

# **THIRD JUDICIAL DISTRICT OWI/PAC SENTENCING GUIDELINES**

## **FOR OFFENSES COMMITTED ON OR AFTER**

**January 1, 2017**

Amended 11/8/18

THIRD JUDICIAL DISTRICT  
515 W. Moreland Blvd.  
Waukesha, WI 53188-2428  
(262) 548-7210

Hon. Jennifer R. Dorow  
Chief Judge

Michael G. Neimon  
District Court Administrator

### **DISTRICT OWI/PAC SENTENCING GUIDELINES COMMITTEE:**

Hon. William Hue, Jefferson Co., Chairman  
Hon. Andrew Gonring, Washington Co.  
Hon. Ralph Ramirez, Waukesha Co.  
Hon. Paul Malloy, Ozaukee Co.  
Hon. Steven Bauer, Dodge Co.

## SENTENCE OPTIONS/ALTERNATIVES

### Alcohol Assessment and Driver Safety Plan. (All offenses)

- Court may order the safety plan to include effect on any victim or victim's family. (All offenses)
- Court may order community service work that demonstrates adverse effects of abuse (and a reasonable fee). (All offenses)
- Court may order a visit to a site that demonstrates adverse effects of abuse (and a reasonable fee). (All offenses)
- Court must order community service to pay off fine, if a finding is made that there is an inability to pay.
- Court may also order restitution. (All offenses)
- Court may, after a finding of inability to pay, reduce the costs or forfeiture and order the person to pay the difference toward the cost of the alcohol assessment and driver safety plan. (All offenses)

IGNITION INTERLOCK OF OWNED VEHICLE (IID). Required for all offenses except for 1<sup>st</sup> offense with BAC under .15. Note: IID may start/end on a different date than revocation as revocation period is extended by any imprisonment imposed. 343.30(1r). (The law provides for reduced cost of installation if defendant is found to be indigent.). Court may order a motor vehicle owned and operated by a violator to be seized and forfeited. (3rd offense and above only)

PROBATION: Probation may be ordered in some OWI/PAC cases. However, because it is not a “sentence” the law does not require guidelines relating to probation (346.65(2m)). In probation cases, it is suggested that a longer stayed sentence be paired with a shorter condition time in jail. Conditional jail time in OWI/PAC cases does earn good time (973.09(1)). In-any-event, condition time must be equal to at least the mandatory minimum jail sentence.

RESTRICTED\CONTROLLED SUBSTANCE CASES: Guidelines are not required for Restricted\Controlled Substance offenses.

DRIVER IMPROVEMENT AND SAFE RIDE PROGRAM SURCHARGES: (1) a person who fails to pay the Driver Improvement Surcharge or the Safe Ride Program Surcharge within 60 days is subject to license suspension under §343.30(1z); (2) the surcharge may not be satisfied through community service work. .

### MITIGATING AND AGGRAVATING FACTORS IN SENTENCING

#### MITIGATING FACTORS:

\*Age of prior OWI/PAC Offense/Conviction; \*Pre-conviction assessment and treatment; \*Verifiable consistent sobriety; \*Good driving record; \*Minimal poor driving; \*Cooperation with authorities; \*Positive attitude/steps toward problem recognition; \*If “drugged” driving is substance THC?; \*In drugged driving cases-preconviction problem recognition on treatment

#### AGGRAVATING FACTORS:

\*Poor driving; \*Accident or injury involved; \*Poor prior driving record; \*Lack of remorse; \*Recent prior OWI/PAC Offense/Conviction; Combination of alcohol and controlled substance abuse; \*Operating without valid driving privileges (i.e. OAR, OAS, OWL, HTO); \*Circumstances of consumption (Binge drinking, amount consumed, medication use, etc.); \*Poor/limited problem recognition as evidenced by prior treatment history or lack thereof; \*Uncooperative/belligerent/violent toward arresting officer; \*Prior uncounted offenses for OWI/PAC; \*Failure to comply with obligations under Wisconsin’s Implied Consent Law; \*Passenger in vehicle; \*If “drugged” driving is substance heroin, opiod or methamphetamine?

## Modifications to OWI Guidelines

January 1, 2017 modifications:

2015 Wisconsin Act 371 made all 4<sup>th</sup> offense OWI violations Class H felonies

All references to refusal as a factor for increased penalties have been removed in light of Birchfield vs. North Dakota, 579 U.S. \_\_\_\_ (2016).

Mitigating & Aggravating Factors were modified to add “drugged” driving language and passenger in vehicle.

November 8, 2018 amended modifications:

On OWI/PAC 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> & 6<sup>th</sup> offenses, minimum and maximum fines are doubled where BAC is .17 to .199, Tripled where BAC is .20 to .249 and quadrupled where BAC is .25 or above \. If charged, this an additional element of the crime.

