

2013 DRAFTING REQUEST

Bill

Received: 12/11/2012 Received By: tdodge
Wanted: As time permits Same as LRB:
For: Legislative Council - JLC 266-1537 By/Representing: David Lovell
May Contact: Drafter: tdodge
Subject: Drunk Driving - other Addl. Drafters: emueller
Mental Health - AODA

Extra Copies:

Submit via email: YES
Requester's email: David.Lovell@legis.wisconsin.gov
Carbon copy (CC) to: tamara.dodge@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Tribal facility participation in the intoxicated driver program

Instructions:

WLC:0005/2

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>
/?	tdodge 1/7/2013			_____			
/P1	emueller 1/17/2013	scalvin 1/14/2013	phenry 1/15/2013	_____	sbasford 1/15/2013		State S&L
/P2	emueller 1/29/2013	scalvin 1/18/2013	jfrantze 1/18/2013	_____	rose 1/18/2013		State S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1		jdyer 1/29/2013	rschluet 1/29/2013	_____	sbasford 1/29/2013	srose 2/13/2013	State S&L

FE Sent For:

At Intro.
2-18-13

<END>

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/P2		scalvin 1/18/2013	jfrantze 1/18/2013	_____	srose 1/18/2013		State S&L

/1 EJM
1/29/13

1/29/13

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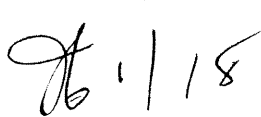
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/P2	EVUM 1/17/13 FE Sent For:	/P2 SAC 01/17/2013					

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1?	tdodge em 1/11/13	1 PI sac 01/14/2013	4/14 jm 1/3/13 LC Conversion	1/15 JF/PLK			
FE Sent For:							

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DLL:jal;

11/19/2012

1 **AN ACT** *to renumber and amend* 346.655 (3); *to amend* 20.435 (5) (hy), 46.03 (18)
2 (f), 343.30 (1q) (c) 2., 343.30 (1q) (d) and 345.60 (1); and *to create* 51.01 (2c), 51.45
3 (7) (h), 343.30 (1q) (c) 1. d. and 346.655 (3) (b) of the statutes; **relating to:** tribal
4 facilities' participation in the intoxicated driver program.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the Joint Legislative Council's Special Committee on State-Tribal Relations.

The intoxicated driver program (IDP) is designed to provide education or treatment to persons convicted of operating a motor vehicle while intoxicated, with the intent of reducing recidivism. In brief, upon conviction, the court orders the offender to be assessed by an agency operated or contracted by the county for this purpose. Based on the results of the assessment, the offender is referred either to an educational program or to an approved public treatment facility. The plan for an individual's treatment at an approved public treatment facility is termed a "driver safety plan".

This draft does all of the following:

1. Directs the department of health services (DHS) to authorize a tribal facility, termed an "approved tribal treatment facility" in the draft, to conduct assessments and prepare driver safety plans if the tribal facility agrees to notify the county assessment agency of each case it receives and to execute the duties of a treatment facility under the IDP for those cases.
2. Allows a native offender to receive assessment services from a tribal facility.
3. Specifies that a tribal facility may both conduct assessments and provide treatment services under the IDP. (Current DHS rules regarding conflicts of interest prohibit this, in general.)
4. Expressly states in the statutes that traditional practices may be included in treatment plans.

5. Directs the department of transportation (DOT), at the request of an accredited tribal college, to certify the college as a traffic safety school program, if the college meets all of the requirements of such a program. This requirement applies to traffic safety schools related to any traffic violation.

6. Specifies that a county must remit to a tribal facility the county's share of any driver improvement surcharge paid by an OWI offender who receives treatment at the facility.

7. Specifies that a tribal facility is eligible for a supplemental grant from DHS in proportion to the number of OWI offenders who receive treatment at a facility of the tribe.

1 **SECTION 1.** 20.435 (5) (hy) of the statutes is amended to read:

2 20.435 (5) (hy) *Services for drivers, local assistance.* As a continuing appropriation,
3 the amounts in the schedule for ~~the purpose of grants to county departments under s. 51.42 and~~
4 to approved tribal treatment facilities, as defined in s. 51.01 (2c), for drivers referred through
5 assessment, to be allocated according to a plan developed by the department of health services.
6 All moneys transferred from par. (hx) shall be credited to this appropriation.

NOTE: Specifies that tribal facilities are eligible for supplemental grants from the DHS.

7 **SECTION 2.** 46.03 (18) (f) of the statutes is amended to read:

8 46.03 (18) (f) Notwithstanding par. (a), any person who submits to an assessment or
9 airman or driver safety plan under s. 23.33 (13) (e), 30.80 (6) (d), 114.09 (2) (bm), 343.16 (5)
10 (a), 343.30 (1q), 343.305 (10) or 350.11 (3) (d) shall pay a reasonable fee therefor to the
11 appropriate county department under s. 51.42, approved tribal treatment facility, as defined
12 in s. 51.01 (2c), or traffic safety school under s. 345.60. A county may allow the person to pay
13 the assessment fee in 1, 2, 3 or 4 equal installments. The fee for the airman or driver safety
14 plan may be reduced or waived if the person is unable to pay the complete fee, but no fee for
15 assessment or attendance at a traffic safety school under s. 345.60 may be reduced or waived.
16 Nonpayment of the assessment fee is noncompliance with the court order that required

1 completion of an assessment and airman or driver safety plan. Upon a finding that the person
2 has the ability to pay, nonpayment of the airman or driver safety plan fee is noncompliance
3 with the court order that required completion of an assessment and airman or driver safety
4 plan.

NOTE: Specifies that the offender pay the fee for assessment to a tribal facility, if that is the facility that conducts the assessment.

5 **SECTION 3.** 51.01 (2c) of the statutes is created to read:

6 51.01 (2c) "Approved tribal treatment facility" means a treatment agency operating
7 under the direction and control of a federally recognized American Indian tribe or band in this
8 state and meeting the standards prescribed under s. 51.45 (8) (a) and approved under s. 51.45
9 (8) (c).

10 **SECTION 4.** 51.45 (7) (h) of the statutes is created to read:

11 51.45 (7) (h) The department shall authorize an approved tribal treatment facility to
12 conduct assessments under s. 343.30 (1q) (c) and prepare driver safety plans under s. 343.30
13 (1q) (d) if, with regard to each person for whom the approved tribal treatment facility conducts
14 an assessment under s. 343.30 (1q) (c), the approved tribal treatment facility agrees in writing
15 to do all of the following:

16 1. Notify the department of transportation and the county assessment agency identified
17 in the order under s. 343.30 (1q) (c) 1. that the approved tribal treatment facility has conducted
18 the assessment.

