

2019 DRAFTING REQUEST

Bill

For: **Administration-Budget** Drafter: **chanaman**
 By: **Bolhorst** Secondary Drafters: **jkreye**
 Date: **1/22/2019** May Contact:
 Same as LRB:

Submit via email: **YES**
 Requester's email:
 Carbon copy (CC) to: **doasbostatlanguage@wisconsin.gov**

Pre Topic:

DOA:.....Bollhorst, BB0218 -

Topic:

Medical marijuana

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	swalkenh 1/28/2019	wjackson 1/28/2019			
/P1	eshea 2/5/2019	wjackson 2/7/2019	mbarman 1/29/2019		Crime State S&L
/P2	chanaman 2/15/2019	wjackson 2/18/2019	dwalker 2/7/2019		Crime State S&L
/P3	chanaman 2/18/2019	wjackson 2/18/2019	lparisi 2/18/2019		Crime State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required S&L</u>
/P4	swalkenh 2/20/2019		lparisi 2/18/2019		Crime State S&L
/P5	mmcgreev 2/20/2019	wjackson 2/20/2019	dwalker 2/20/2019		Crime State S&L
/P6			lparisi 2/20/2019		Crime State S&L
/P7	mmcgreev 2/21/2019	anienaja 2/21/2019	lparisi 2/21/2019		Crime State S&L
/P8			lparisi 2/21/2019		Crime State S&L

FE Sent For:

<END>

Hanaman, Cathlene

From: Bollhorst, Nathan - DOA
Sent: Tuesday, February 12, 2019 7:14 PM
To: Hanaman, Cathlene
Cc: Dombrowski, Cynthia A - DOA
Subject: RE: Draft 1539/P1

Cathlene,

Additionally please amend the draft as follows:

- ✓ Create one appropriation instead of two.
- ✓ In 146.44(1)(b)(4), change the language from promulgated by the department to as determined by the department.
- ✓ In 146.44(2)(a)(4), change the language to a fee greater than or equal to \$100 as determined by the department.
- ✓ In 146.44(2)(ac)(3), change the language to a fee greater than or equal to \$100 as determined by the department.
- ✓ In 50.594(2)(a), change the language to a fee greater than or equal to \$250 as determined by the department.
- ✓ In 50.594(2)(b), change the language to a fee greater than or equal to \$5,000 as determined by the department.

Thank you,

Nathan

From: Bollhorst, Nathan - DOA
Sent: Tuesday, February 12, 2019 7:01 PM
To: 'Hanaman, Cathlene M - LEGIS' <Cathlene.Hanaman@legis.wisconsin.gov>
Cc: Dombrowski, Cynthia A - DOA <Cynthia.Dombrowski@wisconsin.gov>
Subject: RE: Draft 1539/P1

Regarding draft 1539/P2:

Please remove the following language that was requested in the previous draft:

Create language related to the possession of tetrahydrocannabinols:

- A person who commits a first offense of possession of THC commits a civil offense, punishable by a forfeiture of not less than \$150 nor more than \$300.
- A person who commits a second offense of possession of THC is guilty of a Class C misdemeanor and may be fined up to \$500, imprisoned for up to 30 days, or both.
- A person who commits a third offense is guilty of a Class A misdemeanor, and may be fined up to \$10,000, imprisoned for up to nine months, or both.
- A person who commits a fourth or subsequent possession of THC offense, or who has been convicted of a prior crime related to any controlled substance except possession of THC, is guilty of a Class I felony and may be fined up to \$10,000, imprisoned for up to three years and six months, or both.
- Allow a county or municipality to enact ordinances that make the first possession of any amount of marijuana a civil offense, punishable by a forfeiture. The ordinance, however, cannot be used to prosecute a person who has committed a prior offense of possessing THC.
- A person under 17 years of age who is found to have committed a first violation of possession of THC is subject to the dispositions specified in the Juvenile Justice Code for a juvenile who violates a civil law rather

than to the delinquency dispositions specified in the Juvenile Justice Code for a juvenile who violates a criminal law. A juvenile who is found to have committed a first violation of possession of THC may be ordered to pay a forfeiture not to exceed \$50 or to participate in a teen court program, in community service work, or in an alcohol or other drug abuse treatment or education program.

- Use 2013 Assembly Bill 891 as a reference.

Nathan

From: Bollhorst, Nathan - DOA

Sent: Monday, February 04, 2019 4:57 PM

To: 'Hanaman, Cathlene M - LEGIS' <Cathlene.Hanaman@legis.wisconsin.gov>

Cc: Dombrowski, Cynthia A - DOA <Cynthia.Dombrowski@wisconsin.gov>

Subject: RE: Draft 1539/P1

Regarding Medical Marijuana and regarding penalties related to possession of tetrahydrocannabinols:

1. Modify 961.14(4)(t)1 to allow the use of cannabidiol. Example included: Cannabidiol in a form without a psychoactive effect, ~~that is dispensed as provided in s. 961.38 (1n) (a) or that is possessed as provided in s. 961.32 (2m) (b).~~
2. Create language related to the possession of tetrahydrocannabinols:
 - A person who commits a first offense of possession of THC commits a civil offense, punishable by a forfeiture of not less than \$150 nor more than \$300.
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Thanks,

Nathan

From: Hanaman, Cathlene M - LEGIS <Cathlene.Hanaman@legis.wisconsin.gov>
Sent: Monday, February 04, 2019 1:44 PM
To: Bollhorst, Nathan - DOA <Nathan.Bollhorst@wisconsin.gov>
Subject: RE: Draft 1539/P1

Email is easier—thanks!

From: Bollhorst, Nathan - DOA <Nathan.Bollhorst@wisconsin.gov>
Sent: Monday, February 04, 2019 1:29 PM
To: Hanaman, Cathlene <Cathlene.Hanaman@legis.wisconsin.gov>
Cc: Dombrowski, Cynthia A - DOA <Cynthia.Dombrowski@wisconsin.gov>
Subject: Draft 1539/P1

Cathlene,

There are additional statutory language requests related to draft 1539/P1. Would you like to receive those requests via email or the SharePoint site?

Thank you,



Nathan Bollhorst | Executive Policy & Budget Analyst
Department of Administration
Division of Executive Budget and Finance
Nathan.Bollhorst@wisconsin.gov
Main: (608) 267-7980

Hanaman, Cathlene

From: Bollhorst, Nathan - DOA
Sent: Tuesday, February 12, 2019 7:01 PM
To: Hanaman, Cathlene
Cc: Dombrowski, Cynthia A - DOA
Subject: RE: Draft 1539/P1

Regarding draft 1539/P2:

Please remove the following language that was requested in the previous draft:

Create language related to the possession of tetrahydrocannabinols:

- A person who commits a first offense of possession of THC commits a civil offense, punishable by a forfeiture of not less than \$150 nor more than \$300.
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Nathan

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Sent: Monday, February 04, 2019 4:57 PM
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Subject: RE: Draft 1539/P1

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1. Modify 961.14(4)(t)1 to allow the use of cannabidiol. Example included: Cannabidiol in a form without a psychoactive effect, ~~that is dispensed as provided in s. 961.38 (1n) (a) or that is possessed as provided in s. 961.32 (2m) (b).~~
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Subject: Draft 1539/P1

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There are additional statutory language requests related to draft 1539/P1. Would you like to receive those requests via email or the SharePoint site?

