

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3902/P2dn
TNF:hmh:jf

December 20, 2001

I have prepared this draft in preliminary form because it differs somewhat from the Legislative Council draft prepared by Don Dyke. I have discussed the underlying issues with Don. The draft permits a court to order a presentence alcohol and drug assessment in cases involving operating a motor vehicle while intoxicated (OWI). The draft also permits the court to withhold sentence until it has reviewed compliance with the presentence assessment. The draft also allows a court to condition eligibility for an occupational license on completing the assessment and complying with the driver safety plan in those cases where the person has less than 2 priors. Currently, a court has this authority only in those cases where the person has at least 2 priors.

Also, please note the following:

1. Since an improper refusal is not a violation that results in a conviction, there is no sentence to withhold.
2. Current law permits a court to reduce the costs and fine or forfeiture imposed on a person convicted of OWI who has limited financial means and order the person to pay the amount of the reduction toward the cost of assessment and the driver safety plan. See s. 346.65 (2e), stats. This provision only applies to violations of s. 346.63 (1), stats. Should similar provisions be created for violations of ss. 346.63 (2), 940.09, and 940.25?
3. The draft contains a delayed effective date and initial applicability provisions. Please let me know if you want something different.

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