



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2013 Assembly Bill 180**

**Assembly Amendments 1 and 2**

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### **CURRENT LAW**

Under current law, a person who commits a seventh, eighth, or ninth offense relating to drunken driving or driving under the influence of an intoxicant or other drug (OWI) is guilty of a Class G felony, the penalty for which is a fine not to exceed \$25,000 or imprisonment not to exceed 10 years, or both. The confinement portion of a bifurcated sentence imposed on such person must be not less than three years. A person who commits a 10th or subsequent OWI offense is guilty of a Class F felony, the penalty for which is a fine not to exceed \$25,000 or imprisonment not to exceed 12 years and six months, or both. The confinement portion of a bifurcated sentence imposed on such person must be not less than four years.

In addition, any person who causes injury to another person by OWI generally must be fined not less than \$300 nor more than \$2,000 and *may* be imprisoned for not less than 30 days nor more than one year.

Lastly, only a physician, registered nurse, medical technologist, physician assistant, or person acting under the direction of a physician may draw blood for alcohol or controlled substance testing.

### **2013 ASSEMBLY BILL 180**

Assembly Bill 180 requires a court to impose a bifurcated sentence for a seventh, eighth, ninth, 10th, or subsequent OWI offense. For a seventh, eighth, or ninth offense, the confinement portion of that sentence must be not less than three years. For a 10th or subsequent offense, the confinement portion of that sentence must be not less than four years.

In addition, the bill *requires* that any person who causes injury to another person by OWI generally be imprisoned for not less than 30 days nor more than one year.

Lastly, the bill allows a phlebotomist or other medical professional who is authorized to draw blood, in addition to the other health care providers listed above, to draw blood for alcohol or controlled substance testing.

### **ASSEMBLY AMENDMENT 1**

Assembly Amendment 1 defines “injury,” for purposes of OWI offenses causing injury, as bodily injury that causes a laceration that requires stitches, staples, or a tissue adhesive; any fracture of a bone; a broken nose; a burn; a petechia; a temporary loss of consciousness, sight, or hearing; a concussion; or a loss or fracture of a tooth.

### **ASSEMBLY AMENDMENT 2**

Assembly Amendment 2 creates an exception to the minimum sentence for OWI offenses causing injury, described above. Specifically, the amendment provides that if the person injured was an adult who was in the vehicle operated by the person committing the OWI offense, the court may impose a sentence that is less than the minimum sentence if the court finds that the best interest of the community will be served and the public will not be harmed by the sentence, and the court places the reasons for imposing a sentence that is less than the minimum sentence on the record.

### **LEGISLATIVE HISTORY**

Assembly Amendment 1 was offered by Representative Hebl, and Assembly Amendment 2 was offered by Representative J. Ott. On May 9, 2013, the Assembly Committee on Judiciary recommended adoption of the amendments on votes of Ayes, 8; Noes, 1. On that same date, the committee recommended passage of Assembly Bill 180, as amended, on a vote of Ayes, 9; Noes, 0.

JKR:jal