

2009 DRAFTING REQUEST

Bill

Received: **01/08/2009**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Garey Bies (608) 266-5350**

By/Representing: **Andrew**

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

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Drunk Driving - penalties**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Bies@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Drunk driving

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>
/?							
/P1	rnelson2 01/09/2009 agary 01/14/2009	kfollett 01/09/2009 nnatzke 02/02/2009	rschluet 02/03/2009	_____	mbarman 02/03/2009		S&L
/1	rnelson2 02/05/2009	nnatzke 02/05/2009	phenry 02/05/2009	_____	sbasford 02/05/2009		S&L
/2	rnelson2	nnatzke	rschluet	_____	sbasford	sbasford	

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	02/06/2009	02/06/2009	02/09/2009	_____	02/09/2009	02/13/2009	

FE Sent For: "1/2" @ intro. 3/19/09 <END>

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	agary 01/14/2009	nmatzke 02/02/2009		_____			
/1	rnelson2 02/05/2009	nmatzke 02/05/2009 /2 nwn 2/6	phenry 02/05/2009	_____	sbasford 02/05/2009		

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	agary 01/14/2009	nmatzke 02/02/2009					

1 nwn
2/5

Handwritten initials and dates: 2/5 ph, 2/5 ph/jff, <END>

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/?	rnelson2	/p1 nwn 1/27					

FE Sent For:

<END>

Nelson, Robert P.

From: Hurley, Peggy
Sent: Wednesday, January 07, 2009 3:13 PM
To: Nelson, Robert P.
Subject: FW: Rep Bies OWI draft

Bob,

Do you want to take a crack at this one? I drafted a very different sentencing scheme for this office and, as the aide notes, this request is so different as to warrant a new LRB number. If you do want to draft this, could you contact Andrew Nowlan and let him know?

Peggy

From: Nowlan, Andrew
Sent: Wednesday, January 07, 2009 3:11 PM
To: Hurley, Peggy
Subject: Rep Bies OWI draft

Hi Peggy,

Rep. Bies wants to make some changes and I think we'll likely need a new lrb number. The new draft is as follows:

- ✓ 1. First, there are no changes to the current fines or drivers license penalties.
- ✓ 2. First offense becomes criminal because of mandatory jail time.
- ✓ 3. First offense with BAC under .15 would be 5 consecutive days (mandatory) in jail with no work release and the person required to pay \$52 per day to the jail for the stay or the current fee if higher and any additional charge the person may generate while in jail. These costs must be paid before drivers license can be reinstated.
First offense with BAC over .15 would be 8 consecutive days in jail with no work release
- ✓ 4. Second offense with BAC under .15 would be mandatory 45 days up to 9 months.
Second offense with BAC over .15 would be mandatory 60 days in the county jail to 9 months.
- ✓ 5. Third offense with BAC under .15 would be mandatory 6 months to 1 year in county jail
Third offense with BAC over .15 would be mandatory 9 months in the county jail to 18 months in state prison.
- ? 6. 4th and each subsequent offense would add one year for each offense to the third offense mandatory sentence.
- ? 7. Additional offenses must be within 10 years of the previous offense.
the previous 10-year period
most recent offense?

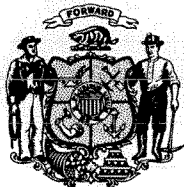
*Good time
302.425
Home Detention
302.425*

*diminution of
sentence under
303.19(3)*

Andrew Nowlan
Research Assistant
Office of Rep. Garey Bies

*302.392
already requires
jail prisoners to reimb.
for the costs of
being in jail - at co. disc.*

*303.08
huber*



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1371/P1

RPN: f.....

nwn

in
1/9

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA ✓
x-ref ✓

Gen cat

1 AN ACT ...; relating to: reimbursement to counties by prisoners and increasing
2 drunk driving penalties.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

Insert
1-3 →

3 SECTION 1. 302.372 (7) of the statutes is created to read:

4 302.372 (7) RESTRICTION ON VIOLATOR'S OPERATING PRIVILEGE. If the county seeks

5 reimbursement under this section from a prisoner who was confined to the jail as the result of a violation under s. 346.63, 940.09 (1), or 940.25, the department of

6 transportation may not reinstate the violator's operating privilege until the county

7 notifies the department that the violator has paid the amount owed to the county.

8

9 SECTION 2. 343.38 (1) (d) of the statutes is created to read:

10 343.38 (1) (d) Has paid any amount specified in s. 302.372 (7).

