestry.

SECTION 19. 146.40 (1) (bo) of the statutes is amended to read:

146.40 (1) (bo) “Hospice” means a hospice that is licensed under subch. IV VI of ch. 50.

SECTION 20. 146.44 of the statutes is created to read:

146.44 Medical Marijuana Registry Program. (1) Definitions. In this section:

(a) “Applicant” means a person who is applying for a registry identification card under sub. (2) (a).

(b) “Debilitating medical condition or treatment” has the meaning given in s. 961.01 (5m).

(c) “Medical use of tetrahydrocannabinols” has the meaning given in s. 961.01 (14g).

(cm) “Out-of-state registry identification card” means a document that is valid under the rule promulgated under sub. (7) (f).

(d) “Primary caregiver” has the meaning given in s. 961.01 (19m).

(e) “Qualifying patient” has the meaning given in s. 961.01 (20hm).
(f) “Registrant” means a person to whom a registry identification card is issued under sub. (4).

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

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

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

1. His or her name, address, and date of birth.
2. A written certification.
3. The name, address, and telephone number of the person’s current practitioner, as listed in the written certification.
4. A registration fee in an amount determined by the department, but not to exceed $150.
5. Any information that the department determines is necessary for a background check under par. (am).

(am) 1. In this paragraph:
   a. “Background check” means a search of department of justice records to determine whether an applicant for a registry identification card has been convicted of a disqualifying offense.
   b. “Disqualifying offense” means a violent crime under s. 165.84 (7) (ab) or a violation of ch. 961, or a substantially similar violation of federal law, that is a felony.
2. The department shall convey the information provided by the applicant under par. (a) to the department of justice, and the department of justice shall perform a background check on the applicant.

3. If the department of justice determines that the applicant has been convicted of a disqualifying offense, the department of health services shall deny the application unless at least 10 years has passed since the completion of any sentence imposed for any disqualifying offense, including any period of incarceration, parole, and extended supervision, and any period of probation imposed for a disqualifying offense.

(b) An adult registrant who is a qualifying patient or an applicant may jointly apply with another adult to the department for a registry identification card for the other adult, designating the other adult as a primary caregiver for the registrant or applicant. Both persons who jointly apply for a registry identification card under this paragraph shall sign the application form, which shall contain the name, address, and date of birth of the individual applying to be registered as a primary caregiver.

(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.

(3) Processing the Application. The department shall verify the information contained in or accompanying an application submitted under sub. (2) and shall approve or deny the application within 30 days after receiving it. The department may deny an application submitted under sub. (2) only if one of the following applies:

(a) The required information has not been provided or if false information has been provided.
(b) The department is required to deny the application under sub. (2) (am) 3.

(c) The department is required to deny the application under the rules promulgated under sub. (2) (c).

(4) Issuing a Registry Identification Card. The department shall issue to the applicant a registry identification card within 5 days after approving an application under sub. (3). Unless voided under sub. (5) (b) or (c) or revoked under rules promulgated by the department under sub. (7) (d), a registry identification card shall expire 2 years from the date of issuance. A registry identification card shall contain all of the following:

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

1. The registrant.

2. Each primary caregiver, if the registrant is a qualifying patient.

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

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

(c) A photograph of the registrant.

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

(5) Additional Information to be Provided by Registrant. (a) 1. An adult registrant shall notify the department of any change in the registrant’s name and address. An adult registrant who is a qualifying patient shall notify the department of any change in his or her practitioner, of any significant improvement in his or her health as it relates to his or her debilitating medical condition or treatment, and if a registered primary caregiver no longer assists the registrant with the medical use of tetrahydrocannabinols.

2. If a qualifying patient is a child, a primary caregiver for the child shall provide the department with any information that the child, if he or she were an
adult, would have to provide under subd. 1. within 10 days after the date of the
change to which the information relates.

(b) If a registrant fails to notify the department within 10 days after any change
for which notification is required under par. (a) 1., his or her registry identification
card is void. If a registrant fails to comply with par. (a) 2., the registry identification
card for the qualifying patient to whom the information under par. (a) 2. relates is
void.

