

**2009 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB366)**

Received: 01/07/2010

Received By: phurley

Wanted: As time permits

Identical to LRB:

For: Peter Barca (608) 266-5504

By/Representing:

This file may be shown to any legislator: NO

Drafter: phurley

May Contact:

Addl. Drafters:

Subject: Drunk Driving - penalties

Extra Copies:

Submit via email: YES

Requester's email: Rep.Barca@legis.wisconsin.gov

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Naltraxone treatment option

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**Instructions:**

See attached

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**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	phurley 01/14/2010	kfollett 01/26/2010	jfrantze 01/26/2010	_____	sbasford 01/26/2010		
/1	phurley 02/05/2010	kfollett 02/05/2010	rschluet 02/05/2010	_____	cduerst 02/05/2010	cduerst 02/05/2010	

FE Sent For:

<END>

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/P1	phurley 01/14/2010	kfollett 01/26/2010	jfrantze 01/26/2010	_____	sbasford 01/26/2010		

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11/5/10  
2/5/10  
2/3/10

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/P1	phurley	1/P115f 1/26	1/26	1/26			

FE Sent For:

<END>



107d

**ASSEMBLY AMENDMENT,  
TO 2009 ASSEMBLY BILL 366**

that is administered in appropriate manner and

do the same  
Winn. Cty  
they follow the  
treatment plan.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 4, line 7: delete lines 7 to 10 and substitute "probation require the  
3 person to do at least one of the following:".

4 **2.** Page 4, line 10: after that line insert:

for the treatment of

5 "1. Follow a pharmacological treatment plan that includes taking naltrexone,  
6 its drug product equivalent, or another pharmacological agent that is designed to  
7 treat alcohol or other drug abuse or dependence, in a therapeutically appropriate  
8 dosage for the duration of the period of probation.

unless contraindicated, approved by the FDA

9 **2.** Follow a nonpharmacological treatment plan designed to treat alcohol or  
10 other drug abuse or dependence.".

11 **3.** Page 5, line 4: delete lines 4 to 7 and substitute "probation require the  
12 person to do at least one of the following:".

13 **4.** Page 5, line 7: after that line insert:

*see changes*

1           “1. Follow a pharmacological treatment plan that includes taking naltrexone,  
2           its drug product equivalent, or another pharmacological agent that is designed to  
3           treat alcohol or other drug abuse or dependence, in a therapeutically appropriate  
4           dosage for the duration of the period of probation.

5           2. Follow a nonpharmacological treatment plan designed to treat alcohol or  
6           other drug abuse or dependence.”.

7           **5.** Page 6, line 14: delete lines 14 to 17 and substitute “probation require the  
8           person to do at least one of the following:”.

9           **6.** Page 6, line 17: after that line insert:

10          “1. Follow a pharmacological treatment plan that includes taking naltrexone,  
11          its drug product equivalent, or another pharmacological agent that is designed to  
12          treat alcohol or other drug abuse or dependence, in a therapeutically appropriate  
13          dosage for the duration of the period of probation. *see changes*

14          2. Follow a nonpharmacological treatment plan designed to treat alcohol or  
15          other drug abuse or dependence.”.

16          **7.** Page 7, line 11: delete lines 11 to 14 and substitute “probation require the  
17          person to do at least one of the following:”.

18          **8.** Page 7, line 14: after that line insert:

19          “1. Follow a pharmacological treatment plan that includes taking naltrexone,  
20          its drug product equivalent, or another pharmacological agent that is designed to  
21          treat alcohol or other drug abuse or dependence, in a therapeutically appropriate  
22          dosage for the duration of the period of probation. *see changes*

23          2. Follow a nonpharmacological treatment plan designed to treat alcohol or  
24          other drug abuse or dependence.”.





## 2009 ASSEMBLY BILL 366

August 6, 2009 - Introduced by Representatives BARCA, ROYS, BENEDICT, BIES, TURNER, HEBL, BERCEAU, GRIGSBY, HILGENBERG and SPANBAUER, cosponsored by Senators LEHMAN and VINEHOUT. Referred to Committee on Health and Healthcare Reform.

1     **AN ACT to amend** 346.65 (2) (am) 2., 346.65 (2) (am) 3., 346.65 (2) (am) 4., 346.65  
2           (2) (bm), 346.65 (2) (cm), 346.65 (2j) (am) 2., 346.65 (2j) (am) 3., 346.65 (2j) (bm),  
3           346.65 (2j) (cm), 973.09 (1) (d) 1. and 973.09 (1) (d) 3.; and **to create** 346.65 (2)  
4           (br), 346.65 (2) (cr), 346.65 (2j) (br) and 346.65 (2j) (cr) of the statutes; **relating**  
5           **to:** probation for certain drunken driving offenses and providing penalties.

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### *Analysis by the Legislative Reference Bureau*

Under current law, with certain exceptions, a person who commits a second offense relating to operating a motor vehicle under the influence of an intoxicant (OWI-related offense) is subject to a fine of not less than \$350 nor more than \$1,100 and imprisonment for not less than five days nor more than six months. A person who commits a third OWI-related offense is subject to a fine of not less than \$600 nor more than \$2,000, and imprisonment for not less than 30 days nor more than one year. A person who commits a fourth OWI-related offense is subject to the same fine and maximum period of imprisonment as a person who commits a third OWI-related offense, but his or her period of imprisonment may not be less than 60 days.

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

**ASSEMBLY BILL 366**

exceptions provide that a court may not place a person on probation for a second or third OWI-related offense.

Under this bill, a person who commits a second or third OWI-related offense may be placed on probation if, as a condition of probation, the court requires the person to take a therapeutically indicated dose of the drug naltrexone for the duration of the person's period of probation. If the court chooses to place the person on probation under these circumstances, the bill allows the same minimum and maximum period of imprisonment for the offense, but eliminates the mandatory minimum fine. Under the bill, the court may impose a fine in any amount up to the maximum allowed under current law.

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.

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

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

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

2           346.65 (2) (am) 2. Except as provided in pars. (bm), (br), and (f), shall be fined  
3 not less than \$350 nor more than \$1,100 and imprisoned for not less than 5 days nor  
4 more than 6 months if the number of convictions under ss. 940.09 (1) and 940.25 in  
5 the person's lifetime, plus the total number of suspensions, revocations, and other  
6 convictions counted under s. 343.307 (1) within a 10-year period, equals 2, except  
7 that suspensions, revocations, or convictions arising out of the same incident or  
8 occurrence shall be counted as one.

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

10          346.65 (2) (am) 3. Except as provided in pars. (cm), (cr), (f), and (g), shall be  
11 fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 30  
12 days nor more than one year in the county jail if the number of convictions under ss.  
13 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,



**ASSEMBLY BILL 366**

1 revocations, and other convictions counted under s. 343.307 (1), equals 3, except that  
2 suspensions, revocations, or convictions arising out of the same incident or  
3 occurrence shall be counted as one.

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

5 346.65 (2) (am) 4. Except as provided in pars. (cr), (f) and (g), shall be fined not  
6 less than \$600 nor more than \$2,000 and imprisoned for not less than 60 days nor  
7 more than one year in the county jail 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), equals 4, except that  
10 suspensions, revocations or convictions arising out of the same incident or  
11 occurrence shall be counted as one.