19 2. Execute all duties of an approved public treatment facility under s. 343.30 (1q) and
20 rules promulgated under s. 343.30 (1q).

21 **SECTION 5.** 343.30 (1q) (c) 1. d. of the statutes is created to read:

1 343.30 (1q) (c) 1. d. Include a statement that, if the person is a member or the relative
2 of a member of a federally recognized American Indian tribe or band, the person may receive
3 the assessment required under this subdivision from an approved tribal treatment facility.

NOTE: Allows an offender who is a tribal member or a relative of a tribal member the option of receiving assessment services from a tribal facility by requiring that the court order issued with an OWI conviction inform the offender of this option.

4 **SECTION 6.** 343.30 (1q) (c) 2. of the statutes is amended to read:

5 343.30 (1q) (c) 2. The department of health services shall establish standards for
6 assessment procedures and the driver safety plan programs by rule. The department of health
7 services shall establish by rule conflict of interest guidelines for providers. The conflict of
8 interest guidelines shall not preclude an approved tribal treatment facility from conducting
9 assessments and providing treatment under this subsection.

10 **SECTION 7.** 343.30 (1q) (d) of the statutes is amended to read:

11 343.30 (1q) (d) 1. The assessment report shall order compliance with a driver safety
12 plan. The report shall inform the person of the fee provisions under s. 46.03 (18) (f). The
13 driver safety plan may include a component that makes the person aware of the effect of his
14 or her offense on a victim and a victim's family. The driver safety plan may include treatment
15 for the person's misuse, abuse or dependence on alcohol, controlled substances or controlled
16 substance analogs, or attendance at a school under s. 345.60, or both. If the plan requires
17 treatment at an approved tribal treatment facility, the plan may include traditional tribal
18 treatment modes. If the plan requires inpatient treatment, the treatment shall not exceed 30
19 days. A driver safety plan under this paragraph shall include a termination date consistent with
20 the plan which shall not extend beyond one year.

1 2. The county department under s. 51.42 shall assure notification of the department of
2 transportation and the person of the person's compliance or noncompliance with assessment
3 and with treatment. The school under s. 345.60 shall notify the department, the county
4 department under s. 51.42 and the person of the person's compliance or noncompliance with
5 the requirements of the school. Nonpayment of the assessment fee or, if the person has the
6 ability to pay, nonpayment of the driver safety plan fee is noncompliance with the court order.
7 If the department is notified of any noncompliance, other than for nonpayment of the
8 assessment fee or driver safety plan fee, it shall revoke the person's operating privilege until
9 the county department under s. 51.42 or the school under s. 345.60 notifies the department that
10 the person is in compliance with assessment or the driver safety plan. If the department is
11 notified that a person has not paid the assessment fee, or that a person with the ability to pay
12 has not paid the driver safety plan fee, the department shall suspend the person's operating
13 privilege for a period of 2 years or until it receives notice that the person has paid the fee,
14 whichever occurs first.

15 3. The department shall notify the person of the suspension or revocation under subd.
16 2., the reason for the suspension or revocation and the person's right to a review. A person
17 may request a review of a revocation based upon failure to comply with a driver safety plan
18 within 10 days of notification. The review shall be handled by the subunit of the department
19 of transportation designated by the secretary. The issues at the review are limited to whether
20 the driver safety plan, if challenged, is appropriate and whether the person is in compliance
21 with the assessment order or the driver safety plan. The review shall be conducted within 10
22 days after a request is received. If the driver safety plan is determined to be inappropriate, the
23 department shall order a reassessment and if the person is otherwise eligible, the department
24 shall reinstate the person's operating privilege. If the person is determined to be in compliance

1 with the assessment or driver safety plan, and if the person is otherwise eligible, the
2 department shall reinstate the person's operating privilege. If there is no decision within the
3 10-day period, the department shall issue an order reinstating the person's operating privilege
4 until the review is completed, unless the delay is at the request of the person seeking the review.

5 **SECTION 8.** 345.60 (1) of the statutes is amended to read:

6 345.60 (1) Except as provided in sub. (3) and s. 343.31 (2t) (b), in addition to or in lieu
7 of other penalties provided by law for violation of chs. 346 to 348, the trial court may in its
8 judgment of conviction order the convicted person to attend, for a certain number of school
9 days, a traffic safety school whose course and mode of instruction is approved by the secretary
10 and which is conducted by the police department of the municipality, by the sheriff's office
11 of the county, by an accredited institution of higher education operated by a federally
12 recognized American Indian tribe or band in this state, or by any regularly established safety
13 organization. The trial court may not order a person to attend a traffic safety school under this
14 subsection if the department is required to order that the person attend a vehicle right-of-way
15 course under s. 343.31 (2t) (b).

16 **SECTION 9.** 346.655 (3) of the statutes is renumbered 346.655 (3) (a) and amended to
17 read:

18 346.655 (3) (a) All Except as provided in par. (b), all moneys collected from the driver
19 improvement surcharge that are transmitted to the county treasurer under sub. (2) (a) or (b),
20 except the amounts that the county treasurer is required to transmit to the secretary of
21 administration under sub. (2) (a) or (b), shall be retained by the county treasurer and disbursed
22 to the county department under s. 51.42 for services under s. 51.42 for drivers referred through
23 assessment.

24 **SECTION 10.** 346.655 (3) (b) of the statutes is created to read:

1 346.655 (3) (b) If a person receives treatment from an approved tribal treatment facility,
2 as defined in s. 51.01 (2c), in accordance with a driver safety plan under s. 343.30 (1q) (d),
3 the county treasurer shall transmit the amount described in par. (a) to the facility for treatment
4 services for drivers referred through assessment.

NOTE: Specifies that the county share of the driver improvement surcharge must be paid to a tribal treatment facility for each person it provides treatment to under a driver safety plan; that is to say, specifies that "the funding follows the client".

5

(END)



(D) Note
State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0794/P1

TJD:1:....
A SAC
& EVM

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Insert

In 1/11/13

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AN ACT ^{you can} relating to: tribal ^{treatment} facility participation in the intoxicated driver program.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the Joint Legislative Council's Special Committee on State-Tribal Relations.

The intoxicated driver program (IDP) is designed to provide education or treatment to persons convicted of operating a motor vehicle while intoxicated, with the intent of reducing recidivism. In brief, upon conviction, the court orders the offender to be assessed by an agency operated or contracted by the county for this purpose. Based on the results of the assessment, the offender is referred either to an educational program or to an approved public treatment facility. The plan for an individual's treatment at an approved public treatment facility is termed a "driver safety plan".