SECTION 3

renumbered 346.65(2)(am) 1.a. and

SECTION 3. 346.65 (2) (am) 1. of the statutes is amended to read:

346.65 (2) (am) 1. ^{a.} ~~Shall forfeit~~ If the person had an alcohol concentration of less than 0.15, shall be fined not less than \$150 nor more than \$300 and imprisoned for 5 days, except as provided in subds. 2. to 5 and par. (f). ^{CR; 346.65(2)(am) 1.b.} The person is not eligible for home detention under s. 302.425, good time under s. 302.43, release from jail for employment under s. 303.08 (1) (b), transfer to a county work camp under s. 303.10, release to perform community service unless s. 973.07 applies, or diminution of the sentence under s. 303.19 (3), for the first 5 days of confinement.

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1977 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326; 2005 a. 149, 317, 389; 2007 a. 97, 111.

SECTION 4. 346.65 (2) (am) 1m. of the statutes is created to read:

346.65 (2) (am) 1m. ^{a.} If the person had an alcohol concentration of 0.15 or more, shall be fined not less than \$150 nor more than \$300 and imprisoned for 8 days, except as provided in subds. 2. to 4. and par. (f). ^{A b.} The person is not eligible for home detention under s. 302.425, good time under s. 302.43, release from jail for employment under s. 303.08 (1) (b), transfer to a county work camp under s. 303.10, release to perform community service unless s. 973.07 applies, or diminution of the sentence under s. 303.19 (3), for the first 8 days of confinement.

SECTION 5. 346.65 (2) (am) 2. of the statutes is amended to read:

346.65 (2) (am) 2. ~~Except~~ If the person had an alcohol concentration of less than 0.15, except as provided in pars. (bm) and (f), shall be fined not less than \$350 nor more than \$1,100 and imprisoned for not less than 5 45 days nor more than 6 9 months if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307 (1) within a 10-year period within 10 years before the violation, equals 2, except that suspensions, revocations, or convictions arising out

This part is left in

plain text

strike extra space

file

2nd sus., rev or other

1 of the same incident or occurrence shall be counted as one. The person is not eligible
2 for home detention under s. 302.425, good time under s. 302.43, release from jail for
3 employment under s. 303.08 (1) (b), transfer to a county work camp under s. 303.10,
4 release to perform community service unless s. 973.07 applies, or diminution of the
5 sentence under s. 303.19 (3), for the first 45 days of confinement.

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

7 346.65 (2) (am) 2m. If the person had an alcohol concentration of 0.15 or more,
8 except as provided in pars. (bm) and (f), shall be fined not less than \$350 nor more
9 than \$1,100 and imprisoned for not less than 60 days nor more than 9 months if the
10 number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus
11 the total number of suspensions, revocations, and other convictions counted under
12 s. 343.307 (1) within 10 years before the violation, equals 2, except that suspensions,
13 revocations, or convictions arising out of the same incident or occurrence shall be
14 counted as one. The person is not eligible for home detention under s. 302.425, good
15 time under s. 302.43, release from jail for employment under s. 303.08 (1) (b), transfer
16 to a county work camp under s. 303.10, release to perform community service unless
17 s. 973.07 applies, or diminution of the sentence under s. 303.19 (3), for the first 60
18 days of confinement.

19 **SECTION 7.** 346.65 (2) (am) 3. of the statutes is amended to read:

20 346.65 (2) (am) 3. Except If the person had an alcohol concentration of less than
21 0.15, except as provided in pars. (cm), (f), and (g), shall be fined not less than \$600
22 nor more than \$2,000 and imprisoned for not less than 30 days 6 months nor more
23 than one year in the county jail if the number of convictions under ss. 940.09 (1) and
24 940.25 in the person's lifetime, plus the total number of suspensions, revocations,
25 and other convictions counted under s. 343.307 (1) within 10 years before the

SECTION 7

1 violation, equals 3, except that suspensions, revocations, or convictions arising out
2 of the same incident or occurrence shall be counted as one. The person is not eligible
3 for home detention under s. 302.425, good time under s. 302.43, release from jail for
4 employment under s. 303.08 (1) (b), transfer to a county work camp under s. 303.10,
5 release to perform community service unless s. 973.07 applies, or diminution of the
6 sentence under s. 303.19 (3), for the first 6 months of confinement. ✓

7 **SECTION 8.** 346.65 (2) (am) 3m. of the statutes is created to read:

8 346.65 (2) (am) 3m. If the person had an alcohol concentration of 0.15 or more,
9 except as provided in pars. (c) ✓, (f) ✓, and (g) ✓, shall be fined not less than \$600 nor more
10 than \$2,000 and imprisoned for not less than 9 months nor more than 18 months if
11 the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,
12 plus the total number of suspensions, revocations, and other convictions counted
13 under s. 343.307 (1) within 10 years before the violation, equals 3, except that
14 suspensions, revocations, or convictions arising out of the same incident or
15 occurrence shall be counted as one. The person is not eligible for home detention
16 under s. 302.425, good time under s. 302.43, release from jail for employment under
17 s. 303.08 (1) (b), transfer to a county work camp under s. 303.10, release to perform
18 community service unless s. 973.07 applies, or diminution of the sentence under s.
19 303.19 (3), for the first 9 months of confinement. ✓

20 **SECTION 9.** 346.65 (2) (am) 4. of the statutes is amended to read:

21 346.65 (2) (am) 4. Except as provided in pars. (f) ✓ and (g) ✓, shall be fined not less
22 than \$600 nor more than \$2,000 and imprisoned for not less than 60 days one year
23 and ⁰⁻⁹nine months nor more than one year in the county jail 3 years if the number of
24 convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total
25 number of suspensions, revocations and other convictions counted under s. 343.307

1 (1) within 10 years before the violation, equals 4, except that suspensions,
2 revocations or convictions arising out of the same incident or occurrence shall be
3 counted as one. The person is not eligible for home detention under s. 302.425, good
4 time under s. 302.43, release from jail for employment under s. 303.08 (1) (b), transfer
5 to a county work camp under s. 303.10, release to perform community service unless
6 s. 973.07 applies, or diminution of the sentence under s. 303.19 (3), for the first one
7 year and ⁹nine months of confinement. ✓

8 **SECTION 10.** 346.65 (2) (am) 5. of the statutes is amended to read:

9 346.65 (2) (am) 5. Except as provided in pars. (f) ✓ and (g), is guilty of a Class H
10 felony and shall be fined not less than \$600 ^{2,000} and imprisoned for not less than
11 ~~6 months~~ 2 years if the number of convictions under ss. 940.09 (1) and 940.25 in the
12 person's lifetime, plus the total number of suspensions, revocations and other
13 convictions counted under s. 343.307 (1) within 10 years before the violation, equals
14 5 ~~or 6~~, except that suspensions, revocations or convictions arising out of the same
15 incident or occurrence shall be counted as one. The person is not eligible for home
16 detention under s. 302.425, good time under s. 302.43, release from jail for
17 employment under s. 303.08 (1) (b), transfer to a county work camp under s. 303.10,
18 release to perform community service unless s. 973.07 applies, or diminution of the
19 sentence under s. 303.19 (3), for the first 2 years of confinement. ✓

20 **SECTION 11.** 346.65 (2) (am) 5^m. of the statutes is created to read:

21 346.65 (2) (am) 5^m. Except as provided in pars. (f) ✓ and (g), is guilty of a Class
22 H felony and shall be fined not less than \$2,500 and imprisoned for not less than 3
23 years if the number of convictions under ss. 940.09 (1) and 940.25 in the person's
24 lifetime, plus the total number of suspensions, revocations, and other convictions
25 counted under s. 343.307 (1) within 10 years before the violation, equals 6, except

1 that suspensions, revocations, or convictions arising out of the same incident or
2 occurrence shall be counted as one. The person is not eligible for home detention
3 under s. 302.425, good time under s. 302.43, release from jail for employment under
4 s. 303.08 (1) (b), transfer to a county work camp under s. 303.10, release to perform
5 community service unless s. 973.07 applies, or diminution of the sentence under s.
6 303.19 (3), for the first 3 years of confinement.

7 **SECTION 12.** 346.65 (2) (am) 6. of the statutes is amended to read:

8 346.65 (2) (am) 6. Except as provided in par. (f), is guilty of a Class G felony and
9 imprisoned for not less than 4 years if the number of convictions under ss. 940.09 (1)
10 and 940.25 in the person's lifetime, plus the total number of suspensions,
11 revocations, and other convictions counted under s. 343.307 (1) within 10 years
12 before the violation, equals 7, 8, or 9, except that suspensions, revocations, or
13 convictions arising out of the same incident or occurrence shall be counted as one.
14 The person is not eligible for home detention under s. 302.425, good time under s.
15 302.43, release from jail for employment under s. 303.08 (1) (b), transfer to a county
16 work camp under s. 303.10, for release to perform community service unless s. 973.07
17 applies, or diminution of the sentence under s. 303.19 (3), for the first 4 years of
18 confinement.