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

(6) RECORDS. (a) The department shall maintain a list of all registrants.

(b) Notwithstanding s. 19.35 and except as provided in par. (c) and sub. (2) (am),
the department may not disclose information from an application submitted or a
registry identification card issued under this section.

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

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

(a) Creating forms for applications to be used under sub. (2).

(b) Specifying how the department will verify the truthfulness of information
submitted on an application under sub. (2).
(c) Specifying how and under what circumstances registry identification cards may be renewed.

(d) Specifying how and under what changed circumstances a registry identification card may be revoked.

(e) Specifying under what circumstances an applicant whose application is denied may reapply.

(f) Ensuring that out-of-state registry identification cards are valid only if the following apply:

1. The person holding the out-of-state registry identification card has been diagnosed with a debilitating medical condition in the course of a bona fide practitioner-patient relationship, as defined in s. 961.01(3).

2. The out-of-state registry identification card allows for the medical use of tetrahydrocannabinols by the person who holds it, is valid in the jurisdiction in which it was provided, and the person who holds the card is a resident of that jurisdiction.

3. The person who holds the card has not been a resident of Wisconsin for a period longer than a period the department determines would allow the person to apply for a registry identification card in Wisconsin.

(g) Creating guidelines for issuing registry identification cards, and for obtaining and distributing marijuana for the medical use of tetrahydrocannabinols, to persons under the care of the department who have a debilitating medical condition or treatment.

SECTION 21. 146.81 (1) (L) of the statutes is amended to read:

146.81 (1) (L) A hospice licensed under subch. IV VI of ch. 50.

SECTION 22. 146.997 (1) (d) 18. of the statutes is amended to read:

146.997 (1) (d) 18. A hospice licensed under subch. IV VI of ch. 50.
SECTION 23. 173.12 (1m) of the statutes is amended to read:

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

SECTION 24. 234.29 of the statutes is amended to read:

234.29 Equality of occupancy and employment. The authority shall require that occupancy of housing projects assisted under this chapter be open to all regardless of sex, race, religion, or sexual orientation; status as a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the person holds, or has applied for, a registry identification card, as defined in s. 146.44 (1) (g); whether the person holds, or has applied for, a registry identification card, as defined in s. 146.44 (1) (g), has been the subject of a written certification, as defined in s. 961.01 (21t), or is or has been a member of a treatment team, as defined in s. 961.01 (20t); or creed, and that contractors and subcontractors engaged in the construction of economic development or housing projects, shall provide an equal opportunity for employment, without discrimination as to sex, race, religion, sexual orientation, or creed.

SECTION 25. 289.33 (3) (d) of the statutes is amended to read:

289.33 (3) (d) “Local approval” includes any requirement for a permit, license, authorization, approval, variance or exception or any restriction, condition of approval or other restriction, regulation, requirement or prohibition imposed by a charter ordinance, general ordinance, zoning ordinance, resolution or regulation by
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a town, city, village, county or special purpose district, including without limitation because of enumeration any ordinance, resolution or regulation adopted under s. 91.73, 2007 stats., s. 59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2), (5), (6), (7), (8), (9), (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26) and (27), 59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19), (20) and (23), 59.535 (2), (3) and (4), 59.54 (1), (2), (3), (4), (4m), (5), (6), (7), (8), (10), (11), (12), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25) (a), and (26), 59.55 (3), (4), (5) and (6), 59.56 (1), (2), (4), (5), (6), (7), (9), (10), (11), (12), (12m), (13) and (16), 59.57 (1), 59.58 (1) and (5), 59.62, 59.69, 59.692, 59.693, 59.696, 59.697, 59.698, 59.70 (1), (2), (3), (5), (7), (8), (9), (10), (11), (12), (16), 61.35, 61.351, 61.353, 61.354, 62.11, 62.23, 62.231, 62.233, 62.234, 66.0101, 66.0415, 87.30, 196.58, 200.11 (8), 236.45, 281.43 or 349.16, subch. VIII of ch. 60, or subch. III of ch. 91.

