

State of Wisconsin



2015 Assembly Bill 839

Date of enactment: April 26, 2016
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2015 WISCONSIN ACT 389

AN ACT *to renumber and amend* 343.301 (1g) and 343.301 (2m); *to amend* 165.957 (3) (a), 165.957 (4) (a) 1., 165.957 (4) (a) 2., 165.957 (4) (b) 1., 165.957 (4) (b) 2., 165.957 (4) (c), 303.08 (10r), 343.10 (2) (f) and 343.10 (5) (a) 3.; and *to create* 165.957 (4) (b) 2m., 343.301 (1g) (am) and 343.301 (2m) (b) of the statutes; **relating to:** participation in a sobriety program.

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

SECTION 1c. 165.957 (3) (a) of the statutes, as created by [2015 Wisconsin Act 55](#), is amended to read:

165.957 (3) (a) A standard for frequent testing for the use of alcohol or a controlled substance that is an alternative to the testing described in sub. (4) (b) 1. This paragraph does not apply to testing required pursuant to an order under s. 343.301 (1g) (am) 2. that a court imposes on a person who meets the criteria under s. 343.301 (1g) (a) 2. b.

SECTION 1d. 165.957 (4) (a) 1. of the statutes, as created by [2015 Wisconsin Act 55](#), is amended to read:

165.957 (4) (a) 1. The person is ordered by a judge or by the department of corrections as a condition of bond, release under s. 969.01 (1), probation or deferred prosecution, release to parole, or release to extended supervision, to ~~refrain totally~~ abstain from using alcohol or a controlled substance, and whose participation in the program is ordered by the judge or by the department of corrections as a condition of bond, release under s. 969.01 (1), probation, release to parole, or release to extended supervision.

SECTION 1k. 165.957 (4) (a) 2. of the statutes, as created by [2015 Wisconsin Act 55](#), is amended to read:

165.957 (4) (a) 2. The person agrees to ~~refrain totally~~ abstain from using alcohol or a controlled substance while he or she is released on bond, on release under s. 969.01 (1), on probation, participating in a deferred prosecution agreement, or on parole or extended supervision and ~~volunteers~~ agrees to participate in the program even though his or her participation is not ordered by a judge or by the department of corrections as a condition of bond, release pursuant to s. 969.01 (1), probation or deferred prosecution, or release to parole or to extended supervision. This subdivision does not apply to any person who meets the criteria under s. 343.301 (1g) (a) 2. b. and who is subject to an order under s. 343.301 (1g) (am) 2.

SECTION 1L. 165.957 (4) (b) 1. of the statutes, as created by [2015 Wisconsin Act 55](#), is amended to read:

165.957 (4) (b) 1. Except as provided in subd. 2. or 2m., the program requires participants to be tested for the use of alcohol at least twice daily, at approximately 12-hour intervals, or for the use of a controlled substance as frequently as practicable.

SECTION 1m. 165.957 (4) (b) 2. of the statutes, as created by [2015 Wisconsin Act 55](#), is amended to read:

165.957 (4) (b) 2. If the standard for frequent testing described in subd. 1. creates an unreasonable hardship for the county administering the program, the program may

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

utilize the standard established by the department of justice under sub. (3) (a). This subdivision does not apply to any person who meets the criteria under s. 343.301 (1g) (a) 2. b. and who is subject to an order under s. 343.301 (1g) (am) 2.

SECTION 1n. 165.957 (4) (b) 2m. of the statutes is created to read:

165.957 (4) (b) 2m. Any person who meets the criteria under s. 343.301 (1g) (a) 2. b. and who is subject to an order under s. 343.301 (1g) (am) 2. shall be tested as required under 23 USC 405 (d) (7) (A) (ii) and regulations adopted thereunder.

SECTION 1p. 165.957 (4) (c) of the statutes, as created by 2015 Wisconsin Act 55, is amended to read:

165.957 (4) (c) The program informs a participant that, if he or she fails to appear for a scheduled test or if his or her test results indicate that the participant used alcohol or a controlled substance, he or she may be placed under immediate arrest and referred to the department of corrections and to the appropriate prosecuting agency for violating a condition of his or her bond, release under s. 969.01 (1), probation or deferred prosecution, or of his or her release to parole or extended supervision.

SECTION 1s. 303.08 (10r) of the statutes is amended to read:

303.08 (10r) The sheriff may not permit a prisoner ~~who is subject to an order whose operating privilege for the operation of "Class D" vehicles is restricted to operating vehicles that are equipped with an ignition interlock device~~ under s. 343.301 (1g) to leave the jail under sub. (1) unless, within 2 weeks after the court issues ~~the an order under s. 343.301 (1g) (am) 1. or the person's operating privilege is restricted under s. 343.301 (1g) (am) 2.~~, the person submits proof to the sheriff that an ignition interlock device has been installed in each motor vehicle to which the order applies.

SECTION 2. 343.10 (2) (f) of the statutes is amended to read:

343.10 (2) (f) If the court orders under s. 343.301 (1g) that the person's operating privilege for the operation of "Class D" vehicles be restricted to operating vehicles that are equipped with an ignition interlock device, no occupational license may be granted until the person pays the surcharge under s. 343.301 (5) and submits proof that an ignition interlock device has been installed in each motor vehicle to which the order under s. 343.301 applies. A person who is subject to an order under s. 343.301 (1g) (am) 2. need not submit proof that an ignition interlock device has been installed if he or she is participating in a program designated in the order, unless he or she is also subject to an order under s. 343.301 (1g) (am) 1.