This draft does all of the following:

1. Directs the department of health services (DHS) to authorize a tribal facility, termed an "approved tribal treatment facility" in the draft, to conduct assessments and prepare driver safety plans if the tribal facility agrees to notify the county assessment agency of each case it receives and to execute the duties of a treatment facility under the IDP for those cases.

2. Allows a native offender to receive assessment services from a tribal facility.

3. Specifies that a tribal facility may both conduct assessments and provide treatment services under the IDP. (Current DHS rules regarding conflicts of interest prohibit this, in general.)

4. Expressly states in the statutes that traditional practices may be included in treatment plans.

5. Directs the department of transportation (DOT), at the request of an accredited tribal college, to certify the college as a traffic safety school program, if the college meets all of the requirements of such a program. This requirement applies to traffic safety schools related to any traffic violation.

6. Specifies that a county must remit to a tribal facility the county's share of any driver improvement surcharge paid by an OWI offender who receives treatment at the facility.

7. Specifies that a tribal facility is eligible for a supplemental grant from DHS in proportion to the number of OWI offenders who receive treatment at a facility of the tribe.

1 ^X
SECTION 1. 20.435 (5) (hy) of the statutes is amended to read:

2 20.435 (5) (hy) *Services for drivers, local assistance.* As a continuing
3 appropriation, the amounts in the schedule for ~~the purpose of grants to county~~
4 departments under s. 51.42 and to approved tribal treatment facilities, as defined in
5 s. 51.01 (2c), for drivers referred through assessment, to be allocated according to a
6 plan developed by the department of health services. All moneys transferred from
7 par. (hx) shall be credited to this appropriation.

NOTE: Specifies that tribal facilities are eligible for supplemental grants from the DHS.

8 ^X
SECTION 2. 46.03 (18) (f) of the statutes is amended to read:

9 46.03 (18) (f) Notwithstanding par. (a), any person who submits to an
10 assessment or airman or driver safety plan under s. 23.33 (13) (e), 30.80 (6) (d), 114.09
11 (2) (bm), 343.16 (5) (a), 343.30 (1q), 343.305 (10) or 350.11 (3) (d) shall pay a
12 reasonable fee therefor to the appropriate county department under s. 51.42,
13 approved tribal treatment facility, as defined in s. 51.01 (2c), or traffic safety school
14 under s. 345.60. A county may allow the person to pay the assessment fee in 1, 2, 3
15 or 4 equal installments. The fee for the airman or driver safety plan may be reduced

1 or waived if the person is unable to pay the complete fee, but no fee for assessment
2 or attendance at a traffic safety school under s. 345.60 may be reduced or waived.
3 Nonpayment of the assessment fee is noncompliance with the court order that
4 required completion of an assessment and airman or driver safety plan. Upon a
5 finding that the person has the ability to pay, nonpayment of the airman or driver
6 safety plan fee is noncompliance with the court order that required completion of an
7 assessment and airman or driver safety plan.

NOTE: Specifies that the offender pay the fee for assessment to a tribal facility, if
that is the facility that conducts the assessment.

8 **SECTION 3.** 51.01 (2c) of the statutes is created to read:

9 51.01 (2c) “Approved tribal treatment facility” means a treatment agency that
10 operates under the direction and control of a federally recognized American Indian
11 tribe or band in this state and meets the standards prescribed for approved
12 treatment facilities under s. 51.45 (8) (a) and is approved under s. 51.45 (8) (c).

13 **SECTION 4.** 51.45 (7) (h) of the statutes is created to read:

14 51.45 (7) (h) The department shall authorize approved tribal treatment
15 facilities to conduct assessments under s. 343.30 (1q) (c) and prepare driver safety
16 plans under s. 343.30 (1q) (d) if, with regard to each person for whom the approved
17 tribal treatment facility conducts an assessment under s. 343.30 (1q) (c), the
18 approved tribal treatment facility agrees in writing to do all of the following:

19 1. Notify the department of transportation and the county assessment agency
20 identified in the order under s. 343.30 (1q) (c) 1. that the approved tribal treatment
21 facility has conducted the assessment.

22 2. Execute all duties of an approved public treatment facility under s. 343.30
23 (1q) and rules promulgated under s. 343.30 (1q).

SECTION 5. 343.30 (1q) (c) 1. d. of the statutes is created to read:

343.30 (1q) (c) 1. d. Include a statement that, if the person is a member or the relative of a member of a federally recognized American Indian tribe or band, the person ^g ~~may~~ ^{to} receive the assessment required under this subdivision from an approved tribal treatment facility ^{as defined in s. 51.01(2c)}

authorize

NOTE: Allows an offender who is a tribal member or a relative of a tribal member the option of receiving assessment services from a tribal facility by requiring that the court order issued with an OWI conviction inform the offender of this option.

SECTION 6. 343.30 (1q) (c) 2. of the statutes is amended to read:

343.30 (1q) (c) 2. The department of health services shall establish standards for assessment procedures and the driver safety plan programs by rule. The department of health services shall establish by rule conflict of interest guidelines for providers. The conflict of interest guidelines ~~shall not~~ ^{may} preclude an approved tribal treatment facility ^{as defined in s. 51.02(2c)} from conducting assessments and providing treatment under this subsection.

SECTION 7. 343.30 (1q) (d) of the statutes is amended to read:

343.30 (1q) (d) 1. The assessment report shall order compliance with a driver safety plan. The report shall inform the person of the fee provisions under s. 46.03 (18) (f). The driver safety plan may include a component that makes the person aware of the effect of his or her offense on a victim and a victim's family. The driver safety plan may include treatment for the person's misuse, abuse or dependence on alcohol, controlled substances or controlled substance analogs, or attendance at a school under s. 345.60, or both. If the plan requires treatment at an approved tribal treatment facility, ^{as defined in s. 51.02(2c)} the plan may include traditional tribal treatment modes. If the plan requires inpatient treatment, the treatment shall not exceed 30 days. A driver

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1 safety plan under this paragraph shall include a termination date consistent with
2 the plan which shall not extend beyond one year.

3 2. The county department under s. 51.42 shall assure notification of the
4 department of transportation and the person of the person's compliance or
5 noncompliance with assessment and with treatment. The school under s. 345.60
6 shall notify the department, the county department under s. 51.42 and the person
7 of the person's compliance or noncompliance with the requirements of the school.
8 Nonpayment of the assessment fee or, if the person has the ability to pay,
9 nonpayment of the driver safety plan fee is noncompliance with the court order. If
10 the department is notified of any noncompliance, other than for nonpayment of the
11 assessment fee or driver safety plan fee, it shall revoke the person's operating
12 privilege until the county department under s. 51.42 or the school under s. 345.60
13 notifies the department that the person is in compliance with assessment or the
14 driver safety plan. If the department is notified that a person has not paid the
15 assessment fee, or that a person with the ability to pay has not paid the driver safety
16 plan fee, the department shall suspend the person's operating privilege for a period
17 of 2 years or until it receives notice that the person has paid the fee, whichever occurs
18 first.

