

Legal Notes: January 2014

New year, new drunk driving penalties. While I wish this column were not timely for any of you, it may still be of interest.

The state statutes set the maximum penalty for driving while intoxicated. The local courts then set up a tier system for administering the actual penalties given within the district. Here, in the La Crosse area, the courts are within the Seventh Judicial District. The District has just issued the revised sentencing guidelines for various levels of drunk driving.

While I've written on this in the past, to recap: The penalties for OWI are basically split in two different ways. First, is the offense (e.g. first, second, third, etc.). Penalties increase (dramatically) each offense. Second, within each class of offense, the penalties are broken down by two factors: blood alcohol level (BAC) and whether there was an accident, injury or the driver had a bad driving record. For example, if you have a first offense under the new guidelines, blow a .20 BAC and have an accident while intoxicated, the financial penalty is \$1,000, 8 month revocation of license and mandatory ignition interlock. By comparison, if you have a first offense and have the minimum BAC of .08 and there's no accident, the penalty is \$762, no revocation and no mandatory ignition interlock.

Under the new guidelines, an additional factor is included: driving with a minor while intoxicated. A "minor" is defined as someone under 16 years of age (not 18 or 21). The penalties get quite a bit stiffer. With a first offense, again with a .08 BAC and no accident, the penalty doubles from \$762 to \$1329 and the revocation period goes from zero to 12 months.

At this point, a first offense is still not a crime but rather a forfeiture. Wisconsin is still the only state where this occurs. There has been discussion in Madison about eliminating this provision, but the only pending legislation increases a first offense to a crime if the BAC was greater than .15. There is also pending legislation to (slightly) change the first offense penalty to require at least one appearance in court (with forfeitures, a court appearance is not required as with criminal offenses, such as 2nd OWI and above).

Takeaway: Don't drink and drive.