

2013 DRAFTING REQUEST

Bill

Received: 12/5/2012 Received By: phurley
 Wanted: As time permits Same as LRB:
 For: Jim Ott (608) 266-0486 By/Representing: Ginger
 May Contact: Drafter: phurley
 Subject: Criminal Law - procedure Addl. Drafters:
 Drunk Driving - other Extra Copies:

Submit via email: YES
 Requester's email: Rep.OttJ@legis.wisconsin.gov
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Require court appearance in person for all OWI charges

Instructions:

See attached

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>
/P1	phurley 1/31/2013	csicilia 12/19/2012	rschluet 12/19/2012	_____	mbarman 12/19/2012		State S&L
/1		csicilia 1/31/2013	jfrantze 1/31/2013	_____	sbasford 1/31/2013	sbasford 2/4/2013	State S&L

FE Sent For:

*at htr
3/14*

<END>

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/P1	phurley 12/7/2012	csicilia 12/19/2012	rschluet 12/19/2012	_____	mbarman 12/19/2012		State S&L

FE Sent For:

1 gjs 1/31
13
Jb 1/31
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Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/P1 phurley

Plgs 12/18
12

A handwritten signature, possibly 'H. J.', with the date '12/20/12' written below it.

FE Sent For:

<END>



cjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

12-7-12

Gen Cat

SA
X-12/12

1 **AN ACT**...; **relating to:** requiring persons accused of violating traffic laws and
2 ordinances related to driving while intoxicated to appear in person in court.

Analysis by the Legislative Reference Bureau

Under current law, generally, a first violation of operating a vehicle while under the influence of an intoxicant, with a detectable amount of a restricted controlled substance in one's blood, or with a prohibited alcohol concentration (OWI-related violation), is a traffic violation punishable by a civil forfeiture. Current law allows local units of government to enact ordinances in conformity with the state traffic law that punishes most first OWI-related offenses as a civil violation.

Under current law, a person who receives a citation for an OWI-related civil traffic violation or who receives a citation for an ordinance in conformity with the OWI-related traffic violation may opt to appear in court to plead not guilty to the violation or may opt to pay the forfeiture associated with the violation and avoid an appearance in court. Generally, a person who pays the forfeiture associated with the violation is considered to have pled guilty or no contest to the charge.

Under this bill, a person who receives a citation for an OWI-related civil traffic violation or who receives a citation for an ordinance in conformity therewith is required to appear in court to plead guilty, no contest, or not guilty to the charge.

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:

check component

and

1 SECTION 1. 66.0114 (1) (b) of the statutes is renumbered 66.0114 (1) (b) 1.

2 amended to read:

3 66.0114 (1) (b) ^{1.} Local ordinances, except as provided in ~~this paragraph or ss.~~ *↓ ↓ ↓*

4 345.20 to 345.53, may contain a provision for stipulation of guilt or no contest of any

5 or all violations under those ordinances, may designate the manner in which the

6 stipulation is to be made, and may fix the penalty to be paid. ~~When~~ Except as

7 provided in subd. 2., when a person charged with a violation for which stipulation

8 of guilt or no contest is authorized makes a timely stipulation and pays the required

9 penalty, plus costs, fees, and surcharges imposed under ch. 814, to the designated

10 official, the person need not appear in court and no witness fees or other additional

11 costs, fees, or surcharges may be imposed under ch. 814 unless the local ordinance

12 so provides. ~~A court appearance is required for a violation of a local ordinance in~~

13 ~~conformity with s. 346.63 (1).~~

History: 1971 c. 278; 1973 c. 336; 1975 c. 231; 1977 c. 29, 182, 269, 272, 305, 418, 447, 449; 1979 c. 32 s. 92 (17); 1979 c. 110 s. 60 (13); 1979 c. 331; 1981 c. 20, 317; 1983 a. 418 s. 8; 1987 a. 27, 389; Sup. Ct. Order, 146 Wis. 2d xiii (1988); 1989 a. 107; 1991 a. 39, 40, 189; 1993 a. 16, 167, 246, 491; 1995 a. 201, 349; 1997 a. 27; 1999 a. 9; 1999 a. 150 ss. 278 to 283; Stats. 1999 s. 66.0114; 2001 a. 16; 2003 a. 33, 139, 326.

14 SECTION 2. 66.0114 (1) (b) 2. of the statutes is created to read:

15 66.0114 (1) (b) 2. A person who is charged with a violation of a local ordinance

16 in conformity with s. 346.63 (1) or (5) shall appear, in person, in court to plead guilty,

17 no contest, or not guilty. *no underscoring*

18 SECTION 3. 345.26 (1) (b) 3. of the statutes is created to read:

19 345.26 (1) (b) 3. Subdivision 1. does not apply to a person who is charged with

20 a violation of s. 346.63 (1) or (5) or a local ordinance in conformity therewith and who

21 is required to appear in person pursuant to s. 66.0114 (1) (b) 2., 800.035 (5) (a), or

22 967.055 (2m).

23 SECTION 4. 800.035 (5) (a) of the statutes is amended to read:

1 800.035 (5) (a) If a defendant is charged with a violation of an ordinance in
2 conformity with s. 346.63 (1) or (5), the municipality ~~may~~ shall, by ordinance, require
3 the defendant to appear in person before the court.

History: 2009 a. 402 ss. 19, 72, 76, 79 to 82; 2011 a. 260 s. 80.