19 3. The department shall notify the person of the suspension or revocation under
20 subd. 2., the reason for the suspension or revocation and the person's right to a
21 review. A person may request a review of a revocation based upon failure to comply
22 with a driver safety plan within 10 days of notification. The review shall be handled
23 by the subunit of the department of transportation designated by the secretary. The
24 issues at the review are limited to whether the driver safety plan, if challenged, is
25 appropriate and whether the person is in compliance with the assessment order or

1 the driver safety plan. The review shall be conducted within 10 days after a request
2 is received. If the driver safety plan is determined to be inappropriate, the
3 department shall order a reassessment and if the person is otherwise eligible, the
4 department shall reinstate the person's operating privilege. If the person is
5 determined to be in compliance with the assessment or driver safety plan, and if the
6 person is otherwise eligible, the department shall reinstate the person's operating
7 privilege. If there is no decision within the 10-day period, the department shall issue
8 an order reinstating the person's operating privilege until the review is completed,
9 unless the delay is at the request of the person seeking the review.

10 ^x
SECTION 8. 345.60 (1) of the statutes is amended to read:

11 345.60 (1) Except as provided in sub. (3) and s. 343.31 (2t) (b), in addition to
12 or in lieu of other penalties provided by law for violation of chs. 346 to 348, the trial
13 court may in its judgment of conviction order the convicted person to attend, for a
14 certain number of school days, a traffic safety school whose course and mode of
15 instruction is approved by the secretary and which is conducted by the police
16 department of the municipality, by the sheriff's office of the county, by an accredited
17 institution of higher education operated by a federally recognized American Indian
18 tribe or band in this state, or by any regularly established safety organization. The
19 trial court may not order a person to attend a traffic safety school under this
20 subsection if the department is required to order that the person attend a vehicle
21 right-of-way course under s. 343.31 (2t) (b).

22 ^v
SECTION 9. 346.655 (3) of the statutes is renumbered 346.655 (3) (a) and
23 amended to read:

24 346.655 (3) (a) All Except as provided in par. (b), all moneys collected from the
25 driver improvement surcharge that are transmitted to the county treasurer under

1 sub. (2) (a) or (b), except the amounts that the county treasurer is required to
2 transmit to the secretary of administration under sub. (2) (a) or (b), shall be retained
3 by the county treasurer and disbursed to the county department under s. 51.42 for
4 services under s. 51.42 for drivers referred through assessment.

5 SECTION 10. 346.655 (3) (b) of the statutes is created to read:

6 346.655 (3) (b) If a person receives treatment from an approved tribal
7 treatment facility, as defined in s. 51.01 (2c), in accordance with a driver safety plan
8 under s. 343.30 (1q) (d), the county treasurer shall transmit the amount described
9 in par. (a) to the facility for treatment services for drivers referred through
10 assessment.

NOTE: Specifies that the county share of the driver improvement surcharge must
be paid to a tribal treatment facility for each person it provides treatment to under a
driver safety plan; that is to say, specifies that "the funding follows the client".

11

(END)

person's improvement
collected from the driver improvement surcharge
except the amounts that the treasurer is required
to transmit to the secretary of administration ^{under}
Sub. (2) (a) or (b) ₍₂₎ ↗

DNote

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0794/P1ins
TJD:.....

1 INS 4-1

2

3

4 **SECTION 1.** 343.30 (1q) (c) 1. (intro.) of the statutes is amended to read:

5 343.30 (1q) (c) 1. (intro.) Except as provided in subd. 1. a. ~~or~~, b., or d., the court
6 shall order the person to submit to and comply with an assessment by an approved
7 public treatment facility as defined in s. 51.45 (2) (c) for examination of the person's
8 use of alcohol, controlled substances or controlled substance analogs and
9 development of a driver safety plan for the person. The court shall notify the
10 department of transportation of the assessment order. The court shall notify the
11 person that noncompliance with assessment or the driver safety plan will result in
12 revocation of the person's operating privilege until the person is in compliance. The
13 assessment order shall:

History: 1971 c. 213 s. 5; 1971 c. 278; 1973 c. 70, 218; 1975 c. 5; 1975 c. 184 s. 13; 1975 c. 199, 297, 421; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 30, 64, 193, 203; 1979 c. 221, 300, 331, 333, 355; 1981 c. 20; 1981 c. 79 s. 18; 1983 a. 17; 1983 a. 74 ss. 23m to 26, 32; 1983 a. 192; 1985 a. 80, 176, 337; 1987 a. 3, 17, 285; 1987 a. 332 s. 64; 1989 a. 7, 31, 105, 121, 336; 1991 a. 39, 251, 277, 316; 1993 a. 16, 227, 317; 1995 a. 27, 77, 269, 338, 401, 425, 448; 1997 a. 35, 84, 135, 237, 283; 1999 a. 32, 109, 143; 2001 a. 15, 16, 38; 2003 a. 30, 80; 2005 a. 277; 2005 a. 443 s. 265; 2005 a. 466; 2007 a. 20 ss. 3300, 9121 (6) (a); 2007 a. 134; 2009 a. 100, 102, 103, 402; 2011 a. 113, 173, 262.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0794/P1dn

TJD:/:.....

see

- date -

↓
EVM

ATTN: David Lovell

Please note, I have made the following changes to the Legislative Council version of this draft:

1. I have added a treatment of s. 343.30 (1q) (c) 1. (intro.) and changed the treatment of s. 343.30 (1q) (c) 1. d. to clarify that an assessment by an approved tribal treatment facility may satisfy s. 343.30 (1q) (c). If it is important to specify that information regarding the availability of assessment by a tribal treatment facility be provided, I can add another sentence to s. 343.30 (1q) (c) 1. d. stating that this information shall be provided in an assessment order.
2. In s. 343.30 (1q) (c) 1. d. and 2. and (d)1., I added "as defined in s. 51.02 (2c)" after "approved tribal treatment facility."
3. In s. 346.655 (3) (b), I clarified the amount under s. 346.655 (3) (a) that is to be transmitted to an approved tribal treatment facility.

Also, is there a requirement that a tribal treatment facility report a person's compliance with assessment and treatment to a county. If not, driver safety plans from tribal treatment facilities may not be enforceable in the same manner as other driver safety plans under s. 343.30 (1q).