12 **SECTION 4.** 346.65 (2) (bm) of the statutes is amended to read:

13 346.65 (2) (bm) In Winnebago County, if the number of convictions under ss.  
14 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,  
15 revocations, and other convictions counted under s. 343.307 (1) within a 10-year  
16 period, equals 2, except that suspensions, revocations, or convictions arising out of  
17 the same incident or occurrence shall be counted as one, the fine shall be the same  
18 as under par. (am) 2., but the period of imprisonment shall be not less than 5 days,  
19 except that if the person successfully completes a period of probation that includes  
20 alcohol and other drug treatment, the period of imprisonment shall be not less than  
21 5 nor more than 7 days. A person may be sentenced under this paragraph or under  
22 par. (br), (cm), or (cr) or sub. (2j) (bm), (br), (cm), or (cr) or (3r) once in his or her  
23 lifetime.

24 **SECTION 5.** 346.65 (2) (br) of the statutes is created to read:

ASSEMBLY BILL 366

1           346.65 (2) (br) If the number of convictions under ss. 940.09 (1) and 940.25 in  
 2 the person's lifetime, plus the total number of suspensions, revocations, and other  
 3 convictions counted under s. 343.307 (1) within a 10-year period, equals 2, except  
 4 that suspensions, revocations, or convictions arising out of the same incident or  
 5 occurrence shall be counted as one, the person may be fined not more than \$1,100,  
 6 and the court may place the person on probation under s. 973.09 if the conditions of  
 7 probation require the person to take naltrexone, or its drug product equivalent, in  
 8 a therapeutically appropriate dosage for the duration of the period of probation. A  
 9 person may be sentenced under this paragraph or under par. (bm), (cm), or (cr) or sub.  
 10 (2j) (bm), (br), (cm), or (cr), or (3r) once in his or her lifetime.

11           **SECTION 6.** 346.65 (2) (cm) of the statutes is amended to read:

12           346.65 (2) (cm) In Winnebago County, if the number of convictions under ss.  
 13 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,  
 14 revocations, and other convictions counted under s. 343.307 (1) within a 10-year  
 15 period, equals 3, except that suspensions, revocations, or convictions arising out of  
 16 the same incident or occurrence shall be counted as one, the fine shall be the same  
 17 as under par. (am) 3., but the period of imprisonment shall be not less than 30 days,  
 18 except that if the person successfully completes a period of probation that includes  
 19 alcohol and other drug treatment, the period of imprisonment shall be not less than  
 20 10 days. A person may be sentenced under this paragraph or under par. (bm), (br),  
 21 or (cr) or sub. (2j) (bm) ~~or (br)~~, (cm), or (cr) or (3r) once in his or her lifetime.

22           **SECTION 7.** 346.65 (2) (cr) of the statutes is created to read:

23           346.65 (2) (cr) If the number of convictions under ss. 940.09 (1) and 940.25 in  
 24 the person's lifetime, plus the total number of suspensions, revocations, and other  
 25 convictions counted under s. 343.307 (1) within a 10-year period, equals 3 or 4,

2d  
 Main d.  
 sec.

Sub

**ASSEMBLY BILL 366**

1 except that suspensions, revocations, or convictions arising out of the same incident  
2 or occurrence shall be counted as one, the person may be fined not more than \$2,000,  
3 and the court may place the person on probation under s. 973.09 if the conditions of  
4 probation require the person to take naltrexone, or its drug product equivalent, in  
5 a therapeutically appropriate dosage for the duration of the period of probation. A  
6 person may be sentenced under this paragraph or under par. (bm), (br), or (cm) or  
7 sub. (2j) (bm), (br), (cm), or (cr) or (3r) once in his or her lifetime.

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

9 346.65 (2j) (am) 2. Except as provided in pars. (bm), ~~(br)~~, and (d), shall be fined  
10 not less than \$300 nor more than \$1,000 and imprisoned for not less than 5 days nor  
11 more than 6 months if the number of prior convictions under ss. 940.09 (1) and 940.25  
12 in the person's lifetime, plus the total number of other convictions, suspension, and  
13 revocations counted under s. 343.307 (2) within a 10-year period, equals 2.

14 **SECTION 9.** 346.65 (2j) (am) 3. of the statutes is amended to read:

15 346.65 (2j) (am) 3. Except as provided in pars. (cm), ~~(cr)~~, and (d), shall be fined  
16 not less than \$600 nor more than \$2,000 and imprisoned for not less than 30 days  
17 nor more than one year in the county jail if the number of convictions under ss. 940.09  
18 (1) and 940.25 in the person's lifetime, plus the total number of other convictions,  
19 suspensions, and revocations, counted under s. 343.307 (2), equals 3 or more.

20 **SECTION 10.** 346.65 (2j) (bm) of the statutes is amended to read:

21 346.65 (2j) (bm) In Winnebago County, if the number of convictions under ss.  
22 940.09 (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 a 10-year  
24 period, equals 2, except that suspensions, revocations, or convictions arising out of  
25 the same incident or occurrence shall be counted as one, the fine shall be the same

**ASSEMBLY BILL 366****SECTION 10**

1 as under par. (am) 2., but the period of imprisonment shall be not less than 5 days,  
2 except that if the person successfully completes a period of probation that includes  
3 alcohol and other drug treatment, the period of imprisonment shall be not less than  
4 5 nor more than 7 days. A person may be sentenced under this paragraph or under  
5 par. (br), (cm), or (cr) or sub. (2) (bm) ~~or~~, (br), (cm), or (cr) or (3r) once in his or her  
6 lifetime.

7 **SECTION 11.** 346.65 (2j) (br) of the statutes is created to read:

8 346.65 (2j) (br) If the number of convictions under ss. 940.09 (1) and 940.25 in  
9 the person's lifetime, plus the total number of suspensions, revocations, and other  
10 convictions counted under s. 343.307 (1) within a 10-year period, equals 2, except  
11 that suspensions, revocations, or convictions arising out of the same incident or  
12 occurrence shall be counted as one, the person may be fined not more than \$1,000,  
13 and the court may place the person on probation under s. 973.09 if the conditions of  
14 probation require the person to take naltrexone, or its drug product equivalent, in  
15 a therapeutically appropriate dosage for the duration of the period of probation. A  
16 person may be sentenced under this paragraph or under par. (bm), (cm), or (cr) or sub.  
17 (2) (bm), (br), (cm), or (cr) or (3r) once in his or her lifetime.

18 **SECTION 12.** 346.65 (2j) (cm) of the statutes is amended to read:

19 346.65 (2j) (cm) In Winnebago County, if the number of convictions under ss.  
20 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,  
21 revocations, and other convictions counted under s. 343.307 (1) within a 10-year  
22 period, equals 3 or more, except that suspensions, revocations, or convictions arising  
23 out of the same incident or occurrence shall be counted as one, the fine shall be the  
24 same as under par. (am) 3., but the period of imprisonment shall be not less than 30  
25 days, except that if the person successfully completes a period of probation that

**ASSEMBLY BILL 366**

1 includes alcohol and other drug treatment, the period of imprisonment shall be not  
2 less than 10 days. A person may be sentenced under this paragraph or under par.  
3 (bm), (br), or (cr) or sub. (2) (bm) ~~or~~, (br), (cm), or (cr) or (3r) once in his or her lifetime.

