

FIFTH JUDICIAL DISTRICT

OWI SENTENCING GUIDELINES

Citation Issued On or After:

July 1, 2010

District Court Administrator
215 S. Hamilton Street, Room 6111
Madison WI 53703-3295
(608) 267-8820

C. William Foust, Chief Judge

Dated: August 20, 2010

FIFTH JUDICIAL DISTRICT SENTENCING GUIDELINES

1st OFFENSE OWI/PAC

(Citations Issued On or After July 1, 2010)

Civil – Non-Criminal

Forfeiture: \$150 - \$300 [§346.65(2)(am)1]
Revocation: 6-9 months [§343.30(1q)(b)2]
 Occupational license eligibility immediately
Ignition Interlock: Mandatory 1 year for BAC .150 and above

With Minor Child <16 in vehicle – Criminal Offense [§346.65(2)(f)]

Jail: 5 days – 6 months **Fine:** \$350-\$1100

Use Chart for 2nd Offense OWI/PAC

BAC Levels	Minimum Driving No Accident	Aggravated Driving Accident or Injury Bad Driving Record
< .10	\$150 + Costs = \$699.50 6 mo. revocation	\$200 + Costs = \$762.50 6 mo. revocation
.10-.149 Controlled Substance	\$200 + Costs = \$762.50 7 mo. revocation	\$250. + Costs = \$825.50 7 mo. revocation
.150-.199	\$250 + Costs = \$875.50 8 mo. revocation IID-1 year	\$300 + Costs = \$938.50 8 mo. revocation IID-1 year
.20 and above	\$300 + Costs = \$938.50 9 mo. revocation IID-1 year	\$300 + Costs = \$938.50 9 mo. revocation IID-1 year

No Probation Option

Treatment: Good faith progress in qualified AODA treatment prior to sentence reduces guideline penalties to cell for next lowest BAC

Alcohol Assessment and Driver Safety Plan

Court may order:

- Community service work to reduce the amount of a forfeiture or fine. §346.65(2g)(a)
- Site visit that demonstrates the effects of substance abuse. §346.65(2).
- Reduction of the forfeiture/fine and payment of the difference toward the cost of the alcohol assessment and driver safety plan. §346.65(2c)
- Restitution. §346.65(2r)(a)

FIFTH JUDICIAL DISTRICT SENTENCING GUIDELINES

2nd Offense OWI/PAC and 1st Offense with Minor Child < 16 in Vehicle

(Citations Issued On or After July 1, 2010)

Jail: 5 days – 6 months [§346.65(2)(am)2]
Fine: \$350 - \$1100
Revocation: 12-18 months [§343.30(1q)(b)3]
Occupational license eligibility – 45 days from conviction
Ignition Interlock: Mandatory for all second offenses
12 months to 18 months [§303.08(10r)]

With Minor Child <16 : Applicable minimum and maximum fines, revocation periods and jail double

BAC	Minimum Driving No Accident	Aggravated Driving Accident or Injury Bad Driving Record
<.10	\$350 + Costs = \$1117. 5 days jail 12 mo. revocation	\$400 + Costs = \$1180. 10 days jail 14 mo. revocation
.10-.149 Controlled Substance	\$400 + Costs = \$1180. 10 days jail 14 mo. revocation	\$600 + Costs = \$1432. 30 days jail 16 mo. revocation
.150-.199	\$600 + Costs = \$1432. 30 days jail 16 mo. revocation	\$800 + Costs = \$1684. 90 days jail 17 mo. revocation
.20 and up Refusal	\$800 + Costs = \$1684. 120 days jail 17 mo. revocation	\$1100 + Costs = \$2063. 6 months jail 18 mo. revocation

Probation: Maximum probation 2 years. If successful completion of treatment on probation, minimum jail is 5 days and maximum jail is 7 days.
[§346.65(2)(bm)]

Treatment: Good faith progress in qualified AODA treatment prior to sentence reduces guideline penalties to cell for next lowest BAC

Alcohol Assessment and Driver Safety Plan

Court may order:

- Community Service work to reduce the amount of a forfeiture or fine §346.65(2g)(a)
- Site visit that demonstrates the effects of substance abuse. §346.65(2i)
- Reduction of the forfeiture/fine and payment of the difference toward the cost of the alcohol assessment and driver safety plan. §346.65(2e)
- Restitution. §346.65(2r)(a)

FIFTH JUDICIAL DISTRICT SENTENCING GUIDELINES

3rd OFFENSE OWI/PAC

(Citations Issued On or After July 1, 2010)

Jail: 45 days – 1 year [§346.65(2)(am)3]
 Minimum 48 consecutive hours in jail [§346.65(7)]

Fine: \$600 - \$2,000 [plus surcharges and costs]

Revocation: 24-36 months
 Occupational license eligibility – 45 days from conviction

Ignition Interlock: Mandatory for all third offenses
 12 months – 36 months

No Bail: No bail after conviction or stay of execution of jail sentence unless jail is a condition of probation [§969.01(2)(a), §973.15(8)(a)(3), §97309(1)(a)]

With Minor Child <16: Becomes a felony and applicable minimum and maximum fines, revocation periods and jail double

BAC	Minimum Driving No Accident	Aggravated Driving Accident or Injury Bad Driving Record
<.10	\$600 + Costs = \$1374. 45 days jail [14 days]* 24 mo. revocation	\$750 + Costs = \$1563. 90 days jail [21days]* 27 mo. revocation
.10-.149 Controlled Substance	\$800 + Costs = \$1626. 90 days jail [21 days]* 27 mo. revocation	\$1000 + Costs = \$1878. 6 mos. jail [28 days]* 30 mo. revocation
.150 - .199	\$1000 + Costs = \$1878. 6 mos. jail [28 days]* [.17-.199 fine doubles] 30 mo. revocation	\$1200 + Costs = \$2259. 9 mos. jail [35 days]* [.17-.199 fine doubles] 33 mo. revocation
.20 and up Refusals	\$1200 + Costs = \$2132. 9 mos. jail [35 days]* [.20-.249 fine triples] [.25 and up and refusals, fine quadruples] 33 mo. revocation	\$1500 + Costs = \$2513. 12 mos. jail [42 days]* [.20-.249 fine triples] [.25 and up and refusals, fine quadruples] 36 mo. revocation

Probation: Maximum probation 2 years. If successful completion of treatment on probation, minimum jail is **14 days**. *Conditional jail days if AODA treatment on probation

Treatment: Good faith progress in qualified AODA treatment prior to sentence reduces guideline penalties to cell for next lowest BAC.

**FIFTH JUDICIAL DISTRICT SENTENCING GUIDELINES
4th OFFENSE OWI/PAC – MISDEMEANOR ONLY**

(Citations Issued On or After July 1, 2010)

Fourth offense is a misdemeanor unless it was committed within 5 years of last OWI offense or refusal

Jail: 60 days – 1 year [§346.65(2)(am)4]
Minimum 48 consecutive hours in jail [§346.65(7)]

Fine: \$600 - \$2,000 [plus surcharges and costs]

Revocation: 24-36 months
Occupational license eligibility 45 days from conviction

Ignition Interlock: Mandatory for all fourth offenses
12 months – 36 months

No Bail: No bail after conviction or stay of execution of jail sentence unless jail is a condition of probation [§969.01(2)(a), §973.15(8)(a)(3), §973.09(1)(a)].

With Minor Child <16: Becomes a felony and applicable minimum and maximum fines, jail, and revocation periods double

BAC	Minimum Driving No Accident	Aggravated Driving Accident or Injury Bad Driving Record
<.10	\$700 + Costs = \$1550. 60 days jail [29 days]* 24 mo. revocation	\$900 + Costs = \$1802. 90 days jail [36 days]* 27 mo. revocation
.10-.149 Controlled Substance	\$900 + Costs = \$1802. 90 days jail [43 days]* 27 mo. revocation	\$1100 + Costs = \$2055. 6 Mos. Jail [50 days]* 30 mo. revocation
.150 - .199	\$1100 + Costs = \$2055. 6 Mos. Jail [57 days]* [.17-.199 fine doubles] 30 mo. revocation	\$1300 + Costs = \$2309. 9 Mos. Jail [64 days]* [.17-.19 fine doubles] 33 mo. revocation
.20 and up Refusals	\$1300 + Costs = \$2309. 9 Mos. Jail [71 days]* [.20-.249 fine triples] [.25 and up and refusals, fine quadruples] 33 mo. revocation	\$1500 + Costs = \$2563. 12 Mos. Jail [78 days]* [.20-.249 fine triples] [.25 and up and refusals, fine quadruples] 36 mo. revocation

Probation: Maximum probation 3 years. If successful completion of treatment on probation, minimum jail is **29 days**. *Conditional jail days if probation ordered.

