**DUI SENTENCING**

**FIRST DUI WITHIN 10 YEARS**

**FINE** NOT < $300 NOR > $1000.

**JAIL** NOT < 10 DAYS NOR > 12 MONTHS. MAY SUSPEND, STAY OR PROBATE ALL BUT 24 HOURS.

**COMMUNITY SERVICE** NOT < 40 HOURS. BUT, IF DEFENDANT < 21 YEARS OLD AND BAC < .08, NOT < 20 HOURS.

**RISK REDUCTION PROGRAM** (I.E. DUI SCHOOL) W/I 120 DAYS OR W/I 90 DAYS OF RELEASE FROM JAIL.

**CLINICAL EVALUATION** PER 40-5-1 AND TREATMENT IF RECOMMENDED. BUT, COURT MAY WAIVE EVALUATION FOR FIRST OFFENSE W/I 10 YEARS. (CANNOT WAIVE DUI SCHOOL)

**IF DEFENDANT SENTENCED TO JAIL FOR < 12 MONTHS** MUST SENTENCE TO 12 MONTHS LESS ANY DAYS WHILE DEFENDANT WAS IN JAIL. (I.E. CAN’T E.G. GIVE 6 MONTHS PROBATION AS SENTENCE)

**SECOND DUI WITHIN 10 YEARS**

**FINE** NOT < $600 NOR > $1000.

**JAIL** NOT < 90 DAYS NOR > 12 MONTHS. JUDGE MUST PROBATE A PORTION OF SENTENCE. MUST SERVE NOT < 72 HOURS OF ACTUAL INCARCERATION.

**COMMUNITY SERVICE** NOT < 30 DAYS

**DUI SCHOOL** WITHIN 120 DAYS OR WITHIN 90 DAYS OF RELEASE FROM JAIL.

**CLINICAL EVALUATION** AND RECOMMENDED TREATMENT.

**12-MONTH SENTENCE** LESS ANY JAIL TIME SERVED.

**THIRD DUI WITHIN 10 YEARS**

**FINE** NOT < $1000 NOR > $5000.

**JAIL** NOT < 120 DAYS NOR > 12 MONTHS. MUST SERVE NOT < 15 DAYS OF ACTUAL JAIL TIME.

**COMMUNITY SERVICE** NOT < 30 DAYS.

**DUI SCHOOL** WITHIN 120 DAYS OR WITHIN 90 DAYS OF RELEASE FROM JAIL.

**CLINICAL EVALUATION** AND RECOMMENDED TREATMENT

**12-MONTH SENTENCE** LESS TIME SERVED

**FOURTH CONVICTION WITHIN 10 YEARS**

**FELONY**

**UNLESS** THE TEN-YEAR TIME PERIOD COMMENCED PRIOR TO JULY 1, 2008. THEN, SUCH FOURTH OR SUBSEQUENT OFFENSE IS MISDEMEANOR OF HIGH AND AGGRAVATED NATURE AND PUNISHED LIKE 3RD DUI WITHIN 10 YEARS.

**DEFENDANT < 21 YEARS OF AGE**

**FIRST AND SECOND CONVICTION** SENTENCED AS A MISDEMEANOR.

**THIRD OR SUBSEQUENT DUI** HIGH AND AGGRAVATED MISDEMEANOR AND SENTENCED PER REGULAR DUI SCHEMA PER 40-6-391 (C).

**JAIL** PER 17-10-3.1 JUDGE MAY ALLOW TO BE SERVED ON WEEKENDS OR DURING NON-WORKING HOURS. CONFINEMENT DURING NON-WORKING HOURS DURING ANY DAY MAY BE COUNTED AS SERVING A FULL DAY OF THE SENTENCE. CONFINEMENT TO BE SERVED IN COUNTY JAIL AND FOR FIRST VIOLATION DEFENDANT SHALL BE SEGREGATED FROM ALL OTHER OFFENDERS OTHER THAN <21 DUI OFFENDERS.

**GENERAL STUFF**

**IF** DEFENDANT HAS BEEN CONVICTED OF DUI WHILE < 21 YEARS OF AGE **WHERE** HE/SHE EITHER REFUSED A TEST **OR** HIS/HER BAC WAS > .08, **AND** DEFENDANT IS SUBSEQUENTLY CONVICTED OF DUI, **THEN** THE DUI(S) WHILE < 21 YEARS OF AGE IS/ARE TREATED AS A PRIOR FOR SENTENCING PURPOSES.

**NO FIRST OFFENDER TREATMENT FOR DUI.**

**JUDGE MAY SUSPEND UP TO ONE-HALF FINE** CONDITIONED UPON DEFENDANT UNDERGOING TREATMENT IN SUBSTANCE ABUSE TREATMENT PROGRAM PER 40-5-1.

40-6-391 (g) (1)  **If the payment of the fine required under subsection (c) of this Code section will impose an economic hardship on the defendant**, the judge, at his or her sole discretion, may order the defendant to pay such fine in installments and such order may be enforced through a contempt proceeding or a revocation of any probation otherwise authorized by this Code section.