Thank you,



Nathan Bollhorst | Executive Policy & Budget Analyst
Department of Administration
Division of Executive Budget and Finance
Nathan.Bollhorst@wisconsin.gov
Main: (608) 267-7980

Hanaman, Cathlene

From: Bollhorst, Nathan - DOA
Sent: Tuesday, January 22, 2019 4:03 PM
To: Hanaman, Cathlene
Cc: Dombrowski, Cynthia A - DOA; Bollhorst, Nathan - DOA
Subject: Statutory Language Drafting Request - 2019-21

Biennial Budget: 2019-21

Topic: Legalize Medical Marijuana

Tracking Code: BB0218

SBO Team: HSI

SBO Analyst: Bollhorst, Nathan
Phone: 608-267-7980
E-mail: Nathan.Bollhorst@wisconsin.gov

Agency Acronym: 435

Agency Number: 435

Priority: Low

Intent:

Create language legalizing the use of medical marijuana. Model language after 2017 Senate Bill 38.

Attachments: False

Please send completed drafts to SBOSatlanguage@spmail.enterprise.wistate.us



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1055/P1
CMH&JK:wlj
1539/P1

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

IN 1/28

do not gen

1 **AN ACT** *to renumber and amend* 968.19; *to amend* 59.54 (25) (a) (intro.), 59.54
2 (25m), 66.0107 (1) (bm), 66.0107 (1) (bp), 66.1201 (2m), 66.1213 (3), 66.1301
3 (2m), 66.1331 (2m), 66.1333 (3) (e) 2., 77.52 (13), 77.53 (10), 106.50 (1m) (h),
4 234.29, 289.33 (3) (d), 349.02 (2) (b) 4., 767.41 (5) (am) (intro.), 767.451 (5m) (a),
5 961.555 (2) (am) 6., 961.56 (1) and 968.20 (1g) (intro.); and **to create** 20.435 (1)
6 (gq), 20.435 (1) (jm), subchapter IV of chapter 50 [precedes 50.59], 59.54 (25) (c),
7 66.0414, 77.54 (69), 146.44, 767.41 (5) (d), 767.451 (5m) (d), 961.01 (5m), 961.01
8 (12v), 961.01 (14c), 961.01 (14g), 961.01 (17k), 961.01 (19m), 961.01 (20hm),
9 961.01 (20ht), 961.01 (20t), 961.01 (21f), 961.01 (21t), 961.436, 961.55 (8) (c), (d)
10 and (e), 961.555 (2r), 961.5755, 968.072, 968.12 (6), 968.19 (2) and 968.20 (1j)
11 of the statutes; **relating to:** *medication with tetrahydrocannabinols, the*

- 1 regulation of cannabis distribution entities, requiring the exercise of
 2 rule-making authority, making an appropriation, and providing a penalty.

the budget
~~HEALTH AND HUMAN SERVICES~~
 HEALTH

Analysis by the Legislative Reference Bureau

Current law prohibits a person from manufacturing, distributing, or delivering tetrahydrocannabinols; possessing THC with the intent to manufacture, distribute, or deliver it; possessing or attempting to possess THC; using drug paraphernalia; or possessing drug paraphernalia. This bill creates a medical use defense to such THC-related prosecutions and forfeiture actions for a person who is registered with ~~the Department of Health Services~~ as having a specified debilitating medical condition or undergoing a specified debilitating treatment. The bill also prohibits the arrest or prosecution of such a person for those offenses. The defense and prohibition do not apply under certain circumstances, such as 1) if the person does not have a valid registry identification card; 2) if the amount of cannabis involved is more than 12 plants and three ounces of leaves or flowers; 3) if, while under the influence of THC, the person drives a motor vehicle or engages in other conduct that endangers another person; or 4) if the person smokes cannabis on a school bus or public transit or on school premises.

DHS

Under the bill, DHS must establish a medical cannabis registry, and a person may apply to DHS for a registry identification card. The bill specifies that the following medical conditions or treatments qualify a person for the registry: cancer, glaucoma, AIDS or 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; opioid abatement or reduction or treatment for opioid addiction; 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, or severe and persistent muscle spasms; and any other medical condition or treatment DHS designates as a debilitating medical condition or treatment. DHS must issue a qualified applicant a registry identification card unless, in the previous ten years, the applicant was serving a sentence or on probation for certain violent felony convictions. DHS must keep registry information and applications confidential except for verifying status for law enforcement purposes.

Under the bill, DHS also must license and regulate dispensaries to facilitate medical THC. The bill prohibits a dispensary from being located within 500 feet of a school, from distributing to one person more than 12 cannabis plants and three ounces of cannabis leaves or flowers, and from possessing an excessive quantity of cannabis. An applicant for a dispensary license must pay an initial application fee of \$250, and a dispensary must pay an annual fee of \$5,000.

The bill requires DHS to promulgate rules to allow entities to grow cannabis and distribute it to dispensaries. The bill also requires DHS to register entities as THC-testing laboratories.

or

or

The bill changes state law regarding THC. It does not affect federal law, which generally prohibits persons from manufacturing, delivering, or possessing THC 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.

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

2 20.435 (1) (gq) *Medical cannabis registry*. All moneys received as fees under
3 s. 146.44 (2) (a) 4. and (ac) 3. and (4m), for the purposes of the Medical Cannabis
4 Registry Program under s. 146.44. — NOTE BJD

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

6 20.435 (1) (jm) *Licensing and support services for dispensaries*. All moneys
7 received under s. 50.594 to license and regulate dispensaries, and to register
8 laboratories, under subch. IV of ch. 50. _____ NOTE BJD

9 SECTION 3. Subchapter IV of chapter 50 [precedes 50.59] of the statutes is
10 created to read:

11 **CHAPTER 50**

12 **SUBCHAPTER IV**

13 **DISTRIBUTION AND TESTING CENTERS**

14 **50.59 Definitions.** In this subchapter:

15 (1) "Dispensary" means an entity licensed under s. 50.592 that cultivates,
16 acquires, manufactures, possesses, delivers, transfers, transports, sells, or dispenses
17 cannabis, tetrahydrocannabinols, paraphernalia, or related supplies and
18 educational materials to treatment teams and other dispensaries.

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

2 (3) "Medication with tetrahydrocannabinols" has the meaning given in s.
3 146.44 (1) (c).

4 (4) "Qualifying patient" has the meaning given in s. 146.44 (1) (e).

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

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

7 (7) "Usable cannabis" has the meaning given in s. 961.01 (21f).

8 (8) "Written certification" has the meaning given in s. 146.44 (1) (h).

9 **50.591 Departmental powers and duties.** (1) The department shall
10 provide licensing, regulation, record keeping, and security for dispensaries.

11 (2) The department shall promulgate rules allowing entities to grow cannabis
12 and distribute cannabis and tetrahydrocannabinols to dispensaries, shall develop
13 security guidelines for the entities, and shall regulate such entities. The department
14 may not limit the amount of cannabis or tetrahydrocannabinols for the purposes of
15 this subsection.

16 **50.592 Licensing.** The department shall issue licenses to operate as a
17 dispensary and shall decide which and how many applicants receive a license based
18 on all of the following:

19 (1) Convenience to treatment teams and the preferences of treatment teams.

