

FIRST JUDICIAL DISTRICT

OWI SENTENCING GUIDELINES

Effective for offenses occurring on or after April 14, 2014

Wisconsin law recognizes the serious consequences of operating a motor vehicle while under the influence of an intoxicant ("OWI"), and specifies a range of penalties for violation of those laws. The judges of this judicial district understand the extraordinary dangers of drunk driving in a heavily populated community with congested streets and highways.

The Legislature has directed that each judicial district in the state adopt guidelines for the sentencing of certain OWI violations 346.65(2m), Stats. See also State v. Jorgensen, 2003 WI 105 paragraph 26-27, 264 Wis. 2nd 157, 174-175 (2003)(although local guidelines are applicable only to prohibited alcohol concentration ("PAC") offenses, courts may refer to local guidelines when sentencing for other OWI offenses). Indeed, in Milwaukee County, where the criminal courts preside over thousands of OWI cases, guidelines for the sentencing of OWI violations will contribute to consistency among branches and among the case in each branch. Relative consistency will help ensure justice for offenders, victims and the community.

We also appreciate the importance of discretion in evaluating the facts and circumstances of each offender and each case. Therefore, these guidelines identify many of the significant criteria considered by courts in imposing a sentence and the penalty range within which each factor may fall. However, the guidelines do not require any particular sentence. Further, the various aggravating and mitigating criteria may be of varying significance in different cases and must be considered as a whole before a sentence is determined.

We first adopted OWI guidelines in 1995. These guidelines have been reviewed, revised and reaffirmed by our predecessors, have been modified to reflect changes in State law and are now approved as of the date above.

Jeffrey A. Kremers
Chief Judge
First Judicial District

Timothy Dugan
Presiding Judge
Felony Division

Rebecca Dallet
Presiding Judge
Misdemeanor Division

OWI GUIDELINE CRITERIA TO CONSIDER

(Any of the applicable criteria below can be considered. The criteria are not of equal importance and the determination of weight is for the court. The court should address how the particular case should receive other than average consequences. 346.65(2m))

MITGATED

Blood Alcohol Level <.02 above limit

AODA Assessment completed
Inpatient Treatment
Complied with Pretrial Services
Participated in Treatment Program

Substantial Personal Consequences:
Significant injury to self
Injury to relative
loss of job
Uninsured vehicle damage

Cooperated with police
Submitted willingly to Field tests
Submitted willingly to Alcohol test
Remained at scene for investigation

Parked vehicle
No accident caused

No prior traffic record
No or dated criminal record

Valid license
Last OWI over 5 years

AGGRAVATED

Blood Alcohol Level >.02 over limit

Violated Court Orders
Missed Court Appearances
Subsequent Offense

Victim with injury
Victim with uninsured property damage

Uncooperative
Refused field tests
Refused alcohol testing
Resisted arrest

Moving violations involving control of vehicle
Some causation of accident
Crowded area of traffic or pedestrians
High speed
Pregnant Passenger in vehicle

Poor driving record
Felony or multiple criminal convictions

No valid license
OWI's at short intervals