

2017 DRAFTING REQUEST

Bill

For: **Peter Barca (608) 266-5504** Drafter: **zwyatt**
 By: **Matt** Secondary Drafters: **mjohns**
 Date: **2/22/2017** May Contact:
 Same as LRB:

Submit via email: **YES**
 Requester's email: **Rep.Barca@legis.wisconsin.gov**
 Carbon copy (CC) to: **zachary.wyatt@legis.wisconsin.gov**
eric.mueller@legis.wisconsin.gov
Melinda.Johns@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Treatment alternative sentencing for drunken driving and certain controlled substance offenses.

Instructions:

Redraft SB 786 (15-4801/1).

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mjohns 3/6/2017	eweiss 3/7/2017			
/P1			lparisi 3/7/2017		State S&L
/1				lparisi 3/5/2018	State S&L

FE Sent For:

*at
intro*

<END>

Wyatt, Zachary

From: Egerer, Matt
Sent: Wednesday, February 22, 2017 2:06 PM
To: Wyatt, Zachary
Subject: RE: Barca Redrafts

No, thank you.

From: Wyatt, Zachary
Sent: Wednesday, February 22, 2017 2:05 PM
To: Egerer, Matt <Matt.Egerer@legis.wisconsin.gov>
Subject: RE: Barca Redrafts

And do you still want this draft to apply to 4th OWI, now that that's a felony?

From: Egerer, Matt
Sent: Wednesday, February 22, 2017 1:50 PM
To: Wyatt, Zachary <Zachary.Wyatt@legis.wisconsin.gov>
Subject: RE: Barca Redrafts

Thanks for the question. Please use July 1, 2018.

From: Wyatt, Zachary
Sent: Wednesday, February 22, 2017 10:08 AM
To: Egerer, Matt <Matt.Egerer@legis.wisconsin.gov>
Subject: FW: Barca Redrafts

Matt,

I will be handling SB 786 (Naltrexone). The 2015-16 bill has an effective date of July 1, 2017. What would you like the effective date of this version to be?

Thanks,
Zachary D. Wyatt
Legislative Attorney
Wisconsin Legislative Reference Bureau
zachary.wyatt@legis.wisconsin.gov
608.267.3362

The information contained in this communication may be confidential and protected by the attorney-client privilege.

Wyatt, Zachary

From: Farrar, Andrew
Sent: Friday, February 24, 2017 1:19 PM
To: Wyatt, Zachary
Cc: Egerer, Matt
Subject: Barca Redraft Update (2015 SB 786)

Zach,

My name is Andrew Farrar and I am a staffer in Rep. Peter Barca's office. Peter wanted to make an addition to Matt Egerer in our office's request for a redraft of 2015 SB 786 regarding alternative sentencing for certain OWI offenses:

Specifically, we would like to add that violation of s. 961.573, for the possession of drug paraphernalia, s. 961.41 (3g), for the possession of a controlled substance or a controlled substance analog, and s. 346.63, operating under the influence of an intoxicant or other drug, be added as violations for which a court may alternatively sentence a person under the alternative sentencing option created in this bill.

Let me know if you have any questions or need any further information from me.

Thank you,

Andrew Farrar

*Office of Rep. Peter Barca
64th Assembly District*

(608) 266-5504

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INSERT

~~2015 SENATE BILL 786~~

March 10, 2016 - Introduced by Senator VINEHOUT, cosponsored by Representatives BARCA, SPREITZER, CONSIDINE, BERCEAU, ZAMARRIPA and KAHL. Referred to Committee on Judiciary and Public Safety.

S.A. //
Kreg ✓
PWF ✓

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

and controlled substance
e.g. criminal penalty

INS A

Analysis by the Legislative Reference Bureau

This bill provides sentencing alternatives for persons who commit certain second, third, or fourth offenses related to operating a motor vehicle while intoxicated. Under the bill, a court may sentence a person who commits his or her second, third, or fourth OWI-related offense to probation with a reduced minimum period of confinement in prison if, as a condition of probation, the court requires the person to take a therapeutically indicated dose of the drug naltrexone or to follow a nonpharmacological treatment plan.