20 (2) The ability of an applicant to provide to treatment teams a sufficient
21 amount of tetrahydrocannabinols.

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

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

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

3 (6) The ability of the applicant to abide by the prohibitions under s. 50.593.

4 **50.593 Prohibitions.** The department may issue a license under this
5 subchapter to an applicant only if the applicant has been a resident of this state for
6 at least the 2 years immediately preceding the application. The department may not
7 issue a license to, and must revoke a license of, any entity to which any of the
8 following applies:

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

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

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

18 **50.594 Licensing procedure.** (1) An application for a license under this
19 subchapter shall be in writing on a form provided by the department and include the
20 licensing application fee under sub. (2) (a).

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

22 (b) The annual fee for a dispensary is \$5,000.

23 (3) A dispensary license is valid unless revoked. Each license shall be issued
24 only for the applicant named in the application and may not be transferred or
25 assigned.

1 **50.595 Distribution of medical tetrahydrocannabinols.** (1) A dispensary
2 may deliver or distribute tetrahydrocannabinols and drug paraphernalia to a
3 member of a treatment team if the dispensary receives a copy of the qualifying
4 patient's written certification or registry identification card.

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

7 **(2m)** An entity operating under rules promulgated under s. 50.591 (2) may
8 possess tetrahydrocannabinols, possess or manufacture tetrahydrocannabinols with
9 the intent to deliver or distribute to a dispensary, or deliver or distribute
10 tetrahydrocannabinols to a dispensary.

11 **(3)** A dispensary may have 2 locations, one for cultivation or production and
12 one for distribution.

13 **(4)** A dispensary shall have all tetrahydrocannabinols and cannabis tested for
14 mold, fungus, pesticides, and other contaminants and may not distribute
15 tetrahydrocannabinols or cannabis that test positive for mold, fungus, pesticides, or
16 other contaminants if the contaminants, or level of contaminants, are identified by
17 the testing laboratories under s. 50.596 to be potentially unsafe to a qualifying
18 patient's health.

19 **(5)** A dispensary or an entity operating under rules promulgated under s.
20 50.591 (2) may cultivate cannabis, including cultivating cannabis outdoors.

21 **50.596 Testing laboratories.** The department shall register entities as
22 tetrahydrocannabinols-testing laboratories. The laboratories may possess or
23 manufacture tetrahydrocannabinols and drug paraphernalia and shall perform the
24 following services:

1 (1) Test cannabis and tetrahydrocannabinols produced for dispensaries for
2 potency and for mold, fungus, pesticides, and other contaminants.

3 (2) Research findings related to medication with tetrahydrocannabinols,
4 including findings that identify potentially unsafe levels of contaminants.

5 (3) Provide training to persons who hold registry identification cards,
6 treatment teams, persons employed by dispensaries, and entities that grow cannabis
7 and distribute to dispensaries cannabis and tetrahydrocannabinols, as provided by
8 rules promulgated under s. 50.591 (2), on the following:

9 (a) The safe and efficient cultivation, harvesting, packaging, labeling, and
10 distribution of cannabis and tetrahydrocannabinols.

11 (b) Security and inventory accountability procedures.

12 (c) The most recent research on medication with tetrahydrocannabinols.

13 **50.597 Confidentiality.** The department may disclose to a law enforcement
14 agency only information necessary to verify that a dispensary has a license issued
15 under this subchapter, an entity is complying with rules under s. 50.591 (2), or an
16 entity is registered under s. 50.596.

17 **SECTION 4.** 59.54 (25) (a) (intro.) of the statutes is amended to read:

18 59.54 (25) (a) (intro.) The board may enact and enforce an ordinance to prohibit
19 the possession of marijuana, as defined in s. 961.01 (14), subject to par. (c) and the
20 exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the
21 ordinance; ~~except that if.~~ Any ordinance enacted under this paragraph shall provide
22 a person who is prosecuted under it with the defenses that the person has under s.
23 961.436 to prosecutions under s. 961.41 (1) (h), (1m) (h), or (3g) (e). If a complaint
24 is issued regarding an allegation of possession of more than 25 grams of marijuana,
25 or possession of any amount of marijuana following a conviction in this state for

1 possession of marijuana, the subject of the complaint may not be prosecuted under
2 this subsection for the same action that is the subject of the complaint unless all of
3 the following occur:

4 **SECTION 5.** 59.54 (25) (c) of the statutes is created to read:

5 59.54 (25) (c) A person may not be prosecuted under an ordinance enacted
6 under par. (a) if, under s. 968.072 (2) or (4) (b), the person would not be subject to
7 prosecution under s. 961.41 (3g) (e).

8 **SECTION 6.** 59.54 (25m) of the statutes is amended to read:

9 59.54 (25m) DRUG PARAPHERNALIA. The board may enact an ordinance to
10 prohibit conduct that is the same as that prohibited by s. 961.573 (1) or (2), 961.574
11 (1) or (2), or 961.575 (1) or (2) and provide a forfeiture for violation of the ordinance.
12 Any ordinance enacted under this subsection shall provide a person prosecuted
13 under it with the defenses that the person has under s. 961.5755 to prosecutions
14 under s. 961.573 (1), 961.574 (1), or 961.575 (1). A person may not be prosecuted
15 under an ordinance enacted under this subsection if, under s. 968.072 (3) or (4) (b),
16 the person would not be subject to prosecution under s. 961.573 (1), 961.574 (1), or
17 961.575 (1). The board may enforce an ordinance enacted under this subsection in
18 any municipality within the county.

19 **SECTION 7.** 66.0107 (1) (bm) of the statutes is amended to read:

20 66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of
21 marijuana, as defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g)
22 (intro.), and provide a forfeiture for a violation of the ordinance; ~~except that if.~~ Any
23 ordinance enacted under this paragraph shall provide a person who is prosecuted
24 under it with the defenses that the person has under s. 961.436 to prosecutions under
25 s. 961.41 (1) (h), (1m) (h), or (3g) (e). If a complaint is issued regarding an allegation

1 of possession of more than 25 grams of marijuana, or possession of any amount of
2 marijuana following a conviction in this state for possession of marijuana, the subject
3 of the complaint may not be prosecuted under this paragraph for the same action that
4 is the subject of the complaint unless the charges are dismissed or the district
5 attorney declines to prosecute the case.

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

7 66.0107 (1) (bp) Enact and enforce an ordinance to prohibit conduct that is the
8 same as that prohibited by s. 961.573 (1) or (2), 961.574 (1) or (2), or 961.575 (1) or
9 (2) and provide a forfeiture for violation of the ordinance. Any ordinance enacted
10 under this paragraph shall provide a person prosecuted under it with the defenses
11 that the person has under s. 961.5755 to prosecutions under s. 961.573 (1), 961.574
12 (1), or 961.575 (1). A person may not be prosecuted under an ordinance enacted
13 under this paragraph if, under s. 968.072 (3) or (4) (b), the person would not be subject
14 to prosecution under s. 961.573 (1), 961.574 (1), or 961.575 (1).

