

1 **AN ACT** *to renumber and amend* 343.10 (2) (a) 4.; *to amend* 343.30 (1q) (b) 3. and
2 4.; and *to create* 340.01 (72p), (72t) and (72x), 343.30 (1q) (b) 6. and 343.30 (1q)
3 (em) of the statutes; **relating to:** occupational license minimum waiting periods for
4 participants in a treatment court.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the Joint Legislative Council’s Study Committee on Problem–Solving Courts, Alternatives, and Diversions.

Background on Current Law

Current law requires any person whose driver’s license was either suspended or revoked to wait until at least 15 days have elapsed since the date of revocation or suspension before he or she may be eligible for an occupational license, unless another minimum waiting period or immediate eligibility is expressly provided by law. In the case of an appeal that is subsequently dismissed or affirmed, the person must wait until at least 15 days have elapsed since the date of revocation or suspension following the dismissal or affirmance of the appeal to be eligible for an occupational license. If a person’s driver’s license has been suspended or revoked as a result of a second or subsequent operating while intoxicated (OWI) conviction, then the person must wait until 45 days have elapsed before he or she may be eligible for an occupational license.

Bill Draft

The draft provides an exception to the occupational license minimum waiting period requirements for a person who is a participant in a treatment court project. Under the draft, a treatment court may order that the treatment court project participant become eligible for an occupational license and must specify the date that he or she becomes eligible. If the treatment court project participant has two or more prior OWI convictions, suspensions, or revocations, then the treatment court project participant must have completed the court–ordered assessment of his or her use of alcohol, controlled substances or controlled substance analogs, and must be complying with the driver safety plan in order for

the treatment court to enter such an order. The treatment court's order must specify the date that the treatment court project participant becomes immediately eligible.

1 **SECTION 1.** 340.01 (72p), (72t) and (72x) of the statutes are created to read:

2 340.01 **(72p)** "Treatment court" means a court that has jurisdiction over a treatment
3 court project participant.

4 **(72t)** "Treatment court project" means a county or tribal project that operates within
5 the continuum from arrest to discharge from supervision and provides alternatives to
6 prosecution, incarceration, or both, for criminal offenders, including suspended and deferred
7 prosecution projects or community-based corrections.

8 **(72x)** "Treatment court project participant" means a criminal offender who is under the
9 supervision of a treatment court.

NOTE: This SECTION creates definitions of a treatment court, a treatment court project, and a treatment court project participant.

COMMENT: The definitions are based upon language used to describe a project that may be eligible for a TAD grant under LRB-2614/P4, SECTIONS 12 and Section 17. The definition of a "treatment court project" does not require that the project meet all of the TAD grant eligibility requirements included in LRB-2614/P4, such as being evidence-based. Does the committee like this definition? Does the committee want the definition to include all of the TAD eligibility requirements? Does the committee want to define a treatment court project as operating "within a continuum" or as a project that "oversees criminal cases"?

Also, the definition of "treatment court project participant" clarifies that the participant is the "criminal offender" and not other persons involved in the treatment court project. Using the phrase "criminal offender" could potentially exclude OWI first offenders who are convicted of a civil forfeiture because there is no statutory definition of a criminal offender. Does the committee want to allow the inclusion of a first OWI offender? Does the committee want to clarify that a participant may only be a repeat offender for OWI offenders?

1 **SECTION 2.** 343.10 (2) (a) 4. of the statutes is renumbered 343.10 (2) (a) 4. a. and
2 amended to read:

3 343.10 (2) (a) 4. a. At least 15 days have elapsed since the date of revocation or
4 suspension, or, in the case of an appeal that is subsequently dismissed or affirmed, at least 15
5 days have elapsed since the date of revocation or suspension following the dismissal or
6 affirmance of the appeal, unless another minimum waiting period or immediate eligibility is
7 expressly provided by law. If a treatment court issues an order under 343.30 (1q) (em), a
8 treatment court project participant shall become eligible for an occupational license on the
9 date specified in the order if he or she is otherwise eligible for an occupational license.