Do you want to permit assessment and treatment at tribal treatment facilities in situations involving intoxicated use of snowmobiles or ATVs?

Do you want to include an initial applicability provision?

Please let me know if you would like any changes made to the attached draft or if you have any questions.

Eric V. Mueller
Legislative Attorney
Phone: (608) 261-7032
E-mail: eric.mueller@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0794/P1dn
EVM:sac:ph

January 14, 2013

ATTN: David Lovell

Please note, I have made the following changes to the Legislative Council version of this draft:

1. I have added a treatment of s. 343.30 (1q) (c) 1. (intro.) and changed the treatment of s. 343.30 (1q) (c) 1. d. to clarify that an assessment by an approved tribal treatment facility may satisfy s. 343.30 (1q) (c). If it is important to specify that information regarding the availability of assessment by a tribal treatment facility be provided, I can add another sentence to s. 343.30 (1q) (c) 1. d. stating that this information shall be provided in an assessment order.
2. In s. 343.30 (1q) (c) 1. d. and 2. and (d)1., I added "as defined in s. 51.02 (2c)" after "approved tribal treatment facility."
3. In s. 346.655 (3) (b), I clarified the amount under s. 346.655 (3) (a) that is to be transmitted to an approved tribal treatment facility.

Also, is there a requirement that a tribal treatment facility report a person's compliance with assessment and treatment to a county. If not, driver safety plans from tribal treatment facilities may not be enforceable in the same manner as other driver safety plans under s. 343.30 (1q).

Do you want to permit assessment and treatment at tribal treatment facilities in situations involving intoxicated use of snowmobiles or ATVs?

Do you want to include an initial applicability provision?

Please let me know if you would like any changes made to the attached draft or if you have any questions.

Eric V. Mueller
Legislative Attorney
Phone: (608) 261-7032
E-mail: eric.mueller@legis.wisconsin.gov

1/15 David Lowell

re DNote

#1

Need to change s. 343.30 (c) i.d. back.

Do not want ct. inquiry into N.A. status

- self ID, opt-in

H 2

OK

3

OK

- tribal facility reporting is adequate as is

- no treatment of snowmob. or ATF

~~#~~

- Add unit app - orders issued on eff date



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0794/PT
TJD&EVM:sac:ph

1/12
e

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMR

INSERT

In 1/17/13

By 2/11

gen cat

1 AN ACT *to renumber and amend* 346.655 (3); *to amend* 20.435 (5) (hy), 46.03
2 (18) (f), 343.30 (1q) (c) 1. (intro.), 343.30 (1q) (c) 2., 343.30 (1q) (d) and 345.60
3 (1); and *to create* 51.01 (2c), 51.45 (7) (h), 343.30 (1q) (c) 1. d. and 346.655 (3)
4 (b) of the statutes; **relating to:** tribal treatment facility participation in the
5 intoxicated driver program.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the Joint Legislative Council's Special Committee on State-Tribal Relations.

The intoxicated driver program (IDP) is designed to provide education or treatment to persons convicted of operating a motor vehicle while intoxicated, with the intent of reducing recidivism. In brief, upon conviction, the court orders the offender to be assessed by an agency operated or contracted by the county for this purpose. Based

on the results of the assessment, the offender is referred either to an educational program or to an approved public treatment facility. The plan for an individual's treatment at an approved public treatment facility is termed a "driver safety plan".

This draft does all of the following:

1. Directs the department of health services (DHS) to authorize a tribal facility, termed an "approved tribal treatment facility" in the draft, to conduct assessments and prepare driver safety plans if the tribal facility agrees to notify the county assessment agency of each case it receives and to execute the duties of a treatment facility under the IDP for those cases.

2. Allows a native offender to receive assessment services from a tribal facility.

3. Specifies that a tribal facility may both conduct assessments and provide treatment services under the IDP. (Current DHS rules regarding conflicts of interest prohibit this, in general.)

4. Expressly states in the statutes that traditional practices may be included in treatment plans.

5. Directs the department of transportation (DOT), at the request of an accredited tribal college, to certify the college as a traffic safety school program, if the college meets all of the requirements of such a program. This requirement applies to traffic safety schools related to any traffic violation.

6. Specifies that a county must remit to a tribal facility the county's share of any driver improvement surcharge paid by an OWI offender who receives treatment at the facility.

7. Specifies that a tribal facility is eligible for a supplemental grant from DHS in proportion to the number of OWI offenders who receive treatment at a facility of the tribe.

1 **SECTION 1.** 20.435 (5) (hy) of the statutes is amended to read:

2 20.435 (5) (hy) *Services for drivers, local assistance.* As a continuing
3 appropriation, the amounts in the schedule for ~~the purpose of grants to county~~
4 departments under s. 51.42 and to approved tribal treatment facilities, as defined in
5 s. 51.01 (2c), for drivers referred through assessment, to be allocated according to a
6 plan developed by the department of health services. All moneys transferred from
7 par. (hx) shall be credited to this appropriation.

NOTE: Specifies that tribal facilities are eligible for supplemental grants from the DHS.

8 **SECTION 2.** 46.03 (18) (f) of the statutes is amended to read:

9 46.03 (18) (f) Notwithstanding par. (a), any person who submits to an
10 assessment or airman or driver safety plan under s. 23.33 (13) (e), 30.80 (6) (d), 114.09
11 (2) (bm), 343.16 (5) (a), 343.30 (1q), 343.305 (10) or 350.11 (3) (d) shall pay a

1 reasonable fee therefor to the appropriate county department under s. 51.42,
2 approved tribal treatment facility, as defined in s. 51.01 (2c), or traffic safety school
3 under s. 345.60. A county may allow the person to pay the assessment fee in 1, 2, 3
4 or 4 equal installments. The fee for the airman or driver safety plan may be reduced
5 or waived if the person is unable to pay the complete fee, but no fee for assessment
6 or attendance at a traffic safety school under s. 345.60 may be reduced or waived.
7 Nonpayment of the assessment fee is noncompliance with the court order that
8 required completion of an assessment and airman or driver safety plan. Upon a
9 finding that the person has the ability to pay, nonpayment of the airman or driver
10 safety plan fee is noncompliance with the court order that required completion of an
11 assessment and airman or driver safety plan.

NOTE: Specifies that the offender pay the fee for assessment to a tribal facility, if
that is the facility that conducts the assessment.