4 **SECTION 13.** 346.65 (2j) (cr) of the statutes is created to read:

5 346.65 (2j) (cr) If the number of convictions under ss. 940.09 (1) and 940.25 in  
6 the person's lifetime, plus the total number of suspensions, revocations, and other  
7 convictions counted under s. 343.307 (1) within a 10-year period, equals 3 or 4,  
8 except that suspensions, revocations, or convictions arising out of the same incident  
9 or occurrence shall be counted as one, the person may be fined not more than \$2,000,  
10 and the court may place the person on probation under s. 973.09 if the conditions of  
11 probation require the person to take naltrexone, or its drug product equivalent, in  
12 a therapeutically appropriate dosage for the duration of the period of probation. A  
13 person may be sentenced under this paragraph or under par. (bm), (br), or (cm) or  
14 sub. (2) (bm), (br), (cm), or (cr) or (3r) once in his or her lifetime.

15 **SECTION 14.** 973.09 (1) (d) 1. of the statutes is amended to read:

16 973.09 (1) (d) 1. ~~A~~ Except as provided in s. 346.65 (2) (br) or (cr), a violation  
17 under s. 346.63 (1) that subjects the person to a mandatory minimum period of  
18 imprisonment under s. 346.65 (2) (am) 2. or 3.

19 **SECTION 15.** 973.09 (1) (d) 3. of the statutes is amended to read:

20 973.09 (1) (d) 3. ~~A~~ Except as provided in s. 346.65 (2j) (br) or (cr), a violation  
21 under s. 346.63 (5) that subjects the person to a mandatory minimum period of  
22 imprisonment under s. 346.65 (2j) (am) 3., if the person has a total of 3 or fewer  
23 convictions, suspensions or revocations counted under s. 343.307 (2).

24 (END)

*Changes in Act 100*

*usual initial app. inclusions*

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Q&A:

- regular sentencing
- Winnebago option
- pharmacological option - judges choose

Under Act 100.

376.65 (2) (am) - any person violating  
out:

1. 1st = for
2. 2 = \$350 - 1100 5 days - 6 mo
3. 3 = 600 - 2000 + 45 days - 1 year
4. 4 = 600 - 2000 + 60 days - 1 yr
5. 4 in 5 yrs = class H

(2) (bm) = 2 = same fine as (am) 2. +  
Winnepesong<sup>CH</sup> option  
5-7 days

(2) (cm) = 3 = same fine as (am) 3 + not less  
than 14 days  
lift language for new bill

(2) (dm) = 4 = same as (am) 4, + 29  
lift language

Alternates = (2) (bm), (cm), (dm)  
under (bn)

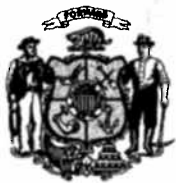
Barca alts = (br)<sup>2d</sup>, (cr)<sup>3d</sup>

(2j) alts = (bm), (cm), (cr)

(3r) alt

So we want alts under (2) and (2j) -

leave (3a)(3p)e  
(3r) able



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRBs0227/P1

PJH: *ef*

*Tues*  
*(cmh)*

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION  
ASSEMBLY SUBSTITUTE AMENDMENT ,  
TO 2009 ASSEMBLY BILL 366**

*1-14-10*

*Gen*

1 **AN ACT** ...; **relating to:** alternative sentencing for certain drunken driving  
2 offenses and providing penalties.

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

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

4 346.65 (2) (am) 2. Except as provided in pars. (bm), (br), and (f), shall be fined  
5 not less than \$350 nor more than \$1,100 and imprisoned for not less than 5 days nor  
6 more than 6 months if the number of convictions under ss. 940.09 (1) and 940.25 in  
7 the person's lifetime, plus the total number of suspensions, revocations, and other  
8 convictions counted under s. 343.307 (1) within a 10-year period, equals 2, except  
9 that suspensions, revocations, or convictions arising out of the same incident or  
10 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; 2009 a. 100.



1 SECTION 2. 346.65 (2) (am) 3. of the statutes, as affected by 2009 Wisconsin Act

2 Act 100, is amended to read:

3 346.65 (2) (am) 3. Except as provided in pars. (cm), (cr), (f), and (g), shall be  
4 fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 45  
5 days nor more than one year in the county jail if the number of convictions under ss.  
6 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,  
7 revocations, and other convictions counted under s. 343.307 (1), equals 3, except that  
8 suspensions, revocations, or convictions arising out of the same incident or  
9 occurrence shall be counted as one.

NOTE: NOTE: Subd. 3. is shown as amended eff. 7-1-10 by 2009 Wis. Act 100. Prior to 7-1-10 it reads:NOTE:

10 3. Except as provided in pars. (cm), (f), and (g), shall be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor more than  
11 one year in the county jail 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  
12 other convictions counted under s. 343.307 (1), equals 3, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be  
13 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; 2009 a. 100.

14 SECTION 3. 346.65 (2) (am) 4. of the statutes, as affected by 2009 Wisconsin Act

15 Act 100, is amended to read:

16 346.65 (2) (am) 4. Except as provided in subd. 4m. and pars. (dm), (dr), (f), and  
17 (g), shall be fined not less than \$600 nor more than \$2,000 and imprisoned for not  
18 less than 60 days nor more than one year in the county jail if the number of  
19 convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total  
20 number of suspensions, revocations, and other convictions counted under s. 343.307  
21 (1), equals 4, except that suspensions, revocations, or convictions arising out of the  
22 same incident or occurrence shall be counted as one.

NOTE: NOTE: Subd. 4. is shown as amended eff. 7-1-10 by 2009 Wis. Act 100. Prior to 7-1-10 it reads:NOTE:

23 4. Except as provided in pars. (f) and (g), shall be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 60 days nor more than one year  
24 in the county jail 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  
25 convictions counted under s. 343.307 (1), equals 4, except that suspensions, revocations or convictions arising out of the same incident or occurrence shall be counted  
26 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; 2009 a. 100.

