



Legislative Committee  
Agenda  
Kenosha County Administration Building  
2nd Floor Committee Room  
May 17, 2022, Tuesday, 6:00 p.m.

NOTE: UNDER THE KENOSHA COUNTY BOARD RULES OF PROCEDURE ANY REPORT, RESOLUTION, ORDINANCE OR MOTION APPEARING ON THIS AGENDA MAY BE AMENDED, WITHDRAWN, REMOVED FROM THE TABLE, RECONSIDERED OR RESCINDED IN WHOLE OR IN PART AT THIS OR AT FUTURE MEETINGS. NOTICE OF SUCH MOTIONS TO RECONSIDER OR RESCIND AT FUTURE MEETINGS SHALL BE GIVEN IN ACCORDANCE WITH SECTION 2 C OF THE COUNTY BOARD RULES. FURTHERMORE, ANY MATTER DEEMED BY A MAJORITY OF THE BOARD TO BE GERMANE TO AN AGENDA ITEM MAY BE DISCUSSED AND ACTED UPON DURING THE COURSE OF THIS MEETING AND ANY NEW MATTER NOT GERMANE TO AN AGENDA ITEM MAY BE REFERRED TO THE PROPER COMMITTEE. ANY PERSON WHO DESIRES THE PRIVILEGE OF THE FLOOR PRIOR TO AN AGENDA ITEM BEING DISCUSSED SHOULD REQUEST A COUNTY BOARD SUPERVISOR TO CALL SUCH REQUEST TO THE ATTENTION OF THE BOARD CHAIRMAN

1. Call To Order
2. Citizen Comments
3. Reports From Chairperson
4. Reports From Committee Members
5. Communications
6. Introductions
7. 2021 Senate Bill 352 & 600

Documents:

[2021 SENATE BILL 352.PDF](#)  
[2021 SENATE BILL 600.PDF](#)

8. Discussion Of Topics And Potential Speakers For Future Meetings
9. Objectives Discussion
10. Approval Of Minutes
11. Other Matters As May Be Appropriately Brought Before The Committee
12. Adjourn

There may be a quorum of other Committees of the County Board.



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-2830/2

EAW:skw

## 2021 SENATE BILL 352

May 14, 2021 - Introduced by Senators WANGGAARD, SMITH, BALLWEG, DARLING, FEYEN, MARKLEIN and PFAFF, cosponsored by Representatives BILLINGS, SPIROS, ARMSTRONG, BRANDTJEN, CABRAL-GUEVARA, CABRERA, DOYLE, MURPHY, MURSAU, OHNSTAD, ROZAR, SINICKI, SUBECK, ORTIZ-VELEZ, VRUWINK and WICHGERS. Referred to Committee on Judiciary and Public Safety.

1     **AN ACT to amend** 961.41 (1) (a), 961.41 (1m) (a), 961.41 (1r), 961.49 (1m) (intro.),  
2             971.365 (1) (a), 971.365 (1) (b) and 971.365 (2); and **to create** 961.41 (1) (dm)  
3             and 961.41 (1m) (dm) of the statutes; **relating to:** manufacturing, distributing,  
4             or delivering fentanyl or fentanyl analogs and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Under current law, it is a Class E felony to manufacture, distribute, or deliver, or to possess with the intent to manufacture, distribute, or deliver, any amount of fentanyl or a fentanyl analog. Under this bill, the penalties for these crimes are based on the amount of the fentanyl or analog involved as follows: for 10 grams or less, a Class E felony; for more than 10 grams but not more than 50 grams, a Class D felony; and for more than 50 grams, a Class C felony. This penalty structure is similar to the current law penalty structure for the same crimes involving heroin. In addition, as with the same crimes involving heroin and other controlled substances, the maximum term of imprisonment for the crimes involving fentanyl or a fentanyl analog is increased by five years if the crime occurs on the premises of a scattered-site public housing project or within 1,000 feet of a park, a correctional facility, a multiunit public housing project, a public swimming pool, a youth or community center, school premises, or a school bus.

**SENATE BILL 352**

1           **SECTION 4.** 961.41 (1m) (dm) of the statutes is created to read:

2           961.41 (1m) (dm) *Fentanyl*. If a person violates this subsection with respect  
3           to fentanyl, a controlled substance analog of fentanyl, or a fentanyl analog specified  
4           in s. 961.14 (2) (nd) and the amount possessed, with intent to manufacture, distribute  
5           or deliver, is:

6           1. Ten grams or less, the person is guilty of a Class E felony.

7           2. More than ten grams but not more than 50 grams, the person is guilty of a  
8           Class D felony.

9           3. More than 50 grams, the person is guilty of a Class C felony.

