

# FIFTH JUDICIAL DISTRICT

## **OWI SENTENCING GUIDELINES**

Citation Issued On or After:

**July 2, 2013**

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

C. William Foust, Chief Judge

Dated: July 2, 2013

This provided by Attorney Charles Kenyon, Madison, Wisconsin. (608) 276-9645  
Check with the court for possible updated information.  
Note a DNA Surcharge may apply on sentences after January 1, 2014  
and will apply for criminal offenses committed after that date.

# FIFTH JUDICIAL DISTRICT SENTENCING GUIDELINES

## 1<sup>st</sup> OFFENSE OWI/PAC

(Citations Issued On or After July 2, 2013)

### 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 2<sup>nd</sup> Offense OWI/PAC**

BAC Levels	Minimum Driving No Accident	Aggravated Driving Accident or Injury Bad Driving Record
< .10	\$150 + Costs = \$761.50 6 mo. revocation	\$200 + Costs = \$824.50 6 mo. revocation
.10-.149 <b>Controlled Substance</b>	\$200 + Costs = \$824.50 7 mo. revocation	\$250. + Costs = \$887.50 7 mo. revocation
.150-.199	\$250 + Costs = \$937.50 8 mo. revocation IID-1 year	\$300 + Costs = \$1000.50 8 mo. revocation IID-1 year
.20 and above	\$300 + Costs = \$1000.50 9 mo. revocation IID-1 year	\$300 + Costs = \$1000.50 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

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## FIFTH JUDICIAL DISTRICT SENTENCING GUIDELINES

### 2<sup>nd</sup> Offense OWI/PAC and 1<sup>st</sup> Offense with Minor Child < 16 in Vehicle (Citations Issued On or After July 2, 2013)

**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 = \$1179 5 days jail 12 mo. revocation	\$400 + Costs = \$1242 10 days jail 14 mo. revocation
.10-.149 Controlled Substance	\$400 + Costs = \$1242 10 days jail 14 mo. revocation	\$600 + Costs = \$1494 30 days jail 16 mo. revocation
.150-.199	\$600 + Costs = \$1494 30 days jail 16 mo. revocation	\$800 + Costs = \$1746 90 days jail 17 mo. revocation
.20 and up Refusal	\$800 + Costs = \$1746 120 days jail 17 mo. revocation	\$1100 + Costs = \$2125 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

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# FIFTH JUDICIAL DISTRICT SENTENCING GUIDELINES

## 3rd OFFENSE OWI/PAC

(Citations Issued On or After July 2, 2013)

- 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
<b>&lt;.10</b>	\$600 + Costs = \$1494 45 days jail [14 days]* 24 mo. revocation	\$750 + Costs = \$1683 90 days jail [21days]* 27 mo. revocation
<b>.10-.149 Controlled Substance</b>	\$800 + Costs = \$1746 90 days jail [21 days]* 27 mo. revocation	\$1000 + Costs = \$1998 6 mos. jail [28 days]* 30 mo. revocation
<b>.150 - .199</b>	\$1000 + Costs = \$1998 6 mos. jail [28 days]* [.17-.199 fine doubles] 30 mo. revocation	\$1200 + Costs = \$2379 9 mos. jail [35 days]* [.17-.199 fine doubles] 33 mo. revocation
<b>.20 and up Refusals</b>	\$1200 + Costs = \$2252 9 mos. jail [35 days]* [.20-.249 fine triples] [.25 and up and refusals, fine quadruples] 33 mo. revocation	\$1500 + Costs = \$2633 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.

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## FIFTH JUDICIAL DISTRICT SENTENCING GUIDELINES

### 4th OFFENSE OWI/PAC – MISDEMEANOR ONLY

(Citations Issued On or After July 2, 2013)

**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 = \$1620 60 days jail [29 days]* 24 mo. revocation	\$900 + Costs = \$1872 90 days jail [36 days]* 27 mo. revocation
.10-.149 Controlled Substance	\$900 + Costs = \$1872 90 days jail [43 days]* 27 mo. revocation	\$1100 + Costs = \$2125 6 Mos. Jail [50 days]* 30 mo. revocation
.150 - .199	\$1100 + Costs = \$2125 6 Mos. Jail [57 days]* [.17-.199 fine doubles] 30 mo. revocation	\$1300 + Costs = \$2379 9 Mos. Jail [64 days]* [.17-.19 fine doubles] 33 mo. revocation
.20 and up Refusals	\$1300 + Costs = \$2379 9 Mos. Jail [71 days]* [.20-.249 fine triples] [.25 and up and refusals, fine quadruples] 33 mo. revocation	\$1500 + Costs = \$2633 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.

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# FIFTH JUDICIAL DISTRICT SENTENCING GUIDELINES

## FELONY OWI CONVICTIONS

(Citations Issued on or After July 2, 2013)

### 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

## 1<sup>st</sup> OFFENSE OWI/PAC MUNICIPAL

(Citations Issued On or After July 2, 2013)

### 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 2<sup>nd</sup> 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:

- 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)

### Costs

\$435 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