



1997 SENATE BILL 214

May 20, 1997 - Introduced by Senators GROBSCHMIDT, BURKE, MOEN, HUELSMAN, FARROW, DRZEWIECKI and CHVALA, cosponsored by Representatives R. YOUNG, BOCK, WALKER, NOTESTEIN, PLALE, STASKUNAS, CULLEN and KREUSER. Referred to Committee on Labor, Transportation and Financial Institutions.

1 **AN ACT to renumber** 346.65 (2m); **to amend** 20.435 (6) (hx), 20.435 (7) (hz),
2 346.655 (1) and 346.655 (2); and **to create** 20.395 (5) (jk), 85.53 and 346.65 (2m)
3 (b) of the statutes; **relating to:** creating a pretrial intoxicated driver
4 intervention grant program and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates a grant program administered by the department of transportation (DOT) to fund pretrial intoxicated driver intervention programs (pretrial programs) that serve individuals accused of a 2nd or subsequent offense of driving while intoxicated. A pretrial program is eligible for a grant if it: 1) is administered by a city, village, town, county or private nonprofit organization; 2) identifies and notifies defendants who are eligible to participate of the availability of the program; 3) monitors the participants' use of intoxicants to reduce the incidence of abuse and treats such abuse; 4) reports the participant's participation in the program to the court; and 5) requires participants to pay up to 20% of the per capita cost of the program. The bill requires a court to consider an individual's participation in such a program when imposing a sentence for driving while intoxicated.

The bill requires DOT to report biennially to the legislature on the relative success of pretrial intoxicated driver intervention programs, including the relative rates of recidivism of individuals who successfully completed such a program and of individuals who did not participate in such a program. The bill also requires each grant recipient to report to the legislature on its program results.

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The grant program is funded by a \$5 increase to the intoxicated driver improvement surcharge (to \$305).

For further information see the *state* 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.** 20.395 (5) (jk) of the statutes is created to read:

2 20.395 (5) (jk) *Pretrial intoxicated driver intervention grants.* From the general
3 fund, all moneys transferred from the appropriation account under s. 20.435 (6) (hx)
4 for the purpose of awarding grants under s. 85.53.

5 **SECTION 2.** 20.435 (6) (hx) of the statutes is amended to read:

6 20.435 (6) (hx) *Services for drivers, receipts.* The amounts in the schedule for
7 services for drivers. ~~Of the moneys received from the~~ From each driver improvement
8 surcharge on court fines and forfeitures ~~authorized~~ paid to the state under s. 346.655,
9 ~~15%~~ (2), \$50 shall be credited to this appropriation. These moneys may be
10 transferred to sub. (7) (hy) and ss. 20.255 (1) (hm), 20.285 (1) (ia), 20.395 (5) (jk) and
11 20.455 (5) (h) by the secretary of administration after consultation with the
12 secretaries of health and family services, education and transportation, the attorney
13 general and the president of the university of Wisconsin system.

14 **SECTION 3.** 20.435 (7) (hz) of the statutes is amended to read:

15 20.435 (7) (hz) *Services for drivers, supplement to assistance.* The amounts in
16 the schedule for the purpose of s. 51.42 for drivers referred through assessment, to
17 be distributed by the department to supplement funding to counties that otherwise
18 have costs in excess of revenues for treatment of drivers referred through
19 assessment. ~~Of the moneys received from the~~ From each driver improvement

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1 surcharge on court fines and forfeitures ~~authorized~~ paid to the state under s. 346.655,
2 ~~14.2% (2), \$42.60~~ shall be credited to this appropriation.

3 **SECTION 4.** 85.53 of the statutes is created to read:

4 **85.53 Pretrial intoxicated driver intervention grant program. (1)** In
5 this section:

6 (a) "Defendant" means a person accused of or charged with a 2nd or subsequent
7 violation of operating while intoxicated.

8 (b) "Eligible applicant" means a city, village, town, county or private nonprofit
9 organization.

10 (c) "Intoxicant" means any alcohol beverage, controlled substance, controlled
11 substance analog or other drug or any combination thereof.

12 (d) "Operating while intoxicated" means a violation of s. 346.63 (1) or (2m) or
13 a local ordinance in conformity therewith or of s. 346.63 (2) or (6), 940.09 (1) or 940.25.