SECTION 3. 343.10 (5) (a) 3. of the statutes is amended to read:

343.10 (5) (a) 3. The occupational license of the applicant shall restrict the applicant's operation under the occupational license to vehicles that are equipped with a

functioning ignition interlock device if the court has ordered under s. 343.301 (1g) that the person's operating privilege for Class D vehicles be restricted to operating vehicles that are equipped with an ignition interlock device or has ordered under s. 346.65 (6) (a) 1., 1999 stats., that the motor vehicle owned by the person and used in the violation or improper refusal be equipped with an ignition interlock device. A person to whom a restriction under this subdivision applies violates that restriction if he or she removes or disconnects an ignition interlock device, requests or permits another to blow into an ignition interlock device or to start a motor vehicle equipped with an ignition interlock device for the purpose of providing the person an operable motor vehicle without the necessity of first submitting a sample of his or her breath to analysis by the ignition interlock device, or otherwise tampers with or circumvents the operation of the ignition interlock device. Except as provided in s. 343.301 (3) (b), if the occupational license restricts the applicant's operation to a vehicle that is equipped with an ignition interlock device, the applicant shall be liable for the reasonable costs of equipping the vehicle with the ignition interlock device. This subdivision does not apply to an applicant who is subject to an order under s. 343.301 (1g) (am) 2. while the applicant is participating in a program designated in the order, unless he or she is also subject to an order under s. 343.301 (1g) (am) 1.

SECTION 4. 343.301 (1g) of the statutes is renumbered 343.301 (1g) (a), and 343.301 (1g) (a) (intro), as renumbered, is amended to read:

343.301 (1g) (a) (intro.) A court ~~shall order a person's operating privilege for the operation of "Class D" vehicles be restricted to operating vehicles that are equipped with an ignition interlock device and, except as provided in sub. (1m), shall order that each motor vehicle for which the person's name appears on the vehicle's certificate of title or registration be equipped with an ignition interlock device~~ enter an order under par. (am) if either of the following applies:

SECTION 5. 343.301 (1g) (am) of the statutes is created to read:

343.301 (1g) (am) A court shall order one or more of the following:

1. That the person's operating privilege for the operation of "Class D" vehicles be restricted to operating vehicles that are equipped with an ignition interlock device and, except as provided in sub. (1m), shall order that each motor vehicle for which the person's name appears on the vehicle's certificate of title or registration be equipped with an ignition interlock device.

2. That the person participate in a program described in s. 165.957 or that meets the definition of a 24-7 sobriety program under 23 USC 405 (d) (7) (A) and regulations adopted thereunder. If the court enters an order under this subdivision, when the person completes or otherwise does not participate in the program, the court

shall order that the person's operating privilege for the operation of "Class D" vehicles be restricted to operating vehicles that are equipped with an ignition interlock device, shall specify the duration of the order, shall, except as provided in sub. (1m), order that each motor vehicle for which the person's name appears on the vehicle's certificate of title or registration be equipped with an ignition interlock device, and shall notify the department of such order.

SECTION 6. 343.301 (2m) of the statutes is renumbered 343.301 (2m) (a) and amended to read:

343.301 (2m) (a) ~~The~~ If the court enters an order under sub. (1g) (am) 1., the court shall restrict the operating privilege under sub. (1g) (am) 1. for a period of not less than one year nor more than the maximum operating privilege revocation period permitted for the refusal or violation, beginning on the date the department issues any license granted under this chapter, except that if the maximum operating privilege revocation period is less than one year, the court shall restrict the operating privilege under sub. (1g) (am) 1. for one year. The court may order the installation of an ignition interlock device under sub. (1g) (am) 1. immediately upon issuing an order under sub. (1g) (am) 1.

SECTION 7. 343.301 (2m) (b) of the statutes is created to read:

343.301 (2m) (b) If the court enters an order under sub. (1g) (am) 2. that does not restrict a person's operating privilege for the operation of "Class D" vehicles to operating vehicles that are equipped with an ignition interlock device while he or she participates in a program, the court shall order that the time period during which the person participates in a program, combined with the time period for which the person's operating privilege is

restricted under sub. (1g) (am) 2. equals not less than one year nor more than the maximum operating privilege revocation period permitted for the refusal or violation, except that if the maximum operating privilege revocation period is less than one year, the time period shall equal one year. The time period for which the person's operating privilege is restricted under sub. (1g) (am) 2. begins on the date the department issues any license granted under this chapter. The court may order the person to install an ignition interlock device under sub. (1g) (am) 2. immediately after his or her participation in the program ends or while the person completes the program and for the additional period of time required under this paragraph, and shall notify the department of the date the person's participation ended and the duration of the order restricting the operating privilege. A person subject to an order requiring installation of an ignition interlock device shall, within 2 weeks after the date on which installation of the ignition interlock device is required under the order, submit proof to the sheriff in his or her county of residence that an ignition interlock device has been installed in each motor vehicle to which the order applies.

SECTION 8. Initial applicability.

(1) This act first applies to violations committed or refusals occurring on the effective date of this subsection, but does not preclude the counting of other violations, convictions, suspensions, or revocations for purposes of administrative action by the department of transportation, sentencing by a court, or revocation or suspension of motor vehicle operating privileges.

SECTION 9. Effective date.

(1) This act takes effect on October 2, 2016.