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2003 ASSEMBLY BILL 713

January 5, 2004 - Introduced by Representatives Albers, Wieckert, Bies, Hines, F. Lasee, J. Lehman, Owens and Townsend. Referred to Committee on Criminal Justice.

AN ACT to repeal 973.09 (1) (d) 1., 2. and 3.; and to renumber and amend
973.09 (1) (d) of the statutes; relating to: probation for certain offenses that are
related to operating a motor vehicle while intoxicated, and good-time credit for
time served in jail as a condition of probation.

Analysis by the Legislative Reference Bureau

Under current law, a court may place a person who is convicted of a crime on probation instead of ordering the person to serve a sentence for the crime unless probation is prohibited for the crime. With certain exceptions, if a person commits a crime for which a minimum term of imprisonment of one year or less is required, a court may still place the person on probation, but must require that the person serve the minimum term of imprisonment as a condition of probation. The exceptions provide that a court may not place a person on probation for a second or third commission of certain offenses that are related to operating a motor vehicle while intoxicated (OWI).

Also under current law, an inmate who is sentenced to imprisonment in a county jail may earn good-time credit against his or her sentence for good behavior. A person generally may not earn good-time credit on a term of confinement in jail that is imposed as a condition of probation. However, a person who is placed on probation for a crime for which a minimum term of imprisonment of one year or less is required, may earn good-time credit on the term of confinement in jail that a court must impose as a condition of probation.

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This bill allows a court to place a person who is convicted for commission of a second or third OWI-related offense on probation, subject to the requirement that the person serve the required minimum period of imprisonment for the offense as a condition of probation. The bill also eliminates the entitlement to good-time credit for a person serving a term of confinement in jail as a condition of probation for a crime for which a minimum penalty of imprisonment of one year or less is required.

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:

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

973.09 (1) (d) 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:

SECTION 2. 973.09 (1) (d) 1., 2. and 3. of the statutes are repealed.

SECTION 3. Initial applicability.

(1) This act first applies to offenses committed on the effective date of this subsection.

14 (END)