12 **SECTION 3.** 51.01 (2c) of the statutes is created to read:

13 51.01 (2c) “Approved tribal treatment facility” means a treatment agency that
14 operates under the direction and control of a federally recognized American Indian
15 tribe or band in this state and meets the standards prescribed for approved
16 treatment facilities under s. 51.45 (8) (a) and is approved under s. 51.45 (8) (c).

17 **SECTION 4.** 51.45 (7) (h) of the statutes is created to read:

18 51.45 (7) (h) The department shall authorize approved tribal treatment
19 facilities to conduct assessments under s. 343.30 (1q) (c) and prepare driver safety
20 plans under s. 343.30 (1q) (d) if, with regard to each person for whom the approved
21 tribal treatment facility conducts an assessment under s. 343.30 (1q) (c), the
22 approved tribal treatment facility agrees in writing to do all of the following:

1 1. Notify the department of transportation and the county assessment agency
2 identified in the order under s. 343.30 (1q) (c) 1. that the approved tribal treatment
3 facility has conducted the assessment.

4 2. Execute all duties of an approved public treatment facility under s. 343.30
5 (1q) and rules promulgated under s. 343.30 (1q).

6 **SECTION 5.** 343.30 (1q) (c) 1. (intro.) of the statutes is amended to read:

7 343.30 (1q) (c) 1. (intro.) Except as provided in subd. 1. a. ~~or~~, b., or d., the court
8 shall order the person to submit to and comply with an assessment by an approved
9 public treatment facility as defined in s. 51.45 (2) (c) for examination of the person's
10 use of alcohol, controlled substances or controlled substance analogs and
11 development of a driver safety plan for the person. The court shall notify the
12 department of transportation of the assessment order. The court shall notify the
13 person that noncompliance with assessment or the driver safety plan will result in
14 revocation of the person's operating privilege until the person is in compliance. The
15 assessment order shall:

16 **SECTION 6.** 343.30 (1q) (c) 1. d. of the statutes is created to read:

17 343.30 (1q) (c) 1. d. ~~If~~ ^{include a statement that if} the person is a member or the relative of a member of a
18 federally recognized American Indian tribe or band, authorize the person ^{may} ~~to~~ receive
19 the assessment required under this subdivision from an approved tribal treatment
20 facility as defined in s. 51.01 (2c).

NOTE: Allows an offender who is a tribal member or a relative of a tribal member the option of receiving assessment services from a tribal facility by requiring that the court order issued with an OWI conviction inform the offender of this option.

21 **SECTION 7.** 343.30 (1q) (c) 2. of the statutes is amended to read:

22 343.30 (1q) (c) 2. The department of health services shall establish standards
23 for assessment procedures and the driver safety plan programs by rule. The

1 department of health services shall establish by rule conflict of interest guidelines
2 for providers. The conflict of interest guidelines may not preclude an approved tribal
3 treatment facility, as defined in s. 51.02 (2c), from conducting assessments and
4 providing treatment under this subsection.

5 **SECTION 8.** 343.30 (1q) (d) of the statutes is amended to read:

6 343.30 (1q) (d) 1. The assessment report shall order compliance with a driver
7 safety plan. The report shall inform the person of the fee provisions under s. 46.03
8 (18) (f). The driver safety plan may include a component that makes the person
9 aware of the effect of his or her offense on a victim and a victim's family. The driver
10 safety plan may include treatment for the person's misuse, abuse or dependence on
11 alcohol, controlled substances or controlled substance analogs, or attendance at a
12 school under s. 345.60, or both. If the plan requires treatment at an approved tribal
13 treatment facility, as defined in s. 51.02 (2c), the plan may include traditional tribal
14 treatment modes. If the plan requires inpatient treatment, the treatment shall not
15 exceed 30 days. A driver safety plan under this paragraph shall include a
16 termination date consistent with the plan which shall not extend beyond one year.

17 2. The county department under s. 51.42 shall assure notification of the
18 department of transportation and the person of the person's compliance or
19 noncompliance with assessment and with treatment. The school under s. 345.60
20 shall notify the department, the county department under s. 51.42, and the person
21 of the person's compliance or noncompliance with the requirements of the school.
22 Nonpayment of the assessment fee or, if the person has the ability to pay,
23 nonpayment of the driver safety plan fee is noncompliance with the court order. If
24 the department is notified of any noncompliance, other than for nonpayment of the
25 assessment fee or driver safety plan fee, it shall revoke the person's operating

1 privilege until the county department under s. 51.42 or the school under s. 345.60
2 notifies the department that the person is in compliance with assessment or the
3 driver safety plan. If the department is notified that a person has not paid the
4 assessment fee, or that a person with the ability to pay has not paid the driver safety
5 plan fee, the department shall suspend the person's operating privilege for a period
6 of 2 years or until it receives notice that the person has paid the fee, whichever occurs
7 first.

8 3. The department shall notify the person of the suspension or revocation under
9 subd. 2., the reason for the suspension or revocation and the person's right to a
10 review. A person may request a review of a revocation based upon failure to comply
11 with a driver safety plan within 10 days of notification. The review shall be handled
12 by the subunit of the department of transportation designated by the secretary. The
13 issues at the review are limited to whether the driver safety plan, if challenged, is
14 appropriate and whether the person is in compliance with the assessment order or
15 the driver safety plan. The review shall be conducted within 10 days after a request
16 is received. If the driver safety plan is determined to be inappropriate, the
17 department shall order a reassessment and, if the person is otherwise eligible, the
18 department shall reinstate the person's operating privilege. If the person is
19 determined to be in compliance with the assessment or driver safety plan, and if the
20 person is otherwise eligible, the department shall reinstate the person's operating
21 privilege. If there is no decision within the 10-day period, the department shall issue
22 an order reinstating the person's operating privilege until the review is completed,
23 unless the delay is at the request of the person seeking the review.

24 **SECTION 9.** 345.60 (1) of the statutes is amended to read:

1 345.60 (1) Except as provided in sub. (3) and s. 343.31 (2t) (b), in addition to
2 or in lieu of other penalties provided by law for violation of chs. 346 to 348, the trial
3 court may in its judgment of conviction order the convicted person to attend, for a
4 certain number of school days, a traffic safety school whose course and mode of
5 instruction is approved by the secretary and which is conducted by the police
6 department of the municipality, by the sheriff's office of the county, by an accredited
7 institution of higher education operated by a federally recognized American Indian
8 tribe or band in this state, or by any regularly established safety organization. The
9 trial court may not order a person to attend a traffic safety school under this
10 subsection if the department is required to order that the person attend a vehicle
11 right-of-way course under s. 343.31 (2t) (b).