“Drugged Driving” column added to all offenses

**THIRD JUDICIAL DISTRICT OAWI SENTENCING GUIDELINES**

**PENALTY RANGES PER STATUTE**

	<b>1st Offense</b>	<b>1st Offense A crime with minor passenger under 16</b>	<b>2nd Offense (Misdemeanor)</b>	<b>3rd Offense (Misdemeanor)</b>	<b>4th Offense (Misdemeanor)</b>
Fine or Forfeiture ****	\$150 - 300	\$350 – \$1,100	\$350 – \$1,100	\$600 - \$8,000	\$600 - \$2,000
Penalty Assessment	26%	26%	26%	26%	26%
Jail Assessment	\$10	\$10	\$10	1% (\$10 min)	1% (\$10 min)
Justice Information Service Fee	\$21.50	\$21.50	none	none	none
Court Support Services Fee	\$68	\$68	none	none	none
Victim-Witness Surcharge	None	None	\$67	\$67	\$67
Court Costs	\$25	\$25	\$163	\$163	\$163
DNA Surcharge		\$200	\$200	\$200	\$200
Driver Improvement Surcharge	\$435	\$435	\$435	\$435	\$435
Safe Ride Program	\$50	\$50	\$50	\$50	\$50
Crime Lab.& Drug Assessment	\$13	\$13	\$13	\$13	\$13
Ignition Interlock Device	.15 > \$50	.15 > \$50	\$50	\$50	\$50
Jail/Initial Confinement	none	5 days to 6 mos.	5 days to 6 mos.	45 days to 1 yr	60 days to 1 yr
Extended Supervision					N/A
Revocation*	6-9 months	12-18 months	12-18 months	24-36 months	24-36 months
(No Refusal) Waiting period for occupational license	None	60 days**	60 days**	90 days**	90 days**
(Refusal) Waiting period for occupational license	30 days	90 days**	90 days**	120 days**	120 days**

\* Revocation period order shall be extended by length of any imprisonment ordered. 343.30(1r) Also, If second offense or higher, revocation minimums and maximums are doubled if minor passenger under 16 years of age. 343.30(1q)b 4m

\*\*Must complete Alcohol Assessment and be in compliance with drivers safety plan and absolute sobriety during use

\*\*\*Driver Improvement/Safe Ride: Failure to pay in 60 days is subject to license suspension (§343.30(1z)); the surcharge may not be satisfied through community service work.

\*\*\*\*On OWI/PAC 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> & 6<sup>th</sup> offenses, minimum and maximum fines are doubled where BAC is .17 to .199, Tripled where BAC is .20 to .249 and quadrupled where BAC is .25 or above \. If charged, this an additional element of the crime.

**PENALTY RANGES PER STATUTE**

	<b>4th Offense (Felony)</b>	<b>5<sup>th</sup> – 6<sup>th</sup> Offense (Felony)</b>	<b>7<sup>th</sup> – 9<sup>th</sup> Offense (Felony)</b>	<b>10th Offense Or Higher(Felony)</b>
Fine or Forfeiture****	\$600 - \$40,000	\$600 - \$40,000	Up to \$25,000	Up to \$25,000
Penalty Assessment	26%	26%	26%	26%
Jail Assessment	1% (\$10 min)	1% (\$10 min)	1% (\$10 min)	1% (\$10 min)
Justice Information Service Fee	none	none	none	none
Court Support Services Fee	none	none	none	none
Victim-Witness Surcharge	\$92	\$92	\$92	\$92
Court Costs	\$163	\$163	\$163	\$163
DNA Surcharge	\$250	\$250	\$250	\$250
Driver Improvement Surcharge	\$435	\$435	\$435	\$435
Safe Ride Program	\$50	\$50	\$50	\$50
Crime Lab.& Drug Assessment	\$13	\$13	\$13	\$13
Ignition Interlock Device	\$50	\$50	\$50	\$50
Jail\Initial Confinement	4 mos. to 3 yrs	6 mos. to 3 yrs	3 yrs to 5 yrs	6 – 10 years
Extended Supervision	Up to 3 years	Up to 3 years	Up to 5 years	Up to 5 years
Revocation*	24-36 months	24-36 months	24-36 months	24-36 months
(No Refusal) Waiting period for occupational license	90 days**	90 days**	90 days**	90 days**
(Refusal) Waiting period for occupational license	120 days**	120 days**	120 days**	120 days**

\* Revocation period order shall be extended by length of any imprisonment ordered. 343.30(1r) Also, If second offense or higher, revocation minimums and maximums are doubled if minor passenger under 16 years of age. 343.30(1q)b 4m

\*\*Must complete Alcohol Assessment and be in compliance with drivers safety plan and absolute sobriety during use

\*\*\*Driver Improvement/Safe Ride: Failure to pay in 60 days is subject to license suspension (§343.30(1z)); the surcharge may not be satisfied through community service work

\*\*\*\* On OWI/PAC 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> & 6<sup>th</sup> offenses, minimum and maximum fines are doubled where BAC is .17 to .199, Tripled where BAC is .20 to .249 and quadrupled where BAC is .25 or above \. If charged, this an additional element of the crime.

