



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-1006/1  
CMH:ahc

## 2019 ASSEMBLY BILL 17

February 8, 2019 - Introduced by Representatives OTT, KERKMAN, SPIROS, WICHGERS, ANDERSON, GUNDRUM, MURPHY and HUTTON, cosponsored by Senators DARLING, CRAIG, BERNIER and MARKLEIN. 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 penalty.

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### *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 mandatory minimum period of confinement in prison of five years. The bill creates an exception to the mandatory minimum sentence created in this bill if the decedent was a passenger in the person's car and 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 mandatory minimum sentence, the bill requires the court to put its findings in writing.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

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

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

**ASSEMBLY BILL 17****SECTION 1**

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

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

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

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

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

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

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

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

**ASSEMBLY BILL 17****1 SECTION 5. Initial applicability.**

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

6 (END)