15 **SECTION 9.** 66.0414 of the statutes is created to read:

16 **66.0414 Cultivation of tetrahydrocannabinols.** No village, town, city, or
17 county may enact or enforce an ordinance or a resolution that prohibits cultivating
18 tetrahydrocannabinols or cannabis outdoors if the cultivation is by one of the
19 following:

20 (1) A dispensary, as defined in s. 50.59 (1).

21 (2) A person who is cultivating tetrahydrocannabinols for medication with
22 tetrahydrocannabinols, as defined in s. 146.44 (1) (c), if the amount of cannabis does
23 not exceed the maximum authorized amount, as defined in s. 961.01 (14c).

24 (3) An entity that is cultivating cannabis for distribution as permitted under
25 rules promulgated under s. 50.591 (2).

1 **SECTION 10.** 66.1201 (2m) of the statutes is amended to read:

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

11 **SECTION 11.** 66.1213 (3) of the statutes is amended to read:

12 66.1213 (3) DISCRIMINATION. Persons otherwise entitled to any right, benefit,
13 facility, or privilege under this section may not be denied the right, benefit, facility,
14 or privilege in any manner for any purpose nor be discriminated against because of
15 sex, race, color, creed, or sexual orientation; status as a victim of domestic abuse,
16 sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the person
17 holds, or has applied for, a registry identification card, as defined in s. 146.44 (1) (g),
18 has been the subject of a written certification, as defined in s. 146.44 (1) (h), or is or
19 has been a member of a treatment team, as defined in s. 961.01 (20t); or national
20 origin.

21 **SECTION 12.** 66.1301 (2m) of the statutes is amended to read:

22 66.1301 (2m) DISCRIMINATION. Persons entitled to any right, benefit, facility,
23 or privilege under ss. 66.1301 to 66.1329 may not be denied the right, benefit, facility,
24 or privilege in any manner for any purpose nor be discriminated against because of
25 sex, race, color, creed, or sexual orientation; status as a victim of domestic abuse,

1 sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the person
2 holds, or has applied for, a registry identification card, as defined in s. 146.44 (1) (g),
3 has been the subject of a written certification, as defined in s. 146.44 (1) (h), or is or
4 has been a member of a treatment team, as defined in s. 961.01 (20t); or national
5 origin.

6 **SECTION 13.** 66.1331 (2m) of the statutes is amended to read:

7 66.1331 (2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit,
8 facility, or privilege under this section may not be denied the right, benefit, facility,
9 or privilege in any manner for any purpose nor be discriminated against because of
10 sex, race, color, creed, or sexual orientation; status as a victim of domestic abuse,
11 sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the person
12 holds, or has applied for, a registry identification card, as defined in s. 146.44 (1) (g),
13 has been the subject of a written certification, as defined in s. 146.44 (1) (h), or is or
14 has been a member of a treatment team, as defined in s. 961.01 (20t); or national
15 origin.

16 **SECTION 14.** 66.1333 (3) (e) 2. of the statutes is amended to read:

17 66.1333 (3) (e) 2. Persons otherwise entitled to any right, benefit, facility, or
18 privilege under this section may not be denied the right, benefit, facility, or privilege
19 in any manner for any purpose nor be discriminated against because of sex, race,
20 color, creed, or sexual orientation; status as a victim of domestic abuse, sexual
21 assault, or stalking, as defined in s. 106.50 (1m) (u); whether the person holds, or
22 has applied for, a registry identification card, as defined in s. 146.44 (1) (g), has been
23 the subject of a written certification, as defined in s. 146.44 (1) (h), or is or has been
24 a member of a treatment team, as defined in s. 961.01 (20t); or national origin.

25 **SECTION 15.** 77.52 (13) of the statutes is amended to read:

1 **77.52 (13)** For the purpose of the proper administration of this section and to
2 prevent evasion of the sales tax it shall be presumed that all receipts are subject to
3 the tax until the contrary is established. The burden of proving that a sale of tangible
4 personal property, or items, property, or goods under sub. (1) (b), (c), or (d), or services
5 is not a taxable sale at retail is upon the person who makes the sale unless that
6 person takes from the purchaser an electronic or a paper certificate, in a manner
7 prescribed by the department, to the effect that the property, item, good, or service
8 is purchased for resale or is otherwise exempt, except that no certificate is required
9 for the sale of tangible personal property, or items, property, or goods under sub. (1)
10 (b), (c), or (d), or services that are exempt under s. 77.54 (5) (a) 3., (7), (7m), (8), (10),
11 (11), (14), (15), (17), (20n), (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46),
12 (51), (52), (66), and (67), and (69).

13 **SECTION 16.** 77.53 (10) of the statutes is amended to read:

14 **77.53 (10)** For the purpose of the proper administration of this section and to
15 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that
16 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or
17 (d), or taxable services sold by any person for delivery in this state is sold for storage,
18 use, or other consumption in this state until the contrary is established. The burden
19 of proving the contrary is upon the person who makes the sale unless that person
20 takes from the purchaser an electronic or paper certificate, in a manner prescribed
21 by the department, to the effect that the property, or items, property, or goods under
22 s. 77.52 (1) (b), (c), or (d), or taxable service is purchased for resale, or otherwise
23 exempt from the tax, except that no certificate is required for the sale of tangible
24 personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or

1 services that are exempt under s. 77.54 (7), (7m), (8), (10), (11), (14), (15), (17), (20n),
2 (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46), (51), (52), ~~and (67), and (69).~~

3 **SECTION 17.** 77.54 (69) of the statutes is created to read:

4 77.54 **(69)** The sales price from the sales of and the storage, use, or other
5 consumption of medical tetrahydrocannabinols and drug paraphernalia delivered or
6 distributed by a dispensary licensed under s. 50.592.

7 **SECTION 18.** 106.50 (1m) (h) of the statutes is amended to read:

8 106.50 **(1m)** (h) “Discriminate” means to segregate, separate, exclude, or treat
9 a person or class of persons unequally in a manner described in sub. (2), (2m), or (2r)
10 because of sex, race, color, sexual orientation, disability, religion, national origin,
11 marital status, or family status; status as a victim of domestic abuse, sexual assault,
12 or stalking; whether the person holds, or has applied for, a registry identification
13 card, as defined in s. 146.44 (1) (g), has been the subject of a written certification, as
14 defined in s. 146.44 (1) (h), or is or has been a member of a treatment team, as defined
15 in s. 961.01 (20t); lawful source of income; age; or ancestry.

16 **SECTION 19.** 146.44 of the statutes is created to read:

17 **146.44 Medical Cannabis Registry Program. (1) DEFINITIONS.** In this
18 section:

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

21 (ag) “Bona fide practitioner-patient relationship” means a relationship
22 between the practitioner and the patient that includes all of the following:

23 1. An assessment of the patient’s medical history and current medical condition
24 by the practitioner, including an in-person physical examination if appropriate.

1 2. A consultation between the practitioner and the patient with respect to the
2 patient's debilitating medical condition or treatment.

3 3. Availability by the practitioner to provide follow-up care and treatment to
4 the patient, including patient examinations.

5 (b) "Debilitating medical condition or treatment" means any of the following:

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

11 2. Opioid abatement or reduction or treatment for opioid addiction.

12 3. 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, including those characteristic of epilepsy, or severe and persistent muscle
15 spasms, including those characteristic of multiple sclerosis.