19 **SECTION 13.** 346.65 (2) (am) 6g. of the statutes is created to read:

20 346.65 (2) (am) 6g. Except as provided in par. (f), is guilty of a Class G felony
21 and imprisoned for not less than 5 years if the number of convictions under ss. 940.09
22 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
23 revocations, and other convictions counted under s. 343.307 (1) within 10 years
24 before the violation, equals 8, except that suspensions, revocations, or convictions
25 arising out of the same incident or occurrence shall be counted as one. The person

1 is not eligible for home detention under s. 302.425, good time under s. 302.43, release
2 from jail for employment under s. 303.08 (1) (b), transfer to a county work camp
3 under s. 303.10, release to perform community service unless s. 973.07 applies, or
4 diminution of the sentence under s. 303.19 (3), for the first 5 years of confinement. ✓

5 **SECTION 14.** 346.65 (2) (am) 6m. of the statutes is created to read:

6 346.65 (2) (am) 6g. Except as provided in par. (f), is guilty of a Class G felony
7 and imprisoned for not less than 6 years if the number of convictions under ss. 940.09
8 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
9 revocations, and other convictions counted under s. 343.307 (1) within 10 years
10 before the violation, equals 9, except that suspensions, revocations, or convictions
11 arising out of the same incident or occurrence shall be counted as one. The person
12 is not eligible for home detention under s. 302.425, good time under s. 302.43, release
13 from jail for employment under s. 303.08 (1) (b), transfer to a county work camp
14 under s. 303.10, release to perform community service unless s. 973.07 applies, or
15 diminution of the sentence under s. 303.19 (3), for the first 6 years of confinement. ✓

16 **SECTION 15.** 346.65 (2) (am) 7. of the statutes is amended to read:

17 346.65 (2) (am) 7. Except as provided in par. (f), is guilty of a Class F felony and
18 imprisoned for not less than 7 years if the number of convictions under ss. 940.09 (1)
19 and 940.25 in the person's lifetime, plus the total number of suspensions,
20 revocations, and other convictions counted under s. 343.307 (1) within 10 years
21 before the violation, equals 10 or more except that suspensions, revocations, or
22 convictions arising out of the same incident or occurrence shall be counted as one.
23 The person is not eligible for home detention under s. 302.425, good time under s.
24 302.43, release from jail for employment under s. 303.08 (1) (b), transfer to a county
25 work camp under s. 303.10, release to perform community service unless s. 973.07

1 applies, or diminution of the sentence under s. 303.19 (3), for the first 7 years of
2 confinement.

3 **History:** 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326; 2005 a. 149, 317, 389; 2007 a. 97, 111.

(END)

D-note

insert 8-3

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1371/Plins
RPN:.....

1 insert 1-3:

2 **SECTION 1.** 48.685 (5) (bm) 4. of the statutes is amended to read:

3 48.685 (5) (bm) 4. A violation of s. 940.19 (3), 1999 stats., or of s. 125.075 (1),
4 125.085 (3) (a) 2., 125.105 (2) (b), 125.66 (3), 125.68 (12), 940.09, 940.19 (2), (4), (5),
5 or (6), 940.20, 940.203, 940.205, 940.207, or 940.25, a violation of s. 346.63 (1), (2),
6 (5), or (6) that is a felony under s. 346.65 (2) (am) 4., 5., 5m, 6., 6g, 6m, or 7., or (f),
7 (2j) (d), or (3m), or an offense under ch. 961 that is a felony, if committed not more
8 than 5 years before the date of the investigation under sub. (2) (am).

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153.

9

10 insert 8-3:

11 **SECTION 2.** 346.65 (2) (am) 2. of the statutes is renumbered 346.65 (2) (am) 2.

12 a. and amended to read:

13 346.65 (2) (am) 2. a. Except as provided in pars. (bm) and (f), shall be fined not
14 less than \$350 nor more than \$1,100 and imprisoned for not less than 5 45 days nor
15 more than 6 9 months if the person had an alcohol concentration of less than 0.15 and
16 if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,
17 plus the total number of suspensions, revocations, and other convictions counted
18 under s. 343.307 (1) within a the 10-year period before the current violation, equals
19 2, ~~except that suspensions, revocations, or convictions arising out of the same~~
20 ~~incident or occurrence shall be counted as one.~~

the immediately preceding 10 years

strike extra space

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326; 2005 a. 149, 317, 389; 2007 a. 97, 111.