Treatment: Good faith progress in qualified AODA treatment prior to sentence reduces guideline penalties to cell for next lowest BAC.

FIFTH JUDICIAL DISTRICT SENTENCING GUIDELINES

FELONY OWI CONVICTIONS

(Citations Issued on or After July 1, 2010)

CLASS H FELONIES

5th and 6th Offense OWIs are Class H felonies.

4th Offense OWI is a Class H felony if the defendant committed an offense that resulted in a suspension, revocation, or other conviction for OWI within 5 years prior to the date of the current offense. Section 346.65(2)(am)4m.

2nd Offense (or higher) OWI is a Class H felony if there is injury to another person. Section 346.65(3p).

Prison Time for Class H Felonies: Mandatory minimum six months with up to 3 years maximum

Extended Supervision: Maximum 3 years

Fines: Mandatory minimum \$600 up to \$10,000 maximum

Fines and prison time double if there is a minor under the age of 16 in the vehicle at the time of the violation. Sections 346.65(2)(f)2 and 346.65(3p).

CLASS G FELONIES

7th through 9th OWIs are Class G felonies. Section 346.65(2)(am)6.

Prison time: Mandatory minimum of 3 years with 5 years maximum

Extended Supervision: Maximum of 5 years

Fines: Up to \$25,000

Fines and prison time double if there is a minor under the age of 16 in the vehicle at the time of the violation. Section 346.65(2)(f)2.

CLASS F FELONIES

OWI 10th and above are Class F felonies. Section 346.65(2)(am)7.

Prison time: Mandatory minimum 4 years up to 7.5 years maximum

Extended Supervision: Up to 5 years

Fines: Up to \$25,000

Fines and prison time double if there is a minor under the age of 16 in the vehicle at the time of the violation. Section 346.65(2)(f)2.

FIFTH JUDICIAL DISTRICT SENTENCING GUIDELINES

1st OFFENSE OWI/PAC MUNICIPAL

(Citations Issued On or After July 1, 2010)

Civil – Non-Criminal

Forfeiture: \$150 - \$300 [§346.65(2)(am)1]
Revocation: 6-9 months [§343.30(1q)(b)2]
 Occupational license eligibility immediately
Ignition Interlock: Mandatory 1 year for BAC .150 and above & refusal

With Minor Child <16 in vehicle – Criminal Offense [§346.65(2)(f)]

Jail: 5 days – 6 months **Fine:** \$350-\$1100

Use Chart for 2nd Offense OWI/PAC

BAC Levels	Minimum Driving No Accident	Aggravated Driving Accident or Injury Bad Driving Record
< .10	\$150 + Costs 6 mo. revocation	\$200 + Costs 6 mo. revocation
.10-.149 Controlled Substance	\$200 + Costs 7 mo. revocation	\$250. + Costs 7 mo. revocation
.150-.199	\$250 + Costs 8 mo. revocation IID-1 year	\$300 + Costs 8 mo. revocation IID-1 year
.20 and above	\$300 + Costs 9 mo. revocation IID-1 year	\$300 + Costs 9 mo. revocation IID-1 year

No Probation Option

Treatment: Good faith progress in qualified AODA treatment prior to sentence reduces guideline penalties to cell for next lowest BAC

Alcohol Assessment and Driver Safety Plan

Court may order:

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- Restitution. §346.65(2r)(a)

Costs

\$365 Driver Improvement Surcharge
 \$15-28 Range of Court Costs
 26% of Forfeiture; Penalty Surcharge
 \$10 Jail Surcharge
 \$13 Crime Lab/Drug Surcharge
 \$50 Ignition Interlock Surcharge