Under current law, with certain exceptions, a person who commits a second 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 45 days nor more than one year. A person who commits a fourth OWI-related offense more than five years after

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his or her most recent previous 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.

A person who operates a commercial motor vehicle with a prohibited alcohol concentration is subject, for a second offense, to a fine of not less than \$300 nor more than \$1,000 and imprisonment for not less than five days nor more than six months. For a third or subsequent offense, a person who operates a commercial motor vehicle with a prohibited alcohol concentration is subject to a fine of not less than \$600 nor more than \$2,000 and imprisonment for not less than 45 days nor more than one year.

Under the bill, if a court sentences a person to probation and requires the person to take a therapeutically indicated dose of the drug naltrexone or follow a nonpharmacological treatment plan, the person is subject to the same fine but his or her period of imprisonment is reduced if he or she successfully completes probation.

For a person who commits a second OWI-related offense or a second offense related to operating a commercial vehicle with a prohibited alcohol concentration, the period of imprisonment is five to seven days. For a person who commits a third OWI-related offense or a third offense related to operating a commercial vehicle with a prohibited alcohol concentration, the period of imprisonment is not less than 14 days. For a person who commits a fourth OWI-related offense or a fourth offense related to operating a commercial vehicle with a prohibited alcohol concentration more than five years after his or her most recent previous OWI-related offense, the period of imprisonment is not less than 29 days.

Under the bill, a person may not be sentenced under this alternative sentencing or under another sentencing alternative for OWI-related offenses more than once in his or her lifetime.

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:

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

SENATE BILL 786

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

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

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

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

12 346.65 (2) (am) 4. Except as provided in subd. 4m. and pars. (dm), (dr), (f), and
13 (g), shall be fined not less than \$600 nor more than \$2,000 and imprisoned for not
14 less than 60 days nor more than one year in the county jail if the number of
15 convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total
16 number of suspensions, revocations, and other convictions counted under s. 343.307
17 (1), equals 4, except that suspensions, revocations, or convictions arising out of the
18 same incident or occurrence shall be counted as one.

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

20 346.65 (2) (bm) In any county that opts to offer a reduced minimum period of
21 imprisonment for the successful completion of a probation period that includes
22 alcohol and other drug treatment, if the number of convictions under ss. 940.09 (1)
23 and 940.25 in the person's lifetime, plus the total number of suspensions,
24 revocations, and other convictions counted under s. 343.307 (1) within a 10-year
25 period, equals 2, except that suspensions, revocations, or convictions arising out of

SENATE BILL 786**SECTION 4**

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

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

8 346.65 (2) (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 fine shall be the same as under par. (am) 2.,
13 but the period of imprisonment shall be not less than 5 days, except that the period
14 of imprisonment shall be not less than 5 nor more than 7 days if the court places the
15 person on probation under s. 973.09 and the conditions of probation require the
16 person to do at least one of the following:

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

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

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

SENATE BILL 786**SECTION 6**

1 346.65 (2) (cm) 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 3, except that
6 suspensions, revocations, or convictions arising out of the same incident or
7 occurrence shall be counted as one, the fine shall be the same as under par. (am) 3.,
8 but the period of imprisonment shall be not less than 45 days, except that if the
9 person successfully completes a period of probation that includes alcohol and other
10 drug treatment, the period of imprisonment shall be not less than 14 days. ~~A person~~
11 ~~may be sentenced under this paragraph or under par. (bm) or (dm) or sub. (2j) (bm),~~
12 ~~(em), or (cr) or (3r) once in his or her lifetime.~~

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

14 346.65 (2) (cr) 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 3, except that suspensions,
17 revocations, or convictions arising out of the same incident or occurrence shall be
18 counted as one, the fine shall be the same as under par. (am) 3., but the period of
19 imprisonment shall be not less than 45 days, except that the period of imprisonment
20 shall be not less than 14 days if the court places the person on probation under s.
21 973.09 and the conditions of probation require the person to do at least one of the
22 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

