

**FIRST JUDICIAL DISTRICT**  
**OWI SENTENCING GUIDELINES**

**Effective for offenses occurring on or after March 16, 2015**

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. 2<sup>nd</sup> 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  
vehicle  
No accident caused

No prior traffic record  
No or dated criminal record

Valid license  
Last OWI over 5 years

### **AGGRAVATED**

Blood Alcohol Level >.07 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  
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