27 SECTION 4. 346.65 (2) (bm) of the statutes, as affected by 2009 Wisconsin Act

28 Act 100, is amended to read:

1           346.65 (2) (bm) In any county that opts to offer a reduced minimum period of  
2 imprisonment for the successful completion of a probation period that includes  
3 alcohol and other drug treatment, if the number of convictions under ss. 940.09 (1)  
4 and 940.25 in the person's lifetime, plus the total number of suspensions,  
5 revocations, and other convictions counted under s. 343.307 (1) within a 10-year  
6 period, equals 2, except that suspensions, revocations, or convictions arising out of  
7 the same incident or occurrence shall be counted as one, the fine shall be the same  
8 as under par. (am) 2., but the period of imprisonment shall be not less than 5 days,  
9 except that if the person successfully completes a period of probation that includes  
10 alcohol and other drug treatment, the period of imprisonment shall be not less than  
11 5 nor more than 7 days. ~~A person may be sentenced under this paragraph or under~~  
12 ~~par. (em) or (dm) or sub. (2j) (bm), (cm), or (cr) or (3r) once in his or her lifetime.~~

**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; 2009 a. 100.

13           **SECTION 5.** 346.65 (2) (br) of the statutes is created to read:

14           346.65 (2) (br) If the number of convictions under ss. 940.09 (1) and 940.25 in  
15 the person's lifetime, plus the total number of suspensions, revocations, and other  
16 convictions counted under s. 343.307 (1) within a 10-year period, equals 2, except  
17 that suspensions, revocations, or convictions arising out of the same incident or  
18 occurrence shall be counted as one, the fine shall be the same as under par. (am) 2.,  
19 but the period of imprisonment shall be not less than 5 days, except that the period  
20 of imprisonment shall be not less than 5 nor more than 7 days if the court places the  
21 person on probation under s. 973.09 and the conditions of probation require the  
22 person to do at least one of the following:

23           1. Follow a pharmacological treatment plan that includes, unless  
24 contraindicated, taking naltrexone, its drug product equivalent, or another

1 pharmacological agent that is approved by the federal drug administration for the  
2 treatment of alcohol dependence, and that is administered in a therapeutically  
3 appropriate manner and in a therapeutically appropriate dosage for the duration of  
4 the period of probation.

5 2. Follow a nonpharmacological treatment plan designed to treat alcohol or  
6 other drug abuse or dependence.

7 SECTION 6. 346.65 (2) (cm) of the statutes, as affected by 2009 Wisconsin Act

8 Act 100, is amended to read:

9 346.65 (2) (cm) In any county that opts to offer a reduced minimum period of  
10 imprisonment for the successful completion of a probation period that includes  
11 alcohol and other drug treatment, if the number of convictions under ss. 940.09 (1)  
12 and 940.25 in the person's lifetime, plus the total number of suspensions,  
13 revocations, and other convictions counted under s. 343.307 (1) equals 3, except that  
14 suspensions, revocations, or convictions arising out of the same incident or  
15 occurrence shall be counted as one, the fine shall be the same as under par. (am) 3.,  
16 but the period of imprisonment shall be not less than 45 days, except that if the  
17 person successfully completes a period of probation that includes alcohol and other  
18 drug treatment, the period of imprisonment shall be not less than 14 days. A person  
19 ~~may be sentenced under this paragraph or under par. (bm) or (dm) or sub. (2j) (bm),~~  
20 ~~(cm), or (cr) or (3r) once in his or her lifetime.~~

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; 2009 a. 100.

21 SECTION 7. 346.65 (2) (cr) of the statutes is created to read:

22 346.65 (2) (cr) If the number of convictions under ss. 940.09 (1) and 940.25 in  
23 the person's lifetime, plus the total number of suspensions, revocations, and other  
24 convictions counted under s. 343.307 (1) equals 3, except that suspensions,

1 revocations, or convictions arising out of the same incident or occurrence shall be  
2 counted as one, the fine shall be the same as under par. (am) 3., but the period of  
3 imprisonment shall be not less than 45 days, except that the period of imprisonment  
4 shall be not less than 14 days if the court places the person on probation under s.  
5 973.09 and the conditions of probation require the person to do at least one of the  
6 following:

7 1. Follow a pharmacological treatment plan that includes, unless  
8 contraindicated, taking naltrexone, its drug product equivalent, or another  
9 pharmacological agent that is approved by the federal drug administration for the  
10 treatment of alcohol dependence, and that is administered in a therapeutically  
11 appropriate manner and in a therapeutically appropriate dosage for the duration of  
12 the period of probation.

13 2. Follow a nonpharmacological treatment plan designed to treat alcohol or  
14 other drug abuse or dependence.

15 SECTION 8. 346.65 (2) (dm) of the statutes, as created by 2009 Wisconsin Act  
16 Act 100, is amended to read:

17 346.65 (2) (dm) In any county that opts to offer a reduced minimum period of  
18 imprisonment for the successful completion of a probation period that includes  
19 alcohol and other drug treatment, if the number of convictions under ss. 940.09 (1)  
20 and 940.25 in the person's lifetime, plus the total number of suspensions,  
21 revocations, and other convictions counted under s. 343.307 (1) equals 4, and par.  
22 (am) 4m. does not apply, except that suspensions, revocations, or convictions arising  
23 out of the same incident or occurrence shall be counted as one, the fine shall be the  
24 same as under par. (am) 4., but the period of imprisonment shall be not less than 60  
25 days, except that if the person successfully completes a period of probation that

1 includes alcohol and other drug treatment, the period of imprisonment shall be not  
 2 less than 29 days. ~~A person may be sentenced under this paragraph or under par.~~  
 3 ~~(bm) or (cm) or sub. (2j) (bm), (cm), or (cr) or (3r) once in his or her lifetime.~~

**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; 2009 a. 100.

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

5 346.65 (2) (dr) If the number of convictions under ss. 940.09 (1) and 940.25 in  
 6 the person's lifetime, plus the total number of suspensions, revocations, and other  
 7 convictions counted under s. 343.307 (1) equals 4, and par. (am) 4m. does not apply,  
 8 except that suspensions, revocations, or convictions arising out of the same incident  
 9 or occurrence shall be counted as one, the fine shall be the same as under par. (am)  
 10 4., but the period of imprisonment shall be not less than 60 days, except that the  
 11 period of imprisonment shall be not less than 29 days if the court places the person  
 12 on probation under s. 973.09 and the conditions of probation require the person to  
 13 do at least one of the following:

14 1. Follow a pharmacological treatment plan that includes, unless  
 15 contraindicated, taking naltrexone, its drug product equivalent, or another  
 16 pharmacological agent that is approved by the federal drug administration for the  
 17 treatment of alcohol dependence, and that is administered in a therapeutically  
 18 appropriate manner and in a therapeutically appropriate dosage for the duration of  
 19 the period of probation.

20 2. Follow a nonpharmacological treatment plan designed to treat alcohol or  
 21 other drug abuse or dependence.

22 **SECTION 10. 346.65 (2j) (am) 2.** of the statutes, as affected by 2009 Wisconsin

23 **Act Act 100,** is amended to read:

1 346.65 (2j) (am) 2. Except as provided in pars. (bm), (br) and (d), shall be fined  
 2 not less than \$300 nor more than \$1,000 and imprisoned for not less than 5 days nor  
 3 more than 6 months if the number of prior convictions under ss. 940.09 (1) and 940.25  
 4 in the person's lifetime, plus the total number of other convictions, ~~suspensions~~ <sup>suspensions</sup> and  
 5 revocations counted under s. 343.307 (2) within a 10-year period, equals 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; 2009 a. 100.

6 SECTION 11. 346.65 (2j) (am) 3. of the statutes, as affected by 2009 Wisconsin  
 7 Act Act 100, is amended to read:

8 346.65 (2j) (am) 3. Except as provided in pars. (cm), (cp), (cr), (cu), and (d), shall  
 9 be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than  
 10 45 days nor more than one year in the county jail if the number of convictions under  
 11 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other  
 12 convictions, suspensions, and revocations counted under s. 343.307 (2), equals 3 or  
 13 more.