SECTION 26. 349.02 (2) (b) 4. of the statutes is amended to read:

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

SECTION 27. 767.41 (5) (am) (intro.) of the statutes is amended to read:

767.41 (5) (am) (intro.) Subject to pars. (bm) and (c), and (d), in determining legal custody and periods of physical placement, the court shall consider all facts relevant to the best interest of the child. The court may not prefer one parent or potential custodian over the other on the basis of the sex or race of the parent or potential custodian. Subject to pars. (bm) and (c), and (d), the court shall consider the following factors in making its determination:

SECTION 28. 767.41 (5) (d) of the statutes is created to read:
767.41 (5) (d) The court may not consider as a factor in determining the legal custody of a child whether a parent or potential custodian holds, or has applied for, a registry identification card, as defined in s. 146.44 (1) (g), is or has been the subject of a written certification, as defined in s. 961.01 (21t), or is or has been a qualified patient, as defined in s. 961.01 (20hm), or a primary caregiver, as defined in s. 961.01 (19m), unless the parent or potential custodian’s behavior creates an unreasonable danger to the child that can be clearly articulated and substantiated.

SECTION 29. 767.451 (5m) (a) (intro.) of the statutes is amended to read:

767.451 (5m) (a) (intro.) Subject to pars. (b) and (c), and (d), in all actions to modify legal custody or physical placement orders, the court shall consider the factors under s. 767.41 (5) (am), subject to s. 767.41 (5) (bm), and shall make its determination in a manner consistent with s. 767.41.

SECTION 30. 767.451 (5m) (d) of the statutes is created to read:

767.451 (5m) (d) In an action to modify a legal custody order, the court may not consider as a factor in making a determination whether a parent or potential custodian holds, or has applied for, a registry identification card, as defined in s. 146.44 (1) (g), is or has been the subject of a written certification, as defined in s. 961.01 (21t), or is or has been a qualified patient, as defined in s. 961.01 (20hm), or a primary caregiver, as defined in s. 961.01 (19m), unless the parent or potential custodian’s behavior creates an unreasonable danger to the child that can be clearly articulated and substantiated.

SECTION 31. 961.01 (3) of the statutes is created to read:

961.01 (3) “Bona fide practitioner-patient relationship” means a relationship between the practitioner and the patient that includes all of the following:
(a) An assessment of the patient’s medical history and current medical condition by the practitioner, including an in-person physical examination if appropriate.

(b) A consultation between the practitioner and the patient with respect to the patient’s debilitating medical condition or treatment.

(c) Availability by the practitioner to provide follow-up care and treatment to the patient, including patient examinations.

SECTION 32. 961.01 (5m) of the statutes is created to read:

961.01 (5m) “Debilitating medical condition or treatment” means any of the following:

(a) Cancer, glaucoma, acquired immunodeficiency syndrome, a positive test for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV, Crohn’s disease, a hepatitis C virus infection, Alzheimer’s disease, amyotrophic lateral sclerosis, nail patella syndrome, Ehlers–Danlos Syndrome, post-traumatic stress disorder, or the treatment of these conditions.

(b) A chronic or debilitating disease or medical condition or the treatment of such a disease or condition that causes cachexia, severe pain, severe nausea, seizures, including those characteristic of epilepsy, or severe and persistent muscle spasms, including those characteristic of multiple sclerosis.

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

SECTION 33. 961.01 (11v) of the statutes is created to read:

961.01 (11v) “HIV” means any strain of human immunodeficiency virus, which causes acquired immunodeficiency syndrome.
SECTION 34. 961.01 (12v) of the statutes is created to read:

961.01 (12v) “Lockable, enclosed facility” means an enclosed indoor or outdoor area that is lockable, or may use a security device, to permit access only by a member of a qualifying patient’s treatment team.

SECTION 35. 961.01 (14c) of the statutes is created to read:

961.01 (14c) “Maximum authorized amount” means 12 live marijuana plants and 3 ounces of usable marijuana.

SECTION 36. 961.01 (14g) of the statutes is created to read:

961.01 (14g) “Medical use of tetrahydrocannabinols” means any of the following:

(a) The use of tetrahydrocannabinols in any form by a qualifying patient to alleviate the symptoms or effects of the qualifying patient’s debilitating medical condition or treatment.