10          **SECTION 5.** 961.41 (1r) of the statutes is amended to read:

11          961.41 (1r) DETERMINING WEIGHT OF SUBSTANCE. In determining amounts under  
12          s. 961.49 (2) (b), 1999 stats., and subs. (1) and (1m), an amount includes the weight  
13          of cocaine, cocaine base, fentanyl, a fentanyl analog, heroin, phencyclidine, lysergic  
14          acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine,  
15          tetrahydrocannabinols, synthetic cannabinoids, or substituted cathinones, or any  
16          controlled substance analog of any of these substances together with any compound,  
17          mixture, diluent, plant material or other substance mixed or combined with the  
18          controlled substance or controlled substance analog. In addition, in determining  
19          amounts under subs. (1) (h) and (1m) (h), the amount of tetrahydrocannabinols  
20          means anything included under s. 961.14 (4) (t) and includes the weight of any  
21          marijuana.

22          **SECTION 6.** 961.49 (1m) (intro.) of the statutes is amended to read:

23          961.49 (1m) (intro.) If any person violates s. 961.41 (1) (cm), (d), (dm), (e), (f),  
24          (g) or (h) by delivering or distributing, or violates s. 961.41 (1m) (cm), (d), (dm), (e),  
25          (f), (g) or (h) by possessing with intent to deliver or distribute, cocaine, cocaine base,

# State of Wisconsin



2021 Senate Bill 352

Date of enactment: **March 16, 2022**  
Date of publication\*: **March 17, 2022**

## 2021 WISCONSIN ACT 179

**AN ACT** to amend 961.41 (1) (a), 961.41 (1m) (a), 961.41 (1r), 961.49 (1m) (intro.), 971.365 (1) (a), 971.365 (1) (b) and 971.365 (2); and to create 961.41 (1) (dm) and 961.41 (1m) (dm) of the statutes; relating to: manufacturing, distributing, or delivering fentanyl or fentanyl analogs and providing a penalty.

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

**SECTION 1.** 961.41 (1) (a) of the statutes is amended to read:

961.41 (1) (a) *Schedule I and II narcotic drugs generally.* Except as provided in par. (d) or (dm), if a person violates this subsection with respect to a controlled substance included in schedule I or II which is a narcotic drug, or a controlled substance analog of a controlled substance included in schedule I or II which is a narcotic drug, the person is guilty of a Class E felony.

**SECTION 2.** 961.41 (1) (dm) of the statutes is created to read:

961.41 (1) (dm) *Fentanyl.* If the person violates this subsection with respect to fentanyl, a controlled substance analog of fentanyl, or a fentanyl analog specified in s. 961.14 (2) (nd) and the amount manufactured, distributed, or delivered is:

1. Ten grams or less, the person is guilty of a Class E felony.
2. More than 10 grams but not more than 50 grams, the person is guilty of a Class D felony.
3. More than 50 grams, the person is guilty of a Class C felony.

**SECTION 3.** 961.41 (1m) (a) of the statutes is amended to read:

961.41 (1m) (a) *Schedule I and II narcotic drugs generally.* Except as provided in par. (d) or (dm), if a person violates this subsection with respect to a controlled substance included in schedule I or II which is a narcotic drug or a controlled substance analog of a controlled substance included in schedule I or II which is a narcotic drug, the person is guilty of a Class E felony.

**SECTION 4.** 961.41 (1m) (dm) of the statutes is created to read:

961.41 (1m) (dm) *Fentanyl.* If a person violates this subsection with respect to fentanyl, a controlled substance analog of fentanyl, or a fentanyl analog specified in s. 961.14 (2) (nd) and the amount possessed, with intent to manufacture, distribute or deliver, is:

1. Ten grams or less, the person is guilty of a Class E felony.
2. More than ten grams but not more than 50 grams, the person is guilty of a Class D felony.
3. More than 50 grams, the person is guilty of a Class C felony.

**SECTION 5.** 961.41 (1r) of the statutes is amended to read:

961.41 (1r) **DETERMINING WEIGHT OF SUBSTANCE.** In determining amounts under s. 961.49 (2) (b), 1999 stats., and subs. (1) and (1m), an amount includes the weight of cocaine, cocaine base, fentanyl, a fentanyl analog, heroin, phencyclidine, lysergic acid diethylamide, psilo-

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

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# Wisconsin Legislative Council

## ACT MEMO

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Prepared by: Amber Otis, Senior Staff Attorney

March 21, 2022

**2021 Wisconsin Act 179**  
[2021 Senate Bill 352]

**Penalties for Prohibited Acts  
Involving Fentanyl**

### BACKGROUND

Under state law, controlled substances are regulated by placement on a schedule numbering I to V based on a substance's potential for abuse and medical uses. Subject to certain exceptions, it is a Class E felony to manufacture, distribute, or deliver (or possess with intent to do any of those acts) a controlled substance, or controlled substance analog, that is included in Schedule I or II, regardless of the amount involved. Under prior law, fentanyl and fentanyl analogs were subject to this general penalty.