NOTE: NOTE: Subd. 3. is shown as amended eff. 7-1-10 by 2009 Wis. Act 100. Prior to 7-1-10 it reads:NOTE:

14 3. Except as provided in pars. (cm) and (d), shall be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor more than one  
 15 year in the county jail if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other convictions, suspensions, and  
 16 revocations, counted under s. 343.307 (2), equals 3 or more.

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; 2009 a. 100.

17 SECTION 12. 346.65 (2j) (bm) of the statutes, as affected by 2009 Wisconsin Act  
 18 Act 100, is amended to read:

19 346.65 (2j) (bm) In any county that opts to offer a reduced minimum period of  
 20 imprisonment for the successful completion of a probation period that includes  
 21 alcohol and other drug treatment, if the number of convictions under ss. 940.09 (1)  
 22 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 a 10-year  
 24 period, equals 2, except that suspensions, revocations, or convictions arising out of  
 25 the same incident or occurrence shall be counted as one, the fine shall be the same

1 as under par. (am) 2., but the period of imprisonment shall be not less than 5 days,  
 2 except that if the person successfully completes a period of probation that includes  
 3 alcohol and other drug treatment, the period of imprisonment shall be not less than  
 4 5 nor more than 7 days. ~~A person may be sentenced under this paragraph or under~~  
 5 ~~par. (cm) or (cr) or sub. (2) (bm), (cm), or (dm) or (3r) once in his or her lifetime.~~

**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; 2009 a. 100.

6 **SECTION 13.** 346.65 (2j) (br) of the statutes is created to read:

7 346.65 (2j) (br) If the number of convictions under ss. 940.09 (1) and 940.25 in  
 8 the person's lifetime, plus the total number of suspensions, revocations, and other  
 9 convictions counted under s. 343.307 (1) within a 10-year period, equals 2, except  
 10 that suspensions, revocations, or convictions arising out of the same incident or  
 11 occurrence shall be counted as one, the fine shall be the same as under par. (am) 2.,  
 12 but the period of imprisonment shall be not less than 5 days, except that the period  
 13 of imprisonment shall be not less than 5 nor more than 7 days if the court places the  
 14 person on probation under s. 973.09 and the conditions of probation require the  
 15 person to do at least one of the following:

16 1. Follow a pharmacological treatment plan that includes, unless  
 17 contraindicated, taking naltrexone, its drug product equivalent, or another  
 18 pharmacological agent that is approved by the federal drug administration for the  
 19 treatment of alcohol dependence, and that is administered in a therapeutically  
 20 appropriate manner and in a therapeutically appropriate dosage for the duration of  
 21 the period of probation.

22 2. Follow a nonpharmacological treatment plan designed to treat alcohol or  
 23 other drug abuse or dependence.

1 SECTION 14. 346.65 (2j) (cm) of the statutes, as affected by 2009 Wisconsin Act  
2 Act 100, is amended to read:

3 346.65 (2j) (cm) In any county that opts to offer a reduced minimum period of  
4 imprisonment for the successful completion of a probation period that includes  
5 alcohol and other drug treatment, if the number of convictions under ss. 940.09 (1)  
6 and 940.25 in the person's lifetime, plus the total number of suspensions,  
7 revocations, and other convictions counted under s. 343.307 (1) equals 3, except that  
8 suspensions, revocations, or convictions arising out of the same incident or  
9 occurrence shall be counted as one, the fine shall be the same as under par. (am) 3.,  
10 but the period of imprisonment shall be not less than 45 days, except that if the  
11 person successfully completes a period of probation that includes alcohol and other  
12 drug treatment, the period of imprisonment shall be not less than 14 days. ~~A person  
13 may be sentenced under this paragraph or under par. (bm) or (cr) or sub. (2) (bm),  
14 (cm), or (dm) or (3r) once in his or her lifetime.~~

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; 2009 a. 100.

15 SECTION 15. 346.65 (2j) (cp) of the statutes is created to read:

16 346.65 (2j) (cp) If the number of convictions under ss. 940.09 (1) and 940.25 in  
17 the person's lifetime, plus the total number of suspensions, revocations, and other  
18 convictions counted under s. 343.307 (1) equals 3, except that suspensions,  
19 revocations, or convictions arising out of the same incident or occurrence shall be  
20 counted as one, the fine shall be the same as under par. (am) 3., but the period of  
21 imprisonment shall be not less than 45 days, except that the period of imprisonment  
22 shall be not less than 14 days if the court places the person on probation under s.  
23 973.09 and the conditions of probation require the person to do at least one of the  
24 following:



1           1. Follow a pharmacological treatment plan that includes, unless  
2           contraindicated, taking naltrexone, its drug product equivalent, or another  
3           pharmacological agent that is approved by the federal drug administration for the  
4           treatment of alcohol dependence, and that is administered in a therapeutically  
5           appropriate manner and in a therapeutically appropriate dosage for the duration of  
6           the period of probation.

7           2. Follow a nonpharmacological treatment plan designed to treat alcohol or  
8           other drug abuse or dependence.

9           SECTION 16. 346.65 (2j) (cr) of the statutes, as created by 2009 Wisconsin Act

10          Act 100, is amended to read:

11           346.65 (2j) (cr) In any county that opts to offer a reduced minimum period of  
12           imprisonment for the successful completion of a probation period that includes  
13           alcohol and other drug treatment, if the number of convictions under ss. 940.09 (1)  
14           and 940.25 in the person's lifetime, plus the total number of suspensions,  
15           revocations, and other convictions counted under s. 343.307 (1) equals 4, and sub. (2)  
16           (am) 4m. does not apply, except that suspensions, revocations, or convictions arising  
17           out of the same incident or occurrence shall be counted as one, the fine shall be the  
18           same as under par. (am) 3., but the period of imprisonment shall be not less than 60  
19           days, except that if the person successfully completes a period of probation that  
20           includes alcohol and other drug treatment, the period of imprisonment shall be not  
21           less than 29 days. ~~A person may be sentenced under this paragraph or under par.~~  
22           ~~(bm) or (em) or sub. (2) (bm), (em), or (dm) or (3r) once in his or her lifetime.~~

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; 2009 a. 100.

23          SECTION 17. 346.65 (2j) (cu) of the statutes is created to read:

1 346.65 (2j) (cu) If the number of convictions under ss. 940.09 (1) and 940.25 in  
 2 the person's lifetime, plus the total number of suspensions, revocations, and other  
 3 convictions counted under s. 343.307 (1) equals 4, and sub. (2) (am) 4m. does not  
 4 apply, except that suspensions, revocations, or convictions arising out of the same  
 5 incident or occurrence shall be counted as one, the fine shall be the same as under  
 6 par. (am) 3., but the period of imprisonment shall be not less than 60 days, except that  
 7 the period of imprisonment shall be not less than 29 days if the court places the  
 8 person on probation under s. 973.09 and the conditions of probation require the  
 9 person to do at least one of the following:

10 1. Follow a pharmacological treatment plan that includes, unless  
 11 contraindicated, taking naltrexone, its drug product equivalent, or another  
 12 pharmacological agent that is approved by the federal drug administration for the  
 13 treatment of alcohol dependence, and that is administered in a therapeutically  
 14 appropriate manner and in a therapeutically appropriate dosage for the duration of  
 15 the period of probation.

