

A PRACTICAL GUIDE TO DWI

“At Steele Law, we understand that being charged with a crime can be very scary. It is our aim to immediately eliminate fear and anxiety by taking the time to fully educate you about the legal process and to discuss likely outcomes.”

*In this spirit we provide this free
informational booklet.*



Call us at (612) 605-0722 for a FREE CASE ANALYSIS

OUR MISSION

It is our mission to contribute to justice by providing excellent legal representation to each and every client through honest, trustworthy and proficient attorneys. Steele Law will provide an unparalleled experience as the most trusted partner for your legal needs. The needs of our clients always come first. We strive to identify and understand each client's individual objectives and to find creative solutions to achieve client goals.

“I have the knowledge and trial skills required to vigorously defend you. But I also will take the time to understand your unique situation and how this allegation affects you, your family and your career. It is my commitment to ensure that you are well informed throughout the entire process. I pledge not only to work hard on your case, but also pledge to be available to you as you face this difficult challenge.”

Brian Steele

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- Discuss possible case scenarios and defenses
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The Case Analysis Summary is an invaluable resource to have as you go through the process of interviewing and hiring a lawyer or even if you intend to represent yourself in your case.

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DEMYSTIFYING THE JUDICIAL PROCESS

The process is generally as follows:

1. A person is charged with a crime by issuance of a ticket or formal complaint. The charging document asserts the alleged criminal act committed and the criminal statute allegedly violated.
2. The person charged (defendant) then has a right to what is called an omnibus or constitutional hearing. At this hearing a judge must find probable cause for law enforcement officials to have charged you with a crime.
3. If probable cause is found, a trial date is set (usually 30-90 days later) and the defendant then has the right to a number of other hearings from which he or she can benefit.
4. A defendant has the right to a hearing in which the arresting officer is subject to cross-examination. This hearing is to assure that the defendant's constitutional rights have not been violated prior to or during arrest. If the court finds any violation of the defendant's rights, the case may be dismissed.
5. If the case is not dismissed prior to trial, you (or your attorney) will have an opportunity to discuss an agreed upon sentence to submit to the judge. If you are not able to agree upon a sentence the case will proceed to trial. The defendant has the right to a 6 person jury trial or to have the trial decided by the judge alone. In any event the defendant is presumed innocent unless and until the state can prove guilt beyond a reasonable doubt.
6. If the defendant reaches an agreement with the prosecuting authority, the defendant will enter a plea of guilty admitting that he or she violated the law and the court will then sentence the defendant pursuant the settlement agreement.



LIKELY SENTENCES FOR DWI CONVICTIONS

The criminal statutes in Minnesota set out both the maximum penalty for each degree of DWI as well as the minimum penalty for each.

Maximum Criminal Penalties for DWI

- **4th Degree DWI**

Misdemeanor and punishable in Minnesota by up to **90 days in jail** and a **\$1,000 fine**.

- **2nd - 3rd Degree DWI**

Gross Misdemeanor punishable in Minnesota by up to **365 days in jail** and a **\$3,000 fine**.

- **1st Degree DWI**

Felony punishable in Minnesota by up to **7 years in jail** and a **\$14,000 fine**.

Your Level of Offense

The level of offense charged is determined by considering **two factors:**

Prior Alcohol Related Driving Offenses.

Each prior alcohol related driving offense within the last ten years adds one aggravating point (enhances the subsequent offense one degree; i.e. from 4th degree to 3rd Degree) to the offender's total score.

Aggravating Factors. The circumstances of the offense determine the severity level of the charge. A blood alcohol content greater than .16 is an aggravating factor and will enhance the charge one degree. Similarly, if a minor child is a passenger in the vehicle at the time of the offense, this will enhance the charge one degree.



EXAMPLES

- First alcohol related driving incident in ten years 4th Degree DWI
- First in ten years (+ 1 aggravating factor) 3rd Degree DWI
- Second in ten years 3rd Degree DWI
- Second in ten years (+1 aggravating factor) 2nd Degree DWI
- Third in ten years 2nd Degree DWI
- Fourth in ten years 1st Degree DWI

Though the law allows the court to execute the maximum sentence, this is rarely if ever done. Minnesota Statutes provide for mandatory minimum sentences for alcohol related driving offenses. It is more likely a sentence will approximate the statutory mandatory minimum sentence than the maximum.

