JEFFREY A. KREMERS
Chief Judge
Telephone: (414) 278-5116

DAVID A. HANSHER
Deputy Chief Judge
Telephone: (414) 278-5340

MAXINE A. WHITE
Deputy Chief Judge
Telephone: (414) 278-4482

BRUCE M. HARVEY
District Court Administrator
Telephone: (414) 278-5115

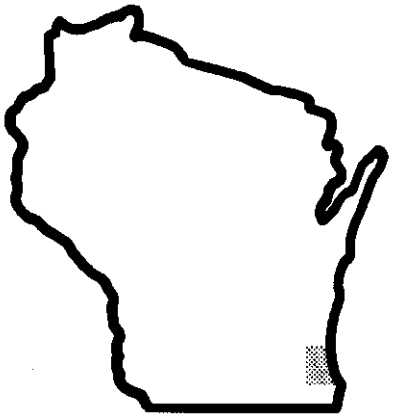
BETH BISHOP PERRIGO
Deputy District Court Administrator
Telephone: (414) 278-5025

STATE OF WISCONSIN

FIRST JUDICIAL DISTRICT

MILWAUKEE COUNTY COURTHOUSE
901 NORTH NINTH STREET, ROOM 609
MILWAUKEE, WISCONSIN 53233-1425

TELEPHONE (414) 278-5112
FAX (414) 223-1264



CHIEF JUDGE
DIRECTIVE
09-21

DATE: October 27, 2009

TO: All Judges, All Court Commissioners, District Court Administrator, Deputy District Court Administrator, County Executive, Clerk of Circuit Court, Corporation Counsel, Sheriff, District Attorney, City Attorney, Public Defender, Court Coordinators, Managing Court Reporter, IMSD, Legal Resource Center, CCAP, Justice 2000, WCS, Facilities Management, and Press

FROM: Chief Judge Jeffrey A. Kremers

RE: **OAR/OAS SENTENCING GUIDELINES**

Effective December 1, 2009:

IT IS HEREBY DIRECTED, pursuant to §343.44(2)(d), Stats., that the attached sentencing guidelines are adopted and shall apply in all cases in the district in which the defendant is convicted of operating after revocation (OAR) and operating after suspension (OAS) of a driver's license.

Dated at Milwaukee, Wisconsin, this 27th day of October, 2009.

Jeffrey A. Kremers
Chief Judge

JAK:bjs

Attachments

Statewide OAR/OAS Guidelines

as required by Wis. Stat 343.44(2)(d) & SCR 70.34

Offense Type	Effective Date	Aggravated Nature of Offense	Monetary Penalty (+ Costs)	Jail	Drivers License
OAR Non-Criminal §343.44(1)(b) & §343.44(2)(as) Statutory Range ▪ $0 - $2,500 ▪ No Jail ▪ 0-6 Months Suspension ▪ 6 Mo. Revocation for 4th or +	Violations on or after July 1, 2009	Low	$100 - $300	N/A	0 – 6 Months Suspension.
		Moderate	$250 - $1,000	N/A	0 – 6 Months Suspension
		High	$500 - $2,500	N/A	6 Months Revocation*
OAR Criminal §343.44(1)(b) & §343.44(2)(b) Statutory Range ▪ $0 - $2,500 ▪ Jail: 0 Days to 1Year ▪ 0-6 Months Suspension ▪ 6 Mo. Revocation for 4th or +	Violations on or after July 1, 2009	Low	$250 - $500	0 – 60 Days	6 Months Suspension
		Moderate	$350 - $1,000	5 – 180 Days	6 Months Suspension
		High	$500 - $2,500	30 – 360 Days	6 Months Revocation*
OAS §343.44(1)(a),(am) & §343.44(2)(a) Statutory Range ▪ $50 - $200 ▪ Jail: 0 Days to 1Year ▪ 0-6 Mo. Suspension ▪ 6 Mo. Revocation for 4th or +	Violations on or after July 27, 2005	Offense # 1, 2 or 3	$50	N/A	0 – 6 Months Suspension
		Offense # 4 or more	$50	N/A	6 Months Revocation*