12 **SECTION 10.** 346.655 (3) of the statutes is renumbered 346.655 (3) (a) and
13 amended to read:

14 346.655 (3) (a) ~~All~~ Except as provided in par. (b), all moneys collected from the
15 driver improvement surcharge that are transmitted to the county treasurer under
16 sub. (2) (a) or (b), except the amounts that the county treasurer is required to
17 transmit to the secretary of administration under sub. (2) (a) or (b), shall be retained
18 by the county treasurer and disbursed to the county department under s. 51.42 for
19 services under s. 51.42 for drivers referred through assessment.

20 **SECTION 11.** 346.655 (3) (b) of the statutes is created to read:

21 346.655 (3) (b) If a person receives treatment from an approved tribal
22 treatment facility, as defined in s. 51.01 (2c), in accordance with a driver safety plan
23 under s. 343.30 (1q) (d), the county treasurer shall transmit the amount collected
24 from the person's driver improvement surcharge except the amounts that the

- 1 treasurer is required to transmit to the secretary of administration under sub. (2) (a)
- 2 or (b), to the facility for treatment services for drivers referred through assessment.

NOTE: Specifies that the county share of the driver improvement surcharge must be paid to a tribal treatment facility for each person it provides treatment to under a driver safety plan; that is to say, specifies that "the funding follows the client".

(END)

3
INS
8-3

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0794/P2ins
TJD&EVM:sac:ph

1 INS 8-3

2

3 **SECTION 1. Initial applicability.**

4 (1) This act first applies to an assessment order issued on the effective date of
5 this subsection.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0794/P2
TJD&EVM:sac:jf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMR

Change to
Leg. Council
Note only

In 1/29/13

By Fri
2/1

W Regen

1 AN ACT *to renumber and amend* 346.655 (3); *to amend* 20.435 (5) (hy), 46.03
2 (18) (f), 343.30 (1q) (c) 1. (intro.), 343.30 (1q) (c) 2., 343.30 (1q) (d) and 345.60
3 (1); and *to create* 51.01 (2c), 51.45 (7) (h), 343.30 (1q) (c) 1. d. and 346.655 (3)
4 (b) of the statutes; **relating to:** tribal treatment facility participation in the
5 intoxicated driver program.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

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

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This draft does all of the following:

1. Directs the department of health services (DHS) to authorize a tribal facility, termed an "approved tribal treatment facility" in the draft, to conduct assessments and prepare driver safety plans if the tribal facility agrees to notify the county assessment agency of each case it receives and to execute the duties of a treatment facility under the IDP for those cases.

2. Allows ~~a native~~ ^{an} offender ^{who is a tribal member or a relative of a tribal member} to receive assessment services from a tribal facility.

3. Specifies that a tribal facility may both conduct assessments and provide treatment services under the IDP. (Current DHS rules regarding conflicts of interest prohibit this, in general.)

4. Expressly states in the statutes that traditional practices may be included in treatment plans.

5. Directs the department of transportation (DOT), at the request of an accredited tribal college, to certify the college as a traffic safety school program, if the college meets all of the requirements of such a program. This requirement applies to traffic safety schools related to any traffic violation.

6. Specifies that a county must remit to a tribal facility the county's share of any driver improvement surcharge paid by an OWI offender who receives treatment at the facility.

7. Specifies that a tribal facility is eligible for a supplemental grant from DHS in proportion to the number of OWI offenders who receive treatment at a facility of the tribe.

1 SECTION 1. 20.435 (5) (hy) of the statutes is amended to read:

2 20.435 (5) (hy) *Services for drivers, local assistance.* As a continuing
3 appropriation, the amounts in the schedule for ~~the purpose of grants to county~~
4 departments under s. 51.42 and to approved tribal treatment facilities, as defined in
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6 plan developed by the department of health services. All moneys transferred from
7 par. (hx) shall be credited to this appropriation.

NOTE: Specifies that tribal facilities are eligible for supplemental grants from the DHS.

8 SECTION 2. 46.03 (18) (f) of the statutes is amended to read:

9 46.03 (18) (f) Notwithstanding par. (a), any person who submits to an
10 assessment or airman or driver safety plan under s. 23.33 (13) (e), 30.80 (6) (d), 114.09
11 (2) (bm), 343.16 (5) (a), 343.30 (1q), 343.305 (10) or 350.11 (3) (d) shall pay a

1 reasonable fee therefor to the appropriate county department under s. 51.42,
2 approved tribal treatment facility, as defined in s. 51.01 (2c), or traffic safety school
3 under s. 345.60. A county may allow the person to pay the assessment fee in 1, 2, 3
4 or 4 equal installments. The fee for the airman or driver safety plan may be reduced
5 or waived if the person is unable to pay the complete fee, but no fee for assessment
6 or attendance at a traffic safety school under s. 345.60 may be reduced or waived.
7 Nonpayment of the assessment fee is noncompliance with the court order that
8 required completion of an assessment and airman or driver safety plan. Upon a
9 finding that the person has the ability to pay, nonpayment of the airman or driver
10 safety plan fee is noncompliance with the court order that required completion of an
11 assessment and airman or driver safety plan.

NOTE: Specifies that the offender pay the fee for assessment to a tribal facility, if
that is the facility that conducts the assessment.

12 **SECTION 3.** 51.01 (2c) of the statutes is created to read:

13 51.01 (2c) “Approved tribal treatment facility” means a treatment agency that
14 operates under the direction and control of a federally recognized American Indian
15 tribe or band in this state and meets the standards prescribed for approved
16 treatment facilities under s. 51.45 (8) (a) and is approved under s. 51.45 (8) (c).

17 **SECTION 4.** 51.45 (7) (h) of the statutes is created to read:

18 51.45 (7) (h) The department shall authorize approved tribal treatment
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20 plans under s. 343.30 (1q) (d) if, with regard to each person for whom the approved
21 tribal treatment facility conducts an assessment under s. 343.30 (1q) (c), the
22 approved tribal treatment facility agrees in writing to do all of the following:

SECTION 4

1 1. Notify the department of transportation and the county assessment agency
2 identified in the order under s. 343.30 (1q) (c) 1. that the approved tribal treatment
3 facility has conducted the assessment.

4 2. Execute all duties of an approved public treatment facility under s. 343.30
5 (1q) and rules promulgated under s. 343.30 (1q).