SENATE BILL 786**SECTION 7**

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 8.** 346.65 (2) (dm) of the statutes is amended to read:

7 ~~346.65 (2) (dm) 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 4, and par.
 12 (am) 4m. does not apply, except that suspensions, revocations, or convictions arising
 13 out of the same incident or occurrence shall be counted as one, the fine shall be the
 14 same as under par. (am) 4., but the period of imprisonment shall be not less than 60
 15 days, except that if the person successfully completes a period of probation that
 16 includes alcohol and other drug treatment, the period of imprisonment shall be not
 17 less than 29 days. ~~A person may be sentenced under this paragraph or under par.
 18 (bm) or (cm) or sub. (2j) (bm), (cm), or (cr) or (3r) once in his or her lifetime.~~~~

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

20 ~~346.65 (2) (dr) 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 4, and par. (am) 4m. does not apply,
 23 except that suspensions, revocations, or convictions arising out of the same incident
 24 or occurrence shall be counted as one, the fine shall be the same as under par. (am)
 25 4., but the period of imprisonment shall be not less than 60 days, except that the~~

SENATE BILL 786

SECTION 9

1 period of imprisonment shall be not less than 29 days if the court places the person
2 on probation under s. 973.09 and the conditions of probation require the person to
3 do at least one of the 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 10. 346.65 (2j) (am) 2. of the statutes is amended to read:

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

19 SECTION 11. 346.65 (2j) (am) 3. of the statutes is amended to read:

20 346.65 (2j) (am) 3. Except as provided in pars. (cm), (cp), (cr), (cu) and (d), shall
21 be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than
22 45 days nor more than one year in the county jail if the number of convictions under
23 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
24 convictions, suspensions, and revocations counted under s. 343.307 (2), equals 3 or
25 more.

SENATE BILL 786**SECTION 12**

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

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

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

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

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

SENATE BILL 786

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 14.** 346.65 (2j) (cm) of the statutes is amended to read:

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

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

21 346.65 (2j) (cp) If the number of convictions under ss. 940.09 (1) and 940.25 in
22 the person's lifetime, plus the total number of suspensions, revocations, and other
23 convictions counted under s. 343.307 (1) equals 3, except that suspensions,
24 revocations, or convictions arising out of the same incident or occurrence shall be
25 counted as one, the fine shall be the same as under par. (am) 3., but the period of

SENATE BILL 786

SECTION 15

1 imprisonment shall be not less than 45 days, except that the period of imprisonment
2 shall be not less than 14 days if the court places the person on probation under s.
3 973.09 and the conditions of probation require the person to do at least one of the
4 following:

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

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

13 SECTION 16. 346.65 (2j) (cr) of the statutes is amended to read:

NS 10-14

14 346.65 (2j) (cr) 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 sub. (2)
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) 3., 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 (em) or sub. (2) (bm), (em), or (dm) or (3r) once in his or her lifetime.~~

SENATE BILL 786

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

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

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

19

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

20

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

21

or (dr), (2j) (bm), (br), (cm), (cp), (cr), or (cu), or (3r) once in his or her lifetime.

22

SECTION 19. 346.65 (3r) of the statutes is amended to read:

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346.65 (3r) Subject to sub. (3t), in any county that opts to offer a reduced minimum period of imprisonment for the successful completion of a probation period that includes alcohol and other drug treatment, any person violating s. 346.63 (2) or

SENATE BILL 786

SECTION 19

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

(3p).

11
12
INSC 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, 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.

SECTION 21. Effective date.

19
 20 (1) This act takes effect on July 1, 2017² 2018

21

(END)

1 **INS A**

This bill provides sentencing alternatives for persons who commit certain second or third offenses related to operating a motor vehicle while intoxicated (OWI) and certain controlled substance offenses.