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

19 (c) "Medication with tetrahydrocannabinols" means any of the following:

20 1. The use of tetrahydrocannabinols in any form by a qualifying patient to
21 alleviate the symptoms or effects of the qualifying patient's debilitating medical
22 condition or treatment.

23 2. The acquisition, possession, cultivation, or transportation of
24 tetrahydrocannabinols in any form by a qualifying patient if done to facilitate his or
25 her use of the tetrahydrocannabinols under subd. 1.

1 3. The acquisition, possession, cultivation, or transportation of
2 tetrahydrocannabinols in any form by a primary caregiver of a qualifying patient,
3 the transfer of tetrahydrocannabinols in any form between a qualifying patient and
4 his or her primary caregivers, or the transfer of tetrahydrocannabinols in any form
5 between persons who are primary caregivers for the same qualifying patient if all of
6 the following apply:

7 a. The acquisition, possession, cultivation, transportation, or transfer of the
8 tetrahydrocannabinols is done to facilitate the qualifying patient's use of
9 tetrahydrocannabinols under subd. 1. or 2.

10 b. It is not practicable for the qualifying patient to acquire, possess, cultivate,
11 or transport the tetrahydrocannabinols independently, or the qualifying patient is
12 under 18 years of age.

13 (cm) "Out-of-state registry identification card" means a document that is valid
14 as provided under sub. (7) (f).

15 (d) "Primary caregiver" means a person who has agreed to help a qualifying
16 patient in his or her medication with tetrahydrocannabinols and who has a registry
17 identification card.

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

22 1. The person's practitioner has explained the potential risks and benefits of
23 medication with tetrahydrocannabinols to the person and to a parent, guardian, or
24 person having legal custody of the person.

1 2. The parent, guardian, or person having legal custody provides the
2 practitioner a written statement consenting to do all of the following:

3 a. Allow medication with tetrahydrocannabinols for the person.

4 b. Serve as a primary caregiver for the person.

5 c. Manage the person's medication with tetrahydrocannabinols.

6 (f) "Registrant" means a person to whom a registry identification card is issued.

7 (g) "Registry identification card" means a document issued by the department
8 under sub. (4) that identifies a person as a qualifying patient or primary caregiver.

9 (h) "Written certification" means a statement written by a person's practitioner
10 if all of the following apply:

11 1. The statement indicates that, in the practitioner's professional opinion, the
12 person has or is undergoing a debilitating medical condition or treatment and the
13 potential benefits of medication with tetrahydrocannabinols would likely outweigh
14 the health risks for the person.

15 2. The statement indicates that the opinion described in subd. 1. was made in
16 the course of a bona fide practitioner-patient relationship.

17 3. The statement is signed by the practitioner or is contained in the person's
18 medical records.

19 **(2) APPLICATION.** (a) An adult who is claiming to be a qualifying patient may
20 apply for a registry identification card by submitting to the department all of the
21 following:

22 1. A signed application form that contains the applicant's name, address, and
23 date of birth.

24 2. A written certification.

1 3. The name, address, and telephone number of the applicant's current
2 practitioner, as listed in the written certification.

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

5 5. Any information that the department determines is necessary for a
6 background check under par. (am).

7 (ac) A person who is at least 21 years of age may apply for a registry
8 identification card as a primary caregiver by submitting to the department all of the
9 following:

10 1. A signed application form that contains the applicant's name, address, and
11 date of birth.

12 2. A copy of a written certification or copy of a registration identification card
13 for each qualifying patient for whom the applicant will be the primary caregiver.

14 3. A registration fee of \$250.

15 4. Any information that the department determines is necessary for a
16 background check under par. (am).

17 (am) 1. In this paragraph:

18 a. "Background check" means a search of department of justice records to
19 determine whether an applicant for a registry identification card has been convicted
20 of a disqualifying offense.

21 b. "Disqualifying offense" means a violent crime under s. 165.84 (7) (ab) or a
22 substantially similar violation of federal law that is a felony.

23 2. The department shall convey the information provided by an applicant
24 under par. (a) or (ac) to the department of justice, and the department of justice shall
25 perform a background check on the applicant.

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

7 (b) The department shall promulgate rules specifying how a parent, guardian,
8 or person having legal custody of a child may apply for a registry identification card
9 for the child and the circumstances under which the department may approve or
10 deny the application.

11 **(3) PROCESSING THE APPLICATION.** The department shall verify the information
12 the applicant submitted under sub. (2) (a) or (ac) and shall approve or deny the
13 application within 30 days after receiving it. The department may deny an
14 application submitted under sub. (2) (a) or (ac) only if one of the following applies:

15 (a) The applicant did not provide the required information or provided false
16 information.

17 (b) The department is required to deny the application under sub. (2) (am) 3.

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

20 **(4) ISSUING A REGISTRY IDENTIFICATION CARD.** The department shall issue an
21 applicant a registry identification card within 5 days after approving the application
22 under sub. (3). Unless voided under sub. (5) (b) or (c) or revoked under rules
23 promulgated under sub. (7) (d), a registry identification card expires 2 years from the
24 date of issuance. A registry identification card shall contain all of the following:

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

- 1 1. The registrant.
- 2 2. Each primary caregiver, if the registrant is a qualifying patient.
- 3 3. Each qualifying patient, if the registrant is a primary caregiver.
- 4 (b) The date of issuance and expiration date of the registry identification card.
- 5 (c) A photograph of the registrant.
- 6 (d) Other information the department may require by rule.

7 **(4m) ANNUAL FEE.** Primary caregivers shall pay an annual fee of \$250.

8 **(5) ADDITIONAL INFORMATION TO BE PROVIDED BY REGISTRANT.** (a) 1. An adult
9 registrant shall notify the department of any change in the registrant's name and
10 address. An adult registrant who is a qualifying patient shall notify the department
11 of any change in his or her practitioner, of any significant improvement in his or her
12 health as it relates to his or her debilitating medical condition or treatment, and if
13 a primary caregiver stops helping the registrant in the registrant's medication with
14 tetrahydrocannabinols. A registrant who is a primary caregiver shall notify the
15 department if the registrant becomes a primary caregiver for an additional
16 qualifying patient and shall include with the notice a copy of a written certification
17 or copy of a registration identification card for each additional qualifying patient.

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 qualifying patient, would have to provide under subd. 1. within 10 days after
21 the date of the 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

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 with regard to that qualifying patient is void. The department shall send
6 written notice of this fact to each such 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) and sub. (2) (am),
9 the department may not disclose information from an application submitted or a
10 registry identification card issued under this section.

11 (c) The department may disclose to a law enforcement agency, upon the request
12 of the law enforcement agency, only information necessary to verify that a person
13 possesses a valid registry identification card.

14 **(7) RULES.** The department shall promulgate rules that do all of the following:

15 (a) Create a form for an application under sub. (2).

16 (b) Specify how the department will verify under sub. (3) the information
17 submitted under sub. (2).

18 (c) Specify how and under what circumstances registry identification cards
19 may be renewed.

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

22 (e) Specify under what circumstances an applicant whose application is denied
23 may reapply.

24 (f) Ensure that out-of-state registry identification cards are valid only if all of
25 the following apply:

1 1. The person holding the out-of-state registry identification card has been
2 diagnosed with a debilitating medical condition that has been approved by the
3 jurisdiction that issued the card.