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

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

1. The acquisition, possession, cultivation, transportation, or transfer of the tetrahydrocannabinols is done to facilitate the qualifying patient’s use of tetrahydrocannabinols under par. (a) or (b).
2. It is not practicable for the qualifying patient to acquire, possess, cultivate, or transport the tetrahydrocannabinols independently, or the qualifying patient is under 18 years of age.

SECTION 37. 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. 146.44 (1) (cm).

SECTION 38. 961.01 (19m) of the statutes is created to read:

961.01 (19m) “Primary caregiver” means a person who is at least 21 years of age, who would not be denied, under s. 146.44 (3), a registry identification card, and who has agreed to help a qualifying patient in his or her medical use of tetrahydrocannabinols.

SECTION 39. 961.01 (20hm) of the statutes is created to read:

961.01 (20hm) “Qualifying patient” means a person who has been diagnosed in the course of a bona fide practitioner−patient relationship as having or undergoing a debilitating medical condition or treatment but does not include a person under the age of 18 years unless all of the following apply:

(a) The person’s practitioner has explained the potential risks and benefits of the medical use of tetrahydrocannabinols to the person and to a parent, guardian, or person having legal custody of the person.

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

1. Allow the person’s medical use of tetrahydrocannabinols.

2. Serve as a primary caregiver for the person.

3. Manage the person’s medical use of tetrahydrocannabinols.

SECTION 40. 961.01 (20ht) of the statutes is created to read:
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961.01 (20ht) "Registry identification card" has the meaning given in s. 146.44 (1) (g).

SECTION 41. 961.01 (20t) of the statutes is created to read:

961.01 (20t) "Treatment team" means a qualifying patient and his or her primary caregivers.

SECTION 42. 961.01 (21f) of the statutes is created to read:

961.01 (21f) "Usable marijuana" means marijuana leaves or flowers but does not include seeds, stalks, or roots or any ingredients combined with the leaves or flowers.

SECTION 43. 961.01 (21t) of the statutes is created to read:

961.01 (21t) "Written certification" means a statement made by a person's practitioner if all of the following apply:

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

(b) The statement indicates that the opinion described in par. (a) was made in the course of a bona fide practitioner−patient relationship.

(c) The statement is signed by the practitioner or is contained in the person’s medical records.

SECTION 44. 961.436 of the statutes is created to read:

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

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

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

(c) Any live marijuana plants are in a lockable, 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.

(d) If the member is a primary caregiver, he or she is not a primary caregiver to more than 5 qualifying patients.

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

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

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

(c) Any live marijuana plants are in a lockable, 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.

(d) If the member is a primary caregiver, he or she is not a primary caregiver to more than 5 qualifying patients.
(3) (a) Except as provided in par. (b), a member of a qualifying patient’s treatment team has a defense to a prosecution under s. 961.41 (3g) (e) if all of the following apply:

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

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

3. Any live marijuana plants are in a lockable, 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.

4. If the member is a primary caregiver, he or she is not a primary caregiver to more than 5 qualifying patients.

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

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

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

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

a. A school bus or a public transit vehicle.

b. The person’s place of employment.

c. Public or private school premises.

d. A juvenile correctional facility.
e. A jail or adult correctional facility.

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

g. A youth center.

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

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

SECTION 45. 961.55 (8) of the statutes is renumbered 961.55 (8) (intro.) and amended to read:

961.55 (8) (intro.) The failure, upon demand by any officer or employee designated in s. 961.51 (1) or (2), of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce any of the following constitutes authority for the seizure and forfeiture of the plants:
(a) An appropriate federal registration, or proof that the person is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

SECTION 46. 961.55 (8) (b) of the statutes is created to read:

961.55 (8) (b) A valid registry identification card or a valid out-of-state registry identification card.

SECTION 47. 961.55 (8) (c) of the statutes is created to read:

961.55 (8) (c) The person’s written certification, if the person is a qualifying patient.

