

**2009 DRAFTING REQUEST**

**Bill**

Received: **02/17/2009**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Anthony Staskunas (608) 266-0620**

By/Representing: **tom**

This file may be shown to any legislator: **NO**

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Drunk Driving - penalties**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Staskunas@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Probation for OWI offenses

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**Instructions:**

Create an option for probation after 2 & subsequent OWI offenses (look at 973.09 (1) (d))

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L
/1	phurley 03/18/2009	bkraft 03/26/2009	mduchek 03/26/2009	_____	cduerst 03/26/2009	sbasford 05/06/2009	

FE Sent For:

<END>

*at  
intro*

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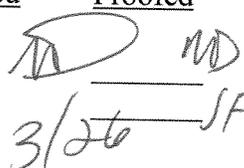
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1/?	phurley	1 bjk 3/23					S&L

FE Sent For:

<END>



Lbjk

## 2009 BILL

SA  
X-ref

3-18-09

- 1 AN ACT <sup>gen.</sup>...; relating to: allowing probation after certain convictions related to  
2 drunken driving.

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### *Analysis by the Legislative Reference Bureau*

Under current law, after a person is convicted of most crimes, the trial court may withhold the person's sentence, or impose a sentence of imprisonment but stay the imposition of imprisonment, and place the person on probation for a period of time. If the crime carries a mandatory minimum period of incarceration of one year or less, the person must be incarcerated for at least the mandatory minimum period as a condition of his or her probation.

Under current law, a trial court may not place a person on probation if the person has committed a second or third violation related to operating a vehicle while intoxicated or with a prohibited alcohol concentration, or three or fewer violations related to operating a commercial vehicle while intoxicated or with a prohibited alcohol concentration or causing injury while operating a vehicle while intoxicated or with a prohibited alcohol concentration. A trial court may place a person who > commits more than three of these offenses on probation under current law. &A

Under this bill, a trial court may place a person who commits any of those offenses on probation. Under the bill, a person who commits an offense that carries a mandatory minimum period of incarceration of one year or less must be incarcerated for at least the mandatory minimum period as a condition of his or her probation.

**BILL**

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:*

LPS-Please change component.

renumbered 973.09(1)(d) and

1

**SECTION 1.** 973.09 (1) (d) (intro.) of the statutes is amended to read:

2

973.09 (1) (d) (intro.) If a person is convicted of an offense that provides a mandatory or presumptive minimum period of one year or less of imprisonment, a court may place the person on probation under par. (a) if the court requires, as a condition of probation, that the person be confined under sub. (4) for at least that mandatory or presumptive minimum period. The person is eligible to earn good time credit calculated under s. 302.43 regarding the period of confinement. ~~This paragraph does not apply if the conviction is for any of the following:~~

**History:** 1971 c. 298; 1979 c. 119, 189, 238, 355, 356; 1981 c. 50, 88, 326, 352, 391; 1983 a. 27, 104, 254, 346, 519, 538; 1985 a. 150; 1987 a. 347, 398, 403, 412; 1989 a. 31, 121, 188; 1991 a. 39; 1993 a. 48, 486; 1995 a. 24, 224, 281; 1997 a. 27, 41, 289; 1999 a. 9, 58, 69, 186; 2001 a. 16, 104, 109; 2003 a. 33, 121, 139, 141; 2005 a. 25, 149, 451; 2007 a. 20, 84.

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**SECTION 2.** 973.09 (1) (d) 1. of the statutes is repealed.

10

**SECTION 3.** 973.09 (1) (d) 2. of the statutes is repealed.

11

**SECTION 4.** 973.09 (1) (d) 3. of the statutes is repealed.

12

**SECTION 5.** 973.09 (2) (a) 1. d. of the statutes is amended to read:

13

973.09 (2) (a) 1. d. A misdemeanor under s. 23.33 (4c) or (4p) (e), 30.681, 30.684

14

(5), 350.101, 350.104 (5), or 350.17 ~~or a misdemeanor under s. 346.63 to which s.~~

15

~~973.09 (1) (d) applies.~~

**History:** 1971 c. 298; 1979 c. 119, 189, 238, 355, 356; 1981 c. 50, 88, 326, 352, 391; 1983 a. 27, 104, 254, 346, 519, 538; 1985 a. 150; 1987 a. 347, 398, 403, 412; 1989 a. 31, 121, 188; 1991 a. 39; 1993 a. 48, 486; 1995 a. 24, 224, 281; 1997 a. 27, 41, 289; 1999 a. 9, 58, 69, 186; 2001 a. 16, 104, 109; 2003 a. 33, 121, 139, 141; 2005 a. 25, 149, 451; 2007 a. 20, 84.

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(END)

**Basford, Sarah**

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**From:** Ramirez, Adrienne  
**Sent:** Wednesday, May 06, 2009 3:04 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-2173/1 Topic: Probation for OWI offenses

Please Jacket LRB 09-2173/1 for the ASSEMBLY.