NOTE: SECTION 2 provides an exception to the 15-day waiting period eligibility occupational license requirement if a treatment court has ordered that a treatment court project participant is not subject to a minimum waiting period to be eligible for an occupational license. Under the exception, if a treatment court issues an order that the treatment court project participant is not subject to the minimum waiting period, the participant becomes eligible on the date specified in the order, if he or she is otherwise eligible for an occupational license.

COMMENT: This 15-day waiting period for an occupational license is applicable to anyone whose license has been revoked or suspended. Is it the committee's intent to provide an exception to the 15-day waiting period for treatment court project participants? There is also additional eligibility requirements, including proof of financial responsibility. Does the committee want to make an exception to other eligibility requirements?

10 **SECTION 3.** 343.30 (1q) (b) 3. and 4. of the statutes are amended to read:

11 343.30 (1q) (b) 3. Except as provided in sub. (1r) or subd. 4m., if the number of
12 convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of
13 other convictions, suspensions, and revocations counted under s. 343.307 (1) within a 10-year
14 period, equals 2, the court shall revoke the person's operating privilege for not less than one
15 year nor more than 18 months. ~~After~~ Except as provided in subd. 6., after the first 45 days of

1 the revocation period has elapsed, the person is eligible for an occupational license under s.
2 343.10 if he or she has completed the assessment and is complying with the driver safety plan
3 ordered under par. (c).

4 4. Except as provided in sub. (1r) or subd. 4m., if the number of convictions under ss.
5 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other convictions,
6 suspensions, and revocations counted under s. 343.307 (1), equals 3 or more, the court shall
7 revoke the person's operating privilege for not less than 2 years nor more than 3 years. After
8 Except as provided in subd. 6., after the first 45 days of the revocation period has elapsed, the
9 person is eligible for an occupational license under s. 343.10 if he or she has completed the
10 assessment and is complying with the driver safety plan ordered under par. (c).

11 **SECTION 4.** 343.30 (1q) (b) 6. of the statutes is created to read:

12 343.30 (1q) (b) 6. A treatment court project participant is eligible for an occupational
13 license under s. 343.10 on the date specified by an order issued under par. (em).

NOTE: SECTIONS 3 and 4 eliminate the occupational license 45-day waiting period applicable to second and subsequent OWI offenses if the person is a treatment court project participant, and provides that a treatment court project participant is eligible for an occupational license on the date specified by a treatment court order.

14 **SECTION 5.** 343.30 (1q) (em) of the statutes is created to read:

15 343.30 (1q) (em) A treatment court may order that a treatment court project participant
16 is not subject to a minimum waiting period to be eligible for an occupational license under s.
17 343.10. If the treatment court project participant has two or more prior convictions,
18 suspensions or revocations, as counted under s. 343.307 (1), no order may be entered under
19 this paragraph unless the treatment court project participant has completed the assessment and
20 is complying with the driver safety plan ordered under par. (c). If a treatment court enters an

1 order under this paragraph, the order shall specify the date that the treatment court project
2 participant becomes eligible for an occupational license.

NOTE: SECTION 5 authorizes a treatment court to order that a treatment court project participant is not subject to a minimum waiting period in order to be eligible for an occupational license. If the treatment court project participant has two or more prior OWI convictions, suspensions, or revocations, then the treatment court project participant must have completed the court-ordered assessment of his or her use of alcohol, controlled substances or controlled substance analogs, and must be complying with the driver safety plan in order for the treatment court to enter such an order. The treatment court's order must specify the date that the treatment court project participant becomes eligible.

COMMENT: Is it the committee's intent that a treatment court project participant become immediately eligible on a date specified by the court? Is there specific court hearing date, such as an initial appearance before the treatment court, which should be used as the eligibility date?

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(END)