SECTION 48. 961.55 (8) (d) of the statutes is created to read:

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

SECTION 49. 961.555 (2) (a) of the statutes is amended to read:

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

SECTION 50. 961.555 (2) (e) of the statutes is created to read:
961.555 (2) (e) The court shall adjourn forfeiture proceedings until after adjudication of any charge concerning a crime that was the basis for the seizure of the property if any of the following applies:

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

**SECTION 51.** 961.555 (2m) of the statutes is created to read:

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

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

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

**SECTION 52.** 961.56 (1) of the statutes is amended to read:

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

SECTION 53. 961.5755 of the statutes is created to read:

961.5755 Medical use of marijuana defense in drug paraphernalia cases. (1) (a) Except as provided in par. (b), a member of a treatment team has a
defense to prosecution under s. 961.573 (1) if he or she uses, or possesses with the
primary intent to use, drug paraphernalia only for the medical use of
tetrahydrocannabinols by the treatment team.

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

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

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

SECTION 54. 968.072 of the statutes is created to read:
968.072 Medical use of marijuana; arrest and prosecution. (1)

DEFINITIONS. In this section:

(a) “Lockable, enclosed facility” has the meaning given in s. 961.01 (12v).

(1m) “Maximum authorized amount” has the meaning given in s. 961.01 (14c).

(b) “Medical use of tetrahydrocannabinols” has the meaning given in s. 961.01 (14g).

(bm) “Out-of-state registry identification card” has the meaning given in s. 146.44 (1) (cm).

(c) “Primary caregiver” has the meaning given in s. 961.01 (19m).

(d) “Qualifying patient” has the meaning given in s. 961.01 (20hm).

(e) “Registry identification card” has the meaning given in s. 146.44 (1) (g).

(f) “Treatment team” has the meaning given in s. 961.01 (20t).

(g) “Written certification” has the meaning given in s. 961.01 (21t).

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

(a) The member manufactures, distributes, delivers, or possesses tetrahydrocannabinols for the medical use of tetrahydrocannabinols by the treatment team.

(b) The member possesses a valid registry identification card, a valid out-of-state registry identification card, or a copy of the qualifying patient’s written certification.

(c) The quantity of tetrahydrocannabinols does not exceed the maximum authorized amount.
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(d) Any live marijuana plants are in a lockable, enclosed facility unless the member is accessing the plants or has the plants in his or her possession.

(e) If the member is a primary caregiver, he or she is not a primary caregiver to more than 5 qualifying patients.

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

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

2. The member possesses a valid registry identification card, a valid out-of-state registry identification card, or a copy of the qualifying patient’s written certification.

3. The member does not possess more than the maximum authorized amount of tetrahydrocannabinols.

4. Any live marijuana plants are in a lockable, enclosed facility unless the member is accessing the plants or has the plants in his or her possession.

5. If the member is a primary caregiver, he or she is not a primary caregiver to more than 5 qualifying patients.

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

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

2. The member possesses a valid registry identification card, a valid
out-of-state registry identification card, or a copy of the qualifying patient’s written
certification.

3. The member does not possess more than the maximum authorized amount
of tetrahydrocannabinols.

4. Any live marijuana plants are in a lockable, enclosed facility unless the
member is accessing the plants or has the plants in his or her possession.

5. If the member is a primary caregiver, he or she is not a primary caregiver
to more than 5 qualifying patients.

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

(b) An employee of a dispensary licensed under subch. V of ch. 50 or of an entity
operating under the rules promulgated under s. 50.61 (2) may not be arrested and
such employee may not be subject to prosecution, denied any right or privilege, or
penalized in any manner for any good faith action under subch. V of ch. 50.

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

SECTION 55. 968.12 (5) of the statutes is created to read:
968.12 (5) Medical Use of Marijuana. A person’s possession, use, or submission
of or connection with an application for a registry identification card under s. 146.44
(2), the issuance of such a card under s. 146.44 (4), or a person’s possession of such
a card, a valid out-of-state registry identification card, as defined in s. 146.44 (1)
(cm), or an original or a copy of a written certification, as defined in s. 961.01 (21t),
may not, by itself, constitute probable cause under sub. (1) or otherwise subject any
person or the property of any person to inspection by any governmental agency.

