

# 10<sup>th</sup> Judicial District OWI Guidelines

Revised January 2021 Effective for offenses on or after January 1, 2017

	BAC	Minimum Driving & No Accident			Aggravated Driving			Occ. Wait	IID?
		Fine	Jail Days	Rev Mos	Fine	Jail Days	Rev Mos		
1 <sup>st</sup>	Below .15 Restricted Controlled Substance	\$811.50		6	\$874.50		7	0	No
	.15 - .199	\$924.50		7	\$987.50		8	0	Yes
	.20 + or Refusal of Breath Test	\$987.50		8	\$1050.50		9	0	Yes
1 <sup>st</sup> w/ minor under 16	Below .15 Restricted Controlled Substance	\$1,429.00	10	12	\$1,492.00	30	14	0	No
	.15 - .199	\$1,492.00	10	14	\$1,555.00	40	16	0	Yes
	.20 + or Refusal of Breath Test	\$1,555.00	20	16	\$1,618.00	60	18	0	Yes
2 <sup>nd</sup>	Below .15 Restricted Controlled Substance	\$1,429.00	10	12	\$1,492.00	30	14	45 Days	Yes
	.15 - .199	\$1,492.00	10	14	\$1,555.00	40	16	45	Yes
	.20 + or Refusal of Breath Test	\$1,555.00	20	16	\$1,618.00	60	18	45	Yes
2 <sup>nd</sup> w/ minor under 16	.Below .15 Restricted Controlled Substance	\$1,870.00	20	24	\$1,996.00	60	28	45	Yes
	.15 - .199	\$1,996.00	20	28	\$2,122.00	80	32	45	Yes
	.20 + or Refusal of Breath Test	\$2,122.00	40	32	\$2,248.00	120	36	45	Yes
3 <sup>rd</sup>	Below .15 Restricted Controlled Substance	\$1,744.00	60	24	\$1,807.00	80	27	45 Days	Yes
	.15 - .199	\$2,502.00	80	27	\$2,629.00	110	30	45	Yes
	.20 - .249 or Refuse Breath Test	\$3,264.00	110	30	\$3,391.00	140	30	45	Yes
	.25 +	\$5,423.00	110	30	\$5,550.00	140	30	45	Yes

- The IID (Ignition Interlock Device) surcharge of \$50 is included on all fines **except** for 1st offenses with a BAC below .15. §343.301(5).
- IID is **MANDATORY** for all vehicles registered in defendant's name §343.301(1g), **unless** doing so would cause a financial hardship. §343.301(1m).
- **Refusal Penalties** apply to breath cases only. If **Blood Refusal and test**, use the test result. If **Blood Refusal and NO test** use Below .15. *Birchfield v. North Dakota*, 136 S. Ct. 2160 (2016).
- **Probation:** (up to 2 years) available for 2<sup>nd</sup> and 3<sup>rd</sup> offenses if at least the minimum mandatory jail is imposed as a condition. §973.09(1) (d) & § 973.09(2) (am).
- **DNA surcharge** included for 2<sup>nd</sup> and 3<sup>rd</sup> offenses. §973.046(1r).
- Court **prohibited** from staying sentences for 3<sup>rd</sup> and subsequent offenses. §973.15(8)(a)3.
- **3<sup>rd</sup> Offense with at minor passenger** is a felony. §346.65(2)(f)2.
- **4<sup>th</sup> Offense OWI** became a felony for offense dates beginning 1/1/17 (15 Wis. Act 371)
- **Penalty Enhancers for Fines:** Assessed on the base fine. *State v. Neill*, 2020 WI 15
  - **2<sup>nd</sup> offense and above w/minor child:** doubles §346.65(2)(f)2
  - **3<sup>rd</sup> offense and above** §346.65(2)(g)3
    - **w/.17 - .199:** doubles
    - **w/.20 - .249:** triples
    - **w/.25+:** quadruples