## First Offense

### Mitigating Factors

Bac Level	.08 to .149	.15 to .199	.20 to .249	.25 and above	"Drugged" Driving
Forfeiture	150.00	200.00	250.00	300.00	200.00
Penalty Surcharge (26%)	39.00	52.00	65.00	78.00	52.00
Ignition Interlock Device		50.00	50.00	50.00	50.00
Jail Surcharge	10.00	10.00	10.00	10.00	10.00
Justice Information Service Fee	21.50	21.50	21.50	21.50	21.50
Court Support Services Fee	68.00	68.00	68.00	68.00	68.00
Court Costs	25.00	25.00	25.00	25.00	25.00
Driver Improvement Surcharge	435.00	435.00	435.00	435.00	435.00
Safe Ride Program	50.00	50.00	50.00	50.00	50.00
Crime Lab. & Drug Surcharge	13.00	13.00	13.00	13.00	13.00
<b>Total Financial</b>	<b>\$811.50</b>	<b>\$924.50</b>	<b>\$987.50</b>	<b>\$1,050.50</b>	<b>\$924.50</b>
Revocation	6 months	7 months	8 months	9 months	6 months
IID		12 months*	12 months*	12 months*	12 months*

\* If IID is ordered on a 1st offense the IID order must be for a period of 1 year. 343.301(2m)

### Aggravating Factors

Bac Level	.08 to .149	.15 to .199	.20 to .249	.25 and above	"Drugged" Driving
Forfeiture	200.00	250.00	300.00	300.00	300.00
Penalty Surcharge (26%)	52.00	65.00	78.00	78.00	78.00
Ignition Interlock Device		50.00	50.00	50.00	50.00
Jail Surcharge	10.00	10.00	10.00	10.00	10.00
Justice Information Service Fee	21.50	21.50	21.50	21.50	21.50
Court Support Services Fee	68.00	68.00	68.00	68.00	68.00
Court Costs	25.00	25.00	25.00	25.00	25.00
Driver Improvement Surcharge	435.00	435.00	435.00	435.00	435.00
Safe Ride Program	50.00	50.00	50.00	50.00	50.00
Crime Lab. & Drug Surcharge	13.00	13.00	13.00	13.00	13.00
<b>Total Financial</b>	<b>\$874.50</b>	<b>\$987.50</b>	<b>\$1,050.50</b>	<b>\$1,050.50</b>	<b>\$1,050.50</b>
Revocation	6 months	7 months	8 months	9 months	8-9 months
IID		12 months*	12 months*	12 months*	12 months*

\* If IID is ordered on a 1st offense the IID order must be for a period of 1 year. 343.301(2m)

**First Offense With Minor Passenger  
Mitigating Factors**

<b>Bac Level</b>	<b>.08 to .149</b>	<b>.15 to .199</b>	<b>.20 to .249</b>	<b>.25 and above</b>	<b>"Drugged" Driving</b>
Fine	350.00	400.00	450.00	500.00	400.00
Penalty Surcharge (26%)	91.00	104.00	117.00	130.00	104.00
Ignition Interlock Device		50.00	50.00	50.00	50.00
Jail Surcharge	10.00	10.00	10.00	10.00	10.00
Victim-Witness Surcharge	67.00	67.00	67.00	67.00	67.00
Court Costs	163.00	163.00	163.00	163.00	163.00
DNA Surcharge	200.00	200.00	200.00	200.00	200.00
Driver Improvement Surcharge	435.00	435.00	435.00	435.00	435.00
Safe Ride Program	50.00	50.00	50.00	50.00	50.00
Crime Lab. & Drug Surcharge	13.00	13.00	13.00	13.00	13.00
<b>Total Financial</b>	<b>\$1,379.00</b>	<b>\$1,492.00</b>	<b>\$1,555.00</b>	<b>\$1,618.00</b>	<b>\$1,492.00</b>
Jail	5-30 days	10-60 days	20-90 days	90-180 days	60-180 days
Revocation and IID	12 months*	14 months	16 months	18 months	14-18 months

\* IID is not an option for .15 <

\*\* If the defendant is placed on probation you must impose at least the minimum mandatory period of confinement as a condition of probation.

