



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4509/1
PJH:emw

2015 SENATE BILL 644

January 27, 2016 - Introduced by Senator DARLING, cosponsored by Representatives KRUG, HUTTON, E. BROOKS, THIESFELDT, MURTHA, MURSAU and BALLWEG. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT to amend** 20.435 (5) (hy), 46.03 (18) (f), 51.45 (7) (h) (intro.), 51.45 (7) (h)
2 1., 343.30 (1q) (c) 2., 343.30 (1q) (d) 1., 343.30 (1q) (d) 2. and 346.655 (3) (b); and
3 **to create** 51.01 (1r), 301.033 and 343.30 (1q) (c) 1. e. of the statutes; **relating**
4 **to:** alcohol and other drug assessments in counties and correctional institutions
5 and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill allows persons who are inmates in a correctional facility to obtain certain alcohol and other drug assessments at a treatment center operated by the Department of Corrections (DOC). Under current law, a person who is convicted of certain offenses related to operating a vehicle under the influence of an intoxicant (OWI-related offense) is generally required to submit to and comply with an assessment by an approved public treatment facility for examination of the person's use of alcohol, controlled substances, or controlled substance analogs and for development of a driver safety plan for the person. Approved public treatment facilities are facilities that meet standards established by the Department of Health Services (DHS).

Under the bill, DOC may establish and operate a treatment facility for the purposes of providing court-ordered assessments and developing driver safety plans for persons who are inmates of a correctional facility. The bill requires DOC to comply with the standards and rules established by DHS for treatment facilities and to obtain DHS approval of the treatment facility. The bill also requires a county,

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tribal, or DOC treatment facility to accept and enforce compliance with a driver safety plan that is established by another county, tribal, or DOC treatment facility.

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.** 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 grants to county departments under
4 s. 51.42, to approved department of corrections treatment facilities, as defined in s.
5 51.01 (1r), and to approved tribal treatment facilities, as defined in s. 51.01 (2c), for
6 drivers referred through assessment, to be allocated according to a plan developed
7 by the department of health services. All moneys transferred from par. (hx) shall be
8 credited to this appropriation.

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

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

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

5 **SECTION 3.** 51.01 (1r) of the statutes is created to read:

6 51.01 (1r) "Approved department of corrections treatment facility" means a
7 treatment facility that operates under the direction and control of the department
8 of corrections under s. 301.033, meets the standards prescribed for approved
9 treatment facilities under s. 51.45 (8) (a), and is approved under s. 51.45 (8) (c).

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

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

19 **SECTION 5.** 51.45 (7) (h) 1. of the statutes is amended to read:

20 51.45 (7) (h) 1. Notify the county assessment agency identified in the order
21 under s. 343.30 (1q) (c) 1. within 72 hours that the approved department of
22 corrections treatment facility or approved tribal treatment facility has been
23 contacted for the assessment.

24 **SECTION 6.** 301.033 of the statutes is created to read:

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1 **301.033 Treatment facilities; assessments and driver safety plans.** The
2 department may establish and operate one or more treatment facilities that meet the
3 standards prescribed for approved treatment facilities under s. 51.45 (8) (a) and are
4 approved under s. 51.45 (8) (c) for the purpose of providing assessments and
5 developing driver safety plans for prisoners pursuant to s. 343.30 (1q).

6 **SECTION 7.** 343.30 (1q) (c) 1. e. of the statutes is created to read:

7 **343.30 (1q) (c) 1. e.** Include a statement that if the person is an inmate at a
8 correctional facility in the state, the person may receive the assessment required
9 under this subdivision from an approved department of corrections treatment
10 facility as defined in s. 51.01 (1r).

11 **SECTION 8.** 343.30 (1q) (c) 2. of the statutes is amended to read:

12 **343.30 (1q) (c) 2.** The department of health services shall establish standards
13 for assessment procedures and the driver safety plan programs by rule. The
14 department of health services shall establish by rule conflict of interest guidelines
15 for providers. The conflict of interest guidelines may not preclude an approved
16 department of corrections treatment facility, as defined in s. 51.01 (1r), or an
17 approved tribal treatment facility, as defined in s. 51.01 (2c), from conducting
18 assessments and providing treatment under this subsection.

19 **SECTION 9.** 343.30 (1q) (d) 1. of the statutes is amended to read:

20 **343.30 (1q) (d) 1.** The assessment report shall order compliance with a driver
21 safety plan. The report shall inform the person of the fee provisions under s. 46.03
22 (18) (f). The driver safety plan may include a component that makes the person
23 aware of the effect of his or her offense on a victim and a victim's family. The driver
24 safety plan may include treatment for the person's misuse, abuse or dependence on
25 alcohol, controlled substances or controlled substance analogs, or attendance at a

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1 school under s. 345.60, or both. If the plan requires treatment at an approved tribal
2 treatment facility, as defined in s. 51.01 (2c), the plan may include traditional tribal
3 treatment modes. If the plan requires inpatient treatment, the treatment shall not
4 exceed 30 days. A county department, approved department of corrections
5 treatment facility under s. 301.033, or approved tribal treatment facility under s.
6 51.45 (7) (h) shall accept and enforce compliance with any driver safety plan that is
7 ordered by another county department, approved department of corrections
8 treatment facility under s. 301.033, or approved tribal treatment facility under s.
9 51.45 (7) (h). A driver safety plan under this paragraph shall include a termination
10 date consistent with the plan which shall not extend beyond one year.

11 **SECTION 10.** 343.30 (1q) (d) 2. of the statutes is amended to read:

12 343.30 (1q) (d) 2. The county department under s. 51.42, approved department
13 of corrections treatment facility under s. 301.033, or approved tribal treatment
14 facility under s. 51.45 (7) (h) shall assure notification of the department of
15 transportation, in a manner prescribed by the department, and the person of the
16 person's compliance or noncompliance with assessment and with treatment. The
17 school under s. 345.60 shall notify the department, the county department under s.
18 51.42, and the person of the person's compliance or noncompliance with the
19 requirements of the school. Nonpayment of the assessment fee or, if the person has
20 the ability to pay, nonpayment of the driver safety plan fee is noncompliance with the
21 court order. If the department is notified of any noncompliance, other than for
22 nonpayment of the assessment fee or driver safety plan fee, it shall revoke the
23 person's operating privilege until the county department under s. 51.42, the
24 approved department of corrections treatment facility under s. 301.033, the
25 approved tribal treatment facility under s. 51.45 (7) (h), or the school under s. 345.60

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

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

8 346.655 (3) (b) If a person receives treatment from an approved department of
9 corrections treatment facility, as defined in s. 51.01 (1r), or an approved tribal
10 treatment facility, as defined in s. 51.01 (2c), in accordance with a driver safety plan
11 under s. 343.30 (1q) (d), the county treasurer shall transmit the amount collected
12 from the person's driver improvement surcharge except the amounts that the
13 treasurer is required to transmit to the secretary of administration under sub. (2) (a)
14 or (b), to the facility for treatment services for drivers referred through assessment.

15 (END)