16 2. Follow a nonpharmacological treatment plan designed to treat alcohol or  
 17 other drug abuse or dependence.

18 SECTION 18. 346.65 (2x) of the statutes is created to read:

19 346.65 (2x) 346.65 (2x) A person may be sentenced under sub. (2) (bm), (br),  
 20 (cm), (cr), (dm), or (dr), or (2j) (bm), (br), (cm), (cp), (cr), or (cu), or (3r) once in his or  
 21 her lifetime.

22 SECTION 19. 346.65 (3r) of the statutes, as affected by 2009 Wisconsin Act Act  
 23 100, is amended to read:

24 346.65 (3r) In any county that opts to offer a reduced minimum period of  
 25 imprisonment for the successful completion of a probation period that includes

1 alcohol and other drug treatment, any person violating s. 346.63 (2) or (6) shall be  
2 fined the same as under sub. (3m), but the period of imprisonment shall be not less  
3 than 30 days, except that if the person successfully completes a period of probation  
4 that includes alcohol and other drug treatment, the period of imprisonment shall be  
5 not less than 15 days. If there was a minor passenger under 16 years of age in the  
6 motor vehicle at the time of the violation that gave rise to the conviction under s.  
7 346.63 (2) or (6), the offense is a felony, the applicable minimum and maximum fines  
8 or periods of imprisonment for the conviction are doubled and the place of  
9 imprisonment shall be determined under s. 973.02. ~~A person may be sentenced~~  
10 ~~under this subsection or under sub. (2) (bm) or (cm) or (2j) (bm) or (cm) once in his~~  
11 ~~or her lifetime.~~ This subsection does not apply to a person sentenced under sub. (3p).

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; 2009 a. 100.

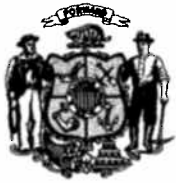
## 12 SECTION 20. Initial applicability.

13 (1) This act first applies to violations that are committed or refusals that occur  
14 on the effective date of this subsection<sup>✓</sup>, but does not preclude the counting of other  
15 convictions, suspensions, or revocations as prior convictions, suspensions, or  
16 revocations for purposes of administrative action by the department of  
17 transportation, sentencing by a court, or revocation or suspension of motor vehicle  
18 operating privileges.

## 19 SECTION 21. Effective date.

20 (1) This act takes effect on July 1, 2010.

21 (END)



1  
mr

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~  
ASSEMBLY SUBSTITUTE AMENDMENT,  
TO 2009 ASSEMBLY BILL 366

sec aff'd ✓      2-5-10      no changes

Regen

1 AN ACT *to amend* 346.65 (2) (am) 2., 346.65 (2) (am) 3., 346.65 (2) (am) 4., 346.65  
2 (2) (bm), 346.65 (2) (cm), 346.65 (2) (dm), 346.65 (2j) (am) 2., 346.65 (2j) (am) 3.,  
3 346.65 (2j) (bm), 346.65 (2j) (cm), 346.65 (2j) (cr) and 346.65 (3r); and *to create*  
4 346.65 (2) (br), 346.65 (2) (cr), 346.65 (2) (dr), 346.65 (2j) (br), 346.65 (2j) (cp),  
5 346.65 (2j) (cu) and 346.65 (2x) of the statutes; **relating to:** alternative  
6 sentencing for certain drunken driving offenses and providing penalties.

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

7 SECTION 1. 346.65 (2) (am) 2. of the statutes is amended to read:  
8 346.65 (2) (am) 2. Except as provided in pars. (bm), (br), and (f), shall be fined  
9 not less than \$350 nor more than \$1,100 and imprisoned for not less than 5 days nor  
10 more than 6 months if the number of convictions under ss. 940.09 (1) and 940.25 in  
11 the person's lifetime, plus the total number of suspensions, revocations, and other

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

4 **SECTION 2.** 346.65 (2) (am) 3. of the statutes, as affected by 2009 Wisconsin Act  
5 Act 100, is amended to read:

6 346.65 (2) (am) 3. Except as provided in pars. (cm), (cr), (f), and (g), shall be  
7 fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 45  
8 days nor more than one year in the county jail if the number of convictions under ss.  
9 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,  
10 revocations, and other convictions counted under s. 343.307 (1), equals 3, except that  
11 suspensions, revocations, or convictions arising out of the same incident or  
12 occurrence shall be counted as one.

13 **SECTION 3.** 346.65 (2) (am) 4. of the statutes, as affected by 2009 Wisconsin Act  
14 100, is amended to read:

15 346.65 (2) (am) 4. Except as provided in subd. 4m. and pars. (dm), (dr), (f), and  
16 (g), shall be fined not less than \$600 nor more than \$2,000 and imprisoned for not  
17 less than 60 days nor more than one year in the county jail if the number of  
18 convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total  
19 number of suspensions, revocations, and other convictions counted under s. 343.307  
20 (1), equals 4, except that suspensions, revocations, or convictions arising out of the  
21 same incident or occurrence shall be counted as one.

22 **SECTION 4.** 346.65 (2) (bm) of the statutes, as affected by 2009 Wisconsin Act  
23 100, is amended to read:

24 346.65 (2) (bm) In any county that opts to offer a reduced minimum period of  
25 imprisonment for the successful completion of a probation period that includes

1 alcohol and other drug treatment, if the number of convictions under ss. 940.09 (1)  
2 and 940.25 in the person's lifetime, plus the total number of suspensions,  
3 revocations, and other convictions counted under s. 343.307 (1) within a 10-year  
4 period, equals 2, except that suspensions, revocations, or convictions arising out of  
5 the same incident or occurrence shall be counted as one, the fine shall be the same  
6 as under par. (am) 2., but the period of imprisonment shall be not less than 5 days,  
7 except that if the person successfully completes a period of probation that includes  
8 alcohol and other drug treatment, the period of imprisonment shall be not less than  
9 5 nor more than 7 days. ~~A person may be sentenced under this paragraph or under  
10 par. (em) or (dm) or sub. (2j) (bm), (cm), or (cr) or (3r) once in his or her lifetime.~~

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

12 346.65 (2) (br) If the number of convictions under ss. 940.09 (1) and 940.25 in  
13 the person's lifetime, plus the total number of suspensions, revocations, and other  
14 convictions counted under s. 343.307 (1) within a 10-year period, equals 2, except  
15 that suspensions, revocations, or convictions arising out of the same incident or  
16 occurrence shall be counted as one, the fine shall be the same as under par. (am) 2.,  
17 but the period of imprisonment shall be not less than 5 days, except that the period  
18 of imprisonment shall be not less than 5 nor more than 7 days if the court places the  
19 person on probation under s. 973.09 and the conditions of probation require the  
20 person to do at least one of the following:

21 1. Follow a pharmacological treatment plan that includes, unless  
22 contraindicated, taking naltrexone, its drug product equivalent, or another  
23 pharmacological agent that is approved by the federal drug administration for the  
24 treatment of alcohol dependence, and that is administered in a therapeutically

1 appropriate manner and in a therapeutically appropriate dosage for the duration of  
2 the period of probation.

