

**Drug law cuts off student aid**  
**By Megan Twohey**  
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**(KRT)**

Nearly 3,000 Wisconsin students have been denied financial aid for college under a federal law that remains controversial even as it undergoes reform.

The law prohibits people who have been convicted of selling or possessing drugs from receiving Pell Grants and other forms of federal financial aid. Since 2000, it has been used to refuse assistance to more than 189,000 needy students, including 2,897 in Wisconsin, according to a state-by-state breakdown released for the first time by the U.S. Department of Education.

Wisconsin legislators are pushing for a state version of the law, arguing that college students with drug offenses are undeserving of any form of taxpayer aid.

But critics say the federal law amounts to double jeopardy, and that children from low-income families are being denied the right to pursue a higher education.

"It's really unfair," said Nathan Bush, a junior at the University of Wisconsin-Madison, who is a plaintiff in a federal lawsuit challenging the law.

The Kenosha native, whose parents are public school teachers, stands to lose thousands of dollars in federal aid after pleading guilty in January to a misdemeanor charge of possessing marijuana. He doesn't know how he will be able to pay for his senior year.

"I'm from a working-class family," said Bush, who works two jobs. "We're not going to be able to make up the slack."

Congress passed the federal law as an amendment to the Higher Education Act in 1998. As a result, applications for federal financial aid include this question: Has the student ever been convicted of possessing or selling illegal drugs?

It's a self-reporting system; according to the statistics released by the U.S. Department of Education, more than 260,000 students left the drug conviction question blank in 2000-'01 school year and had their forms processed. Those who answer "yes" are sent an additional worksheet that they must fill out.

Under the law, students are to be denied federal assistance if they admit to being convicted in state or federal court. Convictions that occurred before students turned 18 don't count unless they were tried as an adult.

Students convicted of possession lose one year of assistance for their first offense, two years for a second offense, and become ineligible indefinitely for a third. A first-time conviction for selling drugs makes a student ineligible for two years, the second offense results in indefinite ineligibility. Drug offenders can regain eligibility if they complete a federally recognized drug treatment program.

The law, estimated to have cost students as much as \$54 million in Pell Grants and as much as \$164 million in federal loans per year, targets no other class of criminal behavior. Convicted rapists and murderers are not denied aid.

More than 250 organizations have come out against it, including the American Bar Association, the American Public Health Association, the American Federation of Teachers and the Evangelical Lutheran Church in America. Opponents have argued that the law prohibits drug offenders from improving their lives and serves no benefit to society.

In response to criticism, Congress passed a measure in February that limits ineligibility to only those students convicted of drug crimes while receiving financial aid. It's a change that will be implemented by the U.S. Department of Education starting this

summer, even though the measure was part of broader legislation that is caught up in litigation due to a technical mistake, said Jane Glickman, a department spokeswoman.

But Adam Wolf, staff attorney at the American Civil Liberties Union, said even with the revision to the law, "underlying injustice remains."

In a complaint filed in federal court in South Dakota last month, the civil rights organization called for the law to be declared unconstitutional on the grounds that it irrationally targets people convicted of drug sentences and punishes these students for the same crime twice. Bush of UW-Madison is one of three students named as plaintiffs.

The ACLU said access to higher education is being denied to those with a drug conviction who are not sufficiently wealthy to pay for college themselves. The law, it said, discriminates against racial minority groups because U.S. Justice Department statistics that show that African-Americans constitute 12 percent of the U.S. population and 13 percent of drug users, but account for more than 62 percent of those convicted of drug offenses.

The U.S. Department of Education is reviewing the complaint, according to a written statement released by Glickman, but the agency appears to support the law.

"Congress sought to discourage illegal drug use by the nation's youth by passing this restriction on federal student aid in 1998," the statement says. "The department supports Congress' efforts to decrease illegal drug use, and protect the health and safety of all our nation's students, from pre-school to adult."

Last month, Wisconsin's state Assembly passed a bill that would deny state-funded financial aid to college students convicted of possessing or selling drugs. Similar bills in the state Senate have not made it out of committee. Some senators said they prefer to wait for the federal changes to be sorted out before passing a state version of the law.

"We don't have enough state money to satisfy all the applications for financial aid," said Rep. Eugene Hahn (R-Cambria) who authored the Assembly bill. "This is a way to say that if you don't want to play by the rules, we'll give your money to other people who need it."

The U.S. Department of Education released the state-by-state breakdown of students affected by the federal law in response to a public records request by Students for Sensible Drug Policy, a non-profit organization made up people who have been or will be denied financial aid under the law.

The group, which made the information public this week, hopes legislators and the public will oppose the law once they discover how it is affecting their state.

The department resisted releasing the numbers. At first, it tried to charge the organization \$4,000 for the information, dismissing arguments that the information should be released for free because it is in the public's interest and because Students for Sensible Drug Policy have no commercial interest at stake.

"A review of contents of SSDP's campaign and the materials you submitted in connection with your fee waiver request reveal that the principal goal of your organization is to 'end the war on drugs,' " the department told the organization in a letter dated September 2005. "As SSDP's campaign could directly benefit those who would profit from the deregulation or legalization of drugs, I cannot conclude, based on the information you have made available to me, that SSDP has no commercial interest in the disclosure sought."

The department agreed to turn the numbers over free of charge only after the organization retained legal counsel and threatened to sue.