4 2. The out-of-state registry identification card allows for medication with
5 tetrahydrocannabinols by the person who holds the card, the card is valid in the
6 jurisdiction in which it was provided, and the person who holds the card is a resident
7 of that jurisdiction.

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

11 (g) Create guidelines for issuing registry identification cards, and for obtaining
12 and distributing cannabis and tetrahydrocannabinols for medication with
13 tetrahydrocannabinols, to persons under the care of the department who have a
14 debilitating medical condition or treatment.

15 **SECTION 20.** 234.29 of the statutes is amended to read:

16 **234.29 Equality of occupancy and employment.** The authority shall
17 require that occupancy of housing projects assisted under this chapter be open to all
18 regardless of sex, race, religion, or sexual orientation; status as a victim of domestic
19 abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the
20 person holds, or has applied for, a registry identification card, as defined in s. 146.44
21 (1) (g), has been the subject of a written certification, as defined in s. 146.44 (1) (h),
22 or is or has been a member of a treatment team, as defined in s. 961.01 (20t); or creed,
23 and that contractors and subcontractors engaged in the construction of economic
24 development or housing projects, shall provide an equal opportunity for

1 employment, without discrimination as to sex, race, religion, sexual orientation, or
2 creed.

3 **SECTION 21.** 289.33 (3) (d) of the statutes is amended to read:

4 289.33 (3) (d) "Local approval" includes any requirement for a permit, license,
5 authorization, approval, variance or exception or any restriction, condition of
6 approval or other restriction, regulation, requirement or prohibition imposed by a
7 charter ordinance, general ordinance, zoning ordinance, resolution or regulation by
8 a town, city, village, county or special purpose district, including without limitation
9 because of enumeration any ordinance, resolution or regulation adopted under s.
10 91.73, 2007 stats., s. 59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2),
11 (5), (6), (7), (8), (9), (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24),
12 (25), (26) and (27), 59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19),
13 (20) and (23), 59.535 (2), (3) and (4), 59.54 (1), (2), (3), (4), (4m), (5), (6), (7), (8), (10),
14 (11), (12), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25) (a), and (26), 59.55 (3),
15 (4), (5) and (6), 59.56 (1), (2), (4), (5), (6), (7), (9), (10), (11), (12), (12m), (13) and (16),
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
17 (1), (2), (3), (5), (7), (8), (9), (10), (11), (21), (22) and (23), 59.79 (1), (2), (3), (5), (7), (8),
18 and (10), 59.792 (2) and (3), 59.80, 59.82, 60.10, 60.22, 60.23, 60.54, 60.77, 61.34,
19 61.35, 61.351, 61.353, 61.354, 62.11, 62.23, 62.231, 62.233, 62.234, 66.0101, 66.0415,
20 87.30, 196.58, 200.11 (8), 236.45, 281.43 or 349.16, subch. VIII of ch. 60, or subch. III
21 of ch. 91.

22 **SECTION 22.** 349.02 (2) (b) 4. of the statutes is amended to read:

23 349.02 (2) (b) 4. Local ordinances enacted under s. 59.54 (25) (a) or (25m) or
24 66.0107 (1) (bm).

25 **SECTION 23.** 767.41 (5) (am) (intro.) of the statutes is amended to read:

1 767.41 (5) (am) (intro.) Subject to pars. (bm) ~~and~~, (c), and (d), in determining
2 legal custody and periods of physical placement, the court shall consider all facts
3 relevant to the best interest of the child. The court may not prefer one parent or
4 potential custodian over the other on the basis of the sex or race of the parent or
5 potential custodian. Subject to pars. (bm) ~~and~~, (c), and (d), the court shall consider
6 the following factors in making its determination:

7 **SECTION 24.** 767.41 (5) (d) of the statutes is created to read:

8 767.41 (5) (d) The court may not consider as a factor in determining the legal
9 custody of a child whether a parent or potential custodian holds, or has applied for,
10 a registry identification card, as defined in s. 146.44 (1) (g), is or has been the subject
11 of a written certification, as defined in s. 146.44 (1) (h), or is or has been a qualifying
12 patient, as defined in s. 146.44 (1) (e), or a primary caregiver, as defined in s. 146.44
13 (1) (d), unless the parent or potential custodian's behavior creates an unreasonable
14 danger to the child that can be clearly articulated and substantiated.

15 **SECTION 25.** 767.451 (5m) (a) of the statutes is amended to read:

16 767.451 (5m) (a) Subject to pars. (b) ~~and~~, (c), and (d), in all actions to modify
17 legal custody or physical placement orders, the court shall consider the factors under
18 s. 767.41 (5) (am), subject to s. 767.41 (5) (bm), and shall make its determination in
19 a manner consistent with s. 767.41.

20 **SECTION 26.** 767.451 (5m) (d) of the statutes is created to read:

21 767.451 (5m) (d) In an action to modify a legal custody order, the court may not
22 consider as a factor in making a determination whether a parent or potential
23 custodian holds, or has applied for, a registry identification card, as defined in s.
24 146.44 (1) (g), is or has been the subject of a written certification, as defined in s.
25 146.44 (1) (h), or is or has been a qualifying patient, as defined in s. 146.44 (1) (e), or

1 a primary caregiver, as defined in s. 146.44 (1) (d), unless the parent or potential
2 custodian's behavior creates an unreasonable danger to the child that can be clearly
3 articulated and substantiated.

4 **SECTION 27.** 961.01 (5m) of the statutes is created to read:

5 961.01 (5m) "Debilitating medical condition or treatment" has the meaning
6 given in s. 146.44 (1) (b).

7 **SECTION 28.** 961.01 (12v) of the statutes is created to read:

8 961.01 (12v) "Lockable, enclosed facility" means an enclosed indoor or outdoor
9 area that is lockable, or requires a security device, to permit access only by a member
10 of a qualifying patient's treatment team.

11 **SECTION 29.** 961.01 (14c) of the statutes is created to read:

12 961.01 (14c) "Maximum authorized amount" means 12 live cannabis plants
13 ^{g or} and 3 ounces of usable cannabis.

14 **SECTION 30.** 961.01 (14g) of the statutes is created to read:

15 961.01 (14g) "Medication with tetrahydrocannabinols" has the meaning given
16 in s. 146.44 (1) (c).

17 **SECTION 31.** 961.01 (17k) of the statutes is created to read:

18 961.01 (17k) "Out-of-state registry identification card" has the meaning given
19 in s. 146.44 (1) (cm).

20 **SECTION 32.** 961.01 (19m) of the statutes is created to read:

21 961.01 (19m) "Primary caregiver" has the meaning given in s. 146.44 (1) (d).

22 **SECTION 33.** 961.01 (20hm) of the statutes is created to read:

23 961.01 (20hm) "Qualifying patient" has the meaning given in s. 146.44 (1) (e).

24 **SECTION 34.** 961.01 (20ht) of the statutes is created to read:

1 961.01 (20ht) "Registry identification card" has the meaning given in s. 146.44
2 (1) (g).

3 **SECTION 35.** 961.01 (20t) of the statutes is created to read:

4 961.01 (20t) "Treatment team" means a qualifying patient and his or her
5 primary caregivers.