Mandatory Minimum Sentences

First Offense:	No mandatory jail and a \$300 fine (be aware that many judges require the violator spend a few days in jail).
Second Offense:	30 days in jail and a \$500 fine.
Third Offense:	90 days in jail and a \$1,000 fine.
Fourth Offense:	180 days in jail and a \$1,000 fine.
Fifth Offense:	Mandatory 36 months prison



CIVIL & ADMINISTRATIVE SANCTIONS


In addition to criminal penalties, the state of Minnesota imposes civil penalties on those charged with an alcohol related driving offense. Even if the criminal case is dismissed, the civil penalties will remain unless properly contested. The most common type of civil penalty imposed in Minnesota is license revocation. While new laws have greatly extended the reach and length of driver's license revocations, they provides for early reinstatement where the driver agrees to participate in the Minnesota Ignition Interlock Program. Call an attorney for more information on your eligibility for this program and find out how you can get your driver's license back.

NOTE: THE CIVIL AND CRIMINAL MATTERS ARE SEPARATE ACTIONS AND UNRELATED – A SEPARATE CIVIL ACTION MUST BE BROUGHT. THERE IS A TIME LIMIT (USUALLY 60 DAYS) FOR CONTESTING LICENSE REVOCATION OR VEHICLE FORFEITURE

A lawyer with the experience and knowledge to fight both the criminal charge and the civil penalties should be consulted as soon as possible after your arrest to avoid the time running for contesting either license revocation, vehicle forfeiture, or other civil penalties.



Recreational Vehicles



A new 2018 law passed in Minnesota now requires the revocation of a person's ATV, snowmobile and boating privileges, if the person is convicted of a DWI. The revocation of these privileges occurs immediately after a driver refuses testing or if the driver tests over .08. There is no need for the state to obtain a conviction. The boating revocation is for 90 days and takes place between May and October. The ATV and snowmobile restriction is for one year.

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and Summary**



DO I NEED AN **ATTORNEY?**

Each DWI case presents its own unique set of facts and legal issues. It is never advisable to proceed without at least consulting with an attorney about your case. Be aware that an increasing number of courts are requiring first time DWI offenders to serve jail time. In addition, the court may require offenders to refrain from the use of alcohol, submit to random testing, complete treatment, and/or attend AA meetings.

An attorney can help navigate the judicial system minimizing the risks of jail time and other sentencing conditions. In some cases a lawyer may have your DWI charge dismissed.

Regardless of whether or not you retain an attorney, it is recommended that at the very least you consult with a DWI attorney as soon as possible after your arrest. Certain decisions need to be made quickly before filing deadlines expire.



WHAT TO LOOK FOR IN AN **ATTORNEY?**

It is advisable to choose an attorney with specific experience, skill and knowledge about DWI law. There are a number of excellent DWI lawyers and law firms in Minnesota. It is advisable to choose a law firm or attorney who devotes a majority of their practice to DWI defense.

About Attorney Fees: Attorneys fees can be structured in a number of different ways. Most criminal defense attorneys, including DWI attorneys, charge a one time flat fee for representation. That flat fee represents the estimated amount of work performed on the average DWI case.

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QUESTIONS & ANSWERS

What do I need to do to drive again?

Your license was likely revoked 7 days after your offense. The length of the revocation will depend on your test results and your prior driving record. For first time offenders with test results over .08 but under .16, the revocation period is 90 days. This category of driver is eligible for a limited license /work permit (waiting period of 15 days). If you refused testing, the revocation period is 1 year. This category of driver is also eligible for a work permit. All other DWI offenders are ineligible for a work permit.

If your test result was over .16 or if you have had prior alcohol related driving incidents, the revocation period will be between 1-6 years and you will not be eligible for a work permit. However, all drivers are eligible to participate in the ignition interlock program which is described below.

What is ignition interlock and am I eligible?

Minnesota's ignition interlock program provides driver's an opportunity, often without restriction, to drive even when their driver's license is revoked. The driver must agree to install an ignition interlock device in their personal vehicle during the revocation period. The device is installed and maintained by a private interlock company. There are many vendors to choose from. A list of vendors, the program guidelines as well as application forms can be found on the Minnesota Ignition Interlock website.

