



2017 ASSEMBLY BILL 97

February 24, 2017 - Introduced by Representatives OTT, ZEPNICK, KREMER, RIPP, SKOWRONSKI, SANFELIPPO, NOVAK, BERCEAU, JACQUE, SPIROS, TUSLER, MURPHY, KNODL, LOUDENBECK, TITTL, E. BROOKS and SINICKI, cosponsored by Senators DARLING, MARKLEIN, CARPENTER, NASS, HANSEN, OLSEN and CRAIG. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT to renumber and amend** 940.09 (1c) (a) and 940.09 (1c) (b); and **to**
2 **create** 940.09 (1c) (a) 2. and 940.09 (1c) (b) 2. of the statutes; **relating to:**
3 mandatory period of confinement for homicide by intoxicated use of a vehicle
4 and providing a criminal penalty.

Analysis by the Legislative Reference Bureau

Under this bill, a person who is convicted of homicide by intoxicated use of a vehicle must be sentenced to a period of confinement in prison of at least five years. Under the bill, if the decedent was a passenger in the person's car, a court may sentence the person to a period of confinement that is less than the minimum if the court finds that the best interests of the community will be served and that the public will not be harmed. If the court sentences a person to a period of confinement that is less than the minimum, the bill requires the court to put its findings in writing.

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:

5 **SECTION 1.** 940.09 (1c) (a) of the statutes is renumbered 940.09 (1c) (a) 1. and
6 amended to read:

ASSEMBLY BILL 97**SECTION 1**

1 940.09 (1c) (a) 1. Except as provided in par. (b), a person who violates sub. (1)
2 is guilty of a Class D felony. Upon conviction, the court shall impose a bifurcated
3 sentence under s. 973.01 and, except as provided in subd. 2., the term of confinement
4 in prison portion of the bifurcated sentence shall be at least 5 years.

5 **SECTION 2.** 940.09 (1c) (a) 2. of the statutes is created to read:

6 940.09 (1c) (a) 2. If a person whose death was caused by the violation was in
7 the vehicle operated by the convicted person at the time of the violation, the court
8 may impose a sentence that is less than the sentence required under subd. 1. if the
9 court finds that the best interests of the community will be served and the public will
10 not be harmed, and if the court places its reasons on the record.

11 **SECTION 3.** 940.09 (1c) (b) of the statutes is renumbered 940.09 (1c) (b) 1. and
12 amended to read:

13 940.09 (1c) (b) 1. A person who violates sub. (1) is guilty of a Class C felony if
14 the person has one or more prior convictions, suspensions, or revocations, as counted
15 under s. 343.307 (2). Upon conviction, the court shall impose a bifurcated sentence
16 under s. 973.01 and, except as provided in subd. 2., the term of confinement in prison
17 portion of the bifurcated sentence shall be at least 5 years.

18 **SECTION 4.** 940.09 (1c) (b) 2. of the statutes is created to read:

19 940.09 (1c) (b) 2. If a person whose death was caused by the violation was in
20 the vehicle operated by the convicted person at the time of the violation, the court
21 may impose a sentence that is less than the sentence required under subd. 1. if the
22 court finds that the best interests of the community will be served and the public will
23 not be harmed, and if the court places its reasons on the record.

24 **SECTION 5. Initial applicability.**

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1 (1) This act first applies to violations committed on the effective date of this
2 subsection, but does not preclude the counting of other convictions, suspensions, or
3 revocations as prior convictions, suspensions, or revocations for purposes of
4 administrative action by the department of transportation or sentencing by a court.

5

(END)