Aggravating Factors

- Number of Prior OAR/OAS convictions
- Accident, Aggravated Driving
- Injury to Person/Property
- Alcohol, Controlled Substances Present
- Attempted to Elude Officer
- For OAS - Prior OWI/PAC Convictions
- Record of Unsafe Driving

Mitigating Factors

- No Prior OAR/OAS Convictions
- For OAS - Not OWI Related
- No Unsafe Driving/Prior Record Good
- Cooperation with Arresting Officer
- Reinstated DL Before Hearing
- History of Payment of Fines
- Remedial Action Since Incident

*For 4th Offense or higher OAR or OAS, a 6 month revocation is the presumptive driver's license penalty. If the revocation is less than 6 months, the statutes require the Court to state, on the record, the reasons for a shorter revocation period. [§343.30(1g); 343.31(1)(hm)]

Prior to July 1, 2009, there were two kinds of OAR: OAR 1st was noncriminal and subsequent offenses were criminal. As of July 1, 2009, there are two kinds of OAR based on the reason for the underlying revocation: §343.44(2)(as) provides that if the revocation was not alcohol or drug related the penalty is a forfeiture (TR); §343.44(2)(b) provides that if the revocation was alcohol or drug related there is a criminal penalty (CT, CM). §343.307(2) defines which offenses are alcohol and drug related.

For OAR violations prior to July1, 2009, see the guidelines "For violations after July 27, 2005".

Statewide OAR/OAS Guidelines

For violations after July 27, 2005

Wis. Stat. § 343.44(1)(b); Wis. Stat. § 343.44(2)(as)

	# OFFENSE	FORFEITURE / FINE (+ Costs)	JAIL	DRIVER LICENSE SUSP. OR REV.
OAR *(Non-Aggravated)*				
	1* (Civil)	$100	N/A	0-6 mths SUS.
	1* (Criminal)	$250 - 400	0-30 days jail	0-6 mths SUS.
Stat. Penalty Ranges				
- $0-$2500	2	$250 - 600	5-30 days jail	0-6 mths SUS.
- 365 days jail				
- 0-6 mths susp.	3	$300 - 800	10-90 days jail	0-6 mths SUS.
- 6 mths rev. for 4+				
	4+	$400 - 2500	30-210 days jail	6 mths REV. **
OAR *(Aggravated)*				
	1* (Civil)	$100	N/A	6 mths SUS.
	1* (Criminal)	$250 - 500	0-60 days jail	6 mths SUS.
Stat. Penalty Ranges				
- $0-$2500	2	$350 - 700	5-60 days jail	6 mths SUS.
- 0-365 days jail				
- 0-6 mths susp.	3	$400 - 1000	30-180 days jail	6 mths SUS.
- 6 mths rev. for 4+				
	4+	$500 - 2500	60-360 days jail	6 mths REV. **
OAS	1, 2 & 3	$50	N/A	0-6 mths SUS.
Stat. Penalty Ranges				
- $50-$200	4+	$50	N/A	6 mths REV. **
- no jail				
- 0-6 mths suspension				
- 6 mths revocation 4+				

Aggravating Factors	**Mitigating Factors**
Accident: Aggravated Driving	Not OWI Related
Alcohol/Controlled Substances Present	No Unsafe Driving; Prior Record Good
Attempting to Elude an Officer	Cooperation with Arresting Officer
Prior OWI/PAC Convictions	History of Payment of Fines
Record of Unsafe Driving	Reinstated D.L. before Final Hearing
Injuries to Person/Property	Remedial Actions since Incident

* First Offense OAR is a civil forfeiture unless there has been a prior OAR conviction in the previous 5 years, or if the current revocation resulted from an offense of operating under the influence of an intoxicant or drug or of operating a commercial motor vehicle with an alcohol concentration between .04 and .08.

** For revocation on 4th offense OAR/OAS and higher, a 6 month revocation is the presumptive minimum. If the revocation is less than 6 months, the Court must state on the record its grounds for the shorter revocation period (Wis. Stat. 343.30(1g)(b); 343.31(1)(hm)).

- For offenses committed from 05/01/02 to 07/27/05, a first offense OAR is criminal.