Section 56. 968.19 of the statutes is renumbered 968.19 (1) and amended to
read:

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

Section 57. 968.19 (2) of the statutes is created to read:

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

Section 58. 968.20 (1) of the statutes is renumbered 968.20 (1f), and 968.20
(1f) (intro.), as renumbered, is amended to read:

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

**SECTION 59.** 968.20 (1d) of the statutes is created to read:

968.20 (1d) In this section:

(a) “Drug paraphernalia” has the meaning given in s. 961.571 (1) (a).

(b) “Tetrahydrocannabinols” means a substance included in s. 961.14 (4) (t).

**SECTION 60.** 968.20 (1j) of the statutes is created to read:

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

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

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

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

**SECTION 61.** 968.20 (3) (a) and (b) of the statutes are amended to read:

968.20 (3) (a) First class cities shall dispose of dangerous weapons or ammunition seized 12 months after taking possession of them if the owner, authorized under sub. (1m), has not requested their return and if the dangerous weapon or ammunition is not required for evidence or use in further investigation
and has not been disposed of pursuant to a court order at the completion of a criminal action or proceeding. Disposition procedures shall be established by ordinance or resolution and may include provisions authorizing an attempt to return to the rightful owner any dangerous weapons or ammunition which appear to be stolen or are reported stolen. If enacted, any such provision shall include a presumption that if the dangerous weapons or ammunition appear to be or are reported stolen an attempt will be made to return the dangerous weapons or ammunition to the authorized rightful owner. If the return of a seized dangerous weapon other than a firearm is not requested by its rightful owner under sub. (1) (1f) and is not returned by the officer under sub. (2), the city shall safely dispose of the dangerous weapon or, if the dangerous weapon is a motor vehicle, as defined in s. 340.01 (35), sell the motor vehicle following the procedure under s. 973.075 (4) or authorize a law enforcement agency to retain and use the motor vehicle. If the return of a seized firearm or ammunition is not requested by its authorized rightful owner under sub. (1) (1f) and is not returned by the officer under sub. (2), the seized firearm or ammunition shall be shipped to and become property of the state crime laboratories. A person designated by the department of justice may destroy any material for which the laboratory has no use or arrange for the exchange of material with other public agencies. In lieu of destruction, shoulder weapons for which the laboratories have no use shall be turned over to the department of natural resources for sale and distribution of proceeds under s. 29.934 or for use under s. 29.938.

(b) Except as provided in par. (a) or sub. (1m) or (4), a city, village, town or county or other custodian of a seized dangerous weapon or ammunition, if the dangerous weapon or ammunition is not required for evidence or use in further investigation and has not been disposed of pursuant to a court order at the
completion of a criminal action or proceeding, shall make reasonable efforts to notify all persons who have or may have an authorized rightful interest in the dangerous weapon or ammunition of the application requirements under sub. (1f). If, within 30 days after the notice, an application under sub. (1f) is not made and the seized dangerous weapon or ammunition is not returned by the officer under sub. (2), the city, village, town or county or other custodian may retain the dangerous weapon or ammunition and authorize its use by a law enforcement agency, except that a dangerous weapon used in the commission of a homicide or a handgun, as defined in s. 175.35 (1) (b), may not be retained. If a dangerous weapon other than a firearm is not so retained, the city, village, town or county or other custodian shall safely dispose of the dangerous weapon or, if the dangerous weapon is a motor vehicle, as defined in s. 340.01 (35), sell the motor vehicle following the procedure under s. 973.075 (4). If a firearm or ammunition is not so retained, the city, village, town or county or other custodian shall ship it to the state crime laboratories and it is then the property of the laboratories. A person designated by the department of justice may destroy any material for which the laboratories have no use or arrange for the exchange of material with other public agencies. In lieu of destruction, shoulder weapons for which the laboratory has no use shall be turned over to the department of natural resources for sale and distribution of proceeds under s. 29.934 or for use under s. 29.938.

**SECTION 62. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The treatment of section 146.44 and subchapter V of chapter 50 of the statutes takes effect on the first day of the 6th month beginning after publication.

(END)