The defendant is eligible to receive good time under Sec. 302.43. See Sec. 973.09(1)(d)

**Aggravating Factors**

<b>Bac Level</b>	<b>.08 to .149</b>	<b>.15 to .199</b>	<b>.20 to .249</b>	<b>.25 and above</b>	<b>"Drugged" Driving</b>
Fine	400.00	450.00	500.00	550.00	550.00
Penalty Surcharge (26%)	104.00	117.00	130.00	143.00	143.00
Ignition Interlock Device		50.00	50.00	50.00	50.00
Jail Surcharge	10.00	10.00	10.00	10.00	10.00
Victim-Witness Surcharge	67.00	67.00	67.00	67.00	67.00
Court Costs	163.00	163.00	163.00	163.00	163.00
DNA Surcharge	200.00	200.00	200.00	200.00	200.00
Driver Improvement Surcharge	435.00	435.00	435.00	435.00	435.00
Safe Ride Program	50.00	50.00	50.00	50.00	50.00
Crime Lab. & Drug Surcharge	13.00	13.00	13.00	13.00	13.00
<b>Total Financial</b>	<b>\$1,442.00</b>	<b>\$1,555.00</b>	<b>\$1,618.00</b>	<b>\$1,681.00</b>	<b>\$1,681.00</b>
Jail	30-60 days	60-90 days	90-180 days	120-180 days	120-180 days
Revocation and IID	14 months*	16 months	18 months	18 months	18 months

\* IID is not an option for .15 <

\*\* If the defendant is placed on probation you must impose at least the minimum mandatory period of confinement as a condition of probation.

The defendant is eligible to receive good time under Sec. 302.43. See Sec. 973.09(1)(d)

## Second Offense

### Mitigating Factors

Bac Level	.02 to .149	.15 to .199	.20 to .249	.25 and above	"Drugged" Driving
Fine	350.00	400.00	450.00	500.00	400.00
Penalty Surcharge (26%)	91.00	104.00	117.00	130.00	104.00
Ignition Interlock Device	50.00	50.00	50.00	50.00	50.00
Jail Surcharge	10.00	10.00	10.00	10.00	10.00
Victim-Witness Surcharge	67.00	67.00	67.00	67.00	67.00
Court Costs	163.00	163.00	163.00	163.00	163.00
DNA Surcharge	200.00	200.00	200.00	200.00	200.00
Driver Improvement Surcharge	435.00	435.00	435.00	435.00	435.00
Safe Ride Program	50.00	50.00	50.00	50.00	50.00
Crime Lab. & Drug Surcharge	13.00	13.00	13.00	13.00	13.00
<b>Total Financial</b>	<b>\$1,429.00</b>	<b>\$1,492.00</b>	<b>\$1,555.00</b>	<b>\$1,618.00</b>	<b>\$1,492.00</b>
Jail	5-30 days	10-60 days	20-90 days	90-180 days	10-90 days
Revocation and IID	12 months	14 months	16 months	18 months	14-16 months

\* If the defendant is placed on probation you must impose at least the minimum mandatory period of confinement as a condition of probation.  
The defendant is eligible to receive good time under Sec. 302.43. See Sec. 973.09(1)(d)

### Aggravating Factors

Bac Level	.02 to .149	.15 to .199	.20 to .249	.25 and above	"Drugged" Driving
Fine	400.00	450.00	500.00	550.00	450.00
Penalty Surcharge (26%)	104.00	117.00	130.00	143.00	117.00
Ignition Interlock Device	50.00	50.00	50.00	50.00	50.00
Jail Surcharge	10.00	10.00	10.00	10.00	10.00
Victim-Witness Surcharge	67.00	67.00	67.00	67.00	67.00
Court Costs	163.00	163.00	163.00	163.00	163.00
DNA Surcharge	200.00	200.00	200.00	200.00	200.00
Driver Improvement Surcharge	435.00	435.00	435.00	435.00	435.00
Safe Ride Program	50.00	50.00	50.00	50.00	50.00
Crime Lab. & Drug Surcharge	13.00	13.00	13.00	13.00	13.00
<b>Total Financial</b>	<b>\$1,492.00</b>	<b>\$1,555.00</b>	<b>\$1,618.00</b>	<b>\$1,681.00</b>	<b>\$1,555.00</b>
Jail	30-60 days	60-90 days	90-180 days	120-180 days	60-180 days
Revocation and IID	14 months	16 months	18 months	18 months	16-18 months

\* If the defendant is placed on probation you must impose at least the minimum mandatory period of confinement as a condition of probation.  
The defendant is eligible to receive good time under Sec. 302.43. See Sec. 973.09(1)(d)

### Third Offense

(ineligible for bail or stay after conviction - 973.15(8)(a)(3))