* Under current law, with certain exceptions, a person who commits an OWI-related offense is subject to a fine and a term of imprisonment. For a second OWI-related offense, the term of imprisonment is not less than five days nor more than six months, and for a third offense the term of imprisonment is not less than 45 days nor more than one year. If the person commits an OWI-related offense while operating a commercial vehicle, for a second offense the term of imprisonment is not less than five days nor more than six months, and for a third or subsequent offense, the term of imprisonment is not less than 45 days nor more than one year. A person who possesses a Schedule I or II controlled substance is subject to a maximum term of imprisonment of three years and six months for a first offense, and a maximum term of imprisonment of seven years and six months for a second or subsequent offense. A person who possesses a narcotic that is not a Schedule I or II controlled substance, or who possesses drug paraphernalia, is subject to a maximum term of imprisonment of 30 days.

* Under the bill, if a court places on probation a person who commits his or her second or third OWI-related offense or certain controlled substance offenses, and requires the person to take a therapeutically indicated dose of the drug naltrexone or follow a nonpharmacological treatment plan, the person is subject to the same fine he or she would be subject to under current law, but his or her period of imprisonment is reduced if he or she successfully completes probation. For a person who commits a second OWI-related offense or a second offense related to operating a commercial vehicle with a prohibited alcohol concentration, the period of imprisonment is five to seven days. For a person who commits a third OWI-related offense or a third offense related to operating a commercial vehicle with a prohibited alcohol concentration, the period of imprisonment is not less than 14 days. For a person who possesses a Schedule I or II controlled substance, the period of imprisonment is not more than one year and six months for a first offense, and not more than three years and six months for a second or subsequent offense. For a person who possesses a narcotic that is not a Schedule I or II controlled substance or who possesses drug paraphernalia, the period of imprisonment is not more than 10 days. ✓

* Under the bill, a person may not be sentenced under this sentencing alternative or under another sentencing alternative for OWI-related offenses more than once in his or her lifetime, and may not be sentenced under this sentencing alternative for controlled substance-related offenses more than once in his or her lifetime.

2 **INS 6-7**

1 346.65 (2) (dm) 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, except that
 6 suspensions, revocations, or convictions arising out of the same incident or
 7 occurrence shall be counted as one, the fine shall be the same as under par. (am) 4.,
 8 but the period of imprisonment shall be not less than 60 days, except that if the
 9 person successfully completes a period of probation that includes alcohol and other
 10 drug treatment, the period of imprisonment shall be not less than 29 days. A person
 11 ~~may be sentenced under this paragraph or under par. (bm) or (em) or sub. (2j) (bm),~~
 12 ~~(em), or (er) 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, 180; 2011 a. 258; 2013 a. 39, 224; 2015 a. 55, 371.

13 **INS 10-14**

14 346.65 (2j) (cr) 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, except that
 19 suspensions, revocations, or convictions arising out of the same incident or
 20 occurrence shall be counted as one, the fine shall be the same as under par. (am) 3.,
 21 but the period of imprisonment shall be not less than 60 days, except that if the
 22 person successfully completes a period of probation that includes alcohol and other
 23 drug treatment, the period of imprisonment shall be not less than 29 days. A person

1 ~~may be sentenced under this paragraph or under par. (bm) or (em) or sub. (2) (bm),~~
2 ~~(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, 180; 2011 a. 258; 2013 a. 39, 224; 2015 a. 55, 371.

3 **INS 12-12**

4 **SECTION 1.** 961.475 (title) of the statutes is amended to read:

5 **961.475 (title) Treatment option options.**

History: 1971 c. 219, 336; 1985 a. 328; 1987 a. 339; 1989 a. 121; 1993 a. 118; 1995 a. 448 s. 287; Stats. 1995 s. 961.475.

6 **SECTION 2.** 961.475 of the statutes is renumbered 961.475 (1).