21 **SECTION 3.** 346.65 (2) (am) 2. b. of the statutes is created to read:

2.

1 346.65 (2) (am) 2. b. The person sentenced under subd. a. is not eligible for
2 home detention under s. 302.425, good time under s. 302.43, release from jail for
3 employment under s. 303.08 (1) (b), transfer to a county work camp under s. 303.10,
4 release to perform community service unless s. 973.07 applies, or diminution of the
5 sentence under s. 303.19 (3), for the first 45 days of confinement.

6 SECTION 4. 346.65 (2) (am) 2m. of the statutes is created to read:

7 346.65 (2) (am) 2m. a. Except as provided in pars. (bm) and (f), shall be fined
8 not less than \$350 nor more than \$1,100 and imprisoned for not less than 60 days
9 nor more than 9 months if the person had an alcohol concentration of 0.15 or more
10 and if the number of convictions under ss. 940.09 (1) and 940.25 in the person's
11 lifetime, plus the total number of suspensions, revocations, and other convictions
12 counted under s. 343.307 (1) within the 10-year period before the current violation,
13 equals 2.

immediately preceding 10 years

14 b. The person sentenced under subd. a. is not eligible for home detention under
15 s. 302.425, good time under s. 302.43, release from jail for employment under s.
16 303.08 (1) (b), transfer to a county work camp under s. 303.10, release to perform
17 community service unless s. 973.07 applies, or diminution of the sentence under s.
18 303.19 (3), for the first 60 days of confinement.

19 SECTION 5. 346.65 (2) (am) 3. of the statutes is renumbered 346.65 (2) (am) 3.

20 a. and amended to read:

21 346.65 (2) (am) 3. a. Except as provided in pars. (cm), (f), and (g), shall be fined
22 not less than \$600 nor more than \$2,000 and imprisoned for not less than 30 days
23 6 months nor more than one year in the county jail if the person had an alcohol
24 concentration of less than 0.15 and if the number of convictions under ss. 940.09 (1)
25 and 940.25 in the person's lifetime, plus the total number of suspensions,

immediately preceding 10 years

1 revocations, and other convictions counted under s. 343.307 (1) within the 10-year
2 period before the current violation, equals 3, ~~except that suspensions, revocations,~~
3 ~~or convictions arising out of the same incident or occurrence shall be counted as one.~~ ✓

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326; 2005 a. 149, 317, 389; 2007 a. 97, 111.

4 **SECTION 6.** 346.65 (2) (am) 3. b. of the statutes is created to read:

5 346.65 (2) (am) 3. b. The person sentenced under subd. ^{3.}a. is not eligible for
6 home detention under s. 302.425, good time under s. 302.43, release from jail for
7 employment under s. 303.08 (1) (b), transfer to a county work camp under s. 303.10,
8 release to perform community service unless s. 973.07 applies, or diminution of the
9 sentence under s. 303.19 (3), for the first 6 months of confinement. ✓

10 **SECTION 7.** 346.65 (2) (am) 3m. of the statutes is created to read:

11 346.65 (2) (am) 3m. a. Except as provided in pars. (cm), (f), and (g), shall be
12 fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 9
13 months nor more than 18 months if the person had an alcohol concentration of 0.15
14 or more and if the number of convictions under ss. 940.09 (1) and 940.25 in the
15 person's lifetime, plus the total number of suspensions, revocations, and other
16 convictions counted under s. 343.307 (1) within the 10-year period before the current
17 violation, equals 3. ✓ *immediately preceding 10 years*

18 b. The person sentenced under subd. ^{3.}a. is not eligible for home detention under
19 s. 302.425, good time under s. 302.43, release from jail for employment under s.
20 303.08 (1) (b), transfer to a county work camp under s. 303.10, release to perform
21 community service unless s. 973.07 applies, or diminution of the sentence under s.
22 303.19 (3), for the first 9 months of confinement. ✓

23 **SECTION 8.** 346.65 (2) (am) 4. of the statutes is renumbered 346.65 (2) (am) 4.