#### Mitigating Factors

Bac Level	.02 to .169	.17 to .199	.20 to .249	.25 and above	"Drugged" Driving
Fine	600.00	1200.00	1800.00	2400.00	1200.00
Penalty Surcharge (26%)	156.00	312.00	468.00	624.00	312.00
Ignition Interlock Device	50.00	50.00	50.00	50.00	50.00
Jail Surcharge	10.00	12.00	18.00	24.00	12.00
Victim-Witness Surcharge	67.00	67.00	67.00	67.00	67.00
Court Costs	163.00	163.00	163.00	163.00	163.00
DNA Surcharge	200.00	200.00	200.00	200.00	200.00
Driver Improvement Surcharge	435.00	435.00	435.00	435.00	435.00
Safe Ride Program	50.00	50.00	50.00	50.00	50.00
Crime Lab. & Drug Surcharge	13.00	13.00	13.00	13.00	13.00
<b>Total Financial</b>	<b>\$1,744.00</b>	<b>\$2,502.00</b>	<b>\$3,264.00</b>	<b>\$4,026.00</b>	<b>\$2,502.00</b>
Jail	45 days -5 months	60 days - 6 months	3-7 months	4-9 months	60 days - 9 months
Revocation and IID	24 months	27 months	30 months	33 months	27-33 months

\* If the defendant is placed on probation you must impose at least the minimum mandatory period of confinement as a condition of probation.

The defendant is eligible to receive good time under Sec. 302.43. See Sec. 973.09(1)(d)

#### Aggravating Factors

Bac Level	.02 to .169	.17 to .199	.20 to .249	.25 and above	"Drugged" Driving
Fine	650.00	1300.00	1950.00	2600.00	1300.00
Penalty Surcharge (26%)	169.00	338.00	507.00	676.00	338.00
Ignition Interlock Device	50.00	50.00	50.00	50.00	50.00
Jail Surcharge	10.00	13.00	19.50	26.00	13.00
Victim-Witness Surcharge	67.00	67.00	67.00	67.00	67.00
Court Costs	163.00	163.00	163.00	163.00	163.00
DNA Surcharge	200.00	200.00	200.00	200.00	200.00
Driver Improvement Surcharge	435.00	435.00	435.00	435.00	435.00
Safe Ride Program	50.00	50.00	50.00	50.00	50.00
Crime Lab. & Drug Surcharge	13.00	13.00	13.00	13.00	13.00
<b>Total Financial</b>	<b>\$1,807.00</b>	<b>\$2,629.00</b>	<b>\$3,454.50</b>	<b>\$4,280.00</b>	<b>\$2,629.00</b>
Jail	60 days -6 months	4-8 months	7 mo.-1 yr.	9 mo.-1 yr.	4 mo - 1 year
Revocation and IID	27 months	30 months	33 months	36 months	30-60 months

\* If the defendant is placed on probation you must impose at least the minimum mandatory period of confinement as a condition of probation.

The defendant is eligible to receive good time under Sec. 302.43. See Sec. 973.09(1)(d)

### Fourth Offense (Misdemeanor)

(ineligible for bail or stay after conviction - 973.15(8)(a)(3))

#### Mitigating Factors

Bac Level	.02 to .079	.08 - .169	.17 - .199	.20 to .249	.25 and above	"Drugged" Driving
Fine	650.00	750.00	1500.00	2250.00	3000.00	1500.00
Penalty Surcharge (26%)	169.00	195.00	390.00	585.00	780.00	390.00
Ignition Interlock Device	50.00	50.00	50.00	50.00	50.00	50.00
Jail Surcharge	10.00	10.00	15.00	22.50	30.00	15.00
Victim-Witness Surcharge	92.00	92.00	92.00	92.00	92.00	92.00
Court Costs	163.00	163.00	163.00	163.00	163.00	163.00
DNA Surcharge	250.00	250.00	250.00	250.00	250.00	250.00
Driver Improvement Surcharge	435.00	435.00	435.00	435.00	435.00	435.00
Safe Ride Program	50.00	50.00	50.00	50.00	50.00	50.00
Crime Lab. & Drug Surcharge	13.00	13.00	13.00	13.00	13.00	13.00
<b>Total Financial</b>	<b>\$1,882.00</b>	<b>\$2,008.00</b>	<b>\$2,958.00</b>	<b>\$3,910.50</b>	<b>\$4,863.00</b>	<b>\$2,958.00</b>
Jail/Initial Confinement	60 days- 6mo.	75 days- 7 mo.	4 mo.-1 yr.	6 mo.-1 yr.	9 mo.-1 yr.	4 mo.-1 yr.
Revocation and IID	24 months	24 months	27 months	33 months	36 months	27 mo - 36 mo

\* If the defendant is placed on probation you must impose at least the minimum mandatory period of confinement as a condition of probation.

