

2013 DRAFTING REQUEST

Bill

Received: 2/11/2013 Received By: phurley
 Wanted: As time permits Same as LRB:
 For: Alberta Darling (608) 266-5830 By/Representing:
 May Contact: Drafter: phurley
 Subject: Drunk Driving - penalties Addl. Drafters:
 Extra Copies:

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

Pre Topic:

No specific pre topic given

Topic:

Mandatory minimum for causing death while OWI

Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	phurley 2/11/2013	jdye 2/12/2013	jfrantze 2/12/2013	_____			
/1				_____	mbarman 2/12/2013	rose 2/14/2013	State S&L Crime

FE Sent For:

AT INTRO.

<END>

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1/?	phurley	2/12 jld	[Signature]	[Signature]			

FE Sent For:

<END>



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0730/W
PJH:jld:jf

keep
1569/1
mrr

2013 BILL

2-11-13

Gen

X

1 AN ACT to renumber and amend 940.09 (1c) (a) and 940.09 (1c) (b); and to
2 create 940.09 (1c) (a) 2. and 940.09 (1c) (b) 2. of the statutes; relating to:
3 mandatory period of confinement for homicide by intoxicated use of a vehicle
4 and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person who causes the death of another by operating or handling a vehicle while under the influence of an intoxicant, with a detectable amount of a restricted controlled substance in his or her blood, or with a prohibited alcohol concentration, is guilty of a felony. If the person has no prior convictions, operator's license suspensions, or operator's license revocations related to operating a vehicle while intoxicated, he or she is guilty of a Class D felony and subject to a maximum fine of \$100,000, imprisonment for up to 25 years, or both. If the person has one or more prior convictions, operator's license suspensions, or operator's license revocations related to operating a vehicle while intoxicated, he or she is guilty of a Class C felony and subject to the same maximum fine, imprisonment for up to 40 years, or both.

Under current law, if a person is sentenced to imprisonment for a felony, he or she is sentenced to serve a portion of his or her sentence incarcerated in prison (period of confinement) and a portion of his or her sentence under extended supervision in the community. Current law does not generally require a minimum period of confinement for a person who is sentenced to imprisonment for a felony. However, there are exceptions, including some minimum periods of confinement for

BILL

persons who are sentenced to imprisonment for committing a seventh or subsequent offense related to operating a vehicle while intoxicated.

Under this bill, a person who causes the death of another by operating or handling a vehicle while under the influence of an intoxicant, with a detectable amount of a restricted controlled substance in his or her blood, or with a prohibited alcohol concentration, must be sentenced to imprisonment and his or her period of confinement must be at least ten years. Under the bill, if the decedent was a passenger in the person's car, a court may sentence the person to less than the minimum if the court finds that the best interests of the community will be served and that the public will not be harmed. If the court sentences a person to less than the minimum, the bill requires the court to put its findings in writing.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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. 940.09 (1c) (a) of the statutes is renumbered 940.09 (1c) (a) 1. and
2 amended to read:

3 940.09 (1c) (a) 1. Except as provided in par. (b), a person who violates sub. (1)
4 is guilty of a Class D felony. Except as provided in subd. 2., upon conviction, the court
5 shall impose a bifurcated sentence under s. 973.01 and the term of confinement in
6 prison portion of the bifurcated sentence shall be at least 10 years.

7 SECTION 2. 940.09 (1c) (a) 2. of the statutes is created to read:

8 940.09 (1c) (a) 2. If the person or persons whose death was caused by the
9 violation was or were in the vehicle operated by the convicted person at the time of
10 the violation, the court may impose a sentence that is less than the sentence required
11 under subd. 1. if the court finds that the best interests of the community will be
12 served and the public will not be harmed, and if the court places its reasons on the
13 record.

Rose, Stefanie

From: Evenson, Andrew
Sent: Thursday, February 14, 2013 2:32 PM
To: LRB.Legal
Subject: Draft Review: LRB -1569/1 Topic: Mandatory minimum for causing death while OWI

Please Jacket LRB -1569/1 for the SENATE.