6 **SECTION 36.** 961.01 (21f) of the statutes is created to read:

7 961.01 (21f) "Usable cannabis" means cannabis leaves or flowers but does not
8 include seeds, stalks, or roots or any ingredients combined with the leaves or flowers.

9 **SECTION 37.** 961.01 (21t) of the statutes is created to read:

10 961.01 (21t) "Written certification" has the meaning given in s. 146.44 (1) (h).

11 **SECTION 38.** 961.436 of the statutes is created to read:

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

17 (a) The manufacture or possession is by the treatment team for medication with
18 tetrahydrocannabinols.

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

20 (c) Any live cannabis plants are in a lockable, enclosed facility unless a member
21 of a qualifying patient's treatment team is accessing the plants or has the plants in
22 his or her possession.

23 (d) If the member is a primary caregiver, he or she is not a primary caregiver
24 to more than 10 qualifying patients.

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

5 (a) The distribution, delivery, or possession is by the treatment team for
6 medication with tetrahydrocannabinols.

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

8 (c) Any live cannabis plants are in a lockable, enclosed facility unless a member
9 of a qualifying patient's treatment team is accessing the plants or has the plants in
10 his or her possession.

11 (d) If the member is a primary caregiver, he or she is not a primary caregiver
12 to more than 10 qualifying patients.

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

16 1. The possession or attempted possession is by the treatment team for
17 medication with tetrahydrocannabinols.

18 2. The amount of cannabis does not exceed the maximum authorized amount.

19 3. Any live cannabis plants are in a lockable, enclosed facility unless a member
20 of a qualifying patient's treatment team is accessing the plants or has the plants in
21 his or her possession.

22 4. If the member is a primary caregiver, he or she is not a primary caregiver
23 to more than 10 qualifying patients.

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

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

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

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

8 a. A school bus or a public transit vehicle.

9 b. The person's place of employment.

10 c. Public or private school premises.

11 d. A juvenile correctional facility.

12 e. A jail or adult correctional facility.

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

14 g. A youth center.

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

21 **(5)** Notwithstanding s. 227.12 (1), any person may petition the department of
22 health services to promulgate a rule to designate a medical condition or treatment
23 as a debilitating medical condition or treatment. The department of health services
24 shall promulgate rules providing for public notice of and a public hearing regarding
25 a petition, with the public hearing providing persons an opportunity to comment

1 upon the petition. After the hearing, but no later than 180 days after the submission
2 of the petition, the department of health services shall approve or deny the petition.
3 The department of health service's decision to approve or deny a petition is subject
4 to judicial review under s. 227.52.

5 **SECTION 39.** 961.55 (8) (c), (d) and (e) of the statutes are created to read:

6 961.55 (8) (c) A valid registry identification card or a valid out-of-state registry
7 identification card.

8 (d) The person's written certification, if the person is a qualifying patient.

9 (e) A written certification for a qualifying patient for whom the person is a
10 primary caregiver.

11 **SECTION 40.** 961.555 (2) (am) 6. of the statutes is amended to read:

12 961.555 (2) (am) 6. The property is contraband that is subject to forfeiture
13 under s. 961.55 (6), (6m), or, unless the defendant invokes a defense under s. 961.436
14 or 961.5755, under s. 961.55 (6) or (7).

15 **SECTION 41.** 961.555 (2r) of the statutes is created to read:

16 961.555 (2r) MEDICAL USE DEFENSE. (a) In an action to forfeit property seized
17 under s. 961.55, the person who was in possession of the property when it was seized
18 has a defense to the forfeiture of the property if any of the following applies:

19 1. The person was prosecuted under s. 961.41 (1) (h), (1m) (h), or (3g) (e),
20 961.573 (1), 961.574 (1), or 961.575 (1) in connection with the seized property but had
21 a valid defense under s. 961.436 (1), (2), or (3) (a) or 961.5755 (1) (a) or (2).

22 2. The person was not prosecuted under s. 961.41 (1) (h), (1m) (h), or (3g) (e),
23 961.573 (1), 961.574 (1), or 961.575 (1) in connection with the seized property, but,
24 if the person had been, he or she would have had a valid defense under s. 961.436 (1),
25 (2), or (3) (a) or 961.5755 (1) (a) or (2).

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

6 **SECTION 42.** 961.56 (1) of the statutes is amended to read:

7 961.56 (1) ~~It~~ Except as provided in s. 961.555 (2r) (b) and except for any
8 presumption arising under s. 961.436 (4) or 961.5755 (3), it is not necessary for the
9 state to negate any exemption or exception in this chapter in any complaint,
10 information, indictment or other pleading or in any trial, hearing or other proceeding
11 under this chapter. ~~The, and the~~ burden of proof of any exemption or exception is
12 upon the person claiming it.

13 **SECTION 43.** 961.5755 of the statutes is created to read:

14 **961.5755 Medical tetrahydrocannabinols defense in drug**
15 **paraphernalia cases.** (1) (a) Except as provided in par. (b), a member of a
16 treatment team has a defense to prosecution under s. 961.573 (1) if he or she uses,
17 or possesses with the primary intent to use, drug paraphernalia for medication with
18 tetrahydrocannabinols.

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

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

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

8 **SECTION 44.** 968.072 of the statutes is created to read:

9 **968.072 Medical cannabis; arrest and prosecution. (1) DEFINITIONS.** In
10 this section:

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

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

13 (b) “Medication with tetrahydrocannabinols” has the meaning given in s.
14 961.01 (14g).

15 (bm) “Out-of-state registry identification card” has the meaning given in s.
16 146.44 (1) (cm).

17 (c) “Primary caregiver” has the meaning given in s. 146.44 (1) (d).

18 (d) “Qualifying patient” has the meaning given in s. 146.44 (1) (e).

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

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

21 (g) “Written certification” has the meaning given in s. 146.44 (1) (h).

22 **(2) LIMITATIONS ON ARRESTS AND PROSECUTION; MEDICAL CANNABIS.** Unless s.
23 961.436 (3) (b) 1., 2., or 3. applies, a member of a qualifying patient’s treatment team
24 may not be arrested or prosecuted for a violation of s. 961.41 (1) (h), (1m) (h), or (3g)
25 (e) if all of the following apply:

1 (a) The member manufactures, distributes, delivers, or possesses
2 tetrahydrocannabinols for medication with tetrahydrocannabinols by the treatment
3 team.

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

7 (c) The quantity of cannabis does not exceed the maximum authorized amount.

8 (d) Any live cannabis plants are in a lockable, enclosed facility unless the
9 member is accessing the plants or has the plants in his or her possession.

10 (e) If the member is a primary caregiver, he or she is not a primary caregiver
11 to more than 10 qualifying patients.

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

16 1. The member uses, or possesses with the primary intent to use, drug
17 paraphernalia only for medication with tetrahydrocannabinols.

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

21 3. The member does not possess more than the maximum authorized amount
22 of cannabis.

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

1 5. If the member is a primary caregiver, he or she is not a primary caregiver
2 to more than 10 qualifying patients.

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

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

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

13 3. The member does not possess more than the maximum authorized amount
14 of cannabis.

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

17 5. If the member is a primary caregiver, he or she is not a primary caregiver
18 to more than 10 qualifying patients.

