

State of Wisconsin



2013 Assembly Bill 32

Date of enactment: April 8, 2014
Date of publication*: April 9, 2014

2013 WISCONSIN ACT 246

AN ACT *to renumber and amend* 346.655 (3); *to amend* 20.435 (5) (hy), 46.03 (18) (f), 343.30 (1q) (c) 1. (intro.), 343.30 (1q) (c) 2., 343.30 (1q) (d) and 345.60 (1); and *to create* 51.01 (2c), 51.45 (7) (h), 343.30 (1q) (c) 1. d. and 346.655 (3) (b) of the statutes; **relating to:** tribal treatment facility participation in the intoxicated driver program.

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

SECTION 1. 20.435 (5) (hy) of the statutes is amended to read:

20.435 (5) (hy) *Services for drivers, local assistance.* As a continuing appropriation, the amounts in the schedule for ~~the purpose of grants to county departments under s. 51.42~~ and to approved tribal treatment facilities, as defined in s. 51.01 (2c), for drivers referred through assessment, to be allocated according to a plan developed by the department of health services. All moneys transferred from par. (hx) shall be credited to this appropriation.

SECTION 2. 46.03 (18) (f) of the statutes is amended to read:

46.03 (18) (f) Notwithstanding par. (a), any person who submits to an assessment or airman or driver safety plan under s. 23.33 (13) (e), 30.80 (6) (d), 114.09 (2) (bm), 343.16 (5) (a), 343.30 (1q), 343.305 (10) or 350.11 (3) (d) shall pay a reasonable fee therefor to the appropriate county department under s. 51.42, approved tribal treatment facility, as defined in s. 51.01 (2c), or traffic safety school under s. 345.60. A county may allow the person to pay the assessment fee in 1, 2, 3 or 4 equal installments. The fee for the airman or driver safety plan

may be reduced or waived if the person is unable to pay the complete fee, but no fee for assessment or attendance at a traffic safety school under s. 345.60 may be reduced or waived. Nonpayment of the assessment fee is non-compliance with the court order that required completion of an assessment and airman or driver safety plan. Upon a finding that the person has the ability to pay, nonpayment of the airman or driver safety plan fee is noncompliance with the court order that required completion of an assessment and airman or driver safety plan.

SECTION 3. 51.01 (2c) of the statutes is created to read:

51.01 (2c) "Approved tribal treatment facility" means a treatment agency that operates under the direction and control of a federally recognized American Indian tribe or band in this state and meets the standards prescribed for approved treatment facilities under s. 51.45 (8) (a) and is approved under s. 51.45 (8) (c).

SECTION 4. 51.45 (7) (h) of the statutes is created to read:

51.45 (7) (h) The department shall authorize approved tribal treatment facilities to conduct assessments under s. 343.30 (1q) (c) and prepare driver safety plans under s. 343.30 (1q) (d) if, with regard to each person for whom the approved tribal treatment facility conducts an assessment under s. 343.30 (1q) (c), the

* 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."

approved tribal treatment facility agrees in writing to do all of the following:

1. Notify the county assessment agency identified in the order under s. 343.30 (1q) (c) 1. within 72 hours that the approved tribal treatment facility has been contacted for the assessment.

2. Execute all duties of an approved public treatment facility under s. 343.30 (1q) and rules promulgated under s. 343.30 (1q).

SECTION 5. 343.30 (1q) (c) 1. (intro.) of the statutes is amended to read:

343.30 (1q) (c) 1. (intro.) Except as provided in subd. 1. a. ~~or~~ b., or d., the court shall order the person to submit to and comply with an assessment by an approved public treatment facility as defined in s. 51.45 (2) (c) for examination of the person's use of alcohol, controlled substances or controlled substance analogs and development of a driver safety plan for the person. The court shall notify the department of transportation of the assessment order. The court shall notify the person that noncompliance with assessment or the driver safety plan will result in revocation of the person's operating privilege until the person is in compliance. The assessment order shall:

SECTION 6. 343.30 (1q) (c) 1. d. of the statutes is created to read:

343.30 (1q) (c) 1. d. Include a statement that if the person is a member or the relative of a member of a federally recognized American Indian tribe or band, the person may receive the assessment required under this subdivision from an approved tribal treatment facility as defined in s. 51.01 (2c).

SECTION 7. 343.30 (1q) (c) 2. of the statutes is amended to read:

343.30 (1q) (c) 2. The department of health services shall establish standards for assessment procedures and the driver safety plan programs by rule. The department of health services shall establish by rule conflict of interest guidelines for providers. The conflict of interest guidelines may not preclude an approved tribal treatment facility, as defined in s. 51.01 (2c), from conducting assessments and providing treatment under this subsection.

