



FLORIDA TRAFFIC SAFETY RESOURCE
PROSECUTOR PROGRAM

DUI – DRIVING UNDER THE INFLUENCE PENALTIES

F.S. 316.193 mandatory adjudication	316.193(6)(a) 1st DUI	316.193(6)(b) 2nd w/in 5 yrs	2nd o/s 5 yrs	316.193(6)(c) 3rd w/in 10 yrs	3rd o/s 10 yrs	316.193(3)(b) 4th DUI
JAIL	0 – 180 days	10 – 270 days	0 – 270 days	30 days – 5yrs FSP (L3)	0 – 364 days	Up to 5yrs FSP (L6)
Enhanced*	0 – 270 days	10 – 364 days	0 – 364 days	“ “ “ “ “	0 – 364 days	“ “ “ “ “
Crash	0 – 364 days	10 – 364 days	0 – 364 days	“ “ “ “ “	0 – 364 days	“ “ “ “ “
PROBATION	Up to 12 months	Up to 12 months	Up to 12 months		Up to 12 months	
FELONY				Up to 5 years		Up to 5 years
FINE	\$500 – \$1,000	\$1,000 – \$2,000	\$1,000 – \$2,000	\$2,000 – \$5,000	\$2,000 – \$5,000	No less than \$2,000+
Enhanced*	\$1,000 – \$2,000	\$2,000 – \$4,000	\$2,000 – \$4,000	No less than \$4,000+	No less than \$4,000+	No less than \$4,000+
Felony				No less than \$4,000+		No less than \$4,000+
DL SUSP/REV	6 – 12 months	5 YEARS	6 – 12 months	10 YEARS	6 – 12 months	PERMANENT
COMM. SERVICE	50 hours	n/a	n/a	n/a	n/a	n/a
DUI SCHOOL	Level 1	Level 2	Level 2	Level 2	Level 2	Level 2
Vehicle Immobilization (NOT during jail)	10 days of car Δ owns or operates	30 days of all Δ's cars	10 days of all Δ's cars	90 days of all Δ's cars	10 days of all Δ's cars	90 days of all Δ's cars
INTERLOCK**	n/a	1 year minimum	1 year minimum	2 year minimum	2 year minimum	2 year minimum
Enhanced*	6 months minimum	2 year minimum	2 year minimum	2 year minimum	2 year minimum	2 year minimum
COSTS OF PROSECUTION (can be higher with proof of expenses)	\$50	\$50	\$50	\$100	\$50	\$100





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- *Enhanced penalties are defined as a breath test results above **0.15** or defendant accompanied by minor under 18 years old
- 316.656(2)(a) states that no court may accept a plea of guilty to a lesser offense from a person charged under the provisions of this act who has been given a breath or blood test to determine blood or breath alcohol content, the results of which show a blood or breath alcohol content by weight of 0.15 percent or more.

- **Interlock must be placed on all vehicles that are individually or jointly owned and routinely operated by the defendant
- 316.656 states that no court may suspend, defer, or withhold adjudication of guilt or imposition of sentence for DUI
- Penalties are determined from date of last conviction to date of new arrest
- Within” penalties are determined if the last conviction is within 5 or 10 years of the current offense; see *Drigotas v. State*, 531 So.2d 421 (4th DCA 1998)
- 316.193(2)(b)(3) states that the 4th offense is regardless of the dates of prior convictions
- 316.193(5) all offenders MUST be ordered to complete a substance abuse course conducted by a DUI program licensed by the DHSMV which shall include a psychosocial evaluation of the defendant; any recommended counseling must be completed at the defendant's expense
- 316.655 states that a court can suspend/revoke a driver's license for a longer period of time based on the totality of the circumstances; see *Stoletz v. State*, 875 So.2d 572 (Fla. 2004)
- 948.15 states that a court can extend probation to 12 months where the use of alcohol is a significant factor

- Other sentencing options: no alcohol/no intoxicants; random breath/urine testing at defendant's expense; AA meetings; Scared Sober (MADD);
 - SCRAM device; Victim Awareness programs; costs of investigation

- A certified driving record is self-authenticating and admissible to establish a prior conviction. See F.S. 322.201 and F.S. 316.193(12), and *Fender v. State*, 980 So.2d 516 (4th DCA 2007)
- Any DUI where defendant's driving causes or contributes to causing a crash which results in death or serious bodily injury to the defendant or any other person involved in the crash; F.S. 316.193(3)
- F.S. 316.1933(1) states that serious bodily injury is defined as an injury which creates a substantial risk of death, serious personal disfigurement, or protracted loss of impairment of the function of any bodily member or organ
- Court may NOT impose house arrest in lieu of mandatory jail for DUI; see *McCarthy v. State*, 689 So.2d 1095 (5th DCA 1997)