<https://dps.mn.gov/divisions/dvs/programs/mn-ignition-interlock>

All drivers who have been revoked for a DWI are eligible to participate in ignition interlock. If this is your first or second offense in the past ten years, you have the option to either wait out the revocation period or to participate in the interlock program. If this is your 3rd offense or more, DPS will require you to participate in the program before you are ever eligible to drive again.

Can I get my license back while I am contesting the DWI?

Yes! A "stay of revocation" is a temporary emergency order from the court ordering DPS to temporarily reinstate your driver's license. In almost all cases your lawyer will make this request of the court. The Judge is not required to temporarily reinstate your license but a majority of judges will. If your lawyer requests a stay of revocation, the court will issue an order granting or denying the request within about 5 business days. If the court grants the request it often takes DPS a day or two to update its driver's license database.

It is important that you not drive until your status shows as valid in the state's driver's license system. You can monitor your driver's license status at the DPS website.

<https://dps.mn.gov/divisions/dvs/Pages/default.aspx> under "check driver's license status".

Hennepin and Ramsey counties will temporarily reinstate the license of all drivers who request it. In all other counties, it is up to the assigned judge. The stay of revocation will also apply to the revocation of your license plates.



The police took my license plates or ordered me to turn them in. What do I do now?

If your plates were impounded or you received a notice of plate impoundment, you will be required to apply for a provisional plate (whiskey plate) at the DMV. In all cases the plate revocation is for one year. Please take note that your lawyer will likely be asking the court to stay the revocation/impoundment of your plates while your case is pending. So do not destroy your plates until you speak with an attorney.

Should I represent myself in my DWI case?

It is not advisable to represent yourself in your case. However, there are many people who understandably cannot afford to foot the bill for a lawyer. If you are charged with a gross misdemeanor there is a significant possibility that you are facing jail time. A gross misdemeanor DWI if handled improperly can be a life altering experience. It is recommended that you have an attorney if you are facing gross misdemeanor or felony charges.

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OUR TEAM

BRIAN STEELE founded Steele Law PLLC to focus on his passion for helping individuals through the toughest moments of their lives. He is sympathetic to the emotional and mental impact that result to both the individual and family when a person is accused of a crime. Open and honest communication is the bedrock of Brian's successful legal practice. In each case, Brian seeks to eliminate clients' fears by first taking the time to fully educate each client about the legal process ahead and to set reasonable and attainable goals and objectives for each case.

Brian obtained his B.A. from Gustavus Adolphus College in 1997 and his Juris Doctorate from William Mitchell College of Law in 2000.




- 19 Years of experience
- Over 1,000 DWI's Defended
- Graduate of the National College of DUI Defense conducted at Harvard University in 2015.
- Over 90% of practice dedicated to DWI defense
- Lead Counsel Rated in DWI Defense

HEIDI VIESTURS provides personalized legal representation dedicated to serving clients' needs for advice, advocacy and legal expertise. She strives to achieve results that exceed expectations through focusing on clients' goals. She has worked with a wide variety of clients in both criminal and civil litigation.

Ms. Viesturs obtained her B.A. from the University of California, San Diego in 1989 and her Juris Doctorate magna cum laude from William Mitchell College of Law in 1998.

DIANA TREPTAU


"Ms. Treptau joined our firm in 2018 as a paralegal after completing her Associate Degree in paralegal studies at North Hennepin Community College where she served as president of the Paralegal Student Association. She graduated at the top of her class with a perfect 4.0 GPA. She has now committed her paralegal practice to working closely with people facing DWI charges."



“Steele Law has represented me on several DWI charges. On my second DWI I was facing a 30 day mandatory jail sentence. Brian kept me out of jail. On my third DWI charge, I was subject to 90 day mandatory jail sentence. Again, Brian kept me out of jail. My fourth DWI was a felony offense and I was very concerned about the consequences of becoming a felon on my housing and career. Brian got the felony charges dismissed. I would never even think about using another lawyer.” M.J.

“I had never before been charged with a crime and really did not know what to expect. I had a great deal of anxiety about being charged with a DWI. In my initial case consultation, Brian really put my mind at ease. Brian listened to my concerns about how this charge might affect my career. Brian exceeded my expectations with the result. My charge was reduced, I didn’t go to jail, and thankfully this charge did not affect my career.” L.L.

“When I hired Brian to represent me on my DWI charge, I expected to plead guilty. Brian spent several months investigating my case and was able to get my case dismissed. Brian and his team worked very hard on my case and he exceeded my expectations.” A.A.





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