3 2. Follow a nonpharmacological treatment plan designed to treat alcohol or  
4 other drug abuse or dependence.

5 **SECTION 6.** 346.65 (2) (cm) of the statutes, as affected by 2009 Wisconsin Act  
6 100, is amended to read:

7 346.65 (2) (cm) In any county that opts to offer a reduced minimum period of  
8 imprisonment for the successful completion of a probation period that includes  
9 alcohol and other drug treatment, 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) equals 3, except that  
12 suspensions, revocations, or convictions arising out of the same incident or  
13 occurrence shall be counted as one, the fine shall be the same as under par. (am) 3.,  
14 but the period of imprisonment shall be not less than 45 days, except that if the  
15 person successfully completes a period of probation that includes alcohol and other  
16 drug treatment, the period of imprisonment shall be not less than 14 days. ~~A person  
17 may be sentenced under this paragraph or under par. (bm) or (dm) or sub. (2j) (bm),  
18 (cm), or (cr) or (3r) once in his or her lifetime.~~

19 **SECTION 7.** 346.65 (2) (cr) of the statutes is created to read:

20 346.65 (2) (cr) If the number of convictions under ss. 940.09 (1) and 940.25 in  
21 the person's lifetime, plus the total number of suspensions, revocations, and other  
22 convictions counted under s. 343.307 (1) equals 3, except that suspensions,  
23 revocations, or convictions arising out of the same incident or occurrence shall be  
24 counted as one, the fine shall be the same as under par. (am) 3., but the period of  
25 imprisonment shall be not less than 45 days, except that the period of imprisonment

1 shall be not less than 14 days if the court places the person on probation under s.  
2 973.09 and the conditions of probation require the person to do at least one of the  
3 following:

4 1. Follow a pharmacological treatment plan that includes, unless  
5 contraindicated, taking naltrexone, its drug product equivalent, or another  
6 pharmacological agent that is approved by the federal drug administration for the  
7 treatment of alcohol dependence, and that is administered in a therapeutically  
8 appropriate manner and in a therapeutically appropriate dosage for the duration of  
9 the period of probation.

10 2. Follow a nonpharmacological treatment plan designed to treat alcohol or  
11 other drug abuse or dependence.

12 **SECTION 8.** 346.65 (2) (dm) of the statutes, as created by 2009 Wisconsin Act  
13 100, is amended to read:

14 346.65 (2) (dm) In any county that opts to offer a reduced minimum period of  
15 imprisonment for the successful completion of a probation period that includes  
16 alcohol and other drug treatment, if the number of convictions under ss. 940.09 (1)  
17 and 940.25 in the person's lifetime, plus the total number of suspensions,  
18 revocations, and other convictions counted under s. 343.307 (1) equals 4, and par.  
19 (am) 4m. does not apply, except that suspensions, revocations, or convictions arising  
20 out of the same incident or occurrence shall be counted as one, the fine shall be the  
21 same as under par. (am) 4., but the period of imprisonment shall be not less than 60  
22 days, except that if the person successfully completes a period of probation that  
23 includes alcohol and other drug treatment, the period of imprisonment shall be not  
24 less than 29 days. ~~A person may be sentenced under this paragraph or under par.~~  
25 ~~(bm) or (cm) or sub. (2j) (bm), (cm), or (cr) or (3r) once in his or her lifetime.~~



1           **SECTION 9.** 346.65 (2) (dr) of the statutes is created to read:

2           346.65 (2) (dr) If the number of convictions under ss. 940.09 (1) and 940.25 in  
3 the person's lifetime, plus the total number of suspensions, revocations, and other  
4 convictions counted under s. 343.307 (1) equals 4, and par. (am) 4m. does not apply,  
5 except that suspensions, revocations, or convictions arising out of the same incident  
6 or occurrence shall be counted as one, the fine shall be the same as under par. (am)  
7 4., but the period of imprisonment shall be not less than 60 days, except that the  
8 period of imprisonment shall be not less than 29 days if the court places the person  
9 on probation under s. 973.09 and the conditions of probation require the person to  
10 do at least one of the following:

11           1. Follow a pharmacological treatment plan that includes, unless  
12 contraindicated, taking naltrexone, its drug product equivalent, or another  
13 pharmacological agent that is approved by the federal drug administration for the  
14 treatment of alcohol dependence, and that is administered in a therapeutically  
15 appropriate manner and in a therapeutically appropriate dosage for the duration of  
16 the period of probation.

17           2. Follow a nonpharmacological treatment plan designed to treat alcohol or  
18 other drug abuse or dependence.

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

20           346.65 (2j) (am) 2. Except as provided in pars. (bm), (br) and (d), shall be fined  
21 not less than \$300 nor more than \$1,000 and imprisoned for not less than 5 days nor  
22 more than 6 months if the number of prior convictions under ss. 940.09 (1) and 940.25  
23 in the person's lifetime, plus the total number of other convictions, ~~suspension~~  
24 suspensions, and revocations counted under s. 343.307 (2) within a 10-year period,  
25 equals 2.

1           **SECTION 11.** 346.65 (2j) (am) 3. of the statutes, as affected by 2009 Wisconsin  
2 Act 100, is amended to read:

3           346.65 (2j) (am) 3. Except as provided in pars. (cm), (cp), (cr), (cu), and (d), shall  
4 be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than  
5 45 days nor more than one year in the county jail if the number of convictions under  
6 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other  
7 convictions, suspensions, and revocations counted under s. 343.307 (2), equals 3 or  
8 more.

9           **SECTION 12.** 346.65 (2j) (bm) of the statutes, as affected by 2009 Wisconsin Act  
10 100, is amended to read:

11           346.65 (2j) (bm) In any county that opts to offer a reduced minimum period of  
12 imprisonment for the successful completion of a probation period that includes  
13 alcohol and other drug treatment, if the number of convictions under ss. 940.09 (1)  
14 and 940.25 in the person's lifetime, plus the total number of suspensions,  
15 revocations, and other convictions counted under s. 343.307 (1) within a 10-year  
16 period, equals 2, except that suspensions, revocations, or convictions arising out of  
17 the same incident or occurrence shall be counted as one, the fine shall be the same  
18 as under par. (am) 2., but the period of imprisonment shall be not less than 5 days,  
19 except that if the person successfully completes a period of probation that includes  
20 alcohol and other drug treatment, the period of imprisonment shall be not less than  
21 5 nor more than 7 days. ~~A person may be sentenced under this paragraph or under~~  
22 ~~par. (cm) or (cr) or sub. (2) (bm), (cm), or (dm) or (3r) once in his or her lifetime.~~

23           **SECTION 13.** 346.65 (2j) (br) of the statutes is created to read:

24           346.65 (2j) (br) If the number of convictions under ss. 940.09 (1) and 940.25 in  
25 the person's lifetime, plus the total number of suspensions, revocations, and other

1 convictions counted under s. 343.307 (1) within a 10–year period, equals 2, except  
2 that suspensions, revocations, or convictions arising out of the same incident or  
3 occurrence shall be counted as one, the fine shall be the same as under par. (am) 2.,  
4 but the period of imprisonment shall be not less than 5 days, except that the period  
5 of imprisonment shall be not less than 5 nor more than 7 days if the court places the  
6 person on probation under s. 973.09 and the conditions of probation require the  
7 person to do at least one of the following:

8 1. Follow a pharmacological treatment plan that includes, unless  
9 contraindicated, taking naltrexone, its drug product equivalent, or another  
10 pharmacological agent that is approved by the federal drug administration for the  
11 treatment of alcohol dependence, and that is administered in a therapeutically  
12 appropriate manner and in a therapeutically appropriate dosage for the duration of  
13 the period of probation.

