

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

Revised Jan 1, 2024 Effective for offenses on or after Jan 1, 2024

	BAC	Minimum Driving & No Accident			Aggravated Driving			Occ. Wait Days	IID?
		Fine	Jail Days	Rev Mos	Fine	Jail Days	Rev Mos		
1 <sup>st</sup>	Below .099	\$911.50		6	\$974.50		7	0	No
	.10 - .149 & RCS	\$943.00		6	\$1,006.00		7	0	No
	.15 - .199	\$1,024.50		7	\$1,087.50		8	0	Yes
	.20 - .249	\$1056.00		7	\$1,119.00		8	0	Yes
	.25 + or Refusal of Breath Test	\$1,087.50		8	\$1,160.50		9	0	Yes
1 <sup>st</sup> w/ minor under 16	Below .099	\$1,479.00	10	12	\$1,542.00	30	14	0	No
	.10 - .149 & RCS	\$1,510.50	15	13	\$1,573.50	35	15	0	No
	.15 - .199	\$1,592.00	20	14	\$1,655.00	40	16	0	Yes
	.20 - .249	\$1,623.00	25	15	\$1,686.50	45	17	0	Yes
	.25 + or Refusal of Breath Test	\$1,655.00	40	16	\$1,718.00	60	18	0	Yes
2 <sup>nd</sup>	Below .099	\$1529.00	10	12	\$1,592.00	30	14	45	Yes
	.10 - .149 & RCS	\$1,560.50	15	13	\$1,623.50	35	15	45	Yes
	.15 - .199	\$1,592.00	20	14	\$1,655.00	40	16	45	Yes
	.20 - .249	\$1,623.50	25	15	\$1,686.50	45	17	45	Yes
	.25 + or Refusal of Breath Test	\$1,655.00	40	16	\$1,718.00	60	18	45	Yes
2 <sup>nd</sup> w/ minor under 16	Below .099	\$1,970.00	60	24	\$2,096.00	90	28	45	Yes
	.10 - .149 & RCS	\$2,033.00	70	26	\$2,159.00	100	30	45	Yes
	.15 - .199	\$2,096.00	80	28	\$2,222.00	110	32	45	Yes
	.20 - .249	\$2,159.00	90	30	\$2,285.00	120	34	45	Yes
	.25 + or Refusal of Breath Test	\$2,222.00	120	32	\$2,348.00	150	36	45	Yes
3 <sup>rd</sup>	Below .099	\$1,844.00	60	24	\$1,970.00	90	28	45	Yes
	.10 - .149 & RCS	\$1,970.00	70	26	\$2,096.00	100	30	45	Yes
	.15 - .169	\$2,096.00	80	28	\$2,222.00	110	32	45	Yes
	.17 - .199	\$2,602.00	100	30	\$2,856.00	130	34	45	Yes
	.20 - .249	\$3,364.00	110	31	\$3,745.00	140	35	45	Yes
	.25 + or Refusal of Breath Test	\$4,126.00	120	32	\$4,634.00	150	36	45	Yes
3 <sup>rd</sup> w/ minor under 16	Below .099	\$2,677.00	150	48	\$2,677.00	170	52	45	Yes
	.10 - .149 & RCS	\$2,677.00	230	50	\$2,677.00	270	54	45	Yes
	.15 - .169	\$2,677.00	250	52	\$2,677.00	300	56	45	Yes
	.17 - .199	\$4,201.00	270	54	\$4,201.00	330	58	45	Yes
	.20 - .249	\$4,963.00	300	56	\$4,963.00	345	60	45	Yes
	.25 + or Refusal of Breath Test	\$5,725.00	330	58	\$5,725.00	360	60	45	Yes
4 <sup>th</sup>	Below .099	\$1,919.00	150	36	\$1,919.00	170	36	Permanent	Yes
	.10 - .149 & RCS	\$2,108.00	230	36	\$2,108.00	270	36	Permanent	Yes
	.15 - .169	\$2,297.00	250	36	\$2,297.00	300	36	Permanent	Yes
	.17 - .199	\$2,677.00	270	36	\$2,677.00	330	36	Permanent	Yes
	.20 - .249	\$3,439.00	300	36	\$3,439.00	345	36	Permanent	Yes
	.25 + or Refusal of Breath Test	\$4,201.00	330	36	\$4,201.00	360	36	Permanent	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).
- **Refusal with minor under 16** Occupational waiting period for improper refusal are doubled. §343.305(10)(b)4m
- **Probation**: available if at least the minimum mandatory jail is imposed as a condition. §973.09(1)(d), § 973.09(2)(a)d, and 346.65(2), Stats.
  - 2<sup>nd</sup> offense: 5 days minimum jail (up to 2 years probation)
  - 3<sup>rd</sup> offense: 45 days (up to 2 years probation)
  - 4<sup>th</sup> offense: 60 days (up to 3 years probation)
- **DNA surcharge** included for 2nd and 3rd 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 a 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)
  - Court must revoke driving privilege for 2 – 3 years. § 343.31(1m)(b), Stats. DOT must revoke for Lifetime. §343.30(1q)(b)4., Stats.
- **5/6<sup>th</sup> Offense OWI** requires a bifurcated sentence with minimum term of confinement of 18 months. § 346.65(2). *State v. Shirikian*, 2023 WI App 13
- **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