7 **SECTION 3.** 961.475 (2) of the statutes is created to read:

8 **961.475 (2) (a)** Whenever any person pleads guilty to or is found guilty of
9 possession or attempted possession of a controlled substance or controlled substance
10 analog under s. 961.41 (3g) (am), if the number of convictions under ss. 940.09 (1) and
11 940.25 in the person's lifetime, plus the total number of suspensions, revocations,
12 and other convictions counted under s. 343.307 (1) or 961.41 (3g) (am) within a
13 10-year period, equals 4 or less, except that suspensions, revocations, or convictions
14 arising out of the same incident or occurrence shall be counted as one, the period of
15 imprisonment shall be not more than ^{one} 1 year and 6 months if the court places the
16 person on probation under s. 973.09 and the conditions of probation require the
17 person to do at least one of the following:

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

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

3 (b) Whenever any person pleads guilty to or is found guilty of possession or
4 attempted possession of a controlled substance or controlled substance analog under
5 s. 961.41 (3g) (b) or possession of drug paraphernalia under s. 961.573 (1), if the
6 number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus
7 the total number of suspensions, revocations, and other convictions counted under
8 ss. 343.307 (1), 961.41 (3g) (b), or 961.573 (1) within a 10-year period, equals 4 or less,
9 except that suspensions, revocations, or convictions arising out of the same incident
10 or occurrence shall be counted as one, the period of imprisonment shall be not more
11 than 10 days if the court places the person on probation under s. 973.09 and the
12 conditions of probation require the person to do at least one of the following:

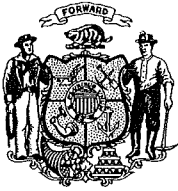
13 1. Follow a pharmacological treatment plan that includes, unless
14 contraindicated, taking naltrexone, its drug product equivalent, or another
15 pharmacological agent that is approved by the federal drug administration for the
16 treatment of alcohol dependence, and that is administered in a therapeutically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

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

21 (c) A person may be sentenced under par. (a) or (b) once in his or her lifetime.

22 **SECTION 4.** 961.48 (1) (c) of the statutes is created to read:

23 961.48 (1) (c) Notwithstanding par. (b), by not more than 2 years, if the offense
24 is a violation of s. 961.41 (3g) (am) and the defendant was sentenced under s. 941.475
25 (2) (a).



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-2241/PI
ZDW&MLJ:emw

*No
changes*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to renumber* 961.475; *to amend* 346.65 (2) (am) 2., 346.65 (2) (am) 3.,
2 346.65 (2) (bm), 346.65 (2) (cm), 346.65 (2) (dm), 346.65 (2j) (am) 2., 346.65 (2j)
3 (am) 3., 346.65 (2j) (bm), 346.65 (2j) (cm), 346.65 (2j) (cr), 346.65 (3r) and
4 961.475 (title); and *to create* 346.65 (2) (br), 346.65 (2) (cr), 346.65 (2j) (br),
5 346.65 (2j) (cp), 346.65 (2x), 961.475 (2) and 961.48 (1) (c) of the statutes;
6 **relating to:** alternative sentencing for certain drunken driving and controlled
7 substance offenses and providing a criminal penalty.

Analysis by the Legislative Reference Bureau

This bill provides sentencing alternatives for persons who commit certain second or third offenses related to operating a motor vehicle while intoxicated (OWI) and certain controlled substance offenses.

Under current law, with certain exceptions, a person who commits an OWI-related offense is subject to a fine and a term of imprisonment. For a second OWI-related offense, the term of imprisonment is not less than five days nor more than six months, and for a third offense the term of imprisonment is not less than 45 days nor more than one year. If the person commits an OWI-related offense while operating a commercial vehicle, for a second offense the term of imprisonment is not less than five days nor more than six months, and for a third or subsequent offense, the term of imprisonment is not less than 45 days nor more than one year. A person

Parisi, Lori

From: Egerer, Matt
Sent: Monday, March 05, 2018 2:43 PM
To: LRB.Legal
Subject: Barca Bill Jackets

Jacket Barca Bills

Rep. Barca would like to request jackets for the following drafts we have put in:

Bill:	LRB #:
NEMT Opt Out	2253
Naltrexone/Nonpharma treatment for 2nd or 3rd OWI	2241
Penalties for Destruction of Public Records	2234
Open Meetings Constitutional Amendment	2235

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Wisconsin State Representative
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