14 **(2)** The department shall administer the pretrial intoxicated driver
15 intervention grant program. The program shall award grants to eligible applicants
16 to administer a local pretrial intoxicated driver intervention program that, prior to
17 the sentencing of a defendant for operating while intoxicated, does all of the
18 following:

19 (a) Identifies the defendant and notifies him or her of the availability and cost
20 of the program and that a court will consider the defendant's participation in the
21 program when imposing a sentence.

22 (b) Monitors the defendant's use of intoxicants to reduce the incidence of abuse.

23 (c) Treats the defendant's abuse of intoxicants to reduce the incidence of abuse.

24 (d) Reports the defendant's participation in the program to the court in which
25 the defendant appears in the matter.

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1 (e) Requires program participants to pay a reasonable fee to participate in the
2 program. Such a fee may not exceed 20% of the actual per capita cost of the program.

3 (3) Grants under this section shall be paid from the appropriation under s.
4 20.395 (5) (jk). The amount of a grant may not exceed 80% of the amount expended
5 by an eligible applicant for services related to the program. The total amount of
6 grants awarded under this section may not exceed \$500,000.

7 (4) (a) Not later than December 31 of each even-numbered year, the
8 department shall submit a report to the chief clerk of each house of the legislature
9 for distribution to the legislature under s. 13.172 (3) that states: the number of
10 individuals arrested for a 2nd or subsequent offense of operating while intoxicated;
11 the number of individuals who completed a local pretrial intoxicated driver
12 intervention program; the percentage of successful completion of all individuals who
13 commence such a program; the number of individuals who, after completing such a
14 program, are arrested for a 3rd or subsequent offense of operating while intoxicated;
15 and the number of individuals eligible to participate in a program who did not
16 complete a program and who, after becoming eligible to participate in the program,
17 are arrested for a 3rd or subsequent offense of operating while intoxicated.

18 (b) An eligible applicant who receives a grant under sub. (2) shall, not later than
19 December 31 of the year for which the grant was made, submit a report to the speaker
20 of the assembly and to the president of the senate in the manner described in s.
21 13.172 (3) summarizing the results of the pretrial intoxicated driver intervention
22 program administered by the eligible applicant and providing any additional
23 information required by the department.

24 (5) Consent to participate in a local pretrial intoxicated driver intervention
25 program funded under this section is not an admission of guilt and the consent may

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1 not be admitted in evidence in a trial for operating while intoxicated. No statement
2 relating to operating while intoxicated, made by the defendant in connection with
3 any discussions concerning the program or to any person involved in the program,
4 is admissible in a trial for operating while intoxicated.

5 **SECTION 5.** 346.65 (2m) of the statutes is renumbered 346.65 (2m) (a).

6 **SECTION 6.** 346.65 (2m) (b) of the statutes is created to read:

7 346.65 **(2m)** (b) The court shall consider a report submitted under s. 85.53 (2)
8 (d) when imposing a sentence under sub. (2), (2q) or (3m).

9 **SECTION 7.** 346.655 (1) of the statutes is amended to read:

10 346.655 **(1)** On or after July 1, 1988, if a court imposes a fine or a forfeiture for
11 a violation of s. 346.63 (1) or (5), or a local ordinance in conformity therewith, or s.
12 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle,
13 it shall impose a driver improvement surcharge in an amount of ~~\$300~~ \$305 in
14 addition to the fine or forfeiture, penalty assessment and jail assessment.

15 **SECTION 8.** 346.655 (2) of the statutes is amended to read:

16 346.655 **(2)** (a) Except as provided in par. (b), the clerk of court shall collect and
17 transmit the amount under sub. (1) to the county treasurer as provided in s. 59.40
18 (2) (m). The county treasurer shall then make payment of ~~29.2%~~ \$92.60 of the
19 amount to the state treasurer as provided in s. 59.25 (3) (f) 2.

20 (b) If the forfeiture is imposed by a municipal court, the court shall transmit
21 the amount to the treasurer of the county, city, town or village, and that treasurer
22 shall make payment of ~~29.2%~~ \$92.60 of the amount to the state treasurer as provided
23 in s. 66.12 (1) (b). The treasurer of the city, town or village shall transmit the
24 remaining ~~70.8%~~ \$212.40 of the amount to the treasurer of the county.

25 (END)