4 SECTION 5. 967.055 (2m) of the statutes is created to read:

5 967.055 (2m) PERSONAL APPEARANCE IN COURT. A person who is charged with a
6 civil violation of s. 346.63 (1) or (5) or a local ordinance in conformity therewith shall
7 appear in person in court to enter a plea of guilty, no contest, or not guilty to the

8 charge. ^{no p} In this subsection, ^{no p} court ^{no p} may mean a circuit
9 court or a municipal court.

(END)

Section 6. Initial applicability.
Section 7. Initial applicability.
(1) This act first applies to violations that occur on the effective date of this subsection.

(H)

(H)

(B)

1

Barman, Mike

From: Rep.OttJ
Sent: Thursday, January 31, 2013 12:49 PM
To: LRB.Legal
Subject: RE: Draft review: LRB -0727/P1 Topic: Require court appearance in person for all OWI charges

Please jacket for Assembly

From: LRB.Legal
Sent: Wednesday, December 19, 2012 9:02 AM
To: Rep.OttJ
Subject: Draft review: LRB -0727/P1 Topic: Require court appearance in person for all OWI charges

Following is the PDF version of draft LRB -0727/P1.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0727/P1
PJH:cjs:rs

FR1

Stays (mr)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

421

SAV

Gen Cat

1 **AN ACT to renumber and amend 66.0114 (1) (b); to amend 800.035 (5) (a); and**
2 **to create 66.0114 (1) (b) 2., 345.26 (1) (b) 3. and 967.055 (2m) of the statutes;**
3 **relating to:** requiring persons accused of violating traffic laws and ordinances
4 related to driving while intoxicated to appear in person in court.

Analysis by the Legislative Reference Bureau

Under current law, generally, a first violation of operating a vehicle while under the influence of an intoxicant, with a detectable amount of a restricted controlled substance in one's blood, or with a prohibited alcohol concentration (OWI-related violation), is a traffic violation punishable by a civil forfeiture. Current law allows local units of government to enact ordinances in conformity with the state traffic law that punishes most first OWI-related offenses as a civil violation.

Under current law, a person who receives a citation for an OWI-related civil traffic violation or who receives a citation for an ordinance in conformity with the OWI-related traffic violation may opt to appear in court to plead not guilty to the violation or may opt to pay the forfeiture associated with the violation and avoid an appearance in court. Generally, a person who pays the forfeiture associated with the violation is considered to have pled guilty or no contest to the charge.

Under this bill, a person who receives a citation for an OWI-related civil traffic violation or who receives a citation for an ordinance in conformity therewith is required to appear in court to plead guilty, no contest, or not guilty to the charge.

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:

1 **SECTION 1.** 66.0114 (1) (b) of the statutes is renumbered 66.0114 (1) (b) 1. and
2 amended to read:

3 66.0114 (1) (b) 1. Local ordinances, except as provided in ~~this paragraph~~ or ss.
4 345.20 to 345.53, may contain a provision for stipulation of guilt or no contest of any
5 or all violations under those ordinances, may designate the manner in which the
6 stipulation is to be made, and may fix the penalty to be paid. ~~When~~ Except as
7 provided in subd. 2., when a person charged with a violation for which stipulation
8 of guilt or no contest is authorized makes a timely stipulation and pays the required
9 penalty, plus costs, fees, and surcharges imposed under ch. 814, to the designated
10 official, the person need not appear in court and no witness fees or other additional
11 costs, fees, or surcharges may be imposed under ch. 814 unless the local ordinance
12 so provides. ~~A court appearance is required for a violation of a local ordinance in~~
13 ~~conformity with s. 346.63 (1).~~

14 **SECTION 2.** 66.0114 (1) (b) 2. of the statutes is created to read:

15 66.0114 (1) (b) 2. A person who is charged with a violation of a local ordinance
16 in conformity with s. 346.63 (1) or (5) shall appear, in person, in court to plead guilty,
17 no contest, or not guilty.

18 **SECTION 3.** 345.26 (1) (b) 3. of the statutes is created to read:

19 345.26 (1) (b) 3. Subdivision 1. does not apply to a person who is charged with
20 a violation of s. 346.63 (1) or (5) or a local ordinance in conformity therewith and who

1 is required to appear in person pursuant to s. 66.0114 (1) (b) 2., 800.035 (5) (a), or
2 967.055 (2m).

3 **SECTION 4.** 800.035 (5) (a) of the statutes is amended to read:

4 800.035 (5) (a) If a defendant is charged with a violation of an ordinance in
5 conformity with s. 346.63 (1) or (5), the municipality ~~may~~ shall, by ordinance, require
6 the defendant to appear in person before the court.

7 **SECTION 5.** 967.055 (2m) of the statutes is created to read:

8 967.055 (2m) **PERSONAL APPEARANCE IN COURT.** A person who is charged with a
9 civil violation of s. 346.63 (1) or (5) or a local ordinance in conformity therewith shall
10 appear in person in court to enter a plea of guilty, no contest, or not guilty to the
11 charge. In this subsection, “court” may mean a circuit court or a municipal court.

12 **SECTION 6. Initial applicability.**

13 (1) This act first applies to violations that occur on the effective date of this
14 subsection.

15 (END)

Rose, Stefanie

From: Mueller, Virginia
Sent: Monday, February 04, 2013 10:29 AM
To: LRB.Legal
Subject: Draft Review: LRB -0727/1 Topic: Require court appearance in person for all OWI charges

Please Jacket LRB -0727/1 for the ASSEMBLY.