The defendant is eligible to receive good time under Sec. 302.43. See Sec. 973.09(1)(d)

#### Aggravating Factors

Bac Level	.02 to .079	.08 - .169	.17 - .199	.20 to .249	.25 and above	"Drugged" Driving
Fine	900.00	1000.00	2000.00	3000.00	4000.00	2000.00
Penalty Surcharge (26%)	234.00	260.00	520.00	780.00	1040.00	520.00
Ignition Interlock Device	50.00	50.00	50.00	50.00	50.00	50.00
Jail Surcharge	10.00	10.00	20.00	30.00	40.00	20.00
Victim-Witness Surcharge	92.00	92.00	92.00	92.00	92.00	92.00
Court Costs	163.00	163.00	163.00	163.00	163.00	163.00
DNA Surcharge	250.00	250.00	250.00	250.00	250.00	250.00
Driver Improvement Surcharge	435.00	435.00	435.00	435.00	435.00	435.00
Safe Ride Program	50.00	50.00	50.00	50.00	50.00	50.00
Crime Lab. & Drug Surcharge	13.00	13.00	13.00	13.00	13.00	13.00
<b>Total Financial</b>	<b>\$2,197.00</b>	<b>\$2,323.00</b>	<b>\$3,593.00</b>	<b>\$4,863.00</b>	<b>\$6,133.00</b>	<b>\$3,593.00</b>
Jail/Initial Confinement	75 days- 7 mo.	3 mo.- 9 mo.	6 mo.-1 yr.	8 mo.- 1 yr.	10 mo. - 1 yr.	6 mo - 1 yr
Revocation and IID	27 months	33 months	36 months	36 months	36 months	36 months

\* If the defendant is placed on probation you must impose at least the minimum mandatory period of confinement as a condition of probation.

The defendant is eligible to receive good time under Sec. 302.43. See Sec. 973.09(1)(d)

### Fourth Offense (Felony)

(ineligible for bail or stay after conviction - 973.15(8)(a)(3))

#### Mitigating Factors

Bac Level	.02 to .079	.08 - .169	.17 - .199	.20 to .249	.25 and above	"Drugged" Driving
Fine	650.00	750.00	1500.00	2250.00	3000.00	1500.00
Penalty Surcharge (26%)	169.00	195.00	390.00	585.00	780.00	390.00
Ignition Interlock Device	50.00	50.00	50.00	50.00	50.00	50.00
Jail Surcharge	10.00	10.00	15.00	22.50	30.00	15.00
Victim-Witness Surcharge	92.00	92.00	92.00	92.00	92.00	92.00
Court Costs	163.00	163.00	163.00	163.00	163.00	163.00
DNA Surcharge	250.00	250.00	250.00	250.00	250.00	250.00
Driver Improvement Surcharge	435.00	435.00	435.00	435.00	435.00	435.00
Safe Ride Program	50.00	50.00	50.00	50.00	50.00	50.00
Crime Lab. & Drug Surcharge	13.00	13.00	13.00	13.00	13.00	13.00
<b>Total Financial</b>	<b>\$1,882.00</b>	<b>\$2,008.00</b>	<b>\$2,958.00</b>	<b>\$3,910.50</b>	<b>\$4,863.00</b>	<b>\$2,958.00</b>
Jail/Initial Confinement	4 mo.-1 yrs.	6 mo.-2 yrs.	8 mo.-2 yrs.	9 mo.-3 yrs.	10 mo.-3 yrs.	8 mo.- 3 yrs.
Revocation and IID	24 months	24 months	27 months	33 months	36 months	27 mo. - 36 mo.

\* If the defendant is placed on probation you must impose at least the minimum mandatory period of confinement as a condition of probation.

The defendant is eligible to receive good time under Sec. 302.43. See Sec. 973.09(1)(d)

#### Aggravating Factors

Bac Level	.02 to .079	.08 - .169	.17 - .199	.20 to .249	.25 and above	"Drugged" Driving
Fine	900.00	1000.00	2000.00	3000.00	4000.00	2000.00
Penalty Surcharge (26%)	234.00	260.00	520.00	780.00	1040.00	520.00
Ignition Interlock Device	50.00	50.00	50.00	50.00	50.00	50.00
Jail Surcharge	10.00	10.00	20.00	30.00	40.00	20.00
Victim-Witness Surcharge	92.00	92.00	92.00	92.00	92.00	92.00
Court Costs	163.00	163.00	163.00	163.00	163.00	163.00
DNA Surcharge	250.00	250.00	250.00	250.00	250.00	250.00
Driver Improvement Surcharge	435.00	435.00	435.00	435.00	435.00	435.00
Safe Ride Program	50.00	50.00	50.00	50.00	50.00	50.00
Crime Lab. & Drug Surcharge	13.00	13.00	13.00	13.00	13.00	13.00
<b>Total Financial</b>	<b>\$2,197.00</b>	<b>\$2,323.00</b>	<b>\$3,593.00</b>	<b>\$4,863.00</b>	<b>\$6,133.00</b>	<b>\$3,593.00</b>
Jail/Initial Confinement	7 mo.-18 mo..	9 mo.-2 yrs.	1 yr.-3 yrs.	1 yr.-3 yrs.	1 yr.-3 yrs.	1 yr.-3 yrs.
Revocation and IID	27 months	33 months	36 months	36 months	36 months	36 months

\* If the defendant is placed on probation you must impose at least the minimum mandatory period of confinement as a condition of probation.