24 a. and amended to read:

immediately preceding 10 years

1 346.65 (2) (am) 4. a. Except as provided in pars. (f) and (g), shall be fined not
 2 less than \$600 nor more than \$2,000 and imprisoned for not less than ~~60 days~~ one
 3 year and 9 months nor more than ~~one year in the county jail~~ 3 years if the number
 4 of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total
 5 number of suspensions, revocations and other convictions counted under s. 343.307
 6 (1) within the 10-year period before the current violation, equals 4, ~~except that~~
 7 ~~suspensions, revocations or convictions arising out of the same incident or~~
 8 ~~occurrence shall be counted as one.~~ ✓

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326; 2005 a. 149, 317, 389; 2007 s. 97, 111.

9 **SECTION 9.** 346.65 (2) (am) 4. b. of the statutes is created to read:

10 346.65 (2) (am) 4. b. The person sentenced under subd. ^{4.} ~~a.~~ is not eligible for
 11 home detention under s. 302.425, good time under s. 302.43, release from jail for
 12 employment under s. 303.08 (1) (b), transfer to a county work camp under s. 303.10,
 13 release to perform community service unless s. 973.07 applies, or diminution of the
 14 sentence under s. 303.19 (3), for the first one year and 9 months of confinement. ✓

15 **SECTION 10.** ^x 346.65 (2) (am) 5. of the statutes is renumbered 346.65 (2) (am)
 16 5. a. and amended to read:

17 346.65 (2) (am) 5. a. Except as provided in pars. (f) and (g), is guilty of a Class
 18 H felony and shall be fined not less than ~~\$600~~ \$2,000 and imprisoned for not less than
 19 ~~6 months~~ 2 years if the number of convictions under ss. 940.09 (1) and 940.25 in the
 20 person's lifetime, plus the total number of suspensions, revocations and other
 21 convictions counted under s. 343.307 (1) within the 10-year period before the current

1 violation, equals 5 or 6, except that suspensions, revocations or convictions arising
2 out of the same incident or occurrence shall be counted as one.

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326; 2005 a. 149, 317, 389; 2007 a. 97, 111.

3 **SECTION 11.** 346.65 (2) (am) 5. b. of the statutes is created to read:

4 346.65 (2) (am) 5. b. The person sentenced under subd. ^{5.}a. is not eligible for
5 home detention under s. 302.425, good time under s. 302.43, release from jail for
6 employment under s. 303.08 (1) (b), transfer to a county work camp under s. 303.10,
7 release to perform community service unless s. 973.07 applies, or diminution of the
8 sentence under s. 303.19 (3), for the first 2 years of confinement.

9 **SECTION 12.** 346.65 (2) (am) 5m. of the statutes is created to read:

10 346.65 (2) (am) 5m. a. Except as provided in par. (f), is guilty of a Class H
11 felony and shall be fined not less than \$2,500 and imprisoned for not less than 3 years
12 if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,
13 plus the total number of suspensions, revocations, and other convictions counted
14 under s. 343.307 (1) within the 10-year period before the current violation, equals

15 6.

5m. immediately preceding 10 years

16 b. The person sentenced under subd. ^{5m.}a. is not eligible for home detention under
17 s. 302.425, good time under s. 302.43, release from jail for employment under s.
18 303.08 (1) (b), transfer to a county work camp under s. 303.10, release to perform
19 community service unless s. 973.07 applies, or diminution of the sentence under s.
20 303.19 (3), for the first 3 years of confinement. ✓

21 **SECTION 13.** 346.65 (2) (am) 6. of the statutes is renumbered 346.65 (2) (am)
22 6. a. and amended to read:

23 346.65 (2) (am) 6. a. Except as provided in par. (f), is guilty of a Class G felony
24 and shall be imprisoned for not less than 4 years if the number of convictions under

immediately preceding 10 years

1 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of
2 suspensions, revocations, and other convictions counted under s. 343.307 (1) within
3 the 10-year period before the current violation, equals 7, 8, or 9, except that
4 ~~suspensions, revocations, or convictions arising out of the same incident or~~
5 ~~occurrence shall be counted as one.~~

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326; 2005 a. 149, 317, 389; 2007 a. 97, 111.