### 2021 WISCONSIN ACT 179

2021 Wisconsin Act 179 creates a specific penalty structure for prohibited acts involving fentanyl and fentanyl analogs. Specifically, the act provides the following penalties for the manufacture, distribution, or delivery (or possession with intent to do any of those acts) of fentanyl, a controlled substance analog of fentanyl, or certain fentanyl analogs specified in statute:

- Class E felony, if the amount involved is 10 grams or less.
- Class D felony, if the amount involved is more than 10 grams, but not more than 50 grams.
- Class C felony, if the amount involved is more than 50 grams.

Similar to other controlled substances specified in state law, the act allows the maximum term of imprisonment for the violations above involving fentanyl or fentanyl analogs to be increased by five years if the prohibited act takes place in certain locations, such as while in, on, or within 1,000 feet of a park, correctional facility, public swimming pool, youth center, school, or approved treatment facility.

When determining the amount involved, the act allows for inclusion of the weight of any compound or other substance mixed or combined with the fentanyl or fentanyl analog, similar to the way in which state law allows for determination of the amount of other controlled substances with weight-based penalty structures, such as cocaine, heroin, and methamphetamine.

Finally, similar to other specific controlled substances with a weight-based penalty structure, the act allows, in any case involving fentanyl or fentanyl analogs with more than one violation, that all violations may be prosecuted as a single crime, if committed pursuant to a single intent and design.

**Effective date:** March 18, 2022

AO:jal



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-4902/1  
JPC:amn

**2021 SENATE BILL 600**

October 8, 2021 - Introduced by Senators WANGGAARD, L. TAYLOR, LARSON, CARPENTER, RINGHAND, AGARD and COWLES, cosponsored by Representatives JAMES, ZIMMERMAN, ORTIZ-VELEZ, KRUG, ARMSTRONG, MOSES, CABRAL-GUEVARA, EMERSON, MILROY, TITTL, MAGNAFICI, BALDEH, SPIROS, PLUMER, SNODGRASS, DITTRICH, SUMMERFIELD, DRAKE, SINICKI, CALLAHAN, BILLINGS, HESSELBEIN, CONLEY, SUBECK, STUBBS, SPREITZER, CONSIDINE, SHELTON, B. MEYERS, DUCHOW, ALLEN, TUSLER, MURSAU, SCHRAA, BOWEN, HORLACHER, KNODL and CABRERA. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT to create** 961.571 (1) (b) 3. of the statutes; **relating to:** decriminalizing  
2 fentanyl testing strips.

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

This bill decriminalizes the use of fentanyl testing strips to test a substance for the presence of fentanyl. Under current law, fentanyl testing strips are considered drug paraphernalia, and it is a felony for any person to use or possess with intent to use drug paraphernalia. The bill excepts fentanyl testing strips from the definition of "drug paraphernalia."

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

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

3 **SECTION 1.** 961.571 (1) (b) 3. of the statutes is created to read:  
4 961.571 (1) (b) 3. Any materials used or intended for use in testing for the  
5 presence of fentanyl or a fentanyl analog in a substance.

6 (END)

# State of Wisconsin



2021 Senate Bill 600

Date of enactment: **March 16, 2022**  
Date of publication\*: **March 17, 2022**

## 2021 WISCONSIN ACT 180

AN ACT *to create* 961.571 (1) (b) 3. of the statutes; **relating to:** decriminalizing fentanyl testing strips.

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

SECTION 1. 961.571 (1) (b) 3. of the statutes is created to read:

961.571 (1) (b) 3. Any materials used or intended for use in testing for the presence of fentanyl or a fentanyl analog in a substance.

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\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

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# Wisconsin Legislative Council

## ACT MEMO

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**Prepared by:** Amber Otis, Senior Staff Attorney

March 18, 2022

**2021 Wisconsin Act 180**  
[2021 Senate Bill 600]

**Decriminalizing  
Fentanyl Testing Strips**

### BACKGROUND

Wisconsin's controlled substances laws prohibit certain acts involving drug paraphernalia. For example, state law prohibits a person from using or delivering drug paraphernalia for the purpose of engaging in certain acts with controlled substances, such as planting, growing, testing, or ingesting a controlled substance. The penalties for violating the prohibitions involving drug paraphernalia range from a misdemeanor to a Class G felony, depending on the type of controlled substance involved and whether certain provisions involving minors apply.

State law defines "drug paraphernalia" to include, among other equipment, testing equipment used, designed for use or primarily intended for use in identifying, or in analyzing the strength, effectiveness or purity of, controlled substances or controlled substance analogs.

### 2021 WISCONSIN ACT 180

2021 Wisconsin Act 180 effectively exempts fentanyl testing strips from the definition of drug paraphernalia, thereby decriminalizing certain acts related to their use. Specifically, under the act, the definition of drug paraphernalia excludes any materials used or intended for use in testing for the presence of fentanyl or a fentanyl analog in a substance.

**Effective date:** March 18, 2022

AO:jal