SECTION 8. 343.30 (1q) (d) of the statutes is amended to read:

343.30 (1q) (d) 1. The assessment report shall order compliance with a driver safety plan. The report shall inform the person of the fee provisions under s. 46.03 (18) (f). The driver safety plan may include a component that makes the person aware of the effect of his or her offense on a victim and a victim's family. The driver safety plan may include treatment for the person's misuse, abuse or dependence on alcohol, controlled substances or controlled substance analogs, or attendance at a school under s. 345.60, or both. If the plan requires treatment at an approved tribal treatment facility, as

defined in s. 51.01 (2c), the plan may include traditional tribal treatment modes. If the plan requires inpatient treatment, the treatment shall not exceed 30 days. A driver safety plan under this paragraph shall include a termination date consistent with the plan which shall not extend beyond one year.

2. The county department under s. 51.42 or approved tribal treatment facility under s. 51.45 (7) (h) shall assure notification of the department of transportation, in a manner prescribed by the department, and the person of the person's compliance or noncompliance with assessment and with treatment. The school under s. 345.60 shall notify the department, the county department under s. 51.42, and the person of the person's compliance or noncompliance with the requirements of the school. Nonpayment of the assessment fee or, if the person has the ability to pay, nonpayment of the driver safety plan fee is noncompliance with the court order. If the department is notified of any noncompliance, other than for nonpayment of the assessment fee or driver safety plan fee, it shall revoke the person's operating privilege until the county department under s. 51.42, the approved tribal treatment facility under s. 51.45 (7) (h), or the school under s. 345.60 notifies the department that the person is in compliance with assessment or the driver safety plan. If the department is notified that a person has not paid the assessment fee, or that a person with the ability to pay has not paid the driver safety plan fee, the department shall suspend the person's operating privilege for a period of 2 years or until it receives notice that the person has paid the fee, whichever occurs first.

3. The department shall notify the person of the suspension or revocation under subd. 2., the reason for the suspension or revocation and the person's right to a review. A person may request a review of a revocation based upon failure to comply with a driver safety plan within 10 days of notification. The review shall be handled by the subunit of the department of transportation designated by the secretary. The issues at the review are limited to whether the driver safety plan, if challenged, is appropriate and whether the person is in compliance with the assessment order or the driver safety plan. The review shall be conducted within 10 days after a request is received. If the driver safety plan is determined to be inappropriate, the department shall order a reassessment and, if the person is otherwise eligible, the department shall reinstate the person's operating privilege. If the person is determined to be in compliance with the assessment or driver safety plan, and if the person is otherwise eligible, the department shall reinstate the person's operating privilege. If there is no decision within the 10-day period, the department shall issue an order reinstating the person's operating privilege until the review is completed, unless the delay is at the request of the person seeking the review.

SECTION 9. 345.60 (1) of the statutes is amended to read:

345.60 (1) Except as provided in sub. (3) and s. 343.31 (2t) (b), in addition to or in lieu of other penalties provided by law for violation of chs. 346 to 348, the trial court may in its judgment of conviction order the convicted person to attend, for a certain number of school days, a traffic safety school whose course and mode of instruction is approved by the secretary and which is conducted by the police department of the municipality, by the sheriff's office of the county, by an accredited institution of higher education operated by a federally recognized American Indian tribe or band in this state, or by any regularly established safety organization. The trial court may not order a person to attend a traffic safety school under this subsection if the department is required to order that the person attend a vehicle right-of-way course under s. 343.31 (2t) (b).

SECTION 10. 346.655 (3) of the statutes is renumbered 346.655 (3) (a) and amended to read:

346.655 (3) (a) ~~All~~ Except as provided in par. (b), all moneys collected from the driver improvement sur-

charge that are transmitted to the county treasurer under sub. (2) (a) or (b), except the amounts that the county treasurer is required to transmit to the secretary of administration under sub. (2) (a) or (b), shall be retained by the county treasurer and disbursed to the county department under s. 51.42 for services under s. 51.42 for drivers referred through assessment.

SECTION 11. 346.655 (3) (b) of the statutes is created to read:

346.655 (3) (b) If a person receives treatment from an approved tribal treatment facility, as defined in s. 51.01 (2c), in accordance with a driver safety plan under s. 343.30 (1q) (d), the county treasurer shall transmit the amount collected from the person's driver improvement surcharge except the amounts that the treasurer is required to transmit to the secretary of administration under sub. (2) (a) or (b), to the facility for treatment services for drivers referred through assessment.

SECTION 12. Initial applicability.

(1) This act first applies to an assessment order issued on the effective date of this subsection.