6 **SECTION 14.** 346.65 (2) (am) 6. b. of the statutes is created to read:

7 346.65 (2) (am) 6. b. The person sentenced under subd. ^{6.}a. is not eligible for
8 home detention under s. 302.425, good time under s. 302.43, release from jail for
9 employment under s. 303.08 (1) (b), transfer to a county work camp under s. 303.10,
10 release to perform community service unless s. 973.07 applies, or diminution of the
11 sentence under s. 303.19 (3), for the first 4 years of confinement. ✓

12 **SECTION 15.** ^x346.65 (2) (am) 6g. of the statutes is created to read:

13 346.65 (2) (am) 6g. a. Except as provided in par. ^g(f), is guilty of a Class G felony
14 and shall be imprisoned for not less than 5 years if the number of convictions under
15 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of
16 suspensions, revocations, and other convictions counted under s. 343.307 (1) within
17 the 10-year period before the current violation, equals 8. *immediately preceding 10 years*

18 b. The person sentenced under subd. ^{6g.}a. is not eligible for home detention under
19 s. 302.425, good time under s. 302.43, release from jail for employment under s.
20 303.08 (1) (b), transfer to a county work camp under s. 303.10, release to perform
21 community service unless s. 973.07 applies, or diminution of the sentence under s.
22 303.19 (3), for the first 5 years of confinement. ✓

23 **SECTION 16.** ^x346.65 (2) (am) 6m. of the statutes is created to read:

1 346.65 (2) (am) 6m. Except as provided in par. (f), is guilty of a Class G felony
 2 and shall be imprisoned for not less than 6 years if the number of convictions under
 3 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of
 4 suspensions, revocations, and other convictions counted under s. 343.307 (1) within
 5 the 10-year period before the current violation, equals 9.

immediately preceding 10 years

6 b. The person sentenced under subd. ^{6m.} a. is not eligible for home detention under
 7 s. 302.425, good time under s. 302.43, release from jail for employment under s.
 8 303.08 (1) (b), transfer to a county work camp under s. 303.10, release to perform
 9 community service unless s. 973.07 applies, or diminution of the sentence under s.
 10 303.19 (3), for the first 6 years of confinement.

11 **SECTION 17.** 346.65 (2) (am) 7. of the statutes is renumbered 346.65 (2) (am)
 12 7. a. and amended to read:

13 346.65 (2) (am) 7. a. Except as provided in par. (f), is guilty of a Class F felony
 14 and shall be imprisoned for not less than 7 years if the number of convictions under
 15 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of
 16 suspensions, revocations, and other convictions counted under s. 343.307 (1) within
 17 the 10-year period before the current violation, equals 10 or more ~~except that~~
 18 ~~suspensions, revocations, or convictions arising out of the same incident or~~
 19 ~~occurrence shall be counted as one.~~

immediately preceding 10 years

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326; 2005 a. 149, 317, 389; 2007 a. 97, 111.

20 **SECTION 18.** 346.65 (2) (am) 7. b. of the statutes is created to read:

21 346.65 (2) (am) ^{7.} (6) b. The person sentenced under subd. ^{7.} a. is not eligible for
 22 home detention under s. 302.425, good time under s. 302.43, release from jail for
 23 employment under s. 303.08 (1) (b), transfer to a county work camp under s. 303.10,

1 release to perform community service unless s. 973.07 applies, or diminution of the
2 sentence under s. 303.19 (3), for the first 7 years of confinement.✓

3 **SECTION 19.** 346.65 (2) (f) of the statutes is amended to read:

4 346.65 (2) (f) If there was a minor passenger under 16 years of age in the motor
5 vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (1),
6 the applicable minimum and maximum forfeitures, fines, or imprisonment under
7 par. (am) for the conviction are doubled. An offense under s. 346.63 (1) that subjects
8 a person to a penalty under par. (am) ~~3., 4., 5., 6., or 7.~~ or 3m. when there is a minor
9 passenger under 16 years of age in the motor vehicle is a felony and the place of
10 imprisonment shall be determined under s. 973.02.✓

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326; 2005 a. 149, 317, 389; 2007 a. 97, 111.

11 **SECTION 20.** 346.65 (2) (h) of the statutes is created to read:

12 346.65 (2) (h) In this subsection,✓ suspensions, revocations, or convictions
13 arising out of the same incident or occurrence shall be counted as one.✓

14 **SECTION 21.** 346.65 (2c) of the statutes is amended to read:

15 346.65 (2c) In sub. (2) (am) ~~2., 3., 4., 5., 6., and 7.,~~ the time period shall be
16 measured from the dates of the refusals or violations that resulted in the revocation
17 or convictions. If a person has a suspension, revocation, or conviction for any offense
18 under a local ordinance or a state statute of another state that would be counted
19 under s. 343.307 (1), that suspension, revocation, or conviction shall count as a prior
20 suspension, revocation, or conviction under sub. (2) (am) ~~2., 3., 4., 5., 6., and 7.~~✓

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326; 2005 a. 149, 317, 389; 2007 a. 97, 111.