14 2. Follow a nonpharmacological treatment plan designed to treat alcohol or  
15 other drug abuse or dependence.

16 **SECTION 14.** 346.65 (2j) (cm) of the statutes, as affected by 2009 Wisconsin Act  
17 100, is amended to read:

18 346.65 (2j) (cm) In any county that opts to offer a reduced minimum period of  
19 imprisonment for the successful completion of a probation period that includes  
20 alcohol and other drug treatment, if the number of convictions under ss. 940.09 (1)  
21 and 940.25 in the person's lifetime, plus the total number of suspensions,  
22 revocations, and other convictions counted under s. 343.307 (1) equals 3, except that  
23 suspensions, revocations, or convictions arising out of the same incident or  
24 occurrence shall be counted as one, the fine shall be the same as under par. (am) 3.,  
25 but the period of imprisonment shall be not less than 45 days, except that if the

1 person successfully completes a period of probation that includes alcohol and other  
2 drug treatment, the period of imprisonment shall be not less than 14 days. ~~A person~~  
3 ~~may be sentenced under this paragraph or under par. (bm) or (cr) or sub. (2) (bm),~~  
4 ~~(em), or (dm) or (3r) once in his or her lifetime.~~

5 **SECTION 15.** 346.65 (2j) (cp) of the statutes is created to read:

6 346.65 (2j) (cp) If the number of convictions under ss. 940.09 (1) and 940.25 in  
7 the person's lifetime, plus the total number of suspensions, revocations, and other  
8 convictions counted under s. 343.307 (1) equals 3, except that suspensions,  
9 revocations, or convictions arising out of the same incident or occurrence shall be  
10 counted as one, the fine shall be the same as under par. (am) 3., but the period of  
11 imprisonment shall be not less than 45 days, except that the period of imprisonment  
12 shall be not less than 14 days if the court places the person on probation under s.  
13 973.09 and the conditions of probation require the person to do at least one of the  
14 following:

15 1. Follow a pharmacological treatment plan that includes, unless  
16 contraindicated, taking naltrexone, its drug product equivalent, or another  
17 pharmacological agent that is approved by the federal drug administration for the  
18 treatment of alcohol dependence, and that is administered in a therapeutically  
19 appropriate manner and in a therapeutically appropriate dosage for the duration of  
20 the period of probation.

21 2. Follow a nonpharmacological treatment plan designed to treat alcohol or  
22 other drug abuse or dependence.

23 **SECTION 16.** 346.65 (2j) (cr) of the statutes, as created by 2009 Wisconsin Act  
24 100, is amended to read:

1           346.65 (2j) (cr) In any county that opts to offer a reduced minimum period of  
2 imprisonment for the successful completion of a probation period that includes  
3 alcohol and other drug treatment, if the number of convictions under ss. 940.09 (1)  
4 and 940.25 in the person's lifetime, plus the total number of suspensions,  
5 revocations, and other convictions counted under s. 343.307 (1) equals 4, and sub. (2)  
6 (am) 4m. does not apply, except that suspensions, revocations, or convictions arising  
7 out of the same incident or occurrence shall be counted as one, the fine shall be the  
8 same as under par. (am) 3., but the period of imprisonment shall be not less than 60  
9 days, except that if the person successfully completes a period of probation that  
10 includes alcohol and other drug treatment, the period of imprisonment shall be not  
11 less than 29 days. ~~A person may be sentenced under this paragraph or under par.~~  
12 ~~(bm) or (cm) or sub. (2) (bm), (cm), or (dm) or (3r) once in his or her lifetime.~~

13           **SECTION 17.** 346.65 (2j) (cu) of the statutes is created to read:

14           346.65 (2j) (cu) If the number of convictions under ss. 940.09 (1) and 940.25 in  
15 the person's lifetime, plus the total number of suspensions, revocations, and other  
16 convictions counted under s. 343.307 (1) equals 4, and sub. (2) (am) 4m. does not  
17 apply, except that suspensions, revocations, or convictions arising out of the same  
18 incident or occurrence shall be counted as one, the fine shall be the same as under  
19 par. (am) 3., but the period of imprisonment shall be not less than 60 days, except that  
20 the period of imprisonment shall be not less than 29 days if the court places the  
21 person on probation under s. 973.09 and the conditions of probation require the  
22 person to do at least one of the following:

23           1. Follow a pharmacological treatment plan that includes, unless  
24 contraindicated, taking naltrexone, its drug product equivalent, or another  
25 pharmacological agent that is approved by the federal drug administration for the

1 treatment of alcohol dependence, and that is administered in a therapeutically  
2 appropriate manner and in a therapeutically appropriate dosage for the duration of  
3 the period of probation.

4 2. Follow a nonpharmacological treatment plan designed to treat alcohol or  
5 other drug abuse or dependence.

6 **SECTION 18.** 346.65 (2x) of the statutes is created to read:

7 346.65 (2x) A person may be sentenced under sub. (2) (bm), (br), (cm), (cr), (dm),  
8 or (dr), (2j) (bm), (br), (cm), (cp), (cr), or (cu), or (3r) once in his or her lifetime.

9 **SECTION 19.** 346.65 (3r) of the statutes, as affected by 2009 Wisconsin Act 100,  
10 is amended to read:

11 346.65 (3r) In any county that opts to offer a reduced minimum period of  
12 imprisonment for the successful completion of a probation period that includes  
13 alcohol and other drug treatment, any person violating s. 346.63 (2) or (6) shall be  
14 fined the same as under sub. (3m), but the period of imprisonment shall be not less  
15 than 30 days, except that if the person successfully completes a period of probation  
16 that includes alcohol and other drug treatment, the period of imprisonment shall be  
17 not less than 15 days. If there was a minor passenger under 16 years of age in the  
18 motor vehicle at the time of the violation that gave rise to the conviction under s.  
19 346.63 (2) or (6), the offense is a felony, the applicable minimum and maximum fines  
20 or periods of imprisonment for the conviction are doubled and the place of  
21 imprisonment shall be determined under s. 973.02. ~~A person may be sentenced~~  
22 ~~under this subsection or under sub. (2) (bm) or (cm) or (2j) (bm) or (cm) once in his~~  
23 ~~or her lifetime.~~ This subsection does not apply to a person sentenced under sub. (3p).

24 **SECTION 20. Initial applicability.**

