

2001 Jr2 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB1)

Received: 03/11/2002

Received By: rryan

Wanted: Soon

Identical to LRB:

For: Legislative Fiscal Bureau

By/Representing: Bauer (DS)

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Criminal Law - sentencing

Extra Copies:

Submit via email: NO

Pre Topic:

LFB:.....Bauer (DS) -

Topic:

Documentation of sentencing decisions

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	rryan 03/12/2002	jdyer 03/12/2002	pgreensl 03/12/2002	_____	lrb_docadmin 03/12/2002		

FF Sent For:

<END>

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1?	rryan	1 3/12 jld	3/12 PG	3/12 SBLE			

FE Sent For:

<END>

WORKING GROUP

Truth-in-Sentencing Documentation of Sentencing Decisions

Require the court to make explicit findings of fact on the record to support each element of its sentencing decision, including its decision as to whether to impose a bifurcated sentence or to place a person on probation and its decision as to the length of a bifurcated sentence, including the length of each component of the bifurcated sentence, the amount of the fine and the length of a term of probation.

S:\LFB Share\JR\doj_Truth.doc

3/11/02

LRB 52386

Jerri : wants the '99 Sen. Sem. ~~to~~ mini-budget revision - SB 357

- But also keep current par. (b) regarding making findings outside presence of defendant

- make sure is clear under par (b) that even if findings made outside presence of defendant - still have to make findings on each component of sentence

SENATE BILL 357

1 controlled substance included in schedule I or II and that the person knowingly used
2 a public transit vehicle during the violation.

3 (9) AGGRAVATING FACTORS NOT AN ELEMENT OF THE CRIME. The aggravating factors
4 listed in this section are not elements of any crime. A prosecutor is not required to
5 charge any aggravating factor or otherwise allege the existence of an aggravating
6 factor in any pleading for a court to consider the aggravating factor when making a
7 sentencing decision.

8 (10) USE OF GUIDELINES; NO RIGHT TO OR BASIS FOR APPEAL. The requirement
9 under sub. (2) (a) that a court consider sentencing guidelines adopted by the
10 sentencing commission or the criminal penalties study committee does not require
11 a court to make a sentencing decision that is within any range or consistent with a
12 recommendation specified in the guidelines, and there is no right to appeal a court's
13 sentencing decision based on the court's decision to depart in any way from any
14 guideline.

15 (11) REQUIRED FINDINGS OF FACT. The court shall make explicit findings of fact
16 on the record to support each element of its sentencing decision, including its decision
17 as to whether to impose a bifurcated sentence under s. 973.01 or to place a person
18 on probation and its decision as to the length of a bifurcated sentence, including the
19 length of each component of the bifurcated sentence, the amount of a fine and the
20 length of a term of probation.

21 (12) STANDARD OF REVIEW ON APPEAL. In an appeal from a court's sentencing
22 decision, the appellate court shall reverse the sentencing decision if it determines
23 that the sentencing court erroneously exercised its discretion in making the
24 sentencing decision or there is not substantial evidence in the record to support the
25 sentencing decision.



State of Wisconsin
2001 - 2002 LEGISLATURE
January 2002 Special Session

LRBb23867

RLR:.....

JLD
RMR

LFB:.....Bauer (DS) – Documentation of sentencing decisions

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO ASSEMBLY BILL 1

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 338, line 22: delete the material beginning with that line and ending

3 on page 339, line 4, and substitute:

4 “(10m) REQUIRED FINDINGS OF FACT. (a) Except as provided in par. (b), the court
5 shall make explicit findings of fact in open court and on the record to support each
6 element of its sentencing decision, including its decision as to whether to impose a
7 bifurcated sentence under s. 973.01 or to place a person on probation and its decision
8 as to the length of a bifurcated sentence, including the length of each component of
9 the bifurcated sentence, the amount of a fine, and the length of a term of probation.

1 (b) If the court determines that is not in the interest of the defendant to make
2 the finding of fact required under par. (a) in the defendant's presence, the court shall
3 make the findings of fact in writing and include the written findings in the record.”.

4

(END)



State of Wisconsin
2001 - 2002 LEGISLATURE
January 2002 Special Session

LRBb2386/1
RLR:jld:pg

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