21 **SECTION 22.** 346.65 (2e) of the statutes is amended to read:

22 346.65 (2e) If the court determines that a person does not have the ability to
23 pay the costs and fine ~~or forfeiture~~ imposed under sub. (2) (am), (f), or (g), the court

1 may reduce the costs, and fine, ~~and forfeiture~~ imposed and order the person to pay,
2 toward the cost of the assessment and driver safety plan imposed under s. 343.30 (1q)
3 (c), the difference between the amount of the reduced costs and fine ~~or forfeiture~~ and
4 the amount of costs and fine ~~or forfeiture~~ imposed under sub. (2) (am), (f), or (g).[✓]

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326; 2005 a. 149, 317, 389; 2007 a. 97, 111.

5 **SECTION 23.** 346.65 (2g) (a) of the statutes is amended to read:

6 346.65 (2g) (a) In addition to the authority of the court under s. 973.05 (3) (a)
7 to provide that a defendant perform community service work for a public agency or
8 a nonprofit charitable organization in lieu of part or all of a fine imposed under sub.
9 (2) (am) 2., 2m., 3., 3m. 4., and 4m. 5., and 5m. (f), and (g) ~~and except as provided in~~
10 ~~par. (ag), the court may provide that a defendant perform community service work~~
11 ~~for a public agency or a nonprofit charitable organization in lieu of part or all of a~~
12 ~~forfeiture under sub. (2) (am) 1. or the court may require a person who is subject to~~
13 ~~sub. (2) to perform community service work for a public agency or a nonprofit~~
14 ~~charitable organization in addition to the penalties specified under sub. (2).~~[✓]

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326; 2005 a. 149, 317, 389; 2007 a. 97, 111.

15 **SECTION 24.** 346.65 (2g) (ag) of the statutes is amended to read:

16 346.65 (2g) (ag) If the court determines that a person does not have the ability
17 to pay a fine imposed under sub. (2) (am) 2., 2m., 3., 3m., 4., or 4m. 5., or 5m., (f), or
18 (g), the court shall require the defendant to perform community service work for a
19 public agency or a nonprofit charitable organization in lieu of paying the fine
20 imposed or, if the amount of the fine was reduced under sub. (2e), in lieu of paying
21 the remaining amount of the fine. Each hour of community service performed in

1 compliance with an order under this paragraph shall reduce the amount of the fine
2 owed by an amount determined by the court.✓

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326; 2005 a. 149, 317, 389; 2007 a. 97, 111.

chg. comp.

repealed

3 **SECTION 25.** 346.65 (2g) (d) of the statutes is amended to read:
4 346.65 (2g) (d) With respect to imprisonment under sub. (2) (am) 2. or 2m., the
5 court shall ensure that the person is imprisoned for not less than 5 days or ordered
6 to perform not less than 30 days of community service work under s. 973.03 (3) (a).

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326; 2005 a. 149, 317, 389; 2007 a. 97, 111.

7 **SECTION 26.** 346.65 (7) of the statutes is amended to read:
8 346.65 (7) A person convicted under sub. (2) (am) 2., 3., 4., 5., 6., or 7. or (2j) (am)
9 2. or 3. shall be required to remain in the county jail for not less than a
10 48-consecutive-hour period.✓

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326; 2005 a. 149, 317, 389; 2007 a. 97, 111.

11 **SECTION 27.** 973.09 (1) (d) 1. of the statutes is amended to read:
12 973.09 (1) (d) 1. A violation under s. 346.63 (1) that subjects the person to a
13 mandatory minimum period of imprisonment under s. 346.65 (2) (am) 2. or 2m., 3.,
14 or 3m.✓

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; 2003 a. 33, 121, 139, 141; 2005 a. 25, 149, 451; 2007 a. 20, 84.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1371/P1dn

RPN:j:...

nwn

Date

- I did not include language suggested to require the OWI violator to pay for his or her imprisonment in the county jail because s. 302.372 already provides for all prisoners to reimburse the county for the expenses incurred by the county, including actual
- > ~~per-day~~ costs of maintaining the prisoner. OK?
 - >

Please review this draft carefully to ensure that it is consistent with your intent.

e per-day

Robert P. Nelson
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1371/P1dn
RPN:nwn:rs

February 3, 2009

I did not include language suggested to require the OWI violator to pay for his or her imprisonment in the county jail because s. 302.372 already provides for all prisoners to reimburse the county for the expenses incurred by the county, including actual per-day costs of maintaining the prisoner. OK?

Please review this draft carefully to ensure that it is consistent with your intent.

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