



## 2009 ASSEMBLY BILL 191

April 2, 2009 - Introduced by Representatives HINTZ, KAUFERT, STASKUNAS, TOWNSEND, RICHARDS, NELSON, TAUCHEN, CULLEN, HRAYCHUCK, ROTH, A. OTT, BERCEAU and A. WILLIAMS, cosponsored by Senators TAYLOR, HOPPER, SULLIVAN, PLALE, LEHMAN, SCHULTZ, DARLING and COWLES. Referred to Committee on Public Safety.

1     **AN ACT** *to repeal* 346.65 (8); and *to amend* 346.65 (2) (bm), 346.65 (2) (cm),  
2             346.65 (2j) (bm), 346.65 (2j) (cm) and 346.65 (3r) of the statutes; **relating to:**  
3             drunken driving and creating a penalty.

---

### *Analysis by the Legislative Reference Bureau*

2005 Wisconsin Act 389 created a pilot program for sentencing persons in Winnebago county who are convicted of certain second or third offenses involving operating a motor vehicle with a prohibited alcohol concentration, or under the influence of an intoxicant, a controlled substance or its analog, or any combination thereof (OWI). Under that act, the period of imprisonment for an OWI offense in Winnebago county may be reduced if the violator successfully completes a period of probation that includes alcohol and other drug treatment. A person may complete a treatment program and receive a reduced period of imprisonment only once.

This bill expands the sentencing option to any county that opts to allow a violator to successfully complete a period of probation that includes alcohol and other drug treatment in exchange for a shorter period of imprisonment.

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.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**ASSEMBLY BILL 191****SECTION 1**

1           **SECTION 1.** 346.65 (2) (bm) of the statutes is amended to read:

2           346.65 (2) (bm) In ~~Winnebago County~~, any county that opts to offer a reduced  
3 minimum period of imprisonment for the successful completion of a probation period  
4 that includes alcohol and other drug treatment, if the number of convictions under  
5 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of  
6 suspensions, revocations, and other convictions counted under s. 343.307 (1) within  
7 a 10-year period, equals 2, except that suspensions, revocations, or convictions  
8 arising out of the same incident or occurrence shall be counted as one, the fine shall  
9 be the same as under par. (am) 2., but the period of imprisonment shall be not less  
10 than 5 days, except that if the person successfully completes a period of probation  
11 that includes alcohol and other drug treatment, the period of imprisonment shall be  
12 not less than 5 nor more than 7 days. A person may be sentenced under this  
13 paragraph or under par. (cm) or sub. (2j) (bm) or (cm) or (3r) once in his or her lifetime.

14           **SECTION 2.** 346.65 (2) (cm) of the statutes is amended to read:

15           346.65 (2) (cm) In ~~Winnebago County~~ any county that opts to offer a reduced  
16 minimum period of imprisonment for the successful completion of a probation period  
17 that includes alcohol and other drug treatment, if the number of convictions under  
18 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of  
19 suspensions, revocations, and other convictions counted under s. 343.307 (1) within  
20 a 10-year period, equals 3, except that suspensions, revocations, or convictions  
21 arising out of the same incident or occurrence shall be counted as one, the fine shall  
22 be the same as under par. (am) 3., but the period of imprisonment shall be not less  
23 than 30 days, except that if the person successfully completes a period of probation  
24 that includes alcohol and other drug treatment, the period of imprisonment shall be

**ASSEMBLY BILL 191**

1 not less than 10 days. A person may be sentenced under this paragraph or under par.  
2 (bm) or sub. (2j) (bm) or (cm) or (3r) once in his or her lifetime.

3 **SECTION 3.** 346.65 (2j) (bm) of the statutes is amended to read:

4 346.65 (2j) (bm) In ~~Winnebago County~~ any county that opts to offer a reduced  
5 minimum period of imprisonment for the successful completion of a probation period  
6 that includes alcohol and other drug treatment, if the number of convictions under  
7 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of  
8 suspensions, revocations, and other convictions counted under s. 343.307 (1) within  
9 a 10-year period, equals 2, except that suspensions, revocations, or convictions  
10 arising out of the same incident or occurrence shall be counted as one, the fine shall  
11 be the same as under par. (am) 2., but the period of imprisonment shall be not less  
12 than 5 days, except that if the person successfully completes a period of probation  
13 that includes alcohol and other drug treatment, the period of imprisonment shall be  
14 not less than 5 nor more than 7 days. A person may be sentenced under this  
15 paragraph or under par. (cm) or sub. (2) (bm) or (cm) or (3r) once in his or her lifetime.

16 **SECTION 4.** 346.65 (2j) (cm) of the statutes is amended to read:

17 346.65 (2j) (cm) In ~~Winnebago County~~ any county that opts to offer a reduced  
18 minimum period of imprisonment for the successful completion of a probation period  
19 that includes alcohol and other drug treatment, if the number of convictions under  
20 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of  
21 suspensions, revocations, and other convictions counted under s. 343.307 (1) within  
22 a 10-year period, equals 3 or more, except that suspensions, revocations, or  
23 convictions arising out of the same incident or occurrence shall be counted as one, the  
24 fine shall be the same as under par. (am) 3., but the period of imprisonment shall be  
25 not less than 30 days, except that if the person successfully completes a period of

**ASSEMBLY BILL 191**

1 probation that includes alcohol and other drug treatment, the period of  
2 imprisonment shall be not less than 10 days. A person may be sentenced under this  
3 paragraph or under par. (bm) or sub. (2) (bm) or (cm) or (3r) once in his or her lifetime.

4 **SECTION 5.** 346.65 (3r) of the statutes is amended to read:

5 346.65 (3r) In ~~Winnebago County~~ any county that opts to offer a reduced  
6 minimum period of imprisonment for the successful completion of a probation period  
7 that includes alcohol and other drug treatment, any person violating s. 346.63 (2) or  
8 (6) shall be fined the same as under sub. (3m), but the period of imprisonment shall  
9 be not less than 30 days, except that if the person successfully completes a period of  
10 probation that includes alcohol and other drug treatment, the period of  
11 imprisonment shall be not less than 15 days. If there was a minor passenger under  
12 16 years of age in the motor vehicle at the time of the violation that gave rise to the  
13 conviction under s. 346.63 (2) or (6), the offense is a felony, the applicable minimum  
14 and maximum fines or periods of imprisonment for the conviction are doubled and  
15 the place of imprisonment shall be determined under s. 973.02. A person may be  
16 sentenced under this subsection or under sub. (2) (bm) or (cm) or (2j) (bm) or (cm) once  
17 in his or her lifetime.

18 **SECTION 6.** 346.65 (8) of the statutes is repealed.

19 (END)