The defendant is eligible to receive good time under Sec. 302.43. See Sec. 973.09(1)(d)

### Fifth and Sixth Offense

(ineligible for bail or stay after conviction - 973.15(8)(a)(3))

#### Mitigating Factors

Bac Level	.02 to .079	.08 - .169	.17 - .199	.20 to .249	.25 and above	"Drugged" Driving
Fine	1200.00	1500.00	3000.00	4500.00	6000.00	3000.00
Penalty Surcharge (26%)	312.00	390.00	780.00	1170.00	1560.00	780.00
Ignition Interlock Device	50.00	50.00	50.00	50.00	50.00	50.00
Jail Surcharge	12.00	15.00	30.00	45.00	60.00	30.00
Victim-Witness Surcharge	92.00	92.00	92.00	92.00	92.00	92.00
Court Costs	163.00	163.00	163.00	163.00	163.00	163.00
DNA Surcharge	250.00	250.00	250.00	250.00	250.00	250.00
Driver Improvement Surcharge	435.00	435.00	435.00	435.00	435.00	435.00
Safe Ride Program	50.00	50.00	50.00	50.00	50.00	50.00
Crime Lab. & Drug Surcharge	13.00	13.00	13.00	13.00	13.00	13.00
<b>Total Financial</b>	<b>\$2,577.00</b>	<b>\$2,958.00</b>	<b>\$4,863.00</b>	<b>\$6,768.00</b>	<b>\$8,673.00</b>	<b>\$4,863.00</b>
Jail/Initial Confinement	6 months -2 yrs	1-3 yrs	1-3 yrs	1-3 yrs	1-3 yrs	1-3 yrs
Revocation and IID	36 months	36 months	36 months	36 months	36 months	36 months

\* If the defendant is placed on probation you must impose at least the minimum mandatory period of confinement as a condition of probation.

The defendant is eligible to receive good time under Sec. 302.43. See Sec. 973.09(1)(d)

#### Aggravating Factors

Bac Level	.02 to .079	.08 - .169	.17 - .199	.20 to .249	.25 and above	"Drugged" Driving
Fine	1500.00	1700.00	3400.00	5100.00	6800.00	3400.00
Penalty Surcharge (26%)	390.00	442.00	884.00	1326.00	1768.00	884.00
Ignition Interlock Device	50.00	50.00	50.00	50.00	50.00	50.00
Jail Surcharge	15.00	17.00	34.00	51.00	68.00	34.00
Victim-Witness Surcharge	92.00	92.00	92.00	92.00	92.00	92.00
Court Costs	163.00	163.00	163.00	163.00	163.00	163.00
DNA Surcharge	250.00	250.00	250.00	250.00	250.00	250.00
Driver Improvement Surcharge	435.00	435.00	435.00	435.00	435.00	435.00
Safe Ride Program	50.00	50.00	50.00	50.00	50.00	50.00
Crime Lab. & Drug Surcharge	13.00	13.00	13.00	13.00	13.00	13.00
<b>Total Financial</b>	<b>\$2,958.00</b>	<b>\$3,212.00</b>	<b>\$5,371.00</b>	<b>\$7,530.00</b>	<b>\$9,689.00</b>	<b>\$5,371.00</b>
Jail/Initial Confinement	1-3 yrs	1-3 yrs	18 mo. -3 yrs	2-3 yrs	2-3 yrs	18 mo. -3 yrs
Revocation and IID	36 months	36 months	36 months	36 months	36 months	36 months

\* If the defendant is placed on probation you must impose at least the minimum mandatory period of confinement as a condition of probation.

The defendant is eligible to receive good time under Sec. 302.43. See Sec. 973.09(1)(d)



