

## 2007 SENATE BILL 546

February 29, 2008 – Introduced by Senators TAYLOR, ROESSLER, CARPENTER, RISSER, ROBSON, KAPANKE, DARLING, ERPENBACH, COWLES, LASSA and VINEHOUT, cosponsored by Representatives KAUFERT, OWENS, HINTZ, BIES, ALBERS, GRIGSBY, HAHN, JESKEWITZ and A. OTT. Referred to Committee on Judiciary, Corrections, and Housing.

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

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### *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.

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

**SENATE BILL 546****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. (b)~~ par. (am) 2., but the period of imprisonment shall be  
10 not less than 5 days, except that if the person successfully completes a period of  
11 probation that includes alcohol and other drug treatment, the period of  
12 imprisonment shall be not less than 5 nor more than 7 days. A person may be  
13 sentenced under this paragraph or under par. (cm) or sub. (2j) (bm) or (cm) or (3r)  
14 once in his or her lifetime.

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

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

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1 imprisonment shall be not less than 10 days. A person may be sentenced under this  
2 paragraph or under par. (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. (b)~~ par. (am) 2., but the period of imprisonment shall be  
12 not less than 5 days, except that if the person successfully completes a period of  
13 probation that includes alcohol and other drug treatment, the period of  
14 imprisonment shall be not less than 5 nor more than 7 days. A person may be  
15 sentenced under this paragraph or under par. (cm) or sub. (2) (bm) or (cm) or (3r) once  
16 in his or her lifetime.

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

18 346.65 (2j) (cm) In Winnebago County any county that opts to offer a reduced  
19 minimum period of imprisonment for the successful completion of a probation period  
20 that includes alcohol and other drug treatment, if the number of convictions under  
21 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of  
22 suspensions, revocations, and other convictions counted under s. 343.307 (1) within  
23 a 10-year period, equals 3 or more, except that suspensions, revocations, or  
24 convictions arising out of the same incident or occurrence shall be counted as one, the  
25 fine shall be the same as under ~~par. (c)~~ par. (am) 3., but the period of imprisonment

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1 shall be not less than 30 days, except that if the person successfully completes a  
2 period of probation that includes alcohol and other drug treatment, the period of  
3 imprisonment shall be not less than 10 days. A person may be sentenced under this  
4 paragraph or under par. (bm) or sub. (2) (bm) or (cm) or (3r) once in his or her lifetime.

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

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

19 (END)