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

23 (b) An employee of a dispensary licensed under subch. IV of ch. 50, of an entity
24 operating under the rules promulgated under s. 50.591 (2), or of a testing laboratory
25 under s. 50.596 may not be arrested and such employee may not be subject to

1 prosecution, denied any right or privilege, or penalized in any manner for any good
2 faith action under subch. IV of ch. 50.

3 (5) PENALTY FOR FALSE STATEMENTS. Whoever intentionally provides false
4 information to a law enforcement officer in an attempt to avoid arrest or prosecution
5 under this section for a violation of s. 961.41 (1) (h), (1m) (h), or (3g) (e), 961.573 (1),
6 961.574 (1), or 961.575 (1) may be fined not more than \$500.

7 **SECTION 45.** 968.12 (6) of the statutes is created to read:

8 968.12 (6) MEDICAL CANNABIS. A person's possession, use, or submission of or
9 connection with an application for a registry identification card under s. 146.44 (2),
10 the issuance of such a card under s. 146.44 (4), or a person's possession of such a card,
11 a valid out-of-state registry identification card, as defined in s. 146.44 (1) (cm), or
12 an original or a copy of a written certification, as defined in s. 146.44 (1) (h), may not,
13 by itself, constitute probable cause under sub. (1) or otherwise subject any person or
14 the property of any person to inspection by any governmental agency.

15 **SECTION 46.** 968.19 of the statutes is renumbered 968.19 (1) and amended to
16 read:

17 968.19 (1) Property Except as provided in sub. (2), property seized under a
18 search warrant or validly seized without a warrant shall be safely kept by the officer,
19 who may leave it in the custody of the sheriff and take a receipt therefor, so long as
20 necessary for the purpose of being produced as evidence on any trial.

21 **SECTION 47.** 968.19 (2) of the statutes is created to read:

22 968.19 (2) A law enforcement agency that has seized a live cannabis plant is
23 not responsible for the plant's care and maintenance.

24 **SECTION 48.** 968.20 (1g) (intro.) of the statutes is amended to read:

1 968.20 (1g) (intro.) The court shall order such notice as it deems adequate to
2 be given the district attorney and, unless notice was provided under s. 968.26 (7), to
3 all persons who have or may have an interest in the property. The court shall hold
4 a hearing to hear all claims to its true ownership. Except for a hearing commenced
5 by the court, the hearing shall occur no more than 30 days after a motion is filed
6 except that either party may, by agreement or for good cause, move the court for one
7 extension of no more than 10 days. Any motion may be supported by affidavits or
8 other submissions. If the right to possession is proved to the court's satisfaction, it
9 shall order the property, ~~other than contraband or property covered under sub. (1m)~~
10 ~~or (1r) or s. 173.21 (4) or 968.205~~, returned if the court finds any of the following:

11 **SECTION 49.** 968.20 (1j) of the statutes is created to read:

12 968.20 (1j) (a) In this subsection:

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

14 2. "Tetrahydrocannabinols" means a substance included in s. 961.14 (4) (t).

15 (b) Except as provided in par. (c), sub. (1g) does not apply to contraband or
16 property covered under sub. (1m) or (1r) or s. 173.12, 173.21 (4), or 968.205.

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

20 1. The person was prosecuted under s. 961.41 (1) (h), (1m) (h), or (3g) (e),
21 961.573 (1), 961.574 (1), or 961.575 (1) in connection with the seized property but had
22 a valid defense under s. 961.436 (1), (2), or (3) (a) or 961.5755 (1) (a) or (2).

23 2. The person was not prosecuted under s. 961.41 (1) (h), (1m) (h), or (3g) (e),
24 961.573 (1), 961.574 (1), or 961.575 (1) in connection with the seized property, but,

1 if the person had been, he or she would have had a valid defense under s. 961.436 (1),
2 (2), or (3) (a) or 961.5755 (1) (a) or (2).

3 **SECTION 50. Effective dates.** This act takes effect on the day after publication,
4 except as follows:

5 (1) The treatment of s. 146.44 and subch. IV of ch. 50 takes effect on the first
6 day of the 6th month beginning after publication.

7 *Medical THG.* (END)

SECTION. 94(3) ²¹⁹ Effective Dates; Health Services

Hanaman, Cathlene

From: Bollhorst, Nathan - DOA
Sent: Monday, February 04, 2019 4:57 PM
To: Hanaman, Cathlene
Cc: Dombrowski, Cynthia A - DOA
Subject: RE: Draft 1539/P1

Regarding Medical Marijuana and regarding penalties related to possession of tetrahydrocannabinols:

1. Modify 961.14(4)(t)1 to allow the use of cannabidiol. Example included: Cannabidiol in a form without a psychoactive effect, ~~that is dispensed as provided in s. 961.38 (1n) (a) or that is possessed as provided in s. 961.32 (2m) (b).~~
2. Create language related to the possession of tetrahydrocannabinols:
 - A person who commits a first offense of possession of THC commits a civil offense, punishable by a forfeiture of not less than \$150 nor more than \$300.
 - A person who commits a second offense of possession of THC is guilty of a Class C misdemeanor and may be fined up to \$500, imprisoned for up to 30 days, or both.
 - A person who commits a third offense is guilty of a Class A misdemeanor, and may be fined up to \$10,000, imprisoned for up to nine months, or both.
 - A person who commits a fourth or subsequent possession of THC offense, or who has been convicted of a prior crime related to any controlled substance except possession of THC, is guilty of a Class I felony and may be fined up to \$10,000, imprisoned for up to three years and six months, or both.
 - Allow a county or municipality to enact ordinances that make the first possession of any amount of marijuana a civil offense, punishable by a forfeiture. The ordinance, however, cannot be used to prosecute a person who has committed a prior offense of possessing THC.
 - A person under 17 years of age who is found to have committed a first violation of possession of THC is subject to the dispositions specified in the Juvenile Justice Code for a juvenile who violates a civil law rather than to the delinquency dispositions specified in the Juvenile Justice Code for a juvenile who violates a criminal law. A juvenile who is found to have committed a first violation of possession of THC may be ordered to pay a forfeiture not to exceed \$50 or to participate in a teen court program, in community service work, or in an alcohol or other drug abuse treatment or education program.
 - Use 2013 Assembly Bill 891 as a reference.

EHS
EAW

Thanks,

Nathan

From: Hanaman, Cathlene M - LEGIS <Cathlene.Hanaman@legis.wisconsin.gov>
Sent: Monday, February 04, 2019 1:44 PM
To: Bollhorst, Nathan - DOA <Nathan.Bollhorst@wisconsin.gov>
Subject: RE: Draft 1539/P1

Email is easier—thanks!

From: Bollhorst, Nathan - DOA <Nathan.Bollhorst@wisconsin.gov>
Sent: Monday, February 04, 2019 1:29 PM
To: Hanaman, Cathlene <Cathlene.Hanaman@legis.wisconsin.gov>
Cc: Dombrowski, Cynthia A - DOA <Cynthia.Dombrowski@wisconsin.gov>
Subject: Draft 1539/P1

Cathlene,

There are additional statutory language requests related to draft 1539/P1. Would you like to receive those requests via email or the SharePoint site?

Thank you,



Nathan Bollhorst | Executive Policy & Budget Analyst
Department of Administration
Division of Executive Budget and Finance
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Main: (608) 267-7980