**Tenth or Greater Offense**  
(ineligible for bail or stay after conviction - 973.15(8)(a)(3))

**Mitigating Factors**

<b>Bac Level</b>	<b>.02 to .079</b>	<b>.08 - .169</b>	<b>.17 - .199</b>	<b>.20 to .249</b>	<b>.25 and above</b>	<b>"Drugged" Driving</b>
Fine	1600.00	1900.00	3400.00	4900.00	6400.00	3400.00
Penalty Surcharge (26%)	416.00	494.00	884.00	1274.00	1664.00	884.00
Ignition Interlock Device	50.00	50.00	50.00	50.00	50.00	50.00
Jail Surcharge	12.00	15.00	30.00	45.00	60.00	30.00
Victim-Witness Surcharge	92.00	92.00	92.00	92.00	92.00	92.00
Court Costs	163.00	163.00	163.00	163.00	163.00	163.00
DNA Surcharge	250.00	250.00	250.00	250.00	250.00	250.00
Driver Improvement Surcharge	435.00	435.00	435.00	435.00	435.00	435.00
Safe Ride Program	50.00	50.00	50.00	50.00	50.00	50.00
Crime Lab. & Drug Surcharge	13.00	13.00	13.00	13.00	13.00	13.00
<b>Total Financial</b>	<b>\$3,081.00</b>	<b>\$3,462.00</b>	<b>\$5,367.00</b>	<b>\$7,272.00</b>	<b>\$9,177.00</b>	<b>\$5,367.00</b>
Initial Confinement	4 - 5 yrs	4.5 - 5.5 yrs	5 - 6 yrs	5.5 - 6.5 yrs	6 - 10 yrs	5 - 10 yrs
Revocation and IID	36 months	36 months	36 months	36 months	36 months	36 months

**Aggravating Factors**

<b>Bac Level</b>	<b>.02 to .079</b>	<b>.08 - .169</b>	<b>.17 - .199</b>	<b>.20 to .249</b>	<b>.25 and above</b>	<b>"Drugged" Driving</b>
Fine	1900.00	2100.00	3800.00	5500.00	7200.00	3800.00
Penalty Surcharge (26%)	494.00	546.00	988.00	1430.00	1872.00	988.00
Ignition Interlock Device	50.00	50.00	50.00	50.00	50.00	50.00
Jail Surcharge	15.00	17.00	34.00	51.00	68.00	34.00
Victim-Witness Surcharge	92.00	92.00	92.00	92.00	92.00	92.00
Court Costs	163.00	163.00	163.00	163.00	163.00	163.00
DNA Surcharge	250.00	250.00	250.00	250.00	250.00	250.00
Driver Improvement Surcharge	435.00	435.00	435.00	435.00	435.00	435.00
Safe Ride Program	50.00	50.00	50.00	50.00	50.00	50.00
Crime Lab. & Drug Surcharge	13.00	13.00	13.00	13.00	13.00	13.00
<b>Total Financial</b>	<b>\$3,462.00</b>	<b>\$3,716.00</b>	<b>\$5,875.00</b>	<b>\$8,034.00</b>	<b>\$10,193.00</b>	<b>\$5,875.00</b>
Initial Confinement	4.5 - 5.5 yrs	5-6 yrs	5.5 -6.5 yrs	6 - 7 yrs	6.5 - 10 yrs	6.5 - 10 yrs
Revocation and IID	36 months	36 months	36 months	36 months	36 months	36 months

## Municipal Court First Offense

### Mitigating Factors

Bac Level	.08 to .149	.15 to .199	.20 + above	"Drugged" Driving
Forfeiture	150.00	200.00	250.00	200.00
Penalty Surcharge (26%)	39.00	52.00	65.00	52.00
Jail Surcharge	10.00	10.00	10.00	10.00
Court Costs	\$15 - \$38	\$15 - \$38	\$15 - \$38	\$15 - \$38
Driver Improvement Surcharge	435.00	435.00	435.00	435.00
Safe Ride Program	50.00	50.00	50.00	50.00
Crime Lab. & Drug Surcharge	13.00	13.00	13.00	13.00
<b>Total Financial From</b>	<b>\$712.00</b>	<b>\$775.00</b>	<b>\$838.00</b>	<b>\$775.00</b>
<b>Factoring Court Costs To</b>	<b>\$735.00</b>	<b>\$798.00</b>	<b>\$861.00</b>	<b>\$798.00</b>
Revocation	6 months	7 months	8 months	7 months
IID		12 months*	12 months*	12 months*

\* If IID is ordered on a 1st offense the IID order must be for a period of 1 year. 343.301(2m)

### Aggravating Factors

Bac Level	.08 to .149	.15 to .199	.20 + above	"Drugged" Driving
Forfeiture	200.00	250.00	300.00	250.00
Penalty Surcharge (26%)	52.00	65.00	78.00	65.00
Jail Surcharge	10.00	10.00	10.00	10.00
Court Costs	\$15 - \$38	\$15 - \$38	\$15 - \$38	\$15 - \$38
Driver Improvement Surcharge	435.00	435.00	435.00	435.00
Safe Ride Program	50.00	50.00	50.00	50.00
Crime Lab. & Drug Surcharge	13.00	13.00	13.00	13.00
<b>Total Financial From</b>	<b>\$775.00</b>	<b>\$838.00</b>	<b>\$901.00</b>	<b>\$838.00</b>
<b>Factoring Court Costs To</b>	<b>\$798.00</b>	<b>\$861.00</b>	<b>\$924.00</b>	<b>\$861.00</b>
Revocation	6 months	7 months	8 months	7 months
IID		12 months*	12 months*	12 months*

\* If IID is ordered on a 1st offense the IID order must be for a period of 1 year. 343.301(2m)