6 **SECTION 5.** 343.30 (1q) (c) 1. (intro.) of the statutes is amended to read:

7 343.30 (1q) (c) 1. (intro.) Except as provided in subd. 1. a. ~~or~~, b., or d., the court
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10 use of alcohol, controlled substances or controlled substance analogs and
11 development of a driver safety plan for the person. The court shall notify the
12 department of transportation of the assessment order. The court shall notify the
13 person that noncompliance with assessment or the driver safety plan will result in
14 revocation of the person's operating privilege until the person is in compliance. The
15 assessment order shall:

16 **SECTION 6.** 343.30 (1q) (c) 1. d. of the statutes is created to read:

17 343.30 (1q) (c) 1. d. Include a statement that if the person is a member or the
18 relative of a member of a federally recognized American Indian tribe or band, the
19 person may receive the assessment required under this subdivision from an
20 approved tribal treatment facility as defined in s. 51.01 (2c).

NOTE: Allows an offender who is a tribal member or a relative of a tribal member
the option of receiving assessment services from a tribal facility by requiring that the
court order issued with an OWI conviction inform the offender of this option.

21 **SECTION 7.** 343.30 (1q) (c) 2. of the statutes is amended to read:

22 343.30 (1q) (c) 2. The department of health services shall establish standards
23 for assessment procedures and the driver safety plan programs by rule. The

1 department of health services shall establish by rule conflict of interest guidelines
2 for providers. The conflict of interest guidelines may not preclude an approved tribal
3 treatment facility, as defined in s. 51.02 (2c), from conducting assessments and
4 providing treatment under this subsection.

5 **SECTION 8.** 343.30 (1q) (d) of the statutes is amended to read:

6 343.30 (1q) (d) 1. The assessment report shall order compliance with a driver
7 safety plan. The report shall inform the person of the fee provisions under s. 46.03
8 (18) (f). The driver safety plan may include a component that makes the person
9 aware of the effect of his or her offense on a victim and a victim's family. The driver
10 safety plan may include treatment for the person's misuse, abuse or dependence on
11 alcohol, controlled substances or controlled substance analogs, or attendance at a
12 school under s. 345.60, or both. If the plan requires treatment at an approved tribal
13 treatment facility, as defined in s. 51.02 (2c), the plan may include traditional tribal
14 treatment modes. If the plan requires inpatient treatment, the treatment shall not
15 exceed 30 days. A driver safety plan under this paragraph shall include a
16 termination date consistent with the plan which shall not extend beyond one year.

17 2. The county department under s. 51.42 shall assure notification of the
18 department of transportation and the person of the person's compliance or
19 noncompliance with assessment and with treatment. The school under s. 345.60
20 shall notify the department, the county department under s. 51.42, and the person
21 of the person's compliance or noncompliance with the requirements of the school.
22 Nonpayment of the assessment fee or, if the person has the ability to pay,
23 nonpayment of the driver safety plan fee is noncompliance with the court order. If
24 the department is notified of any noncompliance, other than for nonpayment of the
25 assessment fee or driver safety plan fee, it shall revoke the person's operating

1 privilege until the county department under s. 51.42 or the school under s. 345.60
2 notifies the department that the person is in compliance with assessment or the
3 driver safety plan. If the department is notified that a person has not paid the
4 assessment fee, or that a person with the ability to pay has not paid the driver safety
5 plan fee, the department shall suspend the person's operating privilege for a period
6 of 2 years or until it receives notice that the person has paid the fee, whichever occurs
7 first.

8 3. The department shall notify the person of the suspension or revocation under
9 subd. 2., the reason for the suspension or revocation and the person's right to a
10 review. A person may request a review of a revocation based upon failure to comply
11 with a driver safety plan within 10 days of notification. The review shall be handled
12 by the subunit of the department of transportation designated by the secretary. The
13 issues at the review are limited to whether the driver safety plan, if challenged, is
14 appropriate and whether the person is in compliance with the assessment order or
15 the driver safety plan. The review shall be conducted within 10 days after a request
16 is received. If the driver safety plan is determined to be inappropriate, the
17 department shall order a reassessment and, if the person is otherwise eligible, the
18 department shall reinstate the person's operating privilege. If the person is
19 determined to be in compliance with the assessment or driver safety plan, and if the
20 person is otherwise eligible, the department shall reinstate the person's operating
21 privilege. If there is no decision within the 10-day period, the department shall issue
22 an order reinstating the person's operating privilege until the review is completed,
23 unless the delay is at the request of the person seeking the review.

24 **SECTION 9.** 345.60 (1) of the statutes is amended to read:

1 345.60 (1) Except as provided in sub. (3) and s. 343.31 (2t) (b), in addition to
2 or in lieu of other penalties provided by law for violation of chs. 346 to 348, the trial
3 court may in its judgment of conviction order the convicted person to attend, for a
4 certain number of school days, a traffic safety school whose course and mode of
5 instruction is approved by the secretary and which is conducted by the police
6 department of the municipality, by the sheriff's office of the county, by an accredited
7 institution of higher education operated by a federally recognized American Indian
8 tribe or band in this state, or by any regularly established safety organization. The
9 trial court may not order a person to attend a traffic safety school under this
10 subsection if the department is required to order that the person attend a vehicle
11 right-of-way course under s. 343.31 (2t) (b).

12 **SECTION 10.** 346.655 (3) of the statutes is renumbered 346.655 (3) (a) and
13 amended to read:

14 346.655 (3) (a) All Except as provided in par. (b), all moneys collected from the
15 driver improvement surcharge that are transmitted to the county treasurer under
16 sub. (2) (a) or (b), except the amounts that the county treasurer is required to
17 transmit to the secretary of administration under sub. (2) (a) or (b), shall be retained
18 by the county treasurer and disbursed to the county department under s. 51.42 for
19 services under s. 51.42 for drivers referred through assessment.

20 **SECTION 11.** 346.655 (3) (b) of the statutes is created to read:

21 346.655 (3) (b) If a person receives treatment from an approved tribal
22 treatment facility, as defined in s. 51.01 (2c), in accordance with a driver safety plan
23 under s. 343.30 (1q) (d), the county treasurer shall transmit the amount collected
24 from the person's driver improvement surcharge except the amounts that the

1 treasurer is required to transmit to the secretary of administration under sub. (2) (a)
2 or (b), to the facility for treatment services for drivers referred through assessment.

NOTE: Specifies that the county share of the driver improvement surcharge must be paid to a tribal treatment facility for each person it provides treatment to under a driver safety plan; that is to say, specifies that "the funding follows the client".

3 **SECTION 12. Initial applicability.**

4 (1) This act first applies to an assessment order issued on the effective date of
5 this subsection.

6 (END)

Rose, Stefanie

From: Lovell, David
Sent: Wednesday, February 13, 2013 2:03 PM
To: lrb.legal@legis.wisconsin.gov
Subject: Draft Review: LRB -0794/1 Topic: Tribal facility participation in the intoxicated driver program

Please Jacket LRB -0794/1 for the ASSEMBLY.