

2003 DRAFTING REQUEST

Bill

Received: **03/25/2003**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Sheryl Albers (608) 266-8531**

By/Representing: **herself**

This file may be shown to any legislator: **NO**

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - sentencing
Drunk Driving - penalties**

Extra Copies: **MGD and PJH**

Submit via email: **YES**

Requester's email: **Rep.Albers@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Probation for certain OWI offenses; good-time credit for time in jail

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>
/?				_____			S&L Crime
/1	rryan 05/15/2003	kgilfoy 05/16/2003	pgreensl 05/16/2003	_____	sbasford 05/16/2003	amentkow 06/06/2003	

FE Sent For:

AA
Intro.

<END>

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Handwritten signature and note:
S
Per Albers
Office

FE Sent For:

<END>

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for certain
Probation ~~and~~ OWI offenses; *good-time credit for time in jail*

Instructions:

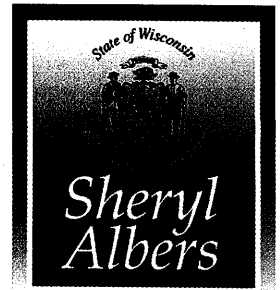
See Attached

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1?	rryan	11-5/16 King	3/14 PS	5/16 PS			

FE Sent For:

<END>



To: LRB – Drafting
From: Representative Sheryl K. Albers

Date: March 25, 2003
Subject: Probation for Repeat OWI Offenders

Currently, prosecutors cannot offer probation as a punishment to OWI, and OWI injury offenders until their fourth or greater conviction. This places limitations upon the prosecutors' abilities to rehabilitate these offenders. Further, fourth time, or greater offenders are offered "good time" during jail sentences that are a condition of probation. This is inconsistent with the rest of the law and creates confusion for probation officers and law enforcement agencies.

Please prepare a 2003 bill that would change the language of s. 973.09(1)(d) in order to allow for the following: (1) Probation should be made available as an option for the punishment of violations under s. 346.63 (OWI offences), and (2) Good time should not be made available to those who receive jail time as a condition of this probation.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-24067

RLR:...

King

In 5/15/03

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

RMR

1 AN ACT ^{Gen. Cat.} relating to: probation for certain offenses that are related to operating
 2 a motor vehicle while intoxicated, and ^{ee} good-time ^{ee} credit for time served in jail
 3 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 ^{credit} good-time ^{credit} against his or her sentence for good behavior. A person generally may not earn ^{credit} 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 ^{credit} good-time ^{credit} on the term of confinement in jail that a court must impose as a condition of probation.

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 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.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

CRIME

or
good time
credit

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

renumbered 973.09(1)(d) and

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

973.09 (1) (d) ~~(intro.)~~ 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:~~

History: 1971 c. 298; 1979 c. 119, 189, 238, 355, 356; 1981 c. 50, 88, 326, 352, 391; 1983 a. 27, 104, 254, 346, 519, 538; 1985 a. 150; 1987 a. 347, 398, 403, 412; 1989 a. 31, 121, 188; 1991 a. 39; 1993 a. 48, 486; 1995 a. 24, 224, 281; 1997 a. 27, 41, 289; 1999 a. 9, 58, 69, 186; 2001 a. 16, 104, 109.

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.

(END)